

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

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7:30 P.M.

TUESDAY

APRIL 24, 2018  
CITY HALL COUNCIL CHAMBERS

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The Planning Commission meeting of April 24, 2018, was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Chair Rich and the following proceedings were had, to wit:

**ROLL CALL**

Commissioners Present: Chair: Michael L. Rich  
Vice Chair: JoElle Hernandez  
Commissioner: Stuart Ching  
Commissioner: Cynthia L. Dodd  
Commissioner: Mike Krey  
Commissioner: Andrew Rivlin

Commissioners Absent: Commissioner: Maggie Ostrowski

Staff Present: Community Development  
Director: Paul Kermoyan  
Senior Planner: Daniel Fama  
Associate Planner: Stephen Rose  
Assistant Planner: Victoria Hernandez  
Traffic Engineer: Matthew Jue  
City Attorney: William Seligmann  
Recording Secretary: Corinne Shinn

**APPROVAL OF MINUTES**

**Motion: Upon motion by Commissioner Krey, seconded by Commissioner Dodd, the Planning Commission minutes of the meeting of April 10, 2018, were approved as submitted. (6-0-1; Commissioner Ostrowski was absent)**

## **COMMUNICATIONS**

Director Paul Kermoyan listed the following items:

- Two emails for Agenda Item 3.
- One binder of material from Citizens for Responsible Growth regarding Agenda Item 3.

## **AGENDA MODIFICATIONS OR POSTPONEMENTS**

None

## **ORAL REQUESTS**

None

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## **PUBLIC HEARINGS**

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

1. **PLN2018-008** Public Hearing to consider an Appeal of the Community Development Director's denial of a Tree Removal Permit (PLN2018-008) to allow the removal of two (2) Redwood Trees on property located at **1110 Ridgeley Drive** in the R-1-6 (Single-Family Residential) Zoning District. Staff is recommending that this project be found Categorical Exempt under CEQA. Project Planner: *Victoria Hernandez, Assistant Planner.*

Ms. Victoria Hernandez, Assistant Planner, presented the staff report.

Chair Rich asked if there were questions for staff.

Commissioner Hernandez asked whether the City's Arborist was present this evening.

Planner Victoria Hernandez replied no.

Commissioner Hernandez asked staff if the issue of care for the third tree is contained within the conditions of approval.

Planner Victoria Hernandez said that the applicant is not requesting the removal of the third tree.

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

Jo-Ann Fairbanks, Resident on Hacienda:

- Stated that she appreciates the fact that they even applied for a tree removal permit. Many do not.

- Stressed the importance to the environment derived from redwood trees with the production of CO2.
- Added that she appreciates the work of the Director and staff and the fact that a neutral arborist was brought in to evaluate these trees.
- Reported that she doesn't disagree with the recommendation to uphold this appeal and allow removal of two redwood trees.
- Suggested that a condition be added regarding tree 3. Specifically that it is to remain and may not be removed from the property.
- Cautioned that tree 3 could be lost if retaining it is not addressed with this approval.

City Attorney William Seligmann:

- Advised that tree 3 is still a protected tree given that it is a redwood. Therefore a tree removal permit would be needed in any future consideration of removal.
- Said that an added condition might have merit if someday redwoods are removed as a protected species requiring prior approval from the city prior to its removal.

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

Commissioner Hernandez asked if there is already a pending application submitted for the proposed addition.

Planner Victoria Hernandez replied no. It will be handled administratively through a building permit.

Commissioner Hernandez asked if a fee is involved to make sure they replant the replacement trees.

Planner Victoria Hernandez reminded that there is a condition of approval requiring that they replace these two removed trees with two new trees.

Commissioner Hernandez asked staff if the Commission should consider an additional condition.

Commissioner Rivlin suggested that this is a code enforcement issue.

Director Paul Kermoyan pointed out that the replacement trees are required to be 36-inch box, which is a good-sized replacement. They are restricted from planting fruit trees or eucalyptus trees but rather must be of "equivalent" value.

Commissioner Hernandez admitted that she fears the replanting would be forgotten.

Director Paul Kermoyan suggested imposing a timing deadline for the replanting such as within 30 days of the removals. The applicant can place the trees on sides of the property rather than in the middle.

**Motion: Upon motion of Commissioner Dodd, seconded by Commissioner Hernandez, the Planning Commission adopted Resolution No. 4438 granting an appeal and overturning the**

**Community Development Director's administrative denial of a Tree Removal Permit (PLN2018-008) to allow the removal of two (2) Redwood Trees on property located at 1110 Ridgeley Drive, subject to the conditions of approval, by the following roll call vote:**

**AYES: Ching, Dodd, Hernandez, Krey, Rich and Rivlin**

**NOES: None**

**ABSENT: Ostrowski**

**ABSTAIN: None**

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

Commissioner Ching advised that he must recuse himself from participating in Agenda Items 2 and 3. Item 2 since he did not participate in the previous hearings held for 250 Grant Avenue and had not had the opportunity to watch the meetings and review all the previous materials prior to this hearing. Item 3 due to a public statement he made about the project prior to being appointed to serve on the Planning Commission. He left the dais and chambers for the remainder of the meeting.

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

2. **PLN2016-221** Continued Public Hearing (from the Planning Commission meeting of February 27, 2018) to consider the application of Dan Paustian for an Administrative Planned Development Permit (PLN2016-221) to allow for the construction of a two-story single-family residence with proposed floor area ratio of (65%) and a Parking Modification Permit (PLN2018-48) to allow for a reduced number of parking spaces on property located at **250 Grant Street** in the P-D (Planned Development) Zoning District. Staff is recommending that this project be found Categorical Exempt under CEQA. Project Planner: *Stephen Rose, Associate Planner.*

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

Chair Rich asked if there were questions for staff.

Commissioner Krey:

- Reminded that this applicant bought this small vacant lot and has come to the Planning Department to see what was possible to build on it.
- Asked staff if there is anything in the processing that could be improved moving forward. Specifically in terms of communication as it seems they misunderstood what was possible.

- Reiterated staff's explanation that a Planned Development zoning reflects a process and is not a standard. The PD Zoning required that the standards of the most closely-related zoning designation must be considered and met.
- Said that it seems that information was not conveyed properly. In future he hopes that it will be made clearer.

