

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M.

TUESDAY

MARCH 9, 2021
REMOTE ON-LINE ZOOM MEETING

The Planning Commission meeting on March 9, 2021, was called to order at 7:30 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: Daniel Fama
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 Krey, seconded by Commissioner Buchbinder, the Planning Commission minutes of the meeting of February 9, 2021, were approved. (6-0-0-1; Vice Chair Ching abstained)

COMMUNICATIONS

None

AGENDA MODIFICATIONS OR POSTPONEMENTS

Director Paul Kermoyan advised that Senior Planner Stephen Rose would present Item 2.

ORAL REQUESTS

None

COMMISSION DISCLOSURES

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

Commissioners Zisser said he met with Applicant Dean Rubinson for about an hour to discuss the Pruneyard Project (Item 4).

Vice Chair Ching said he did as well.

Commissioner Buchbinder said he did as well. He also advised that his home is 520 feet from the Pruneyard property. It has been determined that he does not have to recuse from participation on that hearing item (Item 4) this evening as he has no conflict when over a minimum 500-foot distance.

Commissioner Rivlin said he also spoke with Mr. Rubinson. Added that his company has a professional relationship with the Pruneyard management team but there is no financial conflict that prevents him from participating on that hearing item.

Chair Ostrowski said she also had a 30-minute conversation with Mr. Rubinson.

PUBLIC HEARINGS

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

1. **PLN-2020-160** Public Hearing to consider the application of Amandeep Dulay for a Site and Architectural Review Permit (PLN-2020-160) to allow construction of a new approximately 3,245 square-foot one-story single-family residence with an approximately 495 square-foot junior accessory dwelling unit (JADU) on property located at **1495 Theresa Avenue**. Staff is recommending that this item be deemed Categorically 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 Ostrowski asked if there were questions for staff.

Commissioner Krey asked whether the JADU (junior accessory dwelling unit) is counted in the FAR.

Planner Naz Pouya Healy replied that the JADU footage is counted in the FAR.

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

Amandeep Dulay, Project Designer:

- Introduced herself and said she is available if there are any questions.

There were no questions.

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

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

- SARC found this home design to be very nice.
- Added that the home design is consistent with the San Tomas Area Neighborhood Plan (STANP).
- Concluded that SARC was very supportive of this request with the recommendation that the site utilize permeable pavers.

Commissioner Buchbinder said that he appreciates the variety of building materials on this home and is happy to see the inclusion of a JADU (junior accessory dwelling unit).

Commissioner Krey said this is a good project with a nice design.

Motion: **Upon motion of Commissioner Krey, seconded by Commissioner Buchbinder, the Planning Commission adopted Resolution No. 4597 Site and Architectural Review Permit (PLN-2020-160) to allow construction of a new approximately 3,245 square-foot one-story single-family residence with an approximately 495 square-foot junior accessory dwelling unit (JADU) on property located at 1495 Theresa 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 action is final unless appealed in writing to the City Clerk within 10 calendar days.

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

2. **PLN-2020-152** Public Hearing to consider the Appeal by Marko Gera of an Administrative Tree Removal Permit Decision (PLN-2020-152) denying the removal of an Oak tree on property located at **337 Redding Road**. Staff is recommending that this item be deemed Categorically Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Paula Ruffinelli, Planning Technician*.

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

Chair Ostrowski asked if there were questions for staff.

Commissioner Buchbinder asked if the applicant was not aware of the need for an independent arborist report at his cost.

Planner Stephen Rose said that the reason the Tree Removal Permit application does not ask for an arborist report is that it is necessary to have an independent arborist evaluate and recommend. He added that the application form is clear on that matter.

Commissioner Rivlin:

- Referenced a photo included in the application materials that shows a stack of logs near this Oak tree.
- Added that per a 2016 Goggle map there was second large tree near this tree.
- Asked if a permit was issued for removal of that other tree.

Commissioner Zisser:

- Referenced staff's first presentation slide.
- Asked about the original arborist report provided initially.
- Inquired why the City had not hired an arborist.

Planner Stephen Rose:

- Pointed out that the provided arborist report was prepared to document all of the trees on the parcel prior to subdividing the original parcel into two parcels.
- Added that the Oak in question tonight is indicated as Tree 4 on that arborist report.

Commissioner Zisser:

- Said that the City received an arborist report with the original submittal.
- Asked if that report can be used or does the City need to secure a new one.

Planner Stephen Rose:

- Said that the arborist report was submitted in October 2020 with the original submittal.
- Added that with this appeal of the administrative denial of the Tree Removal Permit, along with an appeal letter, additional information was provided in letter format with additional analysis from the applicant's arborist.
- Stated that the arborist changed the original condition from "fair" down to "poor".

Director Paul Kermoyan said the applicant/appellant believes the tree to be in poor condition and should be removed.

Commissioner Zisser:

- Admitted that he is concerned how it is decided when the City should order an independent arborist report.
- Asked when that decision is made by staff.

