

CITY OF CAMPBELL PLANNING COMMISSION
MINUTES

7:30 P.M.

TUESDAY

APRIL 26, 2016
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of April 26, 2016, was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Acting Chair Kendall and the following proceedings were had, to wit:

ROLL CALL

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

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Finch, seconded by Commissioner Reynolds, the Planning Commission minutes of the meeting of April 12, 2016, were approved as submitted. (3-0-3-1: Acting Chair Kendall and Commissioners Bonhagen and Young were absent and Commission Rich abstained)

COMMUNICATIONS

Letter of support for Agenda Item 1.

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

CONSENT

There were no consent items.

PUBLIC HEARINGS

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

1. **PLN2016-46** Public Hearing to consider the application of Velimir Sulic for a Tentative Parcel Map (PLN2016-46) to allow a two-lot single-family residential subdivision on property owned by Shahin Jahanbani located at **44 El Caminito Avenue** in the R-1-6 (Single-Family Residential) Zoning District. Staff is recommending that this project be deemed Categorical Exempt under CEQA. Planning Commission decision final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Stephen Rose, Associate Planner*

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

Acting Chair Kendall asked if there were questions of staff.

Commissioner Rich clarified that of the 123 lots in the neighborhood there are eight lots of sufficient size to split.

Planner Stephen Rose said that lots must be about 14,000 square feet in size to split since the rear lots are required to be 10 percent larger plus the access "flagpole" that belongs to the rear lot.

Commissioner Finch asked the size of the five lots on Budd.

Planner Stephen Rose said that they are about 16,000 square feet.

Acting Chair Kendall opened the Public Hearing for Agenda Item No. 1.

Velimir Sulic, Applicant:

- Thanked Planner Stephen Rose for an excellent presentation of this proposal.
- Reported that this is a 16,000 square foot lot that is located adjacent to a site to be developed with 16 condominium units with retail.
- Added that this request is for a two lot subdivision that conforms to all standards.
- Assured that there would be no multi-family or commercial uses on these two residential parcels, just one single-family residence per lot.
- Advised that no major tree would be cut or removed especially the two large cedars in front.
- Explained that two owners own the property. One lives in the existing house and will build their dream house.

Helen Wu:

- Said that her family is living on the property.
- Added that her husband was raised in Campbell and is a Del Mar High School graduate. Her mother-in-law has been a Campbell resident for more than 30 years.
- Stated that she loves this location and is looking forward to constructing her dream home there.

Velimir Sulic said that they were in support of the conditions of approval and ask for approval of this request to split this parcel.

Danny Thomas, Resident on El Caminito:

- Said that his home is located across the street from the proposed site.
- Stated that he does not support this project.
- Reported that he bought his property 10 years' ago and did so because of the character of this neighborhood.
- Said that he just remodeled his home and elected not to subdivide his property and also took pains to build his house in a way that matches the character of the neighborhood.
- Pointed out that this neighborhood is already impacted by the Winchester Boulevard Master Plan.
- Said that allowing one more house on a property intended for one home equates to impact on the neighborhood.

LeeAnn Farley, Resident on El Caminito:

- Said that her home is located directly next to this subject site.
- Said that there is a lack of support for this proposal to split this parcel.
- Explained that she bought her home about seven years' ago. She also owns a property on Sunnyside Avenue, across Winchester Boulevard. They moved from there to here due to the amount of development underway on Sunnyside and the resulting increase in traffic and noise.
- Reiterated that the lack of neighborhood support equals a lack of compatibility to this neighborhood. This proposal has an impact on them (neighbors) and it is a negative impact.

Russell Pfermann, Resident on California Street:

- Said that there had previously not been a lot split in his neighborhood until a 16,000 square foot parcel on California was recently split.
- Said that in spite of the R-1-6 Zoning, most of the properties in this neighborhood are 9,000 square feet or more. An average lot is 12,000 square feet. The overall average in the Four C's Neighborhood is 8,000 square feet.
- Said that retaining larger lots allows options of choice in order to stay. Owners can enlarge existing homes on their larger parcel as necessary to serve their growing families.
- Asked that this lot split be denied. The Planning Commission has the discretion to deny this.

John Maderi, Resident on El Caminito:

- Said his property is located diagonally across the street.
- Stated his concurrence with the comments of his neighbors.
- Pointed out that even if just one or two lots on a street are split from single to flag lots a neighborhood is changed.
- Added that he would hate to see densities of Sunnyside and Rincon occur in this neighborhood.
- Said that there is already the pending commercial construction on the corner and the traffic impacts that could have on that corner. This proposed lot split will help add to congestion in this neighborhood.

