

**PLANNING COMMISSION  
APPROVED MINUTES**

**TOWN OF ATHERTON  
June 25, 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**

Chair Oster welcomed Commissioner Grindley. City Attorney Jene Savaree on behalf of Marc Hynes, Deputy Town Planner Lisa Costa Sanders and Assistant Planner Andrea Mardesich were also present.

**2. APPROVAL OF MINUTES**

**MOTION to approve the minutes of the April 23, 2008 meeting as amended.  
M/S Christensen/ Lively                      Ayes: 4              Noes: 0              Abstain: 1**

**3. PUBLIC COMMENTS- none**

**4. COMMISSIONER'S REPORTS**

Commissioner Lively commented that the Sustainable San Mateo County educational materials the Commissioners received was a great resource.

**5. GENERAL PLAN COMMITTEE REPORTS**

Commissioner Waldron reported that General Planning Committee held a meeting at the beginning of the month where they reviewed proposed zoning updates. She further noted the next General Plan Committee meeting is to be held on July 30, 2008.

**NEW BUSINESS**

**6. Selection of Chair, Vice Chair and representative to General Plan Committee**

A motion to nominate Marion Oster as Chair

**M/S Lively/ Christensen**

**Ayes: 4              Noes: 0              Abstain: 1 (Grindley)**

A motion to nominate Kristi Waldron as Vice Chair.

**M/S Lively/ Christensen**

**Ayes: 4              Noes: 0              Abstain: 1 (Grindley)**

A motion to nominate Kristi Waldron and Herman Christensen as representatives to the General Plan Committee.

**M/S Lively/ Oster**

**Ayes: 4      Noes: 0      Abstain: 1 (Grindley)**

**7. Master Plan Update- 1000 El Camino Real-** Menlo College Master Plan Updated for 2008

Deputy Town Planner Lisa Costa Sanders stated that the Menlo College does not have any changes to its previously submitted Master Plan.

Commissioner Lively noted that it seems as though Menlo College is submitting the same Master Plan Update as before. He noted that one of the tables; "Enrollment Projections" should be updated and other tables also updated.

Commissioner Christensen also agreed with Commissioner Lively. He further noted that the Master Plan Update made no mention of the portion of land in conflict with Menlo School.

Chair Oster noted that Menlo College has a new President. Menlo College representatives were not present at the meeting.

**MOTION to continue this item to the July 23, 2008 meeting.**

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

**8. Conditional Use Permit - 2 Valley** –Conditional Use Permit to allow a trellis to be located in the front yard. Atherton Municipal Code Section 17.36.165

**MOTION to continue this item to the July 23, 2008 meeting.**

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

**9. Conditional Use Permit- 75 Rosewood Drive-** Conditional Use Permit to allow occupancy of an accessory structure during the remodel of the main residence. Atherton Municipal Code Section 17.36.055(D)

Assistant Planner, Andrea Mardesich presented the staff report. She reported a correction to the staff report. She indicated staff's support for the Conditional Use Permit.

Commissioner Christensen noted that the distinguishing difference between an accessory structure and second dwelling unit is location and size. Ms. Mardesich confirmed correct, if lived in more than 30 days in a year and met the objective criteria (size and location), it would be considered a second dwelling unit.

Commissioner Christensen questioned whether it is an accessory structure if greater than 650 square feet and has a kitchen. Ms. Costa Sanders noted there are a number of differences between accessory structures and second dwelling units. Commissioner Lively commented that the main difference between the two is a second dwelling structure is included in the buildable area of the lot. Ms. Costa Sanders noted that the accessory structure could be occupied for 30 days.

Commissioner Grindley questioned whether the two Oaks against the accessory structure would be in danger with the new construction.

Ms. Mardesich reported that the applicant has not yet submitted for a building permit. She noted that when the application does come in it would be reviewed by the Town Arborist, and the plans before the Commission are conceptual at this point.

#### OPEN PUBLIC HEARING

Theresa Piper, property owner of 75 Rosewood. She stated that they plan to remove the two trees as an Arborist indicated they are not in great condition; one is at a 45-degree angle and the second is holding the first tree up.

Commissioner Waldron noted that there is a 23' Oak tree in the driveway. Ms. Piper noted that they plan on retaining the large Oak in the driveway.

#### CLOSE PUBLIC HEARING

Commissioner Waldron expressed support for the project.  
Commissioner Christensen also expressed support for the Conditional Use Permit.  
Commission Grindley expressed support.  
Commissioner Lively expressed support as well.

#### **MOTION to approve Conditional Use Permit to allow occupancy of an accessory structure during the remodel of the main residence.**

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

#### **Findings:**

1. The proposed occupancy of the accessory structure would be appropriate under the general plan of the town as outlined in this report.
2. The proposed occupancy of the accessory structure 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

Chair Oster advised of the 10-day appeal period.

- 10. Lot Line Redesignation- 119 Atherton Avenue-** Lot Line Redesignation to designate the west property line (Atherton Avenue) as the front property line. Atherton Municipal Code Section 17.60.050.

Deputy Town Planner, Lisa Costa Sanders presented the Staff report and indicated support for the item with the request of an additional condition that the lot line certificate not be effective until the main residence is demolished.

Commissioner Grindley questioned whether the owners traveled a lot, as it seems as though none of the Commissioners gained access.

Chair Oster noted that she was on the Planning Commission in 1999 and doesn't recall reviewing a lot line adjustment at this location.

Ms. Costa Sanders noted that staff did not find formal records of the Commission approving a lot line redesignation, but because on the building plans show Edwards at the front property line and an addition was built utilizing Edwards as the front, it is recognized by the Town as such.

#### OPEN PUBLIC HEARING

Hillary Charlton, property owner of 119 Atherton Avenue was present to respond to any questions. Chair Oster noted none of the Commissioners had the opportunity to access the property. Ms. Charlton noted their item was supposed to be addressed back in May and due to the continuation to the June 25, 2008 meeting; they were out of the country over the last couple of weeks on a planned vacation.

#### CLOSE PUBLIC HEARING

Commissioner Christensen expressed support for the lot line redesignation.

Commissioner Grindley also expressed support.

Commissioner Lively expressed support.

Commissioner Waldron expressed support for this change.

Chair Oster noted she also is in agreement with the other Commissioners. She however had one question as on the plans it shows a number of trees in the area of the driveway

Project Architect noted that the driveway would remain as it is, on Edwards and therefore there will be no removal of heritage trees.

**MOTION to approve Lot Line Redesignation to designate the west property line (Atherton Avenue) as the front property line.**

**M/S Lively/ Waldron**

**Ayes: 5**

**Noes: 0**

#### **Findings:**

1. The proposed lot line 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, general welfare or convenience.
2. The proposed lot line redesignation for the subject site is consistent with the Town of Atherton General Plan and the purposes of that plan and Zoning Code.

Chair Oster advised of the 10-day appeal period.

**11. Ordinance Amendment- Special Events Ordinance-** Ordinance amending the special events ordinance. Atherton Municipal Code Section 17.38.

Deputy Town Planner, Lisa Costa Sanders presented the staff report. She noted that City Attorney Marc Hynes found some Constitutional issues within the existing Ordinance and has made some recommended changes. She further noted that if the Commissioners could advise her of their questions and concerns, she would review with City Attorney Marc Hynes upon his return with response at the next Planning Commission meeting.

Commissioner questions as follows:

- 1- Does this apply only to events that are open to the general public or by invitation only
- 2- Why are country clubs removed from it
- 3- How much would be the application fee/deposit
- 4- Section 17.3.8845- B1 – need clarification as to whether the end time of 9:00 pm, does it includes clean up time?
- 5- Subsection B1 and B2 – (general comment) the end times seem early
- 6- Would fundraisers would have an end time of 6:00 pm
- 7- The term “field use” should be defined
- 8- Requested further explanation of 17.38.0E35
- 9- Would school sponsored events be part of the proposed revised ordinance
- 10- Further clarification on where the functions are- school versus special events away from school
- 11- What does “no election of remedies” mean

Jene Savaree, Acting City Attorney noted that “no election of remedies” allows flexibility in enforcement; writing a ticket to civil action for something along the lines of having and event every weekend with out a permit.

**OPEN PUBLIC HEARING**

Jerry Gruber, City Manager, noted that historically this is a very sensitive issue within the Town and will work with Lisa Costa Sanders and Marc Hynes to address the Commissioners questions and concerns.

**CLOSE PUBLIC HEARING**

**MOTION to continue this item to the July 23, 2008 meeting.**

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

**12. Conditional Use Permit- 77 Rebecca Lane-** Conditional Use Permit to allow a basement under an accessory structure. Atherton Municipal Code Section 17.36.190.

Assistant Planner, Andrea Mardesich presented the staff report and indication staff support for the request.

Commissioner Grindley noted that it appears that where the lightwell ends dirt will fall in. Commissioner Grindley confirmed the structure is an accessory structure. Ms. Mardesich confirmed and noted that it cannot be lived in more than 30 days out of the year.

#### OPEN PUBLIC HEARING

Nancy Mark, property owner of 77 Rebecca Lane, stated that her family has lived there since 2003 and have done some remodeling and did not tear down the main residence.

Chair Oster questioned whether the proposed basement would be used primarily for storage. Ms. Mark confirmed.

Natalie Hyland, project designer noted that the retaining wall at the light well will continue to the landing. She further noted that it would be corrected on the plans before submittal.

Etta May Bauer, neighbor along Rebecca Lane, expressed concern that the remodeling over the past has been very long, over 3 years. She would like to know timing for the new construction versus the Town's timing for repaving Rebecca Lane.

Chair Oster recommended Ms. Mark address her neighbor's timing concerns.

Ms. Mark noted that in 2004 they did an interior remodel and from fall of 2005 to fall of 2006 there has been no remodeling activity at the property. She further apologized to her neighbor for the inconvenience.

Lisa Costa Sanders stated that under the Town's construction ordinance, the permit is valid for 12 months for construction of a structure less than 2,000 square feet in area or less.

Ms. Mark noted that she believed construction would most likely begin after the street paving has been done.

#### CLOSE PUBLIC HEARING

Commissioner Grindley commended the owner and designer on excellent detailing and landscaping on the property.

Commissioner Lively expressed support for the proposed project.

Commissioner Christensen also expressed support for the proposed project and feels that it is fair for the owners to have some sort of basement as most properties do so now.

Commissioner Waldron shares some concerns with Mrs. Bauer however would express support for the project if it keeps within the 12 month allotted construction time.

Chair Oster agreed that the basement would provide storage and extra space for the owners. She further noted that there is a magnificent Oak tree on the property and in speaking with the Project Manager she was assured that the tree would be protected. She further expressed support for the proposed structure.

**MOTION to approve Conditional Use Permit to allow a basement under an accessory structure.**

**M/S Grindley/ Waldron**

**Ayes: 5**

**Noes: 0**

**Findings:**

- 1- The proposed basement 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 basement will be located and conducted in a manner in accord with the general plan and the purposes of that plan and the zoning code.
- 3- The proposed basements will not impact heritage trees, there is sufficient room for landscape screening and the lightwells are located on the interior side of the yard.

Chair Oster advised of the 10-day appeal period.

- 13. Conditional Use Permit – 377 Stockbridge-** Conditional Use Permit to allow the construction of retaining walls with less than 20' separation. Atherton Municipal Code Section 17.36.195.

Assistant Planner, Andrea Mardesich presented the staff Report and indicated staff support for the request.

Commissioner Lively expressed concern with the legibility of the plans as submitted.

Deputy Town Planner, Lisa Costa Sanders apologized regarding the plans and that staff has recently revised the submittal requirements for larger size plans.

Commissioner Waldron questioned why this is now before the Commission if the applicant has already received a permit for new residence and accessory structure. Ms. Mardesich noted that the Building Department issues a separate permit for retaining walls.

Commissioner Waldron expressed concern with the grading along the roots and concerned with the trees.

Ms. Costa Sanders once staff discovered work was being done at the site without a permit, the property owner was immediately advised to stop the work. The Town Arborist, Kathy Hughes Anderson also immediately went out to the property and did determine that the trees are not in danger.

Commissioner Grindley expressed concern that the Redwood and Fir seem close together and neither tree seems to be in particularly good condition with the grading taking place. Ms. Mardesich noted that she would speak to the Town Arborist regarding these trees.

Chair Oster noted that the burlap covering the roots seemed to be extremely dry when she was at the property and the Redwood seemed to show signs of distressed. She further noted that it appears that  $\frac{3}{4}$  of the roots have been cut off. Ms. Oster recommended that

the burlap be kept damp at all times. She further noted she'd like to add this point to the motion.

Commissioner Grindly questioned whether it makes more sense to remove the Redwood and allow the Fir to survive following the contour line.

Ms. Costa Sanders noted that the Commission cannot take action on removal of a Heritage tree as it has not been publicly noticed. She further noted that within Condition #4 the Commission could recommend that the Arborist Report be applied to all trees on the property.

#### OPEN PUBLIC HEARING

Ramin Mir, applicant and property owner of 377 Stockbridge, noted that he has been a contractor/ builder with 14 plus years of experience and retaining walls have always been a part of the drainage and grading system. He also noted that the burlap covering the roots of the trees are watered in the morning and in the evening and if the burlap is dry it is for but an hour before the evening watering.

Chair Oster noted she was at the property around 3:00 pm.

Commissioner Christensen agreed with the applicant that retaining walls should be a part of the grading and drainage plans.

Carol Smith, 238 Oak Grove Avenue, stated that she is a member of the General Plan and questioned how the homeowner is responsible for knowing what is included and what is not included if he or she is not advised by the Town.

Property owner of 359 Stockbridge, stated that there has been a major drainage issue from 377 Stockbridge property to his property and that he hopes that the new construction being done will address drainage issues.

Chair Oster noted that all drainage must stay on the property.

Mr. Mir noted that is the intention and is aware of the drainage and excessive water under ground at these properties.

#### CLOSE PUBLIC HEARING

Commissioner Lively expressed his support for the Conditional Use Permit and further noted that he understood why the applicant has been upset.

Commissioner Grindley also expressed support.

Commissioner Christensen also concurred with the other Commissioners.

Commissioner Waldron expressed her support and having the blessing of the arborist is helpful as well.



Chair Oster agreed with the others and noted that she hoped that both trees will survive and if they do not then it would be replaced with another larger tree.

**MOTION to approve Conditional Use Permit for 377 Stockbridge Avenue to allow the construction of retaining walls with less than 20' separation subject to the 4<sup>th</sup> condition that all recommendations from the consulting Arborist's letter apply to all trees on site and that the property owner shall meet all additional requirements of the Town Arborist.**

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

Chair Oster advised of 10-day appeal period.

- 14.    ADOURN**  
Meeting adjourned at 7:35 p.m.

**Respectfully submitted,**

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Lisa Costa Sanders, Deputy Town Planner