

**MINUTES**

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

October 17, 2011

7:00 p.m.

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

**ROLL CALL:** Present: Commissioners Brown, Gordon, Langille, Leon, Evans  
and Chair Campbell  
Absent: Commissioner Clifford

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

**STAFF PRESENT:** Planning Director White  
Assistant Planner Farbstein

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

The motion carried **6-0**.

Ayes: Commissioners Brown, Gordon, Langille, Leon, Evans  
and Chair Campbell  
Noes: None

**APPROVAL OF  
MINUTES:  
SEPTEMBER 19, 2011** Commissioner Leon moved approval of the  
minutes of September 19, 2011; Commissioner Langille  
seconded the motion.

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

Ayes: Commissioners Brown, Gordon, Langille, Leon, and  
Evans  
Noes: None  
Abstain: Chair Campbell

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF OCTOBER 24, 2011:**

None.

**CONSENT ITEMS:**

None.

**PUBLIC HEARINGS:**

- 1. CDP-329-10 USE PERMIT and COASTAL DEVELOPMENT PERMIT,  
UP-017-09 filed by the applicant and owner, James Payne, to operate a  
range of C-3 (Service Commercial) outdoor uses at 800 to 1046  
Palmetto Avenue, Pacifica (APN 009-074-070, 080, 090, 100, 110,  
140, 160 and 240).**

Assistant Planner Farbstein presented the staff report.

Commissioner Evans stated that he had refreshed his mind by reading the original permit application. He asked if the applicant had turned any reports in following the approval.

Planning Director White explained that there had been no activity on the application beyond communication between staff and the applicant regarding getting an environmental consultant on board.

Commissioner Gordon recalled that the applicant had listed about 29 wide ranging uses to get approval ahead of time to lease the properties. He thought the consensus had been that it wasn't the way to go procedurally. He wasn't surprised that there was no review done. He felt it didn't make sense to begin with. He was curious about the content of the communication between the applicant and staff. He asked if they were moving forward.

Planning Director White agreed that there were a wide variety of uses proposed. They subsequently talked to the applicant to convince him to narrow the scope of uses, and they did two different sets of requests for proposals with the environmental consultants, adding that even after the second set, the applicant didn't follow through on it. He concluded that the applicant was unwilling or unable to do the appropriate level of environmental review to support the project. He received one extension but that was coming to an end and the City was obligated to take action and, given that they didn't have any environmental documentation to support the request, the only recommendation was to deny the project.

Chair Campbell acknowledged that the applicant was not present.

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

Commissioner Gordon felt it was good that they were going to deny the application, and he was in favor of denying it. However, he felt the applicant needs some kind of communication from staff, stating that he assumed he needed to come up with some uses that were non-controversial, given the sensitive area.

Planning Director White agreed that it would be either that or uses that would allow them to successfully perform the environmental reviews necessary to bring it forward for decision. He stated that was the stumbling block, because they couldn't get past the point where the applicant agreed to do the environmental work necessary. Without that, staff could not proceed in a positive way.

Commissioner Gordon stated that he didn't know what tenant would come along.

Planning Director White agreed, adding that he was anticipating a future without a tenant lined up. He was merely thinking of uses that might work, and staff was attempting to try to do the appropriate level of environmental review for all those uses.

Commissioner Gordon didn't think that would fly.

Planning Director White thought it was difficult and one reason the environmental review wasn't done was the cost. He wasn't completely sure of that, but it was the sense he got.

Commissioner Gordon stated that he had read the minutes and he asked the significance of indoor versus outdoor use.

Planning Director White explained that the code had sections which related to outdoor uses and kicked in during a discretionary process. With indoor uses, they were not normally as problematic and, in many cases, they can approve them administratively but, once outside, the code was specific about needing a special permit to do outdoor uses.

Commissioner Gordon stated that he was looking for a way to give the applicant direction on what was going to be controversial and tough and what was not going to be tough.

Planning Director White stated that they have had those types of conversations with the applicant on a number of occasions but they were never able to move beyond that point.

Chair Campbell understood that there had been a number of communications between the applicant and staff.

Planning Director White agreed.

Commissioner Evans understood what the applicant was trying to do. He understood he was trying to get his land used and he felt for him but there was nothing they could do as a body at this point because there was no environmental report or a definition of what the business would be. He felt that they could talk all they want, but they were very limited in what they could do.

Planning Director White agreed, adding that their only available action was to take staff's recommendation. He stated that they wouldn't be bringing this forward if they didn't have to. He stated that they were not trying to bring projects for denial; however, in this case, because of the eight months' time since he was last before the Commission, they didn't have any choice. He explained that he could come back with a different application and the Commission could deny the application without prejudice. The applicant could return tomorrow and reapply but the problem was that the clock was ticking.

Commissioner Evans acknowledged that he felt for him but he didn't think the Commission had a choice. He hoped the applicant would return to staff with different plans but he didn't see how they could do anything now.

Commissioner Leon also went through the staff report, testimony and deliberation from the prior meeting. He agreed with the Planning Director's conclusions in the present staff report where the environmental review needed as detailed a project description as possible, but wasn't really possible because of the format. He saw that there couldn't be a fruitful end. He commented that

they had gone all around it but that, because there was no project description, how could one proceed. While they tried to work with him and make it as easy as possible, he was prepared to make a motion once deliberations were done.

Commissioner Langille agreed with Commissioner Leon that you needed a concrete project description to be able to move forward with an environmental review process. She referred to a reference regarding the scope of work for the environmental consultants, asking if that was city staff or outside staff.

Planning Director White explained that staff prepared a request for a proposal and sent it to a number of outside environmental consultants. He stated that they had received three responses with a wide range of costs, adding that they did it twice because the description changed slightly.

Commissioner Langille referred to the past minutes where a number of different parcels, with buildings and without, were listed, and Assistant Planner Farbstein referred to the fact that, with an intensification of use, there was greater review required. She agreed that, because it was a sensitive site, they needed more information and the review process. She agreed that they didn't have the information necessary to move forward. She felt staff had done a good job trying to help the applicant and they needed to figure a way to limit the uses to something that would be doable.

Chair Campbell was in agreement that they can't move forward without something before them from the environmental review process.

Commissioner Leon moved that the Planning Commission find that the project is not exempt from CEQA, **DENY** UP-017-10 and CDP-329-10, and adopt findings contained in the October 17, 2011 Agenda Memo, and incorporate all maps and testimony into the record by reference; Commissioner Brown seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Brown, Gordon, Langille, Leon, Evans  
and Chair Campbell  
Noes: None

**CONSIDERATION:**

2. **Consideration and possible (1) rescission of the motions related To the Calera parkway Draft Environmental Impact Report made September 19, 2011, (2) declaration of testimony thereon to be null and void, (3) acknowledgement of independent corrective actions taken and (4) commitment to attend a Brown Act compliance training.**

Chair Campbell presented the brief report, then made a statement to the effect that the Planning Commission takes compliance with governmental transparency laws very seriously and recognized the importance of providing public access to the decision making process. To address the issue, they were taking specific significant and substantial corrective actions. The first action was to formally rescind all three motions on the topic at issue on the September 19, 2011 Planning Commission meeting, i.e., scheduling an October 3 informational meeting, scheduling an October 17 Planning Commission hearing on the draft environmental impact report for the Calera Creek Project and directing staff to request an extension of the comment period to November 17.

Commissioner Leon moved that the Planning Commission **RESCIND** the three motions related to the Calera Parkway Draft Environmental Impact Report (DEIR) made September 19, 2011; Commissioner Gordon seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Brown, Gordon, Langille, Leon, Evans  
and Chair Campbell  
Noes: None

Chair Campbell then stated that they were going to declare any testimony on the matter made at the September 19 meeting to be null and void.

Commissioner Gordon moved for declaration of the Planning Commissioners' testimony made regarding the Calera Parkway draft environmental impact report as null and void; Commissioner Langille seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Brown, Gordon, Langille, Leon, Evans  
and Chair Campbell  
Noes: None

Chair Campbell stated that they also wanted to acknowledge the corrective actions taken thus far in regard to this matter, i.e., October 3 and 17 meeting on the draft environmental impact report where they would discuss said report were cancelled, and they acknowledged that the City Council independently addressed the issue of the draft environmental impact report extension at a duly noticed public meeting which gave the public the opportunity to participate on the matter.

Commissioner Gordon moved that it be acknowledged that the Planning Commission meetings related to the DEIR have been cancelled and the City Council has independently addressed the issue at a duly noticed public meeting; Commissioner Brown seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Brown, Gordon, Langille, Leon, Evans  
and Chair Campbell

Noes: None

Chair Campbell stated that there was a final issue to be addressed at this meeting, which was a recommendation that the Commission attend a Brown Act training seminar which would be scheduled through the City Manager's and City Attorney's offices. He didn't think it required a motion but he asked if the Commissioners were interested in attending that type of training. He then asked that the record reflect that all Commissioners were in favor of that training and would welcome it because they do take compliance with governmental transparency laws seriously. He then concluded that they have addressed the matter in a very substantive and significant way.

**COMMISSION COMMUNICATIONS:**

Commissioner Leon reported, as a liaison to the City Council meetings where they considered the Planning Commission recommendations on the General Plan update for the land use issues. He stated that every item was dealt with by the City Council with one suggestion. Councilmember Vreeland suggested that they have a joint study session to discuss the one item that they agreed to continue, which was the Pedro Point Calson property. He assumed that they would receive some direction from staff when the time and place for that was decided.

**STAFF COMMUNICATIONS:**

None

**ORAL COMMUNICATIONS:**

None

Chair Campbell stated, for clarification, that the second matter they addressed on the Calera Parkway DEIR was a consideration item and no public comment was necessary.

**ADJOURNMENT:**

There being no further business for discussion, Commissioner Gordon moved to adjourn the meeting at 7:20 p.m.; Commissioner Langille seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Brown, Gordon, Langille, Leon, Evans  
and Chair Campbell  
Noes: None

Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director White