

**RESOLUTION NO. 2019-001**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA DENYING SITE DEVELOPMENT PERMIT PSD-824-17, COASTAL DEVELOPMENT PERMIT CDP-392-17, USE PERMIT UP-089-17, AND PARKING EXCEPTION PE-177-17, FOR CONSTRUCTION OF A THREE-STORY MIXED-USE COMMERCIAL AND RESIDENTIAL BUILDING TO THE REAR OF AN EXISTING LEGAL NONCONFORMING ONE STORY SINGLE-FAMILY RESIDENCE ON A 5,000 SQUARE FOOT LOT AT 1276 DANMANN AVENUE (APN 023-015-030), AND FINDING THAT ENVIRONMENTAL REVIEW OF THE PROJECT IS NOT REQUIRED PURSUANT TO SECTION 15270(A) OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES**

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Initiated by: Brian Brinkman (“Applicant”)

**WHEREAS**, Applicant has submitted an application for the construction of a new three-story building consisting of 414 square foot (sf) commercial space on the first floor in addition to a 522 sf residential garage and 153 sf entry and stairway to a 1,839 sf (exclusive of the entry area) three bedroom residential unit on the second and the third floors, to the rear of an existing legal nonconforming single family residence on a 5,000 sf parcel at 1276 Danmann Avenue (APN 023-015-030) (“Project”); and

**WHEREAS**, the Project requires Planning Commission approval of a site development permit because the Project involves new construction within a commercial district; a coastal development permit because the Project involves development within the Coastal Zone; and, a use permit because the Project includes a residential use above ground-floor commercial use, involves new construction abutting an R District, and involves a change of use abutting an R District; and

**WHEREAS**, the Applicant has requested a parking exception because the Applicant experienced practical difficulty and unusual hardship in providing the parking spaces in the number and form required for the Project, as well as the required driveway width; and

**WHEREAS**, the Planning Commission of the City of Pacifica did hold a duly noticed public hearing on January 7, 2019, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference.

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

- A. The above recitals are true and correct and material to this Resolution.
- B. In making its findings, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica does hereby make the finding that the CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to section 15270(A) of the CEQA guidelines.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica finds there is insufficient evidence to support approval of the requested site development permit, coastal development, use permit, and parking exception for the Project.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica does make the following findings:

- A. *Site Development Permit.* PMC Section 9-4.3204 sets forth nine findings for the disapproval of a Site Development Permit which, if made, shall prevent the Commission from issuing such permit. The Planning Commission finds that there is evidence to support making at least six of the findings as follows and the Planning Commission, therefore, denies the Site Development Permit. These six findings are as follows:
- i. *That the location, size, and intensity of the proposed operation will create a hazardous or inconvenient vehicular or pedestrian traffic pattern, taking into account the proposed use as compared with the general character and intensity of the neighborhood.*

Discussion

The existing layout of the site includes a 10-foot wide driveway to the detached garage associated with the existing single-family residence. The proposed development of the site restructures this driveway to provide a 10-foot wide driveway to the two car garage for the new residential unit on the second and the third story of the proposed building to the rear of the property, while proposing, adjacent to the driveway, a one car parking space for the existing residence and a one car parking space for the commercial space that would be located on the first floor of the new building.

Section 9-4.2813(c)(3) of the PMC establishes a minimum 20 foot width for driveways serving two or more dwelling units and which will have two-way traffic. The proposed driveway would serve the existing single-family residence and the proposed apartment unit, in addition to the proposed commercial space. The driveway would also necessarily have two-way traffic for vehicles entering and exiting the parking areas for the proposed building. Therefore, the inadequate driveway width in combination with adjacent parallel parking would create a hazardous or inconvenient vehicular traffic pattern because i) the driveway would not meet minimum PMC requirements, and ii) individuals parking in the spaces adjacent to the driveway would obstruct the entire driveway while parallel parking due to its narrow width.

There are no feasible conditions of approval that may be applied to this development which would address the hazard and inconvenience of the inadequate driveway width and intensity of the proposed use. Widening the driveway would require elimination of the parking proposed adjacent to the driveway, which would result in a project which does not provide the required number of parking spaces for the project pursuant to PMC Section 9-4.2818.

Based on these factors, the Planning Commission finds that the Project's location, size and intensity will create hazardous and inconvenient vehicular traffic patterns. Accordingly, the Planning Commission shall not issue the site development permit.

- iii. *That insufficient landscaped areas have been reserved for the purposes of separating or screening service and storage areas from the street and adjoining building sites, breaking up large expanses of paved areas, and separating or screening parking lots from the street and adjoining building areas from paved areas to provide access from buildings to open areas.*

Discussion

The project would provide landscaping in the form of a small number of shrubs and perennials in a 2'-5" wide planting strip in front of the single-family residence, and a small amount of turf within the rear yard immediately behind the single-family residence. Otherwise, the remainder of the site would be paved.

Space constraints along the parking area adjacent to the driveway do not allow for any planting areas between this parking and the existing single-family residence. Thus, it is not possible to screen the single-family residence from the new parking areas which are proposed. Similarly, space constraints between the rear yard of the single-family residence and the proposed new building have resulted in no landscaping being proposed to screen the parking area from the adjacent proposed building. The layout of the proposed driveway and parking areas also result in a continuous, expansive paving area extending from Danmann Avenue to the rear of the site, with no landscaping proposed to break up the expansive paved area. As noted elsewhere, the already substandard width of the proposed driveway does not afford an opportunity to install landscaping as required to avoid making this finding.

Based on these factors, the Planning Commission finds that insufficient landscaped areas have been reserved for the purposes of separating or screening service and storage areas from the street and adjoining building sites, breaking up large expanses of paved areas, and separating or screening parking from the street and adjoining building areas from paved areas to provide access from buildings to open areas. Accordingly, the Planning Commission concludes that this finding has been met, and shall not issue the site development permit.

- iv. *That the proposed development, as set forth on the plans, will unreasonably restrict or cut out light and air on the property and on other property in the neighborhood, or will hinder or discourage the appropriate development and use of land and buildings in the neighborhood, or impair the value thereof.*

As discussed more fully below under the analysis of Design Guidelines and General Plan consistency, the Planning Commission finds that the proposed project would unreasonably restrict light on other property in the neighborhood, and would hinder or discourage the appropriate development and use of land and buildings in the neighborhood. This is based on the fact that the proposed structure will feature rear setbacks of 1'-0" for the first floor of the three story building and 3'-3" for the second and the third stories, which would result in the crowding of the adjacent single-family residential properties to the rear/west of the site. Moreover, the 34'-7" height of the proposed building and its orientation very close to the existing single-family residential properties to the rear/west would result in obstruction of sunlight and significant shadows on those properties during morning periods when the sun is low and to the east. The imposing character of

the project on the adjacent residential properties, as well as the adverse effect of new shadows created on them, would unreasonably restrict light and hinder appropriate use of the yard areas of these residential properties.

Additionally, as more fully discussed below under Design Guidelines and General Plan consistency, the project does not orient to the street in a manner which is necessary for a commercial project to achieve sufficient visibility to attract visitors' interest. The proposed building would be situated at the extreme rear of the site, and would be oriented away from Danmann Avenue, which means that the commercial project would not be visible to visitors and other prospective customers in the area. As one of three sites on the west side of the block along Danmann Avenue between San Pedro Avenue and Kent Road which contain lawful nonconforming single-family residential uses, development of the subject site will establish a pattern for redevelopment of the other lawful nonconforming sites, as well as a fourth vacant site. Accordingly, the project would hinder appropriate development and use of land in the neighborhood.

Based on these factors, the Planning Commission finds that the Project's setbacks, height, mass, and orientation to the street along Danmann Avenue are inappropriate; would unreasonably restrict light on other property in the neighborhood; and, would hinder or discourage the appropriate development and use of land and buildings in the neighborhood. Accordingly, the Planning Commission shall not issue the site development permit.

- v. *That the improvement of any commercial or industrial structure, as shown on the elevations as submitted, is substantially detrimental to the character or value of an adjacent R District area.*

#### Discussion

The proposed development is a mixed use structure adjacent to an R District area that abuts the site to its rear (west). This area is characterized by one to two story single-family residences. The proposed development will include a 34'-7" tall three-story building with a 1'-0" rear setback at ground level and 3'-3" rear setback at second and third stories. The height of the structure and its proximity to the adjacent R district would impose on the R district to the rear of the site and would be incompatible with its low lying surroundings. Accordingly, the project is substantially detrimental to the character of an adjacent R District area. There are no feasible conditions of approval that may be applied to the new development, as proposed, to ensure compatibility with the adjacent R District because space constraints on the site preclude greater setback from the rear property line such that the new building may be located farther away from the R district. Moving the building closer to Danmann Avenue would necessarily result in an elimination of off-street parking spaces which would cause noncompliance with the parking standards in section 9-4.2818 of the PMC. It may be possible to reduce the height of the building by eliminating the third story and completely reconfiguring the floor plan to have fewer bedrooms and smaller living areas. However, the applicant has not proposed such a modified floor plan and it is not appropriate to impose such a drastic change on the project through a condition of approval. It would be

necessary to evaluate the specific architectural design of such a modified building for Design Guidelines consistency and compliance with other PMC requirements.

Based on these factors, the Planning Commission finds that there is evidence to make the finding that the project is substantially detrimental to the character or value of an adjacent R District area, and the Planning Commission shall not issue the site development permit.

viii. *That the proposed development is inconsistent with the City's adopted Design Guidelines.*

#### Discussion

The City has adopted Design Guidelines which are intended to accomplish the following purposes:

- Ensure at least a minimum standard of design through the application of consistent policies.
- Encourage new construction which exceeds minimum standards and discourage construction which falls short of those standards.
- Provide a framework for review and evaluation of design proposals.
- Implement applicable General Plan and Local Coastal Plan goals and policies.
- Expedite and facilitate the planning permit process.
- Provide direction for design and redesign of projects.

The Design Guidelines are advisory in nature and, unlike zoning, do not contain explicit standards for determining strict compliance. Rather, they address significant elements of project design that, when balanced overall, result in the best possible site layout and building architecture for a project. An applicant may propose a project which complies with some but not all guidelines and the Planning Commission may still find the project consistent with the Design Guidelines. It is up to the Commission's discretion to determine the appropriate balance and relative priority of the guidelines for a particular project when considering whether a project has achieved Design Guidelines consistency.

The Planning Commission finds that the proposed improvements at the site are, taken as a whole, inconsistent with the City's adopted Design Guidelines. Major areas of the inconsistencies, where there are no feasible conditions of approval that may be applied to the new development to engender its consistency with the Design Guidelines, are discussed below:

#### SITE PLANNING

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

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

### Discussion

The site of the new development is located in the general vicinity of the Pedro Point Shopping Center and immediately adjacent to the undeveloped land, which in combination with the Pedro Point Shopping Center is envisioned for the development of an attractive visitor-serving center in the Pedro Point-Shelter Cove neighborhood narrative. There is potential for a strong linkage to the latter from the site through an extension of Kent Road as shown in **Figure 1. Site and Vicinity**, below:



Figure 1. Site and Vicinity.

The proposed commercial use is located to the rear of the property away from the street and is shielded from visitors' views by the existing single-family residence in the front portion of the site such that the commercial area in the new building would have no visibility. The project would not work with the site's features, but rather would be compromised by them, notably the visual obstruction presented by the existing single-family residence.

- b. Building Location. *Buildings should be sited to consider shadows, changing climatic conditions, the potential for passive or active solar energy, safety, and privacy of adjacent outdoor spaces.*

*Building placement should take into account potential impacts on adjacent property. Existing views, privacy, and solar access of surrounding properties should be preserved whenever possible.*

*In multi-unit developments, buildings should be located so as to avoid crowding and to allow for a functional use of the space between buildings.*

#### Discussion

The new development proposes rear setbacks of 1'-0" for the first floor of the new three story building and 3'-3" for the second and the third stories with a deck along the rear wall of the proposed building. The height of the proposed building and its orientation relative to the existing single-family residential properties to the west would result in obstruction of sunlight and significant shadows on those properties during morning periods when the sun is low and to the east.

In addition, the decks and the rear windows on the second and third story would overlook into the rear yards of the single-family residences at 275 San Pedro Avenue and 276 Kent Road located to the rear on the northwest side of the project site. This, in combination with marginal setbacks for the new building from the rear property line of the project site, would impact the privacy of neighboring open spaces.

#### BUILDING DESIGN

- c. Design. *The style and design of new buildings should be in character with that of the surrounding neighborhood. This does not mean that new buildings should be identical to existing buildings on neighboring lots, but that new buildings should complement, enhance, and reinforce the positive characteristics of surrounding development. This can be accomplished by incorporating the dominant architectural features of an area into the design of new development. Such features may include bay windows, chimneys, balconies, porches, roof shapes, and other architectural details and materials.*

#### Discussion

The vicinity of the proposed building is characterized by one to two story structures with facades where walls in varying planes lend interest to the buildings. The proposed building is a rectangular mass with straight facades that lend themselves to a monolithic appearance, which is architecturally incompatible with the residential buildings in the neighborhood to the northwest of the site and residential and nonresidential buildings across Danmann Avenue to the southeast.

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

*A structure which is out of scale with its site and neighborhood threatens the integrity of the overall streetscape, and residential projects, particularly single-family dwellings, which are much larger than neighboring structures are therefore discouraged. The City’s height limitation is a maximum only, and the maximum height may often be inappropriate when considered in the context of surrounding development and topography. The “carrying capacity” of a given site is also an important factor in determining appropriate scale and lot coverage. As with the height limitation, the City’s lot coverage limitation is a maximum only.*

Discussion

As discussed above, the neighborhood in which the proposed building would be located is predominantly characterized by one to two story buildings. The two three-story apartment buildings across the street from the project site are so designed that the third story is setback from the lower two stories, and the third story does not encompass the entire building width, thereby minimizing the massing and scale of the buildings. The proposed building would be 34’-7” tall and would have a third story spanning the entire building width, which is out of scale with the legal nonconforming single-family residence on the site which has a height of 22’-3”, and with the three-story structures immediately across Danmann Avenue. The height and mass of the proposed building in combination with its straight facades appears out of scale with its surroundings.

- e. *Consistency. There should be architectural consistency among all building elevations. All elevations need not be identical, but a sense of overall design continuity must occur. Window treatment and trim, for example, should be carried out around the entire building, not just on the most visible sides.*

Discussion

The proposed building does not appear architecturally consistent on all four elevations. While the applicant has carried the same materials and window shapes on all four sides, the front façade is significantly more detailed than the rear and the sides, where there is lack of congruity with the front elevation and the elevations to the rear and the sides.



## LANDSCAPING

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

### Discussion

The bulk of the landscaping proposed on the project site would consist of low-growing shrubs, perennials, and turf located in the front and rear yard of the existing legal nonconforming single-family residence, and would not be associated with the proposed new development. The plantings which are proposed are not in an amount and scale which is appropriate for the proposed new building. As noted elsewhere, the proposed building is much larger than surrounding structures and should be complemented by large-scale landscaping as indicated by this design guideline. However, an insufficient number of low-growing plant types which would be located distant from the proposed building would not ensure an appropriate amount and scale of landscaping for the large-scale building which is proposed.

Based on the above discussion, there is sufficient evidence to make this finding, and the Planning Commission shall not issue the site development permit.

- ix. *That the proposed development is inconsistent with the General Plan, Local Coastal Plan, or other applicable laws of the City.*

### Discussion

The proposed development is inconsistent with the General Plan, Local Coastal Plan, and applicable zoning laws of the City in the following manner:

## GENERAL PLAN

### a. Circulation Element

- Policy No. 14: *Ensure adequate off-street parking in all development.*

The applicant has proposed to provide five off-street parking spaces. As discussed in Section B.4.D of this report the proposed off-street parking spaces do not comply with the applicable parking requirements in Article 28 of Chapter 4 of Title 9 of the PMC. Specifically, the project would eliminate the existing required garage parking for the existing legal nonconforming single-family residence on the property in order

to locate the proposed development. Moreover, the driveway proposed for access to the off-street parking areas is too narrow to comply with Article 28 standards, and would result in problematic on-site circulation.

b. Community Design Element

- Guideline for Future In-fill Development No. 1: *Include considerations for the relationship between proposed development and the predominant land uses in the area; where the proposed development differs significantly from current land use or building types, special design consideration may be warranted to ensure the compatibility of the proposed development.*

The proposed development is located in an area designated commercial in the General Plan, is in an area intended for visitor-serving commercial development in the Pedro Point-Shelter Cove neighborhood narrative in the General Plan and Local Coastal Plan, and is also adjacent to a residential district .

The General Plan and Local Coastal Land Use Plan narratives indicate that future commercial development should be carried out in a manner which is sympathetic to the residential character of the community. As noted above, the proposed development is out of scale with the adjacent residential area, located such that it would impose on the adjacent residential properties, and would obstruct sunlight and cast shadows on residential properties. These characteristics result in a development which would have a poor relationship with the predominant residential land uses in the area. The proposed development also would differ greatly from the current building types in the surrounding area in terms of setback (both front and rear), scale, and height, and as noted above there is no immediate design consideration which could be implemented through conditions of approval that would ensure compatibility of the proposed development with the surrounding area.

Additionally, the project does not orient to the street in a manner which is necessary for a commercial project to achieve sufficient visibility to attract visitor interest. The Danmann Avenue site is already outside an established commercial area at the Pedro Point Shopping Center, and so any project proposed on the subject site should strive to achieve maximum visibility for the commercial uses. Currently, the project tucks the commercial uses in the rear of the site on the first floor with limited visibility from Danmann Avenue and San Pedro Avenue. A more appropriate design would be to orient a commercial or mixed use project with a limited front setback along Danmann Avenue to maximize visibility of the commercial area in a manner which would best protect and enhance the character of the neighborhood. To achieve an appropriate design for a commercial or mixed use project on the site would likely require demolition of the existing legal nonconforming single-family residential structure which currently occupies the front of the site.

c. Land Use Element

- Policy No. 8: *Land use and development shall protect and enhance the individual character of each neighborhood.*

While the development of commercial and residential use on the project site in a mixed use configuration could be appropriate and serve as a transitional use between the more intensive commercial uses at the Pedro Point Shopping Center and the low density residential uses immediately to the west, the site plan and building design of the proposed development does not avail of that opportunity. As noted above in terms of parking standards, building height, building scale, and setbacks, the project would not be appropriate for the site or fit with surrounding uses. It would detract from the character of the neighborhood by introducing a building which is out of scale and which imposes on adjacent residential uses.

LOCAL COASTAL PLAN

- d. Coastal Act Policy No. 8: *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal dependent industry.*

A properly designed project on the subject site would have a unique opportunity for the development of commercial recreational facilities that could enhance public opportunities for coastal recreation, by virtue of the site's location near Linda Mar Beach. However, as discussed above, the proposed project has intrinsic aspects of its design which would curtail that opportunity. Specifically, the lack of visibility of the proposed commercial use from the public right-of-way would not achieve the visitor-serving orientation intended by this policy. Thus, the project would not enhance public opportunities for coastal recreation.

ZONING

As noted above, the project as proposed would not comply with the parking standards in Article 28 of Chapter 4 of Title 9 of the PMC, which contains the zoning standards for off-street parking. Therefore, the project would not comply with the zoning laws of the City of Pacifica.

Considering the project's inconsistency with the General Plan, Local Coastal Plan, and zoning laws of the City of Pacifica, the Planning Commission concludes there is evidence to make this finding, and the Planning Commission shall not issue the site development permit.

A. *Coastal Development Permit.* Section 9-4.4304(k) of the PMC states that a coastal development permit shall be granted only if the Commission makes both of the following findings:

- i. *That the proposed development is in conformity with the City's certified Local Coastal Program.*
- ii. *That where the Coastal Development Permit is issued for any development between the nearest public road and the shoreline, the development is in conformity with the public recreation policies of Chapter 3 of the California Coastal Act.*

The project does not meet one of the two coastal development permit findings as follows:

- i. *That the proposed development is in conformity with the City's certified Local Coastal Program.*

Discussion

As described in further detail above, the project would not be consistent with the City's certified Local Coastal Program. The project would not achieve the intent of Coastal Act Policy No. 8 in that it is not designed to enhance public opportunity for coastal recreation and could curtail the opportunity for the establishment of a development attractive to visitors by virtue of the site plan and building design for the project.

Therefore, because the project is not consistent with the City's certified Local Coastal Program, the Planning Commission will not to issue the coastal development permit.

B. *Use Permit.* Section 9-4.3303 of the PMC states that a use permit shall be granted only if the Commission makes all of the following findings:

- i. *That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City.*
- ii. *That the use or building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the local Coastal Plan.*
- iii. *Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.*

The project would require a use permit for the development of a residential use above a ground-floor commercial use, for new construction abutting an R District, and for a change of use abutting an R

District. The Planning Commission finds that none of the findings for approval of a use permit can be made for the proposed project:

- i. *That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City.*

Discussion

As described in further detail in the analysis of site development permit findings above, the proposed project would be detrimental to the health, safety, and welfare of persons residing or working in the neighborhood. Specifically, the building's placement too near the adjacent residentially-zoned properties, the building's height, the building's lack of sufficient architectural detail on all four elevations, and the lack of adequate off-street parking facilities would combine to create a project that adversely impacts persons in the immediate vicinity of the project.

- ii. *That the use or building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the local Coastal Plan.*

Discussion

As described in further detail in the analysis of site development permit findings above, the project would be inconsistent with the General Plan, in particular Policy Nos. 14, 1 (In-fill Development), and 8 contained in the Circulation, Community Design, and Land Use Elements, respectively. It would also not comply with applicable laws of the City including those contained in the Zoning Regulations (Chapter 4 of Title 9 of the PMC), in particular the off-street parking standards in Article 28 of Chapter 4 of Title 9. The project would also not comply with the City's Local Coastal Plan because it would conflict with Coastal Act Policy No. 8, as well as be inconsistent with the neighborhood narratives for the Pedro Point-Shelter Cove neighborhood.

Therefore, the project would be inconsistent with the General Plan, Local Coastal Plan, and other zoning laws of the City.

- iii. *Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.*

Discussion

As described in further detail above in the analysis of site development permit findings, the project would not be consistent with the City's adopted Design Guidelines. In

particular, the project would not be consistent with guidelines related to Site Planning, Building Design, and Landscaping.

Because there is evidence to support a determination that findings for approval of a use permit cannot be made, the Planning Commission will not to grant the use permit.

D. *Parking Exception.* Section 9-4.2824(a) of the PMC states that a parking exception shall be granted in cases of practical difficulties and unusual hardship when the Commission makes the following finding:

- i. *That the establishment, maintenance, and/or conducting of the off-street parking facilities as proposed are as nearly in compliance with the requirements set forth in this article as are reasonably possible.*

#### Discussion

The project involves an elective demolition of the existing detached garage which currently provides the required two garage off-street parking spaces for the existing lawful nonconforming single-family residential use on the site as required by PMC sec. 9-4.2818(a)(1). Demolition of the detached garage would create a nonconforming condition relative to off-street parking for the existing single-family residence, in that it would eliminate one parking space and provide only one uncovered parking space. Thus, the applicant would be creating the hardship by selective demolition of nonconforming uses on the site. While the Planning Commission supports property owner efforts to eliminate nonconformities on their properties, the selective removal of an integral part (the off-street garage parking) of the lawful nonconforming single-family residential use, without completely removing the nonconforming use from the site, in fact expands the degree of nonconformity of the site rather than reduces it.

In addition, it is the selective elimination of the existing lawful nonconformities on the site which yields the insufficient driveway width described above. By proposing to demolish the detached garage, but by retaining the single-family residence, the applicant has unnecessarily constrained its design options for converting the site to its intended commercial use. Furthermore, the proposed conversion to commercial use and addition of a second dwelling unit, without eliminating the lawful nonconforming single-family residential use in its entirety, would significantly increase the intensity of development on the site. On account of the applicant's proposed selective removal of lawful nonconformities while simultaneously seeking to add another dwelling unit, the project would require the proposed building to be located in an inappropriate location at the rear of the site as analyzed above, and would also require the construction and operation of a driveway which is half the width required for the uses proposed on the site by PMC sec. 9-4.2813(c)(3). As such, it is the applicant's decision to selectively eliminate certain portions of the lawful nonconforming single-family residential use on the site, to add a second dwelling unit, and to add commercial use, which have created the difficulty with

full compliance with parking regulations, rather than any other less avoidable site constraints. Complete elimination of the lawful nonconforming single-family residential use on the site would allow the applicant to achieve full compliance with applicable parking regulations.

Therefore, the Planning Commission concludes there is evidence to support a finding that the proposed off-street parking facilities are not as nearly in compliance with the requirements of Article 28 as is reasonably possible, and accordingly the Planning Commission does not grant the parking exception.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica hereby denies Site Development Permit PSD-824-17, Coastal Development Permit CDP-392-17, Use Permit UP-089-17, and Parking Exception PE-177-17.

\* \* \* \* \*


**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 7<sup>th</sup> day of January, 2019.

**AYES, Commissioners:** CAMPBELL, CLIFFORD, GORDON, KRASKE, NIBBELIN,  
RUBINSTEIN

**NOES, Commissioners:**

**ABSENT, Commissioners:**

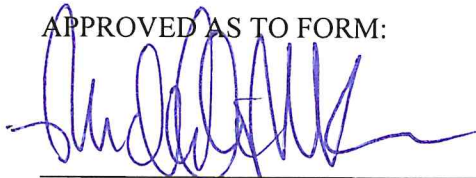
**ABSTAIN, Commissioners:**

  
Richard Campbell, Chair

ATTEST:

  
Tina Wehrmeister, Planning Director

APPROVED AS TO FORM:

  
Michelle Kenyon, City Attorney