

**MINUTES**

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

March 4, 2019

7:00 p.m.

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

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

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

**STAFF PRESENT:** Planning Director Wehrmeister  
Sr. Planner Murdock  
Contract Planner Aggarwal  
Asst. City Attorney Sharma

**APPROVAL OF ORDER  
OF AGENDA** Commissioner Nibbelin moved approval of the Order  
of Agenda; Vice Chair Clifford seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Rubinstein, Clifford, Nibbelin, Kraske,  
and Chair Campbell  
Noes: None

**APPROVAL OF  
MINUTES:** None

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF March 11, 2019:**

Chair Campbell stated that they would not need a liaison.

**ORAL COMMUNICATIONS:**

None

**CONSENT ITEMS:**

None.

**PUBLIC HEARING:**

- 1. SP-166-17**                      **File No. 2017-033 – Specific Plan SP-166-17** for the construction of a three-story, 3,643-square foot (sf) single-family residence on a 5,618-sf vacant lot of 327 Beaumont Boulevard (APN 009-037-470). Recommended CEQA Action: Class 3 Categorical Exemption, Section 15303.

Contract Planner Aggarwal presented the staff report.

Commissioner Nibbelin referred to the conditions of approval, 4 through 6, and he thought they were a good idea. He asked if there was a preliminary outreach to the developer at 325 Beaumont regarding getting cooperation from that developer. He thought this might not be a usual situation and he was curious about what kind of outreach might have been done.

Contract Planner Aggarwal stated that staff provided the geotechnical reports for 325 and 323 Beaumont sites to the applicant for analysis by their engineer to see whether they could be impacted but staff was not aware of any communication between the developers.

Commissioner Nibbelin asked if the applicant for this project had expressed any concerns about the conditions.

Contract Planner Aggarwal stated that they haven't expressed any concerns about the condition at this time. She added that they were not conditioning the development on 325 Beaumont through this project, explaining that the conditions are only applicable for 327 Beaumont Blvd..

Commissioner Nibbelin understood that this was on the 325 Beaumont project and there was a requirement that best efforts be applied to coordinate with someone else who was not party to this condition.

Sr. Planner Murdock added that they have attempted to build in a fail-safe in the event of a breakdown or inability to communicate, that this applicant needs to explain how the project can be constructed safely without that coordination.

Vice Chair Clifford asked if there was someone from either building or engineering at this time, as his question revolves not around the one undeveloped lot on one side but the developed lot next door, as they got a petition with concerns about how the impacts of this development on the existing homes next door in terms of excavation. He asked for information on what kind of protections are built into the building section to ensure that the existing house is safe.

Planning Director Wehrmeister suggested that the engineer or designer for the project may be the best person to answer that question when they speak, rather than a city engineer.

Derek Vinh, applicant, stated that he was representing the designer for 327 Beaumont and the owners in their firm. He stated that they didn't have any concerns with the condition of approval and they could work with the 325 Beaumont neighbor. He reached out to the owners, architects and contractor and the planner sent them a copy of the soil report as well as their plans and they were willing to work with them. He stated that their civil engineer has some grading plans to ensure on both sides. He stated that they were working with the 325 Beaumont group on the

design for the retaining wall to save them a large amount of excavation, as well as in terms of financing. He stated that it will save them a lot of money if they allow the present project to cooperate and build the wall between the two lots. He stated that they were on board to work with them because it will give them financial release on their side. They were confident about a working relationship with 325 Beaumont and he thought one of the conditions will be met. He stated that they have a shoring retaining wall plans that were done by their civil engineer but he was not present to answer any engineering questions, adding that he was proposing to do retaining walls that will be protected against the developed lot. He stated that he has the plans but he is not a civil engineer and he didn't have the ability to explain the plans but he would be happy for him to answer any questions in a letter form or emails if they have any questions regarding of the plan and he thought the plans will answer most of their questions.

