

**PLANNING COMMISSION  
MINUTES**

**TOWN OF ATHERTON  
February 22, 2017  
6:00pm  
TOWN COUNCIL CHAMBERS  
94 ASHFIELD ROAD**

**1. ROLL CALL**

**PRESENT: Eric Lane  
Joann Byrd-Sockolov  
Nancy Lerner  
Paul Tonelli  
Randy Lamb**

Town Planner Lisa Costa Sanders, Senior Planner Stephanie Bertollo-Davis, City Attorney William B. Connors, Town Arborist Sally Bentz, and Assistant Planner Dori Ganetsos were present.

**2. PUBLIC COMMENTS – None.**

**3. APPROVAL OF MINUTES**

Chair Lane corrected the minutes to clarify “them” on page 3 was referring to the trees in question.

**MOTION to approve the minutes of the January 25, 2017 meeting as revised.**

**M/S Sockolov/Lerner Ayes: 4 Noes:0 Abstain: 1**

**4. PUBLIC HEARINGS**

**a. Heritage Tree Removal Permit– 70 Stern (APN 070-170-050) – Request for a Heritage Tree Removal Permit to allow the removal of three trees. Atherton Municipal Code Section 8.10.**

Assistant Planner Dori Ganetsos presented the Staff Report.

**OPEN PUBLIC HEARING**

Applicant Chris Merritt presented. He noted that the main takeaway from the July hearing was the incorporation of an evergreen tree in the tree replacement plan, and that the client is happy with the proposed tree replacement.

**CLOSE PUBLIC HEARING**

Commissioner Sockolov said she appreciated that the applicant switched the proposed tree replacement from Ginko trees to Coast Live Oak trees, and that the applicant sent in stem, root, and leaf samples in for pathology testing to assess possibility of disease.

Commissioner Lerner agreed.

Commissioner Tonelli said he appreciated the selection of a 96” box Coast Live Oak, and asked if this Oak would be in the same location of the trees to be removed.

Applicant Chris Merritt said it would be in almost the exact same spot, just a bit closer to the street.

Chair Lane agreed with all of the previous comments, and asked if the applicant already looked for gas lines on the property to ensure the roots wouldn't interfere. He advised that the applicant be cautious of gas lines when removing the existing trees and planting the 96" Coast Live Oak.

**MOTION to Approve the Heritage Tree Removal Permit for the removal of three heritage trees.**

**M/S Lamb/ Tonelli            Ayes: 5            Noes: 0**

**b. School Master Plan Update – 50 Valparaiso Avenue, Menlo School – Request for review of 2016 Annual Master Plan Update. Atherton Municipal Code Section 17.32.050.**

Chair Lane asked Staff if this item was to be continued to the March 22, 2017 meeting.

Senior Planner Davis said the applicant requested a continuance to the March meeting.

**MOTION to continue the School Master Plan Update to the March 22, 2017 Meeting.**

**M/S Tonelli/ Lamb            Ayes: 5            Noes: 0**

**c. Appeal – 46 Almendral (059-312-200) – Request to appeal the decision of the Building Official to impose the construction time limit penalty. Atherton Municipal Code Section 15.40 and 17.06.**

Town Planner Lisa Costa Sanders presented the staff report. She noted that 26 other projects of a similar scope were able to successfully complete construction under the construction time limit in the same period. She also presented a table of projects that exceeded the construction time limit and paid the construction time limit penalty.

**OPEN PUBLIC HEARING**

Owner Tong Luo presented. He noted the following extenuating circumstances that prevented him from completing the project in accordance with the construction time limit:

-The declining health of the father of the project architect/ designer, and the subsequent loss of the architect's mother's vision, which forced the architect to fly back to Turkey on multiple occasions and extend her stay.

-Issues with the permitting of the sewer line due to paternity leave of the project manager from the sewer company

-91 rainy days throughout the construction process.

Chair Lane asked who the project manager was.

Tong Luo said he was the owner, and he took over the project half way through the construction.

Chair Lane noted that the project does not look completed from the outside.

Mr. Luo said he is still working on the installation of accessory structures and the landscaping.

Chair Lane said that everyone doing construction in Atherton had the same 91 rainy days, but 26 projects were still able to complete on time. He asked Mr. Luo when the project fell behind schedule.

Mr. Luo said he officially took over the project management in January 2016.

Chair Lane asked who chose the contractor.

Mr. Luo said he did.

Chair Lane asked what Mr. Luo was doing to get the project back on schedule once he took over.

Mr. Luo said he added staff and spent 6 hours per day on the project site.

A resident from 35 Adam Way presented. He said he has experienced a significant amount of construction in his neighborhood. He encouraged the commission to stick to the 3-year construction time limit, and potentially increase the penalties for non-compliance.

Mr. Luo apologized to the neighbors for the noise. He noted the intricate detail of his project, which caused a delay.

#### CLOSE PUBLIC HEARING

Commissioner Lamb noted that the Mr. Luo's argument that the 174 Saturdays and 40 holidays without work put the project behind schedule was not substantive as nobody can perform construction activities on those days in Atherton. He also stated that the rainout days could be worked around with adequate foresight. He said he helped update the Town's regulations which established these construction time limits. Commissioner Lamb said he was in favor of steeper punishments for exceeding the time limit, as construction can be a nuisance for the neighbors. He noted his experience with construction, and maintained that there is no reason why this home should have taken over three years to complete. He said it would send a bad message to the Town if the commission approved the appeal.

Commissioner Sockolov said she did not see any extenuating circumstances with this project, as the staff could have been replaced and all construction sites faced the same rain out days and holidays.

Chair Lane noted his experience with project management, and said that a project manager must prioritize the project according to its overall goals. He said in this instance, the time limit was not a priority, but personal choices and the attention to detail were. He referred to the construction time limit similar to a "good neighbor ordinance". He noted that an acceptable extenuating circumstance would be if the Town staff held up the project, but that personal preference was not an extenuating circumstance.

Commissioner Sockolov maintained that it was generous of Staff to final the project on December 27, just a few days short of the \$1,000 per day fines for exceeding the time limit.

**MOTION to Deny the Appeal of the Construction Time Limit Penalty**

M/S Sockolov / Lane

Ayes: 5

Noes: 0

**d. Amendments to the Second Dwelling Unit Ordinance - Consider text amendments to Chapter 17.52 "Second Dwelling Units" of the Town's Municipal Code to comply with state law. Atherton Municipal Code Sections 17.06, 17.18 and 17.52.**

Senior Planner Davis presented the Staff Report.

OPEN PUBLIC HEARING

CLOSE PUBLIC HEARING

Commissioner Lamb asked about the conversion of accessory buildings to accessory dwelling units (ADU's) and what that would entail.

Senior Planner Davis said that this State legislation would allow people to convert their accessory buildings to ADU's by right, and somebody could occupy these buildings for more than 30 days of the year. Senior Planner Davis mentioned that the conversion of accessory buildings to ADU's would not exempt the square footage of the building from floor area calculations, as is allowed for the construction of a new ADU's under the existing Second Dwelling Unit Ordinance.

Chair Lane asked if this could lead to lots being divided into more than two units.

Senior Planner Davis said the Ordinance only allows for one ADU per lot.

Commissioner Lamb said he was concerned with the Planning Commission seeing an increased number of hearings involving accessory dwelling units in the future due to confusion about the ordinance, especially when residents wish to build ADU's but do not have sufficient square footage.

Senior Planner Davis said the square footage for ADU's would only be exempt if it was constructed in the main building area, and if it was a new building – not for conversion of existing accessory buildings into ADU's.

Town Planner Lisa Costa Sanders asked the Commission if they would like to keep the square footage exemption in the ordinance now that there is less need to incentivize the construction of the ADU's throughout the Town. She clarified that all new ADU's, with square footage exemptions, will still have to be built in essentially the main building area. However, there is still the option for the legal conversion of accessory buildings to ADU's elsewhere on the lot.

Commissioner Lamb said he felt Atherton has a duty as a community to comply with the state law.

Chair Lane asked about a minimum time limit for the rental of ADU's, and if it could be increased from 30 days to 90 days.

City Attorney Connors stated that 30 days is the generally agreed upon definition for “short term rentals”, and that he does not advise the commission to step out of the norm in the creation of the Ordinance.

Chair Lane said he is comfortable with the Ordinance, and said he appreciates staffs’ efforts in the creation of it. He asked if there was a time limit for the Town to adopt the Ordinance.

Senior Planner Davis mentioned it would be best to pass the ordinance as soon as possible, and that it still had to go through two more public hearings at the City Council level prior to approval.

Commissioner Lamb asked staff if there was anything in the ordinance that they were concerned about, or that they wanted to add prior to the Commission’s approval.

Senior Planner Davis said staff is comfortable with the version presented at the meeting in terms of its clarity and content.

Town Planner Costa Sanders asked the Commission if they wished to keep the floor area exemption in the ordinance.

Commissioner Lamb said that is the intent of the Town is to promote ADU’s, the floor area exemption should remain.

Senior Planner Davis noted the square footage exemption might be an incentive for residents to construct new ADU’s with the current setback requirements.

**MOTION to Recommend City Council approval of amendments to Chapter 17.52, “Second Dwelling Units” of the Town’s Municipal Code**

**M/S Lane/ Lamb                      Ayes: 5              Noes: 0**

**5. COMMISSIONERS’ REPORT**

Commissioner Tonnelli said that CCAC has temporarily wrapped up its work in terms of the design of the Civic Center.

Chair Lane said the video for the Civic Center was phenomenal.

Commissioner Lamb asked about the Tree Committee’s work, and noted that there have been phone calls from architects.

**6. STAFF REPORTS**

Senior Planner Davis said the Tree Committee has concluded their recommendation efforts for the revised Tree Ordinance, and that staff is working with the City Manager’s office to take the next steps in the process.

**7. ADJOURN – The meeting adjourned at 7:01 PM.**

Respectfully Submitted:

Planning Commission Meeting Minutes, February 22, 2017

*Lisa Costa Sanders*, Town Planner