

MINUTES

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

September 16, 2019

7:00 p.m.

Acting Chair Nibbelin called the meeting to order at 7:01 p.m.

ROLL CALL: Present: Commissioners Berman, Campbell, Rubinstein, Kraske, Bigstycyk and Acting Chair Nibbelin
Absent: Chair Clifford

SALUTE TO FLAG: Led by Commissioner Bigstycyk

STAFF PRESENT: Sr. Planner Murdock
Asst. City Attorney Bazzano
Assoc. Planner O'Connor
Police Chief Steidle

APPROVAL OF ORDER OF AGENDA Commissioner Berman moved approval of the Order of Agenda as amended; Commissioner Kraske seconded the motion.

Commissioner Berman asked to move Item #3 ahead of Item #2.

The motion carried **6-0**.

Ayes: Commissioners Berman, Campbell, Rubinstein, Kraske, Bigstycyk and Acting Chair Nibbelin
Noes: None

APPROVAL OF MINUTES: AUGUST 5, 2019 Acting Chair Nibbelin moved approval of minutes of August 5, 2019; Commissioner Kraske seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Berman, Campbell, Rubinstein, Kraske, Bigstycyk and Acting Chair Nibbelin
Noes: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF SEPTEMBER 23, 2019:

Acting Chair Nibbelin asked if they need a liaison regarding the 7-Eleven annual review.

Sr. Planner Murdock responded that it was an appeal regarding the Commission's findings that they were in substantial conformance with the original approval.

Commissioner Bigstycyk volunteered.

Sr. Planner Murdock stated that they will need a liaison on October 14 for an appeal of the Marymount rent increase application and he asked them to check their calendars and bring their availability to the next Planning Commission meeting.

ORAL COMMUNICATIONS:

None.

PUBLIC HEARINGS:

- 1. PSD-837-18** **File No. 2018-056 – Site Development Permit UP-112-18 and**
UP-112-18 **Sign Permit S-129-19** for demolition of an existing approximately
S-129-19 834 square foot (sf) convenience store and construction of a new
1,305 sf convenience store with a wall sign at an existing Shell gas
Station at 4475 Cabrillo Highway (APN 022-031-300).

Sr. Planner Murdock presented the staff report.

Acting Chair Nibbelin turned the meeting over to Vice Chair Rubinstein, who arrived at the meeting.

Commissioner Bigstyk mentioned that there were a couple of electric vehicle parking spots, and he understood why they were not required. He asked, if it was a new development, would the two spots be required.

Sr. Planner Murdock thought it would include electric vehicle charging stations if it was a vacant site being developed with the same combination of uses, but with partial improvement or reconstruction, staff did not think it triggered the threshold for installation of those spaces.

Commissioner Bigstyk asked if they were aware of the current hours of fuel delivery are and whether it changed anything they do.

Sr. Planner Murdock stated that he was not aware of the hours but he thought the applicant can speak to that.

Commissioner Nibbelin referred to parking spaces, stating that there was a requirement for seven and 12 were provided, but eight of them spaces were actual fuel pump spaces. He asked if that was the way they count parking spaces in circumstances like this.

Sr. Planner Murdock stated that it was as they don't deal with too many gas station projects in Pacifica, but with those they have dealt with, they count the fueling station parking spaces towards the off-street parking requirements as staff thought most customers are likely fueling their vehicles and availing themselves of the services in the convenience store, rather than independent trips to the site.

Commissioner Nibbelin stated that he had experienced where they show up and wait while someone goes in to buy coffee and it was annoying but he thought it wasn't so annoying as to override their standard practices.

Vice Chair Rubinstein invited the applicant to speak.

Muthana Ibrahim, Architect, thanked staff for presenting the project. He stated that they were excited to move forward with the project and reconstruct the convenience store. He stated that the hours of delivery of products to the gas station will be off peak hours. He stated that, regarding parking, 90% of customers who come to the gas station utilize the fueling positions and go to the convenience store. He stated that they agreed with the conditions of approval in the staff report and were present to answer any questions.

Commissioner Nibbelin asked if there were any limits on the hours for sale of alcohol at the convenience store.

Muthana Ibrahim stated that he would like to defer the question to the property owner if he can invite him.

Vice Chair Rubinstein stated that he could.

Sunny Goyal, AU Energy, stated that they own and operate the facility. He stated that he was texting to get that answer and would have an answer within the next two minutes.

Commissioner Bigstyk referred to his answer that product delivery is during off peak hours, he stated that there was a condition about fuel delivery and he asked if that was in alignment with what they were already doing.

Muthana Ibrahim stated that the owner of the gas station delivers fuel to other gas stations and they control the schedule.

Mr. Goyal stated that they do not sell alcohol from 11:00 pm to 6:00 am, and they shut the doors at that time as they go to one cashier at night for security reasons.

Vice Chair Rubinstein asked if that was a restriction or their policy.

Mr. Goyal stated that he thought the restriction was at midnight, but they shut the doors at 11 pm and sales stop at that time.

Vice Chair Rubinstein opened public hearing.

Wesley Chung, Pacifica, stated that they own the building, Nails by Lisa, which connects to the Shell gas station, and he asked whether they are going to work during business hours, and they were worried about the wall. He wasn't sure who put it up but it was a cinderblock wall which separates the garden they made which is part of the Nails by Lisa property. He asked, if they take out the wall, whether they will be putting it back or do they have to do it.

Muthana Ibrahim stated that the wall was the exterior of the building. He stated that they will remove the wall and rebuild it at the same location on their property and the salon property will not be impacted at all.

Vice Chair Rubinstein asked if he can explain the wall.

Muthana Ibrahim stated that the building is abutting the property line and they were replacing the building. The exterior wall is part of the existing structure. They will remove the building, put a new structure in the same location and as far as the neighbor, the wall will be replaced. He stated that the salon building was separated from the store by approximately six feet and they will not be impacted.

Vice Chair Rubinstein closed public hearing.

Asst. City Attorney Bazzano asked confirmation that he was closing public comment.

Vice Chair Rubinstein stated that anyone wanting to speak can bring up a card but he did not see anyone and Vice Chair Rubenstein confirmed that the public comment period was closed.

Commissioner Berman stated that in regard to the wall, she thought the adjacent property owner's concern was the garden that abuts the wall. She asked if they plan to do any shoring to protect the integrity of the garden while they replace the wall.

Muthana Ibrahim stated that, from the salon property, it was the same elevation and shoring is not required. He stated that they will put a fence and the owner will probably be discussing that with the neighboring property to maintain the garden and bring it back to the original situation.

Mr. Goyal stated that they have to finish the back side and front side and there will be some scaffolding, but they will work with the neighbors and the city to ensure that everything is put back the way it should be. He stated that they take before and after pictures to be sure and there was some coordination involved.

Commissioner Berman thought it would be appreciated if, during construction, they are aware of the garden and the adjacent property.

Commissioner Nibbelin asked staff about the hours of construction that would mitigate impacts on adjacent landowners during construction.

