

CITY OF CAMPBELL PLANNING COMMISSION
MINUTES

7:30 P.M.

TUESDAY

SEPTEMBER 8, 2020
REMOTE ON-LINE ZOOM MEETING

The Planning Commission meeting of September 8, 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:	Stuart Ching
Commissioner:	Nick Colvill
Commissioner:	Andrew Rivlin

Commissioners Absent: None

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

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Ching, seconded by Commissioner Colvill, the Planning Commission minutes of the meeting of August 25, 2020, were approved as submitted. (5-0)

COMMUNICATIONS

None

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

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

Commissioner Ching disclosed that he had been approached by a resident at 825 S. San Tomas Aquino Road and discussed the trees.

Chair Krey disclosed that the public comment email received was from a good friend of his who likely is even unaware that he serves on this Planning Commission.

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

PUBLIC HEARINGS

1. **PLN-2020-35 (Appeal of TRP PLN-2020-14)** Public Hearing to consider the Appeal (PLN-2020-35) by Kathy Robinson of the Community Development Director's denial of a Tree Removal Permit (PLN-2020-14) to remove four (4) redwood trees on property located at **825 S. 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*

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

Chair Krey asked if there were questions for staff.

Commissioner Colvill:

- Admitted that his biggest concern with this is the notable decline to these trees this year since the original submittal and decision.
- Reported that he has Redwood trees and it is not hard to "not let them die".
- Said he questions how such a rapid decline could occur.
- Stated that he appreciates the provision for a penalty clause in terms of replanting requirements in the event of neglect.
- Asked staff if there is any insight as to irrigation in that area.

Planner Daniel Fama:

- Replied that Code requires irrigation but as this is an older development, the irrigation may have stopped functioning.
- Added that one water line is to serve the fire sprinklers.

Commissioner Ching asked staff what size of water line is required for the fire sprinklers.

Planner Daniel Fama replied he was not sure.

Commissioner Ching pointed out that he saw no irrigation around these trees but did around plants.

Commissioner Ostrowski asked how deep into the ground the trenching is for the water and sewer lines.

Planner Daniel Fama said he would defer to the applicant on that.

Chair Krey:

- Pointed out that the utility line has to be repaired anyway.
- Added that moving lines is considered to be “minor”.

Planner Daniel Fama:

- Clarified that Code standard calls for “reasonable” not “minor”. Reasonable as to context.
- Advised that the damage has already been incurred.
- Stated that it is not unreasonable to go around these trees with the lines.

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

Tony Rodriguez, Facilities Manager, Representing the Appellant:

- Responded to a Commission question by advising that the fire system water line is two-inches in size and placed about four-feet deep.
- Stated that they don't find it to be a “reasonable” modification to have to dig a new trench around these trees.
- Reminded that there is a PG&E line also in this area.
- Pointed out that they are an affordable-housing property developer and manager.
- Added that requiring the extended trenching around the trees is an undue hardship on this affordable-housing project.
- Added that there is more to the story than provided by planners.
- Assured they have not tried to kill these 50-year-old trees. Not at all.
- Advised this is his first participation in a Planning Commission meeting.

Commissioner Ostrowski:

- Said bids are included in the report indicating that the cost of replacing these lines is high because the trenching has to be hand dug.
- Stated that even if they are not moving these lines, they will still have to hand dig.

Tony Rodriguez:

- Said that there would be some mechanical help in digging new lines with the removal of Tree A. They can repair the fire line at a cost of under \$1,000 without Tree A being there.

- Added that the cost to re-route is a big number and not a reasonable expense at \$150,000.

Commissioner Ostrowski asked what the difference is.

Tony Rodriguez

- Said that the line there is just a small leak and is not currently impacting the functioning of the fire sprinkler line.
- Added that removal of Tree A would allow for the cut and repair of that line within a small area.

Commissioner Ostrowski clarified that they would have to remove Tree A in order to fix the fire sprinkler line at a very low cost.

Commissioner Ching:

- Asked Tony Rodriguez what was the rationale for this appeal of the original Administrative Decision denying the removals.
- Pointed out, in response to the \$150,000 bid for the fire line, that estimates are indicated at 75 percent more than anticipated actual cost.
- Admitted he is surprised at the labor rates at \$200 per hour.
- Said that the City rightly raised the issue that \$150,000 is high for just 50 feet. Those labor rates are also very high.
- Asked how many quotes were obtained.

Tony Rodriguez:

- Stated there was just one quote.
- Advised that given the Covid situation, there were struggles in securing more quotes.
- Added that this project itself was put on the back burner during Covid so no additional quotes were sought.

Commissioner Ching clarified that the relocation of the sewer is quoted for \$85,000.

Tony Rodriguez clarified that the cost is \$50,000 without the trees and \$80,000 for the relocation.

Commissioner Ching pointed out that no matter what, the sewer line needs replacing.

