

APPEALED

RESOLUTION NO. 991

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA APPROVING SPECIFIC PLAN SP-149-14, TRANSFER OF DEVELOPMENT RIGHTS TDR-03-14, SUBDIVISION SUB-224-14, AND REMOVAL OF ONE HERITAGE TREE, SUBJECT TO CONDITIONS, FOR CONSTRUCTION OF A 24 UNIT CONDOMINIUM AT 801 FASSLER AVENUE (APNs 022-083-020 AND 022-083-030); RECOMMENDING THAT THE CITY COUNCIL ENACT AN ORDINANCE APPROVING DEVELOPMENT PLAN DP-75-14 AND REZONING RZ-192-14; CERTIFYING THE SUPPLEMENT TO AN ENVIRONMENTAL IMPACT REPORT; AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, FINDINGS OF FACT, AND STATEMENT OF OVERRIDING CONSIDERATION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

Initiated by: Samir Sharma ("Applicant").

WHEREAS, an application has been submitted to subdivide the airspace and construct a 24-unit condominium development, including a butterfly and hummingbird garden, an upper and lower picnic area, other open space areas, and a footpath consisting of decomposed granite that would provide connection between the open space areas and the western portion of the residential development at 801 Fassler Avenue (APN 022-083-020 and 022-083-030);

WHEREAS, the submittal of the above mentioned development application rendered the existing Development Plan DP-67-04 and Rezoning RZ-183-04 approved with Ordinance No. 753-C.S. of the City Council of the City of Pacifica moot;

WHEREAS, the Project would include transferring the 32 unit development rights from a 3.6 acre portion of the parcel located within the Low Density Residential land use designation in the General Plan to the remaining 7.6 acre portion of the parcel located within the Open Space Residential land use designation in the General Plan with an existing 1 unit development right;

WHEREAS, the project site is located in the Planned Development (P-D) zoning district, which requires the Commission's recommendation of Council's adoption of a Development Plan per PMC Section 9-4.2206;

WHEREAS, the project is located in the Hillside Preservation District overlay zoning district and has a maximum allowable land coverage of 11 percent (53,665 square feet) of the 11.2 acre property per Pacifica Municipal Code Section 9-4.2257;

WHEREAS, the Planning Commission does not recommend altering the existing Hillside Preservation District (HPD) zoning designation applicable to the site, which shall remain in full force and effect;

WHEREAS, the adoption of a Development Plan would alter the development standards for the project site and would be considered a zoning text amendment, which requires the Commission's recommendation of Council's adoption of a Rezoning per PMC Section 9-4.3505;

WHEREAS, prior to construction in a Planned Development zoning district, approval of a Specific Plan is necessary per PMC Section 9-4.2208;

WHEREAS, the project would require approval of a Transfer of Development Rights per PMC Section 9-4.4200 through 9-4.4208;

WHEREAS, the project would subdivide the airspace above the parcel for condominium purposes and create two new parcels solely for identification of permanently preserved open space;

WHEREAS, the project would require dedication of Park Land per PMC Section 9-4.2205(c)(2) and PMC Section 10-1.803 and the applicant has requested the an in-lieu fee alternative;

WHEREAS, the proposed project would require removal of one heritage tree;

WHEREAS, the City Council of the City of Pacifica must ordain the Development Plan DP-75-14 and Rezoning RZ-192-14 prior to issuance of a building permit;

WHEREAS, the proposed project would require the issuance of 24 residential development allocations by the City Council prior to issuance of a building permit per PMC Section 9-5.03;

WHEREAS, the proposed project includes the provision of 15 percent of proposed housing units as below market rate (BMR) housing units per PMC Section 9-4.4702, and the applicant has proposed to construct four BMR units within the project;

WHEREAS, City of Pacifica Planning Division is the Lead Agency for preparing the environmental review for the Project pursuant to the California Environmental Quality Act (CEQA) and for project approval;

WHEREAS, WRA Environmental Consultants (WRA), on behalf of the City of Pacifica Planning Division issued a Notice of Preparation on October 19, 2015 for the Project, which was distributed in compliance with CEQA Guidelines Section 15082;

WHEREAS, WRA prepared the *Fassler Avenue Residential Project Draft Supplemental Environmental Impact Report (SEIR), State Clearinghouse No. 2006062150* for the Project in accordance with Public Resources Code Section 21000 *et seq.* and CEQA Guidelines Section 15000 *et seq.*;

WHEREAS, on June 7, 2017 the City of Pacifica Planning Division issued a Notice of Completion and Notice of Availability for the Draft SEIR, which was distributed in compliance with CEQA Guidelines Sections 15085, 15087, and 15105 and Public Resources Code Sections 21091 and 21092;

WHEREAS, on June 7, 2017, the City of Pacifica Planning Division distributed copies of the Draft SEIR to public agencies which have jurisdiction by law with respect to the Project and to publically accessible repositories and invited comments on the Draft SEIR in compliance with CEQA Guidelines Sections 15085, 15087, and 15105 and Public Resources Code Sections 21091 and 21092;

WHEREAS, on June 29, 2017, City of Pacifica Planning Division held a properly noticed public meeting to present the proposed project and the conclusions of the analysis in the Draft SEIR;

WHEREAS, on July 24, 2017, the 48-day public comment period for the Draft SEIR ended;

WHEREAS, written comments on the Draft SEIR were collected and responses to comments were considered in the revisions made to the Draft SEIR to comprise the Final SEIR;

WHEREAS, the *Fassler Avenue Residential Project Final Supplemental Environmental Impact Report*, State Clearinghouse No. 2006062150 was made available to the public on September 28, 2017;

WHEREAS, the Final SEIR identified certain potentially significant adverse environmental impacts and recommends certain mitigation measures regarding such effects;

WHEREAS, the project would have significant and unavoidable effects on aesthetics and noise after implementation of identified mitigation measures;

WHEREAS, the Planning Commission finds that where more than one reason for approving the project and rejecting alternatives is given in its findings or in the record, and where more than one reason is given for adopting the Statement of Overriding Considerations, the Planning Commission would have made its decision on the basis of any one of those reasons; and

WHEREAS, the Planning Commission of the City of Pacifica did hold duly noticed public hearings on November 6, 2017, February 5, 2018, and March 19, 2018, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its findings, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby make the following findings pertaining to the Development Plan:

- (1) The proposed P-D District can be substantially completed within the time schedule submitted by the applicant;

Discussion: The applicant has detailed that construction of the project would take approximately 19 months. No information is known at this time to suggest that the proposed construction timeline is unreasonable.

- (2) Each unit of the development, as well as the total development, can exist as an independent development capable of creating an environment of sustained desirability and stability or adequate assurance that such objective will be attained;

Discussion: The proposed project would provide 24 dwelling units as well as provide adequate access, open space, and parking to each unit to allow the units and the development as a whole to be independently capable of creating an environment of sustained desirability. Additionally, Condition of Approval 16 would require that a Declaration of Covenants, Conditions and Restrictions (CC&Rs) be recorded onto the property prior to issuance of a building permit. The CC&Rs would establish the standards and guidelines for the maintenance, repair, and replacement of the development, which would ensure that sustained desirability would be maintained.

- (3) The land uses proposed will not be detrimental to the present or potential surrounding uses but will have a beneficial effect which would not be achieved through other districts;

Discussion: The proposed land use of clustered low density residential would not be detrimental to the present or potential surrounding uses. The project would have a consistent feel to the condominiums located to the east of the project site (SeaCrest). The substantial amount of open space that would surround the development would buffer the land use transition from the Open Space Residential designation that surrounds the remaining areas of the property. Accordingly, the proposed land use will have a beneficial effect which would not be achieved through other districts.

The proposed project would include a trail that would connect the eastern terminus of the site to the general western area of the site where the proposed development is located. This trail network would be accessible to SeaCrest residents (the adjacent condominium project to the east). The trail network, in addition to the sidewalk proposed along the property frontage, would provide highly desired pedestrian options to the residents of SeaCrest, as supported by the public comments received on the project.

- (4) The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the P-D District;

Discussion: The one direction loop servicing the entire development from a single access point off of Fassler Avenue, would be 28 feet wide and would accommodate the anticipated traffic of the 24 units. The City of Pacifica Engineering Division staff, as well as, North County Fire Authority staff have found the width of the proposed loop suitable and adequate for the proposed development.

As further discussed in the Traffic and Transportation Section of the SEIR and below, impacts on traffic from the development of the proposed project were found to be less than significant.

