PLANNING COMMISSION
City of Campbell, California

7:30 P.M. February 26, 2013
City Hall Council Chambers Tuesday

AGENDA

ROLL CALL

APPROVAL OF THE MINUTES February 12, 2013

COMMUNICATIONS

AGENDA MODIFICATIONS OR POSTPONEMENTS

ORAL REQUESTS
This is the point on the agenda where members of the public may address the Commission on items of concern to the Community that are not listed on the agenda this evening. People may speak up to 5 minutes on any matter concerning the Commission.

PUBLIC HEARINGS

1. **PLN2012-255 Schaadt, L.** Public Hearing to consider the application of Mr. Larry Schaadt for a Conditional Use Permit (PLN2012-255) to allow the establishment of a new wine bar with food service (Regale Wine Bar) that includes beer and wine sales and late night operational hours (open to public until 11 p.m. with clean up to 12 a.m.) on property located at **400 E. Campbell Avenue** in the C-3 (Central Business District) Zoning District. Staff is recommending that this project be deemed Categorically Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Steve Prosser, Associate Planner*

2. **PLN2012-163 City** Public Hearing to consider the City-initiated Text Amendment (PLN2012-163) to modify the Inclusionary Housing Ordinance to comply with recent case law. Staff is recommending that this project be deemed Categorically Exempt under CEQA. Tentative City Council Meeting Date: March 19, 2013. Project Planner: *Daniel Fama, Associate Planner*

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

ADJOURNMENT
Adjourn to the next regularly scheduled Planning Commission meeting of **March 12, 2013**, at 7:30 p.m., in the City Hall Council Chambers, 70 North First Street, Campbell, California.

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M. TUESDAY

FEBRUARY 12, 2013
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of February 12, 2013, was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Chair Reynolds and the following proceedings were had, to wit:

ROLL CALL

Commissioners Present:	Chair:	Philip C. Reynolds, Jr.
	Vice Chair:	Paul Resnikoff
	Commissioner:	Brian Brennan
	Commissioner:	Pam Finch
	Commissioner:	Elizabeth Gibbons
	Commissioner:	Bob Roseberry
Commissioners Absent:	Commissioner:	John Razumich
Staff Present:	Interim Community Development Director:	Paul Kermoyan
	Associate Planner:	Daniel Fama
	City Attorney:	William Seligmann
	Recording Secretary:	Corinne Shinn

APPROVAL OF MINUTES

Motion: **Upon motion by Commissioner Brennan, seconded by Commissioner Gibbons, the Planning Commission minutes of the meeting of January 22, 2013, were approved. (5-0-1-1; Commissioner Razumich was absent and Commissioner Roseberry abstained)**

COMMUNICATIONS

Desk item for Agenda Item #1 with minor corrections to the Conditions of Approval (page 2 of 3).

AGENDA MODIFICATIONS OR POSTPONEMENTS

There were no agenda modifications or postponements.

ORAL REQUESTS

There were no oral requests.

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PUBLIC HEARINGS

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

1. **PLN2012-269**
   PLN2012-270
   PLN2013-18
   Benetollo, E.

   Public Hearing to consider the application of Ms. Elisabetta Benetollo for an Administrative Planned Development Permit (PLN2012-269), a Modification (PLN2012-270) to a previously approved Conditional Use Permit and a Parking Modification Permit (PLN2013-18) to allow for the expansion of an existing restaurant (Tigelleria Ristorante) into an adjacent tenant space on property located at **76 and 86 E. Campbell Avenue** in the P-D (Planned Development) Zoning District. Staff is recommending that this project be deemed Categorically Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Daniel Fama, Associate Planner*

Mr. Daniel Fama, Associate Planner, presented the staff report as follows:

- Advised that the project site is within a commercial building containing three tenant spaces. The site is zoned P-D (Planned Development) and has an 11 space parking area in the back.
- Reported that the existing Conditional Use Permit was granted by the Planning Commission in 2007 and included 32 dining seats with four of those seats at the bar. Closing hours were approved to 10 p.m. from Sunday through Thursday and to 11 p.m. on Friday and Saturday.
- Explained that the applicant seeks to modify the existing business by expanding into the adjacent tenant space to create a private dining room with 24 additional seats for a maximum of 56 seats. The restaurant will increase from its existing 2.020 square feet to 2,600 square feet. There is no proposed change to the hours or the alcohol service.
- Reminded that the site is zoned P-D with a Central Commercial underlying General Plan Land Use designation.
- Added that this restaurant is similar to the restaurants in the Downtown (C-3) Zoning District and will conform to both General Plan and Zoning designations.

Additionally, it is consistent in all respects to the Downtown Campbell Alcohol Policy.

- Stated that the Parking Modification Permit is required due to a deficiency in parking as reflected by the P-D Zoning of the site. In the C-3 Zoning District, this could go in without the need for a Parking Modification but this location is outside of the C-3 District so the citywide standards are imposed, which requires an additional five parking spaces in this instance.
- Advised that a Downtown Parking Study was prepared in the 90's and this site was part of the area studied.
- Added that without approval of a Parking Modification Permit this use would be restricted only to an additional 9 seats.
- Said that staff is supportive of this request.
- Recommended that the Planning Commission adopt a resolution approving the proposed project.
- Pointed out that the desk item distributed this evening updated page 2 of the conditions of approval where two typographical errors were corrected in reference to hours.

Chair Reynolds asked the Commission if there were questions of staff.

Commissioner Resnikoff asked if the sole purpose of this expansion is to create a private dining room or would that space be used for general dining service at times that it is not booked for private parties.

Planner Daniel Fama said he would defer that question to the applicant.

Commissioner Gibbons pointed to a condition of approval that could require the preparation of a Parking Management Plan in the event that there are problems with parking in the future.

Daniel Fama said that was correct.

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

Ms. Elisabetta Benetollo, Applicant and Owner, Tigelleria Ristorante:

- Reminded that she was last here about 6 years ago seeking her Conditional Use Permit.
- Added that she comes back today as a happy and successful restaurant owner.
- Advised that people love their services and they are considered to be one of the best Italian restaurants in the Bay Area.
- Stated that she has a very nice team that is well supported and working in a peaceful and nice environment.
- Informed that they have the cleanest kitchen in the area as per the Health Department.
- Added that vendors are amazed at how clean the restaurant is.

- Said that she feels it is important to target as many ways to be an energy saving business and to use organic food. They never waste and manage their resources to not throw things away.
- Recounted that she decided to rent the adjacent space as she saw it as a good opportunity to expand.
- Advised that she has had to refuse a lot of parties in the past. It is tough to allow larger groups in her small restaurant. She started thinking about using the adjacent space as a banquet space to have baby showers, receptions and more.
- Cautioned that they are an expensive restaurant. The minimum charge per person is often too much for many smaller events to be seated within the restaurant itself.
- Added that this expansion will be good for her business.
- Said that in the future she would like to teach Italian language classes during the meal.
- Reported that with the new door opening that will be put in to connect the two spaces, she will lose about 16 of her existing dining seats and instead will create a lounge area for people to linger and/or to wait for an available table.
- Concluded that she is looking to provide a different kind of dining experience.

Commissioner Roseberry:
- Said that this is a great place where he has dined a few times. It was nice and enjoyable.
- Reminded that 6 years ago there were concerns raised about the provision of parking.
- Asked how parking for the restaurant has worked out.

Ms. Elisabetta Benetollo:
- Reported that parking has not been a problem.
- Pointed out that other nearby uses are closed at night when she is open. The hair stylist in the building is gone in the evenings.
- Advised that there are 11 nearby street parking spaces.
- Assured that there are never issues with parking.
- Said that their lunch business is slow and their evenings are busier.
- Stated that she asked her residential neighbor, Dan Sarkisian, if there have been any problems with parking related to her business and he told her no.

Commissioner Roseberry wished her continued good luck.

Commissioner Resnikoff said it appears that instead of increasing from the current 32 to 56 maximum seats, that number is reduced by the 16 seats lost when creating the opening between the two spaces and thereby results in an increase of 8 seats to a maximum of 40 seats.

Ms. Elisabetta Benetollo said that is correct.

Commissioner Roseberry verified with staff that there is not a parking deficiency with a maximum of 40 seats.

Planner Daniel Fama said that is correct.

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

Motion: **Upon motion of Commissioner Gibbons, seconded by Commissioner Roseberry, the Planning Commission adopted Resolution No. 4093 approving an Administrative Planned Development Permit (PLN2012-269), a Modification (PLN2012-270) to a previously approved Conditional Use Permit and a Parking Modification Permit (PLN2013-18) to allow for the expansion of an existing restaurant (Tigelleria Ristorante) into an adjacent tenant space on property located at 76 and 86 E. Campbell Avenue by the following roll call vote:**

AYES:	**Brennan, Finch, Gibbons Resnikoff, Reynolds and Roseberry**
NOES:	**None**
ABSENT:	**Razumich**
ABSTAIN:	**None**

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

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REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan:

- Advised that the City Council would conduct a Study Session on March 5th to discuss the mix of uses in the Downtown.
- Explained that there has been a trend toward restaurants coming to the Downtown and staff continues to get those requests.
- Added that a restaurant use wants to secure the now vacant Sonja Paz retail location.
- Pointed out that both the Planning Commission and the City Council have expressed concerns about the mix of uses.
- Said that Daniel Fama will be the planner for this item.
- Stated that members of the Planning Commission can attend and comment at this City Council Study Session.

Planner Daniel Fama added that the Study Session would begin at 5:30 p.m. He added that a number of people have been notified of this Study Session included the DCBA (Downtown Campbell Business Association), non-DCBA member business owners from the Downtown; Downtown property owners; the Campbell Chamber of Commerce and representatives of the DCNA (Downtown Campbell Neighborhood Association).

Director Paul Kermoyan:
- Said that the DCBA shares some of the concerns raised per the last Planning Commission meeting.
- Added that it will be discussed as to whether there are ways to control the mix of uses in the Downtown or not.
- Said that restaurants appear to be the best way for landlords to achieve higher rents.

Commissioner Gibbons asked about the pending restaurant coming to the alley location.

Director Paul Kermoyan:
- Said that it appears there is some sort of stall between the tenant and the property owner. It could be a disagreement about improvements.
- Advised that building permits have been pulled and some improvements were done but now work appears to be stalled.

Commissioner Gibbons:
- Suggested that a list of housing projects developed over the last 4 or 5 years be compiled.
- Added that the members of the Commission should perhaps revisit those sites.
- Listed several suggestions including the Pulte project on Llewellyn; the three developments near City Hall; the development on Gale; the Maravilla Development at Campbell & San Tomas Expressway, etc.
- Suggested that the Commission take a look at what has been successful.

Director Paul Kermoyan:
- Suggested that this be agendized for a future meeting so that the sites under discussion can be properly identified by address.
- Added this is a great suggestion.
- Said that it would be advantageous for the Commission to review past projects and provide staff with feedback.

Commissioner Gibbons said she would send staff a note with her thoughts.

Chair Reynolds advised that the second member of SARC needs to be appointed. The next person in rotation is Commissioner Brennan.

Commissioner Brennan said he would like to pass on that assignment at this time.

Commissioner Gibbons said that she is happy to serve but it makes the next go-around complicated as Commissioner Brennan will have no experience serving as the second member of SARC in order to serve as the next Chair of SARC in 2014.

Commissioner Brennan said that he understands that whoever takes on the role in SARC this year would move into the line of succession in his place next year.

Commissioner Gibbons said that Commissioner Roseberry might have to assume the second seat on SARC after August when her current term expires.

Chair Reynolds:

- Clarified that the second member of SARC serves for one year.
- Added that the Chair of SARC is also the Vice Chair of the Planning Commission and moves up to Chair of the Planning Commission the following year.
- Explained that the second SARC member becomes the SARC Chair as well as the Vice Chair of the Planning Commission the year following.
- Concluded that at that time a new second member of SARC is selected.

ADJOURNMENT

The Planning Commission meeting adjourned at 8:02 p.m. to the next Regular Planning Commission Meeting of **February 26, 2013.**

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Philip C. Reynolds, Jr., Chair

ATTEST: _____
Paul Kermoyan, Secretary

RESOLUTION NO. 4093

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL APPROVING AN ADMINISTRATIVE PLANNED DEVELOPMENT PERMIT (PLN2012-269), A MODIFICATIN (PLN2012-270) TO A PREVIOUSLY APPROVED CONDITIONAL USE PERMIT AND A PARKING MODIFICATION PERMIT (PLN2013-18) TO ALLOW FOR THE EXPANSION OF AN EXISTING RESTAURANT (TIGELLERIA RISTORANTE) INTO AN ADJACENT TENANT SPACE ON PROPERTY OWNED BY FOURTH CAMPBELL CORNER, LLC, LOCATED AT **76 & 86 E. CAMPBELL AVENUE**.

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

After due consideration of all evidence presented, the Planning Commission did find as follows with respect to application PLN2012-269/270 & PLN2013-18:

1. The project site is zoned P-D (Planned Development) and designated *Central Commercial* by the General Plan Land.

2. The project site consists of a 7,703 square-foot parcel, improved with a 2,958 square-foot building.

3. The project site is located at the southeast corner of East Campbell Avenue and Fourth Street.

4. Planning Commission Resolutions No. 3794 and 3795, approved by the Planning Commission on February 13, 2007, granted a Conditional Use Permit and Administrative Planned Development Permit, for establishment of a restaurant with general on-sale alcohol sales.

5. The proposed project includes Modification (PLN2012-270) to the previously approved Conditional Use Permit, an Administrative Planned Development Permit (PLN2012-269), and a Parking Modification Permit (PLN2013-18), to allow an expansion of the existing restaurant.

6. The Conditions of Approvals incorporate applicable operational standards of the Downtown Alcohol Beverage Policy.

7. Alcohol beverage service in the restaurant will remain ancillary and subordinate to the primary purpose of serving food.

8. The Police Department has reviewed the project and is supportive of the project as conditioned.

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

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

2. The proposed use is consistent with the General Plan;

3. The proposed site is adequate in terms of size and shape to accommodate the fences and walls, landscaping, parking and loading facilities, yards, and other development features required in order to integrate the use with uses in the surrounding area;

4. The proposed site is adequately served by streets of sufficient capacity to carry the kind and quantity of traffic the use would be expected to generate;

5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject property.

6. The establishment, maintenance, or operation of the proposed use at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.

7. The establishment will not result in an over-concentration of these uses in the surrounding area;

8. The establishment will not create a nuisance due to litter, noise, traffic, vandalism, or other factors;

9. The establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood;

10. The establishment will not significantly increase the demand on city services;

11. As conditioned, the establishment will be consistent with the Campbell Downtown Alcohol Policy.

12. The project is Categorically Exempt under Section 15060(c)(2) of the California Environment Quality Act (CEQA), pertaining to activities that will not result in a direct or reasonably foreseeable indirect physical change to the environment.

THEREFORE, BE IT RESOLVED that the Planning Commission approves an Administrative Planned Development Permit (PLN2012-269), a Modification (PLN2012-270) to a previously approved Conditional Use Permit and a Parking Modification Permit (PLN2013-18) to allow for the expansion of an existing restaurant (Tigelleria Ristorante) into an adjacent tenant space on property owned by Fourth Campbell Corner, LLC, located at **76 & 86 E. Campbell Avenue**.

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

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

1. Approved Project: Approval is granted for an Administrative Planned Development (PLN2012-269), a Modification (PLN2012-269) to a previously approved Conditional Use Permit, and a Parking Modification Permit (PLN2013-18) to allow an expansion of an existing restaurant with approved general alcohol sales into an adjacent tenant space. The project shall substantially conform to the Revised Project Plans and Project Description stamped as received by the Planning Division on January 16, 2013 and December 19, 2012, respectively, except as may be modified by the conditions of approval contained herein.

2. Previous Conditions of Approval: Upon the effective date of the Resolution approving this Modification and Administrative Planned Development Permit, previously approved Conditions of Approval provided in Planning Commission Resolutions No. 3794 and 3795 shall be void and shall permanently be superseded in their entirety by the Conditions of Approval specified herein.

3. Approval Expiration: The approval shall be valid for one year from the date of final approval (February 24, 2014). Within this one-year period, a building permit for the restaurant expansion must be obtained and work commenced. Once established, approvals for the expanded restaurant shall be valid in perpetuity with continued operation. Abandonment, discontinuation, or ceasing of operations for a continuous period of twelve months shall void the Modified Conditional Use Permit and Administrative Planned Development Permit approved herein.

4. Revocation of Permit: Operation of the use in violation of the Modified Conditional Use Permit and Administrative Planned Development Permit or any standards, codes, or

ordinances of the City of Campbell or any laws of the State of California applicable to operation of the business, shall be grounds for consideration of revocation of this approval by the Planning Commission.

5. Operational Standards: Consistent with Downtown Alcohol Beverage Policy and other City standards, any restaurant operating pursuant to the Modified Conditional Use Permit and Administrative Planned Development Permit approved herein shall conform to the following operational standards. The use is a standard restaurant with a separate bar area.

   a. **Restaurant Seating/Patron Occupancy**: Total indoor patron occupancy shall be limited to 56 persons, consistent with the approved project plans. At no time shall there be more than 56 patrons within the establishment, excluding those waiting for service. It is the responsibility of the business owner to provide adequate entrance controls to ensure that patron occupancy is not exceeded.

   b. **Floor Plan**: At no time shall the seating be reconfigured to created large open spaces for patrons to congregate, dance, drink, or socialize. All tables and chair shall be placed in such a manner to allow sufficient area for dining. At no time shall tables and chairs be stacked or removed from the identified dining area or placed outside.

   c. **Bar Area Seating**: Future changes to the bar area shall not increase the bar area seating to more than 25% of the total seating allowed for the establishment.

   d. **Hours of Operation**: Hours of operation shall be as follows. By the end of 'Business Hours' all patrons shall have exited the restaurant. By the end of the 'Operational Hours' all employees shall be off the premises.

      - Business Hours — 11:00 AM – 10:00 PM, Sunday – Thursday
        11:00 AM – 11:00 PM, Friday – Saturday

      - Operational Hours: — 10:00 AM – 11:00 PM, Sunday – Thursday
        10:00 AM – 12:00 AM, Friday – Saturday

   e. **Food Service**: Full menu food service shall be provided at all times during the Business Hours in the dining, outdoor seating, and bar areas (i.e., the kitchen shall not be closed).

   f. **Bar Area Meal Service**: Meal service shall be available in the bar area at all times.

   g. **Live Entertainment**: No live entertainment is permitted as part of the Modified Conditional Use Permit approval, including live music, disc jockey, karaoke, and dancing. Future requests for live entertainment shall be through approval of an Administrative Planned Development Permit and shall be limited to live musicians complimentary to the primary purpose of proving meal service.

h. **Alcohol Beverage Service**: Alcohol beverage service in the dining and the outdoor seating area shall only be allowed in conjunction with food service. The dining area shall not be converted to a bar area or dance area.

i. **Smoking**: "No Smoking" signs shall be posted on the premises in compliance with CMC 6.11.060.

j. **Outdoor Seating**: Outdoor seating may be allowed pursuant to an approved Outdoor Seating Permit in compliance with CMC 21.10.060.H. Outdoor seating shall be considered part of the dining area subject to all restrictions herein.

k. **Noise**: Any noises, sounds and/or voices, including but not limited to amplified sounds, loud speakers, sounds from audio sound systems, music, and/or public address system, generated by the establishment shall not be audible to a person of normal hearing capacity from any residential property. In the event verified complaints are received by the City regarding such noise, the Community Development Director may immediately modify the business hours/hours of operation, subject to the project being brought back to the Planning Commission for review.

l. **Loitering**: There shall be no loitering allowed outside the business and within the outside dining area. The business owner is responsible for monitoring the premises to prevent loitering.

m. **Doors and Windows**: Doors and windows shall remain closed after 10:00 PM.

n. **Trash & Clean Up**: All trash, normal clean up, carpet cleaning, etc. shall not be done in the late evening or early morning hours. All trash removal shall be done between 6:00 AM and 11:00 PM daily.

o. **Liquor License**: The applicant shall maintain in good standing a Type 47 license from the State Department of Alcoholic Beverage Control for the sale of alcoholic beverages. The license shall include the Business Hour restrictions consistent with the Conditional Use Permit approved herein.

p. **Employee Training**: The establishment shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association and the Department of Alcoholic Beverage Control.

q. **Designated Driver Program**: The establishment shall maintain and actively promote a designated driver program (e.g., complimentary non-alcoholic beverages for designated drivers).

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

s. **Outdoor Activity**: Other than outdoor seating, no outdoor activity (e.g., cooking) is permitted in association with the establishment.

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

u. **Office Space**: The existing back office shall be ancillary to the restaurant shall only be used for purposes of an office in relation to the restaurant use.

v. **Parking Management Plan**: If repeated parking complaints are received by the City, the Community Development Director may require preparation of a Parking Management Plan to manage patron and employee parking. Compliance with the Parking Management Plan shall be required by this approval.

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

   At the discretion of the Community Development Director, if the establishment generates three (3) verifiable complaints related to violations of conditions of approval and/or related to the service of alcohol within a six (6) month period, a public hearing before the Planning Commission may be scheduled to consider modifying conditions of approval or revoking its Conditional Use Permit. The Community Development Director may commence proceedings for the revocation or modification of use permits upon the occurrence of less than three (3) complaints if the Community Development Director determines that the alleged violation warrants such an action. In exercising this authority, the decision making body may consider the following factors, among others:

   a. The number and types of Police Department calls for service at or near the establishment that are reasonably determined to be a direct result of patrons actions;

   b. The number of complaints received from residents, business owners and other citizens concerning the operation of an establishment,

   c. The number of arrests for alcohol, drug, disturbing the peace, fighting and public nuisance violations associated with an establishment;

   d. The number and kinds of complaints received from the State Alcoholic Beverage Control office and the County Health Department; and

   e. Violation of conditions of approval.

PASSED AND ADOPTED this12th day of January 2013, by the following roll call vote:

AYES:	Commissioners:	Brennan, Finch, Gibbons, Resnikoff, Reynolds and Roseberry:
NOES:	Commissioners:	None
ABSENT:	Commissioners	Razumich
ABSTAIN:	Commissioners:	None

APPROVED: _____
Philip C. Reynolds, Chair

ATTEST: _____
Paul Kermoyan, Acting Secretary

ITEM NO. 1

CITY OF CAMPBELL · PLANNING COMMISSION
Staff Report · February 26, 2013

PLN2012-255
Schaadt, L.

Public Hearing to consider the application of Mr. Larry Schaadt for a Conditional Use Permit (PLN2012-255) to allow late night operational hours, live entertainment, and beer and wine sales associated with a new wine bar with food service (Regale Wine Bar) on property owned by 400 E. Campbell Avenue LLC, located at **400 E. Campbell Avenue** in the C-3 (Central Business District) Zoning District.

STAFF RECOMMENDATION

That the Planning Commission take the following action:

1. **Adopt a Resolution**, incorporating the attached findings, approving a Conditional Use Permit to allow beer and wine sales, live entertainment, and late night operational hours for a wine bar with food service (Regale Wine Bar), subject to the attached Conditions of Approval.

ENVIRONMENTAL DETERMINATION

Staff recommends that the Planning Commission find that this project is Categorically Exempt under Section 15301 Class 1 of the California Environmental Quality Act (CEQA) pertaining to minor alterations to an existing private structure, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

PROJECT DATA

Net Lot Area:	3,965 square feet
Building Area:	
First Floor Area:	3,480 square feet (Measured to Exterior Wall)
Second Floor Area:	2,731 square feet (Per Previous Approvals)
Total:	6,211 square feet
Existing Floor Area Ratio (Unchanged):	1.57
Proposed Seating:	239 seats (208 dining/27 bar)
Maximum Total Occupancy:	256 (up to 239 patrons and 17 employees)

DISCUSSION

Background: The existing building was originally constructed as the Grower's National Bank by Benjamin O. Curry in 1920's and was converted into the Campbell Movie Theatre in 1938. From approximately 1970 to 2005, the Gaetano family operated the most recent active use from this building, The Gaslighter Theatre.

The Theatre ceased operation in 2005, when a new owner began the process for an interior remodel and historic façade rehabilitation that triggered a mandatory seismic retrofit of the unreinforced masonry building.

In February 2009, the current owner, Westhall Properties, obtained a Building Permit to restart the seismic retrofit, interior remodel, and historic façade rehabilitation in preparation of securing occupancy of a new tenant. Notwithstanding the work in progress, the site has remained unoccupied.

Location: The project site is located on the south side of East Campbell Avenue, between Central Avenue and Railway Avenue (reference Attachment **3**, Location Map). A vacant commercial building occupies the site with a partially constructed mezzanine constituting a second level. The building is considered a historical resource per the City's 1984 Historic Resource Inventory List.

Applicant's Proposal: The applicant's business plan (reference Attachment **4**) provides a detailed narrative of the proposed use which is a wine bar with food service. Regale Wine Bar will provide for sale both onsite consumption and offsite consumption (retail sales) wines under its label, a selection of higher end vintages quality wines from outside wineries, and a small selection of bottled beer to accommodate those patrons who do not drink wine. The proposed use will also have available small plate lunch and dinner service to compliment the wine bar experience (reference Attachment **5**, Sample Menu).

