

**RESOLUTION NO. 19-2018**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF SPECIFIC PLAN SP-149-14, TRANSFER OF DEVELOPMENT RIGHTS TDR-03-14, SUBDIVISION SUB-224-14, AND AUTHORIZATION TO REMOVE ONE HERITAGE TREE, SUBJECT TO CONDITIONS, FOR CONSTRUCTION OF A 24-UNIT RESIDENTIAL CONDOMINIUM PROJECT AT 801 FASSLER AVENUE (APNs 022-083-020 AND 022-083-030); CERTIFYING THE SUPPLEMENT TO AN ENVIRONMENTAL IMPACT REPORT; AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, FINDINGS OF FACT, AND STATEMENT OF OVERRIDING CONSIDERATION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

---

Initiated by: Samir Sharma ("Applicant").

**WHEREAS**, an application has been submitted to subdivide the airspace and construct a 24-unit residential condominium development, including a butterfly and hummingbird garden, an upper and lower picnic area, other open space areas, and a footpath consisting of decomposed granite that would provide connection between the open space areas and the western portion of the residential development at 801 Fassler Avenue (APN 022-083-020 and 022-083-030);

**WHEREAS**, the submittal of the above mentioned development application rendered the existing Development Plan DP-67-04 and Rezoning RZ-183-04 approved with Ordinance No. 753-C.S. of the City Council of the City of Pacifica moot;

**WHEREAS**, the Project would include transferring the 32 unit development rights from a 3.6 acre portion of the parcel located within the Low Density Residential land use designation in the General Plan to the remaining 7.6 acre portion of the parcel located within the Open Space Residential land use designation in the General Plan with an existing 1 unit development right;

**WHEREAS**, the project site is located in the Planned Development (P-D) zoning district, which requires City Council enactment of an ordinance approving a Development Plan pursuant to PMC Section 9-4.2206, in order for development to occur at the site;

**WHEREAS**, the project is located in the Hillside Preservation District overlay zoning district and has a maximum allowable land coverage of 11 percent (53,665 square feet) of the 11.2 acre property per Pacifica Municipal Code Section 9-4.2257;

**WHEREAS**, the Planning Commission does not recommend altering the existing Hillside Preservation District (HPD) zoning designation applicable to the site, which shall remain in full force and effect;

**WHEREAS**, the adoption of a Development Plan would alter the development standards for the project site and would be considered a zoning map amendment, which requires City Council enactment of an ordinance approving a Rezoning per PMC Section 9-4.3505;

**WHEREAS**, prior to construction in a Planned Development zoning district, approval of a Specific Plan is necessary per PMC Section 9-4.2208;

**WHEREAS**, the project would require approval of a Transfer of Development Rights per PMC

Section 9-4.4200 through 9-4.4208;

**WHEREAS**, the project would subdivide the airspace above the parcel for condominium purposes and create two new parcels solely for identification of permanently preserved open space;

**WHEREAS**, the project would require dedication of Park Land per PMC Section 9-4.2205(c)(2) and PMC Section 10-1.803 and the applicant has requested the in-lieu fee alternative;

**WHEREAS**, the proposed project would require removal of one heritage tree;

**WHEREAS**, the City Council of the City of Pacifica must ordain the Development Plan DP-75-14 and Rezoning RZ-192-14 prior to issuance of a building permit;

**WHEREAS**, the proposed project would require the issuance of 24 residential development allocations by the City Council prior to issuance of a building permit per PMC Section 9-5.03;

**WHEREAS**, the proposed project includes the provision of 15 percent of proposed housing units as below market rate (BMR) housing units per PMC Section 9-4.4702, and the applicant has proposed to construct four BMR units within the project;

**WHEREAS**, City of Pacifica Planning Department is the Lead Agency for preparing the environmental review for the Project pursuant to the California Environmental Quality Act (CEQA) and for project approval;

**WHEREAS**, WRA Environmental Consultants (WRA), on behalf of the City of Pacifica Planning Department issued a Notice of Preparation on October 19, 2015 for the Project, which was distributed in compliance with CEQA Guidelines Section 15082;

**WHEREAS**, WRA prepared the *Fassler Avenue Residential Project Draft Supplemental Environmental Impact Report (SEIR)*, State Clearinghouse No. 2006062150 for the Project in accordance with Public Resources Code Section 21000 *et seq.* and CEQA Guidelines Section 15000 *et seq.*;

**WHEREAS**, on June 7, 2017 the City of Pacifica Planning Department issued a Notice of Completion and Notice of Availability for the Draft SEIR, which was distributed in compliance with CEQA Guidelines Sections 15085, 15087, and 15105 and Public Resources Code Sections 21091 and 21092;

**WHEREAS**, on June 7, 2017, the City of Pacifica Planning Department distributed copies of the Draft SEIR to public agencies which have jurisdiction by law with respect to the Project and to publically accessible repositories and invited comments on the Draft SEIR in compliance with CEQA Guidelines Sections 15085, 15087, and 15105 and Public Resources Code Sections 21091 and 21092;

**WHEREAS**, on June 29, 2017, City of Pacifica Planning Department held a properly noticed public meeting to present the proposed project and the conclusions of the analysis in the Draft SEIR;

**WHEREAS**, on July 24, 2017, the 48-day public comment period for the Draft SEIR ended;

**WHEREAS**, written comments on the Draft SEIR were collected and responses to comments were considered in the revisions made to the Draft SEIR to comprise the Final SEIR;

**WHEREAS**, the *Fassler Avenue Residential Project Final Supplemental Environmental Impact Report, State Clearinghouse No. 2006062150* was made available to the public on September 28, 2017;

**WHEREAS**, the Final SEIR identified certain potentially significant adverse environmental impacts and recommends certain mitigation measures regarding such effects;

**WHEREAS**, the project would have significant and unavoidable effects on aesthetics and noise after implementation of identified mitigation measures;

**WHEREAS**, the City Council finds that where more than one reason for approving the project and rejecting alternatives is given in its findings or in the record, and where more than one reason is given for adopting the Statement of Overriding Considerations, the City Council would have made its decision on the basis of any one of those reasons;

**WHEREAS**, the Planning Commission of the City of Pacifica did hold duly noticed public hearings on November 6, 2017, February 5, 2018, and March 19, 2018, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference;

**WHEREAS**, the Planning Commission adopted Resolution No. 991 approving with conditions Specific Plan SP-149-14, Transfer of Development Rights TDR-0314, Subdivision SUB-224-14, and authorization to remove one heritage tree;

**WHEREAS**, a Councilmember called up the Planning Commission's approval of Specific Plan SP-149-14, Transfer of Development Rights TDR-03-14, Subdivision SUB-224-14, and authorization to remove one heritage tree in accordance with Pacifica Municipal Code 2-1.133; and

**WHEREAS**, the City Council of the City of Pacifica did hold a duly noticed public hearing on May 14, 2018 at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its findings, the City Council relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby certify that the SEIR has been completed in accordance with CEQA, has been presented to and reviewed by this City Council prior to the Council's decision on the Project, and reflects the City of Pacifica's independent judgement and analysis.

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby make the following findings pertaining to Specific Plan SP-149-14:

- (1) That the specific plan is consistent with the approved development plan; and

**Discussion:** The application for the proposed project includes the specific plan and development plan together. Therefore the findings for the development plan as detailed in City Council Ordinance No. XX also apply to the specific plan.

(2) That the specific plan is consistent with the City's adopted Design Guidelines.

**Discussion:** As further discussed below, the proposed project is consistent with the City's adopted Design Guidelines:

***Site Planning, Site improvements.** Locate site improvements such as buildings, parking areas, and walkways to take advantage of desirable site features. For example, existing healthy trees and distinctive berms or rock outcroppings should be incorporated into site design. Buildings should be oriented to capitalize on views of hills and ocean.*

*Site improvements should be designed to work with site features, not against them. Lot grading should be minimized and disruption of natural features such as trees, ground forms, rocks, and water courses should be avoided.*

**Discussion:** The proposed development is located on the western portion of the parcel, which has the least significant slope and is the portion of the parcel that is most altered from past quarry activities. Additionally, the western portion would allow the buildings to be oriented to capitalize on the ocean views. Lastly, construction would involve the removal of only one heritage tree.

***Building Design, Scale.** An important aspect of design compatibility is scale. Scale is the measure of the relationship of the relative overall size of one structure with one or more other structures. Scale is also used to refer to a group of buildings, a neighborhood, or an entire city. A development can be "out of scale" with its surroundings due to its relative height, bulk, mass, or density.*

**Discussion:** The proposed project includes a group of 5 buildings with various heights (ranging between 35'-0" and 37'-1") and sizes (ranging between 1,253 and 2,143 square feet). The Project Elevation figures show the visual relationships between the buildings are compatible in scale regarding height and size. The consistent architectural stylings of the buildings further promote the compatible scale. The scale of the proposed project compared to the existing condominiums to the east would be compatible. The only viewshed in which you could see both developments would be from select locations along Highway 1 and at that distance, the two developments would appear comparable in scale.

***Building Design, Details.** Use architectural features and details to help create a sense of human scale. Wall insets, balconies, window projections, etc. are examples of building elements which may help reduce the scale of larger buildings.*

**Discussion:** Each building in the proposed development would incorporate all of the example building design details listed above. Thus, the buildings would create a sense of human scale.

***Building Design, Consistency.** There should be architectural consistency among all building elevations. All elevations need not be identical, but a sense of overall design*

*continuity must occur. Window treatment and trim, for example, should be carried out around the entire building, not just the most visible sides.*

**Discussion:** Each building in the proposed development would incorporate architectural consistency among all building elevations. Exterior building materials, wall outsets and insets, windows, balconies, and other architectural features would be consistently used through all of the elevations of the development.

***Landscaping, Amount and Variety.*** *Applicants are encouraged to exceed the minimum amount of landscaping required by the zoning ordinance and landscaping plans should incorporate a variety of plant species. The amount, scale, and nature of landscape materials should be appropriate to the site and/or structure. Large-scale buildings should be complemented by large-scale landscaping. Development along major streets should also include large scale trees.*

**Discussion:** The proposed development incorporates a substantial amount of landscaping in between the proposed structures and immediate around the development. An area would be specifically landscaped to encourage butterflies and humming birds. Condition of Approval 22 would require the applicant to submit a final landscaping plan to ensure that the landscaping element of the Pacifica Design Guidelines is met. Additionally, approximately 10 acres of the 11.2 acre property would be undisturbed and would continue to have its natural vegetation; therefore, the property would substantially exceed the landscaping minimum of 20 percent.

***Landscaping, Existing Landscape Elements.*** *Where possible, existing landscape elements, such as native and heritage trees, should be retained and incorporated into landscape plans. [...] Mature trees and tree grouping, as well as rock outcroppings should be considered design determinants.*

**Discussion:** The proposed project would remove only one heritage tree. Additionally, see response to Landscaping, Amount and Variety, provided above regarding retaining existing landscaping.

***Hillside Development, Slope Stability and Erosion.*** *Many of the hillsides areas show signs of instability through creep and slippage. Drainage and erosion potential are also problems associated with hillside development. (a) obtain input from a geologist or soils engineer early in the design process. A geotechnical report may be required. (b) avoid construction near geologically fragile or unstable areas. (c) use engineering techniques, such as drainage swales and channels, catch basins, and French drains to direct runoff. (d) use landscaping techniques such as netting, hydroseeding and selection of plants which have root systems which aid in stabilizing the soil.*

**Discussion:** Two geotechnical reports were used for reference of the development of the project, including a 2005 report prepared for the previous Prospect project, and a 2015 update prepared for the current proposed project, which identifies the feasibility of the development at the site. Mitigation Measure (MM) GEO-1 in the Supplemental Environmental Impact Report for the 801 Fassler Residential Project, would require the applicant to prepare a site specific design level geotechnical evaluation and a third party review prior to the issuance of the building permit. Recommendations from the design level review to remediate geologic, slope stability, or erosion impacts would be

implemented during construction.

***Hillside Development, Excavation.** Larger amounts of cut and/or fill are unattractive on hillsides, and can have a detrimental impact on the immediate and surrounding environment. (a) Structures should relate to and follow site topography to work with the slope, not against it. (b) whenever feasible, buildings and roads should be sited to align with existing contours of the land. (c) retaining walls should be avoided or, if necessary, their height should be reduced to the minimum feasible. (d) avoid one- level solutions which would result in excess lot coverage and more disruption of the site. Multi-level structures which step down the slope can help to minimize cut and fill.*

**Discussion:** (a) Most of the developable site would be generally flat. However, Buildings B and C incorporate the terracing into a hillside, by creating levels with varying depths. (b) The access road would be graded with a slight slope, with the peak occurring in the eastern portion of the loop. The road would accommodate the structures at their various elevations on the hill. (c) The proposed project would include the use of retaining walls. The retaining walls would range in height from 6 inches to approximately 13 feet. The 13 foot retaining wall is located between the Fassler entrance and Building C. The remaining retaining walls would be substantially shorter. (d) The development does not include any single story structures. All structures would be two to three stories.

***Hillside Development, Visual Impact.** Development on hillsides and ridges is often visible to neighbors and other residents in the vicinity, as well as those at a distance, such as motorists traveling on Highway 1. Hillside development also has the potential to block or impair established views from existing development. (a) locate development below ridges and hilltops so the ridgelines are left open. (b) building forms, particularly roof forms, should complement the contours and slopes of the hillside to increase structure and site integration. (c) Buildings should be designed with low profiles. In some cases low pitched roofs and hip end may be desirable. (d) massive roof overhangs and building cantilevers on downhill faces should be avoided where site conditions allow. Terracing into the hillside will help reduce the impact of bulk of the structure. Long pole supports on downhill faces are to be avoided. (e) multi-level designs which conform to the hillside are encouraged, but with careful planning is required to avoid excessive height. Although generally discouraged, very low pitched or flat roofs may be considered if no other solution is feasible. The horizontal potential of a site should be fully exploited before increasing building height.*

**Discussion:** (a) The proposed project is located near the top of the hill behind the east side of Rockaway and the north side of Fassler Avenue. While the project is not located on the hilltop on ridgeline, the buildings would visually block the ridgeline to the east from view of southbound motorists on Highway 1 and eastbound motorist on Fassler Avenue. However, by locating the development on the western portion of the property as proposed, the development is located lower than most alternative locations. (b) The individual roof forms of the structures would be flat roofs to maintain a lower profile. (c) The structures are proposed to have flat roofs. (d) The proposed structures have no roof overhangs or long pole structures. Most of the developable site would be graded to be generally flat. However, Buildings B and C incorporate the terracing into a hillside, by creating levels with varying depths. (e) The proposed project has fully exploited its limited horizontal potential site coverage by developing 53,627 sf of the 53,665 sf allowed under the HPD.

***Multi-Unit Development, Building Siting and Orientation.** The arrangement and orientation of buildings within a multi-unit development has an important impact on the overall design effect in terms of massing and bulk, and also affects privacy and energy consumption. (a) Building orientation should be varied to provide usable exterior spaces between structures and to avoid instances where living spaces of one structure face living of another and reduce privacy. (b) Private outdoor space should be located on the southern building exposure to gain the maximum amount of sunlight wherever feasible. (c) buildings should be oriented to maximize southern exposure to window areas to encourage passive solar heating in winter months. (d) building should be oriented to create courtyards and open space areas (e) Linear arrangement of buildings should be avoided and setbacks should be varied. This can be accomplished through the staggering of buildings or clustering in groups of varied numbers.*

**Discussion:** (a) The orientations of the duplex structures are varied throughout the development and include building fronts in various directions. The elevation changes from west to east, various unit styles and structure sizes, and the distances between structures are all design features that provide variety in the proposed project to avoid side by side living areas that would reduce each other's privacy. (b) In addition to the ocean views to the west and/ or the hillside views to the east, at least one of the private outdoor spaces of each unit would receive substantial morning or afternoon southern exposure. (c) Similar, the structures are well spaced and oriented to take advantage of the views as well as receive substantial morning or evening southern exposure. (d) The spacing of the structures in Building A would create walk way that would lead residents on the eastern side (Building C) to the community patio located between the structures of Building B. Further open space areas would be accessible from the community patio. (e) The buildings are not linearly arranged, but are oriented in a semi-circle pattern, which is related to the looped access road and the minimal coverage allowed on site.

***Multi-Unit Development, Parking and Circulation.** Multi-unit developments can result in a significant traffic increase in a given area, placing an additional burden on the capacity of existing streets to handle through traffic and on-street parking. Such developments also often require a large number of on-street parking spaces. (a) access should be planned to have the least impact on existing residential streets. (b) requirements of the City's Fire Services Division regarding driveways and turnarounds should be considered early in the design process.*

**Discussion:** Impacts on traffic from the development of the proposed project were found to be less than significant. The City of Pacifica Engineering Division staff as well as North County Fire Authority staff have found the width of the proposed loop suitable and adequate for the proposed development. Therefore the project would be consistent with the traffic and circulation guidelines for multi-unit developments

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby make the following Specific Plan findings pertaining to the exemption from the 35 foot height maximum as allowed per PMC Section 9-4.2211:

- (1) There is improved site design utilizing progressive concepts of building groupings;

**Discussion:** The proposed project would utilize the clustering development and transferring development rights process to transfer distributed development in a less disturbed area of the site, to a single location on the site that has been disturbed by past quarry activities. The orientations of the duplex structures are varied throughout the development and include building fronts in various directions. The elevation changes from west to east, various unit styles and structure sizes, and the distances between structures are all design features that provide variety in the proposed project to avoid side by side living areas that would reduce each other's privacy. In addition to the ocean views to the west and/ or the hillside views to the east, at least one of the private outdoor spaces of each unit would receive substantial morning or afternoon southern exposure.

- (4) Provisions have been made for substantial usable open space (maximum slope ten (10%) percent) for the use of the occupants of the area or the general public;

**Discussion:** The proposed project would provide beyond its 16,800 sf of usable open space minimum. The project would provide 18,124 sf of usable open space.

- (5) The unsightliness of cut and fill areas has been reduced by the planting of trees, shrubs, and ground covers;

**Discussion:** The proposed development incorporates a substantial amount of landscaping in between the proposed structures and immediate area around the development. An area would be specifically landscaped to encourage butterflies and humming birds. Condition of Approval No. 22 would require the applicant to submit a final landscaping plan to ensure that the landscaping element of the Pacifica Design Guidelines is met. Mitigation Measure BIO-3a would require the applicant to have a qualified professional who specializes in native habitat restoration to incorporate specific provisions into the landscaping plan. Additionally, approximately 10 acres of the 11.2 acre property would be landscaped with proposed or existing natural vegetation.

- (6) A better community environment or improved public safety has been created by the dedication of public areas or space; and

**Discussion:** The proposed project would utilize the clustering development and transferring development rights process to transfer distributed development in a less disturbed area of the site, to a single location on the site that has been disturbed by past quarry activities. The project design would allow for the greater and better quality open space to be preserved and improve the community environment. Condition of Approval 15 would require the applicant to record on the title of the property that the 3.6 acres of Low Density Residential designated land are permanently preserved as open space. Additionally, Conditions of Approval Nos. 2 and 3 detail the voluntary deed restriction that the Applicant has agreed to apply to all non-developed areas of the property.

- (7) Utility and all other service distribution lines will be put underground.

**Discussion:** As required by Condition of Approval No. 36, the utilities for the development would be underground.

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby make the following findings pertaining to Transfer of Development Rights TDR-03-14:

- (1) That the criteria set out in Section 9-4.4204 herein are met.

**Discussion:** The requirements for TDR are listed in PMC Section 9-4.4200 through 9-4.4208 of the zoning code. PMC Section 9-4.4205 specifically allows TDRs within one parcel, which is the proposal under consideration now. The TDR is in compliance with all applicable requirements listed in the Zoning Code. The 3.6 acres in the easterly portion of the site qualifies as a sending area under PMC Section 9-4.4203(a)(1) as it is an open space area designated in the 1988 Pacifica Open Space Task Force Report Inventory (identified as portion of Parcel 25). The 7.6 acres in the westerly portion of the site qualifies as a receiving area under PMC Section 9-4.4204(a)(5) as its zoning designation is P-D. Consistent with the requirements of PMC Section 9-7.4206, all the density allowed in the LDR easterly portion of the site would be transferred to the westerly portion of the site with the General Plan land use designation of OSR.

- (2) That the transfer will result in the permanent preservation of open space land with natural, scenic, agricultural, or recreational value, or in the preservation of undeveloped land subject to geotechnical hazard or flooding.

**Discussion:** Consistent with the requirements of PMC Section 9-7.4206, all the density allowed in the LDR easterly portion of the site would be transferred to the westerly portion of the site with the General Plan land use designation of OSR. Therefore 3.6 acres of open space designated in the 1988 Pacifica Open Space Task Force Report Inventory would be preserved. Condition of Approval 15, would require the applicant to satisfy all requirements for the TDR in the zoning code, including PMC Section 9-4.4207(d), which requires legal recordation of the deed restriction as approved by the City Attorney.

**BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica does hereby make the following findings pertaining to Subdivision SUB-224-14:

- (1) That the proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, any Specific Plan, the Local Coastal Program, and the zoning provisions.

**Discussion:** The proposed subdivision is consistent with the General Plan, Specific Plan, and zoning provision as discussed above under the respective findings. The Local Coastal Program does not apply to this project site. In accordance with Section 66427 of the Subdivision Map Act, a governing body does not have the right to refuse approval of a tentative or final map of the project on account of the design or the location of the building on the property shown on the map that are not violative of local ordinance on account of the manner in which airspace is to be divided in conveying condominium.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of Pacifica hereby:

- Certifies the Fassler Avenue Residential Project Final Supplemental Environmental Impact Report, State Clearinghouse No. 2006062150 in accordance with the California Environmental Quality Act;
- Adopts the Findings of Fact, and Statement of Overriding Considerations in accordance with the California Environmental Quality Act, included as Exhibit B to this resolution;
- Adopts the Mitigation Monitoring and Reporting Program in accordance with the California Environmental Quality Act, included as Exhibit C to this resolution;
- Approves Specific Plan SP-149-14, Transfer of Development Rights TDR-03-14, Subdivision SUB-224-14, and removal of one heritage tree, subject to conditions of approval included as Exhibit A to this resolution,
- Incorporates all maps and testimony into the record by reference.

\* \* \* \* \*

Passed and adopted at a regular meeting of the City Council of the City of Pacifica, California, held on the 14th day of May 2018.

AYES, Councilmember: Martin, O'Neill, Digre, Vaterlaus, Keener

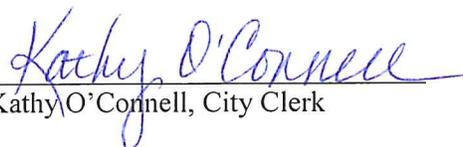
NOES, Councilmember: None

ABSENT, Councilmember: None

ABSTAIN, Councilmember: None

  
\_\_\_\_\_  
John Keener, Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy O'Connell, City Clerk

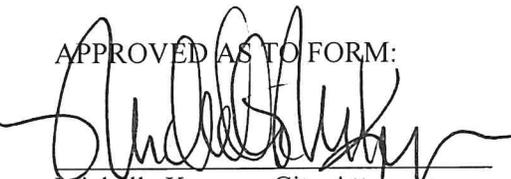
APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Michelle Kenyon, City Attorney

Exhibit A

**Conditions of Approval: Construction of a 24 unit residential condominium project at 801 Fassler Avenue (APNs 022-083-020 AND 022-083-030)**

**City Council Meeting of May 14, 2018**

**SUBDIVISION CONDITIONS**

1. The tentative map is valid for a period of two years from the date of final determination. If a final map is not recorded within this time, the tentative map approval shall expire unless Applicant submits a written request for an extension, stating the reasons for requesting the extension, and applicable fee to the Planning Director at least 30 days prior to the expiration date as provided in Pacifica Municipal Code Section 10-1.412. The Planning Director shall process an extension request in accordance with Section 10-1.412 and submit it for consideration by the Planning Commission. The Planning Commission may grant an extension request for a period not exceeding three years beyond the expiration date of the original tentative map approval.
2. The Applicant shall revise the tentative map to separately identify as parcels the following two areas: a) the area affected by Transfer Development Rights TDR-03-14 which shall be described as follows on the tentative map "Area of Prohibited Development Pursuant to Transfer of Development Rights TDR-03-14"; and, b) the area voluntarily offered by the Applicant for permanent protection from future development which shall be described as follows on the tentative map "Area of Voluntary Development Restriction".
3. Prior to final map approval, the Applicant shall prepare and submit for review and approval by the City Attorney deed restrictions for each parcel which will permanently restrict future use and development on the two parcels described in Condition No. 2 to the following: As pertains the first parcel, the deed restriction shall forfeit all residential building rights permitted on the lot or parcel pursuant to Transfer of Development Rights TDR-03-14; and, as pertains the second parcel, the deed restriction shall reserve the area for private use for the benefit of the future 24 owners at 801 Fassler Avenue and for the residents at the Sea Crest Development; permit the construction of trails; prohibit roadway connection to the Rockaway Beach neighborhood; prohibit vertical construction with the exception of fences (max 4' in height and open work) and bench/seating areas as approved by the Fassler Homeowners Association (HOA). Management of the second parcel is the responsibility of the Fassler HOA and shared access privileges will be defined by the Fassler HOA. These permanent development restrictions will be memorialized in deed restrictions that will be in a form acceptable to the City Attorney and will also be recorded upon the property. Upon approval of the deed restrictions by the City Attorney, the Applicant shall record the deed restrictions against the property and submit proof of recording to the Planning Director prior to issuance of a building permit for the first residential unit within the subdivision.
4. The City Council of the City of Pacifica will need to accept offer of easements for Emergency Vehicle Access and Public Use Access prior to the filing of a final subdivision map.
5. Prior to the execution of the Subdivision Improvement Agreement, applicant shall submit to Engineering Division the construction plans and necessary reports and engineering calculations for all on-site and off-site improvements to the satisfaction of the City Engineer. Such plans and reports shall include but not limited to:

- a. All plans and reports must be signed and stamped by a California licensed professional.
  - b. Plan, profile and cross sections of the proposed driveways. The proposed driveway shall not exceed the maximum grade of 18 percent.
  - c. Curb ramps on both sides of the driveways.
  - d. Design Geotechnical Report analyzing the proposed on-site and off-site improvements including but not limited to the driveways and retaining wall.
  - e. All site improvements including utilities and connections to existing mains must be designed according to the City Standards and to the satisfaction of the City Engineer.
6. Prior to approval of the final subdivision map, Applicant shall enter into a Subdivision Improvement Agreement with the City of Pacifica to construct all on-site and off-site improvements, as depicted on the approved Tentative Map and any conditions and mitigations imposed on this project, prior to approval of the final map and all necessary fees and bonds associated with this agreement, including applicable Park Land Dedication fees as determined by the Planning Director, shall be paid by the applicant.
7. Should the applicant desire to record the final map prior to completion and acceptance of improvements, a bond in an amount determined by the City Engineer must be provided. The bond may be in the form of cash, instrument of credit or surety bond. In addition, an improvement agreement shall be executed to guarantee that the work will be done in accordance with the approved plans.
8. Prior to approval of the final map, the applicant shall verify that all public and private utilities have been provided to serve the subdivision. Approvals and/or agreements shall be obtained from all utilities.
9. The form, contents, submittal, approval, and filing of a final subdivision map (or final parcel map) shall conform to the following:
- a. Surveys required. An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer or licensed land surveyor. All monuments, property lines, and center lines of streets, alleys, and easements adjoining or within the subdivision shall be tied into the survey. The allowable error of closure on any portion of the parcel map shall not exceed 1/10,000 for field closures and 1/20,000 for calculated closures.
  - b. Forms and contents. The form and contents of the parcel map shall conform to the final map form and contents requirements of Pacifica Municipal Code Section 10-1.504 and Pacifica Municipal Code Section 10-1.505 of, except for subsection (6) of subsection (c).
  - c. Preliminary submittal. The subdivider shall submit prints of the parcel map to the City Engineer for checking. The preliminary prints shall be accompanied by copies of the data, plans, reports, and documents required for final maps by Pacifica Municipal Code Section 10-1.506.
  - d. Review and approval by the City Engineer. The City Engineer shall review the parcel map, and the subdivider's engineer shall make corrections and/or additions until the map is acceptable to the City Engineer. The subdivider's engineer shall submit the original tracing of the map, corrected to its final form and signed by all parties required to execute the certificates on the map, to the City Engineer. The City Clerk or his or her authorized agent shall transmit the approved parcel map directly to the County Clerk for transmittal to the County Recorder.
  - e. The City Engineer shall approve the final parcel map if it conforms to the requirements of the Subdivision Map Act, applicable sections of the Pacifica Municipal Code, and all conditions thereof.

10. The subdivider shall defend, indemnify and hold harmless the City of Pacifica and its agents, officers, and employees from any claim, action, or proceeding against the City of Pacifica and its agents, officers, or employees to attack, set aside, void, or annul approval of subdivision SUB-224-14. Pursuant to this condition, the City of Pacifica shall promptly notify the subdivider of any claim, action, or proceeding regarding the subdivision, and the City of Pacifica shall cooperate fully in the defense of such claim, action, or proceeding.

## **GENERAL CONDITIONS APPLICABLE TO PERMITS OTHER THAN SUBDIVISION SUB-224-14**

### **Planning Division**

11. Development shall be substantially in accordance with the plan set entitled "*Tentative Map for Condominium Purposes 801 Fassler Avenue, Pacifica, CA March 2015, Revised: October 2017*", and attached to the March 19, 2018, Planning Commission Staff Report, except as modified by the following conditions.
12. Construction dump trucks shall not enter or leave the project site during 7:00 am to 9:00 am, Monday through Friday.
13. Prior to issuance of a building permit, the City Council of the City of Pacifica must ordain the Development Plan DP-75-14 and Rezoning RZ-192-14.
14. Prior to the issuance of a building permit, applicant must receive City Council approval for the issuance of 24 residential development allocations in accordance with PMC Section 9-5.03.
15. Prior to the issuance of a building permit, the Transfer of Development Rights shall be finalized. The Transfer of Development Rights shall not be finalized until all of the following have been accomplished:
  - a. Final approval of the other development entitlements for the project;
  - b. Execution of an instrument legally sufficient in both form and content to effect such development rights transfer;
  - c. Recordation of a deed restriction on the portion of the parcel considered to be the sending parcel. A copy of the recorded deed restriction shall be submitted to the Planning Administrator, who shall certify that all of the development rights on the sending parcel are removed;
  - d. The deed restriction shall be approved as to form and content by the City Attorney. The document shall notify all owners and successors that the transfer and its concomitant restriction shall run with the land and be binding on all future owners. For all sending parcels, the deed restriction shall be sufficient to retire all development rights upon the sending parcel; and
  - e. Recordation of total development rights received on the portion of the parcel considered to be the receiving parcel. A copy of the recorded deed restriction shall be submitted to the Planning Director, who shall certify that all of the development rights on the receiving parcel are recorded.
16. Declaration of Covenants, Conditions & Restrictions (CC&Rs). Prior to issuance of a building permit, the developer/owner shall prepare and record with the San Mateo County Recorder's Office a Declaration of Covenants, Conditions and Restrictions and Equitable Servitudes which

shall run with the land and be binding on all future owners and occupants of each of the residential units within the subject property and their successors, heirs, and assigns, and shall be approved as to form and content by the City Attorney and Planning Director, which accomplishes the following:

- a. The Declaration shall be binding upon each of the owners of each of the residential units on the subject property and their heirs, successors and assigns.
- b. There shall be a Homeowner Association to manage the project. The Declaration shall specify that the Homeowners Association shall be responsible for the repair, maintenance and replacement of exterior lighting, parks, common areas, utility areas within common areas, parking, landscaping, building signage, sanitary sewer, stormwater facilities, open space, and other features of the project.
- c. The Declaration shall establish standards and guidelines for the maintenance, repair and replacement, where applicable, exterior lighting, park, parking, landscaping, signage, sanitary sewer, stormwater facilities, and other features and utility facilities within the common areas, to the satisfaction of the City of Pacifica. Maintenance of the stormwater facilities located within the property shall be the responsibility of the applicant and property owners.
- d. The Declaration shall establish a mechanism for placing assessments against the owners of all residential units within the subject property for the purpose of financing the maintenance, repair and replacement of the common areas, parking, landscaping and building signage. The assessments shall be apportioned in an equitable manner.
- e. The assessments shall be made, work shall be contracted for, and funds shall be disbursed by such person ("Agent") as may be delegated from time to time, by the Homeowners Association. The applicant or his/her successor in interest shall act as the Agent as long as he/she owns at least two of the units on the subject property.
- f. Any assessment not paid when due shall become a lien against the unit of the nonpaying owner, which lien may be foreclosed by the Agent.
- g. Communication. Each owner is responsible for, and shall agree to, furnish to each new tenant a copy of the CC&Rs prior to execution of the lease or purchase agreement for each unit.
- h. The Declaration shall include procedures for designating a project "Manager" if different than the "Agent" who shall at all times be responsible for security and/or maintenance of the overall project. At all times the Manager shall provide his/her name and current phone number to the Planning Director, including any changes thereto.
- i. The Declaration shall include a provision that the provisions relating to this condition (No.16) shall not be amended without prior approval in writing from the City of Pacifica.
- j. The Declaration shall specify that the owners of each of the residential units on the property shall comply with all other applicable conditions of approval for the project.
- k. The Declaration shall specify that in no way shall the appearance of any building or premises be so altered, or the conduct of the occupancy within the building or premises be such that the residential units may be reasonably recognized as serving other than a purely residential use by virtue of color, materials, construction, lighting, noise, vibration, or the like, without prior written approval of the Planning Director.
- l. The Declaration shall include the provisions required to be included in the CC&Rs by the MMRP. The MMRP requires provisions to be included in the CC&Rs whenever a mitigation measure requires the owners, HOA or other similar entity to undertake maintenance or other obligations after occupancy of the project.
- m. The Declaration shall name the City of Pacifica as a third party beneficiary with the right (but not the obligation) to enforce the provisions required to be included in the CC&Rs by the MMRP or these conditions of approval.

n. All exterior colors used in the development shall be muted earth tone colors in perpetuity.

- 16.1. Prior to the recordation of the Final Map, Applicant shall enter into a Below Market Rate (BMR) Housing Unit Affordability Agreement (“Affordability Agreement”) with City, in a form approved by the Planning Director and City Attorney. The Affordability Agreement shall provide, among other things that: (1) Applicant will develop and sell four of its units as BMR units at an affordable housing cost to eligible households; (2) the BMR units shall meet the size and design requirements set forth in Pacifica Municipal Code Section 9-4.4705; (3) construction and sale of the BMR units shall be phased with the development of the market rate units to ensure that the BMR units are timely developed and sold; (4) purchasers of the BMR units will be required to enter into and execute Resale Restriction Agreements and other documents ensuring the long-term affordability of the BMR units for no less than 45 years; (5) the development and sale of the BMR units otherwise meets the requirements of Article 47 of Chapter 4 of Title 9 of the Pacifica Municipal Code (“City of Pacifica Below Market Rate (Inclusionary) Program”); and (6) Applicant will be responsible for the City’s administrative costs associated with compliance with the Affordability Agreement. The Affordability Agreement must be recorded against the property prior to or concurrently with the recordation of the Final Map.
17. That the approval of SP-149-14 is valid for a period of two years from the date of final determination. If the use or uses approved is/are not established within such period of time, the approval shall expire unless Applicant submits a written request for an extension and applicable fee prior to the expiration date, and the Planning Director or Planning Commission approves the extension request as provided below. The Planning Director may administratively grant a single, one year extension provided, in the Planning Director’s sole discretion, the circumstances considered during the initial project approval have not materially changed. Otherwise, the Planning Commission shall consider a request for a single, one year extension.
18. DELETED
19. That the approval of TDR-03-14 shall not expire and shall permanently restrict development rights for the project site.
20. The Applicant shall incorporate all mitigation measures, as detailed, in the *Fassler Avenue Residential Project Final Supplemental Environmental Impact Report* (September 2017).
21. Prior to the issuance of a building permit, Applicant shall submit a detailed on-site exterior lighting plan for review and approval by the Planning Director. Said plan shall indicate fixture design, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties. Lighting shall be directed away from adjacent residences. Buffering techniques to reduce light and glare impacts to residences shall be required. Building lighting shall be architecturally integrated with the building style, materials and colors and shall be designed to minimize glare. Show fixture locations, where applicable, on all building elevations.
22. Prior to the issuance of a building permit, Applicant shall submit a final landscape plan for approval by the Planning Director. The landscape plan shall show each type, size, and location of plant materials, as well as the irrigation system. Landscaping materials included on the plan shall be coastal compatible, drought tolerant and shall be predominantly native. All landscaping shall be completed consistent with the final landscape plans prior to occupancy. In addition, the landscaping shall be maintained as shown on the landscape plan and shall be designed to incorporate efficient irrigation to reduce runoff, promote surface filtration, and minimize the use

of fertilizers, herbicides, and pesticides. Landscaping on the site shall be adequately maintained in a healthful condition and replaced when necessary as determined by the Planning Director.

23. All transformers, HVAC units, backflow preventers and other ground-mounted utility equipment shall be shown on the landscape and irrigation plans and shall be located out of public view and/or adequately screened through the use or combination of walls or fencing, berming, painting, and/or landscaping, to the satisfaction of the Planning Director.
24. Prior to the issuance of a building permit, Applicant shall submit a roof plan with spot elevations showing the location of all roof equipment including vents, stacks and skylights. All roof equipment shall be screened to the Planning Director's satisfaction.
25. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.
26. Prior to the issuance of a building permit, Applicant shall submit information on all final exterior finishes, including colors and materials, to the satisfaction of the Planning Director. All exterior metal materials shall be corrosion resistant materials. Exterior colors and materials shall be muted earth toned as further required in COA 16.
27. Exterior individual television and radio antennas shall be prohibited on the outside of the owners' units. A central antenna with connection to each unit via underground or internal wall wiring shall be provided, or each unit shall be served by a cable antenna service provided by a company licensed to provide such service within the City.
28. All permanent mechanical equipment, such as motors, compressors, pumps, and compactors, which is determined by the Building Official to be a source of structural vibration or structure-borne noise, shall be shock mounted in inertia blocks or bases and/or vibration isolators in a manner approved by the Building Official.
29. Each dwelling unit shall be served by water, gas, and electric services completely within the lot lines or ownership space of each separate unit. No common water, gas, or electrical connections or services shall be allowed, and each dwelling unit shall be separately metered for each service. Easements for water, gas, and electric lines shall be provided in the common ownership area where lateral service connections shall take place.
30. Applicant shall maintain its site in a fashion that does not constitute a public nuisance and that does not violate any provision of the Pacifica Municipal Code.
31. Applicant shall clearly indicate compliance with all conditions of approval on the plans and/or provide written explanations to the Planning Director's satisfaction prior to issuance of a building permit.
32. The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any

way connected to the Applicant's project, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

### **Engineering Division**

33. Drainage inlets shall be stenciled in thermoplastic or marked "No Dumping Drains To Ocean." Applicant shall install Trash Capture Devices on all new drainage inlets. Construction shall be in conformance with the City of Pacifica Storm Water Management and Discharge Control Ordinance and San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented.
34. Roadways shall be maintained clear of construction materials and debris, especially mud and dirt tracked, onto Fassler Avenue. Dust control and daily road cleanup will be strictly enforced.
35. An Encroachment Permit must be obtained for all work within City right-of-way. All proposed improvements within City right-of-way shall be constructed per City Standards.
36. All utilities shall be installed underground from the nearest main or joint pole.
37. All recorded survey points, monuments, railroad spikes, pins, cross cuts on top of sidewalks and tags on top of culvert headwalls or end walls whether within private property or public right-of-way shall be protected and preserved. If survey point/s are altered, removed or destroyed, the applicant shall be responsible for obtaining the services of a licensed surveyor or qualified Civil Engineer to restore or replace the survey points and record the required map prior to occupancy of the first unit.
38. All proposed sanitary sewer system and storm drain system including detention basins up to their connection to the existing mains shall be privately maintained. Indicate the rim and invert elevation of all existing and proposed storm drain manholes and sewer manholes.
39. Existing curb, sidewalk or other street improvements adjacent to the property frontage that is damaged or displaced shall be repaired or replaced as deemed by the City Engineer even if damage or displacement occurred prior to any work performed for this project
40. Prior to the earlier of issuance of a grading permit or issuance of a building permit for the first housing unit on the project site, Applicant shall pay a fee of \$134.56 (One Hundred Thirty-four Dollars and Fifty-six Cents) which is necessary to compensate for degradation of road pavement on eastbound Fassler Avenue between Highway 1 and the project site caused by loaded dump trucks associated with project grading. The fee calculated by the City Engineer was based on the following consideration: the cost of a single lane road overlay project on eastbound Fassler Avenue between Highway 1 and the project site; the projected usable life of a road overlay, estimated at 10 years; daily trips by non-project construction traffic along eastbound Fassler Avenue during the usable life of the road overlay; and, the number of equivalent trips for each loaded dump truck traveling along eastbound Fassler Avenue during the project grading phase (Because loaded dump trucks are heavier than typical passenger vehicles, it is necessary to adjust a single dump truck trip to an equivalent number of passenger vehicle trips to determine the

proportionate pavement impact).

- 40.1. In order to address the degradation of the pavement due to utility and other right of way improvements associated with the project, applicant shall overlay existing asphalt with minimum 2 inch AC to the limits of all utility connections or to street centerline, whichever is greater, across entire property frontage (consisting of westbound Fassler Avenue), prior to issuance of a Certificate of Occupancy for any housing unit in the project. All pavement markers, markings and striping shall be replaced in kind or according to the approved plans.
41. There shall be no construction vehicles parked within the Fassler Avenue public right-of-way.
42. Municipal Regional Permit requirements, Drainage Technical Memorandum and stormwater improvements shall be peer reviewed by a qualified stormwater professional.
43. Street striping shall be substantially in accordance with the design shown in Attachment L of the May 14, 2018 City Council staff report for Agenda Item No. #, and further included as Attachment B-1 to Exhibit B of Planning Commission Resolution No. 991. Applicant shall establish street striping prior to issuance of a building permit. Final Street striping shall be reapplied prior to issuance of Certificate of Occupancy.
44. With submission of a building permit, the applicant shall submit a detailed traffic improvement plan that shows a sight distance study; left turn pocket and pavement striping and markings; and installation of the right turn lane with a properly designed transition and deceleration lane. These improvements will narrow the existing westbound through lane from 18 feet to 12 feet in width and may also include restriping of the center line. The traffic improvement plan shall include installation of other traffic calming improvements including but not limited to: thermoplastic pavement speed limit markings; advance intersection warning signs; a striped and/or raised island with white delineator plastic posts for the right turn lane; series of rumble strips; and raised strips or grooves across the travel lane and/or along the edge of roadway. The traffic improvement plan shall be peer reviewed by a qualified transportation professional and be designed to the satisfaction of the City Engineer.
45. No private structures, including but not limited to walls or curbs, fences, mailboxes, or stairs shall encroach into the public right-of-way.
46. Per the adopted City of Pacifica Complete Street Policy, development shall include but not limited to pedestrian facilities. Applicant shall install new sidewalk per City Standards 101A across the entire property street frontage.

#### **Building Division**

47. The project requires review and approval of a building permit by the Building Official. Applicant shall apply for and receive approval of a building permit prior to commencing any construction activity.

#### **Wastewater Division**

48. Prior to building permit, applicant shall provide location and size of sewer lateral, appurtenances to satisfy city standards and specifications
49. The portion of the sewer collection system that is being proposed to serve this development may

be at or near capacity. The developer shall conduct a sewer flow study that will evaluate flow and capacity of existing sewer line infrastructure located at manhole #RK18 on Fassler just west of the proposed development and extending to manhole #R20a which is located just outside the Rockaway Sewage Lift Station. The flow study shall meet the satisfaction of the Public Works Director. In the event that the flow study determines that improvements to the existing sewer line infrastructure are necessary due to the burdens and impacts imposed by the proposed project, the developer shall be financially responsible for the actual costs required to install any such required improvements to the sewer line and shall construct any required infrastructure improvements prior to the issuance of a certificate of occupancy. All such improvements constructed shall be inspected and subject to approval by the Director of Public Works prior to issuance of any certificate of occupancy.

#### **North County Fire Authority**

50. Fire sprinklers are required per 2016 CFC Chapter 9 Section 903 with horn/strobes.
51. Project shall comply with fire flows per 2016 CFC Appendix B.
52. Project shall include smoke detectors and CO monitors required per CBC.
53. Clearly visible and illuminated, address identification required for each unit. Project shall conform to the 2016 CFC Appendix D Section D103.6.
54. Project shall comply with fire Apparatus Access per 2016 CFC Appendix D. Additionally the curb shall be painted red and marked as "Fire Lane" in 4 inch white block lettering.
55. Project shall comply with Fire service features installed per 2016 CFC Chapter 5 Section 501.4.
56. Fire systems per 2016 CFC Chapter 9.
57. Project shall comply with fire hydrant location and spacing per 2016 CFC Appendix C.
58. Project shall comply with the 2016 CFC Chapter 33 - Fire Safety during construction and demolition.

#### **North Coast County Water District**

59. In the event that a water main extension may be required by the North Coast County Water District, developer will enter into a Water Service Agreement with the District in order to provide a water main extension for this project area. The developer shall be financially responsible for any improvements to the water systems that are necessary to accommodate the proposed project. Improvements shall be completed prior to the issuance of a certificate of occupancy.
60. If a right of way is required shall be dedicated to the Water District upon completion of the work.
61. The applicant must determine the domestic water requirements in accordance with the Uniform Plumbing Code so that the District can provide the properly sized domestic meter or meters. The applicant shall complete an Application for Minor projects Designed and Constructed by Applicant Under District Review and Inspection available at the District or online at [www.nccwd.com](http://www.nccwd.com) <<http://www.nccwd.com>>. Fees and deposits must be paid in accordance with the District's Rate and Fee Schedule before the District installs any meters.

62. If sprinkler systems are required by the City, the fire sprinkler designer and/or owner/applicant must have a fire flow test performed to ensure the system is designed using accurate information. Application for fire flow test is available at the District or can be found at [www.nccwd.com](http://www.nccwd.com) <<http://www.nccwd.com>>.
63. The project and fire sprinkler designers must obtain the latest version of the District's Standard Specifications and Construction Details. A hard copy is available at the District office or a downloadable version is available on the website. The sprinkler designer must design the sprinkler system to meet District standards. The fire sprinkler designer must submit plans and hydraulic Fire Sprinkler Calculations stamped by a registered Fire Protection Engineer to the District for review along with the appropriate fees to cover the District costs related to plan review.
64. The applicant is responsible for trenching, backfilling and resurfacing the roadway and/or sidewalk from water main, as identified by the District Engineer to the proposed meter(s) according to NCCWD and the City of Pacifica standards.

#### **Conditions Added By Planning Commission at March 19, 2018 Public Hearing**

65. Applicant shall incorporate alternative roof designs as shown in Attachment Q of the May 14, 2018 City Council staff report for Agenda Item No. #. The alternative design shall replace the angled roof feature of the buildings, as seen on Figure IV-7 of the Draft SEIR (Attachment G of said staff report), with a flat roof as depicted in Attachment Q of the May 14, 2018 City Council staff report for Agenda Item No. #.
66. The maximum height of the structures for Specific Plan SP-149-14 shall be 35'-0" with the exception of Building A (not including Building A-Alt), which shall have a maximum height of 37'-1" and Building B, which shall have a maximum height of 35'-4".
67. The purpose of this condition of approval is to memorialize the Applicant's voluntary offer of an irrevocable offer of dedication to the City of Pacifica of certain trail and recreational areas on the subject site made during the City Council public hearing on May 14, 2018. Prior to issuance of a building permit for the first residential unit within the subdivision, the applicant shall have recorded on the Property, an irrevocable offer of dedication dedicating certain trail and recreational areas on the subject site to the City which may be accepted by the City or some other entity such as the GGNRA or a land trust at some future date. The offer of dedication shall be in a form acceptable to the City Attorney. The areas subject to the irrevocable offer of dedication are identified on Sheet C-1 of the plan set reviewed by the City Council, including but not limited to the areas designated as "Trails/Circulation", "Existing Trail Alignment," "Garden/Lower Picnic Area," "Upper Picnic Area," and "Active Recreation Area." Prior to final map approval, the Applicant shall create a new sheet within the subdivision map as an exhibit demonstrating the areas irrevocably offered for dedication to the City and shall provide a legal description of the areas. Prior to recordation, Applicant shall draft and submit for City Attorney review the necessary document(s) to effectuate the irrevocable offer of dedication, to identify the permissible general public recreational uses of the property upon acceptance by the City or other entity, and to state the responsibilities upon acceptance by the City or other entity. The document(s) shall be in a form acceptable to the City Attorney. The Applicant shall submit proof of recording to the Planning Director prior to issuance of a building permit for the first residential unit within the subdivision."

**\*\*\* END OF CONDITIONS \*\*\***

Exhibit B

**FINDINGS OF FACT IN SUPPORT OF FINDINGS FOR  
SIGNIFICANT ENVIRONMENTAL EFFECTS OF  
THE FASSLER AVENUE RESIDENTIAL PROJECT AND  
STATEMENT OF OVERRIDING CONSIDERATIONS**

**I. CERTIFICATION OF THE FINAL SEIR**

The City of Pacifica (City), as lead agency, has completed the Final Supplemental Environmental Impact Report (Final SEIR) for the Fassler Avenue Residential Project (proposed project). The Final SEIR has been assigned State Clearinghouse Number 2006062150.

The Final SEIR consists of the Draft SEIR and appendices published in June 2017 and the Final SEIR published in September 2017. The Final SEIR assesses the potential environmental impacts associated with implementation of the proposed project, identifies means to eliminate or reduce potential adverse impacts, and evaluates a reasonable range of alternatives to the Fassler Avenue Residential Project as proposed. The Final SEIR includes comments on the Draft SEIR and provides written responses to the environmental issues raised in those comments. The Draft SEIR is hereby incorporated into these findings by reference.

Pursuant to Public Resources Code 21081 and Title 14, California Code of Regulations, Section 15090, the Planning Commission of the City of Pacifica certifies that it has been presented with the Draft and Final SEIR and that it has reviewed and considered the information contained in the SEIR prior to making the following certifications and the findings and the approvals as presented below.

The Planning Commission is certifying the Final SEIR for the entirety of the actions described in these findings and in the Final SEIR for the Fassler Avenue Residential Project.

Pursuant to CEQA Guidelines Section 15090 (Title 14 of the California Code of Regulations, Section 15090), the Planning Commission certifies that the Final SEIR has been completed in compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. The Planning Commission further certifies that the Final SEIR reflects its independent judgment and analysis of the Planning Commission.

Based on the foregoing, the Planning Commission finds and determines that as the certified SEIR for the proposed project, the Final SEIR provides the basis for approval of the proposed project, and the supporting findings as set forth below.

## II. FINDINGS

The Planning Commission is adopting these findings for the entirety of the actions described in these findings and in the Final SEIR as comprising the Fassler Avenue Residential Project.

Having received, reviewed, and considered the Final SEIR and other information in the record of proceedings, the Planning Commission hereby adopts the following findings in compliance with CEQA and the CEQA Guidelines.

Part A: Overview and description of the proposed project.

Part B: Findings regarding the environmental review process and the contents of the Final SEIR.

Part C: Findings of fact regarding impacts and mitigation measures.

Part D: Findings regarding the Mitigation Monitoring and Reporting Program.

Part E: Findings regarding alternatives to the proposed project and the reasons that such alternatives have been rejected.

Part F: Statement of Overriding Considerations determining that the benefits of the project outweigh the significant and unavoidable environmental impacts that will result and therefore justify approval of the project despite such impacts.

The Planning Commission certifies that these findings are based on full appraisal of all viewpoints, including all comments received up to the date of adoption of these findings, concerning the environmental issues identified and discussed in the Final SEIR. The Planning Commission adopts these findings and Statement of Overriding Considerations for the approvals set forth in Section III, below.

