



City Council Agenda

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

CAMPBELL CITY COUNCIL STUDY SESSION

Tuesday, February 7, 2017 – 6:00 p.m.

Council Chamber – 70 N. First Street

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

CALL TO ORDER, ROLL CALL

NEW BUSINESS

- Mix of Downtown Uses “Retail Incentives”**
Recommended Action: Conduct Study Session and provide direction to staff.

PUBLIC COMMENT

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.

MEMORANDUM



City of Campbell

To: Mayor Gibbons and Council Members **Date:** February 7, 2017

From: Paul Kermoyan, Community Development Director *PK*
 Daniel Fama, Senior Planner *DF*
 Nicole Brown, Economic Development Specialist *NB*

Via: Brian Loventhal, City Manager *BL*

Subject: Downtown Land Use and Incentivizing Retail

INTRODUCTION

Over the last several years, the City has witnessed a shift in the commercial makeup of the Downtown as restaurants have overtaken traditional retailers to now constitute a plurality of all land uses—both numerically and in aggregate square-footage (reference **Attachment 1** – Downtown Use Charts/Tables). In response to these observations, the City Council has held three study sessions and one joint study session with the Planning Commission, to determine what policy, code, and/or market factors may have influenced this change:

- **March 5, 2013** (reference **Attachment 2** – Staff Report): The City Council considered a comprehensive report outlining applicable City policies and standards, as well as an analysis providing an explanation for the observed shift. At the conclusion of the study session, the Council directed staff to proceed with preparation of an amendment to the Zoning Code that would require a Conditional Use Permit (CUP) for conversion of existing retail space to restaurant use in the (Downtown) C-3 Zoning District.
- **July 16, 2013** (reference **Attachment 3** – Staff Report): Staff presented a tailored approach that would require a CUP for a restaurant conversion tied with findings that would direct the Planning Commission to consider potential "over-concentration" of restaurants in the immediate area. Although the Council expressed a concern for the loss of long-term retailers, the consensus was not to proceed with a CUP permit process at that time. Instead, the Council directed staff to continue to monitor the situation.
- **February 17, 2015** (reference **Attachment 4** – Staff Report): The Council was provided with updated information on this matter, highlighting the changes over the preceding two years. The Council discussed various issues including defining an appropriate "mix of uses," the role of alcohol service, and consideration of a moratorium for new restaurants. The Council requested that the February 17 study session be continued and reconvened jointly with the Planning Commission to allow for input and discussion with the Commission.

- **June 16, 2015** (reference **Attachment 5** – Staff Report): At the joint study session, the Commission and Council received public comment and had a wide-ranging discussion on the role of restaurants in the Downtown, the future of local retail, potential regulatory options, and the City's economic development efforts. At the conclusion of the meeting, there was an emerging consensus that the CUP requirement should be reviewed again. As a result, preparation of Zoning Code Amendment was placed on the FY2016 work plan for staff to bring forward within the fiscal year.

As directed by the work plan item, staff prepared a Zoning Code Amendment that would have required approval of a Conditional Use Permit for any new restaurant, tied to specific findings intended to encourage an appropriate balance of uses, diversification of eating establishments, and to limit an "overconcentration" of restaurants in the Downtown. This amendment was considered by the Planning Commission on February 23, 2016 (reference **Attachment 6** – Staff Report) and by the City Council on March 15, 2016 (reference **Attachment 7** – Staff Report). The Council's discussion concluded with a decision not to adopt the proposed amendment. Although there was support for a Conditional Use Permit process, the Council directed staff to review incentives that may encourage retailers as well as reviewing the list of allowable uses in the Downtown.

DISCUSSION

The following discussion provides a broad overview of various approaches that may be pursued to encourage retail establishments as well as a wider mix of uses in the Downtown. The intent of this discussion is to identify Council support for specific measures, if any, that can be further developed. Based on Council feedback, staff will continue to refine the draft text amendment.

Staff's review of various programs and practices that incentivize particular types of land uses revealed several approaches that could help influence a desired outcome. One approach could be to relax allowable uses that may be permitted but only under certain situations; the Conditional Use Permit process is a tool to implement this scenario. Another approach is to offer up-front benefits for specific uses, such as low permit fees and expedited permit processes. However, while this approach may be effective in attracting new businesses, it is unlikely to encourage long-term retention. Therefore, another approach could be to offer extended incentives in order to retain a particular use over the long-term. This report will discuss some of these methods for Council consideration.

