



City Council Agenda

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

CITY COUNCIL EXECUTIVE SESSION

Tuesday, July 19, 2016 – 6:00 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 – Conference with Real Property Negotiators – Property: 21 N. Second Street #31, Campbell, CA 95008; Agency Negotiator: HouseKeys
- D. Labor Negotiations

REGULAR MEETING OF THE CAMPBELL CITY COUNCIL/CAMPBELL INDUSTRIAL DEVELOPMENT AUTHORITY

Tuesday, July 19, 2016 – 7:30 p.m.
Council Chamber – 70 N. First Street

CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

Pledge: Ari Chen

SPECIAL PRESENTATIONS AND PROCLAMATIONS

1. **Recognize the South Bay Clean Creek Coalition**
Recommended Action: Recognize Steve Holmes and the South Bay Clean Creeks Coalition for their trash and Debris efforts along the Los Gatos Creek.

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.

2. **Minutes of Regular Meeting of June 21, 2016**
Recommended Action: Approve the regular meeting minutes.
3. **Approving Bills and Claims**
Recommended Action: Approve the bills and claims in the amount of \$2,342,410.13.
4. **Monthly Investment Report – May, 2016**
Recommended Action: Note and file the Monthly Investment Report for May, 2016.
5. **Amendment to the Classification and Salary Plan – Planning Technician (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution amending the Classification and Salary Plan.
6. **Resolution Declaring the Month of July as Parks Make Life Better Month (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution recognizing July as Parks Make Life Better Month in the City of Campbell.
7. **Authorizing the City Manager to Execute the Thirteenth Amendment to the Master Agreement with Compass Group USA/Batemen Division to Provide Catered Meals for the Senior Nutrition Program for FY 16-17 (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution authorizing the City Manager to execute the thirteenth amendment to the master agreement with Compass Group USA/Bateman Division to provide catered meals for the Senior Nutrition program for 16-17.
8. **Adoption of Resolution to Issue a Request for Proposal (RFP) to Replace the City's Storage Area Network (SAN) and Associated Switching Equipment and Authorize the City Manager to Award the Contract (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution authorizing the issuance of an RFP for a replacement Storage Area Network and associated switching equipment not to exceed \$160,000; and authorizing the City Manager to award the contract for this equipment to the vendor whose proposal is determined to be the most advantageous to the City.

9. **Authorization to Purchase Materials, Supplies, and Equipment through the State of California (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution authorizing the City to purchase material, supplies, and equipment through the Office of Procurement, Department of General Services of the State of California.
10. **Budget Adjustment of \$13,970 to Fund Portion of the Purchase of a Moving Lights System for the Heritage Theatre and Authorize the Recreation and Community Services Director to Execute the Contract for the Purchase and Approve the Changes to the Fee Schedule for Recreation and Community Services (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution authorizing a budget adjustment of \$13,970 for the purchase of a Moving Lights system for the Heritage Theatre and authorize the Recreation and Community Services Director to execute a contract for the purchase.
11. **Authorize an Agreement for Executive Search Services (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution to authorize the Human Resources Manager to execute an agreement for executive search services with Peckham and McKenney.
12. **Accept Improvement for Miscellaneous Frontage Improvements – East Campbell Avenue Project No. 15-QQ (at Campbell Inn) and Direct the Filing of the Notice of Completion and Authorize the Finance Director to Execute a Budget Adjustment (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution accepting completion of the Miscellaneous Frontage Improvements – East Campbell Avenue Project 15-QQ (at Campbell Inn); direct the filing of the Notice of Completion; and authorize the Finance Director to execute a budget adjustment.
13. **Resolution of the Campbell Industrial Development Authority Electing and Designating Officers and Establishing a Regular Meeting Schedule (Resolution/Roll Call Vote)**
Recommended Action: The Board of Directors of the Campbell Industrial Development Authority (IDA) adopt a resolution electing and designating officers and establishing the regular meeting schedule of the IDA.

PUBLIC HEARINGS AND INTRODUCTION OF ORDINANCES

14. **Public Hearing to Consider the Application of Steven Bonner for a Modification (PLN2016-105) to a Previously-Approved Conditional Use Permit (PLN2016-57/PLN2015-195) for an Existing Restaurant to Modify the Approved Alcohol Service From Beer and Wine to “General” (Distilled Spirits), Extend the Business Closing Time From 10:00 p.m. to 12:00 a.m. (“Late-Night Activity”), Increase the Number of Approved Bar Seats, Permit Amplified Live Entertainment, and Allow Occasional Outdoor seating and Service in the Rear Parking Lot for Special Events, on Property Located at**

368 E. Campbell Ave. in the C-3 (Central Business District) Zoning District (Resolution/Roll Call Vote)

Recommended Action: Adopt a resolution approving a Modification (PLN2016-105) to a previously-approved Conditional Use Permit (PLN2014-57/PLN2015-195) to modify the approved alcohol service from beer and wine to “general” (distilled spirits), extend the business closing time from 10:00 p.m. to 11:30 p.m. (“late-night activity”), and allow amplified live entertainment, for an existing restaurant.

15. **Public Hearing to Consider the Application of Zack Puckett for an Administrative Planned Development Permit (PLN2015-338) with a Request for an Exception to a Parking Setback Contained within the Winchester Boulevard Master Plan, to Allow for the Redevelopment of an Existing Building and Site (Formerly Michi Sushi) on Property Located at 2220 S Winchester Boulevard, within the a Planned Development (PD) Zoning District (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution incorporating findings, approving as Administrative Planned Development Permit to allow for the redevelopment of an existing building and site, with and exception to a parking setback contained within the Winchester Boulevard Master Plan, on property located at 2220 S. Winchester Boulevard, subject to Conditions of Approval.

16. **Public Hearing to Consider a City-initiated Text Amendment (PLN2016-180) to Amend Campbell Municipal Code Chapters 21.20 and 21.24 Regarding Density Bonus Regulations. (Introduce Ordinance/Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution finding the proposed Zoning Text Amendment is exempt from CEQA; and take first reading and introduce the Ordinance approving a Text Amendment amending Chapters 21.20 and 21.24 of the Campbell Zoning Code, regarding density bonus regulations.

17. **Lighting and Landscaping District, Fiscal Year 2016/17 – Confirming Assessments (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution overruling protests, if any, approving the Engineer’s Report, ordering the improvements, and confirming the diagram and assessments.

NEW BUSINESS

18. **Pre-Ballot Measure Recommendation**

Recommended Action: Postpone consideration for a revenue ballot measure for the November 2016 General Election and direct staff to perform additional analysis related to the development of a Civic Center project and to continue per-ballot preparations for November 2018.

COUNCIL COMMITTEE REPORTS

19. **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 Presentations
Meeting Date: July 19, 2016

TITLE: Recognition of the South Bay Clean Creeks Coalition

RECOMMENDATION

That the City Council recognize Steve Holmes and the South Bay Clean Creeks Coalition for their cleanup and habitat restoration efforts along the Los Gatos Creek.

BACKGROUND

Established in April 2013, the South Bay Clean Creeks Coalition (SBCCC), formerly known as the Friends of Los Gatos Creek, originated from a small group of volunteers who came together with the common goal of restoring the health of the 24-mile long Los Gatos Creek. Since its inception, the organization has steadily grown, becoming an approved 501(c)3 non-profit in July 2015 - with over 500 active volunteers. With their large network of volunteers, the SBCCC works along the entire length of the Los Gatos Creek to remove trash and debris that often accumulate due to trash generated from nearby freeways, storm drain runoff, and homeless encampment sites. These sources of litter, combined with local agency resource constraints and a prolonged drought, have caused a steady decline in the health of the creek. The Los Gatos Creek was once a destination for aquatic and riparian animals including spawning salmon and steelhead.

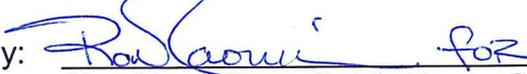
The SBCCC is working to change this, with their main goals of reclaiming, restoring, and revitalizing the waterways of the South Bay. Since its establishment, the SBCCC, led by Steve Holmes, has conducted over 100 cleanups which have removed 125 tons of trash from the Los Gatos Creek. More than half of these cleanups took place within the City of Campbell. With its successes, the SBCCC has expanded the range of their cleanup efforts, organizing cleanups in San Jose along the Guadalupe River and planning future efforts along Coyote Creek. In addition to increasing the range of their cleanups, the SBCCC is also coordinating with local agencies to expand their efforts to include education, vegetation restoration, reporting of illegal storm drain dumping, and re-encampment monitoring. These expanding efforts demonstrate a key element of SBCCC's mission to restore the health of South Bay creeks to be able to attract native wildlife such as beavers and the threatened Central California Coast Steelhead and California Coastal Chinook Salmon species. Recently, the beaver has been documented on the Los Gatos Creek in Campbell, signifying that the hard work of SBCCC volunteers is paying off.

DISCUSSION

The SBCCC's dedication to cleaning the Los Gatos Creek has helped maintain the health of one of the City of Campbell's most important natural resources. Staff recommends that the City of Campbell recognize the SBCCC for their diligent efforts to cleanup and restore the Los Gatos Creek and other waterways of the South Bay. The SBCCC's efforts demonstrate the organization's commitment to the preservation of South Bay creeks for the benefit of the habitat and wildlife by removing hundreds of tons of trash that would have flowed downstream to the San Francisco Bay.

Prepared by: 

Aaron Peth, Management Intern

Reviewed by: 

Alex Mordwinow, Public Works Superintendent

Reviewed by: 

Todd Capurso, Public Works Director

Approved by: 

Mark Linder, City Manager



CITY COUNCIL MINUTES

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

CITY COUNCIL EXECUTIVE SESSION

Tuesday, June 21, 2016 – 6:45 p.m.

Ralph Doetsch Conference Room - 70 N. First Street

- A. Personnel - Pursuant to G.C. Section 54957: Public Employee Performance Evaluation – City Manager
- 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 items

A and B. Executive session adjourned at 7:12 p.m.

REGULAR MEETING OF THE CAMPBELL CITY COUNCIL

Tuesday, June 21, 2016 – 7:30 p.m.

Council Chamber – 70 N. First Street

This City Council 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 OF ALLEGIANCE

Pledge: Amy Olay, City Engineer

The Pledge of Allegiance was led by Amy Olay, City Engineer. Mayor Baker introduced Amy as the new City Engineer and presented her with a certificate of appreciation for leading the pledge.

SPECIAL PRESENTATIONS AND PROCLAMATIONS

There were no special presentations and proclamations.

COMMUNICATIONS AND PETITIONS

There were no communications and petitions.

ORAL REQUESTS

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There were no oral requests.

COUNCIL ANNOUNCEMENTS

The City of Campbell is launching a summer bike valet service at the Farmers Market! Beginning this Sunday, June 26, bicyclists can park their bikes by utilizing this free and secure service. Look for the Bike Valet Canopy on East Campbell Avenue in front of Blue Line Pizza near the railroad tracks. The bike valet will be open from 9:00 a.m. to 1:00 p.m.

The Santa Clara County Library District's "Read for the Win" summer reading Program has begun! Sign up at the Campbell Library or online at the County Library District's web site at sccl.org/summer2016. The "Read for the Win" program is happening now through July 31 at the Campbell Library.

The Heritage Theatre is seeking volunteers for future events. Volunteers are needed for ticket taking, ushering, greeting and more. Volunteer applications and additional information can be found online under the "Support the Theatre" tab at heritagetheatre.org.

Join us Thursday nights for the 24th Annual Summer Concert Series presented by Kaiser Permanente from 6:30 p.m. to 8:00 p.m. at the Orchard City Green located between City Hall and the Campbell Library. This Thursday, June 23 will feature "The Jesse Charles Band and on June 30, the "Cocktail Monkeys."

The next History Happy Hour session at the Ainsley House will feature historian Barney Terrell on Friday, July 22, from 5:30 p.m. to 7:30 p.m. when he tells the story of over

200 men from Santa Clara County drafted into the U.S. armed forces during World War One. These men participated in the Argonne Forest Offensive along the Western Front.

For more information on events, activities and more please visit the city's website at www.cityofcampbell.com.

CONSENT CALENDAR

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

Councilmember Resnikoff asked to remove item 1, Councilmember Cristina asked to remove item 10, and Vice Mayor Gibbons asked to remove item 12.

The Consent calendar was considered as follows:

2. **Minutes of Regular Meeting of June 7, 2016**

Recommended Action: Approve the regular meeting minutes.

This action approves the minutes of the regular meeting of June 7, 2016.

3. **Approving Bills and Claims**

Recommended Action: Approve the bills and claims in the amount of \$641,157.82.

This action approves the payment of the bills and claims in the amount of \$641,157.82 as follows: bills and claims checks dated May 30, 2016 in the amount of \$194,656.95; payroll checks dated June 2, 2016 in the amount of \$297,404.01; and bills and claims checks dated June 2, 2016 in the amount of \$149,096.86.

4. **Excess Workers' Compensation Coverage Renewal**

Recommended Action: Approve the Excess Workers' Compensation Insurance coverage provided by Midwest Employers Casualty Company for the period from July 1, 2016 to June 30, 2018.

This action approves the Excess Workers' Compensation Insurance coverage provided by Midwest Employers Casualty for the period from July 1, 2016 to June 30, 2018.

5. **Resolution Amending Pay Ranges for Temporary Positions (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution amending pay ranges for temporary positions.

Resolution 12004 amends the pay ranges for temporary positions.

6. **Calling the General Municipal Election and Requesting Consolidation of Election in Accordance with California Elections Code Section 10418 (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution calling the General Municipal Election for November 8, 2016, requesting consolidation of election with the Registrar of Voters in accordance with California Election Code 10418, and levying a fee to each candidate for their Candidate Statement.

Resolution 12005 calls the General Municipal Election for November 8, 2016, requests consolidation of the election with the Registrar of Voters in accordance with California Election Code 10418, and levies a fee to each candidate for their Candidate Statement.

7. **Ordinance 2203 Approving a Zoning Map Amendment (PLN2015-307) to Change the Zoning District Designation from R-M (Multiple-Family Residential) to P-D (Planned Development for the Project Located at 180 Redding Road. (Ordinance Second reading/Roll Call Vote)**

Recommended Action: Approve the Second reading of Ordinance 2203 approving a Zoning Map Amendment (PLN2015-307) to change the zoning district designation from R-M (Multiple-Family Residential) to P-D (Planned Development).

Second reading of Ordinance 2203 approves a Zoning Map Amendment (PLN2015-307) to change the zoning district designation from R-M (Multiple-Family Residential) to P-D (Planned Development).

8. **Ordinance 2204 Approving a City-Initiated Text Amendment to the Campbell Municipal Code to Include Vaping as a Form of Smoking (Ordinance Second reading/Roll Call Vote)**

Recommended Action: Approve second reading of Ordinance 2204 approving a City-initiated text amendment to Campbell Municipal Code Section 6.11.110 to include vaping as a form of smoking.

Second reading of Ordinance 2204 approves a City-initiated text amendment to the Campbell Municipal Code Section 6.11.110 to include vaping as a form of smoking. (4-1 vote Councilmember Cristina voted no)

9. **Ordinance 2205 Approving a City Council Compensation Adjustment (Ordinance Second Reading/ Roll Call Vote)**

Recommended Action: Approve the second reading of Ordinance 2205 approving an adjustment to the City Council compensation for 2017.

Second reading of Ordinance 2205 approves an adjustment to the City Council compensation for 2017. (4-1 vote Councilmember Cristina voted no)

11. **Authorize the Public Works Director to Award and Execute a Construction Contract with JJR Construction for Virginia Avenue Sidewalk Project 14-HH and Approval of a Budget Adjustment (Resolution/Roll Call Vote)**

Recommended Action: Adopt a Resolution authorizing the Public Works Director to award and execute a construction contract to JJR Construction in an amount not to exceed \$950,241 and encumber a construction contingency in an amount not to exceed \$95,024 for a total encumbrance not to exceed \$1,045,265; authorize the City Engineer to negotiate and execute contract change orders up to and within the allocated contingency; and approve associated budget adjustment.

Resolution 12007 authorizes the Public Works Director to award and execute a construction contract to JJR Construction in an amount not to exceed \$950,241 and encumber a construction contingency in an amount not to exceed \$95,024 for a total encumbrance not to exceed \$1,045,265; authorizes the City Engineer to negotiate and execute contract change orders up to and within the allocated contingency; and approves associated budget adjustment.

13. **Proposition 4 – GANN Spending Limitation for FY 16/17 (Resolution/Roll Call Vote)**

Recommended Action: Adopt the change in California per capita income and the change in the County of Santa Clara population as the calculation factors to be used in determining the City's spending limitation for FY 16/17; and adopt a resolution establishing the City of Campbell's FY 16/17 appropriation limit at \$64,424,831.

This action adopts the change in California per capita income and the change in the County of Santa Clara population as the calculation factors to be used in determining the City's spending limitation for FY 16/17; and resolution 12008 establishes the City of Campbell's FY 16/17 appropriation limit at \$64,424,831.

14. **Approval of the FY 2016-17 City of Campbell Investment Policy Update (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution approving the annual update to the investment policy and related administrative policy revisions.

Resolution 12009 approves the annual update to the investment policy and related administrative policy revisions.

15. **Fiscal Year 2016-17 Council Strategic Priorities and City Council Reserve Fund Projects**

Recommended Action: Approve the Fiscal Year 2016-17 Council Strategic Priorities and City Council Reserve Fund Projects.

This action approves the Fiscal Year 2016-17 Council Strategic Priorities and City Council Reserve Fund Projects.

M/S: Resnikoff/Gibbons - that the City Council approve the Consent Calendar with the exception of items 1, 10, and 12. Motion was adopted by the following roll call vote:

AYES: Councilmembers: Kotowski, Resnikoff, Cristina (Voted no on item 8 and 9), Gibbons, Baker

NOES: Councilmembers: None

ITEMS CONSIDERED SEPARATE FROM THE CONSENT CALENDAR

1. **Minutes of Study Session of June 7, 2016**

Recommended Action: Approve the study session minutes.

Councilmember Resnikoff asked for clarification in regards to receiving feedback about possible outreach efforts.

After discussion, **M/S: Gibbons/Cristina – that the City Council approve the minutes of the study session minutes. Motion was adopted unanimously.**

10. **Authorization to Submit One Bay Area Grant (OBAG) Application (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution authorizing the Public Works Director to submit One Bay Area Grant (OBAG) Program grant applications for the surface Transportation Block Grant Guarantee Funds, FY 17/18 Annual Street Maintenance – Arterial Overlay – Winchester Boulevard project; and Congestion Mitigation and Air Quality Improvements (CMAQ) Funds, Campbell Priority Development Area (PDA) Enhancements Project.

Councilmember Cristina asked for clarification regarding the Harrison and Salmar Avenue intersection.

Vice Mayor Gibbons asked for clarification in regards to the rectangular rapid flashing beacons system for Civic Center, Orchard City Drive and side streets.

M/S: Gibbons/Cristina – that the City Council adopt resolution 12006 authorizing the Public Works Director to submit One Bay Area Grant (OBAG) Program grant applications for the surface Transportation Block Grant Guarantee Funds, FY 17/18 Annual Street Maintenance – Arterial Overlay – Winchester Boulevard project; and Congestion Mitigation and Air Quality Improvements (CMAQ) Funds, Campbell Priority Development Area (PDA) Enhancements Project. Motion was adopted by the following roll call vote:

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

NOES: Councilmembers: None

12. Renewal of Campbell Pony Baseball League Agreement

Recommended Action: Authorize the City Manager to renew a license agreement with Campbell Pony Baseball League for the use of the enclosed baseball field, concession building and associated area at John D. Morgan Park for the period of July 1, 2016- June 30, 2019.

Vice Mayor Gibbons discussed having a requirement that proof of certification as a 501c3 needs to be provided before they can renew their agreement.

After discussion, **M/S: Gibbons/Cristina – that the City Council authorize the City Manager to renew a license agreement with Campbell Pony Baseball League for the use of the enclosed baseball field, concession building and associated area at John D. Morgan Park for the period of July 1, 2016- June 30, 2019 subject to the application of a 501c3 and an amendment to addendum A to include annual proof of their 501c3 status as well as documentation with the Franchise Tax Board showing they are current as a corporation. Motion was adopted unanimously.**

PUBLIC HEARINGS AND INTRODUCTION OF ORDINANCES

16. Adoption of Fiscal Year 2016-17 (FY 17) Operating and Capital Budget and 2017-21 Five-Year Capital Improvement Plan (CIP) (Resolution/Roll Call Vote)

Recommended Action:

Approve resolutions adopting the FY 17 City operating and capital budgets, including transfers, in the amounts of \$62,014,859 and \$9,840,000, respectively, for a combined total budget of \$71,854,859; and adopt findings that the proposed FY 2017-2021 Capital Improvement Plan projects are categorically exempt under the California's Environmental Quality Act (CEQA) and are consistent with the City's General Plan; and approve the five-year plan total of \$12,220,000 and adopt appropriations for FY 17 projects of \$4,920,000; and direct staff to incorporate within the final adopted and published FY 17 budget document any changes or adjustments pursuant to this public hearing and any other minor corrections prior to the budget's final publication.

This is the time and place for a public hearing to approve resolutions adopting the FY 17 City operating and capital budgets, including transfers, in the amounts of \$62,014,859 and \$9,840,000, respectively, for a combined total budget of \$71,854,859; and adopt findings that the proposed FY 2017-2021 Capital Improvement Plan projects are categorically exempt under the California's Environmental Quality Act (CEQA) and are consistent with the City's General Plan; and approve the five-year plan total of \$12,220,000 and adopt appropriations for FY 17 projects of \$4,920,000; and direct staff to incorporate within the final adopted and published FY 17 budget document any changes or

adjustments pursuant to this public hearing and any other minor corrections prior to the budget's final publication.

Finance Director, Takahashi presented staff report dated June 21, 2016.

Mayor Baker declared the public hearing open and asked if there was anyone in the audience wishing to be heard.

There being no one wishing to speak, Mayor Baker closed the public hearing.

Council commented on the allocation of park fees, metric information on staff hiring's for the last year, current bid for pavement to help budget for the Pavement Condition Index (PCI), and identify and fund projects for the Campbell Village Neighborhood Association Area Plan.

After discussion, **M/S: Gibbons/Kotowski** – that the City Council adopt resolution 12010 adopting the FY 17 City operating and capital budgets, including transfers, in the amounts of \$62,014,859 and \$9,840,000, respectively, for a combined total budget of \$71,854,859; and adopt resolution 12011 finding that the proposed FY 2017-2021 Capital Improvement Plan projects are categorically exempt under the California's Environmental Quality Act (CEQA) and are consistent with the City's General Plan; and approve the five-year plan total of \$12,220,000 and adopt appropriations for FY 17 projects of \$4,920,000; and direct staff to incorporate within the final adopted and published FY 17 budget document any changes or adjustments pursuant to this public hearing and any other minor corrections prior to the budget's final publication. Motion was adopted by the following roll call vote:

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

NOES: Councilmembers: None

17. **Public Hearing to Clarify a Condition of Approval Regarding Removal of a Gate and Replacement of a Wall for the Barracuda Networks, Inc. for a Planned Development Permit and Site and Architectural Review Permit (PLN2015-107) on Properties Located at 3175 S. Winchester and 471/485 Chapman Drive**

Recommended Action: Adopt a resolution clarifying the conditions of approval for the modification of a Planned Development Permit for properties located at 3175 S. Winchester, 471 Chapman Drive and 485 Chapman Drive.

This is the time and place for a public hearing to clarify the conditions of approval for the modification of a Planned Development Permit for properties located at 3175 S. Winchester, 471 Chapman Drive and 485 Chapman Drive.

Senior Planner McCormick – presented staff report dated June 21, 2016.

Community Development Director Kermoyan provided additional comments.

Mayor Baker declared the public hearing open and asked if there was anyone in the audience wishing to be heard.

Ellen Dorsa, Campbell resident, stated concerns about the gate being put back since the material used to replace it is not permanent and spoke about reconfiguring the parking lot to eliminate the need for the driveway on Chapman.

Susan Landry, Campbell resident, spoke about reconfiguration of the parking lot to help reduce neighborhood traffic, stated concerns about the gate being put back since the material used to replace it is not permanent, would like the fence between the parking lots replaced, and the landscaping in the sliver of land separating the Winchester parcel from the Chapman parcels removed.

Audrey Kiehtreiber, President of the San Tomas Area Community Coalition, spoke about restoration of the wall, the fence between the parking lots, would like the landscaping in the sliver of land separating the Winchester parcel from the Chapman parcels removed, and stated concerns with the conditions of the occupancy permit for this company.

Mitch Stermer, Campbell resident, provided pictures of Walnut Drive for Council review, and spoke about the sidewalk between the two parking lots, the removal of the fence between the parking lots, and the material used to replace the gate.

There being no one else wishing to speak, Mayor Baker closed the public hearing.

After discussion, **M/S: Gibbons/Cristina – that the City Council adopt resolution 12012 clarifying the conditions of approval for the modification of a Planned Development Permit for properties located at 3175 S. Winchester, 471 Chapman Drive and 485 Chapman Drive, including a desk item. Motion was adopted by the following roll call vote:**

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

NOES: Councilmembers: None

NEW BUSINESS

18. **Conceptual Approval of Harriet Avenue/McCoy Avenue/San Tomas Aquino Road Signalization Project (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution approving the signalization of the Harriet Avenue/McCoy Avenue/San Tomas Aquino Road intersection.

Traffic Engineer, Jue – presented staff report dated June 21, 2016.

Susan Gardner, Campbell resident, spoke about concerns with the stop light, pedestrian safety, traffic, crosswalk at Silacci Drive, and stated that she would like to see other options.

Nancy Hansen, Campbell resident, spoke in opposition of the project proposal as presented because it does not take into consideration the impacts it will have on Keith Drive and Pankhurst Drive and is concerned that these streets will become a cut through for traffic.

Audrey Kiehtreiber, President of the San Tomas Area Community Coalition, spoke about air and noise pollution that could be caused by the idling cars at the traffic signal and would like the City to work with the community to find a better solution.

Harry Greenwood, Campbell resident, stated concerns with the traffic light and potential traffic problems it may cause, and submitted a petition to request an alternative proposal without a traffic light.

Chuck Loft, Campbell resident, spoke about concerns with the pedestrians and speeding; and suggested installing speedbumps and/or moving the crosswalk to Silacci Drive.

Faisal Mohamed, Campbell resident, stated concerns with the speed of traffic and pedestrian safety, spoke about the crosswalk previously located at Silacci Drive, crossing guards, and requested alternative solutions that address the safety concerns for the neighborhood.

Jamie Batiz, Campbell resident, spoke about concerns with this project and would like it rejected and staff to transparently study and propose alternatives.

Isabel Batiz, Campbell resident, spoke about speeding issues on Harriet Avenue and would like the project rejected and requested that the City work with the community to find alternative solutions to address the speeding problem.

Charles Schulz, Campbell resident, stated support for the project, spoke about yielding issues with the beacon flashing light and stated that a traffic light would eliminate any yielding confusion.

Yuan-Pin Yu, Campbell resident, spoke about speeding issues, suggested the installation of a speed table or other alternatives to a traffic signal.

Patti Sebastiani, Campbell resident, spoke about traffic and speeding issues, would like alternative solutions to a traffic signal and recommended installing a speedbump.

Jim Blum, Campbell resident, stated that the current beacon light is sufficient and a traffic light is not necessary.

Richard Unger, Campbell resident, spoke in opposition of the project proposal as presented and would like an open public discussion to come up with an alternative solution to the safety concerns.

Albert Unger, Campbell resident, spoke about speeding issues, suggested installing speedbumps, widening the bridge over the creek to make it safer for pedestrians and bicyclists, and stated that the project should be rejected.

Douglas Gillison, Campbell resident, spoke about speeding issues and suggested speed bumps, signs or other traffic calming solutions.

Casimiro Morin, Campbell resident, stated that if this project passes he would only like one signal light at Harriet and McCoy and spoke about concerns with traffic cutting through the side streets to avoid the signal.

Paul Tuttle, Campbell resident and member of the Bicycle Pedestrian Advisory Committee, spoke about the lack of vehicles yielding for the pedestrians crossing and stated support for the project.

Police Chief Carmichael spoke about speeding and safety concerns for pedestrians.

Traffic Engineer Jue addressed some of the speaker concerns.

After discussion, **M/S: Gibbons/Resnikoff – that the City Council recognizes that there is a new assessment of issues and new design information and alternatives available staff is requested to explore alternative combinations of signalization and traffic calming measures for this area while concurrently preparing the plans, specs, and estimates required for the grant submission. Motion was adopted by the following roll call vote:**

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

NOES: Councilmembers: None

19. **Maki Swim School (973 Apricot Ave.) – Request for City Council Direction Regarding Necessary Enforcement Action**

Recommended Action: Provide direction to staff regarding which enforcement action to proceed with.

Associate Planner, Fama – presented staff report dated June 21, 2016.

Susan Landry, Campbell resident, stated that this business is in violation and should be shut down until they have resolved the issues.

After discussion, Council directed staff to red tag this business until they either bring the structure up to code or eliminate it.

20. **Use of City Staff by Individual Councilmembers (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution establishing a Council policy to address situations when individual Councilmembers request staff assistance.

Deputy City Manager, Bito – presented staff report dated June 21, 2016.

After discussion, **M/S: Cristina/Resnikoff**– that the City Council continued this item to a Council meeting on or before September 6, 2016. Motion was adopted unanimously.

21. **Authorization to Enter into Negotiations for Acquisition to Purchase Property and to Appoint a Negotiator (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution, authorizing the City Manager to enter negotiations for acquisition to purchase property and to appoint a negotiator.

Senior Planner, McCormick – presented staff report dated June 21, 2016.

After discussion, **M/S: Resnikoff/Kotowski** – that the City Council adopt resolution 12013 authorizing the City Manager to enter negotiations for acquisition to purchase property and to appoint a negotiator. Motion was adopted by the following roll call vote:

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

NOES: Councilmembers: None

COUNCIL COMMITTEE REPORTS

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

--Councilmember Resnikoff stated the Valley Transportation Authority Policy Advisory Committee meeting was canceled and attended the State Route 85 Corridor Policy Advisory Board meeting.

--Councilmember Kotowski attended the Friends of the Heritage Theatre meeting and spoke about the upcoming Recycling Waste Reduction Commission meeting.

--Vice Mayor Gibbons attended a Valley Transportation Authority seminar on the new bus route proposals, Community Choice Energy Board meeting where she was elected to the executive committee, and the City's Association of Santa Clara County.

--Mayor Baker spoke about the upcoming Valley Transportation Authority meeting and attended the Funeral Services for San Jose Officer Michael Katherman.

ADJOURN

Mayor Baker adjourned the meeting at 11:04 p.m. in memory of San Jose Officer Michael Katherman.

APPROVED:

ATTEST:

Jason T. Baker, Mayor

Wendy Wood, City Clerk



City Council Report

Item: 3.
Category: Consent Calendar
Meeting Date: July 19, 2016

TITLE: Approving Payment of Bills and Claims

RECOMMENDATION

Approve the attached lists of bills and claims for payment in the amount of \$2,342,410.13.

DISCUSSION

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

<u>Type</u>	<u>Check Date</u>	<u>Amount</u>
Bills & Claims	June 13, 2016	\$214,105.16
Payroll	June 16, 2016	\$250,189.95
Bills & Claims	June 20, 2016	\$277,117.96
Bills & Claims	June 27, 2016	\$1,024,274.39
Payroll	June 30, 2016	\$301,590.64
Bills & Claims	July 4, 2016	\$275,132.03
	Total	\$2,342,410.13

FISCAL IMPACT

Adequate funding was available to cover all expenses as listed.

Prepared by: 
Carolina Vargas, Accounting Clerk II

Reviewed by: 
Sharif Etman, Finance Manager

Reviewed by: 
Jesse Takahashi, Finance Director

Approved by: 
Mark Linder, City Manager

Attachments:

Attachment 1 – Bills & Claims Lists



*City
Council
Report*

Item: 4.
Category: Consent Calendar
Meeting Date: July 19, 2016

Title: Monthly Investment Report – May, 2016

RECOMMENDATION

That the attached Investment Report for May, 2016 be noted and filed.

DISCUSSION

The City invests primarily in the State of California Local Agency Investment Fund (LAIF) and US Government Agency securities to preserve the safety of the City's surplus funds while achieving a reasonable return on its portfolio. The City's strategy is one of buy-and-hold in which a portion of the portfolio is invested in fixed income securities of varying maturities that will provide sufficient cash flow to meet the City's operational needs.

During the month of May, the City purchased a \$2 million Federal National Mortgage Association (FNMA) fixed rate interest bond with coupon rate 1.75%, maturing in 2021. The total portfolio increased approximately \$3.1 million mainly due to the receipts of approximately \$1.1 million from developer's fees, \$0.5 million from the sale of a portion of the Corporation Yard's land, a decrease in cash holding position, and normal fluctuations in operating revenue and expenditures.

All investments are made in accordance with the City's established Investment Policy or as authorized pursuant to bond covenants. Presented within this report are the following:

- Investment balance and earnings for May, 2016
- Summary of investments by types as of May, 2016
- List of investments by institution as of May, 2016
- Reconciliation of pooled cash as of May, 2016
- Investment transactions as of May, 2016
- Actual Receipts and Disbursements for May, 2016
- Cash flow projections for the month of August, 2016

<u>Investment Balance and Earnings - May, 2016</u>						
<u>Bal. at Beg. of Month 05/01/16</u>	<u>Purchases/ Deposits</u>	<u>Maturities/ Withdrawals</u>	<u>Bal. at End of Month 05/31/16</u>	<u>Interest Earned this Month</u>	<u>Interest Earned YTD</u>	<u>% of Interest Earned YTD/Budget</u>
\$ 40,254,803	\$ 4,100,005	\$ (1,000,000)	\$ 43,354,808	\$ 23,744	\$ 160,531	72.64%

<u>Summary of Investments by Type - May, 2016</u>						
<u>Description</u>	<u>Current Month</u> 05/31/16	<u>% of Total Portfolio</u>	<u>Prior Month</u> 04/30/16	<u>% of Total Portfolio</u>	<u>Prior Year</u> 5/31/15	<u>% of Total Portfolio</u>
L.A.I.F.	\$ 35,797,703	82.57%	\$ 34,697,703	86.20%	\$ 30,693,756	81.31%
Agencies	\$ 5,500,000	12.69%	\$ 3,500,000	8.69%	4,999,500	13.24%
Money Market (U.S. Bank)	\$ 2,057,105	4.74%	\$ 2,057,100	5.11%	2,057,040	5.45%
Total	<u>\$ 43,354,808</u>	<u>100.00%</u>	<u>\$ 40,254,803</u>	<u>100.00%</u>	<u>\$ 37,750,296</u>	<u>100.00%</u>

Cash Flow Projections

The cash flow projection reflects there are sufficient funds available to meet the City of Campbell's anticipated expenditures for August, 2016 through January, 2017 (See Exhibit II).

<u>List of Investments by Institution - May, 2016</u>				
<u>Institution</u>	<u>Cost</u>	<u>% of Total Portfolio</u>	<u>Market Value</u>	<u>Diff. Bet. Cost & Market</u>
L.A.I.F.	\$ 35,797,703	82.57%	\$ 35,805,616	\$ 7,913
Federal Farm Credit Bank (FFCB)*	1,500,000	3.46%	\$ 1,501,260	\$ 1,260
Federal Home Loan Mortgage Corp (FHLMC) *	2,000,000	4.61%	\$ 1,995,600	\$ (4,400)
U.S. Bank--Money Market Fund **	2,057,105	4.74%	\$ 2,057,105	\$ -
	<u>\$ 43,354,808</u>	<u>100.00%</u>	<u>\$ 43,356,281</u>	<u>\$ 1,474</u>

* The City intends to hold treasury/agency securities to maturity or until they are called, as a result this is a paper gain and/or loss that will not be realized.

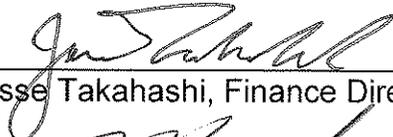
** City and RDA COP and TAB bond proceeds held for program and reserve funds.

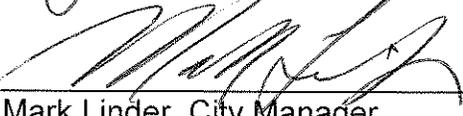
<u>Reconciliation of Pooled Cash per Ledgers to Investment Report</u>	
<u>May, 2016</u>	
Balance per ledger - May, 2016	\$ 43,354,769
May, 2016 interest to be Journalized	39
Adjusted General Ledger Balance	<u>43,354,808</u>
Balance Per Investment Report	<u>43,354,808</u>

<u>Summary of Total Cash Invested</u>			
<u>Description</u>	<u>Current Month</u> <u>05/31/16</u>	<u>Prior Month</u> <u>04/30/16</u>	<u>Prior Year</u> <u>05/31/15</u>
Cash on Deposit	\$ 1,192,539	\$ 4,317,400	\$ 2,741,923
Investments	43,354,808	40,254,803	37,750,296
Total Cash and Investments	<u>\$ 44,547,347</u>	<u>\$ 44,572,203</u>	<u>\$ 40,492,219</u>
% of Total Cash Invested	<u>97.32%</u>	<u>90.31%</u>	<u>93.23%</u>

Prepared by: 
Sophie Kao, Accountant

Reviewed by: 
Sharif Etman, Finance Manager

Reviewed by: 
Jesse Takahashi, Finance Director

Approved by: 
Mark Linder, City Manager

- Attachment 1 - Monthly Schedule of Investments
- Attachment 2 - Cash Flow Projection
- Attachment 3 - Actual Receipts & Disbursements

**City of Campbell
Monthly Schedule of Investments
For the month ending May, 2016**

Attachment 1

	Beginning Balance	Purchases/Deposits	Maturities/Calls/Withdrawals	Ending Balance	% of Type	% of Assets	Par Value	* Market Value	Maturity Date	Remain Days To Mat	Interest Rate (Annual)	Interest Earned to Maturity	# of Days in Month	Int.Recv. Beginning Balance	Interest Earned This Mo.	Interest Received This Mo.	Int.Recv. Ending Balance	Interest Received To Date	Interest Bal. to Maturity
Local Agency Investment Fund (L.A.I.F.)	\$ 34,697,702.92	\$ 2,100,000.00	\$ (1,000,000.00)	\$ 35,797,702.92	100.00%	82.57%	\$ 35,797,703	\$ 35,805,616	N/A	N/A	0.552% Q	N/A	31	\$ 14,972.30	\$ 16,782.75	-	\$ 31,755.05	\$ 103,947.34	N/A
Cash & Gov't Securities (Custodian-BNY Bank)																			
Fed. Farm Credit Bank (FFCB) Fixed	1,500,000.00	-	-	1,500,000.00	27.27%	3.46%	1,500,000	1,501,260	11/30/18	913	1.340% S	59,859	31	7,764.65	2,285.35	10,050.00	-	10,050.00	49,809
Fed. Natl Mtg. Assoc. (FNMA) Fixed	-	2,000,000.00	-	2,000,000.00	36.36%	4.61%	2,000,000	1,999,700	05/25/21	1,820	1.750% S	175,096	31	-	2,972.60	-	2,972.60	175,096	
Fed. Home Loan Mortgage (FHLMC)	2,000,000.00	-	-	2,000,000.00	36.36%	4.61%	2,000,000	1,995,600	03/30/18	668	1.000% S	49,973	31	1,698.63	1,698.63	-	3,297.26	10,000.00	39,973
Subtotal-Gov't Securities	3,500,000.00	2,000,000.00	-	5,500,000.00	100.00%	12.68%	5,500,000	5,493,560			1.366%	284,928		9,463.28	6,956.58	10,050.00	6,369.86	20,050.00	264,878
Investments under the management of contracted parties:																			
Trustee: U.S. Bank																			
1997 COP																			
Treasury Obligations - Lease Payment	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	31	-	-	-	-	2,873.71	N/A
Treasury Obligations	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	31	-	-	-	-	-	-
2002 COP																			
First American Treasury D - Lease Pmt	0.16	-	-	0.16	0.00%	0.00%	0	0	N/A	N/A	0.003% M	N/A	31	-	-	-	-	4,760.72	N/A
First American Treasury D - Improvement	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	31	-	-	-	-	152,311.90	N/A
2002 RDA TABs																			
First American Treasury D - Interest	0.70	-	-	0.70	0.00%	0.00%	1	1	N/A	N/A	0.003% M	N/A	31	-	-	-	-	3,755.22	N/A
First American Treasury D - Reserve	1,013,297.98	5.02	-	1,013,303.00	49.26%	2.34%	1,013,303	1,013,303	N/A	N/A	0.006% M	N/A	31	-	5.02	5.02	-	154,377.70	N/A
First American Treasury D - Principal	0.31	-	-	0.31	0.000%	0.00%	0	0	N/A	N/A	0.002% M	N/A	31	-	-	-	-	2,616.89	N/A
First American Treasury D - Redvelop	-	-	-	-	0.000%	0.00%	0	0	N/A	N/A	0.000% M	N/A	31	-	-	-	-	4,081.34	N/A
2005 RDA TABs																			
First American Treasury D - Interest	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	31	-	-	-	-	2,226.96	N/A
First American Treasury D - Principal	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	31	-	-	-	-	623.73	N/A
First American Treasury D - Reserve	1,043,800.77	-	-	1,043,800.77	50.74%	2.41%	1,043,801	1,043,801	N/A	N/A	0.001% M	N/A	31	-	-	-	-	111,418.63	N/A
Subtotal-Trust A/C	2,057,099.92	5.02	-	2,057,104.94	100.00%	4.74%	2,057,105	2,057,105			N/A	N/A		-	5.02	5.02	-	439,046.79	-
Total Portfolio	\$ 40,254,802.84	\$ 4,100,005.02	\$ (1,000,000.00)	\$ 43,354,807.86	100.00%	43.354,808	\$ 43,355,281			Wgt Avg * 0.629%	\$ 284,928			\$ 24,435.58	\$ 23,744.35	\$ 10,055.02	\$ 38,124.91	\$ 563,044.13	\$ 264,878

Investment Portfolio increased / (Decreased) by: **\$ 3,100,005.02**

Weighted Average to Maturity = 147.2 Days

Note:	Month	Portfolio Balance		% of Total Cash Invested		Month	Wgt Avg	Rate/Annual Yield		Actual Interest Earned		Actual Interest Received	
		FY 15-16	FY 14-15	FY 15-16	FY 14-15			FY 15-16	FY 14-15	FY 15-16	FY 14-15		
S - Semi-Annual	July	\$ 37,670,072	\$ 38,342,028	95.78%	98.38%	July	Wgt Avg	0.415%	0.580%	\$ 13,268	\$ 19,276	\$ 20,071	\$ 25,480
Q - Quarterly	August	35,670,878	37,732,033	89.78%	97.33%	August	Wgt Avg	0.408%	0.570%	12,516	19,688	10,318	14,380
M - Monthly	September	35,247,357	37,012,608	94.65%	98.39%	September	Wgt Avg	0.341%	0.571%	9,550	17,510	6,568	17,705
	October	33,195,877	33,889,665	93.33%	96.06%	October	Wgt Avg	0.413%	0.604%	11,634	18,346	24,996	20,128
	November	33,195,882	33,689,670	91.10%	93.82%	November	Wgt Avg	0.426%	0.605%	12,721	17,550	8	19,280
	December	33,195,890	34,289,675	93.30%	95.10%	December	Wgt Avg	0.476%	0.603%	16,347	18,049	6	15,630
	January	37,220,681	37,296,177	92.07%	91.91%	January	Wgt Avg	0.517%	0.527%	15,909	14,179	5	10,920
	February	38,220,687	37,486,182	94.67%	95.86%	February	Wgt Avg	0.530%	0.473%	14,933	14,563	19,784	22,705
	March	37,820,138	35,412,660	92.13%	92.57%	March	Wgt Avg	0.481%	0.481%	18,274	13,267	34,114	23,227
	April	40,254,803	33,750,291	90.31%	82.38%	April	Wgt Avg	0.552%	0.392%	23,744	13,072	10,055	8,443
	May	43,354,808	37,750,296	97.32%	93.23%	May	Wgt Avg	0.629%	0.345%	-	14,924	-	17,089
	June	-	40,850,001	-	93.87%	June	Wgt Avg	-	0.389%	-	-	-	-
31-May-16	Average	\$ 36,804,279	\$ 36,458,440	Average 93.13%	Average 94.07%	Average		0.470%	0.513%	\$ 180,531	\$ 197,568	\$ 125,929	\$ 221,048

Per Governmental Code requirements, this schedule of Investments complies with the City of Campbell's Investment Policy, and there are adequate funds available to meet the budgeted expenditures for the next six months.

* Market prices are obtained from the monthly investment statements of the various institutions or the City's third-party custodian, BNY Mellon Bank.

Cash Flow Projection for the Month of August 2016

Date	Revenue Description	Receipt Amount	Date	Expenditure Description	Payment Amount
1	Community Center Leases/Rentals	\$ 220,000	1	Outstanding Checks	\$ 350,000
8	Environmental Services Fees	40,000	1	Bills & Claims	200,000
8	Franchise Fees	165,000	8	Bills & Claims	350,000
15	Property Taxes	86,000	15	Bills & Claims	800,000
15	Other Taxes	65,000	22	Bills & Claims	300,000
15	Licenses and Permits	205,000	29	Bills & Claims	400,000
15	Fines/Forfeitures/Penalties	20,000	3	Payroll	680,000
22	Investment Interest	-	24	Payroll	670,000
22	Motor Vehicle in Lieu	-			
22	Highway Users Tax	-			
22	Intergovernmental	200,000			
22	Charges for Current Services	400,000			
29	Sales & Use Tax (incl. Meas.O)	1,000,000			
29	Park Dedication Fees	100,000			
29	Transient Occupancy Tax (monthly)	360,000			
29	Miscellaneous Receipts	20,000			
	Sub-total (Receipts)	2,881,000		Sub-total (Expenditure)	3,750,000
	Amount expected to be withdrawn from Investments to cover this month's expenditures.	869,000		Amount of expected revenue available for investment.	-
	Total	\$ 3,750,000		Total	\$ 3,750,000

Note:

The approximately \$35.7 million invested with the Local Agency Investment Fund (see Exhibit I) is highly liquid and available on any business day. It, therefore, can be reasonably estimated that sufficient funds are readily available to cover normal expenditures for the subsequent six-month period. More specifically, the monthly cash flow projection reflects that sufficient funds are available to meet the anticipated expenditures for the month.

Actual Receipts & Disbursements for the Month of May 2016

Fund / Account	Revenue Description	Receipt Amount	Date	Expenditure Description	Payment Amount
4810, 4819	Community Center/Dev. Leases/Rentals	\$ 237,652	1	Outstanding Checks as of 4/30/2016	\$ 321,933
F209, 4720, 21, 22, 24	Environmental Services Fees	129,913	2	Bills & Claims	247,550
4120-4125	Franchise Fees	146,426	9	Bills & Claims	649,314
40XX, 4153	Property Taxes	2,344,651	16	Bills & Claims	851,557
4151,4152,4155	Other Taxes	62,389	23	Bills & Claims	348,346
42XX	Licenses and Permits	162,380	30	Bills & Claims	195,815
43XX	Fines/Forfeitures/Penalties	16,579	31	Bills & Claims-manual & voided checks	(44,813)
4410,4431, 4450	Investment Interest	-	5	Bills & Claims-PR vendors' checks	296,292
4580	Motor Vehicle in Lieu	7,830	19	Bills & Claims-PR vendors' checks	252,382
4586	Highway Users Tax	-	5	Payroll	680,803
other 45XX	Intergovernmental--Other	25,993	19	Payroll	686,421
4510-4516	Intergovernmental--Gas Taxes	74,869	10	Calpers Insurance Payment	146,190
4571, 4572	Intergovernmental--VTA Meas. B	-	4	Calpers Pension Payment (for April)	137,021
4590,4591,4592 F333	Intergovernmental--Successor Agency	-	31	Calpers Pension Payment	137,021
46XX-47XX, excl 4725	Charges for Current Services	549,580			
4110-4115	Sales & Use Tax (incl. Meas.O)	1,552,465			
F295,4920	Park Dedication Fees	814,226			
4150	Transient Occupancy Tax (monthly)	326,394			
48XX-49XX, excl F798	Miscellaneous Receipts	455,051			
F366,368,4450,4966	Miscellaneous Receipts (from RDA)	-			
F207,236,367exc237,5XXX	Special Assessment	-			
	Sub-total (Receipts)	6,906,398		Sub-total (Expenditure)	4,905,832
	Amount withdrew from Investments to cover this month's expenditures.	-		Amount of expected revenue available for investment.	2,000,566
	Total	\$ 6,906,398		Total	\$ 6,906,398



City Council Report

Item: 5.
Category: Consent
Meeting Date: July 19, 2016

**TITLE: AMENDMENT TO THE CLASSIFICATION AND SALARY PLAN –
PLANNING TECHNICIAN (Resolution/Roll Call Vote)**

RECOMMENDATION

That the City Council adopt the attached Resolution amending the Classification and Salary Plan.

DISCUSSION

The FY 2017 budget incorporates the adoption of the position of Planning Technician requiring the authorization of a new class specification.

A Project Planner has been utilized by Community Development for the last three years as a temporary position. The budget process approved changing the position to a permanent full time limited term position which would more accurately represent the position's duties and provide fair compensation for the services provided. This position will work closely with the public on a regular basis to provide customer service on planning issues. It will also provide technical assistance and information to staff on planning programs or ordinances. A recruitment for this position will be conducted in late July. Attachment B is the recommended new job description.

FISCAL IMPACT

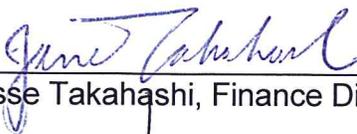
The increase in costs related to this new position is approximately \$81,000. This amount has been provided for in the FY 2017 operating budget.

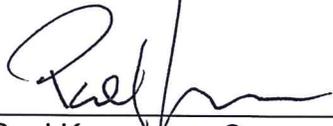
ALTERNATIVES

1. Do not amend the Classification and Salary Plan by modifying the attached class specification.
2. Recommend alternative changes to the class specification.

Prepared by:


Jill Lopez, Human Resources Manager

Reviewed by: 
Jesse Takahashi, Finance Director

Reviewed by: 
Paul Kermoyan, Community Development Director

Approved by: 
Mark Linder, City Manager

Attachments:

A – Resolution

B – Planning Technician class specification

RESOLUTION NO. _____

RESOLUTION AMENDING THE CLASSIFICATION AND SALARY PLAN

WHEREAS, The City Manager is required by Section 2.12.030 of the Campbell Municipal Code to prepare and submit to the City Council recommendations for the reorganization of offices, departments, and positions which are considered to be in the best interest of efficient, effective and economical conduct of the municipal services provided by the City; and

WHEREAS, Title 2, Section 2.16.020 of the Campbell Municipal Code provides that the City Council may, from time to time, by resolution, change the compensation of employees of said City, and may, by resolution, adopt salary and wage scales; and

WHEREAS, a review has been conducted; and

WHEREAS, an amendment to the current Classification and Salary Plan is needed to meet the requirements of Municipal Code Section 2.12.030.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Campbell does hereby approve the new class specification of Planning Technician (Attachment B) as outlined in the Council Report.

PASSED AND ADOPTED this 19th day of July 2016, by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

CITY OF CAMPBELL

PLANNING TECHNICIAN

DEFINITION

Under general supervision, performs para-professional, technical and support assistance in the development and implementation of planning division activities. Provides land use and planning information and assistance to developers, the business community, and the public and does related work as required.

