

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M.

TUESDAY

AUGUST 13, 2019
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of August 13, 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

Commissioners Absent: Commissioner: Maggie Ostrowski

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 Hines, the Planning Commission minutes of the meeting of July 23, 2019, were approved as submitted. (4-0-1-1; Commissioner Ostrowski was absent and Commissioner Ching abstained)

COMMUNICATIONS

1. Desk Item for Item 1 (memo)
2. Desk Item for Item 3 (email)

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

SPECIAL PRESENTATIONS

Presentation by the San Tomas Area Community Coalition (STACC) on proposed standards for Accessory Dwelling Units within the San Tomas Area.

Director Paul Kermoyan:

- Provided a brief introduction to this Special Presentation by the San Tomas Area Community Coalition that is anticipated to last about 15 minutes.
- Added that after their presentation there will be an opportunity for public comment.

Audrey Kiehtreiber, President, San Tomas Area Community Coalition (STACC):

- Thanked the Commission for this opportunity to address them and Director Paul Kermoyan and Planner Daniel Fama for their time and assistance in advance of this meeting. Thanked the STACC team for their time and effort.
- Gave an overview of what a neighborhood plan.
- Said that the design standards within an ADU Ordinance should work with the standards of existing area plans.
- Added their goal is to see a collaboration between the City and San Tomas residents on the issue of ADUs.
- Stated that the desire to create/provide more housing is a big goal for the State and the City.
- Provided a slide exhibit that includes the different types of ADUs; provided the difference between FAR (Floor Area Ratio) and lot coverage.
- Proposed that no JADUs (Junior Accessory Dwelling Units) be allowed. That is the position of STACC.
- Reported that the STANP requires consideration of any privacy impacts of neighbors and as such proposes that any external stairs leading up to a second story ADU be contained within an enclosure rather than be open air.
- Added that they support inclusion of skylights but not operating (opening) ones. They also propose use of clearstory windows and obscure glass for bathrooms. They oppose inclusion of balconies.
- Stated that there should be no building or park fees charged for ADUs.

- Supported the requirement for owners to be required to reside on site to oversee the property. There should be no short-term rentals of ADUs. More than 30 days would be required.
- Said that there should be no BMR deed restrictions.
- Displayed a chart with an overview of their proposed requirements/standards for ADUs.
 - Height limitations: 14-foot for a one-story and 24 foot for a two-story ADU.
 - Site Standards: Relate to main house if ADU is visible from the street frontage but not necessary if ADU is not visible from the street frontage.
 - Second Story ADUs: Not above an attached garage but allowed above a detached garage.
- Displayed a “Site Examples” exhibit that showed an attached garage turned into an ADU; an ADU located in front of a main house; an ADU located behind the main house and a new ADU constructed attached to the existing main house.
- Discussed a 900 square foot ADU example floor plan that consists of two bedrooms and one bath.
- Reminded that changes in State Law have increased the sizes for ADUs.
- Explained the difference between a lodger and a tenant. They have a difference status and rights. A renter of an ADU unit is a tenant for which there is a complicated process to evict. The tenant of a JADU is a lodger living within your home. Your home is not their space and you are only required to give a “quit notice” of 30 days.

Chair Rivlin disclosed that he had spoken with Shirley Chen prior to this meeting.

Director Paul Kermoyan:

- Said a question for the Commission to consider is whether they want to see a separate ADU process for specific neighborhoods or to have a single ADU Ordinance that is effective City-wide.
- Pointed out that there are both similarities and differences between STACC’s ADU proposal and the City’s draft ADU Ordinance.

Commissioner Hines asked staff if there are other neighborhood groups that are adamant about ADUs.

Director Paul Kermoyan said that STACC has been involved actively throughout the process. There are also many Campbell residents spread out through the community that are interested in ADUs.

Commissioner Buchbinder asked if there is a comparison chart showing both the STACC and City draft ordinances.

Director Paul Kermoyan:

- Cautioned that every neighborhood has a uniqueness about it.
- Reiterated that the Commission is currently being asked to make a policy decision right now as to whether they prefer a City-wide ADU Ordinance versus allowing a unique STACC ADU Ordinance for this neighborhood.

