

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M.

TUESDAY

MAY 22, 2018

CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of May 22, 2018, was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Acting Chair Rivlin and the following proceedings were had, to wit:

ROLL CALL

Commissioners Present: Acting Chair: Andrew Rivlin
Commissioner: Stuart Ching
Commissioner: Cynthia L. Dodd
Commissioner: Mike Krey
Commissioner: Maggie Ostrowski

Commissioners Absent: Chair: Michael L. Rich
Vice Chair: JoElle Hernandez

Staff Present: Community Development
Director: Paul Kermoyan
Senior Planner: Daniel Fama
Associate Planner: Stephen Rose
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 May 8, 2018, were approved as submitted. (5-0-2; Chair Rich and Vice Chair Hernandez were absent)

COMMUNICATIONS

1. Email pertaining to Agenda Item No. 1.

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

PUBLIC HEARINGS

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

1. **PLN2018-73 (M-PD)**
PLN2018-74 (APD) Public Hearing to consider the application of Kurt Anderson for a Modification (PLN2018-73) to an existing Conditional Use Permit and an Administrative Planned Development Permit (PLN2018-74) to formalize “general” alcohol service, late-night operational hours and an outdoor seating area for an existing restaurant (New Jersey’s) on property located at **923 W. Hamilton Avenue**. Staff is recommending that this project be found Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Daniel Fama, Planner*.

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

Acting Chair Rivlin asked if there were questions for staff.

Commissioner Dodd asked if there are any other restaurants outside of the Downtown where they have high-top tables.

Planner Daniel Fama replied “probably”. He added that the condition prohibiting them is one that is generally never imposed on locations outside of the Downtown.

Director Paul Kermoyan:

- Suggested that the Commission take the Downtown out of this issue.
- Said that the reason that most of the restaurants with that condition imposed are located in the Downtown is because that is where we have more restaurants located.
- Pointed out that high-top tables are mostly used in bars.
- Added that there are just a few high-top seats when compared to regular seats in this location.

Commissioner Dodd asked what the proportion is between regular and high-top seats.

Planner Daniel Fama responded that there are two high-top tables with four seats at each for a total of eight high-top seats. That is out of 36 seats overall.

Director Paul Kermoyan:

- Said that in looking at the floor plan it appears that there are three booths that seat 12, two four-seat tables and two high-top tables. That equates to 20 regular seats and 13 high-top.

Planner Daniel Fama referenced a modified layout as shown on the proposed floor plan.

Acting Chair Rivlin provided the Site and Architectural Review Committee report as follows:

- SARC reviewed this project on May 8th.
- Advised that SARC had interest in how lighting and noise would be controlled.

Planner Daniel Fama:

- Advised that conditions of approval are in place to deal with those concerns.
- Said that one condition requires compliance with the Lighting Standards.
- Added that another condition establishes requirements intended to alleviate noise concerns including that there be no exterior loudspeakers and that the doors to the restaurant be left closed so noise from inside will not be heard outside.

Acting Chair Rivlin added that the parking lot is not changing.

Acting Chair Rivlin opened the Public Hearing for Agenda Item No. 1.

Kurt Anderson, Project Applicant:

- Extended his appreciation to Senior Planner Daniel Fama and Director Paul Kermoyan.
- Clarified that although the floor plan depicts three high-top tables the intent is just to have two.
- Reported that Jersey's has been at this location for a long time.
- Assured the Commission that Jersey's is a restaurant and not a bar.
- Added that he knows lots of places outside of the Downtown that have high-top seats and tables.
- Pointed out that this restaurant has had these high-tops for a long time and would hate to have to replace them with standard tables and chairs.
- Concluded that with the retention of two high-top tables all of the other proposed conditions are fine and acceptable.
- Requested approval of this request.

Commissioner Dodd thanked Kurt Anderson for clearing up the issue of the high-top tables.

Acting Chair Rivlin closed the Public Hearing for Agenda Item No. 1.

Commissioner Ching:

- Said that he supports the staff recommendation.
- Added that he can support allowing them to retain two high-top tables based on the legacy of use, the fact that other restaurants have them and the fact that there is no history of public disturbance derived from this restaurant.

Commissioner Krey:

- Admitted that there is a thin line. However, the outdoor area closes at 8 p.m. and the entire business stops by 10 p.m.
- Concluded that there are no issues.

Commissioner Ostrowski:

- Agreed with Commissioner Krey.
- Said that it's nice to have outside seating to enjoy our nice weather.
- Concluded that she is in favor of the staff recommendation.

Commissioner Dodd:

- Said that she is okay with this.
- Admitted that she was concerned about the ratio between high-top and regular tables.

Acting Chair Rivlin said he was comfortable with the staff recommendation.

Director Paul Kermoyan said that the Commission will want to modify Condition 5-D to allow two high-top tables with eight seats.

Motion: Upon motion of Commissioner Ostrowski, seconded by Commissioner Ching, the Planning Commission adopted Resolution No. 4440 approved a Modification (PLN2018-73) to an existing Conditional Use Permit and an Administrative Planned Development Permit (PLN2018-74) to formalize "general" alcohol service, late-night operational hours and an outdoor seating area for an existing restaurant (New Jersey's) on property located at 923 W. Hamilton Avenue, with the modification of Condition 5-D to allow two high-top tables, by the following roll call vote:

AYES: Ching, Dodd, Krey, Ostrowski, and Rivlin

NOES: None

ABSENT: Hernandez and Rich

ABSTAIN: None

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

NEW BUSINESS

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

2. **PLN2018-98 (ZTA)** Initiation of a Zoning Code Text Amendment (PLN2018-098) to amend Campbell Municipal Code Sec. 21.10.030 to establish large and small tutoring centers as a conditional use in the P-O (Professional Office) zoning district and Campbell Municipal Code Sec. 21.10.050 to prohibit large and small tutoring centers in the C-2 (General Commercial) zoning district. Project Planner: *Stephen Rose, Associate Planner.*

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

Acting Chair Rivlin asked if there were questions for staff.

Commissioner Dodd clarified that the Commission is considering whether to initiate changes in zoning that allow for tutoring centers.

Planner Stephen Rose said the Commission is being asked whether they believe this issue warrants review and consideration.

Acting Chair Rivlin said that the Commission could also add to the scope of the issue.

Commissioner Dodd asked for data including how many such tutoring centers exist in each zone as well as how large they are.

Planner Stephen Rose said that is on his list of research items.

Director Paul Kermoyan stressed that it should take into consideration all zoning districts.

Commissioner Dodd said that she knows of one tutoring center that has grown and continues to grow.

Acting Chair Rivlin asked staff where the line is drawn between an actual school and a tutoring center.

Planner Stephen Rose admitted that there is a degree of overlap between the two uses.

Commissioner Ostrowski asked staff why they are considering disallowing tutoring centers to locate in General Commercial Zoning Districts where they are currently allowed with a Conditional Use Permit.

Planner Stephen Rose said that existing tutoring uses would be allowed to remain but could not request intensification or expansion of their use.

Commissioner Ostrowski said that the decision was made at one time to allow such uses in General Commercial. She needs to understand the reason it is best not to allow that to continue. What are the pros and cons?

Acting Chair Rivlin asked if a remodel represents intensification.

Planner Stephen Rose:

- Explained that intensification of a non-conforming land use includes enlarging the scope of use from expansion of space, increasing the number of students and/or operational hours.
- Said that façade changes or updates of interior furnishings or equipment would not be a concern.

Commissioner Ching:

- Said that it is good to look at this.
- Expressed concern for the impact on existing businesses in commercial zones.

Director Paul Kermoyan referenced one location that is currently legal non-conforming that was allowed to change their building but not their use.

Acting Chair Rivlin brought up Hamilton Plaza Shopping Center (where Whole Foods is located) and said that what we are discussing wouldn't allow a tutoring center to go there.

Director Paul Kermoyan:

- Reported that there is a General Plan policy in place requiring the City to consider economic consequences of its zoning decisions.
- Added that staff will structure provisions to address the Commission's concerns expressed this evening.
- Stressed the need to locate land uses where they are intended to be.
- Said that staff will elaborate on non-conforming status and what that means.

Acting Chair Rivlin questioned the potential for a small tutoring center to locate at the Pruneyard on a higher floor of the tower office buildings.

Commissioner Dodd said she knows of one example where a tutoring center recently expanded into adjacent tenant spaces within a Commercial Zoned property.

Planner Stephen Rose read from the General Plan strategy that offers guidance to decision makers, "...effects on City revenues and services."

Acting Chair Rivlin opened and closed the public comment period for Agenda Item No. 2. There were no members of the public present.

Acting Chair Rivlin called for a motion to direct staff to come back with a draft Ordinance.

Motion: Upon motion of Commissioner Krey, seconded by Commissioner Dodd, the Planning Commission took Minute Action to initiate a Zoning Code Text Amendment (PLN2018-098) with direction to staff as provided in Attachment 1 - Scope of Zoning Text Amendment Initiation. (5-0-2; Chair Rich and Vice Chair Hernandez were absent)

Director Paul Kermoyan said that staff would come forward with a draft Ordinance. That initial draft will not be the end product but rather just the beginning product.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan had no additions to his written report.

ADJOURNMENT

The Planning Commission meeting adjourned at 8:08 p.m. to the next Regular Planning Commission Meeting of **June 12, 2018**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Andrew Rivlin, Acting Chair

ATTEST: _____
Paul Kermoyan, Secretary