

TOWN COUNCIL MEETING NO. 623, APRIL 23, 2003

ROLL CALL

Mayor Driscoll called the meeting to order at 8:00 p.m. and led the Pledge of Allegiance. Ms. Howard called the roll:

Present: Councilmembers G. Comstock, Davis and Merk, and Mayor Driscoll  
Absent: Councilmember K. Comstock  
Others: Town Planner Mader, Town Administrator Howard, Town Attorney Sloan, Dir. Admin Services Powell, and Deputy Clerk Hanlon.

ORAL COMMUNICATIONS

Paul Heiple, Conservation Committee, said a contractor at Blue Oaks had sprayed herbicide next to a stream, cut *dirca occidentalis*, and enlarged the islands contrary to the fire management plan. He said the Committee was continuing to investigate so the situation could be remedied. Linda Elkind, Planning Commission, added that she contacted the Town about the situation. Responding to Councilmember Davis, she said a large bulldozer was stuck at Blue Oaks over the weekend.

Bill Lane reminded residents of the book-signing event on May 3 and 4, 2003. He described the book, which he felt was wonderful. He encouraged everyone to attend.

CONSENT AGENDA

By motion of Councilmember Merk, seconded by Mayor Driscoll, the consent agenda items listed below were approved by the following roll call vote:

Ayes: Councilmembers G. Comstock, Davis and Merk, and Mayor Driscoll  
Noes: None.

- (1) Minutes of Special Joint Field Trip Meeting on March 25, 2003, with Councilmember Davis and Councilmember G. Comstock abstaining.
- (2) Minutes of the Special Town Council Meeting of April 8, with Councilmember Davis and G. Comstock abstaining.
- (3) Warrant List of April 9, 2003, in the amount of \$123,028.40.
- (4) Warrant List of April 23, 2003, in the amount of \$117,765.70.
- (5) Resolution No. 2048-2003 Approving and Authorizing Execution of an Agreement Between the Town and Summit Springs Design for the Renovation of Old Spanish Trail and Portions of Coal Mine Trail (Project #PW2003-PW03), per Public Works Director's memo of 4/23/03.
- (6) Resolution No. 2049-2003 Approving the Disadvantaged Business Enterprise Program for Highway Projects Assisted with Department of Transportation Federal Aid Funds, per Public Works Director's memo of 5/5/03 [sic].

REGULAR AGENDA

- (7) Minutes of the Town Council Meeting on March 26, 2003 (Removed from Consent Agenda)

Councilmember Merk submitted a change to the minutes of the March 26, 2003, meeting. By motion of Councilmember Merk, seconded by Councilmember G. Comstock, the minutes were approved as amended by a vote of 3-0, with Councilmember Davis abstaining.

- (8) Town Planner Authorizations: Second Units and Temporary Buildings and Uses (Removed from Consent Agenda)

Councilmember Davis requested this item be addressed following item #10, New Legislation on Second Units. There were no objections.

- (9) PUBLIC HEARING: Amendments to the General Plan and Zoning Ordinance Primarily Relating to the Nathhorst Triangle Area and Proposed Mitigated Negative Declaration

Mayor Driscoll noted that the changes requested by the Council at the March 12, 2003, hearing had been incorporated into the documents and were summarized in the Town Planner's staff report of 4/16/03. Ms. Sloan noted that the addendum to the Initial Study should be included with the action on the Mitigated Negative Declaration. Mayor Driscoll opened the public hearing requesting that speakers: 1) address the modified documents that were before the Council; and 2) limit comments to three minutes.

Eleanor Mitchell, 355 Portola Rd., commended the Planning Commission and Council for fulfilling their responsibility to the community and taking into account the needs and concerns of the affected property owners and immediate neighbors. The reduction of allowable office and commercial development should help the community feel more confident that the office and commercial space that would materialize in the Nathhorst Triangle would serve the daily, recurring needs of the residents and not bring in a tide of traffic from the surrounding areas. By allowing mixed use that permitted a modest number of housing units and some affordable housing helped to fulfill some of the housing goals of the Town's Plan. She enthusiastically supported the proposed rezoning but urged that the Council consider counting carport square footage as part of the allowable FAR.

Marilyn Walter, 20 Coyote Hill, read a letter from Trish Hooper and other residents of The Sequoias: "Many residents of The Sequoias would like to thank the Town Council for supporting the rezoning of the Nathhorst Triangle. We support the efforts of the Portola Valley community to rezone this area in order to provide more low cost housing, as required by law, for the benefit of those who cannot afford housing in our valley. We would like to see less commercial use and more residential possibilities which respect the rural aspect of the community. Thank you." She also submitted a letter from Robert Miller indicating his support of the rezoning and asked that it be included in the record.

Eliane Neukermans, 4 Horseshoe Bend, supported the rezoning of the 3.5 acres. She said the Town needed a variety of houses for people in different economic groups; this would benefit the community.

Catherine Siegel, 15 Saddleback, supported Council's adoption of the proposed rezoning ordinance and General Plan amendments. The plan would result in substantially less development overall on the site. It would: 1) reduce the commercial square footage that could be built; 2) encourage housing and allow smaller, more affordable housing units; and 3) allow the development of some below market rate units. Overall, it was a less intense use of the site. There would be less paving; less coverage of the site with

structures, driveways, parking; less traffic and cars; and lower height limits. It was a better plan for the area to allow mixed uses with an emphasis on residential. Personally, she preferred all residential development but understood that compromises needed to be made to encourage the landowners to get together and develop the site in conjunction with each other. She urged the Council to make its decision tonight and move forward with the proposed rezoning.

Phyllis Quilter, 40 Sioux Way, said she continued to support the rezoning and urged the Council to make its decision tonight.

Valerie Russom, 1195 Westridge Drive, supported the Council's work on this issue and hoped it would be finished soon.

Louise Ringo, 199 Brookside Dr., thanked Councilmembers for their work and the hours put into this proposal, which she supported. She felt it furthered some of the goals set out by the Town. She might some day be in need of this kind of housing and would hate to have to leave Portola Valley.

Onnolee Trapp, 501 Portola Road, thanked the Planning Commission and Town Council for the many hours and months of work on this subject and for the strong leadership shown in upholding the laws of the State. She was very supportive of the rezoning.

Nancy Woodward commended Councilmembers for the time put in on this issue. As a longtime resident, she supported the diversity and opportunities it would provide for both young and older people in the community. This would be good use of the property, which would be enhanced greatly by having housing on it.

Kathleen Bennett, 10 Mapache Court, thanked members of the Council and Planning Commission for the hours put in. One of the few downsides of living in Town was the lack of economic diversity. She was pleased with the decision to have mixed use with below market rate housing.

Gary Nielsen, 148 Pinon Dr., said the Council had listened long and hard on this subject, and it was time to move ahead. It was also time for the property owners to have some visibility of what they could do with their land. It was more than three years ago that the first moratorium on projects for this area was imposed, and he felt it should move forward.

Beth Shaw, 900 Wayside Rd., thanked the Council for all the hard work. Some time ago, she signed a petition against the rezoning but had since learned what was really proposed and how beneficial it would be. She was very supportive of it now and felt the process had worked well. The end result of mixed use with the emphasis on residential with some BMR housing was good for Portola Valley.

Natalie Graham, 8 Hawk View, applauded the Council and Planning Commission for a fabulous job. She was pleased that the plan proposed would offer diversity and wonderful housing opportunities.

Dieter Walz, 128 Westridge Drive, commended and thanked the Council for all their work and specifically for this proposal. It would: 1) be good use of this land; 2) offer diversity; and 3) provide an opportunity for some affordable housing. This was a wonderful place to live, and the volunteer government was unique in the County and in the State; it had worked well for so many years.

Bernie Bayuk, 198 Paloma Rd., thanked the Council for the hard work. He said he had spoken several times over the past year in opposition to high density housing. Noting that Ed Wells was currently out of the

country, he asked that a letter (4/17/03) from Mr. Wells be put in the record. Reading from the letter, he said: "The proposed Mitigated Negative Declaration currently available to the public is obsolete, misleading, and does not consider new relevant facts developed at public hearings and workshops in the more than six months since the draft was prepared. There are major environmental omissions, specifically: item (1) it does not consider or permit the possible use of the area proposed for rezoning for future location of the Town's offices and operations center; item (2) it does not assess the impact of the rezoning on the only two remaining business parcels and their probable conversion to high density housing; and (3) it does not evaluate the options in the current housing element cycle or recent State law mandating new rental housing." He asked that Council consider the letter.

Ms. Sloan noted that items (1) and (2) in the letter were about something that was not proposed, and there was no requirement to do environmental review on something that was not proposed by the Town. With respect to item (3), she said Mr. Wells was very interested in second units. New laws on this issue were agendized and would be discussed later in the meeting.

Bill Lane, Westridge, said there seemed to be unanimous approval of the process; he found many of the comments eloquent. He discussed the Town government, noting that the Council was the executive, judicial and legislative power of the Town. He also commended the consultants and staff who supported the elected officials and all of the volunteers. It was rewarding to hear this magnanimous stamp of approval on the process. Additionally, *The Almanac* had an important role in keeping everyone informed, and he thanked Sharon Driscoll for her work.

Martin Litton, 180 Bear Gulch Dr., said 50 years ago, the sound of a saw and hammer had represented progress--even in a town where rural aspects were cherished. The mass growth and traffic jams on Alpine Road could not have been foreseen. Growth was the Town's and the world's problem. The Town couldn't always find the best solution to a problem, so it tried to find the least worse. Public ownership and open space for the entire parcel were not options, and something else had to be considered. He thought the rezoning was the least worse option.

Bob Adams, 11 Applewood, said there had been a lot of discussion about alternatives to 34' heights, the possibility of 2 stories, etc. The argument was that you needed to give people flexibility. The Town Center issue was also being discussed. There were 10 alternative sites--the second and third of which were at the Nathhorst Triangle. All of the emphasis had been on the alternatives for rezoning and developing the Nathhorst area in a certain manner. He questioned why the Town would give up alternatives for use of Nathhorst for the Town Center by moving ahead on this rezoning; that took away two of the alternatives that the 20+ people who had expressed an interest in exploring this issue could look at as alternate Town Center sites. He said one of the concerns all along had been increasing the density and giving a density bonus which would encourage the next person to do the same thing. If carports were an alternative at Nathhorst, other people would want to have other things on other sites. Additionally, he said Councilmember G. Comstock said he would like to have one of the units at the site and for one of his children to have one of the units. If Carter Warr had to recuse himself from the discussion, he thought Councilmember G. Comstock should do the same. He objected to someone who had an interest in what happened executing against that interest.

Responding, Councilmember G. Comstock said he had used himself as an example of what he believed to be a common feeling among older residents of the Town. He did not have a pre-determined decision to buy one of those houses. He felt it was a valuable thing for the older residents of the Town to have some affordable housing of that scale available in Town. According to a real estate agent, in the 2-year, 2001-2002 period, there were a dozen houses that sold for over \$3 million in Town and only six that sold for under

\$1 million. There was a very tiny supply of affordable, modest-size housing that would be appropriate for young couples or seniors. The best way he could illustrate that was to say it would appeal to him. His comments were intended to represent a general approach--not a specific approach.

