

REGULAR PLANNING COMMISSION MEETING, TOWN OF PORTOLA VALLEY, MAY 7, 2003, TOWN CENTER, HISTORIC SCHOOLHOUSE, 765 PORTOLA ROAD, PORTOLA VALLEY, CA 94028

Vice Chairman McIntosh called the meeting to order at 8:00 p.m. Mr. Mader called the roll:

Present: Commissioners Elkind, Toben and Zaffaroni, and Vice Chairman McIntosh
Absent: Chairman Breon
Staff Present: Geroge Mader, Town Planner
George Comstock, Council Liaison

ORAL COMMUNICATIONS: None.

REGULAR AGENDA

(1) Review of Proposed Planning Budget for Fiscal Year 2003-2004

Town Planner Mader reviewed the staff report of 4/29/03 on the proposed planning budget for FY 03/04. Responding to Vice Chairman McIntosh, he said the planning budget covered all planning matters; if something started at the Commission level and went on to the Council, it would come out of this budget. He confirmed that there was no separate planning budget for the Council. Referring to the list of items included in the budget (pp. 2-3), he said his agenda memo of 4/29/03 explained why an increase to \$15,000 for the Coordination of the Transfer of Plans and Regs to GIS Maps (item #8) was recommended. The Commission would need to decide if it wanted to recommend an increase in the total budget or decrease the amounts for some of the other items in order to keep the total at \$134,000. Responding to Vice Chairman McIntosh, he described GIS system capabilities, noting that the ability to update information easily was a key benefit. Responding to Commissioner Toben, he said the digitizing work for the GIS maps would be contracted out as it could not be done in house. He confirmed for Commissioner Toben that the \$15,000 earmarked for item #8 was for the work that the planning staff would be doing--not for the work that the consultant would be doing. The contract for the consultant would come out of the Council budget.

Responding to Commissioner Elkind, Town Planner Mader said homeowners' associations (item #6) were not charged fees for interactions with planning staff. Commissioner Elkind said she understood there was a particular homeowners' association that took a huge amount of Mr. Vlasic's time on a particular issue. She thought a fee might be warranted in some cases. Town Planner Mader discussed issues related to the Portola Glen Estate project where no homeowners' association had been formed. He said this had been a particularly complex issue and that the Town had attempted to work cooperatively to resolve problems. Commissioner Elkind felt that if homeowners were negligent or did not cooperate, some fee might be appropriate.

Responding to Commissioner Zaffaroni, Town Planner Mader said Town Hall staff helped private homeowners determine total square footage allowed, etc. If there were problems, the staff might call the planner's office; that was billed out of the retainer. If it was a project or it was something that took more time, a deposit would be requested to cover the time. He confirmed that the same could be done for homeowners' associations after first determining: 1) what the issue was and how much time it would take; and 2) the extent to which the Town should be involved. Commissioners discussed when fees might and might not be appropriate for homeowners' associations. Responding to Commissioner Elkind, Town Planner Mader confirmed that the supervision of follow-up work done at Blue Oaks was covered by the deposit from Blue Oaks.

Responding to Vice Chairman McIntosh, Town Planner Mader said the total planning budget of \$134,000 was a little more than this year and that the Town Administrator was comfortable with it. To offset the additional money spent on the GIS item (item #8), he recommended decreasing some money from the Safety Element Update (item #14); the work on the Element could be started and then continued to the next

year(s). Responding to Vice Chairman McIntosh, he discussed additional work required for the Housing Element (item #1); at this stage, he did not recommend reducing the budget for the item.

Referring to Regulations for Riparian Corridors (item #2), Town Planner Mader reviewed the memo from Ms. Lambert of 5/1/03 on the San Francisquito Creek JPA grant for study of a 6-mile stretch along Corte Madera Creek. As indicated in the staff report, he thought there would be some confusion if the Town tried to develop regulations at the same time the mapping information was being gathered. Commissioner Elkind agreed. She did not think regulations should be published until after the study was complete. Individuals had argued adamantly during the committee meetings that they wanted study information before they saw any regulations. Vice Chairman McIntosh suggested it might be helpful that the work was done by an outside third party. The flip side was that any momentum that had been gained would slip away. Commissioner Elkind agreed. Referring to the staff report (pp. 3-4), she said she supported the Town Planner's suggestion to put together a summary of the Commission's work done to date which could be used as guidelines for the ASCC, Public Works Director, and Town staff. It would also be important to make it clear that these were temporary guidelines while the study was underway. Responding to Commissioner Zaffaroni, Town Planner Mader said a summary had been put together on where the Commission was on some of these issues, but it would need to be put in a form that could be utilized.

