

MINUTES

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

April 6, 2015

7:00 p.m.

Acting Chair Gordon called the meeting to order at 7:01 p.m.

ROLL CALL: Present: Commissioners Vaterlaus, Evans, Cooper, Campbell, and Vice Chair Gordon
Absent: Commissioner Nibbelin and Chair Brown

SALUTE TO FLAG: Led by Commissioner Cooper

STAFF PRESENT: Planning Director Wehrmeister
Associate Planner Diaz

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

The motion carried **5-0**.

Ayes: Commissioners Vaterlaus, Evans, Cooper, Campbell and Vice Chair Gordon
Noes: None

**APPROVAL OF MINUTES:
MARCH 16, 2015** No quorum

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING:

None.

CONSENT ITEMS:

1. **CDP-338-13 EXTENSION OF PERMITS for the expansion of an existing
PSD-784-13 38-room Holiday Inn Express including an addition of 44 guest
UP-028-13 rooms and 2,010 square feet of retail space at 519 Nick Gust
PV-509-13 Way, Pacifica (APN 022-024-250 & -270 & -280).**

Commissioner Vaterlaus moved that the Planning Commission **EXTEND** CDP-338-13, PSD-784-13, UP-028-13 and PV-509-13 to March 13, 2016; Commissioner Cooper seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Vaterlaus, Evans, Cooper, Campbell and
Vice Chair Gordon
Noes: None

PUBLIC HEARINGS:

2. **SP-151-15** **SPECIFIC PLAN, SP-151-15, filed by Javier M. Chavarria, Agent for the applicant/property owner, Sonora Shores, III, LLC, to construct a 4,238+ square foot two-story, single-family residence on Lot 2, which is part of the development known as Harmony @ 1, located at Fassler and Roberts Road (APN: 022-150-460).**

Assoc. Planner Diaz presented the staff report.

Commissioner Cooper referred to Attachment A, and assumed that all the conditions were the same as previously approved by the Commission.

Assoc. Planner Diaz responded affirmatively.

Javier Chavarria of JC Engineering stated that he had pictures to help them visualize it better. He then described the process, mentioning that the project was ten years in the making, and he was there for final approval to start building the first home in 2015. He explained their goals in raising the standards for green building, including solar and electric car charger. He explained the various upgrades from the originally approved design, and stated that this was a design that will make Pacifica proud of the improvements they are making to the town.

Commissioner Campbell stated that he was on the Commission when they approved the project and was happy to see it come back. He commended him on meeting what they sought for the project when approved in 2007. He asked clarification of how the LEED standard certification was going to work.

Mr. Chavarria explained that the ordinance read that the building can be either LEED certified or have 100 green points. They were choosing the green point architecture, which was easier and less expensive to manage but does not lower the bar. He asserted that every element needed to be gold certified was incorporated in the home, but their system is more manageable and will save \$30,000-40,000 in documentation and paperwork but not be a lesser quality.

Commissioner Cooper stated that he was excited as it has been a long time. He had a concern about one overhead light that he thought attracts rather than blends into the landscaping.

Mr. Chavarria explained that it was the person preparing the renderings trying to get cute. He stated that none of the homes are going to have any isolated light poles. All the lighting will be low pollution, downward oriented. The only lights on poles will be the ones on street, already approved.

Commissioner Cooper appreciated the photos from other communities showing all the green grass, and how he had blended in natural landscaping in this design to avoid that and take pride in Pacifica's landscape. He mentioned a neighbor who was putting in a grey water system to use as landscaping. He acknowledged that it was not required, but he thought it was a very interesting idea.

Commissioner Evans referred to the LEED certification, and he stated that the papers they received restated the points necessary to achieve a LEED gold certification with platinum when possible. He thought he heard that he was not attaining the certificate but qualifying for it.

Mr. Chavarria responded affirmatively.

Commissioner Evans stated that, with LEED, people will check and keep track of the points, and he asked who would be doing that on this project.

Mr. Chavarria stated that it would be an independent qualified green rated consultant.

Commissioner Evans responded that he wanted to find out who would assure that the goals were met.

Mr. Chavarria understood and reiterated that there would be an independent rater.

Planning Director Wehrmeister stated that, at the applicant's expense, staff will be engaging a qualified rater who will be reviewing the building plans to make sure everything is as conditioned.

Assoc. Planner Diaz added that it was a condition of approval.

Commissioner Vaterlaus was glad to see the project coming forward. She referred to mention of aluminum windows on the coast but she felt they were a negative thing. She asked if it was part of the green standards to put in aluminum windows instead of more sustainable vinyl wood.

Mr. Chavarria stated that there are "aluminum" windows and there are "aluminum" windows. He explained that higher quality windows were more durable with a stronger type of aluminum and better in preventing draft, just a better product.

Commissioner Campbell referred to Commissioner Cooper's remark on the gray water system. He thought all homes are required to have a gray water system according to the approvals.

Mr. Chavarria responded affirmatively.

Vice Chair Gordon opened the Public Hearing.

Neal Schwartz, Pacifica, stated that he represented the developer. He was with Coldwell Banker and the realtor. He is also the president of the homeowners' association. He stated that this developer, besides the project, wants to give back to the community and is helping to bring to Pacifica the Assisted Living Center that the city needs so badly. They were closing escrow on that the following week and are planning to build that.

Kevin Russell, 100 Juanita, stated that his parents moved to Pacifica in 1970. He is the owner of Center Construction and is contracted to do the current infrastructure. He worked hard to get that contract and he was assured that he has a contract to build the house. He is a local and he has hired local subs as much as possible to build the infrastructure and will continue to do so on the house. He added that Center Construction has done quite a few green building projects over the

years and have qualified staff who know how to do green building, and everything in the home meets the highest standard of anything they have built.

Courtney Conlon, Pacifica, stated that she representing herself as a proud Pacifican for the past 38 years. She stated that she has invested in this community with three generations living in Pacifica. She stated that she has been walking up “Broccoli Hill” for years, and when she heard about this project, she thought this would help put Pacifica on the map. She has seen a lot of beautiful homes build in Pacifica but she felt the Harmony @ 1 project just looked amazing and she wholeheartedly supported it for additional tax revenue for the city, increased exposure to create synergy and hopefully will appeal to members of biotech and tech companies. She also felt it will help increase customers to our businesses and services. She asked that we move forward and not go back and forth stopping this amazing project for Pacifica. She urged that the commissioners approve this environmentally conscientious project.

