

CITY OF CAMPBELL PLANNING COMMISSION
MINUTES

7:30 P.M.

TUESDAY

AUGUST 14, 2018
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of August 14, 2018, was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Acting Chair Hernandez and the following proceedings were had, to wit:

ROLL CALL

Commissioners Present:

Vice Chair:	JoElle Hernandez
Commissioner:	Mike Krey
Commissioner:	Maggie Ostrowski
Commissioner:	Andrew Rivlin

Commissioners Absent:

Chair:	Michael L. Rich
Commissioner:	Stuart Ching
Commissioner:	Cynthia L. Dodd

Staff Present:

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

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Ostrowski, seconded by Commissioner Krey, the Planning Commission minutes of the meeting of July 24, 2018, were approved as submitted. (4-0-3; Chair Rich and Commissioners Dodd and Ching were absent.

COMMUNICATIONS

None

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

Adam Buchbinder, Resident on Almarida Drive:

- Said that he had submitted an email to discuss the City's General Plan Update but never heard back.
- Stated that he has found no meetings for the General Plan Update recently on the City's website.
- Added that there are currently three alternatives under consideration for the General Plan Land Use Map.
- Reported that there are currently 17,000 housing units in the City of Campbell. The State reports a \$3 million unit shortfall statewide. The City of Campbell would need to produce an additional 4,000 units to keep up with its fair share while the City's General Plan indicates the possibility for up to 3,000 units at most under its current Land Use.

Director Paul Kermoyan offered his email address to Mr. Buchbinder saying that he responds to all emails. He asked him to resend his original message.

PUBLIC HEARINGS

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

1. **PLN2017-292**
PLN2018-87 Public Hearing to conduct a mandatory review of a previously modified Conditional Use Permit (PLN2017-292/PLN2018-87) to evaluate compliance with the conditions of approval for a restaurant/brewery on property located at **200 E. 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: Daniel Fama, Senior Planner

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

Acting Chair Hernandez asked if there were questions for staff. She asked if staff thinks it is necessary to monitor this use further.

Planner Daniel Fama replied not at this point. He added that staff is putting together a Use Permit Database that will assist with establishing a comprehensive monitoring program for all CUPs in the City.

Brian Skarbek, Applicant, said he was available for any questions.

Acting Chair Hernandez asked Mr. Skarbek if all staff has been trained on keeping the doors closed during business hours.

Brian Skarbek replied yes.

Commissioner Rivlin asked Mr. Skarbek if the changes in ownership structure have been finalized.

Brian Skarbek said the answer is yes as it pertains to the oversight of the restaurant operation but not completely as to the ownership. The transfer of ownership is not yet finalized and will be once the Police Department is able to schedule some necessary hearings before Council to transfer the Live Entertainment.

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

Commissioner Ostrowski said this is a great opportunity to allow a new owner to demonstrate their ability to operate this restaurant according to the approved conditional use permit and that she supports the continuation of this use.

Commissioner Krey said it is great that it is working out. There will be ongoing monitoring in the event there are problems but everything seems fine.

Acting Chair Hernandez reminded that the need for monitoring is complaint driven.

Planner Daniel Fama advised that Campbell Police brings calls for service to Planning's attention as appropriate.

Director Paul Kermoyan said a referral from PD has a lot to do with the severity of the problem. He added that the City is always monitoring Use Permits and retains a continuing jurisdiction over them. If a use is creating a nuisance or impact staff will start with outreach to correct the situation or could then enter into a revocation process if that correction does not occur.

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

Motion: **Upon motion of Commissioner Krey, seconded by Commissioner Ostrowski, the Planning Commission found the restaurant/brewery use to be in compliance with its conditions of approval at 200 E. Campbell Avenue, by the following roll call vote:**

AYES: **Hernandez, Krey, Ostrowski and Rivlin**

NOES: **None**

ABSENT: Ching, Dodd and Rich
ABSTAIN: None

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

Acting Chair Hernandez asked if there were any disclosures from any member of the Commission for meetings and/or discussions with any applicant or member of the public regarding items on this evening's agenda. There were none.

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

2. **PLN2018-229** Public Hearing to consider the application of Manresa Bread for a Conditional Use Permit and Administrative Planned Development Permit (PLN2018-229) to allow general on-sale alcohol service ("liquor establishment") in conjunction with an existing café/restaurant and bakery on property located at **195 E. 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, Acting Assistant Planner*.

Ms. Naz Pouya, Acting Assistant Planner, presented the staff report.

Acting Chair Hernandez asked if there were questions for staff.

Commissioner Krey asked if the finding of "over-concentration" of general alcohol-serving establishments is county-wide or Downtown Campbell specifically.

Planner Naz Pouya replied that it is based upon the Census Tract for the Downtown. Based on that, there should be five such establishments.

