

PLANNING COMMISSION
City of Campbell, California

7:30 P.M.
City Hall Council Chambers

March 8, 2016
Tuesday

AGENDA

ROLL CALL

APPROVAL OF THE MINUTES February 23, 2016

COMMUNICATIONS

AGENDA MODIFICATIONS OR POSTPONEMENTS

ORAL REQUESTS

This is the point on the agenda where members of the public may address the Commission on items of concern to the Community that are not listed on the agenda this evening. People may speak up to 5 minutes on any matter concerning the Commission.

PUBLIC HEARINGS

1. **PLN2016-23**

NOTE THIS ITEM WILL BE CONTINUED TO MARCH 22 DUE TO NOTICING ERROR

Public Hearing to consider the application of Steve Rawlings for a Conditional Use Permit (PLN2016-23) to allow beer and wine sales for onsite consumption in conjunction with a new restaurant (Mod Pizza) located at **2000 S. Bascom Avenue, Suite 110** in the C-2 (General Commercial) Zoning District. Staff is recommending that this project be deemed Categorical Exempt under CEQA. Planning Commission decision final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Stephen Rose, Associate Planner*

2. **PLN2015-313**

NOTE THIS ITEM WILL BE CONTINUED TO MARCH 22 DUE TO NOTICING ERROR

Public Hearing to consider the application of CRP Vasona LLC for a Master Sign Plan (PLN2015-313) with a Sign Exception for the Vasona Technology Park on properties located at **1315 Dell Avenue, 1353 Dell Avenue, 210 E. Hacienda Avenue, and 200 E. Hacienda Avenue** in the C-M/80 (Controlled Manufacturing) Zoning District. Staff is recommending that this project be deemed Categorical Exempt under CEQA. Planning Commission decision final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Daniel Fama, Associate Planner*

3. PLN2016-18**NOTE THIS ITEM WILL BE CONTINUED TO MARCH 22 DUE TO NOTICING ERROR**

Public Hearing to consider the application of Steven Bonner for a Modification (PLN2016-18) to a previously-approved Site and Architectural Review Permit (S 98-17 / PLN2015-120) to allow reconsideration of a previous Planning Commission requirement to incorporate artwork into a storefront window, on property located at **368 E. Campbell Avenue** in the C-3 (Central Business District) Zoning District. Staff is recommending that this project be deemed Categorically Exempt under CEQA. Planning Commission decision final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: Daniel Fama, Associate Planner

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR**ADJOURNMENT**

Adjourn immediately to a Study Session and subsequently to the next regularly scheduled Planning Commission meeting of **March 22, 2016**, at 7:30 p.m., in the City Hall Council Chambers, 70 North First Street, Campbell, California.



CITY OF CAMPBELL

PLANNING COMMISSION

TRAINING SESSION (PLANNING 101)

Date: Tuesday, March 8, 2016

Time: 7:30 p.m.

Place: City Council Chambers at Campbell City Hall
70 N. First Street
Campbell, CA 95008

Agenda

- 1, Discussion on the role of "Findings" in the crafting of "Conditions of Approval" and how they work together.

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Questions about this agenda can be directed to the Community Development Department, Planning Division, at (408) 866-2140 or by email at planning@cityofcampbell.com.

CITY OF CAMPBELL PLANNING COMMISSION
MINUTES

7:30 P.M.

TUESDAY

FEBRUARY 23, 2016
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of February 23, 2016, was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Chair Dodd and the following proceedings were had, to wit:

ROLL CALL

Commissioners Present:	Chair:	Cynthia L. Dodd
	Vice Chair:	Yvonne Kendall
	Commissioner:	Pamela Finch
	Commissioner:	Philip C. Reynolds, Jr.
	Commissioner:	Donald C. Young
Commissioners Absent:	Commissioner:	Ron Bonhagen
	Commissioner:	Michael L. Rich
Staff Present:	Community Development	
	Director:	Paul Kermoyan
	Senior Planner:	Cindy McCormick
	Associate Planner:	Daniel Fama
	City Attorney:	William Seligmann

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Finch, seconded by Commissioner Young, the Planning Commission minutes of the meeting of February 9, 2016, were approved as submitted. (4-0-2-1; Commissioners Bonhagen and Rich were absent and Chair Dodd abstained)

COMMUNICATIONS

None

AGENDA MODIFICATIONS OR POSTPONEMENTS

Director Paul Kermoyan pointed out that two of the three agenda items on this evening’s agenda are Zoning Text Amendments and one is a project with an applicant. He said the Commission may want to consider hearing that project item first and the Zoning Text Amendments after since there are people in the audience in attendance for the project.

The Commission discussed this option and decided to hear Item 2 first and then Items 1 and 3.

ORAL REQUESTS

None

CONSENT

There were no consent items.

PUBLIC HEARINGS

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

- 2. **PLN2015-352 (CUP)**
PLN2015-354 (PMP)
PLN2015-355 (TRP)
- Public Hearing to consider the application of Lowen Castillo for a Conditional Use Permit (PLN2015-352) and Administrative Planned Development Permit (PLN2015-354) to allow establishment of a new 45-seat restaurant (Kalye Hits) with beer and wine service, outdoor seating, live entertainment (no dancing), and "late-night" operational hours (11:00 PM public closing); and a Parking Modification Permit (PLN2015-355) to allow a reduction in the number of required parking spaces on property located at **2145 S. Winchester Boulevard** in the P-D (Planned Development) Zoning District. Staff is recommending that this project be deemed Categorically Exempt under CEQA. Planning Commission decision final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Daniel Fama, Associate Planner*

Mr. Daniel Fama, Associate Planner, presented the staff report.

Director Paul Kermoyan added that when factoring Live Entertainment with a restaurant use, the Live Entertainment aspect should be ancillary to the restaurant use with tighter provisions due to proximity to adjacent residential uses.

Chair Dodd asked if there were questions of staff.

Commissioner Finch asked what the difference might be regarding amplification for live music versus for karaoke. She said that it seems there is no difference.

Planner Daniel Fama pointed out that karaoke is not possible without amplification.

Director Paul Kermoyan:

- Said that Commissioner Finch makes a good point.
- Added that the Planning Commission can discuss this further.
- Stated that live music tends to become as loud as the musicians want it to be and depending upon which instruments are used there is a different level of noise/sound impact.
- Offered that the Commission can decide to allow no amplification at all but just acoustical live entertainment (both live music and karaoke).

Commissioner Kendall said that she notices nine high-top tables on the site plan and asked if those are being looked at as bar seating.

Planner Daniel Fama replied that they are counted as bar seating. They are seats at which a customer can have a beer without being required to also order a meal.

Commissioner Young referenced the stage in the corner and pointed out that corner is closest to the adjacent residential properties.

Planner Daniel Fama said that is correct.

Commissioner Finch said that it seems that 11 of 45 seats are high-top seats.

Planner Daniel Fama agreed and said they represent 25 percent of the seats as is allowed.

Commissioner Kendall asked how late the outdoor tables could be used.

Planner Daniel Fama said 11 p.m. the same as the restaurant itself.

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

Lowen Castillo, Applicant:

- Reported that this will be their fourth restaurant.
- Added that she loves the idea of opening up this restaurant in Campbell. It is a City with low crime and will be the "best place to be."
- Advised that Filipinos love to sing karaoke.
- Pointed out that there are currently no Filipino restaurants in Campbell.

- Concluded that it will be good for them to establish in Campbell and to be in this community.

Steve Gandy, Resident on Mission Way:

- Said that Mission is a private street located adjacent on one side of this commercial building.
- Added that he has been on Mission for 30 years.
- Admitted that he had hoped that the businesses established in this new commercial center would not have a negative impact to them.
- Said that there are three things he objects to: late hours, alcohol and live entertainment.
- Pointed out that the street parking along Winchester is already widely utilized by patrons of Casa Lupe just a bit further up Winchester.
- Added that it will be hard to manage karaoke and the live entertainment could disturb neighbors.
- Said that he doesn't see alcohol service as a good fit and that this use could result in a decrease in property values. This is not the right fit for the neighborhood.

Scott Plautz, Project Site Property Owner:

- Reported that there have been challenges in finding tenants for this site.
- Reminded that he was the first developer to conform to the Winchester Boulevard Master Plan.
- Pointed out that he still has a completely vacant building and the parking restrictions in the area are his biggest problem in getting tenants. That includes Starbucks. He has been challenged in leasing this property. Right now this property is a liability rather than an asset.
- Reminded that the site was formerly occupied by an old A&W restaurant and it used to draw transients as it became run down.
- Suggested that the best way to manage live music is to establish a maximum decibel level.
- Added that the location of the stage placement is deliberate in order to allow speakers to point towards Winchester rather than in the direction of adjacent residential neighbors.
- Said that this will be a great restaurant for Campbell. They have been included on several Food Network programs. They started as a street food vendor.
- Reminded that while the nearby Casa Lupe is a full service liquor establishment he purposely has restricted alcohol sales on his property to just beer and wine.
- Advised that this is a family-friendly and cultural business.

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

Commissioner Finch:

- Said that she is still concerned about amplification of karaoke music.
- Said that she appreciates the fact that the speakers will be pointed away from the residential neighborhood.
- Pointed out that the nearby Casa Lupe doesn't have enough parking. Parking is of concern but she has mixed feelings about how to fix parking.

- Added that she hears Mr. Plautz's concerns about securing a tenant for this site.
- Admitted that she is concerned about outdoor seating being utilized up to 11 p.m.
- Concluded that she has no concrete decision right now.

Commissioner Kendall:

- Said that usually parking and noise issues jump out at her but she doesn't feel those concerns about this request.
- Reminded that Winchester is a lively street already and this is going to be a family-style restaurant that can be given some live entertainment allowances but without amplification. Music should not be noticed from outside until a patron walks into the business. She's not that concerned about it.
- Stated that parking along Winchester adds to the vibrancy of the area. This is the beginning of the renewal of that area.
- Concluded that unless she hears something that is of concern she will be supporting this as it is proposed.

Commissioner Young:

- Expressed agreement with Commissioner Kendall.
- Said he visited the site and found the distance between this commercial building and the neighborhood of concern. However the proposed outdoor seating would be situated along Winchester.
- Added that he hopes the nearby utility box to this site will be sponsored and painted as part of the Civic Improvement Commission's public art project.
- Said that this project is consistent with the Downtown Campbell Alcohol Policy. It does not represent an over-concentration. There will be no significant disturbances to the peace.
- Added that perhaps a reduction in hours may make sense and suggested perhaps 10 p.m. instead of 11 p.m.

Commissioner Reynolds:

- Said that since his wife is Filipino he may be biased.
- Said that in regards to noise concerns and parking, any sound can be directed where we want it to go.
- Said that this proposal is consistent with a buffer zone between neighborhoods and commercial uses.
- Warned that when one purchases a residence situated close to a commercial area one must be aware of the inherit possibility of noise. Once one is deeper into a residential neighborhood there is more of a buffer between the two uses.
- Admitted that parking is of concern. This neighborhood has been plagued with parking impacts for several years now and some nearby neighborhoods have permit parking as a result.
- Said that there are limits as to what can go onto this site and he is concerned that the future of other future tenant spaces on this site might be even more restricted.
- Added that he doesn't want to create parking problems into adjacent residential neighborhoods such that those issues come to the attention of Council.
- Stated that this will be a fine restaurant for Campbell.

Commissioner Finch:

- Said that she would need to be convinced that sound will not be a problem here.
- Asked for a specific number of verifiable noise complaints as part of condition 6-n.
- Added that she doesn't want to limit Mr. Plautz's ability to do business and find tenants for his building.
- Pointed out that this corner of Winchester/Rincon is so much better looking with this new commercial building than it was before.
- Said that her concerns remain potential for sound impacts and parking.

Chair Dodd:

- Pointed out that even with the deficit of six spaces for this use, the site still has the parking required to serve the rest of the site.

Commissioner Finch:

- Reminded that the street parking along this part of Winchester is already being utilized by patrons of nearby Casa Lupe.

Director Paul Kermoyan pointed out that Casa Lupe existed prior. The City can't stand in the way of a business becoming successful.

Commissioner Finch said it was unfortunate that Casa is not adequately parked on site.

Director Paul Kermoyan:

- Reminded that even before Casa Lupe was on that site another restaurant was there in the same tenant space.
- Suggested addressing sound issue with Condition 6-f.
- Added that the Commission could put a limit to entertainment hours to 10 p.m.

Commissioner Young:

- Referenced page 5 of the staff report which explains that without a Parking Modification, this restaurant would be limited to 27 seats, which would not be a viable number for success.
- Pointed out that sound can be managed through building materials (including glass) to help reduce impacts of sound outside the building.
- Added that there is an opportunity to control entertainment hours and/or to determine what is required to achieve a maximum decibel level for the live entertainment.
- Concluded that he is comfortable with this application.

Commissioner Kendall:

- Pointed out that this site is actually not too close to the "Four C's" neighborhood that now has a parking permit program due to impacts of overflow parking from the La Valencia Apartments rather than from businesses along Winchester Boulevard.
- Asked if the parking of Casa Lupe can be looked at in the future.
- Said that limiting entertainment hours is a good idea and suggested also limiting the outdoor dining hours as well.

- Suggested the installation of “No Loitering” signage at the back parking to prevent noise impacts from people hanging out in the parking lot that is so close to residences.
- Suggested having this business leave its door closed and limit entertainment to allow it up to 10 p.m.

Director Paul Kermoyan pointed to Condition 6-m that reads “after 10 p.m. and during live performances.

Chair Dodd:

- Said that with its beer and wine service, this is more a restaurant than a bar.
- Admitted to being concerned about the number of high-top tables and the stage.
- Added that she’d like to see some restrictions on the karaoke microphone’s amplification perhaps “to the satisfaction of the Community Development Director”.
- Supported restricting live entertainment to conclude by 10 p.m.
- Said having the restaurant itself open to 11 p.m. is fine.
- Reminded that this proposed use is located very close to a residential neighborhood and is once again short on parking but it would be good to get something onto this site.
- Said that she is okay with parking and understands that parking to serve other future uses on this site remain available.
- Added that she likes diversity in cuisine and supports outdoor seating to 10 p.m.
- Reminded that this area on Winchester is very different from what it was 30 years or more ago.

Commissioner Reynolds:

- Said he is okay with 11 p.m. for the outdoor seating and live entertainment as he believes noise can be controlled.
- Reported that in the Filipino community karaoke is a predominate form of entertainment. It doesn’t require instruments but rather the music serves as a background for the vocals.
- Added that he is okay with the seating and dining on Winchester up to 11 p.m.
- Advised that Filipinos dine later, like the Europeans. They nibble, enjoy small plates, and love to eat and visit.
- Pointed out that the noise from traffic would overpower any sounds of conversation by diners seated along Winchester.
- Reiterated his support for an 11 p.m. close including for karaoke.

Commissioner Finch asked for a suggested number of verifiable complaints.

Commissioner Reynolds pointed out that the standard has been three in the past.

Commissioner Young listed the other items discussed including: No Loitering signage in the back parking area, limiting entertainment to 10 p.m.; having doors closed when live entertainment is underway; outdoor seating to either 10 or 11 p.m. and a prescribed number of verifiable complaints to bring noise issues back for consideration.

Planner Daniel Fama:

- Referenced Condition 11 that establishes three verifiable complaints.
- Referenced Condition 6 that has no specific number.

Commissioner Young agreed with Commissioner Reynolds about allowing outdoor seating up to 11 p.m.

Chair Dodd suggested ceasing live entertainment at 10 p.m. and a vote on 11 p.m. closure.

Commissioner Young said the live entertainment should occur with all doors closed. People will go inside to watch any karaoke performances.

Chair Dodd suggested restrictions on amplification as a safeguard against potential noise impacts.

Director Paul Kermoyan said that is more difficult to control and suggested stopping live entertainment at a certain time may be more effective if the live entertainment is audible from outside the building.

Chair Dodd said she could support allowing music to 11 p.m. if it is not heard outside the building.

Director Paul Kermoyan said that might be very difficult to control.

Commissioner Kendall said that there should be conditions for number of complaints.

Planner Daniel Fama cautioned that sound "leakage" comes from doors whether they are open or closed. He suggested having patrons use the front entrance for access.

Chair Dodd asked if that is reasonable.

Planner Daniel Fama replied yes. That is the ideal and what is wanted in order for this business to have an active presence as seen from Winchester.

Chair Dodd said she could support that.

Commissioner Finch suggested limiting use of rear door after a specified hour, be it 6, 7 or 8 p.m. at which time only the front door would be used.

Director Paul Kermoyan said that two means of egress must be available. At certain times the back could be closed of ingress but remain available for emergency egress. This could be effective at the time the live entertainment starts. It would be best to have an established start time.

Chair Dodd said she was okay with 8 p.m.

Motion: Upon motion of Commissioner Kendall, seconded by Commissioner Young, the Planning Commission adopted Resolution No. 4275 approving a Conditional Use Permit (PLN2015-352) and Administrative Planned Development Permit (PLN2015-354) to allow establishment of a new 45-seat restaurant (Kalye Hits) with beer and wine service, outdoor seating, live entertainment (no dancing), and "late-night" operational hours (11:00 PM public closing); and a Parking Modification Permit (PLN2015-355) to allow a reduction in the number of required parking spaces on property located at 2145 S. Winchester Boulevard, subject to the conditions of approval as modified:

- Revise Condition 6-m to state that windows and doors to remain closed during live entertainment and that rear doors shall be restricted to emergency egress only after 8 p.m.;
- Revise Condition 6-n to establish that three verifiable noise complaints will bring this use back for further review; and
- Revise Condition 6-r requiring "No Loitering" signs be placed in the parking lot;

by the following roll call vote:
AYES: Dodd, Finch, Kendall, Reynolds and Young
NOES: None
ABSENT: Bonhagen and Rich
ABSTAIN: None

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

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

1. **PLN2015-365 (TA)** Public Hearing to consider the City-Initiated Zoning Text Amendment (PLN2015-365) to amend the Campbell Zoning Code to create and modify regulations for massage establishments. Staff is recommending that this project be deemed exempt from CEQA under Section 15061.b.3. Tentative City Council Meeting date: March 15, 2016. Project Planner: *Cindy McCormick, Senior Planner*

Ms. Cindy McCormick, Senior Planner, presented the staff report.

Chair Dodd asked if there were questions of staff.

Commissioner Young asked if massage uses are a problem throughout the City.

Planner Cindy McCormick said that a representative from Campbell Police is here and can address that.

Commissioner Kendall asked what would prevent a massage business from simply identifying as a spa.

Planner Cindy McCormick stated that it becomes obvious upon visiting a site whether the business is providing all of the services that they say they are providing.

Commissioner Reynolds said that the State seems to have brought the local jurisdictions back into this oversight after having previously relaxed the regulations.

City Attorney William Seligmann replied not all the way back but somewhat so from a Zoning perspective. There are still limitations.

Sergeant David Livingston, Campbell PD:

- Said that he was available for any questions.

Commissioner Reynolds asked if enforcing the problem massage establishments has been somewhat of a “cat and mouse” game and whether that has been a drain on law enforcement resources.

Sergeant Livingston replied yes, it has been.

Commissioner Young asked if there is a stringent definition of massage, be it therapeutic or recreational.

City Attorney William Seligmann said that there are legal and practical issues. The City cannot prohibit any type of massage services that the State agency says is legit.

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

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

Commissioner Finch:

- Said that she was personally aware of an enforcement situation that occurred at a location at Hamilton & Darryl. She has a friend whose business was adversely impacted by what was occurring at a nearby business.
- Added that the PD spent countless hours.
- Advised that she is “all for” these regulations being proposed. This is something that we do need to address.

Commissioner Kendall:

- Said that this Zoning Text Amendment has her support as well. It is important.
- Inquired why, when looking at the language regarding prohibited apparel by massage practitioners, bathing suit is not included.

City Attorney William Seligmann said that the City’s Ordinance references the State law rules that disallow bathing suites except for water massage.

Commissioner Young:

- Said that he was surprised to learn that there were 20 massage establishments in our City.
- Added that he supports the PD.
- Said that the State regulations seemed passive and this Ordinance will help our City have a better handle on this industry.
- Stated that he would support this proposal.

Commissioner Reynolds:

- Said that he was on the Planning Commission when the previous Massage Ordinance was drafted.
- Added that this new one is well written.
- Stated that some of the bad businesses adversely impacted legitimate businesses. The City has no resources to play games.
- Concluded that he will be supportive.

Chair Dodd:

- Said that she is thrilled to see this Ordinance.
- Added that Campbell is a growing City and it is important to be vigilant as to how we want to represent ourselves as a community.

Motion: **Upon motion of Commissioner Finch, seconded by Commissioner Reynolds, the Planning Commission adopted Resolution No. 4276 recommending that the City Council adopt a Zoning Text Amendment (PLN2015-365) to amend the Campbell Zoning Code (Chapters 21.10; 21.12; 21.36 and Section 21.72.020 (definitions), to create and modify regulations for massage establishments, by the following roll call vote:**

AYES: **Dodd, Finch, Kendall, Reynolds and Young**
NOES: **None**
ABSENT: **Bonhagen and Rich**
ABSTAIN: **None**

Chair Dodd advised that this item would be considered by the City Council at its meeting of March 15, 2016.

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

3. **PLN2013-13 (TA)** Public Hearing to consider the City-initiated Zoning Text Amendment (PLN2013-13) to amend the Campbell Zoning Code to reclassify restaurants and motor vehicle sale establishments (within an enclosed building) as conditionally permitted uses subject to approval of a Conditional Use Permit and specifically prohibiting drive-through and drive-in restaurants within the C-3 (Central Business District) Zoning District. Staff is recommending that this project be deemed exempt from CEQA under Section 15061.b.3. Tentative City Council Meeting Date: March 15, 2016. *Project Planner: Daniel Fama, Associate Planner*

Mr. Daniel Fama, Associate Planner, presented the staff report.

