

**PLANNING COMMISSION
APPROVED MINUTES**

**TOWN OF ATHERTON
June 18, 2009
6:00 P.M.
TOWN COUNCIL CHAMBERS
94 ASHFIELD ROAD**

1. ROLL CALL:

**PRESENT: Kristi Waldron
Herman Christensen Jr.
Philip Lively
William Grindley
Paul Quinlan**

City Manager Jerry Gruber, Deputy Town Planner Lisa Costa Sanders and Consulting Attorney Barbara Kautz were also present.

2. PUBLIC COMMENTS

Melinda Tevis, Atherton resident, expressed concern with the amount of time that it has taken to review the Housing Element and Zoning Code.

REGULAR AGENDA

3. Review of the draft 2007-2014 Housing Element Update and Mitigated Negative Declaration

Deputy Town Planner, Lisa Costa Sanders introduced the item. Barbara Kautz noted the goal with the Housing Element is to achieve compliance with State requirements in a way that fits the community's goals.

Commission discussion:

What specific setback would be established to achieve "adequate distance" from the second unit to adjacent main building areas? The specific distance will be determined with the implementing zoning code ordinance amendment.

Barbara Kautz noted that based on her experience, the state will only count new construction and not recognize the legalization of existing guest houses.

Commissioner Christensen expressed concern with privacy and asked if there could be an occupancy limitation? Barbara Kautz responded that the Town cannot limit how many people live in the unit but can require that one unit (main house or second dwelling unit) be owner occupied.

Commissioner Lively asked if Oakwood could count, specifically the additional units that were constructed. Lisa Costa Sanders responded that Oakwood does not contain separate

living units as defined by the state. Each unit would need a bedroom, bathroom and kitchen.

It was noted that the Negative Declaration should be updated to include “adequate distance from adjacent main building areas”.

Commissioners also requested changing the wording of policy 3.761.

PUBLIC COMMENT

Janet Simmons, Wilburn, stated that Atherton is unique and would hate to see it densely populated. She expressed concern with the number of second units. She also asked if the Town could share the affordable housing expense with other towns.

Carol Smith, Oak Grove, submitted a letter challenging the Mitigated Negative Declaration. Ms. Smith stated that she feels the proposed Housing Element would require a full Environmental Impact Report and that the Town should instead implement the least impactful solution. She stated that the notice of intent should be rejected as it does not accurately describe the project. She stated that the Town should use a conservative stepped approach. She suggested allowing multiple kitchens with aggressive outreach as well as allows second units in the main building area with more outreach. She stated that intensity of use was not considered in the initial study.

Commissioner Grindley asked Ms. Smith to expand on her solution for meeting the housing production requirement. Carol Smith responded that the Town currently allows only one kitchen per residence. If the Town were to allow multiple kitchens, the Town could count that as an additional unit and people could rent them out. The Town could also consider an amnesty program for existing second kitchens so those could also count as rentable second units. The Town could then have a stepped approach if the State comes back during the next cycle.

Commissioner Christensen asked how other cities have approved Housing Elements without CEQA review. Carol Smith stated that when she spoke with a CEQA litigator, it was indicated that a negative declaration is a common approach. She also stated that property owners have the right to build in the main building area and that the main issue with the new approach is increased density of population.

Chair Waldron asked why an EIR would be needed for new second units outside of the buildable area but not for new second units within the main building area. Carol Smith referenced the advice she obtained from a CEQA attorney.

Jean Schaft, Stockbridge, stated that the Town needs to keep Atherton green and take our time with this issue. She noted her agreement with comments made by Carol Smith with a stepped plan, keeping in mind the future.

John Ruggeiro, Stockbridge, stated that the house next door to him is rented and they have loud parties. He expressed his agreement with the other speakers.

CLOSE PUBLIC COMMENT

Commissioner Quinlan asked what needs to be done to comply with the state law. He would also like to see more detail on how the separation between second units and main building area would be addressed.

Commissioner Lively suggested reducing the projected number of guest houses and rely more on internal living quarters.

Barbara Kautz noted that HCD will not give credit for an amnesty program.

Commissioner Grindley agreed with comments made by Commissioner Lively.

Commissioner Christensen agreed that the Town should look at increasing the number of internal living units.

Commissioner Lively suggested the following strategy; changing the size limitation for second units and do more outreach to increase production; increase the number of internal living units; and eliminate the use of guest houses as a strategy. He also suggested using the following number of new units; Menlo School & College: 90; conventional houses: 5; second units: 10; new guest houses within the main buildable area: 20; internal living quarters: 25.

Commissioner Quinlan stated that he does not agree with the strategy as proposed. Commissioner Waldron also expressed concern with the strategy as proposed.

MOTION to request that staff revise the draft Housing Element and bring back to the Planning Commission for review with the following policies; allow second dwelling units in the main building area up to 1,200 square feet in area and allow second kitchens in the main residence.

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

3. Hear the Report from the Special Events Sub-Committee

Commissioner Lively reported on the progress of the special events subcommittee, noted that they have met with representatives of the school, representatives of the sports organizations and neighbors. He suggested the Commission consider an end time of sunset for outdoor events. He stated that the weekends are an issue and that they may recommend extending Saturday hours but keep Sunday hours the same.

Commissioner Christensen asked what the current hours are for Sunday. Commissioner Lively responded that Sundays are limited to 10:00am until 5:00 pm.

Commissioner Lively stated that the police have not been called for sports events at M/A High School in the last two years.

PUBLIC COMMENT

Carol Smith, Oak Grove, stated that what the neighbors want is quiet enjoyment of their property. She stated there was a problem with amplified sound. She felt ending at sunset would be acceptable as long as they were completely off the field. She stated that the police department needs direction on enforcement as the noise ordinance is not enforced.

CLOSE PUBLIC COMMENT

The special events subcommittee will work with staff to draft an Ordinance for review by the Planning Commission at a future meeting.

4. ADOURN

M/S Quinlan/Grindley to adjourn meeting at 9:15 p.m. Motion passed.

Respectfully submitted,

Lisa Costa Sanders, Deputy Town Planner