

**PLANNING COMMISSION  
DRAFT APPROVED MINUTES**

**TOWN OF ATHERTON  
October 22, 2008  
6:00 P.M.  
TOWN COUNCIL CHAMBERS  
94 ASHFIELD ROAD**

**1. ROLL CALL:**

**PRESENT: Philip Lively  
William Grindley  
Herman Christensen, Jr.  
Marion Oster**

**EXCUSED: Kristi Waldron**

City Attorney Marc Hynes, Deputy Town Planner Lisa Costa Sanders, and Building Official Mike Wasmann were also present.

**2. APPROVAL OF MINUTES**

**MOTION to approve the minutes of the September 24, 2008 meeting as amended.**

**M/S Lively/ Christensen    Ayes: 3        Noes: 0        Abstain: 1 (Grindley)  
Excused: 1 (Waldron)**

**3. PUBLIC COMMENTS**

Maria Chiossi, 95 Howard, stated that her property neighbors Menlo School and asked the Commission deny the Conditional Use Permit and if approved, that the hours of new Gymnasium usage be limited to Monday through Friday during normal school hours.

**4. COMMISSIONER'S REPORTS- none**

**5. GENERAL PLAN COMMITTEE REPORTS**

Commissioner Christensen reported that he has been elected Chairman of the General Plan Committee and Carol Smith has been elected Vice Chairman.

**6. STAFF REPORTS- none**

**NEW BUSINESS**

**7. Ordinance Amendment-Special Events Ordinance- Ordinance Amending the Special Events Ordinance. Atherton Municipal Code Section 17.38**

Deputy Town Planner, Lisa Costa Sanders gave a brief background on the Specials Events Ordinance. She indicated that the City Council requested the Planning Commission re-address the Ordinance, specifically the field usage.

City Attorney, Marc Hynes clarified that parades are separate from school field usage. Chair Oster indicated that the Commissioners received letters this evening and will read them at this time.

#### OPEN PUBLIC HEARING

Melinda Tevis, 98 Tallwood, recommended that Sunday be a day of peace.

Chair Oster noted that as the Ordinance as currently written, field usage is allowed from 10am- 5 pm on Sundays. Ms. Tevis recommended an expansion of Saturday's hours, and change Sunday to a day of peace where no usage is permitted.

Elizabeth Lewis, 99 Alejandro, stated she felt that youth organizations and Pop Warner in particular, have been put through the ringerhad problems and difficulties with playing on the Menlo Atherton Fields. She noted there have been no incidents or complaints and emphasized the importance of Pop Warner and youth activities to the children, as they encourage team building and sportsmanship..

Commissioner Christensen questioned what Ms. Lewis is advocating. Ms. Lewis responded that the limited evening hours during the week seem to be the issue and therefore to extend these hours for Monday through Friday.

Greg Baty, 630 La Mesa Drive, Portola Valley and a Coach of the Menlo Atherton Pop Warner team stated that the issue appears to be with game events where cheering and larger crowds are present. He further explained that the weekday guidelines are impossible to uphold, as the High School usually is on the field until six or six-thirty in the evening and therefore his team is at a severe disadvantage with the shortened practice times. He stated that in addition to the weekday timing, Sundays do pose a problem as well. Mr. Baty stated that the ideal situation would be as follows:

- 1- Exempt youth sports entirely, there is a total of 10 days a year that there is noise
- 2- if the first request<sup>1</sup>, is not acceptable, then exempt youth practices
- 3- The Town should allow special circumstances for Youth Sports, like Pop Warner, as they do need to play on Sundays.
- 4- There needs to be some consistency with the ordinance

Chair Oster questioned if half hour more in the evenings during the weekdays would make a difference. Mr. Baty indicated that they would ideally practice until sundown. Mr. Baty indicated that a Sunday restriction would put the youth organizations up against each other – fighting for field space.

Commissioner Christensen questioned why Pop Warner couldn't apply for a permit/exemption. Mr. Baty indicated that three years ago they applied for a permit exemption and was denied by the City. Their legal council counsel advised them not to apply for another permitexemption.

Chair Oster indicated that the process is similar to what the Planning Commission just addressed and passed with a Variance. Mr. Baty responded that they did apply and were denied. Chair Oster stated that the Planning Commission has been working for many years on trying to develop an Ordinance that would work for everyone. Mr. Baty noted that what he finds troubling is, homeowners who buy their homes near schools should expect additional noise and traffic.

Commissioner Lively questioned if there had been any disruptions in the practices within the last two years. Mr. Baty indicated that the Police were called out in 2007. Commissioner Lively indicated there were no police reports filed in either 2007 or 2008. Mr. Baty stated that in the summer of 2007 there were a couple of times the police were called out.

Commissioner Christensen stated that the Ordinance applies to other organizations other than Pop Warner and does understand the organizations' Attorneys advice. He further recognized that the Town does have some jurisdiction over the use of the fields. Commissioner Christensen questioned how many games in a season. Mr. Baty indicated there are nine games.

John \_\_\_\_\_, Posthauer, 481 Claremont Way Menlo Park and Board Member of Pop Warner indicated that of the 160 players, 35% are Atherton residents. Their organization only received a 36-hour notification before the September 12, 2008 City Council meeting. Mr. Posthauer [REDACTED] gave a summary of changes the organization has made to accommodate the Town's concerns.

Charles Marsala, 33 Emilie Atherton, lives across from Saint Joseph's School and believes that the Ordinance needs to be looked at and adjusted accordingly.

#### CLOSE PUBLIC HEARING

Commissioner Grindley stated that he voted against the "special events" ordinance previously. He noted that the hours posted on the sign at Holbrook Palmer Park are not nearly as restrictive as this Ordinance and there needs to be consistency.

Commissioner Lively recognized Commissioner Grindley's point and further noted that Pop Warner in particular is not noisy, they don't use amplified sound or loud whistles. He indicated that he brought along the timetable and that if they extended the hours, sundown in August is at 8:06 p.m. and in October is at 6:12 p.m.

Commissioner Christensen expressed his support for revamping the permit conditions to make it easier for Youth Sports, but is not in favor of exempting Pop Warner

Chair Oster stated that there is really nothing to vote on at this point and would certainly like to see this come back as there is a number of items that need to be addressed.

Commissioner Lively suggested putting together a sub-committee with of Planning Commissioners.

Commissioner Grindley suggested exempting youth volunteer and youth sports.

Chair Oster indicated that the Commission would be reviewing the entire Special Events Ordinance.

Ms. Costa Sanders indicated a study session may be efficient and confirmed that Commissioners Lively and Grindley volunteered to serve on the sub-committee.

Commissioner Lively indicated that the sub-committee will review the ordinance and then a study session will be held.

Chair Oster stated that the sub-committee would look at all aspects of the ordinance and a representative from Pop Warner and other youth organizations to be involved during the process.

**MOTION to request the sub-committee further review the Special Events Ordinance and request their recommendation be reviewed at a future Planning Commission study session. .**

**M/S Oster/ Grindley**

**Ayes: 4**

**Noes: 0**

**Excused: 1**

- 8. Variance-383 Walsh Road**–Variance to allow the reconstruction of a legally non-conforming gatehouse for full time occupancy and reconstruction of a legally non-conforming garage. Atherton Municipal Code Section 17.38.

Deputy Town Planner, Lisa Costa Sanders presented the staff report and indicated staff support for the project as proposed.

Commissioner Christensen requested clarification of the proposed use variance. Ms. Costa Sanders stated that the variance is necessary due to the location of the gatehouse proposed use for full time habitation and not the use.

#### OPEN PUBLIC HEARING

Katherine Schwertner, BAR Architects explained to the Commission why they are requesting a variance.

Commissioner Christensen questioned if the garage footprint will remain the same. MSs. Schwertner noted that it will remain the same.

Commissioner Grindley noted that he'd like to see deconstruct versus demolishing for wording. He further noted that the rafters on the north façade of the gatehouse, if using a

two by four would not achieve the same look as currently built. Ms. Schwertner indicated that it will be difficult to match exactly and further noted that they are intending on using a conventional wood member that is slightly larger than a two by four

Commissioner Lively noted that there is hardly any room to put a car in front the current location of the garage. He asked if the owners would consider moving it back off of Walsh Road. Ms. Schwertner noted that the distance from the face of the garage to the face of asphalt is twenty-seven feet and eight inches 27'-8". She indicated that there are Heritage Oaks sandwiched between the two structures and therefore does not think the garage could be moved back off Walsh Road without impacting the Heritage trees. Commissioner Lively responded that he did not believe the trees would be impacted. Commissioner Lively indicated that the shed should be removed. Ms. Schwertner noted that it is their plan to remove the shed.

Ms. Costa Sanders responded to the Commission that they could indicate the garage be moved as far back as possible from Walsh Road to the satisfaction of the Town Arborist.

Commissioner Christensen noted that he parked at the property and that he feels there is more than adequate room with the current garage location.

Commissioner Lively indicated that it looks as though the garage can be moved back about ten feet

Melinda Tevis, 98 Tallwood, expressed her support for the rebuilding of the two structures, as both need to have solid foundations.

#### CLOSE PUBLIC HEARING

Commissioner Christensen noted that he does not share in Commissioner Lively's concerns with parking in front and therefore would support the Variance as submitted.

Commissioner Grindley noted that he agrees somewhat with Commissioner Lively's concerns with parking in front of the garage and does not feel that there is undo burden to move the garage structure back from Walsh Road as long as it is with the Town Arborist's approval.

Commissioner Lively indicated that the additional condition should read that the garage be moved back closer to the side set back and off Walsh Road as much as practical considering the health of the nearby Heritage Oaks to the satisfaction of the Town aArborist and Building Official.

Chair Oster stated that she couldn't believe that the garage is still standing, with its current condition. She also indicated that inside the garage there was paint and turpentine, which she recommends removal of as soon as possible. Chair Oster further stated that she also has some concerns with the proximity of the garage and questioned if there was a need for a three car garage.

Ms. Schwertner indicated that the owner's are trying to uphold the same floorplan as currently constructed. Chair Oster indicated she'd like to see the garage moved back as far as possible.

**MOTION to approve the Variance to allow the reconstruction of a legally non-conforming gate house for full time occupancy and reconstruction of a legally non-conforming garage at 383 Walsh Road based on the following findings and subject to the conditions listed in the Variance Certificate with the following additional conditions:**

**M/S Lively/ Grindley**

**Ayes: 4**

**Noes: 0**

**Excused: 1**

**Findings:**

1. Variances from the terms of zoning title shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning title deprives such property of privileges enjoyed by other property in the vicinity and under identical classification.
2. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant or special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
3. A variance shall not be granted for a parcel of property which authorizes a use if activity which is not otherwise expressly authorized by the zone regulation governing the parcel of the property.

**Additional Condition:**

1. Construction parking to be strictly enforced at all times.
2. The garage be moved back closer to the side set back and off Walsh Road as much as practical considering the health of the nearby Heritage Oaks to the satisfaction of the Town Arborist and Building Official

Chair Oster advised of the 10-day appeal period.

**9. Study Session**

Deputy Town Planner, Lisa Costa Sanders gave a brief introduction of the study session to review the draft Zoning Code Update as recommended to the Planning Commission by the General Plan Committee. .

Christopher Jordan, ConsultantPMC, presented the Zoning Code update.

Commissioners, Ms. Costa Sanders and Mr. Jordan reviewed each page of Article I and made note of changes and/ or corrections.

Review of the draft Zoning Code Update was continued to the next Planning Commission meeting December 23, 2008.

- 10. ADOURN**  
M/S Oster/Christensen to adjourn meeting at 9:10pm. Motion passed.

**Respectfully submitted,**

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Lisa Costa Sanders, Deputy Town Planner