

MINUTES

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

June 15, 2015

7:00 p.m.

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

ROLL CALL: Present: Commissioners Brown, Nibbelin, Cooper, Gordon,
Evans, Vaterlaus and Chair Campbell
Absent: None

SALUTE TO FLAG: Led by Chair Campbell

STAFF PRESENT: Planning Director Wehrmeister
Assist. Planner Farbstein
Public Works Director Ocampo
Asst. City Attorney Matthew Visick

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

The motion carried **7-0**.
Ayes: Commissioners Brown, Nibbelin, Cooper, Gordon,
Evans, Vaterlaus and Chair Campbell
Noes: None

**APPROVAL OF
MINUTES:
MAY 18, 2015
AND JUNE 1, 2015** Commissioner Cooper moved approval of minutes of
May 18, 2015; Commissioner Evans seconded the
motion.

The motion carried **7-0**.
Ayes: Commissioners Brown, Nibbelin, Cooper, Gordon,
Evans, Vaterlaus and Chair Campbell
Noes: None

Commissioner Evans moved approval of minutes of
June 1, 2015; Commissioner Nibbelin seconded the
Motion.

The motion carried **7-0**.
Ayes: Commissioners Brown, Nibbelin, Cooper, Gordon,
Evans, Vaterlaus and Chair Campbell
Noes: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF JUNE 22, 2015:

Planning Director Wehrmeister stated that they would need a liaison for the appeal of the apartment project in the 4000 block of Palmetto will be on the City Council's agenda.

Commissioner Vaterlaus volunteered.

ORAL COMMUNICATIONS:

Dan Stegink, Pacifica, stated he was going to go through a brief timeline of the circumstances surrounding approval of the 700 Hickey 7-Eleven, in reverse, back to March 18, 2015 when the Planning Department received the plans from 7-Eleven. He then stated that, on February 18, 7-Eleven actually bought the property from Ally Shacori. He mentioned that the company has been using the exact same planning document for almost seven years along the coast, changing nothing. He concluded that we are being sold a bill of goods. He then stated that he has looked at every location, and everything 7-Eleven says falls apart. He thanked Commissioner Cooper for drawing out some excellent points on the height of the tower element and obtrusive lighting.

Betty Duran, Pacifica, stated that, in order for everyone to be apprised of all matters related to the 7-Eleven, she was giving a repeat of the speech to the City Council, not having experience in legal issues, she felt at a disadvantage along with other Fairmont residents with respect to the proposed 7-Eleven at Hickey Blvd. She pointed out some of the issues, such as store hours and signage, and stated that it will bring unsavory and unsafe activities and a criminal element which once introduced will be difficult to remove. She stated that they see no sustainable benefit to the neighborhood and felt that it will be a gathering place at night and increase crime in the neighborhood. She asked that they consider how the residents will be impacted if 7-Eleven is permitted at the Hickey location. She added that they don't need such a store in the neighborhood as it will not improve the life of the residents and offers nothing or little to an area which already has gas station, etc. She pointed out that there were three businesses in the Fairmont Center selling alcohol and they were more than adequate to serve the neighborhood. She didn't think they bring anything good for our citizens. She mentioned that, although this was now before Council, she was present because the Planning Commission has at least one other 7-Eleven in the works. She was present to make all Pacificans aware, adding that she not only cares about her neighborhood but about other neighborhoods.

Shirley Fulqui, Pacifica, stated she was a 30-year Pacifican and working mom. She stated that her husband was the applicant for 50 and 60 Oddstad Way, with one lot to be theirs. She was present to defend their application, especially when it was on the front page of the Pacifica Tribune, filled with misguided information including the picture used. She explained that, a year earlier, they were wrongly associated with an illegal lot clearing in the area by hostile neighbors and ultimately proved their innocence to the city and allowed to continue with their application. She explained that the picture used in the article was from the illegal clearing and not them. She added that her husband was wrongly accused on Pacifica Riptide followed by the insinuating Tribune article and on Council video of Mrs. Willett. She referred to a misguided petition, adding that it was fueled by misguided anger, not facts. She gets that the neighbors have been enjoying the views of an untouched hillside from their backyards for many years but that land is not their backyard. She added that Mrs. Willett also owns a 14,000 square foot preserved lot behind her home and was now overextending her backyard reach and imposing her ideals onto their lots. She stated that she would like to be the voice of reason, explaining that they have followed every guideline required but the opposition wants them to go beyond requirements and

are now trying to change the rules that they followed to make it harder for small families to reach their dreams. She respectfully asked them to give them a fair assessment on their application based on fact and not on the action of others.

Tom Clifford, Pacifica, stated that he was present because he was finding it difficult to get all information in a timely manner. He thought it was a fact of life because they were understaffed, but he was reminding them that the Commission gets the information in a timely manner and they represent the public.

Chair Campbell explained that they were now having public comment at the beginning of the meeting.

CONSENT ITEMS:

None.

PUBLIC HEARINGS:

USE PERMIT, UP-46-15, SITE DEVELOPMENT PERMIT PSD-794-15, TENTATIVE (CONDOMINIUM) SUBDIVISION SUB-226-15 and VARIANCE VAR-515-15 to develop a vacant parcel with a two-story mixed-use development consisting of 1,613 square feet of commercial space on the ground floor and five (5) second floor residential units at the northwest corner of Monterey Road and Waterford Street (APN 009-058-040), filed by Javier Chavarria on behalf of Miramar Enterprises. This project is not located in the Coastal Zone. Recommended CEQA status: Exempt.

Asst. Planner Farbstein presented the staff report.

Commissioner Gordon referred to the concerned citizen's letter which stated that there was a small amount space dedicated to commercial and a disproportionate amount dedicated to residential. He thought the implication of the letter was that they were taking advantage of the commercial zoning to get around various requirements such as setbacks, etc. He asked if staff has any thoughts about that.

Asst. Planner Farbstein read from the General Plan, which stated that it would better support the neighborhood character if encouraged to shift into well designed high density residential development.

Commissioner Gordon asked where it was in the General Plan.

Asst. Planner Farbstein stated that it was from the General Plan but was quoted in the staff report.

Commissioner Gordon asked where in the staff report.

Commissioner Cooper stated that it was on page 7, after point "a".

Planning Director Wehrmeister also mentioned that the zoning ordinance does not include a minimum ratio standard between commercial and residential in a mixed use structure.

Commissioner Nibbelin was also curious about this, asking if there was any typical ratio that exists in the city or that area or was this 25% ratio unusual.

Asst. Planner Farbstein stated that, having been here longer than the Director, she would attempt an explanation. She mentioned that she has taken a few different projects to the Commission over the last ten years and it has been on a case by case basis, depending on the lot's location, surrounding uses, and she didn't have a good answer but without doing research, she did think it has been in the range of about 30-50%.

Planning Director Wehrmeister added that currently, you need to provide parking on the lot, and unless going underground or using some other method of parking that is not ground floor, that factors into the amount of commercial space that can be provided.

Commissioner Nibbelin referred to the city's inclusionary housing ordinance, asking if there was a particular number of units that have to be involved before you hit the threshold for needing to comply with that ordinance.

Planning Director Wehrmeister replied that it was eight.

Commissioner Evans referred to the disability parking, stating that there was only one and asked if that was normal for that size of a development.

Planning Director Wehrmeister deferred to the applicant who will know the ratio, adding that the building division will be looking at that during plan check.

Asst. Planner Farbstein added that it may be the way it was broken down. Some parking is for the commercial use and the handicapped might be based on the number of commercially needed parking spaces, and it is looked at during plan check.

Commissioner Evans referred to a drawing on the first floor area calculations with numbers 1, 2, 3, 5, 6, but in the text it has 5 and 6 for parking and driveway and commercial area says, 1, 3, 4, and he wondered where 2 and 4 went. He clarified that #2 was lobby area on the drawing but not referenced in the commercial area, but there is a reference to #4 but it is not in the drawing.

Planning Director Wehrmeister asked that the applicant answer that, adding that staff's understanding was that the total square footage referenced in the staff report was correct.

Commissioner Brown asked an answer to a hypothetical question, stating that, if it was just a housing development, what would the setback requirements be.

Asst. Planner Farbstein stated that it depended on which residential zoning designation it is. For an R1, it was 15-foot front setback, 5-foot interior, 10-foot street, and 20-foot rear yard setback. There are additional requirements because it was a corner lot and they are also implementing

requirements for a condominium subdivision, under residential clustered housing, which she thought one side would be 15 feet and the other 10 feet for the side setbacks

Commissioner Cooper had noticed that the project's zoning was under C1 which didn't require any setbacks and #10 on staff report variances mentioned the 15 and 10 feet required setbacks. He asked what zoning it would fall under if it was just residential development.

Asst. Planner Farbstein thought it would be R3 and was the same setbacks she quoted for R1, but they are allowed to have greater lot coverage. She mentioned that the R3 zoned property across the street with 7 units would have the 15 foot front setbacks she quoted before. She didn't think they were condominiums. If they are, they would need the additional setback.

Commissioner Cooper asked if they were requesting a variance to 6 feet and 3 feet.

Asst. Planner Farbstein stated that was their initial opinion was, but she understood that the applicant may have additional information on that as to where they consider the street frontage, and the applicant may be able to provide additional information. Based on what they had in terms of street frontage, they took the shorter side for the front yard setback. The car wash ends up being the rear property line.

Commissioner Cooper asked if there were any additional requirements as there is an on ramp in that area. He asked if Caltrans had any additional requirements as far as the on ramp and their setbacks.

Asst. Planner Farbstein stated that she was not aware of any. She acknowledged that they had that designated right-of-way and it is quite a distance.

Commissioner Cooper asked if that has been looked at as far as the setbacks from the ramp to the building.

Asst. Planner Farbstein believed Caltrans has looked at the project but would have to doublecheck that.

Planning Director Wehrmeister stated that Caltrans was notified.

Commissioner Evans stated that the frontage of the property was listed as on Monterey, yet the building, driveway and commercial setups frontage was on Waterford, which was a side. He asked if that was correct and how it factored into this.

Asst. Planner Farbstein stated that planning uses a frontage determination for a setback but it doesn't mean that it has to be the front door of the project. When there is a corner lot, and as this one where you have two property frontages, they take the most narrow street frontage, as noted in the zoning codes, and a front property line was defined as being the most narrow street frontage. She reiterated that it was not the front door which was off Waterford, and that front of the lot was not necessarily where the access to the property is but where planning determines the frontages in terms of applying the setbacks.

Commissioner Evans concluded that there were no mandates on it has to maintain the frontage of the building thus frontage of the lot.

Asst. Planner Farbstein reiterated that there was nothing in the code that says you have to since Monterey is the front setback in this case and you don't have to have the front door or entrance off Monterey, having the option in a corner lot.

Commissioner Cooper stated that this is a commercial space, and he asked if there was any submission of any signage within the plans.

Planning Director Wehrmeister responded that the commercial space was speculative space so there has been no signage proposed.

Commissioner Gordon commented that the location was near Highway 1 on ramp and the car wash and zoned commercial which makes sense with the noise generated in that area, and he asked about the wisdom of putting so much high density residential in an area where there was a lot of environmental noise.

Asst. Planner Farbstein stated that it was considered a mixed use project so that was the understanding. You obviously have the highway nearby and surrounding streets. She stated that there are other residential properties that not far from that area. She thought the applicant could address it, but she thought there were ways of designing the project by using windows that buffer sound, and walls and insulation that reduce sound impacts. She acknowledged that it was not as quiet as some of the other residential neighborhoods but it is typical urban living in a mixed use project with commercial nearby but also increased noise levels.

Commissioner Cooper referred to the noise issue and looked at the plans and where the vacuums were in the car wash, and asked if there was any noise limits that the current parcel has for generating noise from the vacuum. He assumed it was larger than in a residential area.

Planning Director Wehrmeister asked clarification if he was asking if the service station had noise limits.

Commissioner Cooper stated that, in this case, the car wash has particular noise generation and hours of operation, and he was curious if there were any limitations on the noise generating from the mixed use in this area versus if it was just a commercial space.

Commissioner Nibbelin asked if there was a city noise ordinance that pertains to this parcel or neighboring parcel that would affect the project.

Commissioner Cooper stated that what he did not want to happen is if this is built, and the property owner issues a citation saying they are too loud, yet he has always had that use, he thought it would present a problem in the future.

