



**PLANNING COMMISSION  
REGULAR MEETING  
DRAFT MINUTES**

**TOWN OF ATHERTON  
COUNCIL CHAMBERS  
80 FAIR OAKS LANE  
ATHERTON, CALIFORNIA  
JULY 26, 2023  
6:00 P.M.**

*This meeting was held in-person with the option for staff and the public to join online.*

**1. ROLL CALL**

**PRESENT:** Eric Lane, Chair  
Nancy Lerner, Vice Chair  
Thom Bryant  
Bob Polito (new)  
Paul Tonelli (new)

Town Planner Brittany Bendix, Senior Planner Radha Hayagreev, Associate Planner Sean Manalo, and Town Arborist Sally Bentz-Dalton were present.

**2. PUBLIC COMMENTS**

There being no public comments, Chair Lane closed the public comment period.

**3. APPROVAL OF MINUTES**

**MOTION to approve the minutes of the June 24, 2023, Planning Commission Meeting.**

**M/S Vice Chair Lerner /Polito Ayes: 3 Noes: 0 Abstain: 2  
Commissioners Bryant and Tonelli abstained**

**4. PUBLIC HEARING**

- a. Request for a Tree Protection Zone (TPZ) exception for four heritage trees ranging from 5.75 times to 9.60 times the tree diameter for the installation of a new shade trellis and barbecue, and the demolition of a cabana, pool, and existing paving at 183 Patricia Drive, zoned R1-A. Permit number PTPZ23-00004 (APN 059-283-020)**

Associate Planner Sean Manalo presented the staff report.

Town Arborist Sally Bentz-Dalton provided comments on the project.

Chair Lane opened the public comment period and invited the Applicant to address the Commission. Commissioner Tonelli queried whether Town Arborist Sally Bentz-Dalton believed the maple tree is worth saving based on the Town Arborist's evaluation of the maple tree's condition as fair vigor and poor form.

Town Arborist Sally Bentz-Dalton confirmed that the Applicant wanted to save the maple tree and that she is unsure if the maple tree is currently providing any screening.

Commissioner Tonelli requested clarification that the Applicant is requesting a reduction in the TPZ; however, the trees will be more protected as the installations will be further away.

Architect Paul Jones, of Collin Jones Studio, spoke on behalf of the Applicant and confirmed this to be true.

There being no additional comments, Chair Lane closed the public comment period.

Commissioner Polito made the following motion:

**MOTION to approve the project being categorically exempt from CEQA Section 15304 and find the exception to the Tree Protection Zone (TPZ) for four trees ranging from 5.75 times to 9.60 times the tree diameter for the installation of a shade trellis and barbecue, and the demolition of a cabana, pool, and existing paving at 183 Patricia Drive based on the findings outlined in the discussion of the Planning Commission, and subject to the conditions listed in the certificate.**

**M/S Polito/Tonelli Ayes: 5 Noes: 0 Abstain: 0**

- b. Request for a Tree Protection Zone (TPZ) exception for two trees (tree No. 5 Canary Island Pine and tree No. 14 Coast Live Oak) at seven times the tree diameter for the construction of a proposed main house at 29 Stockbridge Avenue, zoned R1-A. Permit number PTPZ23-00005 (APN 059-311-110)**

Senior Planner Radha Hayagreev presented the staff report.

Town Arborist Sally Bentz-Dalton provided comments on the project.

Chair Lane opened the public comment period and invited the Applicant to address the Commission.

Architect Jon Jang, of Jon Jang Architect, spoke on behalf of the Applicant. The Applicant wishes to install a pool house on the southern side of the property. The Architect explored alternate locations for the pool house farther from the pool; however, the alternate locations do not work with the existing pine trees. The best solution is to place the pool house in between the two pine trees.

There being no additional comments, Chair Lane closed the public comment period.

Commissioner Bryant made the following motion:

**MOTION to approve the project being categorically exempt from CEQA Section 15304 and find the exception to the Tree Protection Zone (TPZ) for two trees (tree No. 5 Canary Island Pine and tree No. 14 Coast Live Oak) at seven times the tree diameter for the construction of a new residential site development with a detached garage and a pool house at 29 Stockbridge Avenue based on the findings outlined in the discussion of the Planning Commission, and subject to the conditions listed in the certificate.**

**M/S Bryant/Polito Ayes: 5 Noes: 0 Abstain: 0**

- c. Request for a Tree Protection Zone (TPZ) exception for two heritage oak trees for a proposed 1,200 square-foot detached ADU as part of a new proposed main house at 35 Isabella Avenue, zoned R1-A.**

**Permit PTPZ23-00006 (APN 070-250-240)**

Associate Planner Sean Manalo presented the staff report.

Town Arborist Sally Bentz-Dalton provided comments on the project.

Chair Lane reported previous issues with subcontractors using a backhoe instead of hand digging and consequently damaging tree roots in neighboring properties. Chair Lane queried how the town can ensure that contractors are actually hand digging as stipulated to avoid concerns of damage to the neighbors' trees.

Town Arborist Sally Bentz-Dalton noted that, once the grading and drainage for the building permit is issued, the Town Arborist can contact the contractor and either the Town Arborist or a private arborist can be present.

Chair Lane confirmed receiving the e-mail from the homeowner of 25 Isabella Avenue expressing support for the TPZ exception at 35 Isabella Avenue.

Chair Lane opened the public comment period and invited the Applicant to address the Commission.

The applicant John Kleeman of Light Space architecture addressed the Planning Commission. The recording is not audible since the applicant did not speak into the microphone. Staff notes that the applicant acknowledges the conditions of hand excavation as suggested by the Town Arborist.

Chair Lane requested that the Applicant ensure the subcontractor and everyone on their team does not damage the neighbors' trees.

Commissioner Tonelli thanked the Applicant for their efforts to plan around the trees.

There being no additional comments, Chair Lane closed the public comment period.

Commissioner Tonelli made the following motion:

**MOTION to approve the project being categorically exempt from CEQA Section 15304 and find the exception to the Tree Protection Zone (TPZ) for two trees, tree No. 7 Valley Oak up to 7.85 times for a proposed detached ADU and tree No. 9 Valley Oak up to six times for a proposed detached ADU at 35 Isabella Avenue based on the findings outlined in the discussion of the Planning Commission, and subject to the conditions listed in the certificate.**

**M/S Tonelli/Bryant Ayes: 5 Noes: 0 Abstain: 0**

## **5. STAFF REPORTS**

**a. City Council Meeting Update:** Town Planner Brittany Bendix reported ten sites were proposed for consideration for the City Council to include in the CEQA analysis for the Housing Element. After discussion among the Council members, six sites were removed, and four sites were retained.

Additional sites were added for potential notice because every site under discussion for the Housing Element has been previously noticed within a 500-foot radius to owners and occupants. The same will be done for the additional sites raised for consideration in September 2023. The sites include 175 Ravenswood Avenue, 185 Ravenswood Avenue, and 197 Ravenswood Avenue.

The Town Planner has been asked to look at potential housing on the POS zone sites that include the Circus Club site, the Water District site, and the Holbrook-Palmer Park site. Public outreach for the objective design standard is currently being explored.

**b. Menlo Park Update:** Town Planner Brittany Bendix reported that an application has been filed in the City of Menlo Park using the builder's remedy for a project site. The proposal goes up to 300 feet, approximately 30 stories, and includes a number of housing units, a hotel, and ancillary retail.

Commissioner Polito queried whether there are any environmental impacts that can affect any of the proposed sites, particularly related to the builder's remedy.

Town Planner Brittany Bendix stated that the way the builder's remedy clause is written in the state code does not directly address CEQA. The builder's remedy was adopted as California State law in 1990 without any significant legal challenges since that time.

A tool that a town or jurisdiction can use to shut down a builder's remedy project is by declaring that a project was inconsistent with a Certified Housing Element; however, many jurisdictions in California do not have a Certified Housing Element and are past the deadline for certification or are nearing the deadline for certification. The test of whether or not the Menlo Park project can move forward outside of CEQA has not been legally decided.

Commissioner Polito clarified his question about environmental impact and queried whether CEQA is the only process required for any of these projects or if there are additional environmental studies that could come into play.

Town Planner Brittany Bendix confirmed that only CEQA is required for the Housing Element process. The CEQA process begins with an initial study that examines all categories within CEQA, ranging from air quality to cultural resources to geology as well as circulation. It is currently unclear whether a builder's remedy project would undergo the same level of scrutiny.

## **6. COMMISSIONERS' REPORTS**

Commissioner Bryant shared a letter received from Reichers Engineering offering to provide services to do lot splits per SB 9.

Commissioner Polito noted the engineering firm is offering to cover all the costs up front and will absorb the costs if they do not obtain approval; however, the costs are not specified.

Commissioner Polito reported interest in a high-rise building in the middle of Lindenwood that would consist of a builder's remedy project.

## **7. ADJOURN**

**M/S Polito/Bryant Ayes: 5 Noes: 0 Abstain: 0**

The meeting was adjourned at 6:38 p.m.