

MINUTES

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

June 7, 2021

7:00 p.m.

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

Chair Nibbelin 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. He also gave information on how to present public comments participating by Zoom or phone.

Dep. Planning Director Murdock took a verbal roll call.

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

SALUTE TO FLAG: Led by Commissioner Domurat

STAFF PRESENT: Dep. Planning Director Murdock
Asst. City Attorney Sharma
Contract Planner Saxena

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

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **5-0**.

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

APPROVAL OF MINUTES: MAY 17, 2021 Commissioner Godwin moved approval of the minutes of May 17, 2021; Vice Chair Berman seconded the motion.

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **5-0**.

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

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING: None

Chair Nibbelin stated that they had anticipated the possibility of an appeal, but thinks he saw some email along those lines.

Dep. Planning Director Murdock stated that they sought a liaison for the June 14 City Council meeting for a hearing on two appeals for Lot 3 Harmony at One single family residential project, and the applicant and all appellants involved contacted the city and asked that they continued that date to a date to be determined as their discussions were ongoing. He stated that they don't have a date at this time, but they will follow up to seek a liaison when a hearing date is set.

Chair Nibbelin referred to mention of two appeals, and he asked if both went away.

Dep. Planning Director Murdock stated that it was a single project with two appeals.

ORAL COMMUNICATIONS:

None

CONSENT ITEMS:

None

PUBLIC HEARINGS:

- 1. CDP-427-21** **File No. 2021-006 – Coastal Development Permit CDP-427-21,** filed by Kathleen and Minden Beach, to construct a 118-square foot (sf) first-story addition and 804-sf new second-story addition to an existing one-story, 1,168-sf single-family dwelling on a 7,500-sf parcel located at 1515 Grand Avenue (APN 023-024-290). Recommended CEQA Action: Class 1 Categorical Exemption, CEQA Guidelines Section 15301.

Contract Planner Saxena presented the staff report.

Chair Nibbelin referred to a specific request by a commenter which pointed out that the condition requiring some of the drainage improvements as described in the staff report was linked to the extension of the retaining wall and the request of the commenter was that the condition remain even if the retaining wall is not extended. He asked if staff had any response to that comment.

Dep. Planning Director Murdock stated that, as they learned about the issue from the commenter who is a property owner adjacent to the project site, the circumstances were such that staff identified within the location that it would have a relationship to the retaining wall extension and they viewed that as a reasonable nexus between the proposed project and the impact to be addressed. He stated that it was possible that other city development policies and the Local Coastal program with a zoning code or other city policies might provide a basis to regulate and mitigate the drainage concerns as they exist, but they haven't evaluated that yet and they would need to understand more about the circumstances. He stated that knowledge of the drainage condition is limited other than that they have observed it crossing the project site and entering adjacent properties, including the commenter's property.

Chair Nibbelin asked of Contract Planner Saxena had anything to add.

Contract Planner Saxena stated that she didn't have anything to add.

Chair Nibbelin stated that there was a nexus as long as the retaining wall extension happens, and it was questionable whether there would be a nexus or a basis if the extension to the retaining wall did not occur, and he thought it was something that would have to be considered at a later point.

Dep. Planning Director Murdock stated that he would generally agree, but he would substitute questionable with unknown because they haven't evaluated the circumstances that might justify some modification of the existing drainage condition if it were not for the retaining wall extension that is currently proposed.

Commissioner Domurat stated that he drove by the property. He stated that there seemed to be a parcel behind the applicant's area where there is currently a fence. He stated that it was not a retaining wall because it is a freestanding wall and they are not retaining any soil. He referred to the property on the other side of where they want to build that wall, and he asked if it was part of the applicant's property.

Dep. Planning Director Murdock thought they can ask the applicant to describe why it is termed a retaining wall on the project plans. He thought there was a slope dropping in a couple of different directions at the site that might be retaining at least some small amount and wasn't immediately evident. He stated that, regarding the property to the rear or east of the proposed retaining wall and existing wall there, it is not a part of the applicant's property to his knowledge but part of the 420 Athenian Way parcel.

Commissioner Domurat stated that he would consider that, if looking at Google Earth and if you are on site, most of the water that is going to affect any of the lower properties is not coming from where the applicant's property is, stating that their footprint of the roof area is not changing and entrapment of water would be the same for either one. He stated that, if they say the drains from the roof coming through the gutters and rain pipe just drops above those properties, that is a different situation. He thought the rain gutter would go away from the area and that is not changing. He stated that the geology of that area is extremely steep with an empty basin just immediately further east and he didn't believe that building a french drain near that wall will do anything to prevent more water from going down to the lower areas, explaining that the whole slope which dumps onto the property which is not part of the applicant's ownership is the area that they need to address.

