



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON CHANNEL
DRAINAGE DISTRICT

May 18, 2005

6:00 p.m.

Meeting Room
Town Administrative Offices

91 Ashfield Road
Atherton, California

Special Meeting

- 6:00 P.M. ROLL CALL Janz, Marsala, Carlson, Conwell, McKeithen**
- 6:02 P.M. PUBLIC COMMENTS**
- 6:05 P.M. CLOSED SESSION**
- 6:05 P.M. A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Initiation of litigation pursuant to Government Code Section 54956.9(c):
- 2 potential cases**
- B. CONFERENCE WITH LABOR NEGOTIATOR – Labor negotiations pursuant to Government Code Section 54957.6**
- Agency Negotiator: James H. Robinson, City Manager**
Employee Organization: Atherton Police Officers Association (APOA)

RECONVENE TO OPEN SESSION

Report of action taken.

ADJOURN

*Agendas and staff reports may be accessed on the Town website at: www.ci.atherton.ca.us
☛ Please contact the City Clerk's Office at 650.752.0500 with any questions*

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the City Clerk at (650) 752-0500. Notification of 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. (29 CRF 35.104 ADA Title II)



AGENDA
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
May 18, 2005
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

- 7:00 P.M. 1. **PLEDGE OF ALLEGIANCE**
- 7:03 P.M. 2. **ROLL CALL** Janz, Marsala, Carlson, Conwell, McKeithen
- 7:05 P.M. 3. **PRESENTATIONS**
- a. Recognition of Outgoing Committee Members
- b. Presentation of ISA Gold Leaf Award to Atherton Tree Committee
- c. Proclamation Declaring “West Nile Virus and Mosquito and Vector Control Awareness Week,” to be presented to Doris Kellett, Atherton Representative to the San Mateo County Mosquito Abatement District
- 7:15 P.M. 4. **COUNCIL REPORTS**
- 7:25 P.M. 5. **PUBLIC COMMENTS** (only for items which are not on the agenda – limit of three minutes per person)
- 7:35 P.M. 6. **STAFF REPORTS**
- 7:45 P.M. 7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**
(Directed by Resolution Nos. 99-6 and 02-31)

Vote for Atherton Committee

7:55 P.M. CONSENT CALENDAR (Items 8 - 11)

(Consent Calendar items are routine in nature and are generally considered in one motion and adopted by a single vote of the City Council. If discussion regarding a Consent Calendar item is desired, the member(s) of the City Council, public, and/or staff wishing to pull the item should so indicate at the time the Mayor calls for consideration of the Consent Calendar.)

- 8. APPROVAL OF MINUTES OF REGULAR MEETING OF APRIL 20, 2005**

- 9. APPROVAL OF BILLS AND CLAIMS FOR APRIL 2005 IN THE AMOUNT OF \$884,266**

- 10. ACCEPTANCE OF MONTHLY FINANCIAL REPORT FOR APRIL 2005**

- 11. MEMORANDUM OF UNDERSTANDING (MOU) PROVIDING FOR THE CONTINUING OPERATION OF THE SAN FRANCISCO INTERNATIONAL AIRPORT COMMUNITY ROUNDTABLE**

Recommendation: Approve Memorandum of Understanding.

8:00 P.M. PUBLIC HEARINGS (Items 12-13)

- 12. 64 MOULTON DRIVE (APN061-350-020) - TENTATIVE PARCEL MAP (Continued from the City Council Meeting of April 20, 2005)**

Recommendation: Approve the Tentative Parcel Map for the subdivision of one parcel into two parcels at 64 Moulton Drive based on the findings and for the reasons stated in the staff report.

- 8:15 P.M. 13. INTERIM ORDINANCE REGARDING HISTORICAL ARTIFACTS**

Recommendation: Conduct a Public Hearing to consider adopting the proposed interim ordinance extending the urgency measures adopted by the City Council on April 20, 2005, requiring a Conditional Use Permit to alter historical artifacts in the Town. Interim regulations would require a Conditional Use Permit to remove, alter or demolish any historical item described in Exhibit A to the ordinance. If adoption of the ordinance is desired, read ordinance by title only, waive further reading, and adopt ordinance. (Requires 4/5 vote.)

REGULAR AGENDA (Item 14)

9:15 P.M. 14. REQUEST TO REFER THE REVIEW OF THE NOISE ORDINANCE TO THE GENERAL PLAN COMMITTEE

Recommendation: Refer the review of the Noise Ordinance to the General Plan Committee.

9:35 P.M. 15. PUBLIC COMMENTS

9:40 P.M. 16. ADJOURNMENT

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DRAFT MINUTES
Town of Atherton
CITY COUNCIL/ATHERTON
CHANNEL DRAINAGE DISTRICT
April 20, 2005
7:00 p.m.
TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Mayor Conwell called the meeting to order at 7:05 p.m.

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL**

PRESENT: James R. Janz
Charles Marsala
Alan B. Carlson
William R. Conwell
Kathy McKeithen

City Manager Jim Robinson and City Attorney Marc Hynes were also present.

3. **PRESENTATION**

Proclamation Declaring April 25 through May 1, 2005, as “West Nile Virus and Mosquito and Vector Control Awareness Week”

Mayor Conwell presented the Proclamation declaring April 25 through May 1, 2005, as “West Nile Virus and Mosquito and Vector Control Awareness Week.” He acknowledged Doris Kellett for her work as the Town’s representative to the Mosquito Abatement District.

4. **COUNCIL REPORTS**

- Council Member McKeithen reported her attendance at the preliminary budget meeting for the Office of Emergency Services. A final budget meeting was scheduled for Thursday, April 21, at 5 p.m. The budget contained three elements: 1) Emergency Services for the County; 2) Removal of Hazardous Materials; and 3) Planning Services. Atherton’s fee for the next year increased

8% and totaled \$18,045. The Audit Committee met and the 2004/2005 Interim Audit Report was discussed. Minor remarks from the auditors were rectified immediately. The Transportation Committee met and the appointment of resident advisors included Lou Paponis, John Ruggiero, and Bob Huber. Consideration of voting rights for resident advisors would take place at a future Council meeting. A discussion regarding a traffic light on El Camino Real and Selby Lane was deferred pending a review of material from San Mateo County regarding accidents at that intersection. The possible installation of a stop sign and traffic light at Alameda de las Pulgas and Stockbridge Avenue was denied. Speed bumps on Encinal Avenue in front of Encinal School were reviewed and denied. The Committee discussed possible revisions to the Atherton Traffic Enforcement Plan. A report by Officer Kockler would be incorporated into the Traffic Enforcement Plan. Metering issues were discussed at the San Mateo Ramp Metering Tech Committee. Metering had less to do with moving traffic onto the freeway and more to do with slowing it down. A request for an overhead street name sign at Oak Grove and Middlefield Road was denied. Regarding the Red-Legged Frog ponds in the Upper Atherton Channel, one permit was obtained and permits from the Army Corps of Engineers and U.S. Fish and Wildlife Service were approved and forthcoming. California Fish and Game was completing its field study. Council Member McKeithen reviewed steps residents could take to prevent the spread of West Nile Virus. Materials were available in the lobby of Town Center.

- Council Member Janz reported that a Special City Council meeting was held April 5 to approve a Resolution to oppose the closing of Atherton's train station. A public hearing of the Joint Powers Board (JPB) was held on April 7 to take testimony. Caltrain was proposing to eliminate 350 total stops per week between San Francisco and Gilroy and to not service stations at Paul Avenue in San Francisco, Atherton, Broadway in Burlingame, and College Park in Santa Clara. The final meeting would be held on Friday, April 22, at 1:30 p.m. in San Carlos, and Council Member Janz urged everyone to attend. Additionally, he urged people to contact County representatives to lobby to keep the station open. Service would be discontinued on July 1 if the proposal were adopted. Mayor Conwell said the item was one of the most significant actions affecting the Town. He commended Council Member Janz for his dedication to the issue.
- Council Member Marsala reported that he attended a Measure W committee meeting and praised the committee's efforts. At the Waste Reduction Committee meeting, it was noted that Atherton was averaging a 65% diversion rate: 50% was the objective, and 52% was green waste and regular trash. With over 80% diversion on demolition of houses, the average came to 65%. Along with Mayor Conwell, he interviewed candidates for Town committee/commission vacancies. He was working with the Atherton Civic Interest League (ACIL) to ready for the annual State of the Town meeting and speech.
- Council Member Carlson also attended the April 12 Audit Committee and Transportation Committee meetings. On April 13, he attended the General Plan Committee meeting where the proposed Special Events Ordinance was considered and would be brought forward to the City Council for action.

- Mayor Conwell attended the San Francisco Airport Roundtable meeting and the City/County Association of Governments meeting. The Criminal Justice Commission meeting was cancelled for lack of a quorum. He met with the editorial staff of the *San Mateo Times* to discuss Measure W and had an upcoming meeting with the *San Jose Mercury* editorial staff. Congresswoman Anna Eschoo endorsed Measure W. Mayor Conwell said Measure W had to pass and encouraged everyone to speak to their friends and neighbors to support the measure.

5. **PUBLIC COMMENTS**

Phil Lively, Atherton, spoke regarding the “Vote Yes for Atherton” Committee.

Shirley Carlson, Atherton, spoke regarding the newly organized Tennis Committee.

Mayor Conwell noted the Graduation Ceremony for Menlo College would be held at 2 p.m. on May 7, 2005, and he would be executing a flyover.

6. **STAFF REPORTS**

- City Manager Jim Robinson reported that the Caltrain survey mailed to 2,463 residents was completed with a return rate of 31%. To the critical question, “Do you feel that Caltrain service to Atherton is a valuable asset worth preserving?” 83% of those responding said “yes.” On April 23, Congresswoman Anna Eshoo would be in Redwood City to talk about a number of subjects including the war in Iraq and Social Security. A possible Finance Committee meeting would be held next week. He was unable to attend the Transportation Authority meeting as he would be attending his son’s wedding.

7. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT**

Joan Sanders, Interim Vice-Chair of the Arts Committee, noted there were only five members on the committee although ten were authorized. The interests, talents, and time commitment of the members would determine the committee’s agenda for the year. Due to the illness of the program coordinator, summer art classes at Holbrook-Palmer Park were cancelled. An Art Share grant was received for art classes at Selby Lane School to paint a mural. The Arts Committee was also reviewing its Mission Statement and goals in relation to the wishes stated in the Rita Corbett-Evans estate. A guitar concert was scheduled for May 1 and was co-sponsored by the Library Committee. The Arts Committee was also looking into celebrating Atherton artists with a possible all Atherton art show.

CONSENT CALENDAR (Items 8 - 14)

Council Member McKeithen asked for clarification on 1) Item No. 11 regarding the contractor’s name which appeared differently in the staff report and Notice of Completion; 2) Item No. 13 regarding the City of Menlo Park’s side of Valparaiso

Avenue; and 3) Item No. 12 regarding a \$5,000 discrepancy between the analysis and authorization figures.

