

**MINUTES**

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

July 19, 2021

7:00 p.m.

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

Chair Nibbelin explained the conditions for having Planning Commission meetings pursuant to the provisions of the Governor’s executive order, N-08-21, which suspends certain requirements of the Brown Act. He also gave information on how to present public comments participating by Zoom or phone.

Dep. Planning Director Murdock took a verbal roll call.

**ROLL CALL:** Present: Commissioners Berman, Domurat, Godwin, Hauser, Leal and Chair Nibbelin  
Absent: Commissioner Ferguson

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

**STAFF PRESENT:** Dep. Planning Director Murdock  
Asst. City Attorney Bazzano  
Assoc. Planner O’Connor

**APPROVAL OF ORDER OF AGENDA** Vice Chair Berman moved approval of the Order of Agenda; Commissioner Godwin seconded the motion.

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Berman, Domurat, Godwin, Hauser, Leal and Chair Nibbelin  
Noes: None

**APPROVAL OF MINUTES: JUNE 21, 2021** Commissioner Godwin moved approval of the minutes of June 21, 2021; Vice Chair Berman seconded the motion.

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Berman, Domurat, Godwin, Hauser, Leal and Chair Nibbelin  
Noes: None

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF AUGUST 9, 2021:**

Chair Nibbelin asked that Dep. Planning Director Murdock address this matter.

Dep. Planning Director Murdock stated that the first is the Lot 3 Harmony @ One appeals which was the Planning Commission approval of a single-family residence in the Ohlone Point subdivision near Roberts Road and Fassler Road. It has two appeals and they will need a liaison from the Commission for that. He stated that Chair Nibbelin was absent from that hearing so he thought it would be appropriate to have a liaison who was in attendance, but if he chose to be the liaison, he could familiarize himself with the record. He stated that the second matter is the public hearing on tonight's agenda, i.e., text amendment for the accessory dwelling unit and reasonable accommodation ordinance. He stated that, assuming the Commission acts on that, either with a recommendation to approve or not approve, they would ask for a liaison for that item as well.

Chair Nibbelin asked if anyone was available and willing to serve as the liaison for one or both of those items.

Commissioner Hauser stated that, before the appeal got moved, she had volunteered to be the liaison but unfortunately, on August 9, she is not available. She stated that, if it is moved again, she will be happy to serve as liaison.

Chair Nibbelin asked if someone is available, preferably someone who was there to hear the merits of the Lot 3 Harmony project.

Commissioner Godwin stated that he could do it if no one else is interested.

Chair Nibbelin appreciated his offer and would take him up on his offer to represent the Commission as a liaison on August 9. He didn't think they needed a vote and he will accept his willingness to do so. He asked if that was okay.

Dep. Planning Director Murdock stated that is fine as it is the Chair's prerogative with respect to the liaison and he would ask for confirmation that it is for both items on August 9 that he will serve as the liaison.

Chair Nibbelin asked Commissioner Godwin if it will work for him to include the matter they will be acting on at this meeting.

Commissioner Godwin thought so, as he thought he understood this one as well as the Harmony appeal.

Chair Nibbelin appreciated his willingness to step up.

**ORAL COMMUNICATIONS:**

None.

**CONSENT ITEMS:**

None

**PUBLIC HEARINGS:**

**TA-120-21**

**File No. 2019-019 and 2019-031 – Text Amendment TA-120-21,** initiated by the City of Pacifica, to amend various Pacifica Municipal Code provisions related to the permitting of Accessory Dwelling Units and Junior Accessor Dwelling Units and related to the Reasonable Accommodation process in order to implement provisions of the City’s Local Coastal Program as certified by the California Coastal Commission. Recommended CEQA Action: Exempt pursuant to CEQA Guidelines Sections 1506(b)(3), 15282(h), 15301, 15302 and 15303.

Assoc. Planner O’Connor presented the staff report.

Commissioner Hauser thought the staff report and presentation were very clear, and she asked how many ADUs are in the pipeline.

Assoc. Planner O’Connor stated that they have at least two ADUs that are triggering the need for a Coastal Development permit and they have a handful of other ADUs in the coastal zone that will only require a building permit, but all of them are stalled at this point.

Commissioner Hauser asked if they have sufficient space for the parking.

Assoc. Planner O’Connor stated that, regarding both applications that require the CDP, only one would be affected by this change and the project would have adequate space to provide the parking.

Chair Nibbelin stated that his recollection on the various times they have considered these text amendments more broadly is that they were essentially doing things that the state was telling them to do and that this restricting or whittling away at parking requirements is something that he thought was driven by state law. He was interested in the changes to whatever code it was that impose these more liberal and looser standards for ADUs that interfaces with the Coastal Act and whether there has been an analysis of that, stating that the ADU stuff comes later in time than what is in the Coastal Act. He asked if any staff member has thought about that and has some analysis they can share around that broad stated question.

Assoc. Planner O’Connor stated she would let her colleagues step in, but she thought that exact question is discussed in the Coastal Commission’s staff report to their commissioners as Attachment B to Pacifica’s staff report and they reference the saving clause in the ADU statute that identifies the need to address consistency with the Coastal Act and address the impacts to coastal resources. She stated that Coastal Commission staff made the argument and claim that they have communicated with staff of Housing and Community Development that the parking requirement to preserve coastal access was appropriate and can be implemented.

Chair Nibbelin asked if we are broadly comfortable with the Coastal Commission’s analysis as it strikes him as an open legal issue that reasonable people could disagree on it. He asked if Asst. City Attorney Bazzano could share her perspective.

Asst. City Attorney Bazzano stated that it is an open legal issue and the Coastal Commission's reliance upon Section 65852.2(l) which basically provides that nothing in the statute supersedes or alters or lessens the effect for applications of the California Coastal Act of 1976 except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units. She stated that it remains to be seen how courts will analyze that saving clause as that is a relatively new change to the law and this ordinance amendment will still be submitted to the HCD as well for their review and they still have an opportunity to comment upon the changes. She stated that the Coastal Commission's position is that these changes are necessary to conform to the Coastal Act.

Commissioner Leal thought the one current ADU application doesn't seem to be affected by this. He asked, if a property was affected by this in terms of not being able to put on the parking space, as in the Sharp Park area there are some small lot sizes and they may not be able to accommodate it, what the process is for still moving forward with the ADU. He asked if there is a process to move forward and would that come before the Planning Commission as a variance.

Assoc. Planner O'Connor stated that a variance process is not a process that is available for ADUs but, if an ADU project was not able to accommodate a parking space on site, even with the standards that they have brought in with the language on this agenda, the option could be to revise their design or type of ADU, maybe reducing it to a junior ADU or instead of adding to their house, converting existing space to their house into a junior ADU. She stated that their options may be limited but there could be some.

Vice Chair Berman had a couple of detailed questions and would try to lump them together, and was asking the questions because these amendments kind of set a precedent for ADUs development moving forward throughout the city but are more specific for the coastal zone. She referred to parking in Section 2, stating that there is mention of adding parking on site, either parallel or perpendicular to the driveway, but utilizing the existing driveway or current driveway standards. She could see how that could work in most instances, but wondered if they might back themselves into a corner if there is a situation where, if they had to parallel park a stall adjacent to the driveway so it wouldn't be directly in front of the driveway and there are two cars already in the driveway. She asked how, in that additional parking stall, would that car get out. She knows a lot of homes in Pacifica don't actually use their garages for parking and a lot of cars are in the driveway. She asked, if the access to these new stalls is through a city standard driveway and the primary housing unit also has two cars in that driveway, if we are going to land lock a parking stall.

Assoc. Planner O'Connor thought it was a fair question, and the thought is that there would probably have to be some coordination involved as there would be coordination involved in a project that developed tandem parking. She stated that same expectation applied to the tandem parking which is already allowed and broadening it to a parallel parking situation seems to be appropriate as well.

Dep. Planning Director Murdock stated that they didn't concoct this scheme of parking with functionality in mind but with accommodation of the Coastal Commission's concerns about the availability of on-street parking in certain locations. They agree that it is less than ideal and they developed this approach to ensure that they could obtain certification of the ordinance and allow people to build ADUs. He stated that, at the end of the day, there is nothing to compel them to park in these spaces. Whether or not visitor parking on-street is impacted remains to be seen, but

he thought it at least provides availability of a space and, as mentioned, with tandem parking which is already mandated by state law or someone parking in their garage and having another vehicle parked in their driveway, some degree of coordination may be required to juggle those spaces from time to time. They thought the creation of a housing unit is outweighed by whatever parking inconveniences might result from those specific locations. Regarding the concern about precedent, he thought the applicability of this outside of the coastal access parking areas is likely to be limited. He stated that very few areas in town will require parking for ADUs and they wouldn't even be in this scheme of providing parking in these unusual locations. He thought they may not be allowed outside the Coastal Act as parking areas. He thought the applicability of this, more broadly outside of the coastal access parking areas, is likely to be minimal.

Vice Chair Berman thought that was logical and reassuring. She then referred to mention of utilizing lift stations and she wondered if other commissioners may think there might be some concern with installing a lift station directly next to an adjacent single-family home and the noise associated with a lift station. She stated that they recently looked at a lift station that was going in a parking garage and there were concerns about noise but they were reassured as it was in a parking garage but they are now potentially opening the door to lift stations directly next to their neighbor's bedroom. She was thinking ahead and, if they amend the text and two months from now, they have a project come through and they are installing a lift station, they will probably have a lot of comment about that lift station.

Chair Nibbelin thought that was an important point, stating that when he read that, he assumed that no one would do that, but he thought it was important for them to clarify whether this language authorizes as opposed to saying it might be something granted or granted discretionally. He didn't think it was clear and thought staff might be able to help them understand that.

Dep. Planning Director Murdock thought that concern was well-founded. He stated that the issue is that state law requires them to accept automatic parking lifts to accommodate off-street parking. He didn't think much has changed with respect to that, and thought Assoc. Planner O'Connor can confirm, and he thought they are reflecting that state law requires them to do and this has been a component of the last several ADU ordinance amendments.

Vice Chair Berman referred to Section 3 in the amended text which mentioned that the ADUs would not be exempt from a CDP which makes sense to her, but she stated that the original language puts them in a category of exemption and she asked if there is a state law that currently allows for ADUs to be exempt from this planning permitting process.

Assoc. Planner O'Connor stated that she was not aware of that and the feedback they received from Coastal Commission was that their guiding language wasn't going to allow the city to change their language to use more updated terms. She reiterated that she was not aware of any direct regulations that would exempt ADUs and the interpretation of the project and how they meet the exemptions and descriptions of excluded developments might apply to some projects, but not on its face.

Vice Chair Berman stated it was mentioned that, if they need to amend the text in the future, they could consider pursuing that. She stated that in front of them at this time was accepting effectively what the Coastal Commission drafted up for Pacifica, but they might need to make some minor revisions moving forward and she asked what that process would be, such as would they have to go back to the Coastal Commission.

Assoc. Planner O'Connor stated that any amendments to our local ordinance would require further Coastal Commission certification of the amendments. She thought she was asking what would trigger the city to make amendments in the future.

Vice Chair Berman responded affirmatively.

Assoc. Planner O'Connor thought they could lump them in. If there is a future update to the state regulations as to update, and lumping it in with an update they already have to do would be ideal. If there was a desire from Planning Commission or Council to do something sooner, she thought they would respond to that.

Dep. Planning Director Murdock thought the last several amendments that have come to the Planning Commission and City Council, as mentioned, have been in response to changes in state law to ensure that our ordinance complied and was valid rather than null and void as state law provides. He thought the opportunity exists that the Commission or Council may want to be laxer than state law. He stated that the state law provides maximum standards but nothing prevents the city from being less restrictive. He thought it was important to set that construct, not that they could come back and be more restrictive than state law but broaden even more the places where ADUs could be constructed, such as the size, height, setbacks, etc., to make it more permissive.

Commissioner Domurat referred to those things with American Disabilities Act in the back of their mind, and asked if the city felt that, if an ADU for a person with a disability requires on-street parking in the coastal zone, they have a process that would override the Coastal Commission's concern because the ADA may overrule state law.

Assoc. Planner O'Connor didn't know if she could speak directly to ADA requirements would affect our provisions, but he brought to mind that if such a claim was made under our reasonable accommodation ordinance to apply it to our ADU standards, there may be some relief they can provide from our standards under that and it would require making sure that the relief from the standards was consistent with the local coastal program and did not impact coastal resources as they are being asked to add into their findings for reasonable accommodation ordinance at this meeting. She thought that would be the section of our code that she would look to when addressing his disability concerns.

Commissioner Godwin asked if there is any plan to monitor coastal visitor parking once the ordinance goes into effect to see whether, if people choose not to park in their off-street spaces, parking is restricted for coastal visitors or other such monitoring plans by the city.

Assoc. Planner O'Connor stated that there is not.

Commissioner Leal referred to the conversation around parallel parking and using the same driveway, and it got him thinking about the intent of the letter from the Coastal Commission for out of town visitors, which is basically preserving any parking, depending on whether residential or commercial. He saw that this could potentially be resolved in another manner, but he didn't see it identified in the report regarding on street parking in front of a driveway. He stated that with parallel parking on the street, visitors wouldn't park there anyway and they would still need the intent of the Coastal Commission, and it would still require coordination with occupants of the property. If they had enough on-site parking for the existing home and with the ADU they

would have space that wouldn't take up visitor parking parallel on the street in front of the driveway, assuming the curb cut meets the width of a standard vehicle size which could be defined. He asked if that was an option and if not, why not.

Assoc. Planner O'Connor stated that it wasn't considered in their discussion with Coastal Commission. She stated that one concern about the idea he touched on was the standard length of the car. She stated that a double driveway in Pacifica is the width of 20 feet which is the width that a parallel spot would typically be required on the street for one vehicle. She stated that, unless the driveway is with its full width, it may not be an option. She stated that the focus of Coastal Commission's feedback was making that accommodation on the project site as well but blocking the driveway would be outside of that focus and wasn't part of their discussion.

Commissioner Leal knows that the conversation of off-street parking was not necessarily privatizing public streets and he didn't see that as what he was suggesting, but more of potentially checking the box to make sure there is enough reasonable use parking for occupants so they wouldn't have to circle blocks or park by the beach and walk home during heavy tourist times.

Dep. Planning Director Murdock stated that, while not the most qualified, he referred to such a discussion between Council and the Police Chief on a similar type of question for a different project. The question came up about a vehicle blocking someone's driveway and whether it was legal or not. He recalled that the Police Chief indicated that it is illegal to obstruct a driveway under the Vehicle Code, but the enforcement would only occur by the property owner asking the police for enforcement to clear the owner's driveway. He thought it may work practically, but technically they may be directing property owners to violate the vehicle code and they would have to do further analysis on that to determine whether it was appropriate or if there is some other way to circumvent that legal issue.

Chair Nibbelin stated that the Police Chief wrote a document along the lines he described and laid it out as the notion that they will not enforce it as long as no one has called but it is, in fact, a technical violation of the Vehicle Code. He stated that, particularly in San Francisco, it is very common that people block their own driveways because it does free up a space. He thought it was worth exploring.

Commissioner Hauser wanted to understand more about ADUs and JADUs as those are defined. She thought it seemed a lot for a little ADU.

Assoc. Planner O'Connor stated that the modifications that the Coastal Commission has put in place or suggested do not affect the JADU parking needs and JADUs will continue to not require a parking spot regardless of their location within the coastal parking area or not. It will apply to ADUs.

Chair Nibbelin opened the Public Hearing.

Dep. Planning Director Murdock introduced the speaker.

Suzanne Drake, Pacifica, stated that she has joined the discussion late, and she thought Assoc. Planner O'Connor may have addressed her question. She asked if ADUs and JADUs require on-site parking or is street parking okay.



Chair Nibbelin stated that, while they don't normally answer questions by the public, he asked if Assoc. Planner O'Connor could clarify the speaker's point.

Assoc. Planner O'Connor stated that JADUs will not require an on-site parking spot, but some ADUs may require an on-site parking spot. She stated that ADUs within the coastal access parking areas will need to definitely provide those spots on-site. If located outside the coastal access parking area, there are a number of exemptions that will likely apply to the project to prevent needing to provide parking for ADUs on-site. She stated that there are a lot of steps they will have to go through, but sometimes an ADU will require an on-site parking spot and, if outside the coastal area, an exemption will likely apply to remove that need.

Chair Nibbelin closed the Public Hearing.

Vice Chair Berman moved that the Planning Commission FINDS the proposed ordinance is exempt from the California Environmental Quality Act; ADOPTS the resolution included as Attachment A to the staff report to initiate Text Amendment TA-120-21 and recommends approval to the City Council; and INCORPORATES all maps and testimony into the record by reference; Commissioner Hauser seconded the motion.

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Berman, Domurat, Godwin, Hauser,  
Leal and Chair Nibbelin  
Noes: None

**CONSIDERATION:**

None

**COMMISSION COMMUNICATIONS:**

Commissioner Hauser wanted to follow up on the question she asked at the previous meeting regarding some of the input they have been receiving about the Hillside Preservation District and she wondered if staff would be able to present an update.

Dep. Planning Director Murdock stated that they considered the different mechanisms they might use to provide information to the public to provide the facts and to dispel any confusion surrounding the Hillside Preservation District ordinance. He stated that they are preparing a fact sheet that summarizes the ordinance, includes a link where anyone can access the text of the ordinance and to hopefully provide some simple examples of how it would apply under different scenarios to ensure that it is more easily understood when the issue comes up for future projects that come up to the Commission. He stated that their plan is to post the fact sheet on the Planning Department webpage and it will be a handy resource for Commissioners and city staff to share with members of the public that might ask questions about the HPD ordinance.

Commissioner Hauser appreciated all of the work involved in making that available to the public as she felt it was important and would be a nice resource for people to have contact information with city staff.

Chair Nibbelin asked, when it is prepared and up and posted, whether, at a future Commission meeting, they could set a quick 5-minute information item where it is agendaized and they can spend a few minutes explaining it to the public.

Dep. Planning Director Murdock thought that was a possibility, and his only concern with adding an information session on the HPD ordinance is that it poses an opportunity for public commenters to bring in comments about specific projects and it could muddle the record for those projects. He would hope to avoid that, if possible, as they have no way to control what the public says and he thought it might be best to avoid such a discussion if possible, but it is the prerogative of the Chair and Planning Director to set the agendas for the meetings.

Chair Nibbelin stated that is a concern that they don't want to have anything happen that muddles the records for specific projects, but maybe a good focused public relations campaign so when the information goes out they are pushing out a city update to make sure people are aware that the information is out there.

Dep. Planning Director Murdock stated that they have a number of vehicles to get the information out there, including the Connect with Pacifica newsletter and other social media avenues and they will give careful thought to how they can amplify that information to the broadest possible audience.

Chair Nibbelin thanked him, agreeing that it sounds more appropriate than his suggestion.

**STAFF COMMUNICATIONS:**

Dep. Planning Director Murdock stated that he had nothing to share, as Commissioner Hauser inquired about the update he was going to give, responding to her inquiry at the last meeting.

**ADJOURNMENT:**

There being no further business for discussion, Commissioner Hauser moved to adjourn the meeting at 7:50 p.m.; Commissioner Godwin seconded the motion.

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

Ayes:	Commissioners Berman, Domurat, Godwin, Hauser, Leal and Chair Nibbelin
Noes:	None

Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director Wehrmeister