

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M.

TUESDAY

OCTOBER 8, 2019
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of October 8, 2019 was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Chair Rivlin and the following proceedings were had, to wit:

ROLL CALL

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

Commissioners Absent: None

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

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Krey, seconded by Commissioner Ching, the Planning Commission minutes of the meeting of September 24, 2019, were approved as submitted. (4-0-0-2; Commissioners Rivlin and Hines abstained from the entire set of minutes as they were absent from the September 24th meeting while Commissioner Ostrowski abstained from the minutes pertaining to the ADU Ordinance's impact on the Campbell Village Neighborhood Plan (CVNP), which she must recuse from participating in due her membership in the CVNP)

COMMUNICATIONS

Director Paul Kermoyan listed the following items:

- Email from Jo-Ann Fairbanks in opposition to Agenda Item 1 (ADU Ordinance).
- Email regarding Agenda Item 2.
- Additional materials from the appellant regarding her Appeal of the denial of an Administrative Tree Removal Permit (Agenda Item 3).

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

PUBLIC HEARINGS

Chair Rivlin asked if there were any disclosures for tonight's hearing items.

Chair Rivlin advised that while he was not in attendance at the last meeting of September 24, 2019, he did read the meeting minutes, watched the meeting video and attended all other related meetings associated with the ADU Ordinance. Therefore, he can participate on Agenda Item 1 to adopt the final resolution to forward the ADU Ordinance onward to the City Council for final action.

Commissioner Hines said he would have to recuse from Agenda Item 1 as he resides in the CVNP area.

Commissioner Ostrowski said she too would have to recuse from Agenda Item 1 as she resides in the CVNP area and has been active on the CVNP.

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

1. **PLN2017-375** Continued Public Hearing to consider a City-initiated Zoning Code Amendment (PLN2017-375) to amend Titles 18, 20, and 21 of the Campbell Municipal Code pertaining to the permitting, construction, affordability, and usage of accessory dwelling units (ADU), an Amendment to the Campbell Village Neighborhood Plan and a General Plan Amendment to the San Tomas Area Neighborhood Plan to incorporate by reference the proposed City-wide ADU standards. Staff is recommending that this item be deemed Categorically Exempt under CEQA.

Note that this item was approved at the meeting held on September 24, 2019 except for one Resolution recommending that the City

Council approve an Amendment to the Campbell Village Neighborhood Plan to incorporate by reference the proposed City-wide ADU standards. There was not a quorum available to complete this final step prior to moving this ADU Ordinance forward to the City Council.

Tentative City Council Meeting Date: TBD. *Project Planner: Daniel Fama, Senior Planner*

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

Chair Rivlin asked if there were questions for staff.

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

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

Chair Rivlin said that this last resolution required to forward the ADU Ordinance onward to the City Council is straightforward as discussed at the last meeting.

Director Paul Kermoyan:

- Reminded that there was a desk item this evening from Jo-Ann Fairbanks, a Campbell resident.
- Asked if the Commissioners had had the opportunity to read her email.
- Explained that her message is a desire to ensure the preservation of individual neighborhoods, which should not be ignored. She supports different standards for ADU rather than a City-wide Ordinance.

Chair Rivlin:

- Pointed out that the STACC neighborhood members were supportive.
- Assured that he understands Ms. Fairbank's position as expressed per her email.
- Concluded that the focus ended up with the proposed City-wide standards.

Commissioner Krey:

- Stated that great points were provided by Ms. Fairbanks.
- Agreed that a City-wide ADU Ordinance may not be a perfect ordinance, it can be fixed as regulations change.
- Concluded that he is ready to move forward on this third and final resolution to send the ADU Ordinance on to Council.

Commissioner Buchbinder:

- Said that while he understands Ms. Fairbank's concerns, he pointed out that no ADU can be taller than the main residence on a residential property, so it won't be allowed to dwarf an existing house and property.
- Added that limitation helps to preserve an existing neighborhood.

Chair Rivlin said he agreed. The focus currently is to connect the provisions of the ADU Ordinance to the Campbell Village Neighborhood Plan. He suggested a motion be made offered.

Motion: Upon motion of Commissioner Ching, seconded by Commissioner Buchbinder, the Planning Commission adopted Resolution No. 4531 recommending that the City Council approve an Amendment to the Campbell Village Neighborhood Plan to incorporate by reference the proposed City-wide ADU standards, by the following roll call vote:
AYES: Buchbinder, Hines, Krey and Rivlin
NOES: None
ABSENT: None
ABSTAIN: Ching and Ostrowski

Chair Rivlin advised that this item would be considered by the City Council for final action at a meeting not yet determined.

