

MINUTES

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

August 21, 2017

7:00 p.m.

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

ROLL CALL: Present: Commissioners Baringer, Campbell, Clifford, Stegink and Acting Chair Gordon
Absent: Chair Nibbelin and Vice Chair Cooper

SALUTE TO FLAG: Led by Commissioner Stegink

STAFF PRESENT: Planning Director Wehrmeister
Assoc. Planner Murdock

APPROVAL OF ORDER OF AGENDA Commissioner Campbell moved approval of the Order of Agenda; Commissioner Baringer seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Baringer, Campbell, Clifford, Stegink and Acting Chair Gordon
Noes: None

APPROVAL OF MINUTES: JULY 17, 2017 Commissioner Clifford moved approval of minutes of July 17, 2017; Commissioner Baringer seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Baringer, Campbell, Clifford, Stegink and Acting Chair Gordon
Noes: None

APPROVAL OF MINUTES: AUGUST 7, 2017 Commissioner Clifford moved approval of minutes of August 7, 2017; Commissioner Baringer seconded the motion.

Commissioner Clifford had some corrections. On the approval of the minutes for June 19, 2017, he thought he was the one who pointed out the typo in the number of units and not Commissioner Gordon.

Assoc. Planner Murdock asked if he could specify the packet page.

Commissioner Clifford stated it was packet page 39. He then referred to packet page 42, clarifying that it was not that the transcriptionist made a mistake. He stated that the name of the person for whom he wanted to close the meeting was Thomas Ball, but Mr. Ball spelled his first name Thom.

The motion carried **5-0**.

Ayes: Commissioners Baringer, Campbell, Clifford, Stegink
and Acting Chair Gordon

Noes: None

ORAL COMMUNICATIONS:

None

CONSENT ITEMS:

None

.PUBLIC HEARINGS:

1. TA-105-17

TEXT AMENDMENT TA-105-17, Initiated by the City of Pacifica, to Amend Various Pacifica Municipal Code Provisions to Conform with Amendments Enacted by the California Legislature to Government Code Section 65852.2 Concerning Accessory Dwelling Units (i.e., Second Residential Unit) Permitting by Local Agencies; the Amendment to be Considered Would Affect Residential Property Citywide. Recommended CEQA Action: Statutory Exemption (CEQA Guidelines Section 15282(H)); And “General Rule” Exemption (CEQA Guidelines Section 15061(B)(3)).

Assoc. Planner Murdock presented the staff report.

Acting Chair Gordon thanked him for the excellent report.

Commissioner Campbell asked for clarity as he thought the staff report indicated that they are not going to allow tandem parking.

Assoc. Planner Murdock stated that the state law requires them to allow tandem parking to meet the parking requirements for ADUs.

Commissioner Campbell concluded he misread that, and now assumed they will allow tandem parking on the side yards or side setbacks.

Assoc. Planner Murdock responded affirmatively, stating that they are required to accept tandem parking to meet the off street parking requirements. He added that he would review page 58 in the packet to make sure there is no exception that has not come to mind as there are a lot of different standards.

Commissioner Baringer stated that Assoc. Planner Murdock did an excellent job preparing the report. He asked if he had correctly heard that two building permits have been issued for ADUs.

Planning Director Wehrmeister responded affirmatively.

Commissioner Baringer thought that was interesting because the last time they discussed this, there were none pending and now there are two issued. He asked if they met these requirements or not.

Assoc. Planner Murdock stated that they would not have been required to meet all the requirements of the proposed ordinance.

Commissioner Baringer clarified that he asked if they would have met them had they had these requirements been in place at the time of the application.

Assoc. Planner Murdock stated that he didn't have that information.

Commissioner Baringer asked if there were three more pending.

Assoc. Planner Murdock responded affirmatively.

Commissioner Baringer asked if they knew if they met any of the requirements.

Assoc. Planner Murdock stated that he did not know because he hasn't evaluated them.

Commissioner Baringer stated that they could theoretically have five approved before they have an ordinance that could have prohibited the five for technically valid reasons.

Assoc. Planner Murdock stated that there were at least four as one was submitted within the last week, if he recalls correctly. He stated that they could potentially take the full 120 days when reviewing the last application submitted and hopefully the ordinance would be in effect by then.

Commissioner Baringer stated that the last time they talked, he asked the question, trying not to create a form substance issue, about how long it would take to process these so they couldn't have any sneak in during the interim and now it looks like they have five, two which have already been issued.

Assoc. Planner Murdock responded that it was correct. He recalled that statement was much earlier in the process before they had significant delays in considering the proposed ordinance. He explained that the state law allows 120 days to act on an application and they have exceeded that since the initial public hearing before the Commission.

Commissioner Baringer thought it was 120 days from the building permit application.

Assoc. Planner Murdock responded affirmatively.

Commissioner Baringer asked if these have been pending for 120 days.

Assoc. Planner Murdock recalled that one was submitted in December 2016, one in March 2017 and they have acted on those that had been pending for an extended period as required by law. He then stated, in response to Commissioner Campbell's comment regarding packet page 58, it references the existing article 4.5 and where it talks about prohibiting tandem parking, it is an inconsistent provision of the existing ordinance.

Acting Chair Gordon opened the Public Hearing and, seeing no one, closed the Public Hearing. He then asked if the Planning Director wanted to reiterate the special requirements that the Commission needs to meet to get this passed.

Planning Director Wehrmeister stated that she wanted to point out, expanding on what Assoc. Planner Murdock explained in his presentation, four commissioners constitute a quorum and when deciding what she calls regular items such as use permits, they would only need a majority of the quorum present to pass an item. She explained that to approve a use permit, if there were four of them, they would need to pass it 3-1. However, with legislative recommendations to City Council, the by-laws require four affirmative votes of the majority of the entire Commission whether they are present or not. She stated that any action they take tonight would need four votes to support it.

Acting Chair Gordon thanked her for that clarification.

Commissioner Clifford thanked Assoc. Planner Murdock for an excellent report, his usual stellar job. He referred to the overall recommendations, stating he was willing to vote for that. He thought they have made substantial changes in what was presented to them originally, managing to squeeze a lot out of it. He thought the width of the streets was the final piece for him. He stated that he will be voting for it when the time comes.

Commissioner Campbell stated that he was generally aligned with that thinking. He also expressed his thanks for a well-done report and the study done on road widths. He thought that was incredible that staff got it done so quickly. He stated that it gets his paramount concerns about public health and safety. He stated that he was willing to move this forward.

Commissioner Baringer stated that it shouldn't be a surprise that he continues to be opposed for a lot of fundamental reasons, while complimenting staff on a well done report. He stated that it was a tough issue and staff has responded admirably to their requests. He explained that he was opposed to it because he cannot get around the fact that it wipes out single family residential zoning in our community without any thought to how it is developed and reasonable standards. He understood that, in some cases, if the lot sizes were larger, this might work, but in a community with a substantial number of lots of 5,000 square feet or less, he wasn't sure how it works. He also questioned the issue that there was no fee structure that would support the infrastructure, such as sewer and water. He also felt there will be traffic issues in certain parts of the community. He understood the road width and he thought that may be one way to bootstrap their way into having some reasonable control over this, even though he felt it was not enough. He thought they needed to have the ability to control real estate development in the community like they do on every other type of project, with staff researching, presenting it with public hearings and they make a decision with a lot of discussion on it. He thought this was essentially creating by-right development and doubling the density in certain parts of the community where he was not convinced could support it. He thought that the fact that they have five people queuing up to build things leads him to believe that people figured out that this was going to be a relatively expedited way to build things. He didn't think it meant they were good projects, just that they will get built. He thought, three years down the road when people conclude that this was a bad idea, they will already be in existence and there will be nothing they can do about it. He advocates fighting back. He understands counsel was present and it was an issue that would be taken up at the City Council level, not at Planning Commission level, but he felt they should push back on this and try to carve out areas where this might not make sense in the community

and allow it to occur in the areas where it makes sense. He stated that, in the areas where it doesn't, they should not allow it to happen. He understood what Sacramento was trying to do because of the extraordinary housing shortage in the state and they are trying to create a method to expedite the development of that to solve the problem. He felt this was not the most thoughtful approach to development and it will have unintended consequences for which he thought the people in the community will bear the burden, but not those in Sacramento. He concluded that as such he was opposed to it and will not vote for it.

Acting Chair Gordon asked the new commissioner to tell them how he pronounces his name.

Commissioner Stegink stated that it was "steg" like sledgehammer and "ink" like Incorporated. – steg-ink. He then stated that he familiarized himself with the entirety of the record and he will be participating. He looked at the other 20 cities in San Mateo County on what they have done on ADUs. He stated that Pacifica's square footage is about the maximum that any cities have looked at. He mentioned that Palo Alto has 900 square feet, San Bruno 750 square feet maximum for ADUs. He stated that JDUs are 500 square feet. He believed that Menlo Park had capped 1200 square feet only for lots of 20,000 square feet and above. He agreed with Commissioner Baringer somewhat that it will change the nature of our community but he also agreed with Commissioner Gordon who says we have a preemption or supremacy clause but the state is mandating it. It was ministerial and we don't have that much leeway in terms of what the solutions are and cities that have money to burn and money to pay lawyers for years on end are not choosing to fight this. He was supporting it. He was curious on where they stand, stating that one commissioner had mentioned seniors who may be transitioning on in their lives to care facilities and they will be using this as a revenue stream by renting their actual residence and the ADU as a revenue stream. He was curious where the final result was on that.

Assoc. Planner Murdock explained that, after deliberating extensively on the topic, the direction from the Commission at a previous hearing was to require owner occupancy and in the scenario where the owner departs for senior care or some other scenario, under the ordinance proposed at this time, they would be violating the ordinance by continuing to rent the ADU.

Acting Chair Gordon thought it was Commissioner Campbell who offered the idea of putting some kind of restriction on narrow streets and he thought that was a great idea. He gets where Commissioner Baringer is coming from and agrees that the one size fits all from Sacramento was going to have unintended consequences that are not good. He then stated that they were sitting there with their "pants down" without anything in place because the legislation has rendered all the city's restrictions on ADUs null and void, and he felt they need to get something in place as soon as possible since they have pending applications. He was definitely in favor of moving it forward and sending it with a recommendation to City Council. He asked, assuming they have four votes for it, if in their recommendation to Council they can articulate some of their concerns about not necessarily this ordinance but the legislation from Sacramento and concerns about unintended consequences and how it will change the landscape of the zoning and we have smaller lots, etc.

Planning Director Wehrmeister suggested that they could include those in additional recitals that can be read into the motion. She stated that, if that was the will of the Planning Commission, they can help with some language that will express those sentiments.

Acting Chair Gordon stated that he didn't mean to speak for the Planning Commission. Those were his sentiments. He stated that it was like making a recommendation with a footnote.

Assoc. Planner Murdock stated that, in the resolution, they typically have a minimum number of procedural facts in the recitals to tell the history of how they got to the conclusion on the resolution, but it was a way for the Commission to also express its thinking and how it arrived at a decision. He agreed with the Planning Director's comments that it was an appropriate place to insert that type of commentary to qualify their recommendation.

Commissioner Campbell agreed that they should put something like that in.

Commissioner Clifford also agreed with some additional footnotes to their recommendation so that the Council was clear that, although they were recommending it, they still have serious concerns.

Commissioner Stegink stated that he was leaning towards approving the ordinance. He was curious about whether there was a potential for refining it as they go along. He mentioned Commissioner Baringer's comment about what happens if they change the nature of the city forever. He thought there was a technological potential, such as what happens if Home Depot comes out with a \$15,000 plastic cube that is 1,200 square feet and suddenly they are doing no money down financing and they will do all the permits and it becomes an ADU machine. He questions if that is what they want and if there was any potential to mitigate those effects later.

Planning Director Wehrmeister stated that this was an ordinance that the city adopts. If there are any amendments to state law going forward or if there is anything that the city feels they need to adjust in the future, the City has the discretion to bring it back to the Planning Commission and City Council.

Commissioner Stegink asked if there was an opportunity to stipulate no prefabricated construction or only stick built on site.

Planning Director Wehrmeister stated that they cannot prohibit manufactured homes.

Acting Chair Gordon stated that they appear to have four votes in favor, three votes in favor of some additional commentary in the recital to express their concerns about the legislature. He asked where Commissioner Stegink was on that.

Commissioner Stegink asked him to elaborate slightly on what the additional comments would be.

Planning Director Wehrmeister stated that she could read some for their consideration. She suggested adding by motion before the "now therefore be it resolved", "whereas the Planning Commission is disappointed and concerned that the state has taken a one size fits all approach to regulating accessory dwelling units without regard to unique topographical and built environment of Pacifica and other communities throughout the state and whereas the Commission's recommendation addresses the unique conditions in Pacifica to the extent allowed under state law, including but not limited to impacts to privacy, emergency vehicle access, parking availability and transit availability, and whereas the Planning Commission's recommendation that the City Council approve the accessory dwelling unit ordinance on balance maintains more local

control over certain aspects of the review and approval process for accessory dwelling units than allowing the regulations to default to the state law which does not take Pacifica's unique aspects under consideration."

Commissioner Stegink thought that was longer than he would have needed, but he agreed and was at peace with that.

Commissioner Campbell liked it.

Commissioner Clifford liked it also.

Commissioner Clifford moved to adopt the resolution, including Attachment A, initiating Text Amendment TA-105-17 and recommending approval to the City Council with the additional comments added to the resolution.

Planning Director Wehrmeister asked if the maker of the motion like to also add the language that is on packet page 48 regarding the street widths.

Commissioner Clifford responding affirmatively.

Assoc. Planner Murdock stated that they have some supplemental findings they would like to read into the record if there is a second to the motion. They would be added to the ordinance to explain the factual basis for adding the street width restrictions.

Acting Chair Gordon asked if they have a second.

Commissioner Campbell seconded the motion.

Acting Chair Gordon asked if the Assoc. Planner wanted to add the language now or should they vote.

Assoc. Planner Murdock stated that he was happy to add it now. He stated that they would like to add two additional findings, the first being that Appendix D of the 2016 California Fire Code adopted by ordinance by the City of Pacifica, establishes minimum street width and construction type standards to ensure safe access by fire apparatus. Among other standards, Appendix D requires street widths to be paved with asphalt, concrete or other approved surface capable of supporting the load of fire apparatus weighing at least 75,000 pounds. It further requires streets to be at least 20 feet in width and prohibits on-street parking on streets 26 feet or less in width. Appendix D allows on street parking on one side of streets greater than 26 feet, but less than 32 feet in width. The second finding is that, in order to preserve public safety, the Planning Commission finds it is necessary to prohibit attached and detached accessory dwelling unit construction on unpaved streets and on streets where Appendix D of the 2016 California Fire Code prohibits on street parking. Such a prohibition is necessary because ADU construction will generate intensified demand for on street parking. Increased demand for on street parking may result because off street parking facilities may be unable to offset the demand and because no mechanism exists to limit the number of automobiles owned by households occupying ADUs. In particular, ADUs located within one half mile of transit generally will not have sufficient off-street parking facilities because the city is prohibited under state law from requiring off street parking for such ADUs. See Government Code Sections 65852.2(d) and (e). Additionally,

households occupying ADUs located elsewhere may own more vehicles than can be accommodated in the off-street parking facilities the City is permitted to require for ADUs under state law, which is not more than one space per bedroom or per unit. See Government Code Section 65852.2(a)(1)(D)(x)(I). Therefore, the Planning Commission finds and determines it is possible and likely that accessory dwelling unit construction on streets less than 26 feet in width could result in increased on-street parking demand. The Planning Commission further finds and determines that on-street parking on streets of inadequate width has the potential to narrow or obstruct the path of travel of fire apparatus and other emergency vehicles delaying response time and endangering public safety.

The motion carried **4-1**.

Ayes: Commissioners Campbell, Clifford, Stegink and Acting
Chair Gordon
Noes: Commissioner Baringer

CONSIDERATION:

**1a. Designation of Liaison to City Council Meeting:
September 11, 2017.**

Planning Director Wehrmeister explained why this was moved to consideration.

Commissioner Clifford stated that he will act as liaison.

2. Library Advisory Committee Appointment.

Commissioner Clifford volunteered for the appointment.

COMMISSION COMMUNICATIONS:

Commissioner Baringer stated that he has mixed emotions but this is his last meeting as a Planning Commissioner. He has enjoyed his time as a member of the Planning Commission and has enjoyed working with the Planning Commissioners and the Planning staff was awesome. He explained that he and his wife have an opportunity to relocate back east where they plan to ultimately retire and he will be leaving Pacifica the first week in September. He stated that Pacifica was an amazing community and he will miss it. He stated that they will come to visit and he may attend a meeting or two to see how they are doing. He thanked all of them for their support. He stated that they have made him feel welcome on the Commission and he appreciates that. He wished them good luck on future decisions.

Acting Chair Gordon expressed heartfelt gratitude for his service on the Commission. He stated that it has been a real pleasure to get to know him as a person, as well as a commissioner. He loved his input, insight and experience that he brought to the table.

Commissioner Clifford seconded all of that, adding that he will miss him. He hoped that he comes back to visit.

Commissioner Campbell stated that he was stunned, but wishes him the best. He stated that he has appreciated how much preparation he takes before coming to the meetings and the insight. He will miss him. He was glad he was moving to where he ultimately wants to reside.

Acting Chair Gordon commented that they have Commissioner Baringer leaving and they have Commissioner Stegink on board, adding that they are excited to have him on the Commission.

Commissioner Clifford welcomed him.

STAFF COMMUNICATIONS:

Planning Director Wehrmeister stated that on the dais they have a mitigated negative declaration for the residential project on San Pedro Terrace Road. She stated that the comment period was opening today. She stated that, depending on the comments received, the earliest that it could be before them would be in October. She also mentioned that the following Monday, the City Council will have their study session on short term rentals. She stated that there were a variety of different policy stances to take on this and, if they want to regulate them in some manner, it will likely be coming before the Commission for a zoning code amendment in the near future. She stated that they have authority to enter into a contract for the Local Coastal Plan (LCP) update and sea level rise study, and they will be kicking that off soon.

ADJOURNMENT:

There being no further business for discussion, Commissioner Clifford moved to adjourn the meeting at 7:41 p.m.; Commissioner Baringer seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Baringer, Campbell, Clifford, Stegink
and Acting Chair Gordon
Noes: None

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister