

PLANNING COMMISSION
City of Campbell, California

7:30 P.M.
City Hall Council Chambers

January 14, 2020
Tuesday

AGENDA

ROLL CALL

APPROVAL OF THE MINUTES December 10, 2019

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. **PLN2019-189
(Appeal)** Public Hearing to consider the Appeal (PLN2019-189) of the Community Development Director's approval of an Administrative Planned Development Permit for a large fitness studio with late-night activities (PLN2019-106), to allow an increase in the maximum number of occupants from 34 to 80 individuals within an existing commercial building on property located at **842 W. Hamilton Avenue**. Staff is recommending that this item be deemed Statutorily Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Naz Pouya Healy, Assistant Planner*

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

ADJOURNMENT

Adjourn to the next regularly scheduled Planning Commission meeting of **January 28, 2020**, at 7:30 p.m., in the City Hall Council Chambers, 70 North First Street, Campbell, California.

Americans with Disabilities Act (ADA)

In compliance with the Americans with Disabilities Act, listening assistance devices are available for meetings held in the Council Chambers. If you require accommodation to participate in the meeting, please contact Corinne Shinn at the Community Development Department, at corinnes@cityofcampbell.com or (408) 866-2140.

CITY OF CAMPBELL PLANNING COMMISSION
MINUTES

7:30 P.M.

TUESDAY

DECEMBER 10, 2019
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of December 10, 2019 was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Chair Rivlin and the following proceedings were had, to wit:

ROLL CALL

Commissioners Present:	Chair:	Andrew Rivlin
	Vice Chair:	Mike Krey
	Commissioner:	Adam Buchbinder
	Commissioner:	Nick Colvill
	Commissioner:	Terry Hines
	Commissioner:	Maggie Ostrowski

Commissioners Absent:	Commissioner:	Stuart Ching
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Staff Present:	Community	
	Development Director:	Paul Kermoyan
	Senior Planner:	Daniel Fama
	Senior Planner:	Cindy McCormick
	Assistant Planner:	Naz Pouya Healy
	City Attorney:	William Seligmann
	Recording Secretary:	Corinne Shinn

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Krey, seconded by Commissioner Colvill, the Planning Commission minutes of the meeting of November 26, 2019, were approved as submitted. (5-0-1-1; Commissioner Ching was absent and Commissioner Ostrowski abstained she was absent from this meeting).

COMMUNICATIONS

Director Paul Kermoyan listed the following item(s):

- Desk items – A staff memo together with copies of written correspondence received after the packet was distributed for Agenda Item 4 – 1700 Dell Avenue. This material was also forwarded by email to the members of the Commission as they were received by staff.

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

Ms. Joanne Carroll, Resident on Walnut Drive, Campbell:

- Reported that her residential property is boarded by five other parcels including one behind that is 1374 Stevens Court (distributed a written letter with picture of the area that includes her home and those surrounding it).
- Advised that she has problems with the house that is currently under construction on the adjacent parcel of 1374 Stevens Court that includes three huge windows facing her yard and home.
- Stated that she received no public noticing about this proposed house being reviewed by the City and should have as an adjacent property owner.
- Concluded that more noticing should be provided to neighbors in the future.

Director Paul Kermoyan said staff would review the noticing that occurred for this property at 1374 Stevens Court and get back to Ms. Carroll.

Chair Rivlin thanked Ms. Carroll for her input.

PUBLIC HEARINGS

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

1. **PLN2019-24 (Appeal of TRP)** Public Hearing to consider the Appeal by Elise Sias of the Administrative denial of a Tree Removal Permit (PLN2019-24) on property located at **31 Hardy Avenue**. Staff is recommending that this item be deemed Categorically Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Naz Pouya Healy, Assistant Planner*

Ms. Naz Pouya Healy, Assistant Planner, provided the staff report.

Chair Rivlin asked if there were any disclosures from the Commission. There were none.

Chair Rivlin asked if there were questions for staff.

Commissioner Buchbinder said that the appellant/applicant did more research and discovered more damage on their property.

Planner Naz Healy:

- Said that staff initially felt that the desired home addition could be reconfigured around the tree.
- Reminded that the Planning Commission requested the applicant/appellant pay for a third-party arborist report about the tree.
- Added that as a result, the provision of additional information about the tree made staff comfortable supporting the removal of this tree.

Chair Rivlin sought clarification that only one of the available findings must be met.

Planner Naz Healy replied correct.

Chair Rivlin asked staff whether any of the other available findings could be found to be applicable in this request.

Planner Naz Healy replied no but reiterated that the third-party arborist report supported the removal of this tree.

Commissioner Colvill:

- Referenced Attach 3-6 and pointed out that the applicant/appellants intent was just to remove the tree.
- Added that it was down the line before these owners got to a point to propose their addition.
- Questioned how the Commission and City could be sure that these owners actually build an addition.
- Asked, "What if they don't?"
- Suggested continuing consideration of this request.

Planner Naz Healy said that the economic hardship finding was initially found not to be applicable. However, the third-party arborist says damage is likely to occur.

Commissioner Colvill clarified that the third-party arborist report moved the consideration of this tree removal from not being necessary to address to supporting its removal. He sought ways to ensure that the proposed addition to this home is actually done.

Planner Naz Pouya said that the arborist report supports the structure damage finding.

Commissioner Colvill said confirmed with staff that there would be no further discussion of the home addition or further action on the Commission's part.

Planner Naz Healy replied correct. The appellants can choose to build their addition or not.

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

Ms. Elise Sias, Appellant/Property Owner:

- Reported that their addition plans have already been submitted to Building.
- Added that they are now just waiting for this decision on their requested Tree Removal Permit.
- Assured that they would construct their home.

Commissioner Colvill thanked Ms. Sias for that clarification.

Chair Rivlin asked Ms. Sias if she is still living in her home and if it was safe.

Ms. Elise Sias replied yes.

Chair Rivlin asked if the plumbing was still an issue.

Ms. Elise Sias replied yes, monthly.

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

Commissioner Buchbinder said it sounds like originally there was not a good reason to support this tree removal. Now it appears that there is no reason not to support it.

Commissioner Ostrowski:

- Thanked Ms. Sias for providing the additional information requested by the Commission at the last meeting on this request.
- Added that additional information was needed to support the removal of this tree.
- Concluded that she is in support of this request at this time.

Commissioner Hines:

- Stated he feels the same.
- Pointed out that this tree is in the middle of their back door and should be gone so these owners can use their property as they want.

Commissioner Colvill said he too supports the removal of this tree. He asked if there would be any further discussion on the issue of the plumbing relocation.

Commissioner Krey said he's glad that the third-party arborist report was provided. He asked what is intended in regards of the plumbing.

Chair Rivlin:

- Said that whatever the decision is on the possible relocation of plumbing it would be the applicant's decision to make not the Planning Commission's.

- Admitted that he is disappointed that this tree has to go. That loss is upsetting. This is an iconic tree to the City.
- Asked for a motion.

Motion: Upon motion of Commissioner Krey, seconded by Commissioner Hines, the Planning Commission adopted Resolution No. 4552 APPROVING the appeal and OVERTURNING the Administrative Denial of a Tree Removal Permit (PLN2019-24) to allow the removal of one Redwood tree located in the rear yard of property located at 31 Hardy Avenue, by the following roll call vote:

AYES: Buchbinder, Colvill, Hines, Krey and Ostrowski

NOES: Rivlin

ABSENT: Ching

ABSTAIN: None

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

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

2. **PLN2019-176 (V)** Public Hearing to consider the application of Nandini Bhattacharya and Buddhadeb Basu for a Variance (PLN2019-176) to allow a reduced side-yard setback to legalize an unpermitted accessory dwelling unit (ADU) on property located at **309 Redding Road**. Staff is recommending that this item 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, Senior Planner

Mr. Daniel Fama, Senior Planner, provided the staff report.

Chair Rivlin asked if there were questions for staff.

Commissioner Krey:

- Said it seems the ADU was constructed in the 80's to 90's.
- Pointed out that these current (new) owners purchased this property in 2013.
- Stated that he can see their frustration.
- Asked if there's not some form of "Statute of Limitations?"

City Attorney William Seligmann said that within the area of land use, the statute of limitations renews daily. There is no statute of limitations.

Commissioner Ostrowski asked if this ADU that is located behind the garage also means that the garage setback is also reduced.

Planner Daniel Fama:

- Advised that if the garage was originally legal when constructed than converting that garage into an ADU would be easy.
- Advised that the expansion (ADU portion) of the garage has been illegal/unpermitted from the time it was built.
- Concluded that there is no way to legalize it.

Chair Rivlin asked if any part of the garage is in use.

Planner Daniel Fama replied yes.

Commissioner Buchbinder asked whether these owners would be required to tear down their ADU if this Variance is denied.

Planner Daniel Fama said that approximately four feet of the structure would have to be removed/reduced to create the required setback distance.

Commissioner Buchbinder asked if such a reduction to an existing structure is even possible.

Planner Daniel Fama said structurally the answer is yes but financially possibly not.

Chair Rivlin opened the Public Hearing for Agenda Item No. 2.

Ms. Nandini Bhattacharya, Appellant and Property Owner:

- Introduced her husband, Mr. Buddhadeb Basu, who is with her this evening as are their young twins.
- Advised that this ADU is the space her parents stay in whenever they come to visit from India. This is where their children play and where we pray.
- Stated that the existing garage will stay. The structure has received approval from Fire, Sanitation and Building. It is currently stuck in Planning, which is why they are her requesting a Variance to allow a reduced left side setback by just 1 ½ feet.

Mr. Buddhadeb Basu, Appellant and Property Owner:

- Recounted that at the time of decision as to whether or not to buy this home, they are desperate. They had made 40 other offers without success.
- Advised that his wife really wanted to live in Campbell. Their first apartment after they married was in Campbell. They want to raise their kids in Campbell.
- Added that they appreciate having a larger backyard.
- Admitted that the MLS listing for this home disclosed/advised of this illegal unit.
- Reported that the kitchen wall would have to be removed and then relocated inward within the ADU.
- Reported that they have spent a “pot of money” into this house. This house/ADU is well built and architecturally matched to the main house.
- Said that they use it for visitors and/or during festivals and parties.

- Explained that they did a permit search and found that this home was built in the 1940's. The land was split into two lots.
- Stated that this is our home and it would be a real hardship to reduce this ADU by 1 ½ feet.

Commissioner Colvill:

- Reiterated that this house was built in the 1940's.
- Added that the lot was split in the 1970's.
- Asked whether the garage was considered legal at the time of the lot split.

Planner Daniel Fama:

- Replied that it depends on whether it was constructed under County jurisdiction rather than as a part of Campbell.
- Added that this property came into Campbell in the 1980's.
- Stated that when lots are divided, they cannot result in non-conformance with existing standards.
- Said that any non-conformance must be addressed prior to subdivision.
- Stated that if not related to subdivision area, it could remain legal non-conforming.

Commissioner Colvill:

- Stated that he has respect and support for Mr. Buddhadeb Basu as he battles with cancer.
- Advised that the Commission looks at things carefully and enforces Code. We are a tool to ensure structures are conforming.
- Added that this structure does not conform.
- Stated that this is an objective matter. This large unit that is non-conforming.
- Pointed out that the owners could make a lot of money renting this unit out, but it would not be right to do so (rent a non-conforming structure).
- Admitted that it is hard to deal with the economic hardship claim to justify allowing that non-conforming structure to stay.

Commissioner Buchbinder questioned the setback non-conformance. The appellants say it is 1 ½ feet while staff says it is 10 inches.

Planner Daniel Fama clarified that the plans show an existing 10-inch setback as measured by the architect. They must comply with the minimum four-foot setback standard.

Commissioner Buchbinder sought clarification that no one was living in that unit.

Mr. Buddhadeb Basu said that when their parents visit, they stay there.

Commissioner Buchbinder asked Mr. Buddhadeb Basu what happens if their appeal fails.

Mr. Buddhadeb Basu said that their next step would be to see what they can do.

Ms. Nandini Bhattacharya:

- Declared that they hadn't thought of that (what they would do if their appeal was denied).
- Added that this ADU is nothing less than perfect. Nothing about it is unsafe.
- Reminded that if all other conditions are met, it's only just one side of wall that is not within legal setback.
- Admitted that she doesn't know what will happen.

Mr. Buddhadeb Basu said that the garage is just 24-feet from the unit.

Chair Rivlin:

- Said that's what Code requires.
- Stated that while he understands the appellants' situation, this is a clear-cut process within Code.

Commissioner Buchbinder asked what was on the other side of the ADU.

Mr. Buddhadeb Basu replied there is a structure, a shed there.

Commissioner Buchbinder asked Mr. Buddhadeb Basu if it might be possible for them to purchase a portion of the neighbor's property on that side to achieve the required setback.

Mr. Buddhadeb Basu replied that he was not sure if that would be possible. He hasn't spoken to that neighbor and that neighbor would have to move the shed if that were to occur.

Commissioner Buchbinder asked staff if that option might solve this setback problem.

Planner Daniel Fama said that lot adjustment would require the neighboring lot to be wide enough to be narrowed while staying within conforming lot size.

Commissioner Ostrowski asked about the shed that's within the neighbor's setback.

Planner Daniel Fama said that neighbor's shed seems to be on the property line, and he doesn't know if it's legal as placed. Under Campbell standards a five-foot setback is required for a shed.

Commissioner Colvill asked if a correction would still be required if this structure were just a garage without an ADU behind.

Planner Daniel Fama said it could be extended, if it were just a garage, at the existing 10-inch setback. One option is the conversion of the ADU back into garage/storage space.

Commissioner Colvill clarified that if these owners remove the livable unit and return/convert that space back into a part of the garage the space could stay as part of that garage.

Commissioner Ostrowski added there is a provision to extend a non-conforming garage along the same setback.

Planner Daniel Fama said that is correct. This is not an extension of the original garage but rather is an extension of an ADU.

Commissioner Ostrowski clarified with staff that the difference between a “living” unit versus a workshop is a toilet.

Planner Daniel Fama said it was inclusion of heating/cooling, kitchen and bathroom. A workshop cannot have a shower.

Director Paul Kermoyan added that the ADU Ordinance deliberately set the setback requirement at four feet. That was a conscientious effort to establish that standard.

Commissioner Buchbinder reminded that the City wanted a larger setback than four-feet.

Planner Daniel Fama said that’s correct, but four-feet is what is required per State law. He added that the appellants could remove the kitchen and maintain the space for storage.

Commissioner Krey asked Mr. Buddhadeb Basu if it is true that it would cost about \$150,000 to reduce this ADU to achieve the required setback distance.

Mr. Buddhadeb Basu replied yes. There are many things to move including gas line and plumbing.

Commissioner Krey asked Mr. Buddhadeb Basu if removing the kitchen is possible as they see it.

Ms. Nandini Bhattacharya asked whether once the unit is converted back into a garage it could then be converted from garage into ADU.

Planner Daniel Fama replied that the provisions of the ADU Ordinance are backdated so as not to allow that to occur.

Commissioner Buchbinder asked staff if this unit is considered to be between 20 and 30 years old.

Planner Daniel Fama said in looking at old aerials it seems to have been there for quite some time.

Commissioner Ostrowski said the interior looks recently done.

Ms. Nandini Bhattacharya said it was updated just prior to her purchase of the property.

Chair Rivlin asked if the appellants had spoken with the contractor that did the work.

Ms. Nandini Bhattacharya replied yes. She said she asked what was there before, but they were not willing to offer any information.

Ms. Ellen Dorsa, Resident on Walnut Drive:

- Declared that this ADU was there when they bought the property.
- Asked why the City didn't un-permit it.
- Stated that these owners are not the ones who did this.
- Concluded, "Let them have it."

Ms. Maggie Desmond, Campbell Resident:

- Said that she doesn't know these owners.
- Stated, "We need to find a loophole! This is their home!"

Mr. Raja Pallela, Resident on W. Hacienda:

- Stated that State law says there can be no minimum setback standard for an ADU.
- Reminded that this structure has existed for 25 or more years.
- Added that it could have started out as a workshop and more recently converted.

Chair Rivlin closed the Public Hearing for Agenda Item No. 2.

Commissioner Colvill:

- Said that this is a tricky situation but still is quite clear.
- Advised that he agrees with staff that we cannot allow something when it impacts on neighbors.
- Pointed out that it appears the neighbor has a non-conforming shed.
- Stated that we have a complaint about this ADU but not the shed.
- Reminded that the appellants bought this property well aware that this could happen.
- Admitted that he is surprised that Ms. Nandini Bhattacharya hadn't contemplated what they might do if they need to remove the ADU from the setback area.
- Reiterated that this ADU must comply with Code and he sides with staff on that.

Commissioner Hines:

- Said that he too is torn about this.
- Added that he doesn't like to see too many exceptions to the Code that the Commission is obliged to follow.
- Asked the appellants to work with staff to meet codes and still have a livable living space.

Commissioner Ostrowski:

- Said that there are nuisances to Code.
- Agreed that what is in place does not meet current Code.
- Pointed out that there seems to be a "grey area" as this garage was built in the 40's with a 10-inch setback. Per current Code they would be allowed to extend that original garage and be following Code as a non-compliant structure.
- Stated that garage seems to have been extended in the 80's but possibly as a shop and not originally as an ADU.

- Added that later (approximately 10 years ago or so) converted the space into an ADU. The current owners purchased the property in 2015.
- Stated that converting a “shop” into an ADU is allowed per the new ADU Ordinance so this may well be conforming.
- Reminded that part of the Commission’s evaluation of a project includes environmental impacts, land use and even housing shortages.
- Added that the proposed removal of three feet of an existing wall of this ADU is not very environmentally friendly path of conforming this structure. That should be considered.

Commissioner Hines:

- Stated that Code would allow it had it been a garage or workshop that had been added to in steps in a progression over time.
- Said that State laws and City codes have also been added on under that progression.

Commissioner Colvill questioned how anyone can factually say that this living unit was created in steps from a workshop.

Commissioner Ostrowski asked staff to respond.

Commissioner Colvill also asked staff to respond.

Planner Daniel Fama:

- Reported that a permit for this ADU is currently under review in Building but is delayed.
- Said that City staff had encouraged these owners to continue their efforts to find any County building permits that could establish the legality of this structure as it stands.
- Advised that those permits were not found.

Director Paul Kermoyan:

- Said that he understands that this is the home for a young family.
- Admitted that the conversation amongst the Commission is somewhat confusing to staff given that together we all went through a lot of work in creating these ADU standards and are now being told they are wrong.
- Stated that together we deliberately set these standards and settled on a minimum of a four-foot setback which is the maximum-minimum setback per State mandate.
- Reminded that we could have set a zero-minimum setback. Again, these comments this evening are confusing.
- Informed that it is via State Law that mandatory findings must be met to allow for a Variance.
- Agreed that this is an unusual situation but there are ways that these owners can meet setbacks while keeping their ADU.
- Reiterated that they purchased their home with full knowledge of the unpermitted living unit that was disclosed.
- Advised that the City does not conduct property inspections at time of real estate sale of a home from one owner to a new owner.