Commissioners Hines and Ostrowski returned to the chambers and dais following the conclusion of Agenda Item No. 1.

Chair Rivlin asked if there are any disclosures from the Commission about Item No. 2.

There were none.

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

2. **PLN2019-151** Public Hearing to consider the application of Nanda Ramamirtham for a Conditional Use Permit (PLN2019-151) to allow establishment of a large fitness studio (I Love Kickboxing) with late-night activities on property located at **152/156 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: *Daniel Fama, Senior Planner.*

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

Chair Rivlin asked if there were questions for staff.

Commissioner Hines asked staff if the late-night hours are still required given the correction to the original hours in the report.

Planner Daniel Fama replied yes. He said they will be opening at 4:30 a.m. which is still considered to be "late-night hours."

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

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

Commissioner Ostrowski:

- Said this use looks good.
- Added that she is happy to see the information dealing with any potential for noise impacts and nearby residents specifically requiring the doors to be kept closed.
- Stated that if problems arise there are conditions that allow the Community Development Director to act to reduce hours and bring the use back to the Commission if it becomes necessary.

Commissioner Hines said that this side-facing tenant space looks like a difficult space to fill and this seems to be is a great tenant for it.

Commissioner Krey said he agreed with Commissioner Hines. This will be a great use and could be considered a hard space to occupy. It used to be a Weight Watchers location adjacent to a donut shop.

Chair Rivlin said that it is great to get a new tenant and he supports the staff recommendations.

Commissioner Hines thanked the applicant for choosing to locate in Campbell.

Commissioner Buchbinder said that this use meets the intent of the applicable C-1 (Neighborhood Commercial) Zoning District.

Motion: **Upon motion of Commissioner Ching, seconded by Commissioner Krey, the Planning Commission adopted Resolution No. 4532 approving a Conditional Use Permit (PLN2019-151) to allow establishment of a large fitness studio (I Love Kickboxing) with late-night activities on property located at 152/156 N. San Tomas Aquino Road, including the revised hours of operation, by the following roll call vote:**

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

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

Chair Rivlin asked if there were any disclosures from the Commission about Agenda Item No. 3.

There were none.

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

3. **PLN2019-172** Public Hearing to consider the Appeal of Barbie Akin of the Community Development Director's denial of a Tree Removal Permit (PLN2019-140) to allow the removal of one (1) Laurel tree on property located at **27 La Paloma**. Staff is recommending that this item be deemed Statutorily Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Naz Pouya, Assistant Planner*

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

Chair Rivlin asked if there were questions for staff.

Commissioner Krey said that the tree seems to have a pretty good lean and asked what the potential might be for it to fall.

Planner Naz Pouya said that the potential for falling can be raised for any tree. Trees often lean. If it is not a sudden lean, a lean does not reflect a sign of failure.

Commissioner Krey asked if the new unit could be moved further back on site and away from this tree.

Planner Naz Pouya said that the new unit is larger and will be closer to the tree than the existing unit is. The new unit will be three-and-a-half feet from the rear property line.

Commissioner Buchbinder:

- Pointed out that there is a current unit there. It is not uninhabitable.
- Added that existing home is proposed for removal.
- Asked if there are ways for the new home to be placed on this site without removing this tree.

Planner Naz Pouya:

- Replied yes. There is no evidence that it is not possible to place the new unit on site without removal of this tree.
- Admitted that it may be easier for them to take the tree out in order to place the new unit.
- Advised that the new unit comes in two pieces.

Commissioner Buchbinder said that is staff's position.

Planner Naz Pouya:

- Advised that letters of support have been received for the appellant's request for removal.

Director Paul Kermoyan:

- Explained that the mobile home is removed in two pieces.

- Added that one doesn't need to be an engineer to see and know that.
- Stated that the old unit will be unbolted and separated for removal from the property.
- Advised that there are required findings to be met to allow removal of a protected tree.
- Cautioned that the Tree Ordinance is a "Tree Protection Ordinance" and not a "Tree Removal Ordinance."
- Said that the City has established a high threshold to all tree removals.
- Recounted that oftentimes people don't want trees on their property for many reasons including the fact they can be messy and/or draw animals onto their property.
- Reported that Campbell is a Tree City. It is part of the urban forest. There must be legitimate reasons for tree removal.
- Stated that he disagrees with the claim that they cannot bring out the old unit and bring in the new one without removal of the tree,

Commissioner Buchbinder said it seems the appellant believes that this single tree makes her lot uninhabitable.