MOTION - to approve the Consent Calendar as presented with clarifications.

M/S Janz/Marsala

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

8. APPROVED MINUTES OF SPECIAL AND REGULAR MEETINGS OF MARCH 16, 2005, AND SPECIAL MEETING OF APRIL 5, 2005

9. APPROVED BILLS AND CLAIMS FOR MARCH 2005 IN THE AMOUNT OF \$760,252

10. ACCEPTED MONTHLY FINANCIAL REPORT FOR MARCH 2005

11. ACCEPTED WORK AND AUTHORIZED RECORDATION OF NOTICE OF COMPLETION FOR THE BARRY LANE BOX CULVERT PROJECT 04-001

Accepted work and authorized recordation of a notice of completion for the Barry Lane Box Culvert project.

12. APPROVED A PROFESSIONAL SERVICES AGREEMENT WITH BKF ENGINEERS FOR FINAL DESIGN SERVICES FOR THE UPPER ATHERTON CHANNEL REPAIR PROJECT, IN AN AMOUNT NOT TO EXCEED \$98,415 PLUS A TEN PERCENT CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$108,257

Approved the proposal and authorized the Mayor to sign a Professional Services Agreement with BKF Engineers to provide final design services for the Upper Atherton Channel Repair Project in an amount not exceed \$98,415, plus a 10% contingency, for a total authorization of \$108,257.

13. APPROVED A PROFESSIONAL SERVICES AGREEMENT WITH TRIAD/HOLMES ASSOCIATES FOR TOPOGRAPHIC SURVEYING SERVICES FOR THE VALPARAISO AVENUE RECONSTRUCTION PROJECT, IN AN AMOUNT NOT TO EXCEED \$16,600 PLUS A TEN PERCENT CONTINGENCY, FOR A TOTAL AUTHORIZATION OF \$18,260

Approved the proposal and authorized the Mayor to sign a Professional Services Agreement with Triad/Holmes Associates to provide surveying services for the subject Valparaiso Avenue Reconstruction Project in an amount not exceed \$16,600, plus a 10% contingency, for a total authorization of \$18,260.

14. AMENDMENT TO AGREEMENT WITH DENISE KUPPERMAN FOR PARK LANDSCAPE MASTER PLAN

Approved the contract revision to the Holbrook-Palmer Park Landscape Master Plan design services contract with Denise Kupperman, Joan K. Dolan, and Rosalyn Rubesin-Eigler.

PUBLIC HEARINGS (Item 15)

15. FINAL PARCEL MAP – 64 MOULTON AVENUE (Continued from the City Council Meeting of March 16, 2005)

MOTION – to approve the staff recommendation to continue the item regarding a Final Parcel Map for 64 Moulton Avenue to the City Council Meeting of May 18, 2005.

M/S Carlson/McKeithen

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

REGULAR AGENDA (Items 16 - 20)

Mayor Conwell, with consensus of the Council, moved Item No. 19 forward to be heard before Item No. 16.

19. APPROVAL OF THE PARK LANDSCAPE MASTER PLAN FOR HOLBROOK-PALMER PARK

Denise Kupperman gave a PowerPoint presentation of the Landscape Master Plan (Master Plan) for Holbrook-Palmer Park (Park). Joan Dolan and Rosalyn Rubesin-Eigler were also present. The intent of the Master Plan was to provide a long-term guideline for the organization and enhancement of the Park. The idea was to preserve and enhance what was already there; to develop a true arboretum; and to improve and integrate the civic, rental, and recreation uses. She presented various diagrams and schematics depicting the proposed changes. The estimated cost for all phases was \$4,858,000; however, there were items that park staff could accomplish in the short term. The Atherton Dames and the Holbrook-Palmer Park Foundation were the fundraising arms for the Park, and the Master Plan would be useful to create opportunities to formalize fundraising and grant writing to help fund the various phases.

Mayor Conwell and all of Council thanked Ms. Kupperman, Ms. Dolan, and Ms. Rubesin-Eigler for their time, effort, and immense talents in producing the Master Plan at no cost to the Town.

Ms. Kupperman responded to Council Member questions. She noted by reconfiguring the parking lot next to the Pavilion, no parking spaces would be lost allowing for trees to be added to the main parking lot. The walking path could be extended by clearing out ivy and removing old equipment. An assumption was made that at some point, the

Pavilion would be enlarged by bumping out recessed areas to allow enough square footage for 200 people. The Event Garden was planned to handle 200 people as well. With regard to fundraising, Ms. Kupperman suggested that projects be looked at one at a time, selectively, with the possibility of doing them less expensively. The Dames and Foundation needed to come together to create fundraising activities enabling some of the major pieces to be accomplished over time.

Council Member McKeithen noted the possibility of receiving grant money became easier with a Master Plan in place.

Council Member Carlson was particularly touched by the Vision Statement as stated in the Master Plan. He was concerned the Master Plan might be shelved and suggested the Council direct the Park and Recreation Commission (P&R) to review the Master Plan on a quarterly basis to ascertain where the Park was in achieving the goals set out in the Master Plan. Additionally, the P&R Commission should work with staff to actively solicit grant money.

Council Member Janz said the Annual Report from the P&R Commission should also include a statement on progress toward completing the Master Plan.

Shirley Carlson, Holbrook-Palmer Park Foundation member, noted the Master Plan had been presented to the Foundation. Fundraising plans were not in place at the present time; however, as a member, Ms. Carlson would help facilitate the goal.

In response to Council Member McKeithen, City Manager Jim Robinson said the Park Strategic Plan (Plan) was reviewed annually by the P&R Commission. Part of the Plan evaluated capital needs within the Park and was the mechanism to evaluate the goals of the Master Plan. In the past few years, over \$300,000 had been donated by residents to improve the Park. Having the Master Plan not only enabled greater ease in applying for grants, but also provided a plan for any items that were donated to the Town. Over \$200,000 in grant money was already committed to the Town.

Shirley Carlson noted the P&R Commission voted unanimously to begin implementing Phase I of the Master Plan.

MOTION –to approve the Landscape Master Plan for Holbrook-Palmer Park prepared by Denise Kupperman, Joan Dolan, and Rosalyn Rubesin-Eigler. Further, to refer the Master Plan to the Park and Recreation Commission with direction to report back to the City Council not later than two City Council meetings from the City Council Meeting of April 20, 2005, on how it plans to review and implement the Master Plan.

M/S Carlson/Janz

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

16. NEXTG FRANCHISE AGREEMENT (Continued from the City Council meeting of March 16, 2005)

City Attorney Marc Hynes presented the staff report. Changes to the agreement reflected comments/suggestions from the Council at the last meeting. The representative from NEXTG was present to answer any further questions of the Council.

Council Member Carlson stated he voted against the item at the last meeting; however, after completing some research, he would vote in favor.

Nicole Mason, Government Relations Director, NEXTG, thanked Council for its consideration of the item.

MOTION – to adopt right-of-way use agreement, as amended, authorizing NEXTG Networks of California, Inc. to install and maintain micro-cellular optical repeater equipment on facilities in the Town owned by the Town and/or third parties. Further, to authorize the City Manager or designee to take all necessary action to execute the agreement on behalf of the Town.

M/S McKeithen/Janz

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

17. ANNUAL APPOINTMENT OF COMMISSION / COMMITTEE MEMBERS

Council Member Marsala presented the City Council Screening Committee's recommendations for appointments to the openings on Town commissions and committees.

MOTION – to accept the recommendation of the City Council Screening Committee to appoint members to Town commissions and committees and extend the expansion of the Audit Committee to allow for a total of six resident members.

**Audit Committee:
(Three-year terms)**

**Alfred M. Dau
Monica Ip**

**General Plan Committee:
(Two-year terms)**

**James Ransohoff
Barbara Shoor**

**Park and Recreation Commission:
(Two-year terms for Dames and
Foundation Representatives)**

**Etta Mae Bauer
(Atherton Dames Representative)
(reappointment)
Jim Massey
(Holbrook-Palmer Recreation Park
Foundation Representative)
(Reappointment)**

**Planning Commission:
(Four-year term)**

Marion E. Oster (reappointment)

Media Center Representative

Michael DiBattista

(Three-year term)

M/S Marsala/McKeithen

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

18. CONSIDERATION OF A RESOLUTION APPROVING THE FOURTH AMENDMENT TO THE FRANCHISE AGREEMENT BETWEEN THE TOWN OF ATHERTON AND BFI WASTE SYSTEMS OF NORTH AMERICA, INC. FOR SOLID WASTE, RECYCLABLE MATERIALS, AND PLANT MATERIAL COLLECTION SERVICES

Deputy Town Planner Lisa Costa Sanders presented the staff report. The initial term of the collection agreement between the Town of Atherton and BFI Waste Systems of North America (BFI) was due to expire on December 31, 2006. The agreement contained an automatic three-year extension if BFI was able to achieve certain performance criteria as outlined in the staff report. The South Bayside Waste Management Authority (SBWMA), on behalf of each jurisdiction, conducted a performance hearing and found that BFI had substantially complied with the performance criteria as outlined in the agreement. One item not achieved was the diversion requirement for commercial recyclables in the years 2002 and 2003. The Town had the right to waive the performance criteria standard and grant the three-year extension and also had the ability to extend the agreement further if desired. SBWMA recommended that each member agency extend its collection agreement with BFI for a four-year term beyond the December 31, 2006, termination date. SBWMA had entered into a 15-year disposal agreement with BFI to use Ox Mountain Landfill that gave the Town a reduced disposal rate and an \$11.6 million payment to SBWMA over three years. SBWMA approved an amended, restated operating agreement for a four-year term beyond 2006 for the operation of the transfer station and recycling. Staff recommended approval of the Fourth Amendment to the agreement.

In response to Council Member questions, Deputy Town Planner Costa Sanders said Council was being asked to either approve or disapprove the amendment. All member agencies had to agree to extend the collection agreement; and, with the exception of the County of San Mateo, all had agreed. If the County did not extend the agreement for the four-year term, discussions would take place with BFI to determine whether BFI would exclude the County.

Stacy Wagner, BFI Community Relations Manager, thanked the Council for the privilege of providing garbage, recycling, and yard waste services for the Town and looked forward to the opportunity to continue services if Council approved the proposed four-year extension.

MOTION - to adopt Resolution No. 05-36 approving the Fourth Amendment to the Franchise Agreement with BFI Waste Systems.

