

TOWN COUNCIL MEETING NO. 617, JANUARY 22, 2003

ROLL CALL:

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

Present: Councilmembers G. Comstock, K. Comstock, Davis and Merk, and Mayor Driscoll  
Absent: None  
Others: Town Planner Mader, Town Attorney Sloan, Town Administrator Howard, Admin. Services Dir. Powell, and Deputy Clerk Hanlon.

ORAL COMMUNICATIONS: None.

(1) Web Site Presentation

Michele Stern gave a presentation on the status of the Town's new Web site. Using overheads of the attachments to her memo of 1/16/03, she reviewed: 1) the purpose and intention behind the Web site redesign; 2) the home page; 3) Web site content; 4) calendar policy; 5) the history of the Web site development; 6) contributions by Web site team members, staff, and Councilmembers; 7) on-going issues; 8) possible improvements; 9) schedule for updating and maintenance; 10) costs; 11) the cultural arts page; and 12) disclaimer. Councilmembers and staff thanked Ms. Stern and the team.

(2) PUBLIC HEARING: Amendments to the General Plan and Zoning Ordinance Primarily Relating to the Nathorst Triangle Area (NTA) and Proposed Mitigated Negative Declaration

Mayor Driscoll said the hearing had been continued from the January 8, 2003, meeting. Having listened to public comment for 6-7 hours, he suggested Councilmembers provide their input prior to re-opening the hearing for public comment.

Councilmember G. Comstock distributed copies of his notes (dated 1/22/03) on the zoning change. He said he was pleased with the progress the Town seemed to be making--both through Town government and citizen efforts--in finding a good solution to this problem. Referring to his notes, he reviewed his suggestions including: 1) setting a maximum number of houses per acre at 5.8, which would encourage integrated development of this property; and 2) reducing the proposed FARs as this area was more exposed than the Brookside area, which was zoned at 24% FAR. Most importantly, he wanted this to end up as a very nice, architecturally designed area of Town that people would want to go visit. That meant the structures, landscaping, relationship of the parts to each other, and relationship to what already existed around the site needed to be given very careful consideration. The best development that would approach those goals would be one which was a fully integrated package, designed for the full 3.5 acres regardless of lot lines. He hoped the owners would find a way of not allowing lot lines to interfere with the beauty and architectural excellence that could be accomplished. To encourage that, he suggested a four-step maximum FAR progression (i.e., 13%, 14.5%, 16% and 21%) as set forth in his notes. Additionally, in the current proposal, each of the three lots would have its own commercial area; he did not feel that that represented the best design.

Councilmember K. Comstock said the proposal's approach, process, and concept were good. Based on the public comment received, he felt there was, fundamentally, support for the proposal; the differences appeared to be over the intensity of development. He was interested in providing some enhancements or

benefits for a mixture of size of the units; he did not think the zoning needed to speak to how they should be allocated between property owners, whether it was clustered, etc. He said the proposal from the Planning Commission was not based on finding a home for BMRs. This was something that was coming from the State government and was mandated. Projects like these would have to provide their fair share. He was encouraged and heartened by what appeared to be a sense of cooperative development on the part of the property owners; it would allow them to be more creative in their design solutions. He also felt they would find a way to deal with the individual property lines, which could be handled by the zoning and through the development process. He reiterated that he thought the greatest incentive should be when there was a totally complete, mutual development process; for anything less than that, he did not feel there should be graduated incentives. He thought the Town should make it rewarding for the property owners to work together--but not too complicated. He felt a payoff density around .21 was appropriate. The ASCC could handle the architectural part of that when that time came. He appreciated the public comment, acknowledging that this was not a monolithic community and some people would be disappointed in whatever decision was made.

Councilmember Merk referred to his statement dated 1/7/03 which he read at the last meeting. He reiterated that he supported lower density and a tiered system. He repeated his concern about height. Additionally, in the proposal, carports were not counted in the floor area ratio. At the Ranch, people wanted to convert carports into garages, and it was likely to happen here. He felt garages needed to be considered in the FAR. He wanted to explore further a two- or four-tiered system to see what could result in a better project.

Councilmember Davis said he had enjoyed the civilized dialogue during these hearings which made him feel good about the community. Whatever decision was made, there would clearly be a group that would be unhappy. However, he noted a shift toward a more centrist position from where many people started. He agreed with the basic concept and felt that the concern about higher density spreading throughout the Town was totally unfounded. With respect to FAR, he felt an excellent project could not occur unless the owners worked together. He supported a two-tiered system (i.e., the current average of .15 FAR for individual projects, no gain for two getting together, and .20 FAR for all three getting together). With respect to height, he said he thought the current standards should be applied to the homes with a 5% reward if the structures were less; the FAR could be increased if the design was low-lying and the ASCC agreed. He agreed with the 5.8/acre standard. He noted that that could yield 20+ homes with space left over that could encourage commercial uses. If the owners decided they wanted to build only homes and no commercial, he felt the homes could be slightly larger. He supported a slightly more flexible average system. He wanted to give enough flexibility to assure excellent design.