As this Conditional Use Permit application is for a wine bar with food service, conditions associated with both components may be set by the City to address operational characteristics. Because the applicant is restricting the minimum age of customers to those 21 years of age or older, staff is viewing the use as a wine bar. Although this will be a wine bar, the floor plan configuration (reference Attachment **6**, Project Plans) includes an extensive dining area consisting of 208 seats and two bar areas totaling 27 seats. Along with the dining and bar seating areas, the applicant is proposing a small retail area to allow for bottle wine purchases for off-site consumption adjacent to a reception/waiting area that is consistent with a standard restaurant use.

Specific requests associated with the Conditional Use Permit application include approval of wine and beer sales for onsite and offsite consumption, live entertainment, and late night operational hours, as follows:

Business Hours (Open to Public):	11:00 AM – 10:00 PM, Sunday – Wednesday 11:00 AM – 11:00 PM, Thursday – Saturday
Operational Hours	10:00 AM to 11:00 PM, Sunday – Wednesday 10:00 AM to 12:00 AM, Thursday – Saturday

ANALYSIS

Land Use: Pertinent City land use policies applicable to review of this application can be found in the Campbell General Plan, the Downtown Campbell Development Plan, and the Downtown Alcohol Beverage Policy. Together, these documents articulate a desire to promote and enhance a downtown environment that provides a desirable balance of land uses including shopping, services, and entertainment, while balancing the health and safety of the community. 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:

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.
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.

Downtown Alcohol Beverage Policy (reference Attachment 7)

Purpose	The following provisions are intended to balance the health and safety of the community while still maintaining the commercial viability of the downtown in which restaurants have an essential role.
Policy Guideline 1b:	Stand Alone Bars: Wine bars and wine tasting establishments with hours not exceeding 11:00 PM may be approved.
Policy Guideline 4a:	Hours of Operation: It is strongly recommended that Conditional Use Permits for establishments for on-site consumption of alcohol beverages be limited to a closing time of no later than 12:00 AM.

Zoning Designation: The property is located within the C-3 (Central Business District) zoning district. This zoning district is meant to reinforce the pedestrian scale of Downtown Campbell and to enhance the Downtown area as a unique and economically viable retail and business center. A use that includes the sale of alcoholic beverages for on-site or off-site consumption, either through a wine bar or as a restaurant with a separate bar area, would be considered a "liquor establishment", as defined by CMC 21.72.020.L:

> "Liquor establishments" means a retail activity that is primarily devoted to the selling of alcoholic beverages as a stand-alone bar or tavern, or in conjunction with a restaurant or nightclub facility, for consumption on the premises.

Since a "liquor establishment" is categorized as a conditional use within the C-3 zoning district, the sale of alcoholic beverages within a wine bar with two separate bar areas requires approval of a Conditional Use Permit. To approve such a request, the Planning Commission must make special findings contained in CMC 21.46.070, in addition to those applicable to all Conditional Use Permits (CMC 21.46.040). These include the potential overconcentration of similar alcohol establishments in the surrounding area, the potential to create a nuisance or disturb the neighborhood, and the potential demand to City services.

Downtown Alcohol Beverage Policy: In 2011, the City modified the 2009 Downtown Alcohol Policy ("Policy") in order to allow the establishment of wine bars and/or wine tasting establishments. As the proposed wine bar with food service does not fall under the definition of an eating establishment, the operational standards previously used to evaluate new restaurant uses in the downtown that provide alcohol would not apply. However, other provisions within the Downtown Alcohol Policy relative to a wine bar will apply (reference Attachment **7**).

Hours of Operation: Businesses operating later than 11:00 PM or earlier than 6:00 AM require the approval of a Conditional Use Permit. The purpose of this requirement is to allow the City to evaluate each business on a case-by-case basis in order to review the proposed hours of operation and to restrict operational conditions as appropriate to minimize the impact on nearby businesses and residents. Effectively, the Planning Commission may consider whether the hours of operation would create a nuisance or disturb the neighborhood. The requested hours of operation include closing at 11:00 PM on Friday and Saturday with an allowance for employees to occupy the business up to one hour after closing for clean up purposes. Because the proposed wine bar does not intend to be open to the public past 11:00 PM, staff can recommend that the proposal is consistent with the intent of the Downtown Alcohol Policy. Employee activity after 11:00 PM would be restricted to the interior of the building and would generate a minimum amount of noise with no patrons allowed on site (reference Attachment **2**, Conditions of Approval #5d and #5l).

Parking: The establishment of a new use within an existing downtown building is subject to the parking standards set for in the Central Business District zoning regulations. Campbell Municipal Code (CMC) Section 21.10.060(I)(3) states, "Legally existing buildings shall be required to meet the current parking standards upon expansion of the building or when there is a change in use which requires more parking than is currently provided, except for retail uses and standard restaurants that are not required to provide additional parking unless the building is expanded.

In order to determine whether or not an expansion of use has occurred requiring additional parking, an analysis of previous uses and project approvals is warranted. In 2006, the City approved a nightclub (Motion Ultra-Lounge) with a second floor mezzanine and occupancy of 300. As there is no listed parking standard for nightclubs in either the downtown or citywide parking standards, the Community Development Director at the time determined that there was a parking deficiency pursuant to CMC Section 21.28.040(E), which states, "Land uses not specifically listed (within the parking requirements by land use section) shall provide parking as required by the Community Development Director. The Community Development Director shall

use the (City's parking) requirements as a guide in determining the minimum number of parking spaces to be provided." Although the previous staff report did not set a numerical parking standard for the new use, the Community Development Director found that the increase in floor area, paired with the increase in occupancy, created a parking deficiency. As such, the City Council approved a parking exception for the proposed nightclub that included a condition that the applicant establishes a valet parking service utilizing a portion of the First Street parking garage for valet vehicle storage.

Although the nightclub approval expired without the use establishing on site, the interior modification of the second story mezzanine was completed. Because the additional floor area was completed consistent with the City Council's parking exception, no new floor area is being created with this proposal. Therefore, no additional parking exceptions are required.

Live Entertainment: The applicant has requested indoor live entertainment that would occur on a daily basis for four hours (6:00 PM to 10:00 PM). In order to approve the indoor live entertainment it would have to be ancillary in nature and complementary to the primary purpose of the establishment. As such, staff has included conditions of approval that restricts the collection of a cover charge either as payment or as a donation, and at no time shall the number of patrons exceed 239, which is the number of total seats shown on the site plan (reference Attachment **2**, Conditions of Approval #5f & #5b).

When determining whether or not a proposal is appropriate and not impact nearby uses, the City evaluates each component of the business operation against a set of findings that must be made in order to approve the project. With regard to the Conditional Use Permit, one of the relevant findings associated with live entertainment is as follows:

> The establishment, maintenance, or operation of the proposed use at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

There is an assumption that new commercial uses should not unreasonably impact nearby residential uses. Therefore, staff requested that the applicant prepare an acoustical study to ensure that noise generation produced on site would not impact nearby uses (reference Attachment **8**). In an effort to quantify acceptable noise levels from the desired live entertainment, the consultant set a maximum decibel level of 45dBA, which is consistent with the City's General Plan noise standard for noise impacts on new residential development. In other words 45 dBA is the maximum level of noise a new resident would be subject to from external sources while indoors. Based on this assessment, noise generated from live entertainment activity on site would reach a maximum noise level of 42 dBA at the closest residence, assuming the business has left the doors open. As such, no unreasonable noise impact should occur with the proposed use. If at any time, the proposed use is found to impact nearby residential uses, a condition of approval has been included allowing the Community Development Director to require the immediate cessation of live entertainment until the project is brought back in front of the Planning Commission for formal review (reference Attachment **2**, Condition of Approval #5i).

Police Department Review: The Police Department has reviewed this application and has no concern regarding the proposed application so long two conditions are implemented into the approval. First, the business must be closed to the public no later than 11:00 PM. Second, the tables and chairs inside the wine bar, as shown on the proposed Floor Plan (reference Attachment **6**), must not be removed, stacked in the corner, or put outside, to create a dance floor or "standing room only" drinking area. In addition, a Live Entertainment Permit will be required by the Police Department. The approved floor plan shows a traditional dining configuration and this configuration is required to remain in place when the business is open to the public (reference Attachment **2**, Condition of Approval #5c).

Signage: Although no signage has been proposed as part of this application, a condition of approval has been included to ensure that the applicant uses one of the preferred signage materials for projects within the C-3 zone district (reference Attachment **2**, Condition of Approval #3).

Outdoor Seating: No outdoor seating is proposed with this applicant. If in the future outdoor seating is desired, an application to modify a Conditional Use Permit would be required

Public Outreach: Staff has been informed that the applicant held an informational meeting at the project site on Saturday, February 9, 2013 for interested residents and businesses in the area. The applicant stated that over 40 people attended.

Public Comment: Staff has received four e-mails in support and one e-mail in opposition of the proposed use from residents who will be unable to attend the public hearing (reference Attachment **9**).

Site and Architectural Review Committee: The Site and Architectural Review Committee (SARC) did not review this application as no exterior improvements to the building area are proposed.

Attachments:

1. Findings for Approval of File No. PLN2012-255
2. Conditions of Approval for File No. PLN2012-255
3. Location Map
4. Applicant Project Description
5. Sample Menu
6. Project Plans
7. Downtown Alcohol Policy
8. Noise Assessment Report
9. Public Comment Correspondence

Prepared by: Steve Prosser

Steve Prosser, Associate Planner

Approved by:

Paul Kermoyan, Interim Community Development Director

FINDINGS FOR APPROVAL OF FILE NO. PLN2012-255

SITE ADDRESS:	400 E. Campbell Avenue
APPLICANT:	Larry Schaadt
OWNER:	400 E. Campbell Avenue, LLC
P.C. MEETING:	February 26, 2013

Findings for approval of a Conditional Use Permit to allow late night operational hours, live entertainment, and beer and wine sales for a wine bar with food service:

The Planning Commission finds as follows with regard to file number PLN2012-255:

Environmental Finding

1. The project is Categorically Exempt under Section 15301 Class 1 of the California Environment Quality Act (CEQA), pertaining to minor alterations to an existing private structure, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Evidentiary Findings

1. The project site is zoned C-3 (Central Business District) and designated *Central Commercial* by the General Plan Land.

2. Sale of alcohol within a wine bar is considered a "liquor establishment", subject to approval of a Conditional Use Permit, consistent with CMC 21.46.070.

3. The proposed wine bar would occupy a 6,211 square-foot existing vacant tenant space.

4. The project site is located on the south side of East Campbell Avenue, between Central Avenue and Railway Avenue.

5. The requested Conditional Use Permit would allow late night operational hours and beer and wine sales in conjunction with a new wine bar.

6. Policies found within the Campbell General Plan and Downtown Campbell Development Plan articulate a desire to promote and enhance a downtown environment that provides a desirable balance of land uses including shopping, services, and entertainment. This vision is evidenced in policies that encourage a mix of day and evening activities, a distinctive retail presence, a diversity of eating establishments, support for neighborhood-serving businesses, and protection of surrounding residential neighborhoods:

7. The City Council adopted the 'Downtown Alcohol Beverage Policy', consistent with the goals and strategies of the Campbell General Plan and Downtown Development Plan. The Policy is intended to balance the health and safety of the community while still maintaining the commercial viability of the downtown in which wine bars and/or wine tasting establishments have a role.

8. Conformance to the provisions of the Downtown Alcohol Beverage Policy is the basis to which the City shall review new applications for alcohol beverage service. Limitations to the hours of operation, number of seats, maximum occupancy, and alcohol beverage service are necessary to protect the public health, safety and welfare.

9. The Downtown Alcohol Beverage Policy strongly recommends that Conditional Use Permits for establishments for on-site consumption of alcohol beverages be limited to a closing time of no later than 12:00 AM.

10. The approval of a Conditional Use Permit incorporates applicable operational standards of the Downtown Alcohol Beverage Policy, including a 11:00 PM public closing time and live entertainment ending at 10:00 PM.

11. Food service will be available will be available at all times the business is open to the public.

12. The Police Department is supportive of the application as conditioned with a closing time of 11:00 PM daily which won Friday and Saturday and no live entertainment after 10:00 PM.

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

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

2. The proposed use, as conditioned, is consistent with the General Plan.

3. As conditioned, the proposed site is adequate in terms of size and shape to accommodate the fences and walls, landscaping, parking and loading facilities, yards, and other development features required in order to integrate the use with uses in the surrounding area.

4. As conditioned, the proposed site is adequately served by streets of sufficient capacity to carry the kind and quantity of traffic the use would be expected to generate.

5. The design, location, size, and operating characteristics of the proposed use, as conditioned, are compatible with the existing and future land uses on-site and in the vicinity of the subject property.

6. The establishment, maintenance, or operation of the proposed use, as conditioned, at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.

7. As conditioned, the establishment will not result in an over-concentration of these uses in the surrounding area.

8. As conditioned, the establishment will not create a nuisance due to litter, noise, traffic, vandalism, or other factors.

9. As conditioned, the establishment will not significantly disturb the peace and enjoyment of the nearby residential neighborhood.

10. As conditioned, the establishment will not significantly increase the demand on city services.

11. As conditioned, the establishment will be consistent with the Campbell Downtown Alcohol Policy.

CONDITIONS OF APPROVAL FOR FILE NO. PLN2012-255

SITE ADDRESS:	400 E. Campbell Avenue
APPLICANT:	Larry Schaadt
OWNER:	400 E. Campbell Avenue, LLC
P.C. MEETING:	February 26, 2013

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

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

1. Approved Project: Approval is granted for a Conditional Use Permit (PLN2012-255) to allow late night operational hours, live entertainment, and beer and wine sales for a new wine bar with food service (Regale Wine Bar) located at 400 E. Campbell Avenue. The project shall substantially conform to the Revised Project Plans and Business Plan received by the Planning Division on January 17, 2013 and November 28, 2012 respectively, except as may be modified by the conditions of approval contained herein.

2. Conditional Use Permit Approval Expiration: The Conditional Use Permit approved herein shall be valid for one year from the date of final approval (expiring March 9, 2014). Within this one-year period, the new wine bar with food service shall be established on site. Approval for a late night operational hours and beer and wine sales for the new wine bar shall be valid in perpetuity with continued operation of the use. Continued approval of live entertainment is conditioned upon successfully obtaining and maintaining a Live Entertainment Permit issued by the Police Department. Abandonment, discontinuation, or ceasing of operations for a continuous period of twelve months shall void the Conditional Use Permit approved herein.

3. Signage: No signage has been approved as part of this development application. New signage shall not be installed prior to approval of a sign permit as required by CM 21.10.060.K. The allowable sign materials for the project site shall include enameled metal, painted wood, cast metal, painted fabric, and similar materials. Plastic signage of any type, whether individual letters or as part of a box (or cabinet), shall not be approved.

4. Revision to Plans: The building permit construction plans for the wine bar with food service tenant improvement shall incorporate the following revisions:

   a. The conditions of approval shall be printed in full on a separate sheet after the cover sheet.

5. Exterior Modifications: The subject building is included in the City's Historic Resource Inventory and is known as the Grower's National Bank Building. No exterior modifications

shall be allowed other than those previously approved as part of the exterior restoration and seismic upgrade Building Permit approved in 2008.

6. Operational Standards: Consistent with the Downtown Alcohol Beverage Policy and other City standards, any wine bar with food service operating pursuant to the Conditional Use Permit approved herein shall conform to the following operational standards.

   a. **Age Restriction**: No person under the age of 21 years shall be allowed to enter and/or remain on site unless allowed as part of the live entertainment (musician) exemption pursuant to Government Code Section 25663.5.

   b. **Patron Occupancy**: Total indoor occupancy shall be limited to 239 seated patrons and a maximum of 17 associated employees of the business with no patrons allowed to be served while standing. At no time shall total there be more than 239 patrons and 17 employees within the establishment. It is the responsibility of the business owner to provide adequate entrance controls to ensure that patron occupancy is not exceeded. Maximum Occupancy signs shall be posted conspicuously within the premises.

   c. **Floor Plan**: At no time shall the seating be reconfigured to created large open spaces for patrons to congregate, dance, drink, or socialize. All tables and chairs shall be placed in such a manner to allow sufficient area for seating. At no time shall tables and chairs be stacked or removed from the identified seating area or placed outside.

   d. **Hours of Operation**: Hours of operation shall be as follows. By the end of 'Business Hours' all patrons shall have exited the wine bar. By the end of the 'Operational Hours' all employees shall be off the premises.

      - Business Hours (open to the public): 11:00 AM – 10:00 PM, Sun-Wed
        11:00 AM – 11:00 PM, Thur-Sat
      - Operational Hours: 10:00 AM – 11:00 PM, Sun-Wed
        10:00 AM – 12:00 AM, Thur-Sat

   e. **Live Entertainment**: Indoor live entertainment is permitted as part of the Conditional Use Permit approval and is limited to 6:00 PM to 10:00 PM daily. A Live Entertainment Permit from the Police Department is required prior to the first performance of live entertainment. Outdoor live entertainment is prohibited.

   f. **Cover Charge**: At no time shall a cover charge be required or a donation necessary in order to patronize the establishment.

   g. **Smoking**: "No Smoking" signs shall be posted on the premises in compliance with CMC 6.11.060.

   h. **Outdoor Seating**: Outdoor seating is prohibited.

   i. **Noise**: Any noises, sounds and/or voices, including but not limited to amplified sounds, loud speakers, sounds from audio sound systems, music, and/or public address system, generated by the establishment shall not be audible to a person of normal hearing capacity from any residential property. In the event verified

complaints are received by the City regarding such noise, the Community Development Director may immediately require that live entertainment activity immediately cease, subject to the project being brought back to the Planning Commission for review.

j. **Loitering**: There shall be no loitering allowed outside the business and within the outside dining area. The business owner is responsible for monitoring the premises to prevent loitering.

k. **Doors and Windows**: Doors and windows shall remain closed after 10:00 PM.

l. **Trash & Clean Up**: All trash, normal clean up, carpet cleaning, etc. shall not be done in the late evening or early morning hours. All trash removal shall be done between 6:00 AM and 11:00 PM daily.

m. **Liquor License**: The applicant shall obtain and maintain in good standing the appropriate alcohol beverage license from the State Department of Alcoholic Beverage Control for the sale of alcoholic beverages in conjunction with a wine bar with food service. The license shall include the Business Hour restrictions consistent with the Conditional Use Permit approved herein. A copy of the issued license shall be provided to the Community Development Department prior to issuance of a Business License.

n. **Employee Training**: The establishment shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Department of Alcoholic Beverage Control.

o. **Designated Driver Program**: The establishment shall maintain and actively promote a designated driver program (e.g., complimentary non-alcoholic beverages for designated drivers).

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

q. **Outdoor Activity**: No outdoor activity (e.g., cooking) is permitted in association with the establishment.

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

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

   At the discretion of the Community Development Director, if the establishment generates three (3) verifiable complaints related to violations of conditions of approval and/or related to the service of alcohol within a six (6) month period, a public hearing before the Planning

Commission may be scheduled to consider modifying conditions of approval or revoking its Conditional Use Permit. The Community Development Director may commence proceedings for the revocation or modification of use permits upon the occurrence of less than three (3) complaints if the Community Development Director determines that the alleged violation warrants such an action. In exercising this authority, the decision making body may consider the following factors, among others:

a. The number and types of Police Department calls for service at or near the establishment that are reasonably determined to be a direct result of patrons actions;

b. The number of complaints received from residents, business owners and other citizens concerning the operation of an establishment,

c. The number of arrests for alcohol, drug, disturbing the peace, fighting and public nuisance violations associated with an establishment;

d. The number and kinds of complaints received from the State Alcoholic Beverage Control office and the County Health Department; and

e. Violation of a condition of approval.

8. Fire Sprinkler Connection: The temporary fire sprinkler connection located on the storefront shall be recessed into the wall as originally approved prior to building occupancy.

Building Division:

9. Permits Required: A building permit application shall be required for the proposed tenant improvements to the existing vacant commercial structure. The building permit shall include Electrical/Plumbing/Mechanical fees when such work is part of the permit.

10. Construction Plans: The Conditions of Approval shall be stated in full on the cover sheet of construction plans submitted for building permit.

11. Size of Plans: The minimum size of construction plans submitted for building permits shall be 24 in. X 36 in.

12. Plan Preparation: This project requires plans prepared under the direction and oversight of a California licensed Engineer or Architect. Plans submitted for building permits shall be "wet stamped" and signed by the qualifying professional person.

13. Site Plan: Application for building permit shall include a competent site plan that identifies property and proposed structures with dimensions and elevations as appropriate. Site plan shall also include site drainage details. Site address and parcel numbers shall also be clearly called out. Site parking and path of travel to public sidewalks shall be detailed.

14. Title 24 Energy Compliance: California Title 24 Energy Compliance forms shall be blue-lined on the construction plans. Compliance with the Standards shall be demonstrated for conditioning of the building envelope and lighting of the building.

15. Special Inspections: When a special inspection is required by C.B.C. Chapter 17, the architect or engineer of record shall prepare an inspection program that shall be submitted to the

Building Official for approval prior to issuance of the building permits, in accordance with C.B.C Appendix Chapter 1, Section 106. Please obtain City of Campbell, Special Inspection forms from the Building Inspection Division Counter.

16. Non-point Pollution Control Program: The City of Campbell, standard Santa Clara Valley Non-point Source Pollution Control Program specification sheet shall be part of plan submittal. The specification sheet (size 24" X 36") is available at the Building Division service counter.

17. Title 24 Accessibility – Commercial: On site general path of travel shall comply with the latest California Title 24 Accessibility Standards. Work shall include but not be limited to accessibility to building entrances from parking facilities and sidewalks.

18. Title 24 Accessibility – Commercial: Projects seeking to use the Title 24 Hardship exemption clause shall blue-line completed, City of Campbell "20%" exemption form on submitted construction plans. Form is available at Building Division service counter.

19. Approvals Required: The project requires the following agency approval prior to issuance of the building permit:
    a. West Valley Sanitation District (378-2407)
    b. Santa Clara County Fire Department (378-4010)
    c. Santa Clara County Dept. of Environmental Health (918-3400)
    d. City of San Jose Dept. of Environmental Services (535-8550)

20. P.G. &E: Applicant is advised to contact Pacific Gas and Electric Company as early as possible in the approval process. Service installations, changes and/or relocations may require substantial scheduling time and can cause significant delays in the approval process. Applicant should also consult with P.G. and E. concerning utility easements, distribution pole locations and required conductor clearances.

21. Storm Water Requirements: Storm water run-off from impervious surface created by this permitted project shall be directed to vegetated areas on the project parcel. Storm water shall not drain onto neighboring parcels.

22. Trash Enclosure: The proposed fenced enclosure under the exterior stairway at rear of building is not allowed. The proposed trash enclosure shall meet all applicable standards for fire protection and safety as required by the Building Official and County Fire District. This includes, but is not limited to, a fire rated enclosure with adequate fire suppression (fire sprinklers) and a solid floor with a sanitary sewer drain connection.

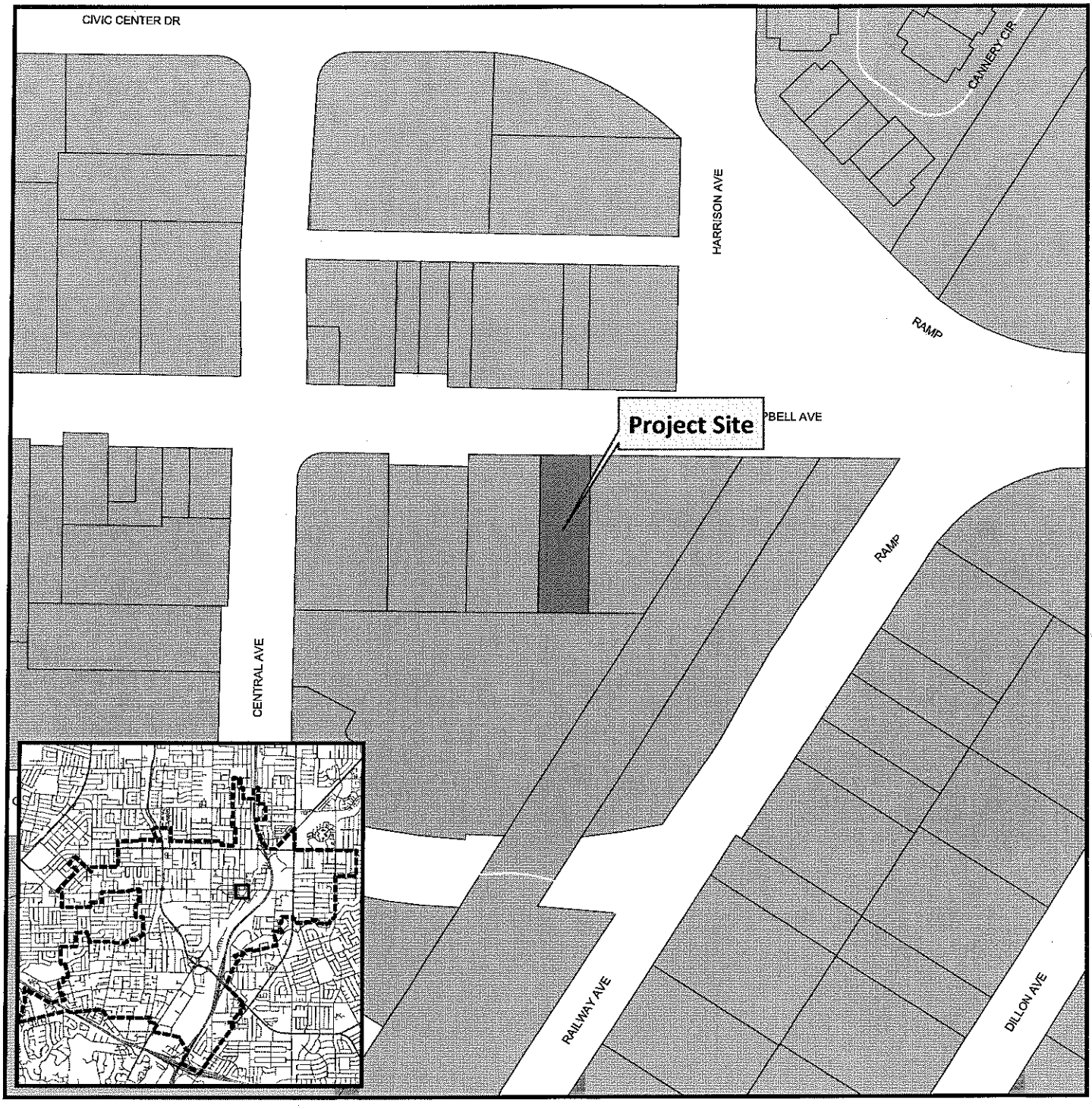
COUNTY FIRE DISTRICT

23. Development Review: Review of this development proposal is limited to acceptability of site access and water supply as they pertain to fire department operations, and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work, the applicant shall make application to, and receive from, the Building Department all applicable construction permits.