M/S McKeithen/Carlson

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

20. DISCUSSION AND POSSIBLE ACTION - URGENCY ORDINANCE REGARDING FLOOD ESTATE ARTIFACTS – PUBLIC HEARING

City Attorney Marc Hynes presented the staff report. At the March 16, 2005, City Council meeting, the Council referred an item regarding the preservation of Town artifacts to the General Plan Committee for study. An urgency ordinance was being presented to the Council under authority of the State Planning and Zoning Law, Government Code Section 65858, which authorized the ability to put a “hold” on the subject being studied to ensure the artifacts remained in their existing condition through Town oversight, the use permit process, and appropriate environmental review. Environmental review was an information-gathering process. If the removal of the artifacts were determined to have a significant impact on the environment, mitigation measures could be imposed. Additional information was presented that provided background to the historic significance relative to the Flood Estate artifacts

In response to Council Member questions, City Attorney Hynes stated historic preservation had developed over the last 30 years. He believed the artifacts fell within the purview of the Town to look into their protection. The urgency ordinance would treat the Flood Estate artifacts as accessory structures under the existing zoning code and would follow the procedures for requesting a use permit at the Planning Commission with appeal possible to the City Council. Under Public Resources Code Section 210084.1, local agencies had the ability to consider and to have an environmental analysis performed to determine the historic significance of items regardless of whether they qualified for the National Historic Register or the State Historic Register. The urgency ordinance protected the items until such time as the General Plan Committee completed the study to determine what needed to be done to identify the artifacts and to recommend how each would be treated. For an urgency ordinance, the only noticing requirement was to comply with the Brown Act’s public meeting notice. In order to extend the moratorium, a 10-day notice and a public hearing would be required.

Mayor Conwell opened the public hearing at 9:05 p.m.

Marion Oster, President, Atherton Heritage Association; Director, Lindenwood Homes Association; gave a brief history of the Flood Estate. She urged the Council to approve the urgency ordinance.

Judy Castaillac, Atherton Heritage Association, Lindenwood Homes Association, was writing a book about the history of Atherton. She presented photographs of the subject fountain. She spoke in support of preserving the fountain in its present location.

Bill Garrett, Partner, Hanna and Van Atta Law Firm, represented Mr. and Mrs. Manuel Enriques, prospective buyers for the property at 42 Flood Circle. He stated Exhibit A of the urgency ordinance was a compilation of public and private property. Mr. Enriques was outraged at the prospect of restricting his private property rights. Government Code Section 65858 required that the subject of the ordinance must

impact the public health, safety or welfare. He urged Council to consider the implications of restricting owners of private property the use of their property, which was unconstitutional. Additionally, he noted Ms. Oster had expressed an interest in purchasing the property and the timing of the urgency ordinance.

City Attorney Hynes said that Atherton's General Plan stated that the Town would endeavor to protect scenic resources, significant stands of natural vegetation, wildlife habitat, public safety, and significant archeological resources, both publicly and privately held. He believed the Flood Estate artifacts qualified as archeological resources.

Shirley Carlson, Atherton Heritage Association, urged the Council to preserve the pieces of art for future generations.

Monica Korman, Alain Pinel Realtors, represented Fred P. Chapman, son of the deceased owner of 42 Flood Circle, and read a letter from Mr. Chapman into the record. Mr. Chapman and his siblings requested that the City Council reject the urgency ordinance on the basis of 1) there was no immediate threat to the public health, safety, and welfare; 2) there were existing protocols to adequately protect the city's interests; and 3) democratic due-process required that advance notice be given to all stakeholders to give them time to reflect on any implications and a reasonable opportunity to express their views.

Manuel Enriques, Menlo Park, prospective buyer of 42 Flood Circle, stated he was aggressively looking for a place to donate the fountain and wished to preserve it. He was in favor of restoring and preserving important artifacts; however, he believed imposing the urgency ordinance was invasive to private property owners' rights. He was available to enter into discussions with the Town to find a proper place for the fountain. He urged Council not to approve the ordinance.

Tom Hill, Director, Lindenwood Homes Association, assured the Council there was overwhelming support from Lindenwood residents for saving the fountain. He urged Council to approve the ordinance.

Barbara Tyler, Menlo Park, Coldwell Banker Realtor, represented the prospective buyer and believed there was a conflict of interest on the part of Ms. Oster who also had an offer on the property. The buyer, in good faith, had removed contingencies based upon the information available. Approving the ordinance would interfere with the transaction because California Real Estate Law required a new disclosure to the buyer that allowed a 3-day right of rescission of the contract.

Randy Lamb, Atherton, said his property was listed on Exhibit A. He believed the discussion was really about personal property vs. real property. The artifacts were not accessory structures but were pieces of personal property that belonged to the property owners.

Council Member McKeithen clarified the purpose of the urgency ordinance was to give the Town 45 days to authenticate and ascertain whether the artifacts listed in Exhibit A were items the Town wanted to maintain. Although she believed Mr. Enrique's intentions were good, there was no permanent assurance that the fountain would be preserved or not moved out of the Town. She hoped Mr. Enrique would work through the permitting process to come to a resolution together with the Town.

Mr. Enrique stated, for the record, that he would not destroy the fountain; however, the concrete water basin underneath the fountain might be destroyed when the fountain was moved. He was willing to meet with Town officials as early as the next day to find a home for the fountain.

In response to Council Member Marsala, City Attorney Hynes said the urgency ordinance was a temporary hold to look at the Flood Estate artifacts. There was nothing in the ordinance to prevent the fountain from being moved through the use permit process. Although he could not predict the outcome of possible litigation, he did not believe the circumstances were as severe as was being represented by the evening's speakers.

Mayor Conwell called for a brief recess at 10:15 p.m. The meeting resumed at 10:25 p.m.

Mr. Garrett asked Council to consider exempting the concrete water basin from the ordinance so that Mr. Enrique would be able to move forward with his development plans for the property if he acquired it.

Mayor Conwell closed the public hearing at 10:30 p.m.

Mayor Conwell understood the points of view of the realtors, the sellers, the prospective buyers, etc. He respected private property rights and resented being told what to do with what he perceived as his private property. He also believed Council had an obligation to protect the historic artifacts for the Town. He looked to his colleagues for guidance.

Council Member Carlson clarified the only conflict of interest that could exist was among the five council members. He understood the emotions and believed that people should be able to do what they wanted on their property; however, our society was based on balances. The purpose of the urgency ordinance was to preserve the status quo to work out a process/compromise for the future. He would vote in favor of the ordinance in the spirit that, over the 45-day period, the Town would put in place an ordinance that balanced private property rights with the public good, public interest, and public welfare.

Council Member Marsala believed people had the right to do what they wanted on their property. The Chapmans also had a right to sell the house. The General Plan Committee, when crafting an ordinance, would need to allow owners of the artifacts some freedom on where the artifacts could be placed. He believed if the urgency

There was no public comment.

22. ADJOURNMENT

The meeting was adjourned at 11:55 p.m.

Respectfully submitted,

Linda Kelly, Acting City Clerk

Minutes Prepared by:

Kathi Hamilton

TOWN OF ATHERTON
CLAIMS LIST
 April 2005

Payroll Checks	5827 - 5981	\$ 69,330
Electronic Transfers		367,600
A/P Checks	19677 - 19871	447,336
TOTAL		\$884,266

I, James H. Robinson, City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 5827 – 5981 (payroll) and 19677 – 19871 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$884,266; are true and correct, and that there are sufficient funds for payment.

James H. Robinson
City Manager

The above claims, check numbers 5827 - 5981 (payroll) and 19677 - 19871 (accounts payable), and electronic transfers for employees federal payroll taxes and fees, inclusive, amount to \$884,266; are true and correct, and are authorized for payment.

William R. Conwell

Mayor, Town of Atherton

SOURCE OF FUNDS

101	General Fund	\$819,057
105	Tennis Fund	74
201	Special Parcel Tax	34,953
202	Transportation	
203	Gas Tax Fund	
210	Road Construction Impact Fees	6,989
211	Park Grants Fund	
213	Library Special Revenue Fund	2,373
401	General Capital Projects	
402	Storm Drainage	
403	Atherton Channel District	-
404	Park Playground Improvement	
406	Facilities Construction	
610	Vehicle Replacement	
611	Computer Maint. & Replacement	11,041
612	Administrative Services	9,758
715	Evans Estate	21
TOTAL		\$884,266



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JAMES H. ROBINSON, CITY MANAGER**

FROM: JOHN P. JOHNS, FINANCE DIRECTOR

DATE: FOR THE MEETING OF MAY 18, 2005

SUBJECT: MONTHLY FINANCIAL REPORT, APRIL 2005

RECOMMENDATION:

Receive the Monthly Financial Report for April 2005.

INTRODUCTION:

The attached schedules show revenues and expenditures and fund balance for all funds as of April 30, 2005.

HIGHLIGHTS

General Fund expenditures for the ten months ended April 30, 2005 have amounted to \$6,343,000 or 79% of the \$8,046,585 appropriated for FY 2004-05. For the ten months ended April 30, 2005, General Fund revenues have amounted to \$7,084,874 or 87% of the \$8,109,387 in revenues estimated for FY 2004-05.

By comparison, General Fund expenditures for the ten months ended April 30, 2004 amounted to 77% of FY 2003-04 appropriations. Additionally, for the ten months ended April 30, 2004 General Fund revenues amounted to 80% of the total revenues estimated for FY 2003-04.

FISCAL IMPACT:

None

Prepared by:

Approved by:

John P. Johns
Finance Director

James H. Robinson
City Manager

TOWN OF ATHERTON
Revenue Summary
For the Month ended April 30th, 2005

Fund	Revenue Source	2004-05 Estimate	Current Period Revenues	Year to Date Revenues	% Received
	Property Tax	\$ 3,281,033	1,070,226	\$ 3,284,550	100%
	Sales and Use Tax	120,000	3,200	126,112	105%
	Other Taxes	757,010	203,569	784,604	104%
	Licenses & Permits	1,796,699	182,300	1,491,468	83%
	Fines & Forfeitures	14,700	6,213	43,296	295%
	Revenue from Other Agencies	215,176	26,087	226,511	105%
	Charges for Services	335,900	25,493	274,947	82%
	Investment & Rental Income	274,622	5,187	164,122	60%
	Other Revenues	13,086	2,792	38,683	296%
	Total General Fund Revenues	<u>6,808,226</u>	<u>1,525,067</u>	<u>6,434,293</u>	<u>95%</u>
	Interfund (Operating) Transfers In	1,301,161	-	650,581	50%
101	General Fund Total	<u>8,109,387</u>	<u>1,525,067</u>	<u>7,084,874</u>	<u>87%</u>
	Special Revenue Funds:				
105	Tennis	7,010	350	10,394	148%
201	Special Parcel Tax	1,858,000	611,943	1,826,716	98%
202	Transportation	178,500	13,930	179,620	101%
203	Street Improvement (Gas Tax)	147,000	-	131,522	89%
209	Law Enforcement	100,000	-	100,936	101%
210	Road Construction Impact Fees	400,000	56,803	431,673	108%
211	State Park Grants Fund	220,000	-	54,400	0%
213	Library	200,000	-	14,219	7%
	Total	<u>3,110,510</u>	<u>683,026</u>	<u>2,749,480</u>	<u>88%</u>
	Capital Project Funds:				
401	Capital Improvement	-	-	-	
402	Storm Drainage	-	-	-	
403	Channel Drainage District	48,530	14,016	30,039	62%
404	Park Playground Improvement	-	-	-	0%
405	Middlefield Road Grants	-	-	-	
406	Facilities Construction	-	-	-	
	Total	<u>48,530</u>	<u>14,016</u>	<u>30,039</u>	<u>62%</u>
	Internal Service Funds:				
610	Vehicle Replacement	66,000	33,000	66,000	100%
611	Information Technology	98,661	49,321	98,642	100%
612	Administrative Services	285,815	142,908	292,982	103%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>450,476</u>	<u>225,229</u>	<u>457,624</u>	<u>102%</u>
	Trust and Agency Funds:				
715	Evans Creative Design	45,150	60	4,862	11%
740	Tree Committee	-	-	2,785	
	Total	<u>45,150</u>	<u>60</u>	<u>7,647</u>	<u>17%</u>
	Total Revenues	<u>11,764,053</u>	<u>2,447,398</u>	<u>10,329,664</u>	<u>88%</u>

