

CITY OF CAMPBELL PLANNING COMMISSION
MINUTES

7:30 P.M.

TUESDAY

JANUARY 12, 2016
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of January 12, 2016, was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Chair Dodd and the following proceedings were had, to wit:

ROLL CALL

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

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Reynolds, seconded by Commissioner Kendall, the Planning Commission minutes of the meeting of December 8, 2015, were approved as submitted. (6-0-1; Commissioner Bonhagen was absent)

COMMUNICATIONS

None

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

CONSENT

There were no consent items.

PUBLIC HEARINGS

Commissioner Finch advised that she must recuse from this first item on the agenda due to a monetary gain from a competing business location nearby. She left the dais and chamber.

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

1. **PLN2015-22** Public Hearing to consider the application of Edwards & Anderson, Inc., for a Modification (PLN2015-22) to a previously approved Use Permit (UP 83-06) to allow the existing Shell Gas Station and associated mini-mart to operate 24-hours a day (late night operation) on property located at **570 E. Hamilton Avenue**. Staff is recommending that this project be deemed Categorical Exempt under CEQA. Planning Commission decision final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: Stephen Rose, Associate Planner

Mr. Stephen Rose, Associate Planner, presented the staff report.

Chair Dodd asked if there were questions of staff.

Commissioner Reynolds asked the City Attorney if there is any way that the Planning Commission can add conditions of employment within a set of conditions of approval.

City Attorney William Seligmann said if there is a nexus, the answer is yes. If there are some work-related criteria this may be possible to condition. However, since drug testing has privacy implications, it would not be something for this Planning Commission itself to impose.

Commissioner Kendall asked about the planned retention standards for the footage from the three cameras. She asked if Campbell PD would establish such standards.

David Livingston, Sergeant, Campbell Police Department:

- Replied no.
- Added that Campbell PD just provided suggestions to this business owner as to what they might do to make this location less attractive place to do criminal activities that had occurred in the past.
- Pointed out that these security cameras serve as a deterrent. Campbell PD would welcome any footage that might be available in the event that something should occur but have not established a specific retention standard.

Commissioner Kendall asked Sergeant Livingston if these security cameras would be in operation 24-hours a day.

Sergeant Livingston replied yes. The cameras are in operation when the business is in operation, which they are requesting to be 24 hours a day.

Planner Stephen Rose said that these cameras are wide-angled and the recordings will be made available to assist the Police in the event of criminal activity at the location.

Commissioner Rich:

- Asked if Campbell PD is comfortable with this proposed 24-hour operation and that it would not be a contributor to unlawful activity in the future. Is there any specific correlation between businesses with 24-hour operations and unlawful activities?

Sergeant Livingston advised that the staff at this location (Shell) at that time was the correlation due to the people that they drew to the location.

Commissioner Rich asked if there are any remaining concerns on the part of Campbell PD.

Sergeant Livingston said that this 24-hour use should be fine as long as they continue in the manner that they have been operating in the last year (having ceased 24-hour operations during that time).

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

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

Commissioner Reynolds:

- Said that he likes the idea of allowing this Shell Station to return to 24-hour operations. This is good for the motoring public and for our City.
- Added that this is a good location for a 24-hour service station.
- Admitted that his biggest concern is the employee drug testing policy, specifically paragraph 4.

- Pointed out that this policy is a condition of employment. New employees must agree to submit to random drug testing. It seems per the policy that in the event that an employee refuses drug testing, that employee would be restricted to working between the hours of 8 a.m. and 5 p.m. rather than being terminated. This seems to give employees the option to opt out of drug testing.
- Recounted that he once worked as a gas station attendant when he was a teenager. There are hazards that are inherent in fueling stations. People who work there have to be coherent and not intoxicated or otherwise impaired.
- Said that this draft policy for random drug testing appears to be contradictory with an opt-out option.
- Suggested removing that option from the policy.

Director Paul Kermoyan clarified that the Planning Commission is not conditioning that requirement for random drug testing. Rather that requirement is a part of the business owner's efforts to make sure their employees meet their requirement to be drug free.

Commissioner Reynolds asked for clarification that the owner created that policy document for random drug testing.

Director Paul Kermoyan replied that the City had no say on that condition of employment.

Commissioner Reynolds said that if that language remains a part of their policy on random drug testing, he would be unable to support this proposed use. That policy could provide this business a method of ensuring a safe operation but the added opt-out language weakens it.

Commissioner Kendall said that this document requiring submittal to random drug testing is similar to the one she uses with her business.

Director Paul Kermoyan added that they can chose to change the document from time to time as well.

Commissioner Reynolds said that he would not support this request with this form remaining as it is currently written with an opt-out provision. That is just moving a potential problem and not removing it from this business.

Chair Dodd pointed out that this doesn't mean the business cannot call the Police if they find an employee to be under the influence while at work.

Commissioner Young:

- Referenced a letter provided by the applicant that indicates that a lot of the crime that had been occurring had been influenced by a nearby homeless encampment that is now gone.
- Added that following Campbell PD's recommendations is a good idea including the provision of security camera footage to PD upon request.
- Pointed out that storage of such footage can become expensive. It may not be reasonable to keep all footage.

- Said that having this service station that is located so close to a freeway in operation 24-hours per day makes sense.
- Said that he has no issue with the policy with an employee random drug testing requirement.
- Stated that the form actually looks like other such standard forms that he has seen.
- Concluded that he would be supporting this application.

Commissioner Rich:

- Asked if a condition might be considered that if there are three drug related arrests involving employees, then the hours at this location would be reduced back to their existing hours.
- Added that he too has no problem with the requirement for drug testing.
- Stated that he is in favor of this application.

Commissioner Young:

- Referenced Condition 3 that provides the Director with the authority to bring a use back to the Commission as appropriate. That is a standard condition.

Commissioner Kendall said that a broad statement is good enough. If Campbell PD feels the use needs to be brought back for further review, it will be.

Director Paul Kermoyan agreed. As the condition is written, the reasons for bringing it back before the Commission are written extremely broadly. Arrests could be reviewed as a public nuisance that might curtail hours immediately and bring the use back to the Commission.

Commissioner Kendall said that the Director and Campbell PD should determine when and why this use should return for further consideration. She added that she is supportive.

Commissioner Reynolds asked Chair Dodd to re-open the public hearing so he can ask a question of the applicant.

Chair Dodd re-opened the public hearing for Agenda Item No. 1.

Commissioner Reynolds asked if Attachment 6 of the staff report represents a condition of employment.

Mr. David Bicknell, Attorney/Applicant's Representative:

- Said yes it is. The purpose is to allow drug testing.
- Added that a potential employee would not be hired if they are not willing to sign this form agreeing to such testing if requested.
- Stated that in the event that an employee is suspected of being at work under the influence they would contact the Police and the employee subsequently discharged.

Chair Dodd re-closed the public hearing for Agenda Item No. 1.

Motion: Upon motion of Commissioner Reynolds, seconded by Commissioner Rich, the Planning Commission adopted Resolution No. 4269 approving a Modification (PLN2015-22) to a previously approved Use Permit (UP 83-06) to allow the existing Shell Gas Station and associated mini-mart to operate 24-hours a day (late night operation) on property located at 570 E. Hamilton Avenue, subject to the conditions of approval, with an added condition that the Director and Campbell PD determine the retention schedule for the security camera surveillance footage, by the following roll call vote:

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

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

Commissioner Finch returned to the chambers and dais.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan provided the following additions to the written report:

- Advised that the League of California Cities Planning Commission Academy will occur in March.
- Added that he has added to his budget so that more than just two Commissioners can sign up if they are interested.
- Asked the Commissioners to contact him should they learn of other training opportunities that might be helpful to them in their work on the Commission.

Commissioner Reynolds asked if Director Kermoyan is aware of any training programs that focus on parking.

Director Paul Kermoyan replied that he knows there are often focused discussions on parking at most conferences but he's not found a conference focusing solely on parking.

Commissioner Reynolds recalled a full day event sponsored by VTA.

Director Paul Kermoyan said that such an event is more a workshop than conference. If anyone learns of something that could be useful, please contact him to discuss the specifics.

Commissioner Kendall advised that Los Gatos' Planning Commission will be discussing their parking standards this week. That could be interesting to watch and follow.

ADJOURNMENT

The Planning Commission meeting adjourned at 8:07 p.m. to the next Regular Planning Commission Meeting of **January 26, 2016**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Cynthia Dodd, Chair

ATTEST: _____
Paul Kermoyan, Secretary