24. Project Plans: The project plans show the project conditions required by the Fire District on Page A0.0. Note that condition #4 of refers to the "fire sprinkler monitoring system" – this will require separate review by this office.

25. Address Identification: New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of four inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7mm). Where access by means of a private road and the building cannot be viewed from the public way, pole or other sign or means shall be used to identify the structure. CFC Sec. 505.1.

Project Location Map



Project Location: 400 E. Campbell Avenue
Application Type: Conditional Use Permit
Planning File No.: PLN2012-255
Description: Wine Bar/Restaurant, Retail Wine Sale and Late Night Operational Hours (11 PM Thursday through Saturday with clean up to 12 AM)

N

0 250 500 Feet

CITY OF CAMPBELL
THE ORCHARD CITY

Community Development Department
Planning Division

REGALE
WINE BAR

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PLANNING DEPT.

Business Plan

CONCEPT:

The proposed Regale Wine Bar will in part be an extension of our exclusive Regale Winery in the foothills of Los Gatos and in part a very high-end metropolitan wine bar/restaurant. We are looking to cater to a slightly older clientele interested in experiencing not only our wines but wines from around the world paired with an extensive offering of gourmet small plates prepared on-site in our kitchen. The wine bar will be a great compliment to the other restaurants in downtown Campbell.

OPERATIONS:

Because we are not only a wine bar but a restaurant as well, we will be open for both lunch and dinner 7 days per week. Our proposed hours are from 11am-10pm Sun-Wed and 11am-11pm Thur-Sat. The focus will be on wine but we will also offer a very small compliment of premium bottled beers upon request. Beer will not be sold on tap and will account for less than 5% of our overall sales. We also have a very small area for live music on the second floor for a single musician or at most a jazz trio. The live music is to provide light background music as seen in similar high-end wine bars. There will be no loud bands of any sort playing live music!

Regale Winery operates under a Type 2 Producers Permit. To sell our wines off-site at the Regale Wine Bar, we are required to hold a Type 41 Permit for the wine bar, which is the appropriate permit as we will be operating as a wine bar/restaurant during all hours that we are open. The regulation is very specific in that we will only be allowed to operate under a Type 41 Permit.

We will complete the restoration of the exterior of the building bringing it back to its original beauty. Included in our plans is to expand the sidewalk area at the front of the building to provide for limited outdoor seating. The overall look and feel of the interior will be the modern elegance of a big city wine bar with its limestone entryway, dark wood floors, marble countertops and exposed wooden truss ceiling.

The floor plan provides for the main wine bar on the first floor and additional overflow seating and smaller bar on the second floor. Included in the second floor layout is a small private wine reception/dining room. Most of the food and wine service will be table service with less than

20% of the seating available at the bar. The kitchen will be located on the first floor. Accessible restrooms and elevator will be provided on both floors.

RESTAURANT:

Our menu of small plate dishes has been crafted to offer a variety of food options to our guests throughout the day. There are lighter options for lunch and heavier dished for dinner. Of course there will be finger food and cheese and meat offerings as well. The menu will be changed seasonally and all food selections will have been designed to pair with our wines. Please see attached sample menu.

We have designed our kitchen to allow us to provide a diverse menu of wine related dishes. On the large counter area behind the downstairs bar we will prepare all of the meat and cheese plates, olive dishes deserts and salads. In the main kitchen area in the back we will prepare our flatbreads, crostini, panini, soups and all other main dishes.

WINES:

The Regale wines will certainly be our focus but will comprise only about 15% of the wines that we will offer. There will be a significant component of French, Italian and Spanish wines as well as many other California regions including Napa and Sonoma Counties. Wines will be available in tasting flights, by the glass and by the bottle for on-site consumption.

SUMMARY:

Our proposal is to build a showpiece, classic wine bar unrivaled in the Bay Area. The building itself is magnificent and a wine bar of this scale and design is the perfect use for it. The wine bar will complement the other businesses downtown and will become a destination itself very quickly. Regale Wine Bar will be a great addition to Downtown Campbell.

EMPLOYEE STAFFING: AVG.

11am – 2pm Staff. - 8

2pm – 5pm Staff. - 5

5pm – 11pm staff. - 14

Attachment 5
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REGALE WINE BAR

www.RegaleWineBar.com

Dine

Small Plates

Bleu cheese stuffed figs	5
Endive with house made mascarpone cheese & spiced pecan	5
Marinated olives: perenzana, green cerignola & san remo	4
Trio of Tuscan olive oils served with bread	4
Mediterranean plate: hummus, feta, kalamata olives & flatbread	6
Marcona almonds	4

Fromage

Taleggio	5
Manchego	3
Burrata with Olive Oil	9
Pecorino Romano	4
Gorgonzola	
Moliterno Al Tartufo	5
La Tur	5
Fontina	
Brillat Savarin: triple crème cow milk from France, bloomy rind	4
Humbolt Fog	6
Midnight Moon	5
Rogue Blue Cheese	5

Sliced Meats

Prosciutto Di Parma	5
Salami Calabrese	4
Salami Barolo	7
Salami Tartufo	7
Mortadella	4
La Quercia Speck	5
Bresaola	6
Coppa Arrosto	5
Pancetta	4
Ham with Black Truffles	5
Sopressata	5

Charcuterie

House mix of meat, cheese, pate de champagne, crackers and other accoutrements (serves 2 or more)	18

Crostini

Prosciutto di parma, duetto, melon, balsamic glaze	7
Spicy calabrese salami, pecorino, pepperoncini, honey	6
Roasted mushrooms, herbed mascarpone, truffle oil	5
Black Mission figs, gorgonzola, pomegranate reduction	5

** Gluten-Free Bread can be substituted for $1*

HOURS

Sunday– Wednesday
11AM – 10PM

Thursday – Saturday
11AM – 11PM

REGALE WINE BAR

Flatbreads

Wild mushroom, marinated artichokes, heirloom tomato, spinach, roasted pepper	10
Fennel sausage, roasted peppers, grilled onions, Idaiazabel, red pepper flakes	10
Turkey, fresh pear and melted Brie with honey mustard drizzle	10
Basil pesto, three-cheese blend, heirloom cherry tomato, mozzarella and arugula	12
Salami, mortadella, pecorino, cippolini onions, herb infused olive oil	13
Mascarpone, goat cheese, roasted mushrooms, truffle oil	11
Arugula, burrata, prosciutto di parma, balsamic glaze	12

Bruschetta

Brie, apple, balsamic cream, candied pecans	4
Smoked salmon, cream cheese, sliced almonds	4
Goat cheese, citrus cranberry compote, fresh pear	4
Oven dried tomato, smoked mozzarella, basil pesto	4
Carpaccio of beef, porcini crème, capers, micro green	4

Salads

Butter lettuce, roasted beets, herbed chevre, citrus vinaigrette	7
Roasted tomato caprese with basil	6
Panzanella with prosciutto, manchego, arugula and shaved fennel	10
Citrus Mesclun Salad, tossed in a light champagne vinaigrette, goat cheese, fresh orange	10
Arugula salad w/ baked Redwood Hill cheve, pomegranate seeds and apricot marmalade	10

Panini

Caprese. Tomato, mozzarella, basil, Estate olive oil, salt and pepper	11
Mortadella-Ricotta. Mortadella, ricotta, chopped thyme, parsley and olive oil	12
Apple-Manchego. Sliced apple, manchego, quince paste, olive oil, salt and pepper	12
Three-Meat. Soppressata, capicola, salami, fontina cheese, roasted red pepper	13
Serrano-Fig. Sliced Serrano ham, manchego, fig jam, Estate olive oil, salt and pepper	12
Chicken-Saltimbocca. Sliced chicken, fontina, prosciutto, chopped sage, olive oil	

Soups

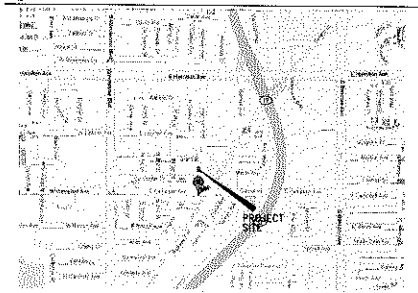
Celery root & roasted apple soup w/ toasted almonds	10
Root vegetable soup with Chanterelle mushrooms and Parmigiano crusted croutons	12
Riverdog butternut squash bisque, hazelnut, ricotta and brioche toasts	12

Desserts

Vanilla gelato with salted caramel	8
Pear huckleberry crisp	10
Tiramisu with rum mascarpone	9
Chocolate truffle bites	9
Warm spice bread pudding	10

** Gluten-Free Bread can be substituted for $1*

VICINITY MAP



PROJECT TEAM

Tenant: REGALE Winery & Vineyards – Larry Schaadt
24040 Summit Road
Los Gatos . CA 95033
larry@regalewine.com

Developer: West Hall Properties LLC – Matthew C. Klemchuk
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(t) 408.505.6133 (f) 408.608.0364
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T.I. Architect: Studio 02 Architects – Sunny Tam AIA LEED BD+C
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Shell Architect: M. Sandoval Architects, Inc. – Mark Sandoval
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PROJECT DESCRIPTION

THIS IS A TENANT IMPROVEMENT PROJECT FOR THE OLD HISTORIC THEATER IN
THE HEART OF DOWNTOWN CAMPBELL. THE PROPOSED USE IS A NEW WINE BAR AND RESTAURANT. SCOPE OF WORK INCLUDES:

1. INTERIOR PARTITION WALLS AND COUNTERS.
2. KITCHEN EQUIPMENTS.
3. BUILT-IN CABINETRY.
4. BAR DESIGN LAYOUTS.
5. NEW RESTROOM LAYOUT.
6. NEW RETAIL AREA.
7. SECOND LEVEL MEZZANINE DINING AND VIP ROOM.
8. THE PROPOSED TENANT IMPROVEMENT WILL NOT MODIFY THE PREVIOUSLY APPROVED EXTERIOR RESTORATION IMPROVEMENTS. LANDLORD TO COMPLETE THE HISTORIC FACADE RESTORATION AS SEPARATE WORK AND NOT PART OF THIS PERMIT. ⚠1

SHEET INDEX

ARCHITECTURAL

A0.0	PROJECT INFORMATION / BUSINESS PLAN
A0.0o	EXISTING SITE PLAN / EXIT PLAN
A1.0	PROPOSED T.I. FLOOR PLAN
A1.5	OCCUPANCY LOAD ANALYSIS
A2.0	REGALE WINERY CONCEPTUAL IMAGES
A3.5	EXTERIOR ELEVATIONS (FOR REFERENCE ONLY)
CIVIL	UTILITY SITE PLAN

FIRE PROTECTION NOTES

FIRE PROTECTION NOTE:
1. ALTER THE SPRINKLER SYSTEM AS NEEDED BY THE NEW PARTITIONS, FLOORS AND CEILINGS. SUBMIT SHOP DRAWINGS FOR THE MODIFICATION OF THE FIRE SPRINKLER SYSTEM TO THE FIRE DEPT FIRE REVIEW AND APPROVAL PRIOR TO INSTALLATION.
2. SUBMIT SHOP DRAWINGS FOR THE HOOD FIRE PROTECTION SYSTEM TO THE FIRE DEPT FOR FIRE REVIEW AND APPROVAL PRIOR TO INSTALLATION.
3. PROVIDE PORTABLE FIRE EXTINGUISHER, LOCATION AND SPECIFICATION IN ACCORDANCE WITH CHAPTER 3, TITLE 19 CALIFORNIA CODE OF REGULATIONS.
4. ALL PORTION OF THE BUILDING SHALL BE WITHIN 75 FEET OF A FIRE EXTINGUISHER. THE MIN SIZE OF THE EXTINGUISHER SHALL BE 2-A:10-BC.
5. SMOKE DETECTORS FOR THE AIR HANDLING UNITS SHALL BE MONITORED BY THE SPRINKLER MONITORING SYSTEM. FIRE ALARMS PLANS SHALL BE SUBMITTED SEPARATELY AND APPROVED PRIOR TO COMMENCEMENT OF WORK IN ACCORDANCE TO CBC SECTION 907.2.

PROJECT DATA

Construction type: III-B
A.P.N. : 412-07-038
Sprinklered: Yes
Existing area: 3,481 sf (Gross, excluding mezzanine)

	Existing	Proposed
Occupancy:	VACANT	WINE BAR (A-2), WINE RETAIL (M)

CODE REFERENCE:
2010 CBC
2010 CEC
2010 CMC
2010 CPC
2010 CFC
2010 CALIFORNIA ENERGY CODE

Total parking provided:
existing city and public parking

Total parking H.C. provided:
existing city h.c. public parking

PER CBC TABLE 1004.1.1

1st floor net area = 3,189.40 sf
2nd floor net area = 2,564.39 sf
TOTAL NET AREA = 5,753.79 SF

Total allowable occupancy per City of Campbell Planning department: 242 ⚠1
Proposed 1st floor seating: 76
Proposed 2nd floor seating: 163
Total proposed seating: 239

Total allowable Occupant Load fper CBC table 1004.1.1 = 248
(SEE A1.5 FOR OCCUPANCY LOAD ANALYSIS)

Exit required: 2
Exit provided: 3 (GROUND LEVEL)
2 (MEZZANINE LEVEL)

TOTAL PLUMBING OCCUPANCY LOAD = 192
(per CPC table A, occupant load factor of 30)

	MENS (50%)= 96 REQ.	PROVIDED		WOMENS (50%)= 96 REQ.	PROVIDED
W.C.	1	2	W.C.	2	3
URINAL	1	1	URINAL	–	–
LAV.	1	3	LAV.	1	3

FOOD MENU

REGALE WINE BAR
www.RegaleWineBar.com

Dine

SMALL PLATES

Bleu cheese stuffed figs	8
Endive with house-made manchego-pear cheese & spiced pecan	5
Marinated olives: sorrentana, green cerignola & spicy rome	4
Trio of Tuscan-olive oils served with bread	4
Mediterranean plate: hummus, feta, kalamata olives & flatbread	6
Marcona almonds	4

FROMAGE

Taleggio	5
Manchego	3
Morrats with Olive Oil	9
Pecorino Romano	4
Gorgonzola	
Robiliano Al Tartufo	5
La Tur	5
Fontina	
Bellavitano Merlot triple cream cow milk from Fresno, blueberry rind	4
Humboldt Fog	4
Midnight Moon	5
Pepper Blue Cheese	5

SLICED MEATS

Prosciutto di Parma	5
Salami Calabrese	4
Salami Cotto	7
Salami Tartufo	7
Mortadella	4
La Quercia Spark	5
Bresaola	6
Coppa Armato	5
Pancetta	4
Rare white truffle	5
Soppressata	5

CHARCUTERIE

House mix of meat, cheese, pate de champagne, crackers and other accompaniments (serves 2 or more)	16

CROSTINI

Prosciutto di parma, ricotta, melon, balsamic glaze	7
Tuscan calabrese salami, pecorino, peppercorn jelly, honey	6
Roasted mushrooms, herbed mascarpone, truffle oil	5
Black Mission figs, gorgonzola, parmigiano reduction	5

FLATBREADS

Wild mushroom, marinated artichokes, heirloom tomato, spinach, roasted pepper	10
Fennel sausage, roasted peppers, grilled onions, ricotta, red pepper flakes	10
Turkey, fresh pear and walnut Brie with honey mustard drizzle	10
Basil pesto, three-cheese blend, heirloom cherry tomato, mozzarella and arugula	12
Salami, mortadella, pancetta, cippolini onions, herb infused olive oil	13
Mascarpone, goat cheese, roasted mushrooms, truffle oil	11
Arugula, burrata, prosciutto di parma, balsamic glaze	12

BRUSCHETTA

Brie, apple, balsamic cream, candied pecans	4
Smoked salmon, cream cheese, sliced almonds	4
Goat cheese, citrus cranberry compote, fresh mint	4
Oven dried tomato, smoked mozzarella, basil paste	4
Carpaccio of beef, pinenut crème, capers, micro green	4

SALADS

Butter lettuce, roasted beets, herbed chevre, citrus vinaigrette	7
Roasted tomato caprese with basil	6
Pantorella with prosciutto, manchego, arugula and shaved fennel	10
Citrus Mesclun Salad, tossed in a light champagne vinaigrette, goat cheese, fresh orange	10
Arugula salad w/ baked Redwood Hill chevre, pomegranate seeds and apricot marmalade	10

PANINI

Caprese: Tomato, mozzarella, basil, Estate olive oil, salt and pepper	11
Mortadella-Ricotta: Mortadella, ricotta, chopped thyme, parsley and olive oil	12
Apple-Manchego: Sliced apple, manchego, quince paste, olive oil, salt and pepper	12
Three-Meat: Soppressata, caprinda, salami, fontina cheese, roasted red pepper	13
Serrano-Fig: Sliced Serrano ham, manchego, fig jam, Estate olive oil, salt and pepper	12
Chicken-Saltimbocca: Sliced chicken, fontina, prosciutto, chopped sage, olive oil	

SOUPS

Celery root & roasted apple soup w/ toasted almonds	10
Mixed vegetable soup with Chanterelle mushrooms and Parmigiano crusted croutons	12
Riverdog Butternut squash bisque, hazelnut, ricotta and brioche toasts	12

DESSERTS

Vanilla gelato with salted caramel	5
Pear bread pudding	10
Tiramisu with rum mascarpone	8
Chocolate truffle bites	5
Warm spice bread pudding	10

HOURS

Sunday - Wednesday
11AM - 10PM

Thursday - Saturday
11AM - 11PM

* Gluten-free Bread can be substituted for $1

* Gluten-free bread can be substituted for $1

RECEIVED
JAN 17 2013
CITY OF CAMPBELL
PLANNING DEPT.

BUSINESS PLAN

CONCEPT:

The proposed Regale Wine Bar will in part be an extension of our exclusive Regale Winery in the foothills of Los Gatos and in part a very high-end metropolitan wine bar/restaurant. We are looking to cater to a slightly older clientele interested in experiencing not only our wines but wines from around the world paired with an extensive offering of gourmet small plates prepared on-site in our kitchen. The wine bar will be a great compliment to the other restaurants in downtown Campbell.

OPERATIONS:

Because we are not only a wine bar but a restaurant as well, we will be open for both lunch and dinner 7 days per week. Our proposed hours are from 11am-10pm Sun-Wed and 11am-11pm Thur-Sat. The focus will be on wine but we will also offer a very small compliment of premium bottled beers upon request. Beer will not be sold on tap and will account for less than 5% of our overall sales. We also have a very small area for live music on the second floor for a single musician or at most a jazz trio. The live music is to provide light background music as seen in similar high-end wine bars. There will be no loud bands of any sort playing live music!

Regale Winery operates under a Type 2 Producers Permit. To sell our wines off-site at the Regale Wine Bar, we are required to hold a Type 41 Permit for the wine bar, which is the appropriate permit as we will be operating as a wine bar/restaurant during all hours that we are open. The regulation is very specific in that we will only be allowed to operate under a Type 41 Permit.

We will complete the restoration of the exterior of the building bringing it back to its original beauty. Included in our plans is to expand the sidewalk area at the front of the building to provide for limited outdoor seating. The overall look and feel of the interior will be the modern elegance of a big city wine bar with its limestone entryway, dark wood floors, marble countertops and exposed wooden truss ceiling.

The floor plan provides for the main wine bar on the first floor and additional overflow seating and smaller bar on the second floor. Included in the second floor layout is a small private wine reception/dining room. Most of the food and wine service will be table service with less than 20% of the seating available at the bar. The kitchen will be located on the first floor. Accessible restrooms and elevator will be provided on both floors.

RESTAURANT:

Our menu of small plate dishes has been crafted to offer a variety of food options to our guests throughout the day. There are lighter options for lunch and heavier dished for dinner. Of course there will be finger food and cheese and meat offerings as well. The menu will be changed seasonally and all food selections will have been designed to pair with our wines. Please see attached sample menu.

We have designed our kitchen to allow us to provide a diverse menu of wine related dishes. On the large counter area behind the downstairs bar we will prepare all of the meat and cheese plates, olive dishes deserts and salads. In the main kitchen area in the back we will prepare our flatbreads, crostini, panini, soups and all other main dishes.

WINES:

The Regale wines will certainly be our focus but will comprise only about 15% of the wines that we will offer. There will be a significant component of French, Italian and Spanish wines as well as many other California regions including Napa and Sonoma Counties. Wines will be available in tasting flights, by the glass and by the bottle for on-site consumption.

SUMMARY:

Our proposal is to build a showpiece, classic wine bar unrivaled in the Bay Area. The building itself is magnificent and a wine bar of this scale and design is the perfect use for it. The wine bar will complement the other businesses downtown and will become a destination itself very quickly. Regale Wine Bar will be a great addition to Downtown Campbell.

