

**MINUTES**

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

January 16, 2018

7:00 p.m.

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

**ROLL CALL:** Present: Commissioners Kraske, Stegink, Cooper, Gordon,  
Clifford and Chair Nibbelin  
Absent: Commissioner Campbell

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

**STAFF PRESENT:** Planning Director Wehrmeister  
Sr. Planner Murdock  
Asst. City Attorney Sharma  
Asst. Planner Smith  
Asst. Planner O'Connor  
Asst. Civil Engr. Donguines

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

The motion carried **5-1**.

Ayes: Commissioners Kraske, Cooper, Gordon, Clifford and  
Chair Nibbelin  
Noes: Commissioner Stegink

**APPROVAL OF  
MINUTES:  
NOVEMBER 6, 2017** Commissioner Clifford moved approval of minutes of  
November 6, 2017; Commissioner Cooper seconded the  
motion.

The motion carried **6-0**.

Ayes: Commissioners Kraske, Stegink, Cooper, Gordon,  
Clifford and Chair Nibbelin  
Noes: None

**APPROVAL OF  
MINUTES:  
NOVEMBER 20, 2017** Commissioner Clifford moved approval of minutes of  
November 20, 2017 with the correction; Commissioner  
Gordon seconded the motion.

Commissioner Clifford stated that on page 5 there was a typo following the Assistant City  
Attorney referring to "sound proofing" where the word should be "and" rather than "ant".

The motion carried **6-0**.

Ayes: Commissioners Kraske, Stegink, Cooper, Gordon,  
Clifford and Chair Nibbelin  
Noes: None

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF JANUARY 22, 2018:**

Chair Nibbelin commented that the agenda mentioned no need for a liaison, confirmed by Planning Director Wehrmeister.

**ORAL COMMUNICATIONS:**

Karina Cardinas, Pacifica, stated that she was operating West Manor Wellness, and with the new cannabis zoning, her location was excluded due to a 600 foot buffer zone. She stated that after the first compliance meeting, Commissioner Campbell suggested she come and ask to be placed on the agenda to change the zoning to a 500 foot buffer. She stated that it was the only location that would be affected in Pacifica under that criteria as the north end of Pacifica didn't have any retail operations. She stated that she has exhausted her options throughout California and green locations. There were none available, as the ones available are spoken for. She was operating in the north end and there appeared to be an option to change the buffer zone, and she asked that she be placed on the agenda to discuss it to change the buffer zone to 500.

Chair Nibbelin stated that they will refer the matter to city staff and give it due consideration.

**CONSENT ITEMS:**

None

**PUBLIC HEARINGS:**

- 1. GPA-93-16  
RZ-195-16  
SUB-234-16**      **General Plan Amendment GPA-93-16; Rezoning RZ-195-16; Subdivision SUB-234-16, and Authorization to Remove Heritage Trees**, submitted by Applicant Michael O'Connell of Roundhouse Industries, Inc., to Change the General Plan Land Use Designation from High Density Residential to Low Density Residential, to Change the Zoning Classification from the C-3 (Service Commercial) Zoning District to the R-1 (Single Family Residential ) Zoning District, to Subdivide a 2.42-Acre Lot into Six Lots Ranging in Size from 9,379 to 34,145 Square Feet for Future Single-Family Residential Development and One Lot of 15,742 Square Feet for a Private Street, And, to Authorize the Removal and Replacement of Heritage Trees, at the Project Site Located at the Western Terminus of San Pedro Terrace Road, Pacifica (APN 023-075-050).  
Recommended CEQA Action: A Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program Have been Prepared and Are Recommended for Adoption.

Asst. Planner Smith presented the staff report.

Commissioner Stegink stated that he was making a contact disclosure as he had an unscheduled two-way communication with two individuals regarding this issue, a mortgage broker, Jim Alex,

an acquaintance of the developer and a representative of the San Pedro Creek Foundation, Roger Mascio.

Commissioner Clifford stated that, in going through the data, he noted that the negative declaration document has the old tentative map and he asked if it will be changed if they approve this layout.

Asst. Planner Smith stated that the mitigated negative declaration that is in the packet was distributed for the public and sent out prior to the more recent amendment.

Planning Director Wehrmeister didn't believe the map would change any of the conclusions of the document and it was not typical that they would change it.

Commissioner Clifford stated that the original presented was in the negative declaration and there is now a new layout. He didn't know that there was any change in most or any of the impacts in terms of the negative declaration, but he wanted to comment and question whether it was going to be changed out.

Commissioner Cooper thought this was a private drive on this area.

Asst. Planner Smith responded affirmatively.

Commissioner Cooper asked if there was parking along the street. He thought there was no parking where the hammer head was but parking along the street in front of the residence. He asked if they will be providing a sign saying "no parking, private drive" in front.

Asst. Planner Smith stated that there was no intention for signage to record it as a private drive that he was aware of.

Commissioner Cooper thought it was a well visited area with people walking their dog and he was curious if they will be allowed to park in that area. He thought they would then be responsible for people parking on the private drive.

Commissioner Gordon stated that he was trying to get a visual sense of how the project has been pulled back from the riparian corridor. He thought it would be helpful if he could do a run through of those comparisons.

Asst. Planner Smith stated that the way the private street was reconfigured has significantly reduced the hardscape toward the center of the site and the hammer head takes up a lot less of the project site area and has allowed the applicant to rearrange the configuration of the lots while still retaining the R-1 development standards for the lots 1-4, with the arrangement of lot 5 and 6 also changed slightly. He stated that Lot 4 has been removed, and the effect of that is the rear yards of lots 1-4 have increased, are set further back from the 25-foot setback.

Chair Nibbelin stated that it doesn't look like the setback line has moved.

Asst. Planner Smith responded affirmatively.

Chair Nibbelin thought there was no anticipation they will be building outside the envelope illustrated.

Asst. Planner Smith stated that the grey area is an indicative mark of where development is likely to take place. He stated that wasn't the final location of the buildings, but the condition they crafted shows there is no structural development beyond the setback line and they would not expect to see construction towards the creek, beyond that line.

Chair Nibbelin concluded that the setback line will essentially remain the same.

Asst. Planner Smith responded affirmatively.

Commissioner Gordon asked him to go back to the other slide. He stated that the relocation of Lot 4 was the significant change.

Asst. Planner Smith stated that predominantly it was.

Michael O'Connell, agent, stated that the conditions of approval are acceptable. He stated that after the last meeting, they met with the San Pedro Creek Watershed Coalition and brainstormed ideas for revised site plan to pull things away from the creek a little bit. He met with Paul and a couple of his colleagues and showed him the revised layout with the hammer head and reconfigured Lot 4 and how it went from being behind 1 and 3 to more like a traditional subdivision where it was off the street. He thought it was acceptable to the Coalition and they sent an email to the Planning Department to that effect. He stated that one thing they have been working on was an agreement for the buffer area to provide rights to the Watershed Coalition under certain specific conditions, such as having funding for an approved project to do some creek restoration and they would like to expand the work into the buffer which was acceptable to the applicant. They had hoped it would be put into a condition of approval but he thought staff feels there is not a nexus for it but they are asking the Commission to consider. He stated that, if it can't be a condition, the applicant was happy to enter into the agreement with the Watershed Coalition. He had a draft agreement which they have sent to the Coalition and thought it was more or less acceptable to them but they have some legal fine tuning to do on that as it would get recorded and become a legal document. He stated that eliminating the cul-de-sac and using the hammer head reduced the impervious pavement area by 10% and they changed the curb to curb width from 32 feet to 28 feet which was clear for travel lanes and fire access and 8 feet for parking along one side of the street. He stated that there were a few important things to consider on the buffer such as what the buffer was trying to achieve. There were three goals, 1) reduce erosion and sedimentation in the creek, pointing out the pluses for that goal; 2) water quality, which will include a storm water treatment system; 3) expand the habitat, helped by planting the native plants, restrictions for use, etc. He updated them on all the federal permits which were moving along. He referred to Commissioner Clifford's question about the revised site plan and the CEQA document, stating that it was important to note that the CEQA consultant reviewed the revised site plan and issued a memo stating that the changes would not warrant any additional study which he thought was part of the document. He thought, if the map does not get updated, they do have that documentation from the CEQA consultant.

Commissioner Clifford stated that he had a minor question that he touched on at the last meeting. He understood that they are going to be proposing the language on the signs in terms of keeping people out, and he mentioned that he was concerned about the use of chemicals that might get

into the creek as a way of weed control. He would like to have on that sign that specific chemicals are prohibited. He didn't know if he was open to that.

Mr. O'Connell stated that it could be a rather large sign depending on the list of chemicals, but he felt they could work with staff on what that language says.

Commissioner Gordon commended him on working collaboratively with the Coalition.

Mr. O'Connell stated that they have been good to work with.

Commissioner Gordon referred to mention an email correspondence where they indicated their comfort level with the project as revised.

Mr. O'Connell thought it has been sent to Planning Director Wehrmeister.

Commissioner Gordon asked if that has been shared with the Commission.

Planning Director Wehrmeister stated that the email correspondence she recalls was before they received the revised plan and it was very general, stating that if things could be moved away from the creek that would be great, but it wasn't received since the packet was published.

Commissioner Stegink referred to Packet page 302, a letter from Dept. of Fish and Wildlife, reading a paragraph stating that CDFW did not meet a deadline and, by law, they can complete the project without an agreement. He concluded that it was basically approved by default.

Mr. O'Connell stated that he didn't know if they missed a deadline or if it was a small project and lower priority for them. He stated that the legal term was "approved by operation of law" and was related to the permit streamline act. He stated that he has worked as a consultant for a number of years in the Bay Area and he has done a dozen of these lake and streambed alteration agreements for creeks and he has yet to receive anything except approved by operation of law. He reiterated that for smaller projects it was common.

Commissioner Stegink asked if in those he mentioned did he have one that required that he have more than a 25 foot riparian setback.

Mr. O'Connell responded that he had not, adding that he didn't think that was in the California Dept. of Fish and Games jurisdiction.

Commissioner Stegink asked if, in the final outcome of those permits.

Mr. O'Connell stated that they did one in Redwood City with zero setback.

Commissioner Stegink asked if there were any above 25 feet.

Mr. O'Connell stated not that he could recall.

Commissioner Stegink asked if his biological consultant was present and if it was appropriate or not to ask him several questions.

Chair Nibbelin stated that he has at least one other question or comment from Commissioner Cooper and asked that they move to his questions after Commissioner Cooper's opportunity to comment or question.

Commissioner Cooper thanked him for going back and meeting with everyone which shows a lot of responsibility as far as the development in changing things around as it shows he is listening. He asked if he was going to have an HOA.

Mr. O'Connell stated that they will need an HOA. He stated that it will have CC&Rs and a standard in San Mateo County was to enter into a maintenance agreement for storm water management facilities.

Commissioner Cooper referred to Commissioner Clifford's response on Round Up, he thought that could be part of the CC&R agreement.

Mr. O'Connell thanked him, adding that it was a good point.

Chair Nibbelin then referred to questions for the biological consultant.

Mr. O'Connell stated that he was present and could come up.

Chair Nibbelin asked him to introduce himself.

Mr. Joe Rigney introduced himself, stating he was with Toyon Consultants.

Commissioner Stegink referred to the document on Packet page 288, he mentioned that 25-foot setbacks are appropriate. He was curious how he came to that number.

Mr. Rigney stated that was the minimum that was allowed. In terms of this specific project, that minimum seemed appropriate because of the slope of the project and grading will keep the water away from the creek with the state requirements put across the state in terms of storm water detention systems now required on all projects and helps keep pollutants down. The habitat being developed was extremely low quality habitat for native species and including native plants into the buffer will be increasing the habitat quality of the buffer along with the habitat restoration within the creek itself as part of the mitigations.

