

PLANNING COMMISSION REGULAR MEETING, TOWN OF PORTOLA VALLEY, NOVEMBER 5, 2014,  
SCHOOLHOUSE, TOWN CENTER, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chair Gilbert called the Planning Commission regular meeting to order at 7:30 p.m. Ms. Pedro called the roll.

Present: Commissioners Alexandra Von Feldt, Judith Hasko and Nate McKittrick; Vice Chair Nicholas Targ; Chair Denise Gilbert

Absent: None

Staff Present: Debbie Pedro, Planning Director  
Karen Kristiansson, Deputy Town Planner  
Nick Pegueros, Town Manager

ORAL COMMUNICATIONS

None.

REGULAR AGENDA

(1) Public Hearing: Portola Road Corridor Plan

Ms. Kristiansson noted that the Planning Commission had reviewed the draft Portola Road Corridor Plan at its October 1, 2014 meeting, as well as its Initial Study/Negative Declaration and related General Plan amendments that are proposed. After hearing public comments and discussing options for wording for Section 6413, the Commission approved Resolution 2014-6, recommending that the Town Council approve the Initial Study/Negative Declaration and adopt the revised Portola Road Corridor Plan and proposed General Plan amendments.

As indicated in the November 5, 2014 staff report, Ms. Kristiansson continued, concerns were raised after the meeting about the changes to Section 6413, particularly the removal of phrasing about working with land owners. Kirk Neely and Holly Myers, who own the property at 555 Portola Road, submitted a letter raising this concern and others. Although it appears from the minutes that the change was intended to strengthen and clarify that section, and not to suggest that the Town would not work with land owners, the Commission did not discuss that particular phrase in detail.

Ms. Kristiansson said the Open Space Element of the General Plan identifies the front portion of the Neely/Myers parcel as a community open space preserve, and the implementation tools for these preserves are described in Appendix 2. One of those states, "As these lands come before the Town for development permits, the Town should work with the land owners to assure the retention of these important open-space preserves." Thus, she pointed out, the concept of working with land owners to implement these policies is already part of the General Plan.

This evening the Commission is being asked to revisit Section 6413 and either confirm or further refine the language. Also, because the Town Council is scheduled to consider the Portola Road Corridor Plan draft at its October 12, 2014 meeting, the Commission should provide any additional information about its intentions that would be relevant for the Council's consideration.

Chair Gilbert invited public comments about the Section 6413 phrasing in question.

Kirk Neely said he appreciated Town staff bringing this issue back to the Commission. He was surprised to have seen "work with the land owners" stricken, and raised the issue because he didn't know whether the change was inadvertent or deliberate, and the prior draft had already been tacitly approved. He said he understands the argument for broadening the ability and efforts to protect views, but also recognizes that the Town will have to work with land owners as well to do so. While also suggesting that the sentence might be written better, he noted

that there is a “huge context” here. Dr. Neely said that although he would like to see revisions to this section, their relationship with the Town is not dependent upon this one sentence.

Phil White, Portola Road, said that in the 15 years he and his wife, Cindie White, have owned Jelich Ranch, they’ve had great relationships with the Town. Noting that they and their neighbors, Dr. Neely and Ms. Myers, are the only two affected land owners on the Portola Road Corridor, and considering the approaching holidays along with the fact that Ms. White was busy with the Town’s 50th Anniversary celebration as well as work being done on their property, he said they would appreciate more time to evaluate the potential impact of this particular language and discuss it with their neighbors.

Marilyn Walter, Coyote Hill, said the wording (in the October 2014 version) is “absolutely perfect,” and agreed with the Planning Commission that it’s well-covered in the rest of the document that the land owners will be consulted. Accordingly, she said she sees no reason to include it in Section 6413 too.

Chair Gilbert brought the matter back to the Commissioners.

Commissioner McKitterick said the reason the phrase was taken out was that Commissioners felt they would always work with land owners. He said it wasn’t their intent to give the impression that would not happen. However, he added, in light of the problem it has created, he wouldn’t object to putting that language back in. Commissioner McKitterick also pointed out that there are a few other land owners on the Portola Road Corridor besides the Whites and Neely/Myers.

Commissioner Hasko said she would also restore the phrase about working with land owners. She said working with the land owners is one vehicle for preserving and protecting the lands of the Portola Road Corridor, including their scenic qualities. Because some of those lands are privately owned while others are owned by the Town, she wouldn’t suggest placing the full burden on the land owners. She said there was never an intention to take the land owners out of the equation.

Commissioner Von Feldt agreed that the Commission didn’t feel that the burden should all be on the land owners, because much of the land is on the Town’s right-of-way. But if removing the phrase comes across as not including people, she would restore the language, or perhaps modify it to say something like, “work with all land owners, including ...”

Vice Chair Targ said that as a proponent of the January 2014 language in the draft Portola Road Corridor Plan, and having missed the October 1, 2014 meeting, he found the change jarring. The January 2014 version stated, “Efforts should be made to work with land owners to preserve and protect these lands consistent with other provisions of the General Plan. . .” He said he understands the desire to reduce redundancy and simplify, but he doesn’t understand how the deletion addresses the Commission’s interest of strengthening the language. It seems wholly appropriate to restore language about working with land owners, he continued, noting that there are few greater stewards of Portola Valley than Dr. Neely, Ms. Myers and the Whites.

Another question, Vice Chair Targ said, pertains to a later part of the sentence: “nearby meadows which are essential to the open-space character of the valley.” He said he’s not sure which meadows are being referenced here, ones which are nearby or ones which have a visual impact from the corridor or elsewhere. In addition, the phrase “essential to the open space character” includes the term “character” which is included in the General Plan when discussing the front portion of the Neely/Myers property, and he was unsure how including that phrase here might affect the interpretation given to the General Plan.

Chair Gilbert suggested first dealing with the phrase including land owners. She said the Commissioners unanimously agree about putting it back in. What began as an attempt to make the statement shorter and more direct by removing the phrase including the land owner verbiage, she said, ultimately evolved into adding more words anyway.

As for his second question, Vice Chair Targ said he’d recommend saying, “to protect and reestablish critical views consistent with the goals and policies of the General Plan . . .,” which would dispense with the whole issue, neither adding to nor subtracting from the status quo. Chair Gilbert said the Commission discussed that at the October 1, 2014 meeting. Originally, she explained, considerable language in other elements of the General Plan

would have made that an appropriate statement, but that language was taken out via the proposed General Plan amendments to eliminate the overlap. Thus, she said, it's more important to be quite specific in the Portola Road Corridor Plan, and that specificity makes it stronger and clearer as well, so that those looking at the documents would not have to wonder where else in the General Plan to look.

Commissioner McKittrick said we all know what the critical views are. Commissioner Von Feldt said she thought there was debate about that. In reviewing her notes from the October 1, 2014 meeting, she said there was a lot of public comment about strengthening the language, and Commissioners talked about not only open views but also what you see with those views.

Vice Chair Targ suggested hearing public comment on this issue. Agreeing, Chair Gilbert quoted the relevant language as it stands, with the land owners phrase restored: "Efforts should be made to work with the land owners to preserve and protect these lands, including their scenic qualities, and protect and reestablish critical views of the western hillsides and nearby meadows which are essential to the open-space character of the valley."

Ms. White said she agrees with her husband, that they need more time to get perspectives and to wrap their heads around what all of this really means because they are so directly affected. She said she has not yet looked at the entire draft Portola Road Corridor Plan.

In response to Chair Gilbert, Ms. Kristiansson recapped the noticing that pertained to the Portola Road Corridor Plan. She said there were a number of meetings, with the process beginning in 2012, when the Portola Road Corridor Plan Task Force was formed. It included members of the Town Council, the Planning Commission, the ASCC, the Conservation Committee, the Bicycle, Pedestrian and Traffic Safety Committee, the Trails and Paths Committee, the Open Space Acquisition Advisory Committee and so on. The Task Force provided a report that went to both the Town Council and the Planning Commission. She said the Planning Commission held additional meetings in 2012, 2013 and 2014, all of which were noticed, in addition to the Town Council meetings. She said she doesn't believe that individual property owners were singled out for noticing because the plan covered the Portola Road corridor as a whole.

Ms. White said she attended one of the meetings in 2013. She said she was aware it was going on, but misunderstood the significance because they were never reached out to, or asked, or told to write a certified letter to make sure they were informed. It seemed the terms were very general, such as "Orchard Preserve" versus "the Whites at 683 Portola Road and Jelich Ranch." She said it seems there would have been more of a direct outreach, considering the Whites and Neely/Myers and this part of the corridor's viewsheds. This includes the Midpeninsula Regional Open Space District, which is an entity, as well as their properties. Ms. Walter noted the Town website includes information on the Portola Road Corridor Plan process, and Ms. White said that's why they feel they need more time to read it.

Dr. Neely noted that the sentence is actually more complicated now than it was in prior versions, because it's attempting to reach two goals, both of which are now governed by the initial phrase, "Efforts should be made . . ." The first effort is to preserve and protect, with the provision for consistency with the rest of the General Plan added in January 2014, and the scenic qualities of the lands added in October 2014. He said "scenic qualities" is loaded and very open-ended, as is "preserve and protect these lands," so clearly these terms can be brought to bear on development application and used to severely limit any kind of development. Critical views have to be determined on an ad hoc basis, he said, and can be defined in any way.

"These are not trivial words," Dr. Neely stated, and to have eliminated "work with land owners" made it even more obvious that it could be used that way. He said he objected to "nearby meadows" because we spent two years arguing about what a meadow is. "Which portion of the frontage of my property is a meadow?" he asked. "Which is not? That hasn't been resolved at all." His recommendation to eliminate some of the words and make it less loaded, which he wrote in concluding the letter he and Ms. Myers had sent to Ms. Kristiansson, was: "Efforts should be made to work with the land owners to protect and reestablish critical views, which are essential to the open-space character of the valley."

Dr. Neely also said he disagreed with Chair Gilbert's suggestion that most of the language about these properties in other parts of the General Plan has been removed--there are many, many very confusing redundancies that

apply to these properties and views from the corridor. He said the Land Use Element and Open Space Element, for instance, contain a lot about preserving and protecting these lands, and they're all overlapping with different nuances here and there. It would confuse anyone to try to read it, he said.

Marilyn Walter, Coyote Hill, said she's lived in Portola Valley nearly 43 years, and one of the main reasons we know it's a valley is because we can come around the corridor and see the high hills above us. It's the centerpiece of our Town, the beauty of our Town, and is important to all 4,500 people who live here, not just one or two landowners.

Phil Vincent, Portola Road, asked whether the Planning Commission has considered undergrounding power lines. Chair Gilbert said the draft Portola Road Corridor Plan contains a reference to undergrounding, but the Commission backed off a bit. Due to the high cost involved, she explained, it's probably not going to be a near-term initiative. Ms. Kristiansson said that after discussion between the Planning Commission and Town Council, Standard 6406.6 currently reads, "Undergrounding utility lines along the corridor is desirable and should be considered."

Dr. Neely noted that when its parking lot was approved, the MROSD was required to underground utilities.

Chair Gilbert suggested finishing the wordsmithing and then taking up the issue of extending the timeline to accommodate some of the property owners' requests.

Commissioner McKittrick, who said he likes the currently proposed language but also understands the points being made about omitting the land owner phrase, suggested revising it to read, "Efforts should be made to work with the land owners to protect and reestablish critical views."

Commissioner Von Feldt asked Ms. Pedro and Ms. Kristiansson whether this language changes the land use restrictions on the major property owners, or whether the Orchard Preserve and Meadow Preserve provisions in the General Plan mean that those restrictions are in place already. Ms. Pedro said that the land use restrictions in the Zoning Code are already in place, but in terms of the Meadow Preserve, for example, it depends on the entitlements. In other words, if a use permit is requested for a particular property, the regulations that apply would be addressed at that time on a case-by-case basis. Commissioner Von Feldt asked whether the proposed language would add or change any burden aside from those that are already in place. In response, Ms. Pedro said these are quite broad statements, so while they give staff direction, they don't provide any specific standards.

Commissioner Von Feldt explained that she's asking because the Planning Commission wants to communicate the vision for the Portola Road Corridor; it's not trying to create legislation. Commissioners discussed this statement at length during the October 1, 2014 meeting. She said the phrase "consistent with other provisions of the General Plan" in the January 2014 version would require going through the General Plan to understand the provisions that were referenced. The October 2014 version encapsulates what the vision of the scenic corridor is, she said, and from what Ms. Pedro said, it doesn't impose additional burdens.

On the flip side, Commissioner McKittrick noted, if those burdens exist elsewhere in the General Plan or codes, why reiterate them here? Commissioner Von Feldt responded that it seems appropriate because it's not solely for those land owners but for the whole corridor, for the Town.

Vice Chair Targ said that the October 2014 version creates a strong statement that at least as a matter of policy modifies the General Plan provisions that address the Orchard Preserve and Meadow Preserve. He said he asked himself whether we really have an issue of vertical consistency. When Chair Gilbert asked how it changes the General Plan provisions, Vice Chair Targ said it's because it talks about the nearby meadows as being essential to the open-space character of the valley, and in the Meadow Preserve there's reference to the character of the area. Chair Gilbert said the former phrase was not just "character," but "agricultural character." Still, Vice Chair Targ stated, the language is substantially similar, and if he were to oppose a modification of the property, he said he could absolutely use the October 2014 language to interpret the other preserves. He said he doesn't know if that was the intent, to strengthen the language, but reading it in concert with other portions of the General Plan, he could come up with a quite different interpretation.

Chair Gilbert emphasized that the statement refers to views of those areas. Vice Chair Targ stated that everything following “Efforts should be made to preserve and protect these lands” refers to those lands, including qualifiers – the “western hillsides” and “nearby meadows,” with its own qualifier, “which are essential to the open-space character of the valley.” That’s a very, very strong statement of what we’re going to do with the lands, he said.

Because the intent is strictly on the views, Chair Gilbert offered an alternative similar to the December 2013 version: “Efforts should be made to work with land owners to preserve, protect and where necessary, reestablish critical views of the western hillsides and nearby meadows which are essential to the open-space character of the valley.” As Commissioner McKitterick observed, this focuses on the views as opposed to the lands.

Commissioner Hasko noted that in looking through other portions of the draft Portola Road Corridor Plan, Principle 2 (Section 6405) speaks to managing vegetation “to enhance and preserve views, especially of the western hillsides, existing orchards and open fields,” while Goal 1 (Section 6404) calls for protecting and reestablishing open views within and from the corridor, especially to the western hillsides. In the context of these other references, she said, Section 6413 now seems too detailed. She suggested that it could be helpful to look at Sections 6404 and 6405 in relation to Section 6413 to see if there is overlapping language. Considering the potential for differing interpretations of the versions that have been discussed and proposed, she said she’d favor more simplicity and less detail, referring back to the December 2013 version: “Efforts should be made to work with the land owners to preserve and protect these lands so that the view from the corridor remains largely open and undeveloped.” She acknowledged that the Commission debated the “largely open and undeveloped” phrase, but said the concept is at a high enough level to work in this context.

Commissioner McKitterick said “largely open and undeveloped” has too much history, and he likes Chair Gilbert’s focus on the views. Vice Chair Targ said in this context he didn’t know what “largely open and undeveloped” meant with sufficient certainty, and he could be comfortable with “Efforts should be made to work with land owners to preserve, protect and, where necessary, reestablish critical views of the western hillsides and nearby meadows.”

Although somewhat reluctant to lose “essential to the open-space character of the valley,” Commissioner Von Feldt said that she’s more comfortable with it since Commissioner Hasko pointed out other references in the proposed Portola Road Corridor Plan (Objective 1 and Principle 2), as well as Objective 5 (Section 6404), “To serve as a scenic corridor through the Town that reflects the open space values of the Town.”

Commissioner Hasko said that although she can support Vice Chair Targ’s suggestion, the “critical views” detail that remains may continue to be a concern. She added that she considers it important for the public to be able to have more opportunity to comment on this.

Chair Gilbert said that when a process goes on for a long time, it’s sometimes not until the very end that people realize its significance. She said the Planning Commission could have an additional public hearing, or recommend the Town Council delay the discussion scheduled for its October 12, 2014 meeting to give the land owners more time to review the proposed Portola Road Corridor Plan. Commissioner McKitterick asked the whether the land owners would prefer just dealing with the Town Council on this, or keep the process at the Planning Commission level for the time being.

Dr. Neely asked for clarification as to what the Planning Commission had decided. He said that aside from the issue of timing and public hearings, he finds the use of the term “nearby meadows” in Section 6413 problematic because it obviously targets only one property or one field, so it’s tantamount to spot-zoning. Chair Gilbert said “nearby meadows” was intended to be broader than the Meadow Preserve. She stated the updated version based on tonight’s discussions states: “Efforts should be made to work with landowners to preserve, protect, and where necessary, reestablish critical views of the western hillsides and nearby meadows.”

Chair Gilbert then said that the next item to discuss was the process going forward. She said the choice was whether the Planning Commission should continue this item to a future Commission meeting or act tonight and pass the Corridor Plan on to the Town Council. If the latter, she said that she would urge the Council to not consider the Corridor Plan on November 12 but to schedule it later so as to provide more time for public review.

Ms. Pedro recommended that if Commissioners have a consensus on what they are comfortable forwarding to the Town Council, they make that decision tonight and then ask the Council to delay its public hearing on the Portola Road Corridor Plan, giving the land owners more time to work with staff to understand the details of the document. In response to a question from Chair Gilbert, she noted that there is no timeline for adoption of this plan and the Commission could continue this and talk about it further.

Commissioner Von Feldt said there have been problems in the past when matters have been forwarded to the Council but the Council doesn't have all the history. She would prefer to keep this at the Planning Commission level for now to allow the landowners who are the most interested to bring back any questions to the body which worked the most on developing the Corridor Plan.

Mr. White said that he had recently finished with the ASCC a couple months ago, and everyone interprets the General Plan differently, including the Planning Commission and the ASCC. As a result, he'd prefer the language to be as general as possible. What was a critical view when the Jelich Ranch was established in the early 1900s may not be critical today, he said, or may be even more critical. He doesn't know what "critical" means so it has to be interpreted by whoever's on the Council every time he wants to do something on his property, or the Neely/Myers want to do something on their property. He would like the language to be more general, and would also like to have more time to look at the documents and talk with Dr. Neely and others.

Chair Gilbert said she's leaning toward the Planning Commission scheduling another public hearing, in part because it would be best to resolve as many issues as possible before it goes to the Council. The Commission's role is really to work with the public and come to the best resolution they can, and it doesn't sound like they are there yet. Commissioners agreed to that approach.

Chair Gilbert noted that the public will have the chance to comment on the language for Section 6413 again, or anything else in the document, when the Corridor Plan comes back to the Commission. Vice Chair Targ said the minutes should reflect the Planning Commission having reached a general consensus around the language proposed so they have a common point of reference:

"Efforts should be made to work with land owners to preserve, protect and, where necessary, reestablish critical views of the western hillsides and nearby meadows."

Commissioners suggested that the public review draft of the Corridor Plan be updated with the language from tonight's meeting. Ms. Pedro said the draft will be updated and added to the Town website.

(2) Discussion and Commission Action: Designation of Land Acquisition Negotiator

Ms. Pedro recapped the background for this item, noting that the Town Council amended the Town's Capital Assets Policy at its meeting on June 18, 2014. Revisions included the requirement to select two individuals in addition to the Town Attorney, Leigh Prince, to serve as negotiators on land-acquisition matters. At their July 9, 2014 meeting, the Council appointed Councilmember Craig Hughes as one of the negotiators, and requested that the Planning Commission choose the third member.

As Ms. Pedro explained, there is no set schedule for negotiator meetings or any specific recommendations concerning any piece of land to consider for acquisition.

Chair Gilbert, noting that appointees would "conduct due diligence, evaluate and make recommendations on potential land acquisition," asked whether they would also actually participate in negotiations. Commissioner McKitterick said that as he understands it, there will be discussions with property owners, and the negotiators would participate in those discussions. Although that's been done in the past, he added, it's been more on an ad-hoc basis. It may not involve price, but a lot of other discussions are involved before the Council sits down in closed session.

Mr. Pegueros said Commissioner McKitterick is exactly right.

Commissioner McKitterick said he'd love to be the Planning Commission's designee, but that Vice Chair Targ has the best skill set. Vice Chair Targ said he's flattered, but clarified that he's not a real estate attorney but rather a

land use and environmental attorney, so he practices in more of a regulatory than transactional sphere. In response to Commissioner Von Feldt, Commissioner Hasko said her practice is in intellectual property.

Vice Chair Targ also noted that he might not be the ideal choice because he'd have to recuse himself if any potential acquisitions were to involve properties within 500 feet of property he owns, which is located near the Woodside border, toward the Morshead property. Mr. Pegueros said that if Vice Chair Targ is appointed, he would appreciate an alternate being named too, in the event recusal is necessary. Commissioner McKitterick, noting that his favorite part of the job is trying to get two parties to come together in a business deal, agreed to serve as Vice Chair Targ's alternate.

#### COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

Ms. Kristiansson said the revised Housing Element draft would be on the agenda for a public hearing at the Planning Commission meeting on November 19, 2014. She noted that a letter from the California Department of Housing and Community Development (HCD) indicates that the document is basically in compliance with only a few relatively minor changes. The Town Council has a public hearing on the document scheduled for January 14, 2015.

Ms. Pedro confirmed that the Planning Commission need not attend the site meeting for 40 Antonio Court because the applicant has revised plans to keep the grading under the threshold that requires Planning Commission approval.

#### Approval of Minutes: August 6, 2014 and October 1, 2014

Chair Gilbert moved to approve the minutes of the August 6, 2014 meeting, as amended. Seconded by Commissioner McKitterick, the motion carried 5-0.

Chair Gilbert moved to approve the minutes of the October 1, 2014 meeting, as amended. Seconded by Commissioner Von Feldt, the motion carried 4-0-1 (Targ abstained).

#### ADJOURNMENT

The Commission adjourned at 8:37 p.m.

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Denise Gilbert, Chair

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Debbie Pedro, Planning Director