

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M.

TUESDAY

JANUARY 28, 2020
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of January 28, 2020, was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Chair Krey and the following proceedings were had, to wit:

ROLL CALL

Commissioners Present: Chair: Michael Krey
Commissioner: Adam Buchbinder
Commissioner: Stuart Ching
Commissioner: Nick Colvill
Commissioner: Terry Hines

Commissioners Absent: Vice Chair: Maggie Ostrowski
Commissioner: Andrew Rivlin

Staff Present: Community
Development Director: Paul Kermoyan
Assistant Planner: Naz Pouya Healy
City Attorney: William Seligmann
Recording Secretary: Corinne Shinn

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Buchbinder, seconded by Commissioner Colvill, the Planning Commission minutes of the meeting of January 14, 2020, were approved as submitted. (4-0-2-1; Commissioners Ostrowski and Rivlin were absent and Commissioner Ching abstained).

COMMUNICATIONS

None

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

PUBLIC HEARINGS

Chair Krey read Agenda Item No. 1 into the record as follows:

1. **PLN2019-123** Public Hearing to consider the application of Susan Chen for a Site and Architectural Review Permit (PLN2019-123) to allow the construction of a new approximately 4,357 square-foot two-story single-family residence on property located at **1420 Van Dusen Lane**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Naz Pouya Healy, Assistant Planner*

Ms. Naz Pouya Healy, Assistant Planner, provided the staff report.

Chair Krey asked if there were questions for staff.

Commissioner Ching asked what trees on site might be removed, if any.

Planner Naz Pouya Healy replied there are a few trees and none of those are protected species trees. One or two from the front may be removed.

Commissioner Buchbinder asked what is currently on this property.

Planner Naz Pouya Healy said there is a small single-story home of approximately 1,000 square feet in size.

Chair Krey asked if having a second story that is larger than the first is unusual. It's not unique?

Planner Naz Pouya Healy said that it's not actually larger but proportionally the second floor has more square footage compared to nearby homes.

Chair Krey asked staff to verify that there are no red flags with that.

Planner Naz Pouya Healy said that such a situation would result in a boxier appearance of a residence.

Commissioner Ching pointed out that there are three substantial trees in the front. Which of these are remaining?

Planner Naz Pouya Healy pointed to two trees on the site plan as proposed for removal from the front yard.

Commissioner Hines provided the Site and Architectural Review Committee report as follows:

- SARC found this home to fit in with the requirements of the San Tomas Area Neighborhood Plan.
- Stated that SARC appreciated the front elevation including the number of windows there that will provide this home with good interior natural light.
- Concluded that this design respected the limitations.

Chair Krey opened the Public Hearing for Agenda Item No. 1.

Diana Meek, Resident on Harriet Court:

- Stated her concern is the plan for the existing Heavens trees from the back yard.
- Cautioned that those trees must be carefully removed including roots as it is a very invasive species that pops up everywhere.
- Added that upon removal, the stump(s) must be grinded, and some sort of chemical put on the stump to permanently remove that nuisance species of tree.
- Reiterated that there is a process for their removal that important to the neighbors on the other side due to on-going impacts from those Heaven trees.

Michael Meek added that they are back neighbors to the project site.

Planner Naz Pouya Healy said that the applicant wants to remove those trees. They are not protected. Therefore, the City is not involved with their removal.

Michael Meek asked if these owners would need a permit for their removal.

Planner Naz Pouya Healy replied no.

Michael Meek reiterated that these Heavens trees have a large root system.

Chair Krey recommended that the Meeks approach these new neighbors to discuss their concerns and suggestions.

Planner Naz Pouya Healy said that working with these owners will be important as they won't want these trees to reproduce either if they are to be removed.

Commissioner Hines suggested that the Meeks ask staff to let the owners know of their concern about what must occur when those back trees are removed to avoid invasion on surrounding properties.

Michael Meek said that this would impact three adjacent backyards.

Director Paul Kermoyan said that off-line staff would let the owners know of this neighbor concern.

Chair Krey closed the Public Hearing for Agenda Item No. 1.

Commissioner Ching asked if a landscaping diagram is available.

Commissioner Hines referred him to page 45 of Attachment 3.

Planner Naz Pouya Healy clarified that that page depicts the required front yard landscaping. On page 30, the Commission will find the site plan that shows and has information about existing trees on site.

Chair Krey verified with staff that none of the trees on site are protected species.

Planner Naz Pouya Healy replied correct.

Commissioner Buchbinder said that this proposed home looks to be in character with its neighborhood. It is similar to the nearby houses. He has no issues.

