

JOINT TOWN COUNCIL/PLANNING COMMISSION/ASCC SPECIAL MEETING, NOVEMBER 19, 2003

ROLL CALL

Mayor Driscoll called the meeting to order at 8:05 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers G. Comstock, K. Comstock, Davis and Merk, and Mayor Driscoll  
Planning Commissioners Elkind, McIntosh, Zaffaroni, and Chairman Breen  
ASCC Members Breen, Chase, Eisberg, Schilling, and Chairman Warr  
Absent: Planning Commissioner Toben  
Others: Town Planner Mader, Dep. Town Planner Vlastic, Town Administrator Howard, and Planning Manager Lambert

ORAL COMMUNICATIONS

Bob Adams, Applewood, asked that the people who were interested in the Town Center project be given a chance to speak with the engineers and architects before a decision was made.

REGULAR AGENDA

(1) Discussion of Fences, Design Guidelines, and Related Ordinance Provisions

Town Planner Mader reviewed his memo of 11/13/03 on fences. Using overheads, he discussed: 1) General Plan language with respect to fences; 2) Zoning Ordinance language and review of fences by the ASCC; 3) existing height limitations; 4) setbacks required for entry features/gates for 1+ acre lots; and 5) Design Guidelines language for fences and gates. He noted that fences that did not accompany a building permit project were not reviewed by the Town. Responding to Councilmember G. Comstock, he said an 8' fence could be placed within the building envelope established by the setbacks and that the fence could be as high as the dwelling unit. Responding to Councilmember Davis, he confirmed that opacity of fences was not addressed in any ordinance.

Carter Warr said fencing was an issue that the Town needed to be involved with. It was fortunate for the Town when fencing was included with building projects; those were handled quite well even with the current guidelines and ordinances. Fences were a problem when they were not part of a building project. He felt fences were necessary--particularly in the smaller neighborhoods--for privacy, and in some cases, they helped to preserve some of the rural character. He would like to see permits required for fences so that there was a review process for all fencing regardless of where it was. Opacity, height, color, and materials were significant because fences were allowed outside of the building envelope.

Mike Schilling said first there should be a definition of a fence. Fences were used for security, privacy and screening. He thought the Design Guidelines should be improved and that there should be some kind of approval system for the staff or ASCC. Some sort of control was also needed so that people didn't just add to what was already there. Major issues included the color of the fence material and what the landscaping might be to help disguise the fence.

Commissioner Zaffaroni said the permitting process would be an important adjunct. She moved to Town from an area where there was a concern about security. The first thing she did was put up a big gate. It would have been very helpful for someone in Town to have flagged that and indicated what the Town's values were. When people came from a different area, they were not immediately aware of the rural

character of the Town, etc. Additionally, she felt a fence tour was a wonderful idea and thought it should be made available to people who applied for a fence permit. The permitting process could be an educational opportunity--especially if backed up with good guidelines and informational material for new Town residents.

Danna Breen wanted to see if some type of incentive could be provided for people not to put in a perimeter fence, which presented problems for wildlife movement. She said the deer had no place to go on Cervantes because everyone had put in perimeter fences. There should be some way for wildlife to move through, either with holes in the fences or by allowing people to build a fence over 6' outside of the building envelope if it was not on the perimeter.

Bud Eisberg felt the Town had strayed pretty far from the General Plan language--especially in the area of perimeter fencing. The ASCC had difficulty with the unfairness of forcing the General Plan standard on applicants when someone next door could put up pretty much what they wanted. He agreed a permit process was needed. The Guidelines could include some examples of things that were acceptable and things that were not allowed. Anything in between could come to the ASCC for review.

Mayor Driscoll said some of the fences on the fence tour were practically invisible and very effective--at least in terms of keeping children in. But, a fence that the Town might authorize as acceptable under any circumstance might be inappropriate in parts of Town that were very open, such as the Ranch. He was worried about defining something as "okay" in the Design Guidelines--regardless of where it was--and then requiring other fences to be reviewed.

Mr. Eisberg said the process needed to be streamlined and fairly easy. In many cases the details would depend on the particular property, but those details could be talked about later. Generally, the ASCC had a problem shooting for the General Plan standards given what was already built around Town. Anything that could be done would be an improvement.

