

## **DRAFT RESOLUTION NO. 23-xx**

### **A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON APPROVING THE PROPOSED TENTATIVE MAP AND CONDITIONAL EXCEPTION TO ALLOW THE SUBDIVISION OF A 2.5 ACRES LOT INTO TWO LOTS WITH NON-CONFORMING LOT WIDTHS (LESS THAN REQUIRED 175 FT.) AT 43 SANTIAGO AVENUE. (APN 070-343-310)**

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**WHEREAS**, the City Council finds that the proposal has been determined to be exempt from the provisions of California Environmental Quality Act (CEQA) under Section 15332 In-fill Development Project and under Section 15061(b)(3) (Common Sense Exemption); and

**WHEREAS**, the City Council approves the Conditional Exception based on the Findings below;

**1. There are special circumstances or conditions that are currently affecting the property.**

The City Council found that this standard could be met. The subject site had a lot depth deeper than the required lot depth. In addition, this standard could be met based on the testimony of the applicant regarding the parcel being identified in the Housing Element, information in the Planning Commission staff report about the adjacent neighborhood, and the discussion of the Planning Commission/City Council about the what the lot dimensions should be for this site and neighborhood.

**2. Granting the Conditional Exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.**

The City Council found that this standard could be met. The lot is not big enough to subdivide in compliance with the code provisions of lot width of standard 175 ft. lot widths due to the shape of the existing 2.5 acre. The lot width exception is necessary for this particular site geometry in order to meet the required 1acre density of the subdivided lots.

**3. The granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which the property is located.**

The City Council found that this standard could be met. This exception is for the substandard lot widths for two new lots. The two new lots would remain at a density that conforms to the General Plan and granting of the substandard lot width will not be detrimental to the public welfare or injurious to other property near of 43 Santiago Avenue. The granting of the substandard lot width would not create any new concerns such as traffic ingress/egress, the development will be in compliance with required setback and other requirements for screening to protect privacy of the property. It will not result in injuries to other property in the territory.

4. **The granting of the exception will not violate the requirements, goals, policies, or spirit of the law; and**

The City Council found that this standard could be met. The granting of a substandard lot width would be in conflict with the zoning requirements for R1-A, as the district allows for 1 acres lots.

The subdivision would be consistent with the General Plan goals for maintain the general character of the neighborhood and maintain the spirit of the subdivision law to seek lawful exception under the provisions of the Atherton Municipal Code.

The State of California encourages the development of additional housing. This conditional exception would allow for additional housing to be built and is consistent with the adopted Housing Element.

- Housing Goal 3.710: Facilitate the private development of housing to meet a portion of the above moderate income housing need identified for Atherton.
- Housing Policy 3.712 A: Within the limitations of the private housing market the Town shall work with private developers to encourage new housing development.

**WHEREAS**, the City Council recommends approval of the proposed Tentative Map proposed substandard lots at 43 Santiago Ave based on the Subdivision findings below;

1. **Whether the proposed subdivision is in conformity with law and this chapter.**

The City Council found that this standard could be met with the approval of the conditional exception for the tentative map. The proposed subdivision would be in conformity with law and Chapter 16 of the Atherton Municipal Code with the approval of the Conditional Exception.

2. **Whether the size and shape of the proposed lots are in general conformance to town requirements and the general pattern of the neighborhood and will not cause traffic, health or safety hazards.**

The City Council found that this standard could be met. The size of the proposed lots would be in conformance with that of the minimum requirement of 1 acre in R1-A zone. The shape of the proposed lots are approximate trapezoids in shape, much similar to the original parcel shape. The subdivision would be in general conformance with the town requirements and the general pattern of the neighborhood and would not cause significant traffic, health or safety hazards.

3. **Whether the proposed lots will have proper and sufficient access to a public street.**

The City Council found that this standard could be met. Both the newly subdivided lots have its frontage along the public street Santiago Avenue for the entire length of

proposed front lot line. The new lots would have proper and sufficient access to a public street.

4. **Whether the proposed map and the design or improvement of the proposed subdivision are consistent with applicable general and specific plans.**

The City Council found that this standard could be met with the approval of the conditional exception for the tentative map. The new lot sizes are consistent with the General Plan. The proposed map and the design of the proposed subdivision would create two lots. The following General Plan Goal and Policy apply.

- Housing Goal 3.710: Facilitate the private development of housing to meet a portion of the above moderate income housing need identified for Atherton.
- Housing Policy 3.712 A: Within the limitations of the private housing market the Town shall work with private developers to encourage new housing development.

5. **Whether the site is physically suitable for the type of development.**

The City Council found that this standard could be met with the approval of the conditional exception for the tentative map. The site is physically suitable and large enough to be subdivided into two lots. The site is just not large enough to create 2 new lots with standard lot widths, as required by the subdivision chapter of the Atherton Municipal Code, without a conditional exception.

6. **Whether the site is physically suitable for the proposed density of development.**

The City Council found that this standard could be met. The site is physically suitable and large enough to be subdivided into two lots at the required density of 1 acre per lot. As noted above, the two new lots would each have a size that is over an acre.

7. **Whether the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

The City Council found that this standard could be met. The subject site at 43 Santiago is not located adjacent to a creek and would have no impact on fish, wildlife, or their habitat.

8. **Whether the design of the subdivision or the type of improvements is not likely to cause serious public health problems.**

The City Council found that this standard could be met. This subdivision will not cause serious public health problems because the design follows all required parameters of subdivision except that of the lot widths. The widths are shown to be at 172 ft. and 144 ft. where the required lot width is 175 ft.

9. **Whether the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision, or that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to those previously acquired by the public. This subsection shall apply only to easements of**

**record or to easements established by judgment of a court of competent jurisdiction.**

The City Council found that this standard could be met. There are no conflicts with easements that exist currently on the lot. Nor are there any proposed easements outside of that required for utilities along the very margins of the front lot line. There would be no access or use restrictions on the proposed parcels.

10. **Whether discharge of waste from the proposed subdivision will not result in violation of existing water quality requirements prescribed by the regional water quality control board.**

The City Council found that this standard could be met. The site is flat and drainage can be handled on site. The project would be conditioned to meet all regional water quality requirements at the time of development.

**WHEREAS**, the City Council recommends approval based on the Conditions of Approval listed in the Tentative Map Certificate; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the Town of Atherton does hereby approve the proposal for Tentative Map and conditional Exception to allow the subdivision of a 2.5 acre lot into two lots with non-conforming lot widths (less than required 175 ft) at 43 Santiago Avenue (APN 070-343-310) subject to the conditions of approval in Exhibit A.

**PASSED AND ADOPTED** at a meeting of the City Council of the Town of Atherton held on the 19<sup>th</sup> day of April 2023 by the following vote:

AYES: Council members:  
NOES: Council members:  
ABSENT: Council members:

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Bill Widmer, MAYOR  
Town of Atherton

ATTEST:

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Anthony Suber, City Clerk

APPROVED AS TO FORM:

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Mona Ebrahimi, City Attorney

**EXHIBIT A**  
**TENTATIVE MAP & CONDITIONAL EXECEPTION CONDITIONS OF APPROVAL**  
**43 SANTIAGO (APN: 070-343-310)**

Conditions of Approval

1. Tentative Parcel Map shall be in substantial compliance with those prepared by Dan MacLeod of MacLeod & Associates, Inc. and as reviewed by the Planning Commission at its March 22, 2023, meeting. Any substantive changes to the plans (see Attachment 3) shall be reviewed by the Planning Commission.
2. The Tentative Parcel Map is limited to the location of the lot line proposal as shown on the plans stated in COA#1
3. Final Map shall be in accordance with the Municipal Code and the Subdivision Map Act of the State of California.
4. Vehicular access gates shall be set back a minimum of 25 feet from the improved roadway.
5. Transformers and other utility structures to be located on each respective property and not constructed within the right-of-way.
6. All existing trees within the project area shall be preserved, except where specifically approved for removal pursuant to the Town's Heritage Tree protection Ordinance. All construction shall comply with standard Tree Protection Zone requirements, without variance.
7. Best Management practices shall be used for erosion and sediment control during construction to prevent tracking or discharge of materials into the right-of-way.
8. Install new street survey monuments – replace iron spikes (and install any missing monumentation) in Santiago Avenue in the vicinity of the subdivision with permanent monuments set in concrete and protected by traffic rated boxes prior to issuance of Certificate of Occupancy.
9. The lot-split is a Regulated Project under the SF Bay Regional Water Quality Control Board Municipal Regional Stormwater permit. As such, all runoff associated with impervious areas created or replaced shall be treated on-site prior to discharge into the public right-of-way. Frontage run-off shall also be treated. The property owner shall enter into a stormwater maintenance agreement with the Town to guarantee maintenance of stormwater treatment measures, which shall be recorded prior to issuance of the certificate of occupancy.
10. All development shall comply with town's grading and drainage requirements including stormwater detention and treatment. Development of the subdivision lots shall comply with the requirements for "full site residential development project" outlined in the Town's Grading and Drainage checklist.
11. There shall be no parking of construction equipment or construction worker's vehicles on residential streets at any time; all vehicles shall be maintained on-site.
12. All structures and fences to be removed from the right-of-way and located on private property.
13. All new utilities and services shall be constructed underground prior to issuance of certificate of occupancy.

14. The full roadway width of Santiago Avenue shall be resurfaced across the frontage of each lot prior to issuance of certificate of occupancy.
15. A separate formal application for any future site improvements shall be submitted to the Planning Department. This and all other present and future improvements to the property shall comply with R1-A zoning provisions and other applicable ordinances.
16. Applicant, its contractors, employees, assigns and agents shall comply with all applicable state laws and the Town's Municipal Code.
17. If no action has been taken in one year, this approval will become null and void.
18. Applicant shall defend, indemnify, and hold harmless the Town of Atherton and its agents, officers and employees from any claim, action or proceeding against the Town, or its agents, officers and employees to attach, set aside, void, or annul, an approval of the Planning Commission, or City Council concerning this project.
19. The tentative and final maps shall comply with all state and local laws and ordinances, including the Atherton Municipal Code.