Commissioner Krey said that the number in the Downtown has increased from five to 19 since 2006.

Commissioner Ostrowski asked if the number of alcohol serving establishments has grown disproportionately.

Planner Naz Pouya said that there are more restaurants Downtown.

Director Paul Kermoyan:

- Pointed out that as to new development of new tenant spaces, there has only been one. That's the former Oddfellow building that now houses three restaurant uses including OPA and Mo's.
- Added that the sale of alcohol helps restaurants pay their rent.

- Said that this request is raising eyebrows as it is not a traditional restaurant.
- Stated that one consideration for the Commission is “at what point do we allow alcohol to be a part of a business.” That is a policy question that staff is floating by the Commission. The Commission’s opinion on how the Downtown should grow.

Acting Chair Hernandez:

- Reminded that the Conditional Use Permit runs with the land.
- Cautioned that if they move out a new vendor can come in and assume the Use Permit.

Director Paul Kermoyan said that is true but the new vendor would still have to comply with the conditions of approval of the Conditional Use Permit.

Acting Chair Hernandez elaborated that what is approved will be allowed from here forward.

Commissioner Ostrowski asked how late night hours are defined.

Planner Naz Pouya replied they are the hours after 11 p.m. until 6 a.m. Operating within those hours requires CUP approval.

Acting Chair Hernandez opened the Public Hearing for Agenda Item No. 2.

Andrew Burnham, Applicant:

- Said that they currently have Manresa Restaurant in Los Gatos as well as Manresa Bakery, which they have operated over the last four years. Manresa Restaurant Los Gatos is a full-service restaurant with alcohol.
- Added that they also do sell bakery goods at the Campbell Farmer’s Market.
- Stated that they now want to build a restaurant model for Manresa Bread. It will provide substantive food together with alcohol drinks using their organic juices. They will close at 8 p.m.
- Added that they are investing human and financial capital and will incorporate a full menu.
- Agreed that their menu currently looks light but it is evolving. There are 30 things on their menu, which is more than appear on many other restaurant menus.
- Said that they have secured a head chef with 12 years of experience.
- Pointed out that their equipment list for this new endeavor has a corresponding cost of \$200,000. No one risks that for a “coffee shop”.
- Assured that their restaurant will not look like a bar. He can’t even name one bar that closes at 8 p.m.
- Said that as they close at 8 p.m. their customers will likely go on to have dinner elsewhere in the Downtown.
- Stated that this project has been a fun challenge for their team.

Commissioner Ostrowski asked how what they are proposing is different from a typical “bar”. Mr. Burnham had referenced serving juice-based drinks.

Andrew Burnham:

- Reported that they would be preparing organic fresh-pressed juices in the morning. They will upgrade it to include alcohol/spirits later in the day.
- Stated that they will balance healthy (organic juice) with not healthy (alcohol).
- Added that they also use organic flour to bake their croissants.

Acting Chair Hernandez closed the Public Hearing for Agenda Item No.2.

Commissioner Rivlin asked how this restaurant will operate. Will customers order drinks only with food?

Planner Naz Pouya said that one of the requirements of the Downtown Campbell Alcohol Policy is that food must be available at all times that alcohol is served. However, that is not closely monitored.

Commissioner Krey:

- Said that the issue of over-concentration is important to consider.
- Admitted that he wants a vibrant Downtown with lots of uses.
- Pointed out that this use would be closing at 8 p.m. and the bakery would be a retail use.
- Admitted to being unclear what impacts might be different between general alcohol service and beer & wine service.
- Stated that this proposal seems to him to be a “different” type of use and would add to the “mix” of uses in the Downtown.

Commissioner Ostrowski:

- Stated that the over-concentration question is a good one.
- Pointed out those on-line retailers such as Amazon are one reason for the changes we are seeing in the Downtown with an increase in restaurants and those with general alcohol service.
- Agreed the question remains – is that a good thing or a bad thing?
- Stated that if well managed it helps to create a vibrant Downtown use. Downtown is clearly packed at lunch and in the evening.
- Admitted that she finds this to be an interesting business model that concentrates on organic healthy food. They will be a smaller operation offering higher quality and more natural flavors. They proposed to apply artisan aspects to alcohol service.
- Said that people care about ingredients and taste.
- Suggested this business could draw a different type of clientele to Campbell. It could be a niche use.

Commissioner Rivlin:

- Stated that this is not going to be just another bar.
- Admitted that he finds their concept and menu to be interesting and a fresh idea.
- Added that potential for over-concentration does concern him but pointed out that if the market becomes over-saturated with alcohol service they won't be successful. It would mean there is over-saturation if they can no longer be successful.

Director Paul Kermoyan said that the issue of over-concentration is based upon a numeric population per area.

