

**MINUTES**

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

November 6, 2017

7:00 p.m.

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

**ROLL CALL:** Present: Commissioners Stegink, Cooper, Gordon, Campbell, Clifford and Chair Nibbelin  
Absent: Commissioner Kraske

**SALUTE TO FLAG:** Led by Commissioner Cooper

**STAFF PRESENT:** Planning Director Wehrmeister  
Sr. Planner Murdock  
Asst. City Attorney Rudin  
Sr. Civil Engr. Donguines

**APPROVAL OF ORDER OF AGENDA** Commissioner Clifford moved approval of the Order of Agenda.

Commissioner Nibbelin referred to the Designation of Liaison to City Council of November 27 for the financial services ordinance and he thought it might make sense to consider it after Item #2 as they might not need a liaison depending on their action, adding that the Planning Director agreed to that suggestion.

Commissioner Clifford agreed to approval of the order of agenda with that change.

Chair Nibbelin said they would make that change.

Commissioner Cooper seconded the motion with that change.

The motion carried **6-0**.

Ayes: Commissioners Stegink, Cooper, Gordon, Campbell, Clifford and Chair Nibbelin  
Noes: None

**APPROVAL OF MINUTES: OCTOBER 2, 2017** Commissioner Gordon moved approval of minutes of October 2, 2017; Commissioner Stegink seconded the motion.

The motion carried **5-0-1**.

Ayes: Commissioners Stegink, Cooper, Gordon, Clifford and Chair Nibbelin  
Noes: None  
Abstain: Commissioner Campbell

Attachment: Draft Minutes 11-06-17 (2454 : Approval of Draft Minutes - 11/6/17 Meeting)

Chair Nibbelin mentioned that the City Attorney advised them that, when they were voting on the form of the minutes, they could choose to vote.

**APPROVAL OF  
MINUTES:  
OCTOBER 16, 2017**

Commissioner Clifford moved approval of minutes of October 16, 2017; Commissioner Stegink seconded the motion.

The motion carried **5-0**.

Ayes:	Commissioners Stegink, Gordon, Clifford and Chair Nibbelin
Noes:	None
Abstain:	Commissioner Cooper

**ORAL COMMUNICATIONS:**

None

**CONSENT ITEMS:**

None

DRAFT

**PUBLIC HEARINGS:**

- 1. CDP-381-17** Coastal Development Permit CDP-381-17, filed by Applicant, Brian Brinkman on Behalf of Property Owner, David S. Colt, to Construct a 3,074 Square-Foot (S.F.) Single-Family Residence on an 8,000 S.F. Vacant Parcel Located on the South Side of San Pedro Avenue, Approximately 300 Feet South of the Intersection of San Pedro Avenue and Grand Avenue (APN 023-073-200).  
 Recommended CEQA Action: Class 3 Categorical Exemption, Section 15303.

Sr. Planner Murdock presented the staff report.

Commissioner Cooper referred to the driveway, stating that it didn't seem like a conforming driveway or a driveway at all as there isn't a sidewalk and no drainage. He asked how people get in and out. He stated that it is an easement on another parcel but he asked what it looked like and questioned whether they weren't requiring sidewalks in front of the property because they don't go anywhere.

Sr. Planner Murdock explained that the site was currently vacant and the adjacent site across which it would gain access to the right-of-way was currently vacant and the access would be provided across a driveway serving the future Anchor Inn motel project. He thought that the Planning Commission approved that 20-foot wide driveway, and as it was not a residential project, it didn't have sidewalks through the site to serve it. He stated that this project, if approved, would rely on that driveway and a small extension into the project site.

Commissioner Cooper thought there would be no curb and gutter in that area and it would run down the hillside with no control of anything as it comes off the driveway. He stated that there was no sidewalk there and at the end of the driveway there was a gate post. He asked if that was access to anything, such as a trail.

Sr. Planner Murdock stated that he was not familiar with where the gate is on the Anchor Inn site.

Commissioner Cooper stated that it was further up but along the frontage and as you go up the driveway and hit the end, he thought there was a gate post there. And he asked if there was any public access in that parcel.

Sr. Planner Murdock stated that it was private property and there was no public trail in that location. He referred to the drainage for the driveway on the Anchor Inn project, stating that his recollection was that the applicant has graded it and voluntarily included detention basins that step down the slope to minimize the uncontrolled runoff. He added that the applicant may be able to speak further to his plan for managing storm water.

Commissioner Cooper asked what the city does in the case of this easement, as it was going to be a driveway for someone's private residence. He asked how they control what it looks like as the area was beat up and he thought they were apparently continuing it.

Sr. Planner Murdock stated that, outside of the coastal zone, most single family residences do not require a discretionary permit and it wasn't often that the staff gets into great detail on those types

of things. He thought it would be most common for runoff to run in an uncontrolled manner down a driveway into the curb and gutter in the street. He referred to mention that the Pedro Point neighborhood was very old and not approved and developed largely under city jurisdiction and was done in a way that doesn't meet current standards and it wasn't uncommon to be missing curb, gutter and proper drainage which was a known problem in this and other neighborhoods.

Commissioner Cooper asked if we would require any type of provisions within the easement that would allow for a curb or a gutter in the drive area.

Sr. Planner Murdock stated that would be controlled by the Anchor Inn approval and he wasn't prepared at this time to talk to the details of that site drainage, but this project does not affect the design of that project.

Commissioner Cooper stated that his second issue was the amount of impervious pavement that was up there, such as a lot of patio and a lot of driveway. He thought they were limiting the amount of water infiltration into that site, adding that he likes to see a lot of pervious pavement in there. He asked about the thought on that.

Sr. Planner Murdock stated that a project of this type was exempt from the city's C3 or new development storm water control standards and they were not obligated to comply with any heightened impervious surface or detention or treatment requirements. He stated that, if the Commission finds to make other findings for approval of the project, reducing impervious surface is necessary then it was in their discretion to do that. He clarified that there was no zoning or municipal code standard that would limit impervious surface.

Commissioner Cooper asked, besides not applying to this particular parcel, what municipal code did they have as far as coverage and was it about 30%.

Sr. Planner Murdock thought it was typically 40% for structures but that typically does not include things like hardscape paving, patios, driveways, etc.

Commissioner Campbell thought the runoff from the driveway ran off into the easement and he asked if there was an analysis of how that would affect the easement.

Sr. Planner Murdock stated that not for this project, explaining that the Anchor Inn project was designed and would grade the driveway and catch it along the eastern or left side of the driveway and transmit into the bio detention ponds that step down the slope and ultimately discharge through a curb drain into San Pedro Avenue.

Commissioner Cooper referred to the fire department getting up there, and asked if there was any restriction on the permit for not actually constructing this house until the other driveway is in.

Sr. Planner Murdock thought they included a condition of approval for that.

Commissioner Cooper thought they had to have a recorded easement to that property, but he asked if there was anything in the schedule saying that the driveway has to be in and accessible prior to getting a permit or finishing the house. He added that, if the house burns, he didn't want to see the fire department saying they can't get there.

Sr. Planner Murdock understood, but he thought they addressed that. He asked for time now or after the applicant's presentation to confirm that.

Commissioner Stegink stated that his concerns were on the fire issue, adding that he thought the previous Anchor Inn project had a waiver on the turnaround because of space. He asked if there was anything about this project that changed that waiver or the nature of the need for a turnaround on that.

Sr. Planner Murdock was not aware that the Fire Authority has raised that as an issue.

Commissioner Stegink asked if they have taken a look at this project.

Sr. Planner Murdock stated that they did review this project. He then referred to Commissioner Cooper's question, and he thought condition #33 was the one they inserted to address his concern, stating that the applicant shall install and make serviceable all fire service features, including fire hydrant prior to beginning construction.

Commissioner Cooper knew that there was a requirement for a particular fire hydrant on that property, and he asked if the applicant was going to install it all the way to San Pedro Road or waiting for the Anchor Inn to install that fire main.

Sr. Planner Murdock asked if he was referring to a fire hydrant.

Commissioner Cooper agreed but added that you have to have a main that goes down to San Pedro, and he asked if that was Anchor Inn's scope of work and he was connecting onto it.

Sr. Planner Murdock asked if he was referring to the water source for the fire sprinklers.

Commissioner Cooper stated that he was referring to the fire hydrant that was required.

Sr. Planner Murdock stated that he didn't know the particulars of that and wasn't prepared to speak to that specific point but he believed that the condition was general enough to require the hydrant, driveway and other fire service features the fire department would want installed prior to construction. He added that staff would not oppose if he would like to clarify any aspect of that.

Chair Nibbelin asked if there was any reason to expect that the applicant would have any difficulty in securing the easement that was described in the conditions of approval.

Sr. Planner Murdock did not have any reason to believe that. He stated that staff reviewed an initial written agreement between the property owner and the applicant to turn to the easement, adding that it didn't meet the legal requirements and cannot be recorded at this time, but staff understood that they have an amicable relationship and will be able to carry that out.

Commissioner Cooper asked if they said they didn't want to enforce the restriction of the 20 feet for the driveway, Item #24 was the 2% cross slope and he asked if it was attainable if they remove that exception. He stated that there was no ADA access to that piece of property.

Sr. Planner Murdock stated that he understood Condition 24 pertained to the driveway approach from San Pedro Avenue onto the site and ends essentially at a backup sidewalk. For the vehicle

access, the cross slope of the sidewalk ran the length of the property frontage of the Anchor Inn property and not the 2% going up slope to the site.

Commissioner Cooper asked what that had to do with him.

Sr. Planner Murdock stated that staff was trying to tie up any access improvements that may occur prior to Anchor Inn construction to conform with the same Anchor Inn standards.

Commissioner Cooper concluded that there was no ADA requirement for that particular home on that site once they get that far up the driveway.

Sr. Planner Murdock was not aware of any accessibility or ADA requirement for a private residence as it was not a public accommodation like a commercial operation that was required to have accessible features.

Commissioner Stegink asked if there were any other pending projects on this lot or the adjacent lot by the same group of people.

Sr. Planner Murdock stated that he was not aware of any. He stated that they had the four detached motel room Anchor Inn project on the site fronting San Pedro Avenue and this project. He stated that there was a large vacant site to the east on the slope known as the Colt property and there was no application on file for that. He stated that there was an application on file for the site immediately to the north referred to as 505 San Pedro, which was for a mixed use commercial project with one apartment unit, but the names and applicants associated with that project are not the same as this project.