Ms. Audrey Kiehtreiber, President, STACC, admitted that they would not be averse to their (STACC) standards being adopted by the City for all to follow.

Commissioner Ching asked if comments from the Commission are appropriate now or should come later.

Chair Rivlin said the Commission should treat this like a Study Session and ask questions of staff first.

Commissioner Ching said that it is great to see STACC's efforts on this issue but questioned whether the City could conceivably end up with 30 different ADU plans for Campbell. What is the rationale between neighborhood plans versus lots?

Commissioner Krey asked staff if our draft ADU Ordinance answers the questions raised by STACC's draft.

Commissioner Buchbinder asked how many more ADU units might be possible if the setback standards were to be reduced.

Director Paul Kermoyan:

- Replied that he believes staff has captured their preferences.
- Continued that if the Commission supports separate guidelines for ADUs staff needs to know that moving forward.
- Said that as to Commissioner Buchbinder's question about how many more ADUs might be possible if setbacks were to be reduced, the answer is that it would depend upon the built including placement, FAR and lot coverage issues.
- Reminded that there are two types of potential ADU units per property. They would be allowed one ADU (stand-alone unit) and one JADU (connected to and with access into main house).

Commissioner Buchbinder asked about obtaining a quantitative analysis.

Director Paul Kermoyan suggested that Commissioner Buchbinder look at the past meetings held on the topic of the ADU Ordinance. He said he would provide him with the list of dates so he can access the meeting tapes and reports from the website to come up to date.

Commissioner Hines thanked Ms. Kiehtreiber for her excellent presentation.

Audrey Kiehtreiber, President of STACC, said that STACC's whole team work many hours over 10 meetings preparing for this presentation.

Commissioner Krey:

- Stated that they did a great job.
- Reminded that no minimum lot size was approved by the Planning Commission.
- Asked if STACC is aware of any existing lots that may be too restrictive to have an ADU.

Audrey Kiehtreiber:

- Admitted that not every property will be able to build an ADU.
- Reiterated that the JADUs are the “odd ducks” with a door directly into the JADU from the outside as well as a door within the JADU accessing into the main house.

Commissioner Krey questioned how much it might cost to required exterior stairs leading up to a second floor ADU being covered/enclosed.

Audrey Kiehtreiber replied, “Not a lot.”

Chair Rivlin asked Ms. Kiehtreiber why they propose enclosed staircases leading up to a second floor ADU.

Audrey Kiehtreiber:

- Replied due to considerations of privacy, noise and sound impacts that can result from residents with varied work schedules and associated departure and arrival times.
- Said that the design is for consideration of neighbors.
- Added that the exterior stair enclosure requirement may encourage use of interior stairs instead of exterior thus reducing noise and privacy impacts on nearby neighbors.

Commissioner Ching:

- Asked Ms. Kiehtreiber what STACC’s concerns are regarding JADUs.
- Pointed out that if the renters are away of any perceived risk shouldn’t they be allowed to choose to rent either an JADU or ADU?

Audrey Kiehtreiber said that it would be the homeowner in control of their property.

City Attorney Bill Seligmann cautioned Ms. Kiehtreiber that it is not as simple as she states. Renting both types of units represent a contractual relationship of the parties overall.

Audrey Kiehtreiber:

- Reiterated that a JADU requires its own exterior entry door thus adding another entry into the home. It (JADU) doesn’t allow a lot.
- Opined that an JADU is a glorified room the home that results in potential for more difficulties for the property owner.
- Concluded that STACC feels that allowing JADUs is not necessary.

Commissioner Buchbinder:

- Pointed out that a property owner would not be required to add a JADU onto their home if such a unit is not desired.
- Questioned why JADUs should be prohibited altogether.
- Suggested it would be best to allow a homeowner to make their own choice if they are willing to have another exterior door leading into their home as well as being willing to share a bathroom within their home via access into their home from the JADU.

Audrey Kiehtreiber said that homeowners can already share bathrooms within their homes with tenants renting bedrooms. There are no limits on a household's members. Every bedroom can be rented out to a roommate with kitchen and bath access.

