

CITY OF CAMPBELL PLANNING COMMISSION
MINUTES

7:30 P.M.

TUESDAY

JANUARY 26, 2021
REMOTE ON-LINE ZOOM MEETING

The Planning Commission meeting on January 26, 2021, was called to order at 7:33 p.m. by Chair Ostrowski and the following proceedings were had, to wit:

ROLL CALL

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

Commissioners Absent: None

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

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Zisser, seconded by Commissioner Buchbinder, the Planning Commission minutes of the meeting of January 12, 2021, were approved as submitted. (7-0)

COMMUNICATIONS

None

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

PUBLIC HEARINGS

Chair Ostrowski asked the Commission if there were any disclosures for items on tonight's meeting items.

There were none.

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

1. **PLN-2020-85** Public Hearing to consider the application of Darko Dekovic for a Modification (PLN-2020-85) to a previously approved Planned Development Permit (ZC 81-12) to allow construction of an approximately 426 square-foot single-story addition to an existing single-family residence and a new approximately 1,011 square-foot accessory dwelling unit (ADU) on property located at **1409 Harriet Avenue**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Tentative City Council Meeting Date: February 16, 2021. Project Planner: *Naz Pouya Healy, Assistant Planner*.

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

Chair Ostrowski asked if there were questions for staff.

Commissioner Buchbinder clarified with staff that the original garage on site is where the new ADU will be located and a new garage constructed to be accessed from the street.

Planner Naz Pouya Healy replied yes, but the existing garage is accessed along the interior side and around the corner of the house.

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

The applicant chose not to speak when called upon.

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

Commissioner Krey:

- Stated that the revision resulting from SARC's recommendation was nice.
- Added that this is a perfectly straightforward approval.

Commissioner Buchbinder:

- Admitted that he is much in favor of ADUs.
- Stated that this one matches the house well and is a good addition to this neighborhood.
- Asked if requiring a Modification to a Planned Development is allowed per State regulations for ADUs.

Planner Naz Pouya Healy said that there is a specific section in our Code for this process.

City Attorney William Seligmann said that Code allows that any changes to the original approval be reconsidered as a whole under Planned Development zoning. This review is not simply for consideration of the ADU being added but also for the balance of what is occurring on this property.

Commissioner Buchbinder said that the addition of a new garage also makes sense for this site.

Motion: **Upon motion of Commissioner Ching, seconded by Commissioner Buchbinder, the Planning Commission adopted Resolution No. 4595 recommending Council approval of a Modification (PLN-2020-85) to a previously approved Planned Development Permit (ZC 81-12) to allow construction of an approximately 426 square-foot single-story addition to an existing single-family residence and a new approximately 1,011 square-foot accessory dwelling unit (ADU) on property located at 1409 Harriet Avenue, by the following roll call vote:**

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

Chair Ostrowski advised that this item would be considered by the City Council for final action tentatively at its meeting on February 16, 2021.

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

- 2. PLN2019-235** Public Hearing to consider the application of Ana Manzo for a Site and Architectural Review Permit (PLN2019-235) to allow for the construction of a new 3,149 sq. ft. two-story single-family residence on property located at **1362 Hacienda Court**. 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: *Stephen Rose, Senior Planner.*

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

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

- SARC found this design to be very nice.
- Added that it is a contemporary architecture but fitting within the San Tomas Area Plan Neighborhood.
- Advised that the only detail concern discussed by SARC was the area above the new garage door for which SARC recommended consideration of the addition of a trellis feature there.
- Stated that the trellis above the garage door was added and works well.

Chair Ostrowski agreed.

Chair Ostrowski asked if there were any questions for staff.

Commissioner Buchbinder asked whether, due to the trapezoid shape of this parcel, whether an ADU could be added on this property.

Planner Stephen Rose replied that Campbell's ADU standards are pretty permissive. There is nothing to stop them from having an ADU given the parcel's shape.

