



**TOWN OF PORTOLA VALLEY**  
**REGULAR PLANNING COMMISSION MEETING**  
**765 Portola Road, Portola Valley, CA 94028**  
**Wednesday, November 20, 2013 – 7:30 p.m.**  
**Council Chambers (Historic Schoolhouse)**

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**AGENDA**

**Call to Order, Roll Call**

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

**Oral Communications**

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

**Regular Agenda**

1. *Continued Public Hearing: Proposed Amendments to Conditional Use Permits (CUP) X7D-151 and X7D-169, 555 Portola Road, Spring Ridge LLC (Neely/Myers)*
2. *Study Session – 2014 Housing Element Update*

**Commission, Staff, Committee Reports and Recommendations**

**Approval of Minutes:** *October 2, 2013 and November 6, 2013*

**Adjournment:**

**ASSISTANCE FOR PERSONS WITH DISABILITIES**

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

**AVAILABILITY OF INFORMATION**

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

Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Portola Valley branch of the San Mateo County Library located at Town Center.

**PUBLIC HEARINGS**

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge a proposed action(s) in court, you may be limited to raising only those issues you or someone else raised at the Public

Hearing(s) described later in this agenda, or in written correspondence delivered to the Planning Commission at, or prior to, the Public Hearing(s).

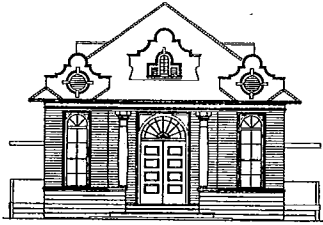
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This Notice is posted in compliance with the Government Code of the State of California.

Date: November 15, 2013

CheyAnne Brown  
Planning Technician

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# MEMORANDUM

## TOWN OF PORTOLA VALLEY

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**TO:** Planning Commission  
**FROM:** Tom Vlastic, Town Planner  
**DATE:** November 14, 2013  
**RE:** Agenda for November 20, 2013 Planning Commission Meeting

The following comments provide an overview of the items on the November 20<sup>th</sup> agenda.

### **Continued Public Hearing Amendments to CUPs X7D-151 and X7D-169, 555 Portola Road, Spring Ridge LLC**

This public hearing was opened on October 2, 2013, continued to the October 16<sup>th</sup> meeting and then to the November 20, 2013 meeting. Based on discussion and directions received at the October 16<sup>th</sup> continued hearing, we have prepared the enclosed November 14, 2013 report that includes a proposed action resolution. On Wednesday, the commission should receive input, close the public hearing and determine if it can complete action on the applications as recommended in the staff report.

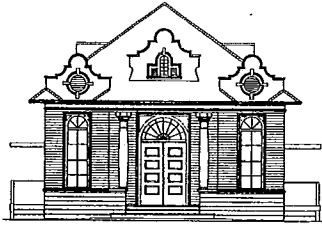
### **Study Session -- Housing Element Update Program**

This is a continuation of the study session discussion that was initiated with the town council at the November 13<sup>th</sup> joint meeting with the commission. The enclosed report sets the framework for the discussion at the November 20<sup>th</sup> meeting and reflects the input received at the November 13<sup>th</sup> joint study session.

TCV   
encl.

cc. Town Council Liaison  
Mayor  
Assistant Planner

Town Attorney  
Town Manager  
Deputy Town Planner



# MEMORANDUM

## TOWN OF PORTOLA VALLEY

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**TO:** Planning Commission  
**FROM:** Tom Vlastic, Town Planner  
**DATE:** November 14, 2013  
**RE:** Continued Public Hearing -- Proposed Amendments to  
Conditional Use Permits X7D-151 and X7D-169,  
555 Portola Road, Spring Ridge LLC (Neely/Myers)

### **Continued Public Hearing and Actions before the Planning Commission**

On October 2, 2013 the planning commission opened the public hearing on the subject applications for conditional use permit (CUP) amendment. Following review of the September 27, 2013 staff report (attached) evaluating the requests, consideration of the proposed negative declaration and public input, the commission continued the public hearing to the October 16, 2013 commission meeting. At the 10/2 meeting the commission also directed that while the public hearing would continue at the October 16<sup>th</sup> meeting, it would be continued from that meeting to the November 20, 2013 meeting. The commission did this with the understanding that materials would be in place at the 11/20 meeting for commission action when all commissioners could be present.

At the October 16<sup>th</sup> continued public hearing, the planning commission received a presentation from the town attorney on conservation/open space easements and requirements for application of such easements, including nexus findings. At the conclusion of the meeting, the commission provided general directions for staff to consider in formulating final action documents including modifications to the proposed negative declaration.

Based on commission discussion and direction during the public hearing process completed to date, particularly that provided at the October 16<sup>th</sup> meeting, staff has clarified the proposed Negative Declaration Initial Study (enclosed) and prepared the attached proposed action Resolution No. 2013-3. The proposed Resolution contains three exhibits as follows:

- Exhibit A.** Findings to Support Proposed Amendments to CUPs X7D-151 and X7D-169
- Exhibit B.** Amended Terms and Conditions, CUP X7D-169
- Exhibit C.** Amended Terms and Conditions, CUP X7D-151

At the November 20<sup>th</sup> meeting the commission should continue then close the public hearing and then determine if actions can be completed as set forth in the proposed Resolution or with any modifications to it. Any formal action by the commission to approve, approve with conditions (i.e., the proposed Resolution with Exhibits), or deny the applications would not become effective for 15 days, as this is the appeal period for any commission action on a conditional use permit.

### **Background Information, Public Comments, CUP Findings**

The key background data on the applications was provided with the attached September 27, 2013 staff report to the planning commission. All of the attachments to the report are not included, but may be obtained in the planning department at town hall. The report with all attachments is also available online at the town's website with the agenda for the October 2, 2013 planning commission meeting. In addition, the minutes for the October 2 and October 16<sup>th</sup> planning commission meetings are available online as are the minutes from the other meetings referenced in the 9/27 staff report.

In addition to the oral comments presented at the October 2<sup>nd</sup> and October 16<sup>th</sup> meetings, the town has received the attached three written comments:

October 3, 2013 Email from Marilyn Walter, Portola Valley Ranch  
October 29, 2013 Email from Marcia and Jeff Keimer, 475 Cervantes Road  
May 15, 2013 letter from Sandra & Wilcox Patterson, 126 Stonegate Road

Only the October 3, 2013 communication from Marilyn Walter commented on the proposed CEQA documents and was available when the commission considered and provided its October 16<sup>th</sup> tentative directions relative to the proposed Negative Declaration.

The other two communications are more general in nature and call for preservation of the "meadow." They, however, do not appear to specifically reflect the facts associated with the access, agricultural uses and buildings already authorized with CUP X7D-169. In any case, based on commission direction, the attached proposed resolution includes specific findings, limitations and conditions we believe address the concerns based on commission comments and directions offered at the October 16<sup>th</sup> public hearing.

During the October 16<sup>th</sup> commission meeting public comments were offered relative to the need for protection of at least a portion of the meadow area with a conservation easement. The town attorney responded to these comments as noted in the meeting minutes. During the public comments, former council member Jon Silver indicated that it was his understanding that the open space easement over Coalmine Ridge in Portola Valley Ranch could only be abandoned based on a public vote to support abandonment. Attached is a copy of the open space easement document, dated 5/28/75 with Town Council Resolution No. 567-1975. The easement includes abandonment provisions (Section 10), which do not include or reference any public vote requirement. They do, however, reference abandonment requirements in Section 51061 of the government code (copy attached). These requirements also do not include the need for a public vote.

During commission discussion, concern was expressed over the specific location of existing dirt roads in the meadow area and the need to verify these as clearly as possible. Based on these comments staff requested that the Agricultural Plan be clarified relative to the dirt road system. This revised Sheet: SK-1, dated 11/14/13, is attached and is referenced in the

proposed Resolution Exhibits. It shows the dirt roads and also eliminates the reference to the split rail fence along the southern boundary that was on original Sheet: SK-1, but eliminated from the plan in oral comments from the applicant at the 10/2/13 hearing. It should also be noted that in response to a questions and comments from Commissioner Targ, the applicant has added the highlighted wording relative to the possible use of chemicals under "extraordinary circumstances." We have added a condition, however, that any such use would need prior approval from the town relative to the specific "extraordinary circumstances" so that the town can ensure that any authorized chemical use minimizes potential for any environmental issues.

The zoning ordinance findings that need to be made to grant a conditional use permit or amendment to such a permit are attached. These are discussed in the 9/27/13 staff report and, with that report, we advised that the general plan consistency finding was likely the most complicated relative to the proposed 5.5 acres of vineyard in the meadow preserve area and that the others could be made based on the record of actions associated with the original approvals of CUPs X7D-151 and 169.

Based on commission public hearing discussion and direction we have assembled, with review and input from the town attorney, attached proposed Resolution No. 2013-13. Exhibit A contains findings to support the CUP amendments that we believe reflect the direction received from the majority of commissioners at the October 16<sup>th</sup> meeting. Particular attention has been given to findings to protect the visual quality of the southern meadow area on the subject site that transitions to the grasslands on the adjacent MROSD property.

#### **Conformance with Provisions of California Environmental Quality Act (CEQA)**

The proposed Negative Declaration Initial Study has been clarified as requested by the commission at the October 16<sup>th</sup> meeting. The modified CEQA documents are enclosed and in form for commission action.

#### **Recommendations for Action**

Unless information at the November 20, 2013 meeting leads to other determinations, it is recommended that the public hearing be closed. Thereafter, the commission should approve Resolution No. 2013-3 with any exhibit modifications determined necessary by the commission. The approval of the Resolution includes adoption of the Negative Declaration.

#### **Attachments**

1. Proposed Planning Commission Resolution No. 2013-3, with Exhibits A, B, and C.
2. September 27, 2013 Town Planner Report.
3. Revised Agricultural Plan Sheet: SK-1, 11/14/13, CJW Architecture.
4. October 3, 2013 Email from Marilyn Walter, Portola Valley Ranch.
5. October 29, 2013 Email from Marcia and Jeff Keimer, 475 Cervantes Road.
6. May 15, 2013 letter from Sandra and Wilcox Patterson, 126 Stonegate Road.
7. Zoning Ordinance Section 18.72.130, required CUP findings.
8. Portola Valley Ranch Coalmine Ridge Open Space Easement Agreement with Town Council Resolution No. 567-1975 and California Government Code Section 5106.
9. Proposed Negative Declaration with revised Initial Study, 11/14/13.

TCV 

Encl.

Attach.

- cc. Nick Pegueros, Town Manager
- Leigh Prince, Town Attorney
- Karen Kristiansson, Deputy Town Planner
- Carol Borck, Assistant Planner
- Town Council Liaison
- ASCC
- Dr. Kirk Neely and Ms. Holly Myers
- Kevin Schwarckopf & Carter Warr, CJW Architecture

**RESOLUTION NO. 2013-3**

**RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF PORTOLA VALLEY GRANTING SPRING RIDGE LLC (NEELY/MYERS) AMENDMENTS TO CONDITIONAL USE PERMITS X7D-151 AND X7D-169 FOR PROPERTY LOCATED AT 555 PORTOLA ROAD**

**WHEREAS**, Dr. Kirk Neely and Ms. Holly Myers, on behalf of Spring Ridge LLC (applicant) applied for amendments to existing Conditional Use Permits X7D-151 and X7D-169 regulating floor area, impervious surface area and agricultural uses, including winery operations, on the applicant's 228.86-acre property located at 555 Portola Road (Assessor's Parcel 076-340-110); and

**WHEREAS**, the requested amendments are to specifically allow for 5.5 acres of new agricultural vineyard uses within the general plan "meadow preserve" area of the subject property and to also permit processing of the grapes from the new vineyard area within the existing winery facilities authorized by Conditional Use Permit X7D-151, without any expansion of winery facilities; and

**WHEREAS**, the amendments were preliminarily considered at publicly noticed Planning Commission and Architectural and Site Control Commission (ASCC) meetings in April and May of 2013, including a May 13, 2013 site meeting and, after the preliminary review, the amendment requests were modified to respond to input received; and

**WHEREAS**, the Planning Commission conducted a duly noticed public hearing on the modified amendment applications at regular Commission meetings on October 2, 2013, October 16, 2013 and November 20, 2013; and

**WHEREAS**, the during the course of the public hearing, the Planning Commission heard and considered reports from the Town Planner and Town Attorney and public input and evaluations of the amendment applications; and

**WHEREAS**, in the absence of substantial evidence that the project would have a significant effect on the environment, a Negative Declaration (ND) was prepared for the project in compliance with the California Environmental Quality Act, was released for public review for 30 days on September 27, 2013, and one public comment was received on the proposed ND, by the end of the circulation period on October 28, 2013; and

**WHEREAS**, at the October 16, 2013 the Planning Commission meeting, the Planning Commission identified minor modifications for clarification to the ND which did not necessitate recirculation and those minor modifications were made recorded in the ND, revised November 14, 2013; and,



**WHEREAS**, at the November 20, 2013 continued public hearing, the Planning Commission considered the information presented with the November 14, 2013 report from the Town Planner along with the previous reports and materials and additional public comments and closed the public hearing.

**NOW, THEREFORE**, be it **RESOLVED** that the Planning Commission:

1. Adopts the proposed ND revised November 14, 2013; and
2. Makes the findings to support the use permit amendments as set forth in attached Exhibit A to this Resolution; and
3. Approves the amendment to Conditional Use Permit X7D-169 subject to the *Terms and Conditions* set forth in attached Exhibit B to this Resolution; and
4. Approves amendment to Conditional Use Permit X7D-151 subject to the *Terms and Conditions* set forth in attached Exhibit C to this Resolution.

PASSED AND ADOPTED at the regular meeting of the Planning Commission of the Town of Portola Valley on November 20, 2013.

For:

Against:

Absent:

By: \_\_\_\_\_  
Chair Alex Von Feldt

Attest: \_\_\_\_\_  
Town Planner, Tom Vlastic

**EXHIBIT A**  
**PLANNING COMMISSION RESOLUTION No. 2013-3**  
**FINDINGS TO SUPPORT**  
**PROPOSED AMENDMENTS TO**  
**CONDITIONAL USE PERMITS (CUPs) X7D-151 AND X7D-169**  
**555 PORTOLA ROAD**  
**SPRING RIDGE LLC (NEELY/MYERS)**

**NOVEMBER 20, 2013**

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1. The January 2012 approval of CUP X7D-169 allowed for approximately 10.5-11.0 acres of hay/grass and other vegetable and orchard agricultural uses in the 17 acre general plan "meadow preserve" area of the subject 229-acre property. The existing approval includes an Agricultural Building and modified service driveway access to Portola Road and specific CUP conditions setting standards for how agricultural activities would be conducted. Thus, active agricultural uses are currently permitted with supporting structures, access, including harvesting, making use of existing dirt/grass roads, etc. The amendments to CUP X7D-169 will permit up to 5.5 acres of new vineyards at the northerly end of the meadow within the 10.5-11.0 acre area identified in CUP X7D-169 for hay/grass and other agricultural uses. The specific area where the vineyards are planned is identified on Plan Sheet: SK-1, revised November 14, 2013, prepared by CJW Architecture (hereafter referred to as SK-1) and was specifically viewed during the May 13, 2013 joint Planning Commission and ASCC site meeting. Other than the allowance for new vineyard use within the 10.5-11 acre area, no changes to building area, access, impervious surfaces, general distribution of uses, or method of agricultural uses are proposed to that authorized by the existing provisions of CUPs X7D-151 and X7D-169. The grapes harvested in the 5.5 acres of new vineyards in the meadow area are to be processed in the existing winery facilities authorized by CUP X7D-151, and no expansion to the facilities is proposed for such processing or authorized with the amendments.
2. Of the 229-acre property, with these amendments, CUP authorized agricultural uses are limited to a total of 24-25 acres, essentially the same as authorized under the existing provisions of CUPs X7D-151 and X7D-169. The primary change is to permit up to 5.5 acres of new vineyards at the northerly end of the meadow preserve area as shown on SK-1, and to allow for harvested grapes to be processed at the existing on-site winery facilities within volumes anticipated under the existing terms of CUP X7D-151. The change would increase the total vineyard area possible on the entire 229-acre property to 19 acres. The existing 13.5 acres of vineyards outside of the meadow area and recognized in CUP X7D-151 would not change and there is no request or authorization for new vineyards beyond the existing 13.5 acres authorized by CUP X7D-151 and the new 5.5 acres proposed in the meadow area as shown on SK-1.
3. At the evening May 13, 2013 ASCC meeting, ASCC members discussed the findings and input from the joint site meeting with the Planning Commission and clarifications

offered by the applicants. The ASCC concluded that the "proposed range of agricultural uses was appropriate and that the area proposed for the uses would not be highly exposed to views from the [Portola Road] corridor."

4. The additional winery production would be limited by the conditions of the existing winery permit and these include no onsite sale of wine to consumers. Further, the subject amendment applications do not request nor would the amended permits authorize any direct on site sale of agricultural products, and customers may not come to the winery for tasting or purchasing of wine.
5. The record associated with CUP X7D-151 anticipated a volume of wine production of up to 3,800 cases annually. The current 13.5 acres of vineyards generates on average 176 cases of wine per acre for a total of 2,375 cases annually. With 19.0 acres, production could increase up to an average of 3,400 cases annually, but the current production estimate of the property owner with the added vineyard area is an annual average production of between 3,300 and 3,400 cases and within the 3,800 anticipated with authorization of CUP X7D-151. Caution was expressed in the findings for CUP X7D-151 relative to winery expansion due to the high visibility of the property and potential for modification of natural landforms and vegetation. The area proposed for the new vineyards is not highly visible from the Portola Road corridor. No natural landforms would be changed or significant trees removed with amendment to CUP X7D-169. The vegetation to be impacted are grasses in the meadow area that have already been impacted by haying operations, and this grass area was found acceptable for haying and some additional agricultural use with the granting of CUP X7D-169. Thus, the additional proposed vineyard area would not be highly visible or modify "natural land forms or vegetation."
6. The general plan states the following for the approximately 24-acre meadow preserve area, a part of which is on the subject property:

*"The Meadow Preserve, the large field adjoining Portola Road and north of the Sequoias, lies astride the San Andreas Fault and is visually important to the entire quality of the valley. This preserve should be kept in a natural condition and the existing agricultural character preserved."*

Approximately 17 acres of the meadow preserve are on the subject property and 7 acres are on the adjacent Mid-Peninsula Regional Open Space District (MROSD) property immediately south of the subject property. Approximately, 4 to 5 acres of the MROSD meadow preserve adjacent to the subject site are in grassland with the southerly 2-3 acres devoted to driveway and parking lot uses. Of the 17-acres of meadow preserve on the subject property, 4.5 acres may be devoted to hay/grass agricultural uses, 6.5 to 7 acres to new agricultural uses including the authorized agricultural building and services access drive, and 5.5 acres left in its existing open space condition. The 4.5 acres of hay/grass area on the subject site is immediately contiguous to the 4-5 acres of grass area on the MROSD property and the Planning Commission finds that this contiguity is important to maintaining the visual appearance of the meadow preserve along Portola Road for the Town.

Based on evaluations in the staff reports and discussions during the public hearing on the use permit amendments, specifically at the October 2, October 16, and November 20, 2013 Planning Commission meetings, it is found that the requested amendments can be found consistent with the general plan "meadow preserve" provisions because

the area proposed for additional vineyards is not highly visible from Portola Road, continues to maintain an agricultural character to the property, and does not impact the 4.5 acres of hay/grass contiguous to the MROSD property. Nevertheless, the Planning Commission finds the following appropriate and integral to the determination of consistency:

- a. The area identified as Hay/Grass on SK-1 shall be maintained in such agricultural uses or open space. If a future use permit amendment is sought to extend other agricultural uses into this area, it shall be considered only after the general plan has been modified to clarify "meadow preserve" provisions so as to allow consideration of such other agricultural uses. The commission finds that maintaining the hay/grass area on SK-1 and the grass uses on the adjacent MROSD property (regulated by the town pursuant to MROSD CUP X7D-133) achieves conformity with general plan "meadow preserve" provisions relative to the most visible meadow area.
- b. There shall be no fencing along the southern boundary of the subject property and no new planting of trees or other non-hay/grass materials shall take place to define the boundary and/or physically or visually break up this contiguous "meadow preserve" area. Further, no signage, e.g. "no trespassing" or other site markings shall be installed to identify the boundary. It is assumed that the neighboring property owners will achieve private cooperation relative to respecting the boundary. If the boundary matter proves to be a documented problem, the property owner may seek relief from this condition from the Planning Commission without the need for a conditional use permit amendment.
- c. The few existing trees along the southern boundary of the site may remain as allowed for in the boundary clearing plan approved in 2012 by the ASCC and conservation committee and implemented by the property owner. It was recognized during the ASCC review process that the few trees do provide some identification of the transition between properties and also some habitat for deer and other meadow area wildlife.
- d. Fencing of the non-hay/grass new agricultural blocks shall be as transparent as possible. Specifically, the fencing shall be no higher than 7 feet and shall be of 2-inch grape stakes, at 10-foot spacing, with no rails and 6"x6" narrow gauge wire mesh. A smaller mesh may be used for the lower three feet of vegetable block fencing. Recycled materials shall be used for fencing whenever possible. New meadow area fencing is permitted only around and within the "new agricultural" blocks and shall be the minimum possible necessary to provide for protection of the non-hay/grass agricultural plantings. All meadow area fencing plans shall be subject to ASCC review and approval prior to installation and shall incorporate provisions to the satisfaction of the ASCC to ensure fencing is adjusted to site contours and existing trees and other vegetation to be as transparent and inconspicuous as possible relative to views from the Portola Road Corridor.
- e. The property owner shall continue to work with the Town relative to Town objectives for selective trimming and removal of vegetation along the Portola Road Corridor parkway as shown on the general plan. Specifically, when the Portola Road Corridor Plan is completed, but no more than 24-months from the effective date of this CUP amendment, the property owner shall make a good faith effort to collaborate with appropriate Town representatives in additional selective trimming and removal of

vegetation consistent with the provisions of the completed plan. The property owner is encouraged to participate in the Corridor Plan process so that final objectives relative to clearing and opening of views can benefit from property owner input.

- f. The existing property dirt/grass road system as described on Sheet: SK-1, dated 11/14/13, prepared by CJW Architecture, may continue to be used for periodic maintenance and harvesting of agricultural production consistent with the agricultural plan on SK-1 and the provisions of CUPs X7D-151 and X7D-169. No new property dirt/grass roads shall be established for the meadow area. Further, the current meadow area dirt/grass roads shall not be improved beyond their current conditions. The above notwithstanding, the existing dirt/grass roads may be modified when found appropriate by the ASCC during review and approval of detailed meadow area planting and fencing plans.
- g. The allowance for the 5.5 acres of vineyards within the “new agricultural” areas shown on SK-1, and finding of conformity with the current general plan provisions for such allowance, is with the explicit understanding of the following distribution of uses on the 229-acre property as reflected on the approved plans for CUPs X7D-151 and X7D-169 and modified by proposed Sheet: SK-1 (acreages are approximate):

Existing vineyard	13.50 acres	(5.90%)
New agricultural (meadow)	6.50 acres	(2.84%)
Hay/grass (meadow)	4.60 acres	(2.00%)
Buildings	.53 acres	(.23%)
Impervious surfaces	1.46 acres	(.64%)
Undeveloped lands	202.41 acres	(88.39%)
<b>Total</b>	<b>229.00 acres</b>	<b>(100.00%)</b>

- 7. The subject property owner has entered into discussions with Town officials relative to a Williamson Act contract with the Town for the 229-acre property to maintain the property with agricultural, open space and compatible uses. While such a contact would be pursuant to Town Council action, the Planning Commission finds that such an action would be consistent with general plan objectives for the Spring Ridge property.

**EXHIBIT B – PLANNING COMMISSION RESOLUTION No. 2013-3  
TERMS AND CONDITIONS**

Town of Portola Valley  
**Amended Conditional Use Permit X7D-169**  
**SPRING RIDGE LLC (NEELY/MYERS)**  
**555 PORTOLA ROAD**  
**ASSESSOR'S PARCEL NUMBER: 076-340-110**

**As amended by the Planning Commission  
November 20, 2013**

*Amended terms and conditions to those established with the January 18, 2013 planning commission approval of Conditional Use Permit X7D-169 are set forth herein and for clarity identified by strikethrough for ~~deleted wording~~ and underlining of new wording.*

Pursuant to Section 18.48.010, Table No. 1 of the Portola Valley Zoning Ordinance, this Conditional Use Permit (CUP) is granted to Spring Ridge LLC (Neely/Myers) allowing for the following floor areas and impervious surface areas on the subject 228.86-acre property:

**Floor Areas:**

Existing main residence with detached garage	7,808 sf
Existing agricultural/winery building <sup>1</sup>	1,787 sf <sup>1</sup>
<i>Proposed greenhouse</i>	3,420 sf
<i>Proposed entertainment/cabana building</i>	2,285 sf
<i>Proposed guest house</i>	740 sf
<i>Proposed art studio</i>	1,400 sf
<i>Proposed horse barn</i>	3,540 sf
<i>Proposed agricultural building</i>	2,400 sf
<b><i>Total proposed floor area</i></b>	<b>23,380 sf</b>

**Impervious Surface (IS) Areas:**

Existing paved and other IS areas including existing reservoir structures	31,614 sf
Existing tennis court surface	6,766 sf <sup>2</sup>
<i>Proposed greenhouse IS</i>	675 sf
<i>Proposed entertainment/cabana building IS</i>	1,550 sf
<i>Proposed guest house/art studio IS</i>	7,000 sf
<i>Proposed horse barn IS</i>	8,000 sf
<i>Proposed agricultural building IS</i>	8,000 sf
<b><i>Total proposed IS Area</i></b>	<b>63,605 sf</b>

<sup>1</sup>The winery use is regulated and operated pursuant to CUP X7D-151.

<sup>2</sup>The clay court surface may or may not qualify as a permeable material as allowed for in town IS standards. For the purposes of this permit, however, it is included within the total allowed IS area.

The scope of existing and proposed site improvements authorized by this permit is shown on the plan data listed under Condition 7. of this permit, including the "agricultural plan" descriptions set forth on plan Sheet: SK-1, dated 11/14/13 and generally described in the November 21, 2011 statement from the applicant. Specific building permit plans for all authorized floor area and IS areas shall be subject to ASCC review for conformity with provisions of this permit prior to issuance. Further, all such building permits shall be subject to normal site development permit requirements. In addition, the floor area and IS allowance provisions and the provisions for agricultural uses of this permit are subject to compliance with the following conditions:

1. This permit shall be valid for a period of five (5) years from the effective date of planning commission approval of the amended conditional use permit. Authorized buildings must be constructed or under construction within the initial five-year period. Any building(s) not under construction within the five-year period may not be authorized unless the planning commission finds, prior to the end of the initial five-year period, that building permit plans for the structures are in process of town review and that construction will be initiated within a reasonable period of time, e.g., within six months of the end of the initial five-year period. Agricultural uses in the meadow preserve area shall also be initiated within the five-year period.
2. If none of the authorized buildings or uses are pursued within the five-year period stated in condition 1. above, then this CUP shall expire. If, however, any of the authorized floor area and associated impervious surface area or related new agricultural uses have been improved, as provided for herein, or are in the process of construction, the permit shall remain in effect for the uses under construction until such time as other town approvals may be granted for uses or improvements that would supersede the provisions of this permit. Once a building permit has been issued, building construction shall be completed in a timely manner.
3. The primary access to the site shall continue to be the gated driveway common with the entry to the Windy Hill Open Space preserve at the south end of the parcel's Portola Road frontage. The existing gated driveway at the north end of the parcel's Portola Road frontage shall only be for secondary access, i.e., maintenance of the meadow area, emergency access and service to the meadow area agricultural uses allowed for herein.
4. The northerly secondary driveway connection may be improved for safety of service vehicle access; however, this shall only be concurrent with development of the agricultural building and meadow agricultural uses. Such improvement may be by widening of the existing driveway connection or development of a new, replacement driveway connection, as evaluated in the December 2, 2011 staff report to the planning commission. Any such improvements shall be to the traffic engineering requirements of the public works director, to the satisfaction of the fire marshal for emergency access vehicles and to the satisfaction of the ASCC relative to the aesthetic considerations for the Portola Road corridor.
- 4a5. Existing dirt/grass service roads as identified on the permit plans shall not be paved or otherwise improved beyond their existing condition. These roads in the meadow area are specifically identified on plan Sheet SK-1, dated 11/14/13, and may continue to be used for periodic maintenance and harvesting of agricultural production consistent with the agricultural plan on SK-1 and the provisions of CUPs X7D-151 and X7D-169. No

new property dirt/grass service roads shall be established for the meadow area. Further, the current meadow area dirt/grass service roads shall not be improved beyond their current conditions. The above notwithstanding, the existing dirt/grass roads may be modified when found appropriate by the ASCC during review and approval of detailed meadow area planting and fencing plans..

- ~~5. Within one year of the effective date of this permit or prior to issuance of a building permit for the agricultural building, or installation of the new agricultural uses in the meadow areas, which ever is sooner, the permittee shall develop and implement a plan to the satisfaction of the ASCC to remove the recent redwood and non-native meadow area plantings as committed to in the 11/21/11 applicants statement. The plan, prior to ASCC approval and implementation, shall be shared with the Conservation Committee for review and recommendation to the ASCC.~~
- ~~5a6. Prior to issuance of a building permit for the agricultural building or installation of any new agricultural uses authorized by this permit, the permittee shall develop and implement a plan for thinning of trees on the permittees' property along the Portola Road corridor. The plan shall also provide for selective removal of trees planted along the southern meadow area parcel boundary. This plan shall be to the satisfaction of the ASCC. The property owner shall continue to work with the town relative to town objectives for selective trimming and removal of vegetation along the Portola Road Corridor parkway as shown on the general plan. Specifically, when the Portola Road Corridor Plan is completed, but no more than 24-months from the effective date of this CUP amendment, the property owner shall make a good faith effort to collaborate with appropriate town representatives in additional selective trimming and removal of vegetation consistent with the provisions of the completed plan. The property owner is encouraged to participate in the Corridor Plan process so that final objectives relative to clearing and opening of views can benefit from property owner input.~~
67. Prior to release of permits for any new structure, plan details for the existing tennis court shall be provided to the satisfaction of planning staff to ensure that the court work adheres to town grading and building permit standards and regulations.
78. The plans listed below are the approved master plans for this CUP. The plans, unless otherwise noted, have been prepared by CJW Architecture and have a revision date of June 21, 2011:

Sheet: A-0.0, "Title"

Sheet: A-1.0, Site Plan – All Projects, 12/1/11

Sheet: T-0.1A, Title Sheet: Cabana - Project #1, 6/18/10

Sheet: A-1.1A, Site Plan – Cabana, 10/4/10

Sheet: A-2.1A, Cabana Floor Plan & Elevations, 6/16/09

Sheet: T-0.1B, Title Sheet: Greenhouse – Project #2, 7/20/10

Sheet: A-1.1, Site Plan (Greenhouse), 1/14/09

Sheet: A-2.1B, Main Floor Plan (Greenhouse), 2/23/10

Sheet: A-3.1B, (Greenhouse) Exterior Elevations, 2/23/10

Sheet: A-1.1C, Site Plan (and building elevations) – Guest House (studio), 7/20/10

Sheet: A-1.1D, Site Plan (and building elevations) – Barn, 7/20/10



Sheet: A-1.1E, Site Plan (and building elevations) – Ag. Building, revised 1/10/12  
Sheet: SK-1, Site Plan, Revised November 14, 2013)

In addition to being in general conformity with these plans, final building permit plans for new structures, and all uses shall conform to the following:

- a. ~~No new vineyard use on the permit property is authorized with this use permit. Therefore, prior to issuance of any building permits or installation of any new agricultural uses, plan Sheet: A-1.1E, Site Plan (and building elevations) – Ag. Building, shall be revised to eliminate the proposed vineyard area, related fencing and any notes relative to new vineyard use. Further, the applicants' November 11, 2011 statement shall be revised to remove references to any new vineyard use. The plan sheet and statement revisions shall be to the satisfaction of the town planner. With approval of Sheet: SK-1, up to 5.5 acres of vineyards may be placed in the identified New Agricultural areas identified on this plan sheet.~~
- b. Detailed building permit and grading/site development permit plans shall be presented to the ASCC for review and approval prior to issuance. Each building, i.e., greenhouse, cabana/entertainment building, stable, guest house/art studio, and agricultural building shall be reviewed pursuant to the provisions of the site development ordinance and shall conform to provisions of the ordinance.
- c. The final building permit and grading plans shall address the design review issues identified by the ASCC during the course of the June and July 2009 project reviews, October 2010 project reviews, and project review conducted on August 22, 2011. In particular, the matters of exterior lighting, as well as internal greenhouse illumination and a shade system to control light spill and greenhouse wall and roof material reflectivity, shall be addressed to the satisfaction of the ASCC. Further, all final exterior materials and finishes shall be in general conformity with the following to the satisfaction of the ASCC:
  - Colors and material boards for the Cabana/Entertainment and Greenhouse buildings, both dated 2/20/09 (Note: The colors and materials board for the Cabana/Entertainment building also sets the basic finish framework for the guest house and art studio structures.)
  - Finish board for the stable building, dated 7/25/10.
  - Finish board for the proposed Agricultural building, dated 8/19/11 (photo representation of the Automotive Innovation Laboratory building on the Stanford University campus). A detailed materials board dated 9/30/11 has been prepared that will need to be presented for final ASCC review and approval when final building plans for the agricultural building are presented to the ASCC for approval.
- d. During the course of building permit plan review for the cabana/entertainment building, the ASCC shall consider the need for additional screen planting relative to views to and from the trails on the MROSD lands. As determined necessary, such planting shall be provided to the satisfaction of the ASCC. The MROSD shall be consulted in this review process.

- e. Final plans shall conform to the requirements set forth in the following reviews to the satisfaction of the reviewer prior to issuance of building or grading permits:

June 22, 2009, August 31, 2010, August 11, 2011 reports of  
the town geologist  
July 1, 2009 and September 2, 2010 reports of the fire marshal  
July 1, 2009 and August 19, 2010 reports of the health officer  
August 19, 2010 report from the public works director

Pursuant to the requirements of these reviews, the improvements to the existing driveway for access to the cabana/entertainment, guest house and art studio structures shall only be the minimum needed to ensure stability of the roadbed and conformity to the requirements for emergency access, including turnouts, for the accessory use and shall not be paved. (*Note: The provisions of the fire marshal include the requirements for a new fire hydrant if determined necessary for any of the individual projects.*)

- f. The provisions for the gray water sink and composting toilet for the agricultural building shall be to the satisfaction of the health officer.
- g. Final building permit plans for all proposed buildings shall be consistent with the design framework and objectives set forth in the February 20, 2009 letter from CJW Architecture as well as project clarifications made by the applicant and design team relative to these structures as reflected in the minutes of the June 8, 2009 joint planning commission and ASCC meeting, June 17, 2009 planning commission meeting, June 22, July 13, 2009 and August 22, 2011 ASCC meetings.
- h. The new stable and all structures above the existing residence (i.e., cabana/entertainment building, art studio and guest house) shall be "off-the-grid" as described in the February 20, 2009 letter from CJW Architecture and all buildings shall achieve Build It Green (BIG) scores as committed to in the February 23, 2009 communications from CJW to the satisfaction of planning staff. Prior to sign-off by the town of the building permits for these projects, the applicant shall provide documents prepared by a certified Green Point rater verifying that the required BIG point totals have been achieved and that the structures otherwise conform to the town adopted mandatory GreenPoint rated Build It Green program.

*(Note: At the December 7, 2011 public hearing, the applicant clarified that the pool/greenhouse would be "on the grid" and served by the utilities that extend to the main house. The agricultural building would have solar panels, but would be "on the grid" so that any excess power could be fed into the "grid.")*

- i. A detailed planting plan, with fencing provisions, (see also condition 7.l. relative to fencing), shall be provided for the agricultural uses conceptually identified on plan Sheet: SK-1 A-1.1E, ~~as revised pursuant to Condition 7.a of this permit~~. This plan shall be to the satisfaction of the ASCC and shall include detailed meadow management provisions, including irrigation details, in line with the applicant's CUP Agricultural Plan statement on Sheet: SK-1 ~~of November 21, 2011, once revised pursuant to Condition 7.a of this permit~~. Further, the plan shall detail anticipated harvesting activities and periods and how vehicle access shall be managed to minimize both traffic and meadow impacts (driveway surface, etc.). The plan shall

also include provisions for on-going control of invasive grasses in the meadow area and definition of the details for the dry-farming program to be applied as generally described by the applicant at the December 7, 2011 public hearing.

- j. Water used from the existing spring system shall be by gravity flow only. The permit does not provide for any pumping of ground water to serve the new facilities and uses. If pumping were to be proposed or considered, it would require use permit amendment and additional environmental review.
  - k. Construction staging plans for each structure project shall be provided with building permit plans to the satisfaction of the ASCC.
  - l. Fencing of the non-hay/grass new agricultural blocks shall be as transparent as possible. Specifically, the fencing shall be no higher than 7 feet and shall be of 2-inch grape stakes, at 10-foot spacing, with no rails and 6"x6" narrow gauge wire mesh. A smaller mesh may be used for the lower three feet of vegetable block fencing. Recycled materials shall be used for fencing whenever possible. New meadow area fencing is permitted only around and within the "new agricultural" blocks and shall be the minimum possible necessary to provide for protection of the non-hay/grass agricultural plantings. All meadow area fencing plans shall be subject to ASCC review and approval prior to installation and shall incorporate provisions to the satisfaction of the ASCC to ensure fencing is adjusted to site contours and existing trees and other vegetation to be as transparent and inconspicuous as possible relative to views from the Portola Road Corridor.
  - m. While it is recognized that there could be extraordinary circumstances, as noted on Sheet: SK-1, requiring the need to consider and use chemical herbicides and pesticides, such use shall be subject to prior approval by the town relative to the specific extraordinary circumstances. The request to the town for such chemical use shall be fully explained and documented in a transmittal to the town planner. The town planner shall consult any resources, including, for example, environmental consultants, deemed appropriate to consider and act on the request. The cost for all town time, including consultants, associated with review and action on the request shall be borne by the permit holder.
89. The area identified as Hay/Grass on SK-1 shall be maintained in such agricultural uses or open space.
910. There shall be no fencing along the southern boundary of the subject property and no new planting of trees or other non-hay/grass materials shall take place to define the boundary and/or physically or visually break up this contiguous "meadow preserve" area. Further, no signage, e.g. "no trespassing" or other site markings shall be installed to identify the boundary. It is assumed that the neighboring property owners will achieve private cooperation relative to respecting the boundary. If the boundary matter proves to be a documented problem, the property owner may seek relief from this condition from the planning commission without the need for a conditional use permit amendment.
811. The permittee shall defend, indemnify and hold harmless the town, its agents and officers and employees from any claim, action, or proceeding related to the town's approval of this use permit.

- ~~9~~12. If the permit is exercised and floor area and impervious surfaces constructed fully or in part as authorized, this permit shall be subject to periodic review by the planning commission for conformity with permit terms. The initial review shall be three years from the effective permit date and, thereafter, every five years unless an earlier review is determined necessary by town officials. The permittee shall be responsible for all town costs associated with any permit review.
4013. A modified memorandum of acknowledgement and acceptance of the findings and limitations and terms and conditions of this amended use permit shall be prepared by the town attorney, executed by the applicants, and recorded in the office of the San Mateo County recorder prior to release of any of the permits or town authorizations for the structures and uses allowed for in this permit.

**EXHIBIT C – PLANNING COMMISSION RESOLUTION No. 2013-3  
TERMS AND CONDITIONS**

Town of Portola Valley  
**Amended Conditional Use Permit X7D-151**  
**SPRING RIDGE LLC (NEELY/MYERS)**  
**555 PORTOLA ROAD**  
**ASSESSOR'S PARCEL NUMBER: 076-340-110**

**As amended by the Planning Commission  
November 20, 2013**

*Amended terms and conditions to those established with the January 21, 2000 planning commission approval of Conditional Use Permit X7D-151 (Planning Commission Resolution 2000-393) are set forth herein and for clarity identified by strikethrough for ~~deleted wording~~ and underlining of new wording.*

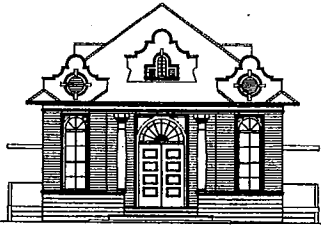
- 
1. The location of the vineyards shall be consistent with the plan entitled, "Existing Vineyard and Winery Access, Spring Ridge Property, Portola Valley, CA," dated 4/17/00. Beyond the 13.5 acres of existing vineyards shown on this plan, up to an additional 5.5 acres of vineyards may be established as provided for on Sheet: SK-1, 11/14/13, prepared by CJW Architecture, pursuant to the provisions of Conditional Use Permit (CUP) X7D-169.
  2. Only grapes grown on the property may be used in the making of wine.
  3. Irrigation water, when needed, is to be applied by drip irrigation.
  4. No fertilizers, herbicides, or pesticides shall be used. Chemicals, such as Sulfur, may be used in small quantities and only in the vineyard areas. Further, under extraordinary circumstances it is recognized that there could be the need to consider and use chemical herbicides and pesticides. Such use, however, shall be subject to prior approval by the town relative to the specific extraordinary circumstances. The request to the town for such chemical use shall be fully explained and documented in a transmittal to the town planner. The town planner shall consult any resources, including, for example, environmental consultants, deemed appropriate to consider and act on the request. The cost for all town time, including consultants, associated with review and action on the request shall be borne by the permit holder.
  5. Customers may not come to the winery for tasting or purchasing of wine.
  6. Erosion shall be minimized through good practices and sediments shall not be deposited beyond the limits of the property be controlled on site through best management practices consistent with contemporary standards to the satisfaction of the public works director.

7. Pulp from the wine production, including seeds, skins and stems shall be plowed back into the vineyards.
8. There will be no signage on the property with respect to the winery other than interior signs to direct persons to the winery building. Such signs shall be reviewed by the Town Planner and referred to the ASCC if necessary.
- ~~9. The culvert that is the subject of Site Development Permit X9H-417 shall be repaired.~~
409. This permit may be reviewed annually by the planning commission to determine if the project is in conformity with the provisions of the permit and applicable town ordinances. This review need not be a noticed public hearing; however, the holder of the permit and the adjoining property owners shall be notified. Costs attendant to the annual review shall be covered by a fee and deposit made by the holder of the permit.

## **Ordinance Requirements**

In order to grant the requested Conditional Use Permit, the planning commission must make findings in support of the following requirements of Section 18.72.130 (zoning) of the Municipal Code:

1. The proposed use or facility is properly located in relation to the community as a whole and to land uses and transportation and services facilities in the vicinity.
2. The site for the proposed use is adequate in size and shape to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and such other features as may be required by this title or in the opinion of the commission be needed to assure that the proposed use will be reasonably compatible with land uses normally permitted in the surrounding area and will insure the privacy and rural outlook of neighboring residences.
3. The site for the proposed use will be served by streets and highways of adequate width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
4. The proposed use will not adversely affect the abutting property or the permitted use thereof.
5. The site for the proposed use is demonstrated to be reasonably safe from or can be made reasonably safe from hazards of storm water runoff, soil erosion, earth movement, earthquake and other geologic hazards.
6. The proposed use will be in harmony with the general purpose and intent of this title and the general plan.
7. When this title or the town general plan specifies that a proposed use shall serve primarily the town and its spheres of influence, the applicant shall have demonstrated that a majority of business of the proposed use will come from the area immediately or within a reasonable period of time. In making such a demonstration, all similar uses in the town and its spheres of influence shall explicitly be taken into consideration by the applicant.



# MEMORANDUM

## TOWN OF PORTOLA VALLEY

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**TO:** Planning Commission  
**FROM:** Tom Vlastic, Town Planner  
**DATE:** September 27, 2013  
**RE:** Public Hearing -- Proposed Amendments to Conditional Use Permits (CUP) X7D-151 and X7D-169, 555 Portola Road, Spring Ridge LLC (Neely/Myers)

### **Planning Commission Public Hearing Process, Focus of Requested Changes**

On October 2, 2013 the planning commission will initiate the public hearing process for the subject requests for CUP amendment relative to agricultural uses on the subject 229-acre property. The most recent discussions of the proposals were conducted in April and May, as explained below, and included a preliminary review by the planning commission and a May 13, 2013 site meeting attended by the commission, town council and ASCC. Based on the preliminary review process, and staff follow-up with the applicant and his design team relative to the need for application clarifications, the requests were modified with clarifying documents received in July and September. These are attached and include:

Sheet: SK-1, Spring Ridge CUP Site Plan, CJW Architecture, Revised 9/19/13  
July 19, 2013 letter from Dr. Neely and Ms. Holly Myers

The July 19, 2013 letter clarifies the CUP amendment requests and specifically responds to the May 22, 2013 letter from the town planner relative to application questions and input received through the preliminary review process.

As set forth in the notice (copy attached) for the subject public hearing, the commission is scheduled to open the hearing at the October 2<sup>nd</sup> meeting, continue the hearing to the October 16<sup>th</sup> meeting and from that meeting continue the hearing to the regular November 6<sup>th</sup> commission meeting. This will permit time for processing of the proposed negative declaration for the project and also for staff and the applicant to address any additional project or data clarifications that may be needed before the planning commission is prepared to consider an action on the requested applications.

The sections that follow provide the following information:

- CUP amendment requests. This section sets forth the specific CUP amendment requests now before the commission for action and compares them to the provisions of approved CUPs X7D-151 and X7D-169.



- Evaluation of Request. This section evaluates the request pursuant to the findings required under the CUP provisions of the zoning ordinance, specifically including conformity with the general plan and the "Meadow Preserve" provisions of the plan.
- Conformance with the provisions of the California Environmental Quality Act (CEQA). This section discusses the proposed Negative Declaration prepared for the project and that is now being circulated for public review and input.
- Possible actions and CUP conditions. This section outlines possible commission actions and CUP conditions. These are presented tentatively at this point and would obviously be refined based on the public hearing process. Eventually an action resolution would be prepared for planning commission consideration.

There is a considerable amount of background data on these CUPs and the proposed amendments. Particularly significant is the data associated with CUP X7D-169. We have attempted to include the data most relevant to the subject applications. The attachments are listed at the end of this memorandum. If, however, a commissioner would like background not included herewith on specific issues or matters please advise us at the October 2<sup>nd</sup> meeting or, beforehand, contact Deputy Town Planner Karen Kristiansson or me.

The main focus of CUP changes is on the proposed addition of "approximately 5.5 acres" of vineyard area in the lower, east side 17-acre "meadow preserve" of the subject 229 acre property. The vineyards would be at the northerly end of the "meadow." No new buildings, structures or access ways are proposed beyond those already in place or authorized by existing CUP provisions, and no new vineyards are proposed beyond those in the "meadow area." The upper existing vineyards would remain as authorized and managed under the provisions of CUP X7D-151. The grapes grown in any new vineyard area would be processed at the existing winery facilities authorized by X7D-151. No expansion of these facilities is proposed or needed to support the grapes harvested from the 5.5-acres of proposed vineyards. The new "meadow" authorized agricultural building, yet to be constructed, is not proposed to be used for any winery operations.

The bulk of the environmental analysis associated with expanded agricultural uses on the property was considered and completed with the approval of the Mitigated Negative Declaration and CUP X7D-169 in January of 2012. The primary issue with the proposed vineyards had to do with conformity with the "meadow preserve" provisions of the general plan, and for this reason the options for vineyards were removed with the commission approval action. Minutes from the January 18, 2012 commission meeting are available online at the town's website for reference as needed.

### **Background and CUP Amendment Requests**

The attached April 17, 2013 preliminary review staff report to the planning commission contains significant background data including the approved CUPs for X7D-55 and X7D-169 as well as related staff reports. It also contains a May 25, 2012 letter to the project architect on the final site plan details that then needed to be resolved relative to X7D-169.

As commissioners were informed in April, the applicant has pursued ASCC review and approval of specific plans for the Agricultural building approved for the "meadow" area, and

the plans for the approved northerly service access drive. He has also pursued ASCC review of specific plans for the CUP authorized greenhouse and the upper area studio, guest house and cabana. No building permits have, however, been requested for any of the authorized buildings. Work on these matters, however, continues to be pursued.

As commissioners are also aware, work has proceeded and been completed under ASCC and conservation committee oversight for CUP X7D-169 required thinning of vegetation along Portola Road and along the southern parcel boundary. While the work was done, at the time of the May 13<sup>th</sup> site meeting, there was some indication that commissioners might be interested in seeing more thinning as a requirement of any CUP amendment. *(Refer to the attached reports and minutes associated with the May 13<sup>th</sup> site meeting. Also for background refer to the attached May 22, 2013 letter to the applicant from the town planner on needed application clarifications.)*

It should be noted that since the May 13<sup>th</sup> meeting, the Mid-Peninsula Regional Open Space District (MROSD) has allowed for completion by the town of town requested thinning of linear planting along its Portola Road frontage. This was a balanced effort to open views while still preserving some understory habitat of concern to the MROSD. It is also noted that additional right of way vegetation thinning, as marked along the west side road frontage, will be accomplished by the town when maintenance funds are available, and some additional opening of views from the corridor will result from the access driveway work permitted under the provisions of X7D-169.

During the preliminary review process in April and May some comments were presented relative to the low single rail fence approved by the ASCC for the southern boundary line but not yet installed. Some commissioners indicated an interest in considering this boundary fence as part of any action to amend X7D-169.

The specific proposed changes to the CUPs are set forth in the lists contained in the attached July 19, 2013 letter from the applicants and shown on the September 19, 2013 revised site plan, Sheet: SK-1, 9/19/13. The applicants are specifically requesting the following CUP amendments:

CUP X7D-169. Amend this CUP to recognize as part of the permit Sheet: SK-1, revised 9/19/13, and the plan for agricultural uses as stated on this sheet. (The 11/21/11 original agricultural plan letter is included with the attachments to the April 17, 2013 preliminary review report.) The main change is the request to permit up to 5.5-acres of vineyards in the meadow area as shown on the revised site plan. The request is to also basically restart the five-year authorization date from the effective date of any CUP amendment.

CUP X7D-151. This permit is proposed to be amended to also reference the revised site plan dated 9/19/13 for the added vineyard area and recognize a maximum of 19-acres of vineyards. This includes the existing 13.5 acres authorized by X7D-151 and the proposed 5.5-acres in the meadow area. While the site plan states "approximately 5.5" acres of vineyard, the changes to X7D-151 state a maximum of up to 19-acres. Thus, any action to authorize the vineyard use as proposed should be clear that the 5.5 acres is a maximum number. The data with the amendment request includes wine production tonnage information for the past five years (see table in attached 7/19/13 email form the applicants). With the proposed increase, production remains within the maximums evaluated with the 2000 CUP review and action.

As noted above, grapes from the proposed vineyard would not be processed in the new agricultural building and there would be no retail sales of agricultural products on site. In addition, CUP X7D-151 prohibits wine tasting or direct sales to customers on site. These limits on site sales and tasting would not change. Also, X7D-169 does not provide for sale of any agricultural products on site.

In summary, therefore, the proposed CUP changes are to allow for vineyards in the northerly portion of the "meadow" area of the property (i.e., a maximum of 5.5 acres as stated and shown on Sheet: SK-1), and to permit the grapes grown there to be used in the wine making activities authorized by the provisions of CUP X7D-151 and basically within the limits established with the record on X7D-151. The other key request is to restart the five-year timeframe for X7D-169 as noted above.

In response to questions of clarity as to how the proposed amendments compare to existing agricultural uses authorized by X7D-169 the following comments are offered. These also provide some data for perspective during consideration of the "meadow preserve" discussion in the next section of this report. In order to present acreage data with some relative consistency, we have calculated areas using the town's 1-inch = 200 feet air photo base map and on this applied the data from the town's general plan map for the "meadow preserve" and from the applicants' proposed site plan. As stated in the record of the May 13<sup>th</sup> meeting, these should not be considered engineering level of precision, but we believe the numbers are close and offer a fair comparison for CUP amendment evaluation.

- \* "Meadow Preserve" area. The total area designated as "meadow preserve" on the town's general plan diagram and described in the general plan text is 24 acres. This extends from the Portola Road frontage west to the Sausal Creek greenway and from the northern boundary of the Sequoias to the northern boundary of the subject property, i.e., to the start of the "orchard preserve" on the properties to the north. Of the meadow preserve's 24 acres, approximately 17 acres is on the subject 229-acre property and seven (7) acres at the south end of the "meadow" is on the MROSD Windy Hill Preserve. Of this seven acres, approximately half is devoted to the Preserve parking lot and lot access and the access road to the subject Spring Ridge property.
- Existing CUP X7D-169. CUP X7D-169 authorized a total area of 10.43 acres of the 17-acre "meadow preserve" for agricultural uses including a new agricultural building, service drive access improvements, farming and irrigation requirements, and the following:

Haying/grass (main "meadow")	7.87 acres*
West and Northwest side	
Orchard/vegetables	2.11 acres
South side at Ag building	
Vegetables	.48 acres
<b>Total</b>	<b>10.46 acres</b>

\*Of the 7.87-acres, the applicant contended that while the commission eliminated the option for vineyards, there was still a possibility for vegetables in the 3.2+ acres originally planned for vineyards. In our attached May 25, 2012 letter to the project architect on the site plan, we acknowledged some issue with this matter and noted that a final agriculture use plan would eventually be needed and evaluated for consistency with the commission action. It was agreed not to debate this pending further town consideration of the

applicants' desire for vineyards in the meadow area. In any case, the approved agricultural (AG) building was sized to accommodate haying on the full meadow area of the applicants' property.

- Proposed CUP X7D-169. Proposed changes to the authorized agricultural uses are for the planting areas only. No changes to building conditions or access are planned, and the manner to fence planting areas is the same as previously proposed as are the farming and irrigation provisions. The changes to the planting areas would be as follows:

Haying/grass (main "meadow")	4.57 acres*
West and Northwest side	
Other Agricultural	2.19 acres
South side of Ag building	
Other Agricultural	4.30 acres*
<b>Total</b>	<b>11.06 acres</b>

\*Of the 4.30 acres proposed for other agricultural, the approved plan included at least .48 acres for vegetables with the rest for haying and grasses subject the qualifications offered above.

The outlines of the areas proposed for harvested plantings are essentially the same, except that the additional .63 acre results from some simplification of the block boundary at the northwest corner, basically in the open area between large tree shown on the site plan west of the agricultural building and the other trees west of this large tree. This is an area that was generally viewed as not conflicting with meadow preserve provisions.

The main change, therefore, is to allow for other agricultural uses including up to 5.5 acres of vineyards within the 6.49-acre area identified for other agricultural uses on the site plan. The final layout for the agricultural uses and associated fencing plan would, as proposed, be subject to specific plan review and approval by the ASCC.

In summary, the applicant is requesting more flexibility relative to location of "other agricultural uses" including orchards, vegetables, and vineyards and specifically allowing approximately 3.21 additional acres of the northerly meadow, previously authorized at least for hay harvesting, to be used for these other agricultural uses. Based on discussions with the applicant and the past CUP reviews, we have further clarified our understanding of the request as follows:

1. Orchards would only be located in areas A2 or B as shown on the revised site plan, i.e., on the west side of the meadow and the extreme northwestern corner of area A1. These locations as previously evaluated are not highly visible from the road corridor or as parts of what we refer to herein as the "main meadow."
2. The agricultural uses would be conducted as proposed, committed to, and evaluated with the approved 2012 application and with the actions taken to approve CUP X7D-151. The main difference is the current request is to make general plan conformity findings allowing for 3.21 additional acres to be considered for other agricultural uses and likely most of the A1, 4.30 acre area, for vineyards.

## Evaluation

In order to grant a CUP or a CUP amendment request, the planning commission must make the findings set forth in attached Section 18.72.130 of the zoning ordinance. These findings were made in granting the original CUPs and the following comments are offered relative to the findings and proposed changes.

CUP X7D-151 for Winery operation. The only changes to the permit are those associated with the allowance for the grapes in the additional 5.5 acres of vineyards to be processed at the winery within the limits set for the current winery use. The current winery operation of 13.5 acres generates on average over the past five years 3 tons of wine per acre and with an average yield of 176 cases of wine per acre. Total volume is expected to increase by 968 cases of wine to a total for proposed 19 acres of 3,335 cases. Production with the 2000 authorized CUP was evaluated and expected to be at a maximum of 3,800 cases although this production limitation was not placed on the permit. Thus, we view the proposal for on site production of the additional cases with attendant harvesting, employees, vineyard management, etc., within the limitations of the original permit and, therefore, a minor change to the permit.

The findings were made as set forth in the attached CUP materials, including Resolution No. 200-393, to authorize the scope of production up to and even beyond what is now proposed and the winery operation has created no site, traffic or other issues. Thus, we conclude that the findings made to authorize the original permit are still valid and would not be impacted in any substantial way with the proposed changes to X7D-151. This, however, assumes the Commission can make the findings evaluated below to allow for the new vineyards to be in the lower meadow area.

It is also noted that the plans for the culvert repair as referenced in the CUP have been completed. Thus, original condition 9 of X7D-151 can be deleted.

CUP X7D-169, agricultural plantings/harvesting. In acting on CUP X7D-169, the planning commission made all required findings for harvested agricultural uses for essentially the same area now before the planning commission for modification of the specific scope agricultural uses as described above. The key issue in terms of changes focuses on the matter of placing more organized, fenced agricultural uses in the northerly main meadow area, basically between the northern boundary of the already authorized hay/grass area shown on the revised site plan and the approved Ag building location. This area extends from the more dense vegetation along Portola Road to the break in slope on the west side of the main meadow.

The proposed area was mowed and visually inspected during the May 13<sup>th</sup> site meeting. Views were considered from the trail and Portola Road Corridor and from the MROSD parking lot. The input and reactions for site meeting attendees are noted in the attached minutes from the May 13<sup>th</sup> meeting.

While we believe the CUP findings can be made for the scope of agricultural uses now proposed, the key issue remains relative to the finding of the plan for general plan conformity, specifically the following "meadow preserve" description that is in Section 2216.2 of the amended open space element and states:

*"The Meadow Preserve, the large field adjoining Portola Road and north of the Sequoias, lies astride the San Andreas Fault and is visually important to the entire quality of the valley. This preserve should be kept in a natural condition and the existing agricultural character preserved."*

For perspective in dealing with the subject request in terms of general plan consistency, the following are noted:

- As discussed in the April 17<sup>th</sup> preliminary review report to the planning commission, the matter of the need for modifications to the general plan "meadow preserve" provisions was considered at a February 13, 2013 joint meeting of the planning commission and town council. The report and minutes from that meeting are included with the 4/17 staff report. The general direction of the town council to staff was to address not only meadow preserve provisions, but also the provisions for all open space preserve areas along the west side of Portola Road. This effort is included in the planning programs and budget that has been set for FY 2013-14. Unfortunately, due to time demands associated with other planning tasks, including staff transitions, the work on general plan open space preserve provisions has not been able to proceed.
- As noted in the April 17<sup>th</sup> report, the applicants have determined that they do not want to wait for completion of the planning study and have, therefore, requested the proposed CUP amendments. It is staff's understanding that they feel the issues have been extensively discussed and that there is latitude in the current general plan language and the interpretations suggested in the discussions for the commission and/or council to make findings of general plan consistency for the proposed vineyard uses and similar to those made relative to agricultural uses noted in the materials associated with approval of CUP X7D-151.
- At the evening May 13, 2013 ASCC meeting, ASCC members discussed the findings and input from the site meeting and clarifications offered by the applicants. For reasons of a potential conflict of interest, Breen did not participate in the site meeting or evening discussion. The four ASCC members that did participate, among other things, concluded that the "proposed range of agricultural uses was appropriate and that the area proposed for the uses would not be highly exposed to views from the corridor." Again, the report for the 5/13 meeting and ASCC meeting minutes are attached.
- With the proposal, the southern main meadow area, i.e., between the MROSD parking lot and the northern boundary of the haying/grass area on the site plan, roughly 8-9 acres would be in hay/grass, i.e., essentially its existing condition, but with management to control invasive materials as required under the provisions of the existing CUP. The ASCC concluded that this was the most visible area of the meadow and that the area proposed for other uses and vineyards was not highly exposed to views. During the course of the 2012 CUP planning commission discussion, at least one commissioner stated that there was general plan support for haying and "smaller scale agricultural uses such as food crops," that "more intense uses" would not be consistent with the general plan and require a policy change
- Some of the comments in the record of the January 18, 2012 commission discussion of the meadow area suggest that the plan for more intense agricultural uses around the western border and at the Ag building were consistent with the general plan and, again, at least one commissioner indicated that small scale food crops would be consistent with

the general plan. The manner of managing and farming small scale food crops in terms of harvesting and the limitations already placed on the CUP do not necessarily seem more intense than the proposed vineyard operations. In fact, harvesting and irrigation appears less frequent than would be the case with food crops. It is also noted that a number of the comments did focus on vineyards specifically.

- One of the comments associated with the original 2012 meadow plan was relative to the fencing around the proposed vineyard block area. Specifically, the concern was over wildlife movement across the meadow. The current plan has at least a 160-foot wide opening between the proposed fenced A1 and A2 areas for wildlife passage. This includes the area of more sensitive grasses of concern during the 2012 permit review. This opening along with the open areas to the north and south of the proposed agricultural blocks would appear to provide adequate space for wildlife movement through and across the meadow area. At the same time, some additional openings might be considered in the area between the approved Ag building site and western boundary essentially to create a corridor in the area of existing trees shown on the site plan.
- During the 2012 public hearing, former council member Steve Toben offered comments in support of the applicants' plan, including comments on general plan conformity. He commented on the overall scale of the proposal relative to the subject site's area, agricultural uses in the meadow area, and perspectives on fencing in the meadow.
- In granting the CUP for the MROSD Windy Hill preserve, the town concluded that a parking area in the meadow preserve was acceptable to support the open space use of the property. This decision was made at the time the general plan wording emphasized "preservation of the existing character" and maintenance of the "present agricultural uses." A parking lot didn't exist so was not a factor relative to "existing character" nor did it maintain present agricultural uses. At the same time, it did further the open space uses of the larger western hillsides and thus was permitted without the need to change the general plan. The meadow preserve designation is still over the parking lot area.
- The applicant has maintained the subject property in its largely open space condition and has advised the commission and staff during the CUP review processes of the desire to offset maintenance burdens with some added uses including the already authorized and now proposed agricultural uses. He is also, as noted in the July 19, 2013 letter, seeking a Williamson Act contract with the town for the authorized agricultural uses. This would likely provide some tax relief and would be similar to the Williamson Act contract entered into for the White/Jelich Ranch "orchard preserve" property.

Based on the record associated with the February 13<sup>th</sup> joint meeting with the town council, the background to the history of previous commission discussions and CUP findings and approvals, the data relative to the May 13<sup>th</sup> site meeting, and the above comments, the commission will need to determine if the current requests can be found to be consistent with the general plan.

As was indicated in previous discussions, commissioners were having difficulty in making findings relative to consistency with the "natural condition" provision. Some struggle was also being had with "existing agricultural character." Based on the record of past discussions with the council and actions taken relative to approvals for MROSD, it appears

that there is latitude to find that the proposed changes to CUP X7D-169 are consistent with preserving the "existing" agricultural character. While "natural condition" may be more difficult, it is likely that in the context of the meadow area, interpretation must be made as to the intent of natural condition. Again, the town did exercise considerable discretion in interpreting the previous language to allow the MROSD parking lot in the "meadow preserve."

In summary, we believe that the commission could find that the proposal does help ensure that the agricultural character would be preserved. It could also conclude that the proposal would help keep the "meadow area" in a relatively "natural condition" and that this "condition" does include respect for preserving the "existing agricultural condition."

Thus, the commission, like with most significant general plan consistency considerations, will need to make reasonable interpretations of wording that reflect the overall intent of the plan. In this case, the basic intent is to preserve the basic extremely low intensity, open space character of the property without the need for consideration of public acquisition.

### **Conformance with the provisions of the California Environmental Quality Act (CEQA)**

The proposed Negative Declaration prepared for the project is attached and is being circulated as noted above and in the attached public hearing notice. The majority of agricultural use matters were evaluated with the mitigated negative declaration approved for X7D-169 and the scope of uses authorized with CUP X7D-151. The mitigated negative declaration did include review of the proposed winery vineyard uses and the key conflicts faced by the commission were the consistency findings outlined above. Thus, the proposed negative declaration relies largely on the mitigated negative declaration approved for X7D-169. It should be noted that the required public circulation period for a negative declaration is 20 days, but a longer, 30-day period has been noticed in this case.

