

**PLANNING COMMISSION
APPROVED MINUTES**

**TOWN OF ATHERTON
December 2, 2009
6:00 P.M.
TOWN COUNCIL CHAMBERS
94 ASHFIELD ROAD**

1. ROLL CALL:

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

Assistant City Attorney Ben Winig and Deputy Town Planner Lisa Costa Sanders were also present.

2. APPROVAL OF MINUTES

**MOTION to approve the minutes of the October 28, 2009 meeting as amended.
M/S Christensen/ Grindley Ayes: 5 Noes: 0**

3. PUBLIC COMMENTS- none

4. COMMISSIONER'S REPORTS

Commissioner Grindley reported that the Blue Ribbon Task Force reported to City Council and Council accepted the report.

5. GENERAL PLAN COMMITTEE REPORTS

Commissioner Christensen reported that the next General Plan meeting is scheduled for February 3, 2010.

6. STAFF REPORTS

Deputy Town Planner, Lisa Costa Sanders reported that the City Council approved the Zoning Code update and which became effective on November 20, 2009. She further noted that City Council adopted the fee schedule for the Planning Department.

Ms. Costa Sanders also reported that Staff scheduled a conference call with the Staff from the State Department of Housing and Community Development to respond to questions and obtain initial comments and feedback regarding the Housing Element.

Ms. Costa Sanders also noted that she met with Commissioner Lively and Commissioner Grindley regarding the Special Events Ordinance. She indicated that following her meeting with the Commissioners, she met with the City Attorney and anticipates this item will be presented to the Commission at is January 2010 meeting.

7. NEW BUSINESS

Annual Plan Master Update from Sacred Heart Schools, 150 Valparaiso

Deputy Town Planner, Lisa Costa Sanders introduced Sandy Dubinsky, representative for Sacred Heart Schools.

Commissioner Lively questioned how many neighborhood group meetings have been held to date. Ms. Dubinsky indicated there have been two meetings. Commissioner Lively questioned the attendance of both meetings and any correspondence. Ms. Dubinsky reported that the first meeting was attended by 7-8 people and the second meeting was attended by roughly 15-18 people and the only correspondence was the letter from Mr. Wallenberg and a few follow up emails. It appears that the main concern is the main entrance.

Commissioner Christensen indicated he felt the sound system reverberating through the neighborhood was of concern as well as the frontage on Park Lane.

Commissioner Grindley asked for clarification on the enrollment cap. Ms. Dubinsky indicated that the new cap is 1196 students. Commissioner Grindley questioned what enrollment number of 1171 represents. Ms. Dubinsky noted that the enrollment will cap is presented as 1196 students within 5 years; however she does not believe they will reach that number. The school predicts the enrollment to reach 1171 students over the next 6 years and expect a leveling in enrollment between years 2012-2015.

Commissioner Lively reported that years ago he conducted his own traffic studies at the Park Lane entrance with left and right hand turns. Ms. Dubinsky requested clarification. Commissioner Lively indicated going west turning out of the campus may be a problem.

Commissioner Christensen indicated that there is a significant amount of traffic on Park Lane between the morning hours of 7:15-7:45 a.m.

Commissioner Lively commended Sacred Heart Schools and Ms. Dubinsky as it appears that they have addressed the comments of the neighbors.

Chair Waldron wanted to thank Sacred Heart Schools for proactively contacting the Commissioners.

OPEN PUBLIC HEARING
CLOSE PUBLIC HEARING

Motion to receive the Annual Master Plan Update from Sacred Heart Schools
M/S Lively/ Quinlan Ayes: 5 Noes: 0

8. Heritage Tree Removal Permit- 150 Alta Vista 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 noted that staff had difficulty in coming up with a recommendation on this item.

Commissioner Christensen questioned how long it takes an Oak to grow to this size. Town Arborist, Kathy Hughes-Anderson indicated between 150-200 years.

OPEN PUBLIC HEARING

Todd Spiegel, project Architect stated that they are only requesting the removal of tree #110.

