

**PLANNING COMMISSION
APPROVED MINUTES**

TOWN OF ATHERTON

December 04, 2019

6:00pm

Main House, Holbrook-Palmer Park

150 Watkins Avenue

Atherton, California

1. ROLL CALL

PRESENT: Eric Lane
Nancy Lerner
Randy Lamb
Perry Narancic (arrived at 6:42)

EXCUSED: Paul Tonelli

Senior Planner Stephanie Davis, Town Arborist Sally Bentz Dalton and Assistant City Attorney Jen Larson were present.

2. PUBLIC COMMENTS

No public comment made.

Follow up with property owner regarding Landscape Screening.

3. APPROVAL OF MINUTES

MOTION to approve the minutes of the October 23, 2019 Planning Commission Meeting.

M/S Lane/Lerner Ayes: 3 Noes: 0 Absent: 2

4. PUBLIC HEARING

a. Variance – 6 Cowell Lane (APN 070-270-300) – *continued from the October 23, 2019 Planning Commission meeting.* Request for a Variance to allow for the construction of a detached accessory structure (a playhouse) to be located in the required front yard area. Atherton Municipal Code Chapters 17.16, 17.32, and 17.40.

Senior Planner Davis presented the staff report.

Open Public Hearing.

Property Owner Eric Vishria introduced himself to the Planning Commission.

Property Owner Vishria shared that he was unaware what a heritage tree was at the time that he constructed the playhouse, he apologized for constructing without a permit and not going through the correct procedure to obtain building permits.

Property Owner Vishria presented the findings for a Variance in regard to the constructed playhouse. He also outlined what minimal impacts the play structure would have on the nearby Heritage Trees compared to other instances in Atherton.

Project Arborist Kevin Kielty described the impacts the playhouse may have on the heritage tree. He indicated that that the playhouse had a shallow foundation, and that no evidence of harm from the construction of the playhouse has been observed to date. He also advised the removal of the structure may potentially cause more harm.

Project Arborist Kielty highlighted a plan that the tree would be monitored in spring and fall for three years, and efforts to ensure tree health will be practiced as needed. He also indicated that the tree value will be appraised in order to hold property owner accountable for any damage that may be inflicted to the tree over time.

Project Landscape Architect Dustin Moore indicated that after the Code Enforcement notified the property owner regarding location of the playhouse, he sought to find a more suitable location for the structure. Due to the unique building envelope and lack of screening in other locations on site, the playhouse was found to be in the best location as it is adequately screened and has minimal impacts to the overall property.

Chair Lane highlighted that challenges of the location and agrees that the playhouse location is the best spot, however he does not support that construction that took place without first referring to the Municipal Code.

Vice Chair Lamb agreed that lack of knowledge of the Municipal Code is not a viable excuse for allowing the construction. Vice Chair Lamb indicated he supports the staff recommendation to deny the structure.

Commissioner Lerner indicated that she agrees with Chair Lane and respects the decision of Vice Chair Lamb.

Chair Lane indicated that due to the lot's unique conditions of minimal impact and physical constraints of the lot thinks there is no better location for a playhouse and clarified that this is not a precedent for allowing applicants to construct first and ask permission second.

Vice Chair Lamb iterated that he believes there to be an alternative location on the lot for the playhouse even though it may not be preferred by the property owner. He also highlighted that Staff does not support granting a variance on two of the four findings.

Chair Lane asked staff if two of the four conditions have not been met.

Assistant City Attorney Jen Larson indicated that staff makes a recommendation and it is up to the Planning Commission to make a decision based on all presented evidence.

Vice Chair Lamb expressed concern that by granting a variance a precedent would be set.

Commissioner Lerner asked Staff if there were any way to grant the variance for this one instance.

Staff responded that this Variance would allow for a playhouse in this location from here on out.

Close Public Hearing.

MOTION to approve the variance to allow the construction of an accessory structure (playhouse) at 6 Cowell Lane.

M/S Lane/ Lerner Ayes: 2 Noes: 1 Absent:2

b. Special Structures Permit – 89 Douglass Way (APN 070-371-160) – Request for a Special Structures Permit (SSP) to allow for a swimming pool to be located between the front yard setback line and the front line of the main structure. Atherton Municipal Code Chapters 17.15, 17.32, 17.40 and 17.44.

Senior Planner Davis presented the staff report.

Vice Chair Lane asked staff if recommendation would remain if future plans were to change.

Senior Planner Davis indicated that the staff recommendation is contingent on future development plans and is conditioned as such.

Open Public Hearing

Homeowner Nic Persson outlined that onsite and offsite impacts of the proposed request would be minimal.

Close Public hearing.

MOTION to approve the Special Structures Permit to allow for a swimming pool to be located between the front yard setback line and the front line of the main structure.

M/S Lamb/Lerner Ayes: 4 Noes: 0 Absent: 1

c. Heritage Tree Removal Permit – 122 Hawthorne Drive (APN 061-154-020) – Request for a Heritage Tree Removal Permit to allow for the removal of one (1) on-site Heritage Cedar Tree and (2) on-site Heritage Canary Pine trees. Atherton Municipal Code Chapter 8.10.

Senior Planner Davis Presented the Staff report.

Chair Lane asked when the main residence was approved.

Senior Planner Davis indicated that the building permit for the main residence was issued in 2017.

Open Public Hearing.

Project Architect presented project details to the Planning Commission.

Vice Chair Lamb asked how many trees were initially removed for the construction of the house.

Project Architect indicated that five trees were removed.

Town Arborist Sally Bentz Dalton indicated that the species removed were most likely Monterey Pines and that the applicant has worked well with the Project Arborist to protect trees however this is still a Tree Protection Zone (TPZ) that does not work.

Commissioner Narancic asked why the applicant is proposing to remove the Deodar Cedar Tree (Tree #23).

Project Architect indicated that the tree is to be removed because of the projected growth and visual benefits.

Commissioner Narancic highlighted comment from an email received from the neighbor at 117 Heather Drive, Howard Crittenden that expresses concern that the proposed Magnolia to be planted will take many years to adequately screen his living room from the residence at 122 Hawthorne.

Project Architect responded and highlighted the goals of proposed screenings.

Neighbor Mr. Crittenden of 117 Heather Drive asked for clarification of how the tree was leaning.

The Town Arborist responded that the applicant claims that the tree is leaning toward the structure more so than it did three years ago, but since she did not measure it herself she was unable to confirm the claim.

Neighbor Mr. Crittenden indicated that he values his privacy and has worked to keep landscape screening that promotes his privacy from neighbors. He also showed images to express perspective of screening that existing trees offer for his property. He also expressed concern that it would take a long time for the proposed Magnolia to adequately screen between the two properties.

Neighbor, Diane Crittenden of 117 Heather Drive highlighted that the proposed house will be bright white in color and the Heritage Tree should remain in order to retain current screening and privacy.

Project Architect indicated that the proposed Magnolia will be large enough to adequately screen between the properties.

Neighbor Ms. Crittenden, asked if the Magnolia will create the same challenges.

Project Architect indicated that while the tree will be in a similar location they find that it will be less intrusive and will adequately screen the house.

Neighbor Mr. Crittenden asked the Commission to consider the consequences if the proposed screening does not adequately screen between the two residences.

Property owners from 101 Hawthorne asked for clarification about which trees are being considered for removal.

Staff clarified which trees were to be removed.

Chair Lane asked whether specific amendments may be made to the draft conditions of approval.

Chair Lane expressed that he does not support the proximity of the residence to the Heritage Tree but since it is already established then he does support the removal of the Deodar Cedar Tree.

Vice Chair Lamb asked Town Arborist Bentz-Dalton if she agrees with Chair Lane.

Town Arborist Bentz Dalton acknowledged the challenges of the circumstances and that the original Tree Protection Zone (TPZ) approved ended up not be sufficient enough. She also noted that if the new tree protection regulations are approved, situations such as this may be avoided in the future.

Close Public Hearing.

MOTION to approve the Heritage Removal Permit to allow for the removal of one on-site Heritage Canary Pine Tree (tree #6) at 122 Hawthorne.

M/S Lane/Lamb Ayes: 4 Noes: 0 Absent: 1

MOTION to deny the Heritage Removal Permit to allow for the removal of one on-site Heritage Canary Pine tree (tree #2) at 122 Hawthorne.

M/S Lane/Narancic Ayes: 4 Noes: 0 Absent: 1

MOTION to approve the Heritage Removal Permit to allow for the removal of one (1) on-site Heritage Deodar Cedar Tree (tree #23) at 122 Hawthorne Drive with the condition that a 72” box evergreen Magnolia tree, determined to be healthy upon planting, be planted in the same proximity of the existing Deodar Tree prior to its removal to the satisfaction of the Town Arborist.

M/S Lane/Lamb Ayes: 4 Noes: 0 Absent: 1

5. NEW BUSINESS

a. Approval of the 2020 Planning Commission meeting calendar

Planning Commission approved the 2020 meeting calendar
M/S Lamb/Lerner Ayes: 4 Noes: 0 Absent: 1

6. COMMISSIONERS' REPORTS

None.

7. STAFF REPORTS

Staff updated the Planning Commission on General Plan Update.

Staff updated the Planning Commission that the City Council agreed to move forward with the landscape Screening Ordinance topic for further discussion.

Staff updated the Planning Commission on the status of the Heritage Tree Ordinance Update.

The next regularly scheduled meeting is set for January 22, 2020

8. ADJOURN

The meeting was adjourned 7:54 PM

Respectfully Submitted:

/s/Stephanie B.-Davis

Stephanie B. Davis, Principal Planner