



City Council Agenda

City of Campbell, 70 North First Street, Campbell, California

CITY COUNCIL EXECUTIVE SESSION

Tuesday, March 15, 2016 – 6:00 p.m.

Ralph Doetsch Conference Room - 70 N. First Street

- A. Personnel - Pursuant to G.C. Section 54957: Public Employee Performance Evaluation – City Manager (Item continued from February 16, 2016)
- B. Litigation
- C. Real Property
- D. Labor Negotiations

REGULAR MEETING OF THE CAMPBELL CITY COUNCIL

Tuesday, March 15, 2016 – 7:30 p.m.

Council Chamber – 70 N. First Street

CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

SPECIAL PRESENTATIONS AND PROCLAMATIONS

- 1. **Proclamation declaring the month of March “American Red Cross Month” in the City of Campbell**
Recommended Action: Present proclamation.
- 2. **Envision Campbell Mobile Application**
Recommended Action: Accept presentation.

COMMUNICATIONS AND PETITIONS

ORAL REQUESTS

NOTE: This portion of the meeting is reserved for persons wishing to address the City Council on any matter not on the agenda. Persons wishing to address the Council are requested, but not required to complete a Speaker’s Card. Speakers are limited to two (2) minutes. The law generally prohibits the Council from discussion or taking action on such items. However, the Council may instruct staff accordingly regarding Oral Requests.

COUNCIL ANNOUNCEMENTS

CONSENT CALENDAR

NOTE: All matters listed under consent calendar are considered by the City Council to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a request is made by a member of City Council, City staff, or a member of the public. Any person wishing to speak on any item on the consent calendar should ask to have the item removed from the consent calendar prior to the time the Council votes to approve. If removed, the item will be discussed in the order in which it appears.

3. **Minutes of Study Session of March 1, 2016**
Recommended Action: Approve the study session minutes.

4. **Minutes of Regular Meeting of March 1, 2016**
Recommended Action: Approve the regular meeting minutes.

5. **Approving Bills and Claims**
Recommended Action: Approve the bills and claims in the amount of \$1,242,578.83.

6. **Resolution Congratulating Janie Harris Kelly on Being Selected “Citizen of the Year” by the Campbell Chamber of Commerce (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution congratulating Janie Harris Kelly on being selected Campbell’s 2015 “Citizen of the Year.”

7. **Resolution Congratulating Chiropractic Wellness Center on Being Selected “Business of the Year” by the Campbell Chamber of Commerce (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution congratulating Chiropractic Wellness Center on being selected Campbell’s 2015 “Business of the Year.”

PUBLIC HEARINGS AND INTRODUCTION OF ORDINANCES

8. **Public Hearing to Consider a 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 (Introduction of Ordinance/Roll Call Vote)**
Recommended Action: Take first reading of an ordinance amending 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.

9. **Public Hearing to Consider a City-initiated Text Amendment (PLN2015-365) to Amend the Campbell Municipal Code Regulations for Massage Establishments (Resolution/Introduction of Ordinances/Roll Call Vote)**
Recommended Action: Adopt a resolution finding that the proposed Zoning Text Amendment (PLN2015-365) is exempt from CEQA; take first reading of an ordinance approving a Text Amendment amending Chapter 21.10 (Commercial and Industrial District); Chapter 21.12 (Special Purpose District); Chapter 21.36 (Provisions Applying to Special Uses); and Section 21.72.020 (Definitions) of the Campbell Zoning Code; and take first reading of an ordinance approving a Text Amendment amending Chapter 5.48 (Business Regulations) and Chapter 6.10 (Inspections of Property) of the Campbell Municipal Code.

NEW BUSINESS

10. **Affirm the Revised Fiscal Year 2015-16 City Council Strategic Priorities and Confirm or Provide Direction Regarding Fiscal Year 2016-17 Strategic Priorities**
Recommended Action: Affirm or provide direction related to the revised Fiscal Year 2015-16 City Council Strategic Priorities and proposed 2016-17 Strategic Priorities.

COUNCIL COMMITTEE REPORTS

11. **City Councilmember Reports/Updates on Committee Assignments**
Recommended Action: Report on committee assignments and general comments.

ADJOURN

In compliance with the Americans with Disabilities Act, listening assistive devices are available for all meetings held in the City Council Chambers. If you require accommodation, please contact the City Clerk's Office, (408) 866-2117, at least one week in advance of the meeting.



*City
Council
Report*

Item: 1.
Category: Special Presentation
Meeting Date: March 15, 2016

TITLE: Proclamation declaring the month of March “American Red Cross Month” in the City of Campbell

RECOMMENDATION

It is recommended that the City Council proclaim the month of March as “American Red Cross Month” in the City of Campbell.

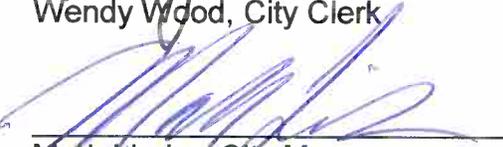
DISCUSSION

This proclamation would designate the month of March as America Red Cross Month throughout the City of Campbell California. It would support the American Red Cross mission to prevent and alleviate human suffering in the face of emergencies and honor and celebrate the everyday heroes who help fulfill this mission. Our community depends on the American Red Cross; they rely on the everyday heroes who donate their time, money and blood to fulfill its humanitarian mission.

Prepared by:


Wendy Wood, City Clerk

Approved by:


Mark Linder, City Manager

Attachment:
Proclamation

**PROCLAMATION
OF THE
MAYOR OF THE CITY OF CAMPBELL**

WHEREAS, *American Red Cross Month is a special time to recognize and thank our everyday heroes – those who reach out to help people in need; and*

WHEREAS, *the American Red Cross heroes help disaster victims recover by giving blood to help hospital patients and brightening the day of injured service members; and*

WHEREAS, *the City of Campbell would like to remember our heroes who help people in need and work tirelessly to assist their neighbors when they need a helping hand; and*

WHEREAS, *across the country and around the world, the American Red Cross responded to disasters; and*

WHEREAS, *when a family loses their home in a fire, the Red Cross volunteers show up to help them; when an injured service member ends up in a hospital far from home, the American Red Cross offers comfort; and when a hospital patient needs blood, the American Red Cross blood donors help them; and*

WHEREAS, *the City of Campbell dedicates the month of March to all those who support the American Red Cross mission; to prevent and alleviate human suffering in the face of emergencies; and*

WHEREAS, *our community depends on the American Red Cross and they rely on the donations of time, money and blood to fulfill its humanitarian mission.*

NOW, THEREFORE, *I, Jason T. Baker, Mayor of the City of Campbell, do hereby proclaim March 2016 as American Red Cross Month. I encourage all Americans to support this organization and its noble humanitarian mission.*

WITNESS MY HAND AND SEAL OF THE CITY OF CAMPBELL *this 16th day of March, 2016.*

*Jason T. Baker
Mayor of the City of Campbell*



*City
Council
Report*

Item: 2.
Category: Special Presentations
Date: March 15, 2016

TITLE: Introduction of the General Plan Mobile Application

RECOMMENDATION:

The City Manager's Office and the Community Development Department are pleased to announce a free mobile application focused on the General Plan Update process.

This app, with its simple and straightforward design, will allow residents to easily access critical documents related to the General Plan Update process, see upcoming events as well as add them to their calendar, participate in discussions, ask the City questions, and directly access the section of the City's website devoted to the General Plan Update process. It will also notify users if new information related to the General Plan Update process is added to the app, and it even allows users to share information via social media.

The app will be available for free through the Apple App Store and the Google Play Marketplace in April.

Prepared by:

Jeffrey Gershaneck, Information Technology Manager

Approved by:

Mark Linder, City Manager

Lisa Harmer: San Jose needs a stronger disaster response program

By Lisa Harmer, Special to the Mercury News

POSTED: 03/13/2016 12:00:00 PM PST | UPDATED: 4 DAYS AGO

In 1989 I was working late in an inner-city hospital in Boston when news broke of the Loma Prieta earthquake. I saw videos of collapsed freeways and buildings, injured people and damaged infrastructure. My first thought was of my family in the Bay Area: Were they alive? Were they hurt? Who could help them? I knew our professional responders would be overwhelmed for days.

It took me three days to reach my family by phone. I realized Californians needed to be ready for the next disaster, whether it be man-made or natural.

The way to do that is by creating neighborhood Community Emergency Response Teams (CERT) -- a volunteer program, approved by FEMA, that began in 1986 in Los Angeles.

CERT programs train volunteers to provide immediate aid in their neighborhoods in a disaster. They now exist in all 50 states, three U.S. territories and six foreign countries. CERT volunteers have proved invaluable after Hurricane Katrina, Hurricane Sandy, tornadoes and earthquakes.

When disaster strikes Campbell, CERT members will meet at prearranged command centers and send out teams to go door to door, noting damage, searching for victims and identifying problems for the professionals (such as downed power lines). Each house surveyed will be marked with chalk, identifying the day/time of the survey, the outcome and action taken.

Much of Santa Clara County, including the city of San Jose, does not have an active CERT program. In these places, neighborhood leaders should investigate CERT on their own. All cities need to make CERT a priority. A major earthquake is, statistically speaking, long overdue.

CERT provides training in emergency preparedness, fire suppression, first aid, search and rescue, and incident management. Trainees form or join neighborhood teams for ongoing training. The more people who are trained, the safer everyone will be.

In 2012, Steven Teeter realized Campbell needed to restart its CERT program. The first meeting was with six neighbors in his backyard. Four years later, the all-volunteer Campbell CERT has 172 volunteers trained by Santa Clara County Fire and is a 501(c)3 nonprofit with an elected board and a thoughtful list of short- and long-term goals.

Campbell CERT is now a line item in the Campbell Police Department budget, and Cpt. Joe Cefalu oversees the program. The Campbell Chamber of Commerce has given Campbell CERT dues-free membership in its organization because of the services we provide during Campbell Chamber events, such as Octoberfest.

We have come so far because Campbell citizens care about our city and because of strong support from Mayor Jason Baker, Vice Mayor Liz Gibbons (a CERT member), the rest of the City Council and Police Chief David Carmichael.

In 2015, with a city budget of \$3,000, Campbell CERT members volunteered almost 2,500 man-hours, a leveraged value of more than \$57,000. Mark Dunkle is now president, and Teeter is the program manager.

Dunkle notes, "CERT is the first line of defense in a widespread emergency for both our families and our neighbors. We're here because we are trained and we can help."

Other Silicon Valley cities also have strong CERT programs, including Cupertino, Los Gatos, Saratoga, Sunnyvale, Santa Clara and Gilroy.

CERT provides significant return on the tax dollars spent, but San Jose has not allocated money to fund the program. Palo Alto, population 66,000, has a budget of \$989,000 for emergency services. San Jose, with 1 million residents, has budgeted \$26,000.

Four CERT training classes are scheduled across the county this year (see www.CampbellCACERT.org). Residents of any city are welcome. All communities should have an active program, but if yours doesn't, take the initiative to get trained, organize your neighbors and be ready to help one another when -- not if -- disaster strikes.

Lisa Harmer is vice president of Campbell CERT and president of the Campbell Village Neighborhood Association. She wrote this for this newspaper.

Mark Dunkle

dunklem@gmail.com

408-832-2954

President of Campbell CERT

CITY COUNCIL MINUTES

City of Campbell, 70 North First Street, Campbell, California



CAMPBELL CITY COUNCIL STUDY SESSION

Tuesday, March 1, 2016 - 6:00 p.m.
Council Chamber – 70 N. First Street

This Study Session was duly noticed pursuant to open meeting requirements of the Ralph M. Brown Act (G.C. Section 54956).

This meeting was recorded and can be viewed in its entirety at www.cityofcampbell.com/agendacenter.

NOTE: No action may be taken on a matter under Study Session other than direction to staff to further review or prepare a report. Any proposed action regarding items on a Study Session must be agendized for a future Regular or Special City Council meeting.

The City Council of the City of Campbell convened this day in the Council Chamber of City Hall, 70 N. First Street, Campbell, California, to discuss the Civic Center Master Plan.

Roll Call:

Present: Councilmembers: Kotowski, Resnikoff, Cristina, Gibbons, Baker

Absent: Councilmembers: None

Staff Present: Mark Linder, City Manager; Bill Seligmann, City Attorney; Wendy Wood, City Clerk; Todd Capurso, Public Works Director; Al Bito, Deputy City Manager; Paul Kermoyan, Community Development Director; Dave Carmichael, Police Chief; Regina Maurantonio, Recreation and Community Services Director

NEW BUSINESS

1. **Civic Center Master Plan**

Recommended Action: Conduct Study Session and provide direction to staff.

City Manager Linder gave a brief introduction of the item.

Public Works Director Capurso presented staff report dated March 1, 2016.

PUBLIC COMMENT

Susan Landry, Campbell resident, submitted a handout to council for a proposed idea for the Civic Center and spoke about potential financing options.

After Council discussion, Mayor Baker stated that the study session would be continued after the regular Council meeting.

Study Session adjourned to the regular meeting at 7:27 p.m.

Study session reconvened after the regular meeting at 9:48 pm.

After discussion Council provided general direction to staff.

ADJOURN

Mayor Baker adjourned the meeting at 10:17 p.m.

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

MEMORANDUM



City of Campbell

City Clerk's Office

To: Honorable Mayor and City Council

Date: March 15, 2016

From: Wendy Wood, City Clerk *AW*

Via: Mark Linder, City Manager *ML*

Subject: Desk Item #3 – Approval of Minutes of March 1, 2016 Study Session

Correction to page two of the minutes has been made to clarified direct to staff.

Attached is the revised page, reflecting the correction.

Staff recommends that Council approve the minutes as corrected.

After Council discussion, Mayor Baker stated that the study session would be continued after the regular Council meeting.

Study Session adjourned to the regular meeting at 7:27 p.m.

Study session reconvened after the regular meeting at 9:48 pm.

After discussion Council provided general direction to staff to prepare an additional poll for a split roll parcel tax and a general obligation bond and appointed Councilmember Cristina and Mayor Baker to a subcommittee to review the language.

ADJOURN

Mayor Baker adjourned the meeting at 10:17 p.m.

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

CITY COUNCIL MINUTES

City of Campbell, 70 North First Street, Campbell, California



CITY COUNCIL EXECUTIVE SESSION

Tuesday, March 1, 2016 – 5:30 p.m.

Ralph Doetsch Conference Room - 70 N. First Street

- A. Personnel
- B. Litigation – Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to paragraph (2) of subsection (d) of California Government Code Section 54956.9: One case
- C. Real Property
- D. Labor Negotiations

Council met in Executive session to discuss item B. Executive session adjourned at 5:45 p.m.

REGULAR MEETING OF THE CAMPBELL CITY COUNCIL

Tuesday, March 1, 2016 – 7:30 p.m.
Council Chamber – 70 N. First Street

Note: This Regular Meeting was duly noticed pursuant to open meeting requirements of the Ralph M. Brown Act (G.C. Section 54956).

This meeting was recorded and can be viewed in its entirety at www.cityofcampbell.com/agendacenter.

CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

The City Council of the City of Campbell convened this day in the regular meeting place, the Council Chamber of City Hall, 70 N. First Street, Campbell, California.

Roll Call:

Present: Councilmembers: Kotowski, Resnikoff, Cristina, Gibbons, Baker

Absent: Councilmembers: None

Pledge: Cary Stover

The pledge was led by Cary Stover. Mayor Baker thanked him for all the work he has done in the community and presented him with a certificate of appreciation for leading the pledge.

SPECIAL PRESENTATIONS AND PROCLAMATIONS

1. **Introduction of the Campbell Police Department Mobile Application**
Recommended Action: Accept presentation.

Police Chief Carmichael gave a brief introduction of the new mobile application.

Police Captain Berg gave a short presentation of the features.

COMMUNICATIONS AND PETITIONS

There were no communications and petitions.

ORAL REQUESTS

NOTE: This portion of the meeting is reserved for persons wishing to address the City Council on any matter not on the agenda. Persons wishing to address the Council are requested, but not required to complete a Speaker's Card. Speakers are limited to two (2) minutes. The law generally prohibits the Council from discussion or taking action on such items. However, the Council may instruct staff accordingly regarding Oral Requests.

COUNCIL ANNOUNCEMENTS

The National Arbor Day Foundation in conjunction with the Department of Forestry will present the City of Campbell with a "Tree City USA" award for the thirty-fourth year. In celebration of receiving this award, the community is invited to the City of Campbell's Arbor Day celebration at 9:00 am on Monday, March 7th at Campbell Middle School.

This year's Arbor Day event will include, "The Tree Circus," a one-hour collaborative stage show which engages students and audience members. Following the Tree Circus' performance, Campbell Middle School Students will plant trees at John D. Morgan Park with City staff.

The Campbell Historical Museum at Ainsley House presents the following upcoming exhibits:

"Agents of Decay: Why Nothing Lasts Forever." This exhibit explores how your keepsakes decay over the years and why.

"Then and Now" a photo exhibit featuring vintage images from the Campbell Historical Museum's collection. The exhibit illustrates the changes that have taken place in Campbell, as well as in society.

Exhibits open March 3rd and run through October 2016. The Ainsley House is open Thursday through Sunday from noon to 4 p.m. each week. General Admission is \$8.00 for adults, \$6.00 for seniors and \$4.00 for youths.

A second date has been added for the Downton Abbey-themed tea event at the Ainsley House on March 12th after tickets sold out for March 13th. Hosted in conjunction with the Campbell Library, both days' events are scheduled from 1:00 p.m to 3:30 p.m. Reservations include champagne tea, a special Downton Abbey tea blend created by Steepers, a Downton Abbey tea trivia contest and tour of the Ainsley House. For reservations call Laura Moore at (408) 460-7048. Tickets are \$40.00 for Campbell Museum Foundation members and \$45.00 for non-members.

For more information on these, or other upcoming events, please visit the City's website at www.cityofcampbell.com

CONSENT CALENDAR

NOTE: All matters listed under consent calendar are considered by the City Council to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a request is made by a member of City Council, City staff, or a member of the public. Any person wishing to speak on any item on the consent calendar should ask to have the item removed from the consent calendar prior to the time the Council votes to approve. If removed, the item will be discussed in the order in which it appears.

Mayor Baker asked if any Councilmember or anyone in the audience wished to remove any item from the Consent Calendar.

Item seven was removed.

The Consent calendar was considered as follows:

2. **Minutes of Study Session of February 16, 2016**

Recommended Action: Approve the Study Session Minutes.

This action approves the minutes of the study session of February 16, 2016.

3. **Minutes of Regular Meeting of February 16, 2016**

Recommended Action: Approve the Regular Meeting Minutes.

This action approves the minutes of the regular meeting of February 16, 2016, including a desk item.

4. **Approving Bills and Claims**

Recommended Action: Approve the bills and claims in the amount of \$910,485.89.

This action approves bills and claims in the amount of \$910,485.89 as follows: bills and claim checks dated February 8, 2016 in the amount of \$320,170.32; payroll checks dated February 11, 2016 in the amount of \$237,054.75; and bills and claims checks dated February 15, 2016 in the amount of \$353,260.82.

5. **Monthly Investment Report – January, 2016**

Recommended Action: Note and file the Monthly Investment Report for January, 2016.

This action notes and files the monthly investment report for January, 2016.

6. **Delegation of Authority to the Recreation and Community Services Director to Issue a Request for Proposals (RFP) to Contract for T-shirt Production and to Award the Subsequent Contract to the Most Responsive Bidder (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution delegating authority to the Director of Recreation and Community Services to issue a request for proposals (RFP) to contract for t-shirt production and to award the contract to the most responsive bidder.

Resolution 11952 delegates' authority to the Director of Recreation and Community Services to issue a request for proposals (RFP) to contract for t-shirt production and to award the contract to the most responsive bidder.

M/S: Gibbons/Resnikoff - that the City Council approve the Consent Calendar with the exception of item seven and including desk item three. Motion was adopted by the following roll call vote:

AYES: Councilmembers: Kotowski, Resnikoff, Cristina, Gibbons, Baker

NOES: Councilmembers: None

ITEMS CONSIDERED SEPARATE FROM THE CONSENT CALENDAR

7. **Authorization to Enter into a Service Agreement for Citywide Tree Care Services (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution authorizing the Public Works Director to enter into a service agreement with West Coast Arborists for citywide tree services.

Vice Mayor Gibbons requested clarification on the benefits and information about the tree watering.

Public Works Director Capurso provided clarification.

City Arborist Siudzinski spoke about tree watering efforts.

After discussion, **M/S: Cristina/Gibbons – that the City Council adopt Resolution 11953 authorizing the Public Works Director to enter into a service agreement with West Coast Arborists for citywide tree services. Motion was adopted by the following roll call vote:**

AYES: Councilmembers: Kotowski, Resnikoff, Cristina, Gibbons, Baker

NOES: Councilmembers: None

PUBLIC HEARINGS AND INTRODUCTION OF ORDINANCES

There were no agenda items.

OLD BUSINESS

8. **Second Reading of Ordinance 2197 Imposing an Express Ban on Marijuana Processing, Marijuana Delivery, and Marijuana Dispensaries in the City of Campbell (Second Reading Ordinance/Roll Call Vote)**

Recommended Action: Approve second reading of Ordinance 2197 adding Chapter 8.38 (Medical Marijuana) to the Campbell Municipal Code imposing an express ban on marijuana processing, marijuana delivery, and marijuana dispensaries in the City of Campbell.

City Clerk Wood – staff report dated March 1, 2016.

City Manager Linder provided a brief background of the item.

Mayor Baker opened the public comment.

Andrew Prescott, Campbell resident, spoke about the use of medical marijuana and asked Council not to vote on this item at this time.

Alex Smirnov, Campbell resident, stated that there is no need to change, amend or add to the current ordinance and requested that Council leave the ordinance as is.

Kale Schulte, Campbell resident, provided a handout for Council, spoke about the delivery of medical marijuana and asked that Council vote no on this item.

Brett Hardy, Campbell resident, spoke about the benefits of medical marijuana.

Viktoria Foxx, Campbell resident, provided a handout to Council and spoke about delivery of medical marijuana.

Edie Halenbeck spoke about medical marijuana and stated that she does not support the ban.

Zayna Seyedi, Campbell resident, spoke about medical marijuana and stated that she would like patients to have access to it through delivery and opposes the ban.

Mayor Baker asked if anyone else in the audience wanted to speak on this item, there being no one else wishing to speak Mayor Baker closed the public comment.

After discussion, **M/S: Cristina/Kotowski – that the City Council approve the second reading of Ordinance 2197 adding Chapter 8.38 (Medical Marijuana)**

to the Campbell Municipal Code imposing an express ban on marijuana processing, marijuana delivery, and marijuana dispensaries in the City of Campbell. Motion was adopted by the following roll call vote:

AYES: Councilmembers: Kotowski, Resnikoff, Cristina, Gibbons, Baker

NOES: Councilmembers: None

NEW BUSINESS

9. **Adoption of a Resolution to Approve Selection of the Envision Campbell Plan Consultant, Change to the Scope of Work for Consultant Services Necessary to Facilitate Preparation of the Plan, Environmental Impact Report, and Zoning Ordinance, and authorization for the City Manager to Negotiate, Award and Execute the Contract with De Novo Planning Group (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution approving the selection of De Novo Planning Group to facilitate the preparation of the Envision Campbell Plan; approve the Scope of Work changes for consultant services; and authorize the City Manager to award the contract to De Novo Planning group and enter into a Professional Service Agreement.

Community Development Director Kermoyan presented staff report dated March 1, 2016.

Mayor Baker opened the public comment.

Susan Landry, Campbell resident and General Plan Advisory Committee member, thanked Council and Staff for all their work and stated she is looking forward to working on the committee.

Jo-Ann Fairbanks, Campbell resident, stated that she appreciated the comprehensive staff report, as well as the work of the subcommittee and commented on the structure of the meetings.

Mayor Baker asked if anyone else in the audience wanted to speak on this item, there being no one else wishing to speak Mayor Baker closed the public comment.

After discussion, **M/S: Gibbons/Cristina – that the City Council adopt Resolution 11954 authorizing the following actions regarding the preparation of the Envision Campbell Plan with modifications to include a financial analysis for a total amount including the zoning and a deliverable breakdown of the finance; approving the selection of De Novo Planning Group to facilitate the preparation of the Envision Campbell Plan; approving the Scope of Work changes for consultant services; authorizing the City Manager to award the contract to De Novo Planning group and enter into a Professional Service Agreement; and bring the Scope of Work**

back to Council for approval with an introduction of the consultant to Council. Motion was adopted by the following roll call vote:

AYES: Councilmembers: Kotowski, Resnikoff, Cristina, Gibbons, Baker

NOES: Councilmembers: None

COUNCIL COMMITTEE REPORTS

10. City Councilmember Reports/Updates on Committee Assignments

Recommended Action: Report on committee assignments and general comments.

-- Councilmember Resnikoff spoke about the State Route 85 Corridor Policy Advisory Board meeting, which Vice Mayor Gibbons attended on his behalf and attending the Saratoga State of the City address.

-- Councilmember Kotowski attended the Friends of the Heritage Theatre meeting and spoke about their grant request to get moving lights for the theatre; attended the Youth Commission meeting; and the West Valley Sanitation District meeting.

-- Vice Mayor Gibbons attended the San Jose Water Company update meeting; spoke about the Peninsula Division CitiPAC bocce ball tournament; attended meeting on March 2nd regarding the ABAG merger; spoke about the inclusionary housing ordinance of San Jose; housing week on May 13th; Bay Area Wetlands; attended the State of the County; the State of Saratoga; the Chinese New Year celebration at Hakone Gardens; the State Route 85 Corridor Policy Advisory Board meeting; and spoke about the "HERO" program and rent in the community.

--Mayor Baker attended the Metropolitan Transportation Commission Bay Area Toll Authority meeting; Santa Clara County Operational Area Council where he was selected to be Chair for a third term; West Valley Cities Silicon Valley Interoperability Authority meeting; West Valley Mayors and Managers meeting; spoke about the "HERO" program and their administration of the "PACE" program; and the issue of rent increase.

Vice Mayor Gibbons made a motion to the shortest duration possible to agendize a discussion on rent moderation measures.

Due to a lack of a second the motion failed.

M/S: Gibbons/Cristina - that the City Council direct staff to investigate and move as quickly as reasonably possible to bring "HERO" or a comparable program to Council. Motion was adopted unanimously.

ADJOURN

Mayor Baker adjourned the regular meeting at 9:42 p.m. to the continuation of the Study Session.

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk



City Council Report

Item: 5.
Category: Consent Calendar
Meeting Date: March 15, 2016

TITLE: Approving Payment of Bills and Claims

RECOMMENDATION

Approve the attached lists of bills and claims for payment in the amount of \$1,242,578.83.

DISCUSSION

Attached are the lists of bills and claims that have been audited and approved by staff for payments made as noted below:

Type	Check Date	Amount
Bills & Claims	February 22, 2016	\$857,537.54
Payroll	February 25, 2016	\$243,489.51
Bills & Claims	February 29, 2016	\$141,551.78
Total		\$1,242,578.83

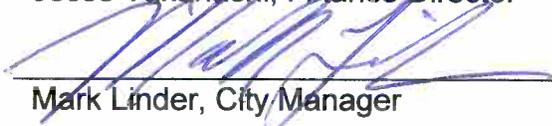
FISCAL IMPACT

Adequate funding was available to cover all expenses as listed.

Prepared by: 
Carolina Vargas, Accounting Clerk II

Reviewed by: 
Sharif Elman, Finance Manager

Reviewed by:  for
Jesse Takahashi, Finance Director

Approved by: 
Mark Linder, City Manager

Attachments:
Attachment 1 – Bills & Claims Lists



City Council Report

Item: 6.
Category: Consent Calendar
Meeting Date: March 15, 2016

TITLE: Resolution Congratulating Janie Harris Kelly on Being Selected "Citizen of the Year" by the Campbell Chamber of Commerce (Resolution/Roll Call Vote)

RECOMMENDATION

It is recommended that the City Council adopt a resolution congratulating Janie Harris Kelly on being Selected Campbell's 2015 "Citizen of the Year."

BACKGROUND

The Chamber of Commerce annually recognizes an outstanding individual in the community as its "Citizen of the Year." Nominees are chosen for their outstanding and unselfish contributions to the Campbell community. The award recipient is honored at the Chamber's annual Citizen/Business-of-the-Year banquet.

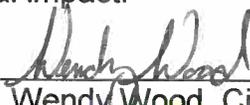
DISCUSSION

Janie Harris Kelly was selected Campbell's 2015 "Citizen of the Year" in recognition of her commitment and significant contributions to the Campbell community. Janie has been an active member of the Chamber of Commerce since 2003 and enjoys serving the community as a volunteer. She has served as the Chamber's President in 2015 and has served on the board since 2011. She has also been very active in various Chamber events. The award recipient is honored at the Chamber's Annual Celebrate Campbell banquet to be held on March 19, 2016

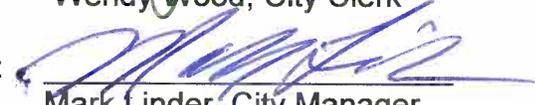
FISCAL IMPACT

There is no fiscal impact.

Prepared by:


Wendy Wood, City Clerk

Approved by:


Mark Linder, City Manager

Attachment: Resolution

RESOLUTION NO.

**BEING A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF CAMPBELL CONGRATULATING
JANIE HARRIS KELLY, 2015 CITIZEN OF THE YEAR**

WHEREAS, Janie Harris Kelly, was selected by the Campbell Chamber of Commerce as 2015 Citizen of the Year in recognition of her many years of volunteer service to the Campbell community, and will be honored on March 19, 2016 at the annual "Celebrate Campbell" banquet; and

WHEREAS, Janie Harris Kelly, grew up in Campbell, and graduated from Campbell High School; and

WHEREAS, Janie Harris Kelly, has been an active member of the Campbell Chamber of Commerce since 2003 and served on the board since 2011; and

WHEREAS, Janie Harris Kelly, served as the Chamber's President in 2015 and enjoys serving the Campbell community as a volunteer; and

WHEREAS, Janie Harris Kelly, has been a real estate professional in the South Bay Area her entire career specializing in helping clients list; market; sell; and purchase homes throughout the South Bay Area; and

WHEREAS, Janie Harris Kelly is a past International Director for her Minneapolis-based Fraternal Insurance Company, Sons of Norway, for which she was a member for over 35 years and still keeps active at the International level by chairing two strategic planning committees.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Campbell congratulates **Janie Harris Kelly** on being named Campbell's 2015 Citizen of the Year and recognizes her service and involvement in the Campbell community.