Acting Chair Kendall closed the Public Hearing for Agenda Item No. 1.

Commissioner Finch recalled that when the mixed residential-commercial project on the corner was approved the Commission had a lengthy discussion about related traffic and directed that traffic from that site be routed away from the neighborhood and directed east instead.

Planner Stephen Rose said he was not there at the time.

Director Paul Kermoyan:

- Said that a Traffic Circulation Study was prepared and reviewed.
- Added that the Planning Commission felt that the distribution of trips was found to be acceptable.

Commissioner Finch:

- Admitted that she is conflicted on this request.
- Pointed out that the Zoning Code says it can be built.
- Added that she doesn't think that the five lots on Budd, if they should be subdivided in the future, would adversely impact El Caminito.
- Reported that she is familiar with the lot at California and Catalpa that was recently split.
- Stated that she sees that a split will change the character but the site is zoned for what is proposed.

- Added that the width of an original lot has a lot to do with the ability to subdivide and create a flag lot and as such there will not be a proliferation.

Commissioner Rich:

- Admitted that he too is conflicted.
- Added that while this property fits within the requirements the community has genuine concerns.
- Stated that while he has no concerns that there will be traffic impacts with this one additional home, he can see a concern developing with a gradual change in character for the neighborhood.

Commissioner Reynolds:

- Stated that he is not conflicted.
- Said that the General Plan spells out clearly the obligation to retain the character of a neighborhood. This is a single-family residential neighborhood that is designed for single-family parcels.
- Added that while there are a minimum number of properties that could be subdivided into two parcels, he can see even that limited number creating a strain on existing infrastructure.
- Said that the General Plan and the Municipal Code do not discourage or prohibit creation of flag lots. However, he feels that may be something that should be reviewed further by the City Council.
- Reiterated his concerns about the potential for impacts on existing infrastructure by adding density to a single-family neighborhood.
- Pointed out that Campbell is growing and growing. This neighborhood is still trying to digest the impacts of the Winchester Boulevard Master Plan.
- Said that high density should be located near Light Rail and that the integrity of the single-family neighborhoods must be maintained. Subdividing a parcel changes the character and impacts existing neighbors. They bought into a single-family community with larger lots and we owe it to them to maintain that integrity of their neighborhood.
- Advised that he would not be supporting this application.

Commissioner Finch:

- Said that she goes back and forth on this.
- Pointed out that two neighbors, one from across the street and the other from next door, have indicated that they would not be subdividing their properties.
- Said that she is concerned with implementing the guidelines of the City.
- Added that she feels for these people but Codes say this lot split is possible.
- Said that there are also rights of those who have bought this property. They also have property rights. They bought for the reason of subdividing.
- Admitted that she is leaning to supporting this request that would result in just one additional home with lots that are still larger than typical 6,000 square foot lots.
- Stated that the proposed new home would be brought before SARC. SARC can see that the design of the new home fits within this neighborhood.

Director Paul Kermoyan:

- Said that typically a subdivision comes before the Planning Commission together with a Planned Development Permit for what is proposed on the new lots.
- Advised that in this case, this is not a subdivision but rather a lot split.
- Said that the Subdivision Code provides direction to the City to approve.
- Explained that someone can take down an existing house and build a new house without design review being required. That means there would be no SARC review in this case.
- Added that there are no findings that direct the City when to approve or deny such a request. The request has to adhere to Code standards.
- Stated that there is no provision in our Code to deny a flag lot outright.

City Attorney William Seligmann said that what Director Kermoyan says is correct. He added that it is also true that an approval has to be consistent with the City's General Plan.

Acting Chair Kendall:

- Said that it is hard to determine if this proposal is changing the character of this neighborhood as there is no planned residence(s) yet.
- Added that the driveway is where it is.
- Stated that there is an existing ranch-style home on this property already.
- Said that she knows that this lot split should not result in an excessive strain on existing infrastructure.

Commissioner Rich:

- Said that "character" is in the eye of the beholder.
- Stated that residents have spoken their concerns of possible impairment on their neighborhood. That is what they feel.
- Said that he doesn't have concern about traffic infrastructure as a result on one addition residential lot.
- Added that he is listening to the community members as they express their concerns about development within their community.
- Admitted that he is on the fence here.
- Agreed that this property owner also has rights while the neighbors want to retain the character of their existing neighborhood.