Commissioner Stegink asked if the Colt property was AG or R-1.

Sr. Planner Murdock stated that he could check the zoning map but he thought it was R-1.

Commissioner Stegink stated that he could look.

Sr. Planner Murdock reiterated that R-1 HPD was his recollection.

Chair Nibbelin stated that he will open the public hearing and start with the applicant.

Brian Brinkman, applicant, stated that they have a single family home that meets all the zoning requirements. He referred to questions regarding the easement, and stated that there has been a covenant of easement recorded and currently the Anchor Inn and this property are owned by the same individual and they can't record an easement on your own property. He stated that once they get through this, the ownership will change and they will be able to record the easement. He stated that they have recorded the covenant easement that has the wording for easement in it, but it just binds him saying that upon approval this will get done. He referred to mention of the fire hydrant and stated that they were working with the owner of the adjacent parcel and assured them that the fire hydrant will be on the residential property. He stated that they were planning for a six inch main to run up the driveway and this would be an extension of that line to this house. Regarding the driveway, he stated that, considering the location of the property, they thought it would be good to have more parking. He concurred with Sr. Planner Murdock's comment that there was an exception in the zoning code that allows for the additional parking.

Commissioner Clifford referred to the impervious surfaces, and he asked if there was any willingness on the builder's part to change any of them to permeable. He thought it was quite steep up there.

Mr. Brinkman stated that he was open to doing some of that. He stated that they had a hydrology analysis done for 100-year storm and designed a drainage system to account for the runoff from the project as it stands now to keep the water on site.

Commissioner Clifford stated that the water is not going to stay on site.

Mr. Brinkman asked him what he said.

Commissioner Clifford reiterated that not all the water can stay on site.

Mr. Brinkman agreed, adding that they had a retention system to retain the water from the patios and the roof.

Commissioner Stegink referred to the additional parking because of the widened driveway, and asked if he had a diagram that might show that.

Mr. Brinkman was not sure of his question.

Commissioner Stegink referred to his comment that the widened driveway might provide additional parking.

Mr. Brinkman stated that now they have the driveway that goes to the Anchor Inn project and they have a 20-foot driveway coming off that which goes into the garage and flares out with storage area on the side so you can park a car off to the side.

Commissioner Stegink concluded he was not suggesting that there will be additional parking on the driveway of the Anchor Inn.

Mr. Brinkman agreed there would be nothing on that property.

Commissioner Stegink stated that he visited the property and observed a flatbed and skidloader which appeared to be removing very large diameter trees and he asked if he had any idea what that was.

Mr. Brinkman stated that he did not.

Chair Nibbelin opened the public hearing and, seeing no one, closed the public hearing.

Commissioner Cooper liked the project. He thought it was an attractive building, the height was not too bad because it was up against the hill but he would like to see more permeable paving in the back. He didn't think restricting the driveway was a good idea and he was fine for them to make more parking in the area to allow more people to get up there but, again, would like to see more permeable in the back, possibly 75%, to let water in the ground.

Commissioner Clifford stated that he would not have a problem with the driveway being larger than 20 feet. He was definitely interested in seeing more permeable material.

Commissioner Stegink agreed that he would like to see more permeable concrete. He stated that he would like to make it clear that, if they are widening the driveway, they were actually providing parking versus widening a driveway that later becomes another three units of a hotel as they had taken away 5-8 spots across the street. He thought, if they could provide parking for all the customers, it would be great.

Commissioner Gordon referred to Commissioner Cooper's suggestion that 75% of the surface in the back be made permeable.

Mr. Brinkman agreed that they could make the patio all permeable.

Commissioner Cooper thought they would probably want three feet outside the building to be concrete slab but after that they should do it.

Commissioner Gordon asked how they would memorialize in terms of amending the motion as he thought they came up with a quick agreement.

Chair Nibbelin thought that the motion would be conditioned upon the requirement that the patio area be at least 75% permeable surface.

Mr. Brinkman agreed.

Chair Nibbelin thought a motion was in order.

Commissioner Clifford moved that the Planning Commission FIND the project is exempt from the California Environmental Quality Act; APPROVE Coastal Development Permit CDP-381-16, add the condition of 75% permeable surface to the patio by adopting the attached resolution, including conditions of approval in Exhibit A with that addition; and incorporate all maps and testimony into the record by reference; Commissioner Cooper seconded the motion.

Sr. Planner Murdock wanted to clarify that the motion is including removal of condition No. 6.

Commissioner Clifford agreed.

Chair Nibbelin also agreed it was clarified.

Commissioner Cooper added that they were talking about both patios in back.

The motion carried **6-0**.

Ayes: Commissioners Stegink, Cooper, Gordon, Campbell,  
 Clifford and Chair Nibbelin  
 Noes: None

- 2. TA-110-17** Text Amendment TA-110-17, Initiated by the Planning Commission to Amend Articles 2 and 23 of Chapter 4 of Title 9 of the Pacifica Municipal Code to Establish Regulations for Alternative Financial Services; the Amendment to be Considered Would Affect Commercial Property in the C-1, C-2-A, C-2, C-3, C-R, O and P-D Zoning Districts. Recommended CEQA Action: “General Rule” Exemption, CEQA Guidelines Section 15061(B)(3).

Sr. Planner Murdock presented the staff report.

Commissioner Gordon referred to the statement that if an existing facility closed for at least 12 months, they can't reopen and he asked why the 12 months.

Sr. Planner Murdock stated that it was the period set forth in the city's nonconforming zoning regulations in Article 30, Chapter 4, Title 9 and it was the standard applied to any non-conforming use. Should it cease for a period of 12 months or more, they could not commence that use again on the site.

Chair Nibbelin asked if they could make that use shorter.

Sr. Planner Murdock stated he would defer to the Asst. City Attorney for his legal opinion on that but they had discussed it previously and did not recommend that in the ordinance.

Asst. City Attorney Rudin stated that they could make that shorter, but at the very least there would need to be a rational basis for imposing a distinction as to the shortened non-conforming use restriction for this particular use as opposed to other uses. He stated it would be subject to a rational basis test which was very deferential but at the very least, there would need to be a reason why that would be done.

Commissioner Gordon mentioned one reason being detrimental impacts on the community.

Asst. City Attorney Rudin agreed that would be a plausible reason to do it, given some of the issues addressed and discussed in the staff report and that would be supportable.

Commissioner Gordon thought 12 months was a long time considering the circumstances. He acknowledged that they have the flexibility to shorten that. He was also curious about the notice issues. He stated that they got a letter from an industry representative saying they didn't have sufficient notice of what was going on and he didn't know what staff's response was to that.

Sr. Planner Murdock said the City provided notice as required by law and additional notice beyond that. He stated that they sent notice to the operators that would be subject to the ordinance which he wasn't aware was a legal requirement to do so and they believe they have exceeded the minimum. He stated that, by the nature of reaching out, they confirmed that they have received the notice and were aware of the hearing. He stated that providing the materials in the proposed ordinance more than 72 hours in advance is not required.

Asst. City Attorney Rudin stated that notification of impacts to known operators was required because there was a Government Code provision that potential uses that are impacted be notified at the same time that notice of publication is made and that was complied with, and the Brown

Act requires the minimum notice of 72 hours regarding the materials to be considered and that was provided.

Commissioner Gordon asked if they know how much notice the operators got.

Planning Director Wehrmeister stated that the operators were sent the notice ten days prior to the hearing.

Commissioner Gordon stated that the letter they received made it sound like they got it Friday afternoon, but it didn't sound like that was accurate.

Commissioner Clifford referred to the 12 months, and he asked if they were closed for 12 months but not through any fault of their own and not their intent to close, such as fire, flood, etc., would the 12 months still be applicable or is there an exception.

Planning Director Wehrmeister stated that they need to research that. She knew there were provisions when a non-conforming structure is destroyed by an act of God but she had to see if the same provisions apply to a use.

Commissioner Clifford asked if the existing businesses sell their business to somebody else and have it continue to run.

Asst. City Attorney Rudin stated that the answer was clearly yes. He clarified that the existing non-conforming use provision allows non-conforming uses to continue as a land use right and would transfer to the following owner.

Sr. Planner Murdock referred to the question about circumstances beyond the owner's control, and read one subsection of the non-conforming standards where it clarified that, if a non-conforming use was discontinued for a period use of 12 months because of circumstances over which the owner has no fault or control, the time limits of the section may be extended by the Commission with applications made in writing before the expiration of the 12-month period and subsequent use of buildings shall conform with zoning regulations and general plan designations for the district in which such use is located.

Commissioner Cooper asked how many new operators have been seen in Pacifica in the last 12 months for AFS.

Planning Director Wehrmeister stated that she was not aware of any new operators in the last 12 months.

Commissioner Cooper asked if they have denied any permits in the last 12 months for AFSs.

Planning Director Wehrmeister responded that we have not.

Commissioner Stegink stated that he read the record and visited two of the businesses, and for the record he had received notice in the November 25 edition of the Pacifica Tribune. He found the businesses to be clean, small, well kept, resembling a small insurance office. He checked with San Mateo which was roughly 2 ½ times the size of Pacifica which has a limit of four, and he

thought three seems to be in keeping or being more generous. He asked if there was any limitation on owners owning more than one or a consolidation of three into one.

Asst. City Attorney Rudin didn't think the ordinance addresses that particular point.

Commissioner Stegink questioned whether an owner could consolidate all three and claim that as one business with branches and open two more.

Asst. City Attorney Rudin stated that the ordinance as drafted would require each location to have a use permit and, in that instance, the answer would be no.

Commissioner Gordon referred to Commissioner Clifford's question, and asked if an owner could sell to another owner and that could go on indefinitely. He stated that three are grandfathered in under the proposed ordinance and he asked if they could be kept open indefinitely as long as they were sold repeatedly to different owners.

Asst. City Attorney Rudin stated that he was correct.

Commissioner Gordon thought it was a loophole that subsumes the entire purpose of the ordinance. He asked if there was any way around that.

Asst. City Attorney Rudin stated that it was difficult for a city to apply a zoning ordinance to eliminate a lawfully established business at the time that the zoning ordinance passed. He stated that providing an amortization period to discontinue a non-conforming use, if there is an opportunity for the business owner to recoup their investment, an ordinance could be passed that terminates the existing uses as they exist now.

Commissioner Gordon concluded that it was amortization that he was suggesting as a possibility.

Asst. City Attorney Rudin stated that those were the lawful options available when considering terminating a non-conforming use. He stated that the other option was paying just compensation for the termination of that business.

Chair Nibbelin stated that he has looked at this in his context with employment with the county and they looked at developing particular performance standards for existing uses like these and specifically address the negative impacts like those discussed in the staff report. He didn't see any performance standards or conditions on the actual land use. He asked if that was considered as he only sees the numerical limitation as opposed to anything that might address hours of operation, the way they are set up to address the negative impacts. He was curious about that thinking.

Asst. City Attorney Rudin stated that the ordinance does require that new uses are subject to use permits and conditions could be imposed if appropriate to address particular impacts to that use in that particular location.

Chair Nibbelin stated that he was interested in the notion that they have not identified any particular things that might flow specifically from these kinds of uses.

Commissioner Stegink stated that he was having difficulty envisioning any scenario where closing the business outside the 12-month relicensing period wouldn't be considered a public taking where the city would be on the hook for quite a bit of money and he asked if there was any sort of attractive nuisance provision in the city code such as a transfer to an owner that was completely irresponsible and not dissimilar to a bar that was out of control and abusing but keeping their liquor license.

Asst. City Attorney Rudin was not aware of any provision in the municipal code that would allow that. He was aware that certain cities have deemed such uses to be nuisances subject to abatement. He didn't know if that falls within the city's police power to prescribe which was a different issue than a zoning ordinance. He stated that they have analyzed whether that approach would create a taking issue and as they suspect it might, they were not recommending that approach to be taken.

Commissioner Stegink stated that when he drives around and sees a mall and you will see bridal stores. He asked, if all three locations of independent businesses decided they wanted to be in the Fairmont Center, whether this ordinance would allow that. He referred to the idea that similar businesses increased the drive by traffic. He asked, if three alternative financial services wanted to locate in the Fairmont Shopping Center, whether this ordinance allows that hyperconcentration.

Sr. Planner Murdock stated that, assuming the ordinance was in effect today, the three operators in existence in Pacifica would not be able to relocate without approval of the use permit and at most one would be able to locate in Fairmont with approval of the use permit.

Commissioner Clifford asked, if the Commission decided to limit the number of payday lenders in the city to three, whether they were limiting it to the ones that already exist or three additional on top of the three they already have. He wanted to be absolutely clear on that.

Planning Director Wehrmeister stated that the recommendation was one, and it was not one in addition to the three already there.

Chair Nibbelin opened the public hearing.

Monica Sosa, Pacifica, stated that she used to be part of the Youth Leadership Institute, the same organization that was hoping to pass this ordinance. She worked with them in 2014 and was first introduced to payday loans in high school where they worked with both South San Francisco and Daly City and had been told about the negative impacts. She stated that two years later she was in need of a job and was blessed with having an opportunity to work with Ms. Praneeta Sharma at Check Cashing and Loans LLC which was a twisted fate. She had this misconception of what a payday loan was and was very skeptical. When she worked there, she believes what the institute had told her that the people were in debt, frightened and could not get out. She stated that, as soon as she sat in that chair and the people started coming in, they were happy and in desperate need of money and the only place they could find some help was in the check cashing and loans place. They looked at the paperwork to make sure they could pay for it and wouldn't be stuck in the loans, followed laws and regulations and, instead of being a negative impact, they were positively helping them. She saw people who needed to pay rent, etc., and had gone to banks, etc., and this was a positive thing. She stated that people need them and she hoped they reconsider the ordinance and put the views of the people ahead.

Praneeta Sharma, Pacifica, stated that she was a business owner of Check Cashing and Loans LLC in Pacifica. She stated that she has been in business in Pacifica for nine years. She knows her business helps the needs of many customers who at times have economic stress and rely on these small loans for food, rent, etc., and other emergencies. She stated that they have alternatives but often choose the small dollar loans as the best and most effective financial options. She provides a beneficial and safe product for the citizens which is not provided by the banks. She asked the Commission why her small business is being penalized. She asked if any of them have visited any of the three stores, adding that they have not visited her. She asked how many written or phone complaints they have received from the customers. She asked if the city was aware of the decreasing trend in the number of businesses statewide. She stated that the number of payday lenders has dropped 12% in the last four years, 26% in the last ten years. She stated that this trend was also a national one. She stated that citizens should be afforded the freedom of choice or options and the definition of the free market society. She didn't think only one license does not provide that. She stated that current consumer advocate groups are asking the city to deal with a non-existent problem and trying to scare Pacifica with negative impact of citizens and they help them meet their obligations and do not negatively affect the community. She asked if the Planning Department was aware of the effect of the new consumer financial protection bureau's new compliance rules slated to take effect in September 2019. She stated that this ordinance was unnecessary and should not move forward until they visit the businesses that will be affected and seek citizen input on credit needs. She requested they reconsider and not move forward to the City Council.

Eduardo Gonzalez, stated he was with Youth Leadership Institute and

Sebastian Strawser, stated he works with the Youth Leadership Institute. (Gonzalez and Strawser spoke as a pair).

Mr. Gonzalez was present to support the capping payday lenders to one. He wanted to share the process they followed to get community support and public opinion by educating the community about the negative affect of payday lenders and getting their thoughts about these payday lending establishments.

Mr. Strawser stated that, in surveying Pacifica residents at the shopping center to get public opinion about the institutions, they found that 78% of those surveyed knew what they were and nearly 88% supported policy change with payday lenders. They were asked if they agreed there was a correlation between the chronic debt with the institutions as well as taking out a loan and then health effects when being in a cycle of debt with the institutions 69% agreed there was a correlation with diabetes, 81% with stroke, 83% with cardiovascular disease and 90% for hypertension.

Mr. Gonzalez stated that they came to the conclusion that payday lenders was also a public health issue for the community. He stated that with Pacifica's situation of financial insecurity due to housing. He stated that they are in a cycle of debt which doesn't help the community but influences the cycle of poverty which often targets low income community because no credit is required. He stated that it was easy to get a payday loan. He stated that they were giving support cards with resources other than payday lenders like the Pacifica Resource Center that has a great program to help them avoid the debt cycle and get them into a savings account. He had copies for Commission if they want to read more about their findings and recommendations they did.

Chair Nibbelin stated that they can provide the documents to Planning so they can have that as part of the record.

Carolyn Jaramillo, Pacifica, stated that she was a Pacifican homeowner and was in support of the payday lending ordinance. She thought it was fair to the lending institutions and she thought it will help many low income people in Pacifica and will be no burden to the city. She was at the Youth Leadership's presentation to City Council about the payday lenders and she commended them for their work. She asked that they give support to this ordinance as she felt it was more than fair.

Victoria Becker, Pacifica, stated she was from Pacifica Social Justice in support of the ordinance about payday lending in Pacifica which was initiated by the Youth Leadership Institute to regulate payday lenders because of their long history of odious, predatory practices directed at people who have limited access to emergency funds. She stated that organizations that promote people getting further in debt are not the answer to the inequities in our society. She agreed with Mr. Gonzalez that the Pacifica Resource Center was a better alternative. She felt it was important that Pacifica listens to the Youth Leadership Institute.

Deeg Gold, Pacifica, stated she was a member of Pacifica Social Justice. She stated that they support this ordinance, stating that social and economic justice were inseparable. She didn't have much to add to what the Youth Leadership Institute has published on this issue. She mentioned that the destruction of the social safety net and the high cost of living in the Bay Area creates an almost daily crisis for many people. She stated that the mainstream financial institutions are not there to meet them just as payday representatives have said but payday lending which takes 15 cents out of every dollar they lend every month was not part of the solution but part of the problem. She acknowledged that Pacifica has few options for regulating the industry such as reducing the fees they can charge which is set by state law, and felt the proposed zoning restrictions seem an appropriate but small step and she felt they should support the ordinance.

Liana Molina, Pacifica, stated that she was the director of community engagement for the California Reinvestment Coalition. She stated that it was a statewide membership organization of over 300 non-profits and public agencies who advocate for the right of low income communities and communities of color to have fair and equal access to banking and other financial services. She stated that, since 2002, CRC has been involved in efforts to tighten regulation of payday lenders at the state level as well as in local cities. She stated that they support this proposal to limit the maximum number of alternative financial services in Pacifica which they felt was an important step in joining other jurisdictions across the state in implementing policy to curtail the negative impacts of payday lending. She stated many cities, listing several, have passed similar ordinances that impede the proliferation of these businesses and they believed the ordinance will help to send a message to residence that Pacifica will take steps to enhance the quality of life and protect both community and consumer interests. She felt limiting the development of similar financial outlets they were advancing the goals to guide the city to make sound development decisions that will overall improve Pacifica. They recommend passing this on to the Council, adding that they didn't think it will adversely affect existing businesses but help contain these loans which they know by restricting the availability consumers will not use them as much. She also felt it will send a message to state and federal regulators that this industry needs reform that the city cannot do.

Chair Nibbelin closed the public hearing.

Commissioner Stegink asked if Planning staff was aware of any law enforcement activities at these AFS locations.

Planning Director Wehrmeister didn't know if they have had a very thorough check for calls for service, but anecdotally through the Police Chief, these were not known to create a lot of calls for service in the community.

Commissioner Stegink asked if there were any negative effects on existing AFS locations in Pacifica that might be responsible business owners.

Planning Director Wehrmeister stated that she was having a hard time with the question.

Commissioner Stegink referred to the existing three and asked if there were any provisions of this ordinance that will reduce their gross income.

Planning Director Wehrmeister stated that she was not aware of any.

Asst. City Attorney Rudin stated that the ordinance grandfathers the existing businesses at their existing level, but they are prohibited from expanding without obtaining a use permit. He stated that didn't mean there would be an impact on their financial revenue in any sort of way.

Commissioner Clifford stated that he was in favor of recommending this ordinance. He sees this as a plus for the existing businesses as they are grandfathered in and they would essentially be keeping them from having any additional competition.

Commissioner Gordon was also in favor of the ordinance. He stated that the staff report lists the various negative secondary impacts. He first thought it wouldn't do much since all existing uses are grandfathered in and can sell their business to a new owner and they will still have three payday lenders in Pacifica. He then referred to mention that payday lenders have decreased new openings by 12% recently and he thought that made sense because economic times were good now. He can foresee a time when the economic cycles turn and things will be harder. He thought it will be good that Pacifica has a cap of three payday lenders because there would be a move to have more. He was in favor of the ordinance as written and it will be good for Pacifica.