Sr. Planner Murdock stated that the construction hours are not ordinarily specified in the conditions of approval unless there was a basis to further restrict them. As a matter of city ordinance, it was 7:00 am to 7:00 pm Monday through Friday and the weekend hours are slightly less. He stated that they have conditions of approval that require compliance with best management practices, site control, sediment travel and silt. He stated that staff thought best management practices meant for storm water control will likely maintain a clean job site for the adjacent neighbors. He stated that there wasn't a lot to be done regarding operating hours through the construction hours to control that and that would be the Commission's decision if they had other concerns about the hours.

Commissioner Kraske asked if it was the same wall abutting the Monterey Cypress tree on the corner of the property.

Mr. Goyal asked him to repeat his question.

Commissioner Kraske asked if the wall they mentioned was the same wall abutting the Monterey Cypress tree on the corner of the property.

Mr. Goyal stated that it was on the opposite side.

Commissioner Kraske asked if the wall by the Monterey Cypress going to be removed.

Muthana Ibrahim stated that they will be replacing the wall.

Commissioner Kraske stated that the staff report indicated that there will be an arborist on site during the excavation to ensure that the roots of the tree are not damaged. He stated that it was a nice tree and he wouldn't want to see it destroyed by the development.

Commissioner Bigstyk stated that he had the question of operation to clarify it for the neighbors and he asked them what the operating hours of construction going to be.

Mr. Goyal stated that the construction is usually to about 3:00 to 4:00 pm because of drive times and hours of working limited to being eight hours. He stated that they usually arrive 7:00 am or 7:30 am and start around 8:00 am.

Commissioner Campbell stated that he wanted clarification on the charging station. He understood it wasn't required by the code because the development was not a major alteration or new construction and he asked for an explanation.

Sr. Planner Murdock stated that staff concluded that, as the development was only a small portion of the site, they didn't qualify as a major project and were not required to put in the electric charging stations.

Commissioner Campbell stated that he appreciated their reasonings and raised it because he was worried about the application of that reasoning to other sites where other developers might use that reasoning to avoid putting in EV stations. He would hate for that to happen based on their decision on this item.

Asst. City Attorney Bazzano stated that every application is reviewed independently and there isn't a reference to prior applications when considering what is in front of the Commission. She stated that there was a requirement that they treat everyone the same under the applicable law and if the law is the same, they have to apply it equally to applicants but every application is reviewed independently and reiterated that Sr. Planner Murdock stated that he reviewed the codes and considered all the facts related to this application and determined that the electrical vehicle charging stations were not required under the code.

Sr. Planner Murdock added that he explained the primary reasoning and another issue is that they have the term major alteration defined in the parking standards and, if they considered this a major alteration, it would have to be 20,000 square feet or more and he didn't think the facts supported new development or major alteration. He felt that limits the opportunity to evade application of the code requirement.

Vice Chair Rubinstein asked if there were any other property owners or business owners that are impacted and not represented.

Muthana Ibrahim stated that they were not impacted.

Vice Chair Rubinstein stated that he urged them to continue working with the nail salon and other neighbors on the construction logistics.

Commissioner Nibbelin thought the staff report did a good job of laying out the various matters at issue and he thought hearing from the applicant and the adjacent business owner has satisfied him that they have what they need to move forward. He was prepared to make a motion.

Commissioner Campbell stated that he was comfortable with the project. He knows people who use the nail salon and he will hear about it if they are unhappy and he hopes it does not become the case.

Vice Chair Rubinstein stated he was in favor of the project.

Commissioner Nibbelin moved that the Planning Commission FINDS the project is categorically exempt from the California Environmental Quality Act; APPROVES Site development Permit PSD-837-18, Use Permit UP-112-18 and Sign Permit S-129-19, by adopting the attached resolution, including conditions of approval in Exhibit A and to incorporate all maps and testimony into the record by reference; Commissioner Bigstycck seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Berman, Campbell, Nibbelin,
Kraske, Bigstycck and Vice Chair Rubinstein.

Noes: None

2. CAP-8-18 **FILE No. 2018-029 – Cannabis Activity Permit CAP-8-18** to establish a medicinal and adult-use Cannabis Retail Operation within an existing commercial building at 450 Dondee Way, Suite 2 (APN 022-021-640).

Assoc. Planner O'Connor presented the staff report.

Commissioner Berman referred to the enhanced monitoring in the conditions of approval and asked for more detailed information.

Assoc. Planner O'Connor stated that the condition allows them to do inspections without advance notice, access to the security system and provide quarterly compliance reports to the city.

Commissioner Berman concluded that nothing beyond the conditions of approval was being recommended.

Assoc. Planner O'Connor responded affirmatively.

Commissioner Campbell understood that city had filed a lawsuit against the applicant when it was operating illegally and the entered a settlement agreement in June 2019 which said that "among other things" they had to make scheduled payments to the city. He asked what the "among other things" was.

Asst. City Attorney Bazzano stated that the settlement agreement had various obligations that the parties to the agreement had to comply with, such as code compliance, payment provisions, enforcement provisions, etc. She stated that the agreement also has premises owner obligations.

Commissioner Campbell concluded that it was some of the things mentioned such as 51% ownership of the LLC.

Asst. City Attorney Bazzano didn't think the settlement agreement addressed that issue. She stated that it referred to the owner not allowing a similar business on the premises, and the owner of the property was different than the owner of this business.

Commissioner Campbell affirmed that she said the owner of the premise can't engage in additional cannabis operations and the applicant has to do what they are already obligated to do.

Asst. City Attorney Bazzano stated that was what they agreed to do.

Commissioner Campbell asked if we have been receiving scheduled payments.

Assoc. Planner O'Connor stated that they have.

Commissioner Campbell asked how it was working in calculating the payments and whether there was a special accountant working on it.

Sr. Planner Murdock stated that matters regarding the amount of payment, auditing, etc., are handled through the Administrative Services Department, i.e., Finance Department and Asst. City Manager Hines's team was leading the financial component of the program.

Vice Chair Rubinstein asked if they can describe the amount and type of fees and whether they stay in Pacifica or go to county, state or federal.

Asst. City Attorney Bazzano then read the payment provisions from the settlement agreement.

Commissioner Campbell concluded that the payment was \$42,000 to pay the city for the cost of engaging in the enforcement action. He asked if that was the total amount the city is getting from the agreement.

Asst. City Attorney Bazzano reiterated that they paid a lump sum of \$10,000 and are making 24 monthly payments for the balance.

Commissioner Campbell referred to the money they made while operating illegally and asked if that was not part of the settlement agreement or a different agreement.

Asst. City Attorney Bazzano stated that this was the only agreement the city entered into with Seaweed.

Commissioner Campbell thought they were bound to a confidentiality settlement but he concluded that they were not seeking the past profits.

Asst. City Attorney Bazzano stated that this settlement agreement contemplates settlement of the code enforcement action.

Commissioner Campbell thought that included discouragement of illegal profits.

Asst. City Attorney Bazzano stated that she was not sure what he meant by illegal profits.

Commissioner Campbell stated that it would include money from sales tax, city fees, etc., that they would have owed the city. He thought they were saying that it cost \$42,000 in attorney fees to prosecute the enforcement action, but he thought he was hearing that it was for something else.

