

REGULAR PLANNING COMMISSION MEETING. TOWN OF PORTOLA VALLEY, OCTOBER 15, 2003, TOWN CENTER, HISTORIC SCHOOLHOUSE, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Chairman Breon called the meeting to order at 8:00 p.m. Ms. Lambert called the roll:

Present: Commissioners Elkind, McIntosh (arr. 8:40) and Toben, and Chairman Breon  
Absent: Commissioner Zaffaroni  
Staff Present: George Mader, Town Planner  
Tom Vlastic, Dep. Town Planner  
Leslie Lambert, Planning Manager  
George Comstock, Town Council Liaison

ORAL COMMUNICATIONS: None.

REGULAR AGENDA

- (1) Status Update of Conditional Use Permit Amendment X7D-30, 302 Portola Road, Woodside Priory School

Mr. Vlastic reviewed the staff report of 10/9/03. He noted that this was an informational report and that the Priory was in the process of completing an application for a CUP amendment. He reviewed the letter dated 9/22/03 submitted by Jack Hundley on the Priory's 23% population increase over what was permitted under the existing CUP.

Responding to Commissioner Toben, Mr. Hundley said he had been aware that: 1) the Priory's population was going up; and 2) it exceeded what was allowed under the CUP. The population had grown because of the demand primarily from Portola Valley families, as well as families from Woodside and the surrounding area. The Priory wanted to provide the quality of education that the Town expected. He confirmed that the CUP cap was first exceeded in the 1997-98 school year, which was about the time the process started for the new CUP application and master plan. Responding to Commissioner Toben, he said the Priory gave various committees and staff members of the Town updates annually as different projects came before the different committees/commissions. Responding to Commissioner Toben, Mr. Vlastic said he was aware that the ceiling had been exceeded in the 1999-2000 timeframe when the use permit amendment and things associated with it started to move forward. It could have been called up for a review at that point, but the numbers were not that far over; there was also some fluctuation. Staff had encouraged the Priory to put together an overall package of information to bring to the Planning Commission. It took longer than expected--largely because of some of the environmental work that the Priory chose to do. Additionally, some of this was evolving in their minds as they talked about the overall program.

Responding to Commissioner Toben, Mr. Hundley said the largest complaint received from the neighbors related to parking on Georgia Lane by AYSO families during practice on weekdays. The families had been instructed by AYSO and the Town Manager not to park there. However, there was no way the Priory or the Town could keep them from parking there because it was legal. He noted that the Priory made its parking lots available to AYSO, but it was easier for them to park there. Responding to Commissioner Toben, he said there had been more requests for use of the Priory fields. This was the first year the Priory had charged anything; users made contributions to projects, but there had not been a formal fee. Tuition was rising to rather high levels, and it seemed unfair to pass onto the parents of the students the upkeep of the fields used by other groups.

Responding to Chairman Breon, Mr. Hundley said boarding girls would not lead to expanded facilities; a minor conversion of one of the dorms currently used by boys was planned.

Chairman Breon said he lived near the Priory and had not seen a lot of problems with the facility's use, which had already expanded to what they would be asking for. The Town also appreciated that the fields could be used by other groups. However, he would have liked to have been informed of the expanded population earlier--perhaps the second year after it occurred--so that a review could be held. Responding, Mr. Vlasic said the Town did not know how far the limit had been exceeded until six months ago--even though the issue had been raised when it was first realized that the limit had been exceeded. He reiterated that it had taken some time for the Priory to think through everything and explain how they got where they are. Chairman Breon asked for slightly more vigilance and communication when: 1) a limit was exceeded or caused problems for neighbors; or 2) something was not going right and looked as though it would persist.

Commissioner Toben said careful prep work in presenting this issue on the community during the hearing process was in order. People might have a natural reaction to these numbers, and that should be anticipated. Responding, Mr. Hundley said the Priory had taken some of the necessary steps and planned to hold community/neighborhood meetings. Additionally, most of the immediate neighbors had been apprised of the population. He pointed out that the density had actually gone down because the acreage had doubled since the 250 limit was established.

Councilmember G. Comstock asked how long it would be before the population reached 500. Mr. Hundley said 350 was considered critical mass for a middle school/high school to be viable in this area. That was where the Priory wanted to be; it was the right size for the faculty, facilities planned, and the campus. The next critical mass was 550, which would make the campus crowded based on the programs offered.

