



**Town of Atherton  
Planning Department  
80 Fair Oaks Lane  
Atherton, California 94027  
Phone: (650) 752-0544**

**DATE: MAY 28, 2025**

**TO: PLANNING COMMISSION**

**FROM: BRITTANY BENDIX, CONSULTING TOWN PLANNER**

**SUBJECT:** Requests for **Front and Rear Setback Variances (VAR24-003)** and **Tree Protection Zone Exceptions (PTPZ25-00002)** to construct a new single-family dwelling with an Accessory Dwelling Unit (ADU) at **94 Palmer Lane (APN 060-163-290)**.

**CEQA:** This proposal has been determined to be categorically exempt from further environmental review pursuant to: CEQA Section 15303, New Construction and CEQA Section 15311, Accessory Structures.

**RECOMMENDATION:**

For the reasons outlined in this staff report, Planning Staff recommends that the Planning Commission **approve** the Front and Rear Setback Variances and the Tree Protection Zone Exception requests for distances ranging from to 3.7- to 7-times the respective trunk's diameter at breast height, noted as 3.7x to 7x, for six heritage trees.

**BACKGROUND:**

The subject property is located at 94 Palmer Lane (APN 060-163-290) and is a 0.32-acre flag lot within the R-1A zoning district. The property is located along the northeast edge of the Town, situated on Palmer Lane, between Middlefield Road and Fair Oaks Avenue. In 2023, the subject property was created through the approval of an urban lot split, pursuant to Senate Bill (SB) 9 and Atherton Municipal Code (AMC) Section 17.53. The original parcel included the front property, 98 Palmer Lane, and was approximately 0.55 acres, established in 1922.

Immediately east of the subject site is the community of North Fair Oaks, under the jurisdiction of San Mateo County. Neighboring properties along Palmer Lane are developed with single-family dwellings and range in lot size from 0.12- to 0.77-acres, diminishing in size as lots approach Fair Oaks Avenue. To the rear of the property, lots fronting onto Holbrook Lane similarly become smaller beyond the town's boundary. All of the properties within this area and under Atherton's jurisdiction are zoned R-1A, which requires a minimum lot size of one acre. The inconsistency between the zoning and the existing Atherton lots date to a 1922 subdivision (Barney Park) that predates the Town of Atherton's incorporation and adoption of its zoning code. See Figure 1 for a map identifying the subject and neighboring properties and the Town's boundary.

**Figure 1: Locator Map, Parcel Map (Google Maps, 2023)**



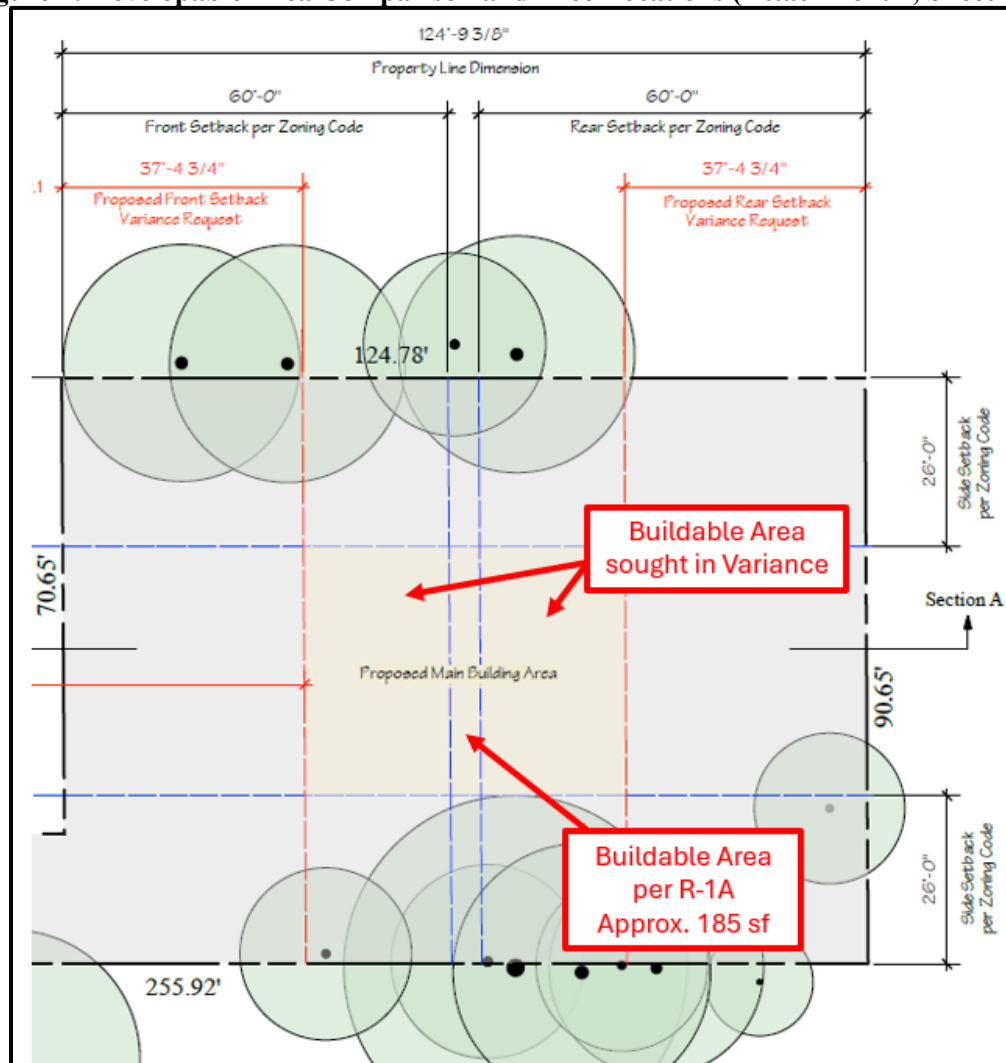
Subsequent to the property's completion of the lot split in 2023, the property owner is now seeking to develop the lot with a single-family dwelling and accessory dwelling unit (ADU). The state's urban lot split law requires the Town to approve development under certain criteria that accommodate two dwelling units up to 800 square-feet each and require a minimum four-foot setback. However, the Town provides an option through AMC Section 17.53 for property owners to develop beyond the 800 square foot limits, *if* the project conforms to the development standards of the underlying zoning district.

At this location, the required setbacks would be determined by the R-1A development standards. The applicant is seeking a variance from the R-1A standards for the front and rear yard requirements to accommodate a primary residence with an attached ADU. See Figure 2 for a site layout of the lot's developable area and the location of the trees. The buildable area resulting from an application of R-1A setbacks results in a buildable area of approximately 185 square feet.

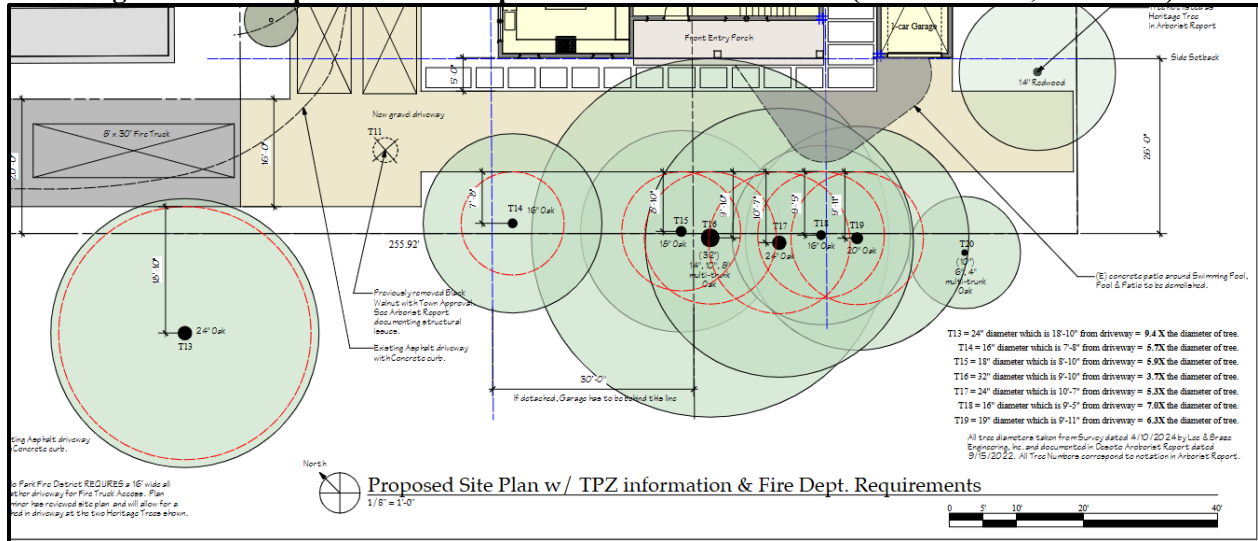
In addition to the variance request, the proposed driveway that accesses the detached garage requires an exception from the Town's tree protection zone (TPZ) requirements for six heritage trees, subject to approval by the Planning Commission. These exceptions accommodate a driveway, as shown in Figure 3.