### A. OVERVIEW AND DESCRIPTION OF PROPOSED PROJECT

In 2004, an application was submitted to the City of Pacifica for the Prospects Residential Project which consisted of 34 residential units, a subterranean parking garage, and associated amenities in the western two acres of the project site. In 2007, the City certified a Final EIR and approved a reduced version of the Prospects Residential Project totaling 29 residential units. However, the entitlements for that project have since lapsed and no building permits were issued by the City.

The Fassler Avenue Residential Project is proposed at the same site and consists of 24 condominium units in 12 duplex buildings for a development area of 1.2 acres on the 11.2-acre site. The proposed project is to be developed generally within the same building footprint as the Prospects Residential Project but some of the design and construction details differ from the prior project, including but not limited to project layout, garages and surface parking, access, an above-grade loop road, building heights, and stormwater management. The proposed project also includes a stormwater detention basin and water

quality basin at the southwestern corner of the site instead of an amphitheater that was proposed as a part of the original project that would have also been used for stormwater collection and storage. Other project characteristics associated with the prior project that are not a part of the proposed project include dual vehicle access from Fassler Avenue, an upper pond, a community center, a trail extending to the southeastern corner of the site, and a larger community garden southwest of the primary development footprint. A more detailed description of the proposed project is contained in Section IV, Project Description, of the Draft SEIR.

## **B. ENVIRONMENTAL REVIEW PROCESS**

### **1. Environmental Review Process**

An Initial Study and SEIR were prepared for the proposed project in accordance with CEQA and the State CEQA Guidelines.

The City published a Notice of Preparation of an SEIR and Initial Study for the proposed project in October 2015, included in Appendix A of the Draft SEIR. The public and agency review of the Notice of Preparation and Initial Study extended from October 19, 2015 to November 17, 2015. A public scoping meeting was also held on Thursday, October 29, 2015 at the City's Crespi Community Center Auditorium to solicit input from agencies, individuals and organizations. Comments on the Notice of Preparation and Initial Study and from the public scoping meeting are included in Appendix B to the Draft SEIR. The Notice of Completion of the Notice of Preparation and fifteen copies of the Notice of Preparation and Initial Study were also submitted to the State Clearinghouse for distribution to state agencies. The Notice of Preparation and Initial Study were also submitted to applicable federal, County of San Mateo and City of Pacifica agencies and departments, as well as to local individuals and organizations.

The Notice of Completion and the Draft SEIR for the project were published on June 7, 2017. The official public notice announcing: (1) the availability of the Draft SEIR for review and comment by the public and agencies; (2) the date and location of a public forum on the Draft SEIR; and (3) how to obtain copies of the Draft SEIR, was mailed directly to citizens surrounding the project site, interested groups, and agencies, and appeared in the *Pacifica Tribune*, the local paper of public record on June 5, 2017. The public review period extended from June 7, 2017 through July 24, 2017. During that time, the Draft SEIR was reviewed by various governmental agencies, as well as interested organizations. Notices of availability were sent to over 90 individuals. In addition, members of the public were invited to attend a public forum held on June 29, 2017 at the City's Crespi Community Center Auditorium. Copies of the Draft SEIR were also available for public review at the San Mateo County Library, Pacifica Sanchez Branch and Pacifica-Sharp Park Branch, the City of Pacifica Planning Department public counter, and on the web at [http://www.cityofpacific.org/depts/planning/environmental\\_documents/default.asp](http://www.cityofpacific.org/depts/planning/environmental_documents/default.asp).

The Final SEIR contains all of the comments received during the public comment period together with written responses which were prepared in accordance with CEQA and the CEQA Guidelines. The Planning Commission finds and determines that the Final SEIR provides adequate, good faith and reasoned responses to all comments raising significant environmental issues.

## **2. Absence of New Information**

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR but before certification. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The CEQA Guidelines provide examples of significant new information under this standard. Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

The Planning Commission finds that the changes and clarifications as contained in the comments and responses to comments do not affect the analysis contained in the SEIR. None of these changes will result in new or more severe environmental impacts. In addition, none of these changes materially change the development footprint or the impacts that will occur due to development within that footprint. As a result, these changes do not require recirculation of the Final SEIR under CEQA Guidelines Section 15088.5.

## **C. FINDINGS OF FACT REGARDING IMPACTS AND MITIGATION MEASURES**

Section 21081 of the CEQA Public Resources Code and Section 15091 of the State CEQA Guidelines provide that no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless the public agency makes one or more of the following findings:

- a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the EIR.
- b. Such changes or alterations are within the responsibility or jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- c. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.

After reviewing the Final SEIR and the public record on the project, the City of Pacifica hereby makes the findings regarding the significant effects of the proposed project pursuant to Section 15091 of the State CEQA Guidelines.

Except to the extent they conflict with the findings and determinations set forth in this document, the analysis and conclusions of the SEIR, including but not limited to the responses to comments, are

incorporated herein by this reference, and are hereby adopted as findings. Both the Draft SEIR and the Final SEIR reflect the independent judgment of the City of Pacifica.

Documents constituting the record of proceedings on which approval of the project and certification of the SEIR are based, are available at City of Pacifica, Planning Department, Planning and Building Office, 1800 Francisco Boulevard, Pacifica, CA 94044.

The following sections summarize the environmental impacts of the project, and include the findings of the Planning Commission as to those impacts, as required by CEQA and the CEQA Guidelines. The findings provide the written analysis and conclusions of the Planning Commission regarding the environmental impacts of the project, mitigation measures, alternatives to the project and the mitigation measures proposed by the Final SEIR and adopted by the Planning Commission as conditions of approval.

These findings summarize the environmental determinations of the Final SEIR about impacts before and after mitigation and do not attempt to describe the full analysis of each environmental impact contained in the SEIR. Instead, these findings provide a summary description of each impact, describe the applicable mitigation measures identified in the SEIR and adopted by the Planning Commission, and state the Planning Commission's findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final SEIR and these findings hereby incorporate by reference the discussion and analysis in the Final SEIR supporting the Final SEIR's determinations regarding mitigation measures and project impacts. In making these findings, the Planning Commission ratifies, adopts and incorporates the analysis and explanation in the Final SEIR relating to mitigation measures and environmental impacts, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

As set forth in Section III below, the Planning Commission adopts and incorporates as conditions of approval, the mitigation measures set forth in these findings to reduce or avoid the potentially significant and significant impacts of the project. In adopting these mitigation measures, the Planning Commission intends to adopt each of the mitigation measures proposed in the Final SEIR. Accordingly, in the event a mitigation measure recommended in the Final SEIR has inadvertently been omitted from these findings, said mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language of the mitigation measures set forth below fail to accurately reflect the mitigation measures in the Final SEIR due to a clerical error, the language of the mitigation measure as set forth in the Final SEIR shall control, unless the language of the mitigation measure has been specifically and expressly modified by these findings.

**Environmental Effects Determined to be Reduced to Less-Than-Significant Levels by Mitigation Measures Documented in the SEIR**

**Aesthetic Impacts**

The following significant aesthetic impact is associated with the operation of the proposed project.

**Aes 4:** Implementation of the proposed project would introduce new sources of light and glare into the project area. The introduction of light and glare from the proposed project would be noticeable to viewers of the surrounding area, particularly to drivers traveling along Fassler Avenue and to nearby residents. Currently a lighting plan is not available for the project. Impacts are therefore considered a potentially significant impact.

**Finding**

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the SEIR.

**Facts in Support of the Finding**

The potentially significant effects will be reduced to less-than-significant levels through implementation of the following mitigation measure.

1. Prior to issuance of the building permit, an exterior lighting plan shall be submitted for review and approval by City staff. The lighting plan shall include but not necessarily be limited to the following:
  - The exterior lighting plan shall show all potential light sources with the types of lighting and their locations.
  - Exterior lighting shall include low mounted, downward casting and shielded lights that do not cause spillover onto adjacent properties and the utilization of motion detection systems where applicable.
  - No flood lights shall be utilized.
  - Lighting shall not “wash out” structures or any portions of the site.
  - Low intensity, indirect light sources shall be required.
  - On-demand lighting systems shall be required.

- Mercury, sodium vapor, and similar intense and bright lights shall not be permitted except where their need is specifically approved and their source of light is restricted.
- All light sources shall be fully shielded from off-site view.
- All buildings and structures shall consist of non-reflecting material or be painted with non-reflective paint.
- Generally, light fixtures shall not be located at the periphery of the property and should shut off automatically when the use is not operating. Security lighting visible from Fassler Avenue shall be timed to adjust to seasonal differences. (Motion-senor activated outdoor security lighting is not recommended since deer and other animals will trigger the sensors causing the lights to go on and off repeatedly).
- All lighting shall be installed in accordance with building codes and the approved lighting plan during construction.

### **Air Quality Impacts**

The following significant air quality impact is associated with the construction of the proposed project.

**Air 1:** If a project would not implement all applicable control measures, construction emissions would be considered a significant impact. While BAAQMD does not implement specific thresholds for construction emissions, without implementation of specific dust control measures, impacts related to construction emissions would be significant.

### Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the SEIR.

### Facts in Support of the Finding

The potentially significant effects will be reduced to less-than-significant levels through implementation of the following mitigation measure.

1. Construction Emission Control Measures
  - Water all active construction areas at least twice daily.
  - Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.

- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at the construction sites.
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at the construction sites.
- Sweep public streets adjacent to construction sites daily (with water sweepers) if visible soil materials is carried onto the streets.

### **Biological Resources Impacts**

The following three significant biological resources impacts are associated with the construction and operation of the proposed project.

**Bio-1:** The presence of special-status plant species colonization cannot be completely ruled out, because the protocol-level special-status plant surveys are over ten years old. Therefore, the proposed project has potential to significantly impact special-status plant species. Special-status wildlife species that may be impacted by project activities include California red-legged frog and San Francisco dusky-footed woodrat. In addition, several species of birds could be adversely affected if nests are established on the site before construction begins.

**Bio-3:** Potential impacts on jurisdictional waters would include possible direct modifications to the stands of willow thicket. Grading necessary to accommodate the residential development would extend over portions of the willow thickets and would directly impact these likely jurisdictional wetlands.

**Bio-4:** There is a possibility that proposed grading and the activities of future residents and visitors could further degrade the value of the remaining natural communities on the site for wildlife. Grading would create exposed slopes that provide preferred habitat for invasive species and development of the site could contribute to their spread if not carefully controlled. Dogs and cats owned by future residents of the project could harass or kill wildlife if not controlled, and night-time lighting could disrupt wildlife use of natural areas unless carefully designed. There is also a possibility that future residents could plant a number of highly invasive non-native plant species as landscaping. Many species used in landscaping are highly invasive, and could spread into open space areas to be preserved, further reducing the native habitat values of the site.

### Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the SEIR.

## Facts in Support of the Finding

The potentially significant effects will be reduced to less-than-significant levels through implementation of the following mitigation measures.

- 1a. The Applicant shall be responsible for obtaining a qualified biologist to conduct rare plant surveys. Rare plant surveys shall be conducted during the appropriate blooming periods for plant species with a moderate potential to occur prior to the onset of construction activities. If it is determined that construction-related activities will impact any special-status plant species, the Applicant, in coordination with a qualified biologist, shall prepare a mitigation plan for protecting species. The mitigation plan shall be submitted to the City for approval prior to implementation. Mitigation measures shall be implemented by the Applicant's biologist and may include additional avoidance measures, salvaging and transplanting of plants, and collection and storage of seeds for future re-establishment efforts. For annual species, seeds shall be collected and preserved from areas of disturbance prior to the disturbance and used for reseeded efforts in late-fall to suitable areas onsite that are not subject to human disturbance. If any special-status plant species are detected, their extent and population size shall be mapped and reported to the City of Pacific and all other appropriate agencies.
  
- 1b. For the protection of California red-legged frogs; initial ground disturbing activities shall be performed during the dry season, from May 15 to October 15, in order to avoid the wet season when California red-legged frog movement generally occurs. A qualified biologist shall perform a preconstruction survey of the project site for California red-legged frogs within 48 hours prior to the start of ground disturbance activities such as vegetation removal or grading. A "qualified biologist" has experience with the identification of the species and has been previously approved by USFWS or CDFW to conduct surveys and monitoring for California red-legged frog. The survey shall take place on the first morning prior to the start of ground disturbance including vegetation removal. Results of the survey shall be provided to the City of Pacifica. If any California red-legged frogs are found, construction within 100 feet shall be halted or as determined by the qualified biologist to prevent harm to the individual(s) until the species disperses naturally out of the work area. The biologist shall also immediately notify the USFWS Coast Bay Service Division of the Sacramento Field Office. Subsequent recommendations made by the USFWS shall be followed. The biologist shall not handle or otherwise harass the animal and shall watch the animal until it is safely outside of the work area and area of potential harm.

Prior to initiation of project activities, all workers involved with ground disturbance or habitat enhancement activities shall receive environmental awareness training concerning California red-legged frog, and any other sensitive biological resources on the site. The training shall be given by a qualified biologist and shall cover the species biology, identification, any areas that are to be avoided, legal status, definition of take, potential punishment for take of California red-legged frog, and steps to follow if California red-legged frog are observed within the work area. If California red-legged frog are observed on-site and a biologist is not present, work must

stop immediately, the foreman is to be notified, and a qualified biologist shall be called to survey the work area and contact the USFWS as described above. A training log shall be kept on-site of all crew members who receive the environmental awareness training. The initial training log will be submitted to the City of Pacifica for their records. Additional training logs will be submitted upon request by the City.

During construction, all steep-walled holes and trenches greater than six inches in depth on the construction site shall be covered or have escape ramps placed within them at the end of the work day to prevent any amphibians or reptiles from becoming trapped overnight.

Erosion control materials such as wattles shall not contain plastic netting and shall be restricted to mats, blankets, or fiber-wrapped wattles. Plastic netting including biodegradable plastic can entrap amphibian and reptile species.

If ground disturbance activities are to continue through the wet season, wildlife exclusion fencing shall be installed surrounding the construction site per USFWS standards. Wildlife exclusion fencing can consist of silt erosion control fencing that is buried 4 to 6 inches below ground, extends a minimum of 36 inches above ground, and has fence stakes installed on the work side of the silt material. The wildlife exclusion fence shall be maintained through the wet season and any needed repairs are to be made within 48 hours.

- 1c. For the protection of San Francisco dusky-footed woodrats: within 30 days prior to initial vegetation removal and/or ground disturbance within the project site, a pre-construction survey for woodrat structures/houses shall be conducted by a qualified biologist. All woodrat houses within 25 feet of the work area shall be demarcated with flagging or protective fencing and avoided to the fullest extent feasible. If avoidance by at least five feet is not possible, then houses to be impacted shall be dismantled by hand under the supervision of a qualified biologist. Dismantling is a slow procedure which requires removal of sticks and cover by hand until a chamber is reached and can be visually inspected for presence of woodrat. If woodrat young are encountered during the dismantling process, the material shall be placed back on the house, and a work exclusion buffer of at least 20 feet placed around the structure. The structure shall remain unmolested for at least two weeks in order to allow the young to mature and leave the nest of their own accord. After the avoidance period, the nest dismantling process may begin again. Nest material shall then be moved to suitable adjacent vegetated areas that will not be disturbed.
- 1d. For the protection of special status bird species and bird species protected by the Migratory Bird Treaty Act as well as Fish and Game Codes, project activities shall occur during the non-nesting season (August 16 - January 31) to the extent feasible. However, if vegetation removal, grading, or initial ground-disturbing activities must occur during the nesting season (February 1 through August 15), a survey for active bird nests shall be conducted by a qualified biologist within 14 days prior to the start of these activities. The survey shall be conducted in a sufficient area around the work site to identify the location and status of any nests that could potentially be affected by

project activities. Survey results shall be documented in a letter and provided to the City of Pacifica.

If active nests of protected species are found within project impact areas or in close proximity to affect breeding success, a work exclusion zone shall be established around each nest. Established exclusion zones shall remain in place until all young in the nest have fledged or the nest otherwise becomes inactive (e.g., due to predation). Appropriate exclusion zone sizes vary dependent upon bird species, nest location, existing visual buffers and baseline ambient sound levels, and other factors; an exclusion zone radius may be as small as 50 feet (for common, disturbance-adapted species) or as large as 250 feet or more for raptors. If the project cannot maintain the exclusion zone, a reduction in the size of the exclusion zone may be requested in coordination with the biologist and sent to the City of Pacifica for approval. Reduction of the exclusion zone size shall be supported with nest monitoring by a qualified biologist to verify that work activities outside the reduced radius are not adversely impacting the nest.

2. A Wetland Mitigation Program shall be prepared by a qualified wetland specialist to provide for the protection, replacement, and management of any jurisdictional waters on the site affected by proposed development and submitted to the City for approval prior to issuance of building permits. The Mitigation Program shall include the following components and meet the following standards:

- Before project implementation, a delineation of waters of the United States and waters of the State, including wetlands that could be affected by development, shall be made by a qualified wetland specialist through the formal CWA Section 404 process.
- Provide adequate mitigation for any direct or indirect impacts to jurisdictional waters as coordinated with the Corps, RWQCB, and the City of Pacifica, where complete avoidance is infeasible. Replacement wetlands shall be replaced at a minimum 2:1 replacement ratio and shall be established in suitable locations within proposed open space areas, as negotiated with and ultimately determined by the agencies. The wetlands replacement component of the Mitigation Program shall emphasize establishment of native riparian and uplands species to enhance existing habitat values. The Mitigation Program shall be submitted for review and approval by the City of Pacifica prior to issuance of building or grading permits.
- The wetland replacement component of the Mitigation Program shall specify performance criteria, maintenance, and long-term management responsibilities, monitoring requirements, and contingency measures. Monitoring shall be conducted by the qualified wetland specialist for a minimum of five years and continue until the success criteria are met.
- In addition, the applicant shall obtain all necessary permits from the Corps, USFWS, and

the RWQCB as required by federal and State laws to avoid, minimize, or offset impacts to any species listed under either the State or Federal Endangered Species Acts or protected under any other State or federal law as follows:

- If based on the verified delineation, it is determined that fill of waters of the United States would result from project implementation, authorization for such fill shall be secured from the Corps through the Section 404 permitting process and from the RWQCB as part of the Section 401 water quality certification process.
- Consultation or incidental take permitting may be required under the ESA. The applicant shall obtain all legally-required permits from the USFWS for the “take” of protected species under the ESA.
- Evidence that the applicant has secured any required authorization from these agencies shall be submitted to the City of Pacifica Planning Department prior to issuance of any grading or building permits for the project.

3a. A qualified, California-registered landscape architect or restoration ecologist who specializes in native habitat restoration shall be retained by the applicant to incorporate the following provisions into the Landscape Plans for the project:

- Prohibit the use of highly undesirable species in landscape improvements on the site which could spread into the adjacent open space areas. Unsuitable species include: acacia (*Acacia* spp.), giant reed (*Arundo donax*), iceplant (*Carpobrotus edulis*), pampas grass (*Cortaderia* spp.), cotoneaster (*Cotoneaster pannosus*), broom (*Cytisus* spp. and *Genista* spp.), Cape ivy, blue gum eucalyptus (*Eucalyptus globulus*), fennel, English ivy (*Hedera helix*), bamboo (*Phyllostachys* spp.), Himalayan blackberry (*Rubus armeniacus*), gorse (*Ulex europaeus*), and periwinkle, among others identified in the Cal-IPC Inventory. This restriction on use of highly undesirable species in landscaping shall be included as a requirement in the CC&Rs for the project.
- Implement the Natural Habitat Restoration Proposal, including the eradication program to effectively eliminate highly aggressive non-native species such as French broom, Scotch broom, pampas grass, fennel, Fuller’s teasel, and poison hemlock from the site, and replace them with appropriate native shrub and groundcover species.
- Define maintenance and monitoring provisions to ensure the successful establishment and long-term viability of native plantings and the control and eradication of highly aggressive non-native French broom, Scotch broom, pampas grass, Himalayan blackberry, periwinkle, and other noxious weeds from the site. The maintenance and monitoring program shall be implemented during a minimum five year monitoring as part

of Natural Habitat Restoration Proposal, and shall continue as part of long-term maintenance of open space areas.

- Provide for the immediate reseeded of all graded slopes not proposed for roadways, residences, and ornamental landscape plantings with a mix of native grasses and forbs appropriate for the site rather than a conventional seed mix typically used for erosion control purposes to replace and improve existing habitat values of grasslands disturbed on the site.
- The revised landscape plans shall be submitted to the City for review and approval.

3b. The following additional provisions shall be implemented to further protect wildlife habitat resources, and shall be included in CC&Rs for the development:

- Prohibition on use of invasive plant species for landscaping.
- Permanent fencing that obstructs wildlife movement shall be restricted to the vicinity of building envelopes, and shall not be allowed elsewhere on the site. Wildlife exclusionary fencing is designed to exclude wildlife and contains one or more of the following conditions: lowest horizontal is within 1.5 feet of ground, or highest horizontal is over 6 feet, or top or bottom wire is barbed, or distance between top wires is less than 10 inches, or it combines with existing structures or fences, even on neighboring parcels, to create an obstacle to wildlife movement.
- Lighting shall be carefully designed and controlled to prevent unnecessary illumination of natural habitat on the site. Lighting shall be restricted to the vicinity of building envelopes and the minimum level necessary to illuminate roadways and other outdoor areas. Lighting shall generally be kept low to the ground, directed downward, and shielded to prevent illumination into adjacent natural areas.
- Dogs and cats shall be confined to individual residences and the fenced portion of the building envelopes to minimize harassment and loss of wildlife, except dogs on leash and cats with bells on collars.
- All garbage, recycling, and composting shall be kept in closed containers and latched or locked to prevent wildlife from using the waste as a food source.

## **Cultural Resources Impacts**

The following four significant cultural resources impacts are associated with the construction of the proposed project.

- Cult 1:** During the construction phase of the proposed project it is possible that unknown historical resources could be discovered and potentially damaged which would result in a potentially significant impact.
- Cult 2:** Based on the topographic setting of the project site, there is a moderate possibility that unrecorded Native American cultural resources are present. The 2007 Prospects Residential Project Final EIR determined that this is a potentially significant impact.
- Cult 3:** While there are no known paleontological resources or unique geological features on the project site, the 2007 Prospects Residential Project Final EIR determined that this is a potentially significant impact.
- Cult 4:** Although it is believed that no human remains are known to have been found on the project site, it is possible that unknown resources could be encountered during project construction, particularly during ground-disturbing activities such as excavation and grading.

## Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the SEIR.

## Facts in Support of the Finding

The potentially significant effects will be reduced to less-than-significant levels through implementation of the following mitigation measures.

1. Prior to excavation and construction of the proposed project, each individual worker of the prime contractor and any subcontractor(s) shall be informed on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, paleontological resources, and other cultural materials from the project site. A City-approved archaeologist shall inform these individuals of the following: the definition of a cultural resource, the policies and procedures for identifying and protecting cultural resources, how to locate and receive assistance from the City-approved archaeologist, and steps to be taken if cultural resources are encountered during project construction. A copy of the training materials and staff sign in sheets shall be provided to the City on request.
2. A City-approved archaeological monitor shall be present to observe construction activities during any and all ground-disturbing activities that occur in association with the proposed project,

including any utility and sewer hookups within the public streets.

3. In the event that an unanticipated cultural resource is exposed during project construction, work within 30 feet of the discovery shall stop until a City-approved archaeologist, meeting the standards of the Secretary of the Interior, can identify and evaluate the significance of the discovery and develop recommendations for treatment. Recommendations could include preparation of a Treatment Plan, which could require recordation, collection and analysis of the discovery; preparation of a technical report; and curation of the collection and supporting documentation in an appropriate depository. However, as required by State law and in accordance with Section 15064.5(e) of the CEQA Guidelines, if Native American remains are discovered at the project site during construction, work at the specific construction site at which the remains have been uncovered shall be suspended, and the appropriate City and County agencies immediately notified. If the remains are determined by the County coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains.

### **Geology and Soils Impacts**

The following three significant geology and soil impacts are associated with the construction and operation of the proposed project.

- Geo 2:** Landslides and debris flows are a recognized hazard in the Pacifica area, and previous landslide activity was identified on the northern edge of the project site. If the grading and surface/subsurface drainage of project site is not appropriately designed and constructed, drainage from the project site could contribute to the saturation of soil in the nearby areas where local landslide scars were observed and potentially contribute to the triggering of new slope failures. Additionally, the heads of these landslide areas could eventually encroach upward, toward the outer edges of the proposed development on the project site, which could eventually result in damage to proposed improvements on the project site.
- Geo -4:** The Geotechnical Report identified areas of fill presumably placed during former quarrying operations at the project site. The presence of fill materials could result in settlement/subsidence and lateral spreading or even landslides along the edges of the filled 'terrace' area if not properly managed or exacerbated by the project.
- Geo-5:** Expansive soils can result in damage to building foundations and flatwork such as sidewalks and driveways, or damage to sub-surface utility installations. In particular, flatwork can present tripping hazards and uneven surfaces that may be hazardous to the mobility impaired. The Geotech Report identified clayey fill materials with medium plasticity at the project site. These clayey soils may be expansive.

## Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the SEIR.

## Facts in Support of the Finding

The potentially significant effects will be reduced to less-than-significant levels through implementation of the following mitigation measure.

1. A site-specific design level geotechnical evaluation shall be performed for the proposed project that shall include recommendations for seismic design, management of adverse soil conditions, grading, surface/subsurface drainage, and construction of structures (e.g., retaining walls). The design level geotechnical evaluation report shall be certified by a licensed professional geotechnical engineer (the Geotechnical Engineer of Record). All design measures, recommendations, design criteria, and specifications set forth in the design-level geotechnical evaluation shall be implemented as a condition of project approval. In addition, the design level geotechnical evaluation shall include a slope stability analysis to evaluate whether the proposed project could increase the instability of off-site landslides or be adversely affected by encroachment of off-site landslides onto the project site. The design level geotechnical evaluation shall also include a slope stability analysis for the proposed design of the fill slope on the north side of the project site which shall be updated if the design recommendations for this fill slope change from those presented in the Geotech Report Update. A third-party review of the slope stability analyses presented in the design level geotechnical evaluation shall be performed by a licensed professional Geotechnical Engineer or Certified Engineering Geologist. Any remediation measures to address the potential impacts included in the design level geotechnical evaluation or third-party review of the design level geotechnical evaluation shall be implemented by the applicant. A copy of the draft design level geotechnical evaluation, third party review comments, and final design level geotechnical evaluation shall be provided to the City.

The Geotechnical Engineer of Record shall perform oversight and inspection during construction activities to ensure that the design recommendations presented in the design level geotechnical evaluation report and third-party review are implemented. During grading and site preparation activities, the Geotechnical Engineer of Record shall regularly report to the City, providing written updates monthly, at minimum.

## **Transportation and Traffic Impacts**

The following three significant transportation and traffic impacts are associated with the construction and operation of the proposed project.

**Traffic 3a:** The sight distance to the east is blocked by a tree and a hill, as shown in the photograph on the following page. Drivers making a left or right turn out of the project driveway would have to pull out into the travel way in order to gain the necessary sight distance. The tree and potentially part of the hillside may need to be removed in order to provide adequate sight distance.

**Traffic-3b:** The proposed re-striping of Fassler Avenue would provide a 120-foot left-turn pocket in the eastbound (uphill) direction into the project site. As a result of this new twelve-foot lane, Fassler Avenue would have one eighteen-foot lane in each direction near the proposed driveway. These wide lanes would provide an area for bicyclists but could also encourage parking which could adversely affect access and circulation.

**Traffic-5a:** The site plan does not call out a continuous proposed sidewalk on the main roadway within the project site. City of Pacifica Administrative Policy 74, Complete Streets Policy, would require the applicant to install complete street considerations in the design of the project. Municipal Code Section 10-1.905 (c) states that sidewalks may be omitted from subdivision plans if recommended by the Planning Commission and approved by the Council. There appears to be five- to eight-foot spaces for pedestrians along the perimeter of the internal circulation roadway and five- to six-foot spaces along the roadway for the interior styles.

### Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the SEIR.

### Facts in Support of the Finding

The potentially significant effects will be reduced to less-than-significant levels through implementation of the following mitigation measures.

- 1a. The project shall provide adequate sight distance, as designated by the Caltrans Highway Design Manual, to/from westbound Fassler Avenue at the project driveway. This can be accomplished by removing the tree, cutting back a portion of the hill to the east of the project driveway, and re-striping Fassler Avenue to provide a shoulder. These sight distance measures shall be implemented prior to the initiation of any on-site construction activities so that adequate sight distance is provided for construction vehicles exiting the project site. The project shall also

decrease the curb radii and/or include a standard driveway apron at the driveway to slow vehicles entering and exiting the project site. The grade of the sidewalk shall remain constant across the driveway.

- 1b. Parking shall be prohibited along both sides of Fassler. Signage and red curb paint shall be used to prohibit parking in this area on both sides of the street. There is also a centerline stripe that is indicated to be white. Centerline striping shall be yellow throughout; the only white stripe shall be the stripe indicating the separation of the left-turn pocket from the eastbound travel lane. All improvements shall be consistent with the current edition of the Caltrans Highway Design Manual and signed and striped consistent with the current edition of the California Manual of Traffic Control Devices (MUTCD). The restriping of Fassler Avenue shall be implemented prior to the initiation of any on-site construction activities.
2. The applicant shall revise the project plans to include a continuous sidewalk on the main roadway within the project site.

### **Tribal Cultural Resources Impacts**

The following two significant tribal cultural resources impacts are associated with the construction of the proposed project.

**TCR-1:** No known tribal cultural resources have been identified or reported on the project site. Implementation of Mitigation Measures MM-IV.C-1 through MM-IV.C-3 would reduce impacts to unknown cultural resources, including tribal cultural resources, to a less-than-significant level.

**TCR-2:** In accordance with AB 52, Native American Tribes may request that Lead Agencies provide notification of projects. In the event that a Tribe has submitted a request for notification, the Lead Agency shall provide the Tribe with the opportunity to consult on projects early in the CEQA process. The City has not received requests for notification from any Tribes, so tribal consultation was not conducted. Therefore, implementation of Mitigation Measures MM-IV.C-1 through MM-IV.C-3 would minimize impacts to tribal cultural resources to a less-than-significant level.

### Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the SEIR.

### Facts in Support of the Finding

The potentially significant effects will be reduced to less-than-significant levels through implementation of the cultural resource mitigation measures described above.

## Noise Impacts

The following significant noise impact is associated with the construction of the proposed project.

**Noise-1:** Construction noise impacts to off-site residential uses would be potentially significant given it may trigger the 80 dBA Leq eight-hour daytime threshold of significance. The increase in noise levels at the nearest existing sensitive receptors during construction at the project site would be temporary in nature and would not generate continuously high noise levels, although occasional single-event disturbances from construction are possible.

### Finding

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects identified in the SEIR.

### Facts in Support of the Finding

The potentially significant effects will be reduced to less-than-significant levels through implementation of the following mitigation measures.

1. The following measures to reduce construction noise shall be implemented:
  - Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday to Friday, and 9:00 a.m. to 5:00 p.m. Saturdays and Sundays. No heavy construction equipment (e.g., trucks, pavers, concrete mixers, etc.) use shall be permitted on weekends or after 6:00 p.m. on weekdays. No construction activities shall be permitted on federal holidays as required by the City of Pacifica Municipal Code Section 8-1.06.
  - All construction equipment shall be equipped with improved noise muffling, and have the manufacturers' recommended noise abatement measures, such as mufflers, engine covers, and engine isolators in good working condition.
  - Stationary construction equipment that generates noise levels in excess of 65 dBA Leq shall be located as far away from existing occupied buildings as possible. If required to minimize potential noise conflicts, the equipment shall be shielded from noise sensitive receptors by using temporary walls, sound curtains, or other similar devices.
  - All equipment shall be turned off if not in use for more than five minutes.
  - An information sign shall be posted at the entrance to each construction site that identifies the permitted construction hours and provides a telephone number to call and receive information about the construction project or to report complaints regarding excessive noise levels. The

Applicant shall respond to all noise complaints within 24 hours and shall provide the City with a written summary of the complaint and the response within 48 hours of the complaint.

- The contractor shall minimize use of vehicle backup alarms. A common approach to minimizing the use of backup alarms is to design the construction site with a circular flow pattern that minimizes backing up of trucks and other heavy equipment. Another approach to reducing the intrusion of backup alarms is to require all equipment on the site to be equipped with ambient sensitive alarms. With this type of alarm, the alarm sound is automatically adjusted based on the ambient noise.
- Construction worker's radios shall be controlled so as to be inaudible beyond the limits of the project site boundaries.
- Heavy equipment, such as paving and grading equipment, shall be stored on-site whenever possible to minimize the need for extra heavy truck trips on local streets.
- Equipment used for project construction shall be hydraulically or electrically powered impact tools (e.g., jack hammers) wherever possible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. Where use of pneumatically-powered tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used. A muffler could lower noise levels from the exhaust by up to about 10 dB(A). External jackets on the tools themselves shall be used where feasible; this could achieve a reduction of 5 dB(A). Quieter procedures shall be used (such as drilling rather than impact equipment) wherever feasible.

**Significant and Unavoidable Environmental Effects Which Cannot Be Reduced To Less-Than-Significant Levels**

**Aesthetic Impacts**

The following significant and unavoidable aesthetic impacts are associated with the proposed project.

- Aes 1:** Implementation of the project would substantially alter scenic vistas by partially blocking currently unobstructed views of the Pacific Ocean and nearby undeveloped areas.
- Aes 2:** Implementation of the proposed project would substantially alter the scenic resources available from Fassler Avenue. As such, the proposed project would substantially damage scenic resources within an eligible scenic highway.
- Aes 3:** The project would add residential development to an otherwise vacant site, and would substantially change the existing scenic visual character of the undeveloped site.

## Finding

Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.

## Facts in Support of the Finding

The proposed project would result in significant and unavoidable impacts related to scenic vistas, scenic resources, and visual character. Although the project will implement the following mitigation measures to reduce aesthetic impacts the Planning Commission finds that the ability to avoid significant aesthetic impacts is not possible as no other feasible mitigation measures have been identified. Therefore, this impact remains significant after mitigation.

1. The proposed landscape plan dated August 11, 2015 shall be updated to be consistent with the most recent version of the grading and drainage plan dated February 2016, particularly for the project detention basin and water quality basin and for the slope on the northern edge of the project.

The proposed landscape plan shall minimize the use of trees and vegetation over four feet in height on the southwest corner and along the western boundary of the site to preserve views to the Pacific Ocean and Marin County from Fassler Avenue.

Trees on the south and west elevations shall be placed as close as possible to the building for effective screening and shading and also placed to avoid blocking views from Fassler Avenue to the Pacific Ocean.

2. Protection of existing trees on the northern elevation shall be maximized. Removal of existing trees shall be limited to conditions where future grading requirements would absolutely preclude the viability of an existing tree after construction.

Foundation plantings shall maximize use of native vegetation and be as visually compatible with the existing coastal sage-scrub plant community as possible.

Landscaping shall include vegetation management of the entire parcel so as to eliminate invasive species on the site within five years and replace it with native and flowering vegetation capable of thriving without irrigation after the initial establishment period.

Colors used for exterior building surfaces shall be as dark as possible to minimize the contrast of the structures to the surrounding coastal hills. Colors shall also be selected to minimize contrast with the horizon, particularly on the north and west elevations when structures are back-dropped by skyline. Several colors shall be used to minimize uniformity.

Prior to building permit issuance, the grading plan, development plan, landscaping plan, sign

plan, elevations, and colors and materials shall receive review and approval of the City of Pacifica staff through the design review procedures with the Planning Commission during approval of the Specific Plan.

Alternatives A and C, described in further detail below, would reduce all aesthetic impacts (i.e., scenic vistas, scenic resources, and visual character) to a less than significant level, whereas Alternative B would only reduce scenic vistas impacts to a less-than-significant level. Alternative D would not eliminate any of the project's significant and unavoidable aesthetics impacts. However, Alternatives A, B, C, and D would not meet all of the project objectives and would result in fewer benefits compared to the proposed project.

The Planning Commission finds this remaining significant impact to be acceptable because the benefits of the project outweigh this unavoidable impact of the project for the reasons set forth in Section II.E of these findings.

### **Noise Impacts**

The following significant and unavoidable noise impact is associated with the construction of the proposed project.

**Noise 2:** The construction phase of the project would result in an increase in ambient noise levels by more than 5 dBA which is considered a significant impact. The use of mufflers on construction equipment could reduce their noise levels by an average of 2 dBA; however, not every piece of construction equipment includes mufflers and thus this 2 dBA decibel reduction would not apply to all construction equipment.

### Finding

Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.

### Facts in Support of the Finding

The proposed project would result in a significant and unavoidable noise impact to off-site sensitive receptors during construction. Although the project will implement the following mitigation measure to reduce construction noise impacts to off-site sensitive receptors, the Planning Commission finds that the ability to completely avoid significant noise impacts during construction is not possible as no other feasible mitigation measures have been identified. Therefore, this impact remains significant after mitigation.

1. The following measures to reduce construction noise shall be implemented:

- Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday to Friday, and 9:00 a.m. to 5:00 p.m. Saturdays and Sundays. No heavy construction equipment (e.g., trucks, pavers, concrete mixers, etc.) use shall be permitted on weekends or after 6:00 p.m. on weekdays. No construction activities shall be permitted on federal holidays as required by the City of Pacifica Municipal Code Section 8-1.06.
- All construction equipment shall be equipped with improved noise muffling, and have the manufacturers' recommended noise abatement measures, such as mufflers, engine covers, and engine isolators in good working condition.
- Stationary construction equipment that generates noise levels in excess of 65 dBA Leq shall be located as far away from existing occupied buildings as possible. If required to minimize potential noise conflicts, the equipment shall be shielded from noise sensitive receptors by using temporary walls, sound curtains, or other similar devices.
- All equipment shall be turned off if not in use for more than five minutes.
- An information sign shall be posted at the entrance to each construction site that identifies the permitted construction hours and provides a telephone number to call and receive information about the construction project or to report complaints regarding excessive noise levels. The Applicant shall respond to all noise complaints within 24 hours and shall provide the City with a written summary of the complaint and the response within 48 hours of the complaint.
- The contractor shall minimize use of vehicle backup alarms. A common approach to minimizing the use of backup alarms is to design the construction site with a circular flow pattern that minimizes backing up of trucks and other heavy equipment. Another approach to reducing the intrusion of backup alarms is to require all equipment on the site to be equipped with ambient sensitive alarms. With this type of alarm, the alarm sound is automatically adjusted based on the ambient noise.
- Construction worker's radios shall be controlled so as to be inaudible beyond the limits of the project site boundaries.
- Heavy equipment, such as paving and grading equipment, shall be stored on-site whenever possible to minimize the need for extra heavy truck trips on local streets.
- Equipment used for project construction shall be hydraulically or electrically powered impact tools (e.g., jack hammers) wherever possible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. Where use of pneumatically-powered tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used. A muffler could

lower noise levels from the exhaust by up to about 10 dB(A). External jackets on the tools themselves shall be used where feasible; this could achieve a reduction of 5 dB(A). Quieter procedures shall be used (such as drilling rather than impact equipment) wherever feasible.

Only Alternative A, the No Project Alternative, would reduce construction noise impacts to a less-than-significant level. However, as the project would not be implemented under this Alternative, it is considered infeasible as it does not meet any of the project objectives or provide any project benefits. Alternatives B, C, and D would also result in a significant and unavoidable noise impact, but would not meet all project objectives or provide all the benefits of the project.

The Planning Commission finds this remaining significant impact to be acceptable because the benefits of the project outweigh this unavoidable impact of the project for the reasons set forth in Section II.E of these findings.

#### **D. FINDINGS REGARDING THE MITIGATION MONITORING AND REPORTING PROGRAM**

Public Resources Code Section 21081.6 and CEQA Guidelines Section 15091(d) require the lead agency approving a project to adopt a Mitigation Monitoring and Reporting Program for the changes to the project which it has adopted or made a condition of project approval in order to ensure compliance during project implementation. The Mitigation Monitoring and Reporting Program adopted by the Planning Commission requires the City to monitor mitigation measures designed to reduce or eliminate significant impacts. The Mitigation Monitoring and Reporting Program includes all the mitigation measures identified in the Final SEIR and has been designed to ensure compliance during implementation of the Fassler Avenue Residential Project. The Planning Commission hereby adopts the Mitigation Monitoring and Reporting Program attached hereto and incorporated herein.

The Planning Commission finds that the impacts of the Fassler Avenue Residential Project have been mitigated to the extent feasible by the mitigation measures identified in the Final SEIR and in the Mitigation Monitoring and Reporting Program. The Planning Commission adopts the Mitigation Monitoring and Reporting Program for the Fassler Avenue Residential Project that accompanies the Final SEIR. The Mitigation Monitoring and Reporting Program designates responsibility for the implementation of mitigation for conditions within the jurisdiction of the City. Implementation of mitigation measures specified in the Final SEIR and the Mitigation Monitoring and Reporting Program will be accomplished through project planning and implementation and monitoring and enforcement of these measures will be accomplished by periodic inspections by appropriate City personnel. The City reserves the right to make amendments and/or substitutions of mitigation measures if, in the exercise of discretion of the City, it is determined that the amended or substituted mitigation measures will mitigate the identified potential environmental impact to at least the same degree as the original mitigation measure, and where the amendment or substitution would not result in a new significant impact on the environment which cannot be mitigated.

**E. FINDINGS REGARDING ALTERNATIVES TO THE PROPOSED PROJECT AND THE REASONS THAT SUCH ALTERNATIVES HAVE BEEN REJECTED**

Four alternatives to the proposed project were analyzed in the SEIR: A) No Project Alternative; B) Redistribution of Units Project Alternative; C) Reduced Density Project Alternative; and D) Reduced Height Project Alternative. These four alternatives are briefly described below.

No Project Alternative (Alternative A) - Under the No Project Alternative, the proposed project would not be constructed and the project site would remain in its current condition. The analysis of Alternative A assumes the continuation of existing physical conditions on the site, as well as development of the related projects within the City. With the No Project Alternative, the Fassler Avenue Residential Project would not be implemented.

Because the No Project Alternative would not permit any development, it would result in the least amount of environmental impacts compared to the proposed project and the other alternatives. However, the No Project Alternative would not meet any of the project objectives as they are focused primarily on the development of a new residential community within the City of Pacifica and would not provide the same amount of benefits as the proposed project.

Redistribution of Units Project Alternative (Alternative B) - Alternative B would include development of the Fassler Avenue Residential Project, but would maintain the existing General Plan land use designations which would allow one unit on the western parcel of the site and the remaining 23 units on the eastern parcel on the site. Because the site plan under Alternative B would be consistent with the current zoning designations, a transfer of development rights would not be required for project implementation. The residential units under Alternative B would be clustered on the eastern portion of the site, which is different from the proposed project, which the majority of the units would be sited on the western parcel on the site. Alternative B would reduce the project's significant and unavoidable impacts to scenic vistas to less than significant after mitigation. No other significant and unavoidable impacts would be reduced to less than significant by Alternative B.

Assuming the design for the Redistribution of Units Project Alternative is economically feasible, this Alternative would meet most of the objectives of the proposed project; however, the topography of the location of where the 23 units would be built, appears generally lightly disturbed and includes more intense topography than the proposed project location. The placement of the 23 units in this location would move the structures from temporarily obstructing westbound motorists' long distance views along Fassler Avenue. However, Alternative B would also likely result in significant grading of the hilltop to accommodate the units, circulation, and parking facilities. This grading would significantly change the visual character of the area. Due to the topography, the structures would be set against steeper slopes, which would likely require taller structures. Additionally, placing the taller structures higher up on the hill would make structures move visible to downslope viewers, such as motorists on Highway 1 and Rockaway Beach. The tradeoff of Alternative B reducing temporary impacts on scenic vistas for motorists would result in greater significant impacts on visual character and scenic highways than the

proposed project. Therefore the proposed project has fewer environmental impacts than Alternative B, Redistribution of units.

Additionally, elements of Alternative B would not be consistent with the General Plan policies and goals and the City's Design Guidelines. Alternative B would not support the General Plan's transfer of development rights policy to preserve significant open space resource areas within the City, to encourage protection of natural, scenic, and recreational values of open space lands. Alternative B would not support the Site Planning, Site Improvement Design Guidelines, which states "Site improvements should be designed to work with site features, not against them. Lot grading should be minimized and disruption of natural features such as trees, ground forms, rocks, and water courses should be avoided." Alternative B would not support the Hillside Development, Excavation Design Guideline, which states "Larger amounts of cut and/or fill are unattractive on hillsides, and can have a detrimental impact on the immediate and surrounding environment." For these reasons and for the reasons above regarding the environmental impacts of Alternative B, this alternative was not recommended for approval.

Reduced Density Project Alternative (Alternative C) - Alternative C would include development of the Fassler Avenue Residential Project with 12 units, which is 50 percent fewer units than proposed by the project. The reduced number of units under Alternative C is based on the lowest density permitted under the proposed re-designation of the western parcel of the site from Open Space Residential to Low Density Residential, which, at a minimum, would allow three units per acre. The site plan configuration would be similar to the proposed project, but 12 units would be eliminated and the outdoor area associated with each unit would be increased. Similar to the proposed project, the residential units would be a mix of two and three stories. A full circulation loop would no longer be required as the units that would not be constructed under Alternative C would primarily be the western-most units. Under Alternative C, impacts related to scenic vistas, scenic resources within a scenic highway, and visual character of the site and surroundings would be less than the proposed project and would be reduced to less-than-significant levels with the identified mitigation measures. No other significant and unavoidable impacts would be reduced to less than significant by Alternative B.

The Reduced Density Alternative would meet most of the objectives of the proposed project, however, it is important to note that one of the assumptions for Alternative C is that it would have the same amount of development area as the proposed project. This assumption is required for the alternative to meet the "Maximize the allowable development area of the parcels" objective. Without this assumption, the project would not meet two of the four objectives ("provide 24 new condominiums in 12 duplexes" and "maximize the allowable development area of the parcels") and would not be considered to meet most of the objectives. If the alternative does not meet most of the project objectives, then it does not meet the test of being considered an alternative to the project as detailed by CEQA. Therefore Alternative C, which would significantly reduce the visual impacts from the project, would also include extra development (e.g., wider driveway) to meet "maximize the allowable development area of the parcels" objective. Therefore, Alternative C would not provide a well-balanced housing stock to Pacifica compared to the amount of development area created and was not recommend for approval.

Reduced Height Project Alternative (Alternative D) - Alternative D would include all buildings of two stories high, and each building height would be a maximum of 35 feet in height. This decrease in building height may necessitate a lower number of residential units than the proposed 24 units. The proposed amenities of the site would remain the same as would access and circulation. Alternative D would result in the same number of significant and unavoidable impacts as the proposed project.

The Reduced Height Alternative would meet most of the objectives of the proposed project; however, it would not reduce a significant environmental impact of the proposed project.

## **F. STATEMENT OF OVERRIDING CONSIDERATIONS**

Section 15093 of the CEQA Guidelines provides that:

*CEQA requires the decision-maker to balance the benefits of a proposed project against its unavoidable adverse risks in determining whether to approve the project. If the benefits of the proposed project outweigh the unavoidable adverse environmental effects, the adverse impacts may be considered acceptable.*

*Where the decision of the public agency allows the occurrence of significant effects which are identified in the final EIR but are not at least substantially mitigated, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. This statement may be necessary if the agency also makes a finding under Section 15091(a)(2) or (a)(3).*

*If any agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination.*

Project benefits are defined as those improvements or gains to the community that would not occur without the proposed project.

In accordance with CEQA Guidelines Section 15093, the Planning Commission has, in determining whether or not to approve the project, balanced the economic, social, technological and other benefits of the project against its unavoidable environmental risks, and has found that the benefits of the project outweigh the significant adverse environmental effects that are not mitigated to less-than-significant levels, for the reasons set forth below. This statement of overriding considerations is based on the Planning Commission's review of the Final SEIR and other information in the administration record.

### **Impacts from Proposed Project**

As stated in Section above, the proposed project would result in significant and unavoidable impacts relative to aesthetics (scenic vistas, scenic resources from a scenic highway, and visual character of the project site and surroundings) and noise (substantial temporary or periodic increase in ambient noise

levels in the project vicinity above levels existing without the project). The proposed project would also result in cumulatively considerable impacts to aesthetics, biological resources, and noise.

### **Project Benefits**

The City of Pacifica finds that the following substantial benefits will occur as a result of approval of the proposed project:

- Accommodates the housing needs of the growing population of the City of Pacifica by providing 24 new condominiums in 12 duplexes.
- Maximizes the allowable development area of the parcels.
- Provides a single access to the project via Fassler Avenue.
- Provides maximum common open space in the form of picnic areas, gardens, pathways, etc.
- When compared to the alternatives analyzed in the Final SEIR, including the No-Project Alternative, the Fassler Avenue Residential Project provides the best available balance between maximizing attainment of the project objectives and minimizing significant environmental impacts.

### **Statement of Overriding Considerations**

The City of Pacifica Planning Commission hereby finds that approval of the Fassler Avenue Residential Project could result in significant and unavoidable impacts relative to aesthetics and noise. After balancing the specific economic, legal, social, and other benefits of the proposed project, the City has determined that the unavoidable adverse environmental impacts identified above may be considered “acceptable” due to the following specific considerations, which outweigh the unavoidable adverse environmental impacts of the project. The City finds that the following overriding considerations independently, grouped by overarching theme, or collectively, are sufficient to outweigh the significant and unavoidable impacts of the project:

- The project supports the policies and goals of the General Plan, specifically the transfer of development rights policy to preserve significant open space resource areas within the City, to encourage protection of natural, scenic, and recreational values of open space lands. The project would utilize the TDR program to cluster development on the property to one location centered on the disturbed bench located on the western portion of the property which would provide higher quality open space by avoiding habitat fragmentation.

- The property owner has development rights on the property that the City must legally allow, and this project compared to other options would minimize the number of visual interruptions development on the property would have to motorists along Fassler Avenue and Highway 1, minimize the number of grading and geological improvements on the property, minimize the number of access points onto Fassler Avenue, and result in a well-balanced residential density to open space development that is economically feasible to the applicant.
- The project would result in a development that would provide highly desired housing stock to Pacifica, provide Inclusionary housing, assist Pacifica towards making its Regionally Housing Need Allocations, and improve pedestrian circulation on the north side of Fassler Avenue.

The City finds these unmitigable impacts are outweighed by the project benefits described above and, therefore, acceptable.

Furthermore, while the project alternatives would reduce adverse impacts associated with the proposed project and meet most of the objectives of the proposed project, the amount of benefits provided by the alternatives would be less than the proposed project. The Planning Commission further finds that to the extent the identified adverse or potentially adverse impacts have not been mitigated to less-than-significant levels; there are specific economic, social, planning, land use, and other considerations that support approval of the proposed project.

### **Record of Proceedings**

Various documents and other materials constitute the record of proceedings upon which the Planning Commission bases its findings and decisions contained herein. Most documents related to this project are located in the City of Pacifica Planning Department, 1800 Francisco Boulevard, Pacifica, California 94044.

### **Summary**

1. Based on the foregoing Findings and the information contained in the record, the Planning Commission has made one or more of the following findings with respect to significant environmental effects identified in the Final SEIR:
  - a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects on the environment.
  - b. Those changes or alterations wholly or partially within the responsibility and jurisdiction of another public agency can or should be adopted by the other public agency.
  - c. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the Final EIR that would otherwise

avoid or substantially lessen the identified significant environmental effects of the project.

2. Based on the foregoing findings and the information contained in the record, it is hereby determined that:
  - a. All significant effects on the environment due to approval of the project have been eliminated or substantially lessened where feasible.
  - b. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations, above.

### **III. APPROVALS**

The Planning Commission hereby takes the following actions:

- A. The Planning Commission hereby certifies the Final SEIR.
- B. The Planning Commission hereby adopts as conditions of approval of the Fassler Avenue Residential Project all mitigation measures within the responsibility and jurisdiction of the City set forth in the findings.
- C. The Planning Commission hereby adopts the Mitigation Monitoring and Reporting Program for the project as set forth above.
- D. The Planning Commission hereby adopts these findings in their entirety as its findings for these actions and approvals,
- E. Having certified the Final SEIR, independently reviewed and analyzed the Final SEIR, incorporated mitigation measures into the project, and adopted findings and a statement of overriding considerations, the Planning Commission hereby approves the Fassler Avenue Residential Project.