Chair Campbell referred to his comment that they will save the 325 Beaumont project funds if they allow them to build that retaining wall. He asked if he could explain why that was the case.

Mr. Vinh stated that the civil engineer explained that with a soldier pile design there were a tremendous amount of soldier piles/piers that needs to be installed and the property owner reached out to see how much this will cost for him to build which was close to a million dollars to do the structural. He stated that they spoke to their engineer and he said that, if the adjacent neighbor allowed them to excavate, because they will not have to install that many soldier piles on their side and that will save this project money and save the other project a lot of excavation as well. He reiterated that he is not an engineer and didn't have that much information and he was happy for him to answer any questions in a letter form and he can explain it better. He stated that was part of the agreement.

Chair Campbell opened the Public Hearing.

Sharyn Ryan, Pacifica, stated that she lives above and around the project. She had photographs that showed all the properties. She stated that, following the June meeting, she talked to her neighbors and many of them were concerned that the developer had found out at that meeting that the property had been developed and the whole hillside had come down, but he was still proceeding to go forward, adding that he was the same man who started the project at 300 Coral Ridge at the top of Gordon Way which was supposed to be a huge home but it was two lots and was going to be a nursing home in a residential neighborhood. She stated that when that was discovered by Pacifica staff he left his partner and left a terrible eyesore. She stated that all the neighbors were now concerned about that retaining wall at 300 Coral Ridge because a contractor in the neighborhood looked at it and it didn't look like it was very sturdy to hold the hillside back. She also told him at that time that there was going to be five properties built on the bluff and the whole hillside will probably come down. She stated she was on the top level and a lot of them on that top level are very concerned as there were underground streams. She stated that they thought Doelger didn't build down to the bottom of the hill to 300 Coral Ridge because of that water coming down constantly. She stated that one neighbor mentioned that a big Bobcat excavator came tumbling down Gordon Way from the water seeping out of the lot. She stated that many of them were concerned, mentioning that the 325 Beaumont lot went up into the hill and an owner on Farallon had his fencing come down.

Chair Campbell stated that, if she wants the photos to be part of the record, she could bring them to staff.

Ms. Ryan asked if he needs them to be addressed as far as the address of each one.

Chair Campbell stated it was up to her, but if she gets them to staff they can.

Ms. Ryan asked if she could do it towards the end of the meeting.

Chair Campbell stated that was fine.

Dr. Lawrence Souza, Pacifica, stated he was with Don Peters who was the owner of 329 Beaumont, and one of their biggest concerns was that the parcel of 327 Beaumont has been tried to be built on twice as well as 325 Beaumont. He stated that Coral Ridge has already collapsed and 325 Beaumont was excavated. He stated that there was no performance bond on that but a completion bond and they abandoned it and it was just sitting as an eyesore with garbage on it. He stated that 327 Beaumont has been tried to be developed twice and unfortunately Don Peters had to live through the first one where the hillside was collapsing under his house. He stated that, when the owner abandoned it, he put in substandard fill. He thought there were telephone poles, streetcars, etc., thrown into that. He stated that the whole neighborhood was concerned about the whole hillside and what has been approved along the hillside with no real integrity with engineering and the process. He pointed out that the fault line runs through there and the geological soil conditions are known for landslides. He stated that, unless they have some guarantee that if they build it they must complete it and not abandon it and allow it to be an eyesore. He stated that they were not convinced that these were not speculative developments without the commitment to complete them going forward as they have done each of them several times. He mentioned that they have sent petitions that have been signed by the community, as well as letters and put them on notice.

Chair Campbell closed the Public Hearing.

Mr. Vinh stated that the property owner is confident that he is going to build the property. He stated that they have done research and a soil report was done and turned into the city. He stated that the retaining wall plans were done ahead of time, and it was not just getting approval without knowing what they were getting into. He stated that owners went to get full estimates to confirm the cost to build it. He stated that they revised the design twice, the first for trees, adding that they understand the importance of the trees and they redesigned the property of the retaining walls to stay away and protect the tree. They had an arborist's report done for tree protection plans. He stated that the property owner has expressed concern about how the adjacent neighbor has built his home. He knows the property and wants to build it the right way. He referred to the concern about the danger of the hillside falling and thought it would be good to make it safe by providing a building permit based on what the building department requires to make it safe for everyone.

Chair Campbell asked how long the current property has owned this lot.

Mr. Vinh thought since the 1990s, but more than 20 years. He stated that the property owner explained that, with the first application, he had a partner and because of financial issues the partnership fell apart. Now he is the sole owner and doing it for his family. They invested a lot of time on this floor plan to be sure this is what they want as a retirement home. He wouldn't want to build something for his family that was not safe.

Vice Chair Clifford asked who did the soils report for the shoring up.

Mr. Vinh stated it was Frank Lee & Associates.

Vice Chair Clifford asked if the city had a copy of that shoring plan in the packet.

Contract Planner Aggarwal stated it was under grading and retaining wall plans at the end of the project plans.

Commissioner Rubinstein thought he heard him say in his earlier comments that the shoring and excavation would be \$1 million.

Mr. Vinh responded affirmatively, adding that the owner did his research and they know what they are getting themselves into and they are confident that they are going to build it.

Commissioner Nibbelin referred to concerns raised about what they do when they get into the project and financial issues arise and the project isn't completed such as the community's concerns about having a half dug hillside, and asked what remedies the city has in such a context. He mentioned that, with other projects, they have performance bonds to ensure the project gets done, and he asked what the city's remedy in such a situation.

Sr. Planner Murdock stated that he thought Planning Director Wehrmeister explained at a previous public hearing on this project that the standard procedure would be to follow the city's code enforcement process, i.e., indicate to the property owner that they have created an unsafe condition and potentially violated the conditions of approval of this application and pursue code enforcement and nuisance abatement process through to its conclusion potentially including where the city has to render the site safe and seek recovery of the costs from the property owner.

Planning Director Wehrmeister added that, on a project of this scale, this was the type of building permit they would not issue to somebody without a licensed contractor who under their license was responsible to leave a worksite safe even if not complete. She also added that, typically with projects of this size, the applicant is getting a construction loan and while they are not privy to the business side of things, their funding was more secure than adding small additions to a house.

Commissioner Kraske thought it was discussed in the last hearing but he asked for a refresher of what the major obstacle was in getting an independent study to analyze the cumulative effect of multiple excavations.

Planning Director Wehrmeister thought the problem was that they were not looking at them as a project as a whole, as it was done when the area was subdivided and determined that they were legal lots and the zoning was single family. She stated that, at this point, they were required to analyze them lot by lot.

Sr. Planner Murdock added that the city thought they had done the analysis Commissioner Kraske was seeking, in that an engineer looked at the situation and determined which excavations were likely to have an impact and it was the engineer's opinion that it was this project site and the immediately adjacent site and not others beyond it. He felt they had an analysis performed on the impact of potentially multiple excavations and narrowed the universe of potentially hazardous concurrent excavations to the site and the site next door at 325 Beaumont.

Chair Campbell asked if there was a way to condition the approval where they look at it a year from now to see if things are progressing.

Planning Director Wehrmeister asked what his goal would be.

Chair Campbell stated that it was so they don't have an unfinished lot a year from now with nothing happening.

Planning Director Wehrmeister asked if he was concerned about a year where things have started but progressing slowly or a year and nothing has happened.

Chair Campbell clarified that more than a year where grading started and then stopped, as mentioned by the neighbors of abandonment.

Planning Director Wehrmeister stated that, if the Commission would like to continue their conversation, she will side bar with legal counsel and get back to them.

Commissioner Nibbelin stated that, regarding the condition, he was prepared to share his perspective.

Chair Campbell thought they should keep things moving and he brought it back to the Commission.

Commissioner Nibbelin was glad they had a chance to get the additional information which has been helpful. He was in support of the project at this point subject to conditions that might be feasible as suggested to staff.

Vice Chair Clifford thought, depending on whether they can have any additional conditions on timing of it coming back, he was also in support of the project as presented today. He had raised issues on the trees previously but he felt that issue has been settled and the excavation was going to be farther away from the existing home because the retaining wall was being moved. He was comfortable with that, but added that performance was another issue and, since they had bad things happen in the past, they will want to be sure it doesn't happen again.

Commissioner Kraske agreed with that, adding that he would like to hear staff's ideas about some sort of completion bond to be sure it wasn't abandoned.

Commissioner Rubinstein agreed, adding that they were relying on the effectiveness of the engineering and soil grading, and they hadn't considered the home. He agreed with the applicant that they are going to improve the property and make it safer.

Chair Campbell stated he was also in agreement, adding that the one concern he had was considering it was the same owner since the 1990s when they had all the abandonment issues.

Asst. City Attorney Sharma stated that one concern she had with putting a condition on the project was the issues with abandonment that they have heard were not necessarily related to this project and this applicant but related to surrounding properties and she would be uncomfortable

with imposing something on this project based on what they heard of surrounding projects, not related to this project.

Chair Campbell thought that was a good point.

Commissioner Nibbelin was trying to understand about issuing building permits for a certain period of time when they have to start work. He asked if, from that point, there was a requirement that the work continue and if you stop for a significant amount of time, would it have an impact on the validity of the building permit and if so what were the rules.

Planning Director Wehrmeister explained that a building permit was valid for one year instead of six months, and once a permit has been pulled and construction commenced, there needs to be a progress inspection every six months.

Commissioner Nibbelin assumed that, if you didn't get satisfactory results in connection with the progress inspection, the standard was reasonable progress being made.

Planning Director Wehrmeister responded that he was correct.

Commissioner Nibbelin thought that was part of their concerns, i.e., the way the building permit process works with a fail-safe situation built into it.

Vice Chair Clifford mentioned that, since 1995 when the last problem came up, the building department has gone through major changes with more individuals taking care of the various aspects of the process, and he thought it was a better situation for the building department in terms of doing a good job of inspecting it. He wanted the public to know things were not the same as they used to be.

Commissioner Rubinstein added that, if it was a \$1 million project, that was a lot of money and it has to be substantial to spend that much to build a house.

Commissioner Nibbelin moved that the Planning Commission FIND the project is exempt from the California Environmental Quality Act; APPROVE Specific Plan SP-166-17 by adopting the resolution included as Attachment B to the staff report including conditions of approval in Exhibit A of the resolution and, INCORPORATE all maps and testimony into the record by reference; Vice Chair Clifford seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Rubinstein, Clifford, Nibbelin, Kraske,  
and Chair Campbell  
Noes: None

**NEW PUBLIC HEARINGS:**

- 2. PSD-801-15  
UP-66-15  
SUB-227-15  
Heritage Tree  
Removal  
Authorization**                      **File No. 2015-002 – Site Development Permit PSD-801-15, Use Permit UP-66-15 and SUB-227-15** for construction of two, two-story and five three-story townhomes ranging from approximately 2,200-2,800 square feet (sf) in floor area; subdivision of airspace to create condominiums; and removal of heritage trees on a vacant 18,750 sf lot located at 1335 Adobe Drive. (APN 023-222-080).  
Recommended CEQA Action: Adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

Sr. Planner Murdock presented the staff report.

Commissioner Kraske asked him what was in the site now, such as just grass, dirt and woodchips.

Sr. Planner Murdock thought that summarized the existing condition, adding that there are small dirt piles placed from other minor excavation work and a number of trees, including seven heritage trees.

Commissioner Kraske thought it was a permeable surface now. He asked the estimation of how much of the surface area will be replaced with non-permeable concrete type surface.

Sr. Planner Murdock stated that he may have that information but it will take a moment to pull it up.

Commissioner Kraske thought they were going to remove 6-7 trees from the property and transforming it into mostly non-permeable surface. He asked what they were doing regarding the storm water management on site to ensure it is good.

Sr. Planner Murdock stated that the project was subject to the city's storm water control ordinance and provision C3 of the County wide municipal regional permit (MRP) of the National Pollutant Discharge Elimination System program and that meant that new developments converting a particular amount of surface area to impermeable surface need to comply with technical standards related to the capture and treatment of the storm water. He stated that this project has been reviewed in the initial study, including the section on hydrology and water quality for compliance with applicable provisions. He stated that the city's expert opinion was that the project was designed with the applicable standards.

Vice Chair Clifford referred to packet page 103, stating that tree #2, the dawn redwood, the "three" is in poor health, and asked that in the final minutes copied that it is changed to "tree." He also was happy with what staff and applicant have done in terms of the archeological needs for the project.

Tony Pontaleoni, applicant, stated Kotas/Pontaleoni Architechs were the project architects. He presented a slide show stating that it consisted of seven townhomes, located off the corner of Linda Mar and Adobe Drive, west of Sanchez Adobe Park, and described the specific area of the lot with a gradual slope to the rear lot line. He mentioned that the neighborhood was a mixed character of multi-family buildings and single family homes. He addressed a Commissioner's



concerns about impervious surface regarding the driveway and explained that they had four storm water planters, describing specifics. He also described the specifics for setbacks, floor plans, garage parking.

Chair Campbell opened the Public Hearing.

Tim Flaherty, Pacifica, stated that he lived off Fassler and was in favor of the project, which was less dense than most of the adjoining property and added dedicated parking spaces per unit which was double most of the apartment buildings on that block and was attractive, adding to the neighborhood in appearance, taxes and better residents' housing.

Chair Campbell closed the Public Hearing.

Vice Chair Clifford stated that he was present the last time a project was approved for this lot, adding that this one was much better. His only concerns were originally the archeological portion of the lot which he felt was very well addressed and he would be voting for it.

Commissioner Nibbelin agreed with Vice Chair Clifford's comments, and he felt a lot of thought was gone into addressing mass bulk and parking and he was in favor of the project.

Commissioner Rubinstein was also in favor of the project and was the right "housing stock" for the area, and the presentation was excellent.

Commissioner Kraske was also in favor of the project and felt we need more housing. He liked the permeable interlocking pavers to reduce the amount of non-permeable surfaces.

Chair Campbell thought it met all the planning and zoning requirements and added more parking than required which he thought it was a plus. He understood concerns by the neighbors that it would add to the parking burden, but it met the requirements.

Commissioner Nibbelin moved that the Planning Commission adopts the attached resolution, including conditions of approval in Exhibit A and the Mitigation Monitoring and Reporting Program (MMRP) included as Exhibit B: to ADOPT the Mitigated Negative Declaration and MMRP for the project; to APPROVE Site Development Permit PSD-801-15, Use Permit UP 66-15 and Subdivision SUB-227-15 and to AUTHORIZE removal of heritage trees; and to INCORPORATE all documents, maps and testimony into the record by reference; Commissioner Rubinstein seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Rubinstein, Clifford, Nibbelin, Kraske,  
and Chair Campbell.

Noes: None

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

**CONSIDERATION:**

None

**COMMISSION COMMUNICATIONS:**

None

**STAFF COMMUNICATIONS:**

Planning Director Wehrmeister updated the Commission on Council goal setting was March 9 and stated that on Monday, March 11, City Council will have on their agenda appointments to Commissions and Committees with appointment for Planning Commission and will be hearing the annual report on the housing element.

**ADJOURNMENT:**

There being no further business for discussion, Vice Chair Clifford moved to adjourn the meeting at 8:05 p.m.; Commissioner Nibbelin seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Rubinstein, Clifford, Nibbelin, Kraske,  
and Chair Campbell  
Noes: None

Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director Wehrmeister