Director Paul Kermoyan said that one consideration in the future might be the reinstatement of the parking in-lieu fee but that is not a Planning Commission issue but rather one for the City Council to consider.

Chair Dodd asked if there were questions of staff.

Commissioner Finch asked about the reference to motor vehicle use.

Planner Daniel Fama said that it is a clarification that codifies the interpretation of the Director.

Director Paul Kermoyan said that there is nothing wrong with the use but rather the inclusion is intended to clarify and legitimize it.

Commissioner Reynolds said he was in the Downtown trying to count office uses. He asked if the Campbell Express is considered an office or retail use given that they sell newspapers.

Planner Daniel Fama replied office.

Commissioner Reynolds said that he counted 10 office uses. Those locations could transition into restaurant uses without the need for a Conditional Use Permit.

Planner Daniel Fama replied correct.

Commissioner Reynolds asked if preventing one restaurant for locating adjacent to an existing restaurant might not result in creating a void.

Planner Daniel Fama said that the more restrictive the language is, the more it ties our hands. With seven members on the Planning Commission, there are seven opinions on what "overconcentration" actually means.

Commissioner Kendall reminded that at the joint study session there was discussion about requiring a parking in-lieu fee.

Director Paul Kermoyan:

- Reminded that we used to have an in-lieu fee paid for each parking space deficiency.
- Added that several years ago that requirement was removed in the Downtown.
- Said that there have been many new restaurants since then.
- Stated that the question for Council is whether it is time to reinstate that fee.

Commissioner Kendall asked if the Commission could make a recommendation that employees of Downtown businesses be required to park in public parking structures and/or for business owners to provide public transit passes.

Planner Daniel Fama said that would be impossible to enforce and hard to add into this Text Amendment.

Director Paul Kermoyan said that the question had been raised as to whether these changes are in effect going to displace office uses from the Downtown by creating the potential for higher rents from restaurants than from current office tenants. That is a valid concern.

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

Laura Moore, Resident on Second Street and DT Business Owner:

- Said that this is long overdue.
- Reminded that the Downtown is very limited in size.
- Added that she likes to see policy that office use cannot change hands into office use.
- Advised that she supports this Text Amendment.

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

Commissioner Reynolds:

- Stated his agreement with the comments made by Ms. Moore that this is long overdue.
- Said that Campbell has an incredible Downtown. Our City is on the map for its Downtown.
- Added that in the past few years, it has grown into something wonderful.
- Stated that it is time now to take a step back and to be meticulous going forward.
- Said that Council has been struggling with this issue for some time now.
- Concluded that this is a well-written Ordinance and he will support it.

Commissioner Finch:

- Stated that she agrees with Commissioner Reynolds.
- Admitted that she had been frustrated in the past by a lack of guidance.
- Added that this is not too specific.

- Stated her agreement with the comments made by Laura Moore.
- Put a “plug” in for the Chamber of Commerce to be allowed to locate its offices on the street frontage in the Downtown.
- Concluded that she is fully supportive of this Text Amendment.

Commissioner Kendall asked if there should be a performance standard related to parking.

Commissioner Finch said that can be dealt with on a case-by-case basis.

Commissioner Young agreed.

Chair Dodd:

- Said that she really likes the idea of more guidance.
- Added that she likes the idea of locating more offices upstairs and more interactive uses downstairs in the Downtown.
- Said that she personally misses having a bank located Downtown Campbell. While there are a couple of ATM machines in back corners of a couple of restaurants, it’s not the same as having a small bank there.
- Stated that she doesn’t want to restrict the placement of a restaurant adjacent to another restaurant.

Director Paul Kermoyan said that there is a difference between a bank use and office use in the definitions.

Commissioner Young referenced page 3 of the staff report that rather than being a barrier to entry of new restaurants the Ordinance would leave the City flexible in making its decisions. He asked if more specific criteria might not be needed.

Commissioner Kendall replied that there is probably enough.

Motion: **Upon motion of Commissioner Reynolds, seconded by Commissioner Finch, the Planning Commission adopted Resolution No. 4277 recommending that the City Council adopt a Zoning Text (PLN2013-13) to amend the Campbell Zoning Code to reclassify restaurants and motor vehicle sale establishments (within an enclosed building) as conditionally permitted uses subject to approval of a Conditional Use Permit and specifically prohibiting drive-through and drive-in restaurants within the C-3 (Central Business District) Zoning District, by the following roll call vote:**

AYES: **Dodd, Finch, Kendall, Reynolds and Young**
NOES: **None**
ABSENT: **Bonhagen and Rich**
ABSTAIN: **None**

Chair Dodd advised that this item would be considered by the City Council at its meeting of March 15, 2016.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan had nothing to add to his written report.

ADJOURNMENT

The Planning Commission meeting adjourned at 9:28 p.m. to the next Regular Planning Commission Meeting of **March 8, 2016**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Cynthia Dodd, Chair

ATTEST: _____
Paul Kermoyan, Secretary

RESOLUTION NO. 4275

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL APPROVING A CONDITIONAL USE PERMIT (PLN2015-352) AND ADMINISTRATIVE PLANNED DEVELOPMENT PERMIT (PLN2015-354) TO ALLOW ESTABLISHMENT OF A NEW 45-SEAT RESTAURANT WITH BEER AND WINE SERVICE, OUTDOOR SEATING, LIVE ENTERTAINMENT (NO DANCING), AND "LATE-NIGHT" OPERATIONAL HOURS (11:00 PM PUBLIC CLOSING); AND A PARKING MODIFICATION PERMIT (PLN2015-355) TO ALLOW A REDUCTION IN THE NUMBER OF REQUIRED PARKING SPACES ON PROPERTY LOCATED AT **2145 S. WINCHESTER BOULEVARD**. FILE NO: PLN2015-352, 354, & 355

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

The Planning Commission finds as follows with regard to File No. PLN2015-352, 354 & 355:

1. The proposed project includes a request for Conditional Use Permit (PLN2015-352) and Administrative Planned Development Permit (PLN2015-354) to allow establishment of a new 45-seat restaurant (Kalye Hits) with beer and wine service, outdoor seating, live entertainment (no dancing), and "late-night" operational hours (11:00 PM public closing); and a Parking Modification Permit (PLN2015-355) to allow a reduction in the number of required parking spaces.
2. The project site is a commercial property located at the southwest corner of S. Winchester Boulevard and E. Rincon Avenue.
3. The project site is developed with a 5,000 square-foot retail/commercial building constructed pursuant to Planned Development Permit PLN2011-318 approved by City Council Resolution No. 11426.
4. The project site is within the P-D (Planned Development) Zoning District and is designated with a Central Commercial land use designation by the General Plan.
5. The project site is also within the boundaries of the Winchester Boulevard Master Plan.
6. The Winchester Boulevard Master Plan was adopted by the City Council in 2009 with the goal of transforming "Winchester Boulevard into a vibrant mixed-use, pedestrian oriented street, lined with ground-level businesses with residential or office above".
7. The Master Plan was adopted pursuant to General Plan Strategy LUT-5.3j in furtherance of the area's predominant Central Commercial General Plan Land Use Designation:

Strategy LUT-5.3j: Winchester Boulevard Plan: Develop an Area Plan for Winchester Boulevard. The Area Plan should address specific boundaries, mix of uses, street amenities, landscaping, building and site design.

Central Commercial: The Central Commercial designation is used for the heart of Campbell including parts of Campbell and Winchester Avenues in Downtown Campbell. This area is intended to provide shopping, services and entertainment within a pedestrian oriented, urban environment. Building forms in this designation edge the street and should include retail commercial uses on the ground floor with either office or residential uses on the second and third floors.

8. The Winchester Boulevard Master Plan specifies that allowable land uses are the same as those allowed within the C-3 Zoning District (i.e., Historic Downtown Campbell), with a specific emphasis on retail and restaurants on the ground floor. As such, a restaurant with beer and wine service, outdoor seating, live entertainment (no dancing), and "late-night" operational hours is an allowable use, consistent with the Master Plan.

...The subject parcels predominantly have a General Plan designation of Central Commercial (C-3), therefore Permitted, Conditional and Prohibited Uses shall be those set forth in the C-3 zoning district.... In general, the vision for this Plan area shall be ground floor retail/restaurant, with upper floor residential/office. It is expected that a variety of ground floor retail businesses and eating establishments shall be maintained to achieve a balanced and distinctive pedestrian-oriented experience, without an overconcentration of any one type of use.

9. Policies found within the Campbell General Plan and Downtown Campbell Development Plan articulate a desire to promote and enhance a downtown environment that provides a desirable balance of land uses including shopping, services, and entertainment. This vision is evidenced in policies that encourage a mix of day and evening activities, a distinctive retail presence, a diversity of eating establishments, support for neighborhood-serving businesses, and protection of surrounding residential neighborhoods.
10. The City Council adopted the 'Downtown Alcohol Beverage Policy', as an implementation tool of the Campbell General Plan and Downtown Development Plan. The Policy is intended to balance the health and safety of the community while still maintaining the commercial viability of the downtown in which restaurants have an essential role.
11. The approval of the proposed project incorporates applicable operational standards of the Downtown Alcohol Beverage Policy.
12. Alcohol beverage service in the restaurant shall be ancillary and subordinate to the primary purpose of serving food.
13. Conformance to the provisions of the Downtown Alcohol Beverage Policy is the basis to which the City shall review new applications for alcohol beverage service. Restrictions to the hours of operation, amount of bar area seating, and alcohol beverage service, are necessary to protect the public health, safety and welfare.

14. The Downtown Alcohol Beverage Policy strongly recommends that Conditional Use Permits for establishments for on-site consumption of alcohol beverages be limited to a closing time of no later than 12:00 AM.
15. The over-concentration of late night alcohol serving establishments within a compact downtown district can create a cumulative impact that overwhelms the area creating an undesirable result such as drunk in public, vandalism, and disorderly conduct.
16. There are two alcohol-serving restaurants within the immediate vicinity (500 feet) of the project site, which does not constitute an overconcentration.
17. The approval of a Conditional Use Permit incorporates applicable operational standards of the Downtown Alcohol Beverage Policy, including a 11:00 PM public closing time and bar area seating comprising no more than 25% of the total seating capacity.
18. Alcohol beverage service in the restaurant shall be ancillary and subordinate to the primary purpose of serving food.
19. The proposed project request seeks a seating capacity for the proposed restaurant of 45 seats, including 37 interior seats and 8 exterior seats.
20. Under the city-wide parking standard for restaurants (1 space for every 3 seats plus 1 space for every 200 square-feet of "non-dining" area), the restaurant would require 18 parking spaces. Based on the project site's overall parking ratio of 1 space per 194 square-feet, the restaurant's pro-rated proportional share of parking stalls is 12, resulting in a technical deficiency of 6 spaces.
21. The Winchester Boulevard Master Plan notes that all new developments are subject to existing city parking requirements, but that adjustments may be approved by the decision making body pursuant to CMC Sec. 21.28.050. This code section provides relief from parking standards under certain circumstances through consideration of a Parking Modification Permit.
22. The Winchester Boulevard street frontage in front of project site provides 6 parking spaces, which supplements on the on-site parking.
23. The Master Plan notes that existing curbside (street) parking will be retained to "support commercial businesses" (Pg. 19), recognizing that street parking along Winchester Boulevard is principally intended to serve commercial tenants.
24. Accounting of street parking as a basis for a parking reduction pursuant to a Parking Modification Permit would be consistent with the Winchester Boulevard Master Plan and CMC Sec. 21.28.050.

25. Since the proposed "late night" hours of operation are consistent with the Downtown Alcohol Policy, they do not present an impact to area residents or adjacent businesses.

26. The Planning Commission's review of the proposed project encompassed zoning and General Plan land use conformance, noise impacts, parking, property maintenance, odors, security and enforcement, and neighborhood impacts.

Based upon the foregoing findings of fact, the Planning Commission further finds and concludes that:

Conditional Use Permit Finding (CMC Sec. 21.45.040):

1. The proposed use is allowed within the applicable zoning district with Conditional Use Permit approval, and complies with all other applicable provisions of this Zoning Code and the Campbell Municipal Code;
2. The proposed use is consistent with the General Plan;
3. The proposed site is adequate in terms of size and shape to accommodate the fences and walls, landscaping, parking and loading facilities, yards, and other development features required in order to integrate the use with uses in the surrounding area;
4. The proposed site is adequately served by streets of sufficient capacity to carry the kind and quantity of traffic the use would be expected to generate;
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject property; and
6. The establishment, maintenance, or operation of the proposed use at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.

Liquor Establishment Findings (CMC Sec. 21.46.070):

7. The establishment will be consistent with the Campbell Downtown Alcohol Policy.
8. The establishment will not result in an over concentration of these uses in the surrounding area;
9. The establishment will not create a nuisance due to litter, noise, traffic, vandalism, or other factors;
10. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood; and

11. The establishment will not significantly increase the demand on city services.

Administrative P-D Permit Findings (CMC Sec. 21.12.030.H.6):

12. The proposed development or uses clearly would result in a more desirable environment and use of land than would be possible under any other zoning district classification;

13. The proposed development would be compatible with the general plan and will aid in the harmonious development of the immediate area;

14. The proposed development would not be detrimental to the health, safety or welfare of the neighborhood or of the city as a whole.

"Late-Night Activity" Findings (CMC Sec. 21.12.030.H.7):

15. The establishment will not create a nuisance due to litter, noise, traffic, vandalism or other factors;

16. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood; and

17. Proposed conditions of approval (if any), are sufficient to mitigate any detrimental impacts specified that may be caused by the late-night establishment.

Parking Modification Permit Findings (CMC Sec. 21.28.050):

18. Due to the unique nature and circumstances of the project, or special development features, the anticipated number of parking spaces necessary to serve the use or structure is less than that required by the applicable off-street parking standard, and would be satisfied by the existing or proposed number of parking spaces, as supported by review of the applicant's documentation and/or a parking demand study prepared by a qualified transportation engineer accepted by the decision-making body;

19. Conditions of approval have been incorporated into the project to ensure the long-term adequacy of the provided off-street parking; and

20. Approval of the parking modification permit will further the purpose of this chapter.

Environmental Findings (CMC Sec. 21.38.050):

21. The project is Categorically Exempt under Section 15303(c) of the California Environmental Quality Act (CEQA) Guidelines, which exempts from environmental review the conversion of existing building area of less than 10,000 square-feet from one use to another, where only minor modifications are made to the exterior of the structure.

THEREFORE, BE IT RESOLVED that the Planning Commission approves a Conditional Use Permit (PLN2015-352), Administrative Planned Development Permit (PLN2015-354), and Parking Modification Permit (PLN2015-355), subject to the attached Conditions of Approval (attached **Exhibit A**).

PASSED AND ADOPTED this 23rd day of February, 2016, by the following roll call vote:

AYES:	Commissioners:	Finch, Kendall, Dodd, Reynolds and Young
NOES:	Commissioners:	None
ABSENT:	Commissioners:	Rich, Bonhagen
ABSTAIN:	Commissioners:	None

APPROVED: _____
Cynthia Dodd, Chair

ATTEST: _____
Paul Kermoyan, Secretary

CONDITIONS OF APPROVAL

Conditional Use Permit (PLN2015-352), Administrative Planned Development Permit (PLN2015-354), Parking Modification Permit (PLN2015-355)

Where approval by the Director of Community Development, City Engineer, Public Works Director, City Attorney or Fire Department is required, that review shall be for compliance with all applicable conditions of approval, adopted policies and guidelines, ordinances, laws and regulations and accepted engineering practices for the item under review. Additionally, the applicant is hereby notified that he/she is required to comply with all applicable Codes or Ordinances of the City of Campbell and the State of California that pertain to this development and are not herein specified.

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

1. Approved Project: Approval is granted for a Conditional Use Permit (PLN2015-352) and Administrative Planned Development Permit (PLN2015-354) to allow establishment of a new 45-seat restaurant (Kalye Hits) with beer and wine service, outdoor seating, live entertainment (no dancing), and "late-night" operational hours (11:00 PM public closing); and a Parking Modification Permit (PLN2015-355) to allow a reduction in the number of required parking spaces on property located at **2145 S. Winchester Boulevard**. The project shall substantially conform to the project plans and revised project description stamped as received by the Planning Division on February 4, 2016 and December 11, 2015, respectively, except as may be modified by the conditions of approval contained herein.
2. Approval Expiration: This Approval shall be valid for one year from the effective date of the Planning Commission action (**March 4, 2017**). Within this one-year period, applications for a building permit for restaurant tenant improvements and a Type 41 (Beer and Wine) License must be submitted to the Campbell Building Division and the Department of Alcoholic Beverage Control, respectively. Failure to meet this deadline or expiration of an issued building permit will result in the Approval being rendered void. Once established, the Approval shall be valid in perpetuity on the property, subject to continued operation of the use in compliance with conditions of approval contained herein. Abandonment, discontinuation, or ceasing of operations for a continuous period of twelve months shall void the Approval.
3. Signage: No signage has been approved as part of this development application. New signage shall not be installed prior to approval of a Master Sign Plan for the project site as required by City Council Resolution No. 11426 (Planned Development Permit PLN2011-318).
4. Planning Final Required: Planning Division clearance is required prior to Building Permit final. Construction not in substantial compliance with the approved project plans shall not be approved without prior authorization of the necessary approving body.

5. Construction Drawings Requirements: The construction drawings submitted for a building permit shall include the following revisions:
 - a. **Conditions of Approval**: The Conditions of Approval contained herein shall be included with a separate plan sheet behind the cover sheet.
 - b. **Outdoor Furniture**: Details for patio furniture, including chairs, tables, and umbrellas shall be included within the construction drawings. All furniture shall be of a high quality material and design, appropriate for the Downtown setting, as approved by the Community Development Director.
 - c. **Ventilation System**: Specifications and details for a mechanical ventilation system with odor filtration consistent with the best management practices established by the Air Quality District, shall be included within the construction drawings, for approval by the Community Development Director.
 - d. **Window Glazing**: Elevation drawings shall indicate that all window glazing shall be kept clear and unobstructed in compliance with the conditions of approval.
 - e. **Corner Seating Design**: The seating counter at the corner of the restaurant shall be designed to maintain visibility below the countertop (i.e., the glazing shall not be obstructed).
 - f. **Required Signage**: The signage required by the conditions of approval shall be noted on the appropriate sheet(s).

6. Operational Standards: Consistent with Downtown Alcohol Beverage Policy and other City standards, any restaurant operating pursuant to the Project Approval shall conform to the following operational standards.
 - a. **Approved Use**: The approved use is a "standard restaurant" with an ancillary "bar area" as defined by the Campbell Municipal Code. At no time shall the restaurant be operated as a "fast food" restaurant. This shall require the restaurant to include a host station, wait staff, table service, individual menus, and non-disposable plates, cutlery, and drink-ware.
 - b. **Restaurant Seating/Patron Occupancy**: Total indoor patron occupancy shall be limited to 37 seated persons, consistent with the 26 dining area seats and 11 bar area seats. At no time shall there be more than 37 patrons within the establishment, excluding those waiting for service. It is the responsibility of the business owner to provide adequate entrance controls to ensure that patron occupancy is not exceeded.
 - c. **Maximum Occupancy Sign**: The business owner shall install a maximum occupancy sign of a size to be determined by the Community Development Director, conspicuously posted within the premises, which shall include the maximum occupancy noted herein and include a visual depiction on the final floor plan configuration.

- d. **Bar Area Seating:** The bar area shall be composed of eleven (11) bar seats as shown on the approved project plans. No part of the dining area shall be considered part of the bar area.
- e. **Floor Plan:** All chairs and tables within the dining area shall consist of standard-height furniture (i.e., not "high-top"). All tables and chairs shall be placed in such a manner to allow sufficient area for dining and shall not be stacked or removed from the dining area or placed outside. At no time shall the seating be reconfigured to create large open spaces for patrons to congregate, dance, drink, or socialize.
- f. **Hours of Operation:** Hours of operation shall be as follows. By the end of 'Business Hours' all patrons shall have exited the restaurant. By the end of the 'Operational Hours' all employees shall be off the premises.
 - Business Hours: 10:00 AM – 11:00 PM, daily
 - Operational Hours: 8:00 AM – 12:00 AM, daily
- g. **Food Service:** Full menu food service shall be provided at all times during the Business Hours in the dining, outdoor seating, and bar areas (i.e., the kitchen shall not be closed).
- h. **Alcohol Beverage Service:** Alcohol beverage service in the dining area shall only be allowed in conjunction with food service. The dining area shall not be converted to a bar area or dance area.
- i. **Bar Area Meal Service:** Meal service shall be available in the bar area at all times.
- j. **Live Entertainment:** Live entertainment, limited to karaoke and live performances of no more than two musicians playing non-amplified instruments, shall be permitted during business hours, daily, within the corner stage shown on the approved floor plan, subject to approval of a Live Entertainment Permit in compliance with CMC Sec. 5.24.
- k. **Dancing Prohibited:** At no time shall the business owner allow any form of dancing.
- l. **Cover Charge:** At no time shall a cover charge be required or a donation necessary in order to patronize the establishment.
- m. **Doors and Windows:** Doors and windows shall remain closed during live entertainment performances. The rear doors shall be restricted to emergency egress only—no normal customer entrance or exiting shall be allowed—after 8:00 PM. This restriction shall be posted with a conspicuous sign affixed to both sides of the door. The rear doors shall also incorporate an exterior locking mechanism which shall be activated after 8:00 PM and interior panic hardware to allow emergency egress when locked.
- n. **Noise:** Unreasonable noise—defined as noise, regardless of decibel level, which obstructs the free use of neighboring properties so as to unreasonably interfere with the comfortable enjoyment of the neighboring residents—shall

not be generated by the live entertainment. In the event three (3) verified complaints are received the City within a six (6) month period regarding such unreasonable noise, the Community Development Director may immediately modify the business hours and/or impose additional restrictions on the live entertainment, including but not limited to, reducing the number of performers, and prohibiting karaoke, subject to the project being brought back to the Planning Commission in a public hearing.

- o. **Exterior Speakers:** Exterior loud speakers, exterior audio sound systems, and/or public address systems are prohibited.
- p. **Storefront Glazing:** All storefront glazing shall remain unobscured, except for the 25% of window area permitted to be occupied with the window signage.
- q. **Outdoor Seating:** Outdoor seating shall be considered part of the dining area subject to all restrictions herein. In addition, the following requirements apply:
 - i. Total patron occupancy in the outdoor seating area shall be limited to eight (8) seated patrons within sidewalk area directly in front of the tenant space along S. Winchester Boulevard.
 - ii. The design, make, and placement of all furniture (chairs, tables, and umbrellas, etc.) shall be subject to review and approval by the Community Development Director.
 - iii. Use of the outdoor seating area shall cease by 11:00 PM, daily. During non-business hours, chairs and tables shall be stacked, stored inside, or otherwise secured to prevent unauthorized use.
 - iv. All outdoor furniture shall be kept clean and in good repair and replaced and/or fixed as necessary.
 - v. The business owner shall maintain comprehensive liability insurance and list the City as an "additionally insured". Before the issuance of a Business License, the business owner shall furnish to the city a certificate of insurance.
 - vi. A barrier surrounding the patio, such as railing or planters, shall not be permitted.
 - vii. Exterior heaters shall be electric or natural gas and wall-mounted.
- r. **Loitering:** There shall be no loitering allowed outside the business. The business owner is responsible for monitoring the premises to prevent loitering. "No Loitering" signs shall be permanently installed on the rear fence and on the rear building wall of the restaurant.
- s. **Smoking:** "No Smoking" signs shall be posted on the premises in compliance with CMC 6.11.060.
- t. **Trash & Clean Up:** All trash, normal clean up, carpet cleaning, etc. shall occur during the approved 'Operational Hours'. Refuse and recycling receptacles shall be kept within the enclosure except during collection in compliance with Chapter 6.04 of the Campbell Municipal Code.

- u. **Liquor License:** The applicant shall obtain and maintain in good standing a Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) license from the State Department of Alcoholic Beverage Control for the sale of beer and wine beverages in conjunction and restaurant. The license shall include the Business Hour restrictions consistent with these conditions of approval. A copy of the issued license shall be provided to the Community Development Department prior to issuance of a Business License.
 - v. **Alcohol Sales:** The monthly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period, consistent with ABC licensing regulations. The business owner shall provide sales records on demand to the City to verify compliance with this standard.
 - w. **Employee Training:** The establishment shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association and the Department of Alcoholic Beverage Control.
 - x. **Designated Driver Program:** The establishment shall maintain and actively promote a designated driver program (e.g., complimentary non-alcoholic beverages for designated drivers), including posting in a conspicuous place contact information for local designated driver services.
 - y. **Taxicab Service:** The establishment shall post in a conspicuous place the telephone numbers of local taxicab services.
 - z. **Outdoor Activity:** Other than outdoor seating as permitted by an Outdoor Seating Permit, no outdoor activity (e.g., cooking) is permitted in association with the establishment.
7. Location of Mechanical Equipment: No roof-mounted mechanical equipment (i.e. air conditioning units, ventilation ducts or vents), shall be added to the existing building without providing screening of the mechanical equipment from public view and surrounding properties. The screening material and method shall be architecturally compatible with the building and requires review and approval by the Community Development Director and Building Division prior to installation of such screening.
8. Outdoor Storage: No outdoor storage is permitted on the subject property. No equipment, materials or business vehicles shall be parked and/or stored outside the building or within the parking lot.
9. Parking and Driveways: All parking and driveway areas shall be maintained in compliance with the standards in Chapter 21.28 (Parking & Loading) of the Campbell Municipal Code. Parking spaces shall be free of debris or other obstructions.
10. Compliance with Other Conditions of Approval: The restaurant shall be operated in compliance with all other conditions of approval provided for in Planned Development Permit PLN2011-318 (City Council Resolution No. 11426).

11. Revocation of Permit: Operation of the restaurant pursuant to this Approval is subject to Sections 21.68.020, 21.68.030 and 21.68.040 of the Campbell Municipal Code authorizing the appropriate decision making body to modify or revoke a discretionary permit if it is determined that the sale of alcohol, late-night activity, and/or live entertainment, has become a nuisance to the City's public health, safety or welfare or for violation of the conditions of approval contained herein, or any standards, codes, or ordinances of the City of Campbell.

At the discretion of the Community Development Director, if the establishment generates three (3) verifiable complaints related to violations of conditions of approval and/or related to the service of alcohol, noise, and/or live entertainment, within a six (6) month period, a public hearing before the Planning Commission may be scheduled to consider modifying conditions of approval or revoking the Approval. The Community Development Director may commence proceedings for the revocation or modification of use permits upon the occurrence of less than three (3) complaints if the Community Development Director determines that the alleged violation warrants such an action. In exercising this authority, the decision making body may consider the following factors, among others:

- a. The number and types of Police Department calls for service at or near the establishment that are reasonably determined to be a direct result of patrons actions;
- b. The number of complaints received from residents, business owners and other citizens concerning the operation of an establishment;
- c. The number of arrests for alcohol, drug, disturbing the peace, fighting and public nuisance violations associated with an establishment;
- d. The number and kinds of complaints received from the State Alcoholic Beverage Control office and the County Health Department; and
- e. Violation of conditions of approval.

Building Division:

12. Permits Required: A building permit application shall be required for the proposed bar/restaurant use in the existing commercial structure. The building permit shall include Electrical/Plumbing/Mechanical fees when such work is part of the permit.
13. Construction Plans: The Conditions of Approval shall be stated in full on the cover sheet of construction plans submitted for building permit.
14. Size of Plans: The minimum size of construction plans submitted for building permits shall be 24 in. X 36 in.
15. Plan Preparation: This project requires plans prepared under the direction and oversight of a California licensed Engineer or Architect. Plans submitted for building permits shall be "wet stamped" and signed by the qualifying professional person.

16. Site Plan: Application for building permit shall include a competent site plan that identifies property and proposed structures with dimensions and elevations as appropriate. Site plan shall also include site drainage details. Site address and parcel numbers shall also be clearly called out. Site parking and path of travel to public sidewalks shall be detailed.
17. Title 24 Energy Compliance: California Title 24 Energy Compliance forms shall be blue-lined on the construction plans. Compliance with the Standards shall be demonstrated for conditioning of the building envelope and lighting of the building.
18. Special Inspections: When a special inspection is required by C.B.C. Chapter 17, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permits, in accordance with C.B.C Appendix Chapter 1, Section 106. Please obtain City of Campbell, Special Inspection forms from the Building Inspection Division Counter.
19. Non-point Pollution Control Program: The City of Campbell, standard Santa Clara Valley Non-point Source Pollution Control Program specification sheet shall be part of plan submittal. The specification sheet (size 24" X 36") is available at the Building Division service counter.
20. Title 24 Accessibility – Commercial: On site general path of travel shall comply with the latest California Title 24 Accessibility Standards. Work shall include but not be limited to accessibility to building entrances from parking facilities and sidewalks.
21. Title 24 Accessibility – Commercial: Projects seeking to use the Title 24 Hardship exemption clause shall blue-line completed, City of Campbell "20%" exemption form on submitted construction plans. Form is available at Building Division service counter.
22. Approvals Required: The project requires the following agency approval prior to issuance of the building permit:
 - a. West Valley Sanitation District (378-2407)
 - b. Santa Clara County Fire Department (378-4010)
 - c. Santa Clara County Dept. of Environmental Health (918-3400)
 - d. City of San Jose Dept. of Environmental Services (535-8550)
23. P.G. &E: Applicant is advised to contact Pacific Gas and Electric Company as early as possible in the approval process. Service installations, changes and/or relocations may require substantial scheduling time and can cause significant delays in the approval process. Applicant should also consult with P.G. and E. concerning utility easements, distribution pole locations and required conductor clearances.

FIRE DISTRICT

24. Scope of Review: Review of this Developmental proposal is limited to acceptability of site access and water supply as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
25. Fire Sprinkler System: If the proposed use will require an interior remodel modification of the fire sprinkler system may be required. A State of California licensed (C-16) Fire Protection Contractor shall submit plans, calculations, a completed permit application and appropriate fees to this department for review and approval prior to beginning their work. NOTE: The owner(s), occupant(s) and any contractor(s) or subcontractor(s) are responsible for consulting with the water purveyor of record in order to determine if any modification or upgrade of the existing water service is required. CFC Sec. 903.2 as adopted and amended by CBLMC
26. 904.2.1 Commercial hood and duct systems. Each required commercial kitchen exhaust hood and duct system required by Section 609 to have a Type I hood shall be protected with an approved automatic fire- extinguishing system installed in accordance with this code. 904.3 Installation. Automatic fire-extinguishing systems shall be installed in accordance with this section. 904.3.1 Electrical wiring. Electrical wiring shall be in accordance with California Electrical Code.
27. Construction Site Fire Safety: All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification SI-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. CFC Chp. 33.
28. Address identification. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained. CFC Sec. 505.1

RESOLUTION NO. 4276

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING CHAPTER 21.10 (COMMERCIAL AND INDUSTRIAL DISTRICTS); CHAPTER 21.12 (SPECIAL PURPOSE DISTRICTS); CHAPTER 21.36 (PROVISIONS APPLYING TO SPECIAL USES); AND SECTION 21.72.020 (DEFINITIONS) OF CAMPBELL MUNICIPAL CODE TITLE 21 (ZONING).

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

The Planning Commission finds as follows with regard to file number PLN2015-365:

Environmental Findings

1. The proposed Text Amendment project is exempt from the California Environmental Quality Act under Section 15061.b.3 because it has no potential for resulting in a physical change to the environment.
2. The project consists of a Text Amendment amending the following to the Campbell Zoning Code: Chapter 21.10 (Commercial and Industrial Districts); Chapter 21.12 (Special Purpose Districts); and Section 21.72.020 (Definitions), and Chapter 21.36 (Provisions Applying to Special Uses) of the Zoning Ordinance to create regulations for massage establishments.
3. No substantial evidence has been presented from which a reasonable argument could be made that shows that the project will have a significant adverse impact on the environment.

Evidentiary Finding

1. The legislature of the State of California has, in Government Code Sections 65302, 65560 and 65800, conferred upon local government units the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.
2. Review and adoption of this Text Amendment is done in compliance with California Government Code Sections 65853 through 65857, which require a duly noticed public hearing of the Planning Commission whereby the Planning Commission shall provide its written recommendation to the City Council for its consideration.
3. The City of Campbell recognizes the importance of promoting the public health, safety and general welfare, and providing adequate locations for the establishment of various uses that serve the community.

Based on the foregoing findings of fact, the Planning Commission further finds and concludes that:

1. The proposed amendment is consistent with the goals, policies, and actions of the General Plan;
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City; and
3. The proposed amendment is internally consistent with other applicable provisions of the Zoning Code.

THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council adopt the attached Ordinance (reference **Exhibit A**) recommending approval of the above described Zoning Text Amendment.

PASSED AND ADOPTED this 23rd day of February, 2016, by the following roll call vote:

AYES:	Commissioners:	Finch, Kendall, Dodd, Reynolds and Young
NOES:	Commissioners:	None
ABSENT:	Commissioners:	Rich, Bonhagen
ABSTAIN:	Commissioners:	None

APPROVED: _____
Cynthia Dodd, Chair

ATTEST: _____
Paul Kermoyan, Secretary

Ordinance No. _____

**BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL
AMENDING CERTAIN SECTIONS OF TITLE 21 (Zoning) OF THE CAMPBELL
MUNICIPAL CODE RELATING TO MASSAGE ESTABLISHMENTS**

The City Council of the City of Campbell does ordain as follows:

SECTION 1. Findings: Government Code Sections 51030—51034 provide authority for the legislative bodies of California cities to license and regulate the business of massage. In enacting these amendments, the city council recognizes that massage is a viable professional field offering the public valuable health and therapeutic services. The city council further recognizes that unless properly regulated, the practice of massage and the operation of massage establishments may be associated with unlawful activity and pose a threat to the quality of life in the community. Therefore, it is the purpose and intent of these amendments to regulate massage establishments and practices in order to protect public health, safety, and welfare. The regulations are intended to reduce or prevent blight, protect and preserve the quality of commercial and residential properties, and deter criminal activity.

SECTION 2. Regulations for Massage Establishments: Section 21.36.270 is hereby added to Chapter 21.36 of the Campbell Municipal Code (Provisions Applying to Special Uses) to read as follows:

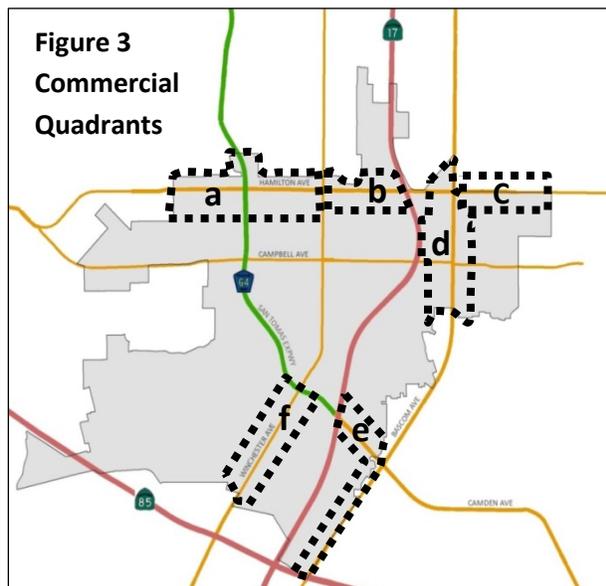
21.36.270 – Massage Establishments.

- A. Purpose. The City has broad control over land use regulation of massage establishments in order to manage such establishments in the best interests of the City of Campbell. This Section is designed to provide for and to regulate massage establishment uses where they are allowed in compliance with the provisions of Campbell Municipal Code Article 2 (Zoning Districts) and Chapter 5.48 (Massage Establishments and Therapists).
- B. Conditional Use Permit.
 1. On and after [Effective Date of Ordinance], a conditional use permit shall be required for massage establishment uses in compliance with Chapter 21.46 (Conditional Use Permits).
 2. Mandatory Concurrent Application for Massage Establishment Permit. A massage establishment permit, and any renewal thereof, shall be filed with the Chief of Police, pursuant to Section 5.48 (Massage Establishments and Therapists) of the Municipal Code. The Conditional Use Permit shall not be granted until a massage establishment permit is issued by the Chief of Police.

C. Overconcentration / Location Requirements.

1. No massage establishment shall be located in any zone in the city other than the C-2 (General Commercial) and P-O (Professional Office) zoning districts.
2. A massage establishment use shall not be located within three hundred feet of another existing massage establishment use, as measured from the edge of the property line of each property.
3. Massage Establishments may be permitted in only the following commercial quadrants as indicated in Figure 3, upon filing an application for a Conditional Use Permit and satisfying the required findings to support such use. In no event shall there be more than two massage establishments in each commercial quadrant.

- a. West Hamilton Avenue and South Winchester Boulevard--west of Winchester Boulevard;
- b. East Hamilton Avenue and South Winchester Boulevard--east of Winchester Boulevard and west of Highway 17;
- c. East Hamilton Avenue, east of Bascom Avenue
- d. Bascom Avenue, north of Dry Creek Road;
- e. Camden Avenue and South Bascom Avenue, south of Curtner Avenue;
- f. South Winchester Boulevard, south of San Tomas Expressway



D. Operational Standards. Except as specifically required in the Massage Establishment Permit issued by the Chief of Police and pursuant to the provisions of Chapter 5.48, all massage establishments shall comply with the regulations and restrictions applicable to the zoning district in which it is located and with the following operating requirements:

1. Owner/Operator. It shall be unlawful for any operator to own, manage, or operate a massage establishment in or upon any premises within the city without having a current massage establishment permit issued by the Chief of Police pursuant to the provisions of Chapter 5.48;
2. Hours of Operation. No massage establishment shall be kept open for business and no massage therapist shall administer massages before the hour of 7:00 a.m. or after the hour of 10:00 p.m.;
3. Window Coverage. No massage business located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall, during business hours, block visibility into the interior reception or waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises. For the purpose of this sub-section, there is an irrebuttable presumption that the visibility is impermissibly blocked if more than 10 percent of the interior reception or waiting area is not visible from the exterior window.
4. Nonconforming uses shall come into compliance with the operational standards of this subsection within 30 days of the effective date of the ordinance enacting this Section.

E. Non-conforming Massage Establishments.

1. Any use of real property lawfully existing on the effective date of this section, which does not conform to the provisions of this Section, but which was established, operated, and maintained in compliance with all previous regulations, shall be regarded as a nonconforming use and may continue at its existing location in compliance with the regulations of Section 21.58.040.
2. Discontinued Use. A nonconforming use that is abandoned, discontinued, or has ceased operations for a continuous period of at least twelve months shall not be re-established on the site and further use of the structure or parcel shall comply with all of the regulations of the applicable zoning district and all other applicable provisions of this Zoning Code. Evidence of abandonment shall include, but is not limited to, the actual removal of equipment, furniture, machinery, structures, or other components of the nonconforming use, the turning-off of the previously connected utilities, or where there are no

business receipts/records available to provide evidence that the use is in continual operation;

3. Annexed property. Any massage establishment that is a legal use at the time of annexation of the property into the city, but which does not conform to the provisions of this Section, shall be terminated within one year of the date of annexation.

SECTION 3. DEFINITION OF "SPA SERVICES": The definition of "Spa Services" in Campbell Municipal Code section 21.72.020 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

"Spa Services / Health Spa" means an establishment that provides a combination of hair, nail, and/or skin care; waxing; facials; massage; and other similar services to customers for financial compensation and may include a sauna, whirlpool, and other similar amenities for the incidental use of patrons. Spa Services / Health Spa shall not mean a beauty shop, nail shop, barber shop, or massage establishment where the active primary use of the establishment does not encompass a full range of services identified in the preceding sentence, but is focused on only one or two of the uses listed in this sentence.

SECTION 4. DEFINITION OF "PERSONAL SERVICES": The definition of "Personal services" in Campbell Municipal Code section 21.72.020 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

"Personal services" means establishments providing non-medical services as a primary use, including: 1. Barber and beauty shops; 2. Clothing rental; 3. Dry cleaning pick-up stores with limited equipment; 4. Home electronics and small appliance repair; 5. Laundromats (self-service laundries); 6. Nail shops; 7. Shoe repair shops; 8. Tailors.

~~These uses~~ "Personal services" may also include accessory retail sales of products related to the services provided.

~~The term "personal services" does not include massage establishments. These uses~~ The term "personal services" does not include body piercing, psychic readers, tattoo parlors, or any of the other uses listed under "Personal services, limited."

SECTION 5. Permitted uses in C-1 (Neighborhood Commercial) zoning district:

The list of permitted uses in Subsection B of Campbell Municipal Code section 21.10.040 is amended to read as follows, with underlining indicating new text and ~~strikeout~~ indicating deleted text:

1. Automated teller machines (ATM's);
2. Banks and financial services;
3. Catering business, only when ancillary to a restaurant;
4. Dry cleaning;
5. Grocery stores (under ten thousand square feet);
6. Hardware stores (under ten thousand square feet);
7. Laundromats, self-service;
8. Libraries, public;
9. Light rail passenger terminals;
- ~~10. Massage establishments;~~
- ~~11. 10. Meat markets;~~
- ~~12. 11. Offices, professional;~~
- ~~13. 12. Outdoor seating, when twelve total seats or less;~~
- ~~14. 13. Parking lots/structures, public;~~
- ~~15. 14. Personal services, general;~~
- ~~16. 15. Pharmacies/drug stores;~~
- ~~17. 16. Photocopying;~~
- ~~18. 17. Photography studio/supply shop;~~
- ~~19. 18. Repair and maintenance, consumer products;~~
- ~~20. 19. Restaurants or cafes (excluding fast food or drive-ins);~~
- ~~21. 20. Retail stores, general merchandise;~~
22. 21. Satellite television or personal internet broadband dishes/antenna (less than three feet in diameter);
- ~~23. 22. Schools K—12, public;~~
24. 23. Shopping centers (under ten thousand square feet);
- ~~25. 24. Travel agencies;~~
- ~~26. 25. Universities/colleges, public;~~
- ~~27. 26. Vending machines;~~
28. 27. Wireless telecommunications facilities - stealth (requires approval of a site and architectural review permit).

SECTION 6. Permitted uses in C-2 (General Commercial) zoning district: The list of permitted uses in Subsection B of Campbell Municipal Code section 21.10.050 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

1. Ambulance service;
2. Artisan products, small-scale assembly;
3. Automated teller machines (ATM's);
4. Banks and financial services;
5. Blueprinting shops;
6. Catering business, only when ancillary to a restaurant;
7. Dry cleaning;
8. Furniture, furnishings, and equipment stores (greater than ten thousand square feet);
9. Furniture, furnishings, and equipment stores (under ten thousand square feet);
10. Garden centers/plant nurseries;
11. Grocery stores (under ten thousand square feet);
12. Handicraft industries, small scale assembly;
13. Hardware stores (under ten thousand square feet);
14. Hotels;
15. Laundromats, self-service;
16. Libraries, public;
17. Light rail passenger terminals;
- ~~18. Massage establishments;~~
- ~~19.~~ 18. Medical services, laboratories;
- ~~20.~~ 19. Motels;
21. 20. Offices, professional;
- ~~22.~~ 21. Outdoor seating, when twelve total seats or less;
- ~~23.~~ 22. Parking lots/structures, public;
24. 23. Personal services, general;
- ~~25.~~ 24. Pharmacies/drug stores;
- ~~26.~~ 25. Photocopying;
27. 26. Photography studio/supply shop;
- ~~28.~~ 27. Repair and maintenance, consumer products;
29. 28. Restaurants or cafes (excluding fast food or drive-ins);
- ~~30.~~ 29. Retail stores, general merchandise;
31. 30. Satellite television or personal internet broadband dishes/antenna (less than three feet in diameter);
- ~~32.~~ 31. Schools K—12, public;
33. 32. Shopping centers (under ten thousand square feet);
34. 33. Travel agencies;
35. 34. Universities/colleges, public;
- ~~36.~~ 35. Vending machines;
37. 36. Wireless telecommunications facilities - stealth (requires approval of a site and architectural review permit).

SECTION 7. Conditional uses in C-2 (General Commercial) zoning district: The list of uses allowed with a conditional use permit in Subsection C of Campbell Municipal Code section 21.10.050 is amended to read as follows, with underlining indicating new text and ~~strikeout~~ indicating deleted text:

1. Adult day care facilities;
2. Alternative fuels and recharging facilities;
3. Arcades;
4. Banquet facilities;
5. Bed and breakfast inns (only in historic structures);
6. Broadcast and recording studios;
7. Caretaker/employee housing (not to exceed six hundred forty square feet and one bedroom);
8. Cat and dog day care facilities;
9. Cat and dog grooming facilities;
10. Cat Boarding facilities;
11. Check cashing;
12. Commercial day care centers;
13. Commercial schools;
14. Community/cultural/recreational centers;
15. Convalescent/rest homes;
16. Convenience markets/stores;
17. Conversion, commercial converted from residence;
18. Dancing and live entertainment;
19. Department stores;
20. Drive-in theaters;
21. Emergency shelters;
22. Equipment rental establishments;
23. Gasoline stations;
24. Golf courses and golf driving ranges;
25. Government offices and facilities (local, state or federal);
26. Grocery stores (greater than ten thousand square feet);
27. Hardware stores (greater than ten thousand square feet);
28. Health/fitness centers;
29. Hospitals;
30. Indoor amusement/entertainment/recreation centers;
31. Late night activities;
32. Liquor establishments (on-site consumption only);
33. Liquor stores (off-site consumption only);
34. Massage Establishments;
- ~~34.~~ 35. Medical services, clinics;
- ~~35.~~ 36. Medical services, extended care;
- ~~36.~~ 37. Miniature golf courses;
- ~~37.~~ 38. Motor vehicle - cleaning, washing, and detailing;
- ~~38.~~ 39. Motor vehicle - oil change facilities;
- ~~39.~~ 40. Motor vehicle - parts and supplies (very limited maintenance/installation);

- 40. 41. Motor vehicle - renting and leasing;
- 41. 42. Motor vehicle - sales (new and/or used);
- 42. 43. Museums, public;
- 43. 44. Music (recordings) stores;
- 44. 45. Nightclubs with or without food service;
- 45. 46. Outdoor active activities (e.g., drive-up windows);
- 46. 47. Outdoor amusement/entertainment/recreation centers;
- 47. 48. Outdoor retail sales and activities;
- 48. 49. Outdoor seating, when more than twelve total seats;
- 49. 50. Personal services, limited;
- 50. 51. Pet stores;
- 51. 52. Pharmacies/drug stores, with drive-up service;
- 52. 53. Philanthropic collection trailers;
- 53. 54. Public assembly uses;
- 54. 55. Public utility structures and service facilities;
- 55. 56. Public works maintenance facilities and storage yards;
- 56. 57. Radio or television transmitters;
- 57. 58. Radio stations;
- 58. 59. Recycling facilities - reverse vending machines;
- 59. 60. Recycling facilities - small collection facility;
- 60. 61. Restaurants with late night activities or banquet facilities;
- 61. 62. Restaurants, fast food (with or without drive-in service);
- 62. 63. Schools - K—12, private;
- 63. 64. Second hand/thrift stores;
- 64. 65. Shopping centers (greater than ten thousand square feet);
- 65. 66. Sign shops;
- 66. 67. Spa services;
- 67. 68. Studios, large;
- 68. 69. Studios, small;
- 69. 70. Tanning studios;
- 70. 71. Theaters, movie or performing arts;
- 71. 72. Transitional housing;
- 72. 73. Tutoring center, large;
- 73. 74. Tutoring center, small;
- 74. 75. Universities/colleges, private;
- 75. 76. Veterinary clinics and animal hospitals;
- 76. 77. Video rental stores;
- 77. 78. Warehouse retail stores;
- 78. 79. Wireless telecommunications facilities - non-stealth.

SECTION 8. Permitted uses in C-3 (Central Business District) zoning district: The list of permitted uses in Subsection B of Campbell Municipal Code section 21.10.060 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

1. Retail business, including but not limited to clothing stores, department stores, drugstores, furniture stores, toy stores, jewelry stores, shoe stores, florist shops and gift shops subject to standards for alcohol sales in compliance with paragraph (F) (Standards for alcohol sales in the C-3 zoning district), below. Does not include retail business uses specified in paragraph (C) (Uses permitted with a conditional use permit in the C-3 district).
2. Tutoring centers (small and large), studios (small and large), and professional offices, except on the ground floor of parcels abutting East Campbell Avenue east of Second Street unless the following standards can be met:
 - a. The business is located in a separate tenant space that is a minimum of fifty feet from the East Campbell Avenue property line; and
 - b. The separate tenant space does not have a door or entrance that takes access from East Campbell Avenue.
3. Service commercial establishments including but not limited to barber shops, beauty parlors, dry cleaning, ~~massage services~~, photographic studio, shoe repair shops, and tailors, except on the ground floor of parcels abutting East Campbell Avenue east of Second Street unless the following standards can be met:
 - a. The business is located in a separate tenant space that is a minimum of fifty feet from the East Campbell Avenue property line; and
 - b. The separate tenant space does not have a door or entrance that takes access from East Campbell Avenue.
4. Outdoor seating and merchandise displays, subject to approval of an outdoor seating and merchandise display permit in compliance with paragraph (H) (Standards and permit requirements for outdoor seating and merchandise display), below.
5. Restaurants, subject to the provisions of paragraph (F) (Standards for alcohol sales in the C-3 zoning district) and standards for live entertainment in compliance with paragraph (G) (Standards for live entertainment in the C-3 zoning district), below.
6. Wireless telecommunications facilities—stealth (requires approval of a site and architectural review permit).
7. Other uses similar to the above in compliance with Chapter 21.02 (Interpretation of Provisions).

SECTION 9. Conditional uses in C-M (Controlled Manufacturing) zoning district:

The list of permitted uses in Subsection C of Campbell Municipal Code section 21.10.070 is amended to read as follows, with underlining indicating new text and ~~strikeout~~ indicating deleted text:

1. Automated teller machines (ATM's);
2. Banks and financial services;
3. Catering business, only when ancillary to a restaurant;
4. Dry cleaning;
5. Grocery stores (under ten thousand square feet);
6. Hardware stores (under ten thousand square feet);
7. Laundromats, self-service;
8. Libraries, public;
9. Light rail passenger terminals;
- ~~10. Massage establishments;~~
- ~~11. 10. Meat markets;~~
- ~~12. 11. Offices, professional;~~
- ~~13. 12. Outdoor seating, when twelve total seats or less;~~
- ~~14. 13. Parking lots/structures, public;~~
- ~~15. 14. Personal services, general;~~
- ~~16. 15. Pharmacies/drug stores;~~
- ~~17. 16. Photocopying;~~
- ~~18. 17. Photography studio/supply shop;~~
- ~~19. 18. Repair and maintenance, consumer products;~~
- ~~20. 19. Restaurants or cafes (excluding fast food or drive-ins);~~
- ~~21. 20. Retail stores, general merchandise;~~
22. 21. Satellite television or personal internet broadband dishes/antenna (less than three feet in diameter);
- ~~23. 22. Schools K—12, public;~~
24. 23. Shopping centers (under ten thousand square feet);
- ~~25. 24. Travel agencies;~~
- ~~26. 25. Universities/colleges, public;~~
- ~~27. 26. Vending machines;~~
28. 27. Wireless telecommunications facilities - stealth (requires approval of a site and architectural review permit).

SECTION 10. Restrictions in C-PD (Condominium Planned Development) zoning district.

The list of restrictions in Subsection D of Campbell Municipal Code section 21.12.020 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

- D. Restrictions. The C-PD zoning district is the only zoning district in which the construction of new condominiums, or the conversion of existing residential, commercial, or industrial structures to condominiums, is allowed. The following uses are prohibited:
1. Any use inconsistent with state or federal law.
 2. Payday lender.
 3. Massage Establishments.

SECTION 11. Prohibited Uses in PD (Planned Development) zoning district.

The list of prohibited uses in Subsection F of Campbell Municipal Code section 21.12.030 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

- F. Prohibited uses in the P-D (Planned Development) zoning district. The following uses are prohibited:
1. Any business that includes smoking tobacco on site (e.g., smoking lounges, hookah lounges, etc.).
 2. Payday lender.
 3. Massage Establishments.
 4. Any use inconsistent with state or federal law.

SECTION 12. This Ordinance shall become effective (30) days following its passage and adoption and shall be published once within fifteen (15) days upon passage and adoption in the Campbell Express, a newspaper of general circulation in the City of Campbell, County of Santa Clara.

PASSED AND ADOPTED this _____ day of _____, 2016 by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

RESOLUTION NO. 4276

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING CHAPTER 21.10 (COMMERCIAL AND INDUSTRIAL DISTRICTS); CHAPTER 21.12 (SPECIAL PURPOSE DISTRICTS); CHAPTER 21.36 (PROVISIONS APPLYING TO SPECIAL USES); AND SECTION 21.72.020 (DEFINITIONS) OF CAMPBELL MUNICIPAL CODE TITLE 21 (ZONING).

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

The Planning Commission finds as follows with regard to file number PLN2015-365:

Environmental Findings

1. The proposed Text Amendment project is exempt from the California Environmental Quality Act under Section 15061.b.3 because it has no potential for resulting in a physical change to the environment.
2. The project consists of a Text Amendment amending the following to the Campbell Zoning Code: Chapter 21.10 (Commercial and Industrial Districts); Chapter 21.12 (Special Purpose Districts); and Section 21.72.020 (Definitions), and Chapter 21.36 (Provisions Applying to Special Uses) of the Zoning Ordinance to create regulations for massage establishments.
3. No substantial evidence has been presented from which a reasonable argument could be made that shows that the project will have a significant adverse impact on the environment.

Evidentiary Finding

1. The legislature of the State of California has, in Government Code Sections 65302, 65560 and 65800, conferred upon local government units the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.
2. Review and adoption of this Text Amendment is done in compliance with California Government Code Sections 65853 through 65857, which require a duly noticed public hearing of the Planning Commission whereby the Planning Commission shall provide its written recommendation to the City Council for its consideration.
3. The City of Campbell recognizes the importance of promoting the public health, safety and general welfare, and providing adequate locations for the establishment of various uses that serve the community.

Based on the foregoing findings of fact, the Planning Commission further finds and concludes that:

1. The proposed amendment is consistent with the goals, policies, and actions of the General Plan;
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City; and
3. The proposed amendment is internally consistent with other applicable provisions of the Zoning Code.

THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council adopt the attached Ordinance (reference **Exhibit A**) recommending approval of the above described Zoning Text Amendment.

PASSED AND ADOPTED this 23rd day of February, 2016, by the following roll call vote:

AYES:	Commissioners:	Finch, Kendall, Dodd, Reynolds and Young
NOES:	Commissioners:	None
ABSENT:	Commissioners:	Rich, Bonhagen
ABSTAIN:	Commissioners:	None

APPROVED: _____
Cynthia Dodd, Chair

ATTEST: _____
Paul Kermoyan, Secretary

RESOLUTION NO. 4277

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING CERTAIN SECTIONS OF TITLE 21 (ZONING) OF THE CAMPBELL MUNICIPAL CODE TO RECLASSIFY RESTAURANTS AND MOTOR VEHICLE SALE ESTABLISHMENTS (WITHIN AN ENCLOSED BUILDING) AS CONDITIONALLY PERMITTED USES SUBJECT TO APPROVAL OF A CONDITIONAL USE PERMIT AND SPECIFICALLY PROHIBITING DRIVE-THROUGH AND DRIVE-IN RESTAURANTS WITHIN THE C-3 (CENTRAL BUSINESS DISTRICT) ZONING DISTRICT.

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

The Planning Commission finds as follows with regard to file number PLN2013-13:

1. The project consists of a Zoning Text Amendment that would reclassify restaurants and motor vehicle sale establishments (within an enclosed building) as conditionally permitted uses subject to approval of a Conditional Use Permit and specifically prohibiting drive-through and drive-in restaurants within the C-3 (Central Business District) Zoning District.
2. The proposed Zoning Text Amendment would encourage a compatible mix of uses in the Downtown, reinforce East Campbell Avenue as a pedestrian-oriented retail street, and foster a balance of day and evening activity.
3. The legislature of the State of California has, in Government Code Sections 65302, 65560 and 65800, conferred upon local government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry;
4. Review and adoption of this Text Amendment is done in compliance with California government Code Sections 65853 through 65857, which require a duly noticed public hearing of the Planning Commission whereby the Planning Commission shall provide its written recommendation to the City Council for its consideration.

Based on the foregoing findings of fact, the Planning Commission further finds and concludes that:

1. The proposed amendment is consistent with the goals, policies, and actions of the General Plan;
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City; and
3. The proposed amendment is internally consistent with other applicable provisions of the Zoning Code.

THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council adopt the attached Ordinance (reference **Exhibit A**) recommending approval of the above described Zoning Text Amendment.

PASSED AND ADOPTED this 23rd day of February, 2016, by the following roll call vote:

AYES:	Commissioners:	Finch, Kendall, Dodd, Reynolds and Young
NOES:	Commissioners:	None
ABSENT:	Commissioners:	Rich, Bonhagen
ABSTAIN:	Commissioners:	None

APPROVED: _____
Cynthia Dodd, Chair

ATTEST: _____
Paul Kermoyan, Secretary

Ordinance No. _____

BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL AMENDING CERTAIN SECTIONS OF TITLE 21 (ZONING) OF THE CAMPBELL MUNICIPAL CODE TO RECLASSIFY RESTAURANTS AND MOTOR VEHICLE SALE ESTABLISHMENTS (WITHIN AN ENCLOSED BUILDING) AS CONDITIONALLY PERMITTED USES SUBJECT TO APPROVAL OF A CONDITIONAL USE PERMIT AND SPECIFICALLY PROHIBITING DRIVE-THROUGH AND DRIVE-IN RESTAURANTS WITHIN THE C-3 (CENTRAL BUSINESS DISTRICT) ZONING DISTRICT.

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

After due consideration of all evidence presented, the City Council of the City of Campbell does ordain as follows:

SECTION 1. To encourage a compatible mix of uses in the Downtown, to reinforce East Campbell Avenue as a pedestrian-oriented retail street, and to foster a balance of day and evening activity, the City Council finds it necessary and appropriate to more specifically restrict certain land uses within the C-3 (Central Business District) Zoning District in furtherance of the Campbell General Plan and Downtown Development Plan.

SECTION 2. The City Council finds and determines that the adoption of the proposed Text Amendment qualifies as Exempt from the California Environmental Quality Act (CEQA) under Section 15061.b.3. which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA review.

SECTION 3. Section 21.30.060 (C-3 (Central Business District) zoning district) of the Campbell Municipal Code is hereby amended as set forth in attached **Exhibit A**. Additions are indicated by underlined text and deletions are indicated by ~~strikethrough~~ text. Portions of Section 21.30.060 not shown in underlined text or ~~strikethrough~~ type are not changed.

SECTION 4. Section 21.46.070 (Special findings for liquor establishments) of the Campbell Municipal Code is hereby amended as set forth in attached **Exhibit B**. Additions are indicated by underlined text and deletions are indicated by ~~strikethrough~~ text. Portions of Section 21.30.060 not shown in underlined text or ~~strikethrough~~ type are not changed.

SECTION 5: This Ordinance shall become effective thirty (30) days following its passage and adoption and shall be published, one time within fifteen (15) days upon passage and adoption in the Campbell Express, a newspaper of general circulation in the City of Campbell, County of Santa Clara.

PASSED AND ADOPTED this _____ day of _____, 2016 by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

21.10.060 - C-3 (Central Business District) zoning district.

A. Purpose of C-3 (Central Business District) zoning district. The C-3 zoning district is applied to the heart of the city including and surrounding parts of Campbell Avenue in downtown Campbell. The building forms in this zoning district edge the street and include retail commercial uses (e.g., entertainment, shopping, and services/restaurants) on the ground floor, with either office or residential uses on the upper floors. Residential uses may be allowed where compatible with the general mix of downtown uses. The C-3 zoning district is consistent with the central commercial land use designation of the General Plan. The C-3 zoning district is specifically created to promote the following objectives in the central business area of Campbell:

1. To retain and enhance the Downtown area as a unique and economically viable retail and business center serving local and area wide commercial needs;
2. To reinforce Campbell Avenue as a pedestrian-orientated retail street;
3. To promote ground floor retail use, upper floor commercial and residential uses where appropriate and a suitable mix of uses in the Downtown area.
4. To establish development intensities consistent with the scale of the central business area and the amount of parking which can be accommodated within and adjacent to it;
5. To maintain the pedestrian scale, character, and diversity of a small town business district;
6. To maintain adequate parking and to encourage the joint utilization of parking;
7. To improve pedestrian, visual, and vehicular connections between the Downtown and adjacent areas;
8. To preserve and enhance significant historic structures within the Downtown area; and
9. To ensure that new construction in the Downtown area is of a high architectural design quality while accommodating suitable architectural diversity.

B. Permitted uses in C-3 (Central Business District) zoning district. The following uses are permitted with a zoning clearance in compliance with Chapter 21.40 (Zoning Clearances):

1. Retail business, including but not limited to clothing stores, department stores, drugstores, furniture stores, toy stores, jewelry stores, shoe stores, florist shops and gift shops subject to standards for alcohol sales in compliance with paragraph (F) (Standards for alcohol sales in the C-3 zoning district), below. Does not include retail business uses specified in paragraph (C) (Uses permitted with a conditional use permit in the C-3 district).

2. Tutoring centers (small and large), studios (small and large), and professional offices, except on the ground floor of parcels abutting East Campbell Avenue east of Second Street unless the following standards can be met:
 - a. The business is located in a separate tenant space that is a minimum of fifty feet from the East Campbell Avenue property line; and
 - b. The separate tenant space does not have a door or entrance that takes access from East Campbell Avenue.
 3. Service commercial establishments including but not limited to barber shops, beauty parlors, dry cleaning, massage services, photographic studio, shoe repair shops, and tailors, except on the ground floor of parcels abutting East Campbell Avenue east of Second Street unless the following standards can be met:
 - a. The business is located in a separate tenant space that is a minimum of fifty feet from the East Campbell Avenue property line; and
 - b. The separate tenant space does not have a door or entrance that takes access from East Campbell Avenue.
 4. Outdoor seating and merchandise displays, subject to approval of an outdoor seating and merchandise display permit in compliance with paragraph (H) (Standards and permit requirements for outdoor seating and merchandise display), below.
 5. Restaurants, abutting East Campbell Avenue, between Winchester Boulevard and Railway Avenue, most previously occupied by a lawfully existing restaurant, professional office or service commercial establishment subject to the provisions of paragraph (F) (Standards for alcohol sales in the C-3 zoning district) and standards for live entertainment in compliance with paragraph (G) (Standards for live entertainment in the C-3 zoning district), below.
 6. Wireless telecommunications facilities—stealth (requires approval of a site and architectural review permit).
 7. Other uses similar to the above in compliance with Chapter 21.02 (Interpretation of Provisions).
- C. Uses permitted with conditional use permit in C-3 district. The following uses are permitted subject to approval of a conditional use permit in compliance with Chapter 21.46 (Conditional Use Permits):
1. Arcade (containing amusement devices and games).
 2. Banks and financial services.
 - ~~3. Fast-food restaurants.~~
 4. 3. _____ Government offices and facilities.
 5. 4. _____ Grocery-stores and convenience markets.

~~6-5.~~ Health spa, except on the ground floor of parcels abutting East Campbell Avenue east of Second Street, unless the following standards can be met:

- a. The business is located in a separate tenant space that is a minimum of fifty feet from the East Campbell Ave. property line; and
- b. The separate tenant space does not have a door or entrance that takes access from East Campbell Ave.

~~7-6.~~ Late night activities.

~~8-7.~~ Liquor establishments (subject to the findings provided for in Section 21.46.070), other than those located within establishments-restaurants permitted to sell alcoholic beverages under subsection B of this section.

~~9-8.~~ Liquor store.

~~10-9.~~ Live entertainment (except as permitted under subsection B of this section).

~~11-10.~~ Motor vehicle sales (when conducted entirely within an enclosed building).

~~12-11.~~ Nightclub.

~~13-12.~~ Public assembly uses.

~~14-13.~~ Residential ~~condominiums or~~ apartments (upper floors only).

14. Restaurants, including cafes, standard restaurants, and fast food restaurants, not otherwise permitted by subsection B of this section, in compliance with subsection H, (Special findings for restaurants in the C-3 zoning district).

