

MINUTES

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

November 21, 2016

7:00 p.m.

Vice Chair Nibbelin called the meeting to order at 7:01 p.m.

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

SALUTE TO FLAG: Led by Commissioner Clifford

STAFF PRESENT: Planning Director Wehrmeister
Asst. City Attorney Matthew Visick
Acting Sr. Civil Engr. Donguines
Contract Planner Valente

APPROVAL OF ORDER OF AGENDA Commissioner Cooper moved approval of the Order of Agenda; Commissioner Clifford seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Baringer, Evans, Campbell, Clifford, Cooper and Vice Chair Nibbelin
Noes: None

APPROVAL OF MINUTES: OCTOBER 3, 2016 Commissioner Cooper moved approval of minutes of October 3, 2016; Commissioner Clifford seconded the motion.

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

Ayes: Commissioners Baringer, Campbell, Clifford, Cooper and Vice Chair Nibbelin.
Noes: None
Abstain: Commissioner Evans

Vice Chair Nibbelin stated that the October 17, 2016 would be tabled to a future meeting due to lack of a quorum.

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF DECEMBER 12, 2016:

Planning Director Wehrmeister stated that Commissioner Campbell had volunteered but the item remains on the agenda in case another Commissioner was interested.

Vice Chair Nibbelin asked if she could mention information regarding the need for a liaison.

Planning Director Wehrmeister stated that it was the four apartment units on Palmetto on appeal to City Council.

Vice Chair Nibbelin commented that Commission Campbell had volunteered but was open to anyone who was at the meeting being interested in volunteering.

Commissioners Clifford and Evans stated that they were not at the meeting.

Commissioner Cooper volunteered to be liaison for the meeting.

ORAL COMMUNICATIONS:

Ron Maykel, Pacifica, stated that he was a member of the Open Space Committee, but was not speaking now as a committee member. He stated that he was speaking in reference to the California Coastal Trail. He stated that he spoke about this to the PB&R recently and would speak to other groups in Pacifica. His goal was to get groups willing to work on completing the entire trail. He asked if the Commission would consider agendaizing it, at least for discussion.

Vice Chair Nibbelin concluded that he would be handing it to the Planning Director and staff who can consider whether it was an appropriate matter to consider agendaizing.

CONSENT ITEMS:

None

PUBLIC HEARING:

- 1. CDP-373-16
PSD-812-16** **COASTAL DEVELOPMENT PERMIT CDP-373-16 and
SITE DEVELOPMENT PERMIT PSD-812-16**, filed by Applicant, Marc Dimalanta of D-Scheme Studio, to remove an existing 988-square foot single-family residence with two detached garages totalling 836 square feet and construct a 5,309-square foot three-story, single-family residence on an 8,568-square foot lot located at 263 Kent Road (APN: 023-031-300) in Pacifica. The project site is located within the Coastal Zone. Recommended California Environmental Quality Act (CEQA) status: Class 1 and Class 3 Categorical Exemptions, Sections 15301(i)(1) and 15303(a).

Contract Planner Valente presented the staff report.

Commissioner Baringer stated that he thought there were substantive discrepancies in the chart staff prepared compared with the chart attached to the plans submitted. He stated that the square footage on the plans includes the garage and he thought it was not included on staff's chart.

Contract Planner Valente thought that was a safe assumption.

Commissioner Baringer stated that, on looking at the numbers, it appears substantially bigger than most in the Pedro Point, with just a couple bigger or comparable and the rest substantially smaller, in the neighborhood of 1,000 square feet smaller. He asked how they reconcile what was reasonable, acknowledging that there was subjectivity to it. He was curious if they used a percentage that they consider acceptable.

Contract Planner Valente stated there was no definitive ratio. They use setbacks, lot coverage, building height, all within the development standards. He stated that the formula was the mega home ordinance and that was what triggered this project. He stated that the scale was not out of scale with existing houses. He stated that it was partly subjective, but they didn't consider it out of sorts with the neighborhood.

Commissioner Baringer stated that he asked because there was a large disparity between house sized on that street alone, stating that the house next door will be substantially smaller, but projects west of that were larger in scale than other homes in the area. He was wondering how they took into account the smaller and larger homes, and wondered if they made a subjective decision.

Planning Director Wehrmeister thought he brought up a good point in that it was fairly subjective. She stated that staff went back to the ordinance which would give them some indication for the reasons for why City Council adopted this ordinance. She stated that it had to do with the scale of the structures in relation to the neighborhood and they looked at the plan drawing they were provided in relation to the existing structures in the area and found it wasn't substantially out of scale with the neighborhood.

Commissioner Baringer asked if they considered that this was a trend for the neighborhood, typically in a lot of communities the smaller homes were replaced by larger homes. He mentioned the conflict in the process as some people in smaller homes were happy and then they feel they will be out of scale with the newer properties constructed, and some could be purchased and replaced with larger homes. He pointed out that there were a lot of small houses.

Commissioner Cooper referred to the square footage, mentioning the 494-square foot attached garage included in the 5,309 square footage, and brings it down to 4,800 or 4,900 square feet. He thought the tables provided were addressing finished space, and asked if an unfinished garage would not be included in the numbers.

Contract Planner Valente responded affirmatively.

Commissioner Clifford stated that, as he was involved in helping formulate the ordinance in question, he knew some of the thinking behind the scenes, such as the fact that a bigger lot didn't necessarily mean a much bigger house. He thought this house on over 8,000 square foot lot was actually smaller than a house on a 5,000 square foot lot when maximized. He stated that, based on the formula, he felt the house fit.

Vice Chair Nibbelin invited the applicant to provide any additional information.

Marc Dimalanta, applicant, stated that he was a licensed architect in California and they do these type of custom homes. He then stated that the homeowners would make the presentation.