Mayor Driscoll asked for a showing of hands on the issue of whether fences should be reviewed. Chairman Breon said the ASCC members and Planning Commissioners had raised their hands, but the Council had been a little less committed. This was one of the reasons why the Planning Commission wanted this meeting.

Councilmember K. Comstock said he agreed that fences should be reviewed by the ASCC. Councilmember G. Comstock agreed but said he would comment later about the nature of that review.

Councilmember Davis said he had trouble understanding the problem, although he agreed fences needed to be addressed. Before new regulations were discussed, he thought the issue of whether current standards were being enforced should be discussed. If the Town couldn't uphold a height standard, some of the more sophisticated issues which would emerge would be less likely to be enforced. Secondly, he questioned what the Town was trying to avoid. Other than the issue raised by Ms. Breen, he was having difficulty with the problem statements. The thing that he did not want to have was the Atherton, statement house with a high fence, which was a fortress kind of environment. On the other hand, he thought Bill Lane had a perfect fence, and the church next door had a totally peripheral fence which he did not think was inappropriate. Those two fences were 3-rail, simple fences that allowed animals to pass through them. He did not think that half of the fences in Westridge should be characterized as inappropriate.

Councilmember Merk said a lot more issues needed to be brought up such as: 1) neighborhoods and the size of the lots; 2) color; and 3) setbacks. Those needed to be talked about before deciding whether fence reviews should be required.

Councilmember K. Comstock said he felt a review should be required. Right now, there was a dual standard; the same thing was not required for every fence that went up. Some people could build a fence with a lot less restraints than someone who came in with a project. The standards--whatever they were--needed to be applied consistently to all projects. He felt Councilmember Davis's concerns were important but secondary. Until there was a viable, rational and enforceable standard that was used across the board, things would get through because they had not been properly banished.

Mayor Driscoll said there seemed to be a Council consensus that a review would probably be required, but there were questions about the criteria for an approvable or not approvable fence. If there were ways in which people could build a fence that violated the General Plan's concepts and they did not have to go through a process, that was effectively a loophole in the process that needed to be fixed. Then the issue was giving criteria to the ASCC and Planning Commission to allow them to evaluate those applications and decide which ones should be accepted and which ones should be denied.

Councilmember G. Comstock said there were two loopholes: the permit loophole and the enforcement loophole. There was not much point in having a highly detailed set of requirements and processes if there was no means for enforcement.

Mayor Driscoll said the enforcement issue was much bigger and complicated and applied to everything; the Town needed to be very careful to not act as "design police." He felt the issue was that people had an opportunity to build fences without going through the process; there should be a process that every fence had to go through. Enforcement was a separate issue.

Mr. Warr said he did not feel that enforcement of ASCC and Planning Commission decisions was a big problem. Enforcement of fencing was a problem primarily because of the dual standard; some fences required review, and others didn't. The dual standard was the crux of the problem of enforcement on fencing.

Commissioner Zaffaroni said originally, the Planning Commission did not feel that all fences required ASCC review. To a great extent, it was assumed that staff could serve that function with the ability to refer certain things to the ASCC. She said surrounding communities allowed staff that discretion.

Mr. Warr said Woodside's ordinance format was such that the Planning Director made all final decisions. The ASRB in Woodside was only an advisory group. Responding to Commissioner Zaffaroni, he said he felt a bar could be set for certain things (e.g., amount of fence, how much it enclosed, height, and what the construction was) that would allow review by staff. If it reached some critical mass or cumulative effect, it would be referred to the ASCC.

Commissioner Elkind noted that the Commission had made a distinction with respect to lot size; the smaller lots were allowed more leniency.

Chairman Breon said if criteria was drafted, distinctions between the smaller and larger properties would emerge. The Commission felt that perimeter fencing on the large properties should be discouraged--not disallowed. He also thought that the reasons people were asking for fences needed to be addressed. On the larger properties, fences were wanted to provide things like security, screening, privacy, and safety. Those fences could be closer to the dwelling unit and still achieve those purposes. On smaller properties, that was not true; pulling fences away from the perimeter would look awkward. He would rather not see full board, 6' high fences around the perimeter--even on smaller lots. There were other ways of addressing those issues.