Commissioner Grindley questioned the “chapel” shown on the plans. Mr. Spiegel indicated it is designed as a private meditation area. Commissioner Grindley asked if it was enclosed. Mr. Spiegel responded in the affirmative.

Commissioner Christensen questioned if the pad from the former residence is still in place at the site. Mr. Spiegel noted that they are slightly increasing the pad and cutting into the upslope.

Commissioner Lively noted his question had been answered regarding the retaining wall type. Mr. Spiegel indicated it is a 5 foot fill wall on the downside. Commissioner Lively noted that if they were building just the tennis court without the viewing area and the lower level, there would be no issue with the tree. Mr. Spiegel responded that the footprint of the tennis court is regulation size and with the stairway on the upslope side they would still have to cut for the retaining wall, which would impact the roots of the tree.

Commissioner Waldron questioned the viewing room. Mr. Spiegel noted it is set off the edge of the court.

Commissioner Grindley asked if there was an edge around the court. Mr. Spiegel indicated there is.

Commissioner Quinlan asked if they had spoken with the neighbors. Mr. Spiegel indicated they had not spoken with any neighbors. Commissioner Quinlan questioned if it is possible to slide the tennis court over. Mr. Spiegel noted that again it is at the pad and there is 20' differential in height and sliding it back or forth still impacts the tree.

Commissioner Grindley asked if there was a special reason for the need to drive all the way around the house.

CLOSE PUBLIC HEARING

Assistant City Attorney, Ben Winig noted that the Commission should state its basis for approval or denial.

Ms. Costa Sanders clarified the General Plan language.

Commissioner Grindley stated that he would not be in support of removal of the tree.

Commissioner Christensen concurred with Commissioner Grindley; it is an outstanding Oak tree. He further noted that he'd rather see trees #120 and #121 be removed rather than #110.

Commissioner Quinlan noted that he visited the site and walked the property. Although the architect noted that they are preserving a lot of trees he feels there would be a significant gap if tree #110 were removed. He further noted that the site is a large piece of property with a big slope and therefore would be limited options for a tennis court. Commissioner Quinlan concurred with Commissioner Christensen in that the trees on the down slope do not fair as well. Mr. Quinlan reviewed the General Plan and therefore would not support the removal of the tree.

Commissioner Lively indicated he visited the site and agrees with Town Arborist, Kathy Hughes-Anderson and would not support the request.

Chair Waldron indicated she visited the site and agrees that the tree is not the nicest tree on the property. She further noted that there are many other trees and noticed that there is a lot of work being done to preserve the other trees and therefore would support the removal.

MOTION to deny the proposed removal of one heritage tree at 150 Alta Vista Drive for reasons outlined in the Staff Report.

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

Chair Waldron advised of 10-day appeal period.

- 9. Heritage Tree Removal Permit- 49 James Avenue**—Heritage Tree Removal request to all the removal of one heritage tree. Atherton Municipal Code Section 8.10

Chair Waldron and Commissioner Lively excused themselves since they live within 500 feet of the property in discussion.

Deputy Town Planner, Lisa Costa Sanders presented the staff report and indicated Staff had difficulty providing a recommendation.

Commissioner Grindley noted that there are a lot of trees on the property.

Town Arborist, Kathy Hughes-Anderson also agreed and suggested smaller crowning trees be planted.

Commissioner Quinlan noted there is a large Redwood cluster and questioned if their growth is inhibited. Ms. Hughes- Anderson indicated that there is some shading to this cluster and would take off and do very well if the requested tree were removed.

Commissioner Christensen questioned the age of the Redwood tree. Ms. Hughes-Anderson indicated it is roughly between 50-60 years old, stating that Redwoods grow very fast.

OPEN PUBLIC HEARING

Gaurang Desai, property owner, reviewed the removal request and the planned improvements to the site. Mr. Desai noted that there has been no issue with his neighbors.

Commissioner Grindley questioned if he has spoken with his neighbors to the north and west of this property. Mr. Desai indicated that he had to leave a note for one neighbor as he was not able to get a hold of them.

Commissioner Christensen noted that he visited the site and indicated that there appears adequate space between the pool and the garage to construct a pool house. Mr. Desai noted that he did look at this as an option; however the edge of the pool house would go into the apron of the pool.

CLOSE PUBLIC HEARING

Commissioner Grindley noted that this request is a tough call. The lot is beautifully wooded and can see the logic behind the placement. He indicated that removal of the one Redwood tree is not a big loss; as Redwood trees are fast growing. Commissioner Grindley stated that he would support the request for removal.

Commissioner Quinlan indicated he visited the site and also noted there are a lot of trees along the perimeter and throughout the property and expressed his support for the removal of the one heritage Redwood tree.

Commissioner Christensen indicated he feels differently as this tree one of the largest trees on the property and according to his interpretation of the General Plan, it should be preserved and therefore would deny the application.

MOTION to approve the removal of one heritage tree at 49 James Avenue based on the following findings and with the conditions stated in the draft Heritage Tree Removal Certificate.

M/S Quinlan/Grindley

Ayes: 2

Noes: 1 (Christensen)

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.

10. Variance-38 Almendral Avenue- Variance to allow an accessory structure to be located in the front yard. Atherton Municipal Code Section 17.56

Deputy Town Planner, Lisa Costa Sanders presented the Staff report and indicated Staff's recommendation to deny the variance.

OPEN PUBLIC HEARING

Lars Herlitz, property owner, reviewed his request for the variance. He indicated that there are two different issues: the first is the fire station next door. Mr. Herlitz noted that they believed they would be able screen the fire station with landscaping. Unfortunately, all the plants they have tried have died. It may be due to the detergent the fire department uses to wash the engine every 72 hours. Mr. Herlitz noted that the second issue is the need for additional space, and although they looked into expanding above, the current house is too old and the foundation would not support a second story. He concluded that they are preserving all trees and have the support of their neighbors.

Anthony Applewhite, 2 Southgate, indicated that his property was granted a Variance over 18 years ago and confirmed that the engines are washed every 72 hours. Mr. Applewhite acknowledged that the change would not disrupt the look and feel of the neighborhood and that the proposed garage would serve as permanent screening.

CLOSE PUBLIC HEARING

Chair Waldron indicated that the Fire Department should use a more "green" product.

Commissioner Grindley indicated that there are extenuating circumstances and the owners have coped with this for 8 years and therefore would support the granting of the Variance.

Commissioner Lively indicated he visited the property and talked with the applicant and would support the Variance with the additional conditions; that the garage shall always face inward; that the structure shall not have a window facing Almendral; and that exterior lighting shall be shielded and down lit.

Commissioner Quinlan indicated that he visited the site and talked with the applicant, however does not feel that living next to the fire station is a special circumstance and therefore would deny the request for the Variance.

Commissioner Christensen indicated that the request is unique and there is only one other property like this and therefore would support the request for the Variance as the garage would provide screening, although he disagrees with Commissioner Lively regarding the condition he has proposed limiting a window facing the street.

Chair Waldron noted that this is an unusual and difficult application. She indicated that she has reviewed the standards for granting a Variance and does not believe that this request meets those standards.

Motion to approve the Variance to allow an accessory structure at 38 Almendral Avenue, to be located in the front yard based upon the following findings and with the additional conditions.

M/S Lively/ Grindley

Ayes: 3

Noes: 2 (Quinlan/ Waldron)

Findings:

1. There are special circumstances applicable to the property, including size, shape, topography, location or surroundings, where the strict application of the Zoning Title deprives such property of privileges enjoyed by other property in the vicinity and under identical classification.
2. The Variance is subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
3. The Variance does not authorize a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

Additional Condition:

1. Add condition #5 to read as follows; "Garage door shall not face the public right-of-way."
2. Add condition #6 to read as follows; "exterior lighting shall be shielded or downlit so the source of the light is not visible from adjacent properties".

Chair Waldron advised of 10 day appeal period.

11. ADOURN

M/S Grindley/Christensen to adjourn meeting at 7:35pm. Motion passed.

Respectfully submitted,

Lisa Costa Sanders, Deputy Town Planner