Mr. Schwartz stated that he negotiated with Tesla and Tesla had almost okayed putting their battery pack system into every home, and with solar and the battery pack, most of the houses will not be in the grid.

Mr. Chavarria thanked everyone who participated and especially staff in the wonderful job of guiding and helping them to be where they are.

Vice Chair Gordon closed the Public Hearing.

Commissioner Campbell stated that he may be the only commissioner who voted for this project the first time around and was glad to have done so. He stated that, if you look at the conditions of approval, they did a good job of meeting what the Commission and Council was looking for in 2007. He stated that he had one item of concern, LEED certification, and he would like to hear from the commissioners or the planning department. He stated that with the original approval there was public interest and a lot of study sessions, and one of the big items was how they were going to get a green certified project on the hillside that would be a showcase for the community. He stated that the thinking was that LEED certification was the way to go. He mentioned that the letter of commitment at that time was to require integration of LEED standards into the project based on professional advice from a LEED certified expert to achieve the highest level of LEED certification. He thought it was made clear that the developer of each home would get a LEED certification and beyond to gold or higher, but LEED certification would be obtained with a LEED expert to confirm it. He was concerned and wanted to understand why they can't stay with the LEED certification standard agreed to in 2007.

Planning Director Wehrmeister understood that, at the time the project was approved, there wasn't a green building ordinance in the city and the Planning Commission decided, as proposed by the applicant, to establish a LEED certification condition as a requirement of the project. Subsequent to that, there was a green building ordinance adopted with language for an option of LEED certification or certain points on the green building standard. Following that, California adopted the green building ordinance, which she felt lead to an evolution of green building code requirements since 2007. Staff felt that the intent was being met, but they respect his recollection of the approval requirements and the Commission can clarify the requirement. She thought they could add a condition for this project and the remaining homes on the lots to require a LEED certification.

Commissioner Campbell thanked her.

Vice Chair Gordon thanked her for that clarification as well.

Commissioner Evans thought this was a wonderful plan. He stated that he was on the Open Space Committee when the Harmony @ 1 projected was presented to them. He was impressed by what he saw. He felt it was a wonderful project and will confirm that Pacifica is an equal or a step ahead of everyone else. He felt it was a great project. He would feel a little bit better if it were a certification. He stated that they were presenting this as a showcase, and he understood what staff was saying that things have changed. He thought it was a big thing then, and still was, but he was not going to condemn it for not having it. He agreed with Commissioner Campbell about having the certification but he could be swayed.

Commissioner Cooper acknowledged that the city was going to confirm the points earned from the green building and the developer would be doing the same thing. He assumed there would be a final report on how many points they obtain.

Planning Director Wehrmeister stated that the plan was to have an additional layer of building plan check and she envisioned giving the LEED or green point certifier a copy of the table that staff created and that person would specify how each condition was met.

Commissioner Cooper assumed there would be proper backup on the report that the green person will be doing.

Planning Director Wehrmeister expected that the person would reference the plan sheet and any additional inspections required in the field.

Vice Chair Gordon asked what the practical difference was in proceeding as the applicant wants with a point standard versus formal certification.

Planning Director Wehrmeister stated that she did not have green building technical expertise. She understands that LEED is a more expensive process to get the certification. As a result, she stated that some public facilities build to a LEED standard but don't formally get the LEED certificate due to cost. She suggested that the applicant might be able to clarify the difference between them.

Mr. Chavarria stated that their main reason they deviated from that, even if they do LEED, they still have to comply with the California green building code and have to go through the green point system. They reviewed the code to see if doing LEED would relieve them from complying with the aspects of the code. He stated that the bottom line was that LEED in 2007 was the only game in town. It has evolved to be more oriented towards commercial buildings and larger developments but green points have been adopted for residential because they were more manageable and the guidelines are easier to follow. He assured them that, by going green and not LEED, they were not giving up anything on the buildings, just a layer of bureaucracy and a layer of expense. He stated that the thought may be that, with the prices of the homes, the developers will be making a lot of money. He added that it has been a very expensive process. He referred to the requirements, and just on biological monitoring, they have more than \$200,000 now. He stated that they have taken every single environmental requirement seriously and they weren't trying to deviate but wanted to put the money in the quality of the homes where it should be.

Commissioner Vaterlaus referred to the green point check list in the package, and as pointed out by Mr. Chavarria, the standard was at 100 and they were at 152 on the checklist and she thought they have exceeded what was required in the green point rating. She was comfortable with the green point over the LEED.

Commissioner Campbell commented that, in San Francisco, you see a lot of commercial buildings rated as LEED. He then referred to Mr. Chavarria's comment that LEED was more geared toward commercial than residential, and asked staff's input on that.

Planning Director Wehrmeister stated that there is now a residential certification, but when first created, LEED was a commercial system.

Commissioner Campbell concluded that they have a residential now.

Planning Director Wehrmeister responded affirmatively.

Commissioner Campbell explained that he was questioning this because they had a letter of commitment that they would have the LEED certification and hours of city time went into the condition in 2007, and he didn't want to do a disservice to the public who spent time getting this particular item passed and had a commitment made, so he officially asked the applicant if they would reconsider getting the LEED certification. He thought, if you meet the LEED, you can meet the green building check list.

Mr. Chavarria stated that, if the Commission feels that the LEED is the way to go, they were not going to stop the project for that. He reiterated that green building is not a disservice to the community. He stated that they were more than willing to establish a condition similar to what was done with the Husson's residence recently that they will do what was comparable to the requirements of a LEED certification following the requirements of green points and can present to staff the LEED certification list without going through the specific process. He stated that they may be willing to obtain plain LEED certification but they were going substantially further with the green points.

Vice Chair Gordon stated that he didn't follow the last part.

