



Item No. 18 Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: GEORGE RODERICKS, CITY MANAGER

**FROM: STEPHANIE B. DAVIS, AICP SENIOR PLANNER
SALLY BENTZ-DALTON, TOWN ARBORIST**

DATE: MAY 16, 2018

**SUBJECT: DISCUSSION ON AMENDMENTS TO ATHERTON MUNICIPAL CODE
CHAPTER 8.10 “REMOVAL OF AND DAMAGE TO HERITAGE TREES”,
INCLUDING AMENDING THE TREE PRESERVATION GUIDELINES,
STANDARDS AND SPECIFICATIONS**

RECOMMENDATION

It is recommended that the City Council receive a report from staff and a recommendation from the Planning Commission on amendments to the Town’s Municipal Code Chapter 8.10 “Removal of and Damage to Heritage Trees”, including amendments to the Town’s *Tree Preservation Guidelines, Standards, and Specifications* and provide direction to staff.

BACKGROUND

In March 2016 staff received direction from the Tree Committee to evaluate the existing heritage tree regulations both within the Municipal Code and the *Tree Preservation Guidelines Standards and Specifications* (or “*Guidelines*”, which is implemented through the Municipal Code) as it was found that the amount of heritage trees within Town that are dying has greatly increased due to construction impacts and the drought. An Ad-Hoc Committee was created with appointment of two members of the Planning Commission and two members of the Tree Committee to work with staff on evaluating the Town Ordinance and other regulatory documents pertaining to heritage trees and to develop a series of recommendations. The Ad-Hoc Committee met over a series of meetings from September 2016 to February 2017 and their final recommendations were presented to the Planning Commission.

The Planning Commission conducted three study sessions in April, July and December 2017, to discuss potential amendments. These potential amendments were also presented at the February 6 and June 5, 2017 and February 5, 2018 Builders Roundtable meetings which several architects and builders were in attendance. Throughout this process, staff received a series of public comments (Attachment 2). These comments varied in scope from an opinion that any Tree Protection Zone (TPZ) greater than 6 times the tree diameter was too restrictive, to comments that no exceptions to a TPZ should be granted.

On February 28, 2018 the Planning Commission conducted a public hearing and voted 5-0 to adopt Resolution 2018-01, recommending City Council approval of a series of amendments to Chapter 8.10 “Removal of and Damage to Heritage Trees” and the *Tree Preservation Guidelines Standards and Specifications* (Attachment 1). Attachment 1 includes Exhibit A, a tracked change draft version of Chapter 8.10 and Exhibit B, a revised draft of the *Guidelines*. Given the quantity of revisions, coupled with the formatting and document structure reorganization, the revisions for the *Guidelines* are not in tracked changes for clarity and ease of reading. A copy of the existing *Guidelines* document has been included as reference (Attachment 3).

A summary of these recommended changes is provided below. Further evaluation is provided in the ANALYSIS section of this report.

- 1. Revise the current definition of a heritage tree.** A heritage tree is currently defined as any tree species outside the buildable area 48 inches or more in circumference (15.2 inches diameter), measured at 4 feet above grade, and any native oak tree greater than 48 inches in circumference located anywhere on the parcel (i.e. inside or outside the buildable area).

Recommended amendments would:

- Add native redwood trees 15.2 inches in diameter or greater as an additional protected tree in the buildable area. Currently, oak trees are the only protected species in the buildable area.
 - Add multi-trunk trees measuring 15.2 inches in diameter or greater, measured where the stems begin.
 - Begin measurement of a heritage tree at 4.5 feet above the natural grade instead of 4 feet.
- 2. Reduce the Tree Protection Zone (TPZ)** for heritage trees from 12 times to 10 times the diameter of the tree. For construction of driveways, fences and/or walls subject to permit, reduce the TPZ to 8 times the diameter of tree. The TPZ is the “buffer area” around every heritage tree to protect the tree and roots from any disturbance. A TPZ must be free from any development or development activities (such as grading, etc.).

Recommended amendments would reduce the TPZ or “buffer area” around every heritage tree to protect the tree and roots from any disturbance. A TPZ must be free from any development or associated development activities as specified within the *Guidelines*.

- 3. Provide greater specification of what kind of work is prohibited and permitted within the TPZ.**

Recommended amendments would provide staff and the community more specific detail on exactly what can and cannot occur with an established TPZ.

- 4. Exception request to the TPZ standards and/or to move a heritage tree would require a public hearing review by the Planning Commission.**

Recommended amendments would require these requests to be evaluated by the Planning Commission instead of a case-by-case assessment and negotiation with the Town Arborist.

5. Require a tree inventory with photos and appraisal prior to site demolition permit issuance.

Recommended amendments would increase the amount of detailed information on existing trees to be submitted by project arborist at point of demolition permit submittal.

6. Incorporation of American National Standards Institute (ANZI) standards and Best Management Practices (BMPs) for tree pruning, topping, and lions tailing.

Recommended amendments would include language pertaining to these common tree activities that currently do not exist with any Town document.

7. Other textual additions.

Recommended amendments would create internal consistency between Town documents and incorporation of industry standard language.

ANALYSIS

Each amendment, as recommended by the Planning Commission is provided below, with a staff analysis following.

1. Revise the current definition of a heritage tree. A heritage tree is currently defined as any tree species outside the buildable area 48 inches or more in circumference (15.2 inches diameter), measured at 4 feet above grade, and any native oak tree greater than 48 inches in circumference located anywhere on the parcel (i.e. inside or outside the buildable area). The recommendation is to revise and enhance current definition of heritage trees to better preserve and protect heritage trees and be consistent with the American National Standards Institute (ANSI) Tree Care Industry Association standards by:

- Add native redwood trees 15.2” in diameter or greater as an additional protected tree in the buildable area.
- Add multi-trunk trees measuring 15” measures where the stems begin.
- Begin measurement of a heritage tree at 4.5’ above the natural grade instead of 4’.

Redwood trees are a native species to California and area found extensively throughout the Town. They are large, visually prominent trees which aesthetically contribute to the Town’s existing fabric and physical composition. Redwoods provide a large percentage of the tree cover in Atherton. By adding redwood trees as an additional protected tree within the buildable area, any redwood tree determined to not be dead or dangerous requesting removal to accommodate a main residence, would be subject to approval by the Planning Commission (as do oak trees within the building area). The current heritage tree definition does not address multi-trunk trees, thus can lead to confusion on the applicable protection and other regulations pertaining to these types

of trees. Measuring a tree at 4.5 above grade, versus 4 feet, is most consistent with industry standards and other jurisdictions.

- 2. Reduce the Tree Protection Zone (TPZ).** The existing regulations require a designated TPZ for each heritage tree to be protected, including those on neighboring properties, which defines the area sufficiently large enough to protect the tree and roots from disturbance. Currently, the TPZ is determined by the formula: One foot per inch of diameter. Thus, for example a 20" diameter tree is required to have a 20' radius from the perimeter of the trunk or a 20 foot TPZ, which equates to a TPZ 12 times the trees diameter.

The proposed amendment would reduce the TPZ to 10 times the diameter of the tree for all types of specified development activities that require a permit, with the exception of the construction of new driveways, fences and/or walls subject which are proposed to have a TPZ of 8 times the diameter of tree.

The TPZ is the "buffer area" around every heritage tree to protect the tree and roots from any disturbance. A TPZ must be free from any development or development activities (such as grading, etc.). The proposed amendments were found to be most consistent with ANSI standards and neighboring jurisdictions and further found to maintain a reasonable buildable area to the greatest extent feasible. The majority of feedback received from the development community is that a TPZ of 10 times (10x) the diameter of the tree for all tree species is overly restrictive for development. Staff prepared extensive evaluation of example site cases and presented these at the July and December 2017 study sessions. Results from the evaluations concluded that in most of the cases the 10x TPZ would allow for sufficient room to build a main residence and an accessory structure. At 12x, it was found to be more difficult to include buildings as well as utilities, detention system, irrigation, swale(s), storm drains, etc. Further, a TPZ of 10x was found to not only be consistent with industry standards and other neighboring jurisdictions, but also appropriate for the Town based on the predominant tree species found within Town, and their age and species tolerance, and health. Many of the trees in Town are mature or over-mature and are stressed due to previous construction on sites and the drought of the last 5 years.

- 3. Provide greater specification of what kind of work is permitted and prohibited within the TPZ.**

Providing more specificity of the exact type of activities that are permitted (and prohibited) within the TPZ furthers the purpose and intent of the Ordinance to protect and preserve heritage trees, as well as provide more clarity to both the development community as well as staff in implementation of the Ordinance. Having specificity in text as regulation at the beginning of the design and plan check process will clearly illustrate the Town's desire for protection of trees. A clear standard can contribute to less compliance issues in the field and the Town's heritage trees should receive less damage and have a better survival rate. It will also include less time spent for the Town Arborist and Code Enforcement to address "problem" sites. Examples of activities permitted and prohibited within the TPZ, include, but are not limited, to:

- Permitted – mulching, root buffer, other practices that would be beneficial to the tree.

- Prohibited – buildings, structures, storage and parking of vehicles or building materials, trenching, irrigation, solid disturbance, grading, any other activity that would cause disturbance and/or damage to trees.

4. Exception request to the TPZ standards and/or to move a heritage tree would require a public hearing review by the Planning Commission.

The current *Guidelines* allow all requests for deviations from the TPZ standards to be assessed by the Town Arborist on a case by case basis. By allowing every project the ability to request an exception may undermine the purpose of the regulation itself and not provide the community assurance in regulation implementation. This proposed process would be most consistent with other codified exception processes from development standards in the Zoning Title, such as Special Structures Permits and Variances. Neither the current Ordinance nor Tree Standards speaks to requests to move a heritage tree. Moving a tree significantly increases the chances for a tree to be damaged or fail, thus staff recommends a process which allows assurances in future mitigation through some type of conditional approval document should that occur.

Staff is proposing an additional amendment related to requests for limited exceptions to the TPZ at the staff level following conversations after the Planning Commission meeting. This staff proposed amendment was not considered by the Planning Commission. Please see Item #8, below.

5. Require a tree inventory with photos and appraisal prior to site demolition permit issuance.

At times, trees have been harmed or damaged on a site, well after permitted construction has already begun. In these instances, it is difficult to ascertain the condition of the tree prior to construction given the time lapse and varying amounts of damage incurred. By documenting the exact condition of the trees prior to any construction, a more accurate assessment on (any) damage that may be related to future construction is possible. It also illustrates to the project applicant and contractor how financially significant a particular tree may be which may help incentivize compliance with tree protection measures.

6. Incorporation of American National Standards Institute (ANZI) standards and Best Management Practices (BMPs) for tree pruning, topping, and lions tailing.

Neither the current Ordinance nor Tree Standards speaks to these common types of activities to heritage trees. By providing language that is consistent with industry standards, greater clarity and assurances are provided both to the community and staff. Further, specificity in regulation language may provide for greater clarity in implementation and enforcement both by a project applicant and staff.

7. Other textual additions.

All other textual amendments relate to assuring internal consistency between the Municipal Code and Tree Standards language. Other definitions are enhanced with industry standard language to provide more clarity in implementation.

Similarly, neither the Ad-Hoc Committee, nor Planning Commission recommended to add or remove any trees from the existing list of non-classified heritage trees. Non-classified trees are listed as 3 different types of Acacia trees, Mimosa trees and the Tree of Heaven. By not adding additional trees to this list, then future requests for removal will best preserve the existing aesthetic character of the Town, as these trees, although perhaps not the most desirable in species, still may provide an aesthetic and screening mechanism in a neighborhood. By requiring a permit to be issued for their removal, allows the Town to require replanted tree(s) which would mitigate any aesthetic loss.

Following adoption of Resolution 2018-01 by the Planning Commission, staff received numerous comment and had additional conversations related to the concern that TPZ standards applicable for all tree species would result in a significant increase in the number of applications submitted to the Planning Commission with a request for exception based on the specific details of each individual tree relative to the individual lot in question. These requests were previously a conversation between a project applicant/arborist and the Town Arborist with no defined parameters to evaluate such requests against.

As such, staff has prepared an additional amendment – beyond what was recommended by the Planning Commission – that established criteria for an exception to the TPZ standards include a second tier of review and be allowed to be considered at the staff level. Any requests that did not meet such established criteria but continued to request a deviation from the TPZ would require submittal of an application to the Planning Commission. If directed by the Council, staff would incorporate this additional amendment into the revised Ordinance and *Guidelines* to be presented for formal consideration by the Council at a future meeting:

8. Staff Level Approval for Exceptions to the TPZ – *Additional Amendment Not Considered by the Planning Commission.*

If the applicant is unable to meet the standard TPZ zone requirements then an application, fee and an arborist report can be submitted stating why the exception is needed, what the impact to all heritage trees are and any mitigation. Exceptions at the staff level could be considered for:

- A TPZ exception from 10x the diameter, down to a minimum of 8x the diameter, for all development types unless otherwise specified.
- A TPZ exception from 8x the diameter, down to a minimum of 6x the diameter, for driveways, fences, or walls.

The Town Arborist would peer review the request and project arborist report for demonstrated ability to meet the established standards of the Matheny and Clark Guidelines for Optimal Tree Preservation Zones, an arboricultural industry standard resource document. The terms of such exceptions may include additional conditions on construction activities and may include continuous site observation by the Town Arborist or Town Contract Arborist at the applicant's expense.

If a staff level exception cannot be granted, the project applicant would still have the ability to submit to the Planning Commission for consideration of an exception.

POLICY FOCUS

The adopted Heritage Tree Ordinance begins states that the Town is endowed and forested by oaks, bay and other trees, and that the preservation of these trees is essential to the health, welfare and quality of life of the citizens of the Town to meet a series of objectives, including those to:

- Preserve the scenic beauty of the town and to ensure the privacy of its citizens
- Maintain ecological balance
- Prevent erosion of topsoil
- Protect against the hazards of floods and the risk of landslides
- Counteract air pollutants and oxygenate the air
- Absorb noise
- Maintain the climatic and microclimatic balance.
- Decrease high wind velocities

Additionally, both the Land Use and Open Space and Conservation Elements of the General Plan contain policies and goals pertaining to heritage trees and proposed development:

- Open Space Policy 4.310: *Trees shall be preserved to the maximum extent feasible.*
- Land Use Goal 1.210: *To preserve the Town's character as a scenic, rural, thickly wooded residential area with abundant open space.*
- Land Use Goal 1.223: *To retain the high quality of maintenance and living environment existing in the Town's residential neighborhoods.*

The revisions to the Ordinance and *Guidelines* include textual updates attempting to provide a more streamlined and consistent review process, better predictability for applicants developing properties with heritage trees and the increased ability for the long term protection and preservation of existing heritage trees, all of which may be found to be consistent with the purpose, goals, and policies noted above. The most significant revisions relate to a revised definition of a heritage tree and other revisions to a trees TPZ may be furthering implementing and supporting the adopted Town regulations and policies noted above.

When evaluating a heritage tree removal request, the Planning Commission is limited in evaluating whether removal of the tree would be contrary to the purpose and intent of the Town's general plan. The Council may wish to have further discussion and provide additional direction to staff to evaluate additional policy and/or regulatory criteria that provides greater context for those heritage tree applications that either (1) request removal of a tree not determined to be dead or dangerous, but has some professionally documented level of failure risk above a moderate level and/or (2) request removal of a heritage tree of a "less desirable species" (i.e. a species other than an oak, redwood, bay, or other native tree) that is professionally determined to not be in "excellent or good" condition and which includes an associated replanting plan that goes beyond the minimum requirements of the Ordinance. Specifically, a replanting plan that may include more, larger "desirable species" that when grown at maturity, may provide a longer term benefit to the Town than the tree(s) requested for removal. This policy direction may further assist the Planning Commission and/or staff in their future

decision making abilities while evaluating heritage tree removal applications and/or exceptions to the TPZ.

FISCAL IMPACT

The cost associated with the preparation of the draft ordinance amendment is included within the annual Planning Department budget. The cost to implement the ordinance will be paid for by the applicants for development projects. Additional support services for the Town Arborist in the enforcement and implementation of the ordinance amendments may result; the cost of which would be evaluated by staff and would be paid for the applicants for each applicable development project.

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 1,200 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 District, service providers (water, power, and sewer), and regional elected officials. Additionally, interested parties that were notified of prior Planning Commission study sessions were also notified via email of tonight's meeting.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item has or has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- Civic Center Advisory Committee (meets as needed)
- Environmental Programs Committee (meets every other month)
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month) – 4/2017, 7/2017, 12/2017, 2/2018
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)
- Tree Committee (meets each month)

ATTACHMENTS

1. Planning Commission Resolution 2018-01
 - Exhibit A- Draft Revised Chapter 8.10 “Removal of and Damage to Heritage Trees” – Tracked Changes
 - Exhibit B - Draft Revised Tree Preservation Standards and Specifications
2. Public Comments Received June 2017 – April 2018
3. Existing Tree Preservation Guidelines Standards and Specifications

RESOLUTION NO. 2018-1

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF ATHERTON
RECOMMENDING THE CITY COUNCIL ADOPT AMENDMENTS TO CHAPTER 8.10
REMOVAL OF AND DAMAGE TO HERITAGE TREES AND TO THE TREE
PRESERVATION GUIDELINES, STANDARDS, AND SPECIFICATIONS DOCUMENT**

WHEREAS, the Town's Tree Committee directed staff to study the regulations pertaining to heritage trees; and

WHEREAS, an Ad-Hoc subcommittee comprised of two members of the Planning Commission and two members of the Tree Committee met with planning staff and the Town Arborist over a series of meetings from September 2016 to February 2017 to evaluate existing regulations and potential amendments pertaining to heritage trees; and

WHEREAS, the Planning Commission received the recommendations of the Ad-Hoc subcommittee and conducted three study sessions in April, July, and December 2017, took public comment pertaining to potential amendments pertaining to heritage trees and provided final direction to staff in December 2017; and

WHEREAS, on February 28, 2018 the Planning Commission held a duly noticed hearing for the purpose of receiving testimony on proposed amendments to Chapter 8.10 "Removal of and Damage to Heritage Trees" and the Town's *Tree Preservation Guidelines, Standards, and Specifications* document as it relates to regulations pertaining to heritage trees; and

WHEREAS, the Planning Commission, prior to making its recommendation to the City Council considered all testimony, both oral and written, regarding the proposed amendments. After closing the public hearing on February 28, 2018, the Planning Commission thereafter adopted Resolution No. 2018-1 recommending that the City Council adopt amendments to Chapter 8.10 "Removal of and Damage to Heritage Trees" of the Town's Municipal Code, including the Town's *Tree Preservation Guidelines, Standards, and Specifications* as shown in Exhibit A and B, respectively.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1 Recitals

The Planning Commission hereby finds that the foregoing recitals are true and correct.

SECTION 2 California Environmental Quality Act (CEQA)

The project is Categorically Exemption per Section 15305 of the CEQA Guidelines. Section 15305 relates to Minor Alterations in Land Use Limitations, as the ordinance amendments would not result in any changes to land use or density.

SECTION 3

Adoption Amendments to Chapter 8.10 "Removal of and Damage to Heritage Tree" and the Tree Preservation Guidelines, Standards, and Specifications

The Planning Commission hereby recommends that the City Council adopt amendments to Chapter 8.10 Removal of and Damage to Heritage Trees, including the Town's *Tree Preservation Guidelines, Standards, and Specifications*

SECTION 4. **Effective Date.**

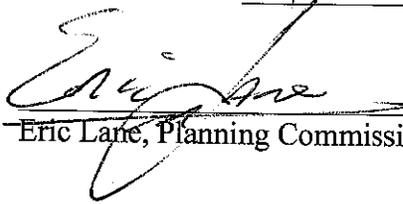
This resolution shall take effect immediately upon its adoption.

The foregoing resolution was read, considered, and adopted at a regular meeting of the Planning Commission of the Town of Atherton, State of California, on the 28th day of February, 2018, by the following vote:

AYES: PLANNING COMMISSIONERS: LANE, LERNER, LAMB, SOCKOLOV, TONELLI

NOES: PLANNING COMMISSIONERS: _____

ABSENT: PLANNING COMMISSIONERS: _____



Eric Lane, Planning Commission Chair

ATTEST:

By: _____

Lisa Costa Sanders, Town Planner

EXHIBIT A

Amended Chapter 8.10 "Removal of and Damage to Heritage Trees – Tracked Changes

EXHIBIT A TO RESOLUTION NO. 2018-1

Chapter 8.10
REMOVAL OF AND DAMAGE TO HERITAGE TREES

Sections:

- 8.10.010 Statement of findings.
- 8.10.020 Definitions.
- 8.10.030 Prohibitions and protections.
- 8.10.040 Permit process.
- 8.10.050 State tree care license.
- 8.10.060 Violation—Penalties and remedies.

8.10.010 Statement of findings.

The TownTown finds and declares as follows:

- A. The TownTown is endowed and forested by oaks, redwood, bay and other trees.
- B. The preservation of these trees is essential to the health, welfare and quality of life of the citizens of the TownTown to:
 - 1. Preserve the scenic beauty of the TownTown and to ensure the privacy of its citizens;
 - 2. Maintain ecological balance;
 - 3. Prevent erosion of topsoil;
 - 4. Protect against the hazards of floods and the risk of landslides;
 - 5. Counteract air pollutants and oxygenate the air;
 - 6. Absorb noise;
 - 7. Maintain the climatic and microclimatic balance; and
 - 8. Decrease high wind velocities. (Ord. 462 § 1(A), 1991; Ord. 444 § 1, 1989)

8.10.020 Definitions.

As used in this chapter:

A. "Heritage tree" means either:

1. means a tree 48 inches or more in circumference (15.2 inches diameter), measured at 4.5 feet (54 inches off the ground), located outside of the Buildable Area on the parcel AND any native oak (Quercus agrifolia, Q. lobata, Q. kelloggii), redwood tree (Sequoia sempervirens) greater than 48 inches in circumference (15.2 inches in diameter) or multi trunk tree measuring 15" where the stem begins (tally of stems) located anywhere on the parcel.

~~A tree, located in the tree preservation area, or a native oak tree (Quercus lobata, Quercus agrifolia or Quercus douglasii) located anywhere on a lot, which has a trunk circumference of forty-eight inches or more, when measured forty-eight inches above the natural grade.~~

2. A tree so designated by the city council, based upon findings that the particular tree is unique and of importance to the public due to its unusual age, appearance, location or other factors;

3. The trees listed below shall not be classified as heritage trees.

Acacia baileyana—Bailey Acacia

Albizia julibrissin - (Mimosa)

Acacia decurrens—Green Wattle

Acacia melanoxylon—Black Acacia

Allanhus altissima—Tree of Heaven

B. "Tree preservation area" means the area outside the building area of the lot, as defined in Section 17.60.020 of this code.

C. "Disturbance and/or Damage to a heritage tree" refers to demolition, construction, subterranean grading activities, landscaping improvements, other development activities and/or any other action, in the judgment of the building official or Town arborist, which will cause damage to its health including, by way of example, but not limited to, excess pruning, topping, cutting, girdling, poisoning, over-watering, unauthorized relocation or transportation of a tree, or trenching, excavating, altering the grade, compaction or paving near the tree. means any action, in the judgment of the building official or town

~~arborist, which will cause damage to its health including, by way of example, but not limited to, excess pruning, topping, cutting, girdling, poisoning, over-watering, unauthorized relocation or transportation of a tree, or trenching, excavating, altering the grade, compaction or paving near the tree. (Ord. 533 § 1, 2002; Ord. 462 § 1(B), 1991; Ord. 444 § 2, 1989)~~

D. "Tree Protection Zone (TPZ)" is the designated protection area sufficiently large enough to protect a heritage tree and its roots from disturbance and/or damage as defined in Section 8.10.020 C. The TPZ shall be determined and shall meet all provisions as detailed in the Town's current Tree Preservation Standards and Specifications document.

E. "Nuisance" is any action deemed a violation by definition of this Chapter and is subject to the provisions of Chapter 1.20 "General Penalty" of the Town's Municipal Code.

8.10.030 Prohibitions and protections.

A. No person shall remove a heritage tree unless a permit has first been issued in accordance with Section 8.10.040.

B. All heritage trees must be shown and designated on every plot map that may be required by the Town in connection with any application for subdivision, variance, use permit, or building permit. In addition, a heritage tree protection and preservation plan may be required with each application. The heritage tree protection and preservation plan shall be prepared by a certified arborist to assess impacts to trees, recommend mitigation to reduce impacts to a less than significant level and identify construction guidelines to be followed through all phases of a construction project. Detailed standards and specifications for the implementation of a heritage tree protection and preservation plan can be found in the Town's current Tree Preservation Standards and Specifications document.

C. It is unlawful for any person to damage or harm and/or disturb a heritage tree by any means whatever, including, without limitation, those actions defined in Section 8.10.020(C), or conduct any prohibited activities within the defined TPZ as specified in the Town's current Tree Preservation Standards and Specifications document.

D. The provisions of this chapter shall not be deemed to repeal or otherwise affect the provisions of Chapter 8.08 of this code, relating to dead or dangerous trees. (Ord. 547 § 1, 2004; Ord. 533 § 2, 2002; Ord. 522 § 1, 2001; Ord. 444 § 3, 1989)

8.10.040 Permit process.

A. The application for a heritage tree removal permit shall be filed with the building department on a prescribed form. The building department may require the applicant, at the applicant's expense, to furnish a written report from a licensed tree expert acceptable to the building department.

B. If the tree which is the subject of the application meets the requirements as set forth in this section and the Town's current Tree Preservation Standards and Specifications document, based upon a review of the permit

application and the inspection report, then the building department may grant the permit, conditionally grant the permit specifying mitigation requirements, deny the permit, allow a portion of the proposed work in the permit application to be done, or refer the application to the planning commission. The building department may attach reasonable conditions to ensure compliance with the intent and purpose of this chapter such as, but not limited to, requiring replacement of the tree or trees removed with plantings acceptable to the building department. Denial of the application may be appealed to the planning commission. In making the determination of which action to approve, including whether or not to refer the application to the planning commission, an authorized representative of the building department shall inspect the tree and make a determination based on the following criteria:

1. The probability of failure which is a function of 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. The probability of personal injury or significant property damage as a function of proximity to existing structures and objects of value and interference with utility services;
2. The number, species, size and location of existing trees in the area and the effect of the requested removal 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;
3. Good forestry practices such as, but not limited to, the number of healthy trees a given parcel of land will support.

C. If referred by staff, or a decision by staff is appealed by the applicant, the application shall be heard and considered at a public meeting of the planning commission. Each application for a heritage tree removal permit shall be accompanied by a fee in an amount as set by resolution of the city council sufficient to cover all costs of processing the permit. The application for a planning commission review shall contain the following the minimum information as prescribed in the Planning Department application.:

1. A legal description and accurate map showing the location of the property for which the permit is sought and the location of the tree for which the permit is sought and all other heritage trees on the subject parcel;
2. The names and addresses of the applicant and record owner of the subject property, and of the record owners of each parcel contiguous to the subject property, and of each parcel across any street from the subject property any part of which is encompassed within the projected side lines of the subject

parcel. The applicant shall furnish to the town Town a stamped plain No. 10 envelope addressed to each such owner;

3. A photograph of the subject tree or trees;

4. A statement of the reason for requested removal, the species of the subject tree, and the circumference at forty-eight inches above natural grade of the subject tree;

5. Such additional information as the building department may deem necessary.

D. The application shall be heard and considered at a public meeting of the planning commission. Notice of the meeting shall be mailed by the town at least ten days before the meeting to the owners of each property described in subsection (C)(2) of this section made in accordance with Section 17.06.080 B of this code.

E. At the public meeting, the planning commission shall hear all evidence presented, and shall grant the heritage tree removal permit unless it finds that the removal of the subject tree would be contrary to the purpose and intent of the general plan of the town Town.

F. At the discretion of the planning commission, for each heritage tree permitted to be removed the permittee may be required to plant three trees of fifteen-gallon container size, or two trees of twenty-four-inch box container size, or one tree of fifteen-gallon container size and one tree of thirty-six-inch container size. Where native heritage oak trees are allowed to be removed from within the buildable area, they shall each be replaced with one or more trees of forty-eight-inch container size of native oak species at a location approved by the planning commission. The planning commission may also attach other reasonable conditions to ensure compliance with the intent and purpose of this chapter.

G. The decision of the planning commission on any application for a heritage tree removal permit may be appealed to the city council in accordance with the procedures contained in Chapter 17.06 of this code.

H. It is strongly recommended that the trees listed below not be planted in the town Town of Atherton:

Acacia baileyana—Bailey Acacia

Acacia decurrens—Green Wattle

Acacia melanoxylon—Black Acacia

Ailanthus altissima—Tree of Heaven

Eucalyptus globulus—Blue Gum Eucalyptus

Pinus radiata—Monterey Pine

(Ord. 533 § 3, 2002; Ord. 522 § 2, 2001; Ord. 484 § 1(A)—(C), 1994; Ord. 462 § 1(C)—(J), 1991; Ord. 444 § 4, 1989)

8.10.050 State tree care license.

Except for the property owner, no person shall perform any removal of any heritage tree for hire within the town of Atherton without a valid state tree care license as required by the state of California. (Ord. 484 § 1(E), 1994)

8.10.060 Violation—Penalties and remedies.

A. Any person causing a heritage tree to be removed or ~~disturbed and/or damaged~~ in violation of this chapter shall submit a fee as determined by city council resolution to be deposited into a fund for the planting and maintenance of community trees, as a civil penalty in addition to the penalties as outlined in Chapter 1.20.

