

**CALL TO ORDER AND ROLL CALL**

Chair Koch called the regular meeting to order at 7:00 p.m. in the Town Center Historic Schoolhouse Meeting Room, 765 Portola Road.

Assistant Planner Parker called roll:

Present: ASCC: Commissioners Dave Ross and Jane Wilson; Vice Chair Danna Breen;  
Chair Megan Koch  
Absent: Commissioner Al Sill  
Town Council Liaison: Maryann Derwin  
Town Staff: Planning & Building Director Laura Russell; Assistant Planner Dylan Parker

**ORAL COMMUNICATIONS**

None.

**NEW BUSINESS**

**(1) Preliminary conceptual design review of a new single-family residence, 846 Portola Road, Hansen Residence, File # PLN ARCH25-2019**

Assistant Planner Parker presented the conceptual design for the proposed project. He provided the background, the description of the project, project data, code analysis, and discussion/staff analysis, as detailed in the staff report. Staff requested that the ASCC offer feedback, comments, and direction on the conceptual design presented by the applicant. Staff further recommended that the ASCC consider the current Town definition of floor area and whether or not to consider adding supplemental language to better align the definition with the Town's General Plan, Zoning Code, and Design Guidelines.

Chair Koch asked for clarification regarding the garage square footage. Assistant Planner Parker said it is 400 square feet, and staff deduced that area was included in the 1,143 square feet. Additionally, the A-P Zone does not count the garage square footage against maximum FAR calculations. Planning & Building Director Russell said it doesn't have to be included in floor area. She said it was challenging to reconcile the numbers because the A-P District has different standards than normally applied.

Commissioner Ross asked if the proposed floor area, once the garage area is excluded, does not exceed the code maximum for the site. Assistant Planner Parker said his understanding is that the 1,143 square feet includes the garage. He said the A-P Zoning requires two parking spaces, so 400 square feet of the garage must be provided, but it is not counted toward the FAR. He said the square footage without the garage does not exceed the code maximum.

Chair Koch asked if the calculations would change if the garage was detached. Planning & Building Director Russell said it would not because it's not counted anyway.

Vice Chair Breen asked for clarification about habitable attic space. Assistant Planner Parker

said in his professional experience, habitable attic space is space that could be considered within the roof's structure, so within what would be commonly defined as an attic area with trusses, etc., but has areas where it goes from a 5-foot to 7-foot ceiling height, resulting in areas that would count as habitable floor area and areas that would be considered habitable attic space, similar to finishing an attic in a single-story house with a sloped roof. Project architect Carter Warr said it is habitable attic space.

Vice Chair Breen asked if the original plan for the house was to have an ADU. Mr. Warr described some of the history of the zoning ordinances in the 1990s, which provided smaller lots with more floor area advantage than larger lots. He said the original application was for a planned unit development that also included an ADU and complied with the residential zoning standards; however, the Planning Commission was not encouraging. The applicants then looked at getting the three lots rezoned to R-1 so it would more appropriately be zoned for the likely uses; however, the Planning Commission could not make the findings. The applicants then created the proposed design, which is fully compliant with the zoning ordinance and the building code, to develop a home in parity with the hyperbolic curve for floor area. He said this design is more in parity from a massing standpoint and more in parity with real floor area because the habitable attic doesn't count as floor area, but is in parity with that. He said the windows on the second floor on the habitable attic are relatively low, and the roof comes down over it, and is actually 4 feet shorter at the maximum than the two houses in the back. He said they feel good about the massing, the materials, and design, and their intent is to be fully compliant. He said they can reduce some square footage to meet the numbers.

Vice Chair Breen asked for clarification of the ASCC's directive. Planning & Building Director Russell said because it is a complicated site and because the applicants have been through so much with the Planning Commission, they wanted to bring a very conceptual design to get the feedback from the ASCC to make sure they are on the right track. She said there are a couple of code issues that staff needs to sort through with the applicant. She said the applicant has been on a very long road, and they wanted to give them some early feedback before they invested a lot of money in more plans. She said this is a special process looking for the ASCC's feedback. Planning & Building Director Russell said the applicant wants to come forward with a compliant project that would be approved by ASCC and would not need to go back to the Planning Commission, so it would be with the ASCC's authority.