Commissioner Hines clarified with Ms. Kiehtreiber that she is representing STAAC and not the STANP (San Tomas Area Neighborhood Plan) itself.

Audrey Kiehtreiber:

- Reported that the STANP was developed by residents of the San Tomas Area and STACC is an association of residents in the San Tomas Area.
- Gave a "shout out" to STACC member Jo-Ann Fairbanks for her participation and efforts.

Chair Rivlin said that this item will come back to the Commission at the end of public comment.

Chair Rivlin invited the public to comment and began calling members of the public up to speak using submitted speaker cards.

Gail Miller, Resident on Munro Avenue:

- Stated she is a 33-year resident of Campbell.
- Stressed the importance of making sure the STANP is both protected and followed.
- Reported that they want to preserve the STANP.
- Advised that people are not being told about the existence of the STANP before purchasing a home in the STANP area.
- Admitted that the prohibition of JADUs was also to prevent potential for B & B uses.

Larry Hayes, Resident on San Tomas Aquino Road:

- Said that two years ago a petition was collected to change the ADU requirements. That's two LONG years ago.
- Stated that now is the time for action.
- Added that he doesn't see Campbell broken into 30 different neighborhoods. It is a community with only 45,000 in population.
- Stated that there should be just one City-wide ADU Ordinance.
- Concluded, "Move on it and get it done!"

Shirley Chan, Resident on Theresa Avenue:

- Expressed her thanks to Audrey Kiehtreiber and to the STACC Team.
- Opined that the STANP is out of date.
- Questioned why the STANP is still being referred to today given it is more than 20 years old.
- Sad that a STACC Committee of eight doesn't represent the whole community.
- Reminded that there were 179 signatures on a petition recommending five-foot setbacks on all sides of an ADU.
- Pointed out that every foot of land is counted in consideration of an ADU.
- Stated that she would like to see the Planning Commission consider how a unified and City-wide ADU Ordinance fits and works. Is it realistic?

- Informed that folks are eagerly awaiting this ADU Ordinance.

Scott Rees, Resident on Harrison Avenue:

- Stated that this process is painful.
- Said the question remains, “Should STACC have its own ADU Ordinance or should there be one City-wide ADU Ordinance?”
- Said that there are still a lot of holes.
- Reported that “everyone” is tired of it.
- Declared that Campbell is one City.
- Cautioned that if STACC/STANP gets its own ADU Ordinance others will try to do their own as well.

Ora Neinavay, Resident on Sobrato Drive:

- Reported that she added two bedrooms to her property and was required to deed restrict her property that should wouldn't rent them out separately.
- Questioned why she is required to have such restrictions.
- Asked whether those restrictions could be removed when the ADU Ordinance passes.

Chair Rivlin suggested that Ms. Neinavay approach staff privately to discuss her questions.

Sujata Aji, Resident on McBain Avenue:

- Reported that she would love to have her parents move into an JADU within her home.
- Stated that banning JADUs outright would preclude her if she lived in that neighborhood (STANP).
- Opined that STACC's restrictions/limits on windows seem very restrictive. When building a living unit, you need natural light.
- Said that per the STACC proposal they are designing for the neighborhood rather than for the comfort of the new ADU.
- Questioned the suggested avoidance of City fees.
- Counted that existing ADU submittal fees should be kept and the proposed enclosed exterior stairway requirement eliminated from any ADU Ordinance adopted.

Raja Pallela, Resident on W. Hacienda Avenue:

- Asked a general question out loud. “How many are from STANP?” (No responses provided from audience or dais).
- Pointed out that the area falling under the STANP equates to one-third of the City.
- Extended his thanks to the members of STACC for their efforts.
- Declared that Campbell doesn't need to separate ADU Ordinances, one serving the STANP and the other the balance of the City.
- Stated that one ADU Ordinance for the entire City is enough.

Debbie Maxwell, Resident on Ridgeley Avenue:

- Explained that she has aging parents and is afraid they are going to die before she might be able to see them living within an ADU located on her property.