15. Parking lot or structure.

16. Secondhand/thrift store.

17. Theater.

18. Wireless telecommunications facilities - non-stealth.

19. Other uses similar to the above in compliance with Chapter 21.02 (Interpretation of Provisions).

D. Prohibited uses in C-3 (Central Business District) zoning district. The following uses are prohibited in the C-3 district:

1. Storage of industrial vehicles, except for the purpose of loading and unloading;
2. The storage or warehousing of merchandise or products in the building or on the premises for sale other than at retail on the premises;
3. The outdoor storage of merchandise or products, unless otherwise approved, in compliance with subsection H of this section;
4. The assembly, compounding, manufacturing or processing of merchandise or products, except such as are customarily incidental or essential to permitted retail commercial and service uses;

5. Any use which is obnoxious or offensive or creates a nuisance to the occupants or commercial visitors of adjacent buildings or premises by reason of the emission of dust, fumes, glare, heat, liquids, noise, odor, smoke, steam, vibrations, or similar disturbance;
 6. Auto repair;
 7. Restaurants, drive-through
 8. Restaurants, drive-in
 - ~~7.9.~~ Any business that includes smoking tobacco on site (e.g., smoking lounges, hookah lounges, etc.);
 - ~~8.10.~~ Any use inconsistent with state or federal law.
- E. General development standards. New land uses and structures, and alterations to existing uses or structures shall be designed, constructed, and/or established in compliance with the requirements in Table 2-11 (General Development Standards - C-3 Zoning District), in addition to the general development standards (e.g., landscaping, parking and loading, etc.) in Article 3 (Development and Operational Standards).

**Table 2-11
General Development Standards - C-3 Zoning District**

Development Feature	C-3
Maximum floor area ratio	Up to 1.25 The planning commission or City Council may approve an F.A.R. of up to 1.5 if it makes all of the following findings:
	a. The scale and intensity of the development does not create adverse traffic and parking impacts on the Downtown.
	b. The balance of land uses emphasizes retail and restaurant uses consistent with the goals and objectives of the Redevelopment Agency Implementation Plan.
	c. The design, scale, and context of the project are consistent with the goals and objectives established in the Downtown Development Plan.
	d. A finding of community benefit be established stating how the development furthers the goals and objectives of the Redevelopment Agency in the Downtown area that otherwise could not be achieved with a lesser F.A.R.
Setbacks Required	
Front	None, except as may be required by the Site and Architectural Review Permit.

Side (each)	
Street side	
Rear	
Maximum Height Limit	45 ft.
Fences, Walls, Lattice and Screens	See Section 21.18.060 (Fences, Walls, Lattice and Screens)

F. Standards for alcohol sales in the C-3 Zoning District.

1. Alcohol sales by retail businesses.

- a. Gift shops and florists may include products containing alcohol in gift baskets, flower arrangements or other similar uses as approved by the community development director upon finding that the sale of alcohol would be incidental to the primary activity on the site;
- b. Retail businesses permitted to sell alcohol in compliance with this paragraph shall obtain the required licenses or permits from the State Alcoholic Beverage Control Department. Uses meeting the definition of liquor store as defined by Section 21.72.020 ("Liquor Stores") shall not be considered as a florist or gift shop;

2. Alcohol sales by restaurants permitted by subsection B of this section.

- a. Beer and wine sales for on-site consumption only are permitted in restaurants without a separate bar area.
- b. A separate bar area is defined as a separate area, tables, or a room intended primarily for serving alcoholic beverages.
- c. Restaurants that serve alcohol may be required to establish a designated driver program.
- d. Restaurants shall obtain the required licenses or permits from the State Alcoholic Beverage Control Department.

3. Beer and wine festivals. See also Section 21.36.030 (Beer and Wine festivals).

G. Standards for live entertainment in the C-3 zoning district. Live entertainment, when clearly ancillary to the restaurant function, is permitted in restaurants subject to the following restrictions:

1. Permitted only in standard restaurants without a separate bar area. A separate bar area is defined as a separate area, tables, or a room intended primarily for serving alcoholic beverages;
2. Maximum of four performers;

3. Hours of nine a.m. to eleven p.m.;
4. Alcoholic beverage service shall be restricted to Type 41 or 47 licenses only from the State Alcoholic Beverage Control Department, and at no time shall off-site sales be allowed. Full food service shall be available during entertainment;
5. Ambient noise levels shall allow normal conversation, and may not be audible more than 50 feet from the businesses tenant space. However, in no case may noise from the live entertainment disrupt neighboring businesses;
6. No cover charge may be imposed;
7. Areas for dancing and festival seating are not allowed;
8. If the police department or community development department find that a business is in noncompliance with any of the above conditions, live entertainment shall be prohibited at the site until a live entertainment permit is issued by the City Council subject to the requirements set forth by Section 5.24.010(a) et seq. (Live entertainment) of this Zoning Code;

H. Special findings for restaurants in the C-3 zoning district. Whenever a Conditional Use Permit is required for a restaurant by this Chapter, the planning commission shall first find all the following conditions, and when applicable those findings identified in Section 21.46.040, are satisfied in order to approve the Conditional Use Permit application:

1. Establishment of the proposed restaurant will foster a balance of day and evening activity in the downtown;
2. Establishment of the proposed restaurant will maintain a balanced mix of permitted uses in the downtown;
3. Establishment of the proposed restaurant will contribute to the diversification of eating establishments in the downtown;
4. Establishment of the proposed restaurant will not result in an over concentration of restaurants in the immediate vicinity.

H.I. Standards and permit requirements for outdoor seating and merchandise display within the public right-of-way. The following standards govern the provision of outdoor seating/dining areas and the outdoor display of merchandise within the public right-of-way (sidewalk) in the C-3 zoning district. These standards are minimum standards and additional requirements may be added through the discretionary review process.

1. Permit required. Outdoor seating and merchandise displays may be allowed subject to approval of an outdoor seating and display permit by the community development director. Approval is subject to the standards provided below and any other conditions as may be deemed necessary by the community development director in order to protect the health, safety, and welfare of the city.
2. Application. Application for an outdoor seating and display permit shall be filed with the community development department. The application shall be accompanied by a plan set, drawn to scale, depicting sidewalk dimensions, the

location of seating, tables, umbrellas, and merchandise displays together with other information and exhibits as required by the community development director.

3. General standards.

- a. A four-foot-wide pedestrian walkway shall be provided at all times along the public sidewalk. This walkway shall provide for pedestrian access to doorways, crosswalks, and along the public sidewalk. No part of the walkway shall be within two feet of the building face or within one foot of the face of curb, and the walkway shall not cross the path of outward-opening doors or windows.
- b. All tables, seats, and displays shall be placed inside at the end of each business day.
- c. Material placed on the sidewalk shall be secured so as not to be moved by the wind. However, tables, seats, or displays may not be bolted into the ground or secured to the streetlights, trees, or other street furniture.
- d. The permit holder is responsible for picking up all litter associated with the outdoor seating or display and shall maintain the area in a clean condition at all times.

4. Outdoor seating.

- a. Outdoor seating shall be located directly in front of the permit holder's tenant space as set forth in the approved application and accompanying plans.
- b. Tables, seating, or displays shall not be placed within the area of any disabled ramps, driveways, or doorways.
- c. Tables or seating shall not be placed in the street, or on the sidewalk within two feet of the face of curb.
- d. The canopies of umbrellas associated with outdoor tables shall provide a minimum vertical clearance of seven feet, unless the umbrella does not extend beyond the outside edge of the table, and shall not extend past the curb.
- e. Tables, chairs, umbrellas, and other furniture associated with the outdoor seating shall be attractive, made of durable materials, and be maintained in good repair and in a manner to enhance the downtown area.

5. Outdoor Displays.

- a. Outdoor merchandise displays shall be placed against the building face abutting the permit holder's tenant space and shall be limited to fifty percent of the business frontage.
- b. Tenants on corner lots are permitted displays along one frontage only.
- c. Merchandise shall be attractively displayed on appropriate racks or other similar stands. Displays using card tables, cardboard cartons, plastic milk

cases, or plywood boxes are not permitted. Merchandise too large to be placed on a display may be freestanding.

- d. Displayed merchandise shall be the same type of merchandise sold in the existing business at the site.
 - e. Displays, including the merchandise placed on them, may not be more than four feet high. The community development director may approve displays greater than four feet if it can be found that the display will not block the visibility of windows of that business.
 - f. One sign, not to exceed one square foot, per display is permitted for pricing. "A" framed signs and other types of signage shall not be considered displays.
6. Indemnification/insurance. The permit holder shall indemnify, defend and hold the city, its agents, officers, attorneys, employees, and officials harmless from any and all claims, causes of action, injuries, or damages arising out of any negligent acts on part of the permit holder, its agents, officers, employees, or anyone rendering services on their behalf. This indemnity shall include all reasonable costs and attorney's fees incurred in defending any action covered by this provision.
- a. The permit holder, during the continuance of this permit and at no cost to the city, shall maintain a comprehensive liability policy in the amount of one million dollars and if applicable a workers compensation liability policy each with a minimum coverage of one hundred thousand dollars.
 - b. The policy shall include the city as additional insured and shall apply as primary insurance and shall stipulate that no other insurance effected by the city will be called on to contribute to a loss.
 - c. Before the issuance of a permit, the permit holder shall furnish to the city a certificate of insurance, duly authenticated, evidencing maintenance of the insurance required under this permit.
 - d. If the insurance policy is canceled, terminated, suspended, or materially changed, the outdoor seating and display permit shall be suspended until the time that compliance with the requirements of this subparagraph has been fully satisfied.
- I.J. Standards for parking in the C-3 (Central Business District) zoning district. In addition to other applicable parking requirements in Chapter 21.28 (Parking and Loading), the following requirements shall apply in the C-3 (Central Business District) Zoning District:
1. Shared parking facilities. All new parking spaces shall be provided in shared parking facilities, unless the City Council, upon recommendation of the planning commission, finds that another parking arrangement would better serve the public safety or welfare and would not be detrimental to the overall parking and circulation in the area.
 2. Parking requirement computation. In computing the total parking requirement, credit shall be allowed for existing on-site parking or for existing shared off-site

parking if an agreement, acceptable to the city, which provides for the use and maintenance of shared parking is in effect.

3. Change in use. Legally existing buildings shall be required to meet the current parking standards upon expansion of the building or when there is a change in use which requires more parking than is currently provided, except for retail uses, ~~and standard restaurants,~~ and restaurants or cafes that are not required to provide additional parking unless the building is expanded in compliance with Section 21.28.040.D.2, (Expansion/remodeling of structure, or change in use).
4. Parking ratios. The required shared-facility parking ratios, based on gross square footage of a building, unless otherwise indicated, shall be as specified by Table 2-11a, (Parking Requirements by Land Use), below: ~~follows: (parking spaces/square foot):~~
5. Uses not listed. Land uses not specifically listed by Table 2-11a shall provide parking as required by the community development director. The community development director shall use the requirements of Table 2-11a as a guide in determining the minimum number of parking spaces to be provided, based on the similarity of the unlisted use to the uses listed in the table.

Table 2-11a - Parking Requirements by Land Use

<u>Land Use Type:</u>	<u>Vehicle Spaces Required (parking spaces/square foot):</u>
Retail	1:345 sq. ft. gross floor area
Office	1:425 sq. ft. gross floor area
Restaurant	1 space per 4 seats
Banks	1:350 sq. ft. gross floor area
Residential	2 spaces per unit
Service commercial	1:345 sq. ft. gross floor area

J.K. Development review regulations for projects in the C-3 (Central Business) zoning district.

1. Purpose. Downtown Campbell possesses a wealth of small-scale commercial buildings that are architecturally exemplary of the variety of historic periods in which they were constructed. These design standards are intended to both promote the conservation and rehabilitation of buildings and to encourage new building and remodeling which is simultaneously in keeping with existing buildings and architecturally exemplary of contemporary design. In this way the architectural history and richness of downtown will be continued and expanded.

Each new building and remodeling project in the downtown shall adhere both in its large- and small-scale parts to the architectural parts or style adopted for the

project. Architectural design shall be of high quality, measured against contemporary standards.

2. Intent. The guidelines below govern building mass; building form and composition; storefronts; materials, colors and finishes; and other elements. They are intended to encourage the relation of specific project aspects to the designated architectural parts or style.
3. Site and Architectural Review required. Buildings and structures in the C-3 (Central Business) zoning district shall conform to the design standards in paragraphs 4—8 below and are subject to approval in compliance with the provisions of Chapter 21.42 (Site and Architectural Review):
4. Building mass.
 - a. Large building facades shall be divided into smaller elements to complement the intimate scale created by the existing small property divisions.
 - b. Second floor decks or terraces at the rear of buildings for use by adjacent offices or restaurants should be incorporated whenever practical to add a sense of vitality to the rear building facades.
 - c. Roof design shall be consistent with the building's architectural style. Mansard, shed or residential type roofs are prohibited unless it is demonstrated that such a roof style is structurally or architecturally suitable for the particular project or location.
 - d. The existing residential building types of historical significance should retain their character, including features such as landscaped setbacks.
5. Building form and composition.
 - a. Unique and historic building elements such as parapet details and belt courses shall be retained and restored.
 - b. Traditional commercial building forms should be incorporated whenever practical.
 - c. Open air dining areas facing Campbell Avenue should be employed to the greatest extent practical. The buildings should not be set back from the street, but should contain the dining areas within their architectural framework.
 - d. Upper stories in multistory buildings are required to have solid surfaces with vertical rectangular windows, augmented with frames. Glass curtain walls should not be approved unless it is demonstrated that such walls are the only structurally or architecturally suitable form of wall for the particular project or location.
 - e. Architecturally exemplary design of high quality shall be employed. Buildings should not be made to look "old time" unless such design would be clearly more appropriate and harmonious with the purpose of this chapter.
 - f. Buildings shall incorporate base, cornice, and other elements appropriate to their architectural style.

6. Storefronts.

- a. First floor frontages shall have an integrated design including display windows, an entry, and signing.
- b. The design of the building storefront shall be consistent with the building's architectural style.
- c. Walls facing pedestrian ways should have elements of visual interest, such as fenestration, displays, signing, or landscaping, unless the effect of such elements would be clearly contrary to the purposes of this chapter. Large areas of blank walls should not be permitted unless it is demonstrated that such blank areas are clearly more appropriate and harmonious than would be the case if elements of visual interest were incorporated.
- d. Buildings facing Campbell Avenue shall have their primary entries along that street.
- e. Entries should be recessed, as they add depth to storefront, and act as transition areas between the street and shop interiors, unless the effects of such entries would be clearly contrary to the purposes of this paragraph.
- f. Doors and windows shall be of clear glass. Unglazed wood doors, screen doors and doors or windows of heavily tinted or reflective glass should not be approved unless it is demonstrated that such doors and windows are the only structurally or architecturally suitable form for the particular project or location.
- g. Storefront windows shall reflect the building's character. For instance, on 1940's and 50's "showcase" buildings, exposed aluminum frame windows are appropriate.
- h. Ground floor offices facing Campbell Avenue are required to maintain the same storefront character as retail spaces.
- i. Awnings on building facades should be employed when appropriate, as they add color, weather protection, and opportunities for signing. As in other architectural elements, the awnings should be designed to reflect the building's geometry.

7. Materials, colors, and finishes.

- a. Primary facade materials shall be limited to those that are characteristic of the building's architectural style.
- b. Exterior wall finishes shall be smooth and of finished quality, not deliberately rough in an attempt to look antiqued or used.
- c. Primary building colors shall be characteristic of the building's architectural style. Overly bright, garish, or otherwise offensive colors or color combinations are prohibited.
- d. Accent materials such as tile bases shall be carefully chosen to complement the building style and coordinate with adjacent buildings. The use of shingles, lava rock, sheet metal siding, or any other residential or industrial materials

should not be approved unless it is demonstrated that such material would be the only structurally or architecturally suitable materials for the project or location.

- e. Painted trim shall coordinate with primary facade colors to add more depth and interest to the buildings.
- f. A coordinated color scheme that responds to the style of the structure shall be developed for each building. The colors of signing, awnings, planters, accent materials, and primary facade colors should all be considered. The number of colors should be limited.

8. Other elements.

- a. Trash collection and storage areas shall be carefully screened.
- b. Mechanical equipment shall be screened from view. Exhaust louvers shall not be located in the storefront areas.
- c. Colorfully landscaped planters are allowed. These are especially appropriate below second floor windows.
- d. All building maintenance shall be done conscientiously.

~~K.L.~~ Sign regulations for C-3 (Central Business) zoning district. The following provisions shall apply to the C-3 (Central Business District) zoning district only and shall supersede those listed under Chapter 21.30 (Signs):

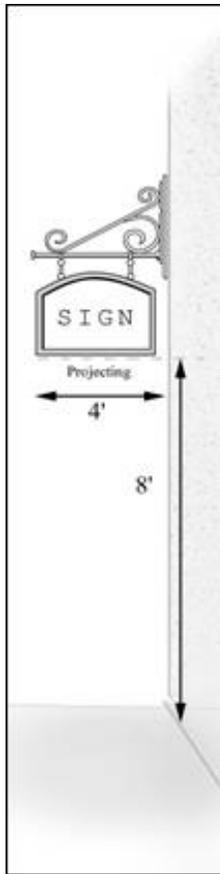
1. Intent. The intent of these regulations is to stimulate creative, good quality signing which will complement the intimate scale and architectural character of the area, and which will complement the architectural style of the building to which the signing is fixed.
2. Allowable signs. Each business shall be allowed one square foot of sign area for each one linear foot of business frontage. A minimum of twenty square feet is allowed and a maximum of forty square feet is allowed for each business.
3. Sign materials. Appropriate sign materials include enameled metal, painted wood, cast metal, painted fabric, and similar materials. Plastic signs should not be approved unless it is demonstrated that the use of the plastic signs at the proposed location would be more harmonious with the purpose of this paragraph than the foregoing enumerated materials.
4. Wall signs. Each business may have one wall sign, except corner businesses, which may have two. This sign shall be located below the top of parapet on single story buildings and below the second floor sill on multistoried buildings. It may be painted directly on a wall, a sign panel attached to a parapet wall, or of individually formed letters attached to a wall.
5. Awnings. Awnings may be used in lieu of wall signs. An insignia or name may be painted, silk screened or appliquéd onto the awning. Awnings may project five feet into the public right-of-way on Campbell Avenue and shall maintain a minimum clearance of eight feet from the ground. All other streets shall be limited to a two-foot projection and have a minimum clearance of eight feet. Awnings

shall be securely attached to buildings and well maintained. No supports or poles may be located in the public right-of-way. Awning forms shall be carefully chosen to complement the architectural style of the building to which they are fixed.



**Figure 2-1
Awning**

6. Projecting signs.
 - a. In addition to a wall sign or awning sign, a business is allowed one, non-illuminated, double-sided projecting sign. The projecting sign may be a maximum of six square feet and may serve to identify more than one tenant in the building.
 - b. Signs may project a maximum of four feet over the public right-of-way with a minimum eight-foot clearance from the ground. Signs shall not project above any roofline or facade of the building.
 - c. Projecting signs shaped as symbols depicting the goods or services being sold by the business are encouraged.
 - d. Wood signs, that are carved, painted, stained, or feature raised letters and symbols are specifically encouraged.
 - e. Sign colors should relate to material or paint scheme of the building. Fluorescent colors are not allowed.
 - f. Internally or externally illuminated signs are not allowed, nor are can signs, metal signs, neon signs, or flashing signs.
 - g. Projecting signs shall be mounted perpendicular to the street and may be hung from coverings over sidewalks or affixed to the building wall.
 - (1) Signs shall be structurally attached to the building with wood, metal brackets, chain, or other similar materials in a manner compatible with the architectural style of the building.
 - (2) Fabric signs shall be anchored to the building from both the top and bottom of the sign.



**Figure 2-2
Projecting Sign**

7. Lighting. Only external illumination of signs is allowed except for individual letter signs.

L.M. Nonconforming uses and structures in the C-3 (Central Business District) zoning district. Nonconforming uses and structures shall be governed by the standards set forth in Chapter 21.58 (Nonconforming Uses and Structures), except that whenever a nonconforming use has been abandoned or discontinued for a continuous period of six months, the nonconforming use shall not be reestablished; and the use of the structure and the site shall comply with the regulations for the C-3 zoning district. Notwithstanding the foregoing provision, an existing restaurant that has an associated conditional use permit that was issued before March 15, 2016 shall be considered a conforming use for purposes of this section.

21.46.070 - Special findings for liquor establishments.

Whenever a Conditional Use Permit is required for a liquor establishment by this Zoning Code, the planning commission shall first find all the following conditions in addition those findings identified in Section 21.46.040, are satisfied in order to approve the Conditional Use Permit application:

- A. Over concentration of uses. The establishment will not result in an over concentration of these uses in the surrounding area;
- B. Not create a nuisance. The establishment will not create a nuisance due to litter, noise, traffic, vandalism, or other factors;
- C. Not disturb the neighborhood. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood; and
- D. Not increase demand on services. The establishment will not significantly increase the demand on city services.
- E. Downtown Alcohol Beverage Policy. The establishment would be consistent with the Downtown Alcohol Beverage Policy, when applicable.