Vice Chair Breen said it feels a lot like putting the cart before the horse. She said the Planning Commission couldn't get their arms around the zoning, the CUP, and the PUD. Mr. Warr said they've tried to eliminate all the exceptions, all the variances, and all the things they were trying to get through the Planning Commission. He said now ADUs are allowed. He said the applicants are trying to make the project completely compliant so they don't need to go through the Planning Commission for anything. He said the project is very straightforward except for the habitable attic space. He said, however, that the Town has approved it over and over again. They've provided staff with a history of projects over the years where that's been a part of the design, as well as a supplemental list of A-P zoned properties with floor area inside the building that does not count toward use because it was typically for storage.

Vice Chair Breen said the geologic report indicates that the basement is problematic because of the high water table. Planning & Building Director Russell said staff does not have complete clearance at this time; however, there is generally an engineering solution to a lot of those questions. Assistant Planner Parker said the application received was an ASCC application. He said this is only a conceptual design review. He said based on the previous findings made with the history of the project, it would be assumed that the same findings would be made in a new

geotechnical report, but they don't have one yet because they are only at the conceptual design stage.

Commissioner Ross asked for confirmation that if the applicants can find the 52 square feet to remove, the project would then be within all code requirements based on the current interpretation of the codes, and it would only go before the ASCC and not the Planning Commission for approval because they would not be looking for variances or exceptions. He noted the applicants are also asking about the applicable use of codes for things like habitable attic space. Planning & Building Director Russell said the intent is that ASCC would be able to approve the project, and it would not have to go to Planning Commission. As they were working through this, perhaps working in A-P instead of Residential Zoning District, since some things are different, they would need to work with the applicant to make sure they are displaying the plans in a way they can make confirmation of all the numbers. She said the setback questions will require some additional code interpretation because staff's initial assessment is that they don't think the project complies with the setback, particularly the 50-foot front setback. Mr. Warr has presented an argument to make a case that the code can be interpreted that a 20-foot setback is required and not a 50-foot setback, which makes a big difference on this lot. She said that will take a little bit of thought and consideration before they can come to that conclusion. She said that code interpretation issue would need to be settled, which is not in the ASCC's purview. She said staff is interested in the ASCC's feedback about if they think habitable attic space is an issue and something that should be taken up for consideration. She said staff was conflicted because the attic space on this project is only a couple inches less than a floor, and the plans showed division-like rooms and did not appear to be an open storage area. Staff wanted feedback from the ASCC whether this is generally acceptable as fitting with the concept of design guidelines and fitting into the context of the site.

Commissioner Ross said he was curious how one reconciles the intent to use a habitable attic space as essentially living area even though it doesn't meet the California residential code requirements for ceiling height. Planning & Building Director Russell said this is the challenge. She said if the ASCC is comfortable with the concept and massing of the home, then the technical definition will need to comply with the building code. She said, from a zoning point of view, the area would have finishes consistent with storage and not living area. She said there is the concern that it would be pretty easy to use it as living area on an ongoing basis. Assistant Planner Parker said in the absence of definitive language within the floor area definition of the Town Code, it doesn't actually prescribe those parameters on what staff would define floor area or not, which is why staff provided the building code to show how the project would be reviewed further down the line.

Chair Koch invited Mr. Warr to explain the setback. Mr. Warr described the easement and setbacks. He pointed out that if the area was zoned residential instead of A-P, the homes would be 2,700 square feet instead of 1,100 square feet.

Commissioner Wilson asked if a window was required for the second-floor attic space. Mr. Warr said it is intended to be a habitable attic, but is not counted as floor area because it is less than 7 feet tall. Commissioner Wilson asked if they should stipulate no windows in that attic area so it is only used as storage space. Chair Koch said the intention is to make it habitable. Mr. Warr said they intend to be able to use it as a bedroom, storage, or whatever. He said the provisions provided by precedence of approval of the Town and ASCC over decades allow them the habitable attic space. He said except for the additional 52 square feet, the proposed plan matches the A-P Zoning requirements, and is in keeping with the massing of the Village Square and the existing buildings, with colors and materials that will minimize the architectural impact.