### **Possible actions and CUP conditions**

If, after the public hearing, the commission decides not to approve the proposed negative declaration or applications, the existing permits would remain in effect without any change. If the commission concludes it can proceed to make required CUP findings and grant the requested amendments it could do so as proposed or with changes to the proposals. If for example, it was concluded that some vineyard use was acceptable but not precisely as requested, it could so condition the permit in completing action of the requested amendments,

It is likely most appropriate for the commission to consider the requests for X7D-169 first. If this permit is not amended to allow for any vineyard uses, there would be no basis for the requested amendment to X7D-151.

Based on the record of preliminary review and the above comments, if the commission decides to proceed to approve some or all of the requested amendments, conditions that might be considered include:

1. Modification or elimination of the potential for any fencing along the southern boundary of the property.



2. Additional thinning or clearing of vegetation along the Portola Road frontage and/or southern boundary.
3. Provision of an opening in the fenced agricultural blocks in the northwest corner for additional wildlife passage.
4. Provision of a final site plan for X7D-151 with all authorized vineyard blocks on it.
5. Require that the final, detailed plan for agricultural block layout and fencing be subject to planning commission review and approval for CUP consistency rather than delegating this to the ASCC. As a part of this, the site plan notes in any case should be modified to be clear that orchards are not to be considered for main meadow are of block A1.

Other possible conditions will likely be identified through the public hearing process and commission review and direction and put into the final action resolution, assuming the planning commission concludes it can eventually make findings to grant some or all of the requested amendments.

#### **Attachments**

1. Public Hearing Notice
2. July 19, 2013 letter from Applicants with email containing table of five-year Spring Ridge wine production.
3. Sheet: SK-1, dated 9/19/13, prepared by CJW Architecture,
4. May 22, 2013 letter to applicants from Town Planner.
5. May 13, 2013 Site Meeting minutes.
6. May 13, 2013 staff report for May 13, 2013 Joint Site Meeting.
7. April 17, 2013 Preliminary review staff report to the Planning Commission with attachments noted in the report.
8. May 25, 2012 letter from Town Planner to project architect Kevin Schwarckopf with attachments.
9. Zoning Ordinance Section 18.72.130, required CUP findings.
10. Proposed Negative Declaration, September 27, 2013.

TCV

Encl.  
Attach.

cc. Nick Pegueros, Town Manager  
Leigh Prince, Town Attorney  
Karen Kristiansson, Deputy Town Planner  
Carol Borck, Assistant Planner  
Town Council Liaison  
ASCC  
Dr. Kirk Neely and Ms. Holly Myers  
Kevin Schwarckopf & Carter Warr, CJW Architecture

5

-----Original Message-----

From: [webmaster@portolavalley.net](mailto:webmaster@portolavalley.net)  
Subject: Feedback On Website  
Sent: 30 Oct '13 07:54

Submission information

-----  
Submitter DB ID : 2643  
Submitter's language : Default language IP address : 99.4.121.42 Time to take the survey :  
41 min. , 10 sec.  
Submission recorded on : 10/29/2013 4:54:59 PM

Survey answers

-----  
Name:  
Marcia Keimer

Email Address: \*  
[Marciakeimer@yahoo.com](mailto:Marciakeimer@yahoo.com)

Message: \*

~~To the Town Council/ Planning Commission:~~

I have lived in this beautiful town for 30 years. In 1995/96 I served on the General Plan Review committee for a year and a half. We were all concerned about how much of our beautiful acreage would remain open space in the future, especially along the Portola Road corridor. We worked on the wording of the Plan for hours to protect the rural beauty of Portola Valley. A PRESERVE is just that: land preserved for generations to come. Nothing built. Nothing farmed. Nothing added.

The McNeelys knew about the preserve when they bought the land and now they want to encroach upon it with a vineyard. In your decision, please honor the meaning of the word PRESERVE.  
Marcia (and Jeff) Keimer  
475 Cervantes Rd.

**Sandra Patterson**  
126 Stonegate Road  
Portola Valley, CA 94028

Telephone (650) 851-8811

Fax (650) 851-7221

[sjpatt@comcast.net](mailto:sjpatt@comcast.net)

May 15, 2013

Town of Portola Valley Architectural and Site Control Commission  
Portola Valley, CA 94028

Dear Members of the ASCC Commission:

My husband, Wil, and I appreciated the opportunity to tour the Meadow Preserve area with members of the ASCC/Planning Commission this past Monday. We were pleased to witness the careful consideration being directed toward the proposed amendment to the Neely/Myers conditional use permit.

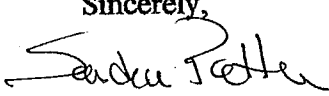
A good deal of planning has been focused on the landscape bordering Portola Road. We would encourage members of the ASCC/Planning Commission/Town Council to view the Meadow Preserve from a higher elevation – from the Westridge area or from our home on Stonegate Road. As a member of the town Conservation Committee on the tour remarked, the meadow appears to be cut in half by this proposed additional acreage for vineyards or crops.


The Neely/Myer proposal seems purposely vague regarding the cultivation of crops. Issues regarding farming activity, including fertilizers/pesticides, along with traffic, noise, dust, and above of all, safety, must be addressed and resolved. The generation of additional traffic flow in and out of the meadow onto Portola Road must be closely examined so as not to pose a danger to the many cyclists, joggers/hikers, and equestrians who use the trail along the Meadow Preserve.

My husband and I have been Stonegate residents for 25 years and feel so fortunate to live in a town where the environment and conservation are highly valued. We believe the wildlife, the beauty and serenity of the Meadow Preserve will be disturbed or, more likely, damaged for a few acres of unnamed crops or vineyards. What if the owners tire of this new venture? Will the meadow be restored to its original state?

The Meadow Preserve is unique and contributes to what makes Portola Valley a naturally beautiful place for its residents and visitors. We urge the leaders of Portola Valley not to approve the proposed amendment to the Neely/Myers conditional use permit. Thank you for taking time to consider our request.

Sincerely,

  
Sandra Patterson

  
Wilcox Patterson

**Town of Portola Valley**  
**PROPOSED NEGATIVE DECLARATION**  
**CONDITIONAL USE PERMIT AMENDMENTS X7D-169 & 151**  
**SPRING RIDGE LLC (NEELY/MYERS)**  
**September 27, 2013, Rev. 11/14/13**

A notice pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000 et seq.) that the following project:

The proposed amendments to CUPs X7D-169 & X7D-151 when implemented will not have a significant impact on the environment.

**File Number:** *CUP X7D-169 and CUP X7D-151, Spring Ridge LLC (Neely/Myers)*

**Owner:** *Spring Ridge LLC*

**Applicant:** *Dr. Kirk Neely and Ms. Holly Myers*

**Assessor's Parcel Number:** *APN: 076-340-110*

The conditional use permit (CUP) amendment applications specifically request that CUP X7D-169 be modified to allow for up to 6.5 acres of other agricultural uses, including potentially up to 5.5 acres of new vineyards, for the northerly portion of the approximately 17 acres of town general plan "Meadow Preserve" area located on the subject 229 acre property. Within the 6.5 acres area, CUP X7D-169 already allows for an agricultural building with new service road access, haying and, at the northern and western edges of the Meadow Preserve area, orchard and fruit and vegetable uses. The amendment to CUP X7D-151 would recognize the new vineyard area as part of the Winery CUP and allow for processing of grapes from the proposed "Meadow Preserve" vineyard at the existing winery facilities operated under the provisions of CUP X7D-151. These provisions and those of X7D-169 do not allow for sale of agricultural products or wine at the site and these limitations would not change with the proposed amendments. All agricultural operations would be conducted within the limits of the established permits in terms of farming, harvesting, irrigation and land management. In particular, the scope of agricultural area authorized by X7D-169 would not change in any significant manner from that allowed under X7D-169 and the adopted mitigated declaration for that permit, as revised January 18, 2012. The primary change is the addition of vineyards in the northerly meadow area and evaluation of this proposal for conformity with the Meadow Preserve provisions of the Portola Valley General Plan.

The specific amendment requests are set forth in the July 19, 2013 letter from Dr. Neely and Ms. Myers and shown on the revised site Sheet: Sk-1, dated 9/19/13, rev. 11/14/13, prepared by CJW Architecture. The proposals are further described and evaluated in the September 27, 2013 staff report to the planning commission and the November 14, 2013 report to the commission.

The subject parcel is a large property on the Western hillsides of Portola Valley extending roughly 6,000 feet from Portola Road with significant gains in elevation over the level of Portola Road. It is constrained by traces of the San Andreas Fault along its eastern frontage and steep slopes, and significant areas of slope instability. Existing and proposed residential improvements would, however, be located on stable slopes meeting all town requirements for access, fire safety, water supply and sewage disposal. The new uses would be accessory to the primary residential and agricultural uses on the property. The project and its setting are described in detail in the September 27, 2013 staff report with attachments.

The site is bordered on the south and west sides by a large property owned and operated by the Midpeninsula Regional Open Space District. To the north other large parcels exist with limited development as they are constrained by conditions similar to those impacting the subject property. To the east is a residential neighborhood with densities ranging from one to two acres per dwelling unit.

Copies of the above referenced project plans and materials are available for reference at Portola Valley Town Hall, 765 Portola Road.

**Findings and Basis for a Negative Declaration:**

Town staff has prepared the updated September 27, 2013, rev. 11/14/13, initial study for the project and, based upon substantial evidence in the record as set forth in the September 27, 2013 staff report and attachments to and referenced in that report, and the 11/14/13 staff report, finds that with the existing CUP conditions and conditions to be added relative to the proposed amendments as discussed in 9/27/13 7 11/14/13 staff report and proposed planning commission Resolution 2013-3 that:

1. The project will not adversely impact scenic resources, the existing visual character of the site and its surroundings, or other site and area aesthetic qualities;
2. The project will not have adverse impacts on agricultural resources;
3. The project will not adversely affect water or air quality, or increase noise levels substantially;
4. The project will not have adverse impacts on the biological resources of the area;
5. The project will not adversely expose people or structures to geologic hazards, result in substantial soil erosion or otherwise cause adverse impacts associated with soils and geologic conditions;
6. The project will not have adverse impacts associated with any hazard or hazardous materials;
7. The project will not have adverse impacts on traffic, land use, mineral resources, public services, recreation, or utilities and service systems;
8. In addition, the project will not:
  - a. Create impacts which have the potential to degrade the quality of the environment.
  - b. Create impacts for a project which are individually limited, but cumulatively considerable.
  - c. Create environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

The Town of Portola Valley has, therefore, determined that subject to the required permit terms and conditions the environmental impact of the project is insignificant.

**The following responsible agencies were consulted when preparing the initial study:**

Town of Portola Valley.

**Initial Study**

Town staff has reviewed the environmental evaluation of this project in the updated September 27, 2013, rev. 11/14/13, Initial Study including the data and evaluations in the 9/27/13 and 11/14/13 staff reports to the planning commission and has found that the probable environmental impacts are insignificant.



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Tom Vlasic  
Town Planner  
Town of Portola Valley

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September 27, 2013, rev. 11/14/13  
Date

**Town of Portola Valley**  
**Initial Study: Environmental Evaluation Checklist**  
**CONDITIONAL USE PERMIT AMENDMENTS X7D-169 & 151**  
**SPRING RIDGE LLC (NEELY/MYERS)**  
**September 27, 2013, Rev. 11/14/13**

**I. Background**

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Project title:

Conditional Use Permit Amendments X7D-169 and X7D-151, Spring Ridge LLC (Neely/Myers)

Lead agency name and address:

Town of Portola Valley, 765 Portola Road, Portola Valley California 94028

Contact person:

Karen Kristiansson, Deputy Town Planner Phone number: 650-851-1700 ext. 212

Project location:

555 Portola Road, Portola Valley, California 94028  
(Assessor's Parcels 076-340-110)

Project sponsor's name and address:

Dr. Kirk Neely & Ms. Holly Myers, Spring Ridge LLC

General plan designation: Open and Conservation Residential with Meadow preserve

Zoning:

R-E/2.5A/SD-2 and MR/7.5A/SD-3/DR

Description of project (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support or off-site features necessary for its implementation. Attach additional sheets if necessary.):

The conditional use permit (CUP) amendment applications specifically request that CUP X7D-169 be modified to allow for up to 6.5 acres of other agricultural uses, including potentially up to 5.5 acres of new vineyards, for the northerly portion of the approximately 17 acres of town general plan "Meadow Preserve" area located on the subject 229 acre property. Within the 6.5 acres area, CUP X7D-169 already allows for an agricultural building with new service road access, haying and, at the northern and western edges of the Meadow Preserve area, orchard and fruit and vegetable uses. The amendment to CUP X7D-151 would recognize the new vineyard area as part of the Winery CUP and allow for processing of grapes from the proposed "Meadow Preserve" vineyard at the existing winery facilities operated under the provisions of CUP X7D-151. These provisions and those of X7D-169 do not allow for sale of agricultural products or wine at the site and these limitations would not change with the proposed amendments. All agricultural operations would be conducted within the limits of the established permits in terms of farming, harvesting, irrigation and land management. In particular, the scope of agricultural area authorized by X7D-169 would not change in any significant manner from that allowed under X7D-169 and the adopted mitigated declaration for that permit, as revised January 18, 2012. The primary change is the addition of vineyards in the northerly meadow area and evaluation of this proposal for conformity with the Meadow Preserve provisions of the Portola Valley General Plan.

The specific amendment requests are set forth in the July 19, 2013 letter from Dr. Neely and Ms. Myers and shown on the revised site Sheet: Sk-1, dated 9/19/13 prepared by CJW Architecture. The proposals are further described and evaluated in the September 27, 2013 staff report to the planning commission.

Surrounding land uses and setting (Briefly describe the project's surroundings.):

The subject parcel is a large, 229-acre property on the Western hillsides of Portola Valley extending roughly 6,000 feet from Portola Road with significant gains in elevation over the level of Portola Road. It is constrained by traces of the San Andreas Fault along its eastern frontage and steep slopes, and significant areas of slope instability. Existing and proposed residential uses and winery uses authorized by X7D-169 and X7D-151 would not be changed other than as noted above. No new structures are proposed to be authorized by the requested amendments.

The site is bordered on the south and west sides by a large property owned and operated by the Midpeninsula Regional Open Space District. To the north other large parcels exist with limited development as they are constrained by conditions similar to those impacting the subject property. To the east is a residential neighborhood with densities ranging from one to two acres per dwelling unit.

Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):

None.

**II. Environmental Factors Potentially Affected**

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The environmental factors checked below would be potentially affected by this project, as indicated by the checklist on the following pages.

- |  |   |
|--|---|
| <input type="checkbox"/> Aesthetics                      | <input type="checkbox"/> Mineral Resources                  |
| <input type="checkbox"/> Agricultural Resources          | <input type="checkbox"/> Noise                              |
| <input type="checkbox"/> Air Quality                     | <input type="checkbox"/> Population/Housing                 |
| <input type="checkbox"/> Biological Resources            | <input type="checkbox"/> Public Services                    |
| <input type="checkbox"/> Cultural Resources              | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Geology/Soils                   | <input type="checkbox"/> Transportation/Traffic             |
| <input type="checkbox"/> Hazards and Hazardous Materials | <input type="checkbox"/> Utilities/Service Systems          |
| <input type="checkbox"/> Hydrology/Water Quality         | <input type="checkbox"/> Mandatory Findings of Significance |
| <input type="checkbox"/> Land Use/Planning               |   |

**III. Determination (To be completed by the Lead Agency)**

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On the basis of this initial evaluation as set forth in the 9/27/13 updated environmental checklist and the September 27, 2013 staff report to the planning commission:

X I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared pursuant to Section 15162(b) of the California Public Resources Code.

\_\_\_\_\_ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

\_\_\_\_\_ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

\_\_\_\_\_ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect

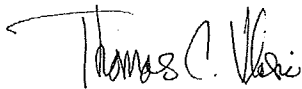
- 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and
- 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets.

An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

\_\_\_\_\_ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects

- 1) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and
- 2) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION including revisions or mitigation measures that are imposed upon the proposed project,

nothing further is required.



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Tom Vlasic  
Signature

Town Planner  
Title

September 27, 2013  
Date

(Note: This checklist was corrected for clarity on November 14, 2013)

# Town of Portola Valley

## Initial Study: Environmental Evaluation Checklist Attachment

### Evaluation of Environmental Impacts:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project specific screening analysis).
2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applied where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c)(3)(D). In this case, a brief discussion should identify the following.
  - a. Earlier Analysis Used. Identify and state where they are available for review.
  - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measured based on earlier analyses.
  - c. Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting Information Sources. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
9. The explanation of each issue should identify:
  - a. the significant criteria or threshold, if any, used to evaluate each question; and
  - b. the mitigation measure identified, if any, to reduce the impact to less than significance.

**Town of Portola Valley**  
**Initial Study: Environmental Evaluation Checklist Attachment**  
**CONDITIONAL USE PERMIT AMENDMENTS X7D-169 & 151**  
**SPRING RIDGE LLC (NEELY/MYERS)**

**September 27, 2013**

*(Note: this is an update of adopted Checklist dated 1/18/12 – Refer to notes at the end of the checklist)*

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
1.	<b>AESTHETICS</b> Would the project:					
1a.	Have a substantial adverse effect on a scenic vista?*			X		19, 33, 46, PC 1/18/12 Oak thinning
1b.	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a scenic highway?			X		10, 19, 33, 46
1c.	Substantially degrade the existing visual character or quality of the site and its surroundings?*			X		10, 19, 33, 42, 46, & 1/18/12 app. conditions
1d.	Create a new source of substantial light or glare which would affect day or nighttime views in the area?			X		10, 19, 33, 44, 46
2.	<b>AGRICULTURAL RESOURCES</b> In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:					
2a.	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non agricultural use?				X	5, 6, 10, 19, 32
2b.	Conflict with exiting zoning for agricultural use, or a Williamson Act contract?				X	10, 18, 19

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
2c.	Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to nonagricultural use?				X	10, 11, 19, 32, 42
3.	<b>AIR QUALITY</b> Where available, the significant criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
3a.	Conflict with or obstruct implementation of the applicable air quality plan?				X	10, 19, 44
3b.	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X	10, 19, 44
3c.	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X	10, 19, 44
3d.	Expose sensitive receptors to substantial pollutant concentrations?				X	10, 19, 44
3e.	Create objectionable odors affecting a substantial number of people?				X	10, 19, 44, 46
4.	<b>BIOLOGICAL RESOURCES</b> Would the project:					
4a.	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X	10, 19, 32, 46

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
4b.	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X	10, 19, 32
4c.	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X	10, 19, 32
4d.	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X	10, 19, 20, 32
4e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X		10, 19, 45, 46
4f.	Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X	10, 19, 32, 46
5.	<b>CULTURAL RESOURCES</b> Would the project:					
5a.	Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?				X	10, 19, 46
5b.	Cause a substantial adverse change in the significance of an				X	10, 12, 19, 46

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
	archaeological resource pursuant to '15064.5?					
5c.	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X	10, 12, 19
5d.	Disturb any human remains, including those interred outside of formal cemeteries?				X	10, 12, 19
6.	<b>GEOLOGY AND SOILS</b> Would the project:					
6a.	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:			X		6, 7, 19, 22, 46
i.	Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X		6, 7, 19, 22, 46
ii.	Strong seismic ground shaking?			X		6, 7, 22, 46
iii.	Seismic-related ground failure, including liquefaction?			X		6, 7, 19, 22, 46
iv.	Landslides?			X		6, 7, 10, 22, 46
6b.	Result in substantial soil erosion or the loss of topsoil?				X	6, 7, 10, 22, 46
6c.	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X		6, 7, 10, 22, 46
6d.	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X	5, 6, 7, 10, 22
6e.	Have soils incapable of					

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
	adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X	6, 7, 10, 22, 25,46
7.	<b>HAZARDS AND HAZARDOUS MATERIALS</b> Would the project:					
7a.	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X	19, 44, 46
7b.	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X	19, 30, 44, 46
7c.	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X	10, 19, 30, 44, 46
7d.	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X	10, 19, 30, 46
7e.	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X	10, 19
7f.	For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working				X	10, 19



No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
	in the project area?					
7g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X	10, 19, 30, 44
7h.	Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X	10, 19, 30, 44
8.	<b>HYDROLOGY AND WATER QUALITY</b> Would the project:					
8a.	Violate any water quality standards or waste discharge requirements?				X	10, 19, 23, 30, 44, 46
8b.	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X	10, 19, 23, 44, 46
8c.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				X	9, 10, 19, 20, 46
8d.	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially				X	9, 10, 19, 45, 46

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
	increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?					
8e.	Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X	9, 10, 19, 22, 44, 45, 46
8f.	Otherwise substantially degrade water quality?				X	10, 19, 46
8g.	Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X	8, 9, 10, 19, 46
8h.	Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X	8, 9, 10, 19, 46
8i.	Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X	8, 9, 20, 22
8j.	Inundation by seiche, tsunami, or mudflow?				X	6, 8, 9, 22
9.	<b>LAND USE AND PLANNING</b> Would the project:					
9a.	Physically divide the physical community?				X	10, 19, 44
9b.	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?*			X		10, 19, 42, 44
9c.	Conflict with any applicable					

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
	habitat conservation plan or natural community conservation plan?				X	10, 19, 32, 44, 46
10	<b>MINERAL RESOURCES</b> Would the project:					
10a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X	5, 19, 22, 32, 46
10b.	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X	5, 10, 19, 22, 32
11.	<b>NOISE</b> Would the project result in:					
11a.	Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X	10, 19, 44, 46
11b.	Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X	10, 19, 44, 46
11c.	A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X	10, 19, 44, 46
11d.	A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X	10, 19, 44, 46
11e.	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to				X	10, 19

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
	excessive noise levels?					
11f.	For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X	10, 19
12.	<b>POPULATION AND HOUSING</b> Would the project:					
12a.	Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X	10, 11, 19, 44
12b.	Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X	10, 11, 19, 44
12c.	Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X	10, 11, 19, 44
13.	<b>PUBLIC SERVICES</b> Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
13a.	Fire protection?				X	10, 17, 19, 30, 42
13b.	Police protection?				X	10, 19
13c.	Schools?				X	10, 19
13d.	Parks?				X	10, 19
13e.	Other public facilities?				X	10, 19
14.	<b>RECREATION</b>					
14a.	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X	10, 19, 44, 46
14b.	Does the project include recreational facilities or require the construction or expansion of recreational facilities which				X	10, 19, 44, 46

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
	might have an adverse physical effect on the environment?					
15.	<b>TRANSPORTATION/TRAFFIC</b> Would the project:					
15a.	Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X	10, 19, 20, 44, 46
15b.	Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X	10, 19, 20, 44, 46
15c.	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X	10, 19, 44, 46
15d.	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X	10, 19, 20, 44, 46
15e.	Result in inadequate emergency access?				X	10, 19, 30, 44, 46
15f.	Result in inadequate parking capacity?				X	10, 19, 44, 46
15g.	Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X	10, 19, 44, 46
16.	<b>UTILITIES AND SERVICE SYSTEMS</b> Would the project:					
16a.	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X	10, 19, 25, 44, 46
16b.	Require or result in the construction of new water or wastewater treatment facilities				X	10, 19, 25, 44, 46

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
	or expansion of existing facilities, the construction of which could cause significant environmental effects?					
16c.	Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X	9, 10, 19, 44, 46
16d.	Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X	10, 19, 25, 44, 46
16e.	Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X	10, 19, 25, 46
16f.	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X	10, 19
16g.	Comply with federal, state, and local statutes and regulations related to solid waste?				X	10, 19, 25, 46
17.	<b>MANDATORY FINDINGS OF SIGNIFICANCE</b>					
17a.	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of				X	10, 12, 19, 22, 32, 44, 46

No.	Environmental Topic	Level of Impact				Source
		Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact	
	California history or prehistory?					
17b.	Does the project have impacts that are individually limited, but cumulatively considerable ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				X	10, 19, 44, 46
17c.	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X	10, 19, 44, 46

## Sources

1. Town Base Map, 1996, as updated
2. USGS Maps, 1973
3. Aerial photos: 1992, 1991, 1980, 1970, 1968, 1965, 1948
4. Slope Map, 1972
5. Soils Map, 1970
6. Geologic Map, 1975, as updated
7. Movement Potential of Undisturbed Land Map, 1975 as updated
8. Flood Hazard Boundary Map, 1979
9. Master Storm Drainage Report, 1970
10. General Plan, amended June 12, 1996
24. Building Inspector
25. Health Officer 7/1/09 report and 8/19/10 report
26. Town Historian
27. Town Engineer, analysis as described in 12/2/11 staff report
28. Town Police Commissioner
29. San Mateo County Sheriff
30. Woodside Fire Protection District July 1, 2009 report, 9/2/10 report, communication 12/1/11
31. West Bay Sanitary District
32. Portola Valley Sensitive Biological Resources Assessment and Fire Hazard Assessment, April 2010
33. Architectural and Site Control Commission 6/8/09, 6/22/09 and

- |   |     |   |
|---|-----|---|
|   |     | 7/13/09, 11/9/09, 9/9/10, 10/21/10,<br>8/22/11                                |
| 11. Comprehensive Plan Diagram, amended June 12, 1996   | 34. | Cable TV Committee  |
| 12. Historic Element Diagram, adopted December 19, 1994   | 35. | Conservation Committee  |
| 13. Trails and Paths Diagram, amended October 13, 1982  | 36. | Emergency Preparedness Committee  |
| 14. Nathhorst Triangle Area Plan, amended December 9, 1992  | 37. | Finance Committee   |
| 15. Alpine Parkway Diagram, amended May 28, 1980  | 38. | Geologic Safety Committee   |
| 16. Village Square Area Diagram, adopted December 9, 1992   | 39. | Historic Resources Committee  |
| 17. Fire Hazards Map, adopted August 13, 1975   | 40. | Parks and Recreation Committee  |
| 18. Zoning Map, current   | 41. | Public Works Committee  |
| 19. Town Planner project review and site inspection including<br>12/2/11 staff report with attachments and 11/17/11<br>Visual Images and Analysis | 42. | Town Council 10/26/11   |
| 20. Public Works Director August 19, 2010   | 43. | Trails Subcommittee   |
| 21. Town Traffic Engineer   | 44. | 2/20/09, 7/27/09, 11/21/11<br>application letters and supporting<br>documents |
| 22. Town Geologist project review reports of<br>June 22, 2009, and August 31, 2010, 8/11/11   | 45. | Site Development and Tree Protection<br>Ordinance                             |
| 23. Town Attorney   | 46. | 12/2/11 CUP Conditions  |

### **Explanation of Items Checked "Less Than Significant Impact"**

The aesthetic and geology and soils matters checked as "less than significant" are considered so based on the evaluations presented in the December 2, 2011 staff report and the attachments to the report, including significant reviews and evaluations in 2009, 2010 and 2011. Further, these matters would be addressed in detail through the town's normal architectural review, site development permit and building permit review procedures and requirements. These are fully provided for in the proposed terms and conditions document provided with the December 2, 2011. Further, the evaluations in the December 2, 2011 staff report and materials attached to it set forth the project reviews conducted by the ASCC and planning commission and findings relative to aesthetics as well as the project evaluations by the town geologist setting forth the framework for geologic reviews of specific floor area proposals. In particular, the terms and conditions attached to the December 2, 2011 staff report represent the mitigation measures for this project's Mitigated Negative Declaration.

#### **Checklist update:**

This is an update of the environmental Evaluation Checklist dated 1/18/12 adopted with approval of CUP X7D-169. For specific clarifications please refer to the September 27, 2013 staff report to the planning commission on the subject CUP amendments, which include further discussion of general



plan conformity relative to land use planning and the placement of other agricultural uses include vineyards in the general plan meadow preserve area.

*\* The items marked with an asterisk were corrected for clarity on November 14, 2013.*

RESOLUTION NO. 567 - 1975

A RESOLUTION APPROVING AND AUTHORIZING EXECUTION AND RECORDING OF AGREEMENT FOR OPEN SPACE EASEMENT

PORTOLA VALLEY RANCH

RESOLVED, by the Council of the Town of Portola Valley, San Mateo County, California, that that certain agreement dated June 19, 1975, relating to the grant of open space easement, by and between the Town of Portola Valley and Portola Valley Associates, copies of which have heretofore been presented to this Council, be, and it is hereby, approved, and the Mayor of said Town be, and she is hereby, authorized and instructed to execute said agreement for and on behalf of the Town of Portola Valley, in duplicate, and the Clerk of said Town be, and she is hereby, authorized and instructed to countersign and attest said agreement, to affix the seal of the Town of Portola Valley thereto, to deliver an executed copy thereof to Portola Valley Associates, and to cause a certified copy of the agreement to be recorded in the office of the County Recorder of the County of San Mateo.

\* \* \* \* \*

I hereby certify the foregoing to be a true copy of a resolution adopted by the Council of the Town of Portola Valley, California, at a meeting thereof held on the 9th day of July, 1975, by the following vote of the members thereof:

AYES, and in favor thereof, Councilmen: Anderson, Boushey, Brown, Whitson, Wilson

NOES, Councilmen: None

ABSENT, Councilmen: None

Frances C. Anderson  
Clerk of the Town of Portola Valley

APPROVED:

[Signature]  
Mayor

AGREEMENT FOR AND GRANT OF OPEN SPACE EASEMENT

THIS AGREEMENT is made and entered into this 19th day of June, 1975, by and between ESTATE OF ANTOINE F. BOVET by CROCKER NATIONAL BANK, Executor, and PORTOLA VALLEY ASSOCIATES, a general partnership, hereinafter referred to as "Owner", and the TOWN OF PORTOLA VALLEY, a municipal corporation, hereinafter referred to as "Town".

WITNESSETH:

WHEREAS, Owner is the owner of certain real property in the Town of Portola Valley, which real property is described in Exhibit "A" attached hereto;

WHEREAS, Town has adopted a General Plan and may accept grants of open space easements on privately owned lands lying within Town;

WHEREAS, Town desires to limit the use of part of said property by dedication of an open space easement in order to protect the physical and scenic characteristics of said land, recognizing that such land has substantial value as open space and that the preservation of such land as open space constitutes an important physical, social, esthetic and economic asset to Town;

WHEREAS, Owner has agreed to subject part of said property to an open space easement in consideration of the approval by Town of Owner's plan of development for adjacent lands and Town's agreement to accept said property for purposes of density requirements;

NOW, THEREFORE, the parties, in consideration of the mutual covenants and conditions set forth herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. STATUTORY AUTHORIZATION

The within agreement and grant of open space easement are made and entered into pursuant to Chapter 6.5 (commencing with Section 51050) of Part 1, Division 1, Title 5 of

the Government Code. This agreement is subject to all of the provisions of said chapter.

## 2. RESTRICTION OF USE OF PROPERTY

During the term of the open space easement granted herein, the property described in Exhibit "B" hereto attached and by reference incorporated herein, except as hereinafter provided, shall be reserved as open space and only those uses as are compatible therewith shall be made of said land. Owner, for the direct benefit of all of the property described in Exhibit "A" and including the property to be developed by Owner, hereby subjects the land described in Exhibit "B" for the term hereof to restrictive covenants running with the land which shall be binding upon all subsequent grantees, which covenants are as follows:

- (a) The following are the permitted uses of the said land:
  - (i) Public service facilities installed for the benefit of the said land and adjacent lands to be developed by Owner or public service facilities or quasi-public facilities installed pursuant to an authorization of Town or the Public Utilities Commission.
  - (ii) Public utility facilities including but not without limitation, sewer lines, roads, transmission lines, telephone lines, drainage facilities, television lines and antennae, gas, electric and water distribution lines and related facilities such as storage tanks, pumps, transformers installed in or upon rights-of-way, easements or land granted to public utility facilities:
  - (iii) Agricultural and grazing uses of the said land including but not limited to water tanks, water wells, storage tanks, water distribution systems, access roads, trails and paths, planting of trees and shrubs, vegetable gardens and crops, maintenance of bees, grazing of livestock, fences, stiles, cattle crossings, troughs, sheds and auxiliary buildings necessary or incidental to the existing grazing and farming on the said land.
  - (iv) Remove trees, thickets and other growth from the said land as may be required for fire prevention, thinning, elimination of dead or diseased growth, improvements intended to preserve the open space nature of the lands within the easement and other improvements approved by

the Town.

- (v) Traverse the said land and use for recreational uses consistent with the open space character of the land.
- (b) The following uses are the previously approved uses:
  - (i) Those uses of the said land as previously approved by the Town in approving the application for a Zoning Reclassification of the Bovet Lands (X7C2-7) per Town Ordinance No. 1973-126 adopted January 9, 1974, and in granting the application for a Conditional Use Permit (X7D-64) by the Town Planning Commission by Resolution No. 1975-143 adopted April 2, 1975 and as shown and/or described in the approved development plans, exhibits and statements relating to the property described in Exhibits "A" and "B", subject only to the applicable review and regulating authority of the Town.
- (c) The following uses are the uses subject to specific approval of the Town:
  - (i) Irrespective of the delineations of the foregoing uses, Owner reserves the right to use said land for any uses in furtherance of Owner's proposed development, as approved by the Town, of a portion of the property described in Exhibit "A" not inconsistent with the terms of the grant to the Town of the open space easement affecting the property described in Exhibit "B", and further reserves the right to use the lands described in Exhibit "B" for the purpose of satisfying gross acreage requirements under subdivision regulations and for meeting the requirements of all zoning, subdivision and/or similar laws and regulations now or hereinafter in effect, as though this open space easement had not been granted. No uses will be permitted which will materially impair the open space character of the land as provided in Section 51051 of the Government Code.

All facilities, structures or other improvements made or constructed on said lands shall conform to all legal requirements and regulations of all public or quasi-public bodies having jurisdiction over any existing or future uses, and to the extent any of such structures, facilities or other improvements are not subject to the jurisdiction of some other public or quasi-

public jurisdictions such as some of the matters described in subparagraphs (a) through (c), inclusive, immediately hereinbefore, shall all comply with the regulations of the Town.

3. EXISTING ENCUMBRANCES

Owner's grant of open space easement hereunder is subject to all existing easements, rights-of-way and other encumbrances and the existence of facilities, structures and other improvements presently situated on the said land. Owner hereby reserves the right to grant and convey to third parties any rights and property interests reasonably necessary to effectuate the rights reserved to Owner, including but not limited to fee title, additional easements and rights-of-way over, across and through said land for the purpose of installing and improving existing water system and maintaining public utility facilities therein and thereon.

4. CONSIDERATION FOR AGREEMENT AND DEDICATION OF EASEMENT

Owner shall not receive any payment from Town in consideration of the obligations imposed hereunder, it being recognized and agreed that this grant is in conformity with the requirements by the Town as a condition of Owner's planned development of the lands described in Exhibit "A", and that the consideration for this agreement is the advantage which will accrue to Owner as a result of any reduction of the assessed value of the property being subjected to the open space easement due to the limitations on its use contained in this agreement and in the open space easement granted hereunder.

5. SUCCESSORS IN INTEREST

The within agreement and dedication of open space easement shall run with the land described herein and shall be binding upon and for the benefit of the heirs, successors and assigns of the parties hereto. The rights reserved to Owner shall be assignable and transferable in whole or in part and Town will execute any and all documents reasonably required from time to time to effectuate or evidence such reserved rights, or the assignment thereof in whole or in part.

6. EFFECT OF ACTION IN EMINENT DOMAIN

In the event that an action in eminent domain for the condemnation of any land described herein is hereafter filed, the easement shall terminate as of the time of the filing of the complaint in eminent domain as to the land or portion thereof sought to be taken for public use, and Owner, its successors and assigns, shall be entitled to such compensation for the

taking as it would have been entitled to had the land not been burdened by the easement.

7. GRANT OF OPEN SPACE EASEMENT

Owner, as grantor, hereby grants an open space easement to the Town of Portola Valley, a municipal corporation, County of San Mateo, State of California, as grantee, over the real property described in Exhibit "B" hereto attached, to have and to hold said open space easement for the term and for the purposes and subject to the conditions, covenants and exceptions described herein.

8. TERM

This open space easement shall remain in effect in perpetuity subject to the other provisions herein contained.

9. ABANDONMENT OF EASEMENT

The governing body of Town may undertake proceedings for the abandonment of the open space easement in accordance with the requirements and subject to the conditions contained in Section 51061 of the Government Code.

10. NOTICES

All notices required or permitted by this agreement, including notice of a change of address, shall be in writing and given by personal delivery or sent by United States mail addressed to the party intended to be notified. Notice shall be deemed given as of the date of delivery in person or as of the date when deposited in any post office or any post office box regularly maintained by the United States Government.

Notice to the Town shall be addressed:

Town of Portola Valley  
4141 Alpine Road  
Portola Valley, California 94025

Notice to Owner shall be addressed:

Name: Crocker National Bank, Executor of the Will of Antoine F. Bovet  
Address: 1 Montgomery Street  
City and State: San Francisco, California 94104

Name: Portola Valley Associates  
Address: 701 Welch Road, Suite 3329  
City and State: Palo Alto, California 94304

IN WITNESS WHEREOF, the parties hereto have executed the within agreement on the day and year first above written.

OWNER: ESTATE OF ANTOINE F. BOVET  
By CROCKER NATIONAL BANK, Executor  
[Signature] TRUST OFFICER  
[Signature] TRUST OFFICER

PORTOLA VALLEY ASSOCIATES, a partnership  
by LELAND INVESTORS, a limited partnership,  
by LELAND INVESTMENT CO., INC., General  
Partner,  
By Joseph M. Whelan  
Joseph M. Whelan, President

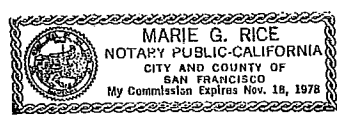
TOWN: TOWN OF PORTOLA VALLEY  
By [Signature] Mayor

ATTEST:  
[Signature] Clerk  
(SEAL)

STATE OF CALIFORNIA }  
County of San Francisco } SS.

(ASSOCIATION ACKNOWLEDGMENT)

On July 3, 1975 before me, a Notary Public in and  
for said State, personally appeared E. L. Paullason  
Trust Officer and Robert B. Rodriguez  
known to me to be the Trust Officers of  
CROCKER NATIONAL BANK, a National Banking Association that executed  
the within instrument and known to me to be the persons who executed the  
within instrument on behalf of the Association therein named, and acknowledged  
to me that such Association executed the same.



WITNESS My Hand and Official Seal  
Marie G. Rice  
Notary's Signature

(Notarial Seal)

95-623-5 (REV 3-72)

Notary Public, State of California

STATE OF CALIFORNIA }  
COUNTY OF SAN MATEO } SS.

On JULY 8, 1975, 1975, before me, the undersigned, a  
Notary Public in and for said State, personally appeared Joseph M. Whelan, President of  
Leland Investment Co., Inc., a corporation which is the general partner of Leland Investors,  
a limited partnership, which limited partnership is one of the general partners of the partner-  
ship that executed the within instrument, Portola Valley Associates, and acknowledged to  
me that said Portola Valley Associates, a partnership, executed the same.



# Laws, Regulations & Annotations

PTLG Table of Contents (../property-taxes-law-guide.html) > Additional Government Code Provisions (additional-government-code-provisions.html) > The Open-Space Easements (add-open-space.html) > Chapter 6.5 (add-open-ch6-5.html) > Section 51061

PROPERTY TAXES LAW GUIDE –  
REVISION 2013

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## **CHAPTER 6.5. OPEN-SPACE EASEMENTS\***

### **SECTION 51061**

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51061. Abandonment of easement; assessor valuation. The governing body of any city or county at any time may, by resolution, abandon an open-space easement, if it finds that no public purpose described in subdivision (b) of Section 51056 will be served any longer by keeping the land as open space. No resolution abandoning an open-space easement shall be finally adopted until the matter has been referred to the city or county planning commission, the commission has held a public hearing thereon and furnished a report on the matter to the governing body and the governing body has held at least one public hearing thereon after giving 30 days notice thereof by publication in accordance with Section 6061, and by posting notice on the land.

Prior to approval of the resolution abandoning an open-space easement, the governing body shall direct the county assessor to assess the land, as if the easement did not exist, and to report such new assessed value to the governing body. As a condition of the abandonment of the easement, the owner shall pay to the county or city an amount equal to 50 percent of the new assessed value of the land; provided, however, that the governing body may waive all or any portion of such payment, if it finds that it is consistent with the public interest to do so, and if the waiver is approved by the Secretary of the Resources Agency. Any such payment not waived shall be considered deferred taxes, and a sum equal to the sum actually collected shall be transmitted by the treasurer of the county or city to the State Controller and be deposited in the State General Fund.

**History.—Amended by Stats. 1971, 1st Ex. Sess., Ch. 1.**

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**\* Chapter 6.5 added by Stats. 1969, Ch. 762.**



# MEMORANDUM

## TOWN OF PORTOLA VALLEY

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**TO:** Planning Commission

**FROM:** Karen Kristiansson, Deputy Town Planner

**DATE:** November 15, 2013

**RE:** November 20, 2013 Planning Commission Study Session on the 2014 Housing Element Update

### **Purpose of November 20, 2013 Public Meeting**

On November 20, 2013 the Planning Commission will be conducting its first independent study session on the town's 2014 housing element update. This meeting has two specific purposes. First, staff will present for discussion a potential schedule for the Planning Commission's initial work on the housing element. This schedule should be reviewed, revised as necessary, and finalized, at least as a working document. Second, the meeting will provide an opportunity to begin consideration of some of the ideas that have been proposed for enhancing the Town's second unit program, as briefly reviewed at the November 13 joint meeting with the Town Council. The purpose of the second units discussion will be to identify options that should be prioritized for further analysis and discussion.

### **Draft Schedule for Planning Commission Work**

The overall schedule for the housing element update was provided for and discussed at the November 13 joint study session with the Town Council. As was emphasized at that meeting, the overall goal for this process is for the Town to have a certified housing element prior to the January 31, 2015 statutory deadline.

The planning commission's role in the housing element update process will be first to explore, assess and provide recommendations for housing programs, with the help of staff, and then to review and revise the draft housing element as necessary for consideration by the Town Council. This needs to be done in a timely way, with the goal of having a draft housing element ready to submit to the State by the end of May. With that in mind, a draft schedule for the planning commission's work is presented below for discussion.

<b>When</b>	<b>Who</b>	<b>What</b>
Nov. 13	PC & TC	Discuss overall schedule, work plan and process; provide initial direction
Nov. 20	PC	Discuss detailed schedule and begin consideration of options for strengthening the second units program
Dec. 4	PC	Continued study of second units program
Dec. 18	PC	Continued study of second units program
Jan. 15	PC	Initial study of affiliated housing program and any necessary continued discussion of second units
Feb. 5	PC	Initial study of inclusionary housing program and any continued discussion of affiliated housing and second units
Feb. 19	PC	Identify preferred housing programs
Mar. 5	PC	Continued discussion of preferred housing programs
Apr. 2	PC	Review of first draft of housing element
Apr. 16	PC	Review of revised draft of housing element and recommendation to Town Council
May 14	TC	Review of draft housing element and authorization for submittal to HCD

In keeping with the discussion on November 13 about holding meetings before the Planning Commission rather than having separate community meetings, the February 19 and April 2 meetings could replace the two community meetings. These would be agendaized and held as regular planning commission meetings, but could be more widely advertised.

The draft schedule presented above will be published on the Town's website but could be adjusted if more time is needed for discussion of a particular item or to research an issue. In general, however, staff's goal is to have a draft of the housing element ready for Town Council consideration in May.