TOWN OF ATHERTON
Expenditure Summary
For the Month Ended April 30th, 2005

Fund	Description	2004-05	Current Period	Year to Date	%
Department		Budget	Expenditures	Expenditures	Spent
101	General Fund				
	11 City Council	\$ 20,204	\$ 1,951	\$ 16,543	82%
	12 City Manager	509,226	55,951	431,445	85%
	16 City Attorney	176,228	10,290	115,140	65%
	18 Finance	456,797	48,717	341,104	75%
	25 Building	975,249	133,205	739,316	76%
	40 Police	4,002,909	491,899	3,376,949	84%
	50 Public Works	1,805,972	192,733	1,322,503	73%
	Contingency	100,000	-	-	0%
	Total General Fund Expenditures	<u>8,046,585</u>	<u>934,746</u>	<u>6,343,000</u>	<u>79%</u>
	Interfund (Operating) Transfers Out	-	-	-	0%
101	General Fund Total	<u>\$ 8,046,585</u>	<u>\$ 934,746</u>	<u>\$ 6,343,000</u>	<u>79%</u>
Special Revenue Funds:					
105	Tennis	-	267	267	
201	Special Parcel Tax	2,591,910	54,563	1,222,260	47%
202	Transportation	211,120	13,000	38,000	18%
203	Street Improvement (Gas Tax)	147,000	-	137,929	94%
209	Law Enforcement	100,000	-	99,352	99%
210	Road Impact Fees	400,000	28,600	247,495	62%
211	State Park Grants	80,000	-	35,926	45%
213	Library Fund	-	1,555	20,478	
	Total	<u>3,530,030</u>	<u>97,985</u>	<u>1,801,707</u>	<u>51%</u>
Capital Project Funds:					
401	Capital Improvement	367,902	-	48,925	13%
402	Storm Drainage	21,394	-	2,963	14%
403	Channel Drainage District	48,530	2,600	10,888	22%
404	Park Playground Fund	-	-	-	
405	Middlefield Road Grants	-	-	-	
406	Facilities Construction	-	-	-	
	Total	<u>437,826</u>	<u>2,600</u>	<u>62,776</u>	<u>14%</u>
Internal Service Funds:					
610	Vehicle Replacement	98,853	-	57,189	58%
611	Information Technology	104,625	11,041	29,803	28%
612	Administrative Services	285,815	16,220	236,742	83%
614	Workers Compensation Insurance	-	-	-	
	Total	<u>489,293</u>	<u>27,261</u>	<u>323,734</u>	<u>66%</u>
Trust and Agency Funds:					
715	Evans Creative Design	43,287	-	9,535	22%
740	Tree Committee	-	-	-	
	Total	<u>43,287</u>	<u>-</u>	<u>9,535</u>	<u>22%</u>
	Total Expenditures	<u>12,547,021</u>	<u>1,062,592</u>	<u>8,540,752</u>	<u>68%</u>

TOWN OF ATHERTON
Budget Summary
Fiscal Year 2004-05
As of April 30th 2005

Fund	Description	Beginning Fund Balance July 1, 2004	Revenues to Date	Transfers to Date	Expenditures To Date	Ending Fund Balance to Date
101	General Fund	6,060,452	6,434,293	650,581	6,343,000	6,802,326
	Special Revenue Funds:					
105	Tennis	11,867	10,394		267	21,994
201	Special Municipal Tax	963,223	1,826,716		1,222,260	1,567,679
202	Transportation	145,636	179,620		38,000	287,256
203	Street Improvement (Gas Tax)	45,050	131,522		137,929	38,643
209	Law Enforcement	12,174	100,936		99,352	13,758
210	Road Construction Impact Fees	632,420	431,673		247,495	816,598
211	State Park Grants	(5,663)	54,400		35,926	12,811
213	Library Special Revenue Fund	1,075,913	14,219		20,478	1,069,654
	Sub Total	<u>2,880,620</u>	<u>2,749,480</u>	<u>-</u>	<u>1,801,707</u>	<u>3,828,393</u>
	Capital Projects Funds:					
401	Capital Improvement	302,895	-		48,925	253,970
402	Storm Drainage	48,225	-		2,963	45,262
403	Channel Drainage District	404,424	30,039		10,888	423,575
404	Park Playground Improvement	1,309	-		-	1,309
405	Middlefield Road Grants	1,514	-		-	1,514
406	Facilities Construction	65,382	-		-	65,382
	Sub Total	<u>823,749</u>	<u>30,039</u>	<u>-</u>	<u>62,776</u>	<u>791,012</u>
	Internal Service Fund					
610	Vehicle Replacement	449,451	66,000		57,189	458,262
611	Information Technology	106,856	98,642		29,803	175,695
612	Administrative Services	122,618	292,982		236,742	178,858
614	Workers Compensation Insurance	10,871	-		-	10,871
	Sub Total	<u>689,796</u>	<u>457,624</u>	<u>-</u>	<u>323,734</u>	<u>823,686</u>
	Trust and Agency Funds					
715	Evans Creative Design	117,129	4,862		9,535	112,456
740	Tree Committee	1,253	2,785		-	4,038
	Sub Total	<u>118,382</u>	<u>7,647</u>	<u>-</u>	<u>9,535</u>	<u>116,494</u>
	Grand Total	<u>\$ 10,572,999</u>	<u>\$ 9,679,083</u>	<u>\$ 650,581</u>	<u>\$ 8,540,752</u>	<u>\$ 12,361,911</u>



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JAMES H. ROBINSON, CITY MANAGER

DATE: FOR THE CITY COUNCIL MEETING OF MAY 18, 2005

SUBJECT: MEMORANDUM OF UNDERSTANDING (MOU) PROVIDING FOR THE CONTINUING OPERATION OF THE SAN FRANCISCO INTERNATIONAL AIRPORT COMMUNITY ROUNDTABLE

RECOMMENDATION:

Approve the Memorandum of Understanding (MOU) providing for the continuing operation of the San Francisco International Airport Community Roundtable.

BACKGROUND:

The City and County of San Francisco and the County of San Mateo originally entered into a Joint Powers Agreement (JPA) in 1978 to quantify the impacts of the San Francisco International Airport (SFO) and identify possible mitigation actions. In 1981, the County of San Mateo, the County Airport Land Use Committee (ALUC), and the governing bodies of 11 cities and towns located in San Mateo County near the airport entered into an MOU with the City and County of San Francisco to create the San Francisco International Airport/Community Roundtable (Roundtable). The Roundtable has focused on reducing aircraft noise impacts in affected neighborhoods and communities.

The MOU was amended in 1992 in response to the Airport Commission's adoption of an Airport Master Plan for SFO. At this time, the Airport Commission agreed to provide funding to the Roundtable and to spend up to \$120 million to fund aircraft noise insulation projects in eligible cities. The MOU was next amended in 1997 to allow non-member cities to join, which increased membership to 23 agencies.

In 2004, a Roundtable subcommittee was formed to review the MOU and update the document as necessary. Thus, the attached MOU proposed for adoption is a consolidation of the previous MOU and amendments, in a comprehensive format, and reflects the continuing status of the roundtable.

Member agencies are being requested to adopt the MOU, to supersede and replace the prior MOU and all amendments.

Mayor Conwell serves as the Town representative to the Roundtable, and Vice Mayor Marsala as the alternate. The Town's membership fee in the Roundtable is \$1,500 per year, which is a flat fee paid by all cities who are members. The fee will remain the same for the upcoming Fiscal Year 2005-06.

Attachments: Letter from Marland Townsend, Roundtable Chairperson, City of Foster City
Memorandum of Understanding (MOU)
Original 1981 MOU and Amendments

CORRECTED VERSION



Town of Atherton

CITY COUNCIL STAFF REPORT

TO: THE CITY COUNCIL

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE MEETING OF MAY 18, 2005

**SUBJECT: 64 MOULTON AVENUE (APN061-350-020)
TENTATIVE PARCEL MAP**

RECOMMENDATION:

For the reasons outlined in this staff report, Staff recommends that the City Council approve the Tentative Parcel Map for the division of one parcel into two parcels based on the following findings:

1. The Tentative Parcel Map is in conformance with the Subdivision Map Act and the Atherton Subdivision Ordinance.
2. The size and shape of the proposed subdivision is in general conformance with Town requirements and the general pattern of the neighborhood and will not cause traffic, health or safety hazards
3. The proposed subdivision will have proper and sufficient access to a public street.
4. The proposed map and the design or improvement of the proposed subdivision is consistent with the Atherton General Plan.
5. The site is physically suitable for the proposed type of development.
6. The site is physically suitable for the proposed density of development.
7. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
8. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
9. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision, or that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to those previously acquired by the public.
10. Discharge of waste from the proposed subdivision will not result in violation of existing water quality requirements prescribed by the regional water quality control board.
11. The Final Map is in conformance with the Tentative Parcel Map, with the requirements of

the Town's Subdivision Ordinance and with the requirements of the Subdivision Map Act.

INTRODUCTION:

Atherton Municipal Code section 16.20 outlines the process for final parcel maps. This code section states that "all conditions of approval of the tentative map shall be fulfilled prior to approval of a final map, except those conditions which are fulfilled by the filing of an agreement to perform those conditions". The applicant has complied with the required conditions and has submitted the additional information required pursuant to this code section.

The Planning Commission originally reviewed the tentative parcel map at their April 26, 2000 meeting. At that meeting, the Commission voted 3-0 to approve the Tentative Parcel Map. The item was then heard by the City Council on appeal at the July 19, 2000 meeting. The City Council voted 4-0 to approve the Tentative Parcel Map with conditions listed in the attached Tentative Parcel Map certificate.

Tentative Parcel Maps expire after two years. As this map has expired, it required re-review by the Planning Commission. The Planning Commission heard the item at their March 23, 2005 meeting and approved the tentative parcel map. Unfortunately, there was a clerical error on the public notice that invalidated the public hearing. Staff re-noticed the item for a new public hearing on April 27, 2005. At that meeting, the Commission voted unanimously to approve the request.

