

**PLANNING COMMISSION
APPROVED MINUTES**

**TOWN OF ATHERTON
April 24, 2013
6:00pm
TOWN OF COUNCIL CHAMBERS
94 ASHFIELD ROAD**

1. ROLL CALL

**PRESENT: Herman Christensen Jr.
Philip Lively
Mary Beth Widmer
Eric Lane
Paul Quinlan**

Assistant City Attorney Jennifer Larson, Deputy Town Planner Lisa Costa Sanders, and Town Arborist Kevin Kielty were present.

2. APPROVAL OF MINUTES

MOTION to approve the minutes of the March 27, 2013 meeting.

M/S Lane/Lively Ayes: 4 Noes: 0 Abstain: 1 (Quinlan)

3. PUBLIC COMMENTS - none

4. COMMISSIONERS REPORTS - none

5. STAFF REPORTS – Deputy Town Planner Lisa Costa Sanders announced that the Planning Commission’s hearing of the EIR for Cartan Field may be pushed to June. She then briefly explained the process of EIR certification. The Little League item is being targeted for the May meeting. It will go to the Parks and Recreation Committee, hopefully before the May Planning Commission meeting.

The Planning Commission will discuss the Heritage Tree Ordinance at the June meeting. Deputy Town Planner Lisa Costa Sanders suggested that the Planning Commission discuss accessory structures and second dwelling units at a future meeting.

In addition, Ms. Costa Sanders indicated that the Bike and Pedestrian Master Plan will be incorporated into the Town’s Circulation Element of the General Plan and will bring forward other General Plan revisions to the Planning Commission. The Housing Element will be worked on this year for submittal to the State in 2014.

PUBLIC HEARINGS

6. Heritage Tree Removal Permit – 163 Almendral Avenue – Heritage Tree Removal Permit for the removal of one heritage tree. Atherton Municipal Code Section 8.10.

Deputy Town Planner Lisa Costa Sanders presented. The tree to be removed is tree #8.

OPEN PUBLIC COMMENT

Steve Simpson, the architect for the project, spoke in favor of the project. They applicants will be replanting many new trees, including 96" box size trees.

Commissioner Lively asked what will happen to two smaller trees on-site. Mr. Simpson answered that they may or may not be removed. Commissioner Lively asked if trees #7 and #9 will be pruned. Mr. Simpson answered that they will only be pruned to provide clearance for the driveway.

CLOSE PUBLIC COMMENT

Commissioner Widmer thanked the applicant for reconsidering the removal of the additional trees.

Commissioner Lively would be okay with the removal with additional conditions.

Chair Christensen is not okay with the request. He stated that the Heritage Tree Ordinance does not address when a site is heavily wooded. He would vote no on the request.

MOTION that the Planning Commission approve Heritage Tree Removal Permit for the removal of one redwood tree, identified on the site plan as tree #8, subject to the conditions listed in the Heritage Tree Removal Certificate based on the reasons incorporated in the Staff Report with the following additional condition.

M/S Lane/Lively Ayes: 4 Noes: 1 (Christensen)

Findings:

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

Additional condition:

- 1. Add condition #5 as follows: Trimming of trees #7 and #9 shall be to the satisfaction of the Town Arborist.*

Chair Christensen informed of the 10 day right of appeal.

7. Special Structures Permit – 12 Cowell Lane – Special Structures Permit to allow two basements (one each under a detached accessory building and a detached garage). Atherton Municipal Code Sections 17.15, 17.22 and 17.44.

Deputy Town Planner Lisa Costa Sanders presented the item and concluded by saying that the applicants have spoken to their adjacent neighbors and no comments were received to date.

OPEN PUBLIC COMMENT

The architect for the project, Ken Linsteadt, spoke in support of the project and made himself available for questions.

Commissioner Lively asked Mr. Linsteadt why the light well was not facing inward as the code directs. Mr. Linsteadt answered that he felt the site was unique and interpreted the code as such as there is a flag lot access on the adjacent property. Commissioner Lively also requested that the lights on the courtyard be downlit. Mr. Linsteadt agreed.

Commissioner Lane questioned adding multiple basements. He asserted that he doesn't think the design is optimal but he doesn't have a problem with it. Commissioner Lane also confirmed that one of the

accessory structures is a guest suite, which means that it can only be occupied 30 days out of the year. The Deputy Town Planner confirmed this.

Commissioner Quinlan commented that it is a pretty standard approval of a basement under the footprint of the structure. With regards to light wells, the Commission has been fairly strict on facing toward the interior of the property and he wants to be consistent with the standards.

Commissioner Widmer commented that a back facing light well is not consistent.

Chair Christensen is concerned about the light well facing the adjoining parcel.

Mr. Linsteadt offered to flip the structure in question to result in the light well facing the interior of the lot. Chair Christensen agreed with this solution.

MOTION that the Planning Commission approve a Special Structures Permit at 12 Cowell Lane based on the findings and for the reasons enumerated in the staff report and subject to the conditions listed in the draft special Structures Permit to allow for a basement under the gymnasium with the plan flipped for the light well faces the interior portion of the property .
M/S Lively/Lane Ayes: 5 Noes: 0

MOTION that the Planning Commission approve a Special Structures Permit at 12 Cowell Lane based on the findings and for the reasons enumerated in the staff report and subject to the conditions listed in the draft special Structures Permit to allow for a basement under the garage with the following additional condition.
M/S Lively/Lane Ayes: 5 Noes: 0

Findings:

- 1. The proposed basements will not impact heritage trees and the proposed basement light wells are located on the interior side of the yard.*
- 2. The proposed basements will not negatively impact neighboring properties with respect to privacy and view.*

Additional Conditions:

- 1. Add condition #7 to read as follows: Lighting for the lower level patio shall be downlit.*
- 2. The applicant shall construct a 6' tall screen wall adjacent to the light well under the garage.*

Chair Christensen informed of the 10 day right of appeal.

- 8. Special Structures Permit – 82 Howard Way** – Special Structures Permit to allow a tennis court and associated 9' tall tennis court fence to be located in the rear yard a) closer to the main residence than is normally allowed and b) 10' from the rear property line abutting a public right of way. Atherton Municipal Code Sections 17.15, 17.22 and 17.44.

Deputy Town Planner Lisa Costa Sanders presented the item.

There was some discussion about an encroachment permit that will be necessary to access the back of the subject property through the 4' easement owned by Sacred Heart. Commissioner Lively mentioned that Sandy Dubinsky of Sacred Heart did not have any knowledge of the project.

OPEN PUBLIC COMMENT

Thomas Klope, landscape designer, spoke on behalf of the project. He commented that they were waiting on approval from the Town before they approached Sacred Heart or applied for an encroachment permit.

CLOSED PUBLIC COMMENT

Commissioner Lively asked where the vehicles will park during construction. Mr. Klope answered that there will be no parking on Emilie. All parking will be inside the site.

Commissioner Lane asked why they need access from Emilie. Mr. Klope answered that there is no access from the front of the property to the rear of the property.

CLOSED PUBLIC COMMENT

Chair Christensen commented that while unconventional, the project will have no impact on the surrounding properties.

Commissioner Widmer feels the project doesn't meet the setbacks from the house and that sound/noise will impact the neighbors.

Commissioner Lively thinks that they should be required to maintain screening along Emily.

Commissioner Quinlan is only concerned with the height of the fence and not the tennis court. Upon further discussion the fence will be 6' on the existing 2' retaining wall.

MOTION that the Planning Commission approve the Special Structures Permit at 82 Howard Way based on the findings and for the reasons enumerated in the staff report and subject to the conditions listed in the amended draft Special Structures Permit to allow a tennis court outside the setback area. The motion passed with the following additional conditions.

M/S Lively/Quinlan Ayes: 3 Noes: 2 (Lane/Widmer)

Findings:

- 1. The proposed tennis court will not negatively impact neighboring properties with respect to privacy and view.*
- 2. The proposed tennis court complies with other development standards, restrictions, or limitations for the proposed building or structure, such as height and landscaping screening.*
- 3. The granting of the special structure permit is consistent with the objectives of the general plan and this title.*

Additional Conditions:

- 1. Amend condition 2 to add: "the applicant shall maintain on-site landscape screening.*
- 2. Add condition 5 to read as follows: "All construction parking shall be located on-site."*
- 3. Add condition 6 to read as follows: "The applicant shall obtain construction access approval from Sacred Heart Schools and an Encroachment Permit from the Town.*
- 4. Add condition 7 to read as follows: "The tennis court fence shall be limited to 6' in height measured from existing grade."*

Chair Christensen informed of the 10 day right of appeal.

ADJOURN – The meeting adjourned at 7:23 pm.

Respectfully Submitted:

Lisa Costa Sanders, Deputy Town Planner