Carmencita Valerio, Resident on E. Campbell Avenue:

- Stated that she would “love” to have an ADU.
- Reported that there is no Variance option for lots that are just short of the minimum lot size of 10,000 square feet currently required to accommodate an ADU.
- Questioned why it is taking so much time to get the ADU Ordinance updated.
- Supported the concept of a single ADU Ordinance for the entire City and not two different ones or more.
- Concluded that we need one ADU Ordinance and we need it soon.

Chair Rivlin closed the public comment period for the Special Presentation.

Chair Rivlin:

- Said that the Commission has heard a lot tonight.
- Reported that there will be no decision made today.
- Stated that the Commission can now make their individual comments to staff.

Commissioner Buchbinder:

- Said that he is unsure why a separate ADU Ordinance for the STANP is necessary.
- Added that the suggestion to ban JADU is not for this small group to decide on behalf of others.
- Admitted that some features of the STACC draft sound interesting and could be incorporated.

Commissioner Hines:

- Stated his agreement with Commissioner Buchbinder on having one ADU standard for the entire City and with workable fees.
- Agreed that it is important to make decisions and get it done.

Commissioner Ching said he concurred.

Chair Rivlin:

- Said he agrees as well that one standard is best for the City.
- Added that he also feels that some of the STACC recommendations make sense and could be included.
- Asked staff what is next.

Director Paul Kermoyan:

- Said staff would be bringing back the ADU standards to the Planning Commission incorporating the PC’s comments.
- Stated that the STACC material could be attached to that staff report as well.
- Concluded that staff is hearing from the Commission that they want one set of standards.
- Assured that staff would do that and move this along.

Chair Rivlin said that there will be additional opportunity to discuss issues with the next public hearing(s) and agreed that there should be just one unified ADU Ordinance.

Commissioner Buchbinder concurred and said that predictability is important to allow residents to plan.

Commissioner Hines said that STACC brought up some excellent points and ideas.

Director Paul Kermoyan advised that the ADU Ordinance will be on the PC agenda for the September 24th meeting.

PUBLIC HEARINGS

Commissioner Ching advised that while he wasn't in attendance for the previous meetings held on this next item, he has read all meeting minutes from those meetings and met with Planner Stephen Rose in order to be brought fully up to date on this item.

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

1. **PLN2019-141** Public Hearing to consider a City-initiated Revocation (PLN2019-141) of a Conditional Use Permit (PLN2018-118) for a commercial school and child day care center (formerly d.b.a. 'Rossinca-Carden') to consider modifying permit conditions with an emphasis on conditions related to the time to complete required onsite and offsite improvements on property located at **1980 E. Hamilton Avenue**. This meeting serves to continue the Planning Commission's one-year review of the Conditional Use Permit (PLN2018-118) held on July 23, 2019 which recognized that required offsite improvements may not be completed prior to the start of the Fall 2019 school semester and that the property owner may require more time to complete the work. Staff is recommending that this project be found Categorical Exempt under CEQA. Project Planner: *Stephen Rose, Associate Planner*

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

Chair Rivlin asked if there were questions for staff.

Chair Rivlin asked if all required permits have been granted.

Planner Stephen Rose replied yes.

Chair Rivlin asked the significance of November 30th deadline.

Planner Stephen Rose advised that date allows for a buffer for construction in phases rather than at the same time.

Commissioner Krey sought verification that there would be no proposed additional staff with the added grade levels.

Planner Stephen Rose said that they would start by expanding into sixth grade, progress to adding 7th grade and later conclude up to 8th grade.

Commissioner Krey asked what if all work is not done by the deadline.

Planner Stephen Rose replied that it would be brought back to the Planning Commission.

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

Brian Link, Representative for the First Congregational Church of San Jose:

- Thanked the Commission and staff for the good conversation had at the last meeting and to Stephen Rose for his hard work on this project.
- Stated that the proposed timeline meets the needs of the church and allows us to lease to a new school for the Fall term.
- Advised that the extra conditions of approval have been shared with and accepted by their contractor.
- Added that there has been good progress since the last meeting.
- Said that they have also made progress with tenant and have a letter of intent with Springbridge School. Classes will start next week.
- Concluded that they would advise Springbridge to utilize the other parking area for student drop off and pick up until the work is done on the Leigh Avenue driveway entrances.