Both applications and corresponding narratives are provided at Attachments 1, 2, and 3. A reduced plan set is provided at Attachment 4.

**Figure 2: Developable Area Comparison and Tree Locations (Attachment 4, Sheet A-2)**



**Figure 2: Developable Area Comparison and Tree Locations (Attachment 4, Sheet A-3)**



**PROJECT DESCRIPTION:**

The project proposes construction of a 2,961 square-foot primary residence with a detached single-car garage and an attached 800 square-foot ADU. Per Atherton Municipal Code Section 17.53.050, any proposed single-family dwelling greater than 800 square-feet is subject to the R-1A development standards, which include 60-foot front and rear setbacks for the main building. The project provides front and rear setbacks of 37-feet 4.75-inches, which require approval of a variance by the Planning Commission. Tables A, B, and C provide the development standards for the proposed main building, detached garage and attached garage. The project complies with all R-1A development standards with the exception of the front and rear yard requirements.

As described in the applicant's variance request (Attachment 2) the proposed front and rear main building setbacks correspond to a provision in AMC Section 17.32.040(D)(1) that allows for a reduction from the standard 60-foot minimum setback for lots that were established prior to 1946 and have a depth less than two hundred feet. The reduced front and rear setbacks are equal to thirty percent of the lot depth, with a minimum of thirty feet.

Excluding the flag portion of the lot, the remaining area has a lot depth of 124.78 feet. The proposed setbacks equate to thirty percent of that depth, or 37-feet 4.75-inches.

**Table A: Required and Proposed Main Building R-1A Development Standards**

Standard	Required	Proposed	Status
Front Setback	60-feet min	37-feet 4.75-inches	<b>Does not comply</b>
Rear Setback	60-feet min	17-feet 4-inches	<b>Does not comply</b>
Side Setback	26-feet min	26-feet	Compliant
Height	30-feet (max) overall 22-feet (max) sidewalls	30-feet to peak 21-feet 10-inches	Compliant
Floor Area Ratio (square feet)	3,007 sf max overall 1,049 sf max above 1 <sup>st</sup> floor	2,961.4 sf overall 1,009.6 above 1 <sup>st</sup> floor	Compliant

**Table B: Required and Proposed Accessory Buildings (Garage) Development Standards**

Standard	Required	Proposed (As Built)	Status
Front Setback	Min. 120-feet or 30-feet behind the main structure, whichever is less	More than 90-ft behind the main structure	Compliant
Rear Setback	10-feet min	18-feet 5-inches	Compliant
Side Setback	10-feet min	26-feet	Compliant
Distance from Main Building	8-feet min	8-feet 1.75-inches	Compliant
Height	15-feet max	12-feet 2-inches	Compliant

**Table C: Required and Proposed ADU (800 square feet) Development Standards**

Standard	Required	Proposed (As Built)	Status
Front Setback	0 feet min	67-feet 4.75-inches	Compliant
Rear Setback	4-feet min	19-feet 0.5-inches	Compliant
Side Setback	4-feet min	6-feet	Compliant
Distance between structures	N/A	Attached to Main Residence	Compliant
Height	30-feet max	15-feet	Compliant

The Planning Commission may grant a Tree Protection Zone Exception (PTPZ) in the R-1A Zoning District for the construction of driveways in new areas that are within a distance from a heritage tree that is less than 8 times the diameter of the trunk at breast height, noted as “8x.” For areas of the lot where driveways are pre-existing, the required TPZ is 3x. Table D provides a summary of the heritage trees that require PTPZs less than 8x to accommodate a new driveway in an area previously undisturbed. The exceptions range from 3.7x to 7x.