Mr. Chavarria explained that their green point rating of 152 points was probably going to be better than a LEED gold or equal, however trying to achieve LEED gold creates a substantial amount of work. He thought that, if they have green points and LEED certification, it would be a good compromise that establishes that the building has some LEED certification but still complying with what the code was asking which was the green points.

Planning Director Wehrmeister thought the compromise that the applicant was proposing was that the home be constructed and be reviewed by the plan checker to a LEED standard but that the actual certification process not be required. She suggested that a condition be added that the project construct the home on Lot 2 to LEED gold standards and at least obtain a green point rating of 152. She thought they would be achieving what the Commission originally set out to do with the project.

Commissioner Campbell stated that he was comfortable with this, but asked in what way the city would verify the LEED standard.

Planning Director Wehrmeister stated that, under the conditions of approval, staff was required to hire the expertise that can do the plan check on these homes at the applicant's expense. Assuming that the project is approved at this meeting, that is the next to do item to get someone contracted to ensure both green point rating and LEED Gold standard are met.

Assoc. Planner Diaz added that there was a condition of approval that talks about hiring a certified building professional to look at all those standards.

Commissioner Cooper assumed that the amount of points in the base was 100 points for the green building code's standards.

Planning Director Wehrmeister responded affirmatively, adding that she used 152 which was what they came in with, to ensure that they don't go backwards.

Commissioner Cooper stated that the standard was set at 100 points and it seemed to increase that standard seemed a little onerous at this point since the development was approved at 100, and they were talking about whether there was a certification. Coming from public buildings, San Francisco builds to a silver standard all the time and we are currently going for gold and platinum for some terminal projects. He agreed that the process was very expensive. His perspective is that he wants to see the building conform to that standard because that was what it was for, to design to a standard that helps the environment and helps the landscape, codes. He felt having certification is a secondary concern. He didn't want to make it any more onerous than it already is for the builder. He personally felt the standards have been set within the approval and he didn't think there was any need to do any modifications.

Commissioner Campbell stated that he liked the idea of this condition of requiring the certification because they did have that commitment back in 2007 and he felt it was important to honor those types of commitments when making approvals. Referring to it being onerous, he didn't agree with that, adding that the conditions of approval in place since 2007 were known to everyone, including the new owner when they purchased the property. They weren't adding any burden over what was approved in 2007. He also thought they were backtracking by not requiring the certification which was fine, because he thought getting the certification was more form over substance in some instances, and he agreed on that point.

Commissioner Cooper stated that the standard in the documents was 100 points and they were currently saying it was 150 now. He assumed that was different than what was in the document.

Planning Director Wehrmeister agreed, adding that she was using what the applicant submitted for this particular home. She agreed that it didn't need to go above 100.

Commissioner Cooper concluded that the document says 100 points and he didn't want to make it more onerous than what the current document says.

Vice Chair Gordon thought that the compromise on the table was that they were going to require de facto LEED certification without actually having to go through getting the certification itself.

Planning Director Wehrmeister stated that it was for the Commission to decide. She clarified that she was trying to summarize the conversation that she was hearing which was adding a condition

to this specific plan that the project construct the home on Lot 2 to LEED gold standards and achieve at least 100 points on the green point rating system.

Vice Chair Gordon asked Commissioner Campbell how that sounded.

Commissioner Campbell thought it sounded good, and he thanked Commissioner Cooper for clarifying the point on the 100-point rating. He was good with that.

Commissioner Evans was also fine with the new condition. He understood the progression of the LEED certification process, more for professional buildings and business and he didn't want to put any more effort. He thought it was a wonderful thing that they were getting local home town contractors and he applauds him for that. He imagines local contractors will want to take a lot of pride in this.

Commissioner Cooper moved that the Planning Commission **APPROVE** Specific Plan SP-151-15 by **ADOPTING** the attached resolution for the proposed construction of a single-family residence on Lot 2 which is part of the Harmony @ 1 development; and incorporate all maps and testimony into the record by reference with an additional condition that:

1. The home on Lot 2 shall be constructed to LEED Gold standard and achieve at least 100 points on the Green Point Rating System.

Commissioner Campbell seconded the motion.

The motion carried 5-0.

Ayes:	Commissioners Vaterlaus, Evans, Cooper, Campbell and Vice Chair Gordon
Noes:	None

3. **PSD-790-14
CDP-347-14
PV-513-14
PE-160-15** **SITE DEVELOPMENT PERMIT, PSD-790-14, COASTAL DEVELOPMENT PERMIT, CDP-347-14, VARIANCE, PV-513-14 AND PARKING EXCEPTION, PE-160-15, filed by David Blackman and Mike O'Connell, property owners, to construct four (4) detached studio apartments on a vacant 18,411 square foot parcel located at the 4000 block of Palmetto Avenue (APN: 009-402-270). The property is zoned R-3-G, Multiple-Family Residential Garden. The project is located in the Coastal Zone. Recommended CEQA status: Exempt.**

Planning Director Wehrmeister presented the staff report.

Vice Chair Gordon asked clarification that they had two separate motions that she was recommending was first, granting all the variances and second, granting the parking exception variance but not the other two variances.

Planning Director Wehrmeister stated that, for the parking exception, within the code, there were provisions to grant an exception and that was not truly a variance. The supplemental staff report that was provided at this meeting would only eliminate the variances and provides a condition that would require the units and the usable lot area to meet the code standard. As she mentioned, she thought the applicant will provide some additional analysis regarding that issue.

Vice Chair Gordon mentioned that they usually get the staff report a week in advance and they were able to read the material and study it, but he thought there was probably a lot of last minute exchanges between the applicant and Planning Department and they received some content that they just received and are digesting.

Commissioner Cooper referred to the CEQA exemption and recommendation and the provision referenced, reading a portion of Item B, and stated that this was four detached studio apartments, and he was curious why that was put in as the exception and whether there was some other reference.

Assoc. Planner Diaz explained that, if you read further, it says "in urbanized areas, this exemption applies to apartments, duplexes and similar structures designed for not more than six dwelling units."

Commissioner Evans referred to having just received this material and asked that they break it down because he was feeling lost.