Director Paul Kermoyan:

- Reiterated that an arborist report is not requested at submittal.
- Said that if the reason for removal request is due to structural damage to a building, specifically the house, an inspector goes onto the property to look at the tree and associated damage to confirm.
- Added that if qualifying structural damage is found, staff recommends approval of the tree removal permit for that reason.
- Provided a second scenario. If the owner claims the tree is at risk of falling/failure, and staff does not find that claim to be evident, that is when we would require the preparation of an independent arborist report paid for by the applicant with the arborist retained by the City. This is to ensure that the analysis is independent.
- Stated that is the standard process for the City of Campbell, but in this case that did not happen because the applicant's original request was limited to economic enjoyment and conflict with the proposed structure.
- Reminded that it is suggested on the applicant submittal packet that the applicant not provide an arborist report.
- Advised that the City can still ask for an independent report now with a \$1,000 deposit required but the appellant chose the appeal process with a cost of \$200.

Commissioner Buchbinder:

- Opined that it is inconvenient for someone to have to build around a tree.
- Admitted that there is no supportable reason to remove this tree.
- Stated that we do not know if this tree can be saved. There would need to be an independent arborist report making that recommendation to keep or remove the tree.
- Said that the applicant has not given/established a supportable reason for the removal of this tree.

Commissioner Krey asked staff if the Planning Commission needs to approve the hiring of an independent arborist to prepare a tree report and make a recommendation.

Planner Stephen Rose:

- Said that if the Planning Commission denies the appeal and upholds the denial of the tree removal permit, the applicant/appellant can apply again with a new independent arborist report to substantiate the condition of this tree and the merits of keeping it versus allowing its removal.
- Reiterated that new information was provided as part of the appeal that needs to be substantiated by an independent arborist report.

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

Marko Gera, Applicant/Appellant:

- Stated that his first application to remove this tree was for economic hardship.
- Added that the tree was designated “fair”. Therefore, they went with the fact that this tree visually is not worthy of being saved. If it were so worthy, he would build around it.
- Reported that after the denial of his original request, he called his arborist back.
- Said that it seems this tree does not look like it is going to live much longer. Therefore, they changed their grounds for approval.
- Advised that he is willing to have a third-party arborist hired at his cost if so necessary.

Chair Ostrowski asked about the pile of logs seen on site near this tree proposed for removal.

Marko Gera, Applicant/Appellant:

- Informed that those logs are from a different tree that had been cut down. They may even be from a different property.
- Advised that a walnut tree was also cut down from this site.

Commissioner Rivlin asked when the walnut tree was removed.

Marko Gera, Applicant/Appellant:

- Stated he does not specifically remember. It has been a few years since he acquired this property.
- Advised that he had the entire lot cleared of garbage trees a while ago.

Commissioner Zisser:

- Stated that the City recommendation is to modify the home design to build around this tree.
- Asked Mr. Gera if he is opposed to that alternate design or is it acceptable to adjust the design to build the home around this tree.

Marko Gera, Applicant/Appellant:

- Said that would be Plan B.
- Added that if the tree is deemed viable, he would prefer that alternate design.
- Opined that the tree does not look healthy and likely will not last long.

Commissioner Colvill asked Mr. Gera if he owns both the front and flag lots.

Marko Gera, Applicant/Appellant, replied yes, he owns both.

Commissioner Colvill asked Mr. Gera if he was the one to split the original property into two parcels.

Marko Gera, Applicant/Appellant, replied yes.

Commissioner Colvill:

- Stated that this tree seems to be deeper into the lot and less close to the property line per overhead views.

- Asked the applicant how deep into the lot that tree is situated.

Marko Gera, Applicant/Appellant, said approximately 15 feet is his estimate.

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

Commissioner Buchbinder:

- Said that he feels that something went wrong here. We have a bad outcome here.
- Suggested that this property owner hired his own arborist in good faith.
- Added that it sounds to him like the applicant really wants to work with staff.
- Recommended denying the appeal and securing a third (independent) arborist report.
- Admitted to being disappointed that this happened.

Commissioner Krey:

- Said he feels bad for this applicant.
- Agreed with Commission Buchbinder's suggestion to deny the appeal and secure a third-party arborist report.
- Advised that he went by to look at the tree as seen from the street.

Commissioner Rivlin:

- Referenced Attachment 2 of the staff report.
- Said that depicts that other trees have been removed from this property.
- Stated his agreement with the other Commissioners to deny the appeal and seek out a third-party arborist assessment and recommendation.

Chair Ostrowski said she agrees as well.

Commissioner Colvill:

- Stated his agreement to deny the appeal and secure the third-party arborist report.
- Pointed out that the applicant has already indicated his willingness to pay for a third-party arborist hired by the City at his expense to perform the independent review.
- Admitted he wanted to comment on his concern to staff about the accurate position of the tree in question.
- Stated that when looking at the packet exhibit and depiction of this tree's placement, there is/was another 10-inch black walnut tree that was smack on the lot line.
- Added that per Google Earth, there is just one tree and not two seen.

Planner Stephen Rose:

- Said that the tree has a slight lean to it that may be obscuring the other tree.
- Stated that the site plan was prepared by the architect/draftsperson.
- Stated that the tree is 20 feet from the property line while the applicant has indicated it is 15-feet from the property line.