Mayor Driscoll said one of the questions being asked was whether it made sense to change the zoning to a special residential zoning that allowed some small amount of office or keep the existing zoning, which was a combination of commercial and office/professional. He felt a change made sense and resulted in more flexible zoning on the properties. The next question was how much. He noted that changing the use of this property to a mix of residential and office increased the market value of these properties. With respect to the tiering, he said he could not agree to a four-tier system. He also had difficulty envisioning a practical, combined project with only two of the parcels. He preferred it be kept simpler. He felt care should be taken in establishing appropriate caps. He thought the minimum size of homes should be 1,200 sf; 800 sf was too small. On the other hand, he had difficulty seeing two-story structures on that property. While it meant more of the ground would be covered if it was limited to one story, that was also what would have happened under the existing zoning with offices and a lot of parking lots. He also had problems with a .20 FAR and thought it should be a maximum of .18. He did not feel that the existing zoning was stupid or that it should be changed significantly. One of the owners indicated that every time the FAR was lowered by .04, the financial impact

to the owners is roughly \$1 million. While he believed that the zoning should make sense for the Town from a developable point of view, he did not think the density on the property should be increased in order to maximize the financial return for the owners. The case had not been made that the densities should be changed significantly from what they were now, and he thought it should remain at .15 and .18.

Responding to Mayor Driscoll, Councilmember Davis suggested the Council provide the Planning Commission with the preferred concepts/objectives and ask them to provide the numbers. He further suggested that the concepts and numbers be sent to the ASCC for their view as well. Councilmember Merk agreed; having the Council craft its own version of the proposal and send it back to the Commission for comments would shorten the process and make a big difference in the already burgeoning Planning Commission budget. Councilmember K. Comstock agreed; the Planning Commission should be given pretty complete boundaries of what the Council wanted. The ASCC should also be able to look at it to ensure it would provide the necessary flexibility for a good design. He suggested a qualitative response from the ASCC and quantitative response from the Planning Commission. Councilmember G. Comstock agreed the Council should come up with a modified proposal for the Planning Commission's review.

Mayor Driscoll opened the public hearing and asked that comments be limited to three minutes.

Ellen Vernazza, 120 Nathhorst, said if the proposal had started out with the numbers the Council was now suggesting, many hours and a lot of aggravation could have been saved. She supported 15% and 18% and thought it could result in a nice-looking project.

Phyllis Quilter, 40 Sioux Way, complimented the Council on the exchange of ideas. She felt the direction things were going in was perfect.

George Zdasiuk, 48 Hillbrook Dr., supported FARs of .15 and .18, keeping the structures single story, and going back to the Planning Commission with a strict proposal on what the structures should look like.

Marilyn Fidge, 4320 Alpine, supported .15 and .18.

Lynne Davis, Trails Committee, said part of the proposed amendments dealt with paths and trails. The Trails Committee requested that that be referred back to the Committee because there were new paths/trails that were not part of the accepted General Plan.

Virginia Bacon, 205 Golden Oak Dr., said she did not care whether the development was single or two story, or whether the units were attached or detached. The design was the most important thing. If everything was single story, more of the area would be covered; it was more important to have a central focus in this development.

Jim Pollock, 3 Blue Oaks Court and representing Mr. Jelich, requested that the owners be allowed to do some "muddling" on the single-story versus two-story issue.

Ed Wells, 15 Naranja, said second units were very much related to this because of the drive to create BMRs. The obligation for the Town to create very low, low and moderate BMRs was limited to about 31 units. He thought there should be a dialogue with existing second unit owners. There were about 1,200 properties in Town capable of adding second units. There were currently around 100 accounted for and a number that could be upgraded. He felt the money in the affordable housing fund could be used to encourage second units by offering free design services or concessions if people would bring their units in or build them. The square footage might also be increased to 800 sf. There was an opportunity to remove the

BMR units from the Nathhorst triangle. The property owners were being given the gift of housing on what used to be commercial or business zoning. A program needed to be in place to let property owners know that the Town was trying to find a way to compensate them for second units. Additionally, a bureaucracy would have to be created just to enforce the requirements for below market rental reporting. Second units could be extrapolated by their rental rates without tremendous long-term, bureaucratic reporting. When the proposal was sent back to the Planning Commission, he wanted them to take a look at what could be done by removing the BMRs from the Nathhorst triangle and encouraging more second units in Town.

Bernard Bayuk, 198 Paloma Rd., said .12 or .15 meant 4, 5 or 6 houses on an acre. That was standard in Los Altos, Palo Alto, and parts of Menlo Park; that had never been standard in Portola Valley. It meant 1/4-acre lots and less. When there was a new Council that was faced with a new demand from the State, the precedent will have been set. There were many examples in California of communities that started out like Portola Valley that in ten years looked like Palo Alto. He requested that the Town Council ask for some thinking "out of the box." There were other ways to populate that corner without creating a community like Palo Alto or Los Altos.

