

CITY OF CAMPBELL PLANNING COMMISSION
MINUTES

7:30 P.M.

TUESDAY

OCTOBER 13, 2020
REMOTE ON-LINE ZOOM MEETING

The Planning Commission meeting of October 13, 2020, was called to order at 7:30 p.m. by Chair Krey and the following proceedings were had, to wit:

ROLL CALL

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

Commissioners Absent: None

Staff Present:	Community	
	Development Director:	Paul Kermoyan
	Senior Planner:	Daniel Fama
	Assistant Planner:	Naz Pouya Healy
	City Attorney:	William Seligmann
	Senior Civil Engineer:	Roger Storz
	Traffic Engineer:	Matthew Jue
	Recording Secretary:	Corinne Shinn

Chair Krey welcomed newly appointed Planning Commissioner Alan Zisser to his first meeting as a member of this Commission.

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Ching, seconded by Commissioner Buchbinder, the Planning Commission minutes of the meeting of September 22, 2020, were approved as submitted. (6-0-0-1; Commissioner Zisser abstained)

COMMUNICATIONS

None

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

PUBLIC HEARINGS

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

1. **PLN2019-192** Continued Public Hearing (from the meeting of September 22, 2020) to consider the Appeal by Nitin Srivastava of the Community Development Director's denial of a Tree Removal Permit (PLN2019-192) to remove one (1) oak tree located in the rear yard of property located at **1698 Hyde Drive**. 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 Healy, Assistant Planner*.

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

Chair Krey asked if there were questions for staff.

There were none.

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

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

Commissioner Ching said that the draft resolution reflects what the Commission had proposed at its last hearing on this matter.

Commissioner Ostrowski said that it looks good.

Director Paul Kermoyan advised that Commissioner Zisser must recuse from the vote as he was not yet a member during the original hearing held on October 12th.

Motion: Upon motion of Commissioner Ching, seconded by Commissioner Ostrowski, the Planning Commission adopted Resolution No. 4577 granting an Appeal and overturning the Community Development Director's denial of a Tree Removal Permit (PLN2019-192) to remove one (1) oak tree located in the rear yard of property located at 1698 Hyde Drive, with the condition of replacement with one 24-inch box tree and (at the applicant's discretion) either requiring a second

replacement 24-inch box tree or the payment of a \$500 in-lieu fee; by the following roll call vote:

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

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

Chair Krey realized he hadn't asked whether there were any members of the public present this evening who wanted to speak on an un-agendized item for up to five minutes under Oral Requests. There were none.

ORAL REQUESTS

None

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

2. **PLN-2020-78** Public Hearing to consider the application of Christian Nielsen for a Conditional Use Permit (PLN-2020-78) for establishment of a medical office use (orthodontic office) within an existing office space on property located at **2155 S. Bascom Avenue, Suite 140**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Naz Pouya Healy, Assistant Planner*.

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

Chair Krey asked if there were questions for staff.

Commissioner Buchbinder disclosed that his residence is about 1,000 feet away from the next item. It is far enough away not to have to recuse from participation on Item 2.

Chair Krey questioned the parking lot restriping from the current 9-foot width down to an 8 ½-foot width.

Planner Naz Pouya Healy advised that the existing spaces are wider than required by making each parking space narrower by half a foot, the lot gains an additional three parking spaces.

Director Paul Kermoyan advised that a number of years ago the City established a uniform parking space/stall size that fell between the former 9-foot regular and 8-foot compact spaces. The uniform space today is 8 ½-feet wide.

Commissioner Zisser asked if there are a hazardous waste disposal requirements this medical office must adhere to.

Planner Naz Pouya Healy advised that there are several project representatives present this evening. One of them can respond.

Commissioner Zisser said it seems that something about this project has triggered a change to the existing street frontage public sidewalk. Modifications will be required to be made. Is that true?

Planner Naz Pouya Healy replied yes. The applicant is required by Public Works to meet current ADA (Americans with Disabilities Act) requirements.

Commissioner Zisser pointed out that this building was built in the 1980's. When does a new application for the site trigger the need to meet current public right-of-way improvement standards?

Director Paul Kermoyan explained that such a requirement is within the General Plan. It offers the City the ability to require public infrastructure upon meeting four required criterion if such improvements are deemed "within reason" to require.

Commissioner Buchbinder asked about the issue of being a non-conforming building.

Planner Naz Pouya Healy advised that the property is zoned C-2 (General Commercial) at the front and R-3 at the back where there are three residential units. The parking lot is non-conforming, but it serves the current conforming office use.

Commissioner Buchbinder asked whether the fact that the two existing suites will be combined makes the non-conformance irrelevant here.

Planner Naz Pouya Healy replied yes. It is a conforming use with issuance of a Conditional Use Permit.

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

Ms. Beatrice, Project Representative:

- Said that she is available for any questions from the Commission.
- Advised that as to the question on disposal of hazardous waste, their orthodontic practice does not utilize any chemicals that are considered hazardous.
- Assured that the required list of chemicals will be provided to the Building Department.
- Reiterated that none of their chemicals utilized requires any specialized disposal treatment.

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

Commissioner Ostrowski said that this is a straight-forward proposal that she can support.

Commissioner Ching agreed.

Motion: Upon motion of Commissioner Ching, seconded by Commissioner Rivlin, the Planning Commission took adopted Resolution No. 4578 approving a Conditional Use Permit (PLN-2020-78) for establishment of a medical office use (orthodontic office) within an existing office space on property located at 2155 S. Bascom Avenue, Suite 140, subject to the conditions of approval, by the following roll call vote:

AYES: Buchbinder, Ching, Colvill, Krey, Ostrowski. Rivlin and Zisser

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.