Responding to Commissioner Elkind, Commissioner Toben said Marge DeStaebler had indicated that there was a water management initiative for an examination of all riparian regulations in place or pending in Santa Clara County; San Mateo County was also working on this issue. Ms. DeStaebler's recommendation was that the Town await the benefit of that information before proceeding with further refinements to the Town's regulatory scheme. He felt that made sense--especially in light of the JPA-funded study that had a public education and community-building aspect to it. He supported keeping the Town's regulations off the table for awhile longer. He also felt that some communication with property owners was in order to clarify what the Town had done and why and what was coming next in the way of the grant-supported study. He noted that many residents had expressed an interest in seeing some good guidelines which they would voluntarily follow. Commissioner Elkind felt the Town could do a better job than San Mateo County; they were understaffed and browbeaten on this issue. Additionally, having worked with the Santa Clara Water District, she thought they would produce something quite good and appropriate.

Town Planner Mader noted that the Town had looked at a lot of regulations from different places. Whether regulations that were generally applicable to a county would be applicable in Portola Valley was a good question. Obviously, the more learned the better, but the Town had come a long way in refining this. He agreed the Town should wait until the JPA study was done. While it would not result in any regulations, suggested best practices could be very helpful.

Vice Chairman McIntosh supported Commissioner Toben's suggestion to communicate with property owners about where the Town was on this issue. Town Planner Mader suggested the communication describe the JPA study and note that the Commission was holding its work in abeyance until the study was completed. Commissioner Zaffaroni said the communication should also point out that the Town was holding its work in abeyance to allow the study to take place because the Town was interested in incorporating the findings and learning. Commissioner Elkind said it should also be acknowledged that the property owners had asked for this information. Town Planner Mader added that he strongly urged that information should be periodically brought to the Commission by Ms. Lambert as the JPA study moved ahead.

Commissioner Zaffaroni said she did not think each proposed version of regulations should be sent to creekbank residents. People often didn't understand the meaning or intent of regulations, and it could be alarming. She thought it was better for people to come to a public forum/hearing where the staff was available to answer questions. She also thought the health of the creeks in the community was of interest and concern to all--not just the creekside property owners. Town Planner Mader suggested that a procedure could be discussed after the study was complete.

Responding to Commissioner Elkind, Town Planner Mader confirmed that the budgeted amount of \$3,000 for this item was for putting the work done so far in a usable format. It would not cover any planning staff time for participating in the JPA study. Commissioner Zaffaroni asked that the Commission's interest in being kept informed on the study be conveyed. Commissioner Toben suggested naming a liaison from the Commission to the JPA study group. After discussion, Commissioner Elkind said she would serve as the liaison for the JPA study group.

With respect to the planning budget for the Town Center (item #4), Town Planner Mader said he anticipated that there would be some planning involvement with the project even though the Commission was not guiding the work. Commissioner Toben noted that the ad hoc Town Center Advisory Committee meeting would hold its first meeting on 5/13/03. He thought holding a place in the budget for this item was a good idea.

Responding to Commissioner Toben, Town Planner Mader said Review of Planning Regulations (item #9) would result in a whole set of recommendations for changes that needed to be made to Town regulations--including a section on variances. Responding to Commissioner Zaffaroni, he confirmed that he was working with the Town Attorney on a number of issues. Part of it was just keeping up to date with State law; other things were needed to resolve internal inconsistencies in the ordinances or to bring greater clarification. Responding to Vice Chairman McIntosh, he said he would prefer to reduce the budget for the Safety Element and move ahead on this item.

Referring to the spreadsheet on the status of the program and budget for FY 2002-2003, Commissioner Zaffaroni asked about the difference between DSRR III (#5) and Additions to Design Guidelines (#14). Town Planner Mader said #5 referred to changes that had been made and inserted into the Design Guidelines. Item #14 on the spreadsheet was represented in the 2003-2004 budget as item #11 and covered those topics listed in the 4/29/03 staff report (pp. 5-6). Responding to Commissioner Elkind, he confirmed that building permits were still being applied for at a regular rate and had not slacked off as in some other communities.

On Vineyard Regulations (item #12), Commissioner Zaffaroni questioned why vineyards weren't considered crops or tree farming, which required conditional use permits. Town Planner Mader said on larger lots, people were starting to put in vineyards of greater size. The Town could set a numerical limit on a vineyard that would require a use permit. Responding to Commissioner Zaffaroni, he said there was no threshold for orchards. But, if someone wanted to clear over 5,000 sf of land, a site development permit was required. It was a fuzzy boundary between planting 6 apple trees and planting 200. One was more of an accessory use to a residence and the other was a crop. These were judgements, and there were no numerical standards. The concern was for alterations to the environment (e.g., erosion, runoff, pesticides, etc.) when vineyards were put in--not whether it was for profit or retail. There was also the issue of open space being converted to a vineyard. Commissioner Zaffaroni said it was clear that vineyards were covered in the Municipal Code language; how it had been applied was the question. Town Planner Mader reiterated that it was a fuzzy boundary. Responding to Vice Chairman McIntosh, he said the Fogarty commercial vineyards required a conditional use permit.

Councilmember G. Comstock suggested that a dividing line might be if the vineyard was for the owner's use. Town Planner Mader said there could be a single owner with a large parcel of land who wanted to put in a 10-acre vineyard. That was a major change to the environment. He said there were a number of considerations including size--all of which would need to be discussed. Commissioner Zaffaroni said in the interim, the staff should be aware that there was some language to address the possibility of someone wanting to develop, for example, 5 acres of vineyards. There were some tools to control something that clearly went beyond the threshold. Town Planner Mader said some policy could be developed indicating that a conditional use permit would be required if it was over a certain amount; if someone disagreed, they could come to the Commission.

With respect to Energy and Greenbuilding (item #13), Town Planner Mader said the Commission would be leading this issue, with the planner's office assisting at the direction of the Commission. Vice Chairman McIntosh noted that Chairman Breon had suggested that applicants for new construction be asked for suggestions on greenbuilding and see what they came up with. That would get people thinking about it. Town Planner Mader said if the architect was informed in this area, there would be more suggestions; there would be less with a contractor. He felt there should be some material that the Town could hand out that indicated what the objectives were. Councilmember G. Comstock discussed the range of responses he received when he asked applicants about solar heating, etc., while on the ASCC. After discussion, Commissioners agreed the item should be kept in the budget. Town Planner Mader noted that Town Hall staff took a field trip to the building at Jasper Ridge; a visit was also being set up for the Planning Commission and ASCC.

Referring to the staff report, Commissioner Zaffaroni said all of the "Additional Items for Consideration" (pp. 7-8) seemed very worthy. Commissioner Elkind agreed noting that she had wanted the Biological Resources Map ever since it came up. She wanted the record to reflect her intense interest in having the Biological Resources Map go forward. It would also help with the riparian corridor and vineyard issues. Decisions were being made without building a record. Commissioner Zaffaroni agreed and hoped it could be done before the next big subdivision in Town. Town Planner Mader noted that part of a project's EIR would hone in on concerns about sensitive areas, but he agreed it would be good to have the Biological Resources Map. It would also relate to the fire aspect of the Safety Element. Responding to Commissioner Elkind, he said the State required certain Elements in order to have a complete General Plan, which had to be up to date. He noted that the Noise Element would have to be updated within a couple of years because it had not been updated since the General Plan was prepared. Responding to Vice Chairman McIntosh, he described work that would need to be done on the Noise Element including retaining a noise consultant.

Commissioners agreed to recommend the Planning Budget for FY 03/04 as set forth in the staff report of 4/29/03 as amended to increase the Coordination of the Transfer of Plans and Regs to GIS Maps (item #8) to \$15,000 and decrease the Safety Element Update (item #14) to \$15,000. Town Planner Mader added that the Commission's comments about the JPA study (i.e., Town notification, obtaining progress reports on the study, and Commissioner Elkind as liaison to the study group) and the importance of the Biological Resource Map would be conveyed as a part of the budget discussion.

(2) Regulations for Second Units

Town Planner Mader reviewed the staff report on new legislation on second units dated 4/17/03. Referring to the attached draft of the revised ordinance, he distributed an updated version, noting that the "Whereas" section had been changed to include the foundation for the regulations. Because of time constraints, he said this would be an urgency ordinance; the provisions would be adopted as a regular ordinance amendment along with any additional changes that were needed at a later date. Additionally, a memo had been prepared that described proposed changes to existing second unit regulations in the current ordinances; a copy of the State law and the policy on the definition of second units were also included as background information. Changes included: 1) allowing a second address and second utility meter for the second unit; 2) not requiring the owner to be a resident on the property; and 3) eliminating some of the current restrictions on the property. It was intended that actions on these would be ministerial; those that were of an unusual nature would go to the ASCC. He added that second units need not be allowed every place in Town and that some limitations had been suggested. The proposed amendments would go to the ASCC next week. If the Commission wanted to see it again, or if ASCC comments warranted Planning Commission review, it would need to be agendaized at the next meeting; if not, it would go directly to the Council from the ASCC.

Responding to Commissioner Zaffaroni's question on Section 18.12.040.B.3, Town Planner Mader said if someone wanted to have a principal dwelling ultimately be a second unit, it would be reviewed against these

standards. With respect to Section 18.12.040.B.4, he said the ASCC felt that in the 1-2 acre area, the second unit had to be attached unless the ASCC approved an exception; a second structure on a smaller lot often created problems. Additionally, if the unit was a 1-bedroom, the parking requirement was one space; with a 2-bedroom, it was 2 spaces. Typically, the spaces were 9-10' x 20' and surfaced to eliminate erosion problems, etc.

Responding to Commissioner Elkind, Town Planner Mader said any attached second unit had to be within the allowable FAR. Responding to Commissioner Zaffaroni, he said the second unit might require an ASCC finding to allow someone to exceed the 85% rule. While that wasn't ministerial, it was an exception already written into the ordinance. Additionally, he thought that would be an acceptable condition. Responding to Commissioner Zaffaroni, he said the 750 sf maximum had to fit within: 1) the normal zoning requirements for floor area on a parcel; and 2) the 85% rule. If desired, there could be an automatic exception for a second unit that was attached to the principal residence indicating that it was not bound by the 85% rule.

Commissioner Zaffaroni felt underlying policies were involved. One policy was to encourage more second units because they allowed people who wouldn't ordinarily be able to afford to live in Town. The flip side was that the Town did not want to encourage buildout such that there was a single monumental structure. That was the intent of the 85% rule. A policy decision needed to be made as these were conflicting values. She also thought it was bothersome that people could build these second units and not rent them.

Town Planner Mader said one option was to require that they had to be attached if the house was less than 85%; if it exceeded that, then the normal standards for review would apply. Councilmember G. Comstock suggested that the 85% rule not take effect until the lot size was 2 acres or larger. The purpose of the 85% rule was to avoid excessive massing. Commissioner Zaffaroni felt you could have excessive massing with less than 2 acres. Commissioner Elkind agreed, noting that the requirement to attach the unit applied to the smaller lots. Vice Chairman McIntosh said the 85% rule seemed to work, but it was something to keep in mind. The purpose of the 85% rule could still be served; if it went beyond that, it could go to the ASCC. Commissioner Toben agreed.

Referring to the proposed ordinance, Vice Chairman McIntosh noted that in the "Whereas" section, the statement was made that more parcels in the Town are one acre or larger. Town Planner Mader said he believed that was correct, but the lots had not been counted. The intent was to lay a rationale.

After discussion, Town Planner Mader asked Commissioners to review the material and provide Ms. Lambert with any comments or questions. If the ASCC came up with something major, it could be agendaized for the next Commission meeting.

APPROVAL OF MINUTES

Commissioner Elkind asked for a clarification of statements in the minutes. Commissioner Zaffaroni pointed out a typo. By motion of Commissioner Elkind, seconded by Commissioner Toben, the minutes of the April 16, 2003, meeting were approved as amended by a vote of 4-0.

Commissioner Zaffaroni reviewed her and Mr. Vlastic's comments made about lighting of entry gates during the April 16, 2003, meeting. Reading from the Design Guidelines, she said the language (Guidelines, pp. 12 and 12A) did not reflect the Commission's interest in strongly discouraging lighting of entryways. She was concerned about the amount of night lighting and the new pillars which were being built with lights on them. That was contrary to the nature and rural character of the Town. Vice Chairman McIntosh and Commissioner Elkind agreed the language did not reflect the Commission's intent. Town Planner Mader said he would follow-up.

COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS: None.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:00 p.m.

Chip McIntosh, Vice Chairman
Planning Commission

Leslie Lambert
Planning Manager