## (2) Discussion of Riparian Corridor Guidelines

Town Planner Mader reviewed the staff report of 9/21/03 on the Riparian Corridor Guidelines and the report of 5/30/02 on the status of the riparian corridor project. Responding to Commissioner Toben, he said there had been a lot of involvement by other bodies in this project already. But, the Commission would need to decide if other bodies (e.g., Conservation Committee, Town Geologist, etc.) needed to review the draft guidelines before they were approved. He noted that Commissioner Elkind had asked who should adopt/approve the guidelines. He suggested the guidelines be kept somewhat low-key at this time but made available to people during the interim until the project resumed.

Marge DeStaebler, Conservation Committee, said the Watershed Management Initiative was gathering input from all of the jurisdictions in the South Bay on regulations for riparian areas. How long that would take was unknown, but it would be nice if the Town had that information to draw on in addition to the JPA study results before any definite regulations were adopted.

Chairman Breon said if the guidelines could be couched correctly, he was comfortable with it becoming an informal tool for staff, the ASCC, and Planning Commission to use in the interim time period. He suggested referring to the guidelines as "Preliminary Guidelines for Development in the Riparian Corridor." He did not want the Town to get locked into some of the guidelines. He also wanted to see guidelines and ordinances from other jurisdictions, as well as obtain feedback from other cities on what the Town was proposing. He thought the buffer width would be the most problematic and suggested adding a statement that indicated that in this interim time period, people should strive for 50' or greater setbacks with larger properties, and greater setbacks than with smaller properties. The chart in the guidelines looked as though those numbers were locked in place.

Commissioner Elkind discussed what had happened in San Jose when a number had been thrown out in a guideline. She said if the buffer widths shown in the guidelines were implemented in Town, that would be where the battle would be fought. People would expect that that was the maximum and would try to chip it down. She agreed with Chairman Breon's suggestion. It also left room to use whatever information was obtained from the creek study to further justify what might be adopted.

Commissioner Toben said a rationale for changing the numbers from 35' to 50' was that in guidelines, simplicity should be maximized. It was a simpler standard to apply in this light-handed version than trying to calibrate buffer widths very precisely. On the other hand, considerable energy had been expended in formulating the 35', 50', and 60' numbers; there had also been a lot of interest in how the numbers were formulated. To tinker with the guidelines with an empty room was perhaps problematic.

Town Planner Mader noted that this issue had been under review for a long time. Ordinances had been brought in from a number of other jurisdictions, and they were varied. He did not think there would ever be a standard that would apply to all jurisdictions--particularly for counties that had large undeveloped areas. Within that larger context, the Town might have to chart its own course. He also agreed that the numbers had been arrived at after a lot of thought, and most people felt pretty comfortable with them.

After discussion, Chairman Breon suggested adding the phrase: "The buffers listed below are to be considered." He also suggested replacing the last sentence with "Buffers should be increased where possible or beneficial to the riparian zone without fundamentally harming the project." He wanted the buffers increased wherever possible--even on a small lot. Commissioner Elkind suggested "...or where appropriate to achieve the intent of the guidelines." Chairman Breon suggested "...or where possible to achieve the intent of these guidelines so long as there is no undue hardship to the project." Commissioner Toben agreed.

With respect to work done in channels for erosion control, Chairman Breon said he did not want to wait a long time before stating that the Town needed to be notified, a permit needed to be obtained, review was required, etc. In-channel work was the most damaging as illustrated during the presentation by John Wallace. Ms. Lambert noted that the JPA study would include an assessment of the creek channel to identify areas that were in need of maintenance/work. Certain types of fixes that would work would be provided in those cases. Responding to Chairman Breon, she felt this would be in place before the next rainy season after this year's rainy season.

Town Planner Mader said there were two issues. First, the guidelines that this group would come up with on better fixes. Second, at what point a permit should be required for work in the creek channel.

Ms. Lambert said a lot of gabions had been put in under the State of Emergency declared because of El Nino. Since 1998, only 3-4 projects had been proposed. They were small projects, did not include gabions, and were more of a natural fix. With the experience from El Nino, the Town had more authority to go out and propose alternatives. Fish and Game also no longer allowed gabions. Town Planner Mader noted that the Town did not have the authority to review all of these projects. He felt the Town needed to have an ordinance provision. But, he also agreed it was important to maintain good feelings with residents and not raise a red flag at this time. Responding to Chairman Breon, he said it was not only during the rainy season that people wanted to do work on/around the creek. He reiterated that he felt the ordinance was much to loose now. Ms. Lambert added that it was anticipated that the JPA study would take 6-8 months. She said a meeting had been held the previous day to go over the scope, timeline, etc. Letters had already gone out to property owners asking them to sign an agreement allowing access to their property.

After discussion, Commissioners agreed that staff should vigorously help guide people who came in with creek projects but not to work on the ordinance until some time next year.

Referring to the proposed guidelines on Uses Normally Appropriate and Uses Deserving Careful Consideration in Riparian Corridors, Commissioner Elkind asked what the intent of item #9 was. Responding, Town Planner Mader said when a list of things was made, it was not necessarily all-inclusive. Statement #9 allowed for additional things to be added. Referring to item #8 under Uses Normally Appropriate, Commissioner Elkind thought the wording could be clearer. Chairman Breon said he felt it was clear but thought item #7 under Uses Deserving Careful Consideration was problematic.

He suggested: "Fences for safety of humans and pets that may interfere with the flow of water or wildlife movement through a riparian corridor."

Commissioner Elkind said there was no mention of the problem of construction activity expanding out beyond what was actually being constructed. Chairman Breon suggested adding "Construction buffers from creek channels" as item #7 in the Maps section.

After discussion, Commissioners decided not to try to tighten up the Intent section at this point.

Commissioner Elkind referred to a deck across the creek from the Alpine Hills Tennis Club, which she thought should be addressed in the future. A wooden deck, though not an impervious surface, could kill all of the vegetation under it. Chairman Breon agreed noting that it often led to a need to put in some cement, etc., which could bring about the need for erosion control later. He felt people should be discouraged from doing erosion control projects or any armoring of banks just to protect a small deck.

Referring to the proposed guidelines, Commissioner McIntosh questioned the statement that said "Additions to existing buildings may come closer to the creek..." under the Setbacks for New Construction section. Town Planner Mader said this did not refer to the buffer but to the angle of repose on the bank. It did not allow the buffer to be decreased relative to the 2:1 slope. Commissioner Elkind felt the statement was misleading. Town Planner Mader suggested adding: "This does not allow exceeding the recommended setbacks." Commissioner Elkind agreed.

Responding to Commissioner Elkind, Ms. DeStaebler said she had not had a chance to read through the guidelines. She agreed it should be referred to as "Preliminary" or "Draft." Responding to Commissioner Elkind, Chairman Breon said he did not want the guidelines to go to the Council. The guidelines should be preliminary guidelines for the Planning Commission, ASCC and staff. Town Planner Mader agreed noting that not going to the Council kept it at a more informal level. Responding to Commissioner Toben, he reiterated that the ASCC had had input on this material before. If there were problems, it could be modified later.

After discussion on whether to adopt or endorse the guidelines, Chairman Breon moved to adopt the Riparian Corridor Guidelines with the changes discussed. Commissioner Elkind seconded, and the motion carried 4-0.

### (3) Discussion of Design Guidelines and Related Ordinance Provisions for Fences

Referring to the list of items to be addressed in the staff report of 10/9/03 on fences, Chairman Breon said he felt a joint meeting with the Council would be helpful because of the differences of opinion. Town Planner Mader agreed the list was daunting. He said people had said various things at various times on the topic of fences over time. Given the budget, he had done what he could to try to bring the essential points out. The Commission might want to try to distill these into fewer issues. Chairman Breon said he did not feel that each item should be viewed as a question that must be answered. He thought the list was good in order to begin a discussion; individuals could then say what mattered most to them. Once you got beyond opaque fences and tall fences, which the Town had a pretty good handle on much of the time, his main concern was the proliferation and size of perimeter fences. That was what he wanted to discuss with the Council and other Commissioners. If the Council did not want a joint meeting, then the Planning Commission could handle the key issues.

Commissioner McIntosh suggested discussing what principles were most important with respect to fences. Whatever was done now would have a huge impact in 20 years. The tradition in Portola Valley of strongly favoring and preserving open space was also important to look at. Part of the tradition was "no fence" open space. For example, Blue Oaks allowed fences only near the house. Chairman Breon noted that the Ranch was an example of a nearly "no fence" development 25 years later. Commissioner McIntosh said driving around Westridge illustrated how the properties flowed into each other. However,

there was a certain percentage of newcomers in the community every year who came with a concept of security; they had to have gates, fences, etc. He thought those people needed to drive around Town as part of an educational process. He also felt the ASCC needed more "teeth" on this issue. Responding to Commissioner Elkind, he said his main concerns were perimeter fences and gates. Ms. Lambert added that the first questions new homeowners asked were: 1) where can I put the fence; and 2) how high can my gate be.

Chairman Breon felt the Town should take a stand and further differentiate itself from other communities that wanted different things. It should be done forcefully so that those people heard in advance of buying. Commissioners discussed how difficult it would be to reverse bad fencing policy, etc.

Town Planner Mader said the Design Guidelines went just so far and pertained only to new projects that went to the ASCC. Other fences did not require people to get a permit. Without an ordinance regulating fences, the Town did not have any teeth. The big debate between the Council and the Planning Commission was over the question of an ordinance on fences. A decision would have to be made if it was to be: 1) guidelines; or 2) guidelines and an ordinance.

Chairman Breon felt the Planning Commission would need to convince the Council that an ordinance would mean a better Portola Valley in the future. He also felt there should be a driving tour of the different sections of Town to show what things looked like as a result of fencing or lack thereof. Those areas with perimeter fences were fundamentally different from those without them. Commissioner Elkind said the Council also needed to hear what Ms. Lambert had just reported.

Commissioner Elkind said ASCC member Mike Schilling indicated that he felt "okay" about using the Design Guidelines when a new project came in. But, after the fact, people put extensions on their fences, and there was no teeth for enforcement. She thought something should be put in an ordinance indicating that if there were any changes to an approved project that went beyond the guidelines, it had to go back to the ASCC. Town Planner Mader pointed out that if that was done, any deviation to the approved plan would have to come back for approval. Commissioners discussed how an ordinance could be crafted to bring fencing back into line.

Chairman Breon said the Planning Commission was willing to go further than the ASCC or the Council. He did not want the Planning Commission to go through all of the fence issues if there were some fundamental differences that couldn't be resolved. Town Planner Mader reiterated that the ordinance question was a very fundamental question.

Responding to Councilmember G. Comstock, Ms. Lambert reiterated that new owners wanted to put up a fence around their property and have a gate. It did not have anything to do with a project. She estimated this occurred about 80-90% of the time. Councilmember G. Comstock said this might be a case where the aesthetic judgment was running up against some deep-seated human emotions. When he bought his property, it already had a gate. It also had fences between his two neighbors, but no fence along the curve of the road. There was no external fence, but there was an external gate at the entrance to the driveway that was grandfathered in. His personal feeling was that he felt comfortable closing his gate every night. It gave him a feeling of security and comfort. Every time he read the local newspapers, that was reinforced. He discussed police coverage in Town and a recent incident where burglars had been caught.

Commissioner McIntosh said security concerns might be different depending on your location such as on a busy road. On the other hand, there were a lot of people who had lived in Town for many years who were comfortable without fences and gates. He felt that people could be convinced that this was part of what you got when you moved to Town.

Chairman Breon noted that some fences were appropriate for pools, dog runs, etc. Additionally, he said he did not have trouble with the concept of a gate, but some--like the gate on Georgia Lane--were still

being allowed. Town Planner Mader said it should be emphasized as this moved forward that people could do what they needed to do in terms of fencing that was close in to a house. Responding to Councilmember G. Comstock, he said another item agendized for this year was to look at regulations for vineyards on residential properties.

After discussion, Town Planner Mader said staff would put together an agenda for a joint meeting. He suggested a route map be given to Councilmembers/Commissioners in advance of the meeting. He said it was amazing that 80-90% of the people who bought an existing house wanted to fence the property. Responding to Commissioner Toben, Ms. Lambert reiterated that these people were either contemplating purchase or would be moving in. They were not planning on doing anything to the house but wanted to know what the fence requirements were.

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

(4) 2003 Income Limits for Affordable Housing

Town Planner Mader reviewed the staff report of 9/30/03 on the 2003 State Income Limits.

(5) 2003 Local Government Planning Survey

Town Planner Mader noted that a copy of the 2003 Local Government Planning Survey was attached to the staff report of 10/2/03.

#### APPROVAL OF MINUTES

By motion of Commissioner Toben, seconded by Commissioner McIntosh, the minutes of the meeting of 9/17/03 were approved as submitted by a vote of 3-0, with Commissioner Elkind abstaining.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 9:30 p.m.

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Craig Breon, Chairman  
Planning Commission

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Leslie Lambert  
Planning Manager