Mr. Eisberg agreed that there should be different standards for smaller lots, except for style. Style was driven basically by the General Plan and should be consistent between lot sizes.

Mr. Warr added that in smaller neighborhoods, fences were required for privacy. The houses were very close to each other and often within the setbacks. There was also little opportunity for landscaping. He thought the ASCC should review the context of the fence for everything other than really inconsequential fencing. How the fence was used, what the related physical context was, what it was made of, etc., were all things that the ASCC paid attention to. While he didn't welcome the additional workload, fencing had one of the biggest aesthetic effects.

Laura Chase said the ASCC made a distinction between smaller and larger lots and used a lot of discretion in that regard. The applicants with fences on larger lots were more agreeable to making those fences more open because there was less of a concern about privacy. The ASCC worked with each situation as it came up. It was fairly subjective at this point, but she felt it worked. The applicants often wanted more privacy on the smaller lots, and tended to get more solid fencing.

Mr. Schilling agreed, noting that the ASCC was very sensitive to that sort of thing. This whole subject was very subjective. The rules had to be pretty much the same, but there had to be room for discretion.

With respect to fence style, Commissioner Elkind said she was struck driving through the Corte Madera neighborhood to see houses with very opaque fences that worked in a very attractive fashion; there were also some that were pretty unattractive. Having the opportunity to use the sensitivity and skill of the ASCC was critical.

Commissioner McIntosh said his motivation in having this meeting was to address the "fortress" concept. He said Ms. Lambert had indicated that when people came from somewhere else and purchased houses in Town, 90% asked what they could do in terms of fences and gates. This was a pivotal point for the community. Twenty years from now, the Town could end up being a community of fortresses. He described a community in Florida that had no size restrictions on houses. He added that the Ranch seemed to survive without fences as did Blue Oaks.

Chairman Breon noted that Wyndham was very open by and large. At this point, it still felt like an open neighborhood. Add another 3, 4 or 5 solid fences, and the character of that neighborhood would be very different.

Mayor Driscoll felt that adding a permit process would help to constrain that. In his experience, once you made people apply for something, they made concessions in order to get approval. If that process was bypassed, people became good at figuring out what they could do to avoid ASCC review.

Lynne Davis said she served on the Westridge Committee, which reviewed applications before they came to the ASCC. She was concerned about the "Athertonizing" of Portola Valley. Great big houses/projects were increasing in Westridge with a lot of fencing, gates, pillars, etc. It could be ameliorated somewhat through both her Committee's and the ASCC's review, but sometimes these things just appeared and you were left with a 6' fence where it shouldn't be. In the Westridge CC&Rs, there was only one line that addressed fencing. It said, "No fence, wall, or hedge can be over 6' high." Other than that, they had to rely on the Town, friendly persuasion, etc. She felt what was really needed was enforcement of the current ordinances first before putting in any other ordinances. Another issue was a "cheater" fence, which was a 4' fence that had 2-3' risers put on the top of it with one or more wires strung between the risers. There were also double fences. In terms of perimeter fences, her fence was like the Lanes which served as a corral fence for horses all around the property. If ordinances were put in, she hoped they would be simple, understandable, and

enforceable.

Councilmember K. Comstock said it was surprising how much vigilance was required by the Ranch design committee for things like a new roof, deck replacement, or a repaint. The process needed to be controlled at the front end and then watched. Additionally, he did not think that fences and gates necessarily provided security. In Town, fences were good for keeping the dogs and toddlers in, maybe the deer out, and privacy. Larger lots with houses spread out and at different elevations did not have privacy problems; fences were either not needed or should be more opaque. He thought the standards and what was permitted would vary, but the process needed to be complete. In general, he felt that the bigger the lot, the less justification there was for a full perimeter fence. That was an environment with a lot of wildlife traffic, and perimeter fences shuttled that traffic to the neighbor's yard. He also felt that solid fences began to disappear when people were of a mind to do a substantial job with landscaping. He wanted to eliminate impermeable fences and retain some visibility of the house. He felt the ASCC and Planning Commission could provide the appropriate standards along with an administrative and review process. The process did not have to be severe and controlling, but something needed to be in place before things happened that should never have been allowed.