Darlene Lee, owner, stated that she fell in love with Pacifica. She explained that, when they purchased the property, they wanted a home to raise a family and still have room for both parents to visit and spend time with their grandchildren. She mentioned discussions with former Planner Farbstein regarding what they would have to do to add more than 100 square feet to be in compliance with the updated setback guidelines, which confirmed that they would have to build a new home. She then showed visual comparisons between the homes on either side. She explained how they compared the square footage with other homes, and then stated that her husband, who is an engineer, would do the data analysis.

Brandon Ooi, owner, stated that they surveyed the larger homes and where they were located. He mentioned there are about 135 homes in Pedro Point, with 26% of them larger than 3,000 square feet, 11% larger than 4,000 square feet and 9 homes, about 7%, are larger than 5,000 square feet. He explained their calculations by comparing their project with one of the largest homes in the neighborhood, and was an example of how they did the calculation. He thought it was a beautiful home, listed at 3,910 square feet with a large unfinished basement, making the total of 6,440 square feet. He mentioned his verbal interaction with the person constructing 249 Kent. He then showed pictures of several other homes of comparable square footage to his project, mentioning the specific square footage of each. He concluded that their house was not out of place and lined up with the two adjacent three-story homes, and their house will not be the largest house in the neighborhood. He mentioned that they spent a lot of time in the thoughtful design of their dream home and hoped that they can see that it will be a wonderful addition to the Pedro Point neighborhood.

Vice Chair Nibbelin opened the Public Hearing and, seeing no one, closed the Public Hearing.

Commissioner Cooper stated that he thought it was a beautiful home. He acknowledged that it was large, but the adjacent homes are just as large. He referred to public access on the road frontage, and he didn't see any of the homes having sidewalk, but he was curious as to why there was no pedestrian access.

Planning Director Wehrmeister stated that there was a representative of the Engineering Division present to address this issue.

Acting Sr. Civil Engr. Donguines stated that they did recommend for this project to place a concrete sidewalk, curving gutter and driveway. He mentioned that there was a sidewalk one property to the right of this project, but no other sidewalk to the left. He reiterated that they were requiring a sidewalk for this project.

Planning Director Wehrmeister stated that it was Condition 18.

Commissioner Campbell asked if there was an artist rendering of the size of this house in comparison to the houses next to them.

Mr. Dimalanta stated that it wasn't an artist rendering but a standard elevation, sheet 83.0, lining up the houses to the left and right.

Commissioner Evans asked why, when staff does the figures, they include the garage, but it was not included anywhere else. He referred to mention that finished rooms will be added into it, but he stated that his garage was finished and textured, and he asked if that made it a finished room.

Planning Director Wehrmeister stated that conditioned space would make it a finished room, and official living space. They asked the assessor's office, and learned that, as in Fairmont where they have the unfinished side where people will add a bedroom or family room. When they pull building permits, they send the information to the county and they update the records for tax purposes. The city found that the link they provide agencies to see information was pulling an original data source. She wondered if this was impacting property taxes if they weren't counting all the finished space, but they have a different data base for the taxes. They are getting the building permit information and collecting the taxes. She added that, with the data base the city uses, if there is a remodel and unfinished space becomes conditioned space, it would not always be accurately reflected.

Commissioner Evans stated that the reason for his home was that it was the office for the group of homes being sold. He stated that, when they moved in, the garage had a white carpet. He commented that this throws the figures all over the place. He concluded that they have many different figures on one house.

Planning Director Wehrmeister responded affirmatively.

Commissioner Clifford asked the definition of conditioned space. He thought it included heating and ventilation, adding that garages don't necessarily have that. He stated that he has put linoleums on garage floors but never white carpet. He thought that would be one of the differences in terms of garage space. If it has heating, ventilation and is a conditioned space, as opposed to a dead garage, even if sheetrocked.

Commissioner Campbell stated that the gentleman made a comment at the previous meeting, but he forgot what it was.

Planning Director Wehrmeister thought he was adjacent to this particular site, although she didn't recall his home address.

Commissioner Campbell asked if his home was one of the biggest homes.

The applicant pointed out which was his house on a PowerPoint slide.

Commissioner Clifford moved that the Planning Commission finds the project is exempt from the California Environmental Quality Act; APPROVE Site Development Permit PSD-812-16 and Coastal Development Permit CDP-373-16, by adopting the resolution included as Attachment A to the staff report, including conditions of approval in Exhibit A to the resolution; and incorporate all maps and testimony into the record by reference; Commissioner Evans seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Baringer, Evans, Campbell, Clifford,
Cooper and Vice Chair Nibbelin
Noes: None

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

**2. CDP-374-16
PSD-813-16
PV-517-16**

**COASTAL DEVELOPMENT PERMIT CDP-374-16,
SITE DEVELOPMENT PERMIT PSD-813-16 and
VARIANCE PV-517-16**, filed by applicant, Chris Loeswick, to
construct a balcony enclosure for a 154-square foot (sf) balcony
located at 2355 Beach Boulevard, Apartment 202
(APN 115-210-050) in Pacifica. A variance is required as the unit
would no longer meet the 150 sf private open space standard per
Pacifica Municipal Code Section 9-4.2402(c).

Contract Planner Valente presented the staff report.

Commissioner Cooper stated that 7 of the 8 owners applied for a variance and he asked if all seven were on the west side.

Contract Planner Valente responded affirmatively.

Commissioner Cooper thought the tenant only owned the space within the building but not the building itself, and he asked why the homeowners' association wouldn't apply for the permit in conjunction with the person who owns the space involved. He stated that this was exterior space, and he asked if it was a common use space or how it was developed in the porch area.

Contract Planner Valente stated that it was a private balcony and its only access was allowed by the unit itself, and not a common use space.

Commissioner Cooper thought, if you have a porch that fails or a window that fails, it was the homeowners' association that pays for the faulty deck area or a protruding window, so he wondered why the homeowners' association wasn't applying for the permit to ensure that they get approvals for this. He concluded that he was confused about the owner applying for the permit rather than the HOA. He asked if this was a question for City Counsel.