Director Paul Kermoyan:

- Stated that is not the case. Their opinion is based on constraints and conditions for their planned use of the site. They must design the site accordingly instead of trying to put 10 gallons of water into a five-gallon bucket.
- Pointed that they could put another unit of the same size as the existing.
- Added that the unit's jacks can be leveled on the ground beneath the new unit.
- Concluded that the old unit was not properly maintained.

Commissioner Ching asked the size of the new unit. It seems the current is 24 feet by 60 feet.

Chair Rivlin pointed to page 3 indicating the size at 24'4" x 56 feet.

Commissioner Ching said a smaller building is possible.

Planner Naz Pouya said the existing unit is 20 x 56. The proposed new unit is 24 x 60.

Commissioner Ching said the new unit is two to three feet closer to the front and the back setback will be larger.

Planner Naz Pouya said the front setback is currently 8-feet and will become 5-feet. It is a more forward placed and larger unit. The back setback will be larger.

Commissioner Ching asked why keep a larger rear setback and bring the new home closer to the front.

Director Paul Kermoyan:

- Reported that State requirements govern the physical development and placement of mobile homes.
- Added that the City has zoning, coverage and setback standards and can inspect placement of utilities.

- Stated that this is a PD (Planned Development) zoned park. These new standards reflect modifications to an existing 60-year old PD Permit.

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

Barbie Aknin, Appellant and Property Owner, 27 La Paloma:

- Reported that her new unit is 2-feet longer and 4-feet wider. A bay window sticks out but doesn't touch the ground.
- Explained that she was suddenly widowed 8-years ago when her husband died at age 48. She was left with three daughters to raise.
- Advised that she has lived in the San Jose/Campbell Area for the last 40 years.
- Stated that this need to removal this tree reflects a financial impact on her. She has already sold her home. She found this site at Paseo de Paloma, which is a mobile home park where unit owners also own their site.
- Explained that this 60-year-old unit came on the market at a low price due to its poor condition. There were multiple offers, but she prevailed in the purchase as she was pre-approved by the Park Management.
- Admitted that at time of purchase she did not realize this tree would pose a problem with placing a new home on the property.
- Reported that she is a chef by trade and a gardener by hobby. She would be thrilled to keep this tree but her new house is already built. It is done.
- Added that she has started to have to pay the mortgage as well as paying separately to have the house stored until it can be brought onto her property. Additionally, she is renting temporary housing for herself.
- Declared that she currently owns a home that she cannot put onto her lot.
- Advised that she had an arborist submit her application for tree removal on her behalf as she was preoccupied with her daughter's wedding at that time.
- Reported that the Park's Board of Directors explained the easement requirements under the jurisdiction under the State with their current setback standard.
- Said that this tree reflects an eminent problem. It is not just one root. There are three roots going towards the house. It is not going out to the street and/or curb.
- Added that even if her house were smaller, these tree roots would be an issue. There has already been structure damage to the driveway and foundation of the old mobile home. The potential for significant damage cannot be controlled or remedied.
- Said that she hired another arborist who does litigation all around the State, who found that this tree has clearly damaged and will continue to do so. She contacted the mobile home representatives and said she had never heard of such a situation of moving piers to accommodate tree roots.
- Explained that she selected Alliance Mobile Home Company, out of San Jose, to build her new mobile home. As required by State regulations the home must be placed on piers.
- Reported that the previous owners, a mother and her daughter, lived on this property for 60 years and planted lots of trees.
- Reminded that she doesn't have an option as to how this house can/must be built.
- Stated that the roots must be cut and removed. There is no viable option to that. Keeping the tree will create a more hazardous situation as the tree already leans toward the street.

- Stated that the Planning Commissioner cannot guarantee that the roots of this tree will not damage her new foundation.
- Added that her new arborist has stated that this is a dangerous situation and can have catastrophic results. The roots are above ground. Some are 12-inches wide and going toward the house.
- Reminded that the easement must be five feet. The park prefers a minimum of six feet. All new units are being moved forward on their lots.
- Reiterated that there is only a two-foot difference from the existing house's placement.
- Said that placement of the house is not the issue. An inappropriate tree with a shallow root system is just placed too close.
- Stated that this severely limits her economic enjoyment of her property.
- Added that she just wants a little home that she can take care of and have a small garden.
- Said that the utility box cannot be moved when the existing home is removed, and her new home is moved onto her site.
- Reminded that this is one of the smallest lots in this Park.
- Stated that the Commissioners should all come out to the Park and look at these roots.
- Concluded that she is available for any questions.

Chair Rivlin asked if there were questions for the appellant.

Commissioner Hines thanked Ms. Akin for her presentation and desire to live in Campbell.

Commissioner Ching asked if any survey of this lot was done at the time of purchase.

Barbie Akin, Appellant

- Said that she didn't have a survey done and had to get approval by the Board for her proposed new home.
- Added that the Board decided the size of new home and new easement standards.
- Reminded that she has three kids and her new house is 1,300 square feet.
- Reiterated that her new house would have the same setback as the other homes.
- Stated that she went through the Board and had no idea of any problem with removing this tree.

Commissioner Ching said that the Board advised her of their current house/lot requirements, and it seems Ms. Akin ordered her new home based on the assumption the tree could easily be removed.

Barbie Akin, Appellant, agreed.

Commissioner Hines referenced a letter from the Board of Directors recommending a replacement tree be placed in an appropriate location. What are they suggesting?

Barbie Akin, Appellant:

- Said she is suggested a 24-inch box tree. She'd love to place the replacement tree moving it over so it's not right in the center as the current tree is placed.
- Added that she loves birch trees.
- Concluded that she would be sure that whatever the replacement tree may be it would not have shallow roots and it would also be compatible with the existing pines.

Commissioner Krey:

- Said this seems to be an example of chicken versus egg. Which came first?
- Pointed out that Ms. Aknin knew the tree was there.
- Added that she got advice as to what size house the lot could accommodate.
- Asked Ms. Aknin if during that decision making whether she had planned and/or counted on removal of that tree. Did she understand the restrictions?

Barbie Aknin, Appellant:

- Said that one can buy different sizes of mobile home. Added to that there are the requirements of the Park.
- Advised that she had not intended to remove that tree during her planning stages.
- Added that her home price dropped by \$100,000 so she could afford it and she had been pre-approved to come into the Park.

Chair Rivlin asked what conflicts with her proposed new unit other than the roots from this tree. Does her house fit on the site given all constraints?

Barbie Aknin, Appellant, replied no. Her house must be moved forward on the lot and closer to the tree to fit.

Chair Rivlin admitted that it would be helpful to have a site plan demonstrating the placement issues between the new unit and this tree.

Planner Naz Pouya reference Attachment 5 from the staff report, which depicts original pictures of the site.

Chair Rivlin said it may have been better to have this information up front.

Barbie Aknin, Appellant, said her original arborist applied on her behalf. Her second arborist was completely different. The administrative decision was made using the original submittal information.

Chair Rivlin asked if the tree part was placed by the Park.

Barbie Aknin, Appellant, replied no. Previously, the owner of 60-years planted all the trees on this space. They lived there longer than most current residents and Board members.

Chair Rivlin asked if the Board wants this tree retained there.

Barbie Aknin, Appellant, replied no. It is too big for its location.

Commissioner Hines suggested planting elsewhere in the Park within green spaces that are currently bare of trees. That's where replacement trees could go.

Barbie Aknin, Appellant, said she could ask the Board. She would be willing to do so.

Commissioner Ostrowski asked if the changes to the new house's placement on this lot was based on State requirements, bringing it five feet off the front property line.

Barbie Aknin, Appellant, said the back-fence setback, which is adjacent to apartments, was changed per State requirements to be between five or six feet. The current setback is approximately four feet. The house itself was considered by the Park to be set back too far and required it be moved forward to the five-foot front setback.

Commissioner Ostrowski asked if the five-foot distance is at the tree. Would this tree overhang over the new house?

Barbie Aknin said that she has a boxed bay window that sticks out a foot but doesn't go down to the ground.

Commissioner Buchbinder said it seems the new house is roughly the same size and shape. He asked if a smaller home would be allowed in this Park.

Barbie Aknin said that the roots from this tree would damage any home placed on this lot.

Commissioner Buchbinder said the lot is developable but it seems that Ms. Aknin believes that no house could be placed on this lot without removing this tree.

Barbie Aknin, said as far as she knows, yes. To match the reduced front setback that is correct.

Commissioner Ostrowski asked about the draining conditions on this property. Does rain water end up under this house?

Barbie Aknin said that the property is at a slant downward toward the street. She added that she didn't think draining is a problem and hasn't been advised of any past problems with drainage.

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

Chair Rivlin said there are a couple of things to discuss here and asked if there were any questions for staff.

Commissioner Buchbinder:

- Verified with staff that the denial of this Tree Removal Permit rests on the idea that it is possible to put a house on this lot without removing this tree.
- Added that it is the appellant's belief that it is not so possible

Commissioner Hines:

- Asked if establishing a tree replanting plan is still an option.
- Pointed out that the Board supports replanting in the green zones, which are beautiful, with a couple of spots with room for new trees.
- Added that the appellant has indicating her interest in doing a replanting with one or two new trees.
- Questioned if that is something to be worked out.

Planner Naz Pouya clarified that if the denial of this Tree Removal Permit is granted an appeal, there would be a requirement for replacement tree(s). Usually they are desired on-site unless the site could not accommodate any more trees.

Commissioner Hines said he looks toward crafting a condition to require replanting of a tree or trees in the Park's Green Zone.

Planner Naz Pouya said that is possible if the Planning Commission doesn't think there is an appropriate space on her lot.

Commissioner Ching:

- Said that this situation puts the City in an awkward position.
- Added that there was some failure of due diligence when considering plans for this site.
- Stressed the need for a survey to start in order to figure out just what is possible. This has failed to happen here. The owner ordered her house without knowing if she could remove the tree. Again, that is an awkward position for the City.
- Admitted that he is not unsympathetic to this owner's situation.
- Stated that the City is very specific about tree protection and maintenance.
- Suggested that the question remains what building could be put in place here. Perhaps if they reduce by approximately 50 square feet or if the new home is reduced by approximately 100 square feet to fit onto the current site with the tree remaining. That would represent a n approximately 1,200 square foot home rather than the proposed 1,350 square foot home.

Chair Rivlin:

- Asked staff to clarify what the threshold might be to reach "hardship". What are the triggers? Is it the equivalent of one-year's salary?
- Questioned whether the Code establishes what a hardship is as quantified.

Planner Naz Pouya said the standards come from the Code Section as it refers to "economic enjoyment and hardship."

Chair Rivlin said that economic hardship versus the potential loss of 100 square feet of desired living space. Is either of those options extremely damaging?

Commissioner Ching asked if what qualifies as more than "minor" economic hardship.

Commissioner Ostrowski:

- Said that there have been a series of unfortunate events from changes in setbacks as dictated by the State.
- Opined that the appellant did her due diligence by reaching out to the Park's Board of Directors.
- Agreed that the tree is there, and it is a large tree. However, it doesn't fit on such a small property.
- Reminded that this owner worked with the standards and requirements of both the State and the Board of this Park.
- Suggested that hardship can be measured by the confusion of having three sets of regulations to navigate from the State's rules, the City's rules and the Park Association's rules.
- Added that the economic hardship was reached with this woman lost her husband too soon and was left solely responsible for her three children as a result.

Commissioner Krey:

- Agreed that this was a tough situation for all of us to consider.
- Stated that some great points have been made.
- Agreed that there was some failure to do all necessary due diligence up front.
- Said that this tree is in the way no matter what home goes in there. It leans toward the homeowner's side.
- Supported the idea of a similar tree being replanted somewhere where it makes sense on the Park property.
- Admitted that he likes Commissioner Hine's suggestion to replant new trees in the shared Green Area (similar in size and type).
- Pointed out that this mobile home park already exceeds the required standards for landscaping.
- Concluded that he is leaning to the appellant's favor to allow removal of this tree.

Commissioner Buchbinder:

- Agreed with Commissioner Krey's comments including a lack of adequate due diligence. The tree issue should have come up at time of purchase.
- Stated that it is unreasonable to ask this owner to "saw off" a five-foot portion of a house that has already been completely built.
- Said that the home itself conforms with all requirements from three entities, State, local and the Park Association itself.
- Concluded that he too leans toward approval of this tree's removal at this time. There is no way a compliant home can go there with that tree remaining in place.

Commissioner Ching:

- Admitted that he understands the staff decision for denial of this removal.
- Added that the owner cannot put a "practical" home in that space with that tree remaining.
- Expressed concern for precedent as the prediction that a tree could fall is often claimed.
- Stated he is sympathetic to this appellant but wants to provide a sound reason and/or rationale for supporting this removal in this instance.