Vice Chair Breen asked why the children's playroom wasn't on the second floor and a bedroom in the basement. Mr. Warr said the habitable attic space could provide those kinds of uses. Commissioner Ross said basement bedrooms have other issues, such as needing an exit. Mr. Warr said it would be difficult to get lightwells into the space.

Planning & Building Director Russell said she understood the second story to be storage space and now hearing the description that it's a bedroom or storage space or whatever is problematic. She said in light of those statements, she has more significant concerns. She said there have been lots of cases both in town and in other places in her career where there are small areas that are storage and not a problem, non-habitable according to the building code. She said she now has some work to do on this idea about the habitable attic and what that means technically and said it really does raise additional concerns for her.

Commissioner Wilson said if they are going to look at the definition of habitable or attic storage space, perhaps they should discuss if a storage area should or should not have windows. Chair Koch said storage space can have windows. Vice Chair Breen said this issue needs to be studied. Chair Koch said habitable space that doesn't meet requirement height doesn't make sense. She said she's not comfortable with that loophole.

Chair Koch invited public comment. Hearing none, Chair Koch brought the item back to the Commission for discussion.

Commissioner Ross said it is not his job as a Commissioner to tell the applicants that the attic cannot be habitable because it doesn't meet the building code, and that is staff's issue to work out with them. Commissioner Ross said it is clearly a problematic site with the challenge being maximizing living space. The potential setback requirements because of the easement would make it not economically feasible to build anything on the site. He said he thinks of the site as a good opportunity for housing, and it would be a shame to lose it. He said if there is room for interpretation in the ordinances, he would support going toward the more relaxed interpretation. He said it is a good opportunity to do that at this location. He said the Town Center is a little more dense than a lot of other places, with buildings that tend to crowd the road, with a lot of buildings almost completely within the setback of Portola Road. He said that little sense of crowding down Portola Road tells him it is the center of Town, which is a nuance that the code and design guidelines don't really address, but is worth preserving. He said building something at this location and being relaxed about the setbacks and the interpretation of the setbacks does not bother him. Commissioner Ross said it is not inconsistent with what already exists in this location and site and preserves the feeling of what defines the center of town. He said it is a relatively intense residential use compared to lot area. He agrees that a five-acre site should not be built as intensely as a 10,000-square-foot site. He said a quarter-acre is not small, and the easement forms a part of the open space that is shared by the other homes there. He said the height was fine. Stylistically it is quite different from the other two houses, and he likes the variety and said the more rustic it can be, the better. He said the building code issue may be a problem, but from the ASCC standpoint he is generally supportive.

Vice Chair Breen said it is a challenging site, but she agrees with Commissioner Ross that there is good opportunity here for housing. She said the architecture can be massaged and is worth massaging it. She likes the eclectic nature of the architecture in this part of town. She would prefer the massing reduced a bit because it seems kind of square. She was supportive of the project.

Commissioner Wilson said she could be relaxed about the setbacks, but not about the habitable

attic space. She said she is also concerned about living areas being in the basement without the geologic reports. She is concerned about dampness in the basement. She agrees the storage space issues should be discussed. She suggested the massing be brought down. She said the first-floor square footage area should be brought down. She would rather see a proper second floor than calling it an attic space and then changing it into habitable later to avoid the maximum floor area issue. She was not supportive of trying to disguise living space as storage space.

Chair Koch said she respects the program and the work going into making it a spacious, livable first floor. She understood why they needed to go down to the basement and said they did a good job. She was supportive of the setback interpretations. She liked that the exterior appearance was different from the previously approved two lots. She said the ASCC can't deal with the building code. She was supportive of the project.

Vice Chair Breen said she found the precedent arguments compelling about the attic space, but that is not the ASCC's purview. Commissioner Ross agreed that part of it is up to staff and the applicant to apply precedent or not. He said if they can't work it out, ASCC won't see it again. Commissioner Ross said if they can work it out, he could support the project.

Mr. Warr said he understands that they have to deal with the code issues with staff and is confident they can be worked through. He said there were references to massaging or reducing the massing. He shared some ideas about that. He said next time he will bring renderings to share with the Commission. Mr. Warr said he appreciated the comments and support, and the opportunity to work with staff to work through some of these issues. He said the issues of setbacks and floor areas should be easy to work out. He explained how he is intending to use some built-in exceptions in the ordinance.

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

### **(2) Annual Election of ASCC Chair and Vice Chair**

Commissioner Ross moved to elect Danna Breen as Chair of the ASCC. Seconded by Commissioner Wilson; the motion carried 4-0.

Chair Breen moved to elect Dave Ross as Vice Chair of the ASCC. Seconded by Commissioner Koch; the motion carried 4-0.

### **(3) Commission Reports**

Chair Koch reviewed landscape plan revisions for 100 Canyon. She also approved a proposed exterior lighting fixture at the Priory dining hall.

Planning & Building Director Russell said they've been trying to get someone to look at 199 Mapache. Chair Koch agreed to stay after the meeting to look at it.

Vice Chair Breen needs someone to go with her to meet with the Westridge Architecture Site Commission, rather than putting them on the ASCC agenda. Commissioner Wilson volunteered.

Vice Chair Breen asked regarding the status of the Priory sites where additional oak trees were planted after she and Commissioner Ross sited their trees along the Priory trail. Planning & Building Director Russell said the most recent information she has is that the three property owners were going in together to make an application to change their PUD for their fencing

requirements, which will go through the ASCC and the Planning Commission. Vice Chair Breen said the house that planted the trees should come back with a revised landscape plan. She said they need to defend that because that changes the feeling of the land for all residents. She said those trees will grow up into the view of the western hills. She said she and Commissioner Ross were very careful about siting the trees, and the applicants then planted five 60-inch box oak trees. Commissioner Ross said it raises fundamental questions about what constraints there are on people after they receive their final inspections to change the landscaping. He said the ordinances don't really address that situation. He said it seems like the spirit gets broken when right after something like that is worked through, the property owner then does what they wanted to do originally even though it was denied approval. Planning & Building Director Russell said the PUD language may provide some opportunity to bring them back to talk to the ASCC. She will talk to Town Attorney Silver, but is not sure if they have the authority to force the property owners to come before the Commission. She said they have in the Planning work program to strengthen the conditions of approval.

Planning & Building Director Russell said they have a site in town for which they are receiving a fair number of complaints about construction staging parking on the trail. She said they've been working with the applicants, but they are having trouble enforcing compliance from the subcontractors and are trying to get the general contractor to help. She said at their special meeting on construction staging, it was suggested that it may be appropriate to put temporary "no parking" signs next to trails when there is a problem. Planning & Building Director Russell asked for some ASCC feedback about what would be acceptable in that regard. Commissioner Ross said the signs should be very obvious and impossible to miss, knowing they are temporary. He said he is more concerned about permanent features, potential damage to the trees, and obstructing the trails.

Mr. Warr said almost every Friday, Saturday, and Sunday that it is not raining, the Windy Hill overflow parking onto Portola Road and Willowbrook equals more cars than the current parking lot actually holds. He said the Town needs to say something about their conditional use permit, either to provide more parking or figure out a way to limit it. He said he's written to the representative on the Open Space Board and has not received any acknowledgement in two months. Vice Chair Breen said she has asked the Planning Commission for two years to work on the CUP with MidPen about the parking on Portola Road. She said the parking lot could be redesigned to put another 15 cars there. Mr. Warr said 15 cars would be nice, but it's not even a start. He said he's happy that the open space is popular and the people are very nice, but there is no place for them to park.

Planning & Building Director Russell reminded the Commission about the Special Planning Commission meeting regarding the EIR Scoping for Stanford on Thursday.

**(4) Staff Report**

**a. Designate ASCC Members for Staff Discretionary Review of ADUs for 2020**

Commissioner Wilson volunteered for January, February, and March; Chair Koch for April, May, and June; Commissioner Ross for July, August, and September; and Vice Chair Breen for October, November, and December.

**(5) News Digest: Planning Issues of the Day**

Staff shared an article of interest with the Commissioners – “Are Charter Cities Subject to California’s Housing Laws?”

**APPROVAL OF MINUTES**

**(6) ASCC Meeting of January 13, 2020**

Commissioner Ross moved to approve the January 13, 2020, minutes as amended. Seconded by Commissioner Wilson, the motion passed 3-0, with Chair Breen abstaining.

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