Commissioner Reynolds:

- Said he too supports personal property rights 100 percent. Those rights also apply to existing neighbors and their expectations.
- Said that the question is, "Is this flag lot reasonable?"
- Added that question sends him back to the General Plan. He said that the City's Codes are guidelines based on the General Plan. They don't specify that the Commission "has" to approve this request.
- Stated his support for the existing character and development pattern of this neighborhood. It is black and white and not a gray area. That helps him in considering any personal property rights issue.
- Reiterated that these are single-family developed lots.

Commissioner Rich said that a 7,000 or larger lot is a decent single-family lot. That is his struggle.

Commissioner Reynolds:

- Said that he’s now been on this Planning Commission for seven years.
- Added that he tended to go along with the staff recommendation early on but has learned over time that flag lots really take a lot more review as they change the character of our community when splitting one lot into two.
- Said that comparing this area to the San Tomas Area, the San Tomas Area is more of a rural environment while this is a single-family neighborhood with larger lots. To approve this request is to change that incrementally. Cumulatively, it will change the area down the road.
- Reminded that the General Plan calls to maintain and support the character of existing neighborhoods.

Commissioner Finch:

- Stated her disagreement with Commissioner Reynolds. One new home will not impact existing infrastructure.
- Said that these are fairly large residential lots as proposed and will result in single-family homes within a single-family neighborhood. There is no high-rise proposed here.
- Said that she has driven down that street many times and notes that there are several two-story homes in that area.
- Stated that this will not change the character but rather is consistent with single-family homes proposed for a single-family neighborhood.
- Reiterated that there is already precedence for two-story homes here.
- Reminded that these are still good-sized lots that match this neighborhood and they will not impact infrastructure.
- Concluded that she would be supportive of this request.

Motion: Upon motion of Commissioner Finch, seconded by Chair Kendall, the Planning Commission moved to approve a Tentative Parcel Map (PLN2016-46) to allow a two-lot single-family residential subdivision on property owned by Shahin Jahanbani located at 44 El Caminito Avenue, subject to the conditions of approval, by the following roll call vote:

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

Director Paul Kermoyan:

- Advised that this tie vote is a vote of no decision. As this is not a full Commission the applicant can request a continuance to allow the full Commission to vote on this matter after those who are absent have watched this meeting and reviewed all materials.

- Said that a broader discussion of issues raised this evening may need to occur at the Council level.
- Suggested that the applicant be asked if they want this non-decision to stand, which would allow them to appeal to Council, or if they would ask for a continuance until the full Commission can be convened for a vote to break the tie.

Acting Chair Kendall re-opened the public hearing for Agenda Item 1.

Velimir Sulic, Applicant:

- Questioned the resulting tie vote and pointed out that staff had said this lot split was possible.
- Asked if they could request a continuance.

City Attorney William Seligmann said that this item could either be continued to allow at least one more member of this Planning Commission to vote or the applicant could instead accept this non-decision and appeal it to the City Council within 10 calendar days.

Velimir Sulic said that in the past a tie vote equated to a denial. However, if there is no reason for denial it is an automatic approval.

City Attorney William Seligmann said that may depend upon the factual circumstances.

Velimir Sulic asked for a moment to consult with his clients to determine their preferred option.

City Attorney William Seligmann said certainly.

Velimir Sulic consulted with his clients and reported that they have decided to wait for a full quorum of the Planning Commission.

Motion: Upon motion of Commissioner Finch, seconded by Commissioner Reynolds, the Planning Commission CONTINUED TO A DATE UNCERTAIN the consideration of a Tentative Parcel Map (PLN2016-46) to allow a two-lot single-family residential subdivision on property owned by Shahin Jahanbani located at 44 El Caminito Avenue to allow a vote of a larger number of Commissioners to break the current tie vote. (4-0-3; Chair Dodd and Commissioners Bonhagen and Young were absent)

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

- 2. **PLN2016-41** Public Hearing to consider the application of Natasha Muller for a Site and Architectural Review Permit (PLN2016-41) to allow an addition to an existing residence on property located at **816 Cambrian 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: *Cindy McCormick, Senior Planner*

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

Acting Chair Kendall asked if there were questions of staff.

Commissioner Finch asked about a flat roof at the back and what it is.

Planner Cindy McCormick deferred to the project architect.

Acting Chair Kendall opened the Public Hearing for Agenda Item No. 2.

Natasha Muller, Applicant and Project Architect:

- Explained that the flat roof is on an addition done before that will be converted into the master bedroom. The existing flat roof will be replaced with a non-flat roof.

Acting Chair Kendall closed the Public Hearing for Agenda Item No. 2.

Commissioner Rich provided the Site and Architectural Review Committee report as follows:

- SARC had no concerns or issues with this proposal.

Commissioner Finch said that she like the proposal. They did a nice job and she will be supportive.

Motion: Upon motion of Commissioner Reynolds, seconded by Commissioner Rich, the Planning Commission adopted Resolution No. 4284 approving a Site and Architectural Review Permit (PLN2016-41) to allow an addition to an existing residence on property located at 816 Cambrian Avenue, subject to the conditions of approval, by the following roll call vote:

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

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

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

3. **PLN2016-42** Public Hearing to consider the application of Eric Piech for a Conditional Use Permit (PLN2016-42) to allow the establishment of a fitness studio on property located at **356 E. McGlincy Lane**. 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: *Cindy McCormick, Senior Planner*

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

Acting Chair Kendall asked if there were questions of staff.

Commissioner Finch asked if this use requires 14 parking spaces.

Planner Cindy McCormick said that it does need 14 spaces and there are nine available.

Commissioner Rich:

- Said that 14 spaces are required, nine are provided and the maximum occupancy at any given time per this Use Permit will be nine persons. Therefore the available nine spaces are adequate for the proposed use.
- Asked if for some reason they leave this location, would the Parking Modification Permit apply to the next tenant.

Planner Cindy McCormick replied that the Use Permit stays with the property. A new tenant would have to comply with the conditions of approval or come back to request modifications as necessary.

Commissioner Rich confirmed with staff that this approval is good for five years.

Planner Cindy McCormick replied yes.

Acting Chair Kendall opened the Public Hearing for Agenda Item No. 3.

Eric Piech, Applicant:

- Said that he is excited to be a part of the Campbell community. His business is called Fitness & Movement.
- Explained that their clientele is aged 40 or older.
- Added that they are not into heavy weights and are not a cross-training gym.
- Said that this location will include exclusivity of use.
- Added that his wife is here as well this evening. She goes to retirement homes to train clients.

Commissioner Finch clarified that this is a space that Mr. Piech will “broker” to trainers for their use with their clients. She asked if there is a way that he will be able to filter the trainers’ use of this facility.

Eric Piech:

- Explained that these trainers are his customers.
- Said that there will be a maximum of 10 to 12 trainers. There will be an average of four on site at a time.

Ruth Sporer, Client of Motion & Fitness:

- Introduced herself as a 74-year-old client of Eric’s wife. Her husband, who is in his 80’s is also a client.
- Advised that they operate under a fabulous philosophy and will be such an asset to this community.

Acting Chair Kendall closed the Public Hearing for Agenda Item No. 3.

Commissioner Rich said his only concern had been with the parking but that has been addressed. Said that he has a passion for fitness and is all in favor of this request with no concerns remaining.

Motion: Upon motion of Commissioner Finch, seconded by Commissioner Rich, the Planning Commission adopted Resolution No. 4285 approving a Conditional Use Permit (PLN2016-42) to allow the establishment of a fitness studio on property located at 356 E. McGlincy Lane, subject to the conditions of approval, by the following roll call vote:

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

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

Commissioner Finch asked Mr. Piech when this facility would open.

Eric Piech replied that it would be about four weeks.

Commissioner Rich asked Mr. Piech how he markets his business.

Eric Piech said through his web site.

Acting Chair Kendall read Agenda Item No. 4 into the record as follows:

4. **PLN2016-69** Public Hearing to consider the application of Roy Watson and Margaret Eyerman on behalf of Maki Swim School for a Variance (PLN2016-69) to applicable development standards provided in Campbell Municipal Code Sec. 21.08.070 (R-3 Multiple-family Zoning District), Ch. 21.18 (Site Development Standards), and Sec. 21.36.020 (Accessory Structures) to formalize construction of an unpermitted swimming pool enclosure in association with a legal non-conforming commercial swim school on a single-family residential property located at **973 Apricot Avenue**. Staff is recommending that this project be deemed Categorically Exempt under CEQA. Planning Commission decision final unless appealed in writing to the City Clerk within 10 calendar days. *Project Planner: Daniel Fama*

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

Acting Chair Kendall asked if there were questions of staff.

Commissioner Rich questioned why the requirement to have the tent cover up for six months and down for six months. Is that what makes this a “temporary” structure?