Planning Director Wehrmeister thought that was a good point. She thought that, potentially, that was something the Commission can call out in the conditions that refers to CC&Rs for the development so it is clear when they are buying into this development that you are buying into an area that could be noisy.

Commissioner Cooper concluded that it was what they could do as a Commission to at least have those disclosures on both noise and operating areas.

Asst. Planner Farbstein commented that the residential units will be above and she agreed that the car wash on the ground floor can be noisy. She thought that sound might not travel up as much, but she wouldn't say the same thing about the highway noise.

Javier Chavarria, applicant, stated that this project has had a long history, and he gave a brief history of their process which included various proposals which were not positively received, and their analysis of what would be best brought them to the present proposal. He explained their reason for needing a variance to comply with the codes. He mentioned the aspects that would comply with the green elements, including solar panels, etc. He mentioned that they felt they had provided the best commercial use at that location. He concluded that they had traveled a long road to reach this point, and he felt it was a good design that will make the city proud.

Commissioner Cooper referred to their long history to find an acceptable project within the C1 zoning and he asked why they didn't ask that it be rezoned as encouraged within the General Plan to a residential use.

Mr. Chavarria stated that it was because of the shape of the property. If it was rezoned residential, you would have 15 feet front setback, 20 feet at the rear and 5 feet on the sides, and it basically leaves about 1,000 square feet that can be developed and that did not make sense. He stated that they did explore that option at the beginning of their process but that Planning Commission at that time felt that following the guidelines of the code of the General Plan of enhancing high density residential with mixed use was a better application of the property and they were discouraged to seek a change of zoning.

Commissioner Cooper noticed open space on the roof for the living area, and he asked if that was open space for children to play or pets or some other use.

Mr. Chavarria stated that it was a common open space for the residents of the building. He thought there would be some amenities, not necessarily a play structure but landscaping, a barbecue area, adding that the view up there was magnificent and he thought the residents would use that area.

Commissioner Cooper stated that he noticed there were solar panels on the roof and thought that would interfere with the livability space in that area, and he asked if it was protected in some way.

Mr. Chavarria stated that it was, explaining that they had talked to a consultant. Following the building permit process, there will be an area designated and they will be screened and sheltered from the occupants on the deck.

Commissioner Nibbelin referred to earlier questions they had on noise, and he asked if they had design elements that might address the noise concerns, particularly of the neighboring business and thoughts he might have in terms of conditions the Commission might consider if they propose CC&Rs.

Mr. Chavarria explained that the design of the building was going to include walls filled with rigid insulation and the sound transmission of the walls will be substantially higher than any standard construction, such as stucco rather than sidings, very sound efficient windows, etc., and

they were confident that they will have a similar level of noise to the homes already in the vicinity. He added that construction has changed substantially. He explained that part of the green code was the preservation of energy and preserving energy encourages preventing leaks, etc., so when they provide good insulation, etc., they will have an efficient and quiet building inside. He stated that, regarding the CC&Rs, it was an excellent idea even though they will do their best to have a quiet building, it is a disclosure that should be made to prospective buyers.

Commissioner Evans referred to his previous question posed to staff regarding the confusion in the numbers listed in the text as opposed to those in the drawing. He asked if that was a typo.

Mr. Chavarria stated that they had so many changes on the plans and at some point, apparently the draft people thought it was easier to eliminate a couple of numbers. He stated that the numbers that appear are consistent with the numbers on the table. The numbers that disappeared are not being used.

Commissioner Evans stated that, on the drawing, #2 looks like the lobby area, but it is not identified on the calculations, and he was guessing that it was #3.

Mr. Chavarria confirmed that it was a typo.

Commissioner Evans stated that it was the smaller of the three, and he was guessing it was the lobby. He then concluded that the other two were 1 and 4.

Mr. Chavarria confirmed that he was correct.

Chair Campbell stated that he was on the Planning Commission in 2007 when this came up. He thought he voted against it. He commended him and thanked him on a great presentation, adding that he does a fantastic job of laying things out. He thought the issue he had was the commercial being very small. He wondered what type of commercial activity he saw in those spaces and how the signage would work out, mentioning his comment that a title company was interested.

Mr. Chavarria stated that all the uses they see for the site was professional uses, such as a title company. He thought the signage would be mostly window signage. He stated that those were types of businesses that do not need too much advertising. He thought it would be either the window signage or something small in the front.

Commissioner Cooper stated that, if it was a title company, they have one dedicated parking space for the commercial space and he asked where they intended for any visitors to that title company to park.

Mr. Chavarria stated that they have more than that. He stated that they have five units and for that, they need 11 spaces. On the back of the building, there are 13 spaces and they have two more spaces in the other area. They have one handicapped and three additional dedicated for commercial. He stated that there were a total of five spaces for commercial.

Commissioner Gordon thanked him for the presentation. He then referred to the noise issue, and said he would describe his concerns for him to address. He referred to the layout of one of the units.

Mr. Chavarria explained that the living space is facing the court, looking toward Monterey and the Safeway shopping area, while the bedroom and dining areas are facing the on ramp.

Commissioner Gordon asked if there were things that they have done or could do to minimize the impact of noise.

Mr. Chavarria stated that they can increase the sound rating of the exterior wall, mentioning one common way done in hotels. Instead of having a single wall they can have a double-framed wall where they have a space between the studs and the sound transmission stops there. They can use that method along that wall and will make a tremendous difference on sound control.

Commissioner Gordon thought it sounded like a good idea and asked if there was a downside to that.

Mr. Chavarria stated that it was a little bit more expensive but nothing to make a difference on the project.

Commissioner Gordon asked if they would put that into a condition and would he be okay with that.

Mr. Chavarria stated that he would be very happy with that.

Commissioner Gordon then referred again to Unit 1, and stated that they had the highway on ramp and the car wash. He thought there were three residential units, #1, 2, 3, impacted by the noise from the car wash.

Mr. Chavarria responded affirmatively.

Commissioner Gordon asked what he has done or could do.

Mr. Chavarria stated that they could implement the same system. He thought it would make sense to do that, because once you start doing walls of a certain thickness, it was easier to continue with that, and they can do the wall facing the car wash and the highway with that type of construction to achieve a much higher sound rating.

Commissioner Gordon thought it sounded good, and he assumed it would be a condition.

Commissioner Evans then mentioned areas that are affected by airport noise use special windows with the same idea, i.e., two sets of windows with open air in between. He asked if that was a possibility along those walls, especially on the freeway side but on the car wash side. He knew it could be quite noisy there.

Mr. Chavarria suggested that they do the following, commenting that he hates imposing conditions of approval on himself, but if they put a condition that they can have a sound consultant to assess that, he could provide recommendations. He didn't want to say he would put double windows which increases the cost if they are not truly needed. If a sound consultant tells them, they may be able to achieve that with a triple paned window rather than a double window, they will be happy to do that.

Commissioner Evans stated that he would be happy with that, assuming that it goes with Commissioner Gordon's idea also.

Commissioner Cooper stated that he was looking on the internet for guidelines to use for sound ratings that would limit the types of restrictions they put in the CC&Rs, such as things close to train rail lines, etc. He stated that they did get a letter assigned for noise levels and those are genuine concerns. They weren't only there to approve the project for the architect and owners, but he thought they were trying to provide a place where people want to live. He thought, to do that, they need some adequate restrictions and guidelines in order to ensure that it happens. He thought a noise consultant would be appropriate, especially on both sides of the property, the Caltrans side and the side of the car wash. He thought the restriction they would like to put in is something similar to an active rail line or active airport and increase the sound rating of both sides to help the inhabitants of the units enjoy where they live. He asked if he would have a problem with that.

Mr. Chavarria stated that he said previously that the construction of the double wall is a solution normally used on those type of conditions and he has no problem with that. For the windows, definitely the help of a sound consultant to tell what the appropriate method was, triple-paned, double window, or other idea.

Chair Campbell opened the Public Hearing.

Craig Blackstone, Pacifica, stated that he lives across the street from the project site and had submitted a letter which he hoped they all read but, if not, he asked that they do so. He stated that he cannot express within the three minute time limit the concerns in the letter. He explained the reason they didn't get it until today, giving the time constraints between being notified on the Wednesday before the meeting, reviewing the plans, preparing his response and mailing it to them. He briefly expressed the highlights of his concerns, one being the noise issues, which he thought would still be an issue even with the suggested remedies, such as windows, etc. He referred to the location of the building which would be about the on ramp right-of-way, adding that there is always some kind of setback. He stated that this was zoned commercial because Pacifica made a determination that it doesn't want to put residential properties that close to the highways. He thought it was appropriate to retain the commercial zoning and they should not allow the commercial zoning to be used in a way that creates a property that is so massive that it was totally out of scale with everything in the neighborhood which was what the project would do. He felt his letter went into more detail and he recommended that they read it before they vote. He encouraged them to deny the project.

Diana Goodman, Pacifica, stated that she lives about 100 yards from the car wash and she stated that you can hear it about a football field away. She also reiterated that the mass of the building did not fit in the neighborhood. She agreed that zoning it commercial was kind of strange. She referred to the commercial examples in the slide presentation and mentioned that it was not a sampling but was all of them. She was concerned about the traffic pattern as the location of the driveway into the garage was so close to the intersection, and with no stop sign, she thought there was a real potential for accidents. She noticed something in the plans about painting the curb red on Waterford, and questioned if there will be less parking on Waterford with more tenants who will need it such as guests. She didn't think that addressing the noise issues for the building would not help the balconies that look onto the freeway. She didn't know if Clifton Street was notified about the project, but their views would be the most impacted. She thought the project

would loom too large into everyone's view. She felt bad because it was a difficult lot and she knew they have been working hard to do something with it. She didn't think this was the plan at this time.

Tom Clifford, Pacifica, stated that he considered this as commercial in name only. He thought you have a very small commercial space and a large residential. He stated that the city's primary goal at this point in time was revenue generation. He stated that the only way to get revenue generation was to have more commercial, stating that you get very little out of the units in terms of property tax. He stated that, if his figures are right, you get 17% for commercial, and the residential is 83%, and he finds it a really bad ratio. He stated that, in terms of the sound, there were isolating rails and special sheetrock that he thought were cheaper than building double walls all the way around, and there was also a special caulking that goes with that. He stated that, with all that, you won't hear anything. He then mentioned that the way the commercial was set up, and they approve it the way it was presented, they were limiting the number of C1 uses because they are being presented with businesses uses that require only 300 square feet per one parking space. He stated that any other C1 uses wanted to go into that building, they can't. He thought it was something for them to consider in their deliberations.

Therese Robertson, Pacifica, stated that she was from the neighborhood and was all for progress and revenue but was against this development. She referred to the mention of the corner being busy and dangerous, and she imagines that, with commercial property with a quantity of cars coming in and out, it will be more dangerous. She stated that she hears the car wash and vacuum cleaner and she was blocks up the hill. She thought the noise would affect the quality of living. She wasn't sure any material was going to block the car wash and the freeway, adding that she can hear the freeway even though her house was triple paned and has insulation. She was concerned about the quality of life for people living there and the toxicity. She asked if they were going to test the ground with the oil, etc., from the car wash and the soot, oil, carbon monoxide, etc. from the freeway. She felt it was the wrong development for the area. She reiterated that she was for progress and revenue but she felt it was the wrong development. She stated that they don't need any more mixed use commercial, mentioning that they have so many vacancies along Palmetto, Eureka Square, etc.

Matthew Fullner, Pacifica, stated that he was a long-time resident and has seen this project from day 1, and heard the questions and answers of concerned residents and they were totally understandable. He mentioned those speaking about their concerns regarding whether it was the best project for the area, and he felt they can go through the process and find the best remedy is to make it the best quality project as possible, and he was for the project. He knows there are a lot of concerns now, but they had concerns prior and they addressed the concerns. He felt that, overall, Mr. Chavarria and the group have given a good presentation addressing these matters and he approved it and felt it should be done. He felt they need this and they have to take care of the blighted area. He added that it does comply with the General Plan that was given.

Archie Judan, Pacifica, stated that he was a local Pacifican. He voted for the approval of this project. He thought the developers have the right intention. There are definitely some negative issues provided by the residents, but that was a huge concern they have to look into. He felt that, for the progression of the city, this project will be able to bring in more interest and become a more attractive location for the entrance to the city.

Joe Bondi, Pacifica, stated he has been a resident for over 20 years, owned and operated a business in the Manor area for 15 years, and was familiar with the space. He has reviewed the plans and he thought it would be a good development. He felt that Pacifica, especially the Manor area, needs positive development. He was for the project.

Cecilia Lindo, Pacifica, stated that she supports the project. She thought there have been a lot of things that have been brought up that were very valid, but she also thought they were issues that can be handled.

Vince Correnti, Pacifica, stated that he lived in Pacifica. He thought it would look a lot better for Pacifica to get redeveloped. It looks like an overgrown lot right now and he thinks it would be nice to see a new business in there and some new condos with more living opportunity. He thought everyone brought up good points about the sound, and he thought there were ways to address all the issues. He thought the project should be approved as it would be nice to see the development to bring something new to Pacifica. He was for approval of the project.

Chair Campbell closed the Public Hearing.

Mr. Chavarria stated that he had a couple of comments to clarify and maybe help explain some of the concerns. Regarding the traffic, they had a full traffic analysis done. At the beginning, he bent over backwards trying not to do it, and now he was glad that they did it. The analysis shows that there is a proper site distance from the location of the entrance to the garage to the intersection. He stated that the traffic analysis recommended a series of improvements to be made to the area such as painting some areas red, adding signage. Overall, there will be no conditions worse than the ones they have now and will be better. He stated that the improvement of the street will limit somehow the speed of the vehicles. The building will limit the drivers' visibility and forces the drivers to slow down in that section. He reiterated that a full traffic report has been done and has provided recommendations to address some of the issues. He tried different areas and even the traffic report suggested that higher commercial use will provide more traffic and make it a little more hazardous than what they have. He stated that the building was consistent with the General Plan designation and recommendation. He thought the size of the commercial was proportional to the size of the building. He agreed that it was a small commercial but they were providing parking, a good number of units, neither too large nor too small, nice, well-appointed and provide in the current high prices of housing days, lower costs for some residents. One of the largest line items on the city budget was the property taxes and the increased property taxes will be better than the eyesore it is now.

Commissioner Cooper asked if the traffic study addressed how to get children from that building to the school.

Mr. Chavarria stated that the crossing most people are using now is at the intersection of Waterford and Monterey. They did not look at that specific aspect but he thought it will function like the current neighborhood is functioning.

Commissioner Vaterlaus asked if the traffic study considered the location of the entrance to the parking area on the other side.

Mr. Chavarria stated that they didn't because of the shape of the property. If they moved the driveway to the other section, the turn wouldn't quite work so the driveway was designed following the shape of the site.

Commissioner Evans assumed they were talking about two separate commercial sites, with a lobby in between.

Mr. Chavarria stated that it was not necessarily that way. He stated that they set up that lobby just in case there will be some use that requires them to split the spaces, but the space was structurally designed to be one open and single space or two. It was speculative now because they don't have a contract with anyone for the specific unit and they were trying to be as flexible as possible for perspective tenants.

Commissioner Evans stated that, with that in mind, he thought the maximum they could do was two separate commercial units and he asked confirmation that they have five total parking spaces for the commercial area in itself.

Mr. Chavarria responded affirmatively.

Commissioner Cooper stated that he checked on the internet and found a sound transmission class rating for windows and for walls, and they vary depending on where they are from the airlines, noise traffic, etc., and he thought some of the stringent requirements call for anywhere from 45 for the windows to a 50 STC rating for the walls, which require different constructability and methods. He proposed that they put those restrictions into the conditions of approval, pending a noise consultant report. If they are anything less than that, then they would have to come back to the Commission for approval of anything less than that. He added that he wasn't a sound expert, just looking the information up.

Chair Campbell stated that he was on the Commission in 2007 when they looked at the project and his concern then was about noise and that this was not a good place for residential development above the car wash, adding he wasn't sure how the car wash got in that residential neighborhood. He thought it seemed a terrible place to put apartments above the car wash with the noise. He appreciated Commissioner Cooper finding some specifics. He thought, when they looked at it in 2007, all they had were "dumb" phones, and now they have the internet. One of the biggest concerns was the setback issue. He commented that it was a tough lot and he commended the owner for trying to squeeze and fit something in there to get a return on investment and make it look nice but he didn't find any reason to provide a variance as far as the setbacks. He thought, if any lot required the full setback, it would be this one. He wasn't convinced about providing a variance for the setbacks.

Commissioner Brown agreed that it was a tough lot. He thought it was a small commercial opportunity that is a Trojan horse for more residential. He thought the resulting project, counting the setbacks, didn't seem to be in scale with the neighborhood in terms of the size of commercial, ratio of commercial to residential and how much of the lot it takes up. He would like to see it scaled back a bit. He agreed that the noise makes it very tough. He also thought it was taking advantage of the commercial designation.

Commissioner Nibbelin asked staff about the car wash. He assumed it was not in violation of any local noise ordinances that exist and doesn't constitute a public nuisance.

Asst. Planner Farbstein responded affirmatively. She was not aware of any noise violations for the car wash.

Commissioner Nibbelin agreed with the commissioners that it was a tough lot. He thought the toughness of the lot goes a long way toward helping them to get to a place where they can favorably consider the grant of a variance. He thought, looking at what the municipal code says, the shape and size of the lot was an important consideration as they determine whether or not a variance is appropriate. He recognized that there are some noise concerns and traffic concerns as well. He didn't believe that this rises to a level of materially affecting in an adverse manner health or safety. He again agreed that there were some challenges, and in any in fill situation, you are going to deal with some challenges and tradeoffs. He thinks the design is attractive. He didn't have an issue with the scale of it. He thinks that one of the things they do need is housing that is reasonably affordable, recognizing this isn't affordable housing as the term is used legally, but it was a source of housing that is needed and fills a niche and there is something more than a de minimis commercial element to it, but a significant commercial element. He thinks that, in totality, those things lead him to a place where he would be in support of the project.

Commissioner Gordon stated that his biggest concern about the project has been echoed by others, which is the location of putting high dense city residential units in this location next to the highway and car wash. He would normally say it was a terrible idea, but Planner Farbstein pointed out what the General Plan says for this area, that it would support the neighborhood character if it were encouraged to shift into well designed, high density residential development. He disagreed with that, but that was what the General Plan says. He stated that his biggest concern was washed away by the guidance that they have in the General Plan, reiterating that the General Plan was saying this was what we have to do and they must have had a reason. He felt he was bound to be consistent with it. He was also sympathetic to the history of the project. He appreciated Mr. Chavarria's presentation on how they've tried many iterations of the project and it seems that every time they come up with a different iteration there were new concerns. He imagined, if the project was all commercial, there would be folks saying that it wasn't consistent with the fact that it was next to a K-8. He again stated that it was a tough lot. He was comfortable and supportive of the proposed conditions of approval that Commissioner Cooper was discussing. He felt it made sense to have a standard in the conditions of approval with respect to sound transmission and being flexible with respect to how they meet the standard. He mentioned Tom Clifford's comment that they can meet it in various ways, and he was in favor of not being too specific with the conditions, but mentioning the target in terms of sound and that the applicant needs to meet that. He concluded that, if the General Plan didn't say what it says, he would be against the project, but he can't really do that. That was where he was.

Commissioner Vaterlaus stated that this project could have been 30 feet high instead of 24. They could have gone to 3 stories, but only did 2. She thought the condos across the street happen to be three stories tall and she thought this will help their sound issue as it will block some of the freeway noise for them and might make it easier. She didn't know how many people wash their cars after dark, adding that she has never done that. She assumed that it tones down after dark with not so much noise coming from the car wash when people are in their homes. She stated that, if was a totally commercial project, it would have zero lot line. She stated that it has changed because of the housing to have lot lines that are larger than the commercial and she thought it helps. She thought it met the General Plan and they passed the housing element with the need for more housing and this was what the housing element suggested, housing above

commercial. She referred to the mixed use buildings on Palmetto, and stated that the commercial was very small in relationship to the housing. She stated that some of those are difficult to rent out, adding that one has been offered for rent for about ten months. She thought, the larger you get, maybe it was more difficult to rent the commercial space, and she thought it fits very well and she was in favor of the project.

Chair Campbell was glad that the General Plan got pointed out. He agreed that it was true that marginal commercial development mixed with poorly maintained residential units in vacant lots exist along the Monterey frontage between Waterford and Winwood and along the Waterford to Clifton. He thought this area would better support the neighborhood character if it were encouraged to shift into well designed high density, residential development. He thought the General Plan says what it says, and that is the General Plan is the zoning bible of the town and they have to follow it, even if it makes no sense to him. He stated that the issue for him is that he was stuck that it meets the General Plan. He thought, if it wasn't for the variance on the setbacks, he would be out of reasons to not support it, but he didn't see a reason to give the variance on the setbacks, especially because it's residential. He didn't know if the applicant wanted to talk about the setbacks and whether there was a way to get around that.

Mr. Chavarria stated that it really will depend whether staff agrees with his interpretation of the front of the property. If they have the front on Waterford, then they can easily comply because the left side is already in compliance and the right side is a staggering between 12-6 and it was only one of the units that has a 5-foot setback. They can tweak that little corner of the building to make it in compliance. In reality, if they look at the amount of space between the two lines, he didn't think it would make any difference to the building, and adding 3 feet or 5 feet to the residential portion of the structure will not help on the sound, will not help in any way but just complying with the setback. They are not adjacent to another residential building or adjacent to any area that is going to be impacted for the change of setback. He added that the car wash was producing noise, and there were ways that the noise can also be mitigated. He stated that the future of the car wash may be uncertain, adding that there has been word out that it may be for sale, but it was only hearsay. If the setbacks were the only way to get the project approved, and if staff allows the front being on Waterford, they could change the design to be in compliance on that right side, but he added that he didn't see any benefits to the building, public and area. The front of the building as a 12'6" set back from the living space to the property line. Only towards the back and towards the freeway was when it encroaches which was because of the shape of the lot and how it comes in. He summarized stating, if that was the only way to get it, he would be willing to do it, but he didn't think it would make a substantial difference.

Commissioner Evans agreed that they have approved them before and there was no number, but the percentage of commercial to residential is an easy way to forego the setbacks. He understood that, but there also has to be a happy medium. If they put more commercial there on the other side, there would possibly be a lot more traffic which causes an issue in itself at the corner. He stated that he lived up the street from there and it is a busy corner. He stated there was a school crossing on Waterford, a lot of activity but the lot is a very special lot. He stated that it was basically open on three sides and sticks out like a sore thumb. He stated that it was not a standard lot at all. He questioned, with a lot like that, why they could not put the frontage on Waterford. He stated that they were dictating because of what it says with the smaller dimension being the frontage of the lot. He thought that was too black and white. In most cases, it was right because you have somebody on each side of you and somebody behind you. This is not at all like that, and he thinks there was enough evidence there to redefine the frontage of that lot and maybe

come in compliance with the setbacks as Mr. Chavarria put it. He then mentioned that the sound levels were a big issue and he agreed with the commissioners that it needs to be studied long before it gets built to make sure that whoever lives there will not be hating living there. He mentioned living in places where there was a railroad next to you and you don't want to do that. You have a freeway, but he thought, with the technology we have, it can be controlled. He thanked Mr. Chavarria for doing the traffic analysis because that was a big thing. He thought the parking was fine and not an issue, having five spots for one commercial and 2.5 for two commercials. He agreed that they can't say affordable housing but they can say reasonably priced housing. If they can do that, Pacifica needs it desperately and whenever they can have a chance to do that, they should take advantage of doing it. He sees this as a very good possibility with the smaller units to maintain it as reasonably priced housing. He concluded that it conforms with the General Plan.

Commissioner Cooper stated that he would like to propose a couple of the conditions that he would put if he was to make a motion. The first one would be, subject to a noise consultant report that evaluates and reviews both the on ramp highway and car wash use with a minimum rating or consultant recommendation, whichever is greater, of 45 STC ratings for the windows, 50 for the walls, all sides of the building except for the Waterford side. If it varies, anywhere from that, the applicant shall come back to the Commission for approval. Number 2 would be no external or internal lighted signage for the commercial space. Number 3 would be to restrict the commercial use between 8:00 and 5:00 p.m. Monday through Friday and 9:00 – 3:00 p.m. for Saturday. Number 4 would be to follow the traffic report and execute the implementations as suggested within the report. Number 5 would be inclusion in the CC&Rs to disclose all the sound levels, both the highway and car wash from this consultant report. Number 6 would be no storage of any personal items on the roof, porch, decks or garage spaces. Number 7 would be to include in the CCRs regular landscape maintenance for the project. He asked if any commissioners had any other inclusions or restrictions they would like to see or questions about the things he suggested.

Chair Campbell commented that the applicant seemed to be willing to look again at modifying the project so that the setbacks do not require a variance and he would be interested to the extent that the other commissioners are talking about conditions, as to whether they would be interested in having the applicant come back and take a shot at that.

Commissioner Nibbelin stated that he wasn't sure what STC ratings were and asked what STC stands for.

Commissioner Cooper stated that the internet has been very informative. He stated that it was called a sound transmission class which was a rating put on different areas depending on what building products you are using and depending on the decibel levels of the adjacent properties and rate the different construction of the walls and windows on the sound transmission class rating, which seems to be a standard rating within the industry.

Commissioner Nibbelin asked if 40 was typical ambient noise.

Commissioner Cooper stated that they all go down to 20s, which is the residential typical rating for windows. If you are next to trains or highways, it can go up to 55 or 60, which seems to be a little excessive, if you live right next to a railroad track. In this case, he figured, if the rating was

45 or 50, it gives you a pretty good insurance that the building would meet or exceed the goals. He thought, if it was less than that, the applicant would have to come back and get approval.

Commissioner Nibbelin had a comment with respect to the hours of operation being 8:00 to 5:00, and he thought, while 8:00 may be an appropriate start time, but at 5:00, he was typically working away, and maybe even after 6:00. He didn't know if he would be supportive of 5:00.

Commissioner Cooper asked what he thought would be reasonable.

Commissioner Nibbelin thought maybe 6:00 or 6:30. He thought this might be a good live/work operation for folks who might want to work at all hours or certainly later than 5:00 or earlier than 8:00. He didn't know if he had a specific thought in mind, but he wanted to put it out there.

Chair Campbell thought what this was telling him that there are some things that the applicant may need to discuss with engineering, such as the STC rating, with the Planning Department and may be worth a continuance to allow the applicant to look about getting rid of the variance and address these issues at the least.

Commissioner Gordon stated that he liked all Commissioner Cooper's conditions of approval, except he had the same concerns as Commissioner Nibbelin had. He asked staff if there was a precedent for imposing hours of operation for a commercial portion of a mixed use project in Pacifica.

Planning Director Wehrmeister stated that there didn't sound like there was.

Asst. Planner Farbstein didn't recall doing that on any of the previous projects. She stated that they have done it for other uses, but not necessarily commercial.

Commissioner Gordon understood and this was C1 which was light commercial.

Asst. Planner Farbstein responded affirmatively.

Commissioner Cooper asked if they fell under the current CC&Rs of the building because it was part of a space.

Commissioner Gordon stated that, being a tenant in a commercial property, he had concerns about being too restrictive, but he wasn't sure how to handle this. He wanted to be sensitive to both sides. He stated that, in terms of the variance issue, he heard that, if they reoriented the property, then the variance with some minor modifications would not be necessary, but he also heard the applicant questioning the need for those modifications, given the location of the property, and he understood that this was an issue that was near and dear to Chair Campbell's heart. He asked, for practical purposes, what that would be achieving to get rid of the variances.

Chair Campbell thought the setbacks, even though they don't front the residences, they front the highway and some of the other open space, and the way this was positioned, which was a big issue in 2007, it does come up against the highway and the fear that it looked a little out of place. It was one of the few buildings that was going to come right up on the highway 1 on ramp, and he didn't think it seemed like good planning to put it there. He didn't see the need to grant the variance.

Commissioner Gordon thought he was concerned specifically with the variance with respect to the setback on the west boundary.

Chair Campbell stated that it was both the west side yard setback and the east side yard setback. Other than that, it conforms to the General Plan and it does mean something. It is what they have to go by.

Commissioner Gordon stated that moving the residential unit further away from the frontage road does have a functional purpose to it. He thought he would be in favor of that. If there was a way to make it work without having a variance, that would be preferable for him also.

Planning Director Wehrmeister stated that, if she understood the applicant correctly, he was arguing that, on Monterey, there is Caltrans property between the city right of way and the property line. However, staff confirmed that this area is not real property. It is Caltrans right of way. She didn't know if staff would be able to change its determination of the location of the front setback, based on the definition in the municipal code. Also, the applicant was stating that, his solution wasn't to actually shrink the building or move it in anyway, but rather to argue that Waterford was the front property line. If she was understanding incorrectly, she would like to know that and they would be willing to work with the applicant and redesign the project if he is, indeed, proposing to modify the building. She didn't think that was what she heard. She also mentioned, for information, on sheets A2, the Commission can see the boundaries of the property but can also see the curb line. She stated that Caltrans may use more of their right of way in the future but it was not right on top of the current curb line. The property line is set back from the curb line. She just wanted to point that out. She thought it may not address their concern but she wanted to make that point.

Chair Campbell assumed that Caltrans has not yet but they may choose to utilize it.

Planning Director Wehrmeister responded affirmatively, adding that there was no guarantee that the street will never get closer to the building but, currently, she was pointing out where it was now.

Chair Campbell understood, but if it did get pushed all the way, it would be right on top of it.

Planning Director Wehrmeister responded affirmatively.

Chair Campbell stated that was his fear and that was what he didn't want to have happen with someone ten years from now commenting on who the planners were who did that. He stated that it was the issue he had in 2007 and the same issue he has now.

Commissioner Evans stated that staff answered his question. He stated that, if the definition of frontage were changed to Waterford, would there be a variance needed.

Planning Director Wehrmeister stated that, due to the definition in the municipal code, she didn't believe they have the discretion to pick the location of the front yard. It is defined as the narrowest street frontage on a corner lot. So, Monterey is the frontage.

Commissioner Evans stated that he may not agree with that but he understands it.

Chair Campbell thanked her, adding that it was a very helpful explanation.

Commissioner Vaterlaus referred to the hours of operation, stating that you could be a very small business, one person business and be open from 7:00 to 9:00 p.m. at night and all day long on the weekends like her business, and don't make any noise but are there at all hours. She finds it horrible to limit the hours of operation for a business. If you want your business to succeed, she didn't think they should limit the hours. She sees this big section of land around the building that is owned by Caltrans and it is clearly pretty far set back on page A1.

Chair Campbell thought Caltrans won't widen the highway there.

Commissioner Vaterlaus stated that she would like to not put this off. She would like for them to make a decision at this time because she felt they have waited 17 years and she didn't think that this one item they have is a big enough thing to put it off for another five or six more years.

Commissioner Cooper thought it was dangerous to try to change something, as far as **changing** the way we do our frontage. He thought the variance was appropriate here, which was why they have variances. To go the opposite direction is not going to fundamentally change the project at all. He thought doing a variance was probably the appropriate way here, and that was the reason they were given that authority to do it. He asked the commissioners to consider that this was an all-night tattoo parlor, and that operation could create light, noise and traffic during hours, rather than having hours of operation to make more sense to restrict the hours of operation that no commercial activity can take place between 10:00 p.m. and 6:00 a.m.

Commissioner Nibbelin thought something relative to customer serving after a certain hour so that folks can make use of their space as long as they are not dealing with comings and goings.

Chair Campbell thought that may be taking them places where they don't want to start going. He sees it in some context.

Commissioner Nibbelin understood, adding that we have mixed use development in the city and means of making it work, somehow or other. He didn't know if it was making limits on the hours of operation or some other means of getting the stuff worked out. He wasn't opposed to limits on the hours of operation in principle, but it struck him that 8:00 and 5:00 was a little too stingy. He would like to see a motion made and voted on tonight if possible. He thought this was a relatively small issue on the grander scheme, 7:00 to 6:00, 7:00 to 7:00, strikes him as probably reasonable under the circumstances and he would support the other matters Commissioner Cooper put out as additions to conditions of approval if he was going to make a motion along those lines.

Commissioner Gordon also would like to see a motion made tonight. On the hours of operation, he was more in line with Commissioner Vaterlaus. If they do put any restrictions, he would like to see it done in a way that provides maximum flexibility. On the whole idea of putting in hours of operation, one size fits all regardless of the kind of business, he didn't think it makes sense. He thought they have to come up with some kind of language that the hours of operation shall be sensitive to the residents and perhaps put in a mechanism where the residents have a recourse in the event that one of the commercial tenants is being a bad neighbor.

Commissioner Cooper suggested that the homeowners association has to approve the hours of operation, asking if that was what he was thinking about.

Commissioner Gordon thought you still have the possibility of the homeowners association saying the hours are something unreasonable.

Commissioner Nibbelin thought his points that he was suggesting that maybe the CC&Rs are worked in contractually and ultimately what drives the train. He thought there was a good market oriented solution to this issue.

Commissioner Cooper asked if they had any suggestions.

Commissioner Evans stated that the tattoo parlor he goes to is pretty quiet. He stated that, with these small commercial units, he can't see them making a lot of noise. He understands that, but the idea of putting it up to them with the CC&Rs is a better idea than the Commission saying the times they want them to operate. He stated that they can let the owners deal with it. They were outnumbered with the five above them.

Commissioner Cooper stated that he will strike Condition #3 from the approval process.

Commissioner Vaterlaus referred to the sound class, mentioning that he included Monterey which was a normal residential street and she didn't think it needs to be included.

Commissioner Cooper stated that he included that street because of its orientation to the highway and to the traffic gaining speed up the street in front of the ramp area. He thought, not to include that street would be inappropriate for the people living on that edge because they would have people starting to run up into that ramp and on the frontage street as you come up, which was why he put it in. He stated that, if the consultant feels different and he wants to delete those restrictions, he needs to come back with a recommendation.

Commissioner Gordon asked if it was a little bit of overkill to include all of Monterey, since he thought he was talking about the most westerly part.

Commissioner Cooper asked Commissioner Vaterlaus if that would be the southern part. He reiterated that Monterey is in the southern part.

Commissioner Vaterlaus agreed that it was on the southern part.

Commissioner Gordon clarified that he was saying the westerly part of Monterey.

Chair Campbell stated that he also would like to make a motion for this applicant and move him along. He was worried that they were trying to engineer this project without the benefit of the applicant having his say in the matter or the planning department. He stated that it would appear to him that there are a lot of things that could be discussed that deserve some additional discussion between the applicant, engineering, planning. He thought there may be a way forward with some of the sound suggestions that Commissioner Cooper has put forth and all the commissioners have made very good arguments for a possible way forward. He was wondering if they should move to continue the item to allow the applicant an opportunity to a) discuss whether they can bring it forward without a variance on the setbacks; b) explore the willingness

and opportunity to implement some of the sound reduction techniques that have been brought up and to explore where the front of the building is. He thought it might be worth a continuance and that was the motion he would bring.

Commissioner Nibbelin concluded that Chair Campbell was looking for a second for his motion.

Chair Campbell responded affirmatively. He stated that he would consider that a motion.

Commissioner Cooper stated that he won't second that motion.

Commissioner Evans stated that he would rather not see this continued. It has been around a long time including a long time tonight. He thought the sound analysis is the bottom line of that, and if he was willing to do whatever the analysis says, he was happy with that.

Commissioner Cooper moved that staff recommends that the Planning Commission adopt the attached resolution entitled "A Resolution of the Planning Commission of the City of Pacifica Recommending Approval of Tentative (Condominium) Map (SUB226-15), Site Development Permit (PSD-794-15), Use Permit (UP-46-15), and Variance (VAR-515-15)" subject to conditions one (1) through forty-four (44), and adopting the required findings and incorporate all maps and testimony into the record by reference, including the following: additional condition 1, subject to a noise consultant report evaluating reviewing the on ramp highway use and for the car wash with a minimum of a 45 STC rating for the windows, 50 for the walls on the highway side and car wash side of the buildings, and if any different, they have to come back to the Commission for approval; condition #2 is no external or internal lighted signage; condition #3, follow the traffic report and execute the implemented suggestions; condition #5 CCRs disclose all the sound levels, both the highway and car wash in the consultant's report; condition #6, no storage of any personal items on the roof, porch, decks or garage spaces; condition #7, the CCRs include the landscaping maintenances and inclusion of the revisions that the director had for the City of Colma versus the City of Pacifica in the staff report; Commissioner Nibbelin seconded the motion.