Ms. Sloan added that government officials had conflicts of interest when their decisions might impact a source of income. The reason that Carter Warr was not participating in the ASCC review of the proposed ordinance was because a source of income (i.e., a client) was in close proximity and adjacent to the Nathhorst Triangle. It was not a conflict of interest for a government official to have strong feelings about something or to participate in a decision that involved a friend. Those were just emotions that all people were expected to have.

Rowland Tabor, 108 Santa Maria Ave., said he was a long-time resident and had always felt that Portola Valley needed a broader range of housing for people who lived here. It would be a much better place if there was a range. One of the arguments used against the rezoning was that it had a domino effect whereby dense housing allowed in one place would continue to grow like a virus and fill up the whole Town. While that was always a danger, it was something that could be controlled by the elected officials and townsfolk. He felt it would be very desirable to have this broader range of housing, and he was happy with what the Council and Planning Commission had decided on.

Carole Rowe, 170 Escobar Rd., supported the rezoning ordinance and thanked the Council for the attempts to compromise.

Julia Shepardson, 180 Meadowood Dr., supported the rezoning and thanked the Council.

Bob Pierce, 123 Tan Oak, said this kind of proposal might allow a young professor to buy a house in Town as he had done in 1975. He strongly supported the proposal.

Sue Crane, 25 Cordova Ct., supported the Council and Planning Commission for having crafted a beautiful plan. A resident since 1964, she said the Town was not as rural as it once was but was more rural than some. More importantly, this was a caring, responsible constituency who liked and enjoyed living here. What was proposed for this little 3.5-acre parcel was exactly what the Town needed.

Jane Gallagher, Canyon Dr., thanked the Council for their efforts; she was very much in favor of smaller housing. She was, however, very conflicted about the suggestion of putting the Town's administrative buildings in the Nathhorst Triangle. She would like to see the present Town Center site used for sports, cultural events, Town meetings, picnics, parties, and fun activities; she would like to see the administrative part and utility part over behind the shopping center where it would not be vying for this tiny patch of land where the tennis courts were. She would hate to see everything jammed into that corner and to give up the feeling of open space and a fun meeting place.

Arthur Bell, 7 Applewood Lane, said he was opposed to the proposal. He objected to the appearance of carports and duplexes/apartments. While the property would be built on, the Council's predecessors who had established the densities knew exactly what they were doing. He and those who lived right around the corner from this site had a vested interest in seeing this turn out to be something the Town could be proud of. The only place where there were carports was at the Ranch which was isolated and not seen. This would be right next to everybody and on a much denser and smaller area.

Wendy Hoag, 159 Crescent Ave., thanked Councilmembers for their hard work on this difficult decision. She strongly supported the rezoning. She added that she and her neighbor both had carports.

Steve Dunne, 225 Canyon Dr., said he also wanted to recognize all the work done by the Planning Commission on this issue. He had followed the issue for about 2 years and considered himself well informed. He had also talked to a lot of different people--owners and residents from various neighborhoods--in order to get an understanding of where people were on this. While there was support of the rezoning tonight, that was not consistent with the conversations he had had. Most people felt that the rezoning was inconsistent with the rural feeling in the Town. He also questioned the timing and why the Town was hurrying through this; that area had been that way for a long time, and he thought the Town could wait a year or 6-7 months and talk about this some more. He also struggled with the comments about it being low cost housing when it was projected that barely any of the units would be less than \$1 million. The change in the density was the first up zoning ever seen in Town, which was a real concern. He also did not understand why some of the alternative Town Center uses he had suggested couldn't be put on at least two of the properties there. He had looked at the rating system used for the Town Center location: the current site received 78 points and the Nathhorst Triangle received 66 points. Nathhorst had not received more points because people struggled with how the acreage would be acquired. But, several citizens within the Town had come up with some suggestions for how the owners could be approached to acquire at least two of the parcels. He reiterated that the support being expressed tonight was not consistent with the conversations he had, and he felt it should be put to a vote.

Bob Brown, 680 Westridge, said the Town was formed on the idea of preserving the rural atmosphere. Every person who ran for Town Council in the last 40 years ran on a platform of preserving the rural atmosphere. The fundamental concepts behind preserving the rural atmosphere were the zoning ordinances and, essentially, the 1-acre minimum. Think of where the Town would be if the Town had caved in and allowed the kind of density being proposed. Many battles had been fought to preserve the 1-acre minimum. He couldn't believe that the Town was about to throw it all away. The proposal would introduce high density housing with many units per acre. That was not Portola Valley; it was Palo Alto. Palo Alto tried this in an effort to solve a housing imbalance. They kept approving ever-increasing numbers of apartments on ever-smaller and smaller lots; more units per acre were always necessary in order to get the price down. It didn't work. All of the proposed units that were not BMR would rise to a price of \$1 million or more, and there would not be any more diversity than there was now. The BMR units would end up being a big giveaway to 1-2 families, with everyone else getting nothing but the traffic. It was inappropriate at this time to change the present office zoning while the question of where the Town offices should be built was being decided. He urged the Council to abandon the whole proposal. He felt the vast number of people in Portola Valley supported the 1-acre minimum that had always existed in Town. At a minimum, he suggested it be tabled for 1 year.

Linda Bell, 7 Applewood, said the issue was controversial and felt the whole Town should vote on something like this.

Val Rasson questioned how State law about having less expensive housing could be obeyed if the proposal did not move forward. She asked if there was other property that a number of houses could be put on.

Mary Urbach, 142 Crescent Ave., said there were quite a few homes on her street that were on .25 acres--including hers. She asked when the 1-acre minimum had been determined. She was very much in support of the proposal and added her thanks. She did not think a virus would spread throughout the Town because one parcel had this zoning. She described the Blue Oaks process and how long that approval had taken.

Jon Silver, 355 Portola Rd., thanked the Council for the work on this issue. He said there was some misconception about what could be built under the zoning being considered; to describe it as high density was a mistake. It was actually lower than the intensity of development that the current commercial and

office zoning would allow. A number of speakers had suggested that this be delayed for a year or more in order to look at the possibility of moving the Town Center there. That could still be looked at--especially if people came forward and supported using tax money or donations to buy the land. It was a mistake to put off the rezoning because of a possibility of moving the Town Center there later. In contrast to what it said on the Website that had Mr. Dunne's name and other names on it, this land was not under a building moratorium. If the zoning was not changed, this property could be developed with commercial and office buildings that the Town didn't need. It was important to have zoning that wouldn't allow that. Also, to speak of Portola Valley as having a 1-acre minimum was not correct. There were many areas in Town that had larger and smaller minimums, which he described. These were all wonderful areas and the Town had incorporated to preserve a variety of neighborhoods. In this area of Town, what was originally planned was relatively intense commercial and office development. To allow somewhat less intense residential development would be a plus for the Town; it was not fairly characterized as high density housing. With respect to putting this to a vote, he said people had been given misinformation via the Terrell Slawson flyer, the opposition Website, and the mailing sent out in December on higher density. If put to a vote, he thought the people would support it; they ratified it by electing Councilmember G. Comstock over a candidate who had differing views in the last election. However, he felt the Town was better served by the fine-tuning that could be done to a complex zoning proposal through a legislative process and elected representatives than by merely confronting people with "all or nothing," "yes or no" votes. It was far better to keep this kind of decision in the local legislative arena where it could be fine-tuned in the future if necessary.

Ellen Vernazzo, 120 Nathhorst, said with the carpports, the proposed zoning would go up to 23-24%. She questioned how that was less density than the current 13% and 15%. She felt carpports should be included in FAR. She also thought the property should be considered for the Town Hall and offices that could not fit on the Town Center site.

Jerry Elkind, 14 Hawk View, said this proposal had received extensive review. It was far more rural than what was in the current zoning, and he thought it was a step in the right direction of preserving the rural character in Portola Valley. Housing of lower cost was needed. Additionally, this had bounced back and forth countless times, and he wanted the Council to take a position one way or the other. If the citizens wanted to review that action through a referendum, so be it. If moving the Town Center had some merit in the next year or so, then this could be changed.

Chip McIntosh, Planning Commission, said the opponents of the rezoning had generally stated that they were in favor of the existing Pollock office buildings that were there now; the appearance, traffic, etc., were apparently acceptable. If the existing zoning for the commercial and retail was used, there would be approximately 4.5 paved parking requirements per 1,000 sf, or 102 paved parking spaces required on the whole site of 3.5 acres. With the proposed maximum zoning, which would only be allowed if the property was developed as one piece, and 19-20 housing units permitted, there would be a maximum of 20 carpports or 40 cars. It was 20 carpports versus 102 parking spaces, or sixty cars less under the proposed project. It was also important for people to understand how this would look. Assuming that a good job would be done on the design, it would not have a dense feeling. It would be considerably less than what the existing density allowed and would have less traffic.

Marilyn Fidge, 4320 Alpine Rd., said after all the meetings, she felt the Councilmembers' minds were already made up. The Council and Planning Commission just paid residents lip service. The Nathhorst Triangle was like a sacrificial lamb. She did not think it was appropriate for one Councilmember to discuss how he looked at this project personally; he wanted to be able to stay in Portola Valley and wanted his son and daughter-in-law to have a chance to live in this housing development as well. That was a conflict of interest, and this Councilmember should abstain from voting. A lot of talk had come up lately about the relocation of

the Town Hall to the Nathhorst Triangle. This was not being recommended only by the residents who lived by the triangle; there was a group of residents in the Westridge area who encouraged the relocation. She thought the triangle could become a nice gathering place rather than a crammed residential area. Additionally, two Portola Valley families had placed memorial plaques at the triangle area; they obviously thought highly enough of the area to do such a thing. She wanted the Council to seriously consider the Town Hall relocation recommendation. Cramming this corner with the proposed residential and commercial density would only make that corner look like the Robert's Market intersection in Woodside. Councilmember Merk noted that the Council made the decision about where the memorials would go--not the families. Ms. Fidge discussed placement of her husband's memorial and the Crowder memorial.

Steve Harrison, 134 Russell Ave., noted that he lived on a 6,000 sf lot. He supported the Council's direction and the care that had been given to listening to members of the Town. Trying to resolve the strong feelings that existed over this issue was a difficult position. It was a situation that required people on the other side of the dais to listen in order to understand that if they were in the Councilmembers' shoes, a decision would have to be made. It was clear that many people believed they had been heard. For those who did not think they had been heard, he suggested they imagine themselves behind the dais and think how they might resolve this. He hoped that as the Town moved forward on these types of issues, people not become polarized and find ways to solve these problems. He hoped that the process tonight found some closure.

Chet Wrucke, 30 Cima Way, said where to locate the administrative offices was very important to the future of the Town. Whatever decision was made on the Nathhorst Triangle Area, he hoped the Town would consider that area as an option for the Town buildings.

Mayor Driscoll suspended the hearing.

Councilmember G. Comstock said this had been a long, arduous process and a lot of people would like to get it done. He felt, however, a small change in the proposed ordinance would be a step in the right direction. One of the concerns was that there could be as many as 20 houses built on that site under the maximum conditions permitted by the proposed ordinance. If the number of homes per acre was reduced from 5.8 to 5.1 homes per acre, that would permit a maximum of 18 homes rather than 20. That would be in the direction that many residents would prefer to see. At the same time, it would still leave ample room for diversity of sizes within that number of homes. Responding to Councilmember G. Comstock, Ms. Sloan said that kind of change would require that the ordinance come back for another first reading.

Councilmember G. Comstock said a second change that he thought would be responsive to many of the comments but not adversely affect the overall goals of the ordinance was to include the area of the carport associated with each unit. That would have a particularly pernicious effect on the smaller BMR units. A BMR could be as small as 800 sf. If a 10' x 20' 1-car carport was attached to that, it would take away one quarter of the floor area. He proposed modifying the text of the ordinance to limit the "no penalty" floor area for carports to just the BMR units. The total impact of that would be fairly modest but would be of great benefit to the BMR units. Additionally, he was willing to consider increasing the carport penalty on the market rate units to 50% of the carport area. As drafted, there was no penalty for market rate units. He suggested that the Council discuss whether it would be more appropriate to act on the ordinance tonight as written and then take up his suggested modifications subsequently, or incorporate his suggestions and take the matter up at the next meeting.

Councilmember Merk said what was included in the packet represented the consensus reached at the last meeting. He said Councilmember G. Comstock's suggestions were interesting, but he questioned what the impact would be on the potential for the three property owners to work together if all of a sudden there were



two units less. With respect to carports, he said he had never been comfortable with this issue. Not counting carports for the BMRs was great for the BMRs and would have minimal impact overall to the whole project; the BMRs were likely to be smaller and might only have one carport per unit. If 50% of the floor area of the carports was counted, that would take 200 sf off of each of the market rate units which would probably be the larger units. In one sense, 200 sf didn't seem like much; in another, it represented a bedroom, which was a lot. He needed more time to consider the suggested changes.

Councilmember Davis said the documents reflected the consensus the Council reached at the last meeting. He was comfortable with the consensus reached and the documents as presented. He thought the suggested changes might have a number of unintended consequences. Having tortuously gone through all the prior iterations, his reaction to more modifications was negative.

Referring to comments about the alternative Town Center sites, Mayor Driscoll said action on the ordinance did not affect that at all; the Nathhorst Triangle Area was not currently zoned appropriately for a Town Center, and the new zoning could always be changed later on. With respect to Councilmember G. Comstock's suggested modifications, he felt that at the last meeting, the least consensus had been on the carport issue. He had some discomfort that counting garages and not counting carports would result in carports which tended to add visual clutter and busyness to the environment. He agreed that counting carports could effectively take a bedroom away or make a project less economically feasible for the landowners. He agreed there should be some penalty so that there was not a proliferation of carports; he also liked the idea of exempting the BMR units from any penalty. On the other hand, he understood the concerns about further consideration of modifications and going through another set of meetings. Responding to Councilmember Davis, he said he felt there was history behind the 5.8 homes per acre number. He would rather not create a new number and was content with 5.8.

Responding to Councilmember Merk, Councilmember G. Comstock said the total floor area that could be built would not be affected by reducing it from 20 units to 18 units, or a change from 5.8 to 5.1. What would be affected was the distribution of sizes. From the work he had done, it appeared that the distribution of sizes with 5.1 would be quite adequate in terms of providing a respectable range of housing sizes. With 5.1 homes per acre, the distribution would consist of several 2,000 sf homes, several 1,800 sf homes, several 1,478 sf homes, and 4 BMRs at 1,100 each. That was a respectable size distribution. The total floor area would be exactly the same as the total floor area that could be built with 20 houses and the 5.8 ratio. There was no economic penalty, and there would be two fewer houses, which spoke to the desires of a substantial number of people who spoke at the meetings. Additionally, the 5.8 number was approved as part of just one PUD in the past; he did not think the Town needed to be slaves to such a decision.

Councilmember Merk said even if the floor area stayed the same, the number of units changed. That would have a significant economic impact. Councilmember G. Comstock said it would make it more valuable for the builder to have fewer houses which would be more attractive to the prospective buyer. Councilmember Davis disagreed. Councilmember G. Comstock said using 5.1, the spread would be from 1,500-2,000 sf; using 5.8, it might go down to 1,300 or 1,400 sf. This was about a ten percent shift and represented a modest change in the size of the individual units.

Councilmember Davis said the intent was to produce a few smaller homes. The more one attempted to move towards larger homes, the less likely the goal of lower cost housing would be achieved. The more you cut away at the motivation to build a smaller home, the more you cut away at the basic premise of providing a relatively broad range of housing in this area.

Councilmember Merk said he was comfortable with the 5.8 number. With respect to carports, he said

counting carports would make all of the units 200 sf smaller right down the line--except for the BMRs. Mayor Driscoll suggested that if a designer knew he would get a penalty, he would probably incorporate it in the structure if possible. Additionally, he felt a homeowner would prefer a home of a certain size with an enclosed garage over a home of similar size with a carport. He thought the change would encourage garages and discourage carports. Councilmember Merk said he supported that.

While he liked the intention of not having carports, Councilmember Davis said he was not sure about what the impact of including them would be. He understood why they had been excluded before and would need to understand the consequences of the change.

Responding to Councilmember Merk, Town Planner Mader said counting half of each carport space as floor area could begin to drive the design somewhat. To the extent possible, it was good to give the designer more freedom. Not counting the carports was a very fundamental thing that affected the size of the house. Counting them meant the size of the house came down. This reduced the overall floor area from where it started. He was uncertain how it would drive the design; it would need to be looked at. Councilmember G. Comstock said what was in the ordinance now drove the design because there was a penalty for garages and not for carports. His suggestion drove the design less than the proposed ordinance.

Councilmember Davis said if you wanted people to go to garages, you would normally alter the FAR. FAR was what created this conundrum with respect to carports.

Planning Commissioner McIntosh said reducing the number of units basically reduced the density. Secondly, the concept of increasing the size of the units was contrary to a fundamental goal of the Planning Commission to have units that averaged 1,500 sf. By reducing the number from 5.8 to 5.1, that would change. The Planning Commission felt that a few more smaller units would serve the goal. Additionally, he felt what was being suggested were fundamental changes that would need to come back to the Planning Commission. With respect to carports, Town Planner Mader added that the Commission felt they could be designed well. If you didn't believe that, it was a fundamental difference. Commissioner McIntosh added that there had been some discussion with builders about this which was why the Planning Commission reached that conclusion.

Responding to Councilmember Merk, Ms. Sloan said a change such as this did not have to go back to the Planning Commission. The Council had already looked at the Planning Commission's recommendations, made major changes, and asked the Planning Commission and ASCC for their advice. That advice was now back to the Council. The carport issue had not been decided until the recommendations to the Council had been made. The language developed had been based on the Council's consensus. If that was changed, it did not need to go back to the Planning Commission. Responding to Mayor Driscoll, she said the public hearing could be closed tonight with Council making a decision and directing staff to modify the language. Responding to Councilmember G. Comstock, she said the present wording and modified wording could both be presented to the Council at the next meeting. Responding to Mayor Driscoll, she confirmed that if there were any changes, the ordinance would need to be brought back for a new first reading.

Responding to Mayor Driscoll, Councilmember Davis said he was willing to send it back for modification in hopes that in the ensuing period, more could be learned about the consequences. Councilmember Merk agreed.

After discussion, Mayor Driscoll directed staff to alter the wording with respect to carports to indicate that 50% of the carport area would be treated as floor area except for the BMRs. Responding to Town Planner Mader, he confirmed that the Council would like some input on the potential impact the carport change

would have on the number of units, etc.

Virginia Bacon asked to have information on the number of carports that had been converted into garages in the last five years and how many new homes had been constructed in the last five years that had carports instead of garages. Town Planner Mader said he would need to work with staff in reviewing building permits. Bernie Bayuk asked if cars parked on a driveway or street would be counted. He thought it was important to see how that would look. Responding to Ms. Vernazza, Mayor Driscoll said with a joint project, there would be a PUD and an association that would address up-keep of carports, etc. Responding to a resident, he said only three parcels were being re-zoned; zoning individual parcels was spot zoning which was not done.

Responding to Greg Franklin, Ms. Sloan said it was important in the environmental document to state that these were zoning regulations that could or could not be applicable wherever the Council decided to put them. It was not, however, an invitation. Town Planner Mader added that it was predicated on amending the General Plan first to indicate where uses went. Theoretically, one could then try to get a rezoning, but the Town had control in the General Plan action whether to allow these changes. A district that was in the text in an ordinance could be applied to different properties--not just one property.

The item was continued to the 5/14/03 meeting.

(10) New Legislation On Second Units

Ms. Sloan reviewed the staff report of 4/17/03 on new State legislation on second units. As indicated in the report, she said the intent was to further facilitate the creation of second units as a source of housing by streamlining the application process for second units. She reviewed her recommendation that the Council direct staff to work with the ASCC and Planning Commission to set out non-discretionary standards of review and revise the ordinance in any other ways necessary. Town Planner Mader said an outline for an amendment to the existing ordinance had been prepared and staff was working on establishing criteria for an over the counter review.

Responding to Councilmember Davis, Ms. Sloan confirmed that it could be possible to have stringent rules for over the counter approval but also include an exception that would allow someone to go to the ASCC for approval for those things that did not meet the strict criteria. Town Planner Mader said the Town would first need to decide on the parameters of where these would be permitted in Town; those would have to be justified.

Councilmember Davis discussed the short timeframe between the effective date of the legislation and the deadline for cities to revise their ordinances. He questioned why it was just now being brought to the Council. Ms. Sloan said she and Town Planner Mader had originally thought this would be fairly simple, but new questions constantly arose; what other cities were doing was also of interest. The Nathhorst Triangle had also created some backlog. She described what other cities were doing in terms of rewriting their laws. She recommended adopting something fairly quickly in order to have something in place, see how it worked, and refine it during the next six months as necessary.

Town Planner Mader noted that the State required that if cities did not adopt their own ordinance, the State's provisions had to be followed in terms of what would be approved; that did not give the freedom that the Town would have in its ordinance. Responding to Councilmember Davis, he confirmed that local setbacks, etc., would still have to be met. Ms. Sloan added that the text of the whole bill was available.

(11) Town Planner Authorizations

Ms. Sloan referred to Town Planner Mader's authorization requests for work on: 1) second units; and 2) temporary buildings and uses. She reiterated that both she and Town Planner Mader initially thought that the work on second units would take a minimum amount of hours. Town Planner Mader agreed that trying to work something out that would be acceptable was somewhat complex.

By motion of Councilmember Merk, seconded by Councilmember Davis, authorizations were approved for Town Planner work on second units (\$5,000) and temporary buildings and uses (\$2,500) by a vote of 4-0.

COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

(12) Reports from Commission and Committee Liaisons

(a) Parks and Rec Committee

Councilmember Davis noted that a special meeting would be held April 28, 2003, because there had not been a quorum at the April 21, 2003, meeting. He said the Committee was discussing a fundraising sign for Rossotti Field which would require Council's approval.

Mayor Driscoll noted that two residents had asked why it cost so much to renovate the field. He asked Ms. Powell to prepare a memo on the renovation project, cost, why it was necessary, etc. After discussion, he asked Councilmember Merk to provide input on what should be included in the document. Councilmember G. Comstock suggested including the information on the Website. Council agreed.

(b) School District

Councilmember Merk said he had been asked to be on a committee of seventeen people who would assist in the interview/selection process for a new superintendent. Interviews would be conducted in June, and the committee's reactions would be submitted to the School Board. He asked for suggestions on questions that interviewees might be asked such as how this person would work with the Town and how they would understand what kind of town it was. Councilmembers discussed relations with the School Board over the years.

(c) Cable Committee Meeting

Councilmember Merk discussed the AT&T presentation given at the last Cable Committee meeting on system capability/coverage in Town. He said he did not anticipate improved service for the Town in the near future.

(d) County Council of Emergency Services

Councilmember Merk said a field exercise was planned for October simulating a chemical attack. With respect to the sinking fund established for on-going radio and microwave replacement, he said the leftover funds from redoing the system would be put in the sinking fund for the first 1-2 years. The County Council would come back to the cities later about putting in additional money. Additionally, he said there had been a lot of discussion about the water plan and being able to supply water to residents for 60 days. The County would be assigning water coordinators to each city to work with vendors, etc.

(e) Conservation Committee

As indicated during Oral Communications, Councilmember Merk said 6 of 24 tagged *dirca* plants in Blue Oaks had been destroyed. The Committee would be providing a memo to the Council and requesting action. Mayor Driscoll suggested that the Fish and Wildlife Service might also be concerned. Councilmember Merk said the Fire District would be involved as well. He noted that other than through the PUD, the Town did not have any leverage over the Blue Oaks homeowners who had hired the consultant who hired the workers. Councilmember Davis suggested the homeowners should be approached first. Councilmember Merk described the extent of the damage. Ms. Howard said she would follow up with Mr. Vlasic to get more information and stop what was happening. Councilmember Merk noted that the Conservation Committee, by an agreement, was supposed to be told in advance when work was to be done so that a member could go along. This had not been done.

Councilmember Merk said the Committee would be holding a special meeting on May 20, 2003, to discuss the conservation guidelines document. A subcommittee had also been set up to study the frog pond by Corte Madera School.

(f) Emergency Preparedness Committee

After discussion, Councilmember Davis said he would take over as Council liaison to the Emergency Preparedness Committee. Councilmember Merk said he would assume responsibility for liaison to the Airport Roundtable.

(13) Town Center Citizens Advisory Committee

Mayor Driscoll said at the conclusion of the Town Center Project Workshop held on April 8, 2003, 20 people had signed up to participate in a Citizens Advisory Committee. He felt it might provide a forum that would allow people to speak to the Council at a higher level and diffuse some of the anxieties surrounding this issue. If the Council supported the idea, the role and charge of the committee needed to be discussed. Additionally, he volunteered to be the liaison.

Councilmember Merk said the most important thing that this committee could do was to study the existing buildings in terms of: 1) their relation to the fault zones; 2) the construction; 3) the cost of bringing them up to code; 4) compliance with ADA; 5) the appropriateness for use by the staff; and 6) the safety of occupants using the library, MUR, gallery, studios, and classrooms.

Mayor Driscoll said he was concerned about going over ground that the Town Facilitation Committee covered in 1996-97. While there was a subset who thought the buildings should remain, a lot of the people who expressed interest in a committee were more concerned with locating the Town Center somewhere else. Ms. Howard agreed and said many of the people thought the committee would be charged with finding an alternate site.

Councilmember Davis noted that the site selection group had not felt confined to an integrated site. Councilmembers discussed the Nathhorst triangle as a potential site for some of the Town Center uses, constraints of that site and buildable areas, proximity to schools, condition of adjacent buildings, etc. Mayor Driscoll felt a lot of this type of conversation could be had with the committee in order to demonstrate everything that had been considered and the reasons why the current site had been chosen. He said he did not believe the Town Administration should move away from the Schoolhouse location which had become an integral part of the Town government. Councilmember Merk said he would prefer to have the Town Center on the current site. He did not think open space would be lost; it would be traded.

With respect to the advisory committee, Councilmember Davis said every year, the Council got close to taking some action on the Town Center project; then, something happened, and it stayed in a study mode. Secondly, more and more ideas were being put out. Some were earnestly presented as a solution, but some were more of a delay tactic or a "do nothing" solution. Thirdly, he was concerned that some people were not interested in the facts. If the intention for the group was to be instructional, he liked Councilmember Merk's suggestion to start by looking at the reasons why something needed to be done. That would separate those who were really seeking an answer from those who felt nothing needed to be done. His basic concern with this committee was that it would cause additional delay, which could be as much as a year. He was also concerned about alienating potential donators. Having said that, he thought the group should be large and that there should be a timeline/milestone chart built in. Mayor Driscoll agreed a short duration was important and that general areas to be addressed should be defined.

Councilmember G. Comstock suggested that the committee might be asked to start a fundraising process whereby potential donators might be asked how much they would donate to the present proposal and how much they would donate to the acquisition of Nathhorst Triangle. Ms. Sloan said asking the group to consider sites was appropriate; it would not be appropriate to see if they could raise money to buy the Nathhorst Triangle.

Councilmembers discussed the potential constitution of the group, appropriate number of members, and backgrounds that would be helpful. Mayor Driscoll reiterated the need to define the areas that the committee should address. As long as there was a time limit, he was willing to go over the same ground that the Council had gone over for the last six years. Councilmember Merk felt that time should be squeezed down as much as possible and suggested that the group meet once every two weeks.

Ms. Powell said the staff had done a tremendous amount of work for the last public workshop. While a lot of information had been provided, those who were not open to receive it, didn't. She questioned how this new group could be further educated. Responding to Mayor Driscoll, she said she did not think the site selection process would ever be accepted. Some of the people would continue to object unless the vote came out to move some of the Town Center uses to the Nathhorst Triangle.

Mayor Driscoll said from a lot of people's points of view, this was one of the biggest decisions the Town had ever made; in their view, most of the discussion had taken place in closed meetings. He knew that something had to be done, but it had been difficult to explain to people the need to move on this quickly. Councilmember Davis said he had been convinced the staff was subject to unacceptable risks. He had to deal with his conscience and wanted to get the staff out of that situation. The more that was delayed, the more it conveyed an arbitrariness to the decision. That was why he objected to having a committee; it implied there was more time.

Ms. Sloan discussed legal concerns. If a new Town Hall wasn't built, she said the current one needed to be fixed. Even if geology was not a problem, these buildings needed to be retrofitted to meet ADA requirements. Councilmember Davis said while that might be an important message, the focus was: 1) upgrading and adding facilities to make the space adequate; and 2) the security and safety of the staff.

Responding to Councilmember G. Comstock, Ms. Howard discussed the waivers that parents had to sign for their children if they were going to be in the buildings. Councilmember G. Comstock suggested emphasizing safety concerns to parents.

After discussion, Mayor Driscoll suggested the committee be asked to address three issues: 1) why something had to be done; 2) what the other options were; and 3) how it would be paid for. He suggested a

deadline for a report from the committee of August 1, 2003. The report should be advisory with the understanding that the Council could choose to accept it or not. The responsibility rested on the Council to make these decisions. Councilmember Merk agreed, noting that this was true for all the committees. Additionally, he felt it should be understood that if the deadline wasn't met, the Council would move forward. Mayor Driscoll suggested that the Council also commit that it would not act or spend additional money on any site-specific planning effort before August 1, 2003.

Mayor Driscoll suggested the first meeting be an organizational meeting where: 1) the charter and why the Council needed to move quickly would be discussed; 2) the membership would be trimmed down; and 3) a chairman would be chosen. After discussion, it was agreed to hold the first meeting on May 12, 2003, at 7:30 p.m., in Room 8. Ms. Howard said she would contact those who had expressed an interest and place an ad in *The Almanac*. She also suggested that an additional Councilmember be involved so that a schedule could be kept. Councilmember Merk volunteered.

(14) Appointment to Cultural Arts Committee

Referring to Shirley Roberts's e-mail of 3/31/03, Mayor Driscoll appointed Ms. Roberts to the Cultural Arts Committee. By motion and second, Council unanimously concurred.

WRITTEN COMMUNICATIONS

(15) Town Council 3/28/03 Weekly Digest

(a) Yellow Star Thistle

Ms. Howard referred to the memo from the Conservation Committee of 3/26/03 on eradication of Yellow Star Thistle. She said her concern was the amount of time involved in implementing the recommendations. Councilmember Merk said the Committee was trying to be pro-active and give staff enough warning so that the timing would be just right. He agreed it was a huge amount of work; the second phase was not quite as time consuming.

(16) Town Council 4/4/03 Weekly Digest: None

(17) Town Council 4/11/03 Weekly Digest

(a) Ombudsman Program of San Mateo

Responding to Councilmember Merk, Ms. Howard said the letter (4/2/03) requesting a donation to the Ombudsman Program of San Mateo would be included in the budget packet for discussion. Councilmember Merk felt this was an important program.

(b) Field Trip to Jasper Ridge

Ms. Howard said the staff field trip to Jasper Ridge went well. Another trip would be set for the Planning Commission, and Councilmembers might be interested as well. Councilmember Merk described the differences between this building and the Hewlett Foundation building.

(18) Town Council 4/18/03 Weekly Digest

(a) Building Codes

Referring to Susan Pfeffer's e-mail of 4/10/03 on the plumbing code, Ms. Howard said the Building Code the Council adopted did not allow concrete sinks. The Building Inspector had asked the manufacturer of the sink to provide more information about the sink. The sink had apparently been submitted to the NSF, who had denied certification. Right now, Mr. Hipsher did not think the sink should be approved; she concurred. Additionally, Mr. Hipsher had determined that Building Officials in nearby jurisdictions also did not approve the installation of this sink. Councilmember G. Comstock said Ms. Pfeffer had been informed by Mr. Hipsher that he might be able to act in her favor if the manufacturer supplied him with the appropriate material and provided some references for jurisdictions where it had been accepted. She was also trying to obtain that information.

(b) Rotary Club Event Banner

Ms. Howard referred to the request from the Rotary Club to hang banners at Town Center and Ford Field advertising an event. In accordance with the policy, she felt the request should be denied. Responding to Councilmember Davis, she confirmed that the banner had been allowed in the past, but that was before the policy had been adopted. After a discussion of the policy, Council agreed to deny the request.

(c) Corte Madera School Playing Field

Referring to Councilmember K. Comstock's memo on the Corte Madera School playing field, Ms. Howard asked for direction. Responding to Ms. Sloan, Councilmember Merk said it had been suggested that the attorneys work together on a 20-year lease for the piece of land in order to provide additional space for the replacement of the ball field. Responding to Ms. Sloan, he said there had not been a detailed discussion of whether the land should be leased or given to the school. Ms. Sloan noted that it was more complicated to do a ground lease than to sell it. Councilmember Merk said he would not object to selling the land but could not speak for Councilmember K. Comstock. Councilmembers discussed other possible uses for the land, what had been done with the land in the past, and the location of the proposed fence.

Councilmember Davis preferred to lease the space. By leasing, it was assured there would be a public use right over time. Secondly, leasing would provide an opportunity for continuing dialogue with the School. Councilmember Merk suggested shortening the lease to 10 years with a ten year option. Responding to Councilmember G. Comstock, Ms. Sloan said the document would clarify that the School indemnified the Town and took full responsibility, that their insurance covered the property, etc. Responding to Ms. Sloan, Councilmember Merk felt the Town should take the lead in making this happen as time was a factor. Ms. Sloan said she work with the School District's attorney.

(d) Earthquake Risk Reduction Award

Referring to the award announcement from EERI on the Earthquake Risk Reduction Award, Mayor Driscoll described the award ceremony, noting that this was the first time the award had been given.

ADJOURNMENT

The meeting adjourned at 12:03 a.m.



Mayor

Town Clerk