PASSED AND ADOPTED this 15th day of March, 2016 by the following roll call vote:

AYES : Councilmembers:

NOES : Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk



City Council Report

Item: 7.
Category: Consent Calendar
Meeting Date: March 15, 2016

TITLE: Resolution Congratulating Chiropractic Wellness Center on Being Selected "Business of the Year" by the Campbell Chamber of Commerce (Resolution/Roll Call Vote)

RECOMMENDATION

It is recommended that the City Council adopt a resolution congratulating Chiropractic Wellness Center on being selected Campbell's 2015 "Business of the Year."

BACKGROUND

The Chamber of Commerce annually recognizes outstanding businesses in the community as its "Business of the Year." Nominees are chosen for their outstanding and unselfish contributions to the Campbell community. The award recipient is honored at the Chamber's annual Citizen/Business-of-the-Year banquet.

DISCUSSION

Chiropractic Wellness Center was selected Campbell's 2015 "Business of the Year" for its successful business operation, which began 26 years ago. The Chiropractic Wellness Center will be honored at the Chamber's Annual Celebrate Campbell banquet to be held on March 19th, 2016.

FISCAL IMPACT

There is no fiscal impact.

Prepared by: Wendy Wood
Wendy Wood, City Clerk

Approved by: Mark Linder
Mark Linder, City Manager

Attachment: Resolution

RESOLUTION NO.

**BEING A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF CAMPBELL CONGRATULATING
CHIROPRACTIC WELLNESS CENTER, 2015 BUSINESS OF THE YEAR**

WHEREAS, Chiropractic Wellness Center, has been selected by the Campbell Chamber of Commerce as 2015 Business of the Year in recognition of many years of service to the Campbell community, and will be honored on March 19, 2016 at the annual "Celebrate Campbell" banquet; and

WHEREAS, Chiropractic Wellness Center, has been maintained and operated in Campbell for 26 year by Robert Martines, D.C.; and

WHEREAS, Robert Martines, D.C., was selected by his colleagues as Doctor of the Year from 1993-1997 and was honored with the Robert Botterman Award in 2007, as the doctor that best exemplified professional in the state, by California Chiropractic Associations; and

WHEREAS, Robert Martines, D.C., was a past board member for the Campbell Education Foundation from 1997-1998 and currently serves as a board member for the Campbell Police Foundation; and

WHEREAS, Chiropractic Wellness Center, has been involved in many charitable events such as the 5K/10K Children's Center Benefit run from 2006-2011; the Kid's Day America in Campbell from 1996-1999; "Stop Hunger Now," where they helped prepare 10,000 meals for the Philippines in 2013; and "Change the World Now" where helped to prepare 10,000 meals for the Ebola Crisis in Africa in 2014.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Campbell congratulates the **Chiropractic Wellness Center,** on being named Campbell's 2015 Business of the Year and recognizes their valued service to the Campbell community and continued involvement in civic endeavors.

PASSED AND ADOPTED this 15th day of March, 2016 by the following roll call vote:

AYES : Councilmembers:

NOES : Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk



*City
Council
Report*

Item: 8.
Category: Public Hearing
Date: March 15, 2016

TITLE Public hearing to consider a 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. (Introduction of Ordinance/Roll Call Vote)

RECOMMENDATION

The Planning Commission recommends that the City Council take the following action:

1. **Take a first reading of the attached Ordinance (Attachment 1)**, amending 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.

ENVIRONMENTAL DETERMINATION

The Planning Commission recommends the City Council find this Zoning Text Amendment exempt from environmental review under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines pertaining to projects that have no possibility to have a significant effect on the environment.

DISCUSSION

Background: Following a series of study sessions over the last three years regarding the "mix of uses" in the Downtown and specifically the growing prevalence of restaurants (reference **Attachments 2-5** – Staff Reports), staff was directed to prepare an ordinance that would require new restaurants to obtain a Conditional Use Permit.

Proposed Amendments: As discussed in further detail in the attached Planning Commission staff report (reference **Attachments 6**), the proposed Zoning Text Amendment would require new restaurants locating in the C-3 (Central Business District) Zoning District to obtain a Conditional Use Permit except for those locating in a tenant space along Campbell Avenue most recently occupied by a non-conforming office and salon. Findings for approval would require the Planning Commission to affirmatively determine that a new restaurant "will foster a balance of day and evening activity in the downtown", "maintain a balanced mix of permitted uses," "contribute to the diversification of eating establishments," and "not result in an over concentration of restaurants in the immediate vicinity," in furtherance of applicable General Plan policies and strategies.

Other changes include formal incorporation of the Downtown Alcohol Beverage Policy by reference within the Zoning Code, affirmation that drive-through/in restaurants are prohibited, and clarification that existing restaurants with a Conditional Use Permit are "conforming" and would be unaffected by the proposed ordinance. Lastly, motor vehicle sale establishments (within an enclosed building) would be listed as a conditional use, formalizing a past Community Development Director determination, and also providing another retail opportunity within the Downtown.

Planning Commission Public Hearing: The Planning Commission held a public hearing on the proposed amendments on February 24, 2016. As reflected in the draft Planning Commission Meeting Minutes (reference **Attachment 7**), the Commission discussed various aspects of the proposal and took comment from one resident. The Commission subsequently adopted a resolution recommending that the City Council adopt the draft ordinance.

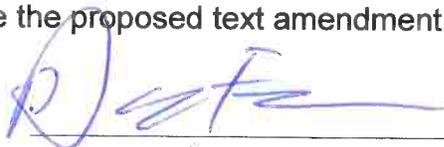
FISCAL IMPACTS

The requirement for a Conditional Use Permit for new restaurants may result in submittal of additional CUP applications, generating revenue commensurate with the staff time and resources expended to review them.

ALTERNATIVES

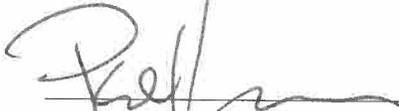
1. Revise specific sections of the proposed text amendment.
2. Continue for further review.
3. Do not approve the proposed text amendment.

Prepared by:



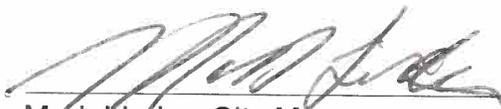
Daniel Fama, Associate Planner

Reviewed by:



Paul Kernoyan, Community Development Director

Approved by:



Mark Linder, City Manager

Attachments:

1. Draft City Council Ordinance
2. City Council Study Session Report, dated March 5, 2013
3. City Council Study Session, dated July 16, 2013
4. City Council Study Session, dated February 17, 2015
5. City Council Study Session, dated June 16, 2015
6. Planning Commission Staff Report, dated February 23, 2016
7. Draft Planning Commission Meeting Minutes, dated February 23, 2016

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

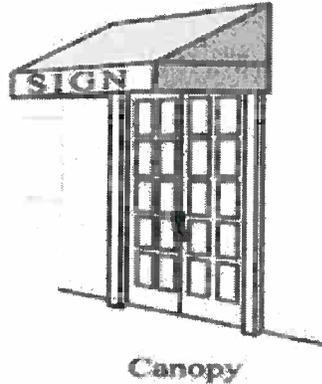
should not be approved unless it is demonstrated that such material would be the only structurally or architecturally suitable materials for the project or location.

- 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):

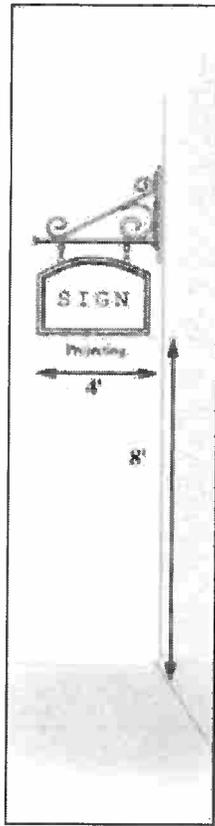
1. Intent. The intent of these regulations is to stimulate creative, good quality signing which will complement the intimate scale and architectural character of the area, and which will complement the architectural style of the building to which the signing is fixed.
2. Allowable signs. Each business 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.

MEMORANDUM**City of Campbell**

To: Honorable Mayor and City Council **Date:** March 5, 2013

From: Daniel Fama, Associate Planner
Paul Kermoyan, Interim Community Development Director

Via: Mark Linder, City Manager

Subject: Study Session to Review Mix of Downtown Uses

PURPOSE OF STUDY SESSION

Since 2011, Downtown Campbell has witnessed a rapid growth in new restaurants which have displaced traditional retail shops. Some have viewed this transition as contributing to the Downtown's continued success as an attractive and vibrant community destination. However, at issue is a concern that the increasing number of restaurants may be altering the Downtown's historic balance of uses. To discuss how the mix of Downtown uses is changing, and if such a change is consistent with the City's desired vision, the Council directed staff to schedule a study session on this matter. For context, attachment 1 is a map of the greater Downtown that identifies current shops and restaurants.

This study session is also intended to serve as an opportunity for the community to provide input to the Council. In this regard, staff took steps to notify potential stakeholders and other interested parties of this study session. An email notice was provided to the Downtown Campbell Business Association (DCBA), non-DCBA business owners, the Campbell Chamber of Commerce, and to the general public through the NextDoor website. Additionally, notice of this meeting was posted to the City website, a press release to local news organizations was sent, and a mailed noticed was also provided to all Downtown property owners. Correspondence received by staff is included as Attachment 2.

BACKGROUND

Land Use Policies. City land use policies applicable to this discussion can be found in the Campbell General Plan, the Downtown Campbell Development Plan, the Downtown Alcohol Beverage Policy, and the Redevelopment Implementation Plan (reference Attachment 3). Together, these documents speak to 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, and support for neighborhood-serving businesses.

In providing for diversity of uses, a Downtown can serve the needs of many people during all parts of the day. Uses such as salons, retail stores, and casual eateries provide opportunities for day-time patronage by area employees as well as by local residents. Other uses, such as traditional restaurants, wine bars, and entertainment venues attract patrons from both within and outside of the community, later in the evening. This mixing of commercial uses—especially in combination with office and residential uses that provide a base of local customers—can result in a balanced Downtown environment.

Zoning Standards. The majority of Downtown properties are contained within the two loop streets—Orchard City and Civic Center Drives. This "inner core" is designated by the Zoning Map as the Central Business District (C-3) (reference Attachment 4 – Zoning Map). Although various City planning documents identify properties outside of the loop streets as part of the greater Downtown, they are located in the P-D (Planned Development) Zoning District. In terms of allowable uses, however, these properties are generally governed in the same manner.

The C-3 Zoning District standards are designed to implement the vision of the General Plan and the Downtown Development Plan. In this regard, the following objectives (among others) are specifically identified for this zoning district (CMC 21.10.060):

- Retain and enhance the Downtown area as a unique and economically viable retail and business center serving local and area wide commercial needs.
- To reinforce Campbell Avenue as a pedestrian-orientated retail street
- To promote ground floor retail use, upper floor commercial and residential uses where appropriate and a suitable mix of uses in the Downtown area.
- 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.

To achieve these objectives, the C-3 zoning district emphasizes high-activity uses such as retail stores and restaurants in ground-floor tenant spaces along Campbell Avenue, while limiting other uses such as office and salons to side streets or upper stories. As with all other zoning districts, some types of uses (restaurants, salons, retail stores, and offices) are classified as "permitted" meaning that only a business license is required for operation. Others are listed as "conditional", requiring approval of a Conditional Use Permit, such as the case for restaurants with sale of hard alcohol, bars/wine bars, and businesses with the late-night operation (after 11 PM).

Designation of a use as "conditional" allows the City to decide on a case-by-case basis whether a particular use should be established in a particular location. This allows the City to regulate the number and distribution of conditional uses consistent with applicable land use policies. Additionally, through issuance of a Conditional Use Permit, the City may impose reasonable restrictions as appropriate to minimize the impact on nearby businesses and residents.

The following summarizes zoning requirements applicable to restaurants, bars and wine bars, and retail uses in the C-3 Zoning District:

1. **Retail Uses**: Although the term "retail" generally signifies sale of products and goods such as clothing, jewelry, or art, the Zoning Code definition (CMC 21.72.020.R) is more encompassing. In addition to these typical retail uses, the definition includes several food-related uses such as retail bakeries, candy stores, delicatessens, and specialty shops (which may or may not include food products). However, through incorporation of indoor and outdoor seating, many such uses are more appropriately classified as restaurants per the City's definition (emphasis added):

[an] establishments whose primary business is the sale of food and beverages to customers for **their consumption within the restaurant or restaurant patio area. Customarily at least fifty percent of the total gross floor area is used for the seating of customers.** The restaurant may be open for breakfast, lunch, and/or dinner. Alcoholic beverages and carry-out food service are allowed if they are incidental to the primary purpose of consumption of food and beverages in the restaurant.

2. **Restaurants**. Restaurants, including those with beer and wine service, with a closing time before 11 PM are permitted without a Conditional Use Permit. If a restaurant includes the service of hard alcohol or is open after 11 PM, a Conditional Use Permit is required. To approve this type of request, the Zoning Code requires the Planning Commission to make specific findings (CMC 21.47.070):
 - 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.

Additionally, applications for new or modified Conditional Use Permits are subject to the Downtown Alcohol Beverage Policy (reference Attachment 5). The intent of the Policy, in part, is to regulate the operational characteristics of late night alcohol-serving restaurants so that they do not evolve into bars or nightclubs. For instance, hours of operation are limited to 12 AM, the bar area is limited to 25% of total seating, and alcohol service must be accompanied by food.

Lastly, restaurants opening within existing tenant spaces are allowed without being held to a parking standard, so long as the building is not expanded (CMC 21.10.60.I.3). This provision recognizes that most Downtown parcels have limited or no on-site parking and instead rely on shared public parking.

3. **Bars and Wine Bars**. As with restaurants that include sale of hard alcohol or that have a separate bar area, stand-alone bars and wine bars are required to obtain a Conditional Use Permit, subject to the additional findings (CMC 21.47.070) noted

above. The Downtown Alcohol Beverage Policy "strongly discourages" establishment of new stand-alone bars. However, wine bars are allowable through approval of a Conditional Use Permit. The Zoning Code does not distinguish between a "full bar" and a "wine bar"—both are considered "liquor establishments". However, per discussions with Alcohol Beverage Control (ABC) staff, the City can restrict a wine bar to service of only wine and beer and prohibit sale of hard alcohol; restrictions which ABC will attach to an issued license.

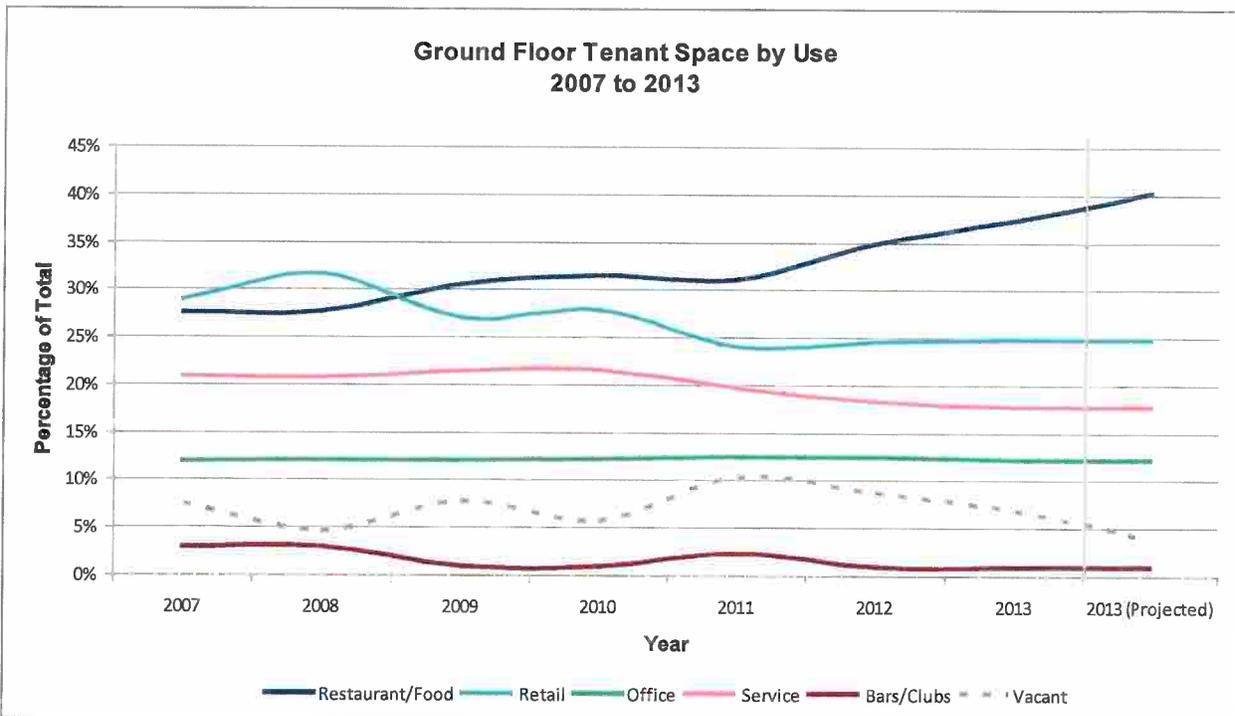
DISCUSSION

Mix of Uses. The City maintains informal records (reference Attachment 6) that track the amount and types of ground-floor space leased in Downtown Campbell. Over the last five years, these records reveal an evident change in the mix of Downtown uses. Since 2009, restaurants make up the plurality of uses—in terms of square-footage—now occupying approximately 86,000 square-feet of ground floor tenant space. The table below provides square-footage values for the past five years. Anticipating several recently vacated spaces leased out to restaurants, the table also projects into later this year, indicating that restaurants could potentially occupy an additional 6,500 square-feet.

Ground Floor Tenant Space by Use								
	2007	2008	2009	2010	2011	2012	2013 (Current)	2013 (Projected)
Restaurant	61,095	61,120	67,124	68,074	69,168	78,318	85,701	92,191
Other Retail	63,964	69,651	59,316	60,294	53,631	55,118	57,068	57,068
Office	26,475	26,475	26,475	26,475	27,773	28,123	28,123	28,123
Service	46,258	45,903	47,153	46,853	43,958	41,101	40,801	40,801
Vacant	16,619	10,245	16,928	12,428	23,000	19,380	15,480	8,990
Bars/Clubs	6,632	6,632	2,132	2,132	5,032	2,132	2,132	2,132

The graph on the next page illustrates this trend over time in *percentage* of total Downtown floor space occupied. Although restaurants and retail food uses eclipsed traditional retailers in 2009 as the predominant Downtown land use, this likely was the result of the recession, which greatly affected small retailers. The increasing number of restaurants beginning in 2011 corresponds to a decreasing vacancy rate, suggesting that vacant space—largely former retail space—was being occupied by restaurants rather than by retailers.

This trend is further evidenced by records for approved Downtown alcohol-serving establishments. Attachment 7 charts the number and types of alcohol-serving establishments, including restaurants, bars, and wine bars. Since 2003, the number of alcohol-serving establishments increased from 11 to 23, with a greater percentage of restaurants now holding "Type 47" (hard alcohol) licenses than "Type 41" (beer and wine) licenses. Attachment 8 is a detailed listing of all Downtown alcohol-serving establishments.



Trend Factors. To what extent any specific factor(s) can be attributed to the increase restaurant occupancy over the last two years is unclear. National economic factors affecting the region, as well as local policies, have likely both played a role. Market forecast suggests that independent retailers will continue to be challenged by the increasing divergence of the retail market between luxury and budget segments, as well by increasing competition from internet retailers. These trends largely benefit restaurants and entertainment uses, which are maintaining continued growth nationally.¹

Notwithstanding the affect of the national economy, several local factors may have facilitated and concentrated this growth in Downtown Campbell. Specifically, the City's Downtown parking standards allow an increase in seating capacity, adoption of the Downtown Alcohol Beverage Policy eased regulatory hurdles necessary to secure approval for alcohol sales, and rescinding of the Interim Parking In-lieu Fee eliminated a significant incurred cost for new restaurants. Together, these actions, in concert with national economic trends, may have "set the stage" for Downtown Campbell to become a restaurant destination.

1. Downtown Parking: Most Downtown properties have little or no on-site parking, reflecting the historic development pattern of the Downtown and following most urban design practices. Consistent with land use policies that encourage a walkable, pedestrian-oriented Downtown, the Zoning Code encourages use of public parking facilities in lieu of parking on private property. To this end, retail stores and

¹ Brown, Garrick and Matt Kircher, *U.S. National Retail Report – 2013 Forecast* (Chainlinks Retail Advisors, 2012)

restaurants may occupy existing buildings without provision of additional parking understanding that patrons can park in a public lot or garage.

However, due to the manner in which parking is calculated for restaurants—on a per seat basis—this allowance has resulted in restaurants realizing a significant increase in seating capacity in comparison to the rest of the City. As such, a restaurant in Downtown can accommodate upwards of three to four times the number of seats as a comparable restaurant located outside of Downtown. Since more seats may result in greater revenue, Downtown may be seen as more attractive for restaurants.

2. Downtown Alcohol Beverage Policy: The Downtown Alcohol Beverage Policy was adopted to provide specific guidance to staff and the Planning Commission regarding alcohol service. Although the Policy effectively placed a moratorium on new "full bars", it allowed restaurants to obtain approval for hard alcohol service so long as the restaurant closed down before midnight. This policy may have eliminated much of the uncertainty often associated with the Conditional Use Permit (CUP) process given the legal advice staff has received linking compliance with the Policy as grounds to approve a CUP. In effect, many of the findings of the CUP process were voided by the Policy.

In this regard, the Policy had the unintended result of removing from discussion the issue of over-concentration of alcohol establishments. Prior to the Policy, the Planning Commission would generally consider the number and types of alcohol-serving establishments within the vicinity of the proposed restaurant to determine if an "over-concentration" existed, consistent with the CUP findings. However, the Policy does not address over-concentration nor provide indication that there can ever be too many restaurants with alcohol service. As such, staff and the Planning Commission concluded that there was no limit so long as the restaurant complied with the Policy.

3. Parking In-Lieu Fee: To address parking impacts placed on the Downtown by new restaurants, the City Council adopted an interim parking in-lieu fee in late 2007. The Policy required restaurants to pay a fee after an established "baseline" number of seats had been reached. The interim fee was established at \$6,000 per required parking space or the equivalent of \$1,500 per additional seat.

As an economic development measure, the interim fee was rescinded in 2010. Since establishment of the fee coincided with the start of the recession in 2008 to what extent it discouraged new restaurants is unclear. However, during the years the fee was in effect, no new restaurants opened in Downtown Campbell. Nonetheless, its elimination removed a significant financial barrier. For example, had the fee been in effect in 2011, Blue Line Pizza—the first restaurant to open after it was rescinded—would have owed \$54,000.

Potential Effects. The increasing number of Downtown restaurants has several possible effects, including altering of the Downtown's mix of uses, displacement of traditional retailers, increased demand on public parking, and altering of sales of tax revenues.

1. Mix of Uses: The shift to a restaurant-oriented commercial base may diminish the ability of the Downtown to serve as the "economically viable retail and business center" envisioned by the General Plan by reducing opportunities for unique or neighborhood-serving retail. As the mix of uses changes over time, the Downtown may become more evening-oriented, resulting in a daytime environment with little activity. Restaurants, especially those where alcohol service plays a prominent role tend to be a more evening-centered use, having later "peak hours" than retail stores. To what extent this shift achieves consistency with the City's land use policies is an issue for the Council to consider.
2. Displacement of Retail Space: Through increased demand for leasable Downtown space, restaurants may be displacing retail tenants by increasing asking rents, (although the City does not have access to prevailing rent statistics to document such increases). Although much of Downtown's formally vacant tenant spaces have been occupied by restaurants, this may reflect the economic forces that continue to challenge the "brick and mortar" retail market. Retailers may have been unable to occupy space vacated during the recession. It is possible that restaurants established in the last two years may have occupied space that otherwise would have remained vacant. However, the events of the last two years may limit future retail growth by "locking up" viable retail space with long-term restaurant leases.
3. Increase Demand on Parking: An increase in the number of restaurants is likely increasing demand on public parking supplies. To what extent this may be occurring is unknown without preparation of a parking demand study. What is known, however, is that the City is not receiving complaints from residents regarding parking in the neighborhoods (although, complaints from Downtown merchants desiring additional *convenient* parking for their customers are periodically received).

However, that the assumptions underlying the last Downtown parking demand study no longer reflect current circumstances suggests a foreseeable issue. The 1999 'Downtown Campbell Parking Study', prepared by Walker Parking Consultants reviewed current and projected land uses in the Downtown to determine the parking supply needed to accommodate anticipated "build-out". The Study noted that the projected land use scenario ("build-out") was based on information provided by City staff. In effect, the "build-out" scenario reflected the long-term development vision of the City at the time. As shown in the table below, the mix of uses as anticipated by the Study foresaw a greater amount of retail and a lesser amount of service than currently exists.

Parking Study – Projected Land Uses v. Actual			
Land Use	Projected Sq. Ft.	Current Sq. Ft.	+/-
Retail	100,000	57,000	(-) 43,000
Service	17,500	41,000	(+) 23,500
Restaurant	75,00	85,000	(+) 10,000

The mix of uses seen today is not consistent with the projections of 14 years ago, suggesting the City's vision for the Downtown is not being implemented. As it stands today, the *current* amount of restaurant square-footage now exceeds the study's projections by 10,000 square-feet. The changing mix of uses alters any number of assumptions of the parking study. Parking demand studies review not only aggregate square-footages, but also the alternating "peak hours" of different uses. In other words, the Downtown parking supply may be able to accommodate a relatively high amount of traditional retail and personal service square-footage because these uses do not attract a significantly higher number of visitors at any given time. In comparison, restaurants concentrate visits during the typical dinner hours and generate more visitors per square-foot than retailers. In this regard, the growing number of restaurants will likely result in an increased demand on the Downtown parking supply.

Fiscal Impact: Restaurants generate a disproportionate amount of sales tax revenue for the City. Approximate aggregate sales tax revenue generated by businesses located within the loop streets for the last three years indicate that restaurants now account for two-thirds of sales tax revenue.² From 2011 to 2012, restaurant-generated sales tax increased 20% to approximately \$314,000 while retail sales tax fell 18% to \$161,000. This trend is illustrated in Attachment 9, a chart of Downtown sales tax revenue by "benchmark year", categorized by economic category.³ An increasing number of restaurants will result in an increase in overall sales tax receipts. However, unaccounted cost, in terms of increased demand on City services, associated with restaurants with late night hours and alcohol service should also be considered.

Approximate Downtown Sales Tax Revenue	2010	2011		2012	
	Revenue	Revenue	+/-	Revenue	+/-
Restaurants	\$257,000	\$260,000	(+) 1.5%	\$314,000	(+) 20%
Retail	\$180,000	\$196,000	(+) 9%	\$161,000	(-) 18%
Combined	\$437,000	\$456,000	(+) 4.5%	\$475,000	(+) 4%

OPTIONS

If the Council believes that there are—or will soon be—an imbalance of restaurants to other preferred commercial uses in the Downtown, several options designed to limit the establishment of new restaurants may be considered, as discussed below. These options reflect approaches taken by various cities and towns to control different types of uses (e.g., chain 'formula' retailers, fast-food restaurants, tasting-rooms, art galleries, etc.). Locally, the Town of Los Gatos requires issuance of a Conditional Use Permit for restaurants and formula retail stores. To grant a CUP, the Town must find "the proposed use would not create an over-concentration of similar types of businesses".

² Sales tax figures represent the 1% "Bradley-Burns" sales tax revenue, adjusted to include *approximate* additional "Measure O" ¼ cent revenue.

³ Chart reflects the only 1% "Bradley-Burns" sales tax revenue.

1. Establish a maximum number of restaurant uses that may be allowed within the Downtown. The number could be set at the current number or at higher or lower number, depending if the intent is to "lock-in" the status quo, to allow some allowance for future restaurants, or to decrease the number of restaurants.
2. Establish a maximum square-footage of Downtown floor area that could be occupied by restaurants. Instead of restricting the number of restaurants, this option would restrict the aggregate square-footage occupied by restaurants. As with Option 1, the maximum number could be set at different levels depending on the intent.
3. Prohibit new restaurants, rendering all existing restaurants "non-conforming". As compared to Options 1 and 2, which may allow for the shifting of restaurant space between buildings and tenant spaces over time, this option would effectively "freeze" all restaurants to their current size and location, indefinitely.
4. Require a Conditional Use Permit for all future conversion of existing retail space to restaurant use. To be effective, this requirement would need to be tied to a clearer interpretation of how the Downtown Alcohol Beverage Policy influences decision-making and possibly a new finding to reach a decision pertaining to over-concentration of restaurants (similar to Los Gatos). This would allow the Planning Commission to review each application to determine its appropriateness given site specific considerations.
5. Reinstate the Interim Parking in-lieu Fee so that new restaurants would incur an up-front cost commensurate with their impact on the Downtown parking supply. Although not a direct limitation of new restaurants (as with a numeric maximum), this option would likely slow or stem the increase due to higher incurred costs. During the years when the fee was in effect, staff was informed by several prospective restaurateurs that the fee was a deciding factor in choosing not to locate in Downtown Campbell. However, a fee of this sort would require preparation of a parking study to become permanent.
6. Eliminate the parking exception for restaurants, reducing allowable seat counts. This may diminish the economic attractiveness of Downtown over other areas of the City.
7. Modify the Downtown Alcohol Beverage Policy to address over-concentration of alcohol-serving establishments. Such a change would more easily allow the Planning Commission to find an over-concentration exists and deny request for future Conditional Use Permits. *However, this change would not affect restaurants that do not serve hard alcohol and/or have late-night hour (after 11 PM).*

Urgency Ordinance. Any of the above options will require additional time to allow to staff to research potential changes, outreach to stakeholders, and prepare an ordinance and/or revise policies. Additionally, preparation of a parking study and/or market study to identify the appropriate mix of land uses in the Downtown may also be warranted. As a result, any change is unlikely to be accomplished quickly.

At present time, two major tenant spaces have been recently vacated; former Green Planet Yarn and Sonya Pazz Gallery. Staff anticipates applications to be submitted shortly to allow for establishment of a wine bar and a restaurant, respectively, in these tenant spaces. If the Council wishes to prevent the conversion of additional retail space to restaurant use until further legislative or policy action is taken, establishment of a temporary moratorium may be considered.

A moratorium could be enacted through adoption of an "urgency ordinance". Adoption of an urgency ordinance requires a four-fifths vote of the City Council, and must contain findings substantiating that there is a current and immediate threat to the public health, safety, or welfare. However, the ordinance may be adopted without following the notice and adoption procedures required for other ordinances. A moratorium adopted in this manner would have an initial duration of 45 days and may be extended as specified by California Government Code for up to a total span of two (2) years.