Tony Rodriguez replied yes.

Commissioner Ching said he would have thought they would trench once and lay both the fire and sewer lines at one time.

Tony Rodriguez admitted he had not yet investigated that option.

Commissioner Ching said despite their claim of economic hardship, he is very doubtful that the costs presented are actual.

Commissioner Ostrowski asked what it should cost to replace 200 feet.

Commissioner Ching:

- Said about \$15,000.
- Added that it is clear that two of the four trees have died since the original request for removal of trees.
- Asked what work has been done in the area surrounding these trees already.
- Questioned if there had been any disturbance to the tree roots.

Tony Rodriguez:

- Assured that there has been no work done but they did trench enough to identify where the water leakage was coming from under Tree A.

Commissioner Ching reiterated that he questions why those two trees (B and C) declined so quickly.

Tony Rodriguez stated that they were already in decline when they first applied for removal.

Chair Krey:

- Asked Tony Rodriguez if he had personally seen those trees in February/March.
- Questioned whether they looked to him (Tony Rodriguez) to be in decline as seen himself at that time.

Tony Rodriguez replied yes. He did see these trees in January/February, and they looked to be in decline.

Commissioner Rivlin asked Tony Rodriguez what he is prepared to do as to tree replacement.

Tony Rodriguez:

- Responded that they are willing to follow the City's tree guidelines.
- Said that the standard replacement required ratio is two trees for every tree removed. They seek to remove two trees and replace with four rather than the 4 to 1 ratio requiring eight replacements.

Commissioner Colvill:

- Confirmed that Tony Rodriguez is willing to replace at a 2 to 1 ratio.
- Asked isn't this a situation where the replacement ratio is 4 to 1 is warranted?

Commissioner Rivlin replied that the higher ratio for replacement trees is proposed by staff due to the questionably rapid decline of two of four trees.

Commissioner Colvill pointed out to Tony Rodriguez that the replacement ratio required here will be 4 to 1 for the trees in questionable rapid decline. What if that higher ratio is required?

Tony Rodriguez said that they just want to be treated fairly and they will comply with imposed requirements.

Chair Krey asked if there was anyone else wishing to speak.

There were none.

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

Commissioner Colvill:

- Referenced the photograph included on page 54 of the agenda packet that shows pictures of all four subject trees.
- Said that this area is actually an ideal area to re-dig and re-route lines.
- Stated that it seems not to be unreasonable to re-route.
- Added that in their current condition, he can support removal of the two that are now dead/dying.
- Admitted that Tree A is an issue as it is going to cost them the most money in which to work around.

Commissioner Ching:

- Reminded that is just the fire line that would be just a \$1,000 repair if Tree A is not there.
- Added that they are going to trench anyway for the sewer line.
- Pointed out that the pricing information provided is not representative of the true cost here.
- Said that like Commissioner Colvill, he too has trenched for sewer and questions how much more it might cost to trench around Trees B and C.
- Advised that the apartments across get morning sun. With these trees removed the sun will beam straight into those apartments in the early morning.
- Opined that he thinks some tampering of roots led to the two trees' suffering. That work could have been done with good intent, but he thinks that roots have been cut.
- Concluded that he couldn't see the justification for upholding this appeal.
- Added that this applicant is advised to get additional quotes and consider the project using one trench and not two to reduce costs.

Commissioner Rivlin:

- Pointed out that Tree A (elsewhere identified as Tree 1) is healthier.
- Added that Tree A is the one the appellant finds most important to remove.
- Countered that he thinks Tree A is one to keep.
- Stated that trenching can be done anywhere.
- Agreed that the two trees now deemed to be dead/dying now warrant removal.
- Stated his support for the 2 to 1 ratio replacement standard set for Heritage Trees.
- Added that whether intentional or not, and he doesn't believe it was done intentionally, he also doesn't think that the replacement ratio imposed should be increased to 4 to 1 for the removal of the two now-dead trees (Trees B and C).
- Concluded that he supports the remove of the two (Trees B and C) now deemed to be dead/dying.

Commissioner Ostrowski said that the replacement ratio is increased upward to 4 to 1 if said tree(s) was/were not properly cared for.

Director Paul Kermoyan:

- Suggested that once the owners noticed the trees in decline they should have taken extra efforts to retain them.
- Reported that he once visited this site a number of years ago with Kathy Robinson.
- Admitted that it was clear to him at that time that they already wanted those trees removed.
- Stated that neglect has occurred here.

Commissioner Ostrowski pointed out that the trees located closer to the area with sprinklers are much healthier.

Commissioner Colvill:

- Said that he too supports the 4 to 1 replacement ratio for the two now dead/dying trees to be removed.
- Stated that it is unfortunate across the board.

