



Item No. 2 Town of Atherton

CITY COUNCIL STAFF REPORT – STUDY SESSION

TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: GEORGE RODERICKS, CITY MANAGER

FROM: STEPHANIE B. DAVIS, AICP SENIOR PLANNER

DATE: DECEMBER 4, 2019

**SUBJECT: DISCUSSION ON ATHERTON MUNICIPAL CODE CHAPTER 17.50
“LANDSCAPE SCREENING” - LANDSCAPE SCREENING REGULATIONS
IN THE FRONT OF PROPERTIES.**

RECOMMENDATION

It is recommended that the City Council receive a report from staff on the Town’s Municipal Code regulations regarding landscape screening, possible amendments relative to requiring landscape screening in the front of properties and provide direction to staff.

BACKGROUND

At the May 22, 2019 Planning Commission meeting, an Atherton resident expressed his concerns with the Town’s current Landscape Screening Ordinance requirements which do not require landscape screening along the front of properties/within the front yard areas visible from the public right-of-way. At this meeting, the Planning Commission directed staff to report back on the topic.

On October 23, 2019 the Planning Commission discussed the topic of Landscape Screening as part of the regular meeting agenda. The Atherton resident who initially expressed his concerns submitted a presentation of his request and photographs for consideration (see Attachment 2). Upon discussion, the Planning Commission unanimously expressed their interest in further evaluating the topic of potential amendments to the Landscape Screening Ordinance which could require landscape screening in the front yard and directed staff to present the topic to the City Council for direction as to whether or not to move forward in any further evaluation.

ANALYSIS

Chapter 17.50 “Landscape Screening” of the Town’s Municipal Code is purposed to reduce the impact of structures on neighborhoods and to provide for the maintenance of the individual privacy of homes in a neighborhood to a reasonable degree by requiring landscape screening where appropriate (See Attachment 1). Landscape screening is required in the majority of development projects seen throughout the Town and is specifically required under any of the following scenarios:

- New construction that exceeds eighteen feet above grade.
- New construction of an accessory structure or alteration to an existing accessory structure that is more than six feet above grade and is less than twenty-five feet from a property line.
- New construction of an accessory structure or alteration to an existing accessory structure that is ten feet above grade and less than thirty-five feet from a property line.
- In the case of additions to existing structures, only those areas adjoining each addition that meet the above criteria are required to be landscape screened.

In the above instances, the current Ordinance further specifies that all front, side, and rear yards shall be landscape screened and that front yards contiguous to a street shall not require landscape screening.

From a historical perspective, the intended spirit and intent of the Landscape Screening Ordinance was to provide aesthetic and privacy mitigation of new construction between private properties through landscape buffering from trees and other natural vegetation.

Staff met with other Town Departments to discuss the topic of considering landscape screening requirements in the front of properties and received the following feedback:

- Depending upon the extent of the landscaping planted in front of a front yard walls/fences, there was some concern expressed on security and the resulting vantages/visibility of the interior of the property from a police officer patrolling perspective.
- Potential challenges that landscaping in proximity/adjacent to the public right-of-way could create for implementing future bicycle and pedestrian improvements as identified in the Town's adopted Bicycle and Pedestrian Master Plan.
- The variation of where an actual property line is located, relative to the defined public right-of-way. A public right-of-way width can vary from street to street, thus creating an inconsistent area in front of front yard walls/fences left to plant. Any landscaping planted within the defined public-right-of-way would require an encroachment permit.
- The Town recently adopted a Green Infrastructure (GI) Work Plan (a state-mandated regulatory document that requires cities to reduce pollutants in stormwater runoff by creating stormwater management systems and features that mimic nature by absorbing and storing water or a shift towards traditional "gray" water storm drainage systems to "green.") Some of the recommended measures do include some landscaping elements that focus on landscape-based areas that use soil and plants to treat stormwater. While the location of such could vary site by site, those properties implementing such treatment could locate such landscape-based areas in the front of the property. To date, the Town has received 2 permits under the new GI Workplan, of which both include some stormwater treatments that incorporate some landscaping in the front yard.

It is noted that the Town has observed that a majority of full site new developments that include a new front yard wall or fence, do typically chose to install some landscaping in this area voluntarily.

It is further noted that the letter of request submitted has been the only instance where a request for landscape screening along the front of properties/in front of front yard gates/walls has been brought to the attention of staff.

For reference, a summary of landscaping requirements along the public right-of-way in other surrounding jurisdictions has been provided below.

Jurisdiction	Landscape Screening Requirements Along Public Right-of-Way	Design Guidelines for Landscaping along Public Right-of-Way
Woodside	N	Y
Hillsborough	N	Y
Portola Valley	N	Y
Menlo Park	N	N
Palo Alto	N	N
Saratoga	N	Y
Los Altos Hills	N	Y

As the table above indicates, none of the 7 surveyed jurisdictions have a Municipal Code regulation requiring landscape screening along the public right-of-way. Of those 7 jurisdictions, 5 have separate design review guidelines that provide some recommendations and/or suggestions referencing landscape plantings and most are intended to soften the aesthetic impact of the main residence itself. However, these 5 jurisdictions have a separate design review process that reviews the design of the associated new residence and that design review includes the landscaping.

POLICY FOCUS

Historically, Atherton has not had Design Review of new construction, nor a policy approach to dictate specific aesthetic “architectural styles”, however, the Town has had a consistent implementation approach of the development standards (i.e. setbacks, height, etcetera) in order to provide assurances to the community of where and/ how buildings and structures could be built, but not the architectural style. Neither the Town’s existing, adopted General Plan, nor proposed 2019 General Plan update include any land use, or other goals, objectives, or policies, that address any type of *design standards* for residential development. Any proposed amendments to the Landscape Screening Ordinance to require screening in the front yard area should also consider the purpose and intent of any such amendments and their consistency with the Town’s General Plan.

FISCAL IMPACT

The cost associated with the preparation of any updated Zoning Ordinance amendment would need to be incurred by the annual Planning Department budget. The cost to implement any regulation of an ordinance would be paid for by the applicants for any 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.

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) – October 23, 2019
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)
- Tree Committee (meets each month)

Attachments:

1. Chapter 17.50 “Landscape Screening”
2. Atherton Screening Code Presentation, received July 5, 2019 from Atherton resident

Chapter 17.50 LANDSCAPE SCREENING

Sections:

- [17.50.010](#) Purpose.
- [17.50.020](#) Applicability.
- [17.50.030](#) General Requirements.
- [17.50.040](#) Maintenance.
- [17.50.050](#) Continued Landscaping.
- [17.50.060](#) Installation Requirements.
- [17.50.070](#) Plant Coverage and Tree Sizes.
- [17.50.080](#) Protection of Heritage Trees.
- [17.50.090](#) Violation.
- [17.50.100](#) Appeals.

17.50.010 Purpose.

The purposes of this chapter are to reduce the impact of structures on neighborhoods and to provide for the maintenance of the individual privacy of homes in a neighborhood to a reasonable degree by requiring landscape screening where appropriate. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.020 Applicability.

The requirements of this chapter shall apply to the following projects:

- A. New construction that exceeds eighteen feet above grade; or
- B. New construction of an accessory structure or alteration to an existing accessory structure that is more than six feet above grade and is less than twenty-five feet from a property line; or
- C. New construction of an accessory structure or alteration to an existing accessory structure that is ten feet above grade and less than thirty-five feet from a property line.

In the case of additions to existing structures, only those areas adjoining each addition that meet the above criteria are required to be landscape screened. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.030 General Requirements.

The following general landscape requirements apply to all residential and nonresidential property within the town:

- A. All front, side, and rear yards shall be landscape screened as described in this chapter. Front yards contiguous to a street shall not require landscape screening.
- B. Plantings shall be provided by the owners and located to reduce the visual impact of structures. Planting with appropriate trees and plants shall be used where necessary to provide privacy. Landscaping on adjacent properties may be taken into consideration.
- C. The provisions contained in this chapter are intended to be minimum standards and shall not preclude application of additional requirements where, in the opinion of the town arborist, such additional requirements are necessary to attain the purposes of this chapter and to attain compatibility with the general plan and the goals and policies of the town. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.040 Maintenance.

All landscape screening areas shall be maintained reasonably free of weeds, litter, and debris. All required planting shall be maintained in a healthy growing condition and, whenever necessary, replaced with plant materials approved by the town arborist to provide continued conformance with approved plans. All new screening plantings shall be provided with a water-efficient automatic irrigation system to be installed at the time of planting. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.050 Continued Landscaping.

A landscape screening agreement shall be signed by the applicant and shall be submitted to the town before any planning or building application is deemed complete. The purpose of this agreement is to ensure that the landscaping will not be removed at a future date, resulting in a loss of privacy and landscape screening. At no time shall the landscape screening plan be modified or amended in a manner not consistent with the approved plan without prior approval of the town arborist. The intent is to maintain continued landscape screening of property consistent with the objectives of this chapter. Failure to comply with this requirement without first receiving authorization from the town arborist may result in an administrative penalty and fine as established by the city council. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.060 Installation Requirements.

Prior to the final inspection or issuance of a certificate of occupancy (unless delay is authorized by the building official) all required landscape screening shall be installed in conformance with the approved plans. In the case of phased building construction, the town building official may permit phased installation of landscape screening. If the required landscaping is not installed prior to the final inspection, then a minimum five thousand dollar deposit and an agreement in writing, approved as to form by the city attorney, stating that all required landscaping shall be installed within six months, shall be executed by the applicant and submitted to the town before approval of the final inspection or issuance of the certificate of occupancy. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.070 Plant Coverage and Tree Sizes.

Plantings shall be sized to adequately screen the proposed structure within a period of five years from the date of issuance of a building permit. The following shall constitute minimum standards for plant coverage and tree sizes:

A. Adequacy of Screening. All plantings shall be of adequate size and spacing to ensure compliance with the screening requirements. A site inspection shall be conducted after a completed landscape screening application has been submitted. It shall be at the discretion of the town arborist to assess the adequacy of the proposed planting to meet the screening requirement.

B. Minimum Tree Size. All trees shall be at least twenty-four-inch box container size at the time of installation. Larger trees may be required in the sole discretion of the town arborist where deemed necessary to meet the objectives of this chapter. Fifteen-gallon trees or shrubs may be allowed at the discretion of the town arborist, when it can be shown that they will achieve the desired landscape screening requirements. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.080 Protection of Heritage Trees.

Every reasonable effort shall be made to protect heritage trees during the course of construction. Compliance with chapter [8.10](#) (Removal of and Damage to Heritage Trees) of the town municipal code relating to heritage trees is required. Landscape screening plans shall identify all heritage trees within the construction zone. Each application shall include a tree preservation plan to be implemented during construction. (Ord. 582 § 1 (Exh. A) (part), 2009)

17.50.090 Violation.

Each violation of this chapter shall constitute a public nuisance and be subject to abatement as such. When, in the opinion of the town arborist or his or her duly authorized representative, this chapter is not being complied with, the town arborist may issue a stop work order for all construction work on the entire site. (Ord. 582 § 1 (Exh. A) (part), 2009)

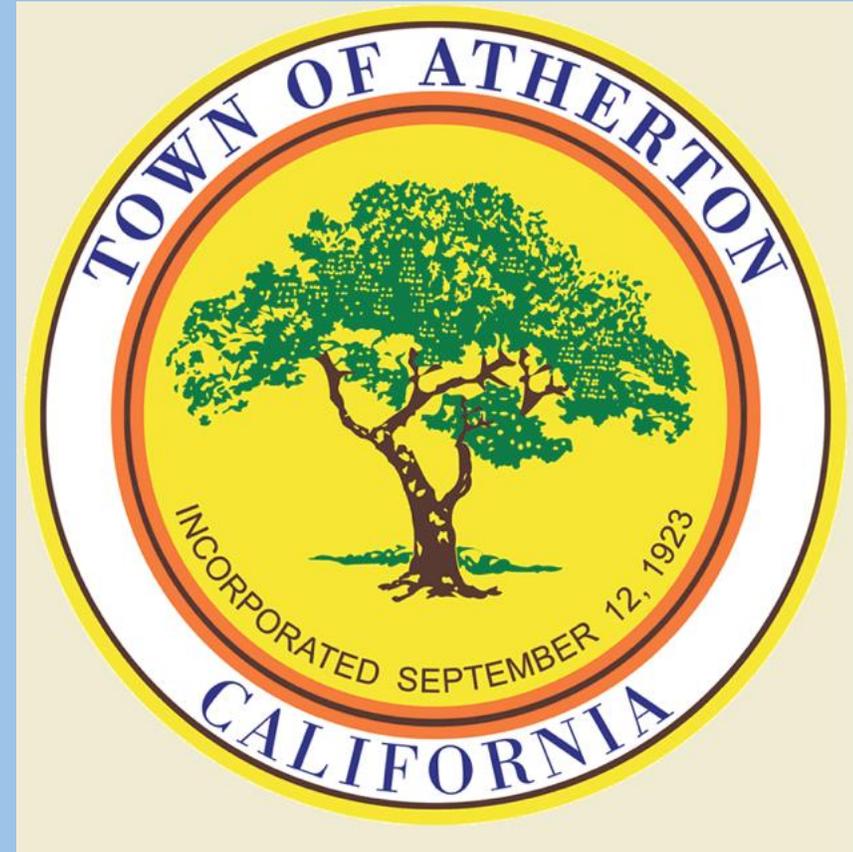
17.50.100 Appeals.

Any property owner applicant affected by a decision of an official hereunder may appeal such decision to the city council in accordance with the provisions of section [17.06.100](#) (Appeals) of this title. (Ord. 582 § 1 (Exh. A) (part), 2009)

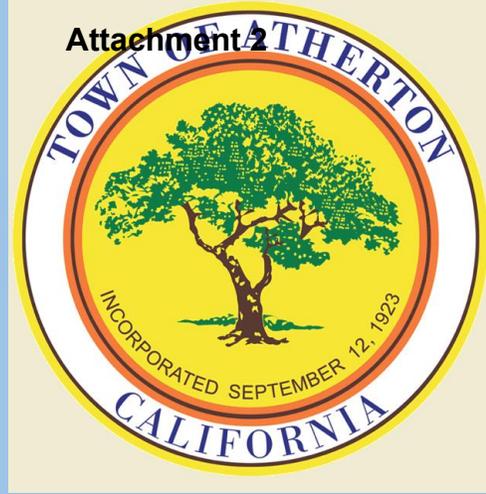
The Atherton Municipal Code is current through Ordinance 636, passed October 17, 2018.

Disclaimer: The City Clerk's Office has the official version of the Atherton Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

Atherton Screening Code



Per the Landscape Screening code the **front** of their property is the **only** side that does not require screening



Landscape Screening Code

- Per the Landscape Screening code **the front of their property is the only side that does not require screening !?!**
- Per Chapter 17.46: Fences & Walls. Only front **fences/walls over 6' require screening**. In most cases front/fences and walls can't be taller than 6' per code. Houses that face Menlo Park or major roads like El Camino can be greater than 6'.
- Should screen all fences/wall even if under 6', especially in residential neighborhoods. Why just over 6'?



Section 17.46: General guidelines for fences, walls, gates Not suggesting no fences.

**** Privacy should be respected, but so should neighbors**

Atherton Municipal Code §17.46.030: Maximum Height of Fences and Walls

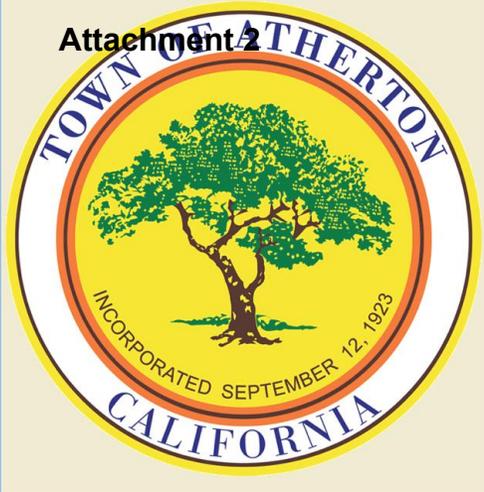
Location of Fence or Wall	Maximum Height ¹
Generally along all property lines, unless otherwise indicated below	6 feet
Coincident to Town boundary ¹	8 feet
Along lot lines adjoining a public or private school or the railroad right-of-way	8 feet
Along regulated streets ²	6 feet/8 feet ²
At front lot line or along public streets	6 feet
At street intersections within clear visibility area: see chapter 17.60	3 feet
Retaining walls ³	6 feet
Wing walls ⁴ on other parts of a lot	6 feet
Interior fences or walls	6 feet

Notes:

1. Lot boundaries coincident to the town's boundary but facing a street must be a maximum of six feet high.

2. On those lots adjoining any of the following streets, a fence or wall may be constructed to a height of six feet above the elevation of the natural grade upon which it stands or eight feet above the elevation of the centerline of the adjacent pavement or such boundary, whichever is higher:

- A. El Camino Real
- B. Marsh Road
- C. Middlefield Road
- D. Valparaiso Avenue
- E. Alameda de la Pulgas
- F. Bay Road
- G. Ringwood Avenue.



But...

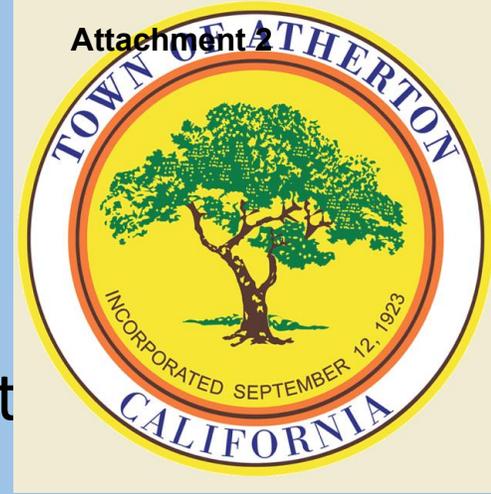




Chapter 17.50 Landscape screening

17.50.010 Purpose

The purposes of this chapter are to reduce the impact of structures on neighborhoods and to provide for the maintenance of the individual privacy of homes in a neighborhood to a reasonable degree **by requiring landscape screening where appropriate** (Ord. 582 & 1 (Exh A) (part), 2009)



Landscape screening

Chapter 17.50.0.030 General Requirements

The following general landscape requirements apply to all residential nonresidential properties within the town:

- A. All front, side, and rear yards shall be landscape screened as describes in this chapter. Front yards contiguous to a street shall not require landscape screening. **** However, front yard fences and walls require some screening**
- B. Plantings shall be provided by the owners and located to reduce the visual impact of structures. Planting with appropriate trees and plants shall be used where necessary to provide privacy. Landscaping on adjacent properties may be taken into consideration.



Landscape screening

Chapter 17.50.0.030 General Requirements

The following general landscape requirements apply to all residential and nonresidential properties within the town:

C. the provisions in this chapter are intended to be minimum standards and shall not preclude application of additional requirements where, in the **opinion of the town arborist, such additional requirements are necessary (add screening?)** to attain the purposes of this chapter and to attain compatibility with the general plan and the goals and policies of the town. (Ord. 582 & 1 (exh A) (part), 2009)



Examples



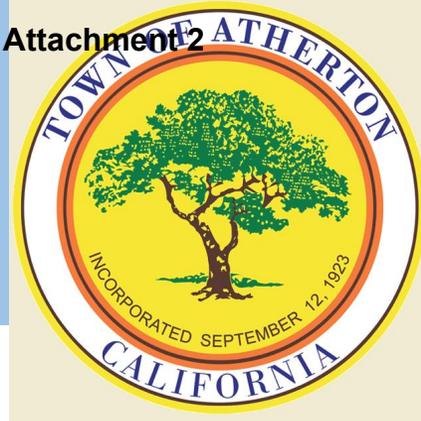


That!?!

Versus

This!!



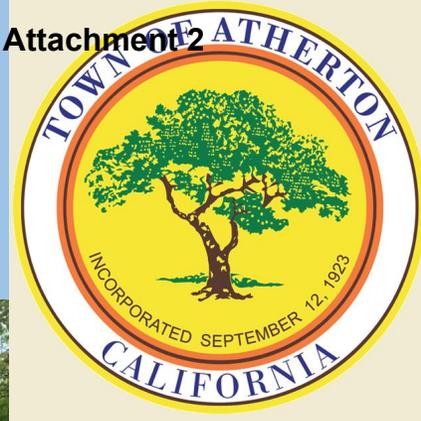


That!?!

Versus

This!!





That!?!

Versus

This!!



That!?! Versus



This!!