The motion carried 6-1.

Ayes: Commissioners Brown, Nibbelin, Cooper, Gordon,
Evans, and Vaterlaus
Noes: Chair Campbell

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

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

CONSIDERATION:

2. Determination that the Calera Parkway Project, part of the 2015-2020 Capital Improvements Program is consistent with the General Plan (continued from May 18, 2015 and June 1, 2015).

Planning Director Wehrmeister presented staff report, followed by Public Works Director Ocampo.

Public Works Director Ocampo continued presenting staff report.

Commissioner Gordon thought it was an illuminating clarification. He concluded that they are not deciding if the Calera Parkway Project was consistent with the General Plan but rather that the way the project as described in the revised way in the CIP was consistent with the General Plan.

Planning Director Wehrmeister responded affirmatively.

Commissioner Gordon thought that was a very large distinction. He thought it was confusing because the Calera Parkway Project was the name of the Highway Widening Project that Caltrans has been studying and has issued an EIR. He reiterated that when they mention this project in the CIP, they were thinking they were talking about the Highway Widening Project but she was saying that they were only talking about the way it was described in the CIP.

Planning Director Wehrmeister reiterated her affirmative response.

Commissioner Nibbelin stated that this was a new project description because the description they were looking at the last time did speak to the project involving possible construction of additional lanes. He stated that, if he was understanding correctly, she was accurate in that they were looking at a different description and the crux of the confusion. They were looking at something analogous to the Caltrans project four weeks earlier. He asked if he had concluded correctly.

Planning Director Wehrmeister responded affirmatively.

Commissioner Evans referred to his point at the last discussion, stating that one of the lawsuits was dismissed and one was decided but the official definition has not come down from the judge so far, and since then, there was a third filed in February. He asked for the status of that one.

Asst. City Attorney Visick stated that he was correct, and the staff report laid out the first two, the first lawsuit was dismissed as not being ripe because the Council has never made a decision about whether or not it was going to approve the final design that Caltrans has put out there. The second lawsuit was decided but the court requested a proposed statement of decision and it was pending with the court but the city did prevail. The third lawsuit was pending in Federal Court, and that was just at the very beginning stages with very little happening.

Commissioner Evans asked if he could define what that lawsuit is about.

Asst. City Attorney Visick briefly stated that that lawsuit was primarily directed at Federal claims, not at General Plan, oriented claims, CEQA claims. The primary claim was a clean water act claim. There was a tremendous amount of procedure that attends bringing those type of federal claims and they were in those procedural first steps.

Commissioner Nibbelin referred to the second lawsuit, and asked if the judge make her decision orally on the record or some written tentative decision. He was curious about the form the decision took and to the extent she touched on it, did the judge make any specific findings with respect to conformity of the project with the General Plan.

Asst. City Attorney Visick stated that it was his understanding that, in that case, the ultimate outcome is known, but the reasoning behind the ultimate outcome is really something that the court was looking for the parties to provide and that was part of what they were waiting on, for the court to sign on to the city's version of that reasoning.

Commissioner Nibbelin assumed the city submitted its proposed statement of decisions.

Asst. City Attorney Visick stated that he was correct, it was pending for some time.

Commissioner Nibbelin presumed that one of the things the city said in its argument is that the project is in conformity with the General Plan.

Asst. City Attorney Visick stated that the city has argued that consistently, adding that it was a slightly different argument, not that the project is consistent with the General Plan but that the project is not inconsistent with the General Plan. The claim raised by the plaintiffs in both instances was that the project was inconsistent and the city has argued that that is not correct.

Chair Campbell stated that in the description of the Calera Parkway Project in the CIP, the purpose and benefit it talks about is that the project may provide operational and traffic safety improvements in a Capital Project and he asked what that was referring to.

Asst. City Attorney Visick asked clarification as to whether he was asking what the project was referring to or what operational and safety improvements refers to.

Chair Campbell responded that it was the project.

Asst. City Attorney Visick stated that the project was something still in the process. He thought that was what he meant to note in his allusion to the Loeb case. The city never ultimately made a decision about whether or not it supports Caltrans' version of the project. The evolution of what the project is was part of what they were going through now. That was what the purpose of the community engagement and the purpose of funding staff to attend meetings to help develop that. The ultimate decision of whether or not the city will support the Calera Parkway Project is not before the Planning Commission or even before the Council at this time.

Chair Campbell stated that, at their last meeting, it seemed like it was.

Asst. City Attorney Visick thought it was the intention of the revised project description was that, to the extent that the way the project was described had created concern or perhaps left some controversy around what the project was, the revised project description was designed to avoid

that. The revised project description really describes what staff plans to direct money toward, which was the purpose of the CIP. He mentioned that someone in the audience asked what CIP means, and he explained that it was the Capital Improvement Program.

Chair Campbell stated that was what they were discussing tonight, whether the city is spending money on something that is consistent with the General Plan.

Asst. City Attorney Visick agreed, adding that he understood that the only issue before the Commission tonight was whether or not this particular element of the CIP, the project description is consistent with the General Plan.

Chair Campbell stated that the last project description was pretty specific that this project may construct additional lanes for both northbound and southbound on highway 1 from Westport Drive to Fassler Avenue. He thought that was clear what they were discussing at the last meeting. The next meeting, that was stricken and they were now talking about Project. He stated that he was saying that it doesn't include these additional lanes, or the Calera Creek Parkway project basically.

Asst. City Attorney Visick stated that the city has not committed itself toward Caltrans version of what the Calera Creek Project is. He asked if that was where he was going. He stated that this Project was in the description and the process that gets to that, the community outreach and going to the meetings, the engagement over that will sketch out what the city was ultimately going to support. He agreed it was different than the description from the last time, but the intent of staff and where they were programing the money is the same. This was what staff planned to do when they came to the Commission the last time, the description before them created concern and it has been revised to more accurately describe what it is that they are planning to put the money toward.

Commissioner Gordon gets what he is saying. He concluded that he has changed the definition of the project but they haven't changed the terminology used, which he finds troubling. He stated that it was almost as if, the last time around they were talking about the Empire State Building and this time around, they have changed how they define the Empire State Building but they were still using the term Empire State Building. Therefore, it was creating a great deal of ambiguity because of the terminology they were using. He understood they were saying Calera Creek and the Calera Parkway Project isn't what Caltrans has been talking about. It was how you describe it in the CIP. He thought, at some point, it might be more beneficial to tinker with the language to make clear that they were not talking about what everyone understands the Calera Parkway Project to mean, but were only talking about how you revise the specific project as described in the CIP.

Asst. City Attorney Visick stated that, if he had more to add, he would wait.

Commissioner Gordon stated that it was another question.

Asst. City Attorney Visick understood that it might appear that what staff has done is change the definition of the project, but this is the same thing that staff planned to do with the money in the CIP element the last time they reviewed this project. The way it was described created concern and, to clarify what it was that staff was planning to do with the money in the CIP, the project

description was revised. He reiterated that it was not a redefinition but a clarification and that was perhaps where he doesn't follow his point.

Commissioner Gordon thought that perhaps the confusion was because this was under the engineering department and he was now describing the project as community outreach and engagement regarding Highway 1 congestion and potential solutions. It seemed like an odd place to stick that function with engineering.

Asst. City Attorney Visick thought that might be a question better directed to the City Engineer.

Public Works Director Ocampo explained that part of any project development includes outreach to the community, but doesn't necessarily mean that because they were doing outreach that another department should be handling that. He explained that the reason why this particular project is with the engineering department because it was a public works project, which was the only reason why. He thought there was no need for the project to shift from one department to another because of the scope they were doing. It was one city, one family dealing with a project.

Commissioner Gordon stated his next question was related to Commissioner Nibbelin's question regarding the PSC.

Asst. City Attorney Visick thought it was Pacificans for Scenic Coast.

Commissioner Gordon stated that they were talking about the PSC lawsuit. He stated that the first lawsuit was dismissed for lack of ripeness, which was not on the merits. On this lawsuit, they were talking about the PSC lawsuit. This was in the process of being decided on the merits and the proposed order has been submitted. He thought what Commissioner Nibbelin was getting at was is the same issue that they were being asked to decide here, the consistency of the Calera Parkway Project with the General Plan, was it within the scope of the judge's decision, and their discussion the last time around was focused on language within the local use plan, C112, C113 where they talk about Highway 1 modifications and the intentions of those modifications. He asked if that argument was posited by plaintiffs in that lawsuit and did they discuss the local use plan.

Asst. City Attorney Visick stated that he doesn't know all of the ins and outs of exactly what arguments were raised at oral argument in that case. He stated that it was a lengthy oral argument and somewhat spirited.

Commissioner Gordon asked if it was in the complaint.

Asst. City Attorney Visick stated that the issue of General Plan consistency of the Caltrans design for the project was an issue in the complaint. It was one of the main claims.

Commissioner Gordon asked if it was specifically the argument that they have been tussling with the language and the local use plan.

Asst. City Attorney Visick stated that the argument that was in front of the court in the PSC case is not the argument that was before them at this time. The issue there was whether or not the Caltrans design for the Calera Parkway Project was inconsistent with the city's General Plan. That was not the issue in front of them at this night's meeting. He stated that part of the reason

they can understand that the issue wasn't in front of the Commission was the decision in the Loeb case. The Loeb case was dismissed because the City Council has never made a decision on whether or not the Calera Parkway Project is consistent with the General Plan. That was why the court dismissed it as being unripe. The issue of consistency with the General Plan for the Caltrans project was before the court. The city and Caltrans prevailed in that lawsuit, primarily a CEQA lawsuit, having to do with an environmental impact report, but that issue was before the court. Whether or not the court signs on to a statement of decision that makes broad findings on that point, they were all waiting to see.

Commissioner Gordon stated that he was asking the question because he did have the opportunity to read all the briefing on the PSC case and he noticed that the local use plan was never discussed in any of it. His assumption would be that, since it was never discussed by the plaintiff's, whatever order that comes down would not discuss the local use plan as it pertains to consistency.

Asst. City Attorney Visick stated that the issue was broader there, and was whether or not it was consistent with the general plan. The way he would anticipate those arguments together is to the extent the local coastal land use plan, which was the one he thought he was referring to, was incorporated with or part of the General Plan, it would be a finding as to the entire thing. Whether or not the litigants raised that issue, it doesn't bear on the ultimate outcome on the case.

Commissioner Gordon stated that you can't expect the court to make a decision based on arguments that were never made.

Asst. City Attorney Visick asked if they were talking about the language on C112 of the Local Coastal Land Use Plan,

Commissioner Gordon responded affirmatively.

Asst. City Attorney Visick stated that the language he thought he was referring to was in the coastal corridor study, ABAG and MTC proposed that safety and operational improvements be made to the arterial portion of Highway 1 in Pacifica and the intention of these improvements is not to increase the capacity of the roadway. He stated that all of this was beside the point because none of this was before them tonight. The issue was not whether the Caltrans design is consistent or not with the General Plan. It was related to the language in the revised project description.

Commissioner Gordon stated that Commissioner Nibbelin just wanted to know whether the scope of what they were talking about was within the scope of the decision, and he was trying to make the point that, since those arguments were never made and the scope of the decision would not cover the particular points that they were discussing the last time. He thought that was all he was trying to say, within the context of Commissioner Nibbelin's argument. He didn't think they needed to bleed into the merits of C112, C113 at this point. This was just a Q and A point between them.

Asst. City Attorney Visick thought there was one point that might be helpful. The language that he read from the local coastal land use plan is actually the language that was echoed in the project description before them, and they were of the same piece, taken from the documents they were being asked to determine whether or not the CIP description was consistent with.

Commissioner Evans wasn't an attorney and he wasn't going in that direction, but he was going in the direction for which they were given the tasks for tonight, the new description and whether it complies to the CIP. He would feel a lot better if they have gone to the point of changing the description to a nondescript definition and he would strike the project name of Calera Parkway and just put Highway 1 improvements.

Asst. City Attorney Visick understood his inclination, but the language of the CIP is something that was determined by engineering staff and the language used in the CIP was not part of what was before them tonight, but the issue was whether or not this language is consistent with the General Plan.

