

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M.

TUESDAY

JULY 9, 2019
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of July 9, 2019 was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Chair Rivlin and the following proceedings were had, to wit:

ROLL CALL

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

Commissioners Absent: None

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

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Ostrowski, seconded by Commissioner Rich, the Planning Commission minutes of the meeting of June 25, 2019, were approved as submitted. (7-0)

COMMUNICATIONS

1. Desk item – 3 emails in support of Agenda Item 1 (469 E. Campbell Ave).

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

PUBLIC HEARINGS

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

1. **PLN2019-67** Continued Public Hearing (from the meeting of June 25, 2019) to consider the application of Strike Brewing Company for a Conditional Use Permit and Administrative Planned Development Permit (PLN2019-67) to allow a brewery-tasting room ("liquor establishment") with "late-night activities" (11:00 PM public closing time) and a Parking Modification Permit to allow a reduction in the number of required parking stalls, on property located at **469 E. Campbell Avenue**. Staff is recommending that this project be deemed Categorically Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. *Project Planner: Daniel Fama, Senior Planner*

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

Chair Rivlin asked if there were questions for staff.

Commissioner Ching asked if the Condition requiring a \$2,000 fee is to cover for the preparation of a staff report to return this item to the Commission for review after six months of operation.

Planner Daniel Fama replied that is correct.

Commissioner Ching sought clarification that this was not a City requirement.

Planner Daniel Fama said that it is a deposit. If there are no problems, the entire amount may not end up being spent.

Commissioner Ching:

- Asked how it works if there are "issues" before the end of the first six-month period. How does that work?

- Pointed out that per this condition the Commission may be asking for a review that may not even be necessary.
- Admitted that concerns him on behalf of a small business.

Director Paul Kermoyan:

- Explained that a fee schedule is adopted each fiscal year. The City Council wants cost recovery for services.
- Added that if the Commission wants this item returned for a six-month review the applicant must pay for that action.
- Reported that if no deposit is required and there should be problems resulting from this use it would become a Code Enforcement case. Staff spends its time upholding the Code.

Commissioner Ching:

- Stated that his question for his fellow Commissioners is, "Do we want to impose a six-month review on this use?"
- Reminded that there is a revocation process available and there are fines imposed if a use is under Code Enforcement action. Both options are avenues for resolving problems arising from this use.

Chair Rivlin suggested this detail be further discussed under deliberations.

Planner Daniel Fama said that this condition could become an advantage for the applicant. When their six-month review occurs, the applicant may want to make changes to their use, hours and/or conditions.

Commissioner Hines asked if the parking reduction is fully supported by staff for this use.

Planner Daniel Fama said that this recommendation reflects the Planning Commission's direction.

Commissioner Buchbinder asked if a continuance for this item would become necessary if a condition needs to be changed.

Planner Daniel Fama replied no.

Commissioner Rich asked about the previous Parking Modification on Winchester.

Planner Daniel Fama explained that in that circumstance two uses (businesses) shared parking. Council allowed street parking to be counted in that instance.

Commissioner Rich asked if that Parking Modification Permit was like this one.

Planner Daniel Fama advised that the one Commissioner Rich is referring to is further down Winchester for Lisa's Tea Treasures.

Chair Rivlin reminded that the Public Hearing for this item was left open at the last meeting to be continued to this meeting.

Lindsey Toth, San Jose Resident:

- Recounted that she is a former resident of Downtown Campbell and now resides in San Jose.
- Said that she is here to address neighborhood concerns.
- Assured that the patrons of Strike Brewing Company are not a rowdy bunch. They are middle age moms and dads and their kids.
- Concluded that this business is family friendly.

Chair Rivlin asked Ms. Toth what her impression is as a former Downtown resident what her impression is on impacts.

Lindsey Toth replied that Downtown Campbell is noisy. She heard sounds coming from Blue Line and the Irish pub.

Barry Hicks, Resident on Waterford Court:

- Stated his love for our Downtown.
- Added that he goes there as often as possible.
- Agreed that this business would fit in well with Downtown Campbell.
- Said that this would not be a drunken crowd.
- Opined that this business would help the City's plan to connect from The Pruneyard to the Downtown.
- Stated that he is excited about it.

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

Commissioner Hines:

- Thanked Strike Brewing Company for moving into Downtown Campbell.
- Said that the conditions of approval don't restrict this use.
- Added that compliance will be up to the business itself in how they manage their business.
- Said the conditions reflect mitigations for potential impacts on nearby residents and parking.

Commissioner Buchbinder:

- Questioned the reason for requiring a six-month follow up review given that there are existing processes to deal with violations anyway.

Chair Rivlin:

- Reminded that in granting a Parking Modification Permit, which allows a reduced parking provision less than the Code standard parking requirements, it is not unreasonable to ask for this \$2,000 deposit.
- Pointed out that this deposit in and of itself supports the business's commitment to good behavior and compliance with conditions.
- Advised that he is in support of the six-month check-in and the imposition of a deposit to cover staff time to prepare for that review and update.

Commissioner Krey:

- Stated he was also in favor of the proposed six-month review. He likes that idea.
- Admitted that he doesn't think there will be problems with parking and hopefully there won't be.
- Added that the deposit doesn't seem outrageous. It also appears that some of those funds might be returnable.
- Said that this business could be a big plus for Campbell and is a good fit for that part of the Downtown.

Commissioner Ching:

- Said he understands the concerns of his fellow Commissioners.
- Pointed out that a small business lives on small margins. This is a growing business.
- Added that he is acutely aware that we're burdening small business with a cost that may not even be necessary.
- Questioned, "What message are we giving to new business coming into Campbell?"

Chair Rivlin asked staff what are the typical application costs?

Planner Daniel Fama said that this project currently before the Commission required \$8,000 in processing fees.

Commissioner Rich:

- Stated that this is a great business model and a great fit for Downtown Campbell.
- Opined that there has been no creativity in preventing parking problems. Neither preventing nor alleviating parking problems.
- Said that there will be other new businesses coming to Campbell.
- Concluded that he would be voting no.

Chair Rivlin asked Commissioner Rich, "What if they came back in six months and changes are needed? What condition are you looking for?"

Commissioner Rich said he would like to see something done to alleviate parking impacts significantly. This is a broad exception.

Commissioner Buchbinder:

- Pointed out that the applicants have offered concessions including offering to pay for their employees to use public transit to come to work as well as offering a discount on the first purchase to customers who come via public transit and can show a currently dated transit pass.
- Added that it is more his concern that we don't do much to make sure that we have too much parking.
- Admitted that is a concern given the invisible cost of providing more parking than is necessary.

Commissioner Ching:

- Reminded that there has been a fair amount of high-density development in Campbell. The City has changed a lot.

- Stated his opinion that people should not drive to liquor establishments at all but rather should avail themselves of VTA and other public transport options.
- Pointed out that we are currently using 20-year-old provisions within our Parking Standards.
- Stated he disagrees with Commissioner Rich's position on parking.
- Supported the need to change the narrative on parking.

Commissioner Rich said that limiting parking is not a good way to encourage people to walk.

Commissioner Ching pointed out the complete lack of bike racks that can currently be found throughout the City of Campbell.

Commissioner Ostrowski:

- Said that the Commission is here to oversee new businesses coming into the City.
- Stated out that not all applications are black and white, and it is "our" job to look at unique situations.
- Reported that she drove by this site several times and noticed that of the 15 parking spaces available on the street only about three were in use both times with the majority available.
- Added that she supports the short-duration designated parking spots for existing businesses who have quick customer visits that has been conditioned.
- Referred to the letter received from the adjacent business (Body Fitness) indicating that having Strike Brewing Company on site will be a benefit to them.

Commissioner Buchbinder asked how to initiate a review of the existing parking standards. He'd love to have that discussion.

Director Paul Kermoyan:

- Advised that the Planning Commission can initiate that discussion.
- Cautioned that that issue may conflict with other current Council priorities.
- Added that he would need to check in with the City Manager and City Council.
- Reiterated that the Commission does have the authority to initiate such a discussion.

Commissioner Hines:

- Stated that staff did a good job with the conditions.
- Added that they well reflected the Planning Commission and public feedback received at the last meeting.
- Suggested the Commission move forward with a motion.

Commissioner Krey:

- Stated that all points are right on.
- Agreed that this represents a big deviation from our parking standards.
- Suggested "let's give this business a chance."
- Added that the applicants have already made quite a financial commitment. There's always the risk it might not work.

- Questioned what happens with the next business needing reduced parking because of this approval.

Chair Rivlin said it sets precedent but with good reasons.

Commissioner Hines asked if there has been any feedback from Strike about the conditions imposed.

Planner Daniel Fama said they are agreeable.

Chair Rivlin suggested considering more lighting in that area.

Director Paul Kermoyan said there is not a lighting standard, but the Commission can require added light fixtures.

Chair Rivlin asked if any members of the Commission wanted to pursue that option.

Commissioner Hines suggested waiting to see how things are going at the proposed six-month review.

Commissioner Buchbinder said he wanted to revisit the issue of Downtown parking and how to get that discussion scheduled. He said he wouldn't want to miss an opportunity to get to that issue.

Motion: **Upon motion of Commissioner Ostrowski, seconded by Commissioner Ching, the Planning Commission adopted Resolution No. 4514 approving a Conditional Use Permit and Administrative Planned Development Permit (PLN2019-67) to allow a brewery-tasting room ("liquor establishment") with "late-night activities" (11:00 PM public closing time) and a Parking Modification Permit to allow a reduction in the number of required parking stalls, on property located at 469 E. Campbell Avenue, by the following roll call vote:**

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

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

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

2. **PLN2019-31** Public Hearing to consider the application of Vista Solar, Inc. for a Modification (PLN2019-31) to a previously approved Conditional Use Permit with Site and Architectural Review (PLN2011-202) to allow construction of two approximately 2,500 square-foot photo-voltaic (solar) carport structures within an existing church/private school parking lot on property located at **1075 W. Campbell Avenue**. Staff is recommending that this item be deemed Categorically Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Daniel Fama, Senior Planner*

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

Chair Rivlin asked if there were any disclosures from members of the Commission.

Commissioner Hines advised that he is a prior member of the Church of Christ in another state.

Commissioner Ostrowski reported that she has a family member working at the school.

Commissioner Krey reported that he too had a family member working at the school.

Chair Rivlin asked if there were questions of staff.

Commissioner Buchbinder asked if there are any situations where solar panels are installed without an underlying structure.

Planner Daniel Fama replied yes, they are approved through a building permit.

Commissioner Buchbinder asked if there is any purpose for the structure other than to hold the solar panels.

Planner Daniel Fama replied yes, the other purpose is to provide covered parking.

Commissioner Hines stated that he is in favor of solar panels.

Planner Daniel Fama added that the covered parking is also shaded.

Commissioner Ostrowski reported that at SARC they learned that this will become a nearly energy neutral site.

Director Paul Kermoyan suggested that the Commission consider this application primarily as two carports and not focus on the solar panels.

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

- Reported that there were no issues of concern for SARC.

- Pointed out that there are existing carports with solar on site with no issues. They are adding two more carports to build out the solar energy needs for the campus.

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

Rishi Narain, Applicant, Vista Solar, Inc.:

- Stated he is here as the representative for Vista Solar and is available to answer any questions.
- Reported that this is Phase II with the installation of two more carports to serve this property.
- Added that they are happy to be a part of this extension and to render this site nearly energy zero. They look forward to this project.

Matthew Rasmussen, Resident on Warwick Drive:

- Reported that his residence shares about 180 feet of wood fencing with this site.
- Distributed some photographs of light as seen of the existing carports from his residence.
- Assured he is not against solar panels.
- Advised that when installed five years ago the lights were to be lowered so as not be seen by adjacent homes.
- Stated that the existing fence is in bad shape mostly due to years of children at the school bouncing balls against it while playing.
- Stated that his proposal is that the school should install a new and taller fence.
- Said that without the light pollution into his home, he has no problem. He has dealt with it for five years now.
- Pointed out that there is currently a camper on the parking lot and he wonders if it is temporary and/or is there someone living in it. That's another eyesore.

Commissioner Rich asked Mr. Rasmussen how tall the existing fence is and what height is he proposing to resolve the lighting impacts.

Matthew Rasmussen said he didn't know.

Chair Rivlin asked who owns the fence.

Matthew Rasmussen said that he owns 180 feet of fencing together with the church property. It is a good neighbor fence that is damaged from kids in the past. He added that the church replaced other portions of the fence at their expense with previous phases of this project.

Commissioner Ostrowski added that the church also installed trees along the back-property line at the same time.

Director Paul Kermoyan:

- Said that about five to six years ago the church and school proposed the construction of a new gym building.

- Advised that since that time there have been no complaints received about the school operations.
- Added that now this speaker is raising his concerns about impacts.
- Stated that while consideration of a replacement fence seems reasonable it may not be the best solution. Perhaps additional tree screening might be better.