Commissioner Ostrowski:

- Said that the new ADU Ordinance was well done. We all did a nice job.
- Added that this new ADU Ordinance is going to be a big benefit to property owners as well as to potential renters of ADUs as more are constructed.
- Stated that this particular situation goes so far back in time.

Commissioner Hines said that the Commission is not questioning the validity of the ADU Ordinance on future structures but perhaps the case can be made on existing structures.

Commissioner Colvill:

- Said that the owners' efforts to find permits have reached a dead end.
- Reminded that these owners had contacted the previous owners and was told by them that this ADU was unpermitted space.
- Pointed out that having an ADU is much more popular today that it used to be.
- Opined that there are way too many crazy units out there.

Commissioner Buchbinder:

- Said that if we don't conform there would be limited potential for 80's era structures being legalized.
- Stated there is a difference when permitting for a new ADU structure versus requiring existing structures to be taken down or physically being reduced in size.
- Reminded that there is a housing crisis in this area.
- Pointed out that this ADU appears to conform in all way except for this one setback.
- Asked if there is the possibility to consider some form of amnesty for existing unpermitted ADUs.

Commissioner Hines:

- Suggested a motion being made.
- Referred to Finding 7 and said he is looking at not requiring the tear down of this one. Rather, he is looking that this structure not be counted as converted in today's realm but rather as something constructed 30 years ago and unpermitted when constructed.
- Suggested the Commission build its resolution around this being a converted structure.

Planner Daniel Fama advised that staff has drafted a resolution for denial. To approve the retention of this ADU, it would need to be continued to January to allow staff the time to craft a resolution for approval.

Commissioner Krey asked staff how many illegal ADUs there are in Campbell.

Planner Daniel Fama:

- Replied there are high number of illegal living units in Campbell.
- Added that the City finds out about them via Code Enforcement complaints from a member of the community.
- Added that the Code Enforcement Officer, together with a Building Inspector, works with the owner resolve illegal units.

- Advised that with the newly adopted ADU Ordinance, many would of the existing unpermitted ADUs may now be able to be converted legally.

Commissioner Krey:

- Stated that setbacks are very important.
- Agreed that we all spent a lot of time developing our ADU standards.
- Reminded that these owners bought a property with a disclosed unpermitted second unit.
- Cautioned that a situation like this one could come up again.
- Concluded that he is against approving a Variance.

Chair Rivlin:

- Reminded that the findings provided don't support this Variance.
- Said that while he supports this Campbell Resident, their ADU doesn't meet the Code.
- Reiterated that these owners purchased their home with full knowledge of its unpermitted ADU.

Planner Daniel Fama:

- Said that staff worked with the applicants in searching for permit history and suggested the go to the County Assessor's Office to obtain a personal property record that is only released to the property owner.
- Advised that their personal property record indicated a 24-foot deep garage. The added ADU area was not permitted.

Chair Rivlin asked if the structure could remain if it was made part of the garage. If not, what must occur.

Planner Daniel Fama:

- Stated that if the Commission does not allow the ADU to remain via a Variance the property owners could appeal that action to the City Council.
- Added that they could also cut back the portion of the ADU that falls within the required setback.
- Said that they could choose to remove the ADU.
- Concluded that if none of those options are taken, the City would be forced to continue with its Code Enforcement efforts that could include daily fines until the matter is resolved and the code case can be closed.

Commissioner Ostrowski asked if it is possible to get a non-permitted building permitted. She asked the difference between the issue of it being non-permitted and having an inadequate setback.

Chair Rivlin suggested that they keep everything except for removal of the kitchen and bath that makes it a living unit.

Planner Daniel Fama said that there must be opening left between a storage area and the rest of the garage it is a part of. That requirement is intended to discourage use of a part

of the garage as living space. A garage may have limited plumbing of no more than two fixtures to make it hard to illegally convert a garage into and ADU.

Commissioner Buchbinder asked if it is possible to extend the property line.

Planner Daniel Fama replied, no, they were unable to get the information.

Chair Rivlin said that there is enough evidence this ADU is not legal. He suggested a continuance and asked Planner Daniel Fama to outline the alternatives again.

Planner Daniel Fama listed the three options as 1) appeal to Council; 2) convert the ADU back into a workshop/garage storage with permits; or 3) to remove a portion of the building to achieve the required setback.

Director Paul Kermoyan:

- Offered a new suggestion that these owners build a new wall at the required setback distance but within the ADU itself and relocate their ADU's kitchen to that new interior wall. The four-foot area created inside and up to the setback wall could then be connected to the garage and not the ADU and used for storage.

Commissioner Hines proposed approving the Variance request using Finding 7.

Chair Rivlin suggested a continuance to a date uncertain.

Commissioner Colvill said the Commission is here to bring closure and he would make a motion to deny the Variance.

Motion: Upon motion of Commissioner Colvill, seconded by Commissioner Krey, the Planning Commission recommended denial of a Variance to allow the retention of an unpermitted ADU (Accessory Dwelling Unit) on property located at 309 Redding Road, by the following roll call vote:

AYES: Colvill, Krey and Rivlin
NOES: Buchbinder, Hines and Ostrowski
ABSENT: Ching
ABSTAIN: None

This motion failed without a majority.

Director Paul Kermoyan advised that this vote is a denial/non-decision.

City Attorney William Seligmann said that the Commission could continue consideration of this item to a meeting where all seven Commissioners can be present to see if the non-decision tie-vote can be broken.

Commissioner Hines suggested allowing the Variance using Finding 7 exception stating that this is not an expansion but rather a conversion of a structure that done progressively over many years.

Chair Rivlin asked if this is even legal.

City Attorney William Seligmann said there is an issue with the narrowness of the lot, and he is not sure exactly how Commissioner Hines wants to use Finding 7 since this space was never permitted. We can't just go back in time to make it lawful.

Director Paul Kermoyan:

- Clarified that Findings 1 through 10 are evidentiary findings. The Commission must also make the Variance findings that include the finding there is something unusual with the property that limits them from doing what others with similar property can do.
- Cautioned that if that finding is used other people will take advantage of this decision as representing a precedent.
- Added that if that is the case, there is a problem with the Code.

Chair Rivlin stated that all five of the Variance findings must be found true.

City Attorney William Seligmann again suggested a continuance to bring this matter back.

Motion: **Upon motion of Commissioner Hines, seconded by Commissioner Ostrowski, the Planning Commission recommended APPROVAL of a Variance to allow the retention of an unpermitted ADU (Accessory Dwelling Unit) on property located at 309 Redding Road, with the following proposed findings:**

- 1. The existing ADU unit has to be modified;**
- 2. The ADU is not considered to be a new build but rather one that has been modified over time and was built before the 1980's; and**
- 3. Allowing the retention of this ADU will not represent a special privilege as this is a pre-existing structure built before Codes,**

by the following roll call vote:

AYES: **Buchbinder, Hines and Ostrowski**

NOES: **Colvill, Krey and Rivlin**

ABSENT: **Ching**

ABSTAIN: **None**

This motion failed without a majority.

Chair Rivlin said this matter has now failed twice.

Director Paul Kermoyan suggested this matter be continued to a meeting date uncertain at which time all seven Commissioners are present and can deliberate until a majority vote is achieved. He said that in the meantime staff would continue to work with the appellants/property owners.

Motion: Upon motion of Commissioner Ostrowski, seconded by Commissioner Buchbinder, the Planning Commission CONTINUED TO A DATE UNCERTAIN, the consideration of a Variance to allow the retention of an unpermitted ADU (Accessory Dwelling Unit) with a substandard side setback on property located at 309 Redding Road, to allow the participation of the full seven-member Planning Commission in order to reach a majority vote on this item, by the following roll call vote:

AYES: Buchbinder, Hines Krey Ostrowski and Rivlin
NOES: Colvill
ABSENT: Ching
ABSTAIN: None

Chair Rivlin advised that this item would return to a future Planning Commission meeting where all seven Commissioners are in attendance in order to deliberate further and then propose a motion that can pass with a majority vote.

Chair Rivlin called for a brief break at 9:15 p.m.

Chair Rivlin reconvened the meeting at 9:20 p.m.

Chair Rivlin asked if there were any disclosures.

Commissioner Krey said that as he has previously recused for projects on this street since he has a good friend living on the street and has discussed the area with that friend.

Commissioner Krey then left the dais and chamber before Item 3 began.

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

3. **PLN2019-221 (M)** Public Hearing to consider the application of Alison Love for Modification (PLN2019-221) of a previously approved Site and Architectural Review Permit (PLN2018-198) for a new two-story home on property on property located at **1384 Munro Avenue**. Staff is recommending that this item be deemed Categorically Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Cindy McCormick, Senior Planner*

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

Director Paul Kermoyan:

- Said that a request such as this one is typically handled at staff level. However, he decided that instead of an Administrative decision, he would bring this to the Commission.

- Reminded that the Commission had spent a lot of time discussing materials for this home and these proposed changes went beyond those typically handled administratively.

Chair Rivlin asked staff about the windows he sees on the new elevation that were not a part of the original.

Planner Cindy McCormick said that these two small windows have a high sill so represent a modest change that could have been approved at staff level, if those were the only changes.

Chair Rivlin opened the Public Hearing for Agenda Item No. 3.

Daniel Warren, Project Designer:

- Said he was available for any questions.
- Advised that the swap of materials from the original approval are made for maintenance purposes. The owners want a home that is as low-maintenance as possible.

Commissioner Colvill said he appreciates Mr. Warren for building beautiful homes in Campbell and thanked him for that.

Chair Rivlin closed the Public Hearing for Agenda Item No. 3.

Commissioner Buchbinder said that these changes are well thought out. He added that he appreciates the fact that staff brought it back to the Commission for its review and consideration. It looks good.

Motion: **Upon motion of Commissioner Hines, seconded by Commissioner Colvill, the Planning Commission adopted Resolution No. 4553 approving a Modification (PLN2019-221) of a previously approved Site and Architectural Review Permit (PLN2018-198) for a new two-story home on property on property located at 1384 Munro Avenue, subject to the revised plans dated December 9, 2019, by the following roll call vote:**

AYES: **Buchbinder, Colvill, Hines, Ostrowski and Rivlin**
NOES: **None**
ABSENT: **Ching**
ABSTAIN: **Krey**

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

Chair Rivlin asked if there were any disclosures from the Commission.

Commissioner Hines advised he had a 30-minute conversation with the developer discussing this project.

Commissioner Rivlin said he too had a 15-minute phone conversation with the developer as well as another call with a representative from the Audubon Society.

Commissioner Ostrowski she had discussed the project with the applicant before the first meeting on this item as she had previously disclosed.

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

4. **PLN2017-381 (PD)** Public Hearing to consider the application of Dollinger
PLN2018-148 (EIR) Properties for Zoning Map Amendment, Planned
Development Permit, and Tree Removal Permit (PLN2017-381), and Final Environmental Impact Report (PLN2018-148) to allow construction of a 161,870-square-foot four-story office building, a 146,478-square-foot five-story parking garage (with one level of underground parking), additional surface parking, and on-site open space on property located at **1700 Dell Avenue**. Tentative City Council Meeting Date: January 21, 2020. Project Planner: *Cindy McCormick, Senior Planner*

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

Chair Rivlin asked if there were questions for staff.

Commissioner Buchbinder asked what Council rejected to in the DAAP.

Planner Cindy McCormick said that occurred about five years ago, prior to her joining the staff, so she would defer to Director Kermoyan.

Director Kermoyan:

- Said that was not a recent action.
- Advised that a former Community Development Director and the Economic Development Advisory Committee proposed the preparation of an area plan for the Dell Avenue area, known as the DAAP (Dell Avenue Area Plan).
- Reminded that the General Plan offers the broad vision of how neighborhoods should be intensified.
- Added that the Zoning Ordinance implements that vision by zone.
- Stated that an Area Plan for the Dell Avenue area would change the General Plan to allow greater density and establish specific development standards that are comprehensive and inter-connected.
- Said that the FAR was originally 1.5 and alternatively was reduced to .75.
- Stated that it was determined that the DAAP would have created all kinds of impacts and Council felt there was a lot of conflict with neighborhood opposition and what the City was trying to do.
- Advised that the Council elected to instead concentrate on the General Plan update.

Commissioner Buchbinder said that staff recommended no projects until a comprehensive plan for the area can be completed.

Director Paul Kermoyan:

- Said that staff wants to see a complete plan for this area of Dell Avenue including the perc ponds and see all parties work together to achieve a cohesive area.
- Added that piecemeal development doesn't work out.
- Concluded that most such areas as Dell have area plans.

Planner Cindy McCormick said that staff is not recommending that no development occur on this site but rather that development should be consistent with the current zoning, which in this case is C-M (Controlled Manufacturing).

Director Paul Kermoyan added that it should also be more efficiently designed.

Commissioner Krey asked for verification that there is currently no comprehensive effort for a plan for this area.

Director Paul Kermoyan said that the General Plan is the comprehensive plan. He reiterated that we should not go down the road of a piecemeal development of this area.

Commissioner Krey asked what the proposed setback is between this proposed building and the adjacent Los Gatos Creek Trail.

Planner Cindy McCormick said that the proposed setback complies with current setbacks as required.

Chair Rivlin said that he was already on the Planning Commission when a Study Session was held on this project at 1700 Dell Avenue. Was that input not shared with this application?

Planner Cindy McCormick said that staff has been very clear from the beginning and therefore it should not come as a shock to them.

Commissioner Colvill:

- Said that the site is currently zoned C-M (Controlled Manufacturing) and would support the type of structure that they want to create except for their overall proposed FAR and size of building.
- Added that the only way to achieve this project as they want it to be is to have the P-D (Planned Development) zoning applied.
- Asked if this assumption is correct.

Planner Cindy McCormick:

- Said that the applicant is here to provide their own presentation and economic analysis to support their proposed size for this building.
- Added that staff is saying that this project is too large and too tall and is inconsistent with the Dell area.

Director Paul Kermoyan:

- Added that the P-D Zoning serves as a mechanism for them to achieve what they want to do.
- Stated that it is a perfectly acceptable way to request their project.
- Reiterated that looking at these projects along Dell Avenue on a case-by-case basis is contrary to having a unified development plan – an area plan.
- Said that environmental impacts were the big problem that derailed the DAAP.

Commissioner Colvill said he would not prohibit this building except for its size and design. He would support what is allowed under the current C-M Zoning.

Commissioner Hines said that seven options were reference. Where are those seven options.

Director Paul Kermoyan:

- Advised that the seven options are included on Appendix E.
- Reported that the General Plan anticipates what build out would be.
- Stated that work began on the EIR (Environmental Impact Report) to analyze any environmental impacts derived with maximum build out. That work was done.

Planner Cindy McCormick said that findings for this proposal are very difficult to make.

Chair Rivlin opened the Public Hearing for Agenda Item No. 4.

Scott Akhern, Representing Dollinger Properties (owners of 1700 Dell Ave):

- Said that they are bringing the future to Campbell.
- Stated his intent to attract high-tech high income to Campbell.
- Pointed out that their building would only be 60 feet high while staff is saying 75 feet. Their architect will clarify that, and his land-use attorney is also present for questions.

Cliff Chang, Project Architect:

- Thanked the Commission for having them here today.
- Provided a PowerPoint slide of the project site plan that overlays what they are proposing over what is existing on this site.
- Said that their new building would be setback more than the existing building is set back from the Creek Trail.
- Said he would define this street as a good walkable street.
- Added that their proposed parking structure is situated at the back and far from the street.
- Reported that they will be providing a public-access park space on their site that will include seating and trees.
- Stated that since their initial submittal there have been approximately 12 revisions. The recently increased the green space (landscaping) in the front of the site.
- Added that there are existing Cypress trees that they will retain at the front that are all about 70 feet tall and will partially obscure their building as seen from the street. There are also trees at the border with the Creek Trail that will also be retained.

- Compared the existing building that is three-stories while theirs is four-stories. Their original submittal was for a five-story building scheme at 200,000 square feet.
- Stated that since they have reduced the height, size and materials. The current design represents a good collaborative effort.
- Reported that they have integrated the use of brick on the first two stories as well as corrugated-perforated metal (Core 10) that rusts lightly and then long-term retains its natural appearance. Wood paneling completes the palette and blending of materials.
- Said that their whole building is at 60 feet to the roof except for one side that has an approximately 15-foot high parapet to serve as a roof screen and would not be seen from Dell Avenue.
- Advised that their parking structure is proposed at five-stories and its design integrates with the office building quite well.
- Concluded that he is available for any questions about the project architectural design.

Sean Marciniak, Land Use Attorney for Dollinger Properties, Walnut Creek:

- Stated that he is a Land Use Attorney.
- Advised that the Dollinger project is consistent with the City of Campbell's General Plan.
- Reported that the project team was shocked when they saw the staff report for this meeting indicated that their project was not consistent.
- Opined that having the City suggest that they work with the property owners of other Dell Avenue parcels on developing a cohesive plan for Dell Avenue is a City Planning job not theirs.
- Informed that Dollinger has been waiting for five years now and haven't seen anything as far as area plan for Dell.
- Suggested that precedent already sets larger projects for larger properties. There are not many large properties in this area.
- Rhetorically asked if P-D (Planned Development) Zoning is inappropriate here? Answered that per his count there are 1,600 properties in Campbell with P-D Zoning.
- Stated that findings to support can be made. There is no reason to continue this hearing.

Scott Akhern, Dollinger Properties:

- Stated that they are excited to bring this project to Campbell. They plan to invest \$80 million in it.
- Reported that during the SARC meeting, the two Commissioners asked what economic impact this project could have for Campbell.
- Said that his answer is that it will create at least \$40 million in tax revenue for the City of Campbell. It will also result in job creation that will provide jobs for 3,100 people.
- Added that this project will provide an opportunity to attract high-tech, high-income users and employees to the community.
- Reminded that the building currently on this property is vacant.
- Said that this developer/property owner are willing and able to build a Class-A building for Campbell.
- Questioned whether they would have to wait the creation and adoption of an Area Plan for Dell Avenue? That might not happen for one or two more decades.
- Reiterated that they are excited to be here and are available for questions.

- Assured that they want to work with the Planning Commission and City staff. At this point the only issues are the proposed height and FAR. Everything else meets and/or exceeds the current Code.
- Added that they plan to plant two or three times the required trees on this property.
- Thanked the Commission for their time and said he looks forward to hearing the public comments this evening.

Chair Rivlin thanked Mr. Akhern for sharing his vision. He asked if there are any Commissioner questions for Mr. Akhern.

Commissioner Buchbinder asked Mr. Scott Akhern whether he has a tenant lined up for this building.

Mr. Scott Akhern:

- Replied that he has three potential high-tech tenants, but he cannot specifically disclose which ones at this stage.
- Assured that they are well known and recognized companies.
- Reported that Dollinger will both build and maintain this building and property for many years to come. They have already owned it for four plus years.

Commissioner Krey asked Mr. Akhern whether it is an option for them at all if the City asks them to reduce their proposed building by one floor/story.

Mr. Scott Akhern:

- Replied not at this time.
- Reported that they had a tenant lined up, he cannot say who, but lost that tenant.
- Stated that what they need is a building with 160,000 square feet of space.

Commissioner Colvill asked Mr. Akhern why he wants to change the zoning from C-M to P-D. He said that the current zoning works.