Planner Stephen Rose said that staff provides initial written comments pretty early in the review process.

Chair Rich asked staff if they were not supportive of the applicant's second alternative (67 percent FAR). Is that lack of support due to the FAR itself or the design of that second alternative.

Planner Stephen Rose:

- Explained that the equivalent zoning is used as the basis for a PD zoned site when it comes to development standards.
- Added that an analysis is done of a neighborhood to evaluate what is compatible.
- Reminded that the Commission reached a maximum supportable FAR standard of 65 percent for this project after deliberations conducted during several previous meetings on this project.

Director Paul Kermoyan:

- Stated that when staff forms its recommendations, they are based on facts.
- Said that the very essence of building into a neighborhood is how it blends in (fits) into that neighborhood, which includes home size to lot size.
- Reminded that staff had come up with a 35-percent average lot coverage in this neighborhood.
- Added that we can go up to 50 percent FAR and still feel pretty good about that.
- Pointed out that one can design a house that is smaller but still looks good.
- Clarified that staff is not supportive of the alternate design at 67-percent FAR because the direction provided by the Planning Commission was for a maximum FAR of 65 percent.
- Concluded that staff's "real" recommendation would be at a maximum of 50-percent FAR.

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

Dan Paustian, Appellant and Property Owner, 250 Grant Street:

- Advised that this is the home that they want to live in for the next 30 years.
- Said he would describe the changes they have made since the last meeting.
- Pointed out that they have made a 200 square foot reduction as they heard the feedback they received from the Commission at previous meetings.
- Said that an additional 50 square feet reduction was done to the garage and the bedroom above it. Those reductions allowed them to reach the 65 percent maximum FAR.
- Pointed out that he is proposing a second alternative 10 x 9 bedroom but it is very tight.

- Reported that the garage was reduced by two feet. It is still conforming to the minimum garage standard. That equated to a reduction of 41 square feet. Therefore they are left with just 20-inches clearance on either side in which to open their car doors.
- Opined that if parking is such an issue for the City, it should be more important for them to have a garage they can actually get into and use.
- Reminded that Commissioner Ostrowski had previously indicated that she really loved the wedding cake look of a two story structure. It looks more balanced if the garage is out a little more than the second story above it.
- Referenced Attachment 14 from the staff report, which was intended to demonstrate how to reduce FAR. Those samples are not comparable and offer less articulation. They don't incorporate an elevator like their home includes.
- Reminded that they don't want to "age out" of being able to live in their home when they are older.
- Said that their preferred home is 1,480 square feet without counting the garage.
- Declared that it is not easy to do what we're trying to do here.
- Questioned whether this should be considered as a big house or a shallow lot. They will have just a 10-foot patio in their backyard.
- Agreed that this is a weird lot.
- Advised that they have been working on this proposal for four years now.
- Stated that they have been "put through the wringer".
- Reiterated his contention that they had asked what was possible and had been told that there were no hard standards for their PD zoned lot. This was supposed to have been reviewed as an administrative approval. Now it's before the Planning Commission.
- Questioned what is more important. Is it an arbitrary FAR standard of 65 percent or to allow them 50 additional square feet and to reach a 67 percent FAR that provides their home as they wish it to be with a garage they'd want to park in?
- Stated he didn't see how holding them to a 65-percent FAR enhances the community.
- Reminded that all PD projects are individual submittals per the City's Attorney.
- Asked the Commission to approve their alternate design.
- Inquired what's really better for the Campbell Community?

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

Commissioner Rivlin said he supports both the staff recommendation and the applicant's second alternative design.

Commissioner Krey:

- Agreed that the applicant has undergone a heck of a process. He reminded that the lot's small size was that when purchased.
- Said he appreciates the process and how hard it is.
- Admitted that consideration of this project kept him "up at night".
- Stated that the 67-percent alternative does look nicer.
- Pointed out that we have already bent to a large degree.
- Reminded that he is on the record as being supportive of up to a 65 percent FAR.

- Reiterated that this is a very unusually small lot.
- Concluded that the proposed home design is nice.

Commissioner Hernandez:

- Pointed out to the Commissioners that they are where they thought they would be last time.
- Reminded that the Commission at the last meeting said that the maximum FAR should be limited to 65 percent.
- Agreed that this lot is what it is, which is small.
- Said that she doesn't feel the Commission can legitimately allow projects to go forward based on what we see or don't see from the street. They are based on objective standards.
- Stated that allowing up to 65-percent FAR is already a big compromise.
- Suggested that if the applicant doesn't think they can park their car in their reduced garage, perhaps they should reduce the living room by one foot and keep the garage as it was.
- Opined that the Commission must stand at a maximum 65 percent FAR.

Commissioner Dodd said she was okay with the maximum FAR of 65 percent as agreed. She's also okay with the Parking Modification Permit.

Chair Rich said that his position does not change. Given the usability he's okay with the 67-percent FAR alternate design.

**Motion:**            **Upon motion of Commissioner Hernandez, seconded by Commissioner Krey, the Planning Commission adopted Resolution No. 4439 approving an Administrative Planned Development Permit (PLN2016-221) to allow for the construction of a two-story single-family residence with proposed floor area ratio of (65%) and a Parking Modification Permit (PLN2018-48) to allow for a reduced number of parking spaces on property located at 250 Grant Street, subject to the conditions of approval, by the following roll call vote:**

**AYES:**            **Dodd, Hernandez, Krey and Rivlin**  
**NOES:**            **Rich**  
**ABSENT:**        **Ostrowski**  
**ABSTAIN:**       **Ching**

Chair Rich advised that the Commission's action is final unless appealed in writing to the City Clerk within 10 calendar days.

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## **NEW BUSINESS**

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

3. **PLN2017-117-120** Study Session for an in-progress update of the In-N-Out Burger project at the former Elephant Bar site on property located at **499 E. Hamilton Avenue**. Project Planner: *Daniel Fama, Senior Planner*.

Chair Rich disclosed that he has spoken with the applicant as well as with three members of the Citizens for Sensible Growth regarding this project.

Commissioner Hernandez said that she too both had a meeting and exchanged email with Citizens for Sensible Growth.

Chair Rich:

- Said that there is a lot of interest in this proposal.
- Explained to all present that guidelines have been distributed to help attendees understand how to comport themselves. Specifically important is decorum and respect. There should be no unnecessary noise or use of signs that block views of others in attendance.
- Stated appreciation for the community interest and said it is great to have a packed house this evening.

Mr. Daniel Fama, Senior Planner:

- Presented the staff report providing an in-progress update of the In-N-Out application.
- Advised that this evening is a listening session and forum for the public.
- Cautioned that this is not the time for conclusions or decisions.
- Explained staff's role in using the City's General Plan in reviewing projects under consideration in Campbell. It is a big document that is supportive of development.

Director Paul Kermoyan:

- Advised that the Traffic Impact Analysis (TIA) identified impacts. When that is the case with impacts that may be difficult to mitigate, you switch to an Environmental Impact Report (EIR) that offers a more thorough environmental review.

Planner Daniel Fama:

- Reported that the EIR process is very thorough. Once it is completed, it is brought to the Planning Commission with the project and reviewed and adopted.
- Listed key questions and issues as being:
  - Site layout
  - Architectural design
  - Traffic
  - Circulation of site and drive-thru
  - Parking
  - Late night hours
  - Physical impacts
- Listed the scope of the project as including: a fast food restaurant, drive-thru service, late night hours an exterior patio with more than 12 seats.

Director Paul Kermoyan:

- Said that the City's on-line survey included 255 people in opposition of this application.
- Added that while it is 70 percent of those who participated in the survey, it represents but .004 of Campbell's population.

Planner Daniel Fama:

- Reference the desk item provided by the Citizens for Sensible Development.
- Pointed out that there is a lot of material about traffic.
- Advised that the project's EIR process will require a response to all written public comments.
- Added that there seems to be an impression on revenue from a use such as this In-N-Out Burger proposed for 499 E. Hamilton Avenue. The City does not get all of the sales tax generated by a business. In actuality, the City realizes 1 ¼ percent of sales tax collected. The rest goes to the State, County and Schools.
- Stated that as to the reference to having 37 fast-food restaurants, there is no established maximum number allowed in the City. He added that not all included in that 37 are "fast-food". Some are cafes', deli's, etc.
- Compared that to uses such as self-storage facilities for which the total number allowed in the City is based on population.
- Stated that the fact that other cities deny drive-thru traffic has no bearing on Campbell who has no expressed prohibition in the Code.

Director Paul Kermoyan:

- Stated that while the material provided is very valuable it is also offering the opinions of an interest group.
- Added that staff understands the sensitivity of this project on those who live nearby.
- Assured that experts would be involved in looking at all aspects of this project.
- Said that the binder compares this site to others and gives the impression that In-N-Out needs to be located within a shopping center. That represents more opinion than fact.
- Advised that he drove over to the In-N-Out on Coleman before this evening's meeting and found the traffic to be manageable.
- Admitted that he tries to figure out why the creators of Campbell's General Plan don't have many C-2 - General Commercial zoned properties. That is the zone that allows fast food. It is a challenge to navigate through what the City created with its 2002 General Plan.
- Said that it is important to note that Campbell has only three (3) Arterial I streets, which are intended to move cars. Bascom is a six-lane road. Hamilton is a six-lane road and sometimes has seven lanes. These high-traffic streets are where you want high intensity uses to be located.

Chair Rich asked staff what the time frame will be for the preparation of the EIR.

Planner Daniel Fama said it would take between five and six months per the consultant. The contract for the EIR preparation has not yet been finalized.

Chair Rich asked how much the EIR would cost and who pays that cost.

Planner Daniel Fama replied the cost is \$150,000 and In-N-Out bears that cost.

Chair Rich asked whether every use of a C-2 zoned property could be fast food.

Planner Daniel Fama replied yes.

Commissioner Rivlin asked when Kohl's and Bed, Bath & Beyond went in on Hamilton.

Planner Daniel Fama said he didn't have that information at hand but that the Elephant Bar received its Use Permit for this site at 499 E. Hamilton Avenue in 1999.

Chair Rich suggesting giving both the project applicant and the Citizens for Sensible Growth representatives up to 12-minutes to make their points on this project. Perhaps after that the Commission can ask for a call for hands on specific issues of interest and concern.

Commissioner Hernandez:

- Said that she didn't want anyone to feel they were being silenced.
- Added that if someone here tonight wants to speak, they should be allowed to do so.
- Concluded that even if we all have to be here until 2 am, we will do so.

Commissioner Rivlin cautioned that calling for a show of hands could be considered a "vote". Instead everyone should get their two minutes with the idea of keeping their comments concise.

Commissioner Dodd said that she'd like to know if the main concerns are traffic or other issues. Are there a specific few issues that are of a high level of concern to focus on?

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

Jim Lockington, Representative for In-N-Out Burger:

- Said that he has prepared a 10 to 12 minute presentation.
- Stated that he is the Development Manager for In-N-Out Burger.
- Described In-N-Out Burger as a private family-owned business established in 1948 by Harry and Esther Schneider. The company utilizes careful and deliberate growth. There are no franchisees. He read the organizational mission statement off his business card.
- Pointed out that they pay well above minimum wage. They will provide jobs from entry level to management. They also have a foundation in place dedicated to helping children. They also provide local school support programs.
- Explained that In-N-Out Burger has been looking for a location in Campbell for many years. They had not found an appropriate site until now.

- Said that they submitted their initial applications in June 2017 and received some initial feedback.
- Stated that the traffic analysis is the most important part of their project. The results are accurate and fair.
- Added that the staff report is also fair and accurate.
- Said that Attachment 8 from the staff report didn't come from In-N-Out Burger. It is an unbuildable and unworkable plan. Having separate pay and pick up windows is the most efficient way for them to operate.
- Said he takes exception to page 7. The potential mitigation included there is not supported by In-N-Out Burger.
- Advised that they are happy to contribute its fair share of mitigations.
- Questioned the impression by staff that In-N-Out Burger's proposed late night hours would draw patrons over from Santana Row after closure there.
- Acknowledged that the public comments received are about 70 percent against and 30 percent in support. The most common issue is traffic. It has been determined that there would be from a minimum to no impacts in the short term.
- Reported that they have begun outreach efforts to the public.
- Said that there is significant support for their project.
- Read a quote from one survey from someone who was against the Kohl's development years ago but grew to love and appreciate having it nearby. That person now supports the addition of an In-N-Out Burger.
- Said that they would plant 16 more trees on site.
- Added that utility boxes will be relocated in the public right-of-way to allow for ADA compliant sidewalks and pedestrian use.

Commissioner Krey asked about their queue management systems. Is it true they proposed to have people wearing signs to direct traffic away from the site if their drive-thru is full and no additional on-site access is possible?

Jim Lockington, Representative for In-N-Out Burger:

- Stated that if necessary they would use signs to direct overflow traffic unable to get on site to move on.

Commissioner Krey asked if staying open until 1 or 1:30 a.m. is typical of In-N-Out Burger locations.

Jim Lockington, Representative for In-N-Out Burger, replied yes. They are open until 1 a.m. from Sunday through Thursday and until 1:30 a.m. on Friday and Saturday.

Commissioner Krey asked if it is true that In-N-Out Burger locations tend to mostly be located in shopping centers.

Jim Lockington, Representative for In-N-Out Burger, replied no.

Commissioner Krey asked why they chose this location.

Jim Lockington, Representative for In-N-Out Burger, replied that they had looked at others. This site is the best opportunity.

Commissioner Hernandez pointed out that pedestrians would be walking across the drive-thru queue.

Jim Lockington, Representative for In-N-Out Burger, said that the pedestrian path is ADA compliant and no different from other businesses.

Commissioner Hernandez pointed out that if they redesign their building so it is facing Hamilton Avenue rather than Almarida, as the General Plan prefers, it would be possible to flip the queue to the back of the site. Has that layout been looked at?

Jim Lockington, Representative for In-N-Out Burger, said that they had received firm instruction that the building had to be close to the frontage. Their original design was at the back. This is the best design they could come to.

Commissioner Hernandez asked if they had considered the safety of people crossing Almarida to come over to In-N-Out.

Jim Lockington, Representative for In-N-Out Burger, said he hopes that they use the crosswalk. He added that if they can contribute to another crosswalk they would consider it. He cautioned that an additional crosswalk could slow down traffic.

Commissioner Hernandez asked if they had restaurants without drive-thru. Sit down only locations.

Jim Lockington, Representative for In-N-Out Burger, said that would not work at this location. It is an important part of their business plan.

Chair Rich suggested considering a location without a drive-thru. Also without late-night hours as per the Police Department recommendation.

Jim Lockington, Representative for In-N-Out Burger, suggested putting in a condition that if the late hours do not work they can be reconsidered.

Chair Rich said that it seems late hours are preferred by In-N-Out.

Planner Daniel Fama:

- Cautioned that the information about In-N-Out's charitable activities is not relevant to a decision process. This is an application for a fast food restaurant.
- Added that the site layout is still in its preliminary phase. In no way does staff sanction this plan as it is.
- Said that the comments from the Police Department are based on a lot of experience with late night activities. That is their opinion as expressed at their preliminary review. It is not an illegitimate concern.
- Reminded that E-Bar operated to midnight.

- Pointed out that it is both time-consuming and costly to enforce conditions and/or to revoke them.

Commissioner Hernandez asked if staff had thought about In-N-Out Burger patrons parking in the Kohl's/Bed, Bath & Beyond parking lot.

Planner Daniel Fama:

- Stated that there is no reasonable basis to think that overflow from In-N-Out would end up across the street.
- Suggested that the City's Traffic Engineer could opine on that.

Commissioner Hernandez asked if staff looked at existing In-N-Out locations that are located adjacent to residential areas. The locations she has been to are in large parking lots. Has staff looked at other locations?

Planner Daniel Fama replied no. It is something we can do.

Director Paul Kermoyan said that there are a lot of examples of fast food abutting residential such as Taco Bravo and Wienerschnitzel. We don't get many complaints.

Commissioner Hernandez reported that she had looked at all comments from the survey. She asked if respondents to the survey had to be Campbell residents.

Planner Daniel Fama advised that the survey is just a prompt for opinions consolidated in one place.

Commissioner Hernandez said there are numerous comments. Some people responded more than once. There have been concerns raised with traffic signaling. Some gave detailed responses and suggestions.

Director Paul Kermoyan advised that when we move to the EIR the consultant will review this information from the survey.

Commissioner Hernandez pointed out that the traffic guidelines used are dated 2000 and 2013.

Planner Daniel Fama deferred to Consultant Mark Spenser.

Mark Spenser, W-Trans, Traffic Consultant, arrived at the podium to respond.

Commissioner Hernandez asked Mark Spenser about the guidelines from 2000 and 2013.

Mark Spenser, W-Trans, Traffic Consultant:

- Explained that the VTA guidelines are a 2003 document that offers an outline of what goes into a TIA (Traffic Impact Analysis).

Commissioner Hernandez said it seems they are mostly for this site using a restaurant similar to the E-Bar.

Mark Spenser, W-Trans, Traffic Consultant:

- Clarified that they use recent traffic data. They add estimated project trip data and existing project scenario. Background project data is added back in.
- Added that they looked at other nearby projects under construction.
- Stated that the analysis is both background and project analysis and considers the difference between this project and the prior (E-Bar).
- Concluded that the project did not have a significant difference in the first number of years until future build out in the 2040's.

Commissioner Hernandez:

- Stated that with the current housing crisis, the City is not going to be able to say no to residential units right along this corridor.
- Asked if the projected 1.75 percent is a sufficient rate of growth.

Mark Spenser said that 1.75 percent is generally on the high side for traffic growth and takes into consideration both the ABAG housing projections and the VTA forecast.

Commissioner Hernandez said that the State doesn't take that into account.

Chair Rich asked what the actual growth has been.

Mark Spenser replied that they typically look at 1 percent per year in traffic growth. Campbell uses approximately 1.5 percent.

Director Paul Kermoyan:

- Said that Campbell has 17,000 housing units.
- Added that calculating growth in housing using 1.75 percent equals 298 new housing units per year. That's not happening.

Commissioner Hernandez:

- Questioned the assertion that travel times along Hamilton would decrease (page 25-26 of the report) if this project goes in.
- Stated that she didn't see how that could be. How is that possible?

Mark Spenser:

- Reported that an average can go down on a per vehicle basis even if adding vehicles.
- Agreed that queues and delays will be there.

Commissioner Hernandez asked Mr. Spenser if he takes apps like Waze into account.

Mark Spenser:

- Said that such apps have a ripple effect.
- Added that it is hard to model and level that.

- Agreed that everything in the systems gets impacted.
- Said that in the future they can tell you if it will get worse or better.

Commissioner Dodd:

- Asked if there are ways to mitigate apps like Waze. At some point that should be considered.
- Referenced the “Shark Tank” facility that is surrounded by three streets (Hanchett, Martin and Shasta). The City of San Jose built roundabouts to help manage traffic impacts.

Mark Spenser:

- Said that cities have reacted with things such as turn restrictions, stop signs and traffic controls.
- Pointed out that residents would have to agree as they’re living with it.
- Added that they are put in in response to certified complaints across the country.
- Said that there is no one-way answer or way to deal with it.

Commissioner Krey:

- Stated that In-N-Out is a real successful and popular fast food outfit.
- Asked if there is any use of this site that would achieve a different result.

Mark Spenser:

- Explained that they took into account pass-by trips. Those are not newly-generated trips but rather existing passers-by that may stop at this location on impulse while passing by to get to other places beyond.
- Said that the question seems to be whether other uses of this site would have the same impacts. The answer is anything that brings traffic.

Commissioner Krey asked if there is any use that would not as well as why calculate 25 percent for pass-by traffic.

Mark Spenser replied they used 25 percent to keep that conservative. The actual pass-by percentage is actually higher.

Chair Rich called for a short break at 9:38 p.m.

Chair Rich reconvened the meeting at 9:43 p.m.

Jean Drew, Representing, Citizens for Sensible Growth, Resident on N. Central Avenue:

- Thanked the Commission for the opportunity to speak.
- Explained that Citizens for Sensible Growth started a year ago to stop In-N-Out from going in at the former E-Bar site.
- Declared, “We have opinions. We live here. We also have facts.”
- Stated that their objection is not about hamburgers. It’s about location.
- Said that this has been an overcrowded and gridlocked intersection since the Kohl’s and Bed, Bath & Beyond went in about 14 years ago.

- Expressed concern with having a restaurant with traffic and queue lines there until 1:30 in the morning. Also using other people's business and parking lots.
- Pointed out that this location is sandwiched between two main residential streets (Central and Almarida). It will create impacts to both Winchester and Bascom to the Pruneyard and Downtown.
- Added that this location shares a property line with The Franciscan apartments where 300 residents live. There are thousands of residents that use these streets to get to their homes in Hammond Park.
- Reported that per their on-line petition, thousands are saying "no".
- Stated that common sense told all of us this. We have spent the last year studying this proposal. We looked at crime statistics. There are obvious pedestrian safety concerns. There is the potential to block emergency response access.
- Said that they hired their own experts.
- Stated that one fact is that 69 percent of the 253 people who responded to the City's forum said no.
- Cautioned that Hammond Park residents would have to deal with more cut-through traffic.
- Suggested that the Commissioners ask themselves, "Would I want this drive-thru operating until 1:30 a.m. right by my house and/or neighborhood?"
- Declared that this is no place for an In-N-Out Burger.

Charles Drew, Resident on N. Central Avenue:

- Offered up a brief summary of errors and omissions.
- Explained that there is a unique congested and complex series of street connections.
- Reminded that two traffic studies were prepared in 2004 (TIA for Kohl's) and 2017 (In-N-Out Burger). Both studies recommended mitigation to add a lane to the Highway 17 off-ramp.
- Cautioned that the ramp widening could actually have adverse impacts downstream on Highway 17 to Camden and beyond.
- Opined that there are many issues, errors, omissions in the traffic study. It is inadequate.
- Listed concerns such as pedestrian safety and emergency vehicle access.
- Reported that Citizens for Sensible Growth paid to have a peer review done of the W-Trans TIA (Traffic Impact Analysis).
- Admitted to not being a Traffic Engineer. He is just here raising issues not yet covered that need to be considered.
- Said that there are conclusion errors that cannot be used in decision making.
- Asked that adequate traffic counts be done.

Karen Peterson, Resident on Almarida Drive:

- Said that this project reflects the loosest guidelines for fast-food establishments.
- Pointed out that Campbell has no drive-thru policies.
- Opined that the drive-thru lane itself should be separate from the pedestrian and parking areas on site.

Chair Rich:

- Stated that there are traffic concerns but the Traffic Consultant, Mark Spenser, points out that, regardless of what's there, there will be traffic impacts.
- Said the question remains how does In-N-Out differ from any other use that potentially goes in there.

Charles Drew stated that they disagree with Mr. Spenser.

Stephanie Politzer, Resident on Central Park Drive:

- Reported that she lives in Campbell near Drive Creek Road and Central Park Drive.
- Stated that whatever happens to the E-Bar location will take time to make decisions, plans, meetings and the EIR.
- Said she is offering up a plea to the property owners to clean up the property. It's currently an eyesore.
- Suggested that before tearing down this existing building the property owner considers renting it to another business.
- Reported that her restaurant, El Burros, is closing.
- Asked that the owner consider leasing to her for a year or two. If interested, let her know soon. She would be able to keep their property clean and viable.

Chair Rich sought a hand count from the audience of those in attendance who have issues with traffic and safety. He counted approximately 68 to 75 hands.

Glen Traw, Resident on Ricky Drive:

- Stated that In-N-Out equals a great hamburger.
- Admitted that his family really likes them.
- Cautioned that allowing this use at this location will not help the City. There will be accidents every couple of months.
- Said that he is a 42 year resident.
- Added that what he says about Campbell now is that the quality of life hasn't improved since he first got here.
- Stated that he "wouldn't do it if I were you."

Chris Bracher, Resident on Lovell Avenue:

- Stated that he is here tonight in favor of In-N-Out.
- Added that he is sensitive to the traffic concerns as he has lived here all of his life.
- Reported that a family property at Dot and West Campbell Avenue is currently surrounded by chain link fencing due to traffic on Campbell Avenue. They were losing too many pets.
- Said that he is a member of the General Plan Advisory Committee (GPAC) and has learned some things in the process.
- Cautioned that we're always going to have increases in traffic. That is something we have to deal with.
- Said that is why businesses such as this have to be put in places able to handle the traffic.
- Reiterated that he is in favor of In-N-Out at this location.
- Reminded that whoever goes into this site will bring an increase in traffic.

Mike Melligan, Resident on N. First Street:

- Thanked In-N-Out Burger saying that as a high school teacher he uses them as a great model for his students.
- Opined that we have inherited crappy traffic from previous Planning Commissions from projects such as Fry's (former Apple site), Home Depot, Kohl's, etc.
- Concluded that the Commission's decision is based on traffic it inherited.

Nancy Borowicz, Resident on Monica Lane:

- Recounted that when she visited an In-N-Out on Fremont Auto Mall Parkway, she observed 16 to 20 cars in line at 9 p.m. and later. Same with another location on El Camino where she saw long lines at 2 p.m. on Saturday and after.
- Cautioned that at this location (Hamilton) any overflow queue will wrap around onto the roadway.
- Stated that El Burro would be a great business for this site.
- Listing closing times for Habit Burger (10 p.m.), McDonalds (11 p.m.), Brown Chicken Brown Cow (10 p.m.) and Coco's (midnight).

Charles Dillon, Resident on Greenbriar Avenue:

- Said he echoes Nancy's comments.
- Stated his concerns are traffic. The site plan shows a 22-car queue for the drive-thru that would impede W. Hamilton Avenue going southbound on Hwy 17.

Jason Baker, Resident on N. Central Avenue:

- Thanked everyone present for coming out.
- Advised that he is aligned with those who like In-N-Out Burger but not at this location.
- Stated his concern with impacts on our traffic.
- Reminded that an In-N-Out Burger restaurant draws lots of customers because their food is so good.

George Montanez walked to the podium in a paper In-N-Out Burger hat with a bag of food from In-N-Out. He pulled the items and placed them at the podium and declared he was not a supporter and left the chambers.

Krista Henneman, Resident on Almarida Drive:

- Said that she lives adjacent to the project site and knows the traffic there.
- Stated that it is not fair to compare In-N-Out Burger with E-Bar.
- Reported that at the Almarida/Hamilton intersection, cars leaving Almarida cannot cross straight across to get to Home Depot and cars leaving Home Depot cannot cross straight across to reach Almarida. But people do. She has seen many close calls (accidents).
- Said that she appreciates everyone who came here tonight.
- Admitted that the smell of French fries is going to drive her crazy.

Marylea Balsley, Resident on Illinois Avenue, San Jose:

- Stated that she loves In-N-Out Burger but this is the wrong location.

- Gave the existing confusion of the intersection off-ramp and complex traffic patterns.
- Added that she is also very concerned about smaller neighborhood businesses that rely on that parking.
- Said that this In-N-Out would result in lots of people coming and going. The line is going to be backing up.
- Pointed out that if a drive-thru line is too long, she parks and goes inside to order.
- Stated that valid concerns exist. This project will create bigger problems than we already have.

Vince Navarra, Resident on Harrison Avenue:

- Said that he is the President of the Hamann Park Neighborhood Association.
- Advised that he is opposed to this development.
- Explained that their neighborhood is a quiet one. It is a dog-walking neighborhood.
- Added that Almarida is a major interchange for our community.
- Expressed concern about an air pollution element.
- Said that he too appreciates that his neighbors have come tonight. He has been in this neighborhood for 50 years and grew up there.
- Stated that traffic calming measures don't work.

Robert Knudsen, Resident on Pamlar Avenue:

- Recounted that he was a victim of the existing Almarida traffic problem when a car leaving the E-Bar site pulled out in front of him causing an accident from which his arm was broken and he was out of commission for three months.
- Predicted that during the summer months an In-N-Out Burger at this location will be the last chance to grab a burger for traffic traveling to Santa Cruz. That traffic will leave the freeway to grab that burger before proceeding onward to Santa Cruz.

John Nourse, Resident on Dolores Drive, San Jose:

- Provided some stats for traffic.
- Reported on traffic jams at Hamilton/Almarida and Hamilton/Salmar.
- Opined that there are already too many projects approved by Campbell.
- Stated that this is an ill-conceived project that will make an already bad situation worse. He can't imagine a worse project for this location.

Dawn Haskin, Resident on Lenor Way:

- Pointed out that it is already difficult for them to leave their neighborhood to get to Highway 17 or Bascom.
- Said that she has had the opportunity to observe traffic at Hamilton Avenue at Creekside.
- Said that her husband has cancer. She fears that traffic could delay the arrival of emergency assistance if the need arises to get him over to Good Samaritan.

Laurence Hansen, Resident on Central Avenue:

- Advised that he is a 45-year resident (since 1973).

- Said that N. Central was used as a pass-through to reach Payne Avenue. As a result, the City put in signs, speed bumps and roundabouts. With that traffic has been minimized.
- Pointed out that homes are being improved in this neighborhood.
- Cautioned that if we are not careful we can lose what we have gained.
- Stated that any fast food located at this corner will bring back “Mr. Clever Commuter”.
- Reminded that this intersection is already jammed and dangerous.

Robert Erwin, Resident on N. Central Avenue:

- Said he is a retired firefighter and 30 year resident.
- Explained that signal pre-empting systems used by emergency responders are rendered ineffective when traffic is stopped. Stopped traffic is often the case on Hamilton Avenue.
- Stated that going from E-Bar to an In-N-Out Burger will increase traffic.
- Asked that this development not be approved as it will reduce the quality of life in their neighborhood. It will increase the traffic nightmare we already have.

Ramona Juarez, Resident on Monica Lane:

- Reported that traffic has changed. There have been more and more projects.
- Said that she lives in the neighborhood behind the E-Bar.
- Stated her hope that the Commission listens to the people.
- Reminded that other restaurants have been there but while In-N-Out Burger is a nice restaurant it brings with it too much traffic.
- Added that allowing late night hours for this use is not safe.

Angela Hoshiko, Resident on Monica Lane:

- Stated that Kohl’s is a business where you go and shop but there would be too much traffic from an In-N-Out.
- Added that it doesn’t make sense to use signs to turn people away when the site is too full to accept more cars.
- Said that In-N-Out is a destination.
- Asked that accident reports for this immediate area be reviewed.

Glenn Williams, Resident on S. Baywood Avenue:

- Stated that their home is their dream house. They have been there for 25 years.
- Said that traffic is her main concern.
- Reported that a bunch of people have come in. We don’t need jobs from In-N-Out Burger.
- Suggested that the “family-owned” In-N-Out consider our families. This is our community for ourselves and our families who will follow us.

Mark Field, Resident on Harrison Avenue:

- Advised that his home is a block away from the proposed In-N-Out Burger.
- Added that he commutes from Highway 17 and described the challenge of traffic there.

- Said that when asked what the difference is about In-N-Out, the answer is the drive-thru line that has a history of being uncontrolled. Their time for greatest demand is early evening which is also when Highway 17 is already at a tipping point.
- Asked for a commitment to the other people around.

Thomas Weldon, Resident on N. Central Avenue:

- Said that his home is across the street from Hamann Park. He's a new-comer having only been there for 26 years.
- Advised that he has seen traffic over the years including the giant mess of Almarida at Hamilton. There is an opportunity for accidents there.
- Stated that when the Kohl's and Bed, Bath & Beyond complex went in nothing was done to alleviate traffic.
- Admitted that he likes In-N-Out hamburgers but has been frequenting Habit Burger.
- Asked that before a decision is made that their other locations be checked out to see how they operate.
- Opined that what is good for In-N-Out is not necessarily good for Campbell.

Cheryl Houts, Resident on N. Central Avenue:

- Advised that she is a 30-year resident and agrees with what others have already said.
- Pointed out that issues of deliveries and garbage collection have yet to be discussed. The hours for those services need to be considered.
- Said that traffic coming to this area is not just from Campbell but rather derived from Los Gatos, Saratoga and San Jose. It's the whole region. Adding to existing traffic is just not going to work.
- Suggested that a sit-down restaurant would be a better option for this location. E-Bar was successful there.
- Stated that there are already too many cars to make it thru the light even when it's not peak traffic hours.

Pat Mitchell, Resident on N. Central Avenue:

- Reported that this project site is located close to two schools. There is lots of pedestrian and bike traffic.
- Added that Hamilton and Highway 17/880 are already a challenge. It will get worse if In-N-Out moves in.
- Stated that kids' safety is a most important concern. These streets are not designed for that flow.

Daryl Petersen, Resident on S. Clover Avenue:

- Said that he is a 32-year resident with a short commute to work at 910 E. Hamilton Avenue.
- Reminded that the Creekside@17 office space will be filled with hungry millennials. One wouldn't want to get between them and their double-doubles.
- Declared that this kind of traffic is insane.
- Asked that the City please not approve this.
- Concluded that El Burro would be much better for this location.

Tom Conte, Resident on Almarida Drive:

- Said he is here to voice his opposition to In-N-Out at this location.
- Reminded that The Franciscans Apartments want to add 60 more units. That could mean up to another 120 additional people with their cars.
- Concluded by saying he hopes the Commission agrees with “us”.

Allan Meyer, Resident on Harrison Avenue:

- Stated that he is a 27-year resident who raised his three daughters here.
- Admitted that he wants an In-N-Out Burger in Campbell but not here. That is asking for trouble. They are not a leisurely location. They are a get in and get out business.
- Recounted that for the last three years he has taken his bicycle down Hamilton Avenue to the VTA station. This business would greatly exasperate a bad situation. This is the worst location for an In-N-Out Burger.
- Questioned whether the traffic study for the Burger King at Hamilton and Winchester was accurate.

Patti Tucker, Resident on Monica Lane:

- Stated that her concerns have been voiced by others and she hopes “you” are listening.

Matt Sheppard, Resident on Harrison Avenue:

- Pointed out that the fact that so many are here tonight underscores a lack of confidence with past projects.
- Declared this intersection as a disaster. As a result, Kohl’s or Bed, Bath & Beyond may go out of business.
- Said that he can’t support a good business because bad decisions have been made.

Steve Stein, Resident on El Solyo Avenue:

- Reminded that the preliminary proposal for Chick-fil-a was discussed by this Commission at their last meeting.
- Questioned, “are there no drive-thru guidelines in Campbell?”
- Asked that the Commission do the right thing to improve that situation.

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

Chair Rich asked each Commissioner to provide some direction to staff and the applicant moving forward.

Director Paul Kermoyan advised that staff has captured the community concerns.

Commissioner Dodd:

- Said that traffic is a big concern particularly the intersection of Almarida and Hamilton.
- Added that she has questions about the Hwy 17 exit.

- Stated she has concerns about pedestrians crossing the drive-thru queue to enter the proposed In-N-Out building.

Director Paul Kermoyan advised that there are existing guideline standards.

Commissioner Dodd:

- Questioned having late hour uses abutting residential properties.
- Said that a great deal of concern was raised about traffic obstruction or delaying emergency vehicle response.
- Said that her biggest concern is the right hand lane and the backup that is constantly found there as well as student safety. There's also the question of additional traffic impacts from the new development at Creekside.

Director Paul Kermoyan said if one asks, "What's the norm?" The answer is 70 to 80 percent.

Commissioner Dodd said that traffic is already impeding the Hwy 17 off-ramp as well as along Hamilton and when leaving Almarida.

Commissioner Rivlin said he'd like to understand more about the proposed Franciscan Apartments expansion. Everything else has been covered.

Commissioner Hernandez:

- Said she would like to dispel myths including that "anything is better than what is there now." The property owner is responsible for maintaining their site even when unoccupied.
- Cautioned that she doesn't want to be hasty but rather thorough and thoughtful.
- Agreed that there will be traffic there no matter what we put in there. It will increase no matter what goes there.
- Stated that whether the public wants or doesn't want something is not the only input required and used to make a development decision. The City is legally obligated to consider a project that is allowed under the zoning. It is not arbitrary or mob rule. However, public input is important. There is a process. The City doesn't have to approve or deny. There are findings that must be made in order to support a decision. Those findings have to stand up in a court of law and reflect why a project should or should not be allowed.
- Pointed out that growth is good for a City. They help in the provision of parks, trails and other things.
- Admitted that most people who move to Campbell do so because they like the small-town feel.
- Said that the Commission looks to the General Plan and area plans to guide it.
- Reminded that this is just the beginning of the review process for this project. There will be other opportunities for information and making input known.
- Pointed out that the site configuration includes a building that is not fronting the street at all, which is what is preferred via the General Plan. Were other site layouts considered?

Director Paul Kermoyan:

- Said that as to the frontage placement, the question is more whether the building itself is situated next to the street and/or if the building's main entrance is there or located in the back near the parking.
- Explained that per the Code you don't push a building to the back of a lot with a sea of parking up to the property street frontage.

Commissioner Dodd asked if the Code says anything about having pedestrians walking across a drive-thru queue lane.

Planner Daniel Fama replied that nominal improvements to the suggested approach are applicable. He added that the former Del Taco had a pedestrian cut-thru through its drive-thru lane.

Commissioner Rivlin:

- Provided some feedback including concerns about the site configuration including how to get onto the site. Other issues include lighting.
- Opined that he didn't see any innovation in this plan. He wasn't impressed with the building having cars in front of it.

Commissioner Hernandez said that she loves stucco as it blends into what is at the Pruneyard.

Director Paul Kermoyan said that the Commission can look at a company's brand/color/use of florescent lights. They may need to look at that and mute it.

Planner Daniel Fama reported that this application also includes a sign exception request for more and larger signs than allowed per Code.

Commissioner Dodd said she likes the idea of a tile roof that would also tie-in to the Pruneyard.

Chair Rich agreed.

Commissioner Rivlin suggested the inclusion of drought-tolerant landscaping.

Commissioner Krey:

- Asked if there is a way to lessen the queue onto Hamilton.
- Said that he likes the tile design.
- Agreed that traffic is the top issue.
- Inquired whether the Hamilton Offices were included in the traffic study.
- Added that he assumes that the Burger King traffic study was considered too.
- Reminded that there had been talk of an extended left-turn lane.
- Questioned what sorts of traffic mitigation measures are possible.

Planner Daniel Fama:

- Said that the right-hand off-ramp expansion from the freeway onto westbound Hamilton is approved when funding is secured. The land has been dedicated for that expansion. The project is included to be possibly funded via Measure B funds.

Matthew Jue, Traffic Engineer, City of Campbell:

- Agreed that the off-ramp expansion is included in the Measure B funding.
- Added that the timing for when it actually gets funded is unknown given that Measure B is tied up in court.

Director Paul Kermoyan:

- Asked whether the ramp expansion is considered viable and really possible. Is it VTA sponsored?

Matthew Jue replied yes. The project was submitted for inclusion in Measure B.

Director Paul Kermoyan clarified that this expansion is high up on the priorities and is simply a matter of securing Measure B funding.

Commissioner Krey admitted that he is always concerned when exiting off Highway 17 at Hamilton. He said his concern tends to be for those drivers who don't know the exit and how it works.

Director Paul Kermoyan asked if there were concerns with the drive-thru going into a structure.

Planner Daniel Fama clarified that it was a pony wall with pillars that are intended to shield vehicles from view.

Commissioner Hernandez asked if it is a General Plan policy to shield it.

Director Paul Kermoyan asked at what point architecture would make a problem go away.

Commissioner Hernandez suggested perhaps flipping it to the back.

Commissioner Dodd said that she didn't want cars in front.

Planner Daniel Fama said that cars should be away from the street per General Plan strategies.

Director Paul Kermoyan said that it's an aesthetic policy. Does it work or does it matter?

Commissioner Dodd suggested moving the patio to the front.

Commissioner Rivlin questioned the wisdom in that given the potential for traffic noise for those attempting to dine on the patio near such a busy street.

Commissioner Hernandez said she would like to see other options.

Chair Rich said that it's important to consider site circulation and a drive-thru management plan.

Planner Daniel Fama cautioned that A-frame signs are not allowed so a person would have to be wearing directional signs to warn when the lot and queue are full and cannot accept additional cars.

Commissioner Dodd reiterated that it seems that signs won't work in preventing the overflowing of the queue.

Director Paul Kermoyan said that there is a borderline code case with the Classic Car Wash location that has been having queuing from the site and going out onto Hamilton Avenue itself.

Commissioner Hernandez said that use of temporary signs is a ridiculous idea that won't work. That's a disaster waiting to happen. Drivers won't listen and will end up doing whatever they want including queuing on Hamilton Avenue until there is room on site to get off the public street.

Chair Rich:

- Said he definitely has concerns about the proposed late night hours.
- Suggested the creation of a crime spreadsheet for specific sites broken into blocks of time such as 7 to 10 p.m. and 10 to 1:30 a.m.

Commissioner Hernandez asked if there is a way to get that type of information from other cities.

Director Paul Kermoyan said that we could ask but it would be difficult to get it.

Commissioner Dodd asked if Campbell Police weighed in.

Director Paul Kermoyan:

- Replied that PD provided staff with the crime statistics.
- Reminded that the Downtown Campbell Alcohol Policy requires a midnight close.
- Added that there is no such standard closing time for late hours with alcohol outside of the Downtown.

Chair Rich asked if fiscal impact analysis is required.

Director Paul Kermoyan advised that having a high number of calls for service late at night drains the Police Department resources. Planner Daniel Fama wants an economic study to be prepared. It would be an anecdotal study.

Planner Daniel Fama added that the applicant would pay for the study. He added that the alternative would be no project or a traditional sit-down restaurant at this location rather than a drive-thru.

Commissioner Krey asked if there are established traffic mitigation fees.

Planner Daniel Fama:

- Replied that the City doesn't have traffic impact fees.
- Added that the only impact cost at this time would be a pro-rata share of the cost for the off-ramp expansion off Highway 17.
- Advised that the EIR will provide that analysis.

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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 12:02 a.m. to the next Regular Planning Commission Meeting of **May 8, 2018**.

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

APPROVED BY: \_\_\_\_\_  
Michael L. Rich, Chair

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