Bill Lane, Westridge, said one commendable and important element in the Town was that there was an equine capability; that benefitted everybody. The trails, which were on private property and maintained by assessments for the benefit of everyone in Town and visitors, were linear parkways. There was a 15' setback on each side of Westridge--regardless of where the trail went--and 10' on the side streets where trails went along the road. Westridge was allowed 5 horses for the minimum lot size of 2.5 acres. Most of the perimeter fences he was familiar with on horse properties were split 3-rail fences. The Town needed to deal with the possibility that the homeowner would want horses. He wanted to carry on that tradition. Attracting people who had an interest in horses helped the Town to maintain open space. He also thought this joint meeting was a wonderful example of the Town coming together.

Councilmember G. Comstock said one of the underlying philosophical issues was property owners' rights. He asked if people were feeling any discomfort with this discussion of increasing regulations that would reduce the rights and ability of a property owner to do what he wanted with his property.

John Boice, Woodside Highlands, said it was a serious consideration. There was, however, a need to look at what was going on in terms of fencing. In his area, if the current regulations were enforced, he did not think there would be more than 3-4 fences left in the whole area. The lots were smaller and the terrain was very steep. You needed to have regulations that fit large properties, small properties, and areas with very small properties. To do that was a very difficult thing without impinging on the rights of people in specific areas. When these things were written, there should be enough flexibility to take care of a wide variety of conditions.

Marianne Plunder said most of the properties in her area were more than 1 acre and no one had a fence. The rural aspect of Portola Valley was key. She did not want to end up living in a picket fence environment. In terms of perimeter fences, she said the new perimeter fences in Westridge were deer fences and high. She did not think people should move to Portola Valley if they wanted to keep deer out. She suggested there be a dual solution that addressed horse fences, which did not destroy the rural character, and deer fences, which should be stopped. She was against fences and wanted to maintain the rural character.

Mr. Adams said he had no fences except for the one put in next door by someone else. To keep the deer off of his deck, he had installed impulse sprinklers which worked with motion detectors. If a deer came in, the sprinklers went off and chased it away.

Virginia Bacon said it would be difficult to retrofit the existing situation. She understood that there were a lot

of concerns between neighbors. She preferred that the Town not do a lot in terms of fencing. She would, however, like to see something done to prohibit perimeter fencing in the future. The other types of fencing

were not of great concern to her. She did not think fences could be legislated and managed; it would become too much of an issue. She wanted things to be kept simple and flexible.

Ms. Davis said when you bought property in Westridge, you signed on to the CC&Rs. The same thing was true in the Ranch. To some extent, the same thing should be true for anybody who came to Portola Valley. The Town's values and what was wanted were advertised clearly. If you came here, you bought into that system. As individual property owners, she felt some rights were given up for the community.

Mr. Lane said there was no magic bullet that would solve the problem. He agreed that a number of things would have to come together to get at the problem. When newcomers came into Town Hall for a project, the educational process might be upgraded in terms of the message and material they received, with follow up and inspection. The Town should do whatever it could in forewarning and explaining to people the esprit de corps and ethic of what had made the Town what it was. That wouldn't solve the problem, but it might help mitigate it.

SallyAnn Reiss, Golden Oak, described a property with a large number of grapevines. She said they had no way of keeping the deer out except to put up a fence. If she had put in all those grapes and was told she could not put up a fence, she would be pretty upset. It would not, however, be a problem if she was told her fence had to be within certain guidelines.

Responding to Ms. Bacon, Ms. Lambert said new owners were supposed to sign off on a page in the Residential Data Report so that Town records could be updated. The return on those was maybe 50%. Ms. Bacon suggested making that mandatory. If the Design Guidelines with fence examples were part of package, staff would have something to help control the situation. Mr. Schilling said the realtors should also be educated. Ms. Breen noted that the Conservation Guidelines were almost complete and addressed a lot of these issues.