Commissioner Colvill reiterated that per page 2, there is only one tree there.

Director Paul Kermoyan:

- Stated that the Project Planner plotted the yellow line and may have it incorrectly depicted.
- Said that the distance, as designated on page 3 of the report, indicates it is not 15 feet from property line but rather 22 to 23 feet from property line.
- Said that if the Commission's decision this evening is to deny the appeal and uphold the administrative denial for the tree removal, staff will make sure the information provided is vetted out more properly.
- Admitted he is concerned about trees in the back corner that are not there now. He wants to investigate that further.

Commissioner Colvill said he looks forward to receiving further information to clarify.

Vice Chair Ching:

- Stated his support for denial of the appeal.
- Admitted he has a differing viewpoint from Commissioner Buchbinder regarding staff's treatment of the application.
- Pointed out that it is very clear in the application submittal information that if an arborist becomes necessary, it would be a third-party arborist hired by the City.
- Concluded that there is no doubt in terms of process.

Motion: **Upon motion of Commissioner Colvill, seconded by Commissioner Krey, the Planning Commission adopted Resolution No. 4598 Denying the Appeal by Marko Gera of an Administrative Tree Removal Permit Decision (PLN-2020-152) denying the removal of an Oak tree on property located at 337 Redding Road, 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.

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

3. **PLN2018-225** Public Hearing to consider the application of Akbar Abdollahi for a Planned Development Permit (PLN-2018-225) to allow the construction of nine (9) single family residences, a new private street, and associated site and landscaping improvements; a Tentative Subdivision Map to subdivide the site into nine (9) single-family lots with one (1) common lot; a Parking Modification Permit to allow a reduction in the number of required parking spaces; a Tree Removal Permit to allow the removal of one (1) fruitless mulberry tree; and a Variance to allow the retention of existing overhead utility lines and/or the placement of new poles for property located at **202 W. Rincon**

Avenue. Staff is recommending that this item be deemed Categorically Exempt under CEQA. Tentative City Council Meeting Date: April 6, 2021. *Stephen Rose, Senior Planner.*

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

Chair Ostrowski asked if there were questions for staff.

Commissioner Zisser:

- Questioned why the original request for five units was denied by Council.
- Asked about the front-facing requirement for the first home directly into Rincon Avenue. Compared that a recent discussion about a property on Union Avenue where front-facing requirement was discussed and discounted. Does that apply here too? Was that taken into consideration?
- Said there are benefits and deficits to both a shared trash enclosure and individual waste containers for each home.
- Admitted that the proposed FAR (Floor Area Ratio) seems high at 89 percent.

Planner Stephen Rose:

- Started with Commissioner Zisser's first question as to why the applicant's request for five units was denied,
- Explained that the applicant went before the Council with a Pre-Application requesting authorization to submit a General Plan Amendment amend the General Plan Land Use. The current Land Use density is medium density that requires a minimum of nine units on this property. Based on the lot size, the applicant wanted to change the medium-density residential land use to low-density residential and build five larger units instead nine smaller.
- Reported that Council took action to deny the applicant to apply for a GPA to change the Land Use Density for that property, in part recognizing there is a housing crisis.
- Explained that as to the requirement for the front home to have its building frontage/entry from the main road, that is part of the design guideline requirements to have homes fronting onto a public street be oriented to that public street. Thus, the front door for Unit 1 will face Rincon Avenue.
- Clarified on the trash point. That issue was discussed by SARC when a member of the public raised the number of containers that would be put onto the public street each week to serve nine homes. That could result in as many as 18 containers with both trash and recycling. Additionally, placing a dumpster/trash enclosure on site would reduce guest parking by two more spaces, bringing the shortage to three rather than the one supported by a Parking Modification Permit that is part of this project.
- Agreed that the question remains, what is the greater impact in terms of garbage service. Is it placing multiple trash containers on the public street to serve this development's trash collection? Or is it the loss of two on-site guest parking spaces if a dumpster/enclosure is placed on site.
- Reported that while the applicant provided an alternate design, he expresses concerns about the potential for illegal dumping on site, drawing pests, noise upon pickup and other such concerns if the enclosure is on site.

- Advised that the project plans recommended for approval do not include a trash enclosure on site.

Chair Ostrowski asked for the SARC report.

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

- Stated that SARC discussed five points.
- Said one was the suggestion by SARC to add a couple of more trees on site to help provide privacy screening between this development and its adjacent neighbors.
- Advised that SARC proposed the use of frosted glass for a window on Unit 5, located at the back of the development, that will provide light for the stairwell while preserving neighbor privacy.
- Reported that SARC and the applicant discussed the potential for attached versus detached units. The applicant declined to go with an attached design.
- Advised that the applicant was asked by SARC to provide a safe and secure place for bicycle storage. The applicant chose to put bike hooks in each garage to achieve that objective.
- Reiterated that a neighbor had raised concerns about having multiple trash containers on Rincon each week for collection and supporting on-site trash enclosure.
- Said that this applicant was very supportive. His project has undergone reviews many times before.
- Concluded that all issues have been addressed successfully.