Derry Kabcenell, 557 Cresta Vista Lane, felt the Council was headed in the right direction. With respect to FARs, he thought a two-tiered system was best. He agreed that a scheme with just two property owners would not give the desired result. He supported .15 and .18 or .19. That would give the property owners a bonus of \$750,000 to \$1 million for cooperating; that was an adequate incentive. On house size limits, he thought some limits should be set to make some community members more comfortable. He also agreed it was appropriate to send some specifics and details to the Planning Commission and ASCC with one exception: the question of single versus two story. They had the kind of expertise that was needed to determine what would make a maximally beautiful project.

Beth Shaw, 900 Wayside Road, was pleased to hear the Council converging on refining the proposal for the Commission. She agreed with lower density and supported integrating BMRs in the proposal. With respect to the number of stories, she wanted off-site views to be considered to ensure it had an aesthetically pleasing view.

Jon Silver, 355 Portola Rd., complimented the Council on reaching a "Portola Valley consensus." It was another example of what the Town was and how it was run. He agreed that the Council should try to work through the details and craft a finished ordinance for the Planning Commission's comment. He wanted a cap on the number of units so there was no possibility of 35 units being developed. On the question of tiers, he thought simpler was better and did not think all that much could be achieved if just two property owners joined. He supported the owners getting together and dissolving the property lines, and using the property as if it was one single ownership. If they could do that, they should receive the highest bonus, which should be structured to motivate that. The Town wanted the best plan possible at a relatively low density. If that meant making the base density .13, that was not so bad. On two versus one story, he did not think all one story was advisable; it was important to look at the land and trust in the ASCC. He felt there might be some areas in the back of the Slawson and McKinney parcels that could accommodate taller structures. He preferred a more general restriction such as limiting the number of feet above sea level. A lot could be done with good landscaping as well. On the size of the units, the proposal called for an average of 1,500 sf which he thought was probably adequate. But, he also wanted to see some variety; some people had a need for a smaller unit. If that was not required, they would never be built. He read a letter dated January 22, 2003, from Ruth Coale who had been forced to move away from Town in order to find a smaller house. She supported rezoning to allow smaller homes.

Monica Eldred [*inaudible*], 10 Applewood Ln., said two-story structures would be very visible. She agreed

with housing or mixed use as long as the density was kept as it currently was.

Doug Aikins, representing the McKinnays, said he endorsed 70-80% of what the Council wanted. He said: 1) the feeling of congestion could be regulated through good design, landscape buffers, siting, and height of buildings--irrespective of abstract FARs; 2) lot lines could not be ignored as the owners all had different objectives, purposes and schedules; 3) site design could nicely accommodate a blended, unified feeling while keeping intact existing parcel boundaries; 4) the Town's and owners' objectives were measured in increments of residential units; 5) the FAR discussions should be dispensed with; 6) these abstractions posed a high potential for unintended consequences and injustice; 6) everyone agreed that a coordinated site plan was crucial and BMRs were valuable; 7) the owners were willing to cooperate to produce those social goals; 8) a two-step incentive was the right way to do it; 9) the crucial element from a planning perspective was to make a bonus for assembly; 10) a BMR could be from 1,000 to 1,500 sf; 11) a market rate unit could be 2,000 to 2,200 sf; 12) an assembly bonus should be provided such that if the use permit encompassed all three parcels, the ratio of market rate to BMR units was 4:1 per existing parcel; 13) that kind of assembly bonus would eliminate worries and haggling over FARs and allow people to deal with realities on the ground; 14) the owners showed garages on their plan; 15) the housing units had to be habitable and comply with inflexible market realities; 16) if the flexibility for two-story units was included, the Planning Commission and ASCC could settle the issue of the right mix and height; 17) this site allowed for height toward the back, which was hidden by the office in the front; 18) two-story units were an attractive design feature to keep in the mix; 19) the owners never proposed bypassing the Planning Commission or ASCC; 20) they needed to settle the final issues of height, mix and design; 21) the historic purpose of a .13 FAR had long been outrun by events; 22) this was now irretrievably a relatively higher density site; 23) abstract discussions of splitting the difference between .22, .24 and .18 needed to be bypassed; 24) there was no payoff for two-lot assemblies; 25) a two-step assembly bonus was appropriate; 26) given the Town's social objectives, it was not an issue of regulating the property owners' economic return, but economic return was crucial to see if any of these ideas actually realized on the ground; 27) if the Town came up with a solution that it considered to be the right balance based on abstract FAR arm-wrestling, that ran the risk of not satisfying the market's inflexible arithmetic and never being built; 28) a crucial element in all of the Planning Commission's debate to date and a lot of the Council's discussion had been that there was no minimum and assurance of a number of units that could justify the owners all cooperating with their different agendas and financial capabilities in putting together a coordinated site plan; 29) that minimum was critical and what the Planning Commission was recommending (i.e., from zero to something) was not a bonus, was illusory, and would not have the Town's intended effect of stimulating cooperation or even development at all.