NEXT STEPS

Although staff is aware of the concern shared by some of the Downtown business community, it may be advisable to view this issue in context of the City's overall economic development efforts. When one views economic development in its purest sense, sustainable land uses—community-wide—should be the focus. In other words, while some areas of the community may be oriented to one use over others (e.g., office centers, shopping plaza, and R&D parks), a community built on the premise of "sustainability" will achieve a diverse economic base so long as the balance of uses community-wide is maintained. In this regard, the Council should consider whether having a restaurant-oriented Downtown is consistent with the City's vision documents in the context of the many retail-dominated shopping centers elsewhere in the City.

The influx of new restaurants within the Downtown has the potential to reflect on the overall success of Campbell as a desirable community as viewed by some. Amenities such as a diversity of eateries contribute to a community's social and cultural landscape as well as its economic vitality. Moreover, Downtown Campbell exists in a broader economic environment that includes surrounding communities; any attempt to limit restaurants in the Downtown may result in placing the City at a competitive disadvantage. The City Council should take public comment and then provide direction to staff on how to proceed.

EXHIBITS

1. Downtown Map
2. Correspondence
3. Land Use Policies
4. Zoning Map
5. Downtown Alcohol Beverage Policy
6. Downtown Floor Space – 2013
7. Alcohol-Service Establishments Chart
8. Downtown ABC Licenses Chart
9. Sales Tax Chart

MEMORANDUM**City of Campbell**

To: Honorable Mayor and City Council **Date:** July 16, 2013

From: Daniel Fama, Associate Planner
Paul Kermoyan, Community Development Director

Via: Mark Linder, City Manager

Subject: C-3 Zoning District – Restaurant CUP Requirement ~ Study Session

PURPOSE OF STUDY SESSION

On March 5, 2013, the City Council held a study session to discuss the mix of uses in Downtown Campbell, and specifically the increasing number of restaurants and other food-related businesses (reference Exhibit 1 – Study Session Memorandum). At the conclusion of that meeting, the Council directed staff to proceed with an amendment to the Zoning Code to require that new restaurants obtain a Conditional Use Permit. The purpose of this study session is to discuss the options for this amendment and anticipated scheduling.

BACKGROUND

Current Requirement: Within the C-3 (Central Business District) Zoning District, a Conditional Use Permit (CUP)—subject to the City's Downtown Alcohol Beverage Policy—is required for a restaurant if it includes any of the following features:

1. Sale of "hard alcohol" (distilled spirits of any type, including in mixed-drinks)
2. A separate bar area (e.g., Aqui's "Saddle Bar")
3. Operation after 11:00 PM ("late-night" hours)
4. Live entertainment in association with any of the above features

A restaurant without any of these features—including restaurants that provide beer and wine service (without a separate bar area)—do not require approval of a CUP. Examples of such restaurants include Stacks, Liquid Bread, Orchard Valley Coffee, Willow Glen Yogurt, and the upcoming Molly's Diner.

Observation: Almost without exception, CUP requests in association with restaurants are related to alcohol service (technically defined as a "liquor establishment"). As such when reviewing such applications, CMC Sec. 21.46.070 directs the Planning Commission to determine whether an (1) overconcentration of liquor establishments in the vicinity exists, (2) if the establishment would create a nuisance or (3) adversely affect the neighborhood, and (4) if it would result in an increased demand for City services. The intent of these findings is to limit the concentration of bars and restaurants with alcohol service and to substantiate conditions of approval intended to impose reasonable restrictions on business operations (e.g., hours of operation).

However, with adoption of the Downtown Alcohol Beverage Policy in 2009, the Planning Commission's review of restaurant CUP applications has largely focused on compliance with the Policy. As an outgrowth of this review, compliance with the Policy has led to a de-facto affirmative determination of the findings required for alcohol service. Although this was not the Council's intent, absent specific provisions pertinent to the concentration or number of Downtown restaurants with alcohol service, an expectation to approve CUP applications found consistent with the Policy has been created.

DISCUSSION

CUP Requirement: As discussed at the March 5th study session, one approach to address this issue is to require a CUP for new restaurants. Such a change would allow the Planning Commission to consider the merits of a new restaurant in the Downtown—and not simply the associated alcohol service—on a case-by-case basis. The Council may also wish to consider an exemption to the CUP requirement as an incentive to property owners to turn-over ground-floor tenant spaces currently occupied by non-conforming offices or salons.

Suggestion – Within the C-3 Zoning District, list restaurants as a "conditional use", requiring approval of a CUP, unless otherwise exempt.

Suggestion – Exempt from the CUP requirement new restaurants locating within ground-floor tenant spaces along Campbell Avenue currently occupied by an office or salon.

Findings: A CUP is not merely a mechanism to impose conditions of approval. Rather, it is a tool that allows the City to determine if a particular use is appropriate in a particular location. In this regard, in making its determination to approve or deny a CUP application, the Planning Commission must rely on established findings, which form the basis for a decision. Since the purpose of this CUP requirement is to determine appropriateness of a new restaurant on a site-specific basis, the findings should speak to the applicable goals and policies of the City.

Suggestion: Create findings that draw in applicable policies of the General Plan and Downtown Development Plan, such as the following *tentative* findings:

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.

In effect, these findings would "raise the bar" for new restaurateurs to demonstrate the desirability of their specific proposal in relation to City policies and goals. These findings may encourage establishment of eateries not currently represented in Downtown or those that provide a unique dining experience. Additionally, while not entirely preventing new restaurant uses, the CUP process would also provide an extra layer of protection to existing retail businesses.

Staff will work with the Planning Commission to further develop these findings following direction from the Council. For context, the Town of Los Gatos, while requiring a CUP for new or expanded restaurants, does not include specific findings for approval. However, the Town's CUP requirement for new "formula retail" businesses (chain stores), are subject to the following findings:

1. The proposed use of the property is not in harmony with specific provisions or objectives of the general plan and the purposes of this chapter;
2. The proposed use will detract from the existing balance and diversity of businesses in the commercial district in which the use is proposed to be located;
3. The proposed use would create an over-concentration of similar types of businesses, or
4. The proposed use will detract from the existing land use mix and high urban design standards including uses that promote continuous pedestrian circulation and economic vitality.

Restaurant Definition: Since the proposed CUP requirement would apply to all new "restaurants", the codified definition of this term determines the scope of the requirement. Under the City's current definition, a restaurant is any food or beverage related business that provides seating for patrons to consume products on site. This would include traditional restaurants and cafés, as well as ice-cream shops, delis, and bakeries where seating is provided.

Suggestion: Maintain the existing "restaurant" definition to capture the wide range of eateries in today's market.

NEXT STEPS

Staff has completed an initial draft of the text amendment. Following this study session, the following schedule is anticipated:

- **July** – Complete preparation of a draft zoning text amendment (ZTA).
- **August** – Send ZTA to City Attorney for review.
- **September** – Planning Commission public hearing to consider the ZTA.
- **October** – City Council public hearing to consider the ZTA.

EXHIBITS

1. Study Session Memorandum, dated March 5, 2013
2. Downtown Zoning Map

MEMORANDUM**City of Campbell**

To: Honorable Mayor and City Council **Date:** February 17, 2015

From: Daniel Fama, Associate Planner
Paul Kermoyan, Community Development Director

Via: Mark Linder, City Manager

Subject: Study Session to Review Mix of Downtown Uses (Follow Up)

BACKGROUND

The shifting commercial landscape of Downtown Campbell—from a boutique retail district to a regional restaurant destination—has resulted in a continued public dialog regarding the vision and future of the Downtown. Over the last several years, the City Council has identified this matter as a priority item.

The Council held a March 5, 2013 study session to discuss the "mix of Downtown uses". Staff prepared a comprehensive report outlining applicable City policies and standards, as well as an analysis providing an explanation for the observed shift (reference **Attachment 1**). At the conclusion of the study session, the Council directed staff to proceed with preparation of an amendment to the Zoning Code that would require a Conditional Use Permit (CUP) for conversion of existing retail space to restaurant use.

Subsequently, the Council held a July 16, 2013 study session to discuss the scope of the potential CUP requirement. Staff presented a tailored approach that would require a CUP for a restaurant conversion tied with findings that would direct the Planning Commission to consider potential "over-concentration" of restaurants in the immediate area (reference **Attachment 2**). Although the Council expressed a concern for the loss of long-term retailers, the consensus was not to proceed with a CUP requirement at that time. However, the Council did direct to staff continue to monitor the situation. Therefore, this study session is intended to provide the Council with updated information and to allow for further discussion on this matter.

Policy Vision: The City has adopted a variety of policies (reference **Attachment 3**)—found in the Campbell General Plan, the Downtown Campbell Development Plan, and the Redevelopment Implementation Plan—that have guided the City decision-making for the Downtown. Together, these policies speak to a vision for the Downtown that is best articulated by the Downtown Development Plan:

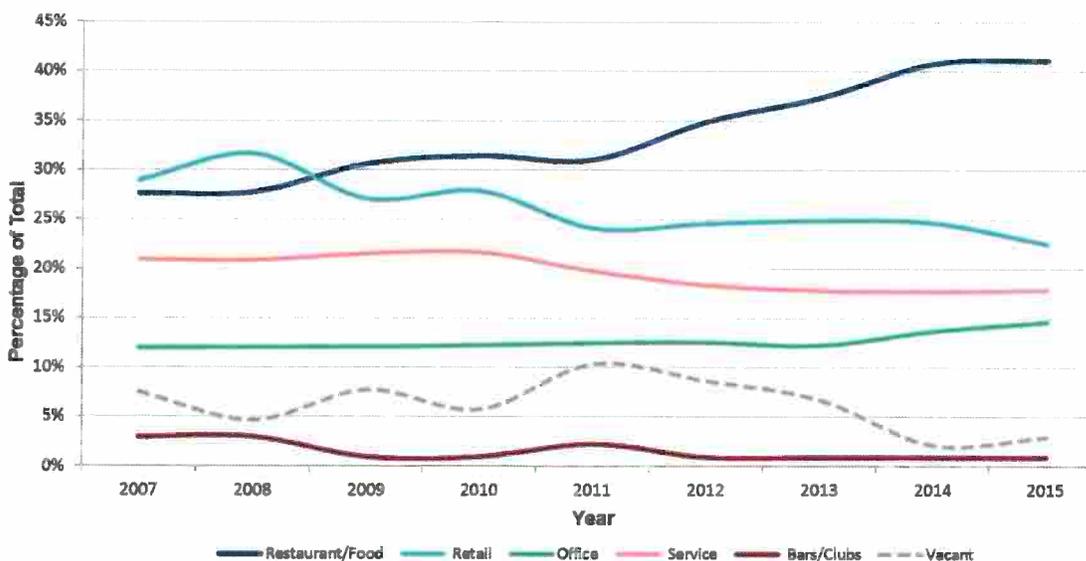
The vision for Downtown Campbell is to continue to reinforce its place as the center for community activity, cultural and civic events, and as a vibrant central business district. It is intended that the Downtown be an active, walkable central business district that attracts local residents and visitors to experience a variety of retail businesses and restaurants. The ground level along East Campbell Avenue is slated for retail and restaurant to provide a vibrant, pedestrian-oriented streetscape.

Historical Observations: In furtherance of this vision, the City has made deliberate decisions to incentivize restaurants within the Downtown (reflecting a time when Downtown had few restaurants). As more thoroughly discussed in the previous study session materials, the City eliminated various regulatory obstacles including:

- Exempting restaurants (and retail stores) locating within existing buildings from parking standards. This had the effect of allowing Downtown restaurants to maximize seating capacities up to what is permitted by the Building Code. Since seating capacities are normally tempered by parking, a Downtown restaurant is allowed more seats per square-foot than a restaurant outside of the Downtown.
- Limiting allowable uses along E. Campbell Avenue (east of Second Street), and 50-foot down side streets to restaurant and retail. This zoning restriction minimized competition for tenant space by other types of businesses such as salons, office, studios, and personal services.
- Eliminating the interim Parking In-Lieu fee, thereby removing a significant financial obstacle (tens of thousands of dollars) for restaurants locating in non-restaurant tenant spaces.
- Adopting the Downtown Alcohol Beverage Policy in 2009, which eased regulatory hurdles by reducing the inherent uncertainty in the permit process for restaurants seeking Conditional Use Permit approval for alcohol sales. Relaxation of the Policy in 2011 to allow wine bars and 12 AM closing times further facilitated the permitting process.

These actions have proved successful in attracting eateries to Downtown Campbell, as depicted by the chart below (based on informal records maintained by the City – reference **Attachment 4**). Moreover, the demand for restaurant space was strong enough to support construction of the Odd Fellows building for speculative restaurant use in 2011 (which accounted for a notable increase in restaurant square-footage).

**Downtown Commercial Space by Use
2007 to 2015**



Recent Observations: At the time of the March 5, 2013 study session, staff made note that approximately 6,500 square-feet of vacant tenant space (including Bruni Gallery, Sonya Pazz Gallery, and Green Planet Yarn) was likely to be occupied by restaurant uses within the coming year. These spaces were ultimately leased by *Rendezvous Wine Bar*, *La PanotíQ Bakery Café*, and *Socialight Restaurant*.

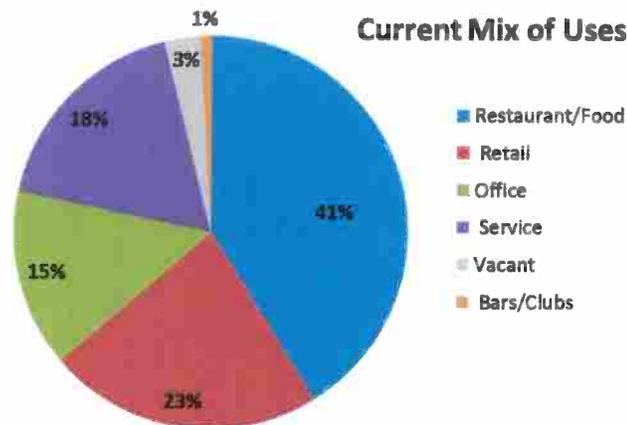
Currently, three retail tenant spaces have or will shortly be vacated, including *Vintage and Vogue* (1,300 sf), *Toys Toys Toys* (1,470 sf), and *Gabrilla's Bridal* (1,500 sf), resulting in a slight uptick in the vacancy rate (reference **Attachment 5** – Downtown Map). Based on staff's conversations with property owners, it seems possible that at least one of these tenant spaces may be leased to a restaurant or food-serving tenant. Unless the tenant proposes "late-night" operations (after 11 PM), hard alcohol, or a separate bar area, a Conditional Use Permit will not be required.

Additionally, there are now a total of 26 approved alcohol-serving establishments, including bars, wine bars, and restaurants with alcohol service (reference **Attachment 6** – Downtown Campbell "On-Sale" Licenses). This is an increase of three establishments since the Council's March 2013 session; *Mo's*, *Rendezvous Wine Bar*, and the *Socialight Restaurant* (reference **Attachment 7** – Approved Alcohol-Serving Establishments). Additionally, the CUP approval for the *Regale* wine bar for the Grower's National Bank (former Gaslighter) was converted to a restaurant with "hard-alcohol" sales.

DISCUSSION

At its core, the City's vision for the Downtown is a balance of uses that serve the needs of many people during all parts of the day. Based on feedback from Councilmembers, Planning Commissioners, residents, and other community stakeholders, it appears that there is a sentiment that the mix of uses is out of balance, resulting in various issues:

- *Loss of a Retail Character:* As restaurants increase their "share of the pie" (see chart below) by occupying vacant and former retail space, and become the predominant land use, the sense of Downtown as a retail district may be diminishing. In addition to the loss of individual retailers, this may result in reduced overall retail patronage, as customers may no longer see Downtown Campbell as a place to shop, but rather a place to eat and drink.



- *Less Daytime Activity:* Since many Downtown restaurants do not offer lunch service, much of the occupied tenant space is idle during the afternoon. This lessens the activity and vibrancy of the Downtown, compounding the challenge to retailers who depend on passerby traffic.
- *Parking:* Due to their operational characteristics, restaurants concentrate visits during the typical dinner hours and generate more visitors per square-foot than retailers. As a result, the Downtown parking supply is increasingly taxed in the evenings and during the weekends, in large part due to the increasing number of restaurants. However, absent preparation of a new parking study for the Downtown, this effect cannot be quantified.
- *Neighborhood Impacts:* Restaurants, particularly those with the late-night operational hours and alcohol service, can have a cumulative impact on the surrounding Downtown neighborhoods. Issues such as neighborhood parking, noise, vandalism, and nuisance activity, may be seen as affecting the quality-of-life of Downtown resident. The impact of these affects has increasingly been voiced at Council and Planning Commission meetings.

NEXT STEPS

If the Council believes that the current mix of Downtown uses is out of balance, there are various approaches—not all mutually exclusive—that could be undertaken. However, to what extent regulatory action on its own is sufficient to aid retailers is unknown. Although added regulation may weaken or suppress demand for new restaurant uses, new retailers may be unable or unwilling to establish in Downtown Campbell due to other economic factors (i.e., internet competition) outside of the City's control.

Proceeding with any of the following options will require time to allow staff to research potential changes, outreach to stakeholders, and prepare an ordinance and/or revise policies. As such, consideration may be given to a temporary moratorium of new restaurants through adoption of an "urgency ordinance". Adoption of an urgency ordinance requires a four-fifths vote of the City Council, and must contain findings substantiating that there is a current and immediate threat to the public health, safety, or welfare. However, the ordinance may be adopted without following the notice and adoption procedures required for other ordinances. A moratorium adopted in this manner would have an initial duration of 45 days and may be extended as specified by California Government Code for up to a total span of two (2) years.

1. Direct Land Use Control

- a. Establish a maximum number of restaurants allowed within the Downtown. The number could be set at the current number or at higher or lower number, depending if the intent is to maintain the status quo, or to allow some allowance for future restaurants.
- b. Establish a maximum square-footage of Downtown floor area that could be occupied by restaurants. Instead of restricting the number of restaurants, this option would restrict the aggregate square-footage occupied by restaurants.

- c. Prohibit establishment of restaurants. As compared to Options 1 and 2, which may allow for the shifting of restaurant space between buildings and tenant spaces over time, prohibiting new restaurants would effectively freeze restaurants to their current location and perhaps size (some allowance could be provided to allow expansion of existing restaurants).

2. Increase Land Use Discretion

- a. Require a Conditional Use Permit for all future conversion of existing retail space to restaurant use. To be effective, this requirement would need to be tied to new findings pertaining to over-concentration of restaurants. The Planning Commission could then review each application to determine its appropriateness given site specific considerations.
- b. Modify the Downtown Alcohol Beverage Policy to address over-concentration of alcohol-serving establishments, and perhaps reduce the allowable closing time back to 11 PM. Tightening of the Policy in this manner would provide increased discretion for the Planning Commission and likely discourage new restaurants with alcohol service. *However, this change would not affect restaurants that do not serve hard alcohol and/or have late-night hour (after 11 PM) or other food uses (e.g., ice cream shop).*

3. Passive Discouragement of New Restaurants

- a. Eliminate the parking exception for restaurants, reducing allowable seat capacities. This may diminish the economic attractiveness of Downtown over other areas of the City.
- b. Reinstate the Interim Parking in-lieu Fee so that new restaurants would incur an up-front cost commensurate with their impact on the Downtown parking supply. Although not a direct limitation of new restaurants (as with a numeric maximum), this option would likely slow or stem the increase due to higher incurred costs. During the years when the fee was in effect, staff was informed by several prospective restaurateurs that the fee was a deciding factor in choosing not to locate in Downtown Campbell. However, a fee of this sort would require preparation of a parking study to become permanent, in order to demonstrate the nexus between parking and restaurant uses.

4. Encourage Retail and Other Non-Restaurant Uses

- a. Reevaluate the types of allowable uses in Downtown, particularly uses allowable along E. Campbell Avenue east of Second Street. Allowing additional uses such as studios (e.g., yoga, dancing, art, etc.), services uses with quick customer-turn around (e.g., alterations, dry-cleaning, etc.), and/or allowing second-hand retail stores without a Conditional Use Permit, may provide landlords with a greater selection of prospective tenants.
- b. Establish a grant program to provide financial assistance to offset the cost of interior tenant improvements for new retail tenants. The Council would need to identify the source and amount of funding for this purpose.

CONCLUSION

The above represents various tools that can be employed to influence a desired of mix of land uses. As previously noted, however, the community's land use should be considered in a broad-based manner. The Downtown is one component of the City's overall commercial base, which also includes a regional shopping center, several local-serving shopping centers, "big-box" retailers, and numerous stand-alone retail buildings. Moreover, Downtown Campbell exists and competes in a wider economic environment that includes surrounding communities.

Staff will use this study session as an opportunity to receive public comment and City Council direction.

Attachments

1. Council Study Session Report, dated March 5, 2013
2. Council Study Session Report, dated July 16, 2013
3. Applicable Policies
4. Chart: Downtown Commercial Space by Use
5. Downtown Business Map
6. Downtown Campbell "On-Sale" Licenses
7. Approved Alcohol-Serving Establishments

MEMORANDUM**City of Campbell**

To: Mayor Cristina and City Council
Chair Finch and Planning Commission

Date: June 16, 2015

From: Daniel Fama, Associate Planner
Paul Kermoyan, Community Development Director

Via: Mark Linder, City Manager

**Subject: Joint Study Session to Review Downtown Uses and
Economic Development**

INTRODUCTION

Over the last several years, the City has witnessed a shift in the commercial makeup of the Downtown as restaurants have overtaken traditional retailers as the predominant land use (reference **Attachment 1** – Downtown Use Charts/Tables). In response to these observations, the City Council has held three study sessions to determine if there are policy, code, or market factors that have influenced this change:

- **March 5, 2013:** The City Council considered a comprehensive report outlining applicable City policies and standards, as well as an analysis providing an explanation for the observed shift (reference **Attachment 2** – Staff Report). At the conclusion of the study session, the Council directed staff to proceed with preparation of an amendment to the Zoning Code that would require a Conditional Use Permit (CUP) for conversion of existing retail space to restaurant use.
- **July 16, 2013:** Staff presented a tailored approach that would require a CUP for a restaurant conversion tied with findings that would direct the Planning Commission to consider potential "over-concentration" of restaurants in the immediate area (reference **Attachment 3** – Staff Report). Although the Council expressed a concern for the loss of long-term retailers, the consensus was not to proceed with a CUP requirement at that time. Instead, the Council directed staff to continue to monitor the situation.
- **February 17, 2015:** The Council was provided with updated information on this matter, highlighting the changes over the last two years (reference **Attachment 4** – Staff Report). The Council discussed various issues, including
 - Understanding and defining what a "mix of uses" is
 - Potential to adopt new zoning restrictions to discourage/encourage specific land uses
 - The role of alcohol service
 - Consideration of a moratorium for new restaurants
 - Further defining restaurants from "food-retail" uses
 - Impact to the downtown parking supply

The Council requested that the February 17th study session be continued and reconvened jointly with the Planning Commission to allow for input and discussion with the Commission. The City Council also recently held a series of budget meetings which involved discussion of the Community Development Department's request to create an Economic Development program that would be staffed by reassignment of an existing staff member from the City Manager's Office and a new part-time (\$25,000) intern position. This study session is intended to provide an opportunity for the City Council and Planning Commission to discuss the commercial makeup of Downtown Campbell as well as the relationship between the land use policy and the City's approach to economic development.

VISION AND POLICIES

A community's long-term vision for itself is expressed as written policy. Since the realization of an adopted vision can take many years, written policies are intended to carry out a vision over time, beyond the tenure of any individual elected or appointed official. In this regard, policy is more than a personal opinion or preference, it is the recognized consensus of the community. The City's vision for the Downtown is best articulated by the 2006 *Downtown Development Plan* (reference **Attachment 5**):

The vision for Downtown Campbell is to continue to reinforce its place as the center for community activity, cultural and civic events, and as a vibrant central business district. It is intended that the Downtown be an active, walkable central business district that attracts local residents and visitors to experience a variety of retail businesses and restaurants. The ground level along East Campbell Avenue is slated for retail and restaurant to provide a vibrant, pedestrian-oriented streetscape.

The *Development Plan*, as well as the General Plan itself provides several goals—general statements of values or aspirations—that further focus this vision. These goals reflect a consistent theme for proactive action in business development, attraction and retention, as well as preservation of the Downtown's cultural and historic heritage.

- Goal LU-1:** To continue the development and revitalization of the Downtown areas in a manner that positions it as a viable, self-sustaining commercial district in the competitive marketplace of Silicon Valley.
- Goal LU-2:** **Work to develop and promote** a variety of retail businesses and diversification of eating establishments that will help create a unique destination and identity for Downtown.
- Goal LU-3:** To **promote** the Downtown as the civic and cultural center of activity for the community.
- Goal LU-4:** To **promote** and assist the restoration and protection of the historic character and elements that embodies the Downtown and characterizes it as a unique place.
- Goal LU-5:** To increase the residential presence in the Downtown to achieve an active "24 hour" downtown neighborhood.
- Goal LU-6:** To **promote and encourage** development along the loop streets, and beyond.
- Goal LU-7:** To attain development densities that are urban in nature and representative of a traditional Downtown but remain in scale with the small town character and historic nature of the Downtown.

- Goal LUT-13:** Strong and stable sources of City revenues while **promoting** an appropriate balance of land uses and a high quality of life in the City.
- Goal LUT-19:** A vibrant community oriented Downtown that serves as the retail, service commercial, cultural and historic center of the city.

Implementation of an adopted vision and supporting goals is guided by specific policies and strategies. These directives are intended to shape the City's approach to land use decision-making, program development, and capital improvement planning. In this regard, staff's role is not to "pick and choose" which policies and strategies to follow, but rather to conduct the City's business in a manner in keeping with the policy framework that has been provided.

Consistent with the below noted General Plan and *Development Plan* policies and strategies, the City has taken affirmative steps from a land use perspective to facilitate the development of the Downtown. As discussed in the February 17th Study Session memorandum, recent examples of such actions include creation of zoning standards supportive of restaurants and retail uses in the Downtown, adoption of the Downtown Alcohol Beverage Policy (reference **Attachment 6**), and elimination of the Interim Downtown Parking In-Lieu Fee.

- Policy LU-1.1: Development Potential: To maximize the development potential of property within the C-3 zone, particularly ground floor retail and restaurant space.
- Strategy LU-1.1a: Encourage the development and redevelopment of property in the C-3 zone by developing land use strategies and incentives that create attractive, functional ground floor retail space along Campbell Avenue.
- Strategy LU-1.1b: Require new or converted retail space to include tall ceilings and expansive storefront windows to provide the appropriate setting for displaying and marketing retail merchandise.
- Policy LU-2.1: Ground Level Commercial: Develop and maintain the ground floor space along East Campbell Avenue between Third Street and the light rail tracks as a distinctive retail and restaurant experience with ground floor uses that are diverse and interesting and contribute strongly to a distinctive and unique shopping experience.
- Strategy LU-2.1a: Restrict the use of ground floor commercial space along East Campbell Avenue to retail/restaurant uses.
- Strategy LUT-5.3f: Redevelopment: Facilitate redevelopment opportunities that further revitalization efforts in the Downtown commercial area.
- 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.
- Policy LUT-13.1: Variety of Uses: Attract and maintain a variety of uses that create an economic balance within the City while maintaining a balance with other community land use needs, such as housing and open space, and while providing high quality services to the community.
- Strategy LUT-13.1b: Business Retention and Attraction: Develop programs to retain and attract businesses that meet the shopping and service needs of Campbell residents.

- Strategy LUT-13.1c: Fiscal Effects of Land Use: Evaluate the fiscal effects of different land uses on City revenues and services.
- Strategy LUT-19.1a: Mix of Uses: Encourage a compatible mix of uses (i.e. professional offices, services and retail uses) with ground floor retail uses.
- Strategy LUT-19.1b: Pedestrian-Oriented: Reinforce East Campbell Avenue as a pedestrian-oriented retail street.

In 2006, the City also adopted the *Economic Development Strategy* (reference **Attachment 7**), consistent with Policy LUT-13.1 and Strategy LUT-13.1b, which direct the City to "attract and maintain" a variety of uses and to "develop programs" to aid in the retention and attraction of businesses that service the community. The *Strategy* specifically states that its purpose is to serve "as an instrument to help provide direction for implementing partnerships between local government and private enterprise in an effort to further support and enhance economic resources." Similar with the above stated goals and policies that require a more proactive approach for attracting and retaining business, the *Strategy* establishes an expectation that the City will:

1. Implement business retention and expansion programs.
2. Identify sites that may be ripe for reuse and make recommendations as to how the City can put itself in the best position to achieve the highest and best use of the site.
3. Identify "critical projects" that present an opportunity to generate significant tax dollars and/or employment.
4. Meet with business to develop an understanding of the business community and how local government can better respond to its needs.
5. Identify development and redevelopment opportunities.
6. Continue the identification of Downtown Campbell sites that are ripe for development to eliminate blight and help "tie together" the downtown, which has the opportunity to generate additional revenue.
7. Continue the "Shop Campbell" campaign.
8. Develop and update the "Doing Business" brochure.
9. Develop an Economic Development page on the City's Website.

Although the *Strategy* remains in effect, the staff resources previously purposed to implement it have since been displaced or redirected to other priorities following the dissolution of the Redevelopment Agency. As a result, staff has largely operated in a reactive mode to requests to locate new business in the City. More recently, the City Manager directed the Community Development Department to take a more active role in "business development" and "attraction." This has primarily taken the form of additional outreach to the business community, nurturing of relationships with key individuals, and increased promotion of the City, such as preparation of a "key-facts" handout when Equity Offices placed the Pruneyard on the market (reference **Attachment 8**). However, this represents only a limited form of the "active" economic development practiced by other jurisdictions.

REQUESTED DIRECTION

Downtown: As discussed in the previous study session memorandums, the last several years have seen a marked shift in the character of Downtown from a boutique retail district to a regional restaurant destination. Although this shift has increased the vibrancy and vitality of the Downtown in many ways, it has resulted in a more evening-oriented environment catering to diners, to the detriment of local retailers that were once its mainstay. At issue, however, is to what extent the City can or should influence this matter. Staff poses the following questions to seek direction from the Council:

- **Question:** Is there a use mix problem in the Downtown?

If the Council consensus finds that the trend towards a greater number of restaurants is an issue that needs to be resolved by City action, then answers to the following questions are also requested.

- **Question:** Is the desired "mix of uses" clearly articulated in policy?

If the Council believes that a reevaluation of the Downtown policy—the adopted vision and/or the goals/policies/strategies—is warranted, consideration of this matter could be incorporated into the upcoming General Plan update. However, if the need for new policy direction is believed to be urgent, policy modifications may be processed separately.

- **Question:** If the desired "mixed of uses" is understood, should the veer towards a heavier concentration of restaurant be tempered by reconsideration of a Conditional Use Permit (CUP) process for new restaurants?

As had been considered at the July 16, 2013 study session (reference **Attachment 3**), a CUP requirement for new restaurants would provide increased land use discretion in determining the appropriateness of individual requests a case-by-case basis.

