

**MINUTES**

**CITY OF PACIFICA  
PLANNING COMMISSION  
COUNCIL CHAMBERS  
2212 BEACH BOULEVARD**

September 6, 2016

7:00 p.m.

Acting Chair Evans called the meeting to order at 7:00 p.m.

**ROLL CALL:** Present: Commissioners Baringer, Evans, Clifford and Cooper  
Absent: Commissioners Gordon, Campbell and Nibbelin

**SALUTE TO FLAG:** The Planning Commission led the salute to the flag.

**STAFF PRESENT:** Planning Director Wehrmeister  
Assoc. Planner Murdock  
Asst. Planner O'Connor  
Deputy Fire Chief Johnson  
Acting Sr. Engineer Donguines  
Asst. City Attorney Visick

**APPROVAL OF ORDER OF AGENDA** The order of agenda was unanimously approved.

Commissioner Clifford pointed out that the holiday mentioned in the minutes was incorrectly stated as Memorial Day, and asked that the minutes be corrected to reflect that.

**APPROVAL OF MINUTES: AUGUST 15, 2016** Commissioner Clifford moved approval of minutes of August 15, 2016, as amended; Commissioner Cooper seconded the motion.

The motion carried **4-0**.

Ayes: Commissioners Baringer, Evans, Clifford and Cooper  
Noes: None

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF SEPTEMBER 12, 2016:**

Planning Director Wehrmeister stated no liaison was needed.

**ORAL COMMUNICATIONS:**

None

**CONSENT ITEMS:**

None.

**PUBLIC HEARINGS:**

- 1. CDP-365-16 PE-168-16** **COASTAL DEVELOPMENT PERMIT CDP-365-16 and PARKING EXCEPTION PE-168-16** filed by applicant and co-owner Christian Bogeberg, for the addition of a third garage space and bedroom above; conversion of an existing utility space into a half-bathroom and laundry room; and the expansion of the master bedroom of an existing two-story residence located at 252 Stanley Avenue (APN 023-019-210) in Pacifica. The project site is located within the Coastal Zone, and the application was filed on February 22, 2016. Recommended California Environmental Quality Act (CEQA) status: Class 1 Categorical Exemption, Section 15301(e).

Planning Director Wehrmeister re-introduced Asst. Planner Bonny O'Connor, a new assistant planner who was making her first presentation to the Commission.

Asst. Planner O'Connor presented the staff report.

Commissioner Clifford asked if they had any drawings for the new proposed driveway with the ten-foot landscaping strip and the two-car garage driveway.

Asst. Planner O'Connor responded that they did not.

Commissioner Clifford stated that he knew how wide the driveways are, but asked how wide the strip was between them.

Asst. Planner O'Connor thought the condition of approval required a minimum of a two-foot strip.

Commissioner Cooper stated that, looking at this area, there was no provision for sidewalk or pedestrian traffic, and he asked if the area was exempt from that.

Asst. Planner questioned whether Engineering might be able to answer.

Commissioner Cooper stated that none of the other homes in the area had a sidewalk, but he thought it was something they were requiring, adding that with the sidewalk, there would be no room for the setback in the driveway. He was questioning what the current policy was, adding that he didn't need the answer now.

Commissioner Clifford thought he had an idea of what was going on. He stated that there was so much driveway that the cut for the driveway negates the ability to put a sidewalk in.

Commissioner Cooper acknowledged that there were no existing sidewalks in the area.

Commissioner Clifford agreed, reiterating that it was a large cut between both driveways and you don't have room for much sidewalk on either side, adding that it was his supposition.

Commissioner Cooper suggested, in the future when preparing a report, that it be one of the elements regarding sidewalks and pedestrian traffic requirements. He thought it was important that they give access to the neighborhood.

Ralph Bogeberg, co-owner, introduced his son, Christian, who is co-owner, and stated that Brian Brinkman was assisting them, having helped design the project and was an agent on their behalf. He mentioned that they purchased it one and a half years ago. They love Pedro Point and the water, and they want to make it a special place. He stated that they have become friends with all the neighbors. He then stated he would let Mr. Brinkman present the technical elements.

Brian Brinkman, applicant, stated that the staff report summed up the project. He referred to conditions of approval, and stated that since they didn't need a variance for the garage addition, they decided to add a deck in the front so that the living area meets the required setback. They approved of staff's suggested changes for the driveway. He stated that the other conditions were fairly straightforward.

Commissioner Cooper referred to the driveway in the proposed plan and asked if they can fit a car in the driveway now that they made it straight, mentioning some of the dimensions.

Mr. Brinkman agreed that it was 11.8 feet to the property line. He stated that he didn't have the dimensions if the driveway goes out to the street.

Commissioner Cooper stated he was asking generally, mentioning that there were a couple of cars in front of it.

Mr. Brinkman agreed that cars do park in the existing driveway and he thought there would be room.

Commissioner Baringer mentioned a pile of rocks on the right side, when facing the house, which he thought were "impersonating" a retaining wall. He stated that he couldn't tell how they were planning on dealing with that, such as pushing it back to include trash cans.

Mr. Brinkman stated that they haven't gone over that aspect, but when they get into the engineering drawings, they can take a look at the wall.

Commissioner Baringer commented that Commissioner Cooper was interested in screening trash cans and he thought that would be an opportunity. He then referred to recontouring of the property, and asked how much export they were going to have on it or was it yet to be determined.

Mr. Brinkman stated that he hasn't calculated it, but mentioned that it might be 800 cubic feet.

Commissioner Baringer stated that on other projects with expected export, staff would negotiate an acceptable haul route and information on scheduled times for the neighbors. He stated that applicants usually didn't have a problem.

Mr. Brinkman was agreeable.

Acting Chair Evans opened the Public Hearing and, seeing no one, closed the Public Hearing.

Commissioner Cooper liked how he blended the unit into the rest of the building and it matches the back side. He stated that his only concern was that there were no sidewalks but he felt they cannot penalize him since none of the neighbors have them either. He thought there was a sliding glass door, but then realized it was a window so he had no issues. He was overall pleased.

Commissioner Clifford stated that his only comments revolved around the driveway, mentioning that the distance between the driveways would be reduced by 10 feet and 23 feet between the new driveway at 252 and 260. He stated that it goes back to his question on the width of the strip and he thought it wasn't calculated into this. He was concerned about adding the driveway, and asked if there was an impact to the on street parking. He mentioned that staff said there wasn't, but he asked confirmation that they weren't reducing on street parking.

Asst. Planner O'Connor stated that the dimensions recommended by Engineering for on street parking was 20 feet, and the reduction of 12 feet would not identify as a parking space.

Commissioner Clifford asked what they were left with if they were taking 12 feet out instead of 10.

Asst. Planner O'Connor acknowledged his point, adding that it would result in 21 feet remaining.

Commissioner Clifford concluded that they were just squeezing by, adding that he wanted to be clear that the numbers matched the reality.

Commissioner Baringer stated that he liked the project, mentioning that there was a lot of activity on Stanley and this was just one example of having additional properties improved in the area. He mentioned that, in a previous project, a condition was an encroachment easement for the eastern property line, and he thought they were assuming that they were getting that in the drawing and, if not, they would recalculate the frontage.

Asst. Planner O'Connor stated that she had a conversation with Engineering to confirm the likeliness of them obtaining an encroachment permit and they saw no issues.

Commissioner Baringer stated that he supported it.

Acting Chair Evans agreed that it was a nice project and would blend in with the neighborhood. He acknowledged that they squeezed by on the parking space. He was concerned but also understood the plight about no sidewalks.

Commissioner Cooper moved that the Planning Commission finds that the project is exempt from the California Environmental quality Act, APPROVES Coastal Development Permit CDP-365-16 and PE-168-16 to allow an addition to an existing single-family residence by adopting the attached resolution, including conditions of approval in Attachment C; and incorporate all maps and testimony into the record by reference; Commissioner Baringer seconded the motion.

The motion carried **4-0**.

Ayes: Commissioners Baringer, Clifford, Cooper and Acting Chair Evans.

Noes: None

Acting Chair Evans declared that anyone aggrieved by the action of the Planning Commission has ten (10) calendar days to appeal the decision in writing to the City Council.

- 2. CDP-366-16**      **COASTAL DEVELOPMENT PERMIT CDP-366-16**, filed by co-applicants Kathy Kellerman of the Pacifica Land Trust and Samuel Herzberg of the San Mateo County Parks Department, to perform grading and landscaping activities on an approximately 640 linear foot segment of the Middle Ridge Trail on an approximately 32-acre parcel (APN 023-730-020) owned by the State of California and located in the Pedro Point Headlands. Recommended California Environmental Quality Act (CEQA) status: Mitigated Negative Declaration (MND).

Assoc. Planner Murdock presented staff report, recommending continuance to October 17 meeting.

Commissioner Cooper asked if they were moving it to October 17 because they think they need that much time.

Assoc. Planner Murdock stated that the applicant has not shared the plans with staff, and they have to have the time to circulate the plans, analyze them and prepare the report.

Commissioner Cooper moved that they continue Coastal Development Permit CDP-366-16 to the Planning Commission meeting of October 17, 2016; Commissioner Clifford seconded the motion.

Commissioner Clifford stated that he seconded it with the caveat that they were supposed to open to the public if they wanted to comment on this item.

Acting Chair Evans asked if they could back up.

Asst. City Attorney Visick agreed, suggesting that they take the motion off the table.

Commissioner Cooper withdrew his motion.

Acting Chair Evans opened the Public Hearing and, seeing no one, closed the Public Hearing.

Commissioner Cooper moved to continue Coastal Development Permit CDP-366-16 to the Planning Commission meeting of October 17, 2016; Commissioner Clifford seconded the motion.

The motion carried 4-0.

Ayes: Commissioners Baringer, Clifford, Cooper and Acting Chair Evans.  
Noes: None

- 3. PSD-790-14**                    **AMENDMENT OF PSD-790-14, PV-513-14 and PE-160-15,**  
**PV-513-14**                    filed by applicants David Blackman and Mike O’Connell, to  
**PE-160-15**                    construct a single three-story, 3,169 square foot apartment building  
   comprised of four dwelling units on the top two floors and an  
   attached ground floor garage at 4009 Palmetto Avenue (APN 009-  
   402-270) in Pacifica. Recommended California Environmental  
   Quality Act (CEQA) status: Class 3 Categorical Exemption, Section  
   15303(b).

Asst. Planner O’Connor presented the staff report.

Commissioner Cooper complimented her on the very thorough staff report. Regarding the alternative garage design, he asked if they have an ordinance that they have to have certified.

Planning Director Wehrmeister stated that it was a requirement of the adopted building codes, and not solely within the Pacifica Municipal Code.

Commissioner Cooper recalled when they approved the project previously, they had four units and he didn’t think they spoke about van parking then.

Commissioner Cooper asked more explanation on the deck and how it protrudes into the setbacks, mentioning that it looks like a detached deck or self-supporting deck.

Asst. Planner O’Connor stated that there were two decks that project into the northern side setback. She stated that, with the ones on the north elevation, the code allows the decks to project into the side setback one foot and these project by two and a half feet.

Commissioner Cooper asked if this was on the second floor.

Asst. Planner O’Connor stated that it was the second and third.

Commissioner Cooper stated that he was looking at the north elevation and asked if it was the ones to the right, clarifying it was the ones with the curved roof, not the third one. He stated that he was asking if those decks were supporting a structure or independently supported from the columns and whether that is easily changed or the applicant has mentioned he could change those.

Asst. Planner O’Connor stated that they could be changed, but are not required for the structural integrity of the building. She stated that the shape and size of the decks provide reasonable private open space to the units. She stated that, by shortening them, it makes the space less usable.

Commissioner Cooper thought they face the roadside.

Asst. Planner O’Connor stated that, on page 85 of the site plans, you will see them on the left-hand side of the structure.

Commissioner Cooper stated that he saw that.

Commissioner Baringer stated that he ran into van accessibility all the time, but he didn't see an elevator on the plans. He thought, if someone is disabled to the extent that they need a van, he asked how they would get from the garage to the units. He felt it was appropriate to have accessibility when possible, but he questioned having a van parking with the understanding that it doesn't work. He wasn't sure they wanted to go down the path of having an elevator that services the entire building. He asked for help on the process of reviewing this from a practical standpoint.

Planning Director Wehrmeister stated that a van accessible space could also benefit those without a wheelchair.

Commissioner Baringer stated that he has a lot of experience with that and does not agree with that. He stated that he wasn't trying to incur additional expense for them, but he thought there needs to be a practical aspect. He stated that, if you have accessibility, you need to have it but not the illusion of it. He mentioned that, if they make this accessible, he has questions about the garage door height as most accessible vans can't fit in that garage door height. He thought they were creating something for a use that will probably never be required, adding that if you are going to have it accessible, he felt that would involve a substantial redesign and expense on the property. He added that he didn't think four units would trigger that, and he deferred to them.

Planning Director Wehrmeister stated that the building official was applying the building codes to the best of his ability. He appreciated the applicant's comment which was why he sought further opinions. She stated that there was a procedure for appealing the code official's determination.

Commissioner Clifford referred to the proposed turnaround space along the driveway which he thought has not been approved by the California Coastal Commission.

Asst. Planner O'Connor agreed, adding that it was new to the design.

Commissioner Clifford asked if there was any thought that there will be a problem with the California Coastal Commission on that change.

Asst. Planner O'Connor stated that staff doesn't anticipate an issue.

Commissioner Clifford referred to a drip line of a heritage tree which occurs within a proposed development, and stated that the applicant needs to obtain a heritage tree permit. He understood that the tree wasn't on the applicant's property but the drip line is.

Asst. Planner O'Connor responded affirmatively.

Commissioner Clifford asked if they were getting a removal permit for a tree not on their land and what was entailed for this project.

Planning Director Wehrmeister stated that when there was construction within the drip line of a heritage tree, a heritage tree permit is required with arborist's report to confirm protection of the tree during construction.

Commissioner Clifford concluded that they were protecting the roots of the tree.

Planning Director Wehrmeister responded affirmatively.

Commissioner Clifford wanted to be clear that they weren't authorizing them to cut down someone else's tree. He mentioned that they were being asked to deal with the two undercover parking spaces located in the rear yard, and he asked if that would need a parking exception.

Asst. Planner O'Connor responded affirmatively.

Commissioner Cooper referred to Commissioner Baringer's comments regarding van accessibility, and stated that, while he didn't want to belabor the point, he was sensitive to the ADA issues. He thought it triggered other issues within the development. He asked if one of the apartments was handicapped accessible. He asked whether they have to comply with all the ADA access, and whether they can even approve the project. He felt they can't negate the law in what ADA requires, but he asked what this triggered with van accessibility and whether it was a requirement.

Asst. Planner O'Connor referred to the only requirement brought to their attention from the certified access specialists.

Commissioner Cooper asked if they were licensed.

Asst. Planner O'Connor stated that there was a certification.

Commissioner Cooper asked if they had jurisdiction over our area.

Assoc. Planner Murdock stated that the CASp program was an additional certification to demonstrate their specialty credentials, but doesn't give them additional jurisdiction. He explained that it provides certain reports prepared by CASps to provide property owners certain legal protections. He stated that cities are required to have a certain number of CASps on their staff so they can raise treatment of accessibility to a higher level with a standard level of education and hopefully aim to more closely align interpretation of the requirements. He stated that it didn't always happen, and accessibility was a complicated field where many people can reasonably have a different opinion.

Commissioner Cooper stated that he was concerned as to whether it was a recommendation or a requirement and was interested in exploring that. He thought it could trigger a bunch of things.

Assoc. Planner Murdock stated that, as the Planning Director indicated, the building official was working through all the related and applicable accessibility requirements. He stated that sometimes they may not yield what seems a logical outcome, as in requiring an elevator to get from the accessible parking space to the accessible unit in an upper story, but it wasn't up to the building official to make it logical, but to interpret the law and apply it in the most fair and appropriate way. He stated that it looked as though the City building official and several experts have concluded that the requirement was for the van accessible space but there are varying opinions when applying accessibility, as there are with many building standards, and he remains open to reasonable interpretation by a CASp hired by the applicant. He stated that the issue in question for the Commission was that, in the event that the accessible space was or was not required in the final project, is the physical parameter of the building acceptable in compliance with findings having to be made.

Commissioner Cooper thought, if they approve the project and they don't put the requirement and the applicant moves forward from a building or regulatory standpoint and they require this, he asked if that was a proper way to go. He felt he wasn't qualified to make that decision on someone who has made a recommendation, but felt it was either required or not.

Planning Director Wehrmeister stated that the building official will make determination prior to issuing a building permit to verify that they are compliant with all accessibility requirements. She stated that it was not a condition that the Planning Commission needs to impose.

Acting Chair Evans asked whether, with the notice of intent to issue permit in the papers, they have already approved the project.

Planning Director Wehrmeister responded affirmatively.

Acting Chair Evans asked why they were meeting on this.

Planning Director Wehrmeister stated that there were layers of entitlement. The City issues a building permit based on the entitlements that the Planning Commission, or in this case City Council, approves. The revised project is completely different than what was locally approved. She stated that staff needed to bring it back to make sure they have the entitlements on the actual project being built.

Acting Chair Evans referred to the appeal made on the Commission's decision and the appeal to the Coastal Commission that started this, and asked what happened to the plans the Commission approved in April 2015. He asked if they went away because the Coastal Commission did not approve them.

Planning Director Wehrmeister stated that the Coastal Commission did not approve them and they worked with the applicant to come up with this alternative design.

Acting Chair Evans stated that he thought the project that came before them in 2015 was a perfect fit for that property, mentioning some of the specifics, and felt they now had a monstrosity twice the size and half the parking spaces and no green involved compared to the prior project, mentioning the various ways it fit in. He stated that those specifics, as well as the green element sold it to him. Then the Coastal Commission approved the present project. He commented that he was flabbergasted, adding that they were supposed to be guarding the coast but it went in the other direction. He understands that the Coastal Commission has final approval on coastal projects, but he felt this wasn't very smart at all.

Commissioner Cooper agreed with his fellow commissioners. He stated that this project was so different that it could be appealed to the City Council because it is different, and it follows the same process again. He was concerned that it will go to City Council and it will hold up the project. He agreed that the previous project was beautiful, and he felt the massing of the present project was different.

**David Blackman, co-applicant**, stated that he grew up in the neighborhood before the condos were built. He stated that he loved the original project. He stated that he met with the condominium association and Mr. Carmichael and Mr. Bohner, and they have told him that they

want to destroy his project, adding that it wasn't that they didn't like his project but were afraid of Keith Frohm coming back and they were setting an example. He stated that they have damaged the project beyond belief, adding that they have met everything from the Coastal Commission. He stated that they don't need another Coastal Development Permit which was done, but they were now amending the local site development permit, and they need to get the Planning Commission and Coastal Commission on the same side, adding that the Coastal Commission loved the original project and asked to get the appellants to back off because they were okay with it. He then mentioned all the people who also liked the project. He stated that ADA does not apply to homes, but they were doing fair housing. He agreed that, depending on who the building official was, it comes and goes. He stated that they agreed that they don't have to have an accessible path to the units. He explained that the accessible path makes this a van parking spot, mentioning that the path next to the parking spot was the accessible route they say they don't need. He stated that the Planning Department suggested that they not talk about accessibility with the Planning Commission because it was with the building department. He stated that he had asked the building official to be present to talk. He reiterated that it made no sense and the code did not require it. He stated that the Planning Department stated that, if they don't prevail with the building department, it was the van parking spot that goes nowhere. He then turned comments over to his co-applicant.

**Mike O'Connell, co-applicant**, stated that they were trying to bring the site development permit in line with the coastal development permit. He agreed that the project looked totally different, explaining that, when you get to the Coastal Commission you study a lot of things, mentioning several subjects and how the Coastal Commission works. He stated that they had the right to a speedy Coastal Commission hearing to do the substantial issue determination and the de novo review in one hearing, and they studied different alternatives. He stated that they had several different site plans and they tried to stay as close to the original concept as they could. He stated that the Coastal Commission decided the 50-foot buffer was most appropriate and they had to consolidate the units into one building and it was approved unanimously, adding that the Chair commended them for exhibiting flexibility, etc. He stated that the 50-foot buffer was felt to be the highest priority of the Coastal Commission. He explained that the reason for the decks on the north side with less of a setback was to break up the architectural elevation of the building. He added that they are cantilevered out from the building and there was not a structural column beneath them. He referred to Commissioner Clifford's turnout comment, explaining that he discussed with the Coastal Commission staff about several items, and he thought that they felt that as long as they weren't impeding on the buffer, it wasn't an issue. He then referred to several conditions, explaining some changes he thought were necessary, such as storm water control which they thought was addressed by an Engineering condition. The sidewalk condition probably needs additional language, considering the Coastal Commission's interest in the willow in the public right-of-way. He referred to the fire related conditions, mentioning some items needing clarification.

Commissioner Cooper asked if this boiled down to the willow tree.

Mr. O'Connell responded affirmatively.

Commissioner Cooper mentioned dealing with heritage trees on previous projects and he asked if they discussed any of that, adding that he thought this was more intrusive than the previous project.

Mr. O'Connell understood, adding that the Coastal Commission delineated wetlands differently and the willow triggered the wetland conditions.

Acting Chair Evans opened the Public Hearing.

**Victor Carmichael, Pacifica**, stated that they obviously share the same disappointment with everyone else in that this project is much less appealing than the original one. He stated that the original project should have been stopped because there were adjacent wetlands to consider, it threatened Palmetto Avenue, and there were traffic issues. He referred to the process the Coastal Commission took which caused it to become a huge project, and he felt that it will set a precedent that could be duplicated all over the Fish and Bowl by other developers. He mentioned that the ravine has some unknowns, mentioning some mysterious pipes. He asked that they hold off approving the project until they have further studies.

**Hal Bohner, Pacifica**, stated that he sent the Commission comments by email and asked if they received them. He wondered because he didn't hear in their discussion anything about what he had raised. He thought this hearing was premature, stating that the Coastal Commission did not issue a coastal development permit even though staff said they did, adding that there were conditions to be met before the permit would issue. He stated that there was a problem with the present project, mentioning a storm drain through the buffer of the wetlands, and he had a discussion with a Coastal Commission staff member who said that was not allowable. He stated that, if they approve the project with that storm drain, it will get appealed to the Coastal Commission and the Commission will say they have to put it somewhere else. He asked that they wait until the Coastal Commission finishes their process as they cannot begin any building until this is finalized. He stated that this project requires an environmental analysis, and he felt staff was incorrect on this. He felt, if they read his comments on this point, they would agree with him that an EIR must be done before they can approve this project.

**David Hirzol, Pacifica**, stated that he hasn't seen drawings of the new proposed project. On listening to the applicant's presentation, he thought they were successful in negotiations with the Coastal Commission and this project had very little relationship to the original permit approved. He thought this was like a bait and switch. He referred to the process but felt that the decisions made were irrelevant because it goes to the Coastal Commission and gets reconfigured into something entirely different and returns for approval. He encouraged the Commission to think about what happened. He stated that no one can profess to love Pacifica more than he does and most people want the best for the city and he felt that the best is decided here and not at a Coastal Commission meeting.

Acting Chair Evans closed the Public Hearing.

Mr. O'Connell referred to Mr. Carmichael's comments, stating that the willow was not on their property but in the public right-of-way, which was why it was not studied in the original application. When the Coastal Commission took jurisdiction of the CDP, their biologist asked them to look at it, and this was now where they were. He stated that there was a component of the project, the storm drain, originally designed to snake through their site and not be in the street and was intercepting the runoff that ends up in the pipes and creates erosion at the ravine. He talked to the Coastal Commission about Mr. Bohner's concern, and they don't care if it is in the street instead. He stated that their understanding was no structures, etc., in the street. He stated

that they could move the storm drain into the street, and he talked with Ray from Public Works who felt it was not an issue.

Mr. Blackman referred to the EIR comment, stating that Pacifica determined that it was exempt, the Coastal Commission made that determination, and their biologists said there were no significant impacts from their project as it exists, and every commissioner agreed and put those findings on paper and on the website. He mentioned that Mr. Bohner wants to shut the project down. He asked that the Commission approve the project, stating that it has been three years and they still have a long road ahead.

Commissioner Clifford stated that he heard them say they have no problem moving the storm drain so that it doesn't intersect the buffer.

Mr. Blackman agreed, adding that they talked to the Coastal Commission. He stated that their original intent was to make it minimal, adding that they wanted the storm drain on the east side so they wouldn't impair traffic, but it can easily go on the east side but will be more difficult for people to drive through. The Coastal Commission felt it was no problem to put it in the public right-of-way further out of the buffer, solving that issue today.

Commissioner Clifford concluded that they can change the condition to include that the storm drain will not be in the buffer zone.

Mr. Blackman suggested that they rely on the Coastal Commission so they don't have to bounce back and forth.

Commissioner Clifford stated that he couldn't speak for the rest of the Commission, but if it has to be there for their deliberation, he asked if it would not be a problem for them.

Mr. Blackman agreed, adding that it sounded like that was the plan.

Commissioner Cooper stated that this was a difficult one for him. He approved the original project, mentioning all the pluses, adding that he thought it was a step forward for the city. He was concerned that, if they approve this project, it doesn't sound like it is the end of it. He felt that was a concern and he thought it could be appealed again, because there is a lot of opposition. He felt they approved a good project, and he didn't think this project was as good as what was out there. He concluded that it was functional, and would like to hear what the other commissioners have to say.

Commissioner Clifford stated that he wasn't on the Commission when it was approved but was in the audience. He liked the other project better and this was 2.6 times the size and, as Commissioner Evans said, a lot of the green features are now gone. He stated that, unfortunately, they were here to approve this one.

Commissioner Baringer stated that he did not have the benefit of history in terms of what the previous project looked like, but he has been involved in what he calls the Coastal Commission whipsaw, and it was not a good place to be. He feels their pain. He felt it was important to look at the project before them and respond to that. He was concerned as to why they had to take such a drastic departure to something bulked up and vertical from something previously horizontal. He thought there might have been a better alternative than what they were looking at. He didn't

know why they had to have such a gross departure, but his problem was that what they wanted didn't meet an arbitrary buffer. He stated that there were a lot of apartment buildings in that area, and it was not like they were dealing with some pristine wilderness, but they have to respect the environment. He thought, if it were a 15-foot buffer and they got to keep the old project, which he felt, from the commissioner's comments, that they clearly liked it better. He stated that when people oppose a project and appeal it, that has unintended consequences when it comes back. He thought this might be one of those cases where they were able to meet the qualifications of the Coastal Commission but not 100% acceptable to us and you end up with a project that was not as desirable as the previous one.

Assoc. Planner Murdock stated that he hears them struggling with the bulk of the structure and how it is disjointed from what came before them previously. He stated that the Coastal Commission starts with 100-foot presumption of a buffer around wetlands areas, and they relaxed the buffer to 50 feet. He agreed that it feels like an arbitrary buffer, but that's what they determined on the Coastal Development Permit and likely what they stick to if the applicant were to go back with a revised project design. He stated that, even with the 50-foot buffer, the remaining developable area on the property is extremely limited, and the applicant's options of where to develop were reduced to this portion of the lot. He stated that, based on the general plan designation for the property, they have to build four units or pursue a general plan and local coastal plan amendment which was a more involved process. He stated that they are trying to come to terms with all the competing regulatory restrictions and he thought the minimum four-unit requirement has forced them to bulk up and make a larger, taller structure. He wanted to point out those issues as they weigh the project.

Acting Chair Evans referred to the site plans and the concrete wall for the first floor garage area that was on the property line on the north side and touches the Edgemar Road line on the east side. He asked how that can be with the setbacks.

Asst. Planner O'Connor stated that the wall on the north side lot line was considered the equivalent of a fence and can occur on the lot line without a setback.

Acting Chair Evans asked confirmation that it was not considered foundation for the other two stories.

Asst. Planner O'Connor stated not in that area, adding that the applicants may clarify that.

Commissioner Clifford stated that he didn't think the project before them was horrendous. He thought it had some nice architectural detail and was larger than what was brought before them before, but he didn't think it was a bad building. He thought, if the Commission had seen it first, they might have approved it but unfortunately they brought a better project the first time. He stated that it wasn't the applicants' fault and he didn't want to penalize them for having to bring something different to them. He asked the attorney if the Commission was allowed to ask questions of the public speakers after they have spoken. He stated that they ask the applicant a lot of questions, and he asked if they could ask the public a question.

Asst. City Attorney Visick stated that the public was just a one-way communication to them, adding that they can respond to what they said but they can't engage in a dialogue with them.

Commissioner Clifford thanked him for the clarification on how that worked.

Acting Chair Evans stated that he wanted to hear from the Fire Chief on items 34 through 38 in the conditions.

Deputy Fire Chief Johnson stated that those conditions were caused by the redesign. He referred to the fire hydrants, stating that if they are where stated, they meet the requirements. He explained that the others are included based on what they are building, which require different things.

Acting Chair Evans thanked him for the input.

Commissioner Cooper asked why the applicant was providing the fire flow report from the North County Water District, stating he thought they did the regular test on the flows in that area.

Deputy Fire Chief Johnson stated that they were required to provide that as part of the application.

Commissioner Cooper thought it was because it fell within the 30 feet.

Deputy Fire Chief Johnson stated that it was a question of how recent the previous one was and, in that area, it probably wasn't very recent. He stated that they need to know what the fire flow will be because, if not great enough, it may trigger other things in the code, and they don't want to find that out after the design is done.

Acting Chair Evans stated that he keeps thinking about what they approved before, which he thought was a beautiful project. He stated that apparently an appeal brought them to this point. He acknowledged that we all have the right to appeal but he felt that it was a shame that the powers over the city along the coast came to this conclusion. He stated that, within the intent to issue a permit, it mentioned approval of construction of a three-story, 3,169 square foot apartment building, and he again asks why they were even here since they already approved it. He stated that it seems so backwards. He appreciated what they are trying to do, but he didn't know if he could be in favor of this. He felt it was overblown.

Commissioner Clifford stated that he was thinking of moving the process along for approval since he thought it was likely that the decision would be appealed. He concluded that, if it is appealed, it is appealed.

Commissioner Baringer asked if he made a motion or was contemplating making a motion.

Commissioner Clifford stated that he was contemplating making a motion.

Commissioner Cooper reiterated that he feels for Mr. Blackman who put a lot of effort into this, but he didn't think that this was a great alternative to what was already approved in the area and he felt he would be doing a disservice by approving a 31-foot high apartment building in the area. He felt it was not what he would like to see. He felt it was important to develop the property as it is a beautiful piece of property but he didn't think this fits the area.

Commissioner Baringer reiterated that he didn't have the benefit of seeing the previous project, but he thought there were clearly external forces in effect limiting what creativity they may want

to exert on this. He stated that staff has done a good job trying to vet this as well as the applicant, and he felt it was clear that it will be appealed and it might come back to them again in yet another iteration. He stated that, at this point, he would support the project, knowing there will be additional commentary, adding that he felt it would be appealed either way.

Commissioner Cooper asked when they approved the original development project.

Acting Chair Evans stated it was April 6, 2015.

Commissioner Cooper asked if the permit approval for the original project was good for a year.

Asst. Planner O'Connor stated that the original project wasn't effective because the Coastal Commission had not acted on their CDP and, now that they have, and this is a different design, they would go back to what the condition of approval said which she thought was a year.

Commissioner Cooper concluded that it was expired at this time. He stated that the approval of the previous project was still good and he thought he could appeal to the Coastal Commission if he wanted to. He asked if that process was done.

Planning Director Wehrmeister stated that the original project was appealed to the Coastal Commission and the Coastal Commission approved a different project. They are present at this meeting to approve those revisions. She stated that, if the Commission was struggling with this, they have creative people working for the applicant. She stated that there was the possibility to continue this to see if there is any redesign potential.

Commissioner Cooper stated that he heard a lot of exceptions to the requirements that they put on this, adding that he didn't think he could reiterate those now. He was also confused about it, such as how this development would fit into the area.

Assoc. Planner Murdock thought the Commission was struggling with the bulk of the building. He stated that the original project was proposing four detached units, but specifically detached studio units of 450 sq feet each, but these are not the same which was yielding a larger footprint for the building. He stated that, in reviewing the architecture, appropriateness and applicability of the design guidelines, there may be a smaller project format that works for the Commission, but it may not be possible to get away from the multi-story design, given the minimum four-unit density requirement but perhaps an alternative for a studio or one-bedroom floor plans that might also yield a lesser parking requirement. He stated that it would have other impacts and they would need to see what redesigned plans look like.

Acting Chair Evans asked what would happen to the notice to approve.

Assoc. Planner Murdock stated that, to be fair, it may result in the applicant seeking an amendment for the Coastal Development Permit that the Coastal Commission approved, but he could not say whether they would be willing to do that. He stated that the Commission can only evaluate what was within its purview, the local entitlement, with no authority to act on the Coastal Development Permit.

Acting Chair Evans agreed that they can't tell the Coastal Commission what to do.

Commissioner Clifford stated that he sees two things, a Commission that is split with an even number of commissioners and he doubts they will get an approval tonight. He stated that he will move that they continue this until the next possible meeting to do that and hopefully they will have a full commission which would possibly help in their deliberations with additional thinking. He would also recommend that, at the continued meeting, they not only have a motion for approval but also a motion to deny the project so they have a real choice. He felt that at this time, they can't come to a conclusion because they only have a motion to approve.

Planning Director Wehrmeister suggested that they give staff and the applicant a full month to work on this, which would be October 3. She stated that they can bring back optional action items, but they would need specific direction from the Commission on what they would like them to work on, i.e., the bulk, the size of individual units, and other parameters to work with.

Commissioner Clifford stated that he likes green roofs and the bulk is an issue, so possibly all one-bedroom units or a couple of studios and a couple of one-bedroom units to reduce the bulk.

Commissioner Cooper agreed that the other Commissioners were around for this project and he thought it would be insightful to hear what they think of this project. He stated that he was having a tough time with it and, as Commissioners, they look to each other for insight and parameters they weren't thinking about. He would also like to defer this for a month, looking at the bulk of the building and working with the developer to reduce the height of the building and the bulk. He thought this was a greater impact on this area than the other units. He would like to look at alternate ideas for this structure. He would also like more investigation on the actual regulation of the van parking and the ADA access. He thought the Chief explained it that, when you go to a building of this height and mass, it triggers a lot of things. He asked if they can get lower so they don't trigger those, suggesting two duplexes or four units with a foot separation. He thought those were things that would help him decide that they are a better impact than this project. He stated that the applicant had issues with some of the conditions of approval and maybe they can work with him and clean those up, and possibly take some onerous ones out. He thought it was easy to put the fire hydrants on the plan and they don't have to have those conditions of approval for this project.

Commissioner Cooper moved that the Planning Commission defer decision on this project for four weeks.

Planning Director Wehrmeister asked that they continue to a date specific, which would be the regular planning commission meeting of October 3.

Acting Chair Evans stated that he cannot be at that meeting, adding that he didn't know if it made a difference.

Commissioner Cooper asked which meeting he could make.

Acting Chair Evans stated that he could make the next meeting, adding that he was going to notify staff about missing the meeting later.

Commissioner Cooper made a motion to continue this particular permit until October 17, 2016; Commissioner Clifford seconded the motion.

The motion carried **4-0**.

Ayes: Commissioners Baringer, Clifford, Cooper and Acting  
Chair Evans.  
Noes: None

Acting Chair Evans apologized to the applicants as they were back to the drawing board for some part of it.

**CONSIDERATION ITEMS:**

None.

**COMMISSION COMMUNICATIONS:**

Commissioner Cooper stated that the Planning Commission works hard to do the best job they can. He looked at the directory put out by the Chamber of Commerce, and suggested people look at it as it has maps, city services, etc., and he felt it was an excellent job and he thought it was worth recognizing that they put out a great product.

Acting Chair Evans stated that, as the Commission liaison, he attended the Library Advisory Committee meeting on August 17. He stated that they didn't get a lot done, but they went over some issues and there were a lot of things coming up and he invited the public to attend the meetings.

**STAFF COMMUNICATIONS:**

Planning Director Wehrmeister stated that the Library Advisory Committee meets on September 14 in Council chambers. She stated that the City Council has scheduled a sea level rise study session on September 27.

Commissioner Cooper asked the time.

Planning Director Wehrmeister thought it was at 6:00 p.m., but they will be notified of the exact time. She stated that she will forward an email regarding an event happening at the Safeway Fairmont for its grand opening. She stated that ABAG and MTC, preparing for One Bay Area, have released the preferred development scenario for the Bay Area for public review. They will bring an item to Council to update them on the projections for Pacifica which are in line with the development potential envisions in the General Plan. She stated that the Holiday Inn should be pulling their permit for the expansion this week, but she was not sure about the date to start construction. She stated that staff was staying abreast of the marijuana regulation, adding that they anticipate that laws will change and she and the Police Chief will be attending a seminar to stay up on police and land use considerations with dispensaries. She mentioned that the governor's by-right housing trailer bill was no longer going forward. She stated that the governor signed a bill for standardized training for all code enforcement officers in the state to ensure better, safer, more uniform enforcement throughout the state. She said that the state will determine what that will entail, and will probably give cities time to bring code enforcement officers up to training standard.

Acting Chair Evans asked if he should read the aggrieved continuation of the last one.

Asst. City Attorney Visick stated that he doesn't need to read that for a continued item.

**ADJOURNMENT:**

There being no further business for discussion, Commissioner Cooper moved to adjourn the meeting at 8:51 p.m.; Commissioner Clifford seconded the motion.

The motion carried **4-0**.

Ayes:	Commissioners Baringer, Evans, Clifford and Cooper
Noes:	None

Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director Wehrmeister