TYPICAL DUTIES

Provides technical assistance and information to staff and the public in the administration of specific planning program areas or ordinances; reviews building plans and processes various permit applications to assure compliance with zoning development standards and requirements; performs routine office tasks, including data entry, file management, copying and answering phones; prepares staff reports and recommendations of limited complexity; researches and compiles information on a variety of planning issues from multiple sources; prepares public notices for property owner verifications; prepares maps, charts, tables of limited complexity; investigates violations of planning regulations and ordinances, including site visits; attends public meetings, assists other planning staff as appropriate and performs other duties as required.

EMPLOYMENT STANDARDS

Education and Experience: Equivalent to an associate's degree in urban planning, architecture, construction management, social sciences, or related field. Two years experience in plan review, zoning administration, building code issuance.

Knowledge of: Planning principles and practices; principles and practices of research and data collection; effective writing techniques; statistical, algebraic or geometric applications; and computer hardware and software programs including GIS.

Ability to: Write accurate and concise technical reports and memoranda; explain planning and zoning requirements clearly to the public, applicants and other departments; research, analyze and summarize planning issues; work effectively with City departments, project applicants and the general public. On a continuous basis, sit at desk or in meetings for long periods of time; twist and reach office equipment; stand, walk, bend, climb, or squat while conducting field checks; write and use keyboard to communicate through written means; visually differentiate between colors on land use maps; and lift or carry weight of 10 pounds or less.

Use a computer, calculator, telephone, facsimile machine, photocopy machine, and microfilm reader printer. Attend evening meetings. Communicate clearly and concisely, both orally and in writing. Establish and maintain effective working relationships with those contacted in the course of work.

Possession of:

Valid California Driver's License.

Est. 7/2016



City Council Report

Item: 6.
Category: Consent
Meeting Date: July 19, 2016

TITLE: RESOLUTION DECLARING THE MONTH OF JULY AS PARKS MAKE LIFE BETTER MONTH (Resolution/Roll Call)

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution recognizing July as Parks Make Life Better Month in the City of Campbell.

BACKGROUND

Since 1985, the U.S. House of Representatives designates the month of July as National Parks & Recreation month. In honor of that designation and in recognition of the California Parks and Recreation Society's effort to bring awareness to the importance of Parks and Recreation programs through the state-wide Parks Make Life Better campaign, staff requests that the City Council designate July as Parks Make Life Better month.

DISCUSSION

The City of Campbell provides beautiful parks as well as engaging recreation programs that enrich the lives of residents. The Parks Make Life Better message focuses on six key ways in which Parks and Recreation programs improve lives:

- Play—providing safe outdoor space for children
- Nature—ensuring access to open space and the beauty and serenity of nature
- Exercise—offering opportunities for residents to stay healthy and fit through recreation programs and recreation facilities
- Positive Spaces—providing places to have fun as well as places to relax
- Gathering Places—promoting community building through events and shared experiences
- Forever—valuing community traditions and open space now and for future generations

In celebration of the Parks Make Life Better month, the Recreation and Community Services Department will highlight the six key messages through colorful new t-shirts. The key message of Forever will feature the Campbell Historical Museum and Ainsley House and the key message of Gathering Places will feature the Heritage Theatre. Also, during the annual Summer Concert Series, the Department will be offering pre-concert activities to promote the benefits of Parks and Recreation programs.

The attached resolution has been prepared for Council's consideration to proclaim the month of July 2016 as Parks Make Life Better Month within the City of Campbell.

Prepared by: Regina Maurantonio
Regina Maurantonio, Recreation & Community Services Director

Approved by: Mark Linder
Mark Linder, City Manager

Attachment: Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL DECLARING
THE MONTH OF JULY AS PARKS MAKE LIFE BETTER MONTH**

WHEREAS, Parks and Recreation makes lives and communities better now and in the future; and

WHEREAS, residents of the City of Campbell benefit from the beautifully maintained open space at places such as Campbell Park, John D. Morgan Park, Jack Fischer Park, and the Campbell Community Center; and

WHEREAS, Parks and Recreation programs preserve the historic, natural and cultural resources in our community such as the Campbell Historical Museum's educational programs, historic Ainsley House and Heritage Theatre; and

WHEREAS, Recreation programs such as summer camps, skateboarding, aquatics, senior nutrition, preschool, fitness and sports encourage residents to build a stronger community by socializing with friends and neighbors; and

WHEREAS, July is celebrated across the nation as Parks and Recreation Month,

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Campbell does hereby recognize July as Parks Make Life Better Month.

Passed and adopted this nineteenth day of July, 2016 by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

ATTEST:

Jason T. Baker, Mayor

Wendy Wood, City Clerk



City Council Report

Item: 7.
Category: Consent Calendar
Meeting Date: July 19, 2016

TITLE: Authorize the City Manager to execute the thirteenth amendment to the Master Agreement with Compass Group USA/Bateman Division to provide catered meals for the Senior Nutrition Program for FY 16-17. (Resolution/Roll Call Vote)

RECOMMENDATION

It is recommended that the City Council adopt a resolution authorizing the City Manager to execute the thirteenth amendment to the Master Agreement with Compass Group USA/Bateman Division to provide catered meals for the Senior Nutrition Program for FY 16-17.

BACKGROUND

The City of Campbell has an existing Master Agreement with Compass Group USA/Bateman Division to provide catered meals at the Senior Nutrition Program. The purpose of this amendment is to extend the contract terms of the Master Agreement with Compass Group USA/Bateman Division to continue providing catered meals at the City of Campbell's Senior Nutrition Program for the FY 16-17. The negotiated bulk meal rate is \$5.07 per meal.

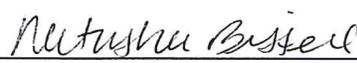
DISCUSSION

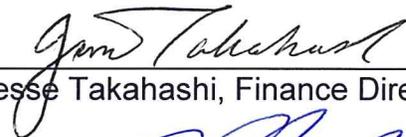
Compass Group USA, Inc. has been designated as an approved caterer by the County of Santa Clara through their competitive bid process for the provision of food services for the City/County Nutrition Program. This is an amendment to the existing agreement for FY 16-17 covering the period of July 1, 2016 through June 30, 2017.

FISCAL IMPACT

The City shares the cost for the Nutrition Program's catered meals with Santa Clara County, on a 50-50 basis. The amount allocated for meals for FY 16-17 is \$69,587.84 as noted in Attachment 2 and is included in the Recreation & Community Services Department, Adult Services Division Budget 101.525.7432. The cost negotiated by the County and Compass for FY 16-17 is \$69,588 of which the City's share is \$34,794. Campbell's costs are based upon 13,720 meals served annually.

Prepared by: 
Tina Wong-Erling, Senior Services Supervisor

Reviewed by: 
Natasha Bissell, Recreation Services Manager

Reviewed by: 
Jesse Takahashi, Finance Director

Approved by: 
Mark Linder, City Manager

- Attachments:**
1 – Resolution
2 – Santa Clara County Meals and Program Budget

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL
AUTHORIZING THE CITY MANAGER TO EXECUTE THE THIRTEENTH
AMENDMENT TO THE MASTER AGREEMENT WITH COMPASS GROUPS
USA, INC/BATEMAN DIVISION TO PROVIDE CATERED MEALS FOR THE
SENIOR NUTRITION PROGRAM FOR FY 16-17

WHEREAS, the City of Campbell recognizes the need for a nutritious meal program for senior citizens in Campbell; and

WHEREAS, Compass Group USA, Inc./Bateman Division has been designated by the County as an approved caterer for meals for the City/County Nutrition Program for FY16-17; and

WHEREAS, amendments to the Master Agreement with Compass Group USA, Inc. are required to extend the terms for one year and clarify the financial obligations of each party.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Campbell does hereby authorize the City Manager to execute the thirteenth amendment to the Master Agreement with Compass Group USA, Inc. to continue to provide meals for the Senior Nutrition Program for FY16-17.

PASSED AND ADOPTED this 19th day of July, 2016 by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

Exhibit C: Budget Summary FY 2016-2017

Santa Clara County- Social Services Agency
 Senior Nutrition Program
 City of Campbell
 Budget - FY 16/17

Bateman Meals	70	*	196	13,720
Asian Meals	70	*	52	3,640
Number of Meals				<u>17,360</u>
	Daily		Service Days	Annual Meals
<u>Service Days M-F</u>				
1. PERSONNEL				
Site Manager			\$ 26,285	
Kitchen Aide			\$ 16,517	\$ <u>42,802</u>
2. OPERATION COSTS				
Usage Costs			\$ 8,437	\$ <u>8,437</u>
3. VARIANCE				
Insurance/Worker Comp.			\$ -	
Fiscal			\$ 842	
Staff Mileage			\$ 75	
Equipment & Repair			\$ 250	
Non-Food Items			\$ 4,566	\$ <u>5,733</u>
4. FOOD COSTS				
Bateman Catered	@ \$5.072/meal		\$ 69,587.84	
Tastee, Inc.	@ \$5.356/meal		\$ 19,495.84	\$ <u>89,084</u>
5. PROGRAM BUDGET				
Total Program Cost (Not Including Usage Costs)				\$ <u>137,618</u>
Less City of Campbell Share	Less: 50.00% City			\$ (68,808)
	Plus: Usage Cost			\$ <u>8,437</u>
6. CONTRACT AMOUNT				<u>\$ 77,247</u>
	Unit Cost			\$ <u>7.93</u>



City Council Report

Item: 8.
Category: Consent
Date: July 19, 2016

TITLE: Adoption of Resolution to Issue a Request for Proposal (RFP) to Replace the City's Storage Area Network (SAN) and Associated Switching Equipment and authorize the City Manager to award contract. (Resolution/Roll Call Vote)

RECOMMENDATION

That the City Council adopt the attached resolution authorizing the following actions to purchase a replacement Storage Area Network (SAN) and associated switching equipment approved in the FY 17 Budget:

1. Authorize the issuance of an RFP for a replacement SAN and associated switching equipment not to exceed \$160,000; and
2. Authorize the City Manager to award the contract for this equipment to the vendor whose proposal is determined to be the most advantageous to the City.

BACKGROUND

The City's existing Hewlett Packard LeftHand Storage Area network is the main repository of the City's data. All of the City's email, document imaging records, employee and departmental shared network drives and virtual servers (the City uses a technology called VMware to allow multiple servers to run on a single physical server) are stored on the SAN.

Currently, the City's Hewlett Packard LeftHand SAN is running on hardware which was purchased five years ago, and is at approximately 85 percent utilization.

Hewlett Packard has:

- Announced the End of Life (EOL) for our SAN model
- Ended sales of hardware for upgrades for our SAN model
- Ended software updates for our SAN model
- Announced the End of Engineering Support (2018) for our SAN model

The City's existing 4208vl network switch provides all of the connections between the City's servers and data storage. The HP 4208vl network switch was purchased at the same time as the SAN and, as in the case of the SAN, is nearing complete utilization. Additionally, the current HP 4208vl network switch, because of its age, does not have the ability to interface with the new high speed connections that the SAN will provide.

Hewlett Packard has:

- Announced the End of Sales (EOS) for our Network Switch
- Announced the End of 24/7 Support for our Network Switch

DISCUSSION

The lease for the existing Hewlett Packard LeftHand SAN and Hewlett Packard 4208vl network switch began in 2011 and the total cost for this equipment (including interest associated with the lease) is \$83,055 (the lease term was five years, and concluded this year).

These two pieces of equipment perform critical functions in support of applications and business systems in daily use by all City departments and divisions, and without the ability to increase the amount of storage available to City employees as well as increase the speed of access to data files which are continually increasing in size, there will be an adverse effect on the City's operational efficiency.

Preliminary discussions with multiple vendors who provide SANs and network switching equipment were used to develop the approximate cost of the replacement SAN and network switches for the FY 17 Budget.

In June, City Council approved the Information Technologies Division's FY 17 budget, including line items for SAN replacement at \$135,000 and for network switches at \$150,000. The FY 17 line item for replacement of network switches includes replacement of both the Hewlett Packard 4208vl network switch as well as additional network switches located throughout the City.

Because of the complexity of replacing the SAN and the network switches, and the inter-relationship between these two systems, the focus for this Request for Proposal is the SAN, and only the portion of the network switches necessary to bring the SAN online. The Information Technology Division will bring back to Council another request later in the fiscal year to issue a second Request for Proposal to replace the remaining network switches.

Based on preliminary discussions with vendors, the purchase of the SAN and the subset of network switches to support its integration in the City's network is expected to be less than \$160,000.

There are several vendors who have expressed interest in the project and can provide this equipment as well as assist in the migration from the existing equipment to the new SAN and Network Switches.

If the City does not go forward with replacing the SAN and associated network switches, the City would need to develop strategies to curtail the growth of data and/or purge existing data so that newer and/or more critical data could be stored on the existing SAN. Additionally,

not performing the upgrade entails assumption of exposure to an interruption in City services from component or software failure due to reduced support and parts availability for the existing equipment. The type and nature of any service interruption could range from very minor (a single hard drive fails, affecting performance) to major (significant loss of access to mission critical data for a period of time).

Finally, although the Hewlett Packard LeftHand SAN and the 4208vl will not meet the City's increasing need for storage and speed, and have reduced support from their manufacturer, the Information Technology Division will look to incorporate them within our disaster recovery environment as backup solutions.

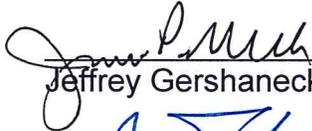
FISCAL IMPACT

Sufficient funds are budgeted in the FY 17 Information Technology Pool Fund to support this purchase.

ALTERNATIVES:

1. Do not replace the Hewlett Packard LeftHand SAN and associated network switching Equipment at this time. If the decision is made to postpone the replacement of these systems, the City would need to develop strategies to curtail the growth of data and/or purge existing data.
2. Provide other direction to Staff.

Prepared by:



Jeffrey Gershaneck, Information Technology Manager

Reviewed by:



Jesse Takahashi, Finance Director

Approved by:



Mark Linder, City Manager

Attachments:

1. Council Resolution
2. Draft Request for Proposal

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL
APPROVING THE ISSUANCE OF A REQUEST FOR PROPOSAL (RFP) TO REPLACE THE
HEWLETT PACKARD LEFTHAND SAN AND ASSOCIATED SWITCHING EQUIPMENT AND
AUTHORIZING THE CITY MANAGER TO AWARD CONTRACT**

WHEREAS, replacement of the Hewlett Packard LeftHand SAN and associated network switching equipment is funded in the FY 17 Information Technology Budget; and

WHEREAS, the existing Hewlett Packard LeftHand SAN and associated network switching equipment no longer meets the needs of the organization; and

WHEREAS, at least two suppliers have been identified that can provide, install and configure this equipment; and

WHEREAS, staff is requesting the purchase of a replacement for the Hewlett Packard LeftHand SAN and associated network switching equipment not to exceed \$160,000; and

WHEREAS, the City of Campbell's Municipal Code Section 3.20.091 - Request for proposals (RFP) allows for the formal bidding procedures specified in Section 3.20.050 may be dispensed with for the purchases of supplies and services that are technical in nature; provided, the City Council grants approval.

NOW, THEREFORE, BE IT RESOLVED that the City Council approves issuance of an RFP to replace the Hewlett Packard LeftHand SAN and associated network switching equipment not to exceed \$160,000 in total.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to award the contract for this upgrade to the Proposer whose proposal is determined to be the most advantageous to the City.

PASSED AND ADOPTED this 19th day of July 2016, by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

DRAFT

CITY OF CAMPBELL, CA
REQUEST FOR PROPOSAL TO REPLACE LEFTHAND STORAGE AREA
NETWORK (SAN) AND ASSOCIATED SWITCHING EQUIPMENT

GENERAL INFORMATION:

The City of Campbell invites your submittal of a proposal to replace the City's existing LeftHand Storage Area Network (SAN) and Associated Switching Equipment. Proposals should include the delivery, installation, integration, customization, conversion, training, documentation, and project management associated with the system(s).

Your proposal should clearly demonstrate how the equipment, software, and support that you are proposing would best satisfy the requirements of the City. This written Request for Proposal (RFP) states the scope of the project and specifies the City's requirements for preparing the proposal. According to the specifications, terms, conditions, and qualifications, all firms who are qualified and interested in providing said system(s) to the City of Campbell must complete this proposal as instructed below and return it to the City at the address specified below and within the required timeline.

City of Campbell, City Clerk
Attention: Information Technology Request for Proposal
City of Campbell
70 North First Street
Campbell, CA 95008

DRAFT

This Request for Proposal includes the following sections:

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1.0 Definitions

For the purposes of this RFP, the following terms shall have the meanings indicated:

- I. "City" means the City of Campbell
- II. "Proposers" "Bidder", "Vendor", "Supplier", "Consultant", "Contractor", "Subcontractor", "Subconsultant" and "Subrecipient" are used interchangeable throughout this invitation to mean the person, firm, or corporation or other entity submitting a Proposal in response to the Request for Proposal.
- III. "SAN" means Storage Area Network Device
- IV. "Switch" "Network Switches" refers to an Ethernet Layer 3 capable switch that is functional when operating standalone but which can also be set up to operate additional network switches, with this group of switches showing the characteristics of a single switch but having the port capacity of the sum of the combined switches.

2.0 Introduction

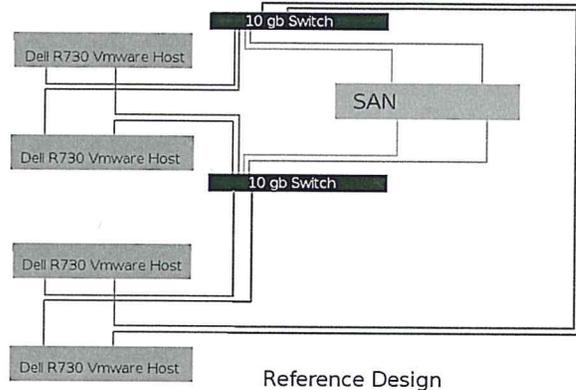
This section provides a brief overview of the project at hand, including descriptions of the City and the Information Technology Division.

2.1 Opportunity

The City of Campbell is soliciting proposals from experienced and highly interested firms to recommend, provide, install and integrate a new Storage Area Network (SAN) device and Network Switches that will meet the City's current needs and provide future growth for the City.

The new SAN device will eventually replace an HP Lefthand SAN and consolidate data from another smaller SAN device (Dell Powervault MD1000). In combination with the SAN Replacement, the City desires to incorporate a 10gb high availability switching design to provide connectivity between the City's existing VMware Hosts, and the new SAN. The switch design shall be of a "stackable" or modular design, e.g. the ability to add additional switches while retaining single IP address / portal for administration of all switches in the stack, and have the ability to add switches with different capabilities, e.g. 1gb ports, POE, etc.. Below is a "Reference Design" to further elaborate on the City's requirement for high availability. In the reference design, each of the four existing VMware hosts will have two 10gb Ethernet connections, with each connection terminating on a separate 10gb switch. Both of the two controllers for the SAN have two 10gb Ethernet connections, each also terminating on a separate switch. The City feels that this design, multiple VMware hosts, multiple network paths, multiple controllers, and SAN resiliency will provide the City with a very high level of data availability, and reliability and dramatically reduces the "single point of failure". However, offerors/vendors are not constrained to following the City's Reference Design, and are free to propose alternative configurations. If an alternative design is

proposed, please include in your proposal how your design will provide availability, reliability, and redundancy.



2.2 Background

City of Campbell

The City of Campbell is centrally located in the Santa Clara Valley, 50 miles south of San Francisco, and bordered by San Jose, Los Gatos, and Saratoga. It is incorporated as a General Law City and has a Council/ Manager form of government. City departments, in addition to the City Manager's Office, include Police, Public Works, Community Development, Finance, and Recreation and Community Services. Campbell is a suburban community with a population of 41,161 and a balance of land uses – commercial, industrial, and quality housing all within its six square miles. Approximately 160 City employees provide the community with the following services:

- Police Protection
- Recreational Activities
- Planning, Building, Community Development, and Code Enforcement
- Construction and Maintenance of Streets and Infrastructure

2.4 Existing Infrastructure

The following information is provided as a courtesy to the Proposers. Prior to submission of any bid or proposal, the City of Campbell is requiring that the Proposer validate their proposed solution against the current environment. This validation is required to confirm that all hardware, software, upgrades, replacements and programming necessary to replace the SAN/Switching environment, as it currently is architected, utilized, and featured, are included in proposal/bid.

2.4.1 Servers

The City currently has two VMware clusters, one running on Vsphere 4 (three Dell 1950s with 15 guests) and the other on Vsphere 5.5 (four Dell R730s with 24 guests). All existing VMs on the Vsphere 4 platform will be migrated to the Vsphere 5.5 hosts. The migration of the VMs from the Vsphere 4 hosts are not included in the project. The Dell R730s VMware hosts are currently connected via 1gb ports to the Lefthand SAN via a HP E4208vl switch. This project will incorporate the addition of Dell certified 10gb two port cards in each of the four VMware hosts, and the connection of these hosts to the proposed SAN via the new network switches.

2.4.2 Storage

The City is currently using Hewlett Packard's Lefthand (StoreVirtual) SAN (HP P4300 G2 7.2TB SAS, six modules) and Dell PowerVault (MD1000, two units)

2.4.3 Networking

The City is currently using Hewlett Packard's HP E4208 vl Switch, in a Chassis configuration with redundant power supplies and eight HP 20-port Gig-T / 4-port SFP vl Modules in combination with 3Com 24 port edge switches.

2.4.4 Desktop

The City's desktop environment consists primarily of Dell PCs running Windows 7 operating system. The standard productivity software package is Microsoft Office 2010 Professional Edition.

3.0 Scope of Work

This section outlines the minimum deliverables being requested by the City.

It is expected that the selected Vendor will have demonstrated the necessary experience and expertise needed to conduct and complete this project through their qualifications and experience, relevant references, project management, and proposal cost.

3.1 General Information and Requirements

The objective of the project is to implement a scalable, high-performance, cost effective and easy to manage SAN solution that will allow the City to consolidate their storage appliances and allow future consolidation of servers into a virtualized environment.

The selected vendor will install, configure, test and provide training related to the Storage Area Network. Additionally, the selected vendor will install, configure, test and provide training on the Network Switches which will connect the existing VMware hosts to the new SAN. Finally, the vendor will assist the City in migrating the data from the existing SAN to the new SAN solution.

3.2 SAN Specifications – Core Storage Required

- Solution to be configured with a minimum of 80 TB of useable storage before compression or deduplication.
- Solution can be either all-SSD (flash) or a hybrid system which combines SSD and SAS hard drives.
- Solution shall be rack mountable in a standard 19" data center rack.
- Solution must be able to expand storage capacity by adding additional storage expansion units.
- Solution must support multiple protocols (CIFS, SMB, NFS, iSCSI, FCP).
- The SAN solution must have dual controllers that operate in Active/Active and/or Active/Passive mode.
- The proposed SAN solution will need to support 10GB Ethernet iSCSI protocol and 1 GB Ethernet connectivity. The SAN solution should support mixed controller types (1GB Ethernet, 10 GB Ethernet, 8 GB FC, 10GB FC) simultaneously.
- The SAN solution must have redundant, hot swappable AC power supplies.
- The SAN solution must be able to support the various RAID Levels (1 to 6,10, 50).
- Solution shall provide for hot-swappable hard drives (SSD and SAS) in the SAN solution.
- The SAN solution must support multiple disk failure protection (depending on the RAID level configuration).
- The SAN solution shall to have the ability to take Snapshots of all volumes/LUNS. The Snapshots should be readable and writable and have the ability to take a minimum of 365 snapshots per array (assuming there is enough capacity). In addition to Snapshot, the SAN solution needs to have the ability to clone or create an exact copy of the volumes in the array.
- The SAN solution shall have the ability to replicate for backup and/or disaster recovery purposes over the TCP/IP protocol.
- The SAN solution shall support thin and thick provisioning.
- The SAN solution shall be able to grow/shrink data volumes without application downtime.
- The SAN solution shall support physical servers, and servers in VMware 5.5 and 6.0 environments without additional software.
- The SAN solution shall have the ability to generate current and historical reports on usage and performance.
- The SAN solution shall have the capability to phone home for diagnostic purposes.
- The SAN solution must work with Windows server 2003, Windows server 2008, Windows server 2012 R2 over iSCSI, NFS and CIFS/SMB protocols.
- The SAN solution must support SAN service-level management and enforcement, including auto discovery of SAN switches, hosts, and storage arrays without deploying host-based agents.

- When updating the SAN solution with newer firmware/OS and/or controllers, the normal operation of the SAN must not be impacted.
- The vendor must provide all the necessary cables (CAT 7 cables) and media converters (if necessary) to connect the SAN solution to the Dell R730 VMware Hosts.

3.3 Network Switch Specifications

Required

- Redundant Hot-Swapping power supplies
- Jumbo Frames
- At least twenty-two (22) 10GBASE-T ports per switch
- Two ports per switch must be able to provide for connection to remote switches at 10Gb using LR Optics/Transceivers
- Ability to add additional switches to the “stack” with either 24 or 48 10/100/1000Base-T Gigabit Ethernet ports including Power over Ethernet (PoE/PoE+). and at least one 1-gigabit small form-factor pluggable (SFP) transceivers Gbic.
- Line rate L2 and L3 switching and routing
- At least 600Gbps or greater switching fabric in full-duplex
- 8+ queues per port
- Packet Buffer Memory of 9MB or greater
- Sub 700ns switching latency
- Must support QoS and Standards-based IPv4 and IPv6 protocols: BGP, OSPF, and Policy-Based routing
- Auto-negotiation for speed and flow control
- Auto MDI/MDIX
- Port mirroring
- Flow-based port mirroring
- Broadcast storm control
- Out-of-Band (OOB) Management Port
- All necessary CAT 7 cables

Desirable

- Support for VXLAN gateways for bridging virtualized and non-virtualized workloads at full line rate speeds
- Support reversible airflow
- Support for layer 2 encryption between remote stacks/modules.
- HTML 5 Web based console with an option to access the CLI if advanced commands are not available through the web based management portal.
- The ability to alert system administrators to any anomaly on the network switch/es via emails, text messages and/or by phone.

3.3 Warranty and Support

The proposed SAN solution must provide an agreement for five (5) year, 24/7, four (4) hour response on all parts and labor with defective material retention. Support must be performed by vendor certified trained technicians. Any hardware component covered under the specified warranty must be capable of being replaced within four (4) hours of the service call. The proposed SAN solution must be new and unused goods.

3.4 Professional Services Requested

The vendor will provide installation and configuration of the proposed SAN / Network Switching solution. In addition, the vendor will provide full training for in-house Technology Service staff, complete documentation of the proposed solution and configuration settings of the SAN solution. The vendor will also provide assistance on migrating the data from the current SAN system and assist the City in configuring the Dell R730 WMware hosts to work with the proposed SAN Solution.

If the SAN vendor requires an integrator and/or channel partner to successfully complete this project, please make sure the integrator and/or channel partner are listed in the proposal. In addition, the City prefers integrator and/or channel partner to be local (San Francisco Bay Area).

3.5 Term of Engagement

A one month timeline is expected for the implementation of the SAN solution

3.6 Subcontracting

All proposed subcontracting (integrators, channel partners, third party firms, etc) must be detailed in the vendor's proposal. No other non-listed subcontractor(s) will be allowed to work at the City on behalf of the vendor without the express prior written consent of the City of Campbell. Proof of insurance must be provided by the vendor and/or subcontractor(s).

4.0 Proposal Requirements

4.1 Key Dates

These are the key proposed dates of this RFP and its Award.

1. City issues Storage Area Network RFP July 21, 2016
2. Deadline for vendors to submit a response for the RFP August 12, 2016
3. Evaluation – which may include follow up questions, demos and interviews August 12, 2016 through August 19, 2016

4. City executes Agreement with vendor, September, 2016

5. Vendor commences work September, 2016

The dates subsequent to the deadline submittal may be adjusted by the City without further notice.

4.2 Pre-Qualifications

In order to qualify to bid for this project, the proposing vendor should have a demonstrated track record in installing, configuring and selling Storage Area Network solutions to cities and/or other local government agencies including at least one municipal project completed similar to this Request for Proposal.

Knowledge of configuration and installation of the hardware cards in Dell Servers is highly desirable.

4.3 Proposal Format

To be considered a responsive to this RFP, vendor must submit proposals in the format identified in this section. All of the items must be clearly, directly, and concisely addressed in the proposal. The City reserves the right to request additional information that, in City's opinion, is necessary to assure the vendor's competence, experience and qualifications. The City of Campbell reserves the right to reject any proposal failing to meet these requirements. All proposals must be typed and have a maximum of 25 pages, including all response, cost information, references, personnel and company information.

1 Title Page

2 Table of Contents

3 Letter of transmittal

4 Firm's qualification and experience

5 Personnel

6 References

7 Proposed Solution

8 Proposal Cost

9 Questionnaire Responses to Appendix A

4.3.1 Title Page

A page showing the Request for Proposal's subject, the firm's name, firm's address, firm's telephone number, the name of the vendor's main contact, email address of the contact person and the date of the proposal.

4.3.2 Table of Contents

The table of contents shall identify the contents of the proposal in a format consistent with the proposal requirements and the format set forth herein.

4.3.3 Letter of Transmittal

Provide a signed letter of transmittal addressing the following information:

- Brief introduction of your company.
- Briefly describe why your proposed solution would be the best fit for the City.
- A statement that the proposer's understanding of the work to be done.
- A statement committing to perform the work within the proposed time-frame.

4.3.4 Qualification and Experience

Provide a brief history of the company, the current corporate environment, the core business philosophy and any other pertinent historical information about your company.

Experience:

Provide a detailed description of similar relevant projects performed on at least three entities in the last three years. Indicate the scope of work, date, client's name, cost and the total amount time spent on the project.

If the SAN solution requires the vendor to partner with an integrator and/or channel partner, please list their company qualifications here AND a statement declaring who is the lead company for this project.

4.3.5 Personnel

Provide names and backgrounds of lead individuals that will be working on this Project and the percent of project that each will handle. Provide specific information, including:

- Qualifications, experience, and relevant professional education. Indicate the percentage of time your personnel will be on-site versus off-site.

- If the SAN solution requires the vendor to partner with an integrator and/or channel partner, please list their company's personnel qualifications as well.

4.3.6 References

Provide a list of three or more clients who have contracted with your firm for the requested services. The list should include the following:

- Company Name
- Principal Contact Name
- Contact's Title
- Contact's Information (address, phone number and email address)
- Brief Description of the project
- Time frame of the project

References will be contacted during the August 2016 evaluation period.

4.3.7 Proposed Solution

Provide a proposed scope of work, detailing the hardware and services you are proposing. Include your intended approach to address our requirements and details about the professional services that your document is proposing. The prepared plan should demonstrate an overall understanding of the scope of work to be performed and will be judged on clarity, comprehensiveness, hardware specifications, hardware performances, presentation of materials and solution cost in a thorough and concise format.

In addition, the vendor must complete Appendix A, Technical Questionnaire and include it in the submittal package.

4.3.8 Proposal Cost

The proposer is expected to quote a fixed price for the equipment, services and support. All costs associated with this proposal must be itemized pricing. It should include the SAN storage price, Network Switch price, optional items, professional services, maintenance/support, and miscellaneous accessories (cables, sfps, media converters, etc...).

PRICING SECTION/DESCRIPTION LIST

Storage Area Network

- iSCSI SAN solution cost – itemized
- Features - software (replication, deduplication, compression, quality of service, etc.)
- Warranty and Support cost

- Total Base price for the SAN solution
- Network Switch
- Network Switch solution cost – itemized
 - Features (backplane speed, number of static routes, maximum stacking speed, maximum number of members (switch chassis) within a single stack)
 - Warranty and Support cost
 - Total Base price for the Network Switch solution

PROFESSIONAL SERVICES

Installation and configuration services cost

- Documentation and Training cost
- Assistance in data migration

ADDITIONAL FEATURES, ITEMS AND/OR SERVICES PROPOSED BY VENDOR

- Itemized description of proposed additional features, items and/or services.

If the cost of the proposal is based on a government contract such as CMAS, GSA, WSCA, NASPO, US Communities, etc., please list the contract number(s) in your RFP response.

4.4 Additional Information

Respondent(s) may provide additional information that is relevant to this proposal for consideration. Additional information is limited to a maximum of two pages (not to exceed the total proposal 25 pages maximum).

4.5 Business License

If the consultant/vendor is selected by the City, the consultant/vendor must obtain a valid City of Campbell business license. Additional information regarding the City's Business License program may be obtained by calling (408) 866-2174.

4.6 Insurance and Indemnification Requirements

Indemnification and insurance requirements, including the required insurance documentation, are set forth in Attachment B, Insurance Requirements. Upon award of the contract, insurance documentation in a form acceptable to the City must be submitted no later than 14 business days after Notice of Award of Contract, and prior to the City of Campbell's execution of the Agreement.

4.7 Submittal

Please provide one electronic copy and one hard copy of your proposal to the City of Campbell addressed to:

City of Campbell, City Clerk
Attention: Information Technology Request for Proposal
City of Campbell
70 North First Street
Campbell, CA 95008

Proposal must be received no later than Friday, August 12, 2016 at 4:00 PM Pacific Standard Time.

The proposal must be received in hard copy at the above address by the closing date and time. Firms mailing or shipping their proposals must allow sufficient delivery time to ensure timely receipt of their proposals by the time specified. Late proposals will not be accepted. The proposals shall be valid for a period of 90 calendar days from the deadline date.

The City reserves the right to reject any and all proposals, to award all or any individual part/item of the Proposal, to waive any informalities or information in any proposals, and to make an award in the best interest of the City.

If you have any questions regarding this Request for Proposal please contact: Jeff Gershaneck via email at COCSANRFP@cityofcampbell.com with a subject heading "SAN RFP – Question".

Appropriate questions will be answered by the City in writing and distributed, via e-mail or fax, to all Proposers who have notified the City of their intent to submit a proposal.

4.8 Proposal Opening

Proposals will be opened and evaluated by the City's evaluation team after the submittal date has closed.

4.9 RESPONSIVENESS AND SELECTION PROCESS

It is anticipated that the selection of a vendor will be completed on Friday, September 2, 2016. The selection will be based on a combination of the following criteria that results in the best value to the City:

- Ability to Meet Functional Requirements
- Quality of References from Comparable Installations and User Feedback
- Completeness and Professionalism of the Proposal
- Company Stability
- Compatibility of Proposed System with the City's Existing Infrastructure

- The needs of the City of Campbell
- Pricing

The City reserves the right to accept any proposal as a whole or in part. Individual items may be purchased separately if accepting a proposal in its entirety is not in the best interests of the City of Campbell. The City may, based on the responses to this RFP, select more than one vendor to fulfill the various objectives herein. The City also reserves the right to reject any and all proposals or to waive any errors, discrepancies, or irregularities. Any issues regarding a proposal receiving consideration will be brought to the attention of the City's Purchasing Officer and any other parties as needed.

As reflected above, the contract award will not be based solely on price, but on a combination of factors as determined to be in the best interest of the City. After evaluating the proposals and discussing them further with the finalists or the tentatively selected contractor, the City reserves the right to further negotiate the proposed work and/or method and the cost of the proposal.

4.10 Right to Reject Bid

The City reserves the right to reject bids for any reason whether or not said bids are responsive or non-responsive. The City may, but shall not be required to solicit additional information, orally or in writing, from one or more of the applicants relating to the content of their proposal. The City may, but shall not be required to, meet with one or more of the bidders prior to a preliminary selection of one or more bidders with which the City may choose to negotiate.

4.11 Use of Vendor Proposal and Accompanying Material

All material submitted becomes the property of the City of Campbell and will not be returned to the vendor. The proposals submitted may be reviewed and/or evaluated by persons internal or external to the City at the discretion of the City.

4.12 Obligation to Contract

This Request for Proposal does not obligate the City to contract for services specified herein.

4.13 Proposal Preparation Costs and Expenses

The City will not be liable for any costs incurred by the Proposer in responding to the RFP, presentations or any other activities related to responding to this RFP.

4.14 Form of Agreement

The contents of this RFP, RFP Addenda, and the proposal document of the successful Proposer shall become contractual obligations as part of the contract if acquisition action ensues. Failure of successful vendor to accept these obligations in a contractual agreement shall result in cancellation of award. The City reserves the right to negotiate provisions in addition to those stipulated in the RFP or proposed by vendor for the purposes of obtaining the best possible offer.

4.15 Public Records Act

All responses to this Request for Proposal will become the property of the City of Campbell and will be retained or disposed of accordingly. Therefore, the Proposer is cautioned to identify on its Proposal any data the Responder believes to be exempt from the publication under the Public Records Act. If Responder claims a privilege against public disclosure or otherwise objects to the records' disclosure, then the City may either decline to produce the requested information or redact portion of the documents and produce the redacted records. By submitting a proposal, the Proposer agrees that it shall indemnify, defend and hold the City harmless from all liability, claims, suits, demands, damages, fines, penalties, costs or expenses arising out of or alleging the City's refusal to publicly disclose one or more records that the Responder identifies as protectable, or asserts is protectable.

Appendix A

Y – This feature is supported and provided

N – This feature is not supported

NA – Not applicable to the proposed SAN solution

W – Work around that requires additional costs; please elaborate in your proposal

Feature/Functionality	Yes/No/NA/ WorkAround	Comments
SAN solution contains a minimum of 80 TB useable storage before compression/deduplication		
SAN solution supports 1GB connectivity		
SAN solution supports 10 GB Ethernet connectivity		
SAN solution supports 8 GB fiber channel connectivity		
SAN solution supports iSCSI, FCP, CIFS, SMB, NFS protocols		
SAN solution supports NAS (CIFS, NFS, SMB) and SAN (FC, iSCSI) connectivity simultaneously		
SAN solution supports SSD		
SAN solution supports SAS		
SAN solution supports SATA		
SAN solution has redundant hot-swappable power supplies		
SAN solution has hot swappable dual controllers		
SAN Solution controllers support Active/Active operational mode		
SAN solution controllers support		

active/passive operational mode		
SAN solution supports volume snapshots, list the maximum snapshots in the comment section		
SAN solution supports the conversion of snapshots of data volumes to new volumes with read/write capability		
SAN solution supports replication 1 to 1 simultaneously		
SAN solution supports replication 1 to many simultaneously		
SAN solution supports Synchronous replication		
SAN solution supports Asynchronous replication		
SAN solution supports in-line deduplication		
SAN solution supports in-line compression		
SAN solution supports encryption (256-bit AES)		
SAN solution supports data storage tiers, ability to provide QOS to different data stored on different LUNS		
SAN solution supports lost write protection		
SAN solution supports disk-based data backup using existing backup software applications (BackupExec 12 and above)		
SAN solution supports Web management interface/portal		
SAN solution supports Command Line Interface management		
SAN solution tracks historical performance, logs, configuration 1 to 30 days		

SAN solution tracks historical performance, logs, configuration 31 to 90 days		
SAN solution tracks historical performance, logs, configuration 6 months or more		
SAN solution allows reports to be printed, emailed and/or saved as a PDF.		
SAN solution allow for creation of custom reports		
SAN solution provides the ability to view historical data online		
SAN solution supports hot spare drives Globally		
SAN solution supports hot spare drives to a specific RAID group		
SAN solution supports thin provisioning		
SAN solution supports thick provisioning		
SAN solution supports growing and shrinking of data volumes on the fly		
SAN solution supports creation of data volumes on the fly		
SAN solution supports user notifications of system health via email alert		
SAN solution supports user notifications of system health via pager, text message and/or phone alert		
SAN solution supports multiple drive failures in the single chassis shelf, list the max drive failures tolerable.		
SAN solution supports the ability to phone home (back to vendor) for diagnostic and troubleshooting purposes only.		

SAN solution supports the ability for City to turn off feature the phone home feature		
SAN solution supports the ability to see what information is transmitted via phone home		
SAN solution supports the ability to control when the information is transmitted via phone home		
SAN solution supports mix controllers simultaneously		
SAN solution have the capability to add additional hard drive expansion units. List the maximum expansion units that can be added.		
Based on the proposed SAN solution, please calculate the cost of storage in terms of \$ per GB.		
Please provide the \$/GB based on the total RAW data storage.		
Please provide the \$/GB based on the total POSSIBLE compressed data storage (assume a 4 to 1 data compaction ratio).		

Appendix B Insurance Requirements

CITY OF CAMPBELL

INSURANCE REQUIREMENTS

The Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Contractor, his agents, representatives, employees or subcontractors.

Unless otherwise specified or authorized, the following shall be required.

1. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- (a) Insurance Services Office Commercial General Liability coverage "occurrence" form CG 0001 (Ed. 11/85).
- (b) Insurance Services Office form number CA 001 (Ed. 1/87) covering Automobile Liability Code 1 "any auto".
- (c) Workers' Compensation Insurance as required by the Labor Code of the State of California and Employers Liability Insurance.

2. Minimum Limits of Insurance

Contractor shall maintain limits no less than:

- (a) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage (\$300,000 for R-1 permits). If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location, or the general aggregate limit shall be twice the required occurrence limit.
- (b) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- (c) Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
- (d) It is a requirement of this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth in this Agreement shall be available to the City when the City is named as an additional insured pursuant to this Agreement. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever affords greater coverage.

3. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4. Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (a) The City, its officers, employees and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance, or as a separate owner's policy.
- (b) For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- (c) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. A ten (10) day notice is required for cancellation due to non-payment of premium.

5. Worker's Compensation and Employers' Liability Coverage

Before commencing work in the City of Campbell, all contractors must provide the City with a copy of one of the following:

- 1. Certificate of consent to self-insure issued by the Director of Industrial Relations; or
- 2. Certificate of Workers' Compensation Insurance; or
- 3. Certificate of exemption from the Worker's Compensation Laws.

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the City.

6. Acceptability of Insurers

Unless otherwise approved, insurance is to be issued by an issuer with a current A.M. Best Rating of A:VII and be authorized to transact business in the State of California.

7. Verification of Coverage

Contractor shall furnish the City with original certificates of insurance and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications, at any time.

Permit number and address or project number and address shall be clearly stated on all insurance documents.

8. Subcontractors

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. Endorsements for each subcontractor must name the Contractor and/or City as additional insured. All coverage for subcontractors shall be subject to all of the requirements stated herein.



City Council Report

Item: 9.
Category: Consent Calendar
Date: July 19, 2016

TITLE: AUTHORIZATION TO PURCHASE MATERIALS, SUPPLIES, AND EQUIPMENT THROUGH THE STATE OF CALIFORNIA (RESOLUTION/ROLL CALL VOTE)

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution.

DISCUSSION

Administrative Policy #00-35 III a) 2) requires City Departments to secure three competitive bids for purchases of supplies, services, and equipment exceeding \$1,500. However, an exception applies when purchases are from vendors determined to be the lowest responsible bidder as a result of a competitive bid process conducted by the State of California.

The attached Resolution authorizes the City of Campbell to purchase materials, supplies and equipment through the State of California Office of Procurement during FY 2016/17.

Prepared by:

Al Bito, Deputy City Manager

Reviewed by:

Jesse Takahashi, Finance Director

Approved by:

Mark Linder, City Manager

Attachment: Resolution

RESOLUTION NO. _____

BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL AUTHORIZING THE CITY TO PURCHASE MATERIALS, SUPPLIES AND EQUIPMENT THROUGH THE OFFICE OF PROCUREMENT, DEPARTMENT OF GENERAL SERVICES OF THE STATE OF CALIFORNIA

WHEREAS, the Department of General Services to make purchases of materials, supplies and equipment on behalf of any city; and

WHEREAS, the City Council will approve a budget for Fiscal Year 2016/17;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Campbell does hereby authorize the Office of Procurement of the Department of General Services of the State of California to purchase materials, supplies and equipment for and on behalf of the City of Campbell during the fiscal year 2016/17, and that the City Manager is hereby authorized to sign and deliver all necessary requests and other documents in connection therewith for, and on behalf of, the City of Campbell.

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



City Council Report

Item: 10.
Category: Consent Calendar
Meeting Date: July 19, 2016

TITLE: BUDGET ADJUSTMENT OF \$13,970 TO FUND PORTION OF THE PURCHASE OF A MOVING LIGHTS SYSTEM FOR THE HERITAGE THEATRE AND AUTHORIZE THE RECREATION AND COMMUNITY SERVICES DIRECTOR TO EXECUTE THE CONTRACT FOR THE PURCHASE AND APPROVE THE CHANGES TO THE FEE SCHEDULE FOR RECREATION AND COMMUNITY SERVICES (Resolution/Roll Call Vote)

RECOMMENDATION

City Council approval of the attached Council Resolution authorizing a Budget Adjustment of \$13,970 for the purchase of a Moving Lights system for the Heritage Theatre and authorize the Recreation and Community Services Director to execute a contract for the purchase.

BACKGROUND

The Friends of the Heritage Theatre (FOHT) identified the purchase of a Moving Lights system as an enhancement project that would benefit the Heritage Theatre's Season of Shows and rental program. Moving lights are versatile and multi-functional instruments designed to replace or add to the usual stationary or conventional lights used by many theatres. These lights can be a unique addition to traditional lights because, with proper programming, they can swiftly alter many aspects of their optics and can change the mood of the light very quickly. Moving lights can typically be pre-programmed and played back using only simple commands. These fixtures will make productions have that "wow" factor which is likely to be appealing to renters. The Moving Lights system would expand the current lighting capacity and distinguish the Heritage Theatre as the only theatre of its size in Santa Clara County with moving lights.

DISCUSSION

The FOHT undertook a concentrated effort to fundraise for the Moving Lights system. This effort included writing grant proposals, running two crowdfunding campaigns, outreaching to season subscribers, and running the concessions at Theatre shows. The result is that the FOHT is prepared to donate \$25,000 toward the cost of a Moving Lights system.

Staff from the Heritage Theatre obtained three quotes from vendors for Elation brand products. One vendor chose not to quote on the requested brand but offered a brand that is utilized more for dance clubs. Although this quote was less expensive the equipment is not as durable as the Elation brand, and therefore this quote was not

July 19, 2016

suitable. Two quotes for Elation brand products were received. Both quotes were priced similarly, however the proposal from L.B. Lights West best met the specifications required by the Theatre as this company specializes in installations for performing arts centers and touring groups. The quote from L.B. Lights West is \$38,470. The cost for training the technical staff would be \$500 additional so the total cost is \$38,970.

Since staff obtained three quotes for the equipment and the quote from L.B. Lights West best meets the specifications needed by the Heritage Theatre, staff recommends that the City Council dispense with the formal bid process and grant authority to the Recreation and Community Services Director to purchase the equipment consistent with Municipal Code 3.20.030(8).

FISCAL IMPACT

The FOHT will donate \$25,000 toward the cost of the Moving Lights system. Since the total cost for the purchase, installation and training of the Moving Lights system is approximately \$38,970 the difference of \$13,970 is recommended to be funded through the Heritage Theatre's Preservation and Enhancement fund.

A Preservation and Enhancement fee of one dollar is added to the cost of each ticket sold (or for each person in attendance at non-ticketed and free events). The purpose of the fee is to fund major repairs, upgrades, or equipment that would enhance the use or appearance of the Theatre. As the Moving Lights System meets these requirements, staff recommends allocating \$13,970 from the Theatre's Preservation and Enhancement revenue (Facility Fee – Operating Revenue) to partially fund this expense. The Preservation and Enhancement Fund has sufficient funding of approximately \$300,000 to accommodate this request as well as maintenance and enhancement projects identified for FY 17.

Additional revenue will be realized through the rental of the Moving Lights system. Staff recommends that the rental rates for the Moving Lights Package be set at \$925 for non-peak hours and \$1000 for peak hours. The Moving Lights Package would include the current maximum lighting rental fees so the actual fee increase for renters would be \$525 if they chose to rent the Moving Lights Package.

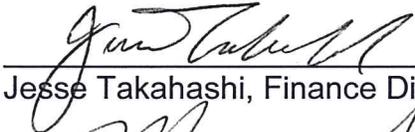
ALTERNATIVES

1. Do not authorize purchase of the Moving Lights system for the Heritage Theatre and the increase to the rental fees.
2. Provide other direction to staff.

July 19, 2016

Prepared by: 
Natasha Bissell, Recreation Services Manager

Reviewed by: 
Regina Maurantonio, Recreation & Community Services Director

Reviewed by: 
Jesse Takahashi, Finance Director

Approved by: 
Mark Linder, City Manager

Attachments:

- 1 – Council Resolution
- 2 – Budget Adjustment

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL
AUTHORIZING A BUDGET ADJUSTMENT TO THE THEATRE'S OPERATIONAL
BUDGET TO FUND THE PURCHASE OF A MOVING LIGHT SYSTEM AND TO
AUTHORIZE THE RECREATION AND COMMUNITY SERVICES DIRECTOR TO
EXECUTE A CONTRACT FOR THE PURCHASE AND APPROVE THE ADDITION OF
MOVING LIGHTS FEES AND CHARGES FOR RECREATION AND COMMUNITY
SERVICES

WHEREAS, the City of Campbell Recreation and Community Services Department operates the Heritage Theatre; and

WHEREAS, a Preservation and Enhancement fund was established specifically to fund improvements and enhancements to the Heritage Theatre; and

WHEREAS, the Friends of the Heritage Theatre (FOHT) and City have identified the addition of a Moving Lights system as an enhancement to current lighting services and the FOHT will donate \$25,000 towards this purchase; and

WHEREAS, there are funds available in the Preservation and Enhancement fund account to fund a portion of such enhancement requested;

WHEREAS, staff obtained three informal quotes from vendors and the proposal from L.B. Lights West best meets the needs of the Theatre; and

WHEREAS, the City of Campbell's Municipal Code 3.20.030(8) allows the City Council to dispense with the formal bid process in certain circumstances; and

WHEREAS, the City currently has a Schedule of Fees and Charges which includes rentals of the Heritage Theatre; and

WHEREAS, the Moving Lights Package will be \$925 for non-peak hours and \$1000 for peak hours; and

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Campbell approve the attached budget adjustment in the amount of \$13,970 for purchase of a Moving Lights System for the Heritage Theatre and hereby authorizes the Recreation and Community Services Director to execute a contract for this purchase and adopts the fees of \$925 for non-peak hours and \$1000 for peak hours for the rental of the Moving Lights.

PASSED AND ADOPTED this 19th day of July 2016 by the following roll call vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

City of Campbell Request for Budget Adjustments

Department/Program	Division	Date	Request No.
Recreation & Community Services	Heritage Theatre	July 19, 2016	BA 1

Budget to be Reduced

Fund	Account Number	Description	Amount
101	101.3666	Theatre Preservation Fund	13,970

Budget to be Increased

Fund	Account Number	Description	Amount
101	101.529.4631	Other Revenue - donations from Friends of Heritage Theatre	25,000
101	101.529.7884	Machinery & Equipment L. B. Lights West	38,970

REASON FOR REQUEST - BE SPECIFIC:

Request to purchase a moving lights system from L. B. Lights West as an enhancement to benefit the Heritage Theatre Season of Shows and rental program. The total equipment, installation, and training costs of \$38,970 will be funded by donations of \$25,000 from Friends of Heritage Theatre and an allocation of \$13,970 from Theatre Preservation Fund.

 Regina Maurantonio Recreation & Community Services Director	 Jesse Takahashi Finance Director	 Mark Linder City Manager
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City Council Report

Item: 11.
Category: Consent
Meeting Date: July 19, 2016

TITLE: AUTHORIZE AN AGREEMENT FOR EXECUTIVE SEARCH SERVICES

RECOMMENDATION

That the City Council adopt the attached Resolution to authorize the Human Resources Manager to execute an agreement for executive search services with Peckham and McKenney.

DISCUSSION

Services of an executive search firm are needed to conduct a recruitment for the position of City Manager.

A contract agreement is attached (Exhibit B) outlining services to be performed as well as proposed timelines. The City Council will authorize the Human Resources Manager to execute an agreement with Peckham and McKenney

FISCAL IMPACT

Cost of this service will not exceed \$26,000. As this is an unanticipated expense, any excess costs will be addressed in the mid year budget adjustments.