Assoc. Planner Diaz stated that the large attachment was not about this project but a project known as the Bowl that was considered by the Commission, City Council and Coastal Commission many years ago.

Commissioner Evans stated that he saw the same address and wanted to check on that. He assumed he should disregard it.

Planning Director Wehrmeister stated that it was attached to a comment letter.

Assoc. Planner Diaz stated that Mr. Bohner's attached those documents to his letter.

Commissioner Evans stated that, as mentioned by Vice Chair Gordon, they received a lot of additional information at the last minute and he was moving very cautiously.

The public hearing was opened.

Mr. Blackman asked, if he could hand out copies. He then mentioned growing up in the neighborhood above this project and remembered the graded field. He and his co-owner, Mike O'Connell, were lifetime residents of Pacifica. He stated that the proposed unit were not for sale and would hopefully allow their kids to raise their families here. He reached out to the condominium association when they started the project, and they seemed receptive to the small concept with living roofs and he hoped they still were. The concerns the neighbors have was no project or opening the door for the Fish & Bowl. He clarified they were not opening the doors and were not adding any infrastructure, adding that the Bowl still has the same environmental constraints from ten years ago. He explained their decision in proposing four units with one story and living roofs which were not required by the city. He got the letter from Hal Bohner, a neighbor, and he met with him and he thought they had similar goals. He didn't think Mr. Bohner understood when he was protesting the variance and can hopefully answer his present position. He explained his thinking as they came to a decision on the scope of the project. He clarified that his project was not near the Bowl project and was not impacting anything, stating that the biologist was present to answer any questions. He tried to meet with all the condominium owners and be transparent.

Vice Chair Gordon stated that one of the issues was the minimum requirement of 450 square feet and they went to 400 but stated were willing to go up to 450. He asked him what the pros and cons were between 400 and 450.

Mr. Blackman stated that it wasn't a deal breaker. He didn't get that precise, and thought it was 417. He thought, if he added between 4 and 5 inches around the whole building he can get to the 450. He thought it was a mistake on quick reactions by Mr. Bohner but he could speak for himself regarding thinking that the variance should not be supported. He was shocked that he was asked to go bigger than he wanted. He stated that, to get the outdoor living space, they could grade the backyard and put lawn which he was opposed to, but will do it to simplify the process. The other option was to take the carport and not making it a living roof, and make it a roof deck. He added that his whole goal was to tread lightly. He didn't want the condominiums to see him from above. He was getting pushed away from his goal but they were okay to go to 450.

Vice Chair Gordon stated that the other variance was for the useable open space, and he asked if his rationale for wanting to go under was minimum disruption to the outdoor area.

Mr. Blackman responded affirmatively. He referred to the pictures, stating that all the projects were on podium decks so the coastal scrub can grow below it. He stated that the easiest project would have been similar to the existing condos but that wasn't what they wanted to do by taking the cheap route.

Vice Chair Gordon mentioned staff talking about utilizing the top of a car port.

Mr. Blackman stated that two suggestions that came up was to accommodate the extra outdoor space they need was about 1,000 square feet shy and one choice would be to put the lawn behind the units and the other choice was to take the car port and not have it sloped, make it flat, take the

living roof component off, making it more visible to the condominiums and make it a usable roof deck. He didn't think there was any need, but he understood where they were with the variance and a lot of push came from Mr. Bohner not having enough time to digest the project. He hopes he can speak for himself. If it was an issue on the variance, they can make that happen.

Commissioner Cooper thought it was a unique concept, adding that he hasn't seen a lot of them being built. He had a concern over converting the roof to a useable space. He thought it was asking for trouble as far as falling off the roof. He asked how they plan to keep people from falling off the roof.

Mr. Blackman asked if he was asking whether it stays as proposed.

Commissioner Cooper responded affirmatively.

Mr. Blackman didn't have any intention of people climbing on the roof. He mentioned that he has none, but he was willing to take any input from the commissioners if they want him to put some protective devices.

Commissioner Cooper stated that it was his only question, as he answered his question about the square footage. He still has a concern over the zoning issue.

Vice Chair Gordon opened the Public Hearing.

Caroline Henter, 5007 Palmetto, stated that she had questions relating to cars. She referred to access parking and safety. She wondered how residents of the development will get their cars to it from Palmetto and what the parking will be for the residents and guests. She also asked how workers and emergency crews will get to the development.

Vice Chair Gordon explained that there is no Q&A with the public but they can speak, ask questions and, at the end, the applicant has an opportunity to respond. They wait until everyone has spoken.

Mary Shapiro, 5003 Palmetto, stated that she was making observations on the staff report since she didn't know the format process. She was confused about them being studio apartments, as she thought the definition was that there was no bedroom, but the plans have a resting area with a closet. She was confused about the difference between a studio and a one-bedroom unit and whether it impacts the variance rules. She referred to a discrepancy where the size of the lot would permit a total of 8 dwellings, and below that, it mentions the equivalent of 4-6 units for the subject site. She didn't appreciate the context in understanding the differences and its ramifications regarding zoning. She mentioned a large ravine across the road developed from water, and she thought the drainage issue was important once you change the current land use. She didn't have access to the environmental and ecological reports or the other report attached. She didn't think of Pacifica as an urbanized area, especially the northern end, and she felt there was an issue of whether that applies. She was concerned about the potential traffic patterns. She looked at it, and thought there were likely to be two people living in those units and only one car per unit with one guest spot concerned her. She was concerned about whether the zoning would allow the units being used as Airbnb with people coming in and out rather than rentals for longer periods and the light pollution which she didn't think had been addressed in the report.

David Hirzel, 5009 Palmetto, stated that he previously lived in Moss Beach and is a residential building designer and he thinks about how residences are constructed. He was also aware of coastal erosion at the bluff tops. He questioned the suitability of this parcel development from a geological standpoint. He thought the encroachment of the ravine suggests an underlying weakness of the overall structure. He thought they have addressed it somewhat, but the ravine suggests an underlying weakness as well as the failure of the geology on Esplanade and Lands End. He mentioned a concern regarding unconnected drill piers tend to settle differentially and the building was going to have unlevel floors. He also mentioned that some of the fixes at the sea wall near Esplanade and Lands End in recent years did not address all of the issues. He questioned the suitability of development from a planning standpoint because of the variances and exceptions requested, stating that he felt it usually was a detriment to the neighborhood and community and should be looked at carefully. He referred to the storm water retention basin and he understood that rain water that falls upon a given piece of property after development has to be entirely retained upon that property and cannot be diverted into public drainage.

Jim Schenkel, 503 Palmetto, stated that he was involved with the Fish & Bowl proceedings in the past, and thought this applicant was suffering from the delayed effects of that earlier and unpleasant proceeding. He stated that they were all out because the last time was not a pleasant experience for anyone. He thought this applicant has done a good job. He understood that you can't build something completely invisible but he seemed to be sensitive to the idea that he was going to reduce it as much as possible and he applauds him for that. He then stated that the project was exempt from CEQA. Looking at Class 3B, he thought this was on the edge of whether it was small or not, and agreed with Ms. Shapiro that it isn't urban infill but an area about to be cracked open by development that has not occurred before. He gets that this is not part of the Fish & Bowl but he felt it could open the door to wider development in the area and he has questions about that. He then referred to Section 15300.2 and stated he was concerned about cumulative impact because, if this is permitted, it is more likely that the Fish and then Bowl will be developed. He also thought the location was particularly sensitive, and he didn't think they could use a categorical exemption when a reasonable possibility may have a significant effect on the environment due to unusual circumstances, mentioning that the premise that there are no wetlands there cannot be judged four years into a historical drought. He referred to staff's position that it fell outside the Coastal Commission's area, but they disagreed with that in 2005 or 2006 and he felt it should be considered in this application. He urged that they find it is not exempt from CEQA and an environmental impact report should be prepared.

Steve Rhodes, 5009 Palmetto, stated that he would like them to cast a no vote as he felt the project would destroy the natural habitat in the area and destabilize the geological areas around them. He asked that they examine this and ask themselves if this is in the best interest of Pacifica.

William Trichon, 5017 Palmetto, stated that he felt this was a done deal, and that staff feels the project should proceed but he urged the Commission to think of the big picture. He mentioned the problems with the Fish and Bowl and that they admitted that it will be hard to build on this spot, and he questioned why on this site because of all the small problems that, when added up, seem like their too much, mentioning all the variances, parking, etc. He felt they must maintain their environmental standards, including the loss of native habitat. He referred to the experts determining there were no wetlands in the area, which he thought might be because of the present drought, since the EIR for the Fish & Bowl confirmed that the adjacent properties did include wetlands. He agreed that they needed rental property but concluded that, because one can build

someplace doesn't mean that one should build there. He asked that they keep the Fish & Bowl as is because it is a treasure.

Victor Carmichael, 5005 Palmetto, asked why at this location. When talking to Mr. Blackman, it seemed a low key, minimalist project that was tolerable but it has a cumulative impact. He referred to the geological and hydrological problems that kept the area undeveloped, as well as community resistance. He stated that the past owner wanted it to be open space but, when she passed, her heirs put it on the market. He felt it was a miracle that we still had it, being a jewel. He thought the ravine would advance and they would ultimately need the project's location to realign the road. He also thought the footprint encroached on the city right-of-way. He also mentioned that there was not enough parking, and they will have to use Palmetto for parking, thus creating a parking hazard. He also didn't know how the heritage trees will survive. He then referred to the Coastal Commission's objections to the Fish's sensitive habitat and he felt this project was even closer to that area than the Bowl. He also felt it didn't make sense not to have an EIR on this.

Hal Bohner, Pacifica, referred to the process, then apologized for the Commission getting copies of the material he sent to the staff so late, but explained that the staff report was not made public until the previous Thursday when he then submitted his letter and material. He asked that it be emailed to them, but it was not given to them until this meeting. He was a bit angry that they were told they didn't need to look at it since it was a record with the Coastal Commission of an adjacent project and this project was in the middle of that previous project. He stated that it had information relevant to this project. He referred to the Coastal Commission's CEQA guidelines which he felt was directly relevant to this project which he felt required an EIR.

Skye Parker, Pacifica, stated that he was a designer and draftsman and attested to the taste of Dave Blackman. He felt he built some of the nicest houses in Pacifica.

Vice Chair Gordon closed the Public Hearing.

Mr. Blackman stated that he did his best to take notes. He stated that the urbanized definition of CEQA was taking the population of Pacifica and two neighboring cities, and if they are over 100,000, the entire city is an urban area. He explained that it was a technicality, not what it looked like. He stated that the comment that he was building in the public right-of-way and he stated that it was not true. He referred to one question of the general plan versus the zoning, which were slightly different. He thought staff might be able to answer that better. He stated that he was asked to do more parking and make the units bigger. He was shocked to be asked to do more and he was trying to tread lightly. He met the zoning requirements for the parking. He referred to pier settling and the engineer would answer that, adding that he didn't think it would be a problem. He referred to the cumulative impact, and stated that you can't add all the projects, even if they were neighboring projects. He stated that they had a bridge on Pedro Point rebuilt and they dredged the creek and tore up the habitat and that didn't require an EIR, adding that an EIR was a profound requirement, and costs \$80,000-\$100,000. He referred to the wetlands and drought, and they looked at all the work done, including the report Hal Bohner presented, and his biologist reviewed it, and he stated that he can answer any questions. He asserted that it was exempt from CEQA. He mentioned again that he could have built a six-unit building three stories tall and still been exempt from CEQA. He stated that there was no habitat that he was harming. He got everyone's sentiment, which he concluded was that they would like it to stay the way it is. He stated that it didn't seem fair, adding that he wished a lot of people would tear their house down and leave. He referred to the drainage, stating that they were 400 feet back from the coastal

bluffs and right now the Coastal Commission and Pacifica stated that it comes back at 2 feet a year and they were supposed to have 100 year life, and at that rate, they have 200 year life. He then referred to the ravine and stated that it was a man made phenomenon, which was drainage put in 1930 because Palmetto used to be Highway 56 and they put a pipe across to drain the Bowl. He stated that, if they look at the geological report, and stated that it hasn't moved in 50 years, because it was a man made phenomenon by a pipe that the city may or may not know is theirs to manage. He stated, if they want to correct or make it better, it was possible, but the drainage they are putting in was going to alleviate a lot of the water going down that ravine and we were benefitting the ravine. He stated that, since the Palmetto right-of-way used to be Highway 56, there was a lot of room to move Palmetto over. They have designed the project for at least 100 years. He understood people's concern about what was going on around the cliffs at Esplanade, but that was not the phenomenon where they are located.

Vice Chair Gordon referred to items on the table such as whether the project was exempt from CEQA and whether an EIR is required. He are asked if they were in staff's purview or the Commission's purview.

Planning Director Wehrmeister stated that, in taking an action on the project, they would be confirming staff's recommendation that this is a project exempt from CEQA. She stated that, if they are not comfortable with that, they can direct staff to bring back further facts for their consideration, such as case law on how this exemption has been interpreted by the courts. She thought the applicant has already provided the biological analysis but the item can be continued if the Commission would like more information.

Commissioner Cooper thought it was a wonderful design, adding that he had not seen a design like this before in preserving the landscaping, living roofs, and he thought it was an interesting project. He did have some concerns. He thought the concern for the drainage was of genuine concern, the bluffs being there, where the runoff is going to be for the parking and drainage. He also wanted to mention that the community and the Commission have been involved in a lot of the affordable housing in the area and lack of it. He stated that these are very small units and would not rent for very much, although he wasn't sure about that. He thought there might be an opportunity for some affordability within Pacifica for having such a small unit. He agreed with everyone that parking is always a concern, but they could have four units with blacktop everywhere and then they have no landscape so it was a give and take of what was adequate for the unit. He stated that, if you have ten people visiting in an apartment of 450 square feet, he didn't think there was going to be very much place for someone to stand. There will always be an issue of whether it is adequate and does it meet the guidelines of the city, which is the same concern here. He was concerned about the Airbnb use which he thinks is an interesting concept. He didn't know if the city actually has a restriction for Airbnb use for these types of units, mentioning that it has an effect on the people in the area about knowing where to park and the traffic patterns. He thought the structural uses are important but he thought there were ways around a lot of those settlement issues. He thought the condition for increases the size of the units to 450 sq. feet to meet the minimum size is of concern. He thought it was a nice concession for Mr. Blackman to offer to meet the zoning requirement; however, he still had some issues with the zoning requirements. He didn't consider it a single building but four individual buildings. As he listened to the discussion, but he thought there were issues with putting four detached structures on a property and calling it an apartment. He would like clarification on that. He thought there was a lot of information presented. He was interested in what had happened in the past but was not familiar with it at this time.

Commissioner Campbell appreciated the comments that this project was not the Fish & Bowl. It was before he was on the Commission and referred to one speaker mentioning that it was an unpleasant experience. He has a feeling that this project may be shadowed by that experience. He stated that, on looking at the project, this seemed to be the least amount of development that could occur on the site. He thought the design was nice. He didn't have too much issue with its cumulative effects. He understood the argument that it could open the door to Fish & Bowl development but this is just a separate parcel. He thought the CEQA issue was interesting as to whether they make the call about whether an EIR was required or not. He mentioned that the Supreme Court of California did come out on March 2 with a significant decision regarding this very exemption of 15303, Berkeley Hillside Preservation, which gave the city more latitude by cutting back on the exceptions to the exemption. He doubted whether an EIR would be required after that decision. He liked the fact that they came in under the maximum which was rare. He thought it was something for the adjoining landowners to look to.

Commissioner Vaterlaus agreed that it was not the Fish & Bowl. It was a separate parcel and should not be considered the same as the Fish & Bowl. She stated that the General Plan says he can build 4-6 units and these units are so much better than a three-story apartment building he could have built there with parking underneath that would not have blended in with the environment. She also mentioned that it was important that, even without a view ordinance, he considered the view of the neighbors. She felt they were much more desirable than they could have been. She thought it looked like a good project. She stated that the four parking spots were in the code and they only interpret the code so it doesn't have a variance.

Commissioner Evans stated that, after listening to everyone, he agreed that it was not the Fish & Bowl. He lived in the Pacific Point condos for ten years above him. He was against the Fish & Bowl back then and is now, but this is elevation is over the Bowl by quite a few feet. He stated that there are no trees on the project land. He asked Mr. Blackman asked what kind of paving he was looking at for the driveway.

Mr. Blackman stated that he had a few things to ask and thought it would muddy the waters. They were talking about making a pervious surface and eliminating the storm drain. He was also toying with the idea that he didn't want the sidewalk, and was a default by Engineering. He would rather skip the sidewalk. He also noticed that there were no ADA ramps on Drake Blvd. or where the sidewalk ends across the street and above and he wanted to make a concession and keep it rural where he was and he will spend his resources making ADA compliance on the rest of Palmetto. He thought there was enough on the plate and he will be quiet. He was thinking of further ideas to make the project more desirable to him and be less treading on the earth.

Commissioner Evans thought they would leave it to staff regarding sidewalks. He was interested in what he was thinking about permeable or blacktop.

Assoc. Planner Diaz stated that one of the conditions of approval is that all paving area shall be permeable to the maximum extent feasible.

Commissioner Evans stated that he walked the small piece of property with Mr. Blackman. He understood the idea of looking down at roof tops was not an idea he liked. He thought this was very ingenious to be looking down at growing roofs. This is about as invisible as you can get with buildings. The trees were between his property and Pacific Point which was a plus. He liked the idea of keeping as natural a surface as possible, mentioning that the sage growing

beneath the house was ingenious. He thought the parking was a concern. He mentioned that the plan said there was 445 sq. feet on both sides, and he thought it was in the middle between the two. He was comfortable with that with only four units. He applauded him for going smaller because they usually have complaints that it is too big. Going smaller saves land, materials, etc. He likes the project and understands it is a sensitive area but separate from the Fish & Bowl. What they decide can only be what is in front of them.

Vice Chair Gordon stated that they were only able to evaluate a project based on the four corners of the project. It wasn't fair to the applicant or process to base the project on another project and they weren't permitted to do it. He acknowledged concern by the public about endangered habitat and geological suitability and stated that there was a geotechnical report, a biologist report and he can't substitute his opinion for experts who have looked at the area and offered their opinion. He has to defer to the experts and say the parcel is suitable for the project. He mentioned one speaker who talked about Mr. Blackman asking for so many variances and it's a bad thing. He thought they have to look beyond the variances and ask why. He stated that, in a lot of the situations, he was asking for a variance to minimize the impact on the property and that's to be encouraged. He has no problem with the variances. He then referred to mention of new projects in town built by Mr. Blackman that were some of the nicest ones, and he agreed. He didn't always agree with him, but he felt this was very nice looking. He was in favor of the project but he has concerns that there was a lot of information dumped on them, not by fault of the public or staff, but just happened. They haven't had a lot of time to digest some of the information. He question whether some of the information regarding the Fish & Bowl should come into consideration here, but he was sensitive to shooting blind but didn't know how to address it. Referring to CEQA, he stated that he worked at a big law firm and they would have junior associates spend days analyzing the problem and giving them a report, but they don't have that luxury. He also would not say staff is wrong with so little time to study it.

Commissioner Vaterlaus referred to mention of rent control and Airbnb, and stated that they did not have rent control. She stated that there are many units in Pacifica that are vacation rental by owner and Airbnb.

Planning Director Wehrmeister stated that there is a separate use category for boarding house in the code. That is not what Mr. Blackman is applying for and would require a use permit. She heard that Airbnb was becoming more common.

Commissioner Cooper agreed with the commissioners that there were only certain things that the Planning Commission could decide, and his concerns regarding Airbnb, etc., were not in front of them but merely comments for future consideration by both Planning and Council. He thought it was important to bring those concepts to the public's attention. He stated that they rely upon staff for the determination of exceptions within CEQA, but they don't have a law staff to consult. It was a concern of his, but he has to defer to staff to make sure that they have done their homework and made proper recommendations.

Planning Director Wehrmeister stated that, they did run the comment letter by the City attorneys who were not concerned with staff's determination that it was exempt from CEQA.

Vice Chair Gordon assumed it was vetted and analyzed by their contract attorney.

Planning Director Wehrmeister responded affirmatively.

Commissioner Evans stated that, when something comes before them and they look at how it fits into the neighborhood, that is a big issue. He thought the idea of very small, minimal number of units being there, if it is built, is a statement to begin what should be there, if anything. He stated that we are in a small town around a large urban area, but we have to fit in with what the codes say. He stated that they do have the option of looking at what the neighborhood looks like when things are brought before them. He thought it was a good idea to have a very small development with very small units to say that was what they want, not the large three-story, six-unit apartment houses.

Commissioner Campbell reiterated that they were not there to second guess the biological and traffic opinions. He stated that one of the main points of the hearings was to allow the public supplement the administrative record prepared by staff with their own documents and opinions on the conclusions by staff on legal, biological analyses, etc., with a right of appeal. He felt that he has enough and heard enough to actually make a personal decision on the project, based on size and scope. He was almost ready to make a motion but would like consensus to not waste one.

Vice Chair Gordon thought there was one thing they should hash out before moving to a motion stage. He asked if the project was 400 square feet of living space. He acknowledged that the applicant was willing to go to 450, and he thought they should hash that out first before going to a motion.

Commissioner Cooper believed that there was a reason for the code being 450 square feet. He felt it was a minor concession for Mr. Blackman if he is willing to make it, but he thought they should ask him officially if he was willing to do that before they make a motion.

Planning Director Wehrmeister asked about the useable outdoor space.

Commissioner Cooper thought they were inviting an improper use of the top of a garage by allowing useable space on top of that carport and he would grant the exception for not having that additional space.

Vice Chair Gordon asked if he was in favor of the variance as is.

Commissioner Cooper responded affirmatively, but added that he would like to hear what everyone else has to say.

Vice Chair Gordon thought that each commissioner can have a chance to opine on these discrete issues, whether to grant the variance for the outdoor space being under the 450.

Commissioner Cooper stated that the outdoor space was a different variance. The variance for the 450 was that he increase the size of the units from 400 to 450 square feet and allow the variance for the outdoor useable.

Vice Chair Gordon stated that there were two discrete issues, the indoor and outdoor. He asked Mr. Blackman if he would be willing to make the concession to go up to 450 on the indoor.

Mr. Blackman stated that he was willing to go either way on either variance. Going to 450 won't affect the neighborhood that much, but losing the living roof over the carport or putting lawn in the back was going to make a pretty impact for the views above, and he would like to avoid

having him have more outdoor space. He stated that it was based on the topography, size, location, but that was his preference. He could go either way on either one of them, but two solutions he has for the outdoor living space is lawn or some type of useable space in the back, and they are saying it needs to be graded for the slope or putting a roof deck over the carport. Either would be breaking what he was trying to do in not impacting the view of the neighbors above. He would like both but would like the outdoor one at the least to be a good neighbor.

Vice Chair Gordon referred to the variance for the indoor space, he asked what his compelling reason. He asked if it was just how the plans were drawn up.

Mr. Blackman stated that he was serious. He has a house he rents in Pedro Point that was about 700 square feet and, before he had his fourth child, they had three girls and lived in 600 square feet and he was fine. He mentioned that a friend who lives in San Francisco just bought a 250 square foot by choice, and could afford anything. There were units down to 200 square feet in San Francisco. When stated that the code was put in during the 1980s, and he thinks it is obsolete and doesn't meet today's requirements.

Vice Chair Gordon asked what the difference was in square feet.

Mr. Blackman stated that, trying today to get the exact number, he didn't know if you were counting exterior plywood, exterior siding, but he believes it is 417 now. To get to 450, he thinks he has to expand the walls 4-5 inches around the whole thing. It was fairly negligible but bigger than he wants it to be, but he was fine with it.

Vice Chair Gordon thought it made sense for each to opine on those issues.

Commissioner Evans asked if there was a problem granting the variance for 400 square foot house instead of 450. He knows it's in the code, but they've never come upon forcing someone to make a bigger house. He feels it is fundamentally wrong. He wants to hear the idea, as he didn't see a problem in granting the variance for the size of the house.

Planning Director Wehrmeister stated that there were two issues, what the code says and the variance issue. The code says 450 and they can talk about. She stated that everything seems to be getting smaller in terms of rental units. But, that was what they have now and to grant a variance they have to make the findings under the code. Finding #1 in the staff report is what the Commission would need to focus on. Staff has provided them information but if there was anything else they feel is applicable to making the finding requirement, she stated that they could put in into the record and make it a part of the motion.

Vice Chair Gordon stated that they have a couple of moving parts.

Commissioner Vaterlaus thought as few variances as possible would be increasing the size of the dwelling to 450 but eliminating the outdoor space requirement to keep it in good visual perspective for the neighbors.

Vice Chair Gordon assumed she was against the variance on the indoor space and in favor of the variance in the outdoor space.

Commissioner Evans stated that he has no problem with the variance for the outdoor space. He didn't want growing grass. He felt we have to get away from grass. They have a beautiful area around there and a lot of land so he has no problem in the variance for that. He was having a difficult time requiring someone to make their house bigger. He felt it was not right, but he will go with the majority.

Commissioner Cooper stated that he had nothing further to say.

Vice Chair Gordon stated that he was trying to get a consensus in crafting a motion that reflects their consensus.

Commissioner Cooper agreed to not allowing the variance for the size of the unit and allowing the variance for the outdoor use.

Commissioner Campbell stated that he would grant both variances but he will go with the will of the Commission to get the deal done.

Vice Chair Gordon stated he was fine with the variance on the outdoor and didn't have a strong preference on the indoor. He would go either way. He thought it would be a cleaner project from a process standpoint if there was no variance on the indoor space but he didn't have a strong preference.

Commissioner Cooper moved that the Planning Commission find that the project is exempt from CEQA; **APPROVE** Site Development Permit, PSD-790-14, Coastal Development Permit, CDP-347-14, Variance, PV-513-13, and Parking Exception, PE-160-15, subject to the conditions of approval in Exhibit A, with an amendment to include a condition of approval requiring that each of the four (4) studio apartments shall be expanded to meet the minimum dwelling size of 450 square feet and incorporate all maps and testimony into the record by reference, and **ADOPT** the Resolution for Site Development Permit, Resolution for Coastal Development Permit, Resolution for Variance, with an amendment only approving the Variance for the 200 square feet of useable open space per unit, and deleting reference to the Variance for the 400 square foot minimum gross floor area of each studio apartment, and Resolution for Parking Exception; Commissioner Campbell seconded the motion.

The motion carried 5-0.

Ayes: Commissioners Vaterlaus, Evans, Cooper, Campbell and
Vice Chair Gordon

Noes: None

CONSIDERATION:

None.

COMMISSION COMMUNICATIONS:

None.

STAFF COMMUNICATIONS:

Planning Director Wehrmeister brought to their attention that, in their packet, there was an ethics primer prepared in part by the City's contract law firm and one thing to highlight was that, if they decide to meet with applicants that have projects that are going to be coming before the Planning Commission, it was fine but it should be a one-way communication, as they will ultimately be making a decision on the project. She also addressed the comments about the packet and materials received. She explained that part of what the department was trying to do was get projects before the Commission in a timely manner. They try to get things wrapped up as soon as possible, but they may be getting more packets in the future on Thursday and not a whole week ahead of the meeting. She stated that it was not unusual for contentious projects to have comments submitted at 4:55 on the day of the hearing, adding that it was not what happened in this situation. She stated that, in this case, they need to improve the process for getting supplemental items to the Commission quickly. She stated the project pipeline list is on the website and hopefully this make things more transparent. Those interested in development will hopefully continue to go to these sources and see what's coming before Commission and talk to staff earlier, rather than later. They do need to make sure they get the city-issued email addresses. They may have received a memo or not. They have to begin communicating with them through those email addresses and, if they get something electronically on a Thursday or Friday afternoon they can email it right out to them.

ORAL COMMUNICATIONS:

Skye Parker, Pacifica, thanked them for the curb cutouts that they put in. He thought the city has a long way to go as far as trying to make it accessible. He stated that there were a few curb cutouts on the top of Paloma that he would like to draw their attention to. There is no curb cutout at the top of the sidewalk going up Paloma near the high school.

Vice Chair Gordon asked if he had a cross street.

Mr. Parker stated that the cross street would be the driveway going into Oceana High School. He stated that, if he gets on the sidewalk at the bottom and goes all the way to the top, he can't get off. He stated that, if you go all the way around to the front of the high school, there was no way to get out. He stated that it doesn't make much sense. He has to go in the street. On top of that, it was a high school and he didn't know if there were kids in wheelchairs who go to high school there, but if that gate is closed, they can't get into the neighborhood. He stated that it would be an awesome place for him to walk his dog.

Planning Director Wehrmeister stated that she will bring that to the attention of the Public Works Director.

Mr. Blackman stated that he was giving kudos back to Skye who taught him to use the software for the renderings. He stated that he would like to consider that with Palmetto. He stated that the engineering department didn't know how to be flexible with the sidewalks. They just think they need to go in, and there was no real code. He has another project, but they refer back to Planning as the ones making these sidewalks and Planning are thinking their making the sidewalks. He acknowledged that a lot of times, the sidewalks are good, but he would like to figure out how they can make that better negotiable because there were times when he would rather put his resources in sidewalks that would accommodate people. He stated that it was a big deal on Drake and Palmetto. It was a major shopping center and it doesn't have ADA accessibility on the sidewalks. He didn't know what he was asking for at this moment, but he was letting them be aware that Engineering keeps thinking Planning are making the decisions and Planning was thinking Engineering was making the decisions.

ADJOURNMENT:

There being no further business for discussion, Commissioner Vaterlaus moved to adjourn the meeting at 9:34 p.m.; Commissioner Cooper seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Evans, Cooper, Campbell, Vaterlaus and
Vice Chair Gordon
Noes: None

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister