

**PLANNING COMMISSION
REGULAR MEETING
APPROVED MINUTES**

TOWN OF ATHERTON

January 26, 2022

6:00 pm

This meeting was held virtually.

1. ROLL CALL

PRESENT: Eric Lane
Nancy Lerner
Perry Narancic
Randy Lamb

ABSENT: Gabia Konce

Town Planner Lisa Costa Sanders, Principal Planner Stephanie Bertollo-Davis, Assistant Planner Ralph Robinson, Town Arborist Sally Bentz-Dalton and Deputy City Attorney Andreas Booher were present.

2. PUBLIC COMMENTS

No public comment made.

3. APPROVAL OF MINUTES

MOTION to approve the minutes of the December 1, 2021 Planning Commission Meeting.

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

4. PUBLIC HEARING

a. Special Structures Permit (SSP) – 293 Stockbridge Avenue, Atherton (APN 070-012-420) – Request for a Special Structures Permit to allow for a detached accessory building (carport) to have a reduced front yard setback. Atherton Municipal Code Chapters 17.15, 17.32, 17.40.

Assistant Planner Ralph Robinson presented the Staff Report.

Open Public Hearing.

Project representative Cynthia Munoz, architect, thanked staff and noted they were available to answer any additional questions.

Project representative David Wright, homeowner, spoke to outreach efforts to neighbors.

Closed Public Hearing.

Chair Lane said that he did not see any apparent impacts from the project based on his visit to the property.

MOTION to approve the Special Structures Permit to allow a detached accessory building (carport) to have the same front yard setback as the main residence at 293 Stockbridge Avenue based on the findings and for the reasons enumerated in the staff report, subject to the conditions listed in the Special Structures Permit certificate.

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

b. Heritage Tree Removal Permit (SSP) – 1 Elm Place, Atherton (APN 061-193-060) – Request for a Heritage Tree Removal Permit to allow for the removal of three (3) heritage redwood trees. Atherton Municipal Code Chapter 8.10.

Assistant Planner Ralph Robinson presented the Staff Report.

Chair Lane asked a clarifying question regarding a graphic showing TPZ zones on the property.

Open Public Hearing.

Project applicant Mikey Kindler, homeowner, noted the property has a tremendous number of trees and those proposed for removal are close to existing house, within a TPZ of 6x. She noted that they would like to build a larger home to accommodate their family while still being thoughtful about having the least amount of impact on existing trees and that removing these trees is the best option for allowing use of the property while still preserving other trees. Mrs. Kindler noted she believes the property has unique conditions and spoke to three adjoining neighbors who provided written support for the project and that a suggested alternative of moving the pool was not preferred because it would mean a smaller pool and pool deck and would locate the pool closer to power lines along the rear of the property. She noted that this would also require removing other trees that provide shading and privacy for the homeowner and rear adjoining neighbor and highlighted the proposed replanting plan using more climate change resistant species has also been included as part of the project.

Project representative Kelly Johnson, architect, provided clarification on the diagram provided showing TPZ zones for existing trees. She reiterated there are many redwood trees on the property, which draw lots of water and that other towns, such as Portola Valley, have moved away from protecting redwoods. She noted that the replanting plan would feature more appropriate, drought resistant species.

Chair Lane asked applicant to walk through the plans for the proposed new residence and clarify impacts on roots from a basement.

Ms. Johnson provided detail on extent of new plans and described preference for a basement matching the footprint of the first floor and that a smaller basement with a larger first floor would still impact roots significantly.

Commissioner Narancic asked to clarify that the reason for the removal request is because it would not be possible to construct a basement otherwise.

Mrs. Kindler provided clarification on Commissioner Narancic's question and added that the property previously had another healthy tree fall on the garage which reinforced their concerns regarding the proximity of the trees proposed for removal to the house.

Commissioner Narancic stated that these applications are typically for projects that build over the footprint of the trees, which is not the case with this application.

Mrs. Kindler reiterated the constraints created by the number of trees on the property.

Project applicant Noah Kindler, homeowner, overviewed their efforts to avoid trees with the new building and that the presented option is the best-case scenario for avoiding trees while accommodating the new residence. He also added the need to remove all three trees was due to their intertwined canopies making it not possible to remove individual trees.

Closed Public Hearing.

Chair Lane said that the application was a difficult one for him to rule on due to the conditions on the property and that the trees proposed for removal are in the wrong spot. He noted he felt that the trees are too close to the existing house and too big and may have seemed like a good idea to plant them 30 years ago, but they no longer work where they are. Chair Lane asked the Town Arborist and staff to opine on this issue of the trees being in the wrong spot for good planning and safety.

Principal Planner Davis overviewed the six criteria for considering approval of the application and reiterated the Commission has the discretion to make any of the six criteria independent of the staff recommendation. She noted that the applicant has made the argument that criteria numbers 2 and 6 related to safety and reasonable use of the property may apply.

Commissioner Narancic stated he did not see anything in the application to support the second criteria related to safety and that he does not feel that criteria 6 alone, related to reasonable use of the property, is sufficient to support the application.

Commissioner Lamb noted the time the Commission has spent creating the heritage tree standards and that the applicant bought the site understanding constraints created by existing trees and now would like to go in a different direction, which he understands, but he concludes that would be contrary to the intent of the heritage tree standards. He expressed concern that approving the project would set a bad precedent for future applications.

Chair Lane discussed impressions from his site visit, noting that the trees tower over the existing house and that he believed this is a case where the trees are in the wrong spot. He stated his conclusion that he believed there is sufficient information to support criteria 2 and 6.

Town Arborist Sally Bentz-Dalton added that it would be possible to build a basement that is not a full basement with a reduced TPZ.

Chair Lane noted Town's long history of preserving trees while balancing that with the need for new development and acknowledged the nuances of this project. He asked the Commission to move forward with a motion and added that he would vote no on denying the application because of the unique conditions evident on the property when he visited.

MOTION to find the request for a heritage tree removal for three coastal redwood trees (Trees #9, #10 and #11) is contrary to the purpose and intent of the General Plan, for the reasons outlined in the Staff Report and the Planning Commission deny the Heritage Tree Removal (HTR) Permit at 1 Elm Place.

M/S Narancic/Lamb Ayes: 3 Noes: 1 Absent: 1

c. Amendments to the Atherton Municipal Code Chapter 8.14 "Historical Artifacts" – Consideration of a recommendation to the City Council for Municipal Code amendments to repeal and replace Chapter 8.14 "Historical Artifacts" and retitle to "Historical Preservation". Atherton Municipal Code Chapter 8.14.

Principal Planner Stephanie Bertollo-Davis presented the Staff Report.

Chair Lane asked if the tax reduction is required or if applicants have the option to forego the reduction.

Principal Planner Davis noted that an applicant would not have to take the extra step of creating a Mills Act contract after achieving historical designation on a property.

Open Public Hearing.

Katharina Powers of 197 Glenwood Avenue said she supports the amendments and would like to apply for it once it is in place.

Ken Glidewell, resident on Valley Road, asked if there are restrictions on renovations or maintenance of properties after they are designated as historical.

Principal Planner Davis said that the Town would have a licensed historian review proposed improvements based on existing criteria provided by State law.

Closed Public Hearing.

Commissioner Narancic asked clarifying question about the proposed maximums of 5 contracts and \$25,000 in value for the contracts.

Principal Planner Davis clarified that the maximum is either 5 contracts or \$25,000 in property tax savings, whichever is hit first and that the \$25,000 figure would be based on the amount of tax that the Town receives, which is only a percentage of the total tax paid. She noted that the actual amount of property tax reduction would be calculated for the Town by the County in accordance with State law.

Commissioner Lamb asked if he needed to recuse himself from the vote as he has been involved in litigation involving the existing Historical Artifacts standards and said he feels the amendments are not fully vetted and question why the cap of 5 was proposed. He also stated desire to make this process easy to follow for staff.

Chair Lane asked about process for reviewing the amendments and next steps with the City Council.

Principal Planner Davis noted that Council had asked for Staff and the Commission to further evaluate the potential amendments.

Commissioner Lamb asked how staff feels about the state of the amendments and that the Town may be opening itself up to a lot of homes that will feel they should get this tax advantage.

Principal Planner Davis overviewed steps taken by staff to review best practices from other jurisdictions, including proposed cap on number of contracts to limit the amount of property tax revenue lost by the Town.

Chair Lane noted that two previous study sessions had been held related to this item with City Council. Stated concerns about process for determining which properties are historic and resulting tax reduction.

Principal Planner Davis noted that a homeowner would need to voluntarily come forward to request to historically designate their property or pursue local or state designation for historical status. She added that if the Commission would like more information on the Ordinance, they could continue the item and Staff could bring more information to the next meeting.

Chair Lane asked if City Council was prepared to move forward with the amendments and that the Planning Commission has so far only had one session to review the amendments and more time is needed to review it and that potential ramifications are not fully clear yet.

Principal Planner Davis said there is no specific deadline for the City Council on this item.

Chair Lane asked whether homeowners could pursue historic designation in the meantime while the Town spends more time on developing these amendments.

Principal Planner Davis clarified that homeowners could pursue historical designation, but there is no existing framework in place for them to enter into Mills Act contracts with the Town.

Commissioner Narancic said the Ordinance is consistent with what he would expect with this type of Ordinance and would like to hear more information on how Staff came up with limits of 5 contracts or \$25,000. He would like to hear if other communities have instituted similar caps.

Principal Planner Davis noted the limits were developed in conversation with the City Council and based on considering loss to the Town's property tax revenues.

Chair Lane asked if recommendation was made to Council and then issues arise if they would have an opportunity to address them.

Principal Planner Davis noted the Commission could do further review or amendments in the future and added that Commissioner Lamb is not required to recuse himself from the discussion.

Commissioner Lamb asked how much community involvement was used to develop the Ordinance and stated feeling that the changes are being done only with the understanding that it won't fiscally impact the Town.

Chair Lane stated his feeling that the fiscal impact is overriding the historical impact and asked whether item could be continued with Staff to bring more information to the next meeting.

Principal Planner Davis added that property tax savings is legally bound to the purpose of restoring and preserving the property.

Commissioner Lerner said she is prepared to make a recommendation to the City Council.

Principal Planner Davis clarified that the Commission may make specific recommendations and proposed edits to any of the proposed Ordinance amendments.

Chair Lane said if Staff could provide clarity on the amount of property tax revenue lost based on more specific examples that would further the Commission's understanding and help them make more specific findings.

Commissioner Narancic said he thinks the cap on 5 contracts is not needed if the Town determines a cap on property tax revenue lost.

Principal Planner Davis noted the amount was determined based on wanting to limit the financial impact to the Town, though did not involve any detailed analytical review. She noted that Staff could provide more qualitative information, scenarios and comparisons to other communities. She noted there are not many of these contracts that have been adopted throughout the county.

Chair Lane added that the revenue piece is not necessarily something to consider from a planning perspective and stated he is ok with the item otherwise. He asked how Town ensures homeowners

perform maintenance as required by the contract and also noted value of having an additional meeting to allow for more public input.

MOTION to continue to a date certain consideration of a recommendation that the City Council adopt amendments to repeal and replace Chapter 8.14 “Historical Artifacts” and retitle to “Historical Preservation.”

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

d. Amendments to the Atherton Municipal Code establishing Chapter 17.XX “SB 9 Projects” - Consideration of a recommendation to the City Council of an Ordinance for regulations and objective standards for urban lot splits and development projects sought pursuant to Government Code Sections 65852.21 and 66411.7 (Senate Bill 9).

Town Planner Lisa Costa Sanders presented the Staff Report.

Chair Lane requested that a minimum of one parking space be required as part of the Ordinance.

Chair Lamb stated his satisfaction with an approach of guiding these developments to get more favorable outcomes, instead of trying to push against it.

Chair Lane noted the requirements will likely evolve as the meaning of the law is refined and better defined.

Commissioner Narancic also added support for parking requirement and asked what future actions the Commission could consider limiting street parking, either as part of the SB 9 Ordinance or as a separate action.

Town Planner Costa Sanders noted that parking is currently allowed on public streets and that the Town would need to make a general parking requirement applicable to the entire Town, not just SB 9 units.

Deputy City Attorney Andreas Booher reiterated that the Town would need to consider street parking more holistically.

Commissioner Narancic stated he would not propose a discussion on parking requirements related to the SB 9 Ordinance and asked if staff was aware of neighboring jurisdictions with restrictions on overnight parking.

Town Planner Costa Sanders noted she is aware of restrictions on overnight parking or parking for commercial vehicles.

Principal Planner Davis added that such restrictions are typically regulated in zones designated for commercial use.

Deputy City Attorney Booher also added that such restrictions are generally not applied to residential areas or use overnight residential parking permits.

Commissioner Narancic clarified that parking cannot be required if unit is within a certain proximity to transit.

Town Planner Costa Sanders confirmed parking requirement is exempted if unit is within a half mile of a transit stop.

Open Public Hearing.

Closed Public Hearing.

Chair Lane stated satisfaction with approach to Ordinance and effort to incentivize certain outcomes over disincentivizing them.

MOTION to recommend the City Council adopt an Ordinance for Regulations and Objective Standards for Urban Lot Splits and Development Projects Sought Pursuant to Government Code Sections 65852.21 AND 66411.7 (Senate Bill 9) based on the finding and for the reasons outlined in the Staff Report.

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

5. STAFF REPORTS

The next regular meeting of the Planning Commission will be February 23, 2022.

6. COMMISSIONERS' REPORTS

Nothing to report.

7. ADJOURN

The meeting was adjourned 8:01 PM

Respectfully Submitted:

/s/Stephanie B.-Davis

Stephanie B. Davis, Principal Planner