Dep. Planning Director Murdock agreed that the drainage problem with the information that staff has is broader than the 1515 Grand Avenue project site and the points he made explain well the reason staff identified a nexus between the retaining wall extension and potential impacts downslope from the storm water drainage, and not necessarily from a source standpoint but from a consideration that it could potentially redirect the water that is coming from other properties across the project site. They thought, by building some sort of solid obstruction like a retaining wall, it could modify that condition. He stated that they don't have information to indicate that it is the primary source or even a dominant source of that water.

Brian Brinkman, applicant, stated that the property owners were going to start and he will take it from there.

Minden Beach, owner, stated that she and Kathleen Beach live at 1515 Grand and have been there for 11 years. She stated that they have 8 1/2-year-old twin boys who attend Cabrillo School. She stated that they have been thinking about the project for many years and are working with Mr. Brinkman and they were excited about being able to expand their home to accommodate their growing family and better work from home options and being able to walk to the beach and walking their sons to school.

Mr. Brinkman stated that he is the designer and they have been working on the project for some time, trying to keep in mind the impacts to the neighbors, and they have played around with the location of the addition. They feel that what they have proposed gives them the room they are looking for with very minimal impacts to the views that saves the uphill neighbors prominent views and doesn't create any more footprint to the existing home. He felt the staff report was clear and concise. He referred to the drainage issue, and asked if he could share his screen with Google Earth as it might be beneficial to help clarify that for everyone.

Dep. Planning Director Murdock stated that he enabled it.

Mr. Brinkman stated that Kathleen and Minden Beach have been in discussions with the uphill neighbor and he mentioned that, when he bought the home in 1985, there was a natural spring that originates somewhere uphill from his home and he was receiving a lot of water on his property. He has done some improvements to help mitigate that and he has more plans for the future. He stated that, in the last few years, it seems to have reduced because of the less rainfall, but water comes across the property line and they have a retaining wall and under heavy storm events, water will come down the hillside and go across the corner of their patio area and the purpose of the retaining wall is to retain any dirt or mud that gets pushed down and collect any water and divert it so it doesn't push more water and dirt to the neighbor below. He stated that the only thing they wanted to add to the conditions of Approval No. 11 which refers to the drainage is to allow them to create a retention pit on site for the water they collect from the retaining wall. He stated that there isn't a slope to get it out to Grand Avenue and would require a pump system and a bit of work. They feel the amount of water they collect isn't a significant amount of water that couldn't be retained on site. He stated that they have about 15 feet of property and plenty of room to do a retention system. He stated that they plan to hire a civil engineer to properly design it. He stated that they have had discussions with Dep. Planning Dir. Murdock to come up with language for modifying that condition of approval. He didn't know if he should read what they discussed now or later.

Chair Nibbelin stated that he can feel free to share if he cares to.

Mr. Brinkman stated that, for condition of approval No. 11, they wouldn't change anything until the last sentence where they will add "or to a new on site retention system designed by a registered professional civil engineer with the capacity to be determined by the city engineer and building official but not to exceed a 100-year storm event" and continue "to the satisfaction of the Planning Director and City Engineer". He stated that they will consult with the civil engineer to analyze if they can take the water out but they would prefer to have the language in there where they can retain it on site, given the potential slope issues that they have and the difficulty they could incur in trying to get the water out to the street. He concluded that they were grateful for the staff report.

Chair Nibbelin opened the Public Hearing.

Dep. Planning Director Murdock introduced the speaker.

Dina Micheletti, Pacifica, stated that she is the co-owner of 416 Athenian. She thanked them for taking into consideration the water issues that they wrote to staff about. She stated that it sounds like they will be addressed which she thought was great. She wasn't sure what some of the comments in the staff report about what naturally uncontrolled surface water means. She stated that, if it means it is naturally occurring, it is not. She stated that there are water redirection efforts being taken from 1525 Grand and at 1515 Grand, and the collective excess of that is the water runs off of those two properties and then onto theirs. She stated that they can see the erosion taking place currently. If there are plans to redirect the water so that it is not flowing onto their property and is being collected or diverted to the street, they appreciate that. She referred to the privacy issue, stating that she understood that the homeowners have worked with the uphill neighbors which she thought was great, but the net effect is that there doesn't seem to be any effort to minimize the privacy impact on her house. She thought she made it clear in her letter that they were not objecting to the additions which she thought were great, but they are talking about putting up an addition that is going to have two giant oversize windows literally aimed at