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

3. **PLN2019-206** Public Hearing to consider the application (PLN2019-148) of Robson Homes LLC for a Zoning Map Amendment to rezone the project site from R-1-6 (Single-Family Residential) to P-D (Planned Development); a Planned Development Permit to allow construction of 25 single-family homes, five accessory dwelling units (4 detached and one interior), a new private street, and associated site, parking, and landscaping improvements; a Density Bonus to allow a 32.5% increase in the allowable density, use of State parking standards, and provision of two Very Low Income below-market-rate (BMR) units; a Tentative Vesting Subdivision Map to create 25 private lots and four common lots, and associated public and private easements; and a Tree Removal Permit to allow removal of 17 on-site protected trees, on property located at **16179 East Mozart Avenue** in the proposed P-D (Planned Development) Zoning District. A Mitigated Negative Declaration has been prepared for this project. Tentative City Council Meeting Date: November 17, 2020. Project Planner: *Daniel Fama, Senior Planner*

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

Chair Krey asked if there were questions for staff.

Commissioner Rivlin stated that the in-lieu fee of \$104,000 seems low considering the price of housing in this area.

Planner Daniel Fama:

- Explained that when that fee was adopted by Ordinance in 2007, it was intended not to be financially unfeasible to construct new affordable housing in single-family projects.
- Added that currently there is no in-lieu fee in place for multi-family residential developments.
- Concluded that it was based on market conditions in 2008 and was intentionally low.

Commissioner Rivlin called that decision to be unfortunate and a “miss”. Too bad no steps have been taken since then to make the fee reflect inflation that has occurred since its adoption.

Chair Krey:

- Agreed that \$104,000 in-lieu fee is low .
- Added that this is a good developer here before us.
- Asked if there could be in-lieu fees taken in for all three BMR units. Is that legal?

Planner Daniel Fama:

- Replied not in this case given that Robson Homes has used the Density Bonus Provision.
- Added that if they had not, they could have paid in-lieu instead of providing actual units.

Chair Krey asked if the Commission has any say.

Planner Daniel Fama said that the City cannot deny applying for an in-lieu fee.

Chair Krey asked what if there are three low-income units instead of two very-low income plus in-lieu for one more.

City Attorney said that gives the option to the developer to decide if they want to provide in-lieu fees.

Commissioner Rivlin asked if the Planning Commission has jurisdiction on the selection of specific units and/or if they can utilize a Density Bonus for their project,

City Attorney William Seligmann replied no. They are allowed to use a Density Bonus per State law. As to the location of the designated BMR units within a development, the Planning Commission can choose the most appropriate ones.

Commissioner Ostrowski pointed out that as modified by Planner Daniel Fama, that proposal would support this project. She asked where that is reflected.

Planner Daniel Fama:

- Responded via the Conditions of Approval for the Tentative Vesting Subdivision Map requires a Housing Agreement between this developer and the City.

- Added that agreement would stipulate which units would be BMR and at what cost.
- Reminded that staff is recommending one of the attached (duet) units and another detached single-family unit.

Commissioner Ching:

- Pointed out that the applicant is suggesting both Lot 19 and Lot 20 (the duet).
- Reiterated that the staff recommendation is one of the attached duet units and Lot 6, a detached property located in the far-right corner of this development.
- Added that the purchase cost to the BMR buyer for the duet unit would be approximately \$190,000.
- Asked what the cost would be for the other single-family BMR unit.

Planner Daniel Fama replied it would be the same price as the duet.

Commissioner Ching said that this developer would be taking quite a hit as Lot 6 is the most expensive.

Planner Daniel Fama replied correct.

Commissioner Colvill asked if they are tied to the very-low-income level BMR units or would they be able to instead go with low-income level BM units.

Planner Daniel Fama said that the developer requested the very-low-income category.

Commissioner Colvill:

- Pointed out that the very-low income is between 30 to 40 percent of the Area Median Income (AMI).
- Compared with the low-income, which is between 60 to 80 percent of the AMI.
- Stated that these units will really help very-low-income households.

Commissioner Buchbinder thanked staff for the details provided. He asked why the Zoning Map Amendment is required to go from R-1-6 (single family residential) to P-D (Planned Development).

Planner Daniel Fama:

- Reported that the primary reason for a P-D zoning is the ability to use a private street.
- Added that typically a home must take direct access onto a public street.
- Stated that the standard street design is also quite wide.

Commissioner Zisser:

- Asked why this project needs an HOA (Homeowners Association). It doesn't seem necessary.
- Stated that there are not too many detached unit developments with an HOA and private street.
- Said that if the street is not so large they could build more house.
- Questioned whether this is suitable per the General Plan. For the neighborhood. For the community.

- Pointed out that the rest of this immediate neighborhood is not HOA.

Planner Daniel Fama:

- Pointed out that across the street there are four homes, each of which is facing the public street.
- Assured that it is common for Campbell to have projects with a private street, detached homes and an HOA.
- Explained that the HOA is responsible for the maintenance costs for their development's sidewalks and private street. Thus, it is not a cost for the City.
- Reported that in lieu of having an HOA for the maintenance of these private streets, the developer could be charged an assessment to maintain them.

Commissioner Zisser said that the visibility of these private homes will disappear as most of them will be facing onto a private street.

Planner Daniel Fama explained that the two duet homes will have their front entrances from Mozart. Additionally, the two detached homes to the east of the duets will have their garage access from Mozart. The project tries to integrate with the larger neighborhood.

Commissioner Zisser clarified his understanding that two of the homes and the duet face Mozart.

Planner Daniel Fama replied yes.

Commissioner Buchbinder verified with staff that driveways are not counted as parking.

Planner Daniel Fama clarified that driveways are not usually counted against parking requirements.

Commissioner Buchbinder said that sidewalks are a great amenity.

Planner Daniel Fama:

- Said that there is flexibility offered via P-D standards.
- Reminded that normally a driveway touches/accesses from a public street and is usually 20-feet long.
- Advised that within this development, the driveways are shorted at 18 feet. Not deep enough for parking recreational vehicles or boats it is sufficient for cars.

Commissioner Buchbinder asked if the road was two-way or one-way.

Planner Daniel Fama replied the road will accommodate two-way traffic.

Commissioner Buchbinder pointed out that the City cannot adjust the Fire Department's standards. This two-way private drive aisle is 20-feet wide. Will there be posted speed limit signs on this private street?

Planner Daniel Fama replied no. He added that the HOA is not precluded from posting their own speed signs.

Commissioner Buchbinder asked what speed this private street will have been designed to accommodate since streets tend to be built for specific speeds or uses.

Planner Daniel Fama said he would defer that question to the applicant who is present this evening.

Commissioner Buchbinder asked if there will be street parking along the interior drive aisle.

Planner Daniel Fama said there will be no street parking there.

Commissioner Buchbinder asked about in-lieu fees.

Planner Daniel Fama replied that fee is calculated based on "fair share" of costs for mass transit public improvements including a nearby bus stop.

Chair Krey followed up to Commissioner Colvill's question about the BMR units. If they were to be low-income rather than the proposed very-low-income rate would they have more units. Does the Density Bonus equate to fewer units with the very-low-income BMRs?

Planner Daniel Fama said that is correct. There is an inverse relationship between affordability and quantity.

Chair Krey said that, as he recalls, the original project was proposed at 28 units, with five of the units being BMR units.

Planner Daniel Fama replied that was done prior to his assuming this project. The City Council authorized a General Plan Amendment.

Commissioner Buchbinder asked about the nearby cycling infrastructure.

Planner Daniel Fama reported that there would be new bike lanes installed along Bascom Avenue. These will be dedicated bicycle lanes.

Commissioner Buchbinder asked if these lanes would be sharrows bicycle lanes?

Planner Daniel Fama said he would defer to the City's Traffic Engineer.

Traffic Engineer Matthew Jue said that the bike lanes will raise awareness that bicycles are going to be present.

Commissioner Buchbinder said that sharrows may actually be more dangerous.

Director Paul Kermoyan clarified with Traffic Engineer Matthew Jue that the sharrows would be along Mozart and not Bascom.

Traffic Engineer Matthew Jue replied right.

Director Paul Kermoyan said that sharrows are placed on streets with minimal conflicts with traffic based on engineering principles and practices.

Commissioner Buchbinder said that if the use is anticipated to be limited it's not justified to put in separated infrastructure for bikes.

Commissioner Rivlin reminded that the public bike path over Highway 17 is a primary bike connection point. There is some high access from a biker's perspective.

Commissioner Colvill asked what the fair share contribution dollar amount is? What measures will those fee cover?

Planner Daniel Fama:

- Stated that the dollar amount is \$65,000 as follows:
 - \$14,000 for Bascom Avenue bike lanes
 - \$24,000 for four ADA corner ramps.
 - \$27,000 for three other ADA ramps nearer to Highway 85 and Bascom Avenue.

Commissioner Colvill asked for clarification on staff's recommendation about the two very-low-income BMR units.

Planner Daniel Fama replied staff is recommending that they be separate not adjoined as the duets are attached.

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

Richard Yee, Project Manager, Robson Homes, LLC:

- Stated that they were asked to modify their original submitted for the construction of 25 homes with added direction to provide more open space, protect more trees on site; and meet the parking requirements.
- Admitted that he/they are very proud of this collaborative design.
- Reported that there is more open space around the existing oak trees. There are three neighborhood parks within their development.
- Advised out that there are currently no public open space areas in the surrounding neighborhood.
- Added that there are currently no improvements along the Mozart frontage of their project site.
- Said that this updated plan includes homes where rear yards face adjacent rear yards.
- Reported that there are three open space areas totaling 11,000 square feet of space. Two of them are active parks and the third is a passive-use park. These parks will be maintained by the HOA.
- Reminded that they are also paying Park Impact Fees.
- Explained that they are offering seven plan types with 12 different building elevations. This is almost a custom lot development.
- Added that they are also including five accessory dwelling units (ADUs) and providing two very-low-income BMR units.

- Pointed out that an ADU can serve as a form of income for the homeowner that has one.
- Reported that as there is just a 3.7-foot drop in grade from the back of the property to the front at Mozart, the grading and draining available is constrained.
- Said that they have lowered their building heights from between six inches and one foot per unit.
- Assured that they have more than satisfied the parking requirements within this development.
- Stated that they eliminated any second-story windows that were overlooking neighbors' rear yards.
- Said that they are providing the same architectural quality and details that they provided on their previous projects.
- Declared, "We create great neighborhoods!"
- Said that this project will transform a currently underutilized neighborhood and provide the City with sorely needed housing.
- Asked that the Commission recommend this project for approval.

Commissioner Buchbinder thanked Richard Yee for his report. He advised that he had not been at the study session for the original proposal as he was not yet a member of the PC.

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

- Stated that SARC spent a lot of time discussing the site grading.
- Reported that homes on one side are at a higher grade than the existing adjacent neighbors due to a shallow sewer line.

Commissioner Rivlin:

- Advised that he would save his specific questions for later in the deliberation.
- Expressed his appreciation for the design and attention to providing common space and walkability.
- Stated that this will be a charming community.
- Asked what the impetus was for just one duet unit throughout this entire neighborhood.

Mark Robson, Robson Homes, LLC:

- Said they had received direction from Director Paul Kermoyan to save trees on site as possible and to provide more open space.
- Stated if not given that direction, they would have preferred two additional detached homes to the one duet home.

Commissioner Colvill asked what Robson Homes was most excited about with this proposed development.

Richard Yee:

- Said the fact that they have been more creative with their site plan, which equates to a greater variety and differing types of architecture.
- Added that they are also proud of making complete this neighborhood.

Mark Robson:

- Stated their success in integrating the streetscape and their quality of materials.
- Said that the development offers great sightlines into the community.
- Added that the homes have porches facing onto the street.
- Assured that this development will be a good and beautiful place to live.

Commissioner Colvill thanked the applicants for applying the recommendations made by the Planning Commission.

Commissioner Buchbinder asked why the two BMR units selected were the attached versus other detached units.

Mark Robson:

- Gave an overview as follows:
 - First there was a PC Study Session where three project design options were offered and discussed.
 - The first option was for eighteen 6,000 square foot lots.
 - The second option was for 28 homes with eight BMR units
 - The third option was for 25 homes with very-low-income units.
- Advised that the BMR Ordinance doesn't specify requiring attached versus detached units.
- Stated that they selected the duet units for one reason only – to provide more open space and preserve more trees on site.
- Reminded that these BMR units will sell for \$186,000 each and they are located on a \$2 million dollar lot.
- Assured that it was not to cut corners but rather to meet both the affordable housing units and all of the other requirements.

Chair Krey:

- Echoed the comments of his fellow Commissioners in saying that this is a nice development and will be of good quality.
- Asked whether it might be better to designate one of the two required very-low-income BMRs also be satisfied via the payment of an in-lieu fee. Does that pencil out?

Mark Robson replied no

Chair Krey asked about the option they had previously discussed with five BMR units.

Mark Robson explained that those were proposed at the moderate-income level and four of those were to be duets.

Commissioner Ching said he would prefer two very-low-income units with one being a duet, the second being a detached home and a higher in-lieu fee. He asked Mr. Robson if he would prefer to reach the staff recommendation or pay a higher in-lieu fee.

Mark Robson replied, "Pay a higher fee!" He reminded that the emphasis of the direction provided by the Council, Planning Commission and staff was for the provision of more open space, saving trees and such.

City Attorney William Seligmann clarified that the proposal to allow for in-lieu fees for the two very-low-income BMR units is not an option if this developer wants to keep his Density Bonus.

Mark Robson said that he prefers to provide the two very-low-income BMR units and pay a bigger in-lieu fee. Reiterated that staff wants just one of these units to be within the duet building and the other to be Lot 6, which is their largest lot.

City Attorney William Seligmann said that the way the Density Bonus law reads the BMR units must be of similar size and quality of the market rate units within the development. As to paying more money to get out of that requirement, there is nothing in the law that allows for that.

Mark Robson said he has done so with previous projects constructed in Los Gatos and Milpitas.

Director Paul Kermoyan:

- Offered clarification.
- Said that the Density Bonus law's general requirements call for a distribution of the BMR units and not the number of bedrooms there may be.
- Stated that a compromise is allowing one of the duet units be designated for BMR and another unit be selected elsewhere as a detached unit for the second BMR unit required for this PD project.
- Added that all shall be reasonably dispersed and comparable number of rooms and materials. There should be no significant difference between these BMR units and the regular market-rate units within the development. The BMR owners shall have the same access to all site amenities.

Commissioner Buchbinder:

- Said that if the developer were not required to save more trees all of the units would have been constructed as detached and more equivalent and any one of the could be designated as one of two BMR units
- Stated that as a result of the goals for common space and tree retention two of the 25 units were planned as an attached duet building.
- Pointed out that this applicant seems somewhat frustrated and he can see why at this stage.
- Suggested that it is not warranted to provide the largest lot within the project as a BMR lot
- Supported have one attached (duet) unit and the second a stand-alone home. Just not the biggest home and/or one with an ADU.

Commissioner Zisser:

- Said that Mr. Robson is telling the Commission that the City is requiring him to designate his largest lot (Lot 6) for one of two BMR units. Is that true?
- Suggested that they be allowed to pick another less-expensive lot.

Planner Daniel Fama:

- Said that the smallest are Lots 19 and 20, which are the duets.
- Added that staff's recommendation was for one duet and Lot 6, which is the largest lot, in order to create an average value of units within the development.
- Advised that the Planning Commission can allow the duet units to serve as the two BMR units should they choose but that staff's compromise is very generous.

Commissioner Ostrowski:

- Asked Mr. Robson what detached lots he favors designating as the second BMR unit. Not including the largest units such as Lot 6.

Mark Robson:

- Reminded that five of the homes also have an ADU.
- Said that the least expensive homes were the two-unit duet.
- Pointed out that the two duet units still consist of four bedrooms and have 2,000 square feet of living space.
- Reiterated that he absolutely did not want to designate Lot 6 as a BMR.
- Listed Lots 13, 5 and 9 as potentially being suitable. They are on the periphery and don't include an ADU.

Commissioner Colvill said that the staff recommendation can be rejected by the PC, but Council can also reject the PC recommendation.

Greg Bennette, Adjacent neighbor:

- Stated that he is the adjacent neighbor to proposed project, specifically Lots 5 and 6.
- Advised that he is concerned about a significant lot height difference leading to the potential for drainage issues.
- Requested that the project Developer be directed to work with him on his drainage concerns.

Commissioner Colvill asked Greg Bennette if he had any specific recommendations.

Greg Bennette:

- Said lower the grade by about 3 ½ feet.
- Added that the difference is 4 to 4 ½ feet in some places plus the eight-foot fences.
- Suggested a combination of lowering the grade on the project site and some design modifications to solve that.

Commissioner Colvill asked Greg Bennette if the applicant has not been easy to work with.

Greg Bennette replied no. Quite the opposite of that. There have been good discussions with the developer.

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

Commissioner Colvill:

- Said that there is a good track record for this developer.
- Expressed appreciation for them including ADUs on so many units. That is very forward-thinking on their part.
- Stressed the need to see how best to maximize the number of units to offer much needed housing to the community.
- Said he would love to see the attached units to be BMR.
- Recounted that he himself purchased a \$1.5 million dollar home in Campbell that is just about 1,100 square feet.
- Reiterated that he loves the duets being the two BMR units.
- Stated that the developer has done what we've asked them to do.
- Said that it is developers that build our cities. Not just houses but also the streets and other public improvements.

Commissioner Ching:

- Echoed the comments of Commissioner Colvill.
- Agreed that this is a special project and he appreciates the work of the developer and architect and for working well with staff.
- Said that this is a great development.
- Reiterated that the staff recommendation is that just one of the duet units be designated as BMR and that the other BMR unit be a detached stand-alone unit (specifically Unit 6).
- Admitted that he supports the position suggested by Colvill that the duets serve as the two BMR units
- Pointed out that the homeowners getting one of those two duet units will be getting a great deal with the \$180,000 sales price being charged for these two very-low-income BMRs.

Commissioner Rivlin:

- Stated his appreciation for the open space provided as well as the public amenities There will be ample breathing room.
- Said that providing outdoor space is needed.
- Opined that the BMR Ordinance provisions are very clear and doesn't offer any flexibility
- Stated that it is intended not to isolate BMR units to just one part of a development. These two attached duet units do not meet that objective.
- Urged the developer to consider redesigning units 19 and 20 to be detached units rather than duet.
- Recommended that just one duet unit and one detached unit be selected as BMR. Again, the BMR Ordinance is clear. They should not be just two attached units in a corner.
- Urged the PC itself to study alternative choice for the second BMR.
- Stated that the fact that the in-lieu fee is so very low is of great concern to him since it is set at about \$100,000.
- Added that he hopes that the City Council takes that fact into consideration
- Reiterated that the developer is getting a good deal with their in-lieu fee.

Commissioner Colvill questioned how the owner of the market rate buyer of the second, non-ADU duet, costs him/her more than \$1 million dollars while the attached BMR unit is purchased for \$180,000.

Commissioner Rivlin said that the City needs a diversity in its residents. Many people working and/or wanting to live in Campbell cannot afford current market residential real estate prices. That includes firefighters, teacher, grocery clerks and many others, who cannot afford to live in Campbell.

Commissioner Ostrowski:

- Agreed with Commissioner Colvill that having BMR units will allow the City to achieve more diversification.
- Supported having one attached ADU (duet) and one detached home being the second.
- Added that she doesn't think that means that the detached home designated has to be the project's largest home and lot (such as Lot 6).
- Concluded that it could be one that is in the middle.
- Suggested allowing the applicant to decide which unit should be designated as the second BMR unit.

Planner Daniel Fama said that staff looks to the Planning Commission to forward to the City Council a specific recommendation.

Commissioner Colvill asked how to best be more specific.

Director Paul Kermoyan:

- Advised that for staff, its recommendations are not personalized. Rather any staff recommendation provided comes from the review and analysis of specific relative Codes.
- Concluded that there is room for the Planning Commission to also interpret Codes differently from staff recommendations.

Commissioner Buchbinder:

- Stated that Campbell needs homes, BMR units and ADUs.
- Said that there is no reason to delay this project.
- Listed the transit-related amenities being funded by this project including provision of transit passes, enhanced bus stops and more.
- Recounted that he has lived in every form of housing, except single-family residential, during his lifetime.
- Opined that there is no reason to select the most expensive lot within this development just to make a point.
- Supported designating one of the two duets units as BMR. The second designated BMR unit can be chosen by the developer.
- Concluded that he would like to see this project go forward to Council after PC action is taken tonight.

Chair Krey:

- Stated that it appears that the PC is pretty much in agreement at this point.

- Said that there are not many lots of this size left in Campbell.
- Added that the need for housing in Campbell and beyond is desperate.
- Admitted that he would prefer to require a third BMR unit rather than receive the in-lieu fee in place of a third BMR unit.
- Concluded that any other detached unit would be fine to serve as the second BMR.
- Reminded that this developer has done a lot of work on this project.
- Added that these five BMR units that the developer added are much needed housing stock that can also be considered as affordable.
- Pointed out that as a result insufficient housing stock State-wide, the State got involved and kind of forced our hands.
- Said that this is a pretty good project.

Commissioner Zisser:

- Agreed with the comments made by Commissioner Rivlin
- Added that this project is a nice-looking development.
- Said that the inclusion of open space is a nice addition.
- Stated his support for the second ADU to be a single-family detached unit rather than the second attached duet unit.
- Explained that the staff formula was intended to meet an average as required by the BMR Ordinance. However, it is not necessary.
- Reiterated that another detached unit should be the second BMR unit.
- Admitted that he is all for having BMR units in Campbell. However, he finds them to be just “band aids” for the provision of sufficient affordable units.
- Said that we do need more \$2 million dollar houses. That’s not affordable housing.
- Stated that this is a nice development that has left available some open space. It is not a cookie-cutter development. Each home looks different. That is a good thing.
- Said that he supports the second BMR being detached but not being Lot 6.
- Agreed that the project should move forward to Council.

Commissioner Buchbinder asked if there is consensus on the nine-foot high fencing.

Planner Daniel Fama replied yes. It represents a two-foot retaining wall for the differing adjacent grade levels. Above the retaining wall there will be a six-foot high wood fence.

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

Mr. Gaylord, Robson Homes:

- Said that Lot 6 is one of the lots of concern to the adjacent property owner, Mr. Bennette.
- Pointed out that on Mr Bennette’s side the grade is at 272.97 (rounded up to 273).
- Compared that to the development site where the maximum grade is at 276.1, which is just over three feet in difference.
- Stated that with a six-foot fence there would be a 9.1-foot differential.
- Explained that the rear of Lot 6 goes down to existing ground level approximately at the location of the oak tree.
- Added that there is some flexibility in that deck height.
- Advised that the mention of a 12-foot wall is not accurate.

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

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

Chair Krey asked Mr. Robson which lot would be his second BMR unit.

Mark Robson replied the one duet and Lot 16.

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

City Attorney William Seligmann advised that if staff still had to choose which unit would serve as the second BMR that would have to be specifically noted in the motion. Since Mr. Robson has now selected Lot 16, that is no longer necessary.

Motion: Upon motion of Commissioner Ching, seconded by Commissioner Rivlin, the Planning Commission took the following actions:

1. **Adopted Resolution No. 4579** recommending that the City Council adopt a Mitigated Negative Declaration for the East Mozart Avenue planned development subdivision, consisting of a Zoning Map Amendment, Planned Development Permit, Tentative Vesting Subdivision Map and Tree Removal Permit; and
2. **Adopted Resolution No. 4580** recommending that the City Council approve a Zoning Map Amendment to rezone the project site from R-1-6 (Single-Family Residential) to P-D (Planned Development);
3. **Adopted Resolution No. 4581** recommending that the City Council approve a Planned Development Permit to allow construction of 25 single-family homes, five accessory dwelling units (4 detached and one interior), a new private street, and associated site, parking, and landscaping improvements; a Density Bonus to allow an 32.5% increase in the allowable density, a reduction in required parking, and provision of two Very Low Income below-market-rate (BMR) units with the following direction on which units:
 - a. **The BMR units will include one of the two attached duet units and one the second BMR unit shall be Lot 16, a detached single-family residential unit;**
4. **Adopted Resolution No. 4582** recommending that the City Council approve a Vesting Tentative Subdivision Map to create 25 private lots and four common lots, and associated public and private easements; and
5. **Adopted Resolution No. 4583** recommending that the City Council approve a Tree Removal Permit to allow removal of 17 on-site protected trees, on property located at 16179 East Mozart Avenue,

by the following roll call vote:

AYES: Buchbinder, Ching, Colvill, Krey, Ostrowski, Rivlin and Zisser

NOES: None
ABSENT: None
ABSTAIN: None

Chair Krey congratulated the Robson Home team and wished them good luck. He further advised that this item would be considered for final action by the City Council at its meeting on November 17, 2020.

Chair Krey called for a break five-minute break at 9:42 p.m.

Chair Krey re-convened the meeting at 9:47 p.m.

NEW BUSINESS

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

- 4. PLN-2020-106 Study Session to consider a Preliminary Application (PLN-2020-106) for an approximately 8,000 square-foot 2-story office building on property located at 1940 Hamilton Avenue. Project Planner: *Daniel Fama, Senior Planner.***

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

Chair Krey asked if there were questions for staff.

Commissioner Ostrowski asked if parking is allowed on the street along this site's frontage on Hamilton Avenue.

Someone replied no.

Commissioner Buchbinder said that this site is not too far from the Hamilton/Bascom VTA Light Rail station.

Planner Daniel Fama advised that not of the existing bus services are currently of high quality. He confirmed that the Light Rail station is less than a mile away from this project site.

Commissioner Ching asked if this new office building would have showers and changing facilities for those employees who choose to bike to work.

Commissioner Ostrowski asked why the existing home on this property is not considered historic.

Planner Daniel Fama advised that it is due to many changes that have been made to the original structure over the years. However, there is some potential that this structure could be relocated to another location.

Chair Krey asked if the Historic Preservation Board (HPB) had reviewed this structure.

Planner Daniel Fama:

- Replied no, as it is not included on the City's HRI (Historic Resource Inventory) list.
- Added that an historic analysis was prepared by a former HPB member, Mark Sandoval, who is an historic architectural expert.

Commissioner Zisser asked if there is not any sort of recommendation from the HPB.

Daniel Fama advised the Commission that these days, in order for a residential structure to even be considered for addition onto the HRI, that structure must have a pro-active owner who is requesting such consideration. The City will not impose inclusion of a property being added onto the HRI to disinterested property owners.

Commissioner Zisser:

- Clarified that any structure currently designated as being a Structure of Merit or an Historic Landmark would require review by HPB prior to any consideration of demolition.
- Stated that per the consultant's report on this property, a Hamilton was the original owner. This Hamilton came here with the Campbells.
- Pointed out that there are three other "Folk Victorian" houses in Campbell that are similar to this one.

Planner Daniel Fama said he didn't know that.

Commissioner Zisser:

- Said that they are mostly in the Downtown area.
- Reported that he visited this project site and finds it to be such a cute piece of property.
- Admitted that he feels like its one that needs to be saved.
- Added that the City's consultant made it clear in his report that this structure didn't meet the criterial.
- State that he (Commissioner Zisser) is not sure that he agrees with that conclusion.
- Asked if there is any way for the City to preserve this structure.

Planner Daniel Fama:

- Said that the material submitted by the applicant was peer reviewed by the City's consulting architect, Mark Sandoval.
- Added that should they choose; the Planning Commission can use CEQA (California Environmental Quality Act) to refuse to adopt a Categorical Exemption and thus require full CEQA review if factual information supports such an action.

Director Paul Kermoyan:

- Said that it is not uncommon for cities to acquire older homes. An example of that occurring was with the Ainsley House.
- Added that the City of Saratoga has a Queen Anne Victorian house that is on City-owned property.
- Said it is not unfeasible, but it would have to be run by the City Council and the ability to rehabilitate it is there.

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

Trevor Zink, Applicant and Property Owner:

- Said that he doesn't have much to add at this point.
- Stated that there are a couple of issues – parking and consideration if there is any historic value for the structure on this property.
- Advised that he has used this building for the last five years for his law practice and found it to be a great building.
- Said that the building today is stucco and not Victorian. It has been redone.
- Stated that he didn't think that the City would want to designate this as historic.
- Reported that he has had good discussions with the adjacent church. There is a possibility that the building could be preserved, be shifted over by 100 to 150 feet and serve as an office for the church next door.
- Informed the Commission that he has already talked to building-movers to see if it is even possible. He thinks it is.
- Admitted that even his wife wants this building saved.
- Reported that on the issue of parking, the church is more than willing to work with us on the use of their parking.
- Said that the main entry to the church property is off Hamilton and could be a dual use entry point. The Church says that it is feasible for that to be agreed upon.
- Said that his proposed tandem parking area goes out into the church parking lot. As such his tandem spaces could possibly use the church egress out to Hamilton Avenue.