ANALYSIS:

~~The subject site is 5.09 acres in area and currently contains a residence (guest house) and two detached garages. The applicant is requesting approval to subdivide this parcel into two one-acre parcels.~~

The applicant is proposing to subdivide the property to create two parcels, one of which is a flag lot. Parcel 'A' would contain 1.01 acres and Parcel 'B', the flag lot would contain a net of 1.01 acres (not including the access strip).

The proposed subdivision and the minimum R-1A zoning district requirements as follows

	<i>Lot area</i>	<i>Width</i>	<i>Depth</i>
<i>Minimum Required</i>	1 acre	175'	200'
<i>Proposed Parcel A</i>	1.01 acres	180'	223'
<i>Proposed Parcel B</i>	1.01 acres	180'	244'

The proposed subdivision complies with the minimum R-1A zoning requirements and the residential land use policies contained in the General Plan. Both parcels meet the minimum subdivision design standards established in the Zoning and Subdivision Ordinances.

The Town's subdivision requirements have not changed since the original approval of the Tentative Parcel Map. Further, the conditions contained in the original tentative parcel map certificate are still appropriate for this project. Staff recommends the City Council approve the Tentative Parcel Map.

The applicant has not met the condition requiring removal of all structures that cross a new

property line or does not meet current setback requirements. The applicant has moved the main residence located on the rear parcel to comply with current setback requirements. The Final Map cannot be accepted until the applicant has met all of the required conditions of the Tentative Parcel Map and the Town's Subdivision Ordinance.

CONCLUSION:

It is Staff's professional opinion that the Tentative Parcel Map is appropriate under the Town's Subdivision Ordinance and General Plan.

ALTERNATIVES:

The Council could deny the Tentative Parcel Map or modify the conditions of approval.

FISCAL IMPACT:

All costs covering the processing of this application are paid for by the applicants.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Sections 15315 Minor Land Division involving four or fewer parcels.

FORMAL MOTION:

I move that the City Council approve the Tentative Parcel Map for the subdivision of one parcel into two parcels at 64 Moulton Avenue based on the findings and for the reasons incorporated in the Staff Report.

Lisa Costa Sanders, Deputy Town Planner

Attachments:

1. Tentative Parcel Map Certificate
2. Tentative Parcel Map



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JAMES H. ROBINSON, CITY MANAGER**

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE MEETING OF MAY 18, 2005

**SUBJECT: 64 MOULTON DRIVE (APN061-350-020)
TENTATIVE PARCEL MAP**

RECOMMENDATION:

For the reasons outlined in this staff report, Staff recommends that the City Council approve the Tentative Parcel Map for the division of one parcel into two parcels based on the following findings:

1. The Tentative Parcel Map is in conformance with the Subdivision Map Act and the Atherton Subdivision Ordinance.
2. The size and shape of the proposed subdivision is in general conformance with Town requirements and the general pattern of the neighborhood and will not cause traffic, health or safety hazards
3. The proposed subdivision will have proper and sufficient access to a public street.
4. The proposed map and the design or improvement of the proposed subdivision is consistent with the Atherton General Plan.
5. The site is physically suitable for the proposed type of development.
6. The site is physically suitable for the proposed density of development.
7. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
8. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
9. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision, or that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to those previously acquired by the public.
10. Discharge of waste from the proposed subdivision will not result in violation of existing water quality requirements prescribed by the regional water quality control board.

11. The Final Map is in conformance with the Tentative Parcel Map, with the requirements of the Town's Subdivision Ordinance and with the requirements of the Subdivision Map Act.

INTRODUCTION:

Atherton Municipal Code section 16.20 outlines the process for final parcel maps. This code section states that "all conditions of approval of the tentative map shall be fulfilled prior to approval of a final map, except those conditions which are fulfilled by the filing of an agreement to perform those conditions". The applicant has complied with the required conditions and has submitted the additional information required pursuant to this code section.

The Planning Commission originally reviewed the tentative parcel map at their April 26, 2000 meeting. At that meeting, the Commission voted 3-0 to approve the Tentative Parcel Map. The item was then heard by the City Council on appeal at the July 19, 2000 meeting. The City Council voted 4-0 to approve the Tentative Parcel Map with conditions listed in the attached Tentative Parcel Map certificate.

Tentative Parcel Maps expire after two years. As this map has expired, it required re-review by the Planning Commission. The Planning Commission heard the item at their March 23, 2005 meeting and approved the tentative parcel map. Unfortunately, there was a clerical error on the public notice that invalidated the public hearing. Staff re-noticed the item for a new public hearing on April 27, 2005. At that meeting, the Commission voted unanimously to approve the request.

ANALYSIS:

The subject site is 5.09 acres in area and currently contains a residence (guest house) and two detached garages. The applicant is requesting approval to subdivide this parcel into two 2.5 acre parcels.

The Town's subdivision requirements have not changed since the original approval of the Tentative Parcel Map. Further, the conditions contained in the original tentative parcel map certificate are still appropriate for this project. Staff recommends the City Council approve the Tentative Parcel Map.

The applicant has not met the condition requiring removal of all structures that cross a new property line or does not meet current setback requirements. The applicant has moved the main residence located on the rear parcel to comply with current setback requirements. The Final Map cannot be accepted until the applicant has met all of the required conditions of the Tentative Parcel Map and the Town's Subdivision Ordinance.

CONCLUSION:

It is Staff's professional opinion that the Tentative Parcel Map is appropriate under the Town's Subdivision Ordinance and General Plan.

ALTERNATIVES:

The Council could deny the Tentative Parcel Map or modify the conditions of approval.

FISCAL IMPACT:

All costs covering the processing of this application are paid for by the applicants.

ENVIRONMENTAL IMPACT:

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Sections 15315 Minor Land Division involving four or fewer parcels.

FORMAL MOTION:

I move that the City Council approve the Tentative Parcel Map for the subdivision of one parcel into two parcels at 64 Moulton Drive based on the findings and for the reasons incorporated in the Staff Report.

Prepared By:

Approved:

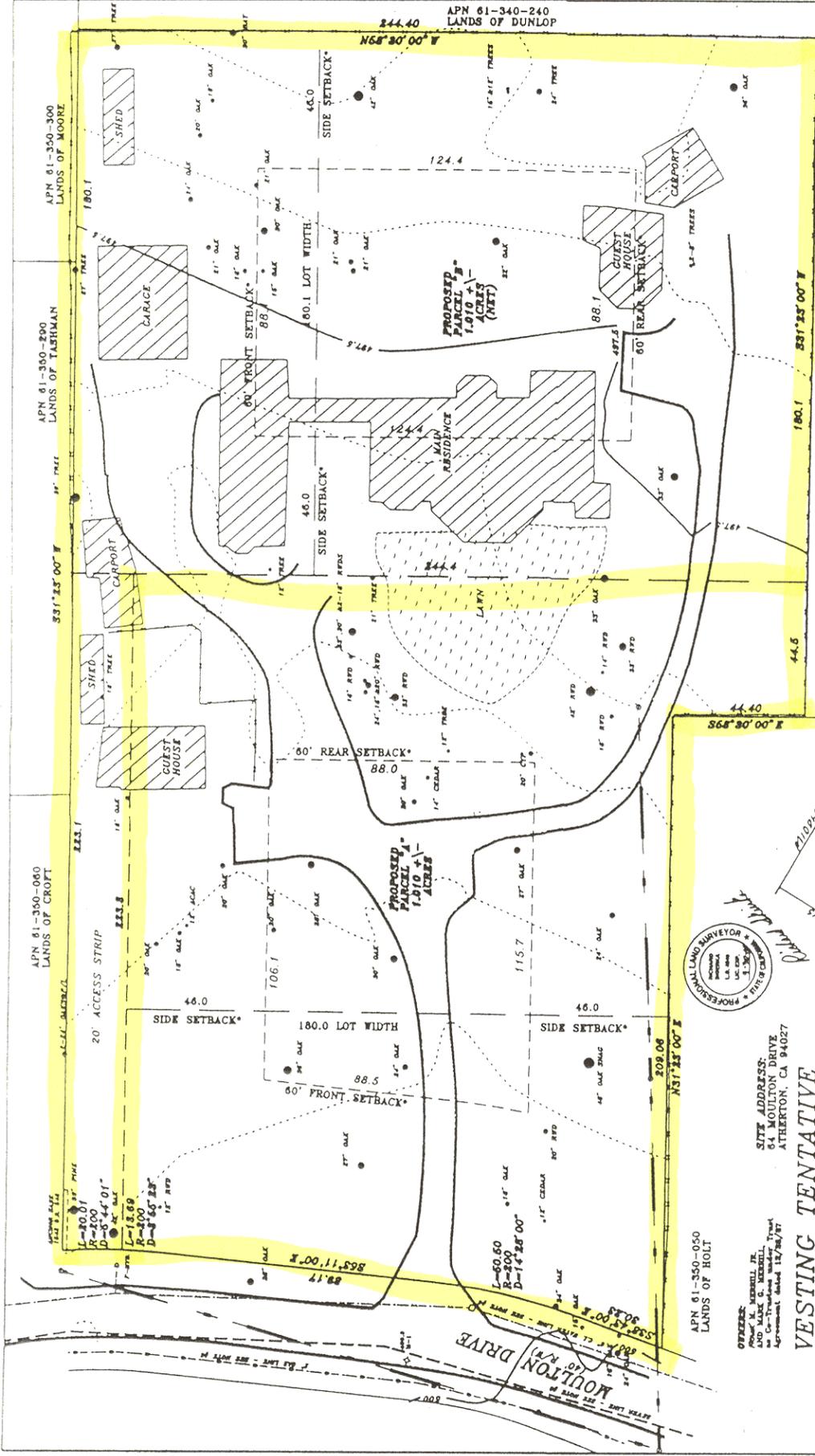
/s/ Lisa Costa Sanders

Lisa Costa Sanders
Deputy Town Planner

James H. Robinson
City Manager

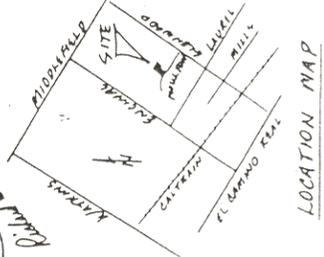
Attachments:

1. Tentative Parcel Map Certificate
2. Tentative Parcel Map



- NOTES: MOST TOPOGRAPHIC FEATURES WERE LOCATED BY A FIELD SURVEY AND BASED UPON A LEVEL BROWN AS SHOWN ON THE MAP. THE PROPERTY ENTRANCES WITH AN ASSUMED ELEVATION OF 994.8 FEET. SUCH SETBACKS CURRENTLY ZONED R-1 AND IS PROPOSED TO REMAIN SUCH SETBACKS LOT REQUIREMENTS WERE TAKEN FROM TOWN ZONING ORDINANCE DATED 8/99.
- 1) REPORT DATED 12/18/99 - ORDER NO. 44402
 - 2) THIS MAP WAS PREPARED TO ADDRESS THE REQUIREMENTS FOR SUB-DIVISION OF A PARCEL INTO TWO PARCELS. THE MAP WILL BE DONE UPON CONDITIONAL TENTATIVE PARCEL MAP APPROVAL. THE MAP WILL BE USED FOR THE PURPOSE OF APPLYING FOR A PERMIT TO LOCATE SEWER, WATER & GAS LINES ASK VERY APPROXIMATE LOCATIONS FROM MAPPINGS PROVIDED BY WEST BAY BANTARY DISTRICT GAS & ELECTRIC (698-7293) BENTONVILLE, ARKANSAS. DETAILS OF THEIR FACILITIES, ONE SHOULD CONTACT THE RESTRICTIVE COMPANY. FOR ACCURATE LOCATION, CALL U.S.A. 800-827-8800.

APN 61-350-030
LANDS OF CROCKER



SITE ADDRESS:
64 MOULTON DRIVE
ATHERTON, CA 94027

VESTING TENTATIVE PARCEL MAP

REFLECTING A PROPOSED SUBDIVISION OF LOT 3 AS SHOWN ON MAP NUMBER 61-350-080 FILED IN VOLUME 25 OF MAPS AT PAGE 46 BEING MORE COMPREHENSIVE PARCEL NUMBER 61-350-040, SAN MATEO COUNTY RECORDS, CA.

MR. FRANK MERRILL
CITY OF MILBURN AVE
ATHERTON, CA 94027
(650)365-8358

TOWN OF ATHERTON
SCALE 1" = 20'
FEB 2000
RICK SKIERKA - LICENSED LAND SURVEYOR
P.O. BOX 620182 WOODSIDE, CA 94062
(650)851-1236 (FAX)322-1536

APN 61-350-050
LANDS OF HOLY

OTHER:
MR. & MRS. MERRILL
1300 MILBURN AVE
ATHERTON, CA 94027
Agreement dated 12/28/97



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JAMES H. ROBINSON, CITY MANAGER**

FROM: MARC G. HYNES, CITY ATTORNEY

DATE: FOR THE MEETING OF MAY 18, 2005

SUBJECT: INTERIM ORDINANCE REGARDING HISTORICAL ARTIFACTS

RECOMMENDATION:

It is recommended that the City Council conduct a public hearing to consider adopting the attached interim ordinance extending the urgency measures adopted by the City Council on April 20, 2005, requiring a Conditional Use Permit to alter historical artifacts in the Town. Interim regulations will require a Conditional Use Permit to remove, alter, or demolish any historical item.

BACKGROUND:

At the regular meeting of the City Council on March 16, 2005, an inventory of artifacts from the Flood Estate was presented to the City Council, along with the request that the Town consider taking action to protect and preserve these items. The City Council directed the General Plan Committee to study the issue and to make recommendations for the protection and preservation of these items.

At the April 20, 2005 City Council meeting, the City Council adopted the effective Urgency Ordinance for a 45 day time period requiring a Conditional Use Permit to remove, alter or demolish items described in Exhibit A. This Ordinance expires on June 3, 2005 unless it is extended. The Council further requested staff recommend measures for the long-term preservation of Town-wide artifacts.

ANALYSIS:

The draft interim ordinance extends the Urgency Ordinance adopted by the City Council on April 20, 2005. As you will recall, the Urgency Ordinance requires a Conditional Use Permit to alter artifacts of the Flood Estate as described in Exhibit A attached to the Ordinance. Prior to adoption of the Urgency Ordinance, there were no regulations which prohibited removal, alteration or demolition of the historic artifacts listed in Exhibit A. The proposed extended interim ordinance now includes the protection of historic artifacts throughout the Town of Atherton. The initial previously adopted urgency ordinance included the protection of historic artifacts within the Flood Estate.

Pending the results of a comprehensive Town-wide study, the proposed interim ordinance requiring a permit prior to the removal, alteration or demolition of any historical item will ensure that the items which are the subject of the study will be protected. Protection of these artifacts occurs because the Ordinance makes their removal, alteration or demolition a “*project*” under the California Environmental Quality Act (CEQA). The required CEQA steps can be summarized as follows:

- ✓ When an activity is deemed a “*project*”, an environmental analysis must be conducted to determine if the activity involves a potentially significant environmental impact.
- ✓ In the case at hand, an assessment of the artifact itself would first be conducted to see if it is a historic resource.
- ✓ If the artifact is determined to be a historic resource, the activity (i.e. removal, alteration or demolition) would need to be assessed to see if the activity presented a potentially significant impact to the historical resource.
- ✓ If the environmental analysis concludes that either there are no significant impacts associated with the proposed activity or that any potentially significant impacts can be mitigated to a level of insignificance, a Negative Declaration or Mitigated Negative Declaration may be prepared and the Planning Commission may approve the proposed activity.
- ✓ The determinations on impacts to historical resources and appropriate mitigation measures must be made by a qualified historical expert.
- ✓ If the impact of an activity can not be reduced to a level of insignificance as determined by a qualified historical expert, an Environmental Impact Report must be prepared.

The interim regulations will also achieve the objectives of the General Plan. Section 4.230 relative to open space and conservation policies states in Section 4.232 that: "the Town shall endeavor to protect scenic resources, significant stands of natural vegetation, wildlife habitat, public safety and significant archaeological resources, both publicly and privately held." The Flood Estate artifacts qualify as scenic and archaeological resources.

Should the City Council adopt the proposed extended interim Ordinance, Staff will implement a strategic plan and consultant study to explore and document the significance of the artifacts and appropriate processes to preserve them. The results of this study would go through the General Plan Committee and Planning Commission for the formulation of a recommendation to the City Council.

The interim ordinance extension requires a 4/5ths vote of the Council and would be effective immediately. Under state law, the initial urgency measure initially adopted may extend only for a period of 45 days. State law provides for an extension of interim regulations following a noticed public hearing for an additional period of 10 months and 15 days. An interim ordinance may be extended for an additional 12 months thereafter. Alternatively, the City Council may, by a 4/5ths vote, extend the interim ordinance for 22 months and 15 days, following the initial expiration.

FISCAL IMPACT: None.

Prepared by:

Approved by:

/s/ Marc G. Hynes

Marc G. Hynes
City Attorney

James H. Robinson
City Manager

Attachments:

1. Draft Extended Interim Ordinance
2. Letter from Alfred P. Chapman to Council members Dated May 10, 2005

ORDINANCE NO. _____

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF
ATHERTON EXTENDING REGULATIONS ON THE ALTERATION OF HISTORIC
ARTIFACTS PENDING CONTEMPLATED GENERAL PLAN AND ZONING
AMENDMENTS RELATING TO SAID ARTIFACTS**

The City Council of the Town of Atherton does ordain as follows:

SECTION 1: The City Council hereby finds and determines that there is a current and immediate threat to the public health, safety, or welfare and that the approval of permits for alterations of certain historic artifacts is required to further the purpose and intent of existing General Plan provisions and contemplated General Plan and zoning amendments that the Planning Commission and City Council will be considering related to the protection of certain artifacts as more completely described below. The City Council finds that said artifacts may be historical resources as envisioned by Section 21084.1 of the Public Resources Code.

SECTION 2: The City Council is considering this matter in furtherance of the Town's conservation policies to protect scenic resources and significant archaeological resources. The Council finds that the time required to properly review and consider this matter along with the necessary time required for implementation of any amendments to the Town's General Plan and/or Zoning Ordinances requires the extension of a moratorium prohibiting any uses that may be in conflict with the protections of artifacts envisioned by the proposed amendments under study which will assure appropriate environmental analysis under the provisions of Public Resources Code section 21084.1.

SECTION 3: Any of the items described in Exhibit A attached here and incorporated by this reference shall be considered accessory structures and shall not be moved, altered, or demolished without a conditional use permit obtained in compliance with the provisions of Chapter 17.52 of the Atherton Municipal Code, and appropriate environmental analysis pursuant to Public Resources Code Section 21084.1.

SECTION 4: This ordinance is categorically exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code (California Environmental Quality Act (CEQA)) pursuant to the State CEQA Guidelines Section 15305, minor alterations and land use limitations of the CEQA Guidelines as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

SECTION 5: The City Council hereby declares that it would have passed this Ordinance word by word, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason any word, sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 6: This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force immediately from the date of adoption, for a period of 10 months and 15 days.

* * * * *

I hereby certify that the foregoing urgency ordinance was adopted at a regular meeting of the City Council of the Town of Atherton held on May 18, 2005, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSTAIN: Councilmembers:
ABSENT: Councilmembers:

William R. Conwell, Mayor

ATTEST:

Linda Kelly, Acting City Clerk

APPROVED AS TO FORM:

/s/ Marc G. Hynes

Marc G. Hynes, City Attorney

EXHIBIT A

ARTIFACTS IN THE TOWN OF ATHERTON

197 Glenwood Avenue – Fence, located at the corner of Middlefield and Glenwood.
400 Selby Lane – Wall and gates
420 Selby Lane – Wall and gates
81 Atherton Avenue – low stucco wall
133 Atherton Avenue – gates
101 Fair Oaks – gates
66 Acacia – street lights
127 Catalpa – street lights
42 Flood Circle – street lights, fountain, granite base
82 Flood Circle – street lights, urn, chandeliers
One Toyon – street lights
51 Laburnum – street lights, urns
79 Flood Circle – street light
38 Flood Circle -marble statue, metal bases
48 Linden Avenue – granite bench
55 Flood Circle – wall and steps, urns
43 Flood Circle – urns, wall, light fixture
One Juniper – urn
42 Catalpa – urn
130 Greenoaks – lamp posts
74 Juniper – concrete bench
60 Flood Circle – concrete wall
Train Station
Lindenwood wall and gates at James and Linden Avenue
One Flood Circle – street lights
Acacia/Flood Circle – street light
Flood/Juniper – bronze statue on a granite base
Catalpa/Acacia – metal urn
Gates at Lloyd Park on Fair Oaks
Maple Manor entrance gates
Oak Grove – brick columns and gates
Inglewood Drive – cement column
Stockbridge and Selby at Serrano – brick columns with street lights
Stockbridge and Selby at Austin – brick columns with street lights
Gresham Lane – fences
Lane Place at Middlefield – brick fences
Jennings Lane at Middlefield road – brick fence
Holbrook Palmer Park – “Diana” statue, fountain, cement column, sofas, chairs, mirror

This list was provided by the Atherton Heritage Association and may not be a complete listing of all historic artifacts within the Town of Atherton

Virginia Pond Chapman 1999 Trust
2740 BYINGTON BLVD, ANN ARBOR, MI 48105
(734) 668-0368 / Fax (734) 668-4741
fpc4@comcast.net

May 10, 2005

Atherton City Council
91 Ashfield Rd.
Atherton, California 94027

Re: 42 Flood Circle Fountain
Urgency Ordinance – Historic Artifacts

Dear Council Members,

I appreciate the various opportunities you have given me to discuss both the protection of the 42 Flood Circle Fountain and the Urgency Ordinance on Historic Artifacts. Since you passed that temporary ordinance on April 20, I believe we have all received an education on the established practices governing protection of historical artifacts, as well as a greater appreciation for the complexities and pitfalls involved in this process.

First, I need to reiterate that the Trustees, in their own right and as beneficial owners of the 42 Flood Circle property, are firmly committed to the safeguarding of the 42 Flood Circle Fountain. Subject to limitations imposed on us by the pending contract for sale on the 42 Flood Circle property, we would be willing to provide the city with deed restrictions and binding covenants providing for the reasonable protection of the 42 Flood Circle Fountain independent of the temporary Urgency Ordinance on Historic Artifacts. We suggest that such voluntary protections may prove to be far simpler, more effective, and more cost efficient than the formal permitting process created by the temporary ordinance.

Second, this will serve to document and confirm the Trust's verbal offer to financially support the movement of the 42 Flood Circle Fountain to a public location in Atherton, should such move become necessary to resolve the needs of the pending buyer to fully utilize the 42 Flood property and the competing needs of the Town of Atherton to protect and maintain the 42 Flood Circle Fountain. The details of our offer are set forth on the attachment. The escrow that the Trust is offering in order to assist in the settlement of these issues is not an outright grant. Please note the offer's various limitations and the requirements for funding and disbursement.

Third, should the Council determine that it is in the best interests of the city to extend the Urgency Ordinance on Historic Artifacts, we request that the language be clarified to better express what we understand to have been the Council's intent. It has been suggested by some that the Urgency Ordinance on Historic Artifacts could be interpreted to include personal property acquired independent of any Atherton real estate. We therefore humbly suggest that upon renewal the subject ordinance be limited to those items of historical significance wherein "current ownership exists through and under a deed transfer of real property" or similar language to achieve such distinction as recommended by the city attorney.

PHY-10-2005 04:55P FROM: 10-10500000000 10-10

Of greater import is the question of local control of such ordinance. It appears that the language and mechanics of the original ordinance may have inadvertently triggered the possible application of California's CEQA statute and its regulatory requirements to the simple process of safeguarding Atherton's heritage. We urge you to work with the city attorney to explore ways to achieve your goals without risking the consequences of invoking regulatory excess. If the Council determines that an Urgency Ordinance on Historic Artifacts is needed after the current ordinance expires, we urge you to incorporate new language and mechanics so as to minimize or eliminate the potential applicability of CEQA.

Thank you for your interest and consideration. If you have any questions or need additional information, please feel free to contact me.

Sincerely,



Alfred P. Chapman, Trustee

Attachment: Proposed Escrow

cc: Stephen B. Olney
Christie Helen Billing

OFFICE OF THE
TOWN CLERK

34 Irving Avenue
Atherton, CA 94027

2005 MAY 13 A 10:55

May 12, 2005

Mayor William R. Conwell and Atherton City Council Members
91 Ashfield Road
Atherton, CA 94027

Dear Mayor Conwell and Council Members:

We are writing to urge you to extend the urgency ordinance protecting the Flood Estate artifacts until such time as a permanent ordinance can be adopted which will protect all important historical artifacts in Atherton.

We are particularly concerned about the imminent removal and possible destruction of the J. W. Fiske fountain at 42 Flood Circle. To understand the significance of what might be lost, it is critically important that you read the report by Stanford University archaeologist Laura Jones (letter to Mark Hynes dated May 4, 2005.)

We agree with all of Ms. Jones's recommendations, including the preference for requiring the fountain to remain at its current original location. If any consideration is given to allowing a new owner to donate and move the fountain within Atherton, it should be conditional on (1) the fountain being restored, (2) the dismantling, relocation, and restoration being independently supervised, and (3) the new owner paying 100% of all associated costs.

We don't know if the sale of 42 Flood Circle to Mr. Hernandez has been finalized. If it has, Mr. Hernandez purchased the property with no illusions concerning possible restrictions with regard to the fountain: he had the legal right to back out of the sale after the urgency ordinance was enacted on April 20. However, if Mr. Hernandez already has or ultimately declines to buy the property, it isn't hard to imagine that another buyer will come forth who sees the fountain as a uniquely valuable asset of the property. Such an owner would design a home that features the restored fountain as a centerpiece of the property. It would be a wonderful outcome.

We urge you not to let the prospect of legal expenses keep you from doing what is right for the common good. And please, do not allow there to be a window of opportunity where the fountain is unprotected—anyone present at the April 20 Council Meeting has a pretty good idea of what would happen in that event.

Very truly yours,

Thomas R. Hill
Marian C. Hill

Thomas R. Hill
Marian C. Hill

RECEIVED
TOWN OF ATHERTON
To: Mr. Bill Conwell, Mayor, Town of Atherton

2005 MAY 13 P 2:39

May 13, 2005

Dear Bill,

As a thirty year member of the Atherton community I would like to encourage you and the City Council to extend the 45 day moratorium on the historic Flood estate artifacts.

I have lived in Lindenwood since 1975 and have enjoyed my neighborhood and its historical significance. As far as I know, it is the only neighborhood in Atherton with a named historical presence and I enjoy telling friends and visitors the story of the Flood estate and the Lindenwood history. I was involved with the effort many years ago to place the Lindenwood Gates on the Historic Registry, which will preserve their magnificence. I have enjoyed our annual walking tour of the Lindenwood estate artifacts, which includes many light posts, several urns, some statuary, some stone walls on Flood Circle and other items. The highlight of the tour was always the spectacular fountain at 42 Flood Circle, which most Lindenwood residents had never seen, since it is hidden behind shrubbery. It would be preposterous to believe that someone could get rid of such a beautiful and historic artifact.

I know that Atherton has a tree ordinance which prohibits a homeowner from taking down a tree with historic significance as described by a certain measurement. How can it be that Atherton will not allow a tree to be demolished and yet allow a significant historical resource of a much larger dimension to be demolished? I don't understand the reasoning.

It seems that with time and effort a reasonable discussion could be held regarding what to do with the fountain. It is surprising to me that the prospective owner of the property doesn't want the fountain since all of the real estate marketing brochures featured the fountain. What did he think he was buying if not a house and a fountain? However, if the new homeowner really doesn't want the fountain, perhaps someone else in Lindenwood would like it on their property. There would need to be time to research to whom and how the fountain could be given. Without an extension of time to further investigate the possibilities, I am afraid that the new owner will either bulldoze the fountain or sell/donate it to the highest bidder who may reside outside Lindenwood. In my opinion, either of these alternatives would be a serious and irresponsible action.

Thank you for your consideration.

Sincerely yours,



Kristin E. Klint, 40 Irving Avenue, Atherton, CA

LINDENWOOD HOMES ASSOCIATION

P.O. BOX 724
MENLO PARK, CA 94026

May 12, 2005

Dear Atherton Town Council,

Lindenwood Homes Association respectfully requests that Atherton immediately extend the 45 day urgency ordinance protecting Flood Estate artifacts.

Further, Atherton needs an appropriate plan developed and enacted to save all of our community's artifacts.

Artifacts within Atherton are protected by the General Plan's section 4.232 which states:

*"The Town shall endeavor to protect scenic resources, significant stands of natural vegetation, wildlife habitat, public safety and **significant archaeological resources**, both publicly and privately held."*

With regard to the archaeological significance of the J.W. Fiske fountain at 42 Flood Circle, please read the letter from Laura Jones PhD, Historic Resource expert, Stanford, to Mark Hynes dated May 4, 2005.

Thanks in advance for your efforts to further safeguard Atherton's artifacts in accordance with the General Plan.

Best Regards,

Lindenwood Homes Association

May 12, 2005

Atherton Town Council &
Jim Robinson, City Manager
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

Dear Honorable Town Council,

I would like to encourage the Town Council to extend the 45 day moratorium on the Lindenwood Statue and immediately develop policies to ensure that all cultural resources (especially the Lindenwood Statue) within Atherton are preserved.

The Lindenwood Statue is spectacular. You have to see it to understand why so many of us are urging that this incredibly magnificent piece of history be preserved.

Some facts that I hope you'll consider as you are making your decision:

STATUE DISCLOSED

1. The fountain (inset picture) was featured in local newspaper ads such as the Almanac, March 29, 2005, 1/5 page color ad, which stated, "*You can own a piece of history – a large fountain from the original estate is located in the back yard....*"
2. A picture of the fountain was featured prominently in the marketing of 42 Flood Circle, including ¼ page color ad in Pinnacle Real Estate magazine, Vol 16, No. 1, May 2005. Text states, "The groundsinclude garden statues from the original Flood estate."

LEGAL STATUTES

3. Artifacts within Atherton are identified and protected by the General Plan's section 4.232 which states: "*The Town shall endeavor to protect scenic resources, significant stands of natural vegetation, wildlife habitat, public safety and **significant archaeologically resources**, both publicly and privately held.*"
4. Historic artifacts are also protected by the California Environmental Quality Act (CEQA), as a general category and in specific the moving of the Lindenwood statue will result in a "direct physical change in the environment". CEQA 15060(c)(2).

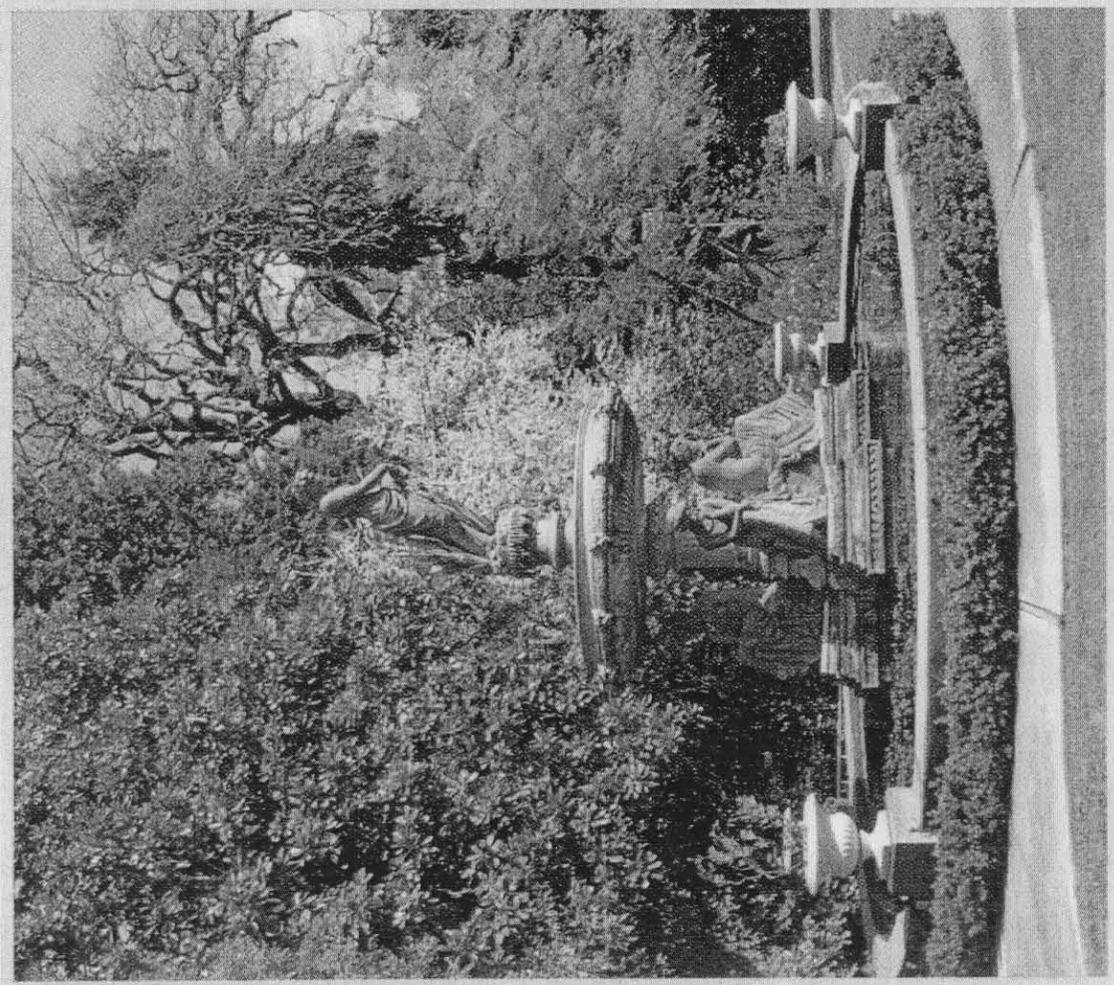
PROFESSIONAL EVALUATION

5. "The fountain at 42 Flood Circle should be treated as a significant historic resource under CEQA," according to Laura Jones, PhD Historic Resource consultant, archeologist and Stanford Professor, hired by Atherton Town Planning to do an assessment of the statue.
6. "The fountain....is one of the largest and most impressive remnants of the Flood Estate" according to Dr. Jones.

Thanks for your consideration. Please don't hesitate to call if you have any questions.

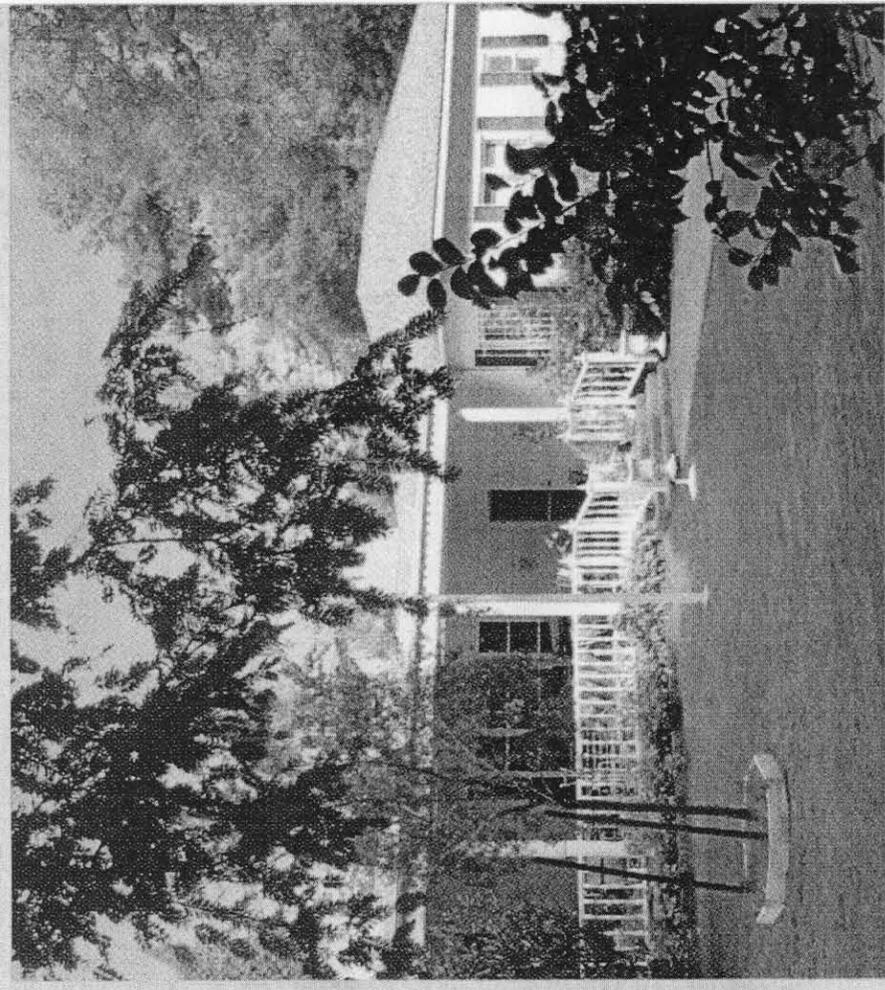
Carol Smith
238 Oak Grove Avenue
Atherton, CA 94027

Enclosures: Almanac 3.29.05 and Pinnacle Real Estate marketing pieces



apr.com


ALAIN PINEL
REALTORS



42 FLOOD CIRCLE, ATHERTON

This ranch-style home is located on approximately 1 acre on desirable Flood Circle in the Lindenwood area of Atherton. The grounds of the spacious four-bedroom, four-bath home include garden statues from the original Flood estate. QS#13690

MARY GULLIXSON

650-543-1175

650-888-0860 cell

mgullixs@apr.com

Visit www.gullixson.com for
information on other listings

OPEN SUNDAY, April 3rd • 1:30 – 4:30 P.M.

42 FLOOD CIRCLE, ATHERTON



A brick walkway and an expansive covered porch welcome you to this ranch style home located on prestigious Flood Circle in the Lindenwood neighborhood of Atherton. You can own a piece of local history – a large fountain from the original estate is located in the back yard, in addition to a smaller statue at the entrance to the driveway. 4 bedrooms and 4 bathrooms.

Co-listed with Mary Gullixson

Offered at \$3,500,000

COMMITTED • CREATIVE • CONNECTED

mcorman@apr.com • 650.462.1111 • jdegolia@apr.com

www.apr.com



er DeGolia



Information deemed reliable, but not guaranteed.



Almanac -

3/29/05

From: Frank Sebastian [mailto:fsebas@msn.com]
Sent: Thursday, May 12, 2005 2:15 PM
To: William Conwell
Subject: Save the Flood Circle Fountain

Dear Mayor Conwell

I understand that the prospective new owner wanted to donate the Flood Circle Fountain to the Town or HP Park as a charitable gift, but not being the current owner, that was not possible.

My suggestion is that consideration be given to arranging for the Fountain to be moved to the HP Park and the "Future Owner" maintain ownership until such time as he would be eligible to take the appropriate tax deduction.

In the meantime, I would like to urge you and the other Council Members to extend the present Moratorium, if necessary, to provide additional time to save this historic Fountain.

Thank you,

Barbara Sebastian
50 Lilac Drive
Atherton, CA

From: Frank Sebastian [mailto:fsebas@msn.com]
Sent: Thursday, May 12, 2005 2:22 PM
To: William Conwell
Subject: Save the Historic Flood Circle Fountain

Dear Mayor Bill,

I understand that the Council has declared a 45 day moratorium regarding the Flood Circle Fountain.

As a 43 year resident of Lindenwood, I want to thank the Council for providing some time to try to resolve the fate of the Fountain.

However, if a plan to save the Fountain is not reached in 45 days, considering the length of time we endure the "scrape and new build" noise of our neighbors, another one or two similar Moratoriums would be in order to save this historic piece.

Hope that you can further help, if necessary, to save some more of our Town's wonderful heritage.

Thank you,

Frank Sebastian

From: Mendelson, Janis [mailto:JMendels@epri.com]
Sent: Friday, May 13, 2005 11:42 AM
To: William Conwell
Subject: Flood Estate Fountain

To the Atherton City Council:

As 25 year resident of Lindenwood, I would like to express my concern about the possible removal of the Flood Estate fountain located on the Chapman residence. The fountain is a priceless piece of our local history and it would be a great loss to see it removed from the Lindenwood section of town. I encourage the City Council to extend the current moratorium until a plan is in place to relocate this artifact within the Lindenwood neighborhood.

*Janis Mendelson
Mosswood Way
Atherton*



Town of Atherton

CITY COUNCIL STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL
JAMES H. ROBINSON, CITY MANAGER**

FROM: LISA COSTA SANDERS, DEPUTY TOWN PLANNER

DATE: FOR THE MEETING OF MAY 18, 2005

**SUBJECT: REQUEST TO REFER THE REVIEW OF THE NOISE ORDINANCE TO THE
GENERAL PLAN COMMITTEE**

BACKGROUND

Atherton Municipal Code Section 8.16 establishes the noise control for the Town of Atherton. The City Council last updated this Ordinance in late 1999 after review by the General Plan Committee. A noise consultant was retained to provide expert information on methods for sound measurement. The changes made at that time to the Ordinance related to construction activity, use of power garden equipment, emergency and safety devices and social gatherings. No changes were made relating to the definition or measurement of sound.

REQUEST

The Lindenwood Homes Association requests that Atherton review the Noise Ordinance to help ensure all Atherton residences maintain quiet comfortable enjoyment of their life and property. Specifically, the request is to: review the current noise measurement methodology to include issues around “peak noise”, utilize a “fast” measurement methodology, assess peak noise versus ambient noise and evaluate existing noise level standards and policies to ensure that they are easy to understand and enforce.

The Police Department indicates that most noise complaints relate to after-hour construction activity, social gatherings and barking dogs. The Police are able to enforce the existing regulations in these situations.

If the Council chooses to refer this item to the General Plan Committee for study, Staff would recommend hiring a sound consultant to provide expert advice on the various methods for measuring sound. In addition, changes to the Ordinance could require the purchase of new sound devices for the Police Department.

Prepared By:

Approved:

/s/ Lisa Costa Sanders

Lisa Costa Sanders
Deputy Town Planner

James H. Robinson
City Manager

Attachment:

1. Letter of Request from Lindenwood Homes Association

LINDENWOOD HOMES ASSOCIATION

P.O. BOX 724
MENLO PARK, CA 94026

April 11, 2005

Dear Atherton Town Council,

Lindenwood Homes Association respectfully requests that Atherton review the Noise Ordinance to help ensure all Atherton residences, regardless of where they live, maintain quiet comfortable enjoyment of their life and property.

We urge you to review our current Noise Ordinance to ensure that it protects all neighborhoods from noise pollution and is easily understood and enforceable.

1. Review current noise measurement methodology to include issues around "peak noise" which is best measured using the "fast" measurement methodology.
2. Assess peak noise versus ambient noise.
3. Evaluate existing noise level standards and policies to ensure that they are easy to understand and enforce.

Thanks in advance for your efforts to further Atherton's General Plan philosophy to preserve Atherton as "a rural residential area," and its policy to "protect the peace, health and safety of its citizens from unnecessary and unreasonable noise..."

Best Regards,

Lindenwood Homes Association

RECEIVED
TOWN OF ATHERTON
2005 APR 12 A 8:14