Motion: **Upon motion of Commissioner Colvill, seconded by Commissioner Hines, the Planning Commission adopted Resolution No. 4558 approving a Site and Architectural Review Permit (PLN2019-123) to allow the construction of a new approximately 4,357 square-foot two-story single-family residence on property located at 1420 Van Dusen Lane, by the following roll call vote:**
AYES: **Buchbinder, Ching, Colvill, Hines and Krey**
NOES: **None**
ABSENT: **Ostrowski and Rivlin**
ABSTAIN: **None**

Chair Krey advised that this action is final unless appealed in writing to the City Clerk within 10 calendar days.

Chair Krey read Agenda Item No. 2 into the record as follows:

2. **PLN2019-77** Public Hearing to consider the application of Susan Chen for a Site and Architectural Review Permit (PLN2019-77) to allow the construction of a new approximately 3,103 square-foot two-story single-family residence on property located at **1147 S San Tomas Aquino Road**. Staff is recommending that this item be deemed Categorically Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Naz Pouya Healy, Assistant Planner*

Ms. Naz Pouya Healy, Assistant Planner, provided the staff report.

Chair Krey asked if there were questions for staff.

Commissioner Colvill:

- Asked about the proposed balcony at the back.
- Pointed out the condition that requires full height side walls to either side of that balcony.
- Added that requirement is similar to what the Commission has seen in the past.

Planner Naz Pouya Healy replied correct.

Commissioner Buchbinder asked if balconies like this appear elsewhere in this area.

Planner Naz Pouya Healy replied that she didn't see any in the immediate area, but they are not prohibited. She added that the STANP encourages side walls and additional screening landscaping with balconies.

Commissioner Ching asked if the large pine tree at the front of this property is proposed for removal.

Planner Naz Pouya Healy replied yes. She added that a large Walnut tree at the back of this property would remain.

Commissioner Hines provided the Site and Architectural Review Committee report as follows:

- SARC discussed the proposed balcony.
- Added that it is conditioned as described by staff.
- Stated that there are a good number of windows on this home to help break up the front elevation and bring light into the house.
- Concluded that SARC was supportive of this proposed home.

Chair Krey opened the Public Hearing for Agenda Item No. 2.

Eric Garlick, Resident on Chamberlain Court:

- Explained that his back yard faces the front yard of this subject property.
- Stated that he has looked at their plans.

- Added that as he too has a two-story home, he has no objection to this family having one as well.
- Pointed out that it seems like this home is situated close to the street and he does object to that. That concern is the primary reason he came this evening to speak to the Commission.
- Stated that he would like to see the front setback adjusted.
- Reported that his concern with a smaller front setback is privacy impacts.
- Suggested that if possible, the large tree there in front be retained to offer some screening between the two homes. The neighbors generally appreciate that tree's screening.

Chair Krey closed the Public Hearing for Agenda Item No. 2.

Commissioner Ching:

- Said that he would like to see both the large front and rear yard trees retained.
- Stated that the large Pine in front adds to the character of the street. It would be a loss if it were to be removed.
- Added that the Walnut tree at the back is substantial in size.
- Pointed out that Turner Lane is narrow, and he suggested an increased front setback for the home.

Commissioner Colvill asked Commissioner Ching what setback he might find more acceptable. If the front setback of this proposed home matches the existing neighbors' homes, would that be acceptable?

Commissioner Ching replied yes.

Commissioner Buchbinder asked if the minimum 20-foot front setback has been met.

Planner Naz Pouya Healy said that the setbacks are 24-feet on one side and 32-feet on the other. The 20-foot standard is the minimum setback standard.

Director Paul Kermoyan said that the second story is setback 28 feet, 4 inches from the front property line. The first story is setback between 25 and 27 feet.

Commissioner Colvill asked what impact might occur if asked to push the home further back.

Planner Naz Pouya Healy said that doing so would most likely impact the large tree in the back yard.

Commissioner Colvill asked if the large Pine at the front is required to be removed.

Planner Naz Pouya Healy:

- Responded that tree is not protected. She added she's not aware of why they want to remove it.
- Added that the large Walnut in the back is to be retained.

Chair Krey asked staff if the Commission could require the retention of the large Pine at the front.

Planner Naz Pouya Healy:

- Replied yes.
- Added that she is not sure of its health as there is a bit of a lean toward the road.
- Suggested that it might need pruning around the power lines.

Commissioner Colvill said it might not be an imposition given that this house is being built for sale.

Planner Naz Pouya Healy clarified that the applicant, Susan Cheng, is not the owner but prepared the plans for this home. She doesn't know the owners' intentions for the property.

Chair Krey re-opened the Public Hearing for Agenda Item 2.

Mrs. Szu-Tsung Wang, Property Owner, 1147 S. San Tomas Aquino Road:

- Pointed out that the tree under discussion is growing over and across the road.
- Stated their desire and intent is to remove that tree as part of the demolition of the current home on site. Her contractor advised her it is more economical to do both the structure demo and tree removal at the same time.
- Added that this tree would block a lot of sunshine from coming into their home.

Chair Krey asked the owner about her thoughts on possibly requiring an expanded front setback.

Mrs. Szu-Tsung Wang, Property Owner, 1147 S. San Tomas Aquino Road:

- Reported that they have already moved the home further back than originally planned.
- Said that was as much as possible while retaining a backyard for her children to run and play.
- Added that she can understand her neighbor's concern, but it seems as if the existing trees across the road already offers privacy screening to that home.

Commissioner Colvill asked the owner if an arborist's report is obtained that indicates the tree is in great health, would she consider retaining it?

Mrs. Szu-Tsung Wang, Property Owner, 1147 S. San Tomas Aquino Road, reminded that her second concern is the blocking of light into the house with that large Pine in place.

Commissioner Colvill pointed out that the Commission has the authority to require that tree's retention.

Mrs. Szu-Tsung Wang, Property Owner, 1147 S. San Tomas Aquino Road:

- Pointed out that the roots for that tree might impact her home's foundation in the future.
- Said it could become an issue later on if it continues to lean. It could fall over.

- Reiterated that it is cheaper to demolish the tree with the house.

Commissioner Colvill said that we love our trees and preserve them when we can.

Commissioner Buchbinder asked the neighbor (Mr. Garlick) how much further he'd like to see this home pushed back from the front.

Mr. Erik Garlick said he'd be satisfied if it were set back the same distance as the houses on either side. If that's so, that's acceptable.

Commissioner Buchbinder asked the owner if moving their home back an additional four feet is acceptable.

Ms. Susan Chen, Project Architect:

- Reminded that the setback standard is 20 feet. They already are set back more than 20 feet.
- Said that this tree is dangerous.
- Added that her clients will remove that tree and plant more new trees to match their landscape plan.
- Stated that they don't want to set back the home any further as there are plans for an ADU for the rear of the site in the future.

Chair Krey re-closed the Public Hearing for Agenda Item 2.

Commissioner Colvill asked staff if the front setback can be further than minimum required. What part of the existing exceeds minimum?

Planner Naz Pouya Healy:

- Said she is not aware of the applicant having moved their front setback further back.
- Added that the second floor is set back 28 feet when it could be at 20 feet as well.

Commissioner Colvill asked the setback distance for the garage.

Planner Naz Pouya Healy replied that the garage is setback by 28 feet.

Commissioner Hines:

- Stated that he is concerned about the Commission insisting on the retention of the front Pine tree.
- Admitted he would be scared off from buying that property with that tree there.
- Concluded that it would be an unfair responsibility for this property owner.

Commissioner Ching stated he still prefers to have an arborist report on that tree.

Commissioner Colvill agreed that an arborist report would help.

Commissioner Ching:

- Stated that if an arborist report determines this Pine to be dangerous, he would like to see it replaced with a protected-species tree to ensure long-term retention of the replacement tree.
- Added that the tree selected could be left to the satisfaction of the Community Development Director.

Commissioner Hines said he would support the planting of a protected species as a replacement.

Commissioner Ching said that this is a substantial tree that he'd like to keep unless proven to be dangerous.

Commissioner Ching reiterated his support for an arborist report to support its removal.

Commissioner Buchbinder suggested that if preparation of an arborist report is conditioned, the condition should not require this applicant to return to the Planning Commission.

Director Paul Kermoyan:

- Suggested that the Commission tighten their conditions giving direction to staff, so it doesn't have to be brought back to the Commission.
- Added that the Commission should describe what they want to see included within the arborist report. What they want the report to achieve. Exactly what happens if the arborist supports the removal and/or retention of that tree.

Commissioner Colvill:

- Said that he can understand the owner's desire for a larger back yard for their kids and a future ADU.
- Suggested focusing the arborist report on the front tree.

Commissioner Ching agreed.

Commissioner Hines said he doesn't agree.

Director Paul Kermoyan:

- Said that the landscape plan shows one tree.
- Added that Condition of Approval 4-B requires the planting of three more trees as they need four trees on their property per the STANP.
- Said that a condition can specify the tree(s) for the front property as to what is planted.
- Explained that as to processing tree removal permits, staff issues tree removal permits a lot.
- Stated that he would have no issue approving a removal permit for this tree on this property. It is a precarious tree.

Commissioner Colvill:

- Agreed that it is important that these owners are able to enjoy as much natural sunlight from their home as possible.
- Cautioned that with the need to plant more trees at the front of this property, there is potential for those trees to also obscure sunlight from the front.

Commissioner Hines asked staff what direction the home's frontage faces.