CITY OF CAMPBELL · PLANNING COMMISSION
Staff Report · March 8, 2016

- PLN2016-23** Public Hearing to consider the application of Steve Rawlings for a Conditional Use Permit (PLN2016-23) to allow beer and wine sales for onsite consumption in conjunction with a new restaurant (Mod Pizza) located at **2000 S. Bascom Avenue, Suite 110** in the C-2 (General Commercial) Zoning District. Staff is recommending that this project be deemed Categorical Exempt under CEQA. Planning Commission decision final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Stephen Rose, Associate Planner*
- PLN2015-313** Public Hearing to consider the application of CRP Vasona LLC for a Master Sign Plan (PLN2015-313) with a Sign Exception for the Vasona Technology Park on properties located at **1315 Dell Avenue, 1353 Dell Avenue, 210 E. Hacienda Avenue, and 200 E. Hacienda Avenue** in the C-M/80 (Controlled Manufacturing) Zoning District. Staff is recommending that this project be deemed Categorical Exempt under CEQA. Planning Commission decision final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Daniel Fama, Associate Planner*
- PLN2016-18** Public Hearing to consider the application of Steven Bonner for a Modification (PLN2016-18) to a previously-approved Site and Architectural Review Permit (S 98-17 / PLN2015-120) to allow reconsideration of a previous Planning Commission requirement to incorporate artwork into a storefront window, on property located at **368 E. Campbell Avenue** in the C-3 (Central Business District) Zoning District. Staff is recommending that this project be deemed Categorical Exempt under CEQA. Planning Commission decision final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Daniel Fama, Associate Planner*

STAFF RECOMMENDATION

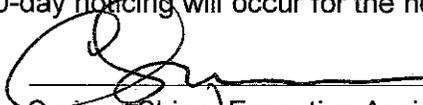
That the Planning Commission takes the following action:

1. Make a motion to continue consideration of the three above referenced Public Hearing items to the next Planning Commission meeting of March 22, 2016.

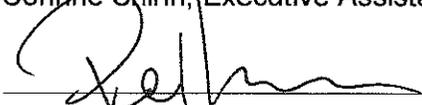
DISCUSSION

An unfortunate oversight occurred and the required notices did not go out as required by State law to the property owners located within 300 feet of each respective project location. Staff apologizes for this error. The proper 10-day noticing will occur for the next meeting on March 22, 2016.

Prepared by:


Corinne Shinn, Executive Assistant

Approved by:


Paul Kennoyan, Community Development Director

5. City-initiated Zoning Text Amendment (PLN2016-32) to amend Campbell Municipal Code Sec. 21.18.140 (Undergrounding of Utilities) to exempt development of single-family residential properties located along local streets from the utility undergrounding requirements.
6. Application of Steven Bonner for a Modification (PLN2016-18) to a previously-approved Site and Architectural Review Permit (S 98-17 / PLN2015-120) to allow reconsideration of a previous Planning Commission requirement to incorporate artwork into a storefront window, on property located at **368 E. Campbell Avenue.**

MEMORANDUM



Community Development Department
Planning Division

To: Chair Dodd and Planning Commissioners **Date:** March 8, 2016
From: Cindy McCormick, Senior Planner
Via: Paul Kermoyan, Community Development Director
Subject: **Planning Commission Training: Findings, Conditions of Approval, and SARC**

PURPOSE

The purpose of this training session is to inform the Planning Commission on the importance of findings and conditions of approval in making land use decisions. The training will also involve a discussion on Site and Architectural Review Committee (SARC) reports presented at the Planning Commission meetings. A training session is an effective way to conduct an informal conversation and provide an opportunity to ask questions and offer suggestions that will help staff provide pertinent information to facilitate the Commission's decision making process.

BACKGROUND

Land uses identified in the General Plan are subject to regulations found in the City of Campbell Municipal Code Zoning Ordinance (Title 21). The authority for land use and zoning decisions is outlined in Section 21.38.020, Table 4-1 (reference **Attachment 1**). Most land use decisions are either "ministerial", "quasi-judicial", or "legislative". Ministerial (non-discretionary) applications are approved or denied by staff based on established procedures (e.g., building and fire codes). Legislative acts make or interpret policy (e.g., Zoning text amendments), require City Council approval, and generally apply to everyone in the City or a subset of the City (e.g., a neighborhood or a zoning district). In contrast, quasi-judicial decisions apply policy to an individual planning application and have a more direct effect on the rights, responsibilities, and restrictions of an individual or a small group of individuals. Courts scrutinize quasi-judicial decisions more closely because discretion is used to make a decision. The Planning Commission is the decision making body for many quasi-judicial acts in Campbell (e.g., Variances, Conditional Use Permits, and Site and Architectural Review permits).

Case Law. The California Supreme Court has found that findings are needed for a city to approve or deny a project while acting in a quasi-judicial, administrative role. In *Topanga Ass'n for a Scenic Community v. County of Los Angeles*, 11 Cal. 3d 506 (1974), the court held that a city's decision must be supported by findings and the findings must be supported by evidence. Findings "bridge the analytic gap between the raw evidence and the ultimate decision or order."

The Topanga Court outlined five purposes for making findings:

1. To provide a framework for making principled decisions, thereby enhancing the integrity of the administrative process.
2. To facilitate orderly analysis and reduce the likelihood the agency will leap randomly from evidence to conclusions.
3. To serve a public relations function by helping to persuade parties that administrative decision-making is careful, reasoned, and equitable.
4. To enable parties to determine whether and on what basis they should ask for judicial review and remedies.
5. To apprise the reviewing court of the basis of the agency's decisions.

If a decision is challenged, well-reasoned explicit findings will assist a court in giving deference to the decision maker's determination. The Topanga Court opined:

Given express findings, the court can determine whether the findings are supported by substantial evidence, and whether the findings warrant the decision of the board. If no findings are made, and if the court elects not to remand, its clumsy alternative is to read the record, speculate upon the portions which probably were believed by the board, guess at the conclusions drawn from credited portions, construct a basis for decision, and try to determine whether a decision thus arrived at should be sustained. In the process, the court is required to do much that is assigned to the board.

DISCUSSION

Staff Reports, Findings, and Conditions of Approval

Staff reports communicate vital information to decision makers, the public, and the applicant requesting approval of a project. Staff reports must include adequate information for the Planning Commission (or other body) to make an informed decision. The Planning Commission must base their decision on the facts that are presented to them in the staff report and further evidence presented at a Public Hearing. The record upon which a decision is made also includes findings and conditions of approval. In some cases the record will also include a recommendation by the City's Site and Architectural Review Committee (SARC) (discussed later in this report).

Staff Reports. Staff reports generally include: an environmental determination; background information to provide context for the land use decision; a discussion of relevant information pertaining to the proposed project; a thorough analysis of the applicable Municipal Code standards and General Plan goals, policies and actions to inform the Planning Commission's decision; findings for approval or denial; and a recommendation for approval or denial. The findings are prepared as an Attachment to the staff report and are supported by analysis and facts in the staff report. The findings (and conditions of approval) are reviewed, amended as

necessary, and adopted by the Planning Commission. If the Planning Commission approves or recommends approval of a project, the findings and conditions are incorporated into a Resolution of Approval. If the findings cannot be met, a Resolution of Denial is prepared with findings for denial. The Resolution is prepared after the meeting, must be signed by the Chair of the Planning Commission, and becomes part of the public record.

Findings. Planning Commission decisions must be based on a rational analysis of relevant facts, regulations, and policies. Written findings are a statement of fact explaining the information that the Commission has relied upon to make its decision. If a decision is challenged in court, the findings will be used to defend the Commission's reasoning and to determine whether its action was legally justified. Findings must be supported by evidence in the record (i.e., staff report analysis, resolutions of approval or denial, CEQA documents, etc.), not unsupported statements. The City's Municipal Code includes required findings for most land use decisions that require Planning Commission approval or a recommendation for approval (reference **Attachment 2**).

Examples of common findings found for projects in Campbell include:

- ✓ The project is consistent with applicable adopted design guidelines.
- ✓ The proposed use is allowed within the applicable zoning district with Conditional Use Permit approval, and complies with all other applicable provisions of this Zoning Code and the Campbell Municipal Code.
- ✓ The proposed use is consistent with the General Plan.
- ✓ The proposed site is adequate in terms of size and shape to accommodate the fences and walls, landscaping, parking and loading facilities, yards, and other development features required in order to integrate the use with uses in the surrounding area.
- ✓ The proposed site is adequately served by streets of sufficient capacity to carry the kind and quantity of traffic the use would be expected to generate.
- ✓ The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject property.
- ✓ The establishment, maintenance, or operation of the proposed use at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
- ✓ The proposed development or uses clearly would result in a more desirable environment and use of land than would be possible under any other zoning district classification.
- ✓ The proposed development would be compatible with the general plan and will aid in the harmonious development of the immediate area.

Conditions of Approval. Each project includes a unique set of circumstances that must be evaluated to determine whether it is an appropriate use (or development) at a given location. During the application review process, staff reviews a project for conformance with the City's policies and development standards. If the application does not appear to meet City Code or is not appropriate for the specific property in question, staff may make recommendations to the applicant using best practices and/or provide a list of implementable actions that modify the original application. In most cases, staff's recommendations are incorporated into a project prior to Commission review. In other instances, Conditions of Approval are necessary to ensure a project complies with policy, development standards, and best practices. Without these Conditions of Approval, it may be difficult for the Planning Commission to find the application in conformance with all applicable local, state, and federal regulations. Conditions of Approval may also include requirements from outside agencies (e.g., Fire District, Water District) that require modification of the plans to meet those agencies' regulations. Conditions of Approval may consist of both short-term requirements and long-term requirements placed on the applicant/property owner/future responsible party.

Short-term Conditions of Approval are actions that must be completed prior to the City issuing final approval to begin operation of a business or occupancy of a residence. For example, a new home may be conditioned to install a swale to capture stormwater runoff. To ensure this happens, the Building Department will inspect the property for the swale prior to issuing a Building Permit. Long-term conditions are those that regulate the ongoing activity associated with the application. For example, while the C-1 (Neighborhood Commercial) zoning district allows grocery stores under 10,000 square feet as a permitted use (i.e., it does not require a CUP), the property upon which it would be located may have limited parking and be adjacent to a residential neighborhood. In this case, the City may need to limit the size of the grocery store and the hours of operation to minimize its impact on the neighborhood (e.g., spillover of parking into the neighborhood, late night noises from patrons setting their vehicle alarms). As such, the Conditions of Approval must include very specific operational characteristics and all activity on-site must comply with the listed conditions. Any modification of these conditions by the owner/operator requires the decision-making body to re-evaluate the project as a whole at a new public hearing.

Example Projects. Staff has provided examples from two recent projects: 1) a Conditional Use Permit application for a restaurant with live entertainment and 2) a Variance application for undergrounding utilities. In the first example (**Attachment 3**), the bulk of the analysis supporting the findings is in the body of the staff report. In comparison, the second example (**Attachment 4**) includes more substantive written findings in the Attachment to the staff report. The purpose of pointing out these differences is to help ensure that the Planning Commission reviews and considers both the analysis and the findings as part of their decision making process. If the Planning Commission makes changes to the findings, those changes are incorporated into the Resolution of Approval (or Denial), but are not captured in the original staff report (i.e., the analysis).

Discussion Points. The Planning Commission should discuss their understanding of the various findings required for approval of a project (e.g., CUP, Variance, Site & Architectural Review, etc.) and the importance of the Conditions of Approval. To facilitate this discussion, the Planning Commission could start by comparing and contrasting the two example projects; one for a CUP and the other for a variance.

SARC Reports. The Site and Architectural Review Committee (SARC) reviews Site and Architectural Review Permit applications and makes recommendations to the Planning Commission. Planning Commission staff reports include a written description of SARC's recommendation, providing both the Commission and the public a comprehensive understanding of what was reviewed and discussed by SARC during their open public meeting.

Staff has observed that the timing of the verbal "SARC report" appears to be a confusing component of the Planning Commission Public Hearing. Based on this observation, staff is recommending a couple of improvements to the sequence of events during the Public Hearing. The first suggestion is to let the SARC member present the SARC report immediately following the staff report. The Planning Commission's Q&A can then be captured in one discussion rather than two separate discussions. The second suggestion is to encourage the SARC member to summarize the SARC report rather than read it verbatim. Because the SARC report can be lengthy (reference **Attachment 6**), reading the entire report would be time-consuming. A brief summary is all that is needed and would be consistent with Staff's presentation, which is a summary of the Staff Report.

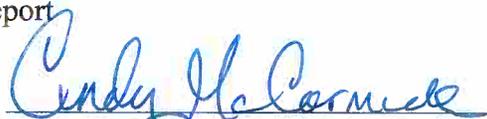
Following the below steps should help clarify how the discussion should occur:

- Step 1: Summary of Staff Report presented by Staff
- Step 2: Summary of SARC report presented by SARC member
- Step 3: Planning Commission Q&A
- Step 4: Open Public Hearing

Attachments:

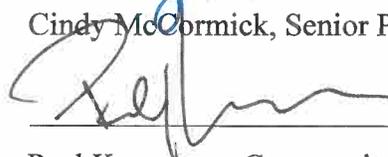
1. Authority for land use and zoning decisions (CMC Section 21.38.020, Table 4-1).
2. Required findings for various planning projects (excerpt Zoning Code)
3. Excerpts from a CUP application
4. Excerpts from a Variance application
5. Findings overview (The Governor's Office of Planning and Research)
6. Example SARC report

Prepared by:



Cindy McCormick, Senior Planner

Approved by:



Paul Kermoyan, Community Development Director

21.38.020 - Authority for land use and zoning decisions.

Table 4-1 (Decision-Making Body) identifies the city official or body responsible for reviewing and making decisions on each type of application, land use permit, and other entitlements required by this Zoning Code.

The community development director may refer any request to the planning commission for a decision. Additional fees shall not be charged to the applicant in the event of a community development director's referral.

Table 4-1
Decision-Making Body

Type of Permit or Decision	Decision-making body and Role (1)			
	Procedures are found in:	Community Development Director (2)	Planning Commission	City Council
Land Use Permits and other Development Entitlements				
Administrative Planned Development Permits	21.12.030	Decision	Appeal	Appeal
Administrative Site and Architectural Review Permits	21.42	Decision	Appeal	Appeal
Conditional Use Permits	21.46		Decision	Appeal
Development Agreements	21.52		Recommend	Decision
Fence Exceptions	21.18.060	Decision	Appeal	
Home Occupation Permits	21.44	Issuance		
Parking Modification Permit (5)	21.28.050	Decision	Decision/Appeal	Decision/Appeal
Planned Development Permits	21.12.030		Recommend	Decision
Pre-applications	21.41	Comments(4)	Comments(4)	
Reasonable Accommodations	21.50	Decision	Appeal	Appeal
Sign Permits	21.30	Issuance(2)	Decision(2)	Decision(2)

				Appeal(2)
Site and Architectural Review Permits	21.42		Decision	Appeal
Tree Removal Permits	21.32	Decision	Appeal	Appeal
Variances	21.48		Decision	Appeal
Zoning Clearances	21.40	Issuance		
Zoning Code Administration and Amendments				
General Plan Amendments	21.60		Recommend	Decision
Interpretations	21.02	Decision	Appeal	Appeal
Zoning Code Amendments	21.60		Recommend	Decision
Zoning Map Amendments	21.60		Recommend	Decision

Notes:

(1) "Recommend" means that the decision-making body makes a recommendation to a higher decision-making body; "issuance" means that the permit is a ministerial action that is issued by the decision-making body; "decision" means that decision-making body makes the final decision on the matter; "appeal" means that the decision-making body may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 21.62, (Appeals).

(2) A sign permit that meets the minimum requirements of the sign regulations (Chapter 21.30) shall be reviewed and issued by the community development director. Off-site signs, readerboard signs and signs that exceed the minimum requirements of the sign regulations shall be reviewed by the planning commission and are appealable to the city council. Freeway-oriented signs shall be reviewed by the city council after recommendation by the planning commission.

(3) The decision-making body for a parking modification permit is the decision-making body established for the accompanying land use permit application, except for properties located in the C-3 (Central Business District) zoning district, where the city council shall be the decision-making body.

(4) The pre-application process does not replace, but is ancillary to the land use application process and does not result in, nor can the planning commission or community development director, render a decision with regard to land use entitlements, and nothing contained in the process precludes either the community development director, planning commission or city council from approving or denying a subsequent formal land use application.

Excerpts from Chapter 21.42 - SITE AND ARCHITECTURAL REVIEW

21.42.030 - Application filing, processing, and review.

....

- C. Applicant's responsibility. It is the responsibility of the applicant to establish evidence in support of the findings required by Sections 21.42.050(B), (Required findings) and 24.42.060(B), (Required findings).

...

21.42.050 - Action by community development director.

- A. Applications decided by the community development director. The community development director may review and decide applications for administrative site and architectural review permit applications in compliance with the administrative decision process as prescribed in Chapter 27.71, (Administrative Decision Process).
- B. Required findings. The community development director shall approve the application if the following findings have been made:
 - 1. The project will be consistent with the general plan;
 - 2. The project will aid in the harmonious development of the immediate area; and
 - 3. The project is consistent with applicable adopted design guidelines.
- C. Referral to the site and architectural review committee. If the community development director finds that the proposed development will have a substantial effect on the surrounding area or is of sufficient size to warrant the consideration of the planning commission, the community development director shall refer the application first to the site and architectural review committee and the planning commission for processing in the same manner as all other applications for site and architectural review permit approval.

21.42.060 - Action by planning commission.

- A. Time and place agreeable to the applicant. Before the public hearing the community development director shall arrange with the applicant a time and place of meeting between the applicant and the site and architectural review committee.
- B. Required findings. The planning commission shall approve the application if the following findings have been made:
 - 1. The project will be consistent with the general plan;
 - 2. The project will aid in the harmonious development of the immediate area; and
 - 3. The project is consistent with applicable adopted design guidelines.

Excerpts from Chapter 21.46 - CONDITIONAL USE PERMITS

21.46.030 - Application filing, processing, and review.

C. Applicant's responsibility. It is the responsibility of the applicant to establish evidence in support of the findings required by Section 21.46.040, (Findings and decision), below.

21.46.040 - Findings and decision.

A Conditional Use Permit may be approved, with or without conditions, only if the planning commission (or the City Council, upon appeal) first finds that:

- A. The proposed use is allowed within the applicable zoning district with Conditional Use Permit approval, and complies with all other applicable provisions of this Zoning Code and the Campbell Municipal Code;
- B. The proposed use is consistent with the General Plan;
- C. The proposed site is adequate in terms of size and shape to accommodate the fences and walls, landscaping, parking and loading facilities, yards, and other development features required in order to integrate the use with uses in the surrounding area;
- D. The proposed site is adequately served by streets of sufficient capacity to carry the kind and quantity of traffic the use would be expected to generate;
- E. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject property; and
- F. The establishment, maintenance, or operation of the proposed use at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.

21.46.060 - Action by planning commission.

In approving a Conditional Use Permit application, the planning commission (or City Council, upon appeal) may impose reasonable and necessary specific design, locational, and operational conditions relating to both on- and off-site improvements, which are intended to ensure that:

- A. Compliance with findings. The project will comply with all of the findings listed in Section 21.46.040, above;

....

21.46.070 - Special findings for liquor establishments.

Whenever a Conditional Use Permit is required for a liquor establishment by this Zoning Code, the planning commission shall first find all the following conditions in addition those findings identified in Section 21.46.040, are satisfied in order to approve the Conditional Use Permit application:

- A. Over concentration of uses. The establishment will not result in an over concentration of these uses in the surrounding area;
- B. Not create a nuisance. The establishment will not create a nuisance due to litter, noise, traffic, vandalism, or other factors;
- C. Not disturb the neighborhood. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood; and
- D. Not increase demand on services. The establishment will not significantly increase the demand on city services.

Excerpts from Chapter 21.48 - VARIANCES

21.48.030 - Application filing, processing, and review.

...

- C. Applicant's responsibility. It is the responsibility of the applicant to establish evidence in support of the findings required by Section 21.48.040 (Findings and Decision), below.

...

21.48.040 - Findings and decision.

- A. Planning commission action on a Variance. The planning commission may approve a Variance application, with or without conditions, only after first making all five of the findings identified in Subsection (B) (Variance findings) below.
- B. Variance findings.
 - 1. The strict or literal interpretations and enforcement of the specified regulation(s) would result in a practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Zoning Code;
 - 2. The strict or literal interpretations and enforcement of the specified regulation(s) would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
 - 3. There are exceptional or extraordinary circumstances or conditions applicable to the subject property (i.e. size, shape, topography) which do not apply generally to other properties classified in the same zoning district;
 - 4. The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; and
 - 5. The granting of the Variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- C. Planning Commission shall deny. Following the public hearing, the planning commission (or the City Council, upon appeal) shall deny the application where information submitted by the applicant and/or presented at the public hearing fails to satisfactorily support the findings identified in subsection (B), above.

Excerpts from 21.12.030 - P-D (Planned Development) zoning district.

6. Approval Criteria. The review authority shall approve the application if it finds that all of the following criteria have been established:
 - a. The proposed development or uses clearly would result in a more desirable environment and use of land than would be possible under any other zoning district classification;
 - b. The proposed development would be compatible with the general plan and will aid in the harmonious development of the immediate area;
 - c. The proposed development will not result in allowing more residential units than would be allowed by other residential zoning districts which are consistent with the general plan designation of the property; and
 - d. The proposed development would not be detrimental to the health, safety or welfare of the neighborhood or of the city as a whole.
7. Additional Approval Criteria for Late Night Activities. Prior to approving an administrative planned development permit for any late-night activity, the reviewing authority shall first find all the following conditions, in addition to those findings identified in subsection (G)(6) of this section, are satisfied.
 - a. Not Create a Nuisance. The establishment will not create a nuisance due to litter, noise, traffic, vandalism or other factors;
 - b. Not Disturb the Neighborhood. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood; and
 - c. Proposed conditions of approval (if any), are sufficient to mitigate any detrimental impacts specified that may be caused by the late-night establishment.
9. Action by the Planning Commission.
 - ...
 - c. The planning commission may recommend approval of the proposed development if it finds that all of the following criteria set forth in subsection (G)(6) of this section have been satisfied (with regard to the elements identified in subsection (G)(5) of this section).
 -

ANALYSIS

General Plan / Land Use: Winchester Boulevard, from the northerly City border with San Jose to approximately "old Camden" Avenue is governed by the Winchester Boulevard Master Plan ("Master Plan"), which was adopted by the City Council in 2009 with the goal of transforming "Winchester Boulevard into a vibrant mixed-use, pedestrian oriented street, lined with ground-level businesses with residential or office above." The Master Plan was adopted in furtherance of the General Plan Strategy LUT-5.3j, below.

