

**MINUTES**

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

April 5, 2021

7:00 p.m.

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

Vice Chair Berman explained the conditions for having Planning Commission meetings pursuant to the provisions of the Governor’s executive order, N-25-20 and N-29-20, which suspends certain requirements of the Brown Act and pursuant to the orders of the Health Officer of San Mateo County, to conduct necessary business as an essential governmental function with no public attendance allowed. She 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 Domurat, Ferguson, Godwin, Hauser, Leal and Vice Chair Berman  
Absent: Chair Nibbelin

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

**STAFF PRESENT:** Dep. Planning Director Murdock  
Asst. City Attorney Sharma

**APPROVAL OF ORDER OF AGENDA** Commissioner Hauser moved approval of the Order of Agenda; Commissioner Leal seconded the motion.

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

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

**APPROVAL OF MINUTES: MARCH 15, 2021** Commissioner Godwin moved approval of the minutes of March 15, 2021; Commissioner Hauser seconded the motion.

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

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

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF APRIL 12, 2021:**

Dep. Planning Director Murdock gave a brief explanation of the amendment being addressed by the Council.

Vice Chair Berman asked if anyone wanted to be the liaison, likely a commissioner who was present during that agenda item that was approved by the Commission.

Dep. Planning Director Murdock mentioned the specific commissioners present at that meeting.

Vice Chair Berman stated that she could serve as liaison.

**ORAL COMMUNICATIONS:**

Dep. Planning Director Murdock introduced the speakers.

Mary Ann Waterman, Pacifica, stated that she has been speaking at every meeting regarding 650 Cape Breton. She lives adjacent to the site and wanted to reiterate that there is one way in and one way out of the entire town, taking Oddstad, Everglades, Terra Nova or Linda Mar to get to Highway 1 to get out of town. She stated that they have applied for a temporary permit but stated that it is a smoke and mirrors tactic and they will be perfect tenants for the six-month temporary permit and then they will apply for a permanent permit, clarifying that no one buys a \$3.5 million property in the Bay Area to put up a tent. She stated that this is a steppingstone for permanent zoning. She stated that they claim that the stable had events. She stated that she has lived at their property for three years and there has never been an event at the stable that had more than ten cars. There are usually 5-6 cars, people who ride their horses and feed them but never a major event at the stables. She stated that there are 110 members who live in Pacifica, and she stated that was .003% of the Pacifica population in 2020 census. They walked the neighborhood with their dogs and there was not one person within walking distance that is a member of that church and they will be driving and will use the precious resources of the police department and fire department. She appreciated that they were listening to her.

Christine Boles, Pacifica, stated that she was a licensed architect and resident of Manor District. She stated that her public comments from the March 15 hearing were not properly captured in the minutes and she was going to repeat and clarify a few items. She congratulated Commissioner Domurat on his appointment, stating that the city was facing critical issues related to climate change and sea level rise and his experience he brings with the Army Corp. of Engineers is invaluable. She referred to the Vista Mar project, stating that she was reading and reflecting on the updates to the 40-year-old General Plan that is based on old science and doesn't consider climate change. She stated that our safety element was out of compliance with state law and Govt. Code 65300. She stated that critical updates to flooding and fire risks were not done as a required part of the 2015 housing element update. She encouraged Commission and staff to review the General Plan documents and then shared one example in the document's importance relating to Vista Mar. She stated that much of the discussion before approving the project centered around adding replacement trees and screen the bulky massing of the project. She stated that the site has an average slope of 52% and some areas up to 66%. She stated that the Commission's decision to add trees in consultation with Dep. Planning Director Murdock contradicts the 1980 safety element, and then quoted from page 102 of the document regarding the slopes issue. She concluded that the conditions added to the project actually increased the

dangers of landslides to the neighborhood. She encouraged them to refresh their understanding of CEQA laws, specifically when environmental review is required on a project. She stated that she would email them the document from San Luis Obispo where they explain land use and CEQA regulations to incoming commissioner and councilmembers, referring to the regulation's interpretation. She mentioned that no where does the cost or delay play into the decision as to whether to prepare an EIR. She asked for a careful independent review of all projects that come before them.

