





**Town of Atherton  
CITY COUNCIL/ATHERTON CHANNEL  
DRAINAGE DISTRICT**

**Agenda**

**May 16, 2001**

**7:00 p.m.**

**TOWN COUNCIL CHAMBERS**

94 Ashfield Road  
Atherton, California

**REGULAR MEETING**

- 7:00 P.M. 1. **ROLL CALL** McKeithen, Janz, Carlson, Fisher, Conwell
- 7:05 P.M. 2. **PRESENTATIONS**
- A. Certificates of Appreciation for outgoing Commission and Committee members
- 7:15 P.M. 3. **COUNCIL REPORTS**
- 7:25 P.M. 4. **PUBLIC COMMENTS** (only for items which are not on the agenda – limit of three minutes per person)
- 7:35 P.M. 5. **CITY MANAGER REPORT**
- 7:45 P.M. 6. **DEPARTMENT HEADS' REPORTS**
- 8:00 P.M. 7. **CITY ATTORNEY REPORT**
- 8:10 P.M. 8. **COMMUNITY ORGANIZATION ROUNDTABLE REPORT** (Directed by Resolution No. 99-6)
- 8:15 P.M. **CONSENT CALENDAR** (Items 9 - 11)
9. **MINUTES OF SPECIAL MEETINGS OF APRIL 11, 2001, APRIL 18, 2001, APRIL 21, 2001, APRIL 30, 2001, AND REGULAR MEETING OF APRIL 18, 2001**
10. **BILLS AND CLAIMS FOR APRIL 10, 2001 THROUGH MAY 10, 2001, IN THE AMOUNT OF \$582,112.13**

11. APPROVAL OF PLANS AND SPECIFICATIONS, AWARD OF CONTRACT FOR 2001 PAVEMENT PATCHING PROJECT

8:25 P.M. **PUBLIC HEARINGS** (Items 12 through 16)

12. ADOPTION OF URGENCY ORDINANCE NO. \_\_\_\_, IMPOSING A MORATORIUM ON CONSTRUCTION OF BASEMENTS

13. INTRODUCTION OF ORDINANCE NO. \_\_\_\_, PLACING LIMITATIONS ON BASEMENT AREAS

14. INTRODUCTION OF ORDINANCE NO. \_\_\_\_, AMENDING THE LANDSCAPE SCREENING ORDINANCE

15. TENTATIVE PARCEL MAP – 233 CAMINO AL LAGO (APN 070-341-150)

16. LOT MERGER – 366 WALSH ROAD (APN 073-202-130 AND 120)

**REGULAR AGENDA** (Items 17 through 21)

9:40 P.M. 17. DISCUSSION AND POSSIBLE ACTION – ATTORNEY’S OPINION ON TAX IMPLICATIONS OF TOWN PROVIDED HOUSE FOR CITY MANAGER

10:10 P.M. 18. DISCUSSION AND POSSIBLE ACTION – SALARY AND BENEFITS FOR THE POSITION OF CITY MANAGER

10:40 P.M. 19. APPROVAL OF AGREEMENT FOR CONSULTANT SERVICES WITH AVERY AND ASSOCIATES FOR CITY MANAGER RECRUITMENT

10:50 P.M. 20. DISCUSSION AND POSSIBLE ACTION – FISCAL YEAR 2001/02 BUDGET AND ALARM FEES; CONSIDERATION OF MOTION TO SUPPORT THE PARCEL TAX

11:20 P.M. 21. APPOINTMENT OF COUNCIL MEMBER TO SAN MATEO COUNTY CITY SELECTION COMMITTEE AND CONSIDERATION OF CITY SELECTION COMMITTEE APPOINTMENTS

11:30 P.M. 22. **PUBLIC COMMENTS**

11:40 P.M. 23. **ADJOURN**

 *Please contact the City Clerk’s Office at 650.752.0529 with any questions*



**Minutes**  
**CITY COUNCIL MEETING**  
**Wednesday, April 11, 2001**  
**7:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**SPECIAL MEETING**

Mayor Fisher called the meeting to order at 7:00 p.m.

**1. ROLL CALL**

**PRESENT:** Kathy McKeithen  
James R. Janz  
Alan B. Carlson  
Dianne M. Fisher  
William R. Conwell

**2. COUNCIL REPORTS**

- Council Member Conwell reported that CCAG will meet on Thursday, and the Criminal Justice Commission will meet next week.
- Council Member Janz reported that he will attend the ABAG General Assembly on Thursday, April 12.
- Council Member McKeithen reported on the Emergency Services Council meeting where authorization was given for the expenditure of approximately \$10 million in County funds to install a microwave system and mutual aid radio system. The Screening Committee met and has recommended that a Staff Screening Committee not be utilized for the interviewing process of the City Manager finalists. She asked that the terms of the City Manager contract, including the issue of the house, be put on a future agenda during open session.
- Council Member Carlson asked that a formal tax opinion be obtained on providing a house for the City Manager.
- Mayor Fisher reported that P.G. & E. has the most current information on the rolling blackouts on the website [www.calso.com](http://www.calso.com). Information will also be given on the front page of newspapers.

**3. PUBLIC COMMENTS**

- John Ruggeiro, 10 Stockbridge

- Shirley Carlson, Atherton Tree Committee, announced that the Arbor Day celebration will be held on April 28<sup>th</sup>.
- Sandy Crittenden, 117 Heather Drive, announced that the Holbrook-Palmer Park Barbecue will be held on April 22.
- Charles Marsala, 33 Emilie Avenue
- John Sisson, 26 Belleau Avenue

## **REGULAR AGENDA**

### **4. DISCUSSION AND POSSIBLE ACTION – MID-PENINSULA ACCESS CORPORATION PRESENTATION ON CABLECASTING THE ATHERTON CITY COUNCIL MEETINGS ON THE GOVERNMENT ACCESS CHANNEL**

Annie Niehaus, Executive Director of Mid-Peninsula Access Corporation, gave a presentation on MPAC, which is the designated community access organization whose job is to provide citizens in the cable service area with the ability to communicate over cable television. She explained how MPAC assists cities in utilizing the Government Access Channel on cable television. Information was provided on how live video broadcasting could be accomplished in the Town Council Chambers. Discussion ensued regarding the cost of broadcasting. The Council was invited to come and broadcast at their studio to see if there is any community interest. She also discussed how the new franchise agreement with AT&T will provide free installation to the Institutional Network, a dedicated fiber network for use by local government and schools. She stated that Atherton will need to choose one location for access to this free service. This will provide Internet connections between all the agencies involved, including video-conferencing and cablecasting. A kickoff meeting will be held in June to demonstrate how this will work.

### **5. DISCUSSION AND POSSIBLE ACTION – PARCEL TAX, CONTINUATION OF DISCUSSION ON PRO FORMA BUDGETS**

Interim City Manager Ralph Freedman discussed the results of the Audit Committee meeting, and presented the suggested modifications to the pro forma reports. Changes were made to the footnotes to make them more informative. The issue of continuing the alarm fees was discussed. Jerry Carlson from the Audit Committee, spoke to the Council and stated that he will report back to the Council on April 18<sup>th</sup>. It was agreed that more footnotes to the pro forma reports are needed to explain changes in numbers from year to year, and changes in salaries and benefits resulting from added positions. Interim Finance Director Bill Yeomans answered questions regarding the pro forma reports. The Council asked Staff to prepare a Draft Analysis to be provided to the Council at the April 18<sup>th</sup> meeting. John Sisson, Sandy Crittenden and Charles Marsala spoke from the audience.

**6. DISCUSSION AND POSSIBLE ACTION - GOAL SETTING STUDY SESSION**

**Interim City Manager Ralph Freedman presented overheads on a Mission Statement which was adopted by a prior City Council. He discussed some general ideas developed by Staff for short and long term goals. Discussion ensued. Council concurred that they should meet annually, prior to the budget process, to identify and pursue short-term goals, and review long-term goals. The following members of the audience spoke: John Rugeiro, John Sisson, and Smith McKeithen.**

**7. ADJOURN**

**The meeting adjourned at 10:45 p.m.**

**Respectfully submitted,**

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**Sharon Barker, City Clerk**



**Minutes**  
**CITY COUNCIL MEETING**  
**April 18, 2001**  
**5:00 p.m.**  
**TOWN COUNCIL CHAMBERS**  
94 Ashfield Road  
Atherton, California

**SPECIAL MEETING**

**Mayor Fisher called the meeting to order at 5:00 p.m.**

**1. ROLL CALL**

**PRESENT:**  
**Kathy McKeithen**  
**James R. Janz**  
**Alan B. Carlson**  
**Dianne M. Fisher**  
**William R. Conwell**

**2. PUBLIC COMMENTS: There were no public comments.**

**3. CLOSED SESSION: The Council adjourned to closed session at 5:05 p.m.**

**4. RECONVENE TO OPEN SESSION: The Council reconvened to open session at 6:55 p.m.**

**A. Conference with Legal Counsel -Existing Litigation pursuant to Government Code Section 54956.9**

**Patricia O'Neal vs. Town of Atherton**

**B. Public Employment pursuant to Government Code Section 54957**

**Title: City Manager**

**Report of action taken: No action. The closed session was continued to the end of the 7:00 p.m. open session.**

**5. ADJOURN**

**The Council adjourned to open session at 7:00 p.m.**

**The Council adjourned to continued closed session at 10:55 p.m. and adjourned at 11:35 p.m. to Saturday, April 21, 2001, at 8:00 a.m. on a motion by Council Member McKeithen and seconded by Council Member Conwell, all voting in favor. No action was taken.**

**Respectfully submitted,**

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**Linda Kelly, Acting City Clerk**



**Minutes**  
**CITY COUNCIL/ATHERTON CHANNEL**  
**DRAINAGE DISTRICT**

**April 18, 2001**

**7:00 p.m.**

**TOWN COUNCIL CHAMBERS**

94 Ashfield Road

Atherton, California

**REGULAR MEETING**

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

**1. ROLL CALL**

**PRESENT:** Kathy McKeithen  
James R. Janz  
Alan B. Carlson  
Dianne M. Fisher  
William R. Conwell

Interim City Manager Ralph Freedman and City Attorney Marc Hynes were also present.

**2. PRESENTATIONS/PROCLAMATIONS**

**B. Proclamations:**

Mayor Fisher presented an Arbor Day Proclamation to Shirley Carlson, who reminded everyone to attend the tree planting on April 28, 2001 at 10:00 a.m.

Eagle Scout Justin Baron was not present to receive his Proclamation.

**B. Oaths of Office:**

Police Chief Robert Brennan introduced the five new Police Department employees: Officer Donald Dunphy, Officer Tim Marks, Officer Kristen Lee, Communications Supervisor Priscella O'Shea, and Police Dispatcher Joanne Thomas-Smith. Mayor Fisher administered the oath of office. Each new employee was pinned by the family member or friend of his or her choice.

**C. Presentation:**

Sheryl Snider, Koff and Associates, presented the methodology and findings of the Classification and Compensation Study, and responded to questions from the City Council regarding the study. Vice Mayor Carlson asked Interim City

**Manager Freedman to work with Ms. Snider to factor in the PERS contribution and report back to Council on this at the next regular Council meeting.**

**The following members of the audience spoke:**

**Bob Simonds, 26 Wilburn Avenue**

**John Sisson, 26 Belleau Avenue**

### **3. COUNCIL REPORTS**

- **Vice Mayor Carlson reported that the General Plan Committee met on April 5<sup>th</sup> and discussed the Heritage Tree ordinance and suggested no further changes. With respect to landscape screening, the Committee will recommend to the Council a standard that requires landscaping to reach maturity within five years of the beginning of the project. The issue of cargo containers was also discussed in the Committee, and it will be discussed later on this agenda.**
- **Council Member Janz reported on his recent attendance at the General Assembly meeting of the Association of Bay Area Governments (ABAG), where ABAG's budget and projects for the coming year were discussed. The allocation of dues is based on population; Atherton's assessment is \$1,340 for next year. Member agency dues constitute only 10% of ABAG's budget.**
- **Council Member McKeithen reported that there is a meeting of the Office of Emergency Services tomorrow where their budget will be discussed, and she would appreciate any input on this issue. Regarding the microwave and radio costs of the new system that would be put into place in San Mateo County, the cost is over \$10 million and was awarded to Motorola with Harris as the subcontractor. Half of this would be paid for by the County; half by the cities served. The cost to Atherton would be \$71,805, reduced by a 10% contingency. Atherton chose to pay this on a two-year installment.**

**Screening Committee: Council Member McKeithen reported that a Planning Commission appointment will be recommended and agendized for a future Council meeting.**

**City Manager Recruitment: The Council Screening Committee received 87 resumes. Council Member McKeithen gave copies of the resumes to the Council Members, and this will be discussed this Saturday in a closed session.**

**Citizens' Screening Committee: The Council appointed members to the City Manager Citizens' Screening Committee as follows:**

**John Ruggiero (appointed by Conwell)**

**Jon Duane (appointed by Fisher)**

**Jim Dobbie (appointed by Janz)**

**John Sisson (appointed by McKeithen)**

**John Foster (appointed by Carlson)**

The five members just appointed will receive the remaining six or seven applications from other applicants to the Committee, and they will be asked to return to the City Attorney their ranking of those people. The City Attorney will announce the two additional people to join the Committee, and will send letters to the appointees. They will be participating in interviews to be held on Friday, May 18<sup>th</sup> at 8:30 a.m.

- Mayor Fisher reported on the Transportation Committee. Charles Ramorino's concern about the Selby Lane and El Camino intersection was discussed. He suggested a compromise that asks the Town to work with CalTrans to make some changes to the median to offset the left turn lanes for better vision. Public Works Director Temps will be following up on this issue.

#### 4. PUBLIC COMMENTS

The following members of the audience spoke:

Marion Oster, Heritage Committee  
Bob Simonds, 26 Wilburn Avenue  
Charles Ramorino, 98 Gresham Lane  
Charles Marsala, 33 Emilie Avenue

#### 5. CITY MANAGER REPORT

- A. **Postal Contract** – The U.S. Postal Service has approved the modification in the annual payment to the Town from the current \$14,580 per year to \$51,762 per year, effective March 24, 2001.
- B. **Housing Element Legislation (SB 910)** – This legislation would require that if a court finds a local government's housing element not to be in substantial compliance with State law, a financial penalty would be imposed on the local government, which could include a reduction in State Gas Tax monies. Upon request of the Interim City Manager, the Council agreed to direct him to draft a letter for the Mayor's signature opposing SB 910 because the legislation effectively usurps local land use authority, and links Gas Tax monies to the affordable housing problem in California.
- C. **Play Area Project** – The Committee has raised \$280,000 out of the \$330,000 anticipated cost for the project. It is anticipated that funding will be completed by early May, with bid documents completed early next month.
- D. **Teamsters' Local 856 MOU** – The Town received a letter from the Union regarding their desire to begin negotiations for a new Memorandum of Understanding (MOU). The current MOU expires on June 30, 2001.