Commissioner Rivlin reminded that this business proposes to close by 8 p.m.

Acting Chair Hernandez:

- Reminded that it is ABC (Alcohol Beverage Control) that is telling us that there is an over-concentration. They are the ones in the business of monitoring alcohol sales and service.
- Added that when ABC tells us there's an over-concentration that should set off bells.
- Recounted that she has seen applicants come through with high plans. Six months down the line it's gone to "Ladies Night" and live entertainment and serving French fries and potato skins.
- Said that it behooves the Planning Commission to be very very careful in handing these alcohol service permits out. That's how we've reached a total of 19 in our Downtown.
- Reminded that the Commission is guided by the City's General Plan and the Downtown Campbell Development Plan.
- Said that there is a unique identity for Downtown Campbell.
- Admitted that she concerned that the identity for Campbell's Downtown is starting to be for its "happening nightlife."
- Questioned whether it's a great model to have a little food but instead make a lot of money selling booze.
- Cautioned that a Conditional Use Permit runs with the land (location). It will be there whether Manresa Bread is there or not.
- Questioned whether permitting this is helping to maintain a balance in Downtown.

Commissioner Krey:

- Admitted that all of the Commissioners seem to be wrestling with the same questions.
- Said that another question is whether this is a different enough concept.
- Reminded that this business is proposing an 8 p.m. closure.
- Added that even if there is an over-concentration this proposed business with its limited hours seems to be the wrong one to draw the line on.
- Stated that once you approve it you can monitor it but it is locked in as a use for that location.
- Stated that the question remains, "When do we cut off allowing additional alcohol service?"

Commissioner Rivlin said that the concept is unique – a bistro style café within Downtown. He questioned what the other Commissioners think about the staff recommendation to support beer & wine service over general alcohol.

Commissioner Ostrowski:

- Said that the Downtown Development Plan calls for a variety of retail businesses and diversification of restaurant locations.

- Reiterated that she finds this proposal to present a unique and innovative approach that suits the goals of the Downtown Development Plan given that it balances day and evening activities since this business closes by 8 p.m.

Acting Chair Hernandez said that she supports beer & wine over general alcohol service.

Commissioner Ostrowski said she supports full alcohol service. They are trying to create something with their ingredients.

Acting Chair Hernandez asked the other Commissioners where they stand between supporting beer & wine and general alcohol.

Commissioner Krey said that he agrees with Commission Ostrowski in supporting the general alcohol service, the 8 p.m. closing, the unique business concept. This proposal seems okay with him.

Acting Chair Hernandez asked for a motion.

Director Paul Kermoyan said that there are draft findings and conditions that will have to be modified. He offered to modify the conditions and City Attorney William Seligmann will modify the draft findings.

Acting Chair Hernandez asked about the outdoor seating.

Director Paul Kermoyan said that the outdoor seating would be processed separately at staff level.

Commissioner Rivlin asked about the proposed blue façade color for this space as depicted on the site plan.

Commissioner Ostrowski asked why that color was chosen.

Planner Naz Pouya said that issue had not been discussed with the applicant.

Director Paul Kermoyan:

- Offered modifications to Condition 1 – replace beer and wine with full-service alcohol.
- Modified Condition 2 to reference a Type 47 (full service alcohol) license to replace Type 41 (beer and wine).
- Changed Condition 4-E to also reference Type 47 (full service alcohol) license.

City Attorney:

- Modified Finding 3 to eliminate beer and wine.
- Struck out Findings 7 and 8.

Motion: Upon motion of Commissioner Krey, seconded by Commissioner Ostrowski, the Planning Commission adopted Resolution No. 4450 approving a Conditional Use Permit and Administrative Planned Development Permit (PLN2018-229) to allow general on-sale alcohol service ("liquor establishment") in conjunction with an existing café/restaurant and bakery on property located at 195 E. Campbell Avenue, with the modifications to the findings (3, 7 and 8) and conditions (1, 2 and 4-E) as drafted by staff, by the following roll call vote:

AYES: Krey, Ostrowski and Rivlin

NOES: Hernandez

ABSENT: Dodd, Ching and Rich

ABSTAIN: None

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

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

3. **PLN2017-395 (PD)** Public Hearing to consider the application of Mike Paydar for a Planned Development Permit (PLN2017-395) for the approval of site configuration, architectural design, increased fence height and to create lots which do not have frontage on a public street, Tentative Subdivision Map (PLN2017-394) to create four single family lots and one commonly owned lot, Zoning Map Amendment (PLN2017-393) to change the zoning from R-M (Multiple-Family Residential) to P-D (Planned Development), Tree Removal Permit (PLN2017-397) to allow for the removal of the five trees on the site, and a Parking Modification Permit (PLN2018-137) to allow two assigned parking spaces to be provided as guest parking on property located at **50 Shelley Avenue**. Staff is recommending that a Mitigated Negative Declaration (PLN2017-396) be adopted for this project. Project Planner: *Stephen Rose, Associate Planner*

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

Acting Chair Hernandez asked if there were questions for staff.

Commissioner Krey asked for clarification about the five-foot setback reduction.

Planner Stephen Rose explained that what is proposed is five-feet for both the first and second floors and what would be required for the second story is 10 feet.

Commissioner Ostrowski asked about the placement of the fire turnaround in the middle. Is that typical? Is enough space being provided?

Planner Stephen Rose said that the design was reviewed and approved by County Fire. They are satisfied with the plan.

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

- Said that SARC was concerned with protecting the trees on site and saving as many as possible.
- Added that feedback on the color was provided. Additional color boards were provided with the staff report.
- Stated that SARC requested some architectural variety and the applicant has since provided it.
- Said that SARC also encouraged the inclusion of additional porches to help connect the homes to the street more.
- Concluded that the applicant addressed most of SARC's concerns.

Commissioner Rivlin pointed to a possible typo that reference five units rather than four.

Planner Stephen Rose said that is simply a typing error. There are four units proposed, and that the resolutions correctly reflect this distinction.

Acting Chair Hernandez opened the Public Hearing for Agenda Item No. 3.

Omid Shakeri, Project Representative:

- Said that they have read the staff report and agree with its recommendations and conditions.
- Stated he was available if there are questions.

Commissioner Krey asked Mr. Shakeri if he believes that providing four guest parking spaces rather than two would result in fewer potential problems.

Omid Shakeri replied yes.

Ms. Johnson, Resident on Garrison Drive, stated her support for the retention of the large pine tree located at the front of this property.

Acting Chair Hernandez closed the Public Hearing for Agenda Item No. 3.

Commissioner Krey:

- Said that pine is a nice tree but he can see why it's hard to retain.
- Reminded that they have already kept two other trees they had initially proposed to remove.
- Stated that this project design looks good. Overall it looks good to him.

Commissioner Ostrowski:

- Agreed that the project design looks nice. These homes look reasonable different and the backyards provided are decently sized to serve families living in the homes.
- Admitted that she likes the turnaround located at the middle. It offers more separation between two of the homes.

Commissioner Rivlin:

- Referenced the Arborist's Report that indicates that the pine is the only tree that is in good condition on the site.
- Suggested that removal could be decided down the road.
- Stated that this project works. The setbacks work for him.
- Encouraged further discussion about the front tree.

Acting Chair Hernandez:

- Cautioned that pines can be tough. They have shallow roots and are not long living trees.

Commissioner Rivlin also mentioned that pine needles pile up and create a maintenance issue that could conflict with utilities and the public sidewalk.

Acting Chair Hernandez said that this is a pretty good project and SARC's issues have been worked out.

Commissioner Rivlin said it seems the pine is okay to go.

Motion: Upon motion of Commissioner Ostrowski, seconded by Commissioner Krey, the Planning Commission took the following actions:

- Adopted Resolution No. 4451 recommending that the City Council adopt a Mitigated Negative Declaration (PLN2017-396);
- Adopted Resolution No. 4452 recommending that the City Council approve a Zoning Map Amendment (PLN2017-393) to change the zoning district designation from R-M (Multiple-Family Residential) to P-D (Planned Development);
- Adopted Resolution No. 4453 recommending that the City Council approve a Tentative Subdivision Map (PLN2017-394) to create four single family lots and one commonly owned lot;
- Adopted Resolution No. 4454 recommending that the City Council approve a Planned Development Permit (PLN2017-395) for site configuration resulting in the development of four units, architectural design, increased fence height and creation of lots which do not have frontage on a public street;
- Adopted Resolution No. 4455 recommending that the City Council approve a Parking Modification Permit (PLN2018-137)

to allow two assigned parking spaces to be provided as guest parking; and

- **Adopted Resolution No. 4456 recommending that the City Council approve a Tree Removal Permit (PLN2017-397) to allow for the removal of protected trees, on property located at 50 Shelley Avenue, by the following roll call vote:**
AYES: Hernandez, Krey, Ostrowski and Rivlin
NOES: None
ABSENT: Dodd, Ching and Rich
ABSTAIN: None

Chair Rich advised that this item would tentatively be considered by the City Council at its meeting on September 18, 2018.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

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

- Reminded the Commissioners to let Corinne know by Friday, August 17th if they have interest in attending the CalAPA Conference in San Diego in October. Up to two Commissioners can attend.

ADJOURNMENT

The Planning Commission meeting adjourned at 9:04 p.m. to the next Regular Planning Commission Meeting of **September 11, 2018**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
JoElle Hernandez, Chair

ATTEST: _____
Paul Kermoyan, Secretary