Director Paul Kermoyan :

- Replied that the home's frontage faces south.
- Said that Pine trees can grow tall.
- Stated that it would be important for these owners to select trees that don't grow too tall while still providing privacy screening sought by the neighbor across the road.
- Added that there is an ability to size the tree and perhaps start with a 10-foot tall tree.

Commissioner Hines said he was in favor of that requirement.

Commissioner Colvill said that neighbor was concerned about both the front setback and this large Pine tree being removed.

Chair Krey stated that the proposed requirement to expand the front setback beyond the current 20-foot standard to 24 foot for this house could represent a precedent going forward.

Commissioner Colvill said he is in favor of the applicant's proposed setback.

Commissioner Buchbinder:

- Agreed with Commissioner Colvill in supporting the applicant's proposed setback.
- Pointed out that the porch is set back by approximately 20 feet and the rest of the house is set back further.
- Concluded that it is not worth further increasing the front setback.

Commissioner Ching:

- Said that he defers to the Director about the need for an arborist report at this time. It seems it would just be a waste of time to secure one.
- Agreed that a replacement tree for the removal of the large Pine should be 10 to 15-foot tall of a protected tree species.
- Added that the large Walnut in the back should be maintained.

Commissioner Hines said he was good with that.

Commissioner Colvill stated that it appears he is the only one left trying to keep the large Pine tree intact and seeking an arborist report prior to allowing its removal.

Motion: Upon motion of Commissioner Ching, seconded by Commissioner Colvill, the Planning Commission adopted Resolution No. 4559 approving a Site and Architectural Review Permit (PLN2019-77) to

allow the construction of a new approximately 3,103 square-foot two-story single-family residence on property located at 1147 S San Tomas Aquino Road, with the following conditions:

- **That an arborist report be prepared on the large Pine tree. This tree should be retained if the arborist report finds no significant risk of it falling. If it does pose a risk, the large Pine tree shall be replaced with a 10 to 15-foot tall tree of a protected species; and**
- **That the large Walnut tree in the backyard is to be retained;**

by the following roll call vote:

AYES: Buchbinder, Ching, Colvill and Krey

NOES: Hines

ABSENT: Ostrowski and Rivlin

ABSTAIN: None

Chair Krey advised that this action is final unless appealed in writing to the City Clerk within 10 calendar days.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan had no additions to his written report.

Commissioner Hines:

- Said that he'd like to discuss Council's action to grant an appeal overturning the Planning Commission's decision on Chick-Fil-A.
- Stated that there seems to be a disconnect between what the Planning Commission and Council reviews.
- Pointed out that the Planning Commission considers the General Plan when projects are presented to them. This project met the standards of the General Plan.
- Expressed concern on the significant amount of time staff put into this project yet it was not acceptable to the City Council.
- Stated that there is a "disconnect" there.
- Reminded that the General Plan is coming forward soon. It seems that the current General Plan doesn't fit with our community as it stands today.

Commissioner Colvill:

- Agreed that there is frustration with the differences in how the Planning Commission and the City Council sees things.
- Added that its not as black and white as it should be.
- Opined that this appeal overturning the Planning Commission approval goes against logic and the hard work of the Planning Commission. Having such decisions overturned is something to think about.

Commissioner Hines said he is not concerned that the Planning Commission's decision was overturned.

City Attorney William Seligmann cautioned that the Commission is getting too broadly into discussion of an item that is not on tonight's calendar for any form of action.

Commissioner Hines said it is an issue that needs to be addressed.

Commissioner Buchbinder said it would be addressed with the updates to the General Plan.

City Attorney William Seligmann:

- Reiterated that if the Planning Commission wants to discuss this subject more fully, it should be added to a future PC meeting agenda.
- Added that in order to pass something forward on to Council, there would need to be an agendized discussion and recommendation.

Commissioner Hines said he simply wanted to express his personal opinion and he has done so.

Director Paul Kermoyan:

- Pointed out that Council's granting an Appeal and overturning the PC's decision for Chick-Fil-A was included on his Director's Report for this evening's meeting.
- Explained to the Planning Commissioners that Council looks at different things than the Planning Commission does.
- Assured the PC that they did a job and did it well. This is just the process.

Chair Krey asked staff if members of the Planning Commission can address Council at one of their meetings.

Director Paul Kermoyan replied sure. He suggested moving forward to agendize it for a future PC meeting and come up with something to send on to Council.

Commissioner Buchbinder said it's worth discussing. It seems an important issue.

Commissioner Hines agreed.

Chair Krey directed staff to move forward to add this discussion topic to the next available PC meeting.

ADJOURNMENT

The Planning Commission meeting adjourned at 8:35 p.m. to the next Regular Planning Commission Meeting of **February 11, 2020**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Michael Krey, Chair

ATTEST: _____
Paul Kermoyan, Secretary