Commissioner Zisser:

- Calculated that nine units with two containers per unit would result in 18 bins on the street. That space taken could represent two to three street parking spaces for an entire day versus having the site served by a dumpster enclosure at the back of the site.
- Said he does not exactly know which option is the lesser of two evils, the on-site enclosure, or the containers on the public street each week.

Commissioner Buchbinder:

- Said that it seems that developments such as this one always seem to require being placed on a P-D (Planned Development) zoned property.
- Stated he understands that a private road cannot be built on public right-of-way.
- Asked if that is the same for other cities or is that unique to Campbell.

Planner Stephen Rose:

- Agreed that small lot single family developments need PD Zoning.
- Stated that the reasons vary for P-D zoning. P-D is also required for mixed-use developments.
- Admitted that requirement may be looked into as part of the Objective Standards creation.

Commissioner Buchbinder asked about the density for this parcel and use of a density bonus or inclusionary housing.

Planner Stephen Rose said that inclusionary housing comes into play only for a project with ten units or more. This project has nine units.

Commissioner Krey:

- Brought up setbacks. As to side setbacks, he saw some at nine feet.
- Added he sees five-foot setbacks between buildings.
- Asked if that is okay.

Planner Stephen Rose:

- Referenced page 132 of the packet.
- Agreed that some of the setbacks are nine-foot. They are 11-foot for the first eight units. Ten-foot for the ninth unit.
- Stated that the cumulative distribution between buildings is from nine to ten feet on average.
- Reminded that with PD Zoning there is no prescribed setbacks. Instead, comparative zoning standards are used.
- Stated that there is a summary on page two of the staff report.

Commissioner Krey pointed out that a couple of buildings are just five feet apart. He sought clarification that is okay.

Planner Stephen Rose:

- Replied yes, five feet occurs between buildings on site.
- Reminded that even attached units would be allowed.
- Stated with the separation of only five feet, eaves and windows would need to be fire rated.
- Assured that detached units are allowed to be close together.

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

Akbar Abdollahi, Property Owner and Applicant:

- Said he is available for any questions.

Commissioner Buchbinder asked Mr. Abdollahi for his feedback on the issue of individual trash containers per unit versus a shared dumpster enclosure.

Akbar Abdollahi:

- Said that the containers would only be left on the street for half a day.
- Added that two on-site guest parking spaces would be lost if an on-site dumpster enclosure is required on site.
- Expressed concerns for the potential to have animals, smells, noise impacts and trash from elsewhere being dumped into this private dumpster enclosure.
- Advised that he would like to go ahead and construct the sample ADU plans himself.
- Stated that draft plans were prepared for Units 5 and 6 to include ADUs.
- Pointed out that if he completes the ADUs at the same time as the homes, his buyers will not have to find a contractor to do that work. It would be easier for him to do it at the same time as the homes themselves.

Chair Ostrowski said that information is good to know. It is nice that Mr. Abdollahi is willing to complete the ADUs now.

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

Commissioner Buchbinder:

- Stated he is comfortable with either trash option. He can see the argument for each option.
- Reminded that the applicant prefers the individual bins being collected from the public street.
- Said that he does not see a huge difference between taking one's trash to a dumpster enclosure to taking containers out to the street for collection.
- Pointed out that FAR standards are all over the map.
- Stated his appreciation for this developer's efforts. He appreciates their patience with the process.

Chair Ostrowski:

- Pointed out that there has been a lot of discussion and input.
- Reminded that FAR is flexible in terms of PD Zoning.
- Stated that the applicant did a great job working with tight constraints to accommodate parking.
- Reiterated that the applicant's preference is to construct detached homes versus attached homes.
- Said this project looks nice and the owners of these homes will appreciate the detached configuration of this development.
- Stated her support for this project and admitted that use of individual trash containers seems better to her.
- Agreed that the concerns raised for negative impacts of having a dumpster enclosure are compelling. They include illegal dumping, vermin, noise, smells, etc.
- Thanked the applicant for coming up with such a nice project for Campbell.

Commissioner Rivlin asked if the garbage truck cannot drive down the driveway to collect individual containers on the private street.

Planner Stephen Rose:

- Said that the private street is large enough for a fire truck so that also means it is large enough for a garbage truck to collect on site.
- Admitted that it depends on if the City's garbage service provider will serve this site by coming on site to collect individual containers.

Commissioner Rivlin:

- Said that in his development in Campbell, the trash trucks back up at 7 a.m. every week in two directions to complete trash collection on site.
- Assured that the garbage company being able to collect the trash from individual containers on this small, planned development is feasible.
- Stated his support for individual trash containers per unit.

- Pointed out that these are individual detached homes being built here.
- Stated his appreciation for the applicant's compliance with the recommendations from SARC.
- Concluded that he is supportive of the requested Parking Modification Permit. It is supportable.

Commissioner Krey:

- Said he is with the other Commissioners.
- Pointed out that the parking provided is just one space short of required.
- Said the trash issue is a tough one.
- Stated his support of this project.

Vice Chair Ching:

- Said the lesser of two evils is met with Commissioner Rivlin's good idea to have the individual containers emptied from the private drive.
- Suggested the City and/or Developer reach out to the garbage collection company for on-site pickup of individual containers per unit on this development.
- Stated that option is better than a single dumpster enclosure to serve all nine units.

Commissioner Zisser said this is a nicely designed project that accomplishes nine new residential units. He asked if there will be a walkway along the back.

Planner Stephen Rose:

- Said that in looking at the site plan, there are gates between units.
- Advised that the same paving surface will go between buildings to the driveway.
- Said that there are enough sequential addresses remaining to assign to these nine new units on the private street.

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

- **Adopted Resolution No. 4599 recommending Council approve a Planned Development Permit (PLN-2018-225) to allow the construction of nine (9) single family residences, a new private street, and associated site and landscaping improvements;**
- **Adopted Resolution No. 4600 recommending Council approve a Tentative Subdivision Map to subdivide the site into nine (9) single-family lots with one (1) common lot;**
- **Adopted Resolution No. 4601 recommending Council approve a Parking Modification Permit to allow a reduction in the number of required parking spaces;**
- **Adopted Resolution No. 4602 recommending Council approve a Tree Removal Permit to allow the removal of one (1) fruitless mulberry tree; and**
- **Adopted Resolution No. 4603 recommending Council approve a Variance to allow the retention of existing overhead utility lines and/or the placement of new poles for property located at 202 W. Rincon 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 is tentatively scheduled for review and approval by the City Council at its meeting of April 6, 2021.

Akbar Abdollahi, Applicant, thanked the Planning Commission and staff for their work on this development project.

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

4. **PLN-2020-54** Public Hearing to consider the application (PLN-2020-54) of Pruneyard Office Investors LLC for an Amendment to the Pruneyard Master Use Permit for consideration of (1) a revised phasing plan to allow the approved office building and a partial expansion of the existing parking structure to be constructed as Phase 3 ahead of the approved retail buildings (as new Phase 4), further expansion of the existing parking structure in Phase 4, and a four-year extension of the permit deadline for new Phase 4 from December 2022 to December 2026, (2) minor architectural changes, a nominal increase in building area, and elimination of the underground parking to the approved office building, and associated site/parking layout changes, (3) a revised design for the parking structure expansion to incorporate enhanced architectural treatment and associated site layout/circulation changes around the traffic circle to increase pedestrian connectivity, (4) a change to the land use program to allow medical service clinics as a permitted use within the office parcel, and (5) revise the parking management plan to allow exclusive use of approximately 60 parking stalls for the new office building tenant(s) during typical office hours, (6) require implementation of the valet parking program only at the completion of Phase 3 (which is not required at the current phase) when certain occupancy thresholds are met, and (7) various non-material text clarifications; and a Tentative Parcel Map to allow creation of a fourth parcel created from the existing office parcel, for property located at **1875, 1887, 1901, 1919, 1995, & 1999 S. Bascom Avenue** and **777 E. Campbell Avenue** in the C-2-O (General Commercial / Overlay) Combining Zoning District. Staff is recommending that the Planning Commission consider an Addendum to the previously adopted Mitigated Negative Declaration pursuant to Sections 15162 and 15164 of the CEQA Guidelines. Tentative City Council Meeting Date: April 20, 2021. Project Planner: *Daniel Fama, Senior Planner*

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

Chair Ostrowski asked if there were questions for staff.

Vice Chair Ching:

- Asked how staff came to its recommendation against allowing a fourth parcel on the Pruneyard property.
- Reported that he had spoken with Dean Rubinson about their need for that fourth parcel.
- Stated that it is due to the need to secure financing for the construction of the new office building proposed for that fourth parcel.
- Asked whether a temporary parcel could be approved during construction and rescinded once it was completed.

Planner Daniel Fama:

- Explained that there is no mechanism for requiring the merger of two already separated parcels.
- Deferred to the City Attorney for verification or further information.

City Attorney William Seligmann:

- Said that such a provision could be possible with a development agreement. However, it would be very unusual.

Commissioner Buchbinder asked if it is possible to require ownership of two parcels to remain together.

City Attorney William Seligmann:

- Replied no.
- Pointed out that the whole reason for parcelization is to allow for separate ownership,.

Commissioner Rivlin asked if the Pruneyard's Center Association governs this site.

Planner Daniel Fama:

- Replied yes. He added that it is comparable to a residential community's CC&Rs.
- Explained that the Pruneyard's Center Association acts as its HOA (owners association).
- Said that a letter was presented on behalf of the Association.

Commissioner Rivlin:

- Asked how staff's recommendation came to be to not support the creation of a fourth parcel as requested by The Pruneyard.
- Said that the existing Association would continue to govern the center.

Planner Daniel Fama:

- Said that more owners equates to more ownership representatives.
- Stated that could result in too many owner votes to be efficient.
- Explained that the parcel configuration approved in 2016 is seen as the best-case scenario for The Pruneyard property.

- Advised that there is no maximum number of parcels that can be applied for in the future.

Commissioner Rivlin asked if there could possibly be 100 parcels one day.

Planner Daniel Fama replied yes.

Chair Ostrowski:

- Asked about the proposed underground parking for the new office building.
- How do the number of parking stalls compare? Will it be the same or are they losing or gaining spaces? Will there still be 2,900 parking spaces/stalls?

Planner Daniel Fama:

- Admitted that the future looks more complicated. We do not yet know what parking may be required in Phase 4.
- Added that the applicant may not end up building all their proposed buildings.
- Assured that parking would be looked at further as components of the site are brought back to the PC.

Vice Chair Ching asked how many?

Planner Daniel Fama said he does not have that info here tonight.

Commissioner Zisser:

- Referencing the existing and proposed site layouts, it looks like the revised Phase 3 for the parking garage is to add an extension to the existing parking garage.
- Admitted that he had thought they would be adding levels above the existing garage. Could staff clarify?

Planner Daniel Fama said that the garage expansion will include the outward expansion of the existing garage structure.

Commissioner Zisser asked how many levels this extension would have.

Planner Daniel Fama said it would have three levels. There are currently three levels in the existing garage structure.

Commissioner Zisser:

- Said that with his discussion with Dean Rubinson, he learned that the fourth parcel has everything to do with securing a construction loan for the new office building. It is a financial issue.
- Added that he understands that it would be difficult for The Pruneyard to merge the construction of a fourth building on a parcel with three existing much older office buildings already in place.
- Asked if it is possible to secure independent confirmation on that kind of issue.

Planner Daniel Fama:

- Cautioned that financial considerations are not considered by the City when evaluating a project for construction.
- Added that the City relies on its standards and codes and not on the ability for a project to get financed.

Commissioner Buchbinder:

- Said he is hearing the fourth parcel concerns of staff, but he does not understand the reason(s) behind those concerns.
- Stated that it seems it would be difficult for the Pruneyard to build the new office building unless that fourth parcel is allowed.

Planner Daniel Fama:

- Agreed that's the applicant's position.
- Advised that previous attempts to subdivide further did not succeed.
- Reiterated that the last attempt, was the one that worked. That was in 2016 and that is the current configuration.

Commissioner Buchbinder asked if the office building could possibly be built without further subdividing the lot.

Planner Daniel Fama replied yes. It has been done in the past as one piece of land.

Commissioner Buchbinder said he feels for The Pruneyard. They believe it is not possible to build the office building without the separate parcel for it. Or else it would be easier with the fourth parcel.

Planner Daniel Fama reiterated that financial feasibility considerations are outside of the City's review. He asked the City Attorney to confirm that statement.

City Attorney William Seligmann said that is correct.

Chair Ostrowski:

- Explained that lenders tend to specialize.
- Added that for some there are other types of uses that they are not familiar with.
- Pointed out that if some kind of default were to occur, it gets complicated.
- Advised that is why they would require higher interest to deal with added risk and liability.

Commissioner Buchbinder reiterated that it is more feasible, per the applicant, to create the fourth parcel for this proposed office building.

Chair Ostrowski added that it is likely they could secure lower loan rates if there is a separate parcel for this new office building. The applicant will speak to that.

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

Dean Rubinson, Partner & Director of Development, Ellis Partners:

- Thanked the Commission for its time tonight and over the last couple of weeks.
- Thanked Director Paul Kermoyan and Senior Planner Daniel Fama for their work over the last five to six years.
- Congratulated Director Kermoyan as he heads off into retirement.
- Said he is joined with members of his team including attorney, architect, and Jim Ellis. They will not present but will be available should there be questions they can best answer.

Chair Ostrowski reminded Mr. Rubinson that she has agreed to 10 minutes for his presentation to the PC.

Dean Rubinson, Partner & Director of Development, Ellis Partners:

- Agreed.
- Reminded that an additional office building for this site was approved a few years ago.
- Advised that they have been working on the specifics of that project since November 2019.
- Stated that they had secured a tenant for the new building prior to Covid-19. They wanted the top three floors.
- Said they want to establish as feasible a project as is possible.
- Pointed out that office rents are currently down but construction costs are not.
- Said that the reality of this project is financial in nature.
- Stated his hope to create a nice building in and for the City of Campbell.
- Recounted that when they began The Pruneyard project, they split the project into phases.
- Added that three parcels were created to allow financing to occur.
- Assured that the Association would govern all of the common areas of The Pruneyard site.
- Pointed out that there is a wonderful plaza.
- Said that in 2016, both the PC and the Council trusted us enough to allow us to create three parcels.
- Stated that Phase 3 and 4 are ahead of them. This project involves \$50 million in financing.
- Said the issues of design were covered very well by Daniel in his presentation.
- Stated that the garage expansion would be consistent with the architecture found on site. It will be a great addition.
- Advised that the Association fully supports the creation of this fourth parcel. It is critical to the development of the fourth parcel. The site will be managed via the same Association/People/Rules. This new office building will be a significant endeavor.
- Assured that the fourth parcel will not adversely impact the operation of the four parcels.
- Said that other centers have multiple parcel ownerships.
- Informed they have no plans for expanding to five, six or more parcels. Four parcels is the maximum allowed under a Parcel Map process.
- Concluded that they feel they are a part of the Campbell community.

Chair Ostrowski:

- Said The Pruneyard has come a long way.

- Sought verification from Dean Rubinson that Ellis Partners currently own all the parcels of Pruneyard.

Dean Rubinson, Partner & Director of Development, Ellis Partners:

- Replied no.
- Said in 2018 the ownership was split.
- Added that in 2019 the hotel parcel sold off to a hotel operator.
- Stated in 2019 they sold the retail portion of the Pruneyard to a shopping center operator that has 1,400 other retail centers.

Chair Ostrowski asked whether the Association continues to effectively manage with these changes. She asked who is on the Board? Who represents the respective owners?

Dean Rubinson, Partner & Director of Development, Ellis Partners:

- Said that each of the interests has representation on the Board. That includes for the hotel parcel, the retail parcel, and Ellis Partners who manage the site.
- Explained that the Board and Secretary are appointed and there is a staff.
- Representation is based on the number of shares as far as voting rights are concerned.

Commissioner Buchbinder asked when the construction of this new building will start and end.

Dean Rubinson, Partner & Director of Development, Ellis Partners:

- Advised that the project contractor has been selected.
- Said that a lease was just about to be signed about three or four months before Covid happened.
- Added that they had anticipated a September 2020 construction start. It is expected construction will take 18 months to build this new office building.
- Stated it would take about a year to add to the garage structure. Both components will be built at the same time.
- Concluded that the project will be completed one and a half years after their anticipated November 2021 start of construction.

Commissioner Krey asked whether no office building could be built without a fourth parcel being created.

Dean Rubinson, Partner & Director of Development, Ellis Partners:

- Advised they only build with pre-leased tenants.
- Added it is very unlikely they would secure a competitive loan if the parcel were not split off. It would not be feasible at this time. It may remain empty.

Commissioner Zisser:

- Asked Mr. Rubinson to expand on the financial implications for this project.
- Said particularly the need to obtain a construction loan for this new office building.

Dean Rubinson, Partner & Director of Development, Ellis Partners:

- Said that there are different types of lenders. There are those who do home mortgages. Others do loans for the purchase of commercial or office buildings. Then there are the construction lenders.
- Pointed out that a construction lender would have to finish the construction if the project for some reason is not completed.
- Advised that no construction lender would want to finance a project for a new building on a site with existing aging buildings on the same parcel.
- Said that construction lenders are limited to construction of new office buildings on one parcel. Not on a parcel with multiple existing buildings.

Commissioner Buchbinder asked how the office building would be connected to the other existing uses of The Pruneyard.

Dean Rubinson, Partner & Director of Development, Ellis Partners, said that there are existing crosswalks and a series of paths. It is important for us to make that connection safe and compliant.

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

Commissioner Buchbinder:

- Pointed out that The Pruneyard is the most intense land use of our City.
- Added that it currently has 2,900 parking spaces.
- Stated that proposed shared parking is a great idea.
- Said that there are currently several different owners at The Pruneyard. There are other centers with even more multiple owners.
- Said he understands staff's position but does not see why they should not grant The Pruneyard the requested fourth parcel.
- Concluded that it makes an impact on how development is accomplished.

Commissioner Zisser:

- Admitted that he feels closely connected to The Pruneyard.
- Added he has lived in Campbell for 35 years.
- Said he remembers the center's original design and has seen changes and additions over time.
- Stated he is pleased with the most recent improvements.
- Advised he has no problem with the proposed location of the new office building. It is on a corner. It is accessible from Campbell Avenue. It will need garage parking added.
- Agreed with Commissioner Buchbinder's position on the fourth parcel.
- Pointed out he is not a financial or development guy but the explanation of financing sounds valid to him. He does not see an issue with adding the fourth parcel requested.
- Said the fourth parcel would tie in to the existing three office towers. It makes sense as a layman. He will not oppose the fourth parcel.
- Stated that the well-functioning Association makes The Pruneyard work well.
- Reminded that The Pruneyard is an important commercial use for Campbell.
- Added he has no problem with the proposed phases and the fourth parcel.

Vice Chair Ching agreed with Commissioner Zisser's position. He too is in support of the fourth parcel. This is a good development.

Commissioner Krey:

- Said he agrees with the staff position on the issue of a fourth parcel.
- Stated that from a planning standpoint, there is nothing good for the City with this fourth parcel. For the applicant it is the project financing.
- Said that there is potential for fifth or sixth parcels some time down the road.
- Reminded that staff does not look at financial considerations.
- Said it is a big deal to create this fourth parcel. However, it seems we need to allow the fourth parcel to get that new office building built.