Vice Mayor Carlson requested the Interim City Manager provide copies of the MOU to all Council Members along with his recommended changes, and schedule this item for a closed session agenda.



**13. ADOPTED ORDINANCE NO. 522, AMENDING ATHERTON MUNICIPAL CODE RELATING TO THE REMOVAL OF HERITAGE TREES WITHIN THE TOWN OF ATHERTON**

**REGULAR AGENDA (Items 14 and 15)**

Mayor Fisher announced that Item 15 would be taken up at this time, and that Item 14 would be considered later.

**15. DISCUSSION AND POSSIBLE ACTION - PARCEL TAX, AUDIT COMMITTEE REPORT ON PRO FORMA BUDGETS**

Jerry Carlson, Audit Committee Chairman, stated that the Committee met on April 5<sup>th</sup> and reviewed the financial projections. He stated that the members of the Committee made a number of suggestions, and overall felt that staff made a good faith effort in presenting the analysis. The process is a major step to a more disciplined financial process.

Interim Finance Director Bill Yeomans and Interim City Manager Freedman responded to Council questions regarding the methodology of the projections.

**14. ORDINANCE AMENDING ATHERTON MUNICIPAL CODE REGULATING THE PLACEMENT OF CARGO CONTAINERS ON PRIVATE PROPERTY WITHIN THE TOWN OF ATHERTON**

Vice Mayor Carlson stated that based on the General Plan Committee's discussion and his own observations, that he would recommend to prohibit cargo containers at all times except in conjunction with construction projects. He stated that they could be treated as an R.V. but exempt during the construction process.

Discussion ensued that this may have been a one-resident issue, and that perhaps this should be sent back to the General Plan Committee.

The following member of the audience spoke:

Charles Marsala, 33 Emilie Avenue

Council decided to take no action on the ordinance.



**TOWN OF ATHERTON**  
**CLAIMS LIST**  
 April 10 through May 10, 2001

Payroll Checks	500595- 500719	\$ 236,500.31
Electronic Transfers		62,960.82
A/P Checks	10183-10356	<u>282,651.00</u>
<b>TOTAL</b>		<b>\$ 582,112.13</b>

I, Ralph Freedman, Interim City Manager of the Town of Atherton, do hereby certify under penalty of perjury that the demands listed above, check numbers 500595 – 500719 (Payroll) and 10183-10356 (Accounts Payable), and Electronic Transfers for Employees Federal Payroll Taxes and fees, inclusive, amount to \$582,112.13 are true and correct, and that there are funds for payment.

\_\_\_\_\_  
 Ralph Freedman  
 Interim City Manager

The above claims, Payroll check numbers 500595 – 500719, Accounts Payable check numbers 10183 - 10356 and Electronic Transfers for employees federal payroll taxes and fees, amount to \$582,112.13; and are hereby approved for payment.

\_\_\_\_\_  
 Mayor, Town of Atherton

**SOURCE OF FUNDS**

101	General Fund	\$
105	Tennis Fund	513,421.64
		406.32
202	Transportation Fund	10,410.00
203	Gas Tax Fund	
		0
206	SLESF	
		0
401	GF Projects	0
402	Storm Drainage	1591.20
403	Atherton Channel Drainage	0

611	Computer Maint & Replacem't	
612	Administrative Services	5,908.83
		3062.32
614	Workers Compensation Insurance	43,378.66
715	Evans Estate	3,388.88
731	M-A Little League	0
730	H-P Park Improvement	0
731	Tree Committee	544.28
	TOTAL	\$ 582,112.13



**Town of Atherton**

**CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
INTERIM CITY MANAGER, RALPH FREEDMAN**

**FROM: CLIFF TEMPS, PUBLIC WORKS DIRECTOR**

**DATE: FOR THE MEETING OF MAY 16, 2001**

**SUBJECT: APPROVAL OF PLANS AND SPECIFICATIONS AND AWARD OF  
CONTRACT FOR FY 2000/2001 PAVEMENT PATCHING PROJECT, 2001-  
01**

**RECOMMENDATION**

Approve the plans and specifications for FY 2000/2001 Pavement Patching Project, award a contract for its construction to G. Bartolotto and Company, and authorize the City Engineer to approve extra work up to a maximum contract amount of \$275,000.

**INTRODUCTION**

Street patching is the first of three projects we plan to put out to contract for construction this summer. The other two will involve crack sealing and surface sealing. Most of the patching is located on streets that carry relatively high volumes of traffic. These include Malparaiso, Atherton, Fair Oaks, Stockbridge, Watkins, Barry, and parts of Selby and Elena. 31,850 square feet of patching was included in the bids. A copy of the plans and specifications is available at the counter in Town Hall, for anyone that wants to see the exact locations of patches.

**ANALYSIS**

Six bids were received for the patching work. A copy of the bid summary is attached. One bid was withdrawn after the discovery of an error that made the bid materially different than the bidder intended it to be. We have a letter on file from that bidder requesting permission to withdraw and explaining the error.

The next low bid, in the amount of \$229,129.50 was submitted by G. Bortolotto Company, a well established paving contractor based in San Carlos. I had expected the work to cost between \$300,000 and \$400,000. The Bortolotto prices are so good that I want to request that the Council include in its action awarding the contract, authorization to add more patch work. I am asking for authorization to spend up to \$275,000. This is equivalent to increasing the amount of work by about 20%. Standard specifications and practices allow for adjustments of up to 25% without considering such adjustments to change the scope or character of work or requiring unit price adjustments.

**FISCAL IMPACT**

When the project was introduced last month, the Council was told that the estimated \$300,000 to \$400,000 would come from a combination of operating budget, Measure A, Gas Tax, and Road Impact Fees. Closer scrutiny of fund balances shows that it can be paid for with approximately \$56,000 remaining in the current year's street operating budget for contractual services and Gas Tax. This will leave sufficient balances in other funds to pay for crack and surface sealing and maintain an adequate reserve for the Middlefield Road project. More specific information regarding uses of these funds will be included in future budget presentations.

**CONCLUSION:**

The low bid received for the work provides good value to the Town, and the contract for FY 2000/2001 Pavement Patching should be awarded.

Respectfully submitted:

Reviewed/Approved:

/s/ Cliff Temps  
Cliff Temps  
Public Works Director

\_\_\_\_\_  
Ralph Freedman  
Interim City Manager

Attachments:  
Bid Summary



Town of Atherton

**CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: LISA COSTA SANDERS, SENIOR PLANNER**

**DATE: FOR THE CITY COUNCIL MEETING OF MAY 16, 2001**

**SUBJECT: PUBLIC HEARING - ORDINANCE IMPOSING A MORITORIUM ON BASEMENTS**

**RECOMMENDATION:**

Staff recommends that the City Council conduct the public hearing and adopt the attached Ordinance imposing a moratorium on the construction of basements outside of the building footprint based on the following findings for the reasons outlined in this staff report:

1. The proposed moratorium is necessary to protect a current and immediate threat to the public health, safety, or welfare.  
*Basis for finding: The current Municipal Code requirements allow for the construction of basements five feet from a property line. This could result in the elimination of significant amounts of mature landscaping in the landscape preservation area.*
2. The approval of building permits for basements outside of the building footprint would result in a threat to public health, safety, or welfare.  
*Basis for finding: As stated above, issuance of a building permit for a basement within five feet from a property line could result in the elimination of significant amounts of mature landscaping in the landscape preservation area.*
3. The moratorium is necessary to achieve the objectives of the Zoning Plan and the General Plan.  
*Basis for finding: The Municipal Code and General Plan policies require the preservation of landscaping and heritage trees, specifically in the tree preservation area.*

## **INTRODUCTION:**

At the February 7, 2001 General Plan Committee Meeting, the topic of a limitation on the basement area in order to conserve sufficient area for tree planting and tree preservation was discussed. The Committee directed staff to prepare an ordinance that would limit basements so that they not extend outside the footprint of the main building or accessory structure.

The Planning Commission at their April 25, 2001 meeting reviewed the proposed ordinance and voted to recommend that the City Council adopt the ordinance as proposed.

## **ANALYSIS:**

The Atherton Municipal Code is currently interpreted to allow the construction of basements within five feet of any property line. Staff has noticed recent interest among builders to maximize basement areas.

The General Plan Committee and Planning Commission have studied the issue of limiting the area of basements due to the concern that significant amounts of mature landscaping in the landscape preservation area could be destroyed with the construction of a basement five feet from the property line. The General Plan Committee and Planning Commission both recommend the City Council adopt an ordinance limiting basement areas to the footprint of the main building or accessory structures. This will have the effect of preserving landscaping in the landscape preservation area and limiting the amount of grading and alterations to the natural environment

If the City Council chooses to introduce the basement ordinance at the May 16, 2001 meeting, it could be adopted at the regular June 20, 2001 Council meeting, and would then be effective on July 20, 2001. There is a concern that with a pending ordinance limiting basement areas, applicants may wish to move forward prior to the effective date of the ordinance, with large projects, to take advantage of the existing code interpretation. It is recommended that the Council adopt an ordinance imposing a moratorium limiting the construction of basements to the footprint of the main building or accessory structures. This would preclude any development that is not in compliance with the pending ordinance changes.

An ordinance adopting a moratorium requires a 4/5 vote of the Council and is effective immediately. The moratorium is then effective for 45 days and can be extended at a public hearing.

## **CONCLUSION:**

It is Planning Staff's professional opinion that the proposed moratorium would not be contrary to the purpose and intent of the General Plan and the Zoning Code.

## **ENVIRONMENTAL IMPACT:**

The proposed Ordinance Amendment is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305, Minor Alterations in Land Use Limitations of the CEQA guidelines.

**FORMAL MOTION:**

I move that the City Council adopt the attached Ordinance imposing a moratorium on basements within the Town of Atherton based on the findings and for the reasons incorporated in the Staff Report.

/s/ Lisa Costa Sanders

Lisa Costa Sanders, Senior Planner

**Attachments:**

1. Draft Ordinance Imposing a Moratorium

**ORDINANCE NO. \_\_\_\_**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE  
TOWN OF ATHERTON IMPOSING A MORATORIUM ON THE DEVELOPMENT OF  
CERTAIN SIZE BASEMENTS WITHIN THE TOWN OF ATHERTON**

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

**SECTION 1:** The City Council hereby determines that there is a current and immediate threat to the public health, safety, or welfare and that the approval of additional building permits for basements within five feet of the side property line will be contrary to the purpose and intent of the Atherton Municipal Code and the Atherton General Plan requiring the preservation of heritage trees and other mature landscaping outside of the buildable area.

**SECTION 2:** The City Council has deferred this matter to the General Plan Committee and Planning Commission for study. Both bodies have reviewed the matter and have recommended an Ordinance for City Council adoption. Considerable time was spent in reviewing this matter, and with the necessary timing for implementation of an ordinance amendment, the City Council finds it necessary to adopt a moratorium prohibiting basements as delineated in Section 3 below, to protect heritage trees and other landscaping outside of the buildable area. This Ordinance shall take effect immediately as an urgency measure based upon the findings set forth above.

**SECTION 3:** *Basements shall not extend outside the footprint of the main building or accessory structure with the exception of areas for stairway and driveway access and light wells. No basement retaining wall or impervious surface shall be located within 10' of the property line.*

**SECTION 4:** The City Council hereby declares that it would have passed this Ordinance 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 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 5:** 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 45 days.

\* \* \* \* \*

Passed and adopted as an Ordinance of the Town of Atherton at a regular meeting thereof held on the 16th day of May, 2001, by the following vote:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:

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Dianne M. Fisher  
MAYOR, Town of Atherton

ATTEST

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Sharon Barker, City Clerk

**Item No. 13**



Town of Atherton

## **CITY COUNCIL STAFF REPORT**

**DATE: FOR THE CITY COUNCIL MEETING OF MAY 16, 2001**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: LISA COSTA SANDERS, SENIOR PLANNER**

**SUBJECT: PUBLIC HEARING - ORDINANCE PLACING LIMITATIONS ON BASEMENT AREAS**

### **RECOMMENDATION:**

Staff recommends that the City Council conduct the public hearing and introduce the attached Ordinance placing limitations on the construction of basements outside of the building footprint based on the following findings for the reasons outlined in this staff report:

4. The ordinance is necessary to achieve the objectives of the Zoning Plan and the General Plan.  
Basis for finding: The Municipal Code and General Plan policies require the preservation of landscaping and heritage trees, specifically in the tree preservation area. Limiting basements to the footprint of the building will help preserve trees and other landscaping in the tree preservation area.

### **INTRODUCTION:**

At the February 7, 2001 General Plan Committee Meeting, the topic of a limitation on the basement area in order to conserve sufficient area for tree planting and tree preservation was discussed. The Committee directed staff to prepare an ordinance that would limit basements so that they not extend outside the footprint of the main building or accessory structure.

The Planning Commission at their April 25, 2001 meeting reviewed the proposed ordinance and voted to recommend that the City Council adopt the ordinance as proposed.



**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AMENDING THE ATHERTON MUNICIPAL CODE PLACING LIMITS ON  
BASEMENTS WITHIN THE TOWN OF ATHERTON**

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

**SECTION 1:** Section 17.36.190 of the Atherton Municipal Code is hereby amended to read as follows:

**17.36.190 Basements**

“Basements shall not exceed two feet in height above the surrounding average natural grade. Exceptions to the requirements of this section for hillside properties (where the average cross-slope is greater than twenty percent as determined under Section 16.24.050) may be permitted upon issuance of a conditional use permit. *Basements shall not extend outside the footprint of the main building or accessory structure with the exception of areas for stairway and driveway access and light wells. No basement retaining wall or impervious surface shall be located within 10’ of the property line*”

**SECTION 2:** That the City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions on this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not effect the validity of the remaining parts of this Ordinance.

**SECTION 3:** 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 45 days.

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Town of Atherton

## **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: LISA COSTA SANDERS, SENIOR PLANNER**

**DATE: FOR THE CITY COUNCIL MEETING OF MAY 16, 2001**

**SUBJECT: PUBLIC HEARING - AMENDMENT TO LANDSCAPE SCREENING ORDINANCE**

### **RECOMMENDATION:**

Staff recommends that the City Council conduct the public hearing and introduce the attached Ordinance requiring plantings to be sized to adequately screen the proposed structure within a period of five years from the date construction begins based on the following finding for the reasons outlined in this staff report:

5. The proposed amendment is required to achieve the objectives of the Zoning Plan and the General Plan.

### **INTRODUCTION:**

At the April 5, 2001 General Plan Committee Meeting, the topic of adequate screening for projects covering long periods of construction was discussed. The Committee directed staff to prepare a modification to the Landscape Screening Ordinance changing the requirement to screen within five years of the date of installation to within five years of the date of commencement of construction.

The Planning Commission at their April 25, 2001 meeting reviewed the attached ordinance and voted to recommend that the City Council adopt the ordinance as proposed.

### **ANALYSIS:**

The current ordinance requires landscape screening to adequately screen the proposed structure within a period of five years from the date of installation. All required landscape screening is required to be installed prior to the final inspection or issuance of a certificate of occupancy. Most developers choose to install required landscape screening at the end of the development. Given the long construction

timeline for many new homes (averaging two to three years), assuming the landscaping is installed at the end of the development, required landscape screening would reach adequate size to screen the structure seven to eight years from the actual start of the project. It is therefore recommended that the ordinance be modified to require the screening to be adequately sized to screen the structure within a period of five years from the start of construction. The developer can still choose to install the landscaping at the end of the development. Doing that will just require larger plant sizes that will reach adequate screening size in five years from start of construction (which could be two to three years from project completion).

**CONCLUSION:**

It is Planning Staff's professional opinion that the proposed Ordinance would not be contrary to the purpose and intent of the General Plan and the Zoning Code.

**ENVIRONMENTAL IMPACT:**

The proposed Ordinance Amendment is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305, Minor Alterations in Land Use Limitations of the CEQA guidelines.

**FORMAL MOTION:**

I move that the City Council introduce the attached Ordinance based on the finding and for the reasons incorporated in the Staff Report, and waive further reading.

/s/ Lisa Costa Sanders  
Lisa Costa Sanders, Senior Planner

**Attachments:**

6. Draft Ordinance
7. Municipal Code Chapter 17.50
8. Planning Commission meeting minutes, April 25, 2001
9. General Plan meeting minutes, April 5, 2001

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON  
AMENDING THE ATHERTON MUNICIPAL CODE PERTAINING TO THE TIMING  
OF LANDSCAPE SCREENING REQUIREMENTS ON APPROVED PROJECTS  
WITHIN THE TOWN OF ATHERTON**

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

**SECTION 1:** Section 17.50.070 of the Atherton Municipal Code is hereby amended as follows:

**17.50.070 Plant Coverage and tree sizes**

Plantings shall be sized to adequately screen the proposed structure within a period of five years from the date *construction begins*. The following shall constitute minimum standards for plant coverage and tree sizes:

A. All plantings shall be of adequate size and spacing to insure compliance with the screening requirements. A site inspection shall be conducted after a completed landscape screening application has been submitted. It shall be the discretion of the building official or town representative to assess the adequacy of the proposed planting to meet the screening requirement;

B. Minimum Tree Size. All trees shall be at least twenty-four-inch box container size at the time of installation. Larger trees may be required in the sole discretion of the building official where deemed necessary to meet the objectives of this chapter. Fifteen gallon trees or shrubs may be allowed at the discretion of the building official, when it can be shown that they will achieve the desired landscape screening requirements. (Ord. 508 §~ 7, 8, 1999: Ord. 470 § 1(F), 1992: Ord. 460 § 2 &art), 1991)

**SECTION 2:** That the City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions on this Ordinance are severable and, if for any reason any 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 3:** This Ordinance shall be posted in at least three public places according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

\* \* \* \* \*

I hereby certify that the foregoing ordinance was introduced at a regular meeting of the City Council of the Town of Atherton held on \_\_\_\_\_, 2001, and was adopted by said City Council at a regular meeting held on \_\_\_\_\_, 2001 by the following call vote:

AYES:                   COUNCILMEMBERS:  
NOES:                   COUNCILMEMBERS:  
ABSTAIN:               COUNCILMEMBERS:  
*ABSENT:*               *COUNCILMEMBERS:*

\_\_\_\_\_  
Dianne M. Fisher, Vice Mayor  
Town of Atherton

ATTEST

\_\_\_\_\_  
Sharon Barker, City Clerk

**Item No. 15**



Town of Atherton

## **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: LISA COSTA SANDERS, SENIOR PLANNER**

**DATE: FOR THE CITY COUNCIL MEETING OF MAY 16, 2001**

**SUBJECT: PUBLIC HEARING - 223 CAMINO AL LAGO (APN 070-341-150)  
TENTATIVE PARCEL MAP**

### **RECOMMENDATION:**

For the reasons outlined in this staff report, Planning Staff recommends that the City Council approve the Tentative Parcel Map for the division of one parcel into two parcels on the following findings and subject to the conditions listed in the Draft Tentative Parcel Map Certificate:

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.

**INTRODUCTION:**

The Planning Commission reviewed this item at their February 28, 2001 meeting. At that meeting, the Commission voted to recommend the City Council approve the tentative parcel map. The approval was conditioned upon the applicant modifying the map with the following changes:

1. The Parcel Map shall contain a minimum twenty (20) foot wide access strip dedicated to Parcel B. The access strip shall be increased to maintain a twelve (12) foot wide driveway around the redwood trees at the front and around screening trees.
2. Parcel B property line shall be moved to generally northerly, measured to ten (10) feet from the existing tennis court shown on Parcel A.
3. All property generally westerly from the proposed driveway shall be included in Parcel B.

The attached parcel map complies with the conditions listed above.

The site of the proposed subdivision is a rectangular 3 acre parcel with over 242 feet of frontage on Camino al lago. The site contains numerous mature vegetation.

The applicant proposes to subdivide the existing three acre parcel into one one-acre flag lot and one two acre lot. One single family home, a pool, guest house, tennis court and shed is currently located on the property.

**ANALYSIS:**

The applicant is proposing to subdivide the property into two parcels. As stated above, one parcel would contain over two acres (Parcel A) and will have frontage along Camino al Lago. The second parcel will contain just over one acre and will be a flag lot with access from Camino al Lago.

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

	Lot area	Width	Depth
Minimum Required	43,460 sq. ft.	175.00'	200.00'
Proposed Parcel A	97,576 sq. ft.	216'.00'	378.72'
Proposed Parcel B	44,538 sq. ft.	149.17'	283.66'

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

**CONCLUSION:**

It is Planning Staff's professional opinion the proposed subdivision will be consistent with the existing pattern of development and that the proposal is consistent with the purposes and intent of the General Plan and Zoning Code.

**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 allowing the subdivision of one parcel into two parcels, based on the findings and for the reasons incorporated in the Staff Report.

/s/ Lisa Costa Sanders

Lisa Costa Sanders, Senior Planner

**Attachments:**

- 10. Draft Tentative Parcel Map Certificate
- 11. Site Plan Prepared by Triad/Holmes dated April, 2001
- 12. Planning Commission meeting minutes, February 28, 2001

**Item No. 16**



Town of Atherton

## **CITY COUNCIL STAFF REPORT**

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**FROM: LISA COSTA SANDERS, SENIOR PLANNER**

**DATE: FOR THE CITY COUNCIL MEETING OF MAY 16, 2001**

**SUBJECT: PUBLIC HEARING - 366 WALSH ROAD (APN 073-202-130 and 120)  
LOT MERGER**

### **RECOMMENDATION:**

For the reasons outlined in this staff report, Planning Staff recommends that the City Council approve the Lot Merger for the merger of two parcels into one parcel on the following findings and subject to the conditions listed in the Draft Lot Merger Certificate:

11. The Lot Merger is in conformance with the Subdivision Map Act, the Atherton Subdivision Ordinance and the Atherton General Plan.
12. The size and shape of the proposed lot merger is in general conformance with Town requirements and the general pattern of the neighborhood and will not cause traffic, health or safety hazards

### **INTRODUCTION:**

The Planning Commission, at their April 25, 2001 meeting, reviewed the lot merger request and voted to recommend that the City Council approve the lot merger. The site of the proposed lot merger consists of two parcels, each just over one acre. Lot Two contains 48,217 square feet and Lot One contains 44,373 square feet. Lot Two is a flag lot accessed from the end of Walsh Road and Lot One has frontage along Walsh Road.

The applicant proposes to merge the two lots to create one 2.12 acre parcel (92,590 square feet). There is currently a house, detached garage and pool on Lot Two (366 Walsh Road). Lot One is currently vacant.

**ANALYSIS:**

The applicant is proposing to merge the two lots into one lot. As stated above, the lot merger would result in one parcel of 2.12 acres of land and will have frontage along Walsh Road.

The proposed merger and the minimum R-1A zoning district requirements are as follows:

	Lot area	Width	Depth
Minimum Required	43,460 sq. ft.	175.00'	200.00'
Lot Merger	92,590 sq. ft.	+/- 195.00'	+/- 453.00'

The proposed lot merger complies with the minimum R-1A zoning requirements and the residential land use policies contained in the General Plan. The design of the lot merger is compatible with the neighborhood character. The merged parcel meets the minimum subdivision design standards established in the Zoning and Subdivision Ordinances.

**CONCLUSION:**

It is Planning Staff’s professional opinion the proposed lot merger will be consistent with the existing pattern of development and that the proposal is consistent with the purposes and intent of the General Plan and Zoning Code.

**ENVIRONMENTAL IMPACT:**

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Sections 15305, Class 5(a); Minor Alterations in Land Use Limitations not resulting in the creation of any new parcel.

**FORMAL MOTION:**

I move that the City Council approve the Lot Merger allowing the merger of two parcels into one parcel, based on the findings and for the reasons incorporated in the Staff Report.

/s/ Lisa Costa Sanders

Lisa Costa Sanders, Senior Planner

**Attachments:**

- 13. Draft Lot Merger Certificate
- 14. Site Plan Prepared by L. Wade Hammond, dated March 12, 2001
- 15. Planning Commission draft minutes