However, other approaches may also be considered as more specifically discussed during the February 17, 2015 study session (reference **Attachment 4**), including:

- Limiting the overall number or square-footage for restaurants
- Prohibiting all new restaurants
- Eliminating the parking exception for restaurants and/or reinstating the parking in-lieu fee, in order to passively discourage new restaurants
- Reevaluate allowable uses on Campbell Avenue such as studios (e.g., dance, yoga, art, etc.) to provide increased competition
- Consider establishment of a retail grant program to provide financial assistance for new retail tenants

Economic Development: The steady increase of restaurants that have displaced traditional commercial businesses in the downtown may be seen as resulting from the City's limited economic development efforts. These businesses have established on their own initiative without staff involvement or encouragement. Had the City been more active in implementing the Economic Development Strategy through staff interaction and/or influence to encourage establishment of retailers, the mix of uses may not have been as unbalanced as perceived.

- **Question:** Does the Council support a more active economic development approach?

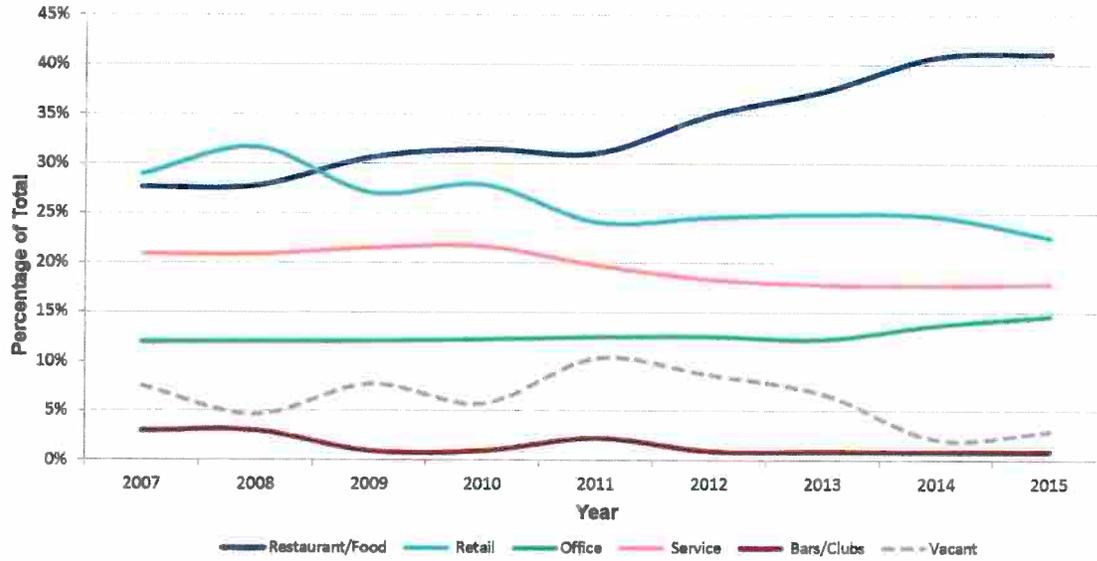
Once provided the resources, staff is prepared to become more active in developing strategies and promoting business opportunities in Downtown Campbell and the community as a whole. If the Council believes that a greater amount of traditional retail stores are desired to balance the mix of uses, staff will seek out ways to attract traditional retail businesses through a variety of methods. Maintaining membership in the Silicon Valley Economic Development Alliance (SVEDA) is one such method that provides many opportunities to meet business representatives in personal settings, to engage in conversations, and to sell the City of Campbell as a place to locate their business.

Attachments

1. Downtown Use Charts/Tables
2. Council Study Session Report, dated March 5, 2013
3. Council Study Session Report, dated July 16, 2013
4. Council Study Session Report, dated February 17, 2015
5. Downtown Development Plan
6. Downtown Alcohol Beverage Policy
7. Economic Development Strategy
8. Pruneyard Handout

Downtown Use Charts/Tables – February 17, 2015 Study Session Meeting

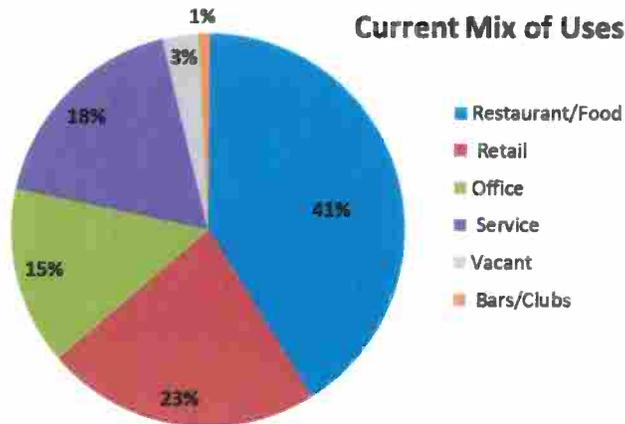
**Downtown Commercial Space by Use
2007 to 2015**



Downtown Commercial Space by Use*

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Restaurant	28% (61,095)	28% (61,120)	31% (67,124)	31% (68,074)	31% (69,168)	35% (78,318)	37% (85,701)	41% (94,667)	41% (94,667)
Other Retail	29% (63,964)	32% (69,651)	27% (59,316)	28% (60,294)	24% (53,631)	25% (55,118)	25% (57,068)	25% (57,188)	23% (51,888)
Office	12% (26,475)	12% (26,475)	12% (26,475)	12% (26,475)	12% (27,773)	13% (28,123)	12% (28,123)	14% (31,773)	15% (33,648)
Service	21% (46,258)	21% (45,903)	22% (47,153)	22% (46,853)	20% (43,958)	18% (41,101)	18% (40,801)	18% (41,091)	18% (41,091)
Vacant	8% (16,619)	5% (10,245)	8% (16,928)	6% (12,428)	10% (23,000)	9% (19,380)	7% (15,480)	2% (5,000)	3% (6,770)
Bars/Clubs	3% (6,632)	3% (6,632)	1% (2,132)	1% (2,132)	2% (5,032)	1% (2,132)	1% (2,132)	1% (2,132)	1% (2,132)

*Totals do not equal 100% due to rounding. All values are estimates based information provided by property and business owners.



ITEM NO. 3



CITY OF CAMPBELL • PLANNING COMMISSION
Staff Report • February 23, 2016

PLN2013-13
Text
Amendment

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 RECOMMENDATION

That the Planning Commission take the following action:

1. **Adopt a Resolution**, incorporating the attached findings, recommending that the City Council adopt the attached draft ordinance.

ENVIRONMENTAL DETERMINATION

An amendment to the Zoning Ordinance is considered a "project" under Section 15378(a)(1) of the California Environmental Quality Act (CEQA) Guidelines, typically subject to environmental review. However, such an action may be exempted from environmental review if the City finds that there is no possibility that it will have a significant effect on the environment (Sec. 15061(b)(3)). Since the proposed text amendment represents a minor adjustment to the allowable uses within one zoning district, it would not result in new activity that would alter the physical environment. Therefore, staff recommends that the project be found categorically exempt.

BACKGROUND

Over the last several years, the City has witnessed a shift in the commercial makeup of the Downtown as restaurants have overtaken traditional retailers to now constitute a plurality of all land uses (both numerically and in aggregate square-footage). In response to these observations, the City Council has held three study sessions and one joint study session with the Planning Commission, to determine if there are any policy, code, or market factors that have influenced this change:

- **March 5, 2013** (reference **Attachment 3** – Staff Report): The City Council considered a comprehensive report outlining applicable City policies and standards, as well as an analysis providing an explanation for the observed shift. At the conclusion of the study session, the Council directed staff to proceed with preparation of an amendment to the Zoning Code that would require a Conditional Use Permit (CUP) for conversion of existing retail space to restaurant use in the C-3 Zoning District.
- **July 16, 2013** (reference **Attachment 4** – Staff Report): Staff presented a tailored approach that would require a CUP for a restaurant conversion tied with findings that would direct the Planning Commission to consider potential "over-concentration" of restaurants in the immediate area. Although the Council expressed a concern for the loss of long-term retailers, the consensus was not to proceed with a CUP permit process at that time. Instead, the Council directed staff to continue to monitor the situation.

- **February 17, 2015** (reference **Attachment 5** – Staff Report): The Council was provided with updated information on this matter, highlighting the changes over the preceding two years. The Council discussed various issues including defining an appropriate "mix of uses," the role of alcohol service, and consideration of a moratorium for new restaurants. The Council requested that the February 17th study session be continued and reconvened jointly with the Planning Commission to allow for input and discussion with the Commission.
- **June 16, 2015** (reference **Attachment 6** – Staff Report): At the joint study session, the Commission and Council received public comment and had an wide-ranging discussion on the role of restaurants in the Downtown, the future of local retail, potential regulatory options, and the City's economic development efforts. At the conclusion of the meeting, there was an emerging consensus that the CUP requirement should be reviewed again. As a result, the zoning text amendment was placed on the FY2016 work plan for staff to bring forward within the fiscal year.

DISCUSSION

Current Requirement: Within the C-3 (Central Business District) Zoning District, a restaurant that includes any of the following features is considered a "conditional use," requiring approval of a CUP, subject to the Downtown Alcohol Beverage Policy:

1. Sale of "hard alcohol" (distilled spirits of any type, including in mixed-drinks).
2. A delineated "bar area" (defined as a "separate area, tables, or a room intended primarily for serving alcoholic beverages" per [CMC Sec. 21.10.060.F.1.b](#)).
3. Operation after 11:00 PM ("late-night" hours), including staff clean-up.
4. Live entertainment in association with any of the above features.

A restaurant without any of these features—including restaurants without a separate bar area that provide beer and wine service—is considered a "permitted use" and **does not** require approval of a CUP. Almost without exception, CUP requests in association with restaurants are related to alcohol service (technically defined as a "liquor establishment"). When reviewing such applications, [CMC Sec. 21.46.070](#) directs the Planning Commission to determine whether an (1) overconcentration of liquor establishments in the vicinity exists, (2) if the establishment would create a nuisance or (3) adversely affect the neighborhood, and (4) if it would result in an increased demand for City services.

The intent of these findings is to limit the concentration of bars and restaurants with alcohol service and to substantiate conditions of approval intended to impose reasonable restrictions on business operations (e.g., hours of operation). In large part, establishment of these findings may be grounded in conformance with the Downtown Alcohol Beverage 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. However, this analysis pertains only to alcohol service associated with a restaurant, and does not consider the merits of the restaurant use itself. Moreover, a policy is a poor tool to guide desired land uses absent formalized implementation, such as an ordinance establishing a codified discretionary process, in as much the Policy is mere guidance, and is not binding on the Commission or Council.

Proposed Text Amendment: The attached draft ordinance includes the following proposed zoning text revisions intended to provide more regulatory authority of restaurants, as a separate and distinct land use discussion from alcohol service:

1. Restaurant CUP Requirement: Restaurants in the C-3 Zoning District would be categorized as "conditional use", requiring approval of a CUP. This would allow the Planning Commission to consider the merits of a new restaurant proposal on a case-by-case basis. However, new restaurants locating within ground-floor tenant spaces along Campbell Avenue currently occupied by an office or salon would be exempted as an incentive for property owners to turn-over ground-floor tenant spaces currently occupied by these non-conforming uses (offices and salons are no longer permitted along Campbell Avenue, east of Second Street).

2. Findings of Approval: A CUP is not merely a mechanism to impose conditions of approval. Rather, it is a tool that allows the City to determine if a particular use is appropriate in a particular location. In this regard, in making its determination to approve or deny a CUP application, the Planning Commission must rely on established findings, which form the basis for a decision. Since the purpose of this CUP requirement is to determine appropriateness of a new restaurant on a site-specific basis, the findings should speak to the applicable goals and policies of the City. To this extent, staff has prepared the following findings that would be applicable to new restaurant CUPs:
 - Establishment of the proposed restaurant will foster a balance of day and evening activity in the downtown;
 - Establishment of the proposed restaurant will maintain a balanced mix of permitted uses in the downtown;
 - Establishment of the proposed restaurant will contribute to the diversification of eating establishments in the downtown;
 - Establishment of the proposed restaurant will not result in an over concentration of restaurants in the immediate vicinity.

In effect, these findings would "raise the bar" for new restaurateurs to demonstrate the desirability of their specific proposal in relation to City policies and goals. These findings may encourage establishment of eateries not currently represented in Downtown or those that provide a unique dining experience. Additionally, the CUP process would create a new barrier to entry for restaurants, providing a layer of protection to retail businesses who would have a competitive advantage to secure and/or retain tenant space.

In terms of the last finding, the Commission would need to establish that there is not an "over concentration" of restaurants in the "immediate vicinity". Both of these terms are subject to interpretation such that individual Commissioners may come to a different conclusion as to how many restaurants constitute too many. However, the wording provides broad discretion allowing the Commission to make that determination on a case-by-case basis. The Commission could consider more specifically defining "over concentration" by including a specific locational criteria such as a minimum distance (x number of feet) between restaurants or other separation standard ("not immediately adjacent to") as to remove individual judgment from the review.

3. Miscellaneous Restaurant Changes: The following are other minor changes included in the proposed ordinance:
 - a. Downtown Alcohol Beverage Policy: The findings for approval for alcohol service (i.e., "liquor establishments") would be amended to include language requiring that the use is "consistent with the Downtown Alcohol Beverage Policy, when applicable." Incorporation by reference of the Policy in this manner will formalize its use in review of CUP applications.
 - b. Non-Conforming Status: Language would be added to the non-conforming section to clarify that any restaurant with an existing CUP is "conforming" use and would not be affected by the proposed ordinance.
 - c. Drive-through/drive-in Restaurants: Drive-through and drive-in restaurants would be specifically prohibited in the C-3 Zoning District. These uses have been long deemed prohibited as they are not specifically identified as allowable, and are not consistent with the pedestrian-orientation of the Downtown.
4. Motor Vehicle Sale Establishments: Unrelated to the proposed changes to restaurant uses, staff is recommending that motor vehicle sale establishments (within an enclosed building) be listed as a "conditional use" in C-3 Zoning District. Although not currently identified in any manner, former Community Development Director Fierro determined this use to be allowable—in regard to Import Connection—pursuant to [CMC Sec. 21.10.060.B.18](#) which allows "other uses similar" to those listed. This change would formalize this past determination. Since vehicle showrooms bear a strong similarity to a retail store, more so than an outdoor vehicle sales lot, their allowance is consistent with the C-3 Zoning District.

ANALYSIS

Pursuant to CMC Sec. 21.60.070, an amendment to the Municipal Code may only be approved if the decision-making body finds 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. Staff believes that these findings can be favorably established, as discussed below:

1. The proposed amendment is consistent with the goals, policies, and actions of the General Plan;

City land use policies applicable to this matter can be found in the Campbell General Plan and the Downtown Development Plan. Together, these documents speak to 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. Adoption of the proposed ordinance to reclassify restaurants a conditional use would be consistent with this policy vision.

Campbell General Plan:

- 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-9.1c: Land Use Objectives and Redevelopment Plans: Permit only those uses that are compatible with land use objectives and redevelopment plans.
- Policy LUT-11.2: Services Within Walking Distance: Encourage neighborhood services within walking distance of residential uses.
- Policy LUT-19.1: Campbell Downtown Development Plan: Ensure that new development within the Downtown Area complies with the requirements of the Campbell Downtown Development Plan.
- Strategy LUT-19.1a: Mix of Uses: Encourage a compatible mix of uses (i.e. professional offices, services and retail uses) with ground floor retail uses.

Downtown Development Plan

- Goal LU-1: To continue the development and revitalization of the Downtown areas in a manner that positions it as a viable, self sustaining commercial district in the competitive marketplace of Silicon Valley.
- Goal LU-2: Work to develop and promote a variety of retail businesses and diversification of eating establishments that will help create a unique destination and identity for Downtown.
- Policy LU-2.1: Ground Level Commercial: Develop and maintain the ground floor space along East Campbell Avenue between Third Street and the light rail tracks as a distinctive retail and restaurant experience with ground floor uses that are diverse and interesting and contribute strongly to a distinctive and unique shopping experience.
- Strategy LU-6.1a: Expand the Downtown boundaries while maintaining a scale that is in keeping with the “small town” image identifiable in the community and create a comfortable experience for the pedestrian.

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the city;

The proposed Zoning Text Amendment is not detrimental to the public interest, health, safety, convenience, or general welfare of the City, as it will provide greater regulatory authority over the establishment of new restaurants in furtherance of the above noted General Plan policies and strategies.

3. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.

The proposed text changes to Section 21.30.60 (C-3 Zoning District) and Section 21.46.070 (Special findings for liquor establishments) do not affect other provisions of the Zoning Code and would, therefore, not result in an internal incontinency.

NOTIFICATION

Since the proposed text amendment affects a geographically distinct area of the City (C-3 Zoning District), all properties within the zoning district, as well as those within 300 feet, were noticed of this hearing.

Attachments:

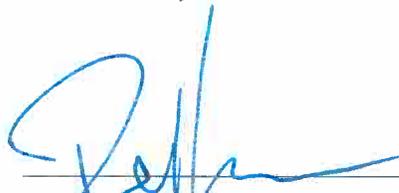
1. Findings for Recommendation
2. Draft City Council Ordinance
3. City Council Staff Report, dated March 5, 2013
4. City Council Staff Report, dated July 16, 2013
5. City Council Staff Report, dated February 17, 2015
6. City Council Staff Report, dated June 16, 2015

Prepared by:



Daniel Fama, Associate Planner

Approved by:



Paul Kermoyan, Community Development Director

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)

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

MEMORANDUM



City of Campbell
City Clerk's Office

To: Honorable Mayor and City Council

Date: March 11, 2016

From: Wendy Wood, City Clerk 

Via: Mark Linder, City Manager 

Subject: Desk Item 8 – E-mail from Laurie Doss

On March 11, 2016 an e-mail was received by Laurie Doss, as part of the public record in regards to Item 8.

Attached is the email for your consideration.

Wendy Wood

Subject: FW: City Council Meeting - March 15, 2016 - Zoning Text Amendment (PLN2013-13)

From: Laurie Doss

Sent: Friday, March 11, 2016 2:30 PM

To: Campbell City Managers Office; Wendy Wood; Jason Baker; Liz Gibbons; Daniel Fama; Jeffrey Cristina; Michael Kotowski; Paul Resnikoff

Subject: City Council Meeting - March 15, 2016 - Zoning Text Amendment (PLN2013-13)

3/11/2016

City Council

We respectfully request the City Council not change the current zoning in Downtown Campbell to require a conditional use permit in order to open a restaurant. There needs to be more diverse choice for a property owner to lease their space to. Many years ago you took our rights away to lease our units to service oriented business. We were then allowed to lease our units to retail or restaurants only. If you change the zoning to require a conditional use permit, it is expensive and time consuming and does put further burden on a property owner to get a good fit tenant.

We understood you wanted a balance in Downtown Campbell of Retail, Restaurants and Service.

We all agreed the balance is way off and are asking the council to ease restrictions on service oriented business in Downtown Campbell. Possibly a combination of both retail and service would be allowed. There is a lack of family service oriented business as shows on your web page Downtown Campbell Shops and Restaurants map

<http://www.cityofcampbell.com/DocumentCenter/View/2926>

Last year when trying to lease our space, a high rate of calls were for restaurants or wine bars. Retail has changed over the years. Here is a partial list of businesses that would have liked to lease the space and were told by the city it was not allowed:

- Beauty supply and salon (in the back of the unit)
- Portrait studio and framing
- Mommy and me classes
- Optometrist and eye frames
- Shipping, P O Boxes, Gift wrapping and Cards
- Shoe Repair
- Quilting supplies and classes
- Bicycle sales and service
- Cell phones and repair
- Children art studio and gifts
- High end consignment clothes and handbags
- Pottery studio sales and classes

I am sure if we work together we can come to a comprise that would bring new businesses to Downtown Campbell

Sincerely,

Dana and Laurie Doss



City Council Report

Item: 9.
Category: Public Hearing
Date: March 15, 2016

TITLE Public hearing to consider a City-initiated Text Amendment (PLN2015-365) to amend the Campbell Municipal Code regulations for massage establishments.

RECOMMENDATION

The Planning Commission recommends that the City Council take the following action:

1. **Adopt the attached Resolution**, finding that the proposed Zoning Text Amendment (PLN2015-365) is exempt from CEQA (**Attachment 1**).
2. **Take a first reading and introduce the attached Ordinance (Attachment 2)**, approving a Text Amendment 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 the Campbell Zoning Code.

Staff recommends that the City Council take the following action:

3. **Take a first reading and introduce the attached Ordinance (Attachment 3)**, approving a Text Amendment amending Chapter 5.48 (Business Regulations) and Chapter 6.10 (Inspections of Property) of the Campbell Municipal Code.

ENVIRONMENTAL DETERMINATION

Modifications to the Zoning Code are considered a project under the California Environmental Quality Act (CEQA); however, the activity is exempt from CEQA under Section 15061.b.3 because adoption of the proposed ordinance will not have a significant effect on the environment.

BACKGROUND

Following the enactment of Senate Bill 731 and Assembly Bill 619, which significantly limited local authority over massage establishments, cities throughout the State have experienced an explosion in the number of massage establishments in their communities, many of which have been involved in prostitution and other illegal activities. In response to concerns expressed by local law enforcement agencies, the Legislature enacted Assembly Bill 1147 which became effective on January 1, 2015. It removed the requirement that massage establishments must be treated the same as all other professions regulated under the California Business and Professions Code, and expressly allowed cities to regulate massage businesses once more, including sole proprietorships.

Per the Fiscal Year 2015/2016 Work Plan, the City Council established a Council Priority and Work Plan item to update the City's massage regulations to be consistent with State law. The Council also expressed a desire that the standards allowing their use be more effective than the minimum standards established in State law.

On February 23, 2016, the Planning Commission reviewed the draft Zoning Code text amendment and unanimously recommended that the City Council adopt an ordinance approving the text amendment (**Attachment 4** – Planning Commission staff report).

DISCUSSION

The Zoning Code text amendment (**Attachment 2**) modifies Chapter 21 as follows:

- Amends certain definitions to clarify that massage establishments are different than personal services and spa services that offer massage along with other services;
- Creates operational standards (Chapter 21.36) including requiring 90% of a massage establishment's exterior window(s) to be visible to the interior reception or waiting area;
- Limits the location of massage establishments to the C-2 and P-O zoning districts;
- Allows a maximum of two massage establishments in each of six commercial quadrants;
- Establishes a 300 foot separation from other massage establishments;
- Requires a Conditional Use Permit (CUP) for all new massage establishments; and
- Mandates that non-conforming massage establishments to come into compliance with the development and operational requirements of the Ordinance within 30 days, while exempting existing law abiding establishments from the new locational and separation requirements.

In keeping with the revised authority provided by Assembly Bill 1147, the City Attorney has prepared amendments to Chapter 5.48 (business regulations) and Chapter 6.10 (inspections of property) of the Municipal Code (**Attachment 3**). The revisions fall into two categories: (1) those that increase or clarify the regulation of massage establishments; and (2) those necessary to deal with the limitations placed on local jurisdictions by Government Code section 51034(c), as follows:

- Removes language excepting sole proprietors from the definitions of a massage establishment;
- Requires that applicants submit identifying information on employees providing massage at the massage establishment and proof that those persons possess a valid CAMTC massage certification;

- Provides express authority clarifying that the Police Chief can deny an application for an establishment permit when (1) the applicant has been the subject of prostitution abatement proceedings, or (2) violations of applicable laws had occurred on the premises within five years prior to the application;
- Restricts the number of massage establishments to twelve, with an exception for existing, law abiding establishments;
- Mandates that operators provide current lists of all massage therapists, and prohibits anyone who is not on the list from performing massage;
- Requires at least one employee to be on-site at all times who is not engaged in providing massage, so that the establishment cannot lock the external doors when open for business;
- Requires all interior doors to remain unlocked except for occupied bathrooms;
- Prohibits more than one person in a bathroom at one time;
- Prohibits video monitors in the massage rooms during a massage;
- Clarifies that operators and managers of massage establishments are strictly responsible for the activity of their employees;
- Clarifies that agents of the City can enter the premises for an inspection at any time that the establishment is open for business.
- Strikes language that required medical examinations of massage therapists;
- Clarifies that massage of the gluteal muscles is not prohibited; and conforms the draping requirements for customers to State law (no significant change);
- Conforms provisions on attire of massage therapists to State law; and
- Permits the locking of external doors when only one employee is present, but requires more than one employee to always be present at the establishment.

FISCAL IMPACTS

If the proposed text amendments are adopted, the number of massage establishments would potentially decrease overtime, reducing some revenues from permitting and licensing. However, new massage establishments would be required to obtain a Conditional Use Permit and pay associated fees. Additionally, there could be a decreased demand on law enforcement personnel by decreasing the number of massage establishments.

ALTERNATIVES

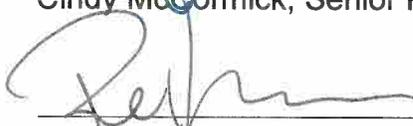
1. Revise specific sections of the proposed text amendment.
2. Continue for further review.
3. Do not approve the proposed text amendment.

Prepared by:



Cindy McCormick, Senior Planner

Reviewed by:



Paul Kermoyan, Community Development Director

Reviewed by:



William Seligmann, City Attorney

Approved by:



Mark Linder, City Manager

Attachments:

1. Draft City Council Resolution
2. Draft City Council Ordinance adopting a Text Amendment to Chapter 21
3. Draft City Council Ordinance adopting a Text Amendment to Chapters 5.48 and 6.10
4. Planning Commission Staff Report & Findings and draft Minutes, dated 2/23/16
5. State Legislation (Massage Therapy Act)
6. Frequently Asked Questions (from the authors of AB1147)

RESOLUTION NO. _____

BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL FINDING THAT THE PROPOSED TEXT AMENDMENT (PLN2015-365) AMENDING MUNICIPAL CODE CHAPTER 5.48, CHAPTER 6.10, CHAPTER 21.10, CHAPTER 21.12, CHAPTER 21.36, AND SECTION 21.72.020 AMENDING REGULATIONS FOR MASSAGE ESTABLISHMENTS IS EXEMPT FROM CEQA.

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 City Council finds as follows with regard with regard to file number PLN2015-365:

1. The project consists of Text Amendments amending Municipal Code Chapter 5.48; Chapter 6.10; Chapter 21.10; Chapter 21.12; Chapter 21.36; and Section 21.72.020 regarding regulations for massage establishments.
2. 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.
3. 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.
4. 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 upon the foregoing findings of fact, the City Council 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.
4. 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.
5. 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.

THEREFORE, BE IT RESOLVED that the City Council adopts a Resolution finding the Proposed Text Amendments are Exempt from the California Environmental Quality Act, pursuant to the attached Notice of Exemption (attached **Exhibit A**).

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

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

APPROVED: _____

Jason T. Baker, Mayor

ATTEST: _____

Wendy Wood, City Clerk



CITY OF CAMPBELL
Community Development Department

NOTICE OF EXEMPTION

To: _____ **Office of Planning & Research**
1400 Tenth Street, Room 121
Sacramento, CA 95812-3044

From: City of Campbell
70 N. First Street
Campbell, CA 95008

X _____ **County Clerk's Office**
Santa Clara County
70 W. Hedding Street, East Wing
San Jose, CA 95110

Project Title: Text Amendment to Amend Regulations for Massage Establishments

Project Location: City Wide

Description of Project: The project consists of a Text Amendment (PLN2015-365) to Municipal Code Chapter 5.48; Chapter 6.10; Chapter 21.10; Chapter 21.12; Chapter 21.36; and Section 21.72.020 regarding regulations for massage establishments

Date of Approval: April 5, 2016 (effective May 6, 2016)

Lead Agency: City of Campbell

Lead Agency Contact: Cindy McCormick, Senior Planner – Community Development Department
(408) 871-5103 / cindym@cityofcampbell.com

Name of Applicant: City of Campbell

Exempt Status (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a);
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c);
- CEQA Exemption (Sec. 15601.b.3)

Reasons why project is exempt: The proposed Text Amendment is exempt from the California Quality Act under Section 15601.b.3 because it has no potential for resulting in a physical change to the environment. Furthermore, 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.

This is to certify that the City of Campbell has deemed the above described project categorically exempt from review under the California Environmental Quality Act. A record of the above described project is available to the general public at the Community Development Department, City of Campbell, 70 N. First Street, Campbell, CA 95008.

Signature: _____ Date: _____ Title: Senior Planner

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.

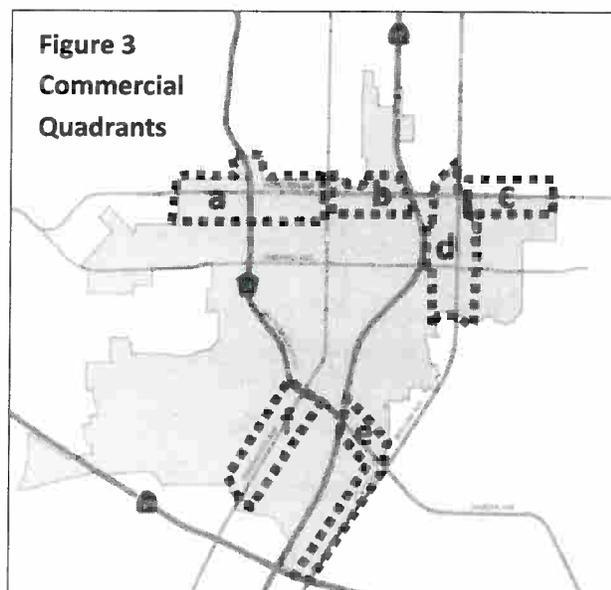
A. Purpose. The City has broad control over land use regulation of massage establishments in order to manage such establishments in the best interests of the City of Campbell. This Section is designed to provide for and to regulate massage establishment uses where they are allowed in compliance with 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 do~~
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 strikeouts (~~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;~~
18. 18. Medical services, laboratories;
- ~~20. 19. Motels;~~
24. 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 ~~strikeouts~~ (~~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

Ordinance No. _____

**BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL
AMENDING CERTAIN SECTIONS OF CHAPTER 5.48 OF THE CAMPBELL
MUNICIPAL CODE RELATED TO THE PRACTICE OF MASSAGE AND SECTION
6.10.160 OF THE CAMPBELL MUNICIPAL CODE REGARDING INSPECTIONS OF
PROPERTY**

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

SECTION 1. Findings: While legitimate massage establishments offer a valuable service to the public, the City has experienced a significant number of massage establishments that engage in prostitution and other illegal activities. The policing of these establishments has put a strain on the City's law enforcement resources as the number of establishments has grown significantly over the past few years. It is the intent of this Ordinance to amend Campbell's existing massage regulations to allow for a reasonable number of legitimate massage establishments to serve the needs of the public, while allowing for adequate policing of the establishments to be allowed within the City in order to protecting the public from the legal activities that have too often been associated with these businesses.