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

Bess Wiersema, Project Designer:

- Advised that her clients, Drs. Chuang Kenji & Kerilyn Kawazo are also present this evening as well as Project Civil Engineer Velimir Sulic?
- Stated that she likes the way that SARC works and appreciates their efforts.
- Agreed that this property is an unusually shaped lot.
- Added that the architectural style of this home is more contemporary but with traditional forms and massing.
- Said that she was open to adding the trellis above the garage if the Planning Commission thinks it is needed. They are willing but she'd like to hear what the PC has to say about it.
- Informed the PC that she has a concern about one of the conditions of approval for an ADA curb cut requirement.
- Stated that requirement is not in the best interest of her clients at this time as the existing paving is in good shape.
- Suggested that updating to ADA standards could be brought up later when the rest of the area is brought up to current ADA standards. Perhaps via a deferred agreement.
- Said it would be best if that requirement is not entangled with the overall design approval.

Velimir Sulic, Project Civil Engineer:

- Said that the one condition they question comes from the City's Engineering Department. That requirement is to bring the existing curb, gutter and sidewalk up to current ADA standards.
- Reported that this area is a 33-foot-long frontage.

- Added that this ADA update would be a hardship for their clients.
- Pointed out that most of the area are at the old standards so it doesn't make sense at this juncture to put it in here.
- Stated that they are willing to enter into a deferred agreement.
- Asked that the Planning Commission remove that condition imposed by the Public Works Department.

Commissioner Zisser:

- Reported that he had driven by the project site yesterday and talked briefly with the property owner.
- Agreed that the design for this is nice and will fit in nicely with this cul-de-sac. It is good design.

Chair Ostrowski asked if the property owners would also like to speak.

They declined.

Commissioner Colvill asked Bess Wiersema what her role is in this project

Bess Wiersema replied that she is the architectural designer for the project.

Commissioner Colvill:

- Asked Ms. Wiersema what she thinks about the inclusion of the trellis.
- Inquired if she is just putting it in at the request of SARC and staff.
- Questioned whether she likes the trellis being added to her original design. "What do you think?"

Bess Wiersema, Project Designer:

- Added that from a purist's standpoint, the design is more pure as originally presented.
- Stated that the addition of trellis will help navigate the pedestrian experience while walking past.
- Admitted that the trellis is not of modern form, but she worked with Planner Rose and SARC to allow that trellis to be more streamlined and squarer. That was the best option for that addition of a trellis.

Commissioner Colvill said he appreciated Ms. Wiersema's input.

Commissioner Buchbinder:

- Pointed out that the trapezoid shape of this parcel will have a rectangular shaped house on it.
- Inquired whether they had considered designing a trapezoid shaped house.

Bess Wiersema, Project Designer:

- Agreed that the lot is unique. It is a very narrow slot, a long and skinny shoebox in which to design a home for.

- Said that the trapezoid shaped structure would create problems requiring a complex roof and stepped building form. That such an approach would be neither sensitive to budget or to the interior spaces such a form would create.

Commissioner Buchbinder thanked Ms. Wiersema for her thorough answer. He added he learned something.

Chair Ostrowski:

- Reported that within the Campbell Village Neighborhood Plan there is the provision to allow for a deferred agreement for the installation of ADA standard curb and driveway.
- Referred to the Public Works Condition 16 in the draft packet.
- Asked if constructing a new home brings forth the requirement to bring the frontage standards up to Code.
- Pointed out that an ADA accessible driveway apron requires it to be flush and level.
- Questioned whether “once improved, always improved” is the basis of disagreement.
- Inquired of the City Attorney whether this ADA upgrade is a requirement per Code in this circumstance. Is it the City’s position that this is a requirement?
- Added that the PC is not sure if a waiver of that requirement is even possible by the Commission. She would defer to the City Attorney to advise on that point.

City Attorney William Seligmann:

- Advised that he had spoken with the project’s attorney, Mr. Heckman, a long time ago.
- Added that there is procedure within Code.
- Said that one option could be a deferred improvement agreement.
- Informed that it is Public Works’ position that a deferred improvement agreement is cumbersome.
- Added that it is possible that other properties in the immediate area may not redevelop for quite a long time.
- Pointed out that if they (deferred improvement agreements) sit around too long, they can be lost or just forgotten.

Planner Stephen Rose:

- Said that this is a cul-de-sac lot with a 43-foot-long radius frontage.
- Added that it is found to be consistent with the scope of this project to require the ADU improvements.
- Stated that Public Works felt this requirement to be both reasonable and adequate.
- Concluded that these improvements are proportional to the scope of work on site.

Commissioner Colvill asked if it might be time to close the public hearing to deliberate.

Commissioner Ching asked if the concerns for not including the ADA improvements is strictly financial.