There are no other fiscal impacts as a result of this action.

ALTERNATIVES

1. Do not approve staff recommendation.
2. Enter into agreement with another executive search firm.

Prepared by: Jill Lopez
Jill Lopez, Human Resources Manager

Approved by: Mark Linder
Mark Linder, City Manager

Attachments:

Exhibit A: Resolution

Exhibit B: Contract Agreement

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL
AUTHORIZING EXECUTION OF AN AGREEMENT
FOR EXECUTIVE SEARCH FIRM SERVICES**

WHEREAS, the City of Campbell intends to conduct a recruitment for the position of City Manager; and

WHEREAS, the City Council has selected the executive search firm of Peckham and McKenney; and

NOW, THEREFORE, BE IT RESOLVED after receipt of proposal, the City Council of the City of Campbell authorizes the Human Resources Manager to execute the agreement for services with Peckham and McKenney for recruitment services for the position of City Manager.

PASSED AND ADOPTED this 19th day of July 2016 by the following roll call vote:

AYES : Councilmembers:

NOES : Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

CITY OF CAMPBELL

CONSULTANT SERVICES AGREEMENT

This Agreement is entered into at Campbell, California on the 19th day of July, 2016, by and between the **CITY OF CAMPBELL** (hereinafter referred to as "City") and Peckman and McKenney, (hereinafter referred to as "Consultant").

WHEREAS, City desires to obtain consulting services for the purpose of **executive recruitment**; and

WHEREAS, Consultant represents that it has the expertise, means, and ability to perform said **services**;

NOW, THEREFORE, in consideration of each other's mutual promises, Consultant and City agree as follows:

1. DUTIES OF CONSULTANT

1.1 Consultant agrees to perform services as set forth in the Executive Recruitment Proposal attached hereto and incorporated herein by reference.

1.2 Consultant, working with the City, will gather available existing information concerning the project, and shall review documents as necessary to ensure compliance with the project's objectives.

1.3 In performance of this Agreement by Consultant, time will be of the essence and the services to be rendered by the Consultant shall be performed in accordance with proposed timelines.

Deviations from these time frames, and time frames for work not listed, shall be agreed upon between the City and the Consultant.

1.4 Notwithstanding Section 1.4, Consultant shall not be responsible for delay caused by activities or factors beyond Consultant's reasonable control, including delays or by reason of strikes, work slowdowns or stoppages, or acts of God.

1.5 Consultant agrees to perform this Agreement in accordance with the degree of skill and expertise generally exercised by members of Consultant's profession.

1.6 Consultant shall cooperate in good faith with City in all respects of the performance of this Agreement.

- 1.7 In the course of the performance of this Agreement, Consultant shall act in the City's best interest as it relates to the project.
- 1.8 The designated project manager for Consultant shall be Bobbi Peckham. The Consultant project manager shall have all the necessary authority to direct technical and professional work within the scope of the Agreement and shall serve as the principal point of contact with the City and the City's project coordinator. The authorized principal of Consultant executing this Agreement for the Consultant shall have authority to make decisions regarding changes in services, termination, and other constructional matters on behalf of Consultant.
- 1.9 This placement is guaranteed for a period of two years from the first day of employment. Should the employee recommended and placed by Consultant leave for any reason during the guarantee period or be terminated for cause, Consultant will replace that employee on a one-time basis at no additional cost, except expenses incurred.

2. DUTIES OF CITY

- 2.1 City shall furnish to Consultant all available and pertinent data and information requested by Consultant to facilitate the preparation of the documents called for in this Agreement.
- 2.2 City shall provide contract administration services. City shall notify Consultant of required administrative procedures and shall name representatives, if any, authorized to act in its behalf.
- 2.3 City shall review documents submitted by Consultant and shall render decisions pertaining thereto as promptly as reasonably possible.

3. COMPENSATION

- 3.1 City agrees to compensate Consultant for performance of the project in an amount not to exceed \$26,000 (\$18,500 in professional fees and a maximum of \$7500 in expenses), as follows:

One third of the fee is due as a retainer upon execution of this agreement. The remainder of the fee will be divided and billed in two separate, monthly invoices. Full payment of the professional

fee is due three months from execution of the agreement or when a candidate has accepted an offer of employment, whichever comes first. Consultant shall submit for payment by City an itemized invoice for services performed. The invoice shall describe the services rendered and shall be based on professional services and direct expense charges made for work performed on the project. City shall pay Consultant for services rendered and approved by the City within thirty (30) days from the date the invoice is received by the City.

Direct expenses are those costs incurred on or directly for the project and substantiated with invoices for the charges. Direct expenses are outlined in attached proposal.

- 3.2 If Consultant incurs other costs which are not specifically covered by the terms of this Agreement, but which are necessary for performance of Consultant's duties, City may approve payment for said costs if authorized by the City in advance.
- 3.3 City may order changes in the scope or character of services, including decreasing the amount of Consultant's services. In the event that the work is decreased, Consultant is entitled to full compensation for all services performed and expenses incurred prior to receipt of notice of change.

4. SUB-CONSULTANTS

- 4.1 Consultant may not sub-consult any other services required under this Agreement without prior written consent of the City.
- 4.2 Prior to authorizing any sub-consultant to work under this Agreement, Consultant shall submit to City evidence that the sub-consultant agrees to indemnify, defend, and hold 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, errors, and omissions or intentional misconduct on the part of sub-consultant, its agents, officers, employees, or anyone rendering costs and attorneys' fees incurred in defending any action covered by this provision.
- 4.3 Consultant shall be responsible to City for the performance of any and all sub-consultants who perform work under this contract, and any acts of negligence on their part. Consultant is solely responsible for all payments due to sub-consultants.

5. OWNERSHIP OF DOCUMENTS AND MATERIALS

All original drawings, documents, papers, data, materials, photographs, negatives, and other work products prepared by the Consultant of its sub-consultants in the performance of the services encompassed in this Agreement shall be the property of the City and may be used without the consent of the Consultants or its subcontractors. City acknowledges that such drawings, documents and other items are instruments of professional services intended for use only on the subject project. In the event the City uses the instruments for other purposes, the City agrees to hold harmless and indemnify Consultant against any claims, losses and damages arising out of such use.

6. TERMINATION

Notwithstanding any other provision of this Agreement, City may terminate this Agreement at any time, with or without cause, in its sole discretion, by giving notice in writing to Consultant of such termination. In the event of such termination, Consultant shall have the right and obligation to immediately assemble the work then in progress for the purpose of completing the work and turning over all materials and documents to City. In the event of such termination, Consultant shall be compensated for all work and services performed to the point of termination in accordance with the payment provisions set forth in Section 2.1, unless the termination is for cause, in which event Consultant need be compensated only the extent required by law.

7. AUDIT AND INSPECTION

Consultant shall permit authorized representatives of City to inspect and audit all data and records relating to its performance under this Agreement for a period of three years following acceptance of the final study.

8. EQUAL EMPLOYMENT OPPORTUNITY

Consultant agrees to refrain from discriminatory employment practices on the basis of race, religious creed, color, sex, national origin, handicap, sexual orientation, or ancestry of any employee of, or applicant for employment with, such Consultant or subcontractor.

9. INSURANCE AND INDEMNIFICATION

- 9.1 Consultant agrees to indemnify, defend, and hold City, the Campbell Redevelopment Agency, their agents, officers, attorneys, employees, and officials harmless from any and all claims, causes of action, injuries or damages, but only to the extent they arise out of any negligent acts, or intentional misconduct on the part of the Consultant, its agents, officers, employees, or anyone rendering services on their behalf. This indemnity shall include reasonable costs and attorneys' fees incurred in defending any action covered by this provision.
- 9.2 The Consultant shall, during the continuance of the Agreement, at no expense to the City, provide proof of maintenance of the following insurance coverages naming the City, and the Campbell Redevelopment Agency, as additional insured's:
 - A. General liability and automobile liability coverage in the amount of \$1,000,000 per occurrence on account of bodily or personal injuries, including death, or on account of property damage arising from, or caused directly or indirectly by the performance of this Agreement.
 - B. Workers' compensation and employer's liability insurance as required by the Labor Code of the State of California with a minimum liability limit of \$1,000,000 per accident or disease.

10. MISCELLANEOUS

- 10.1 This agreement shall be binding on the heirs, executors, assigns and successors of Consultant.
- 10.2 Consultant may not assign this Agreement, or any portion hereof, without the prior consent of City.
- 10.3 This Agreement shall not be construed to alter, affect, or waive any lien or stop notice rights, which Consultant may have for the performance of services pursuant to this Agreement.
- 10.4 City's waiver of any term, condition or covenant, or breach of any term, condition or covenant shall not be construed as the waiver of any other term, condition, or covenant or waiver of the breach of any other term, condition or covenant.

- 10.5 This Agreement contains the entire Agreement between City and Consultant relating to the project and the provision of services to the project. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement is of no force or effect. Subsequent modifications to this Agreement shall be in writing and signed by both City and Consultant.
- 10.6 If any term, condition or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on City and Consultant.
- 10.7 This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 10.8 This Agreement may be executed in counterparts and will be binding as executed.
- 10.9 All changes or amendments to this Agreement must be in writing and approved by all parties.
- 10.10 The term of this Agreement shall commence upon execution of the Agreement and terminate one year thereafter, or upon project completion, whichever occurs first. Any extension of the Agreement shall require the written approval by the City and the Consultant.

11. NOTICES

Notices required under this Agreement may be delivered by first class mail addressed to the appropriate party at one of the following addresses:

CITY: City of Campbell
 Attn: Jill Lopez
 70 North First Street
 Campbell, CA 95008

CONSULTANT: Peckham and McKenney
 Attn: Bobbi Peckham
 6700 Freeport Blvd., Suite 203
 Sacramento, CA 95822

Having read and understood the foregoing Agreement, the undersigned parties hereby agree to be bound hereby:

CONSULTANT

By _____

Title _____

CITY OF CAMPBELL

By _____

Title _____

Attachment:
Executive Recruitment Proposal



June 29, 2016

Mayor Jason Baker
and Members of the City Council
City of Campbell
Via JillL@CityofCampbell.com

Dear Mayor Baker and City Council Members:

Thank you for the opportunity to work with you and the City of Campbell on the recruitment for the City Manager. Having assisted the Council with the previous search process in 2011, I look forward to presenting this opportunity to potential candidates. With regard to the process, we propose the following approach.

Project Organization – This phase provides for the development of a detailed Candidate Profile for each position. The profile will be developed following individual conversations with members of the City Council. The desired background and experience, leadership style and personality traits, skills and abilities of the ideal candidate will be discussed. We will also discuss expected parameters of the search, the search timeline (attached), and schedule future meeting dates.

Recruitment – Advertisements will be placed in the appropriate industry publications and websites, and full information on the position will be posted on our firm's and the City's web site. The marketing brochure containing the Candidate Profile will be sent physically and electronically throughout California, and it will also be available on our firm's web site. The main focus of our outreach will be direct phone contact with quality potential candidates through our extensive candidate database. Throughout this active search process, we will keep you notified of the status and share questions, concerns, and comments received from potential candidates as they consider the opportunity.

Resumes will be promptly acknowledged, and we will quickly respond to all inquiries. Following the filing date, you will be updated on the status, the number of resumes received, and our intent for preliminary interviews.

Preliminary Interviews/Recommendation – As resumes are received, supplemental questionnaires will be sent to candidates who appear to meet the candidate profile. Following the resume filing deadline and a thorough review of the resumes and questionnaires received, we will conduct preliminary interviews with those individuals most closely matching the candidate profile. A written recommendation of finalists will be personally presented to you at an on-site, one- to two-hour meeting. You will receive a full listing of all candidates who applied for the position, as well as the cover letters, resumes, and supplemental questionnaires of the recommended group of candidates for further consideration.

Once a group of finalists has been selected, all candidates will be notified of their status. We will prepare a finalist interview schedule and notify finalist candidates accordingly.

Final Interviews/Selection – During this phase, finalists will be interviewed by the City Council. We will provide on-site advice and facilitation assistance during the final interview process. Interview materials, including suggested interview questions, evaluation and ranking sheets will be provided for the City's convenience. An orientation session will be held with Council members prior to the finalist interviews, and we will work with the Council through a ranking process and discussion of the finalists at the end of the day. We will assist the City in coming to consensus on the leading two to three finalists and will assist you as you move forward with second interviews and next steps.

Qualification – Once the final candidate has been selected, our firm will verify, at your discretion, professional work experience, educational histories, criminal, civil, credit, motor vehicle records, and second "tier" references. This comprehensive process ensures that only the most thoroughly screened candidate is hired. In addition, negotiation assistance will be provided as requested by the City. Our ultimate goal is to exceed your expectations and successfully place a candidate who "fits" your organization's needs now and into the future.

City of Campbell
Page Two

Cost of Services

Our standard professional fee for this recruitment is \$18,500. The City of Campbell will also be responsible for reimbursement of expenses not to exceed \$7,500. Expenses include out-of-pocket costs associated with consultant travel, clerical, advertising, administrative support, and background checks (partial checks on recommended candidates; full background check on selected candidate).

Summary

We look forward to working with you on a successful search process!

Bobbi

Bobbi C. Peckham
President, Peckham & McKenney, Inc.
300 Harding Boulevard, Suite 106E, Roseville, CA 95678
(866) 912-1919 toll-free; (916) 730-2014 (cell);
bobbi@peckhamandmckenney.com
www.peckhamandmckenney.com

City Manager
City of Campbell
RECRUITMENT SCHEDULE

<u>ACTIVITY</u>	<u>TIME FRAME</u>
I. Development of Candidate Profile <ul style="list-style-type: none">• Phone meetings with Council members to discuss candidate profile and recruitment process• Develop Candidate Profile/Marketing Brochure and obtain approval from City• Develop advertising and recruiting plan	July 5 - 19, 2016
III. Recruitment <i>(Filing Deadline: August 31)</i> <ul style="list-style-type: none">• Advertise, network, and electronically post in appropriate venues• Send marketing brochure to 300-400 industry professionals• Post opportunity on firm's web site as well as City's site• Search for/identify/recruit individuals within the parameters of the Candidate Profile• Respond to all inquiries and acknowledge all resumes received	July 20 – August 31
IV. Preliminary Interviews/Recommendation <ul style="list-style-type: none">• Review candidates' resumes and supplemental questionnaires• Conduct preliminary interviews with leading candidates• Conduct Internet research, first-tier reference checks, and credit/criminal checks• Present written recommendation of finalists to City <i>(at September 20 Closed Session)</i>• Notify all candidates of search status	September 1 - 20
V. Final Interviews/Selection <ul style="list-style-type: none">• Schedule finalist candidate interviews <i>(to be held on September 30)</i>• Design process and facilitate finalist interviews with City• City selects candidate or leading 2-3 candidates for further consideration• City conducts second interview process.	September 21 – October 5
VI. Qualification <ul style="list-style-type: none">• Conduct thorough background checks and second "tier" references on leading candidate• Negotiation assistance• Appointment of new City Manager <i>(at October 18 Council Meeting)</i>• <i><u>New City Manager starts December 5, 2016</u></i>	October 6 – October 18



City Council Report

Item: 12.
Category: Consent Calendar
Meeting Date: July 19, 2016

TITLE: Accept Improvements for Miscellaneous Frontage Improvements – East Campbell Avenue Project No. 15-QQ (at Campbell Inn) and Direct the Filing of the Notice of Completion and Authorize the Finance Director to Execute a Budget Adjustment (Resolution/Roll Call Vote)

RECOMMENDATION

That the City Council:

1. Adopt the attached resolution accepting completion of the Miscellaneous Frontage Improvements – East Campbell Avenue Project No. 15-QQ (at Campbell Inn); and
2. Direct the filing of the Notice of Completion; and
3. Authorize the Finance Director to execute a budget adjustment.

BACKGROUND

On March 17, 2015, the City Council adopted Resolution No. 11790 incorporating findings for omitting the competitive bid process and authorizing the Public Works Director to award and execute a contract with Ghilotti Construction Company in an amount not to exceed \$50,000 and encumber an additional 10% construction contingency for an amount not to exceed \$55,000 for Project No. 15-QQ: Miscellaneous Frontage Improvements Project (at Campbell Inn).

Project No. 15-QQ is located on the north side of E. Campbell Avenue between the Los Gatos Creek Bridge and the Highway 17 undercrossing. The scope of the project included the following:

- Site demolition
- Installation of storm drain facility
- Installation of sidewalk, and modified curb & gutter
- Pavement conform
- Landscape and irrigation restoration

DISCUSSION

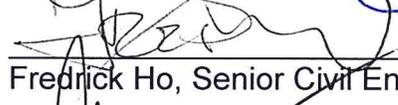
All work associated with Project No. 15-QQ is completed in accordance with the plans and specifications. The attached resolution accepts the improvements and directs the City Engineer to file the Notice of Completion.

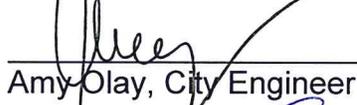
The project was completed in coordination with the East Campbell Avenue Portals Project, and was completed within the approved project budget. The final project cost is \$53,238.62 with a remaining balance of \$1,761.38. The attached resolution has been prepared to authorize the Finance Director to transfer the remaining fund balance from Project No. 15-QQ to the Annual Pavement Maintenance Project No. 16-BB.

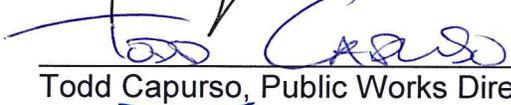
FISCAL IMPACT

There is no adverse fiscal impact anticipated with the action.

Prepared by: 
Reina Antonio, Assistant Engineer

Reviewed by: 
Fredrick Ho, Senior Civil Engineer

Reviewed by: 
Amy Olay, City Engineer

Reviewed by: 
Todd Capurso, Public Works Director

Reviewed by: 
Jesse Takahashi, Finance Director

Approved by: 
Mark Linder, City Manager

- Attachments: 1. Resolution
2. Notice of Completion
3. Budget Adjustment

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL
ACCEPTING IMPROVEMENTS FOR THE MISCELLANEOUS FRONTAGE
IMPROVEMENTS – EAST CAMPBELL AVENUE PROJECT 15-QQ (AT CAMPBELL
INN) AND DIRECTING THE FILING OF THE NOTICE OF COMPLETION AND
AUTHORIZING THE FINANCE DIRECTOR TO EXECUTE A BUDGET ADJUSTMENT**

WHEREAS, on August 10, 2015, the Public Work Director executed a construction contract with Ghilotti Construction Company, of Santa Rosa, California; and

WHEREAS, Ghilotti Construction Company, completed the miscellaneous frontage improvements on the north side of East Campbell Avenue, west of the Highway 17 overcrossing in accordance with the project plans and specifications for the Miscellaneous Frontage Improvements – East Campbell Avenue Project 15-QQ (at Campbell Inn); and

WHEREAS, approximately \$1,761.38 of project funds remain unspent in the project budget.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Campbell hereby accepts the improvements constructed by Ghilotti Construction Company. for the Miscellaneous Frontage Improvements – East Campbell Avenue Project 15-QQ (at Campbell Inn), directs the City Engineer to file the Notice of Completion, and authorizes the Finance Director to execute a budget adjustment transferring the remaining fund balance from Project 15-QQ to the Annual Pavement Maintenance Project 16-BB.

PASSED AND ADOPTED this 19th day of July, 2016, by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

Recording Requested by and
When Recorded, Mail to:

City of Campbell
City Clerk's Office
70 N. First Street
Campbell, CA 95008

(Space above this line for Recorder's use.)

NOTICE OF COMPLETION

NOTICE is hereby given that CITY OF CAMPBELL, as owner, and Amy Olay, the undersigned, as City Engineer, caused the Miscellaneous Frontage Improvements – East Campbell Avenue Project 15-QQ to be constructed as described in the project documents.

That the work on said Project 15-QQ was actually accepted on the 19th day of July, 2016.

That the name of the Contractor for said owner is Ghilotti Construction Company of Santa Rosa, California.

That the nature of title of said City to said improvements is owner in fee simple, and the names and addresses of all owners of said property are:

<u>NAME</u>	<u>ADDRESS</u>
City of Campbell	70 North First Street Campbell, CA 95008

That the property herein referred to and on which said Improvements are located in the City of Campbell, County of Santa Clara, State of California, and described as follows: north side of E. Campbell Avenue, west of the Highway 17 Overcrossing at Campbell Inn.

Dated: _____, 20_____

Amy Olay, City Engineer

City of Campbell Request for Budget Adjustments

Attachment 3

Department/Program	Division	Date	Request No.
Public Works	CIP 15QQ ECA Misc. Frontage Improvements	July 19, 2016	BA 2 SK

Budget to be Reduced

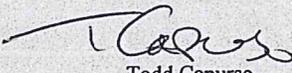
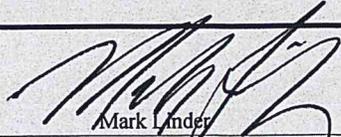
Fund	Account Number	Description	Amount
435	15QQ.7883	Improvement other than Building ECA Misc. Frontage Improv.	1,761
101	15QQ.9999	Capital Transfers Out CIPR funding source	1,761

Budget to be Increased

Fund	Account Number	Description	Amount
435	16BB.7883	Improvement other than Building Street Maintenance	1,761
101	16BB.9999	Capital Transfers Out CIPR funding source	1,761

REASON FOR REQUEST - BE SPECIFIC:

To close out CIP 15QQ East Campbell Avenue Miscellaneous Frontage Improvements project and transfer the remaining balance \$1,761.38 to CIP 16BB Street Maintenance project.

 Todd Capurso Public Works Director	 Jesse Takahashi Finance Director	 Mark Linder City Manager
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*Industrial
Development
Authority
Board Report*

Item: 13.

Category: Consent
Date: July 19, 2016

**TITLE: Resolution of the Campbell Industrial Development Authority
Electing and Designating Officers and Establishing a Regular
Meeting Schedule (Resolution/Roll Call Vote)**

RECOMMENDATION

That the Board of Directors of the Campbell Industrial Development Authority ("IDA") adopt the attached resolution electing and designating officers and establishing the regular meeting schedule of the IDA.

DISCUSSION

The California Industrial Development Financing Act (the "Act") provides that there is in each public agency a public, corporate instrumentality of the State of California, known as the industrial development authority of the public agency. An industrial development authority may not transact any business or exercise any powers under the Act unless, by ordinance, the governing body of the public agency declares that there is a need for the authority and that the authority shall function.

On April 5, 2016, the City Council activated the IDA by adoption of its Ordinance No. 2201.

The Act further provides that the public officers of an industrial development authority consist of the chairperson and members of the board, a secretary and a treasurer, that the chairperson may be elected by the members of the board from among its membership, and that the corresponding officers of the public agency may, by designation by resolution of the board, be the secretary and the treasurer of the authority.

Staff recommends that the Board of Directors of the IDA adopt the attached resolution for the following purposes:

- (i) Electing the Mayor of the City as the Chairperson of the IDA and designating the City Clerk and Finance Director of the City as the Secretary and Treasurer of the IDA, respectively.
- (ii) Establishing the time, date and location of the regular meetings of the IDA as the time, date and location of the regular meetings of the City Council.

FISCAL IMPACT

There is no fiscal impact from the election and designation of the officers of the IDA or establishing the regular meeting schedule of the Board of Directors of the IDA.

Prepared by: 

Jesse Takahashi, Treasurer

Approved by: 

Mark Linder, City Manager

- Attachments:
1. Resolution

RESOLUTION NO. _____

CAMPBELL INDUSTRIAL DEVELOPMENT AUTHORITY

A RESOLUTION OF THE CAMPBELL INDUSTRIAL
DEVELOPMENT AUTHORITY REGARDING
ORGANIZATIONAL MATTERS

WHEREAS, the Campbell Industrial Development Authority (the "Authority") has been formed under Ordinance No. 2201 adopted by the City Council of the City of Campbell on April 19, 2016, and under the California Industrial Development Financing Act, Sections 91500 et seq. of the California Government Code (the "Act"); and

WHEREAS, the Board of the Authority desires to elect and designate officers of the Authority and establish meeting dates for the Board;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Campbell Industrial Development Authority, as follows:

Section 1. Confirmation of Officers. Under Section 91524 of the Act, the Board hereby elects and designates the officers of the Authority, as follows:

- Chairperson: The Mayor of the City of Campbell is hereby elected as Chairperson of the Authority.
- Secretary: The City Clerk of the City of Campbell is hereby designated as Secretary of the Authority.
- Treasurer: The officer of the City of Campbell who serves as its chief financial officer is hereby designated as the Treasurer of the Authority.

Section 2. Meetings. The Board shall conduct regular meetings on the same date, at the same time and at the same location as the regular meetings of the City Council of the City of Campbell. Such regular meetings may occur either during or after the regular meetings of the City Council, but may not commence earlier than the starting time for the regular meetings of the City Council.

All meetings of the Board will be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code), or any successor legislation hereinafter enacted (the "Brown Act").

If the Secretary does not post an agenda for a regular meeting pursuant to the Brown Act, then such failure to post shall be deemed to be a determination by the Chairperson that no items required discussion and, therefore, that the regular meeting has been cancelled, except as otherwise provided in the Brown Act.

The Board may hold special meetings at any time and from time to time in accordance with the Brown Act.

Section 3. Effective Date. This Resolution shall take effect from and after the date of its adoption.

PASSED AND ADOPTED this 19th day of July, 2016, by the following roll call vote:

AYES : Boardmembers:

NOES : Boardmembers:

ABSENT : Boardmembers:

ABSTAIN: Boardmembers:

APPROVED:

Jason T. Baker, Chairperson

ATTEST:

Wendy Wood, Secretary



*City
Council
Report*

Item: 14.
Category: Public Hearing
Date: July 19, 2016

TITLE Public Hearing to consider the application of Steven Bonner for a Modification (PLN2016-105) to a previously-approved Conditional Use Permit (PLN2014-57/PLN2015-195) for an existing restaurant to modify the approved alcohol service from beer & wine to "general" (distilled spirits), extend the business closing time from 10:00 PM to 12:00 AM ("late-night activity"), increase the number of approved bar seats, permit amplified live entertainment, and allow occasional outdoor seating and service in the rear parking lot for special events, on property located at 368 E. Campbell Ave. in the C-3 (Central Business District) Zoning District. (Resolution / Roll Call Vote)

RECOMMENDATION

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

1. **Adopt the attached Resolution**, approving a Modification (PLN2016-105) to a previously-approved Conditional Use Permit (PLN2014-57/PLN2015-195) to modify the approved alcohol service from beer & wine to "general" (distilled spirits), extend the business closing time from 10:00 PM to 11:30 PM ("late-night activity"), and allow amplified live entertainment, for an existing restaurant.

DISCUSSION

Project Site: The project site is located at the southeast corner of E. Campbell and Central Avenues (reference **Attachment 2** – Location Map), and is developed with a two-story retail and office building known as the "Schrader Building."

The ground floor is occupied by the Socialight restaurant, which was originally established by the City Council's June 17, 2014 approval of a Conditional Use Permit that allowed a 10:00 PM public closing, beer and wine service, and acoustic live entertainment. The Council reconsidered the approval during a July 21, 2015 revocation hearing that had been convened in response to a series of documented violations. That hearing concluded with an involuntary modification of the Conditional Use Permit which imposed a more restrictive violation clause (2 verifiable warnings within 24 months), mandated payment for enforcement costs, and reiterated compliance with the approved floor plan.

Applicant's Proposal: The applicant, Mr. Steven Bonner, has submitted a request (reference **Attachment 3**) to modify the Conditional Use Permit to allow the following operational changes. The project plans (reference **Attachment 4**) depict the proposed interior (i.e., additional bar seats) and outdoor configuration associated with the request. A full analysis of the proposal is included in the attached Planning Commission staff report (reference **Attachment 5**).

- **Public Closing Time:** Extend the closing time from 10:00 PM (daily) to 12:00 AM (daily).
- **Alcohol Service:** Change the alcohol license from beer & wine (Type 41 License) to "general" (distilled spirits) (Type 47 License)
- **Bar Seating:** Increase the seating count at the bar from 9 seats to 12 seats, maintaining the total occupancy of 49.
- **Live Entertainment:** Allow amplified instruments for live entertainment, not just acoustical.
- **Special Event Seating:** Allow occasional outdoor seating in the rear parking lot.

Planning Commission Meeting: At its meeting of June 28, 2016, the Planning Commission held a public hearing on the modification request, taking comment from the applicant and members of the public. The Commission discussed various aspects of the request, with a particular focus on alcohol service and the potential for overconcentration (reference **Attachment 6** – Meeting Minutes).

The Commission as a whole was supportive of the expanded alcohol service. The discussion leaned towards a perspective that overconcentration is not simply a matter of the quantity of alcohol-serving establishments within the Downtown, but rather a function of the *types* of establishments that have historically created problems (i.e., bars, nightclubs, and some "late-night" restaurants). The Commission agreed that the applicant's business operates as a legitimate restaurant such that full alcohol service would not result in nuisance activity. To this extent, however, the majority did not support the request for a midnight public closing or additional bar seating, since as a restaurant, and not a bar, it does not need to stay open this late and should maximize the dining rooms seating.

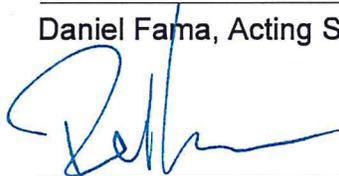
By a 5-2 vote, the Commission decided to recommend partial approval of the applicant's request, specifically the "general" alcohol service, an extended public closing time of 11:30 PM (with the last patron entry at 11:00 PM), and amplified live entertainment limited to built-in amplification (reference **Attachment 7**). The request for additional bar seating and use of the rear parking area for outdoor seating was not supported.

Prepared by:



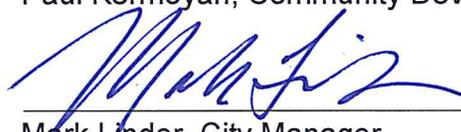
Daniel Fama, Acting Senior Planner

Reviewed by:



Paul Kermoyan, Community Development Director

Approved by:



Mark Linder, City Manager

Referenced Attachments:

1. Draft City Council Resolution
2. Location Map
3. Project Request
4. Project Plans
5. Planning Commission Staff Report, dated June 28, 2016
6. Planning Commission Meeting Minutes, dated June 28, 2016
7. Planning Commission Resolution No. 4307

Non-Referenced Attachments:

8. City Council Resolution No. 11866
9. Downtown Alcohol-Serving Establishments – Table
10. Downtown Alcohol-Serving Establishments – Spreadsheet
11. Downtown Alcohol-Serving Establishments – Aerial Map
12. Downtown Alcohol Beverage Policy

RESOLUTION NO. _____

BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL APPROVING A MODIFICATION (PLN2016-105) TO A PREVIOUSLY-APPROVED CONDITIONAL USE PERMIT (PLN2014-57/PLN2015-195) FOR AN EXISTING RESTAURANT TO MODIFY THE APPROVED ALCOHOL SERVICE FROM BEER & WINE TO "GENERAL" (DISTILLED SPIRITS), EXTEND THE BUSINESS CLOSING TIME FROM 10:00 PM TO 11:30 PM ("LATE-NIGHT ACTIVITY"), AND ALLOW AMPLIFIED LIVE ENTERTAINMENT, ON PROPERTY LOCATED AT **368 E. CAMPBELL AVENUE**. FILE NO.: PLN2016-105

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 to file number PLN2016-105:

1. The project site is zoned C-3 (Central Business District) and designated *Central Commercial* by the General Plan Land Use Element.
2. The project site is located at the southeast corner of Campbell and Central Avenues.
3. The project site consists of an 8,200 square-foot parcel, improved with a 6,500 square-foot two-story building with retail and office.
4. On June 17, 2014, a Conditional Use Permit (PLN2014-57) was approved by the City Council, establishing a restaurant use, The Socialight, to occupy the site with beer and wine sales, late night activities (an early morning 5:00 a.m. operational hour opening), and live entertainment in the building.
5. On July 21, 2015, the City Council modified (PLN2015-195) the previously approved Conditional Use Permit to establish new conditions to resolve outstanding code enforcement violations.
6. As recommended by the Planning Commission, the requested Modification (PLN2016-105) to the previously approved Conditional Use Permit (PLN2014-57 / PLN2015-195) would modify the approved alcohol service from beer & wine to "general" (distilled spirits), extend the business closing time from 10:00 PM to 12:00 AM ("late-night activity"), and permit amplified live entertainment, allow occasional outdoor seating and service in the rear parking lot for special events.
7. The approval of a Modified Conditional Use Permit incorporates applicable operational standards of the Downtown Alcohol Beverage Policy.
8. Alcohol beverage service in the restaurant shall be ancillary and subordinate to the primary purpose of serving food.
9. Policies found within the Campbell General Plan and Downtown Campbell Development Plan articulate a desire to promote and enhance a downtown environment that provides a desirable balance of land uses including shopping,

services, and entertainment. This vision is evidenced in policies that encourage a mix of day and evening activities, a distinctive retail presence, a diversity of eating establishments, support for neighborhood-serving businesses, and protection of surrounding residential neighborhoods.

10. The City Council adopted the 'Downtown Alcohol Beverage Policy', as an implementation tool of the Campbell General Plan and Downtown Development Plan. The Policy is intended to balance the health and safety of the community while still maintaining the commercial viability of the downtown in which restaurants have an essential role.
11. Conformance to the provisions of the Downtown Alcohol Beverage Policy is the basis to which the City shall review new applications for alcohol beverage service. Restrictions to the hours of operation, amount of bar area seating, and alcohol beverage service, are necessary to protect the public health, safety and welfare.
12. The Downtown Alcohol Beverage Policy strongly recommends that Conditional Use Permits for establishments for on-site consumption of alcohol beverages be limited to a closing time of no later than 12:00 AM. However, the Planning Commission retains the discretion to allow lesser hours as necessary to satisfy the required findings provided for in CMC Secs. 21.46.070 and 21.46.040. To satisfy such findings, a public closing time of 11:30 PM subject to the last patron entry 11:00 PM is necessary.
13. The over-concentration alcohol-serving establishments within a compact downtown district can create a cumulative impact that overwhelms the area creating an undesirable result such as drunkenness in public, vandalism, and disorderly conduct.
14. Use of the rear parking area for occasional seating creates parking, security, and exiting issues, which preclude this activity.
15. The approval of a Conditional Use Permit Modification incorporates applicable operational standards of the Downtown Alcohol Beverage Policy.
16. Alcohol beverage service in the restaurant shall be ancillary and subordinate to the primary purpose of serving food.

Based upon the foregoing findings of fact, the City Council further finds and concludes that:

1. The proposed use is allowed within the applicable zoning district with Conditional Use Permit approval, and complies with all other applicable provisions of this Zoning Code and the Campbell Municipal Code;
2. The proposed use is consistent with the General Plan;
3. The proposed site is adequate in terms of size and shape to accommodate the fences and walls, landscaping, parking and loading facilities, yards, and other

development features required in order to integrate the use with uses in the surrounding area;

4. The proposed site is adequately served by streets of sufficient capacity to carry the kind and quantity of traffic the use would be expected to generate;
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject property.
6. The establishment, maintenance, or operation of the proposed use at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
7. The establishment will not result in an over-concentration of these uses in the surrounding area;
8. The establishment will not create a nuisance due to litter, noise, traffic, vandalism, or other factors;
9. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood;
10. The establishment will not significantly increase the demand on city services;
11. As conditioned, the establishment will be consistent with the Campbell Downtown Alcohol Policy.
12. The project is Categorically Exempt under Section 15060(c)(2) of the California Environment Quality Act (CEQA), pertaining to activities that will not result in a direct or reasonably foreseeable indirect physical change to the environment.

THEREFORE, BE IT RESOLVED that the City Council approves a Modification (PLN2016-105) to a previously approved Conditional Use Permit (PLN2014-57/PLN2015-195) for property located at **368 E. Campbell Avenue**, subject to the attached Conditions of Approval (attached Exhibit "A").

PASSED AND ADOPTED this 19th day of July, 2016, by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

APPROVED: _____
Jason T. Baker, Mayor

ATTEST: _____
Wendy Wood, City Clerk

CONDITIONS OF APPROVAL
Conditional Use Permit Modification (PLN2016-105)

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

1. Approved Project: Approval is granted for a Modification (PLN2016-105) to a previously approved Conditional Use Permit (PLN2014-57/PLN2015-195) to extend the business closing time from 10:00 PM to 11:30 PM ("late-night activity"), modify the approved alcohol service from beer & wine to "general" (distilled spirits), and allow amplified live entertainment, in association with an existing restaurant with beer and wine service, located at **368 E. Campbell Avenue**. The project shall substantially conform to the Revised Project Plans and Project Description stamped as received by the Planning Division on April 21, 2016 and March 22, 2016, respectively, except as may be modified by the conditions of approval contained herein.
2. Approval Expiration: This Approval shall be valid for one year, expiring July 19, 2017. Within this one-year period, a Type 47 Alcoholic Beverage Control (ABC) license must be secured or the Modified Conditional Use Permit shall be rendered void. If this Approval expires, operation of the use shall revert back to the previous Conditional Use Permit (PLN2014-57/PLN2015-195) as approved by City Council Resolution No. 11866. Once established, approval for a restaurant and bar with general alcohol service shall be valid in perpetuity on the property subject to continued operation of the use. Abandonment, discontinuation, or ceasing of operations for a continuous period of twelve months shall void the Conditional Use Permit approved herein.
3. Previous Conditions of Approval: The previously approved Conditions of Approval provided in City Council Resolution No. 11866 shall be void and shall permanently be superseded in their entirety by the Conditions of Approval specified herein, except as noted by Condition No. 2.
4. Operational Standards: Consistent with Downtown Alcohol Beverage Policy and other City standards, any restaurant operating pursuant to the Conditional Use Permit approved herein shall conform to the following operational standards.
 - a. **Restaurant Seating/Patron Occupancy**: Total indoor patron occupancy shall be limited to 49 seated persons, composed of 40 dining room seats and 9 bar seats, subject to the maximum occupancy capacities of certain rooms as determined by the California Building Code (CBC). At no time shall there be more than 49 patrons within the establishment, excluding those waiting for service. It is the responsibility of the business owner to provide adequate entrance controls to ensure that patron occupancy is not exceeded.
 - b. **Maximum Occupancy Sign**: The business owner shall install a new maximum occupancy sign of a size to be determined by the Community Development

- m. **Outdoor Seating:** Outdoor seating shall be considered part of the dining area subject to all restrictions herein. Total patron occupancy in the outdoor seating shall be limited to the number of approved seats as specified by an approved Outdoor Seating Permit.
- n. **Loitering:** There shall be no loitering allowed outside the business and within the outside dining area that may be approved pursuant to an Outdoor Seating Permit. The business owner is responsible for monitoring the premises to prevent loitering.
- o. **Noise:** Unreasonable noise—defined as noise, regardless of decibel level, which obstructs the free use of neighboring properties so as to unreasonably interfere with the comfortable enjoyment of the neighboring residents—shall not be generated by the live entertainment. In the event verified complaints are received by the City regarding such unreasonable noise, the Community Development Director may immediately modify the business hours and/or impose additional restrictions on the live entertainment, including but not limited to, reducing the number of performers, and prohibiting amplified entertainment, subject to the project being brought back to the Planning Commission for review.
- p. **Smoking:** “No Smoking” signs shall be posted on the premises in compliance with CMC 6.11.060.
- q. **Trash & Clean Up:** All trash, normal clean up, carpet cleaning, etc. shall occur during the approved ‘Operational Hours’. If determined necessary by the Community Development Director to protect the public health and safety, the existing refuse enclosure shall be modified to incorporate a roof covering and sanitary drain connection. Refuse and recycling receptacles shall be kept within the enclosure except during collection in compliance with Chapter 6.04 of the Campbell Municipal Code.
- r. **Liquor License:** The business owner shall maintain in good standing a Type 47 license (On-Sale General for Bona Fide Public Eating Place) from the State Department of Alcoholic Beverage Control for the sale of alcoholic beverages. The license shall include Business Hour and other applicable restrictions consistent with the Conditional Use Permit approved herein. A copy of the issued license shall be provided to the Community Development Department prior to issuance of a Business License.
- s. **Alcohol Sales:** The monthly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period, consistent with ABC licensing regulations. The business owner shall provide sales records on demand to the City to verify compliance with this standard.
- t. **Employee Training:** The establishment shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association and the Department of Alcoholic Beverage Control.
- u. **Designated Driver Program:** The establishment shall maintain and actively promote a designated driver program (e.g., complimentary non-alcoholic

beverages for designated drivers), including posting in a conspicuous place contact information for local designated driver services.

v. **Taxicab Service:** The establishment shall post in a conspicuous place the telephone numbers of local taxicab services.

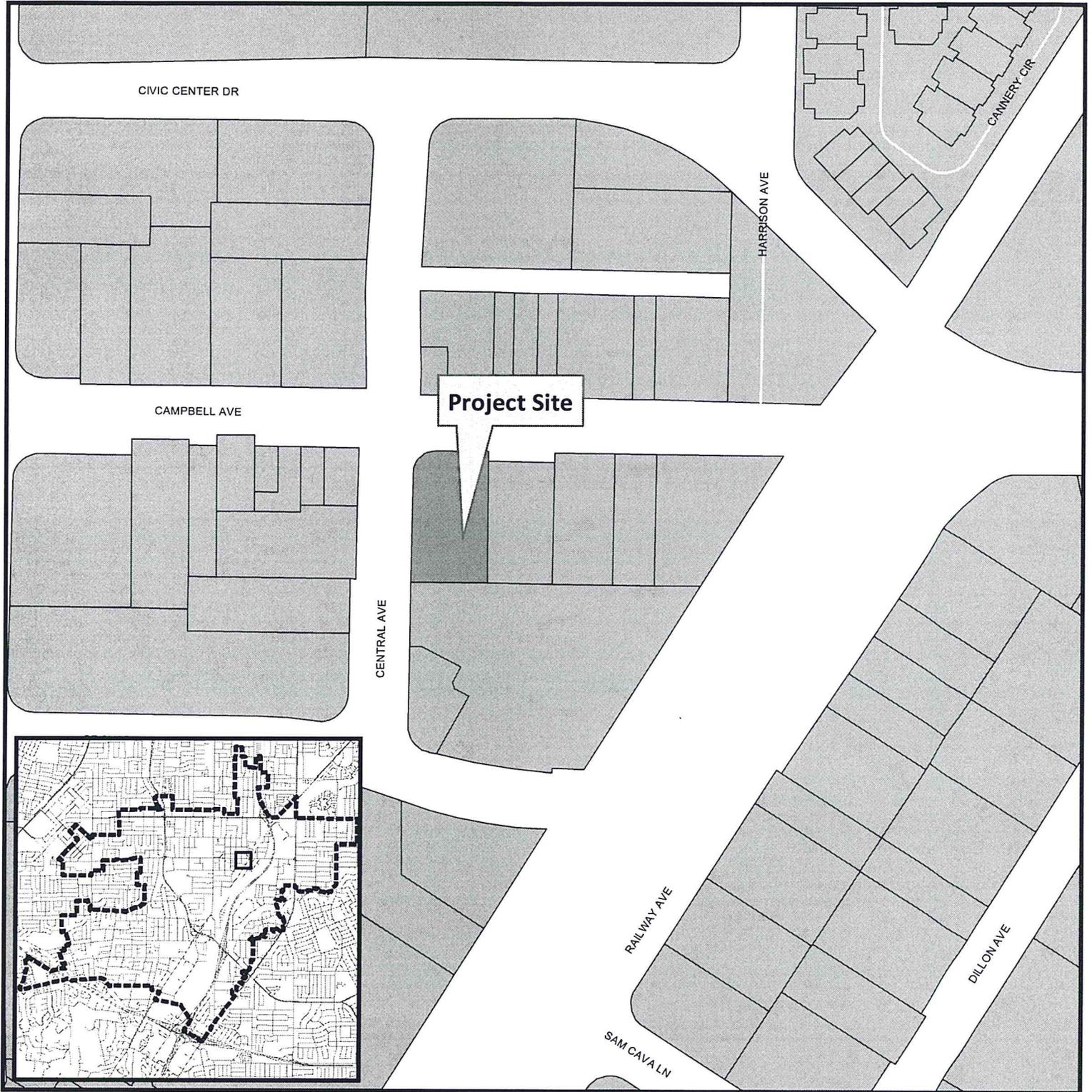
w. **Outdoor Activity:** Other than outdoor seating as permitted by an Outdoor Seating Permit, no outdoor activity, including cooking, and "special event" activities, is permitted in association with the establishment.

5. **Revocation of Permit:** Operation of the restaurant and bar pursuant to the Conditional Use Permit approved herein is subject to Sections 21.68.020, 21.68.030 and 21.68.040 of the Campbell Municipal Code authorizing the City Council to modify or revoke a Conditional Use Permit if it is determined that the sale of alcohol has become a nuisance to the City's public health, safety or welfare or for violation of the Conditional Use Permit or any standards, codes, or ordinances of the City of Campbell.

At the discretion of the Community Development Director, if the establishment generates two (2) verifiable complaints related to violations of conditions of approval and/or related to the service of alcohol within a twenty-four (24) month period, a public hearing before the City Council, upon recommendation of the Planning Commission, may be scheduled to consider modifying conditions of approval or revoking the Conditional Use Permit. The Community Development Director may commence proceedings for the revocation or modification of use permits upon the occurrence of less than two (2) complaints if the Community Development Director determines that the alleged violation warrants such an action. In exercising this authority, the decision making body may consider the following factors, among others:

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

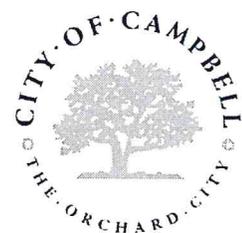
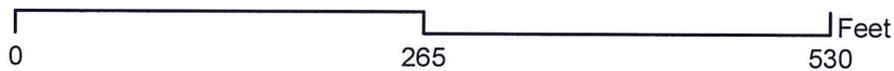
Project Location Map



Project Location: 368 E. Campbell Ave.

Application Type: Modification to a previous Site and Architectural Review Permit

Planning File No.: PLN2016-280



Community Development Department
Planning Division

RECEIVED

MAR 22 2016

CITY OF CAMPBELL
PLANNING DEPT.

January 28, 2016

City of Campbell
Stephen Rose

Dear Mr. Rose:

This letter is to outline the Sociallight requests for changes to our operation. As a general summary of the past year, there were some initial hiccups in the very beginning of the opening of The Sociallight which were all cured and never recurred. Aside from the upcoming discussion on a window which is not a violation but a discussion on what should be done, there is nothing remaining on our CUP nor have there been any issues. Since our opening, The Sociallight has become a town favorite and has already won "Best Restaurant" in Campbell from the Campbell Express. There have been no issues at all including no police matters of any kind. We have been involved with several issues that took place in Campbell and provided video to Campbell police to assist them in their investigations of crashes outside our restaurant, etc. The restaurant is a hit and packed most nights with repeat diners from Campbell. Our local following has been fantastic and we are hoping to improve their experience.

It is believed that in the beginning of this restaurant venture, there needed to be proof of operation and delivering on what was promised, "a high end, classy restaurant focused on 5-star food". As words have been spoken before to the City of Campbell and permits issued based on those words, I perceived a concern from the city to not be "burned" again by a "bait and switch" and did my best to understand this position. Some abnormal regulations were imposed to help protect against this occurring. Some of these regulations are very crippling and the Sociallight is hoping to have them lifted so we can operate more efficiently and successfully for the City of Campbell.

Request #1: **HOURS OF OPERATION**

Originally, the Sociallight applied for operation hours to serve until 12:00am. As discussion over other matters were tossed around, it was decided to cut these hours of operation to 10pm as a compromise and get the restaurant opened. From the customer's standpoint, this has been very difficult and at times infuriating to them. They have made many comments about this not working for them and they are not coming back because they did not have time to finish their dinner, could not order dessert, could not finish the SF Giants baseball game (we have had to shut off our TV's many times to comply with this curfew), Golden State Warrior basketball games and occasionally San Jose Sharks. We are predominantly a local's restaurant where many gather to enjoy life in general. Many guests want to dine at 8:15 or 8:30pm. This is not possible at the Sociallight because it is often a 2-hour experience. We cannot offer reservations at 7pm because that would tie up one table the entire evening which has happened on many occasions. I could go into much detail but I think it is reasonably obvious on this request, it is very damaging to all involved and serves no benefit or positive purpose for anyone and not consistent with the other restaurants in town.



Please allow The Sociallight Restaurant to be open for business until 12:00am.

Request #2: COUNTER SEATS INCREASED UP TO 12 SEATS.

We currently are limited to 9 counter stools. Please allow the legal code amount of 12 stools at our counter. Note, this does not change the occupancy of 49 max. but simply allows the flexibility of our guests to sit where they desire at that given moment.

Please increase our seat limit at the counter to 12 seats.

Request #3: ENTERTAINMENT PERMIT TO ALLOW FOR AMPLIFICATION.

Our current permit allows for entertainment but none amplified. For the first time ever this week, we had an entertainer come in and play acoustic guitar singing Nora Jones and singing and playing various Jazz classics in addition to originals. It was great night for all diners and all asked if we would be doing this more. We received some very positive feedback and 5-star yelp reviews. The vibe and pleasantness brought about by the live performer was great for all who dined at The Sociallight that night. The acoustic guitar filled the restaurant reasonably well but the performer, Mark Rodriguez commented how difficult it was to sing loud enough for guests to hear for an extended period of time.

The Sociallight is a classy upscale place with a professional demographic that will never be conducive to loud bands or even anything anyone could hear outside. But we do need amplification to some extent for the performers to entertain properly.

Please allow for our entertainment permit to provide for amplified live music.

Request #4: LIQUOR LICENSE ALLOWED TO BE APPLIED FOR: Type 47

In the beginning, The City of Campbell had a concern on having a full liquor license. As discussed above, this was probably a reasonable concern considering some recent history. However, with nearly a year of providing Campbell residents with the best food in town, I am hoping the probationary period can be over and the Sociallight will be allowed to provide full service to its guests. Virtually every day we have guests that tell us about how someone in their party does not like or want beer or wine so they are going to Willard Hicks, Naschmarkt, Sushi Confidential, Pino's Trattoria, Blue Line Pizza, Liquid Bread, etc. The Sociallight cannot service these guests and loses diners and revenue daily because of this. We have proven to be an upscale dining establishment which I think we all know is not where any of the problems of Campbell is coming from.

Please allow The Sociallight the ability to apply to the ABC for a Type 47 liquor license.

Request #5: EVENT DAYS

The Sociallight is unique in that it has its own parking. It has been requested at the Campbell Oktoberfest, Campbell Boogie on the Avenue and other special days like that to have extended outside seating by many Campbell residents and event workers. We have an area that we can rope off, decorate nicely and not effect traffic in any way but provide good quality outside seating that is shaded under the overhand of our building. Anyone who comes to these events or operates them will say the number one complaint is there is not



enough places to sit down out of the sun. It would be nice to provide this and on these days, increase our service and revenues to take advantage of the events optimally. Of course we would also abide by all conditions of ABC, Enclosure, Security, etc.

Please allow extended outside seating to include the described area attached.

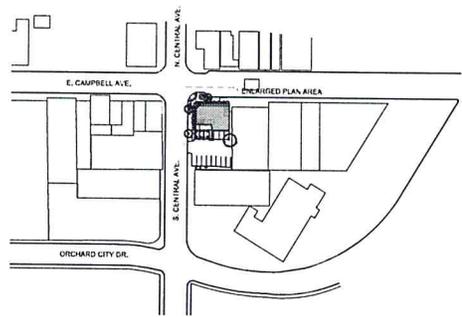
Sincerely,

Steve Bonner
Managing Member

SOCIALIGHT WINEBAR
 368 EAST CAMPBELL AVE.
 CAMPBELL, CA 95008

ISSUED FOR: DATE:

▲ SPECIAL EVENT SPACE 04.19.2016

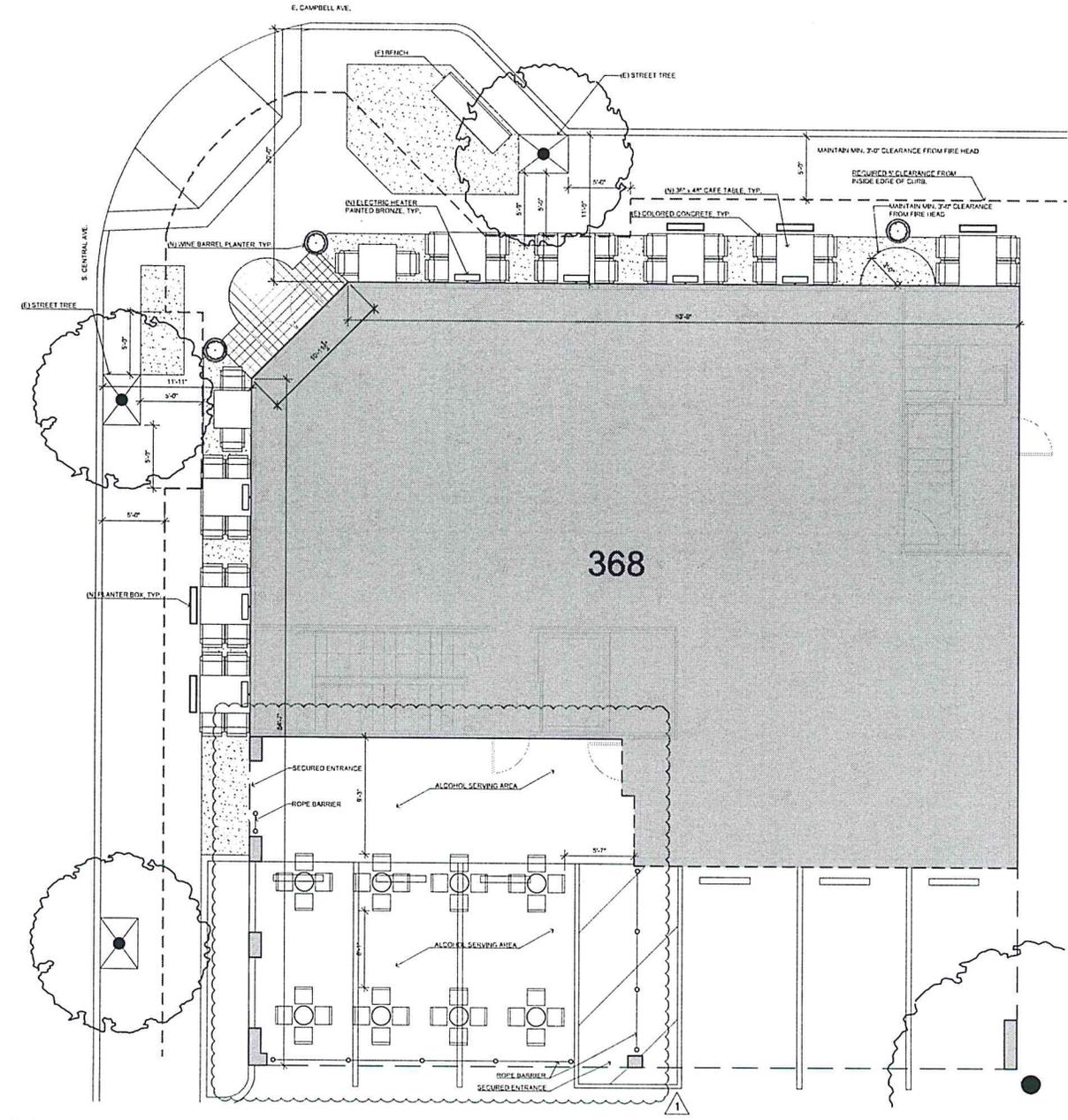


1. KEY PLAN

SCALE: 1" = 100'-0"

PROJECT LOCATION	
PROJECT ADDRESS	368 EAST CAMPBELL AVE. CAMPBELL, CA 95008
LEGAL DESCRIPTION	
APN	412-07-044
ZONE	C-3 (CENTRAL BUSINESS DISTRICT)

- SITE NOTES:**
- THIS IS NOT A SURVEY. IT IS PROVIDED FOR BUILDING AND SITE WORK LAYOUT ONLY. THE CONTRACTOR SHALL VERIFY ON SITE ALL GRADES, EXISTING IMPROVEMENTS, PROPERTY LINES, EASEMENTS, SETBACKS, UTILITIES, AND SUB-STRUCTURES. WHERE DISCREPANCIES OCCUR, CONTACT ARCHITECT.
 - FINISH GRADE SHALL PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDING.
 - ALL ROOF DRAINAGE SHALL BE PIPED TO STREET OR APPROVED DRAINAGE FACILITY.
 - IRRIGATION SYSTEM SHALL BE DESIGNED TO PREVENT THE SATURATION OF SOIL ADJACENT TO BUILDING.
 - PROVIDE EXPANSION AND CONTROL JOINTS IN ALL EXTERIOR CONCRETE SLABS. SPACING OF JOINTS SHALL BE PER INDUSTRY STANDARD.
 - PAD GRADE UNDER BUILDING SHALL HAVE POSITIVE SLOPE TO A PERFORATED DRAIN PIPE SET IN A GRAVEL TRENCH. EXTEND PIPE TO ALL PORTIONS OF UNDERFLOOR AREA. PIPE SHALL DISCHARGE TO STREET OR APPROVED DRAINAGE FACILITY.
 - A PERFORATED DRAIN SET IN A GRAVEL TRENCH SHALL BE INSTALLED AROUND THE ENTIRE PERIMETER OF THE NEW FOUNDATION. THE DRAIN SHALL DISCHARGE INTO THE STREET OR APPROVED DRAINAGE FACILITY.



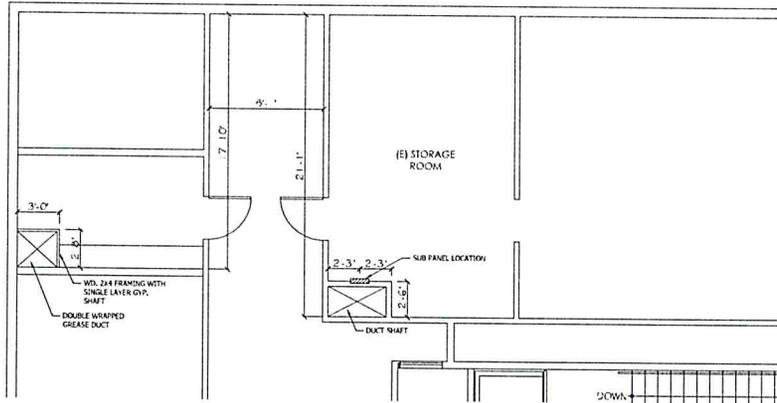
2. SITE PLAN

SCALE: 1/4" = 1'-0"

A1
SITE

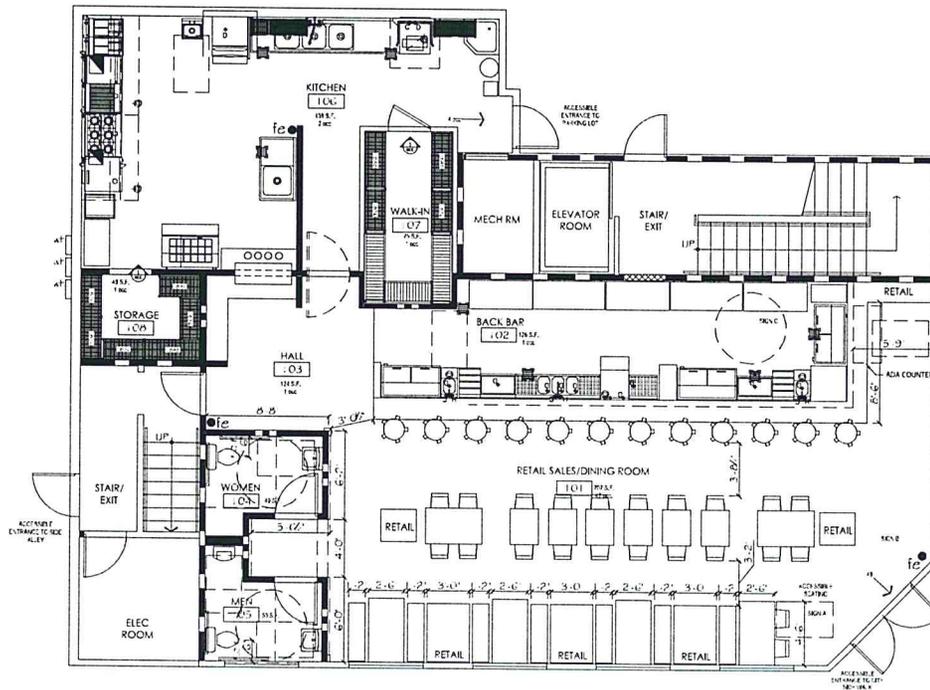
PROJECT NO.

Attachment # 4



2. SECOND FLOOR PLAN AT MECHANICAL CHASE LOCATIONS

SCALE: 1/4" = 1'-0"



1. FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"

OCCUPANCY - A2 RESTAURANT:			
ROOM NUMBER	LOAD FACTOR	SQUARE FEET	OCCUPANTS
101 DINING AREA	1/15	718	49
102 BACK BAR	1/200	126	1
103 HALL	1/100	124	2
104 RESTROOM	1/100	49	1
105 RESTROOM	1/100	52	1
106 KITCHEN	1/200	436	3
107 WALK-IN	1/300	75	1
TOTAL			58

SEAT COUNT:	
BAR:	12
ADA BAR:	1
OPEN SEATING:	20
BOOTH:	16
TOTAL	49

SOCIALIGHT WINEBAR
 368 EAST CAMPBELL AVE.
 CAMPBELL, CA 95008

ISSUED FOR: _____ DATE: _____

- 1 04/08/2015 PLAN CHECK COMMENTS
-
-
-
-
-
-
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-
-
-

13001



ITEM NO. 5



CITY OF CAMPBELL • PLANNING COMMISSION
Staff Report • June 28, 2016

PLN2016-105 Public Hearing to consider the application of Steven Bonner for a Modification (PLN2016-105) to a previously-approved Conditional Use Permit (PLN2014-57/PLN2015-195) for an existing restaurant, to modify the approved alcohol service from beer & wine to "general" (distilled spirits), extend the business closing time from 10:00 PM to 12:00 AM ("late-night activity"), increase the number of approved bar seats, permit amplified live entertainment, and allow occasional outdoor seating and service in the rear parking lot for special events, on property located at **368 E. Campbell Ave.** in 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 the City Council approve a Modification (PLN2016-105) to a previously approved Conditional Use Permit (PLN2012-255/PLN2015-195), subject to the attached Conditions of Approval.

ENVIRONMENTAL DETERMINATION

Staff recommends that the Planning Commission find that this project is Categorical Exempt under Sec. 15060(c)(2) of the California Environment Quality Act (CEQA), pertaining to activities that will not result in a direct or reasonably foreseeable indirect physical change to the environment, and recommend such finding to the City Council.

PROJECT DATA

Lot Size:	8,200 square feet
Total Building Area:	6,500 square feet
Zoning District:	C-3 (Central Business District)
General Plan Land Use:	Central Commercial
Existing (Public) Hours:	6:00 AM – 10:00 PM, daily
Proposed (Public) Hours:	6:00 AM – 12:00 AM, daily
Existing Indoor Seating:	49 seats (9 bar/40 dining area)
Proposed Indoor Seating:	49 seats (12 bar/37 dining area)
Parking Required:	Not Applicable (no change of occupancy)
Surrounding Uses:	
North:	Campbell Avenue and commercial uses
South:	Office Building (Water Tower II)
East:	Salon
West:	Central Avenue and commercial uses

DISCUSSION

Project Location: The project site is located at the southeast corner of E. Campbell and Central Avenues (reference Attachment 3 – Location Map), and is developed with a two-story retail and office building known as the "Schrader Building." The ground floor is occupied by the Socialight Restaurant with professional office space on the second floor.

Background: The Socialight restaurant was established by the City Council's June 17, 2014 approval of a Conditional Use Permit allowing beer and wine service, early-morning operational hours ("late-night" activity), and (acoustic) live entertainment limited to two performers. Following observation of various violations and issuance of an administrative citation, the Community Development Director convened revocation proceedings with the Planning Commission and City Council, which concluded with the Council's July 21, 2015 involuntary modification of the Conditional Use Permit (reference **Attachment 4**). This action imposed a more restrictive violation clause (2 verifiable warnings within 24 months), mandated payment for enforcement costs, and reiterated compliance with the approved floor plan.

Applicant's Proposal: Now, eleven months later, the applicant, Mr. Steven Bonner, proprietor of the Socialight restaurant, has submitted a request (reference **Attachment 5**) to modify the Conditional Use Permit to allow the following operational changes. The project plans (reference **Attachment 6**) depict the proposed interior (i.e., additional bar seats) and outdoor configuration associated with the request.

- **Public Closing Time**: Extend the closing time from 10:00 PM (daily) to 12:00 AM (daily).
- **Alcohol Service**: Change the alcohol license from beer & wine to general (distilled spirits).
- **Bar Seating**: Increase the seating count at the bar from 9 seats to 12 seats, maintaining the total occupancy of 49.
- **Live Entertainment**: Allow amplified instruments for live entertainment, not just acoustical.
- **Special Event Seating**: Allow occasional outdoor seating in the rear parking lot.

ANALYSIS

Closing Time: The Downtown Alcohol Beverage Policy ("Policy") establishes the general criteria by which requested alcohol service in association with restaurants may be reviewed. A key component is a limitation on the public closing time, which the Policy urges to be "no later than 12:00 AM", allowing the City to exercise discretion on a case-by-case basis. A restaurant's public closing time is an important factor in ensuring that restaurants remain food-centered.

In the years since the Policy was adopted, the Planning Commission and City Council have increasingly struggled with granting closing times of up to midnight largely due to the increasing number of restaurants with such late hours. However, the applicant's restaurant is particularly restricted with a daily 10:00 PM public closing, which is shared with only one other Downtown restaurant, Naschmarkt, as indicated on **Attachment 7**. In terms of parity, the Planning Commission's most recent decision on a restaurant Conditional Use Permit was for (what is now) The Vesper. The Planning Commission allowed an 11:30 PM closing, subject to the last patron entry at 11:00 PM. This decision was a compromise between the applicant's request for an 11:30 PM closing and staff's recommendation for maintaining an 11:00 PM closing, and would also be appropriate for the Socialight.

Bar Seating: The Policy indicates that the "bar area"¹ should constitute no more than 25% of the restaurant's total seating capacity. Mr. Bonner's request to increase the number of bar seats from nine to twelve would be consistent with this standard, as the bar would now constitute 25% of the overall 49-seat (interior) capacity. Increasing the bar seating will mean that the dining room seating will need to be reduced accordingly to maintain the 49-seat maximum.

Live Entertainment: The Policy states that, "Live entertainment is limited to live musicians complimentary to the primary purpose of providing meal service...and shall not be permitted past 11:00 PM". As with the limitation on closing time, this restriction is intended to ensure that meal service, as opposed to entertainment, is the primary characteristic of a restaurant. The current restriction of acoustic (non-amplified) performance, however, is rather restrictive and not representative of other approvals for live entertainment. Since the concern this restriction was intended to address was the volume of the amplified live entertainment, another solution may be considered. The most recent Conditional Use Permit approval for the pending restaurant in the Grower's National Bank requires that amplification be limited to a *built-in* speaker system. By controlling amplification in this manner, the restaurant management can easily adjust the volume to ensure the music does not become a nuisance.

Alcohol Service: The allowance of alcohol-service is predicated on the decision-making body establishing several findings:

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

In large part, establishment of these findings has been grounded in conformance with the Policy in that a restaurant that maintains alcohol service as ancillary to food service is unlikely to create a nuisance, disturb the neighborhood, or increase the demand to City services. However, the Planning Commission must still determine whether allowing a restaurant with full alcohol service would result in an "overconcentration". Although neither the Zoning Code nor the Policy specifically define overconcentration, the City Council has conveyed that conformance to the Policy should not be construed as an automatic determination that no overconcentration exists.

Downtown currently has 26 alcohol-serving establishments (approved and/or in operation), including two full bars, one wine bar, 18 restaurants with full alcohol service, and five restaurants with beer and wine service, including the Socialight. In numeric terms, the proposed use change would not result in the creation of another alcohol-serving establishment or increase in approved seating capacities, since the establishment is already approved for beer and wine service.

However, as illustrated by the attached spreadsheet (reference **Attachment 8**), there has been an evident increase in the number of alcohol-serving establishments during the last decade, particularly restaurants either "upgrading" or opening with full alcohol service. Moreover, in

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

terms of geographic distribution, this block of East Campbell Avenue—between Central Avenue and the tracks—already has the highest concentration of restaurants licensed for full alcohol service, as shown in the attached aerial map (reference **Attachment 9**). With the addition of the Socialight, this block would have nearly 50% (9 of 19) of such restaurants within the Downtown. Arguably, this would represent an overconcentration of restaurants with full-service alcohol. As a result, staff recommends denial of this request.

Special Event Seating: Mr. Bonner's request to occasionally utilize the rear (covered) parking area for special event seating presents several concerns, which have lead staff to recommend against this request:

- **Parking**: The use of parking spaces for other activity, even on an occasional basis, would constitute a violation of several provisions found in CMC Section 21.28.030, which require parking stalls be reserved for parking of vehicles.
- **Security**: Additional seating for use during special events will in effect create an open air drinking area. This presents security issues, particularly underage drinking and overconsumption, that require additional Police resources to monitor and enforce.
- **Exiting**: The need to barricade the seating area to control access creates an exiting concern, particularly because the use of the rear downstairs door out for emergency egress would be encumbered.

Enforcement: The recommended Conditions of Approval would maintain the existing enforcement standard that "triggers" revocation proceedings should the restaurant generates two (2) verifiable complaints related to violations of conditions of approval and/or related to the service of alcohol within a twenty-four (24) month period. There have been no formal violations documented since the City Council's July 21, 2015 meeting. However, at the Boogie on the Avenue, Mr. Bonner placed an oyster station in front of the restaurant without the Chamber's approval. Despite Campbell Police's request to remove it on Saturday, it reappeared on Sunday. After much discussion, the oyster bar was eventually moved back into the restaurant.

Site and Architectural Review Committee: The Site and Architectural Review Committee did not review this application since no exterior alterations are associated with the Modification request.

Attachments:

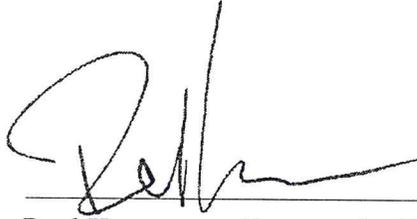
1. Findings Recommending Approval of File No. PLN2016-105
2. Recommended Conditions of Approval for File No. PLN2016-105
3. Location Map
4. City Council Resolution No. 11866
5. Project Request
6. Project Plans
7. Downtown Alcohol-Serving Establishments – Table
8. Downtown Alcohol-Serving Establishments – Spreadsheet
9. Downtown Alcohol-Serving Establishments – Aerial Map

Prepared by:



Daniel Fama, Associate Planner

Approved by:



Paul Kermoyan, Community Development Director

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. 5 into the record as follows:

5. **PLN2016-105** Public Hearing to consider the application of Steven Bonner for a Modification (PLN2016-105) to a previously-approved Conditional Use Permit (PLN2014-57/PLN2015-195) for an existing restaurant, to modify the approved alcohol service from beer & wine to "general" (distilled spirits), extend the business closing time from 10:00 PM to 12:00 AM ("late-night activity"), increase the number of approved bar seats, permit amplified live entertainment, and allow occasional outdoor seating and service in the rear parking lot for special events, on property located at **368 E. Campbell Avenue**. Staff is recommending that this item be deemed Categorically Exempt under CEQA. Tentative City Council Meeting Date: July 19, 2016. Project Planner: *Daniel Fama, Associate Planner*

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

Chair Dodd asked for any disclosures by the members of the Commission.

Commissioner Young said he had a conversation with Mr. Bonner and visited the location on both Saturday and Sunday this past weekend.

Commissioner Kendall said she had a phone conversation with Mr. Bonner.

Commissioners Reynolds, Bonhagen and Rich all advised they had met with Mr. Bonner.

Commissioner Finch said that while Mr. Bonner contacted her by phone on Monday, she was unable to take the call as she had her grandchildren visiting.

Chair Dodd asked if there were questions of staff.

Commissioner Rich asked if the live performance restrictions are based on square footage.

Planner Daniel Fama said that the maximum number of entertainers is four.

Director Paul Kermoyan added that when the applicant originally proposed this restaurant, the idea was to have acoustical music in the background to provide ambiance for diners.

Commissioner Young asked how many restaurants operate this many hours.

Planner Daniel Fama said that Pino's Trattoria does. He added that the overall number of hours itself has not been a concern outside of the closing time.

Commissioner Reynolds asked staff if the enforcement issue that came up during the last festival resulted in any City Ordinances being violated.

Director Paul Kermoyan:

- Said that there was a post-festival meeting held after that to discuss issues.
- Added that a pamphlet is being prepared for downtown business owners to clarify to them what is possible to occur from their location in relation to the festivals underway.
- Advised that a Conditional Use Permit is an Ordinance that allows business to occur within the building and not outside of it.
- Reminded that the festivals held downtown are run by the Chamber and they allow businesses to participate outside.
- Admitted that Socialight was not the only business doing so. There were quite a few.
- Said that it is important to educate everyone involved moving forward to future such festivals.

Planner Daniel Fama said that the current Conditional Use Permit for Socialight has a specific condition regarding outdoor activity. It is not allowed.

Commissioner Reynolds asked again if this was a violation to the Use Permit. Yes or no.

Planner Daniel Fama replied yes.

Commissioner Reynolds asked if the violation was criminal. If not, why was Police involved.

City Attorney William Seligmann said that the violation is subject to criminal penalties.

Commissioner Reynolds asked if the applicant was notified of the need.

Director Paul Kermoyan said that the Chamber has its own flyer that tells the downtown businesses how to participate in the Chamber's festivals.

Commissioner Reynolds asked why that reference is even in this report. He doesn't see a correlation.

Director Paul Kermoyan said that staff prepared a balanced report following the revocation hearing with altered conditions with the understanding that the Planning Commission would ask how this use has been operating since the last hearing. The report update is a fair and factual statement.

Commissioner Reynolds said it is a common hiccup that requires clarification for the future.

Commissioner Finch asked staff if the window issue has yet been resolved.

Planner Daniel Fama said that is a separate issue and staff continues to work with Mr. Bonner on it.

Commissioner Rich stressed the need for clear language on the issue of overconcentration. It needs to be tightened.

Planner Daniel Fama said that issue was discussed by Council. Council expects the Planning Commission to make its decisions on overconcentration based on a case-by-case basis.

Commissioner Rich said that there is no language that differentiates between the number of seats versus the number of alcohol service licenses in an area.

Commissioner Bonhagen:

- Said that the Commissioner considers the issue of concentration to make sure it is not a problem or that there are too many establishments with alcohol.
- Pointed out that most impacts occur after midnight.
- Asked what is the specific concern or problem related to the festival events such as Boogie and Oktoberfest. Is it safety? Is it crime?

Planner Daniel Fama explained that the Chamber secures permits for an event in the public right-of-way. They may be blamed in the event that something goes wrong.

Director Paul Kermoyan added that the Chamber has to secure insurance as well as County Health permits for outside service. Everything that occurs outdoors during a festival falls under the umbrella of the Chamber. County Health as well as ABC (Alcohol Beverage Control) representatives both monitor and walk the event to look for violations of their standards.

Chair Dodd opened the Public Hearing for Agenda Item No. 5.

Steve Bonner, Applicant:

- Reminded that he had submitted a letter.
- Reported that the Type 47 license is both needed and deserved. It has been earned and should be issued.
- Asked that the Commission extend his closing time to midnight rather than 11:30 p.m. as recommended by staff.
- Said that having full service alcohol license (Type 47) is a huge issue. When a restaurant like his can't give a customer the food and/or drink of their choice, they won't come in.
- Added that this evening some restaurateurs will speak to this.

- Said that this is a matter of equality and fairness. All dining restaurants in the downtown have the Type 47 license except his. His is the only one except for a wine bar that didn't request Type 47.
- Reported that 70 percent of their revenue is from food service and has been the case since they started.
- Said he did his "year" and have during that time been named the "best restaurant in town". They have been waiting for the opportunity to request the Type 47 license after their proving year. They have been fighting hard to stay alive this whole year. They don't make money yet and need these extra hours of operation into the evening to accomplish what they have set out to do. They receive accolades from magazines and newspapers. They are concerned about the community.
- Pointed out that during that time period another use, Vesper, was allowed a Type 47 license right away.
- Said that he has Gary Shelly, a Michelin chef, on board.
- Said that it is now time to adjust some of the limitations imposed on The Sociallight.
- Asked the Commission to embrace The Sociallight and help us to prosper.
- Opined that unnecessary restrictions strangle a business from what it is trying to achieve.
- Advised that they need to be able to get to a second turnover of tables.
- Said that they just need an even playing field. It's what's fair. A Type 47 license is what is essential for their survival. Not having it puts them at a disadvantage. Again they are the only restaurant without a Type 47 license so please approve it this time.
- Said that while he prefers a midnight closing, even 11:30 p.m. would make a huge difference from the existing 10 p.m.
- Asked that they be allowed amplified music with no restrictions. They want to start with music.
- Pointed out that they are asking to add three more bar stools for a maximum of 1, which is supported by staff.
- Reminded that they have had no violations.

Paul Brown, Resident on Holland Lane, San Jose:

- Said he is the owner of DB Development.
- Recounted that he often brings people to Sociallight. He likes it there. It's quiet.
- Said it would be a nice addition to have general alcohol service as well.

Aiden Wiltse, Resident of San Juan Bautista:

- Advised that he is the General Manager for The Sociallight.
- Reported that lack of general alcohol service hinders them in providing full service to their customers and also affects their livelihood. They have established goals to reach bonus levels. Having another turnover of the tables would be possible with the expanded hours to midnight.
- Advised that the peak dining hours are between 7 and 9 p.m.
- Admitted that while 11:30 p.m. closing would be a step in the right direction, a midnight closing would better serve their needs.

Marty Behler, Resident of San Jose:

- Advised that she has been on staff at The Socialight for three weeks. She started as a hostess and as of today is serving as the Marketing Manager.
- Said that she wants to raise two issues – the closing time and general alcohol service.
- Reported that part of her job as Marketing Manager will be to bring in special events. There is a disadvantage in accomplishing that without a Type 47 license.
- Asked the Commission to let them be as successful as possible.

Gary Shelly, Resident on Harrison Ave, Campbell:

- Stated that he has been a Campbell resident for the last five years.
- Advised that he has worked at six different Michelin starred restaurants.
- Said that having to close by 10 p.m. is ridiculous and a hindrance to this business. It also hinders staffs' abilities to achieve goals that lead to bonuses.

Edgar Zaldana, Resident of Gilroy:

- Said that he has worked at Socialight for four months now.
- Admitted that it can be stressful to have to kick customers out by 10 p.m.
- Added that it hampers everything and hinders earnings
- Said that he wants to be a part of a diverse community as is Campbell.

Len Duncan, Resident of San Jose:

- Reported that he has a close affinity to Campbell and serves on a Veterans Foundation in Campbell.
- Added that Steve Bonner is a long-time friend.
- Asked that Mr. Bonner be given the opportunity to be successful with Socialight. It is the nicest restaurant in Campbell. It is a "target" restaurant and not a bar.
- Recounted that he travels internationally and has guests who come here from around the world. He brings them to Socialight.
- Asked that Mr. Bonner be allowed to recoup his investment.

Rita Archer, Resident on Del Roy Court, Campbell:

- Said that she was over at Pruneyard with Tessora's Wine Bar and moved it from there to downtown Campbell.
- Added that she is on the Board of the Campbell Chamber of Commerce.
- Stated that the Chamber has no problems with The Socialight. Steve Bonner is eager, ambitious and enthusiastic. He has a positive spirit.
- Asked that he be approved for what he is asking for this evening.

Rob O'Neal, Resident of San Jose:

- Described The Socialight as an upscale tavern, bar and restaurant combined.
- Added that it is also an asset to downtown Campbell.
- Stated that women can come to The Socialight and feel comfortable there.
- Said that Steve Bonner is there all the time.

Chair Dodd closed the Public Hearing for Agenda Item No. 5.

Commissioner Rich:

- Said he like to direct some questions to the representative present this evening from the Campbell Police Department.
- Asked if there are any concerns having eight restaurants in this segment of the downtown and the related calls for service. Is there a correlation between the number of calls related to the type of liquor license?

Sergeant David Livingstone, Campbell Police:

- Said he didn't have specific statistics to offer this evening.
- Advised that areas that are more concentrated with bars (such as The Spot and Cardiff) and/or alcohol-serving businesses that have later operational hours result in more demands for service.

Commissioner Dodd asked if there are more calls for service generated from one end of downtown or the other.

Sgt. David Livingston said that the calls for service are spread out.

Commissioner Rich asked if the concern for the CPD is not concentration but rather type of establishment.

Sgt. David Livingston said he does not have specific numbers available tonight.

Commissioner Rich asked if certain hours result in the most calls for service on a Friday and Saturday.

Sgt. David Livingston said Thursday, Friday and Saturday after midnight. One can visibly see the change as patrons leave restaurants for bars.

Commissioner Rich asked if CPD has any major concern with allowing a full liquor license at this location.

Sgt. David Livingston said they have no major concerns.

Commissioner Reynolds asked if there is a known correlation with specific demographics. Is it true that the most problems come from those in the 21 to 35 year age group as compared to the 45 to 65 year old demographic?

Sgt. David Livingston agreed that a younger crowd results in more issues. These two demographics have very different lifestyles.

Commissioner Finch:

- Pointed out that there has been no discussion about the proposed outside dining area in the parking lot at the back.
- Stated that she was not supportive of that idea at all. That lot is intended for parking and not for outdoor dining.
- Said that she is leaning toward supporting the Type 47 license and a closing of either 11:30 p.m. or 12 a.m.

Commissioner Rich:

- Said he supports all of the staff recommendations except for the Type 47 license that he feels should be granted.
- Reminded that the PD does not have concerns about it. It seems the issues with alcohol are with the types of business in which served rather than the concentration of available locations in a particular area.
- Pointed out that if there are issues, they can be addressed.
- Said he is okay with extending the closing time either to 11:30 p.m. or 12 a.m.
- Stated that he is not in favor of the parking lot seating as that potentially creates too many issues.
- Reiterated his support for the staff recommendations except for that on Type 47 license, which he supports approving.

Commissioner Bonhagen:

- Said that this makes sense.
- Said that he also likes the staff recommendations but also has no problem supporting the Type 47 license.
- Reminded that this business has been in operation now for one year without problem so there is no reason to hold back.
- Stated that he has no problem with a midnight closing time.

Commissioner Reynolds:

- Said that he supports the Type 47 license.
- Reported that he has frequented The Socialight many times.
- Recounted how one time he took some out-of-town visitors there. When they noticed the non-availability of cocktails outside of beer and wine, they wanted to go elsewhere. That was an embarrassing situation for him.
- Pointed out that this is a fine dining establishment. The lack of a Type 47 license is affecting jobs and earnings for these employees.
- Said he would support the closing time.
- Added that he would like to encourage letting this applicant control the amplification for the live entertainment.
- Reminded that The Socialight has a quiet restaurant ambiance. At some restaurants one has to scream to be heard.
- Said that allowing outdoor dining to occur occasionally in the back parking is something he is torn on. Parking in the downtown is hard.
- Stated that instead he would like to ask the applicant to come back or allow the Director to approve this aspect at a later date in order to see what happens with these modifications to the use.

Commissioner Young:

- Stated that he is happy to see that the applicant is in compliance. However, he also reported that he was surprised to see 11 bar seats at the bar approved for 9 bar seats when he visited on Saturday this past weekend.
- Said that overall the applicant has performed well.

- Stated that the proposed outside parking area for dining is not supportable especially given that the handicapped parking space is located there.
- Agreed that the house could work on the amplification.
- Reminded that the Council had wanted the Planning Commission to consider and answer on the issue of what is overconcentration. Therefore, if the Commission recommends this, it is saying that there is not an overconcentration. There is more a "saturation" than an overconcentration.
- Pointed out that this restaurant is open almost 24 hours a day since they only close for about 5 hours a day.
- Said he supports the seating proposal as recommended by staff and reminded that chairs can move around a lot.
- Cautioned that placement of chairs and/or bar seats could potentially impede wheelchair access to the restrooms.
- Said he supports inside amplification, proposed hours, added seats but not outdoor dining on the back parking lot.

Commissioner Kendall:

- Agreed with Commissioner Young's points about in-house music amplification.
- Admitted that in her view there is an overconcentration of alcohol serving businesses in the downtown.
- Pointed out that this is a small downtown with only four blocks in length. It doesn't run through a couple of miles as does Los Gatos' downtown.
- Stated that there is an impact with all of these liquor serving establishments. She is more inclined to stick with the beer and wine license at this location.
- Said that remaining with a 10 p.m. closing may be too limiting on this business. If there is no Type 47 license, she can support a midnight closing. With a Type 47 she would support an 11:30 p.m. closing.
- Added that she is okay with 12 seats at the bar although the seating changes that can and occurs both inside and outside makes her uncomfortable.
- Stressed that she does not support any rear parking lot dining uses. Not even for special events.

Commissioner Bonhagen:

- Said that he supports the Type 47 license.
- Reminded that every full-service restaurant downtown has a Type 47 including some that opened after The Sociallight.
- Questioned any reason to deny this one.

Commissioner Kendall said the reason is overconcentration in the downtown, which she firmly believes has been reached, especially in that block.

Commissioner Bonhagen asked why that is a problem.

Commissioner Kendall said because that issue is of concern for the City Council.

Commissioner Rich:

- Said that a good point is made in asking "what's the issue?".

- Admitted that he is not concerned about concentration but rather type of establishment serving.
- Said he does worry about the future.
- Stated that he is comfortable with an 11:30 p.m. closing with a Type 47 license. Otherwise, he agrees with the staff recommendations.

Commissioner Young:

- Said that consistency is important and considering the known versus the unknown.
- Pointed out that the business plan for this use has changed. The original proposal was for a retail component (selling lights). Now the retail is just wine. A smoothie bar was there for a while and is now gone.
- Said that if more seats are approved, it is important to ensure that they don't appear somewhere else.

Commissioner Reynolds:

- Reported that the smoothies are not gone. They are still there but just no longer out in view inside the restaurant but rather in the kitchen. They make delicious smoothies.
- Added that they have a \$15,000 coffee machine.
- Said that this change from beer and wine to Type 47 is not adding to the concentration but rather just changing the type of alcohol available to be served.

Chair Dodd:

- Asked Director Kermoyan, since tonight's decision by the Commission will simply serve as a recommendation on to Council, why not just approve per staff recommendations and put back onto them the issue of overconcentration.
- Pointed out that this Commission has asked for direction from Council as to how to identify overconcentration and what they want to see in the downtown.

Director Paul Kermoyan said that the ultimate decision is that of the City Council. The Commission is a recommending body. Council takes the Commission's recommendation and makes the final decision.

Chair Dodd:

- Said that The Sociallight is an extremely good restaurant. A Type 47 license may not necessarily enhance it.
- Reminded that we have seen a number of changes and they may come back later for another modification.
- Added that this Commission didn't make them "jump through hoops" but rather asked them to comply with their Conditional Use Permit.
- Said that they have done wonderfully following the imposed restrictions.

Commissioner Kendall said that adding three extra seats at the bar is creating a "bar" thing. She said if they want 11:30 p.m. closing and a Type 47 license with just nine seats at the bar, she'd be satisfied.

Commissioner Young pointed out that the bar is pretty big with big screens. It is not really consistent with fine dining.

Commissioner Reynolds:

- Said that this business is simply trying to compete, grow and comply.
- Pointed out that no one here is in opposition tonight. There are no letters of opposition. There has been nothing but positive feedback from the audience and no concerns have been raised by Campbell PD.
- Suggested going with the Type 47 license, a midnight closing, amplification for the live entertainment and three additional seats at the bar.
- Reminded that there are still catch-all conditions in the Conditional Use Permit to bring this use back if there are violations be it this owner or a future owner operating at this location.
- Suggested, "Let's see what they can do."

Commissioner Bonhagen said he ditto's that exactly – a midnight closing, Type 47 license, self-amplification and three added seats at the bar.

Commissioner Rich said he takes exception to closing hour of midnight together with amplification. If amplification is allowed, he can support to 11:30 but not to midnight. He also supports the Type 47 and the 12 seats total at the bar.

Commissioner Finch:

- Reminded that this Commission initially denied this use in 2014.
- Added that the applicant at that time wanted to be a retail use with bar and food. As she recalled, they wanted to create a place where "our generation" could hang out in the evening.
- Said that she is leaning toward Commissioner Kendall's recommendation of the Type 47 without the additional three bar seats and with an 11:30 p.m. close.

Commissioner Young said he too agrees with Commissioners Finch and Kendall. He added that this restaurant is open more hours than others in the downtown.

Motion: Upon motion of Commissioner Rich, seconded by Commissioner Kendall, the Planning Commission adopted Resolution No. 4307 recommending that the City Council approve a Modification (PLN2016-105) to a previously-approved Conditional Use Permit (PLN2014-57/PLN2015-195) for an existing restaurant, on property located at 368 E. Campbell Avenue, as follows:

- **Modify the approved alcohol service from beer & wine to "general" (Type 47) license;**
- **Extend the business closing time for customers from 10:00 p.m. to 11:30 p.m., with staff leaving by midnight.**
- **Allow in-house amplification for live entertainment;**
- **Leave the number of approved bar seats at 9;**
- **Correct the opening hour of 6 a.m. per the desk item;**

subject to the conditions of approval, by the following roll call vote:

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

Chair Dodd advised that this item would be considered by the City Council at its meeting of July 19, 2016.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan added the following information to his written report:

- Reminded the Commission that he has sufficient budget to send two members of the Planning Commission to the California APA (American Planning Association) annual meeting in Pasadena from October 22nd through 25th. If more than two indicate interest than names will be drawn from among those interested in going.

ADJOURNMENT

The Planning Commission meeting adjourned at 11:05 p.m. immediately to a Study Session and subsequently to the next Regular Planning Commission Meeting of **July 12, 2016**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Cynthia Dodd, Chair

ATTEST: _____
Paul Kermoyan, Secretary

RESOLUTION NO. 4307

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL RECOMMENDING THAT THE CITY COUNCIL APPROVE A MODIFICATION (PLN2016-105) TO A PREVIOUSLY-APPROVED CONDITIONAL USE PERMIT (PLN2014-57/PLN2015-195) FOR AN EXISTING RESTAURANT TO MODIFY THE APPROVED ALCOHOL SERVICE FROM BEER & WINE TO "GENERAL" (DISTILLED SPIRITS), EXTEND THE BUSINESS CLOSING TIME FROM 10:00 PM TO 11:30 PM ("LATE-NIGHT ACTIVITY"), AND ALLOW AMPLIFIED LIVE ENTERTAINMENT, ON PROPERTY LOCATED AT **368 E. CAMPBELL AVENUE**. FILE NO.: PLN2016-105

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

The Planning Commission finds as follows with regard to file number PLN2016-105:

1. The project site is zoned C-3 (Central Business District) and designated *Central Commercial* by the General Plan Land Use Element.
2. The project site is located at the southeast corner of Campbell and Central Avenues.
3. The project site consists of an 8,200 square-foot parcel, improved with a 6,500 square-foot two-story building with retail and office.
4. On June 17, 2014, a Conditional Use Permit (PLN2014-57) was approved by the City Council, establishing a restaurant use, The Socialight, to occupy the site with beer and wine sales, late night activities (an early morning 5:00 a.m. operational hour opening), and live entertainment in the building.
5. On July 21, 2015, the City Council modified (PLN2015-195) the previously approved Conditional Use Permit to establish new conditions to resolve outstanding code enforcement violations.
6. As recommended by the Planning Commission, the requested Modification (PLN2016-105) to the previously approved Conditional Use Permit (PLN2014-57 / PLN2015-195) would modify the approved alcohol service from beer & wine to "general" (distilled spirits), extend the business closing time from 10:00 PM to 12:00 AM ("late-night activity"), and permit amplified live entertainment, allow occasional outdoor seating and service in the rear parking lot for special events.
7. The approval of a Modified Conditional Use Permit incorporates applicable operational standards of the Downtown Alcohol Beverage Policy.
8. Alcohol beverage service in the restaurant shall be ancillary and subordinate to the primary purpose of serving food.
9. Policies found within the Campbell General Plan and Downtown Campbell Development Plan articulate a desire to promote and enhance a downtown

environment that provides a desirable balance of land uses including shopping, services, and entertainment. This vision is evidenced in policies that encourage a mix of day and evening activities, a distinctive retail presence, a diversity of eating establishments, support for neighborhood-serving businesses, and protection of surrounding residential neighborhoods.

10. The City Council adopted the 'Downtown Alcohol Beverage Policy', as an implementation tool of the Campbell General Plan and Downtown Development Plan. The Policy is intended to balance the health and safety of the community while still maintaining the commercial viability of the downtown in which restaurants have an essential role.
11. Conformance to the provisions of the Downtown Alcohol Beverage Policy is the basis to which the City shall review new applications for alcohol beverage service. Restrictions to the hours of operation, amount of bar area seating, and alcohol beverage service, are necessary to protect the public health, safety and welfare.
12. The Downtown Alcohol Beverage Policy strongly recommends that Conditional Use Permits for establishments for on-site consumption of alcohol beverages be limited to a closing time of no later than 12:00 AM. However, the Planning Commission retains the discretion to allow lesser hours as necessary to satisfy the required findings provided for in CMC Secs. 21.46.070 and 21.46.040. To satisfy such findings, a public closing time of 11:30 PM subject to the last patron entry 11:00 PM is necessary.
13. The over-concentration alcohol-serving establishments within a compact downtown district can create a cumulative impact that overwhelms the area creating an undesirable result such as drunkenness in public, vandalism, and disorderly conduct.
14. Use of the rear parking area for occasional seating creates parking, security, and exiting issues, which preclude this activity.
15. The approval of a Conditional Use Permit Modification incorporates applicable operational standards of the Downtown Alcohol Beverage Policy.
16. Alcohol beverage service in the restaurant shall be ancillary and subordinate to the primary purpose of serving food.

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

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

3. The proposed site is adequate in terms of size and shape to accommodate the fences and walls, landscaping, parking and loading facilities, yards, and other development features required in order to integrate the use with uses in the surrounding area;
4. The proposed site is adequately served by streets of sufficient capacity to carry the kind and quantity of traffic the use would be expected to generate;
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject property.
6. The establishment, maintenance, or operation of the proposed use at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
7. The establishment will not result in an over-concentration of these uses in the surrounding area;
8. The establishment will not create a nuisance due to litter, noise, traffic, vandalism, or other factors;
9. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood;
10. The establishment will not significantly increase the demand on city services;
11. As conditioned, the establishment will be consistent with the Campbell Downtown Alcohol Policy.
12. The project is Categorically Exempt under Section 15060(c)(2) of the California Environment Quality Act (CEQA), pertaining to activities that will not result in a direct or reasonably foreseeable indirect physical change to the environment.

THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council approve a Modification (PLN2016-105) to a previously approved Conditional Use Permit (PLN2014-57/PLN2015-195) for property located at **368 E. Campbell Avenue**, subject to the attached Conditions of Approval (attached Exhibit "A").

PASSED AND ADOPTED this 28th day of June, 2016, by the following roll call vote:

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

APPROVED: _____
Cynthia Dodd, Chair

ATTEST: _____
Paul Kermoyan, Secretary

RECOMMENDED CONDITIONS OF APPROVAL
Conditional Use Permit Modification (PLN2016-105)

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

1. Approved Project: Approval is granted for a Modification (PLN2016-105) to a previously approved Conditional Use Permit (PLN2014-57/PLN2015-195) to extend the business closing time from 10:00 PM to 11:30 PM ("late-night activity"), modify the approved alcohol service from beer & wine to "general" (distilled spirits), and allow amplified live entertainment, in association with an existing restaurant with beer and wine service, located at **368 E. Campbell Avenue**. The project shall substantially conform to the Revised Project Plans and Project Description stamped as received by the Planning Division on April 21, 2016 and March 22, 2016, respectively, except as may be modified by the conditions of approval contained herein.
2. Approval Expiration: This Approval shall be valid for one year, expiring July 19, 2017. Within this one-year period, a Type 47 Alcoholic Beverage Control (ABC) license must be secured or the Modified Conditional Use Permit shall be rendered void. If this Approval expires, operation of the use shall revert back to the previous Conditional Use Permit (PLN2014-57/PLN2015-195) as approved by City Council Resolution No. 11866. Once established, approval for a restaurant and bar with general alcohol service shall be valid in perpetuity on the property subject to continued operation of the use. Abandonment, discontinuation, or ceasing of operations for a continuous period of twelve months shall void the Conditional Use Permit approved herein.
3. Previous Conditions of Approval: The previously approved Conditions of Approval provided in City Council Resolution No. 11866 shall be void and shall permanently be superseded in their entirety by the Conditions of Approval specified herein, except as noted by Condition No. 2.
4. Operational Standards: Consistent with Downtown Alcohol Beverage Policy and other City standards, any restaurant operating pursuant to the Conditional Use Permit approved herein shall conform to the following operational standards.
 - a. **Restaurant Seating/Patron Occupancy**: Total indoor patron occupancy shall be limited to 49 seated persons, composed of 40 dining room seats and 9 bar seats, subject to the maximum occupancy capacities of certain rooms as determined by the California Building Code (CBC). At no time shall there be more than 49 patrons within the establishment, excluding those waiting for service. It is the responsibility of the business owner to provide adequate entrance controls to ensure that patron occupancy is not exceeded.
 - b. **Maximum Occupancy Sign**: The business owner shall install a new maximum occupancy sign of a size to be determined by the Community Development

- m. **Outdoor Seating:** Outdoor seating shall be considered part of the dining area subject to all restrictions herein. Total patron occupancy in the outdoor seating shall be limited to the number of approved seats as specified by an approved Outdoor Seating Permit.
- n. **Loitering:** There shall be no loitering allowed outside the business and within the outside dining area that may be approved pursuant to an Outdoor Seating Permit. The business owner is responsible for monitoring the premises to prevent loitering.
- o. **Noise:** Unreasonable noise—defined as noise, regardless of decibel level, which obstructs the free use of neighboring properties so as to unreasonably interfere with the comfortable enjoyment of the neighboring residents—shall not be generated by the live entertainment. In the event verified complaints are received by the City regarding such unreasonable noise, the Community Development Director may immediately modify the business hours and/or impose additional restrictions on the live entertainment, including but not limited to, reducing the number of performers, and prohibiting amplified entertainment, subject to the project being brought back to the Planning Commission for review.
- p. **Smoking:** “No Smoking” signs shall be posted on the premises in compliance with CMC 6.11.060.
- q. **Trash & Clean Up:** All trash, normal clean up, carpet cleaning, etc. shall occur during the approved ‘Operational Hours’. If determined necessary by the Community Development Director to protect the public health and safety, the existing refuse enclosure shall be modified to incorporate a roof covering and sanitary drain connection. Refuse and recycling receptacles shall be kept within the enclosure except during collection in compliance with Chapter 6.04 of the Campbell Municipal Code.
- r. **Liquor License:** The business owner shall maintain in good standing a Type 47 license (On-Sale General for Bona Fide Public Eating Place) from the State Department of Alcoholic Beverage Control for the sale of alcoholic beverages. The license shall include Business Hour and other applicable restrictions consistent with the Conditional Use Permit approved herein. A copy of the issued license shall be provided to the Community Development Department prior to issuance of a Business License.
- s. **Alcohol Sales:** The monthly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period, consistent with ABC licensing regulations. The business owner shall provide sales records on demand to the City to verify compliance with this standard.
- t. **Employee Training:** The establishment shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association and the Department of Alcoholic Beverage Control.
- u. **Designated Driver Program:** The establishment shall maintain and actively promote a designated driver program (e.g., complimentary non-alcoholic

beverages for designated drivers), including posting in a conspicuous place contact information for local designated driver services.

v. **Taxicab Service:** The establishment shall post in a conspicuous place the telephone numbers of local taxicab services.

w. **Outdoor Activity:** Other than outdoor seating as permitted by an Outdoor Seating Permit, no outdoor activity, including cooking, and "special event" activities, is permitted in association with the establishment.

5. **Revocation of Permit:** Operation of the restaurant and bar pursuant to the Conditional Use Permit approved herein is subject to Sections 21.68.020, 21.68.030 and 21.68.040 of the Campbell Municipal Code authorizing the City Council to modify or revoke a Conditional Use Permit if it is determined that the sale of alcohol has become a nuisance to the City's public health, safety or welfare or for violation of the Conditional Use Permit or any standards, codes, or ordinances of the City of Campbell.

At the discretion of the Community Development Director, if the establishment generates two (2) verifiable complaints related to violations of conditions of approval and/or related to the service of alcohol within a twenty-four (24) month period, a public hearing before the City Council, upon recommendation of the Planning Commission, may be scheduled to consider modifying conditions of approval or revoking the Conditional Use Permit. The Community Development Director may commence proceedings for the revocation or modification of use permits upon the occurrence of less than two (2) complaints if the Community Development Director determines that the alleged violation warrants such an action. In exercising this authority, the decision making body may consider the following factors, among others:

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

RESOLUTION NO. 11866

BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL MODIFYING A CONDITIONAL USE PERMIT (PLN2014-57) ESTABLISHING NEW CONDITIONS TO RESOLVE CODE ENFORCEMENT VIOLATIONS THAT INCLUDE A NEW "REVOCATION OF PERMIT" PERIOD OF TWO (2) VERIFIABLE COMPLAINTS WITHIN TWENTY-FOUR (24) MONTHS PRIOR TO TRIGGERING THE NEED TO CONSIDER PERMIT REVOCATION, REQUIRING THE OWNER TO PAY FOR ALL ADMINISTRATIVE FINES FOR FUTURE VIOLATIONS, VOIDING THE CONDITIONAL USE PERMIT IF THE USE IS ABANDONED FOR SIX (6) MONTHS, LIMITING BAR AREA TO NO MORE THAN NINE (9) PERSONS, AND REQUIRING THE FLOOR PLAN TO BE CONSISTENT WITH THE ORIGINAL APPROVAL

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 to file number PLN2014-57 as modified from the original approval:

1. The project site is zoned C-3 (Central Business District) and designated *Central Commercial* by the General Plan Land Use Element.
2. The project site is located at the southeast corner of Campbell and Central Avenues.
3. The project site consists of an 8,200 square-foot parcel, improved with a 6,500 square-foot two-story building with retail and office.
4. The approved Conditional Use Permit currently allows late night (early morning) operation, beer and wine sales, and live entertainment in conjunction with a new restaurant and bar.
5. The approved Conditional Use Permit incorporates applicable operational standards of the Downtown Alcohol Beverage Policy.
6. Alcohol beverage service in the restaurant shall be ancillary and subordinate to the primary purpose of serving food.
7. Policies found within the Campbell General Plan and Downtown Campbell Development Plan articulate a desire to promote and enhance a downtown environment that provides a desirable balance of land uses including shopping, services, and entertainment. This vision is evidenced in policies that encourage a mix of day and evening activities, a distinctive retail presence, a diversity of eating establishments, support for neighborhood-serving businesses, and protection of surrounding residential neighborhoods.

8. The over-concentration of late night alcohol serving establishments within a compact downtown district can create a cumulative impact that overwhelms the area creating an undesirable result such as drunk in public, vandalism, and disorderly conduct.
9. Alcohol beverage service in the restaurant shall be ancillary and subordinate to the primary purpose of serving food.
10. A public closing time of 10:00 PM for the restaurant and bar is appropriate to ensure that alcohol service remains ancillary to food service and therefore would not result in an overconcentration of alcohol-serving (liquor) establishments.
11. Establishment, maintenance and operation of outdoor seating for the restaurant needs to be maintained consistent with an approved Outdoor Seating Permit to avoid impacts to the comfort, health, morals, peace, safety, or general welfare of persons residing, walking or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
12. On July 15, 2014, the City conducted a general meeting with Downtown Campbell restaurant and bar owners as part of an educational code enforcement program for the purpose to address repetitive complaints about various businesses not complying with their conditions of approval.
13. Staff met with Mr. Bonner on August 22, 2014 to review his specific conditions of approval and respond to any questions or need for clarification of the conditions.
14. Condition #4 the Conditional Use Permit (PLN2014-57) requires the Community Development Director to begin the revocation proceedings upon three (3) verifiable complaints or violations of the Permit within a six (6) month period.
15. On May 9, 2015, the Campbell Police Department documented that 6 to 8 guests were located within the business after 11:00 p.m. when the business, including employees, should be out of the building.
16. On May 17, 2015, the Community Development Director documented that the outside seating and tables greatly exceeded the quantity and type approved as part of the Outside Seating Permit.
17. On May 21, 2015, the Campbell Police Department documented that 8 to 10 guests were in the business after 10:00 p.m. when the business is required to be closed to the public at 10:00 p.m.
18. The Community Development Department staff identified that there were eighteen (18) bar stools at the bar where only nine (9) were permitted.
19. The Planning Commission conducted CUP revocation proceedings on June 23, 2015 and accepted public testimony.

20. The Planning Commission reviewed various options to amend the conditions of approval and impose penalties in an attempt to resolve the CUP violations.
21. The re-inspection and enforcement costs involved in these revocation/modification proceedings exceed \$2,500.
22. The Planning Commission recommended that a \$2,500 fine be imposed to recoup administrative costs associated with resolving the violations and modified Condition #4 requiring a CUP revocation proceedings threshold of three (3) verifiable complaints within a 12-month period.
23. The City Council conducted a public hearing on July 21, 2015 and considered all of the evidence, including public testimony prior to making a decision.

Based upon the foregoing findings of fact, the City Council further finds and concludes that:

24. The proposed modifications to the Conditional Use Permit will not result in a direct or reasonably foreseeable indirect physical change to the environment.
25. More than one of the conditions of the permit has not been substantially fulfilled or has been violated.
26. The manner of operation has constituted or has created a nuisance, in that the violations of the conditions or the conditional use permit and the outdoor seating approval are declared to be a nuisance pursuant to Campbell Municipal Code sections 21.03.020.D and 6.10.020 (a)(6)(S).

THEREFORE, BE IT RESOLVED that the City Council of the City of Campbell hereby modifies the conditions of the original Conditional Use Permit (PLN2014-57) to read as set forth in the attached Conditions of Approval (attached Exhibit "A").

PASSED AND ADOPTED this 21st day of July, 2015, by the following roll call vote:

AYES: COUNCILMEMBERS: Resnikoff, Kotowski, Cristina
 NOES: COUNCILMEMBERS: None
 ABSENT: COUNCILMEMBERS: Baker
 ABSTAIN: COUNCILMEMBERS: Gibbons

APPROVED: 
 Jeffrey R. Cristina, Mayor

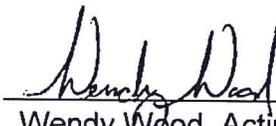
ATTEST: 
 Wendy Wood, Acting City Clerk

Exhibit A

CITY COUNCIL CONDITIONS OF APPROVAL FOR FILE NO. PLN2014-57 (Modified from original Approval)

SITE ADDRESS: 368 E. Campbell Avenue
APPLICANT: The Socialight (Steve Bonner)
OWNER: Cheryl Schrader
P.C. MEETING: June 23, 2015
C.C. MEETING: July 21, 2015

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

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division:

1. Approved Project: Approval is granted to modify a previously issued Conditional Use Permit (PLN2014-57) as part of permit revocation proceedings to allow a restaurant with beer and wine sales, late night operation, and live entertainment on property located at **368 E. Campbell Avenue** to continue operations subject to modified conditions of approval. The project shall substantially conform to the project plans and revised project description stamped as received by the Planning Division on February 20, 2014 and April 14, 2014, respectively, except as may be modified by the conditions of approval contained herein.
2. Payment of Administrative Costs: If future violations occur, the business owner will be responsible to pay for all administrative fines as deemed necessary by the Community Development Director.
3. Approval Expiration: The approval shall be valid for one year from the date of final approval. Within this one-year period, a building permit for the tenant improvements for the restaurant and a Type 41 Alcoholic Beverage Control (ABC) license must be secured or the Conditional Use Permit shall be rendered void. Once established, approval for the restaurant with beer and wine sales, late night operation, and live entertainment, shall be valid in perpetuity on the property, subject to continued operation of the use. Abandonment, discontinuation, or ceasing of operations for a continuous period of six (6) months shall void the Conditional Use Permit approved herein.

4. **Operational Standards:** Consistent with Downtown Alcohol Beverage Policy and other City standards, any restaurant operating pursuant to the Conditional Use Permit approved herein shall conform to the following operational standards.
- a. **Restaurant Seating/Patron Occupancy:** Total indoor patron occupancy shall be limited to 49 seated persons, consistent with the 40 dining area seats and nine bar area seats, subject to the maximum occupancy capacities of certain rooms as determined by the California Building Code (CBC). At no time shall there be more than 49 patrons within the establishment, excluding those waiting for service. It is the responsibility of the business owner to provide adequate entrance controls to ensure that patron occupancy is not exceeded. Maximum Occupancy signs shall be posted conspicuously within the premises.
 - b. **Bar Area Seating:** The bar area shall be composed of nine (9) bar seats as shown on the approved project plans. Only nine (9) persons are allowed at the bar regardless if they are seated or standing. No part of the dining area shall be considered part of the bar area.
 - c. **Floor Plan:** All chairs and tables within the dining area shall consist of standard-height furniture (i.e., not "high-top"). All tables and chairs shall be placed in such a manner to allow sufficient area for dining and shall not be stacked or removed from the dining area or placed outside. At no time shall the seating be reconfigured to create large open spaces for patrons to congregate, dance, drink, or socialize. The City Council's revised condition, per the July 21, 2015 revocation proceedings require staff to inspect the as-built floor plan in comparison to what the City approved. Any deviations will need to be returned to the original City approved floor plan. Every item found in non-compliance with the approved plan will need to be corrected within 30 days of such notice.
 - d. **Hours of Operation:** Hours of operation shall be as follows. By the end of 'Business Hours' all patrons shall have exited the restaurant. By the end of the 'Operational Hours' all employees shall be off the premises.
 - Business Hours 6:00 AM – 10:00 PM, Sunday – Saturday
 - Operational Hours 5:00 AM – 11:00 PM, Sunday – Saturday
 - e. **Food Service:** Full menu food service shall be provided at all times during the Business Hours in the dining, outdoor seating, and bar areas (i.e., the kitchen shall not be closed).
 - f. **Live Entertainment:** Live entertainment, limited to two musicians with non-amplified instruments, for the purpose of providing ambient music, shall be permitted 11:00 AM to 10:00 PM, daily, subject to approval of a Live Entertainment Permit in compliance with CMC 5.24. On-site security shall be provided as required by the

Police Department. The door shall remain closed at all times when live entertainment is occurring, except for the entering and existing of patrons and staff.

- g. **Alcohol Beverage Service:** Alcohol beverage service in the dining area shall only be allowed in conjunction with food service. The dining area shall not be converted to a bar area or dance area.
- h. **Bar Area Meal Service:** Meal service shall be available in the bar area at all times.
- i. **Outdoor Seating:** Outdoor seating shall be considered part of the dining area subject to all restrictions herein. Total patron occupancy in the outdoor seating shall be limited to the number of approved seats as specified by an approved Outdoor Seating Permit.
- j. **Loitering:** There shall be no loitering allowed outside the business and within the outside dining area that may be approved pursuant to an Outdoor Seating Permit. The business owner is responsible for monitoring the premises to prevent loitering.
- k. **Noise:** Unreasonable levels of noise, sounds and/or voices, including but not limited to amplified sounds, loud speakers, sounds from audio sound systems, music, and/or public address system, generated by the establishment shall not be audible to a person of normal hearing capacity from any residential property. In the event verified complaints are received by the City regarding such unreasonable noise, the Community Development Director may immediately modify the business hours/hours of operation, subject to the project being brought back to the Planning Commission for review.
- l. **Smoking:** “No Smoking” signs shall be posted on the premises in compliance with CMC 6.11.060.
- m. **Trash & Clean Up:** All trash, normal clean up, carpet cleaning, etc. shall occur during the approved ‘Operational Hours’. If determined necessary by the Community Development Director to protect the public health and safety, the existing refuse enclosure shall be modified to incorporate a roof covering and sanitary drain connection. Refuse and recycling receptacles shall be kept within the enclosure except during collection in compliance with Chapter 6.04 of the Campbell Municipal Code.
- n. **Liquor License:** The applicant shall obtain and maintain in good standing a Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) license from the State Department of Alcoholic Beverage Control for the sale of beer and wine beverages in conjunction and restaurant. The license shall include the Business Hour restrictions consistent with the Conditional Use Permit approved herein. A copy of the issued license shall be provided to the Community Development Department prior to issuance of a Business License.

- o. **Employee Training:** The establishment shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association and the Department of Alcoholic Beverage Control.
 - p. **Designated Driver Program:** The establishment shall maintain and actively promote a designated driver program (e.g., complimentary non-alcoholic beverages for designated drivers), including posting in a conspicuous place contact information for local designated driver services.
 - q. **Taxicab Service:** The establishment shall post in a conspicuous place the telephone numbers of local taxicab services.
 - r. **Outdoor Activity:** Other than outdoor seating as permitted by an Outdoor Seating Permit, no outdoor activity (e.g., cooking) is permitted in association with the establishment.
5. Revocation of Permit: Operation of the restaurant and bar pursuant to the Conditional Use Permit approved herein is subject to Sections 21.68.020, 21.68.030 and 21.68.040 of the Campbell Municipal Code authorizing the appropriate decision-making body to modify or revoke a Conditional Use Permit if it is determined that the sale of alcohol has become a nuisance to the City's public health, safety or welfare or for violation of the Conditional Use Permit or any standards, codes, or ordinances of the City of Campbell.

At the discretion of the Community Development Director, if the establishment generates two (2) verifiable complaints related to violations of conditions of approval and/or related to the service of alcohol within a twenty-four (24) month period, a public hearing before the City Council (upon recommendation by the Planning Commission) may be scheduled to consider modifying conditions of approval or revoking the Conditional Use Permit. The Community Development Director may commence proceedings for the revocation or modification of the Conditional Use Permit upon the occurrence of two (2) complaints if the Community Development Director determines that the alleged violation warrants such an action. In exercising this authority, the decision making body may consider the following factors, among others:

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

Building Division:

6. Permits Required: A building permit application shall be required for the proposed bar/restaurant use in the existing commercial structure. The building permit shall include Electrical/Plumbing/Mechanical fees when such work is part of the permit.
7. Construction Plans: The Conditions of Approval shall be stated in full on the cover sheet of construction plans submitted for building permit.
8. Size of Plans: The minimum size of construction plans submitted for building permits shall be 24 in. X 36 in.
9. Plan Preparation: This project requires plans prepared under the direction and oversight of a California licensed Engineer or Architect. Plans submitted for building permits shall be “wet stamped” and signed by the qualifying professional person.
10. Site Plan: Application for building permit shall include a competent site plan that identifies property and proposed structures with dimensions and elevations as appropriate. Site plan shall also include site drainage details. Site address and parcel numbers shall also be clearly called out. Site parking and path of travel to public sidewalks shall be detailed.
11. Title 24 Energy Compliance: California Title 24 Energy Compliance forms shall be blue-lined on the construction plans. Compliance with the Standards shall be demonstrated for conditioning of the building envelope and lighting of the building.
12. Special Inspections: When a special inspection is required by C.B.C. Chapter 17, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permits, in accordance with C.B.C Appendix Chapter 1, Section 106. Please obtain City of Campbell, Special Inspection forms from the Building Inspection Division Counter.
13. Non-point Pollution Control Program: The City of Campbell, standard Santa Clara Valley Non-point Source Pollution Control Program specification sheet shall be part of plan submittal. The specification sheet (size 24” X 36”) is available at the Building Division service counter.
14. Title 24 Accessibility – Commercial: On site general path of travel shall comply with the latest California Title 24 Accessibility Standards. Work shall include but not be limited to accessibility to building entrances from parking facilities and sidewalks.
15. Title 24 Accessibility – Commercial: Projects seeking to use the Title 24 Hardship exemption clause shall blue-line completed, City of Campbell “20%” exemption form on submitted construction plans. Form is available at Building Division service counter.
16. Approvals Required: The project requires the following agency approval prior to issuance of the building permit:

- a. West Valley Sanitation District (378-2407)
 - b. Santa Clara County Fire Department (378-4010)
 - c. Santa Clara County Dept. of Environmental Health (918-3400)
 - d. City of San Jose Dept. of Environmental Services (535-8550)
17. P.G. &E: Applicant is advised to contact Pacific Gas and Electric Company as early as possible in the approval process. Service installations, changes and/or relocations may require substantial scheduling time and can cause significant delays in the approval process. Applicant should also consult with P.G. and E. concerning utility easements, distribution pole locations and required conductor clearances.

PUBLIC WORKS

18. Storm Drain Area Fee: Prior to issuance of any grading or building permits for the site, the applicant shall pay the required Storm Drain Area fee, currently set \$2,650 per net acre, which is \$477 (set for commercial land use).



California Department of Alcoholic Beverage Control
For the city of CAMPBELL- (On-Sale Licenses)

June 2016

License Number	License Type (Current and Previous)	Issue Date	Primary Owner and Premises Addr.	Business Name	CUP	Occupancy/Seating Capacity		Hours of Operation (Shadow = late-night hours)
						Indoor	Outdoor	
<u>420123</u>	47 (General Liquor) Restaurant	1/19/2005	SONOMA FOOD LLC 200 E CAMPBELL AVE	CAMPBELL BREWING CO.	UP 98-01 PLN2002-90	255 seats (bar and dining)	44 seats	Monday – Saturday & Holidays 8:00 a.m. to 2:00 a.m. Sunday 8:00 a.m. to 12:00 a.m.
<u>444464</u>	47 (General Liquor) Restaurant	4/16/2007	O M INC 201 E CAMPBELL AVE	AQUI CAL MEX	PLN2005-162	170 seats (116 dining and 54 bar)	60 seats	Monday – Thursday 10:00 a.m. to 10:00 p.m. Friday 10:00 a.m. to 12:00 a.m. Saturday and Sunday 7:30 a.m. to 10:30 p.m.
<u>520177</u>	47 (General Liquor) Restaurant Previous: Type 41 (Beer and Wine)	5/16/2012	PROJECT WHITELIGHT LLC 245-247 E CAMPBELL AVE	SUSHI CONFIDENTIAL	PLN2012-36	92 seats (87 dining and 5 bar)	20 seats	Daily 10:00 a.m. to 12:00 a.m.
<u>569632</u>	48 (General Liquor) Bar	4/18/2003	MR FAMILIES LLC 260 E CAMPBELL AVE	CARDIFF LOUNGE	PLN2004-63	Undefined (posted at 160 patrons)	N/A	Daily 12:00 p.m. to 2:00 a.m.
<u>449414</u>	47 (General Liquor) Restaurant	1/30/2008	MARIO CORPORATION 360 E CAMPBELL AVE	PINO'S TRATTORIA	PLN2007-183	44 seats	32 seats	Daily 6:00 a.m. to 11:00 p.m.
<u>343296</u>	47 (General Liquor) Restaurant	9/1/1998	KATIE BLOOMS INC II 369 E CAMPBELL AVE	KATIE BLOOMS	UP 97-21	129 seats (per Building Permit)	40 seats	Daily 7:00 a.m. to 2:00 a.m. 7:00 a.m. to 10:00 p.m. (outdoor)

License Number	License Type (Current and Previous)	Issue Date	Primary Owner and Premises Addr.	Business Name	CUP	Occupancy/Seating Capacity		Hours of Operation (Shadow = late-night hours)
						Indoor	Outdoor	
<u>537228</u>	47 (General Liquor) Restaurant Previous: Type 41 (Beer and Wine)	8/8/2012	LIQUID BREAD CAMPBELL 379 E CAMPBELL AVE	LIQUID BREAD	PLN2013-244	42 seats (38 dining and 4 bar)	8 seats	Daily 8:00 a.m. to 12:00 a.m.
<u>426357</u>	47 (General Liquor) Restaurant	3/10/2006	MARIO CORPORATION 373 E CAMPBELL AVE	LA PIZZERIA	PLN2006-02	44 seats	Undefined	Sunday – Wednesday 8:00 a.m. to 12:00 a.m. Thursday – Saturday 8:00 a.m. to 2:00 a.m.
<u>514621</u>	47 (General Liquor) Restaurant Previous: Type 41 (Beer and Wine)	1/11/2012	NASCHMARKT LLC 384 E CAMPBELL AVE	NASCHMARKT	PLN2011-287	50 seats (36 dining and 12 bar)	6 seats	Daily 11:00 a.m. to 10:00 p.m.
<u>444530</u>	47 (General Liquor) Restaurant	11/16/2007	TIGELLERIA LLC 76 E CAMPBELL AVE	TIGELLERIA RESTAURANT	PLN2012- 269/270	56 seats	8 seats	Sunday – Thursday 11:00 a.m. to 10:00 p.m. Friday – Saturday 11:00 a.m. to 11:00 p.m.
<u>486509</u>	47 (General Liquor) Restaurant	12/3/2010	CRITES, AARON ANDREW 201 ORCHARD CITY DR	THE SPOT	UP97-09 PLN2004-03	125 seats (98 dining and 27 bar)	16 seats	Monday – Wednesday 7:00 a.m. to 1:00 a.m. Thursday - Saturday 7:00 a.m. to 2:00 a.m.
<u>167789</u>	48 (General Liquor) Bar	2/22/1985	B C B ENTERPRISES INC 300 ORCHARD CITY DR, STE 101	KHARTOUM	PLN2011-283	145 patrons (maximum of 49 within the "game room")	N/A	Daily 11:00 am to 2:00 am

License Number	License Type (Current and Previous)	Issue Date	Primary Owner and Premises Addr.	Business Name	CUP	Occupancy/Seating Capacity		Hours of Operation (Shadow = late-night hours)
						Indoor	Outdoor	
<u>414340</u>	41 (Beer & Wine) Restaurant	7/9/2004	KNYF INC 300 ORCHARD CITY DR, STE 110	KOMATSU JAPANESE CUISINE	N/A	Undefined	N/A	11:00 p.m closing (per CMC)
<u>406651</u>	47 (General Liquor) Restaurant	2/25/2004	EZMZPJ GROUP INC 33 S CENTRAL AVE 96	A BELLAGIO	N/A	Undefined	Undefined	11:00 p.m closing (per CMC)
<u>530144</u>	41 (Beer & Wine) Restaurant	4/10/2013	SPREAD CAMPBELL LLC 193 E CAMPBELL AVE.	SPREAD DELI	PLN2013-133	25 seats (15 dining and 10 counter)	20 seats	Monday – Friday, 11 a.m. to 11:00 p.m. Saturday & Sunday 9 a.m. to 11:00 p.m.
<u>511799</u>	47 (General Liquor) Restaurant	12/6/2011	PIZZA ALLIANCE 1 LLC THE 415 E CAMPBELL AVE	BLUE LINE PIZZA	PLN2011-137	79 seats (70 dining and 9 bar)	16 seats	Sunday – Thursday 11:00 a.m to 10:00 p.m. Friday – Saturday 11:00 am to 11:00 pm
<u>525435</u>	47 (General Liquor) Restaurant	6/6/2013	YAMASHITA RESTAURANT GROUP LLC 397 E CAMPBELL AVE	BROWN COW BROWN CHICKEN	PLN2012-02	36 seats (28 dining and 8 bar)	32 seats	Monday – Friday, 11 a.m. to 12:00 a.m. Saturday & Sunday 9 a.m. to 12:00 a.m.
<u>518411</u>	41 (Beer & Wine) Restaurant	3/29/2012	YOU'LL FLIP FOR MORE dba STACKS 139 E CAMPBELL AVE	STACKS RESTAURANT	N/A	90 seats	Undefined	Daily 7 a.m. to 2:30 p.m.
<u>550583</u>	47 (General Liquor) Restaurant	5/16/2013	CHRISTENI GROUP LLC 280 E CAMPBELL AVE	WILLARD HICKS	PLN2014-47	157 seats (118 dining and 39 bar)	22 seats	Daily 11 a.m. to 12:00 a.m.
<u>525498</u>	47 (General Liquor) Restaurant	7/22/2013	OPA CAMPBELL L-PSHIP dba OPA AUTHENTIC GREEK CUISINE 276 E CAMPBELL AVE	OPA!	PLN2012-196	94 seats (78 dining and 16 bar)	66 seats	Daily 11 a.m. to 12:00 a.m.

License Number	License Type (Current and Previous)	Issue Date	Primary Owner and Premises Addr.	Business Name	CUP	Occupancy/Seating Capacity		Hours of Operation (Shadow = late-night hours)
						Indoor	Outdoor	
<u>570051</u>	47 (General Liquor) Restaurant Previous: Type 41 (Beer and Wine)	Pending	LVL UP (dba) 400 E CAMPBELL AVE	LVL UP	PLN2015-202	129 seats (115 dining, 14 bar)	N/A	Sunday – Wednesday 11:00 a.m. to 10:00 p.m. Thursday – Saturday 11:00 a.m. to 11:00 p.m.
<u>515013</u>	47 (General Liquor) Restaurant Previous: Type 41 (Beer and Wine)	11/11/2012	EL GUAPOS TACOS LLC 266 E CAMPBELL AVE, Ste. A & B	EL GUAPO'S	PLN2012-81	64 seats (48 dining and 16 bar)	30 seats (until 11:00 p.m.)	Sunday – Wednesday 8:00 a.m. to 1:00 a.m. Thursday – Saturday & Holidays 8:00 a.m. to 1:30 a.m. Alcohol Service to 12:00 a.m.
<u>531863</u>	41 (Beer & Wine) Wine Bar	9/17/2013	POUYA, CAROL ANN dba TESSORAS BARRA DI VINO 234 E CAMPBELL AVE	TESSORA'S	PLN2015-91	49 seats	24 seats	Tuesday – Thursday 12:00 p.m. to 11:00 p.m. Friday & Saturday 12:00 p.m. to 12:00 a.m. Sunday 2:00 p.m. to 8:00 p.m.
<u>543573</u>	47 (General Liquor) Restaurant Previous: Type 41 (Beer and Wine)	3/4/2016	STUMP, JAMES ALVIN 394 E CAMPBELL AVE	THE VESPER	PLN2015-247	101 seats	7	Daily 11 a.m. to 11:30 p.m. (last patron to enter at 11:00 p.m.)
<u>546636</u>	41 (Beer & Wine) Restaurant	1/2/2015	AFN SERVICES LLC 368 E CAMPBELL AVE	THE SOCIALIGHT	PLN2015-195 PLN2014-57	49 seats (40 dining and 9 bar)	36	Daily 6 a.m. to 10 p.m.
<u>535089</u>	41 (Beer & Wine) Wine Bar	10/23/2014	LUCKYS BREAKFAST JOINT LLC 278 E CAMPBELL AVE	MO'S THE BURGER JOINT	N/A	59	34	11:00 p.m closing (per CMC)

Downtown Alcohol-Serving Establishments



DOWNTOWN ALCOHOL BEVERAGE POLICY

Adopted February 3, 2009

Amended October 4, 2011

POLICY ADDRESSING THE ISSUANCE OF ALCOHOLIC BEVERAGE LICENSES AND THE SERVICE OF ALCOHOL IN THE DOWNTOWN

I. PURPOSE

The Downtown area of Campbell by nature is a compact commercial district intended to be the center of social and civic activity for the City. The City has encouraged, through its redevelopment programs and City policies, an active and vibrant balance of day and night time land uses to appeal to all demographics. To be successful, a downtown must be appealing to local residents and also serve as a destination for visitors to our community. A component of any successful downtown is restaurants and night time venues that provide a selection of places to dine and socialize. Alcoholic beverage licenses are often requested as a part of the operation and service offered by such establishments.

City policy supports the responsible service of alcohol as a component to those full service restaurants and night time establishments. The City currently uses a number of tools designed to protect the public welfare when considering alcohol service including conditions of operations, police enforcement, the State Office of Alcohol Beverage Control regulations, and administrative citations. However, the over-concentration of late night alcohol serving establishments within a compact downtown district can create a cumulative impact that overwhelms the area creating an undesirable result such as drunk in public, vandalism, and disorderly conduct. While acknowledging the positive contributions restaurants and night time activities provide to a vibrant commercial district, maintaining the proper balance of uses is essential to a successful downtown.

This policy is intended to:

- Provide the Planning Commission and City Council with guidelines when considering how new applications for alcohol beverage service affects the proper balance and/or concentration of a particular land use, especially as it relates to late night service of alcohol.
- Provide clear policy direction to staff as a basis in evaluating new applications for alcohol beverage service; and
- Demonstrate to the Campbell community and the general public that the City intends to maintain a level of discretion and control over late night alcohol service.

For purposes of this policy, the "Downtown" is defined by the boundary map attached as "Exhibit A".

The following provisions are intended to balance the health and safety of the community while still maintaining the commercial viability of the downtown in which restaurants have an essential role. Hours of operation may be regulated based on an establishment's proximity to a residential neighborhood, the concentration of similar alcohol beverage

licenses in the area or other material reasons raised at a public hearing in consideration of an alcohol beverage license.

By controlling the concentration of alcohol service establishments and the operation of late night alcohol beverage service, this policy is consistent with the goals and objectives of the Downtown Development Plan and General Plan by reflecting the vision for the downtown as a safe and healthy environment for all to enjoy.

II. GENERAL POLICY

The deciding body shall consider the following policy guidelines in reviewing any application involving the service of alcoholic beverages:

1. Stand Alone Bars

- a. The City strongly discourages new applications for stand alone bars in the downtown. This includes nightclubs, ultra lounges or similar establishments typically offering live entertainment and late night alcohol service.
- b. Wine bars and wine tasting establishments with hours not exceeding 11:00 PM may be approved.

2. Restaurants with Separate Bars

Conditional Use Permits for restaurants requesting separate bar areas should have the separate bar area be ancillary and subordinate to the primary purpose of serving food and should comply with the following criteria:

- a. Unless otherwise approved by the Planning Commission, the bar area is restricted to having no more than 25 percent of the total seating allowed for the establishment.
- b. The bar cannot stay open past the hours of operation of the restaurant.
- c. Full menu food service must be provided at all times.
- d. Live entertainment is limited to live musicians complimentary to the primary purpose of providing meal service, is subject to Section 5.24.010 of the Municipal Code which requires a Live Entertainment Permit, and shall not be permitted past 11:00 PM.
- e. Alcohol beverage service in the dining room area is only allowed in conjunction with food service. Additionally, the dining room area may not be converted to bar area. An area for dancing can be approved with a conditional use permit.
- f. Meal service must be permitted in the bar area.
- g. Specific hours of operation are determined by the Planning Commission upon issuance of a Conditional Use Permit.
- h. Outdoor seating areas are considered part of the dining area and shall be subject to the restrictions of Section II.2.e. Outdoor dining areas shall be closed down by 11:00 PM. Outdoor seating is prohibited for stand alone bars.
- i. Doors and windows shall remain closed after 10:00 PM.

3. **Restaurants w/o Separate Bars**

a. Any new discretionary land use permit granted to a restaurant which allows alcohol beverage service, must have a full service menu available during operational hours. A full service menu is defined as a combination of food items intended to serve as meals for breakfast, lunch or dinner. A menu consisting of only food items commonly known as appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) is not a full service menu. The full service menu the applicant intends to serve must be submitted with each application.

b. Restaurants without separate bars are also subject to the provisions of Section II.2 as it relates to live entertainment, alcohol service, meal service, outdoor seating, and the closing of windows and doors.

4. **Hours of Operation**

a. It is strongly recommended that Conditional Use Permits for establishments for on-site consumption of alcohol beverages be limited to a closing time of no later than 12:00 AM.

b. Restaurants requesting beer and wine service only with operating hours not exceeding 11 PM will continue to be allowed without a Conditional Use Permit.

5. **Operating Conditions**

Any new discretionary land use permit granting an establishment alcohol beverage service or any modification of a land use permit to serve alcohol for on-site consumption may be subject to the following conditions:

a. Uniformed, privately provided security staff may be required in and/or around the premises when deemed necessary by the Chief of Police.

b. At the discretion of the Chief of Police, periodic meetings will be conducted with representatives from the Police Department/Alcohol Beverage Control for on-going employee training on alcoholic beverage service to the general public.

c. All establishments shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association and the Department of Alcohol Beverage Control.

d. All licensed operators shall have and shall actively promote a designated driver program such as complimentary non-alcoholic beverages for designated drivers.

e. Taxicab telephone numbers shall be posted in a visible location.

6. **Existing Establishments**

- a. Those existing establishments operating under a valid Conditional Use Permit with alcohol beverage licenses in effect as of the date of adoption of this policy, and conducting business in good standing under their Conditional Use Permit, may continue to operate under their current conditions of approval.
- b. The City may consider an application for expansion of an existing establishment that is currently permitted to serve late night alcohol as of the effective date of this policy, subject to the deciding body making the following findings that:
 - i) The establishment is currently operating and has operated in good standing under the terms of its conditional use permit and as a responsible business owner in the community; and
 - ii) The proposed expansion will not have a material detrimental affect on the health, safety and welfare of the downtown and its surrounding neighborhoods due to its size, number of permitted occupants and general management and operation; and
 - iii) The expansion or intensification will not adversely affect the goal of achieving a balanced use of commercial space downtown as envisioned under the Downtown Development Plan which promotes predominantly retail and restaurant uses.
- c. All new and existing establishments are subject to Section III of this policy.

III. Enforcement

All Conditional Use Permits issued to establishments for alcoholic beverage service on-site are subject to Sections 21.68.020, 21.68.030 and 21.68.040 of the Campbell Municipal Code authorizing the appropriate decision making body to modify or revoke a Conditional Use Permit if it is determined that the sale of alcohol has become a nuisance to the City's public health, safety or welfare. At the discretion of the Community Development Director, any establishment that generates three (3) verifiable complaints related to violations of conditions of approval and/or related to the service of alcohol within a six (6) month period may be scheduled before the Planning Commission for a public hearing to consider modifying conditions of approval or revoking its conditional use permit. Nothing contained in this section is intended to limit the authority of the Community Development Director to commence proceedings for the revocation or modification of use permits upon the occurrence of less than three (3) complaints if the Community Development Director determines that the alleged violation warrants such an action. In exercising this authority, the decision making body may consider the following factors, among others:

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

The City retains the right of review and to approve (or deny) an application based on its merits.

October 4, 2011

List of Existing Establishments Eligible for Consideration under Section 6.b of the
Downtown Alcohol Beverage Policy

- | | | |
|----|------------------------|------------------------|
| 1. | Chacho's | 266 E. Campbell Avenue |
| 2. | Katie Blooms Irish Pub | 369 E. Campbell Avenue |
| 3. | Cardiff Lounge | 260 E. Campbell Avenue |
| 4. | Khartoum | 300 Orchard City Drive |
| 5. | Sonoma Chicken Coup | 200 E. Campbell Avenue |
| 6. | La Pizzeria | 373 E. Campbell Avenue |
| 7. | The Spot | 201 Orchard City Drive |

MEMORANDUM



City of Campbell
City Clerk's Office

To: Honorable Mayor and City Council

Date: July 18, 2016

From: Wendy Wood, City Clerk *WJ*

Via: Mark Linder, City Manager

Subject: Desk Item 14 – Letter from Leona Jenkins

On July 18, 2016 a letter was received by Leona Jenkins, as part of the public record in regards to Item 14.

Attached is the letter for your consideration.

Mrs. Leona Jenkins
E. Rincon Ave
Campbell, CA 95008

July 15, 2016

Re: **368 E. Campbell Avenue**
City Council Hearing July 19, 2016

Dear City Council Members,

As a longtime resident of Downtown Campbell, and I speak for many members of the community as well, I want to voice my displeasure at even the thought that you would consider the request from Mr. Steve Bonner to change his use permit to a full bar and increase his hours and his seating, among other items. This is absolutely outrageous!

Mr. Bonner has publically embarrassed our Planning Commission members, disregards all of the regulations that he is to abide by and continues to push our City officials around. On one hand you fine him and tell him that if he does it again you will close him down, and then he turns around and fragrantly violates the restrictions and expects you to reward him for it. The outrageous part is that the City is considering doing just that.

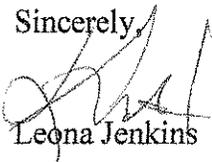
What kind of precedent are you setting for all of the other residents and business owners in Campbell? Do your regulations and restrictions mean nothing? Why wouldn't everyone else do the same thing as he has and just push you around until they get what they want? He thinks all of you are cowards and will give in to him. It's disgraceful.

At the last meeting you told him that if he violated his new restrictions two times within two year period you would revoke his use permit. You know he has violated those restrictions continuously since you imposed them on him and you have done nothing about it. And now you want to give him what he wants? At the very least you should make him finish out his two years of "no violations" before considering anything, and in those two years actually cite him for his violations!

All of us in the neighborhood are following this application to see what the City Council will do with this business. If you give him what he wants, it will be a disgrace to the Planning Commission and the City Council, rendering both bodies impotent.

We hope you will do the right thing and turn him down. I would also like this letter read into the record so that everyone knows what you are doing.

Sincerely,



Leona Jenkins

MEMORANDUM



City of Campbell
Planning Division

To: Honorable Mayor Baker and City Council Members **Date:** July 19, 2016
From: Daniel Fama, Acting Senior Planner *DF*
Via: Mark Linder, City Manager *ML*
Subject: Item 14 - Email from Susan Landry and Staff Response

The attached email was received from Susan Landry, which poses several questions regarding compliance of the Socialight restaurant with building code accessibility standards. The Building Official inspected the restaurant yesterday morning and found that the City's past inspections failed to identify an accessibility deficiency at the bar, as reported below:

The Bar Seating: There is a 60 inch wide lowered bar space for wheel chair patrons that was provided under the original permit for the restaurant. The knee and toe space will require minor alteration to provide for knee and toe clearance of 19 inches from the front of the counter. The knee and toe clearance is only 10 inches currently. From the edge of the current counter there is 60 inches between the counter and the wall. California Code requires minimum of 60 inches. The area for knee and toe space will need to be increased to 19 inches by removing the wall and pushing it back toward the bar.

The 60 inch space provides for the companion as well as the wheel chair patron (the plan shows a 48 inch lower counter space and is incorrect).

Access Aisle behind Bar Seats: Under California Code, the aisle between the bar seats and the table seats is required to be 44 inches. The plan shows 44 1/2 inches. (CBC 11B-4032.5.1 (EXE.))

Number of Accessible Dining Spaces: The total number of dining spaces in the dining room area is 48, including the bar spaces. The requirement for Accessible seating is 5% of the total number. 2.4 is 5%, so 3 accessible dining spaces are required. There are 2 spaces at the Bar and one space at a table, for a total of 3 spaces.

In addition, Ms. Landry also questioned whether the wheelchair accessible space at the bar should constitute a "seat". This is a reasonable interpretation of the maximum bar seating requirement, which may be clarified in the restaurant's Conditional Use Permit.

To resolve these issues, the following amendment to Condition of Approval No. 4.c may be considered by the Council:

- C. **Bar Area Seating:** The bar area shall be composed of no more than nine (9) bar seats—~~as shown on the approved project plans,~~ inclusive of the accessible seating space. No part of the dining area shall be considered part of the bar area.
 - Accessibility Compliance: By August 19, 2016, the business owner shall submit construction plans and apply for a building permit to modify the bar seating to conform to CBC accessibility requirements as determined by the Building Official. The necessary work shall be completed within two weeks of building permit issuance.

From: [Susan M. Landry](#)
To: [Jason Baker](#); [Liz Gibbons](#); [Jeffrey Cristina](#); [Paul Resnikoff](#); [Michael Kotowski](#); [Mark Linder](#)
Cc: [Daniel Fama](#); [Paul Kermoyan](#)
Subject: Council Mtg on the 19th - Agenda Item 14 for Project PLN2016-105 - 368 Campbell Ave - SocialLite Restaurant
Date: Friday, July 15, 2016 3:38:09 PM
Attachments: [Campbell-SocialLite-Jul-2016.pdf](#)

Mayor & Council Members,

Since the GPAC presentation is on the July 19th agenda, I read what is being presented. I also noticed the SolialLite project is on the Agenda.

When this project came before the council a while back about their permit violations, I did speak on the item, expressing my concerns about their lack of compliance, especially regarding the outdoor seating and lack of an adequate accessible path of travel.. So when I saw this item on the July 19th agenda , I read the Council Meeting information for this project and looked at the proposed floor plan.

The Resolution in the Agenda Package states that the existing number of bar stools shall remain at 9 and that the total occupancy shall not exceed 49. **No where does it discuss accessible seating at the bar, which would mean only 8 seats should be provided.**

This peaked my curiosity about the layout of the floor plan, so I tried to find the original 2014 approved plan online and could not find it, so it is not clear if an accessible seating area was provided. I then looked at the proposed plan in the package with the 12 seats, (which is not being recommended for approval) and I noticed a few problems with the layout of the bar stools, tables, chairs and access isle. While my following comments are getting really picky, I thought you should at least be aware of this information, especially since the staff memo's discuss compliance with the CA Building Code.

Attached is the floor plan with my notations:

Item A & B:

- * On the 2016 Plan the location of an accessible seat is shown in an isolated location, away from the 9 (12) seats and there is NO adjacent companion seat.
- * As required by ADA standards, at least 1 accessible seating area shall be provided to each function within the building, i.e. 1 table, 1 bar seat.
- * **Question: Is this the current location for an accessible seat?**
- * **If so, it does not meet ADA requirements** because it is separated from the other seating, there is no companion seat and there is not the required 5' turn around space for a wheel chair to get in and out.
- * As such, the City needs to confirm the location and size of the accessible seating area, the location of a companion seat and that a counter is not more than 34" high.

Item C & D:

- * The 2016 Plan shows the layout of the tables, chairs, bar stools.and the access isle between.
- * The access isle is labeled as 3'-8" or 44". (Item D) The back of the chairs at the table appear to be about 13" from the access isle and the bar stools about 18" (Item C) Also, the graphic for the bar seats show a projection into the access isle.

- * While I do not know all the exception to the building code, I do have a general understanding of the required dimensions.
- * From what I can tell, this is the requirements for seating and dining
 - The clear width of an access isle with seating on both sides is 48" wide.
 - If seating is provided at a table, the depth of the seat is measured at 19"
- * If my understanding is correct, the distance between the bar counter and the tables is almost 1 foot off.
- * While this may not seem that significant, it could be if there was a fire and someone in a wheelchair coming out of the restroom could not get out.
- * **Question: Does the seating layout and the access isles meet the CA Building Code requirements?**

Item E:

- * The 2016 Plan shows the distance between the corner of the bar counter and the corner of the restroom wall as only 3 ft. wide I do not know if this is proposed or existing.
- * **Question: Does this meet the CBC width requirements for circulation from the kitchen to the tables?**
- * Having been a waitress ages ago, it seems very tight for two people, one going in and one coming out with a tray full with plates of food.

I hope that my comments are useful in the discussion at the Council meeting.

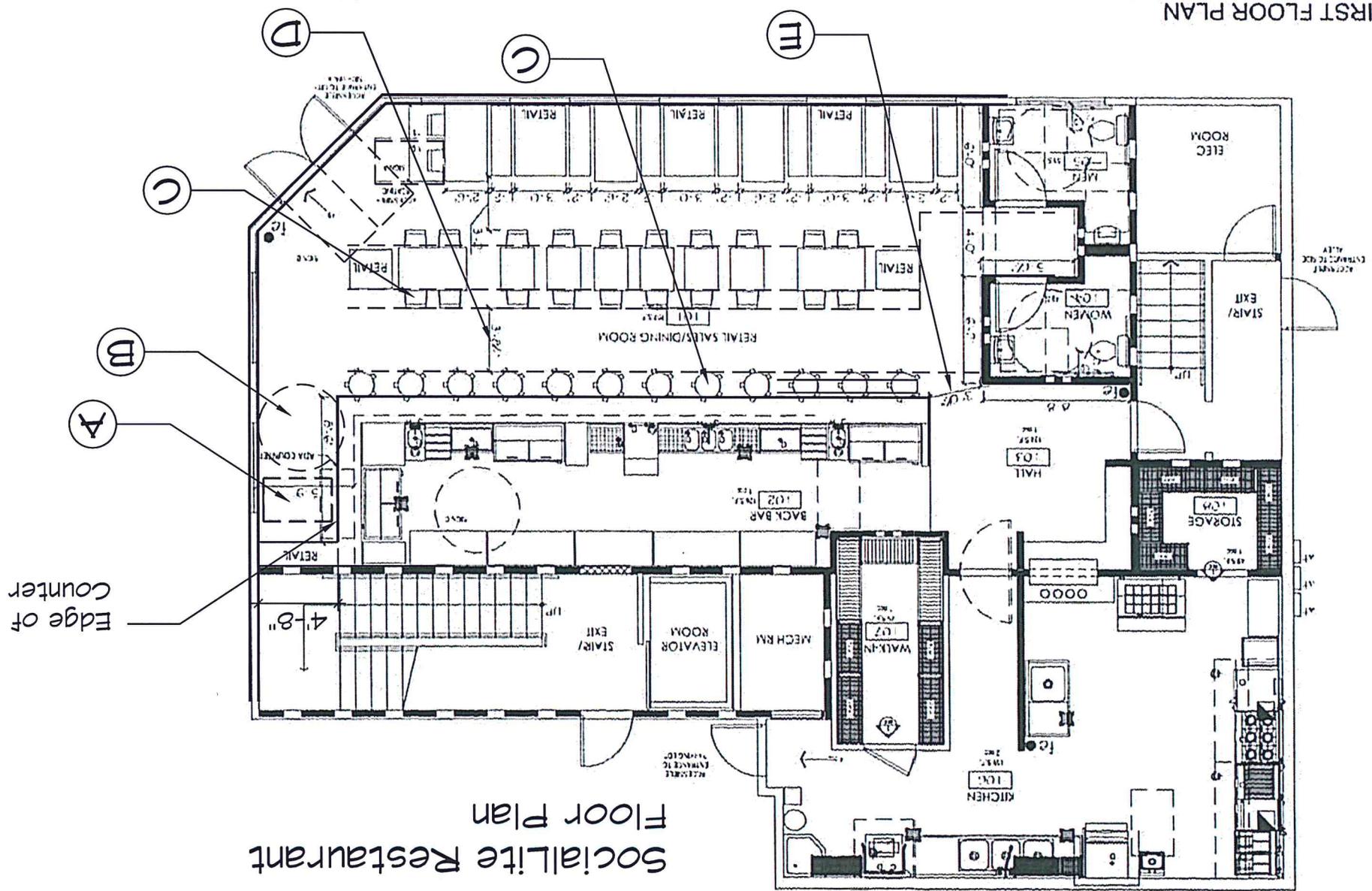
Susan M. Landry
Environmental Architect

Designing Spaces Between the Natural and Built Environment ™

Trees were not consumed in the transmission of this email. Please try this on your end too.

1. FIRST FLOOR PLAN

Socialite Restaurant Floor Plan



Edge of Counter

MEMORANDUM



City of Campbell
Planning Division

To: Honorable Mayor Baker and City Council Members **Date:** July 19, 2016
From: Daniel Fama, Acting Senior Planner *DF*
Via: Mark Linder, City Manager *ML*
Subject: **Item 14** – Planning Commission Desk Items

The attached correspondence (letter from the Campbell Chamber of Commerce and an email from Steve Bonner) was provided to the Planning Commission at the June 28th meeting as a desk item, and should have also been included in the City Council staff report.



2016 Board of Directors

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President

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Carl San Miguel

Gary Stribling

June 28, 2016

City of Campbell
70 First Street
Campbell, CA. 95008

Planning Commission

Attn: Paul Kermoyan
Community Development Director

Good Afternoon,

In reviewing the Planning Commission agenda for July 28, 2016 we became aware of The Socialight located in Downtown Campbell applying for some changes to their current permit with the City of Campbell.

Our name was mentioned in the enforcement portion of the staff report on page 4 of 5, mentioning an incident at our Boogie on the Avenue event. This matter was cleared up at the event between both parties. It is my understanding that this was never a formal complaint to the city.

We have a good working relationship with the staff and owners of The Socialight. They are a member of the Chamber and participate in our events and programs.

We request that your statement be clarified at the meeting tonight. Thank you in advance for your attention to this matter.

Regards,

Christine Giusiana,
CEO

From: [Daniel Fama](#)
To: [Planning Commission](#)
Cc: [Paul Kermoyan](#); [Corinne Shinn](#)
Subject: FW: Socialight Restaurant Briefing
Date: Monday, June 27, 2016 3:28:36 PM
Attachments: [image003.png](#)

Commissioners – Please see the message below from Mr. Steven Bonner in regards to Item # 5 (368 E. Campbell Ave.) on tomorrow evening’s agenda. - Daniel

I am in receipt of the City of Campbell Planning Staff Report and am emailing today to discuss this.

Of major concern for The Socialight Restaurant is the recommendation by staff to not approve our request for a type 47 liquor license. On the surface, one could understand that as the City of Campbell continues to evolve, decisions will need to be made to mold and shape our small town to achieve optimal balance in all things while keeping businesses out of Campbell all together that are not conducive to the quaint atmosphere and family friendly feel. These are some of the main reasons I moved here. I love the feel of our downtown, my three daughters and my wife can roam around in safety and peace like all of our family and friends do with little disturbance from lower elements of life. To be clear, I understand that some residents have had issue with the late night clubs that cater to a youthful market of hard alcohol, shots drinking and late night drunkenness that leads toward bad decision making. We were all young once and I think we all get it and this is something we as a City need to keep a careful eye on. The City Council has asked that we keep a close eye on this and type 47 liquor licenses and I agree. Not only the late night young partiers but the element that sometimes comes along with that demographic. The last thing any of us mature adults are looking for is a gang of trouble making, drug selling bad element in our town coming in on the train for late night business. So with that said, I hope we are all on the same page. Let’s protect our town. That is in part why I believe the City of Campbell City Staff has made this recommendation and all is understood.

The situation with The Socialight Restaurant is a bit different though. This is not a **new** restaurant but a restaurant that was asked to prove itself for a year and then apply. It is a restaurant that has proven successful restaurant operation in addition to catering to a mature demographic with a high end cuisine not as readily found in Campbell. Obviously, in the past, other alleged restauranteurs have stated one thing and delivered another. So I tried to understand this reasoning of “prove yourself first.” I did not agree with this in my particular case as I had a very clear business model and I have been a long term member of the Campbell business community and always in good standing. But decisions were made and I abided by them. Now the year is up. 14 months are up in fact. The Socialight Restaurant has won “Best Restaurant” in Campbell and has been written up in many other newspapers and magazines as nothing short of a fantastic restaurant. The restaurant has proven itself not only in its high end cuisine but also in its demographic. On any night, you will find a swarm of middle aged to elderly enjoying our unique cuisine. This clientele will not change nor will providing them full service push them to the behavior we as a City are trying to watch out for. The Socialight has also become a drawing point now to Campbell from diners all over which is very positive for our City. The absence of a type 47 liquor license means that every day, we send

would be guests to Pino's Trattoria, Naschmarkt, Willard Hicks, etc. or any of our other dinner restaurants that **ALL** have type 47 liquor licenses so someone in their party can receive full service. The reality is, sometimes all of us just want a Margarita, Bloody Mary or nice Martini prior to our meal. The reality is, as being arguably one of the best restaurants in Campbell, The Socialight Restaurant should have and needs to be full service. If we were denied this status, we would be the **only** dinner restaurant that would not be full service. That would mean every single dinner restaurant in Campbell would have a competitive advantage and The Socialight would be singled out. This would be very unfair and very sad for all of Campbell.

What would make this more unfair is that after asking The Socialight to wait one year, the City of Campbell approved The Vesper for a full liquor license, type 47 with no 1 year wait. Actually, no wait at all. This has struck a nerve with our customers and our team who have been diligently waiting to be able to fully serve our guests and stop turning so many away. We have a passionate following of loyal customers who are mostly locals who have voiced their concern after hearing the consideration of "no 47" for The Socialight. It should be noted that I think very highly of The Vesper, Jim Stump and his business and that I think he is catering toward a mature demographic that does not lend itself towards issues similar to the late night issues Campbell sometimes experiences. The focus, in my opinion, should be on demographics and business model rather than type 47 or not. All major restaurants should be allowed to fully service their guests and no one should be singled out. Especially a high end restaurant that has proven itself and waited the year as requested. Our focus and attention of type 47 licenses should really be directed at the origin of the problem, not a singled out restaurateur.

It is also important to note that a type 47 liquor license would probably not comprise more than 4-5% of our annual revenue. However, our success as a restaurant and food sales would increase significantly helping all of us at The Socialight and the City of Campbell tax revenue department succeed. The revenue facts with the Socialight are simple. We must increase or we will parish. Our team needs help from our leaders to succeed.

One of the best ways to protect our town is by assisting the best businesses to succeed. The Socialight Restaurant for example caters to a very mature demographic with elegance, classy atmosphere, high end cuisine, a Micheline star trained chef that pushes the envelope every day to achieve further greatness. It is restaurants like Naschmarkt, Willard Hicks, Pino's Trattoria and The Socialight that control the demographic that patronizes Campbell. As the Warriors stated all season, there is strength in numbers. In general, the mature market feels comfortable here and will continue to do so because so many in a similar demographic feel comfortable. A type 47 liquor license for The Socialight does absolutely nothing to further concerns for our great city. If someone wants a high end hand shook Martini, then they will go where they can get one. They simply won't come to The Socialight. A high end restaurant that is full service does nothing to increase any issues in downtown, it only levels the playing field and allows freedom of choice for our patrons. If, for example, businesses like Morton's, Ruth Chris or Osteria Franciscana (Italian restaurant considered the one of the best in the world) or chefs such as Wolfgang Puck, Gordon Ramsay or Marco Pierre White (currently #1 in the world) wanted to open in Campbell, we as a City would be doing ourselves a tremendous disservice to disallow full service. Superior ability breeds even more superior ability. It is greatness that we need to strive for and supporting greatness when we find it

because many restauranteurs only care about the profit and not the product. Being able to fully service our clientele is what all high end restaurants must have to succeed and what is expected by our patrons. The Socialight must be allowed to operate full service and continue to reach higher levels of greatness.

So in summary:

- We respect and understand the City Council's concern for new restaurants coming into Campbell and more liquor establishments and careful analysis must be given to our great city's growth. But we do not think they are looking or concerned with established restaurants who have proven themselves. The Socialight is not new. It is an established high end restaurant that needs the type 47 liquor license to be able to offer full service to our guests. When and if there is a decision made by our leaders to curtail restaurant growth, that would be known from the beginning of any new venture and they then would not invest into such a venture. This is not the case with The Socialight.
- The Socialight should not be the only dinner restaurant in all of Campbell that does not have a type 47. This in itself speaks very clearly. It would be unfair and not consistent with fair competition and would be singling out one single restaurant.
- The Socialight has waited for a year and proven it is exactly what it said in the very beginning it would be...something special for Campbell. Now after the wait, we deserve to operate as a full service restaurant and our guests deserve full service treatment.
- The Vesper was just granted a type 47 license with no wait. Obviously, the rules were different with this business than they were for The Socialight and this is concerning for everyone involved.

Please support one of Campbell's best restaurants, The Socialight, so we can offer full service to our Campbell residents and guests from all over with your **vote for approval of our Type 47 request**.

The other matters being addressed seem to have little objection but I ask that you consider the following.

- **Regarding hours of operation**, we have asked for midnight. Staff has recommended 11:30 p.m. 11:30 p.m. will greatly improve our ability to operate but I ask that you consider our request of 12:00a.m. Hours of operation are limitations that we must abide by but not hours we are open until. We are open currently until 10 p.m. every day however, we regularly close at 8:30 or 9:00 p.m. every Sunday as Campbell does not dine very late on Sunday's and we have no one to service. When we have customers that need us, it would be nice have optimal flexibility to service them and not kick them out. On Tuesdays after Council Meetings for example, the team normally goes out for a nightcap and to unwind. If they were to come here at 11 p.m., I would hate to have to tell anyone they could not be serviced nor would I want them to go to a place next door because of Socialight Restaurant limitations. If anyone, such as a birthday dinner, retirement dinner, 50th anniversary

dinner, just engaged that night and she said “yes” type of night were taking place, I just would hate to have to throw anyone out. We are a proven good operation that should be allowed to service our customers without unnecessary limitations. The reality is, we want to close when we are not needed but never want to be forced to close when we are needed. We also want to be on a level playing field. Currently all of the following restaurants are open minimally until 12:00 a.m.

- La Pizzeria (Open until 2 a.m. Thur – Sat)
- Liquid Bread
- Sushi Confidential
- Brown Chicken Brown Cow
- Willard Hicks
- Opa
- Tessoro’s (Fri & Sat)
- Campbell Brewing Co.

Obviously, many more are open until much later including El Gaupos, Katie Blooms, Cardiff Lounge, Campbell Brewing Company, La Pizzeria, The Spot & Khartoum, Note, many of these restaurants that close on a regular basis prior to 12:00a.m. do not close then for obvious business reasons. But when they are needed to be open a little later up til 12:00 a.m. for whatever reason, they can be. I think there is significant precedent for 12:00 a.m., The Socialight is a proven restaurant entity providing a high end place for the affluent demographic to go and it would be beneficial to have the ability to serve our community without the limitation of 11:30p.m. mandatory shut down. I ask that you vote for our originally requested last year closing time, and now requested **closing time in this modification request of 12:00 a.m.**

- Regarding our **current entertainment permit**, amplification was not included. The City of Campbell Staff is recommending approval of amplification in their report but with the condition of plugging into a house system. This solves the issue and we will have a house system added regardless, but sometimes all that is wanted is light background classical guitar. In this case, some enjoy and love to watch while others are coming to The Socialight for a social catch up with their evening being dominated by conversation. The ability to simply bring in a small amp and not plug into our entire house system means I can sit the quiet guests at the end of the restaurant where they will hear very little of the music where those that love the entertainment can be seated closer. The house system delivers to the entire house. I very much appreciate the recommendation of approval and ask that The Socialight simply be approved for amplified entertainment to provide optimal flexibility as needed. Note, I believe The Socialight would be the only restaurant with this “plug in to an in house system” requirement.
- The additional **3 counter stools** was recommended for approval and I have no other considerations here.

This is all to be considered as the outside seating on event days has been tabled for another time. Thank you for taking the time to read this and digest the information. Your support is very much appreciated by all of us at The Socialight as well as our Campbell Community at large who also continually provides us so much support.

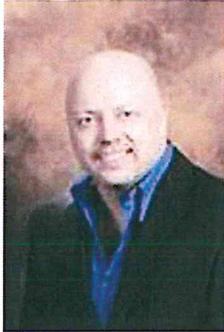
Steven Bonner
OWNER



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"Open all Day"





City Council Report

Item: 15.
Category: Public Hearing
Date: July 19, 2016

TITLE Public Hearing to consider the application of Zack Puckett for an Administrative Planned Development Permit (PLN2015-338) with a request for an exception to a parking setback contained within the Winchester Boulevard Master Plan, to allow for the redevelopment of an existing building and site (formerly Michi Sushi) on property located at 2220 S. Winchester Boulevard, within a Planned Development (PD) zoning district (Resolution / Roll Call Vote)

RECOMMENDATION

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

1. **Adopt the attached Resolution**, incorporating the attached findings, approving an Administrative Planned Development Permit to allow for the redevelopment of an existing building and site, with an exception to a parking setback contained within the Winchester Boulevard Master Plan, on property located at 2220 S. Winchester Boulevard, subject to the attached Conditions of Approval.

DISCUSSION

Project Site: The project site is a single parcel, comprising approximately 9,924 square-feet, located at the northeast corner of South Winchester Boulevard and Sunnyside Avenue, abutting small-lot single-family residences to the east and a commercial property to the north (reference **Attachment 2** – Location Map). The project site is located within the Planned Development (P-D) Zoning District and has a General Plan land use designation of Central Commercial, and is located within the boundaries of the Winchester Boulevard Master Plan (WBMP).

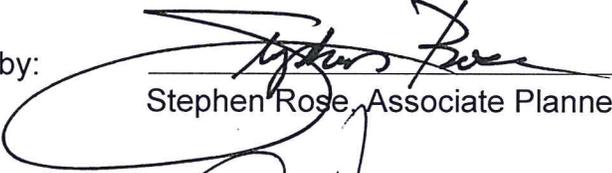
Applicant's Proposal: The applicant is requesting approval of an Administrative Planned Development Permit (PLN2015-338) to reconfigure the existing parking lot, remove unpermitted additions and inactive air ductwork including vents and electrical panels on the building walls, remove windows on the south side of the building, and build a new trash enclosure. While these improvements are in anticipation of a future retail or office use, a subsequent Administrative Planned Development Permit will be required once a tenant has been formally identified. A full analysis of the project is provided in the attached Planning Commission staff report¹ (reference **Attachment 4**).

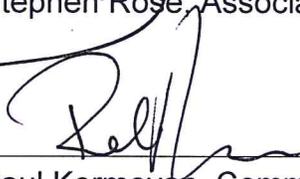
Exception to WBMP: As a developed site, the applicant's proposal should adhere to the requirements of the WBMP to the extent feasible. In evaluation of these requirements,

¹ For a more detailed summary of the proposed site and architectural changes, please refer to the SARC Memo (reference **Attachment 6**).

the site would comply with all of the standards of the WBMP except for a requirement to provide an 8-foot setback between the rear property line and the rear parking stalls – necessitating review and approval of an exception to the WBMP by the City Council. Both the SARC and Planning Commission reviewed the exception request, concluding that the exception would be warranted in this instance as the applicant's proposal furthers the WBMP's objective to deemphasize parking by placing parking at the rear of the building, while providing safer ingress and egress to the site, a greater number of parking stalls than presently exists, and adequate buffering from abutting residential uses to the east (where the parking stalls would encroach) through the incorporation of enhanced landscaping and fencing in that area.

Planning Commission Meeting: At its meeting of June 14, 2016, the Planning Commission held a public hearing on the project. The Commission voted unanimously to recommend approval of the project as proposed.

Prepared by: 
Stephen Rose, Associate Planner

Reviewed by: 
Paul Kermoyan, Community Development Director

Approved by: 
Mark Linder, City Manager

Attachments:

1. Draft City Council Resolution
2. Location Map
3. Project Plans
4. Planning Commission Staff Report
5. Planning Commission Meeting Minutes
6. SARC Memo

RESOLUTION NO. _____

BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL APPROVING AN ADMINISTRATIVE PLANNED DEVELOPMENT PERMIT (PLN2015-338) WITH AN EXCEPTION TO A PARKING SETBACK CONTAINED WITHIN THE WINCHESTER BOULEVARD MASTER PLAN, ON PROPERTY LOCATED AT **2220 S. WINCHESTER BOULEVARD**.

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 to file number PLN2015-338:

1. The project site is located on the northeast corner of Winchester Boulevard and Sunnyside Avenue and is approximately 9,924 square feet in size.
2. After a 400 square foot dedication, the lot shall be approximately 9,524 square feet in size.
3. The project site is zoned P-D (Planned Development) on the City of Campbell Zoning Map.
4. The project site is designated Central Commercial on the City of Campbell General Plan Land Use Map.
5. No use (e.g. retail, office) is proposed with the subject application. The property owner will be required to apply for a separate discretionary review process (i.e. Administrative Planned Development Permit) once a use/tenant has been identified for the structure.
6. The project site is located within the Winchester Boulevard Master Plan.
7. The project site is bordered by residential uses to the east, and commercial uses to the north and across the street to the south (across Sunnyside) and west (across Winchester Blvd.).
8. The proposal conforms to all requirements of the Winchester Boulevard Master Plan with the exception of a requirement to provide an eight-foot rear setback to allow parking spaces to encroach in the required setbacks.
9. The request for an exception to the Winchester Boulevard Master Plan requires City Council approval.
10. The project site, as a developed site, is distinct from a new development which could more readily conform to the setbacks and development standards of the Winchester Boulevard Master Plan.
11. Both the Site and Architectural Review Committee and Planning Commission reviewed the exception request, concluding that the exception would be warranted in this instance as the applicant's proposal furthers the WBMP's objective to deemphasize

parking by placing parking at the rear of the building, while providing safer ingress and egress to the site, a greater number of parking stalls than presently exists, and adequate buffering from abutting residential uses to the east (where the parking stalls would encroach) through the incorporation of enhanced landscaping and fencing in that area.

12. The removal and replacement of the existing driveway with City standard curb, gutter, and sidewalk on Sunnyside Avenue, which would have precluded access to existing parking spaces, could have been considered to take a substantial property right (to provide adequate onsite parking) unless a comparable number of parking spaces could have otherwise been accommodated on the property.
13. The requested exception to the Winchester Boulevard Master Plan is necessary to accommodate a comparable number of parking spaces on the property.
14. The proposed project will be compatible with the underlying Central Commercial General Plan land use designation and the Winchester Boulevard Master Plan, as conditioned.
15. No substantial evidence has been presented which shows that the project, as currently presented and subject to the required Conditions of Approval, will have a significant adverse impact on the environment.
16. There is a reasonable relationship and a rough proportionality between the Conditions of Approval and the impacts of the project.
17. There is a reasonable relationship between the use of the fees imposed upon the project and the type of development project.

Based upon the foregoing findings of fact, the City Council further finds and concludes that:

18. The proposed development or uses clearly would result in a more desirable environment and use of land than would be possible under any other zoning district classification;
19. The proposed development would be compatible with the general plan and will aid in the harmonious development of the immediate area;
20. The proposed development will not result in allowing more residential units that would be allowed by other residential zoning districts which are consistent with the general plan designation of the property;
21. The proposed development would not be detrimental to the health, safety or welfare of the neighborhood or of the city as a whole;

City Council Resolution

Approving an Administrative Planned Development Permit with Exception to WBMP

2220 S. Winchester Boulevard – PLN2015-338

Page 3

22. There are special circumstances and conditions affecting the subject property;
23. The exception is necessary for the preservation and enjoyment of a substantial property right of the developer;
24. The granted of the exception will not be detrimental to the public welfare, or injurious to other property in the area in which said property is situated; and
25. The project is Categorical Exempt under Section 15301 Class 1 of the California Environmental Quality Act (CEQA) pertaining to minor alterations to an existing private structure, involving negligible or no expansion of use.

THEREFORE, BE IT RESOLVED that the City Council adopts a Resolution approving an Administrative Planned Development Permit (PLN2015-338) with an exception to a parking setback contained within the Winchester Boulevard Master Plan, on property located at **2220 S. Winchester Boulevard**, subject to the attached Conditions of Approval (attached Exhibit "A").

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

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

APPROVED: _____
Jason T. Baker, Mayor

ATTEST: _____
Wendy Wood, City Clerk

CONDITIONS OF APPROVAL

Administrative Planned Development Permit (PLN2015-338) with an Exception to a Parking Setback Contained within Winchester Boulevard Master Plan

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

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

1. Approved Project: Approval is granted for an Administrative Planned Development Permit to allow the redevelopment of an existing building and site, with an exception to a parking setback contained within the Winchester Boulevard Master Plan, on property located at 2220 S. Winchester Boulevard. The project shall substantially conform to the revised project plans and color/materials board stamped as received by the Planning Division on May 31, 2016 except as may be modified by the conditions of approval herein.
2. Plan Revisions: The building permit submittal construction plans shall incorporate the following revisions:
 - a. Fencing: Where fencing is replaced along the rear (east) property line, it shall be replaced with fencing matching the appearance of the existing ± 7 -foot wood fence with lattice. Conformance to this requirement shall be to the satisfaction of the Community Development Director.
 - b. Signs: The proposed stop sign pole shall be relocated closer to the sidewalk interface with a white line painted across the drive aisle to demarcate the appropriate point for a vehicle to stop. In addition, or as an alternative to installation the stop sign pole, the applicant may stencil letters on the ground reading "STOP".
3. Permit Expiration: The Administrative Planned Development Permit (PLN2015-338) shall be valid for two years from the date of final approval. The City Council will be the final approving authority. Within this two-year period an application for a building permit must be submitted. Failure to meet this deadline will result in the Administrative Planned Development Permit being rendered void.
4. Delegation of Authority: Modifications to the site or project shall default back to the decision making body specified in the Campbell Municipal Code and not otherwise require City Council approval except where expressly required.
5. Planning Final Required: Planning Division clearance is required prior to Building Permit final. Construction not in substantial compliance with the approved project plans shall not be approved without prior authorization of the necessary approving body.

6. Final Landscaping Plan: The applicant shall submit a final landscape and irrigation plan with the building permit construction plans in compliance with the City's Water Efficient Landscape Guidelines.
7. Grading Plan: The building permit construction plans shall include a grading and drainage plan prepared by a qualified engineer indicating actual (not assumed) existing and proposed grades relative to existing grade and showing management of on-site drainage, for review and approval by the Community Development Director. The existing grade shall be modified to the minimum extent necessary to ensure proper drainage as determined by the Community Development Director.
8. Height Measurements: The height measurements on the elevation sheets shall be revised on the building permit construction plans to be consistent with the grading and drainage plan. Height measurements should occur at three elevations; existing grade, finished floor, and top of structure.
9. Parking: All parking and driveway areas shall be maintained in compliance with the standards in Chapter 21.28 (Parking & Loading) of the Campbell Municipal Code and the Winchester Boulevard Master Plan except where explicitly granted an exception by the City Council.
10. Fines: Prior to Building Permit submittal, if not required earlier, the applicant shall pay \$1,831.27 which reflects the value of the removed tree and a citation for work without permits.
11. Compliance with Other Regulations: The applicant shall comply with all state, county, and city regulations and laws that pertain to the proposed project.
12. On-Site Lighting: On-site lighting shall be shielded away from adjacent properties and directed on site. The design and type of lighting fixtures and lighting intensity of any proposed exterior building lighting shall be reviewed by the Community Development Director prior to installation of the lighting for compliance with all applicable Conditions of Approval, ordinances, laws and regulations. The Director will have the authority to reject, approve or request modifications to the lighting design to achieve these goals.
13. Signage: No building signs have been considered as part of this Planned Development Permit. Future signage shall be considered pursuant to applicable City development standards and processes.
14. Construction Activities: The applicant shall abide by the following requirements during construction:
 - c. The project site shall be posted with the name and contact number of the lead contractor in a location visible from the public street prior during all periods of construction.
 - d. Construction activities shall be limited to weekdays between 8:00 a.m. and 5:00 p.m. and Saturdays between 9:00 a.m. and 4:00 p.m. No construction shall take

place on Sundays or holidays unless an exception is granted by the Building Official.

- e. All construction equipment with internal combustion engines used on the project site shall be properly muffled and maintained in good working condition.
- f. Unnecessary idling of internal combustion engines shall be strictly prohibited.
- g. All stationary noise-generating construction equipment, such as air compressors and portable power generators, shall be located as far as possible from noise-sensitive receptors such as existing residences and businesses.
- h. Use standard dust and erosion control measures that comply with the adopted Best Management Practices for the City of Campbell.

Building Division

- 15. Permits Required: A building permit application shall be required for the proposed renovations to the (e) commercial building. The building permit shall include Electrical/Plumbing/Mechanical fees when such work is part of the permit. The building shall be made to comply with all the requirements necessary to the new buildings proposed occupancy.
- 16. Construction Plans: The conditions of Approval shall be stated in full on the cover sheet of construction plans submitted for building permit.
- 17. Size of Plans: The minimum size of construction plans submitted for building permits shall be 24 in. X 36 in.
- 18. Plan Preparation: This project requires plans prepared under the direction and oversight of a California licensed Engineer or Architect. Plans submitted for building permits shall be “wet stamped” and signed by the qualifying professional person.
- 19. Site Plan: Application for building permit shall include a competent site plan that identifies property and proposed structures with dimensions and elevations as appropriate. Site plan shall also include site drainage details. Site address and parcel numbers shall also be clearly called out. Site parking and path of travel to public sidewalks shall be detailed.
- 20. Title 24 Energy Compliance: California Title 24 Energy Standards Compliance forms shall be blue-lined on the construction plans. Compliance with the Standards shall be demonstrated for conditioning of the building envelope and lighting of the building.
- 21. Special Inspections: When a special inspection is required by C.B.C. Chapter 17, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permits, in accordance with C.B.C Chapter 1, Section 106. Please obtain City of Campbell, Special Inspection forms from the Building Inspection Division Counter.
- 22. Non-Point Source Pollution: The City of Campbell, standard Santa Clara Valley Non-point Source Pollution Control Program specification sheet shall be part of plan

submittal. The specification sheet (size 24" X 36") is available at the Building Division service counter.

23. Title 24 Accessibility – Commercial: On site general path of travel shall comply with the latest California Title 24 Accessibility Standards. Work shall include but not be limited to accessibility to building entrances from parking facilities and sidewalks.
24. Title 24 Accessibility – Commercial: this project shall comply fully with the provisions of Chapter 11B of the California Building Code 2013 ed.
25. Approvals Required: The project requires the following agency approval prior to issuance of the building permit:
- a. West Valley Sanitation District
 - b. School District:
 - i) Campbell Union School District (378-3405)
 - ii) Campbell Union High School District (371-0960)
 - iii) Moreland School District (874-2900)
 - iv) Cambrian School District (377-2103)
 - c. Santa Clara County Fire Department
 - d. Santa Clara County Department of Environmental Health
26. P.G.&E.: Applicant is advised to contact Pacific Gas and Electric Company as early as possible in the approval process. Service installations, changes and/or relocations may require substantial scheduling time and can cause significant delays in the approval process. Applicant should also consult with P.G. and E. concerning utility easements, distribution pole locations and required conductor clearances.
27. LEED for New Construction: Applicant shall complete and return LEED Project Checklist prior to issuance of permit.
28. Storm Water Requirements: Storm water run-off from impervious surface created by this permitted project shall be directed to vegetated areas on the project parcel. Storm water shall not drain onto neighboring parcels.

Public Works Department

29. Response Letter: Upon submittal of the Parcel Map, the Street Improvement Plans and the Grading and Drainage Plans, the applicant shall provide an itemized response letter verifying that all the Public Works Conditions of Approval have been met or addressed.
30. Preliminary Title Report: Prior to issuance of any grading or building permits for the site, the applicant shall provide a current (within the past 6 months) Preliminary Title Report.
31. Right-of-Way for Public Street Purposes: Prior to issuance of any grading or building permits for the site, the applicant shall fully complete the process to cause additional

right-of-way to be granted in fee for public street purposes along the Sunnyside Avenue frontage to accommodate a 30-ft half street, unless otherwise approved by the City Engineer. The applicant shall submit the necessary documents for approval by the City Engineer, process the submittal with City staff's comments and fully complete the right-of-way process. The applicant shall cause all documents to be prepared by a registered civil engineer/land surveyor, as necessary, for the City's review and recordation.

32. Grading and Drainage Plan: Prior to issuance of any grading or building permits for the site, the applicant shall conduct hydrology studies based on a ten-year storm frequency, prepare an engineered grading and drainage plan, and pay fees required to obtain necessary grading permits. Prior to occupancy, the design engineer shall provide written certification that the development has been built per the engineered grading and drainage plans.
33. Drainage System: Prior to occupancy clearance, the applicant shall refurbish, remodel, and reconstruct the on-site drainage system, as necessary, to demonstrate that the facilities are functioning normally in accordance with the requirements of the City.
34. Storm Drain Area Fee: Prior to issuance of any grading or building permits for the site the applicant shall pay the required Storm Drain Area fee, currently set at \$2,650.00 per net acre, which is \$610.00.
35. Storm Water Information: On the **grading plans** show the amount, in square footage, of:
- a. Existing impervious area.
 - b. Proposed impervious area.
 - c. Proposed pervious area.
36. Stormwater Pollution Prevention Measures (<10,000 SF Impervious Area): Prior to issuance of any grading or building permits, the applicant shall comply with the National Pollution Discharge Elimination System (NPDES) permit requirements, Santa Clara Valley Water District requirements, and the Campbell Municipal Code regarding stormwater pollution prevention. The primary objectives are to improve the quality and reduce the quantity of stormwater runoff to the bay.
- Resources to achieve these objectives include *Stormwater Best Management Practices Handbook for New Development and Redevelopment* ("CA BMP Handbook") by the California Stormwater Quality Association (CASQA), 2003; *Start at the Source: A Design Guidance Manual for Stormwater Quality Protection* ("Start at the Source") by the Bay Area Stormwater Management Agencies Association (BASMAA), 1999; and *Using Site Design Techniques to Meet Development Standards for Stormwater Quality: A Companion Document to Start at the Source* ("Using Site Design Techniques") by BASMAA, 2003.
37. Plan Lines: Prior to issuance of any grading or building permits for the site, the applicant shall provide a plan layout showing the correct distance from the street

centerline to the property line, dimensions of sidewalk and other relevant information in the public right of way.

38. Utilities: All on-site utilities shall be installed underground per Section 21.18.140 of the Campbell Municipal Code for any new or remodeled buildings or additions. Applicant shall comply with all plan submittals, permitting, and fee requirements of the serving utility companies.

Utility locations shall not cause damage to any existing street trees. Where there are utility conflicts due to established tree roots or where a new tree will be installed, alternate locations for utilities shall be explored. Include utility trench details where necessary.

39. Water Meter(s) and Sewer Cleanout(s): Existing and proposed water meter(s) and sewer cleanout(s) shall be relocated or installed on private property behind the public right-of-way line.

40. Utility Coordination Plan: Prior to issuance of building permits for the site, the applicant shall submit a utility coordination plan and schedule for approval by the City Engineer for installation and/or abandonment of all utilities. The plan shall clearly show the location and size of all existing utilities and the associated main lines; indicate which utilities and services are to remain; which utilities and services are to be abandoned, and where new utilities and services will be installed. Joint trenches for new utilities shall be used whenever possible.

41. Pavement Restoration: Based on the utility coordination plan, the applicant shall prepare a pavement restoration plan for approval by the City Engineer prior to any utility installation or abandonment. Streets that have been reconstructed or overlaid within the previous five years will require boring and jacking for all new utility installations. Winchester Boulevard was reconstructed in 2012 and Sunnyside Avenue has not been reconstructed or overlaid in the last 5 years. The pavement restoration plan shall indicate how the street pavement shall be restored following the installation or abandonment of all utilities necessary for the project.

42. Street Improvement Agreements / Plans / Encroachment Permit / Fees / Deposits: Prior to issuance of any grading or building permits for the site, the applicant shall execute a street improvement agreement, cause plans for public street improvements to be prepared by a registered civil engineer, pay various fees and deposits, post security and provide insurance necessary to obtain an encroachment permit for construction of the standard public street improvements, as required by the City Engineer. The plans shall include the following, unless otherwise approved by the City Engineer:

Winchester Boulevard

- a. Show location of all existing utilities within the new and existing public right of way.

- b. Relocation of all existing utilities including utility boxes, covers, poles, etc. outside of sidewalk area. No utility boxes, covers, etc. will be allowed in the sidewalk area.
- c. Removal of existing two driveway approaches and necessary sidewalk, curb and gutter and installation of City standard curb, gutter, sidewalk.
- d. Installation of City standard curb, gutter, 10 foot sidewalk and ADA compliant driveway approach along Winchester Boulevard (north limit). See City Standard Commercial Driveway Detail 18.
- e. Installation of standard curb, gutter and 10' sidewalk to replace existing curb cut at the southern end.
- f. Installation of an ADA ramp at the northeast corner of Winchester Boulevard and Sunnyside Avenue per Detail A88A of the Caltrans Specifications.
- g. Installation of City approved street trees, 6'x6' tree well(s) and grate with structural soil and irrigation at 30 feet.
- h. Installation of traffic control, stripes and signs. Restriping the entire frontage maybe required depending on the utility plan and the pavement restoration plan.
- i. Construction of conforms to existing public and private improvements, as necessary.
- j. Submit final plans in a digital format acceptable to the City.

Sunnyside Avenue:

- a. Show location of all existing utilities within the new and existing public right of way.
- b. Relocation of all existing utilities including utility boxes, covers, poles, etc. outside of sidewalk area. No utility boxes, covers, etc. will be allowed in the sidewalk area.
- c. Removal of existing non-ADA driveway approach and necessary sidewalk, curb and gutter and installation of City standard curb, gutter, sidewalk.
- d. Installation of City standard curb, gutter, 10 foot sidewalk and ADA compliant driveway approach along Sunnyside Avenue. Current driveway exceeds City's standards. Install City Standard Commercial Driveway Detail 18.
- e. Installation of City approved street trees, tree well(s) and irrigation at 30 feet on center.
- f. Installation of traffic control, stripes and signs. Restriping the entire frontage maybe required depending on the utility plan and the pavement restoration plan.
- g. Construction of conforms to existing public and private improvements, as necessary.
- h. Submit final plans in a digital format acceptable to the City.

43. Street Improvements Completed for Occupancy and Building Permit Final: Prior to allowing occupancy and/or final building permit signoff for any and/or all buildings, the applicant shall have the required street improvements installed and accepted by the City, and the design engineer shall submit as-built drawings to the City.

44. Maintenance of Landscaping: Owner(s), current and future, are required to maintain the landscaped park strip and tree wells in the public right of way. This includes, but is

not limited to: trees, lawn, plantings, irrigation, etc. Trees shall not be pruned in a manner that would not allow the tree to grow to a mature height.

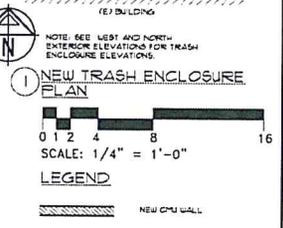
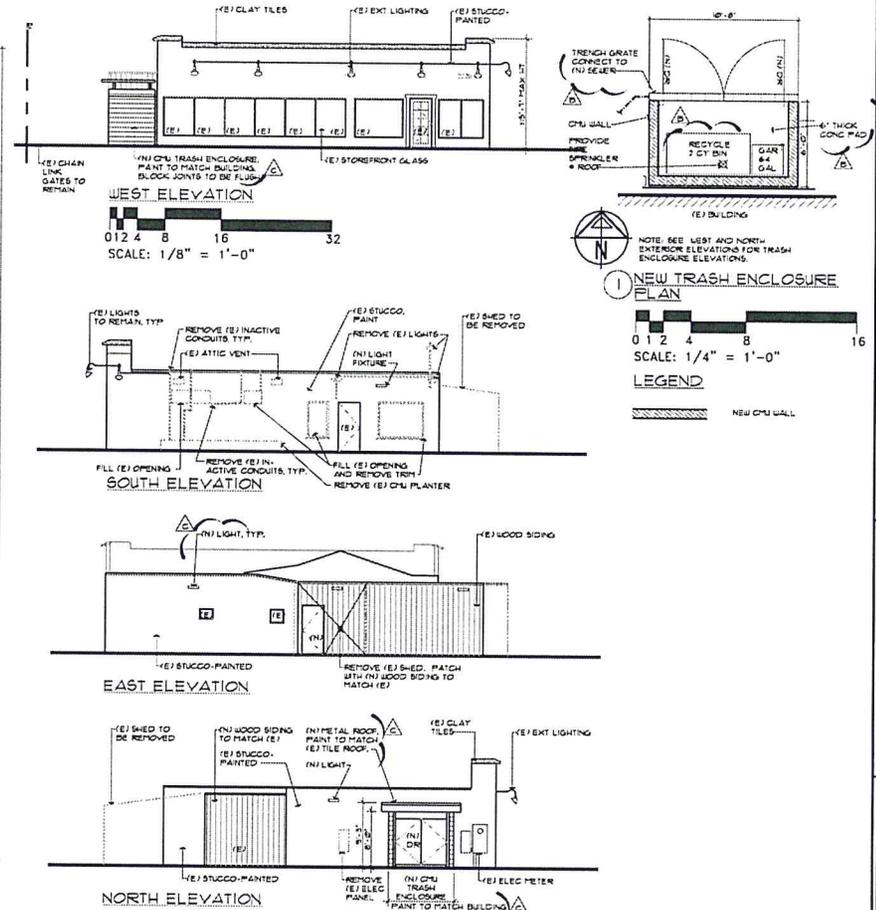
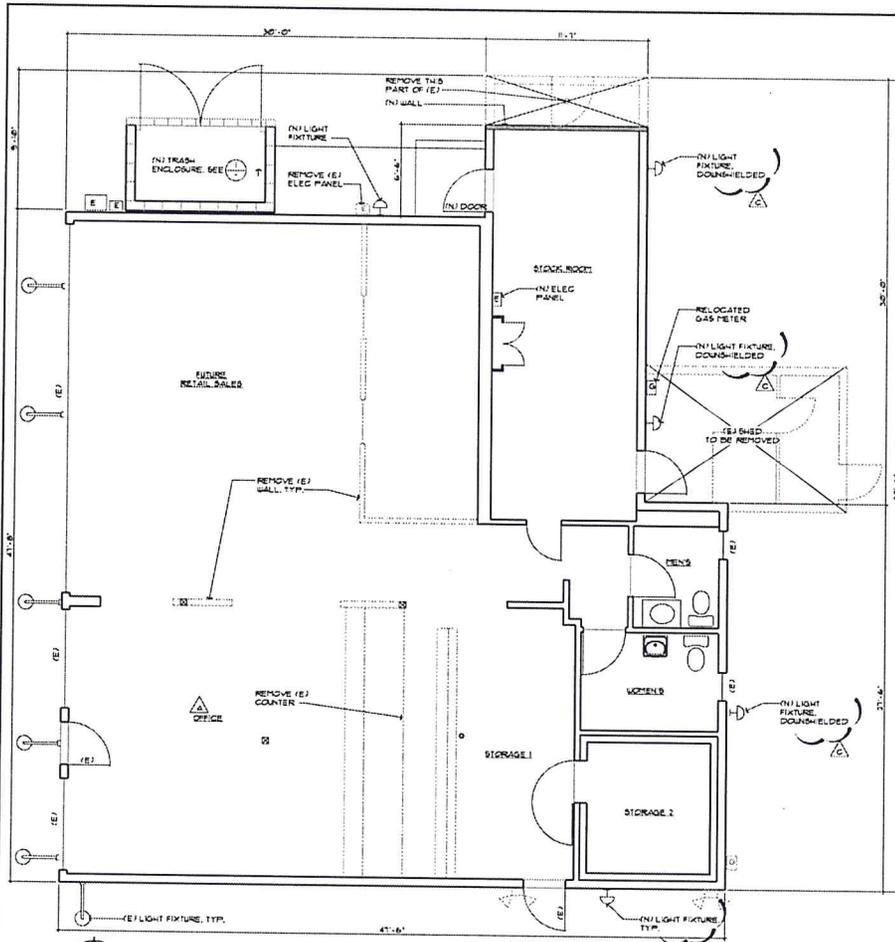
45. Utility Encroachment Permit: Separate encroachment permits for the installation of utilities to serve the development will be required (including water, sewer, gas, electric, etc.). Applicant shall apply for and pay all necessary fees for utility permits for sanitary sewer, gas, water, electric and all other utility work.
46. Additional Street Improvements: Should it be discovered after the approval process that new utility main lines, extra utility work or other work is required to service the development, and should those facilities or other work affect any public improvements, the City may add conditions to the development/project/permit, at the discretion of the City Engineer, to restore pavement or other public improvements to the satisfaction of the City.

Santa Clara County Fire Department

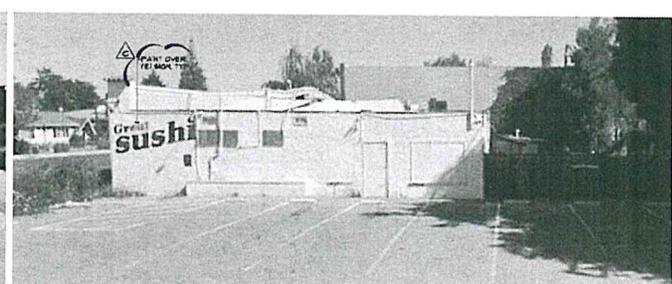
47. Comment #1: Review of this development proposal is limited to acceptability of site access and water supply as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.
48. Comment #2: All construction sites must comply with applicable provisions of the CFC Chapter 14 and our Standard Detail and Specifications SI-7.

Location Map





EXISTING STREET VIEW-WEST



EXISTING STREET VIEW-SOUTH

JOB No. 1555	
DATE OCT 16, 2015	
DESCRIPTION	DATE
CITY REVIEW	1-9-16
PLN. CHK. COMMENTS	2-9-16
BLDG. COMMENTS	5-31-16

PD PERMIT FOR RETAIL

ARCHITECTS
MBA
 THE COMPANY ARCHITECTS, LLC
 1501 JONES BLVD., SUITE 100
 ANN ARBOR, MI 48106

LICENSED ARCHITECT
 Mark Arthur Boring
 No. C-4649
 EX. 09/17

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SHEET TITLE
**FLOOR PLAN
 EXTERIOR ELEVATIONS**

SCALE AS SHOWN
 CAD FILE 055-A10103
 DRAWN BY

SHEET
2
 OF 5 SHEETS

ITEM NO. 2



CITY OF CAMPBELL • PLANNING COMMISSION
Staff Report • June 14, 2016

PLN2015-338 Public Hearing to consider the application of Zack Puckett for an Administrative Planned Development Permit (PLN2015-338) with a request for an exception to a parking setback contained within the Winchester Boulevard Master Plan, to allow for the redevelopment of an existing building and site (formerly Michi Sushi) on property located at 2220 S. Winchester Boulevard, within a Planned Development (PD) zoning district.

Puckett, Z.

STAFF RECOMMENDATION

That the Planning Commission take the following action:

1. **Adopt a Resolution**, incorporating the attached findings, recommending that the City Council approve an Administrative Planned Development Permit to allow for the redevelopment of an existing building and site, with an exception to a parking setback contained within the Winchester Boulevard Master Plan, on property located at 2220 S. Winchester Boulevard, subject to the attached Conditions of Approval.

ENVIRONMENTAL DETERMINATION

Staff recommends that the Planning Commission find that this project is Categorical Exempt under Section 15301 Class 1 of the California Environmental Quality Act (CEQA) pertaining to minor alterations to an existing private structure, involving negligible or no expansion of use.

PROJECT DATA

Existing Net Lot Area: 9,924 square feet (.23 acre)
 Proposed Net Lot Area: 9,524 square feet (after 400 sq. ft. dedication; 5-feet on Sunnyside)
 Gross Lot Area: 18,850 square feet (.43 acre)

Zoning: P-D (Planned Development)
 General Plan: *Central Commercial* (Winchester Boulevard Master Plan)

Building Coverage: 24.1% (2,302 sq. ft. building + 65 sq. ft. trash enclosure)
 Floor Area Ratio (FAR): 23.4% (2,237 sq. ft. building)

	<u>Proposed</u>	<u>Requirement</u>
Setbacks		
Height:	15 Feet, 7 Inches	45 Feet (Max.)
Slope Line on Rear:	2.8:1 Setback to Height	2:1 Setback to Height Ratio (Max.)
Street Side Setback:	8.5 Feet & 34 Feet ¹	5 Feet Setback from Street (Min.)
	12 Feet	No Interior Side Setbacks
Parking Setback:	2 Feet from Rear	8 Feet from Rear (Min.)

¹ The existing building is 8.5 feet from S. Winchester Blvd. and 34 feet from Sunnyside Avenue.

Parking:	<u>Parking Required</u>	<u>Parking Provided</u>
Retail Standard:	11 ² (1 per 200 sq. ft.)	12
Office Standard:	10 ³ (1 per 225 sq. ft.)	12

Project Site: The project site is a single parcel, comprising approximately 9,924 square-feet, located at the northeast corner of South Winchester Boulevard and Sunnyside Avenue, abutting small-lot single-family residences to the east and a commercial property to the north (reference **Attachment 3** –Location Map). The project site is located within the Planned Development (P-D) Zoning District and has a General Plan land use designation of *Central Commercial*, and is located within the boundaries of the Winchester Boulevard Master Plan.

DISCUSSION

In review of this application, the Planning Commission must consider the findings contained in CMC 21.12.030.6 (Approval Criteria) which generally requires the development to clearly result in a more desirable environment and use of land, and not be detrimental to the health, safety, or welfare of the neighborhood or the city as a whole. As such, a summary of the applicant’s proposal, applicable code requirements, and recommendations from the Site and Architectural Review Committee have been included for review and consideration.

Applicant’s Proposal: The applicant is requesting an Administrative Planned Development Permit (PLN2015-338) to reconfigure the existing parking lot, remove unpermitted additions and inactive air ductwork including vents and electrical panels on the building walls, remove windows on the south side of the building, and build a new trash enclosure⁴. While these improvements are in anticipation of a future retail or office use, a subsequent Administrative Planned Development Permit will be required once a tenant has been formally identified.

Administrative Procedure: In the Planned Development (P-D) Zoning District, an Administrative Planned Development Permit is required for minor building and site improvements. Typically, “Administrative” permits are reviewed and approved by the Community Development Director, but may be forwarded to the Planning Commission and City Council when project specific circumstances warrant such consideration. As the applicant’s proposal will substantially alter the on-site parking and circulation⁵ (resulting in vehicles exiting directly onto Winchester Blvd.), and requires clarification on an 8-foot rear setback requirement for parking spaces outlined in the Winchester Boulevard Master Plan (WBMP), the Community Development Director determined that the proposed improvements were substantial and opted to forward the application to the Planning Commission for a recommendation, and with the decision being referred to the City Council. While modifications to an entitlement approved by the City Council would typically require review and approval by decision making body (i.e. the City Council), staff has included a condition of approval which would allow changes to the property to default back to the otherwise appropriate decision making body (e.g. Community Development Director or Planning Commission).

²After rounding down in accordance with CMC21.28.040.F.

³After rounding up in accordance with CMC21.28.040.F.

⁴ For a more detailed summary of the proposed site and architectural changes, please refer to the May 24, 2016 – Site and Architectural Review Committee Memo (reference **Attachment 5**).

⁵ Reference **Attachment 4** - Project Plans & **Attachment 5** – Existing Conditions for a visual comparison.

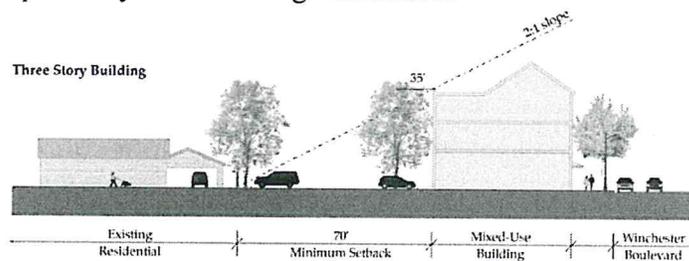
Background: On January 25, 2016 a stop work notice was issued for the property which had started demolition work without permits, rendering the site unsafe to occupy. At that time, the site was also observed as having installed a new ± 7 -foot redwood fence along the east property line without first obtaining approval of a fence exception permit or development permit application. The site has remained unoccupied and in a state of partial demolition since that time.

On April 28, 2016 a Blackwood Acacia tree (21-inch diameter) was removed from the property without a tree removal permit, triggering a requirement to plant four (4) 24-inch box replacement trees on the property (or pay an in lieu fee if onsite locations are unable to be identified). A fine of \$1,831.27 was also assessed for the violation, which reflected the value of the tree and a citation for work without permits. The applicant has since identified the location of four replacement plantings along the rear (east) property line (reference **Attachment 4** – Project Plans).

Planned Development Zoning District: The P-D Zoning District is intended to provide a degree of flexibility that is not available in other zoning districts so as to allow for a superior development, particularly related to the development's design and provision of open space. To aid in achieving this goal, the Zoning Code provides a listing of considerations that should be taken into account in review of this project which can be found in the in the Campbell Municipal Code and online as follows: CMC 21.12.030.H.12.

Winchester Boulevard Master Plan: Review of physical characteristics of this project is largely governed by the Winchester Boulevard Master Plan⁶ ("WBMP"). As envisioned by the General Plan, the goal of the WBMP is to transform Winchester Boulevard into a vibrant mixed-use, pedestrian-oriented district that can function as an extension of the Downtown. To this end, the WBMP encourages mixed-use development that fronts the street to provide a walkable atmosphere.

Recognizing the differences in the land use pattern along the Winchester Boulevard corridor, the WBMP defines three distinct planning areas. The project site is located within Area 2, "Neighborhood Commercial Boulevard", which is subject to development standards that consider the proximity of single-family residences, including a maximum 45-foot (3-story) building height, a rear setback/height ratio defined by a 2:1 slope, 5-foot setbacks along Winchester Boulevard and side streets, no interior side setbacks, and an 8-foot setback from the rear parking lot as depicted by the following illustration:



⁶ The Winchester Boulevard Master Plan may be viewed online at <http://www.cityofcampbell.com/DocumentCenter/View/177>

As a developed site, the applicant's proposal should adhere to the requirements of the WBMP to the extent feasible. In evaluation of these requirements, the site would comply with all of the standards of the WBMP except for a questionable requirement to provide an 8-foot setback for the rear parking stalls. The plan includes an exhibit that states that a rear setback of 8-feet to parking or building be applied. Staff has reason to believe that an 8-foot setback is applicable for this project and intends to seek clarification of this standard from the City Council.

Site and Architectural Review Committee: The Site and Architectural Review Committee (SARC) reviewed this application at its meeting of May 24, 2016. The Committee was supportive of the project with the following recommendations (responses to these recommendations has been provided in italics below each item):

- **Trash Enclosure:** The trash enclosure should be painted to match the color of the building. The joints between CMU blocks should be smooth to simulate the appearance of stucco.

The project architect revised Sheet 2 of the project plans to reflect that the proposed trash enclosure shall be painted and treated to simulate the stucco building (see note on West Elevation).

- **Landscape Triangles:** Explore adding small landscape triangles between parking stalls to provide more room for tree plantings along the rear (east) property line.

The project architect revised Sheet 1 of the project plans to include four small landscape triangles between parking stalls.

- **Fencing & Walls:** Recommended that a wooden fence, matching the height and appearance of the existing fence (which is roughly seven-feet tall, including a foot of decorative lattice), be installed along the rear (east) property line.

The project architect revised Sheet 1 of the project plans to note the removal of the existing fence, but incorrectly noted the installation of a new six-foot tall wooden fence as a replacement. A condition of approval has been included requiring the installation of a fence matching the height (seven-feet tall) and appearance of the existing fence, including the decorative lattice.

- **Lighting:** Lighting should be added to the rear parking lot. This lighting should be adequately down-shielded to ensure that glare does not result in impacts on adjoining residential uses to the rear (east).

The project architect revised Sheet 2 of the project plans to note the inclusion of down-shielded lights, mounted to the rear of the building wall, to illuminate the parking lot.

- **Signs:** The Michi Sushi sign should be painted over, and the installation of a private stop sign should be explored at the northwest corner of the property where vehicles exit onto Winchester Boulevard.

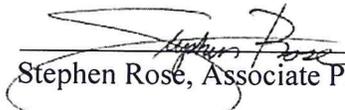
The project architect revised Sheet 2 of the project plans to note that the Michi Sushi sign will be painted over. Furthermore, Sheet 1 of the plans indicates the proposed location of a new freestanding stop sign. As the position of the stop sign is somewhat awkward (located on the left side of the driveway and several feet away from the back of walk), staff has included a condition of approval requiring the applicant to relocate the sign to

the back of the sidewalk interface and paint a line across the drive aisle demarcating the point vehicles stop. As an alternative, staff has provided the option for the applicant to stencil the letters "STOP" on the ground instead of installing a freestanding sign.

Attachments:

1. Findings for Approval
2. Conditions of Approval
3. Location Map
4. Project Plans
5. Existing Conditions
6. May 24, 2016 – Site and Architectural Review Committee Memo
7. Reconstructed Fencing & Removed Tree

Prepared by:



Stephen Rose, Associate Planner

Approved by:



Paul Kermoyan, Community Development Director

1. **PLN2016-91** Public Hearing to consider the application of Paul Fick for a Site and Architectural Review Permit (PLN2016-91) to allow an approximately 1,000 square-foot single-story rear addition to an existing single-family residence on property located at **363 Curtner Avenue**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Daniel Fama, Associate Planner*

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

Chair Dodd asked if there were questions of staff. There were none

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

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

Motion: Upon motion of Commissioner Young, seconded by Commissioner Rich, the Planning Commission adopted Resolution No. 4300 approving a Site and Architectural Review Permit (PLN2016-91) to allow an approximately 1,000 square-foot single-story rear addition to an existing single-family residence on property located at 363 Curtner Avenue, subject to the conditions of approval, by the following roll call vote:

AYES: Dodd, Reynolds, Rich and Young
NOES: None
ABSENT: Bonhagen, Finch and Kendall
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. 2 into the record as follows:

2. **PLN2015-338** Public Hearing to consider the application of Zack Puckett for an Administrative Planned Development Permit (PLN2015-338) with a request for an exception to a parking setback contained within the Winchester Boulevard Master Plan, to allow for the redevelopment of an existing building and site (formerly Michi Sushi) on property located at **2220 S Winchester Boulevard**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Tentative City Council Meeting Date: July 19, 2016. Project Planner: *Stephen Rose, Associate Planner*

Mr. Stephen Rose, Associate Planner, presented the staff report.

Chair Dodd asked if there were questions of staff.

Commissioner Young asked if work was done on this site without permits.

Planner Stephen Rose said some interior demolition work was done, a tree was removed from the site and a fence constructed. He advised that there will be a penalty imposed of about \$1,800 for the improperly removed tree.

Commissioner Young pointed out that at this time the applicants don't know what type of business will be going in here. He stressed the importance of being consistent with this site as the Commission has been with other nearby sites.

Planner Stephen Rose reported that this item is going to go to Council to ask for clarification on that issue since this is an existing developed site.

Chair asked for clarification that the Commission will be forwarding its recommendation on to Council.

Planner Stephen Rose said that exceptions to the Winchester Plan must be considered by the Council. The Council can let staff and the Commission know if they feel differently on the recommendation forwarded.

Commissioner Reynolds asked staff what the City is gaining by granting an exception.

Planner Stephen Rose said that this site is requesting a two-foot wide landscape strip between the property line and parking spaces where typically an eight-foot landscaping strip is required.

Director Paul Kermoyan:

- Replied to Commissioner Reynolds that the City is gaining a lot. This exception would move parking to the rear of the building in what is currently a fenced in area that has accumulated trash and debris.
- Advised that the new owners are eager and started work on the demolition inside without necessary permits.
- Reminded that the existing nine-stall parking spaces on site are located on the side of the building.
- Added that staff is trying to embrace the broad intention of the Winchester Plan, which allows an exception written in the plan. That becomes a question for Council. Should we vary a standard so they have more parking?

Planner Stephen Rose:

- Pointed out that the existing nine parking spaces back directly onto the public street. The revised plan will dramatically improve traffic.

Director Paul Kermoyan added that the driveway onto Winchester is already there.

Commissioner Rich asked if there would be more parking on the back.

Planner Stephen Rose said that the site is gaining three additional spaces as proposed.

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

Marvin Bamburg, Project Architect:

- Said that he is here this evening for the property owners. Additionally, a representative of the owners is also here.
- Stated that the staff report was good and he has nothing to add to it.
- Reported that these owners are eager to do what is necessary to make this building happen. The plans are almost complete and they'd like to get on with it.
- Advised that it will be a shell only initially and final tenant improvements will be installed later when a specific tenant is identified.

Rodel Hubilla, Resident on Sunnyside Avenue:

- Advised that he shares a fence with this location.
- Questioned how his fence will be protected from cars.
- Expressed concern about potential noise impacts at night on his property resulting from users of the parking area.

Marvin Bamburg:

- Reported that the shared fence with Mr. Hubilla was recently replaced by his clients.
- Added that as grading and building repairs are underway, they will have to raise the site grade to manage water drainage on site and this fence will likely have to be replaced again and his clients will pay for that again and not this neighbor.

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

Commissioner Reynolds:

- Said that he would support this request.
- Reminded that the goal is to keep parking on site.
- Added that this offers an opportunity to add parking and keep that parking on site.

Commissioner Rich:

- Agreed that this exception is worthwhile and he would be supportive.

Commissioner Young:

- Said that he would support this request.
- Added that it would be better aligned with the Winchester Plan.

Commissioner Reynolds:

- Said that he has heard the neighbor's concerns.

- Assured that when the specific use comes before the Commission, issues such as noise and parking will be addressed at that time.

Director Paul Kermoyan:

- Clarified that this use would require an Administrative Planned Development Permit which is managed at the staff level.
- Assured that potential for impacts would be considered under that process as well.
- Added that as for protecting the fence, there will be parking blocks put in place that would stop tires from reaching the fence.

Chair Dodd:

- Said that she appreciates watching out for the neighbors/residents in the surrounding area.
- Added that the idea with this proposal is to provide safer parking and the means to enter and exit from the site.

Motion: **Upon motion of Commissioner Rich, seconded by Commissioner Reynolds, the Planning Commission adopted Resolution No. 4301 recommending that the City Council approve an Administrative Planned Development Permit (PLN2015-338) with the request for an exception to a parking setback contained within the Winchester Boulevard Master Plan, to allow for the redevelopment of an existing building and site (formerly Michi Sushi) on property located at 2220 S Winchester Boulevard, subject to the conditions of approval, by the following roll call vote:**

AYES: **Dodd, Reynolds, Rich and Young**
NOES: **None**
ABSENT: **Bonhagen, Finch and Kendall**
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. 6 into the record as follows:

6. **PLN2016-19** Public Hearing to consider the application of Majid Sanenejad for a Tentative Parcel Map, Zoning Map Amendment and Planned Development Permit for a three unit townhome development, and Tree removal Permit (PLN2016-19) to allow the removal of one protected tree on property located at **1223 Walnut Drive**. Staff is recommending that a Negative Declaration be adopted for this project. Tentative City Council Meeting Date: July 19, 2016. Project Planner: *Cindy McCormick, Senior Planner*

MEMORANDUM

Community Development Department
Planning Division

To: Site and Architectural Review Committee **Date:** May 24, 2016
From: Stephen Rose, Associate Planner
Via: Paul Kermoyan, Community Development Director PK
Application: Administrative Planned Development Permit (PLN2015-338)
Project Site: 2220 S. Winchester Blvd.

PROPOSAL

The applicant is requesting an Administrative Planned Development Permit (PLN2015-338) to reconfigure the existing parking lot, remove unpermitted additions and inactive air ductwork including vents and electrical panels on the building walls, remove windows on the south side of the building, and build a new trash enclosure. While these improvements are in anticipation of a future retail or office use, a subsequent Administrative Planned Development Permit will be required once a tenant has been formally identified.

As the applicant's proposal will substantially alter the on-site parking and circulation, resulting in vehicles existing directly onto S. Winchester Boulevard, and includes a request for an exception to an 8-foot rear yard setback required for parking spaces in the Winchester Boulevard Master Plan (WBMP), the applicant's proposal will require review and approval by the City Council.

PROJECT SITE

The project site is a single parcel, comprising approximately 9,924 square-feet, located at the northeast corner of South Winchester Boulevard and Sunnyside Avenue, abutting small-lot single-family residences to the east and a commercial property to the north (reference **Attachment 1** –Location Map). The project site is located within the Planned Development (P-D) Zoning District and has a General Plan land use designation of *Central Commercial*, and is located within the boundaries of the Winchester Boulevard Master Plan.

PROJECT DATA

Existing Net Lot Area:	9,924 square feet (.23 acre)
Proposed Net Lot Area:	9,524 square feet (after 400 sq. ft. dedication; 5-feet on Sunnyside Ave.)
Gross Lot Area:	18,850 square feet (.43 acre)
Zoning:	P-D (Planned Development)
General Plan:	<i>Central Commercial</i> (Winchester Boulevard Master Plan)
Building Coverage:	24.1% (2,302 sq. ft. building + 65 sq. ft. trash enclosure)
Floor Area Ratio (FAR):	23.4% (2,237 sq. ft. building)
Building Height:	15 Feet, 7 Inches
Maximum Height Allowed:	45 Feet (Winchester Boulevard Master Plan)
Building Setbacks:	2:1 Height to Setback Ratio on Rear

Parking Setback: 5 Feet Setback from Winchester Blvd. & Side Streets,
No Interior Side Setbacks
8 Feet from Rear Property Line

2:1 slope, 5-foot setbacks along Winchester Boulevard and side streets, no interior side setbacks, and an 8-foot setback from the rear parking lot as depicted

Parking:	<u>Parking Required</u>	<u>Parking Provided</u>
Retail:	11 ¹ (1 per 200 sq. ft. for speculative retail)	12

BACKGROUND

On January 25, 2016 a stop work notice was issued for the property which had started demolition work without permits, rendering the site unsafe to occupy. At this time, the site was also observed as having installed a new 7-foot+ redwood fence along the east property line without first obtaining approval of a fence exception permit. The site has remained unoccupied and in a state of partial demolition since that time.

On April 28, 2016 a Blackwood Acacia tree (21-inch diameter) was removed from the property without a tree removal permit, triggering a requirement to plant four (4) 24-inch box replacement trees on the property (or pay an in lieu fee if onsite locations are unable to be identified). A fine of \$1,831.27 was also assessed for the violation, which reflected the value of the tree and a citation for work without permits. A discussion of the tree replacement requirements has been outlined in the discussion on landscaping.

SCOPE OF REVIEW

As a developed site, conformance with applicable development standards (setbacks, building height, floor area ratio), and landscaping requirements (area, type, and size) should be provided to the greatest extent feasible taking into account existing conditions. Where complete conformance cannot be achieved due to conflicting requirements or existing buildings/site conditions, the SARC should seek to identify a 'best fit' plan based on the site constraints.

DISCUSSION

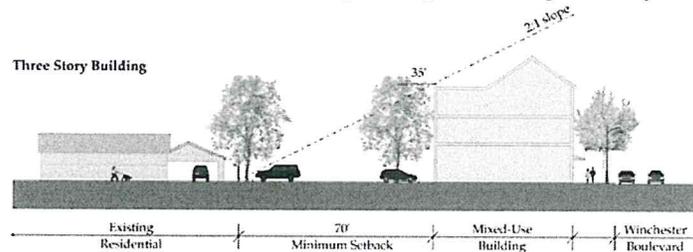
Planned Development Zoning District: The P-D Zoning District is intended to provide a degree of flexibility that is not available in other zoning districts so as to allow for a superior development, particularly related to the development's design and provision of open space. To aid in achieving this goal, the Zoning Code provides a listing of considerations that should be taken into account in review of this project which can be found in the in the Campbell Municipal Code and online as follows: CMC 21.12.030.H.12.

Winchester Boulevard Master Plan: Review of physical characteristics of this project is largely governed by the Winchester Boulevard Master Plan² ("WBMP"). As envisioned by the General Plan, the goal of the WBMP is to transform Winchester Boulevard into a vibrant mixed-use, pedestrian-oriented district that can function as an extension of the Downtown. To this end, the WBMP encourages mixed-use development that fronts the street to provide a walkable atmosphere.

¹After rounding down in accordance with CMC21.28.040.F.

²The Winchester Boulevard Master Plan may be viewed online at <http://www.cityofcampbell.com/DocumentCenter/View/177>

Recognizing the differences in the land use pattern along the Winchester Boulevard corridor, the WBMP defines three distinct planning areas. The project site is located within Area 2, "Neighborhood Commercial Boulevard", which is subject to development standards that consider the proximity of single-family residences, including a maximum 45-foot (3-story) building height, a rear setback/height ratio defined by a 2:1 slope, 5-foot setbacks along Winchester Boulevard and side streets, no interior side setbacks, and an 8-foot setback from the rear parking lot as depicted by the following illustration:



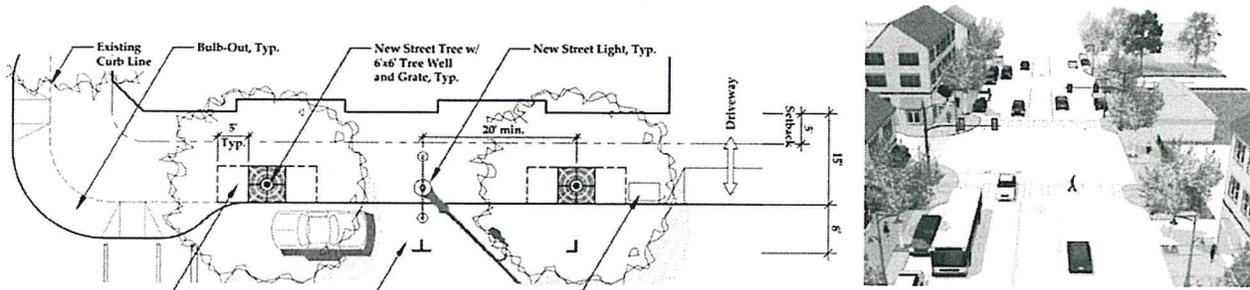
As a developed site, the applicant's proposal should adhere to the requirements of the WBMP to the extent feasible. In evaluation of these requirements, the site would comply with all of the standards of the WBMP except for a questionable requirement to provide an 8-foot setback for the rear parking stalls. The plan includes an exhibit that states that a rear setback of 8-feet to parking or building be applied. Staff has reason to believe that an 8-foot setback is applicable for this project and intends to seek clarification of this standard should the project be processed as proposed. Nevertheless, an expanded discussion of this requirement, site constraints, and conflicting policy objectives has been provided under Site Configuration.

Site Configuration: The WBMP provides guidance for buildings to be sited at the street, and parking lots to be deemphasized by being placed at the rear. The applicant's proposal furthers this objective by retaining the building in its current position at the street and relocating onsite parking further behind the building. While this design furthers the plan's objective to deemphasize parking, the arrangement may conflict with the WBMP requirement to provide an 8-foot separation between onsite parking and the rear property line. As the lot is relatively shallow, and the proposal reflects the minimum stall dimensions and aisle clearance requirements permitted (18-foot stall depth & 25 foot drive aisle/backup), the SARC could consider this arrangement to represent the 'best fit' available, and consider whether additional landscaping, trees or fencing (see subsequent discussion) may serve to further the objective to buffer residential uses from commercial activity. Alternatively, the SARC could recommend building changes to accommodate parking, or for the parking arrangement to be reversed to place the driveway along the rear property line. A discussion point has been raised to determine if the parking layout should remain as presented, or if any changes to the arrangement would be warranted.

Architectural Design: The WBMP does not prescribe or preclude any particular architectural style (e.g., Spanish, modern, etc.). Instead, it provides design guidelines (Pg. 29) with reference to the 'ground level treatment' and 'façade treatment and massing', that are intended to address a building's "pedestrian's range of experience" as well as its "character and scale" as considered in context of the urban fabric of the Winchester Boulevard corridor.

As a developed site, the applicant intends to retain the appearance of the existing building (white stucco walls, clay tile roof; the stockroom at rear of the building has vertical wood siding painted white) while removing unpermitted additions, inoperable ductwork and electrical equipment, and side

below). The intent is to create a 15-foot wide sidewalk corridor—measured from building wall to the curb-line—comprised of 10-feet of right-of-way and the building's 5-foot front setback. Although the WBMP identifies Winchester and Sunnyside as potentially accommodating a "bulb-out" at the corner, the Traffic Engineering Division has indicated that bulb-outs are generally reserved for signalized intersections, and therefore will not be required.



In addition to applying the frontage improvements required by the WBMP, the applicant will be replacing the existing curb ramp at the intersection of Winchester Blvd. and Sunnyside with an accessible curb ramp, dedicating 5-feet of right-of-way along Sunnyside Avenue, and reconstructing the curb, gutter and sidewalk along Sunnyside Avenue to install a 25-foot wide driveway consistent with City Standards.

Historic Preservation: On August 19, 2015 the Historic Preservation Board (HPB) evaluated the historic significance of the subject building. While the HPB noted that the building was constructed around 1920, and located near the Alice Avenue Historic District, the Board determined the structure had little to no architectural integrity and did not warrant further discussion or evaluation for preservation.

Signage: While no new signs are proposed in conjunction with the subject application, a discussion point has been raised to confirm that the 'Michi Sushi' sign, which is painted on the south building wall, should be painted over with white paint and to evaluate whether a new private stop sign should be installed at the end of the driveway exiting onto Winchester Boulevard.

SUMMARY

If the SARC believes that the applicant has adequately addressed the considerations for review of a Planned Development Permit, as specified by CMC 21.12.030.5, it could recommend approval to the Planning Commission as proposed or subject to revisions. The following questions are meant to facilitate the SARC's discussion of the application:

- **Trash Enclosure:** Should the trash enclosure be fabricated in stucco, or have a clay tile roof similar to the existing building? Alternatively, should the CMU block face be painted white and the metal roof painted a clay tile color to simulate the colors and materials of the building? Should landscaping be installed in front of the trash enclosure to help screen the structure?
- **Landscape Finger:** Should the project relocate the 5-foot landscaping strip that occurs at the northeast corner of the project site (rear parking lot) to a location between the fourth and fifth parking space along the rear property line to break-up the long row of parking and provide room for a new tree where the previous tree had been removed? Alternatively, should the 5-foot wide landscaping strip be divided into two smaller 2½-foot wide landscape strips occurring both at a location between the fourth and fifth parking stall, and at the northeast corner of the property?

- **Parking Lot Design:** Should the parking lot layout remain as presented, or should the building be reduced in size at the rear, and/or the parking arrangement reversed to place the driveway along the rear property line?
- **Landscape Triangles:** Would landscape triangles between some of the stalls be more appropriate to provide an improved planting area for the trees?
- **Fencing:** Should the fence between the commercial property and residential uses (which was built without permits) be reconstructed as a masonry wall? Should the base be reinforced to protect against damage from landscaping or water?
- **Parking Lot Lighting:** Should parking lot lighting be included with the revised parking lot design.
- **Mishi Sushi & Stop Sign:** Should the Michi Sushi Sign be painted over with white paint as a condition of approval? Should a new private stop sign be installed at the new Winchester Blvd. exit driveway?

Attachments:

1. Location Map
2. Project Plans
3. Existing Conditions
4. Enhanced Site Plan
5. Reconstructed Fencing & Removed Tree



City Council Report

Item: 16.
Category: Public Hearing
Date: July 19, 2016

TITLE Public Hearing to consider a City-initiated Text Amendment (PLN2016-180) to amend Campbell Municipal Code Chapters 21.20 and 21.24 regarding density bonus regulations.

RECOMMENDATION

That the City Council take the following action:

1. **Adopt the Resolution (Attachment 1)**, finding that the proposed Zoning Text Amendment is exempt from CEQA.
2. **Take a first reading and introduce the Ordinance (Attachment 2)**, approving a Text Amendment amending Chapters 21.20 and 21.24 of the Campbell Zoning Code, regarding density bonus regulations.

ENVIRONMENTAL DETERMINATION

Modifications to the Zoning Code are considered a project under the California Environmental Quality Act (CEQA). However, such an action may be exempt from CEQA if the lead agency finds that there is no possibility that it will have a significant effect on the environment. The proposed text amendment is intended to modify existing regulatory requirements to be consistent with state law and would not have a significant effect on the environment. Therefore, staff recommends that the project be found categorically exempt from environmental review under CEQA §15061(b)(3).

BACKGROUND

The City Council's FY2015-2016 Priority Setting Session established a Work Plan item to discuss discreet components of the City's Inclusionary Housing Ordinance and Density Bonus Ordinance. Accordingly, in October 2015 two City Council study sessions were held to discuss several affordable housing issues including the need to bring the City's existing Density Bonus Ordinance into compliance with State law (Government Code Sections 65915 and 65918).

The State Density Bonus Law was first adopted in 1979 and required local governments to grant a density bonus to a housing developer whose project of five or more units contained affordable housing for senior citizens or for low- or very-low income households. The City of Campbell adopted a Density Bonus Ordinance in 1991 and updated the Ordinance in 2005 in compliance with Senate Bill 1818 (effective January 1, 2005). Two more recent assembly bills have also amended State Density Bonus Law; AB2222 (**Attachment 3**, effective January 1 2015) and AB744 (**Attachment 4**, effective January 1 2016).

On June 14, 2016, the Planning Commission reviewed the draft text amendments (reference **Attachment 5**, Planning Commission staff report and draft minutes). Two members of the public spoke on the proposed amendments. Audrey Kiehtreiber, representing the San Tomas Area Community Coalition (STACC) is opposed to the State mandated reduced parking standards for BMR units and other development incentives that negatively impact residents (**Attachment 6**). Jo-Ann Fairbanks asked for clarification on the definition of “affordable housing” and concessions. She is opposed to the State taking control away from the City and asked that the City perform a Parking Study to evaluate the impact on surrounding neighborhoods in order to avoid utilizing the State’s reduced parking standards. Staff provided a definition of affordable housing and offered to answer other questions. Staff also indicated that a Parking Study, which is used to demonstrate why greater parking is needed, is a big undertaking and cost to the City and would need to be updated after seven years. After the Public Hearing closed, there was some discussion by the Commission on the general topic of alternative transportation [the use of which supports reduced parking standards]. While most of the Commissioners agreed to support the text amendment to be compliant with State law, Commissioner Reynolds stated he would not recommend approval in order to send a message to Sacramento. Ultimately, the Planning Commission recommended that the City Council adopt an ordinance approving the text amendment (4 to 1 with Reynolds dissenting).

DISCUSSION

The Zoning Code text amendment (**Attachment 2**) modifies several sections of the City’s Density Bonus Ordinance (Chapter 21.20), as follows:

- **Definitions:** Provides new definitions for “major transit stop”, “replace[ment units]”, “special needs housing”, “unobstructed access”, and “within one-half mile of a major transit stop”.
- **Replacement Units:** Requires an applicant to replace any rental dwelling units that either exist at the time of application (or have been vacated or demolished in the five-year period preceding the application) which are or have been: 1) Subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of lower or very-low income; 2) Subject to any other form of rent or price control; or 3) Occupied by lower or very-low income households (<80% of the area median income).
- **Term of Affordability for Rental Units:** Eliminates the affordability term for ownership units and subjects all affordable and replacement rental units to a 55-year affordability restriction (an increase to the previous 30-year affordability term).
- **Equity Sharing:** Extends the equity sharing model (as opposed to Resale Restriction model) to all affordable density bonus ownership units where it previously only applied to moderate income ownership units. Under an Equity Sharing Agreement, the owner can sell the BMR home immediately. If sold, the City would acquire the subsidized difference between the affordable rate and the market rate, while the City and owner would share a portion of any equity gained on the property.

In this regard, the affordable unit would be lost and the City would have five years to apply the acquired funds towards the construction, rehabilitation, or preservation of affordable housing.

- **Parking Standards:** Several sections of the City's Density Bonus Ordinance reference density bonus parking standards. The City must grant a parking reduction as follows unless a citywide parking study (discussed further in **Attachment 5**) provides substantial evidence that a higher parking ratio is required:
 - A housing development cannot be required to provide more than *0.5 parking spaces per bedroom* if it: includes either 11% very-low income units or 20% low income units; *and* is "within one-half mile of a major transit stop"; *and* has "unobstructed access" to a transit stop.
 - A "special needs" rental housing development that is 100% affordable to lower income households cannot be required to provide more than 0.3 parking spaces per unit if it has either: paratransit service *or* is within one-half mile of fixed bus route service that operates eight (8) times per day, with unobstructed access to that service.
 - A senior citizen rental housing development with 100% affordable to lower income households cannot be required to provide more than 0.5 parking spaces per unit if it has either: paratransit service *or* is within one-half mile of fixed bus route service that operates eight (8) times per day, with unobstructed access to that service.
 - Regardless of any Parking Study that supports a lower parking ratio, the required parking shall not be greater than the following: one (1) parking space for studios and one-bedroom units; two (2) parking spaces for two to three-bedroom units; and two and one-half (2.5) parking spaces for four or more bedroom units.
 - The maximum parking ratios for density bonus projects that are not located near transit remains the same under Density Bonus law.

The Zoning Code text amendment also modifies the Inclusionary Housing Ordinance (Section 21.24.040) to be consistent with the First District Court of Appeal's 2013 holding under *Latinos Unidos del Valle de Napa y Solano v. County of Napa* ("LUNA"). As held in *LUNA*, the City must apply density bonus provisions to inclusionary units. The text amendment eliminates contradictory language that density bonus target units "must be in addition to, or provided to a lower income category than, those required by the city's inclusionary housing requirements."

FISCAL IMPACTS

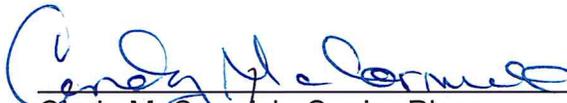
The proposed text amendments would not have a fiscal impact on the City unless the City decides to undergo a Parking Study to demonstrate the need for a higher parking ratio. The Parking Study would be paid for by the City (not a developer) and must be in

conformance with the requirements of Government Code Section 65915(p)(7). The cost for the Parking Study is not known at this time and would only be valid for seven (7) years, at which time a new Parking Study would be required, at cost to the City.

ALTERNATIVES

1. Continue for further review.
2. Revise specific sections of the proposed text amendment to reflect local objectives regarding density bonus standards, while still being subject to State law which is already in effect.
3. Do not approve the proposed text amendment, while still being subject to State law which is already in effect.

Prepared by:


Cindy McCormick, Senior Planner

Reviewed by:


Paul Kermoyan, Community Development Director

Approved by:


Mark Linder, City Manager

Attachments:

1. Draft City Council Resolution
2. Draft City Council Ordinance adopting a Text Amendment to Chapter 21.20 (Density Bonus Ordinance) and Chapter 21.24 (Inclusionary Housing Ordinance)
3. State Legislation (AB2222)
4. State Legislation (AB744)
5. Planning Commission Staff Report & Findings and draft Minutes, dated 6/14/16
6. Correspondence from San Tomas Area Community Coalition, date 6/12/16

RESOLUTION NO. _____

BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL FINDING THAT THE PROPOSED TEXT AMENDMENT (PLN2016-135) AMENDING MUNICIPAL CODE CHAPTERS 21.20 AND 21.24 AMENDING DENSITY BONUS REGULATIONS 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 PLN2016-135:

1. The project consists of a Text Amendment amending Campbell Municipal Code Chapters 21.20 and 21.24 of the Zoning Ordinance to be consistent with State law.
2. 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.
3. The proposed Text Amendment 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.

Based upon the foregoing findings of fact, the City Council further finds and concludes that:

1. The legislature of the State of California has, in Government Code Section 65915(a), required all cities and counties to adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented.
2. The proposed Zoning Text Amendment furthers the goals, objectives, and policies of the City's General Plan Housing Element to encourage the provision of housing affordable to a variety of household income levels.
3. Density bonuses and/or regulatory incentives/concessions facilitate the development of affordable and/or senior housing by reducing the costs of development.
4. Review and adoption of this Text Amendment is done in compliance with California Government Code Sections 65853 through 65857, which require a duly noticed public hearing of the Planning Commission whereby the Planning Commission shall provide its written recommendation to the City Council for its consideration.
5. The proposed amendment is consistent with the goals, policies, and actions of the General Plan;
6. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City; and
7. The proposed amendment is internally consistent with other applicable provisions of the Zoning Code.

THEREFORE, BE IT RESOLVED that the City Council adopts a Resolution finding the Proposed Zoning 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 _____, 2016, 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 Density Bonus Regulations

Project Location: City Wide

Description of Project: The project consists of a Text Amendment (PLN2016-135) to Municipal Code Chapters 21.20 and 21.24 regarding density bonus regulations.

Date of Approval: August 2, 2016 (effective September 2, 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 DENSITY BONUS**

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

SECTION 1. – Purpose: Campbell Municipal Code section 21.20.010 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

The purposes of this chapter of the Campbell Municipal Code, Revised are: (1) to provide incentives for the production of housing for very low-income, low-income, moderate-income, and senior households; (2) to provide incentives for the creation of rental housing serving lower and moderate-income households; (3) to provide incentives for the construction of childcare facilities serving very low-, low-, and moderate-income households; and (4) to implement Sections 65915, 65915.5 and 65917 of the California Government Code as required by Government Code Section 65915(a). In enacting this chapter it is also the intent of the city of Campbell to implement the goals, objectives, and policies of the city's General Plan Housing Element, which includes a goal to encourage the provision of housing affordable to a variety of household income levels and identifies a density bonus policy as one method to encourage the development of affordable housing (~~Goal H-5.1~~ Policy H-5.2 Regulatory Incentives, Program ~~5.1(a)~~ 5.2(a) Density Bonus).

SECTION 2. Campbell Municipal Code section 21.20.020 is amended to read as follows with underlining indicating new text:

21.20.020 - Definitions.

For purposes of this chapter, the following definitions shall apply. Unless specifically defined below, words or phrases shall be interpreted as to give this chapter its most reasonable interpretation.

"Affordable ownership cost" means average monthly housing costs, during the first calendar year of a household's occupancy, as determined by the city, including mortgage payments, loan issuance fees, if any, property taxes, reasonable allowances for utilities and property maintenance and repairs, homeowners insurance, and homeowners association dues, if any, which do not exceed the following:

1. For moderate-income households: one-twelfth of thirty-five percent of one hundred ten percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-

bedroom unit and one additional person for each additional bedroom thereafter;

2. For lower-income households: one-twelfth of thirty percent of seventy percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit and one additional person for each additional bedroom thereafter;
3. For very low-income households: one-twelfth of thirty percent of fifty percent of area median income adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit and one additional person for each additional bedroom thereafter.

"Affordable rent" means monthly rent, including utilities and all fees for housing services, which does not exceed the following:

1. For lower-income households: one-twelfth of thirty percent of sixty percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter;
2. For very low-income households: one-twelfth of thirty percent of fifty percent of area median, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.

"Applicant" means a person or entity who applies for a residential project and, if the applicant does not own the property on which the residential project is proposed, also means the owner or owners of the property.

"Area median income" means area median income for Santa Clara County as published pursuant to California Code of Regulations, Title 25, Section 6932, (or its successor provision).

"Childcare facility" means a commercial child day care facility defined in Campbell Municipal Code, Revised Section 21.72.020 as a commercial or non-profit child day care facility not operated as a small or large child day care home and includes infant facilities, preschools, sick child facilities and school-age day care facilities.

"Density bonus" means a density increase, granted pursuant to this chapter, over the otherwise allowable maximum residential density on a site.

"Density bonus units" means living units granted pursuant to this chapter which exceed the otherwise allowable maximum residential density for a residential project.

"Development standard" means a condition that applies to the actual construction or physical site of a residential project (as opposed to standards for entitlement processing or fees) pursuant to any ordinance, general plan element, specific plan, or other local condition, law, policy, resolution or regulation.

"First approval" means the first of the following approvals to occur with respect to a residential project: building permit, planned development permit, tentative parcel map, tentative subdivision map, conditional use permit, site and architectural review permit, or other discretionary city land use approval.

"Household income" means the combined adjusted gross income for all adult persons living in a living unit as calculated for the purpose of the Section 8 Program under the United States Housing Act of 1937, as amended, or its successor.

"Incentives and concessions" means regulatory concessions as listed in Sections 21.20.050 and 21.20.110.

"Inclusionary unit" means an ownership or rental living unit which is required under Chapter 21.24 to be rented at affordable rents or sold at an affordable ownership cost to specified households.

"Living unit" means one or more rooms designed, occupied, or intended for occupancy as separate living quarters with cooking, sleeping and bathroom facilities.

"Lower-income household" means a household whose household income does not exceed the lower income limits applicable to Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

"Major transit stop" means an existing site, or a site included in the applicable regional transportation plan, containing a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

"Market rate unit" means a living unit, which is not a target unit or an inclusionary unit.

"Maximum residential density" means the maximum number of living units permitted by the zoning ordinance on the date an application for a residential project is deemed complete. This definition is used to calculate a density bonus pursuant to this chapter.

"Minor modification" means a modification that is technical in nature, as opposed to substantive or material.

"Moderate-income household" means a household whose household income does not exceed the moderate income limits applicable to Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50093 of the California Health and Safety Code.

"Qualifying resident" means a senior citizen or other person eligible to reside in a senior housing project.

"Replace" shall mean:

1. As to dwelling units that are occupied on the date of application, "replace" shall mean to provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy;
2. As to dwelling units have been vacated or demolished in the five-year period preceding the application, "replace" shall mean to provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families.

"Residential project" means any parcel map, subdivision map, conditional use permit, site and architectural review permit, building permit, or other city approval, which authorizes the construction of five or more living units.

"Senior housing project" means a senior citizen residential development of thirty-five living units or more as defined in California Civil Code Section 51.3, or a mobilehome park that limits residency based on age requirements for older persons pursuant to California Civil Code Section 798.76 or 799.5.

"Special needs housing" means any housing, including supportive housing, intended to benefit, in whole or in part, persons identified as having special needs relating to any of the following: Mental health; Physical disabilities; Developmental disabilities, including, but not limited to, intellectual disability, cerebral palsy, epilepsy, and autism; the risk of homelessness; or housing intended to meet the housing needs of persons eligible for

mental health services funded in whole or in part by the Mental Health Services Fund, created by Section 5890 of the Welfare and Institutions Code.

"Target units" means living units that will be restricted for sale or rent to qualifying residents or will be restricted for sale or rent to, and affordable to, very low-, lower- or moderate-income households thereby qualifying a residential project for a density bonus under this chapter. Inclusionary units may not be target units unless they are offered at a lower income category as explained in Section 21.20.100(6).

"Unobstructed access" means a resident is able to access a major transit stop from a residential project without encountering natural or constructed impediments.

"Within one-half mile of a major transit stop" means that all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

"Very low-income household" means a household whose household income does not exceed the very low income limits applicable to Santa Clara County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

SECTION 3. Campbell Municipal Code section 21.20.030 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

21.20.030 - Eligibility for density bonuses.

1. A residential project is eligible for a density bonus if it:
 - 4 a. Creates at least five additional living units, not including any density bonus units;
 - 2 b. Includes a request for a density bonus as part of an application for the first approval of a residential project; and
 - 3 c. Meets the criteria for a density bonus established in Sections 21.20.030, 21.20.040, 21.20.060, 21.20.070 or 21.20.080.
2. A residential project shall be ineligible for a density bonus, incentive, concession, waiver, or modified parking provided by this Chapter unless it provides all replacement housing required in accordance with Section 21.20.080 of this Chapter.

SECTION 4. - Campbell Municipal Code section 21.20.080 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

21.20.080 - Density bonus for properties with existing rental units ~~condominium conversions.~~

1. A residential project for a conversion of existing rental apartments to condominiums may be eligible for a density bonus or other incentives of equivalent financial value as specified in Government Code Section 65915.5.

2. A residential project shall be ineligible for a density bonus incentive, concession, waiver, or modified parking provided by this Chapter if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or have been (if the dwelling units have been vacated or demolished in the five-year period preceding the application) subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income, subject to any other form of rent or price control through the City's valid exercise of its police power, or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

a. The proposed housing development, inclusive of the units replaced pursuant to this Chapter contains affordable units at the percentages set forth in this Chapter.

b. Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

3. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to the applicable provisions of this Chapter.

SECTION 5. - Summary tables. The Density Bonus Summary table in Campbell Municipal Code section 21.20.090 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

The following table summarizes the available density bonuses, incentives, and concessions.

<u>Density Bonus Summary</u>				
Types of Affordable Units Providing Eligibility for a Density Bonus	Minimum %	Bonus Granted	Additional Bonus for Each 1% Increase over the Minimum %	% Target Units Required for Maximum 35% Bonus
A density bonus may be selected from only one category, except that bonuses for land donation may be combined with others, up to a maximum of 35%, and an additional sq. ft. bonus may be granted for a childcare facility. As provided in Section 21.20.100(56), <u>in order for target units provided must be in addition to, or provided to a lower income category than, those required by to meet both the city's inclusionary housing requirements and State density bonus requirements, the units must meet both sets of criteria. For-sale moderate-income units qualify for a density bonus under State law <i>only</i> if they are located in a common interest development where all the units are offered for purchase; a single-family home subdivision that is not a common interest development is not eligible for a density bonus under State law, even if it includes affordable units</u>				
Very low income	5%	20%	2.5%	11%
Lower income	10%	20%	1.5%	20%
Moderate income (ownership units only)	10%	5%	1%	40%
Senior housing project	100% senior	20%	—	—
Land donation for very low-income housing	10% of market-rate units	15%	1%	30% of market-rate units
Condominium conversion — moderate income	33%	25% ^(A)	—	—
Condominium conversion — lower income	15%	25% ^(A)	—	—
Childcare facility	—	Sq. ft. in childcare facility ^(A)	—	—

Notes:

(A) Or an incentive of equal value, at the city's option.

SECTION 6. Calculation of density bonus. Subsection 6 of Campbell Municipal Code section 21.20.100 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

6. ~~Inclusionary units will only be counted as target units qualifying a project for a density bonus, or incentives and concessions, if the inclusionary units are made available at a lower affordable rent income category or lower affordable ownership cost income category than mandated by the inclusionary requirements set forth in Chapter 21.24. Inclusionary units that are counted as target units shall remain affordable for the length of time required in Chapter 21.24, which is fifty five years for rental units and forty five years for owner-occupied units.~~

If an applicant desires affordable units to satisfy both the inclusionary requirements set forth in Chapter 21.24 and State density bonus requirements, the units must meet both the criteria of Chapter 21.24 and the State density bonus requirements as applied under this Chapter.

Example: An applicant proposes to develop a one hundred-unit residential rental for-sale project and seeks a twenty percent density bonus by reserving five percent of the living units, or five living units, for very low-income households.

The inclusionary requirements in Chapter 21.24 require that ~~six percent~~ 15% of the living units in a residential for-sale project shall be sold at affordable ownership cost to lower-income households and moderate-income households. ~~rental project be reserved for very low income households (the "required very low income inclusionary units") and nine percent of the living units must be reserved for lower income households (the "required lower income inclusionary units"). Thus, in this one hundred unit residential project, the applicant is required to reserve six of the living units for very low income households and nine of the units for lower income households. Because the required inclusionary units do not count as target units qualifying a project for a density bonus unless the inclusionary units are reserved for a lower income category than required under Chapter 21.24, Therefore an additional 10 inclusionary units are needed to meet the 15% inclusionary requirement. †The income unit break down for this one hundred-unit project would be as follows:~~

<u>Example</u>					
	Inclusionary Units	Target Units	DB Units	Remaining Units	Total
Very low income:	6 (55 years)	5 (30 years)			4 <u>5</u>
Lower income:	9 (55 years) <u>2</u>				9 <u>2</u>
<u>Moderate income:</u>	<u>8</u>				<u>8</u>

Market rate:			20	80 <u>85</u>	400 <u>105</u>
				Total units	120

However, if the applicant reserves any of the required lower income inclusionary units for very low income households, then these units will qualify as target units qualifying the project for a density bonus. If five of the required lower income inclusionary units are reserved for very low income units, then those five units would be considered target units qualifying the project for a density bonus. In this scenario, the income unit break down would be as follows:

	Inclusionary Units	Target/ Inclusionary Units	DB Units	Remaining Units	Total
Very low income:	6 (55 years)	5 (55 years)			11
Lower income:	4 (55 years)				4
Market rate:			20	85	105
				Total units	120

SECTION 7. - Standards for density bonus residential developments. The term of affordability for rental projects specified in Subsection 1 of Campbell Municipal Code section 21.20.120 is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

1. Target units qualifying a residential project for a density bonus shall remain affordable as follows:
 - a. Rental target units shall remain affordable to the designated income group for a minimum of thirty 55 years or for a longer period of time if required by any construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program applicable to the living units, ~~or if they are inclusionary units being counted as target units pursuant to Section 21.20.100(6).~~
 - ~~b. Owner-occupied target units shall remain affordable for forty five years.~~

SECTION 8. Standards for density bonus residential developments. Subsection 4 of Campbell Municipal Code section 21.20.120 is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

4. Parking Standards

- a. Upon the request of the developer, the city shall not require off-street parking for a residential project meeting the criteria of Sections 21.20.030 and 21.20.040(1) ~~or (2)~~ that exceeds the following:

- a. (1) Studio to one-bedroom units: one (1) on-site parking space;
- b. (2) Two to three-bedroom units: two (2) on-site parking spaces;
- c. (3) Four and more bedroom units: two and one-half (2.5) parking spaces.

b. Upon the request of the developer, the city shall not require a vehicular parking ratio that exceeds the following ratios for housing developments that are eligible for a density bonus and meet the criteria below. However, if the city, at its cost, has conducted an area wide or citywide parking study in the last seven years, then the city may find, based on substantial evidence, that a higher parking ratio is required than shown in the following table. In no event may the required parking be greater than the ratio provided in subsection (a) of this section. The parking study must conform to the requirements of Government Code Section 65915(p)(7).

<u>Type of development</u>	<u>Off-street parking spaces</u>
<u>Rental or ownership housing development with:</u> 1. <u>At least 11% very low income or 20% lower income units; and</u> 2. <u>Within one-half mile of a major transit stop; and</u> 3. <u>Unobstructed access to the major transit stop.</u>	0.5 per bedroom
<u>Rental housing development with:</u> 1. <u>All units affordable to lower income households except manager's unit(s); and</u> 2. <u>Within one-half mile of a major transit stop; and</u> 3. <u>Unobstructed access to the major transit stop.</u>	0.5 per unit
<u>Senior citizen rental housing development with All units affordable to lower income households except manager's unit(s); and either has paratransit service or is within one-half mile of fixed bus route service that operates 8 times per day, with unobstructed access to that service.</u>	0.5 per unit
<u>Special needs rental housing development with all units affordable to lower income households except manager's unit(s) and either has paratransit service or is within one-half mile of fixed bus route service that operates 8 times per day, with unobstructed access to that service.</u>	0.3 per unit

c. Guest parking and handicapped parking shall be included within the maximum number of spaces that may be required. If the total number of parking spaces required for a residential project is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a residential

project may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

SECTION 9. Campbell Municipal Code section 21.20.130 is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

21.20.130 - Affordable housing plan submittal; requirements for application for density bonus and other incentives.

1. An application for a density bonus, incentive, concession, waiver, modification, or ~~revised~~ reduced parking standard pursuant to this chapter shall be submitted as part of the first approval of the residential project. It shall be included in an affordable housing plan and processed concurrently with all other applications required for the residential project.
2. Upon submittal, the community development director shall determine if the affordable housing plan is complete and conforms to the provisions of this chapter. No application for a first approval for a residential project requesting a density bonus, incentives, concessions, ~~or~~ waivers, or reduced parking standards may be deemed complete unless an affordable housing plan is submitted conforming to the provisions of this section.
3. The affordable housing plan shall include the following information:
 - a. A description of any requested density bonuses, incentives, concessions, ~~waivers, or~~ modifications of development standards, ~~or modified~~ reduced parking standards;
 - b. Identification of the base project without the density bonus, number and location of all target units qualifying the project for a density bonus, level of affordability of the target units, and identification of the bonus units;
 - c. The preferences given in selecting occupants shall be set forth;
 - d. For all incentives and concessions except those listed in Section 21.20.110(2), a pro forma demonstrating that the requested incentives and concessions result in identifiable, financially sufficient and actual cost reductions;
 - e. For waivers or modifications of development standards: (a) a pro forma demonstrating that the waiver or modification is necessary to make the residential project economically feasible based upon appropriate financial analysis and documentation; and (b) evidence that the development standards for which a waiver is requested will have the effect of precluding the construction of the residential project at the densities or with the incentives or concessions permitted by this chapter;
 - f. The cost of reviewing any required pro forma data submitted in support of a request for a concession, incentive, waiver or modification, including, but not limited to, the cost to the city of hiring a consultant to review the pro forma, shall be borne by the applicant. The pro forma shall also include: ~~(a)~~ the actual cost

reduction achieved through the incentive, concession, waiver, or modification; and (b)ii) evidence that the cost reduction allows the developer to provide affordable rents or affordable sales prices;

- g. If the applicant is proposing a modification of the requirement that the target units be constructed concurrently with the market rate units, the affordable housing plan shall describe the proposed phasing at the same level of detail as required in the application for the residential project, specify the security to be provided to the city to ensure that the target units will be constructed, and explain how the proposed phasing would provide greater public benefit than providing the target units concurrently with the market rate units;
- h. If a density bonus or concession is requested for a senior housing project, the application shall provide that units in the residential project shall be occupied by qualified residents;
- i. If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings in Government Code Section 65915(h) can be made;
- j. If a density bonus or concession is requested for a childcare facility, the application shall show the location and square footage of the childcare facility and provide evidence that the findings included in Government Code Section 65915(i) can be made;
- k. If a mixed use building or development is proposed, the application shall provide evidence that the findings included in Section 21.20.110(4)(g) can be made;
- l. For residential projects subject to the inclusionary housing requirements set forth in Chapter 21.24, the affordable housing plan shall also incorporate the requirements of Section 21.24.060(A), and only one affordable housing plan need be submitted;
- m. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size, if known, of residents occupying dwelling units when the site contained the maximum number of dwelling units;
- n. Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very low or lower income households in the five- year period preceding the date of submittal of the application;
- o. A statement that the project will provide all replacement housing required in accordance with Section 21.20.080 of this Chapter;

p. If a parking reduction is requested, a table showing parking required by the zoning ordinance and proposed parking. If a parking reduction is requested, evidence that the project is eligible for the requested parking reduction.

4. Upon submittal, the community development director shall determine if the affordable housing plan submitted in support of a request for a density bonus, incentive, concession, waiver, modification, or ~~revised~~ reduced parking standard is complete and conforms to the provisions of this chapter and Chapter 21.24. No application for a first approval for a residential project requesting a density bonus, incentives, concessions, or waivers may be deemed complete unless an affordable housing plan is submitted conforming to the provisions of this chapter.

SECTION 10. City review of application for density bonuses and other incentives.

Subsection 1 of Campbell Municipal Code section 21.20.140 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

1. An application for a density bonus, incentive, concession, waiver, modification, or ~~revised~~ reduced parking standard pursuant to this chapter shall be reviewed as part of the first approval of the residential project by the approval body with authority to approve the residential project, unless additional review by the planning commission or City Council is required by Chapter 21.62. Any decision regarding a density bonus, incentive, concession, waiver, modification, or ~~revised~~ reduced standard may be appealed as part of an appeal of the residential project as provided in Chapter 21.62. In accordance with state law, neither the granting of a concession or incentive, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a general plan amendment, zoning change or other discretionary approval.

SECTION 11. Developer affordable housing agreement. Campbell Municipal Code section 21.20.150 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

- A. Developers requesting a density bonus, incentive, concession, waiver, modification, or ~~revised~~ reduced standard granted pursuant to this chapter, shall agree to enter into a developer affordable housing agreement with the city. A developer affordable housing agreement shall be made a condition of the discretionary planning permits for all residential projects pursuant to this chapter and shall be recorded as a restriction on any parcels on which the target units will be constructed. When the inclusionary requirements of Chapter 21.24 apply, one affordable housing agreement will be recorded incorporating the requirements of both chapters.

- B. The developer affordable housing agreement shall be recorded prior to final or parcel map approval, or, where the residential project does not include a map, prior to issuance of a building permit for any structure in the residential projects. The developer affordable housing agreement shall run with the land and bind all future owners and successors in interest.
- C. The developer affordable housing agreement shall be in a form provided by the city and shall include, without limitation, the following:
1. The total number of units approved for the residential project;
 2. The number, location, and level of affordability of the target units and the inclusionary units;
 3. The number of replacement units in accordance with Section 21.20.080 of this Chapter;
 4. Standards for determining affordable rent or affordable ownership cost for the target units and any inclusionary units;
 5. The location, unit size in square feet, and number of bedrooms of target units and any inclusionary units;
 6. Provisions to ensure initial and continuing affordability in accordance with the requirements of this chapter and Chapter 21.24, including the execution and recordation of subsequent agreements ensuring continued affordability pursuant to Sections 21.20.120 and 21.24.060;
 7. A schedule for completion and occupancy of target units and inclusionary units in relation to construction of market rate units;
 8. A description of any incentives, concessions, waivers, or reductions being provided by the city;
 9. A description of remedies for breach of the agreement by either party. The city may identify tenants or qualified purchasers as third party beneficiaries under the agreement;
 10. Procedures for qualifying tenants and prospective purchasers of target units, including preferences;
 11. Provisions requiring maintenance of records to demonstrate compliance with this chapter;
 12. Other provisions to ensure implementation and compliance with this chapter and Chapter 21.24, if applicable.
- D. In the case of senior citizen housing developments, the developer affordable housing agreement shall provide that units in the residential development shall be occupied by qualified residents.
- E. Developer affordable housing agreements for land dedication, childcare facilities, and condominium conversion shall ensure continued compliance with all conditions included in Sections 21.20.060, 21.20.070 and 21.20.080 respectively.

F. Fees. The building permit application shall be accompanied by the processing fees or deposits established by the city's schedule of fees and charges. All fees shall cover the costs of BMR eligibility determination and BMR document preparation, processing and administration, as established in Sections 21.20.160 and 21.20.180.

SECTION 12. Continued affordability and initial occupancy. Subsection A of Campbell Municipal Code section 21.20.160 is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

~~A. Owner-Occupied Target Units. A resale restriction, covenant, deed of trust and/or other documents acceptable to the community development director or the director's designee, shall be recorded against each affordable for sale unit. These documents shall, in the case of target units, which are initially sold, be for a term of forty five years and shall be renewed at each change of title for a period of forty five years. The resale restriction, or other documents authorized by this subsection, and any change in the form of any such documents which materially alters any policy in the documents, shall be approved by the community development director or his or her designee prior to being executed with respect to any residential project.~~

A. **For-Sale Target Units.** An applicant shall agree to, and the city shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost if defined in Section 50052.5 of the Health and Safety Code. The City shall enforce any equity sharing agreement, unless it is in conflict with the requirement of another public funding source or law. The following apply to the equity sharing agreement:

1. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The city shall recapture any initial subsidy and its proportionate share of appreciation, which amount shall be used within five (5) years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.
2. For purposes of this Subsection, the city's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance of mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.
3. For purposes of this Subsection, the city's proportionate share of appreciation shall be equal to the ratio of the city's initial subsidy to the fair market value of the home at the time of initial sale.

SECTION 13. Continued affordability and initial occupancy. Subsection B of Campbell Municipal Code section 21.20.160 is amended to read as follows with underlining indicating new text and ~~strikeouts~~ indicating deleted text:

B. Rental Target Units. A regulatory agreement, covenant, deed of trust, and/or other documents acceptable to the community development director or the director's designee, shall be recorded against each residential project containing affordable rental units for a minimum term of ~~thirty~~ 55 years or more. A longer period of time may be specified if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the residential project.

SECTION 14. GENERAL REQUIREMENTS. Subsection B of Campbell Municipal Code Section 21.24.040 is amended to read as follows with underlining indicating new text and ~~strikeouts~~ indicating deleted text:

B. **Exceptions.** ~~For purposes of calculating the number of affordable units required by this section, any additional units authorized as a density bonus pursuant to Chapter 21.20, (Density Bonus and Affordable Housing Incentives) of this code shall not be counted in calculating the required number of affordable units. Additionally, t~~The community development director may grant exceptions to the requirements of this chapter to residential projects located within the redevelopment project area, upon a finding that such exception is necessary to effective implementation of the redevelopment plan, while maintaining overall compliance with affordable housing production requirements set forth in Health and Safety Code Section 33413.

SECTION 15. 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

Assembly Bill No. 2222**CHAPTER 682**

An act to amend Sections 65915 and 65915.5 of the Government Code, relating to housing.

[Approved by Governor September 27, 2014. Filed with Secretary of State September 27, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2222, Nazarian. Housing density bonus.

The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

Existing law requires continued affordability for 30 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus.

This bill instead would require continued affordability for 55 years or longer, as specified, of all very low and low-income rental units that qualified an applicant for a density bonus. This bill would also include very low and low-income persons among the initial occupants of for-sale units. This bill also would prohibit an applicant from receiving a density bonus unless the proposed housing development would, for units subject to certain affordability requirements that were occupied by qualifying persons on the date of application, provide at least the same number of units of equivalent size or type, or both, to be made available for rent at affordable housing costs to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For those subject types of units that have been vacated or demolished at the time of application, this bill would condition a density bonus upon at least the same number of units of equivalent size or type, or both, as existed at the highpoint in the preceding 5 years being made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known.

Existing law also requires a city, county, or city and county to grant a density bonus or other incentives, as specified, when an applicant for approval to convert apartments to a condominium project agrees, among other things, to provide a specified percentage of units for low- or

moderate-income persons and families or for lower income households, as defined.

This bill also would prohibit an applicant from receiving a density bonus unless the proposed condominium project would replace the existing affordable units with at least the same number of affordable units of equivalent size or type, or both, and the proposed development, inclusive of the units replaced pursuant to the requirements described above, contains affordable units according to specified percentages or consists entirely of affordable units.

The people of the State of California do enact as follows:

SECTION 1. Section 65915 of the Government Code is amended to read:

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 4100 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density bonus pursuant to

this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, “total units” or “total dwelling units” does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller’s proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government’s initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government’s proportionate share of appreciation shall be equal to the ratio of the local government’s initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity’s valid exercise of its police power; or occupied by lower or very low income households, unless

the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Paragraph (3) of subdivision (c) does not apply to an applicant seeking a density bonus for a proposed housing development if their application

was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an

incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney’s fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5

12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21

27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent

to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not be interpreted to require the waiver of a local

ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is

inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

- (A) Zero to one bedroom: one onsite parking space.
- (B) Two to three bedrooms: two onsite parking spaces.
- (C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide “onsite parking” through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

SEC. 2. Section 65915.5 of the Government Code is amended to read:

65915.5. (a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, “density bonus” means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, “other incentives of equivalent financial value” shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall,

within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

(g) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed condominium project replaces those units, as defined in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, and either of the following applies:

(1) The proposed condominium project, inclusive of the units replaced pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, contains affordable units at the percentages set forth in subdivision (a).

(2) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(h) Subdivision (g) does not apply to an applicant seeking a density bonus for a proposed housing development if their application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.



Assembly Bill No. 744

CHAPTER 699

An act to amend Section 65915 of the Government Code, relating to housing.

[Approved by Governor October 9, 2015. Filed with Secretary of State October 9, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 744, Chau. Planning and zoning: density bonuses.

The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents. Existing law requires continued affordability for 55 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus. Existing law prohibits a city, county, or city and county from requiring a vehicular parking ratio for a housing development that meets these criteria in excess of specified ratios. This prohibition applies only at the request of the developer and specifies that the developer may request additional parking incentives or concessions.

This bill would, notwithstanding the above-described provisions, additionally prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio, inclusive of handicapped and guest parking, in excess of 0.5 spaces per bedroom on a development that includes the maximum percentage of low- or very low income units, as specified, and is located within $\frac{1}{2}$ mile of a major transit stop, as defined, and there is unobstructed access to the transit stop from the development. The bill would also prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio, inclusive of handicapped and guest parking, in excess of specified amounts per unit on a development that consists solely of units with an affordable housing cost to lower income households, as specified, if the development is within $\frac{1}{2}$ mile of a major transit stop and there is unobstructed access to the transit stop from the development, is a for-rent housing development for individuals that are 62 years of age or older that complies with specified existing laws regarding senior housing, or is a special needs housing development, as those terms are defined. The bill would require a subject development that is a for-rent housing development for individuals that are 62 years of age

or older or a special needs housing development to have either paratransit service or unobstructed access, within ½ mile, to fixed bus route service that operates at least 8 times per day. The bill would authorize a city, county, or city and county to impose a higher vehicular parking ratio based on substantial evidence found in an areawide or jurisdictionwide parking study, as specified. The bill would make findings and declarations, including that the subject of the bill is a matter of statewide concern and not a municipal affair.

By imposing additional duties on local governments in awarding density bonuses, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Having a healthy housing market that provides an adequate supply of homes that are affordable to Californians at all income levels is critical to the economic prosperity and quality of life in the state.

(b) There exists a severe shortage of affordable housing, especially for persons and families of extremely low, very low, and low income, and there is an immediate need to encourage the development of new housing, not only through the provision of financial assistance but also through reforms to regulation.

(c) Affordable housing is expensive to build in California.

(d) The cost of building affordable housing in California is impacted by local opposition, changes imposed by local design and review, and requirements for on-site parking.

(e) The average construction cost per space, excluding land cost, in a parking structure in the United States is about \$24,000 for aboveground parking and \$34,000 for underground parking. In an affordable housing project with a fixed budget, every \$24,000 spent on a required parking space is \$24,000 less to spend on housing.

(f) The biggest single determinant of vehicle miles traveled and therefore greenhouse gas emissions is ownership of a private vehicle.

(g) A review of developments funded through the Department of Housing and Community Development's Transit-Oriented Development Implementation Program (TOD program) shows that lower income households drive 25 to 30 percent fewer miles when living within one-half mile of transit than those living in non-TOD program areas. When living within one-quarter mile of frequent transit, they drove nearly 50 percent less.

(h) When cities require off-street parking with all new residential construction, they shift what should be the cost of driving, the cost of parking a car, into the cost of housing, which artificially increases the cost of housing.

(i) Increases in public transportation and shared mobility options and the development of more walkable and bikeable neighborhoods reduce the demand for parking.

(j) Consistent with Chapter 488 of the Statutes of 2006 (AB 32) and Chapter 728 of the Statutes of 2008 (SB 375), it is state policy to promote transit-oriented infill development to reduce greenhouse gas emissions.

(k) The high cost of the land and improvements required to provide parking significantly increases the cost of transit-oriented development, making lower cost and affordable housing development financially infeasible and hindering the goals of SB 375.

(l) Eliminating minimum parking requirements will allow the limited funding available for affordable housing to support more housing for more Californians. A given housing subsidy fund can benefit about 6.5 times more households with no parking spaces than households with 2 spaces per unit.

(m) Minimum parking requirements provide large subsidies for parking, which in turn encourage more people to drive cars.

(n) Minimum parking requirements create a barrier to effective use of the density bonus law contained in Section 65915 of the Government Code. The parking required for the extra units adds construction and land costs that may be prohibitive and requires vacant land that may be unavailable, especially in locations near transit.

(o) Increasing the supply of affordable housing near transit helps achieve deeper affordability through reduced transportation costs, in addition to reduced housing costs.

(p) Governmental parking requirements for infill and transit-oriented development reduce the viability of transit by limiting the number of households or workers near transit, increasing walking distances, and degrading the pedestrian environment.

(q) Reducing or eliminating minimum parking requirements for infill and transit-oriented development and allowing builders and the market to decide how much parking is needed can achieve all of the following:

(1) Ensure sufficient amounts of parking at almost all times.

(2) Reduce the cost of development and increase the number of transit-accessible and affordable housing units.

(3) Allow for more effective use of the density bonus law.

(4) Increase density in areas with the most housing demand, and improve the viability of developing alternate modes of transportation, such as public transit, ridesharing, biking, and walking.

(5) Reduce greenhouse gas emissions and vehicle miles traveled by removing an incentive to drive.

(r) It is the intent of the Legislature to reduce the cost of development by eliminating excessive minimum parking requirements for transit-oriented

developments that includes affordable housing, senior housing, and special needs housing.

(s) The Legislature further declares that the need to address infill development and excessive parking requirements is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to all cities, including charter cities.

SEC. 2. Section 65915 of the Government Code is amended to read:

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, "total units" or "total dwelling units" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and

low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Paragraph (3) of subdivision (c) does not apply to an applicant seeking a density bonus for a proposed housing development if his or her application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The

city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5

18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26

32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in

fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) “Child care facility,” as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(i) “Housing development,” as used in this section, means a development project for five or more residential units. For the purposes of this section, “housing development” also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2) and (3), upon the request of the developer, a city, county, or city and county shall not require a

vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

- (A) Zero to one bedroom: one onsite parking space.
- (B) Two to three bedrooms: two onsite parking spaces.
- (C) Four and more bedrooms: two and one-half parking spaces.

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low- or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

(A) If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.

(B) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(C) If the development is a special needs housing development, as defined in Section 51312 of the Health and Safety Code, the ratio shall not exceed 0.3 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

(5) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the

applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(6) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(7) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low- and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Item No. 7



CITY OF CAMPBELL · PLANNING COMMISSION
Staff Report · June 14, 2016

PLN2016-180
City-initiated
Text Amendment

Public hearing to consider a City-initiated Zoning Text Amendment (PLN2016-180) to amend Campbell Municipal Code Chapters 21.20 and 21.24 regarding density bonus regulations.

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 Chapters 21.20 and 21.24 of the Campbell Zoning Code.

ENVIRONMENTAL DETERMINATION

Modifications to the Zoning Code are considered a project under the California Environmental Quality Act (CEQA). However, such an action may be exempt from CEQA if the lead agency finds that there is no possibility that it will have a significant effect on the environment. The proposed text amendment is intended to modify existing regulatory requirements to be consistent with state law and would not have a significant effect on the environment. Therefore, staff recommends that the project be found categorically exempt from environmental review under CEQA §15061(b)(3).

BACKGROUND

The City Council's FY2015-2016 Priority Setting Session established a Work Plan item to discuss the City's Inclusionary Housing Ordinance and Density Bonus Ordinance to provide an analysis of discreet components and options. Two study sessions were held in October 2015 where the Council discussed several affordable housing issues including the need to bring the City's existing Density Bonus Ordinance into compliance with State law.

State Density Bonus Law: The State Density Bonus Law (Government Code Sections 65915 and 65918) was first adopted in 1979, and required local governments to grant a density bonus to a housing developer whose project of five or more units contained affordable housing for low- or very-low income households or for senior citizens.

Density bonuses benefit developers by authorizing construction of units that would otherwise exceed the maximum allowable density under the existing zoning and development standards. Incentives and waivers also benefit developers by providing site flexibility through reductions in setback, floor area, height, parking, and other requirements.

The City of Campbell adopted a Density Bonus Ordinance in 1991 and updated the Ordinance in 2005 in compliance with SB 1818 (effective January 1, 2005) which significantly amended the State Density Bonus Law, providing: a higher density bonus for a lower percentage of affordable units using a sliding scale; provision for up to three (3) development concessions or incentives depending on the percentage of affordable units provided; or a density bonus if a developer donated land for very low income housing. Density Bonus Law has undergone further revisions since 2005.

AB2222: Effective January 1 2015, Assembly Bill 2222 (AB2222) amended sections of the State Density Bonus Law. The Bill's major provisions require developers to replace all of a property's pre-existing affordable units; extends the affordability period for rental units from 30 to 55 years; and expands the use of equity sharing in for-sale units. The Bill also includes some minor edits that do not have substantive changes. Changes under AB2222 do not apply to applications submitted before January 1 2015. The key provisions of AB2222 are discussed below.

Replacement Units: Pursuant to AB2222, an applicant shall replace any rental dwelling units that either exist at the time of application, or have been vacated or demolished in the five-year period preceding the application, which are or have been:

1. Subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very-low income;
2. Subject to any other form of rent or price control; or
3. Occupied by lower or very-low income households (<80% of the area median income)

The replacement units must be the equivalent size and/or type and be made available at affordable rent/cost to households in the same or lower income category as currently/previously occupied (e.g., a low-income rental unit would be replaced with another low-income unit with rents set at 1/12th of 30% of 60% of area median income).

Term of Affordability for Rental Units: AB 2222 specifies that all affordable and replacement rental units shall be subject to a recorded affordability restriction for at least 55 years. This provision replaces the prior 30-year restriction. Affordable ownership units do not have a term of affordability under the amended Density Bonus law, as described below.

Equity Sharing: Prior to 2013, lower-income density bonus ownership units remained affordable for 30 years. However, AB2222 eliminated the ownership affordability term and extended the equity sharing model (as opposed to Resale Restriction provisions) to all affordable density bonus ownership units where it previously only applied to moderate income ownership units. There are consequences and benefits to this change. Under the equity sharing model, the owner can sell the home immediately and capture a portion of the equity gained on the property after deducting the affordable subsidy. The City would acquire the subsidized difference between the affordable rate and the market rate as well as a portion of the equity. In this regard, the affordable unit would be lost but the City would apply the funds to another affordable housing project. The

City will generally be required to apply the funds within five years towards the construction, rehabilitation, or preservation of affordable housing as further described in Health and Safety Code Section 33334.2(e). Housing developments with inclusionary units as opposed to density bonus units would still be subject to the Resale Restriction Agreement. Under the resale restriction model, the homebuyer gains little to no price appreciation until the home has been held onto for a number of years. The home can be sold at full market value for a windfall profit at the end of the affordability period (with no money returning to the City for its affordable programs).

AB744: Effective January 1 2016, Assembly Bill 744 (AB744) also amended sections of the State Density Bonus Law. In adopting AB744, the Legislature highlighted the expense of building affordable housing due to several factors including the affordable price subsidy and the high cost of land required to meet minimum parking standards. The analysis also pointed out that seniors or individuals with special needs may have fewer vehicles or drive less frequently. Moreover, local parking requirements may not reflect the actual need for housing developments that are close to transit stations. Consequently, AB744 limits parking requirements for developments containing affordable housing near transit.

Parking Standards: AB744 provides that, if requested by the developer, the City may not require more parking than provided by Density Bonus Law unless the City has completed a parking study that conforms to the requirements of Government Code Section 65915(p)(7). The parking study must have been completed in the previous seven years and include the following: 1) an analysis of available parking; 2) differing levels of transit access; 3) walkability to transit; 4) potential for shared parking; 5) effect of parking requirements on housing costs; and 6) car ownership rates for lower income households, seniors, and residents with special needs.

Under AB744, developments containing affordable housing and located near transit will be entitled to greatly reduced parking requirements. A housing development cannot be required to provide more than 0.5 parking spaces per bedroom if it:

- Includes either 11 percent very-low income units or 20 percent low income units; *and*
- Is “within one-half mile of a major transit stop”; *and*
- Has “unobstructed access” to the transit stop.

Thus, the City must grant the parking reduction unless a citywide parking study (discussed above) provides substantial evidence that a higher parking ratio is required. However, in no event may the required parking be greater than the ratio provided under Density Bonus law for projects that are not located near transit (e.g., two spaces for two- to three-bedroom units). The parking ratios for density bonus projects that are not located near transit will remain the same in the Density Bonus Ordinance.

Reduced parking standards also apply to a “special needs” rental housing development that is 100% affordable to lower income households (excluding a manager’s unit). The maximum parking for “special needs” rental housing is 0.3 parking spaces per unit if it has either paratransit

service or unobstructed access to, and is within one-half mile of, a fixed bus route that operates at least eight times per day.

Case Law: In addition to State Legislation, the Courts have weighed in on various affordable housing issues including for example in 2009 *Palmer/Sixth Street Properties L.P. v. City of Los Angeles* (“Palmer”). Under *Palmer*, the Second District Court of Appeal held that local inclusionary ordinances requiring affordable “rental” housing violate the Costa Hawkins Act, the State law governing rent control. Consequently, the City cannot require affordable rental units under the Inclusionary Ordinance. Any affordable rental units provided “voluntarily” after 2009 were potentially eligible for density bonuses.

Inclusionary Units as Density Bonus Units: In 2013, under *Latinos Unidos del Valle de Napa y Solano v. County of Napa* (“LUNA”), the First District Court of Appeal held that cities and counties must provide State-required density bonus and other incentives for inclusionary units. In other words, a developer does not necessarily have to provide units above and beyond what is required under the Inclusionary Ordinance to qualify for a density bonus or regulatory incentives.

DISCUSSION

The City’s Density Bonus Ordinance is contained in Campbell Zoning Code Chapter 21.20. Although the City’s ordinance is technically out of date, the provisions of AB2222 and AB744 have been in effect in the City since January 2015 and January 2016, respectively. The City has not received any new Density Bonus applications since either law took effect¹. However, the City expects Cresleigh Homes to submit a density bonus project for the Del Grande property in the next few months following design feedback from the Planning Commission on June 28, 2016.

Proposed Zoning Code Amendments

The draft text amendment (reference Attachment 2 – Draft Changes to Zoning Ordinance) includes revisions related to the changes described in the Background section of this report:

Definitions: Density Bonus Law includes important terms that need to be defined to provide clarity to staff, developers, the general public, and City officials. The draft text amendment includes these terms as new definitions in Section 21.20.20, as follows:

- Major transit stop
- Replace
- Special needs housing
- Unobstructed access
- Within one-half mile of a major transit stop

¹ The St. Antons development application was submitted in November 2014

Replacement Units: A project involving a demolition or conversion will need to demonstrate compliance with the housing replacement provisions of AB2222 in order to receive a density bonus. The Developer will need to submit an Affordable Housing Plan to the City with details regarding all dwelling units existing on the site in the five-year period preceding the date of application submittal, including the income and household size of all rental tenants. The Affordable Housing Plan must be submitted prior to the project being found complete and scheduled for review and approval by the City Council. Applicants must also sign and record a Density Bonus Agreement containing covenants and restrictions before a building permit can be issued.

The draft text amendment modifies Sections 21.20.030 (Eligibility for Density Bonuses), 21.20.080 (Density Bonus for Condominium Conversions), 21.20.130 (Affordable Housing Plan Submittal), and 21.20.150 (Developer Affordable Housing Agreement) to ensure compliance with the replacement unit provisions of the Density Bonus Law.

Parking Standards:

Several sections of the City's existing Density Bonus Ordinance reference Density Bonus parking standards. In addition to revising the parking standards pursuant to AB744, staff has replaced the word "revised" with "reduced" to better reflect the actual effect of the Density Bonus provision. Accordingly, the draft text amendment amends Sections 21.20.020 (Definitions), 21.20.120 (Standards for Density Bonus Residential Developments), 21.20.130 (Affordable Housing Plan Submittal), 21.20.140 (City Review of Application for Density Bonuses and Other Incentives), and 21.20.150 (Developer Affordable Housing Agreement).

Inclusionary Units as Density Bonus Units

The City's existing Density Bonus Ordinance indicates that density bonus target units "must be in addition to, or provided to a lower income category than, those required by the city's inclusionary housing requirements." However, as held in *LUNA*, the City must apply density bonus provisions to inclusionary units. Nevertheless, if a developer desires affordable units to meet both local inclusionary and State density bonus requirements, the units must meet both sets of criteria. For example, for-sale moderate-income units qualify for a density bonus under State law only if they are located in a common interest development where all the units are offered for purchase; whereas a single-family home subdivision that is not a common interest development (e.g., with a homeowner's association) is not eligible for a density bonus under State law, even if it includes affordable units.

The draft text amendment modifies Sections 21.20.90 (Density Bonus Summary Table) and 21.20.100 (Calculation of Density Bonus) in accordance with case law under *LUNA* and *Palmer*. The draft text amendment also amends the Inclusionary Housing Ordinance Section 21.24.040 to be consistent with the *LUNA* court ruling.

Affordability Term

In accordance with State Density Bonus Law the draft text amendment amends Sections 21.20.120 (Standards for Density Bonus Residential Developments) and 21.20.160 (Continued Affordability and Initial Occupancy) to change the affordability term for rental units from 30 years to 55 years and eliminate the affordability term for ownership units.

Equity Sharing

As discussed in the background section of this report, affordable ownership density bonus units are subject to an equity sharing agreement and can be sold immediately after purchase. While the affordable unit would be lost, the City would retain the subsidized difference between the affordable rate and the market rate and a share of the equity. Housing developments with inclusionary units as opposed to density bonus units would still be subject to the Resale Restriction Agreement. The draft text amendment amends Section 21.20.160 to reflect the equity sharing provision.

GENERAL PLAN COMPLIANCE

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.

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 affordable housing. The proposed amendments would be consistent with the following General Plan policies and strategies:

- | | |
|-----------------|--|
| Goal H-2: | Improve housing affordability for both renters and homeowners in Campbell. |
| Policy H-2.1: | Preservation of Affordable Housing: Work with property owners, tenants and non-profit purchasers to facilitate the preservation of assisted rental housing |
| Program H-2.1c: | Monitor Lower Income Household Displacement: The City will monitor housing affordability in the community on an ongoing basis, will consider the impacts of new housing development on the existing supply of affordable housing throughout the development review process, and will consider possible strategies to address local displacement issues as they are identified. |

- Policy H-2.4: Special Needs Housing: Assist in the provision of housing and supportive services to persons with special needs, including (but not limited to): seniors, single parents with children, persons with disabilities, the homeless, and those at risk of becoming homeless.
- Goal H-3: Encourage the provision of housing affordable to a variety of household income levels.
- Policy H-3.1: Inclusionary Housing: Support the development of additional affordable housing by nonprofit and for-profit developers through financial assistance and/or regulatory incentives.
- Policy H-5.2: Regulatory Incentives: Provide regulatory and/or financial incentives where appropriate to offset or reduce the costs of affordable housing development, including density bonuses and flexibility in site development standards.
- Program H-5.2a: Density Bonus: The City will continue to offer density bonus and/or regulatory incentives/concessions to facilitate the development of affordable and/or senior housing. The City will advertise its density bonus provisions on its website, explain how density bonuses work in tandem with inclusionary requirements, and promote in discussions with prospective development applicants.
- Policy H-5.4: Ordinance Updates: Update the Municipal Code as needed to comply with changes to State Law and local conditions relating the housing production and affordability.

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 furthers the public interest, convenience, and general welfare of the city because it would ensure that Chapter 21.20 is in compliance with state density bonus law and that the City is meeting its legal requirements. In accordance with state law, the text amendment allows density bonuses in excess of the ranges specified in the General Plan Land Use Element when a specified percentage of units for very-low, low or moderate income households are proposed. In addition, the proposed amendment would remove constraints to affordable housing development by reducing required parking ratios for projects that are eligible for a density bonus. In providing such incentives, it is the intent of the City to facilitate the development of affordable housing and implement the goals, objectives and policies of the General Plan Housing Element.

To ensure that the significantly reduced parking standards would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City, the City may perform a citywide parking study to potentially support the need for a higher parking ratio in accordance with Density Bonus Law.

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

The proposed text amendments are primarily contained in Chapter 21.20 (Density Bonus and Other Incentives for Affordable Residential Units, Senior Housing and Childcare Facilities). An amendment is also needed in Chapter 21.24 (Inclusionary Housing Ordinance), Section 21.24.040(B) in order to maintain internal consistency within the Zoning Code.

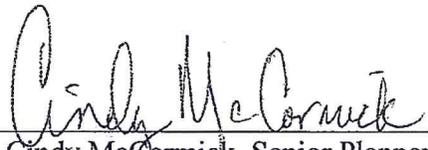
NOTIFICATION

Notice of this public hearing for the proposed Zoning Code Text Amendment was published in the local newspaper as required by City Code.

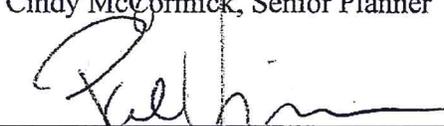
Attachments:

1. Findings for Approval of File No. PLN2016-180
2. Draft changes to the Zoning Ordinance
3. Chapter 21.20 (Density Bonus Ordinance)
4. Chapter 21.24 (Inclusionary Housing Ordinance)
5. State Legislation (AB2222)
6. State Legislation (AB744)

Prepared by:


Cindy McCormick, Senior Planner

Reviewed by:


Paul Kermoyan, Community Development Director

FINDINGS FOR APPROVAL OF FILE NO. PLN2016-180

APPLICANT: City of Campbell
P.C. MEETING: June 14, 2016

Findings for approval of City-initiated Text Amendment (PLN2016-180) to amend Campbell Zoning Code: Chapter 21.20 of the Zoning Ordinance to be consistent with State law.

The Planning Commission finds as follows with regard to File No. PLN2016-180

Environmental Findings

1. The project consists of a Text Amendment amending Campbell Zoning Code: Chapter 21.20 of the Zoning Ordinance to be consistent with State law.
2. 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.
3. The proposed Text Amendment 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.

Evidentiary Finding

1. The legislature of the State of California has, in Government Code Section 65915(a), required all cities and counties to adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented.
2. The proposed Zoning Text Amendment furthers the goals, objectives, and policies of the City's General Plan Housing Element to encourage the provision of housing affordable to a variety of household income levels.
3. Density bonuses and/or regulatory incentives/concessions facilitate the development of affordable and/or senior housing by reducing the costs of development.
4. Review and adoption of this Text Amendment is done in compliance with California Government Code Sections 65853 through 65857, which require a duly noticed public hearing of the Planning Commission whereby the Planning Commission shall provide its written recommendation to the City Council for its consideration

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

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

Draft Excerpt

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M.

TUESDAY

JUNE 14, 2016

CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of June 14, 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: Philip C. Reynolds, Jr.
Commissioner: Michael L. Rich
Commissioner: Donald C. Young

Commissioners Absent: Commissioner: Ron Bonhagen
Commissioner: Pamela Finch

Staff Present: Community Development
Director: Paul Kermoyan
Senior Planner: Cindy McCormick
Associate Planner: Daniel Fama
Associate Planner: Stephen Rose
Acting City Attorney: Heather Lenheart
Recording Secretary: Corinne Shinn

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Young, seconded by Commissioner Rich, the Planning Commission minutes of the meeting of May 24, 2016, were approved as submitted. (5-0-2; Commissioners Bonhagen and Finch were absent)

- Stated that he cannot say yes to this. It feels like caving in to the demands of Sacramento. He will not support this to send a message to Sacramento.

Chair Dodd asked staff what happens if the City does not update its Ordinance to comply with State laws.

Director Paul Kermoyan:

- Reminded that the action of the Planning Commission is advisory to Council.
- Advised that a Parking Study would be used to demonstrate why greater parking is needed.

Planner Cindy McCormick:

- Reported that the State law is already in effect.
- Added that this proposed Text Amendment is intended to bring the City's Code into compliance with State law.

Commissioner Young:

- Said that creative solutions regarding mass transportation are needed.
- Advised that he personally uses a lot of alternative transportation.
- Admitted that changing the culture of driving takes time.
- Stated that State law has changed and we must comply with it.
- Added that with the City's General Plan being amended perhaps it will be possible to create ways for local transportation.
- Suggested adopting this text amendment and consider other tools in the future as well.
- Said that if the Council wants to go against State law that is their prerogative.

Commissioner Rich asked Director Kermoyan if the Commission could send its message of concerns raised this evening on to Council.

Director Paul Kermoyan:

- Replied yes.
- Added that the essence of the conversation will be captured in the staff report that goes on to Council.
- Reminded that there will be the minutes of this meeting.
- Concluded that he was also confident that some members of the Council were likely watching this meeting now.
- Said that it is typical for local jurisdictions to have concerns and often ask, "How dare the State tell us how to grow."
- Cautioned that we could expose the City to litigation if we don't comply with State law.

Commissioner Rich:

- Said that he is in favor of this text amendment as he doesn't want to expose the City.
- Advised that he is a 20-plus-year Campbell resident.
- Agreed that there are quality of life issues from where it was to how it is.

- Admitted that he has concerns for his three children.
- Stated that it would be a good idea to bring the point to the attention of the State somehow.
- Added that Commissioner Reynolds has made some great points.

Chair Dodd:

- Reported that at her school they have a Walk n 'Roll to School day where students and staff walk, ride a bike, roller skate, etc., as an alternative to driving. That's the community taking charge.
- Added that she takes a few days during a school break in the spring to go to Sacramento to meet with lobbyists on issues of importance to her School District.
- Stated that she would like to see more activism from Campbell.
- Concluded that she would support this text amendment since it is law.

Commissioner Young said that Engineer to Engineer, he'd like to convince Commissioner Reynolds to support this amendment. He said that technology changes things fast and that he takes the train to work in San Francisco once a week as an effort to take advantage of alternate transportation.

Motion: Upon motion of Commissioner Young, seconded by Commissioner Rich, the Planning Commission adopted Resolution No. 4302 recommending that the City Council approve a Text Amendment (PLN2016-135) to allow minor changes to the Density Bonus Ordinance, by the following roll call vote:

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

Chair Dodd advised that this item would be considered by the City Council at its meeting on July 19, 2016.

Commissioner Reynolds suggested inviting Assemblyman Evan Low to attend the next Planning Commission meeting in order to discuss AB2101.

Director Paul Kermoyan advised that such an invitation would be more appropriately extended by the Mayor and City Manager.

Chair Dodd asked for the Commission to be kept apprised if such a meeting is to occur.

Director Paul Kermoyan said he would do so.



San Tomas Area Community Coalition

P.O. Box 320663
Los Gatos CA 95032

408.410.6528 phone
info@staccna.org
<http://staccna.org>

City of Campbell
70 N. First Street
Campbell CA 95008

June 12, 2016

Attn: Planning Commission
City Council
Paul Kermoyan, Director Community Development Department
Cindy McCormick, Senior Planner

Subj: Agenda Item 7. PLN2016-135

Dear Planning Commission Members, City Council Members and Staff:

STACC members have reviewed Agenda Item 7. PLN2016-135. While we understand that this is intended to update the Campbell Density Bonus Ordinance, we ask why is it necessary to continue to give incentives to developers that negatively affect the residents?

We oppose the practice of rewarding developers for constructing affordable housing by reducing the amount of required car parking per unit. Affordable housing units do not, in fact, require less parking, and the excess parking needs spill into the neighborhood. In practice, these "rewards" are paid-for by neighbors and communities with unavailable street parking.

We request that Campbell restrict the use of parking abatement density bonuses to situations where staff specifically states that a development will have reduced parking needs, and to change the city code to deny parking requirement abatements in all other situations.

Best regards,

A handwritten signature in black ink that reads 'Audrey Kiehtreiber'. The signature is written in a cursive, flowing style.

Audrey Kiehtreiber
President

MEMORANDUM



City of Campbell
City Clerk's Office

To: Honorable Mayor and City Council **Date:** July 19, 2016
From: Cindy McCormick, Senior Planner *CMC*
Via: Mark Linder, City Manager
Subject: **Desk Item #16 – Public Hearing to Consider a City-initiated Text Amendment (PLN2016-180) to Amend Campbell Municipal Code Chapters 21.20 and 21.24 Regarding Density Bonus Regulations.**

Upon request of Vice Member Gibbons, the purpose of this desk item is to provide two alternative means to illustrate the income percentages required for a density bonus.

The City of Campbell's current density bonus ordinance groups the very low-, low-, and moderate-income categories together and condenses the table using an incremental % increase (as opposed to a complete table). As an alternative, the government code uses separate and complete tables for each category (reference **Exhibit A**). As another alternative to using tables, the information could be presented as text (reference **Exhibit B**).

Should the Council amend the draft Ordinance to include one of the alternative means of illustrating the income percentages required for a density bonus, the Council should include in their motion the following:

1. Adopt the Resolution, finding that the proposed Zoning Text Amendment is exempt from CEQA.
2. Take a first reading and introduce the Ordinance, **as modified by Exhibit ____**, approving a Text Amendment amending Chapters 21.20 and 21.24 of the Campbell Zoning Code, regarding density bonus regulations.

Attachments:

Exhibit A - Alternative Table, Section 21.20.090
Exhibit B - Alternative Text, Section 21.20.090

EXHIBIT A

SECTION 5. - Summary tables. The Density Bonus Summary table in Campbell Municipal Code section 21.20.090 is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

The following table summarizes the available density bonuses, incentives, and concessions.

Density Bonus Summary

Types of Affordable Units Providing Eligibility for a Density Bonus	Minimum %	Bonus Granted	Additional Bonus for Each 1% Increase over the Minimum %	% Target Units Required for Maximum 35% Bonus
A density bonus may be selected from only one category, except that bonuses for land donation may be combined with others, up to a maximum of 35%, and an additional sq. ft. bonus may be granted for a childcare facility. As provided in <u>Section 21.20.100(5)</u> , target units provided must be in addition to, or provided to a lower income category than, those required by the city's inclusionary housing requirements.				
Very low income	5%	20%	2.5%	11%
Lower income	10%	20%	1.5%	20%
Moderate income (ownership units only)	10%	5%	1%	40%
Senior housing project	100% senior	20%	—	—
Land donation for very low-income housing	10% of market-rate units	15%	1%	30% of market-rate units
Condominium conversion — moderate income	33%	25% ^(A)	—	—
Condominium conversion — lower income	15%	25% ^(A)	—	—
Childcare facility	—	Sq. ft. in childcare facility ^(A)	—	—

EXHIBIT A

1. If providing Very-Low-Income units, the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

2. If providing Low Income units, the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

EXHIBIT A

3. If providing Moderate Income units, the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29

EXHIBIT A

35	30
36	31
37	32
38	33
39	34
40	35

4. If providing senior citizen housing, the density bonus shall be 20 percent of the number of senior housing units.

5. If converting apartments to a condominium project in compliance with Chapter 21.24, the density bonus shall be 25 percent when an applicant agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income or 15 percent of the total units of the proposed condominium project to lower income households.

EXHIBIT A

6. If, as part of a tentative subdivision map, parcel map, or other residential development approval, the applicant dedicates land to the City for affordable housing, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

EXHIBIT B

SECTION 5. - Summary tables. The Density Bonus Summary table in Campbell Municipal Code section 21.20.090 is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

The following table summarizes the available density bonuses, incentives, and concessions.

Density Bonus Summary

Types of Affordable Units Providing Eligibility for a Density Bonus	Minimum %	Bonus Granted	Additional Bonus for Each 1% Increase over the Minimum %	% Target Units Required for Maximum 35% Bonus
A density bonus may be selected from only one category, except that bonuses for land donation may be combined with others, up to a maximum of 35%, and an additional sq. ft. bonus may be granted for a childcare facility. As provided in <u>Section 21.20.100(5)</u> , target units provided must be in addition to, or provided to a lower income category than, those required by the city's inclusionary housing requirements.				
Very low income	5%	20%	2.5%	11%
Lower income	10%	20%	1.5%	20%
Moderate income (ownership units only)	10%	5%	1%	40%
Senior housing project	100% senior	20%	—	—
Land donation for very low-income housing	10% of market-rate units	15%	1%	30% of market rate units
Condominium conversion — moderate income	33%	25% ^(A)	—	—
Condominium conversion — lower income	15%	25% ^(A)	—	—
Childcare facility	—	Sq. ft. in childcare facility ^(A)	—	—

EXHIBIT B

1. If providing Very-Low-Income units, the density bonus shall be calculated as follows:

<u>Percentage Very-Low Income Units</u>	<u>Percentage Density Bonus</u>
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

2. If providing Low Income units, the density bonus shall be calculated as follows:

<u>Percentage Low-Income Units</u>	<u>Percentage Density Bonus</u>
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

EXHIBIT B

3. If providing Moderate Income units, the density bonus shall be calculated as follows:

<u>Percentage Moderate-Income Units</u>	<u>Percentage Density Bonus</u>
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

4. If providing senior citizen housing, the density bonus shall be 20 percent of the number of senior housing units.

EXHIBIT B

5. If converting apartments to a condominium project in compliance with Chapter 21.24, the density bonus shall be 25 percent when an applicant agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income or 15 percent of the total units of the proposed condominium project to lower income households.

6. If, as part of a tentative subdivision map, parcel map, or other residential development approval, the applicant dedicates land to the City for affordable housing, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

<u>Percentage Very Low Income</u>	<u>Percentage Density Bonus</u>
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35



City Council Report

Item: 17.
Category: Public Hearing and Introduction
Of Ordinances
Meeting Date: July 19, 2016

TITLE: Lighting and Landscaping District, Fiscal Year 2016/17 - Confirming Assessments (Resolution/Roll Call Vote)

RECOMMENDATIONS

1. That the Mayor open a Public Hearing for comments regarding the levy of assessments for the City of Campbell Lighting and Landscaping District (LLA-1) for Fiscal Year (FY) 2016/17.
2. That Council adopt the attached Resolution overruling protests, if any, approving the Engineer's Report, ordering the improvements, and confirming the diagram and assessments.

DISCUSSION

At the June 7, 2016 meeting, Council granted preliminary approval of the Engineer's Report for the City of Campbell Lighting and Landscaping District LLA-1 for FY 2016/17 and declared its intention to levy and collect assessments within the Assessment District. The Engineer's Report is on file with the City Clerk and includes a diagram showing all parcels and the boundaries of the Assessment District, and all related assessments.

For the 2016/17 Fiscal Year, no increases in LLA-1 assessments have been proposed.

The Public Hearing provides an opportunity for interested persons to be heard prior to Council's consideration of the LLA-1 Engineer's Report, the ordering of the improvements, and the confirming of the diagram and assessments for FY 2016/17.

Noticing for the Public Hearing consisted of the publishing of the City's Resolution of Intention in the Campbell Express on June 29th and July 6th.

FISCAL IMPACT

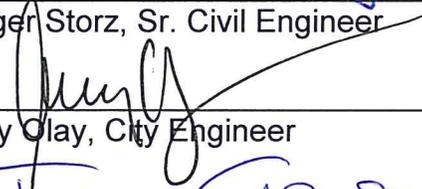
Projected LLA-1 revenues for FY 2016/17 are approximately \$1,205,000.

ALTERNATIVES

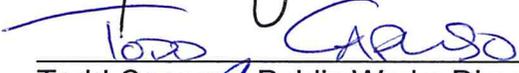
1. Continue the Public Hearing to the August 2, 2016 Council meeting.
2. Direct staff to revise the Engineer's Report with alternative assessment levels.

Prepared by: 

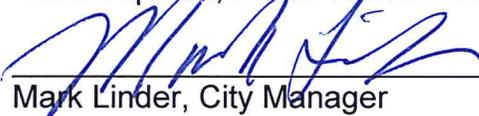
Roger Storz, Sr. Civil Engineer

Reviewed by: 

Amy Clay, City Engineer

Reviewed by: 

Todd Capurso, Public Works Director

Approved by: 

Mark Linder, City Manager

Attachment: Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL
APPROVING THE ENGINEER'S REPORT, ORDERING THE IMPROVEMENTS, AND
CONFIRMING THE DIAGRAM AND ASSESSMENTS FOR THE CITY OF CAMPBELL
LIGHTING AND LANDSCAPING DISTRICT LLA-1 FOR FISCAL YEAR 2016/17**

WHEREAS, on the 5th day of April 2016, said Council adopted its Resolution No. 11960 describing improvements and directing preparation of the Engineer's Report for Fiscal Year (FY) 2016/17 for the City of Campbell Lighting and Landscaping District LLA-1 pursuant to the Landscaping and Lighting Act of 1972, and directed the City Engineer to prepare and file with the City Clerk a written report called for under said Act and by said Resolution; and

WHEREAS, said report was duly made and filed with the City Clerk, whereupon said Clerk presented it to this Council on June 7, 2016 for its consideration; and

WHEREAS, said Council thereupon duly considered said report and each and every part thereof and found that it contained all matters called for by the provisions of said Act and Resolution No. 11960, including (1) plans and specifications of the existing and proposed improvements, if any; (2) estimate of costs; (3) diagram showing the exterior boundaries of the area of the Assessment District; and (4) assessments calculated according to benefits; all of which were prepared in the form and manner required by said Act; and

WHEREAS, said Council found that said report, and each and every part thereof, was sufficient and determined that it should stand as the report for all subsequent proceedings under said Act, whereupon said Council, pursuant to the requirements of said Act, adopted Resolution No. 11988 and appointed July 19, 2016, at 7:30 p.m. at the regular meeting of said Council, City Hall, 70 North First Street, Campbell, California, as the time and place for hearing comments or protests in relation to the levy and collection of the proposed assessments pursuant to said Act, and to said proposed improvements, if any, including the operation and maintenance thereof, and directing the City Clerk to give notice of the public hearing as required by said Act; and

WHEREAS, notices of said Public Hearing were duly published in the time, form and manner required by said Act, as evidenced by the Affidavits and Certificates on file with the City Clerk, whereupon said hearing was duly held at the time and place stated in said notice; and

WHEREAS, on July 19, 2016, the Public Hearing was opened; and

WHEREAS, persons objecting to said improvements, including the operation and maintenance thereof, or to the extent of the Assessment District, or to the proposed diagram or assessments, or to the Engineer's estimate of costs thereof, filed written

protests with the City Clerk before the conclusion of said Public Hearing, and all persons desiring to be heard were given an opportunity to be heard, and all matters pertaining to the levy and collection of the assessments for said improvements, including the operation and maintenance thereof, were fully heard and considered by said Council.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, and ORDERED as follows:

1. That protests, if any, against said improvements, including the operation and maintenance thereof, or to the extent of the Assessment District, or to the proposed diagram or assessments, or to the Engineer's estimate of costs thereof, for FY 2016/17 be, and each of them are hereby overruled.
2. That the public interest, convenience and necessity require and said Council does hereby order the levy and collection of assessments pursuant to said Act for the installation of improvements, including the operation and maintenance thereof, more particularly described in said Engineer's Report which is made a part hereof by reference.
3. That the City of Campbell Lighting and Landscaping District LLA-1 and the boundaries thereof benefited and to be assessed for said costs for the installation of the improvements, including the operation and maintenance thereof, are situated in the City of Campbell, California, and are more particularly described by reference to a map thereof on file in the office of the City Clerk. Said map indicates by a boundary line the extent of the territory included in said District.
4. That the plans and specifications for the existing improvements and proposed improvements, if any, to be installed within the Assessment District contained in said report be, and they are hereby, adopted and approved.
5. That the Engineer's estimate of the total costs of said improvements, including the operation and maintenance thereof, and of the incidental expenses in connection therewith, contained in said report be, and is hereby, adopted and approved.
6. That the public interest and convenience require, and said Council does hereby order the improvements, if any, to be installed as described in, and in accordance with, said Engineer's Report.
7. That the diagram showing the boundaries of the Assessment District referred to and described in said Resolution No. 11988, and the liens and dimensions of each parcel of land within said District as such parcel is shown on the County Assessor's maps for the fiscal year to which it applies, each of which parcel has been given a separate number upon said diagram as contained in said report be, and is hereby, approved and confirmed.

8. That the assessment of the total costs of said improvements upon the parcels of land in said District in proportion to the estimated benefits to be received by such parcels from said improvements, and the operation and maintenance thereof, and of the expenses incidental thereto contained in said report be, and the same is hereby, approved and confirmed.

9. That said Engineer's Report for FY 2016/17 be, and the same is hereby, adopted and approved.

10. That the City Clerk shall forthwith file with the Auditor of Santa Clara County said assessment, together with said diagram thereto attached and made a part thereof, as confirmed by the City Council, with the certification of such confirmation thereto attached and of the date thereof.

11. That the order for levy and collection of assessments for the improvements and the adoption and approval of the Engineer's Report as a whole, and of the plans and specifications, estimate of the costs, diagram, and assessments, as contained in said Report, as hereinafter determined and ordered, is intended to and shall refer and apply to said Report, or any portion thereof, as amended, modified, revised or corrected by, or pursuant to and in accordance with any resolution or order, if any, heretofore duly adopted or made by this Council.

I hereby certify that the foregoing is a full, true and correct copy of the Resolution duly passed and adopted by the City Council of the City of Campbell, California, at a meeting thereof held on the 19th day of July, 2016, by the following roll call vote of the members thereof:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

ATTEST:

Jason T. Baker, Mayor

Wendy Wood, City Clerk



City Council Report

Item: 18.
Category: New Business
Date: July 21, 2016

TITLE: PRE-BALLOT MEASURE RECOMMENDATION

RECOMMENDATIONS

It is recommended that the City Council 1) postpone consideration for a revenue ballot measure for the November 2016 General Election and 2) direct staff to perform additional analysis related to the development of a Civic Center project and to continue pre-ballot preparations for November 2018.

BACKGROUND

As part of the development process last year for the Civic Center Master Plan, the City Council expressed interest in placing a revenue measure on the ballot for the November 2016 General Election in order to fund the design and construction of a new police operations center and library.

Results from the City's December 2015 Resident Satisfaction Survey suggested that Campbell voters would support a potential general purpose sales tax revenue measure for City operations and maintenance. If the measure were to pass, the City could use General Funds to support unfunded capital improvements such as a new Civic Center. The requisite threshold for this type of measure to pass in California is 50% + 1.

After considerable review and discussion, the City Council then asked staff to analyze the viability of a specific purpose revenue source (General Obligation bond or parcel tax) which requires 2/3 voter approval.

The City Council held a Study Session on June 7, 2016 to review the results of a baseline survey conducted in May by Godbe Research and Analysis to measure community support to specifically fund a new library or police operations center. The survey data was collected and included a total resident-voter sample size of 501 responses. The survey questions included hypothetical parcel tax and general obligation bond revenue measures requiring voter approval and their associated fiscal impacts. Preliminary results suggest that the requisite support does not exist in the community at this time for a bond measure or parcel tax requiring 2/3 voter approval.

After considerable discussion, and although it would not yield as much revenue at the higher rate of \$39 per \$100,000 assessed value tested in the recent baseline survey, the Council expressed cautious interest in further exploring a potential general obligation bond measure at a rate of \$18 per \$100,000 of assessed value. At this level, the bond would raise approximately \$36 million which is less than half of the amount

initially desired to fully pay for design and construction costs for a new library facility and police operations center. As part of the Study Session discussion, staff offered to develop and provide cost estimates for renovating the existing library building and City Hall, and for designing and constructing a new police operations center. Below are staff's estimates based on current market conditions and on estimates previously developed by Anderson Brule Architects:

	Square Footage	Const. Cost/per sq. ft.	Est. Const. Cost
Renovated City Hall	21,808	\$275	\$5,997,200
Renovated Library	24,000	\$275	\$6,600,000
New Library Annex (Admin./Shipping Functions)	5,000	\$450	\$2,250,000
New Police Building	16,000	\$600	\$9,600,000
TOTAL ESTIMATED CONSTRUCTION COSTS			\$24,447,200
Construction Contingency (5%)			\$1,222,360
Soft Costs Allowance (35%)			\$8,556,520
Project Contingency (10%)			\$2,444,720
Site Work - Site Prep., Development & Utilities			\$1,633,978
TOTAL ESTIMATED PROJECT COSTS*			\$38,304,778

*Does not include Parking costs and FF&E

The total estimated project costs do not include parking costs and fixtures, furnishings and equipment (ie, FF&E). In prior discussion, the Santa Clara County Library District has indicated a willingness to bear the FF&E costs which have been previously estimated at \$1.5 million.

Even if an \$18 per \$100,000 of assessed value General Obligation bond were to be approved this November, the City would still have to identify an additional funding source to make up for the \$2 million shortfall needed to complete the renovations listed above.

DISCUSSION

In contemplation of a revenue measure for this November, the City engaged the services of the Lew Edwards Group last year for pre-ballot consulting services. However, the City released them from their contract at the firm's request last April. Staff

was then in preliminary discussions with Tramutola, another pre-ballot consulting firm, to continue the desired ballot planning and strategizing services. However, that firm has withdrawn from being considered due to its present workload assisting other public agencies prepare for this November, and concern for the remaining time left to conduct an effective public awareness program. A contract for services was not formed.

Staff then identified and contacted an equally qualified and experienced consultant, TBWB, to ascertain its availability and interest. Although it is presently helping other public agencies with their revenue measures prepare for this November, this firm has responded positively to staff and expressed willingness to provide assistance to Campbell staff in the coming three months in the areas of research, strategic planning, identifying risks and opportunities, and public messaging. Even though it was authorized by the City Council to do so on April 5, 2016 under Resolution 11965, staff has not yet entered into a contract with TBWB.

Moreover, there are a number of government agencies in Santa Clara County placing revenue measures on the November 2016 ballot. These jurisdictions and type of measure are listed below:

POTENTIAL MEASURES ON NOVEMBER BALLOT	
Campbell Union School District	Increase current GO Bond by \$12 (from \$55 per \$100,000 of assessed property to \$67 per \$100,000).
Campbell Union High School District	GO Bond of \$30 per \$100,000 of assessed value.
Town of Los Gatos	TBD
City of Morgan Hill	TBD –July 27
Santa Clara County- Increased sales tax rate to help the county's vulnerable homeless population.	\$14 per \$100,000 of assessed value
VTA	Half-cent sales tax

Even with a successful public outreach program, there are no assurances that Campbell's ballot measure would obtain the requisite 67% voter support to pass. A volunteer committee of community leaders to drive a local campaign has not been formed which is an important component of a successful public outreach.

Based on present information and on its analysis that includes recent voter survey data, significant expenses to be incurred related to additional polling and pre-ballot advice and community messaging services, and given other competing revenue measures in Santa Clara County now known to appear on the November 2016 ballot and the City Council's mixed level of support at this time to proceed with a ballot measure, staff is recommending that the City postpone efforts to place a revenue measure until

November 2018. If Council concurs, staff will continue developing a project scope that is more in line with revenue projections associated with a proposed ballot measure.

FISCAL IMPACTS

Excluding staff time, cost savings associated with not proceeding with a November 2016 ballot measure at this time are estimated at \$105,500 as follows:

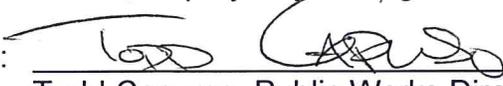
Strategy	Unit	Estimate
Pre-Ballot Consulting	\$7,500/month	\$ 22,500
Informational Mailer	11"x17" brochure; print; mailing; postage	\$ 14,000
Tracking Survey	8-min. phone only	\$ 20,000
Voter Guide	County Registrar's Fee	\$ 48,500
	Total	\$ 105,000

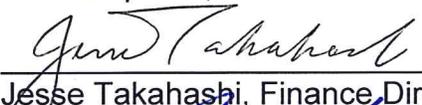
The source of funding is derived from the City's Civic Center Master Plan Reserve.

ALTERNATIVES

1. Proceed with placing a ballot measure for this November 2016. This effectively directs staff to prepare strategies including informational materials, organize and conduct community outreach, direct the City Attorney to prepare ballot language and to conduct an impartial legal analysis.
2. Provide other direction to staff.

Prepared by: 
Al Bito, Deputy City Manager

Reviewed by: 
Todd Capurso, Public Works Director

Reviewed by: 
Jesse Takahashi, Finance Director

Approved by: 
Mark Linder, City Manager

CITY COUNCIL MEMORANDUM

TO: CAMPBELL CITY COUNCIL
FROM: JASON T. BAKER, MAYOR *JB*
VIA: MARK LINDER, CITY MANAGER *ML*
SUBJECT: ITEM 18: BALLOT MEASURE TO MEET LIBRARY AND POLICE NEEDS
DATE: JULY 19, 2016

Colleagues,

As a public official who has been in elected office for the better part of a decade, served as Mayor twice and as chair of regional bodies a half a dozen times or more, I can offer with some perspective and humility that opportunities to exercise true leadership on important issues are rare and fleeting.

We are presented with such an opportunity now. A pollster cannot lead, but our pollster has uncovered the need for leadership.

We council members are unanimous in our common understanding that Campbell has basic needs that must be met. We know our library is too old and too small. Hundreds of thousands of dollars of taxpayer money has been spent or is at risk of being spent propping up an aging building that no longer meets our community's needs. Our police personnel work in portable buildings that are insufficient and not earthquake safe. We need to do better; I think we can, now.

It will not be easy. Any measure we put on the ballot may not pass. I am not afraid. If we enter into this challenge together, if we work and explain the facts to every voter we can, it will be an appropriate exercise of leadership. It will be right, win or lose.

This will not be leading for the sake of it, but because libraries are essential. Libraries are safe spaces where young people can go to study and talk and laugh. They are where seniors gather and bond with their grandchildren and where parents watch the dreams they hold for their children begin to take shape. Libraries are the great equalizer, because knowledge is too. And any person, no matter race or religion, native language or socio-economic status can go to the Campbell library and learn or dream or escape for awhile. The Campbell library is an indispensable community resource. It merits our investment and our courage.

Campbell should put General Obligation bond on the ballot this November for \$34 per \$100,000 to replace our outdated library, update our police facilities and help downtown parking.

Some still favor putting a measure on the ballot that would raise the \$125 million that a full civic center master plan would cost. This effort is noble, but misguided. Raising funds for a full rebuild of our entire civic center all at once is a clear loser we cannot afford in the short or medium term. The council has been well advised to show restraint by rejecting this plan. Even raising \$75 million is likely too high a burden at this point. We need to show a strong message that we are building only what we need now, not simply what would be nice.

Others would pare down the project so far - to \$36 million or less- that we would not raise enough funds to meet even our short term needs - the very needs we would be telling the public we would fulfill with such a measure. This path, although easier, is retreat to the point of surrender. I also believe it is not without its own brand of risk. Even the most ardent supporters who understand our needs will have a difficult time getting behind a project so far from being done right.

Staff estimates that a general obligation bond of \$34 per \$100,000 of assessed value will net, conservatively, in the range of \$65 million. This amount would be enough to build a new library and some shared parking for downtown, while allowing us to get our police out of portable buildings, at least. This is the fiscally conservative path that still gets our city what it needs.

Passing such a measure will be difficult, but it can succeed.

Based on our previous polling, a measure at this level will be something of an uphill battle, but it can be done. I believe we owe it to our community to try. Several factors have led me to this conclusion.

First, the facts in favor of such a measure are powerful. Our library is falling apart, and is too small for patrons and staff; yet we are using a steady stream of taxpayer dollars to prop it up. At the same time, our police deserve to work in a permanent home. And we all know downtown could use any parking help it can get. Even the short message summing up some of these facts that we shared in our polling was effective - poll recipients were moved towards support once they had even a passing understanding of the need.

Second, if we are each put our effort into exercising leadership on this, tonight and until November, we can personally make a difference beyond what the survey showed. You are each community leaders who have powerful voices that can help explain the need for a community a library and better police facilities if you are willing to try.

I have also come to believe that there is enough energy in the Campbell community to help get the message home to voters in a way that is more clear and comprehensive than is possible in a short survey. Library supporters have begun to speak out in support; they are a formidable force once mobilized. Librarians are fierce.

Some if not all of the candidates for City Council this term have already publicly supported a new library. That could help get the facts out to voters, too.

I have also been particularly impressed with our local newspapers' willingness to dedicate time, talent and column inches - sometimes even on the front page - to important Campbell issues of the day. If our newspapers are active in helping distribute facts, bolstered by Facebook and Nextdoor and other means of getting the facts out, voters will enter the voting booth armed with a much more fleshed out understanding of the true need than what we were able to offer in a few sentences in a poll.

The margins are small; there is a real opportunity for community leaders and supporters and well written news articles to make a difference. Just 12,700 voters voted on measure M in 2010 (both for and against). Just a few hundred voters one way or another makes a big difference.

Third, in addition to supporters and others helping flesh out the facts behind the need, there are new facts available. This measure may bring us additional hours of operation. While this measure will not fund new hours itself, a new building would be configured to take advantage of modern automation equipment being used at other libraries in the district right now. I have spoken with library district staff and I am convinced that, by building a building that can make the most of automation technology and staff resources, this measure could free up library staff to keep the library open more hours. This is important new information, not offered to our survey respondents.

Finally, Campbell voters have a history of supporting libraries and additional opening hours at the library. Campbell had the highest support for the last county library measure in the county, voting for it at well over 80%. When it comes to libraries and, I think, police, Campbell voters get it.

Conclusion

There are risks. Staff estimates putting this measure to a vote will cost approximately \$105,000. This is not an insignificant amount. However it is less than we have invested in time and treasure planning the library – twice. It is less than the upcoming replacement (approximately \$155,000) of the HVAC system in the library (which already has required costly repairs), and just about a third the initial estimated cost (\$300,000) for one single incident last year – when there was a plumbing leak that caused mold damage in our library.

The Library District has been there all the way backing Campbell, as it should. But these are taxpayer dollars being spent and at risk. Campbell choosing to shrink from its responsibility now, refusing to spend \$100,000 to offer voters the opportunity to do the right thing would be easier, certainly, but it would be wrong.

We should offer library and police supporters an opportunity to have the conversation, to explain that the measure would save taxpayer money in the short and long term, that it would be an investment in our community and our children that would pay dividends in productivity, property values and community well into Campbell's bright future.

I respectfully urge you to give voters the chance to vote for this important measure this November.

MEMORANDUM



City of Campbell
City Clerk's Office

To: Honorable Mayor and City Council

Date: July 19, 2016

From: Wendy Wood, City Clerk 

Via: Mark Linder, City Manager 

Subject: Desk Item 18 – E-mail from Cheryl Houts

On July 19, 2016 an e-mail was received in the Clerk's Office from Cheryl Houts, as part of the public record in regards to Item 18.

Attached is the e-mail for your consideration.

Wendy Wood

Subject: FW: Item 18 on City Council Meeting tomorrow evening

From: Jason Baker
Sent: Monday, July 18, 2016 11:31 PM
To: Wendy Wood
Subject: Fwd: Item 18 on City Council Meeting tomorrow evening

Begin forwarded message:

From: Cheryl Houts
Date: July 18, 2016 at 11:23:13 PM PDT
To: jasonb@cityofcampbell.com
Subject: **Item 18 on City Council Meeting tomorrow evening**

Dear Mayor Baker:

I am writing to express my concern that the City Council may be voting to postpone putting a ballot measure on the November 2016 that would give the voters a chance to vote on construction of a new library. Many years ago it was determined that there is a need for a new library. The City of Campbell has spent a great deal of money on consultants and experts over the last 15 years in an effort to clarify the plans for a new library, and they have never put forward the opportunity for the community to vote on this issue.

I believe that it is time to let the voters decide. Please do not postpone this opportunity for the members of our community. Remember, Campbell is the community that had the highest support for Santa Clara County Library District's last ballot measure. It passed in Campbell at the rate of 87 percent!

Please share my letter at the council meeting tomorrow evening. I am very sorry I am out of town and unable to attend.

Sincerely,

Cheryl Houts
Retired Campbell Library Manager

Sent from my iPad



City Council Report

Item: 19.
Category: Council Committee Reports
Meeting Date: July 19, 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.)
Silicon Valley Clean Energy Authority Board of Directors
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
Silicon Valley Clean Energy Authority Board of Directors (Alt.)

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

****appointed by other agencies**