Planner Daniel Fama:

- Reported that the Code draws a distinction between a tent and a permanent structure.
- Advised that if it is seen as a tent, that is more of temporary structure with less rigorous standards such as fire sprinklers.
- Reported that there has been some illegal electrical work put in under the canopy and over the pool.
- Added that this Variance under consideration is the first step in a challenging process faced by these applicants.

Commissioner Rich asked what brought this matter before the Commission at this time.

Planner Daniel Fama replied that they had requested a Fire inspection at which time they asked about permits for what they found. The City was unaware of this situation and there were no permits issued.

Commissioner Reynolds asked why the Fire Code would require installation of fire sprinklers over a swimming pool already full of water.

Planner Daniel Fama replied that the Code requires these sprinklers of all buildings with no exclusion.

Commissioner Reynolds said that common sense should require review of that.

Commissioner Finch pointed out that if the tent catches fire, flaming fabric could fall down over kids in the pool.

Acting Chair Kendall opened the Public Hearing for Agenda Item No. 4.

Roy Watson, Applicant/Business Owner, Maki Swim School:

- Admitted that he is disturbed with the requirement to remove the tent for half the year.
- Reported that with conduit that he recently installed to house the electrical wiring work he had previously done, dismantling the tent would now be difficult.
- Added that the vinyl material has been sprayed and treated to be fire resistant. The support poles are aluminum with stainless pins.
- Advised that he personally installed the electrical system.

Acting Chair Kendall asked if they wanted to have this structure considered permanent.

Roy Watson admitted he had thought that the tent could be considered a permanent structure. He added that he has a five-figure estimate for the installation of fire sprinklers.

Margaret Eyerman, Applicant/Business Owner, Maki Swim School:

- Reported that she has been with Maki Swim School for more than 20 years.
- Said if they must take the tent down for six months of every year that would be a problem that defeats its purpose.
- Advised that the previous swim school on site, Water Babies, did not go year round because the pool was uncovered.
- Added that she had called the Building Department before installing this tent and spoke with someone.

Acting Chair Kendall closed the Public Hearing for Agenda Item No. 4.

Planner Daniel Fama:

- Cautioned that the Commission is not here to deal with the Code compliance issues. Those will be handled by the Building and Fire Departments.
- Said that these applicants must secure a design professional to figure out if there is a way to make this current situation work.
- Added that currently what is there is there without permits.
- Clarified that the person that Ms. Eyerman referenced is the City's Code Enforcement Officer who was not here at the time they said they spoke to her.
- Said that the electrical work by Mr. Watson was also unpermitted and uninspected.

Commissioner Reynolds:

- Said that there has been a swim school on this site for as far back as he can remember. It was Water Babies before.
- Advised that he would support the Variance. It will right a lot of wrongs.

- Added that the Commission is not here to change Fire and/or Building Code standards.
- Said that it is important to bring this site up to the safety standards our community expects.
- Reiterated his astonishment at a fire sprinkler requirement over a swimming pool.

Commissioner Rich:

- Said that he is supportive in concept.
- Agreed that the Commission is simply addressing the need for a Variance.
- Sought assurance that if this business were to be sold could another permanent building later be placed on the location of this pool tent.

Planner Daniel Fama said that the Variance is just for what's shown on the plans.

Commissioner Finch:

- Said she supports this Variance.
- Added that the permit issues are out of the control of the Commission.
- Stated that there is no reason not to approve this Variance.
- Pointed out that this use doesn't generate any traffic on Apricot. She works nearby and is on Apricot often.
- Concluded that this swim school is an institution.

Motion: **Upon motion of Commissioner Rich, seconded by Commissioner Reynolds, the Planning Commission adopted Resolution No. 4286 approving a Variance (PLN2016-69) to applicable development standards provided in Campbell Municipal Code Sec. 21.08.070 (R-3 Multiple-family Zoning District), Ch. 21.18 (Site Development Standards), and Sec. 21.36.020 (Accessory Structures) to formalize construction of an unpermitted swimming pool enclosure in association with a legal non-conforming commercial swim school on a single-family residential property located at 973 Apricot Avenue, subject to the conditions of approval, by the following roll call vote:**

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

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

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan had no additions to his written report:

ADJOURNMENT

The Planning Commission meeting adjourned at 9:15 p.m. to the next Regular Planning Commission Meeting of **May 10, 2016**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Yvonne Kendall, Acting Chair

ATTEST: _____
Paul Kermoyan, Secretary