

REGULAR PLANNING COMMISSION MEETING. TOWN OF PORTOLA VALLEY, DECEMBER 17, 2003. TOWN CENTER, HISTORIC SCHOOLHOUSE, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chairman Breon called the meeting to order at 8:02 p.m. Ms. Lambert called the roll:

Present: Commissioners Elkind and McIntosh, and Chairman Breon  
Absent: Commissioner Zaffaroni  
Staff Present: George Mader, Town Planner  
Tom Vlastic, Dep. Town Planner  
Karen Kristiansson, Sr. Planner  
Leslie Lambert, Planning Manager  
George Comstock, Town Council Liaison

ORAL COMMUNICATIONS: None.

REGULAR AGENDA

(1) Preliminary Review of Proposed Variance X7E-126, 30 Granada Court, Boucher

Chairman Breon discussed the purpose of a preliminary review. Mr. Vlastic reviewed the staff report of 12/11/03 on the variance request to allow construction of a detached carport within the front setback on the 1-acre site. He used the plans and photos to describe the existing conditions on the site, including the conversion of a workshop/garage to a 600+ sf office. Responding to Commissioner Elkind, he discussed site constraints in terms of alternate parking/access.

Commissioner McIntosh said he was surprised at the extent and professional nature of the office use that was now occupying what was to have been a garage. Responding to him, Mr. Vlastic said the limit on home offices was 400 sf, and it was to be occupied by the residents of the property. Parking and other activities associated with it were to be similar to a residential use; employees were not permitted unless they were living in the house.

Mark Boucher, applicant, said the average slope on the property was over 26%. Additionally, half of the house was within the front setback, and there was a swale that cut the property in half. There was not very much room to do very much. He said the long-term plans were to bring the property up from 57% of what was allowed--none of which, except for the parking, would require a variance. Also, in the middle of improving the garage, his baby was born, and he needed the space for an office. He said he was misinformed by his contractor that converting the space to an office would be a problem. His business required that his three consultants come in once or twice a week. He already had a plan to request a variance for one other covered space; having two in the same place really wouldn't change anything.

Responding to Chairman Breon, Mr. Boucher said the three consultants performed the same type of investment management work that he did. Responding to Chairman Breon, Robert Sandavol, architect, said the enclosed carport/garage building was 400 sf; part of the workshop area was used as office, with part of it used for storage and mechanical (e.g., furnace and hot water tanks). Mr. Boucher confirmed that the use of the structure would probably continue for another couple of years at which time offices would be shifted again. Responding to Chairman Breon, Mr. Vlastic said the Town did not have anything specific on any future home additions; however, it should be doable without having to confront the setback problem.

Chairman Breon noted that the photos showed four cars parked on the street. Mr. Boucher confirmed that those were the consultants' cars. As planned, there would be no parking on the street if everyone showed up at the same time. Responding to Chairman Breon, he said 2 of the 3 the consultants were there today. He added that there were also relatives visiting, so there were more cars now than at any

other time.

Responding to Commissioner Elkind, Mr. Boucher used the plans to show where cars would be parked if the proposed carport was added. Responding to Commissioner McIntosh, Mr. Boucher described access to/from the existing paved area. He confirmed that if it was covered, his wife would probably want to use the covered space for parking.

Using the plans, Commissioner McIntosh pointed to an area at the far end of the house with a substantial hole. Mr. Sandavol said part of the future projects included a kitchen extension, master suite, and extending the deck over part of the hole with a wine cellar underneath the deck. The contractor had started the hole but had been stopped by the Building Official.

Responding to Commissioner Elkind, Mr. Vlasic said he did not think the proposed carport/access would reduce the flexibility to find a good way to get construction vehicles to the end of the house where more development would occur. Commissioner McIntosh described possible construction equipment access.

Responding to Chairman Breon, Mr. Boucher said he had assumed that the contractor had spoken with the architect about converting the garage to office. Kevin Schwartzkopf said CJW had not been terribly involved during the construction process.

Mr. Vlasic reiterated that the Town would need to verify that the office was in compliance with the Town ordinances. That was a real question because of the frequency of people coming and going; the ordinance language intended very minimal visitations to the site. The square footage also needed to be verified. There was also the issue of the violation of the building permit as approved; the action that had been taken increased the non-conformity.