Commissioner Cooper asked if the definition of an AFS affected any of the current businesses.

Asst. City Attorney Rudin stated that he would defer to staff but he was not aware it did.

Commissioner Cooper thought they were in a C-1, C-2, C-3, C-R, and C-1A.

Asst. City Attorney Rudin stated that the ordinance allows the AFS in the same zoning districts as they were previously allowed when the City didn't have a definition of banks and financial services.

Commissioner Cooper didn't mind defining what an AFS is, and he was entirely against limiting free capital and free markets as he didn't think it was his place on the Commission or a way they should be regulating businesses. He acknowledged that sometimes people need that service. He commended the speakers on the cards but the cards were just as great as limiting Lotto tickets at

7-Eleven. He thought there were plenty of people who use these loans for valid purposes to feed families etc. He stated that they haven't had any new applications in the past 12 months and he didn't know what people were so excited about that we will get an influx of AFS lending as that wasn't how the cycle was moving. He thought banking was becoming more electronic. He thought it was great to educate the public where to find banking institutions but not to regulate the fundamental areas where they can go to wire their families money or take an advance on payday loans. He felt that was not for him to say as a commissioner. He was against the definition of limiting AFS as he thought the market will do that for them or he thought they would have 50 AFS institutions here. He was in favor of defining it but not in favor of capping it.

Commissioner Stegink agreed with Commissioner Clifford that it creates an opportunity and advantage for existing business owners, but while he was in favor of the ordinance, he thought it creates an oligopoly within Pacifica where a lack of competition could lead to higher prices for residents who do use these services regardless of whether they are good for them or not.

Chair Nibbelin understood from a question asked that they didn't have significant police calls any different from anywhere else in the city related to these operations.

Planning Director Wehrmeister stated that was their understanding.

Chair Nibbelin stated that he was looking through the staff report and the impacts addressed. He asked if staff thought there were impacts on land values and tax base flow from the particular locations they are talking about.

Asst. City Attorney Rudin stated that academic material has suggested that there was a correlation but how strongly that was tied was a matter for further academic research.

Chair Nibbelin stated that he was trying to draw a bridge between the academic research and the reality on the ground as they experience it. He stated that there were also some comments about what people thought about health outcomes in the community and he was curious about whether the county health system has looked at health impacts that flow from these kinds of businesses.

Sr. Planner Murdock has not looked for such research and wasn't sure if it exists.

Chair Nibbelin stated that he was compelled by the work that has been done around payday lending and the notion of getting information out to people so that people are well versed on the full range of alternatives. He felt it was the kind of thing of checking every chance they get of the full range of alternatives to payday lending so those who want to pursue a different lower cost option but he felt there were some who make use of the services and he didn't think they should be regulated in the way they were proposing and he wasn't in favor of this recommendation.

Commissioner Campbell stated that he had some sympathy with that argument and if they were regulating them out of existence in Pacifica he might be more concerned because he thought people sometimes find themselves in desperate times and would rather have them go to a legal place like this to get the money rather than a loan shark or something illegal. He acknowledged that they were maintaining three of them in town and was less concerned and as a public body it was okay to put caps on certain types of businesses, mentioning that some cities do that with liquor stores. He wished this much attention was paid to cannabis dispensaries near high schools. He was okay with it and was willing to vote in favor of it.

Commissioner Stegink was okay with it and would vote in favor of it. He reminded staff and Commission that the entire city survived roughly 14 months with a single post office at the very southern edge of Linda Mar and he didn't have any doubt that all the existing AFS customers could successfully survive with one location. He stated that he read the staff report and asked if there was anything in there that might indicate these location are comorbid with the existence of other businesses the city or county would consider vice locations, such as 24-hour liquor sales tobacco sales and/or lottery ticket sales.

Planning Director Wehrmeister stated that they were located in shopping centers that contain some of the businesses he mentioned but whether or not they seek those out because they want to be located near each other she didn't know.

Chair Nibbelin referred to the three existing businesses and he was curious if one of them lost their lease and had to find another location whether under the ordinance that would be a cessation of an existing use and they couldn't find another location without getting a use permit. He asked if that was the way the ordinance was drafted.

Planning Director Wehrmeister responded affirmatively.

Chair Nibbelin asked if there was any flexibility under the law for being able to carry over the use to another location in such a circumstance as he described.

Asst. City Attorney Rudin stated that it was not a recommendation and that was not the way the ordinance is drafted.

Chair Nibbelin understood it was not the recommendation but he was asking about whether it could be done.

Asst. City Attorney Rudin thought it could be done, but that would require a different cap.

Planning Director Wehrmeister stated that, in that instance, the Commission may want to consider a recommendation of a different cap. She stated that would be the way to go about it if that was the wish of the Commission.

Commissioner Gordon moved that the Planning Commission adopt the resolution included as Attachment A initiating Text Amendment TA-110-17 and recommending approval to the City Council, recommending approval of the ordinance as drafted; Commissioner Stegink seconded the motion.

The motion carried **4-2**.

Ayes: Commissioners Stegink, Gordon, Campbell and Clifford.  
 Noes: Vice Chair Cooper and Chair Nibbelin

- 3. DP-75-14** Development Plan DP-75-14, Rezoning RZ-192-14, Specific  
**RZ-192-14** Plan SP-149-14, Transfer of Development Rights TDR-03-14,  
**SP-149-14** Subdivision SUB-224-14, Removal of Heritage Tree And  
**TDR-03-14** Request for Payment of Fee in Lieu of Providing Below Market  
**SUB-224-14** Rate Housing Units, for Construction of a 24-Unit Residential  
 Condominium Project on a 53,627 Square Feet (Approx. 123 Acres)  
 Portion of an 11.2-Acre Site at 801 Fassler Avenue (APNs 022-083-  
 020 and 022-083-030). Recommended CEQA Action:  
 Supplemental to an Environmental Impact Report (EIR), Including  
 Adoption of a Mitigation Monitoring and Reporting Program,  
 Findings of Fact and Statement of Overriding Consideration.

Sr. Planner Murdock presented the staff report.

Jeff Reilly, WRA Sr. Project Manager, stated they were hired to prepare the supplemental environmental impact report for the proposed project. He stated that he was going to go over the CEQA requirements and process and a definition of an EIR and why a supplemental EIR was appropriate for this project, as well as the impact analysis and alternatives and brief overview of the final environmental impact report. He stated that he was accompanied by Bruce Abeliamen of Baseline Environmental Consulting, their EIR geologist and hydrologist and Bob Grandi, a principal traffic engineer from Fehr & Peers, the city's on call traffic engineer. He then gave the definition of an EIR and mitigations measures to avoid. The draft EIR includes all the projects, including the Harmony@One project, and explores alternatives to reduce or avoid significant impacts of the project. He explained the differences in this project from the original one, such as the elimination of subterranean parking. He stated that this report addresses the changes between the two but all aspects of the project. He mentioned the steps taken with this project, starting with the initial study to determine if the EIR was required, and stated that this meeting was the certification hearing. He stated that they would be meeting with City Council as well. They relied on the original EIR but had to update some studies, such as traffic, etc. He referred to the unavoidable impacts, and stated that the city must adopt a statement of overriding considerations and weigh the benefits of the project over the significant and unavoidable impacts, addressing a few specifics. He pointed out that it lists all mitigation measures required and who implements them and allows the city to ensure that all mitigation measures are being implemented.

Sr. Planner Murdock concluded the staff report.

Commissioner Clifford asked if Mr. Reilly was involved in both projects in terms of the EIR reports.

Mr. Reilly responded affirmatively.

Commissioner Clifford asked how much fill would be required for the Prospects project.

Mr. Reilly stated that project included a subterranean garage and it allowed it to be balanced on site.

Commissioner Clifford concluded that there was no off- site fill as part of that project.

Mr. Reilly responded affirmatively.

Commissioner Clifford referred to the traffic impacts and after reading the data he had a problem with the loss of one lane going west during commute hours as the traffic already backs all the way up to Crespi with two lanes and he has no idea what will happen if they have an incident on Highway 1 and they don't have an availability for the second lane of traffic. He felt that analysis of the traffic impacts are lacking in the supplemental report.

Mr. Reilly stated that he would be glad to have Mr. Grandi help explain it as they discussed it earlier.

Mr. Grandi, Fehr & Peers, stated that in the final supplemental EIR there was a note that indicates that the striping on Fassler and the four-lane to two-lane transition occurs where the project driveway would be. He stated that the previous proposal had a drop in the westbound lane, but in the final supplemental EIR, there is a note that the striping has been changed so the westbound or downhill two lanes will remain as they are. To do that, the uphill lanes with a left turn into the project and a single lane going uphill and the taper going uphill occurs at the same point as the downhill widening to two lanes would be shifted downhill and occur about 500 feet sooner and allow the two downhill lanes to stay as they are. He stated that the short answer is that the two downhill lanes will remain as they are with the revised striping.

Commissioner Clifford stated that their width was not the same as he was seeing 18 feet and before they were larger than that with a 12-foot lane for the left turn lane.

Mr. Grandi thought there would be two 12-foot lanes coming down hill.

Commissioner Clifford stated that if they only have 18 feet that was not possible.

Mr. Grandi stated that there was 48 feet curb to curb and now they have two 12-foot lanes roughly.

Commissioner Clifford asked if they had a picture of the map of that area that they could put up because that was not what he was seeing. He stated that they have the left turn lane going up marked at 12 feet, and they have one 18-foot wide lane going downhill, based on page C7. He stated that there were two nine-foot lanes.

Chair Nibbelin asked if he wanted to restate what they were trying to nail down.

Mr. Grandi stated that they took a look at the latest version of the plans and the two lane downhill section which currently begins about at the project driveway will be shifted about roughly 600 feet downhill.

Commissioner Clifford referred to his comment that it will be shifted 600 feet downhill, and he asked how many car lengths was that.

Mr. Grandi stated that it was roughly 20 car lengths. He stated that the distance between the proposed driveway and State Route 1 was about 2,800 feet.

Commissioner Clifford felt there is going to be an impact on commute traffic by removing that many lanes. He felt it hasn't been sufficiently studied or addressed. He acknowledged that he

may be wrong but he felt it needed to be studied and have some real data not them conversing about it.

Mr. Grandi understood that the critical element of the delay going downhill is the signal at Route 1.

Commissioner Clifford stated that it would be anything that might happen, not just at that signal but the following signal going north and what might happen between those two. He stated that they already have a problem and he felt this was going to make it worse and it will not make things better to lose that lane for 600 feet and where he was on this question. He again stated that he would like to have it studied and come back with actual data on that.

Mr. Grandi stated that the second lane added was 2,800 feet from State Route 1 or a little over half a mile. He stated that the modification would move it from 2800 to 2200 feet which is a little under half a mile but quite a distance up the hill from the traffic signal. He stated that shifting that two-lane section from 2800 to 2200 feet the critical element was still going to be the signal at the bottom of the hill and the number of lanes they have there and how the signal operates. He stated that reducing the number of lanes isn't going to affect the delay at the signal and the ability to make that right turn in the morning.

Commissioner Clifford stated what he was seeing it affecting, for clarity, is that he sees it affecting more cars standing further up into the actual neighborhoods and idling and the actual air in the neighborhoods that already exist will be less clean because there isn't room for the cars where there is actually a breeze off the ocean.

Mr. Grandi understood.

Commissioner Campbell referred to 2007 and 2008 when they approved the last iteration of the project, and stated that one of the critical elements was open space preservation and anchors on the east parcel side with a conservation easement. He asked if that every happened and does it still exist.

Planning Director Wehrmeister was not aware that a conservation easement was recorded on that site.

Commissioner Campbell stated he will discuss that later. He wasn't going to bring up traffic but he sees where Commissioner Clifford was going. He referred to the traffic analysis that was done in the supplemental EIR. He referred to the table talking about traffic, page 4-32, where it stated that access and circulation impacts are considered to be significant but can be reduced to a less than significant level via implementation of mitigation measure traffic 1A. He referred to talks about adequate site distances but not necessarily anything beyond that and he wondered how the adequate site distances mitigate for circulation impacts.

Mr. Brandi asked him to give the page number again.

Commissioner Campbell stated it was page 4-32 where it is under the environmental impact column.

Mr. Brandi stated that chapter referred to impacts found to be less than significant. It was referring to mitigation measures in the core chapter of the traffic section V.F. He stated that the measure does deal with the ingress and egress, particularly sight distance. He stated that currently when one is coming out of the driveway and looking to the east, you have to move your car forward into the travel lane to provide adequate sight distance. He stated that there was not enough adequate sight distance because of the tree and the slope and those were prescribed mitigations to shave the slope and/or remove the tree. He stated that the measure was required before construction starts so that trucks coming in and out hauling the soil will have that sight distance availability as well. He stated that there are other measures in the traffic section with another separate mitigation measure. He stated that there was a slight chance that the number was misstated in the EIR and could have referred to 1B. He was using the summary table at the front. He stated that another measure was 1B which prohibits parking along both sides of Fassler and to partially address Commissioner Clifford's comment, there will be 18-foot lanes which could encourage parking and there is a mitigation measure to prohibit that on each side.

Commissioner Campbell stated that he was searching for what might have dealt with Commissioner Clifford's concerns.

Mr. Reilly stated that they did evaluate three levels of service at three intersections, the project driveway on Fassler / State Route 1, Fassler and Rockaway Beach ,and State Route 1 at Reina del Mar. They looked at the impact of the project traffic on those three intersections and given the trips generated by the project they would not trigger the city's level of service impact threshold and would not increase the volume to capacity ratio by .01 or more. He stated that, in all three intersections, they found the impact was less than that increase of .01 in volume to capacity ratio and didn't trigger an impact and was identified as a less than significant impact for traffic at those three intersections.

Commissioner Campbell asked what the level of service was at Fassler and Highway 1.

Mr. Reilly stated that it was F in existing and F in cumulative.

Commissioner Campbell assumed it will not make it beyond F.

Mr. Reilly acknowledged that it will add additional traffic and increase that volume to capacity ratio by less than .01.

Commissioner Stegink asked the City Attorney regarding the SB35 legislation passed by the governor. He asked how that applied to Pacifica, reading a section which stated that any city that hasn't met their housing element would be subject to ministerial control. He stated that in the 2015-2023 housing element, Pacifica lost 93 low income units in a single month when Pacifica Skies Estates closed. He asked if there was any way the city can negotiate with the HCD since they technically had dominion to remove those from the housing element.

Asst. City Attorney Rudin stated that was something they would have to look into.

Commissioner Stegink stated that he checked with the HCD today and he could not find any other cities that had gone negative during that period in their housing element. He suggested that, if the state was looking for an example, Pacifica would be prime to be under ministerial control in San Mateo County if not the entire state. He stated that he looked at the traffic analysis, at the

intersection between Harmony @ One exit and this location and sat there for a couple of minutes. He suggested that it might be a location for a traffic light as he didn't have any K-band radar and didn't have any problem clocking several cars over 65 mph in less than 15 minutes. He stated that what Harmony @ One has built does not actually represent the right in, right out location. He saw several cars and large vehicles doing a U-turn around that slightly diminished curb extension. He stated that the diagram makes it look like all traffic is tobogganed by force north up the hill when it was quite easy for cars to turn left there. He stated that he received a public comment letter from an individual, Leo Leon, specifying there was a wild life corridor relative to Harmony @ One that would be affecting this. He was curious if Fish and Game or the USDA would subject Pacifica to sanctions if they ignored that wild life corridor.

Planning Director Wehrmeister thought they could have the CEQA consultant speak to what the biologic sections findings were. She stated that through the regular CEQA process Fish and Wildlife was provided an opportunity to comment on our documents and she didn't think we have received a comment from them. She stated that she will let Mr. Reilly discuss that.

Mr. Reilly stated that the Impact Bio4 in the environmental Impact Report does address wildlife movement and it combines it with discussion of migratory corridor and a native wildlife nursery sites, but he explained that the project has conditions to not include fencing beyond the limits of the buildings themselves and no fencing will be allowed in the open space areas, and with the clustering of the buildings as proposed, should not result in an unavoidable impact to wildlife in corridors.

Commissioner Stegink referred to the community design elements on page 26 of the city's General Plan which he read.

Commissioner Cooper referred to an email they received regarding access to the open space areas in the trails from the sidewalk areas, from the properties that are to the north. He thought the interesting parts of Pacifica were to be able to enjoy its beauty rather than just from the street but you can take a trail. He asked if there were any provisions to access the trail besides from internally in their complex.

Planning Director Wehrmeister stated that they might want the applicant to address that when they do their presentation to address that question.

Commissioner Cooper mentioned noticing other cities had a provision for a density bonus for residential developments, specifically for condominium complexes, and he asked if that was taken into account in our calculations.

Planning Director Wehrmeister stated that the applicant did not request a density bonus.

Commissioner Cooper thought the traffic plan seems to have some areas of which he would have concern. He thought the left-handed turn on Fassler was asking for a 65-mph collision with someone coming down the hill. He liked the way Harmony@One has done theirs where they provided only a left and right hand turn depending on where they were going and forces people to take the long way around, but he thought from a safety standpoint that would do. He stated that they have a 19-foot lane on the downswing from Fassler to an 18-foot lane after the turn lane and he thought they created a head-on collision by a foot. He realized it was a double yellow line on that side but they might want to look at that. He stated that they requested a sidewalk on the

entire frontage of that property, and he asked where the sidewalk goes as there are no sidewalks into the complex and no sidewalks anywhere else. He asked if that was taken into account and what the sidewalks serve.

Planning Director Wehrmeister stated that Ray Donguines from Engineering was present and could address the question.

Asst. Civil Engr. Donguines stated that, with their street policy, they have to require the construction of the sidewalk, adding that there were no sidewalks currently to either side of the property but they still need to require it. He stated that he didn't believe the sidewalk goes into the property. He stated that they can address that if it was a possibility from the applicant.

Commissioner Cooper stated that the project was a private drive, and he asked if there was room for someone if they wanted to visit. He assumed the parking spaces in front were for the open space areas to do a turnaround and go back out the complex, or do they have to go around the entire thing before they exit.

Asst. Civil Engr. Donguines stated that he was not aware of any public parking to visit the site and go into the trails.

Commissioner Cooper assumed the question for staff was whether the entire open space was just for the condominium complex or was it also for the public.

Planning Director Wehrmeister stated that it was not being dedicated as a public park. She didn't know how the HOA intends to maintain it or allow access to it and she thought the applicant can speak to that.

Commissioner Cooper asked if they can restrict use to only those who live within their complex.

Planning Director Wehrmeister thought they could theoretically do that.

Commissioner Gordon referred to the two parcels, eastern and western, and he was curious because they were contiguous but they were zoned differently in the General Plan with one open space residential and one low density residential. He asked if anyone knows about the topography or location. He stated that they are next to each other and he asked why they are zoned differently under the General Plan.

Planning Director Wehrmeister stated that she didn't have the history but she thought Commissioner Clifford was signaling that he may know.

Commissioner Clifford stated that he can answer that question. He stated he was on the Open Space Committee and was familiar with the Open Space task force report. He stated that their intent when they divided the two parcels was to keep any additional building up to where there was already a building and leave the view corridor as the residential open space which would allow for one building on that site. He stated that, in terms of the density transfer, he added that he had a little concern about preserving open space by putting something on open space and using the density transfer and that was an issue that came up originally when the first project was before the Commission.

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Commissioner Gordon summarized that the two issues were a desire to make the future residential area contiguous with the already existing Seacrest, and the other was to maintain the openness of the view corridor from the lower parcel.

Commissioner Clifford stated that it was considered part of the Highway 1 scenic view.

Commissioner Gordon asked if there were any renderings about the impact on that scenic view with respect to the proposed development.

Planning Director Wehrmeister stated that there are renderings, and she thought they will be in the applicant's presentation.

Commissioner Gordon asked if they were in their packet.

Planning Director Wehrmeister thought they were part of the aesthetic section of the EIR.

Commissioner Clifford noted after reviewing the conditions of approval that the project was estimating that they will have between 9 and 17 heavy trucks, and they didn't have any condition that if that stretch of Fassler was damaged they would be responsible for repairing it which he thought was a usual thing with other projects, and he asked Mr. Donguines about that.

Asst. Civil Engr. Donguines stated that it was condition #36 and it talked about curb, gutter, sidewalk, etc.

Commissioner Clifford thought adjacent to the property doesn't go down to Highway 1 and he thought the condition should be corrected to take into account that there might be damage. He stated that the road was okay but a little marginal. He would hate to see the project be completed and not address this.

Asst. Civil Engr. Donguines agreed that they could possibly revise it to include that section of Fassler in the condition of approval.

Commissioner Clifford stated that he would like to see that, even if it may not have any impact. He just wanted the city and residents in that area to be protected.

Asst. Civil Engr. Donguines agreed that the language in the condition could make it clear that they include that portion of Fassler in the condition.

Commissioner Clifford acknowledged that they could change the condition to reflect his concern.

Commissioner Gordon mentioned the history behind the two parcels and why they were zoned differently and he was going through the EIR and supplemental EIR and looking at the significant unavoidable impacts on the scenic vistas. He thought the purpose for zoning them differently was to preserve vista on the lower parcel and make contiguous the development on the upper parcel and he thought it upends the policy behind the General Plan zoning. He thought going with Alternative B lessens the impact on the scenic vistas but he wanted to find out what they saw that outweighed the fact by putting it on the upper parcel, they could keep them contiguous, etc.

Mr. Reilly thought ranking environmental topics can be difficult and they give most credence to public safety, adding that a significant geotechnical impact would probably be the most important. He thought there could be some arguments that certain aspects of an alternative are better and worse than the other alternatives. He stated that the 50% alternative was sheer reduction in units with less traffic, less demand for public resource and would reduce impacts and views. He agreed that the zoning was why they had the significant unavoidable impact. It was intended to be a protected view and the city could reconsider identify which is the environmentally superior alternative. He stated that the alternatives give them a tool to understand the tradeoffs and formulate what they feel is the best project.

Commissioner Gordon stated that when he said Alternative B, he might have meant Alternative C. He asked which one had the units moved to the eastern parcel.

Mr. Reilly stated that was B. He would agree that, for aesthetics, that was the superior alternative.

Commissioner Gordon stated that was consistent with the underlying General Plan zoning.

Mr. Reilly stated that certain topics got ruled out as being a core chapter of the EIR, and land use was one of them. He stated that it didn't make it into the alternatives for a detailed discussion for land use impacts. He stated that, if they have land use in there, with Alternative B, that would be preferred.

Commissioner Gordon thought it was a softball question.

Mr. Reilly stated that you have to go down the list of environmental topics and parse them out. He stated that it wasn't always a scoring system. He sees his point that Alternative B was superior when it comes to aesthetics.

Commissioner Gordon added that there are obviously ways in which it was inferior.

Mr. Reilly agreed, as it wasn't chosen.

Commissioner Gordon wants to know why.

Mr. Reilly stated that it has more units, generates more traffic, more demands for public services and utilities, uses more energy, creates more air pollution and more noise, and when you have more units it goes down the list in terms for many topics, not necessarily geology but things you can quantify, and they were all interrelated.

Commissioner Gordon asked if that was because they weren't able to put duplexes on.

Mr. Reilly stated that he couldn't speak for that.

Commissioner Gordon stated that the current plan was 24 and asked how many units Alternative B would be.

Mr. Reilly stated that B was still 24 but moves all of them where it was zoned and contemplates upwards of one unit on the western side and all 23 on the eastern side.

Commissioner Gordon was confused, as he said Alternate B would be more units.

Mr. Reilly stated that, if he did, he was mistaken. He thought he said 24.

Commissioner Gordon stated that he said there would be more traffic and air pollution, etc.

Mr. Reilly thought he was comparing reduced density by 50% versus the redistribution and that was where he was giving him a comparison.

Commissioner Gordon stated that he was for Alternative B not C.

Mr. Reilly wanted to understand his point. He explained that they chose Alternative C as the environmentally superior alternative and it would appear from his statements that he may feel that B is superior. He was trying to give him the understanding of the tradeoffs between fewer units in one alternative versus the same number of units as the project for Alternative B but moving them. He stated that it was superior when it comes to protecting the visual resources, less superior when compared to alternatives they identified as the environmentally superior alternatives, such as traffic and noise, etc.

Commissioner Gordon stated that he wasn't asking him to compare B and C, but compare B and the chosen plan which was putting them all on the lower parcel.

Mr. Reilly stated that was the purpose of the alternative analysis, which was to choose alternatives that reduce or eliminate the significant impacts of the project. He stated it was a no-brainer and it was in the old EIR also, the redistribution of units alternative. He stated that each alternative in some way reduces or eliminates significant impacts which was the goal, and that was the purpose of the alternative analysis to choose alternative that reduces or eliminates the significant impacts of the project. He stated that they then have to choose which was superior and that was how they came up.

Commissioner Gordon stated that he was asking him to say why the project was superior to B.

Mr. Reilly asked if he was asking why the project was superior to B.

Commissioner Gordon stated that he was asking why it was superior to Alternative B.

Mr. Reilly stated that the EIR didn't say that.

Commissioner Gordon asked if he was asking the wrong party and was he being clear.

Mr. Reilly apologized if he is not following him.

Planning Director Wehrmeister stated that in the EIR, page 7-9, it explains that assuming Alternative B is economically feasible, this alternative would meet most of all the project objectives. It goes on to state that this alternative would not provide the 12 duplexes.

Commissioner Gordon stated that was what he wanted to find out. It does not provide the 12 duplexes. He stated that on one hand you aren't getting the 12 duplexes and on the other hand

you are blowing the view corridor. He was trying to get a sense of what the tradeoff is. He was trying to simplify the discussion.

Commissioner Cooper stated that, because the units aren't built as duplexes, but alternative B contemplates 23 units on the eastern parcel but not built in a duplex form. He asked if that was the idea.

Commissioner Campbell asked why it matters.

Mr. Reilly stated that the EIR is required to address whether the project meets the basic objectives of the project which are listed in the project description and repeated in the alternatives, and they go down the list of objectives. He stated that it wasn't an environmental issue but they are required to address whether it meets the objectives.

Commissioner Cooper thought the project description proposes duplexes. He asked why that statement is relevant because the project actually proposes duplexes as opposed to something different.

Mr. Reilly responds affirmatively. He stated that, if the alternative doesn't meet with the objectives, they acknowledge that, but don't reject it as unfeasible.

Commissioner Campbell stated that it was a big issue because in an environmental review field when you narrow the description of the project to a place where you have it down to the duplex level. You want 24 units of housing, which is the project purpose, not that you need 24 units of housing in duplex form. He stated that narrows the project purpose to a point where you can't have an alternatives analysis. He thinks that's why they are running into this issue. It is so hemmed in that now the alternatives hinge and distinguish from each other based on duplex which is too narrow a project purpose from his perspective.

Chair Nibbelin thought it sounds like they were starting to move into a direction that is really more description and discussion that ought to occur after they have had a chance to hear from the public.

Commissioner Campbell thought they needed to get the public up.

Chair Nibbelin stated that unless the question was absolutely essential that they ask these questions, he was going to defer the lights and move on to opening the public hearing.

Jonathan Clark, Charles Design Group Architects, stated that there has been a lot of discussion and he didn't want to rehash stuff. He stated that staff did a great job going over the project and they got a lot of input from the EIR consultant. He was going to touch on a couple of things and answer a couple of questions that came up. He stated staff gave a great history of the project. He stated that their goal, along with the client and ownership group, was to make a buildable, feasible project. He stated that this project came to their firm with the previous approvals and was not feasible to be built. They went through a couple of iterations with various planning staff and they worked with staff for a buildable and feasible project. They went through a couple of iterations with lower density projects and at the time city staff gave direction to increase density which was still less than the approval was. He stated that their present site plan exists in the same location as the previously approved project and the main difference was that they have less units

and duplex units. They worked to maintain the landscaping trails and open space amenities and worked hard to stay within the previously approved and existing entitlements, hoping they would be able to work with staff to get that project approved without having to trigger the four year process they have been in now. The project is where it is because that was where you can build buildings. He stated that it was a ridge line and makes it difficult to build units, access becomes harder. They were existing in the bubble that was provided by the former project. He stated that they were in a very unique situation because the development rights and entitlements have expired and they are seeing it in a fresh view because there is nothing that binds them to the previous entitlements. He stated that they put their project together with the previous entitlements in mind. They were working to keep the form simple but illustrative of the hillside. He described the architectural project with a mix of stone, stucco, etc. He stated that staff did a great job, one of the best that he has seen, very thorough and responsive to public input. He stated that the development team was seeking the in lieu payments for the BMRs and in doing that they didn't take advantage of any density bonuses that are required if they provided them. He stated that staff's condition was that they provide the BMRs and they are on board with that condition. He stated that they aren't going to take advantage of the things that come with it. He stated that their project was set in stone and it can be built and they were going. He thought he addressed a lot of the things that came up but he was sure there will be more comments and questions. He stated that the development team was working with engineering to address the issues on Fassler. He stated that they have gone through several iterations and if the current design doesn't keep them happy, he was sure they will go through more iterations with staff to figure out something to get everyone happy. He thought it would be unwise to condition a single project to maintain a public road during construction unless they could specifically create a nexus between damages their project potentially could make to the actual damages. He stated that there are hundreds of vehicles that use public roads every day and to penalize one project to improve a road used by public at large wasn't fair for the project.

Commissioner Clifford asked him to bring up the slide that shows the comparison in heights between the two from Fassler.

Mr. Clark brought it up.

Commissioner Clifford asked if the old project buildings set on what grade was for them.

Mr. Clark stated that it was interesting when they talk about how heights are calculated. He stated that the previous project was built on a podium deck, a subterranean garage that was essentially being cut out of the mountain and built. The building heights were measured from the top of that podium deck and that means their buildings could be 35 feet on top of the concrete structure. He stated that part of the structure was inside the hill and you would never see it but part of it was outside the hill and you would see it. He stated that it could be slightly misleading on one-half of the structure because you get away with not having to count the parking structure. He stated that the previous project said they meet the 35 foot height requirement. He stated that for their project to be more feasible, they opted not to build the subterranean garage because it was costly. They have to build on top of the grade to make the grading work so they can build on the dirt. He stated that because this was a hill, the height requirement says that it is measured from the lowest point of the building to the highest point of the building and because of that their heights are higher than 35 feet because of how it was measured. He explained that normally the height was measured from the medium of grade plane to medium of roof structure. He stated

because of the hillside, height becomes deceiving as on looking up the hill you will think it is tall, but looking down the hill you don't think it looks so bad.

Commissioner Clifford stated that he heard his answer but he never heard the answer to his question. He stated that his question was, in terms of the grade proposed for the original project, are the green representations sitting at that grade or the grade that they are going to create with the fill.

Mr. Clark stated that comparison where that project would have sit based on its grading and their project is overlaid or underlaid on that based on their grading.

Commissioner Clifford stated that he was having a problem because in some places they will be filling up to ten feet. He stated that if it was going from 2.5 feet to 10 feet, none of those show the green going below the line. He stated that it was in terms of visualization.

Mr. Clark stated that they were making generalizations. He stated that the previous project was designed to be on a podium.

Commissioner Clifford stated that the podium wasn't that tall because it was actually underground parking.

Mr. Clark understood. He stated that every structure was built on that podium and the green represents that project in location to the existing site if that project was built that way.

Commissioner Clifford asked if the grades they are showing now were the grades they intent to install with the fill.

Mr. Clark stated that those were the finished grades as shown in the designer viewboard.

Commissioner Clifford stated that he was still having a problem that doesn't seem to him to be a real comparative representation because they are going to fill in a great deal.

Mr. Clark stated that the previous project was going to fill in about the same amount that they were filling in.

Commissioner Clifford stated that they were going up to almost 20,000 cubic yards.

Mr. Clark stated that the previous project cut 18,000 cubic yards and filled 19,000 cubic yards. They were moving the same amount of dirt that they are moving but the difference between the two projects was that they are cutting 9,000 and trying to find 10,000 from some other source, and they were still moving dirt on the site in pretty much the same amount.

Chair Nibbelin asked Commissioner Stegink to hold his question to move to get public comment in light of the hour.

Chair Nibbelin opened the Public Hearing.

Joan Gerusa, Pacifica, stated that she and her husband have lived on Fassler since the beginning. She stated that she had written some of her concerns, with the first one being the traffic. She

stated that anyone could stay at their house and witness and see for themselves. She stated that it was a nightmare and she asked if the present design makes room for fire trucks to maneuver in and out of that circular driveway. She asked why the height of the condominiums increased. She asked if the utility poles were underground. She stated that a lot of heavy, tall trucks have been knocking down power lines on the upper part of Fassler. She stated that there is a city weight limit on trucks because the roads and piping have been a problem with heavy trucks. She referred to the old terra cotta plumbing that belongs to the city, stating that they have had to replace everything all the way to the street and part of the city plumbing structure that was old terra cotta. She thanked them for investigating this thoroughly, especially the traffic since they haven't gotten CalTrans to fix the land that is sliding by the orchid farm.

Hall Bohner, Pacifica, stated he was surprised to see that the Commission had overriding considerations, as he thought they only made recommendations to the Council and the Council would certify the EIR. He stated that he didn't see anything in the city ordinance for the Commission to certify EIRs. He thought that may have significance. He referred to the inclusionary ordinance and that the developer had the opportunity to pay in-lieu fees instead of building below market rate units and he was glad to see that staff has recommended against that. He asked that they not allow the in-lieu fees. He stated that the timing is confusing as the Commission would be making a statement of overriding considerations. He then read the portion of the ordinance regarding that issue and concluded that he didn't see how the Commission can do it now. He stated that the project does not provide inclusionary housing now and the staff report stated that the in-lieu fees do not guarantee inclusionary housing and he didn't know how they could make a finding that inclusionary housing would be part of the project when they have not required it and the Council has not required it, adding that Council could allow the in-lieu fees if the developer persists in requesting the in-lieu fees. He thought they have a dilemma and asked that they look at that. He was not supportive of allowing in-lieu fees, was opposed and hoped they don't allow them.

Joanne Arnos, Pacifica, stated that she lives on Oddstad and travels on Fassler every day. She stated that she had submitted her objections to the project. She felt they have an opportunity to impact Pacifica in ways they haven't heard about in terms of open spaces, traffic, wildlife, in the supplemental EIR. She stated that they didn't address the General Plan statement about keeping vistas open and hasn't addressed the Pacifica Hillside Preservation ordinances that talk about open space, vistas that will stay open for ocean views, etc. She hoped they looked into the ordinances written years ago to protect our hillsides and open spaces. She was familiar with Commissioner Clifford on the Open Space task force that decided to struggle with the low density ordinance to transfer to open space ordinance and hillside preservation. She was glad it was a "bug" for him also in terms of the whole ordinance or direction they need to focus on in terms of building low density into a more open space project. She reminded them that she travels on Fassler every day and she reminded them that the school district was going to develop low income housing for school employees and not all school employees will be traveling back on Linda Mar but going to other schools in the city and more of an impact on traffic. She felt they have a monumental task.

Noel Blincoe, Pacifica, stated that he served for many years on the Open Space Committee and they have had many accomplishments. He stated that a major element on this project was the view corridor and he commended Commissioner Gordon for bringing that subject up. He stated that they were talking about transferring from low density on the eastern side to open space residential. He stated that it has been primary in Pacifica to preserve our hillsides and open

spaces. He stated that people on the trail in the quarry will be able to see this project and it will be a terrible view corridor throughout a major part of Pacifica into the quarry area. He stated that the key thing is that the land has low density and the developer could build something up the hill. He questions why he wants to come down the hill. He stated that Commissioner Gordon was trying to figure it out. He stated that this is a significant impact on HPD. He stated that it was the intent of the HPD to discourage development of ridge lines but not, a development should be low profile and minimum visual view and that would mean that the eastern half would be seen but not if it was further up the hill.

Patrick Kobernus, Pacifica, stated that he lives on the Seacrest townhomes on Fassler and he asked if they will be able to see it as it was hard to tell from the renderings. He stated it made sense to him where they want to build as it was flatter and the upper side was more constrained and narrow and steeper. He stated that it was nicer on the east side to protect it with more native grass. He stated that the lower western side was in the quarry and less habitat value more disturbed. He stated there was also pampas grass, invasive species and it would be nice if as part of the project they would control that. He stated that there has been dumping and it would be nice if they cleaned up the garbage. He stated that they were isolated at Seacrest with no sidewalk, no access to trails and he thought it would be a great opportunity for them to share a trail or connect through the eastern parcel and they are already building trails. He sent a map he made to Asst. Planner O'Connor. He referred to the sidewalk, and he stated that they don't have a sidewalk in front of Seacrest and the sidewalk up slope comes down on Fassler and stops at Seacrest. He thought if it continued through Seacrest and connects to this development and make it more contiguous for people to walk more.

Rudolf Gerusa, Pacifica, stated they moved to Fassler in June 1962. He stated that he has seen lots of progress, much of it very good. Now, he stated that because of living on Fassler he has to back his car into the garage or go up the hill and turn around so he can come to the traffic. He stated that the traffic was horrible and now it was going to add 65 cars to go up and down the hill. He stated he will be 90 next year. They love Pacifica and now they have a third generation granddaughter, and their children went to school and grew up in Pacifica. He mentioned that he moved to the desert for a short time but they couldn't take not seeing the ocean and they moved back.

Carolyn Jaramillo, stated that she was a member of Fair Rents 4 Pacifica. She opposed the developer's request to pay an in-lieu fee instead of building affordable housing units as currently required by the city's inclusionary housing ordinance. She stated that Pacifica badly needs affordable housing units and she was pleased that the staff has requested that the request be denied.

Chair Nibbelin closed the Public Hearing.

Planning Director Wehrmeister asked if he wanted to give the applicant a chance to rebut the comments.

Chair Nibbelin called a five-minute break then resumed the meeting.

Commissioner Campbell stated he didn't get an answer but it was the Open Space Preservation. He stated that, when they approved it in 2007/2008, part of the findings for the approval of the transfer of the residential development rights from the east to west, they required that the

applicant permanently be a conservation easement, secure the open space on the eastern parcel. He stated that they did it to ensure that parcel wasn't developed, to provide a habitat corridor, preserve biological resources and benefit the residents and visitors to Pacifica who drive along Fessler to retain the open space and reduce environmental impacts. He stated that it was a big deal, with 30 speakers. He didn't know why it dropped out, wondering if the city had an answer.

Planning Director Wehrmeister stated that when he initially asked the question, she understood the conservation easement but part of the density transfer ordinance does require that there be some covenant of open space or conservation easement recorded on descending parcel so it cannot be developed in the future. She stated that this time around, it may not be explicit in the conditions of approval but can do that if the Commission would like. If they implement the ordinance if the project is approved, there will be recordation of an easement on the property.

Commissioner Campbell stated that the conservation easement they mentioned wasn't just the eastern parcel but wrapped around some of the western and was to the north, south and east. He didn't know if the map still exists, but it might be suitable for this purpose.

Chair Nibbelin referred to a comment Mr. Bohner raised regarding whether the Planning Commission was the proper body for certification of the EIR, stating that the CEQA guidelines talked to the decision making body being the body that certifies the EIR. He stated that in some of the matters the Commission was the decision making body and some not. He was curious as to what the City Attorney thought of that comment.

Asst. City Attorney Rudin stated that, based on his review of the ordinances, the Planning Commission is going to be making the final approvals for the project with the exception of some of the legislative actions that are being made by the city. He stated that, if the Planning Commission was not granting final approval, the resolution should recommend certification to be done by the City Council. He stated that, in an abundance of caution, they can make that change to the resolution, but as he understood the current ordinances and actions being done now, he thought there was sufficient authority with the Planning Commission to make those certifications to the EIR.

Planning Director Wehrmeister clarified that for the items except for the legislative actions, the Commission is the final decision making body.

Chair Nibbelin assumed it was the discretionary pieces aside from the legislative stuff.

Planning Director Wehrmeister stated that Council will need to make their own findings for certification when they take their final action on the legislative matters.

Chair Nibbelin thanked her for that clarification.

Planning Director Wehrmeister added that the actions that are final with the Planning Commission will be contingent on the legislative matters being approved by City Council.

Commissioner Stegink referred to what would make this project viable for him. He stated that the in-lieu fees are a deal breaker as Pacifica can't allow any further in-lieu fees without possibly negating the entire actions of the Planning Department. He stated that we needed a traffic report and to guarantee the preservation of open spaces. He reminded them that the Commissioners

aren't bound by the singular choice of 24 units and can redistribute units. It doesn't have to be based on the old plan and they can reduce density. He stated that there is no old plan because it was expired and they can do anything, making it bigger than the original old plan or smaller.

Commissioner Clifford stated that he supported Commissioner Stegink's comments and he also would like to see a condition of approval on the project that limits the hours that the fill trucks can actually come in. He stated that, if they start coming in as the hours are specified in the documents, they could be there from 7:00 in the morning until 7:00 at night. In the morning, they would be in the middle of the commute and he thinks they need to have something that says they come later than that, and they can determine what the tail-end of the commute when they can allow the trucks to come in with fill. He stated that he has asked some hard questions but that was not because he didn't want to see something build, but because he wants what's built to be right for the community. He has some environmental issues that he would like to see included in the project, a lot more permeable surfaces, lighting to be solar powered, solar panels on the roof, and he would like to know about the treating of the runoff water, wildlife corridors are also important. He stated that they aren't into the building end of it yet, but he would like to see plug-ins for electric cars for all the vehicles that are going to be up there. He mentioned that the state was pushing towards having only electric cars in the not too distant future and they should be making allowances for that on what they allow to be built. He referred to the reduction in the lane and he would love to see a study that deals with that. He referred to the representative for the project and his feelings that it was unjust or unfair that they talk about having them repair any damage that they do to the road from Fassler to their project, and he thought that was entirely fair to expect them to do that, adding that he wasn't saying there will be damage but he thought it should be part of their expectation in putting the project together if they degrade the road. He was a little concerned about whether they need as much fill as they were talking about trucking in. He wondered if the project could be built with less fill and a little more cut and move it around on the site.

Commissioner Campbell agreed with the commissioner who said they need the housing instead of the in-lieu fee. He stated that was also something in 2007 and 2008 that was hotly debated and agreed upon by everyone that they would have four units of housing and not an in-lieu fee. He then referred to Commissioner Clifford's comments, stating that there was a lot of tradeoffs that went into the project back then as it was super controversial and they were seen as moving development into the Hillside Preservation Ordinance territory. He stated that they had things that they had the developer agree to as this would be one of the first residual developments to have solar panels in 2007 on everything. He stated that the subterranean garage was a big deal. They had electric plug ins for the cars, gutters to water tanks, trails, extensive mitigation and monitoring plan for wildlife during construction, slurry sealing the streets outside the project area. He stated that it wasn't as extensive as Harmony@One. He voted for the density transfer at the time because of a lot of the tradeoffs, such as wildlife corridor, an approved traffic analysis, better understanding in the alternatives analysis about why duplexes mean something, the conservation easement.

Mr. Clark referred to condition approval 14C and D which requires a deed restriction on the ascending parcel and giving up development right.

Commissioner Campbell stated that they talked during that time about the conservation easement moving not only from the east but north and south, wrapping around the project. He wasn't sure what happened.

Commissioner Gordon stated that he was disturbed by the underlying premise of the density transfer. He stated that they should really be clear about what they were being asked to do here. He stated that the various groups, Council, Commission, Open Space Committee, got together and the community also, and they approved a General Plan that took a look at the upper and lower parcel and said the lower parcel was valuable to the community because of the view corridor, open space, and he thought if there is going to be development put it on the upper parcel and not on the lower parcel. He then stated that they were being asked to completely upend and go against what their predecessors said and say they think it should be this way. He understood that the space was flatter, biologically in a more degraded condition and those factors weigh on building the lower parcel. He acknowledged that there are tradeoffs but they have to ask themselves that if the fact that it was flatter and more degraded outweighed the fact that forever they are taking away that view corridor. He didn't think he could agree to vote on that. He stated that there was a policy reason for why they came up with that and they would be upending that policy reason. He stated that he can't wrap his brain around that swap unless someone can convince him that there was a tradeoff giving up that view corridor for their children and grandchildren. He stated that he wasn't even at the point to talk about his issues with the height, etc.

Commissioner Cooper stated that he did some research of what San Francisco would charge for an in-lieu fee. It was around \$360,000 for a two bedroom and three bedroom was about \$417,000. He did some quick research of what it would look like as far as a tax benefit to the city had they charged a higher price for the unit. They would obviously get more tax revenue but it didn't pan out for him for the benefit of the community. He thought the in-lieu fee was not a viable alternative especially in as many study sessions as they have been in to provide affordable housing. He felt it was pertinent to not demand the in-lieu fee but request the actual housing as it was a big issue for him. He stated that there was Alternate A in some of the plans which was a shorter building and he thought it was a good idea. He then referred to Commissioner Clifford's issues on the hours and he believes no delivery should happen before 8:30 a.m. and that would put people on the road around 9:00 which would get people off the corridor. He had a huge problem with the turnout both in and out as he didn't think there should be a left turn on Fassler to go up the hill as they were asking for a very serious accident. He didn't like the sidewalks to nowhere. He stated that, as a commissioner, he looks for the future and what will happen to the development around the area such as what happens when Harmony@One goes up. If you have friends at that site, and they wanted to see you, he asked how you would get in the complex as they go from a sidewalk to nowhere and he felt there should be sidewalks within the complex itself. He also looked at the drive within the complex there was no sidewalk to walk your dog. He didn't see that as a viable alternative. He stated that in the center portion there were sidewalks but there was no way to get from one unit to another unit around that area. He would be concerned about the width of the lane. He stated that you have parking spaces and then you have about 20 feet for two lanes of traffic going both ways. He would be very concerned about getting fire trucks in and out of that area. He was also concerned about people who pull into the driveway and they went to the wrong place. He asked how they turn around and get out of the complex without having to go all the way around the complex. He stated that there were going to be family living in there and there will be children on the street and it would be nice for them to have a place to turn around and get out of the complex. He stated that one part of the element was to provide access to open space and if you have an access to Fassler Avenue from the top side of the area for residents to exit out to the sidewalk and back would provide a greater visual appearance to what that open space actually is. He stated that they have condo developments

down by the beach that provide their trails and they provide access so people could actually enjoy the area with a right of first refusal to get on the property. He felt it was important that everyone has access to that area. He referred to a hummingbird area, bird sanctuary, but if no one can get to them, what was the point. He thought that would be an advantageous issue. He thought the conservation element was a big element and if they had that restriction he thought it would be great.

Chair Nibbelin stated that everyone has very comprehensively catalogued various concerns and he was not where Commissioner Gordon and he was a little further down the road than that. He stated they have concerns about things that should be addressed. He wondered whether staff has a sense of the Commission as to some additional things they would like analyzed such as traffic being a big issue. He thought more information about how they ended up with this density transfer and the rationale for that. He didn't think they were at a place where anyone was going to feel comfortable taking a vote. He wondered if a continuance of the item might be in order to get more information.

Planning Director Wehrmeister agreed and suggested a continuance to the first meeting in December because there was a lot of information they have asked for, and they need to make sure they have enough time. She was hopeful that was enough time but they can let them know if it is not.

Chair Nibbelin asked if they need a motion and vote.

Commissioner Clifford moved that the Planning Commission continue this item to meeting on December 4, 2017; Commissioner Cooper seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Stegink, Cooper, Gordon, Campbell,  
Clifford and Chair Nibbelin.  
Noes: None

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF NOVEMBER 27, 2017:**

Chair Nibbelin asked if someone who voted in favor of the item might be prepared to serve as a liaison. He asked Commissioner Stegink if he was volunteering.

Commissioner Stegink stated that he was going to suggest Commissioner Campbell because of his history.

Chair Nibbelin asked if he was talking on the alternative financial services ordinance.

Commissioner Stegink stated that he will volunteer for that.

**COMMISSION COMMUNICATIONS:**

Commissioner Stegink stated that he would like to talk briefly about AB678 and AB15. He stated that AB15 passed last month. They say that AB15 and SB167 required local government provide developers with a list of any inconsistencies between a proposed project and the local plans, zoning and standards within 30-60 days after the housing application is complete or the project will be deemed consistent with all local policies. He stated that it was to keep everyone apprised of any problems or it has a poison pill. He stated that will require more staff and money than they currently have, and he was a fan of lean government, he thought they should sell all their lawnmowers and hire vendors to mow the lawn. He stated that the 12 new laws are going to create such a burden on planning that they really have to go back and get more staff or money to address it. He stated that he would be happy to support any efforts at a City Council level to do that. He also suggested that, without the poison pill, we extend AB678 and SB167 or the spirit of the law to not only developers but to residents doing residential remodels, construction, etc. He appreciated everything Planning does but by far that was the most frequent complaint he has because people have no idea what is outstanding, what's coming, and maybe it's a check list but sometimes people feel blindsided. He didn't know what they have to do staff and moneywise to come out with an agenda on a Wednesday. He stated that it would certainly help planning in general. He stated that they have had a couple of meeting where they had one resident on the docket and then they get five inches of paper on Friday afternoon. He referred to transparency, and he didn't know if they can put it on NextDoor. He stated that it would be simple to list the agenda on NextDoor at the same time, and they have 9,000 users. He asked if there was any way to move it from a simple classified ad in the Tribune to a display ad in the front section or just the agenda heading titles and the parcel number. He stated that he learns of some of the project on November 25 when people who get the paper on Tuesday ask if he is aware that it was coming. He stated that it was difficult to look anything but unprepared when you have no knowledge of what is coming.

Commissioner Campbell asked about the cannabis ordinance. He asked if they have applicants yet.

Planning Director Wehrmeister stated that they do not because the way the ordinance is written is it is not effective unless the tax passes. If the tax doesn't pass, the Council can do something different with that in the future. She stated that, assuming the tax passes, the ordinance would be effective sometime in January when the election is certified and then there were timing triggers

for when applications are due, when the police chief does his thing, and they were still a couple of months out if everything passes before they will have a final due date for applications.

**STAFF COMMUNICATIONS:**

Planning Director Wehrmeister stated that they had some sad news today regarding a colleague staff but with sad news comes joyful news. She reported that, on Halloween, Asst. Planner Robert Smith and his wife welcomed their first son. His name is Rory Chapman Smith, 8 lbs., 9 oz, 21 inches long.

Chair Nibbelin asked if it was a Halloween character.

**ADJOURNMENT:**

There being no further business for discussion, Commissioner Cooper moved to adjourn the meeting at 10:25 p.m.; Commissioner Stegink seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Stegink, Cooper, Gordon, Campbell,  
Clifford and Chair Nibbelin  
Noes: None

Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director Wehrmeister

Attachment: Draft Minutes 11-06-17 (2454 : Approval of Draft Minutes - 11/6/17 Meeting)