



Item No. 13 Town of Atherton

CITY COUNCIL STAFF REPORT – PUBLIC HEARING

TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: GEORGE RODERICKS, CITY MANAGER

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

DATE: JUNE 15, 2022

SUBJECT: INTRODUCTION OF ORDINANCE AMENDMENTS TO CHAPTER 17.50 “LANDSCAPE SCREENING” OF THE ATHERTON MUNICIPAL CODE (AMC).

RECOMMENDATION

Staff recommends that the City Council conduct the public hearing and introduce Ordinance amendments to Chapter 17.50 “Landscape Screening” of the Atherton Municipal Code (AMC) based on the following finding and for the reasons outlined in this report.

- 1. The proposed municipal code text amendments are consistent with the general plan goals, policies, and implementation programs.*

Basis for finding: The proposed Municipal Code amendments allow the Town to enhance the existing Landscape Screening Ordinance proposed to address the Land Use Element Goal LU-1: “To preserve the Town’s character as a scenic, semi-rural, thickly-wooded residential area with abundant open space.”, Policy LU-1.8, “Maximize preservation of heritage trees and existing trees within a development site to the greatest degree feasible, consistent with the Heritage Tree Ordinance and Tree Preservation Standards and Specifications. Require new development to comply with the Town’s requirements for tree protection, removal, and replacement.” and Open Space and Conservation (OSC) Policy OSC-2.2: “Wherever possible, drought tolerant native species trees shall be used for new and replacement planting and be tolerant of seasonal water inundation where used in or adjacent to green infrastructure facilities”.

BACKGROUND

In late 2019, it was noted to staff and a few Council members that some community concern had been expressed on the visual impact of newly constructed detached accessory buildings/structures on sloped lots and the resulting impact they could have to neighboring properties situated at lower elevations, since generally these detached buildings are required to maintain a 10-foot setback from rear and side property lines.

On January 13, 2021, City Council received a report from staff on the Town's regulations regarding landscape screening, and possible AMC amendments or other solutions relative to landscape screening for hillside lots. The City Council had discussion, questions of staff on implementation and timing of landscape screening and referred this item to the Planning Commission for further evaluation and consideration.

While staff was drafting the materials for discussion by the Planning Commission, additional Landscape Screening related concerns were posed by the Town Arborist; specifically related to Accessory Dwelling Units (ADUs) with smaller setbacks, "tower" elements or other vertical architectural treatments on main residences, and existing Ordinance language specific to minimum planting sizes.

Since these additional landscape-related concerns were posed following initial Council discussion which was limited to landscape screening on hillside lots back in January 2021, Staff sought additional Council direction at their February 5, 2022 meeting. At this meeting the Council provided staff with additional direction related to minimum tree plantings sizes, reduced sloped percentage to consider for hillside lots, addressing lighting, and discussion on ADUs.

On April 27, 2022 the Planning Commission conducted a study session to discuss these additional landscape screening issues as discussed by the Council and provided the following direction to Staff:

- to evaluate the possibility of meeting landscape screening goals for detached Accessory Dwelling Units (ADUs) or other dwelling units only 4 feet from a property line to come to a voluntary, mutual agreement with their adjacent neighbor to allow plantings on the neighboring property.
- to evaluate and holistically consider other screening / privacy impacts that may result of small lots, and subsequently homes with smaller setbacks, as a result of SB9.
- to evaluate landscape screening for front yard walls/fences facing the public right-of-way.

Staff subsequently prepared a revised draft Ordinance and presented it to the Planning Commission at their May 25, 2022 meeting. Staff incorporated the above direction received by the Planning Commission with the exception of including any proposed new language addressing landscape screening for front yard walls/fences facing the public right-of-way. Staff noted concerns that this topic may be most comprehensively addressed in any future evaluation of related setback studies and/or of the Town's Fence Ordinance, and that the following topics also be evaluated in any future related study as opposed to being addressing in the Landscape Screening Ordinance.

- 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's adopted Green Infrastructure (GI) Work Plan contains recommended measures including 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 majority of the Town received permits under the new GI Workplan, including some stormwater treatments that incorporate some landscaping in the front yard.