Mayor Driscoll noted that a fence permitting process would apply only to new fences. Responding to Commissioner Zaffaroni, he said the issue of a fence falling down would also have to be dealt with.

Chairman Breon said he did not think people should assume that just because they had a fence before, they could have the same one in the future. Where there were opportunities to recapture problems and bring them closer into conformance, he felt that opportunity should be taken. If someone had a solid fence right on the property line and came in to add, for example, a second story, there would be a nexus there. Because there was more visual intrusion from the increased development, they might be asked to tear down the board fence and put up something less intrusive in order to mitigate that increase. Where there was legal and planning justification, he wanted to be able to recapture some of these older situations and bring them closer into conformity with the guidelines.

Councilmember Davis said he understood that the purpose of this meeting was to see if there was agreement of what the problem statements were. Last time, there had been three different things going on, and the Council had not accepted the product. The Council's rejection was not based upon the lack of desire to have appropriate ordinances or something on fences. He suggested spending a few moments targeting what the problems were.

Councilmember K. Comstock suggested sending the Town Planner, Mr. Vlastic, Chairman Breon, and Mr. Warr off to distill a memorandum that reflected what they had heard and bring it back for review and adjustment as needed.

Councilmember Merk said he found the fence tour interesting. He felt it was unfortunate that Woodside

Highlands had not been included. It was one of the tightest, if not the tightest neighborhoods, in Town. Overall, he was amazed at how open the Town looked. In areas like Golden Oak, there were few fences along property lines. Many of the fences he saw--regardless of what the material was--were so overgrown with planting, they essentially disappeared. He was not offended by low, open perimeter fencing, which there was a lot of in Westridge. He was also not offended by the fence at the end of Ramoso which was a double 4' fence; it was relatively new, but there was enough planting around it. He was struck by the house on Cervantes, which had been controversial because of a high metal fence needed to keep a child in. The plantings had grown up so much that you could hardly see it. Referring to a picket fence on Wyndham, he thought there should be some kind of ability to average fence heights. However, there were also white picket fences right at the pavement line which were in the public right of way. On Cervantes, a fence had been painted white; that was far more offensive than the design or the fact that it was on the property line. In other places, there were fences that were too high, but they were set back and had planting so that they practically disappeared. He liked Westridge where it was difficult to know where one property ended and the next began. But that was Westridge, and people who bought there, bought into Westridge. People at the Ranch also understood that there were no fences; the houses had been carefully designed so that people were not looking at the house next door. That was not true at the Highlands and Brookside Park. There needed to be a set of standards that applied differently to the different zoning districts. Commissioner McIntosh concurred.

Commissioner Elkind supported Chairman Breon's comments about recapturing losses. If the homeowner came in and needed a permit for a remodel, the existing fence should be reviewed. Additionally, she said there had not been sufficient mention of the obtrusiveness of a fence that had a wall of trees in front of it. While you might not see the fence, it was essentially a wall of trees. That was not too bad in an area where it was a natural woodland backdrop. But, a wall of trees in the middle of a grassland area was artificial.

Mr. Warr questioned whether landscaped projects needed to be permitted. You needed to decide if the landscape issues were really a problem. The comments suggested that some of the fences that were originally offensive had now been ameliorated/mitigated by significant planting. Responding, Councilmember Merk said the fence might be ameliorated, but it was still a very walled feeling, which was not characteristic with the other houses in that area.

Mayor Driscoll did not feel that hedges were a big problem in Town. Councilmember Merk said a lot of the plantings in the front yards were outside the fence and mostly in the public right of way. He felt the Town had every right to say what those plantings might or might not be.

Chairman Breon said his mind had been changed about the amount of flexibility that should be given to the ASCC. He wanted to provide a fair amount of flexibility to the ASCC and hoped that they would not be overwhelmed by the subjective decisions that could create. He preferred to have a minimum number of standards and place a fair burden on the ASCC of having to use subjectivity.