Downtown Land Use Options: The C-3 Zoning District has the most restrictive listing of allowable land uses of the City's commercial zoning districts. Some uses, such as service commercial (e.g., salons, dry cleaning, etc.), studios (e.g., martial arts, yoga, etc.) and professional offices are particularly restricted by being prohibited along—or within 50-feet—of East Campbell Avenue. These restrictions were adopted two decades ago with the intent of encouraging retail and restaurant activity to facilitate an "active" streetscape. They were also adopted to prohibit the continuous expansion of those use types that once populated the downtown (i.e., second-hand stores). These restrictions were successful in that restaurants and retail uses are prevalent in Downtown Campbell. The challenge now is to revisit what planning tools could be used to restore a more desirable business environment.

In spite of the interest in buying locally, most consumers shop around the region as not all goods are provided in each community. As observed in Campbell's Downtown, there are many restaurants and boutique retail stores. However, the Downtown lacks in offering essential goods and services for residents. As Campbell's Downtown core continues to grow in density, there could be a need to consider new C-3 Zoning District provisions to allow more service options such as convenient goods and services.

Moreover, reevaluating the allowable uses in the Downtown may also provide a greater incentive to property owners to rent to non-restaurant tenants, thus, providing increased opportunities for retailers. The following is a preliminary list of *new* land uses (not already defined by the City's Zoning Code) that could be considered for inclusion in the C-3 Zoning District.¹ All are considered long-term tools to help incentivize uses other than restaurants.

- **Retail Medical**, such as an optometrist's office that also includes a substantial selection of retail eyewear.
- **Winery tasting room** focused on the sale of wine from a specific winery and offering tasting pours of the wine for sale.
- **Specialty/craft liquor stores**, such as Bottles and Bitters in South San Francisco that would be exempt from the land use restrictions that would otherwise restrict "traditional" liquor stores.
- **Public-serving office**, of the type of that provides services to the general public, including accountants, financial advisors, and real-estate firms. This would be differentiated from offices that are places of employment with little to no access by the general public.
- **Pet daycare and/or grooming**, subject to the business including a substantial amount of retail stock.
- **Studios** (e.g., yoga, Pilates, martial arts etc.) *along Campbell Avenue*, if they maintain a substantial retail component (such as a yoga studio that sells active wear).
- **Service/Retail stores** that provide of selection of specific retail goods as well as associated services, such as a cell-phone repair shop that also provides cell-phone related accessories.

¹Changes to the C-3 Zoning District will also affect Winchester Boulevard and East Campbell Avenue since the Master Plans for these areas make reference to the allowable uses of the C-3 Zoning District. However, the City maintains discretionary land use control over these East Campbell and Winchester through the Administrative Planned Development Permit process.

Incentives to Encourage Retailers: Given the macro-economic forces affecting retailers large and small throughout the country, the outcome of any incentive program is likely to be limited. However, creation and promotion of such programs do aid in cultivating Campbell's reputation as a good place to do business. In that regard, the following short-term and long-term (as noted in brackets) options may be considered:

- **Allow outdoor merchandise displays without a permit for retailers**, which would relieve business owners of the need to prepare plans and pay a \$340 fee for activity that brings visual interest to Campbell Avenue. *[short- and long-term tool]*
- **Offer no-cost building plan check services** for retail "tenant improvement" permits to ease the cost of opening a new retail store. *[short-term tool]*
- **Allow retail business to promote their business on the City's "Economic Development" website**. The City can communicate its aim to invest in retail through offering free promotional opportunities on the City's Doing Business web page to retail businesses in Campbell. *[long-term tool]*
- **Support active recruitment of major retailers**, as this type of retailer is characterized by (relative) stability and national/regional brand recognition, which can serve as an anchor tenant for Downtown, generating more retail traffic drawn from a wider area. *[long-term tool]*
- **Explore a sales tax rebate program** to encourage establishment of new retailers in Downtown. Such a program could be tailored to provide subsidies to incentivize a business to stay and grow in Campbell. A sales-tax rebate program would incentivize the best performing retail businesses to stay by the tax breaks accrued through high sales volumes. An example of this can be seen in Vacaville's incentive program (link below). *[long-term tool]*
<http://www.cityofvacaville.com/index.aspx?page=672>
- **Revise the FAR "bonus" for floor area additions to non-restaurant uses**. Currently Downtown properties can exceed the 1.25 FAR (to 1.5 FAR) with approval of the Planning Commission under certain circumstances. Restricting the use of this "bonus" to retail and service uses may provide an incentive to promote non-restaurant use types. *[short- and long-term tool]*
- **Create an "Administrative Use Permit" process for new restaurants**. Although the Council was supportive of a Conditional Use Permit requirement for new restaurants, creation of a new administrative permit will provide valuable discretionary control over new restaurants at a quarter of the cost and half of the processing time of a standard Conditional Use Permit. As discussed at the previous City Council and Planning Commission meetings, a discretionary review process will provide the City the ability to determine on a case-by-case basis if a proposed restaurant would tip the scale (i.e., result in an overconcentration) in a particular area of Downtown.

As part of this process, "food-retailers," which sell novelties/snacks, such as ice cream shops, candy stores, and juice bars, would be exempted. Such a distinction recognizes that food retailers' operational practices are far less intensive than standard restaurants, particularly with respect to the number and duration of customer visits. *[short-term tool]*

- **Eliminate the restaurant parking exception** so that the seating capacities of new Downtown restaurants will be more comparable to restaurants in other parts of the City. This will reduce the competitive advantage that Downtown restaurants currently have over non-Downtown restaurants. *[long-term tool]*
- **Reinstitute interim parking in-lieu fee for restaurants** so that seating in excess of the "base" allowance would require remittance of a fee for every additional parking space. An in-lieu fee for restaurants exceeding parking requirements would put a price on the parking demand generated by these establishments commensurate with their impact to public parking facilities. In this manner, restaurants would be held accountable for the extra traffic their businesses create—particularly as compared retailers which have a much lesser impact—and aid in funding programs to combat additional traffic congestion, build more parking, encourage alternative transportation solutions. *[short- and long-term tool]*
- **Provide assigned parking for employees of non-restaurant uses** as a means to establish a long-term benefit to retailers willing to stay in Downtown Campbell. Not only would this approach provide an incentive, it would also improve the parking management practices in the Downtown by encouraging convenient parking spaces to be available to customers. *[long-term tool]*

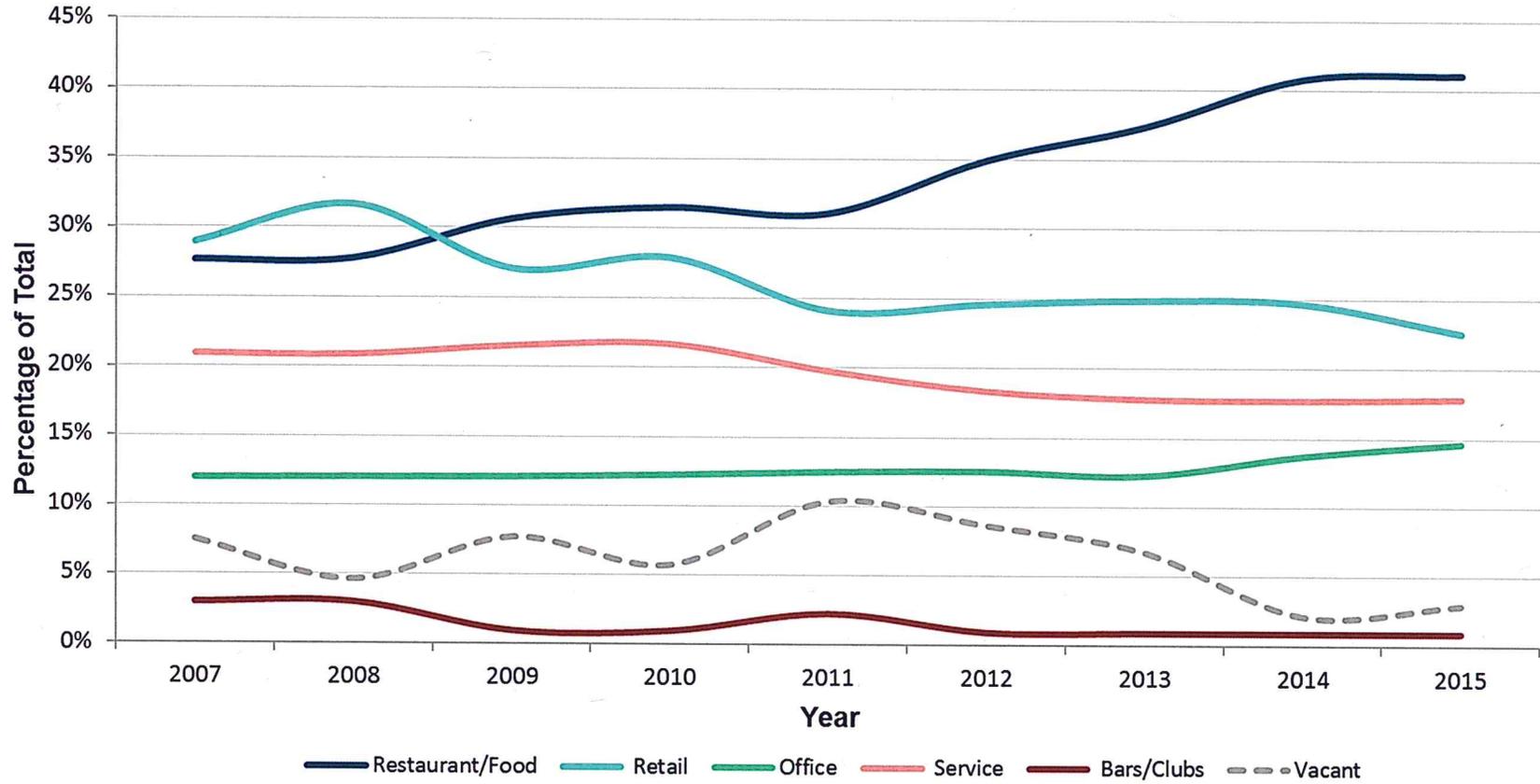
NOTIFICATION

The City distributed a courtesy notice of this study session to owners of all C-3 zoned properties and properties within 300-feet. The City also reached out the local brokerage community, regional economic development professionals, Campbell's Chamber of Commerce and the Downtown Business Association to provide insight on this discussion.

Attachments

1. Downtown Use Charts/Tables
2. Council Study Session Report, dated March 5, 2013
3. Council Study Session Report, dated July 16, 2013
4. Council Study Session Report, dated February 17, 2015
5. Joint Council / Commission Study Session Report, dated June 16, 2015
6. Planning Commission Staff Report, February 23, 2016
7. City Council Staff Report, March 15, 2016

Downtown Commercial Space by Use 2007 to 2015



MEMORANDUM**City of Campbell**

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

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

Via: Mark Linder, City Manager

Subject: Study Session to Review Mix of Downtown Uses

PURPOSE OF STUDY SESSION

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

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

BACKGROUND

Land Use Policies. City land use policies applicable to this discussion can be found in the Campbell General Plan, the Downtown Campbell Development Plan, the Downtown Alcohol Beverage Policy, and the Redevelopment Implementation Plan (reference Attachment 3). Together, these documents speak to a desire to promote and enhance a Downtown environment that provides a desirable balance of land uses including shopping, services, and entertainment. This vision is evidenced in policies that encourage a mix of day and evening activities, a distinctive retail presence, a diversity of eating establishments, and support for neighborhood-serving businesses.

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

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

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

- Retain and enhance the Downtown area as a unique and economically viable retail and business center serving local and area wide commercial needs.
- To reinforce Campbell Avenue as a pedestrian-orientated retail street
- To promote ground floor retail use, upper floor commercial and residential uses where appropriate and a suitable mix of uses in the Downtown area.
- To establish development intensities consistent with the scale of the central business area and the amount of parking which can be accommodated within and adjacent to it.

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

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

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

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

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

2. **Restaurants.** Restaurants, including those with beer and wine service, with a closing time before 11 PM are permitted without a Conditional Use Permit. If a restaurant includes the service of hard alcohol or is open after 11 PM, a Conditional Use Permit is required. To approve this type of request, the Zoning Code requires the Planning Commission to make specific findings (CMC 21.47.070):
 - a. Over concentration of uses. The establishment will not result in an over concentration of these uses in the surrounding area;
 - b. Not create a nuisance. The establishment will not create a nuisance due to litter, noise, traffic, vandalism, or other factors;
 - c. Not disturb the neighborhood. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood; and
 - d. Not increase demand on services. The establishment will not significantly increase the demand on city services.

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

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

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

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

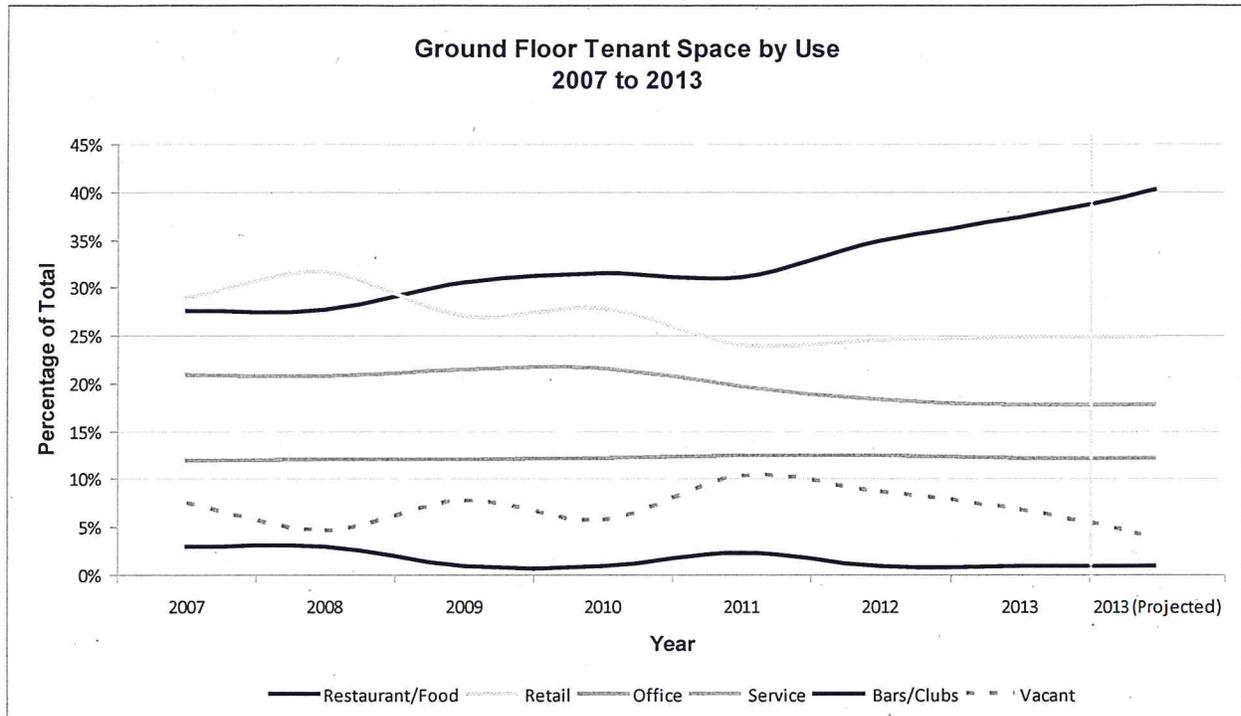
DISCUSSION

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

1. Mix of Uses: The shift to a restaurant-oriented commercial base may diminish the ability of the Downtown to serve as the "economically viable retail and business center" envisioned by the General Plan by reducing opportunities for unique or neighborhood-serving retail. As the mix of uses changes over time, the Downtown may become more evening-oriented, resulting in a daytime environment with little activity. Restaurants, especially those where alcohol service plays a prominent role tend to be a more evening-centered use, having later "peak hours" than retail stores. To what extent this shift achieves consistency with the City's land use policies is an issue for the Council to consider.

2. Displacement of Retail Space: Through increased demand for leasable Downtown space, restaurants may be displacing retail tenants by increasing asking rents, (although the City does not have access to prevailing rent statistics to document such increases). Although much of Downtown's formally vacant tenant spaces have been occupied by restaurants, this may reflect the economic forces that continue to challenge the "brick and mortar" retail market. Retailers may have been unable to occupy space vacated during the recession. It is possible that restaurants established in the last two years may have occupied space that otherwise would have remained vacant. However, the events of the last two years may limit future retail growth by "locking up" viable retail space with long-term restaurant leases.

3. Increase Demand on Parking: An increase in the number of restaurants is likely increasing demand on public parking supplies. To what extent this may be occurring is unknown without preparation of a parking demand study. What is known, however, is that the City is not receiving complaints from residents regarding parking in the neighborhoods (although, complaints from Downtown merchants desiring additional *convenient* parking for their customers are periodically received).

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

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

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

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

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

OPTIONS

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

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

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

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

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

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

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

NEXT STEPS

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

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

EXHIBITS

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

MEMORANDUM**City of Campbell**

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

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

Via: Mark Linder, City Manager

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

PURPOSE OF STUDY SESSION

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

BACKGROUND

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

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

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

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

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

DISCUSSION

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

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

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

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

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

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

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

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

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

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

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

NEXT STEPS

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

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

EXHIBITS

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

MEMORANDUM**City of Campbell**

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

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

Via: Mark Linder, City Manager

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

BACKGROUND

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

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

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

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

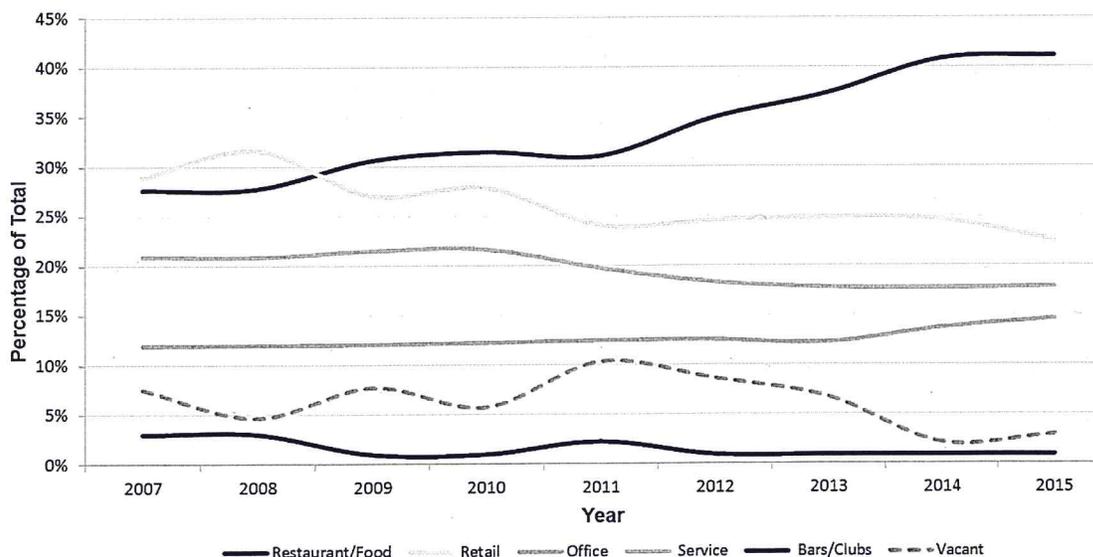
The vision for Downtown Campbell is to continue to reinforce its place as the center for community activity, cultural and civic events, and as a vibrant central business district. It is intended that the Downtown be an active, walkable central business district that attracts local residents and visitors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

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

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

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

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



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

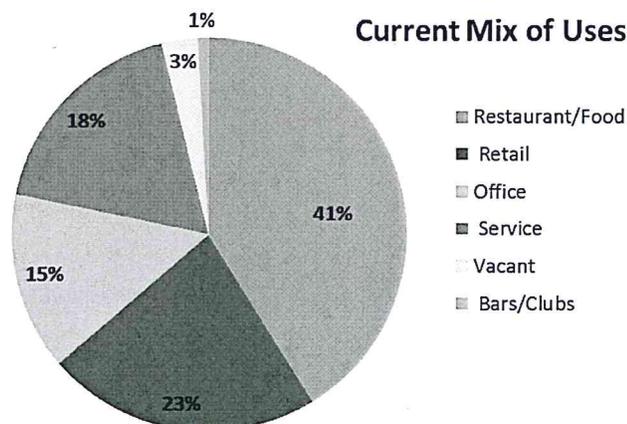
Currently, three retail tenant spaces have or will shortly be vacated, including *Vintage and Vogue* (1,300 sf), *Toys Toys Toys* (1,470 sf), and *Gabriellia's Bridal* (1,500 sf), resulting in a slight uptick in the vacancy rate (reference **Attachment 5** – Downtown Map). Based on staff's conversations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

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

DISCUSSION

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

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



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

NEXT STEPS

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

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

1. Direct Land Use Control

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

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

2. Increase Land Use Discretion

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

3. Passive Discouragement of New Restaurants

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

4. Encourage Retail and Other Non-Restaurant Uses

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

CONCLUSION

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

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

Attachments

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

MEMORANDUM**City of Campbell**

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

Date: June 16, 2015

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

Via: Mark Linder, City Manager

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

INTRODUCTION

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

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

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

VISION AND POLICIES

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

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

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

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

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

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

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

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

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

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

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

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

REQUESTED DIRECTION

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

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

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

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

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

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

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

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

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

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

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

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

Attachments

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

ITEM NO. 3



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

PLN2013-13
Text
Amendment

Public Hearing to consider the City-initiated Zoning Text Amendment (PLN2013-13) to amend the Campbell Zoning Code to reclassify restaurants and motor vehicle sale establishments (within an enclosed building) as conditionally permitted uses subject to approval of a Conditional Use Permit and specifically prohibiting drive-through and drive-in restaurants within the C-3 (Central Business District) Zoning District.

STAFF RECOMMENDATION

That the Planning Commission take the following action:

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

ENVIRONMENTAL DETERMINATION

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

BACKGROUND

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

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

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

DISCUSSION

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

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

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

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

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

1. Restaurant CUP Requirement: Restaurants in the C-3 Zoning District would be categorized as "conditional use", requiring approval of a CUP. This would allow the Planning Commission to consider the merits of a new restaurant proposal on a case-by-case basis. However, new restaurants locating within ground-floor tenant spaces along Campbell Avenue currently occupied by an office or salon would be exempted as an incentive for property owners to turn-over ground-floor tenant spaces currently occupied by these non-conforming uses (offices and salons are no longer permitted along Campbell Avenue, east of Second Street).
2. Findings of Approval: A CUP is not merely a mechanism to impose conditions of approval. Rather, it is a tool that allows the City to determine if a particular use is appropriate in a particular location. In this regard, in making its determination to approve or deny a CUP application, the Planning Commission must rely on established findings, which form the basis for a decision. Since the purpose of this CUP requirement is to determine appropriateness of a new restaurant on a site-specific basis, the findings should speak to the applicable goals and policies of the City. To this extent, staff has prepared the following findings that would be applicable to new restaurant CUPs:
 - Establishment of the proposed restaurant will foster a balance of day and evening activity in the downtown;
 - Establishment of the proposed restaurant will maintain a balanced mix of permitted uses in the downtown;
 - Establishment of the proposed restaurant will contribute to the diversification of eating establishments in the downtown;
 - Establishment of the proposed restaurant will not result in an over concentration of restaurants in the immediate vicinity.

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

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

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

ANALYSIS

Pursuant to CMC Sec. 21.60.070, an amendment to the Municipal Code may only be approved if the decision-making body finds that: (1) the proposed amendment is consistent with the goals, policies, and actions of the General Plan; (2) the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the city; and (3) the proposed amendment is internally consistent with other applicable provisions of the Zoning Code. Staff believes that these findings can be favorably established, as discussed below:

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

City land use policies applicable to this matter can be found in the Campbell General Plan and the Downtown Development Plan. Together, these documents speak to a desire to promote and enhance a Downtown environment that provides a desirable balance of land uses including shopping, services, and entertainment. This vision is evidenced in policies that encourage a mix of day and evening activities, a distinctive retail presence, a diversity of eating establishments, support for neighborhood-serving businesses, and protection of surrounding residential neighborhoods. Adoption of the proposed ordinance to reclassify restaurants a conditional use would be consistent with this policy vision.

Campbell General Plan:

- Policy LUT-5.1: Neighborhood Integrity: Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values, while protecting the integrity of the city’s neighborhoods.
- Policy LUT-5.3: Variety of Commercial and Office Uses: Maintain a variety of attractive and convenient commercial and office uses that provide needed goods, services and entertainment.
- Strategy LUT-5.3g: Day and Evening Activities: Encourage restaurant and specialty retail uses in the Downtown commercial area that will foster a balance of day and evening activity.
- Strategy LUT-9.1c: Land Use Objectives and Redevelopment Plans: Permit only those uses that are compatible with land use objectives and redevelopment plans.
- Policy LUT-11.2: Services Within Walking Distance: Encourage neighborhood services within walking distance of residential uses.
- Policy LUT-19.1: Campbell Downtown Development Plan: Ensure that new development within the Downtown Area complies with the requirements of the Campbell Downtown Development Plan.
- Strategy LUT-19.1a: Mix of Uses: Encourage a compatible mix of uses (i.e. professional offices, services and retail uses) with ground floor retail uses.

Downtown Development Plan

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

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

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

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

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

NOTIFICATION

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

Attachments:

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

Prepared by:



Daniel Fama, Associate Planner

Approved by:



Paul Kermoyan, Community Development Director



City Council Report

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

TITLE Public hearing to consider a City-initiated Zoning Text Amendment (PLN2013-13) to amend the Campbell Zoning Code to reclassify restaurants and motor vehicle sale establishments (within an enclosed building) as conditionally permitted uses subject to approval of a Conditional Use Permit and specifically prohibiting drive-through and drive-in restaurants within the C-3 (Central Business District) Zoning District. (Introduction of Ordinance/Roll Call Vote)

RECOMMENDATION

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

1. **Take a first reading of the attached Ordinance (Attachment 1)**, amending the Campbell Zoning Code to reclassify restaurants and motor vehicle sale establishments (within an enclosed building) as conditionally permitted uses subject to approval of a Conditional Use Permit and specifically prohibiting drive-through and drive-in restaurants within the C-3 (Central Business District) Zoning District.

ENVIRONMENTAL DETERMINATION

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

DISCUSSION

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

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

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

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

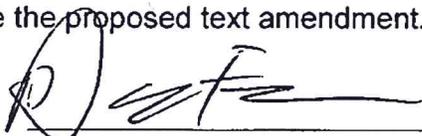
FISCAL IMPACTS

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

ALTERNATIVES

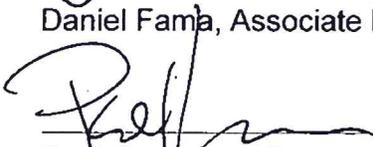
1. Revise specific sections of the proposed text amendment.
2. Continue for further review.
3. Do not approve the proposed text amendment.

Prepared by:



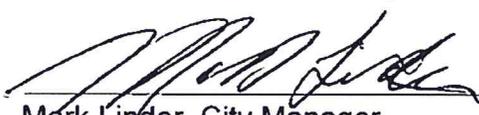
Daniel Fama, Associate Planner

Reviewed by:



Paul Kermoyan, Community Development Director

Approved by:



Mark Linder, City Manager

Attachments:

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

MEMORANDUM



City of Campbell

City Clerk's Office

To: Honorable Mayor and City Council

Date: February 7, 2017

From: *AS* Andrea Sanders, Deputy City Clerk

Via: *RL* Brian Loventhal, City Manager

Subject: Desk Item 00A – Email from Laurie and Dana Doss

On February 7, 2017, an email was received as part of the public record in regards to the Study Session.

Downtown Campbell Land Use And Incentivizing Retail

1 message

Laurie Doss

Tue, Feb 7, 2017 at 4:21 PM

To:

Downtown Campbell Land Use And Incentivizing Retail

Thank you for revisiting the need to bring more retail/service businesses into Downtown Campbell and allowing additional land use types. We understood you want a balance in Downtown Campbell of Restaurants, Retail and Service businesses.

We all agree the balance is way off and are asking the council to ease restrictions on service oriented business in Downtown Campbell. Possibly a combination of both retail and service would be allowed. When you talk about:

Retail Medical such as optometrists that also sells retail eyewear Studios (Yoga, Pilates, Martial arts etc)

Service / Retail such as cell phone repair and retail sales You state you want a substantial amount of retail products

We feel 50% retail and 50% service in one location would bring a better mix of merchants to Downtown Campbell.

In order for a merchant to open a new business today it needs to be more diverse, to bring back customers on a day to day basis.

Retail needs every day foot traffic in order to survive.

Retail and service feed off one another.

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

Beauty supply and salon (in the back of the unit)

Portrait studio and framing

Mommy and me classes

Optometrist and eye frames

Shipping, P O Boxes, Gift wrapping and Cards

Shoe Repair

Quilting supplies and classes

Bicycle sales and service

Cell phones and repair

Children art studio and gifts

Pottery studio sales and classes

High end consignment clothes and handbags

High end consignment clothes and handbags should be allowed because it brings a class of merchandise that the everyday shopper can afford and have proven to be very successful in other downtown areas.

Without 50% retail and 50% service it would be difficult for a retail business to survive. Times have changed for retail and we need to change with the time.

Allow retail businesses the option of adding service/classes

We feel signage is very important to a retail business.

If you compare the signage on the restaurant next door, it is much larger then what was allowed for our retail building.

Retail should at this point get more signage to bring more retail

business to Downtown Campbell.
More merchant display and signage is needed with less restrictions,
No permit cost and offering no-cost building plan check services.
Provide assigned parking for employees of non-restaurant uses.

More exposure for retail businesses when closing the streets for festivals

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

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

If we can be of any assistance please do not hesitate to contact us.

Sincerely,

Laurie and Dana Doss

My Name is Dawn Anderson

I am an Architect and Subject Matter Expert in Accessibility Law and Regulation.

I am asking City Council to **delay** the bidding of the Accessibility Ramp and Installation Project

Am I also requesting City Council **agendize** discussion of the City's compliance to federal law, regulations **and guidelines**, including technical assistance on curb ramp design from federal agencies including the Department of Justice and the Department of Transportation.

I propose that the (5) pages of engineered design in the Accessibility Ramp and Installation Project be directed to the **Bicycle & Pedestrian Advisory Committee** for additional consideration.

And, that the **Bicycle & Pedestrian Advisory Committee** provide recommendations and findings to Council and Staff addressing best curb ramp design practices to reduce risk and increase public safety.

And, that the Bicycle & Pedestrian Advisory committee consider the opinions and comments from local accessibility experts and a representative local group of people with disabilities.

I bring these matters to the attention of the Council because I believe, with strong reason, that the proposed design from City staff puts residents *unnecessarily* in harm's way and places the City in conflict with federal law and therefore at risk of litigation or at best the reconstruction of newly built curb ramps.