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TENANT IMPROVEMENT FOR:

REGALE

400 EAST CAMPBELL AVENUE
CAMPBELL . CA 95008

11.28.12 . ISSUED FOR CUP SUBMITTAL
1.10.13 ⚠1 12.21.2012 C.U.P. COMMENT

DATE: 10.24.12
PROJECT NO.: 12-4330

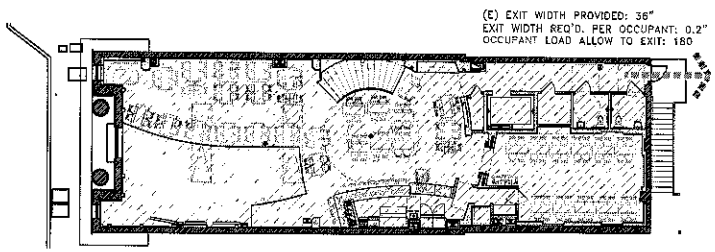
PROJECT INFORMATION
EXIT PLAN

TRUE NORTH / MAGNETIC NORTH

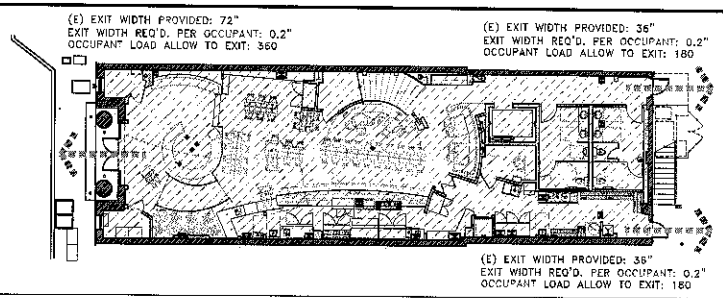
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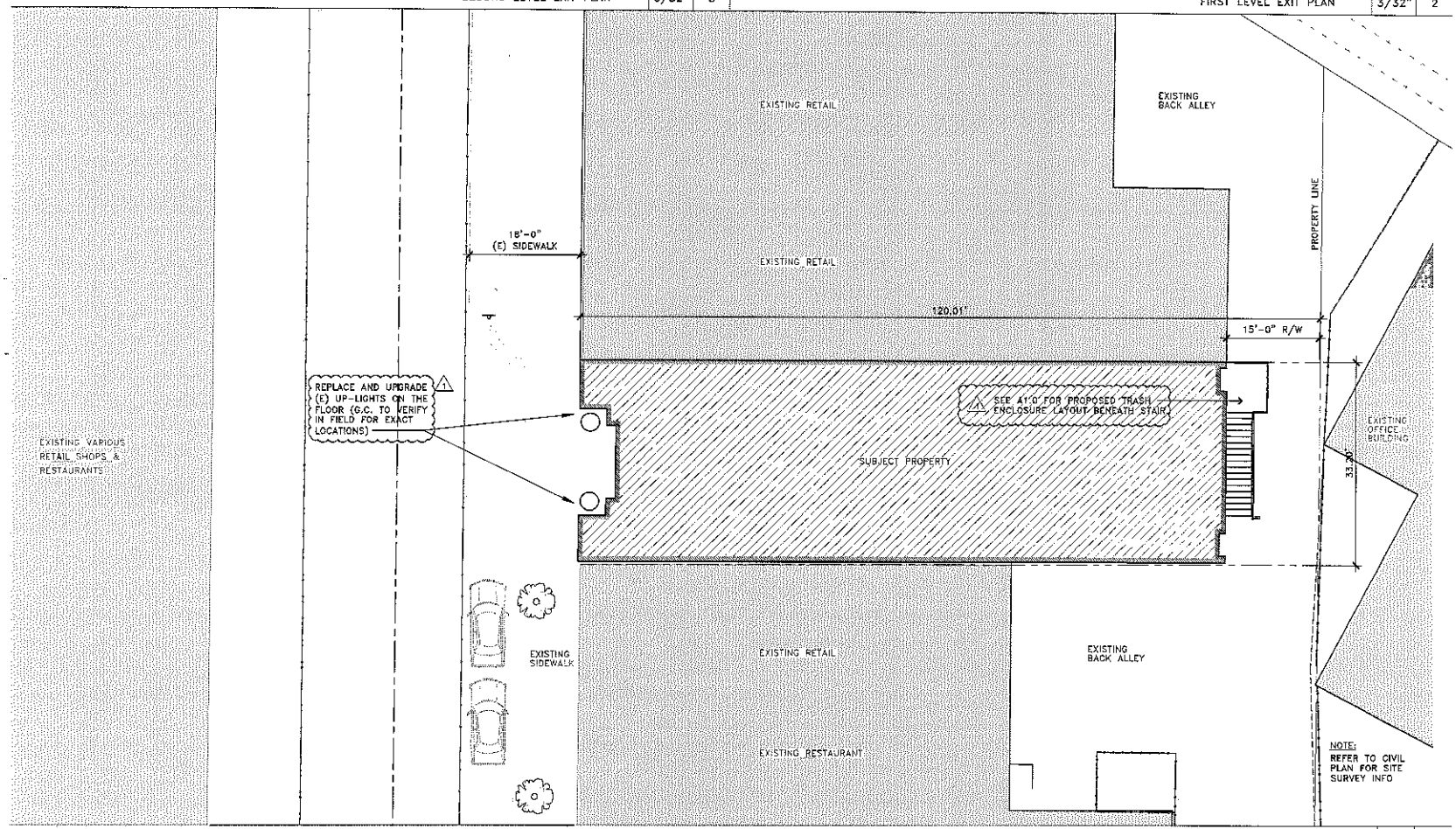
Attachment 6



SECOND LEVEL EXIT PLAN | 3/32" | 3



FIRST LEVEL EXIT PLAN | 3/32" | 2



EXISTING SITE PLAN | 1/8" | 1

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TENANT IMPROVEMENT FOR
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400 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

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1.10.13 1 12.21.2012 C.U.P. COMMENT

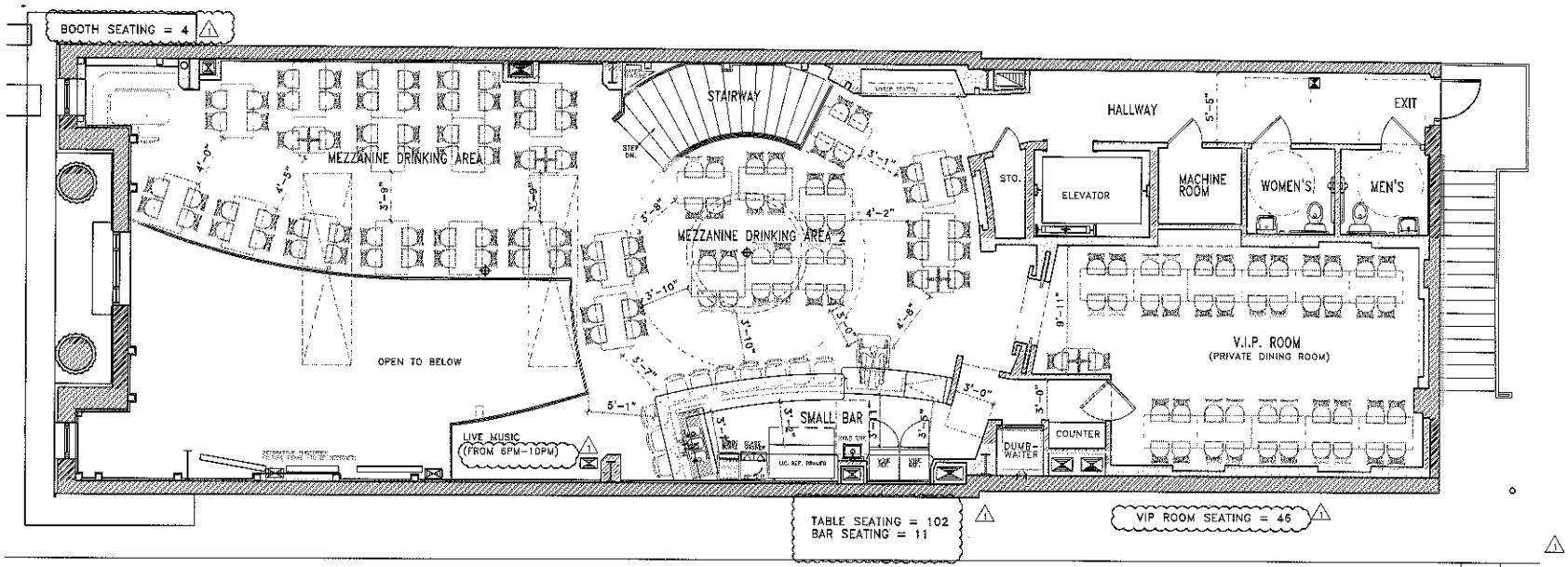
DATE: 10.24.12
PROJECT NO.: 12-4330

EXIT PLAN & EXISTING SITE PLAN

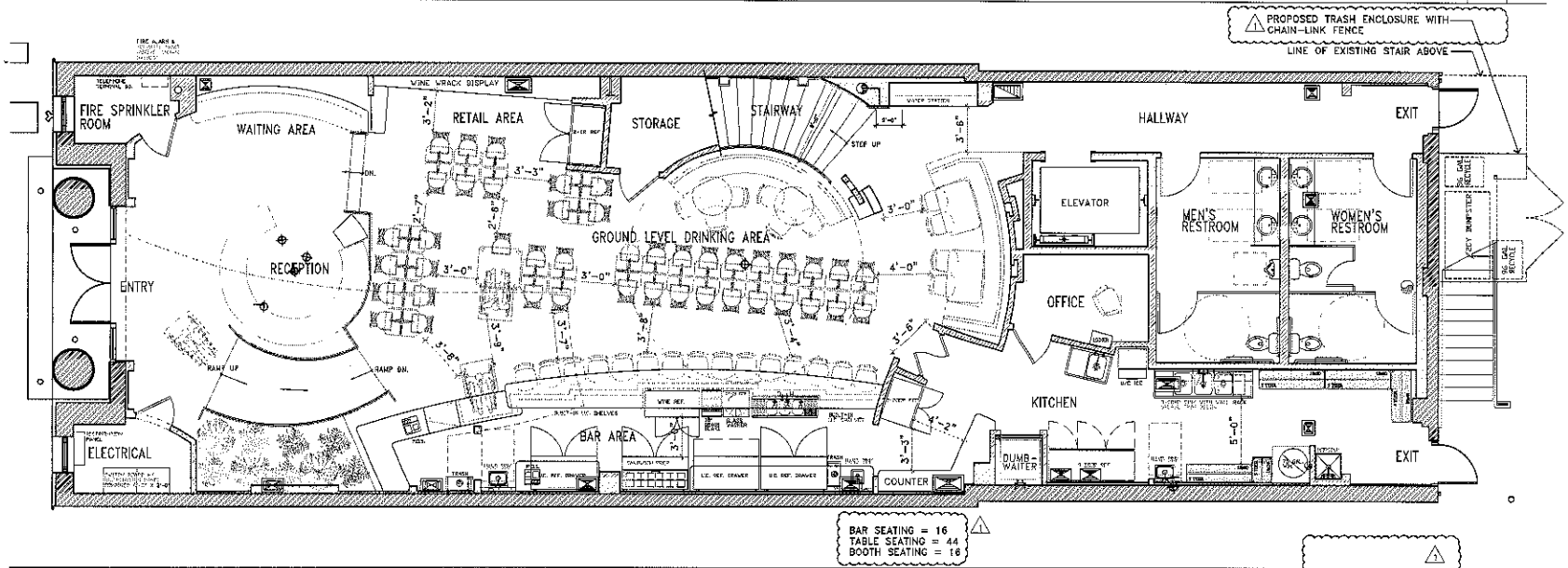
TRUE NORTH

A0.0a

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PROPOSED 2ND FLOOR PLAN – TOTAL SEATING = 163 | 1/4" | 2



PROPOSED 1ST FLOOR PLAN | 1/4" | 1

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TENANT IMPROVEMENT FOR:
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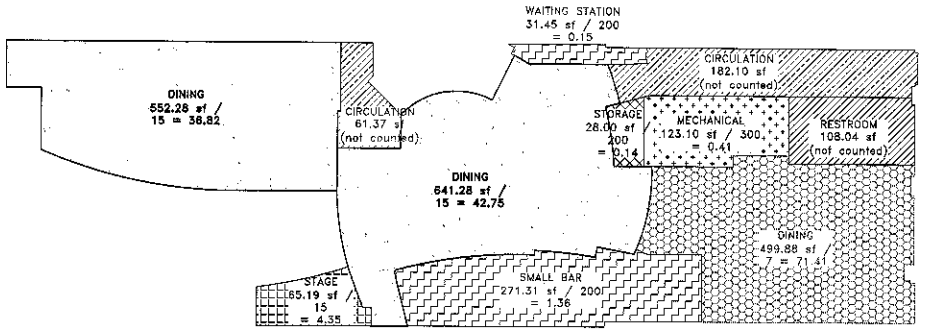
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PROJECT NO.: 12-4330

PROPOSED FLOOR PLANS
SCHEME 1

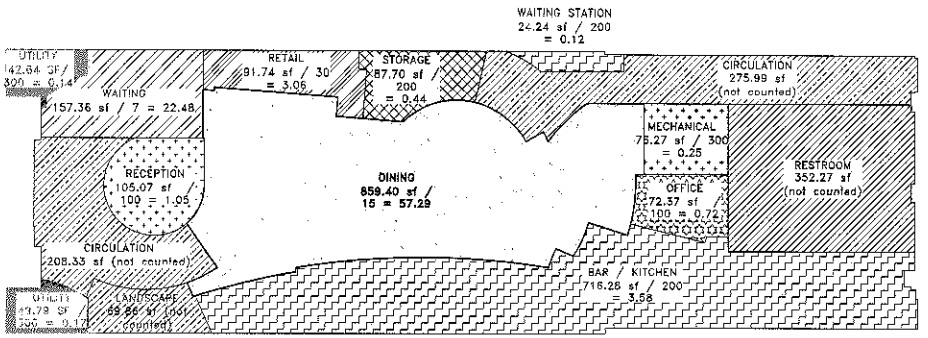
TRUE NORTH | GRID NORTH

A1.0

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2ND LEVEL FLOOR AREA AND OCCUPANT LOAD BREAKDOWN | N.T.S. | 2



1ST LEVEL FLOOR AREA AND OCCUPANT LOAD BREAKDOWN | N.T.S. | 3

Occupant load at ground level dining: 859 / 15 = 57
Occupant load at mezzanine level dining: 1194 / 15 = 80
Occupant load at mezzanine VIP dining: 500 / 7 = 71 (standing room)

Occupant load at circulation: 797 / X = NOT COUNTED
Occupant load at storage: 116 / 200 = 2 (1 per floor)
Occupant load at restroom: 460 / X = NOT COUNTED
Occupant load at waiting area: 157 / 7 = 22
Occupant load at reception/office: 178 / 100 = 2
Occupant load at kitchen/bar: 1,043 / 200 = 5
Occupant load at retail area: 92 / 30 = 3
Occupant load at stage: 65 / 15 = 4
Occupant load at utility/mech. room: 291/ 300 = 2 (1 per floor)

Total Occupant Load for both floors: 248

FLOOR AREA AND OCCUPANT LOAD CALCULATIONS | N.S. | 4

LEGEND

- UTILITY
- RESTROOMS
- WAITING AREA
- CIRCULATION
- RETAIL AREA
- STORAGE
- DINING AREA - TABLE AND CHAIR
- VIP DINING - STANDING ROOM
- OFFICE / RECEPTION
- MECHANICAL
- KITCHEN / FOOD SERVICE
- STAGE AREA

GRAPHIC LEGEND | N.S. | 1

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TENANT IMPROVEMENT FOR:

REGALE

400 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008

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DATE: 10.24.12
PROJECT NO.: 12-4330

FLOOR AREA DIAGRAM
AND OCCUPANT LOAD

TRUE NORTH / MAP NORTH

A1.5

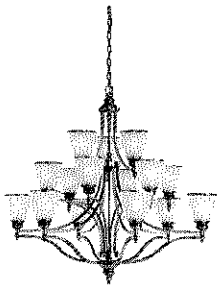
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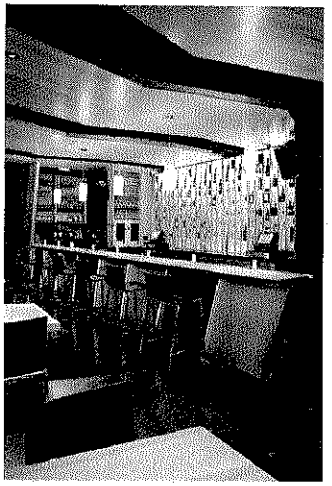
OPEN-TRUSS CEILING CONCEPT



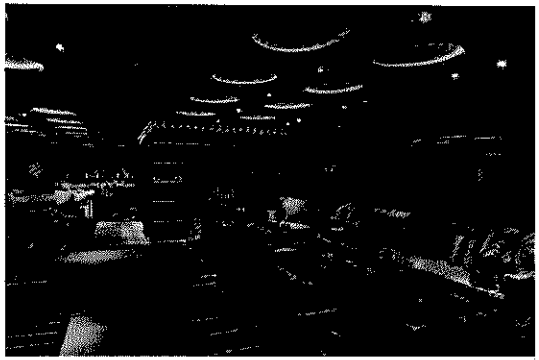
ELEGANCE CONCEPT



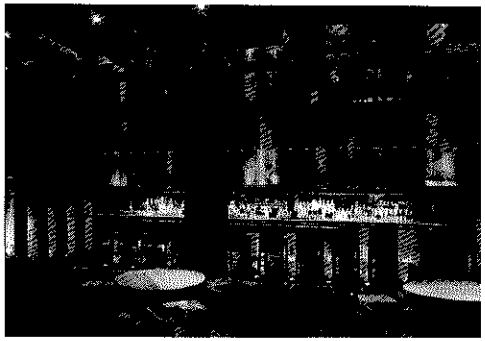
LIGHTING CONCEPT



CEILING CONCEPT



AMBIANCE CONCEPT 1



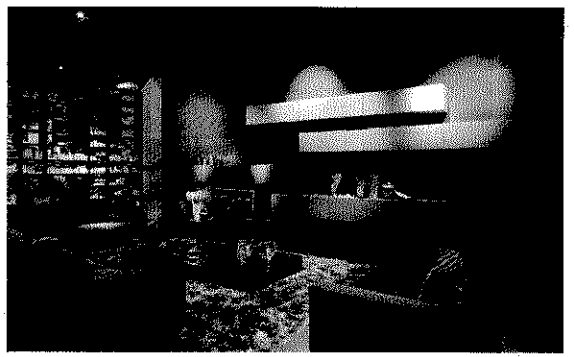
AMBIANCE CONCEPT 2



CONTEMPORARY MODERN CONCEPT 1 – LIGHT WOOD AND DARK WOOD CONTRAST



CONTEMPORARY MODERN CONCEPT 2
– VENETIAN PLASTER WALL TEXTURE
ACCENT COLOR



CONTEMPORARY MODERN CONCEPT 2 – NEUTRAL COLORS

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TENANT IMPROVEMENT FOR:

REGALE

400 EAST CAMPBELL AVENUE
CAMPBELL . CA 95008

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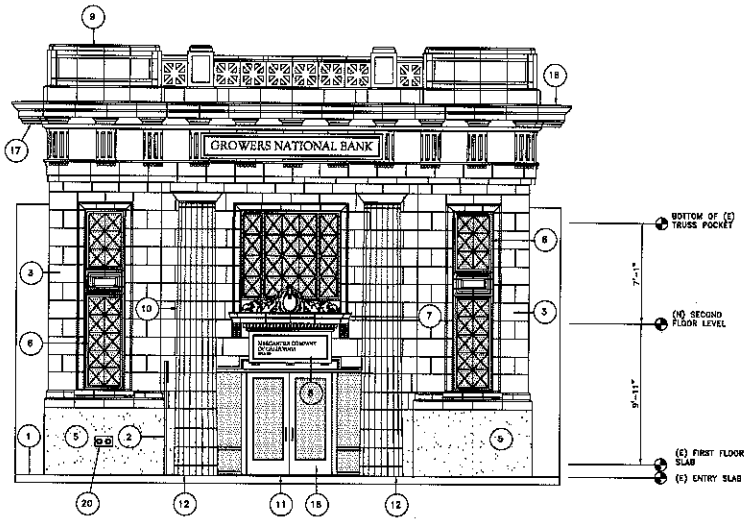
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PROJECT NO.: 12-4330

CONCEPTUAL IMAGES

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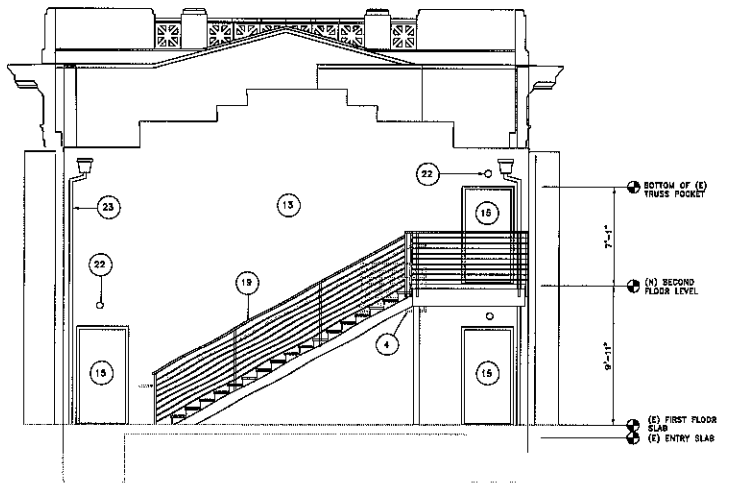
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PROPOSED CAMPBELL AVENUE EXTERIOR ELEVATION

1/4" SCALE

1 A3.5



PROPOSED SOUTH EXTERIOR ELEVATION

1/4" SCALE

2 A3.5

SHEET NOTES

1. Existing concrete public sidewalk
2. Approximate location of existing street parking sign
3. Existing repaired terra-cotta tile. Color and surface appearance to match the visual characteristics as the original historical material
4. Existing metal grille to be removed and filled in with brick to match color and physical characteristics as the existing brick
5. Replacement and reconditioned marble slab wall base plinth. Replacement slabs shall match the visual color and surface modeling characteristics as the existing historical material
6. New replacement wood sash windows with reconditioned and rebuilt zinc came lotest glazing. All window parts including frame and sash shall match the all profiles, width and dimensions of the existing historical windows. All replacement glass panes shall be made of historic glass with the similar clarity and visual characteristics as the original.
7. New glass reinforced cast pediment cornice crown ends to match profile and visual appearance of the existing. Profile shall be cast from mold of the original to ensure a seamless transition and overall visual appearance.
8. Existing repaired historic marble entrance pediment sign panel with gold leaf lettering
9. Indicates existing repaired and repainted decorative parapet terra-cotta masonry upper balustrade units
10. Indicates existing repaired terra-cotta Greek Ionic columns
11. Indicates new stone marble tile main entrance
12. Indicates approximate location of new recessed sidewalk up lighting fixtures
13. Indicates existing repointed and repaired brick wall
14. Indicates new custom aluminum roof skylights beyond
15. Indicates new metal exterior door and frame
16. Indicates new aluminum storefront and entry door system
17. Indicates repaired decorative cornice
18. Indicates new replacement copper flashings and cornice roof system
19. New steel exterior second floor exit landing and stairs, refer to structural drawings for details
20. Indicates new fire department connection valve
21. Indicates new steel bollard
22. Indicates new exterior surface mount security light fixtures
23. New painted G.I. parapet scuppers and down spouts

GENERAL NOTES

BRICK MASONRY REPAIR NOTES

1. Masonry and Mortar: Masonry and mortar materials used for repair and renovation shall match the original existing historic materials as closely as possible in composition, color, texture, strength, size, finishing and jointing.
2. Masonry renovation shall be undertaken only after complete evaluation and analysis of the areas to be repaired are completed; this shall include sampling and testing of the existing mortar to determine its composition and qualities. No repair work shall be undertaken until conditions that have caused masonry deterioration have been identified; such conditions shall be corrected, if possible, prior to start of the work.
3. Methods used for cleaning historic masonry shall be the gentlest possible to achieve the desired results. Test patches shall be made to determine a satisfactory cleaning result. Cleaning shall be performed in a manner which results in uniform coverage of all surfaces, including corners, moldings, interstices and which produces an even effect without streaking or damage to masonry. The cleaning materials, equipment, and methods shall not result in staining, erosion, marring, or other damage to the surfaces of the structure. Note acidic chemical cleaners shall not be used.
4. All repaired masonry brick surfaces shall match adjacent existing surfaces in all respects. Masonry repair shall proceed only after the cause of deterioration has been identified and corrected.
5. All old caulking, grout, or mortar shall be removed from previously repaired cracks where it is failing. Loose particles shall be removed from cracks. Cracks shall be cleaned, rinsed with water followed by blowing with filtered, dry, compressed air.
6. The Contractor shall be responsible for coordinating all testing and the analysis of all existing materials required under this division of the work. The Contractor shall take samples of the existing mortar for testing by a qualified materials testing laboratory to determine physical properties and for compressive strength of mortar. Provide a copy of this analysis report to the Architect. NOTE: ALL NEW MORTAR USED ON THIS PROJECT SHALL MATCH THE EXACT PHYSICAL PROPERTIES, TEXTURE, COLOR, AND VISUAL APPEARANCE AS THE EXISTING.
7. Samples of unweathered original historic mortar shall be taken and analyzed in order to match the new mortar to be used for repointing.
8. The aggregate shall also be examined with a magnifying glass, and the component materials shall be recorded as to range of materials, sizes, colors, as well as the presence of other materials.
9. Original historic masonry materials shall be repaired or replaced only if their surfaces are extensively deteriorated (surface missing to a depth of 4 inches or more) or if they are threatening the safety of the structure or, the safety of the public or individuals working around the site or as directed by the Architect and the Project Engineer. Deteriorated surfaces shall be removed and repaired or replaced only upon securing this approval. Note that all repairs and replacement material shall match the original historic materials in size, dimension, visual appearance and in overall physical characteristic as closely as possible.
10. All unsound, weak, or damaged masonry and mortar shall be removed from wall areas. Loose particles, laitance, spalling, cracked, or debonded masonry and mortar and foreign materials shall be removed with hand tools unless otherwise noted. Surfaces prepared for repair shall be cleaned free of dust, dirt, masonry chips, oil or other contaminants, rinsed with water, and dried before repair work is commence.
11. The Contractor shall be responsible in ensuring that all the existing surfaces of the structure including all surfaces adjacent to the work area are adequately protected from damage that may result from this phase of the work.
12. Dutchman Repairs: Repair pieces shall be held in place with epoxy with the joint between the new and old materials kept as narrow as possible to maintain a visual consistent and a seamless transition from the existing brick and the repair.