their master bedroom, and they were asking for some consideration given to their privacy, whether it be realigning the building on the second story or minimizing the size of the windows or landscaping so that they don't have to feel that every area of their house is being observed by a house that is just a few feet from theirs. She understood that their conclusion was that there was no privacy impact because other houses look down the hill at theirs, but if they drive into the area and observe, they can see that the other houses are much further back and she has never felt that they were staring directly at them, but this house is so close that the kids' ball could come over the fence. She stated that it is a different thing when you are talking about a house that you can almost touch versus one that is two blocks away looking down at them. She stated that they want to take exception with the conclusion that there is no privacy impact as there is. She thought she has stated everything that was in her letter. She urged a landscaping plan that controls the weeds as in the pictures they are several feet high and present a fire hazard which is a Coastal Policy No. 26(a) consideration and is an ongoing issue that puts things in their yard that are not there when the weeds are gone.

Chair Nibbelin closed the Public Hearing.

Vice Chair Berman referred to Mr. Brinkman, stating that he mentioned considering the option of installing retention basins. She asked what type of retention device, i.e., underground or above ground retention areas.

Mr. Brinkman stated that they need to consult with a civil engineer but he thought it would be an inground retention system that would allow them to permeate back into the ground.

Vice Chair Berman stated that she asked knowing that the area to which he is referring on the sloped portion of the property, as if there was a surface retention facility, she thought retaining walls would be necessary because it was a sloped segment and she would ask if the city staff would need to Planning Commission to review that as it would be a new wall. She understood the request to have the flexibility of an onsite underground retention device, as on looking at the elevation, the house is lower than the adjacent road. She supports that as there was no item that would be necessary to support that device that might have to come back to the Commission for review. She referred to Condition of Approval No. 22, and stated that there were quite a long list of items and they usually see in the planning package things like the existing easement, topographic contacts, and she asked staff if that was something they should be reviewing currently.

Dep. Planning Director Murdock thought, regarding this condition, this is detailed information that the Engineering Division of the Public Works Department asks for when reviewing specific precise site improvements. He thought where the Commission might be more accustomed to seeing this come before the Commission as part of the staff report and project plans as part of the staff report is for projects involving tentative subdivision maps which are required to include that information in the plan sheets. He stated that, for an addition to a single-family residence within an existing subdivision, that is not typically information that they require to come before the Planning Commission to form a decision.

Commissioner Domurat stated that he is still a little challenged with all of those properties in that area being in a geological flooding area. He stated that, if you look from the mountaintop down, that is a valley and water flows. A lot of the new construction would have required drainage around each one so they do their best. He guessed, in a civil engineering report, he would like to

see what percentage of flow is coming from what areas and to him, the flow coming from the applicant's property is minimal to none, and it is really coming from the adjacent property affecting the applicant's property. He didn't think it made sense that they have one applicant have to pay for the entire thing and maybe there is a discussion that has to happen between the local property owners to address this cumulatively and get a solution. He stated that those lower homes may be willing, and there may be a french drain and a piping that can go down the slope and not across the slope as Mr. Brinkman said. He stated that on looking at that, it was almost impossible to get those flows coming across. He didn't think an entrapment basin makes a lot of sense in that area. He thought there was a cumulative discussion that can happen with all of those owners and say that they cumulatively solve that problem. He stated that Mr. Brinkman's presentation of the Google Earth is a perfect depiction. He stated that, if you go there now, it is all vegetated and maybe there is a slowing down of the flow. He stated that, in the photo when the field area was emptying, you can see the wetness and where it is all coming from. He was hoping that they can get together and come up with a combined solution, rather than having the one applicant have to solve the problem.

Commissioner Godwin supported Commissioner Domurat's position. He thought it was a community problem more than an individual homeowner problem. He asked Mr. Brinkman if he has explored that possibility of some sort of multi-site french drain or an approach to handle the water that maybe his customers would have some participation in but not 100% responsible for it.

Mr. Brinkman stated that the reason they were putting in the retaining wall was to help alleviate the issues that they have as well that they are incurring from water coming down from other sites onto theirs. He didn't think condition of approval No. 11 was intended for them to resolve the issue of all the water coming down the hill, but to make sure that they weren't redirecting it somewhere else. He stated that they are proposing that the drainage that they collect from the retaining wall to be able to retain it on site with some sort of retention system. He stated that it doesn't resolve the majority of the water that comes down the hill. He stated that they have been in discussion for years, primarily with the uphill neighbor and it was worse at one point and he has made modifications that helped retain some of the water on site. He stated that, as the issue got brought up recently, they have been in contact again, and he indicated how he plans to collect it and use it for landscape watering for his property. He stated that it is an ongoing discussion and this project is helping fuel that discussion again. He stated that the applicants have brought it up with the uphill neighbor in trying to resolve it in the past and it is helping them to get more in place to help remedy the issue.

Vice Chair Berman stated that she gives her full support to the idea of more of a comprehensive and community solution for the neighborhood, and throughout the Pedro Point neighborhood, they have heard that there are drainage issues. She stated that, given the project at hand and understanding that they don't want to burden the applicant with a larger project than what is really necessary for their parcel. She thinks the solution that is presented to them is acceptable to her. She stated that it would be another story if they got some master plan in the neighborhood from the beginning. She thought they can consider some of these thoughts as they work toward the Local Coastal Land Use Plan and the city's General Plan. She understands that you can't require the neighbors to joint in on the development related to the property and she thinks the proposal in front of them is acceptable to her.

Chair Nibbelin was in support of Vice Char Berman's position and he understands where Commissioners Domurat and Godwin are coming from and it makes a lot of sense. He stated

that, in the interest of approving the report on the project before them at this time, he thought the proposal as modified by Mr. Brinkman with respect to additional avenues is something he supports.

Commissioner Domurat stated that the other thing that kind of troubled him is the statement on the privacy issue. He stated that the applicant's home is a much older home and those windows that are there now existed before those lower homes were constructed, but if you consider optics, the maximum view in the home would be two windows completely opposed from each other. He stated that, as you go up the hill with the window and looking down the line of sight, the view through the window gets less and the higher you go, the less you see in. He stated that one of the homes, which you can see if you drive by the area, have over the windows kind of a roofing portion, but there is an overhand over the windows and the higher the building goes, the lesser the view into the homes would be.

Chair Nibbelin stated that, is seeing no further comments, he thought a motion would be in order is someone were inclined.

Dep. Planning Director Murdock stated that, before they get to the motion, he asked that he be allowed to read the condition of approval as modified by Mr. Brinkman's request so the maker of the motion might consider incorporating that or not. He stated that it would result in a modification to Condition of Approval No. 11 in Exhibit A of Attachment A.

Chair Nibbelin asked if he can read the whole condition.

Dep. Planning Director Murdock stated that was his intention. He stated that, as modified, the condition would read as follows: In order to prevent adverse impacts to adjacent properties from modified stormwater run off patterns caused by construction of the retaining wall extension along the rear property line, applicant's retaining wall extension shall include a mechanism to intercept stormwater runoff entering across the rear property line at the project site and to convey the storm water to the front (west of the project site for release within the existing city storm water infrastructure along Grand Avenue or to a new onset retention system designed by a registered professional civil engineer with the capacity to be determined by the city engineer and building official but not to exceed a 100-storm event to the satisfaction of the Planning Director and city engineer.

Chair Nibbelin clarified for the record, either one of those two options would be to the satisfaction of the city engineer.

Dep. Planning Director Murdock responded affirmatively.

Chair Nibbelin stated that would be the modification to Condition No. 11, and he asked if there was a motion.

Vice Chair Berman moved that the Planning Commission FINDS the Project is exempt from the California Environmental Quality Act; APPROVES Coastal Development Permit CDP-427-21 by adopting the attached resolution, including conditions of approval in Exhibit A, including the revised condition No. 11 as mentioned previously; and INCORPORATES all maps and testimony into the record by reference; Commissioner Leal seconded the motion.

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Dep. Planning Director Murdock took a verbal roll call.

The motion carried **5-0**.

Ayes: Commissioners Domurat, Godwin, Leal, Vice Chair
Berman and Chair Nibbelin

Noes: None

Chair Nibbelin 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:

None.

STAFF COMMUNICATIONS:

Dep. Planning Director Murdock stated that there is nothing in addition to the earlier announcement earlier about the cancellation of the June 14 appeals for Lot 3 of Harmony @ One project to a date to be determined.

Chair Nibbelin asked if the annual report to City Council happening on that same date of June 14.

Dep. Planning Director Murdock stated that it is on that schedule at this point in time.

Chair Nibbelin stated that he was going to do that, and he was trying to recall if any colleagues were on the hook to do that.

Dep. Planning Director Murdock recalled that Commissioner Domurat indicated that he might be traveling but would try to joint in at least to listen and Commissioner Hauser also identified herself as a second attendee for that annual report presentation.

Chair Nibbelin stated that they may get together offline to make sure they are coordinated with respect to who is to say what and when.

ADJOURNMENT:

There being no further business for discussion, Commissioner Domurat moved to adjourn the meeting at 7:44 p.m.; Commissioner Godwin seconded the motion.

Dep. Planning Director Murdock took a verbal roll call.

The motion carried **5-0**.

Ayes: Commissioners Domurat, Godwin, Leal, Vice Chair
Berman and Chair Nibbelin.

Noes: None

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister