

CITY OF CAMPBELL PLANNING COMMISSION
MINUTES

7:30 P.M.

TUESDAY

FEBRUARY 26, 2019
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of February 26, 2019, was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Chair Hernandez and the following proceedings were had, to wit:

ROLL CALL

Commissioners Present:	Chair:	JoElle Hernandez
	Vice Chair:	Andrew Rivlin
	Commissioner:	Stuart Ching
	Commissioner:	Terry Hines
	Commissioner:	Mike Krey
	Commissioner:	Maggie Ostrowski
	Commissioner:	Michael L. Rich

Commissioners Absent: None

Staff Present:	Community	
	Development Director:	Paul Kermoyan
	Senior Planner:	Daniel Fama
	Associate Planner:	Stephen Rose
	Assistant Planner:	Naz Pouya
	City Attorney:	William Seligmann
	Recording Secretary:	Corinne Shinn

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Rich, seconded by Commissioner Krey, the Planning Commission minutes of the meeting of February 12, 2019, were approved as submitted. (5-0-0-2; Commissioners Ching and Rivlin abstained)

COMMUNICATIONS

1. Desk Item for Agenda Item 1.

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

PUBLIC HEARINGS

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

1. **PLN2018-319** Public Hearing to consider the application of Jeannie Kester for a Site and Architectural Review Permit (PLN2018-319) to allow the construction of a new 2,696 sq. ft. single-story single-family residence with a 458 sq. ft. detached garage on property located at **1495 Theresa 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: *Stephen Rose, Associate Planner*.

Mr. Stephen Rose, Associate Planner, provided the staff report.

Commissioner Krey said that this is a good project but SARC had a couple of concerns that the applicant handled pretty well with changes to the design.

Chair Hernandez added to the SARC update as follows:

- Reported that the big issue for SARC was the fact that the plans under review did not actually reflect what the applicant ultimately planned to build. To avoid having to modify an approved project the applicant was encouraged to update his plans to better reflect what he wanted. He did so and incorporated the use of pervious pavers as requested by SARC.

Planner Stephen Rose added that while the project is removing a number of trees in order to build on this site they are proposing to plant five new trees.

Chair Hernandez asked if there were questions for staff. There were none.

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

Lynn Carter, Resident on Theresa Avenue:

- Asked for some clarification on how site review works in Campbell.
- Reported that this is her first opportunity to look at this proposal and she is a neighbor. As a result, she has not had her opportunity to comment or make requests.

Planner Stephen Rose:

- Provided an overview of the notification processes for projects such as this one.
- Reported that upon initial receipt of a project, the assigned planner sends out a courtesy notice to those located within 300 feet of a project location. The notice gives basic information and invites interested persons to contact staff and/or to stop by to review the proposed plans.
- Added that when the time comes for a public hearing, as is occurring this evening for this project, a second mailed notice is sent to the same noticing distance of 300 feet.
- Advised that staff encourages project applicants to also do their own outreach to adjacent neighbors by showing them the plans.

Lynn Carter asked what her recourse is at this point.

Planner Stephen Rose said she could offer her comments about this proposal to the Planning Commission tonight on the record.

Director Paul Kermoyan:

- Elaborated on noticing protocols by advising that the courtesy notices are intended as an early notification to surrounding properties. It goes out very early in the process. Usually within a week of a project application package being received.
- Cautioned that it is incumbent on the neighbors to read the notification and to come forward with any questions or concerns by contacting staff identified in the notice.
- Reiterated that the standard 10-day notice is mailed prior to public hearings as was done in this case.

Chair Hernandez:

- Said that tonight the Commission will likely chose to take action on this request.
- Stated that depending upon the outcome, Ms. Carter can contact Project Planner, Stephen Rose, at the Planning Department. Alternately, she can attempt to communicate with the applicant to see if they are willing to work with you on your concerns.

Lynn Carter said she just received the notice for tonight's meeting and nothing prior.

Planner Stephen Rose read the file copy of the mailed courtesy notice aloud and assured that staff had done all due diligence.

Director Paul Kermoyan added that the original courtesy notice was mailed on September 18, 2018.

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

Commissioner Hines:

- Said that this proposed home looks consistent with the new generation of new housing in the area.
- Reported that he did both drive by as well as walk by to get a feel for the neighborhood.

Commissioner Ostrowski said that the design looked good.

Commissioner Rivlin:

- Said that he was comfortable with the front façade and the modifications to it are acceptable.
- Admitted that he finds that the side elevations feel a bit continuous but that's okay given that this is a single-story home.
- Suggested encouraging the applicant to utilize the same pervious pavers for the driveway as well.
- Stated that use of pervious pavers changes the character of the hardscape space.

Commissioner Rich:

- Admitted that he likes the project's architecture. It is a pleasant upgrade to what was there before.
- Added that this is not a "monster" home. It is in line with the lot size.
- Concluded that he was in favor of this request.

Chair Hernandez cautioned that if the Commission wants to require the additional use of pervious pavers for the driveway that needs to be added now. She said she is comfortable with it as presented but could also support use of more.

Commissioner Rivlin:

- Said that the whole rear yard being of pervious pavers might turn that into parking for cars and/or other activities.
- Added that inclusion of pervious pavers will increase the value of the outdoor space as well.

Planner Stephen Rose:

- Explained that the reason the area in blue is proposed for pervious pavers while the driveway is not is because the majority of homes in the immediate area don't have pervious paver driveways. That was a concern for the applicant.
- Stated that if the Commission wants the exclusive use of pervious pavers they should add a condition for that to the motion.

Commissioner Rich said that as proposed this driveway is in line with the other houses in this neighborhood as being concrete.

Planner Stephen Rose confirmed that the proposed driveway is consistent with the neighbors' being concrete.

Director Paul Kermoyan said that it would be important for the Commission to provide some sort of "linkage" as to why the use of a pervious paver driveway is more desirable than a concrete driveway as proposed. Asked what problem/issue that requirement is intended to resolve.

Commissioner Rivlin said that it doesn't look good to have a massive area in concrete. He cautioned that lots of cars could end up being parked there.

Chair Hernandez added that concrete does not aide in water percolation. Use of pervious pavers is for their ability to assist with water runoff.

Director Paul Kermoyan:

- Said that design consistency is important and he sees a solid connection.
- Pointed out that this street has lots of detached garages with concrete driveways.

Planner Stephen Rose advised that this site is compliant on the issue of hardscape.

Director Paul Kermoyan asked the Commission to provide justification in their motion to capture their rationale for requiring additional pervious pavers for the driveway.

Commissioner Krey:

- Reminded the Commission that this applicant worked with SARC on the issue of pervious pavers. He feels the applicant went far enough as proposed.
- Pointed out that the paving coverage is low for this lot.
- Concluded that he likes the staff recommendation.

Commissioner Ching said he does as well.

Commissioner Ostrowski said she supports the use of pervious pavers for the area depicted in blue on the plan.

Commissioner Rich suggested leaving it up to the applicant as to whether his driveway should be concrete or pervious pavers.

Motion: **Upon motion of Commissioner Krey, seconded by Commissioner Ching, the Planning Commission adopted Resolution No. 4479 approving a Site and Architectural Review Permit (PLN2018-319) to allow the construction of a new 2,696 sq. ft. single-story single-family residence with a 458 sq. ft. detached garage on property located at 1495 Theresa Avenue, with the inclusion of pervious pavers in the area shown in blue on Exhibit A that was distributed this evening as a desk item, by the following roll call vote:**

AYES: **Ching, Hernandez, Hines, Krey, Ostrowski, Rich and Rivlin**

NOES: None
ABSENT: None
ABSTAIN: None

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

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

2. **PLN2018-218 - TPM** Public Hearing to consider the application of Scott Zazueta
PLN2018-219 - ZMA for a Tentative Parcel Map (PLN2018-218) to create two
PLN2018-220 - PD single-family lots; a Zoning Map Amendment (PLN2018-
219) to rezone the project site from R-1-6 (Single-Family Residential) to P-D (Planned Development); and a Planned Development Permit (PLN2018-220) to allow construction of two single-family homes with an exception to the access requirement, on property located at **1806 White Oaks Road**. 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, Assistant Planner*

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

Chair Hernandez asked if there were questions for staff.

Commissioner Hines asked what the connection is between this site and 1630 White Oaks.

Planner Naz Pouya explained that there are two other flag lots on White Oaks that met the standards of the R-1-6 Zoning.

Director Paul Kermoyan:

- Stated that there is the challenge to look at proposed developments to see if they are compatible with the existing built environment.
- Said if this was the first flag lot in this area that might be something to take into consideration as to whether to approve the first such flag lot.
- Added that in this case there are a couple of other flag lots in the immediate area.

Commissioner Hines said that gave him a feel of consistency.

Commissioner Ching asked what if the Commission doesn't agree with the proposed PD Zoning and require a Variance application instead. Would the applicant have to resubmit?

Director Paul Kermoyan:

- Replied, yes. Going from a Zone Change to a Variance would require a resubmittal.
- Stated that the application we have before us includes a proposed zone change to PD.
- Pointed out that most properties for which proposed PD projects come before the Commission are already zoned PD.
- Reminded that the PD zoning allows unique development usually with the intent of resulting in more open space. The PD zoning is flexible in exchange for something great in a project.
- Said that is in keeping with historic practice.

Commissioner Rivlin gave the Site and Architectural Review Committee meeting update as follows:

- SARC performed an in depth review of this project. It was determined that this project site was just a few inches too narrow to provide required site access for the flag lot.
- Added that SARC felt this project fit in with this neighborhood and local area. The building size is compatible as well with two homes proposed and the larger of the two at the rear (flag) lot.
- Reported that the applicant reduced the size of the homes and SARC found that the proposed setbacks seemed okay.
- Advised that following feedback by SARC the applicant reduced the scale of the rear home by reducing the columns to better match the front residence.
- Added that to deal with issues of privacy, the applicant removed a balcony.

Commissioner Krey reported that the applicant was amiable to SARC's concerns.

Commissioner Rivlin agreed and said the applicant answered each concern raised.

Planner Naz Pouya concurred.

Chair Hernandez clarified that the applicant removed one balcony but kept a second. Is that correct?

Planner Naz Pouya replied that the north-facing balcony was replaced with an egress window.

Commissioner Rich asked if there was any discussion regarding the 15-foot driveway. Is there any way that fitting in a conforming driveway was possible?

Planner Naz Pouya:

- Said it was not possible given the size and geometry of the lot. The site is wide enough at the front but tapers (narrows) at the back.
- Concluded that as a result this property cannot be divided into two standard flag lots.

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

Scott Zazueta, Applicant, D & Z Associates:

- Thanked Planner Naz Pouya and Director Paul Kermoyan as well as SARC's Commissioners Rivlin and Krey.
- Assured that all of the recommendations made by each were taken to heart. The house was reduced.
- Reminded that the only thing not met is the 15-foot width driveway. All other standards are met.
- Reported that they tried hard to meet the R-1-6 development standards of this neighborhood.
- Said that street access was handled following a meeting with staff. The house on the front lot was reversed to merge both driveways together.
- Advised that they would be required to remove the whole existing street frontage public sidewalk and replace with new.
- Stated that a lot of consideration was taken in designing this project.
- Informed that they did a full outreach of all affected neighbors and secured Neighbor Acknowledgement Forms from all and submitted them. He stressed that they went to all the neighbors. All neighbors were happy with the plan and willingly signed the forms.
- Opined that this is a neighborhood that is in the infancy stages of redevelopment. Some houses are being torn down and rebuilt and/or extensively remodeled.
- Added that there is an eclectic mix of architectural styles in this neighborhood including Ranch, Spanish, Mediterranean, Craftsman and even a Colonial.
- Predicted that this project will help to "spark" more people in this neighborhood to improve their own homes.
- Concluded by saying he is available for any questions.

Commissioner Hines thanked Mr. Zazueta for his outreach efforts to the neighbors.

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

Commissioner Ching:

- Said that he is pretty happy with this project.
- Agreed that this applicant worked with staff and SARC and made adjustments based on their recommendations.
- Stated that the proposed architecture fits in.
- Admitted that the proposal is not really in the "spirit" of a PD Development but he doesn't want this applicant to have to undergo another application process as required if we were to go with the Variance route rather than the re-zone to PD.
- Asked staff if there is something we can do.

Director Paul Kermoyan:

- Explained that one of staffs' jobs is to alert the Planning Commission on how we use our Codes.
- Said the question can be raised, "Are we using the PD Zoning in the way it was intended?"

- Reiterated that options at hand to deal with the one-foot shortfall of site width would either be a Variance and/or to rezone the parcel to PD.
- Stated that the zone change gives the City a lot of leverage in setting standards of a subdivision.

Planner Terry Hines suggested allowing the PD zoning but requiring the standards of the R-1-6 zoning being met.

Director Paul Kermoyan said that is possible.

Chair Hernandez reiterated the fact that for a zone change there should be some “benefit” to the City as far as the design of the PD project.

Director Paul Kermoyan:

- Asked whether this is the project one uses to turn to that?
- Stated that our job is to alert the PC to allow for broad discussion.
- Concluded that historically this seems to be working.

Commissioner Rich:

- Reminded that the only variation from the R-1-6 standards is the 14-foot versus required 15-foot driveway width.
- Said this project is compatible with this neighborhood. He likes the design and finds that it fits within this neighborhood in spirit.
- Stated that he can vote in favor of this project without any angst or heartburn.
- Assured that this project doesn’t set precedent as each project is unique and evaluated as such.
- Concluded that he is in favor of this proposal.

Commissioner Krey:

- Said that he understands Commissioner Ching’s concerns but also doesn’t see this project as setting precedent.
- Reminded that Fire signed off on the designed and reduced driveway width.

Chair Hernandez:

- Said she still takes issue with the design of the back house. It is still massive to her and has some real design issues. It’s high. She doesn’t think that it fits in this neighborhood. She found big issues with that design and feels despite changes it still doesn’t fit.
- Added that she is okay with the current PD zoning request but could support consideration of a Variance instead.
- Stated that the massing at the front looks like a “tunnel”.
- Reiterated that both houses are high with the front home being 28 feet and the rear home being 30 feet. She said she was not sure whether other houses on this street are that high.

Commissioner Rivlin said that SARC had similar concerns but felt they are set back enough and the heights don’t exceed the neighborhood requirements.

Planner Naz Pouya said that the maximum height for the R-1-6 zoning is 35 feet.

Commissioner Rivlin:

- Said that the front home's site design has added new fencing and landscaping.
- Stated that it wasn't lost on SARC that this was a large home and it was reduced by 250 square feet.

Chair Hernandez agreed that the house designs did change after SARC review and recommendation.

Commissioner Ching:

- Said that the applicants worked cooperatively with staff.
- Reminded that these are similar style and size homes currently found in this neighborhood.
- Concluded that he is comfortable with what's proposed.

Commissioner Ostrowski:

- Said that this project is consistent with previous PD zoned projects.
- Pointed out that this property is just one-inch too narrow so as to require a PD zoning.
- Suggested developing guidelines moving forward regarding future changes in zoning.
- Agreed that the massing is large but she is still okay moving forward with the project as the applicant has designed.

Commissioner Rivlin:

- Stated that he is impressed with the attention to detail with the landscaping between these two homes.
- Agreed that to secure a PD zoning, there should be some incentive to the community before it allows zone changes to occur.
- Suggested a future discussion on this concept of applying benefits to the City with the bestowing of a PD zoning.
- Recommended that this site be required to adhere to the R-1-6 development standards in perpetuity.

Director Paul Kermoyan said that requirement can be applied as a condition of approval for the Tentative Parcel Map and recorded so that future changes continue to comply with R-1-6 standards.

Commissioner Hines asked if there is potential for additional trees in front.

Commissioner Rivlin asked if Commissioner Hines is referring to the space at the end of the drive. If so, he could support that.

Commissioner Hines said that upon reflection he doesn't want to mandate that.

Director Paul Kermoyan:

- Said it seems there is consensus amongst the Commissioners that future development is required to adhere to the R-1-6 development standards.
- Added that Planner Naz Pouya made the good suggestion that that condition be added to both the Planned Development Permit and the Tentative Parcel Map.

Commissioner Rich agreed.

Motion: Upon motion of Commissioner Ching, seconded by Commissioner Rich, the Planning Commission took the following actions:

1. Adopted Resolution No. 4480 recommending that the City Council approve a Zoning Map Amendment (PLN2018-219) to rezone the project site from R-1-6 (Single-Family Residential) to P-D (Planned Development);
2. Adopted Resolution No. 4481 recommending that the City Council approve a Tentative Parcel Map (PLN2018-218) to create two single-family lots with the added condition of approval requiring that any future changes to the property continue to meet the R-1-6 development standards; and
3. Adopted Resolution No. 4482 recommending that the City Council approve a Planned Development Permit (PLN2018-220) to allow construction of two single-family homes with an exception to the access requirement, on property located at 1806 White Oaks Road, with the added condition of approval requiring that any future changes to the property continue to meet the R-1-6 development standards, by the following roll call vote:

AYES: Ching, Hines, Krey, Ostrowski, Rich and Rivlin

NOES: Hernandez

ABSENT: None

ABSTAIN: None

Chair Hernandez advised that this item would be considered by the City Council for final actions at an as-yet unscheduled meeting.

Commissioner Rivlin advised that he would have to recuse from participation on the next public hearing due to a professional conflict of interest.

Chair Hernandez read Agenda Item No. 3 into the record as follows:

3. **PLN2019-010** Public Hearing to consider the Appeal of Kim Zetterlund of the Community Development Director's denial of a Tree Removal Permit (PLN2018-396) to allow the removal of two (2) cedar trees on property located at **1875 S. Bascom Avenue** in the C-2 (General Commercial) Zoning District. Staff is recommending that this item be deemed Statutorily Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Naz Pouya, Assistant Planner*

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

Chair Hernandez asked if there were questions for staff.

Commissioner Rich asked if the picture of the fallen tree provided was taken recently or is it just an arbitrary exhibit.

Planner Naz Pouya:

- Said that picture was provided in the appellant's letter.
- Advised that when the previous tree failed the City was not notified of the removal as we should have been.
- She pointed out that the date stamp on the photo is 6/19/2018.

Commissioner Rich said that means staff had no ability to inspect the tree to document its condition.

Planner Naz Pouya said that a different arborist (than Ms. Kim Zetterlund) handled that tree failure without contacting the City.

Commissioner Rich said it appears per the letter from Arborwell that the reason for removal was due to decay.

Planner Naz Pouya clarified that the original Tree Removal Permit application was submitted for six trees. Three tree removals were approved due to disease or danger of falling. Three other trees were denied as required findings could not be made.

Commissioner Krey asked who pays if the City asks for a third-party arborist.

Planner Naz Pouya replied that the City hires the arborist at cost to the applicant/appellant.

Chair Hernandez pointed out that The Pruneyard has requested tree removals in the past for a large number of trees. They know how to request tree removal.

Planner Naz Pouya said she would assume so.

Director Paul Kermoyan:

- Advised the Commission that Planner Naz Pouya is also a Landscape Architect.

- Pointed out that just because one Cedar tree falls that doesn't mean that all other nearby Cedar trees will also fall.
- Stated that had the City been advised of the prior tree failure, staff could have evaluated the surrounding trees left behind at that time.
- Said that trees adapt to being in confined spaces.
- Advised that he was unable to make the finding that all Cedars will fall now that one has fallen.

Commissioner Hines said he concurs. He said that regular maintenance of trees must be done or a tree could fail.

Chair Hernandez opened the Public Hearing for Agenda Item No. 3.

Kim Zetterlund, Appellant and Arborist with Arborwell:

- Advised that she did a tree risk assessment for The Pruneyard.
- Explained that the reason for the failure and for the need to remove these additional Cedars is due to limited growing space. These tree trunks fill their entire space.
- Reported that there has previously been limb failure when a large limb landed on a car parked below. Additional there was the previous full tree failure.
- Stated that the concerns of The Pruneyard is the risk to "high-value" targets that are represented by people and cars if a tree should fail and/or fall.
- Declared that it is "not a question of if it will fall. It is a question of when."
- Said her clients want to be pro-active in order to eliminate risk and replace these trees with more appropriate trees.
- Stated that in her opinion there are no mitigation options. Pruning will not help much.

Commissioner Ostrowski asked how old these trees are and when they were planted.

Kim Zetterlund replied that is questionable but she estimates approximately 30 years of age.

Commissioner Hines asked what is the plan is for replacement trees.

Kim Zetterlund said 24-inch box tree if they wanted to plant in the same planter. However, they prefer not to do so. She listed Sycamore, Pistache and Oak as potential replacement trees. Something that is not as large as these Cedars.

Commissioner Krey asked how long of a life span the existing trees have.

Kim Zetterlund replied that she can't say. It could go tonight or last another 10 years.

Commissioner Krey said that can be said about any tree.

Kim Zetterlund said that the recent extensive amount of rain and wind helps to facilitate tree failure.

Commissioner Ching asked how it might impact the existing situation if they were to increase the planter size.

Kim Zetterlund said that would not help. They can't put out their large support roots in their current conditions.

Danielle Y. De La Cruz, Member Campbell Youth Commission:

- Said that she is a seventh grader and a member of the Campbell Youth Commission.
- Stated her support for the upholding of the Community Development Director's decision to deny the removal of these Cedar trees at the Pruneyard.
- Reminded that the symbol for the City of Campbell is a tree.
- Explained that one of the goals of the Campbell Youth Commission is to try to help make the City a better place.
- Pointed out that cutting trees ruins the environment.
- Stressed the need to keep our City beautiful.
- Asked the Planning Commission to uphold the Director's action and require these trees be kept.

Jo-Ann Fairbanks, Resident of Campbell:

- Expressed her dismay at the continuing demolition of mature trees across Campbell. It has to stop.
- Thanked Director Paul Kermoyan for the complete report provided on this appeal.
- Stressed the need to support the sustainability of the City's existing tree canopy.
- Said that instead there is an overall reduction of this valued resource.
- Pointed out that six mature trees ranging in diameter between 12 to 26-inches are involved here. Half of which have been given a death sentence.
- Stated that the appellant has not shown that the remaining trees warrant removal.
- Tree retention is an important sign of stewardship of our environment.
- Said that Campbell's Tree Protection Ordinance is designed to protect and preserve trees one tree at a time.
- Asked that this Appeal be denied and the Director's action to deny this tree removal permit be upheld.

Chair Hernandez closed the Public Hearing for Agenda Item No. 3.

Commissioner Ching seconded the comments of Commissioner Rich and expressed his support for the denial of this appeal.

Commissioner Hines thanked the appellant for her input and suggested that more treatment of the trees be undertaken. This gives her the opportunity to expand reviews for more care of trees. He stated his support to uphold the Director's decision to deny these Cedar tree removals.

Commissioner Krey said it is never easy to allow the removal of mature trees. If these trees were considered to be a real danger the Commission would approve removal immediately.

Chair Hernandez:

- Said she mirrors the comments already made and finds that removal of these trees is not warranted.
- Added that she is not happy that other trees have already been removed without permits. They knew the process.
- Stressed the need to bring any future tree removals to the City for discussion prior to removal. Please remember that in the future.
- Reiterated that there is not enough evidence to support removal so she will vote to deny the appeal.

Motion: **Upon motion of Commissioner Rich, seconded by Commissioner Ostrowski, the Planning Commission adopted Resolution No. 4483 denying an appeal and upholding the Community Development Director's action to deny a Tree Removal Permit (PLN2018-396) to allow the removal of two (2) cedar trees on property located at 1875 S. Bascom Avenue, by the following roll call vote:**

AYES: **Ching, Hernandez, Hines, Krey, Ostrowski and Rich**
NOES: **None**
ABSENT: **None**
ABSTAIN: **Rivlin**

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

Commissioner Ching advised that he would need to recuse from the next item due to past public comments he has made about this project. He left the chambers.

Chair Hernandez read Agenda Item No. 4 into the record as follows:

4. **PLN2017-120** Public Hearing to accept comments from interested public agencies, organizations, and individuals on the adequacy of the project-level Draft Environmental Impact Report (DEIR) prepared for the proposed Campbell In-N-Out Burger Project, on property located at **499 E. Hamilton Avenue**. The proposed project would demolish the existing restaurant building (former Elephant Bar) and entirely redevelop the project site with an approximately 3,812 square-foot drive-through fast-food restaurant with outdoor seating. The project would also include related landscaping and site improvements, removal of all on-site trees, and an increase in the number and size of on-site signage. Project Planner: *Daniel Fama, Senior Planner*

Mr. Daniel Fama, Senior Planner, provided the staff report indicating that staff is here to collect comments about the Draft EIR for In-N-Out Burger at 499 E. Hamilton Avenue. Not decisions will be made this evening.

Steve Noack, EIR Consultant, Placeworks:

- Described an EIR as an informational document that discloses information on the potential impacts of a project on the environment and to provide mitigation measures to resolve those impacts. It is a disclosure document.
- Added that the EIR doesn't deny or approve a project.
- Stated that the EIR process provides several opportunities for public involvement and listed the following steps to the process:
 - Scoping meeting
 - EIR Review
 - 45 day public review and comment period ending on April 1, 2019.
 - Preparation of responses to each comment received for inclusion in the Final EIR.
 - Public hearing to consider the project itself and the adoption of the EIR to support it.
- Said that the EIR considers a full range of areas from aesthetics to noise to circulation. The rankings include "no impact" to "less than significant impact" to impacts that require mitigations.
- Explained that they looked at three alternatives to the project itself as follows:
 - No project
 - Project but no drive thru
 - Reduced footprint of building that would allow increased drive-thru lanes and parking on site.
- Added that they will also prepare a Mitigation Monitoring and Reporting Program to document how the proposed mitigations will be overseen and who will be responsible. This program will identify specific impacts and corresponding mitigation measures.
- Reported that some mitigation measures are already automatically in place as "best practices" including Bay Area Air Quality Management District (BAAQMD) and other such agencies. He said dealing with construction noise impacts is already considered to be a "best practices" issue.
- Regarding Cultural Resources, he indicated that if anything is found – be it human remains or cultural artifacts – mitigations would be implemented.
- Recognized that the Hamilton/Salmar/Highway 17 corridor is already at an unacceptable level. Things to consider might be extending the left turn lane on eastbound Hamilton and other improvements to Hamilton Avenue.
- Said that some of the mitigations will be cumulative for which a financial contribution will be collected toward future improvements.
- Suggested the inclusion of "Keep Clear" pavement markings where appropriate.
- Reiterated that the public comment period would run through April 1, 2019. Written comments can be submitted in several ways including a form available tonight, by email to Planner Daniel Fama at danielf@cityofcampbell.com as well as via verbal comments made tonight during this public hearing. All public comments will be responded to in the Final EIR document.

Chair Hernandez asked if there were any questions for staff.

Commissioner Ostrowski asked if staff could elaborate on traffic impacts.

Steve Noack said that the mitigation is the requirement of a financial contribution to CalTrans. That project will be construction in the future or by 2040 at the latest.

Planner Daniel Fama:

- Clarified that the Highway 17 off-ramp project was supposed to be funded via Measure B funds but those funds had been tied up in a lawsuit and were just released recently.
- Added that the Measure B funds will not cover all costs of the mitigation and stated that ideally the project would be completed well before 2040.
- Reminded that there are many local and regional clearances that must occur.
- Said that Public Works would work with VTA to develop a timetable for the project.

Commissioner Rich asked for clarification that this applicant will be asked to contribute.

Planner Daniel Fama:

- Said that they would be responsible for a proportionate share which equates to about \$30,000.
- Added that those funds would be provided “today” but be placed in an escrow account until the project begins.

Commissioner Krey asked Consultant Steve Noack to clarify that the Southbound 17 off-ramp at Salmar and Hamilton Avenues is rated as an “F” by VTA?

Steve Noack said that the Traffic Engineer is not here tonight.

Director Paul Kermoyan asked if the level-of-serve (LOS) is at “F” or “D”.

Steve Noack responded that the traffic consultant will prepare the response.

Commissioner Krey asked if there is any way to move that up on the priority level.

Planner Daniel Fama said that the idea of cumulative impact by 2040 occurs if the ramp is not done. Since Measure B held up that option of the ramp not being done was not discussed.

Commissioner Hines pointed out that one figure on the report doesn’t show the proper Campbell boundaries where the Campbell Village Neighborhood was annexed into the City.

Chair Hernandez questioned the fact found on page 4-11-5 – Housing – that indicates “no impact”.

Steve Noack said that this is a prescriptive evaluation and not speculative. If there was a home existing on the property and demolition of it would directly displace a resident there would be an impact. As there is no home on this commercial parcel, there is no housing unit loss.

Chair Hernandez referenced page 4-13-13 as it relates to averaging trip generation. By averaging three nearby In-N-Out Burger locations to estimate what Campbell's In-N-Out location might generate. Is that fair? The Hamilton location is much larger. It is 19 percent bigger/greater in size than the others.

Planner Daniel Fama said that the calculation looked at is per square foot. The rate is adjusted to reflect the size differential.

Chair Hernandez:

- Referenced page 4-13-18 as it relates to Freeway Ramps. The EIR mentions the southbound Hwy. 17 ramps were not evaluated for queue lanes. She stated that was a flaw.
- Asked if the area was evaluated for when pedestrians and bicyclists pass through there.
- Pointed out that if an alternate design includes a no drive-thru option don't you also have to remove trees in the landscaping?

Steve Noack said they could provide that information at another time.

Chair Hernandez referenced page 4-13-23 and asked if they had been able to go back to the old EIR for reference and comparison.

Steve Noack admitted that he is not sure.

Chair Hernandez referenced page 4-13-23 and pointed out that mobile navigation apps were not looked at although that topic had been discussed in the previous hearing.

Steve Noack said that it is important to put numbers that are not possible other than by traffic counts. Evidence must be provided to come up with quantification of traffic.

Chair Hernandez said that there has to be a way to evaluate that in the future. Apps are not going to go away.

Commissioner Ostrowski:

- Said that we need to look at how traffic/directional apps work to change their apps in order to reroute traffic when there is excess traffic.
- Questioned some of the average Hamilton Avenue travel times. The longer averages projected are by 36.8 seconds in the eastbound direction and by 13 seconds in the westbound direction.
- Asked how that does not impact average speeds.

Commissioner Hernandez reference page 525 where the EIR delivers final alternatives. The “best” alternative is “No Project” and the next best alternative is “No drive-thru.”

Steve Noack said that when the “No Project” alternative is the superior alternative they go to the next-best alternative.

Chair Hernandez opened the Public Hearing for Agenda Item No. 4.

Glen Lynch, Resident on Central Avenue:

- Said that he has comments about traffic.
- Stated that there are a lot of concerns with traffic along Hamilton Avenue at Highway 17.
- Stated that this project will route traffic into our residential neighborhood.
- Asked that the Planning Commissioners give some thought as to what you would do if you found that an In-N-Out Burger queue is full and overflowing onto the street.
- Suggested that what most people will do is to go to the next intersection to turn right and go back around the block to try again.
- Stated that the end result is that traffic will be redirected right into their neighborhood consisting of approximately 57 homes.
- Displayed a stop action video using model cars that his 10-year-old daughter prepared that gives a visual idea of how the overflow traffic would function given the anticipated traffic conditions of an In-N-Out Burger being located at 499 E Hamilton.
- Thanked the Planning Commission for their time and effort.

Jean Lund, Representing Citizens for Responsible Growth & a Campbell Resident:

- Stated that this is a very large project.
- Added that it has been an enormous job for their group to review and go over all of the materials associated with this application.
- Admitted that they are shocked that the Commission would even consider this project at what is considered one of the “Gateways” to our City, to Los Gatos, to Saratoga and to Santa Cruz and towns down the road.
- Said that there are good reasons why some cities such as Scotts Valley and Los Gatos wouldn’t allow this project in their community.

Charles Drew, Resident on N. Central Avenue:

- Stated that Chair Hernandez has already covered some of his issues through her questioning of the consultant.
- Said that he had previously asked questions in the traffic impact study that were not addressed in this Draft EIR.
- Pointed out that there appears to be no estimate in ramp traffic around Hamilton and Salmar and other intersections.
- Added that he questions whether CalTrans would even allow the Ramp Project to be constructed now due to proximity of the buildings on the Kohl’s/BB&B site to the proposed off-ramp.

Roseanne Seratti, Resident of San Jose:

- Said that she often makes the right turn off the freeway to the right.
- Stated that neighborhood traffic is of concern and a real important thing.
- Admitted that neighborhood impacts from users of mobile apps are a concern and need to be addressed more.
- Advised that she supports the alternative In-N-Out Burger without the drive-thru. She prefers a sit-down restaurant in this location.

Erik Putzler, Resident on Greenbriar Avenue:

- Expressed a range of concerns from construction debris, dust impacts during demolition, noise pollution and traffic.
- Pointed out that installation of the proposed off-ramp off Hwy. 17 would require the removal of a number of trees.
- Stated that traffic overflow would end up being re-routed into nearby residential neighborhoods.
- Added concern about waste and grease trap generation from this proposed use.

Dawn Haskin, Resident on Lenor Way:

- Gave an overview of posts she has read from people who have had frightening experiences with traffic in this area when they are walking and crossing the streets.
- Stated that crossing Hamilton Avenue at the light is dangerous due to traffic turning.
- Added that the addition of more turn lanes won't solve that problem.
- Stated her opinion "Stupid is as stupid does."
- Asked the Commission to protect our community.

John Nourse, Resident on Dolores Drive:

- Admitted that he had been excited to see the DEIR until he realized that it indicates a "less than significant" impact in regard to dealing with solid waste.

Laurence Hansen, Resident on Central Avenue:

- Advised that his motivation to speak tonight was derived after reading an article in the Campbell Express. Mike Kotowski wrote in his Sage column about old adages including "a picture is worth a 1,000 words." The crux of the article is to believe 10 percent of what you hear and 90 percent of what you see.
- Stated that he sees conflicting amount of information from two reports.
- Said that "seeing is believing" and that applies very well at this site that is situated at an entrance point into Campbell.
- Reminded that there is already a miss-mash of cross traffic in this vicinity as it is today.
- Stressed that it is happening right now.

Tom Weldon, Resident on N. Central Avenue:

- Suggested an alternative to the proposed project as this is not workable as currently proposed.

- Said that it is important to get the off-ramp installed, which should have been done when the Kohl's project went in.
- Agreed that a sit-down restaurant is the best option for this location.
- Reported that it is his understanding that In-N-Out Burger would never do business without a drive-thru lane.
- Stated that a reduced building with drive-thru traffic lanes doesn't make sense either.

Karen Petersen, Resident on Almarida Drive:

- Reported that she lives behind the Kohl's Shopping Center.
- Stated that conditions on northbound and southbound Almarida Drive are not good.
- Added that there are deficiencies in the Draft EIR. Almarida is not a two-lane road but rather is a four-lane road.
- Said that she'd like to see the City provide documentation prepared to ban crisscross traffic coming out from Kohl's to Home Depot. Driveways need to be blocked and "exit" only.

Mark Field, Resident on Harrison Avenue:

- Referenced the table on page 4-13-9 – Findings of Traffic Analysis.
- Asked if the grade is "F" currently, what is the point of mitigation?
- Referenced 10-4-13-13 – Queue lanes from southbound 17 and Hamilton. There are three different queue lanes.
- Stated that something is not right with the model. These tables are not correct.

Matthew Younkings, Resident on Campisi Way:

- Declared that this is a "wretched" project.
- Stated that the traffic analysis of the DEIR is rather optimistic.
- Added that he is upset about the \$1.8 million dollar cost which represents \$170 per family in Campbell.
- Said he appreciates the time given for him to speak and urged the Commission to reject this project.

Scott Martin said that there is no significant indicator that pedestrian and bicycle traffic was evaluated or considered.

Wayne Prescott:

- Referenced page 4-13-6 that indicates an 8 percent increase in trips going north on Winchester and a 5 percent increase in trips going south on Winchester.
- Pointed out that there has been no consideration to pedestrians.
- Cautioned that people will park at the Home Depot lot and walk across Hamilton Avenue to get to this In-N-Out Burger.

Chair Hernandez closed the Public Hearing for Agenda Item No. 4.

Commissioner Hines thanked those in attendance for their feedback.

Chair Hernandez thanked everyone for being here. She said that no decisions are being made tonight and asked everyone to stay tuned.

Commissioner Ostrowski asked if Campbell's Police Department has made any comments on the DEIR.

Steve Noack responded that he didn't know if either Fire or Police have yet to comment on the DEIR.

Director Paul Kermoyan said that their comments will be on the general project and their ability to serve the use.

Commissioner Ostrowski:

- Reported her understanding that Fire's goal for response time is 8 minutes maximum. They are currently functioning at 7.52 minutes. It's possible they would not be able to meet their response time goals with traffic impacts from this use.
- Added that Police's goal for response time is not provided but they indicated they have met their response times.

Commissioner Rivlin:

- Said that there are project alternatives to consider. One is having no drive-thru. Has that been evaluated with additional parking being added on site?
- Reminded that from the DEIR there are impacts on traffic calculations.

Commissioner Krey:

- Said that the report refers to E-Bar as a high turnover restaurant.
- Asked if In-N-Out Burger would be the same if without a drive-thru?
- Asked about 4-13-16 that references background plus project. It seems there are average delay declines.

Planner Daniel Fama said the intent of including the "existing" E-Bar trips is to provide comparison to the site developed with a full service restaurant.

Commissioner Krey:

- Said that what he wants to see what the difference in traffic would be comparing between an In-N-Out with drive thru versus E-Bar.

Commissioner Rich:

- Said that it is valid that the level of service is currently "D".
- Added that there is a footnote to Table 4-13 stating distance in different lanes from the 280 interchange.

Commissioner Rivlin suggested the creation of a map format that depicts the proposed mitigation measures.

Director Paul Kermoyan said that staff will continue to collect public comments. He said that this meeting was an added effort for outreach.

Chair Hernandez:

- Instructed anyone wishing to submit additional questions and comments about this DEIR should send them to the attention of Daniel Fama. He will make sure to get all comments to the consultants for response.
- Added that written responses to each comment will be incorporated into the Final EIR.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan had no additional additions to his written report.

ADJOURNMENT

The Planning Commission meeting adjourned at 10:36 p.m. to the next Regular Planning Commission Meeting of **March 12, 2019**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
JoElle Hernandez, Chair

ATTEST: _____
Paul Kermoyan, Secretary