Commissioner Zaffaroni said it had been her suggestion last time to come up with something like a split rail fence that people would consider ideal and except that from the permitting process. There would be a certain number of people who would come to Town and rather not have to go through any kind of process. She noted that she did not feel that perimeter fencing was offensive. A split rail fence on the perimeter did not bother her. If there was a consensus on an acceptable fence, she felt it would provide an incentive to move people in the direction the Town wanted. With respect to the property rights question, she thought it should be anticipated that there would be many people in Town who would find the Town's regulation of fences offensive. She felt an area that people would accept in terms of regulating fences was the front yard

area. It was a transition area between public and private. In the areas in Town that looked open, it was the front yard that was open. You really couldn't see what was happening in the back or side yards, which were most important to people's privacy and what they would feel most protective of. To tell people that they could

not have any kind of perimeter fence in a side yard that was not visible from the front would be offensive to many people.

Mayor Driscoll said color was very critical. A split rail fence was fine until it was painted bright white. He felt that the process of approving a fence should include a color approval and require that that color remain on the fence. If something could be repainted a different color, that was another loose point in the ordinances.

Mr. Warr said a difficult problem in what Chairman Breon was suggesting was to determine what constituted a nexus on a project that could lead to some corrections of violations. In some cases, if the addition was inconsequential and wasn't seen, it would be very difficult to make the nexus and, for example, require a color change. He did not think that was something that could be included in an ordinance. It would have to be taken on a case by case basis.

Chairman Breon suggested that there could be some enabling language that said where the ASCC found that a permit application could have an increased visual impact on a neighborhood and found that changing something like lighting, or fencing, or color would ameliorate that, the ASCC had the authority to require that.

Mayor Driscoll said it appeared that overall, the Council was interested in having a review process with new fences, but that the Council wanted the Town staff, ASCC, and Planning Commission to work out the parameters and policies around that along with the retroactive aspects.

Commissioner McIntosh asked if the issue of security/automatic gates should be a separate discussion. Councilmember Merk noted that at the end of Golden Hills, there was one entry gate that was set back and down. Then there was one that was right in front of you with bright colors that was too close to the road. On the other side was an open driveway. He felt that they were a part of fences. Councilmember Davis felt the gates were worse than the mailbox problem, which had been dealt with. He thought these gates should be addressed.

Commissioner Zaffaroni said she helped draft the definition of "fence" with the Town Planner. It included pillars and gates.

Commissioner Elkind said there were a few gates that were old fashion, wooden farm gates that were consistent with a split rail fence. She found them much less offensive than vertical steel.

Mayor Driscoll said the fence issue should go through a public hearing process before the various bodies. Hopefully, something that struck a happy medium for everyone could be recommended.

(2) Discussion of View Preservation

Mayor Driscoll referred to the letter from Peter and SallyAnn Reiss requesting the Town establish a policy regarding trees and lines of sight. He asked for comments on whether the Town should try to implement a policy to ensure that views would not become obstructed over time by trees.

Councilmember Merk said he planted two 5-gallon and three 1-gallon redwood trees. The 5-gallon trees were now more than 120' tall, but they backed up against Corte Madera Creek and did not impact views. His neighbors had planted redwoods across the front of their yard that were now about 70'. In a few years,



he would not have any summer sun. The trees that he planted were heritage trees by definition, but he questioned whether a tree planted forty years ago should be a heritage tree. It was a tough issue.

Councilmember K. Comstock said the Ranch had a process whereby if you took pictures of your view when you moved in, someone else's trees would have to be topped or taken down if they intruded in your viewscape. He thought views were important and suggested doing a survey of how different communities handled it.

SallyAnn Reiss said this issue came to light in Tiburon, which was one of the first towns to put in an ordinance to preserve views and sunlight. Tiburon had spent nearly \$80,000 to resolve two lawsuits from residents who had been ordered to cut or remove trees. In 2001, a State appeals court had affirmed the ordinance, and the city had received inquiries nationwide from communities that would like to replicate what they had done. She noted that Los Altos had adopted something similar to Tiburon's ordinance. The ordinance said that if a neighbor wanted to pay to have someone's trees topped that were blocking an established view, the property owner had to permit it. She added that Mr. Lamb had helped her get all of the background information. Responding to Town Planner Mader, she said she would provide a copy of the court case to the Town.

