

CITY OF CAMPBELL PLANNING COMMISSION  
MINUTES

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7:30 P.M.

TUESDAY

AUGUST 11, 2020  
REMOTE ON-LINE ZOOM MEETING

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The Planning Commission meeting of August 11, 2020, was called to order at 7:30 p.m. by Chair Krey and the following proceedings were had, to wit:

**ROLL CALL**

Commissioners Present: Chair:	Michael Krey
Vice Chair:	Maggie Ostrowski
Commissioner:	Adam Buchbinder
Commissioner:	Stuart Ching
Commissioner:	Nick Colvill
Commissioner:	Terry Hines
Commissioner:	Andrew Rivlin

Commissioners Absent: None

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

**APPROVAL OF MINUTES**

**Motion: Upon motion by Commissioner Buchbinder, seconded by Commissioner Colvill, the Planning Commission minutes of the meeting of July 28, 2020, were approved as submitted. (5-0-2; Vice Chair Ostrowski and Commissioner Rivlin abstained)**

**COMMUNICATIONS**

None

**AGENDA MODIFICATIONS OR POSTPONEMENTS**

None

**ORAL REQUESTS**

None

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

Commissioner Rivlin said he was concerned that he was located within 500 feet of Item No. 1 and might need to recuse from it. He estimates he's about 506 feet from the project site. He was advised that at 506 distance he could participate.

Commissioner Buchbinder advised that he visited all sites as he normally does but did not meet with anyone.

Commissioner Rivlin said that he recalculated the distance and finds he may be under 500 feet away so he will recuse himself due to being within noticing distance. He muted his microphone and left his computer.

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

**PUBLIC HEARINGS**

1. **PLN2019-234** Continued Public Hearing (from the Planning Commission meeting of June 23, 2020) to consider the application of Gordon Wong for an Administrative Planned Development Permit (PLN2019-234) to allow for the establishment of a small fitness studio and a Parking Modification Permit to allow a reduction in the number of required parking spaces at **85 Gilman Avenue** in the P-D (Planned Development) Zoning District. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: Stephen Rose, Senior Planner

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

Chair Krey asked if there were questions for staff.

Commissioner Hines asked what the hours for this use will be.

Planner Stephen Rose:

- Advised that the applicant is requesting hours from 6 a.m. to 8 p.m. from Monday through Friday; and from 8 a.m. to 2 p.m. on Saturday and Sunday.
- Added that staff recommends hours from 6 a.m. through 8 p.m. daily, which provides more operational hours on the weekends.

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

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

Commissioner Buchbinder said that he had stated everything he wanted to at the last meeting. He thanked staff for providing a resolution for approval this evening.

Commissioner Hines said he agreed with Commissioner Buchbinder.

Chair Krey admitted that he was against this request originally and will still be voting against it.

Planner Stephen Rose shared a slide with proposed language change to the motion.

**Motion:**           **Upon motion of Commissioner Buchbinder, seconded by Commissioner Hines, the Planning Commission adopted Resolution No. 4567 approving an Administrative Planned Development Permit (PLN2019-234) to allow for the establishment of a small fitness studio and a Parking Modification Permit to allow a reduction in the number of required parking spaces at 85 Gilman Avenue; as modified to remove the word “not” from one of the findings, by the following roll call vote:**  
**AYES:**           **Buchbinder, Ching, Colvill, Hines and Ostrowski**  
**NOES:**           **Krey**  
**ABSENT:**       **None**  
**ABSTAIN:**      **Rivlin**

Chair Krey advised that the Planning Commission action is final unless appealed in writing to the City Clerk within ten calendar days.

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

2. **PLN-2019-239**      Public Hearing to consider the application of Dennis Shafer for a Site and Architectural Review Permit to allow a 285 square-foot second floor addition to an existing 3,339 square-foot two-story single-family home with a floor area ratio exceeding 45% (48.6% proposed) and a minimum side setback of 5-feet where a ±10-foot side setback would otherwise be required on property located at **1789 Hurst Avenue**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: Stephen Rose, Senior Planner

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

Chair Krey asked if there were questions for staff.