Commissioner Elkind said she was very uncomfortable with: 1) the shift of a garage into an office in a non-compliant way; and 2) the consultants who were coming to do work with the applicant. A consultant and employee in this case were the same in terms of the ordinance. She would be very uncomfortable finding that there were special conditions on this site that were unique and justified a variance from the setback requirements. Given the non-conformance to Town ordinances, she didn't see anything that special about the steepness of this site; there were many parts of Town where the building sites were constrained.

Commissioner McIntosh said it was possible that when the garage was built, it was never intended to be a garage. Having visited the site, he said there were four workstations set up on a fairly permanent basis. He felt that the applicant might not have been aware of the restrictions on home offices. This space with over 600 sf was really a substantial commercial office. The office issue was way out of conformance, and he would be uncomfortable talking about a variance until those issues were resolved.

Chairman Breon agreed the two outstanding issues needed to be resolved before considering a variance. He suggested the applicant deal with the darkened portion of the driveway so that people could park there. He also thought the applicant should consider turning the office space back into a garage. Additionally, he asked staff to follow up on the relationship the consultants/employees had with the business, how often they were there, how they were paid, etc. While he understood the desire to have people in the home with a small business such as this, the rules of the Town for home offices didn't allow that. This was an issue for clarification and enforcement prior to requesting a variance.

Commissioner McIntosh said he had been completely unaware of the requirements for home office. Times had changed, and he thought the Town might want to look at the home office ordinance. There were a lot more people working at home than there were ten years ago. Chairman Breon said he felt a lot of work could be done within a 400 sf space. He was, however, adamant about the issue of employees; it crossed the line of changing neighborhoods into different traffic and usage patterns.

Mr. Vlastic said the Town was seeing different kinds of business needs. In terms of employees, a bookkeeper might come in twice a month and spend 3-4 hours. Technically, that was inconsistent with the ordinance. Chairman Breon said he did not think the ordinance should be interpreted to that level of scrutiny. Town Planner Mader noted that a bookkeeper coming in was not unlike a housekeeping service. Chairman Breon said having permanent workstations in an office-type atmosphere was a very different situation. Mr. Vlastic agreed this was not a typical home office. Mr. Boucher confirmed for Commissioner Elkind, that his clients did not come to the office.

(2) Review of Revised Draft Housing Element

Karen Kristiansson reviewed the staff report of 12/10/03 on the draft Housing Element. Once the outstanding issues were resolved, she said the Element would next go to the Council and then to the State for reactions.

Responding to Chairman Breon's question about housing facilities for people with disabilities, she confirmed that "residential facilities" were subject to all of the requirements of a single family home. Responding to Chairman Breon, she said if the ASCC approved this type of facility, it could look more like a small medical facility than a house. Responding to Chairman Breon, she said a drug rehab center with six or fewer patients could move into a residence in Town as a right. Chairman Breon discussed disputes in San Jose involving group homes. Responding to Virginia Bacon, he said it appeared that a use permit for a residential facility with six or fewer people would not be required. Ms. Kristiansson said she would provide further clarification on the definition of residential facilities. Town Planner Mader added that unless there was a structural change to an existing house, it would not go to the ASCC but would be handled by staff. A zoning permit might be required to indicate the use was consistent with the zoning ordinance. Chairman Breon asked that this also be clarified.

Responding to Commissioner Elkind, Ms. Kristiansson said if a facility was requested for more than 6 people, it would have to comply with the zoning code and all of the other requirements in Town. Six people or fewer would be treated the same as a single family home. Responding to Mayor Comstock, she said any staff would be in addition to the 6 residents/clients. She reiterated that she would obtain more information. Additionally, a lot of this would be clarified when the definitions were updated.

Chairman Breon said the staff report raised the question of placing an upper limit on the number of BMR units to be provided. Responding to him, Town Planner Mader said State planning law said that the General Plan must indicate population densities; there needed to be a maximum. As indicated in the staff report, one suggestion was to require that 10% of the lots be set aside. For example, in a 20-lot subdivision, 2 lots would be set aside. If the 18 market rate units had an average of 4,000 sf, 10% would give 7,200 sf on two lots. The Town might require that the average of the floor areas of the affordable units be not less than 1,000 sf, including covered parking. The cap would be a little over 7 units on the two lots. Chairman Breon suggested a generic cap of no more than four units per lot. Town Planner Mader said there was also the question of the lot size. He felt it might be easier to make it a function of the size of the residence. Responding to Commissioner McIntosh, he said these would be subsidized by the builder. He noted that the mix of sizes would be subject to the approval of the Planning Commission.

Responding to Commissioner Elkind, Town Planner Mader said the maximum size for second units was 750 sf; they were also not required to have covered parking. Commissioner Elkind said that was suitable for an individual or a couple. If a 1,000 sf cap was put on, she felt the possibility of any housing for a family would be eliminated. Chairman Breon pointed out that the 1,000 sf would be an average; some of the units could be bigger. Commissioner McIntosh added that a builder would probably rather build 1,200-1,500 sf so he could build fewer units. Their goal was to recover their actual construction costs.

Ms. Kristiansson said the Town needed more bigger units, as noted in the Housing Element. But, the Town also wanted a number of units; there needed to be a balance. Town Planner Mader noted that these had to be affordable based on the income limits. He felt the Town should have the discretion of

reviewing those sizes and indicate that the average could not be less than the cap established. He also felt that covered parking was needed because it would be integrated in the subdivision. It was not like a guesthouse tucked in behind. That took floor area which was why the numbers looked a little different from a guesthouse.

Commissioner Elkind said there had been some discussion about the school owning some units in Town for teachers. She thought some language should be added to the Element to provide for that. Commissioner McIntosh said the easiest units for the Town to provide were second units on large properties. Those were always rented. The rental pool was much bigger. The "for sale" pool was much harder to achieve. Commissioner Elkind said she would like to put some language in that narrowed the market. Chairman Breon asked if the Element could indicate a preference for people who worked in Town. Ms. Kristiansson said there was some language in the Element, but it could be strengthened. Chairman Breon asked that that be identified for the Council as a desire of the Commission. Town Planner Mader agreed that the policy should be in the General Plan. He said the planning staff would look into it. Ms. Kristiansson noted that the Town could indicate a preference but could not restrict it.

With respect to the limit placed on the number of BMR units, Mayor Comstock suggested using the kind of numbers proposed for the Nathorst triangle which provided for an average size and also a size range.

Town Planner Mader questioned whether that should be dictated now in the Plan which could apply to a lot of projects. He thought that discretion should be left to the project itself when it came along as to the mix that was wanted. The only reason it needed to be addressed here was to be consistent with the State law. There needed to be a cap on the maximum. In addition to the cap, Mayor Comstock wanted to have a general statement that we'd like to see a range. Town Planner Mader said that would be fine. Commissioner McIntosh suggested using the same wording discussed earlier. Ms. Kristiansson suggested also indicating that the Town would like to see some larger units and balancing that with the number of units. Responding to Commissioner McIntosh, Chairman Breon said a limit on the larger size units could always be added later if, for example, a developer wanted to build 2 lots of affordable housing with each having one 2,800 sf unit on it. Town Planner Mader agreed there was ample opportunity to do that when dealing with diverse properties in Town. The Nathorst properties were more focussed.

After discussion, Commissioners agreed with Town Planner Mader's suggestion to use 1,000 sf with a preference for a range of sizes. Town Planner Mader suggested also stating that these had to be affordable units and that the Town wanted a range in sizes related to its needs.

Mayor Comstock said the Council had asked the staff to look at increasing the guesthouse size on lots of 2.5 acres or more to 1,000 sf to accommodate larger families in the rental program. Responding, Commissioner Elkind said the larger lots had more difficult topography and terrain. It was probably better public health and safety policy to not increase the population in those geologically unstable/steep areas. Chairman Breon said he was not inclined to go in the direction suggested by Mayor Comstock. The State law had to be met. While the Town needed to have the opportunity to create some affordable housing, he felt by and large it belonged in other communities where the units could be closer to transit, jobs, etc. Increasing the guesthouse standards would create an opportunity for putting two homes on one lot. Commissioner McIntosh added that 75-80% of the people would probably not put their second units in the rental pool; they would just have an opportunity for bigger pool houses. Responding to Mayor Comstock, Chairman Breon said the guesthouse limit might be expanded if there was some kind of requirement that they be inspected by the Town every year to verify that someone who worked in Town and met the affordable criteria was in that unit. Mayor Comstock said it would be appropriate in the Housing Element to make some sort of broad provision on this. Chairman Breon said that would require more extensive public hearing. Commissioner Elkind agreed that change was significant. Town Planner Mader noted that a teacher with an employed husband and child would probably not be in the affordable range. His recollection from the Council discussion was that the majority did not want to go beyond 750 sf. Commissioners agreed. Responding to Commissioner McIntosh, Ms. Kristiansson confirmed that you could not require that someone be living in a second unit or that it be rented.

With respect to the BMR units being "integrated within the subdivision," Town Planner Mader said it might no longer be a requirement that the Blue Oaks BMRs had to be part of the homeowners' association. The State law appeared to require that, but the Town Attorney and others felt it probably did not require that. Chairman Breon said his inclination was to integrate the BMR units. Commissioner McIntosh said he felt strongly that flexibility in terms of the design was important. The Town could make the decision at the time. Blue Oaks was a good example of the need for flexibility. There was a wonderful location next to the subdivision that provided for a great little community; it was a nicer situation than it would be right in the middle of the project. Ms. Kristiansson said the Housing Element provided for that flexibility. It said it should be integrated but that the Planning Commission had the right to not integrate it if it could be shown that it was a better design. The question here was what "integrated within the subdivision" meant.

Chairman Breon said integrated meant that the people felt they were part of the community. In up-scale development, there was a tendency to segregate people in terms of economic class. He thought the integration language was important but wanted to maintain a lot of flexibility.

Town Planner Mader pointed out that putting the BMR units on another piece of property would not be "integrated" even if it was a better solution in some cases. Chairman Breon said he considered the second Blue Oaks scenario contiguous but not integrated because there was a conscious attempt to separate the BMR units by distance and function. But, it might justify the kind of flexibility that the Town already had. Locating to another property was not integrated; there would need to be findings that there was some superior element to it. He questioned whether that should be allowed.

Town Planner Mader said if the people in the affordable units did not have cars, they should be located where there was public transportation, which was outside of Portola Valley. Within Portola Valley, it was a question of whether it would be best to have the units in this project or somewhere else. If another affordable project was being built somewhere in Town, it might be best to group these together. That was not "integrated within the community," but it might be a better design when looking at the socio-economic status.

Commissioners and staff discussed the possibility of locating the units in other jurisdictions.

Commissioner McIntosh wanted to keep the language that indicated that the affordable units should be on the site and integrated unless it was found to be more appropriate around the periphery. He confirmed for Chairman Breon that he also wanted to add some language stating that in extraordinary circumstances, the units could be built off site within the Town.

Chairman Breon said there was a likelihood that any subdivider who was providing affordable units would make an argument that there were extraordinary circumstances (e.g., the property was in the remote western hillsides, no transportation/services, etc.). He preferred requiring the units be on the property.

Commissioner Elkind said in an ideal world, allowing the BMR housing off site in a more central part of Town was desirable and could be very appropriate. But, she questioned what mechanisms would be needed to make that happen. There was existing language that required that no more than 50% of the market rate lots could be sold before certificates of occupancy had been issued for all of the BMR units. She thought going off site could interfere with that language. Town Planner Mader agreed it could be very complicated. The developer would have to have the property, etc.

Chairman Breon suggested keeping the language, including the flexibility to accommodate the Blue Oaks scenario II, but requiring that at a minimum, the BMR housing be on the same property. "Integrated" referred to a sense of community with some flexibility to move the units to the periphery if that was a strongly better option.

Mayor Comstock said that language would not allow the Blue Oaks property owners to buy the Nathhorst triangle properties and put the BMRs there. He would feel more comfortable with less rigid language. Chairman Breon said he did not think that scenario would occur.

Referring to paragraph #33 (p. 7), Commissioner McIntosh suggested the first sentence only refer to second units constructed on lots over 1 acre. Ms. Kristiansson said previous to the prior Element, the Town allowed second units on properties greater than 2 acres. The Program was to allow them on lots between one and two acres. At this point, she agreed it could be changed to "over 1 acre." Responding to Commissioner McIntosh, she confirmed that units identified but not in the rental pool were not counted.

Commissioners complimented Ms. Kristiansson and everyone who worked on the Element. Mayor Comstock suggested mailing a copy of the Element to the Planning Commission candidates.

#### APPROVAL OF MINUTES

By motion and second, the minutes of the November 5, 2003, meeting were approved as submitted by a vote of 4-0.

#### COMMITTEE, STAFF, COMMITTEE REPORTS and RECOMMENDATIONS

Ms. Lambert noted that the January 7, 2004, meeting would be cancelled. Additionally, she said 7 applications had been received for the Planning Commission vacancy, and interviews would be held on January 14.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 9:45 p.m.

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Craig Breon, Chairman  
Planning Commission

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Leslie Lambert  
Planning Manager