Chair Rivlin:

- Said he has similar feelings.
- Asked staff what the required findings might be to approve this appeal while still following the provisions of the applicable Code.
- Said that the first four draft findings don't apply in terms of economic enjoyment or hardship. A 1,000 square foot can be accommodated.
- Added that the Park couldn't just leave that space empty.
- Suggested that just Finding #5 has some relevance in this situation.

Commissioner Ching:

- Pointed out that if the home was reduced in size, fewer people could live there. It would be a less pleasant home.
- Said those issues play to the economic enjoyment and hardship standards.

Commissioner Hines:

- Suggested addressing the Tree Removal Permit itself by crafting and adding a tree replacement plan.
- Recommended a motion supporting the appeal with conditions requiring the owner to provide replacement trees to be planted within the Park's Green Space areas.

Chair Rivlin reiterated that it's not optional to replant with this tree's removal. It's mandatory to require replanting if a Tree Removal Permit is approved.

Director Paul Kermoyan:

- Explained that the reason for strict provisions when considering tree removal of protect trees is to retain a certain canopy for the community.
- Questioned whether a 15-gallon replacement tree is adequate for removal of such a large tree.
- Said that the Commission could consider requiring in-kind canopy sized (compatible species of tree) on the shared green space.

Commissioner Buchbinder said this existing large tree is out of scale with this neighborhood. They would be told no if they asked to put it there today. This tree was planted without enough foresight.

Commissioner Ching asked the cost of replacing this tree.

Chair Rivlin said the cost for 24-inch box trees is approximately \$500 each and for 36-inch box trees about \$1,000.

Commissioner Ching said that a 36-inch box equates to a 20-foot canopy.

Commissioner Buchbinder said that tree within 10 years would be the same size as the removed tree.

Chair Rivlin said that replanting with multiple smaller trees might be a better alternative to equate to this one larger tree that is being removed.

Commissioner Ching said it should be a replacement requirement that is fair to this appellant/property owner.

City Attorney William Seligmann:

- Offered the following amendments to the draft findings to support the granting of this appeal.
 - Findings 1 through 5 stay the same.
 - Finding 6 should indicate that the tree's roots have caused damage.
 - Finding 7 should indicate the current home at 24 x 56 feet.
 - Finding 8 should indicate the proposed new home at 24 x 60 feet.
 - Finding 9 should indicate that this property is one of the smaller lots within this mobile home park.
 - Finding 10 should indicate that existing utility box on site limits the options to remove and install a new home on this parcel.
 - Finding 11 should identify the State Department of Housing of Community Development as having oversight over mobile homes and has required additional setbacks that will require moving the new replacement home closer to the tree and street.
 - Finding 12 should indicate that the Homeowners Association has a requirement for the new home to be located closer to the street than the existing home is situated.
 - Strike Findings 13, 14 and 15.
- Adapt language using Finding 5 of the Code.

Director Paul Kermoyan said that the size of replacement tree(s) is an outstanding issue.

Commissioner Hines suggested two 36-inch box trees of an appropriate species.

Director Paul Kermoyan suggested requiring the replacement trees to be of one of the four protected species of Cedar, Ash, Oak or Redwood.

Motion: **Upon motion of Commissioner Hines, seconded by Commissioner Ostrowski, the Planning Commission adopted Resolution No. 4533 GRANTING an appeal and OVERTURNING the Community Development Director's denial of a Tree Removal Permit (PLN2019-140) to allow the removal of one (1) Laurel tree on property located at 27 La Paloma, with an added condition requiring replacement tree(s) from one of the four protected species and planted in an appropriate location to the satisfaction of staff, by the following roll call vote:**

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

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

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

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

- Advised the Commissioners of a pending training opportunity from the Silicon Valley Economic Development Alliance, a subsidiary of Joint Ventures Silicon Valley, that might be of interest to some of the Commissioners.
- Suggested any Commissioner interested in attending this training contact Executive Assistant Corinne Shinn.
- Added that the content is different from that concentrated in conferences by the League of California Cities and the American Planning Association.

ADJOURNMENT

The Planning Commission meeting adjourned at 9:26 p.m. to the next Regular Planning Commission Meeting of **October 22, 2019**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Andrew Rivlin, Chair

ATTEST: _____
Paul Kermoyan, Secretary