Strategy LUT-5.3j: Winchester Boulevard Plan: Develop an Area Plan for Winchester Boulevard. The Area Plan should address specific boundaries, mix of uses, street amenities, landscaping, building and site design.

The proposed restaurant would be consistent with the Master Plan's goals, and as conditioned, with the following General Plan policies and strategies pertaining to maintaining neighborhood integrity, encouraging a mix of day and evening activities, encouraging neighborhood-serving businesses, and maintaining a balance of uses:

Policy LUT-5.1: Neighborhood Integrity: Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values, while protecting the integrity of the city's neighborhoods.

Policy LUT-5.3: Variety of Commercial and Office Uses: Maintain a variety of attractive and convenient commercial and office uses that provide needed goods, services and entertainment.

Strategy LUT-5.3g: Day and Evening Activities: Encourage restaurant and specialty retail uses in the Downtown commercial area that will foster a balance of day and evening activity.

Strategy LUT-11.a: Services Within Walking Distance: Encourage neighborhood serving commercial and quasi-public uses, such as churches, schools, and meeting halls to locate within walking distance of residential uses.

Zoning District: As implemented by the P-D (Planned Development Zoning District) permitting requirements, the Master Plan specifies that allowable land uses are the same as those allowed within the C-3 Zoning District (i.e., Historic Downtown Campbell), with a specific emphasis on retail and restaurants on the ground floor. As such, a restaurant with beer and wine service, outdoor seating, live entertainment (no dancing), and "late-night" operational hours is an allowable use, consistent with the Master Plan.

Generally, establishment of a land use within the P-D Zoning District is considered by the Community Development Director through review of an Administrative Planned Development Permit (CMC Sec. 21.12.030.H.1.a). However, any application involving the sale of alcohol is subject to Conditional Use Permit review by the Planning Commission. The proposed restaurant, therefore, requires both approval of an Administrative Planned Development and a Conditional Use Permit. Since the establishment of a restaurant is inherently related to alcohol service within the restaurant, the two applications are linked. To facilitate review of the proposal, the Community Development Director has forwarded consideration of the Administrative Planned Development Permit to be reviewed concurrently with the Conditional Use Permit by the Planning Commission as allowed by CMC Sec. 21.38.020.

Alcohol Service: To approve a Conditional Use Permit for alcohol service, the Planning Commission must make special findings contained in CMC Sec. 21.46.070, in addition to those applicable to all Conditional Use Permits (CMC Sec. 21.46.040), that the use would not result in the following: the potential overconcentration of similar alcohol establishments in the surrounding area, the potential to create a nuisance or disturb the neighborhood, and the potential to increase demand on City services.

In large part, establishment of these findings may be grounded in conformance with the Downtown Alcohol Beverage Policy ("Policy"), in that an establishment that maintains responsible alcohol service is unlikely to create a nuisance, disturb the neighborhood, or increase the demand on City services. The Policy is designed to ensure that alcohol beverage service remains ancillary and subordinate to the primary purpose of serving food such that restaurants do not evolve into bars or nightclubs. Specifically, the Policy establishes the following operational standards for restaurants with separate bars and recommended hours of operation:

- a. Unless otherwise approved by the Planning Commission the bar area is restricted to having no more than 25% of the total seating allowed for the establishment.¹
- b. The bar cannot stay open past the hours of operation of the restaurant.
- c. Full menu food service must be provided at all times.
- d. Live entertainment is limited to live musicians complimentary to the primary purpose of providing meal service.
- e. Alcohol beverage service in the dining room area is only allowed in conjunction with food service. Additionally, the dining room area may not be converted to a bar or dance area.
- f. Meal service must be permitted in the bar area.
- g. Specific hours of operation are determined by the Planning Commission upon issuance of a Conditional Use Permit. It is strongly recommended that Conditional Use Permits for establishments for on-site consumption of alcohol beverages be limited to a closing time of no later than 12:00 AM.
- h. Outdoor seating areas are considered part of the dining area and shall be closed down by 11:00 PM.
- i. Doors and windows shall remain closed after 10:00 PM.

The project as presented, and subject to the recommended conditions of approval, would comply with the above operational requirements. Additionally, the applicant currently operates other locations of the proposed restaurant, in Los Angeles and San Diego. As evidenced by the online photographs, it is evident the applicant intends to operate the business as a restaurant with a full range of items including appetizers, entrées, and desserts, consistent with the Policy's requirement for a "full service menu". The proposed floor depicts a traditionally configured dining room with an incidental bar, where the bar seating will constitute 25% of the total seating, consistent with the Policy.

In terms of overconcentration, Winchester Boulevard has far fewer alcohol-serving establishments than Downtown Campbell proper, as depicted on the ABC License Map Query website. Within 500 feet of the project site, there are only two restaurants with alcohol service; Casa Lupe and Coach's Sports Bar and Grill, both of which maintain "general" Type 47 license allowing service of distilled spirits. Bottle and Bodega, at Merrill Gardens, also maintains a Type 42 license allowing service of beer and wine in association with art classes. As a result, the distribution of alcohol-serving establishments in the immediate vicinity does not pose an overconcentration, particularly as the proposal would allow only beer and wine service.

¹ A "bar area" is defined as a "separate area, tables, or a room intended primarily for serving alcoholic beverages." (CMC Sec. 21.10.060.F.1.b)

Parking: The Master Plan specifies that new developments are subject to existing city-wide parking requirements, but that adjustments may be approved by the decision-making body pursuant to CMC Sec. 21.28.050. The parking standard for restaurants is 1 space for every 3 seats plus 1 space for every 200 square-feet of "non-dining" area. This standard was increased in 2010 to account for employee parking demand by adding the "non-dining" component. It was meant to capture the "worst case" scenario of a stand-alone restaurant on its own parcel where there is no possibility for the natural ebb and flow of parking demand seen in a shopping or strip center with a mix of businesses operating with differing peak hours. The following parking analysis indicates that the proposed restaurant will result in a six stall *on-site* parking deficiency on the property:

On-Site Parking Analysis					
Building	Tenant	Classification	Area (Sq. Ft.)	Parking Required per Table 3-1	
1	TBD	Retail	800	1/200 sq. ft.	4
	TBD	Retail	1,994	1/200 sq. ft.	10
2	Kaiyo Hits	Restaurant	2,255	1/3 seats (45 seats)	15
			(540 "non-dining")	1/200 sq. ft. "non-dining"	3
			5,049	Total Parking Required	33
				Total <i>On-Site</i> Parking	26
				<i>On-Site</i> Deficit/Surplus	-6

As a result, the project includes a request for a Parking Modification Permit to waive the six stall parking deficiency in order to allow a total of 45 restaurant seats. Without this relief, the restaurant would be limited to only 27 seats, which would be likely too few to justify the investment in the new business. The applicant and property owner are requesting that the Planning Commission take into account the adjacent street parking to satisfy the restaurant's parking obligation. As shown on the approved site plan (reference **Attachment 6**), the project site has seven street parking stalls along the frontage; six along Winchester Boulevard and one along Rincon Avenue.

This approach is supported by the Master Plan, which notes that existing on-street parking will be retained to "support commercial businesses" (Pg. 19), recognizing that street parking along Winchester Boulevard is principally intended to serve commercial tenants. As noted, consideration of street parking for the proposed restaurant would also be consistent with the City Council's recent denial of an appeal, and upholding of the Planning Commission's approval, of the Scrambl'z seating expansion at Merrill Gardens, which was also predicated on accounting of on-street parking along Winchester Boulevard.

For comparison purposes, the Downtown (C-3 Zoning District) parking standard is 1 space per 4 seats, and new restaurants are not obligated to satisfy a parking requirement if occupying an existing building (arguably, such a standard should have been incorporated into the Master Plan in recognition of its vision of an expanded Downtown area). Under this standard, the proposed restaurant would require 11 parking spaces (including interior and outdoor seating), consistent with its proportional share of the property's 26 parking stalls. In other words, had the restaurant been located in a new building in Downtown, a Parking Modification Permit would not be necessary.

Live Entertainment: The proposed floor plan depicts a small stage in the corner for live entertainment that would allow for band performances and karaoke. The Downtown Alcohol Beverage Policy indicates that "live entertainment is limited to live musicians complimentary to the primary purpose of providing meal service". To assure that the live entertainment remains ancillary in nature, staff has included the following limitations within the recommended conditions of approval:

- Limit live musical performances to two performers
- Prohibit amplified instruments for live musical performances (not including karaoke)
- Prohibit charging of a cover charge
- Prohibit dancing
- Require that doors and windows be kept closed while entertainment is occurring
- Prohibit "unreasonable noise"² from being generated by the live entertainment

These measures will minimize, but not entirely eliminate potential impacts associated with live entertainment. As was recognized by the City's approval of the Boswell's CUP on Bascom Avenue, some degree of impact is likely to occur given the adjacency between a commercially developed property and a residential neighborhood. Nevertheless, a condition of approval has been included that provides the Planning Commission an ability to review the approval at a future time should the City receive repeated and verifiable complaints of sound disturbance. If upon review, the Planning Commission finds that there is substantial evidence that sound associated with the use is creating an unreasonable disturbance to adjacent residents, it may take reasonable measures lessen the disturbance, such as limiting the hours of operation and/or live entertainment. Additionally, if approved for live entertainment, the business owner would need to subsequently secure approval of a Live Entertainment Permit from the City Council, who may impose more respective limitations as deemed appropriate.

Hours of Operation: Any business activity occurring prior to 6 AM or after 11 PM, including preparation and clean-up, is defined as "late-night activity", requiring discretionary approval. The purpose of this requirement is to allow the City to evaluate each business on a case-by-case basis in order to review the proposed hours of operation and to restrict operational conditions as appropriate to minimize the impact on nearby businesses and residents. Since the proposed restaurant would require staff to perform clean-up activity after the 11:00 PM public closing time up until midnight, the proposal technically includes a request for "late-night activity". However, as the proposed hours of operation are consistent with the Downtown Alcohol Policy, the Commission may determine that the hours of operation do not present an impact to area residents or adjacent businesses.

Outdoor Seating: The Master Plan notes that the 15-foot wide sidewalks were intended to accommodate outdoor seating. The proposed floor plan depicts four two-tops (eight seats) placed against the building wall. As conditioned, the outdoor dining area would be held to the applicable operational standards of the Downtown Alcohol Beverage Policy, with respect to food and alcohol service and hours of operation (closing by 11 PM). Additionally, the Community Development Director would have final approval of the furniture and materials.

² Defined as a noise, regardless of decibel level, which obstructs the free use of neighboring properties so as to unreasonably interfere with the comfortable enjoyment of the neighboring residents.

Police Department Review: Typically, the key issue of concern from a public safety perspective with respect to new restaurants is a closing time of midnight or later, particularly in combination with general alcohol service. As the proposed restaurant would close to the public at 11:00 PM and serve only beer and wine, the Police Department did not identify any concerns with the proposed application.

Signage: The Master Plan requires that signage substantially conform to the Downtown (C-3) signage standards, which discourage plastic over higher quality materials such as metal and wood. Additionally, the property's Planned Development Permit requires preparation and approval of a Master Sign Plan prior to issuance of any Sign Permits for the tenants. A Master Sign Plan may be decided upon the Community Development Director or Planning Commission depending if the proposal includes an "exception" request, such as additional number of signs.

Site and Architectural Review Committee: The Site and Architectural Review Committee did not review this application as no exterior alterations are proposed.

Attachments:

1. Findings for Approval of File No. PLN2015-352, 354, 355
2. Conditions of Approval for File No. PLN2015-352, 354, 355
3. Project Description
4. Project Plans
5. Location Map
6. Site Plan

Prepared by:



Daniel Fama, Associate Planner

Approved by:



Paul Kermoyan, Community Development Director

FINDINGS FOR APPROVAL OF FILE NO. PLN2015-352,354,355

SITE ADDRESS: 2145 S. Winchester Blvd.
APPLICANT: Lowen Castillo
OWNER: Scott Plautz
P.C. MEETING: February 23, 2016

Findings for approval of a Conditional Use Permit (PLN2015-352) and Administrative Planned Development Permit (PLN2015-354) to allow establishment of a new 45-seat restaurant (Kalye Hits) with beer and wine service, outdoor seating, live entertainment (no dancing), and "late-night" operational hours (11:00 PM public closing); and a Parking Modification Permit (PLN2015-355) to allow a reduction in the number of required parking spaces:

The Planning Commission finds as follows with regard to file number PLN2015-352,354,355:

1. The proposed project includes a request for Conditional Use Permit (PLN2015-352) and Administrative Planned Development Permit (PLN2015-354) to allow establishment of a new 45-seat restaurant (Kalye Hits) with beer and wine service, outdoor seating, live entertainment (no dancing), and "late-night" operational hours (11:00 PM public closing); and a Parking Modification Permit (PLN2015-355) to allow a reduction in the number of required parking spaces.
2. The project site is a commercial property located at the southwest corner of S. Winchester Boulevard and E. Rincon Avenue.
3. The project site is developed with a 5,000 square-foot retail/commercial building constructed pursuant to Planned Development Permit PLN2011-318 approved by City Council Resolution No. 11426.
4. The project site is within the P-D (Planned Development) Zoning District and is designated with a *Central Commercial* land use designation by the General Plan.
5. The project site is also within the boundaries of the Winchester Boulevard Master Plan.
6. The Winchester Boulevard Master Plan was adopted by the City Council in 2009 with the goal of transforming "Winchester Boulevard into a vibrant mixed-use, pedestrian oriented street, lined with ground-level businesses with residential or office above".
7. The Master Plan was adopted pursuant to General Plan Strategy LUT-5.3j in furtherance of the area's predominant Central Commercial General Plan Land Use Designation:

Strategy LUT-5.3j: Winchester Boulevard Plan: Develop an Area Plan for Winchester Boulevard. The Area Plan should address specific boundaries, mix of uses, street amenities, landscaping, building and site design.

Central Commercial: The Central Commercial designation is used for the heart of Campbell including parts of Campbell and Winchester Avenues in Downtown Campbell. This area is intended to provide shopping, services and entertainment within a pedestrian oriented, urban environment. Building forms in this designation edge the street and should include retail commercial uses on the ground floor with either office or residential uses on the second and third floors.

8. The Winchester Boulevard Master Plan specifies that allowable land uses are the same as those allowed within the C-3 Zoning District (i.e., Historic Downtown Campbell), with a specific emphasis on retail and restaurants on the ground floor. As such, a restaurant with beer and wine service, outdoor seating, live entertainment (no dancing), and "late-night" operational hours is an allowable use, consistent with the Master Plan.

...The subject parcels predominantly have a General Plan designation of Central Commercial (C-3), therefore Permitted, Conditional and Prohibited Uses shall be those set forth in the C-3 zoning district.... In general, the vision for this Plan area shall be ground floor retail/restaurant, with upper floor residential/office. It is expected that a variety of ground floor retail businesses and eating establishments shall be maintained to achieve a balanced and distinctive pedestrian-oriented experience, without an overconcentration of any one type of use.

9. Policies found within the Campbell General Plan and Downtown Campbell Development Plan articulate a desire to promote and enhance a downtown environment that provides a desirable balance of land uses including shopping, services, and entertainment. This vision is evidenced in policies that encourage a mix of day and evening activities, a distinctive retail presence, a diversity of eating establishments, support for neighborhood-serving businesses, and protection of surrounding residential neighborhoods.
10. The City Council adopted the 'Downtown Alcohol Beverage Policy', as an implementation tool of the Campbell General Plan and Downtown Development Plan. The Policy is intended to balance the health and safety of the community while still maintaining the commercial viability of the downtown in which restaurants have an essential role.
11. The approval of the proposed project incorporates applicable operational standards of the Downtown Alcohol Beverage Policy.
12. Alcohol beverage service in the restaurant shall be ancillary and subordinate to the primary purpose of serving food.
13. Conformance to the provisions of the Downtown Alcohol Beverage Policy is the basis to which the City shall review new applications for alcohol beverage service. Restrictions to the hours of operation, amount of bar area seating, and alcohol beverage service, are necessary to protect the public health, safety and welfare.
14. The Downtown Alcohol Beverage Policy strongly recommends that Conditional Use Permits for establishments for on-site consumption of alcohol beverages be limited to a closing time of no later than 12:00 AM.
15. The over-concentration of late night alcohol serving establishments within a compact downtown district can create a cumulative impact that overwhelms the area creating an undesirable result such as drunk in public, vandalism, and disorderly conduct.
16. There are two alcohol-serving restaurants within the immediate vicinity (500 feet) of the project site, which does not constitute an overconcentration.
17. The approval of a Conditional Use Permit incorporates applicable operational standards of the Downtown Alcohol Beverage Policy, including a 11:00 PM public closing time and bar area seating comprising no more than 25% of the total seating capacity.

18. Alcohol beverage service in the restaurant shall be ancillary and subordinate to the primary purpose of serving food.
19. The proposed project request seeks a seating capacity for the proposed restaurant of 45 seats, including 37 interior seats and 8 exterior seats.
20. Under the city-wide parking standard for restaurants (1 space for every 3 seats plus 1 space for every 200 square-feet of "non-dining" area), the restaurant would require 18 parking spaces. Based on the project site's overall parking ratio of 1 space per 194 square-feet, the restaurant's pro-rated proportional share of parking stalls is 12, resulting in a technical deficiency of 6 spaces.
21. The Winchester Boulevard Master Plan notes that all new developments are subject to existing city parking requirements, but that adjustments may be approved by the decision making body pursuant to CMC Sec. 21.28.050. This code section provides relief from parking standards under certain circumstances through consideration of a Parking Modification Permit.
22. The Winchester Boulevard street frontage in front of project site provides 6 parking spaces, which supplements on the on-site parking.
23. The Master Plan notes that existing curbside (street) parking will be retained to "support commercial businesses" (Pg. 19), recognizing that street parking along Winchester Boulevard is principally intended to serve commercial tenants.
24. Accounting of street parking as a basis for a parking reduction pursuant to a Parking Modification Permit would be consistent with the Winchester Boulevard Master Plan and CMC Sec. 21.28.050.
25. Since the proposed "late night" hours of operation are consistent with the Downtown Alcohol Policy, they do not present an impact to area residents or adjacent businesses.
26. The Planning Commission's review of the proposed project encompassed zoning and General Plan land use conformance, noise impacts, parking, property maintenance, odors, security and enforcement, and neighborhood impacts.

Based upon the foregoing findings of fact, the Planning Commission further finds and concludes that:

Conditional Use Permit Finding (CMC Sec. 21.45.040):

1. The proposed use is allowed within the applicable zoning district with Conditional Use Permit approval, and complies with all other applicable provisions of this Zoning Code and the Campbell Municipal Code;
2. The proposed use is consistent with the General Plan;

3. The proposed site is adequate in terms of size and shape to accommodate the fences and walls, landscaping, parking and loading facilities, yards, and other development features required in order to integrate the use with uses in the surrounding area;
4. The proposed site is adequately served by streets of sufficient capacity to carry the kind and quantity of traffic the use would be expected to generate;
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject property; and
6. The establishment, maintenance, or operation of the proposed use at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.

Liquor Establishment Findings (CMC Sec. 21.46.070):

7. The establishment will be consistent with the Campbell Downtown Alcohol Policy.
8. The establishment will not result in an over concentration of these uses in the surrounding area;
9. The establishment will not create a nuisance due to litter, noise, traffic, vandalism, or other factors;
10. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood; and
11. The establishment will not significantly increase the demand on city services.

Administrative P-D Permit Findings (CMC Sec. 21.12.030.H.6):

12. The proposed development or uses clearly would result in a more desirable environment and use of land than would be possible under any other zoning district classification;
13. The proposed development would be compatible with the general plan and will aid in the harmonious development of the immediate area;
14. The proposed development would not be detrimental to the health, safety or welfare of the neighborhood or of the city as a whole.

"Late-Night" Use Findings (CMC Sec. 21.12.030.H.6):

15. The establishment will not create a nuisance due to litter, noise, traffic, vandalism or other factors;
16. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood; and

17. Proposed conditions of approval (if any), are sufficient to mitigate any detrimental impacts specified that may be caused by the late-night establishment.

Parking Modification Permit Findings (CMC Sec. 21.28.050):

18. Due to the unique nature and circumstances of the project, or special development features, the anticipated number of parking spaces necessary to serve the use or structure is less than that required by the applicable off-street parking standard, and would be satisfied by the existing or proposed number of parking spaces, as supported by review of the applicant's documentation and/or a parking demand study prepared by a qualified transportation engineer accepted by the decision-making body;
19. Conditions of approval have been incorporated into the project to ensure the long-term adequacy of the provided off-street parking; and
20. Approval of the parking modification permit will further the purpose of this chapter.

Environmental Findings (CMC Sec. 21.38.050):

21. The project is Categorically Exempt under Section 15303(c) of the California Environmental Quality Act (CEQA) Guidelines, which exempts from environmental review the conversion of existing building area of less than 10,000 square-feet from one use to another, where only minor modifications are made to the exterior of the structure.