### **Background on the Second Unit Program**

The most successful way that the town has provided below market rate housing in the past is through second units. Originally, zoning regulations allowed guesthouses without kitchens and limited to 600 sf in size on parcels of one or more acres in the R-E (Residential Estates) district. In 1979, the town amended the zoning ordinance to allow kitchens in second units. Now, the zoning ordinance allows second units of up to 750 square feet with kitchens on any lot that is one acre or more in size and in an R-E district. These changes were adopted as a result of the 1990 housing element, which established the current comprehensive second units program. With these changes, an average of slightly less than 5 second units was built each year in the town.

The 2009 housing element called for a number of changes to strengthen the second unit program. These include:

- Amending the town's ordinances to allow second units created by converting space within an existing home on the first floor to be approved at the staff level rather than with ASCC review;

- Amending the town's ordinances to allow second units with staff level approval of second units when they are 400sf or smaller and do not require a site development permit;
- Developing a second units manual to provide step-by-step guidance to property owners who may be considering building a second unit;
- Increasing publicity about second units through the website and by distributing information to Town residents.

These changes were implemented in 2010 and 2011, and the number of second units permitted increased to an average of 5.67 units per year for the three years from 2010-2012. It is difficult to determine the reasons for this increase and whether they are due to the Town's efforts, but this accounting should provide support for the Town during State housing element review.

Many second units are provided at no cash rent, or at very low rates, to relatives or people who work for the property owner. The state has approved a methodology for estimating the affordability of second units based on a county-wide study. For the 2009 housing element, the affordability was estimated as follows: 50% for extremely low income; 5% for very low income, 10% for low income, 15% for moderate income, and 20% for above-moderate income households.

Using this affordability distribution, the table below shows the goals for second units in the 2009 housing element compared with the number of second unit permits issued to date for this same time period.

<b>Income Category</b>	<b>2009 HE Goal</b>	<b>Permitted to Date</b>
Extremely Low	17	15
Very Low	2	1
Low	3	3
Moderate	5	4
Above Moderate	7	6
<b>Total</b>	<b>34</b>	<b>29</b>

Given that there are still 9 months left in the housing element planning period, it appears that the Town will come close to meeting its goal for second units.

For the 2014 housing element cycle, the county-wide second unit affordability study is being updated, although it is not yet available. Based on the units expected at the Priory and the current affordability distribution, it appears that the Town could meet its RHNA if it could increase second unit production to an average of seven units per year (about 1-2 second units per year more than what is currently being produced), although this will need to be confirmed based on the updated affordability study and discussions with the Priory. Therefore, the question is what the Town can do to increase the number of second units. A number of ideas have already been put forth about this and are discussed in the following section.

### Ideas to Increase Second Unit Production

The Ad Hoc Housing Committee assembled a number of ideas on this topic in Appendix A of their final report (attached). These ideas were collected at community meetings and at committee meetings and were not assessed or prioritized by the committee. In addition, the Committee looked at what five similar communities are doing regarding second units; a table summarizing the different standards in the five towns is also attached. Resident Ed Wells has also submitted the attached letter and materials to the Commission concerning second units. At its November 20 meeting, the Planning Commission should take an initial look at these various ideas with the goal of identifying those that should be prioritized for further consideration.

A number of these ideas have been discussed previously. To help the Commission with this process, the following comments are offered based on staff reports, minutes and notes from earlier discussions.

- Increase the permitted size of second units. Allowing a larger size may make second units more attractive for housing relatives, or for owners to live in while renting or allowing children to occupy the main house. Larger units will likely be more expensive but could also be occupied by larger families. In addition, many of the affordable second units in Portola Valley are affordable because they are offered at discounted rents to relatives, friends or employees. This would not be affected by the size of the units. Increasing the maximum size to 1,000 sf has been discussed before and would likely be looked upon favorably by the State. This is a change about which some homeowners' associations may have strong opinions.
- Consider allowing some small second units in the smaller lot areas. This could present a number of problems, such as finding adequate parking, increased traffic on narrow streets, and simply the intensity of use. However, many second units probably already exist in the smaller lot areas. One option would be to allow a unit up to 480 sf, which is a common size for a two-car garage. This would allow existing garages or carports to be converted if alternatives for parking exist. Another option would be to set the maximum second unit size based on either lot size or the Adjusted Maximum Floor Area for the lot.

One variation on this idea which was brought up at a Housing Committee meeting was for the Town to consider amending its PUDs for subdivisions such as Portola Valley Ranch to allow second units in those areas. For the Ranch, attached second units might be possible, but detached second units would not be in keeping with the overall design and intentions of the subdivision. Because the CC&Rs also prohibit second units, the Homeowners' Association would also need to amend the CC&Rs for this to take effect.

- Reduce fees as an incentive. In 2001, the Town very briefly looked at a program in the City of Calistoga which reduced sewer fees for second units by 50%. If the Town did provide a substantial fee reduction, the Town might also be able to require a contract protecting the affordability of the second unit for a certain period of time. To implement this program, the Town would need to determine what fees could be reduced, how much the fiscal impact would be, and what funds could be used to backfill for the reduction.

- Second unit amnesty program. The Town had a second unit amnesty program from August 10, 1991 through August 10, 1995. During those four years, a total of 38 second units were legalized. A new amnesty program may particularly make sense if the Town amends its second unit program to allow larger second units or second units in smaller lot areas because there may be a number of existing illegal second units which would then comply with Town regulations. Although the State has not allowed legalized second units to count towards the Town's housing needs numbers, there may still be benefit to the Town to legalizing second units. The Town can also check to be certain that the State has not changed its policy and find out whether requiring a new formal agreement with the property owner guaranteeing rental at affordable rates would allow the unit to count.
- Increased education efforts. In the last few years, the Town developed a second units manual and new handout for property owners. Additional efforts could be taken such as including information in the Town newsletter or holding a speaker event about second units.

Some other ideas have been raised that have not yet been reviewed or discussed in any detail. These include:

- Allow two second units to be built on a larger property. A couple of questions to consider would be how large a property would need to be, and whether additional conditions or restrictions should apply to an additional second unit. For example, Woodside allows two second units on properties that are one acre or larger, but only allows one of the second units to be rented. In Portola Valley, the minimum lot size could potentially be larger, and specific circumstances and conditions could be required for an additional second unit, such as a smaller floor area limit, or a requirement that the additional second unit, if rented, be rented at affordable rates.
- Relax Town standards by allowing separate utility meter or separate mailboxes, or by allowing second units to be built in required rear or side yards when it would not impact neighbors or scenic corridors
- Use Town funds to pay for a third party building inspector who can inspect second units to determine what would be needed to bring them up to code. This would likely be in conjunction with an amnesty program.
- Provide other economic or tax incentives for second unit construction.

cc. Tom Vlastic, Town Planner  
Nick Pegueros, Town Manager  
Leigh Prince, Town Attorney  
John Richards, Mayor

## **Appendix A: Ideas for Increasing Second Unit Production\***

### **Size**

1. Expand the maximum size for second units from 750 square feet to between 1,000 and 1,500 square feet in order to provide housing that appeals more to those eligible for moderate-income housing.
2. Make allowed second unit sizes proportional to individual adjusted parcel areas.

### **Standards**

1. Modify existing zoning and policy guidelines to liberalize elements in town housing policies that impede the production of second units. These could include removing the prohibition on separate utility meters and/or separate mailboxes or changes to the parking requirements for second units.
2. Consider relaxation of setback requirements for second units where doing so will not impact neighbors or the town's scenic corridors.
3. Consider encouraging owners of tear-downs to build rental affordable housing units.

### **Lot Sizes & Locations**

1. Allow second units to be built on all legal residential parcels that have remaining adjusted maximum floor area.
2. In consultation with the applicable HOAs, consider amending existing PUDs to allow second units on parcels where existing limitations disallow second unit production.
3. Reduce minimum lot sizes for adding second units, to allow second units on parcels of less than 1 acre, even if such units have a smaller square footage to reflect smaller parcel size.

### **Number of Second Units per Lot**

1. Allow two second units on some parcels in town, when the second units can be provided within the allowed adjusted maximum floor area and a deed restriction is used to require that at least one second unit be rented at an affordable rate to a household with a moderate income or below. The town should explore whether a minimum parcel size should be established for this program.

### **Permitting/Processing and Fees**

1. Additional relaxation of permitting requirements to reduce costs to owners, especially for second units that are developed within the footprint of an existing home ("internal" second units)
2. Streamline and shorten the approval processes for second units.

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\* These ideas were identified at community meetings and through the committee's research. This is not an exhaustive list. The ideas have not been prioritized or assessed by the committee but provide some possibilities to consider in order to increase second unit production. Additional input from the community will be necessary.

3. Reduce or waive building and planning fees for second units and/or conversion of other buildings on properties to conforming second units. It is not clear how these fee waivers/reductions could be subsidized.
4. Develop preapproved designs or prototype floorplans for second units to remove the need for ASCC review.
5. Pre-approve certain prebuilt second units to remove the need for ASCC review.
6. Waive building fees if owner will guarantee use for affordable housing for 10 years or so.

### **Incentives**

1. Explore other economic/tax incentives for second unit construction.

### **Information**

1. Update the Town website to allow easier connection with the second unit ordinance and the housing element, and encourage rentals by indicating the benefits of having local employees and community officials, educators and firefighters live locally.
2. Update the Town's second unit manual as needed to provide information on aging in place in a second unit, and providing guidance on conversion of existing structures into second units.
3. Conduct an educational and awareness campaign on second units, including holding meetings at the Town center to educate homeowners on second unit policies and procedures, distributing information where local bulletins are posted, and posting information on sites such as PV Forum.

### **Amnesty**

1. Conduct another amnesty program, allowing homeowners to avoid fees and penalties for nonconforming units. Portola Valley's amnesty program in the early 1990's produced 38 second units but it is not clear how many more would be available after a new amnesty program, or whether and to what extent these units could be relied upon for compliance with state requirements.
2. To encourage folks to volunteer their new, existing or soon-to-be-updated second unit, consider hiring a third-party independent building inspector (or appropriately qualified person) to confidentially inspect second units to assess if they "meet code" and, if not, explain what it would take to bring them up to code.
3. Allow people to ask questions and get information on second unit amnesty questions anonymously in order to encourage residents to bring non-permitted second units into compliance.

### **Miscellaneous**

1. Consider providing information on the town website about options such as the "Tiny House Company" for options of 100-150 square feet second units, BluHomes, prefab green construction that looks like some of the new homes built in town, and pocket neighborhood/cottage communities like Ross Chapin units in Seattle.
2. Develop a list of homeowners who are interested in providing second unit affordable housing for rental.



3. Develop a list of eligible individuals interested in purchasing or renting an affordable unit to establish the true demand for units and the size demanded.
4. Can the town have a contractual relationship with people who say that they have a second unit and make it available as an affordable rental (deed restrictions)?
5. Consider allowing duplexes.

## Second Units Standards

	Monte Sereno	Portola Valley	Woodside	Atherton	Los Altos Hills	Hillsborough
Minimum lot size	8,000 sf	1 ac.	10,000 sf	1 ac.	1 ac.	0.5 ac.
Maximum square footage	600-900sf for R-1-8; 700-1,000 sf for R-1-20; 800-1,200 sf for R-1-44	750 sf	1,500 sf or 1,000 sf for rental	1,200 sf (increased 12/2010)	1,000 sf	1,200 sf or 30% of main bldg
Second units per lot	1	1	1 for parcels under 1 acre; 2 for larger parcels, but only 1 can be rented	1	1	Limited by square footage
Parking req'd for 2nd unit	1	1 for 0-1 bedrooms; 2 for 2+ bedrooms; can be tandem	2	1 per bedroom	1	1 for 1-2 bedrooms; 2 for 3+ bedrooms

November 14, 2013:

✓ Alex Von Feldt, Chair, Planning Commission  
Town of Portola Valley  
765 Portola Road. Portola Valley CA 94025  
Attn Karen Christiansson

Re: Second Unit Studies, Items of Interest:  
Item 1. – Financing Woes of Second.  
Item 2 – Litigation to avoid State Mandate.

The Town has prepared a good description of Second Unit rules.. It needs additional discussion on renting from layout and equipment, rental documents, ,advertizing, insurance, Schedule E, being a landlord, possible assistance from the Town;; and risk management.

Also, the Planning Commission can participate in setting policies for the best use of in-lew funds.

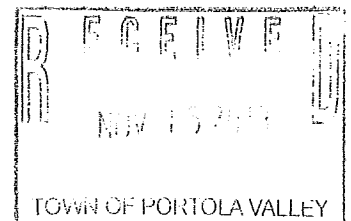
Are you going to create a subcommittee to study second units, possible alternatives, and upgrade of existing, undocumented rentals?

Sincerely



Ed Wells, 650/851-8341

cc. Danna Breen, Chair, Architectural and Site Control Commission  
Beverly Lipman, Westridge Architectural Supervising Committee  
Nick Peguerous, Town Manager



BY SEAN GROOM

## PORTOLA VALLEY \* "SECOND UNIT"

Portland, Ore., known for its drizzly winters, coffeehouse culture, and craft beer, also has made a name for itself with innovative zoning regulations. More than 30 years ago, as an antisprawl measure, the county drew a ring around the city to define the limit of development. Since 2009, Portland's zoning regulations have made the city a hotbed of ADUs.

\* ADU is shorthand in housing-policy circles for *accessory dwelling unit*—which the rest of us might call an in-law apartment, a laneway house, a granny flat, a carriage house, or a backyard cottage. An ADU is not a duplex, which typically has identical or similarly sized units. Instead, it's an auxiliary home of less than 800 sq. ft. It can be a new, detached dwelling; a converted garage; a basement apartment; an addition; or an apartment carved out of an existing floor plan. ADUs are not a new idea. Wander through an old

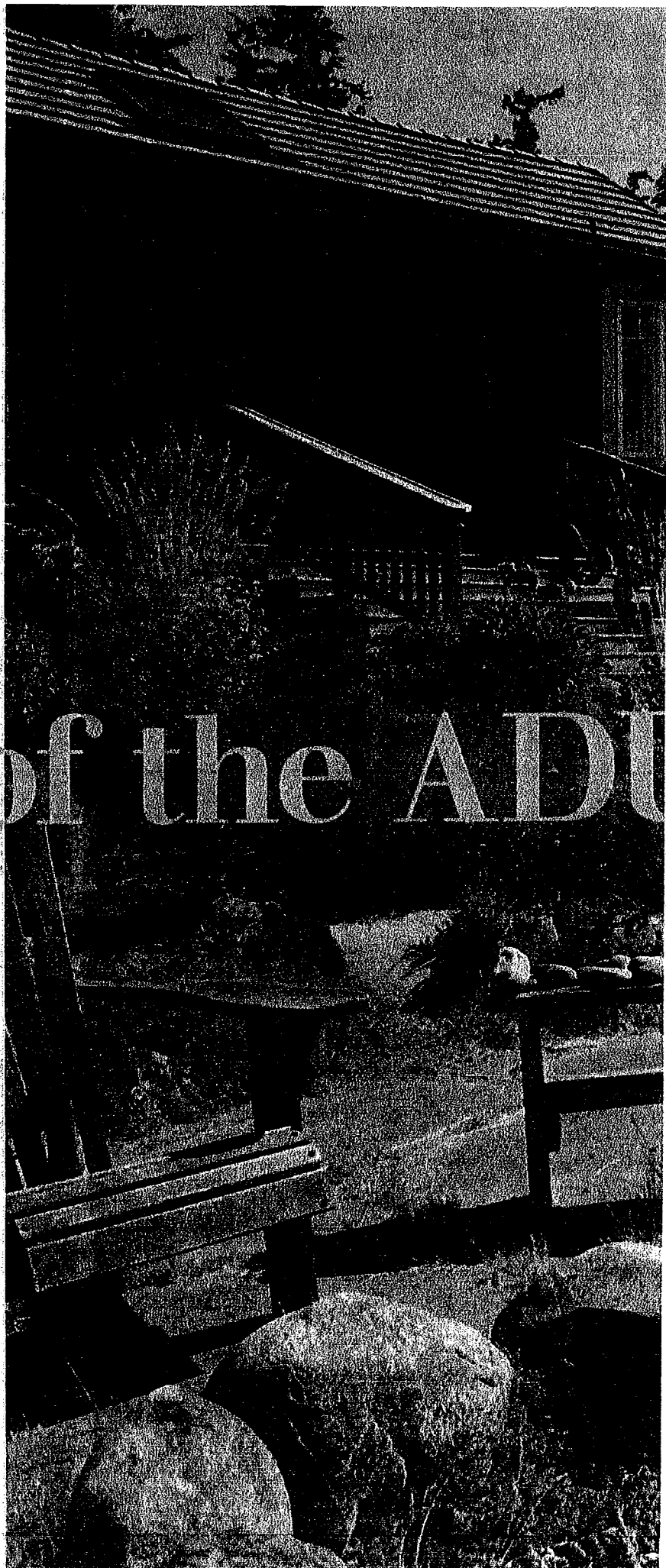
# Rise of the ADU

city neighborhood with a careful eye, and you'll find carriage houses, apartments above garages, servants' quarters converted to apartments, and English basement apartments.

These types of housing are enjoying a renaissance for reasons both old and new. From a public-policy standpoint, ADU-friendly zoning regulations are attractive to local governments because they promote affordable housing without government funding, encourage dense development, reduce carbon emissions, and stimulate local construction jobs. At the household level, ADU-friendly zoning means more affordable housing, flexible space that changes with the family, rental income, multigenerational housing, and space to age in place.

### An urban-policy tool

The ADU movement began about 10 years ago when Santa Cruz, Calif., revised its zoning regulations to allow ADUs on most single-family lots in town in an effort to address an affordable-housing crunch. The housing bubble of the 2000s was inflated in Santa



## Financing woes

**F**inancing an ADU is fraught with difficulty because there are so few legal ADUs that real-estate agents, appraisers, and mortgage lenders don't know how to value them. Although a permitted ADU is part of a legal two-unit, income-producing property, it's often in a single-family-zoned neighborhood. This apparent contradiction creates problems for real-estate professionals who haven't encountered ADUs.

When a bank originates a mortgage, it follows guidelines from Freddie Mac and Fannie Mae so that the mortgage can be sold. Even if the bank plans to hold on to the loan, it wants the loan to meet Freddie and Fannie guidelines as a hedge. The guidelines from these government-

sponsored entities strongly suggest that an ADU is likely to be an illegal rental property and that a bank shouldn't attribute much value to it. This overlooks the ADU's potential revenue stream. In fact, Freddie Mac guidelines say that "appraisals that rely primarily on the income or cost approaches to value in order to estimate market value are unacceptable."

Unfortunately, there aren't many ADUs out there that have been sold, so a comparable sales method of valuing the property doesn't work. Why is this a problem for homeowners? Because the property serves as collateral for the loan. Banks won't lend more than 80% of the appraised value, so if the appraisal

doesn't attribute any real value to the ADU, it's impossible to finance the ADU with a mortgage. Most people resort to savings or home equity, if they have enough equity built up. Some people have used a rehab mortgage—also known as 203(k) mortgage—but there are a lot of restrictions and red tape.

Recently, Portland real-estate appraiser Taylor Watkins and journalist Martin Jof Brown collaborated on a paper in *The Appraisal Journal* outlining an income method of appraising ADUs. This method of valuation looks at rental-income potential and suggests valuing a property a multifamily property if that creates a better valuation proposition. 2

Cruz, an oceanside university town within commuting distance of Silicon Valley. By 2002, the median home price was so steep—more than \$500,000—that over 50% of the population rented and the vacancy rate had dropped below 2%. The city found affordable-housing programs costly to administer, and pressure in the rental market meant that rents were high. The city embraced ADUs because they functioned as a homeowner-funded affordable-housing program, while providing regulation for a cottage industry in illegal garage apartments.

The idea is that the rental income from an ADU (or the main house) helps to make a house more affordable. By providing small, nice apartments at reasonable rents in single-family neighborhoods where there wouldn't typically be rental opportunities, renters gain a yard, more privacy, a quieter environment, less traffic, and access to schools they typically couldn't enroll their children in.

Portland's commitment to limiting sprawl and increasing housing density makes ADUs a natural fit. When the city adopted new ADU regulations in 2009, there were suddenly 148,000 new potential lots in the city that could increase housing density without the need to build vertically. Neighborhoods can retain their character, and building in the backyards of established neighborhoods reduces the demand for expensive new infrastructure. It's a component of "passive design"—using location to conserve resources. By focusing development in walkable, mixed-use neighborhoods with access to mass transit, the city reduces the number of car trips and pollution.

### Small buildings are efficient

By virtue of size alone, ADUs are inherently energy efficient. A recent study by Oregon's Department of Environmental Quality (DEQ)

Photos: courtesy of Smallworks

found that about 86% of greenhouse-gas emissions over the 70-year life cycle of a house are generated by electricity and fuel consumption, and that reducing size had the greatest conservation effect of any of the 70 green-building strategies the department looked at. Summarizing the report's findings, Jordan Palmeri, science and policy analyst in the DEQ's Green Building Program, says, "Small outperforms building technology at reducing energy use."

Shrinking home size by 50% reduces life-cycle greenhouse emissions by 36%. Employing strategies such as double-stud walls with additional insulation, air-sealing, and high-quality windows widens the performance gap.

Palmeri's office, which is also concerned with reducing landfill waste and the amount of embodied energy that ends up in landfills, also advocates ADUs because of a mismatch between the state's housing stock and its demographics. The average house size in the United States increased from 1000 sq. ft. in 1950 to almost 2500 sq. ft. in 2005. Over the same period, average household size shrank from 3.4 to 2.6 people. In the Portland suburb of Milwaukie, just 28% of households have a child at home, while almost a third of households are a single individual. Nationally, household size will shrink further as the percentage of the population over 65 increases from about 13% today to 19% by 2030.

### **An unexpected stimulus program**

Two changes to Portland's zoning rules helped to make ADUs a more attractive investment for homeowners: doubling the maximum size limit for ADUs to 800 sq. ft. and waiving the system-development charges (SDCs).

SDCs are one-time fees paid by the developer (or the homeowners in the case of ADUs) for new housing units or remodels that increase occupancy. They are meant to help offset the impact on the city's infrastructure—roads, parks, water-supply systems and sewers, and schools. For an ADU with material and labor costs less than \$115,000 and building-permit fees of \$4000 to \$5000, SDCs were adding \$12,000 or so to the cost.

The waiver has been a stimulus to Portland's construction industry. Prior to the waiver, the city averaged 2.6 ADU permits a month. A year after the waiver went into effect, the rate jumped to 8.7 permits per month; by 2012, it had risen to 12.8 permits per month. That may not seem like much, but given the low number of housing starts these days, it amounts to 19% of all permits.

### **Living large by building small**

Some people build ADUs because they're interested in the small-house movement and find smaller dwellings a more sustainable way of living—both environmentally and financially. ADUs fit the small-house advocate's "Build small, live large" motto well because they can be a good investment and a flexible housing form.

For many, an ADU can make the purchase of a home affordable. The utility costs of an ADU are low, and renting out the main house can cover the mortgage costs. If the owners have children later on,

they can move into the main house with the kids and rent out the ADU, which continues an income stream. In later years, the ADU might serve as a landing pad for boomerang kids, or it might become the parents' home again when they become empty nesters, with the rental income from the main house providing a comfortable retirement income.

Accessory dwellings are often used to create multigenerational living spaces. For example, in expensive cities like Santa Cruz, Calif., and Vancouver, B.C., the only way young adults may be able to afford a home in the city they grew up in is by building one in their parents' backyard. Sometimes it's a case of grandparents downsizing from a large house and wishing to be close to their grandchildren, or of aging parents who feel more secure when family members are close enough to check in on them.

That's not to say that everybody wants ADUs in their neighborhood. Any talk of zoning changes that allow rental units or that increase density in an established single-family neighborhood is likely to provoke a NIMBY (not in my backyard) reaction, and ADUs are no exception. Traditional zoning regulations are meant to protect home values in a market where change is feared. In short, they preserve the status quo.

Generally, opponents of ADUs fear that rental units will lower their property values. This could be based on prejudice against renters as transient, loud, and disruptive, or it could be fear of unkempt property or concern about loss of privacy and a change in the visual aesthetic of the neighborhood. There is no evidence that these concerns are warranted. Unfortunately, there isn't enough data to disprove them either, because despite the huge growth in the number of ADUs in places like Portland, Seattle, and Vancouver, accessory units are still a minuscule portion of the housing stock.

If the fate of every ADU application is subject to the whims of surrounding homeowners, nearly every proposed project would encounter NIMBY opposition. Towns with brisk ADU development allow ADUs "by right." By-right legislation means that a municipality can limit the size of an ADU and/or set a minimum lot-size threshold, but the permit process does not have any discretionary aspect.

While specifics vary by jurisdiction, codes put limits on ADU development, even in municipalities aggressively promoting them, by governing size, appearance, and occupancy in similar ways. If you live in a town where ADUs aren't by right, the common features of these regulations give a sense of the types of concerns neighbors and zoning officials are likely to express, and they suggest design strategies and arguments that might allay their anxieties.

### **Planning and proposing an ADU**

In keeping with the idea that an ADU is the second dwelling unit on a property, zoning regulations constrain size to ensure that ADUs are smaller auxiliary homes, both in function and appearance. To ensure that a subsidiary relationship exists, some cities limit the ADU to a percentage of the size of the main house. Even the most generous

When the city adopted new ADU regulations in 2009, there were suddenly 148,000 new potential lots that could increase housing density without the need to build vertically.



codes cap backyard cottages at 800 sq. ft.; some codes have height restrictions as well.

Many by-right jurisdictions set minimum lot sizes for an ADU and also might set caps on the accessory-dwelling size based on the square footage of the lot or a particular dimension of the lot.

In addition to setbacks along each property line, a project also can face lot-coverage restrictions to ensure that there's a certain amount of permeable green space and to protect the feel of the neighborhood. It's not unusual for a municipality to limit the amount of the lot covered by buildings to 35%. While these types of regulations affect a property's appearance, they also address neighbor issues such as solar access, privacy, and noise mitigation. In addition, they address safety concerns such as limiting the spread of fire and ensuring access for utility workers, firefighters, and other emergency personnel. Keep these concerns in mind if you have to defend a site plan before a review board.

Because codes treat building an ADU differently from adding living space to an unfinished basement, there are a few budgetary cau-

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tions to keep in mind before you do too much design work. Most critically, you'll need to investigate the fees for required utility work as well as the SDCs. Sometimes you can share the existing house's water and sewer lines and electric service; if you're comfortable sharing a meter with your tenant, then this is a lower-cost construction approach. However, in cities with a fire-sprinkler code for new construction, supply lines to the house in older neighborhoods may be too small. The same can happen with sewer lines.

Also to contain costs, you might want to do the electrical work or to plumb the sprinkler system yourself. Typically, homeowners are allowed to do this work on their own houses. However, because ADUs are often used as rental properties, many town codes treat them that way regardless of who will live in them, so these codes require a licensed tradesperson to perform the work.

### Appearance matters

Whether presenting a plan for a by-right ADU or preparing for a variance hearing, you'll benefit by explaining how your design fits the

Photos: this page, David Hall; facing page, Ross Chapin.

existing neighborhood and lot. Questions that zoning and planning officials will ask include: Are there historic districts or other design requirements for the neighborhood? Are houses predominantly one or two story? What's the common roofline? Is there a predominant siding type or color? Do many lots have multiple structures (house with detached garage and/or shed)? Are yards open to one another, or do fences and shrubs typically delineate lot lines?

While the zoning code for an ADU likely requires that siding, rooflines, and trim match that on the main house, it also can sometimes further stipulate that window size and orientation match that of the main house.

It's not just appearance that neighbors care about. Privacy is also a concern. There are generally rules governing the location of the entrance to an ADU and the types of screening required to shield neighbors. For instance, in Santa Cruz, the ADU's entrance may not face an adjoining neighbor's property, while in Seattle, the entrance may not face the nearest property line. The idea is to direct foot traffic and noise away from neighbors' windows. High window locations

and fencing or screening plantings may be required to shield neighbors from ADUs in some towns.

### Where do you park the car?

A city's parking policy plays a critical role in whether an ADU is feasible. Cities with regulations requiring additional parking space for an ADU effectively dampen permit demand.

From a policy standpoint, requiring a parking space for an ADU can be counterproductive to the goal of increasing density in neighborhoods near enough to shopping, employment, and transport that it's not necessary to own a car. When an ADU creates multigenerational housing so that parents can age gracefully close to children and grandchildren, there's a chance that the grandpa may no longer drive. If they are still driving, doing away with parking requirements can encourage the household to give up a car, share rides and vehicles among generations.

Sean Groom is a contributing editor.



The TOWN OF PORTOLA Valley and the NEW HOUSING MANDATE Appeals Court Decision

STATE APPEALS COURT

Ruling strengthens the case for laws on low-cost housing

By Bob Egelko

A state appeals court has strengthened the legal case for "inclusionary housing" laws in more than 150 California cities and counties — including San Francisco, Berkeley, Richmond and San Jose — that require a certain number of low-cost units in each new housing project.

Home builders challenged the requirement and won a ruling in July from a Santa

Clara County judge, who barred enforcement of a San Jose ordinance because the city failed to show that new residential development increased the need for low-cost housing. That decision was over-

turned Thursday by the Sixth District Court of Appeal in

San Jose, which said such ordinances are valid if they serve the "legitimate public purpose of ensuring an adequate supply of affordable housing."

The court stopped short of reinstating the San Jose ordinance and instead told the lower-court judge to decide whether it met the newly defined standard. But the ruling sets a precedent for California courts considering similar laws and should lead to their validation, said a lawyer for groups of nonprofit housing developers and low-cost housing advocates.

"It's a solid legal foundation for inclusionary zoning," said attorney Michael Rawson of

the Public Interest Law Project in Oakland.

David Lanferman, lawyer for the California Building Industry Association, said other courts have required cities to show that developers caused a housing shortage or other social problem before ordering them to contribute property or money to solve the

problem. He said the association has not decided whether to appeal to the state Supreme Court.

The ordinance, passed in January 2010, requires developers of new housing with 20 or more units to set aside 15 percent at below-market rates, with some rents affordable to moderate-income households and others to low-income households. As alternatives, the developers could build affordable housing elsewhere or pay a fee that the city would use for that purpose.

More than 60 Bay Area communities have similar ordinances, including unincorporated areas of Contra Costa, Marin, Napa, San Mateo and Sonoma counties, according to

the Nonprofit Housing Association of Northern California.

Developers have been challenging the laws for more than a decade, arguing, among other things, that they amount to an unconstitutional confiscation of private property. In a separate case from Palo Alto, the state Supreme Court has agreed to review the legal deadlines for contesting such ordinances.

In Thursday's 3-0 ruling, the appeals court said the state Legislature has repeatedly found a "severe shortage" of affordable housing in California and has ordered cities and counties to address local housing problems.

To overturn the low-cost housing requirement, the court said, developers must show that it does not serve the city's purpose of meeting its housing needs.

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SF Chronicle Sunday, June 9, 2013



## DRAFT UNAPPROVED MINUTES

REGULAR PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, OCTOBER 2, 2013,  
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. Ms. Kristiansson called the roll:

Present: Commissioners Arthur McIntosh, Nate McKitterick (arrived about 7:55 p.m.) and Nicholas Targ; Vice Chair Denise Gilbert; Chair Alexandra Von Feldt

Absent: None

Staff Present: Tom Vlastic, Town Planner  
Karen Kristiansson, Deputy Town Planner  
Ann Wengert, Town Council Liaison

### ORAL COMMUNICATIONS

None

### REGULAR AGENDA

- (1) Public Hearing: Proposed amendments to Conditional Use Permits (CUPs) X7D-151 and X7D-169, 555 Portola Road, Spring Ridge LLC (Kirk Neely/Holly Myers)

Mr. Vlastic presented the September 27, 2013 staff report, starting with an overview of the two CUPs and the proposed application. He referenced the preliminary review of the project, including the May 13 site meeting and subsequent correspondence with the applicant to clarify the application. With the public hearing process on the matter underway this evening, Mr. Vlastic noted that the focus of discussion is likely to relate to the boundary of the planting area and scope of vineyards, currently proposed at 5.5 acres within the northerly part of the meadow. He noted that although results differ among various maps when trying to measure areas, the data in the staff report is sufficient to give a good sense of changes relative to area. He said he hoped the site meeting gave participants a chance to appreciate the physical conditions within the meadow, and as the matter continues toward closure, more site visits may be appropriate.

The site map Mr. Vlastic referenced showed the lower portion of the Spring Ridge property and the Meadow Preserve area as it appears on the Town's General Plan Diagram, including 17 acres on the subject property and the southernmost seven acres of the 24-acre area that is controlled by MROSD. Mr. Vlastic noted that thinning of vegetation along the MROSD frontage has been completed, with the Conservation Committee, the ASCC's Danna Breen and Public Works Director Howard Young working together to address concerns about the potential loss of habitat and understory. Working with ASCC and Conservation Committee representatives, Mr. Vlastic added, Dr. Neely has completed thinning along the southern property boundary, and further thinning along the Town's right-of-way will take place as funds become available, he said.

Mr. Vlastic also pointed out the area approved for haying on the site map, as well as the portion on the southwest side of the meadow that is approved for orchard and other agricultural uses, and the area for vegetables immediately in front of the approved agricultural building. Of the approximately 5.5 acres of vineyards the applicants propose, approximately 3 to 3.25 acres are within the meadow area approved for haying.

The second part of the request, Mr. Vlastic continued, is to restart the five-year clock when the Planning Commission takes action on the proposed amendment. He said the approach to agriculture, management and harvesting are all within the scope of what the Planning Commission reviewed last year, and impacts associated with operations, traffic, control and pesticides are all covered by conditions that were established then and have since been refined somewhat. Although the issue of General Plan language has yet to be resolved, Mr. Vlastic noted that the staff report of September 27, 2013, establishes a framework for consideration of the CUP amendment that should allow the Planning Commission to move ahead.

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From a visual and aesthetic standpoint, Mr. Vlasic continued, the ASCC concluded that, due to elevation changes, vineyards would be an acceptable design solution. If the Planning Commission decides some vineyard uses are acceptable in the northerly meadow area, he said, and approves or modifies suggested conditions, staff will craft a resolution for action.

Dr. Neely offered a few clarifications. He said the proposal essentially differs very little from what they proposed a few years ago, and on the site map pointed out the area in which they want to plant vineyards and where they want to move the vegetable garden and orchard. He said plenty of experience goes into their knowledge of the best conditions for growing grapes long-term, but not raising vegetables and orchard crops. Going with what they know how to do would make it sustainable, he said. In addition, vineyards are every bit as attractive as orchards and vegetables, and are easier to maintain with a smaller crew as well as requiring less tilling and less water. Dr. Neely said he had issues with several of the suggested conditions but would wait to respond to them until after hearing the Commissioners' commentary.

Vice Chair Gilbert made several observations:

- It would be important for the entire Planning Commission to be present when this issue comes to a vote, which is scheduled for the November 6, 2013, meeting. In addition, she also noted that the October 28 deadline for comments on the negative declaration may leave insufficient time to incorporate by the November 6 meeting if any comments are submitted near the deadline. Since she will be unable to attend the November 6 meeting, she wanted to suggest deferring a decision to the following meeting.
- The Planning Commission used old General Plan language when it reviewed the previous CUP, but now would be relying on the new language.
- Staking locations for haying and other proposed plantings in the field would be critical for Planning Commission consideration of the visual effects. She said the staking didn't have to be elaborate.

In response to Chair Von Feldt, Mr. Vlasic returned to the site plan and identified the land proposed for vineyards, including some previously designated for vegetables and some outside of the main meadow area.

Chair Von Feldt opened the public hearing.

In response to Jon Silver, Portola Road, Mr. Vlasic said current General Plan language relative to the Meadow Preserve appears on page 7 of the staff report. In part, it reads, "The preserve should be kept in a natural condition and the existing agricultural character preserved."

Marilyn Walter, Coyote Hill, a 45-year Town resident, referred to the Initial Study for the project. Items in the "Aesthetics" and "Land Use/Planning" are checked in Section II, Environmental Factors Potentially Affected. In Section III, Determination, there is a checkmark next to the statement, "I find that the proposed project *could not* have a significant effect on the environment, and a *negative declaration* will be prepared pursuant to Section 15162(b) of the California Public Resources Code." Ms. Walter said she objected to that determination. She stated that the scenic vista of an open hayfield as the setting for the Windy Hill views would be disrupted by rows of grape vines and fenced against wildlife, which would have a substantial adverse impact on aesthetic quality. In addition, using the land as a vineyard requires workers and equipment to plant, cultivate and harvest, which would intrude on what is now an open meadow. In conclusion, she asked the Planning Commission to protect this scene.

Mr. Silver said the General Plan language about the Meadow Preserve is very important. He said the haying operation is the existing agricultural character, and vineyards to the extent proposed would be inconsistent with that character.

Rusty Day, Pinon Drive, said the public is entitled to hear and understand the conditions that the applicants consider unacceptable. Noting that the applicants indicated the site map being viewed is inaccurate, he also wants to see a map that accurately sets out what the existing CUP approves and what would change with the uses proposed.

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Mr. Day said he doesn't consider the central issue to be whether vineyard use is consistent with the General Plan. Rather, he said, the central issue is how the Planning Commission implements the General Plan. We are trying to preserve open space and open vistas in the meadow, he stated, and the applicants claim their proposal would do so in a way that makes it economically viable to sustain the open space. Yet, he said, he has not seen anyone insist on a commitment that what is not vineyard would be preserved as open space. Although the Planning Commission approved installing the parking lot at Windy Hill, which is definitely not open space, that parking lot serves the larger need of preserving open space and making it accessible. Similarly, if the Planning Commission were to approve vineyards, he suggested a quid pro quo that requires a conservation easement to assure preservation of a specified number of acres of the remaining open space.

Mr. Day noted that while the proposal includes no internal road improvements, he does not see where the unimproved roads that the applicants intend to use are located. He wants the Planning Commission to get specifics about their locations, because he said he expects they go right through the meadow. If there are agricultural uses at the north and southwest portions of the property, Mr. Day stated that there is easy road access along the back of the property that would avoid crossing the meadow, and the Planning Commission is obligated to protect as much of the meadow as possible.

Mr. Silver said that an open-space easement might be more appropriate than a conservation easement to keep traffic out of that portion of the meadow.

Bud Eisberg, Wyndham Drive, asked about MROSD's obligation to preserve the portion of the meadow it controls. No specific conditions apply, Mr. Vlasic said, but there was the assumption that given the District's charge, they would manage the area in an environmentally sensitive way consistent with its policies. He confirmed Commissioner McKitterick's observation that General Plan provisions concerning the Meadow Preserve also apply to MROSD.

Mr. Silver said that the reason the open space district got its seven acres is because, at the time, it was thought that it might be unsafe to have the access road to the preserve's parking lot as close to the corner of the Sequoias as it still is, and it was thought that the access road could have gone through the meadow. The Town Council thought they might have to approve it in order to preserve Spring Ridge. Later the traffic engineers found that they did not need to put the road there, and so the open space district got the seven acres that they basically could keep in a much more natural state. Mr. Vlasic pointed out that there was no reevaluation of the General Plan at the time to do that.

In response to Bev Lipman, Favonia Road, Mr. Vlasic explained that the green areas on the applicant's map depict fault zones and setbacks, not open spaces.

Dr. Neely said he needed to reply to Mr. Day's factual errors:

- The site plan submitted is completely accurate, and his earlier remarks were simply to clarify some of Mr. Vlasic's comments concerning the application.
- The unimproved roads through the meadow are fully and accurately depicted on multiple site plans.
- The Town Council and Planning Commission both previously concluded that it would be inappropriate to ask for a conservation easement in the context of a CUP versus as part of a subdivision.

With no further public comments, Chair Von Feldt closed the public hearing and brought the matter back to the Commission to discuss proposed conditions and public input.

Commissioner McKitterick recalled the Town Attorney advising that it would be inappropriate to request a conservation easement or other document as part of the previous application. Mr. Vlasic said that as he remembered it, the nexus for making such a request would rest on the amount of overage beyond ordinance limits.

Dr. Neely addressed several of the suggested conditions:

- Conservation easement: The applicants felt that it would not be worth it to grant a conservation easement in exchange for a few acres of vineyard.

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- Thinning vegetation: After meeting with the ASCC and Conservation Committee, the applicants agreed to remove 40 trees; when some Conservation Committee members later expressed dissatisfaction with the extent of that thinning, they met again with both entities and removed at least a dozen more trees and limbs identified by the Conservation Committee as well. They also committed to open up a segment at the north end of the driveway for viewing. Dr. Neely said that they could not go on indefinitely talking about thinning trees, so they would not agree to that as a condition for the CUP.
- Wildlife corridor in the meadow: He said although it did not make sense either agriculturally or for the wildlife, he and Ms. Myers acquiesced to breaking up the blocks of agricultural areas in their last proposal. They have now presented "a more reasonable agricultural site plan" and are unwilling to chip away to get any less than 6.5 acres of agricultural area. He said wildlife already runs free on at least 175 acres, and the agricultural area is trivial in comparison. Furthermore, he said that the entire periphery is open to wildlife traffic, as well as a huge portion of the central area.
- Southern boundary fence: The existing CUP doesn't address the southern fence at all, Dr. Neely said, so in good faith they proposed to the ASCC an "attractive little fence" to demarcate the boundary between the MROSD's property and theirs. He added, however, that they are willing to forego that fencing in deference to concerns of some Planning Commissioners.
- Another proposed condition is that they return to the Planning Commission yet again with an agricultural plan, Dr. Neely said. "Micromanaging can only go so far," he commented. "This just can't go on forever, so I just don't think that's a purgatory that we want to live in or that you guys really want to live in."

Dr. Neely asked if there was any reason the Planning Commission could not vote on this matter at its October 20, 2013 meeting rather than on November 6. Mr. Vlasic said the Commission could not vote on October 20, explaining that the process has already been laid out in the noticing. The only dependency, he said, would be the question of Commissioners' attendance at the November 6 meeting. Ms. Kristiansson added that the Commission could not act on the application until the comment period on the Negative Declaration has ended, which will not be until October 28.

Mr. Day focused on the applicants' position on the conservation easement. As Mr. Day sees it, if the Planning Commission approves the vineyard in any portion of the meadow, the applicant may use that precedent and consider the vineyard consistent with the General Plan. With respect to the existing roads, he said that he does not know that the public knows where they are, and if they go through the meadow, they should be off-limits for truck traffic. He said the minimum that the Town should get is a conservation easement to prevent such traffic in order to implement the General Plan, which requires preservation of the meadow.

Mr. Vlasic pointed out the location of the existing dirt tracks on the applicant's map, noting that they were intended to be used for harvesting hay, which has been an ongoing activity and is approved in the existing CUP. The proposal would allow these same tracks to be used for any other agricultural products approved with the new CUP to be transported to the barn used for haying.

Mr. Silver said it is important for the conditions to be very specific to ensure that the meadow retains its meadow character in future years. He also spoke to the issue of a nexus in the context of a possible conservation easement, and stated that given the General Plan language, the Town would need to have a conservation easement for conformity. In addition, he stated that he agrees it is important to have all Planning Commissioners vote on the application.

Ms. Myers added that she and Dr. Neely have fully engaged in this process for nearly six years, from wildlife corridor discussions to tree thinning and removal to fencing, and they are very mindful of these issues. With more than 33 years of residency in Portola Valley, she said they have more than demonstrated their commitment to the Town and their property.

In response to a question from Commissioner McKitterick, Ms. Danna Breen said she supports this project and agriculture as a reasonable rural use, considers the applicants fine stewards of the land, and was pleased to hear Dr. Neely's willingness to concede on the fence. She said she agrees with the ASCC's position on the visual elements of the proposal, with the development tucked back and low on the hill.

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Dr. Neely said the Town would be much better off trusting their good will and realizing that they will keep some vistas open, striving to make it as lovely as possible for the Town. He said his point is not to make demands of the Planning Commission or any threats; he is trying to be realistic and up front with the Commission.

Mr. Silver said he appreciates what Dr. Neely said, and agreed with everything Ms. Myers said. He also confirmed that they have been wonderful stewards of the land.

Ms. Lipman expressed ongoing concerns about the road across the meadow. Mr. Vlasic said that according to the proposal, the existing roads without any improvements may be used for harvesting within the meadow; these are basically the few tracks that are used infrequently now and could be used in that way in the future. He said it was understood with the approved permit that the harvest from the location he identified on the site map would go to the agricultural building, which would primarily be for the haying operation. He also explained that these unimproved roads could be used only to service the meadow area agricultural use, not for main access to the property. He acknowledged that circumstances could change with an amendment to the CUP, but stressed that changes to use permits do not happen in Portola Valley without a lot of thought and scrutiny from the Town and the public.

Commissioner Targ stated that a number of the conditions look like mitigation measures and asked whether they would be required to ensure there are no significant environmental impacts. Mr. Vlasic said that that the conditions were not required mitigation measures. Further, he said that the thinning has been achieved consistent with conditions of the original approval and he did not believe further clearing would be needed as mitigation for this application. The fenced agricultural blocks were part of the original approval, he said, but if they are not needed for wildlife movement with the plan now proposed, they would not be necessary for mitigation.

Commissioner McKitterick said that rather than being a mitigation measure, the thinning requirement came up largely as a result of the Portola Road Corridor Plan Task Force's work, which recommended opening up more views along Portola Road. In fact, he said he understands the argument but does not believe that screening to obscure vineyard activity in the meadow would be desirable.

Chair Von Feldt noted that items 1a, 1c and 9b are marked as "less than significant impact with mitigation incorporated" but she did not see mitigation measures for these. Commissioner Targ said that also caught his eye. Mr. Vlasic said that the current application is within the scope of the existing use permit, and mitigations for these items were covered in the last application. Vice Chair Gilbert said she thought the mitigation for the existing use permit was to keep non-haying uses on the periphery to maximize the meadow, but she added that the Planning Commission has not seen the final MND from the last application. Mr. Vlasic said they were the conditions approved with the CUP that were tied in with the Initial Study and final MND. Vice Chair Gilbert asked whether recirculation would be necessary if the Commission added new requirements for the project. Mr. Vlasic replied that not all new conditions are mitigation measures, and recirculation would not be required for conditions.

Commissioner Targ said he was trying to determine whether the incremental change from the prior approval would require a mitigation measure. He said existing conditions on the property may address this issue already, or an additional action may need to be taken under that condition to bring the impact to a "less than significant" status.

Mr. Vlasic said the key change on which the Planning Commission's direction is needed concerns the area that may go to vineyard use that was denied previously. If the Commissioners cannot make the findings for General Plan conformity without further mitigation, he said they would have to articulate that.

Commissioner McKitterick added that the Commission also must determine whether to allow the vineyards at all. He stated that he continues to support that part of the application but wants further discussion on some of the details. He said he favors more thinning, in keeping with the Portola Road Corridor Plan Task Force's recommendations; he wants to establish boundaries once and not require the applicant to submit yet another agricultural plan; and he wants the CUP to clearly identify the use and location of the unimproved roads.

Commissioner McIntosh said he favors the vineyard and the concept of agriculture in the corridor. With two-thirds of the meadow in grassland, the orchards along Portola Road, and the vineyards along the road in Woodside, he said he would have no trouble finding the proposal consistent with the General Plan. He added that

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vineyards would also be conducive to retaining open space because they are expensive to install, and once they are established it becomes a commitment to long-term open-space use. He believes wildlife access works well on both sides of the property and said it would be awkward to put a fenced corridor down the middle.

Vice Chair Gilbert said she had three overall concerns. First, she is concerned about making a decision on the meadow preserve before that portion of the General Plan is clarified through the process requested by the Town Council. The current language is confusing and internally contradictory, and this language needs to be changed. She understands the applicants' needs to reach closure on the proposals for their property, but is concerned about circumventing the process.

Second, she considered the intent of the original General Plan language and what the authors were trying to protect when they used the term "meadow preserve." In search of an answer, she reviewed Town Historian Nancy Lund's book and took note of the "enormous amount of hayfields, flax fields, open grasslands" in the photographs of the Town at the time the General Plan was first written. This property includes the last meadow and it is important we do what we can to preserve it. Vice Chair Gilbert expressed support for agriculture but concern about putting it in an area specifically set out in the General Plan to be preserved as a meadow.

Furthermore, Vice Chair Gilbert said she identified a "red flag" in the Planning Commission's adoption of Resolution No. 2000-393, approving CUP X7D-151 in June of 2000. In that resolution, the Commission finds that ". . . any expansion of the winery could raise significant questions as to consistency with the General Plan, particularly due to the property's high visibility and the potential modification of natural land forms and vegetation." The staff report interprets this as a limit on the volume of wine produced on the property, but the finding specifically mentions visibility and "modification of natural land forms and vegetation." She interprets this to mean that the prior Commission was concerned about the planting of more vineyards.

Third, Vice Chair Gilbert said that with respect to the staff report's comment that there is latitude in the General Plan, she felt that the Planning Commission had already exercised latitude in interpreting the "largely open" description in the General Plan, by allowing the construction of the barn and the planting of orchards and some vegetable areas around the periphery of the meadow. While not approving as much as the applicants requested, she said the Commission must be careful, to avoid encroaching more and more on the meadow each time the applicant requests an amendment to the use permit. She said at some point we must decide to draw the meadow boundary. Furthermore, while the meadow preserve language used to review the prior use permit amendment contained the phrase "largely open" this review is based on the revised meadow preserve language in which the phrase "largely open" has been removed.

With respect to the details of the proposal for fencing on the southern boundary and for a wildlife corridor, Vice Chair Gilbert said she would prefer no fences because they would interfere visually with the meadow. For the same reason, she would favor more thinning to open up views. She does not support a double fence to create a wildlife corridor, feeling that it is not practical; the wildlife will not use it and visually she would prefer less fencing. She also agreed that the drawings should be clear enough about what goes where so the applicants would not have to come back to the Planning Commission with yet another agricultural plan, and said she has no issues with use of the unimproved roads as indicated in the proposal.

When Vice Chair Gilbert asked whether text written on the site plan has the same force as what's written in the CUP, Mr. Vlasic said the site plan would be approved as part of the CUP. She explained that she was asking particularly relative to the statement on the site plan that chemicals will not be used. In response to a follow-up question from Commissioner Targ, who said he's never seen an absolute proscription against the use of chemical regulants or pesticides, Dr. Neely confirmed that the applicants have committed to organic agriculture on multiple occasions, and if a circumstance arose that might be a cause for an exception, they would seek approval from the Town.

At this point, based on staff analysis of the less than significant impacts, Commissioner Targ said he does not have any issues with the application, including consistency with the General Plan, although he too wants clarification about use of the existing roads. He said the issue of additional thinning could be addressed for further clarification, and also indicated that a conservation easement could address the concern about nibbling at the meadow. Commissioner McKittrick added that he could see that there could be a nexus for a conservation easement which could be documented with strongly worded findings about consistency with the General Plan.

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Chair Von Feldt said that as Dr. Neely pointed out, this application does not differ significantly from what they submitted several years ago, and she is still inclined not to support it. She said if the vineyard use were to be allowed, a conservation easement would make it palatable.

Commissioner McKitterick said he is very aware of the Planning Commission's situation in having to decide on this application before the Town Council considers the General Plan language, and that it is difficult to say what is required here without Town Council direction. If the Commission does eventually approve the project, he would ask for a finding documenting that one reason the vineyard use could be acceptable is because of the lower elevation and location of the land, which is different from the land contiguous to the Open Space District's land. The meadow isn't the same all across its width, and the soil conditions probably differ as well. This type of finding could help make the decision less of a precedent.

Chair Von Feldt noted that she still did not see the mitigation measures, and therefore could not vote for the Negative Declaration. Commissioner Targ said that he understands the issue, because there should not be a mitigation measure in a Negative Declaration, or else it would be a Mitigated Negative Declaration. This does not offend him because he understands that it is referencing the previous environmental document, although this is not how he would have done it.

Commissioner Targ said that he does not see this as a true meadow; it is chaparral which appears to be a meadow because of the active haying operation. In other words, it is not a natural meadow but is only a meadow because of interference. He said that he does not see the need to obligate maintenance of a historic meadow. This is more historic preservation, but the General Plan states that the preserve should be kept in a "natural condition." Requiring someone to maintain a meadow is not something to which he is overly sympathetic.

Chair Von Feldt stated that if the meadow were left alone, it would become habitat for invasive plants. She voted against this project in the past because of the fencing, and would like to see some mitigation for that beyond thinning. Chair Von Feldt also said it was important to remember that the CUP would run with the land, which could be critical if Dr. Neely and Ms. Myers sell it to other owners who might be less dedicated stewards of the property.

Vice Chair Gilbert asked whether it would be possible to consult with the Town Attorney regarding a possible nexus to consider for a conservation easement. Mr. Vlasic said yes. The last time around, he added, there was a great deal of discussion about the fact that the CUP is a binding contract, which is another point to bear in mind when considering any restrictions that might be imposed short of a conservation easement. Commissioner Targ stated that other actions may be more appropriate than a conservation easement and it may be worth considering what those might be rather than pursuing an unacceptable condition.

In response to a question from Chair Von Feldt, Mr. Vlasic said he would like to hold off on preparing the draft findings until after the Planning Commission meeting of October 16, 2013. Commissioners agreed to also move this item from the November 6, 2013 Planning Commission meeting to the November 20 meeting so that all Commissioners could be present to vote on the final action.

The Planning Commission continued this public hearing to the regularly scheduled Planning Commission meeting on October 16, 2013.

### COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

Ms. Kristiansson reminded Commissioners of the joint study session on the Housing Element with the Town Council on October 9, 2013.

### APPROVAL OF MINUTES

Commissioner Gilbert moved to approve the minutes of the July 17, 2013 Planning Commission meeting. Seconded by Commissioner McKitterick, the motion carried 5-0.

ADJOURNMENT: 9:57 p.m.

**DRAFT UNAPPROVED MINUTES**

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Alexandra Von Feldt, Chair

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Karen Kristiansson, Deputy Town Planner

**DRAFT**



## DRAFT UNAPPROVED MINUTES

REGULAR PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, NOVEMBER 6, 2013,  
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.

Present: Commissioners Arthur McIntosh, Nate McKitterick, Nicholas Targ, Chair Alexandra Von Feldt

Absent: Vice Chair Denise Gilbert

Staff Present: Tom Vlastic, Town Planner  
Karen Kristiansson, Deputy Town Planner

### ORAL COMMUNICATIONS

None.

### REGULAR AGENDA

- (1) Public Hearing: Variance Application X7E-135, Site and Historic House Additions/Restorations, 3 Grove Court, John and Crystal Ciancutti [7:31 p.m.]

Mr. Vlastic presented the October 31, 2013 staff report, which described the four basic components of the variance request. They would permit:

1. The proposed replacement garage to encroach 15 feet into the required 20-foot northwest side yard; the existing garage already encroaches into the side yard setback;
2. The guest parking area to have a 12-foot high trellis for screening that extends a maximum of 9 feet into the required 50-foot front yard setback;
3. The maximum height of the roof over the planned third-story addition to the historic residence to be at 37.75 feet over adjacent grade whereas the ordinance limit is 28 feet; existing roof heights already exceed current height limits and the project would increase building height by approximately 2.5 feet in the proposed location; and
4. Total floor area to exceed limit by 250 square feet (for a total of 5,071 square feet), and preservation of the historic bunker without counting it as floor area; as of the October 16, 2013 preliminary review meeting, the applicants were willing to commit to a deed restriction to ensure using the bunker for storage only.

The Planning Commission and ASCC have both been involved in the project and Mr. Vlastic said they are basically supportive of the applicants' efforts to conform to the provisions of the General Plan for historic preservation and to solve a number of conditions pertaining to this property, the way it was developed, and how it relates to other properties on Grove Court. The ASCC conducted its preliminary review and granted approval to the Architectural Review and Site Development permit applications, subject to the Board of Adjustment's actions on the variance requests and five conditions set forth in the staff report.

Mr. Vlastic suggested that the findings necessary for the encroachments into yard areas could be more readily made given all of the circumstances that apply to the property, but in terms of the floor area request, Planning Commissioners had asked for additional information to help them appreciate and act on it. The applicants have provided a letter that contains some additional information, including factors that are unique to this property. Mr. Vlastic said other properties in Town have one or two similar aspects (such as slope or historical problems related to how property was subdivided), but this property has some extraordinary circumstances. For example, the 3 Grove Court home was built as an adjunct to the main house on the historic estate.

## DRAFT UNAPPROVED MINUTES

Some historic structures in Town have had individual problems, such as the Mariani Barn at Blue Oaks. It went through a major redo as a subdivision requirement, Mr. Vlastic said, but with that preservation effort, the barn floor area was not deducted from the floor area attributable to the whole subdivision or to the individual lot that it sat on. As a consequence, there was a grant of relief, he said, although it wasn't a variance.

Given all of the factors, the ASCC concluded that setback and the height variances were appropriate, and that if any project was unique and deserved consideration of adding additional floor area, it would be this one. Mr. Vlastic pointed out that the applicants have worked to reduce the floor area requested from their original submittal. He said they had not been pushing for maximum floor area for its own sake, but rather trying to define the family's space needs in the combination of guest house, garage and main house.

When Chair Von Feldt asked whether the applicants had anything to add, Ms. Ciancutti offered to answer questions regarding the letter they submitted.

Commissioner McKitterick said his questions focus on height and floor area variance requests. In looking for precedent, he said he considered 169 Wayside Road, where the Planning Commission allowed the applicants to build a second story that encroached, in part because the project included work to prevent the house from slipping into the creek.

He asked for the approximate of square footage above the maximum for the house and guest house, and the number of linear feet of roof that would exceed the height limit by 2.5 feet. Mr. Vlastic said the project would exceed the floor area limit by 250 square feet total for the house, guest house and garage. Jeff Mahaney, the project architect, said that the baseline of the taller section of roof would extend about 20 linear feet. While acknowledging that these are relatively minor numbers, and setting aside the issue of historic preservation, Commissioner McKitterick asked about precedents for minor deviations from Town rules. Mr. Vlastic said it's not articulated specifically, but over the years the Planning Commission has been far more comfortable with minor variances than major changes. In terms of the height, he said, the Town has granted variances in a few instances where preexisting conditions made it difficult to work within the height limits, particularly when taking into account slope conditions on a property where a house has already been built. Further, he said that every house in Portola Valley Ranch is based on a height limit that differs from the Town's current limits.

According to Mr. Vlastic, the house at 3 Grove Court was built before Portola Valley even had the more generous pre-incorporation height limit. In response to a further question from Commissioner McKitterick, he confirmed that special circumstances in regard to the roof are the historic nature of the property and the odd shape of the site. He added that the applicants in fact are proposing to fix an area that was modified in a way inconsistent with the original architecture, which is something the ASCC specifically discussed, and the roof area in question would be lower than the highest point of the existing house.

Commissioner McKitterick said he isn't concerned about the additional square footage needed for the main house and garage to make them usable and useful but he questions how a smaller guest house would deprive the property of privileges enjoyed by other properties in the area with identical zoning. Mr. Vlastic explained that pool houses, guest houses and accessory structures are now pretty common on lots and the Town encourages guest houses in particular. For this property to accomplish that using a fairly normal approach to site development, he said, the applicants likely would have to either remove the existing house and cut its square footage to accommodate the garage and the guest house, or scale way back on the garage. Already, he said, they're at 558 square feet for the guest house, roughly 200 square feet less than the maximum allowed. Mr. Vlastic added that in looking at the details, the pressure comes from the main house, which contains spaces that would be done differently if the house were built today.

Mr. Vlastic called attention to the effort being made to preserve a building that was not designed initially to serve as a single-family residence, noting that it's rare to have a resident willing to make such efforts not only to restore an historic structure but to make it work for the long term.

In response to Commissioner McKitterick's inquiring about the specific historic designation for this property, Mr. Vlastic said the house is included in the General Plan's Historic Element as an historic structure with the designation to preserve. Commissioner McKitterick agreed that the finding for the floor-area variance could be

## DRAFT UNAPPROVED MINUTES

justified by this special circumstance that limits the property owners from developing the site in the way that other neighboring properties could develop theirs.

In response to a question from Chair Von Feldt, Mr. Vlasic said the previous owner had cleared the lower portion of the property, mainly removing brush and shrubs. Larry Tesler, Grove Drive, added that some trees also were cleared at that time. Mr. Tesler also said he feels the applicants' proposal will improve the property, maybe in a way that should have been done years ago. He credited the Ciancuttis with doing a good job of including everyone affected – and in this case more of the impacts are positives. He noted, too, that they addressed concerns about more cars parking on Grove Drive, which is narrow, and went over and beyond to solve the drainage problem. Don Ekstrom, Grove Drive, said that he was particularly interested in the planting and screening on the property. Ms. Ciancutti described the efforts she took to reach out to the neighbors and previous applicants. She agreed that everyone seems really happy with the project. In response to Commissioner McKitterick asking whether the ASCC had dealt with the issue of parking during construction, Mr. Vlasic said the conditions cover phasing of the construction work.

In terms of the landscaping plan, Chair Von Feldt noted that some of the shrubbery proposed doesn't fare well in Portola Valley, and some of the stronger native plantings removed in clearing might re-grow at the expense of the new ones. Ms. Ciancutti said they would go through the final landscaping and intersperse plantings recommended by the Conservation Committee. Chair Von Feldt encouraged leaving a 50-foot buffer at the bottom of the hill, keeping the construction out of it and seeing what comes back on its own. Mr. Vlasic said the landscaping plan along the lower portion would be revised to address these questions as well as the alignment of the fence to produce more of an organic feel and use of screening only where needed.

Commissioner McKitterick said he had originally had difficulty with Finding 2, and while there may be reasons to deny the application with regard to the square-footage increase in order to accommodate the guest house, factors staff has mentioned, plus the fact that this is a designated historic structure and the arguable restrictions that might come along with that, enable him to make that finding.

Reiterating that the Town encourages guest houses, Commissioner McIntosh said 250 square feet is very minor with respect to the overall project. He considers the proposal marvelous and a real improvement to the neighborhood, and said he has no problems with either the additional square footage or any of the other variances. If ever there was a project that the variance ordinance was written for, he said, this is it.

Commissioner Targ commented to the applicant that the process and their attention to detail are laudable. He said that by the time the Ciancuttis are done, they will have created a jewel for the Town. The unusual nature, historic character and topography of the house place it in a different category than almost any other house in Portola Valley. He described the outreach, support and absence of opposition as impressive. Commissioner Targ also asked whether the applicants would document the changes photographically. Ms. Ciancutti said Town Historian Nancy Lund took photos right after they bought the house and they will start taking documentary photos as soon as construction begins.

Chair Von Feldt said she agrees with most of her colleagues and enabling the applicants to keep a piece of the Town's historic element warrants approving their variance requests.

Commissioner McKitterick moved to find the project categorically exempt from CEQA. The motion carried 4-0.

Commissioner McKitterick moved to make the findings for the variance requests, subject to the conditions set forth in the staff report. Seconded by Commissioner Targ, the motion carried 4-0.

### COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

Ms. Kristiansson said a draft policy for staff referral to the ASCC for smaller projects (up to 400 square feet) will go to the ASCC on November 11. The December 9 ASCC agenda will include the Priory's plans for its track, in accordance with conditions for review of the drainage, grading and site development permits, vegetation screening along Portola Road, the design of the shed, etc. At that meeting, the ASCC also may discuss architectural review of a Priory project for some new buildings at Benedictine Square, all within the confines of

## DRAFT UNAPPROVED MINUTES

the current use permit. Mr. Vlastic noted that the Priory plans to come back to the Planning Commission at a later date for further changes to its Master Plan use permit.

According to Ms. Kristiansson, unauthorized vegetation clearing, including removal of a number of trees as well as underbrush and understory, was self-reported at the Villa Lauriston. Apparently a landscape contractor got carried away. The circumstances are under investigation, she said, but in the meantime, there are concerns about the timing, with the rainy season starting and the erosion potential of the steep slopes. She said because of the habitat for red-legged frogs in Jones Gulch, the California Department of Fish and Wildlife came out today and reviewed Villa Lauriston's erosion control plan. Noting that the owners are being very cooperative in addressing the situation, Ms. Kristiansson said she also talked with the their agent today, who told her engineers are involved, and they are considering installing pins to stabilize the slopes as well.

Mr. Vlastic agreed that the owners were immediately responsive when they realized what was going on, and also have involved a biologist. He said a Manhattan-based architectural firm representing the new owner contacted the Town in September 2013. The initial contact pertained to internal changes and parking, with an indication that they wanted to set up a meeting with the Town due to the historic nature of the building.

Ms. Kristiansson said the Planning Commission would hold a joint study session on the Housing Element with the Town Council from 6:30 p.m. until approximately 8:00 p.m. on November 13, 2013, immediately preceding the regular Town Council meeting.

### APPROVAL OF MINUTES

Commissioner McKitterick moved to approve the minutes of the October 16, 2013 Planning Commission meeting, as amended. Seconded by Commissioner McIntosh, the motion carried 4-0.

### ADJOURNMENT [8:26 p.m.]

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Alexandra Von Feldt, Chair

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Karen Kristiansson, Deputy Town Planner