

**PLANNING COMMISSION
DRAFT MINUTES**

**TOWN OF ATHERTON
February 28, 2018
6:00pm
TOWN COUNCIL CHAMBERS
94 ASHFIELD ROAD**

1. ROLL CALL

**PRESENT: Eric Lane
Nancy Lerner
Paul Tonelli
Joann Byrne-Sockolov
Randy Lamb**

Senior Planner Stephanie Davis, Assistant Planner Nestor Delgado, Town Arborist Sally Bentz-Dalton and Assistant City Attorney Jen Larson were present.

2. PUBLIC COMMENTS –

Tina Patterson, Atherton resident at 176 Tuscaloosa, mentioned damaged oak trees due to construction at 172 Tuscaloosa. She noted the Town Tree Preservation Guidelines not being followed during construction, as well as tree protection fencing not being respected. Ms. Patterson also noted lack of enforcement of tree protection.

3. APPROVAL OF MINUTES

**MOTION to approve the minutes of the December 6, 2017.
M/S Lamb/Sockolov Ayes: 5 Noes:0**

4. PUBLIC HEARINGS

- a) Special Structures Permit– 74 Barry Lane (APN 070-201-090) – Request for a Special Structures Permit to allow for the construction of a portion of an accessory structure (swimming pool and equipment) to encroach within the required front yard setback. Atherton Municipal Code Sections 17.15 and 17.40.**

Senior Planner Davis presented the staff report.

Commissioner Tonelli asked if proposed location for pool equipment is facing pool equipment at abutting property.

Senior Planner Davis responded the neighboring property at 62 Faxon has an existing pool in its rear yard that is almost parallel to the proposed pool at 74 Barry.

Commissioner Lamb asked about any neighbor support for the project.

Senior Planner Davis responded there was 1 letter of support submitted supporting the project and 1 phone call inquiring about the project.

OPEN PUBLIC COMMENT

Randy Thueme, Landscape Architect for the project, noted that main reason for the proposed location of the pool is to preserve trees.

Chair Lane asked about two orange flags he noticed on the property by the putting green.

Randy Thueme, Landscape Architect, responded those might be to identify existing utilities.

CLOSE PUBLIC COMMENT

Motion to approve the Special Structures Permit to allow for the construction of a pool and pool equipment to encroach within the front yard setback.

M/S Lamb/Sokolov Ayes: 5 Noes: 0

- b) Special Structures Permit– 6 Cowell Lane (APN 070-270-300) – Request for a Special Structures Permit to allow for the construction of an accessory structure (swimming pool) to encroach within the required side yard setback. Atherton Municipal Code Sections 17.15 and 17.40.**

Senior Planner Davis presented the staff report.

Chair Lane asked if a lot line re-designation for side and rear property lines was possible.

Senior Planner Davis responded that this would cause a domino effect making other buildings and structures in the property non-compliant and would not be supported.

OPEN PUBLIC COMMENT

Phoebe Lam, Landscape Architect for the project, noted that through screening and the proposed building angle they are looking to provide privacy for both the homeowners and right-of-way along Camino al Lago.

Chair Lane asked the difference in grade from Camino al Lago to the proposed pool area.

Phoebe Lam, Landscape Architect, responded she believes it is one foot.

CLOSE PUBLIC COMMENT

Motion to approve the Special Structures Permit to allow for the construction of a pool to encroach within the side yard setback.

M/S Lerner/Tonelli Ayes: 5 Noes: 0

- c) Variance - 99 Orchard Hills Street (APN 070-012-280) – Request for a Variance to allow to allow for a first floor addition to the main residence to encroach within the required side yard setback. Atherton Municipal Code Sections 17.16 and 17.32.**

Senior Planner Davis presented the staff report. She also noted a letter of support from the property owners across the rear at 46 Alameda de las Pulgas, and a letter received after the packets were distributed from Archie Snider, homeowner at 48 Orchard Hills in opposition of granting the variance.

OPEN PUBLIC COMMENT

Dana Carmel, homeowner of 99 Orchard Hills, mentioned pre-existing conditions at the time of purchase such as noise from Alameda de las Pulgas and angling of the home. She mentioned the inconveniences and cost of demolition and re-build to potentially accommodate an addition adhering to the setbacks. She noted the proposed addition is under the existing trellis area. She noted no trees would be impacted and that there is no view to the proposed area of addition from the neighbors or from the road.

Commissioner Lamb asked about letter of opposition from the homeowner at 48 Orchard Hills.

Senior Planner Davis mentioned the Archie Snider, homeowner of 48 Orchard Hills involved in the Orchard Hills subdivision of the area at that time.

Commissioner Lamb asked about moving the area of addition back.

Dana Carmel, homeowner, responded the pool is too close to the house, and moving it back would leave no patio space.

David Barna, Architect, noted the proposal would serve as sound barrier, while allowing continued use of patio.

Commissioner Tonelli asked if the applicant is willing to sacrifice some square footage to comply with the setback.

Dana Carmel, homeowner, responded it would still impact setback due to angle of house and would not provide a noise barrier.

Commissioner Lamb asked about moving the pool back.