SECTION 2. Definition of Massage Establishment: Campbell Municipal Code section 5.48.020 is amended to read as follows, with underlining indicating new text and ~~strikeout~~ indicating deleted text:

5.48.020 - Definitions.

For the purposes of this chapter, unless the context clearly requires a different meaning, the words, terms and phrases set forth in this chapter shall have the meanings given to them in this section:

(a) "Bathroom" means any room containing a toilet, shower or bathtub;

~~(a)~~ (b) "Chief of police" means the Chief of the Campbell Police Department or his/her designee, including a police officer who is responsible for receiving applications and required fees and processing permit applications as required by this chapter;

(c) "Employee" means anyone working at a massage establishment, including but not limited to owners, operators, employees and independent contractors;

~~(b)~~ (d) "For compensation" means the exchange of massage services for money, goods, or other services. An establishment or person cannot avoid the requirements of this chapter by offering free massage in conjunction with other services or goods provided to a client or customer for compensation;

(e) (e) "Managing employee" means any employee of a massage establishment who has responsibility for supervising, directing, or assigning work to massage therapists;

(d) (f) "Massage" means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body with the hands or any other parts of the body or with the aid of any mechanical or electrical apparatus or other appliances or devices, with or without the use of oils, creams, tonics, lotions, antiseptics, tanning products, or other similar preparations. Massage shall further include baths, including aromatherapy, vapor, shower, electric tub, sponge, hot towels, sauna, steam, or any other type of bath where the essential nature of the service involves any method of pressure or friction against, or stimulating the external parts of the human body, with the hands or any other parts of the body;

(e) (g) "Massage establishment" means an establishment having a fixed place of business where any person, firm, association or corporation practices or otherwise permits massage for compensation. For the purposes of this chapter, the term "massage establishment" includes establishments that offer services such as relaxation, hot tub, towel wraps, baths, health treatments, tanning, or any service where the essential nature of the interaction between the employee and the customer involves a massage. ~~A "massage establishment" does not include a sole proprietorship if (1) there is only one owner, (2) the owner is the only person that provides massage services, and (3) the owner has a state massage certification;~~

(f) (h) "Massage therapist" or "massage therapist trainee" means any person who, for any type of compensation, or as part of a business or commercial transaction, practices massage;

(g) (i) "Out call massage" means providing massage services for compensation, or as part of a business or commercial transaction at a location other than at a permitted massage establishment;

(h) (j) "Operator" means any individual who has any ownership interest in the massage establishment;

(i) (k) "Permit" means a written document issued in accordance with this chapter authorizing the holder to engage in the business specified in the document. Three types of permits are issued pursuant to this chapter: establishment permits, therapist permits, and trainee permits;

(j) (l) "Recognized school of massage" means any school or institution of learning which:

(1) Is approved under the California Education Code, Section 94311, as a vocational or postsecondary institution, or if the school is not located in California, has complied with standards commensurate with those required in Section 94311; and,

(2) Is recognized by a national professional massage or body therapy organization.

Any school or institution of learning allowing correspondence course credit not requiring actual attendance at class shall not be deemed a "recognized school of massage;"

~~(k)~~ (m) "State massage certification" means a current, unexpired certification issued pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code;

~~(l)~~ (n) "Trainee permit" means a permit issued by the chief of police authorizing an individual, who is in the process of completing the educational requirements leading to the practice of massage therapy, to practice massage for a limited period of time not to exceed twelve months. A trainee permit is non-renewable. Trainee permits are not issued for out call massage services;

~~(m)~~ (o) "Working under the supervision" means that the massage therapist trainee has his/her work directed by:

(1) A professional licensed to practice any healing art under the provisions of Division 2 (commencing with Section 500) of the California Business and Professions Code; or

(2) A professional licensed to practice any services under the California Barbering and Cosmetology Act (Business and Professions Code Section 7301 et seq.); or

(3) A massage therapist who is licensed, permitted, or otherwise authorized to practice massage under this chapter or under the local or state regulations applicable to the establishment in which the therapist practices.

SECTION 3. Requirement for State Massage Certificate: Campbell Municipal Code section 5.48.042 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

5.48.042 - Stay on issuance of therapist permits; state massage certification required.

The city shall not issue any therapist permits or trainee permits at any time during which the state massage certifications are being issued. Anyone required by this chapter to obtain a therapist permit, trainee permit or state massage certification must obtain and possess a state massage certification at all times during which the ~~State of California is engaged in the issuance of such state massage~~ certifications are being issued.

SECTION 4. Exemptions from Permit: Campbell Municipal Code section 5.48.060 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

5.48.060 - Exemption.

(a) No establishment permit, therapist permit or trainee permit shall be required of the following persons when practicing massage within the scope of his/her license:

(1) Any barber, cosmetologist, esthetician, manicurist, electrologist, apprentice barber instructor, or cosmetology instructor licensed under the California Barbering and Cosmetology Act (Business and Professions Code Section 7301 et seq.);

(2) Any person licensed to practice any healing art under the provisions of Division 2 (commencing with Section 500) of the California Business and Professions Code.

(b) No establishment permit shall be required for the following persons while engaging in the performance of duties of their respective professions:

(1) Massage therapists, in possession of a valid massage permit or state massage certification, while performing massage in the offices of a licensed physician, surgeon, chiropractor or osteopath and while under the direct supervision and medical recommendation of such licensed medical professional;

(2) Nurses, physical therapists, or occupational therapists who are duly licensed to practice their professions in the State of California while performing massage within the scope of their profession at a licensed medical or physical therapy business;

(3) Barbers or cosmetologists who are duly licensed under Division 6 of the California Business and Professions Code while performing massage at a licensed barber shop or cosmetology salon, within the scope of their license, and for which no separate or additional fee is charged;

(4) Massage therapists, in possession of a valid massage permit or state massage certification, providing massage services at a licensed personal fitness training center or gym that are clearly incidental to the operation of that business;

(5) Acupuncturists who are licensed to practice their profession in the State of California while providing massage services within the scope of their profession at a licensed acupuncture clinic;

(6) Massage therapists, in possession of a valid permit or state massage certification, providing massage services at an annual recreational or community event, provided that massage services are made equally available to all participants of the event, the event is open to participation or of a significant segment of the public such as employees of a sponsoring or participating corporation, massage services are provided at the event site and during the hours the event is scheduled, the event sponsors have approved of the provision of massage services, and those providing massage services are not the primary sponsors of the event.

(c) No therapist permit or trainee permit shall be required of anyone who provides proof of state massage certification, ~~as set forth in Section 5.58.062 of this chapter.~~

SECTION 5. Application for Permits: Campbell Municipal Code section 5.48.070 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

5.48.070 - Application for an establishment permit or therapist permit.

(a) Written application for an establishment permit or therapist permit required by this chapter and any renewal thereof shall be filed with the chief of police. Such application shall be accompanied by a fee as approved by the city council. Nothing contained herein shall exempt the applicant from any and all other applicable license taxes and fees.

(b) The following information shall be provided in the application concerning the applicant, if an individual; and concerning each stockholder, each officer and each director, if the applicant is a closely held corporation; and concerning each member, if a limited liability company; and concerning each partner, including limited partners, if the applicant is a partnership; and concerning the operator of the establishment;

(1) Name, present residential and business addresses, telephone numbers, birth date and California driver's license or identification card number of the applicant;

(2) All residential addresses and dates of residence for five years preceding the date of the application;

(3) Business, occupation or employment history of the applicant for the five years immediately preceding the date of the application;

(4) Satisfactory proof that the applicant is over the age of eighteen years. Satisfactory proof may consist of a California driver's license, California identification card or a United States passport;

(5) A listing and explanation of any arrests or convictions for any felonies or non-traffic related misdemeanors;

(6) Documentation to substantiate that the applicant has met the educational requirements as set forth in Section 5.48.050(a);

(7) Fingerprints of the applicant;

(8) Two portrait photographs of the applicant, at least two inches by two inches in size;

(9) Statement indicating whether the applicant has ever had an ownership interest in, operated or been employed by any business which has been the subject of an abatement proceeding under the California Red Light Abatement Act (California Penal Code Sections 11225-11325) or any similar abatement laws in other jurisdictions;

~~(11)~~ (10) Any other information as required by the chief of police relevant to the provision of massage services.

(c) In addition to the information required above, an applicant for an establishment permit must also provide:

(1) A statement on whether the applicant owns, leases or rents the premises where the massage establishment will be located. If the applicant leases or rents the premises, the applicant shall provide the name, address and telephone number of the owner of the premises and the term of any lease;

(2) The address where the applicant proposes to operate a massage establishment and the name under which the business will be operated;

(3) The business name, street address, and city of any and all businesses where the applicant conducted any business providing massage, relaxation, hot tub, towel wraps, baths, health treatments, or tanning services within twenty-four months preceding the date of the application;

(4) Evidence of applicable land use and/or building permits as required by the City of Campbell;

(5) The names and birth dates of all persons who will be providing massage at the massage establishment, together with color photographs of those persons, and proof that those persons possess a valid state massage certification.

~~(d) In addition to the information required above, an applicant for a massage therapist permit or massage trainee permit must provide a certificate from a physician, which includes the physician's street address and phone number, stating that the applicant has been examined and found to be free from hepatitis B and tuberculosis. The examination must have been completed within sixty days of the permit application.~~

~~(e)~~ (d) Notwithstanding the foregoing provisions, any applicant for an establishment permit who has presented proof of state massage certification in accordance with Section 5.48.062 of this chapter need not submit the information that would otherwise be required pursuant to subsections (b)(2) - ~~(11)~~ (9) and ~~(d)~~ of this section.

SECTION 6. Application Renewals: Campbell Municipal Code section 5.48.080 is amended to read as follows, with underlining indicating new text and ~~strikeouts~~ (~~strikeout~~) indicating deleted text:

5.48.080 - Annual renewal application.

(a) Every holder of a massage establishment or massage therapist permit required by this chapter shall annually make application to the chief of police for renewal of the permit. The renewal application shall require the update of any and all information set forth on the initial application and be accompanied by the annual renewal fee as prescribed by the city council.

~~(b) A renewal application for a massage therapist permit must be accompanied by a certificate from a physician, which includes the physician's street address and phone~~

~~number, stating that the applicant has been examined and found to be free from hepatitis B and tuberculosis. The examination must have been completed within sixty days of the permit application.~~

~~(e)~~ (b) A renewal application must be submitted no less than ninety days before the permit expiration date. If the permittee fails to submit the renewal application and renewal fee no less than ninety days before the permit expiration date, then the underlying permit shall be null and void on its expiration date.

~~(d)~~ (c) Nothing contained herein shall exempt the applicant from any and all other applicable license taxes and fees.

SECTION 7. Permit Fee: Campbell Municipal Code section 5.48.090 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

5.48.090 - Permit fee.

Fees for each establishment permit, therapist permit, and trainee permit shall be paid to the ~~Campbell police department~~ city at the time the application or renewal application is submitted and are non-refundable. Fee amounts shall be approved by the city council.

Nothing contained herein shall exempt the applicant from any and all other applicable license taxes and fees.

SECTION 8. Action on Application: Campbell Municipal Code section 5.48.110 is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

5.48.110 - Action by chief of police on permit application.

(a) The chief of police shall either issue or deny a permit within sixty calendar days following receipt of a completed application for an establishment, therapist, or trainee permit or the renewal thereof. In taking such action, the chief of police shall consider the recommendations of city officials investigating the application, along with any other relevant information.

(b) The chief of police shall deny an establishment permit, a therapist permit, or a trainee permit or the renewal thereof on any of the following grounds:

(1) The applicant, owner, operator, any officer or director of a massage establishment has been convicted within the last ten years of a violation of Section 148, 266h, 266i, 311 through 311.7, 314, 315, 316, 318, or subdivision (a) (b) or (d) of Section 647 of the California Penal Code, or any other crime involving dishonesty, fraud, deceit, moral turpitude, or when the prosecution accepted a plea of guilty or nolo contendere to a charge of a violation of California Penal Code Sections 415, 602, or any lesser included

or related offense, in satisfaction of, or as a substitute for, any of the previously listed crimes- ;

(2) The applicant, owner, operator, any officer or director of a massage establishment has been convicted within the last ten years of offenses equivalent to those listed above under the laws of another jurisdiction, even if expunged- ;

(3) The applicant, owner, operator, any officer or director of a massage establishment is required to register under the provisions of Section 290 of the California Penal Code- ;

(4) The applicant, owner, operator, any officer or director of a massage establishment has been convicted within the last ten years of a violation of Health and Safety Code Section 11550 or any offense involving the possession or sale of a controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code or convicted of an equivalent offense in any other state- ;

(5) The applicant, owner, operator, any officer or director of a massage establishment has been convicted of any offense involving the use of force or violence upon another person- ;

(6) The applicant, owner, operator, any officer or director of a massage establishment has been convicted of any offense involving sexual misconduct with children- ;

(7) The applicant, owner, operator, any officer or director of a massage establishment has been convicted within the last ten years of any offense involving theft- ;

(8) The operation of a massage establishment at the proposed location would be injurious to the health, safety or welfare of the community or would not be in compliance with applicable zoning regulations- ;

(9) The operation of the massage establishment, as proposed by the applicant, would not comply with all applicable laws including city ordinances and regulations- ;

(10) The applicant knowingly made a material omission or misstatement of fact in the license application- ;

(11) The applicant, owner, operator, any officer or director of a massage establishment has violated any provision of this chapter or any similar law, rule or regulation of another public agency which regulates the operation of massage establishments- ;

(12) The applicant, owner, operator, any officer or director of the proposed massage establishment has ever had an ownership interest in, operated or been employed by any business which has been the subject of an abatement proceeding under the California Red Light Abatement Act (California Penal Code Sections 11225-11325) or any similar abatement laws in other jurisdictions;

(13) The proposed location of the massage establishment has been the situs of any of the following within five years of the submission of the application:

(i) A violation of Section 148, 266h, 266i, 311 through 311.7, 314, 315, 316, 318, or subdivision (a) (b) or (d) of Section 647 of the California Penal Code;

(ii) An abatement proceeding under the California Red Light Abatement Act (California Penal Code Sections 11225-11325);

(iii) A violation of any provision of this chapter; or

(14) The issuance of the establishment permit would cause the number of massage establishments in the City to exceed the maximum number of establishments allowed pursuant to section 5.48.264.

(c) If a permit or renewal thereof is approved, the chief of police shall include such restrictions and conditions in the permit, as he/she deems reasonable and necessary under the circumstances, to ensure compliance with the purposes and intent of this chapter.

(d) Upon approval or denial of a permit or renewal thereof, the chief of police shall prepare and forward to the applicant written notice that the permit has been granted, renewed, or denied, along with a statement of any conditions of approval attached thereto. If the permit is denied or approved subject to conditions, the notice shall state the reasons for the denial or imposition of the conditions. The written notice shall be hand-delivered or sent by certified mail to the applicant. The decision of the chief of police upon application for a permit or renewal thereof shall become final unless an appeal is filed with the city council within fifteen calendar days following delivery of the written notice.

SECTION 9. List of Personnel: Section 5.48.062 is of Chapter 5.48 of the Campbell Municipal Code is hereby amended to read as follows with underlining indicating new text:

~~5.48.062 – Registration of state certified therapists.~~

~~Prior to providing any massage services in the City of Campbell, anyone claiming an exemption from the requirement to obtain a therapist or trainee permit pursuant to subsection (c) of Section 5.48.060 shall appear at the police department of the city and:~~

~~(a) Present proof that they possess state massage certification; and~~

~~(b) Pay a registration fee in an amount to be fixed by the city council to cover the reasonable costs of processing the exemption request.~~

5.48.062 List of Therapists.

Prior commencing operations, the operator of any massage establishment shall provide the Campbell Police Department with a list containing the full name, residence address and birth date of any person who will be performing massage at the establishment, and the date that each person was issued their state massage certification. No one other than a person identified on the list shall perform massage at the establishment. The

operator shall update the list to include any new persons who will be providing massage at the establishment prior to the commencement of their services.

SECTION 10: Permit Revocation: Section 5.48.140 of the Campbell Municipal Code is amended to read as follows, with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

5.48.140 - Revocation of permit.

(a) The chief of police may revoke an establishment permit, therapist permit, or a trainee permit for good cause. Before the chief of police revokes a permit, the chief of police shall provide written notice of the revocation by personal delivery or certified mail. The notice shall provide for revocation of the permit fifteen calendar days after service of the notice unless the permittee requests an appeal hearing. The notice shall set forth the reasons for the revocation and shall instruct the permittee on how to file an appeal.

(b) Following the receipt of a revocation notice and within fifteen calendar days thereafter, the permittee may file an appeal of the revocation and request a hearing be held in accordance with Section 5.48.130. If an appeal is filed, the city council shall conduct a de novo hearing on the appeal of any permit revocation and may approve, conditionally approve, modify, or deny the revocation based upon grounds as set forth in subsection (d) of this section.

(c) If after the passage of fifteen calendar days from the receipt of the revocation notice, the permittee has not requested an appeal, the revocation decision of the chief of police shall become final.

(d) A permit may be revoked for good cause on the basis of any of the following:

(1) The permit was obtained by fraud; ~~or~~

(2) Any person making use of such permit is violating or has violated any conditions of such permit; ~~or~~

(3) The detriment to the public health or safety, or the nuisance arising from the conduct of the massage establishment, or from changed circumstances, necessitates the revocation of the permit; or

(4) The permittee ~~has violated~~, or ~~permitted~~ any other person under his/her control or supervision ~~to violate~~ has violated, any provision of this chapter or of other local, state, or federal law in connection with the practice of massage or operation of a massage establishment; or

(5) The permittee or any person under his/her control has committed any offense involving lewdness, indecent exposure, prostitution, or any other offense which would be grounds for denial of an application, ~~or employees of the establishment have committed such offenses in the course of their employment and the permittee has failed to prevent them from doing so. The employer shall be responsible for those acts of its~~

~~employees and massage therapists which are done in the course and scope of their employment, or which occur on the premises of the massage establishment.~~

SECTION 11: Prohibited Acts: Section 5.48.200 of the Campbell Municipal Code is amended to read as follows, with underlining indicating new text and ~~strikeouts~~ (~~strikeout~~) indicating deleted text:

5.48.200 - Prohibited acts.

(a) No permittee, or any other employee of a massage establishment, shall place either his/her hands upon, or touch with any part of his/her body, or touch with a mechanical device, a sexual or genital part of any other person in the course of a massage, or massage a sexual or genital part of any other person. Sexual or genital parts shall include the genitals, pubic area, anus or perineum of any person or the vulva or the nipples of a female. This subsection shall not be construed as prohibiting a person holding a valid state massage certification from performing massage on the gluteal muscles.

(b) No permittee or any other employee of a massage establishment shall uncover or expose the female breasts or sexual or genital parts, as defined above, of a client or themselves in the course of practicing a massage or other health treatment before or after a massage. This subsection does not prohibit a client from turning over in the course of a massage, so long as the therapist holds a drape over the client to protect his/her privacy.

SECTION 12: Operating Requirements: Section 5.48.210 of the Campbell Municipal Code is amended to read as follows, with underlining indicating new text and ~~strikeouts~~ (~~strikeouts~~) indicating deleted text:

5.48.210 - Operating requirements, general.

All massage establishments shall comply with the following operating requirements.

(a) Maintenance of Permits. A copy of the establishment permit and each therapist's permit, certification issued pursuant to 10.5 of Division 2 of the California Business and Professions Code shall be posted in a conspicuous place on the establishment premises in such a manner that can be easily seen by persons entering the establishment. A passport-size photograph of the permittee shall be affixed to each therapist's permit or certification.

(b) Posting of Services Offered. A list of all services available, the price thereof, and the length of time of each service, shall be posted or available in a conspicuous place in such a manner that it can be easily viewed by persons entering the massage establishment. No services, other than those set forth on the list, shall be provided.

(c) Payment. All payments for massage services, including gratuities or tips, shall be made at the designated reception area exclusively. At least one sign, with lettering not less than one-half inch in height, shall be posted in a conspicuous place in such a

manner that it can be easily seen by persons entering the establishment stating, "All payments for massage services, including gratuities or tips, shall be made in the designated reception area exclusively."

(d) Alcohol Prohibited. No alcoholic beverages shall be sold, served, furnished, kept or possessed in any part of a massage establishment. The owner, operator, and managing employee shall be responsible to ensure that no person possesses alcoholic beverages inside the massage establishment.

(e) Condoms Prohibited. Condoms shall be not be furnished, kept or possessed in any part of a massage establishment.

(f) Written Records. Every massage establishment shall maintain written records, which include the date and hour of each service provided, the full name and address of each client, and the type of service received, as well as the name of the massage therapist administering the service. These records shall be kept on the premises and shall be open to inspection by officials charged with enforcement of this chapter, including the chief of police and his/her designee and city attorney. These records shall be retained for a period of at least two years.

(g) Dress Code for Employees. The holder of the establishment permit, massage therapists and all other employees of the massage establishment shall remain fully clothed in clean outer garments as required by paragraph (10) of subsection (a) of California Business and Professions Code section 4609, or any successor statute thereto, while on the premises of the massage establishment. At a minimum, such clothing shall be made of non-transparent material and shall not permit exposure of the buttocks, genital area, or breasts of any employee.

(h) Operating Hours. 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. The chief of police may stipulate more restrictive hours when appropriate for the protection of the public health, safety or welfare.

(i) Recording or Scanning Devices Prohibited. No audio or video monitoring or recording device shall be used by the operator of the massage establishment to monitor the practice of massage, or any conversation or other sounds in massage rooms, without the express consent of the client. No device of any kind shall be installed or used which would operate in any way to detect or interfere with law enforcement surveillance or communication equipment.

(j) Advertising. No services shall be offered in signs, posters, flyers, newspapers or other printed advertisements, or in verbal or recorded announcements or messages, other than those lawfully permitted and posted as required in Section 5.48.210(b). Photographs, drawings, written or verbal statements used in any advertising shall not

explicitly or implicitly communicate that services offered are for the purpose of sexual stimulation or gratification.

(k) At all times that a massage establishment is open for business, the massage establishment shall have on the premises at least one employee who is not actively engaged in the performance of a massage.

SECTION 13: Locking of Doors: Subsection (i) of section 5.48.220 of the Campbell Municipal Code is amended to read as follows, with underlining indicating new text and ~~strikeouts~~ indicating deleted text:

(i) All ~~public~~ external entrances shall be kept unlocked during business hours, including at any time massage services are being provided, except if the only employee on the premises is actively engaged in the performance of a massage. All ~~internal Doors~~ doors to massage rooms shall remain unlocked at all times, ~~unless there is no staff person available to assure security for clients and therapists who are in the massage room,~~ except for occupied bathrooms.

SECTION 14: Bathroom Occupancy: Subsection (m) of section 5.48.220 of the Campbell Municipal Code is amended to read as follows, with underlining indicating new text and ~~strikeouts~~ indicating deleted text:

(m) Dressing rooms and ~~restrooms~~ may only be used by clients of the same sex at the same time. Doors, draw drapes, curtain enclosures, or doors/enclosures of other opaque materials shall be provided for all dressing rooms and massage rooms. Bathrooms may be occupied by only one person at a time, and shall have only one door for both entrance and exit.

SECTION 15: Video Monitors in Massage Rooms: Subsection (n) is added to section 5.48.220 of the Campbell Municipal Code to read as follows, with underlining indicating new text:

(n) No video monitors shall be allowed in any massage room while a customer is present in the room.

SECTION 16: Responsibility of Operators and Managers: Section 5.48.262 is added to Chapter 5.48 of the Campbell Municipal Code to read as follows, with underlining indicating new text:

5.48.262 - Responsibility of Operators and Managers

Every operator and every managing employee of a massage establishment is legally responsible and strictly liable for all acts, omissions and transactions of the employees of the massage establishment that occur either in the course of the employee's employment or on the premises of the massage establishment, as if the operator or managing employee committed the act, omission or transaction. In any proceeding brought to enforce the provisions of this chapter, the operator or managing employee's

lack of knowledge of an act, omission or transaction committed by an employee shall not be a defense.

SECTION 17: Number of Establishments: Section 5.48.264 is added to Chapter 5.48 of the Campbell Municipal Code to read as follows, with underlining indicating new text:

5.48.264 – Number of Massage Establishments

(a) Except as provided in subsection (b) of this section, the maximum number of massage establishments allowed in the City shall be twelve.

(b) Notwithstanding subsection (a) of this section, a massage establishment that is lawfully operating in the City at the time that the ordinance adopting this section becomes effective shall be able to renew its establishment permit, so long as the massage establishment:

(1) Continues to comply with the requirement of this chapter and applicable state and federal laws;

(2) Has not had its establishment permit revoked; or

(3) Has not otherwise ceased operations.

SECTION 18: Inspections: Section 6.10.160 of Chapter 6.10 of the Campbell Municipal Code is amended to read as follows, with underlining indicating new text and ~~strikeouts~~ (strikeouts) indicating deleted text:

6.10.160 - Right of inspection.

(a) Right to Inspect. An enforcement officer or other authorized agent of the community development, fire, police, building and/or public works departments shall have the right to enter upon any property within the city limits of the City of Campbell to inspect such property for compliance with this chapter provided that such agent gives the owner and residents of such property at least seventy-two hours advance notice of the inspection in the following manner:

(1) A notice shall be conspicuously posted on the property to be inspected, specifying the date, time and reason for the proposed inspection and setting forth a telephone number with directions for the residents or property owners to call for further information; and

(2) If the identity and address of the owner is known, such owner shall be notified of the proposed inspection by first-class mail, setting forth the time, date, location and reason for the proposed inspection.

(b) Emergency. In the event of an emergency, where the condition of the property poses an immediate threat to the public health or safety, agents of the community development, fire, police, building and/or public works departments may enter the property without the notice specified in subsection (a).

(c) Right to Enter Business Open to Public. Notwithstanding anything contained in this section to the contrary, an enforcement officer or other authorized agent of the community development, fire, police, building and/or public works departments shall have the right to enter upon any property within the city limits of the City of Campbell, without prior notice, to inspect such property for compliance with this chapter at any time that the business is open to the public.

(e) (d) Inspections conducted under this section shall be performed reasonably and in accordance with law, including the Fourth Amendment of the United States Constitution and the related protections of the California Constitution.

SECTION 19: Restatement of Existing Law: The amendments made by sections 2, 3, 4, 10, 16 and 18 of this Ordinance, as well the amendments to paragraphs (12) and (13) of subsection (b) of Campbell Municipal Code section 5.48.110 made by section 8 of this Ordinance are intended to be declaratory of the law as it existed prior to enactment of this Ordinance, and are intended solely as a clarification, not as a change to the intent of the previously existing Municipal Code provisions.

SECTION 21: 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 _____, 2015 by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

Item No. 1



**CITY OF CAMPBELL · PLANNING COMMISSION
Staff Report · February 23, 2016**

PLN2015-365 Public hearing to consider a City-initiated Zoning Text Amendment
City-initiated (PLN2015-365) to amend the Campbell Zoning Ordinance to amend
Text Amendment regulations for massage establishments.

STAFF RECOMMENDATION

That the Planning Commission take the following action:

- 1. Adopt a Resolution**, incorporating the attached findings (reference **Attachment 1**), 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 the Campbell Zoning Code.

ENVIRONMENTAL DETERMINATION

Modifications to the Zoning Code are considered a project under the California Environmental Quality Act (CEQA); however, the activity is exempt from CEQA under Section 15061.b.3 because adoption of the proposed ordinance will not have a significant effect on the environment.

BACKGROUND

Senate Bill 731 (SB 731) was adopted in 2008 and went into effect on September 1, 2009. This Bill facilitated establishment of a non-profit corporation (currently the CAMTC) to oversee voluntary certification of massage therapists; giving a “certified massage therapist” the right to practice massage without any other license, permit, or other authorization. Thus, SB 731 significantly limited the authority of cities to regulate certified massage therapists and businesses that employ only certified massage therapists. State law, including Assembly Bill 619 (AB 619) (2011), further provided that land use and zoning requirements must be no different for massage establishments than those uniformly applied to other professional or personal services businesses.

Prior to 2009, there was no state regulation of massage businesses or massage therapists. Cities were able to regulate massage business including hours of operation, sanitary conditions, education and other areas of interest and concern. In response to this legislation, the City amended the Campbell Municipal Code in 2009, allowing massage establishments as a permitted use with a Zoning Clearance in the C1, C2, and C3 commercial zoning districts (where such use previously required a CUP) and required a CUP for massage establishments in the (P-O) Professional Office and (C-M) Controlled Manufacturing districts where such use was previously prohibited.

Since that time, the City of Campbell and other cities throughout California have seen a proliferation of illicit activities from a number of massage establishments. This has consumed city staff resources in regard to processing, undercover operations, and enforcement.

Assembly Bill 1147 (Massage Therapy Act) which was adopted in 2014 and went into effect on January 1, 2015 recognizes the broad Constitutional authority of local governments to regulate businesses, including businesses providing massage, through land use and local licensing, and health & safety requirements. While local governments are prohibited from defining a massage establishment as adult entertainment, the City can require a Conditional Use Permit (CUP) for a massage business. AB 1147 is scheduled to sunset on January 1, 2017, which may affect local government's ability and authority to regulate massage.

Assembly Bill 1147 separates the certification of massage therapists from the regulation of massage businesses. The certification of massage therapists is the responsibility of the California Massage Therapy Council (CAMTC). The regulation of massage businesses is the responsibility of local jurisdictions. The intent of the legislation is to facilitate legitimate massage by creating centralized regulation of the permitting, education, background checks and fingerprinting for individual massage therapists; enable consumers to identify legitimate and professional massage therapists and businesses; and protect communities from illicit activity by establishing certain standards for certified massage therapists.

Massage Establishments: Business and Professions Code 4600.5(b) enables Cities and Counties to adopt land use regulations pertaining to massage establishments. Massage establishment owners, sole providers, and independent contractors in the "business" of providing massage therapy can be regulated as a "business". CAMTC does not certify massage establishments. Cities can regulate the business of massage through business license requirements and land use authority (e.g., conditional use permits). A jurisdiction may require a CUP for a massage establishment (not individual certified massage therapists), under the same procedures required for other uses for which a CUP is required.

Non-certified Massage Therapists: The Massage Therapy Act only applies to massage therapists who have a certificate from the state's California Massage Therapy Council (CAMTC). The Massage Therapy Act does not affect the authority of a city to regulate massage therapists who do not have CAMTC certificates or massage businesses who employ massage therapists who do not have CAMTC certificates. Chapter 5.48 of the Campbell Municipal Code requires that anyone performing massage for compensation in Campbell must be certified by CAMTC.