VARIANCE REQUEST FOR NEW UTILITY POLE

Pursuant to CMC 21.18.140.C (Development Requirements) “all new and existing electrical, telecommunication and cable television lines to be installed on the site to serve a proposed development shall be installed underground”. Furthermore, “all utilities shall be taken from the nearest aboveground utility service and no new poles or overhead lines shall be allowed”. Whereas the project intends to underground all overhead lines along the project frontage, substantial offsite undergrounding will be required to avoid the placement of a new pole (well beyond the “nearest overhead utility”). The reason a new pole would be required is two-fold, in that the nearest offsite pole (which occurs just north of the project’s northerly driveway) would require a guy wire to support the dead end of the line which would cross into the driveway. The second reason for an additional utility pole is that the existing utility poles lack adequate space to bring all of the required utilities up the pole. In consideration of the request, the applicant has presented four design “options” for consideration which are conveyed by the Utility Undergrounding Exhibits (reference **Attachment 26**). A summary of options key components of each proposal are as follows:

- Option 1: New utility pole with guy wire partially in front of the Calvary Temple Church, remove a street tree, and guy wire back to nearly the edge of the project property.
- Option 2: New utility pole with a guy wire completely in front of the church but would preserve the street tree.
- Option 3: New utility pole with guy wire north of the Calvary Church’s southerly driveway, and slacking back to make a connection with the existing utility pole.
- Option 4: Underground the utility pole adjacent to the Calvary Church’s southerly driveway entrance, and install new underground transformer boxes along the streetscape (which are generally discouraged in the public right-of-way as they can present a tripping hazard).



Figure 5 – Illustrative Examples of “Options” 1 through 4

In consideration of the five required findings to support a variance, staff is only able to make the required findings for **Option 4**. In consideration of Options 1 through 3, the placement of an additional service pole in front of the Church would be detrimental to aesthetics of the adjoining property and offload the burden of undergrounding an additional service pole and equipment on the Church in the event future improvements to the site warrant undergrounding which would be “detrimental to properties in the vicinity”.

**FINDINGS FOR RECOMMENDING ADOPTION OF A VARIANCE
(FILE NO. 2015-167)**

SITE ADDRESS: 208 & 226-328 Railway & 290 Dillon Avenue
APPLICANT: Ardie Zahedani on behalf of St. Anton Communities
P.C. MEETING: August 11, 2015

Environmental Finding

1. On the basis of the Infill Environmental Checklist, and as supported by substantial evidence, the project will not have a significant effect on the environment due to mitigation measures adopted in a previous Environmental Impact Report (EIR), application of uniformly applicable development policies, and incorporation of project-specific mitigation measures agreed to by the project proponent, as specified by the draft Mitigated Negative Declaration.

Evidentiary Findings

1. The proposed project ("project") is a planned residential development consisting of 157-units, comprised of 119 apartment units (rental) and 32 townhouse (for sale) and six duet (for sale) units, and associated on- and off-site improvements, as well as removal of existing on-site trees. The project includes applications for a Planned Development for the approval of site configuration and architectural design, Vesting Tentative Subdivision Map to create individual townhome, duplex and commonly owned lots, Tree Removal Permit to allow for the removal of protected trees, Sign Exception to allow for a large decorative sign element, and Variance to allow the placement of a new service pole in association with the project's undergrounding of overhead utilities.
2. The project site is an assemblage of thirteen parcels located on both sides of Railway Avenue and also includes a small portion of the City Corporation Yard, located at the end of Dillon Avenue, which all together totals 3.90 net acres (4.66 gross).
3. The project site is generally bordered by the Avalon Apartment Community to the south, the remaining City Corporation Yard to the east, the VTA light rail line to the west, and the Calvary Temple of Campbell (church) to the north.
4. The project site is zoned P-D (Planned Development) as shown on the Campbell Zoning Map.
5. The proposed Variance may be approved concurrently, and subject to, a Planned Development Permit.
6. The proposed variance would allow for the placement of a new utility pole north of the property line with a supporting guy wire.

7. The applicant proposed four design “Options”. In consideration of the available Options, staff is only able to support Option #4 in that the placement of an additional service pole in front of the Church (Options 1 – 3) would be detrimental to aesthetics of the adjoining property and resultantly offload the burden of undergrounding on the Church in the event future improvements warrant undergrounding.
8. A Variance application may only be approved after first making all five of the findings identified in Subsection (B) (Variance Findings) outlined under 21.48.040 – Findings and Decision of the Campbell Municipal Code.
9. In consideration of Finding #1 (Option 4) - Utilities cannot be placed on the first pole to the north (which serves as the “nearest aboveground utility”) as the close proximity to the northerly project driveway would not allow for guy wires and anchors required to support the weight of the remaining overhead facilities to the north after conversion. Furthermore, there are two aerial transformers on this pole which would prevent PG&E from using this as a riser pole. PG&E electric facilities cannot riser up the next pole to the north as there is an existing aerial switch on this pole and therefore unable to use as a primary riser pole. AT&T and Comcast could riser up this pole but removing their overhead lines from the previous pole would prompt the undergrounding of the existing AT&T and Comcast services to 202 and 209 Railway Avenue. This would also prompt the installation of both AT&T and Comcast boxes within the existing sidewalk along the frontage of the 202 Railway Avenue and likely additional boxes in the sidewalk near the new riser pole. All trenching would likely be in the street parallel to the FOC to avoid impact to existing street trees. As a result, there is no riser space for PG&E on either of the first two poles beyond the project boundary and although there is space on the furthest pole for AT&T and Comcast it would involve trenching onto existing properties, placing boxes in the sidewalk and converting the existing properties overhead service to underground which are all unnecessary hardships inconsistent with the objectives of the Zoning Code.
10. In consideration of Finding #2 (Option 4) - The Utility Pole located immediately to the north of the site, which serves as the “nearest aboveground utility”, cannot accommodate the required undergrounding as there is no space for down guys and anchors. To require the extension of the underground beyond the Utility Pole to avoid the placement of a new service pole would deprive the applicant the privilege to cease undergrounding at the nearest aboveground utility as would be permitted for the owners of other properties classified in the same zoning district.
11. In consideration of Finding #3 (Option 4) - The first overhead Utility Pole beyond the project boundary is located within 5’ of an existing driveway leaving no space for placement of required down guys and anchors which would support the weight of the remaining overhead lines to the north of the pole. This pole is also encumbered with two aerial transformers as well as providing overhead service to two existing properties. In addition, the next pole to the north is encumbered with an aerial switch and therefore cannot accommodate a primary riser.

Since the first and second utility poles cannot accommodate risers, it can reasonably be concluded that extraordinary conditions exist which do not apply to other properties

classified in the same zoning district where generally the nearest aboveground utility would be adequate to accommodate additional risers.

12. In consideration of Finding #4 (Option 4) - The addition of a new utility pole along the frontage of the adjacent property to the north of the property line in-lieu of extending the underground of overhead utilities would deviate from the underground requirements in a manner that, for the reasons listed in Findings 1 and 2, achieves the most feasible method of conforming to the underground requirements. The proposed Variance would result in the most minimal departure of the project's undergrounding requirements as feasible while not depriving the applicant privileges enjoyed by other properties in the same zoning district (see Finding #2), and provided that the project will fully comply with all other undergrounding requirements, it can be reasonably concluded that the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.
13. In consideration of Finding #5 - The removal and replacement of a utility pole on the adjacent property frontage north of the project property line, in-lieu of extending the underground of overhead utilities to the next existing utility pole located 5' beyond the adjacent property driveway, would provide very limited impact to the adjacent property as it does not conflict with the location of windows, doorways, driveways or other access points to the adjoining Church property to the north and would not offload the burden of undergrounding an additional pole on the adjoining property in the event future improvements to the site warrant undergrounding. The existing service poles cannot accommodate the number of risers required while also providing safe climbing access for PG&E staff, and would furthermore be unable to support the placement of a guy wire without conflicting with safe access to existing and proposed driveways. Therefore, it can be reasonably concluded that the applicant's request to install another service pole would ensure continued safe operation and maintenance of the utility services in the area, and thereby not be detrimental to the public health, safety, and welfare or improvements in the vicinity.

Based upon the foregoing findings of fact, the Planning Commission further finds and concludes that:

1. The strict or literal interpretations and enforcement of the specified regulation(s) would result in a practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Zoning Code.
2. The strict or literal interpretations and enforcement of the specified regulation(s) would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.
3. There are exceptional or extraordinary circumstances or conditions applicable to the subject property (i.e. size, shape, topography) which do not apply generally to other properties classified in the same zoning district.
4. The granting of the Variance will not constitute a grant of special privileges inconsistent with the limitations on other properties classified in the same zoning district.

Topanga: The Cornerstone for Findings

Any discussion of findings and decisions affecting land use must begin with the seminal case of *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506. In *Topanga*, the court defined findings, explained their purposes, and showed when they are needed.

Definition

The *Topanga* court defined findings as legally relevant subconclusions which expose the agency's mode of analysis of facts, regulations, and policies, and which bridge the analytical gap between raw data and ultimate decision. (*Topanga, supra* at pp. 515 and 516.) In other words, findings are the legal footprints local administrators and officials leave to explain how they progressed from the facts through established policies to the decision.

Purpose

The *Topanga* court also outlined five purposes for making findings, two relevant mainly to the decision making process, two relevant to judicial functions, and the last relevant to public relations. Findings should:

1. Provide a framework for making principled decisions, enhancing the integrity of the administrative process;
 2. Help make analysis orderly and reduce the likelihood that the agency will randomly leap from evidence to conclusions;
 3. Enable the parties to determine whether and on what basis they should seek judicial review and remedy;
 4. Apprise a reviewing court of the basis for the agency's action; and,
 5. Serve a public relations function by helping to persuade the parties that administrative decision making is careful, reasoned, and equitable.
(*Topanga, supra* at pp. 514, 516, fn. 14, and 517.)
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Circumstances Requiring Findings

While the five purposes seem clear enough, state law has not clearly distinguished between situations which require findings and those which do not. Absent a specific legislative requirement for findings, the courts determine when they are necessary. In general, case law has required findings for land use decisions that are adjudicative in nature; these are also known as adjudicatory, quasi-judicial, or administrative decisions. In this type of decision, a reviewing body holds a hearing, as required by the Constitution, state statute, or local ordinance, takes evidence, uses discretion in determining the facts, and bases its decision on the facts. The decision involves applying a fixed rule, standard, or law to a specific set of existing facts. In land use cases, the 'existing facts' are often parcels of land. Adjudicative acts are also described as ones which "are necessary to carry out the legislative policies and purposes already declared by the legislative body." (*Fishman v. City of Palo Alto* (1978) 86 Cal.App.3d 506, 509.)

Examples of adjudicative acts include variances, use permits, Williamson Act contract cancellations, coastal zone development permits, Coastal Commission review of local coastal plans, and tentative tract and parcel maps. In each case local officials apply existing land use or other development standards to specific parcels.

Not only do these approvals constitute adjudicative acts, their denials are adjudicative as well. Especially in the case of tentative subdivision maps, if the decision making body makes certain statutory findings, it must deny the tentative map (Government Code Section 66474). If the body makes certain other findings, it has the option of denying the subdivision (Government Code Section 66474.6).

By comparison, findings are not necessary for legislative or quasi-legislative acts, unless specifically required by statute. (*San Francisco Ecology Center v. City and County of San Francisco* (1975) 48 Cal.App.3d 584; *Ensign Bickford Realty Corp. v. City Council* (1977) 68 Cal.App.3d 467, 473.) While legislative acts may also entail holding a legally required hearing, taking evidence, using discretion in determining the facts, and making a decision based on the facts, they contrast with adjudicative acts in one major way: legislative acts generally formulate a rule to be applied to all future cases rather than applying an existing rule to a specific factual situation or parcel. They are also described as declaring "a public purpose and mak[ing] provisions of the ways and means of its accomplishment." (*Fishman v. City of Palo Alto supra*, at 509.) Examples are the adoption or amendment of a general plan or zoning ordinance. Even though a zone change or general plan amendment may be specific to a particular parcel, it is still a legislative act because its underlying effect is legislative in nature, regardless of the size or geographic scope of the property affected. (*Arnel Development Company v. City of Costa Mesa* (1980) 28 Cal.3d 511, 514; *Karlson v. City of Camarillo* (1980) 100 Cal.App.3d 789, 799.) Table I lists examples of adjudicative and legislative acts as established by their case law precedents.

Other Guidelines for Making Findings

Despite the uncertainty in statutory findings requirements for legislative actions and in land use controls by initiative and referendum, *Topanga* still provides the clearest direction for making findings. Other guidelines have emerged from case law in *Topanga's* wake to help local officials make sound, legally sufficient findings.

1. A final decision making body may use a subordinate body's findings, but it is not obligated to do so.

Final decision making bodies such as city councils are free to reject the findings of their planning commissions or boards of zoning adjustment, if they deem appropriate (*Foundation for San Francisco's Architectural Heritage v. City and County of San Francisco* (1980) 106 Cal.App.3d 893, 906), especially in light of new evidence submitted on appeal. (*Lagrutta v. City Council of Stockton* (1970) 9 Cal.App.3d 890, 895.)

Administrative appeals also involve issues of the adequacy of findings. The extent to which a subordinate body's findings govern the appellate body's decision will be determined by local procedures. If local regulations require a hearing de novo, the body conducting the hearing is not bound by the subordinate body's findings. In other jurisdictions, the appeal hearing may be limited to only those aspects of the decision actually appealed. In these cases, prior findings not raised on appeal are left undisturbed.

First corollary: Local procedures governing appeals may affect the proper adoption of findings.

Whitman v. Board of Supervisors of Ventura County (1979) 88 Cal.App.3d 397, 416, illustrates how local procedures governing appeals affect the adoption of findings. In *Whitman*, the Planning Commission and staff recommended that the Board certify an environmental impact report (EIR) and approve a conditional use permit with 59 conditions. The applicant appealed seven of the 59 conditions, but the Commission and staff recommended that the Board deny the appeal. The recommendation included findings to support the denials. In keeping with a local ordinance, the Board's approval of the conditional use permit automatically meant approval of the findings that the lower body, in this case the Planning Commission, made. The Board granted the appeal, thereby eliminating the seven conditions and retaining the rest. Acknowledging that the local ordinance resulted in the Board's automatic adoption of the lower body's findings, the Court held that when the Board certified the EIR and approved the conditional use permit, it also adopted the pertinent record and findings concerning the EIR and conditional use permit. Thus, the record lacked findings necessary to support granting the appeal, and the court remanded the decision for the Board to adopt the necessary findings.

Second corollary: When a decisionmaker declines to follow a staff recommendation that includes proposed findings, the decisionmaker may have to make additional findings.

Whitman also demonstrated that when a decisionmaker declines to follow a staff recommendation that includes proposed findings, the decisionmaker may be obligated to make additional findings. A subsequent case presented this same issue in the CEQA context. (*Environmental Council of Sacramento v. Board of Supervisors of Sacramento County* (1982) 135 Cal.App.3d 428.) Here, the Board adopted a supplemental EIR on a project, but contrary to staff's recommendation, concluded that the impacts had been reduced to insignificance. The court ruled that the Board must adopt complementary findings to meet the Public Resources Code Section 21081 requirement to show how the impacts had been mitigated.

2. Findings must be substantive, not just recitations of the law.

Generally, findings are not sufficient if they merely recite the very language of the local ordinance or state statute that requires them. (*Carmel-by-the-Sea v. Board of Supervisors of Monterey County* (1977) 71 Cal.App.3d 84, 92.) For example, whenever a statute requires a local legislative body to find that a proposal be consistent with the local general plan, the board or council cannot discharge its responsibility by simply stating that there is consistency. The decision making body must set forth the basis for the consistency between the project and the plan. The mere recitation of statutes is a self-serving exercise that is more conclusory than analytical. This same principle applies to CEQA findings. (*Village Laguna of Laguna Beach, Inc. v. Board of Supervisors of Orange County* (1982) 134 Cal.App.3d 1022.) A local agency must expressly reject as infeasible each mitigation measure or project alternative identified in an EIR but not adopted in a project approval in order to satisfy findings requirement of Public Resources Code Sections 21081 and 15088 (now Section 15091). This documentation discloses the decisionmaker's thinking process and satisfies the *Topanga* mandate because it provides the intermediate analytical step linking the basic data to the decision. However, there are some instances when statutorily required findings are so detailed and precise that merely reciting them would satisfy the *Topanga* mandate. (*Jacobson v. County of Los Angeles* (1977) 69 Cal.App.3d 374, 389-392.)

3. Findings need not be formal, but may be included in the agency's order or resolution.

A pre-*Topanga* zoning decision held that the findings of a local commission, composed of laymen, are expected to be informal, and that they are not required to meet the standards of judicial findings of fact. (*Swars v. Council of City of Vallejo* (1949) 33 Cal.2d 867, 872; and *County of Santa Barbara v. Purcell* (1967) 251 Cal.App.2d 169, 177.) In *Hadley v. Ontario* (1974) 43 Cal.App.3d 121, 128, the Court ruled that an administrative agency's findings need not be formal, but may be included in the agency's resolution. However, findings must be set forth clearly - they cannot be vague or ambiguous. (*Rural Land Owners Assn. v. City Council of Lodi* (1983) 143 Cal.App.3d 1013, 1023-1024.) Nevertheless, local agencies have discretion in the manner that they record findings. Thus, findings contained in the minutes and references to staff reports in motions will satisfy the courts. On the other hand, a legislative body's debate and oral remarks at a hearing are not sufficient to meet the *Topanga* requirements. (*Pacifica Corp. v. City of Camarillo* (1983) 149 Cal.App.3d 168, 179.) An early environmental case established a related guideline regarding the formality of findings, addressing EIRs and written findings required by local ordinance. (*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 270.) The court determined that when an EIR provides the same informational benefits that locally required written findings do, no additional findings are required.

4. Administrative findings will not rescue a decision when an agency has not followed the procedure required by law.

Failure to proceed in a manner required by law is a separate ground for finding abuse of discretion. In a recent case, the court held that an additional or supplemental EIR should have been performed when, after EIR certification, a Board of Supervisors discovered that a proposed road would encroach on a significant wetland. (*Mira Monte Homeowners Assn. v. County of Ventura* (1985) 165 Cal.App.3d 357.) The fact that the Board had adopted findings addressing wetlands pursuant to the original EIR was insufficient to consider the full range of impacts, alternatives and mitigation measures when the wetland extended further than the original project description contemplated.

Site and Architectural Review Committee: The Site and Architectural Review Committee reviewed this application on June 23, 2015. The Committee had the following comments (staff comments summarizing applicant responses have been provided in *italics*):

- **Townhouses:** Requested the applicant to reverse the amount of stucco and brick, open up the balconies and incorporate metal sloped awnings similar to the standing seam metal roofs of the duplex units.

The applicant has provided several Townhouse Options for consideration which seek to illustrate several design options. As Option 3 – “Open Deck with Metal Roof” most closely reflects the direction of the SARC, a Condition of Approval has been included requiring that all units incorporate this unit detail. The Planning Commission may want to consider modifying the Condition of Approval to allow the applicant greater flexibility for the units not facing Railway Avenue, where less visible from the public right of way, to incorporate more stucco and balcony designs for variety and achieve greater affordability in building material costs as illustrated by Option 4 – “Open Deck with Metal Roof and Color Change” of the Townhouse Options Exhibit and Sheet AB2.3 – “Townhome C Elevations” of the Project Plans.

- **Circulation:** Recommended eliminating the northernmost pedestrian crossing, and adding a new pedestrian crossing at the rear of the central parking lot row to connect the Townhomes to the Apartment building.

The applicant’s revised project plans reflect this design recommendation.

- **Directional Sign:** Requested a directional sign to inform pedestrians/bicyclists of the nearby Los Gatos Trailhead Connection. Requested staff to provide example for the applicant to incorporate into the project plans.

A Condition of Approval has been included requiring “Wayfinding signs” be provided for the project, to showcase the project’s high walk-score and inform the public and residents of significant nearby amenities (e.g. onsite bike rack locations) and features (e.g. Los Gatos Trailhead, Campbell Downtown).



Figure 6 – Example Wayfinding Sign

- **Trash Management:** Requested an acoustical wall/sound barrier for units on the first floor adjoining the trash room and ensure residents can dump into a “chute” and not directly access a bin.
The applicant clarified that the apartment unit design is intended to allow all residents access to a chute, and that they intend to provide adequate acoustical dampening for units adjoining trash areas from sound. A Condition of Approval has been included to reflect these requirements.
- **Building Colors:** Requested the applicant to incorporate lighter colors for the townhouse component of the project, including a lighter colored red brick, project wide.
The applicant has provided a revised townhouse color elevation for the Commission's consideration. A Condition of Approval has been included to ensure a lighter colored brick color will be utilized throughout the project.
- **Decorative Lighting:** Requested the applicant to provide decorative (historic/ornate) lighting throughout the project.
The applicant has provided revised Decorative Lighting Specifications (reference Attachment 20) for the Commission's consideration. A Condition of Approval has been included requiring the applicant to revise the project photometric exhibits to reflect the revised lighting scheme and ensure that the lighting will be appropriately placed or down shielded to avoid spill onto adjoining properties and disturbing future residents.
- **Sound Wall:** Requested the applicant to step the height of the sound wall, which wraps behind the Duet units, down as it approaches Railway Avenue.
The applicant indicated that they would comply with this request. A Condition of Approval has been included as part of the Planned Development Permit to reflect this requirement.
- **Sign Exception:** Requested the applicant to provide more design options for review.
In response to SARC direction, the applicant included an alternative sign exhibit on Sheet AA2.3 of the project plans (reference Attachment 15). However, the parapet style sign presented by the applicant is formally defined as a roof-mounted sign, which is a prohibited sign type. As an alternative, staff prepared a decorative wall painted sign which, if supported by the Planning Commission, could be processed by a separate Variance request.