B. As part of a civil action brought by the town of Atherton, a court may assess against any person who commits, allows, or maintains violation of any provision of this chapter a civil penalty in an amount not to exceed five thousand dollars per violation. Where the violation has resulted in removal of a tree, the civil penalty shall be in an amount not to exceed five thousand dollars per tree unlawfully removed, or the replacement value of each such tree, whichever amount is higher. Such amount shall be payable to the town of Atherton as described in subsection A of this section. Replacement value for the purposes of this section shall be determined utilizing the most recent edition of the Guide for Plant Appraisal by the tree Appraisal Value as specified in the Town's current Tree Preservation Standards and Specifications document. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of violation of any provision in this chapter. In a civil action brought pursuant to this chapter in which the town of Atherton prevails, the court may award to the town of Atherton all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action, and reasonable attorney fees.

C. Upon any guilty plea or judgment or conviction, in any criminal proceeding brought for the violation of this chapter, the defendant is entitled by law to probation, then the court may require the payment to the town of Atherton of the costs and expenses as described above and the code provision incorporated by reference as one of the conditions of such probation.

D. The violation of any provision contained in this chapter shall be subject to the penalties or remedies as described herein and any other remedies authorized by the ~~town~~Town of Atherton Municipal Code, including, but not limited to, the following:

1. Requiring that the violator obtain a tree removal permit for the previously conducted unlawful activity, including one or more of the following conditions as appropriate:

a. The violator shall replace each unlawfully removed tree with one or more new trees which can be accommodated on the site of the violation according to the ~~town~~Town arborist and, in the opinion of the ~~town~~Town arborist, will provide equivalent value in terms of cost (as determined pursuant to a certified arborist's calculation of the value of the removed tree(s) in accordance with the latest edition of the Guide for Plant Appraisal published by the Council of Tree and Landscape Appraisers (adopted by reference) by the Appraised Value as specified in the Town's current Tree Preservation Standards and Specifications document), aesthetic and environmental quality, size, height, location, appearance and other characteristics of the unlawfully removed tree; or

b. Where replacement trees cannot be accommodated on-site according to the ~~town~~Town arborist, or cannot provide equivalent aesthetic or environmental quality of removed tree(s) on site, the violator shall either plant replacement trees off-site as designated by the ~~town~~Town arborist or make a cash payment as described in subsection B of this section, or any combination thereof, in accordance with the following:

i. To the extent that a cash payment is required for any portion or all of the value of the removed tree, such payment shall be doubled to reflect the estimated installation costs that would be incurred if replacement trees are planted; and

ii. To the extent that the planting of off-site replacement trees is required, the retail cost of such trees, as shown by documentary evidence satisfactory to the ~~town~~Town arborist, shall be offset against the value of the removed tree, but no credit shall be given for transportation, installation, maintenance and other costs incidental to the planting and care of the replacement trees; or

c. Where the unlawful activity did not result in tree removal, but did result in tree damage, the violator shall enhance the condition of the remaining trees or portions of trees according to good forestry practices which, in the opinion of the ~~town~~Town arborist, will provide equivalent value in terms of damage to the tree(s), aesthetic and environmental quality, size, height, location, appearance and other characteristics of the unlawfully damaged tree; provide equivalent

enhancement of the condition of trees off-site or make a cash payment to the fund described in subsection A of this section (based on the ~~town~~Town arborist's calculation of the equivalent value of the unlawful damage to the tree).

2. Any person who is required to plant replacement trees on-site pursuant to this section shall permanently maintain such trees in a good and healthy condition to ensure permanent establishment of any such tree(s), as determined by the ~~town~~Town arborist. Such person shall post a maintenance bond or security deposit in a form prescribed by the building official and execute a maintenance agreement with the ~~town~~Town, which shall be recorded in the office of the county recorder.

E. All remedies provided in this section shall be cumulative and are not exclusive. (Ord. 565 § 1, 2006; Ord. 533 § 4, 2002; Ord. 490 § 16, 1996; Ord. 484 § 1(D) (~~part~~), 1994; Ord. 444 § 5, 1989)

DRAFT

EXHIBIT B

Amended Tree Preservation Guidelines, Standards, and Specifications – Tracked Changes

EXHIBIT B TO RESOLUTION NO. 2018-1

TOWN OF ATHERTON

**Tree Preservation
Standards and Specifications**

DRAFT



____, 2018

TOWN OF ATHERTON

**TREE PRESERVATION
STANDARDS AND SPECIFICATIONS**

SECTION 1.00 DEFINITIONS

For the purpose and interpretation of the standards and specifications, the following definitions shall apply:

- 1.1 **Main Building Area** - (front, interior side, street side, and/or rear) of a lot is the horizontal plane between the minimum setbacks of the respective yard.
- 1.2 **Building Official** - means the Director of Building and Planning or the Director's designee.
- 1.6 **Certified Arborist** – is an individual who has demonstrated knowledge and competency through obtainment of the current International Society of Arboriculture arborist certification.
- 1.7 **Dead Tree** - means a tree that is dead or that has been damaged beyond repair or is in an advanced state of decline as determined by a certified arborist. If the tree has been determined to be dead, removal is permitted under Section 8.10 of the Atherton Municipal Code.
- 1.8 **Development Project** - means any construction activity including demolition, grading, hardscape and drainage improvements, new construction of main house or accessory buildings/structures, subterranean grading activities, added square footage to existing main house or accessory buildings/structures, site preparation and landscaping.
- 1.9 **Diameter at Breast Height** – measurement of trunk diameter taken at 4.5 feet (or 54 inches) off the ground. The diameter may be calculated by using the following formula:

$$DBH = \text{circumference at 4.5 feet} \div 3.142$$

For trees less than 4.5 feet of clear trunk, diameter shall be of the largest leader measured 4.5 above ground level. For multi-trunk trees, it shall be the sum of the individual trunks measured 4.5 feet above ground level. For a leaning tree or a tree on a slope, the tree shall be measured along the trunk axis at 4.5 feet. ANSI A300 Standard and Guide for Plant Appraisal.
- 1.10 **Disturbance and/or Damage** - refers to demolition, construction, subterranean grading activities, landscaping improvements, other development activities and/or any other action, in the judgment of the building official or town arborist, which will cause damage to its health including, by way of example, but not limited to, excess pruning, topping, cutting, girdling, poisoning, over-watering, unauthorized

- relocation or transportation of a tree, or trenching, excavating, altering the grade, compaction or paving near the tree.
- 1.11 **Dripline** - means the width of the tree, as measured by the lateral extent of the canopy.
- 1.12 **Pruning** – The selective removal of plant parts to meet the specific goals and objectives of ANSI A300 (Part 1).
- 1.13 **Excessive Pruning** - means removing in excess of 25 percent of the functioning leaf branch. Pruning in excess of 25 percent is considered disturbance and/or damage to the tree as defined in Section 1.10 and is prohibited. Not more than 25 percent of the foliage shall be removed within an annual growing season. The percentage and distribution of foliage to be removed shall be adjusted according to the plant's species, age, health, and site. Topping and lion's tailing shall be considered prohibited pruning practices for trees. ANSI A300 (Part 1)
- **Lion's tailing** - the removal of an excessive number of inner and/or lower lateral branches from parent branches. Lion's tailing is a prohibited practice. ANSI A300 (Part 1).
 - **Topping**- Reduction of tree size using intermodal cuts without regard to tree health or structural integrity. Topping is a prohibited pruning practice. ANSI A300 (Part 1).
 - **Unbalanced crown** - Removal of leaf or stem area predominantly on one side.
 - **Roots** – Excessive pruning may include the cutting of any root 2 inches or greater in diameter and/or severing in excess 25% of the roots.
- 1.14 **Heritage Tree** - means a tree 48 inches or more in circumference (15.2 inches diameter), measured at 4.5 feet (54 inches off the ground), located outside of the Buildable Area on the parcel AND any native oak (*Quercus agrifolia*, *Q. lobata*, *Q. kelloggii*), redwood tree (*Sequoia sempervirens*) greater than 48 inches in circumference (15.2 inches in diameter) or multi trunk tree measuring 15" dbh where the stem begins (tally of stems) located anywhere on the parcel.
- 1.15 **Injury** - means bruising, scarring, tearing or breaking of roots, bark, trunk, branches or foliage, herbicide or poisoning, or any other action which is likely to cause the death or permanent damage and/or disturbance to a tree.
- 1.16 **Mechanical Injury** - means a noninfectious injury which often leads to poor growth, a damaged appearance or death to the tree. Common causes of mechanical injury are landscape maintenance equipment, staking damage, vehicles, vandalism, weather, insects and animals.
- 1.17 **Monthly Inspection Report** - means a monthly written report prepared by the Project Arborist as detailed in Section 1.17.

1.18 **Project Arborist** - means a certified arborist retained by the owner for the purpose of overseeing on-site activity involving the welfare of the trees to be retained.

1.19 **Protective Tree Fencing** - means a temporary enclosure erected around a tree at 10x the DBH to be protected at the boundary of the **Tree Protection Zone**. The fence serves three primary functions: 1) to keep the foliage, crown, branch structure and trunk clear from direct contact and damage by equipment, materials or disturbances; 2) to preserve roots and soil in an intact and non-compacted state; and 3) to identify the tree protection zone in which no soil disturbance is permitted and activities are restricted.

1.20 **Root Buffer** - means a temporary layer of material to protect the soil texture and roots. The buffer shall consist of a base course of tree chips spread over the root area, keeping one foot clear of the trunk clear, to a 4"- 6" depth, capped by a base course of 3/4-inch quarry gravel to stabilize the 3/4" plywood on top.

1.21 **Tree Protection and Preservation Plan** - Prepared by a certified arborist and required for all development projects, including any site improvements at grade or sub terrain, and shall include the following minimum information:

A. Site Plan - means a set of drawings (e.g. preliminary drawings, grading, demolition, building, utilities, landscape, irrigation, tree survey, etc.) that show existing site conditions and proposed landscape improvements, including trees to be removed, relocated or to be retained. Site plans shall include the following minimum information that may impact trees:

1. The site plan shall be scaled at 1" = 10' or 1" = 20' as necessary to clearly detail tree protection requirements, depending on the scope and complexity of the project and include all existing and proposed buildings and structures.
2. Include the **Tree Protection Zone (TPZ)**, as defined in Sections 1.26 and 2.3, measurement on the plans, which identifies the area to protect the tree and roots from disturbance and mulch to be applied within the TPZ.
3. Surveyed location, species, size/trunk diameter, dripline area of existing heritage trees (including trees located on neighboring property that overhang the project site) and street trees within 30-feet of the project site within the public right-of-way.
4. Paving, concrete, excavation, trenching, irrigation lines and/or grade change located within the **Tree Protection Zone (TPZ)**, as defined in Sections 1.26 and 2.3.

5. All proposed and existing hardscape, including but not limited to, driveways, slabs, walkways, etc. Identify proposed materials, impervious and semi-impervious surfaces.
6. Existing and proposed utility pathways with detail on the location, depth and materials for all proposed underground utilities, including, but not limited to, sewer, water, electrical, water retention tanks, etc.
7. The location of any areas where hand digging is proposed. Significant root cutting (over 2") will require a letter from the site arborist which will include mitigation measures. The Town Arborist shall review any and all proposed hand digging, significant root cutting and mitigation measures within required tree protection areas and plan approval is required prior to starting such work.
8. Surface and subsurface drainage and aeration systems to be used.
9. Walls, tree wells, retaining walls and grade change barriers, both temporary and permanent.
10. Landscaping, irrigation and lighting within the TPZ of all heritage trees.
11. All of the final approved site plan sheets shall reference tree protection instructions.
12. OSHA Cuts

B. Written Inventory

Project Arborist letter report shall include:

1. A written narrative from an ISA Certified Arborist report.
2. Arborist Name, Certification # and company letterhead.

The letter report shall include the following for each tree:

1. Species (common and scientific name)
2. Size (diameter, height and crown spread)
3. Condition (foliage, vigor, structural integrity, etc.)
4. Prognosis (dangerous, imminent hazard, property damage). The Hazard Evaluation Form may be used to rate a dangerous condition. Life expectancy Location diagram (and photograph, if desired).

C. Photo Inventory

Colored photographs all of existing heritage trees on-site and/or within the public right-of-way adjacent to the property prior to any site demolition. These photographs can be integrated into the written inventory.

D. Appraisal

See Section 1.25 “Tree Appraisal”.

Please note a bond is to be posted to assure the tree protection measure are met throughout construction.

- 1.22 **Soil Compaction** - means the compression of soil particles that may result from the movement or parking of heavy machinery and trucks, storage of construction materials, structures, paving, etc. within the **Tree Protection Zone (TPZ)**.
- 1.23 **Soil Fracturing** - means the loosening of hard or compacted soil around a tree by means of a pneumatic soil probe that allows sudden bursts of air to crack, loosen or expand the soil to improve the root growing environment.
- 1.24 **Street Tree** - means any tree growing within the street right-of-way, outside of private property
- 1.25 **Tree Appraisal** - means a method of determining the monetary value of a tree as it relates to the real estate value of the property, neighborhood or community. The Certified Project Arborist shall determine the Tree Appraisal value as part of the required Tree Protection Plan by adjusting a tree’s basic value by its pre-existing condition, location, and species using the most recent edition of the *Guide for Plant Appraisal*, published by the Council of Tree and Landscape Appraisers.
- 1.26 **Tree Protection Zone, (TPZ)** - means, unless otherwise specified by a Project Arborist or Town Arborist, the area of temporary fenced tree enclosure, as set forth in Sections 1.26 and 2.3.
- 1.27 **Trenching** - means any excavation to provide irrigation, install foundations, utility lines, services, pipe, drainage or other property improvements below grade.
- 1.28 **Verification of Tree Protection** - means the Project Arborist shall verify, in writing, that all pre-construction requirements have been met.
- 1.29 **Vertical Mulching** - means auguring, hydraulic or air excavation of vertical holes within a tree's root zone to loosen and aerate the soil, typically to mitigate soil compaction.

SECTION 2.00 PROTECTION OF TREES DURING CONSTRUCTION

The objective of this section is to reduce the negative impacts of construction on trees. The tree protection regulations are intended to guide a construction project to insure that appropriate practices will be implemented in the field to eliminate or mitigate undesirable

consequences that may result from construction activities associated with a development project as defined in Section 1.8.

Typical negative impacts that occur during construction may include:

- Mechanical injury to roots, trunk or branches
- Compaction of soil, which degrades the functioning roots, inhibits the development off new ones and restricts drainage
- Changes in existing grade which can cut or suffocate roots
- Alteration of the water table - either raising or lowering
- Sterile soil conditions associated with stripping off topsoil
- Trenching

2.1 **Tree Protection and Preservation Plan** Prior to commencement of a development project, a property owner shall have prepared a ***Tree Protection and Preservation Plan*** as defined in Section 1.21 as part of the building permit submittal. The ***Tree Protection and Preservation Plan*** shall be prepared by the certified project arborist with detail as specified by the Tree Preservation Standards and Specifications.

2.2 **Pre-Construction Requirements**

The following five components shall be incorporated within the ***Tree Protection and Preservation Plan*** prior to grading, demolition or building permit issuance:

1. **Site Plan**

See Section 1.21 ***Tree Protection and Preservation Plan***.

2. **Tree Protection Disclosure Statement**

A statement signed by the owner of the property and permit applicant, on a form provided by the Town, acknowledging the existence of Heritage Trees on the property and that the approved Tree Protection and Preservation Plan shall be implemented and adhered through the finaling of the associated building permit/

3. Verification of Tree Protection

The Project Arborist shall verify, in writing, that all pre-construction requirements have been met as set forth in Section 2.2. Written verification must be submitted to and approved by the Town Arborist prior to demolition, grading or building permit issuance.

4. Pre -Construction Meeting

The demolition, grading and general contractors are required to meet with the Project Arborist and the Town Arborist at the site prior to beginning demolition, grading or new construction to review tree protection measures and to establish haul routes, staging areas, etc.

5. Protective Tree Fencing for Heritage Trees or Street Trees

Fenced enclosures shall be erected around trees to be protected to establish the **TPZ** in which no soil disturbance is permitted and activities are restricted.

i. Size and type of fence

All trees to be preserved shall be protected with 6 foot high, minimum 12 gauge chain link fence. Fences are to be mounted on 2-inch diameter galvanized iron posts, driven into the ground to a depth of at least 2-feet at no more than 10-foot spacing (See detail, Appendix 1). This detail shall appear on grading, demolition and building permit plans.

ii. Duration

Tree fencing shall be erected before any demolition, grading or construction begins and remain in place until the Town Arborist approves the removal.

iii. "Warning" Signs

Warning signs shall be prominently displayed on each fence side so clearly visible. (See Appendix 2). The signs are available at the Building Department.

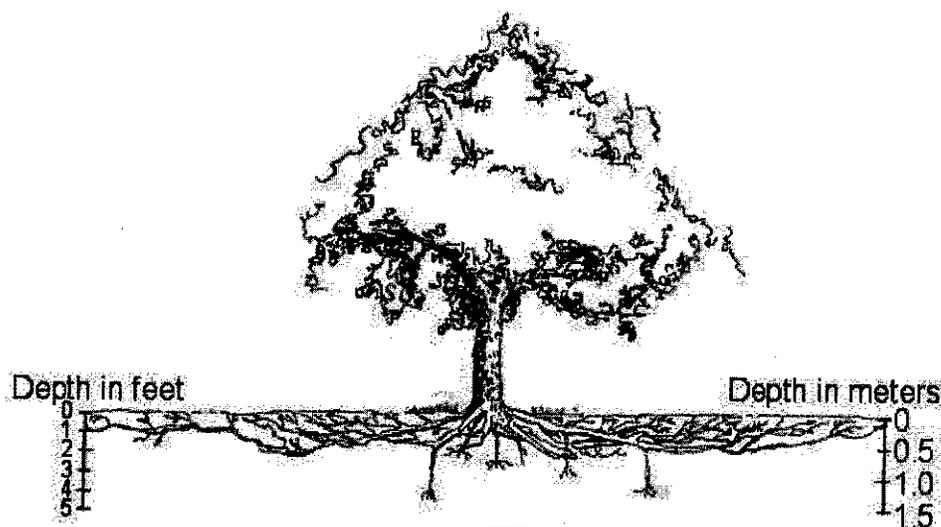
iv. Mulch

A 6” layer of coarse mulch or woodchips is to be placed beneath the dripline of the protected trees. Mulch is to be kept 12” from the trunk.

2.3 Tree Protection Zone (TPZ) TREE PROTECTION ZONE (TPZ)

Each Heritage Tree to be protected, including those on neighboring properties, shall have a designated **TPZ** identifying the area sufficiently large enough to protect the tree and roots from disturbance and/or damage as defined in Section 1.10. Within the TPZ, roots that are critical for tree survival are typically found in

the upper three foot soil horizon, and may extend beyond the dripline area. Protecting the roots in the TPZ is necessary to ensure the tree’s survival.



The TPZ is a radius 10 times the diameter of a tree measured at 4.5 feet above grade. The TPZ shall be determined the following way: the TPZ radius shall be 10 times the DBH (4.5') of the trunk. For example: a 15" DBH = a 12.5 foot radius from the perimeter of the tree, or a 25 foot TPZ. Any deviation in determining the TPZ shall be in accordance with ANSI standards subject to approval by the Town Arborist.

Tree Protection Zone (TPZ) or area around every heritage tree to protect the tree and roots from any disturbance) from 12 times to be 10 times the diameter of the tree for demolition, grading, hardscape, drainage improvements, new construction of main house or accessory buildings/structures, sub terrain grading activities including pools, added square footage to existing main house or accessory buildings/structures, site preparation and landscaping. TPZ zone of 8 times for driveways and fences/walls.

Please note that if the TPZ zone on the plans cannot be met than requests can be made to the Planning Commission for an exception to the TPZ standards or to move a heritage tree.

1. Activities prohibited within the TPZ:
 - i. Storage or parking vehicles, building materials, refuse, excavated spoils or dumping of poisonous materials, including but not limited to, paint, petroleum products, concrete, stucco mix, dirty water, swimming pool and/or spa water, trailer, container boxes, clean up areas, debris boxes, building materials, trenching, grade changes, tree houses, and soil compaction, OSHA Cut.
 - ii. The use of tree trunks as a winch support, anchorage, as a temporary power pole, sign posts or other similar function.

- iii. Cutting of tree roots by utility trenching, foundation digging, placement of curbs and trenches and other miscellaneous excavation.
 - iv. Landscaping and irrigation improvements.
 - v. Soil disturbance, soil compaction or grade changes.
 - vi. Drainage changes, including swimming pool, spa, and/or water features discharge.
 - vii. Any other activities which cause disturbance and/or damage to trees as defined in Section 1.10.
2. Activities permitted within the TPZ:
- i. Mulching - During construction, it is recommended that wood chips or similar material be spread within the TPZ to a 4-to 6-inch depth, leaving the trunk clear of mulch.
 - ii. Root Buffer - When areas within the TPZ cannot be fenced, a Root Buffer is required and shall cover the root zone. A root buffer is a temporary layer of material to protect the soil texture and roots. The buffer shall consist of a base of mulch chips spread over the root area to minimum of 6 inches depth, capped by a base course of 3/4th inch quarry gravel to stabilize 3/4th inch plywood on top.
 - iii. Irrigation, aeration, fertilizing or other beneficial practices that have been specifically approved for use by the Project Arborist within the TPZ.

3. Erosion Control

If a tree is adjacent to or in the immediate proximity to a grade slope of 8% (23 degrees) or more, then approved erosion control or silt barriers shall be installed outside the TPZ to prevent siltation and/or erosion within the TPZ.

4. Tunneling and Directional Drilling

If trenching or pipe installation has been approved within the TPZ, then the trench shall be either cut by hand, air spade, or by mechanically boring the tunnel under the roots with a horizontal directional drill and hydraulic or pneumatic air excavation technology. In all cases, install the utility pipe, immediately backfill with soil and soak within the same day. If boring set up outside the dripline of tree and not directly under trunk. Depth of hole should be a minimum of 2 to 3 feet depending on the root depth of the tree. The bore hole should be offset by a distance based on tree diameter (table below). From Best Management Practices- Managing Trees During Construction.

Minimum distance requirements for boring or auguring underneath tree roots.

Tree Diameter (dbh) (centered on trunk)	Minimum offset distance	Minimum length of bore hole
15 inches	12 feet	15 feet
20 inches	15 feet	20 feet
25 inches	18 feet	25 feet

2.4 Tree Pruning and Surgery

The most compelling reason to prune is to develop a strong, safe framework and tree structure and to reduce hazards. If the Project Arborist recommends that trees be pruned, the standard pruning shall consist of "crown cleaning" as defined by the ISA Pruning Guidelines.

1. Excessive Pruning

See definition in Section 1.13 above.

2. Tree Workers

Pruning, as defined in Section 1.12 above, shall not be attempted by construction or contractor personnel, but shall be performed by a qualified tree care specialist or certified tree worker.

2.5 Tree Removal Procedure

When heritage trees are proposed to be removed, tree removal practices apply:

1. A permit is required to remove any Heritage Tree.
2. Any tree to be removed that may impact a Heritage Tree shall be done under the supervision of a certified arborist. This includes any request to removal and relocate a heritage tree(s).
3. The removal of trees that extend into the branches or roots of Heritage Trees shall not be attempted by demolition or construction personnel, grading or other heavy equipment. A certified arborist or certified tree worker shall remove, or oversee the removal of the tree in a manner that causes no damage and/or disturbance as defined in Section 1.10 above or below ground to trees that remain.

4. Removing a Heritage Tree without approval from the Town Arborist and without a HTR permit is a violation of the Atherton Municipal Code (AMC). A violator will be required to obtain a tree removal permit and can be assessed a fine for the unlawful activity and may be subject to other punitive remedies in accordance with Chapter 1.20 “General Penalty” of the AMC. The violator shall also replace each unlawfully removed tree with one or more new tree(s), as can be accommodated at the violation site in the opinion of the Town Arborist. A Certified Arborist will calculate the monetary value of the illegally removed tree, which consist of cost (as determined pursuant to the latest edition of the Guide for Plant Appraisal published by the Council of Tree and Landscape Appraisers), aesthetic and environmental quality, size, height, location and other characteristics. To the extent a monetary penalty is assessed for any portion of, or the entire value of the removed tree, the assessed amount shall be doubled to reflect the estimated installation costs that would be incurred if replacement tree(s) are planted. (AMC 8.10)

2.6 Post Tree Protection and Preservation Plan Implementation

A mitigation program is required if, as determined by the Project Arborists required Monthly Inspection Form and/or as determined by the Town Arborist, the approved development will cause drought stress, dust accumulation or soil compaction to trees that are to be protected and preserved. To help reduce impact injury, one or more of the following mitigation measures shall be implemented and supervised by the Project Arborist.

1. Irrigation Program

Irrigate to wet the soil within the TPZ during the dry season as specified by the Project Arborist.

2. Dust Control Program

During periods of extended drought, or grading, spray trunk, limbs and foliage to remove accumulated construction dust.

3. Soil Compaction Damage

Compaction of the soil is significantly detrimental to the long term viability of trees on construction sites due to suffocation of roots. If compaction to the upper 12-inch soil within the TPZ has occurred, then one or more of the following mitigation measures shall be implemented as recommended by the Project Arborist and/or the Town Arborist.

If an approved paving, hardscape or other compromising material encroaches within the TPZ, an aeration system shall be designed by a certified arborist and used within this area.

4. Type 11 Mitigation

If inadvertent compaction of the soil has occurred within the **TPZ**, the soil shall be loosened by a method approved by the Town Arborist, such as vertical mulching or soil fracturing.

2.7 **Disturbance and/or Damage to Trees**

1. Reporting

Any disturbance and/or damage or injury to trees whether accidental or otherwise, as defined in Section 1.10 and as verified by the Town Arborist shall be reported within 6-hours to the Project Arborist and Town Arborist so that mitigation can take place as soon as possible. All injury to branches, trunk or to roots over 2-inches in diameter shall be reported in the Monthly Inspection Report. Any trenching work 10 x the diameter of the tree is required to be reported in the monthly arborist report

2. Appraised Value

If a tree is damaged, a Certified Arborist determines the Tree Appraisal value by adjusting a tree's basic value by its condition, location, and species using the most recent edition of the *Guide for Plant Appraisal*, published by the Council of Tree and Landscape Appraisers. The formula used should also be noted.

3. Mitigation

Mitigation for damage or injury to heritage trees will be directed and performed under the project arborist's supervision.

Typical mitigation efforts for disturbance and/or damage may include, but not be limited to, the following:

i. Root injury

If trenches are cut and tree roots 2-inches or larger are encountered they shall be cleanly cut back to a sound wood lateral root under the supervision of the Project Arborist. The end of the root shall be sealed and kept moist. All exposed root areas within the **TPZ** shall be backfilled or covered within one hour. Exposed roots shall be kept from drying out by temporarily covering the roots and draping layered burlap or carpeting over the upper 3-feet of trench walls. The materials shall be kept wet until backfilled to reduce evaporation from the trench walls.

ii. Bark or trunk wounding

In this event, current bark tracing and treatment methods shall be performed by a qualified tree care specialist within two days.

iii. Scaffold branch or leaf canopy injury

Remove broken or torn branches back to an appropriate branch capable of resuming terminal growth within five days. If leaves are heat scorched from equipment exhaust pipes, consult the Project Arborist within 6 hours.

2.8 Inspection Schedule

The Project Arborist retained by the applicant shall conduct the following required inspections of construction sites containing protected Heritage Trees. Inspections shall verify implementation of the approved Tree Protection and Preservation Plan as defined in Section 1.21.

1. Pre -Construction Meeting

Prior to commencement of construction, the applicant or contractor shall conduct a pre-construction meeting to discuss tree protection and the tree preservation and protections standards and specifications of this document with the job site superintendent, grading equipment operators, Project Arborist, and Town Arborist.

2. Inspection of Protective Tree Fencing

The Town Arborist shall be in receipt of a written statement from Project Arborist verifying that they has conducted a field inspection of the trees and that the protective tree fencing and signage is in place prior to issuance of a demolition, grading, or building permit.

3. Inspection of Rough Grading

The Project Arborist shall perform an inspection during the course of rough grading adjacent to the TPZ to ensure trees will not be injured by compaction, cut or fill, drainage and trenching, and if required, inspect aeration systems, tree wells, drains and special paving. The contractor shall provide the Project Arborist at least 48 hours advance notice of such activity.

4. Monthly Inspections

The Project Arborist shall perform monthly inspections to monitor changing conditions and tree health and submit a written report to the Town Arborist and reference this document to be submitted by the 15th of every month on a form as prescribed by the Town Arborist. (*See Appendix 3*) If the 15th falls on a weekend or holiday, the form shall be submitted the next working business day. Form to be emailed to the Town Arborist at sbentz@ci.atherton.ca.us.

5. Landscape Phase

Tree protection fencing is required to remain in place during the landscape phase as trenching does occur. No trenching for irrigation or plantings should occur near heritage trees. No irrigation should be installed near a heritage Oak tree.

6. Removal of Tree protection fencing

To request removal of the fencing a report from the private project arborist is required to be sent to the Town Arborist for review stating that all work is complete and no equipment or trenching will occur on site.

DRAFT

Stephanie Bertollo-Davis

From: Sally Bentz
Sent: Friday, June 02, 2017 2:30 PM
To: Stephanie Bertollo-Davis
Subject: FW: Atherton - Potential Regulation Revisions for Heritage Trees

A certified arborist – tree company that works for many people in town.



