

**CORRECTED – APPROVED MINUTES
PLANNING COMMISSION MEETING
February 28, 2007
6:00 p.m.**

ATHERTON TOWN COUNCIL CHAMBERS
94 Ashfield Road
Atherton, California

REGULAR MEETING

Chair Andrews called the meeting to order at 6:00 p.m.

1. ROLL CALL:

PRESENT: **Bob Andrews**
 Rose Hau
 Jim Dobbie
 Marion Oster
 Kristi Waldron

City Attorney Marc Hynes, 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 January 24, 2007 meeting as corrected.

M/S Dobbie/Waldron Ayes: 5 Noes: 0

3. PUBLIC COMMENTS - None

4. COMMISSIONER’S REPORTS - Andrews indicated that the presentation to the Council will not occur during his term.

5. GENERAL PLAN COMMITTEE REPORTS – Oster reported that the General Plan Committee held a joint meeting with the Environmental Programs Committee on February 7, 2007 to discuss Green Building and has scheduled another joint meeting for May 2, 2007.

6. STAFF REPORTS –Marc Hynes reported that he anticipates litigation against the Town regarding the 51 Laburnam decision. Lisa Costa Sanders reported that the City Council at their February 21, 2007 meeting; denied an appeal at 233 Park Lane for a basement under patio areas. Lisa Costa Sanders introduced Mike Wasmann, Town Building Official.

7. NEW BUSINESS - None.

PUBLIC HEARINGS

- 8. Heritage Tree Removal Permit – 37 De Bell** – Heritage Tree Removal Permit to allow the removal of one heritage tree. Atherton Municipal Code Section 8.10.

Lisa Costa Sanders presented the staff reported and indicated staff support for the tree removal.

In response to a question, Kathy Hughes Anderson stated that the tree's roots are not deep, but extend well beyond the dripline.

OPEN PUBLIC HEARING

The applicant, John Garagozzo, noted his presence to answer any questions.

CLOSE PUBLIC HEARING

MOTION to approve the Heritage Tree Removal Permit for the removal of one heritage tree at 37 De bell based on the following finding and subject to the conditions of the Heritage Tree Removal certificate with the following additional condition;

M/S Hau/Oster Ayes: 5 Noes: 0

Finding:

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

Additional Condition;

1. Modify condition 3 to remove the wording; "one 48" box tree or".
2. Add condition 4 to read as follows; "A professional arborist shall properly prune the remaining trees".

- 9. Excessive Height Permit – 86 Broad Acres** – Excessive Height Permit request to allow a 32'-10" main residence with 23'-7" tall sidewalls. Atherton Municipal Code Section 17.20.040.

Lisa Costa Sanders presented the staff reported noting the applicant's request to modify the Excessive Height Permit to allow the residence to a maximum height of 34' with 26' tall sidewalls based on the provision of increased setbacks.

The Commission received a letter from Usha & Diaz Nesamoney, 238 Alameda expressing concern with the proposal.

Kathy Hughes Anderson reviewed the preliminary landscape plan with the Commission.

OPEN PUBLIC HEARING

Charles Moldow, property owner was present to answer questions.

CLOSE PUBLIC COMMENT

MOTION to approve the Excessive Height Permit to allow a new residence with a maximum height of 34' with maximum sidewall height of 26' at 86 Broad Ares in Atherton based on the following findings and subject to the conditions of the Excessive Height Permit;

M/S Oster/Waldron Ayes: 5 Noes: 0

Findings:

1. The proposed height exception/residence would be appropriate under the general plan of the town as outlined in the staff report.
2. The proposed height exception/residence at the proposed location will not be detrimental or injurious to persons, property or improvement in the vicinity and will not be detrimental to the public health, peace, safety, comfort, general welfare or convenience.

- 10. Lot Line Redesignation and Conditional Use Permit – 107 Reservoir Road–** Lot Line Redesignation request to designate the north property line as the front property line and Conditional Use Permit to allow a detached garage in the front yard. Atherton Municipal Code Section 17.20.040.

Lisa Costa Sanders presented the staff reported noting that the existing home has side yards of 68' and 50'. Staff recommends the Lot Line Redesignation be approved with the condition that a side yard setback requirement of 50' be applied to the property.

OPEN PUBLIC HEARING

Lynn Bodwell reviewed her plans for the property with a new pool behind the existing home.

CLOSE PUBLIC COMMENT

MOTION to approve the Lot Line Redesignation and Conditional Use Permit designating the north property line as the front property line and allowing the detached garage in the front yard at 107 Reservoir Road in Atherton based on the following findings and subject to the conditions of the Excessive Height Permit;

M/S Hau/Oster Ayes: 5 Noes: 0

Findings:

1. The proposed lot line redesignation and conditional use permit will not be detrimental or injurious to persons, property or improvement in the vicinity and will not be detrimental to the public health, peace, safety, comfort, general welfare or convenience.

2. The proposed lot line redesignation and conditional use permit for the subject site is consistent with the Town of Atherton General Plan and the purposes of that plan and the Zoning Code.

11. Ordinance Amendment – Ordinance Amendment amending Atherton Municipal Code section 17.08

Lisa Costa Sanders presented the Staff report noting recommendations of the General Plan Committee to modify the current basement regulations.

OPEN PUBLIC COMMENT

Susan Aalaei, Flood Circle, stated that the Commission should be more open to changes.

Herman Christensen, Park Lane, distributed graphics of possible implementation of the new ordinance and expressed concern with the resulting expanded basement area. He recommended the Commission retain the existing basement regulations.

Steve Dostart, Patricia Drive, stated that the recommended Ordinance is a compromise and expressed his support.

Carol Flarety, Camino por los Arboles, stated that the proposed Ordinance is a thoughtful compromise and feels that the floor area of basement garages should not be counted towards the floor area limitations for the lot.

Paul Wythes, Park Lane, expressed concern that the proposed ordinance will allow very large basements that will impact heritage trees and drainage issues and that the Planning Commission should deny the Ordinance Amendment.

Linda Liebes, Monte Vista, recommended the Planning Commission deny the ordinance amendment due to concern with drainage and impact to heritage trees.

Denise Reyff, Atherton Avenue stated that she would prefer underground garages from an aesthetic perspective.

Scott Feamster, Park Lane, stated that he would like to see more house and less garage and the Commission should encourage underground garages.

Jeff Wise, Linden Avenue, stated that once built, a basement is not visible from the outside and the area surrounding the home is typically covered with hardscape (parking pads, patios, etc.). He stated that the floor area of basement garages should not be included.

Dave Welch, Ralston, stated the depth limit on basements should be removed.

Gene, Fletcher Drive, feels the proposed changes are poorly written and should keep basements under the footprint of the residence.

Phil Lively, Hawthorn, reviewed examples of basements with the proposed regulations and suggested Commissioners visit 49 Heather. He stated that the Commission should keep the ordinance as existing.

CLOSE PUBLIC COMMENT

Commissioner Andrews expressed concern with drainage and the use of the entire building area. He does not see an issue with underground garages.

Commissioner Hau stated that the Ordinance is a compromise situation, basement garages should not be calculated in the floor area requirements and remove the 14' depth restriction.

Commissioner Oster expressed concern with drainage, large light wells and would like to see underground garages count in the floor area due to the driveway approach.

Commissioner Dobbie stated that the problem with basements is cumulative, underground garages are unattractive, the Ordinance can be manipulated and suggested the area of the basement be the same square footage of the home and limited to under the home with some extensions.

Commissioner Waldron stated that we should not regulate the use in basements, do not include underground garages in the floor area calculations, would not like to see the Ordinance allow for expanded basement areas and would like to define light wells as "a well is deeper than it is wide".

Commissioners discussed alternate language for section 17.36.190(A)(1); "coincident to the exterior lines of building located within the main building area". Or, "defined by lines running collinear with the exterior lines of buildings...".

Commissioners also suggested a limitation to the area of basement be tied to the floor area of the first floor of the main building. Commissioners suggested a limitation of "basement area shall not exceed the floor area of the first floor of the main dwelling" and that "at least 80% of the basement area shall be located under the footprint of the main dwelling". These regulations would limit the area that a basement could be constructed and eliminate the possible loophole of connecting the exterior points of a building to maximize the basement area.

MOTION to eliminate the depth restriction in the Ordinance.

M/S Andrews/Hau Ayes: 5 Noes: 0

MOTION to not include basement garages in the floor area calculations.

M/S Andrews/Hau Ayes: 5 Noes: 0

MOTION to require at least 80% of the basement shall be located under the footprint of the main dwelling.

M/S Waldron/Oster Ayes: 5 Noes: 0

MOTION to allow basements under accessory structures outside the main dwelling area with a conditional use permit.

M/S Andrews/Waldron Ayes: 4 Noes: 1

MOTION to continue this item to the next meeting.

M/S Andrews/Oster Ayes: 5 Noes: 0

12. Ordinance Amendment – Ordinance Amendment amending Atherton Municipal Code Section 17.44 regarding Nonconforming Uses

Lisa Costa Sanders presented the Staff report noting recommendations of the General Plan Committee and Staff to modify the current nonconforming regulations.

OPEN PUBLIC COMMENT

David Lewis, 50 Jennings Lane, stated his desire to add on to a portion of his home that is considered non-conforming due to a 4” encroachment into the required side yard setback.

CLOSE PUBLIC COMMENT

MOTION to recommend the City Council adopt the Ordinance Amendment regulating nonconforming uses and structures based on the following finding;

M/S Waldron/Andrews Ayes: 5 Noes: 0

Finding:

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

13. Heritage Artifact Inventory – Adoption of the Heritage Artifact Inventory

Lisa Costa Sanders presented the Staff report stating that the Inventory was prepared by the Towns Historical Consultant Laura Jones and has been presented to the General Plan Committee and City Council. Staff recommends the Commission adopt the Inventory.

OPEN PUBLIC COMMENT

CLOSE PUBLIC COMMENT

MOTION to adopt the Heritage Artifact Inventory

M/S Oster/Dobbie Ayes: 5 Noes: 0

14. ADJOURN

M/S Hau/Dobbie to adjourn the meeting at 9:00 p.m. Motion passed.

Respectfully submitted,

Lisa Costa Sanders, Deputy Town Planner