Commissioner Rivlin:

- Said he too has many memories of The Pruneyard through the years. It is the first place he visited in Campbell. He takes his daughters there to play on the blue gorillas.
- Stated that The Pruneyard has only gotten better.
- Opined that even with a fourth owner, there is enough density of votes so as not to be lop-sided to one owner.
- Stated that if new office space is wanted, financing for this new office building is helped by the creation of the fourth parcel.
- Said that the architecture has not really changed greatly. It will connect better to the overall site.
- Said this is best for Campbell.
- Recommended that the Commission forward its recommendation to the Council to approve both the Master Use Permit and the Tentative Parcel Map.

Commissioner Rivlin:

- Said that there is something we can do. We can help to get the green light on this new building.
- Added that The Pruneyard is willing to put their necks out for our City with this new addition to Campbell. That is the reason they are coming to us.
- Advised that he would be in support of the MUP and the Tentative Parcel Map.

Chair Ostrowski:

- Stated her agreement with the other members.
- Said she too will support the fourth parcel requested.
- Added that it is very important to help support business in Campbell. Business is struggling at The Pruneyard and throughout the City.
- Advised that she too takes her family over to The Pruneyard to enjoy the public art there. Her children also very much enjoys playing on the blue gorillas.
- Said she looks forward to the next phase and wants to say that additional public art would be most welcome as well.

City Attorney William Seligmann asked staff if they had conditions prepared to approve the Tentative Parcel Map since the recommendation is for denial on the draft resolution provided this evening.

Planner Daniel Fama said that there is also an alternative resolution for approval provided and revised in the Desk Item that includes conditions for approval and revised MUP text.

City Attorney William Seligmann said very good. Thank you.

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

- Adopted Resolution No. 4604 recommending Council approval of an Amendment to the Pruneyard Master Use Permit for consideration of (1) a revised phasing plan to allow the approved office building and a partial expansion of the existing parking structure to be constructed as Phase 3 ahead of the approved retail buildings (as new Phase 4), further expansion of the existing parking structure in Phase 4, and a four-year extension of the permit deadline for new Phase 4 from December 2022 to December 2026, (2) minor architectural changes, a nominal increase in building area, and elimination of the underground parking to the approved office building, and associated site/parking layout changes, (3) a revised design for the parking structure expansion to incorporate enhanced architectural treatment and associated site layout/circulation changes around the traffic circle to increase pedestrian connectivity, (4) a change to the land use program to allow medical service clinics as a permitted use within the office parcel, and (5) revise the parking management plan to allow exclusive use of approximately 60 parking stalls for the new office building tenant(s) during typical office hours, (6) require implementation of the valet parking program only at the completion of Phase 3 (which is not required at the current phase) when certain occupancy thresholds are met, and (7) various non-material text clarifications; and
- Adopted Resolution No. 4605 recommending that Council approve a Tentative Parcel Map to allow creation of a fourth parcel created from the existing office parcel, for property located at 1875, 1887, 1901, 1919, 1995, & 1999 S. Bascom Avenue and 777 E. Campbell Avenue, by the following roll call vote:

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

Dean Rubinson, Partner & Director of Development, Ellis Partners, thanked the Commission for their help and decision. He added he is glad that they like the blue gorillas at The Pruneyard.

Chair Ostrowski advised that this item is tentatively scheduled for final action by the City Council at its meeting of April 6, 2021.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan:

- Said that he had nothing to add to his written report.

Commissioner Buchbinder said he wanted to ask what is appropriate in terms of suggesting the creation of subcommittees and raising items for discussion by the PC at meetings.

Director Paul Kermoyan:

- Said that the PC is authorized to establish subcommittees and can raise items up to be agendaized for future meetings.
- Cautioned that they cannot bring up new issues and start a dialog without having properly included said topic(s) on a PC meeting agenda.

Commissioner Buchbinder said he has been doing research on parking studies. He has found one that he would like for this PC to read and discuss. He will provide links to the material he found to staff to forward on to the Commissioners.

Director Paul Kermoyan suggested that be made into a motion.

Motion: Upon motion of Commissioner Buchbinder, seconded by Vice Chair Ching, research material discovered by Commissioner Buchbinder will be forwarded to staff to forward on directly to the members of the Planning Commission. (7-0)

Vice Chair Ching said he supports that.

Director Paul Kermoyan asked Commissioner Buchbinder if he wants that on an agenda or just to share the material with his fellow Commissioners.

Commissioner Buchbinder said he would like the material distributed and discussed on a future agenda. It is worthwhile information that he found very interesting.

Commissioner Zisser:

- Shared his own family's experiences at The Pruneyard and with the blue gorilla play structures there.
- Reported that he has two grandchildren. They go over to play regularly on weekends.
- Added that he recommends Books Inc. They have a great children's section in the back.

Chair Ostrowski joked that perhaps the PC could meet there. Probably not allowed.

City Attorney William Seligmann said that the PC can meet anywhere within the boundaries of the City of Campbell if properly posted.

ADJOURNMENT

The Planning Commission meeting adjourned at 10:15 p.m. to the next Regular Planning Commission Meeting on **March 23, 2021**, which will be conducted on Zoom.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Maggie Ostrowski, Chair

ATTEST: _____
Paul Kermoyan, Secretary