Asst. City Attorney Bazzano stated that the city did take that into consideration at the time the settlement agreement was drafted.

Commissioner Campbell asked how much the attorney fees were in this case. He didn't know if it was \$42,000 or if the city made efforts to collect on past profits.

Asst. City Attorney Bazzano stated that the settlement agreement was the result of staff discussion, City Council consideration, and everyone was involved in considering all of the elements contemplated in the agreement.

Commissioner Campbell thought he would ask the applicant for clarity.

Vice Chair Rubinstein asked if the amount of the agreement was the result of a negotiation with the applicant or calculated the cost of the enforcement action and penalties or was it less than the actual costs.

Asst. City Attorney Bazzano stated that it was a negotiated settlement.

Commissioner Bigstyk stated that he had turned his light on at the start of discussion to inform them that he had a brief meeting with the owner of the business before he was on the Commission and he assured them that it would not affect how he will be voting. He then referred to packet page 150 which indicated that they are not factoring the litigation into their decision on this item.

Asst. City Attorney Bazzano explained that part of the settlement agreement provides specific language that indicates that the city agrees that Seaweed's permit application cannot be denied on the grounds that Seaweed was involved in a pending litigation or code enforcement case filed by the city, was cited, fined, penalized or enjoined or owes an outstanding balance to the city where the basis for such finding was the existence of the lawsuit for the terms of the agreement.

Commissioner Bigstyk asked clarification that they do not take into account the litigation as they are making their findings.

Asst. City Attorney Bazzano stated that it cannot be the basis of a denial. She stated that the city agreed that the application cannot be denied on those three grounds set forth in the settlement agreement.

Commissioner Bigstyk asked what the difference was in a sole proprietorship and a single member/manager of a limited liability company.

Sr. Planner Murdock stated that a sole proprietorship was an individual operating and a single member/manager of a limited liability company is a separate legal entity that provides a degree of liability protection and different opportunities for tax purposes. He stated that many business owners pursue them for the liability protection that they offer in conduct of the business.

Commissioner Bigstyk concluded that they shift the form of business but the owner stays the owner with no change.

Sr. Planner Murdock states that they characterize it as the beneficial ownership and the individual behind the entity remains the same and in staff's analysis it doesn't trigger the change of ownership in restrictions in the city's ordinances. He stated that, technically, it is a different entity but factually it is the same as Ana Leño-Williams as the sole proprietorship.

Commissioner Bigstyk read several portions of the packet where he needed clarification, and referred to a condition of approval regarding video surveillance being accessible to the police and asked if that was suggested by staff or the Police Chief.

Sr. Planner Murdock thought they developed it in collaboration with the entire city staff.

Commissioner Bigstyk asked if the applicant acted illegally.

Police Chief Steidle responded affirmatively.

Commissioner Bigstyk asked if he would care to elaborate.

Police Chief Steidle stated that, prior to enactment of the cannabis ordinances, several businesses were selling cannabis products unlawfully. He stated that this was different and they made it clear that, once the ordinances were enacted, they would not hold it against the business that were shutting down but everyone starting with a clean slate. He stated that the difference was that this business opened up unlawfully after the enactment of the ordinance, a meeting with him, ordinance explained and admonished as they would be acting unlawfully if they did so.

Commissioner Bigstycyk asked if they stopped the unlawful activities on November 25 when they were supposed to do so.

Police Chief Steidle stated that they did.

Commissioner Bigstycyk stated that, in April, they were given the due date of November 25, and he asked why they gave them a half year to comply.

Police Chief Steidle stated that the city attorney could elaborate on it, but he stated that the legal process takes time and it wasn't completed in April, which was when they became aware that they were operating unlawfully.

Commissioner Bigstycyk referred to the condition of the 24/7 surveillance, and he asked if the Police Chief thought that was adequate to make sure they are acting on their best behavior.

Police Chief Steidle asked if he was referring to just that one requirement or all three.

Commissioner Bigstycyk asked, if No. 3 wasn't there, whether he would feel comfortable allowing them to have this business.

Police Chief Steidle stated that he would be much less comfortable.

Commissioner Bigstycyk asked, with No. 3 included, whether he was comfortable allowing them to have this business.

Police Chief Steidle responded affirmatively, adding that if they state that they will operate lawfully and will be a good player in the community by cooperating with the laws and police and make it a safe business for the community, he felt it would give them the opportunity to move forward as they say they will do so. He stated that the conditions are for a two-year period and as a police officer, he considers that as being put on probation with the opportunity to show them that they will do the right thing and be successful which they can within the confines of the law. He stated that, if they can prove that they can do that, the restrictions will go away.

Commissioner Bigstycyk asked if he was concerned that they might violate the law in a way other than the way the law has already been violated.

Police Chief Steidle stated that he did not know how they would violate the law. He stated that his concern was that, if the circumstances weren't going their way as they weren't able to be permitted with a myriad of reasons, they would violate the law to suit their needs as in the original case.

Commissioner Bigstycck asked, with these conditions in place, whether he was satisfied that it was enough for them to go forward at this time.

Police Chief Steidle stated that he felt comfortable with that.

Vice Chair Rubinstein referred to the settlement agreement, and asked how much they can consider in their decision with regard to running the business after this amnesty period, or is it all settled in the agreement and they can't consider it.

Asst. City Attorney Bazzano stated that she read the three provisions in the settlement agreement which cannot be a basis for denial and other than that, there are no other restrictions.

Commissioner Nibbelin appreciated the language in the settlement agreement, adding that it was a little subtle as one thing they cannot use as a basis of denial is the involvement in pending litigation or code enforcement while understanding that their conduct gave rise to the litigation in the first place. He was having a little bit of difficulty regarding the litigation which is encompassed into something they are not supposed to consider. He appreciated the Police Chief's candor regarding his level of comfort with the conditions in place, and he asked if there were any other conditions that could increase his level of comfort.

Police Chief Steidle stated that, as the conditions stand, he felt comfortable as staff gave it quite a bit of thought regarding what other conditions they might consider to feel more comfortable. He stated that they were significant and his comfort level increased because they were willing to be inspected without notice and they can walk in and check.

Commissioner Nibbelin thought there were things they could do incrementally to increase comfort but it sounds like the important things are there.

Police Chief Steidle agreed, adding that they don't want to put too much on the business to set them up to fail.

Commissioner Campbell asked the Police Chief if they will be spending additional funds to be monitoring the security cameras and anything else.

Police Chief Steidle thought the funds they would spend on looking at the cameras were negligible. He stated that, with the inspections, they would be entering into a contract with a consulting service for assistance and those fees are considered in the new fees for the renewal of the cannabis businesses.

Commissioner Campbell stated that the notice for this item was September 4, and he asked if he was engaged in discussions with staff after that date and after he wrote his memo and that is when they got to where Police Chief was with his comfort level.

Police Chief Steidle stated that it was increased in the last few weeks.

Vice Chair Rubenstein invited the Applicant to speak.