Chair Rivlin asked Mr. Link when he anticipates completion of that work.

Brian Link replied one to two weeks for on-site concrete work; three weeks for landscaping and irrigation; and a two-week contingency period.

Commissioner Ching asked Mr. Link if he can confirm that the church will be completed done by the established dates.

Brian Link replied yes. He reiterated that they are close to signing a tenant.

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

Chair Rivlin stated his appreciation for the confirmation offered by Mr. Link for the FCC. He added that while he feels November 30th seems a long time away, he is supportive.

Commissioner Hines said that with their due diligence thus far he can accept this schedule.

Commissioner Buchbinder agreed that the on-site work would be completed.

Motion: **Upon motion of Commissioner Ching, seconded by Commissioner Hines, the Planning Commission adopted Resolution No. 4521 approving Modifications (PLN2019-141) of a previously approved Conditional Use Permit (PLN2018-118) for a commercial school and**

child day care center on property located at 1980 Hamilton Avenue, with the added condition that the applicant pays a \$265 public noticing fee, by the following roll call vote:

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

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

Chair Rivlin asked staff to advise the Planning Commission when the required site work has been fully completed.

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

2. **PLN2019-121** Public Hearing to consider the application of Evolving Palate, Inc.
PLN2019-122 dba Desi Contemporary Indian for a Conditional Use Permit (PLN2019-121) and Administrative Planned Development Permit (PLN2019-122) to allow general on-sale alcohol service ("liquor establishment") in conjunction with an approved standard restaurant (former Steak n' Shake) on property located at **501 E. 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 questions for staff.

Commissioner Krey sought verification that Steak N' Shake did not serve alcohol when they occupied this location.

Planner Daniel Fama said that the business model for Steak N' Shake didn't include alcohol.

Commissioner Krey said given the lower number of alcohol-serving establishments currently approved in this part of East Campbell Avenue there could be an additional nine more locations with alcohol service approved within the ECAMP (East of Campbell Avenue) Area as well.

Planner Daniel Fama said that there are two large parcels that will be redeveloped along this portion of E. Campbell Avenue. One is the Greylands property and the other is the Cresleigh properties (previous Del Grande properties). The Cresleigh site will include a first-floor standard restaurant.

Commissioner Hines asked staff for the logic between allowing a beer and wine and a general alcohol license at this location (501 E. Campbell Avenue).

Planner Daniel Fama:

- Said staff took into consideration the tremendous public concern about anticipated impacts from the Steak N' Shake as they were seeking their entitlements to occupy this space.
- Reminded that the public concern was despite the fact there would be no alcohol service associated with Steak N' Shake.

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

Sanjeev Malhotra, Project Representative:

- Stated that Planning staff has been very supportive.
- Added that it was always surprising that they would receive real-time answers from staff when they had questions.
- Admitted that they thought they were coming forward with a request for beer and wine but also with alcohol.
- Reported that cocktails are an important part of their Indian food menu.
- Requested that the Planning Commission allows them to serve general alcohol.
- Pointed out that there are already two existing restaurants in this center with general alcohol service.
- Cautioned that not allowing them general alcohol would greatly affect their bottom line.
- Advised the Commission that there is no competition here for a fine-dining Indian restaurant.

Ms. Archana Nagrath, Business Owner, Desi Restaurant:

- Described their restaurant as a contemporary Indian restaurant.
- Added they look forward to giving their diners a nice experience with Indian cuisine done in a contemporary way. They pair their food with drinks. It will be a next level restaurant.
- Advised that general alcohol is a very important component from a business standpoint. It greatly enhances the guest experience.
- Added that they want to draw from people who already patronize Downtown Campbell. They will target guests from happy hour crowds; families; local communities; groups and non-profits; box lunches and more.
- Said that their tagline is: Contemporary Indian Casual.
- Said that they offer healthy food different from buffets or nan. They represent different cultures and ethnicities. They will draw people who are willing to try different things. They have a unique cocktail program pairing cocktails with food.
- Said that their brand words include: global influence, modern casual, craveable, adventurous, social.
- Said that she and her husband, Mohit, have engineering backgrounds.

Chair Rivlin said he appreciates Ms. Nagrath's enthusiasm and thanked her for picking Campbell for their new restaurant.

Mr. Mohit Nagrath:

- Said that this will be a great addition to Downtown Campbell.
- Added that there are lots of residents located nearby within walking distance.
- Said that their food compliments their drinks and their drinks compliment their food.
- Stressed their need for full alcohol not just beer and wine.

Commissioner Hines thanked Mr. Nagrath for picking Campbell and asked about conditions being relative to self-governance.

Mr. Mohit Nagrath:

- Said that they would work with staff.
- Added that they are not looking at “hard” alcohol but rather mixed cocktails.
- Assured that this will not be a sports bar.
- Added that they are more about beer and wine and less about hard alcohol.

Planner Daniel Fama pointed out that per their own exhibit they serve Old Fashioned, which is almost all bourbon.

Bruce Bowen, Property Owner, Lloyd Square Center:

- Said that he loves this concept of a contemporary Indian restaurant with beer and wine.
- Admitted that the inclusion of alcohol is kind of recent.
- Agreed that people tend to like craft cocktails. It goes hand in hand.
- Assured that he is willing to do what he can as the landlord and is open to any suggestions.

Commissioner Krey asked Mr. Bowen if there were parking issues when Steak N’ Shake occupied this space.

Bruce Bowen replied no. He added that there were long lines at first, but it may have been more of an issue of slow service. There were there for only three to four months.

Harish Phathak, Chef, Desi Restaurant:

- Advised that he designed the menu for this restaurant.
- Added that it consists of new concepts for which presentation is very important as well as lots of flavor.
- Reiterated that their cocktails are connected to their menu.

Mike Finnerty, Managing Partner, Desi Restaurant:

- Said that he is the Managing Partner.
- Reported that he has many years of experience including serving as General Manager for The Chart House in Monterey.
- Advised that they like to have alcohol for revenue. It is another product line.
- Added that he has never run a bar but without alcohol service being allowed people will just go elsewhere to eat where there is full alcohol service available.

- Assured that he can easily stay on top in supervising alcohol service within this restaurant.

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

Chair Rivlin clarified with staff that if this location is allowed general alcohol service and this business closes, the Use Permit stays with this location.

Planner Daniel Fama advised that the Use Permit runs with the land. The operational conditions are intended to prevent an incompatible use from assuming this space.

Commissioner Hines said that the Strike Brewing Company was issued a good set of conditions that included self-policing. Perhaps those conditions could also be applied to this use.

Planner Daniel Fama:

- Explained that Strike has an ABC license that is very strict. That use is not applicable to this use.
- Added that the conditions of approval should be strong enough to prevent problems with full alcohol service.

Commissioner Krey asked what the Commission's recommendation might be for a new restaurant in the Downtown with a full bar.

Planner Daniel Fama:

- Said that a similar conversation was held when considering the Manresa Bakery.
- Stated that this area is less concentrated than the core or Downtown Campbell.
- Reminded that the number of alcohol licenses in this area are fewer than in the Downtown.

Chair Rivlin asked if the pizza parlor has alcohol.

Planner Daniel Fama said the pizza place at Lloyd Square has beer and wine. Jalisco next door has a full liquor license.

Commissioner Buchbinder asked if there is concern regarding intensity.

Planner Daniel Fama said that staff is respecting the grounds of the original approval when the Council decided to allow this tenant space to become a restaurant use. If Steak N' Shake had had general alcohol it could have gone another way.

Commissioner Buchbinder pointed out that there is no one protesting this time. He asked the status of the parking information he had requested at the last meeting.

Planner Daniel Fama:

- Advised Commissioner Buchbinder that a staff intern is currently working on that Downtown parking research.

- Added that in 2015 there was a significant reduction in parking as determined via an outside parking study.