- (5) Any proposed commercial development can be justified economically at the location proposed and will provide adequate commercial facilities for the area;

Discussion: No commercial development is proposed; therefore, this finding is not applicable.

- (6) Any exception from the standard district requirement is warranted by the design of the project and amenities incorporated in the development plan;

Discussion: As detailed in Section 9-4.2204(b), the development standards for the P-D District, except for lot size, "shall be guided by the regulations of the residential, commercial, or industrial zoning district most similar in nature and function to the proposed P-D District uses as determined by the Commission and Council." The clustered residential of the proposed project would be most similar to the nature and function of the R-3 (Multiple-Family Residential) District. The proposed project would meet the regulations for area, coverage, density, yards, parking, and open ground area guided by the R-3 District.

The applicant is seeking an exception from the height regulation of the R-3 district, which is permissible under Section 9-4.2204(b), which provides that exceptions may be granted if the

exceptions “encourage a desirable environment and are warranted in terms of the proposed development.” The request to modify the development regulations of the P-D zoning district, specifically the height maximum from 35’-0” to 37’-1” for Building A and 35’-4” for Building B, requires additional findings for the Specific Plan. The additional findings provided for the Specific Plan in this Resolution support how the exception to the height limit encourages a desirable environment and is warranted.

- (7) The area surrounding the development can be planned and zoned in coordination and substantial compatibility with the proposed development, and the P-D District uses proposed are in conformance with the General Plan and, where applicable, the Local Coastal Plan, or that changes in the General Plan or Local Coastal Plan are justified;

Discussion: The proposed land use of clustered low density residential would not be detrimental to the present or potential surrounding uses. The project would have a consistent feel to the condominiums located to the east of the project site (SeaCrest). The substantial amount of open space that would surround the development would buffer the land use transition from the Open Space Residential designation that surrounds the remaining areas of the property. The project is in conformance with the General Plan as further discussed as below.

- (8) The project is consistent with the City's adopted Design Guidelines; and

Discussion: As further discussed below, the proposed project is consistent with the City's adopted Design Guidelines:

- **Site Planning, Site improvements.** *Locate site improvements such as buildings, parking areas, and walkways to take advantage of desirable site features. For example, existing healthy trees and distinctive berms or rock outcroppings should be incorporated into site design. Buildings should be oriented to capitalize on views of hills and ocean.*

Site improvements should be designed to work with site features, not against them. Lot grading should be minimized and disruption of natural features such as trees, ground forms, rocks, and water courses should be avoided.

Discussion: The proposed development is located on the western portion of the parcel, which has the least significant slope and is the portion of the parcel that is most altered from past quarry activities. Additionally, the western portion would allow the buildings to be oriented to capitalize on the ocean views. Lastly, construction would involve the removal of only one heritage tree.

Building Design, Scale. *An important aspect of design compatibility is scale. Scale is the measure of the relationship of the relative overall size of one structure with one or more other structures. Scale is also used to refer to a group of buildings, a neighborhood, or an entire city. A development can be “out of scale” with its surroundings due to its relative height, bulk, mass, or density.*

Discussion: The proposed project includes a group of 5 buildings with various heights (ranging between 35’-0” and 37’-1”) and sizes (ranging between 1,253 and 2,143 square feet). The Project Elevation figures show the visual relationships between the buildings are compatible in scale regarding height and size. The consistent architectural stylings of the buildings further promote the compatible scale. The scale of the proposed project

compared to the existing condominiums to the east would be compatible. The only viewshed in which you could see both developments would be from select locations along Highway 1 and at that distance, the two developments would appear comparable in scale.

Building Design, Details. Use architectural features and details to help create a sense of human scale. Wall insets, balconies, window projections, etc. are examples of building elements which may help reduce the scale of larger buildings.

Discussion: Each building in the proposed development would incorporate all of the example building design details listed above. Thus, the buildings would create a sense of human scale.

Building Design, Consistency. There should be architectural consistency among all building elevations. All elevations need not be identical, but a sense of overall design continuity must occur. Window treatment and trim, for example, should be carried out around the entire building, not just the most visible sides.

Discussion: Each building in the proposed development would incorporate architectural consistency among all building elevations. Exterior building materials, wall outlets and insets, windows, balconies, and other architectural features would be consistently used through all of the elevations of the development.

- ***Landscaping, Amount and Variety.*** Applicants are encouraged to exceed the minimum amount of landscaping required by the zoning ordinance and landscaping plans should incorporate a variety of plant species. The amount, scale, and nature of landscape materials should be appropriate to the site and/or structure. Large-scale buildings should be complemented by large-scale landscaping. Development along major streets should also include large scale trees.

Discussion: The proposed development incorporates a substantial amount of landscaping in between the proposed structures and immediate around the development. An area would be specifically landscaped to encourage butterflies and humming birds. Condition of Approval 22 would require the applicant to submit a final landscaping plan to ensure that the landscaping element of the Pacifica Design Guidelines is met. Additionally, approximately 10 acres of the 11.2 acre property would be undisturbed and would continue to have its natural vegetation; therefore, the property would substantially exceed the landscaping minimum of 20 percent.

- ***Landscaping, Existing Landscape Elements.*** Where possible, existing landscape elements, such as native and heritage trees, should be retained and incorporated into landscape plans. [...] Mature trees and tree grouping, as well as rock outcroppings should be considered design determinants.

Discussion: The proposed project would remove only one heritage tree. Additionally, see response to Landscaping, Amount and Variety, provided above regarding retaining existing landscaping.

Hillside Development, Slope Stability and Erosion. Many of the hillsides areas show signs of instability through creep and slippage. Drainage and erosion potential are also

problems associated with hillside development. (a) obtain input from a geologist or soils engineer early in the design process. A geotechnical report may be required. (b) avoid construction near geologically fragile or unstable areas. (c) use engineering techniques, such as drainage swales and channels, catch basins, and French drains to direct runoff. (d) use landscaping techniques such as netting, hydroseeding and selection of plants which have root systems which aid in stabilizing the soil.

Discussion: Two geotechnical reports were used for reference of the development of the project, including a 2005 report prepared for the previous Prospect project, and a 2015 update prepared for the current proposed project, which identifies the feasibility of the development at the site. Mitigation Measure (MM) GEO-1 in the Supplemental Environmental Impact Report for the 801 Fassler Residential Project, would require the applicant to prepare a site specific design level geotechnical evaluation and a third party review prior to the issuance of the building permit. Recommendations from the design level review to remediate geologic, slope stability, or erosion impacts would be implemented during construction.

- **Hillside Development, Excavation.** *Larger amounts of cut and/or fill are unattractive on hillsides, and can have a detrimental impact on the immediate and surrounding environment. (a) Structures should relate to and follow site topography to work with the slope, not against it. (b) whenever feasible, buildings and roads should be sited to align with existing contours of the land. (c) retaining walls should be avoided or, if necessary, their height should be reduced to the minimum feasible. (d) avoid one- level solutions which would result in excess lot coverage and more disruption of the site. Multi-level structures which step down the slope can help to minimize cut and fill.*

Discussion: (a) Most of the developable site would be generally flat. However, Buildings B and C incorporate the terracing into a hillside, by creating levels with varying depths. (b) The access road would be graded with a slight slope, with the peak occurring in the eastern portion of the loop. The road would accommodate the structures at their various elevations on the hill. (c) The proposed project would include the use of retaining walls. The retaining walls would range in height from 6 inches to approximately 13 feet. The 13 foot retaining wall is located between the Fassler entrance and Building C. The remaining retaining walls would be substantially shorter. (d) The development does not include any single story structures. All structures would be two to three stories.

- **Hillside Development, Visual Impact.** *Development on hillsides and ridges is often visible to neighbors and other residents in the vicinity, as well as those at a distance, such as motorists traveling on Highway 1. Hillside development also has the potential to block or impair established views from existing development. (a) locate development below ridges and hilltops so the ridgelines are left open. (b) building forms, particularly roof forms, should complement the contours and slopes of the hillside to increase structure and site integration. (c) Buildings should be designed with low profiles. In some cases low pitched roofs and hip end may be desirable. (d) massive roof overhangs and building cantilevers on downhill faces should be avoided where site conditions allow. Terracing into the hillside will help reduce the impact of bulk of the structure. Long pole supports on downhill faces are to be avoided. (e) multi-level designs which conform to the hillside are encouraged, but with careful planning is required to avoid excessive height. Although generally discouraged, very low pitched or flat roofs may be considered*

if no other solution is feasible. The horizontal potential of a site should be fully exploited before increasing building height.

Discussion: (a) The proposed project is located near the top of the hill behind the east side of Rockaway and the north side of Fassler Avenue. While the project is not located on the hilltop on ridgeline, the buildings would visually block the ridgeline to the east from view of southbound motorists on Highway 1 and eastbound motorist on Fassler Avenue. However, by locating the development on the western portion of the property as proposed, the development is located lower than most alternative locations. (b) The individual roof forms of the structures would be flat roofs to maintain a lower profile. (c) The structures are proposed to have flat roofs. (d) The proposed structures have no roof overhangs or long pole structures. Most of the developable site would be graded to be generally flat. However, Buildings B and C incorporate the terracing into a hillside, by creating levels with varying depths. (e) The proposed project has fully exploited its limited horizontal potential site coverage by developing 53,627 sf of the 53,665 sf allowed under the HPD.

- ***Multi-Unit Development, Building Siting and Orientation.*** *The arrangement and orientation of buildings within a multi-unit development has an important impact on the overall design effect in terms of massing and bulk, and also affects privacy and energy consumption. (a) Building orientation should be varied to provide usable exterior spaces between structures and to avoid instances where living spaces of one structure face living of another and reduce privacy. (b) Private outdoor space should be located on the southern building exposure to gain the maximum amount of sunlight wherever feasible. (c) buildings should be oriented to maximize southern exposure to window areas to encourage passive solar heating in winter months. (d) building should be oriented to create courtyards and open space areas (e) Linear arrangement of buildings should be avoided and setbacks should be varied. This can be accomplished through the staggering of buildings or clustering in groups of varied numbers.*

Discussion: (a) The orientations of the duplex structures are varied throughout the development and include building fronts in various directions. The elevation changes from west to east, various unit styles and structure sizes, and the distances between structures are all design features that provide variety in the proposed project to avoid side by side living areas that would reduce each other's privacy. (b) In addition to the ocean views to the west and/ or the hillside views to the east, at least one of the private outdoor spaces of each unit would receive substantial morning or afternoon southern exposure. (c) Similar, the structures are well spaced and oriented to take advantage of the views as well as receive substantial morning or evening southern exposure. (d) The spacing of the structures in Building A would create walk way that would lead residents on the eastern side (Building C) to the community patio located between the structures of Building B. Further open space areas would be accessible from the community patio. (e) The buildings are not linearly arranged, but are oriented in a semi-circle pattern, which is related to the looped access road and the minimal coverage allowed on site.

- ***Multi-Unit Development, Parking and Circulation.*** *Multi-unit developments can result in a significant traffic increase in a given area, placing an additional burden on the capacity of existing streets to handle through traffic and on-street parking. Such developments also often require a large number of on-street parking spaces. (a) access should be planned to have the least impact on existing residential streets. (b)*

requirements of the City of the Cityve the least impact on existing residential streets. (b) reconsidered early in the design process.

Discussion: Impacts on traffic from the development of the proposed project were found to be less than significant. The City of Pacifica Engineering Division staff as well as North County Fire Authority staff have found the width of the proposed loop suitable and adequate for the proposed development. Therefore the project would be consistent with the traffic and circulation guidelines for multi-unit developments

- (9) The project is consistent with the City's General Plan and, if applicable, Local Coastal Plan.

Discussion: As further discussed below the proposed project is consistent with the City's adopted General Plan. The Local Coastal Plan is not applicable to this project as it is not located in the Coastal Zone.

Circulation

- ***Circulation Policy 14.*** *Ensure adequate off-street parking in all development.*
- ***Circulation Action Program 17.*** *Require developers to incorporate emergency access needs as necessary in their developments*
- ***Circulation Action Program 18.*** *Require that all new streets be developed to modern neighborhood standards as part of development.*

Discussion: The proposed project would include 63 off-street parking spaces as required for the 24-unit development with the Hillside Preservation District, as detailed in Table 1, above. Each unit would have two garage spaces (48 spaces). The remaining spaces (15 spaces) would be located along or off of the access loop (Attachment C). Approximately 12 percent of the spaces would be compact sized and none of the compact spaces would be garage spaces.

The improvement to Fassler Avenue as well as the design of the access loop have been reviewed and approved by the Engineering Department and the North County Fire Authority.

Scenic Highways Element

- ***Scenic Highways Element Policy 1.*** *Encourage the designation and protection of scenic corridors which provide access to locations of significant scenic quality, recreation, historic and cultural importance in Pacifica*
- *"The scenic roadway proposals are: [...] 2. The Linda Mar Boulevard-Oddstad-Terra Nova Boulevard-Fassler Avenue loop, providing spectacular views of the coastal ridge and ocean and connecting major recreation areas (San Pedro Valley County Park, Sanchez Adobe, and the Discovery Trail at the end of Fassler) and points of historic interest and scenic beauty." (Page 94)*

Discussion: The proposed project would temporarily obstruct westbound motorists' ocean view along Fassler Avenue, which is a proposed scenic roadway. However, only Building B and proposed landscaping would create the obstruction and any development in this area would likely have a similar visual impact. Condition of Approval 20 would require the applicant implement MMs from the SEIR, including MM AES-1 which would limit the use of trees on the southwest corner of the development. Condition of Approval 22 would require the applicant to prepare a final landscaping plan.

Conservation Element

- ***Conservation Element, Policy 1. Conserve trees and encourage native forestation***

Discussion: The proposed project would only require removal of one heritage tree. Additionally approximately 10 acres of the 11.2 acre property would remain undisturbed with native vegetation.

Open Space Element

- ***Open Space Element, Policy 3. Encourage development plans which protect or provide generous open space appropriately landscaped. Balance open space, development and public safety, particularly in the hillside areas***
- ***Open Space Element, Policy 6. Where open space is a condition of development, the City should require that it be clearly designated as permanent open space.***
- ***Open Space Element, Action Program 7. Development regulations should encourage density-open space tradeoffs, such as clustering development, transferring development rights from sensitive to less sensitive land and dedication of open space.***
- ***“Retention of open space areas should be encouraged in development whenever natural landscape, scenic resources or public access can be preserved, enhanced or provided. Use of open spaces could include hiking and riding trails, vista points or off-street play space.” (Page 125)***
- ***“A method for voluntary transference of development rights from undeveloped areas which contain open space and recreation value to less environmentally significant or sensitive areas should be developed.” (Page 126)***

Discussion: The proposed project would utilize the clustering development and transferring development rights process to transfer distributed development in a less disturbed area of the site, to a single location on the site that has been disturbed by past quarry activities. The project design would allow for the greater and better quality open space to be preserved. Conditions of Approval No. 2 and 3 would require the applicant to record a deed restriction on the title of the property that the area considered to be the sending parcel (3.6 acres of Low Density Residential designated land) be permanently preserved as open space.

Community Design Element

- ***Community Design Element, Policy 3. Protect the City’s irreplaceable scenic and visual amenities.***
- ***Community Design Element, Policy 5. Require underground utilities.***

Discussion: The proposed project would be visible to motorists traveling north and eastbound on Fassler Avenue. As further discussed in the SEIR (Attachment D), the proposed project would substantially alter the scenic resources available from Fassler Avenue. Condition of Approval 20 would require the implementation of MMs, including MM AES-1 which would detail direction on where and how trees and other landscaping should be used to reduce the visual impact of the project. Additionally, the proposed project would utilize the clustering development and transferring development rights process to transfer distributed development to a single location to reduce the overall length of views along Fassler Avenue that would be affected. As shown on Sheet C-5

(Attachment C) and as required by Condition of Approval 36, the utilities for the development would be underground.

Community Facilities Element

- ***Community Facilities Element, Policy 1. Maintain and improve the present level of City services.***
- ***Community Facilities Element, Policy 2. Provide recreational activities and facilities consistent with user financial and environmental constraints.***

Discussion: The proposed project would have a less than significant impact on public services, including fire, police, schools, and other public facilities. The proposed project would be providing onsite passive recreational facilities. Additionally, as recommended below, the applicant would pay an in-lieu fee to meet the requirements of Article 47 of Title 9, Chapter 4 of the Pacifica Municipal Code regarding Park Land Dedication.