Ana Leño-Williams, applicant, thanked the staff for the opportunity to present her business. She introduced her oldest daughter, Olivia Cooper, who will take them through the presentation.

Olivia Cooper mentioned the process timeline for allowing cannabis businesses, and stated that of the six permits issued, only two were operating. She stated that most people were not aware of the money, time and effort required to get a cannabis business started and most people see it as a great investment but don't know that the business pays 40% tax and has no tax write-offs. She stated that legally operating dispensaries are forced to operate without the security from having an account from any federally insured financial institution. She stated that the applicants have been at the same Rockaway Beach location for five years and are active in the community. She stated that Seaweed's desire to move into their space stems from a family tragedy where cannabis is used to help treat an illness, giving specifics of the family member's medical history. She then described the layout of the facility including the security camera placements. She stated that they are recording 24 hours a day and storing the data for 60 days. She mentioned that the main window was protected by a shatter sensing alarm and a steel rollaway shield protected shutter that rolls up and down at the beginning and end of each day. She stated that the shop is monitored by surveillance and tied to the police station. She gave specifics of their products. She stated that Seaweed Holistics was the first retailer in the Bay Area to be granted the ability to openly advertise on the radio. She mentioned the specific products they plan to add to their products in the future and stated that they will focus on trusted local manufacturers. She asked that they allow them to provide a quality cannabis boutique that offers a safe and comfortable space that benefits the community.

Ms. Leño-Williams addressed the enhanced monitoring, stating that she opposed the first and third conditions of approval set before them. She stated that unannounced visits by city officials can be unnerving to clients and can potentially hurt her business. She also felt it was about patient privacy that they want to uphold for their clients. She stated that she wants the opportunity to continue serving the people of Pacifica. She felt that we can show San Mateo County how good cannabis business should be conducted.

Vice Chair Rubinstein opened the public hearing.

Tony Williams, Pacifica, referred comments earlier regarding cases against Seaweed. He stated that regarding the attorney's fees, that case has been settled and payment has been made and continually being made. He stated that, regarding the Police Chief's statement, they were operating on Prop. 215 at the time and they had a viable collective which they created in the specified amount of time from the state and all of the confusion under which they were operating was a big confusion between what was the sunset clause and what was not. He stated that they were not openly operating unlawfully. He stated that was why they weren't shut down right away as they worked with the city trying to decide whether the sunset clause was viable or not. He stated that their agreement came in November when they took THC off the shelves and agreed with the city to do that. He stated that they did whatever the city requested. He stated that the police have asked several times to use their cameras because their cameras are in places where crimes have happened, and they have no problem giving the police access to their cameras. He stated that they want to operate a viable business that is what Pacifica has longed for and he did not agree with the way he presented his wife as a criminal.

Pamela Winston, Pacifica, thanked the city with thinking about taxes and what was happening in Pacifica with the cannabis stores. She stated that she has had a business off and on for 22 years. She has been next to Seaweed Holistics for a long time and watched them. She stated that their

clientele are amazing as they come in to her store and express their appreciation that Seaweed Holistics is there. She stated that it is a medical place where they get medicine, and not just to buy pot and hang out. She was proud of them, adding that our community needs it and will receive so much money in taxes and they will be able to pay off their debt. She stated that the people who come need it. She asked them to give them the permit as it was a wonderful thing they are doing. She suggested that they try some of their products.

Mark Staudabar, Pacifica, stated he is a business partner of Seaweed Holistics. He stated that he produce and manufacture a beverage that is non-THC based, but CBD based and he has been working with Ana for about a year and has seen the impact of not having THC has done on the business. He stated that they have had a significant dip in their business but despite all the obstacles have always paid their bills and made extraordinary efforts to come whole even though they have faced extraordinary challenges in their business recently. He asked that Pacifica and the Council recognize the gray area that has been existing in the world of cannabis and CBD and the people who have fought the fight where there may have been some unclear skies and they have fought through it and do it the right way and he would reward those who have ridden the tough tide of battling of legalizing cannabis, CBD and THC to get here and not kick them out and let someone come in new and unscathed. He asked that they not focus on the negative and help them to be a profitable business in Pacifica.

Annie Crow, Pacifica, stated that she is a retired nurse. She stated that she has worked at many hospitals in the Bay Area and has a degree and did a paper on the effects of marijuana in 1984. She felt we have come a long way in California, and thought Seaweed Holistics has run their business in a very reputable way. She stated that they helped her get off of OxyContin which she was on after an automobile accident and was on it for a long time. She stated that, with Ana's suggestion of getting on CBD, she was able to stop taking OxyContin and she felt that was a huge thing because of what OxyContin can do. She urged them to have some compassion for them as they have so much compassion for Pacificans and want to help people. She stated that she is doing pet sitting at a senior building and many seniors in that building who use marijuana, CBD to help them with their pain. She stated that Seaweed Holistics is around the corner from them and they can get to the medication without having to travel into San Francisco or pay a shipping fee.

Tina Schuller, Moss Beach, stated that she has spent most of her life in Pacifica. She stated that she has been going to them for quite a while. She stated that her husband is a doctor and he has a very bad back and she convinced him to go in to Seaweed to see what kind of treatment he could get from them and they have always been a good resource for information and education. She stated that her husband is trying to avoid surgery, trying physical therapy, massage, acupuncture, etc., and he went in there and talk to people and get gummies that help him with his constant pain. She felt they were wonderful people and provide a great service to the community and she felt they deserve to operate in Pacifica and Pacifica needs them. She hoped they vote to approve their business.

Vice Chair Rubinstein closed the public hearing.

Asst. City Attorney Bazzano stated that he didn't give the applicant an opportunity to rebut and since there was public comment.

Vice Chair Rubinstein understood and reopened the public hearing for the applicant to rebut or discuss any questions raised.

Ms. Leño-Williams stated that the only issue she wanted to bring up was about previous business profits done before the settlement of the case. She stated that they did pay taxes on the income which she stated was verifiable through the finance department.

Vice Chair Rubinstein closed the public hearing.

Vice Chair Rubinstein referred to the opposition to the two conditions of approval, and he asked why she was opposing those conditions as he thought they were reasonable in terms of enforcement for the tax filings and police inspections.

Ms. Leño-Williams stated that she didn't have a problem with tax filings. She stated that she took issue with the first and third one.

Vice Chair Rubinstein stated that the first one was inspection of the cannabis operation by city officials during normal business hours without advanced notice.

Ms. Leño-Williams stated that she didn't have a problem with them coming in, but she would like prior notice even if the morning of the visit or the night before so they can notify their customers that this will be happening and they don't feel threatened or scared that city officials are coming.

Vice Chair Rubinstein asked if she was asking for same day notice.

Ms. Leño-Williams stated that the same day notice if it can be at the beginning of the business day would be fine so they have an opportunity to tell their customers that it is happening.

Vice Chair Rubinstein stated that the other one was the live stream surveillance accessible by the Police Chief via remote access.

Ms. Leño-Williams stated that they have signs outside and inside that video surveillance is being done on the premises, and she would also have to notify them that the Police Chief is at any time watching or checking in, and her issue was not with her but she doesn't plan on doing anything illegal in her shop but she thought it would be a privacy issue for her patients because it is a place for healing and they are opting to get cannabis or THC for their medicine. She stated that before they had a HIPPA agreement that they wouldn't share any information with anyone else but for the surveillance cameras to be reporting directly to the police she thought it might go along with that.

Vice Chair Rubinstein stated that they will address those questions later, but he wanted to ask some questions. He asked staff how many applications for marijuana use permits have they heard and how many have they approved.

Assoc. Planner O'Connor stated that this is the fifth one they have heard and they have approved four.

Vice Chair Rubinstein explained that he asked that because a lot of the comments and presentation was a pitch about the legality or the usefulness and staff's opinion about marijuana use and the biography of the applicant's and patient's stories. He was interested in the operation itself. He stated that they have discussed that and the state has decided that marijuana use is legal and acceptable. He appreciated that she covered some of those, but he stated that throughout the review of the applications they had a lot of questions about operation and as they have proceeded they have gotten a bit easier. But because of the operational issues that preceded this application, he had questions about the operation. He asked how many staff members will be on site.

Ms. Leñaño-Williams thought she put it on her report that she submitted, which are 5 to 10 in the beginning. She stated that now she did not have them because she doesn't have the volume of business and she has 1 or 2 now. When they have the permit to sell cannabis it will increase to manage the influx of business that she hopes to get. She stated that there will be a manager at all times and during the day it will be from 10:00 to 8:00 and they would have three shifts, opening, middle to cover both ends of the day and she would be the general manager overseeing everything.

Vice Chair Rubinstein asked how often she will be on site.

Ms. Leñaño-Williams stated that she will be there all the time. She stated that she has established a relationship with the people who have been coming and she wants to continue them as they see her and want to do business with her.

Vice Chair Rubinstein asked what the hours of operation and days of the week that they are open.

Ms. Leñaño-Williams asked if when they are able to sell cannabis or currently.

Vice Chair Rubinstein stated the proposed application.

Ms. Leñaño-Williams stated that it was 10-8.

Vice Chair Rubinstein asked if it is seven days a week.

Ms. Leñaño-Williams responded affirmatively.

Vice Chair Rubinstein referred to her speaking about security with the rolled up gate and the cameras, and he asked if there were any other security procedures.

Ms. Leñaño-Williams stated that she did not know of any other, unless he had any specific things.

Vice Chair Rubinstein stated that his colleagues may remember better. He stated that they had talked about product tracking, and he asked if they had a product tracking system in place.

Ms. Leñaño-Williams stated that the point of sale system is industry specific and was part of her presentation which is compliant to the state's track and trace system, and their local permits plug them in directly with the state where they would be able to look into their records and ensure that they are selling everything through proper means.

Mr. Williams added that the system was already in place.

Ms. Leñaño-Williams stated that they were waiting for the official word because they are already permitted.

Vice Chair Rubinstein referred to exterior signage and asked if they will change signage or advertisements on the window.

Ms. Leñaño-Williams stated that currently there was a second sign she has put up as this was her second business. She stated that she was only made aware of the master signage program late in the permitting process. She stated that her landlord never had an issue with her putting up her own sign, helping her put it up. She explained that there were individual letters on the façade of the building and spell out Seaweed Holistics, and they have made the effort to make it compliant by using gold. She thought the original sign was in keeping with the theme of the plaza at the time which was “beachy” and she wasn’t sure how the gold fits in with that theme.

Mr. Williams stated that the gold fits with the signage program for Rockaway Beach and the letters were within the parameter measurements of the sign.

Vice Chair Rubinstein asked if they have a delivery business.

Ms. Leñaño-Williams stated that they do not.

Vice Chair Rubinstein stated that his next question is not about considering whether they want to approve or not based on the conditions in the settlement agreement, but he wanted to understand what motivated the to operate after the amnesty period and continuing to operate after the rules proposed by the Police Chief.

Ms. Leñaño-Williams stated that she felt it was a matter of interpretation of what the sunset clause says which is what the state had provided for them with paperwork and certifying them as Prop. 215. She stated that it was established in August 2016 and by that definition they were allowed as well as everyone else to operate legally during that transition period in all of 2018 to January 2019. She stated that the state realized that people had been making a living selling medical cannabis in California since 1996 and to cut them off at the knees because they were going through a permitting process didn’t seem fair. For the cities to follow their processing procedures, this hopefully allowed them to permit everyone they needed to permit.

Vice Chair Rubinstein concluded that she mentioned the legal justification, but he asked if her motivation was to serve her clients, pay rent, etc.

Ms. Leñaño-Williams stated that it was all of the above.

Mr. Williams stated that a lot had to do with him and stemmed from his condition of developing epilepsy over a period of time. He stated that, in the last seven years he has gone from working 9:00-5:00 to days when he can’t walk or get up and cannabis has changed his life tremendously. He wanted to share that with other people and they couldn’t find anywhere in Pacifica where they felt comfortable and that was what his wife set out to develop.

Vice Chair Rubinstein understood his thinking, but living in a small town like Pacifica, he thought running a business illegally was pretty bold.

Ms. Leañó-Williams stated that they never thought they were operating illegally.

Mr. Williams referred to the sunset clause and stated that they were operating according to that clause and during that time they were going back and forth with their legal representative as well as the city.

Ms. Leañó-Williams stated that it was also with the BCC.

Mr. Williams stated that was also how they accrued the attorney's fees. They felt that they were operating legally under Prop. 215 according to what the sunset clause stated. He stated that, with the misunderstanding between them and what Pacifica said, they decided to come to a conclusion and pull the cannabis off the shelf and do what they asked them to do.

Vice Chair Rubinstein asked if they had a legal opinion or if it was their interpretation.

Mr. Williams stated that they had a legal opinion because they said, based on the sunset clause, they should have been able to operate until January 9, 2019, and they took stuff off the shelf because they were threatened and they couldn't afford a lawsuit against the city at that time.

Vice Chair Rubinstein stated that he was only asking the questions because the biography and the benefit of the business was mentioned for most of the presentation and he was trying to understand the difference between an operator who wants to be in compliance of local laws and follow the conditions and one who doesn't.

Mr. Williams stated that they have been in compliance with everything that the city has asked, adding the police chief has had officers go to their store to inquire about things that have happened outside of the store and have access to their camera system. He stated that they were still operating and had no problems with allowing them in to view the camera system. He thought, if they were doing something illegally, they would not have openly invited the officers in to their store. He stated that they have been business owners in Pacifica for years and thought the people who know them do know that is not who they are.

Commissioner Bigstyk stated that Prop 215 and its sunset clause has been brought up quite a bit and he asked the city attorney if there was a sunset clause that would allow them to operate.

Asst. City Attorney Bazzano stated that she was not aware of a sunset clause that would supersede SB94 or the city's local authority to regulate cannabis. She stated that the city's ordinances 818 and 819 were adopted around November 2017 and SB94 allows cities' local jurisdiction to retain the discretion of whether or not to regulate retail cannabis operations, adding that the city chose to regulate retail cannabis operations with the adoption of ordinance 818 and 819.

Commissioner Bigstyk concluded that, at the time that the city took the proverbial ball, any protections offered under the other clause ceased to be because they were deciding on what was allowed and what was not.

Asst. City Attorney Bazzano agreed, adding that the city chose to adopt regulations and that was how the code enforcement action began.

Commissioner Bigstycyk asked Police Chief Steidle if, at that point, he told the applicant that it would be in their best interest to cease operations that are not allowed under the current code.

Police Chief Steidle stated that was the conversation they had on December 22, 2017 prior to any conversation with the applicant about 215. He stated that in that conversation the applicant and her husband explained to him that, upon adoption of the ordinance, they were preparing to open and do the right thing and get their permit. He stated that they were frustrated that they could not get it immediately as they had rent to pay and customers whom they wanted to serve. He stated that they told him they weren't conducting any business after coming to him to see what they had to do to get the permit, and he admonished them that they could not conduct cannabis activities under the ordinance. They tried to go to the Bureau of Cannabis Control to get a temporary permit, but they have to be authorized by their local jurisdiction and when he was contacted by the BCC he said they were not authorized and they were denied. He stated that they called his office and the Planning Department talking about a temporary permit they could receive and cited sections of the Municipal Code which didn't have anything to do with cannabis and that was clearly a misunderstanding on their part as they tried to find out if they could operate. He stated that they were again told they could not operate. He thought that at some point they either received advice or decided themselves that they could open a new business under Prop. 215, contrary to the city's laws. He stated that they made every attempt to educate them and keep them out of trouble. He didn't want to see anyone get into trouble or see any business fail, and they made their decisions.

Commissioner Bigstycyk referred to part 1 of Condition 20, inspections without notice, and he asked if there was a way to do that in such a manner that it was not someone clearly in uniform coming in and disconcerting the patients. He thought, if they approve this and put those conditions in effect, it was not the patient's fault that the city feels the need to put the conditions in effect. He asked if there was a way to follow through where it was not troubling to the clients.

Police Chief Steidle stated that he has a cannabis enforcement team in his department and are comprised primarily of detectives who do not wear uniforms. He clarified that, in talking about inspection, they aren't talking about serving a warrant or uniformed personnel entering the store and exerting authority via the uniform and making a scene., but they were talking about walking in and making sure that business is being conducted as it should be and some of the inspections will be done with consultants who are professionals in conducting these inspections in a professional manner. He added that they are not law enforcement officers and also will not be wearing uniforms. He asserted that their intention is not to intimidate. He stated that there are some people in this business that are still of that mindset, but that was not their intention. He stated that they don't have any desire to drive customers away. He stated that they gain no benefit by driving customers away or a business failing. He stated that he addressed that before the Commission and City Council as to how they want to work with the businesses now that this will be the new normal. He stated that they had a business make a grand opening and they stated that they were not doing anything they weren't supposed to do and they wanted to be successful and told the police that they can come in anytime and talk to them or their employees. He stated that it was the police department's goal that, once all six are operating, the police department will be seen as a friend.

Commissioner Bigstycyk concluded that he was talking about plain clothes and discrete for part 1.

Police Chief Steidle agreed.

Commissioner Bigstyk stated that the main concern raised with part 3 of Condition 20 was where the applicant will provide a live stream of the video surveillance accessible to the Police Chief via remote access 24 hours a day. He stated that it didn't say it was accessible to anyone but the Police Chief, and he asked if that would violate any HIPPA laws in place.

Asst. City Attorney Bazzano stated that she was not aware that it would, adding that regarding code requirements, the Police Chief might weigh in on that.

Police Chief Steidle stated that, as the ordinance is presently written, a cannabis operation operating within the city and permitted by the city must have 24 hour video surveillance, must be recorded for 30 days, and it might be 60 days for the state, and they must provide him with the video. He stated that, if they are open for a week, in the second week he can ask them for six hours of video from noon to 6:00 pm on a specific day and they will have 24 hours to provide him with the video. He stated that it wasn't a privacy issue and the purpose of this specific portion of the conditions because they have been less than honest with him and the police department. He felt, if they have nothing to hide and they are not doing anything they are not supposed to which he hopes they will, this will go away in two years.

Commissioner Bigstyk asked if, regardless of the condition being in this item, the police can call up the video surveillance anyway.

Police Chief Steidle responded affirmatively, explaining that they would have 24 hours to provide it to him.

Commissioner Bigstyk asked if they were applying for strictly medicinal or medicinal and adult use, i.e., recreational.

Mr. Williams responded affirmatively.

Commissioner Nibbelin stated that he was inclined to vote in favor of this item for the various reasons stated in the staff report, adding that he supported the conditions that the Police Chief laid out with staff. He was troubled by the proposition that they are dealing with the circumstances where city ordinances were not complied with for whatever reason, possibly innocent intent, but he didn't think there was any ambiguity about the underlying facts and what gave rise to the violation, such as whether it is okay to ignore city ordinances. He felt this was a reasonable way to address those concerns and have a means for the next couple of years of verifying how things will happen to ensure that staff and the business owners can work in partnership to ensure that the city requirements are met. He felt that there was a basis for concerns along these lines, regardless of what the innocent intentions were. He was ready to accept that they were innocent but he didn't think it changed the fact of where they are and what occurred. He wasn't inclined to tell the Police Chief how they show up and he trusts the discretion of city staff. He assumed the condition of having access to the videos by the police force having access is properly delegated by the Chief as he didn't expect the Chief to be doing it himself. He reiterated that he will vote in favor of this.

Vice Chair Rubinstein asked if health inspections for restaurants scheduled in advance or do the inspectors just show up.

Commissioner Nibbelin stated that the county handles restaurant inspections.

Vice Chair Rubinstein reiterated what Police Chief Steidle said, specifically that their job is to make sure businesses thrive in Pacifica and buildings get built. He was troubled about the Police Chief's comment that they may not have been truthful. He stated that he was on the fence at this time.

Commissioner Campbell agreed with Commissioner Nibbelin that the conditions as staff provided should remain unaltered. He didn't think there was any reason to treat the cannabis industry different than any other industries that are subject to inspection, adding that uniformed county inspectors from DTSC inspect hazardous and solid waste facilities and the county inspects fast food establishments with badges. He stated that ABC would inspect liquor stores unannounced so he was curious how they would have any sort of restrictions on unannounced uniformed inspections by code enforcement personnel or law enforcement personnel. He thought that would be unique and biased in favor of the cannabis industry if they did it any other way and would lead to a capricious and arbitrary area. He was in favor of all the conditions being put forth. He stated that was also troubled by the history of the facility. He stated that it was remarkable to have the statement from the Police Chief which concluded with his belief that Seaweed Holistics will continue to violate the law as it suits their needs. He stated that there was nothing in the discussion between Police Chief Steidle and Commissioner Bigstyk that contradicts that. He asked the Police Chief to correct him if he had it wrong, but he heard him say he had a comfort level with the enhanced security provisions, but nothing that contradicted that statement.

Police Chief Steidle agreed nothing contradicted that statement, but he stands by that statement after more than a year of contact with the applicant in going through the process. He added that, with the reasonable conditions, he thought they could mitigate that and give them the opportunity to show that they are doing the right thing. He thought, if they do the right thing, they will likely be successful.

Commissioner Campbell stated that he has voted for cannabis retail shops in Pacifica and has voted against some, and he added that it wasn't specific to cannabis but to the way we do business in Pacifica which he thought was not to beg for forgiveness instead of asking for permission. He didn't think that was a message they want to send to the regulated community in Pacifica. If that is the way they do business, they would have a very different attitude on the Commission if this was a developer who cut 30 heritage trees and then asked for a business license or a liquor store was selling moonshine in the back or selling cigarettes illegally and then came in for permits. He thought that might get more scrutiny or public outcry. He stated that another thing that troubled him was that, at no time in the applicant's presentation, he did not hear any sort of remorse or apology or even if it was an honest mistake and he got the sense that everyone else was at fault. He stated that he was on the fence and while Police Chief Steidle believes we can get through this with the enhanced security provisions, his inclination was to deny the project until they can get even more enhanced security provisions or at the very least go for unaltered security provisions.

Commissioner Berman referred to Commissioner Campbell's points and packet page 150, and stated that the Commission's job was to not base their decision on a closed litigation and she wanted to respect that. She then looked at the essence of the requirement and the fact that they

have to take into consideration the requirement as to whether the applicant is in the middle of a litigation which would imply that they possibly have broken the law. She stated that it was with the city and it did happen. She respected that it was closed but theoretically she thought the essence was to determine if the applicant is unlawful or if they have done something unlawful in the past. She stated that, in this case, as she works with a lot of code, she gets the sense that everything can be convoluted if it is not your profession. As law is not her profession, she feels that it was probably some misinterpretation and brings her back to the requirement. She didn't think it was done in vain, and she agrees that they shouldn't be a city where you ask for forgiveness rather than following the outlined procedures of the city. She was somewhat on the fence but, in looking at the city as a whole and this business which has been in Pacifica longer than she has and brings decent revenue to the city and is local and she thought everyone in Pacifica was pro local and it was a staple of Rockaway. She was inclined to be in favor of the applicant's proposal and agreed with implementing the approval of condition 20 as stated.

Commissioner Bigstyk stated that he was inclined to make a motion. He stated that No. 9 of the cannabis operation is not likely to violate any provision of the municipal code or condition imposed by a city issued permit or any provision of any other local or state regulation, etc. He read the conditions for approving this item, stating that the very last line of the packet was a damning line. He stated that the first word from the Police Chief suggested that this was not a good idea for the applicant to provide a live stream of video surveillance and thought if he has to put them on house arrest to approve it, did he want to approve it. He then referred to the second statement from the Police Chief which stated that, as long as the conditions are in place, he was comfortable with them approving this. He also heard the applicant's concerns about conditions 1 and 3, and the Police Chief clarified that this was not going to be anyone busting in full uniform asking if they are doing okay, but people doing things discretely. He concluded that the video surveillance was available for call up at any time regardless of whether or not they put a live feed into the station and he wasn't concerned at that point. He stated that this was not strictly a medicinal use facility but also adult use and puts space in his head about any HIPPA violation. He commented that he used cannabis long before it was legal and shared some of his personal thoughts on it while acknowledging that not everyone thinks the same and he respected their thoughts and feelings as well. He believes Police Chief when he tells them that they gave fair warning that operations should cease the way they were being conducted. He didn't like that they continued that way, and he was annoyed that they didn't say that maybe it would have been better if they had tried it differently with more respect for the city's laws. He stated that, regardless of that, he lives in Pacifica and has seen the owner as an exemplary community member and he believes those who have taken their medicine and came in support of being able to continue taking their medicine. He believes in it as medicine and no one should be deprived of this if they are comfortable with the owner. He stated that he would vote in favor of this and would like to make the motion when the time comes. He referred to being truly annoyed with the conditions, especially No. 3, which is constant surveillance, and the Chief says he is comfortable with putting this through with those conditions in place and he would go along with that to allow people to continue receiving their medication from the owner.

Commissioner Berman asked staff, if the applicant were to violate the municipal code laws or have another violation during the time when the inspections are taking place, what the repercussions are and has this happened before to a shop that currently sells cannabis.

Police Chief Steidle stated that it has not happened in a shop operating legally. He stated that, should there be violations of the municipal code, they would weigh the violation with what

appropriate action should be, but he has the authority to pull the public safety license. He stated that, if he did that and it was upheld, they would not be able to operate and without a public safety license, their cannabis activity permit also becomes invalid. He stated that the public safety license gets reviewed every year, and in any case where they have someone who decides not to follow the laws or became a problem, they could use that as a way to make them straighten up or make sure their business does not conduct operations any longer.

Assoc. Planner O'Connor added that condition of approval No. 4 clarifies that, if the safety license does get revoked, the cannabis activity permit automatically is invalid.

Commissioner Berman stated that she was ready to make a motion if there are no other questions.

Vice Chair Rubinstein referred to the violations in operation, he thought they were talking about tax payments and the conditions of approval and he was not thinking that there was criminal activity. He stated that this was not a discussion about the legality or benefit medicinal marijuana but it was a business such as an auto repair business, etc.

Assoc. Planner O'Connor stated that staff realized that they did not include a condition of approval to set the hours of operation from 10:00 am to 8:00 pm as the applicants have proposed. They recommended, if the Commission agrees, adding that condition of approval to set those hours of operation. She stated that they have language available if it is desired.

Vice Chair Rubinstein didn't know if there were any hours of operation conditions in Rockaway.

Assoc. Planner O'Connor stated that they were not specific to the area but within the operation hours that are allowed under the municipal code and they were the hours the applicant proposed, i.e., 10:00 am to 8:00 pm.

Commissioner Nibbelin asked if the conditions of approval incorporate the operations plan which states 10:00-8:00 time frame.

Assoc. Planner O'Connor stated that it does by reference, but it makes it stronger to add a condition.

Commissioner Nibbelin thought whoever makes the motion will add that to the motion.

Commissioner Bigstyk was ready to make the motion, and asked, without this condition of approval, whether they would be able to change the business hours at will.

Sr. Planner Murdock explained that amending the operations plan would likely not be an option, given that the Planning Commission specifically has to make findings to approve the operation and reliance on that. He stated that, with the other cannabis operations, they have fixed their hours of operation through conditions of approval. Staff thought, although it was enforceable by reference to the operation plan, it was greater clarity, and for sake of ease of administration for staff in the future, they would prefer any motion of approval to include the hours of operation as a condition.

Commissioner Bigstyk moved that the Planning Commission FINDS the project is exempt from the California Environmental Quality Act; APPROVES Cannabis Activity Permit CAP-8-18 by

adopting the resolution included as Attachment A to the staff report including conditions of approval in Exhibit A to the Resolution along with another condition of approval that business hours will be from 10:00 am to 8:00 pm daily; and INCORPORATES all maps, the Applicant's CAP application and all attachments, and testimony into the record by reference; Commissioner Berman seconded the motion.

The motion carried **5-1**.

Ayes: Commissioners Berman, Campbell, Nibbelin,
Kraske and Bigstyk

Noes: Vice Chair Rubinstein

Mr. Williams stated that in the past, when the Police Chief has asked to use their cameras, they have given access to the cameras with no problem. Also, before code enforcement has been into their place to inspect it. He wanted the Commission to know and understand that they are not criminals but a misunderstanding of some of the laws.

Vice Chair Rubinstein encouraged him to write a letter to the Police Chief.

3. TA-116-19

File No. 2019-019 – Text Amendment TA-116-19 to amend Existing Zoning Regulations in order to establish a procedure for reasonable accommodation for persons with disabilities in the City of Pacifica's land use and zoning regulations in accordance with State and Federal fair housing laws. Recommended CEQA Action: No further environmental review necessary pursuant to California Code of Regulations Section 15162.

Assoc. Planner O'Connor presented the staff report.

Vice Chair Rubinstein opened the public hearing and, seeing no one, closed the public hearing.

Commissioner Nibbelin thought this was something that was entirely appropriate for them to proceeding in light of some of the federal and state law governing in this area. He thought the staff report lays out well the rationale and the various findings that they would be looking at in any case of a request for accommodations and he was in favor of this. He would be prepared to make a motion at some point.

Commissioner Berman stated that she was ready to make a motion but thought Commissioner Campbell has a question.

Commissioner Bigstyk stated that, for those who have not read it and are watching, it addresses those with disabilities and they were making it simpler and showing a very clear path to make accommodations in building codes with those with disabilities. He thought it was straightforward and made sense. He stated that he was happy to vote yes.

Commissioner Campbell referred to the complete streets initiative that cities have, and he asked if this touches on that, such as when you put a home in and put the sidewalk down. He stated that lately it has been cement sidewalks and he wondered if that was something that plays into what they are doing.

Assoc. Planner O'Connor stated that, on complete streets, that requirement is usually triggered when work is being done that would affect the street such as a new house being built and adding sidewalks would be a part of that. She thought the standards of the sidewalks are already within ADA requirements and this ordinance would provide relief for those who need accommodations for their disability which may result in a wider sidewalk or some pavement adjacent to the sidewalk in front of their house to allow them to maneuver for a certain reason.

Commissioner Campbell asked if it would prevent, instead of cement sidewalks, crushed aggregate sidewalks as seen in some neighborhoods, specifically decomposed granite.

Assoc. Planner O'Connor asked if he was asking if it would prevent that.

Commissioner Campbell responded affirmatively, adding that it may be a building code question.

Assoc. Planner O'Connor didn't believe decomposed granite is part of the complete street standards. She stated that the complete street standards should remove those from continuing to be allowed. She didn't see where more decomposed granite would benefit someone with disabilities and she would not see them being increased as a result of this.

Commissioner Berman thought with decomposed granite, there were options to have a permeable decomposed granite path that is ADA compliant, based on the stabilizer. She stated that she was very pro permeable paths as it helps with storm water treatment. She was in favor of the city code change, especially being in the design industry that has to comply with ADA compliance. She stated that often, with cities that have very outdated codes or general plans, they don't account for the imperviousness or improvement area that is needed to comply with ADA parking, pathways, clear spaces, turning spaces. She felt it was refreshing to see this and she was ready to make a motion.

Commissioner Berman moved that the Planning Commission recommends the City Council to find that the proposed ordinance was reviewed under the provisions of CEQA as part of the City of Pacifica Housing Element Update-2015-2023 Negative Declaration (State Clearinghouse No. 2015032024) and to adopt the resolution included as Attachment A to the staff report to initiate the text amendment and recommend approval to the City Council; and incorporate all maps and testimony into the record by reference; Commissioner Nibbelin seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Berman, Campbell, Nibbelin,
Kraske, Bigstycck and Vice Chair Rubinstein
Noes: None

COMMISSION COMMUNICATIONS:

Commissioner Campbell asked if there was any communications with the Coastal Commission regarding the issue they had with the thinking that the CR commercial recreation district zoning in the Calson Field was changed to a C2 community district.

Sr. Planner Murdock stated that they were continuing to work on that issue and hope to speak to that if it comes up on September 30 at the special meeting of the City Council which he will talk about in staff communications.

Commissioner Bigstyk stated that they have been holding those joint study sessions with Council and they have been there for the most part and they have made some headway in terms of moving forward on the General Plan and Local Coastal Use Plan. He also attended the ribbon cutting for the overcrossing by the Thai Restaurant in Eureka Square which was a lovely event. He thought it was nice to see an effort between Pacifica and Caltrans that was positive and see Caltrans have a positive moment. They were able to present something together that was an example of what happens when they work together.

He referred to October 14 when they mentioned needing a liaison. He mentioned that it was Columbus Day and he asked if it affects the schedule or will the meeting be October 14.

Sr. Planner Murdock didn't think the city observed that holiday with staff and, for now, they will stick with that date. He stated that, if it changes, he will reach out via email to the commissioners to update their calendars.

Commissioner Nibbelin stated that City Council took up an appeal from the Planning Commission but he couldn't recall the address.

Sr. Planner Murdock stated that it was Lot 37 on Salada Avenue.

Commissioner Nibbelin stated that Lot 37 was the development residence that was without a garage and one parking space out front. He stated that Council had a robust conversation on that and they were going to see that project again as one thing that came up was a discussion of a two-car parking space alternative rather than a one parking space project which was what they sent to Council.

STAFF COMMUNICATIONS:

Sr. Planner Murdock appreciated the commissioners mentioning two key points he wanted to make. He extended staff's gratitude to the commissioners who were able to participate in either or both study sessions with Council on August 26 and September 3. He thought they were helpful and informative for both groups as well as the community. They covered a lot of ground and got them to a point to move forward with some of the edits to the documents and update them from the present 2014 version. Regarding the Plan Pacifica, General Plan update, LCP Update and Sharp Specific Plan, the Council will be holding a special meeting on September 30. He stated that it is an important meeting that Council asked to discuss the LCP in greater detail than during the joint study sessions to discuss what they have branded as the consultation draft with all the public input in June and July and the joint study sessions to achieve a redline version of the 2014 draft LCP and incorporating all the feedback. They have released it on the planpacifica.org

web page as well as an email blast to Plan Pacifica email group, and see where the process left off on the LCP and document to be discussed on September 30. He thanked Assoc. Planner O'Connor for her effort to bring the city's sea level rise adaptation planning where it ended December 2018 at the Council while wrapping it into a concise version of Chapter 6 in the LCP Coastal Resilience. He mentioned the Lot 37 that went to Council after Commission approved the permits contingent on Council's General Plan amendment and zoning change, and stated that they sent it back for further Planning consideration which will probably be on the October 7 meeting.

ADJOURNMENT:

There being no further business for discussion, Commissioner Rubinstein moved to adjourn the meeting at 9:34 p.m.; Commissioner Nibbelin seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Berman, Campbell, Nibbelin,
Kraske, Bigstycck and Vice Chair Rubinstein
Noes: None

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister