

**PLANNING COMMISSION
REGULAR MEETING
APPROVED MINUTES**

**TOWN OF ATHERTON
February 23, 2022
6:00 pm
*This meeting was held virtually.***

1. ROLL CALL

**PRESENT: Eric Lane
Nancy Lerner
Perry Narancic
Randy Lamb
Gabia Konce**

Principal Planner Stephanie Bertollo-Davis and Assistant Planner Ralph Robinson were present.

2. PUBLIC COMMENTS

No public comment made.

3. APPROVAL OF MINUTES

MOTION to approve the minutes of the January 26, 2022 Planning Commission Meeting.

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

4. PUBLIC HEARING

a. *Continued from the January 26, 2022 Planning Commission Meeting - 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 noted that all his questions from the last meeting had been answered by the staff report.

Commissioner Narancic thanked Principal Planner Davis for the comparative analysis of caps on Mills Act contracts in similar jurisdictions. He noted that some cities have special commissions

for determining historic status, while that work is done in Atherton by the City Council, which he supports.

Principal Planner Davis added that such commissions tend to play an advisory role, with City Councils in other jurisdictions making the final decision on historic designations.

Commissioner Lerner stated that she would clarify that the ordinance be titled “Historic” and not “Historical” preservation for consistency.

Commissioner Konce asked if there is a way for a homeowner to be exempted from Mills Act contracts if a property is sold, for example.

Principal Planner Davis stated that language within the contracts stipulates the conditions under which the contract can be terminated.

Senior Appraiser Christine Talivaa-Aguerre added that Mills Act contracts are recorded against the property and stay in place even with a sale.

Chair Lane asked if owners could follow a process for cancelling the contracts.

Ms. Talivaa-Aguerre said that there is a penalty fee for cancelling the contract within the 10-year period it runs during.

Commissioner Konce added there are a lot of older properties in Atherton that get sold and redeveloped, so there would be a penalty fee to exit the contract.

Commissioner Lamb said he is for historic preservation but stated his concerns around over encumbering the Planning Staff and Planning Commission with these contracts. People will do anything to avoid property taxes, so he does not want a lot of blowback coming to staff or the Commission over these contracts.

Open Public Hearing.

Closed Public Hearing.

Chair Lane stated understanding for Commissioner Lamb’s position that these types of contracts can become cumbersome or misused, which makes it important early on to monitor the types of requests the Town is receiving for these contracts. This Ordinance began with City Council, however, who started this process and sent it to the Planning Commission to make sure the Ordinance makes sense.

Principal Planner Davis added that the draft Ordinance creates a separate process for preserving the historic integrity of a home. There are the existing processes for achieving a historic designation, which anyone can undertake now, and which has its own strict criteria not regulated by the Town. Once that designation is achieved, then an applicant may come to the Town to

pursue a Mills Act contract. However, not every property that pursues a historic designation may want to pursue a Mills Act contract.

Commissioner Lamb asked who becomes the decision maker on who is eligible for a Mills Act contract.

Principal Planner Davis stated that new contracts would go first to Planning Commission and then to City Council for final approval.

Commissioner Konce asked if the Town has records for floor plans or building plans for historic homes? Her understanding is some of that information is not available from her experience.

Principal Planner Davis stated that the records available with the Town varies, but the onus is on the applicant to provide proper documentation demonstrating historic character of the home.

Commissioner Konce's feeling is there are very few homes in the Town that would even qualify based on the standards for historic homes.

Chair Lane asked clarifying question on direction from City Council to review and provide a recommendation for the Ordinance.

Principal Planner Davis stated that Staff and the City Council have studied the question of historic preservation. The current Ordinance may be sent to City Council with suggested changes from the Commission. The Commission may also recommend that the Council not pass the Ordinance.

Chair Lane stated belief that this is a step toward having design standards, which creates a new excitement for the Planning Commission and City Council. He suggested an evaluation of the Ordinance be performed in a year on its effectiveness and the amount of work created by it.

Commissioner Lamb reiterated desire to support staff and make it easy for them to make decisions and support those decisions. His feeling is that the Ordinance is half-baked and that it will create dissension in the future.

Commissioner Konce added that the standards for preserving historic integrity make it unappealing for many people to apply for such a designation.

Chair Lane asked Principal Planner Davis her opinion on whether the Ordinance would make things harder or easier for staff.

Principal Planner Davis said she does not anticipate receiving many applications based on the Ordinance.

Commissioner Narancic said he shares the concerns of the other commissioners. There is always an exercise in judgement that happens with new standards, and he believes there is a fair set of decision-making criteria within the Ordinance for making those judgements.

MOTION to approve a recommendation that the City Council adopt amendments to repeal and replace Chapter 8.14 “Historical Artifacts” and retitle to “Historic Preservation” based on the finding and for the reasons as outlined in the Staff Report.

M/S Narancic /Lerner Ayes: 4 Noes: 1 Abstain: 0

b. Special Structures Permit (SSP) – 196 Patricia Drive, Atherton (APN 059-282-130) – Request for a Special Structures Permit to allow for a detached accessory structure (pool) to have a reduced front yard setback. Atherton Municipal Code Chapters 17.15, 17.32, 17.40.

Principal Planner Stephanie Bertollo-Davis presented the Staff Report.

Chair Lane asked clarifying question regarding coping around pool and whether there is an enclosing fence. He wants to be sure the applicant is not creating an attractive nuisance.

Open Public Hearing.

Project Representative Jason Alden, architect, clarified that outline around the pool is part of the hardscape. The property has a fence surrounding it, but no fencing just around the pool. The whole area will be closed off. Applicants met with Town Arborist and determined that locating the pool elsewhere would have impacts on heritage trees. Proposed location also locates pool further from neighbors, reducing noise and impacts on neighbors. Additional tree plantings and landscape screening will further screen pool from public right-of-way.

Chair Lamb asked if applicants had reached out to neighbors regarding the project.

Project Representative Paul Nikcevic, homeowner, stated he reached out to neighbors as part of previous Variance process for the house.

Chair Lamb asked if any public comments had been received regarding the project.

Principal Planner Davis said no public comments had been received.

Jon Duane, neighbor at 178 Patricia, commented that he did not receive any outreach from the applicant.

Mr. Nikcevic said he had spoken to Mr. Duane’s spouse.

Mr. Duane asked if pool house on plans is existing or proposed and what the setback of the structure is.

Mr. Alden added that the structure is a new ADU that complies with the Town’s development standards and is 6’ off the property line.

Closed Public Hearing.

MOTION to approve the Special Structures Permit at 196 Patricia Drive based on the findings and subject to the conditions listed in the draft Special Structures Permit to allow a detached accessory structure (swimming pool) to have the same front yard setback for the main residence.

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

c. Special Structures Permit (SSP) – 151 Laurel Street, Atherton (APN 061-370-020) – Request for a Special Structures Permit to allow for a detached accessory building (garage) 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 Megan Jones discussed alternatives that were explored for location of the garage and constraints on the site. Locating the garage off the existing driveway was determined to be the most logical location. The new garage will match the materials and design of the existing structures. Outreach was done to adjacent neighbors, with no feedback received either way.

Project Representative Lauren Goldman stated owner’s intent for garage to blend in with the existing property. Also wanted to keep garage away from existing house and not add more driveway area to the property.

Closed Public Hearing.

MOTION to approve the Special Structures Permit to allow a detached accessory building (garage) to have the same front yard setback as the main residence at 151 Laurel Street 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 Narancic/Lamb Ayes: 5 Noes: 0 Abstain: 0

5. STAFF REPORTS

Principal Planner Davis noted that a first reading of the SB 9 Ordinance was approved by the City Council. The Planning Commission’s decision regarding a Heritage Tree Removal permit at 1 Elm was also appealed to the City Council, with the City Council approving the application.

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

6. COMMISSIONERS’ REPORTS

Nothing to report.

7. ADJOURN

The meeting was adjourned 7:14 PM

Respectfully Submitted:

/s/Stephanie B.-Davis

Stephanie B. Davis, Principal Planner