

**PLANNING COMMISSION  
APPROVED MINUTES**

**TOWN OF ATHERTON  
December 3, 2008  
6:00 P.M.  
TOWN COUNCIL CHAMBERS  
94 ASHFIELD ROAD**

**1. ROLL CALL:**

**PRESENT: Philip Lively  
William Grindley  
Herman Christensen, Jr.  
Marion Oster  
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 continue of the minutes of the October 22, 2008 meeting to the next Planning Commission meeting.**

**M/S Grindley/ Christensen                      Ayes: 5                      Noes: 0**

**3. PUBLIC COMMENTS**

Melinda Tevis, 98 Tallwood, stated that she'd like to be put back on the mailing list for the meeting agendas.

**4. COMMISSIONER'S REPORTS**

Commissioner Lively reported that the sub- committee created to address the Special Events Ordinance has met and outlined the sub-committee's objective.

Chair Oster noted that the two members of the sub-committee are Commissioner Philip Lively and Commissioner William Grindley.

Commissioner Grindley reported on the recently appointed task force to address the lack and disrepair of the Town's Facilities. He noted that the next meeting is scheduled for January 9, 2008.

**5. GENERAL PLAN COMMITTEE REPORTS- none**

**6. STAFF REPORTS- none**

**NEW BUSINESS**

**7. Planning Commission Meeting Calendar for 2009**

**MOTION to approve the Planning Commission Meeting Calendar for 2009.**

**M/S Grindley/ Lively**

**Ayes: 5**

**Noes: 0**

- 8. 50 Valparaiso Avenue and 1000 El Camino Real**—Mitigated Negative Declaration and Mitigation Monitoring Plan, Zoning Ordinance Amendment to reduce the side and rear yard setback requirement in the PFS zone, Tentative Parcel Map to create four parcels, Conditional Use Permit to allow the construction of three new buildings and Heritage Tree Removal permit request to allow the removal of six heritage trees.

Deputy Town Planner, Lisa Costa Sanders presented the staff report. Ms. Costa Sanders distributed new wording for condition #6 of the Tentative Parcel Map Certificate.

Commissioner Christensen questioned the need to revise the wording if the zoning is amended. Ms. Costa Sanders indicated that with rezoning they would conform to the zoning code and would need to compare to the building code.

Commissioner Lively noted that if the dividing the parcels, Parcel #2 has a residence on it, and is zoned PFS. They could potentially build up to a 12,000 square foot structure within 10 feet of the property line. Ms. Costa Sanders indicated a single-family residence is not permitted in the PFS zone and therefore could not be expanded. Commissioner Lively noted that there then could be a 12,000 square foot public school building.

City Attorney Marc Hynes noted that it would be better to have the applicant request to rezone to the site to R1-A.

**OPEN PUBLIC HEARING**

Norman Colb, Head of Menlo School, expressed his gratitude to the Commissioners as well as the Board Members and trustees of Menlo School and Menlo College for all their hard work.

Matt MattEson, Chairman for Menlo School Building and Grounds, indicated that the committee is bringing back to the Commission the same three buildings as they have before.

Jeff Barry, Atherton, stated that the school has been working very closely with the neighbors, meeting every couple of months. The school has involved the neighbors and together they have come up with design parameters. Mr. Barry indicated that the general consensus between the neighbors is their concern with the potential noise of the schools cooling system and the hours of use of the proposed new gymnasium.

David McAdoo, Director of Operations, Menlo School reviewed the entire proposal with the Commissioners.

Commissioner Grindley questioned why proposed parcel two is just the College's. Mr. McAdoo indicated that the single-family residence that is on proposed parcel two is the College President's home and has been for many years.

Commissioner Christensen questioned how many total parking spaces are on the school campus. Mr. McAdoo advised he would need to look in the proposal and would address shortly. Commissioner Christensen asked for clarification of hours of use for the proposed Performing Arts Center. Mr. McAdoo indicated that the hours of use would be until 9:00 pm. Commissioner Christensen questioned if this was seven days a week. Mr. McAdoo indicated that it is Monday through Friday. He further noted that there would be some special school events where the timing would not be enforced.

Matt MattEson, indicated that there are two events throughout the school year that would require weekend and "after hours" usage of the Performing Arts Center. Commissioner Christensen indicated that the school is not then formally putting restrictions on the use of Performing Arts Center. Ms. Costa Sanders noted that this does not fall within the Special Events Ordinance the hours in the ordinance regulate non-school related events.

Chair Oster stated that there would not be any restrictions on timing or usage as it is a school event. Mr. Colb, reiterated that there are three plays a year and two concerts, both would occasionally have a Saturday evening performance and a Sunday matinee. Commissioner Christensen thanked the applicants and Commissioners for clarification.

Commissioner Grindley noted that on his tour of the school, the operation sheds are acting as a sound mitigation barrier and questioned why they needed to be remodeled. Mr. McAdoo indicated that they are not being renovated/ remodeled but rather getting a face-lift, paint etc. Mr. Matteson indicated that the proposed new athletic center is essentially creating the sound barrier.

Commissioner Waldron indicated that the sheds could only be maintained, as the current set backs would make them non-conforming. Mr. McAdoo agreed with Commissioner Waldron and also indicated that they are used as the facilities offices and yard and only used Monday through Friday.

Commissioner Lively questioned what is at the back end of the performing arts center. Mr. McAdoo indicated that it is a cooling tower. Commissioner Lively questioned as to why it is not visible from the North View. Mr. McAdoo stated that it is not actually part of the building.

Commissioner Lively questioned where the tunnel comes into the Performing Arts Center. Mr. McAdoo noted that they have not decided its location yet. He further indicated that it is solely a tunnel to transport costume racks and other stage materials to and from the underground storage of the Creative Arts Building. Commissioner Lively asked for clarification of what is in the basement of the Creative Arts building. Mr. McAdoo indicated that the basement would consist of storage and mechanical only. Commissioner Lively further asked for clarification as to whether all mechanical was in the attic of the proposed Athletic Center. Mr. McAdoo indicated that the mechanical

units are over the offices in the Athletic Center. Mr. Matteson indicated that the cooling system is under the roof and exhausts over the lobby. He further indicated their continued commitment to the noise criteria and that the new projects would not increase the noise level.

Commissioner Lively noted that as per the plans, it looks as though the wash out area for the construction trucks is adjacent to the neighbors. Bruce Chu, Engineer indicated that they could move the construction wash area away from the residents.

Chair Oster indicated that with the landscape improvement, the plans do not show the required replacement trees given the six heritage trees being removed. Mr. McAdoo indicated that the replacement trees would hopefully be used throughout the campus. Chair Oster further noted that in one of the reports it was noted that the Oaks were in danger with the people parking underneath them. Town Arborist Kathy Hughes-Anderson indicated that the concern was removing the limbs, not parking underneath the trees.

Mr. McAdoo indicated that he felt the College would be open to the rezoning of Parcel two to R1-A.

Chop Keenan, Menlo College Board, commended the Commission and also believes that the College would be open to the rezoning of parcel two to R1-A, but would need to take back to the school for discussion.

Ms. Costa Sanders indicated that the Commission could add a condition to the tentative parcel map relating to the rezoning.

Commissioner Lively asked for clarification on page 9 of the staff report- the installation of upgraded utility lines. Mr. McAdoo noted that they would like to move the utility lines underground but is very costly.

Commissioner Lively stated that there has been numerous times that the School has mentioned that the total campus coverage will be less than 40%. Mr. McAdoo indicated that total campus coverage is 23%. Commissioner Lively noted that these calculations are not in the Master Plan packet.

Ed Goodstein, 71 McBain Avenue, stated that he was a member of the neighborhood group and noted that the school has worked out a very diligent, good proposal. He noted that the sheds, although from the school side stand out, from the neighbor's point of view they are virtually nondescript. Mr. Goodstein indicated that noise is the neighborhood groups biggest concern but have met with the acoustic engineer working with the school and understand that the school is committed to and aware of the noise level concerns. He further stated that he believes that the school has made every effort and urge the Commission to approve the proposal.

Jack Phillips, 97 Leon Way, Board Member of the Victorian Homeowners Association, stated he is also a member of the neighborhood working group and urge the Commission

to accept the schools proposed plan. Mr. Phillippo noted that he would like to see that the Commission reevaluate the zoning of parcel two, and consider R1-A zoning as more appropriate.

Melinda Kaywert, 98 Michaels Way, stated she is a member of the neighborhood working group as well. She stated that she'd like to see the Commission to add to the proposal that mechanical noise not be heard.

Matt King, 69 Alejandra, questioned the construction timing of the proposed project. He indicated that if there was a way to increase the parking to relieve afternoon and weekend parking.

Mr. Matteson, indicated that construction timing is roughly between 12-15 months depending on the building. He stated that they are a non-profit organization trying to raise the funds to do the work and have no real idea as to when they will start. He further noted that construction would not begin until all funds are available.

Commissioner Christensen questioned if the school could build the proposed new buildings sequentially. Mr. Matteson indicated that ideally they would start with the new Athletic Center, as it would provide a noise screen for the future building to come.

#### CLOSE PUBLIC HEARING

Ms. Lisa Costa Sanders responded to questions from Commissioner Lively on the mitigated negative declaration indicating that the cumulative impacts of the project were evaluated and that a traffic study was conducted. The preparation of the negative declaration concludes that there are no significant impacts.

#### **MOTION to adopt the Initial Study, Mitigated Negative Declaration and Mitigation Monitoring Program based on the following findings:**

**M/S Christensen/ Grindley                      Ayes: 5                      Noes: 0**  
**Findings:**

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Initial Study and Mitigated Negative Declaration.
2. A Mitigated Monitoring Program as required by California Code of Regulation Section 15091 (d) is proposed for adoption.

#### **MOTION to recommend to the City Council to adopt the proposed Zoning Ordinance Amendment to reduce the side and rear setback requirement in the PFS zone based upon the following finding:**

**M/S Christensen/ Waldron                      Ayes: 5                      Noes: 0**  
**Finding:**

1. The proposed amendment is required to achieve the objectives of the general plan and the zoning ordinance.

**MOTION to recommend to the City Council to adopt the Tentative Parcel Map to create four parcels based on the following findings and subject to the conditions listed in the Tentative Parcel Map Certificate with the following revised and additional conditions:**

**M/S Oster/ Lively**

**Ayes: 5**

**Noes: 0**

**Findings:**

1. The proposed subdivision is in conformity with law and AMC Chapter 16.
2. The size and shape of the proposed lots are in general conformance to town requirements and the general pattern of the neighborhood and will not cause traffic, health or safety hazards.
3. The proposed lots will have proper and sufficient access to a public street.
4. The proposed map and the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.
5. The site is physically suitable for the type of development.
6. The site is physically suitable for the proposed density of development.
7. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
8. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
9. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through the use of, property within the proposed subdivision, or that alternate easements, for access or for use will be provided, and that all these will be substantially equivalent to those previously acquired by the public. This subsection shall apply only to easements established by judgement of a court of competent jurisdiction.
10. Discharge of waste from the proposed subdivision will not result in violation of existing water quality requirements prescribed by the regional water quality control board.

**Amended Condition:**

1. Amend Condition #6 to read as follows; “Prior to the final approval of the Parcel Map by the City Council, the subdivider shall prepare a study to determine whether the exterior walls(s) of Florence Moore Auditorium, Brawner Hall, the Dining Hall, Howard Hall and/or Michaels Hall located closest to the proposed new property line between the parcels will conform to the provisions of Chapter 7, Section 704 of the building Code, if applicable. If it is determined that any of the referenced buildings will not conform, then the subdivider shall work with Town staff to address and remedy such non-conformity. Remedies may include, without limitation, the recording of a “no-build” restrictive covenant on the adjacent parcel to restrict future construction within the area immediately adjacent to the non-conforming building. Any such restrictive covenant or other remedy, including a schedule for the implementation thereof, shall be prepared and accepted by Town staff prior to the final approval of the Parcel Map by the City Council.”
2. Add condition #32 as follows; “the College shall apply to rezone Parcel 2 to R1-A.”

**MOTION to approve a Conditional Use Permit for the construction of three new buildings; an Athletic Center, a Performing Arts Center and a Creative Arts Classroom Building containing approximately 133,500 square feet of gross floor area under roof, the relocation of 1,920 square foot Child Care Center, the renovation of the Maintenance Carports/ Shops and the placement of 10 portable buildings to be placed during construction within the loop main driveway based upon the following findings and subject to the conditions listed in the Conditional Use Permit Certificate with the following revised and additional conditions:**

**M/S Lively/Christensen                      Ayes: 5              Noes: 0**  
**Findings:**

1. The proposed use at the proposed location will not be detrimental or injurious to persons, property or improvements in the vicinity, and will not be detrimental to the public health, peace, safety, comfort, general welfare or convenience.
2. The proposed use will be located and conducted in a manner in accord with the general plan and the purposed of that plan the Zoning Title of the Atherton Municipal Code.

**Amended Conditions:**

1. Amend condition #5 to add the following wording “to avoid conflict with peak traffic hours.”
2. Add condition #20 to read as follows; “Mechanical noise shall be mitigated so as not to be detectable from adjacent residential property”
3. Add condition #21 to read as follows; “Applicant shall conduct a noise study to determine the current ambient noise level.”

**Motion to approve the Heritage Tree Removal Permit for the removal of six heritage oak trees (trees #1, 2, 255, 265, 267 and 275 on the applicant’s arborists report) based upon the following finding and subject to the conditions listed in the Heritage Tree Removal Certificate with the following amended conditions:**

**M/S Waldron/ Oster                      Ayes: 5              Noes: 0**  
**Finding:**

1. The removal of the trees would not be contrary to the purpose and intent of the Atherton General Plan.

**Amended Conditions**

1. Correct condition #1 to allow the removal of “six” oak trees.
2. Amend condition #2 to allow Quercus lobata “and/or agrifolia”.
3. Add the following wording to condition #6; “The actual removal shall be at the satisfaction of the Town Arborist.”

**Chair Oster advised of the 10-day appeal period.**

9. **Conditional Use Permit- 4 Brittney Meadows-** Conditional Use Permit to allow a pool to be located in the side yard at the front yard setback. Atherton Municipal Code Section 17.36.080

Deputy Town Planner, Lisa Costa Sanders presented the staff report and indicated staff support.

OPEN PUBLIC HEARING

Phil Cook, Contractor with Blue Water Pools, reviewed the plans and reasoning for the Conditional Use Permit.

Chair Oster questioned if there will be any new fencing between the pool and the front. Mr. Cook indicated that there would not be a fence, but a safety cover as there is an existing perimeter fence. Chair Oster further stated that there doesn't seem to be much decking. Mr. Cook indicated that the grass does go up to the pool's edge.

Commissioner Waldron noted that the proposed pool's placement seems to be very shaded. Mr. Cook indicated there is really one large tree, the rest of the trees are landscape border trees. Chair Oster inquired about the Redwood trees, since they seemed to be larger in scale. Mr. Cook noted that the pool is about 30 feet from the drip line of the trees.

CLOSE PUBLIC HEARING

Commissioner Christensen indicated his support for the proposed pool.  
Commissioner Waldron concurred with Commissioner Christensen.  
Commissioner Grindley concurred with Commissioner Christensen and Commissioner Waldron.  
Commissioner Lively expressed his support for the application.  
Chair Oster expressed her support for the project as proposed.

**Motion to approve the Conditional Use Permit to allow a pool in the side yard at the front setback at 4 Brittany Meadows based upon the following findings:**

**M/S Lively/ Christensen                      Ayes: 5              Noes: 0**

**Findings:**

1. The proposed pool at the proposed location will not be detrimental or injurious to person, property or improvements in the vicinity, and will not be detrimental to the public health, peace, safety, comfort, general welfare or convenience.
2. The proposed pool will be located and conducted in a manner in accord with the general plan and purposes of that plan and the zoning code.

**Chair Oster advised of the 10-day appeal period.**

10. **Ordinance Amendment- Comprehensive Zoning Code Update replacing Title 17**

**Motion to continue the discussion on the Ordinance Amendment- Zoning Code  
Update to a Planning Commissions Special Meeting on January 8, 2009 at 6:00 pm  
in the Council Chambers:**

**M/S Oster/ Lively**

**Ayes: 5**

**Noes: 0**

**11. ADOURN**

M/S Christensen/ Grindley to adjourn meeting at 9:10 pm. Motion passed.

**Respectfully submitted,**

---

Lisa Costa Sanders, Deputy Town Planner