On May 25, 2022, the Planning Commission conducted a public hearing and voted 4-0 to recommend that the City Council adopt amendments to Chapter 17.50 "Landscape Screening". The Planning Commission did not recommend any changes to the language of the draft Ordinance as considered at the May meeting and as provided in the draft Ordinance (Attachment 1). The draft Ordinance has been reviewed and commented on by the Deputy City Attorney.

ANALYSIS

Existing Regulations

Chapter 17.50 "Landscape Screening" of the AMC governs landscape screening requirements for new construction, additions, and accessory building and structures over certain heights and at certain distances from property lines. The purpose is 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. This chapter requires plantings be of adequate size and spacing, with trees being a minimum of 24-inch box size and shrubs being a minimum of 15 gallon in size, and that such selected plantings will adequately screen within a period of five (5) years from date of issuance of building permit. However, the Ordinance does give discretion to the Town Arborist to require additional and/or larger plantings in order to achieve adequate landscape screening for the individual property. The requirement that such approved landscape screening plan will adequately screen within five (5) years, begins the day a permit is issued for a new building/structure. In the case of a development site that has multiple permits (such a permit for a main residence, permit for a pool house, permit for an ADU, permit for a detached covered patio, etc.), and in which permits may be issued at staggered times, the five (5) year deadline will begin at time of permit issued for the main residence, even if subsequent permits for other ancillary buildings/structures do not happen for some time after the main residence.

Approved landscape screening plans are required to be installed in conformance with the approved plans prior to the final inspection or issuance of a certificate of occupancy (unless delay is authorized by the Building Official). However, in the case of phased building construction, the Town Building Official may permit phased installation of landscape screening, and if the required landscaping is not installed prior to the final inspection, then a deposit and written agreement stating that all required landscaping shall be installed within six months, may be executed.

The Ordinance does not require landscape screening in the front of homes contiguous to a street, only along the sides and the rear. It also does not distinguish the specific type/species of plantings or reference an approved Town plant/tree list. The Town Arborist assesses each property, and its

neighbors, existing physical landscaped condition(s) in reviewing for compliance with a landscape screening plan. There are no requirements specific to plantings on hillside lots where buildings may appear taller than actual height limits due to surrounding slopes¹.

Proposed Amendments

Per direction received by the City Council at their February 23, 2022 meeting and as presented, discussed and/or further directed by the Planning Commission at their April 27 and May 25, 2022 meetings, Attachment 1 includes revisions addressing the following topics:

1. Hillside Screening and Specificity on Planting Types/Species and Sizes

Concern had been expressed to staff about the visual massing impact for down sloped neighbors looking up at neighboring buildings/structures. These concerns have been largely limited to detached accessory buildings/structures which typically have a 10-foot side and/or rear setback requirement. Main residences are typically situated between 50 – 60 feet from a neighboring property so those have less concern. On a “hillside” lot, depending on the actual amount and percentage of slope, the resulting overall detached accessory building/structure height may appear taller than the allowed 15 feet (or up to 16 feet for an Accessory Dwelling Unit (ADU) which is discussed separately below) when viewed at a lower elevation.

The Zoning Ordinance does not have a defined hillside overlay district or other mapped, defined means of designating a sloped lot as a “hillside” lot. From a practical perspective, any lot in Town with sloped topography that could be of concern will typically exist west of Alameda de las Pulgas, within Town boundaries. For reference, there are approximately 300 single family residential parcels west of Alameda but not all necessarily have significant, sloped topography.

The current landscape screening Ordinance does not differentiate between minimum planting sizes for flat or sloped lots, but simply requires minimum tree sizes to be 24-inch box trees and/or shrubs to be a minimum 15-gallon. It also does include any requirements for some or all plants to be native to California or drought tolerant, nor does it provide any details on prohibited tree species. Lastly, the current landscape screening does not address existing trees and the possibility that new screening within the dripline of existing trees, both on-site or on a neighboring property, may damage a tree through excavation for planting and/or irrigation, and irrigation levels.

Proposed Ordinance Amendments:

- Hillside Lots.
 - Creating regulations specific to “Hillside” and “Non-Hillside” lots.

¹ Allowable development regulations for detached accessory buildings/structures are governed by Chapter 17.40 “Accessory Buildings and Structures” and Chapter 17.42 “Building Height and Measurement” of the AMC. Generally, such buildings/structures have the following setback requirements for a standard (non-corner) lot; 10 feet from side and rear property lines, and 120 feet from the front property line or 30 feet behind the front line of the main residence, whichever is less. Accessory buildings/structures have a maximum overall height of 15 feet, maximum sidewall height of 11 feet, with both measurements taken from Average Natural Grade (ANG). ANG is defined as, “...the average elevation of the natural grade ... along the perimeter of the building prior to any cut and fill.”

- Defining a hillside lot, for purposes of the Landscape Screening Ordinance, proposed to include any property with an average cross slope of 15% or greater.
- Any property with an average cross slope of less than 15% would be considered a “non-hillside lot”.
- Requirement that landscape screening plans include the average lot cross slope of the lot.
- Specificity on Planting Types/Species and Sizes.
 - For Hillside lots, any tree and/or shrub sizes must be at least 36-inch box size or greater.
 - Non-hillside lots, any tree and/or shrubs be at least 24-inch box size or greater.
 - For both hillside and non-hillside lots, the Town Arborist has the ability to require larger sizes where warranted.
 - No recommendation for a Town-specified list of shrubs/trees be created.
 - The planting of California native and/or drought-tolerant plants could be appropriate and is strongly encouraged where appropriate. Including a list of prohibited replanting tree species for consistency with the Heritage Tree Ordinance.
 - Prohibiting planting within 5 feet of a property line if such plantings conflict with any requirements of the Fire Department.
- Protection of Existing Trees.
 - Referencing required Tree Protection Zones (TPZs) for all on-site and adjacent areas on all landscape screening plans.
 - Prohibiting any new landscape screening to be planted any closer than 3x a TPZ for any existing heritage tree to remain.
 - Requiring a tree protection plan consistent with the Town’s Heritage Tree Ordinance as part of any proposed landscape screening plan.
- Lighting
 - Language has been added to address lighting and requiring Landscape Screening to consider any proposed lighting to be screened from adjacent properties.

2. “Towers” / Vertical Architectural Projections

The Zoning Ordinance has a maximum allowable overall height of 30 feet and 22 feet for a sidewall for a main residence and further allows some minor exceptions to these height limits under certain criteria. Notably, on main buildings, architectural projections (e.g., towers) totaling no more than four hundred square feet in footprint area can extend from the main building to a

maximum of twenty-eight feet to the sidewall and thirty feet to the rooftop. The Town Arborist has noted some concerns in the ability to adequately screen these vertical, architectural projections during review of a landscape screening plan as those architectural details specifying whether a “tower”/vertical projection exists are not typically included.

Proposed Ordinance Amendments:

- Requiring projects that include “towers”/architectural projections be subject to the Landscape Screening Ordinance.
- Additional planting requirements, in addition to the standard landscape screening required for the main residence.
- A minimum of two, 48-inch trees should be planted inwards of a property line, closer to the “tower”/architectural element.
- Landscape screening plan checklist (Attachment 2) to affirm if the approved main residence included the provision of a “tower”/architectural projection.

3. Accessory Dwelling Units (ADUs) and/or Developments with Reduced Setbacks

Allowable development regulations for Accessory Dwelling Units (ADUs) are governed by Chapter 17.52 and allow detached ADU a height limit of 16 feet, and rear and side yard setbacks for any ADU may be reduced to four feet – significantly less than the Town’s minimum setback standards. Current Ordinance language for landscape screening of ADUs is noted “shall be installed to the greatest extent feasible.” In considering any objective landscape screening standards relative to ADUs, the Town should be sensitive that any such standards need to be “sufficiently objective to allow ministerial review of an ADU and... must not unduly constrain the creation of ADUs” in accordance with State law. Regulations pertaining to SB 9, which allows for ministerial approval of up to two primary dwelling units on a single-family lot, has similar regulations allowing such SB 9 units to also be located 4 feet from a side or rear property line.

The Town Arborist has noted the challenges in developing a landscape screening plan that adequately meets the purpose and intent of the Landscape Screening Ordinance with such a small, constrained area (i.e., within a 4-foot setback, or 4-foot clearance between a building and a fence). The Arborist notes that any planting/tree larger than 24-in box in size would not fit and further, could cause infrastructure and property line conflicts. Staff also met with the Menlo Park Fire Protection District Fire Marshal. As noted above, the Fire Marshal noted that the State is in the process of updating the Fire Code which will require defensible space around buildings, including the provision that no plantings incur within five (5) from a building but such specific language has yet to be adopted.

As it relates to any requirements pertaining to ADUs, JADUs and/or SB9 units, any such requirement must be objective in nature per State law. Currently, the ADU ORD has Section 17.52.040M which states, *“Landscape screening shall be installed to the greatest extent feasible”*. With all that said, broad language is proposed to be added in attempts to address these issues.

Proposed Ordinance Amendment:

- Adding language that any project which proposes setbacks less than the base underlying zoning district, or at 4 feet or less shall consider landscape screening of the building or structure to the greatest extent feasible, and may include off-site planting on an adjacent property upon voluntary agreement with a neighboring property owner.

Related, staff has made a series of revisions to the Town’s existing Landscape Screening Checklist (Attachment 2) in order to maintain consistency with the proposed Ordinance amendments. The Landscape Screening Checklist is provided to project applicants at the point of submitting a Landscape Screening Plan to the Town Arborist.

ENVIRONMENTAL IMPACT

The proposal has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) to CEQA Section 15308, Actions by Regulatory Agencies for protection of the Environment.

POLICY FOCUS

It is the purpose of the Landscape Screening Ordinance “...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”. Consideration of amendments to the Landscape Screening or any Ordinances of the AMC specific to attempting to mitigate aesthetic impacts of detached buildings and structures to neighboring properties on hillside lots and better address other related topics as discussed above could be found to support the following adopted General Plan goals:

- *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.*

FISCAL IMPACT:

Staff cost to prepare the Ordinance will be funded by the Town General Fund, Planning Division budget. Implementation of the provisions of the Landscape Screening Ordinance would be incurred by a project applicant.

GOAL ALIGNMENT

This Report and its contents are in alignment with the following Council Policy Goals:

- Goal B – Preserve Small Town Character and Quality of Life
- Goal F – Be Forward-Thinking, Well-Managed, and Well-Planned

PUBLIC NOTICE

Notice of this application was mailed to all property owners within 500 feet of the subject property and other interested parties. 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 not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials. In addition, a public notice was published in The Almanac June 3, 2022 per the requirements of section 17.06.080 B of the Atherton Municipal Code.

ATTACHMENTS

1. Draft Chapter 17.50 “Landscape Screening” (tracked changes)
2. Revised Landscape Screening Checklist.

Chapter 17.50 LANDSCAPE SCREENING

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-Non Hillside Lots.

17.50.080 Plant Coverage and Tree Sizes-Hillside Lots.

17.50.090 Protection of Heritage Trees.

17.50.100 Plant Coverage and Tree Sizes – Tower / Architectural Projections

17.50.110 Plant Coverage and Tree Sizes – Reduced Setbacks

17.50.120 Landscape Screening Plans

17.50.130 Violation.

17.50.140 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.

D. New construction of architectural projections (e.g. towers, cupolas) on main and accessory buildings implementing exceptions to Height Limits for Main Structures subject to Section 17.42.040 of this Title.

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. No plantings shall occur within five (5) feet from the outermost perimeter of a building and/or structure that may conflict with any requirements of the Fire Department.

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 – Non-Hillside Lots.

For all lots with an average cross-slope (as determined under Section 16.24.050 Lot Size Requirements of the Town Municipal Code) of less than fifteen (15) percent, 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 for non-hillside lots:

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/Shrub Size and Growth Rate.* All trees and shrubs shall be at least twenty-four-inch box container size at the time of installation and shall reach a minimum height of 22 feet at maturity in accordance with the Sunset Western Garden book, or similarly accepted industry standard reference guide. Larger trees and/or shrubs may be required in the sole discretion of the town arborist where deemed necessary to meet the objectives of this chapter.

C. Encouraged Tree and/or Shrub Species. Where suitable, the planting of California native and/or drought-tolerant shrubs and/or trees is strongly encouraged.

D. Prohibited Tree Species. The following tree species shall be prohibited as part of any required landscape screening plan:

1. Acacia baileyana—Bailey acacia.
2. Acacia decurrens—Green wattle.
3. Acacia melanoxylon—Black acacia.

4. Ailanthus altissima—Tree of heaven.
5. Albizia julibrissin – Mimosa.
6. Any species of eucalyptus.
7. Pinus radiata—Monterey pine.
8. Notholithocarpus densifloru - Tan Oak

17.50.080 Plant Coverage and Tree Sizes – Hillside Lots

For all lots with an average cross-slope (as determined under Section 16.24.050 Lot Size Requirements of the Town Municipal Code) of fifteen (15) percent or greater shall be considered Hillside lots for purposes of this Chapter. 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 on hillside lots:

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 thirty six-inch box container size at the time of installation and shall reach a minimum height of 22 feet at maturity in accordance with the Sunset Western Garden book arboricultural standards, or similarly accepted industry standard reference guide. Larger trees may be required in the sole discretion of the town arborist where deemed necessary to meet the objectives of this chapter based on unique topography, soils, or other factors impacting the effect of the screening.

C. *Encouraged Tree and/or Shrub Species.* Where suitable, the planting of California native and/or drought-tolerant shrubs and/or trees is strongly encouraged.

D. *Screening of Lighting.* All Landscape Screening plans shall be designed so as to screen any lighting on any buildings / structures from such lighting hitting any buildings on adjacent parcels.

D. *Prohibited Tree Species.* The following tree species shall be prohibited as part of any required landscape screening plan:

1. Acacia baileyana—Bailey acacia.
2. Acacia decurrens—Green wattle.
3. Acacia melanoxylon—Black acacia.
4. Ailanthus altissima—Tree of heaven.

5. Albizia julibrissin – Mimosa.
6. Any species of eucalyptus.
7. Pinus radiata—Monterey pine.
8. Notholithocarpus densifloru - Tan Oak

17.50.090 Plant Coverage and Tree Sizes – Tower / Architectural Projections

In addition to all other applicable provisions within this Chapter, any landscape screening plan associated with an approved development permit implementing the provisions of Section 17.42.040 of the Town Code shall include the additional, minimum standards for plant coverage and tree sizes:

B. *Minimum Tree Quantity and Size.* A minimum of two (2) trees at least thirty six-inch box container size at the time of installation, and shall reach a minimum height of 22 feet at maturity in accordance with the Sunset Western Garden book, or similarly accepted industry standard reference guide. Larger trees may be required in the sole discretion of the town arborist where deemed necessary to meet the objectives of this Chapter.

B. *Tree Planting Location.* All trees to be planted to implement this Section shall be located inwards towards the main residence, in reasonable proximity to the tower / architectural projection and planted such that views from neighboring properties are screened to the maximum extent feasible.

17.50.100 Protection of Heritage Trees.

Existing on-site and adjacent heritage trees shall be protected and 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 the location, size and species of all existing heritage trees and their associated Tree Protection Zone (TPZ) within the construction zone and shall demonstrate all proposed new landscaping is located a minimum 3x TPZ away from each existing heritage tree. Each application shall include a tree preservation plan in accordance with the requirements of Chapter 8.10 of the Town Municipal Code to be implemented during construction. (Ord. 582 § 1 (Exh. A (part)), 2009)

17.50.110 Plant Coverage and Tree Sizes – Reduced Setbacks

Any projects subject to the provisions of this Chapter in accordance with Section 17.50.020 which include side and/or rear yard setbacks less than the base underlying zoning district, shall include landscape screening of the building or structure to the greatest extent feasible, and may include off-site planting on an adjacent property if neighboring property owners voluntarily agree to allow planting on their property.

17.50.120 Landscape Screening Plans.

All landscape screening plans shall, at a minimum, contain the all information as prescribed on the Town's Landscape Screening Checklist form provided by the Town Arborist.

17.50.130 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)

17.50.140 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)



Landscape Screening Requirements and Checklist

Town of Atherton
Building Department
80 Fair Oaks Lane
Atherton, California 94027
Phone: (650) 752-0560

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.

Yes or No	Is there any new construction 18' above grade
Yes or No	Any new accessory structure or addition that is 6' above grade and less than 25' from property line?
Yes or No	Is there new construction or addition 10' above grade and less than 35' from the property line?
Yes or No	Is there new construction on the main residence that includes an architectural projection (tower, etc) per Section 17.42.040 of the AMC?

If you answered yes to any of the above for new construction a Landscape Screening permit is required in compliance with Chapter 17.42 "Landscape Screening" of the Atherton Municipal Code (AMC).

See Atherton Municipal Code Chapter 17.50 for Landscape Screening at <http://www.codepublishing.com/CA/atherton.html>

When required, landscape screening is required at all front, side and rear yards to reduce the visual impact of structures, and provide privacy to surrounding residents. Front yards contiguous to a street shall not require landscape screening

For Hillside Lots - All trees must be in a minimum 36" box container. Larger trees may be required by the Building Official or Town Arborist.

For Non-Hillside Lots - All trees must be in a minimum 24" box container. Larger trees may be required by the Building Official or Town Arborist.

Proposed Landscape Screening must be installed so that the structure will be adequately screened within 5 years of the date of installation by the planted trees.

Please include the following with your application:

1. Completed Building Permit Application
2. Three copies of the site plan showing all the required Landscape Screening
3. Average Cross Slope as defined by Section 16.24.050 of the AMC and statement as to whether or not the property is a hillside lot as defined by Chapter 17.52 of the AMC.
4. If property is a hillside lot, elevation drawings of each building/structure, including second story windows facing towards neighboring properties are be required to be included in the submittal
5. If main residence includes an approved architectural projection per Section 17.42.040 of the AMC, such architectural projection shall be clearly denoted on the site plan.

6. All existing trees and/or shrubs (both on-site and on adjacent properties) to be used as credit towards Landscape Screening requirements labeled with common name, botanical name, size and height.
7. All new trees and/or shrubs to be used towards Landscape Screening requirements labeled with common name, botanical name and container size
8. For new trees and/or shrubs the proposed automatic irrigation system at the time of planting.
9. Protective measures for existing Heritage trees must be noted on plans, including the Tree Protection Zone (TPZs) for each tree, and details noting that all proposed new trees and/or shrubs are located a minimum distance of 3x TPZ from any existing heritage tree.
10. Must be of adequate size and spacing to insure compliance with screening requirements.

The review of the application will require a site visit that is to be scheduled with the Town Arborist. After approval an inspection will be conducted once landscape screening building permit is issued.

All landscape screening must be installed approved prior to final inspection and occupancy.

Rev X, 2022



LANDSCAPE SCREENING AGREEMENT

This Landscape Screening Agreement ("Agreement") made and entered into in duplicate by and between the Town of Atherton, a California municipal corporation, hereinafter referred to as "Town" and _____ [Name(s) EXACTLY as Recorded on Title] whose address is _____, hereinafter referred to without regard to gender or number as "Owner."

WITNESSETH

WHEREAS, Owner is the record legal owner of the subject parcel of real property and, which said premises are commonly known as:

_____ Address Street City/State/Zip

Assessor's Parcel Number (APN): _____

WHEREAS, Section 17.50.020 of the Atherton Municipal Code provides, among other things, that new construction exceeding eighteen feet above grade; or an accessory structure that exceeds six feet above grade and less than twenty-five feet from a property line; or an accessory structure that exceeds ten feet above grade and less than thirty-five feet from a property line shall comply with Chapter 17.50;

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Owner acknowledges that before final inspection or issuance of a certificate of occupancy (unless delay is authorized by the Building Official) that Owner has complied with Chapter 17.50, all required landscape screening shall be installed in strict accordance with Town ordinances and in conformance with those certain approved plans dated _____, hereinafter referred to as the "Approved Plans."
2. Owner agrees to maintain all required planting, new and existing, as shown on the Approved Plans, in a healthy growing condition and whenever necessary, replace said planting with plant materials approved by the Building Official to provide continued conformance with Approved Plans.
3. This Agreement shall be binding upon and inure to the benefit of the successors, heirs and assigns of the parties hereto.

IN WITNESS WHEREOF the parties have signed this Agreement the day and year indicated opposite their respective signatures.

Dated: _____

Print Name _____

Signature of Owner _____

Dated: _____

Print Name _____

Signature of Owner _____