



Item No. 9

Town of Atherton

CITY COUNCIL STAFF REPORT – PUBLIC HEARING

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

**FROM: BRITTANY BENDIX, TOWN PLANNER AND SALLY BENTZ,
TOWN ARBORIST**

DATE: FEBRUARY 21, 2024

**SUBJECT: DISCUSS AND CONSIDER AN AMENDMENT THE “HERITAGE
TREE PRESERVATION STANDARDS AND SPECIFICATIONS”
TO ALIGN TREE PROTECTION ZONE (TPZ) STANDARDS IN
THE R-1A AND R-1B ZONING DISTRICTS**

RECOMMENDATION

Staff recommends that the City Council maintain the current standards pertaining to the Tree Protection Zones (TPZ) for R-1A and R-1B in the “Heritage Tree Preservation Standards and Specifications” (“Guidelines”).

RECOMMENDED MOTION FOR APPROVAL

Maintain the current standards pertaining to the Tree Protection Zones (TPZ) for R-1A and R-1B zones in the “Heritage Tree Preservation Standards and Specifications” (“Guidelines”).

BACKGROUND

Throughout 2023 the Planning Commission and City Council had various discussions at their meetings relating to process improvements around the Town’s arborist services and tree protection policies. This includes processes and policies identified in the Atherton Municipal Code and the Town’s “Heritage Tree Preservation Standards and Specifications,” also referred to as “Guidelines.”

On November 15, 2023, the City Council was introduced to and considered amendments to Atherton Municipal Code Chapter 8.08 “Dead or Dangerous Trees,” Atherton Municipal Code Chapter 8.10 “Removal of and Damage to Heritage Trees,” and the “Heritage Tree Preservation Standards and Specifications” (“Guidelines”). At the hearing, the Council discussed issues related to purpose and implementation of the changes to Chapter 8.08 and Chapter 8.10, impact of the change to monthly arborist reports, and protocol of future changes to the Guidelines. In addition to these items, Councilmembers raised the possible standardization of the Tree Protection Zone

(TPZ) for both R1-A and R1-B zones as an item to consider at a future, publicly noticed meeting. This report addresses that request.

On January 24, 2024, the Planning Commission discussed and considered amendments to the Guidelines to align TPZ standards in the R-1A and R-1B zoning districts. After discussion, the Planning Commission voted unanimously to recommend that the City Council maintain the current TPZ standards in the R-1A and R-1B zoning districts. Planning Commissioner Bob Polito was absent.

ANALYSIS

The analysis section of this report summarizes the existing Atherton TPZ standards and provides a comparison of the TPZ standards to the standards of nearby Bay Area jurisdictions.

The identification of a TPZ is a process used during development to identify the area surrounding a tree or stand of trees that merits special protections during construction activities. Specifically, Atherton Municipal Code Section 8.10.020(Y), defines a Tree Protection Zone (TPZ) as follows:

“Tree protection zone (TPZ)” is, unless otherwise specified by a project arborist or town arborist, the designated protection area sufficiently large enough to protect a heritage tree and its roots from disturbance and/or damage as defined in section I of this section. The TPZ shall be determined and shall meet all provisions as detailed in the town’s current tree preservation standards and specifications document and may extend onto neighboring properties.

The Town’s “Guidelines” (Attachment 1) provide further guidance in the identification and documentation of a TPZ for development applications. This typically requires a Tree Protection and Preservation Plan, prepared by a Certified Arborist, that is then reviewed by the Town’s Arborist. Currently, the extent of the Town Arborist’s ability to review and approve any exceptions to a TPZ varies based on the zoning district of the subject property. At times, exceptions require review and approval by the Town’s Planning Commission. This report raises the question of whether a procedural distinction based on zoning district should continue.

There are two single-family residential districts in the Town of Atherton, R-1A and R-1B. The distinction between the two residential districts is attributed to lot size, as R-1A properties are larger than R1-B properties. This development pattern generally reflects the Town’s historical development as R1-B properties are located along the Town’s El Camino Real corridor. According to Table LU-2 of the Atherton General Plan, of the total 3,564 acres making up the Town of Atherton, 165 acres of the Town are in the R-1B district, and 2,994 acres of the Town are in the R-1A district. The distinction between the two zoning districts is also notable in the Town’s development standards, as R1-B has setbacks and floor area ratios (FAR) that are less than the requirements for R1-A setbacks. These reduced development standards allow for a more regularized scale of development across all residences in Atherton, regardless of lot size.

As shown in Table 1, the Town’s TPZ standards provide greater flexibility for R-1B lots than R1-A lots. For example, on an R1-A lot the TPZ during construction of a new building or structure is a

radius equal to 10 times the diameter of a Heritage tree (expressed as 10x) measured at 4.5 feet above the Natural Grade. However, the R-1B standards set for the same type of project would be 6x, which is also considered the critical root zone threshold.

The reduced threshold for R1-B properties reflects an effort to facilitate development on the Town's smaller properties, which constitute less than 5 percent of the Town's total acreage.

Conversely, the R-1A standards are set to be more conservative, at 10x, as they apply to larger properties that have adequate developable area to protect trees. For context, the jurisdictions of San Mateo, Menlo Park, and Palo Alto have TPZ standards of 10x. However, Los Gatos and Woodside determine the TPZ for each tree individually. The Town's Arborist has limited capacity to determine the TPZ for each tree individually, therefore, standards were set by zoning district and the exception process was established to take account for unique circumstances.

Per the "Guidelines" the Town Arborist has the ability to grant exceptions at the staff-level from the TPZ standards noted in Table 1, as follows:

- A TPZ exception in the R1-A from 10x to a minimum of 8x, for all development types unless otherwise specified.
- A TPZ exception from 6x to a minimum of 3x, for lots in the R1-B, or lots in the R1-A 10,000 square feet or less.
- A TPZ exception for all walls or fences from 6x the diameter, down to 3x the diameter.

Exceptions beyond these thresholds are subject to consideration by the Planning Commission. Additionally, all decisions at the staff level are appealable to the Planning Commission. Similarly, all Planning Commission decisions are appealable to the City Council.

In 2023, there were a total of 30 staff-level TPZ exceptions and nine exceptions sought at the Planning Commission. All exceptions were granted.

At the January 24, 2024, Planning Commission meeting the Commission discussed the information summarized above and included in the staff report (Attachment 2). Commissioners also raised concerns that beyond the current TPZ review and exception processes, there is an increasing number of tree removals attributed to SB9 lot splits and the development of ADUs that are less than 800 square feet. Ultimately, the alignment of standards to facilitate either a more conservative or flexible process had trade-offs that the Commission found are not consistent with current Town goals.

Alignment of the standards to R1-A is a more conservative approach that would present a new procedural development constraint to R1-B properties. This constraint would be due to an increase in staff or Planning Commission review time, as well as costs attributed to application fees. Adding new constraints to development is not advisable while the Town continues its effort to achieve Housing Element certification by the State, which promotes removing constraints on housing development. Alternatively, alignment of the standards to R1-B provides greater flexibility for development but reflects a loss of oversight for tree protection on over 95 percent of the Town's acreage. The Planning Commission also indicated that the Town appears to have had current

success in administering the existing program, as evidenced by the reasonable pace of exception requests and the lack of appeals. As a result of this discussion, the Planning Commission recommends that the City Council maintain the current standards pertaining to the TPZs for R-1A and R-1B.

FINDINGS

The recommendation to maintain the existing Guidelines is consistent with the General Plan goals, policies, and implementation programs. As described above, changes to the existing Guidelines may present inconsistencies with current goals to protect existing Heritage Trees, while facilitating the development of housing.

CONCLUSION

The Planning Commission recommends that the City Council maintain the current standards pertaining to the TPZs for R-1A and R-1B.

ENVIRONMENTAL CONSIDERATIONS

This is not a project per the CEQA Guidelines. Alignment of the TPZ standards would result in procedural changes.

FISCAL IMPACT

The cost associated with the alignment of standards would be paid by the applicants of related development projects through application fees.

GOAL ALIGNMENT

This Report and its contents are in alignment with the following Council Policy Goals:

- Goal Area B – Preserve Small Town Character and Quality of Life

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,400 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders –to include, but be not limited to, media outlets, school districts, Menlo Park Fire Protection District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item has been before the Planning Commission

ATTACHMENTS

1. [Heritage Tree Preservation Standards and Specifications \(“Guidelines”\)](#)
2. [January 24, 2024 Planning Commission Staff Report](#)