Chair Krey:

- Agreed that Trees B and C are now in very bad shape and that is very unfortunate.
- Pointed out that this is a very well-kept affordable-housing community that is a good asset for Campbell.
- Said that the role of government is to be as fair as possible.
- Added that the 4 to 1 ratio for tree loss, when occurring due to a lack of care, is in place.
- Admitted that in this case, he agrees with Commissioner Rivlin that imposing the 2 to 1 ratio is sufficient given the costs already in moving the lines.
- Stated he also supports denial of the appeal and upholding the action of the Director.
- Said that with the facts given, there is nothing to uphold an appeal there.
- Said he does feel bad for the appellant.

Commissioner Colvill:

- Said that the reduced number of replacement trees is a concession.
- Asked whether they will be allowed to remove all trees or not.
- Reminded that they most want to get rid of Tree A, not one of the two dead/dying trees, because it is the most cost-effective route.
- Pointed out that the replacement standard is within Code. That's the hard part.

Commissioner Ostrowski:

- Reminded that they will need to trench any way in order to move the sewer pipes.
- Suggested they move the water lines at the same time in the same trench with an offset to the new trench to protect the two remaining living trees in question.
- Stated her support for the denial of this appeal and upholding the Director's action.
- Concluded that she also supports upholding the required 4 to 1 replacement tree ratio.

Commissioner Ching agreed saying that it would set precedent to reduce that replacement ratio under these circumstances from 4 to 1 down to 2 to 1 replacement trees.

Chair Krey suggested a motion.

Motion: Upon motion of Commissioner Ching, seconded by Commissioner Ostrowski, the Planning Commission adopted Resolution No. 4573 taking the following actions:

1. Denying the Appeal (PLN2019-192) and upholding the Director's denial of a Tree Removal Permit for Trees 'A' and 'D', and
2. Approving a Dead/Dying Tree Determination to allow removal of Trees 'B' and 'C', with the required replacement of four trees for each tree removed (consisting of four 24-inch box trees and four 36-inch box trees);

on property located at 825 S San Tomas Aquino Road, by the following roll call vote:

AYES: Ching, Colvill, 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.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan provided the following update:

- Pointed out that there were a couple of Council update items on his report including the Downtown Street Closure and the General Plan Update.
- Asked if there were any questions on either item.

Chair Krey said that now the General Plan is back with Council, do we know when they will consider it.

Director Paul Kermoyan:

- Said that Council wanted the opportunity to discuss the draft with the members of the GPAC to ensure that the draft General Plan is one they are each satisfied with. Whether additional further GPAC meetings are needed. Does the document submitted reflect them?
- Reported that each GPAC member individually said they the draft General Plan was the cumulation of their work as a group.
- Advised that the next steps will be for Council and staff to meet to discuss what Council wants now. They will consider whether to seek input from all other appointed bodies (Historic Preservation Board, Civic Improvement Commission, Parks & Recreation) or

have it next come right to the Planning Commission for its review and recommendation to Council.

- Said that Council will set the process.
- Added that the Planning Commission will see the draft no matter what prior to it going onward to Council for final action. The Planning Commission provides its recommendation to Council. The question is whether any other body's comment is fundamental to secure. It is a consideration of what additional process Council wants to go with.

Commissioner Rivlin:

- Asked if Council taking this General Plan on would be soon; such as in the next month or two; by year end or into next year.
- Said he asks to determine if it will be the "current" Council making the decision on this updated General Plan or the Council composition in office following the November election.

Director Paul Kermoyan said that the City Manager will bring it to Council at their meeting on October 22nd.

Commissioner Ching:

- Said that there are two vacant Planning Commission seats for Council to appoint. They were held by Terry Hines and Adam Buchbinder. While Commissioner Hines termed out and chose not to apply for reappointment, Commissioner Buchbinder is interested in continuing and waiting for the interview process to occur later this month.
- Stated that a neighbor is interested in applying and asked staff if it was too late.

Director Paul Kermoyan said he thinks it's too late but to check with the City Clerk's Office.

City Attorney William Seligmann said yes, the filing date has already passed unless Council wants to extend it.

Commissioner Rivlin asked about the barriers that will be provided for creation of parklets. He asked who gets to have a parklet.

Director Paul Kermoyan:

- Directed the Commission to the City's website where they can find the complete staff report that was part of the September 1st Council meeting at which these items were discussed.
- Said that Council wanted to strike a compromise between the needs of restaurants, who wanted the street to remain closed for dining, and those of retailers, who wanted the street back open with available street access and parking for their customers.
- Concluded that the City Council came up with a reasonable amount of outdoor seating located within parklets while also respecting the retailers' needs as well for street and parking access for their customers.
- Recounted that today Downtown looked much more alive.

ADJOURNMENT

The Planning Commission meeting adjourned 8:20 p.m. to the next Regular Planning Commission Meeting of **September 22, 2020**, which will be conducted on Zoom.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Michael Krey, Chair

ATTEST: _____
Paul Kermoyan, Secretary