

RESOLUTION NO. 2019-023

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA APPROVING TENTATIVE SUBDIVISION MAP SUB-241-18 (FILE NO. 2018-047), SUBJECT TO CONDITIONS, TO SUBDIVIDE A 60,964 SQ. FT. PARCEL INTO TWO LOTS OF 53,550 SQ. FT. AND 7,414 SQ. FT. AT THE CORNER OF MALAVEAR DRIVE AND SHEILA LANE (APN 023-270-580), AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

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Initiated by: Dave Melton ("Applicant").

**WHEREAS**, an application has been submitted to subdivide a 60,964 sq. ft. parcel into two lots of 53,550 sq. ft. and 7,414 sq. ft. at the corner of Malavear Dr. and Sheila Lane (APN 023-270-580) (the "Project"); and

**WHEREAS**, the project requires approval of a tentative subdivision map because the project proposes the subdivision of four or less parcels pursuant to PMC section 10-1.303; and

**WHEREAS**, the Planning Commission of the City of Pacifica did hold a duly noticed public hearing on June 3, 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:

1. The above recitals are true and correct and material to this Resolution.
2. 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 project qualifies for a Class 1 exemption under CEQA Guidelines Section 15301.

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

The subject proposal to subdivide one lot into two lots fits within the scope of a Class 1 categorical exemption. As identified in the staff report and the attachments thereto, the project involves a division of property, specifically the subdivision of one lot into two lots to correspond to the locations of the two zoning classifications assigned to the subject site: A/B-5 (Agriculture/B-Size Overlay) at the westerly portion of the site and R-1 (Single-Family Residential) at the easterly portion of the site. The site is surrounded by existing single-family residential developments.

The proposal consists of the continued operation of the existing single-family residences and involves no expansion of use, except for a minor addition of floor area of not less than six sq. ft. and the potential of one new accessory dwelling unit (ADU) on the R-1 zoned lot. The small floor area addition would be a negligible expansion of the existing use and such expansion would ordinarily be categorically exempt itself. Furthermore, the construction of an ADU on the R-1 zoned lot is not part of the subject proposal and is a speculative potential future impact. Nevertheless, should an ADU be constructed, it would be a negligible expansion of the existing single-family residential use because ADUs are small structures that are accessory to and dependent upon the existence of a primary dwelling unit.

Furthermore, none of the exceptions to application of the exemption contained in Section 15300.2 of the CEQA Guidelines apply to this project. Therefore, there is substantial evidence in the record to support a finding that the project is categorically exempt from CEQA.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica does hereby make the following findings pertaining to Tentative Subdivision Map SUB-241-18:

- i. Required Finding: *The Planning Commission may only approve a subdivision “if it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, any Specific Plan, the Local Coastal Program, and the zoning provisions” [PMC Sec. 10-1-407(c)].*

Discussion: The proposed subdivision is consistent with General Plan Land Use Element Policy No. 8 because the proposed development pattern and intensity are consistent with the existing surrounding neighborhood.

The zoning standards applicable to the subdivision are A/B-5 and R-1. Currently, the project site consists of one legal lot, which will be subdivided into two legal lots. The resulting lots will be conforming lots that meet the applicable lot size, lot coverage, setbacks and lot width standards of their respective zoning classifications. Additionally, the project site is not within the Coastal Zone or the boundaries of a specific plan area, so consistency with the Local Coastal Program and any Specific Plan does not apply. Therefore, there is sufficient evidence to make this finding.

Section 9-4.453(a)(7)(i) of the PMC provides that “No subdivision of a site containing an accessory dwelling unit may be approved unless all of the following conditions are met:

- the lots proposed by the subdivision comply with all applicable development standards of the underlying zoning district for a lot containing a primary dwelling unit, including, without limitation, minimum lot area per dwelling unit and setbacks, or a deviation from the standards is granted;
- if a condominium subdivision, the zoning designation of the site allows two (2) or more primary dwelling units as a permitted use, or if a conditional use, a use permit is granted prior to or in conjunction with the subdivision; and

- the accessory dwelling unit on the site complies, or provisions are made to bring the accessory dwelling unit into compliance, with all development standards applicable to a primary dwelling unit in the underlying zoning district, including, without limitation, dwelling unit size, setbacks and off-street parking.

As discussed in the staff report, Lot 2 containing the existing ADU would comply with all standards for lot area and lot width. The existing ADU which would become a primary dwelling unit also complies with standards for a primary dwelling unit, including setbacks, lot coverage, landscaping, and off-street parking, as discussed above. The existing ADU, however, does not comply with the minimum floor area requirement for a primary dwelling unit, which is 850 sq. ft. as provided in PMC section 9-4.2313(b). However, a condition of approval would require the applicant to increase the floor area to not less than 850 sq. ft. prior to final subdivision map approval. Thus, as conditioned, the proposed subdivision would comply with requirements applicable to sites containing existing ADUs.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica approves Tentative Subdivision Map SUB-241-18 to subdivide a 60,964 sq. ft. parcel into two lots of 53,550 sq. ft. and 7,414 sq. ft. at the corner of Malavear Drive and Sheila Lane (APN 023-270-580), subject to conditions of approval included as Exhibit A to this resolution.

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Passed and adopted at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 3rd day of June 2019.

AYES, Commissioners: BERMAN, BIGSTYCK, CAMPBELL, KRASKE, NIBBELIN

NOES, Commissioners: N/A

ABSENT, Commissioners: RUBINSTEIN

ABSTAIN, Commissioners: CLIFFORD

ATTEST:

  
Christian Murdock, Senior Planner



~~Thomas Clifford, Chair~~  
John Nibbelin, Acting Chair  
APPROVED AS TO FORM:

  
Michelle Kenyon, City Attorney

## Exhibit A

**Conditions of Approval: File No. 2018-047 –Tentative Subdivision Map SUB-241-18, to subdivide a 60,964 sq. ft. parcel into two lots of 53,550 sq. ft. and 7,414 sq. ft. at the corner of Malavear Dr. and Sheila Ln. (APN 023-270-580)**

**Planning Commission Meeting of June 3, 2019**

### **Planning Division of the Planning Department**

1. Development shall be substantially in accord with the plans entitled “Tentative Parcel Map – 21 Malavear Drive,” dated February 19, 2019, and stamped received by the City of Pacifica on February 20, 2019, except as modified by the following conditions.
2. Consistent with section 65863.9 of the Government Code regulating expiration dates of local agency permits issued in conjunction with a tentative subdivision map, and consistent with section 10-1.411 of the Pacifica Municipal Code governing expiration of tentative subdivision maps for four or less parcels, the tentative subdivision map is valid for a period of 24 months from the date of final determination. If the final subdivision map is not recorded within such period of time, the approvals shall expire unless Applicant submits a written request for an extension and applicable fee not less than 30 days prior to the expiration date of the tentative map in the manner required by section 10-1.412 of the Pacifica Municipal Code. Any extension of the term of the tentative map shall be deemed also to extend the term of any related development permits.
3. Prior to final map approval, Applicant shall obtain any and all necessary approvals from the City of Pacifica for, and shall complete such improvements to, increase the gross floor area of the existing accessory dwelling unit (ADU) to comply with the minimum 850 square foot gross floor area requirement for single-family residential dwelling units provided in PMC section 9-4.2313(b).
4. Prior to final map approval, Applicant shall revise the tentative map to label the A/B-5 zoned lot as “Lot 1” and the R-1 zoned lot as “Lot 2,” to the satisfaction of the Planning Director and the City Engineer.
5. All outstanding and applicable fees associated with the processing of this project shall be paid prior approval of a final map.
6. The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter “City”) from any claim, action or proceeding (hereinafter “Proceeding”) brought against the City to attack, set aside, void or annul the City’s actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant’s project (“Challenge”). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Applicant’s sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney’s fees and other costs, liabilities and

expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Applicant of any Proceeding and shall cooperate fully in the defense.

**Engineering Division of Public Works Department**

7. Construction shall be in conformance with the City of Pacifica Storm Water Management and Discharge Control Ordinance and the San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented, and the construction BMPs plans sheet from the Countywide program shall be included in the project plans.
8. The following requirements must be clearly noted on the construction plans for the project:
  - A. Sheila Lane and Malavear Drive shall be maintained clear of construction materials, equipment, storage, debris, and soil. Dust control and daily road cleanup will be strictly enforced. A properly signed no-parking zone may be established during normal working hours only.
  - B. All recorded survey points, monuments, railroad spikes, pins, cross cuts on top of sidewalks and tags on top of culvert headwalls or end walls whether within private property or public right-of-way shall be protected and preserved. If survey point/s are altered, removed or destroyed, the applicant shall be responsible for obtaining the services of a licensed surveyor or qualified Civil Engineer to restore or replace the survey points and record the required map prior to occupancy of the first unit.
  - C. Existing public improvements within the property frontage that are damaged or displaced shall be repaired or replaced as determined by the City Engineer even if damage or displacement occurred prior to any work performed for this project. Any damage to improvements within city right-of-way or to any private property, whether adjacent to subject property or not, that is determined by the City Engineer to have resulted from construction activities related to this project, shall be repaired or replaced as directed by the City Engineer.
9. The proposed sanitary sewer system shall be privately maintained, including within the Public Sanitary Sewer Easement, all the way to and including the connection to the public sewer main or manhole.
10. Document the physical condition of the existing 72 inch storm drain pipe under the Drainage Easement on the north side of the parcel by means of a recorded CCTV video beginning at the outfall all the way to the property line.
11. All utilities shall be installed underground.
12. Any new driveway approach must be ADA compliant with no more than 2% cross slope for a width of at least 48 inches. The transition from 2% out-slope to the in-slope driveway shall be sufficiently gradual to avoid vehicles to contact the pavement at the grade breaks. Driveway

within City right-of-way shall not exceed 18% and portion exceeding 15% grade shall be grooved concrete. Provide structural section of the driveway within City Right of Way.

13. No private structures, including but not limited to walls or curbs, fences, mailboxes, or stairs shall encroach into the public right-of-way.
14. The applicant shall submit a final map to the Engineering Division for approval by the City Engineer, which shall be consistent with the approved Tentative Map. All required monumentation shall be shown on the map and shall be set prior to recordation of the map.
15. Applicant shall enter into a Subdivision Improvement Agreement with the City of Pacifica (subject to the approval of the City Attorney and City Engineer) to construct all on-site and off-site Improvements, as depicted on the approved Tentative Map and any conditions and mitigations imposed on this project, prior to approval of the Final Map. Should the applicant desire to obtain Final Map approval prior to completion and acceptance of the Improvements, any necessary bonds and fees in an amount determined by the City Engineer must be provided. The bond maybe in the form of cash, instrument of credit or surety bond.
16. Prior to the execution of the Subdivision Improvement Agreement, applicant shall submit to Engineering Division the construction plans, specifications, necessary reports, and engineering calculations describing all required on-site and off-site improvements to the satisfaction of the City Engineer. Such documentation shall include but is not limited to:
  - A. a design geotechnical report analyzing existing site conditions and providing recommendations for the proposed on-site and off-site improvements
  - B. an accurate survey plan, showing:
    - i. survey marks and identifying the reference marks or monuments used to establish the property lines;
    - ii. property lines labeled with bearings and distances;
    - iii. edge of public right-of-way;
    - iv. existing easements on the subject property
  - C. a site plan, showing:
    - i. the whole width of right-of-way of Sheila Lane and Malavear Drive, including existing and proposed improvements such as, but not limited to, pavement overlay, driveway, sidewalk, curb & gutter, street lighting, ADA compliant pedestrian crossing improvements, street monuments, lighting, all street markings and signage;
    - ii. existing fences, and any structures on adjacent properties within 10' of the property lines;
  - D. a utilities plan showing existing public utility facilities and any proposed connections, boxes for underground utility connections and meters, any ground-mounted equipment, storm drainage and sanitary sewer facilities and proposed connections
  - E. sufficient construction details to fully express how all proposed Improvements will be built or installed
  - F. all plans and reports must be signed and stamped by a California licensed professional engineer

- G. all site improvements including utilities and connections to existing mains must be designed according to the City Standards and to the satisfaction of the City Engineer.
17. Applicant must dedicate a Private Storm Drainage Easement (PSDE) for any new storm drain facilities within the public right-of-way. The private facilities must be designed per 100-yr storm, Section C.3 of the Municipal Regional Permit and to the satisfaction of the Director of Public Works or the City Engineer, and shall be privately maintained in perpetuity all the way to and including any connection to public storm drain facilities.
18. Prior to approval of the final map, the applicant shall verify that all public and private utilities have been provided to serve the project. Approvals and/or agreements shall be obtained from all utilities.
19. Prior to approval of the Building Permit, applicant shall provide an erosion control plan.
20. A City of Pacifica Encroachment Permit shall be obtained for all work undertaken in the public right-of-way. All work shall be done in accordance with City Standards, Caltrans Standard Specifications, Pacifica Municipal Code, Administrative Policies, the approved Subdivision Improvement Agreement, and to the satisfaction of the City Engineer or his designee, and they shall be completed prior to issuance of the Certificate of Occupancy

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