Chair Krey asked if there are Commission questions for Mr. Zink.

Commissioner Ostrowski said it is good that discussions with the church have been good. She asked Trevor Zink if he believes that tandem parking works.

Trevor Zink said that it could work for some sort of tech company, which he thinks may be the ideal tenant for this building. The tandem parking could be tech based to coordinate the ins and outs of those spaces via text messages.

Dave Fenster, Project Architect:

- Agreed that they will have to be extra creative with parking.
- Opined that Campbell's parking requirements are a bit on the high side given the expanded uses of transportation options such as rideshare, Uber, Lyft, and transit options such as Light Rail.
- Responded to the Commissioner question about availability of showers within this new building. The answer is yes. There are plans for showers as well as inside-building bike parking. This will allow them to dedicate a larger percentage of the property to landscaping. That is preferable to a building plopped on asphalt.

Commissioner Ostrowski:

- Asked the intended function of the proposed design. Could Mr. Fenster explain it?
- Questioned with benefits there will be for the people that will be using the space.

Dave Fenster:

- Said the design and materials goes to the sustainability of this building.
- Advised that they would be using cross laminated timber in the design. The building will incorporate the utmost in design and engineering.
- Stated that it would combine the beauty of wood and married to technology. It will use more modern materials and engineering.
- Agreed that they are pushing the boundaries, pushing to achieve environmental application to achieve Net Zero energy use.
- Added that they will incorporate a series of different glass as well as frosted elements.
- Said that they will strive to bring a lot of natural light into this new building.
- Reminded that as designed, the back of this building would be treated and used as the front entrance. However, the frontage of this building as seen off Hamilton Avenue will still be a part of the street. Both the front and back of this building will have equal importance.
- Said that there will be smaller timber elements at the ground floor to create privacy.
- Advised that the stairwells are pushed to the extreme.
- Promised to look more closely at the potential for any privacy impacts on adjacent properties from their use of their proposed roof deck.
- Concluded that the street improvement dedication requirement is reducing the building area on this parcel.

Planner Daniel Fama:

- Advised that Hamilton Avenue is an “Image Street” for the City.
- Added that there are streetscape standards which want to create wide boulevards.
- Said that in this scenario, the owner will give additional land, about seven feet in depth, at the front of their property. It will reduce their current 20,000 square foot lot down to an approximately 19,000 square foot lot. Both the lot and building get smaller proportionally.

Dave Fenster agreed that with the property being dedicated back to the City, the building is being reduced as a result.

Commissioner Rivlin asked about the reduction in building size.

Dave Fenster said it is approximately 400 square feet in reduction.

Commissioner Rivlin asked if that square footage is critical to the design and function of this new building.

Dave Fenster said when developing a new building, one wants to get the most out of what is being built. That need is based upon the high cost of construction. He said he is trying hard to not push into a cantilevered design.

Planner Daniel Fama advised the Commission that they could move to increase the FAR when circumstances warrant such an adjustment.

Commissioner Rivlin:

- Said that would need more study but it seems to make sense in his mind.

- Complimented the architect on his use of CLT (Cross Laminated Timber). He's really on to something there.
- Added that it would be a new and unique use. Possibly one of the first in Campbell.
- Admitted that the view of the building is interesting to him and he agrees that it would likely attract a tech client or business owner.

Commissioner Ching referenced a cluster of trees on the church side of this property. Would those have to be removed?

Dave Fenster said they are attempting to keep those.

Commissioner Zisser said that would be good.

Dave Fenster:

- Stated that you cannot replace a tree. You can start over.
- Assured that they are trying hard to keep as much as possible.
- Reiterated that their discussions with the building movers is still an active discussion.
- Said that a joint access agreement would have to be entered into with the Church.
- Stated that it would be up to him on how to change the front elevation of the building. It could involve more landscaping and the retention of more trees as well.

Commissioner Zisser:

- Said that he likes modern design in its place.
- Questioned why they are putting something as extraordinary as this in that spot. It seems out of place.
- Opined that the stretch of Hamilton Avenue that is between the church property at the corner east down to Leigh and Meridian is a mundane stretch of road.
- Added that the church itself is a 1980's building. On the other side of the project site there are mundane duplexes.
- Stated that this is not a pedestrian-friendly street area.
- Asked, "Why?"

Dave Fenster:

- Said that massive change is good.
- Added that if architecture is not good, why do it?
- Stated that this design is something to be proud of.
- Admitted that he would at least turn his head if not turn around and go back to look at such a building.
- Said that there is a sense of pride that quality architecture can be done.
- Stated that he is proud of the buildings that they build as a form of environmentalism. We love to create happiness.
- Opined that this design offers an iconic look but not flashy. It will be beautiful today as well as 10, 50 years out.
- Suggested that every building is an opportunity.

Commissioner Colvill:

- Stated that this part of Hamilton is not mundane as described by Commissioner Zisser.

- Pointed out that eBay is right there just down the street
- Said that he likes the change of landscape and forward-thinking design.

Chair Krey said that this building design is striking and very nice. He asked Dave Fenster what made him think of this design.

Dave Fenster:

- Said that site factors drove the design.
- Pointed out that the main entry for this new building will be located at the back coming from the parking lot.
- Added that the front façade faces north which would offer no natural daylight into the building.
- Said those are reasons for use of translucent windows, staggered planes, a rear façade entry point into the building and the amenity area on the rooftop.
- Said that the trees on this parcel provide a backdrop to this sculptural building.
- Advised that he wouldn't put it in a different location.
- Stated that good design propagates good design.

Chair Krey reiterated that Trevor Zink has worked out of this location for five years.

Trevor Zink:

- Said that he bought the building in 2013 and moved into it in 2015.
- Reported that at the time he bought this building he went before the Historic Preservation Board. He was told that this site was on the HRI so he thought that the existing façade would have to be retained.
- Explained that his way of working has changed, and he now works from home.
- Added that he was told he needed to get a historical review done and he did so.

Commissioner Buchbinder said the building is beautiful. He asked Trevor Zink if he would consider a larger building but in a similar style to the existing structure.

Commissioner Ostrowski:

- Said that she would be both excited and happy to be an occupant of this building.
- Stated that having a roof deck will help to promote a collaborative environment. This building itself will foster creativity with the right level of space and openness. It will be calming and not too busy
- Added that including windows that open are important and will have a huge impact on the health of its occupants.
- Stated that this proposed architecture will be great to see in this location.
- Stressed the need not to limit potential for this site as well as this architect's creativity.
- Advised that she has no concerns about parking be it tandem, elevators or a parking agreement with the church for shared parking.
- Stated that she likes the stairwell on the outside.
- Congratulated the applicant and architect for a well thought through project.

Commissioner Buchbinder:

- Said that this is a subjective thing.

- Admitted that the design of this building is beautiful but he's not sure that it has to look like a machine or like a Disney building.
- Stated that he hopes they are able to reach a shared parking agreement with the adjacent church.
- Expressed his support for a FAR exception and adjusting the required parking based on the required land dedication to the City for public improvements.

Commissioner Rivlin:

- Said that this proposed design is different but still appropriate for this site.
- Pointed out that there's nothing existing either adjacent or even nearby that we would want to match.
- Stated that he likes the layout and hopes they are able to create a link between this site and the church next door.
- Suggested the applicants work with staff to determine what is permissible.
- Said that the car elevators are interesting.
- Agreed that privacy impacts from the rooftop deck would have to be evaluated but he finds it to be an amazing and useful amenity.
- Recommended perhaps adjusting the placement of the new building in order to preserve more trees.
- Said that he too supports allowing additional FAR due to the loss of dedicated land required to be turned over to the City for public improvements.

Commissioner Zisser:

- Said that he wouldn't oppose this proposed building design. It is very appealing as a modern design.
- Stated that he is not sure how necessary the proposed front plaza is since the main entrance into this building will be located at the back.
- Admitted he's not sure how the proposed tandem parking would work and how good it might work.
- Cautioned that a residential neighborhood street just up Hamilton may be at risk of becoming the victims of overflow parking coming from this site.
- Agreed that he too hopes that a shared parking deal with the church next door can be worked out.
- Said he had not strong idea of opposition to the roof deck.
- Stated that there is a beautiful strand of trees that he hope the applicants will work hard to preserve.
- Strongly encouraged keeping as many of the trees as possible.
- Concluded that this is a very interesting design with lots of good aspects to it.

Commissioner Colvill:

- Said he is supportive for the most part.
- Admitted that he really enjoyed hearing Mr. Fenster talk about the design with such enthusiasm. It shows how much he loves what he does as an architect.
- Pointed out that we are in the Silicon Valley, the Tech Capital of the World.
- Supported the embracing of a new design for Campbell and shares the hope that the applicants will reach a good parking solution.

Chair Krey:

- Admitted that this design is growing on him. He really likes it but in that location he will have to get used to it. It's a bit jarring there.
- Supported the idea of preserving the existing building perhaps by moving it onto the church property if they choose to take for use as an office.
- Stated that he fears that the use of car lifts (elevators) may be too expensive for a project of this small size.
- Added that if they secure the access from the church property, that may not even be necessary to have car elevators.
- Pointed out that there is potential for neighborhood privacy concerns over the use of the roof deck on this new building.
- Stated that if they secure parking on the church site, this project will go much smoothly.

Commissioner Buchbinder reported that he once visited an office building that was on the west side of Bascom where he couldn't enter from the front entrance but rather had to enter from the back which was pedestrian unfriendly.

Commissioner Rivlin supported the need for clear and identifiable pedestrian entrance from Hamilton Avenue into this new building.

Commissioner Buchbinder said he likes a pedestrian-friendly entrance.

Commissioner Ching:

- Said he likes the possibility of relocating the existing house and also having this applicant successfully secure a shared parking agreement with the church.
- Stated that parking can be relaxed, and lack of parking tends to encourage use of alternative transportation opportunities.
- Recounted that in the UK, they go out of their way to have substandard parking.
- Admitted that the use of car lifts is interesting to explore.
- Advised that he shares the views expressed by Commissioner Ostrowski regarding the attractiveness of this proposed modern building.
- Added that it will be in context to the street.
- Disagreed with the statement that Hamilton is mundane but it's brutal with no shade for pedestrians.
- Said that it pains him to consider the potential loss of any of the trees on this property and asks that the architect, Mr. Fenster, work hard to design around these trees wherever possible.

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

Chair Krey asked staff and applicant's team if they have enough feedback from the Commission on their project.

Planner Daniel Fama replied yes.

Chair Krey said he hopes they got what they needed.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan had no additions to his written report.

Commissioner Buchbinder asked Director Paul Kermoyan if the Objective Standards Ordinance that will be discussed at an upcoming Council meeting would interact with the General Plan.

Director Paul Kermoyan:

- Explained that there is an existing General Plan that is still in effect.
- Said that Zoning tends to include subjective language that we really need to remove now. It can't wait as it potentially exposes the City to litigation.
- Pointed out that the Draft General Plan (Envision Campbell) may or may not ever get adopted.
- Said it was imperative to create policies first and then the tools to implement those policies.

Commissioner Buchbinder thanked Director Paul Kermoyan for that response saying that it answers his question.

ADJOURNMENT

The Planning Commission meeting adjourned 11:10 p.m. to the next Regular Planning Commission Meeting on **October 27, 2020**, which will be conducted on Zoom.

SUBMITTED BY:

Corinne Shinn, Recording Secretary

APPROVED BY:

Michael Krey, Chair

ATTEST:

Paul Kermoyan, Secretary