

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M.

TUESDAY

FEBRUARY 11, 2020
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of February 11, 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: | Nick Colvill |
| | Commissioner: | Terry Hines |
| | Commissioner: | Andrew Rivlin |
| Commissioners Absent: | Vice Chair: | Maggie Ostrowski |
| | Commissioner: | Stuart Ching |
| Staff Present: | Community | |
| | Development Director: | Paul Kermoyan |
| | Senior Planner: | Daniel Fama |
| | City Attorney: | William Seligmann |
| | Recording Secretary: | Corinne Shinn |

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Buchbinder, seconded by Commissioner Hines, the Planning Commission minutes of the meeting of January 28, 2020, were approved as submitted with a typo correction to page 8 from “feed” to “feet”. (4-0-2-1; Commissioners Ostrowski and Ching were absent and Commission Rivlin abstained).

COMMUNICATIONS

None

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

Mr Buddhadeb Basu, Resident on Redding Road:

- Said he would like to speak to the issue of the ADU Ordinance.
- Reported that he currently has a Code Enforcement Code underway for which City staff has been helping him quite effectively.
- Reported that there was a regional seminar on November 21, 2019, as part of the CalAPA Conference on the intent of the State to create more housing supply during the existing housing crisis.
- Suggested that the members of the Commission take a look at that seminar tape.
- Added that he hopes to see this Commission act as to what the State is intending in terms of ADUs.
- Pointed out that there are lots of existing but illegal ADUs.
- Cautioned that people (property owners) need to feel welcome to come into the City to work to get those unpermitted ADUs legalized.
- Stated that he would also approach the Council.
- Asked that Campbell be proactive in allowing ADUs.
- Thanked the Commission for the opportunity to address them on this issue.

Chair Krey reminded that the City has just adopted its newly updated ADU Ordinance.

Commissioner Buchbinder asked if there is a process to deal with existing illegal ADUs.

Planner Daniel Fama:

- Advised that there is a five-year delayed enforcement provision for those existing ADUs with Building Code violations.
- Said that while those with Building Code violations could be so deferred, that does not apply to Zoning violations.
- Added that if desired, Council could initiate the discussion of expanding the deferment to Zoning violations.

Commissioner Colvill asked staff he is able to address the Oral Request speaker.

Director Paul Kermoyan replied no. He added that the speaker (Mr. Basu) is currently going through a process that will formally bring him to the Planning Commission at a future date.

PUBLIC HEARINGS

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

1. **PLN2019-238** Public Hearing to consider the application of Robson Homes for a Major Modification (PLN2019-238) to a previously-approved Planned Development Permit (PLN2018-178) to allow three accessory dwelling units (ADUs) within an approved six-lot single-family residential planned development, for properties located at **100-300 Haymarket Court** (formally 880 and 910 Harriet Avenue). 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: *Daniel Fama, Senior Planner*

Mr. Daniel Fama, Senior Planner, provided the staff report.

Chair Krey asked if there were questions for staff.

Chair Krey asked what the difference is between allowing an extended FAR for an existing ADU versus an extended FAR for the construction of a new ADU.

Director Paul Kermoyan replied that there is latitude with Planned Development zoning such as in this request under consideration this evening.

Commissioner Hines said that SARC had similar question and learned that these developers could build their project without the desired ADUs and then simply build them after one year with a building permit.

Chair Krey said that seems to be a quirk in our rules.

Director Paul Kermoyan:

- Explained that, per a Planning standpoint, it is best if this project unfolds as the developer wants rather than these ADUs be done later and piecemeal.
- Added that it will be a better development for the community and this neighborhood.

Commissioner Colvill asked how often an ADU is build on top of a garage.

Planner Daniel Fama replied that these are the first ones.

Commissioner Colvill stated that this proposal is fantastic and will help set the tone. He is in support as long as what is proposed adheres to Code standards.

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

- SARC was supportive of the design and proposed architecture of these added ADUs.
- Added that they found this to be consistent with the overall design of the original project.

- Stated that SARC questioned why including ADUs was not done before and learned that the new ADU Ordinance that would allow this had not yet been adopted.
- Advised that the project also received STACC (San Tomas Area Community Coalition) support including via a letter distributed this evening.
- Concluded that the proposed ADUs fit within the standards and it is best to build them up at the same time as the main residential structure(s) rather than later on.

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

Richard Yee, Project Representative, Robson Homes:

- Stated that they are very excited to be here.
- Admitted that they always had the vision for including ADUs as part of their project.
- Said he is available for any questions and hopes for approval.

Commissioner Buchbinder asked why just three ADUs rather than one for all six residences under construction.

Richard Yee replied that having one for the remaining three homes would compromise the rear yards as far as usable outdoor space while it was a natural fit atop the three units with detached garages.

Commissioner Colvill:

- Stated that this inclusion is great. Just phenomenal.
- Added that developers are responsible for so much of the development of our City.
- Stated that this developer is doing everything right and he applauds them for what they are doing.

Chair Krey pointed out that the value of the property goes up with the addition of an ADU on these three homes. He asked what the difference in sales price might be between one without an ADU and one with an ADU.

Richard Yee:

- Stated that he doesn't have that information at this time.
- Agreed that the lots with an ADU would have an impact in value.
- Admitted that his concentration is on project design rather than sales price.
- Concluded that allowing these ADUs will help the City to provide a more diverse housing product as intended by State law.

Chair Krey thanked Mr. Richard Yee.

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

Commissioner Buchbinder:

- Said that he likes the proposed design.
- Added that the developer has gone out of their way to fit these ADUs within the design of the main homes.
- Reminded that STACC is supportive of this request

- Pointed out that it is what we had in mind with the ADU Ordinance.
- Concluded that this change will increase this project from the original six to nine units of housing.

Commissioner Hines:

- Stated his agreement with the comments of Commissioner Buchbinder.
- Reported that Robson Homes worked diligently with the City and community to process an ADU design that meets the requirements of the City and the State.

Commissioner Colvill:

- Said the he loves this proposal.
- Declared that it would set the bar and tone moving forward for other developers.
- Agreed with previous statements that there is a great demand for housing.
- Reiterated that this is a great project for Campbell.

Commissioner Rivlin stated his support as proposed.

Chair Krey:

- Said he too supports this request.
- Admitted his concern about the second story with no enhanced (off-set) setback.
- Concluded that this proposal is a good fit here.
- Stated his loves the input received.

Motion: **Upon motion of Commissioner Hines, seconded by Commissioner Rivlin, the Planning Commission adopted Resolution No. 4560 recommending that the City Council approve a Major Modification (PLN2019-238) to a previously-approved Planned Development Permit (PLN2018-178) to allow three accessory dwelling units (ADUs) within an approved six-lot single-family residential planned development, for properties located at 100-300 Haymarket Court (formally 880 and 910 Harriet Avenue), by the following roll call vote:**
AYES: **Buchbinder, Ching, Colvill, Hines, Krey and Rivlin**
NOES: **None**
ABSENT: **Ostrowski**
ABSTAIN: **None**

Chair Krey advised that this item would be considered by the City Council for final action at its meeting on March 3, 2020.

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

NEW BUSINESS**2. Discussion about Planning Commission and City Council decision making.**

Chair Krey said that this item is a follow up to the discussion held at the end of the last meeting during the Director's Report.

Director Paul Kermoyan:

- Stated that this item was agendaized to provide the Planning Commission with an opportunity to speak in open session about concerns members may have.
- Explained that when evaluating a project to bring forth to the Planning Commission, staff looks at the project against codes and not what public input it receives.
- Added that issues of consideration are whether a site can support a proposed use or development as well as evaluate whether there are any potential impacts.
- Assured that staff has no preference one way or the other. It's not winning votes.
- Said that Council can take other issues into consideration including the weight of public preference.
- Added that hopefully staff is not putting too much pressure on the PC. What staff provides to PC is its recommendations. Staff follows Code and policy direction. Nothing else.
- Suggested that the Commissioners talk amongst themselves.
- Advised that the Commission can reach out to Council suggesting a joint CC/PC Study Session.
- Said that one means of outreach would be for a member to attend a Council meeting and address the Council under Oral Request/Public Comment.
- Stated that there are different avenues for the PC if there is an issue of concern to the Commission.

Commissioner Buchbinder:

- Said that one of his original general concerns was the boundaries of Commissioners to request items of discussion.
- Reminded that he had requested parking information as part of the review of the new brewery tasting room application. It was provided by staff via an intern.
- Questioned what might be considered outside of the Commission's mandate. Is it out of mandate to talk to a member of Council about an issue or topic? What is the extent of what we can discuss here and send on to Council?

Director Paul Kermoyan said that tonight the Commission's agenda description is a discussion about Planning Commission and City Council decision making.

Commissioner Buchbinder asked when we should go to Council versus raising an issue here at a Planning Commission meeting.

Director Paul Kermoyan assured the members of the PC that they are free individually to reach out to members of Council.

Commissioner Buchbinder said it seems more meaningful if the PC comes to a recommendation and brings it forward to Council. Gave input on the General Plan Update as one timely issue.

Director Paul Kermoyan:

- Said he was just trying to appease a simple request when he went ahead and had an intern research additional parking information requested by Commissioner Buchbinder for that Use Permit application. It was a simple request and a relevant assignment for our intern.
- Stated the greater question seems to be how the PC can forward items to Council.
- Suggested continuing tonight with their discussion on what types of items the PC seeks to bring to the attention of Council and in what form.

Commissioner Buchbinder said one issue he feels is important is the ADU Ordinance and taking on the amnesty option supported by the State and raised under Oral Request this evening.

Director Paul Kermoyan said that all comments made this evening are on the record and included in the meeting minutes. He added that as most Council Members watch the PC meetings, it is likely they have heard the comments of the last meeting.

Commissioner Buchbinder asked again how much discretion a Commissioner/the Commission has to forward items to Council.

Director Paul Kermoyan:

- Clarified that as an individual, each Planning Commissioner has total autonomy to reach out to members of Council.
- Added that if the PC is asking staff to prepare some form of formal document (manifesto) to forward a statement to Council memorializing a PC opinion or request, the PC is more confined.
- Advised that the “charge” of this Planning Commission is development and project review, Ordinance recommendations, and appeals of administrative decisions. That is the primary purpose for the PC.

Commissioner Buchbinder said that the Commission continues to run into issues where the existing General Plan is not in keeping with the current Codes. What are our options?

Director Paul Kermoyan:

- Said that the way to be effective is through meaningful communication.
- Added that it seems that one solution might be for the Planning Commission to recommend that the City Council convene an annual or bi-annual joint session together with the Planning Commission.
- Stated that those joint sessions tend to be broad discussions of issues.

Commissioner Buchbinder said that is a great idea.

Commissioner Hines agreed.

Director Paul Kermoyan:

- Said that if all Commissioners agree, staff can send a note to Council recommending such a meeting(s) be considered.
- Stated that would be the correct approach.

City Attorney William Seligmann added that the Commission should agendaize an item on a future PC meeting at which time they can form a motion to pass this recommendation for annual joint PC/CC sessions on to Council.

Commissioner Hines:

- Pointed out that three very significant projects have gone through this Planning Commission on to Council at which time the Council decision was counter to the PC recommendation for all three.
- Reminded that a lot of Commission and staff time was spent reviewing those projects including feedback from the public. It reflects a lot of time spent.
- Added that it seems Council is not in the same mindset as Council.
- Stated that he would like to have (build) on each body's mindset rather than resulting on so many counter decisions.
- Admitted he is not sure that a joint session is the answer.
- Said that rather than a joint session he'd rather understand Council's thought process so the PC can also take that into consideration during its review and forwarding of recommendations.

Director Paul Kermoyan said that in the event that Council is supportive of establishing Joint PC/CC Study Sessions, what is discussed will depend on the quality of the agenda prepared for that joint meeting.

Commissioner Rivlin:

- Reminded that this Commission works on the General Plan and updates to other Codes.
- Added that the Council may or may not have to adhere to the same standards but rather are able to take other information into consideration.
- Said that the PC went with the General Plan rather than with its own personal preferences for what is supportable or not coming before the PC.
- Concluded that the PC serves at the behest of the City Council.