CAMTC Certified Massage Professionals: Pursuant to the Massage Therapy Act, individual massage providers may voluntarily apply for and receive a CAMTC certificate. A jurisdiction may not require an individual massage therapist who holds a certificate from CAMTC and operates as an employee to obtain any kind of license or permit or meet any other educational requirements, or to register with the police or submit to a background investigation (Government Code 51034(c)(8)). In accordance with the Massage Therapy Act, Cities and Counties cannot prohibit a CAMTC-certified practitioner from engaging in any act or performing any procedure

that falls within the professionally recognized scope of practice, nor impose conditions that would violate the provisions of Government Code 51034(c)(1)-(10). (Reference **Attachment 4**)

Existing Massage Establishments: The Police Department provided a list of 28 businesses in Campbell that currently hold Massage Establishment Permits (MEPs). Nineteen (19) of these 28 businesses provide massage as their sole or primary service. Seven (7) of the 28 businesses offer a variety of spa services including but not limited to massage, waxing, facials, and in some cases nail and hair care. One (1) business offers massage, acupuncture, and chiropractic services and one (1) business provides pregnancy massage along with a variety of pregnancy related services.

Table-1, Massage Establishments w/ Massage Establishment Permits (MEPs) in Campbell

# of Massage Establishments	Zoning District	General Plan Designation
1	(C-1) Neighborhood Commercial	(NC) Neighborhood Commercial
1	(C-3) Central Business	(CC) Central Commercial
1	(C-PD) Condo Planned Development	(CC) Central Commercial
1	(P-D) Planned Development	Mixed Use (com/off/res)
5	(P-D) Planned Development	(CC) Central Commercial
10	(C-2) General Commercial	(GC) General Commercial
Total: 19		

Table-2, Other Businesses (spas, specialty uses, medical offices) with MEPs in Campbell

# of other Businesses	Zoning District	General Plan Designation
1	(P-O) Professional Office	Professional Office
1	(P-D) Planned Development	Mixed Use (com/off/res)
3	(P-D) Planned Development	(CC) Central Commercial
1	(P-D) Planned Development	(GC) General Commercial
3	(C-2) General Commercial	(GC) General Commercial
Total: 9		

DISCUSSION

Assembly Bill 1147 (the Massage Therapy Act) enables cities to adopt and enforce local ordinances for massage establishments. Unlike personal service businesses such as beauty shops and nail salons, the massage industry has long been associated with prostitution activities. Accordingly, the Massage Therapy Act expressly prohibits a certified massage therapist or practitioner from engaging in sexually suggestive advertising related to massage services and engaging in sexual activity while providing massage services for compensation. Certified massage therapists are also subject to fingerprinting and background checks by the CAMTC.

Per the League of California Cities, “cities spend an inordinate amount of time, money and resources to establish a track record of compliance associated with massage establishments. By the time these jurisdictions move to revoke the business license, the owner of the less than legitimate business changes ownership of the massage establishment, requiring the jurisdiction to start over from square one.”¹

Feedback from the Police Department

As previously discussed, 28 massage establishments have a massage establishment permit through the Police Department. Some businesses have changed ownership without notice, are no longer in business, and/or are out of compliance. The Police Department currently has one employee who tracks massage establishments along with their other daily responsibilities.

According to the Police Department, massage establishments in general are rife with illegal activity up to and including human trafficking. They are notorious for ownership changes and very difficult to monitor. The Police Department currently only responds to complaints about specific establishments due to the burden it places on personnel to conduct an investigation. Undercover operations involving several Officers and Detectives over several days are required to infiltrate establishments in order to validate complaints. Once complaints are verified through these investigations, the lengthy process of revoking the massage establishment permit begins which requires additional staff resources for letter writing, City Council reports, and appearances. The current number of massage establishments does not allow the Police Department to properly monitor these businesses. According to the Police Department, they have the resources to effectively police approximately 12 establishments. Limiting the number of establishments to 12 would allow the Police Department to become more familiar with each of the owners and more effectively ensure that a business integrates into the community, consistent with the General Plan.

Proposed Zoning Code Amendments

The draft text amendment (**Attachment 2**) amends Chapter 21, as follows:

- Amend certain definitions to clarify that massage establishments are different than salons, spas, and medical offices that offer massage along with other services;
- Create operational standards (Chapter 21.36) including requiring 90% of a massage establishment’s exterior window(s) to be visible to the interior reception or waiting area;
- Limit the location of massage establishments to the C-2 and P-O zoning districts;
- Limit a maximum of two massage establishments in each of six commercial quadrants;
- Require a 300 foot separation from other massage establishments;

¹ Kolpitke, Kirstin. (2013, November 20). Opportunity for Cities to Help Shape Massage Establishment Regulatory Policy. *League of California Cities*. Retrieved from <http://www.cacities.org>

- Require a Conditional Use Permit (CUP) for all massage establishments; and
- Require non-conforming massage establishments to come into compliance with the development and operational requirements of the Ordinance within 30 days.

These regulations are in addition to Chapter 5.48 (Business License procedures for Massage Establishments and Therapists) which is being updated by the City Attorney. While the Planning Commission is not responsible for reviewing and making decisions on Chapter 5.48, a draft copy of the revisions is being provided to the Commission for reference (Reference **Attachment 6**).

Operational Standards: Campbell Municipal Code Chapter 5.48 (Business Licenses and Regulations) regulates the business of massage establishments. The proposed text amendment would reference the permitting and certification standards under Chapter 5.48 and include a new standard requiring exterior windows to be 90% visible to the interior reception or waiting area:

- An Owner/Operator would be required to have a current massage establishment permit issued by the Chief of Police (consistent with Chapter 5.48).
- The hours of operation would be limited to 7:00 a.m. to 10:00 p.m.; however, the massage establishment permit may stipulate more restrictive hours (per Chapter 5.48).
- Massage establishments would be required to keep 90% of an exterior window visible to the interior reception or waiting area. This development standard would prohibit curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens more than 10% of the exterior window fronting a public street, highway, walkway, or parking area.

Land Use Definitions: The proposed text amendment includes revised definitions in Chapter 21.72 (Definitions) to differentiate massage establishments from other types of uses such as medical services (e.g., chiropractors and acupuncturists), personal services (e.g., hair salons and nail shops), and spas which offer a full range of services (massage, facials, waxing, etc.). A list of current definitions is provided in **Attachment 6** for reference.

Massage: By current definition, massage establishments are limited in scope, “where the essential nature of the interaction between the employee and the customer involves a massage.”

Spa Services: The proposed text amendment would also include a revised definition for “spa services” / “health spa” to differentiate health spas from massage establishments. The current definition of “spa services” (Attachment X) is more akin to a “hot tub/sauna establishment” which is currently prohibited anywhere in the City per City Code Section 5.36.050. Unlike massage establishments which are more limited in scope, health spas offer a broad range of spa services that may be appropriate in all three commercial districts with a CUP. Accordingly, “health spas” and “spa services” are permitted with approval of a CUP in the C-1, C-2, and C-3 zoning districts (reference **Table 3**).

A select list of permitted and conditional uses in the City’s commercial, office, and industrial zoning districts is provided in the following table.

Table-3, Permitted and Conditional Uses in Commercial, Office, and Industrial Zoning Districts

	C1	C2	C3	PO	CM	M-1
Personal Service, Limited		CUP				
Spa Services*	CUP	CUP				
Health Spa*			**CUP with certain standards			
Personal Service	Permitted	Permitted	**Permitted with certain standards			
Medical Service	CUP	Permitted		CUP	CUP	
Professional Office	Permitted	Permitted		Permitted	Permitted	Permitted

*There is no definition of “health spa” in the Code. Staff is recommending that health spa and spa services are treated the same and has updated the definition of spa services to reflect this understanding.

**Must be located above ground when abutting East Campbell Avenue east of Second Street unless the business is located in a separate tenant space that is a minimum of fifty feet from the East Campbell Avenue property line and the separate tenant space does not have a door or entrance that takes access from East Campbell Avenue.

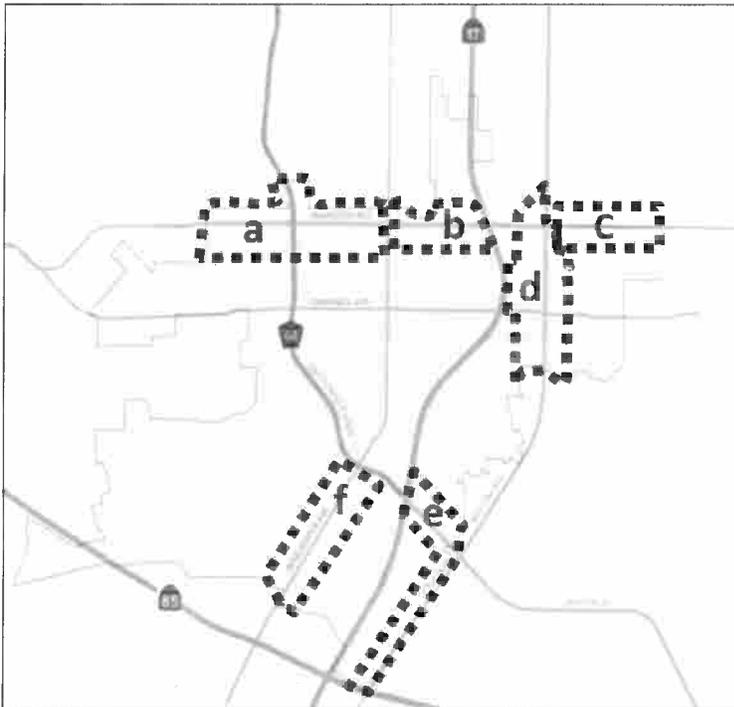
As can be seen above, the City has broad authority to limit the location of certain types of business. Some businesses are prohibited in certain zoning districts, while others require a conditional use permit (CUP) in a particular zoning district. The purpose of zoning regulations is to protect the character and integrity of the City while allowing property owners reasonable use of their property.

Conditional Use Permit (CUP): The proposed text amendment would require all new massage establishments to obtain a CUP. The CUP process would allow staff to verify that a proposed business has been vetted by the Police Department and satisfies locational and operational requirements..

Location, Number, and Proximity of Massage Establishments: The proposed text amendment includes new regulations that would limit the location of massage establishments to the C-2 (General Commercial) and P-O (Professional Office) zoning districts; require a 300 foot separation between massage establishments (property line to property line); and limit the number

of massage establishments to 12 maximum in the City (two establishments in each of six commercial quadrants), as shown below:

Figure 1, Proposed Commercial Quadrants



- 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

Existing Massage Establishments

As previously discussed, the Police Department currently has active Massage Establishment Permits (MEPs) for 28 businesses in Campbell, including 19 “massage establishments”; seven (7) “spas”; one (1) business that offers massage, acupuncture, and chiropractic services; and one (1) business that provides pregnancy massage along with a variety of pregnancy related services.

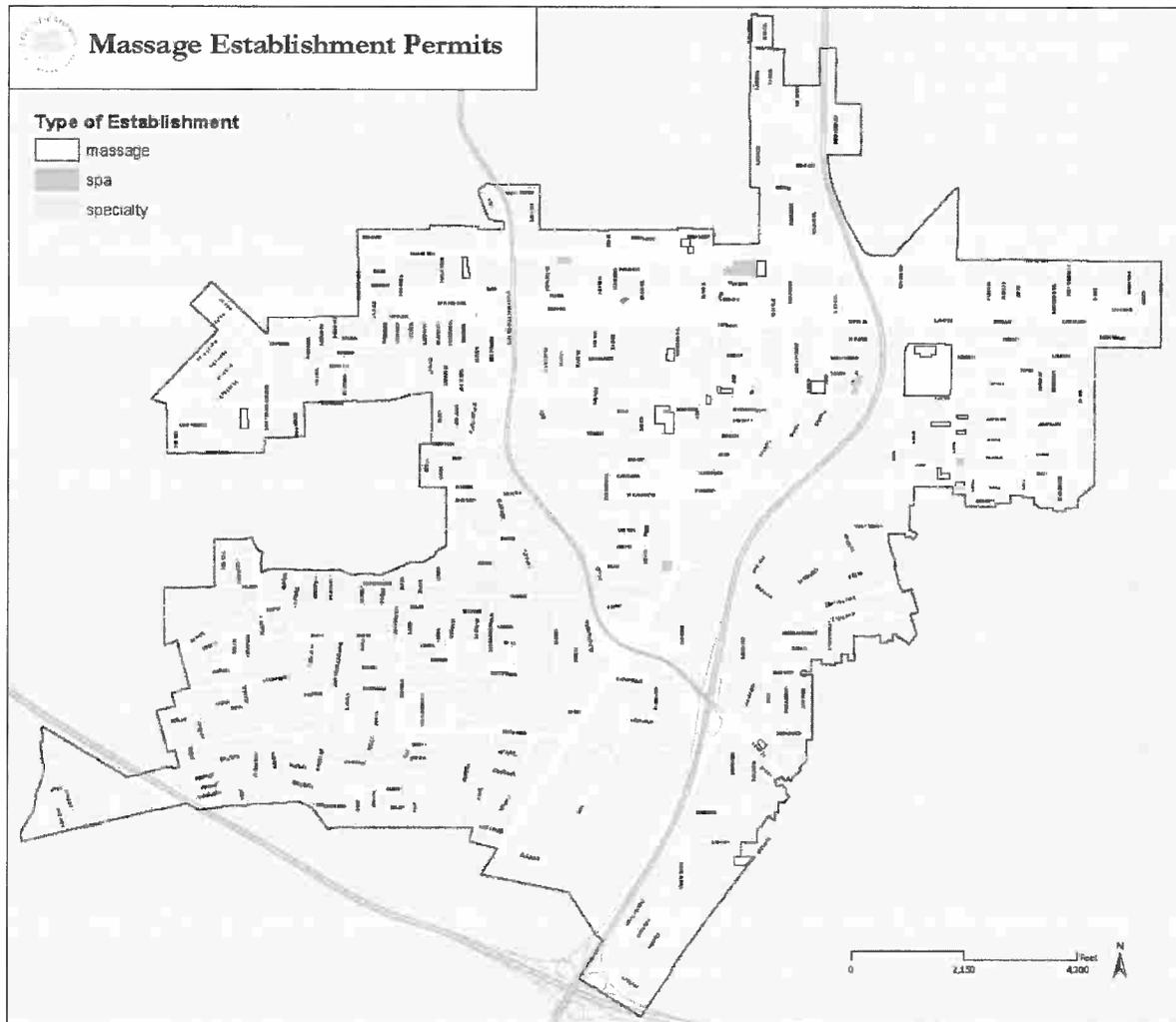
Ten (10) of the existing massage establishments are located in the C-2 zoning district. Six (6) are located in the P-D zoning district and the remaining three (3) are spread out amongst the C-PD, C-1, and C-3 zoning districts. None of the P-D or C-PD properties have a General Plan designation of General Commercial. Only one (1) of the existing 19 massage establishments currently possess a CUP. That business (Massage Envy) which also offers facials (but no other “spa services”) is located in the Pruneyard Shopping Center on Bascom Avenue.

Six (6) of the 19 massage establishments are located in quadrant “d” on Bascom Avenue where five of the six are within 300 feet of each other and one of the six is within 400 feet of the next closest massage establishment. One is located in quadrant “a”, two are located in quadrant “b” approximately 1,100 feet from each other, and two are located in quadrant “e” approximately 2,000 feet from each other. Therefore, six (6) of the 19 existing massage establishments could be

conforming with approval of a CUP. Eight of the 19 existing massage establishments would become non-conforming because they are not located within a designated commercial quadrant since they are located in either the C1 (one establishment), C3 (one establishment), C-PD (one establishment), or the PD zoning district (six establishments) where massage establishments would be prohibited.

It is important to note that the City would not require any of the existing nonconforming massage establishments to relocate unless their Massage Establishment Permit was revoked or they vacate the property. The goal of the proposed text amendment is to eventually disperse massage establishments throughout the City

Figure 2, Location of businesses with Massage Establishment Permits



ANALYSIS

In accordance with Campbell Municipal Code Section 21.60.070, amendments to the Municipal Code may only be approved if the decision-making body finds 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.

The following discussion highlights staff's analysis of these three findings and the various issues that staff believes are integral to the Commission's discussion of the proposed amendments.

1. The proposed amendment is consistent with the goals, policies, and actions of the General Plan.

The General Plan establishes a foundation upon which the City Council and Commissions can base policy decisions regarding physical growth and economic development that are in harmony with community desires. The Land Use Element lays out a vision of the distribution, location, and intensity of all land uses (e.g., commercial, residential, industrial, etc.). In making land use decisions, the City's decision makers must consider which land uses will best serve the public interest, while allowing property owners reasonable property use. The proposed amendments would be consistent with the following General Plan policies and strategies:

- Strategy LUT-5.3d: Commercial Centers: Review the design, use and upgrading of commercial centers via the discretionary permit process, and ensure that conditions of approval are adopted that require businesses to be well kept and operated in a way that limit impacts to adjacent uses.
- Policy LUT-5.4: Industrial Neighborhoods: Safeguard industry's ability to operate effectively, by limiting the establishment of incompatible uses in industrial neighborhoods and encouraging compatible uses.
- Policy LUT-5.8: Non-Conforming Uses: Encourage non-conforming properties to redevelop as conforming uses.
- Strategy LUT-5.8a: Methods to Encourage Redevelopment of Non-conforming Uses: Study methods to encourage non-conforming properties to redevelop as conforming uses, including the possibility of an amortization program.
- Strategy LUT-9.1b: Land Use Review: Review the types of land uses allowed in the City's zoning districts and revise, where appropriate, to assure greater compatibility.

Policy LUT-13.1: Variety of Uses: Attract and maintain a variety of uses that create an economic balance within the City while maintaining a balance with other community land use needs, such as housing and open space, and while providing high quality services to the community.

Strategy LUT-13.1c: Fiscal Effects of Land Use: Evaluate the fiscal effects of different land uses on City revenues and services.

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

The proposed text amendments would require massage establishments to obtain a Conditional Use Permit, limit the overconcentration of massage establishments, and require operational standards in order to help protect the public interest, health, safety, convenience, and/or general welfare of the City.

Conditional Use Permit Requirement: Conditional uses may have an effect on the surrounding environment that cannot be determined in advance of the use being proposed for a particular location. CUP provisions are intended to protect the integrity and character of the city consistent with the objectives, policies, general land uses, and implementation programs of the General Plan. Thus, the CUP process will provide decision makers review and input to ensure that a particular massage establishment meets acceptable standards. The purpose of the review is to determine whether the permit should be approved by weighing the public need for, and the benefit to be derived from a particular massage establishment, against any impacts it may cause.

Prior to the passage of SB 731 in 2008, “Massage establishments” were a permitted use in the C-1 (Neighborhood Commercial) district and required a Conditional Use Permit in the C-2 (General Commercial) district. Massage establishments were not listed as either a permitted or conditional use in the C-3 (Central Business), P-O (Professional Office), C-M (Controlled Manufacturing), or M-1 (Light Industrial) districts at that time. In response to SB 731, the City amended the Zoning Ordinance in 2009, allowing massage establishments as a permitted use with a Zoning Clearance in the C1, C2, and C3 commercial zoning districts and requiring a CUP for massage establishments in the P-O and C-M districts. With the passage of AB1147, staff is recommending that massage establishments require a CUP in the C-2 and P-O districts and be prohibited in all other districts.

Locational Requirements: The Zoning Ordinance lists uses that would be or could be considered acceptable or unacceptable in each district. The proposed locational requirements will help ensure that massage establishments are compatible with existing and future land uses on-site and in the vicinity. Limitation on the number and proximity of massage establishments will serve to prevent the proliferation or concentration of massage establishments in order to preserve neighborhood character and ensure adequate resources are available to track and monitor massage establishments and protect the public safety, health, and welfare.

Operational Standards: The Zoning Ordinance serves to implement General Plan Strategies and Policies and define how property in specific geographic zones can be used. The proposed text amendment would help ensure that the operating characteristics of massage establishments will not be detrimental to the public interest or the comfort, morals, and peace of persons residing or working in the surrounding neighborhood.

3. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.

The substantive changes of the proposed text amendment are primarily contained in Chapter 21.36 (Provisions Applying to Special Uses) with the addition of Section 21.36.270 (Massage Establishments) and with the CUP and locational requirements for massage establishments in the C-2 and P-O zoning districts. Due to the interconnected nature of the Zoning Code, these changes require revisions to several additional chapters as described below. With these additional revisions, the proposed text amendment would be internally consistent with other provisions of the Zoning Code:

Chapter 21.10 (Commercial Districts): The City has three distinct commercial zoning districts because some commercial uses are more appropriately located in one district versus another. The C-2 (General Commercial) zoning district is appropriate for a wide range of retail sales and business and personal services, while the C-1 (Neighborhood Commercial) district serves the daily needs of nearby residents (e.g., grocery stores) and the C-3 (Central Business) district is most appropriate for retail uses and restaurants. Massage establishments offer a very limited service to the public and should therefore be limited to the C-2 zoning district. The text amendment would reestablish Massage Establishments as a conditional use in the C-2 (General Commercial) zoning district and prohibit their location in the C-1 (Neighborhood Commercial) and C-3 (Central Business) zoning districts.

Chapter 21.10 (Professional Office Districts): The Professional Office land use designation permits administrative, professional and research uses. Office uses generally have a less intense impact on adjacent land uses than other commercial uses, providing a buffer between residential and commercial or industrial uses. The text amendment would maintain Massage Establishments as a conditional use in Professional Office Districts where many commercial retail and personal service uses are prohibited.

Chapter 21.10 (Industrial Districts): The M-1 (Light Industrial) zoning district is designed to encourage sound industrial development (e.g., light manufacturing, industrial processing, storage and distribution, warehousing), in addition to service commercial uses (e.g., motor vehicle repair facilities) by providing and protecting an environment exclusively for this type of development. The C-M (Controlled Manufacturing) zoning district is intended to provide a stable environment conducive to the development and protection of specialized manufacturing, packaging, printing, publishing, testing, and research and development. Most commercial retail and personal service uses are prohibited in the industrial districts; therefore the text amendment would reestablish Massage Establishments as a prohibited use in Industrial Districts.

Chapter 21.12 (Planned Development): The P-D (Planned Development) zoning district is intended to provide a degree of flexibility that is not available in other zoning districts so as to allow developments that are more consistent with site characteristics while creating an optimum quantity and use of open space and good design. The zoning district allows within its boundaries a use or development, or a combination of uses or types of uses or types of developments that is (are) determined to be in conformance with the underlying land use designation of the General Plan. The text amendment would prohibit Massage Establishments in P-D and C-P-D zoning districts.

NOTIFICATION

Notice of this public hearing for the proposed Zoning Code Text Amendment was published in the local newspaper as required by City Code. Additionally, a written notice was mailed to each property owner and business owner of the existing massage establishments.

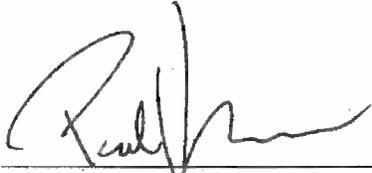
Attachments:

1. Findings for Approval of File No. PLN2015-365
2. Draft changes to Zoning Ordinance
3. State Legislation (Massage Therapy Act)
4. Frequently Asked Questions (from the authors of AB1147)
5. Draft changes to Chapter 5.48
6. Miscellaneous definitions

Prepared by:


Cindy McCormick, Senior Planner

Reviewed by:


Paul Kermoyan, Community Development Director

FINDINGS FOR APPROVAL OF FILE NO. PLN2015-365

APPLICANT: City of Campbell
P.C. MEETING: February 23, 2016

Findings for approval of City-initiated Text Amendment (PLN2015-365) to amend the following sections of 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 amend regulations for massage establishments.

The Planning Commission finds as follows with regard to File No. 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.

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:

Assembly Bill No. 1147**CHAPTER 406**

An act to amend Section 460 of, and to add and repeal Chapter 10.5 (commencing with Section 4600) of Division 2 of, the Business and Professions Code, and to amend Section 51034 of the Government Code, relating to healing arts.

[Approved by Governor September 18, 2014. Filed with Secretary of State
September 18, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1147, Bonilla. Massage therapy.

Existing law, until January 1, 2015, provides for the voluntary certification of massage practitioners and massage therapists by the California Massage Therapy Council. Existing law specifies the requirements for the council to issue to an applicant a certificate as a massage practitioner or massage therapist. Existing law authorizes a city, county, or city and county to impose certain requirements on massage establishments or businesses that are the sole proprietorship of an individual certified pursuant to existing state law or that employ or use only persons who are so certified. Existing law authorizes a city, county, or city and county to, among other things, adopt reasonable health and safety requirements, as specified, pertaining to those massage establishments or businesses, and to require an applicant for a business license to operate a massage business or establishment to fill out an application that requests relevant information, as specified.

This bill would reenact, revise, and recast these provisions to, among other things, establish an interim board of directors to govern the council until September 15, 2015, and provide for the appointment of a new board of directors consisting of 13 members, as specified, whose 4-year terms would begin on that date. The bill would authorize the board to establish fees reasonably related to the costs of providing services and performing its duties, not to exceed \$300. The bill would require the board to provide at least 90 days' advance notice prior to holding a meeting to vote upon a proposal to increase the certification fees, as specified, except as provided. The bill would also require the board to notify certificate holders of a board action that increases those fees.

The bill would discontinue the issuance of new massage practitioner certificates after January 1, 2015, except as provided, but would authorize the renewal of massage practitioner certificates issued prior to January 1, 2015. The bill would require that all certificates issued pursuant to these provisions be subject to renewal every 2 years, except as provided. The bill would require the council to develop policies, procedures, rules, or bylaws governing the approval and unapproval of schools that provide education required for certification, as specified.

The bill would authorize the council to deny an application for a certificate, or to discipline a certificate holder for a violation of these provisions, as specified. The bill would require the board to exercise its denial or discipline authority by means of fair and reasonable procedures that, among other things, provide the applicant or certificate holder with notice and an opportunity to be heard, as specified. The bill would provide that unprofessional conduct in violation of these provisions includes, among other things, engaging in sexually suggestive advertising related to massage services and engaging in sexual activity while providing massage services for compensation.

The bill would, notwithstanding any other law, prohibit a city, county, or city and county from enacting or enforcing an ordinance that conflicts with these provisions or other corresponding specified provisions. However, the bill would authorize a city, county, or city and county to adopt or enforce local ordinances that govern zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a licensed or certified healing arts professional, including a certified massage therapist. The bill would also make clarifying and conforming changes regarding local regulation of massage establishments or businesses.

The bill would authorize a court to issue an injunction or to provide any other relief it deems appropriate for violations of these provisions, as specified. The bill would provide that the powers and duties of the council are subject to review by the appropriate committees of the Legislature and would require the council to provide a specified report to these committees on or before June 1, 2016.

The bill would provide that these provisions are issues of statewide concern, and therefore applicable statewide. The bill would also provide that its provisions are severable.

The bill would repeal these provisions on January 1, 2017.

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: NO

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 460 of the Business and Professions Code is amended to read:

460. (a) No city, county, or city and county shall prohibit a person or group of persons, authorized by one of the agencies in the Department of Consumer Affairs or an entity established pursuant to this code by a license, certificate, or other means to engage in a particular business, from engaging in that business, occupation, or profession or any portion of that business, occupation, or profession.

(b) (1) No city, county, or city and county shall prohibit a healing arts professional licensed with the state under Division 2 (commencing with Section 500) or licensed or certified by an entity established pursuant to this code from engaging in any act or performing any procedure that falls within the professionally recognized scope of practice of that licensee.

(2) This subdivision shall not be construed to prohibit the enforcement of a local ordinance in effect prior to January 1, 2010, related to any act or procedure that falls within the professionally recognized scope of practice of a healing arts professional licensed under Division 2 (commencing with Section 500).

(c) This section shall not be construed to prevent a city, county, or city and county from adopting or enforcing any local ordinance governing zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a healing arts professional licensed under Division 2 (commencing with Section 500) or licensed or certified by an entity established under this code or a person or group of persons described in subdivision (a).

(d) Nothing in this section shall prohibit any city, county, or city and county from levying a business license tax solely for revenue purposes, nor any city or county from levying a license tax solely for the purpose of covering the cost of regulation.

SEC. 2. Chapter 10.5 (commencing with Section 4600) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 10.5. Massage Therapy Act

4600. This chapter shall be known and may be cited as the Massage Therapy Act. Whenever a reference is made to the Massage Therapy Act by any statute, it shall be construed to refer to this chapter.

4600.5. (a) It is the intent of the Legislature that this act enable consumers and local governments to more easily identify certified massage professionals, provide for consistent statewide certification and oversight of massage professionals, ensure that schools approved by the council that are teaching massage provide a high level of training, assist local governments and law enforcement in meeting their duty to maintain the highest standards of conduct in massage establishments by vetting and disciplining certificate holders, provide for a self-funded nonprofit oversight body to certify massage professionals, and ensure full compliance with, and execution of, the requirements of this act.

(b) It is the intent of the Legislature that broad control over land use in regulating massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community, and that the requirements and practice of the profession of massage therapy remain a matter of statewide concern, regulation, and oversight.

(c) It is the intent of the Legislature that local governments impose and enforce only reasonable and necessary fees and regulations, in keeping with the requirements of existing law and being mindful of the need to protect legitimate business owners and massage professionals, particularly sole providers, during the transition period after this act becomes law and thereafter for the sake of developing a healthy and vibrant local economy.

(d) It is the intent of the Legislature that local governments, law enforcement, nonprofit stakeholders, the massage industry, and massage professionals work together going forward to improve communication and share information to further increase the value of statewide certification, to collaborate in the implementation of this act, and to develop a model ordinance reflecting best practices in massage regulation for cities and counties to adopt that will respect local control, patient privacy, and the dignity of the profession of massage therapy.

4601. As used in this chapter, the following terms shall have the following meanings:

(a) "Approved school" or "approved massage school" means a school approved by the council that meets minimum standards for training and curriculum in massage and related subjects, that meets any of the following requirements, and that has not been otherwise unapproved by the council:

(1) Is approved by the Bureau for Private Postsecondary Education.

(2) Is approved by the Department of Consumer Affairs.

(3) Is an institution accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges and that is one of the following:

(A) A public institution.

(B) An institution incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, and that is not managed by any entity for profit.

(C) A for-profit institution.

(D) An institution that does not meet all of the criteria in subparagraph (B) that is incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, that has been in continuous operation since April 15, 1997, and that is not managed by any entity for profit.

(4) Is a college or university of the state higher education system, as defined in Section 100850 of the Education Code.

(5) Is a school requiring equal or greater training than what is required pursuant to this chapter and is recognized by the corresponding agency in another state or accredited by an agency recognized by the United States Department of Education.

(b) "Certificate" means a valid certificate issued by the council pursuant to this chapter.

(c) "Compensation" means a payment, loan, advance, donation, contribution, deposit, or gift of money, or anything of value.

(d) "Council" means the California Massage Therapy Council created pursuant to this chapter, which shall be a nonprofit organization exempt from taxation under Section 501(c)(3) of Title 26 of the United States Code.

(e) "Massage" means the scientific manipulation of the soft tissues. For purposes of this chapter, the terms "massage" and "bodywork" shall have the same meaning.

(f) "Massage establishment" or "establishment" means a fixed location where massage is performed for compensation, excluding those locations where massage is only provided on an out-call basis.

(g) "Massage practitioner" means a person who is certified by the council pursuant to Section 4604.2 and who administers massage for compensation.

(h) "Massage therapist" means a person who is certified by the council under Section 4604 and who administers massage for compensation.

(i) "Sole provider" means a massage business where the owner owns 100 percent of the business, is the only person who provides massage services for compensation for that business pursuant to a valid and active certificate issued in accordance with this chapter, and has no other employees or independent contractors.

4602. (a) The California Massage Therapy Council, as defined in subdivision (d) of Section 4601, is hereby established and shall carry out the responsibilities and duties set forth in this chapter.

(b) The council may take any reasonable actions necessary to carry out the responsibilities and duties set forth in this chapter, including, but not limited to, hiring staff, entering into contracts, and developing policies, procedures, rules, and bylaws to implement this chapter.

(c) The council may require background checks for all employees, contractors, volunteers, and board members as a condition of their employment, formation of a contractual relationship, or participation in council activities.

(d) The council shall issue a certificate to an individual applicant who satisfies the requirements of this chapter for that certificate.

(e) The council is authorized to determine whether the information provided to the council in relation to the certification of an applicant is true and correct and meets the requirements of this chapter. If the council has any reason to question whether the information provided is true or correct or meets the requirements of this chapter, the council is authorized to make any investigation it deems necessary to establish that the information received is accurate and satisfies any criteria established by this chapter. The applicant has the burden to prove that he or she is entitled to certification.

(f) Until September 15, 2015, the council shall be governed by a board of directors comprised of two representatives selected by each professional society, association, or other entity, which membership is comprised of massage therapists and that chooses to participate in the council. To qualify, a professional society, association, or other entity shall have a dues-paying membership in California of at least 1,000 individuals for the last three years and shall have bylaws that require its members to comply with a code of ethics. The board of directors shall also include each of the following persons:

(1) One member selected by each statewide association of private postsecondary schools incorporated on or before January 1, 2010, which member schools have together had at least 1,000 graduates in each of the previous three years from massage therapy programs that meet the approval standards set forth in subdivision (a) of Section 4601, unless a qualifying association chooses not to exercise this right of selection.

(2) One member selected by the League of California Cities, unless that entity chooses not to exercise this right of selection.

(3) One member selected by the California State Association of Counties, unless that entity chooses not to exercise this right of selection.

(4) One member selected by the Director of Consumer Affairs, unless that entity chooses not to exercise this right of selection.

(5) One member appointed by the Office of the Chancellor of the California Community Colleges, unless that entity chooses not to exercise this right of selection. The person appointed, if any, shall not be part of any massage therapy certificate or degree program.

(6) The council's bylaws shall establish a process for appointing other professional directors to the council who have knowledge of the massage industry or can bring needed expertise to the operation of the council for purposes of complying with Section 4603.

(g) At 12 p.m. Pacific standard time on September 15, 2015, the term of each member of the board of directors established pursuant to subdivision (f) shall terminate, and the terms of 13 new members of the board of directors who shall be chosen in the following manner, shall begin:

(1) One member shall be a representative of the League of California Cities, unless that entity chooses not to exercise this right to appoint.

(2) One member shall be a representative of the California Police Chiefs Association, unless that entity chooses not to exercise this right to appoint.

(3) One member shall be a representative of the California State Association of Counties, unless that entity chooses not to exercise this right to appoint.

(4) One member shall be a representative of an "anti-human trafficking" organization to be determined by the council. This organization shall appoint one member, unless the organization chooses not to exercise this right to appoint.

(5) One member shall be appointed by the Office of the Chancellor of the California Community Colleges, unless that office chooses not to exercise this right to appoint.

(6) One member shall be a member of the public appointed by the Director of the Department of Consumer Affairs, unless the director chooses not to exercise this right to appoint.

(7) One member shall be appointed by the California Association of Private Postsecondary Schools, unless that entity chooses not to exercise this right to appoint.

(8) One member shall be appointed by the American Massage Therapy Association, California Chapter, who shall be a California-certified massage therapist or massage practitioner who is a California resident and who has been practicing massage for at least three years, unless that entity chooses not to exercise this right to appoint.

(9) One member shall be a public health official representing a city, county, city and county, or state health department, to be determined by the council. The city, county, city and county, or state health department chosen, shall appoint one member unless that entity chooses not to exercise this right to appoint.

(10) (A) One member shall be a certified massage therapist or a certified massage practitioner who is a California resident who has practiced massage for at least three years prior to the appointment, selected by a professional society, association, or other entity which membership is comprised of massage therapist professionals, and that chooses to participate in the council. To qualify, a professional society, association, or other entity shall have a dues-paying membership in California of at least 1,000 individuals, have been established since 2000, and shall have bylaws that require its members to comply with a code of ethics.

(B) If there is more than one professional society, association, or other entity that meets the requirements of subparagraph (A), the appointment shall rotate based on a four-year term between each of the qualifying entities. The qualifying entity shall maintain its appointment authority during the entirety of the four-year term during which it holds the appointment authority. The order in which a qualifying professional society, association, or other entity has the authority to appoint shall be determined by alphabetical order based on the full legal name of the entity as of January 1, 2014.

(11) The members appointed to the board in accordance with paragraphs (1) to (10), inclusive, shall appoint three additional members, at a duly held board meeting in accordance with the board's bylaws. One of those appointees shall be an attorney licensed by the State Bar of California, who has been practicing law for at least three years and who at the time of appointment represents a city in the state. One of those appointees shall represent a massage business entity that has been operating in the state for at least three years. The council shall establish in its bylaws a process for appointing an additional member, provided that the member has knowledge of the massage industry or can bring needed expertise to the operation of the council for purposes of complying with Section 4603.

(h) Board member terms shall be for four years.

(i) The board of directors shall establish fees reasonably related to the cost of providing services and carrying out its ongoing responsibilities and duties. Initial and renewal fees for certificates shall be in an amount sufficient to support the functions of the council in the administration of this chapter, but in no event shall exceed three hundred dollars (\$300). The renewal fee shall be reassessed biennially by the board.

(j) The meetings of the council shall be subject to the rules of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). The board may adopt additional policies and procedures that provide greater transparency to certificate holders and the public than required by the Bagley-Keene Open Meeting Act.

(k) Prior to holding a meeting to vote upon a proposal to increase the certification fees, the board shall provide at least 90 days' notice of the meeting, including posting a notice on the council's Internet Web site unless at least two-thirds of the board members concur that there is an active threat to public safety and that voting at a meeting without prior notice is necessary. However, the board shall not waive the requirements of subdivision (j).

(l) If the board approves an increase in the certification fees, the council shall update all relevant areas of its Internet Web site and notify all certificate holders and affected applicants by email within 14 days of the board's action.

4603. Protection of the public shall be the highest priority for the council in exercising its certification and disciplinary authority, and any other functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

4604. (a) In order to obtain certification as a massage therapist, an applicant shall submit a written application and provide the council with satisfactory evidence that he or she meets all of the following requirements:

(1) The applicant is 18 years of age or older.

(2) The applicant has successfully completed the curricula in massage and related subjects totaling a minimum of 500 hours, or the credit unit equivalent, that incorporates appropriate school assessment of student knowledge and skills.

(A) Of the 500 hours, a minimum of 100 hours of instruction shall address anatomy and physiology, contraindications, health and hygiene, and business and ethics.

(B) All of the 500 hours shall be from schools approved by the council.

(3) The applicant has passed a massage and bodywork competency assessment examination that meets generally recognized psychometric principles and standards and that is approved by the council. The successful completion of this examination may have been accomplished before the date the council is authorized by this chapter to begin issuing certificates.

(4) The applicant has successfully passed a background investigation pursuant to Section 4606, and has not violated any of the provisions of this chapter.

(5) All fees required by the council have been paid.

(6) The council may issue a certificate to an applicant who meets the qualifications of this chapter if he or she holds a current and valid registration, certification, or license from any other state whose licensure requirements meet or exceed those defined within this chapter. If an applicant has received education at a school that is not approved by the council, the council shall have the discretion to give credit for comparable academic work completed by an applicant in a program outside of California.

(b) A certificate issued pursuant to this chapter and any identification card issued by the council shall be surrendered to the council by any certificate holder whose certificate is suspended or revoked.

4604.1. (a) The council shall not accept applications to issue any new certificates to practice as a certified massage practitioner on or after January 1, 2015.

(b) Certificates to practice as a certified massage practitioner for applications accepted prior to January 1, 2015, may be renewed without any additional educational requirements.

(c) A massage practitioner certificate and any identification card issued by the council, shall be surrendered to the council by any certificate holder whose certificate is suspended or revoked.

4604.2. (a) A person who was issued a conditional certificate to practice as a massage practitioner shall, within five years of being issued the conditional certificate by the council, complete and report to the council the completion of, at least 30 hours of additional education per year from approved schools or from continuing education providers approved by the council, until he or she has completed a total of at least 250 hours of education.

(b) A conditional certificate issued to any person pursuant to this section shall immediately be nullified, without need for further action by the council, if proof of completion of the requirements specified in subdivision (a) is not filed with the council within the time period specified in subdivision (a).

(c) Notwithstanding subdivision (a) of Section 4604.1, the council shall issue a new certificate to practice as a massage practitioner to a person that successfully completes the requirements described in subdivision (a).

4605. Except as otherwise provided, a certification issued pursuant to this chapter shall be subject to renewal every two years in the manner prescribed by the council. A certificate issued by the council shall expire after two years unless renewed as prescribed. The council may provide for the late renewal of a certificate.

4606. (a) Prior to issuing a certificate to an applicant, or designating a custodian of records, the council shall require the applicant or the custodian of records candidate to submit fingerprint images as directed by the council and in a form consistent with the requirements of this section.

(b) The council shall submit the fingerprint images and related information to the Department of Justice for the purpose of obtaining information as to the existence and nature of a record of state and federal level convictions and of state and federal level arrests for which the Department of Justice establishes that the applicant or candidate was released on bail or on his or her own recognizance pending trial.

(c) Requests for federal level criminal offender record information received by the Department of Justice pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. The Department of Justice shall review the information returned from the Federal Bureau of Investigation, and shall compile and disseminate a fitness determination regarding the applicant or candidate to the council. The Department of Justice shall provide information to the council pursuant to subdivision (p) of Section 11105 of the Penal Code.

(d) The Department of Justice and the council shall charge a fee sufficient to cover the cost of processing the request for state and federal level criminal offender record information.

(e) The council shall request subsequent arrest notification service from the Department of Justice, as provided under Section 11105.2 of the Penal Code, for all applicants for certification or custodian of records candidates for whom fingerprint images and related information are submitted to conduct a search for state and federal level criminal offender record information.

(f) The council is authorized to receive arrest notifications and other background materials about applicants and certificate holders from a city, county, or city and county.

4607. The council may discipline an owner or operator of a massage business or establishment who is certified pursuant to this chapter for the conduct of all individuals providing massage for compensation on the business premises.

4608. In addition to the other requirements of this chapter, a certificate holder shall:

(a) Display his or her original certificate wherever he or she provides massage for compensation. A certificate holder shall have his or her identification card in his or her possession while providing massage services for compensation.

(b) Provide his or her full name and certificate number upon the request of a member of the public, the council, or a member of law enforcement, or a local government agency charged with regulating massage or massage establishments, at the location where he or she is providing massage services for compensation.

(c) Include the name under which he or she is certified and his or her certificate number in any and all advertising of massage for compensation.

(d) Notify the council within 30 days of any changes in the certificate holder's home address or the address of any massage establishment or other location where he or she provides massage for compensation, excluding those locations where massage is only provided on an out-call basis. A certificate holder also shall notify the council of his or her primary email address, if any, and notify the council within 30 days of a change of the primary email address.

4609. (a) It is a violation of this chapter for an applicant or a certificate holder to commit any of the following acts, the commission of which is grounds for the council to deny an application for a certificate or to impose discipline on a certificate holder:

(1) Unprofessional conduct, including, but not limited to, any of the following:

(A) Engaging in sexually suggestive advertising related to massage services.

(B) Engaging in any form of sexual activity on the premises of a massage establishment where massage is provided for compensation, excluding a residence.

(C) Engaging in sexual activity while providing massage services for compensation.

(D) Practicing massage on a suspended certificate or practicing outside of the conditions of a restricted certificate.

(E) Providing massage of the genitals or anal region.

(F) Providing massage of female breasts without the written consent of the person receiving the massage and a referral from a licensed California health care provider.

(2) Procuring or attempting to procure a certificate by fraud, misrepresentation, or mistake.

(3) Failing to fully disclose all information requested on the application.

(4) Impersonating an applicant or acting as a proxy for an applicant in any examination referred to in this chapter for the issuance of a certificate.

(5) Impersonating a certificate holder, or permitting or allowing a noncertified person to use a certificate.

(6) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any rule or bylaw adopted by the council.

(7) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder.

(8) Denial of licensure, revocation, suspension, restriction, citation, or any other disciplinary action against an applicant or certificate holder by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision, order, judgment, or citation shall be conclusive evidence of these actions.

(9) Being convicted of any felony, misdemeanor, infraction, or municipal code violation, or being held liable in an administrative or civil action for an act, that is substantially related to the qualifications, functions, or duties of a certificate holder. A record of the conviction or other judgment or liability shall be conclusive evidence of the crime or liability.

(10) Dressing while engaged in the practice of massage for compensation, or while visible to clients in a massage establishment, in any of the following:

(A) Attire that is transparent, see-through, or substantially exposes the certificate holder's undergarments.

(B) Swim attire, if not providing a water-based massage modality approved by the council.

(C) A manner that exposes the certificate holder's breasts, buttocks, or genitals.

(D) A manner that constitutes a violation of Section 314 of the Penal Code.

(E) A manner that is otherwise deemed by the council to constitute unprofessional attire based on the custom and practice of the profession in California.

(11) Committing any act punishable as a sexually related crime or being required to register pursuant to the Sex Offender Registration Act (Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1 of the Penal Code), or being required to register as a sex offender in another state.

(b) The council may deny an application for a certificate for the commission of any of the acts described in subdivision (a). The council may also discipline a certificate holder, in any manner permitted by this chapter, for the commission of any of those acts by a certificate holder.

(c) The council shall deny an application for a certificate, or revoke the certificate of a certificate holder, if the applicant or certificate holder is required to register pursuant to the Sex Offender Registration Act (Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1 of the Penal Code), or is required to register as a sex offender in another state.

4610. (a) An applicant for a certificate shall not be denied a certificate, and a certificate holder shall not be disciplined pursuant to this chapter except according to procedures that satisfy the requirements of this section. Denial or discipline that is not in accord with this section shall be void and without effect.

(b) The council may discipline a certificate holder by any, or a combination, of the following methods:

(1) Placing the certificate holder on probation, which may include limitations or conditions on practice.

(2) Suspending the certificate and the rights conferred by this chapter on a certificate holder for a period not to exceed one year.

(3) Suspending or staying the disciplinary order, or portions of it, with or without conditions.

(4) Revoking the certificate.

(5) Taking other action as the council deems proper, as authorized by this chapter or policies, procedures, rules, or bylaws adopted by the board.

(c) The council may issue an initial certificate on probation, with specific terms and conditions, to any applicant.

(d) Any denial or discipline shall be decided upon and imposed in good faith and in a fair and reasonable manner. Any procedure that conforms to the requirements of subdivision (f) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the denial or discipline are considered.

(e) A procedure is fair and reasonable if the procedures specified in subdivision (f) or (g) are followed or if all of the following apply:

(1) Denial or discipline shall be based on a preponderance of the evidence. In determining the basis for the denial or discipline, the council may consider all written documents or statements as evidence, but shall weigh the reliability of those documents or statements.

(2) The provisions of the procedure are publicly available on the council's Internet Web site.

(3) The council provides 15 calendar days prior notice of the denial or discipline and the reasons for the denial or discipline.

(4) The council provides an opportunity for the applicant or certificate holder, to be heard, orally or in writing, not less than five days before the effective date of the denial or discipline, by a person or body authorized to decide whether the proposed denial or discipline should go into effect.

(f) (1) Notwithstanding any other law, if the council receives notice that a certificate holder has been arrested and charges have been filed by the appropriate prosecuting agency against the certificate holder alleging a violation of subdivision (b) of Section 647 of the Penal Code or any other offense described in paragraph (11) of subdivision (a) of Section 4609, the council shall immediately suspend, on an interim basis, the certificate of that certificate holder, and take all of the following additional actions:

(A) Notify the certificate holder at the address last filed with the council that the certificate has been suspended and the reason for the suspension within 10 business days.

(B) Provide notification of the suspension by email to the clerk or other designated contact of the city, county, or city and county in which the certificate holder lives or works, pursuant to the council's records, within 10 business days.

(C) Provide notification of the suspension by email to any establishment or employer, whether public or private, that the council has in its records as employing the certificate holder, within 10 business days.

(2) Upon notice to the council that the charges described in paragraph (1) have resulted in a conviction, the council shall permanently revoke the suspended certificate. The council shall provide notice to the certificate holder, at the address last filed with the council by a method providing delivery confirmation, within 10 business days that it has evidence of a valid record of conviction and that the certificate will be revoked unless the certificate holder provides evidence within 15 days from the date of the council's mailing of the notice that the conviction is either invalid or that the information is otherwise erroneous.

(3) Upon notice that the charges described in paragraph (1) have resulted in an acquittal or have been otherwise dismissed prior to conviction, the certificate shall be immediately reinstated and the certificate holder and any establishment or employer that received notice pursuant to this section shall be notified of the reinstatement within 10 business days.

(g) (1) Notwithstanding any other law, if the council determines that a certificate holder has committed an act punishable as a sexually related crime or a felony that is substantially related to the qualifications, functions, or duties of a certificate holder, the council may immediately suspend the certificate of that certificate holder. A determination to immediately suspend a certificate pursuant to this subdivision shall be based upon a preponderance of the evidence and the council shall also consider any available credible mitigating evidence before making a decision. Written statements by any person shall not be considered by the council when determining whether to immediately suspend a certificate unless made under penalty of perjury. If the council suspends a certificate in accordance with this subdivision, the council shall take all of the following additional actions:

(A) Notify the certificate holder within 10 business days, at the address last filed with the council, by a method providing delivery confirmation, that the certificate has been suspended, the reason for the suspension, and that the certificate holder has the right to request a hearing pursuant to paragraph (2).

(B) Notify by email or any other means consistent with the notice requirements of this chapter, any business or employer, whether public or private, that the council has in its records as employing or contracting with the certificate holder for massage services, and the California city, county, or city and county that has jurisdiction over that establishment or employer, that the certificate has been suspended within 10 business days.

(2) A certificate holder whose certificate is suspended pursuant to this subdivision shall have the right to request, in writing, a hearing to challenge the factual basis for the suspension. If the holder of the suspended certificate requests a hearing on the suspension, the hearing shall be held within 30 calendar days after receipt of the request. A holder whose certificate is suspended based on paragraph (1) shall be subject to revocation or other discipline in accordance with subdivision (a).

(3) If the council determines, after a hearing conducted pursuant to this subdivision, to lift the suspension, the certificate shall be immediately reinstated and the certificate holder, any establishment or employer, and the city, county, or city and county that has jurisdiction over that establishment or employer, that received notice pursuant to this section shall be notified of the reinstatement within 10 business days.

(h) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail shall be given by first-class or certified mail sent to the last address of the applicant or certificate holder shown on the council's records.

(i) An applicant or certificate holder may challenge a denial or discipline decision issued pursuant to this section in a court of competent jurisdiction. Any action challenging a denial or discipline, including any claim alleging defective notice, shall be commenced within one year after the effective date of the denial or discipline. If the action is successful, the court may order any relief, including reinstatement, that it finds equitable under the circumstances.

(j) This section governs only the procedures for denial or discipline decision and not the substantive grounds for the denial or discipline. Denial or discipline based upon substantive grounds that violates contractual or other rights of the applicant or certificate holder, or is otherwise unlawful, is not made valid by compliance with this section.

4611. (a) It is an unfair business practice for a person to do any of the following:

(1) To hold himself or herself out or to use the title of "certified massage therapist" or "certified massage practitioner," or any other term, such as "licensed," "certified," "CMT," or "CMP," in any manner whatsoever that implies or suggests that the person is certified as a massage therapist or massage practitioner, unless that person currently holds an active and valid certificate issued by the council pursuant to this chapter.

(2) To falsely state or advertise or put out any sign or card or other device, or to falsely represent to the public through any print or electronic media, that he or she or any other individual is licensed, certified, or registered by a governmental agency as a massage therapist or massage practitioner.

(b) In addition to any other available remedies, engaging in any of the prohibited behaviors described in subdivision (a) constitutes unfair competition under Section 17200.

4612. (a) Notwithstanding any other law, a city, county, or city and county shall not enact or enforce an ordinance that conflicts with this chapter or Section 51034 of the Government Code.

(b) Nothing in this chapter shall prevent a city, county, or city and county from licensing, regulating, prohibiting, or permitting an individual who provides massage for compensation without a valid certificate.

4614. (a) Upon the request of any law enforcement agency or any other representative of a local government agency with responsibility for regulating or administering a local ordinance relating to massage or massage establishments, the council shall provide information concerning an applicant or a certificate holder, including, but not limited to, any of the following:

(1) The current status of an application or certificate.

(2) Any history of disciplinary actions.

(3) The home and work addresses of the applicant or certificate holder.

(4) The name and home and work addresses of any person whose certificate has been suspended and the length of the suspension, if the work address is located within the jurisdiction of agency making the request.

(5) Any other information in the council's possession that is necessary to verify facts relevant to administering the local ordinance.

(b) Upon the request of the council, any law enforcement agency or any other representative of a local government agency with responsibility for regulating or administering a local ordinance relating to massage or massage establishments is authorized to provide information to the council concerning an applicant or certificate holder, including, but not limited to, any of the following:

(1) The current status of any local application or permit.

(2) Any history of legal or administrative action taken against the applicant or certificate holder.

(3) Any information related to criminal activity or unprofessional conduct allegedly engaged in by a certificate applicant or certificate holder, including, but not limited to, police reports and declarations of conduct.

(4) The home and work addresses of the applicant or certificate holder.

(5) Any other information in the possession of the law enforcement agency or other local government agency that is necessary to verify information or otherwise implement this chapter.

(c) The council shall accept information provided by any law enforcement agency or any other representative of a local government agency with responsibility for regulating or administering a local ordinance relating to massage and review that information in a timely manner. The council shall have the responsibility to review any information received pursuant to this subdivision and to take any actions authorized by this chapter that are warranted by that information.

4615. (a) The council shall have the responsibility to determine whether the school from which an applicant has obtained the education required by this chapter meets the requirements of this chapter.

(1) If the council has any reason to question whether or not the applicant received the education that is required by this chapter from the school or schools that the applicant is claiming, the council shall investigate the facts to determine that the applicant received the required education prior to issuing a certificate.

(2) For purposes of this section and any other provision of this chapter that authorizes the council to receive factual information as a condition of taking any action, the council may conduct oral interviews of the applicant and others or conduct any investigation deemed necessary to establish that the information received is accurate and satisfies the criteria established by this chapter.

(b) The council shall develop policies, procedures, rules, or bylaws governing the requirements and process for the approval and unapproval of schools consistent with Section 4601, including any corrective action required to return a school to approved status. These policies, procedures, rules, or bylaws shall address topics including, but not limited to, what constitutes an acceptable curriculum, facility requirements, student-teacher ratios, clinical practice requirements, and provisions for the acceptance of accreditation from a recognized accreditation body or other form of acceptance. The council shall exercise its authority to approve and unapprove schools and specify corrective action in keeping with the purposes set forth in Section 4603.

(c) The council may charge a reasonable fee for the inspection or approval of schools, provided the fees do not exceed the reasonable cost of the inspection or approval process.

4616. The council shall be sued only in the county of its principal office, which shall be in Sacramento, unless otherwise designated by the council.

4617. The superior court of a county of competent jurisdiction may, upon a petition by any person, issue an injunction or any other relief the court deems appropriate for a violation of this chapter by any person or establishment operating in that county subject to the provisions of this chapter. An injunction proceeding under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

4618. The Legislature finds and declares that due to important health, safety, and welfare concerns that affect the entire state, establishing a uniform standard of certification for massage practitioners and massage therapists upon which consumers may rely to identify individuals who have achieved specified levels of education, training, and skill is a matter of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter shall apply to all cities, counties, and cities and counties, including charter cities and charter counties.

4619. (a) This chapter shall be liberally construed to effectuate its purposes.

(b) The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(c) If any provision of this chapter or the application of these provisions to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

4620. (a) On or before June 1, 2016, for the time period beginning on January 1, 2015, the council shall provide a report to the appropriate policy committees of the Legislature that includes all of the following:

(1) A feasibility study of licensure for the massage profession, including a proposed scope of practice, legitimate techniques of massage, and related statutory recommendations.

(2) The council's compensation guidelines and current salary levels.

- (3) The status of the council's progress towards revising the school approval process.
- (4) Performance metrics, including, but not limited to:
 - (A) The annual number of denied certificate applications, and a brief description of the grounds for each decision.
 - (B) The annual number of suspended, revoked, or otherwise disciplined certificates, and a brief description of the grounds for each decision.
 - (C) The number of certificates taken off suspension, and a brief description of the grounds for each decision.
 - (D) The number of schools inspected and unapproved and a brief description of the grounds for each decision to unapprove.
 - (E) The total number of complaints about certificate holders received annually, including a subtotal of complaints received from local law enforcement and the action taken by the council as a result of those complaints.
- (b) The council shall testify in person if requested by the appropriate policy committees of the Legislature.

4621. (a) This chapter shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

(b) Notwithstanding any other law, the powers and duties of the council shall be subject to review by the appropriate policy committees of the Legislature.

SEC. 3. Section 51034 of the Government Code is amended to read:

51034. (a) The Legislature in enacting this chapter recognizes the existing power of a city or county to regulate a lawful massage business pursuant to Section 37101, or pursuant to Section 16000 or 16100 of the Business and Professions Code, or under Section 7 of Article XI of the California Constitution.

(b) Nothing contained in this chapter shall be a limitation on that existing power or on the existing authority of a city to license for revenue purposes. A city, county, or city and county shall not enact or enforce an ordinance that conflicts with the provisions of this section or Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code.

(c) Nothing contained in this chapter shall authorize a city, county, or city and county to do any of the following:

- (1) Prohibit a person of one sex from engaging in the massage of a person of the other sex.
- (2) Define a massage establishment as an adult entertainment business, or otherwise regulate a massage establishment as adult entertainment.
- (3) Require a massage establishment to have windows or walls that do not extend from the floor to ceiling, or have other internal physical structures, including windows, that interfere with a client's reasonable expectation of privacy.
- (4) Impose client draping requirements that extend beyond the covering of genitalia and female breasts, or otherwise mandate that the client wear special clothing.
- (5) Prohibit a massage establishment from locking its external doors if the massage establishment is a business entity owned by one individual with one or no employees or independent contractors.
- (6) Require a massage establishment to post any notice in an area that may be viewed by clients that contains explicit language describing sexual acts, mentions genitalia, or specific contraception devices.
- (7) Impose a requirement that a person certified pursuant to Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code take any test, medical examination, or background check or comply with education requirements beyond what is required by Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code.
- (8) Impose a requirement that an individual holding a certificate issued in accordance with Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code, obtain any other license, permit, certificate, or other authorization to provide massage for compensation. However, this paragraph shall not be construed to prohibit a city, county, or

city and county from requiring by ordinance that a massage business or establishment obtain a license, permit, certificate, or other authorization in order to operate lawfully within the jurisdiction.

(9) Impose a dress code requirement on a person certified pursuant to Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code in excess of those already imposed pursuant to paragraph (10) of subdivision (a) of Section 4609 of the Business and Professions Code.

(10) Prohibit a person certified pursuant to Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code from performing massage for compensation on the gluteal muscles, prohibit specific massage techniques recognized by the California Massage Therapy Council as legitimate, or impose any other specific restriction on professional practice beyond those set forth in subparagraph (E) of paragraph (1) of subdivision (a) of Section 4609 of the Business and Professions Code, except as authorized by Section 460 of the Business and Professions Code.



December 3, 2014

To: City and County Officials

From: Assembly Members Susan Bonilla, Jimmy Gomez and Chris Holden

Re: Implementation of AB 1147

As authors of AB 1147, we carried this legislation in order to return broad control over land use to local governments in regulating massage establishments in the best interests of the individual community.

While the bill does not go into effect until January 1, 2015, many jurisdictions are considering, or are in the process of updating their ordinances. There have been numerous questions regarding what AB 1147 authorizes and what it prohibits. As authors of this bill, we have worked together with the League of California Cities, the California State Association of Counties, the American Planning Association, California Chapter and the California Police Chiefs Association to help answer some of these questions.

The answers to these questions are presented for informational purposes only and do not constitute legal advice from the organizations involved with putting together this document. Each jurisdiction should consult with its city attorney/county counsel to gain a complete understanding of AB 1147, its impact on the existing ordinances, and its legal authority to regulate massage therapy businesses.

Sincerely,

Handwritten signature of Susan A. Bonilla in cursive.

The Honorable Susan Bonilla
Assembly Member, 14th District

Handwritten signature of Jimmy Gomez in cursive.

The Honorable Jimmy Gomez
Assembly Member, 51st District

Handwritten signature of Chris Holden in cursive.

The Honorable Chris Holden
Assembly Member, 41st District



FAQs with Regards to Implementation of AB 1147

The answers to these FAQs are presented for informational purposes only and do not constitute legal advice from the organizations involved with putting together this document. Each jurisdiction should consult with its city attorney/county counsel to gain a complete understanding of AB 1147, its impact on the jurisdiction's existing ordinances, and its legal authority to regulate massage therapy businesses. The provisions of AB 1147 take effect January 1, 2015.

- 1) **Q: Is a massage business that only uses certified massage professionals exempt from local regulation?**
A: No. Article XI, section 7 of the California Constitution as well as Business and Professions Code section 460(c), Government Code section 37101, Business and Professions Code 16000 and Government Code 51034 all recognize the authority of a city to regulate businesses that provide massage therapy services. Under AB 1147, cities and counties may regulate the business that provides the massage therapy services and California Massage Therapy Council (CAMTC) may regulate the individuals who apply for certification to provide massage therapy services. This division of authority and responsibility is reflected in the following statement of Legislative intent: "It is the intent of the Legislature that broad control over land use in regulating massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community, and that the requirements and practice of the profession of massage remain a matter of statewide concern, regulation, and oversight" (Business & Professions Code 4600.5(b)).
- 2) **Q. What limitations does AB 1147 impose on local regulation of certified massage professionals?**
A. A local jurisdiction may not (1) prohibit a person of one sex from engaging in the massage of a person of the other sex; (2) define a massage establishment as an adult entertainment business, or otherwise regulate a massage establishment as adult entertainment; (3) require a massage establishment to have windows or walls that do not extend from the floor to ceiling or have other internal physical structures (such as windows) that interfere with a client's privacy; (4) impose client draping requirements or otherwise require clients to wear special clothing; (5) prohibit a massage establishment from locking its external doors if the business is owned by one individual with one or no employees; (6) require a massage establishment to post any notice in an area that may be viewed by clients that contain explicit sexual language; (7) require a person certified by CAMTC to take any test, medical examination, or background check; (8) require a person certified by CAMTC to get a license, permit, or other authorization to provide massage unless that person is a business owner; (9) impose a dress code stricter than that imposed by AB 1147; or (10) prohibit massage techniques permitted by CAMTC (Government Code 51034(c)).
- 3) **Q: Can a jurisdiction require independent contractors, sole providers, and owners of a massage business to obtain a business license, massage permit, register with the police, or get a background check?**
A: Yes. Under Government Code 51034(c)(8), a city may require a massage business owner, including a sole provider or independent contractor who is CAMTC certified, to obtain a business license, and/or massage permit or other entitlement to carry on the business of massage therapy. Independent contractors in the "business" of providing massage therapy can be regulated as a "business."
- 4) **Q: As part of its regulation of massage therapy businesses, can a jurisdiction require the business owner to provide a current listing of its employees and independent contractors, their CAMTC certifications and other relevant information?**

A: Yes. A jurisdiction's business regulation ordinance may require a business owner to submit a list of all of its employees and independent contractors, their certification status, and notify the local government when this information changes.

5) **Q: Can a jurisdiction require a conditional use permit (CUP) for massage businesses?**

A: Yes. Business and Professions Code 460(c) provides explicit authorization to adopt land use regulations pertaining to massage businesses. A jurisdiction may amend its zoning ordinance to require a CUP for a massage business. However, a jurisdiction may not impose conditions on the conditional use permit that would violate the provisions of Government Code 51034(c)(1)-(10) as described in Question No. 2. An application for a CUP for a massage business would be considered under the same procedures provided in the jurisdiction's zoning ordinances for other uses for which a CUP is required. Jurisdictions should review their zoning ordinances to determine whether a massage business in operation prior to January 1, 2015 is a lawful non-conforming use.

6) **Q: Can a jurisdiction impose a restriction on the location of a massage business? I.e. 300 feet from a school, park etc.**

A: AB 1147 gives local governments broad authority to use its Constitutional police power to select zoning districts that are most appropriate for massage. However, a jurisdiction may not define or otherwise regulate a massage establishment as "adult entertainment." A zoning ordinance that imposes a restriction on the location of a massage establishment such as 300 feet from a school or park will be reviewed under a "reasonable and not arbitrary" standard.

7) **Q. Can a jurisdiction require individual massage therapists (who operate as employees) to obtain a business license, massage permit, register with the police, or get a background check?**

A. No. A jurisdiction may not require an individual massage therapist who holds a certificate from CAMTC and operates as an employee to obtain any kind of license or permit or meet any other educational requirements, or to register with the police or submit to a background investigation (Government Code 51034(c)(8)).

8) **Q: What is the best way to make sure that only CAMTC-certified massage professionals work in my jurisdiction?**

A. AB 1147 separates the certification of massage therapists from the regulation of massage businesses. The certification of massage therapists is the responsibility of the CAMTC. The regulation of massage businesses is the responsibility of local jurisdictions. Therefore, the best way to make sure that only CAMTC-certified massage professionals work in a jurisdiction is to adopt an ordinance that requires massage businesses to use CAMTC-certified massage professionals only. Another way is to adopt an ordinance that prohibits a person from working in the jurisdiction as a massage therapist without a certificate issued by CAMTC. Because it's possible that the latter way might be interpreted as conflicting with the CAMTC's role in certifying massage therapists, we believe that imposing the restriction on the business is preferable.

9) **Q: Can jurisdictions regulate the hours of operation of a massage business?**

A: Yes. Jurisdictions can specify hours of operation based upon such factors as a commercial use in a residential neighborhood or other reasonable requirements.

10) **Q: Can a jurisdiction prohibit a massage professional from working out of his or her home?**

A: A jurisdiction can impose restrictions on massage professionals working out of their homes in the same manner that a jurisdiction regulates other professionals or business owners operating out of their homes. Some local governments regulate business owners operating from their homes through a home occupation permit.

11) **Q: Can a jurisdiction limit the number of massage establishments in its jurisdiction?**

A: A jurisdiction may limit the number of massage establishments in its jurisdiction if the jurisdiction is able to articulate a reasonable basis for the cap.

12) **Q: Is a jurisdiction prohibited from requiring physical improvements, such as transparent exterior windows?**

A: No. However, a list of physical improvements that may not be required is described in the answer to Question #2.

13) Q: Can a jurisdiction adopt regulations to prohibit a massage business from opening in the same location as a previous business with illegal activity?

A: Yes, if there is a reasonable basis for this regulation.

14) Q: Can a jurisdiction adopt regulations holding the owner accountable for the actions of its employees and independent contractors?

A: Yes. An ordinance regulating massage businesses may include a provision holding the business owner responsible for how the business is conducted by its employees or independent contractors. In addition, Business and Professions Code section 4607 provides that CAMTC may discipline an owner or operator of a massage business or establishment who is CAMTC-certified for the conduct of all individuals providing massage for compensation on the business premises.

15) Q: May a jurisdiction impose land use regulations on massage businesses that are different than those imposed on other professional services?

A: Yes. This is one of the most significant changes to the law made by AB 1147. Prior to AB 1147, jurisdictions were allowed to regulate businesses using certified massage professionals only to the extent that the jurisdiction uniformly applied those regulations to all other business professionals. This is no longer the law.

16) Q: Can a jurisdiction enter massage establishments and make reasonable inspections?

A: Yes. Jurisdictions can conduct reasonable inspections as part of its ordinance requirements as well as recover the reasonable costs of these inspections and other regulatory requirements.

17) Q: Is a conditional use permit fee of \$20,000-\$30,000 legal?

A: It depends. Fees, charges and rates are generally imposed in return for a specific benefit conferred or privilege granted. A local government has the authority to impose fees, charges and rates under its police power through California Constitution Article XI, §7. A fee may not exceed the estimated reasonable cost of providing the service or regulatory act for which the fee is charged. A fee that does exceed such cost may be considered a special tax. In addition, fees, charges and rates must be reasonable, fair and equitable in nature and proportionately representative of the costs incurred by the regulatory agency. AB 1147 includes the following statement of Legislative intent: "It is the intent of the Legislature that local governments impose and enforce only reasonable and necessary fees...."

18) Q: Can a jurisdiction prohibit condoms on the premises?

A: Yes. A jurisdiction can prohibit condoms on the premises of a massage establishment as a standard in its ordinance if there is a reasonable basis for this requirement.

19) Q: How can a jurisdiction handle a massage business that (after a police sting and surrender of the business license) transfers the business to another individual?

A: A jurisdiction may include in its ordinance a requirement that prohibits a massage business permit from being transferred without notice to and consent of the local government.

20) Q: Can a jurisdiction adopt and enforce a dress code for massage therapists?

A: Yes. AB 1147 includes certain restrictions on how certified massage therapists may dress. A jurisdiction may include those restrictions in its ordinance. Be aware, however, that a jurisdiction may not include stricter requirements for certified therapists. If dress code restrictions are included in a jurisdiction's ordinance, and an employee violates those restrictions, then the jurisdiction may enforce those provisions of its ordinance against the business as it determines appropriate. Violations of a municipal code may be enforced civilly, criminally, or through administrative enforcement. A jurisdiction is also encouraged to use the procedure outlined in question no. 23 to notify CAMTC of a violation.

21) Q: What impact will AB 1147 have on existing massage businesses?

A: Each jurisdiction should carefully review the provisions of its municipal code regarding non-conforming uses of land and imposing new regulations on existing businesses.

22) Q: Can a jurisdiction impose a temporary moratorium on approval of massage businesses?

A: Yes. AB 1147 takes effect on January 1, 2015. State law allows a city to adopt an interim ordinance that prohibits otherwise allowed uses when those uses conflict with a pending land use study. Such a measure requires a 4/5 vote of the jurisdiction; must contain a finding that there is a current and immediate threat to the public health, safety or welfare; and may be adopted without following the notice and adoption procedures required for other ordinances. The measure has an initial duration of 45 days and may be extended as specified by Government Code 65858. Jurisdictions should exercise caution before imposing a temporary moratorium if they have previously adopted a moratorium on the approval of massage businesses.

23) Q: Is there a process for a jurisdiction to follow if it wishes to inform CAMTC that it believes that a certified massage therapist is in violation of state or local law?

A: Yes. A city is encouraged to report that information to CAMTC by going to CAMTC's homepage (www.camtc.org) and clicking on the link to "File a Complaint Against a CAMTC Certificate Holder."

24) Q: If a massage therapist with a CAMTC certificate is arrested for prostitution or violating the Sex Offender Registration Act, will his or her certificate be revoked?

A: If CAMTC receives notice that a certificate holder has been arrested and charges have been filed alleging prostitution or a violation of the Sex Offender Registration Act, the council is required to immediately suspend the certificate and notify the city or county in which the certificate holder lives or works of the suspension. If the person is convicted, the certificate is permanently revoked. If a certificate holder commits a different act that is punishable as a sexually related crime or otherwise violates provisions of AB 1147, CAMTC may (but is not required to) take disciplinary action including, for some violations, suspending the certificate.

25) Q: Who should jurisdictions report violations to?

A: Violations of local ordinances should be prosecuted administratively, civilly, or criminally in accordance with the provisions of the jurisdiction's municipal code. If a jurisdiction believes that a CAMTC certified massage therapist is violating state law, then the jurisdiction is additionally encouraged to inform CAMTC as described under question no.23.

26) Q. What prompts the inspection/investigation of a massage therapy school that could change the status to "unapproved"?

A: CAMTC explains that when it receives credible information alleging that the massage therapy school has violated one of the provisions of its Procedures for Un-Approval of Schools (available at www.camtc.org/Schools.aspx); this information prompts the investigation of a school. CAMTC also looks for anomalies or changing patterns in applications and transcripts that may warrant investigation.

27) How does CAMTC obtain the actual certificate of those persons whose certification has been suspended or revoked?

A: CAMTC explains that it requests that revoked certificate holders return their certificates and ID cards to CAMTC. In order to check whether a specific person has an active and valid CAMTC certificate, local jurisdictions can check the "Verify Certification" link on CAMTC's website.

28) Q. Does AB 1147 apply to massage therapists who do not have a CAMTC certificate?

A. No. AB 1147 only applies to massage therapists who have a CAMTC certificate. AB 1147 does not affect the authority of a city to regulate massage therapists who do not have CAMTC certificates or massage businesses who employ massage therapists who do not have CAMTC certificates.



City Council Report

Item: 10.
Category: New Business
Date: March 15, 2016

TITLE: AFFIRM THE REVISED FISCAL YEAR 2015-16 CITY COUNCIL STRATEGIC PRIORITIES AND CONFIRM OR PROVIDE DIRECTION REGARDING FISCAL YEAR 2016-17 STRATEGIC PRIORITIES

RECOMMENDATION

Affirm or provide different direction related to the revised Fiscal Year 2015-16 City Council Strategic Priorities and proposed Fiscal Year 2016-17 Strategic Priorities.

BACKGROUND

Each year, the City Council holds an annual Council Priorities workshop for the purpose of identifying projects of strategic importance to the City Council. The setting of these annual priorities allows the organization to plan for any related work load, timeline and budget impacts associated with the City Council priorities.

At the 2015 Council Priorities workshop, 13 strategic priorities for Fiscal Year (FY) 15-16 were identified. The City Council confirmed those priorities in June 2015, and subsequently incorporated into departmental work plans for that same fiscal year.

DISCUSSION

On January 29, 2016, the City Council held the FY 16-17 Priority Setting Session. At this meeting, Council and City staff also discussed current departmental projects that require significant staffing and departmental resources. In order to view a complete picture of the City's work as it relates to priority or visible projects, the following items were added to Strategic Priorities Matrix:

1. Update Smoking Ordinance
2. Community Choice Energy
3. Potential Ballot Measure
4. DAAP
5. Density Bonus Ordinance
6. Undergrounding of Utilities
7. Donation Bin Ordinance
8. LED Streetlights Upgrade
9. Civic Center Master Plan
10. Envision SV
11. Signal at Gilman & Page

Attachment 1 lists the FY 15-16 Council Strategic Priority projects, along with a status updated and any associated resource requests.

In addition, the Council discussed its priorities for the upcoming FY 16-17. A total of 21 projects were discussed and grouped into High, Medium or Low Priority Level. In order to receive a High Priority Level ranking, a majority of the Council had to express support for the project. Seven projects received the support of the City Council, including four projects that are underway in this current fiscal year. Attachment 2 lists all the projects discussed and grouped by priority level.

FY 15-16 City Council Reserve Allocation

With the adoption of the FY 15-16 budget, the City Council established a \$500,000 reserve in the General Fund to be used for specific Council projects. Although this fund was established in 2015, the funds do not need to be exhausted within the fiscal year. The table below reflects the progress to date on the use of these funds to advance the identified projects.

Project	Funds Spent	Status
Bicycle Transportation	\$22,000 <i>(pending City match)</i>	A grant application to fund Electronic Bike Lockers is pending. If accepted, the City would need to provide matching funds. Staff will continue to look for other opportunities in support of bicycle-related projects.
Carriage House Kitchen	\$0	Not a project. Building Maintenance identified the problem and repaired it without using any funds.
Community Beautification		In progress. The City Manager's Office is exploring the development of a "Community Beautification Grant Program" in collaboration with the Civic Improvement Commission (CIC).
CERT supplies	\$8,000	Completed. Captain Cefalu discussed with the CERT Board their equipment needs and purchased items accordingly.
Economic Development Activities	Absorbed via Community Development's departmental budget	Various operational activities are underway in support of the City's Economic Development program, such as: commercial property inventory, concierge program, website updates,

Project	Funds Spent	Status
		roadshow items to promote Campbell, and a review of Downtown outdoor displays and signage.
iPads for Planning Commissioners	\$6,500	Completed. Planning Commissioners began to use their iPads for City business in February 2016.
Public Art		In progress. The CIC will be recommending a Public Art Policy. Staff will set-aside funds to use as appropriate.
Super Bowl 50 Marketing	\$25,000	Completed. Purchased Downtown banners, video vignette, Promotional Fun Card, and partial funding of Water Tower lighting enhancements.
Volunteer Recognition	\$10,000	In progress. Volunteers will be recognized with a luncheon and appreciation gift on April 21.

FISCAL IMPACT

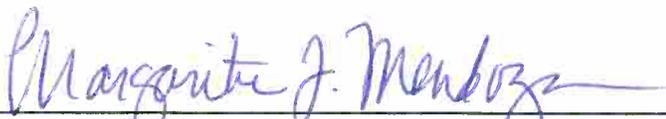
The adopted FY 15-16 operating budget provides funding for the Strategic Priorities adopted in the current fiscal year, with the exception of the Sign Ordinance Update and Potential Ballot Measure. Budget amendments will likely be needed in order to hire consultants to perform specialized work.

Funding for FY 16-17 Council Priorities will be identified during the FY 16-17 budget Study Sessions held later this spring.

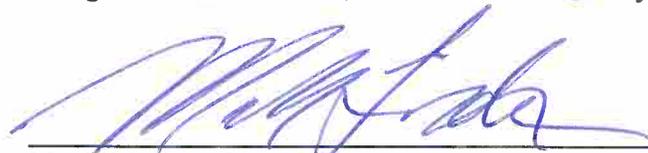
ALTERNATIVES

1. Provide other direction as related to the projects identified in the "Strategic Priorities" matrices.

Prepared by:


 Margarita F. Mendoza, Administrative Analyst

Reviewed and
 Approved by:


 Mark Linder, City Manager

Attachments

1. FY 2015-16 City Council Strategic Priorities
2. FY 2016-17 City Council Strategic Priorities

City of Campbell
Strategic Priorities
July 1, 2015 – June 30, 2016

	Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
HIGH PRIORITY (A) – 24 Projects					
1	City Attorney	*Update Smoking Ordinance	Update to include e-cigarettes	<u>April 2016</u> : Necessary amendments to be completed. <u>May 2016</u> : Updated Ordinance to City Council.	
2	City Manager's Office	Public Art Expansion	Analysis of options and usage	<u>March 2016</u> : Exploring Salisbury, North Carolina traveling sculpture concept <u>May 2016</u> : CIC action on new Public Art policy. <u>June 2016</u> : Council Study Session on proposed Public Art policy.	
3	City Manager's Office	Social Media Policy Update	Add consideration as engagement tool (videos, FAQs, web design, etc.)	<u>June 2016</u> : Draft policy updates presented to City Council.	
4	City Manager's Office City Attorney's Office	Individual Council Member Staff Usage	Guideline review of staff resource protocols	<u>April 2016</u> : Staff to present any recommended policy or protocol changes to the City Council.	
5	City Manager's Office	*Community Choice Energy	Consideration of options	<u>February 2016</u> : Council action to join JPA. <u>April 2016</u> : Formation of JPA.	Need to identify Campbell's JPA representative and alternate.
6	City Manager's Office	*Potential Ballot Measure	Consideration of options and implementation	<u>March 2016</u> : Directed to conduct polling G.O. Bond and Split Parcel Tax.	<ul style="list-style-type: none"> • Godbe to conduct Poll. • NHA Advisors to analyze split parcel option/ • Need additional funds to pay for the above items.
7	Community Development	General Plan Update	Systemic update of the General Plan	<u>March 2016</u> : DeNovo selected as consultants. Agreement on Scope of	

*New project added during the Council Priority Setting Session (January 29, 2016)

**City of Campbell
Strategic Priorities
July 1, 2015 – June 30, 2016**

	Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
				Work selected. <u>April 2016:</u> Contract review by Council.	
8	Community Development	Historic Designation Policy Review	Conduct further analysis of impact upon property owners	<u>May 2016:</u> Council action on changing policy from opt-out to opt-in.	
9	Community Development	Planning Commissioner Training	Establishing formal, externally provided skills training for all planning commissioners	<u>March 2016:</u> "Planning 101" Training led by Director Kermoyan.	May want to consider establishing formal expectations to mandate training.
10	Community Development	Sign Ordinance Update	Review and modification of current sign ordinance	Focusing on revisions to two sections of the Sign Ordinance relating to freeway-oriented and roof-top signage.	Due to a high number of planning projects and the vacancy of the Planning Manager position, comprehensive updates to the Ordinance are not possible with existing staffing. If a comprehensive update is desired, the City should prepare a formal RFP and hire a consultant. Will need a budget amendment to fund the work.
	City Attorney				
11	Community Development	Massage Ordinance Revisions	Alignment with new State law and additional local restrictions	<u>February 2016:</u> Planning Commission review. <u>March 2016:</u> Council review.	
	City Attorney				
	Police				
12	Community Development	*DAAP	Consideration of options for general plan direction	<u>June 2016:</u> Return to Council prior to Planning Commission review.	

*New project added during the Council Priority Setting Session (January 29, 2016)

City of Campbell
Strategic Priorities
July 1, 2015 – June 30, 2016

	Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
13	Community Development City Attorney	*Density Bonus Ordinance	Provide an analysis of discreet components and options		Further direction requested. Minor revisions to Ordinance could be completed by hiring a consultant firm. Funds exist within current budget.
14	Community Development City Attorney	*Undergrounding of Utilities	Update with exclusions for properties on local streets	<u>March 2016:</u> Planning Commission review. <u>April 2016:</u> Council review and action.	
15	Community Development City Attorney	*Donation Bin Ordinance	Consideration of recommendations	<u>May 2016:</u> Council consideration of item.	
16	Community Services & Recreation	Long-Term Focus for Museum	Determination of long term service and space options	<u>April 2015:</u> Council provided feedback at Study Session discussing long term strategies. Council direction has been utilized to develop programs and exhibits for years 1 - 3. Staff will provide an update to Council in spring 2017 and check in on next steps for years 3 – 5 of the long term strategy.	
17	Community Services & Recreation	Youth Engagement	Implementation of coordination efforts	<ul style="list-style-type: none"> • The Youth Commission continues the implementation of its adopted Work Plan. • Work Experience program continues. 	

*New project added during the Council Priority Setting Session (January 29, 2016)

**City of Campbell
Strategic Priorities
July 1, 2015 – June 30, 2016**

	Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
18	Public Works	San Tomas Aquino Creek Trail Development	Exploration of funding and coordination options	<p><u>February 2016</u>: RFP soliciting proposals to evaluate the feasibility of various creek trail alignments and formulate construction phasing recommendations</p> <p><u>May 2016</u>: Anticipated Council discussion to consider an agreement and project schedule.</p>	
	Community Services & Recreation				
19	Public Works	"Campbell Village" Area Plan	Initiation of resident interests and data collection	<u>March 2016</u> - Neighborhood meetings to discuss draft area plan and potential elements.	Project management resources required in FY 2016-17.
	Community Development				
20	Public Works	Use of Park Impact Fees	Analysis of revenue flow, utilization and implementation options	<p><u>April 2016</u>: Study Session to discuss policy development, funds, potential uses of funds, and recommend specific renovation projects.</p> <p><u>May 2016</u>: Park renovation projects to be recommended in the FY 17-21 CIP budget.</p>	Project management resources required in FY 2016-17.
	Community Services & Recreation				
	City Manager's Office				
21	Public Works	*LED Street Lights Upgrade	Exploration of service and cost options	<u>June 2016</u> : Phase 2 project converting 560 streetlights is in progress. Staff anticipates moving forward with retrofit work prior to end of fiscal year.	If direction is provided to expand retrofits City-wide, a project manager will be required.
22	Public Works	*Civic Center Master Plan	Consideration of options and recommendations	<u>March 2016</u> : Study Session. Topics to include design scenarios, cost, and project scale.	Requires additional in-house project management services.
	City Manager				

*New project added during the Council Priority Setting Session (January 29, 2016)

City of Campbell
Strategic Priorities
July 1, 2015 – June 30, 2016

	Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
				Additional financial analysis and polling underway.	
23	Public Works	*Envision SV	Council consideration of options	Project scoping and evaluation work underway. <u>February 2016</u> : Council will provide input regarding overall funding allocations. <u>August 2016</u> : VTA Board will consider ballot measure and corresponding list of projects	
24	Public Works	*Signal at Gilman & Page	Feasibility Memo on status	<u>April 2016</u> : Memo to Council regarding feasibility of constructing additional signal at Page/Gilman/Campbell Avenue.	Feasibility/status report will be prepared by in-house staff with some support from consultant services. Design resources will be required.
MEDIUM PRIORITY (B)** - 5 Projects					
25	Community Development	Affordable Housing Study Session	Comprehensive analysis (Density bonus, Impact Fee, Inclusionary Housing, Development Impact Fee)	Item completed. <u>October 2015</u> : Two Study Sessions held on 10/6 and 10/20	
26	Police (lead)	Special Event Policy	Clarification of current usage options and exceptions	**The priorities in the MEDIUM (B) category did not receive a majority of the Council's support at the Priority Setting Session, and are therefore not active departmental projects.	
27		Regional/State Environmental Initiatives	Analysis of issues and funding alternatives		
28	Recreation & Community Services	Healthy Food and Beverage Policy	Address vending machine content		

*New project added during the Council Priority Setting Session (January 29, 2016)

**City of Campbell
Strategic Priorities
July 1, 2015 – June 30, 2016**

	Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
29	x	Community Mental Health Forum	Collaborative event relative to related issues		
LOW PRIORITY (C)** - 3 Projects					
30	Community Development	Review Building Inspection Process	Intent to increase efficiencies at inspector level	**The priorities in the LOW (C) category did not receive a majority of the Council's support at the Priority Setting Session, and are therefore not active departmental projects.	
31	Community Development	Rent Mediation Process	Review of current policies and procedures		
32	Public Works	Downtown Maintenance District	Exploration of establishing such a District		

*New project added during the Council Priority Setting Session (January 29, 2016)

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

	Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
HIGH PRIORITY (A) – 7 Projects					
1	City Manager's Office	Potential Ballot Measure*	Consideration of options and work plans based upon outcomes	<u>August 2016</u> : Deadline to file a ballot measure for the November 2016 election.	
2	Community Development	General Plan Update*	Implementation of the general plan update	Work is already underway. Timeline for activities in this fiscal year will be driven by outcomes of work currently underway.	
3	Community Development	Residential and Commercial Impact Fees	Review and modification consideration	<u>October 2016</u> : Council review of Nexus Study to determine if fees need to be created.	
	City Attorney				
4	Police	Firearms Safety Ordinance	Development of an ordinance patterned after City of Sunnyvale	<u>December 2016</u> : Council review of related legal matters and proposed Ordinance.	City Attorney will research several legal issues regarding this Ordinance simultaneous to his work on several other Ordinances in need of updates.
	City Attorney				
5	Public Works	Campbell Village Area Plan*	Development of potential action items	<u>December 2016</u> : Council review of draft Area Plan.	.25 Project Manager to continue project.
	Community Development				
6	Public Works	Use of Park Impact Fees*	Consideration of implementation options	<u>No later than September 2016</u> : Present draft policy for use of Park Impact fees; identify potential areas for improvement or acquisition.	May require .25 Project Manager for policy development.
	Community Services & Recreation				
	City Manager's Office				

*Project continued from FY 15-16 Strategic Priorities

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

	Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
7	Public Works	Traffic Calming Processes	Review of current status, focus on Circulation Element and Neighborhood barriers policy	<u>November 2016</u> : Develop a draft traffic calming policy for Council consideration.	.25 Project Manager.
MEDIUM PRIORITY (B) ** - 11 Projects					
8	City Manager's Office	Public Art Expansion*	Consideration and implementation of options	<p>**The priorities in the MEDIUM (B) category did not receive a majority of the Council's support at the Priority Setting Session, and are therefore not active departmental projects.</p>	
9	City Manager's Office	Contributions to Support Homeless Services	Consideration of participation in regional efforts		
10	City Manager's Office	Minimum Wage Policy	Consideration of a policy in alignment with regional actions		
	City Attorney				
11	Community Development	Envision SV*	Council consideration of options based upon election		
	City Manager's Office				
12	Community Development	Planning & Building Permit Process Survey	Provision of status and feedback information relative to permitting process		
13	Community Services & Recreation	Enhancing Service Options for Target Groups	Focus on veterans and disabled populations		
14	Public Works	San Thomas Aquino Creek Trail Development*	Consideration of next phase opportunities		

*Project continued from FY 15-16 Strategic Priorities

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

	Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
15	Public Works	LED Street Lights Upgrade*	Consideration of next phase options		
16	Public Works	Traffic Calming Survey Responses	Provision of status and information relative to traffic calming		
17	Public Works	Traffic Impact Fees	Review and modification consideration		
	City Attorney				
18	Public Works	Street Maintenance & Sidewalks Community Survey	Provision of status and feedback information relative to streets maintenance & sidewalks		
LOW PRIORITY (C)** - 3 Projects					
19	City Manager's Office	Update Administrative Policies & Procedures	Review of all City policies & procedures		<p>**The priorities in the LOW (C) category did not receive a majority of the Council's support at the Priority Setting Session, and are therefore not active departmental projects.</p>
20	Community Services & Recreation	Enhancing Involvement Options for Senior Adults	Consideration of opportunities within programs and services		
21	Public Works	Civic Center Master Plan*	Consideration of options based upon		

*Project continued from FY 15-16 Strategic Priorities



City Council Report

Item: 11.

Category: Council Committee Reports

Meeting Date: March 15, 2016

DISCUSSION

This is the section of the City Council Agenda that allows the City Councilmembers to report on items of interest and the work of City Council Committees.

MAYOR BAKER

Cities Association of Santa Clara County:
Board of Directors
Selection Committee
City Atty. Performance/Comp. Subcommittee
City Clerk Performance/Comp. Subcommittee
City Mgr. Performance/Comp. Subcommittee
County Expressway Policy Advisory Board
County Library District JPA Board of Dir.
*Metropolitan Transportation Commission***
Bay Area Toll Authority
Santa Clara County Operational Area
*Council (Chair)***
*VTA Board of Directors***
West Valley Cities Representative to Silicon
*Valley Interoperability Authority ***
West Valley Mayors and Managers

VICE MAYOR GIBBONS:

Advisory Commissioner Appointment Interview Subcommittee
Campbell Historical Museum & Ainsley House Foundation Liaison
City Atty. Performance/Comp. Subcommittee
City Clerk Performance/Comp. Subcommittee
City Mgr. Performance/Comp. Subcommittee
CDBG Program Committee (County) (Alt.)
Cities Association of Santa Clara County:
Board of Directors (Alt.)
Selection Committee (Alt.)
County Expressway Policy Adv. Board (Alt.)
County Library District JPA Board of Dir. (Alt.)
Downtown Subcommittee
Education Liaison Subcommittee
Finance Subcommittee
Friends of the Heritage Theatre Liaison (Alt.)
Housing Rehabilitation Loan Committee
Legislative Subcommittee
State Route (SR) 85 Corridor Policy Advisory Board (Alt.)
Santa Clara Valley Water District:
County Water Commission (Alt.)
20% Housing Committee (Successor Agency)
West Valley Mayors and Managers (Alt.)

COUNCILMEMBER CRISTINA:

Assn. of Bay Area Governments
Cities Association of Santa Clara County:
ABAG Representative (Alternate)
Economic Development Subcommittee
Santa Clara Valley Water District:
County Water Commission

COUNCILMEMBER KOTOWSKI:

Assn. of Bay Area Governments (Alt.)
CDBG Program Committee (County)
Education Liaison Subcommittee
Friends of the Heritage Theatre Liaison
Housing Rehab Loan Committee (Alt.)
*Recycling Waste Reduction Commission***
Legislative Subcommittee
Silicon Valley Animal Control Authority Board (SVACA) (Alt.)
Valley Transportation Authority Policy Advisory Committee (Alt.)
West Valley Sanitation District
West Valley Solid Waste Authority JPA (Alt.)

COUNCILMEMBER RESNIKOFF:

Advisory Commissioner Appointment Interview Subcommittee
Campbell Historical Museum & Ainsley House Foundation Liaison (Alt.)
Downtown Subcommittee
Economic Development Subcommittee
Education Subcommittee (Alt.)
Finance Subcommittee
State Route (SR) 85 Corridor Policy Advisory Board
Silicon Valley Animal Control Authority Board (SVACA)
20% Housing Committee (Successor Agency)
Valley Transportation Authority Policy Advisory Committee
West Valley Sanitation District (Alt.)
West Valley Solid Waste Authority JPA