Commissioner Stegink stated that his concern was with the steel head salmon. He looked at a lot of documents by state and federal agencies and he sees a lot that are greater than 25 feet. He concluded that this is the minimum. He asked if he would classify this parcel as a floodplain.

Mr. Rigney did not think so and understood that the work done on the parcel where the fill dirt was put in the area being developed was to raise up the parcel above the floodplain, which was below what the document called the top of the bank. He stated that effectively a levee was made. He stated that it didn't come up and go around like a typical levee but comes up and flattens out. He stated that the floodplain was below the levee and no development going on within the floodplain.

Commissioner Stegink asked if he could speak on the impact this project would have on the steel head salmon in this area.

Mr. Rigney stated that the only potential project identified on the steel head salmon was the building of the storm water detention outlet where it comes out at the creek and it goes into an area that will only have water during high water events and was not going into the typical channel in the summer time. He stated that they had the National Marine Fishery Service come and look at it and it was concerned initially when the project came forward from the Army Corp of Engineers and were not able to give a letter of concurrence that there were no impacts without coming out. They met with them, looked at the site and determined there were no impacts to steel head from the project.

Commissioner Stegink asked if they have done any projects in unincorporated San Mateo County.

Mr. Rigney stated that he has.

Commissioner Stegink asked what the buffer zone was for unincorporated San Mateo County.

Mr. Rigney didn't recall but he did specifically do a project that was about the buffer zone. He apologized for not being able to recall off the top of his head because he works in many areas and many areas have different buffer zones. He did recall that the project on which he worked, even though his assessment indicated that the project was going to be within not only the buffer zone but the riparian habitat itself, they approved the project.

Commissioner Stegink asked what the maximum buffer zone he has been required by local governments to use on a project in which he was involved.

Mr. Rigney stated that the Santa Cruz has an extremely significant buffer zone requirement and he has seen them use up to 100 feet.

Chair Nibbelin opened the Public Hearing.

Paul Jones, Pacifica, stated he was president of the San Pedro Creek Watershed Coalition, and as reported by Mr. O'Connell, they had an opportunity to go into the field and he thanked him for being gracious with his time. They did a site tour and they have had several email exchanges and in the recent one on the terms and conditions of the covenant to which he referred, may give the Watershed Coalition or possibly other entities access to the creek should there be a need to get in there for creek restoration at some point in the future and to be more precise to the buffer area that was in control of developers currently and homeowners in the future. He thanked him and they were grateful for his willingness to work with them and listen to their concerns. He stated that 25 feet is the minimum. He was not retracting from his previous comments regarding his concern about any development in the watershed and biologists stating that the stream being subjected to tremendous pressure from development and we don't need anymore. He agreed with that but he felt the applicant has done due diligence and has done what appears to be the maximum amount of avoidance and minimization and it is appreciated. He added that when storm water will be directed away from the creek and there will be improvement in the buffer habitat, that eliminated the glaring concerns they had about the project. He made this statement so they would hear it directly as opposed to an indirect comment.

Chair Nibbelin closed the Public Hearing.

Commissioner Clifford liked the changes made to the project, moving the one lot closer to the street and changing the cul-de-sac for a hammer head, which made significant changes in the impacts of the project in his mind. He was a little concerned about the 25-foot buffer. He knows there is an additional 45 feet to the middle of the creek. He thought, if he could have another 10-20 feet, he would be much more comfortable with the riparian buffer. He loves the idea of a covenant for creek restoration to be included in their decision making.

Commissioner Stegink agreed with Commissioner Clifford that the buffer zone is inadequate and he would not vote for this proposal based on that and the studies he has made on other projects. He found in California this buffer would be the absolute minimum on anything he had found since 2006.

Commissioner Kraske asked the Planning Department if it was atypical for a development like this to be ruled upon before the 404 or 401 permit has been issued.

Planning Director Wehrmeister stated that it was more typical as the regulatory agency permitting process takes much longer and will be issued after the entitlement process but before any building permits are issued.

Commissioner Cooper stated he was writing a condition for the terms of the covenant, and read his draft.

Chair Nibbelin thought the general gist of it was fine. He thought there were some concerns legally about the ability to fold this in as a condition of approval and he was curious, if the applicant was prepared to agree to it, whether it was still problematic to include this condition and would it be something they would work out as a private matter. He asked what the legal opinion of the agreement would be.

Planning Director Wehrmeister stated that she will speak to her opinion, which was not legal. She stated that there was no solid nexus to this requirement, however, if the applicant was willing to do so, she would ask that the language of the condition include the language "as agreed to by the applicant at the public hearing" and that would make her feel more comfortable about the nexus issue.

Asst. City Attorney Sharma stated that there was no issue with the applicant agreeing to the condition.

Chair Nibbelin understood that they would want to articulate clearly that this was as agreed in the context of this hearing. He wanted to understand whether it was an encroachment permit, a license, or something the Watershed Coalition or any other group or agency would be included in.

Mr. O'Connell stated that he had a draft he could circulate, adding that it was a non-exclusive agreement and allow the Watershed Coalition or any group involved in any projects that may come down the line, access the creek to do preconstruction surveys, design surveys and actual improvements.

Chair Nibbelin asked if there could be improvements left in the buffer zone.

Mr. O'Connell agreed.



Commissioner Gordon stated that he was in favor of including the covenant as it was a great precedent to acknowledge the collaboration between applicant and a non-profit environmental group which he thought was great and he would like to memorialize it in a condition so they can reference it at some other point. He referred to the comments by Commissioners Clifford and Stegink on the adequacy of the riparian setback which was a core issue, and he asked what agencies and experts have looked at the adequacy of that setback and where it was discussed in the packet so he can refer to it. He thought it has to have been looked at with some degree of exhaustiveness by people much smarter than he is.

Asst. Planner Smith stated that through the CEQA process, the majority of the review for the setback, it was the applicant's biologist who establishes a criteria for designating that setback.

Commissioner Gordon stated that he said it was the minimum setback and that wasn't necessarily an overwhelming recommendation.

Asst. Planner Smith stated that there were two forms of setbacks that local jurisdictions choose, one a standard broad brush setback distance established over the entire jurisdiction or site specific to particular habitats or creeks and the other approach was site specific analysis by recorded professional to establish what the actual value of the resources are within particular areas and the higher threshold of the professional review was what occurred for preparation of the CEQA document. The applicant's specialist reviewed the area, looked at the species required to be protected and proposed the setback accordingly. He stated that the riparian habitat designated by the willows and was the value in the area and that is the mark from which he has taken the setback from. He concluded that the 25 feet comes from the drip line of the willows and the value of the habitat. Subsequently this recommendation is reviewed by a consultant biologist and the CEQA consultant reviews the process. He thought the CEQA consultant was present and, if they want more details, it may be worth calling him up for questions.

Commissioner Gordon asked if he said the biologist who did the CEQA review was present.

Asst. Planner Smith stated that the CEQA consultant who is essentially the project manager for the production of the CEQA document is present.

Chair Nibbelin thought if it was an issue preventing them from moving forward or his colleagues thought it made sense to hear more about it. He stated that they had heard from the Toyon consultant earlier. Is the sub-consultant of the CEQA review who was a consulting biologist present.

Asst. Planner Smith stated that he was not present.

Chair Nibbelin stated that the CEQA consultant was here and can speak generally.

Planning Director Wehrmeister added that, as part of the regular CEQA process, there was an opportunity to review by various state and local agencies, as well as the review when those agencies to their actual permitting process.

Chair Nibbelin stated that on page 79 there was a list of various agencies have had an opportunity to speak on this and have not expressed any particular concerns.

Chair Gordon stated that it sounded like the agencies gave their approval by operation of law basically by passing on it. He asked if there were agencies who affirmatively looked at the riparian setback and stated that it sounded good to them.

Sr. Planner Murdock stated the National Marine Fishery Service has issued a letter related to the project impacts, any impacts being of concern to that agency, and the applicant has indicated that the US Fish and Wildlife Service has passed its initial steps in its process to finalize its review by issuing the draft project description which will follow to the biological opinion. He stated that they won't get permits and they won't develop if the US Fish and Wildlife Service takes issue with the project but that was not something that would typically conclude at this phase where the local agency is reviewing the project. He added that it was easy to react to the term minimum buffer but it was the minimum because it is acceptable. If it was not acceptable, it would not be the minimum and some greater figure would be. Sometimes more is better but more is not necessary based on the evidence in this case and he felt it was important to realize that this was not a large site and the buffer that has been established from a point, up bank from the creek bed is already impacting a meaningful share of the site and to increase that buffer more would continually and progressively reduce the development potential of the site and to do that would require some specific analysis on staff's part to make sure they are not rendering significant portions of the site unbuildable.

Chair Nibbelin stated that he also was pleased by the collaboration that has taken place between the applicant and members of the community including those who are advocating protection of the environment and he thought it was a helpful and good process in which they engaged in. He was comfortable with riparian setbacks. He was comfortable with the 25 feet even on the basis of the report before the additional information from Toyon, and the opportunity to hear more about the matter and staff's laydown of the analysis which helped him to become even more comfortable that 25 feet was an appropriate riparian setback. He acknowledged that setbacks always involve tradeoffs and he thought the tradeoffs have been calculated appropriately so he was comfortable with the project with the setbacks as articulated. He also appreciated the additional information of where they were with the permits and was comfortable that if they cut things too fine and the feds are unhappy then it will come home to roost and he thought there was every incentive to get it right at this level. He stated that the one thing that was uncomfortable for him was the future lot subdivision and the concern that we might end up with a future subdivision. He stated that they really won't know until someone comes forward and tries.

Sr. Planner Murdock agreed, adding that any concern about that was purely speculative at this point. Theoretically, based on the lot sizes, it was possible for future subdivision to occur, but whether a large or small subdivision, the Municipal Code will require a public hearing, whether before the Planning Commission or conducted by the City Engineer which was very rare.

Chair Nibbelin asked even for a minor subdivision.

Sr. Planner Murdock stated, even for a one lot subdivision or one lot into two, it would require a public hearing.

Chair Nibbelin stated that adding a condition of approval relating to the agreement or covenant, he would be prepared to vote in favor of the project.

Commissioner Stegink asked if they have a packet page number for the National Marine Fishery's letter of concurrence mentioned.

Planning Director Wehrmeister stated it was page 295.

Chair Nibbelin stated that he didn't see any more lights and he believed a motion would be in order.

Commissioner Cooper moved to adopt the attached resolution which would adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project; recommend City Council adopt the ordinance included in Exhibit A to the resolution approving General Plan Amendment GPA-93-16 and Rezoning RZ-195-16; approve the Tentative Subdivision Map SUB-234-16 subject to conditions of approval included as Exhibit B to the resolution with the added condition "applicant shall submit a mutually acceptable agreement between applicant and the San Pedro Creek Watershed Coalition for access to the designated buffer areas for future Creekside improvements as offered by the applicant in public hearing on January 16, 2018, essence of the terms of this condition are intended to apply to other agencies or groups for similar improvements;" approve Heritage Tree removals and replacements; and incorporate all maps and testimony into the record by reference.

Commissioner Clifford stated that, even though he would be more comfortable with a little more buffer, he was going to second that motion.

The motion carried **5-1**.

Ayes: Commissioners Cooper, Clifford Gordon, Kraske, and Chair Nibbelin.  
Noes: Commissioner Stegink

**2. UP-090-17  
CDP-383-17**

**Use Permit UP-090-17 and Coastal Development Permit CDP-383-17** for the construction of a new dwelling unit with attached garage to create a two-family dwelling group at 106 Bella Vista Avenue (APN 016-021-300). Recommended California Environmental Quality Act (CEQA) Action: Class 3 Categorical Exemption, Section 15303(a).

Asst. Planner O'Connor presented staff report.

Commissioner Stegink stated that he read the application and visited the site, adding that it was a very unusual site and described a 100 foot parking lot with the school on one side and a tow lot full of cars on the other on Palmetto and it was the smallest house on the block. He thought it was appropriate and virtually nothing he would not approve to better the lot.

Commissioner Clifford stated that he read on page 3 that there was a partially non-conforming 5-foot wood fence. He asked what was non-conforming about the fence.

Asst. Planner O'Connor stated that in the front setback the code requires that a fence not exceed the height of 3 feet or 4 feet if the top foot is an open work fence.

Commissioner Clifford thought that was something code enforcement would deal with if they had a complaint.

Asst. Planner O'Connor responded affirmatively.

Commissioner Cooper stated that the new sidewalk for city standards looks kind of funky, and asked what the reason was for why it didn't follow the street like a normal sidewalk would.

Asst. Planner O'Connor stated that Ray Donguines was present to answer that question.

Asst. Civil Engr. Donguines stated that he sketched that potential sidewalk alignment to make sure it fits within the space. He stated that starting from the west side there was an existing sidewalk already so he was following that towards the east and while the driveway zigzags that was his intention.

Commissioner Cooper asked, if his architect stated that it was funky and he wants to follow the curb.

Asst. Civil Engr. Donguines agreed that he just wanted to follow the curb.

Brian Brinkman, agent, stated that the client bought the home in 2016 to start their family and the R-2 zoning gave them options. They liked the little house as it was and they didn't feel they could come up with any simple solution of expanding it with the existing garage and they moved forward with the present house. They kept the footprint as small as they could to minimize the impact on the site which was why it was two stories, but they kept it as low profile as possible to minimize the height being next to the single story and the house behind it was also a single story. They have gone with a contemporary style to blend some of the two major styles in the area and orientated the living space to maintain as much privacy with surrounding houses as well as to take advantage of the ocean view. He stated that it meets all the setbacks, below height limits and meets all the zoning codes.

Commissioner Cooper asked if the pavers on the driveway were pervious pavers.

Mr. Brinkman stated they were intended to be pervious and he thought there was a condition for that.

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

Commissioner Clifford likes the project, meets all the requirements and, as soon as the rest of the commissioners have an opportunity to talk on it, he was willing to make a motion.

Commissioner Cooper was glad they kept the little house because it adds a lot of character to the community and he likes the new building. He felt it was a great use of the area. It was not over built but a quaint little area and he loved it and was glad they decided to save it. He also thought the project was a wonderful addition to the area.

Commissioner Clifford moved that the Planning Commission finds the project is exempt from the California Environmental Quality Act, APPROVE Use Permit UP-090-17 and Coastal Development Permit CDP-383-17 by adopting the resolution included as Attachment B to the

staff report, including conditions of approval in Exhibit A to the resolution; and incorporate all maps and testimony into the record by reference;; Commissioner Stegink seconded the motion.

The motion carried 6-0.

Ayes: Commissioners Kraske, Stegink, Cooper, Gordon,  
Clifford and Chair Nibbelin  
Noes: None

#### **COMMISSION COMMUNICATIONS:**

Commissioner Stegink stated that he was disclosing that he met with developer Javier Chavarria and discussed roughly nine of his projects in the San Francisco area. He was curious about the progress on ADUs, what response they have had and number of applications.

Planning Director Wehrmeister thought her colleagues might have a better sense of how many applications they have received.

Sr. Planner Murdock stated a handful but he couldn't give him a specific number, just more than the historical level which was very low prior to the recent updates to the state law.

Commissioner Stegink asked if he can assume that it was less than 20.

Sr. Planner Murdock responded affirmatively.

Commissioner Stegink asked the current status on the recreational marijuana permits.

Sr. Planner Murdock stated that the city had a multi-phase process outlined on the city's website. They recently concluded phase one which begins with the Police Department, which generally consists of identifying the applicant and conducting a finger printing and background check. He stated that those applicants will progress to phase 2 which is not started yet and he doesn't have the beginning date before him but roughly three weeks from now. He stated that the applicant who make it through phase 2 will be placed on a list transmitted to the Planning Department and applicants on that list may submit a marijuana use permit application to the Planning Department and that was the point where they would bring the applications to the Commission.

Planning Director Wehrmeister clarified that phase 1 was not completed, but the application deadline has passed and the Chief of Police will make his decision on those by February 9. She stated that there was about 34 applications that were received in total.

Commissioner Stegink asked if it was for both recreational and manufacturing.

Planning Director Wehrmeister stated it was mainly for retail businesses. She thought there were about two or so for manufacturing.

Commissioner Stegink noted an extensive NextDoor thread on Shelter Cove in the access there and not bring it up further. He was concerned about SB167, one of the new laws the Governor put out, and read a portion of it. He stated he would probably be asking the commissioners for a majority vote on a study session on extending those benefits of SB167 to residential homeowners

and developers and a homeowner's bill of rights. He stated that, if he has two sons, he doesn't have to tell the second son that he is always going to be second if he tells the first son he will always be first. He stated that with Planning's limited resources and the manner in which the new laws from the Governor put developers before homeowners in almost every instance. He felt they have to do something to protect homeowners and make sure they are not always the last priority. He thought at the next meeting he will let the commissioners take a look at SB167 and AB678 and he will be asking to agendaize a study session unless Planning thinks a special session would be more appropriate.

Planning Director Wehrmeister stated that she will repeat what she thinks she heard to make sure she understood which was extending streamlining benefits, similar to SB167 to, permits such as remodeling permits.

Commissioner Stegink stated that she heard correctly.

Planning Director Wehrmeister understood and will look into it more. She will bring it up to the City Manager as they are getting into the next annual goal setting session with the City Council.

Commissioner Stegink stated not just remodels but family home construction where it was performed by the owner. He realized there may be some issues where it was not appropriate but if they don't protect homeowners, but there was not a lot of extra room and extra hours to be billed and if developers are always going first, it means homeowners are always going last and he thinks they need a homeowner bill of rights to protect homeowners.

Commissioner Clifford reported that he went to the most recent Library Advisory Committee meeting and they did some dotting of I's and crossing of T's and their recommendations are going to the City Council at the next Council meeting and he will be there with other members of the committee to make it known they all support the changes and recommendations being made.

Chair Nibbelin thanked him for his work on behalf of the City and Commission with respect to that committee.

#### **STAFF COMMUNICATIONS:**

Planning Director Wehrmeister stated that on Tuesday, January 23, the Sea Level Rise Planning Community work group will be meeting to talk about the draft vulnerability assessment. She stated that they will be announcing a public workshop meeting for some time in February where the public will be invited to participate. She stated that it was that time of year to plan for the Commission's annual report to the City Council. She stated she has four dates for the Council meetings in March and April and she asked them to look at their calendars now or she can send an email to see what Council date would work best for the Commission.

Chair Nibbelin asked Commission if they would prefer email and they responded affirmatively.

Commissioner Stegink asked if the date of the Planning report was set in the bylaws as being in February.

Planning Director Wehrmeister stated that was correct, but there hasn't been a hard date, just depending on schedules and the agendas.

**ADJOURNMENT:**

There being no further business for discussion, Commissioner Clifford moved to adjourn the meeting at 8:12 p.m.; Commissioner Stegink seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Kraske, Stegink, Cooper, Gordon,  
Clifford and Chair Nibbelin  
Noes: None

Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director Wehrmeister