

**PLANNING COMMISSION
APPROVED MINUTES**

**TOWN OF ATHERTON
January 27, 2010
6:00 P.M.
TOWN COUNCIL CHAMBERS
94 ASHFIELD ROAD**

1. ROLL CALL:

**PRESENT: Philip Lively
Paul Quinlan
Herman Christensen Jr.
William Grindley**

EXCUSED: Kristi Waldron

Assistant City Attorney Ben Winig, Deputy Town Planner Lisa Costa Sanders and Town Arborist Kathy Hughes Anderson were also present.

2. APPROVAL OF MINUTES

**MOTION to approve the minutes of the December 2, 2009 meeting as amended.
M/S Lively/ Grindley Ayes: 4 Noes: 0 Excused: 1 (Waldron)**

3. PUBLIC COMMENTS- none

4. COMMISSIONER'S REPORTS

Commissioner Grindley reported on recent City Council action relating to the Blue Ribbon Task Force.

Commissioner Lively noted that Staff received the comments from the State Department of Housing and Community Development (HCD) and that the City Council established a subcommittee of Commissioners Lively and Quinlan to work with Staff on the response to THE HCD comments.

5. GENERAL PLAN COMMITTEE REPORTS

Commissioner Christensen reported that the next General Plan meeting is scheduled for February 3, 2010 to discuss a Green Building Ordinance. Kathy Hughes Anderson indicated the General Plan Committee will also review options for a Water Conservation Ordinance as mandated by the State.

6. STAFF REPORTS-none

7. Heritage Tree Removal Permit- 8 Catalpa Drive-Heritage Tree Removal request to allow the removal of one heritage tree. Atherton Municipal Code Section 8.10

Deputy Town Planner, Lisa Costa Sanders presented the staff report and indicated staff support for the removal of one heritage tree.

Commissioner Quinlan asked for clarification that it was the Yew tree that was requested for removal. Ms. Costa Sanders confirmed.

Commissioner Grindley asked what type of replacement trees would be compatible with the adjacent oak trees. Town Arborist, Kathy Hughes Anderson indicated that she does not recommend planting another Redwood or Oak, but a smaller crowning tree.

OPEN PUBLIC HEARING
No public comments
CLOSE PUBLIC HEARING

Commissioner Lively indicated he visited the site and would support the removal request.

Commissioner Quinlan indicated he too visited the site and asked what improvements specifically would be in conflict with the tree in discussion. Ms. Hughes- Anderson reference sheet A.1 of the plans and stated that the proposed entry gate column would impact the root system. Commissioner Quinlan asked if the tree is healthy. Ms. Hughes Anderson noted that it is in fair condition, that it is a Japanese Yew, not an English Yew tree. This type of tree needs to be pruned meticulously and it appears this tree has not been properly pruned or maintained. Commissioner Quinlan indicated that based on the condition of the tree, he would support the removal of the tree.

Commissioner Grindley noted he visited the site and spoke with the property owner and would support the removal request.

Commissioner Christensen agreed with his fellow Commissioners and believes the site would look better without the tree, given its condition, and would support the removal.

MOTION to approve the removal of one heritage tree at 8 Catalpa Drive for the reasons outlined in the staff report based upon the following findings and conditions stated in the draft Heritage Tree Removal Certificate.

M/S Lively/ Quinlan Ayes: 4 Noes: 0

Findings:

1. The removal of one heritage tree would not be contrary to the purpose and intent of the Atherton General Plan.

Vice-Chair Christensen advised of 10 day appeal period.

- 8. Special Structure Permits and Conditional Exception- 69 Catalpa and 75 Catalpa Drive-** Special Structure Permit request to allow a new tennis court, Special Structure Permit to allow a basement under and accessory structure and a Conditional Exception to allow a lot merger. Atherton Municipal Code section 17.15, 17.40, 17.44 and 16.36

Deputy Town Planner, Lisa Costa Sanders presented the staff report for all three separate items and indicated staff support. She also noted changes made by the applicant to move the accessory building further away from the oak trees as well as reduce the overall size of the basement.

Commissioner Quinlan asked for clarification on the setback requirement for accessory structures on a lot where there is no main building. Ms. Costa Sanders indicated that Staff applies a conservative interpretation and requires a 120 feet setback from the front property line.

Commissioner Quinlan questioned if the current non-conforming floor area was built before the current floor area regulations. Ms. Costa Sanders indicated that the current floor area requirements were established 1985 and that the previous floor area was 50% of the lot area. The applicant indicated that the home was built in the mid 1970's.

Commissioner Christensen questioned if the three palms #11, 12 and 13 will remain. Ms. Hughes Anderson stated that the applicant has not applied for a tree removal permit at this time. She stated that the topographic map shows that they are not of heritage tree size; however the project arborist report shows that they are of heritage tree size. Commissioner Christensen noted that if they are heritage tree size, they would have to come to the Commission for removal.

OPEN PUBLIC HEARING

Andy Kessler, property owner, gave a brief overview on the request for the placement of a tennis court, the need for the new guest house and the desire to merge the properties.

Andrew Young, Architect, thanked Ms. Costa Sanders and Ms. Hughes-Anderson for their continued communication throughout this process. He noted that there are 18 heritage trees on the property. Mr. Young reviewed the different options for placement of a tennis court and guest house. He stated that the proposed location of the tennis court would not have an impact on heritage trees.

Commissioner Quinlan questioned if they had spoken with the neighbors with regards to the tennis court, in particular the one neighbor whose garage it near the tennis court. Mr. Kessler indicated that there have been no issues with neighbors.

Commissioner Lively commented that he'd like to add to condition #4 on the permit, "no court lighting to be permitted from adjacent structures." As for the accessory structure he would like to add "Guest house occupancy limited to 30 days" and "light wells shall face interior of property." Mr. Young indicated that all are acceptable. Commissioner Lively asked for clarification as the building next to the palms, was it another new accessory structure. Mr. Kessler indicated that it is a storage facility for tennis equipment. Commissioner Lively also asked for clarification with a post and dotted line that appeared to be a covered patio. Mr. Young indicated it is indeed a covered patio. Commissioner Lively expressed concern that the covered patio could be enclosed in the

future and requested an additional condition that the “covered patio at the accessory building shall not be enclosed.”

Mr. Young stated that the maximum allowable square footage for the all accessory structures is 2,086 square feet based on the merged properties. Ms. Costa Sanders confirmed. Mr. Young noted that they still would have space for the 500 square feet covered patio and be well within the maximum allowable area. Commissioner Lively indicated he would like to see that the maximum allowable floor area for the accessory structure be included as a condition of approval.

Commissioner Christensen asked for clarification with regards to the Palm trees. Mr. Kessler indicated that he liked the Palm trees, but they shed a lot. Commissioner Christensen clarified that if these trees are confirmed to be heritage tree size, their removal would require action by the Planning Commission.

Marion Oster, Flood Circle, indicated she is directly behind the two properties and although she was not contacted by the owners, she does have the packet and is pleased that the oak trees will be saved and would support their requests.

CLOSE PUBLIC HEARING

Commission discussion on the Special Structure Permit for tennis court:

Commissioner Lively indicated he'd like to add condition #4 relating to lighting.

Commissioner Quinlan noted that the tennis court will be well screened, no neighbors have expressed concern and the court will not impact heritage trees. He would therefore would support the request.

Commissioner Grindley commended the interaction between Staff and the applicant and further expressed his support for the request.

Commissioner Christensen expressed his support.

MOTION to approve the Special Structure Permit allowing for construction of a tennis court at the front setback at 69 Catalpa based upon the following findings and conditions stated in the draft Special Structure Permit.

M/S Lively/ Quinlan Ayes: 4 Noes: 0 Excused: 1 (Waldron)
Findings:

1. The proposed structure will not negatively impact neighboring properties with respect to privacy and view.
2. The proposed structure complies with other development standards, restrictions or limitations for the proposed structure, such as height and landscaping screening.
3. The granting of the special structure permit is consistent with the objectives of the general plan and zoning code.

Additional Conditions:

1. Condition #4 to read, "No athletic court lighting may be permitted and no court lighting from adjacent structures."

Commission discussion on the Special Structure Permit to allow a basement under the accessory building:

Commissioner Grindley noted that he agrees the light well at the rear of the accessory building needs to be removed and with this change, he would support the request.

Commissioner Lively stated that he would support the request with additional conditions.

Commissioner Quinlan indicated his support for the request.

Commissioner Christensen agreed with his colleagues.

MOTION to approve the Special Structure Permit to allow a basement under an accessory structure at 69 Catalpa Drive subject to the conditions in the draft Special Structure Permit and based on the findings for the reasons incorporated in the Staff report.

M/S Lively/ Quinlan Ayes: 4 Noes: 0 Excused: 1 (Waldron)

Findings:

1. The proposed basement under the accessory structure will not impact heritage trees, provides sufficient room for landscape screening and with light wells located on the interior side of the yard.
2. The proposed structure will not negatively impact neighboring properties with respect to privacy and view.
3. The proposed structure complies with other development standards, restrictions or limitations for the proposed structure, such as height and landscape screening.
4. The granting of the special structure permit is consistent with the objectives of the general plan and the zoning code.

Additional Conditions:

1. Condition #7 to read, "Guest House occupancy shall be limited to 30 days."
2. Condition #8 to read, "All light wells to face interior."
3. Condition #9 to read, "Maximum allowable square footage for all accessory structures not to exceed 2,086 square feet."

Commission discussion on the request for a Conditional Exception to allow the Lot Merger:

Commissioner Grindley expressed his support for the lot merger.

Commissioner Quinlan clarified that the Commission makes the recommendation to City Council and they are the deciding body. He also asked if this code section is being

properly applied to this situation. Assistant City Attorney, Ben Winig responded in the affirmative to both questions.

Commissioner Lively stated to the applicant that once the two lots are merged, they cannot be subdivided.

Commissioner Christensen expressed his support for the request.

MOTION to recommend the City Council approve the Conditional Exception to allow the lot line adjustment to merge the properties located at 69 Catalpa Drive and 75 Catalpa Drive subject to the conditions in the draft Conditional Exception Permit and based on the findings and for the reasons incorporated in the Staff report.

M/S Grindley/ Quinlan Ayes: 4 Noes: 0 Excused: 1 (Waldron)

Findings:

1. There are special circumstances or conditions affecting the property.
2. The exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.
3. The granting of the exception would not be detrimental to the public welfare or injurious to other properties in the territory in which the property is located.
4. The granting of the exception will not violate the requirements, goals, policies or spirit of the law.

Vice-Chair Christensen advised of 10-day appeal period for all of the actions taken for this property.

9. Special Events Guidelines—Recommendation from the Special Event Subcommittee to Amend the School Event Guidelines.

Commissioner Lively stated that the Subcommittee met on several occasions, and had a number of contacts with stakeholders, and has determined that amending the guidelines to limit field use to sundown would suffice.

Commissioner Quinlan noted that the Subcommittee had done a lot of work on this issue and asked if people would be against the amendment as recommended. Commission Lively indicated that the issue is pretty much focused on the playing fields at Menlo College/Menlo School (shared) that are adjacent to Brittney Meadows.

Commissioner Quinlan asked if the concern was really related to non-school related activities. Commissioner Lively said there have been numerous activities, such as baseball camps etc. Commissioner Quinlan clarified that none of the fields have lights. Commission Grindley indicated that it may be an issue down the road as Menlo Atherton High School is considering lights at the football field in the near future. Commissioner Quinlan indicated that the lights would be used for school events.

Commissioner Grindley indicated that Pop Warner representatives have both shown the most resistance against obtaining special events permit and have requested they be considered exempt under the ordinance.

Commission Quinlan asked for clarification of the recommended field use hours. Commissioner Lively indicated that Saturday and Sunday hours will remain the same, with the change until sunset Monday through Friday. Saturday is currently limited to the hours of 8:00 a.m. until 5:00 p.m. and is Sunday is currently limited to the hours of 10:00 a.m. until 4:00 p.m.

Commissioner Grindley noted he would like to add “sunset being defined as the time of sunset published daily in the San Jose Mercury News.”

MOTION to recommend that the City Council amended School Event Guidelines as recommended by the Subcommittee.

M/S Grindley/ Lively Ayes: 4 Noes: 0 Excused: 1 (Waldron)

10. ADOURN

M/S Quinlan/ Grindley to adjourn meeting at 7:05 p.m. Motion passed.

Respectfully submitted,

Lisa Costa Sanders, Deputy Town Planner