Director Paul Kermoyan:

- Reminded that per the staff report, staff provides its recommendation for consideration by the Planning Commission.
- Added that Campbell Police Department supports that recommendation to allow beer and wine. He doesn't know if they would object to upgrading to full alcohol.
- Said that one of the benefits of this use is that they close at 10 p.m. That helps to build in controls.
- Said that the staff recommendation is in the middle using the City's policies and conditions. Staff interprets how it sees uses evolving. The staff recommendation is not just an opinion.
- Reported that the City of Campbell once had a past (in the 1970's and 80's) as being a watering hole. As a result, the City become more conscientious regarding allowing alcohol. Now it seems the pendulum may be going the other way. We may need a broader global view of what's desired.
- Added that is beyond staff. We can't make that call. It's up to the PC to decide.

Commissioner Buchbinder:

- Said that he doesn't want bars but is okay with restaurants with alcohol service.
- Suggested perhaps alcohol could only be served together with entrees.
- Stated that since there is not alcohol concentration at this part of Campbell Avenue, he is happy to approve general alcohol for this restaurant.

Commissioner Ching:

- Thanked the applicants for bringing their restaurant to Campbell.
- Added that he loves having diversity in Campbell.
- Stated that as a native of England he understands curries, with which wine is not the most natural pairing.
- Said he understands the operators position for wanting general alcohol both from a revenue and culinary side.
- Stated that the staff report provided was excellent and it is up to the Commission to make the determination as to whether we see an over-concentration of alcohol.
- Admitted that he does not see an over-concentration and can support either a beer and wine and/or a general alcohol license.
- Agreed that there will be a very different type between the former Steak N' Shake and the upcoming contemporary Indian restaurant.
- Reminded that there are revocation procedures available if this use should become a problem for the community. However, we are jumping the gun to assume that this is going to become a problem here.
- Concluded that he would be in full support of the general alcohol license being requested for this use. Not having it would serve as a significant barrier in the way of this restaurant becoming successful.

Commissioner Hines said he agrees with the comments from both Commissioners Ching and Buchbinder and can support a general liquor license for this new restaurant.

Commissioner Krey:

- Said he can rationalize this request for general alcohol for this restaurant as it is located outside of the Downtown Core.
- Agreed that allowing for general alcohol is crucial for this restaurant and the 10 p.m. close of business offers a good safeguard against problems.

Chair Rivlin:

- Said that this business has the right intent, but he is concerned with what happens if they leave. However, there is always the revocation option. Added to that they close at 10 p.m.
- Said he too welcomes a diversity in restaurants in Campbell and suggested a motion be made.

Planner Daniel Fama said that the findings will need to be altered. Delete Finding #17. And reword Finding #14 to reference general alcohol rather than the current beer and wine. In both Condition 1 reference general alcohol. In Conditions 2 and 8 replace the currently referenced Type 41 ABC license with a Type 47 ABC license.

Chair Rivlin said these owners don't want a bar there either.

Motion: **Upon motion of Commissioner Ching, seconded by Commissioner Hines, the Planning Commission adopted Resolution No. 4522 approving a Conditional Use Permit (PLN2019-121) and Administrative Planned Development Permit (PLN2019-122) to allow general on-sale alcohol service ("liquor establishment") in conjunction with an approved standard restaurant (former Steak n' Shake) on property located at 501 E. Campbell Avenue, with the following changes:**

- **Delete Finding #17;**
- **Edit Finding #14 to reference general alcohol rather than beer and wine;**
- **Change the references from an ABC Type 41 (beer and wine) to an ABC Type 47 (general alcohol);**

by the following roll call vote:

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

NOES: **None**

ABSENT: **Ostrowski**

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. 3 into the record as follows:

3. **PLN2013-12** Public Hearing to consider a City-initiated Zoning Code Amendment to amend **Title 21 and Title 5 of the Campbell Municipal Code** to establish a new list of allowable land uses for the C-3 (Central Commercial District) Zoning District. Staff is recommending that this item be deemed Categorically Exempt under CEQA. Tentative City Council Date: September 3, 2019. 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 Hines said Planner Daniel Fama did an excellent job on the report but asked about a limitation on sex shops.

Planner Daniel Fama said he added that to it last week.

Commissioner Buchbinder said it makes for fewer things requiring a CUP. It seems more straightforward. What about wireless?

Planner Daniel Fama said that wireless refers to Cell Towers.

Commissioner Buchbinder asked why tattoo shops are not allowed.

Planner Daniel Fama said that is a troubled business category in the past. Not allowing a particular use is traditionally a form of discouragement.

Commissioner Buchbinder asked that opinion is dated from when?

Commissioner Ching said he had the same question. Last time it was an issue?

Planner Daniel Fama said he has not seen an application in the 12 years he's been around.

Commissioner Ching said it seems it is not a problem.

Planner Daniel Fama said there are some tattoo establishments in the City. They're not disallowed but are generally located in General Commercial Zoning Districts as opposed to the Central Business District that is Downtown.

Commissioner Hines said there have been tremendous changes in terms of wireless.

Planner Daniel Fama said that there are other provisions for wireless within a public right-of-way that is something Public Works is work on. He added that if a use is deemed not to be compatible by the Community Development Director there is always an appeal process available at a \$200 appeal fee cost.

Commissioner Krey said that staff provided a great report on this. This Ordinance makes things easier for everyone. He verified that this doesn't change the Downtown Campbell Alcohol Policy.

Planner Daniel Fama replied yes.

Commissioner Krey asked about medical cannabis.

Planner Daniel Fama said that that is currently prohibited, and he is not sure if there are any plans to change that at this time.

City Attorney Bill Seligmann verified there were no plans to change that.

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

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

Director Paul Kermoyan:

- Reported that in the past the Downtown was not active or lively. Instead there were lots of offices and second-hand shops.
- Since then lots of changes have been made to activate the street. The Redevelopment Agency had a large part in helping the Downtown to reach its current success.
- Added that what is there today is what both the Council and Redevelopment Agency wanted to reach.
- Stated that Council wants to allow more uses that still somewhat pedestrian friendly in nature.

Commissioner Hines asked what appropriate uses are and how would this Ordinance change control over the Downtown.

Planner Daniel Fama said there is a matter of risk. We don't really know what types of activities are going to show up. However, change will likely happen slowly.

Commissioner Buchbinder asked what a banquet facility is.

Planner Daniel Fama said Villa Ragusa is considered a banquet facility with large spaces that are available for larger events.

Commissioner Buchbinder asked how much of Downtown is more than one floor.

Planner Daniel Fama said he didn't know that off hand.

Commissioner Buchbinder asked if there are plans to expand the Winchester and East Campbell Avenue plans as well.

Planner Daniel Fama said that Council didn't want to do so now but those plans could be expanded later.

Commissioner Ching asked staff about the potential for “pop-up” shops that are the trend right now. Where could that fit in?

Planner Daniel Fama said that pop-ups are limited term retail or limited restaurant activities and are not necessarily prohibited.

Chair Rivlin asked about considering having office uses on the first floor with a Conditional Use Permit.

Commissioner Hines stated that could take us backwards to a time when the Downtown was somewhat quiet.

Planner Daniel Fama said that would modifying the draft.

Director Paul Kermoyan said that certain occupancies require fire sprinklers which equates a cost the tenant is not willing to undertake.

Motion: **Upon motion of Commissioner Hines, seconded by Commissioner Ching, the Planning Commission adopted Resolution No. 4523 recommending that the City Council approve a City-initiated Zoning Code Amendment to amend Title 21 and Title 5 of the Campbell Municipal Code to establish a new list of allowable land uses for the C-3 (Central Commercial District) Zoning District, changing office uses to a conditional use on the ground floor, by the following roll call vote:**

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

Chair Rivlin advised that this action would be considered by the City Council for final action at its meeting on September 3, 2019.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan made the following additions to his written report:

- The California APA (American Planning Association) Conference will occur September 15th through 18th in Santa Barbara.
- Advised that he can send up to two Commissioners. Commissioners Ching and Buchbinder indicated their availability to attend.
- Reminded Commissioner Buchbinder that under the requirements of the updated Planning Commission Ordinance, as the newest appointed Commissioner he would be required to attend the League of California Cities Planning Commissioner Academy two years in a row. The next LCC PC Academy will occur in March 2020.

ADJOURNMENT

The Planning Commission meeting adjourned at 10:38 p.m. to the next Regular Planning Commission Meeting of **August 27, 2019**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Andrew Rivlin, Chair

ATTEST: _____
Paul Kermoyan, Secretary