

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

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7:30 P.M.

TUESDAY

MARCH 26, 2019  
CITY HALL COUNCIL CHAMBERS

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The Planning Commission meeting of March 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
	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 March 12, 2019, were approved as submitted. (7-0)

**COMMUNICATIONS**

Director Paul Kermoyan listed the following items:

1. Correspondence received from Silicon Valley Housing regarding Agenda Item 1 – Accessory Dwelling Unit Ordinance.
2. Elevations provided by Robson Homes depicting possible scenarios for placement of ADU units on different types of developments.

**AGENDA MODIFICATIONS OR POSTPONEMENTS**

Director Paul Kermoyan:

- Said that the continued Study Session on Accessory Dwelling Units from the last meeting on March 12, 2019, appears as Item 1 on tonight's agenda as is the typical practice when returning an item to the next meeting.
- Added that it is to the discretion of the Chair and Commission should there be interest in reorganizing the order of items.

Chair Hernandez said that the Commission would proceed with the order of the agenda as listed.

**ORAL REQUESTS**

Karen Peterson, resident on Almarida Drive:

- Raised the issue of In-N-Out Burger project and the need to evaluate the potential traffic comparisons between a drive thru restaurant as proposed by In-N-Out Burger and the previous sit down restaurant that operated from this site. It is important to get an answer to that question.
- Provided an example of Pleasant Hill that recently turned down In-N-Out Burger in their community.
- Questioned the wisdom of allowing thousands of additional trips in an intersection that is already graded at "F".
- Reminded that there was already documentation in 2007 about traffic stacking up off Highway 17. This is not a new issue but rather an long-standing on-going issue.
- Advised of a 2009 memo from that already raised the problems with this off-ramp and said she is surprised nothing has been done about it yet 10 years later.

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**NEW BUSINESS**

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

1. **PLN2017-375** Continued Study Session (from the meeting of March 12, 2019) to review potential changes to the Accessory Dwelling Unit Ordinance. Project Planner: *Daniel Fama, Senior Planner*

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

Richard Yee, Representing Robson Homes:

- Said that he is a project manager for Robson Homes and that he had attended the last ADU Study Session.
- Encouraged the Commission to allow for second story ADU's.
- Assured that privacy concerns can be managed by having walls that overlook adjacent parcels from a second story not include windows that allow views onto the neighboring property – using either clearstory or opaque glass.
- Gave an example of a project in Los Gatos, which was a former auto dealership lot. That site was developed with 21 units with ADU's being placed over each garage.
- Said that their architect is present and available if there are any architectural questions.

Commissioner Rich said as he understands it the Los Gatos project included 3,800 square foot lots with 2,500 square foot homes. Do those numbers include the ADU's.

Richard Yee replied no. The ADU's are an additional 400 square feet.

Commissioner Hines asked what priority an ADU offers in development of a project.

Richard Yee cautioned that height limits their creativity as well as how FAR is considered.

Chair Hernandez asked how tall the main houses are in this example development.

Richard Yee:

- Replied that the main house is 26 feet tall. The detached garage itself is less than 15 feet tall without including the ADU. The maximum height is less than 20 feet for a second story ADU placed over a detached garage.
- Added that it allows for more integration if a larger FAR is allowed.

Director Paul Kermoyan pointed out that a distinguishing factor is that these Robson project examples are projects being designed at the same time rather than one residential parcel with one proposed ADU.

Chair Hernandez agreed that with a project it can be designed cohesively.

Raja Pallela, Resident:

- Said he wanted to make a couple of points. First, he does not want to see BMR deed restrictions on ADU's.

- Reported that he spoke several times with a State Representative on the issue of ADU's and learned that requiring BMR deed restriction is illegal and that required setbacks must be a maximum of five feet. Setbacks should be established only to meet Fire safety requirements and for no other reason.
- Advised that he is in favor of allowing for second story ADU's.
- Pointed out that the San Tomas Area Neighborhood Plan applies to about one-third of the homes in Campbell. Those regulations don't make it easy for ADU's to be installed.
- Asked the Commission to consider everything as a whole.
- Reminded that the San Tomas Area Neighborhood Plan was created more than 20 years ago. Things have changed since its adoption.

Planner Daniel Fama cautioned that the City takes legal advice from its City Attorney and not an analyst in Sacramento.

Commissioner Hines asked Raja Pallela to describe what type of ADU he wants to build.

Raja Pallela:

- Said that he has taken time to look at other cities and throughout the State. Second floor ADU's are allowed. There are lots of detached garages to build on top of.
- Said that imposing a BMR restriction has a negative impact on the property and even perhaps the value of a property on re-sale.
- Suggested that perhaps sales price and associated property taxes would go down as a result if the value of a property with a deed restricted BMR unit sells for less than a property without such a limiting deed restriction in place.

Chair Hernandez said that the Commission is not here to ensure property values but rather is tasked with overseeing land use and what development is in line with the City's General Plan.

Cynthia Ponce, Resident on LaVonne Drive:

- Said that she missed the last meeting on ADU's and learned about this one in a roundabout way.
- Reported that her neighbor is currently building a second unit on her property.
- Advised that she has owned her house for 30 years.
- Added that they already have a severe parking problem.
- Stated that while in some instances an ADU can be a good thing they can't fit into everybody's yard.
- Questioned where people will park will all of these ADU's.
- Said that it must be considered what these added ADU's are going to do to our neighborhood. Things change when you have people coming and going all the time.
- Stated that there have to be some restrictions.
- Opined that second stories on single-family homes are already impeding on our property.

- Questioned the negative impact of having people living in a second story ADU situated at a shared property line.
- Listed her concerns as being the size of lot allowing an ADU as well as the size of the actual ADU's.
- Reminded that ADU's will impact neighbors on all three sides.
- Asked if the main home will continue to have to be owner occupied.
- Asked what parking requirements are being considered for ADU's.
- Inquired whether tiny homes or motor homes would be allowed next.
- Declared that she lives in a nice area and wants to keep it a nice area.
- Stated that the quality of living will change greatly.

Shirley Chan, Resident on Theresa Ave:

- Reported that she grew up here and is a first generation homeowner in America.
- Added that she wants an ADU for her mom when she gets older.
- Asked the Planning Commission to look at the spirit and vision of this ADU Ordinance.
- Stated that we are not looking back but rather looking ahead at changes including the explosion of job growth in this Valley and the housing needs that result.
- Opined that the current regulations for ADU's result in creation of illegal ADU's. She mentioned that there is a yurt in a backyard of one home in her neighborhood.
- Reminded that the cost of living is very high.
- Said that requiring large setbacks results in limits to smaller lots to allow more people to have ADU's.

Emerson Muyco, Resident on Lovell Avenue:

- Stated his support for accessory dwelling units.
- Admitted that he'd like one for his mother who is getting older and needs more care.
- Said he was concerned about parking restrictions. Currently a home must have one covered and one uncovered space. This neighborhood consists of one-car garages.
- Pointed out that per the State law revisions driveway parking must be counted as acceptable parking.

Deni Urasevic, Resident on Hurst Avenue:

- Stated that there are way too many restrictions.
- Said that in reaction to concerns being raised about privacy impacts, he points out that there are existing two-story homes that already overlooking their neighbors' homes.
- Opined that the ADU Ordinance should have been done two years ago as other cities have done. This delay is ridiculous.
- Said that he believes there is plenty of parking in our neighborhoods.
- Relayed that "contractors" can't stand Campbell due to requirements.
- Suggested that a simple permit be established and for the City to stop trying to get money out of it.

Jo-Ann Fairbanks, Campbell Resident:

- Said that she was surprised that the public hearing was open and closed at the last meeting so she wasn't prepared to speak tonight.
- Pointed out that ADU's will be reviewed and approved via an administrative process. They will not be brought forth before the Planning Commission.
- Emphatically stated that there should not be two-story ADU's allowed.
- Reported that she has spoken with neighbors in predominately single-story neighborhoods who agree with her on this.

Larry Hayes, Resident on S. San Tomas Aquino Road:

- Reported that he is a 50 year resident of Campbell (his whole life).
- Advised that he had spoken in October 2017 with Planner Daniel Fama about ADU's.
- Informed that he saw an ADU work plan put together by the City of Belmont. Such a thing would be a valuable tool to have when the Commission makes its decisions on ADU's for Campbell.

Buddhadei Bsu, Campbell Resident:

- Said that while he sees and hears several upset homeowners speak about the process of the ADU Ordinance he also witnessed this Planning Commission and staff working very late at the last meeting.

Sarah Robinson, Resident on W. Latimer Avenue:

- Stated that in looking at a 10-foot setback and what that might look like what you end up with is the sound of kids playing in their small yard close to the shared fence separating them from their adjacent neighbors. With that neighbors end up with a lot of noise. However, if the setback is five feet that would result in a much quieter environment.
- Said that since two-story homes are allowed then two-story ADU's should also be allowed.
- Pointed out that allowing two-story ADU's would help preserve the land for backyards.
- Added the privacy concerns can be addressed by window placement.
- Advised that she has been on the email distribution.
- Suggested that the City look at the plans developed by the City of Clovis. She was pretty impressed.

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

### **Category: Second Story Options**

Planner Daniel Fama:

- Reminded that the majority of the Commission support allowing a second story ADU in existing space, within an addition attached to the home and above an attached garage. There was some concern about ADU above the attached garage would be allowed a setback of five feet.

Commissioner Rivlin disclosed that he had had two conversations with members of the public about the ADU Ordinance.

Commissioner Ostrowski said she also had a conversation with one member of the public about the ADU Ordinance.

Commissioner Hines advised that he had recently participated in a tour of Vice Mayor Landry's ADU.

Commissioner Rich:

- Said that privacy is a concern.
- Advised that he is in favor of Options 1, 2 and 3.
- Reiterated that privacy is a legitimate concern and can be resolved through the use of high windows when overlooking adjacent properties. It will depend upon how we minimize issues.

Commissioner Rivlin asked what tools we have available.

Planner Daniel Fama replied one way is to articulate standards in a comprehensive manner. He said that we don't need to solve everything now but can refine it through the formal drafting of the ordinance.

Commissioner Rich said that all of the Commissioners are concerned about preserving privacy. He asked about the option for a pre-planned scenario for ADU's.

Planner Daniel Fama said that would have to be communicated with Council but would be separate from the ordinance. Any pre-planned scenario would have to be developed by a professional architect/designer.

Commissioner Rich said he would like to see Council consider that as it could be beneficial to the citizens.

Director Paul Kermoyan said illustrations can be developed to show property owners how to orient windows. Those would need to be drafted as objective standards.

Chair Hernandez raised setbacks on second stories as well as maximum height. Can there be a greater setback required for a second-story ADU? Can there be a maximum height.

Commissioner Ching said that the second story ADU could be restricted to lots with existing two-story homes.

Commissioner Ostrowski took a moment to advise the Commission that upon conversation with the City Attorney she has no conflict of interest to participating in these standards for the ADU Ordinance.

Chair Hernandez suggested that an ADU not be taller than the height of the existing home on the property unless it is above a garage.

Commissioner Rich agreed with the suggestion that an ADU not exceed the height of the primary residence. If there is an existing two-story home there can be a second story ADU over a detached garage but no higher than the main house.

Commissioner Ostrowski questioned the potential for impacts on blocking of sunlight. She reminded that most of Campbell does not have design review except for the two areas known as the San Tomas Area Neighborhood Plan and the Campbell Village Neighborhood Plan.

Commissioner Rich asked if a one-story home could have a two-story ADU behind it.

Planner Daniel Fama advised that there is no design review outside of the San Tomas Neighborhood and Campbell Village areas. Two-story additions or new homes are allowed without consideration of privacy concerns in all other parts of the City.

Commissioner Hines supported the five-foot rear setback and allowing two-story ADU's on properties with an existing two-story home and limiting an ADU to a single story if the main home is a one-story.

Commissioner Ostrowski asked about a two-story ADU behind a single-story home.

Director Paul Kermoyan said that the ADU itself can be a two-story unit.

Planner Daniel Fama reminded that the majority of the Planning Commission supports allowing an ADU above a detached garage as follows:

- Option 3A – two-story home – Hines, Rich, Hernandez and Ching
- Option 3B – one-story home – Krey, Rivlin and Ostrowski

### **Category: New Second Story ADU as part of the Main House**

- Option 1 – Dedicated access stairway/access – 7-0
- Option 2 – ADU on second story of main residence but not over attached Garage – 7-0

Planner Daniel Fama wished to confirm rear setback requirement

### **Category: Setbacks (Rear)**

- |           |                                       |
|-----------|---------------------------------------|
| 5 foot    | 4 (Rich, Rivlin, Ostrowski and Ching) |
| 10 foot   | 2 (Krey and Hernandez)                |
| No change | 1 (Hines)                             |

### **Category: Building Separation**

- |                           |                                       |
|---------------------------|---------------------------------------|
| 10 foot behind main house | 4 (Rich, Hernandez, Rivlin and Ching) |
| 5 foot                    | 3 (Krey, Hines and Ostrowski)         |

**Category: Height**

Limited by height of the main house 6-1 (Ostrowski voted no)

**Category: Placement**

- Option 1 – No restrictions but require design consistency if at the front or side of house – 5 votes (Krey, Hines, Rivlin, Ostrowski and Ching)  
Option 2 – Beside or behind house – 2 votes (Rich and Hernandez)

**Category: Design****Category: Parking**

Driveway counts as parking per State Law

- Option 1 - Eliminate requirement for parking  
Option 2 - Conform to State law (1 space per ADU) 7-0  
Option 3 - Require parking for ADU only if main house doesn't have required parking

**Category: JR. ADU's**

Junior ADU's share bath facilities and have a small efficiency kitchen

Planner Daniel Fama asked the question: Do we want to allow JADU's?

- Option 1 - Prohibits ADU 0  
Option 2 - Allow either ADU or JADU 3 (Rich, Hernandez and Ching)  
Option 3 - Allow both ADU and JADU 4 (Krey, Hines, Rivlin and Ostrowski)

**Category: BMR Incentive**

Planner Daniel Fama asked the question: Do we want to offer incentives to deed restrict ADU as BMR?

- Eliminate owner occupancy requirement to allow both main house and ADU to be rented with BMR deed restriction on ADU.
- Voluntary deed restriction left up to the homeowner
- ADU doesn't have to be new, it could also apply to existing ADU's
- Homeowner can opt out of BMR after the fact but then the homeowner has to once again live on the property if deed restriction is removed.

Commissioner Ching said he was concern by the idea of not having a property owner also living on the premises when renting out an ADU.

Director Paul Kermoyan reminded that the current ADU ordinance requires the homeowner to live on the property.

Commissioner Krey said he likes the idea of an incentive to have BMR ADU.

Planner Daniel Fama explained that an affordable unit being counted as “permanent” within the City’s RHNA obligation it must be deed restricted and non-revocable for 30 years to remain as a BMR unit.

Director Paul Kermoyan directed the conversation to the owner-occupancy requirement.

Commissioner Rich said it’s important to articulate what our vision is for ADU’s in Campbell. Is it to care for loved ones (parents and kids)?

Commissioner Rivlin said he too likes the idea of the homeowner living on a property with a rented ADU. If people decide they don’t like the deed restriction they can opt out later.

Question: Should the owner be required to reside on property with rented ADU?

Option 1 – Owner should be present	5
Option 2 - Both main house and ADU can be rented	2

### **Category: ADU Development Policy**

Planner Daniel Fama:

- Require new subdivisions to incorporate ADU’s.
- Alternatively new homes could be “ADU-ready” to allow interior ADU’s in the future
- Percentage versus all
- Five units or more -- 20 percent would be 1 ADU
- 10+ units equate to inclusionary housing options

7-0 vote in favor of “ADU ready” Option.

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### **PUBLIC HEARINGS**

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

2. **PLN2019-26** Public Hearing to consider the application of Mark Frederick for a Conditional Use Permit with a Parking Modification Permit (PLN2019-26) to allow continued operation of a previously approved fitness studio (Move It Silicon Valley) for an additional five-year period on property located at **1190 Dell Avenue, Suite P**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Project Planner: *Daniel Fama, Senior Planner*

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

Chair Hernandez asked if there were questions for staff.

Commissioner Hines asked if there are any problems with parking.

Planner Daniel Fama replied not at all. The applicant has complied with all requirements.

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

Mark Frederick, Applicant and Business Owner, Move It Silicon Valley:

- Said that while he wanted to be a part of the community in Los Gatos he saw opportunity to be in Campbell.
- Reported that over the last five years he has developed a strong body of corporate clients including Barracuda.

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

Commissioner Rich:

- Stated that he recalls this original application as if were yesterday.
- Said that his daughters take classes at West Valley Gymnastics on this site and there is never a problem with parking.
- Stated that he supports a renewal of this Use Permit for another five years.

Commissioner Ostrowski said she concurs.

Chair Hernandez:

- Said she supports this request as well.
- Stated that it caught her attention that this is a Light Industrial zoned site and staff did not originally support this location for this use.
- Admitted that it concerns her a little having a gym located in a Light Industrial zone. This zone needs to be preserved based on land-use principals of its zoning.
- Assured that she has no problems with this business itself.

**Motion:**           **Upon motion of Commissioner Ching, seconded by Commissioner Ostrowski, the Planning Commission adopted Resolution No. 4487 approving a Conditional Use Permit with a Parking Modification Permit (PLN2019-26) to allow continued operation of a previously approved fitness studio (Move It Silicon Valley) for an additional five-year period on property located at 1190 Dell Avenue, Suite P, 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.

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

3. **PLN2017-375** Public Hearing to consider the application of Masud Maesumi for a Site and Architectural Review Permit (PLN2018-386) to allow the construction of a new approximately 4,094 square-foot two-story single-family residence on property located at **1374 Stevens Court**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Project Planner: *Naz Pouya, Assistant Planner*

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

Commissioner Rivlin provided the Site and Architectural Review Committee report as follow:

- SARC reviewed this project on March 12, 2019.
- Stated that SARC appreciated the changes made by the applicant as a result of SARC recommendations.
- Admitted that SARC originally found the home to be a little too large and it was reduced a bit.
- Stated that they found the metal roof to be an accent piece.
- Added that to ensure privacy SARC asked the applicant to use opaque glass on some of the second floor windows.
- Concluded that the applicant adopted SARC's recommendations on landscaping.

Commissioner Krey admitted that it would be nicer if the second floor was a little smaller.

Commissioner Rivlin said that they did reduce their second floor slightly.

Planner Naz Pouya said that there was a 172 square foot reduction of the second floor per staff recommendation.

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

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

Cherine Bassal, Project Architect:

- Reported that he had worked with staff to reduce the mass of the house which included lowering the roof of the garage. They also set back the second floor.
- Stated he was available for any questions.

Jo-Ann Fairbanks, Campbell Resident:

- Stated that she does not support this design as it does not meet the existing character of the neighborhood in scale, mass and size.
- Added that it is incompatible with this predominately single-story neighborhood.
- Pointed out that the grading at 1362 is lower than this. That contributes to this disparity as well.

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

Commissioner Ching:

- Said that the character of the San Tomas Area is changing. While it is predominately single-story it is changing.
- Agreed that the intent of the San Tomas Area Neighborhood Plan is to retain the character of the area.
- Pointed out that this home will have less of an impact given is it situated on a court. There is a similar sized home nearby although this home itself will be surrounded by single-story houses.
- Advised that he would be supportive of this request.
- Reiterated that the STANP is incrementally being chiseled away.

Commissioner Krey:

- Agreed with Commissioner Ching that the STANP is experiencing death by small bites.
- Said that there are two other larger two-story homes nearby. They fit in pretty well.
- Reminded that although this home is bigger than the houses surrounding it the home meets all setbacks and standards.
- Stated that the applicant made improvements to their initial design.
- Said that this is right up against the envelope but he will be supporting it.

Commissioner Ostrowski:

- Said that the setbacks are quite large.
- Pointed out that this home will be quite a distance from its neighbors given the large size of the lot.
- Added that the home is well designed to be the least intrusive to its neighbors as is possible.

Commissioner Rivlin:

- Agreed that they are below the thresholds and meet the standards of the STANP.
- Reiterated that they have made efforts to reduce sizing. The architecture matches the neighborhood.
- Concluded that he would be supportive.

Chair Hernandez asked about the grading issue raised.

Planner Naz Pouya said that issue did come up early in the process. She explained that the maximum height is measured from the lowest adjacent grade. It will be a maximum of 28 feet.

Commissioner Rich:

- Reminded that this home is way below the maximum allowed FAR.
- Added that this is a large lot.
- Pointed out they have included greater setbacks.
- Suggested that “big” is a relative term.
- Stated that this project falls within the allowed requirements. He likes the architecture. There is no reason to push back.
- Concluded that he would support this application.

Chair Hernandez reminded that the recent house on Munro didn't originally match its neighborhood. She added that we are not just looking at size.

**Motion:**           **Upon motion of Commissioner Ching, seconded by Commissioner Rich, the Planning Commission adopted Resolution No. 4488 approving a Site and Architectural Review Permit (PLN2018-386) to allow the construction of a new approximately 4,094 square-foot two-story single-family residence on property located at 1374 Stevens Court, by the following roll call vote:**

**AYES:**           **Ching, Hernandez, Hines, Krey, Ostrowski, Rich, 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.

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

4. **PLN2018-360**           Public Hearing to consider the application of Ken Chitgar for a Site and Architectural Review Permit (PLN2018-360) to allow the construction of a new approximately 4,629 square-foot two-story single-family residence on property located at **620 Kenneth Avenue**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Project Planner: *Naz Pouya, Assistant Planner*

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

Chair Hernandez asked for a SARC report.

Commissioner Krey provided the Site and Architectural Review Committee report as follow:

- SARC had a long discussion about this project on issues of massing and scale.

- Admitted that the design was pretty nice.
- Added that it fits all the objective criteria fairly well.
- Reminded that the applicant made some adjustments.
- Stated that this is a big house on a nice street and will no doubt be precedent setting.

Commissioner Rich said that is a reason for a continuance and to request the applicant to come back with a smaller scaled home.

Planner Naz Pouya pointed out the comparison chart prepared showing this home against five other existing two-story homes from the area. This house is significantly larger.

Commissioner Rich asked what feedback had been received from the applicant regarding additional changes.

Planner Naz Pouya said that the applicant is here and can respond.

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

Lily Chitgar, Applicant and Property Owner:

- Said that she and her husband currently live in Santa Clara. Her husband grew up here in Campbell.
- Added that they have wanted to move to Campbell for the last 14 years.
- Reminded that their home is at .39 FAR where .45 is allowed.
- Added that they pulled back the setback for the second floor.
- Pointed out that there is a lot of construction going on in this neighborhood and their house will compliment those homes being constructed.

Jo-Ann Fairbanks, Resident of Campbell:

- Recommended that the Commission take staff's recommendation to return this design for modification as it is currently incompatible with the neighborhood and doesn't match the character of the existing neighborhood.
- Added that it is much larger than the other homes in the area.
- Suggested that the second story balcony should be removed.
- Opined that the home appears massive because it is surrounded by single-story homes. That creates privacy issues.
- Suggested a tree inventory be prepared.
- Reiterated her suggestion that this home design be sent back for revisions.

Ken Chitgar, Applicant and Property Owner:

- Pointed out that the balcony is enclosed on each side. There is also a very large tree in front of the balcony.
- Added that the home incorporates stucco walls.
- Said that windows on the sides are smaller and placed up high leaving no views onto neighbors.
- Advised that there is 66 foot setback with the house behind theirs.

- Assured that their home is compatible to the houses nearby.
- Concluded that their lot is also larger than the other nearby lots.

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

Commissioner Krey provided the Site and Architectural Review Committee update as follows:

- Reported that SARC discussed the balcony but didn't see it as a big issue due to the closed sides and large tree. It is similar to others in the area.
- Admitted that the scale of this proposed home seemed larger than others.

Commissioner Rich:

- Said that he feels that the applicant did a good job addressing privacy concerns.
- Reminded that this is their dream house.
- Added that it doesn't matter why they want such a big house. It can be to grow their family or to accommodate parents.
- Stated he is okay approving this home as presented.

Commissioner Hines asked staff what changes they see necessary. Is there a target square footage recommendation?

Planner Naz Pouya said that is simply a discussion point for the Planning Commission to consider. Staff has no specific recommendations.

Director Paul Kermoyan:

- Pointed out that the San Tomas Area Neighborhood Plan (STANP) is not that clear when talking about "compatibility".
- Stated that when staff was discussing the project the proposed square footage was so much bigger than others. It was so out of scale.
- Said that they have brought the size in to some reasonable reduction. It is within the realm of the requirements of the STANP.
- Said that scale and mass is the focus.

Commissioner Ching:

- Said that it seems this meets the spirit and character of the STANP.
- Stated that objectively it doesn't break any rules or guidelines of the STANP.
- Agreed that this home will stand out as big in its neighborhood.
- Pointed out that houses keep getting bigger.
- Advised that he is in favor of a continuance for redesign and reduction.
- Suggested making the first floor bigger and reducing the size of the second floor.
- Said that there are lots of large houses but appear less so when a single story.

Commissioner Rivlin:

- Said that this is challenging.
- Pointed out that the numbers meet the essence of the STANP.
- Admitted that the home could use a little reduction to its second floor with perhaps an addition to its first floor.

- Concluded that he has to support it “as is” since it meets the requirements.

Commissioner Ostrowski:

- Agreed that this is a tough one especially given she agrees with what everyone is saying.
- Stated that this is a well-designed house but is also substantially larger than others in the area. It is a big difference when compared to the one-story homes in this neighborhood.
- Concluded that she will support it “as is” since the home meets the guidelines subjectively.

Commissioner Krey asked why PC review is even required if they meet all guidelines.

Commissioner Rich:

- Assured that SARC serves a great purpose.
- Reminded that things being done to achieve privacy were addressed at SARC.
- Added that we care about all aspects of a project including its design.
- Pointed that at some point there were no two-story homes in this area.
- Admitted that he has trouble dictating someone’s dreams.
- Said that SARC did a good job adjusting several things.
- Stated that he has no problem with scale and massing.
- Suggested giving these applicants some leeway to allow them to build the house of their dreams.
- Concluded that he would be supportive.

Chair Hernandez:

- Said that it has to do with how it fits within a neighborhood.
- Said that the STANP calls for projects like this to come to the Planning Commission for oversight on how it fits within a neighborhood.
- Added that staff provides recommendations.
- Stated that this home is so much greater in size than the surrounding properties.
- Said that she is not saying they can’t have a big home. They have a substantial lot. Perhaps more of a first floor and less of a second will resolve concerns raised.
- Reiterated that this Commission is charged with oversight of this neighborhood and its STANP.

Commissioner Ching said that it could be better. They could build a beautiful home there with less impact on the surrounding neighborhood.

Chair Hernandez agreed.

Commissioner Hines said he agrees with the idea of flattening this house to more of a single story and less of a two-story.

Commissioner Krey said that just as Commissioner Ching already said, once you approve this application, the next one will go bigger, and so on.

**Motion:** Upon motion of Commissioner Ching, seconded by Commissioner Krey, the Planning Commission CONTINUED TO A DATE UNCERTAIN the consideration of a Site and Architectural Review Permit (PLN2018-360) to allow the construction of a new approximately 4,629 square-foot two-story single-family residence on property located at 620 Kenneth Avenue, to allow some redesign of this proposed home both in size and massing, by the following roll call vote:

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

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Chair Hernandez read Agenda Item No. 5 into the record as follows:

5. **PLN2018-399** Public Hearing to consider the Appeal of Elise Sias of the Community Development Director's denial of a Tree Removal Permit (PLN2018-399) to allow the removal of one (1) redwood tree on property located at **31 Hardy Avenue**. Staff is recommending that this item be deemed Statutorily Exempt under CEQA. Project Planner: *Naz Pouya, Assistant Planner*

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

Chair Hernandez asked if there were questions of staff.

Commissioner Krey asked who pays for the independent arborist.

Planner Naz Pouya replied the appellant.

Commissioner Rivlin asked when the improvement plan was submitted. Was it before or after the Tree Removal Permit was submitted?

Planner Naz Pouya replied it was concurrently.

Commissioner Rich asked if there is an option to move the tree.

Planner Naz Pouya replied no. She said the option might be to relocate the utilities rather than the tree.

Chair Hernandez opened the Public Hearing for Agenda Item No. 5.

Ms. Elise Sias, Appellant and Property Owner:

- Stated her belief that three of the five findings can be made.

- Reported that her home is a smaller one consisting of three bedrooms and one bathroom serving their family of four.
- Advised that there have been plumbing backups occurring every year. They had to spend one week in a hotel due to plumbing.
- Expressed concern over life and safety issues from this tree in regards to falling limbs.
- Stated that her family has had to reserve space at the Campbell Community Center for a special family event that can't take place at their house in its current small size.
- Added that the concept of building up instead of out will not work for her family as her doctor has advised her that eventually she will not be able to live in a two-story home.
- Said that this tree is preventing them from the economic enjoyment of their lot. It is not allowing them to improve their property as they wish to do. They are being penalized by this tree.
- Stated that per her arborist regardless of an addition being one or two-story on this site this tree must come out.
- Assured that she is willing to plant a replacement tree.

Commissioner Ostrowski asked Ms. Sias for more information about the plumbing problems she is attributing to this tree.

Elise Sias said that once a year they have to have roots dug out from their plumbing pipes. This tree is just 12 feet away from the house.

Commissioner Ostrowski asked about the sewer pipes.

Elise Sias said that they come out from the back of the house and u-turn to go to the front.

Commissioner Rich asked if Ms. Sias can provide work orders and documentation to validate that roots from this tree are the cause of these backups.

Elise Sias said that since they need a plumber so often they pay a guy under the table and don't get receipts from him.

Commissioner Rich said that sort of documentation would be helpful.

Chair Hernandez clarified that the Sias Family has been in this home for six years no.

Elise Sias said yes.

Chair Hernandez asked Ms. Sias if she knew this tree was a protected species.

Elise Sias said that she thought it could be but never thought the City wouldn't allow its removal under these circumstances.

Chair Hernandez clarified with Ms. Sias that per her arborist's report this tree is in good condition. Is there a split in the trunk somewhere?

Elise Sias said that up close it is not evident but when looking at the tree from a distance (the front of the house) its split and looks like its two trees.

Commissioner Rivlin clarified that the arborist hired by the Sias Family did not list a split as a danger.

Elise Sias said no but it's scary for us.

Jo-Ann Fairbanks, Resident of Campbell:

- Recommended that the Commission uphold the Director's denial of this tree removal.
- Stated that staff did their homework and the applicant didn't meet the requirements of the Tree Ordinance to allow this tree removal.
- Declared that there is no need to remove a healthy mature tree such as this one.
- Concluded that too many tree removals is reducing the tree canopy of Campbell.

Vic Sias, Appellant and Property Owner:

- Said that this tree was planted by the previous owner and has been in place since the mid-1950's.
- Stated that while he considers himself to be a handy guy, when they call the plumber it's because he can't get to the clog without professional equipment.
- Added that the tree's canopy is huge. It goes over the house.

Chair Hernandez closed the Public Hearing for Agenda Item No. 5.

Commissioner Ostrowski:

- Said that this is a beautiful healthy looking tree.
- Stated that if it is really getting into the sewer pipes that is relevant information that we need to see.
- Added that if it is true there is a split in the tree that's a risk as it helps cause rotting of the tree.
- Stated that we need an independent arborist report.

Commissioner Rivlin:

- Agreed that this is a magnificent tree.
- Told the homeowners that if this tree were 50 feet away from their house they would love to have it.
- Admitted that it is tricky. This tree is interfering with the owners' future plans but that doesn't mean the two can't co-exist.
- Said that it appears they have a crawl space beneath their home. That would allow access to perhaps redirect the plumbing.
- Suggested that some necessary supporting evidence has not been gathered.
- Suggested having the plumbing snaked to determine if there is actual damage to the plumbing pipes.

- Asked staff how an independent arborist can be secured.

Planner Naz Pouya said that when the required findings are unclear a deposit is taken from the applicant/appellant and used by the City to hire a third-party arborist to assess the tree and its viability.

Commissioner Rivlin suggested a continuance to allow further research. Right now we have to uphold the Director's action. This is a magnificent tree.

Commissioner Rich:

- Agreed that this is a beautiful and protected tree and with Commissioner Rivlin's suggestion for a continuance.
- Added that it was important to validate the claim that this tree is the cause of the on-going plumbing issues.
- Stated that he likes the suggestion to snake the pipes but doing so may or may not show the problem.

Commissioner Rivlin said that plumbing can be rerouted.

Commissioner Rich:

- Stated that the appellants need to provide (with evidence) that the tree is causing the plumbing problems. With that proof we can discuss this further.
- Concluded that he is not prepared to vote now.

Commissioner Hines:

- Said he thinks the tree impacts the appellants significantly in their desire to add on to their house.
- Added that they have already submitted plans for review.
- Agreed that this is a magnificent tree. He added that he has a forestry degree and knows what he is talking about in this matter.
- Stated that the tree should be removed due to impacts to the economic enjoyment of the property by its owners. He referenced Finding #3.
- Said they can replant trees elsewhere on their property.

Commissioner Ching:

- Questioned the validity of economic impacts given the tree was there when they bought the house.
- Added that he can understand why they want to remove this tree but he thinks they also probably got a break on the purchase price of their home because of that big tree there that is protected.
- Stated that there are ways to fix the plumbing without removing the tree.
- Reported that he experienced a similar situation on his property.
- Concluded that he supports the Director's action.

Commissioner Krey:

- Said he goes along with Commissioner Rich.

- Stated the need for some documentation of the history of sewage issues caused by the tree and/or an arborist report that can document damage to the home and/or tree itself that supports its removal.

Chair Hernandez said it seems four members are asking for additional documentation to support this request.

Commissioner Rivlin agreed that it has to be substantial.

Chair Hernandez:

- Reiterated that this is a beautiful tree. It was there before they bought the house. This tree will outlive any of us here tonight.
- Said that she wishes this could be seen as an opportunity to have such a special tree in their backyard.
- Admitted to some this tree is messy. It drops things.
- Added that the easiest thing to do is to cut it down.
- Advised that this Commission has to make decisions on trees all the time.
- Stated that if there is an opportunity to keep this tree, perhaps by rerouting the bathroom pipes, she would support that option. She is not in favor of cutting this tree.
- Concluded that there are ways to plan for a remodel and/or addition onto this existing home.

**Motion:**           **Upon motion of Commissioner Rich, seconded by Commissioner Ostrowski, the Planning Commission CONTINUED TO A DATE UNCERTAIN the consideration of an Appeal of the Community Development Director's denial of a Tree Removal Permit (PLN2018-399) to allow the removal of one (1) redwood tree on property located at 31 Hardy Avenue, asking the appellants to provide more documents to justify hardship due to impacts on plumbing and for an arborist report to be funded by the appellants and secured by the City, by the following roll call vote:**  
**AYES:**           **Ching, Hernandez, Krey, Ostrowski, Rich and Rivlin**  
**NOES:**           **Hines**  
**ABSENT:**       **None**  
**ABSTAIN:**      **None**

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### **REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR**

Director Paul Kermoyan had no additions to his written report.

### **ADJOURNMENT**

The Planning Commission meeting adjourned at 12:16 a.m. to the next Regular Planning Commission Meeting of **April 9, 2019**.

SUBMITTED BY: \_\_\_\_\_  
Corinne Shinn, Recording Secretary

APPROVED BY: \_\_\_\_\_  
JoElle Hernandez, Chair

ATTEST: \_\_\_\_\_  
Paul Kermoyan, Secretary