Mr. Scott Akhern said that at a Study Session with the City Council it was recommended that we go with the P-D route.

Commissioner Hines asked Mr. Akhern if he had considered purchasing adjacent properties in order to add to their footprint.

Mr. Scott Akhern:

- Replied that they haven't investigated purchasing adjacent sites in order to expand their project.
- Added that as it is it has taken them too long to get to you (the Planning Commission) tonight. It's taken about three years.

Chair Rivlin:

- Said that he has served on this Commission for three years now and sat through a Study Session on this project.
- Stated his appreciation for the levels they have gone through.

- Pointed out that staff's direction is that this project wont work.
- Asked Mr. Akhern if he would reconsider keeping to the existing C-M zoning and standards. What's his perspective on that?

Mr. Scott Akhern:

- Stated that it would not make sense to tear down a building and rebuild a smaller building on the site.
- Added that they build to market. That's why they are asking for a larger building.
- Said that while staff has said they wouldn't support our project, we are encouraged by others that there's a path. It will be difficult to do as we are the first to do it.

Chair Rivlin said he appreciated Mr. Akhern's vision.

Joanne Carroll, Resident on Walnut Drive:

- Said that this applicant says their project is 60 feet high but it's 75 feet high.
- Stated that this is a sensitive area. It is a riparian corridor and adjacent to the Los Gatos Creek Trail.
- Added that it's accessed via a two-lane road that's also curved.
- Declared that staff makes recommendations to approve projects not in compliance.
- Stated that once approved, it becomes the new standard.
- Called for a reduction in the proposed building height.
- Pointed out that the Final EIR for this project is 700 pages long.
- Complained that questions they had submitted were not addressed in the EIR.

Mr. Fionn Ruder, Resident on Michael Drive:

- Stated that he is a two-year resident of Campbell and works in construction.
- Advised that he is in full support of this project as it will create good union construction jobs.
- Reporting that he is currently commuting to Sunnyvale, which is a one hour drive each way.
- Said that this project will bring new business to the area.
- Suggested that the City not spend time on an area plan for Dell Avenue when this is an opportunity to enhance the Creek Trail and this part of town.

Ellen Dorsa, Resident on Walnut Drive:

- Said that the applicant has come up with a great remodel from their original design.
- Said that nothing was addressed in the EIR in terms of the aquifer.
- Stated her concerns about size and weight of this building so close to the Creek Trail. She is super concerned.

Jose F. Mexicano, Union Member, NCDCLIU:

- Urged this project be forwarded.
- Added he is here together with a few of other union members.

Alejandro Martinez, Union Member, NCDCLIU:

- Informed that he is a local resident and five-year union member.
- Stated that this project will bring well-paying jobs with benefits to this area.

- Added that such good wages with benefits would allow him to provide for his family.
- Said that local construction jobs would mean he could both live and work here.
- Concluded that this project would be a benefit for this community.

Mitchell Stermer, Resident on Walnut Drive:

- Said he is a 13-year Campbell resident.
- Thanked the Commission for their work.
- Stated that this building doesn't meet the specifications.
- Pointed out that earlier this evening a family was not allowed a Variance because their setback didn't meet standards.
- Said that the applicant trying to engender a fear of missing out on something is "bull****",
- Opined that this developer is trying to see you something. What they're selling is not money or jobs but rather traffic.
- Asked the Commission to stick to their guns.

Mike Wiblett, Resident on Marilyn Drive:

- Told the Commission that this is the type of project that he would like to see.
- Added that it is much like placing high-density housing on Railway.
- Stated that this proposed building is beautiful for that area and change is not a bad thing.
- Concluded that this project is a step in the right direction.

Maggie Desmond, Campbell Resident:

- Announced that she is opposed to this project as a 49-year resident of Campbell.
- Stated that this developer failed to reduce the height.
- Said that this project should be denied as it would open the door to intensification of the Dell area.
- Opined that the audience is more familiar with the DAAP than the Planning Commissioners and staff here now.
- Said that the issues of circulation and traffic were not handled by the DAAP draft.
- Pointed out that this project would result in the tallest building in this area.
- Asked that they not be permitted to do so as it is important to be careful of this area.
- Suggested that another developer would want this site if this one doesn't get what they want.
- Stressed that the height is not acceptable.
- Added that staff has worked for two years with Dollinger.
- Asked the Commission to follow the staff report recommendation for denial.

Mr. Dashell, Local Audubon Society Representative:

- Said that he too is in strong support of the staff recommendation for denial as there should be no spot zoning along the vulnerable Los Gatos Creek Trail.
- Admitted that he was disappointed by the mitigation offered regarding native plants. They should be required.
- Said this area should be evaluated for impacts via an Area Plan.

Raja Pallela, Resident on W. Hacienda Avenue:

- Stated that this project offers an opportunity to make this area better.
- Said that right now Dell Avenue looks scary. He didn't feel safe walking there at all.
- Pointed out that a beautiful building like this set's precedent for this area. It would look beautiful.
- Added that with this building, good dining places would follow as well as other good buildings along Dell.
- Opined that all the nice things are on the Los Gatos side and ugly things on the Campbell side.
- Asked that the Commission not deny this project because it is too nice for this area.
- Said that there is development everywhere and development is good.

Ron Naymark, Dell Avenue Building Owner:

- Reported that he is the owner of a building located across the street from this project site and has been for the last 48 years.
- Said he knows this area well as he goes there every day.
- Stated that this Dollinger project is something that any city should be thankful for in order to draw high tech people to the area.
- Advised that over the last 25 years there has not been much change along Dell.
- Said that when the building at 1700 Dell Avenue (project site) was constructed he was responsible for that construction in 1974/75. The City was progressive at that time with people like Ralph Doetsch and Rusty Hammer leading the City.
- Pointed out that most of the buildings along Dell Avenue are concrete tilt-up structures that are there for decades. The owners are not going to change those buildings given the way things are in this area right now.
- Stated that it is a bogus argument that smaller companies would be lost with the construction of this building.
- Asked that the Commission reconsider and rethink in the real world.
- Said that this area used to be nice but is currently heading down as nothing is being done there.
- Said it is important to have the right buildings with the right people occupying them.

Chair Rivlin closed the Public Hearing for Agenda Item No. 4.

Commissioner Buchbinder:

- Said that there are existing issues. This project is currently outside of the provisions of the General Plan and there is no area plan for Dell.
- Reminded that the current General Plan is 20 years old now and work on its update have been ongoing for four years now.
- Called it a failure on the part of the City to adopt a plan and then place this in our laps. Predecessors failed to create a plan for this area with ideas for mitigating traffic.
- Said that broadly thinking, we should try to see how to make this work.
- Recounted that he commutes 10-miles one way to work in Sunnyvale for his high-tech job.
- Said we are on the edge of our mandate, but the General Plan gives us little to work with.

Commissioner Ostrowski:

- Agreed this is a difficult decision.
- Stated that the building's design has gone a long way but still doesn't meet the underlying zoning for P-D (Planned Development) or C-M (Light Industrial).
- Reminded that the P-D zoning is intended to offer small exceptions but not the drastic doubling of FAR. That goes contrary to zoning.
- Said that there are no such high FAR and heights.
- Cautioned that as a City we need to look at what to do with this area.
- Reiterated that P-D zoning only offers very small changes to Zoning Codes.

Commissioner Hines asked staff if offering a Variance is another option. How can this project be made to work with the General Plan?

Planner Cindy McCormick:

- Said that Dollinger chose the P-D route.
- Stated that it is very difficult to approve a Variance. There are required State findings such as the site is a unique property. This parcel is flat so it's not unique compared to other properties. Another finding is that the Variance would not be granting a special privilege. That too is not met.

Commissioner Hines asked staff what the FAR was for the recent Trojan Storage project on McGlinchy.

Planner Cindy McCormick said that the FAR for that project was high, but it was supportable due to the low traffic impact that would come with that use and site.

Commissioner Hines:

- Said he was very concerned about the Dell area. He has visited in many times in the last 10 to 12 years now and sees a lot of wildlife there.
- Agreed that this area needs to bring in business, but it must also be the right type of business. Tech is one type that draws.
- Added that he understands this building is being constructed on spec but there is a need for high-tech office space. There is also value in a building that size.
- Suggested going for a continuance to get something that meets the requirements for business in that area.
- Pointed out that most recently, many of the uses along this area have been fitness, which is not the intended use long term. This property is currently unused.
- Stated that the economic gain having this building in Campbell is tremendous.
- Said that we must come up with a way to make this work whether it be as a P-D development or via a Variance process.
- Concluded that he would rely on staff to advise which process is better.

Commissioner Colvill asked staff what type of project is allowed.

Planner Cindy McCormick explained that if a proposed project conforms to the zoning and General Plan, staff generally recommends approval.

Commissioner Colvill:

- Referenced a letter from Sean Marciniak dated October 27, 2019 and commented to Mr. Marciniak in the audience that this Commission spends time on each item it considers.
- Added that work on the General Plan Update (Envision Campbell) is currently underway. The DAAP (Dell Avenue Area Plan) was one idea but it was set aside.
- Stated that allowing this project as proposed could lead to further requests for such large projects with extended heights and FAR.
- Questioned how much of our town is developed by developers like Dollinger. He doesn't think they're an entity with limitless money.
- Said that their project could be a great benefit with the right mitigations.
- Clarified that he appreciates developers, but this is a problematic request that he has a hard time agreeing on.
- Admitted that he is more comfortable with the C-M (Controlled Manufacturing) land use designation over P-D (Planned Development). He would recommend that.
- Stated he has a hard time approving plans as they are but admitted that he also has not been on the Planning Commission long enough to understand how to articulate how he has come to his impressions about the project.
- Said that we can't make everyone happy but should work together to get something approved.

Commissioner Hines asked the proposed FAR.

Planner Cindy McCormick replied 87 percent.

Commissioner Hines asked if a Variance is proper.

City Attorney William Seligmann advised the Commission that the C-M Zoning allows the Planning Commission the authority to increase the allowable FAR. There is still some flexibility that is up to the Commission to interpret.

Planner Cindy McCormick said that the height would have to be brought down to a maximum of 45 feet.

Chair Rivlin asked if that is excluding screens.

Planner Cindy McCormick replied correct.

Commissioner Hines asked about height.

Planner Cindy McCormick advised that there is no discretion for height but is for FAR.

Commissioner Krey:

- Stated that this area is outdated as far as zoning and needs bigger projects there.
- Admitted that the failure to approve the DAAP puts the onus on property owners, which is tough.

- Said that this proposal offers great design and landscaping. The provision of a small public park area is a nice feature of this project. The developers are trying to work with the issue of bird safety.
- Pointed out that the DAAP was drafted because a need was seen for it. However, in December 2018, the DAAP was dropped.
- Added that while we don't "need" jobs it's certainly good to have them.
- Pointed out that we can't get larger companies such as Google or Facebook here, but Dell Avenue is the place to get larger businesses and jobs closer to housing with high-paying jobs.
- Stated that this proposed project is just too big. They should consider lopping off a floor and parking.
- Said he would support a project with reduced floor and a maximum FAR of .63. With that it is going to be denser, but we don't have to give away the farm.
- Declared that this project is too big and too high. Other than that, it checks most boxes for him.

Chair Rivlin:

- Explained that he joined the Planning Commission after the DAAP had already been shelved.
- Stated that there is not the infrastructure in place along the Dell Area so it cannot accommodate a project this large.
- Said that the applicant came in about 2 ½ years ago. We had no DAAP to utilize due to a lack of political will of the Council.
- Opined that the City needs a plan for the Dell Area. He doesn't want landowners to dictate what they build in this area.
- Said this proposal doesn't conform to the neighborhood. We need a consistent approach for this area.
- Expressed appreciation for the "Campbell" look and feel of the newest building design as provided by the Architect.
- Suggested the developers perhaps building something meeting the essence of the Code as it stands today and, in the future, add modular pieces to the building thus helping us to embrace the future.
- Said that he wants the applicant to bring their vision but right now it's too grand for what we're structured for today.

Commissioner Hines:

- Joked that he will have to get up about six hours from now for work.
- Supported requiring this project to meet the C-M standards and not the current use of P-D standards.
- Said he could support a maximum .83 FAR and not counting the maintenance screens as part of the maximum 60-foot height.

Chair Rivlin reminded that the maximum height in C-M zoning is 45 feet.

Planner Cindy McCormick reiterated that Code doesn't allow an increase in height except via a Variance.

Chair Rivlin said that C-M Zoning allows a maximum height of 45 feet.

Commissioner Hines asked the height of the parking garage.

Planner Cindy McCormick said the garage height is compliant.

Commissioner Hines suggested adding a floor or two to the garage.

Planner Cindy McCormick said that would render the garage non-compliant.

Commissioner Colvill:

- Stated he would like a more objective list of what we'd like to see and give that to this applicant to help them come back with changes.

Chair Rivlin said we have been here before with past FAR requests considered by this Planning Commission.

Commissioner Buchbinder:

- Said that he likes the idea of staying within our mandate.
- Added that we are working with a General Plan that doesn't reflect where we're actually at.
- Pointed out that tech uses do a lot of alternative transit ideas to deal with parking demand.
- Stated that while this site is past the VTA stops, perhaps VTA could be involved to consider rerouting/expanding bus routes to and from this area.

Commissioner Hines:

- Stated that he doesn't feel qualified to give an architectural view on this.
- Encouraged the Commission to make this work for Dollinger and push forward on this project.

Commissioner Ostrowski suggested that perhaps a basement level for office use would help reduce the maximum height.

Chair Rivlin reminded that staff made it clear to the applicant that their original proposal was not compliant with the zoning.

Commissioner Hines cautioned that Dollinger could easily move this project over to Los Gatos. He said he wants to see this project work in Campbell one way or another.

Chair Rivlin said this is a great project but the numbers don't fit.

Commissioner Colvill said the FAR is the issue he is more excited about.

Chair Rivlin referenced page 171 of the report and suggested a reduction by one story with a maximum of 121,000 square feet and a .63 FAR.

Planner Cindy McCormick said that assumes they'd keep the same footprint.

Commissioner Hines reminded that from a development standpoint to sell this project, the minimum square footage is 160,000. Dollinger wants 200,000.

Commissioner Buchbinder said that with a reduction in height to 45 feet a Parking Modification Permit might be required.

Commissioner Krey said that there will only be a lessened impact on traffic if the square footage is reduced and not just the height.

Chair Rivlin:

- Said that the FAR is tied to the traffic count.
- Reiterated the suggestion to remove the fourth floor, reduce the square footage to 120,000 square feet.
- Concluded that perhaps in 15 to 20 years from now we will have an area plan for Dell.

Commissioner Ostrowski:

- Said that with the reduction of one floor and the FAR, .60 FAR seems reasonable to her.

Commissioner Colvill:

- Said he too is happier with the C-M Zoning for this project.
- Agreed with the proposal to lop off the 4th floor to help reduce the building height as well as the .63 FAR.
- Stated that it is up to the applicant to see if this is a project that they still want. It's for them to decide, not us.
- Added that as it stands now, we are not going to be approving this.
- Reiterated a maximum .63 FAR and meeting the maximum 45-foot building height.

Commissioner Ostrowski said that's also staff's recommendation.

Commissioner Buchbinder said he'd rather approve the FAR they applied for.

Commissioner Hines agreed.

Commissioner Buchbinder:

- Said that people are not mad at people coming into town, but they don't want their cars coming in.
- Suggested conditioning the occupancy.

Commissioner Colvill asked about lot coverage.

Planner Cindy McCormick said that zoning also establishes the lot coverage.

Commissioner Colvill said they can have the size (FAR) they want but not the height they want.

Commissioner Buchbinder pointed out that the parking garage is not counted against the FAR.

Director Paul Kermoyan:

- Suggested the Commission talk about the FAR and what would justify an increase.
- Added he is hearing about establishing rules without rules, of taking a portion and rationalizing.
- Reminded that their decision must comply with the General Plan and its vision.

Commissioner Ostrowski said that allowing a greater FAR will result in a greater public benefit.

Commissioner Krey:

- Agreed with the general idea that Dell Avenue is currently under-developed and supported development with uses that bring jobs.
- Asked if that is enough of a public benefit.

Commissioner Buchbinder:

- Restated his view that the City has been unable to update its General Plan for 20 years.
- Added that the same applies to a lack of a Dell Avenue Area Plan even after about six years.
- Concluded that it seems it must be piecemeal or nothing.

Chair Rivlin said it's not nothing. It's something that meets the established FAR.

Commissioner Buchbinder said we can no longer see Campbell and specifically this Dell Area as being of rural character. Especially if you compare agricultural land costing about \$3,000 an acre while land in Campbell costs more than \$3 million.

Commissioner Ostrowski said it is necessary to convince stakeholders that the DAAP is what is needed.

Chair Rivlin said we must mandate where we want Campbell to be in five years.

Commissioner Ostrowski said she is struggling to approve something this big.

Commissioner Colvill:

- Agreed that this project as proposed is not working.
- Added that this developer needs to adhere to the rules/standards.
- Said that this project could establish as the forefront in our community.
- Stated he would vote against this project based on what we currently have before us.

Chair Rivlin:

- Clarified that as this site is zoned C-M (Controlled Manufacturing), It will not go on to Council for final action.

- Suggested the applicant come back with a project that meets the Zoning Code C-M standards.

Director Paul Kermoyan said the question remains if the applicant is willing to do so.

Commissioner Hines reminded the Commission that the applicant has said they need a minimum of 160,000 square feet.

Chair Rivlin re-opened the public hearing for Agenda Item 4.

Sean Marciniak, Land Use Attorney for Dollinger Properties, Walnut Creek:

- Said that it is very difficult.
- Added that they reduced the building height. They are just asking for 15 feet additional.
- Stated they also reduced the floor area, but they need 160,000 square feet and four floors to attract the high-tech users they seek.
- Said he's kind of stuck as they've already reduced the building height as much as they can.

Chair Rivlin asked them to consider a three-story and 130,000 square feet.

Sean Marciniak replied that the City's General Plan doesn't prohibit added FAR.

Mitch Stermer, Campbell Resident:

- Stated, "We are not Sunnyvale!"
- Added that Campbell doesn't have infrastructure. Dell is just a two-lane street. We have a stop sign to enter onto Highway 17.

Chair Rivlin re-closed the public hearing for Agenda Item 4.

Director Paul Kermoyan:

- Clarified the false statements made by the project attorney.
- Emphatically stated that we must comply with the General Plan. That's the vision.

Chair Rivlin said that seeing as the applicant is not interested in a reduced project this is now a moot point.

Commissioner Ostrowski suggested a motion or straw poll. She said she is ready to make a motion based on the staff recommendation.

Commissioner Buchbinder:

- Said the Commission's hands are tied at this point.
- Added that he thinks we are making a mistake.
- Stated that it was a mistake not to have an updated General Plan for over 20 years.

Motion: Upon motion of Commissioner Ostrowski, seconded by Commissioner Krey, the Planning Commission took the following actions:

- Adopted Resolution No. 4554 recommending that the City Council deny a Zoning Map Amendment from C-M (Controlled Manufacturing) to P-D (Planned Development);
- Adopted Resolution No. 4455 recommending that the City Council deny a Planned Development Permit with Site and Architectural Review to allow construction of a 161,870 square foot four-story office building, a 146,478 square foot five-story parking garage (with one level of underground parking), additional surface parking, and on-site open space on property located at 1700 Dell Avenue.
- Adopted Resolution No. 4456 recommending that the City Council deny a Tree Removal Permit, on property located at 1700 Dell Avenue;

by the following roll call vote:

AYES: Colvill, Krey, Ostrowski and Rivlin
NOES: Buchbinder and Hines
ABSENT: Ching
ABSTAIN: None

Chair Rivlin advised that this item would be considered by the City Council for final action at a meeting to be held in February 2020.

MISCELLANEOUS

5. Election of 2020 Chair and Vice Chair.

Motion: Upon motion of Commissioner Buchbinder, seconded by Commissioner Hines, the Planning Commission elected Commissioner Krey to serve as Planning Commission Chair for 2020. (6-0-1; Commissioner Ching was absent)

Motion: Upon motion of Commissioner Hines, seconded by Chair Rivlin, the Planning Commission elected Commissioner Ostrowski to serve as Planning Commission Vice-Chair and Chair of SARC for 2020. (6-0-1; Commissioner Ching was absent)

Chair Rivlin passed the gavel to in-coming Chair Krey.

Chair Krey presented the 2019 Chair plaque to out-going Chair Rivlin for his service as Planning Commission Chair during 2019.

Out-going Chair Rivlin thanked his fellow Commissioners for their service and said it is an honor to serve on this Commission.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan had nothing new to add to his written report:

ADJOURNMENT

The Planning Commission meeting adjourned at 12:07 a.m. to the next Regular Planning Commission Meeting **January 14, 2020.**

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Andrew Rivlin, Chair

ATTEST: _____
Paul Kermoyan, Secretary

RESOLUTION NO. 4552

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL APPROVING AN APPEAL (PLN2019-024) OF THE COMMUNITY DEVELOPMENT DIRECTOR'S DENIAL OF A TREE REMOVAL PERMIT (PLN2018-399) TO ALLOW REMOVAL OF ONE (1) REDWOOD TREE LOCATED IN THE REAR YARD OF OF PROPERTY LOCATED AT **31 HARDY AVENUE** IN THE R-1-6 (SINGLE-FAMILY RESIDENTIAL) ZONING DISTRICT.

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 the recommended approval of file number PLN2019-024:

1. The property is zoned R-1-6 (Single-Family Residential) and currently developed with a single-family home.
2. One (1) redwood tree is located in the rear yard and requires approval of a Tree Removal Permit to remove.
3. The applicant submitted a Tree Removal Permit application to remove one (1) redwood tree located in the rear yard on December 19, 2018, which was denied on January 25, 2019.
4. The applicant submitted an Appeal application to request removal of the one (1) redwood tree on February 4, 2019 due to potential structure damage, utility interference, economic enjoyment and hardship, and a danger of falling.
5. Pursuant to Campbell Municipal Code Section 21.32.080, approval of a Tree Removal Permit may only be granted when at least one of the following findings can be made: 1) Diseased or Danger of Falling, 2) Structure Damage, 3) Utility Interference, 4) Overplanting, 5) Economic Enjoyment and Hardship.
6. At their meeting of March 26, 2019, the Planning Commission discussed the request for removal of the tree and continued the hearing so the appellant could obtain additional information for consideration.
7. The appellant provided a deposit and fee and the City procured an arborist report from a certified arborist pursuant to CMC Section 21.32.155. The arborist report indicates a high likelihood that the tree will imminently damage the building or heave the foundation based on the tree's size, species, and location. In addition, cutting the existing large roots or excavating and installing a root barrier are not suitable options because such work would need to occur within the tree's Critical Root Zone and would

compromise the tree's stability and health. The arborist report concludes that the tree satisfies Finding No. 2 (Structure Damage) and should be removed.

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

1. The redwood tree in the rear yard may imminently cause significant damage to the existing home that cannot be controlled or remedied through reasonable modification of the tree's root or branch structure.
2. The project qualifies as a Categorically Exempt project under Section 15304, Class 4 of the California Environmental Quality Act (CEQA) pertaining to minor alterations in landscaping.

THEREFORE, BE IT RESOLVED that the Planning Commission approves an Appeal of the Community Development Director's denial of a Tree Removal Permit (PLN2019-024) to allow removal of one (1) redwood tree from the rear yard of property located at **31 Hardy Avenue**, subject to the attached Conditions of Approval (attached **Exhibit A**).

PASSED AND ADOPTED this 10th day of December, 2019, by the following roll call vote:

AYES: Commissioners: Buchbinder, Colvill, Hines, Krey, Ostrowski
NOES: Commissioners: Rivlin
ABSENT: Commissioners: Ching
ABSTAIN: Commissioners:

APPROVED: _____
Andrew Rivlin, Chair

ATTEST: _____
Paul Kermoyan, Secretary

CONDITIONS OF APPROVAL
Approval of Appeal – 31 Hardy Ave (PLN2019-024)

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. Replacement Trees: The appellant shall plant one (1) 36-inch box tree on private property located at 31 Hardy Avenue within 30 days of the removal of the one (1) redwood tree in the rear yard. Replacement species shall not include fruit trees or Eucalyptus trees. Replacement trees shall be of an equivalent aesthetic quality to the Redwood trees, including a large mature canopy and evergreen foliage, subject to approval by the Community Development Director. The location of the replacement tree shall be subject to approval by the Community Development Director. The approval of the species and location is required prior to installation. The replacement tree shall be provided with permanent irrigation to the satisfaction of the Community Development Director. Should the replacement tree decline in health, it shall be replaced with a new tree subject to the above conditions.

RESOLUTION NO. 4553

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL APPROVING A MODIFICATION (EXTERIOR SIDING MATERIAL CHANGE) TO A PREVIOUSLY APPROVED SITE AND ARCHITECTURAL REVIEW PERMIT TO ALLOW THE CONSTRUCTION OF A NEW TWO-STORY HOME (PLN2018-198) ON PROPERTY LOCATED AT **1384 Munro Avenue**. FILE NO.: PLN2019-221

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

The Planning Commission finds as follows with regard to file number PLN2019-221:

1. The project site is located on Munro Avenue, north of Hacienda Avenue and west of South San Tomas Aquino Road.
2. The project site is zoned R-1-9 (Single Family Residential) on the City of Campbell Zoning Map and within the boundaries of the San Tomas Area Neighborhood Plan.
3. The project site is designated Low Density Residential (<4.5 units/gr. acre) on the City of Campbell General Plan Land Use diagram.
4. The project site is an approximately 12,097 square-foot lot (net).
5. The proposed project will be compatible with the R-1-9 (Single Family Residential) Zone District with approval of a Site and Architectural Review Permit.
6. The previously approved architecture is compatible with the neighborhood in that the project incorporates representative architectural features of homes in the San Tomas Area including stucco and wood siding exterior, hipped and gabled roof, and a neutral color palette.
7. The proposed modification to a change in the exterior siding materials from stucco to wood and from wood to stucco retains consistency with the San Tomas Aquino Neighborhood Plan and will be harmonious with the neighborhood.
8. The applicant will retain the healthy oak tree in the rear yard.
9. No substantial evidence has been presented which shows that the project, as currently presented and subject to the required Conditions of Approval, will have a significant adverse impact on the environment.

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

1. The project will be consistent with the General Plan;
2. The project will aid in the harmonious development of the immediate area;

3. The project is consistent with applicable adopted design guidelines; and
4. Staff recommends that the Planning Commission find that this project is Categorically Exempt under Section 15303, Class 3 of the California Environmental Quality Act (CEQA), pertaining to the construction of single-family dwellings.

THEREFORE, BE IT RESOLVED that the Planning Commission approves a modification to change the exterior siding material (PLN2019-221) of a previously approved Site and Architectural Review Permit (PLN2018-198) to allow the construction of a new two-story single-family residence on property located at **1384 Munro Ave**, subject to the attached Conditions of Approval (attached Exhibit "A") and the modified plans dated December 9, 2019.

PASSED AND ADOPTED this 10th day of December, 2019, by the following roll call vote:

AYES: Commissioners: Buchbinder, Colvill, Hines, Ostrowski, Rivlin
NOES: Commissioners:
ABSENT: Commissioners: Ching
ABSTAIN: Commissioners: Krey

APPROVED: _____
Andrew Rivlin, Chair

ATTEST: _____
Paul Kermoyan, Secretary

CONDITIONS OF APPROVAL
Site and Architectural Review Permit (PLN2019-221)
1384 Munro 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 a Modification to a previously approved Site and Architectural Review Permit (PLN2018-198) to allow the construction of a new two-story single-family residence on property located at **1384 Munro Avenue**. The project shall substantially conform to the Revised Project Elevations stamped as received by the Planning Division on December 9, 2019.
2. Previous Conditions of Approval: The conditions of approval contained herein shall be considered additional to those provided by PLN2018-198.

RESOLUTION NO. 4554

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL RECOMMENDING THAT THE CITY COUNCIL DENY A ZONING MAP AMENDMENT TO AMEND THE CAMPBELL ZONING MAP DESIGNATION FROM C-M (CONTROLLED MANUFACTURING) to P-D (PLANNED DEVELOPMENT) FOR PROPERTY LOCATED AT **1700 DELL AVENUE**. FILE NO.: PLN2017-381

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

The Planning Commission finds as follows with regard to the recommended denial of a Zoning Map Amendment (PLN2017-381):

Environmental Finding

1. An Environmental Impact Report (EIR) was prepared for the Proposed Project in accordance with the California Environmental Quality (CEQA). However, the EIR need not be certified since the Planning Commission's recommendation to deny the proposed project is Statutorily Exempt pursuant to California Public Resource Code Section 21080(b)(5).

Evidentiary Findings

1. The proposed project includes an application for a Zoning Map Amendment, Planned Development Permit, and Tree Removal Permit (PLN2017-381), and Final Environmental Impact Report (PLN2018-148) to allow construction of a 161,870-square-foot four-story office building, a 146,478-square-foot five-story parking garage (with one level of underground parking), additional surface parking, and on-site open space on property located at 1700 Dell Avenue in the City of Campbell.
2. The subject property is located at the corner of Knowles Drive and Dell Avenue within a developed area of the City and adjacent to the City's southern border with Los Gatos. Local access to the project site is provided via SR-85, Winchester Boulevard, Knowles Drive, and Dell Avenue.
3. Abutting land uses include the Los Gatos Creek Trail and Los Gatos Creek to the east and a mix of commercial, office, and light industrial uses to the north, west, and south.
4. The 4.5-acre project site is currently developed with a 71,620-square-foot office building and a surface parking lot. As of May 2018, roughly one third of the office space in the existing office building is occupied. The existing building is irregularly shaped and has areas that are single story, two stories, and three stories. Access

to the property is gained via two driveway entrances on the western and southern portions of the site along Dell Avenue. The project site was developed with the existing building in 1975 and has operated as an office building since its initial construction. The building is located (approximately) within the middle of the project site with surface parking to the north, west, and south of the building.

5. The project site is designated by the Campbell General Plan Land Use Diagram as *Research and Development*.
6. The project site is not subject to an Area Plan or Design Guidelines.
7. The project site is currently designated by the Campbell Zoning Map as C-M (Controlled Manufacturing).
8. The General Plan provides a comprehensive vision for the City's various neighborhoods. In the subject neighborhood, the General Plan contemplated a development intensity of 0.40 F.A.R. (Appendix B, Page B-1 of the General Plan).
9. The proposal to change the zoning to Planned Development (P-D) is inconsistent with the General Plan, given its vision set forth in Appendix B land use limitations.
10. The proposed Zoning Map Amendment to rezone the property from C-M (Controlled Manufacturing) to P-D (Planned Development) is requested to allow flexible development standards under the Planned Development Zoning District since the proposed project does not conform to the floor area and height standards of the existing Controlled Manufacturing Zoning District.
11. Development of the area should be contemplated as a comprehensive plan, rather than on an individual basis so that projects developed over the next 20 years will contribute to a cohesive neighborhood that was deliberately contemplated.
12. Complying with the General Plan from the start will result in a compliant and anticipated development.
13. Rezoning this property to P-D independent from the current zoning of the adjacent properties would create an inconsistent development environment.
14. The proposed project is inconsistent with General Plan Strategy LUT-9.1c (Land Use Objectives and Redevelopment Plans) to permit only those uses that are compatible with land use objectives and redevelopment plans since the project is inconsistent with the Controlled Manufacturing Zoning District.
15. The recommendation to deny the proposed project would be consistent with General Plan Land Use Strategy LUT-5.2e (Reduction of Development Intensity)

since denial of a floor area ratio that exceeds 0.40 helps to ensure development compatibility with surrounding properties.

16. When flexible development standards are permitted under the P-D designation, the resulting project should be consistent with site characteristics and shall aid in the harmonious development of the immediate area.
17. The only Planned Development property in the Dell Avenue is a C-P-D (Condominium Planned Development) zoned property. The C-P-D zoning district was established to allow the conversion of existing commercial and industrial structures to commercial and industrial condominiums so that individual businesses in a single building could be owned by individual owners. In the subject project, the proposed Planned Development would be for an individual property owner rather than for multiple owners.
18. The subject property and the proposed project would be the only building in the entire Dell Avenue area that is three or more stories in height.
19. Approving this project would be inconsistent with General Plan Policy LUT-5.7 which encourages site and architectural design that is sensitive to surrounding uses and Policy LUT-9.3 which promotes site planning that is compatible with surrounding development, public spaces and natural resources.
20. The recommendation to deny the proposed project would not be consistent with Policy LUT-9.3 (Design and Planning Compatibility) since the proposed site planning is incompatible with surrounding development and natural resources such as the Los Gatos Creek.
21. The proposed zoning map amendment would be detrimental to the public interest since a rezoning of the property from C-M (Controlled Manufacturing) to P-D (Planned Development) would occur without the benefit of a comprehensive plan to aid in the harmonious development of the immediate area and ensure compatibility with adjacent land uses.
22. The proposed project would be detrimental to the public interest since the Planned Development would not achieve compatibility with other properties as new development or redevelopment occurs.

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

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

2. The proposed amendment would be detrimental to the public interest, health, safety, convenience, or general welfare of the city; and
3. The parcel is not physically suitable for the requested zoning designation(s) and anticipated land uses/project.

THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council deny a Zoning Map Amendment to amend the Campbell Zoning Map designation from C-M (Controlled Manufacturing) to P-D (Planned Development) for property located at **1700 Dell Avenue**.

PASSED AND ADOPTED this 10th day of December, 2019, by the following roll call vote:

AYES: Commissioners: Colvill, Krey, Ostrowski, Rivlin
NOES: Commissioners: Buchbinder, Hines
ABSENT: Commissioners: Ching
ABSTAIN: Commissioners:

APPROVED: _____
Andrew Rivlin, Chair

ATTEST: _____
Paul Kermoyan, Secretary

RESOLUTION NO. 4555

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL RECOMMENDING THAT THE CITY COUNCIL DENY A PLANNED DEVELOPMENT PERMIT TO ALLOW CONSTRUCTION OF A 161,870 SQUARE FOOT FOUR-STORY OFFICE BUILDING, A 146,478 SQUARE FOOT FIVE-STORY PARKING GARAGE (WITH ONE LEVEL OF UNDERGROUND PARKING), ADDITIONAL SURFACE PARKING, AND ON-SITE OPEN SPACE ON PROPERTY LOCATED AT **1700 DELL AVENUE**. File No. PLN2017-381.

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

The Planning Commission finds as follows with regard to the recommended denial of a Planned Development Permit (PLN2017-381):

Environmental Finding

1. An Environmental Impact Report (EIR) was prepared for the Proposed Project in accordance with the California Environmental Quality (CEQA). However, the EIR need not be certified since the Planning Commission's recommendation to deny the proposed project is Statutorily Exempt pursuant to California Public Resource Code Section 21080(b)(5).

Evidentiary Findings

1. The proposed project includes an application for a Zoning Map Amendment, Planned Development Permit, and Tree Removal Permit (PLN2017-381), and Final Environmental Impact Report (PLN2018-148) to allow construction of a 161,870-square-foot four-story office building, a 146,478-square-foot five-story parking garage (with one level of underground parking), additional surface parking, and on-site open space on property located at 1700 Dell Avenue in the City of Campbell.
2. The subject property is located at the corner of Knowles Drive and Dell Avenue within a developed area of the City and adjacent to the City's southern border with Los Gatos. Local access to the project site is provided via SR-85, Winchester Boulevard, Knowles Drive, and Dell Avenue.
3. Abutting land uses include the Los Gatos Creek Trail and Los Gatos Creek to the east and a mix of commercial, office, and light industrial uses to the north, west, and south.
4. The 4.5-acre project site is currently developed with a 71,620-square-foot office building and a surface parking lot. As of May 2018, roughly one third of the office

space in the existing office building is occupied. The existing building is irregularly shaped and has areas that are single story, two stories, and three stories. Access to the property is gained via two driveway entrances on the western and southern portions of the site along Dell Avenue. The project site was developed with the existing building in 1975 and has operated as an office building since its initial construction. The building is located (approximately) within the middle of the project site with surface parking to the north, west, and south of the building.

5. The project site is designated by the Campbell General Plan Land Use Diagram as *Research and Development*.
6. The project site is not subject to an Area Plan or Design Guidelines.
7. The project site is currently designated by the Campbell Zoning Map as C-M (Controlled Manufacturing).
8. The proposed Planned Development is requested to allow flexible development standards under the Planned Development zoning district since the proposed project does not conform to the floor area and height standards of the existing Controlled Manufacturing zoning district.
9. Development of the area should be contemplated as a comprehensive plan, rather than on an individual basis so that projects developed over the next 20 years will contribute to a cohesive neighborhood that was deliberately contemplated.
10. Complying with the General Plan from the start will result in a compliant and anticipated development.
11. Rezoning this property to P-D independent from the current zoning of the adjacent properties would create an inconsistent development environment.
12. The proposed project is inconsistent with General Plan Strategy LUT-9.1c (Land Use Objectives and Redevelopment Plans) to permit only those uses that are compatible with land use objectives and redevelopment plans since the project is inconsistent with the Controlled Manufacturing Zoning District.
13. The recommendation to deny the proposed project would be consistent with General Plan Land Use Strategy LUT-5.2e (Reduction of Development Intensity) since denial of a floor area ratio that exceeds 0.40 helps to ensure development compatibility with surrounding properties.
14. When flexible development standards are permitted under the P-D designation, the resulting project should be consistent with site characteristics and shall aid in the harmonious development of the immediate area.

-
15. The only Planned Development property in the Dell Avenue is a C-P-D (Condominium Planned Development) zoned property. The C-P-D zoning district was established to allow the conversion of existing commercial and industrial structures to commercial and industrial condominiums so that individual businesses in a single building could be owned by individual owners. In the subject project, the proposed Planned Development would be for an individual property owner rather than for multiple owners.
 16. The subject property and the proposed project would be the only building in the entire Dell Avenue area that is three or more stories in height.
 17. Approving this project would be inconsistent with General Plan Policy LUT-5.7 which encourages site and architectural design that is sensitive to surrounding uses and Policy LUT-9.3 which promotes site planning that is compatible with surrounding development, public spaces and natural resources.
 18. The recommendation to deny the proposed project would not be consistent with Policy LUT-9.3 (Design and Planning Compatibility) since the proposed site planning is incompatible with surrounding development and natural resources such as the Los Gatos Creek.
 19. The proposed zoning map amendment would be detrimental to the public interest since a rezoning of the property from C-M (Controlled Manufacturing) to P-D (Planned Development) would occur without the benefit of a comprehensive plan to aid in the harmonious development of the immediate area and ensure compatibility with adjacent land uses.
 20. The proposed project would be detrimental to the public interest since the Planned Development would not achieve compatibility with other properties as new development or redevelopment occurs.

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

1. The proposed development would not result in a more desirable environment and use of land than would be possible under the C-M zoning district classification;
2. The proposed development would be incompatible with the general plan and will not aid in the harmonious development of the immediate area;
3. The proposed development would be detrimental to the welfare of the neighborhood or of the city as a whole.

THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council deny a Planned Development Permit for construction of a 161,870 square foot four-story office building, a 146,478 square foot five-story parking garage (with one

level of underground parking), additional surface parking, and on-site open space on property located at **1700 Dell Avenue**.

PASSED AND ADOPTED this 10th day of December, 2019, by the following roll call vote:

AYES: Commissioners: Colvill, Krey, Ostrowski, Rivlin
NOES: Commissioners: Buchbinder, Hines
ABSENT: Commissioners: Ching
ABSTAIN: Commissioners:

APPROVED: _____
Andrew Rivlin, Chair

ATTEST: _____
Paul Kermoyan, Secretary

RESOLUTION NO. 4556

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL RECOMMENDING THAT THE CITY COUNCIL DENY A TREE REMOVAL PERMIT TO ALLOW REMOVAL OF PROTECTED ON-SITE TREES FOR PROPERTY LOCATED AT **1700 DELL AVENUE**. FILE NO.: PLN2017-381

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

The City Council finds as follows with regard to File Number PLN2017-381:

Environmental Finding

1. An Environmental Impact Report (EIR) was prepared for the Proposed Project in accordance with the California Environmental Quality (CEQA). However, absent an affirmative decision on the Proposed Project, the EIR need not be certified since the Planning Commission's action to recommend denial is Statutorily Exempt pursuant to California Public Resource Code Section 21080(b)(5).

Evidentiary Findings

1. The proposed project includes an application for a Zoning Map Amendment, Planned Development Permit, and Tree Removal Permit (PLN2017-381), and Final Environmental Impact Report (PLN2018-148) to allow construction of a 161,870-square-foot four-story office building, a 146,478-square-foot five-story parking garage (with one level of underground parking), additional surface parking, and on-site open space on property located at 1700 Dell Avenue in the City of Campbell.
2. The subject property is located at the corner of Knowles Drive and Dell Avenue within a developed area of the City and adjacent to the City's southern border with Los Gatos. Local access to the project site is provided via SR-85, Winchester Boulevard, Knowles Drive, and Dell Avenue.
3. Abutting land uses include the Los Gatos Creek Trail and Los Gatos Creek to the east and a mix of commercial, office, and light industrial uses to the north, west, and south.
4. The 4.5-acre project site is currently developed with a 71,620-square-foot office building and a surface parking lot. As of May 2018, roughly one third of the office space in the existing office building is occupied. The existing building is irregularly shaped and has areas that are single story, two stories, and three stories. Access to the property is gained via two driveway entrances on the western and southern portions of the site along Dell Avenue. The project site was developed with the existing building in 1975 and has operated as an office building since its initial construction. The building is located (approximately) within the middle of the project site with surface parking to the north, west, and south of the building.

5. The project site is designated by the Campbell General Plan Land Use Diagram as *Research and Development*.
6. The project site is not subject to an Area Plan or Design Guidelines.
7. The project site is currently designated by the Campbell Zoning Map as C-M (Controlled Manufacturing).
8. By separate action, the Planning Commission has recommended denial of the Zoning Map Amendment and the Planned Development Permit for construction of a 161,870-square-foot four-story office building, a 146,478-square-foot five-story parking garage (with one level of underground parking), additional surface parking, and on-site open space. Without construction of the project the application for a Tree Removal Permit is an inoperative entitlement request as the existing property improvements will be maintained.

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

Tree Removal Permit Findings (CMC Sec. 21.32.080.A.5):

1. The retention of the trees *neither* restricts the economic enjoyment of the property nor creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties, and the applicant has not demonstrated to the satisfaction of the City Council that there are no reasonable alternatives to preserve the trees due to the number of site constraints of the subject property.

THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council deny a Tree Removal Permit to allow removal of protected on-site trees (PLN2017-381) on property located at **1700 Dell Avenue** in the C-M (Controlled Manufacturing) Zoning District.

PASSED AND ADOPTED this 10th day of December, 2019, by the following roll call vote:

AYES: Commissioners: Colvill, Krey, Ostrowski, Rivlin
NOES: Commissioners: Buchbinder, Hines
ABSENT: Commissioners: Ching
ABSTAIN: Commissioners:

APPROVED: _____
Andrew Rivlin, Chair

ATTEST: _____
Paul Kermoyan, Secretary



CITY OF CAMPBELL • PLANNING COMMISSION
Staff Report • JANUARY 14, 2020

PLN2019-189 Public Hearing to consider the Appeal (PLN2019-189) of the Community Development Director's approval of an Administrative Planned Development Permit for a large fitness studio with late-night activities (PLN2019-106), to allow an increase in the maximum number of occupants from 34 to 80 individuals within an existing commercial building on property located at **842 W. Hamilton Avenue**, in the P-D (Planned Development) Zoning District.

STAFF RECOMMENDATION

That the Planning Commission take the following action:

1. **Adopt a Resolution**, denying the Appeal (PLN2019-189) without prejudice and upholding the Community Development Director's approval of an Administrative Planned Development Permit for a large fitness studio with late-night activities (PLN2019-106).

ENVIRONMENTAL DETERMINATION

Staff recommends that the Community Development Director find that this request is Statutorily Exempt under Section 15270(a) of the California Environment Quality Act (CEQA), pertaining to projects which a public agency rejects or disapproves.

PROJECT DATA

Zoning Designation:	P-D (Planned Development)
General Plan Designation:	Commercial/Professional Office/Residential
Net Lot Area:*	42,559 square feet
Building Area:*	9,900 square feet
Tenant Space Area:	5,436 square feet
Existing Parking:*	56 spaces

Project Site: The project site is located within an existing shopping center comprised of five parcels and three buildings on the south side of W. Hamilton Avenue, between Darryl Drive and Marathon Drive (reference **Attachment 2** – Location Map). The site consists of a portion of the largest of the three buildings and main parking lot which is shared with the two adjoining buildings/properties under separate ownership (see aerial image to the right). The two smaller buildings are served by separate parking lots that share access with the main parking lot.



* Controlled by owner of subject property shown in yellow above

BACKGROUND

On May 30, 2019 the applicant submitted an Administrative Planned Development Permit application (PLN2019-106) to merge two tenant spaces, establish a new large fitness studio use, and introduce late-night activities (4:00 am opening time), each of which is a new use. Pursuant to CMC 21.12.030(H)(1)(a), a new use in the P-D zoning district requires approval of an Administrative Planned Development Permit.

Consistent with the City application submittal checklist, the application included a written description of the proposed use, indicating the class size would range from 15-30 participants and the number of employees on site would range from two to four for total of 34 occupants at any one time. Based on this project description, staff reviewed the proposal in terms of consistency with the zoning district and general plan designation, parking demand/availability, and impacts to adjacent uses (reference **Attachment 3** – PLN2019-106 Staff Report). The application was approved on September 16, 2019 subject to conditions of approval which included a maximum of 34 occupants at any one time (reference **Attachment 4** – PLN2019-106 Approval Letter).

DISCUSSION

On September 26, 2019 the applicant filed an appeal to allow an increase in the maximum number of occupants from 34 to 80 individuals (reference **Attachment 5** – Appeal Letter). According to the appellant, the class size was indicated incorrectly in the application materials. The appellant's basis for appeal is described below in bold followed by staff's analysis.

- 1. According to the Planning Dept the reason for only approving 34 occupants at any given time is due to the amount of parking spaces available to our clients' tenant space in the strip mall/commercial center they are located in.**

The maximum of 34 occupants at any one time (including participants and staff) originated from the written description of the business provided by appellant's client. The staff report from the original application includes a discussion on parking based on the requested 34 occupants (reference **Attachment 3**). As is the practice, a maximum number of occupants was included as a condition of approval, which in this case corresponds with the maximum requested at the time the application was processed.

The code-required minimum parking for 80 occupants, including four instructors, results in 23 required stalls (one space for each instructor/employee plus one space for each four participants). However this is a minimum that can be increased when deemed appropriate by the decision-making body.[†] From a practical standpoint, each of the proposed 80 occupants could bring their own vehicle, resulting in a potential parking demand of 80 spaces, although only 56 parking spaces are located on the subject property.

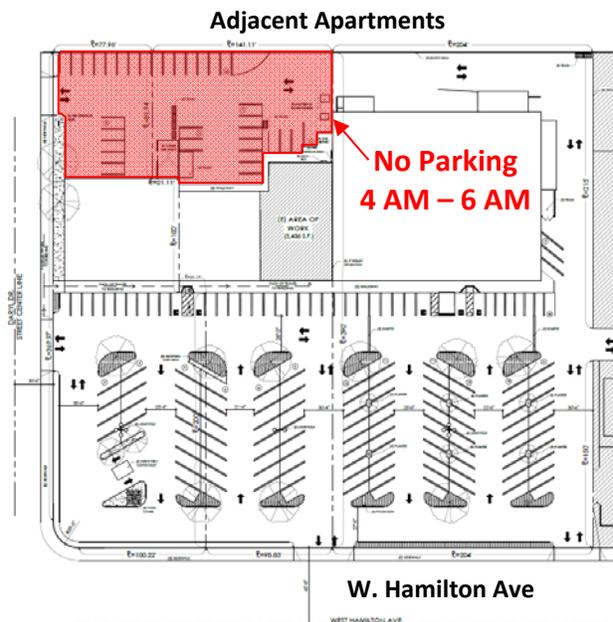
Because the shopping center consists of three parcels owned by three different owners, the tenant/appellant is limited to using parking spaces dedicated to this particular property. Assigning parking spaces on other properties to this tenant would unfairly and potentially illegally restrict the other owners' ability to attract tenants with different parking needs.

[†] The parking ratio of one space for each four participants assumes an ebb and flow in a shopping center with a mix of businesses. However, this standard is more appropriate with a smaller number of participants; the higher the number of participants, the higher the differential between the required number of parking spaces and the realistic parking demand.

- 2. We know that the required parking for the fitness center will not impact the commercial center whatsoever because our clients' main times of operation is either early in the morning (4AM-9AM) or later at night (4PM-8PM) which is when the rest of the businesses in the center are mostly closed.**

These are points that staff would have explored had the applicant included 80 occupants in their original proposal. Instead staff reviewed the application for the potential impacts of 34 occupants. Increasing the number of occupants requires additional analysis for several reasons.

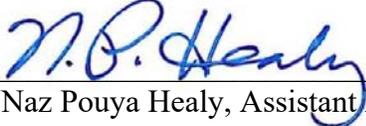
1. As described, on its own, the subject property provides only 56 parking spaces which are shared between its four tenant spaces.
2. To prevent noise impacts on the adjacent residential uses, the rear parking area is not available for use during 4:00 A.M. to 6:00 A.M. pursuant to Condition 4h of the approved Administrative Planned Development Permit (see image to the right).
3. Staff's approval does not limit the business hours to just early mornings and weekday evenings; rather the approval includes regular hours (daily 6:00 A.M. to 11:00 P.M.) in addition to the requested early morning hours. This is intended to provide flexibility, recognizing that the business model or business owner could change. Otherwise, if in the future the business owner wanted to provide lunch-hour classes for example, an entirely new Administrative Planned Development Permit would be required.



Pursuant to CMC Section 21.62.040(C)(2), appeals shall be based upon an error in fact, dispute of findings, or inadequacy of conditions to mitigate potential project impacts. Staff does not view an appeal as the appropriate process to evaluate a new request for a class size increase that would more than double the number of participants from the original application/approval. Staff's recommendation of denial without prejudice would allow the appellant to apply for a new Administrative Planned Development Permit and enable staff to properly evaluate the request.

Attachments:

1. Draft Resolution
2. Location Map
3. PLN2019-106 Staff Report (with original attachments 1-6)
4. PLN2019-106 Approval Letter
5. Appeal Letter
6. Project Plans

Prepared by: 
Naz Pouya Healy, Assistant Planner

Approved by: 
Paul Kermoyan, Community Development Director

RESOLUTION NO. 45XX

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL DENYING AN APPEAL (PLN2019-189) AND UPHOLDING THE COMMUNITY DEVELOPMENT DIRECTOR'S APPROVAL OF AN ADMINISTRATIVE PLANNED DEVELOPMENT PERMIT FOR A LARGE FITNESS STUDIO WITH LATE-NIGHT ACTIVITIES (PLN2019-106) LIMITED TO A MAXIMUM OF 34 OCCUPANTS ON PROPERTY LOCATED AT **842 W. HAMILTON 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.

The Planning Commission finds as follows with regard to file number PLN2019-189:

1. The project site has a P-D (Planned Development) Zoning District designation.
2. The project site has a Commercial/Professional Office/Residential General Plan designation.
3. A large fitness studio with late-night activities is consistent with the Zoning and General Plan designation with approval of an Administrative Planned Development Permit.
4. On May 30, 2019 the applicant submitted an application for an Administrative Planned Development Permit (PLN2019-106) to allow establishment of a large fitness studio, accommodating up to a maximum of 34 occupants (participants in classes or waiting for classes and instructors/employees) in one instructional space.
5. Based on the information provided by the applicant, staff reviewed the proposal in terms of consistency with the zoning district and general plan designation, parking demand/availability, and impacts to adjacent uses.
6. On September 16, 2019, an Administrative Planned Development Permit (PLN2019-106) was approved subject to conditions of approval including a maximum of 34 occupants at any one time.
7. On September 26, 2019, the applicant filed an Appeal (PLN2019-189) to allow an increase in the maximum number of occupants from 34 to 80 individuals because the desired class size was indicated incorrectly in the application materials.
8. The approved maximum of 34 occupants originated from the written description provided in the application and corresponds with the maximum requested at the time the application was processed.
9. Given the varied uses and amount of parking in the shopping center, 34 occupants with only 24 allocated parking spaces based on the tenant space size was viewed as reasonable and unlikely to create impacts.
10. Staff reviewed the application for the potential impacts of 34 occupants. Increasing the number of occupants from 34 to 80 requires additional analysis and the applicant should submit an application to modify the approved Administrative Planned Development Permit to process that request.

11. Pursuant to CMC Section 21.62.040(C)(2), appeals shall be based upon an error in fact, dispute of findings, or inadequacy of conditions to mitigate potential project impacts.
12. An appeal is not the appropriate process to evaluate a new request for a class size increase that would more than double the number of participants from the original application/approval.
13. Denial without prejudice would allow the appellant to apply for a new Administrative Planned Development Permit and enable staff to properly evaluate the request.

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

1. The applicant's request would not result in a more desirable environment and use of land than would be possible under any other zoning district classification;
2. The applicant's request would not be compatible with the general plan and will not aid in the harmonious development of the immediate area;
3. The applicant's request will not result in allowing more residential units than would be allowed by other residential zoning districts which are consistent with the general plan designation of the property;
4. The applicant's request would be detrimental to the health, safety or welfare of the neighborhood or of the city as a whole; and
5. The project qualifies as a Statutorily Exempt project under Section 15270 of the California Environmental Quality Act (CEQA) pertaining to projects which a public agency disapproves.

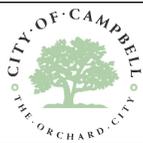
THEREFORE, BE IT RESOLVED that the Planning Commission denies an Appeal (PLN2019-189) and upholds the Community Development Director's approval of an Administrative Planned Development Permit for a large fitness studio with late-night activities (PLN2019-106), to allow an increase in the maximum number of occupants from 34 to 80 individuals on property located at **842 W. Hamilton Avenue**.

PASSED AND ADOPTED this 14th day of January, 2020, by the following roll call vote:

AYES: Commissioners:
NOES: Commissioners:
ABSENT: Commissioners:
ABSTAIN: Commissioners:

APPROVED: _____
Michael Krey, Chair

ATTEST: _____
Paul Kermoyan, Secretary



842 W. Hamilton Ave



This map is based on GIS Information and reflects the most current information at the time of this printing. The map is intended for reference purposes only and the City and its staff is not responsible for errors.



ADMINISTRATIVE ACTION OF THE COMMUNITY DEVELOPMENT DIRECTOR

September 16, 2019

PLN2019-106
Bazzi, A.

Application of Adel Bazzi for an Administrative Planned Development Permit (PLN2019-106) to allow establishment of a large fitness studio (The Camp) with late-night activities (4:00 AM opening) within an existing commercial building on property located **842 W. Hamilton Avenue** in the P-D (Planned Development) Zoning District.

STAFF RECOMMENDATION

That the Community Development Director takes the following action:

1. **Approve** the Administrative Planned Development Permit (PLN2019-106) to allow establishment of a large fitness studio (The Camp) with late-night activities (4:00 AM opening), incorporating the attached findings and subject to the attached Conditions of Approval.

ENVIRONMENTAL DETERMINATION

Staff recommends that the Community Development Director find that this project is Categorically Exempt under Section 15301 of the California Environmental Quality Act (CEQA), pertaining to the operation and leasing of an existing private structure.

PROJECT DATA

Type	Proposal	Allowance/Requirement	Compliance (Y/N)
General Plan Designation	Commercial/Professional Office/Residential	No Change	Y
Zone District Designation	Planned Development	No Change	Y
Net Lot Area	42,559 sq. ft.	N/A	N/A
Building Area	9,900 sq. ft.	N/A	N/A
Tenant Space	5,436 sq. ft.	N/A	N/A
Hours of Operation	4:00 AM – 8:00 PM, M-F 6:00 AM – 9:00 AM, Sat 7:00 AM – 9:00 AM, Sun	6:00 AM – 11:00 PM*	Y
Occupants	4 staff + 30 participants (max)	N/A	N/A
Parking Required	27 spaces required (1 space per 200 sq.ft.)	24 spaces allocated (1 space per 224 sq.ft.)	Y [†]

ANALYSIS

* Activities between 11:00 PM and 6:00 AM constitute late-night activities.

[†] The new use and combined tenant space is not parked at 1/200 but is given a credit of 1/200 for the existing tenant spaces pursuant to CMC 21.28.040(D)(1). See discussion on Page 2.

Considerations in review of application (CMC § 21.42.040)	Y/N
1. Will the traffic generated from the development avoid adverse affects on traffic conditions on abutting streets?	Y
2. Does the layout of the site provide adequate vehicular and pedestrian entrances, exit driveways, and walkways?	Y
3. Will the arrangement of off-street parking facilities prevent traffic congestion and adequately meet the demands of the users?	Y*
4. Will the location, height, and material of walls, fences, hedges and screen plantings ensure harmony with adjacent development and/or conceal storage areas, utility installations, or other potentially unsightly elements of the project?	Y
5. Does the project maximize open space around the structures, for access to and around structures, and the establishment and maintenance of landscaping for aesthetic and screening purposes?	Y
6. Does the project minimize the unnecessary destruction of existing healthy trees?	Y
7. Will the project enhance the overall appearance of the city by improving the appearance of individual development projects within the city?	Y
8. Will the project complement the surrounding neighborhoods and produce an environment of stable and desirable character?	Y
9. Does the project enhance the city’s character and avoid an adverse aesthetic impact upon existing adjoining properties, the environment, or the city in general?	Y
10. Will the project promote the use of sound design principles that result in creative, imaginative solutions and establish structures of quality design throughout the city and which avoid monotony and mediocrity of development?	Y
11. Will the project promote maintenance of the public health, safety, general welfare, and property throughout the city?	Y*
12. Is the project consistent with the city’s general plan and all applicable design guidelines and special plans?	Y

If the answer is “No” to any of the above, list the number and response as to how the project can comply with the applicable considerations required pursuant to CMC § 21.42.040.

Number	Response
3.	<p>The existing 185-space parking lot is shared with the two adjoining buildings/properties. Over time parking spaces at the development have been eliminated for purposes of ADA accessibility as well as previous approvals for an outdoor display area at a grocery store and a drive-thru coffee shop on the adjacent property. The development is currently parked at 1 space per 224 square feet.</p> <p>The parking required for a large studio is 1 space per instructor/employee plus 1 space for every 4 participants, but not less than 1 space per 200 square feet. Based on the floor area parking requirement, the fitness studio requires the same number as the 1 space per 200 square feet retail standard applied when the shopping center was originally developed (and currently required). Pursuant to CMC 21.28.040(D)(1), the proposed change of use does not create a requirement for additional parking spaces.</p> <p>Based on the varied uses and amount of parking spaces in the shopping center, a deficit of 3 parking spaces is not anticipated to create a parking issue. That said, a condition of approval has been incorporated (Condition No. 4j) stating that if three verifiable complaints are received pertaining to an excessive parking demand related to the fitness studio, the City may take various actions such as limiting the number of participants or the hours of operation to reduce the parking demand.</p>
12.	The property abuts a residential apartment development to the south and the

proposed operations between 4:00 AM and 6:00 AM has the potential to be disruptive to the adjacent residents. However, the rear of the subject tenant space faces the south property line at approximately 80 feet away. In addition, the closest residential building is located 130 feet away from the rear of the subject tenant space and is separated by a carport structure and driveways on both properties. However, to minimize impacts to adjacent residents, a condition of approval has been incorporated prohibiting the use of the rear doors and customer/employee parking in the rear between 11:00PM and 6:00AM (Condition No. 4g and 4h). In addition, Condition No. 4i has been incorporated stating that if three verifiable complaints are received pertaining to excessive noise related to the fitness studio, the City may take various actions such as limiting the hours of operation or forwarding to the Planning Commission for review.

Use Description

The submitted application for an Administrative Planned Development Permit would allow the establishment of a large fitness studio with late-night activities (4:00 AM opening) within an existing commercial building. The subject tenant space would be created by merging two tenant spaces (previously occupied by a retail store and restaurant). The proposed use is further described by the Project Description (see **Attachment 4**) and Project Plans (see **Attachment 5**). No expansion or exterior physical changes are proposed to the building.

Public Comments Received: Explanation/Response

On August 21, 2019 a letter was received from an existing business within the shopping center expressing concerns with security due to the early morning hours and requesting a requirement for lighting and cameras since the rear of the building is not visible from the street (reference **Attachment 6**). As described, Condition No. 4g and 4h have been incorporated prohibiting the use of the rear doors and parking lot between 11:00PM and 6:00AM. The use of this area will only occur during regular hours as it had been previously so staff does not anticipate issues associated with the new business.

Attachments:

1. Findings for Approval
2. Conditions of Approval
3. Location Map
4. Project Description
5. Project Plans
6. Public Comments

Prepared by:

Naz Pouya, Assistant Planner

Approved by:

Paul Kermoyan, Community Development Director

FINDINGS FOR APPROVAL OF FILE NO. PLN2019-106

SITE ADDRESS: 842 W. Hamilton Ave.
APPLICANT: Adel Bazzi
OWNER: Raymond Castello
DATE: September 16, 2019

Findings for Approval of an Administrative Planned Development Permit to allow establishment of a large fitness studio with late-night activities (4:00 AM opening) on property located at 842 W. Hamilton Avenue.

The Community Development Director finds as follows with regard to file number PLN2019-106:

1. The project site has a P-D (Planned Development) Zoning District designation.
2. The project site has a *Commercial/Professional Office/Residential* General Plan designation.
3. The proposed project is an application for an Administrative Planned Development Permit to allow establishment of a large fitness studio, accommodating up to a maximum of 34 occupants (participants in classes or waiting for classes and instructors/employees) in one instructional space.
4. The proposed large fitness studio would occupy a 5,436 square-foot commercial tenant space, created by merging two tenant spaces within an existing commercial building without any expansion or exterior physical changes to the existing building.
5. A large fitness studio with late-night activities is consistent with the Zoning and General Plan designation with approval of an Administrative Planned Development Permit.
6. The project site has 185 parking spaces at a rate of 1 space per 224 square feet.
7. Based on its size, the new use/tenant space has a proportional allotment of 24 spaces.
8. Large studios require 1 space for each instructor/employee plus 1 space for every 4 students, but not less than 1 space per 200 square feet of gross floor area. However pursuant to CMC 21.28.040(D)(1), the parking requirement for the proposed use is the same as provided by the previous retail use (24 spaces).

Based upon the foregoing findings of fact, the Community Development Director further finds and concludes that:

1. As conditioned, the proposed project is consistent with the General Plan and will aid in the harmonious development of the immediate area;
2. As conditioned, the proposed development or uses clearly will result in a more desirable environment and use of land than would be possible under any other zoning district classification;
3. The proposed development will not result in allowing more residential units than would be allowed by other residential zoning districts which are consistent with the general plan designation of the property;

4. As conditioned, the proposed development will not be detrimental to the health, safety or welfare of the neighborhood or of the city as a whole; and
5. This project is Categorical Exempt under Section 15301, Class 1 of the California Environmental Quality Act (CEQA), pertaining to the operation and leasing of an existing private structure

CONDITIONS OF APPROVAL OF FILE NO. PLN2019-106

SITE ADDRESS: 842 W. Hamilton Ave.
APPLICANT: Adel Bazzi
OWNER: Raymond Castello
DATE: September 16, 2019

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

1. Approved Project: Approval is granted for an Administrative Planned Development Permit (PLN2019-106) to allow the establishment of a large studio (The Camp) with late-night activities (4:00 AM opening) within an existing commercial building located at **842 W. Hamilton Avenue**. The project shall substantially conform to the Project Plans and Project Description received by the Planning Division on July 29, 2019 and May 30, 2019 respectively, except as may be modified by the Conditions of Approval contained herein.
2. Permit Expiration: The Administrative Planned Development Permit (PLN2019-106) shall be valid for one (1) year from the date of final approval. Within this one-year period an application for a building permit must be submitted. Failure to meet this deadline or expiration of an issued building permit will result in the Administrative Planned Development Permit being rendered void. Once the use is established, the Administrative Planned Development Permit shall be valid in perpetuity with continued operation of the use. Abandonment, discontinuation, or ceasing of operation for a period exceeding 12 months shall result in the voiding of the Administrative Planned Development Permit approved herein.
3. Revocation of Permit: Operation of the use in violation of the Administrative Planned Development Permit or any standards, codes, or ordinances of the City of Campbell shall be grounds for consideration of revocation of the Administrative Planned Development Permit by the Community Development Director.
4. Operational Parameters: Consistent with the submitted Project Descriptions, any business operating pursuant to the Administrative Planned Development Permit shall be required to conform to the following operational parameters. Significant deviations from these parameters (as determined by the Community Development Director) shall require approval of a Modification to the Administrative Planned Development Permit approved herein.
 - a. **Approved Use**: The approved use is a large studio with late-night activities (4:00 AM opening), as defined by the Campbell Municipal Code, in a 5,436 square-foot

- commercial tenant space created by merging two tenant spaces. The new tenant space shall not be expanded to adjoining tenant space(s) without a Modification to the Administrative Planned Development Permit.
- b. **No Massage or Medical Uses:** Individuals with a certificate or license in massage therapy or physical therapy (or other medical field) shall not be employed by the fitness studio without a Modification to the Administrative Planned Development Permit, as doing so would render the business a massage establishment or medical office.
 - c. **Hours of Operation:** Operational hours shall be limited to 4:00 AM to 11:00 PM on Monday-Fridays, and 6:00 AM to 11:00 PM on Saturdays and Sundays. Activities conducted while the business is closed to the public, such as set-up or cleaning by employees, are also subject to the above hours.
 - d. **Staggered Classes:** Classes shall be staggered such that classes end a minimum of ten (10) minutes before the start of the next class.
 - e. **Instruction Area:** Consistent with the approved project plans, the facility is limited to one (1) instructional space (main room) within the subject tenant space. No instructional or other fitness activities shall occur in the parking lot or elsewhere on the property.
 - f. **Occupancy Limits:** The maximum number of occupants (participants in classes or waiting for classes and instructors/employees) shall not exceed 34 individuals at any one time, with no overlapping. Classes, lessons, and employee activities shall be scheduled to ensure occupancy does not exceed these limits at any time. No competition, exhibition, or other event exceeding these occupancy levels shall be permitted.
 - g. **Rear Doors:** Use of the rear (southern) doors shall be prohibited between 11:00 PM and 6:00 AM daily.
 - h. **Rear Parking Area:** Use of the rear (southern) parking area by employees and customers shall be prohibited between 11:00 PM and 6:00 AM daily.
 - i. **Noise:** Outdoor speakers are prohibited. Tenant space doors and windows shall be kept closed during classes. Unreasonable levels of noise, sounds and/or voices, including but not limited to indoor amplified sounds, indoor loud speakers, sounds from indoor audio sound systems or music, and/or indoor public address system, generated by the establishment shall not be audible to a person of normal hearing capacity from outside the enclosed tenant space. In the event that three (3) verifiable complaints are received by the City regarding excessive noise related to the fitness studio, the Community Development Director may limit the hours of operation and/or forward the project to the Planning Commission for review.
 - j. **Parking Management:** If the approved large studio results in excessive parking demand and in the event that three (3) verifiable complaints are received by the City regarding parking, the Community Development Director may reduce the number of persons permitted per class, reduce the number of classes offered, limit the hours of operation, require additional parking management strategies and/or forward the project to the Planning Commission for review.

-
- k. **Business License:** The business shall be required to obtain and maintain a City business license at all times.
 - l. **Delivery and Garbage Pick-Up Hours:** Delivery and garbage pick-up hours shall be restricted to 8 a.m. to 8 p.m. daily. Signage shall be installed at service doors regarding the restriction of delivery and garbage pick-up hours.
 - m. **Loitering:** There shall be no loitering allowed outside the business. The business owner is responsible for monitoring the premises to prevent loitering.
 - n. **Trash Disposal and Clean-Up:** All trash disposal, normal clean-up, floor and window cleaning, sidewalk sweeping, etc., shall occur during the operational hours.
 - o. **Smoking:** "No Smoking" signs shall be posted on the premises in compliance with CMC 6.11.060.
5. **Tenant Improvements:** Any storefront doorway not used to access the tenant space shall be replaced with a storefront window consistent with the building's architecture in such a manner that it may be returned to an entryway as necessary in the future, unless required for fire and/or emergency access or otherwise approved by the Community Development Director.
 6. **Storefront Clearance:** At no time shall an obscure wall, interior wall, or barrier be installed along, behind or attached to storefront windows or doorways that blocks visual access to the tenant space or blocks natural light.
 7. **Property Maintenance:** All exterior areas of the business are to be maintained free from graffiti, trash, rubbish, posters and stickers. Exterior areas of the business shall include not only parking lot and private landscape areas, but also include the public right-of-way adjacent to the business. Trash receptacles shall be maintained within their approved enclosures at all times.
 8. **Landscape Maintenance:** All landscaped areas shall be continuously maintained in accordance with City Landscaping Requirements (CMC 21.26). Landscaped areas shall be watered on a regular basis so as to maintain healthy plants. Landscaped areas shall be kept free of weeds, trash, and litter. Dead or unhealthy plants shall be replaced with healthy plants of the same or similar type.
 9. **Signage:** No signage is approved as part of the development application approved herein. All signage shall be installed and maintained consistent with the provision of the Sign Ordinance, Chapter 21.30 of the Campbell Municipal Code.
 10. **Location of Mechanical Equipment:** No roof-mounted mechanical equipment (i.e. air conditioning units, ventilation ducts or vents), shall be added to the existing building without providing screening of the mechanical equipment from public view and surrounding properties. The screening material and method shall be architecturally compatible with the building and requires review and approval by the Community Development Director and Building Division prior to installation of such screening.

11. Parking and Driveways: All parking and driveway areas shall be maintained in compliance with the standards in Chapter 21.28 (Parking & Loading) of the Campbell Municipal Code. Parking spaces shall be free of debris or other obstructions.
12. Outdoor Storage: No outdoor storage is permitted on the subject property.

BUILDING DIVISION

13. PERMITS REQUIRED: A building permit application shall be required for the proposed Tenant Improvements to the (e) vacant commercial space. The building permit shall include Electrical/Plumbing/Mechanical fees when such work is part of the permit.
14. CONSTRUCTION PLANS: The conditions of Approval shall be stated in full on the cover sheet of construction plans submitted for building permit.
15. SIZE OF PLANS: The minimum size of construction plans submitted for building permits shall be 24 in. X 36 in.
16. 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.
17. 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.
18. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Standards Compliance forms shall be blue-lined on the construction plans. Compliance with the Standards shall be demonstrated for conditioning of the building envelope and lighting of the building.
19. SPECIAL INSPECTIONS: When a special inspection is required by C.B.C. Chapter 17, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permits, in accordance with C.B.C Chapter 1, Section 106. Please obtain City of Campbell, Special Inspection forms from the Building Inspection Division Counter.
20. 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.
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22. APPROVALS REQUIRED: The project requires the following agency approval prior to issuance of the building permit:
 - a. West Valley Sanitation District
 - b. Santa Clara County Fire Department

23. 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.
24. 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.

FIRE DEPARTMENT

25. Review of this development proposal is limited to acceptability of site access, water supply and may include specific additional requirements 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 Division all applicable construction permits.
26. This review shall not be construed to be an approval of a violation of the provisions of the California Fire Code or of other laws or regulations of the jurisdiction. A permit presuming to give authority to violate or cancel the provisions of the Fire Code or other such laws or regulations shall not be valid. Any addition to or alteration of approved construction documents shall be approved in advance. [CFC Ch.1, 105.3.6]

RECEIVED

MAY 30 2019

The Camp Transformation Center Campbell

CITY OF CAMPBELL
PLANNING DEPT.

Our business is group fitness classes ranging from 15-30 members per class. The classes are 50 minutes long with 10 minutes in between classes to allow incoming and outgoing traffic, see the class schedule below. We have early morning classes when most businesses are not open for business and we also have evening classes beginning at 5pm Monday through Friday. On weekends we only have morning classes and no evening classes. During a typical work day we will have 2-4 employees on site.

Class schedule:

Monday – Friday

- 4 am class
- 5 am class
- 6 am class
- 9 am class

Saturday

- 6 am class
- 7 am class
- 8 am class

Sunday

- 7 am class
- 8 am class

- 5 pm class
- 6 pm class
- 7 pm class



eleganza

PLANS + CONSTRUCTION

C.S.L.B. LIC # 974315

1801 E. HEIM AVE. SUITE #206
ORANGE, CA 92665

TEL. (562) 755-9232
www.TheEleganzaGroup.com



REVISIONS	BY
△ 07/01/19	A.B.

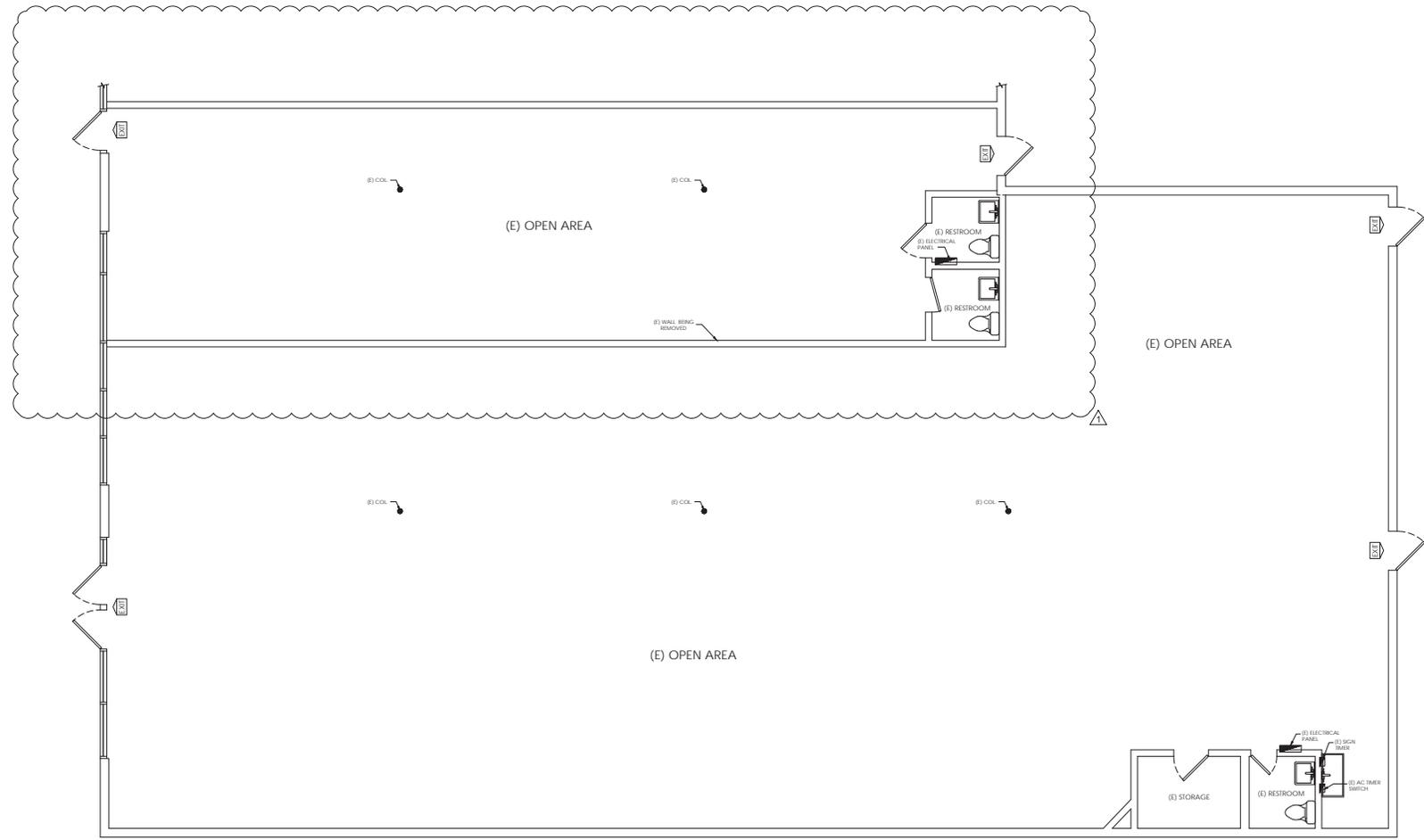
PROJECT NAME:
THE CAMP
TRANSFORMATION CENTER -
CAMPBELL, CA

JOB SITE:
842 WEST HAMILTON AVE.
CAMPBELL, CA 95008

PLAN:
EXISTING
FLOOR PLAN

DRAWN
A.B./J.S.
CHECKED
A.B./C.C.
DATE
06/25/2019
SCALE
AS NOTED
JOB NO.
1919020
SHEET

A-2.1
OF SHEETS



WALL LEGEND	
	EXISTG. WALL TO REMAIN





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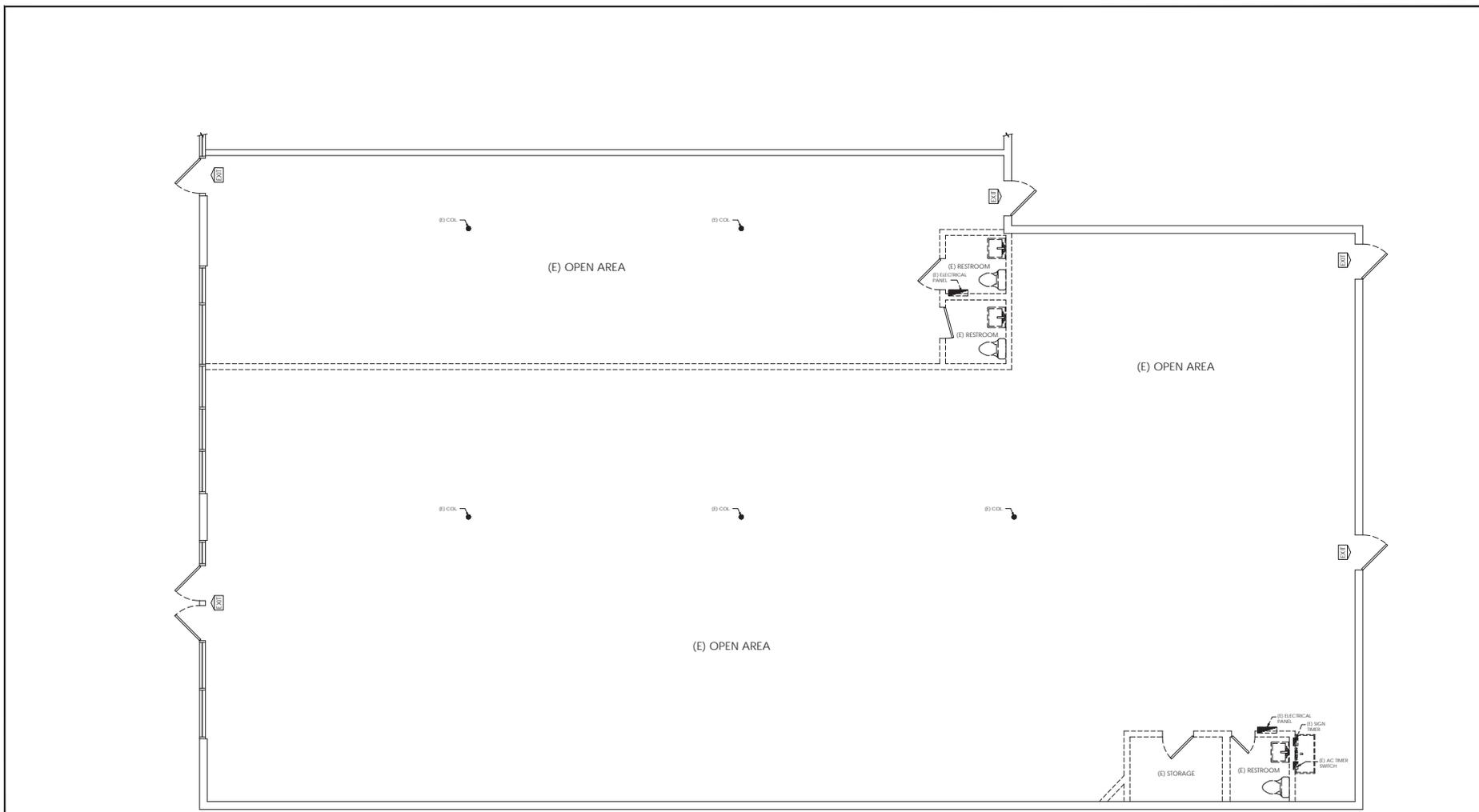
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PLAN:
 DEMO PLAN

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DESIGNED	
CHECKED	
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SCALE	
AS NOTED	
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DRAWING	
SHEET	

A-2.2
 OF SHEETS



WALL LEGEND	
	EX'G. WALL TO REMAIN
	EX'G. WALL TO BE DEMOLISHED



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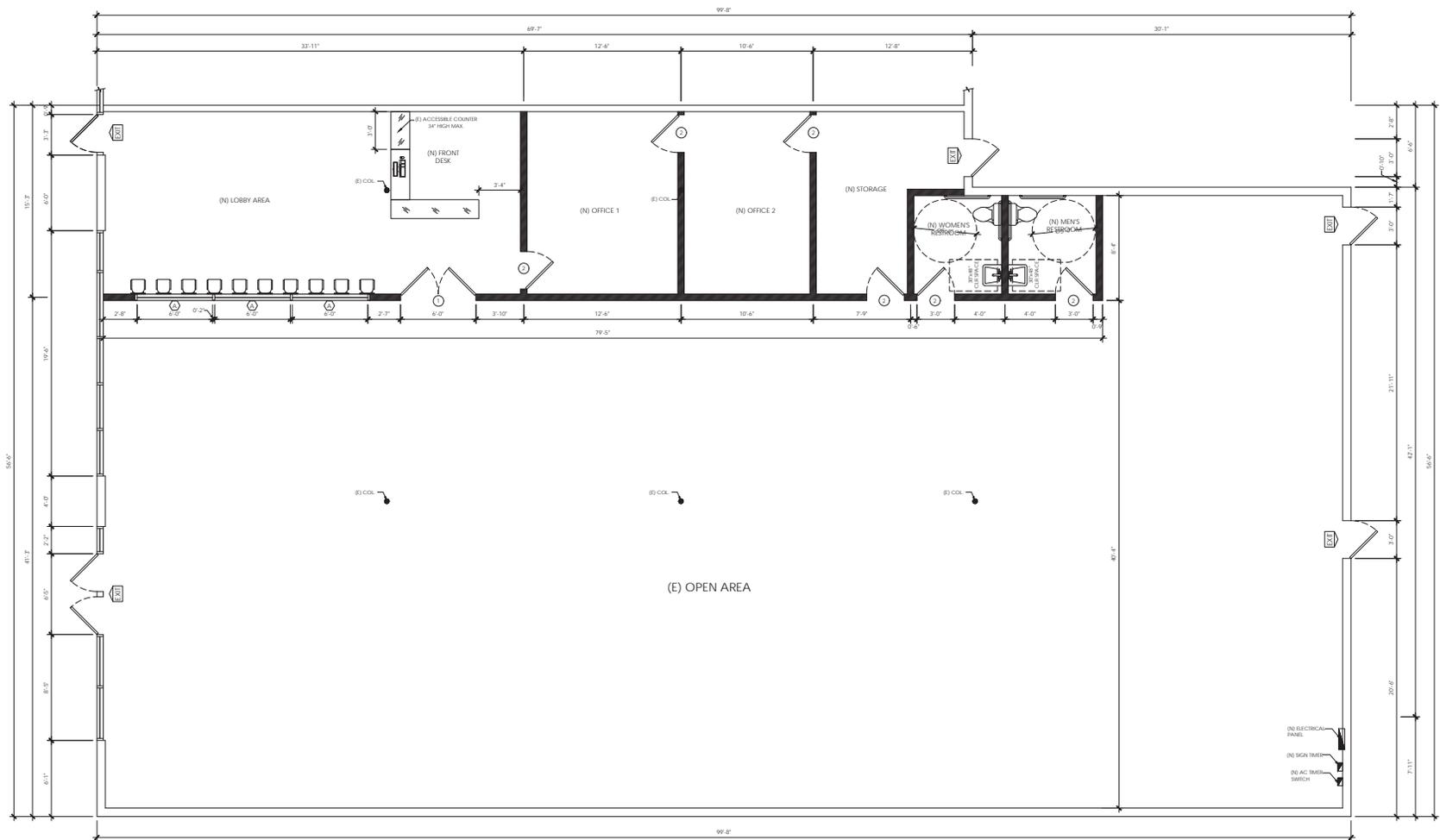
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PLAN:
 PROPOSED
 FLOOR PLAN

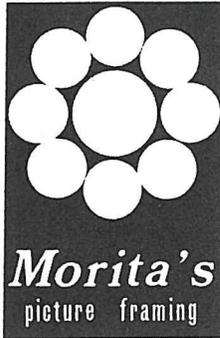
A-2.3
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	EXIS. WALL TO REMAIN
	NEW WALL CONSTRUCTION WITH 2x4 D.F. NO. 2 AT 16" O.C. AND 2x6 STUDS AT 16" O.C. FOR PLUMBING WALLS CIRC SECTION 2320.11.9.10.

CONDITION	SYM	SIZE	TYPE	QTY.
NEW		4'-0" x 7'-0"	STOREFRONT DOUBLE DOOR	1
NEW		3'-0" x 7'-0"	SOLID DOOR	6
NEW		4'-0" x 4'-0"	FIXED GLASS WINDOW	3





820 W. HAMILTON AVENUE • CAMPBELL, CALIFORNIA 95008
Telephone (408) 374-6622

August 17, 2019

RECEIVED

AUG 21 2019

CITY OF CAMPBELL
PLANNING DEPT.

Planning Division of the Community Dev. Dept.

In regards to the planned development of 842 W. Hamilton Ave., our only concern since we are in close proximity to the business, would be security. Because this enterprise is going to be open extremely early, we would encourage the department to require additional security lights and cameras both in front and back of the building. The map provided does not show the outline of the actual building. Most of the back is hidden from street view and we are worried about safety and security.

Thank you for your interest,

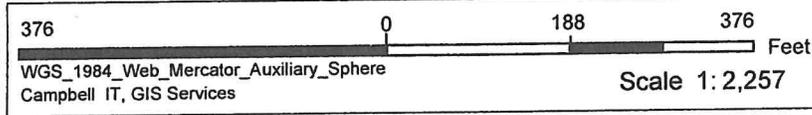
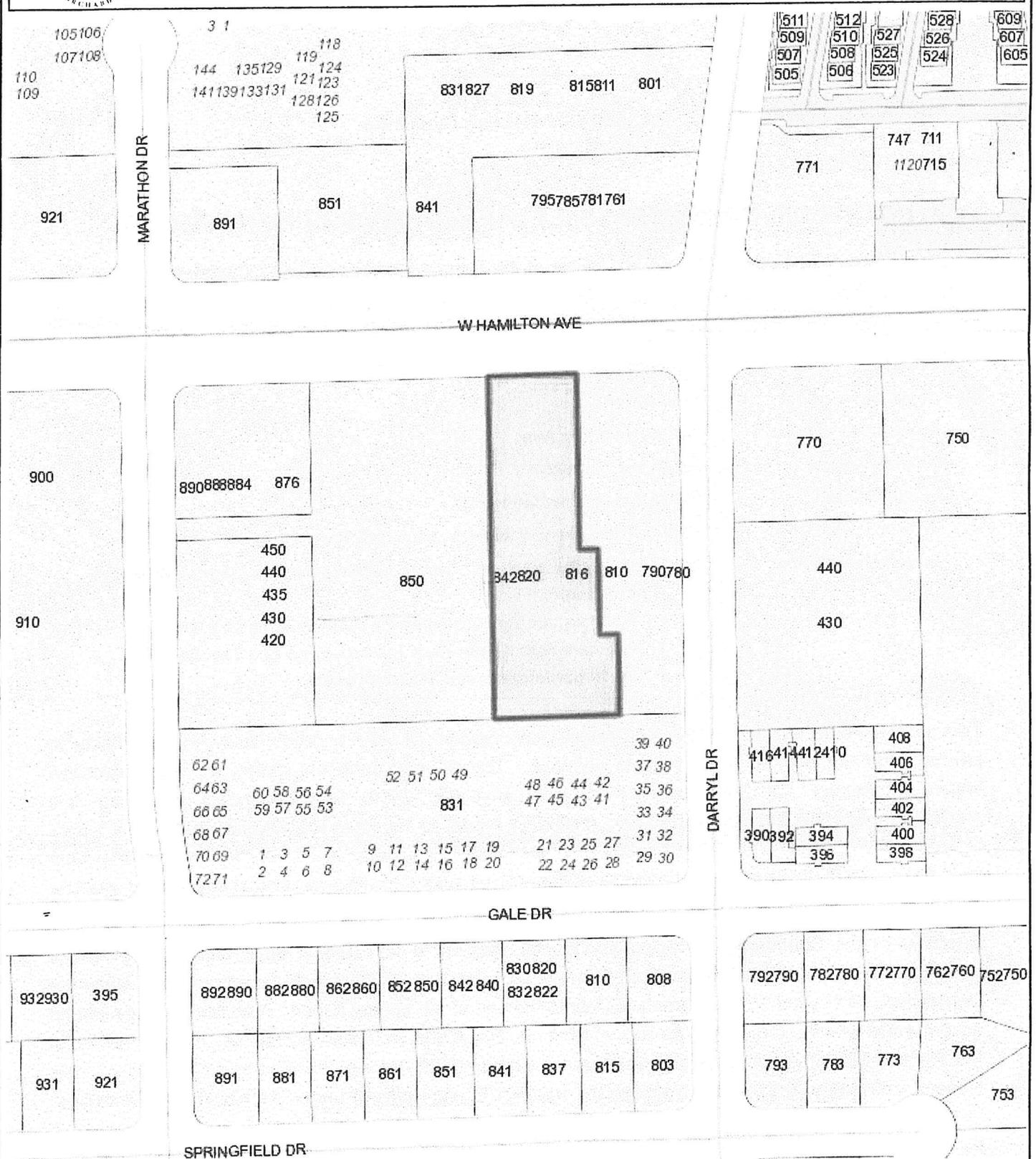
A handwritten signature in black ink, appearing to read "Susan Sakamoto", written in a cursive style.

Susan Sakamoto

Manager, Morita's Picture Framing



842 W. Hamilton Ave



This map is based on GIS Information and reflects the most current information at the time of this printing. The map is intended for reference purposes only and the City and its staff is not responsible for errors.



CITY OF CAMPBELL
Community Development Department

September 16, 2019

Adel Bazzi
1801 E Heim Ave #206
Orange, CA 92865

Re: File No: PLN2019-106
Address: 842 W Hamilton Ave
Application: Administrative Planned Development Permit
Status: Approved (with clarifications)

Dear Applicant,

On September 16, 2019 the Community Development Director approved your Administrative Planned Development Permit application for a large fitness studio, on property located at the above referenced address, subject to the enclosed Conditions of Approval.

This action is effective in ten calendar days of the decision date (September 27, 2019), unless appealed in writing to the Community Development Department by 5:00 p.m. on September 26, 2019. If an appeal is received, you will be immediately notified of its receipt.

We invite you to take a moment to complete our online customer satisfaction survey that can be found at <https://www.surveymonkey.com/r/VHPBBF8>. Your impressions of your experience working with us will help us to improve our permit process.

If you should have any questions regarding this approval, I may be contacted at (408) 866-2144 or by email at nazp@cityofcampbell.com.

Sincerely,

Naz Pouya
Assistant Planner

Encl: Conditions of Approval – PLN2019-106

cc: Paul Kermoyan, Community Development Director

CONDITIONS OF APPROVAL OF FILE NO. PLN2019-106

SITE ADDRESS: 842 W. Hamilton Ave.
APPLICANT: Adel Bazzi
OWNER: Raymond Castello
DATE: September 16, 2019

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

1. Approved Project: Approval is granted for an Administrative Planned Development Permit (PLN2019-106) to allow the establishment of a large studio (The Camp) with late-night activities (4:00 AM opening) within an existing commercial building located at **842 W. Hamilton Avenue**. The project shall substantially conform to the Project Plans and Project Description received by the Planning Division on July 29, 2019 and May 30, 2019 respectively, except as may be modified by the Conditions of Approval contained herein.
2. Permit Expiration: The Administrative Planned Development Permit (PLN2019-106) shall be valid for one (1) year from the date of final approval. Within this one-year period an application for a building permit must be submitted. Failure to meet this deadline or expiration of an issued building permit will result in the Administrative Planned Development Permit being rendered void. Once the use is established, the Administrative Planned Development Permit shall be valid in perpetuity with continued operation of the use. Abandonment, discontinuation, or ceasing of operation for a period exceeding 12 months shall result in the voiding of the Administrative Planned Development Permit approved herein.
3. Revocation of Permit: Operation of the use in violation of the Administrative Planned Development Permit or any standards, codes, or ordinances of the City of Campbell shall be grounds for consideration of revocation of the Administrative Planned Development Permit by the Community Development Director.
4. Operational Parameters: Consistent with the submitted Project Descriptions, any business operating pursuant to the Administrative Planned Development Permit shall be required to conform to the following operational parameters. Significant deviations from these parameters (as determined by the Community Development Director) shall require approval of a Modification to the Administrative Planned Development Permit approved herein.

- a. **Approved Use:** The approved use is a large studio with late-night activities (4:00 AM opening), as defined by the Campbell Municipal Code, in a 5,436 square-foot commercial tenant space created by merging two tenant spaces. The new tenant space shall not be expanded to adjoining tenant space(s) without a Modification to the Administrative Planned Development Permit.
- b. **No Massage or Medical Uses:** Individuals with a certificate or license in massage therapy or physical therapy (or other medical field) shall not be employed by the fitness studio without a Modification to the Administrative Planned Development Permit, as doing so would render the business a massage establishment or medical office.
- c. **Hours of Operation:** Operational hours shall be limited to 4 AM to 11 PM on Monday-Fridays, and 6 AM to 11 PM on Saturdays and Sundays. Activities conducted while the business is closed to the public, such as set-up or cleaning by employees, are also subject to the above hours.
- d. **Staggered Classes:** Classes shall be staggered such that classes end a minimum of ten (10) minutes before the start of the next class.
- e. **Instruction Area:** Consistent with the approved project plans, the facility is limited to one (1) instructional space (main room) within the subject tenant space. No instructional or other fitness activities shall occur in the parking lot or elsewhere on the property.
- f. **Occupancy Limits:** The maximum number of occupants (participants in classes or waiting for classes and instructors/employees) shall not exceed 34 individuals at any one time, with no overlapping. Classes, lessons, and employee activities shall be scheduled to ensure occupancy does not exceed these limits at any time. No competition, exhibition, or other event exceeding these occupancy levels shall be permitted.
- g. **Rear Doors:** Use of the rear (southern) doors shall be prohibited between 11:00 PM and 6:00 AM daily.
- h. **Rear Parking Area:** Use of the rear (southern) parking area by employees and customers shall be prohibited between 11:00 PM and 6:00 AM daily.
- i. **Noise:** Outdoor speakers are prohibited. Tenant space doors and windows shall be kept closed during classes. Unreasonable levels of noise, sounds and/or voices, including but not limited to indoor amplified sounds, indoor loud speakers, sounds from indoor audio sound systems or music, and/or indoor public address system, generated by the establishment shall not be audible to a person of normal hearing capacity from outside the enclosed tenant space. In the event that three (3) verifiable complaints are received by the City regarding excessive noise related to the fitness studio, the Community Development Director may limit the hours of operation and/or forward the project to the Planning Commission for review.
- j. **Parking Management:** If the approved large studio results in excessive parking demand and in the event that three (3) verifiable complaints are received by the City regarding parking, the Community Development Director may reduce the number of persons permitted per class, reduce the number of classes offered,

- limit the hours of operation, require additional parking management strategies and/or forward the project to the Planning Commission for review.
- k. **Business License:** The business shall be required to obtain and maintain a City business license at all times.
 - l. **Delivery and Garbage Pick-Up Hours:** Delivery and garbage pick-up hours shall be restricted to 8 a.m. to 8 p.m. daily. Signage shall be installed at service doors regarding the restriction of delivery and garbage pick-up hours.
 - m. **Loitering:** There shall be no loitering allowed outside the business. The business owner is responsible for monitoring the premises to prevent loitering.
 - n. **Trash Disposal and Clean-Up:** All trash disposal, normal clean-up, floor and window cleaning, sidewalk sweeping, etc., shall occur during the operational hours.
 - o. **Smoking:** "No Smoking" signs shall be posted on the premises in compliance with CMC 6.11.060.
5. **Tenant Improvements:** Any storefront doorway not used to access the tenant space shall be replaced with a storefront window consistent with the building's architecture in such a manner that it may be returned to an entryway as necessary in the future, unless required for fire and/or emergency access or otherwise approved by the Community Development Director.
 6. **Storefront Clearance:** At no time shall an obscure wall, interior wall, or barrier be installed along, behind or attached to storefront windows or doorways that blocks visual access to the tenant space or blocks natural light.
 7. **Property Maintenance:** All exterior areas of the business are to be maintained free from graffiti, trash, rubbish, posters and stickers. Exterior areas of the business shall include not only parking lot and private landscape areas, but also include the public right-of-way adjacent to the business. Trash receptacles shall be maintained within their approved enclosures at all times.
 8. **Landscape Maintenance:** All landscaped areas shall be continuously maintained in accordance with City Landscaping Requirements (CMC 21.26). Landscaped areas shall be watered on a regular basis so as to maintain healthy plants. Landscaped areas shall be kept free of weeds, trash, and litter. Dead or unhealthy plants shall be replaced with healthy plants of the same or similar type.
 9. **Signage:** No signage is approved as part of the development application approved herein. All signage shall be installed and maintained consistent with the provision of the Sign Ordinance, Chapter 21.30 of the Campbell Municipal Code.
 10. **Location of Mechanical Equipment:** No roof-mounted mechanical equipment (i.e. air conditioning units, ventilation ducts or vents), shall be added to the existing building without providing screening of the mechanical equipment from public view and surrounding properties. The screening material and method shall be architecturally compatible with the building and requires review and approval by the Community Development Director and Building Division prior to installation of such screening.

11. Parking and Driveways: All parking and driveway areas shall be maintained in compliance with the standards in Chapter 21.28 (Parking & Loading) of the Campbell Municipal Code. Parking spaces shall be free of debris or other obstructions.
12. Outdoor Storage: No outdoor storage is permitted on the subject property.

BUILDING DIVISION

13. PERMITS REQUIRED: A building permit application shall be required for the proposed Tenant Improvements to the (e) vacant commercial space. The building permit shall include Electrical/Plumbing/Mechanical fees when such work is part of the permit.
14. CONSTRUCTION PLANS: The conditions of Approval shall be stated in full on the cover sheet of construction plans submitted for building permit.
15. SIZE OF PLANS: The minimum size of construction plans submitted for building permits shall be 24 in. X 36 in.
16. 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.
17. 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.
18. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Standards Compliance forms shall be blue-lined on the construction plans. Compliance with the Standards shall be demonstrated for conditioning of the building envelope and lighting of the building.
19. SPECIAL INSPECTIONS: When a special inspection is required by C.B.C. Chapter 17, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permits, in accordance with C.B.C Chapter 1, Section 106. Please obtain City of Campbell, Special Inspection forms from the Building Inspection Division Counter.
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FIRE DEPARTMENT

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1801 E. Heim Ave. Suite 206
Orange, CA. 92865
Tel. (562) 755-9232

September 26, 2019

City of Campbell Planning Department
70 N. First Street
Campbell, CA. 95008

Re: **File No.:** PLN2019-106
 Address: 842 W. Hamilton Ave.
 Application: Appeal to Condition on Approval

To Whom It May Concern:

First of all we want to Thank you for the Approval on the above referenced File, and would also like to inform you that our clients (The Camp Transformation Center) are very happy and looking forward to a Lengthy and Prosperous Business relationship with the City of Campbell and it's Community.

A brief background of our Clients/Proposed Tenants: The Camp Transformation Center is a Very Successful Fitness Brand & Franchise, recognized internationally. The company opened it's 1st facility in 2010, and as of today they have reached over 115 Locations Internationally (In less than 9 Years), and the number 1 reason for their undisputed success is the fact that they have Lead and Helped Transform 1000's of people's lives in a very positive manner, with their fitness, nutrition, health, and overall support. Their name says it all The Camp "Transformation Center".

Reason for Appeal: Even though we are very happy with the overall Application Approval, we have one major concern regarding the Occupancy limit set forth by the Planning Department, which will unfortunately impact our clients' decision to either move forward with the project or not.

According to the Planning Dept. the reason for only approving 34 Occupants at any given time is due to the amount of Parking Spaces available to our Clients' Tenant Space in the Strip Mall/Commercial Center they are located in. However, we know that the required parking for the fitness center will not impact the Commercial Center whatsoever because our clients' main times of operation is either early in the morning (4AM-9AM), or later at night (4PM-8PM), which is when the rest of the businesses in the center are mostly closed.

Our Clients currently own another one of these Fitness Centers nearby (In San Jose), in a very similar commercial center, and their current Fitness Center (which by the way is the No. 1 location



eleganza

PLANS + CONSTRUCTION

CSLB Lic. # 974315

1801 E. Heim Ave. Suite 206

Orange, CA. 92865

Tel. (562) 755-9232

Worldwide), they currently Host to an average of 60+ People during each class during their peak hours (Early Morning & Late Night), with Zero impact to their parking lot.

With that being said, they would like the approval to state a limit of no less than 80 people during their peak hours at this location as well, which we know that will also have Zero negative impact on the Center's Parking Lot.

We really look forward to you granting this approval, as this will help our clients transform positively the lives of many people from the Campbell community, and its surrounding areas.

Should you have any questions, please feel free to contact us.

Sincerely,

Adel Bazzi, Owner
Eleganza Plans & Construction



eleganza

PLANS + CONSTRUCTION

C.S.L.B. LIC # 974315

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ORANGE, CA 92665

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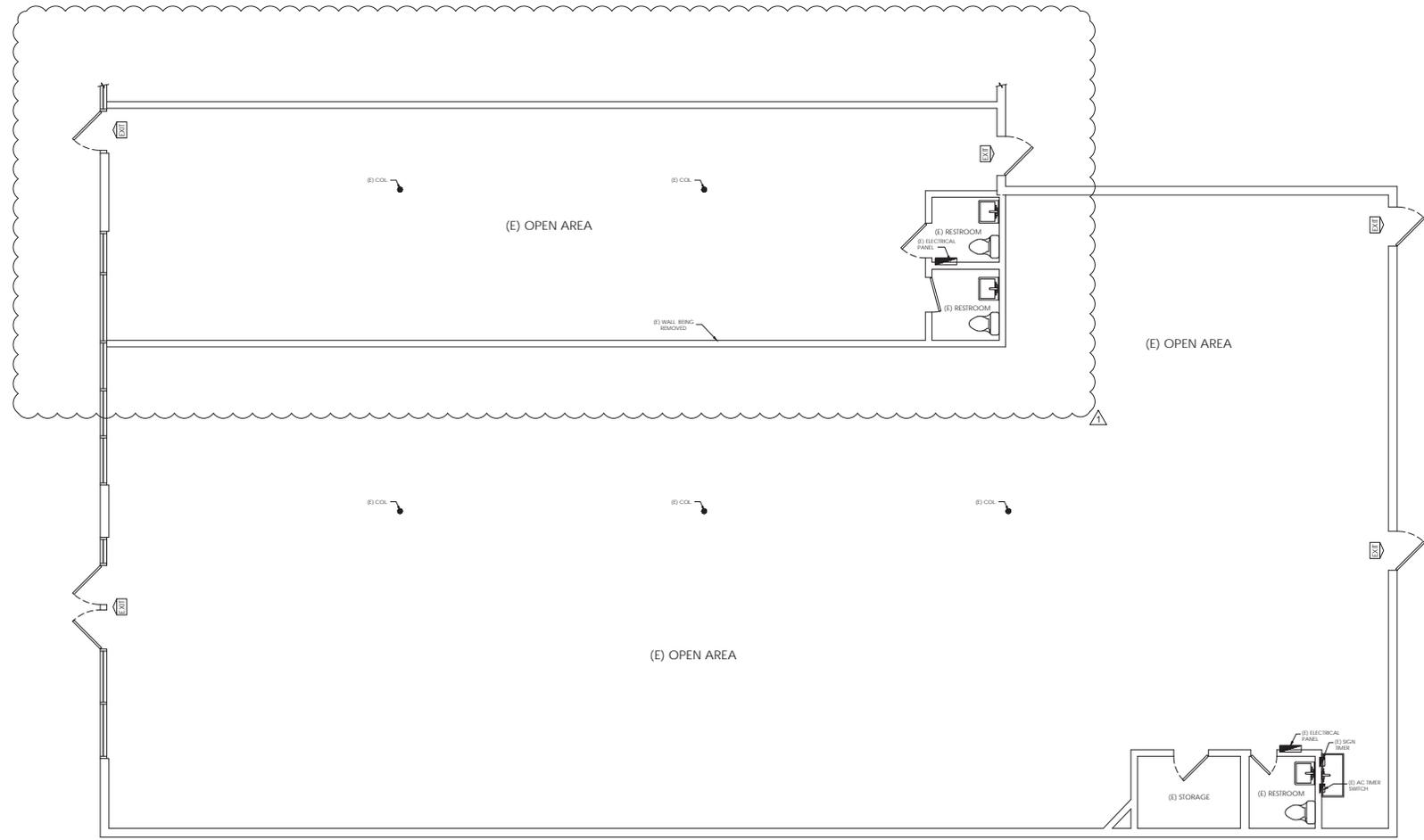
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WALL LEGEND	
	EXISTG. WALL TO REMAIN





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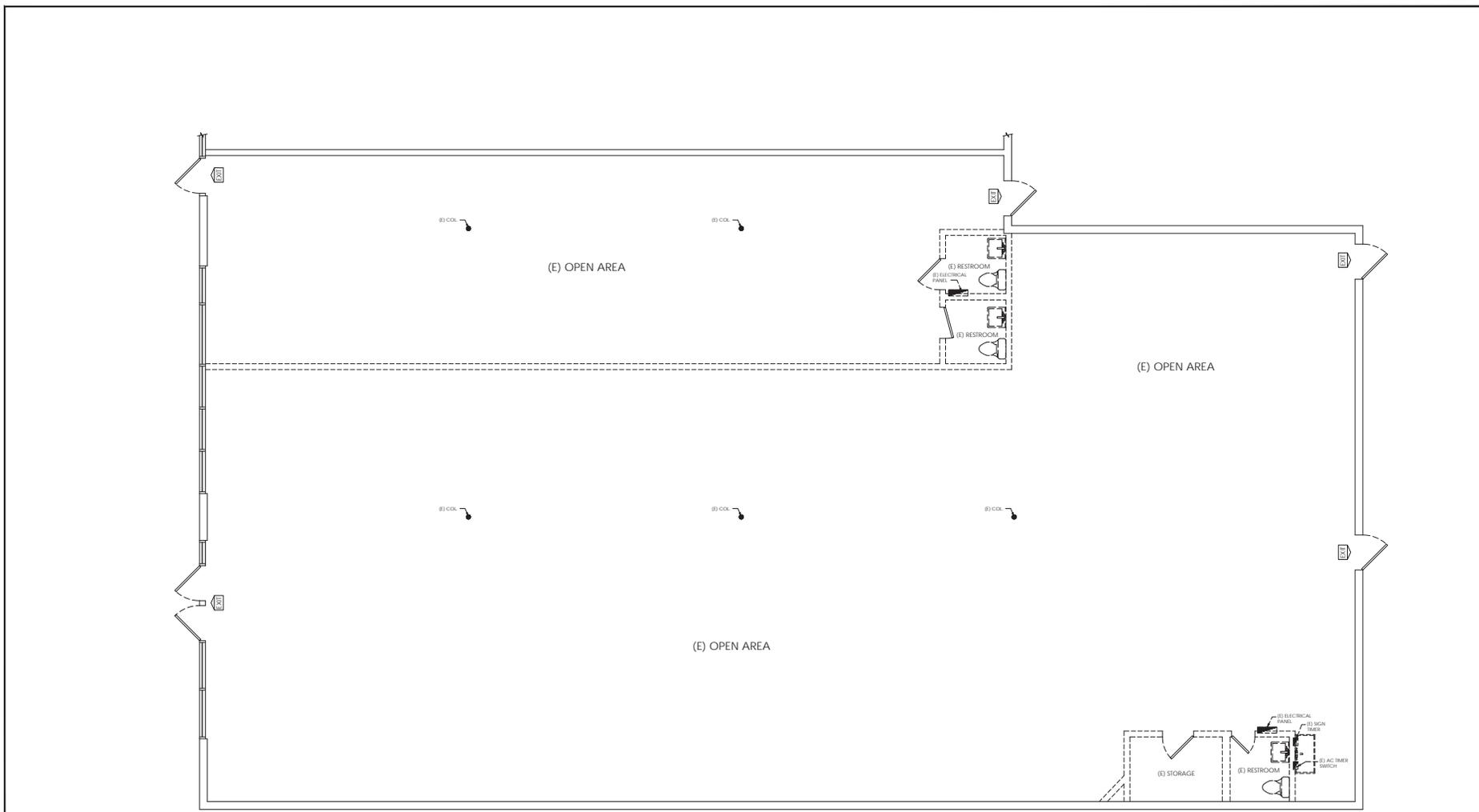
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WALL LEGEND	
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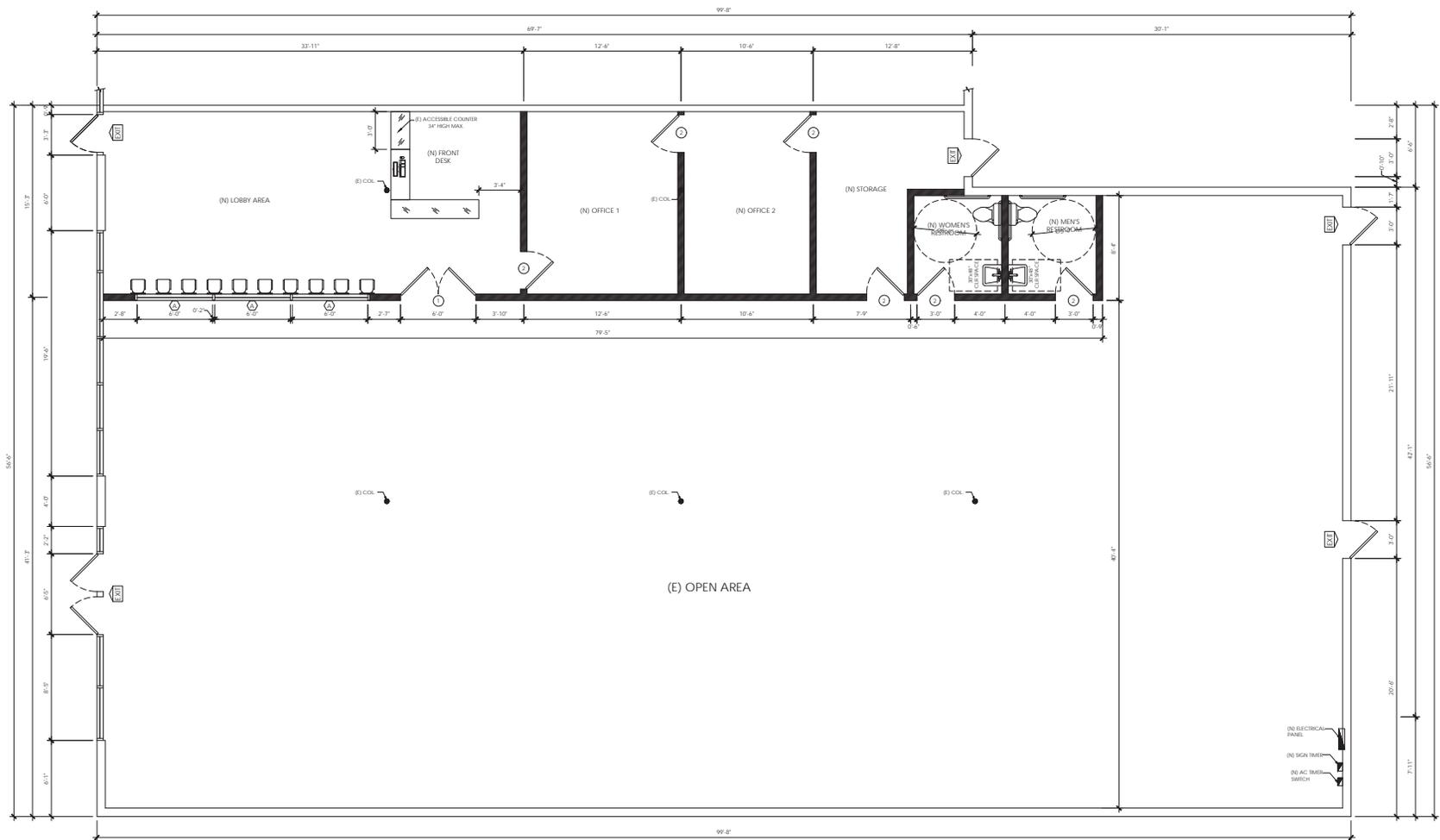
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