Sally Bentz-Dalton
Town Arborist
ISA Certified Arborist WE-9238AM
Town of Atherton
(650) 752-0526
sbentz@ci.atherton.ca.us

"The best time to plant a tree was 20 years ago. The second best time is now." – Chinese Proverb

From: Lee [mailto:ltreeman@comcast.net]
Sent: Friday, June 02, 2017 1:58 PM
To: Sally Bentz <sbentz@ci.atherton.ca.us>
Subject: Re: Atherton - Potential Regulation Revisions for Heritage Trees

Hi Sally,

I like the proposed revisions but am concerned about TPZ radius reductions. Matheney and Clark, include specie construction tolerant variables as per TPZ radii. Builders notoriously encroach on TPZ's now. A TPZ does not prohibit activity in rhizosphere but hopefully has arborist monitoring of same. Suggestion: have specified arborist inspection schedule on cover of site plans to be initialed by arborist of record.

I typically recommend:

- inventory/ eval of 12"+dbh trees
- selective removal of substandard trees/permitted as necessary
- provide tree protection for demolition plan
- provide tree protection plan for construction
- inspection schedule:
 - TPZ protection
 - primary grading
 - foundation cuts
 - foundation forming
 - post foundation pour
 - infrastructure trenching
 - finish grading

-landscape plan, inclusive of:
irrigation, drainage, lighting, hardscape, plant specie choice compatibility with existing trees.

Typically, the tree guy should be the first person on site and the last person on site at project completion.

Please contact me for any elaboration of thoughts.
Thank you, Lee Dolezal

Sent from my iPhone

On Jun 1, 2017, at 11:26 AM, Sally Bentz <sbentz@ci.atherton.ca.us> wrote:

Hi Lee

See below. If you have any feedback please send by June 12th. Thanks

<image001.png>

Sally Bentz-Dalton

Town Arborist

ISA Certified Arborist WE-9238AM

Town of Atherton

(650) 752-0526

sbentz@ci.atherton.ca.us

“The best time to plant a tree was 20 years ago. The second best time is now.” – Chinese Proverb

From: Stephanie Bertollo-Davis

Sent: Thursday, May 25, 2017 11:54 AM

To: Sally Bentz <sbentz@ci.atherton.ca.us>; Michael Greenlee <mgreenlee@ci.atherton.ca.us>

Subject: Atherton - Potential Regulation Revisions for Heritage Trees

Hello,

The Town's Planning Commission is currently evaluating potential revisions to regulations pertaining to heritage trees within the adopted the "*Tree Preservation Standards and Specifications*" document: <http://ca-atherton.civicplus.com/DocumentCenter/View/3377> . This discussion originated from recommendations of changes to this document as set forth by an Ad-Hoc Sub-committee comprised of 2 members of the Town's Tree Committee and 2 members of the Town's Planning Commission. *The Tree Preservation Standards* is a regulatory document implemented by Section 8.10.030 B "Prohibitions and Protections" of the Town's Municipal Code.

The Commission and staff would appreciate your review and feedback on the items currently being discussed. This discussion will be scheduled as a study session item (no formal action will be taken) at either the June or July 2017 Planning Commission meeting and would appreciate any comments/questions you may have no later than June 12, 2017. Feedback via email is fine.

A summary of the key topics to be discussed for possible revision are summarized below:

1. *Revise Definition of Heritage Tree*

Stephanie Bertollo-Davis

From: John McClenahan <john@spmcclenahan.com>
Sent: Wednesday, May 31, 2017 7:26 PM
To: Stephanie Bertollo-Davis; Sally Bentz; Michael Greenlee
Subject: RE: Atherton - Potential Regulation Revisions for Heritage Trees

Hi Stephanie,
Sorry I can't make the time next week. I wrote in a few quick comments/suggestions. I would expect tremendous opposition at every opportunity for public comment. I would guess the 10x gets cut down before becoming law. A minimum no soil disturbance zone (on paper) should consider that tree locations on surveys, especially root flares are not always accurate.
John

From: Stephanie Bertollo-Davis [mailto:SBertollo-Davis@ci.atherton.ca.us]
Sent: Thursday, May 25, 2017 11:54 AM
To: Sally Bentz <sbentz@ci.atherton.ca.us>; Michael Greenlee <mgreenlee@ci.atherton.ca.us>
Subject: Atherton - Potential Regulation Revisions for Heritage Trees

Hello,

The Town's Planning Commission is currently evaluating potential revisions to regulations pertaining to heritage trees within the adopted the "*Tree Preservation Standards and Specifications*" document: <http://ca.atherton.civicplus.com/DocumentCenter/View/3377> . This discussion originated from recommendations of changes to this document as set forth by an Ad-Hoc Sub-committee comprised of 2 members of the Town's Tree Committee and 2 members of the Town's Planning Commission. *The Tree Preservation Standards* is a regulatory document implemented by Section 8.10.030 B "Prohibitions and Protections" of the Town's Municipal Code.

The Commission and staff would appreciate your review and feedback on the items currently being discussed. This discussion will be scheduled as a study session item (no formal action will be taken) at either the June or July 2017 Planning Commission meeting and would appreciate any comments/questions you may have no later than June 12, 2017. Feedback via email is fine.

A summary of the key topics to be discussed for possible revision are summarized below:

1. *Revise Definition of Heritage Tree*

Currently a heritage tree is 48" or more in circumference (15.2" in diameter) located in the tree preservation area, or any native oak tree 48" or more in circumference (15.2" in diameter) located in the buildable area.

Proposed revision would keep existing language but add:

- oak trees 6" larger in diameter within the tree preservation area (i.e. outside of buildable area) 12 inches (many 6" live oaks are poor specimens, bad structure etc. if the town just wants to know 6" is good)
- multi-trunk trees that measure 15" in diameter where the stem begins.
- Redwood trees 15" in diameter within buildable area

Further revisions considered would propose measuring the tree at 4.5' above grade instead of 4' which is current regulation.

2. *Revise the Tree Protection Zone*

Currently, the TPZ is determined by the formula: One foot per one inch of tree diameter. So a 20" heritage tree would require a 20' TPZ. The TPZ limits development within its boundaries for both on-site and off-site surrounding heritage trees.

Proposed revisions would be 10 times the diameter of the tree. So a 20" heritage tree would require a 16' TPZ. This revision most consistent with ANSI standards and neighboring jurisdictions and attempted to maintain a reasonable buildable area.

The TPZ specifically list activities allowed and prohibited. Activities currently permitted (mulching, root buffer, irrigation, aeration, fertilizing) would remain. Prohibited activities remain (Storage or parking vehicles, porta potties, refuse, excavated spoils or dumping of poisonous materials, including but not limited to, paint, petroleum products, concrete, stucco mix or dirty water. Swimming pool and/or spa water, trailer, container boxes, clean up areas, debris boxes, building materials, trenching, grade changes, tree houses, and soil compaction, the use of tree trunks as a winch support, anchorage, as a temporary power pole, sign posts or other similar function. Cutting of tree roots by utility trenching, foundation digging, placement of curbs and trenches and other miscellaneous excavation. Landscaping, hardscape and irrigation improvements. Soil Disturbance, Soil Compaction or grade changes. Drainage changes, including swimming pool, spa, and/or water features discharge) and language enhanced for clarity. I think it needs to be clear that irrigation does not mean irrigation trenching. No soil disturbance at 10x DSH would stop new development for sure.

3. *Enforcement of Required Reporting by Project Arborist*

Enforce the existing requirement for project arborist to submit monthly, written inspection reports to the Town Arborist to monitor changing conditions and tree health, and to assure tree protection standards are being met and to document any damage incurred by heritage trees. Any damage to a heritage tree would need to be reported to Town Arborist within 6 hours. If there is no soil disturbance and the trees are fenced at this TPZ an arborist wouldn't be needed. Big problem is demo. Not too many sites that don't have something within this TPZ.

4. *Require a Tree Inventory & Appraisal*

Require a tree inventory at initial project submittal and prior to permit that can be used throughout the project and after if damage/tree health declines that includes a written narrative, photos and appraisal of all heritage trees.

5. *Other Updates*

The definition of disturbance and damage to heritage trees would be enhanced and elaborated on. Definitions throughout *The Tree Preservation Standards* would be updated for consistency with ANSI standards. More detailed, specific language would be included on the requirement details for a Tree

Protection and Preservation Plan. Require dead trees be issued permit, in order to assure replanting. ~~Proposed movement/relocation of heritage trees would require review and approval by the Planning Commission.~~ It does seem that designating a no disturbance distance is necessary, but demo will remain a problem that requires a project arborist.

Please contact Sally Bentz, Town Arborist or Stephanie B. Davis, Senior Planner with further questions, or if you would like to set up a meeting to discuss further.

Thank you,

Stephanie B. Davis, AICP
Senior Planner, Town of Atherton
Direct: 650.773.7249

My Available Counter Hours: Tues 9 a.m.-11 a.m. & 1-4 p.m. and Thurs 9:00-11:00 a.m. Counter staff is available during other regular Tues & Thurs counter hours.

Planning Department Counter Hours are GENERALLY: Tuesdays and Thursdays from 8 a.m. – 11 a.m. and 1 p.m. to 4 p.m. Please note that certain days, Planning Staff may be in meetings or conducting inspections during these hours and therefore not available. We strongly encourage you set up an appointment to meet with Staff.

Submittal of plans can occur ANYTIME during regular Building Department Counter hours, M-F 8 a.m. -11 a.m. and 1 p.m.-4 p.m.



Stephanie Bertollo-Davis

From: Jude Kirik <jkirik@pacificpeninsula.com>
Sent: Friday, June 09, 2017 2:43 PM
To: Stephanie Bertollo-Davis; Sally Bentz; Michael Greenlee
Cc: Brad Smith; Steve Ackley; Matt Griffis; John Maxwell
Subject: RE: Atherton - Potential Regulation Revisions for Heritage Trees

Hi Stephanie –

Here are some of my overall thoughts on the proposed revisions as well as trees in Atherton (and elsewhere) in general:

1. Smaller oaks (6") have potential for relocation. There should be some acknowledgement that these trees can be moved with Staff approval. You can tie tree replacement requirements in case of failure to thrive as part of a modified permit procedure.
2. Redwoods in main building envelope – I have seen too many instances where a lone soldier (redwood) highly constrains the building envelope. In my opinion, redwoods that are not appropriately placed/located or group with like others is not the best environment for the tree. Redwoods tend to grow quite quickly and if you say removal and replacement with a 36-48" box outside of the building envelope is okay, the site should recover within a few years' time. See also #5 below.
3. There needs to be a clearer definition of a multi-trunk tree when referring to heritage tree issues. Perhaps a specific diagram would be in order so everyone is clear.
4. TPZ – this seems highly restrictive to have an absolute (black and white) stance on TPZ even though you are "technically" reducing the requirements from 12X to 10X. Most arborists that we interact with tell us that more reasonable guidelines (per industry standards) would be 6-7X of the tree diameter, outside of dripline or no more than 15-20% encroachment into the overall tree canopy – OR, some combination of all. We believe TPZ should be not so absolute, rather continue to be open to case by case dialogue with client teams and their arborists, administering to the intent and goals of the code rather than proposing we migrate to strict adherence to a one-size-fits-all prescription .
5. TPZ -we believe there should be some acknowledgement that certain trees (i.e. redwoods) are more resilient and therefore can handle a TPZ far less than an oak or other heritage trees. In over 30 years of design and construction, PPA/PPG has never lost a redwood on a project due to building too close to it (at least to our knowledge). We have built as close as 5' to enormous redwoods without an incident. We do not do that today as we attempt to give them more breathing room but the point is that all trees MAY not require a one size fits all TPZ – at least in our "layman's" opinion.
6. An arborist report on a monthly basis also seems excessive given the construction schedule/timeframe of our larger projects. Quarterly may be more reasonable or can be tied to some specific building inspections. We currently have about a dozen active projects in Atherton and our arborists book-out weeks in advance now due to their busy schedules – here in town as well as elsewhere. We would be swamping them as well as the Town with reports if they had to be prepared monthly.
7. Overall, I feel that "some" in Town have created a situation that others are paying for. A drastic change in the requirements MAY stimulate some "bad behavior" by that group and others in reaction to the rules – we do not think anyone wants that. I would rather see severe penalties for violations but more flexibility on removals which allow good construction and stewardship of the land to go forward for the next fifty years. The landscape in Town as in the rest of the country is constantly evolving – some things should be torn-down (much like some Fifties ranchers) and rebuilt – same thing for some trees, they should be removed and replanted so the overall health of the environment/landscape can evolve with the times.

Other issues:

1. Eucalyptus trees – should be an allowable removal – these trees continue to be dangerous in terms of things dropping as well as fire hazards. They should be included in 8.10.020 (3) – especially since they are mentioned in 8.10.040 (H) as not being a suitable replacement tree. I would also include all the pines in town as I have seen more of those trees drop over the last 10-20 years than any other tree in town. They are especially scary due to their overall size and most that I have seen provide little value – no screening, wind block, habitat, etc.
2. Per the guidelines in 8.10.040 B (2 & 3), I'd like to see more flexibility in tree removals. Many trees in town have been neglected or arbitrarily planted without more thought to future growth or health. Sometimes a lot of trees, even if they are heritage and healthy are not the best situation for the overall environment of the lot. I'd rather remove 2-3 trees if it means making 3-4 others look better and healthier. I guess I am asking for the town to be more "reasonable" in their approvals.
3. The reality is that if the TPZ as proposed goes into effect, a fair number of properties in town will have their building envelopes severely compromised – especially along the smaller one acre properties (or less) where there are perimeter trees along the property lines which will affect the potential for accessory structure design/construction. The other outcome will be a substantial increase in the number of applications/appeals to the Planning Commission or the City Council. I am not sure that this is the direction they want to move forward with regarding the situation.
4. Trees in right of ways and on neighbors properties should be more fully addressed when it comes to all these requirements. ROW trees have many issues of which include "butchering" by PGE. I would suggest more flexibility in removals if a fair amount of trees are planted in replacement in areas that do not conflict with easements.

That's it for now – see you at the PC meeting later in June – PPA/PPG/PPCG will be there in full.

Have a great weekend!

Jude C. Kirik

Principal | Architect | CGBP

PACIFIC PENINSULA ARCHITECTURE

Architecture | Custom Homes | Real Estate Development

Tel: 650 323 7900 ext 131

www.pacificpeninsula.com

From: Stephanie Bertollo-Davis [mailto:SBertollo-Davis@ci.atherton.ca.us]

Sent: Thursday, May 25, 2017 11:54 AM

To: Sally Bentz <sbentz@ci.atherton.ca.us>; Michael Greenlee <mgreenlee@ci.atherton.ca.us>

Subject: Atherton - Potential Regulation Revisions for Heritage Trees

Hello,

The Town's Planning Commission is currently evaluating potential revisions to regulations pertaining to heritage trees within the adopted the "*Tree Preservation Standards and Specifications*" document: <http://ca-atherton.civicplus.com/DocumentCenter/View/3377> . This discussion originated from recommendations of changes to this document as set forth by an Ad-Hoc Sub-committee comprised of 2 members of the Town's Tree Committee and 2 members of the Town's Planning Commission. *The Tree Preservation Standards* is a regulatory document implemented by Section 8.10.030 B "Prohibitions and Protections" of the Town's Municipal Code.

The Commission and staff would appreciate your review and feedback on the items currently being discussed. This discussion will be scheduled as a study session item (no formal action will be taken) at either the

Stephanie Bertollo-Davis

From: Sally Bentz
Sent: Tuesday, June 06, 2017 7:42 AM
To: Stephanie Bertollo-Davis
Subject: FW: Tree ordinance revision and updates

Comments below

Thank You

Sally Bentz-Dalton
Town Arborist
ISA Certified Arborist WE-9238AM
Town of Atherton
(650) 752-0526
sbentz@ci.atherton.ca.us
<http://www.ci.atherton.ca.us/index.aspx?nid=155> (Arborist services & Tree Protection)

"The best time to plant a tree was 20 years ago. The second best time is now." – Chinese Proverb

-----Original Message-----

From: Shawn Owen [mailto:shawn@owenhomes.com]
Sent: Monday, June 05, 2017 8:52 PM
To: Sally Bentz <sbentz@ci.atherton.ca.us>
Subject: Re: Tree ordinance revision and updates

Thanks Sally. Our position would remain, why punish everyone for the transgressions of a few. Make it a real deterrent and charge those that don't abide by the rules with very stiff penalties. We for one would much prefer to avoid the monthly reports, but do understand the need for appraisals at time of tree inventory. Use those appraisals as a basis and charge 1.5 the appraised value for those that don't follow the rules...

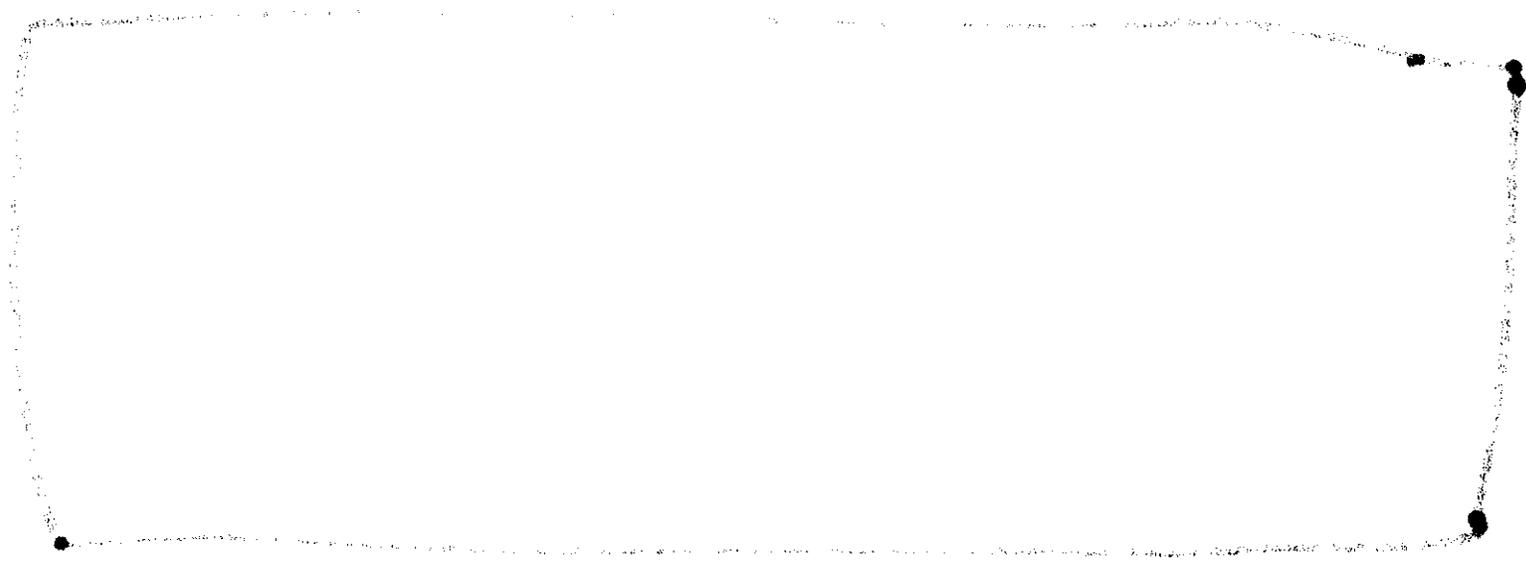
Shawn Owen
Vice President

Owen Signature Homes
445 S. San Antonio Road | Suite 201
Los Altos, CA 94022
PH: 650-948-9420 | FX: 650-948-1735 | www.owenhomes.com <<http://www.owenhomes.com/>>

On 6/5/17, 1:59 PM, "Sally Bentz" <sbentz@ci.atherton.ca.us> wrote:

Hello,

The Town's Planning Commission is currently evaluating potential revisions to regulations pertaining to heritage trees within the adopted the "Tree Preservation Standards and Specifications" document: <http://ca->



Stephanie Bertollo-Davis

Subject: Atherton - Potential Regulation Revisions for Heritage Trees
Location: Atherton Town Permit Center

Start: Tue 6/6/2017 9:30 AM
End: Tue 6/6/2017 10:00 AM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Stephanie Bertollo-Davis
Required Attendees: john@spmcclenahan.com; Sally Bentz

Hi John and thanks for the feedback and offer to come in and discuss.

Hopefully this time/day works to come into the permit center to discuss with Sally and I. If not, and you could please propose some days/times (I'm in all day Tuesdays & Thursday mornings) we can work to schedule an alternative time. I am not in the office this Thursday 6-1.

From: John McClenahan [mailto:john@spmcclenahan.com]

Sent: Friday, May 26, 2017 2:07 PM

To: Stephanie Bertollo-Davis <SBertollo-Davis@ci.atherton.ca.us>; Sally Bentz <sbentz@ci.atherton.ca.us>; Michael Greenlee <mgreenlee@ci.atherton.ca.us>

Subject: RE: Atherton - Potential Regulation Revisions for Heritage Trees

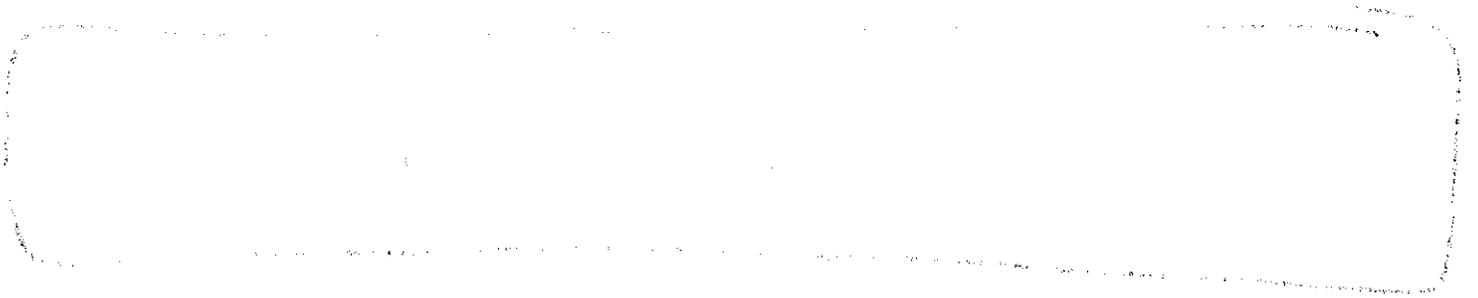
Hi Stephanie,

If the ordinance states that no soil disturbance is allowed within the TPZ, then construction will go down 95%. Other towns do have the same TPZ but allow encroachment inside with arborist approval (a little risky for the tree). I understand the starting point and would it be a plus for the trees.

We are already getting calls for people buying properties asking which trees they can cut down legally, due to growing concerns about the proposed ordinance.

If you guys have time to sit down for 20-30 minutes before the meeting, I can come in to discuss.

John Henry McClenahan
S.P. McClenahan Co., Inc.
Arboriculturists Since 1911
1 Arastradero Road
Portola Valley, CA 94028
650-326-8781 Office
650-854-1267 Fax
www.spmcclenahan.com



From: [Sally Bentz](#)
To: [Stephanie Bertollo-Davis](#)
Subject: FW: Current Tree Protection
Date: Friday, June 09, 2017 10:40:38 AM
Attachments: [image001.png](#)

I will send him standard document, but I have been using 10 x just so it's not so harsh for builders. I was waiting to find out what PC/CC decide before I enforce 1" per 1'. What do you think I should tell him? I just want to make sure I am consistent. Any feedback is great.

Thank You



Sally Bentz-Dalton

Town Arborist

ISA Certified Arborist WE-9238AM

Town of Atherton

(650) 752-0526

sbentz@ci.atherton.ca.us

<http://www.ci.atherton.ca.us/index.aspx?nid=155> (*Arborist services & Tree Protection*)

"The best time to plant a tree was 20 years ago. The second best time is now." – Chinese Proverb

From: Charles Belser [mailto:cbelser@pacificpeninsula.com]
Sent: Friday, June 09, 2017 10:37 AM
To: Sally Bentz <sbentz@ci.atherton.ca.us>
Subject: Current Tree Protection

Hi Sally,

There is a lot of discussion in our office regarding the current tree protection. The Town of Atherton website states 1" diameter = 1' TPZ but recent comments state only 10 times the diameter. Please send me the current requirements that are enforced now, before the Town adopts the revisions to the tree ordinance.

Thank you,

Charles Belser

Associate | CGBP

PACIFIC PENINSULA ARCHITECTURE

Architecture | Custom Homes | Real Estate Development

Tel: 650 323 7900 ext 124

www.pacificpeninsula.com

From: [Sally Bentz](#)
To: [Nestor Guevara Delgado](#)
Cc: [Stephanie Bertollo-Davis](#)
Subject: FW: Proposed Modifications to Tree Preservation Standards and Specs
Date: Monday, April 02, 2018 10:17:51 AM
Attachments: [image001.png](#)
[image002.png](#)

Thank You

***Come celebrate Arbor Day and help plant 20 trees in Holbrook-Palmer Park.
Volunteer and give back to the Town of Atherton.
Friday April 27th 2018 – 9:30am-12:00pm
Holbrook-Palmer Park at Jennings Pavilion***



Sally Bentz-Dalton

Town Arborist / Park Manager

ISA Certified Arborist WE-9238AM

Town of Atherton

(650) 752-0526

sbentz@ci.atherton.ca.us

<http://www.ci.atherton.ca.us/index.aspx?nid=155> (Arborist services & Tree Protection)

Counter Hours: Tuesday and Thursday 8-11 and 1-3:30 pm at Permit Center

“The best time to plant a tree was 20 years ago. The second best time is now.” – Chinese Proverb

From: Lisa Gibbs [mailto:lisa@arcanumarchitecture.com]

Sent: Thursday, March 01, 2018 12:48 PM

To: Stephanie Bertollo-Davis <SBertollo-Davis@ci.atherton.ca.us>; Sally Bentz <sbentz@ci.atherton.ca.us>

Cc: Lisa Nichols <lisan@arcanumarchitecture.com>

Subject: RE: Proposed Modifications to Tree Preservation Standards and Specs

So, for example, a multi-trunked apple tree over 15" dbh within or outside of the buildable area would be classified as heritage, just on the merit of being multi-trunked? I'm sorry if the question

comes off as disrespectful, I'm just surprised that species is not considered in determining heritage status. Particularly within the building envelope where a tree of insignificant species could drastically impact buildable area simply because it's over 15" and has multiple trunks.

Lisa D. Gibbs

415/ 515 6774

arcanum architecture, inc.

329 bryant street, suite 3c

san francisco, ca 94107

415/ 357 4400 tel

415/ 357 4404 fax

www.arcanumarchitecture.com

From: Stephanie Bertollo-Davis [<mailto:SBertollo-Davis@ci.atherton.ca.us>]

Sent: Thursday, March 1, 2018 12:36 PM

To: Lisa Gibbs <lisa@arcanumarchitecture.com>; Sally Bentz <sbentz@ci.atherton.ca.us>

Cc: Lisa Nichols <lisan@arcanumarchitecture.com>

Subject: RE: Proposed Modifications to Tree Preservation Standards and Specs

Correct, of this size, at this measurement in or out of buildable area regardless of species is the recommendation

Stephanie B. Davis, AICP

Senior Planner, Town of Atherton

Direct: 650.773.7249

My Available Counter Hours: Tues 9 a.m.-11 a.m. & 1-4 p.m. and Thurs 9:00-11:00 a.m. Counter staff is available during other regular Tues & Thurs counter hours.

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Submittal of plans can occur ANYTIME during regular Building Department Counter hours, M-F 8 a.m. -11 a.m. and 1 p.m.-4 p.m.

From: Lisa Gibbs [<mailto:lisa@arcanumarchitecture.com>]

Sent: Wednesday, February 28, 2018 2:26 PM

To: Stephanie Bertollo-Davis <SBertollo-Davis@ci.atherton.ca.us>; Sally Bentz <sbentz@ci.atherton.ca.us>

Cc: Lisa Nichols <lisan@arcanumarchitecture.com>

Subject: RE: Proposed Modifications to Tree Preservation Standards and Specs

Hi Stephanie,

I'm sorry, but I'm still not clear. The highlighted text I sent is from the definition of heritage tree (pasted again below from my original email below). I am reading this to definition to say that a multi-trunk tree over 15" dbh located anywhere on the parcel is now defined as a heritage tree, regardless of species. Is that correct? Or is the highlighted text specific to redwood trees?

Heritage Tree - means a tree 48 inches or more in circumference (15.2 inches diameter), measured at 4.5 feet (54 inches off the ground), located outside of the Buildable Area on the parcel AND any native oak (Quercus agrifolia, Q. lobata, Q. kelloggii), redwood tree (Sequoia sempervirons) greater than 48 inches in circumference (15.2 inches in diameter) or multi trunk tree measuring 15" dbh where the stem begins (tally of stems) located anywhere on the parcel.

Lisa D. Gibbs

415/ 515 6774

arcanum architecture, inc.

329 bryant street, suite 3c

san francisco, ca 94107

415/ 357 4400 tel

415/ 357 4404 fax

www.arcanumarchitecture.com

From: Stephanie Bertollo-Davis [<mailto:SBertollo-Davis@ci.atherton.ca.us>]

Sent: Wednesday, February 28, 2018 1:59 PM

To: Lisa Gibbs <lisa@arcanumarchitecture.com>; Sally Bentz <sbentz@ci.atherton.ca.us>

Cc: Lisa Nichols <lisan@arcanumarchitecture.com>

Subject: Re: Proposed Modifications to Tree Preservation Standards and Specs

Lisa,

The language you have highlighted below is correct in its intention as recommended. The intent is for all multi trunk trees 15" dbh where the stem begins both inside **and** outside the building area.

From: Lisa Gibbs <lisa@arcanumarchitecture.com>

Sent: Tuesday, February 27, 2018 1:04 PM

To: Sally Bentz; Stephanie Bertollo-Davis

Cc: Lisa Nichols

Subject: RE: Proposed Modifications to Tree Preservation Standards and Specs

Thanks Sally, but the text I copied from exhibit B in this document (<http://ca-atherton.civicplus.com/DocumentCenter/View/4884>) includes in the revised definition of Heritage Tree: **multi trunk tree measuring 15" dbh where the stem begins (tally of stems) located**

anywhere on the parcel.

Is the text “located anywhere on the parcel” in error?

Lisa D. Gibbs

415/ 515 6774

arcanum architecture, inc.

329 bryant street, suite 3c

san francisco, ca 94107

415/ 357 4400 tel

415/ 357 4404 fax

www.arcanumarchitecture.com

From: Sally Bentz [<mailto:sbentz@ci.atherton.ca.us>]

Sent: Tuesday, February 27, 2018 12:56 PM

To: Lisa Gibbs <lisa@arcanumarchitecture.com>; Stephanie Bertollo-Davis <SBertollo-Davis@ci.atherton.ca.us>

Cc: Lisa Nichols <lisan@arcanumarchitecture.com>

Subject: RE: Proposed Modifications to Tree Preservation Standards and Specs

Hi Lisa

This is in regards to all trees outside of the buildable area that are not 15.2” Oaks or Redwoods.

Thank You



Sally Bentz-Dalton

Town Arborist / Park Manager

ISA Certified Arborist WE-9238AM

Town of Atherton

(650) 752-0526

sbentz@ci.atherton.ca.us

<http://www.ci.atherton.ca.us/index.aspx?nid=155> (Arborist services & Tree Protection)

Counter Hours: Tuesday and Thursday 8-11 and 1-3:30 pm at Permit Center

“The best time to plant a tree was 20 years ago. The second best time is now.” – *Chinese Proverb*

From: Lisa Gibbs [<mailto:lisa@arcanumarchitecture.com>]

Sent: Tuesday, February 27, 2018 12:46 PM

To: Sally Bentz <sbentz@ci.atherton.ca.us>; Stephanie Bertollo-Davis <SBertollo-Davis@ci.atherton.ca.us>

Cc: Lisa Nichols <lisan@arcanumarchitecture.com>

Subject: Proposed Modifications to Tree Preservation Standards and Specs

Hello Stephanie and Sally,

I see that the proposed modifications intend to define where/how a multi-trunk tree is measured, but is it the intent that any multi-trunk tree measuring 15" DBH, regardless of species, is to be classified as heritage anywhere on the parcel? Or is the text I highlighted below speaking specifically about multi-trunk redwoods?

Heritage Tree - means a tree 48 inches or more in circumference (15.2 inches diameter), measured at 4.5 feet (54 inches off the ground), located outside of the Buildable Area on the parcel AND any native oak (Quercus agrifolia, Q. lobata, Q. kelloggii), redwood tree (Sequoia sempervirens) greater than 48 inches in circumference (15.2 inches in diameter) or multi trunk tree measuring 15" dbh where the stem begins (tally of stems) located anywhere on the parcel.

Lisa D. Gibbs

415/ 515 6774

arcanum architecture, inc.

329 bryant street, suite 3c

san francisco, ca 94107

415/ 357 4400 tel

415/ 357 4404 fax

www.arcanumarchitecture.com

From: [Jude Kirik](#)
To: [Nestor Guevara Delgado](#); [Stephanie Bertollo-Davis](#)
Cc: [Brad Smith](#); [Steve Ackley](#); [Matt Griffis](#)
Subject: RE: Planning Commission Packet February 28, 2018
Date: Wednesday, February 28, 2018 4:32:13 PM
Attachments: [60 Michaels way TPZ study.pdf](#)

Hi Stephanie,

Apologies for the last minute email, but I wanted to re-iterate my concern regarding the revisions and updates to the Atherton Tree Ordinance as proposed. As per my other emails and commentary at the Planning Commission over the last year, I feel some of the recommendations are severely restrictive and are going to cause a major influx of requests for exceptions to the Commission on a monthly basis.

Of most concern is the on-going debate on TPZ and the potential strict interpretation of the regulations with no exceptions. As a current example of the challenges we face on the design side, I am attaching a diagram which illustrates a specific case for a lot here on Michael's Way. As you can see, the vast majority of the rear yard would be deemed "unbuildable" due to the 10X TPZ (yellow) or even with an 8X TPZ (orange). What is really ironic is that some of the trees on the property were planted by a previous owner and other structures (clay tennis court and shed) already exist in place that clearly have not had impact on the health of the trees. There is even a detached garage structure that was built close to three heritage oaks about ten years ago. Even though the structure is within a 6X TPZ, the oaks appear to show no signs of stress or failure. I personally continue to recommend that the specific TPZ for each tree should be a "conversation" between the client's arborist and the town's arborist, Sally Bentz-Dalton – not a strict absolute number (i.e. 10X's). I would hope that there can be some latitude in process to give everyone flexibility so as to not make the Atherton Planning Commission the new Atherton TPZ Appeal Board.

A few other things to consider include fences and walls along property lines. Most Atherton lots are lined with trees at the property lines – how will the regulations affect a property owner's rights to build a fence or a wall since most instances will have that those elements within 8X's TPZ? This specific illustration would not allow any fencing/wall on the rear line nor the majority of the side property lines – even at 6X's there would be interruptions in the fencing.

Lastly, how does mandated underground trenching for PGE utility services factor into the process? In some cases as with the Michael's Way lot, the utility services come from a utility pole along the rear line which is serviced thru a utility easement. Power must go thru the TPZ so will we have to come to the Planning Commission to discuss this exception? One other thing on trenching thru TPZ, as per section 2.3, item 4 on page 10 of the Town of Atherton Tree Preservation Standards and Specifications, trenching must be done in ONE day – start to finish. It is virtually impossible/unrealistic to excavate a trench (by hand, air spade or directional boring), install the base and lines, get an inspection by building/PGE and then backfill as well. This regulation is not possible to execute and would be difficult to enforce. As with many things within the ordinance, there is a difference between theory and reality, that's why I continue to push for some kind of "flexibility" in the whole matter.

That's it for now. I apologize again for not being able to attend tonight's hearing due to my civic obligation's in Los Altos. Please pass this correspondence thru to the Chair Lane and the rest of the Commission – hopefully there will be some consideration.

Thanks again for including me in the process – respectfully yours,

Jude C. Kirik

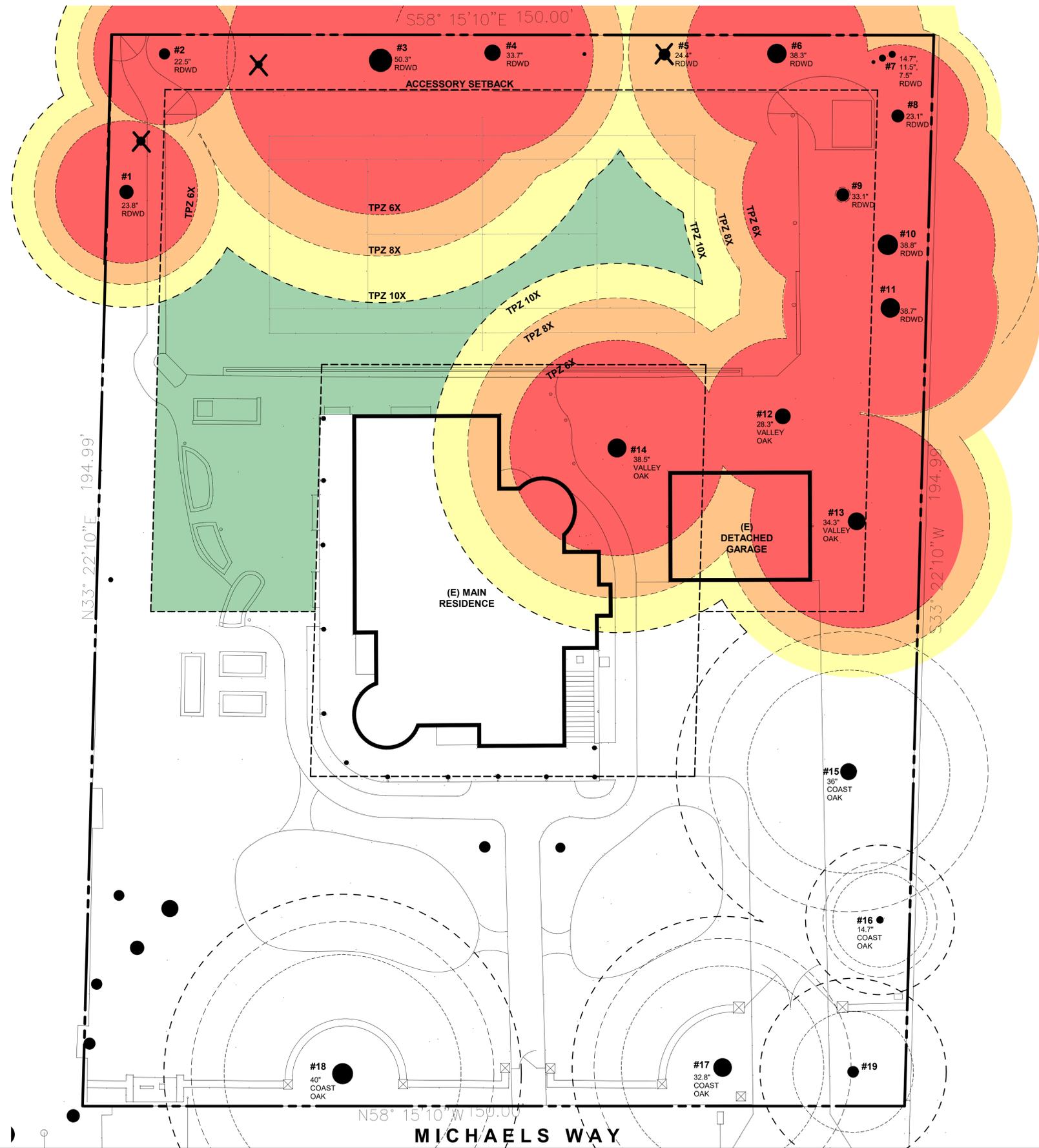
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PLANNING DATA

PROJECT ADDRESS:	60 MICHAELS WAY ATHERTON, CALIFORNIA
APN:	070-355-080
ZONING DISTRICT:	R-1A
LOT AREA:	29,237.33 SQ.FT.
MAXIMUM FLOOR AREA (MFA):	5,491.6 SQ.FT (16.3% OF LOT + 726)
MAXIMUM FLOOR AREA - 2ND FLOOR:	2,192.8 SQ.FT (7.5% OF LOT AREA)
BASEMENT:	DOES NOT COUNT TOWARDS MFA IF AREA MEETS DEFINITION OF BASEMENT
ROOFED AREA: (OPEN > 2 SIDES)	(5% OF MFA + 500)
EXISTING AREAS:	
(E) MAIN RESIDENCE:	4,333 SQ.FT. A.
(E) DETACHED GARAGE:	520 SQ.FT. B.
(E) ROOFED AREA: (OPEN > 2 SIDES)	655 SQ.FT. C. < 774.5 SQ. FT. EXEMPT
TOTAL EXISTING AREAS:	4,853 SQ.FT.
ALLOWABLE MFA:	5,491.6 SQ.FT.
AREA REMAINING:	638.6 SQ.FT.

TREE PROTECTION ZONE COLOR KEY

- TPZ 6X DIAMETER
- TPZ 8X DIAMETER
- TPZ 10X DIAMETER
- ACCESSORY STRUCTURE BUILDABLE AREA

February 28, 2018

My name is Tina Patterson. I live at 176 Tuscaloosa Ave. next door to a large residential building project at 172 Tuscaloosa.

The symbol of our town is the majestic Oak, and yet many of our town's heritage trees have been dying over the past 7 years. I attribute this decline to a combination of the drought and most importantly to the negative impact from the dramatic increase in building projects, especially those projects where builders ignore our town's Tree Preservation Guidelines that have been in existence since 2004. The builders are required to acknowledge these Tree Preservation Guidelines in writing before obtaining any permits, yet some choose to ignore the regulations, knowing that the overwhelmed Town staff can't possibly monitor all the projects for on site conformance.

The Tree Preservation Guidelines specifically prohibit the following activities within a heritage tree's protected zone. I recorded all of them being ignored at 172 Tuscaloosa, and notified both the on site manager, as well as the town's arborist:

1. Failure to erect protective fencing around all specifically numbered heritage trees as noted on the approved building plan.
2. Removal of said protective fencing, for the builder's convenience, without specific approval from the town arborist.
3. Disturbance and compaction of soil by the recurring use of a backhoe and skip loader within TPZ areas.
4. Trenching within a TPZ with a backhoe instead of the required digging by hand to minimize root cutting.
5. Storage of excavated soil against the trunk of a heritage oak.

The Tree Preservation Guidelines Prohibit new construction in TPZ areas, yet the builder of 172 Tuscaloosa managed to negotiate two exclusions, which allowed him to build within the TPZ of up to 8 Heritage trees, even though there were nearby alternative sites. Builders know that the town does not consistently enforce the Guidelines, so they negotiate with the overwhelmed town arborist for exceptions to the regulations and consequently the Guidelines become meaningless. It

appears that builders see the tree preservation Guidelines as an irritating annoyance to be dealt with not conformed to.

The first negotiated exception to build within a TPZ at 172 Tuscaloosa is for a 6' high walled utility structure (33'x13'), which is currently under construction along the front property line. This structure is well within the TPZ of 8 heritage oaks (including a spectacular 57" Valley Oak) as measured by the existing as well as the proposed 10 X trunk diameter for new structures or even by the 8 X trunk diameter for walls.

The second negotiated exception to build within a TPZ is a planned, but not yet built, detached garage with an additional attached 6'walled utility pad. This garage is well within the TPZ of two heritage trees (19" coast live oak and 33" coast redwood) based on both the existing 12 X diameter of trunk measurement as well as the proposed 10 X diameter of trunk measurement. This approved garage could be located approximately 15 feet closer to the main house thus removing it from the TPZ while still maintaining the required 8' separation from the main building.

I can't understand how these two structures were approved to be built in heritage TPZ zones and would like your advice on how I can object to their respective locations.

Thank you

TOWN OF ATHERTON

Tree Preservation Guidelines Standards and Specifications



February 2004

TOWN OF ATHERTON

TREE PRESERVATION GUIDELINES STANDARDS AND SPECIFICATIONS

SECTION 1.00 DEFINITIONS

For the purpose of these Guidelines and interpretation of the standards and specifications, the following definitions shall apply:

- 1.01 **Buildable Area** - means the area of a parcel upon which, under applicable zoning regulations, a main dwelling unit may be built without a variance
- 1.02 **Building Official** - means the Director of Building and Planning or the Director's designee
- 1.03 **Dead Tree** - means a tree that is dead or that has been damaged beyond repair or is in an advanced state of decline as determined by a certified arborist. If the tree has been determined to be dead, removal is permitted under Section 8.10 of the Atherton Municipal Code.
- 1.04 **Development Project** - means any construction activity including demolition, grading, drainage improvements, new construction of main house or accessory structures, added square footage to existing main house or accessory structures, site preparation and landscaping
- 1.05 **Diameter at Breast Height** - means the diameter of the tree trunk at 4 feet above natural grade level. The diameter may be calculated by using the following formula:
$$\text{DBH} = \text{circumference at 4 feet} \div 3.142$$
- 1.06 **Disturbance** - refers to construction or development activities that may damage trees
- 1.07 **Dripline** - means the width of the tree, as measured by the lateral extent of the foliage
- 1.08 **Excessive Pruning** - means removing in excess of 25 percent of the functioning leaf, branch. Pruning in excess of 25 percent is injurious to the tree and is prohibited
- 1.09 **Heritage Tree** - means a tree 48 inches or more in circumference (15.2 inches dbh), measured at 48 inches above natural grade, located outside of the Buildable Area on the parcel AND any native oak (*Quercus agrifolia*, *Q. lobata*, *Q. kelloggii*) greater than 48 inches in circumference located anywhere on the parcel.

- 1.10 **Injury** - means bruising, scarring, tearing or breaking of roots, bark, trunk, branches or foliage, herbicide or poisoning, or any other action which is likely to cause the death or permanent damage to a tree.
- 1.11 **Mechanical Injury** - means a noninfectious injury which often leads to poor growth, a damaged appearance or death to the tree. Common causes of mechanical injury are landscape maintenance equipment, staking damage, vehicles, vandalism, weather, insects and animals.
- 1.12 **Monthly Inspection Report** - means a monthly written report prepared by the Project Arborist
- 1.13 **Project Arborist** - means a certified arborist retained by the owner for the purpose of overseeing on-site activity involving the welfare of the trees to be retained
- 1.14 **Protective Tree Fencing** - means a temporary enclosure erected around a tree to be protected at the boundary of the **Tree Protection Zone**
- 1.15 **Root Buffer** - means a temporary layer of material to protect the soil texture and roots. The buffer shall consist of a base course of tree chips spread over the root area, keeping one foot clear of the trunk clear, to a 4”- 6” depth, capped by a base course of 3/4-inch quarry gravel to stabilize the 3/4” plywood on top.
- 1.16 **Site Plan** - means a set of drawings (e.g. preliminary drawings, grading, demolition, building, utilities, landscape, irrigation, tree survey, etc.) that show existing site conditions and proposed landscape improvements, including trees to be removed, relocated or to be retained. Site plans shall include the following minimum information that may impact trees:
- A. Surveyed location, species, size, dripline area of heritage trees (including trees located on neighboring property that overhang the project site) and Street Trees within 30-feet of the project site
 - B. Paving, concrete, trenching or grade change located within the **Tree Protection Zone (TPZ)**
 - C. Existing and proposed utility pathways
 - D. Surface and subsurface drainage and aeration systems to be used
 - E. Walls, tree wells, retaining walls and grade change barriers, both temporary and permanent
 - F. Landscaping, irrigation and lighting within dripline of trees
 - G. All of the final approved site plan sheets shall reference tree protection instructions
- 1.17 **Soil Compaction** - means the compression of soil particles that may result from the movement or parking of heavy machinery and trucks, storage of construction materials, structures, paving, etc. within the **Tree Protection Zone. (TPZ)**
- 1.18 **Soil Fracturing** - means the loosening of hard or compacted soil around a tree

- 1.19 **Street Tree** - means any tree growing within the street right-of-way, outside of private property
- 1.20 **Tree Appraisal** - means a method of determining the monetary value of a tree as it relates to the real estate value of the property, neighborhood or community
- 1.21 **Tree Protection and Preservation Plan** - means a plan prepared by a certified arborist that outlines measures to protect and preserve trees
- 1.22 **Tree Protection Zone, (TPZ)** - means, unless otherwise specified by a Project Arborist or Town Arborist, the area of temporary fenced tree enclosure, as set forth in Section 2.03
- 1.23 **Trenching** - means any excavation to provide irrigation, install foundations, utility lines, services, pipe, drainage or other property improvements below grade
- 1.24 **Verification of Tree Protection** - means the Project Arborist shall verify, in writing, that all pre-construction requirements have been met
- 1.25 **Vertical Mulching** - means auguring, hydraulic or air excavation of vertical holes within a tree's root zone to loosen and aerate the soil, typically to mitigate Soil Compaction

TOWN OF ATHERTON

TREE PRESERVATION GUIDELINES STANDARDS AND SPECIFICATIONS

SECTION 2.00 PROTECTION OF TREES DURING CONSTRUCTION

The objective of this section is to reduce the negative impacts of construction on trees. The tree protection regulations are intended to guide a construction project to insure that appropriate practices will be implemented in the field to eliminate or mitigate undesirable consequences that may result from construction activities.

Typical negative impacts that occur during construction may include:

- Mechanical injury to roots, trunk or branches
- Compaction of soil, which degrades the functioning roots, inhibits the development of new ones and restricts drainage
- Changes in existing grade which can cut or suffocate roots
- Alteration of the water table - either raising or lowering
- Sterile soil conditions associated with stripping off topsoil

SECTION 2.01 TREE PROTECTION AND PRESERVATION PLAN

Prior to commencement of a development project, a property owner shall have prepared a *Tree Protection and Preservation Plan* if any activity is likely to impact a Heritage Tree as determined by the Town Arborist. The *Tree Protection and Preservation Plan* will be prepared by a certified arborist to assess impacts to trees, recommend mitigation to reduce impacts to a less than significant level and identify construction guidelines to be followed through all phases of a construction project.

SECTION 2.02 PRE-CONSTRUCTION REQUIREMENTS

The following six steps shall be incorporated within the *Tree Protection and Preservation Plan* prior to grading, demolition or building permit issuance:

A. Site Plan

On the *Tree Protection and Preservation Plan* for the project, plot accurate trunk locations and the Dripline of all Heritage Trees. In addition, for Heritage Trees the plans shall accurately show the species, trunk diameter, dripline and clearly indicate the **Tree Protection Zone** (TPZ) to be enclosed with the specified tree fencing as a bold dashed line.

B. Tree Disclosure Statement

A statement signed by the owner of the property, on a form provided by the Town, acknowledging the existence of Heritage Trees on the property. (See *Appendix II*)

C. Verification of Tree Protection

The Project Arborist shall verify, in writing, that all pre-construction requirements have been met as set forth in Section 2.02. Written verification must be submitted to and approved by the Town Arborist prior to demolition, grading or building permit issuance.

D. Pre-Construction Meeting

The demolition, grading and general contractors are required to meet with the Project Arborist and the Town Arborist at the site prior to beginning demolition, grading or new construction to review tree protection measures and to establish haul routes, staging areas, etc.

E. Protective Tree Fencing for Heritage Trees or Street Trees

Fenced enclosures shall be erected around trees to be protected to establish the **TPZ** in which no soil disturbance is permitted and activities are restricted.

1. Size and type of fence

All trees to be preserved shall be protected with 6 foot high, minimum 12 gauge chain link fence. Fences are to be mounted on 2-inch diameter galvanized iron posts, driven into the ground to a depth of at least 2-feet at no more than 10-foot spacing (See detail, *Appendix III*). This detail shall appear on grading, demolition and building permit plans.

2. Duration

Tree fencing shall be erected before any demolition, grading or construction begins and remain in place until the Town Arborist approves the removal.

3. "Warning" Sign

A warning sign shall be prominently displayed on each fence. (*See Appendix IV*). The signs are available at the Building Department.

SECTION 2.03 TREE PROTECTION ZONE or (TPZ)

Each Heritage Tree to be protected, including those on neighboring properties, shall have a designated **TPZ** identifying the area sufficiently large enough to protect the tree and roots from disturbance. **The TPZ area can be determined by the formula: One foot per inch of diameter.** For example a 20" diameter tree shall have a 20' radius from the perimeter of the trunk or a 20 foot **TPZ**. Any deviation in determining the **TPZ** will require approval by the Town Arborist.

A. Activities prohibited within the TPZ include:

1. Storage or parking vehicles, building materials, refuse, excavated spoils or dumping of poisonous materials, including but not limited to, paint, petroleum products, concrete, stucco mix or dirty water
2. The use of tree trunks as a winch support, anchorage, as a temporary power pole, sign posts or other similar function

3. Cutting of tree roots by utility trenching, foundation digging, placement of curbs and trenches and other miscellaneous excavation
4. Soil Disturbance, Soil Compaction or grade changes
5. Drainage changes

B. Activities permitted or required within the TPZ include:

1. **Mulching** - During construction, it is recommended that wood chips or similar material be spread within the **TPZ** to a 4-to 6-inch depth, leaving the trunk clear of mulch.
2. **Root Buffer** - When areas within the **TPZ** cannot be fenced, a Root Buffer is required and shall cover the root zone.
3. **Irrigation, aeration, fertilizing** or other beneficial practices that have been specifically approved for use by the Project Arborist within the **TPZ**.

C. Erosion Control

If a tree is adjacent to or in the immediate proximity to a grade slope of 8% (23 degrees) or more, then approved erosion control or silt barriers shall be installed outside the **TPZ** to prevent siltation and/or erosion within the **TPZ**.

D. Tunneling and Directional Drilling

If trenching or pipe installation has been approved within the TPZ, then the trench shall be either cut by hand, air spade, or by mechanically boring the tunnel under the roots with a horizontal directional drill and hydraulic or pneumatic air excavation technology. In all cases, install the utility pipe, immediately backfill with soil and soak within the same day.

E. Tree Pruning and Surgery

The most compelling reason to prune is to develop a strong, safe framework and tree structure and to reduce hazards. If the Project Arborist recommends that trees be pruned, the standard pruning shall consist of “crown cleaning” as defined by ISA Pruning Guidelines.

1. Maximum Pruning

Maximum pruning should only occur if approved by the Town Arborist. No more than one fourth (25 percent) of the functioning leaf, branch and stem area may be removed within one calendar year of any Heritage Tree, or removal of foliage so as to cause the unbalancing of the tree. Trees should not be topped.

2. Tree Workers

Pruning shall not be attempted by construction or contractor personnel, but shall be performed by a qualified tree care specialist or certified tree worker, according to specifications contained within these procedures.

F. Tree Removal Procedure

When Heritage Trees are removed, tree removal practices apply:

- 1.** A permit is required to remove any Heritage Tree.
- 2.** Any tree to be removed that may impact a Heritage Tree shall be done under the supervision of a certified arborist.
- 3.** The removal of trees that extend into the branches or roots of Heritage Trees shall not be attempted by demolition or construction personnel, grading or other heavy equipment. A certified arborist or certified tree worker shall remove, or oversee the removal of the tree in a manner that causes no damage above or below ground to trees that remain.

SECTION 2.04 INJURY MITIGATION

A mitigation program is required if the approved development will cause drought stress, dust accumulation or Soil Compaction to trees that are to be saved. To help reduce impact injury, one or more of the following mitigation measures shall be implemented and supervised by the Project Arborist.

A. Irrigation Program

Irrigate to wet the soil within the **TPZ** during the dry season as specified by the Project Arborist.

B. Dust Control Program

During periods of extended drought, or grading, spray trunk, limbs and foliage to remove accumulated construction dust.

C. Soil Compaction Damage

Compaction of the soil is the largest killer of trees on construction sites due to suffocation of roots. If compaction to the upper 12-inch soil within the **TPZ** has occurred, then one or more of the following mitigation measures shall be implemented as recommended by the Project Arborist or the Town Arborist.

1. Type I Mitigation

If an approved paving, hardscape or other compromising material encroaches within the **TPZ**, an aeration system shall be designed by a certified arborist and used within this area.

2. Type 11 Mitigation

If inadvertent compaction of the soil has occurred within the **TPZ**, the soil shall be loosened by a method approved by the Town Arborist, such as Vertical Mulching or Soil Fracturing.

SECTION 2.05 DAMAGE TO TREES

A. Reporting

Any damage or injury to trees shall be reported within 6 hours to the Project Arborist and Town Arborist so that mitigation can take place. All mechanical or chemical injury to branches, trunk or to roots over 2-inches in diameter shall be reported in the Monthly Inspection Report.

B. Appraised Value

If a tree is damaged, a Certified Arborist determines the Tree Appraisal value by adjusting a tree's basic value by its condition, location, and species using the most recent edition of the *Guide for Plant Appraisal*, published by the Council of Tree and Landscape Appraisers. The formula used should also be noted.

C. Mitigation

1. Root injury

If trenches are cut and tree roots 2-inches or larger are encountered they must be cleanly cut back to a sound wood lateral root under the supervision of the Project Arborist. The end of the root shall be sealed and kept moist. All exposed root areas within the **TPZ** shall be backfilled or covered within one hour. Exposed roots may be kept from drying out by temporarily covering the roots and draping layered burlap or carpeting over the upper 3-feet of trench walls. The materials must be kept wet until backfilled to reduce evaporation from the trench walls.

2. Bark or trunk wounding

Current bark tracing and treatment methods shall be performed by a qualified tree care specialist within two days.

3. Scaffold branch or leaf canopy injury

Remove broken or torn branches back to an appropriate branch capable of resuming terminal growth within five days. If leaves are heat scorched from equipment exhaust pipes, consult the Project Arborist within 6 hours.

SECTION 2.06 INSPECTION SCHEDULE

The Project Arborist retained by the applicant shall conduct the following required inspections of construction sites containing protected Heritage Trees. Inspections shall verify that the type of tree protection is consistent with the standards outlined within these Guidelines. For each required inspection, a monthly inspection report of any change in tree

conditions and actions taken shall be provided to the Town of Atherton. Inspection Reports shall be faxed to the Town Arborist at (650) 688-6539 or by e-mail at kanderson@ci.atherton.ca.us.

SECTION 2.07 REQUIRED INSPECTIONS

A. Pre-Construction Meeting

Prior to commencement of construction, the applicant or contractor shall conduct a pre-construction meeting to discuss tree protection with the job site superintendent, grading equipment operators, Project Arborist, and Town Arborist.

B. Inspection of Protective Tree Fencing

The Town Arborist shall be in receipt of a written statement from the applicant or Project Arborist verifying that he has conducted a field inspection of the trees and that the protective tree fencing is in place prior to issuance of a demolition, grading, or building permit.

C. Inspection of Rough Grading

The project arborist shall perform an inspection during the course of rough grading adjacent to the **TPZ** to ensure trees will not be injured by compaction, cut or fill, drainage and trenching, and if required, inspect aeration systems, tree wells, drains and special paving. The contractor shall provide the Project Arborist at least 48 hours advance notice of such activity.

D. Monthly Inspections

The Project Arborist shall perform monthly inspections to monitor changing conditions and tree health and submit a written report to the Town Arborist.

E. Special Activities within the Tree Protection Zone

Work in this area (TPZ) requires the direct onsite supervision of the Project Arborist.