City Attorney William Seligmann added that one member of the PC could meet with up to two members of Council at any given time. To do otherwise risks representing "serial" meetings that are against the provisions of the Brown Act.

Commissioner Hines said that as has been the case over his career in high tech to be sync with his bosses, as a Planning Commission he also wants to be aligned with his "Boss" which in this case is the City Council.

Commissioner Rivlin said that there is some frustration on the part of this Commission and desire to get to what is the root of our concerns given all of the items forwarded and overturned were carefully considered by this PC at multiple meetings.

Commissioner Colvill:

- Said that there seems to be a disconnect between the Planning Commission and City Council so having perhaps an annual Joint PC/CC Study Session is a fantastic idea.
- Stated that the PC is doing its best to work together with Council, but it feels like decisions go in a direction they shouldn't.
- Supported the idea of agendizing the concept of joint meetings and make a resolution to move that idea forward to the Council for consideration.
- Said he realizes we have to be more assertive to make motions and resolutions.
- Referenced Chapter 21 and the areas for which the PC has jurisdiction.
- Suggested that they discuss things we don't like on our own and pass it on to Council. Perhaps things that are not on their (Council's) radar.

Chair Krey said that both the possibility of including amnesty period for existing non-conforming ADUs and the issue of parking for the Downtown were both in context with items the PC was looking at.

Director Paul Kermoyan:

- Said that he gets the idea that what the PC is proposing represents new assignments for staff to undertake that have not been assigned or authorized by Council.
- Cautioned that at the present time, Planning is tapped out.
- Stated that he has no problem doing more but he needs more staff to get it done.

Commissioner Hines:

- Stated that the Council is tapped out as well. They have a lot of activities they have to do in relation to their service on Council.
- Added that he is not trying to add more work to staff's load but rather is seeking to understand how the PC is going to be better aligned with the standards of the Council.
- Said he wants the PC to take Council's direction into consideration in its own decision making.
- Pointed out that he is not asking for another Study Session, which would just overload everybody even more than they already are.

Director Paul Kermoyan:

- Suggested that annual Joint Sessions could represent a built-in mechanism to provide a check-in process.
- Added that he thought at least once a year a joint session is important.
- Stated that with that one session, the PC would get their Council's perspective.

Commissioner Buchbinder pointed out that some members of Council watch the PC meetings yet sometimes come up with something that doesn't make sense due to the work put into forwarding the PC recommendation on to Council.

Director Paul Kermoyan said that since the group all feel it is important to have at least one joint study session a year, he suggested one member make a motion and staff will deliver that message on to Council via the City Manager. He agreed that it was likely some if all Councilmembers could be watching this PC meeting right now.

Chair Krey suggested that members of the PC should perhaps watch some of the Council meetings to see how they debate items.

Commissioner Colvill:

- Stated that everyone is overburdened.
- Added that when looking into the Municipal Code, it advises that members of the PC should go to the Community Development Director for guidance and he is effective at providing it.
- Said that it is important for us to go to staff without feeling that we are over-burdening them.

Motion: Upon motion of Commissioner Colvill, seconded by Commissioner Buchbinder, the Planning Commission took minute action to forward a suggestion on to the City Council that they consider establishing an Annual or Bi-Annual Joint PC/CC Study Session. (5-0-2; Commissioners Ostrowski and Ching were absent).

Director Paul Kermoyan said staff would put this message together and get it to the City Manager. He added that the reason to meet is to discuss the Planning Commission’s role and how we apply Code to review and decision making.

Commissioner Hines said he agrees with Director Kermoyan that the goal is to discuss process.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan had no additions to his written report.

ADJOURNMENT

The Planning Commission meeting adjourned at 8:22 p.m. to the next Regular Planning Commission Meeting of **March 10, 2020** as the Regular Planning Commission Meeting of February 25, 2020 is cancelled.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Michael Krey, Chair

ATTEST: _____
Paul Kermoyan, Secretary