TERRA-COTTA REPAIR NOTES

1. Before starting with the visual inspection of the terra-cotta tiles and other related building materials and surfaces, the Contractor shall clean the entire façade of the building to remove all loose debris and dirt so that a full inspection of all areas may be performed. All cleaning shall be done by hand and by using water with a mild detergent with a natural or nylon brush. NO COMMERCIAL CLEANING SOLUTIONS OR STRONG DETERGENTS ARE TO BE USED PARTICULARLY FLUORIDE-BASE ACIDS OR ANY PRODUCTS THAT MAY LEAVE A CHEMICAL RESIDUE OR LIBERATE SALTS FROM TILE OR MORTAR SURFACES AND/OR MAY HAVE AN ADVERSE AFFECT ON THE PHYSICAL PROPERTIES OF THESE EXISTING MATERIALS.
2. Visually inspect existing condition of metal flashing and drain above the existing cornice. Check all connection Joints attaching the metal to tile and/or mortar joints for damage or other evidence of water entry to wall cavity. Test terra-cotta tile units for possible deterioration or other stress related problems. Report findings to the Architect for any additional instructions before beginning any repair work.
3. Visually inspect all individual terra-cotta tiles for stress related and other deterioration problems. Use the architectural drawings to surface map these areas and to note the severity of damage such as, potential deterioration of metal anchoring, glaze spalling, stress cracking, evidence of water infiltration stains, etc. Included as part of this reconnaissance all mortar joint areas in need of repointing, along with any other condition that may have an adverse affect on or may prevent the proper implementation of the proposed preservation or improvement work on the building. Inspection of the surfaces should include tapping with a wood mallet by a person knowledgeable and who have a minimum of 5 year years of experience in this trade performing this type of method of inspection along with being technically certified and trained personnel that are experienced in infrared scanning, sonic testing, metal detection and laboratory analysis of material samples that may be taken to determine composition and physical properties.
4. Upon the review and approval by the Architect and the Project Engineer of this data collected in the field by the Contractor, the Contractor may begin the staging operation for the repairs to the existing terracotta façade units. The Contractor shall carefully remove glaze spalling areas along with other loose existing patch repairs and prepare surfaces as needed for to properly perform repairs.
5. Use only acrylic-based masonry paints and primers that are recommended for use with terra-cotta tile and approved by the Architect. Apply in accordance with the manufacturer's instructions in a manner consistent in all visual characteristics and surface appearances, including color, texture, depth, reflectivity and sheen so that it replicates as close as possible the existing historic terra-cotta tiles. Provide the Architect test samples for review and approval before starting this phase of the repair work. Test samples shall be prepared on rigid Masonite boards (no smaller that 12" x 12") so that the may be compared with the existing terra-cotta tiles for match and for application technique and overall visual appearance.
6. Once the sample or samples have been selected, the Contractor shall prepare a test sample that is applied directly to the surface of the tile to ensure application and method of repair remains consistent in appearance with in the place work. Once approved by the Architect, the Contractor may commence with this part of the painting operation.
7. Temporarily stabilize areas if required and protect from weather. Carefully remove if required as part of the work approved under this Contract, damaged terra-cotta tiles or other ornamental elements without damaging the remaining adjacent tile surfaces or anchoring system. Clean all joints thoroughly to ensure the proper install of new work. Coordinate with manufacturer all installation requirements along with correlating all field dimensions. Provide Shop Drawing for the Architect's review and approval before commencing with any fabrication work.
8. Report to the Architect any existing condition that may be uncovered during this part of the Contractor's work that may impact the proper sequencing, or the correct and full installation of work identified with in these Drawings and Specifications.

M. SANDOVAL ARCHITECTS, INC.
880 North San Antonio Road, Los Altos, California 94022
San Francisco, Marin and North Bay Region
Phone: 415.924.7000
Fax: 415.924.7008
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Fax: 650.941.8082
mail@msandovalarchitects.com
www.msandovalarchitects.com

PROJECT

Exterior Façade Preservation & Interior Tenant Improvements to the Historic

GROWERS NATIONAL BANK / MERCANTILE TRUST COMPANY BUILDING
400 East Campbell Avenue
Campbell, California

for:

West Hall Properties, LLC

LICENSED ARCHITECT
MARK S. SANDOVAL
No.C25826
Exp. 8-31-09
STATE OF CALIFORNIA

REVISIONS
1
2
3
4
5
6
7
8

SHEET DESCRIPTION

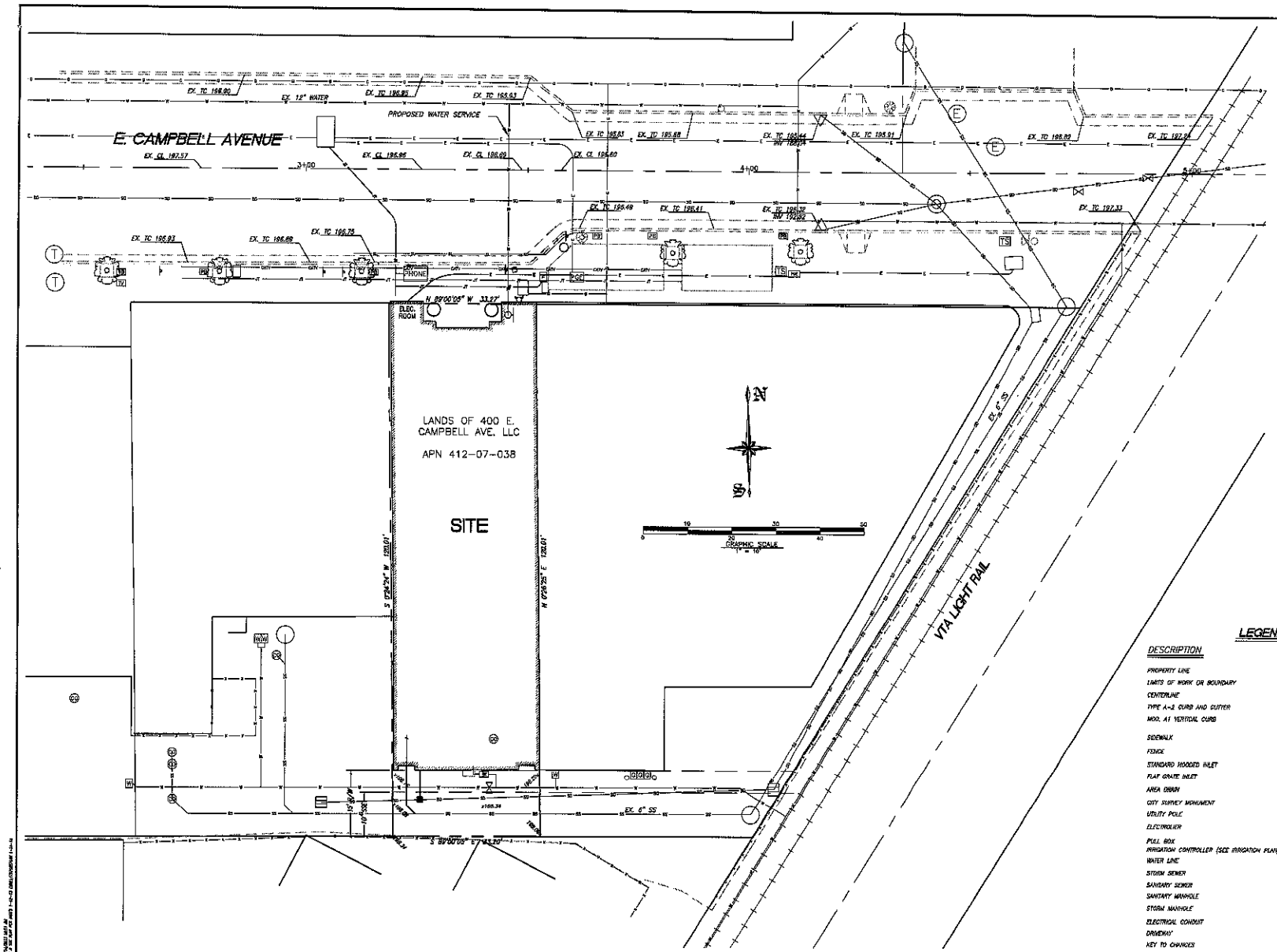
PROPOSED EXTERIOR ELEVATIONS

(FOR REFERENCE ONLY)

10/14/08 — DATE
1/4"= 1'-0" — SCALE
M.S. — DRAWN BY
CHECKED BY

SHEET NUMBER

A3.5



ABBREVIATIONS

AC = ASPHALT CONCRETE
BC = BEGIN CURVE
BE = BUBBLE-UP ELEVATION
BVC = BEGIN VERTICAL CURVE
BW = BOTTOM OF WALL
CB = CATCH BASIN
CL = CENTERLINE
CO = CLEANOUT
EC = END CURVE
EFF = ENTRY FINISH FLOOR
ELEV = ELEVATION
EPAD = ENTRY PAD
EVC = END VERTICAL CURVE
EX = EXISTING
F/C = FACE OF CURB
FF = FINISHED FLOOR ELEVATION
FH = FIRE HYDRANT
FL = FLOW LINE
GB = GRADE BREAK
GFF = GARAGE FINISH FLOOR
GPAD = GARAGE PAD
GR = GRATE ELEVATION
HP = HIGH POINT
INV = INVERT
LP = LOW POINT
PAD = PAD ELEVATION
PCC = PORTLAND CEMENT CONCRETE
PFF = PATIO FINISH FLOOR
PL = PROPERTY LINE
PV = PAVEMENT GRADE
PVC = POLYVINYL CHLORIDE PIPE
PVI = POINT OF VERTICAL INTERSECTION
RCP = REINFORCED CONCRETE PIPE
ROW = RIGHT OF WAY
Sx.00A% = SLOPE
SD = STORM DRAIN
SDMH = STORM DRAIN MANHOLE
SFF = STORAGE FINISH FLOOR
SPAD = STORAGE PAD
SS = SANITARY SEWER
SSMH = SANITARY SEWER MANHOLE
STA = STATION
TC = TOP OF CURB
TF = TOP OF FENCE
TW = TOP OF WALL
VCP = VITRIFIED CLAY PIPE
WM = WATER METER
WV = WATER VALVE

LEGEND

DESCRIPTION	TO BE CONST.	EXISTING
PROPERTY LINE		
LIMITS OF WORK OR BOUNDARY		
CENTERLINE		
TYPE A-2 CURB AND GUTTER		
MOD. A1 VERTICAL CURB		
SIDEWALK		
FENCE		
STANDARD HOODED INLET		
FLAT GRATE INLET		
AREA DRAIN		
CITY SURVEY MONUMENT		
UTILITY POLE		
ELECTROLIER		
PULL BOX IRRIGATION CONTROLLER (SEE IRRIGATION PLAN)		
WATER LINE	W	W
STORM SEWER	SD	SD
SANITARY SEWER	SS	SS
SANITARY MANHOLE		
STORM MANHOLE		
ELECTRICAL CONDUIT		
DRIVEWAY		
KEY TO CHANGES		

Bowman & Williams
A CALIFORNIA CORPORATION
CONSULTING CIVIL ENGINEERS
LAND SURVEYORS
255 W. JULIAN STREET, SUITE 115-A-2406
SAN JOSE, CALIFORNIA 95110
TEL (408) 809-4160 FAX (408) 809-4161

REVISIONS	DATE

DATE 1-14-13
SCALE 1" = 10'
DRAWN BY A.R.Q.
CHECKED BY

SURVEYED BY
RECEIVED CIVIL ENGINEER NO. _____
OWNER

SITE PLAN
400 E. CAMPBELL AVE.
CAMPBELL, CALIFORNIA

JOB NO. 1797
SHEET 1
OF 1

DOWNTOWN ALCOHOL BEVERAGE POLICY

Adopted February 3, 2009
Amended October 4, 2011

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

I. PURPOSE

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

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

This policy is intended to:

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

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

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

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

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

II. GENERAL POLICY

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

1. Stand Alone Bars

a. The City strongly discourages new applications for stand alone bars in the downtown. This includes nightclubs, ultra lounges or similar establishments typically offering live entertainment and late night alcohol service.

b. Wine bars and wine tasting establishments with hours not exceeding 11:00 PM may be approved.

2. Restaurants with Separate Bars

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

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

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

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

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

4. **Hours of Operation**

a. It is strongly recommended that Conditional Use Permits for establishments for on-site consumption of alcohol beverages be limited to a closing time of no later than 12:00 AM.
b. Restaurants requesting beer and wine service only with operating hours not exceeding 11 PM will continue to be allowed without a Conditional Use Permit.

5. **Operating Conditions**

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

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

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

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

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

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

6. **Existing Establishments**

a. Those existing establishments operating under a valid Conditional Use Permit with alcohol beverage licenses in effect as of the date of adoption of this policy, and conducting business in good standing under their Conditional Use Permit, may continue to operate under their current conditions of approval.

b. The City may consider an application for expansion of an existing establishment that is currently permitted to serve late night alcohol as of the effective date of this policy, subject to the deciding body making the following findings that:

i) The establishment is currently operating and has operated in good standing under the terms of its conditional use permit and as a responsible business owner in the community; and

ii) The proposed expansion will not have a material detrimental affect on the health, safety and welfare of the downtown and its surrounding neighborhoods due to its size, number of permitted occupants and general management and operation; and

iii) The expansion or intensification will not adversely affect the goal of achieving a balanced use of commercial space downtown as envisioned under the Downtown Development Plan which promotes predominantly retail and restaurant uses.

c. All new and existing establishments are subject to Section III of this policy.

III. Enforcement

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

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

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

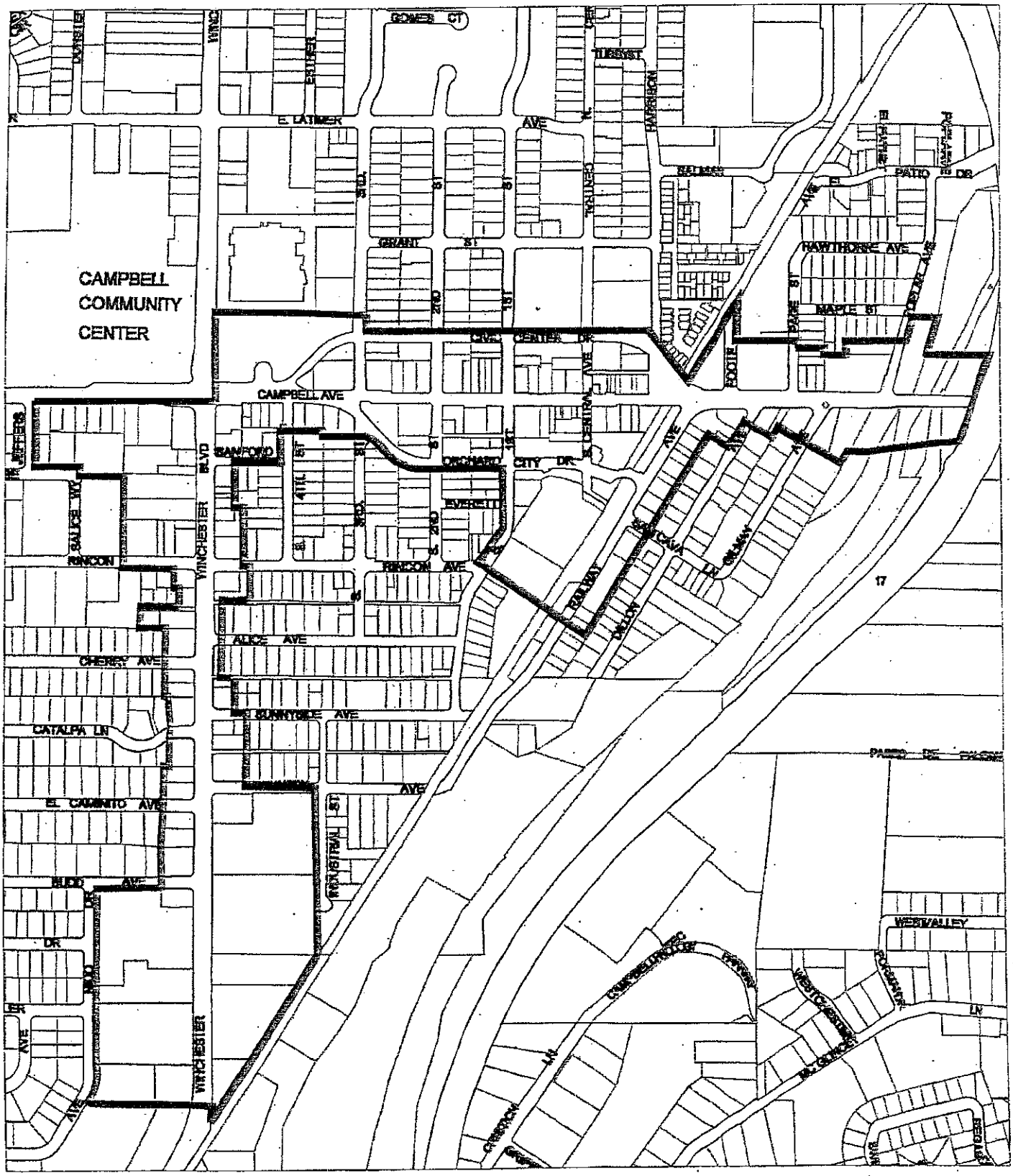
October 4, 2011

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

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

DOWNTOWN ALCOHOL BEVERAGE POLICY
BOUNDARY MAP

1"=600' N



EDWARD L. PACK ASSOCIATES, INC.

1975 HAMILTON AVENUE
SUITE 26
SAN JOSE, CA 95125

Acoustical Consultants

TEL: 408-371-1195
FAX: 408-371-1196
www.packassociates.com

January 16, 2013
Project No. 45-001

Mr. Larry Schaadt
Regale Winery
24040 Summit Road
Los Gatos, CA 95033

Subject: Noise Assessment Study for a Live Music Application, Regale Wine Bar, Campbell Avenue, Campbell

Dear Mr. Schaadt:

This report presents the results of a noise assessment study for an application for live music at the Regale Wine Bar along Campbell Avenue in Campbell. The purpose of this study was to determine the music sound levels at residential receptors in the vicinity of the facility. The City of Campbell does not have noise standards in either the General Plan or Municipal Code that regulates noise generation on commercial properties. Our experience with noise studies of live music venues near residential land uses indicates that a music sound limit of 45 A-weighted decibels (dBA) is a reasonable goal for the exterior of residential properties for music that occurs before 10:00 p.m.

The results of the analysis reveal that the sound levels from music typical of a wine bar/restaurant will range from zero to 30 dBA at the three nearest and most impacted residential properties when the doors to the wine bar are closed. When the doors are open, the sound levels at one residential property could be up to 42 dBA. As the expected sound levels from live music will be within the recommended noise goal, noise mitigation measures will not be required and the music sound levels are not expected to generate annoyance to neighbors or complaints from the neighbors.

Sections I and II of this report contain a summary of our findings and descriptions of the analytical methodologies, respectively.

I. Summary of Findings

The City of Campbell does not have noise limits for commercial noise sources. Other cities in the area, including Santa Clara County, use limits ranging from 50 to 60 dBA for noise generated before 10:00 p.m. Regale Wine Bar is expected to offer live music during the hours of 6:00 p.m. to 10:00 p.m. A reasonable, yet stringent noise goal for music sound levels generated within the wine bar facility would be 45 dBA at the exterior of any residence. This goal corresponds to many municipal nighttime noise limits.

There are three residential receptors that are closest to the proposed facility and that would be considered to be the most noise impacted. The nearest residence is along Civic Center Drive at the railroad crossing. Residences of the Water Tower Plaza are the next closest and a single-family home at the corner of South First Street and Orchard City Drive is the third closest residence. Only the residences along Civic Center Drive would be affected by the front doors of the wine bar opening and closing. The receptor locations are shown on Figure 1, below.



FIGURE 1

The expected music sound levels at the residences were calculated to be:

Civic Center Dr.	30 dBA doors closed, 42 dBA doors open.
Water Tower Plaza (top floor)	24 dBA
South First St.	0 dBA

As shown above, the music sound levels, generally, will be inaudible at the residences in the vicinity of the facility when the front doors are closed. Music may be slightly audible at times at the Civic Center Drive residences (outside) when the front doors are open.

The music sound levels are expected to be very low. Therefore, noise mitigation measures will not be required.

II. Description of the Analytical Methodologies

To determine the music sound levels at the residences in the vicinity of the Regale Wine Bar, on-site inspections of the facility were performed on January 11, 2013. The front doors are heavy wood double doors. The windows in the front façade are of single-pane, single-strength glass. The typical noise reduction value of the building shell at the front is 22 decibels for a light music source. There are three skylights above the center of the building. The noise reduction value of the roof with skylights is typically 20 decibels. The noise reduction value of the rear façade of the building with one wood man-door on the second floor is 25 decibels.

Sound from a live band attenuates at a rate of 20 dB for each doubling of the distance between the source and the receiver. However, as the wine bar space is not completely sound absorbing, the attenuation of sound is reduced. An upward adjustment of 6 decibels is added to account for sound build-up within the space.

The receptor locations also have various degrees of noise shielding provided by intervening structures in the area.

The sound levels from live music vary greatly, depending upon the styles/genres of music played, band instrumentation, intensity with which the music is played, and the environment in which music is performed. The environment of the venue, including desired ambience, social attitudes of the patrons and demographics, often regulate how music is performed and relayed to the audience.

From our conversations, it is the desire of the establishment to have relatively light music appropriate for dining, conversation and wine tasting. Music styles would include light jazz, chamber and folk music. Although nearly all instruments need to be amplified in some way, the appropriate type of music would often be considered "acoustic music". The "bandstand" is a very small balcony area (approx. 70 sq. ft.) of the second floor which could not support more than four instruments including a small drum set, bass guitar, short keyboards and one lead player, i.e., guitar, horn (saxophone) or vocals. A small jazz band playing the liveliest music for the venue would typically play at an average sound level of 75 dBA at 20 ft. from the front of the band.

Table I, below, provides the sound level analysis and resulting sound levels at the various receptor locations.

TABLE I

Live Music Sound Analysis, Regale Wine Bar

Source Sound Level = 75 dBA @ 20 ft.

Receptor	Dist. to Receptor	Sound Reduction due to Distance	Adjustment for Interior Acoustics	Building Shell Sound Reduction	Outdoor Building Shielding	Sound Level at Receptor
Civic Center Dr	300 ft.	-24 dB	+6 dB	-22 dB	-5 dB	30 dBA (doors closed) 42 dBA (doors open)
Water Tower Plaza	650 ft.	-30 dB	+6 dB	-20 dB	-7 dB	24 dBA
S. 1st St.	700 ft.	-31 dB	+6 dB	-25 dB	-18 dB	Zero (-5) dBA

As shown in the table, the residential receptors are too far from the proposed wine bar and are adequately shielded by intervening buildings in the neighborhood for live music to be an issue. Any type of music appropriate for the proposed establishment will be acceptable.

The above report presents the results of a noise assessment study of live music at the proposed Regale Wine Bar along Campbell Avenue in Campbell. The study findings are based on field observations and other data and are correct to the best of our knowledge. However, significant deviations in the use of the establishment, types of entertainment, operational hours, live entertainment sound levels or other future changes beyond our control may produce long-range noise results different than those reported herein. If you have any questions or would like an elaboration on this report, please call me.

Sincerely

EDWARD L. PACK ASSOC., INC.

Jeffrey K. Pack
President

RECEIVED
FEB 15 2013
CITY OF CAMPBELL
PLANNING DEPT.

Steve Prosser

From: DENISE DOETSCH [doetsch21@msn.com]
Sent: Friday, February 15, 2013 10:36 AM
To: Steve Prosser
Subject: Gaslight Theater

Hello Steve,

Just a quick note to say our household is in support of the proposal by Regale Winery to open an upscale wine bar in the historic building downtown.

We are unable to attend the meeting at the end of the month but wanted to share our opinion with you.

Have a wonderful weekend,

Denise Doetsch and Chris Kruger

Steve Prosser

From: Lisa [lisa@aa2r.com]
Sent: Friday, February 15, 2013 10:38 AM
To: Steve Prosser
Subject: Support of wine bar at theater!

RECEIVED
FEB 15 2013
CITY OF CAMPBELL
PLANNING DEPT.

Hi Steve,

We will not be able to attend your meeting next week, but I would like you to know we are in full support of the wine bar being at the Gaslighter! We attended the meeting last Saturday and we were really happy!

Thank you,
166 n 1street
Lisa Smith and Steve Smith

Please excuse any mistakes this was sent from my phone.

Steve Prosser

From: olga moore [olgamoore95125@yahoo.com]
Sent: Friday, February 15, 2013 2:47 PM
To: Steve Prosser
Subject: "Grower's Bank/Gaslighter Theater Building Update"

Steve,

We are Campbell residents of 90 N 2nd street in Campbell. We are sending this email to provide support and approval for the newly-proposed tenant, Regale Winery & Vineyard to be located at the historic Grower's Bank/Gaslighter Theater building.
Please make sure to count my voice at your Planning Commission (PC) meeting on 2/26/2013.

Thanks,
Joe and Olga Moore

----- Forwarded Message -----
From: Nextdoor Downtown Campbell <reply@nextdoor.com>
To: olgamoore95125@yahoo.com
Sent: Friday, February 15, 2013 10:28 AM
Subject: Ed Sengstack said "Grower's Bank/Gaslighter Theater Building Update"

Ed Sengstack from Downtown Campbell said:

Many of you are aware of the problems our community has faced in finding what we consider to be an appropriate tenant for the historic Grower's Bank/Gaslighter Theater building. And now I believe that most of us are in agreement that our efforts are being rewarded in spades.

The newly-proposed tenant, Regale Winery & Vineyard (http://www.regalewine.com), is preparing to open an upscale wine bar in this historic space. A good number of Campbell residents have met with the owner, reviewed his plan for the space (which includes a self-imposed closing time of 11pm), and toured the building. Suffice it to say, the community response has been overwhelmingly positive. As a result, many have inquired as to how they can support his efforts... in much the same way as we rallied together in the past to oppose previous efforts. Soooooo...

If you're so inclined... Regale's request for a Conditional Use Permit will be presented to the Planning Commission (PC) at their 2/26 meeting. You can show up at that meeting to offer a spoken word of support to the Commission. Or, if you can't make it to the meeting, you can send an email/letter of support to the City's Associate Planner, Steve Prosser, at stevep@cityofcampbell.com.

If Steve receives your input by end of business on Wed., 2/20, it will be included as part of the staff report to the PC. If it arrives later, it will still be seen, but as a separate attachment. Either way your voice will be heard.

Feel free to get back to me here with any questions or concerns.

Onward & Upward!
~ Ed

Shared with Downtown Campbell and 10 nearby neighborhoods

View or reply · Thank · Private message

Steve Prosser

From: lbcoburn@comcast.net
Sent: Saturday, February 16, 2013 9:28 AM
To: Steve Prosser
Subject: support of the Gaslight wine Bar

His Steve,
I live in Campbell(over 20 yrs) and am in support of the wine bar concept for the Gaslight theatre. This will fit in wonderfully to the town and we need to have this space filled! It has been vacant too long!
Laura Coburn
April way



Steve Prosser

From: Diane McCarthy [dimccarthy@att.net]
Sent: Friday, February 15, 2013 1:56 PM
To: Steve Prosser
Subject: Gas Lighter theater

Dear Steve,

I am very disappointed to hear the plan for the old theater. I think we have enough drinking establishments downtown Campbell. I nice theater for family entertainment as the Gaslighter used to be would be a much better idea.

Sincerely,
Dian McCarthy

ITEM NO. 2

CITY OF CAMPBELL · PLANNING COMMISSION

Staff Report · February 26, 2013

PLN2012-163 Text Amendment City-initiated Text Amendment to modify the Inclusionary Housing Ordinance (CMC Ch. 21.24) to comply with recent case law.

STAFF RECOMMENDATION

That the Planning Commission take the following action:

1. **Adopt a Resolution**, incorporating the attached findings, recommending that the City Council adopt an ordinance modifying the Inclusionary Housing Ordinance (CMC Ch. 21.24) to comply with recent case law.

ENVIRONMENTAL DETERMINATION

An amendment to a City's Zoning Ordinance is considered a "project" under the California Environmental Quality Act (CEQA) [§15378(a)(1)], typically subject to environmental review. However, such an action may be exempted from environmental review if the lead agency finds that there is no possibility that it will have a significant effect on the environment [§15061(b)(3)]. Since the proposed text amendment is intended to modify existing regulatory requirements for the provision of affordable housing for compliance with recent case law, it would not result in new activity that would alter the physical environment. Therefore, staff recommends that the project be found categorically exempt from environmental review under CEQA.

BACKGROUND

On October 3, 2006, the City Council adopted Ordinance No. 2074, implementing an Inclusionary Housing Ordinance requiring new residential developments with 10 or more units to provide 15% of the units as affordable to very low, low, and/or moderate-income households (reference Attachments **2** – City Council Staff Report). Codified as Chapter 21.24 of the Campbell Municipal Code, the Ordinance established different affordability criteria for rental projects (i.e., apartments) and "for-sale" ownership projects (e.g., townhomes, condominium, and subdivisions). Rental projects must provide a specified combination of affordable units, 6% for "very low income" households and 9% for "low-income" households. "For-sale" projects must provide a combination of "low-income" and "moderate-income" units, the exact number of which is negotiated on a case-by-case basis with the Community Development Director.

In 2009, the California Court of Appeals held in *Palmer/Sixth Street Properties vs. City of Los Angeles ("Palmer")*, that the imposition of an inclusionary housing requirement to a proposed apartment development violated rent control restrictions of the Costa-Hawkins Rental Act of 1995. The decision invalidated inclusionary housing requirements statewide as they pertained to rental housing projects. Developments intended for separate ownership ("for-sale") were not affected nor were rental projects in which a developer receives financial assistance from the City or benefits from a regulatory incentive.

In response to *Palmer*, communities with inclusionary housing ordinances have either eliminated applicability to rental projects or sought to establish an affordable housing impact fee through preparation of a "nexus study". As part of the Community Development Department's FY2012 Work Plan, the City Council directed staff to "Modify the Inclusionary Housing Ordinance to eliminate rental units pursuant to recent case law."

PROPOSED AMENDMENTS

The draft text amendment (reference Attachment 3) modifies the Inclusionary Housing Ordinance (CMC Ch. 21.24) to remove its applicability to rental projects. This was achieved by striking provisions relevant to the provision of affordable rental housing under 'General Requirements' (21.24.040) and 'Continued Affordability and City Review of Occupancy' (21.24.060). Some terminology pertaining to "rents", "rental", and "rental project" remain, however, for use if a rental project receives financial assistance from the City. The amendment also modifies the Density Bonus Ordinance (CMC Ch. 21.20) for consistency. The example density bonus project given in Section 21.20.100 pertains to a rental project and is no longer applicable. The example has been revised to reflect a "for-sale" project.

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;

The proposed text amendment will protect the Inclusionary Housing Ordinance from legal challenge and maintain the provision of affordable "for-sale" ownership housing consistent with Housing Element Policy H-3.2:

Policy H-3.2:	Inclusionary Housing: Ensure that new residential development in Campbell integrates unit affordable to lower- and moderate-income households, or contributes funds to support affordable housing activities. Create additional levels of affordability with in the Inclusionary Housing Ordinance in a way a that does not create a governmental constrain to housing production.

Staff recognizes that Housing Element Policy H-3.2 incorporates Program H-3.2a directing the City revise the Inclusionary Housing Ordinance to provide greater affordability for ownership "for-sale" housing. The proposed text amendment will not restrict the ability of the City to implement this program at a future date. Staff anticipates bringing forward amendments implementing various Housing Element programs pertaining to manufactured housing, single-room occupancy (SRO) facilities, and emergency housing prior to preparation of the 2014 Housing Element.

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

   Provision of affordable housing, through adoption of an Inclusionary Housing Ordinance, was found by the City Council to be necessary to satisfy the City's unmet regional housing needs and to maintain an economically balanced community. The proposed text amendment would be in keeping with these findings and therefore not be detrimental to the public interest, health, safety, convenience, or general welfare of the city.

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

   As noted, the proposed text amendment will modify a portion of the Density Bonus Ordinance to reflect the changes made to the Inclusionary Housing Ordinance. As such, the text amendment would not result in an internal inconsistency.

NOTIFICATION

Since the proposed text amendment is citywide, a display advertisement was posted in the Campbell Express, consistent with CMC 21.64.020 (Notice of hearing).

Attachments:
1. Findings for Approval of File No. PLN2012-163
2. City Council Staff Report, dated September 11, 2006
3. Draft Text Amendment

Prepared by: _____
Daniel Fama, Associate Planner

Approved by: _____
Paul Kermoyan, Interim Community Development Director

FINDINGS FOR APPROVAL OF FILE NO. PLN2012-163

APPLICANT: Staff-Initiated
P.C. MEETING: February 26, 2013

Findings for recommending City Council adopting an Ordinance amending the Inclusionary Housing Ordinance (CMC Ch. 21.24) to comply with recent case law.

The Planning Commission finds as follows with regard to File No. PLN2012-163:

1. The project consists of a Text Amendment pertaining to regulatory requirements for the provision of affordable housing under the Campbell Inclusionary Housing Ordinance (CMC Ch. 21.24) for compliance with recent case law.

2. The proposed text amendment will protect the Inclusionary Housing Ordinance from legal challenge and maintain the provision of affordable "for-sale" ownership housing consistent with Housing Element Policy H-3.2:

   Policy H-3.2: Inclusionary Housing: Ensure that new residential development in Campbell integrates unit affordable to lower- and moderate-income households, or contributes funds to support affordable housing activities. Create additional levels of affordability with in the Inclusionary Housing Ordinance in a way a that does not create a governmental constrain to housing production.

3. As amended, the Inclusionary Housing Ordinance will now apply only to residential developments intended for separate ownership ("for-sale") or rental developments in which a developer receives financial assistance from City or benefits from a regulatory incentive.

4. Provision of affordable housing, through adoption of an Inclusionary Housing Ordinance, was found by the City Council to be necessary to satisfy the City's unmet regional housing needs and to maintain an economically balanced community.

5. The legislature of the State of California has, in Government Code Sections 65302, 65560 and 65800, conferred upon local government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry;

6. The undergrounding of utility services serve to enhance the aesthetic qualify of the community and to protect health and safety;

7. Review and adoption of this Text Amendment is done in compliance with California government Code Sections 65853 through 65857, which require a duly noticed public hearing of the Planning Commission whereby the Planning Commission shall provide its written recommendation to the City Council for its consideration.

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

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

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

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

4. The Proposed Text Amendment is exempt from review under the California Environmental Quality Act as there is no possibility for the project to have a significant effect on the environment, pursuant to §15061(b)(3).

City Council Report

Item: 18.
Category: Public Hearing
Meeting Date: September 11, 2006

TITLE: **Public hearing to consider the adoption of an Inclusionary Housing Ordinance to the Campbell Municipal Code, Chapter 21.24, mandating a 15% affordable unit requirement of developments of 10 or more residential units**

RECOMMENDATION

That the City Council takes the following actions:

1. **Adopt a Resolution** finding that the Environmental Impact Report dated July 26, 2001 provides full and adequate environmental review for the adoption of the inclusionary housing ordinance (Attachment 1);

2. **Introduce an Ordinance for first reading** approving an Inclusionary Housing Ordinance, Chapter 21.24 of the Campbell Municipal Code mandating that 15% of developments of 10 or more residential units be affordable to low and moderate income households (Attachment 2).

BACKGROUND

In 2001, as part of the City of Campbell's Housing Element (PLN2001-35), which includes an Inclusionary Policy, the Council adopted an environmental impact report. (Environmental Impact Report, Campbell General Plan, State Clearing House #2001042063, submitted July 26, 2001, by Lynette Stanchina, LSA Associates and Geoff Bradley, City of Campbell Planner). A public review was held from October 31, 2001 through November 20, 2001. The results of the study determined that no significant impacts would be created as a result of incorporating the inclusionary policy into the municipal code as an ordinance.

The Housing Element was certified by the Sate Department of Housing (HCD), and the Inclusionary Housing Policy was an approved part of the certification. In the approved Housing Element, it was stated that "The City will pursue the adoption of an inclusionary housing ordinance to require 15% of units within a new market-rate development of ten or more units be price-restricted as units for lower- and moderate-income households". The proposed ordinance does that. In addition it offers developers options of providing the affordable units off-site or payment of an in-lieu housing fee if the project is ten or more units but with a density of six or fewer units per acre. The inclusionary housing ordinance also applies to condo conversion projects of 10 or more units.

On July 25, 2006, the Planning Commission held a public hearing and by a 4-1 vote, took the following actions:

1. Adopted a resolution recommending the Council approve the addition of Chapter 21.24: Inclusionary Housing Ordinance to the Campbell Municipal Code mandating 15% affordable housing units for any residential developments consisting of 10 units or more. (Attachment 3, Proposed Inclusionary HousingOrdinance and Attachment 4 Planning Commission Resolutions); and.

2. Adopted a resolution recommending that the City Council adopt the environmental impact report by reference (Pursuant to CEQA Guidelines Section 15150) the Environmental Impact Report (State Clearinghouse Number 2001042063, July 26, 2001 as part of the City of Campbell's Housing Element (PLN2001-35).

The Planning Commission received a letter from The Non-Profit Housing Association of Northern California regarding their support of Inclusionary Housing Ordinances. In the letter, the Association made some suggestions for Planning Commission and City Council consideration that they believe would improve the draft ordinance. The Association also encouraged communities to include options for developers to choose from in-lieu of providing the inclusionary units, which the City of Campbell has included in its ordinance. Unfortunately, the letter was not received in time to distribute to the Planning Commission. Staff is forwarding the letter to Council in Attachment 5.

DISCUSSION

Currently, 107 California jurisdictions have local inclusionary practices to provide affordable housing, outside of the requirements of redevelopment law. Within Santa Clara County, the following cities have inclusionary zoning ordinances or general plan inclusionary housing policies: Cupertino, Gilroy, Los Gatos, Milpitas, Morgan Hill, Mountain View, San Jose, Santa Clara and Sunnyvale. (See Attachment 6 Inclusionary Housing Table of Santa Clara County Cities for a more detailed breakdown of various city inclusionary practices).

Also attached to this report is an article by the Home Builder's Association and the Non-Profit Housing Association of Northern California entitled "On Common Ground: Joint Principles on Inclusionary Housing Policies", July 2005. The article provides the Council with an overview of some of the key principles of inclusionary housing. (See Attachment 7).

ANALYSIS

Several studies have been conducted through the years which indicate that mandatory inclusionary zoning policies do <u>not</u> have an adverse effect on the production of housing. In 1994 and again in 2003, studies were conducted by the California Coalition for Rural Housing and the Nonprofit Housing Coalition of Northern California Cities. Both studies indicated that mandatory inclusionary zoning actually produced more very low income and low income affordable housing units as opposed to voluntary programs. David Paul Rosen & Associates conducted a twenty year study of 28 California cities in the

counties of Orange, San Diego, San Francisco, Los Angeles and Sacramento. The 20 year study concluded that the adoption of inclusionary zoning ordinances does not negatively impact overall levels of housing production. In fact, in some cities, the housing production actually increased significantly.

In Santa Clara County, the housing demand and market have not deterred residential development even with inclusionary housing requirements. The ten cities in the County that have inclusionary housing ordinances and/or policies have not seen a negative effect on the ability of the developer to build their projects. In addition, the State mandated that density bonus is available to allow densities greater than allowed by the General Plan to compensate for some of the financial impact to the developer in having to provide the inclusionary housing units.

Legal Basis for Inclusionary Housing Programs: As discussed above, there are numerous cities that have adopted inclusionary housing ordinances. They utilize a variety of programmatic approaches; however, the basis for the ordinances is similar. The ordinances apply to all similarly situated developments throughout the jurisdiction. Additionally, they substantially advance a legitimate governmental interest, namely the creation of affordable housing. The courts have held that creating affordable housing for low and moderate income families is a legitimate state interest. (Santa Monica Beach, Ltd. v. Superior Court (1999) 19 Cal.App. 4th 952, 970)

Additionally, in a case challenging the City of Napa's inclusionary ordinance in 2001, the City successfully defended the case in both the trial and the appellate court. It was determined that the city's inclusionary ordinance "substantially advance[s] the important governmental interest of providing affordable housing for low-and moderate-income families." (Home Builder's Association of Northern California v. City of Napa, et. al. (2001) 90 Cal.App.4th 188, 196; emphasis added.)

In the Napa case, the Court acknowledged that the City's inclusionary ordinance imposes significant burdens on developers. However, the ordinance permits a developer to appeal for a reduction, adjustment, or complete waiver of the ordinance's requirements "based upon the absence of any reasonable relationship or nexus between the impact of the development and...the inclusionary requirement." (Home Builder's Association v. City of Napa, supra (2001).

The Court concluded that since the city has the ability to waive the requirements imposed by the ordinance, the ordinance cannot and does not, on its face, result in a "taking or a denial of due process". As noted above, both the California Supreme Court and the United States Supreme Court denied review of this case. Thus, this case is now the most recent guidance provided by the courts as to what would likely be upheld as a constitutional exercise of a city's authority to impose an inclusionary housing requirement. Campbell's draft inclusionary housing ordinance is based on the Napa ordinance and has been reviewed by Goldfarb & Lipman, (the Redevelopment Agency's legal counsel and experts in affordable housing law), and by the City's legal counsel.

Association of Bay Area Governments (ABAG) Housing Requirements

ABAG assigns each city a "fair share" of very low income units, low income units, moderate income units and above moderate housing units. Campbell's total share is as follows:

Income of Homeowners	ABAG Housing Goals Required 1999 - 2006	Housing Goals Achieved 1999 - 2006
Very Low Income	165	16
Low Income	77	6
Moderate Income	214	63
Above Moderate Income	321	421
Total Required by ABAG	*777*	

The total remaining affordable housing units to be achieved is 371. An inclusionary housing ordinance would assist Campbell in meeting more of its ABAG "fair share" of affordable units.

Inclusionary Housing Ordinance Components

There are six major components in the draft ordinance:

1. **Calculating the Number of Inclusionary Units**

   Based on the Housing Element in the General Plan, staff is recommending that residential projects with 10 or more units require 15% inclusionary (affordable) units. If the development has less than 10 units, regardless of the density, that project is exempt from any inclusionary requirement. If the project has 10 or more units and a density of more than 6 units per acre, the draft ordinance proposes that inclusionary units be required. If the project has 10 or more units but has a density of 6 units or less per acre, the developer has the option of providing inclusionary units or an in-lieu fee. To calculate the number of required inclusionary units, multiply the number of total units by 15%. If the number calculated results in a fraction, the number is rounded to the nearest whole number. In other words, if the result is 15.4, the number of units required is 15; if the number is 15.5, the number of units required would be 16.

2. **Pricing For-Sale Inclusionary Units**

   The affordable pricing of an inclusionary unit is determined by the income and size of the household. (See Attachment 8, Santa Clara County Median Income). The maximum price that can be charged for Inclusionary Units is established by calculating at the average monthly housing costs during the first calendar year of a household's occupancy including the following factors: mortgage payments, loan insurance fees, if any, property taxes, reasonable allowances for utilities and property maintenance and repairs, homeowner's association dues, if any. Developers prepare the pricing calculations before issuance of building permits. City staff will provide the developer with assistance, as needed, in establishing a sales price for the Inclusionary Units. (See Attachment 9 for a sample sales price).

3. **Affordability Classification(s) of Inclusionary Units**
Inclusionary units are classified as very low income, low income and moderate income. It is likely that the 15% requirement will be satisfied by all moderate income for-sale units, as opposed to a combination of low income units and moderate income units because of the cost of providing below market rate housing units. However, until the in-lieu fee analysis is completed, staff is not recommending a required percentage of moderate income units versus low income units within the 15% requirement. The actual number of low-income units versus moderate-income units may be negotiated on a case-by-case basis.

4. **Rental Project Calculations – Term of Affordability**
The owner of a rental development of 10 or more units must execute a 55-year Affordability Agreement prepared by the Community Development Department. This Agreement will include 15% of the total number of rental units with 6% of the units for very low income and 9% for low/moderate income. The rents charged for one, two and three bedroom units are based on the assumed following household size, regardless of actual numbers of residents:

One bedroom	Two person household
Two bedroom	Three person household
Three bedroom	Four person household

(See Attachment 10 for Sample Inclusionary Rent Calculation).

5. **For Sale Agreements – Term of Affordability**
The developer of a residential project with required inclusionary units must execute a 45-year Affordability Agreement prepared by the Community Development Department. The Community Development Department will require that an Affordability Agreement be recorded by the developer as a condition of obtaining a Building Permit. The Affordability Agreement is first recorded against the entire project. As inclusionary units are sold, the affordability restrictions are released from the developer and transferred to the property owner's individual affordability unit.

6. **Alternatives to On-Site Construction of Inclusionary Housing Units**
In lieu of providing on-site inclusionary units, the draft ordinance provides the following alternatives to a developer in order to provide additional flexibility:

A. **Rental units in-lieu of for-sale units.** Where owner-occupied affordable units are required, the developer may instead construct as part of the residential project the same or a greater number of rental units, affordable to lower-income and moderate-income households at prescribed rents. Substitution of rental units shall be allowed only if either: (1) the rental units are at least equal in number of bedrooms to the owner-occupancy units which would have been allowed, or (2) any comparative deficiency in bedrooms is compensated for by additional units and/or affordability to households with lower incomes.

B. **Off-site construction.** The developer may construct, or make possible construction by another developer, units not physically contiguous to the market-rate units if the City determines this will provide greater public benefit.

C. **Land dedication.** The developer could dedicate without cost to the City, a lot or lots within or contiguous to the residential project, sufficient to accommodate at least the required affordable units for the residential project.

D. **Waiver of Inclusionary Requirements.** The inclusionary requirements shall be waived, adjusted or reduced if the applicant shows that that there is no reasonable relationship between the impact of a proposed residential project and the requirements of this Chapter, or that applying the requirements of this Chapter would take property in violation of the United States or California Constitution or otherwise result in an unconstitutional application of this Chapter. To receive a waiver, adjustment or reduction under this option, the applicant must file a written request together with the development application (s) when applying for a first approval for the residential project, and/or as part of any appeal which the City provides as part of the process for the first approval. The written request shall provide substantial evidence showing that there is no reasonable relationship between the impact of a proposed residential project and the requirements of this Chapter.

E. **In-Lieu Fee Analysis.** The developer could pay a fee in lieu of providing inclusionary units if the project is 10 units or more with a density of less than 6 units per acre. The fees would be deposited in the City's Affordable Housing Fund and would benefit a variety of affordable housing programs. Staff reviewed inclusionary ordinances from other cities in Santa Clara County as well as a few other cities elsewhere in the State and found a range of methods for determining in-lieu fees. Some cities determine the fees on a case by case basis; other cities use square footage price, permit valuation, or a set amount per unit. In addition, various cities included the density of the development to determine whether to require an inclusionary unit(s), or to allow payment of an in-lieu fee.

While some of the cities calculate their in-lieu fees to reflect the actual cost of providing the subsidized unit, other cities' fees do not generate sufficient funds to produce the same number of units that would have been produced had developers opted to build the affordable units. In those cases, developers, if given the option, will pay the in-lieu fee to meet their inclusionary requirement rather than build the affordable units because it is less costly.

An in-lieu fee has been included in the ordinance as an alternative, but no specific in-lieu fee calculation has been proposed at this time. Staff will propose a specific calculation method after evaluation of the findings of Keyser Marston, the consultant contracted by Redevelopment, to prepare a specific fee study for the City. This study is scheduled to be completed by the end of September. The benefit of including the in-lieu fee as an alternative in the ordinance at this time is that, upon City Council approval of the in-lieu fee calculation, only the fee schedule would need to be updated as opposed to a revision to the Ordinance itself.

Conclusion

The City Council approved an Inclusionary Housing Policy as part of the Housing Element in 2001 with the understanding that an ordinance would be prepared and brought to Council for final approval. Inclusionary ordinances and/or policies are commonly utilized by most of the cities in Santa Clara County. There is strong legal basis for inclusionary housing programs, and courts have upheld the constitutional exercise of a city's authority to impose an inclusionary housing requirement. Furthermore, studies have shown no adverse effects in developing residential housing projects with inclusionary housing units required as well as providing alternatives for the developer to meet the inclusionary requirements.

Staff recommends Council approve the attached Inclusionary Housing Ordinance. The Council will take first reading at this meeting and the second reading will take place October 3, 2006. If approved the Inclusionary Housing Ordinance would then go into effect thirty days later on November 2, 2006.

FISCAL IMPACT

There are no fiscal impacts with the implementation of the Inclusionary Housing Ordinance. The Housing Coordinator has sufficient number of hours required to implement the program.

ALTERNATIVES

1. Adopt an Inclusionary Housing Ordinance with modified language/terms.
2. Do not adopt an Inclusionary Housing Ordinance.

Prepared by: Sharon Teeter
Sharon Teeter, Housing Coordinator

Approved by: Sharon Fierro
Sharon Fierro, Community Development Director

Approved by: Daniel Rich
Daniel Rich, City Manager

Attachments:

1. Council Resolution Finding the EIR for the Housing Element Supports Adoption of Inclusionary Housing Ordinance.
2. Council Ordinance Adopting an Inclusionary Housing Ordinance.
3. Draft of Chapter 21.24 – Inclusionary Housing Ordinance, Municipal Code Title 21, Zoning Code
4. Planning Commission Resolutions
5. Letter from The Non Profit Housing Association of Northern California dated July 25, 2006
6. Inclusionary Housing Study Table of Santa Clara County Cities
7. Home Builders Association Publication, "On Common Ground: Joint Principles on Inclusionary Housing Policies"
8. Santa Clara County Household Median Income Table
9. Sample Inclusionary Sales Price Calculation
10. Sample Inclusionary Rent Calculation

Chapter 21.24
INCLUSIONARY HOUSING ORDINANCE

Sections:

21.24.010 - Findings.

21.24.020 - Purpose of chapter.

21.24.030 - Definitions.

21.24.040 - General requirements.

21.24.050 - Time performance.

21.24.060 - Continued affordability and city review of occupancy.

21.24.070 - Alternatives.

21.24.080 - Use of in-lieu housing fees.

21.24.090 - Waiver of requirements.

21.24.100 - Enforcement.

21.24.010 - Findings.

The City Council finds that:

A. Housing prices and rents in the city of Campbell have increased at a significantly higher rate than general wages. The lack of affordable housing in Campbell forces many residents to pay a very high percentage of their income for housing or to commute considerable distances, adding to air pollution and traffic congestion in Campbell and throughout Santa Clara County. The lack of affordable housing has made it more difficult to recruit workers from out of the area, in general, especially workers in lower-paying jobs, potentially affecting the economic vitality of the Campbell. New housing developments do not, to any appreciable extent, provide housing affordable to low- and moderate-income households.

B. Continued new housing developments which do not include housing for low- and moderate-income households will serve to further aggravate the current shortage of affordable housing by reducing the small remaining supply of undeveloped land.

C. The City Council approved the City's housing element of the general plan which includes a goal to encourage the provision of housing affordable to a variety of household income levels (Goal H-3.1 Housing Development; Policy H-3.2a Citywide Inclusionary Housing Ordinance).

D. Implementation of the inclusionary ordinance is a necessary part of the City's efforts to meet its general plan housing element goals and objectives and its region wide affordable housing obligations. Through the inclusionary ordinance, at least fifteen percent of the units in a new housing development of ten or more units will be price ~~or rent~~ restricted as units for low- and moderate-income households. In some circumstances, developers will be offered an option of providing affordable units off-site or payment of an in-lieu housing fee.

21.24.020 - Purpose of chapter.

The purpose of this chapter is to further the City's efforts to require housing available to very low-income, low-income and moderate-income households. The city's general plan implements the established policy of the State of California that each community should foster an adequate supply of housing for persons at all economic levels.

Providing the affordable units required by this chapter will help to ensure that part of Campbell's remaining developable land is used to provide affordable housing. An economically balanced community is only possible if part of the new housing built in the City is affordable to households with limited incomes. Requiring builders of new housing to include some housing affordable to households at a range of incomes is fair, not only because new development without affordable units contributes to the shortage of affordable housing, but also because zoning and other ordinances concerning new housing should be consistent with the community's goal to foster an adequate supply of housing for persons at all economic levels. In general, affordable units within each housing development will serve the goal of maintaining an economically balanced community.

The inclusionary housing ordinance is required by the council to promote and protect the public health, safety, and general welfare while preserving and enhancing the aesthetic quality of the

City. (Ordinance 2060, December 2005 Code Update, Title 21 Zoning, 21.01.030 Purpose).

21.24.030 - Definitions.

As used in this chapter, the following terms shall have the meanings set forth below:

"Affordable ownership cost" means average monthly housing costs during the first calendar year of a household's occupancy, as determined by the City, including mortgage payments, loan insurance fees, if any, property taxes, reasonable allowances for utilities and property maintenance and repairs, homeowners insurance and homeowners association dues, if any, which do not exceed the following:

1. For lower-income households: one-twelfth of thirty percent of seventy percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one bedroom unit, three persons in a two bedroom unit and one additional person for each additional bedroom thereafter.

2. For moderate-income households: one-twelfth of thirty-five percent of one hundred ten percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one bedroom unit, three persons in a two bedroom unit and one additional person for each additional bedroom thereafter.

"Affordable rent" means monthly rent, including utilities and all fees for housing services, which do not exceed the following:

1. For lower-income households: one-twelfth of thirty percent of sixty percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one bedroom unit, three persons in a two bedroom unit, and one additional person for each additional bedroom thereafter.

2. For very low-income households: one-twelfth of thirty percent of fifty percent of area median, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one bedroom unit, three persons in a two bedroom unit, and one additional person for each additional bedroom thereafter.

"Affordable units" means living units which are required under this chapter ~~to be rented at affordable rents or~~ available at an affordable housing cost to specified households.

"Applicant" means a person or entity who applies for a residential project and, if the applicant does not own the property on which the residential project is proposed, also means the owner or owners of the property.

"Area median income" means area median income for Santa Clara County as published pursuant to California Code of Regulations, Title 25, Section 6932 (or its successor provision).

"Construction cost index" means the Engineering News Record San Francisco Building Cost

Index. If that index ceases to exist, the community development director shall substitute another construction cost index which in his or her judgment is as nearly equivalent to the original index as possible.

"Eligible household" means a household whose household income does not exceed the maximum specified in Section 21.24.040 of this chapter for a given affordable unit.

"First approval" means the first of the following approvals to occur with respect to a residential project: building permit, planned development permit, tentative parcel map, tentative subdivision map, conditional use permit, site and architectural review permit, or other discretionary city land use approval.

"For-sale project" means a residential project, or portion thereof, which is intended to be sold to owner-occupants upon completion.

"Household income" means the combined adjusted gross income for all adult persons living in a living unit as calculated for the purpose of the Section 8 Program under the United States Housing Act of 1937, as amended, or its successor.

"Inclusionary housing agreement" means an agreement between the city and an applicant, governing how the applicant shall comply with this chapter.

"Living unit" means one or more rooms designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and bathroom facilities.

"Lower-income household" means a household whose household income does not exceed the lower income limits applicable to Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

"Market rate unit" means a housing unit or the legal lot for such unit offered on the open market at the prevailing market rate for purchase or rental.

"Moderate-income household" means a household whose household income does not exceed one hundred twenty percent of the area median income Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50093 of the California Health and Safety Code.

"Pending project" means a land use application that has been accepted by the community development department as complete before the effective date of the ordinance codified in this chapter shall be processed in compliance with the requirements in effect when the application was accepted as complete by the city.

"Rental project" means a residential project, or portion thereof, which is intended to be rented to tenants upon completion.

"Residential project" means any parcel map, subdivision map, conditional use permit, site and architectural review permit, building permit, or other city approval, which authorizes ten or more living units or residential lots, or living units and residential lots with ten or more in combination. In order to prevent evasion of the provisions of this chapter, contemporaneous construction of ten or more living units on a lot, or on contiguous lots for which there is evidence

of common ownership or control, even though not covered by the same city land use approval, shall also be considered a residential project. Construction shall be considered contemporaneous for all units which do not have completed final inspections for occupancy and which have outstanding, at any one time, any one or more of the following: parcel map, subdivision map, or other discretionary city land use approvals, or building permits, or applications for such an approval or permits. A pending project shall not be considered a residential project under this chapter.

"Very low-income household" means a household whose household income does not exceed the very low-income limits applicable to Santa Clara County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

21.24.040 - General requirements.

A. Percentage requirement. At least fifteen percent of all units in a residential project shall be made available at ~~affordable rents or~~ affordable ownership cost as prescribed in this section and shall be approved and completed not later than the times prescribed in Section 21.20.040 of this title, unless an alternative requirement is approved as set forth in Section 21.24.060 of this chapter.

   For fractions of units in residential projects, where the fraction is 0.5 or greater, the owner of the property shall construct the next higher whole number of affordable units, and where the fraction is 0.49 or less, the owner shall construct the next lower whole number of affordable units.

B. Exceptions. For purposes of calculating the number of affordable units required by this section, any additional units authorized as a density bonus pursuant to Chapter 21.20, (Density Bonus and Affordable Housing Incentives) of this code shall not be counted in calculating the required number of affordable units. Additionally, the community development director may grant exceptions to the requirements of this chapter to residential projects located within the redevelopment project area, upon a finding that such exception is necessary to effective implementation of the redevelopment plan, while maintaining overall compliance with affordable housing production requirements set forth in Health and Safety Code Section 33413.

C. Location and design of affordable units. All affordable units shall be reasonably dispersed throughout the project and shall be comparable to the design of the market-rate units in terms of distribution of model types, number of bedrooms, appearance, materials and finished quality of the market-rate units in the project. There shall not be significant identifiable differences between affordable units and market-rate dwelling units which are visible from the exterior of the dwelling units and the size and design of the dwelling units shall be reasonably consistent with the market-rate units in the development. Affordable units shall have the same access to project amenities and recreational facilities as market rate units.

D. For-sale projects. Affordable units which are constructed in for-sale projects for owner-occupancy shall be sold at affordable ownership cost to lower-income households and moderate-income households.

~~E.Rental projects. The affordable units which are constructed in rental projects shall be offered for rent at affordable rents to lower-income households and very low-income households. Of these affordable units in rental projects, forty percent of the required fifteen percent, or six percent of the total units in the residential project, shall be offered at affordable rents exclusively to very low-income households, provided that where this requirement for very low-income units would result in a fraction of a very low-income unit, the number of very low-income units shall be rounded up and the number of lower-income units which need not be very low-income units shall be rounded down.~~

~~F.~~E. Priority for rental or purchase of units. Preference in the rental or purchase of affordable units shall be given, first (for up to ten percent of all affordable units subject to this chapter) to income eligible employees of the City of Campbell, second to income eligible existing Campbell residents, and third to income eligible persons employed within the city limits of the City of Campbell.

21.24.050 - Time performance.

A. An application for first approval of a residential project will not be deemed complete until the applicant has submitted plans and proposals which demonstrate the manner in which the applicant proposes to meet the requirements of this chapter, including any plans for the construction of on-site units pursuant to Section 21.24.040 of this chapter or the applicant's selection of an alternative means of compliance pursuant to Section 21.24.070 of this chapter.

B. Conditions to carry out the purposes of this chapter shall be imposed on the first approval for a residential project. Additional conditions may be imposed on later city approvals or actions, including without limitation planned development permits, tentative parcel maps, tentative subdivision maps, conditional use permits, site and architectural review permits, or building permits. The conditions of approval included with the first approval of the residential project shall further provide that prior to the recordation of the parcel map or final map in the case of subdivisions and or prior to the issuance of building permits in the case of all other land use permits to which this chapter applies, the applicant shall enter into an inclusionary housing agreement acceptable to the community development director that contains specific requirements implementing the condition of approval including, but not limited to, as applicable, the number of affordable units, the level(s) of affordability, location and type of affordable units, timing of construction of affordable units in relation to the construction of the market rate units contained in the development, preferences given in selecting occupants, and amount of the in-lieu fee, if any. The inclusionary housing agreement may be amended by the parties, provided the amendment is consistent with the condition of approval imposed as part of the first approval and the then-existing city approvals. If such proposed amendment is minor or technical in nature, the community development director shall have authority to approve or disapprove the amendment on behalf of the city. If such proposed amendment makes a substantive or material change to the inclusionary housing agreement, such amendment shall be effective only if, following notice and hearing and such other procedures as may be required by law, approved by the city agency that gave the first approval on the project.

C. No building permit shall be issued for any market rate unit until the applicant has obtained permits for affordable units sufficient to meet the requirements of Section 21.24.040 of this

chapter, or received approval of an alternative requirement of Section 21.24.070 of this chapter. No final inspection for occupancy for any market rate unit shall be completed until the applicant has constructed the affordable units required by Section 21.24.040 of this chapter, or completed corresponding alternative performance under Section 21.24.070 of this chapter. The time requirements set forth in this subsection for issuance of building permits for market rate units and for final inspections for occupancy for market rate units may be modified to accommodate phasing schedules, model variations, or other factors in a residential project, if the city determines this will provide greater public benefit and an inclusionary housing agreement acceptable to the community development director or the Community Development Director's designee pursuant to subsection B of this section so provides.

21.24.060 - Continued affordability and city review of occupancy.

A. Term of affordability~~—For-sale projects~~. A resale restriction, covenant, deed of trust and/or other documents acceptable to the community development director or the director's designee, shall be recorded against each affordable owner-occupied unit. These documents shall, in the case of affordable units which are initially sold, be for a term of forty-five years and shall be renewed at the change of each title for a period of forty-five years. The resale restriction, or other documents authorized by this subsection, and any change in the form of any such documents which materially alters any policy in the documents, shall be approved by the community development director or his or her designee prior to being executed with respect to any residential project.

~~B.Term of affordability—Rental projects. A regulatory agreement, covenant, deed of trust, and/or other documents acceptable to the Community Development Director or the Director's designee, shall be recorded against each unit/complex for residential projects containing affordable rental units. These documents shall, in the case of affordable units which are rented, be for a term of fifty-five years and shall be renewed at the change of each title for a period of fifty-five years. The regulatory agreement and other documents authorized by this subsection, shall run with the property and not be affected by the sale of the property or units in the project. The regulatory agreement and other documents authorized by this subsection, and any change in the form of any such document which materially alters any policy in the document, shall be approved by the Community Development Director or his or her designee prior to being executed with respect to any residential project.~~

~~C.~~B. Eligibility requirements. No household shall be permitted to begin occupancy of an affordable unit unless the city or its designee has approved the household's eligibility. If the city or its designee maintains a list of, or otherwise identifies, eligible households, initial and subsequent occupants of affordable units shall be selected first from the list of identified households, to the maximum extent possible, in accordance with rules approved by the community development director or his or her designee.

21.24.070 - Alternatives.

An applicant may elect, in lieu of building affordable units within a residential project, to satisfy the requirements of this chapter by one of the following alternative modes of compliance, provided that the applicant includes such election in its application for the first approval of the

residential project and that the criteria stated in the relevant subsection below are satisfied.

A. Rental units in for-sale projects. Where owner-occupied affordable units are required by Section 21.24.040 of this chapter, the applicant may instead construct as part of the residential project the same or a greater number of rental units, affordable to lower-income households and very low-income households. Forty percent of the required fifteen percent, or six percent of the total units in the residential project, shall be offered at affordable rents exclusively to very low-income households, provided that where this requirement for very low-income units would result in a fraction of a very low-income unit, the number of very low-income units shall be rounded up and the number of lower-income units which need not be very low-income units shall be rounded down. ~~in the proportions and at the rents as prescribed in Section 21.24.040(E) of this chapter.~~ Substitution of rental units shall be allowed under this subsection only if either: (1) the rental units are at least equal in number of bedrooms to the owner-occupancy units which would have been allowed, or (2) any comparative deficiency in bedrooms is compensated for by additional units and/or affordability to households with lower incomes.

B. Off-site construction. The applicant may ~~Construct~~construct, or make possible construction by another developer of, units not physically contiguous to the market-rate units (or units that are physically contiguous to the market-rate units if the City determines this will provide greater public benefit and if an inclusionary housing agreement acceptable to the Community Development Director or his or her designee pursuant to Section 21.24.050(B) of this chapter so provides) and equal or greater in number to the number of affordable units required under Section 21.24.040 of this chapter. Off-site construction pursuant to this subsection shall be approved only if:

1. Approval has been secured for the off-site units not later than the time the residential project is approved and completion of the off-site units is secured by a requirement that final inspections for occupancy for the related market-rate units be completed after those for the affordable units, provided that the time requirements set forth in this subsection for final inspections for occupancy for market-rate units may be modified to accommodate phasing schedules, model variations, financing requirements, or other factors in a residential project for the off-site units, if the City determines this will provide greater public benefit, and if an inclusionary housing agreement acceptable to the Community Development Director or his or her designee pursuant to Section 21.24.050(B) of this chapter so provides;

2. The off-site units will be greater in number, larger or affordable to households with lower incomes than would otherwise be required in Section 21.24.040 of this chapter;

3. Financing or a viable financing plan is in place for the off-site units;

4. In the event the off-site units receive any public assistance, the developer of the residential project will contribute to the off-site units economic value equivalent to the value of making on-site units in the developer's residential project affordable; and

5. The City may require that completion of off-site units shall be further secured by the developer's agreement to pay an in-lieu fee in the amount due under subsection D of this section in the event the off-site units are not timely completed.

C. Land dedication. The applicant may ~~Dedicate~~ dedicate without cost to the city, a lot or lots within or contiguous to the residential project, sufficient to accommodate at least the required affordable units for the residential project. An election to dedicate land in lieu of compliance with other provisions of this chapter shall be allowed only if:

1. The value of the lot or lots to be dedicated is sufficient to make development of the otherwise required affordable units economically feasible, and financing or a viable financing plan is in place for at least the required number of affordable units; and

2. The lot or lots are suitable for construction of affordable housing at a feasible cost, served by utilities, streets and other infrastructure, there are no hazardous material or other material constraints on development of affordable housing on the lot or lots, and land use approvals have been obtained as necessary for the development of the affordable units on the lot or lots.

D. In-lieu housing fee. Where a residential project has an approved density of six or fewer units per acre, the applicant may elect to pay an in-lieu housing fee, instead of developing the affordable units required in Section 21.24.040 of this chapter, pursuant to the requirements set forth below in this subsection.

1. The initial in-lieu fee schedule shall be set by City Council fee resolution or other action of the City Council so that the fee amounts are not greater than the difference between: (a) the amount of a conventional permanent loan that an inclusionary unit would support based on the ~~affordable rent or~~ sales price for the required inclusionary unit; and (b) the estimated total development cost of prototypical inclusionary units.

2. The City Council may annually review the fees authorized by this subsection D of this section by resolution, and may, based on that review, adjust the fee amount. For any annual period during which the City Council does not review the fee authorized by this subsection, fee amounts shall be adjusted once by the community development director or his or her designee based on the construction cost index.

3. In-lieu fees shall be calculated based on the fee schedule in effect at the time the fee is paid. In-lieu fees shall be paid prior to issuance of building permits for market-rate units in a residential project. If building permits are issued for only part of a residential project, the fee amount shall be based only on the number of units then permitted. Where payment is delayed, in the event of default or for any other reason, the amount of the in-lieu fee payable under this subsection D of this section shall be based upon the fee schedule in effect at the time the fee is paid.

21.24.080 - Use of in-lieu housing fees.

A. All in-lieu fees collected under this chapter shall be deposited into a separate account to be designated the City of Campbell housing trust fund.

B. The in-lieu fees collected under this chapter and all earnings from investment of the fees shall be expended exclusively to provide or assure continued provision of affordable housing in the city through acquisition, construction, development assistance, rehabilitation, financing, rent subsidies or other methods, and for costs of administering programs which

serve those ends. The housing shall be of a type, or made affordable at a cost or rent, for which there is a need in the City and which is not adequately supplied in the City by private housing development in the absence of public assistance.

21.24.090 - Waiver of requirements.

Notwithstanding any other provision of this chapter, the requirements of this chapter shall be waived, adjusted or reduced if the applicant shows that there is no reasonable relationship between the impact of a proposed residential project and the requirements of this chapter, or that applying the requirements of this chapter would take property in violation of the United States or California Constitution or otherwise result in an unconstitutional application of this chapter. To receive a waiver, adjustment or reduction under this section, the applicant must file a written request together with the development application(s) when applying for a first approval for the residential project, and/or as part of any appeal which the City provides as part of the process for the first approval. The written request shall provide substantial evidence showing that there is no reasonable relationship between the impact of a proposed residential project and the requirements of this chapter, or that applying the requirements of this chapter would take property in violation of the United States or California Constitution or otherwise result in an unconstitutional application of this chapter. The City may assume that: (a) the applicant will provide the most economical inclusionary units feasible meeting the requirements of this chapter; and (b) the applicant is likely to obtain housing subsidies when such funds are reasonably available. The waiver, adjustment, or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this section.

21.24.100 - Enforcement.

A. The City Council may adopt guidelines, by resolution, to assist in the implementation of all aspects of this chapter.

B. No permit, license, subdivision approval or map, or other approval or entitlement for a residential project shall be issued, including without limitation a final inspection for occupancy or certificate of occupancy, until all requirements applicable to the residential project at such time pursuant to this chapter have been satisfied.

C. The City Attorney shall be authorized to enforce the provisions of this chapter and all inclusionary housing agreements, regulatory agreements, resale controls, deeds of trust, or similar documents placed on affordable units, by civil action and any other proceeding or method permitted by law.

D. Failure of any official or agency to fulfill the requirements of this chapter shall not excuse any applicant or owner from the requirements of this chapter.

E. The remedies provided for in this chapter shall be cumulative and not exclusive and shall not preclude the city from any other remedy or relief to which it otherwise would be entitled under law or equity.

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Chapter 21.20 - DENSITY BONUS AND OTHER INCENTIVES FOR AFFORDABLE RESIDENTIAL UNITS, SENIOR HOUSING AND CHILDCARE FACILITIES*

Sections:

* Prior ordinance history: Ord. 2043.

21.20.010 - Purpose.

21.20.020 - Definitions.

21.20.030 - Eligibility for density bonuses.

21.20.040 - Density bonuses for affordable and senior housing.

21.20.050 - Incentives and concessions for affordable housing.

21.20.060 - Density bonus for land dedication.

21.20.070 - Density bonus or incentive for childcare facilities.

21.20.080 - Density bonus for condominium conversions.

21.20.090 - Summary tables.

21.20.100 - Calculation of density bonus.

21.20.110 - Standards for incentives and concessions; waiver or modification of development standards.

21.20.120 - Standards for density bonus residential developments.

21.20.130 - Affordable housing plan submittal; requirements for application for density bonus and other incentives.

21.20.140 - City review of application for density bonuses and other incentives.

21.20.150 - Developer affordable housing agreement.

21.20.160 - Continued affordability and initial occupancy.

21.20.180 - Implementation and enforcement.

21.20.010 - Purpose.

The purposes of this chapter of the Campbell Municipal Code, Revised are: (1) to provide incentives for the production of housing for very low-income, low-income, moderate-income, and senior households; (2) to provide incentives for the creation of rental housing serving lower and moderate-income households; (3) to provide incentives for the construction of childcare facilities serving very low-, low-, and moderate-income households; and (4) to implement Sections 65915, 65915.5 and 65917 of the California Government Code as required by Government Code Section 65915(a). In enacting this chapter it is also the intent of the city of Campbell to implement the goals, objectives, and policies of the city's General Plan Housing Element, which includes a goal to encourage the provision of housing affordable to a variety of household income levels and identifies a density bonus policy as one method to encourage the development of affordable housing (Goal H-5.1 Regulatory Incentives, Program 5.1(a) Density Bonus).

(Ord. 2102 § 1(part), 2008).

21.20.020 - Definitions.

For purposes of this chapter, the following definitions shall apply. Unless specifically defined below, words or phrases shall be interpreted as to give this chapter its most reasonable interpretation.

"Affordable ownership cost" means average monthly housing costs, during the first calendar year of a household's occupancy, as determined by the city, including mortgage payments, loan issuance fees, if any, property taxes, reasonable allowances for utilities and property maintenance and repairs, homeowners insurance, and homeowners association dues, if any, which do not exceed the following:

1. For moderate-income households: one-twelfth of thirty-five percent of one hundred ten percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit and one additional person for each additional bedroom thereafter;

2. For lower-income households: one-twelfth of thirty percent of seventy percent of area median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit and one additional person for each additional bedroom thereafter;

3. For very low-income households: one-twelfth of thirty percent of fifty percent of area median income adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit and one additional person for each additional bedroom thereafter.

"Affordable rent" means monthly rent, including utilities and all fees for housing services, which does not exceed the following:

1. For lower-income households: one-twelfth of thirty percent of sixty percent of area

median income, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter;

2. For very low-income households: one-twelfth of thirty percent of fifty percent of area median, adjusted for assumed household size based on presumed occupancy levels of one person in a studio apartment, two persons in a one-bedroom unit, three persons in a two-bedroom unit, and one additional person for each additional bedroom thereafter.

"Applicant" means a person or entity who applies for a residential project and, if the applicant does not own the property on which the residential project is proposed, also means the owner or owners of the property.

"Area median income" means area median income for Santa Clara County as published pursuant to California Code of Regulations, Title 25, Section 6932, (or its successor provision).

"Childcare facility" means a commercial child day care facility defined in Campbell Municipal Code, Revised Section 21.72.020 as a commercial or non-profit child day care facility not operated as a small or large child day care home and includes infant facilities, preschools, sick child facilities and school-age day care facilities.

"Density bonus" means a density increase, granted pursuant to this chapter, over the otherwise allowable maximum residential density on a site.

"Density bonus units" means living units granted pursuant to this chapter which exceed the otherwise allowable maximum residential density for a residential project.

"Development standard" means a condition that applies to the actual construction or physical site of a residential project (as opposed to standards for entitlement processing or fees) pursuant to any ordinance, general plan element, specific plan, or other local condition, law, policy, resolution or regulation.

"First approval" means the first of the following approvals to occur with respect to a residential project: building permit, planned development permit, tentative parcel map, tentative subdivision map, conditional use permit, site and architectural review permit, or other discretionary city land use approval.

"Household income" means the combined adjusted gross income for all adult persons living in a living unit as calculated for the purpose of the Section 8 Program under the United States Housing Act of 1937, as amended, or its successor.

"Incentives and concessions" means regulatory concessions as listed in Sections 21.20.050 and 21.20.110.

"Inclusionary unit" means ~~an ownership~~a ~~or rental living~~ unit which is required under Chapter 21.24 to be ~~rented at affordable rents or~~ sold at an affordable ownership cost to specified households, or which the applicant has elected to rent at affordable rents pursuant to Campbell Municipal Code section 21.24.070.A .

"Living unit" means one or more rooms designed, occupied, or intended for occupancy as separate living quarters with cooking, sleeping and bathroom facilities.

"Lower-income household" means a household whose household income does not exceed the lower income limits applicable to Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

"Market rate unit" means a living unit, which is not a target unit or an inclusionary unit.

"Maximum residential density" means the maximum number of living units permitted by the zoning ordinance on the date an application for a residential project is deemed complete. This definition is used to calculate a density bonus pursuant to this chapter.

"Minor modification" means a modification that is technical in nature, as opposed to substantive or material.

"Moderate-income household" means a household whose household income does not exceed the moderate income limits applicable to Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50093 of the California Health and Safety Code.

"Qualifying resident" means a senior citizen or other person eligible to reside in a senior housing project.

"Residential project" means any parcel map, subdivision map, conditional use permit, site and architectural review permit, building permit, or other city approval, which authorizes the construction of five or more living units.

"Senior housing project" means a senior citizen residential development of thirty-five living units or more as defined in California Civil Code Section 51.3, or a mobilehome park that limits residency based on age requirements for older persons pursuant to California Civil Code Section 798.76 or 799.5.

"Target units" means living units that will be restricted for sale or rent to qualifying residents or will be restricted for sale or rent to, and affordable to, very low-, lower- or moderate-income households thereby qualifying a residential project for a density bonus under this chapter. Inclusionary units may not be target units unless they are offered at a lower income category as explained in Section 21.20.100(6).

"Very low-income household" means a household whose household income does not exceed the very low income limits applicable to Santa Clara County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

(Ord. 2102 § 1(part), 2008).

21.20.030 - Eligibility for density bonuses.

A residential project is eligible for a density bonus if it:

1. Creates at least five additional living units, not including any density bonus units;

2. Includes a request for a density bonus as part of an application for the first approval of a residential project; and

3. Meets the criteria for a density bonus established in Sections 21.20.030, 21.20.040, 21.20.060, 21.20.070 or 21.20.080

(Ord. 2102 § 1(part), 2008).

21.20.040 - Density bonuses for affordable and senior housing.

1. Very Low- and Lower-Income Housing and Senior Housing. A residential project is eligible for a twenty percent density bonus if the applicant seeks a density bonus and agrees to provide one of the following:

a. Ten percent of the total living units as target units affordable to lower-income households;

b. Five percent of the total living units as target units affordable to very low-income households; or

c. A senior housing project.

2. Moderate-Income Housing. A residential project is eligible for a five percent density bonus if it meets all of the following criteria:

a. The applicant seeks a density bonus and agrees to provide at least ten percent of the total living units as target units affordable to moderate-income households;

b. The residential project is a common interest development as defined by Section 1351 of the California Civil Code; and

c. All of the living units in the residential project are offered to the public for purchase.

3. Additional Density Bonus. The density bonus for which the residential project is eligible shall increase if the percentage of target units affordable to very low-, lower-, and moderate-income households exceeds the base percentage established in subsections (1) and (2) above, as follows:

a. Very Low-Income Units. For each one percent increase above five percent in the percentage of target units affordable to very low-income households, the density bonus shall be increased by two and one-half percent up to a maximum of thirty-five percent.

b. Lower-Income Units. For each one percent increase above ten percent in the percentage of target units affordable to lower-income households, the density bonus shall be increased by one and one-half percent up to a maximum of thirty-five percent.

c. Moderate-Income Ownership Units. For each one percent increase above ten percent of the percentage of target units reserved for sale at an ownership cost affordable to moderate-income households, the density bonus shall be increased by one percent up to a maximum of thirty-five percent.

(Ord. 2102 § 1(part), 2008).

21.20.050 - Incentives and concessions for affordable housing.

An applicant for a density bonus may seek incentives and concessions as follows:

1. One incentive or concession for residential projects where, based on affordable rents or ownership costs, at least ten percent of the total units are target units affordable to lower-income households, at least five percent of the total units are target units affordable to very low-income households, or at least ten percent of the total units are target units affordable to moderate-income households at affordable ownership costs;

2. Two incentives or concessions for residential projects where at least twenty percent of the total units are target units affordable to lower-income households based on affordable rents or ownership costs, at least ten percent of the total units are target units affordable to very low income, or at least twenty percent of the total units are target units affordable to moderate-income households at affordable ownership costs;

3. Three incentives or concessions for residential projects where at least thirty percent of the total units are target units affordable to lower-income households based on affordable rents or ownership costs, at least fifteen percent of the total units are target units affordable to very low-income households, or at least thirty percent of the total units are target units affordable to moderate-income households at affordable ownership costs.

(Ord. 2102 § 1(part), 2008).

21.20.060 - Density bonus for land dedication.

A residential project may be eligible for a density bonus when an applicant for a residential project chooses to dedicate land to the city for the construction of very low-income housing as specified in California Government Code Section 65915(h).

(Ord. 2102 § 1(part), 2008).

21.20.070 - Density bonus or incentive for childcare facilities.

A residential project that is eligible for a density bonus and includes a childcare facility that will be located on the premises of, as part of, or adjacent to the residential project, may be eligible for an additional density bonus or an additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility as specified in Government Code Section 65915(i).

(Ord. 2102 § 1(part), 2008).

21.20.080 - Density bonus for condominium conversions.

A residential project for a conversion of existing rental apartments to condominiums may be eligible for a density bonus or other incentives of equivalent financial value as specified in Government Code Section 65915.5.

(Ord. 2102 § 1(part), 2008).

21.20.090 - Summary tables.

The following tables summarize the available density bonuses, incentives, and concessions.

Density Bonus Summary

Types of Affordable Units Providing Eligibility for a Density Bonus	Minimum %	Bonus Granted	Additional Bonus for Each 1% Increase over the Minimum %	% Target Units Required for Maximum 35% Bonus
A density bonus may be selected from only one category, except that bonuses for land donation may be combined with others, up to a maximum of 35%, and an additional sq. ft. bonus may be granted for a childcare facility. As provided in Section 21.20.100(5), target units provided must be in addition to, or provided to a lower income category than, those required by the city's inclusionary housing requirements.				
Very low income	5%	20%	2.5%	11
Lower income	10%	20%	1.5%	20%
Moderate income (ownership units only)	10%	5%	1%	40%
Senior housing project	100% senior	20%	—	—
Land donation for very low-income housing	10% of market-rate units	15%	1%	30% of market-rate units
Condominium conversion — moderate income	33%	25%[(A)]	—	—
Condominium conversion — lower income	15%	25%[(A)]	—	—
Childcare facility	—	Sq. ft. in childcare facility[(A)]	—	—

Notes:

(A) Or an incentive of equal value, at the city's option.

Incentives and Concessions Summary

Target Units or Category Pursuant to State Density Bonus	% of Target Units		
Very Low Income	5%	10%	15%
Lower Income	10%	20%	30%

Moderate Income (ownership units only)	10%	20%	30%
Maximum Incentive(s)/Concession(s) (A)(B)(C)(D)	1	2	3

Notes:

(A) A concession or incentive may be requested only if an application is also made for a density bonus.

(B) Concessions or incentives may be selected from only one category (very low, lower, or moderate).

(C) No concessions or incentives are available for land donation.

(D) Condominium conversions and childcare facilities may have one concession or a density bonus at the city's option, but not both.

(Ord. 2102 § 1(part), 2008).

21.20.100 - Calculation of density bonus.

1. When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded up to the next larger whole number.

2. The density bonus units shall not be included in the "total units" when determining the number of target units required to qualify a residential project for a density bonus pursuant to Section 21.20.040(1) or (2). When calculating the required number of target units, any calculations resulting in fractional units shall be rounded up to the next larger whole number.

3. The applicant may request a lesser density bonus than the project is entitled to, but no reduction may be permitted in the number of target units or land dedication required to qualify a residential project for a density bonus. Regardless of the number of target units or size of land dedication, no residential project may be entitled to a total density bonus of more than thirty-five percent.

4. Each residential project is entitled to only one density bonus, which may be selected by the applicant based on the percentage of either very low-income units, lower-income units, or moderate-income ownership units, or the project's status as a senior housing project. Density bonuses from more than one category may not be combined, except that bonuses for land dedication pursuant to Section 21.20.060 may be combined with bonuses granted pursuant to Section 21.20.040, up to a maximum of thirty-five percent, and an additional square footage bonus for childcare facilities may be granted as described in Section 21.20.070

5. Land dedications that qualify a project for a density bonus do not fulfill the inclusionary housing requirements set forth in Chapter 21.24

6. Inclusionary units will only be counted as target units qualifying a project for a density bonus, or incentives and concessions, if the inclusionary units are made available at a lower affordable rent income category or lower affordable ownership cost income category than mandated by the inclusionary requirements set forth in Chapter 21.24. Inclusionary units that are counted as target units shall remain affordable for the length of time required in Chapter 21.24, which is fifty-five years for rental units and forty-five years for owner-occupied units.

Example: An applicant proposes to develop a one hundred-unit residential ~~rental~~ ownership project and seeks a twenty percent density bonus by reserving ~~five~~ ten percent of the living units, or ~~five~~ ten living units, for ~~very~~ low-income households.

The inclusionary requirements in Chapter 21.24 require that fifteen percent of living units in a for-sale residential ownership project be reserved to lower-income and moderate-income households. ~~six percent of the living units in a residential rental project be reserved for very low-income households (the "required very low-income inclusionary units") and nine percent of the living units must be reserved for lower-income households (the "required lower-income inclusionary units")~~. Thus, in this one hundred-unit residential project, the applicant may be required to reserve ten of the living units for moderate-income households and five of the living units for lower-income households, as determined by an inclusionary housing agreement. ~~is required to reserve six of the living units for very low-income households and nine of the units for lower-income households~~. Because the required inclusionary units do not count as target units qualifying a project for a density bonus unless the inclusionary units are reserved for a lower income category than required under Chapter 21.24, the income unit break down for this one hundred-unit project would be as follows:

	Inclusionary Units	Target Units	DB Units	Remaining Units	Total
~~Very low~~ Lower income:	5~~6~~ (~~5~~45 years)	10~~5~~ (~~30~~ 45years)			~~11~~ 15
~~Lower~~ Moderate income:	10~~9~~ (~~5~~45 years)				~~9~~ 10
Market rate:			20	~~80~~75	100
				Total units	120

However, if the applicant reserves any of the required lower-income inclusionary units for very low-income households and/or any of the required moderate-income inclusionary units for lower-income households, then these units will qualify as target units qualifying the project for a density bonus. If five of the required lower-income inclusionary units are reserved for very low-income units and five of the required moderate-income inclusionary units are reserved for lower-income units, then those ~~five~~ ten units would be considered target units qualifying the project for a density bonus. In this scenario, the income unit break down would be as follows:

	Inclusionary Units	Target/ Inclusionary Units	DB Units	Remaining Units	Total
Very low income:	~~6 (55 years)~~	5 (~~55~~45 years)			5~~11~~
Lower income:	~~4 (55 years)~~	5 (45 years)			5~~4~~
Moderate Income	5 (45 years)				5
Market rate:			20	85	105
				Total units	120

(Ord. 2102 § 1(part), 2008).

21.20.110 - Standards for incentives and concessions; waiver or modification of development standards.

1. Concessions and incentives may be approved by the planning commission, unless the residential project or concessions otherwise require approval by the City Council. The applicant shall provide a pro forma demonstrating to the city that the requested concession or incentive results in identifiable, financially sufficient, and actual cost reductions to the project pursuant to California Government Code Section 65915(l)(1). For purposes of this chapter, as defined in Government Code Section 65915(l), concessions and incentives means any of the following:

a. A reduction in site development standards or a modification of zoning code requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient and actual cost reductions.

b. Approval of mixed use zoning in conjunction with the residential project if commercial, office, industrial, or other land uses will reduce the cost of the residential project and if the commercial, office, industrial, or other land uses are compatible with the residential project and the existing or planned development in the area where the proposed residential project will be located.

c. Other regulatory incentives or concessions proposed by the developer or the city that result in identifiable, financially sufficient and actual cost reductions.

2. Waiver or Modification. Applicants may also seek a waiver or modification of development standards that will have the effect of precluding the construction of a residential project meeting the criteria of Sections 21.20.030 and 21.20.040(1) or (2) at the densities or with the incentives or concessions permitted by this section. The applicant shall show: (1) that the development standards will preclude construction, and (2) the waiver or modification is necessary to make the residential project economically feasible based upon appropriate financial analysis and documentation as specified in Section 21.20.130

3. Nothing in this section requires the city to provide direct financial incentives for the residential project, including, but not limited to, the provision of publicly owned land or waiver of fees or dedication requirements.

4. For purposes of this chapter, concessions and incentives include reductions in site development standards or modifications of zoning code, and other incentives or concessions defined in Government Code Section 65915(l) that result in identifiable, financially sufficient and actual cost reductions. The approved set of concessions includes the following:

a. Reduction in required on-site parking as described in CMC Section 21.20.120(4);

b. Expedited processing pursuant to a mutually agreed upon schedule (with appropriated indemnification language);

c. Deferral of the collection of impact fees on market rate units until issuance of a certificate of occupancy.

(Ord. 2102 § 1(part), 2008).

21.20.120 - Standards for density bonus residential developments.

1. Target units qualifying a residential project for a density bonus shall remain affordable as follows:

a. Rental target units shall remain affordable to the designated income group for a minimum of thirty years or for a longer period of time if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the living units., ~~or if they are inclusionary units being counted as target units pursuant to Section 21.20.100(6).~~

b. Owner-occupied target units shall remain affordable for forty-five years.

2. All target units shall be reasonably dispersed throughout the residential project and shall be comparable to the design of the market rate units in terms of distribution of model types, number of bedrooms, appearance, materials and finished quality of the market rate units in the development. There shall not be significant identifiable differences between target and market rate units visible from the exterior, and the size and design of the target units shall be reasonably consistent with the market-rate units in the development. Target units shall have the same access to project amenities and recreational facilities as market rate units.

3. All building permits for target units qualifying a residential project for a density bonus shall be issued concurrently with, or prior to, issuance of building permits for the market rate units, and the target units shall be constructed concurrently with, or prior to, construction of the market rate units. Occupancy permits and final inspections for target units qualifying a residential project for a density bonus shall be approved concurrently with, or prior to, approval of occupancy permits and final inspections for the market rate units. The time requirements set forth in this subsection for issuance of building permits for market rate units and for final inspections for occupancy for market rate units may be modified to accommodate phasing schedules, model variations, or other factors in a residential project, if the city determines this will provide greater public benefit and a detailed schedule for construction or occupancy of the target units is included in the affordable housing plan, as described in Section 21.20.130

4. Upon the request of the developer, the city shall not require off-street parking for a residential project meeting the criteria of Sections 21.20.030 and 21.20.040(1) or (2) that exceeds the following:

a. Studio to one-bedroom units: one on-site parking space;

b. Two to three-bedroom units: two on-site parking spaces;

c. Four and more bedroom units: two and one-half parking spaces.

Guest parking and handicapped parking shall be included within the maximum number of spaces that may be required. If the total number of parking spaces required for a residential project is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a residential project may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

(Ord. 2102 § 1(part), 2008).

21.20.130 - Affordable housing plan submittal; requirements for application for density bonus and other incentives.

1. An application for a density bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to this chapter shall be submitted as part of the first approval of the residential project. It shall be included in an affordable housing plan and processed concurrently with all other applications required for the residential project.

2. Upon submittal, the community development director shall determine if the affordable housing plan is complete and conforms to the provisions of this chapter. No application for a first approval for a residential project requesting a density bonus, incentives, concessions, or waivers may be deemed

complete unless an affordable housing plan is submitted conforming to the provisions of this section.

3. The affordable housing plan shall include the following information:

a. A description of any requested density bonuses, incentives, concessions, waivers or modifications of development standards or modified parking standards;

b. Identification of the base project without the density bonus, number and location of all target units qualifying the project for a density bonus, level of affordability of the target units, and identification of the bonus units;

c. The preferences given in selecting occupants shall be set forth;

d. For all incentives and concessions except those listed in Section 21.20.110(2), a pro forma demonstrating that the requested incentives and concessions result in identifiable, financially sufficient and actual cost reductions;

e. For waivers or modifications of development standards: (a) a pro forma demonstrating that the waiver or modification is necessary to make the residential project economically feasible based upon appropriate financial analysis and documentation; and (b) evidence that the development standards for which a waiver is requested will have the effect of precluding the construction of the residential project at the densities or with the incentives or concessions permitted by this chapter;

f. The cost of reviewing any required pro forma data submitted in support of a request for a concession, incentive, waiver or modification, including, but not limited to, the cost to the city of hiring a consultant to review the pro forma, shall be borne by the applicant. The pro forma shall also include: (a) the actual cost reduction achieved through the incentive, concession, waiver, or modification; and (b) evidence that the cost reduction allows the developer to provide affordable rents or affordable sales prices;

g. If the applicant is proposing a modification of the requirement that the target units be constructed concurrently with the market rate units, the affordable housing plan shall describe the proposed phasing at the same level of detail as required in the application for the residential project, specify the security to be provided to the city to ensure that the target units will be constructed, and explain how the proposed phasing would provide greater public benefit than providing the target units concurrently with the market rate units;

h. If a density bonus or concession is requested for a senior housing project, the application shall provide that units in the residential project shall be occupied by qualified residents;

i. If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings in Government Code Section 65915(h) can be made;

j. If a density bonus or concession is requested for a childcare facility, the application shall show the location and square footage of the childcare facility and provide evidence that the findings included in Government Code Section 65915(i) can be made;

k. If a mixed use building or development is proposed, the application shall provide evidence that the findings included in Section 21.20.110(4)(g) can be made;

l. For residential projects subject to the inclusionary housing requirements set forth in Chapter 21.24, the affordable housing plan shall also incorporate the requirements of Section 21.24.060(A), and only one affordable housing plan need be submitted.

4. Upon submittal, the community development director shall determine if the affordable housing plan submitted in support of a request for a density bonus, incentive, concession, waiver, modification, or revised parking standard is complete and conforms to the provisions of this chapter and Chapter 21.24. No application for a first approval for a residential project requesting a density bonus, incentives, concessions, or waivers may be deemed complete unless an affordable housing plan is submitted conforming to the provisions of this chapter.

(Ord. 2102 § 1(part), 2008).

21.20.140 - City review of application for density bonuses and other incentives.

1. An application for a density bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to this chapter shall be reviewed as part of the first approval of the residential project by the approval body with authority to approve the residential project, unless additional review by the planning commission or City Council is required by Chapter 21.62. Any decision regarding a density bonus, incentive, concession, waiver, modification, or revised parking standard may be appealed as part of an appeal of the residential project as provided in Chapter 21.62. In accordance with state law, neither the granting of a concession or incentive, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a general plan amendment, zoning change or other discretionary approval.

2. Before approving an application for a density bonus, incentive, concession, waiver, or modification, the approval body shall make the following findings:

a. The residential project is eligible for a density bonus and any concessions, incentives, waivers, modifications, or reduced parking standards requested; conforms to all standards for affordability included in this chapter; and includes a financing mechanism for all implementation and monitoring costs;

b. Any requested incentive or concession will result in identifiable, financially sufficient, and actual cost reductions based upon appropriate financial analysis and documentation if required by Section 21.20.110

c. If the density bonus is based all or in part on dedication of land, the approval body has made the findings included in Government Code Section 65915(h);

d. If the density bonus, incentive, or concession is based all or in part on the inclusion of a childcare facility, the approval body has made the finding included in Government Code Section 65915(i);

e. If the incentive or concession includes mixed use buildings or developments, the approval body has made the finding included in Section 21.20.110(4)(g);

f. If a waiver or modification is requested, the applicant has shown that the waiver or modification is necessary to make the housing units economically feasible by providing appropriate financial analysis and documentation as described in Section 21.20.110(5), and that the development standards will have the effect of precluding the construction of the residential project at the densities or with the incentives or concessions permitted by this section.

3. The approval body may deny a request for an incentive or concession for which the findings set forth in Section 21.20.140(2) can be made only if it makes a written finding, based upon substantial evidence, of either of the following:

a. The incentive or concession is not required to provide for affordable rents or affordable ownership costs; or

b. The incentive or concession would have a specific adverse impact upon public health or safety, or the physical environment, or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to lower-, very low- and moderate-income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions, as they existed on the date that the application was deemed complete.

4. The approval body may deny a requested waiver or modification for which the findings set forth in Section 21.20.140(2) can be made only if it makes a written finding, based upon substantial evidence, of either of the following:

a. The modification would have a specific adverse impact upon health, safety, or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to lower-, very low- and moderate-income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete; or

b. The modification would have an adverse impact on any real property that is listed in the California Register of Historic Resources.

5. The approval body may deny a density bonus or concession that is based on the provision of childcare facilities and for which the findings set forth in Section 21.20.140(2) can be made only if it makes a written finding, based on substantial evidence, that the city already has adequate childcare facilities.

6. A request for a minor modification of an approved affordable housing plan may be granted the community development director or designee if the modification is substantially in compliance with the original affordable housing plan and conditions of approval. A minor modification is technical in nature, as opposed to substantive or material. Substantive or material changes to the affordable housing plan shall be processed in the same manner as the original plan.

(Ord. 2102 § 1(part), 2008).

21.20.150 - Developer affordable housing agreement.

A. Developers requesting a density bonus, incentive, concession, waiver, modification, or revised parking standard granted pursuant to this chapter, shall agree to enter into a developer affordable housing agreement with the city. A developer affordable housing agreement shall be made a condition of the discretionary planning permits for all residential projects pursuant to this chapter and shall be recorded as a restriction on any parcels on which the target units will be constructed. When the inclusionary requirements of Chapter 21.24 apply, one affordable housing agreement will be recorded incorporating the requirements of both chapters.

B. The developer affordable housing agreement shall be recorded prior to final or parcel map approval, or, where the residential project does not include a map, prior to issuance of a building permit for any structure in the residential projects. The developer affordable housing agreement shall run with the land and bind all future owners and successors in interest.

C. The developer affordable housing agreement shall be in a form provided by the city and shall include, without limitation, the following:

1. The total number of units approved for the residential project, the number, location, and level of affordability of the target units and the inclusionary units;

2. Standards for determining affordable rent or affordable ownership cost for the target units and any inclusionary units;

3. The location, unit size in square feet, and number of bedrooms of target units and any inclusionary units;

4. Provisions to ensure initial and continuing affordability in accordance with the requirements of this chapter and Chapter 21.24, including the execution and recordation of subsequent agreements ensuring continued affordability pursuant to Sections 21.20.120 and 21.24.060

5. A schedule for completion and occupancy of target units and inclusionary units in relation to construction of market rate units;

6. A description of any incentives, concessions, waivers, or reductions being provided by the city;

7. A description of remedies for breach of the agreement by either party. The city may identify tenants or qualified purchasers as third party beneficiaries under the agreement;

8. Procedures for qualifying tenants and prospective purchasers of target units, including preferences;

9. Provisions requiring maintenance of records to demonstrate compliance with this chapter;

10. Other provisions to ensure implementation and compliance with this chapter and Chapter 21.24, if applicable.

D. In the case of senior citizen housing developments, the developer affordable housing agreement shall provide that units in the residential development shall be occupied by qualified residents.

E. Developer affordable housing agreements for land dedication, childcare facilities, and condominium conversion shall ensure continued compliance with all conditions included in Sections 21.20.060, 21.20.070 and 21.20.080 respectively.

(Ord. 2102 § 1(part), 2008).

21.20.160 - Continued affordability and initial occupancy.

A. Owner-Occupied Target Units. A resale restriction, covenant, deed of trust and/or other documents acceptable to the community development director or the director's designee, shall be recorded against each affordable for-sale unit. These documents shall, in the case of target units, which are initially sold, be for a term of forty-five years and shall be renewed at each change of title for a period of forty-five years. The resale restriction, or other documents authorized by this subsection, and any change in the form of any such documents which materially alters any policy in the documents, shall be approved by the community development director or his or her designee prior to being executed with respect to any residential project.

B. Rental Target Units. A regulatory agreement, covenant, deed of trust, and/or other documents acceptable to the community development director or the director's designee, shall be recorded against each residential project containing affordable rental units for a minimum term of thirty years or more. A longer period of time may be specified if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the residential project.

C. Eligibility Requirements. No household shall be permitted to begin occupancy of a target unit unless the city or its designee has approved the household's eligibility. If the city or its designee maintains a list of, or otherwise identifies, eligible households, initial and subsequent occupants of target units shall be selected first from the list of identified households, to the maximum extent possible, in accordance with rules approved by the community development director or his or her designee.

D. Priority for Rental or Purchase of Units. Preference in the rental or purchase of target units shall be given, first (for up to ten percent of all target units subject to this chapter) to income eligible employees of the city of Campbell, second to income eligible existing Campbell residents, and third to income eligible persons employed within the city limits of the city of Campbell.

(Ord. 2102 § 1(part), 2008).

21.20.180 - Implementation and enforcement.

A. The City Council may adopt guidelines, by resolution, to assist in the implementation of all aspects of this chapter.

B. No permit, license, subdivision approval or map, or other approval or entitlement for a residential project shall be issued, including without limitation a final inspection for occupancy or certificate of occupancy, until all requirements applicable to the residential project at such time pursuant to this chapter have been satisfied.

C. The city attorney shall be authorized to enforce the provisions of this chapter and all affordable housing agreements, regulatory agreements, resale controls, deeds of trust, or similar documents placed on target units, by civil action and any other proceeding or method permitted by law.

D. Failure of any official or agency to fulfill the requirements of this chapter shall not excuse any applicant or owner from the requirements of this chapter.

E. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the city from any other remedy or relief to which it otherwise would be entitled under law or equity.

(Ord. 2102 § 1(part), 2008).

City of Campbell -- Community Development Department
70 N. First Street, Campbell, CA 95008

MEMORANDUM

To: Members of the Planning Commission **Date:** February 26, 2013

From: Paul Kermoyan, Interim Community Development Director

Subject: Report of the Community Development Director

I. **CITY COUNCIL ACTIONS**: The City Council met on **Tuesday, February 19, 2013,** and considered the following item(s) of interest to the Planning Commission:

A. **Update on Dell Avenue Area Plan**: Council adopted a resolution authorizing the issuance of an RFP (Request for Proposals) to facilitate the preparation of the Dell Avenue Area Plan and to authorize the City Manager to award the contract.

B. **Extension of Approval - 258 & 268 Union Avenue**: Council adopted a resolution granting a second Extension of Approval (PLN2012-156) to extend a previously-approved Planned Development Permit to construct a five-unit townhome development in conjunction with a previously-approved Zone Change and Tentative Subdivision Map.

II **MISCELLANEOUS**

A. **Next Planning Commission Regular Meeting – March 12, 2013**: The Planning Commission will consider the following item(s):

1. Application of Mr. Metrik Masuda for a Conditional Use Permit (PLN2013-23) to establish a dog retail and training center (Zoom Room) within an existing tenant space on property located at **1614 W. Campbell Avenue.**

2. City-initiated Text Amendment (PLN2011-154) to amend the **Campbell Municipal Code (Sec. 21.18.140 – Undergrounding of Utilities and Sec. 20.36.150 – Utilities).**

B. **Council Study Session set for March 5th at 5:30 p.m. to discuss the mix of businesses in the Downtown:** The City Council is aware of the increase in restaurant and other food and beverage uses within Downtown Campbell and will hold a study session to discuss the current mix of businesses. Council extends an invitation to all interested parties who may wish to attend. Comments can be provided to the Council in person during the meeting or in written correspondence directed to Daniel Fama, Associate Planner, at danielf@cityofcampbell.com. This study session will take place on March 5th in the Council Chambers at 5:30 p.m.