Ms. Davis said the Westridge CC&Rs contained a provision that indicated the Westridge Committee could cause the removal or topping of trees that had been planted and that obstructed a neighbor's view.

Commissioner McIntosh said it would be interesting to see what other communities had done. If the Town had an ordinance and a complaint was made, the ASCC might review it and make a judgement. Distance was another question, but he thought it was a valid concern.

Commissioner Elkind said it was a concern, but she questioned whether an ordinance could handle it appropriately. Mediation might lend itself more to that kind of problem. There could be a situation where a tree had been planted on someone's property to screen out something they didn't want to look at. It might accomplish one goal but create a problem for the neighbor. Town Planner Mader noted that some of the ordinances had a mediation process built in; that made it the responsibility of the property owners.

Ted Lamb, Bear Gulch Dr., said in the last 30-40 years, the trees had grown to a point where they were beginning to be very obstructive. He thought 85% of the people in Town were detrimented by lack of sunlight or blocked views. He also thought 35-40% of the people in Town had grievance problems with trees totally obliterating what views they had. In a number of cases, owners had absolutely rejected any discussion. There might not have been many complaints coming to Town Hall because people didn't think there was any way to handle the situation. A landowner with an 80' tree might not be bothered in the slightest by having the trees topped, but they would just not allow anything to be done. He felt there should be some type of ordinance whereby people could seek redress. He also felt that the solution should be at the cost of the person with the problem. Pine trees, for example, would have to be trimmed 4-5 years later.

Ms. Reiss reviewed her letter of 11/03 and described her view that had been obliterated by redwoods; they were growing at a rate of 6-10'/year. She had tried neighborly ways of getting the property owners to work with her, but they would not take phone calls or letters. Some felt that topping the trees would cause them to die. She also realized that this issue was not just her problem. She described pines on her property that had blocked her neighbor's view. Prospective owners of that property had asked that the pines be topped. The pines had created some privacy, but not that much compared to what the neighbors would gain if those trees were topped or cut down. With the Town's permission, the trees were cut down. The real estate agent indicated that the property value of the neighboring property had increased by about \$700,000 just by getting rid of the pines. There was no recourse if someone else's trees were causing her problems. She reiterated

that this was a widespread problem.

Mayor Driscoll said the landscape was undergoing its ordinary succession process. Back in the Ohlone days, there were some very large redwoods; it probably took over 500 years to get to that point. This was a challenging problem which tended to pit human values against environmental values. Redwoods were native to California and to a large part of Town. He felt this issue required some consideration of whether the trees that were involved were appropriate and native to the area of growth or were just introduced because they were fast growing, screen trees. He did not want the Town in a position whereby oaks were being taken down in oak woodlands because that would increase the property value of someone above them.

Ms. Chase thought the problem might be mostly with redwood trees. Something could be crafted that was specific to redwoods. The oaks were very slow growing and never got as tall as the redwoods.

Ms. Breen said the live oaks were really thriving, fast growing and were crowding out the blue oaks. Even meadowland was becoming a premium in Portola Valley at the moment.

Ms. Bacon thought something should be done about planting trees underneath the power lines. Also, she felt the Town should consider how solar panels, which were currently not regulated, looked. She supported solar power but felt unscreened solar panels could look ugly. Councilmember Merk noted that it was his understanding that there was California law about solar access. He suggested staff research that.

Councilmember K. Comstock said a lot of this land was developed with houses and trees at the same time. It was very likely that many of these problem trees were put in concurrently with the development of the houses. It would be reasonable for the ASCC to look at applications with views in mind down the road. Mr. Warr confirmed that the ASCC paid a lot of attention to this.

Mr. Eisberg noted that the Design Guidelines had a native plant list. When the Guidelines were revised, he suggested including something about putting in appropriate plants in appropriate places.

Ms. Breen added that the Conservation Committee had become much more lenient about approving trees to be cut down--except for deciduous trees.

Mayor Driscoll felt this was an issue that required a fair amount of research. He suggested staff take what they had heard and start to generate some policies for the ASCC and Planning Commission to review in public hearings and bring forth some proposals. Responding to Mr. Warr, he said the public might not be as actively involved in special meetings as they would be in public hearings. He suggested the ASCC and Planning Commission review whatever staff would create so that a proposal was worked over before another joint meeting was held.

Mayor Driscoll noted that the Town made an annual contribution to the Peninsula Conflict Resolution Center, which allowed for professional mediators to address conflicts between private individuals. He encouraged neighbors to use the PCRC.

Mayor Driscoll thanked Planning Commissioners and ASCC members for attending the joint meeting.

(3) Certification of November 4, 2003, General Municipal Election

Ms. Howard distributed copies of the Resolution to certify the election. Responding to Mayor Driscoll, she recommended Councilmember K. Comstock continue to serve until Steve Toben was sworn in.

Councilmember K. Comstock moved approval of Resolution No. 2092-2003 Declaring Canvass of Returns and Results of General Municipal Election Held on November 4, 2003. Councilmember Davis seconded.

Councilmember Merk noted that the total percentages of the vote for the two Councilmembers elected were incorrect. Ms. Howard said the actual numbers were correct. Councilmember K. Comstock amended his motion to strike the percentages shown. Councilmember Davis amended his second, and the motion carried 5-0.

Bob Adams said he wanted to make sure that the communication from the group opposing Measure H be clear to the Council. A number of people were concerned that the Town leadership was not connected to a number of the citizens. Part of that was reflected in the election numbers. A number of people had indicated that the vote would be a landslide with everyone against his group's position. It had not worked out that way. Since it hadn't worked out that way, there must have been something else there. He believed that there was some disconnect. Reading from a prepared statement, he discussed: 1) why the referendum had occurred; 2) the series of steps that led some people to believe the Town was headed in the wrong direction; 3) proposed building densities of 40%, then 25%, then 19%; 4) the attention paid to the 1999 petition and lack of attention paid to the 2001 petition; 5) the approved 5.8 houses per acre density; 6) the "free carport" issue; 6) discussions held after public hearings were closed; 7) the deliberate omission of the word "density" from the ballot and ordinance language; and 8) the pros and cons of having had only 27 Town councilmembers in the last 40 years. He encouraged the Council to include those that differed with the Council on the committees so that the bodies could provide better representation government for Portola Valley. A more representative mix would reduce the chances for a future Town upset and result in a more cohesive Town.

Bill Lane discussed the importance that absentee ballots could have on an election's outcome--particularly where you had nose to nose finishes in the election results received the same night. It probably wasn't significant here, but absentee ballots would be an important issue in the future.

Councilmember K. Comstock urged Mr. Adams to grasp his victory and go on. He said his [Adams] remarks and rehash of what had gone on was history. The ordinance was rejected, and the Town would go forward. There could be a lengthy dialogue about what people's different views were, but this was basically a dead heat. He did not think too much should be read into it; this was an individual issue. The issues Mr. Adams raised would be best dealt with in future Council races where there would be more than the necessary number of candidates. That was where the community could best express itself.

Susan Adams read a prepared statement. In order to mend the tear that had been caused over this issue, she recommended the Council: 1) purge all wording from the General Plan, zoning ordinances, and other like documents that mentioned or referred to special residential or SR zoning, urban/rural zoning, and 5.8 houses per acre; and 2) consider developing a new zoning designation for mixed use with an appropriate level of density for the surrounding areas. Density was and still is the issue. She asked that the Council use some vehicle--whether it was the Planning Commission, a poll of the Town or something else--to learn what the Town would really like to see as the ideal use of the Nathorst lands. A "can-do" attitude, an investigation of alternatives, and implementation would go a long way toward: a) resolving the frustration that many had felt; and b) restoring faith in the Council's stewardship.

#### Planning Commission Vacancy

Mayor Driscoll noted that there were five applicants for the vacant Planning Commissioner slot. The

deadline was October 28, 2003, but an application had been received on November 18, 2003. The interviews were not scheduled until January, and he asked whether the application deadline should be extended. Councilmember Merk thought it should be reopened. After discussion, Council agreed to extend the deadline to December 12, 2003. Ms. Howard said she would post the ad in *The Almanac*.

ADJOURNMENT

The meeting adjourned at 10:35 p.m.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Town Clerk