Bess Wiersema, Project Designer:

- Said that cost is one concern.
- Added that the frontage is narrow.
- Stated they went from an attached ADA standard to a non-standard.

- Advised that the whole goal of the project was to maintain the existing access and driveway.
- Questioned why the City would create a condition to attach up-to-code ADA improvements to existing non-up-to-code (non-compliant) standard sidewalks.
- Concluded that would be an expensive waste of money and time.

Velimir Sulic, Project Civil Engineer:

- Reminded that per the City Attorney there is something in the Code to allow for deferred improvement agreements.
- Reiterated that at this stage it doesn't make sense to install these improvements now.
- Added that it would be a financial hardship to their clients at a cost of \$25,000.
- Asked the Planning Commission to help secure a waiver of that condition of approval (16) and/or secure a deferred agreement.

City Attorney William Seligmann:

- Cautioned that if the sole issue is financial that is not a solid reason.
- Pointed out that these improvements will only cost more if done later rather than now.

Planner Stephen Rose said that pursuing that option is not a part of the options up for discussion this evening.

City Attorney William Seligmann said that the PC cannot waive this condition at this time. He said that waiver procedures are under Title 11, which is not the purview of the PC.

Bess Wiersema, Project Designer:

- Stated that she is disappointed as she was unaware until now that they could have applied for a waiver.
- Suggested that they now consider seeking the deferred improvement option.
- Said that she would like for the house itself to pass tonight in order to get construction plans submitted to Building for review, approval and issuance of building permits.

Chair Ostrowski asked Director Kermoyan how best to proceed at this point.

Director Paul Kermoyan suggested closing the public hearing to bring this back to the PC for deliberation. He asked the City Attorney if he had advised the applicant's attorney (Heckman) on the options for a waiver or deferred improvement agreement.

City Attorney William Seligmann:

- Advised the Commission at the time he consulted with Attorney Heckman, he did discuss both options.

Commissioner Krey asked what exactly we are talking about when we consider ADA standards and uses. What is the difference?

Bess Wiersema, Project Designer:

- Reported that the current plans under review incorporate and meet the current ADA standards.

- Said they are asking the PC to allow Condition 16 requiring the ADA updated curb/gutter/sidewalk updates be deferred.
- Added that this issue must be separated from the application for approval of the plans themselves. For Building review, there will be different level of plans submitted.
- Stressed that she needs PC approval this evening in order to get construction plans submitted to building sooner rather than later.

Commissioner Krey said he was please to understand that the current plans reflect that condition for ADA improvements.

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

Director Paul Kermoyan:

- Explained that requiring the installation of public improvements is a common approach to improving the built environment including off-site improvements.
- Added that in this case said improvements being driveway and sidewalk.
- Reiterated that is a common condition in a project like this one.
- Advised that the cost of those improvements must be in relation to the house in this case. This is a \$25,000 improvement versus a \$500,000 house seems appropriate.
- Said that the PC needs to be aware that staff vets those issues when creating conditions.
- Said that it is usually deemed reasonable to have these required improvements installed with construction rather than delay it.
- Added that he has full faith and confidence that the City's Engineer did that assessment with this project.
- Stated that staff feels that this is the time. The improvements cover a short distance and it is important to connect these now.
- Advised that the PC is not in a position to delay those improvements.
- Suggested perhaps reworking the condition to add the potential for a deferred improvement agreement be entered into if the Public Works Director so approves.
- Recommended that they not remove Condition 16 from the draft resolution.

City Attorney William Seligmann:

- Reiterated that any decision on entering into a deferred improvement agreement rests with the City Engineer and not the Planning Commission.

Commissioner Ching asked if either a deferred improvement agreement or waiver are entered into for ADA public improvements with this project, what is the City's potential for liability.

City Attorney William Seligmann:

- Admitted that is a sensitive issue.
- Reported that there have been major lawsuits throughout the State of California to get cities moving to update improvements to reach current ADA compliance.
- Added that if the City has a plan in place for ADA updates, that could be satisfactory.

Chair Ostrowski restated that entering into a deferred improvement agreement will not rest with this Planning Commission but rather with the City Engineer.

City Attorney William Seligmann replied correct.

Chair Ostrowski asked if there are any additional Commission comments on the project design.

Commissioner Buchbinder said that SARC did such a good job working with the applicant to add a trellis detail to the garage that is compatible with the home's modern architectural style. Concluded that the solar glass roof is pretty cool.

Commissioner Rivlin:

- Said that the trellis above the garage is a nice addition. He likes the garage door.
- Stated that the house fits within its neighborhood well.
- Concluded that he supports this project with conditions as set by staff.

Commissioner Krey agreed with Commissioner Rivlin and said he likes this project and finds the house to be beautiful.

Commissioner Zisser:

- Said that the ADA public improvements must be worked out with the Public Works Department.
- Asked for some clarification on what exactly is involved with upgrading the curb and sidewalk to meet ADA standards. "What's the difference between what's there and what needs to be there?"

Commissioner Buchbinder said that the plan details provided shows that.

Director Paul Kermoyan:

- Said that the walking surface needs to be level and a driveway apron hinders that with its slope.
- Stated that an ADA driveway moves the walking surface around the apron so it's constantly level.

Commissioner Zisser asked how that's different from curbing to street.

Planner Stephen Rose said that it requires rounding the corners to the cul de sac.

Commissioner Zisser asked if 43 feet (radius) is what will need to be replaced.

Planner Stephen Rose said that a continuous concrete surface is where leveling happens.

Chair Ostrowski:

- Sought clarification that it is not the entire sidewalk along both sides of this corner property to be replaced, just at the driveway and area connecting to existing sidewalk.

Commissioner Zisser:

- Said that he understands that both the Project Designer and Project Engineer are calling for a common-sense approach.
- Added that if not done now, 20 years from now it could still be non-compliant.
- Admitted that he appreciates the purpose for ADA regulations.
- Questioned the stated cost of \$25,000 for this work but is not himself a builder.
- Stated that the overall design of this house is good. He supports the inclusion of the added trellis above the garage.
- Suggested the applicants try to work out the ADA requirements with Public Works.

Commissioner Colvill said this is a beautiful home and he likes the trellis added above the garage. It looks fantastic.

Motion: **Upon motion of Commissioner Colvill, seconded by Commissioner Buchbinder, the Planning Commission adopted Resolution No. 4596 approving a Site and Architectural Review Permit (PLN2019-235) to allow for the construction of a new 3,149 sq. ft. two-story single-family residence on property located at 1362 Hacienda Court, by the following roll call vote:**

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

NOES: **None**

ABSENT: **None**

ABSTAIN: **None**

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

NEW BUSINESS

3. Housing Unit Production. Project Planner: *Stephen Rose, Senior Planner.*

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

Chair Ostrowski:

- Thanked Planner Rose for his report.
- Said that it is nice to see that people are coming forth to build ADUs.
- Expressed her surprise at the possible increase of our RHNA housing unit obligation by 319 percent.

Planner Stephen Rose:

- Said that with the updated Housing Element we will have to indicate what sites there are that would accommodate our allocated number of new units.

Chair Ostrowski asked if the various levels (very low, low or moderate units) would each be assessed at the same percentages as currently.

Planner Stephen Rose replied probably.

Chair Ostrowski asked how Campbell's housing unit production compares with other cities.

Planner Stephen Rose:

- Said he could provide that comparative information at another time.
- Stated that it's very low, perhaps just 99 percent deficient.
- Added that we are not unique in that regard.
- Pointed out that most cities are meeting their above moderate housing construction just like we are doing.
- Advised that staff encourages density bonus projects to help achieve more affordable units.

Director Paul Kermoyan:

- Stated that staff does not need the State to tell us how to create housing. We know how.
- Pointed out that housing developers need to make a profit.
- Added that they will not build more affordable units than the minimum required.
- Said that the next PC meeting will be a joint meeting with affordable housing developers.
- Stated that with the efforts of the Planning Commission and Council, we are today able to produce between six and seven new ADU building submittals per month.
- Cautioned that ADUs are not considered affordable units.
- Advised that with the next Housing Element, we will get credit for housing that we've met.

Commissioner Rivlin said that ADUs cost more.

Planner Stephen Rose said to have an ADU counted as affordable, the deed restriction needs to be in place for a prescribed period of time.

Director Paul Kermoyan said that legislation allows us to capture a portion of ADU units against our housing obligation.

Commissioner Buchbinder:

- Thanked Planner Rose for his housing unit update.
- Said it seems the range of processing time varies from just one day to 200 days.
- Asked if the City is compliant with the 60-day standard set by the State for ADUs.

Planner Stephen Rose:

- Said that the submittal process starts with initial review of submitted material for completeness. Once a submittal is found to be complete, an invoice is forwarded to the applicant. Once the fee is paid by the applicant, the file is assigned for review.
- Cautioned that oftentimes there can be a long delay between submittal of material, and payment of fees required to assign and begin work.

Commissioner Buchbinder asked if the unconstructed units called for via our RHNA obligation are added onto the next RHNA assignment.

Director Paul Kermoyan said he did not believe so.

Chair Ostrowski asked if there is a penalty for not meeting our RHNA numbers.

Planner Stephen Rose said that if a submitted project meets established objective standards, State regulations would force (require) that project to move forward to approval.

Commissioner Buchbinder asked if we are receiving three to four ADU applications a week.

Director Paul Kermoyan said it may be two to three.

Planner Stephen Rose said that the reduction in minimum lot size to allow for ADUs has opened up lots of opportunity for ADUs. He added that other reductions including setbacks has also created more opportunities.

Chair Ostrowski asked what the trends are for ADUs. Are they mostly in the San Tomas Area Neighborhood Plan area? Are most attached ADUs? Is it varied between attached and detached?

Planner Stephen Rose replied that the majority of the ADUs coming in now are on larger single-family residential lots.

Director Paul Kermoyan said that they run the full gamut between detached, JADU (Junior Accessory Dwelling Units), and garage conversions.

Chair Ostrowski said that's great.

Commissioner Zisser asked when they are counted? Is it when they are completely built?

Planner Stephen Rose:

- Said it is based on permit issuance.
- Pointed out that a unit issued in one year can be completed in the next.

Commissioner Zisser asked what's in the pipeline from 2020.

Director Paul Kermoyan:

- Reported that staff had anticipated the Cresleigh project to start soon but that has been delayed.
- Admitted that we are not seeing a lot of big projects at the present time.
- Added that the largest would be Mozart with 25 units. At SARC tonight, they looked at a 9-unit project.

Commissioner Krey said he's under the impression that ADUs don't count against our RHNA obligation.

Director Paul Kermoyan said that the above-moderate units do count.

Commissioner Buchbinder admitted that he had been hoping that the housing unit updates would be more granular to indicate the types of units.

Planner Stephen Rose:

- Directed Commissioner Buchbinder to the City's webpage (www.cityofcampbell.com) where there is a Housing Division Page.

- Said that there are all sorts of materials there.
- Added that Building does a monthly report that goes to the State's Department of Finance on housing units.

Chair Ostrowski asked if a monthly update to the Planning Commission could be achieved.

Commissioner Buchbinder said that seeing Building's monthly report would be great.

Planner Stephen Rose said he would look into that.

Commissioner Buchbinder asked if a monthly update, perhaps at the first meeting of each month might be achievable.

Director Paul Kermoyan:

- Said that is actually outside of the purview of the Planning Commission.
- Suggested that Commissioner Buchbinder reach out to the Building Division to inquire about their stats.

Commissioner Buchbinder said he was looking forward to the PC Study Session next meeting. It will be nice to see what we can do to do better.

Chair Ostrowski thanked Planner Rose for the nice update report on housing. She said it will be interesting to see how we can accelerate the creation of other income levels of housing stock (very low, low, moderate to above moderate).

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan:

- Said that the Planning Commission session on February 9th has at least seven developers lined up as participants.
- Suggested that perhaps each be allocated a specified period of time to make a brief presentation on how to best expand on affordable units. Perhaps 5 minutes per developer in order to leave sufficient time for group discussion.

Commissioner Buchbinder:

- Reported that yesterday (January 25, 2021), he spoke at the Youth Commission Meeting on the "History of Housing Segregation."
- Advised that there was interest by some of the Youth Commissioners to be involved in the Housing Element Update.
- Asked if it would be possible to invite the members to participate in Housing Element Update meetings.

ADJOURNMENT

The Planning Commission meeting adjourned at 9:10 p.m. to the next Regular Planning Commission Meeting on **February 9, 2021**, which will be conducted on Zoom.

SUBMITTED BY:

Corinne Shinn, Recording Secretary

APPROVED BY:

Maggie Ostrowski, Chair

ATTEST:

Paul Kermoyan, Secretary