Steve Dunne, 225 Canyon Dr., distributed copies of his "Community Input: Nathhorst Triangle Concepts" and used overheads to discuss his alternate proposal for rezoning and development of the Nathhorst triangle. He discussed interactions he had with property owners, Town bodies, neighbors and community members in the process of putting together his suggestions. He reviewed key features of his proposal including: 1) a land swap with the Blue Oaks BMR properties; 2) placement of 8 BMR units in the Nathhorst meadow area; 3) relocating Town facilities to this area; 4) reducing retail space; and 5) adjusting the lot lines. He asked to meet with Councilmembers to discuss his proposal in more detail, as he had also requested of the Planning Commissioners. He hoped to get some creative energy going before everything was set in stone. Mayor Driscoll acknowledged Mr. Dunne's efforts.

Steve Toben, Planning Commission, said the Planning Commission had from the beginning introduced a mixed use zoning favoring residential--which took a long time getting accustomed to. He was pleased with the general direction. One issue that he urged the Council to pay careful attention to was the interplay of the standard for number of units on these parcels with the average size of the units. The record would reflect that the Commission wrestled with this for a number of months. The Commission felt it very important to

attempt to scale these homes, which were about 1,500 sf on average and priced about \$825,000. There was a significant difference between a set of units that might be priced at more than \$1 million versus units that might come in at a somewhat more modest level. He asked that the Council do some further analysis on the way in which the standards might be harmonized. That was an area that would be important during the Commission's re-examination of the proposal.

Linda Elkind, Planning Commission, said her goals during the debate were: 1) to increase the number of BMR units in Town; and 2) to provide some market rate homes that would cost below \$1 million. The Commission had struggled with the question of how that could be achieved, and that was where the idea of an average of 1,500 sf came from. A third major goal was to have an integrated project. She was pleased with the Council's decision to bring the ASCC in to help decide how that could best be achieved.

Ted Lamb, 190 Bear Gulch Dr., said Portola Valley was formed and incorporated to be 1 acre per house. Theoretically, there should be 1 acre per home at the Nathhorst triangle: three acres should have three homes. Instead, the owners had suddenly pushed upon residents an immensity of a development. It came out of nowhere because they found they could not use the commercial and office space type of use in the future. This was not a Town for diversity, and the BMRs could be obtained in other ways. This would also not be empty nester housing.

Greg Franklin, 12 Applewood, said a lot of progress had been made from the initial concerns about where this process was going; he hoped everyone could learn from the process used which had been very divisive. He congratulated Mr. Dunne on his innovative, thoughtful, creative, problem-solving concepts that should have come out of the planning process used by the Town. He was also struck by the number of people who had spoken for or against the Planning Commission's proposal. The number of people who spoke at the Planning Commission level was about 41, with 3/4ths of those against--and in particular against the density. At the Council hearings, there was a significant majority against the Planning Commission's recommendation. While he was gratified to hear that more reasonable density outcomes were being proposed, there was a non-totally-participating democracy in this country as evidenced by the last election. If that process was mirrored on the process used in Town, it was conclusive that there was a vast majority of people against the rezoning recommendation. That was also supported by the response received from the opinion cards. While it could be argued that there was significant opposition to offices in the petition circulated 3 years ago, that was about balanced with the recent opposition, which was more current. He asked that the Council adopt the .15 density zoning even though it represented 18 homes on these properties; that would be the highest density anywhere in Town. Further, he said it was clear that the BMR situation at Blue Oaks was not resolved. He urged that the Council resolve that issue before proceeding headlong into another BMR situation.

Phil Vincent, 165 Portola Road, said Town Planner Mader had spoken about the geology of the hills and earthquake risks. In the 1960s, I-280 had come through and a number of areas started to resist development. The Town had been founded in part on that movement. The hills that had been preserved were terribly important to him as was the low-density environment. He thought it was strange that the BMRs imposed at Blue Oaks had not been resolved. He agreed some kind of exchange should be considered. Further, the State government was imposing on counties, towns and citizens certain ideas about changing exclusionary zoning and having more housing in the State. If this issue was being spread throughout the State, the Town should pursue that method and spread it around Town. Having read the draft Housing Element and attended the Planning Commission meetings, he did not think alternatives had been seriously considered. All the focus had been on Nathhorst; there was a variety of other places and means that had not been seriously considered. In listening to those who supported this kind of zoning change, he had not heard anyone volunteering to have more density near their homes. When he resisted the Pollock office

building, he argued that the Nathhorst area was being imposed upon by one kind of development or another. For the sake of the overall development of the Town, he wanted that kept in mind and other areas considered when more dense housing development was discussed.

Valerie Resson, Westridge Dr., was surprised that people were concerned about conditions being imposed by the State and that they were not more concerned about providing a certain amount of moderate housing for people who worked for the city or the teachers. She felt there should be more of this housing and supported the lower density being suggested.

Jon Silver responded to Mr. Franklin's comments. He said when he and Betsy Crowder organized a petition against excessive office development, no one ever challenged a single fact presented with the petition. That petition was not in favor of mixed use; it was against excessive office development. More recently, Terrell Slawson's petition stated that the rezoning could allow as many as 19-47 units; the real numbers were 12-18. Additionally, she never indicated that she wanted to keep her zoning so that she could put in an office complex. She would never have obtained 450 signatures if she disclosed that she was a property owner. Five or six of the 10 people he contacted who had signed the petition sent letters to the Town asking that they not be considered a supporter of that petition because the real facts had not been known. When people came to a meeting based on that kind of information, there would be a lot of people against the misunderstood proposal. When people thought the Town was doing a good job, they tended to stay home. During the last election, George Comstock had talked openly about a mixed use for this area, and he defeated a candidate who hadn't by a 2:1 margin. That said something about where people stood. More recently, there were 100+ people who responded in support of low density on the opinion card survey. Everyone in Town supported low density but also the concept of this rezoning with a slightly lower than 24% FAR. He distributed a letter dated 1/22/03 from Beth Shaw. She had received a letter from PVCLD incorrectly thanking her for her support of their petition; her letter also reiterated her support for rezoning.

Bernard Bayuk, 198 Paloma Rd., complimented Mr. Dunne on his alternate proposal. He had come up with an innovation that could be an elegant solution and satisfy all parties concerned. It took more than trading .18 with .15 or .12. It took an approach that was innovative. He urged the Council to direct the Commission to do more than compare FARs and look at innovative solutions.

Virginia Bacon asked the Council to consider the commercial side of the proposal which had not been done in terms of the number of buildings, size, access, etc.

Mayor Driscoll suspended the hearing.

Councilmember K. Comstock said the specifics that the Council needed to address included: 1) FARs for the existing parcels if merged and not merged; 2) a mechanism for dealing with height; and 3) carports. He felt things like the averaging process for square footage had been addressed adequately. Responding to Councilmember Davis, he said he did not see a need for a maximum number of units; the average dealt with that. He supported a two-tiered system with a FAR of .20 if all three lots were combined. Responding to Councilmember Davis, he confirmed that he felt the existing FAR on each of the properties should remain if the properties were developed individually but with a different use.

Councilmember Merk said he did support changing the current zoning from C-C and A-P to mixed use lots. There could be mixed use projects on each of the lots, and he felt the three should be averaged together; that would provide a more consistent form of development. With .18 on one of the lots, it would appear significantly more crowded than the others and have a lot more impact on the immediate neighbors. Councilmember K. Comstock said he agreed with that argument.

Councilmember G. Comstock did not see any justification for changing the .13. Just by changing the uses, the value of the property was increased. He also did not see any virtue in averaging. He supported bringing the .18 back to .13 to match the other two. The value to the owner came in the added flexibility of utilization. He wanted a uniform .13 on all three lots if developed individually. Councilmember Merk said he preferred averaging but was not against Councilmember G. Comstock's suggestion. When the individual density was lowered, the bonus would look better for a combined development, which would result in the best project.

Councilmember Davis supported .15. He thought decreasing one of the owner's FAR from .18 to .13 was punitive. By averaging, he would get a little bit less. Councilmember G. Comstock disagreed. Starting at .13 also offered the maximum advantage of having a combined plan. Councilmember Merk said he preferred .13 but could accept .15. Councilmember Davis, Councilmember K. Comstock and Mayor Driscoll agreed.

With respect to a two-tiered system, Mayor Driscoll said the Town controlled lot lines to a certain extent. If the owners came to the Town and asked for a lot line adjustment, that was a Planning Commission action. He suggested waiving the fee for a lot line adjustment in order to get an integrated plan.

Councilmember K. Comstock supported .20 for an integrated plan. Councilmember G. Comstock thought .20 or .21 was a good number and significantly lower than .24. He felt any amount by which the .24 was diminished recognized the testimony heard from neighbors and others to keep it at a smaller scale.

Councilmember Merk noted that it had been suggested that a change in .04 represented \$1 million. He liked the idea of keeping it below .20, and supported .18 or .19. Councilmember Davis supported .20.

Mayor Driscoll supported .18 or .19. That site was much more sensitive than either the Village Square or the Sausal project. Considering the apparent density at Brookside right now, he felt that was dense enough. Councilmember G. Comstock questioned whether that provided enough incentive to the owners to go through the difficult negotiation of the lot lines. Mayor Driscoll said each would be given an increased value of roughly \$750,000. His primary interest was a good project--not giving the property owners a great prize. Councilmember K. Comstock said he could support .19. Councilmember Davis said he could support .19 if that allowed for 5.8 units per acre.

Councilmember G. Comstock questioned how a truly integrated development would be defined. Councilmember Davis suggested it would use 3.57 acres irrespective of lot lines. Councilmember G. Comstock suggested "an optimal design irrespective of lot lines." Ms. Sloan noted that it was defined in the proposed ordinance as "...the three adjoining parcels are combined in a single PUD." If it came in for a combined PUD, the developer could prefer to have more lots than three; it also might be logical to separate the commercial space from the residential. Responding to Councilmember Merk, Town Planner Mader said a PUD provided the Town with a lot of control. Each property owner could, however, still develop the concept individually. Ms. Sloan confirmed that the design could be approved as a whole with one parcel developing ahead of the others. Town Planner Mader added that the current design proposed by the property owners could be done parcel by parcel; that would not be precluded by what was proposed in the ordinance. Councilmember G. Comstock did not feel that would meet the requirements for a FAR of .19. If the parcels with their present boundaries were developed separately by the current owners, that was not a truly integrated design. Councilmember Davis said if the design did not meet the criteria, the PUD would not be approved. By definition, it would have to address this issue.

Councilmember Davis suggesting using 5.8/acre as the maximum number of dwelling units; without any commercial, that would result in a maximum of 19-20 units. Councilmember Merk said the number was 18,



which he felt was too many. However, there would be some office and retail and 18 would not be built. He preferred setting a maximum of 18.

Mayor Driscoll preferred to see the number set as a minimum of sf/unit (e.g., 1,200 sf) which would cut down the unit count. Responding to Councilmember G. Comstock, he said the Town had to come up with different BMRs for different incomes. He felt the second units scattered around Town were more likely to be 800 sf and more likely to be rentals. He wanted to find the smallest size house that someone might buy.

Councilmember Davis said with an average of 1,600 sf, there could be 19+ units without commercial. With 20% commercial/office, the number would be 12-13. Councilmember K. Comstock questioned why the number of units had to be set.

Town Planner Mader said the ordinance said "...the average should not exceed..." A smaller average would mean more units. The idea had been to limit the number of units based on a common factor. The one that was already in the Nathhorst Triangle Plan was 5.8. That would be applied equally to each parcel or the entire combined parcel. It was important to control the number of units--not just the average floor area.

If the Town ended up with 2-3 BMR units, Councilmember Merk said those units needed to be affordable and meet the below market rate standards. He was concerned that 1,200 sf as a minimum might not work. Mayor Driscoll suggested that the BMRs could be subject to looser restrictions on the size of the units.

Councilmember G. Comstock felt a 3-bedroom unit was more than what some Town employees would need. He did not think an arbitrary minimum size should be set for the BMR units. Ms. Sloan noted that the BMR size was fit to the size of the household. There was a need for small BMRs and 2-3 bedroom BMRs.

With respect to the market rate units, Mayor Driscoll said he saw no harm in putting limits on the number and size of those. He wanted to ensure there were no loopholes. Councilmember Davis said the maximum number of units changed the dynamics of the FAR. He supported 5.8/acre. Councilmembers concurred. Councilmember Davis reiterated that that could mean 19-20 units.

Councilmember Merk said he was comfortable with a 1,500 sf average. Mayor Driscoll preferred a larger minimum for the market rate houses. He did not want to see two 800 sf units balancing out a 2,000 sf unit. He was concerned about relying too much on averages. He suggested 1,200-2,000 sf for the market rate units with a maximum average of 1,600 sf; the BMRs would be separate.

Councilmember G. Comstock said the Planning Commission had spent a lot of time coming up with the 1,500 sf number, which he supported. The developers would build units as big as they could within these limits. Town Planner Mader added that if the units were built at 1,500 sf, there would be some extra floor area that could not be used. There would probably be some more smaller units built if a 1,500 sf average was used. Councilmember K. Comstock suggested leaving the number at 1,500, with a range in size from 800 sf to 2,000 sf and asking the Commission to fine tune it to address concerns about worse-case scenarios.

With respect to height, Town Planner Mader said the existing market and office buildings were 28' which was the maximum; from low point to high point it could go to 34 feet. The Planning Commission had been concerned about height and looked at massing of building blocks. He said the design prepared by Tobin Dougherty showed buildings and heights. While it wasn't a model, it gave some feel for the look. Additionally, Jim Pollock had asked that the property owners do a comparison of height limits in terms of coverage and site design. While a maximum could be assigned, he suggested considering the height limit in

the context of what it would mean in terms of flexibility of design. He suggested letting Jim Pollock put together some alternatives for illustrative purposes. Responding, Mr. Pollock said it was very important to the owners and the Town to look at this issue and offered to provide the services of Tobin Dougherty.

Doug Aikins said trying to define restrictions and limits to prevent loopholes and ensure what was wanted through text regulations was frustrating. The Planning Commission had tried the same thing, and it took them a number of years. From the owners' perspective, he wanted to revive his proposal for enacting a specific graphic plan that indicated the number of units, etc.

Mayor Driscoll said the Council was interested in a study of single versus double stories--not another potential development plan. He added that he was not in favor of two stories because of the apparent density. He was, however, prepared to consider an exception to that with an integrated design. After discussion, he suggested asking the ASCC for guidance on this issue. Councilmember Merk said he did not support limiting it to one story only. A superior design might result from two stories or placing units on top of parking, etc.; daylight planes were also very important. He felt the maximum should be less than 28 feet. On this site, he did not feel there should be the extra allowance for the 4-5' between the highest and lowest place on the entire site.

After discussion, Council agreed to: 1) ask the ASCC for a recommendation on the height issue in the context of a superior design; 2) have the height study prepared by Tobin Dougherty presented to the Planning Commission and ASCC.

With respect to parking, Town Planner Mader said if enclosed, the recommendation was to include it in the floor area; if carports were used, they would not be counted. Councilmember G. Comstock felt there was a possibility that superior design would lead to some community parking; that option should be left open. Responding to Mayor Driscoll, several audience members confirmed that a house with a garage had a higher property value. If that was the case, Mayor Driscoll wanted to encourage carports because the BMR prices could be lower. Councilmember K. Comstock said a case would need to be made for changing the rules used elsewhere in Town. Councilmember Merk reiterated that density was a concern; if carports weren't counted in FAR, they would morph into garages. He felt they should be included in the FAR. Councilmember G. Comstock said a 10' x 20' garage would represent 1/4 of an 800 sf house. After discussion, Council suggested that the Planning Commission look at the carport issue.

With respect to the amount of commercial/office, Councilmember Merk said he supported what was proposed. Responding to Ms. Bacon, Town Planner Mader confirmed that there was no minimum. Councilmembers agreed with what was proposed. Mayor Driscoll added that it made sense to give some flexibility to market forces; three years ago, there was a huge demand for office space.

Town Planner Mader summarized the Council's position: 1) FAR of .15 for development of single parcels; 2) .19 if three parcels were combined; 3) a maximum number of units of 5.8/acre; 4) the current wording of 800 sf to 2,000 sf with an average below 1,500 sf should be looked at by the Commission due to questions about (a) a maximum average of 1,600 sf, (b) minimum of 1,200 sf and maximum of 2,000 sf for market rate units, and (c) the size of BMR units; 5) guidance was needed on concerns about height and calculations for carports.

After discussion, Councilmember K. Comstock moved to continue the hearing to the March 12, 2003, meeting, noting that the Planning Commission and ASCC were encouraged to work together. Town Planner Mader suggested having the Planning Commission wrestle with the numbers and then forward it to the ASCC for additional analysis. Responding to Mayor Driscoll, Ms. Sloan said the Brown Act required that if

people attended a meeting, they had the right to speak on the item. Mayor Driscoll suggested that the Planning Commission be encouraged to listen to the public. Town Planner Mader suggested public input be taken after the Planning Commission and ASCC completed their modifications to the proposal. Councilmember Merk seconded the motion, and it passed 5-0.

#### CONSENT AGENDA

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

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

- (3) Warrant List of January 22, 2003, in the amount of \$88,104.18.
- (4) Resolution No. 2037-2003 Accepting the Completed FY 2001/2002 and 2002/2003 Street Resurfacing Work Project #PW2002-01 and Authorizing Final Payment Concerning Such Work, and Directing Town Clerk to File a Notice of Completion, per Public Works Director's memo of 1/16/03.

#### REGULAR AGENDA

- (5) Minutes of the Town Council Meeting on January 8, 2003

Councilmember Merk submitted a change to the minutes of the January 8, 2003, meeting. By motion and second, the minutes were approved as amended by a vote of 5-0.

- (6) Cost Sharing for San Francisquito Creek Watershed Analysis

Ms. Lambert reviewed the staff report of 1/7/03 recommending that the Town enter into a cost sharing agreement for the San Francisquito Creek Watershed Analysis and Sediment Reduction Plan for \$8,782. Responding to Councilmember G. Comstock, she said the report would take about 1 year. Councilmember K. Comstock moved approval of Resolution No. 2038-2003 Approving and Authorizing Execution of an Agreement Between the Town and San Francisquito Creek Joint Powers Authority, County of San Mateo, Santa Clara Valley Water District, City of Menlo Park, City of Palo Alto, City of East Palo Alto, Town of Woodside, and County of Santa Clara. Councilmember G. Comstock seconded the motion.

Councilmember Merk said this plan "...prioritizes erosion control and sediment reduction measures to be implemented throughout the watershed." He said the mountains were rising as a result of tectonic movement. Because of rain, the amount of sediment that came off the hills was immense compared to the sediment put into the creeks from development. While he was very much in favor of protecting the creek from sedimentation from development, he was afraid that outside agencies would end up coming into the Town indicating that the Town needed to stop the hills from putting sediment into the creeks. This was a natural occurrence that had been going on for millions of years.

Mayor Driscoll pointed out that at this point, the Town would be paying its part for a study. The study might prove that this was natural tectonic creep. Ms. Lambert noted that there would be a lot of opportunity to work with the consultants on this study. They wanted history and an historical analysis of what was happening. She thought the Town would be asked to help in preparation of the report.

Councilmember Merk described his observations of Corte Madera Creek. Responding to Mayor Driscoll, he said he thought the conclusion had already been made which was why he would vote no. Councilmember Davis said he shared the concern about the political mischief that could result, but he wanted to see the information and data.

Responding to Councilmember G. Comstock, a resident indicated that a study could easily show a process that had been going on for a long time. There was a tendency on the part of legislative bodies to try to change nature. On the other hand, the issue needed to be studied, and he thought the data would be useful.

Mayor Driscoll called for a vote, and the motion carried 4-1 (Merk).

#### COUNCIL, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS

##### (7) Reports from Commission and Committee Liaisons

###### (a) Town Center Committee

Mayor Driscoll said Carter Warr had put together two spec plans for the Town Center and wanted some input. Distributing copies of the plans, he said the basic difference between option #1 and #2 was that option #1 included a MUR. Councilmember Merk said he would like to have more data on the cost of a MUR and the Town's use of the MUR. Jon Silver, Councilmembers and staff discussed the plans. Council agreed to agendize the item for the February 12, 2003, meeting.

###### (b) Teen Committee

Councilmember Merk said a special meeting would be scheduled at the end of the month to discuss the Committee's future.

###### (c) Trails Committee

Councilmember K. Comstock said the Committee had interviewed a number of candidates and would be coming to the Council with a recommendation shortly. Mayor Driscoll noted that the Committee Chair requested that the existing Committee reappointments not be made until the membership was finalized.

###### (d) Planning Commission

Councilmember G. Comstock said the Commission had asked for clarification on how the Town Planner's charges were assigned when the work was done at the request of the Council. Ms. Howard said the Planning Commission budget was presented by project as opposed to who directed the work. If the Town Planner wanted a separate budget for the Council's work, he should make that request during the next budget process. Councilmember Merk said he did not feel there needed to be a distinction; the Council did not often request work from the Town Planner.

Councilmember G. Comstock said Commissioner Elkind wanted to ensure that creek observation and measurement would not be impeded or cut off by holding back on the budget for the riparian corridor regulations. Ms. Howard said she would speak with Commissioner Elkind.

##### (8) Re-appointment of 2003 Committee Members

Councilmember K. Comstock moved reappointment of all Committee members shown on the January 2003 list with the exception of the Trails Committee as requested by the Chair. Councilmember Davis seconded, and the motion carried 5-0.

(9) Committee Council Liaisons for 2003

Referring to the Liaison Appointment List dated 1/13/03, Mayor Driscoll asked for comment. With respect to the Airport Roundtable, he said the Council would need to decide if it wanted to pursue the issue of whether a non-elected representative could officially represent the Town and sit on the dais. Ms. Howard confirmed that the Town would need to officially request that the Roundtable change its charter to allow this. After discussion, Mayor Driscoll suggested staff draft a formal request. Until a response was received, he suggested the interested resident attend the Roundtable meetings and inform the Council liaison when items of special interest to the Town were agendized.

Councilmembers agreed with the liaison assignments for 2003.

WRITTEN COMMUNICATIONS

(10) Town Council 1/10/03 Weekly Digest

(a) 800 Block of Portola Road

Referring to Ms. Kirtley's letter of 1/6/03 complaining about the eyesore at the 800 block of Portola Road, Councilmember Merk said he was glad to see the Town had responded by contacting the property owners.

(b) Decline in Equines

Referring to the *San Jose Mercury* article about the decline in the number of horses, Mayor Driscoll noted that the Town had improperly been lumped with Woodside whose horse numbers had declined.

(11) Town Council 1/17/03 Weekly Digest

(a) Signs at Ford and Rossotti Fields

Referring to Ms. Lambert's memo of 1/16/03, Councilmember Merk said he felt the proposed signs for Ford and Rossotti Fields were too big; there had never been signs at the fields, and he questioned the need for them now. Ms. Howard said the Parks and Rec Committee had been asking for signs for some time and that the ASCC had approved their request. Responding to Councilmember Davis, Councilmember K. Comstock felt the request had been motivated by the upgrading of Rossotti Field; the signs would also provide a place for posting the rules for use of the field. After discussion, Council asked that the item be agendized.

(b) Nathhorst Triangle Area Plan

As indicated earlier during the public hearing, Ms. Howard said the Trails and Paths Committee had requested (memo dated 1/16/03) that the proposed amendments for rezoning Nathhorst triangle be sent to the Committee for review. The concern was that the amendments contained sections concerning paths and trails on the three parcels and surrounding area. Councilmember Davis added that Town Planner Mader felt

that the Committee should have been part of the process. Council agreed the modified proposal should also be sent to the Trails Committee to check for inconsistencies.

(c) West Bay Sanitary District Regulations

Ms. Howard noted that Ms. Lambert had requested the District notify Town residents connected to the sewer system of the changes to the regulations.

ADJOURNMENT

The meeting was adjourned at 11:35 p.m.

\_\_\_\_\_  
Mayor

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