Dana Carmel, homeowner, responded this would be too expensive.

Commissioner Sockolov asked if any other previous iteration of design would work.

David Barna, Architect, responded all other iterations did into the setback.

Commissioner Tonelli asked about iterations that did not go into setback.

David Barna, Architect, responded these would allow for too little square footage for the proposed addition.

City Attorney Jen Larson mentioned noise mitigation is not one of the 4 required findings.

Motion to deny the Variance to allow for the addition to encroach within the side yard setback.

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

d) Heritage Tree Removal Permit– 222 Camino Al Lago (APN 070-320-170) – Request for a Heritage Tree Removal Permit to allow the removal of one heritage oak tree. Atherton Municipal Code Section 8.10.

Senior Planner Davis presented the staff report.

Chair Lane asked about broken branches on site.

Town Arborist Sally Bentz responded this might be due to the demolition process.

OPEN PUBLIC COMMENT

Kevin Kielty, project arborist, mentioned the 40 heritage trees on the property and the odd shape of the lot making it difficult to build. He mentioned failure of the tree being requested to be removed would be onto the structure. He also noted construction of a new house would further damage tree.

Anna Chase, realtor for the project, mentioned the house was chosen by homeowners due to its proximity to neighboring friends. She noted project arborist identified tree as in poor shape.

Commissioner Lamb asked about different designs considered.

Nadia Pichko, project designer, stated the proposed submittal would allow for more redwood trees in the back to be saved. She mentioned 6 new oak trees would be planted.

CLOSE PUBLIC COMMENT

Town Arborist Sally Bentz mentioned she feels the design can work around the tree. She noted the tree has moderate to fair form and decay is not extensive.

Chair Lane asked about the angle of the tree.

Town Arborist Bentz responded the tree is angled as it was looking for light over the previous house.

Commissioner Lamb asked about cables on trees.

Project Arborist Kevin Kielty mentioned they are 30 feet up.

The Commission discussed the potential safety hazards associated with new structures built close to a tree that might fail.

Chair Lane asked if there is any more testing that could be done on the tree.

Project Arborist Kevin Kielty mentioned radar testing would be too expensive.

Motion to deny the removal of one Heritage Oak tree.

M/S Lane/Lamb Ayes: 3 Noes: 2

e) Consideration of amendments to Chapter 8.10 “Removal of and Damage to Heritage Trees” and to the Town’s Tree Preservation Guidelines Standards and Specifications.

Senior Planner Davis presented the staff report.

Chair Lane asked why not have both a bond and nuisance as remedies.

City Attorney Jen Larson responded only one can be used. She mentioned the remedy of nuisance is already available within the Municipal Code.

Senior Planner Davis presented two items of public comment from local architects expressing concern of adding redwood trees as protected trees in the buildable area and of the proposed tree protection zone of 10 times the tree diameter not allowing for much buildable area.

OPEN PUBLIC COMMENT

Betsy Colby, Atherton resident and member of the Tree Committee, expressed her hope of the amendments being recommended. She mentioned her support for further enforcement of tree preservation measures.

Matt Griffiths, Pacific Peninsula Group, expressed concern of the new amendments leading to loss of ability of collaborating on a case by case basis and open dialogue. He noted he believes the current process works.

Tina Patterson, resident of 176 Tuscaloosa, mentioned she believes process does not work. She noted the importance of enforcement.

John McClenahan, arborist, questioned if the stem of multi trunk trees will be measured at the base or at 54 inches. He noted item 3 of the proposed amendments mentions no disturbance within the Tree Protection Zone (TPZ), while item 7 mentions what can be allowed within TPZ. He also mentioned utility service considerations being close to trees.

CLOSE PUBLIC COMMENT

Commissioner Sockolov asked if a homeowner or developer pays bond or nuisance.

City Attorney Jen Larson responded it can be either, but it is preferred for it to be the homeowner.

Motion to approve amendments to Chapter 8.10 "Removal of and Damage to Heritage Trees" and to the Town's Tree Preservation Guidelines Standards and Specifications.

M/S Lane/Sockolov Ayes: 5 Noes: 0

5. COMMISSIONERS' REPORTS

NONE

6. STAFF REPORTS

a) Update on all Planning Commission applications for Heritage Tree Removals from October 2016 – December 2017.

Senior Planner Davis presented the staff report.

Chair Lane requested staff to present this to City Council and City Manager.

Senior Planner Davis updated the Commission on the 46 Almendral construction. She mentioned everything was finalized in the site, but some landscaping and planting might be happening.

Betsy Colby, Atherton resident and Tree Committee member, asked about the 3 withdrawals mentioned on the Heritage Tree Removals staff report.

Senior Planner Davis responded those trees have not been removed, as after consulting with staff, the applicants withdrew their applications.

Betsy Colby, Atherton resident and Tree Committee member, expressed concerns regarding trees being approved for removal to accommodate accessory structures.

7. ADJOURN

The meeting was adjourned 8:46 PM

Respectfully Submitted:

/s/Stephanie Bertollo-Davis

Stephanie Bertollo-Davis, Senior Planner