

MINUTES

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

April 2, 2012

7:00 p.m.

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

ROLL CALL:

Present: Commissioners Brown, Clifford, Langille,
Campbell, Leon, Evans and Chair Gordon
Absent: None

SALUTE TO FLAG:

Led by Commissioner Clifford

STAFF PRESENT:

Planning Director White
Associate Planner Diaz
Assistant Planner Horrisberger
Associate Engineer Donguines

**APPROVAL OF ORDER
OF AGENDA**

Commissioner Leon moved approval of the Order
of Agenda; Commissioner Clifford seconded the motion.

The motion carried **7-0**.

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

**APPROVAL OF
MINUTES:
MARCH 19, 2012**

Commissioner Evans moved approval of the
minutes of March 19, 2012; Commissioner Clifford
seconded the motion.

The motion carried **6-0-1**.

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

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF APRIL 9, 2012:

Planning Director White stated that there were no Commission related items on the agenda which required a liaison.

CONSENT ITEMS:

None.

PUBLIC HEARINGS:

None.

CONSIDERATION:

1. **EXTENSION OF PERMIT to exceed the Hillside Preservation District lot coverage limitation, for the construction of a bed and breakfast inn, at 130 Dardenelle, Pacifica (APN 018-113-060).**

Assistant Planner Horrisberger presented the staff report.

Commissioner Leon commented that they had recently had requests for extensions that, because of expired building permits, the applicant had to comply with certain ordinances, such as Green Building, that had come into play since original approval, and he asked if there were any such situations such as new conditions coming into play in this case because of this being a third extension request. He acknowledged that it would not be something that the Commission would have to approve, but wondered if such situations would apply for this applicant.

Assistant Planner Horrisberger stated that the one change that she recalled was the Green Building Ordinance, and that would apply during development or the building permit process. She reiterated that they were extending the development permit but the applicant would still need to apply for the building permit and that ordinance would apply.

Commissioner Leon stated that the Commission had sent to the Council for approval in-lieu park fees which the Council had passed and he asked if that would also come into play.

Planning Director White explained that those fees were collected at the time of the building permit and they would be in place at the time of this project's application, then briefly explained possible exceptions.

Commissioner Leon stated that he brought this up because, within the last 2-3 years, there have been a number of new requirements for applicants. He stated that the number of extension requests seen were unique in the Bay Area, and he thought there might be some surprises for applicants who were not aware that these things have changed.

Commissioner Brown stated that he concluded from staff's report that it wasn't that we have more extension requests but that we allow more extension requests. He thought the information provided clarified that most cities in the Bay Area allowed one extension if they have submitted plans. He then asked if any plans or permit requests were submitted other than the one five years ago.

Assistant Planner Horrisberger stated that the variance has been extended twice but the applicant has not submitted for a building permit.

There were no public comments.

Commissioner Brown stated that he was not a fan of granting extensions without any action on behalf of the applicant. He stated that this application was presented five years ago, and there were changes to the requirements since then, and he thought this should require a full review and not just a simple extension. He gathered that Pacifica was quite lenient on extensions compared to other cities. He thought it could put the City in a bind by approving something that was contemplated many years earlier, and he wasn't comfortable being in a position where an

extension was treated as something routine when it is not the case in other cities. He encouraged the Commissioners to consider taking a different approach to extensions.

Commissioner Evans appreciated Commissioner Brown's thoughts, and thought they had discussed that during review of previous extensions, which he assumed was the reason they had the third item on the agenda to discuss what they would like to do. He stated that currently the City had no rulings against extending permits many times. He agreed that they need to do something, hoping they could start the discussion on that at this meeting with a review of neighboring cities' policies and come up with some ideas. However, he was concerned about not allowing one person who has been in the stream already by all of sudden changing the rules. He felt they should go step by step, putting the rules out as information, and then assess the review.

Commissioner Leon stated that he was surprised, since he thought the applicant had submitted plans. He felt there was a gap in the process and he thought they needed a clear distinction when the applicant has applied for the building permit and has approved plans. He asked if staff would like to weigh in on that.

Planning Director White stated that there were no requirements that plans be submitted. The permits were expiring because the plans were not submitted and building permits were not issued, and the code does not require that. He added that they were probably seeing all the extensions because of the present economic times. He stated that the question before them was whether they want to extend the project or not. If they don't, they will have to put in the record why they feel there are significant changes to the conditions related to this project that would not support an extension. He thought it was a simple matter, adding that it was hard not to extend a project unless something significant has changed and they do not know of anything in this case. He stated that this was a narrow decision, because they were not re-reviewing the project which was approved years ago. They were merely deciding whether or not to grant the extension, adding again that the code itself does not require that a building permit be submitted. He thought that might be a deficiency in the code and they would need to discuss that later in the agenda. He reiterated that, with this project, they were left with saying they will extend and, if they don't, they have to provide findings for the record to justify that decision.

Commissioner Leon agreed with Commissioner Evans' statement that, if they were going to make an expectation on an applicant, they should weigh in as a Commission rather than make a determination on this project. He commented that the order of business gave the advantage to the applicant because this request was prior to the discussion on extensions in general. Commissioner Leon stated that, in the future, he would prefer to see a mention of whether building plans were submitted or not so the Commission knows that before they come to the meeting.

Planning Director White thought they did that but, in this case, they hadn't been submitted so they didn't actually say they hadn't been, but he thought they could plan to specifically say that in the future.

Commissioner Leon stated that he was leaning toward extending the permit on this request and then seeing what the thinking of the Commission was on Item #3 regarding the extensions.

Commissioner Langille thought this was an odd project, and possibly there was a loophole in the municipal code that allowed this project to go forward but that, now, that loophole was closed.

She wasn't sure what would happen if they didn't grant the extension. She was asking for some clarification.

Assistant Planner Horrisberger stated that, if they were to deny the extension and the applicant had to come back, the project would be subject to additional permits besides just the variance because of how the code has been changed.

Commissioner Langille stated that she was a little bit on the fence, but she was leaning toward granting the extension. She thought it would be nice if the applicant came and argued his case, but they did have his letter explaining that it was because of the economy which she thought was a valid reason and she was inclined to grant the extension.

Commissioner Campbell thought extending it would be in accord with past pattern and practice, good or bad. He was mindful that they don't want to extend things for a long period of time, but his thinking was that he voted for it previously and he didn't see a change in circumstances and he was inclined to vote approval again. He mentioned that there was another project a few meetings ago that he would not have approved had he been on the Commission at the time, and he thought it would be coming up for an extension next year and he would likely abstain from voting. He thought it would be a case by case thing.

Chair Gordon agreed that this was a very odd project that passed because of a loophole. He stated that it was a hybrid single family residence that operates as a bed and breakfast ten days out of the year. He stated that there was probably still the same kind of consumer demand for those ten days as when they approved the project, and he didn't know of any circumstance that would justify denying the extension. He stated that Commissioner Langille brought up the interesting point that the loophole has been closed and, if they denied it, the hurdles would be much greater for the applicant. He added that he didn't think it was proper for them to deny it and he would be voting in favor of extending it.

Commissioner Clifford stated that for some of the reasons stated, he would be voting to extend the permit, adding that he was the one who brought up Item #3 so everyone knows he was interested in discussing changes to the rules but the rules are in place now and that was why he would be voting for this.

Commissioner Brown stated that he had done some research before the meeting and he couldn't find a single one bedroom B&B in California, adding that probably some do exist but nothing came up. He stated that he didn't see any good practices for B&Bs that addressed operating less than half the year. He thought a one bedroom operating ten days a year sticks out to him as a loophole. He was interested in the loophole, what was changed and how that is not a significant change, because he was hearing that, if it were to come up again as a new project, it would have to meet new requirements which he thought was a significant change in circumstances affecting the project.

Assistant Planner Horrisberger referred to the staff report from 2008 where it discusses the municipal code standards. She explained that there were two conflicting code sections within the general provisions in Article 23, briefly mentioned the specific wording regarding requiring a special use permit except in the Hillside Preservation District, and clarifying that it wasn't related to the operation of the B&B but to the location of it. She stated that by the end of the meeting, the applicant was opting to use it as a B&B more than ten days a year.

Chair Gordon thought Commissioner Brown raised an interesting point. He stated that the changed circumstance was an act of Pacifica that created the changed circumstance and he thought it would be unfair to the applicant to use that as a basis to say that the city changed the circumstances and now he has to come back to go through extra hurdles. He thought that wasn't necessarily the kind of changed circumstances that the rules were envisioning.

Commissioner Leon recalled the discussion and conditions. He thought there was a public vote on the change under the old guidelines. He thought part of the in-lieu park fees includes a transit occupancy tax, B&Bs will be contributing part of the fees collected for the state and there was a benefit to the City. He stated that he was ready to make a motion.

Commissioner Leon moved that the Planning Commission find the project exempt under the California Environmental Quality Act and approve PV-496-08 subject to conditions 1 through 23, based on the findings contained within the December 15, 2008 staff report and all maps, documents and testimony be incorporated herein by reference.

Chair Gordon asked if that was the right motion.

Commissioner Leon moved that the Planning Commission **EXTEND** Variance, PV-496-08, to exceed the Hillside Preservation District lot coverage limitation at 130 Dardenelle for one year, to April 2, 2013; Commissioner Evans seconded the motion.

The motion carried **7-0**.

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

2. Adoption of Resolution Certifying that Vacation of Portions of Olympic Way and Pompellan Way conform to the General Plan. Recommended CEQA status: Exempt.

Associate Planner Diaz presented the staff report, adding that Associate Engineer Donguines was present to answer any questions.

Commissioner Clifford asked what kind of maintenance or liability the City has on the vacant hillside.

Associate Engineer Donguines stated that currently there was none, but it would be of benefit to get it off the City's maintenance. It was a paper street that the City doesn't maintain but it was dedicated to the City as a right-of-way and it could be a possible maintenance issue.

Commissioner Clifford asked what kind of maintenance issue the City would have out there. He was there before the meeting and it was just a hillside.

Associate Engineer Donguines stated that it might be landscaping, or landslide or potential erosion issues.

Commissioner Clifford asked if the liability would be tied to a potential landslide. He stated that he was curious because he sees a lot of land in Pacifica that is hillside and no maintenance was done and there was no liability, so he wasn't seeing that there really was maintenance. He acknowledged there could be liability if someone decided to ski on the grass and go off the hill and down on Shelter Cove. He reiterated that he would like to know what the maintenance and liability was.

Associate Engineer Donguines stated that, with all right-of-ways, there was the potential for maintenance and, if they take it out, they won't have that potential.

Commissioner Clifford referred to the map showing the two parcels proposed for abandonment, and a funny little square, with a notation about a skate ramp. He asked what the square was.

Associate Engineer Donguines stated that there was a structure, which was the skate ramp, and the surveyor chose to show it because the property owner wanted to know where that was with respect to his property.

Commissioner Clifford concluded that the skate ramp takes over a tiny portion of their property. He asked if the rest of Pompellan Way has been abandoned already.

Associate Engineer Donguines responded affirmatively.

Commissioner Clifford asked if they were assigned to the various lots that were out there or asked how it was handled if the City abandons a right-of-way. He asked what happens to the property because it obviously still sits there.

Associate Engineer Donguines stated that it would fall back to the subdivision which originally created the lots and the right-of-way. It could also be acquired by the adjacent property owner

because they are entitled to 50% of the right-of-way or to the center line of the right-of-way that was abandoned.

Councilmember Clifford asked if they were entitled to purchase it or just take it.

Associate Engineer Donguines stated that they can take it or file a quit claim or survey that will change ownership of the property.

Councilmember Clifford asked how they deal with anything beyond the center line.

Associate Engineer Donguines stated that the adjacent property owner has the right to the other side.

Councilmember Clifford stated that, in this particular situation, it didn't look like anyone owns property on the other side because that was just the ocean.

Associate Engineer Donguines thought the other side might belong to the Shelter Cove property.

Councilmember Clifford assumed the property they were planning to vacate would be split in half and could be taken without any compensation to the City.

Associate Engineer Donguines stated that they were only asking for the abandonment of half of Pompellan so the other half will still be part of the right-of-way. He stated that this particular property owner only requested this portion to be vacated as was done with the northern part of Pompellan Way.

Councilmember Clifford stated that he was asking all these questions because this was the first time he has been through an abandonment and he really wanted to know what the process was before he voted for it, adding that he wasn't certain that he was. He then recapped that there was a request for vacation of Parcel 2 and Parcel 1, with Parcel 2 being the only part that will give owners of Lots 31 and 30 access to their property. He stated that the one on Pompellan Way didn't give them any access.

Associate Engineer Donguines responded affirmatively, stating that it was the back portion of the house and there was no access with the rest of Pompellan.

Councilmember Clifford asked if there was any reason why the City would abandon it.

Associate Engineer Donguines stated that it would be an island all by itself.

Councilmember Clifford stated that, if they only got half of Olympian Way, there would still be a place to put a trail to what would be City property. He wasn't certain it was to the City's benefit to vacate everything and let someone else grab it up. He understood that Lots 31 and 30 should have some kind of access so they can actually use their property because now it is landlocked. However, he was not convinced that vacating everything was the way to go. He asked what would be the reason for the City other than paying for maintenance which we were not doing.

Associate Engineer Donguines stated that, since those portions of Pompellan Way were already abandoned, it was like continuing and connecting it to the Olympian Way post abandonment.

Councilmember Clifford asked if there was a potential to only abandon half of Olympian Way and still give them access since they can only go to the center line anyway unless the City was making a gift of the whole thing.

Associate Engineer Donguines stated that they could ask for less but this time they requested the 3,000 sq. foot.

Commissioner Campbell asked if people paid for the property that was abandoned by the City.

Associate Engineer Donguines stated that the only thing they pay was for the City to process the abandonment.

Commissioner Campbell asked if that was something routine in other municipalities or just Pacifica.

Associate Engineer Donguines stated that the City only owned the right-of-way which was dedicated to the City by the subdivision. If they abandon it, it reverts back to the subdivision which was owned by the property owners and they get it.

Commissioner Leon asked for confirmation that currently the land was unimproved, with no structures and nothing developed on the property.

Associate Engineer Donguines stated that Pompellan Way was never developed. He stated that it was always a paper street and the City doesn't have any plans to develop it.

Commissioner Leon referred to the Commission addressing paper streets in the past and stated that he raised this question because the City was asking for a CEQA exemption because there was not going to be any improvement or change in the property. If the property was undeveloped and the sole purpose was to gain access to the property, he concluded that there would be road improvements to gain access which must conform to the City requirements and he wasn't totally comfortable with CEQA exemption as stated in the staff report. He then referred to Commissioner Clifford's remarks regarding one-half of Pompellan Way being abandoned for the two adjacent properties. He then referred to Lots 29, 28, 27, 26, 25 and 24, and asked how we abandon half. He referred to the mention of half going to this property owner and half going to someone else if they claim it. He asked if the existing property owners have the right to build access onto the half they haven't been granted.

Associate Engineer Donguines assumed that, in theory, the other half that was not abandoned was still a right-of-way.

Councilmember Leon understood that but asked how these property owners gained rights to the half that was not abandoned. He asked if they needed further approval.

Associate Engineer Donguines stated that, if the other half was abandoned, it would go to the property on the other side.

Councilmember Leon asked if that freed up the property for the landlocked lots. He asked what rights they have to Pompellan Way with half an abandonment. He asked if that required other actions on their behalf, such as title issues, and how they would proceed. He stated that he was

not prepared to do anything until he understood what the requirements were and what the ramifications were from what they were doing. He stated that one possibility that was not even addressed in the staff report was that the City would grant a legal right-of-way roadway access onto the two lots. He stated that they have had many requests for building applications on lots that were smaller than these two combined, and he wasn't comfortable proceeding. He was seeing more questions than answers at this point.

Commissioner Evans thought one of his questions might clear this up if he understood it correctly. He asked whether the center line of the street to Lots 31, 30 and 29 was, in essence, the center of the property line and the other side was the property of the Shelter Cove group with the City's right-of-way running through the middle of that.

Associate Engineer Donguines stated that the one labeled south 18'35'00" west 58.48 was the center line of Pompellan Way.

Commissioner Evans understood that, adding that the other side of the line was the same thing, but the property of the Shelter Cove group and asked if the action being asked tonight also happened to the other two pieces of property on Pompellan Way that were abandoned over Lots 29, 27, 26, 25 and 24, in the same way they were asking for in this item.

Associate Engineer Donguines acknowledged that they were previously approved for abandonment in the same way they were asking with this item.

Commissioner Evans asked if they were merely matching up what has already happened with the other six lots.

Associate Planner Lee Diaz responded affirmatively.

Commissioner Evans referred to the staff report which stated that the Commission did not have any authority regarding approval or denial of the proposed vacation, but was merely limited to determining General Plan conformity. He assumed that was the bottom line and they didn't have the right to say no, only the right to determine if it conforms to the General Plan.

Associate Engineer Donguines responded affirmatively.

Commissioner Campbell asked when the other abandonments abutting Lots 28 through 24 were done.

Associate Engineer Donguines stated that he had tried to get that information from the surveyor but it was not provided to him. He would forward it to him when he gets it.

Commissioner Campbell asked if there was a sense of decades ago or years ago.

Associate Engineer Donguines stated that it was years ago, possibly the 80s or 70s.

Commissioner Leon concluded that they did abandon half to those adjacent lots. He asked what improvements they have made to the abandonments.

Associate Engineer Donguines thought there were none.

Commissioner Leon then assumed the land was in the same position as it was when it was abandoned.

Associate Engineer Donguines responded affirmatively, adding that the property became bigger and maybe became their backyard rear setbacks.

Commissioner Leon understood the desire of an applicant to want access, adding that there were many situations where paper street lots were landlocked and understood that the responsibility for the development of paper streets, by and large, falls on the property owners, not the City. He concluded that they have two adjacent pieces of property that were under consideration and he could see where the narrower piece would give access required for future development. However, he thought the abandoned property would equal the entire size of the two lots that are currently owned by the applicant. He didn't understand why the City would give away 2,500 sq. feet of property. He was trying to understand that, knowing that the General Plan is a reasonable document. He felt whatever they approve needed to be reasonable.

Commissioner Langille understood that their authority was limited to determining the General Plan conformity, and some of the questions raised an issue in her mind. She understood the point was to grant access to the landlocked parcel and it made sense, and any project that came forward would be another round of approval. She thought that, technically, besides access, the applicant could use a portion of the abandoned parcel to put structures on it to make improvements. She asked if that was correct.

Planning Director White responded affirmatively.

Chair Gordon opened public comments.

Karl Baldwin, 111 Olympian Way, stated that his property was immediately adjacent to the proposed abandonment. He stated that his first concern was that his first indication of this action was when a member of the Planning Commission was visiting the site earlier in the day. He asked if any notice was published or mailed to property owners regarding any action.

Chair Gordon explained that this was not a question and answer period and he asked that he continue with his views and they will try to address any questions later.

Mr. Baldwin reiterated that no notice had been given to the adjacent property owners of the proposed abandonment or possible development on another parcel of land. He felt, unless they had an opportunity to prepare information, it would be grossly unfair to take any kind of action at this time because it definitely affects his property. Possible development of a substandard parcel adjacent to his property also affects his property. He stated that he was not in a position to make any kind of a case at this time but he would protest any action. He felt, if they proceed with anything, he thought they were obligated to notify adjacent and nearby property owners as is done in any other kind of similar action. He reiterated that he was not in a position to debate or evaluate the proposal because he has not seen any material information.

James Donnell, 469 Hill Street, stated that he and his wife inherited the property from his parents. They bought it when his father came back from World War II in the 40s with the intention of building a house in which they would retire. He stated that he was now in a position of deciding what to do with the property and came to the conclusion that, without access, there was really no

option since it was landlocked. However, when his parents first purchased the property, on paper at least, there was access. He concluded that the situation has changed since the 40s to the present in that the access it supposedly would have never come to be and that was why he was asking for half of the Olympian Way to the center line which would then give the access back which was there originally when his parents purchased the property. He mentioned that the half of Pompellan Way was doing what the other property owners had done previously. He felt that, based on that, it seemed appropriate to ask for that also because it was on a grade and he will have to make some special concessions if he were ever to build on it. At this point, he was not asking to build on it or build a road or have anything other than a vacation. The one on Pompellan Way was in line with what has happened previously, and the other was to give back access that his parents had when they purchased the property.

Suzan Getchell-Wallace, Pacifica, stated that she has been assisting Mr. Donnell in the process and she was clarifying that he was merely trying to gain access to the property and take advantage of a vacation similar to the neighbors who have enhanced their property. She stated that all the downhill area goes straight down to Shelter Cove. She knew that, because of the lot being so small with no access, he was asking for another 3,000 sq. feet. She mentioned that he would have to account for the slope in any kind of building on the property. He was trying to get access and do what the neighbors have done to enhance their property.

Chair Gordon closed public comments.

Commissioner Clifford asked staff if any notice was given to the adjacent owners in the area.

Associate Planner Diaz stated that there was no notice given because it was not required. He explained that what was before the Commission was merely to determine if it conforms to the General Plan or not. After they determine that it conforms to the General Plan, it will then go on the City Council, and he was not sure if there was any notice at that time for the approval of the actual vacation.

Associate Engineer Donguines clarified that it would be a public hearing and it would be noticed to approve the right-of-way vacation by the City Council.

Commissioner Clifford asked Mr Baldwin if he heard the answer, which was that there was no notice for this particular action because they were merely deciding if it conforms to the General Plan, but if they confirm that, there will be a public hearing at the City Council level and there will be notice at that time and he will have an opportunity to speak to this issue at that time.

Commissioner Campbell wanted to be clear about what it means to be in conformity with the General Plan. He appreciated Commissioner Evans for clarifying that they were doing that at this meeting. He referred to the staff report explaining that paper streets were created as part of old subdivisions with less stringent standards and laid without regard to topography and would require ordinance revisions and creative use of City's powers. He wondered if the solution of a finding that the vacation was in conformity with the General Plan was stating that such paper streets should be vacated and given and that would be in conformity with the General Plan.

Planning Director White didn't think it would go that far because that would be policy which the Council would deliberate on. He assumed, if the vacation occurred, it would then result in being in conformity with the General Plan.

Commissioner Campbell thought that was a different way of saying it. His concern was that the solution of old paper streets was to complete them, which would seem odd to do that.

Planning Director White thought the compelling factor was that these streets may not be able to be completed due to topography and other issues, and the question would be why hold on to the rights-of-way if that was the case.

Commissioner Campbell stated that they were not voting on CEQA at this time.

Planning Director White stated that staff has determined that the exemption would apply, as mentioned by Commissioner Leon. The action being taken would be to make a statement about General Plan conformity, not to actually vacate the right-of-way.

Commissioner Campbell understood, but added that to state that it was in conformity, it would start the process down the road.

Planning Director White explained that, presumably, the action they would be taking was to make a statement about conformity with the General Plan and that relates to the CEQA exemption as an existing right-of-way. He added that Council would have to make other findings if they decide to approve this vacation.

Commissioner Campbell stated that he wanted to be sure that what he was not doing was approving paper streets that were laid without regard to topography in the past were in conformity with the General Plan.

Planning Director White felt that was just the reason why, in this particular case, the vacation makes sense. He didn't think they would be able to say that in every case but in this case topography wasn't considered because he didn't think you could put a street there. He added that they all have to be taken on a case by case basis.

Commissioner Evans stated that it has already happened to the other two lots on which they had a vacation. He then mentioned all the other lots and asked if the act conformed to the General Plan already.

Planning Director White stated that he didn't know if they did the research on the previous abandonments but, if they were the same code requirements at that time, then that would have been a requirement of the Commission and Council at that time as well. Since he didn't know the exact date, he could not say.

Commissioner Evans assumed that it already happened back in the 70s or 80s.

Planning Director White stated that the abandonment happened relative to the process at that time, which might have been the same.

Commissioner Evans stated that they would have to come up with some reason that this didn't conform to the last two, if they denied it.

Planning Director White stated that the question was that they make the case that it conforms or it doesn't. If it doesn't, they would probably be looking to the Commission to indicate the findings that say that it doesn't conform.

Commissioner Leon understood that their scope was narrow but he believed that, if they see anything in the staff report for which they have questions, it would be incumbent on them to ask questions. While he knew they would not be weighing in on CEQA at this meeting, he would like it on record that it was a concern to him that, when the appropriate time comes, whoever is hearing that will read their comments and know that, if the sole purpose was to gain access to this property, then to say there will be no improvement or change such as a building didn't match up. He then referred to mention of the proposed vacation as not involving expansion of use. He felt that meant that it was currently not being used, was in a natural state, and he asked how that sentence made a case.

Planning Director White stated that the existing use was a residential lot and it will continue to be a residential lot.

Commissioner Leon stated that it didn't back up CEQA as far as public or private structures being constructed, although he knew they weren't considering that. However, he knew that decision makers will read the comments in the minutes and he wanted it duly noted that there was an issue. He was attempting to arrive at what really happened, stating that they didn't even know when the other lots were half vacated. He stated that Pacifica became a city 50 years ago, and they inherited the paper streets from the County but the City didn't improve paper streets which are all over the city and dying for improvement. He reiterated that they don't even know the background, and he has an issue in making decisions regarding the formulation of a decision without any background information. He felt it was incomplete and he questioned the point of what they were doing and felt it should lead to some benefit to the City, and he didn't see the benefit if nothing was happening. He was looking for direction regarding the benefit.

Commissioner Clifford thought they were vacating the property because it cannot be used as a street but, at the same time it will be turned into access for these two lots. He questioned how it could be access to the parcels if it can't be a street. He asked staff to explain that to him.

Associate Engineer Donguines stated that an actual street would be a minimum of 20 feet, but for a specific driveway, it could be as little as 12 feet. He stated that, with Olympian Way, it would give them access to their property.

Commissioner Clifford asked if there was a process to give them an easement for the 12 feet they need for access, rather than abandoning 3,600 sq. feet of property.

Associate Engineer Donguines thought it was possible that the City could grant easement over a right-of-way but he wasn't sure what the process would be.

Commissioner Langille thought this was a unique situation and she was conflicted about going further than the scope of their authority. She thought, if they recommend this to the City Council and the property was abandoned, the owner of the adjacent property could build on to the adjacent parcel. She understood that they would have to go through a whole process to acquire the title to it. She wasn't sure if it was a fairness issue or if there was a compensation issue or if the City was giving away something for nothing, since the City had the right-of-way but didn't

hold title to the property. She thought, if just for access, it was a black and white situation but if it ends up resulting in the applicant acquiring title to a generous piece of property, she was not sure. She stated that the resolution was a little unclear. She agreed that the topography of the area didn't bode well for any structure along the edge, but there was a usable portion.

Commissioner Brown found the conversation fascinating and it brought up a lot of issues. He was glad they were being aired. He then addressed the charter and he felt they had succeeded in bringing up a lot of items that should be considered later, but, if they were to say that this was in conformity with the General Plan, they were not creating any additional entitlements without many subsequent steps being taken. That gave him some comfort that this body, without all the information present, has been able to air a bunch of issues will subsequently see the light of day and hopefully will get a full discussion. He keeps going back to what they were being asked to do and what they were allowed to do. He stated that they were being asked to decide if this was in accordance with the General Plan, which was a strange concept since the General Plan was quite large. He did understand the intent and maybe they should limit the conversation to what they were being asked to do and if they were willing to do that or not.

Commissioner Evans asked confirmation that, when a development was laid out, the lots are divided up to the property lines and then the streets are laid into place, and the right-of-way is then taken away from the original lot.

Planning Director White stated that he thought it was correct in this case. He didn't think they would necessarily do it that way today.

Commissioner Evans thought that was pretty clear, but he understood the confusion on this whole thing. He stated that he was coming back to what Commissioner Brown said and what he said before, which was that they only have one question, does it comply with the General Plan. That is the only thing they can say. The rest will be up to the City Council whether they want to do the rest of it or not. He didn't feel that they were giving anything away. They were giving the right-of-way back to the people from when it was originally purchased from the development, which was how he was seeing it. He felt the City was just giving up the right-of-way.

Commissioner Campbell stated that he was in basic agreement, adding that his confusion was the reason that it was in conformity with the General Plan, which was because it was in conformity with the General Plan. He wanted to understand why it was in conformity with the General Plan, stating that, if it is, he was all for voting for it.

Planning Director White stated that this may not be the only way to look at it, but he looked at it as, if the vacation occurred as being requested, what was the result and did it conform to the General Plan. It was a residential lot, will continue to be a residential lot, and this was an area that has a General Plan designation that allows residential lots. He thought, in the most basic sense, it conforms with that provision of the General Plan. He referred to Commissioner Brown pointing out that the General Plan was a big document with lots of policies and programs, so these were applicable provisions of the General Plan. Beyond that, he didn't know what other conformance statements they could make and he wasn't sure that they needed to.

Commissioner Campbell thanked him for explaining it, adding that the part that was tripping him up was the part that they had a paper street, perhaps approved in less stringent standards but let's prove it because it was conforming to the General Plan.

Planning Director White stated that, even the fact that these lots and streets were laid out before the City was incorporated, they could probably make a case that the existing situation was in conformance with the General Plan. He didn't think it made any difference by vacating the street.

Chair Gordon thanked Commissioner Campbell because he needed that point broken down into simple terms.

Commissioner Clifford stated that he was probably going to vote for this, but he didn't want his vote to imply that he was actually in favor of vacating the property. He was merely going to vote that he thought it agreed with the General Plan, which was what they were being asked to vote for. He wasn't in favor of vacating the property as being laid out but that will be decided by the City Council.

Commissioner Leon commented on the irregular shape of the paper street. It looked like a corner lot but was a paper street. While he acknowledged that this was not what they were voting on, he wanted it on record for the decision maker. He felt a significant point was whether there was an alternative to abandonment to provide access or another alternative that benefits the City in some way. He hoped there was some benefit to the City other than abandoning it. He was ready to move it up to the decision making body but he would still have those concerns. He felt they needed to look at notification, adding that he was disappointed to hear that an adjoining property owner did not get notice on such an important issue.

Chair Gordon reiterated staff's clarification that, under these circumstances, notice was not required but was required at the City Council stage. He was looking for a motion.

Commissioner Langille stated that she could make a motion but there appeared to be more comments. For herself, she felt every landowner had a right to access their property and if they become landlocked because of past conditions, she felt it should be remedied. She was in favor of moving this forward. The other issue is that it should be heard with the public having a right to comment, especially adjacent landowners. She felt that other issues raised could come up at the City Council level.

Commissioner Campbell liked the idea of a driveway easement to access the property and give the property owner access to his property so they can do more with it than they can now which made a lot more sense than abandoning thousands of square feet of land.

Commissioner Campbell moved that the Planning Commission **ADOPT** the resolution next in order entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA CERTIFYING THAT THE PROPOSED SUMMARY VACATION OF PORTIONS OF OLYMPIAN WAY AND POMPELLAN WAY RIGHT OF WAY CONFORM TO THE GENERAL PLAN;" Commissioner Evans seconded the motion.

The motion carried **7-0**.

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

COMMISSION ITEMS:

3. Discussion of staff data from selected cities regarding project Extension requests (materials provided in 3/19/12 Planning Commission packet).

Planning Director White presented the staff report.

Commissioner Clifford stated that, in going over the data, one thing that really stands out for him was that almost all cities require that the building permit be applied within one year or possibly two years. He noticed that was not the case in Pacifica, and once they approve the permit, a for sale sign goes up on the lot. He knows it was a lot cheaper to develop the types of plans presented to the Commission than plans that go through the whole building process. He thinks sometimes people come looking to enhance the value of their property and not necessarily to actually build anything. He was looking into adding to the City's regulations that, after 1-2 years at the most, they present the City with a building permit.

Commissioner Langille asked for clarification that they might provide directions for future steps which might include a study session.

Planning Director White stated that it was up to the Commission as to whether they want to proceed beyond what they do now. Staff was looking for direction from the Commission.

Commissioner Langille agreed with Commissioner Clifford that there should be a reasonable deadline to obtain building permits. There were some guidelines regarding extensions that are more specific. She commented that one city charged a fee for extensions, and she didn't think that was necessary unless the City found it was a lot of work to grant the extension.

Planning Director White responded that it was.

Commissioner Langille thought the financial cost to the City of granting extensions would be an issue to raise. She didn't think there were a lot of new ordinances coming up in the City, but there were a number of them, such as mega home ordinances, etc., and outdated projects coming before them. She thought it was reasonable to find a middle ground between the financial issues of the applicants and the amount of time staff spends on the extensions, and they should work on it.

Chair Gordon stated that he would like to put some structure into their conversation. He stated that there were their views on whether to tighten the rules and how, and the second issue was the process, which was whether it will be a study session, recommendation to City Council, etc., to implement their ideas. He would like to have a first round on hearing their views then they can talk about the process.

Commissioner Evans was in favor of doing something. He stated that, after reading through what other cities are doing, they should put something into effect. He was in agreement with the commissioners that the additional extensions, over and over, not only cost the City in funds but also in time. He thought that point alone would indicate that they do something. He was kind of in agreement about putting limits on the number of extensions or time. He mentioned that Belmont charges \$1,600 for an extension. He thought they did need to do something. Regarding

they can speak off the cuff and brainstorm. He reiterated that they needed to do something, beginning by looking at what fellow cities do and conform with them to help Pacifica in terms of cost. He thought we may be missing a lot of things by all the extensions.

Commissioner Brown thought it was interesting that the persistent complaint about Pacifica was that we were the city that says no. He thought this was a situation where the city was asked to always say yes. He appreciated the effort by staff, acknowledging that it was important to benchmark our City against other cities in practices so that changes will be consistent and does not stand out as the City of Pacifica saying no. He stated that, when he looks at the other cities' requirements, a common element was some level of effort that ups the bar for the applicant which was typically an application for a permit. He would like to be the City that says "yes, but."

Commissioner Campbell stated that, when talking to contractors, he hears that the City of Pacifica works pretty well and we say yes a lot, but you have to complain. He appreciates the work that has been done and he sees the issue, but he wonders if they should do anything. He felt that, with the extension requests, if you don't want to vote for them, there is no gun to your head saying you have to.

Commissioner Leon stated that he knows one way to address content and process, and that was to have a process flowchart. They could have a model of what their existing flowchart is, which is apply, don't do anything, ask for extension, wait one year and ask for another extension. He then stated that they could have a process flowchart that says apply, apply for building permit with yes/no, build/don't build, and come back. He thought the whole purpose of process flowcharts was to identify gaps and try to identify what they call customer and provider relationships. He thought that, right now, the City was providing everything and the applicants were providing very little other than a written request which sometimes was faxed or emailed in the day before the extension expires or the day after the extension expires. He was trying to point out that it wasn't reasonable for staff to go through what they go through, approve something in good faith and a building permit never gets put in. He referred to Belmont's permit extension fees, and stated that we weren't Belmont, but he did think there could be some type of a tier structure. Possibly, after three, five years, etc., it would not be unreasonable to ask what was going on with the project and put some kind of good faith commitment on the applicant as far as what they intend to do. He thought it was very frustrating, stating that they have approved projects on every vacant lot on Palmetto in the last 5-6 years and he has seen one built and some for sale signs on the other ones. He added that it was the same thing on Francisco. He didn't know what it meant except that we weren't moving the City forward. He felt they had made it accommodating as far as they can go. He thought the building permit should have some kind of time limit expectation on submitting that, perhaps a tiered approach, and some kind of tiered approach on staff compensation after so many years. He thought the whole idea was to develop those areas that are suitable for development. He sees that they have been doing their part and need to find out how to get the rest of it going.

Chair Gordon commented on how this issue originated in the first place. He thought all of them at some point expressed some measure of frustration with the fact that projects kept coming up for multiple extensions, and those who have been on the Commission for an extended time have seen many come up over and over. He commented that we have an ever changing coast. He referred to Commissioner Leon's comment about wanting to see the developments happen, which caused them to ask the Director to look at nearby cities to see what they do. He appreciated the effort in reaching out. He stated that they discovered that Pacifica was completely out of step

with the majority of neighboring communities by not placing any caps between the approval from the Planning Commission and the building permit. He felt that the problem has been validated. He was strongly in favor of getting in conformity with the mainstream regarding requirements.

Commissioner Clifford stated that he was someone who has to get permits on a fairly regular basis, and he wanted to be clear that applying for the permit and obtaining a permit were two entirely different things. He stated that you submit plans and applications but they have to meet all the conditions or request for information that the plan checker requests. He stated that a year's time was a reasonable amount of time to obtain the permits if you were intending to do the project. He thought, if they grant extensions, they should be looking at recovering costs. He stated that smaller projects will require less time for an extension than a larger project. He suggests that staff keep track of their time at whatever rate they bill time, and bill the applicant for the time spent on the extension if it was a fair way to do it, and they should not be subsidizing them for continuing things for an extended time.

Chair Gordon thought everyone had expressed their views, and he wondered if the way to talk about the process would be for the Director to let them know what options they have and what makes sense.

Planning Director White appreciated the conversation. From his point of view, he was surprised, when he came to Pacifica and saw a lot of the extension requests, that there was no upward limit on the number of extensions that could be obtained. He never worked for a jurisdiction that did not have an upward limit, although they were all different. He stated that, in many cases, where they had a stringent upward limit, a lot of times the extension process was the staff process and granted by the Director. The assumption was that, if you got beyond two or three years, your permit was going to expire and that was the end of it. He was very sympathetic to the notion of recovering costs for whatever they do, not just for extensions. He felt the City has been a little behind the curve on that. He stated that they did have cost recovery on a regular application submittal but not in every case for every little detailed thing, such as the case of extensions. He would be in favor of that. He thought there were a number of possibilities. There were issues related to submittal of a building permit application, obtaining building permits and some upper limit on the number of years that you can extend a project. He stated that they didn't do an exhaustive research process on every other regulation by the City, but thought it would be helpful to look at those in detail. He thought that, whatever happens, it would require a modification and amendment to the zoning ordinance which takes some staff time and some significant time for legal services. He stated that legal services are now a contract operation and for anything they do they need to find a way to pay for it. His suggested process was that, if they were in agreement that they would like to see some changes made in the extension process, they formulate that into a letter or request and forward that on to the City Council and ask them to initiate such a change. He presumed that, after laying out the facts, etc., the Council would assign a priority to that and direct staff accordingly. He thought that would be the safest way to go. He would not be comfortable using staff and legal time without that direction given the City's fiscal condition now. He would be willing to work with the Chair on a letter to the Council asking them to initiate such a process.

Commissioner Evans stated that they act as the Coastal Commission's approval or denial, and he asked how the Coastal Commission sees the extensions or do they go with what the City does.

Planning Director White stated that, in the Coastal Commission, there were two different jurisdictions; one being the retained jurisdiction where they have permitting authority entirely and any extension of that permission would go to them and not to Pacifica. The other part of the coastal zone which was the appeal which means that the City has the ability to approve projects subject to the appeal to the Coastal Commission and the City would have the responsibility for extending the project and would inform the Coastal Commission. He didn't know if they had a particular view on extension requests, not having commented on that. If they decide to change the code, they might involve them in the discussion because it will apply to the coastal areas.

Commissioner Evans asked if they should look at doing this for the non-coastal zone, although he thought the more restricted area was the coastal zone. He was unclear if there was really any difference between the two zones.

Commissioner Leon liked the idea of the Chair and Planning Director drafting language which includes what they were pursuing, such as recovery of cost, upper limits on extensions, process. He stated that they know that they will keep coming and it makes good business sense to recover your costs and he didn't see whether the City would be opposed to doing that. At some point, you have to put in some kind of investment to make sure you get the dots connected and he would expect that, given the City's financial condition, the Council would be in favor of what they were suggesting. He didn't see a downside to it. He reiterated that he was in favor of the Chair and Planning Director pursuing this and coming back to the Council to have a reading and discussion about it.

Chair Gordon asked, if they drafted the letter, whether they could give it a reading at the Commission meeting before sending it on to the Council.

Planning Director White thought they could but it would have to be agendaized appropriately but he wasn't exactly sure how they would do it at this time. He thought it would be simpler to give the direction to the Chair to draft the letter with staff's assistance and send it on to Council. He stated that they could copy all of the Commissioners when they do that, and they would receive it at the same time as the Council sees it, but it was up to their comfort level. If there was a great desire to see the letter before it goes out, they could probably find a way to do that.

Commissioner Clifford asked for confirmation that there was no difference in extensions now between the coastal zone and the rest of the city.

Planning Director White stated that he was correct. It was the same citywide. The only difference was that area over which the Coastal Commission has retained jurisdiction, and the City would not be able to change that anyway.

Commissioner Langille stated that, with that clarification, she thought it was fine not to have to make a distinction between the coastal and non-coastal zones. She was comfortable with the Chair and the Planning Director drafting a letter with the points they discussed.

Commissioner Evans was also comfortable with the Chair and Director putting a letter together. He liked a couple of the ideas that were on the comment sheet from the different cities about the Planning Director being able to grant extensions, like he does now with the administrative grants. He thought they might want to think about looking at simple things that would not have to come

before the Commission, adding that he wasn't trying to get out of work, but it wouldn't cost staff to come down to a meeting to take care of that.

Commissioner Brown asked if they were ready for a motion.

Commissioner Brown moved that they request that the Chair work together with the Director of the Planning Commission to prepare a letter to the City Council recommending that staff resources be applied to developing a path to a recommendation and that we include the work that has already been prepared by staff as context for possible boundaries on what that solution might look like.

Commissioner Campbell wondered if they should be making those types of motions at the moment, asking the Planning Director for comment.

Planning Director White stated that it was an agenda item.

Commissioner Campbell stated that they have agenda'd the discussion of staff data from selected cities.

Planning Director White asked if they were more comfortable with agenda'ding this for the next available Planning Commission meeting to say discussion and direction. He thought that might be safer, although he wasn't sure there was a big difference since they were only making a request of the Council, and they may or may not give it a high priority.

Commissioner Campbell stated that might be a better way to frame it. He was making sure that they were not directing the Planning Director to do it.

Planning Director White thought it would be safer to direct the Chair and the Chair can ask staff for the appropriate level of assistance the staff always provides. He stated that, ultimately, the letter drafted will go to the Council from the Commission under the Chair's signature, not coming from staff.

Commissioner Campbell asked if they need a motion for that.

Planning Director White stated that they might not. They had more than a consensus that they were looking to revisit the rules relative to extension requests. He didn't know where that would lead them, because there were a number of options, which could be articulated in the letter or further fleshed out through a public process. He added that they probably will have to go through a public process. He suggested that they not be too explicit on the potential outcomes but include some possibilities because there will be a public process and they have to acknowledge that it will be a sort of interim thing.

Commissioner Campbell had faith that the Chair will take this up the chain and that it will come back down the chain with direction from Council.

Planning Director White agreed, adding that if the Council decides to initiate such a process, the process would begin with the Commission.

Commissioner Campbell stated that he would rather wait for the Council to give them direction on the prompting and he didn't know if they needed to make a motion.

Planning Director White stated that it was their prerogative. If they want a more informal request at this point, followed up by something more, that was doable as well.

Chair Gordon stated that they seemed to have two choices. They could either not have a motion and follow a more informal path or agendaize it again for the next meeting and be more explicit in a way that gives the community notice of what they were intending to do.

Planning Director White stated that he didn't know what the protocol in the city has been regarding these things. He thought they might have initiated such a process before and would have a better idea of what the process looked like. Given what he was aware of, he thought it was important to get that direction from the Council specifically and he agreed with Commissioner Campbell but how they get there was really the question. He thought it might be as simple as him talking with the City Manager to discuss the protocol to get that direction and hold this over for a hearing and he can report back on what the process will look like.

Chair Gordon asked if one option would be to have a sitdown with the City Manager to get clear on the protocol.

Planning Director White confirmed that it would be to get the protocol for making these requests to the City Council. He stated that he meets with the City Manager weekly and it wasn't difficult to do.

Chair Gordon was in favor of that.

Commissioner Evans stated that he would be very much in favor of that. He was going to comment that he was a little uncomfortable with any motion. He understood Commissioner Brown but there was a large sensitivity among the group. He would like to see slow steps and having the Director talk to the City Manager and get direction. Then, they can see where they want to go which might be something completely different, even before writing letters.

Commissioner Langille was moving toward seeing how this should go out and make sure that no one in the community feels that they have moved on something that they didn't agendaize as such. She referred to agenda items to discuss recommendations to City Council and this was not on the agenda in such a form. She would also postpone any motion until after his discussion.

Commissioner Clifford stated that was his take on it also. He added that he would like to have it happen between now and their next meeting so that it is agendaized for the next meeting for them to do whatever they do in terms of what the Director reports back about what they need to do. He stated that they may have a vote on sending a letter out. He did not want it to be two months from now, rather at the next meeting.

Commissioner Brown thanked them all for their wise counsel and he withdrew his motion. He stated that the intent was to move things along and that has happened.

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Commissioner Leon agreed with the new direction and appreciated Commissioner Brown making and withdrawing the motion. He felt they all had the same goals in mind. He can wait until the next meeting and hear from the Director and City Manager.

Chair Gordon asked if the Planning Director had a sense of their views and was comfortable with reporting back to them on what he learned from the conversation.

Planning Director White responded affirmatively.

COMMISSION COMMUNICATIONS:

Commissioner Evans mentioned that he attended an ethics training class on Wednesday in Redwood City. He stated that the class was good and he thanked the City for that.

STAFF COMMUNICATIONS:

Planning Director White seconded Commissioner Evans' comments. He had also attended the training with other commissioners and thought it was well worth the two hours. He stated that there was so much crammed into the two hours and they could have spent 4-6 hours on all the topics discussed. He stated that it was nice to get a refresher about those things because you don't always think about those in the day to day operations. He thought it was a well thought out session, and was put on by the firm of the Pacifica's City Attorney. He presumed the attendees were commissioners and city councilmembers from Redwood City and Burlingame.

ORAL COMMUNICATIONS:

None.

ADJOURNMENT:

There being no further business for discussion, Commissioner Clifford moved to adjourn the meeting at 9:15 p.m.; Commissioner Langille seconded the motion.

The motion carried **7-0**.

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

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director White