Planner Daniel Fama:

- Reported that there are existing lighting design standards that require on-site lighting to be shielded and directed downward to the ground.
- Added that those standards were existing and in place at the time (5 years ago) that the gym and other carports were constructed.

Commissioner Ostrowski asked if it is required that the rear solar carports have additional lighting.

Planner Daniel Fama replied no, not if existing, but if new the answer is yes.

Rishi Narain:

- Assured that with the carport install the lights shine downward. The new panels will tilt towards the fence.

Chair Rivlin suggested that the applicant and neighbor work with staff regarding requirements and/or the consideration of a fence reconstruction.

Rishi Narain said that it is beyond his scope to discuss the fence with Mr. Rasmussen. He would have to defer to the school. He said he is open to correcting any lighting position that impacts Mr. Rasmussen.

Planner Daniel Fama explained that the school's project representative is out of town. The Commission could continue this hearing if they feel it is necessary.

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

Commissioner Krey asked if a continuance is the best action.

Commissioner Hines:

- Reminded that the item under consideration is the carports with solar panels.
- Suggested that the Commission move forward with that focus.
- Added that the good-neighbor fence is something the two property owners need to work out.
- Advised that it is hard to continue or condition the cost of a fence to the applicant.

Commissioner Buchbinder referenced Condition 5 that indicates the lights must be shielded. That condition should also apply to the existing lights that should be corrected to comply.

Chair Rivlin suggested that "all lights should meet the lighting standards."

Commissioner Ostrowski agreed that the Code requires downlit lighting.

Planner Daniel Fama:

- Reported that staff was unaware that for the last five years there has been a problem with the lighting overflow impacting this neighbor.
- Reiterated the standard that existing and proposed lighting must be directed on-site.
- Added that the school is a responsible property owner and will comply. If it does not it becomes a Code Enforcement issue and case.

Commissioner Krey asked if there are often problems with light impacts.

Planner Daniel Fama replied that there are, but they usually deal with light fixtures between two single-family homes.

Commissioner Ostrowski suggested including a time to have the lights go off at a specified time each night.

Commissioner Ching:

- Stated that there are two issues. One is the compliance for the existing lighting. The other is the reported damage to the shared fencing.
- Asked whether a continuance is appropriate here to deal with retrofitting the existing carport structures.

Director Paul Kermoyan:

- Reported that with the gym expansion discussions occurred that were like those that occur with development of a flag lot.
- Added that a flag lot can create new activity along shared property borders amongst multiple parcels.
- Stated that while this is not a flag lot, it results in added activities along the shared property line.
- Said that the question remains whether this is adding more activities.
- Stated that the Commission could suggest that there be no lighting included on these two proposed newest carports.

Commissioner Buchbinder asked for a further description of a flag lot.

Director Paul Kermoyan said that a flag lot is a legal parcel that is located behind another lot that has frontage on a street. Access to the flag lot itself is through a "handle" or driveway leading from the public street to that back parcel.

Commissioner Rich:

- Said that the only sticking point seems to be the lighting impacts on the neighbor.
- Stated he supports having staff work with the applicant on that issue and require that they comply with the lighting standards.
- Concluded that staff can handle that without having to come back.

Commissioner Ching:

- Said he agrees with Commissioner Rich.
- Added that having some parking lot lighting equates to safety.
- Suggested additional wording in the conditions of approval to ensure that the current lights be properly directed downward and away from neighbors as well as any newly installed lights.

Commissioner Hines:

- Said he too agrees.
- Stressed the importance of complying with the lighting standards.
- Reminded that the installer has assured this evening that they can direct the light down.
- Cautioned that having a property without lighting creates a security issue.

Commissioner Krey asked about the neighbor's fence concern that remains given that his lighting concern has been addressed.

Commissioner Buchbinder said that this application is both a positive and good thing. It will improve existing lighting on site and provide more solar energy.

Commissioner Ostrowski said she is in favor of this request and suggested consideration of a timer to shut down the lights in the evening at a prescribed time.

Chair Rivlin:

- Said he supports the carport structures and finds the solar panels on top to be an added benefit to the property.
- Added that the existing lights will be down shielded.
- Stated that the neighbor can sort out his fencing concern with the church although he said that another adjacent neighbor got a new fence.

Commissioner Hines:

- Suggested keeping the fence separate.
- Agreed that the existing lighting impacts will be addressed by conforming to existing lighting standards.
- Cautioned that turning off lights in this parking area at night could create a security issue.

Chair Rivlin asked staff if a common fence is required.

Planner Daniel Fama replied that there must be some form of barrier between the two uses.

Chair Rivlin suggested that staff confirm that the existing fence meets minimum requirements.

Planner Daniel Fama reported that this existing fencing was found to remain suitable five years ago when the gym was reviewed. Currently the nexus to require the replacement of that fence by the applicant is weaker.

Commissioner Ching suggested additional wording highlighting the lighting associated with the existing structures.

Planner Daniel Fama said that Condition 5 applies to existing and proposed carport structures.

Motion: **Upon motion of Commissioner Ching, seconded by Commissioner Krey, the Planning, the Planning Commission adopted Resolution No. 4515 approving a Conditional Use Permit and Administrative Planned Development Permit (PLN2019-67) to allow a brewery-tasting room ("liquor establishment") with "late-night activities" (11:00 PM public closing time) and a Parking Modification Permit to allow a reduction in the number of required parking stalls, on property located at 469 E. Campbell Avenue, with additional language added to Condition 5, by the following roll call vote:**

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

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

Commissioner Hines disclosed that he had in the past been a member of the United Church of Christ when living in another state.

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

3. **PLN2019-83** Public Hearing to consider the application of Greg Vasquez, on behalf of the Campbell United Church of Christ, for a Sign Permit (PLN2019-83) to replace a 36 square-foot monument sign with a 40 square-foot manual readerboard sign on property located at **400 W. Campbell Avenue**. Staff is recommending that this item be deemed Categorically Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Stephen Rose, Associate Planner*

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

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

- Reported that SARC found this sign looked great.

- Added that there were a few questions about lighting impacts on residential neighbors across the street.
- Said it had been suggested to perhaps dim or shut off the sign's lights at a certain time.

Commissioner Hines asked if a 40 square foot sign falls within the City's Sign Ordinance guidelines.

Planner Stephen Rose replied correct. The only reason this sign is before the Planning Commission is because it is a changeable sign.

Commissioner Krey noted that this sign may get in the way of future street improvements, but that a condition of approval has been included to require relocation if/when that occurs.

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

Mark Fannuci, Representative of Congregational Church of Christ:

- Reported that their project lead, Greg Vasquez, is not here this evening.
- Added that he was glad to answer any questions.

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

Commissioner Rich said this is a straightforward application and he is supportive.

Commissioner Buchbinder said outside of brightness concerns already addressed he has no other issues.

Motion: **Upon motion of Commissioner Ching, seconded by Commissioner Rich, the Planning Commission adopted Resolution No. 4516 approving a Sign Permit (PLN2019-83) to replace a 36 square-foot monument sign with a 40 square-foot manual readerboard sign on property located at 400 W. Campbell Avenue, by the following roll call vote:**

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

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

Commissioner Buchbinder:

- Asked how to initiate a formal process to review best practices for parking especially near transit lines. He'd like to consider national standards and what other cities are doing.

Chair Rivlin said that it might be time for an all-new zoning study of the Downtown and East Campbell Avenue Area Plan.

City Attorney William Seligmann cautioned that this item is not on the agenda this evening. He suggested the Commission simply give its direction to staff to place this on an agenda for a future date.

Commissioner Buchbinder asked if a motion is appropriate at this time.

Director Paul Kermoyan said a clear motion would be helpful.

Motion: Upon motion of Commissioner Buchbinder, seconded by Commissioner Ostrowski, the Planning Commission directed staff to research parking standards to include both National and local jurisdictions, especially those near transit (given there are three rail stations in town), the extension of the Downtown toward The Pruneyard in a unified structure, and options for permit parking including Uber and Lyft, and bring this research forward to the Commission for review and discussion, by the following roll call vote. (7-0)

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Kermoyan provided the following update to his written report:

- Advised that the City Council did not accept the Planning Commission’s recommendation regarding the adoption of the Sexually Oriented Businesses Ordinance.
- Added that Council is requesting additional changes to the draft, which will return to the PC at its next meeting on July 23rd.

ADJOURNMENT

The Planning Commission meeting adjourned at 8:56 p.m. to the next Regular Planning Commission Meeting of **July 23, 2019**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Andrew Rivlin, Chair

ATTEST: _____
Paul Kermoyan, Secretary