Commissioner Buchbinder asked floor area ratios (FAR) include storage areas such as a shed.

Planner Stephen Rose replied that any fully enclosed area is counted against a property's FAR. That space does not have to be habitable.

Chair Krey:

- Pointed out that the proposed second-story addition doesn't infringe on the neighbor to the South.
- Asked staff what would happen if that neighbor one day wants to go from a one-story to a two-story home on his property.

Planner Stephen Rose replied that if the FAR is low enough and the setbacks can be met, it could be approved at staff level as it is not required to undergo design review.

Chair Krey asked for a SARC report.

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

- Stated that SARC spent some time on issues of bulk and mass.
- Assured that this home will appear less bulky as seen in a three-dimensional view.
- Added that the roofline looks quite nice.
- Thanked Planner Stephen Rose for the detailed report he prepared of the existing homes in this neighborhood. It demonstrates that there are lots of large two-story homes in this neighborhood with similar design.

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

Bruno and Julie Zerbib, Property Owners:

- Stated their appreciation for the Commission's consideration of this application as well as the provision of the neighborhood analysis provided by Planner Stephen Rose.
- Added that this home is representative of its neighborhood and will not be over the top in its appearance.

Dennis Shafer, Project Architect:

- Assured that people will think this addition was part of the original home.
- Stated that the home would not appear bulky.
- Concluded that it is similar to other homes in this area.

Commissioner Buchbinder asked the Zerbibs what the motivation was for this expansion.

Mrs. Julie Zerbib, Owner, replied that their existing master bedroom is quite small with inadequate storage space. They want to expand that main bedroom.

Mr. Bruno Zerbib, Owner:

- Stated that privacy will be better both from his home and for his rear neighbors at the back.
- Advised that an existing balcony, that they never used, will be removed resulting in greater privacy for those two rear neighbors.

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

Commissioner Ching:

- Stated that this project meets the necessary findings.
- Added that it is in keeping with its neighborhood.
- Said that it provides a mutual benefit with the rear neighbors.
- Pointed out that the elevation drawing is actually misleading as to how this addition will fit on this home.
- Concluded he would be supportive.

Commissioner Hines:

- Stated that he also is supportive.
- Advised that this home has nice architecture and the addition will look off-set and create a consistent view as seen from the street.

Chair Krey said he too is also very supportive as this home addition will be very much in keeping with this neighborhood. It is fine.

Commissioner Rivlin said he is supportive and said this addition makes sense.

Commissioner Buchbinder:

- Stated his support.
- Said that replacing the balcony with just a window there instead is better.
- Pointed out that the home to the south will see a solid wall without windows facing it to ensure continued privacy there.
- Concluded that this addition seems to be something this house was supposed to originally have had architecturally.

**Motion:**           **Upon motion of Commissioner Ching, seconded by Commissioner Ostrowski, the Planning Commission adopted Resolution No. 4568 approving a Site and Architectural Review Permit to allow a 285 square-foot second floor addition to an existing 3,339 square-foot two-story single-family home with a floor area ratio exceeding 45% (48.6% proposed) and a minimum side setback of 5-feet where a ±10-foot side setback would otherwise be required on property located at 1789 Hurst Avenue; by the following roll call vote:**

**AYES:**           **Buchbinder, Ching, Colvill, Hines, Krey, Ostrowski and Rivlin**

**NOES:**           **None**

**ABSENT:**       **None**

**ABSTAIN:**      **None**

Chair Krey advised that the Planning Commission action is final unless appealed in writing to the City Clerk within ten calendar days.

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

3. **PLN-2020-41** Public Hearing to consider the application of Chong Tseng for a Conditional Use Permit and Parking Modification Permit to allow establishment of a medical office use (JumpStart MD) within an existing office space on property located at **1626 W. Campbell Avenue**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: Naz Pouya Healy, Assistant Planner.

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

Chair Krey asked if there were questions for staff.

Commissioner Buchbinder asked staff whether the entire shopping center here is under parked.

Planner Naz Pouya Healy replied yes.

Commissioner Buchbinder asked how many more spaces would be required in order to be conforming.

Commissioner Hines advised that the only reason the Commission is reviewing this is for the Parking Modification Permit.

Planner Naz Pouya Healy clarified that since this is a medical use, a Conditional Use Permit is required, which is brought to the Planning Commission for consideration and approval.

Commissioner Buchbinder pointed out that this use includes a maximum of four professionals and four patients on site at a time and are assigned eight parking spaces. How was that parking evaluated?

Planner Naz Pouya Healy replied that office use requires one parking space per 225 square feet of space. A medical use requires one parking space per 200 square feet of space.

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

Andy Wojnoonski, Architect for Project:

- Thanked Planner Naz Pouya Healy for her work on this project.
- Stated he is available for any questions.

Commissioner Hines asked Mr. Andy Wojnoonski whether from an architectural standpoint he is redesigning the interior of this space not the exterior.

Andy Woojnoonski said that is correct. He added that an exterior sign has been applied for under a separate sign application.

Commissioner Hines if he could ask about the types of medical services provided.

Dr. Sean Burk, JumpStartMD:

- Explained that JumpStartMD helps people to get to healthier and happier places.
- Assured they provide superior results to other types of weight management programs such as Weight Watchers, Jenny Craig and NutraSystem.
- Said that JumpStartMD is teaching its patients/clients how to eat whole fresh foods.
- Added offers the path to better health and well-being.
- Stated that it is gratifying to watch as people improve their health.
- Advised that they are excited to be coming to Campbell. This will be one of twelve offices they have in the Bay Area.

Commissioner Hines asked if treatment includes any prescriptions.

Dr. Sean Burk replied yes. He said there are novel and increasing uses for medication to help patients overcome their plateaus.

Commissioner Ching asked if they would utilize tele-medicine.

Dr. Sean Burk said that they shut down completely during the first six weeks of the Covid-19 closures. Now they can offer both in-person treatment or virtually tele-health.

Commissioner Hines thanked Dr. Burk for bringing this business to Campbell.

Dr. Sean Burk:

- Said this Campbell location seems like a great site.
- Advised that he is originally from Palo Alto so he doesn't know Campbell well.
- Added that they have an office in Los Gatos now but are likely to close it to replace it with this one in Campbell.

Commissioner Colvill:

- Stated that he loves a business that is helping people to achieve and sustain a healthy lifestyle.
- Asked Dr. Sean Burk how they differentiate themselves from other types of weight loss programs.

Dr. Sean Burk:

- Said that everyone makes claims.
- Reported that they have published a peer-reviewed study of their results. This is an evidence-based approach. People are eating real food.
- Added that there are personalized plans based on laboratory results for each patient.
- Pointed out that they are also one-on-one rather than group based.
- Concluded that they have now been in business for 14 years.

Commissioner Colvill said he visited their website and finds it to be well done. He asked how fitness is integrated with food.

Dr. Sean Burk:

- Admitted that he would love to work together with local health/fitness businesses.
- Stated that first, a new patient needs to learn what to eat then incorporate exercise.
- Said that they can make recommendations and would love to find people to partner with.

Dr. Chong Tseng, JumpStartMD:

- Explained that there is a Clinician Manager at each location and usually someone local.
- Added that those Clinician Managers are empowered to develop their own connections. That is a key to their success.

Commissioner Colvill said he loves what they are doing.

Director Paul Kermoyan:

- Suggested that the Commission focus on the medical clinic use as this proposed Conditional Use Permit lives (remains) with this location and not with the applicant.
- Admitted that while this concept is interesting, more focus this as a medical office use is more appropriate.

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

Chair Krey:

- Said that he lives right near this location but a bit over 500 feet away.
- Reported that in his 32 years living here parking has not been an issue at this center.
- Admitted that he could see the potential for parking issues if a couple of big uses were to go in there.

Commissioner Hines stated that a CUP is not a permanent forever use.

Director Paul Kermoyan clarified that once a CUP is approved it exists in perpetuity.

City Attorney William Seligmann added that a CUP runs with the land indefinitely.

Commissioner Hines said he was totally in support.

Commissioner Buchbinder:

- Said that this suite could be medical even if this use moves away and another medical provider could occupy.
- Stated he is in favor and appreciates a mix of neighborhood services.
- Opined that parking is not a significant issue.
- Concluded he is in favor and this is a fine use of space.

**Motion:                Upon motion of Commissioner Ching, seconded by Commissioner Ostrowski, the Planning Commission adopted Resolution No. 4569**

**approving a Conditional Use Permit and Parking Modification Permit to allow establishment of a medical office use (JumpStart MD) within an existing office space on property located at 1626 W. Campbell Avenue; by the following roll call vote:**

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

Chair Krey advised that the Planning Commission action is final unless appealed in writing to the City Clerk within ten calendar days.

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Chair Krey called for a short recess at 8:27 p.m.

Chair Krey reconvened the meeting at 8:35 p.m.

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

4. **PLN-2020-45** Public Hearing to consider the application of Tannaz Haghayegh for a Conditional Use Permit and Parking Modification Permit to allow establishment of a 18,103-square foot grocery store (Grocery Outlet) with late-night hours and off-site general alcohol sales within an existing commercial building on property located at **100 N. San Tomas Aquino Road**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: Naz Pouya Healy, Assistant Planner.

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

Chair Krey asked if there were questions for staff.

Commissioner Hines asked to see photographs of the adjacent residences and about the hours for CVS Pharmacy when they were in this location. Did they have 24 hour?

Planner Naz Pouya Healy replied that CVS did not operate 24 hours there.

Director Paul Kermoyan explained that what triggers a CUP for a grocery store is its size above 10,000 square feet, the sale of alcohol and extended hours beyond 11 p.m. and before 6 a.m.

Commissioner Buchbinder asked if other businesses must also operate without 24-hour deliveries.

Naz Pouya Healy:

- Said another example without 24-hour deliveries is the Whole Foods at Hamilton and Bascom. That Whole Foods is also adjacent to residential at the rear where deliveries are made.
- Advised that CUP is where the took conditions of approval to apply here as well.
- Reported that the Bascom Whole Foods location was approved in 2014.

Director Paul Kermoyan added that the newer Safeway on W. Hamilton Avenue also has restricted delivery hours.

Commissioner Buchbinder said he understands that there are residences located near this location under consideration tonight and that there is a loading dock there. He asked if the C-1 (Neighborhood Commercial) Zoning is intended to be mostly local serving.

Planner Naz Pouya Healy said that is one reason.

Commissioner Rivlin asked about potential deliveries at the front of the store.

Planner Naz Pouya Healy:

- Said that the applicant is proposing 24-hour operation with activities occurring inside.
- Added that some type of delivery at the front could be approved during late night hours.

Director Paul Kermoyan:

- Recounted that he had worked in grocery store for five years during college.
- Stated that at the front the received deliveries such as bread and large deliveries were to the rear of the store.

Commissioner Rivlin sought verification that they can work throughout the store itself after hours.

Chair Krey suggested that there be no use of forklifts or truck deliveries to the rear before 7 a.m. and/or after 7 p.m.

Planner Naz Pouya Healy replied yes.

Commissioner Hines questioned the need for the draft condition restricting against single-can liquor sales.

Planner Naz Pouya Healy:

- Advised that condition is applied consistently to grocery stores to maintain alcohol sales from that store to be for home consumption only. It is intended to discourage consumption a cold single container of alcohol in the parking lot immediately after purchase.
- Stated that this grocery store is not considered to be a liquor establishment. It is a grocery store with a license to sell just some liquor in addition to groceries.

Commissioner Hines asked if someone could purchase six bottles of wine with their groceries.

Planner Naz Pouya Healy replied yes.

Commissioner Rivlin asked if purchasing a single bottle of wine at this grocery store would be acceptable.

Planner Naz Pouya Healy replied yes.

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

Katy Schardt, Applicant for Grocery Outlet:

- Stated that they are excited about this location. They currently don't have a location in Campbell.
- Advised that Grocery Outlet provides great products at good prices. They will sell beer, wine and spirits including craft beer.
- Said that their customers primarily drive to their store as it is difficult for a customer to walk home with several bags of groceries.
- Stated that 24-hour operation will give this store the opportunity to stock, clean, receive some deliveries and other time-consuming activities that are not well suited to the store's customer hours from 6 a.m. to 11 p.m. when they are open to the public.
- Expressed the desire for allowing delivery hours between 7 a.m. and 7 p.m. at the back loading dock and 24-hour deliveries being allowed from the front of the store.
- Said they had asked for longer delivery hours at the back from 6 a.m. to 7 p.m. but staff is recommending 7 a.m. to 7 p.m.
- Reminded that her team present this evening are also available for any questions.

Commissioner Hines:

- Expressed his appreciation for the fact that Grocery Outlet is considering Campbell.
- Admitted that he is confused by the single-use purchase limitation.
- Suggested that there may be a way the wording of that condition could be worked with.

Katy Schardt:

- Asked that such a condition to restrict the sale of individual bottles/cans of craft beer not be applied to the sale of craft beers.
- Added that would be consistent with other grocery stores.
- Informed that the people who buy craft beer want to sample several brews rather than buy a six-pack of one kind. They want a variety.

Director Pal Kermoyan said that Condition 3(f) is concerning alcohol sales.

Planner Naz Pouya Healy said that's where any change to alcohol sales should be placed.

Director Paul Kermoyan said that operators that cater to single-can sales often create/result in harmful behavior at that location often in the parking lot.

Commissioner Colvill said it would behoove us to figure out what the community concerns might be about later deliveries occurring at the rear. What if 24/7 deliveries create anarchy?

Katy Schardt:

- Advised that operator(s) must be conscientious and make decisions that are right for both for their neighbors and themselves.
- Said that gives greater flexibility with when you can arrive and leave one location to get to the next store on that delivery schedule.

Commissioner Hines:

- Listed the considerations for the Commission to include:
  - 6 a.m. to 7 p.m. delivery hours to the rear loading dock is requested by applicant.
  - The ability to sell single-unit craft beer/wine and liquor bottles.
  - Allow 24/7 deliveries to the front of the store.
  - Approve a Parking Modification Permit for a reduction in parking by two spaces to allow for cart storage.
- Asked if that is correct.

Planner Naz Pouya Healy clarified that the original hours requested for deliveries to the rear dock began at 5 a.m.

Commissioner Hines said that they have compromised to 6 a.m. with 24-hour operations within the store.

Commissioner Ostrowski asked if there were different hours for weekends.

Planner Naz Pouya Healy replied the propose hours are seven days a week.

Katy Schardt:

- Said that 6 a.m. was already a compromise from their original 5 a.m.
- Added that they want the same hours daily.
- Stated that it does not mean deliveries would be constant but rather allows them to coordinate and schedule deliveries between Grocery Outlet's other locations.
- Assured that all alcohol would be consumed off site.
- Asked that the Commission allow single bottle/can sales of craft beers.
- Concluded that the Parking Modification Plan is self-explanatory.

Commissioner Ching asked if these are independently operated stores.

Katy Schardt:

- Replied yes.
- Stated their model is for independent ownership.
- Added that there are parameters for the Grocery Outlet model which give operator(s) some "skin in the game."

Commissioner Ching asked about deliveries including the number of deliveries, when they occur, and whether a majority occur before there are people in the store. He asked the impacts of a start time between 5 a.m., 6 a.m. and 7 p.m.

Katy Schardt said that most deliveries are in the morning and spaced out.

Darius Tehrani, Grocery Outlet:

- Agreed that most deliveries are in the early morning. As early as allowed.
- Added that later in the afternoon is when the refrigerated deli trucks arrive.
- Said that the remaining deliveries vary in timing.
- Clarify that about 50 percent of the deliveries come early with the rest scattered during the day in smaller trucks.

Commissioner Hines asked what the plan is for the proposed window treatments.

Katy Schardt:

- Stated that what they propose is not too different from what CVS Pharmacy has. It's a white opaque film that blocks views from inside but allows light to come in.
- Added that this coverage is needed in order to allow for the efficient layout of goods against those windows so they are not seen from outside.
- Advised that what they have proposed in their window coverings do have some graphics, including a logo and various food items.
- Reiterated that their purpose is to obscure shelving being located near the glass.

Commissioner Ching asked if the graphics would not include special offer advertising.

Katy Schardt said they can be flexible and change that. The Planning Commission can direct Grocery Outlet more specifically so those coverings can still be attractive.

Tannaz Haghayegh, Grocery Outlet, clarified that the window graphics would not include specific advertising but rather a general message.

Planner Naz Pouya Healy:

- Pointed out that the windows as shown on the elevation exhibit are considered to be signage.
- Admitted that as to the CVS film, she cannot say for certain that was actually ever approved.
- Said that the relocated CVS location within this center has the same condition in place as is proposed for Grocery Outlet so as not to obscure too much of their windows.

Commissioner Rivlin asked whether when considering whether to allow loading dock deliveries at 6 a.m., would those trucks need to idle while they unload or could those trucks be shut off.

Darius Tehrani, Grocery Outlet, said he could ask. He added that the deliveries are pretty quick.

Commissioner Rivlin:

- Said that possibility for the trucks to be shut off is important to him.
- Raised the subject of the trash enclosure which is situated right next to the adjacent residential properties.

- Asked if they (Grocery Outlet) would be willing to not start using those enclosures for dumping new garbage until after 8 a.m. Specifically the use of any compactor. Would they accept restricted start time for that potential noise impact.

Darius Tehranchi, Grocery Outlet:

- Said that not properly disposing of trash immediately can result in health and safety issues including drawing rodents and more. In the grocery business, pest control is an important issue.

Commissioner Ostrowski asked if these trucks need to back up and, if so, do they have to have a back-up beeper.

Darius Tehranchi, Grocery Outlet, replied that these trucks will need to back up. He added that he is not sure if these trucks all beep as they back up.

Commissioner Rivlin cautioned that he believes having back up beeping is a legal requirement for commercial sized trucks.

Commissioner Ching asked for verification that the trash bins are out back right next to the neighboring residences.

Commissioner Rivlin replied yes.

Chair Krey asked how big a deal it might be to not get either a 6 a.m. or 7 a.m. start time for deliveries to the rear loading dock.

Katy Schardt said it is important but they could go with a 7 a.m. start time instead of their preferred 6 a.m.

Jenna Markley, Grocery Outlet, advised that there's not a ton of backing up.

Amintha Petersen, Property Owner:

- Said that the garbage so close to the property line is troublesome.
- Reported that she has owned the adjacent apartment building for 36 years.
- Stated that in the past, the garbage container(s) on this commercial site were not well-maintained, smelled bad and drew rodents.
- Admitted that she is concerned about that here.

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

Commissioner Buchbinder:

- Said that there is some uncertainty about noise of trucks and smells of garbage enclosures.
- Questioned how comfortable this Commission might be if we deal with these concerns through conditions of approval.
- Added that if things don't go well, it's not a disaster as this use could be brought back to the Commission for modifications if it becomes necessary.

## Commissioner Ching:

- Stated that both the potential for waste smells and truck noise are important issues to consider.
- Admitted he can see it a bigger issue having large waste bins located right next to residential.
- Added that he thinks the proposed window coverings could end up looking tacky.
- Said it seems that most of the deliveries to Grocery Outlet would occur in the early morning.
- Cautioned he is concerned about the idea of allow any trucks to arrive prior to 7 a.m.
- Reported that he is happy to allow the sale of single-serving craft beer.

## Commissioner Hines:

- Stated his concern about limiting Grocery Outlet with conditions that make them unsuccessful or choose to leave the property.
- Agrees that a trash enclosure has a noise potential impact.
- Added that the Commission should consider having this trash thrown out right when collected.
- Said he supports 7 a.m. start time for truck delivery to the rear loading dock.
- Said that he supports the requested Parking Modification Permit to allow for two cart storage spaces.
- Concluded that he is okay with the white opaque film on the windows as proposed by the applicant.
- Opined that this center is currently dead. There is very little business in this center when compared to the Kirkwood Plaza Shopping Center nearby.
- Stated that Grocery Outlet will be great for this location.
- Pointed out that we also have Code Enforcement to rely upon should problems occur from this business.

## Chair Krey:

- Reiterated that he lives real close.
- Advised that parking on this center is not an issue but he has concerns about the proposed window treatment and garbage management so close to residential.
- Stressed the need to have rules in place for this use that we have for everyone else with a similar business.
- Opined that having delivery hours at the back from 7 a.m. to 7 p.m. is not too confining for this business. Again, that dock is located right next to residential uses.
- Stated he is leaning against starting back there at 6 a.m. but okay with 7 a.m.
- Said that parking on site is fine as is the Parking Modification Permit to create two cart areas in place of two parking spaces.
- Said that trash should be managed the same as other grocery locations.

Director Paul Kermoyan said that the proposed window treatments are more of a design feature. Not having windows complete obscured is due to safety concerns when no one can see what is going on inside that business. He said that if the Commission is okay with obscuring glass, that is their call.

## Commissioner Colvill:

- Said that Commissioner Hines had some great points.
- Added that the role of the Planning Commission is to take the applicant's proposed plan and do its best to help make it work.
- Stated that it is not his place to tell them (Grocery Outlet) how to make a grocery store run.
- Concluded that the Commission just wants to make it works as to noise impacts.

Commissioner Ostrowski:

- Agreed that she too can support the Parking Modification Permit and the 7 a.m. start for truck deliveries to the rear loading dock.
- Said that she sees the window treatment as a safety issue.
- Stated its important to consider safety and aesthetics as to design.

Commissioner Rivlin:

- Admitted that none of the issues he raised before are deal breakers.
- Advised that he would shop there.
- Added that a few extra stalls make sense.
- Said he could support either a 6 a.m. or 7 a.m. start time for truck deliveries to the rear of the building.
- Stated that the trash still concerns him.
- Pointed out that this applicant intends to be a good neighbor.

Chair Krey asked about single serving craft beer being allowed.

Commissioner Rivlin said he agrees and is fine with allowing the sale of single-serving alcohol in can or bottle.

Commissioner Ostrowski asked if that is all types regardless of size/ounces of said container(s).

Commissioner Hines said single-bottle, box-wine, beer and/or spirits.

City Attorney William Seligmann said the City doesn't have a definition of what a craft beer is. How to define it or enforce it.

Planner Naz Pouya Healy referred to condition of approval C-4, which is the same condition imposed on CVS Pharmacy in 2018.

Director Paul Kermoyan said with the Commission supporting the sale of single-serve, there's no reason to mention single-serve within the conditions at all.

**Motion:**            **Upon motion of Commissioner Hines, seconded by Commissioner Colvill, the Planning Commission proposed the adoption of a resolution to approve a Conditional Use Permit and Parking Modification Permit to allow establishment of a 18,103 square foot grocery store (Grocery Outlet) with late-night hours and off-site general alcohol sales within an existing commercial building on property located at 100 N. San Tomas Aquino; with the following changes:**

- **Approve “as is”.**
- **Including approval of the Parking Modification Permit.**
- **Allowing 24-hour operations to occur from the front entrance and entirely within the store.**
- **Allowing truck deliveries to begin at the rear loading dock at 7 a.m. until 7 p.m.**
- **Allow the obscured windows.**

**by the following roll call vote:**

**AYES: Buchbinder, Colvill and Hines**

**NOES: Ching, Krey, Ostrowski and Rivlin**

**ABSENT: None**

**ABSTAIN: None**

The motion failed for lack of a majority.

Chair Krey suggested restricting the percentage of window that can be obscured to 40 to 50 percent.

Commissioner Rivlin added that there should be no use of logos.

Commissioner Ching reminded that the window coverings equate to frosting the windows to allow the store to place racks against the windows.

Commissioner Colvill said that if covering all the windows results in a safety/security issue, it could solve the potential for out-of-control signage. He said it is not a big deal to him but it is important to discuss.

City Attorney William Seligmann advised that the Sign Ordinance already has a limitation for signage on windows.

Director Paul Kermoyan said that standard is 25 percent or less.

Commissioner Ostrowski supported Director Kermoyan’s suggestion not to reference the window obscuring at all and simply have this business default to the existing 25 percent coverage allowance.

Director Paul Kermoyan clarified that the 25 percent standard in the Sign Ordinance is for signage and not the use of frosted/obscuring film on the windows. That is more of a design issue. There is nothing in the Code relating to frosting/obscuring windows of a business.

Commissioner Rivlin asked what signage CVS obtained via CUP approval for their new location within this same center after they relocated from this space to another.

Commissioner said that applying the Sign Ordinance’s window sign limitation to 25 percent coverage helps resolve the issues and concerns.

Commissioner Ching said he has no objection if they are complying with allowed square footage of window covering per the 25 percent Sign Ordinance standard.

**Motion:**           **Upon motion of Commissioner Ostrowski, seconded by Commissioner Rivlin, the Planning Commission adopted Resolution No. 4570 approving a Conditional Use Permit and Parking Modification Permit to allow establishment of a 18,103 square foot grocery store (Grocery Outlet) with late-night hours and off-site general alcohol sales within an existing commercial building on property located at 100 N. San Tomas Aquino; by the following roll call vote:**

**AYES:**           **Buchbinder, Ching, Colvill, Hines, Krey, Ostrowski and Rivlin**

**NOES:**           **None**

**ABSENT:**       **None**

**ABSTAIN:**      **None**

Chair Krey advised that the Planning Commission action is final unless appealed in writing to the City Clerk within ten calendar days.

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

Director Paul Kermoyan had no additions to his written report but is available for any questions from the Commission.

Commissioner Buchbinder advised that he has tried again to reach out to the City Manager to request a joint session with the Planning Commission and City Council. He said he has not yet heard back.

Director Paul Kermoyan said he would inform the City Manager as he did following the last PC meeting at which time the City Manager advised him that he had tried to call Commissioner Buchbinder. Director Kermoyan will tell him again.

Commissioner Colvill said he wanted to discuss another zoning amendment. What is the process to do so?

City Attorney William Seligmann said that nothing can be discussed that has not been agendaized. However, Commissioner Colvill can put forth a motion this evening to put this topic on a future PC agenda for discussion.

Commissioner Colvill said what he'd like to put forth is a proposed Zoning Text Amendment in the review of the Floor Area Ratios in place for Industrial and Commercial Zoning Districts.

Commissioner Buchbinder asked Commissioner Colvill what is motivating this.

City Attorney William Seligmann it would be helpful if Commissioner Colvill can provide some clarification of what the issue is.

**Motion:** Upon motion of Commissioner Colvill, seconded by Commissioner Rivlin, the Planning Commission took minute action requesting staff to add a PC discussion of the existing Floor Area Ratio standards for both the Commercial and Industrial Zoning Districts in consideration of greater FAR; by the following roll call vote:

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

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**ADJOURNMENT**

The Planning Commission meeting adjourned 10:05 p.m. to the next Regular Planning Commission Meeting of **August 25, 2020**, which will be conducted on Zoom.

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

APPROVED BY: \_\_\_\_\_  
Michael Krey, Chair

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