Land Use Element

- ***"The north side of Fassler Ridge, including the vacant land fronting on Fassler Avenue, is also within this neighborhood. This long, narrow area should be carefully developed with low density residential use with limited access to Fassler Avenue in order to minimize conflicts with this heavily travelled arterial. Immediately west of the low density residential area is a narrow vacant area with a limited amount of flat land. Potential traffic impacts on Fassler Avenue, possible geotechnical problems, and limitations of the Hillside preservation District overlay zone indicate that Open Space Residential is the most appropriate use of this area." (Page 44)***

Discussion: The proposed development area would be located in the area referenced above as appropriate for open space residential due to potential traffic impacts, possible geotechnical problems, and limitations of the HPD. However, conclusions of recent geotechnical reports (Draft Supplemental Environmental Impact Report for the 801 Fassler Residential Project, Appendix E), traffic analyses (Draft Supplemental Environmental Impact Report for the 801 Fassler Residential Project, Appendix G), and conformance with the HPD limitations support that the utilization of the clustering development and transferring development rights to the proposed development area. Additionally, as recommended by the General Plan, the proposed project would have a single access point with Fassler Avenue in order to minimize conflicts with the heavily travelled arterial.

Seismic and Safety Elements

- ***Seismic and Safety Elements Policy 10. Emphasize fire protection measures***
- ***Seismic and Safety Elements Action Program, Short Term, 1. Enforce and monitor ordinances requiring geotechnical site investigation for any site with an average slope exceeding 15 percent prior to allowing site development. Require geotechnical studies for sites with slopes less than 15 percent if appropriate. The impacts of increase water runoff from proposed development should be determined as part of the geotechnical study prior to site approval.***
- ***Seismic and Safety Elements Action Program, Short Term, 1. Geotechnical studies should include at least a preliminary study of expansive and creeping soils, as well as appropriate analysis of erosion, seismic, tsunami, and other geotechnical hazards.***

Discussion: Geotechnical and drainage reports were prepared for the site (Attachment D, Appendix E). The geotechnical report does include a preliminary study of expansive and creeping soils, as well as analysis of erosion, seismic and other geotechnical hazards. The project site is beyond the area that would be directly impacted from a tsunami. Mitigation Measure (MM) GEO-1, would require the applicant to prepare a site specific design level geotechnical evaluation and a third party review prior to the issuance of the building permit. Recommendations from the design level review to remediate geologic, slope stability, or erosion impacts would be implemented during construction.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby make the following findings pertaining to Specific Plan:

- (1) That the specific plan is consistent with the approved development plan; and

Discussion: The application for the proposed project includes the specific plan and development plan together. Therefore the findings for the development plan also apply to the specific plan.

- (2) That the specific plan is consistent with the City's adopted Design Guidelines.

Discussion: The specific plan is consistent with the City's adopted Design Guidelines. (See findings provided under the Development Plan.)

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby make the following Specific Plan findings pertaining to the exemption from the 35 foot height maximum as allowed per PMC Section 9-4.2211:

- (1) There is improved site design utilizing progressive concepts of building groupings;

Discussion: The proposed project would utilize the clustering development and transferring development rights process to transfer distributed development in a less disturbed area of the site, to a single location on the site that has been disturbed by past quarry activities. The orientations of the duplex structures are varied throughout the development and include building fronts in various directions. The elevation changes from west to east, various unit styles and structure sizes, and the distances between structures are all design features that provide variety in the proposed project to avoid side by side living areas that would reduce each other's privacy. In addition to the ocean views to the west and/ or the hillside views to the east, at least one of the private outdoor spaces of each unit would receive substantial morning or afternoon southern exposure.

- (4) Provisions have been made for substantial usable open space (maximum slope ten (10%) percent) for the use of the occupants of the area or the general public;

Discussion: The proposed project would provide beyond its 16,800 sf of usable open space minimum. The project would provide 18,124 sf of usable open space.

- (5) The unsightliness of cut and fill areas has been reduced by the planting of trees, shrubs, and ground covers;

Discussion: The proposed development incorporates a substantial amount of landscaping in between the proposed structures and immediate area around the development. An area would be specifically landscaped to encourage butterflies and humming birds. Condition of Approval 22 would require the applicant to submit a final landscaping plan to ensure that the landscaping element of the Pacifica Design Guidelines is met. Mitigation Measure BIO-3a would require the applicant to have a qualified professional who specializes in native habitat restoration to incorporate specific provisions into the landscaping plan. Additionally, approximately 10 acres of the 11.2 acre property would be landscaped with proposed or existing natural vegetation.

- (6) A better community environment or improved public safety has been created by the dedication of public areas or space; and

Discussion: The proposed project would utilize the clustering development and transferring development rights process to transfer distributed development in a less disturbed area of the site, to a single location on the site that has been disturbed by past quarry activities. The project design would allow for the greater and better quality open space to be preserved and improve the community environment. Condition of Approval 15 would require the applicant to record on the title of the property that the 3.6 acres of Low Density Residential designated land are permanently preserved as open space. Additionally, Conditions of Approval Nos. 2 and 3 detail the voluntary deed restriction that the Applicant has agreed to apply to all non-developed areas of the property.

- (7) Utility and all other service distribution lines will be put underground.

Discussion: As required by Condition of Approval 36, the utilities for the development would be underground.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby make the following findings pertaining to the Transfer of Development Rights:

- (1) That the criteria set out in Section 9-4.4204 herein are met.

Discussion: The requirements for TDR are listed in PMC Section 9-4.4200 through 9-4.4208 of the zoning code. PMC Section 9-4.4205 specifically allows TDRs within one parcel, which is the proposal under consideration now. The TDR is in compliance with all applicable requirements listed in the Zoning Code. The 3.6 acres in the easterly portion of the site qualifies as a sending area under PMC Section 9-4.4203(a)(1) as it is an open space area designated in the 1988 Pacifica Open Space Task Force Report Inventory (identified as portion of Parcel 25). The 7.6 acres in the westerly portion of the site qualifies as a receiving area under PMC Section 9-4.4204(a)(5) as its zoning designation is P-D. Consistent with the requirements of PMC Section 9-7.4206, all the density allowed in the LDR easterly portion of the site would be transferred to the westerly portion of the site with the General Plan land use designation of OSR.

- (2) That the transfer will result in the permanent preservation of open space land with natural, scenic, agricultural, or recreational value, or in the preservation of undeveloped land subject to geotechnical hazard or flooding.

Discussion: Consistent with the requirements of PMC Section 9-7.4206, all the density allowed in the LDR easterly portion of the site would be transferred to the westerly portion of the site with the General Plan land use designation of OSR. Therefore 3.6 acres of open space designated in the 1988 Pacifica Open Space Task Force Report Inventory would be preserved. Condition of Approval 15, would require the applicant to satisfy all requirements for the TDR in the zoning code, including PMC Section 9-4.4207(d), which requires legal recordation of the deed restriction as approved by the City Attorney.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby make the following findings pertaining to the Subdivision:

- (1) That the proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, any Specific Plan, the Local Coastal Program, and the zoning provisions.

Discussion: The proposed subdivision is consistent with the General Plan, Specific Plan, and zoning provision as discussed above under the respective findings. The Local Coastal Program does not apply to this project site. In accordance with Section 66427 of the Subdivision Map Act, a governing body does not have the right to refuse approval of a tentative or final map of the project on account of the design or the location of the building on the property shown on the map that are not violative of local ordinance on account of the manner in which airspace is to be divided in conveying condominium.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby recommend approval of the rezoning to the City Council based on the following discussion:

The project would require a rezoning to change the zoning designation of the site to P-D (Planned Development) with Development Plan to reflect the approved development plan for the site as described in the proposed project. Therefore the findings provided for the Development would also apply as the reasons to support the rezoning of the property with the Development Plan.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby certify that the SEIR has been completed in accordance with CEQA, has been presented to and reviewed by this Planning Commission prior to the Commission's decision on the Project, and reflects the City of Pacifica's independent judgement and analysis.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica hereby:

- Certifies the Fassler Avenue Residential Project Final Supplemental Environmental Impact Report, State Clearinghouse No. 2006062150 in accordance with the California Environmental Quality Act;
- Adopts the Findings of Fact, and Statement of Overriding Considerations in accordance with the California Environmental Quality Act, included as Exhibit C to this resolution;
- Adopts the Mitigation Monitoring and Reporting Program in accordance with the California Environmental Quality Act, included as Exhibit D to this resolution;
- Recommends City Council enactment of the ordinance described in Exhibit A to this resolution, which would approve Development Plan DP-75-14 and Rezoning RZ-75-14 (the "Ordinance");

- Approves Specific Plan SP-149-14, Transfer of Development Rights TDR-03-14, Subdivision SUB-224-14, and removal of one heritage tree, subject to conditions of approval included as Exhibit B to this resolution, contingent upon adoption of the Ordinance and effective upon the effective date of the Ordinance; and
- Incorporates all maps and testimony into the record by reference.

* * * * *

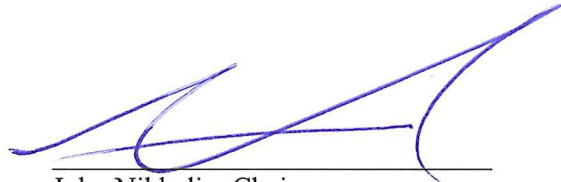
Passed and adopted at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 19th day of March 2018.

AYES, Commissioner: CAMPBELL, CLIFFORD, GORDON, KRASKE, NIBBELIN, STEGINK

NOES, Commissioner: N/A

ABSENT, Commissioner: N/A

ABSTAIN, Commissioner: N/A



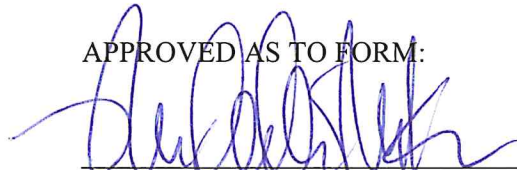
John Nibbelin, Chair

ATTEST:



Tina Wehrmeister, Planning Director

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney

Exhibit A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA APPROVING DEVELOPMENT PLAN DP-75-14 AND REZONING RZ-75-14 TO ESTABLISH A PLANNED DEVELOPMENT (P-D) ZONING DISTRICT WITH DEVELOPMENT PLAN AT 801 FASSLER AVENUE (APN 022-083-020 AND 022-083-030), AND REPEALING ORDINANCE NO. 753-C.S.

WHEREAS, an application has been submitted to the subdivide the airspace and construct a 24-unit condominium development, including a butterfly and hummingbird garden, an upper and lower picnic area, other open space areas, and a footpath consisting of decomposed granite that would provide connection between the open space areas and the western portion of the residential development at 801 Fassler Avenue (APNs 022-083-020 and 022-083-030);

WHEREAS, the submittal of the above-mentioned development application rendered the existing Development Plan DP-67-04 and Rezoning RZ-183-04 for the project site moot, and the repeal of Ordinance No. 753-C.S. is necessary to avoid ambiguity and confusion as to the zoning applicable to the site;

WHEREAS, the Planning Commission held duly noticed public hearings on the proposed project on November 6, 2017, February 5, 2018, and March 19, 2018, and adopted Resolution No. 991 recommending City Council approval of DP-75-14 and Rezoning RZ-75-14 on March 19, 2018; and

WHEREAS, the City Council of the City of Pacifica held a duly noticed public hearing on May 14, 2018, and introduced Ordinance No. ### on [DATE].

NOW, THEREFORE, the City Council of the City of Pacifica does ordain as follows:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Findings. Specific findings of fact for approval of the rezoning and development plan are contained in the Planning Commission Resolution No. 991 adopted on March 19, 2018, including without limitation findings related to the consistency of the residential development with the General Plan, and the City Council concurs with said findings and incorporates the findings herein by reference.

Section 3. Repealed. Ordinance No. 753-C.S. of the City Council of the City of Pacifica is hereby repealed.

Section 4. Development Plan. The approved Development Plan DP-75-14 for the project site, which shall be implemented through a development more particularly set forth in a specific plan approved in accordance with Article 22 of Chapter 4 of Title 9 of the Pacifica Municipal Code, shall be as set forth in the following Table 1:

TABLE 1

Standards	Approved
Permitted Uses	<ul style="list-style-type: none"> • Up to 24 residential housing units, including not less than four below market rate (BMR) housing units. • “Recreational facilities,” which shall mean facilities installed on the site, either inside or outside of structures, for the active and/or passive enjoyment of persons residing on or visiting the site. Recreational facilities shall be exempt from the coverage limitations of the Hillside Preservation District in Section 9-4.2257 of the Pacifica Municipal Code.
Lot Area	53,000 square feet (minimum), except that condominium subdivisions of airspace shall not be subject to a minimum lot area.
Lot Area per Dwelling Unit	2,189 square feet per dwelling unit (minimum)
Lot Width	50’-0” (minimum), measured at the required front setback line
Development Coverage (per Hillside Preservation District zoning standards)	<p>11%, or 53,627 square feet (maximum).</p> <p>The maximum Development Coverage shall be derived inclusive of all developable lots/parcels and all lots/parcels permanently restricted from development (the “Project Site”). The proportionate Development Coverage (calculated percentage) on an individual lot/parcel may exceed the stated maximum provided the entire absolute Development Coverage (square footage) remains within the identified limitation for the Project Site.</p>
Lot Coverage	<p>60% (maximum).</p> <p>Lot Coverage shall include the surface area covered by structures but shall not include paved or landscaped areas.</p>
Landscaping	Not less than 20 percent of lot area (minimum).
Setbacks	
Front	88’-0” (minimum)
Side	5’-0” (minimum)
Rear	20’-0” (minimum)

Height	<p>Structures (other than fences): 35'-0", except that height up to 37'-1" may be approved in a specific plan upon finding the conditions in Section 9-4.2211 of the Pacifica Municipal Code have been determined to exist.</p> <p>Fences: 4'-0" (maximum). All fences shall be open work fences, which shall mean "a fence in which the component solid portions are evenly distributed and constitute not more than sixty (60%) percent of the total surface area of the fence."</p>
Parking	<p>Minimum of two (2) covered spaces, plus one-half (½) uncovered space, per dwelling unit. The uncovered spaces may be incorporated within a parking area shared by spaces for other units; provided, however, in no case shall the total number of spaces so located together be less than the same of the separate requirements for each unit and shall be located no farther than 100 feet from each dwelling unit entrance.</p> <p>When the determination of the number of required off-street parking spaces results in the requirement of a fractional space, any fraction under one-half (½) shall be disregarded, and fractions including and over one-half (½) shall require one off-street parking space.</p>
Guest Parking	<p>Minimum of one guest space for every ten (10) dwelling units, or fraction thereof.</p> <p>When the determination of the number of required off-street parking spaces results in the requirement of a fractional space, any fraction under one-half (½) shall be disregarded, and fractions including and over one-half (½) shall require one off-street parking space.</p>
Usable Open Space	<p>750 square feet per townhome unit and 450 square feet per unit for all other forms of clustered housing (minimum)</p> <p>"Usable open space" shall consist of an area having a slope of not more than 10 percent.</p>
Private Open Space	<p>150 square feet per dwelling unit, except that a studio or one-bedroom unit shall be allowed to have a minimum area of 130 square feet (minimum)</p>
Separation from other structures	<p>At least 10'-0"</p>
Trash Storage/Laundry	<p>Contained within each dwelling unit</p>

Private Storage Space	<p>200 cubic feet per dwelling unit (minimum)</p> <p>The following standards shall apply to Private Storage Space:</p> <ul style="list-style-type: none"> • It shall be in addition to guest, linen, food pantry, and clothes closets customarily provided for each dwelling unit. • It shall be enclosed, weatherproofed, and lockable. • It shall be for the sole use of the dwelling unit owner or lawful occupant • It shall have a minimum horizontal surface area of twenty-five (25) square feet, and a minimum interior dimension of 3'-6" by 6'-0" or, if a walk-in type, shall have a minimum clear access opening of 2'-6" by 6'-8". • Such space may be provided within the garage area if neither the space nor the doors leading thereto encroach upon any required parking space. • The location and the precise architectural treatment of such space shall be reviewed and approved by the Planning Commission to ensure that such areas are safe, convenient, and unobtrusive to the functional and aesthetic qualities of the project.
Circulation/Access	<p>Not more than one entrance/exit along Fassler Avenue. All streets and driveways shall meet the requirements of the California Fire Code in effect at the time of their construction, to the satisfaction of the Fire Chief. Except, however, that the Fire Chief shall consider compliance with Hillside Preservation District street standards in Section 9-4.2258 of the Pacifica Municipal Code to the maximum extent practicable when approving street and road design.</p>

Section 5. Reclassification. Section Map 24 of the Zoning Map of the City of Pacifica, as described in Section 9-4.302 of the Pacifica Municipal Code, is hereby amended as depicted in Exhibit 1 to this Ordinance. The specific area affected by this reclassification is more particularly described in the legal description included as Exhibit 2 to this Ordinance. The reclassification does not alter the existing Hillside Preservation District (HPD) zoning applicable to the site, which shall remain in full force and effect.

Section 6. Expiration. The approval of Development Plan DP-75-14 and Rezoning RZ-192-14 conferred in this Ordinance shall not expire unless and until this Ordinance is repealed.

Section 7. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance was analyzed in the Fassler Avenue Residential Project Final Supplemental Environmental Impact Report, State Clearinghouse No. 2006062150. The City Council hereby certifies the Fassler Avenue Residential Project Final Supplemental Environmental Impact Report, State Clearinghouse No. 2006062150, adopts the Findings of Fact, Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program in accordance with the California Environmental Quality Act contained in the Planning Commission Resolution No. 991 on March 19, 2018.

Section 8. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 9. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published once in The Pacifica Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, California.

PASSED AND ADOPTED this 14th day of May, 2018, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

John Keener, Mayor

ATTEST:

APPROVED AS TO FORM:

Kathy O'Connell, City Clerk

Michelle Kenyon, City Attorney

Exhibit B

Conditions of Approval: Construction of a 24 unit condominium at 801 Fassler Avenue (APNs 022-083-020 AND 022-083-030)

Planning Commission Meeting of March 19, 2018

SUBDIVISION CONDITIONS

1. The tentative map is valid for a period of two years from the date of final determination. If a final map is not recorded within this time, the tentative map approval shall expire unless Applicant submits a written request for an extension, stating the reasons for requesting the extension, and applicable fee to the Planning Director at least 30 days prior to the expiration date as provided in Pacifica Municipal Code Section 10-1.412. The Planning Director shall process an extension request in accordance with Section 10-1.412 and submit it for consideration by the Planning Commission. The Planning Commission may grant an extension request for a period not exceeding three years beyond the expiration date of the original tentative map approval.
2. The Applicant shall revise the tentative map to separately identify as parcels the following two areas: a) the area affected by Transfer Development Rights TDR-03-14 which shall be described as follows on the tentative map "Area of Prohibited Development Pursuant to Transfer of Development Rights TDR-03-14"; and, b) the area voluntarily offered by the Applicant for permanent protection from future development which shall be described as follows on the tentative map "Area of Voluntary Development Restriction".
3. Prior to final map approval, the Applicant shall prepare and submit for review and approval by the City Attorney deed restrictions for each parcel which will permanently restrict future use and development on the two parcels described in Condition No. 2 to the following: As pertains the first parcel, the deed restriction shall forfeit all residential building rights permitted on the lot or parcel pursuant to Transfer of Development Rights TDR-03-14; and, as pertains the second parcel, the deed restriction shall reserve the area for private use for the benefit of the future 24 owners at 801 Fassler Avenue and for the residents at the Sea Crest Development; permit the construction of trails; prohibit roadway connection to the Rockaway Beach neighborhood; prohibit vertical construction with the exception of fences (max 4' in height and open work) and bench/seating areas as approved by the Fassler Homeowners Association (HOA). Management of the second parcel is the responsibility of the Fassler HOA and shared access privileges will be defined by the Fassler HOA. These permanent development restrictions will be memorialized in deed restrictions that will be in a form acceptable to the City Attorney and will also be recorded upon the property. Upon approval of the deed restrictions by the City Attorney, the Applicant shall record the deed restrictions against the property and submit proof of recording to the Planning Director prior to issuance of a building permit for the first residential unit within the subdivision.
4. The City Council of the City of Pacifica will need to accept offer of easements for Emergency Vehicle Access and Public Use Access prior to the filing of a final subdivision map.
5. Prior to the execution of the Subdivision Improvement Agreement, applicant shall submit to Engineering Division the construction plans and necessary reports and engineering calculations for all on-site and off-site improvements to the satisfaction of the City Engineer. Such plans and reports shall include but not limited to:

- a. All plans and reports must be signed and stamped by a California licensed professional.
 - b. Plan, profile and cross sections of the proposed driveways. The proposed driveway shall not exceed the maximum grade of 18 percent.
 - c. Curb ramps on both sides of the driveways.
 - d. Design Geotechnical Report analyzing the proposed on-site and off-site improvements including but not limited to the driveways and retaining wall.
 - e. All site improvements including utilities and connections to existing mains must be designed according to the City Standards and to the satisfaction of the City Engineer.
6. Prior to approval of the final subdivision map, Applicant shall enter into a Subdivision Improvement Agreement with the City of Pacifica to construct all on-site and off-site improvements, as depicted on the approved Tentative Map and any conditions and mitigations imposed on this project, prior to approval of the final map and all necessary fees and bonds associated with this agreement, including applicable Park Land Dedication fees as determined by the Planning Director, shall be paid by the applicant.
 7. Should the applicant desire to record the final map prior to completion and acceptance of improvements, a bond in an amount determined by the City Engineer must be provided. The bond maybe in the form of cash, instrument of credit or surety bond. In addition, an improvement agreement shall be executed to guarantee that the work will be done in accordance with the approved plans.
 8. Prior to approval of the final map, the applicant shall verify that all public and private utilities have been provided to serve the subdivision. Approvals and/or agreements shall be obtained from all utilities.
 9. The form, contents, submittal, approval, and filling of a final subdivision map (or final parcel map) shall conform to the following:
 - a. Surveys required. An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer or licensed land surveyor. All monuments, property lines, and center lines of streets, alleys, and easements adjoining or within the subdivision shall be tied into the survey. The allowable error of closure on any portion of the parcel map shall not exceed 1/10,000 for field closures and 1/20,000 for calculated closures.
 - b. Forms and contents. The form and contents of the parcel map shall conform to the final map form and contents requirements of Pacifica Municipal Code Section 10-1.504 and Pacifica Municipal Code Section 10-1.505 of, except for subsection (6) of subsection (c).
 - c. Preliminary submittal. The subdivider shall submit prints of the parcel map to the City Engineer for checking. The preliminary prints shall be accompanied by copies of the data, plans, reports, and documents required for final maps by Pacifica Municipal Code Section 10-1.506.
 - d. Review and approval by the City Engineer. The City Engineer shall review the parcel map, and the subdivider's engineer shall make corrections and/or additions until the map is acceptable to the City Engineer. The subdivider's engineer shall submit the original tracing of the map, corrected to its final form and signed by all parties required to execute the certificates on the map, to the City Engineer. The City Clerk or his or her authorized agent shall transmit the approved parcel map directly to the County Clerk for transmittal to the County Recorder.
 - e. The City Engineer shall approve the final parcel map if it conforms to the requirements of the Subdivision Map Act, applicable sections of the Pacifica Municipal Code, and all conditions thereof.

10. The subdivider shall defend, indemnify and hold harmless the City of Pacifica and its agents, officers, and employees from any claim, action, or proceeding against the City of Pacifica and its agents, officers, or employees to attack, set aside, void, or annul approval of subdivision SUB-224-14. Pursuant to this condition, the City of Pacifica shall promptly notify the subdivider of any claim, action, or proceeding regarding the subdivision, and the City of Pacifica shall cooperate fully in the defense of such claim, action, or proceeding.

GENERAL CONDITIONS APPLICABLE TO PERMITS OTHER THAN SUBDIVISION SUB-224-14

Planning Division

11. Development shall be substantially in accordance with the plan set entitled “*Tentative Map for Condominium Purposes 801 Fassler Avenue, Pacifica, CA March 2015, Revised: October 2017*”, and attached to the March 19, 2018, Planning Commission Staff Report, except as modified by the following conditions.
12. Construction dump trucks shall not enter or leave the project site during 7:00 am to 9:00 am, Monday through Friday.
13. Prior to issuance of a building permit, the City Council of the City of Pacifica must ordain the Development Plan DP-75-14 and Rezoning RZ-192-14.
14. Prior to the issuance of a building permit, applicant must receive City Council approval for the issuance of 24 residential development allocations in accordance with PMC Section 9-5.03.
15. Prior to the issuance of a building permit, the Transfer of Development Rights shall be finalized. The Transfer of Development Rights shall not be finalized until all of the following have been accomplished:
 - a. Final approval of the other development entitlements for the project;
 - b. Execution of an instrument legally sufficient in both form and content to effect such development rights transfer;
 - c. Recordation of a deed restriction on the portion of the parcel considered to be the sending parcel. A copy of the recorded deed restriction shall be submitted to the Planning Administrator, who shall certify that all of the development rights on the sending parcel are removed;
 - d. The deed restriction shall be approved as to form and content by the City Attorney. The document shall notify all owners and successors that the transfer and its concomitant restriction shall run with the land and be binding on all future owners. For all sending parcels, the deed restriction shall be sufficient to retire all development rights upon the sending parcel; and
 - e. Recordation of total development rights received on the portion of the parcel considered to be the receiving parcel. A copy of the recorded deed restriction shall be submitted to the Planning Director, who shall certify that all of the development rights on the receiving parcel are recorded.
16. Declaration of Covenants, Conditions & Restrictions (CC&Rs). Prior to issuance of a building permit, the developer/owner shall prepare and record with the San Mateo County Recorder’s Office a Declaration of Covenants, Conditions and Restrictions and Equitable Servitudes which

shall run with the land and be binding on all future owners and occupants of each of the residential units within the subject property and their successors, heirs, and assigns, and shall be approved as to form and content by the City Attorney and Planning Director, which accomplishes the following:

- a. The Declaration shall be binding upon each of the owners of each of the residential units on the subject property and their heirs, successors and assigns.
- b. There shall be a Homeowner Association to manage the project. The Declaration shall specify that the Homeowners Association shall be responsible for the repair, maintenance and replacement of exterior lighting, parks, common areas, utility areas within common areas, parking, landscaping, building signage, sanitary sewer, stormwater facilities, open space, and other features of the project.
- c. The Declaration shall establish standards and guidelines for the maintenance, repair and replacement, where applicable, exterior lighting, park, parking, landscaping, signage, sanitary sewer, stormwater facilities, and other features and utility facilities within the common areas, to the satisfaction of the City of Pacifica. Maintenance of the stormwater facilities located within the property shall be the responsibility of the applicant and property owners.
- d. The Declaration shall establish a mechanism for placing assessments against the owners of all residential units within the subject property for the purpose of financing the maintenance, repair and replacement of the common areas, parking, landscaping and building signage. The assessments shall be apportioned in an equitable manner.
- e. The assessments shall be made, work shall be contracted for, and funds shall be disbursed by such person (“Agent”) as may be delegated from time to time, by the Homeowners Association. The applicant or his/her successor in interest shall act as the Agent as long as he/she owns at least two of the units on the subject property.
- f. Any assessment not paid when due shall become a lien against the unit of the nonpaying owner, which lien may be foreclosed by the Agent.
- g. Communication. Each owner is responsible for, and shall agree to, furnish to each new tenant a copy of the CC&Rs prior to execution of the lease or purchase agreement for each unit.
- h. The Declaration shall include procedures for designating a project “Manager” if different than the “Agent” who shall at all times be responsible for security and/or maintenance of the overall project. At all times the Manager shall provide his/her name and current phone number to the Planning Director, including any changes thereto.
- i. The Declaration shall include a provision that the provisions relating to this condition (No.16) shall not be amended without prior approval in writing from the City of Pacifica.
- j. The Declaration shall specify that the owners of each of the residential units on the property shall comply with all other applicable conditions of approval for the project.
- k. The Declaration shall specify that in no way shall the appearance of any building or premises be so altered, or the conduct of the occupancy within the building or premises be such that the residential units may be reasonably recognized as serving other than a purely residential use by virtue of color, materials, construction, lighting, noise, vibration, or the like, without prior written approval of the Planning Director.
- l. The Declaration shall include the provisions required to be included in the CC&Rs by the MMRP. The MMRP requires provisions to be included in the CC&Rs whenever a mitigation measure requires the owners, HOA or other similar entity to undertake maintenance or other obligations after occupancy of the project.
- m. The Declaration shall name the City of Pacifica as a third party beneficiary with the right (but not the obligation) to enforce the provisions required to be included in the CC&Rs

by the MMRP or these conditions of approval.

- n. All exterior colors used in the development shall be muted earth tone colors in perpetuity.
- 16.1. Prior to the recordation of the Final Map, Applicant shall enter into a Below Market Rate (BMR) Housing Unit Affordability Agreement (“Affordability Agreement”) with City, in a form approved by the Planning Director and City Attorney. The Affordability Agreement shall provide, among other things that: (1) Applicant will develop and sell four of its units as BMR units at an affordable housing cost to eligible households; (2) the BMR units shall meet the size and design requirements set forth in Pacifica Municipal Code Section 9-4.4705; (3) construction and sale of the BMR units shall be phased with the development of the market rate units to ensure that the BMR units are timely developed and sold; (4) purchasers of the BMR units will be required to enter into and execute Resale Restriction Agreements and other documents ensuring the long-term affordability of the BMR units for no less than 45 years; (5) the development and sale of the BMR units otherwise meets the requirements of Article 47 of Chapter 4 of Title 9 of the Pacifica Municipal Code (“City of Pacifica Below Market Rate (Inclusionary) Program”); and (6) Applicant will be responsible for the City’s administrative costs associated with compliance with the Affordability Agreement. The Affordability Agreement must be recorded against the property prior to or concurrently with the recordation of the Final Map.
17. That the approval of SP-149-14 is valid for a period of two years from the date of final determination. If the use or uses approved is/are not established within such period of time, the approval shall expire unless Applicant submits a written request for an extension and applicable fee prior to the expiration date, and the Planning Director or Planning Commission approves the extension request as provided below. The Planning Director may administratively grant a single, one year extension provided, in the Planning Director’s sole discretion, the circumstances considered during the initial project approval have not materially changed. Otherwise, the Planning Commission shall consider a request for a single, one year extension.
18. DELETED
19. That the approval of TDR-03-14 shall not expire and shall permanently restrict development rights for the project site.
20. The Applicant shall incorporate all mitigation measures, as detailed, in the *Fassler Avenue Residential Project Final Supplemental Environmental Impact Report* (September 2017).
21. Prior to the issuance of a building permit, Applicant shall submit a detailed on-site exterior lighting plan for review and approval by the Planning Director. Said plan shall indicate fixture design, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties. Lighting shall be directed away from adjacent residences. Buffering techniques to reduce light and glare impacts to residences shall be required. Building lighting shall be architecturally integrated with the building style, materials and colors and shall be designed to minimize glare. Show fixture locations, where applicable, on all building elevations.
22. Prior to the issuance of a building permit, Applicant shall submit a final landscape plan for approval by the Planning Director. The landscape plan shall show each type, size, and location of plant materials, as well as the irrigation system. Landscaping materials included on the plan shall be coastal compatible, drought tolerant and shall be predominantly native. All landscaping shall be completed consistent with the final landscape plans prior to occupancy. In addition, the landscaping shall be maintained as shown on the landscape plan and shall be designed to

incorporate efficient irrigation to reduce runoff, promote surface filtration, and minimize the use of fertilizers, herbicides, and pesticides. Landscaping on the site shall be adequately maintained in a healthful condition and replaced when necessary as determined by the Planning Director.

23. All transformers, HVAC units, backflow preventers and other ground-mounted utility equipment shall be shown on the landscape and irrigation plans and shall be located out of public view and/or adequately screened through the use or combination of walls or fencing, berming, painting, and/or landscaping, to the satisfaction of the Planning Director.
24. Prior to the issuance of a building permit, Applicant shall submit a roof plan with spot elevations showing the location of all roof equipment including vents, stacks and skylights. All roof equipment shall be screened to the Planning Director's satisfaction.
25. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.
26. Prior to the issuance of a building permit, Applicant shall submit information on all final exterior finishes, including colors and materials, to the satisfaction of the Planning Director. All exterior metal materials shall be corrosion resistant materials. Exterior colors and materials shall be muted earth toned as further required in COA 16.
27. Exterior individual television and radio antennas shall be prohibited on the outside of the owners' units. A central antenna with connection to each unit via underground or internal wall wiring shall be provided, or each unit shall be served by a cable antenna service provided by a company licensed to provide such service within the City.
28. All permanent mechanical equipment, such as motors, compressors, pumps, and compactors, which is determined by the Building Official to be a source of structural vibration or structure-borne noise, shall be shock mounted in inertia blocks or bases and/or vibration isolators in a manner approved by the Building Official.
29. Each dwelling unit shall be served by water, gas, and electric services completely within the lot lines or ownership space of each separate unit. No common water, gas, or electrical connections or services shall be allowed, and each dwelling unit shall be separately metered for each service. Easements for water, gas, and electric lines shall be provided in the common ownership area where lateral service connections shall take place.
30. Applicant shall maintain its site in a fashion that does not constitute a public nuisance and that does not violate any provision of the Pacifica Municipal Code.
31. Applicant shall clearly indicate compliance with all conditions of approval on the plans and/or provide written explanations to the Planning Director's satisfaction prior to issuance of a building permit.
32. The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments,

approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant's project, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

Engineering Division

33. Drainage inlets shall be stenciled in thermoplastic or marked "No Dumping Drains To Ocean." Applicant shall install Trash Capture Devices on all new drainage inlets. Construction shall be in conformance with the City of Pacifica Storm Water Management and Discharge Control Ordinance and San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented.
34. Roadways shall be maintained clear of construction materials and debris, especially mud and dirt tracked, onto Fassler Avenue. Dust control and daily road cleanup will be strictly enforced.
35. An Encroachment Permit must be obtained for all work within City right-of-way. All proposed improvements within City right-of-way shall be constructed per City Standards.
36. All utilities shall be installed underground from the nearest main or joint pole.
37. All recorded survey points, monuments, railroad spikes, pins, cross cuts on top of sidewalks and tags on top of culvert headwalls or end walls whether within private property or public right-of-way shall be protected and preserved. If survey point/s are altered, removed or destroyed, the applicant shall be responsible for obtaining the services of a licensed surveyor or qualified Civil Engineer to restore or replace the survey points and record the required map prior to occupancy of the first unit.
38. All proposed sanitary sewer system and storm drain system including detention basins up to their connection to the existing mains shall be privately maintained. Indicate the rim and invert elevation of all existing and proposed storm drain manholes and sewer manholes.
39. Existing curb, sidewalk or other street improvements adjacent to the property frontage that is damaged or displaced shall be repaired or replaced as deemed by the City Engineer even if damage or displacement occurred prior to any work performed for this project
40. Prior to the earlier of issuance of a grading permit or issuance of a building permit for the first housing unit on the project site, Applicant shall pay a fee of \$134.56 (One Hundred Thirty-four Dollars and Fifty-six Cents) which is necessary to compensate for degradation of road pavement on eastbound Fassler Avenue between Highway 1 and the project site caused by loaded dump trucks associated with project grading. The fee calculated by the City Engineer was based on the following consideration: the cost of a single lane road overlay project on eastbound Fassler Avenue between Highway 1 and the project site; the projected usable life of a road overlay, estimated at 10 years; daily trips by non-project construction traffic along eastbound Fassler Avenue during the usable life of the road overlay; and, the number of equivalent trips for each

loaded dump truck traveling along eastbound Fassler Avenue during the project grading phase (Because loaded dump trucks are heavier than typical passenger vehicles, it is necessary to adjust a single dump truck trip to an equivalent number of passenger vehicle trips to determine the proportionate pavement impact).

- 40.1. In order to address the degradation of the pavement due to utility and other right of way improvements associated with the project, applicant shall overlay existing asphalt with minimum 2 inch AC to the limits of all utility connections or to street centerline, whichever is greater, across entire property frontage (consisting of westbound Fassler Avenue), prior to issuance of a Certificate of Occupancy for any housing unit in the project. All pavement markers, markings and striping shall be replaced in kind or according to the approved plans.
41. There shall be no construction vehicles parked within the Fassler Avenue public right-of-way.
42. Municipal Regional Permit requirements, Drainage Technical Memorandum and stormwater improvements shall be peer reviewed by a qualified stormwater professional.
43. Street striping shall be substantially in accordance with the design shown in Attachment H of the February 5, 2018 Planning Commission staff report for Agenda Item No. 2, and further included as Attachment B-1 to Exhibit B of Resolution No. 991. Applicant shall establish street striping prior to issuance of a building permit. Final Street striping shall be reapplied prior to issuance of Certificate of Occupancy.
44. Traffic improvements including but not limited to new entrance (sight distance), left turn pocket and pavement striping and markings shall be peer reviewed by a qualified Transportation professional.
45. No private structures, including but not limited to walls or curbs, fences, mailboxes, or stairs shall encroach into the public right-of-way.
46. Per the adopted City of Pacifica Complete Street Policy, development shall include but not limited to pedestrian facilities. Applicant shall install new sidewalk per City Standards 101A across the entire property street frontage.

Building Division

47. The project requires review and approval of a building permit by the Building Official. Applicant shall apply for and receive approval of a building permit prior to commencing any construction activity.

Wastewater Division

48. Prior to building permit, applicant shall provide location and size of sewer lateral, appurtenances to satisfy city standards and specifications
49. The portion of the sewer collection system that is being proposed to serve this development may be at or near capacity. The developer shall conduct a sewer flow study that will evaluate flow and capacity of existing sewer line infrastructure located at manhole #RK18 on Fassler just west of the proposed development and extending to manhole #R20a which is located just outside the Rockaway Sewage Lift Station. The flow study shall meet the satisfaction of the Public Works

Director. In the event that the flow study determines that improvements to the existing sewer line infrastructure are necessary due to the burdens and impacts imposed by the proposed project, the developer shall be financially responsible for the actual costs required to install any such required improvements to the sewer line and shall construct any required infrastructure improvements prior to the issuance of a certificate of occupancy. All such improvements constructed shall be inspected and subject to approval by the Director of Public Works prior to issuance of any certificate of occupancy.

North County Fire Authority

50. Fire sprinklers are required per 2016 CFC Chapter 9 Section 903 with horn/strobes.
51. Project shall comply with fire flows per 2016 CFC Appendix B.
52. Project shall include smoke detectors and CO monitors required per CBC.
53. Clearly visible and illuminated, address identification required for each unit. Project shall conform to the 2016 CFC Appendix D Section D103.6.
54. Project shall comply with fire Apparatus Access per 2016 CFC Appendix D. Additionally the curb shall be painted red and marked as "Fire Lane" in 4 inch white block lettering.
55. Project shall comply with Fire service features installed per 2016 CFC Chapter 5 Section 501.4.
56. Fire systems per 2016 CFC Chapter 9.
57. Project shall comply with fire hydrant location and spacing per 2016 CFC Appendix C.
58. Project shall comply with the 2016 CFC Chapter 33 – Fire Safety during construction and demolition.

North Coast County Water District

59. In the event that a water main extension may be required by the North Coast County Water District, developer will enter into a Water Service Agreement with the District in order to provide a water main extension for this project area. The developer shall be financially responsible for any improvements to the water systems that are necessary to accommodate the proposed project. Improvements shall be completed prior to the issuance of a certificate of occupancy.
60. If a right of way is required shall be dedicated to the Water District upon completion of the work.
61. The applicant must determine the domestic water requirements in accordance with the Uniform Plumbing Code so that the District can provide the properly sized domestic meter or meters. The applicant shall complete an Application for Minor projects Designed and Constructed by Applicant Under District Review and Inspection available at the District or online at www.nccwd.com. Fees and deposits must be paid in accordance with the District's Rate and Fee Schedule before the District installs any meters.

62. If sprinkler systems are required by the City, the fire sprinkler designer and/or owner/applicant must have a fire flow test performed to ensure the system is designed using accurate information. Application for fire flow test is available at the District or can be found at www.nccwd.com.
63. The project and fire sprinkler designers must obtain the latest version of the District's Standard Specifications and Construction Details. A hard copy is available at the District office or a downloadable version is available on the website. The sprinkler designer must design the sprinkler system to meet District standards. The fire sprinkler designer must submit plans and hydraulic Fire Sprinkler Calculations stamped by a registered Fire Protection Engineer to the District for review along with the appropriate fees to cover the District costs related to plan review.
64. The applicant is responsible for trenching, backfilling and resurfacing the roadway and/or sidewalk from water main, as identified by the District Engineer to the proposed meter(s) according to NCCWD and the City of Pacifica standards.

Condition Added By Planning Commission at March 19, 2018 Public Hearing

65. Applicant shall incorporate alternative roof designs as shown in Attachment I of the March 19, 2018 Planning Commission staff report for Agenda Item No. 1. The alternative design would replace the angled roof feature of the buildings, as seen on Figure IV-7 of the Draft SEIR (Attachment D of said staff report), with a flat roof.
66. The maximum height of the structures for Specific Plan SP-149-14 shall be 35'-0" with the exception of Building A (not including Building A-Alt), which can be 37'-1" and Building B, which can be 35'-4".

***** END OF CONDITIONS *****

Attachment B-1 to Exhibit B of Planning Commission Resolution No. 991

Fassler Avenue Striping Plan Referenced in Condition No. 43 of Planning Commission Resolution No. 991

