

MINUTES

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

December 19, 2022

7:00 p.m.

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

ROLL CALL: Present: Commissioners Domurat, Ferguson, Godwin, Wright and Chair Berman

Absent: Commissioners Hauser and Leal

SALUTE TO FLAG: Led by Commissioner Domurat

STAFF PRESENT: Planning Director Murdock
Asst. Planner Snodgrass

Chair Berman opened public comments and, seeing no one closed public comments.

APPROVAL OF ORDER OF AGENDA Commissioner Ferguson moved approval of the Order of Agenda; Commissioner Domurat seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Domurat, Ferguson, Godwin, Wright and Chair Berman

Noes: None

APPROVAL OF MINUTES: DECEMBER 5, 2022 Commissioner Ferguson moved approval of the minutes of December 5, 2022; Commissioner Godwin seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Domurat, Ferguson, Godwin, Wright and Chair Berman

Noes: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF DECEMBER 27, 2022:

None

ORAL COMMUNICATIONS:

None.

CONSENT ITEMS:

- 1. CDP-436-22** **File No. 2022-010 – Report on Planning Director approval of Administrative Coastal Development Permit CDP-436-22,**
Filed by applicant Bryan Fox of FIVE Design, for construction of a 1,195 square-foot (sf) accessory dwelling unit (ADU) with a 258 sf garage on a 5,714 square foot lot at 131 Brighton Road (APN 016-301-060) Recommended CEQA Action: N/A.

Planning Director Murdock presented the staff report.

Chair Berman asked applicant if he wanted to comment, and he did not.

Commissioner Ferguson stated he didn't understand the distinction between administrative CDP and a CDP and other types of administrative CDPs other than ADUs which don't require Planning Commission to approve it.

Planning Director Murdock stated that there are three types of coastal development permits. There is the regular coastal development permit that they refer to as the CDP, administrative coastal development permits and emergency coastal development permits which the Commission recently received a report where he approved an emergency CDP for circumstances that don't allow for the regular processing time of an ordinary CDP. He stated, in the administrative CDPs, there is a narrow category of project types and geography in which the Planning Director can approve administrative CDPs, with coastal development permits as one of them. Other instances are relatively minor projects located outside the appeals jurisdiction for coastal development permits. He stated that, in this instance, even though the project is located in the coastal zone, it is eligible for an administrative coastal development permit and he reviewed the application, provided public notice, with no public hearing because it is an accessory dwelling unit. He evaluated all the information and granted the approval. The final step in this instance is for him to report to the Planning Commission on the approval of the administrative CDP.

Chair Berman opened public comments and, seeing no one, closed public comments.

Planning Director Murdock stated that, as no action is required, by consensus of the Commission, she can note that they accepted, received and filed the report.

Chair Berman agreed and closed this item.

CONSIDERATION:

2. **PSD-848-20** **File No. 2020-002 – Applicant request for extension of expiration date for Site Development Permit PSD-848-20, Subdivision SUB-246-20, Use Permit UP-122-20, Parking Exception PE-190-20 and Variance PV-529-20**, to construct a three-story mixed-use building with 1,324 square feet of commercial space located on the ground floor and five residential units located on the second and third floors on a 9,547 square foot vacant lot located at 340 Waterford Street (APN 009-058-040).
SUB-246-20
UP-122-20
PE-190-20
PV-529-20
Recommended CEQA Action: Exempt pursuant to CEQA Guidelines Section 15061(b)(3).

Planning Director Murdock presented the staff report.

Commissioner Wright referred to the number of extensions on this item, and he asked if there was a number of extensions that they are willing to provide, as they have had a lot of changes with the new plan. He clarified that he was asking not just on this item, but in general, whether there is a number of extensions available to people.

Planning Director Murdock stated that the answer would depend on the type of project and the permit associated with it. He stated that, in this application and the extension request considered recently, they have all included what is known as a tentative subdivision map which is a particular type of approval provided in the subdivision map act which is state law and implemented through Pacifica's subdivision standards and entitled 10 of the municipal code. He stated both of those provisions in the subdivision map act and the municipal code provide a limit of up to three years of extensions for tentative subdivision maps. He stated that, in this instance, they have recommended 18 months or a year and a half, roughly half of the maximum allowable extension period. He stated that, if this extension is granted, the applicant could come back and request another 18 month extension and the city could grant that or some lesser period or, if very good cause and evidence to support it, not grant the extension, but that is a position that needs to be justified with appropriate reasoning. He stated that, for projects not involved in any tentative subdivision maps, those extension provisions are governed by local procedures and regulations and any provisions in the municipal codes and any conditions of approval imposed on the project. He stated that, most commonly, for projects without tentative subdivision maps, they will either see a two year or a one year initial approval period, and typically, two years outside the coastal zone and one year in the coastal zone because coastal development permits are limited to one year approval in the Pacifica Municipal Code. He stated that, most commonly, they have a standard condition of approval that allows one one-year administrative approval by the Planning Director if the Planning Director determines that no material circumstances have changed which would have likely influenced the project approval in the first instance. Where that approval of one year extension has been granted, an applicant is only left with two options, either let the approvals expire or seek an amendment to the condition of approval that established that limitation. He stated that is relatively rare during the last several years, as these type of extensions used to be much more common in Pacifica, but they have pressured applicants to carry out their projects and most of the time, they are undertaking their projects with that single one year Planning Director level extension. He stated, while there may be a small number of others where an applicant has come in to amend that condition and ask for more time, he can only think of one case. He stated that has become the exception and not the rule, and if the Planning Commission has good reason

and evidence as to why an extension is not appropriate, such as material changes in the circumstances, significant change in the zoning or General Plan, that may be a situation where the Commission determines that an amendment to that condition of approval for further extension is not appropriate.

Chair Berman recalled when this was presented to the Planning Commission, they had quite a bit of discussion on the overhead line adjacent to the project right at the frontage. Given their work on the recent General Plan and the encouraging language for applicants to underground electrical lines or overhead utility lines, she asked if they have the ability to amend a condition of approval and make that a requirement now.

Planning Director Murdock stated that was something they would have to analyze very specifically with the City Attorney's office and not an answer he would be able to give her at this time, even if the City Attorney was present. He stated that, for the most part, in these types of extensions, particularly with tentative subdivision maps, the city is limited to acting on those in reliance on the regulations that were in effect at the time the tentative subdivision map was deemed complete and, for this project, well before adoption of the 2040 General Plan. He thought it was unlikely the Commission would be able to do that unless there was some other significantly compelling public reason for that such as a hazard that could not have been known or some other unusual circumstance, and they haven't identified any such circumstance for this particular extension request.

Chair Berman opened public comments and, seeing no one, closed public comments.

Commissioner Ferguson recalled this approval years ago, and he wasn't 100% clear and couldn't figure out which portions of Highway One are designated as scenic highway and which are not, and when they approved this, they had decided it wasn't, but he asked if the Planning Director knows which portions of Highway One are or are not designated scenic as some areas triggers different things.

Planning Director Murdock stated that, to his knowledge, no portion of Highway One in Pacifica is designated as a scenic highway. He thought the entirety may be eligible for designation, but there are additional criteria that have not been undertaken to achieve that formal designation and that has relevance for environmental determination and the categorical exemption used for this project.

Commissioner Ferguson understood, and knew there are portions on Highway One that are, but he didn't know if any parts in Pacifica were. He stated one more thing he wanted to bring up was that he recalls, immediately following their approval of this project, he saw the property was listed for sale with an approved development permit and he didn't know if that was something they were allowed to take into account as far as an extension as this is being used to leverage a different sale price and not get to the point of the approval of coastal development projects. He stated that it has been on the market for some time and maybe the extension is a portion of that. He would like to see this project built which is why they approved it in the first place and he would leave that to the commissioners to discuss.

Chair Berman thanked him for bringing it up as she thought that was an interesting topic to discuss. She thought their action at this time would be to reinstall the approval that the project

already has rather than progressing it to another new approval. She asked Planning Director Murdock if he had an opinion on the matter.

Planning Director Murdock stated that, as a general matter, land use approvals such as this run with the land and, even if ownership changes, the approval that is granted and the rights conveyed with the land use permit are irrespective of the particular property owner and he didn't think it was an issue of concern or of note except if there was a pattern of sale after sale and that was the justification given for needing more time, and then it may not be a sufficient justification. He stated that the property ownership may have changed since the initial approval and he doesn't have full information on that, but it doesn't have direct bearing on Planning's approval as it relates to the city's action in this instance.

Commissioner Ferguson stated that he had a different take on it. If there might not have been an intention of building the project ever but more of an action taken to increase the value of the property for sale and not to complete the project, and if that would have any bearing to include the extension.

Planning Director Murdock stated that he doesn't have any information as to the initial applicant and owner's intentions but he thought it was relatively common for applicants to seek extensions of this sort, particularly in the challenging last couple of years as they have experienced with a number of projects. He thought, even if they had evidence of that, a single property ownership change would not necessarily be unusual. He stated that the prior extension granted for 1335 Adobe several meetings ago underwent an ownership change as well since its approval of the extension by the Commission. He reiterated that it is relatively common and sometimes there are a variety of factors other than intention to increase the sale price that could affect the original property owner's ability to carry through financing, personal issues, market conditions, etc.

Chair Berman asked if there has been any visibility of action in submitting a building permit for the project.

Planning Director Murdock stated he would have to check as he doesn't recall doing a plan check on it. He stated that the architect that submitted this extension request on behalf of the property owner did indicate that they were looking to make some minor material changes to the building and it sounds like they are getting down to the refined detail level in developing the project concept. He would need a moment to check to see if they received a building permit.

Chair Berman would appreciate that.

Planning Director Murdock stated that he was not locating it, but he was aware that a couple of different addresses have been used for this project, 340 Waterford which the city has been using, and there may have been prior correspondence from the owner using his address which he didn't have immediately available and it was possible that it came in under a different address but at this time he was not able to confirm that they received a building permit application.

Chair Berman thanked him for checking.

Commissioner Wright had an administrative question, i.e., does the fee structure for extensions typically cover the expense of staff to review these types of applications.

Planning Director Murdock stated that it does, adding that the fee is designed with the typical amount of staff time needed to analyze the changes in circumstances that need to be evaluated to prepare the report and bring it to the Planning Commission. He stated that, if the Commission were to request some other in depth analysis in relation to this, the fee would likely not be sufficient to cover that additional staff time.

Chair Berman asked if there were any other questions or perhaps a motion.

Commissioner Wright moved that the Planning Commission grant the extension for 18 months as per staff's recommendation; Commissioner Domurat seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Domurat, Ferguson, Godwin, Wright
and Chair Berman

Noes: None

COMMISSION COMMUNICATIONS:

Chair Berman stated that this is Commissioner Domurat's last meeting of the year and his term as he is moving on to a different Commission which they are all proud of him for that and they enjoyed their time with him and happy that they had one last meeting in person to say farewell.

Commissioner Domurat thanked her. He wanted to express his thanks to City Council for giving him this opportunity to be on this Commission. He stated that, in a lot of his discussions with people on the street, very few of them understand the workings of the city and he would like to publicly state that Pacificans should be proud of our community, planning staff, Public Works, etc., as they do a great job. He stated, unless you get involved in something like this, you don't see what is the inner working, and he was proud to have been part of this team with all the great people on the team. He knows they will continue to do a fabulous job and he hoped others in the community will want to volunteer and go through the process to get on some of these communities and commissions within Pacifica because it is a fabulous experience and you get a better idea of what it takes to run our community. He thanked them for the experience, and after four years on the other Commission, he may come back.

STAFF COMMUNICATIONS:

Planning Director Murdock introduced a new staff member in the Planning Department, Katie Snodgrass who is joining as an Asst. Planner. He stated that she recently graduated from Cal Poly San Luis Obispo with a degree in environmental management and protection with an additional background as a student biologist with Caltrans and brings helpful experience to the Planning Department as well as operating our dial in public comment system for this meeting. He welcomed her and stated that they were happy to have her. He then stated that on December 15, Council undertook its annual reorganization and appointed Councilmember Bigstycck to serve as Mayor and Councilmember Vaterlaus to serve as Mayor pro Tem, and newly elected Councilmember Boles was also sworn in along with Councilmembers Bier and Beckmeyer who were reelected for their second terms. He announced the holiday closure of City Hall, which will be closed for the holiday from Friday, December 23 and will reopen on Tuesday, January 3. During that closure most Planning Department services will be unavailable but building inspection services will continue and anyone requiring a building inspection during that period should call the inspection hotline as they would usually do and the times when inspections will be unavailable will be on the Christmas and New Year holidays but not the entirety of the holiday closure. He also announced that they will be canceling the first Planning Commission meeting in January due to the date of that meeting relative to the holiday closure and observed holiday. The first Planning Commission meeting will be on Tuesday, January 17, which will be the next opportunity for the public to participate. He stated that staff thanked Commissioner Domurat for his service on the Planning Commission and it has been wonderful getting to know him. He was there during an important time when they were working on the Plan update, Sharp Park Specific Plan, etc., and was great to have his interest, experience and support during the processes. He wished him luck on the San Mateo County Harbor Commission.

Chair Berman declared that anyone aggrieved by the action of the Planning Commission has ten (10) calendar days to appeal the decision in writing to the City Council.

ADJOURNMENT:

There being no further business for discussion, Commissioner Godwin moved to adjourn the meeting at 7:33 p.m.; Commissioner Domurat seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Domurat, Ferguson, Godwin, Wright
and Chair Berman

Noes: None

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Murdock