Asst. City Attorney Visick stated that he was not aware of the particular ownership structure around the unit and he didn't know if it was space controlled by the HOA or the individual owner. He understood, from reading the staff report's description, previously seven residents applied for the permits and not the association, but didn't have any details.

Commissioner Cooper stated that, on the previous one, the staff recommended denial and the Planning Commission gave approval, and he was curious on the issues behind the first denial. He reiterated that 7 of the 8 owners in the building in the first round of approvals were on the west side because of the ocean breeze, and this happens to be on the east side.

Commissioner Evans asked what happens if they don't approve it, since it was already built.

Contract Planner Valente agreed that it was already built.

Commissioner Evans asked if they make him tear it down.

Planning Director Wehrmeister responded affirmatively.

Commissioner Evans stated that he knew why the others approved, and asked if the only reason they could find was because they were on the west side.

Contract Planner Valente stated that his knowledge was that the homeowner's space wasn't used because of the environment and enclosing would allow them to use the space, and he assumed that the Commission ruled in favor of the variance for that reason.

Commissioner Clifford understood why they might enclose it on the west side, but he asked if they enclosed it to turn it into offices and bedrooms or just turn it into an enclosed patio to enjoy it as a patio and open space, rather than living space, but he was hearing that this project was living space. He asked if that was correct.

Contract Planner Valente responded affirmatively.

Commissioner Clifford asked if they knew what the other seven were turned into.

Contract Planner Valente understood that it was also for living space, because the variance approved it to go under the minimum requirement of the 150. He stated that there was a similar approval for another unit to turn it into a greenhouse, but it was required to have a variance because it was identified as open space, but the variance is needed to turn it into a livable space.

Commissioner Clifford thought that, when this project was built, one of the conditions was that it have the open space areas. He asked if that was correct.

Contract Planner Valente responded affirmatively.

Commissioner Clifford asked how changing that for this building changed it for anything that might come before them in the future in terms of whether or not they are required to have the minimum open space on their private open space projects.

Planning Director Wehrmeister asked if he meant for the future.

Commissioner Clifford clarified that for future projects or if more homeowners inside this project want to turn it into living space. He was agreeing with staff in terms of the denial and he sees it opening a can of worms. He asked if it sets a precedent if they say this owner can turn required open space into living space, or if anyone in future units built along the coast that are normally required to have open space.

Planning Director Wehrmeister stated that, if the condition wanted to go in the direction of approving the variance, they would need to come back with the proper findings and staff would ask them to articulate why they feel this variance is appropriate which will be helpful to determine whether there are specific reasons in this instance that a variance is warranted and doesn't set precedence for this or for developments in general along the coast. She also asks if there was a desire, if the HOA was interested in doing something that would allow future residents who want to do such an improvement to get a variance for the entire project. She stated that would make it optional that they could come in with building permits in the future.

Commissioner Baringer stated that he looked at it, and he thought there was a practical difference between the west side and the east side. He thought more access to the units is on the west side.

If they were going to enclose those areas, it makes sense from a practical standpoint to allow it, aside from how much outdoor area they have. He stated that, on the eastern side it was the rear of the building and the enclosure of the balcony was easier. He thought it was probably an exclusive use common area. He stated that they had that discussion on Portola Shores about whether they would allow some of the balcony areas to be weathered in, but not enclosed and create additional square footage, even though in their case it wouldn't matter since they have so much land area. He stated that they have a lot of units and every unit faces the ocean and they would like to have that weathering. He thought, from a technical standpoint, it might be difficult to create living area there. He stated that, from a visual standpoint, if they allow certain people to do it and some not, they have a hodgepodge architecturally and it creates an unattractive appearance. He stated that the back of the building was immediately adjacent to another building on Palmetto and you couldn't see it from the street if they allow this to go forward. He thought, if someone wants to have this as an architectural feature, they should have thought about it at the onset. They didn't, and now they were trying to do it after the fact. He stated that he would like to see a global approach to it for the building rather than each individual person as he thought it would look like a hodgepodge of development with different window styles, etc. He felt there needs to be consistency, and he wouldn't have a problem allowing it going forward as he thought it was a de minimis impact on the overall project.

Vice Chair Nibbelin was interested in the impacts from health/welfare/public interest benefits to not allowing this, specifically the public harm or interest in the recommendation from staff.

Planning Director Wehrmeister stated that the requirement at play was the amount of private open space that each unit must have. She stated that it was a standard requirement throughout the city. She stated that, in this case, they have a development in close proximity to very high quality open space if someone wanted to get out of their unit. She thought the public benefit was having an apartment complex in a different situation, being a slightly more urban setting that they may not have easy access to outdoor space and this private open space is making sure that each unit is afforded a deck.

Vice Chair Nibbelin was curious since it was private. If someone chose to enclose some of it other than the owner of that unit, he asked what the prejudice was.

Planning Director Wehrmeister didn't think it would affect anyone else except for the owner of the unit. She stated that staff was applying the code requirement.

Vice Chair Nibbelin understood that, but thought Commissioner Baringer's thoughts were along his. He thought the impacts of allowing it were de minimis. He also thought it would be nice if it were done in a more uniform and standardized way. He questioned whether the homeowners' association was interested in approaching the city about doing something more comprehensive for the building or the complex.

Chris Loeswick, applicant, stated that it has been a pleasure working with Mr. Valente. He appreciated everyone who was present and appreciated that they were incredibly articulate. He stated that he was naïve as far as permits go, and he bought the condo last year and thought he would enclose two-thirds of the balcony and make it into a small room. He stated that there was rust damage with a lot of rain. He stated that, with a contractor's help and his own labor, he enclosed it with windows and a door and was completely waterproof. He stated that his reason for this was that his dad was bipolar and manic depressive, and was getting to retirement age but

does not have money to retire so he was trying to be supportive and built the room and he was currently living in it. He stated that, when the HOA found out about it, he had to get external policy for the HOA to cover the outside of the building and the inside of the building was covered by his insurance policy. He extended the square footage and the internal insurance policy. He stated that he cannot afford to kick out his other roommate as the mortgage is \$4,200 a month and he works two jobs. He stated that he was at their mercy and was in respect of any motion, adding that it sounded like it will be denied and he will have to rip it out.

Vice Chair Nibbelin opened the Public Hearing and, seeing no one, closed the Public Hearing.

Commissioner Cooper asked if it was completely water tight at this point.

Mr. Loweswick stated that it was completely water tight.

Commissioner Evans understood his need, and understood the city's want and need, stating that they need to keep some rules, but if they do, it will be at his expense. He stated that he finds that unfortunate, adding that he was at a loss. He stated that, if they were to approve it, he would like to see something like the HOA coming before them to do their entire thing and make it more standard. He reiterated that he was torn on this because of the situation. He thought, if it was someone building something without permits, they would stop them or have them tear it down.

Commissioner Baringer stated that, because he lives in a condo and deals with these kinds of things all the time, he was less concerned about it. He stated that, from his perspective, they should look at things from a reasonable standpoint about what they approve. He felt that, with how he got to this point, there is always a story behind it. He didn't think it was a major impact on our world and how it goes forward. He stated that he would like to see something more global with respect to the HOA and the building so they are not doing this every month for the next three years. He stated that, if there was going to be some kind of consideration to allowing this to go forward, he didn't think it really sets a precedent. He would let counsel comment on that. He stated that, if they had come at the onset of the original construction of the building and have this as an option, he didn't know whether they would have said no to the project. He stated he was inclined to move forward but would like to see something more oriented toward the entire complex so they don't have it piecemeal in terms of what it looks like. He mentioned that, in his building, new windows have to be a certain color, certain quality, with an architectural review committee that reviews it and approves it so they don't have a hodgepodge of things which can detract from the overall appearance of a project. He would be willing to approve it if they generate an approach that can be consistently applied in the future.

Commissioner Clifford stated that he heard the applicant say it was a bedroom, and he stated that bedrooms have certain requirements such as smoke alarms, size, amount of ventilation. He acknowledged that smoke alarms are easy to install and he assumed that Arc faults could be installed opposed to electrical plugs that were put in at the time and he thought it could be upgraded if it went through the proper permit process, but he questioned whether it could be build up to bedroom standards at that size.

Planning Director Wehrmeister did not believe it could.

Commissioner Clifford stated that what was being asked for was not something that will ever get a building permit.

Planning Director Wehrmeister stated that was their concern about someone in a substandard living condition based on the applicant's comments. She stated that they have no idea what the electrical situation is, what the ventilation system is, and she stated that it was fairly concerning to hear that as they were under the impression, based on the written application, that this was being used as an office space. She stated that, if the Commission wanted to consider approving this when they come back, she didn't know if there was minimum size requirements for rooms. She thought it was not only the square footage but also the dimensions. She didn't feel that the dimensions of this space would be adequate.

Commissioner Clifford thought it was about five feet wide.

Commissioner Campbell stated that he could see many of them falling into this situation and he felt it was a tough decision. He saw the public interest in this as they approve of these condo complexes based on aesthetics and the way they look and they wouldn't want to approve that and then have people start to enclose things. He also did not want to have everyone turn an open balcony into a sunroom with glass. He wondered if there was some way to prevent precedent in this case if they were to approve it.

Asst. City Attorney Visick stated that he has been waiting to weigh in, as they are all asking the same questions. He stated that it would not be precedent setting in the sense that they were not reinterpreting the city's municipal code in a way that would bind them going forward, but to approve this project, they would be making a determination that the peculiar circumstances of this particular site sets it apart from other sites in its class. He stated that, if there were a similarly situated apartment, such as the one next door in that complex and facing the same direction, it would be difficult for them to make a contrary determination about that apartment, adding that it is hard to know until they have the facts in front of them. He stated that, while not a precedent, it could have precedential value in making that decision. He also mentioned that the issue before them was whether or not they want to go in the direction of making the findings to approve a variance as to this project, but there isn't an application on file or in front of them that has to do with a wholesale change to the way that this complex looks. He mentioned that a few of them have mentioned the idea of what if it was a global change and they had design consistency with uniformity in approach and what if the HOA was to come in and make that application. He stated that it could potentially happen, but by making this decision, they would be making a one-off and, when the next door neighbor who comes in and asks for the same thing, they would find themselves backing into a less considered approach that would govern the whole complex.

Commissioner Cooper stated that he keeps reading the ordinance over again, and it comes down to the fact that the precedence has already been set for them, and the question was whether they deny this person something they looked at in the other units and said they enclosed their porch and why can't he enclose his. He stated that the disturbing part was what the Planning Director said, which is the second part. He referred to the health or safety of the person residing or working in a neighborhood, and what the use of this space was. He thought, if it was for his use of space for enjoyment of the outdoors or that he couldn't get because it was raining out, etc., that was different from someone's bedroom being in a space that was not of good use. He stated that would concern him, but he felt the precedent has already been set and he didn't have an issue with that.

Commissioner Baringer agreed, adding that they have already approved seven others, even though they happen to be on the westside as opposed to the east. He stated that they could make the argument that the salt air is on the east side of the building, but he didn't think it was a huge leap to make the determination from one side of the building to the other. He didn't think it was a material difference, although he could probably make that argument if he was on the other side of the table. He didn't think it was a precedence issue but in terms of how the space was used, this might be where he needs a lawyer so he doesn't tell them too much. He stated that they have had to take a look at how it was wired, etc., and it was a building and, if one person is doing something potentially dangerous because of not being installed to code, that was a concern they would have with respect to how the space is used. He stated that, if you are talking about enclosing it and what it looks like from the exterior, he didn't have a problem with that.

Vice Chair Nibbelin stated that he agrees with what Commissioner Baringer and others have said, and he felt there was not a huge material difference between what has happened on the west side and east side. He recognizes they face different directions, but he felt the rationale that supports a variance for the west side would probably be strong enough to support a variance on the east side of the building. He understood that they are not in a position to take action this evening since there were a couple of analytic points with respect to the CDP that haven't been completely fleshed out, given what staff believed the right place was to be on the variance. He thought they would have to continue the item anyway and, if they continue it, he thought it would be important to have a clear understanding with the applicant as to the actual use of the space perspectively and the legality of the proposed use of the space. He thought the whole thing was moot if the intended use was one that wouldn't be allowable under the codes. He thought that would be worth fleshing out and, at the same time, a conversation with the homeowners association. He thought staff might undertake that and find out whether or not there is any interest in pursuing something that was more general that might address some of the standardization issues and aesthetic issues raised by other commissioners.

Commissioner Evans stated that, if they approve this with all the changes needed, he has a problem with the bedroom issue. He stated that liability keeps jumping up at him with city approved liability. He stated that they would approve something he was leery about, and he was really hesitant.

Planning Director Wehrmeister stated that, if the Planning Commission does decide to approve the project, the next step would be that he would have to get after the fact building permits and would need to demonstrate that all the improvements he put into the space are up to code and are constructed correctly.

Commissioner Evans stated that he was saying that because the building was engineered and designed not to have that room out there but just a deck. He may be thinking too deep, but that was his concern. He understood the applicant had a real issue, but he was torn on that part.

Commissioner Clifford stated that he might suggest to the applicant and staff to have him look at petitioning the bedroom that was adjacent to this outside area, and taking some of that bedroom so he gets the proper size, leaving him enough size for the other bedroom. It would mean putting an archway into where the doorway is now, but he stated that there are ways to do this and make that space useable and still keep the building sound. He stated that whether or not he can afford it was something else. He reiterated that there are ways around the problem but it was whether or

not that is what the Commission wants to see going forward or if they just say it can't be a bedroom and they have to deny it.

Commissioner Campbell agreed with Vice Chair Nibbelin's thoughts on this matter. He was also concerned about the potential use of this as habitation and maybe there was a way around that. He didn't know if it was the Planning Department's role to help him design that. He stated that, if they send this back and continue it, he asked if there was a way to get to a spot where he doesn't have to tear it down if they are thinking it is de minimis, which was what he hearing. He thought the codes would condition it as a force of law and it wouldn't be used as habitation. He stated that they can get to a spot where he doesn't have to tear it down.

Vice Chair Nibbelin was trying to get a sense of where the Commission was as a whole. He thought there might be some consensus coalescing around the proposition of continuing this item to gather some additional information. He thought it sounds like among the things they talked about were completing an analysis that would need to be done with respect to the Coast Development Permit as, if they were going to grant a variance, they would need that work done. They have some thoughts about why they think a variance might be supported here, and he thought they were referring to the fact that some of the stuff that was already put out there with respect to the west side units were applied in a similar way with respect to the east side. He thought about rebooting that analysis for purposes of this variance. He mentioned significant concern about the actual use of the space and they would want the building officials and anyone involved in code enforcement to ensure that whatever the use was would be legal. He thought due diligence around that and coordination with the owner to make sure he understands that and wants to continue to pursue the matter in light of the fact that the space has limits on its use.

Planning Director Wehrmeister requested that it be continued to a date specific, which is December 5th.

Vice Chair Nibbelin asked if the applicant was available December 5.

Commissioner Cooper moved to continue the item to the December 5, 2016 meeting with the recommendations mentioned by Vice Chair Nibbelin; Commissioner Clifford seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Baringer, Evans, Campbell, Clifford,
Cooper and Vice Chair Nibbelin
Noes: None

3. CDP-371-16

COASTAL DEVELOPMENT PERMIT CDP-371-16, filed by Applicant, Michael O'Connell of Calera Creek Partners, to construct a 2,977-square foot three-story, single-family residence on an 18,750-square foot vacant lot located at 1570 Grand Avenue (APN 023-025-190) in Pacifica. Recommended CEQA status: Class 3 Categorical Exemption, Section 15303(a).

Contract Planner Valente presented the staff report.

Commissioner Cooper stated that he goes back to public access and stated that, in condition #15, there was a site plan that shows it, but he didn't see it on the plans, although he saw the storm drains. He asked if the sidewalk was going to be required.

Contract Planner Valente stated that Engineering was present to answer that.

Acting Sr. Civil Engr. Donguines stated that they have a condition of approval for the sidewalk because of their complete street policy. He stated that on Grand Avenue fronting, this development does have a 30% grade and they would like to seek recommendation from Planning Commission on their perspective on installing the sidewalk, stating it is steeper than what was below on Grand, going down to 20% and further down it is at 15%.

Commissioner Clifford asked him what impact that steepness imparts on pedestrians walking on a sidewalk versus walking on gravel that is there now.

Acting Sr. Civil Engr. Donguines stated that the recommended normal slope for sidewalks was normally 6% and he stated that, when he was up at the site, it felt very hard to walk down the street on the 30% grade. They feel that it is probably a hazard if there is a sidewalk there.

Vice Chair Nibellin asked if it was more of a hazard if there was not a sidewalk there.

Acting Sr. Civil Engr., Donguines stated that there was only one other house at the end and there was no sidewalk at that property, and they would like the Commissions' recommendation. He stated that they have the recommendation for the condition of approval to put in the sidewalk.

Commissioner Evans reiterated that the house above it does not have sidewalks.

Acting Sr. Civil Engr. Donguines responded affirmatively

Commissioner Evans asked if there were any below it that have sidewalks.

Acting Sr. Civil Engr. Donguines stated that all the way down on the bottom of Grand.

Commissioner Evans asked if there was nothing in between.

Acting Sr. Civil Engr. Donguines stated that there was nothing in between.

Planning Director Wehrmeister wanted to confirm with Acting Sr. Civil Engr. Donguines that he was requesting that the Planning Commission consider revising condition #16.

Acting Sr. Civil Engr. Donguines responded affirmatively.

Planning Director Wehrmeister clarified that as currently written, the condition requires a sidewalk.

Acting Sr. Civil Engr. Donguines responded affirmatively.

Vice Chair Nibbelin concluded that recommendation of staff was that the Commission revise the condition to delete the requirement for sidewalk.

Planning Director Wehrmeister stated that Engineering staff needs to confirm.

Acting Sr. Civil Engr. Donguines stated that the applicant has expressed that the concern was, with the 30% grade, it would not be a great place for a sidewalk.

Vice Chair Nibbelin asked him if he was concurring with that.

Acting Sr. Civil Engr. Donguines stated that, personally, when he walked down the 30% grade this morning, it was hard to walk on it.

Commissioner Clifford asked if there were other materials that could be used, rather than concrete to provide a pathway down the hill that would be less treacherous than the concrete and less treacherous than nothing at all.

Acting Sr. Civil Engr. Donguines stated that he thought the concrete was a good surface for a sidewalk but he was concerned with the steepness of the road.

Commissioner Clifford asked about steps.

Acting Sr. Civil Engr. Donguines stated that was something we don't have in Pacifica and they were open to any recommendations by applicant if he wants to put steps. He stated that they currently do not have standards for steps and there are no steps anywhere else in the city.

Commissioner Clifford stated that he was trying to find a solution that provides a way for pedestrians to get up and down and, at the same time, doesn't create a problem.

Acting Sr. Civil Engr. Donguines stated that they were open to any recommendation for pedestrians that the Commission may have.

Vice Chair Nibbelin asked if there were any sidewalks that are 30% in Pacifica.

Acting Sr. Civil Engr. Donguines stated not that he knows of. He stated that he went to Livingston, and the steepest he found was 20%.

Commissioner Campbell asked if there were any sidewalks above 6% grade.

Acting Sr. Civil Engr. Donguines stated that, below on Grand, there was 20% and on the other side, Livingston, has 20% sidewalk.

Michael O'Connell, applicant, stated that all the conditions were acceptable to him. He referred to the sidewalk, stating that it is like Filbert Street in San Francisco, which is so steep that it has stairs. He stated that it was 31%. He stated that, the other thing about the street was that you cannot park parallel but 90 degrees because it was not safe for cars. He stated that it was not a great spot for a sidewalk or a turnout. He understood the city's necessity to cover all their bases and the complete street policy. He stated that he talked with Engineering about a sidewalk agreement that the city has it on paper that the property owner will build a sidewalk if the city ever wants a sidewalk. He thought it was very unlikely and he thought the condition could be changed that the applicant enter into a sidewalk agreement for sidewalk and turnout because the city's standard turnout was for parallel parking condition. He stated that, along with that, the condition should probably include a red curb and no parking signs to discourage people from parking parallel on the street.

Commissioner Evans asked the amount of takeout, stating that he didn't see that in the application.

Mr. O'Connell stated that he didn't know if that was calculated. He stated that there was a lower retaining wall which has a little bit of a fill and there is a retaining wall at the back of the house which is a cut. He stated that the idea was that some of that cut goes down and fills the lower wall. He stated that there will be some export but he didn't have the number at this time.

Vice Chair Nibbelin opened the Public Hearing.

Andy Narraway, Pacifica, stated that he lived at 1560 Grand, the next house down from the proposed development. He stated that there were two lots between his property and the development. He was not opposed to the building, but he wanted to know if he had any assurances that any drainage runoffs will affect him directly. He stated that his house was about 4 feet from the dirt wall that separates the next lot up. He was concerned that, if they remove the trees. He stated that there are 50 trees and he was a bit confused about the numbers, and he wanted to make sure that the weight of the building with the removal of the trees won't negatively impact his drainage. He stated that he has a crawl space that has been draining the last two years, and after the last El Nina, it was fine. He wanted to be sure that was a consideration, adding that he wasn't sure how that can be estimated. He thought the eventual owners may want to remove the trees above his property for their view. He thought, if the trees are removed by the owners, he will be in deep trouble because the roots are holding the hill together which would directly impact his house. He stated that he wasn't sure about any assurances that he can have that the eventual owners won't chop down the trees, and kill the roots. He stated that it was a

pain to have construction. He wasn't sure how much there would be and whether it will be on weekends. He asked if there were any codes for buildings, such as only Monday through Friday. He stated that he wasn't opposed to the project, but he saw the landslide a few years back which was quite scary and 30 degrees was a good workout.

Markus Scharnowski, Pacifica, stated that he and his wife lived on 1559 Grand Avenue, across from Mr. Narraway and diagonal to the proposed project. He was concerned about the hill. He stated that the roots hold that hill together. He stated that his driveway has sunk 3 inches within the last 12 months without anyone removing trees. He stated that every time it rains, the roads become a river. He stated they are at 34%, extremely steep, and he was concerned that, with anything removed that holds the hill together, it becomes a danger. He asked what measures are being put in place to prevent the entire hill from coming down. He stated that every morning, he wakes up and is happy when his house is still in the same place, especially with the extreme weather lately. He reiterated Mr. Narraway's concern about what will happen if the trees go. He was concerned that the hill does not have enough stability anymore.

Tor Neslands, Pacifica, stated he and his wife lived at 1580 Grand Avenue, and share the border on the uphill side of the project. He stated that they were in support of having a house with a fenced yard next to them to help mitigate the ongoing problem of non-neighbor trespassers illegally accessing the San Pedro Headlands open space through their property and the vacant lots below them including the subject property. He stated that it was a daily problem after their property was put on Google as the official entrance. He stated that, if you clicked on the Headlands, it showed their house as the street view. He stated that they like a number of aspects of the project, including being oriented to achieve the maximum privacy possible for both the houses. He stated he had a few concerns, referring to the 3-foot fence from the lower front corner of the site to the proposed driveway location, but it does not resume on the uphill side of the driveway. He stated that, since it has been a frequent access point for trespassers, they encouraged a consideration of continuing the fence from the uphill of the driveway to connect with their fence. He thought a one-foot lattice trellis added to the top of the 3-foot fence along the shared border would further enhance the privacy of both their homes. He also encouraged fencing the site during construction as there will be trespassers continuing to cross the property, especially after it is cleared. He stated that they noted Exhibit A, Item #16, requiring the applicant to construct a sidewalk. He pointed out that the sidewalk on Grand Avenue ends one-third of the way up the street from San Pedro and installation of a non-contiguous section of sidewalk on their side would be out of character for the neighborhood and would add more impervious cover, so adding to comments already stated, they were opposed to a sidewalk. He also referred to the requirement to construct a car turnout, and he stated that they opposed this requirement, giving their reasons and other options. He then referred to the drainage problem, stating that it becomes a river during an average rainstorm and they would like to make them aware that they had a mudslide on their property in January 2008, adding that he had photos to show anyone interested. He stated that they appreciated that a hydrology engineer will be required to make recommendations to improve the stability and drainage of the proposed site and appreciated that the city will work closely with the applicant to ensure this. He stated that they spend much of their time in their house, one was home all day and the other frequently works at home. He stated that it will be difficult to live through the construction process and it will help them considerably when they are given a heads up when the work is close to beginning on the site.

Mr. O'Connell stated that he heard concerns about drainage and erosion, mentioning that there are two conditions that cover those items. He added that, on the landscape plan, they were proposing to disturb the entire lot, limited to the area for the house and a landscape buffer around the house. He stated that they won't see the entire parcel disturbed during the construction. He stated that the best way to control erosion was with the native vegetation. He stated that the drainage situation, limiting the post development runoff rate to less than or equal to the predevelopment runoff rate was a fairly typical condition, and he thought it would be accomplished with a detention pipe sized to hold back the peak flow and slowly lets it flow out of the pipe through a smaller orifice, which would connect with the existing catch basin on Grand Avenue. He stated that the new water collected will not run uncontrolled down the street but in the storm drain system. He referred to the concern about installing the fence at the front of the property and connecting it to the neighbor's which they were fine with that idea. He stated that a construction fence was typical for most projects. He didn't think it was necessary for the entire frontage of the property, but he thought it would be okay. He stated that he was happy to give the neighbors a heads up for the start of the project. He didn't think he had their contact information but he can get it following the meeting. He stated that they don't plan on being bad neighbors during construction. He understood that it wasn't fun to live next to construction for 6-7 months.

Vice Chair Nibbelin closed the Public Hearing.

Commissioner Campbell asked what the extent of geotech was that would give comfort to the neighbors.

Mr. O'Connell stated that there was a design level geotechnical report. He stated that the bedrock was shallow and the geotechnical engineer recommended a traditional foundation system. He stated that it was typical at the top of a hill where, over geologic time, the looser material has sluffed off down the hill. He stated that he has done a lot of houses in the lower part of Pedro Point and there was a lot of clay which requires a deeper foundation, but at this location, the bedrock was shallow, approximately 2-3 feet.

Commissioner Cooper stated that, on some of these properties, they put a swale at the bottom of the property and take the storm water runoff and throw it into the storm drain. He asked if that would make sense to them. He was aware that they had a storm drain behind the retaining wall, but he was referring to a swale at the edge of the property to collect.

Mr. O'Connell stated that they weren't proposing that in this project because the drainage improvements were limited to the disturbed areas. He thought it was feasible, but it was not part of the proposal at this time.

Commissioner Cooper asked if he was opposed to connecting the fence to the north side of the property.

Mr. O'Connell stated that he was not opposed.

Commissioner Cooper stated that he liked the design of the house. It was a nice looking house and was relatively small from the width side. He was not opposed to the project but was concerned about the slope and the neighbors. He thanked the neighbors for coming out because it adds a lot to the discussion. He assumed there will be a geological report done and will probably address the concern where the bedrock was so the house doesn't slide down off the hill into the

neighbors. He thought, with the retaining wall and the storm drain underneath the retaining wall, it would feed a lot of the water that would have been on the bedrock out to the street rather than into the neighbor's property. He stated that he asked about the swale because he has seen it in other developments and thought it might be of some use to this discussion.

Commissioner Campbell wondered about the question of sidewalk versus stairs. He appreciated the neighbor's comment about not increasing impervious surface. He thought the stairs could be done with pervious concrete. He has been there for social events, and people parallel park on that street and then they trudge up and down the street. He wondered about the safety aspects of not having a sidewalk versus having some stairs. He thought it would take away from the parking. He wanted to have full discussion with the Commission on whether they want a sidewalk or not.

Commissioner Clifford liked the design of the house, adding that he was biased toward Victorian styles. He stated that, on the issue of stairs/sidewalk, he could see how steps could be made on the order of cement boxes filled with chips or gravel and not create a real runoff issue but provide an area for people to get up and down the hill without walking in the street. He was in favor of that rather than a traditional sidewalk. He stated that, just because it hasn't been done in Pacifica, it doesn't mean it can't be done. Other than that, he stated that he liked the project. He wasn't concerned about the runoff as there are conditions in place to take care of that, and it was at the top of the hill and there was less likelihood of a slide.

Commissioner Baringer stated that, because of the slope and the shallow bedrock issue, it would be good to have corroboration with our geotech engineer to check on what they are doing, adding that they have done that on sites that were kind of extreme, and he thought this site would qualify. He thought the hydrology review will be done internally and not have to hire an engineer, but do it inhouse.

Planning Director Wehrmeister agreed that they can do it inhouse. She referred to his comment about geotech corroboration, stating that the city has a consulting firm that has engineers inhouse that do our plan checks, and it was automatic.

Commissioner Baringer assumed it occurs through the plan check process.

Planning Director Wehrmeister responded affirmatively, adding that engineering will also be doing the check to ensure the hydrology conditions are met. She couldn't recall if it will be inhouse or if they use a similar consulting firm.

Commissioner Baringer asked if our inhouse plan tech geotech reviewer decided that some of the test bores needed to be done differently, he would communicate that to the applicant and ask them to do that.

Planning Directors Wehrmeister stated they would, via the city.

Commissioner Baringer stated that there seemed to be a substantive runoff problem in that area, and he asked if the 100-year rain criteria was a moving target in today's climate change environment or something that they are thinking about that, such as 120% of the current 100-years.

Planning Director Wehrmeister stated that it was an interesting question, and she referred to Acting Sr. Civil Engr. Donguines.

Acting Sr. Civil Engr. Donguines stated that the 100-year storm was a set point for calculating the hydrology of the site.

Commissioner Baringer understood that, but his point was that it was historically created seven years ago. He thought, because of climate change and because of the severity of the area, it should be 120% of the 100-years.

Acting Sr. Civil Engr. Donguines stated that it was also based on rainfall intensity. That was gauged or documented for the area. He stated that it was taken into the calculation.

Commissioner Baringer reiterated that his point was that it was historic and not looking forward. He thought, if you believed that things are going to be different for the future, they might want to change that.

Acting Sr. Civil Engr. Donguines agreed that they were using historical data in calculating the 100-year storm.

Commissioner Campbell thought the house looks good. He thought the geotech was publicly available and the neighbors could see it if they want to and it would probably be of interest to them. He thought there might be a way for everyone to get their hands on the geotech report as they are public.

Commissioner Evans liked the house and the design, stating the applicant did an excellent job. He commented that it was a very steep hill. He stated that, on his street, one end has 19% grade and the other side has a 20% grade and he understands it. He stated that you don't see a lot of people walking other than good athletes. He liked the idea of the signed agreement that, in the future, if sidewalks go in, they would be willing to put sidewalks in. He was against anything that stands out from what it is, such as tripping purposes. He stated that, with all the safety nets in place, he hoped the neighbors would be feeling safe at that point.

Commissioner Cooper referred to Items 16 and 17, stating that he didn't have a problem with eliminating 17, the car turnout, provided that it was in there because it was a city standard and not a fire department response. He was still concerned about 16. He stated that, if it is not a sidewalk, he didn't like people walking in the middle of the street, adding that it is a visited area. He thought there has to be a way for pedestrian traffic to walk in that area rather than walking in the street. He didn't care what it was called, but he suggested they get the pedestrians off the street and get them to that frontage lot. He stated that they have the opportunity to put something there as the applicant was not balking. He thought they could add that it can be something acceptable to the City Engineer.

Vice Chair Nibbelin thought it was a fine project and he supported it. He referred to the issue of a sidewalk, and stated he would be willing to support a motion that was along the lines of a sidewalk agreement as suggested or something different such as stairs if that was the will of the maker of a motion. He felt the project should go forward with an agreement or another option. He referred to the conditions of approval and asked if they limited hours of construction or do

they refer to the city code. He asked clarification on what was permitted for hours of construction.

Contract Planner Valente stated that, currently, the conditions do not include that but he believes that the code has it.

Asst. City Attorney Visick thought it was 7:00 to 7:00 Monday through Friday and 9:00 to 5:00 on the weekends.

Vice Chair Nibbelin thought it was 8:00 to 5:00 for holidays as well. He asked if they have any discretion to do anything different as a condition of approval.

Asst. City Attorney Visick stated that it was not entirely clear from the discussion how there was any particular impact from this project that would justify some deviation from that.

Vice Chair Nibbelin thought the comment from the public thought there might be.

Asst. City Attorney Visick stated that, if the applicant was inclined to agree with that, it would be fine.

Commissioner Cooper stated that, if he didn't hear any qualms to his proposals, he would be ready to make a motion.

Commissioner Cooper moved that the Planning Commission finds the project is exempt from the California Environmental Quality Act; APPROVES Coastal Development Permit CDP-371-16; by adopting the attached resolution, including conditions of approval in Attachment A with the following changes, strike Condition 17, reword Condition 16, applicant shall construct a new curb, gutter and sidewalk, pathway, walkway acceptable to the city engineer and driveway approach ramp per city standards 101A and 102A; and incorporates all maps and testimony into the record by reference; Commissioner Clifford seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Baringer, Evans, Campbell, Clifford,
Cooper and Vice Chair Nibbelin
Noes: None

Vice Chair Nibbelin 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:

Commissioner Campbell referred to the parking lot on Francisco, asking what the latest was on the signage.

Planning Director Wehrmeister stated that the Public Works Department was creating a sign, adding that she will get an update for them this week.

Commissioner Clifford stated that he was happy to be back.

STAFF COMMUNICATIONS:

Planning Director Wehrmeister reviewed various dates to note over the next two months and stated that she would also send a summary email. She wished them all a Happy Thanksgiving and, on behalf of the city, they were thankful that they were providing this service and helping the community.

Vice Chair Nibbelin thanked her for all she did. He referred to the first item, stating that they got a packet of papers and he asked if staff also got the packet, as he wanted to be sure it got in the administrative records.

Planning Director Wehrmeister stated that they did not and she thought it would be great if they could have a copy.

Commissioner Cooper referred to another packet.

Vice Chair Nibbelin stated they were the mud slide photo they looked at.

Planning Director Wehrmeister stated that they only provided one, and she asked that they could provide the background.

ADJOURNMENT:

There being no further business for discussion, Commissioner Cooper moved to adjourn the meeting at 8:59 p.m.; Commissioner Clifford seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Baringer, Evans, Campbell, Clifford,
Cooper and Vice Chair Nibbelin
Noes: None

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister