

**PLANNING COMMISSION
APPROVED MINUTES**

**TOWN OF ATHERTON
April 28, 2010
6:00 P.M.
TOWN COUNCIL CHAMBERS
94 ASHFIELD ROAD**

1. ROLL CALL:

**PRESENT: Philip Lively
Paul Quinlan
Herman Christensen Jr.**

**EXCUSED: William Grindley
Kristi Waldron**

Acting Assistant City Attorney Veronica Ramirez, Deputy Town Planner Lisa Costa Sanders and Town Arborist Kathy Hughes Anderson were also present.

2. APPROVAL OF MINUTES

**MOTION to approve the minutes of the February 24, 2010 meeting as amended.
M/S Lively/Quinlan Ayes: 3 Noes: 0 Excused: 2 (Waldron, Grindley)**

3. PUBLIC COMMENTS- none

4. COMMISSIONER'S REPORTS - none

5. GENERAL PLAN COMMITTEE REPORTS

6. STAFF REPORTS-none

7. REGULAR AGENDA

Master Plan Update – 150 Valparaiso – Sacred Heart Master Plan Update for 2010

**MOTION to continue the item to the May 26, 2010 Planning Commission meeting
M/S Lively/Quinlan Ayes: 2 Noes: 0 Abstain: 1 (Christensen)
Excused: 2 (Waldron, Grindley)**

PUBLIC HEARINGS

- 8. Lot Line Redesignation and Heritage Tree Removal Permit – 50 Fairview Avenue – Lot Line Redesignation to designate the east property line as the front property line and a Heritage Tree Removal request to allow the removal of five heritage trees. Atherton Municipal Code Sections 17.20 and 8.10**

Deputy Town Planner, Lisa Costa Sanders presented the Staff report.

Commissioner Quinlan questioned if trimming vs. removing the trees would hurt the other surrounding trees, as there are many Redwood trees along this side of the property. Town Arborist, Kathy Hughes Anderson indicated that if they do not grind the stumps, there would not be an impact to the other surrounding trees. Commissioner Quinlan noted that one of the largest trees on the property is proposed for removal. Ms. Hughes Anderson indicated that tree #37 would be the most impacted, tree #38 the second most impacted and #60 would not need to be removed if their solution was to shorten the garage. Commissioner Quinlan asked if that was Ms. Hughes Anderson's suggestion to shorten the garage. Ms. Hughes Anderson noted that she did not do the calculations for altering the garage, but the minimum setback should be ten feet from the foundation to the tree, which would also depend on the type of foundation constructed. Smaller roots (three inches in diameter) could be cut without impacting the tree.

Commissioner Christensen noted that Staff opposed the removal of trees #37 and #38. Ms. Hughes Anderson indicated that she did not recommend approval or denial of these trees and is leaving it to the Commission to decide.

OPEN PUBLIC HEARING

David Lynch, owner, 5 Callado Way, noted that their lot would be the most affected with the lot line redesignation, but is supportive of the lot line redesignation. He indicated that he and Dr. Li have communicated and agreed that a fence would be constructed and additional screening would be added along their common property line to protect from head lights intrusion. If these are implemented, he would not oppose the project. Mr. Lynch noted that he would like to see the lower branches of Redwoods trimmed as well. He indicated that with regards to the proposed tree removal, the Monterey Pine, from his property looks to be in fine condition, with a beautiful green canopy and therefore he would oppose the removal and suggest the tree be trimmed as necessary.

Commissioner Quinlan questioned if Mr. Lynch had any comments or was opposed to the other trees proposed for removal. Mr. Lynch noted that he wants Mr. Li and his wife to enjoy their property and build their desired house. Commissioner Christensen asked for clarification of where the fence is to be constructed per Dr. Li and himself. Mr. Lynch indicated that it is essentially from where tree #54 is to the west along their common property line.

Alano Ohashi, Ohashi Design Studio, introduced himself to the Commission and explained their request for the lot line redesignation and removal of the requested trees.

Commissioner Quinlan questioned if anyone has spoken to the neighbor whose yard the new house would be facing. Ms. Costa Sanders distributed a letter from the owners of 52 Fairview indicating their support for the proposed projects.

CLOSE PUBLIC HEARING

Commissioner Lively indicated he visited the site and noted that the existing residence has been demolished. He further expressed his support for the removal of the Monterey Pine and trees #42 and #21.

Commissioner Quinlan indicated that he also visited the site. He noted that tree #54 does not look well and would support the removal. He further noted that the removal of the 3 redwoods would not create a gap as there are many Redwood Trees along this side of the property. He stated support for the tree removal as well as the lot line redesignation.

Commissioner Christensen expressed his support for the lot line redesignation and with the exception of tree #37, he would support the removal of all other trees as requested by the applicant.

MOTION to approve the Lot Line Redesignation to designate the east property line as the front property line at 50 Fairview Avenue for the reasons outlined in the staff report based upon the following findings and subject to the conditions stated in the draft Lot Line Redesignation Certificate.

M/S Lively/Quinlan Ayes: 3 Noes: 0 Excused: 2 (Waldron, Grindley)
Findings:

1. The proposed redesignation will not be detrimental or injurious to persons, property or improvement in the vicinity and will not be detrimental to the public health, peace, safety, comfort, or general welfare or movement of vehicles, people and goods in and around the subject property.
2. The proposed redesignation will be in accord with the general plan and the purposes of that plan and the Zoning Code.

MOTION to approve the Heritage Tree Removal Permit for the removal of tree #21 at 50 Fairview Avenue for the reasons outlined in the staff report based upon the following finding and subject to the conditions stated in the draft Heritage Tree Removal Certificate.

M/S Quinlan/Lively Ayes: 3 Noes: 0 Excused: 2 (Waldron, Grindley)
Findings:

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

MOTION to approve the Heritage Tree Removal Permit for the removal of tree #54 at 50 Fairview Avenue for the reasons outlined in the staff report based upon the following finding and subject to the conditions stated in the draft Heritage Tree Removal Certificate.

M/S Quinlan/Lively Ayes: 3 Noes: 0 Excused: 2(Waldron, Grindley)
Findings:

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

MOTION to approve the Heritage Tree Removal Permit for the removal of tree #38 at 50 Fairview Avenue for the reasons outlined in the staff report based upon the following finding and subject to the conditions stated in the draft Heritage Tree Removal Certificate.

M/S Quinlan/Lively Ayes: 3 Noes: 0 Excused: 2 (Waldron, Grindley)

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

MOTION to approve the Heritage Tree Removal Permit for the removal of tree #42 at 50 Fairview Avenue for the reasons outlined in the staff report based upon the following finding and subject to the conditions stated in the draft Heritage Tree Removal Certificate.

M/S Quinlan/Lively Ayes: 3 Noes: 0 Excused: 2 (Waldron, Grindley)

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

MOTION to deny the removal of tree #37 at 50 Fairview Avenue as the removal of the heritage tree would be contrary to the purpose and intent of the Atherton General Plan.

M/S Lively/Christensen Ayes: 2 Noes: 1 (Quinlan) Excused: 2 (Waldron, Grindley)

OPEN PUBLIC HEARING

Mr. Lynch asked for clarity regarding the fence or is this was something that he and Dr. Li would work out between themselves. Dr. Li, indicated that he would construct the fence and plant the hedge as discussed.

CLOSE PUBLIC HEARING

Vice-Chair Christensen advised of the 10 day appeal period.

9. Heritage Tree Removal Permit – 35 Barry Lane Avenue – Heritage Tree Removal Permit to allow the removal of three heritage trees. Atherton Municipal Code section 8.10

Deputy Town Planner, Lisa Costa Sanders presented the Staff report and indicated that the applicant could not be present at this evening's meeting.

Commissioner Lively noted that in the Heritage Tree Removal Permit- item #2, does it reference the site plan dated 1/21/10 A.1.0. Ms. Costa Sanders confirmed.

OPEN PUBLIC HEARING

No comments

CLOSE PUBLIC HEARING

Commissioner Lively indicated that he visited the site and noted that the Beech tree is in pretty good condition and therefore would vote to remove the two Oaks but would like to see the Beech tree remain.

Commissioner Quinlan indicated that he visited the site and met with the applicant. He expressed his support for the removal of trees #4 and #5 as they are in poor health and the Beech tree appears to be one sided and therefore would support the removal as well.

Commissioner Christensen indicated he would support the removal of all three trees as requested.

MOTION to approve the Heritage Tree Removal Permit for the removal of tree #4 and tree #5 at 35 Barry Lane subject to the conditions listed in the draft Heritage Tree Certificate and based on the following finding for the reasons incorporated in the staff report.

M/S Quinlan/Lively Ayes: 3 Noes: 0 Excused: 2 (Waldron, Grindley)

Finding:

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

MOTION to approve the Heritage Tree Removal Permit for the removal of tree #2 at 35 Barry Lane subject to the conditions listed in the draft Heritage Tree Certificate and based on the following finding for the reasons incorporated in the staff report.

M/S Quinlan/Christensen Ayes: 2 Noes: 1 (Lively) Excused: 2 (Waldron, Grindley)

Finding:

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

Vice-Chair Christensen advised of the 10-day appeal period.

10. NEW BUSINESS

Consideration of possible changes to the R1-A zoning district for lots that are less than 10,000 square feet in area.

Deputy Town Planner, Lisa Costa Sanders presented the Staff report and advised the Commissioners of options on how to proceed with this item.

Commissioner Quinlan asked if one of the differences in R1-A vs. R1-B included front walls. Ms. Costa Sanders indicated that orientation of end walls and side walls is specifically defined in the R1-B but not in the R1-A where the property owner can choose the orientation of end walls and side walls. Commissioner Quinlan questioned if one of the alternatives presented in the Staff Report (to rezone) is in the Commissioner's power. Commissioner Quinlan also inquired as to what the City Council was requesting since the City Council had recently denied the request to rezone Parker Avenue. Since the Planning Commission is a recommending body and the City Council is a deciding body he was unsure whether the Commission was being asked to consider doing indirectly what the City Council had already denied. Ms. Costa Sanders indicated that the Planning Commission could initiate rezoning properties and that the City Council specifically requested the Planning Commission to consider changes to the R1-A zoning district.

Commissioner Christensen reconfirmed that the Commission can only recommend. Ms. Costa Sanders indicated that is correct, but at this meeting staff is requesting direction only on how to proceed.

Commissioner Quinlan indicated that many hours have been spent updating the Zoning Ordinance and asked why this wasn't addressed during that time. Ms. Costa Sanders indicated that at the Community Outreach meetings, this topic was raised. The General Plan Committee, however, decided not to recommend further changes to the R1-A regulations to accommodate smaller lots.

OPEN PUBLIC HEARING

Dwayne Watson, Parker Avenue, referred to the last page of the Staff report. Ms. Costa Sanders indicated that all these attachments are from the March 18, 2009 City Council staff report and have not been updated since that meeting. She further stated that the list of individuals listed as "in favor" or "opposed" was based on letters received prior to the March 18, 2009 City Council meeting. Mr. Watson explained why he believed there should be no change to the existing R1-A guidelines.

John Frenster, Parker Avenue, indicated that this has only become an issue within the last five years and with only a few individuals. Mr. Frenster expressed his feelings as to why there should be no change.

Anne Anderson, Bergesen Court, noted that she shares a fence with five Parker Avenue homes and indicated that if there is a change to the rear setbacks of these Parker Avenue homes, that her property would be extremely affected. Ms. Anderson noted that she printed maps and downloaded information from the County and handed it out to the Commissioners. Ms. Anderson also indicated a letter was submitted by the Eisenbergs, Polhemus Ave., as they were not able to be present at the meeting, but would be greatly affected as well. She indicated that she was not in favor of making changes.

Colleen Anderson, Parker, indicated she and her husband are in support of the change.

She noted that in the R1-A zoning district, a pool or guest house can be located 10' from the property line. She noted that her primary concern is getting the cars off of Parker Avenue, by maintaining the rear setbacks and allowing the front setback to decrease in order for many of the Parker Avenue residents to add a garage to the front of their property. Ms. Anderson indicated that these lots are more like R1-B than R1-A lots and feels that it is better to change the rules versus breaking the rules.

Commissioner Quinlan indicated that there are six differences between R1-A and R1-B zoning regulations and questioned if Ms. Anderson wants all six changes. Ms. Anderson indicated that rear setbacks could remain the same, to take what is the rear setback in R1-B and move it to the front as well as increasing the overall square footage and increasing the square footage allowance to 1,500 square feet for second levels. She preferred that the height limits remain as they currently are in R1-A. Commissioner Quinlan clarified what Ms. Anderson is requesting. Ms. Anderson indicated that she wants a smaller setback in the front. Commissioner Quinlan noted the front setback in the R1-B zone is 23'.

Commissioner Lively clarified that it is a decrease in front setback that Ms. Anderson is requesting. Commissioner Quinlan responded in the affirmative, stating that Ms. Colleen Anderson is requesting a decreased front setback and no restrictions to upper story floor area. Commissioner Quinlan noted that the required front yard setback for Parker Avenue properties is 39'. Ms. Anderson indicated that currently the front yard setback in R1-B is 23 feet and she would like lower. Commissioner Quinlan confirmed building height and sidewalls would remain the same. He further questioned if Ms. Anderson made the same arguments in front of the City Council.

Commissioner Christensen wanted to clarify what Ms. Anderson is suggesting as follows; rear setbacks to remain as current at 39', front setback to change and be between 17'-20', side setbacks remain as current, total allowed floor area to change to R1-B standards, limit on second floor to change to R1-B standards and main building height to remain as current.

Commissioner Lively questioned why all the front fences are lined up on Parker Avenue. Ms. Anderson noted that 49 Parker is not.

Lorna Wadsworth, Parker Avenue, expressed her concern with the changes. Commissioner Quinlan asked if Ms. Wadsworth objected to all the changes. Ms. Wadsworth indicated that she does not want to see Parker Avenue essentially rezoned to R1-B.

Dwayne Wadsworth questioned if it is legal to spot zone. Ms. Ramirez staff would need to conduct further research regarding spot zoning.

Ms. Anderson indicated that in her opinion, Parker Avenue is already spot zoned.

Andrew Carlson, Parker Avenue, indicated he opposes the changes proposed.

Anne Anderson indicated that this is an issue of fairness and equity. She also noted that changes were made to the code in 1991 and that property owners remodeled in good faith and in reliance upon these codes. Ms. Anderson noted that she believes it is a really a problem and opens the Town up to vulnerability. She does not support making changes.

Jonathan Tang, Parker Avenue, stated that he has currently designed a house under the R1-A constraints and is currently in limbo as he does not want to move forward with those plans if changes are going to be made. He noted that he believes those opposing the changes have an unfounded concern with the possibility of huge “boxy” type homes.

Michael Bennett, Parker Avenue, indicated that for the past 24 years he has wanted to construct a garage. The general point is pure fairness; most of the smaller lots in Atherton have R1-B rules except for Parker Avenue. He believes that everything under a certain square footage should be R1-B and anything over should be R1-A.

Linda Grossman, Parker Avenue, explained to the Commissioners why she opposes the impending changes.

Richard Pike, Parker Avenue, also explained why he too opposes the changes.

CLOSE PUBLIC HEARING

Commissioner Lively indicated he has looked at the Staff report and maps. He noted that he would like to continue this item so that the other two Commissioners can be present.

Commissioner Quinlan indicated that he preferred to take action at the meeting. Numerous residents had attended and participated in the public hearing and he felt the Commission should make a decision. He further noted that he felt that the City Council should have taken action themselves rather than to refer the item to the Planning Commission given their recent decision to deny the rezoning. The Commission was basically being asked to consider a de facto rezoning of all lots less than 10,000 square feet in the Town. Commissioner Quinlan noted that he has heard a lot about fairness in the public hearing but that fairness was subjective and generally was in the mind of the person who is making the argument.

Commissioner Christensen indicated that he is not in favor of the front setbacks being 18 or 19 feet and believes it would change the character of the street.

MOTION to continue this item to the next regular Planning Commission meeting.

M/S Lively/

Motion fails due to a lack of a second

MOTION to recommend no changes to the R1-A zoning district regulations.

M/S Quinlan/Christensen Ayes: 3 Noes: 0 Excused: 2 (Waldron, Grindley)

- 11. ADOURN**
The meeting adjourned at 8:15 p.m.

Respectfully submitted,

Lisa Costa Sanders, Deputy Town Planner