The applicant is proposing an Easypave gravel driveway as the new driveway material and must be a minimum of 16 feet in width to comply with access requirement by Menlo Fire. Where possible, the applicants have also worked with Menlo Fire to further reduce the width around trees that are not subject to this request (trees number T9, T10, and T12).

**Table D: Summary of Subject Heritage Tree Proposed for Heritage Tree Removal**

Tree #	Tree Species	Diameter Breast Height (dbh)	Tree Protection Zone Exception (PTPZ) Request	Comment
T14	Coast Live Oak	16”	5.7X	Good
T15	Coast Live Oak	18”	5.9X	Good; Shared tree
T16	Coast Live Oak	32”	3.7X	Good; Shared, Neighbor’s tree
T17	Coast Live Oak	24”	5.3X	Good; Neighbor’s tree
T18	Coast Live Oak	16”	7.0X	Good; Shared Tree
T19	Coast Live Oak	19”	6.3X	Good; Neighbor’s Tree

## **FINDINGS ANALYSIS**

### ***Variance Request***

To grant a variance, the Planning Commission must make four findings contained in Atherton Municipal Code Chapter 17.16 and California Government Code Section 65906.

The following analysis by staff addresses each finding:

- A. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, such that the strict application of this title deprives such property of privileges enjoyed by other property owners in the vicinity and under identical land use zoning district classifications.**

*Staff review:* Finding met.

The 0.32-acre subject property is uniquely small, even prior to its 2023 lot split, compared to other R-1A lots that must have a minimum size of 1-acre. Additionally, the property is situated at the edge of the Town’s boundaries, next to properties that range in lot size from 0.12- to 0.77-acres. The strict application of 60-foot front and rear yard setbacks deprives

the property owner of reasonable development of a residence, otherwise consistent with R-1A development standards.

**B. Granting the Variance does not constitute a grant of special privileges inconsistent with the limitations upon properties in the vicinity and zone in which such property is situated.**

*Staff review:* Finding met.

The development pattern on Palmer Lane is inherently inconsistent with regard to lot size and applicable development standards given the disparity between the R-1A standards, age of lots (circa 1922) and transition between jurisdictional controls. The applicant is requesting a variance to apply setback standards that are consistent with an existing R-1A exception provision that would apply to lots of a similar characteristic. Therefore, while a variance is required, its granting does not convey special privileges.

**C. Granting the Variance will not adversely affect the interest of the public or the interest of the residents and property owners in the vicinity of the premise in question.**

*Staff review:* Finding met.

The variance request allows a centralized siting of the development. Alternatives to the proposal that are supported through state law and circumvent local standards would allow two independent residences, up to 800 square-feet with setbacks of four-feet and ancillary structures, such as detached garages of ten-feet. Therefore, although the project requires a variance from the R-1A standards for front and rear yard setbacks, it is more compliant with local regulations than the state-mandated alternatives. Additionally, beyond the request for front and rear yard variances, the proposal complies with all other R-1A standards.

**D. The granting of the Variance is consistent with the objectives of the General Plan and the Zoning Code.**

*Staff review:* Finding met.

The stated purpose of the AMC Title 17: Zoning is to implement the General Plan. The regulations within Title 17 provide directions on the location, size, and height of residential structures within the Town's private properties. As described within this report the proposed development on this property complies with all R-1A standards, with the exception of the front and rear yard setbacks. Additionally, the development is more compliant with local setback standards than are otherwise required by state law.

Therefore, the project is consistent with the following goals and objectives of the General Plan:

- Land Use Goal LU-1: To preserve the Town's character as a scenic, semi-rural, thickly-wooded residential area with abundant open space.
- Land Use Objective LU-1.3: To retain the quality of life, character and existing

in the Town.

***Tree Protection Zone Exception Request***

To consider a PTPZ, the Planning Commission may approve or reject such applications based on the following criteria:

1. The relation of the project to criteria listed in Section 2.2.B.2 of the *Heritage Tree Ordinance and Tree Preservation Standards*:
  - a. The utility location is required by a utility company and it cannot be moved. A confirmation in writing from the utility is required.
  - b. If the species is tolerant of construction based on species, health, size, and age from the Matheny and Clark tolerance chart.
  - c. There are no roots over 2-inches diameter that need to be cut.
  - d. Other criteria as may be required by the Town Arborist.
2. The probability of failure which is a function of heritage tree and site conditions such as, but not limited to, structural defects, presence of disease, species history, age or remaining life span, and varying weather conditions.
3. The probability of a public safety hazard, personal injury or significant property damage as a function of proximity to existing structures and objects of value and interference with utility services.
4. The number, species, size and location of existing trees in the area and the effect of the requested exception upon shade, noise buffers, protection from wind damage, air pollution, historic value, scenic beauty, health, safety and general welfare of the area and town as a whole
5. The necessity to allow reasonable use or other enjoyment of the property when there is no demonstrated feasible alternative to the exception while meeting other adopted goals and policies of the general plan to the greatest extent possible.

A memo by the Town Arborist analyzing the proposed project is provided in Attachment 5. In this memo, the Town Arborist acknowledges the need for access to the site and indicates concerns that five of the subject trees are shared or neighbor trees and asserts the needs for conditions of approval to ensure care is applied during related construction activities. The Town Arborist further appreciates the decreased width of the driveway to allow more room for existing trees, as well as the implementation of materials that will require less grading and base rock. These materials will be better for the roots of the trees and will cause less compaction. In conclusion the Town Arborist recommends approval of the requests with the following conditions of approval:

1. The Applicant must provide outreach to the neighbor owning trees subject to this request, ensuring that they are aware of the project scope, prior to issuance of a related building permit.



2. The Project Arborist is required to be on hand during excavation for the demo of the existing driveway and excavation of new driveway.
3. Excavations are required to be performed carefully and by hand 8x away or less to avoid tearing or pulling roots.
4. The Project Arborist or their designated person should cut all roots larger than 1 inch in diameter with a sharp saw on the side of the excavation closest to the tree (s).
5. No roots over 2” to be cut.
6. All work in this area is required to be documented in the quarterly arborist reports.
7. Install Easypave grid to as shown in submitted detail.

The General Plan goal that can be found to be consistent with the recommendation to approve the Tree Protection Zone Exception Permit is below:

Town of Atherton General Plan, Land Use Policy LU-1.8:

*Maximize preservation of heritage trees and existing trees within a development site to the greatest degree feasible, consistent with the Heritage Tree Ordinance and Tree Preservation standards and specifications. Require new development to comply with the Town’s requirements for tree protection, removal, and replacement.*

**PUBLIC NOTIFICATION**

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. Legal advertisement of this hearing was published in *The Almanac* newspaper. Additionally, a mailed notice to owners and occupants within 500 feet of the subject lot was mailed 12 days prior to the hearing date. To date, the Town has not received any public comment on the proposal.

**CONCLUSION**

As indicated above, Planning Staff finds that the proposed project meets all four findings required pursuant to AMC Chapter 17.16 and recommends the Planning Commission approve the variance request. Additionally, Planning Staff supports the recommendations of the Town Arborist to conditionally approve the Tree Protection Zone Exception request as proposed.

A draft Certificate for approval is provided as Page 1 in Attachment 6.

**ALTERNATIVES:**

The Planning Commission could deny or modify any item related to these requests. Should the Planning Commission decide to deny the request the Commission would need to make the required findings in the negative and make the application subject to the draft Certificate for denial provided as page 2 in Attachment 6.

**RECOMMENDED FORMAL MOTION (APPROVAL):**

I move that the Planning Commission **approve** the requests for Front and Rear Setback Variances (VAR24-003) and Tree Protection Zone Exceptions (PTPZ25-00002) to construct a new single-family dwelling with detached garage and attached ADU at 94 Palmer Lane (APN 060-163-290) and categorically exempt the project from the provisions of the California Environmental Quality Act (CEQA) under AMC Section 15.32.100 and CEQA Section 15304 (Minor Alterations to Land).

**RECOMMENDED FORMAL MOTION (DENY):**

I move that the Planning Commission **deny** the requests for Front and Rear Setback Variances (VAR24-003) and Tree Protection Zone Exceptions (PTPZ25-00002) to construct a new single-family dwelling with detached garage and attached ADU at 94 Palmer Lane (APN 060-163-290).

*/s/ Brittany Bendix*

Brittany Bendix, Consulting Town Planner

Attachments:

1. Signed Applications
2. Variance Project Description Letter
3. Tree Protection Zone Exception Request Letter
4. Plan Set
5. Town Arborist Memo/Letter
6. Draft Variance Certificates