

**PLANNING COMMISSION
APPROVED MINUTES**

TOWN OF ATHERTON

April 28, 2021

6:00 pm

This meeting was held virtually.

1. ROLL CALL

**PRESENT: Randy Lamb
Eric Lane
Nancy Lerner
Perry Narancic
Paul Tonelli**

Principal Planner Stephanie B. Davis, Associate Planner Jake Garcia, and Town Arborist Sally Bentz-Dalton were present.

2. PUBLIC COMMENTS

No public comment made.

3. APPROVAL OF MINUTES

MOTION to approve the minutes of the December 28, 2020 Planning Commission Meeting.

Chair Lane noted vote tally for item B (Conditional Use Permit– Scared Heart Schools, 150 Valparaiso Avenue, Atherton) from December 28 meeting is incorrect. Tally notes 4 Ayes and 1 Abstain. Commissioner Lamb had left the meeting and did not vote on the item. Vote for item 4B should be updated to 4 ayes and 1 absent.

Motion raised to approve minutes with correction to the vote tally for item 4B.

M/S Tonelli/ Lane Ayes: 4 Noes: 0 Abstain: 1

MOTION to approve the minutes of the January 27, 2021 Planning Commission Meeting.

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

4. PUBLIC HEARING

a. Special Structures Permit (SSP) – 207 Atherton Avenue, Atherton (APN 070-191-120) – Request for a Special Structures Permit to allow the location of a detached accessory building

to have the same front yard setback as the main dwelling. Atherton Municipal Code Chapters 17.15, 17.32, and 17.40.

Associate Planner Garcia presented the staff report.

Open Public Hearing.

Project architect Jim Westover of William Duff Architects provided additional detail on the project, including use of structure and reasoning for location.

Public comment from representative of the neighbor at 211 Atherton, Ave. Stephen Rossi with concern to screening and visibility of structure from neighboring property. Mr. Rossi asked if possible to erect story poles to demonstrate height of proposed structure, more detail on the proposed new plantings for screening, if any understory screening is included, and contested assertion that site provides adequate existing screening.

Public comment from David Oshman, homeowner at 211 Atherton Ave, that the structure will be visible and requested additional screening to address existing second story windows overlooking neighboring backyard.

Closed public hearing.

Associate Planner Garcia responded that story poles are not required by the Town Municipal Code and that the Town has a landscape screening ordinance applicable to new buildings.

Town Arborist Sally Bentz-Dalton spoke to minimum screening requirements, and that new screening is based on a 5-year allowance for growth to maturity. She noted consideration can be given to require larger box trees for screening on this site.

Commissioner Lamb noted opportunity for the property owner to be a “good neighbor” and work with the neighbors to provide desired screening. He noted that shrubs or other coverings may be more appropriate than tall trees.

Commissioner Tonelli agreed with Commissioner Lamb’s comment and inquired as to the planning process of where to locate the proposed structure.

Open Public Hearing.

Project Architect Westover replied to Commissioner Tonelli’s comment on the planning of the location of the proposed structure. He noted its proximity to the existing garage and the desire to keep the structure out of main yard and garden areas.

Commissioner Tonelli commented there should be some consideration to neighbor concerns considering a location of a structure.

Project Architect Westover commented that landscaping proposed is still open to design and it is possible to provide more screening.

Property owner of 211 Atherton Avenue Oshman commented that shrubs would be inadequate and that he can see all of the windows at the property.

Property owner representative of 211 Atherton Avenue Rossi reiterated desire for an acceptable amount of screening, with a robust combination of trees and large shrubs.

Commissioner Lamb commented that the project should be re-considered by the Planning Commission once there is a proposed landscape plan.

Closed public hearing.

Chair Lane agreed with Commissioner Lamb's comment of the need for more project landscaping details. He noted concerns with the building height and proximity to property line.

Commissioner Narancic agreed with both Lane and Lamb's comments, referenced code Section 17.15.040 which requires Special Structure Permits not to impact neighboring properties with respect to privacy and view and that the applicant has burden of satisfying that requirement. He agreed with Commissioner Lamb that applicant should work with the neighbors to satisfy conditions.

Commissioner Lerner agreed with Commissioner Narancic's comment.

Commissioner Tonelli agreed with Commissioner Narancic and reiterated his earlier comment.

Chair Lane requested that the project be re-considered with a proposed screening and landscape plan.

Commissioner Tonelli noted that bulk of construction on property is on one side of the property and said impacts on that property should be considered.

Chair Lamb asked procedural question related to whether the Commission votes on a continuance or a denial.

Principal Planner Davis explained the Commission can vote to approve, continue the item with subsequent specific directions for applicant to follow, or to deny the application and provide a basis for findings.

Commissioner Lamb asked item to be continued to next meeting, with direction that more detail on screening be provided, and that neighbors meet to resolve issues.

Chair Lane noted the Commission can request for more information for additional screening.

Principal Planner Davis noted that if the application continued to date certain, no additional public notice would be required, but if continued to a date uncertain, a subsequent public notice mailed out.

Chair Lane asked for motion to continue the application to a date uncertain.

MOTION to continue to a date uncertain the application for a Special Structures Permit at 207 Atherton Avenue, Atherton (APN 070-191-120) to allow the location of a detached accessory building to have the same front yard setback as the main dwelling with the direction that the applicants prepare a proposed landscape screening plan.

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

b. Special Structures Permit (SSP) - 234 Park Lane, Atherton (APN 070-330-120) – Request for a Special Structures Permit to allow for a section of a proposed main residence basement to extend beyond the footprint of the first floor. Atherton Municipal Code Chapters 17.15, 17.32, and 17.44.

Principal Planner Davis presented the staff report.

Open Public Hearing.

Project representative Steven Somers of Crest Real Estate noted project received written letter of support from homeowner at 233 Park Lane and verbal support from homeowner at 235 Park Lane. He notes that the project has not received any negative feedback from neighboring homeowners and he reiterated that the request is solely involving sub-terranean elements.

Chair Lane questioned if there was any sort of barrier around the dug out area of the basement/lightwell.

Project representative Somers replied to say there would be guard rails as required by Building Code.

Closed public hearing.

MOTION to approve the Special Structures Permit at 234 Park Lane, Atherton (APN 070-330-120) to allow for a section of a proposed main residence basement to extend beyond the footprint of the first floor.

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

c. Heritage Tree Removal Permit (HTR) – 24 Hawthorne Drive, Atherton (APN 061-133-020) – Request for a Heritage Tree Removal Permit to allow the removal of one (1) heritage oak tree. Atherton Municipal Code Chapter 8.10.

Principal Planner Davis presented the staff report.

Open Public Hearing.

Project architect Jessica Stuenkel from Feldman Architecture spoke to the health of the tree and its encroachment into the main buildable area.

Commissioner Tonelli asked if Oak #2 on the proposed plan would remain.

Project architect Stuenkel responded that Oak #2 would remain.

Chair Lane read public comment submitted by Chris Klint, homeowner at 40 Irving Avenue, that leaves on the oak subject for removal do not appear to be healthy and that they do not have an issue with the removal. The public comment was noted that the proposed residence would encroach into the canopy of Oak #2.

Chair Lane asked Bentz-Dalton of encroachment issues on Oak #2 which is slated to remain.

Town Arborist Bentz-Dalton stated that the applicant is in process of applying for a staff exception for a TPZ 8x away from the proposed structure, but that application has not yet been reviewed. She noted that the existing garage is closer than 8x to the tree, that the new structure would be further away, and that the applicant initially requested to remove Oak #2, but that the application was denied.

Closed public hearing.

Commissioner Tonelli thanked Town Arborist Bentz-Dalton for her work and stated his satisfaction that the plan would preserve other trees on the property.

MOTION to approve the Heritage Tree Removal Permit at 24 Hawthorne Drive, Atherton (APN 061-133-020) to allow the removal of one (1), 29-inch Coast Live Oak heritage tree.

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

d. Tree Protection Zone Exception (TPZ) – 4 Basset Lane, Atherton (APN 061-350-160) – Request for a Tree Protection Zone exception associated with five (5) heritage trees to remain from a TPZ of 10 times (10x) the trees diameter to three – seven and a half (3x – 7.5x) times the trees diameter. Atherton Municipal Code Chapter 8.10.

Associate Planner Garcia presented the staff report.

Town Arborist Bentz-Dalton spoke to best-practices of using a TPZ of 6x instead of a lower proposed TPZ of 5x for Tree #22. She noted that the Code requires 10x and that a staff exception can be considered as low as 8x.

Commissioner Tonelli asked a clarifying question about TPZ exceptions and the communication between the applicant and the Town Arborist to date.

Town Arborist Bentz-Dalton clarified the exception process, explained the communication with the applicant so far, and how the recommendation of a TPZ of 6x was arrived at.

Chair Lane asked if the proposed new construction was a slab.

Town Arborist Bentz-Dalton confirmed the proposed new construction is slab.

Commissioner Tonelli asked if any potential difficulties in enforcing specifics noted in the exception.

Town Arborist Bentz-Dalton stated no difficulties foreseen; the specifics of mitigation would be enforced through typical inspection process.

Open Public Hearing.

Project representative Megumi Aihara from Spiegel Aihara Workshop discussed recent site changes undertaken by homeowner and efforts to improve conditions for existing trees. She noted that the location for structures was chosen as the least disruptive to the property and noted the work done with the Town Arborist to date. She further noted the project arborist's opinion that the proposed ADU plan would not negatively impact Tree #22 and shared new photos.

Chair Lane asked about possibility of relocating the pool equipment as shown in plan.

Project representative Aihara stated the moving of the pool equipment could be possible.

Commissioner Lamb thanked staff and applicant for the level of work on the proposed plans and clarity in presentation.

Project arborist Kevin Kielty on call, unable to speak due to technical issues.

Closed public hearing.

Commissioner Lamb stated he was fine with what he saw and reiterated satisfaction with the level of work displayed.

Commissioner Narancic agreed with Commissioner Lamb.

Commissioner Tonelli agreed with Commissioner Narancic.

Commissioner Lerner agreed with Commissioner Tonelli, Narancic, and Lamb.

Chair Lane asked Town Arborist Bentz-Dalton if the new information presented from the applicant had changed her recommendation of a TPZ of 6x.

Town Arborist Bentz-Dalton stated she still supported a TPZ of 6x.

Chair Lane thanked Town Arborist and stated he would like the pool equipment to be moved as feasible.

Associate Planner Garcia stated pool equipment is required to meet current standards for accessory structures with 10-foot side and rear setback.

Chair Lane reiterated the request to move the pool equipment to reduce impact on the tree area and asked for the proposed square footage of the ADU within the TPZ of 6x for Tree #22.

Project representative Aihara stated the ADU area within TPZ of 6x is 23.5 square feet.

Chair Lane stated desire to move forward with project provided moving of pool equipment was also conditioned.

Commissioner Lamb asked a question of how a proposed motion would proceed if the Commission wished to include such a pool equipment relocation condition.

Principal Planner Davis clarified that Commission can read the formal motion and include a change to staff recommendation by amending condition number two and striking reference to a recommended TPZ of 6x for Tree #22.

Chair Lane read the public comment letter from Douglas and Joyce Hamilton of 2 Basset Lane requesting additional items: painting of metal roof of ADU facing 2 Basset Lane, the installation of new hedging to screen new construction and the control for blowing of dust from construction onto neighboring property.

Town Arborist Bentz-Dalton noted standard screening requirements apply per Town ordinance.

Associate Planner Garcia commented current roof proposed is compliant with Town Code.

MOTION to approve the Tree Protection Zone exception at 4 Basset Lane (APN 061-350-160) for five heritage trees: tree #23 to five times (5x) the diameter, tree #24 to six times (6x) the diameter, tree #25 to four times (4x) the diameter, tree #19 to six times (6x) the diameter, and striking for tree #22 the proposed six times (6x) the tree's diameter and proposing five times (5x) the tree's diameter for the proposed ADU and three times (3x) the trees diameter for the proposed barbecue deck with the condition that the pool equipment area be relocated in accordance with setback requirements for the Town.

M/S Lamb/ Narancic Ayes: 5 Noes: 0 Absent: 0

e. Heritage Tree Removal Permit (HTR) and Tree Protection Zone Exception (TPZ) – 133 Burns Avenue, Atherton (APN 060-231-080) – Request for a Heritage Tree Removal

Permit to allow for the removal of one (1) heritage oak tree and a Tree Protection Zone exception associated with three (3) heritage trees to remain from a TPZ of 10 times (10x) the trees diameter to five to seven times (5x-7x) times the trees diameter. Atherton Municipal Code Chapter 8.10.

Associate Planner Garcia presented the staff report.

Chair Lane had a question regarding a tree marked with an X on the proposed plan.

Town Arborist Bentz-Dalton clarified the image showed a tree within the buildable area that was allowed to be removed.

Open Public Hearing.

Project representative LauraMae Sarusi from Pacific Peninsula Architecture emphasized presence of 20 heritage size trees on property and spoke to the effort to create additions with a one-story structure in keeping with the neighborhood. She noted that the oak proposed for removal would not reduce screening to neighbors or change presence of lot to neighbors. She stated that if the garage structure was moved forward to protect the oak, it would infringe on a cedar tree on the property. Lastly she noted that the applicant did outreach to neighbors and received support from homeowners at 49 McCormick Lane and 145 Burns Ave.

Property owner Jenny Beeler thanked the Commission for their time and noted the desire to maintain trees and single-story character of neighborhood.

Closed public hearing.

Commissioner Tonelli asked Town Arborist Bentz-Dalton if there was a way to save both trees by moving garage forward.

Town Arborist Bentz-Dalton commented the proposed garage could possibly be pulled up to 8x the TPZ zone for the heritage cedar in front of property (tree #2).

Open Public Hearing.

Project representative Sarusi raised concern of cars not having adequate space to back up from the garage if moved forward.

Closed public hearing.

Chair Lane commented he does not see findings to support removal of tree and asked Town Arborist Bentz-Dalton if there was any previous construction in tree's area.

Town Arborist Bentz-Dalton noted all encroachment in the tree's area is new construction.

Chair Lane commented on his satisfaction with single-story design of house and reiterated he does not see enough basis to justify the tree's removal.

Commissioner Narancic referenced Code 8.10.040 and criteria for a heritage tree removal, considering character of lot and presence of other trees. He stated the current conditions do not appear enough to satisfy the requirements to consider health of tree and potential risk to property and safety and that he would not support approval of the application.

Commissioner Tonelli stated he had no other comments or questions.

Open Public Hearing.

Public comment from Project Architect Jude Kirik providing additional background on design process and effort with respect to existing trees. He asked if there was a way to, barring removal, reduce the TPZ for tree #5 and noted changes to foundation design with respect to trees. He reiterated the desire to protect heritage trees on the property.

Project representative Sarusi noted the area near tree would be for paving and garage and that the depth of material would be minimal.

Commissioner Narancic asked Town Arborist Bentz-Dalton if a lower TPZ for tree 5 had been studied.

Town Arborist Bentz-Dalton noted a TPZ less than 8x had not yet been considered for tree 5.

Project Architect Kirik noted other TPZ exceptions for the proposed pool design were omitted from packet for simplicity and that the applicant was planning to return next month to the Commission for those exceptions and could work further with town arborist on new proposal for tree 5.

Closed public hearing.

Chair Lane asked staff to continue work to study additional mitigations for tree 5 and potential impacts on redwoods. Clarified that commission not required to take action on item A within the application.

Commissioner Tonelli stated support for a motion to direct further study of reduced TPZ area for tree 5.

Principal Planner Davis noted a motion was needed to act on Heritage Tree Removal Permit. Following that action, the Commission could note additional comments for a future application.

MOTION to approve the Tree Protection Zone Exception at 133 Burns Avenue (APN 060-231-080) associated with three (3) heritage trees to remain from a TPZ of 10 times (10x) the trees diameter to five to seven times (5x-7x) times the trees diameter.

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

MOTION to deny the request for a Heritage Tree Removal permit at 133 Burns Avenue (APN 060-231-080) for one coast live oak (tree #5) .

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

Commissioner Narancic requests staff, including Town Arborist Bentz-Dalton, to work with the applicants in determining whether a TPZ of less than 8x would be appropriate for tree #5 and if the applicant wishes to submit an application for a reduced TPZ they are invited to do so.

5. STAFF REPORTS

Principal Planner Davis provided update on the joint study session with City Council regarding housing laws, upcoming housing element update, and the updated regional housing needs allocation process (RHNA) stating that additional study sessions providing more detail and analysis to occur in the future.

Chair Lane commented on desire for use around the edge, preferably a retirement home or similar use targeted to a special function not likely to change character of neighborhood. Commented on his attendance of San Mateo Countywide Housing Forum and organizations present at meeting. Stated meeting was focused on housing approvals rather than a community plan.

Commissioner Lamb thanked Chair Lane for attending meeting on commission's behalf.

Chair Lane commented on the attendance of representatives from Woodside and interest in their discussions.

Principal Planner Davis stated the Council authorized a request for proposal (RFP) for a new consultant position in the Town for a sustainability coordinator and that the position was intended to help support environmental and sustainability-based issues in Town.

Principal Planner Davis noted a May Planning Commission meeting would be scheduled with a full agenda.

6. COMMISSIONERS' REPORTS

Chair Lane commented on Atherton Police Department's work on a crime prevention manual.

7. ADJOURN

The meeting was adjourned 8:22 PM

Respectfully Submitted:

/s/Stephanie B.-Davis

Stephanie B. Davis, Principal Planner