Erin Wood, Pacifica, referred to 650 Cape Breton, stating that, in December, they were told that the church was concerned with the welfare of not only their members but society in general. She stated that it was inconsistent with the way that they gather. She stated that, on July 27, 2014, INC made history as some of their faithful waited overnight in the pouring rain to attend the centennial celebration of the INC. She stated that government officials monitoring the gathering estimated that 1.6 to 2 million people gathered, packing out a massive new arena built and the nearby 20,000 seat stadium, as well as huge tents erected on the ground for the event. July 2018 notes 50 years in the US. On July 27, 2018, a celebration in Oahu was a first international location followed by the continental wide unity games from July 31 through August 3. Unity games were held in San Mateo, California and included events at the San Mateo Performing Art Center, Mills High School, Burlingame High School, Sequoia High School and Woodside High School, ending in championship games at San Jose State University. She stated that the celebration ended with a special worship service in Sacramento on August 5. In January 2020, INC starts the new decade with a record-breaking event with more than 65,000 attendees and they conducted simultaneous events in more than 500 venues in 156 countries, spanning six continents on that same day. She stated that this is a continuing effort on their part and will only get bigger and better for 2020 in the new decade. She stated that INC is known for hosting mega gatherings that shut down cities and in December, they said full capacity would be for 150 people. She stated that an example of INC's regard for safety and city officials was in Seattle in October 2018 where Seattle Times reported that about 50 people were inside the church and the headline stated that Seattle church said 250 people were inside at the time. She referred to questions about occupancy from the paperwork. She stated that this is a piece of land that needs a responsible owner and having horses means their caretaker will take care of their environment. She stated that there was a reason that this space was being drafted into Pacifica's General Plan as a stable.

Lori Yap, Pacifica, stated that she was speaking on 650 Cape Breton. She understands that the temporary use permit has been withdrawn and another use permit application has been submitted and there are probably limited documents on the website. She stated, even though they are going to change the location of where they worship in an existing building, she didn't think it was changing anything as any church located at this site is not an appropriate use of the site. She stated that the arguments still stand and there are still many reasons to deny this permit as well, including traffic, noise, parking, lighting, loss of open space, trail access, wildlife, emergency vehicle access, evacuation and environmental issues. She appreciated that they continue to listen to the residents as they are paying attention and care about this property in their neighborhood and hoped that this is about responsible planning. She thought, when the neighborhood was planned, that was put in and she hoped they continue to think about what is best for how this land was set up, and the residents who purchased their properties to live here. She appreciated that they were listening and hearing them. She understood they have to entertain the permits, but she didn't think, from what she has seen online, that this permit changes anything from what it was as a temporary use permit, other than they say they are now going to worship in an existing building. She asked that they look at it closely as the residents are very upset about this happening and

what it could potentially grow into, as she thought they want to grow, and it will not be small no matter how small they say they are going to start. She hoped the Commission will look at it and see that it is not the appropriate use for any church on the site.

**CONSENT ITEMS:**

None

**PUBLIC HEARINGS:**

**SP-164-17**

**File No. 2017-023 – Specific Plan SP-164-17**, filed by Javier Chavarria, for construction of an approximately 4,293-square foot (sf) one-story single-family residence with a 650-sf attached garage on a 62,562-sf (1.44 acres) undeveloped lot located at TBD Ohlone Drive, also known as Lot 3. Ohlone Point Subdivision (formerly Harmony @ 1), approximately 510 feet southwest of the intersection of Fassler Avenue & Roberts Road (APN 022-150-470). Recommended CEQA Action: Addendum to the “Harmony @ 1 Roberts Road Subdivision Final Environmental Impact Report,” certified by the Planning Commission on October 15, 2007 and by the City Council on November 13, 2007.

Dep. Planning Director Murdock presented the staff report.

Vice Chair Berman asked if the applicant would be presenting a report to the Commission.

Dep. Planning Director Murdock stated that the applicant, as well as the agent, are present and he will bring them in when they get to that part of the item.

Commissioner Hauser asked if he could give more information about what delta is between original and proposed building envelopes as far as the grading numbers that was anticipated and any sort of tree removal.

Dep. Planning Director Murdock brought the slide, then stated that the applicant agent is also a civil engineer for the project and was involved in developing the Harmony @ 1 subdivision and he has a lot of experience and can provide a more in-depth explanation. He referred to a slide, stating that the topography as oriented on the slide is higher at the top and decreases going down, and the contention from the applicant is that this design will result in fewer visual impacts and require less disturbance to the upper topography at the higher points of the site. He was not aware that this change in the location of the project would result in any additional tree removal, but thought it would result in less grading and, according to the applicant, would result in equal or fewer visual impacts as compared to the original building approval. He thought it was important, when laying this deviation, to know that the Harmony @ 1 project approval actually allowed two-story single-family residences and there is a decrease in the visual impact on this project by virtue of its one-story design.

Commissioner Hauser asked if he could give them a little bit of context about how many homes are in the total approved project and where this is and how many have moved to the next level.

Dep. Planning Director Murdock stated that there were 12 homes contemplated in the planned development or PD portion of the Harmony @ 1 project, and are the ten lots along Ohlone Drive, the northern most access point, and there are two lots more southernly and closer to Crespi Drive, one near the Post Office and the other one north of it with its own driveway, Lot 11, off Roberts Road. He stated that there was one additional lot, Lot D, that was included in the Harmony @ 1 subdivision map and for various reasons not included in the planned development. It was not a part of the Homeowners Association for the project and not subject to the CCNRs for a subdivision. That site received Planning Commission approval about two years ago and is

currently the only project under construction as part of this subdivision. He stated that there was a prior approval for Lot 2 granted by the city, but that approval has expired and the construction was never started. He stated that this could potentially be the first residence to be constructed within the planned development portion of Harmony @ 1.

Commissioner Godwin referred to the green architectural notes with references to natural gas appliances, and it seems that it will be outlawed at some level by the state in the next ten years or so. He asked if that still makes sense.

Dep. Planning Director Murdock stated that, what they have to do many times when projects are approved and years go by prior to construction or final approval attempts to harmonize the different regulations. He wasn't aware of anything at this time which would prohibit this home if approved and constructed from having a natural gas appliance in the kitchen. He stated that, should it occur in the future, they would have to look at what the provisions are. He stated that typically they are prospective, meaning on a forward-looking basis for any new homes or if significant modifications are made to those structures. He stated, speculatively, that this project would not be adversely affected by any such future regulation.

Commissioner Godwin stated that he noticed that Tesla requires 60-amp circuits for chargers and references in that same section of green architecture notes a 40-amp electric vehicle charging circuits and he asked if that is something they should update.

Dep. Planning Director Murdock stated that it was a little beyond his area of expertise in terms of what the current residential code requirement might be for wiring for an electrical vehicle charger and he thought Mr. Chavarria might be able to address that. He thought, typically, where there is more intensive requirement, the applicant would be required to build to that, but he couldn't speak to whether the current residential code requires 40 amps or 60 amps.

Javier Chavarria, agent, stated that it has been a long road, but they have been able to work with staff and resolve all the issues that the project had. He gave a brief background on Harmony @ 1 when it was approved in 2007, when there were many conditions of approval thrown in and the green architecture was new. He stated that their intent was to do a beautiful project that will minimize the visual impact from the Highway and beach and all public areas. As mentioned, they had another home approved on Lot 2, and they learned a lot of the things the Commission at that time had concerns about and when they came to design this home, they started thinking of the most relevant issues, i.e., what they do to minimize the impact, make it as nice and fitting as possible. The owner decided to go to one story, but it importantly diminished the visual impact from Rockaway and Linda Mar. He stated that they haven't had the opportunity to look at the entire subdivision map but when it was designed, the footprint for each lot was identical and the designer at that time took a generic footprint and put it around and didn't take advantage of the best features of the lot. In this case, they analyzed the lot for where they get the best views, where to put the building to minimize grading and help comply with the conditions, mentioning some of the things they did such as filling the gullies that were facing south of the property. He stated that, when they came back, they were trying to be true to the intent of the original design was, i.e., keep the majority of the steep portions of the site as undisturbed as possible. He felt they achieved a design that provides the least possible visual impact, nice clean lines, complies with all the conditions of approval and were ready to comply with current regulations. He referred to Commissioner Godwin's comment, stating that technology is changing, requirements are changing, and they will provide any requirement that the code has to fulfill the needs for the

current and future electrical chargers being installed on the property. He stated that the flat roof design allows plenty of roof area to put solar panels and they have an unprotected which is good for solar. He felt that the project will be an enhancement to the city. He stated that it has an important significance, as the main problem before was none of the approvals had been done following all the guidelines, criteria and most importantly, those trying to develop the lots were not ready in the sense that subdivision improvements were not completed, and they were trying to cut corners to not do certain things. The new ownership of the subdivision is fully committed to comply with all the conditions of approval and the owner of Lot 3 is willing and ready to start construction as soon as possible and comply with all the requirements of the conditions of approval and build a home they can all be proud of. While he joined the original project after it was approved, he became the engineer that implemented all the subdivision improvements. He then clarified that, in the documents presented to the Commission, it lists him as the applicant, and he is the engineer, the designer and the agent for the applicant, and Mr. Khosravi is the owner and applicant for the project, adding that they would appreciate that amendment be made to the official documents so everyone has the proper responsibilities on the project.

Vice Chair Berman asked if there was time remaining for the applicant.

Dep. Planning Director Murdock thought there was approximately three minutes remaining.

Vice Chair Berman asked Mr. Khosravi if he had anything to add.

Mr. Khosravi, applicant, stated that he did not, but stated that it was a wonderful experience to get involved with this project from the beginning. He thought it was one of the prime locations in the entire Bay Area. He stated that they have been working with Dep. Planning Director Murdock and staff to go through the requirements and, after the final approval, they will be starting the construction immediately.

Commissioner Hauser asked him to pick up where Dep. Planning Director Murdock left off and speak to the delta in grading based on the building envelope. She stated that the project plan showed the lot in question, but it doesn't give a lot of information about the grades and she asked if he could speak to which elevation of the proposed home will be visible from the public streets permanently or temporarily with other homes contemplated to being built.

Mr. Chavarria stated that the decision of changing the footprint of the home was to reduce the amount of grading, and in the location of the original and approved footprint, they would have had to move most likely an additional 800 cubic yards of material. What they wanted to do was not required by any of the conditions of approval but they are trying to balance the grading on site which was very important. They have a new road, new improvements, and he thought it would be horrible to have trucks moving thousands of yards of dirt out of the subdivision, and they located the home and took advantage of the areas of the property that required less grading and less disturbance, and the grading they did was mostly oriented to have access to the site from the road, but the house did not require any further grading. With the visual impact, he stated that the building was designed kind of in a butterfly way with a southern wing and northwestern wing, and the southern wing will be seen from Linda Mar and only the upper 5 feet and not the entire building. He thought the environmental consultant did a good job in comparing the existing site with their proposed design and what it would have been if a two-story structure would have been built as shown on the original approved plans. He stated that, from their analysis, they have diminished 60% of the exposure of the building from the public areas. If they consider Ohlone

Drive as part of the public area, the home is 83 feet setback and has plenty of landscaping. He thought they achieved two important goals, create a minimum impact from the public visual angle and create an open home with lots of light with great views, energy efficient and kind of killed two birds at the same time.

Commissioner Hauser wanted to be sure she understood it correctly, and referred to the rendering sheet, stating that he was saying D through H would be seen from the Linda Mar side but only the top 5 feet of the building and A through C would potentially be seen from Roberts Road but an 83-foot setback.

Mr. Chavarria stated that she was correct. He stated that it was important to note that this lot has a knoll or a nose, and this was one of the big reasons they decided to go one story. You have a flatter area, and then there is a protrusion and then the slopes start dropping down quickly. He stated that the nose creates a visual barrier. When you are on the Highway or in Linda Mar, that topographic feature basically takes your vantage point higher from the building. He stated that, if it was a smooth, normal slope like in the other lots, you would have had more building exposed. They decided to take advantage of that feature so the building would be hidden, and they incorporated the berms on the side and took advantage of that topographic feature and he thought they achieved the goal of minimizing the structure.

Commissioner Hauser stated that she sees the berms in the plan and wanted to understand the aesthetics being proposed for them as she assumed they would not be left as just dirt berms.

Mr. Chavarria stated that, basically, you will not realize that there is a berm there. He stated that, if you are looking from Linda Mar or Roberts Road, you will see a continuation of the slope to the top of the berm and then from the inside of the building, they have a very gentle grade that will be landscaped, and they are intended to become kind of part of the original topography.

Commissioner Hauser stated that it was natural vegetation.

Mr. Chavarria responded affirmatively.

Vice Chair Berman opened the Public Hearing.

Dep. Planning Director introduced the speakers.

Christine Boles, Pacifica, stated that she had a few technical questions about the project. She stated that it would be really helpful if staff would start requiring story poles for these kinds of projects as she thought the commissioners were having trouble understanding the scale and mapping and this is an area with high visibility, and it would be helpful to see that. She stated that the second condition of approval for the subdivision limits the house square footage to 4,300 sq. feet and the resident appears to be just shy at 4,293 sq. feet. She stated that there is an exception for not counting garages and the 650 additional square feet is noted on the cover sheet as the maximum allowed. She then stated that on page 6, with the area calculation diagrams, she stated that there appeared to be an additional area noted as garbage and utility and listed as 110 sq. feet and it is not in any of the other numbers. She stated that, according to the elevation, the area has a ceiling height as tall as the garage and should be included as part of the house's sq. footage. She stated that this would put the total house sq. footage over the maximum limits allowed. She stated that the project does not comply with the ridgeline setback as established in



the conditions of approval and they were worked through with much difficulty with a lot of input from the public, as well as green building consultants. She stated that there was more than enough room on the large site to move the house forward towards the street so that it is in compliance. She stated that the process of violating specific regulations for the very first house in the subdivision will create precedence for future development on the larger parcel and, in her professional opinion, that is ill advised. She agrees with staff recommendation to reduce the amount of paving so the HPD regulations can be met. She stated that they used to be sacred regulations in Pacifica and seem to be ignored more and more. She stated that these homes are supposed to be cutting edge, high performance and sustainable and it is not appropriate to put the furnace in an unconditioned space next to the garage. She stated that subdivision conditions of approval call for using solar water heating as well as photovoltaic and she didn't see that designation on the plan. She stated that the system should be designed for pool heating capacity as well. She stated that she sees the rain storage pipes as required but she didn't see any notation about the water being used for landscaping as is required in the conditions. She asked if MWELo calculations have been done for water heaters as part of the landscape plan. She asked the Planning Department what happened to the affordable housing unit that was required as part of the subdivision, asking if fees were paid in lieu, and if so, how much money was it and has it been used for its intended use or is it in a separate city account waiting to build affordable housing. She stated that there is supposed to be an architectural committee created by the homeowners' association with an architect, environmental consultant and developer and she asked if it was a part of this community now reviewing these permits.

Summer Lee, Pacifica, stated that she is a resident of Fairmont. She wasn't engaged with Harmony @ 1 when it was initially being considered but the project was all the buzz in Pacifica where our infrastructure is already mortally strained. She stated that Google mansions are not part of Pacifica's character and low-income housing is what was and is desperately needed. She stated that she knew then that the amount of work, insight and input that went into the EIR conditions to get this project approved. She asked why now there is a need to make an addendum to the EIR and what has changed that all these vested considerations would be thrown out. She referred to Ms. Boles' mention as to why the structure would be put past the ridgeline setback with a 1.44-acre lot to work with. She thought, to make CEQA modifications on such a vetted project seems to her to set a bad precedent for the rest of the project in the subdivision and throws some shade on our enshrined public processes and undermines the same processes that led to this project. She is asking if the amendment may be unnecessary as well as outside regular planning practice.

Sue Digre, Pacifica, stated that she was on Council when Harmony @ 1 first came to their attention, and of all the developments in Pacifica since 2002, no other one had as much attention from the residents and Council and Planning were very involved. She stated that history is important, and what went before is extremely important as they are talking about the community. She stated that HPD is as sacred as it can get in the prominent ridges. She stated that in the 1980 General Plan which is still in place, that prominent ridge and scenic part and the community involvement is fundamental, and she hopes that the present Commissioners take into consideration that extreme amount of participation and hard work that went into Harmony to be a state of the art for everybody in the world to come and visit to learn how to do it. She stated that a tiny opening for HPD is starting to set a precedent. She stated that, if you look at the city and the visitor bureaus that talk about Pacifica, these things enable us to be the community, city and destination that it is. She asked that, as representative of the community, they respect the things that have gone on before them and are still happening in Pacifica.

Vice Chair Berman asked if it was appropriate for the applicant to respond to some of the comments.

Dep. Planning Director Murdock stated that ordinarily they offer three minutes for a rebuttal to any of the public comments and they can do that if she is open to that.

Vice Chair Berman would like that as there were a couple of comments regarding the anticipated design of the home. She was interested in the affordable housing element mentioned. She didn't know if Mr. Chavarria has any background on that, and she asked if he could speak.

Mr. Chavarria stated that, when the subdivision's final map was going to be in front of Council, there were several options for affordable housing, one that they needed to build a similar structure to the ones that were being built, and everyone agreed at that time that building a 4,000 sq. foot home wasn't necessarily a good solution for affordability, and at that time their team offered the payment of an in lieu fee and it was paid to satisfy all the requirements. He stated that the city hired a professional to calculate the in-lieu fee and they made all the necessary calculations and it was paid and complying with the requirement of affordable housing. He then referred to the question of why the house was moved back, explaining that it was moved back because if they placed it closer to Ohlone Drive, it would have required more grading, tucked into the hill opposed to taking advantage of the area that allows for less grading to be done. He stated that they would have also had to cut an additional tree, and in preserving the tree and diminishing excavation, they found the best possible location for the house which is also why they went to single story to diminish the problem. He stated that they worked back and forth with Planning staff and they felt that moving the home was not that big of a deal as staff required the environmental review to make sure that what they were proposing was still within the parameters of the original EIR within the original restrictions. He stated that the environmental consultant conducted all the analyses that they felt necessary to ensure that what they were proposing does not go above and beyond the set regulations by the original EIR. He stated that, as presented, they are not requesting any expansion or changes to the impact, just changing the location because it is a better project with less visual impact, less grading and the original subdivision had a generic footprint for each single lot. He stated that, on a subdivision of this nature with the topography that is very different from lot to lot, you can expect to have exactly the same footprint on each lot and that is not what they are looking for. He stated that this home is going to have all the top-of-the-line elements and will be built to shine and meet all the conditions of approval and make all of them proud for approving it and building it.

Vice Chair Berman didn't know how much time they had left, but asked Mr. Khosravi if he had anything to add.

Mr. Khosravi stated that he did not have anything to add, then stated that he and his wife are excited to finally get the permit and start the construction and move in. He thought it was an amazing area and commenting that they will have a subdivision that has amazing gates, landscaping, etc., and will be a landmark in Pacifica. He stated that they will be doing the best options, such as solar for appliances, mechanical engineering, etc.

Vice Chair Berman closed the Public Hearing.

Dep. Planning Director Murdock stated that, before the Commission continues, he referred to the question on the amount of the in lieu affordable housing fee, and the amount was \$344,940 which was required in 2013, and in the Fiscal Year 2021 budget adoption, the estimated ending fund balance as of June 30, 2020, in the affordable housing in lieu fund was approximately \$260,000 and they have been spending small amounts of the funds for housing related activities but have not been used to construct any affordable housing at this point in time. He stated that the opportunities have been limited with that small amount of money relative to the cost of constructing affordable housing. He then referred to the comment about floor area being over the 4,300 sq. foot limit with the inclusion of the trash area, stating that the trash area does not meet the definition of floor area as it is not enclosed. He stated that the plans show that there is a gate type apparatus to define the inner and outer boundaries of that area, but it is not enclosed for purposes of defining floor area and is not applicable to the 4,300 sq. foot limit.

Commissioner Hauser referred to the discussion of sustainable designs and green features, and asked if they had a sense of how much kilowatt generation and solar they are proposing on the roof and how many solar panels they are going to be proposing.

Mr. Chavarria stated that they have not done a formal load calculation for the building, but as he mentioned, the amount of roof they have and the quality of exposure, they can easily get 7-8 kilowatts without any problem. He stated that the building will provide enough energy for the needs of the building with most likely surplus.

Commissioner Ferguson referred to comments about using solar to heat water for the pool, as there is a lot of mention in conditions of approval for Ohlone Point about energy retention and water retention, and he asked if they intended to use solar water heaters or solar energy to cover the consumption of electric water heaters for the pool, and also stated that it was required to use gray water catchment and focus on conserving water, with pools tending to lose a lot of water and he asked what systems will be in place to mitigate that.

Mr. Chavarria stated that all the water heating for the building is going to be based on electricity and the solar panels are capable of producing enough electricity to satisfy the needs of the building, and they feel that they are complying with the condition of approval that solar energy is used to heat water and other uses. He referred to the wastewater harvesting and stated that they have a system that will collect the laundry and that area is going to be used for landscaping purposes. He stated that rainwater is also being harvested using landscaping and they are using flow through planters to manage the water and dispose it out onto the road.

Commissioner Ferguson asked clarification that they aren't catching the rain or gray water for reuse other than flow through planters.

Mr. Chavarria stated that rainwater is going to be used for landscaping in storing tanks. It will go through flow through planters and out onto the street system, and the water held in the tanks will be used for landscaping purposes.

Commissioner Domurat referred to the sight lines from Linda Mar Beach or Rockaway Beach, and that they mentioned a five foot at the top of the building being absorbable and asked if that includes any solar panels that go on top of the roof.

Mr. Chavarria stated that it does. He referred to the building design, stating that it involves a big fascia board and that fascia board is intended to hide some of the panels and some of the elements that will be installed on the roof. He stated that the garage and the main building area have a difference of elevation and they are using the cavity in there for some of the mechanical equipment to the heater. He stated that none of the mechanical equipment will be mounted on top of the roof but placed so the building serves as a shield so they will not be visible.

Mr. Domurat asked if there was any anticipated battery backup of the solar energy, stating that we are challenged these days with a lot of power shutoffs by PG&E due to fire, etc., and he asked if the design included the capability to store power when power shutoff occurs.

Mr. Chavarria responded affirmatively. He stated that, at this time, with a home of this nature, an electric system and a solar panel system is not complete without battery back up and it is planned.

Commissioner Leal referred to Commissioner Ferguson's question, and stated that on one diagram, he noticed a reference to a pond, and he asked if that pond will be incorporated into that rainwater system he referenced and how big will that pond be.

Mr. Chavarria stated that there may be a little confusion. He stated that the project does not involve any pond. He stated that the Harmony @ 1 subdivision required as part of the hydromodification and water management plan two ponds. He stated one is located off Fassler at the northern entrance of the project and the other pond is located at the corner of Roberts Road and Fassler. He stated that those two ponds were designed to manage the drainage of the entire subdivision, the roads and the outflow from each one of the homes. He stated that, in addition to the two ponds, there are a couple of other big water retaining structures. On Roberts Road, below Lot 11, there is an underground huge tank that is supposed to manage the collection of some of the runoff and on the south end on Lot 12, there is another drainage structure.

Commissioner Leal referred to packet page 77, section bb, where it says bridge over pond, and he was wondering what that reference is to.

Mr. Chavarria stated that was different and explained that it was a very small landscaping feature which is to create a little bridge sensation stepping out from the bedrooms onto the yard, and it is a very small area, self-contained with a recirculating pump so there will not be any additional use of water. He stated that it was just an architectural feature and is not part of the drainage system or any of the systems of the homes.

Vice Chair Berman stated that it looked like two of the COAs were duplicates, 12 and 22, for the no wastewater, including equipment, cleaning, vehicle wash water, etc., should drain to the street. She then referred to COA 5 regarding the paint color on packet page 49, stating that the COA seems pretty specific and requests a Benjamin Moore paint, and she wondered if it would be beneficial if this house is going to be the precedent for the entire subdivision moving forward and they add in something like "or equivalent" to the COA, as she would hate if this is the precedent and future developments have to match the color or when the house undergoes construction the paint is discontinued.

Dep. Planning Director Murdock stated that, with respect to condition No. 5, he would not have a problem with "or equivalent" to the satisfaction of the Planning Director. He stated that this is the specific paint that the applicant proposed to respond to staff's concerns, and that was why the

included the specificity they did as it also relates to the environmental compliance which they want to be to demonstrate the compliance with that, but there was no objection by staff on that issue. He referred to it being considered a precedent, stating that the architectural review guidelines for the Ohlone Point subdivision have a variety of colors that are acceptable, and it is unlikely that any other home would necessarily pick the color that is proposed for the stucco, but it was possible.

Vice Chair Berman appreciated that, as she knows that during construction it is hard to be constrained to one product. She asked if the development guidelines have a minimum square footage for homes. She referred to scale and character and understood that the maximum was 4,300 sq. feet and asked if there was also a minimum and a 1,000 sq. foot home would be considered out of scale in this subdivision in the future.

Dep. Planning Director Murdock stated that, as far as minimum size, he was not aware of any in the Harmony @ 1 project approvals, but there is a zoning minimum floor area requirement of 850 sq. feet in the city's municipal code. He would have to speculate as to whether a 1,000 sq. foot home would be out of scale in this subdivision. He thought his judgement is that people will be building relatively large homes up to and approaching the maximum, given the cost of the lots and amount of resources that it will take to develop them. He thought that they would want to get a nice sizeable home for that investment but that was speculation. He stated that it is difficult to compare a scale to this home as there are no others immediately surrounding it and they would have to speculate if they would be at the upper end or lower end of that range of 850 to 4,300 sq. feet.

Vice Chair Berman respected that they were not looking at development on the other lots, but she thought that, as this is the first development, it was something she wanted to wrap her head around with the understanding that future development might come before them in this area. She stated that the access road to this area is currently gated and she wondered if it was planned to continue to be gated after this home is constructed.

Dep. Planning Director Murdock stated that it is, adding that during the subdivision improvements in the extended period after their completion and prior to any construction and occupancy of the subdivision, temporary construction type gates were installed and it was also to discourage some vandalism and other illicit activities occurring in the unoccupied subdivision on the streets. He stated that, since then, the subdivision owner obtained city approval to construct permanent gates and they have been constructed and permitted and finally inspected. He stated that there are permanent gates with remote control access, etc., on Fassler Avenue and Roberts Road access points. He stated that the other access points more southerly off Roberts Road are not currently proposed for permanent gates and at least one has a temporary gate because the site is not in the process or near construction, and they would not remain permanent.

Vice Chair Berman referred to the collection services of Recology, etc., and asked if that will work similar to fire access, as will Recology have a Knox box key that they open the gate and drive up to the homes.

Dep. Planning Director Murdock stated that he didn't have an answer to that, mentioning that there are other communities in the Bay Area that have gates and they receive garbage service, and he believes there is an arrangement made between the association and the garbage servicing

company but he didn't know the specifics for Recology of the Coast at this time, adding that Mr. Chavarria may.

Mr. Chavarria stated that, when the gates were being proposed, they had to contact waste management to ensure that the location of the gates and week of the access was in compliance with their trucks. He stated that it obviously complies with the fire truck width, but waste management have their own requirements. He stated that there will be an agreement with the homeowners' association and waste management for providing access whether a key or with a code.

Vice Chair Berman referred to the development guidelines, and she imagined that something like that would be an aspect of the development guidelines, but she didn't see any information on it. She would think about it for a little bit.

Commissioner Godwin stated that he knows the RHNA people are encouraging them to zone for ADU units, and he asked if ADUs would be permitted in this development and, if so, would they be limited to 850 sq. feet or larger.

Dep. Planning Director Murdock stated that ADUs could be constructed in the Harmony @ 1 subdivision, and if they carefully reviewed the Harmony @ 1 approval materials, the approvals originally included a prohibition on ADUs but since then state law has changed and prohibits CC&Rs from including prohibitions on ADUs and the city must allow them with very specific findings which would not be applicable in this case. He stated, regarding the maximum floor area, that depends where on the site an ADU would be proposed, and it was difficult for him to say anything other than the maximum floor area would be as provided in the municipal code.

Commissioner Godwin stated that he meant minimum size for ADU.

Dep. Planning Director Murdock stated that the minimum would be the minimum provided in the municipal code which is 150 sq. feet provided it meets the requirements of an efficiency unit and they can be very small. He stated that the challenge for this site would be to find a place that in an allowable location that would not result in other adverse impacts. He was certain it could be designed. He then referred to a comment he made earlier with respect to the door enclosure on the garbage room, he stated that it was the understanding after specific discussions that occurred between city staff and the applicant on that point, and he noted that through different versions that they have exchanged, the plans have been modified. He stated that the particular open gated door enclosure is not on that garbage room in the floor plan attached to the staff report. He stated that the fixture style is shown as a D38 which is a bifold door, and if the Commission does take action to approve this project, he would suggest that they add a condition of approval ensuring that the intended open gate type door is installed so that it is an unenclosed area as the design was intended to be and it would ensure that it does not meet the definition of enclosed for purposes of floor area and to keep the project below the limitation. He suggested that it have a minimum requirement to meet the definition of open work which is in their fence regulations which he thought was a 60% maximum solid surface area.

Vice Chair Berman stated that she had a question in regard to the gates along Fassler and Roberts Road. She asked if the open space associated with the subdivision was intended to be privately owned publicly accessible or just area that can't be developed on just for visual reasons.

Dep. Planning Director Murdock stated that he was not prepared to address the original subdivision open space restrictions although he is not aware of any public access component and in what he recalled reviewing it was limited to private use by occupants of the subdivision, adding that Mr. Chavarria indicates he has additional information.

Mr. Chavarria stated that there were two different types of open space in the subdivision. He stated that the big parcel in the center designated as Lot A is a wholly dedicated conservation easement and a land management company handles that. He stated that, during the negotiations with the land management company, for them to take control of the parcel, they would not agree to do it if it had public access because of liability issues as to who would be responsible if the public came in and made trails. At that point, the subdivision owners stepped aside and let the land management company handle that and there will be no public access to that. He stated that two parcels on the northern end of the road, Parcels 1 and 2, are open space easements and will be maintained by the homeowners' association.

Vice Chair Berman asked if she is correct that it sounded like those two parcels don't necessarily welcome public access.

Mr. Chavarria stated that if it was the land between Fassler and the road itself, it is heavily vegetated and right above the pond and there was not a lot of opportunity for hiking there.

Vice Chair Berman understood and could visualize what he was referring to. She stated that, while it is probably not related to this project, her biggest concern was that those roads would be gated, and she wanted to be sure they weren't unjustly excluding people from an area. She then stated that, if there are no other questions, she would be happy to entertain a motion.

Vice Chair Berman moved that the Planning Commission CONSIDER the Addendum with the Harmony @ 1 Roberts road Subdivision Final EIR certified by the Planning Commission on October 15, 2007, and by the City Council on November 13, 2007, and ADOPT the Addendum to the Harmony @ 1 Roberts Road Subdivision Final EIR; APROVE Specific Plan SP-164-17 by adopting the resolution included as Attachment A to the staff report including conditions of approval in Exhibit A of the resolution which incorporates the COA that Dep. Planning Director Murdock mentioned regarding the garbage non-enclosure/enclosure area and amending to show Mr. Chavarria as the agent of the applicant.

Dep. Planning Director Murdock explained that Mr. Chavarria's change as applicant is not required as an amendment and he will work with staff to make that paperwork change.

Vice Chair Berman stated she would eliminate that proposed amendment and then continued the resolution to INCORPORATE all maps and testimony into the record by reference; Commissioner Godwin seconded the motion.

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **5-1**.

Ayes: Commissioners Domurat, Godwin, Hauser, Leal  
and Vice Chair Berman  
Noes: Commissioner Ferguson

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Mr. Khosravi thanked the Commissioners, and also thanked Dep. Planning Director Murdock for everything he has done.

Mr. Chavarria also thanked the Commissioners.

Vice 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.



**CONSIDERATION:**

None

**COMMISSION COMMUNICATIONS:**

Commissioner Hauser welcomed their new commissioner and looked forward to working with him.

Commissioner Domurat thanked her, and stated he looked forward to working with all of them, adding that, with his 45 years of working on the coastal environment, he hoped he would be helpful in looking at their challenges in the coastal zone.

**STAFF COMMUNICATIONS:**

Dep. Planning Director Murdock had nothing but just reiterated that the Council will be studying the text amendment for the special use permit regulations on April 12.

**ADJOURNMENT:**

There being no further business for discussion, Commissioner Ferguson moved to adjourn the meeting at 8:37 p.m.; Commissioner Hauser seconded the motion.

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

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

Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director Wehrmeister