Commissioner Evans stated that they have to determine if this CIP program is consistent and the city hasn't even determined the Calera Parkway so how can the Commission determine the Calera Parkway in the CIP. He stated that, if it was that general that they have changed the description, then he would change the name to Highway 1 improvements. He stated that they didn't know what was going to be down the road. He would feel a lot more comfortable approving that than the way it is set up now with Calera Parkway as the project name with so many question marks in courts, them, the public, and they were dooming it for failure by putting the project name in there. He suggests that, if they were going to the trouble of changing the project description, change the name too.

Chair Campbell stated he would follow that with changing the map. He stated that they were going to have a discussion and voting on language that says they are going to have discussions and public meetings about some sort of Highway 1 solution as yet to be determined by City Council that will occur on this particular stretch of highway 1 from Westport Drive to Fassler Avenue on the map. He stated that it strikes him as a little disingenuous. He felt they were narrowing the potential public outreach and community involvement to discuss that which should not be named. He stated that was what they were meeting about, the Calera Creek Parkway Project, which was in the map. He stated they were getting confused now, because it was pretty clear what they were discussing at the last meeting, the Calera Creek Parkway Project proposed by Caltrans for this particular stretch of road. Now, they were hearing that it was not what the language was talking about, but rather just general improvements to the highway. If that was true, he thought the map would be different because there is a lot of highway improvements along Highway 1 that do not have to take place between Westport Drive and Fassler Avenue.

Asst. City Attorney Visick stated that, despite his characterization of it, the name of it doesn't seem significant to him. It was what the money was being programmed to do, and is the money being programmed to engage in this outreach process and go to meetings to discuss what is going to happen along the stretch of the roadway.

Commissioner Cooper responded affirmatively.

Asst. City Attorney Visick stated that was why that map was included with an arrow that points to that stretch of roadway. They have raised questions about what the courts have or have not weighed in on, and he thought it was significant that the one thing they can say courts have weighed in on decisively is that the city has never made a final determination about what Calera Parkway project it may or may not support, the one clear court determination. He can understand their confusion or frustration with the way that it was worded earlier and the way it is being worded now, but the intent is to clarify what the money is going to be used to do. That is

the purpose of the CIP. The CIP determines what the money is going to be programed to do. The purpose of programing the money for these things, which they characterize as ambiguous but he would characterize as planning and preparatory, public outreach, going to meetings, working with agencies to figure out what it is that this thing is going to be and whether or not the city wants to support it is a discretionary decision down the road. There will be a whole lot of process that goes along with that decision. That is the reason to program this money. To not devote the money to that means that staff doesn't get to do public outreach, don't get to go to meetings, don't get to participate in that public process. He can understand that they may feel that the project has already been determined but he urges them to consider the information in the staff report and the explanation of what the Loeb case actually decided. He thinks that was helpful in understanding how they have gone from one project description to another and to consider that the language in the revised project description is really designed to go at exactly what the General Plan and the local coastal land use plan are clearly in agreement about in terms of what was supposed to be done. He stated that the cites in the staff report were in the same language that Commissioner Gordon and he were discussing. He stated that the one thing that was hard to dispute was that money spent on safety and operational improvements along this stretch of roadway was clearly consistent with the General Plan and clearly consistent with the local coastal land use plan.

Commissioner Brown asked if the project name can be changed.

Asst. City Attorney Visick explained that the question before them at this meeting is an up or down vote on this project description.

Commissioner Brown asked if he was getting no answer to that question.

Asst. City Attorney Visick stated that he had intended to answer the question.

Commissioner Brown asked if the project name can be changed at this meeting.

Asst. City Attorney Visick stated that the Commission cannot change the project description or anything about the document that was before them at this time.

Commissioner Gordon stated that, following up on Commissioner Brown's question which was also Commissioner Evans question and Chair Campbell's question, he understood that what they were supposed to be doing is an up or down vote on whether to adopt the resolution. He stated that they were moving on whether to adopt a resolution, and he questioned why they can't modify language in it.

Asst. City Attorney Visick stated that perhaps he wasn't clear. He stated that the thing they cannot alter tonight is the CIP document before them produced by Engineering staff. The resolution is theirs. The question is not an up or down on their resolution, but the question is whether or not this CIP description as it is laid out before them is or is not consistent with the General Plan.

Commissioner Gordon understood and added that many of them were in agreement that they changed the language in the project description but they didn't change the name of the project and it is causing them heartburn. He thought they had the flexibility to address that situation in the language of the resolution.

Asst City Attorney Visick agreed so long as they vote that the CIP as drafted is or is not consistent with the General Plan. He stated that he was happy to probe the areas in which they have discretion as a Commission. He then clarified that they just can't use the resolution to change the wording of the CIP description.

Commissioner Gordon stated that they can use the resolution to clarify what they mean when they are referring to the project name in the CIP as being ambiguous and, therefore, in the resolution they can clarify the ambiguity.

Asst. City Attorney Visick stated that they cannot change the wording of the CIP.

Commissioner Gordon understood that, adding that he was not talking about that but he was talking about the resolution only.

Asst. City Attorney Visick thought, if the Commission so chose, it could resolve that some language of the CIP definition is ambiguous.

Commissioner Gordon thought they could just simply clarify that the project name in the CIP called Calera Parkway does not refer to the Calera Parkway Project as described in the EIR of Caltrans. That is the obvious elephant in the room and why everyone was laughing. He stated that it was not ridiculous. He takes issue that the words don't matter and the project name doesn't matter but he disagrees with that. He felt it does.

Asst. City Attorney Visick didn't mean to change his mind about that, but he did want to be clear that the Commission, at some spot in the resolution, ultimately has to decide whether or not the CIP document before them, as drafted, is or is not consistent with the General Plan. That was the bottom line.

Commissioner Gordon had a feeling that this was going to get clarified as they get into the actual. His takeaway is that they can't touch the CIP but they can touch the resolution.

Asst. City Attorney Visick responded affirmatively, and he didn't believe that his point was ridiculous. Those weren't his words, and he didn't want that ascribed to him. He thought the important thing, from his legal perspective, was that the CIP programs money, says what staff can spend money on and what are the priorities in terms of how the city is going to spend public monies. He stated that staff wants to use the money for the things described in the project description. The name of the project is not the important thing. It does not determine what staff was going to spend money on. It was the stuff that was in the project description that actually has the significance of permitting or constraining what staff can do. He can understand that they take issue with the project name, it was the information in the boxes below it that was important for them to weigh in on as to whether or not it was consistent with the General Plan.

Chair Campbell stated that, from his perspective, he wants to be clear that he wants them to sign off on language that basically says the city is spending money on public meetings and it is consistent with the General Plan, for the capital Project. He stated that the project was adding lanes to Highway 1. There were a lot of things that these meetings can talk about, such as a meeting of one size or another landscaping, etc., but Project is adding lanes, and he was saying that they should sign off on public meetings for something that some of them had problems with

understanding how it comports with the General Plan, adding lanes because the General Plan says differently from their perspectives. That was the issue. The project is talking about adding lanes.

Asst. City Attorney Visick stated that he would like to clarify how they characterize what he was asking them to do. He was not asking them to sign off on anything. He was asking them to make a decision about whether or not this project description is or is not consistent with the General Plan, adding that he isn't asking them to do it, staff was asking them to do it, but he was speaking for them. He stated that the Commission has characterized the project as being expanding highway 1 and adding lanes to highway 1, but the court has determined that the city has never signed off on any particular project description so that may be their view, but it was not the view that was expressed in this project description. It was information that they were reading into the project description.

Chair Campbell stated that he was chair of the Planning Commission when this came up before the City Council and they signed off on a median for the two lane extension expansion.

Asst. City Attorney Visick stated that it was one thing that the court has very clearly weighed in on.

Commissioner Cooper thanked him for his responses and they were helpful. He likes the way he has changed the description of the project. It was clear to him what the money was being allocated for, and it doesn't say anything about widening the highway but simply says explore the options to improve operation and traffic safety. He looked at a lot of what is consistent with the General Plan versus what is inconsistent with the General Plan, and it seems the courts focused on what is inconsistent with the General Plan. If it was not inconsistent then it has to be consistent as there were only two options. So, he was going to disregard what was in this document because that was not before him. It was what is in attachment 2, which very specifically says community outreach and engagement regarding congestions on Highway 1, continue staff participation in meetings with San Mateo, and may include future participation in physical operation in traffic and safety improvements. The project may provide operational and traffic safety improvements to both northbound and southbound Highway 1, facilitate traffic more effectively and will improve the level of service. From what he is looking at, he was going to cast his vote on what he sees before him tonight, nothing from what has happened in the past but what is currently in front of him and what the Council presented for him, he didn't care about the description because that was not what the money was being allocated for.

Asst. City Attorney Visick commented that General Plans were kind of a curious beast. They resist the didactic way of looking at it as he characterized it. Just because something is not inconsistent with the General Plan does not necessarily mean that it is consistent with the General Plan. He stated the General Plan was a rather overwhelming number of policies, many of which are in tension with one another. He stated that the question of inconsistency with the General Plan is not is it consistent, but is it somehow entirely out of bounds. That was what he wanted to touch on.

Commissioner Cooper stated that he touched on that in the previous meeting as far as how he thought it was within the purview of the General Plan, because it talks about the problems we are having on Highway 1 and the anticipated future of Highway 1 and what the issues were and he appreciated that response.

Commissioner Nibbelin thought Commissioner Cooper picked up what he was trying to clarify, which was the scope of what they were actually being asked to consider which was the very narrow project description set forth in the CIP and the authority to spend the \$6150 for the various outreach activities and coordination activities that have been described. His understanding in response to Commissioner Cooper's clarification addressed his concerns at this point.

Commissioner Brown appreciated the work put into changing the project description. He was wondering why it does not include any language around frontage roads. He stated that, reading through their packet, the local coastal land use plan says it shall be included and a lot of the discussion has been around including that and wondered why they chose to be inclusive of the language but stopped short of including anything around a frontage road.

Public Works Director Ocampo explained that the reason why there was no reference to frontage roads was because the Council has not decided on what the project is going to be.

Commissioner Brown stated that he can't remember whether it was the General Plan or the local coastal land use plan which includes the word "shall" that the frontage road was part of the solution.

Public Works Director Ocampo stated that the language as written does not preclude any of the options, but is more like focusing on what this project is trying to solve. Since there is no decision, that is the reason why it does not mention that.

Commissioner Evans stated that he was going to go back to what was before them and what they were supposed to be voting on, which was strictly the new Capital Improvement Program description, whether it complies with the CIP or not. He stated that one of the Commissioners asked and they can't change the wording on the sheet.

Asst. City Attorney Visick responded that he was correct.

Commissioner Evans stated that they can change the wording in the resolution. He counted five different accounts to Calera Parkway Project in the resolution. He stated that, if they go with that thought and they change all five of those spots where it says nothing at all about Calera Parkway, but he will go back to Highway 1 improvements. He stated that the resolution cannot support this because it is not identifying money for this project which is Calera Parkway Project.

Asst. City Attorney Visick stated that he didn't understand his point.

Commissioner Evans stated that, if they changed the resolution and struck all the Calera Parkway Project terms out of the resolution, asking confirmation that they can do that.

Asst. City Attorney Visick agreed, and asked what he would replace them with.

Commissioner Evans stated that he would call them Highway 1 improvement project.

Commissioner Brown mentioned Project 24.

Commissioner Evans thought that would change the whole subject. If they say Project 24, but it still states Calera Parkway, they would be voting for the Calera Parkway Project.

Asst. City Attorney Visick stated that the one thing they must do is make sure their resolution refers to this document somehow and makes it clear that what they were resolving is or is not consistent with the General Plan is this document. He stated that, to the extent they would change the wording of the resolution so much that it was not clear what they were voting on, that would be problematic. To the extent that he would like to wordsmith the resolution so that it refers to it by a different name, that would be acceptable as long as it is clear that it refers to the document that was attached to it in their packet.

Commissioner Cooper asked if they could include it as Exhibit A to make it clear what they were talking about, adding that he wasn't necessarily advocating changing the name.

Asst. City Attorney Visick stated that would be fine.

Commissioner Evans stated that, as the way it says, and they didn't have much to go on for voting, just that sheet, he had a problem voting for this because of the fact that it has the project name which confuses everybody. He understands the purpose of the CIP is just to earmark money for this particular program which now has a changed project description, and they can earmark the designated money for the description. But, as long as the Parkway is on there, he was having a real problem with that.

Asst. City Attorney Visick asked if he was suggesting that the name given to the document makes it inconsistent with the General Plan.

Commissioner Evans stated that his suggestion which they cannot do was get rid of the name Calera Parkway on the project name of project No. 24, but they can't do it.

Asst. City Attorney Visick stated that they can change the language in the resolution, and he thought he understood that they were inclined to change the words Calera Parkway Project to Project No. 24.

Commissioner Evans stated that was the question was whether they could do that. He stated that if they can do that, the only fear he has is that, when you look at Project 24 and it shows Calera Parkway. He felt it was a round robin and that was his concerns.

Asst. City Attorney Visick thought he understood where he was going. He stated that it is the problem that Commissioner Gordon identified, which was that you can affect the language of the resolution but you cannot use it to change the language of the CIP document.

Commissioner Evans stated that, if he came back to him with the same piece of paper but with a different project name on it, he would vote for it. But, he can't vote for it like this because there are too many question marks around it.

Chair Campbell stated that the issue they were having was that the underlying project for many of them was that many of them do not believe it comports with the General Plan. He stated that, if this were a project description, such as the city wanted to turn the Chamber building into a parking lot, it would be inconsistent with the General Plan and, if they came forward and said that

they want to spend city money on meetings to look into whether they were turning it into a parking lot. He thought many would say wait, they didn't think they should spend it and they didn't think that would comport with the General Plan, even spending money to meet about that. He felt that was the trouble they were having. Why would they have public meetings about something that does not meet the General Plan.

Commissioner Nibbelin didn't think the analogy was perfect. If they were going to study parking broadly speaking as opposed to a specific project like tearing the building down to put a parking lot in, they would be having a different kind of an argument. He thought that was a better analogy. At this juncture, as he was understanding it, the Council has not yet made any particular determination with respect to accepting the Caltrans project or any variation on that. He didn't know if the analogy is perfect and he didn't accept that as a problem he is having.

Commissioner Vaterlaus agreed. It doesn't say anything in the papers about widening the highway which he says it does because he read off into some other world, but it says safety improvements, which is part of the General Plan. It was talking about frontage roads, which is a safety improvement.

Chair Campbell asked if it was talking about frontage roads.

Commissioner Vaterlaus stated that it was in the General Plan.

Chair Campbell agreed, mentioning that it also says "shall."

Commissioner Gordon stated that this was a Q&A with staff and he recommended that they go to the next stage and open it up to the public.

Commissioner Vaterlaus stated that they got a letter to Mr. John Lee dated December 2006 signed by Peter DeJarnatt regarding the Calera Parkway Project. She asked who approved that.

Planning Director Wehrmeister stated that it was passed out by a commenter.

Chair Campbell opened public comments.

Tom Clifford, Pacifica, stated that Bill Clinton said it best, "it depends upon what your definition of "is" is. He thought this was bs. He stated that you don't say the Calera Parkway and then have a different definition. He stated that, if he heard things correctly, the Commission cannot change the language or title, but they can continue it and have staff change the title and bring it back to them. It was simple. He suggested that they do it that way. He was at the City Council meeting when City Council accepted the preliminary design with a median in it. So, City Council has moved way down the road from not accepting anything at all. They are already on the hook saying they were accepting it. He stated that they may change their mind because we have a new City Council, but in terms of the language and all of the stuff he has been hearing, it was crazy. He reiterated the change of definition while leaving the name the same and stated it didn't make any sense.

Charlene Pugh, Pacifica, stated that she urged a no vote because it was a disingenuous project plan. Unfortunately, the public was not able to look at the new plan but what she saw was that they are looking at the highway widening. She stated that good planning was that they were

looking at options and problem solving. She teaches problem solving and she asked her kids if there is another way to solve the problem and she thinks the city needs to do that and they need to make sure that they are not voting for a bait and switch. She thought they would be spending that money to look at a project that a lot of people have problems with already. She stated that, if they make the wording even more general, but not include Caltrans, the public meetings would be more transparent. She felt this was a bait and switch. She urged a no vote.

Stan Zeavin, Pacifica, stated that he feels like he fell down the rabbit hole. He thought that, if the name Calera Parkway Project was anywhere named in the General Plan or CIP anywhere, then most people would agree that what they were talking about the Calera Parkway Plan and he was going to address the Calera Parkway Plan. He asked if it fits into the guidelines of the 1980 GP and Rockaway Beach specific plan, adding that the discussion tonight was a good example of what he is talking about. He suggested that they do the right thing and pull the CPP from the CIP. He stressed that all the written material from the 1980s stated no additional lanes.

Chaya Gordon, Pacifica, stated that this has been extremely confusing but she agrees with what Stan Zeavin says, which is whether the Calera Parkway Project was consistent or not with the General Plan, and she acknowledged that it is the elephant in the room. She mentioned that the General Plan states that the capacity of Highway 1 shall not be increased and the Caltrans plan will definitely increase the capacity. She stated that his assertion that the increased capacity of Highway 1 will only be between certain points is an admission that the project increases the capacity. She refers to the Rockaway Beach plan that there will be a frontage road built, but it is not in the Calera Parkway Project. She referred to what Caltrans was contemplating doing and she asked if they really wanted to approve that. She felt some of the other plans in the General Plan were good and should be pursued, and she suggests they focus on that.

Chris Porter, Pacifica, stated that she has been listening to a lot of semantics and fairy tales, but she knows that she has 22 garbage trucks that leave her office every day in Sharp Park. She mentioned the specifics of the number of trucks traveling the route in question and the dangers involved. She stated that safety for her employees was paramount and she asked that they get this job done.

Laurie Goldberg, Pacifica, stated that she lives in Vallemar and she has never seen major accidents, never seen where a fire truck can't get through. The times when she sees a lot of traffic was in the morning because of the schools. She stated that she sometimes has to wait for 10-15 minutes to get out of there, but something needs to be done with the timing of the lights. She stated that a median barrier which Caltrans put up on Highway 1, she didn't like because it restricts the access of wild animals crossing Highway 1. She didn't like the "bait and switch" language, and she was sad about the new General Plan because she looks on Fassler being torn apart for houses. She mentioned that there are other areas where hills are being torn up, and she questions what they were doing to Pacifica for money. She questioned what we were doing to Pacifica by trying to build more and bring more people in. She felt the Commission and Council needs to look at the beauty of Pacifica. She encouraged them to vote no on the Calera Creek Parkway.

Jim Wagner, Pacifica, asked that they not lose sight of what the underlying issue is in this whole thing, and it is safety. He referred to a letter that was printed in the Tribune in September 2011 written by retired firefighters and read it. They supported the Route 1 bottleneck solution being considered and route 1 being widened with improved East/West lanes for very sound reasons.

Safety, in their opinion, is the #1 reason this improvement needs to be facilitated. They pointed out many of their concerns in their letter. He then stated that they wrote the letter in 2011 and we were still trying to solve this problem.

Mike Bell, Pacifica, referred to the comment about “bait and switch.” He didn’t know who was doing what. He thought he knew why he was coming to the meeting tonight, but now the agenda item seems to be different from how it was advertised. He stated that it was feeling more like Kabuki Theater. He thinks the goal was to get a no vote out of them or a yes vote, depending on what side of the issue they are. He thought they would be doing a huge disservice to the whole community if they don’t continue this, adding that he is usually the last person to continue anything. He thinks they need to do that and get clarification on what they have been asked to vote on. He stated that they should make a good, informed decision after a thorough discussion that the public can follow and figure out. He stated that he has been following the project for decades and he can’t figure out what they are supposed to be doing tonight. He thought it sounded like most of them didn’t know either. He didn’t think they should be playing into the Kabuki Theater because the stakes high, adding that the lawsuits are extremely expensive and will only hurt the city treasury.

Courtney Conlon, Pacifica, stated that she was the CEO of the Pacifica Chamber of Commerce. She stated that, on behalf of the board of directors, she was present to stress the utmost importance that the Calera Parkway Project, part of the 2015-2020 capital improvement project remain part of the General Plan. She stated that it was also really imperative that the Highway 1 safety improvements and widening for the corridor between Rockaway Beach and Vallemar known as the Calera Parkway happen sooner than later. She stated that, having lived in and out of Linda Mar for the past 38 years, she has witnessed several times emergency vehicles that have to negotiate the best route, sometimes resulting that they drive north in the southbound lanes in order to reach the emergency, mentioning several specific incidents. She stated that it must also be widened for sheer capacity, as it Pacifica continues to be promoted as a tourist destination, and Highway 1 will only get more congested. She also had a petition signed by citizens in favor of the Highway 1 widening.

Mark Stechbart, Pacifica, stated that he passed out the Chamber of Commerce endorsement and Pete DeJarnatt’s letter from 2006. He mentioned the history of the Calera Parkway which has gone through five alternatives. He suggested that they do a plaintiff’s work by changing the nature of the project that everyone has been looking at for 37 years. He questioned whether changing the name would sabotage all the funding. He suggested that they stay with the staff report, adding that they have made a compelling argument over the years and it was consistent with the capital improvement plan and the more modern local coastal plan. He also read a letter from a citizen whose husband died due to the delay in the ambulance reaching their home in Vallemar. He urged them to adopt the staff report.

Danny Estrella, Pacifica, stated he was in favor of safety and increasing the flow of traffic but the proposal that was before them with the Calera Parkway Project was not the solution. We have technology that can time the lights and allow emergency vehicles to control the lights so that the traffic can flow and emergency vehicles can pass through. He stated that the city of Pacifica has committed to maintain the landscaping on the median, and given our financial status of the city, he did not know how we could maintain our commitment to that. He stated that we cannot afford that extra expense. He stated that he was reading through the staff report for this meeting, and the theme was language, understanding communication and apparently we are having significant

breakdowns in our communication. He mentioned widening the highway would create more activity on the road, and was not an improvement of the coastal view,

Collen Serafin, Pacifica, stated that she was going to read a letter her husband wrote to the Tribune, with information on traffic capacity. He encourages the city to do independent analyses on the flow of traffic to come up with the best possible options that will not just create traffic congestion in another area. He concluded from his analysis that the Caltrans Calera Parkway Project did not make sense as the benefits are dubious. It was his subjective conclusion that facts are misunderstood or misinterpreted by proponents. While he could not be present, she hoped that they consider his letter which was attached to their agenda.

Monica Wu, Pacifica, stated that, like the gentleman in the ponytail, she was shocked by the language displayed, with “doublespeak” as disingenuous and duplicitous and felt unethical, and she agreed with him about continuing it and not voting because it felt like a beaten switch regardless of what side you are on. She also thought that it has become clear, based on the speakers, that calling it the Calera Parkway Project really does refer to the Calera Parkway Highway 1 widening project and nothing other than that. As a resident, she was against the Calera Parkway/highway widening project and she felt the cost outweighed the benefits, then gave some of her thoughts on the pros and cons, and questioned the Chamber’s position.

Bob Pilgrim, Pacifica, stated that he had questions on why the present freeway ended where it did, why they addressed the Calera Project with a non-hearing. He commented that the Calera Parkway Project, carried through, would double the carrying capacity of Route 1. He stated that once that happens some property will have access to Route 1 as it is now landlocked. He gave some history of the traffic problems and some of the preventative measures.

Deni Asnis, Pacifica, stated that she lives in the Rockaway Beach area and adamantly opposed to the Highway widening for all the eloquent reasons already expressed. She mentioned getting more public input, do outreach, etc., and if they were interested in getting the public’s input and trust, they needed to vote this resolution down because they won’t trust a process that is as confusing and duplicitous as the language. She appreciated the job they did in trying to deconstruct it. She thought it was clear that it was not workable. She urged them to vote no in an attempt to move this process forward genuinely.

Julie Starobin, Pacifica, stated that she could talk about being against the Highway 1 project she was for all the reasons given, but she was mostly appalled at the staff report and it feels as though the commissioners were as blind-sided as those in the audience and it was like a total waste of time, changed from what they all thought it was going to be about. She felt it made no sense that they didn’t change the name. As Commissioner Evans said, it didn’t make sense.

David Ahlquist, Pacifica, stated that they didn’t have anything to vote on and they should continue it. He didn’t think anyone understands it. He stated that they were authorizing \$6,000 to get some public input, which might be good because it will be a better notified way of going about it than what they have now.

Hal Bohner, Pacifica, stated that it was amazing the new language sprung on them for the first time. He mentioned that the attorneys and city staff were trying to change the Calera Parkway Project to something other than what it has been for a very long time. He questioned how staff could tell them whether the project would or would not increase capacity if the project hadn’t

been clearly defined. He mentioned Pete DeJarnatt's 1986 letter supporting the Calera Parkway Project that the city has been supporting for many years, and he questioned how it could now become an undefined project. He mentioned that he was the attorney in the Loeb case and he stated that the judge did not decide that the city had not defined what the Calera Parkway Project was. He stated that the only choice they have is to say no to this charade and say that the Calera Parkway Project was inconsistent with the General Plan.

Leo Leon, Pacifica, referred to a Coastal Commission letter from 2011 to Caltrans speaking about the Calera Parkway and pointing out that they had not provided all the information necessary to evaluate the project, and they were the permitting authority so the decision of what it means and proposes to be cannot be made by the Commission. He doubted that the language in the revision was legal, and he explained that they were collecting money to build the frontage road which was codified.

Peter Loeb, Pacifica, stated that he felt like they were all participating in a little improv theater because of how the new project description has been explained. He thought it has caught all of the Commissioners off guard, and it certainly caught him off guard. He stated that the new project description was called the Calera Parkway but it was not the Calera Parkway. He mentioned that he had sent the Commission a three page history of the language and intent of the General Plan and documents. He stated that, in his opinion, and referring to a lot of old history, the Caltrans Calera Parkway Project was not consistent with the General Plan. He expressed his confusion in trying to find any logic in the newly worded resolution which was called the Calera Parkway even though it is quite different from the Caltrans Calera Parkway.

Victor Carmichael, Pacifica, stated that he agreed that safety was an issue but other plans exist and they address that as well as the so-called Calera Parkway, which he considered a misconception because it was hardly a park. He felt the problem was that, through this terminology, they were trying to smuggle in the link and a way of funding the CIP so that the Calera Parkway predetermines the term, framing of any discussions funded by the city and sets the stage for acceptance of the concept. He added that he has not run into anyone who defends it. He recommended that they do a continuance or vote no on the resolution.

Chair Campbell closed the public comments.

Chair Campbell stated that, if they were talking about the language being consistent with the General Plan and was talking about having some meetings to discuss safety and other improvements to Highway 1, he was all for that, adding that, if Commissioner Vaterlaus was correct, this also encompasses a frontage road, and they were in agreement. He heard arguments in favor of continuing the item and making clear that meetings about safety, etc., and changing the title by removing Calera Parkway from the title. He would also recommend putting the map that appears in the General Plan on page 92.

Commissioner Gordon thanked the public for their participation and staff for their work in defining the project. He felt they have gotten half way there. He felt it was very important to have a transparent process that the public can understand, follow and participate, adding that they captured it when they said you can't change the description and keep the project name since everyone knows what the Calera Parkway refers to. This resolution was talking about the project description as described in the CIP and that was not fair to the public. If they change the project description in the CIP, they must change the project name. He stated that they have a number of

options, to continue with direction to staff to change the project name in a way that is not confusing, mentioning some examples; or approve with the confusion with the name; or include a whereas in the resolution which mentions clarifications which he was not in favor of it. He was in favor of continuing and cannot vote for it as drafted.

Commissioner Brown stated he also cannot vote for it as drafted, mentioning that there was too much record provided with historical context. He also stated that widening does not mean more lanes which is an important distinction. Finally, he stated that it was called the Calera Parkway Project and it deserves a round turn by staff. He encouraged them to work through the chair in order to craft something closer to the mark. He stated that this was a lot of time spent on this and he could not vote for this.

Commissioner Cooper thanked the public for coming out. He thanked staff for taking the effort to revise the language within the CIP. He felt it tries to incorporate what they have all been talking about, specifically the intent of what the money is to be spent for this project, and where it is going to go. He thought it was a great allocation for the money that was put in front of them to spend and investigate the options before them. He thought some of the public comments were excellent. He stated that they have an issue that the General Plan does present a problem that the city of Pacifica does have, anticipated when the original CIP was written. He mentioned that there have been lots of improvements within the area. He stated that he cannot stop the population growth and cannot stop the influx of people coming in to Pacifica. He stated that, if that were the case, when Highway 1 went out, they should have stopped all building on Highway 1 and left Pacifica an isolated region, but they can't just think of ourselves because there was a huge economy within the Bay Area including Half Moon Bay, etc. He didn't have a problem approving the allocation of money for the purpose in front of him.

Commissioner Evans mentioned that they were not able to change the name of the project, and he asked if Engineering could change the name.

Asst. City Attorney Visick stated that the Planning Commission cannot direct Engineering to change the name of the project. He stated that, if Engineering and the city administration were to decide to change the language in the CIP as they did prior to this meeting, they could do that.

Commissioner Evans understood that, and it was his point that the project description was changed completely from the other one, and he hoped that they just forgot to change the name. If that was the case, he would be willing to vote for this if they would change the name to something other than what it is now. Otherwise, he was not in favor of voting as it stands currently.

Public Works Director Ocampo stated that he cannot change the name now.

Commissioner Nibbelin thought, for the reasons articulated by Commissioner Cooper, he would be able to support the resolution with respect to this particular item. He didn't feel there was a need to change the name. He stated that, ultimately, they were talking about operational and traffic safety improvements to both northbound and southbound Highway 1 if it was captioned like that and it would get them a long way to addressing some of what he was hearing. He stated that the general location of the project was clear, and he didn't think there was a great deal of ambiguity. He thought, if they were spending time going around on the semantics of what they actually write on the project name line, he thought it was a lot of effort over something that has a

resolution to it. He would be supportive even if it moved the ball forward maybe a whereas clause along the lines that Commissioner Gordon had articulated. He thought it was wise, even though he backed away from it a little bit, but seems like, if they were to make clear that this does not constitute an endorsement of the particular project as described in the Caltrans EIR.

Commissioner Gordon thanked Commissioner Nibbelin for his comments. He thought that was an interesting proposition. He stated that it was not just changing the project name. He stated that the Calera Parkway appears several times in the resolution itself so he did back away from that. He didn't want to move forward on something that is going to create confusion for the public, which is his biggest concern.

Commissioner Nibbelin stated that he was trying to understand what the particular confusion is that they were trying to address because that may help them more effectively ascertain what they need to fix. He wasn't sensing a lot of confusion, just a lot of disagreement which is natural. He asked what confusion they were concerned about.

Commissioner Gordon stated that it was using a term, Calera Parkway Project, that he would say is commonly understood to have a very specific definition and that, historically, has had a specific definition, both in their deliberations, Council's deliberations, state agencies deliberations. He stated that it was a commonly understood term and for them to use that term here but to mean a very different thing, that was where he was not comfortable and it creates confusion. He stated that the same term has different meanings.

Commissioner Nibbelin assumed that the term, as commonly understood, was the project as described in the Caltrans EIR. He asked if that was the issue.

Commissioner Gordon responded affirmatively.

Commissioner Nibbelin stated that the project description here was narrower and he recognizes that the captioning of it was perhaps unfortunate, but they were talking in a general sense about the same area.

Commissioner Gordon stated that it was not just here. If they were to approve it now, it would go to City Council and they would take a look at the resolution and members of the public would come in to the meeting, and be confused about what they were really talking about, and would ask if they were talking about the Calera Parkway Project. They would have a repeat of the same kind of expressions of astonishment that they had from some members of the public, as well as some of the Commissioners who spent an amount of time trying to figure out what it is.

Commissioner Evans stated that he also had an issue approving something that is not identified in here that was currently in litigation. He didn't think that was a direction at which they should look at. He then addressed Commissioner Nibbelin's question, explaining that, in his mind, it was not confusion as much as it has not been determined that the Calera Parkway Project complies with the General Plan. He stated that, if that was the case, that was why he wants the name off of this document so that they aren't confusing people by saying it is not the Calera Parkway but it was the same idea. He stated that it was not the same idea if the description is just generalized this way, then just generalize the name. That was where he was.

Commissioner Nibbelin stated that he had suggested earlier that, if the name was important, perhaps there was a way to change the name in such a way that they keep the spirit of what they were talking about without referencing specifically the Calera Parkway. He was concerned about the question of something being in litigation. He stated that this matter could be in litigation for quite some time, but it does not mean that the city was going to be in a place where they don't have to spend money to move something forward, notwithstanding dependency of litigations, and he was a little concerned about that comment. He wasn't sure he followed where he was going with that.

Commissioner Evans stated that he felt, if you remove the name, you remove the concern.

Chair Campbell agrees that it goes to the point that the city could be talking and making some determinations. He thought one of the reasons they were in a rough spot was perhaps that it might be time for Counsel to give them some direction and make some decisions. He stated that he was going to make a motion to continue this item. He was willing to work with staff on crafting something that they could bring to a date at the staff's convenience that addresses some of the concerns they heard tonight.

Planning Director Wehrmeister wanted the Commission to discuss the next meeting date. The next two dates in July are the 6th and the 20th. Because the 6th is the Monday after the 4th of July holiday, she was hoping that the Commission can let them know whether or not there will be a quorum. She didn't know if vacations were planned.

Commission Nibbelin stated that he was probably going to be out of town on the 6th, and he was quite concerned about recognizing the majority can decide what they want to do, but he prefers to be present.

Councilmember Vaterlaus said she will be gone also.

Chair Campbell thought this was an item that, for him, he knows they were heading into summer but he would value having all of them present. He thought they all contributed a lot to this discussion and he would hate to lose any voices on that. He thought they could send out

Planning Director Wehrmeister thought she was hearing that, if they are going to continue the matter, perhaps the motion will be to continue July 20.

Commissioner Cooper stated that he had a question for staff. He knows this is a budget related item ultimately, and he knows they are getting into the new fiscal year on July 1. If the will of the majority is to continue it, what impact on the ability of staff to continue to work on items at least until they reconvene. He asked if there was anything that was critical in that 20-day gap in the new fiscal year.

Planning Director Wehrmeister asked if he was referring to this project specifically.

Public Works Director Ocampo stated that, if they are talking about 20 days, he didn't think there would be any impact.

Commissioner Nibbelin asked if they were talking about 20 days. Does this have to go to the City Council or are they talking much more than 20 days.

Public Works Director Ocampo stated that a month will not have an impact.

Chair Campbell moved that they continue this item to meeting of July 20, 2015; Councilmember Brown seconded the motion.

The motion carried 6-1.

Ayes: Commissioners Brown, Nibbelin, Gordon, Evans,
Vaterlaus and Chair Campbell
Noes: Commissioner Cooper

Chair Campbell thanked the public for staying for the item.

Commissioner Evans asked if staff needed any direction from the Commission.

Planning Director Wehrmeister stated that staff understands the direction.

COMMISSION COMMUNICATIONS:

Commissioner Cooper stated that he received an email regarding the Highway 1 widening project. He did not remember who it was from, and he deleted the email and did not read it.

Commissioner Nibbelin stated that he received a similar email and he did read it. He thought it was a comment from someone who came this evening to speak and it was the same material they had in the packet and he did not see any additional material other than that.

STAFF COMMUNICATIONS:

Planning Director Wehrmeister wanted to clarify, for all other items, if they wanted to take a summer break on July 6 or will they have a quorum.

Commissioner Cooper stated that he was available on the 6th, but he would like to hear from everybody else. He stated that he thought the Commissioners have a genuine interest in the subject so he thought it was prudent to have everyone present for the next go-around.

Planning Director Wehrmeister stated that she was talking about in general.

Chair Campbell assumed it was for other matters.

Planning Director Wehrmeister responded affirmatively.

Commissioner Vaterlaus asked if they have anything coming forward such as 7-Eleven.

Planing Director Wehrmeister stated that there were no pressing matters at this time. She stated that it was not unusual for boards and commissions to take a break during the summer.

Commissioner Cooper asked if they could make a motion to not have a meeting on the 6th.

Commissioner Vaterlaus moved that they not have a meeting on July 6, 2015; Chair Campbell seconded the motion.

Commissioner Nibbelin thought they probably should not take action on that, as it isn't agendized from the Brown Act perspective. He stated that they can let her know that they don't want to have a meeting on the 6th.

ADJOURNMENT:

There being no further business for discussion, Commissioner Brown moved to adjourn the meeting at 11:34 p.m.; Commissioner Nibbelin seconded the motion.

The motion carried 7-0.

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

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister