

MINUTES

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

September 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, dated June 17, 2020, 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.

Planning Director Wehrmeister took a verbal roll call.

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

SALUTE TO FLAG: Led by Commissioner Ferguson

STAFF PRESENT: Asst. City Mgr./Planning Director Wehrmeister
Contract Planner Aaron Aknin
Contract Planner Jacob Garcia
Asst. City Attorney Bazzano

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

Planning Director Wehrmeister took a verbal roll call.

The motion carried **6-0**.

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

APPROVAL OF MINUTES: AUGUST 2, 2021 Commissioner Godwin moved approval of the minutes of August 2, 2021; Commissioner Hauser seconded the motion.

Planning Director Wehrmeister took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Domurat, Ferguson, Godwin, Hauser, Leal and Chair Nibbelin

Noes: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF SEPTEMBER 13, 2021:

Chair Nibbelin asked if it he was correct that they don't need a liaison.

Planning Director Wehrmeister responded affirmatively.

ORAL COMMUNICATIONS:

Planning Director Wehrmeister introduced the speaker, mentioning how she will let them know when their time is up.

Chair Nibbelin asked her if she can let them know when they have 30 seconds left.

Planning Director Wehrmeister confirmed that she would.

Christine Boles, Pacifica, stated that she is an architect who lives in the Manor District. She asked them to watch the recording the August 9 City Council hearing for the Harmony One Lot 3 appeal. She stated that she, Dinah Verby, Summer Lee and Richard Campbell were the appellants. She stated that Mr. Campbell was on the Commission when the subdivision was approved in 2007 and he recalled the hearings were standing room only with a lot of public interest because of their concerns regarding the HPD and different from other cities. He mentioned some of the discrepancies in following the procedures. She explained how they worked with the owners to simplify the process for staff and Council and they hoped they do a more thorough job reviewing future projects in the subdivision to avoid future appeals regarding compliance with laws. She referred to a future Talbot project on the September 20 agenda, thanking the Commission for asking for more public meetings with Planning Dept., City Council to better understand the nuances of the HPD ordinances. She asked if there has been any progress in setting up that meeting. She stated that she filed a public document request for all the past projects that applied for HPD variances to better understand when the variances were considered and approved or denied in the past, but the city was behind and not in compliance with state law in providing other documents as a citizen requests and was not confident that she will get the documents before the hearing. She hoped that one of them may have time to look into the issue. She stated that the current Linda Mar West application is also asking for waivers or variances to HPD and it is time critical that they understand what criteria can be used to consider a variance.

CONSENT ITEMS:

None.

PUBLIC HEARINGS:

DP-83-21

File No. 2021-003 – Development Plan DP-83-21, filed by Property owner GRI Fairmont LLC, for approval of a master use list in accordance with the provisions for the P-D (Planned Development) zoning district for the existing Fairmont Shopping Center located at the intersection of Hickey Boulevard and Gateway Drive, and known by several addresses including 707-799 Hickey Blvd. and 200-250 Fairmont Shopping Center (APNs 009-440-070, 009-440-080, 009-440-090, 009-440-110 and 009-440-120) in Pacifica.
Recommended CEQA Action: Class 1 Categorical Exemption, CEQA Guidelines Section 15301.

Planning Director Wehrmeister stated that she wanted to welcome consultants from Good City Company who are attending the first Commission meeting, Aaron Aknin, and Jacob Garcia. They will present the staff report.

Jacob Garcia, Contract Planner, presented the staff report.

Commissioner Leal stated that, under the conditional uses, No. 13 was left blank, and he asked if it was intentional or should there be a condition 13 under the further uses.

Chair Nibbelin asked if that was just an extra number left on the list.

Mr. Garcia thought it was a clerical error.

Aaron Aknin, Contract Planner, stated that it was inadvertently left blank.

Commissioner Godwin stated that his concern was regarding the renewable energy structures standards that seem overly broad to him. He stated that there was a lot of battery chemistry currently being researched and companies reporting putting \$10 billion or more into this kind of thing and a lot of different technologies could become available during the life of this item. He added that the voltages in the drive trains are going up so the charging stations have to be much more powerful than even Tesla superchargers that are widely available today. He thought it would make sense, if they are looking at approving this, that they set some limits on the size of the chargers and the type of technologies that are involved. He didn't have any issue with photovoltaic panels or current electrical vehicle chargers that we understand.

Chair Nibbelin thought they may need some clarification from Mr. Garcia with respect to what they are talking about with respect to the renewable energy uses described before.

Mr. Aknin stated that he can respond and Mr. Garcia can feel free to add on. He thought staff and consultant team were thinking of more traditional renewable energy sources, i.e., charging stations and solar panels. He agreed that they can't contemplate everything that will be developed in the future, but everything will have to through the typical building permit process. If it is not allowed by the California Building Code, then it would not be allowed on site and there are safety precautions within the building code to make sure it is safe for people to use and they

would be open to the Planning Commission if there are no limits that they could place on this. He couldn't think of any at this time.

Commissioner Hauser stated one question was brought to her mind by comments they received, and she wanted to understand from staff. She stated that the firearm sales was included because it was a use currently allowed under C-2 and the other Pacifica shopping centers have it as a permitted use.

Mr. Aknin understood that it was a use that is current, but this is consistent with the C-2 type requirements. He was unaware whether there are currently gun shops and ammunition shops in other centers, but that is something they can look into. He stated that what they tried to do is mirror what is in the C-2 zoning district as that has historically been applied to the center

Planning Director Wehrmeister clarified that it was consistent with C-2 and is in there as a conditional use not a permitted use. She stated that, like in other C-2 shopping center, they would need to get a use permit and they could not locate there with a business license.

Commissioner Hauser asked if she could explain the use permit process a little bit better.

Planning Director Wehrmeister stated that the use permit process is a discretionary review process that would require a Planning Commission review and public noticing, similar to the noticing required for this item and there would be due process and community engagement.

Commissioner Hauser referred to the traffic study and asked if that contemplated the conditional uses that were listed as well or did that happen later with that conditional discretionary entitlement.

Mr. Aknin stated that the traffic study did take into consideration the likely mix of uses that could occur and includes a certain amount of conditional uses. Also, every time you go through a discretionary type permit, you go through a CEQA process and if it was something that the city contemplated would generate a lot of traffic, you could require that the applicant do a traffic study at that time as well as it is a discretionary process.

Commissioner Hauser asked if he knows what type of residential use is contemplated in the current traffic study. She appreciated his remarks on the future CEQA process.

Mr. Aknin stated that it might be a question for the applicant team, as they were more involved in the details of that. He thought they more likely contemplated the commercial conditional uses rather than the residential uses as, if they did propose any residential on site, they were certainly going to do a traffic study along with that.

Chair Nibbelin noted that vehicle and boat sales were among the identified uses and he didn't think those were conditional and basically permitted uses. He wondered if C-2 contemplates these kinds of sales. He thought they are a little bit different and could have potential impacts.

Planning Director Wehrmeister stated that C-2 does include vehicle and boat sales as a conditional use and she guesses that part of that is that typically where they would show room is outdoors in the parking area which is why they clarify that, if there were to be that type of business in the center, it would need to be indoors. She thought that was part of the desire make

this more contemporary master uses as they are starting to see some of those a little more frequently in shopping centers where there is indoor vehicle sales or a small showroom.

Chair Nibbelin stated that he saw the Tesla indoor showroom at Stanford, and he was curious as to whether there are test driving that typically take place even when they are all indoors. He was a little concerned about those.

Planning Director Wehrmeister thought that was a good question, and she hoped that the applicant can answer that.

Chair Nibbelin stated that they will hear from the applicant now.

Planning Director Wehrmeister was ready, stating that she needed to know who is representing the applicant for the presentation.

Mr. Garcia stated that Greg Zike will be doing the presentation and the applicant will also consist of Brandon Northhart and Curtis Banks. He stated that they can identify anyone else on the applicant team who needs to be appointed.

Chair Nibbelin asked Mr. Zike if he intended to use all ten minutes or would they like to hear when they have two minutes left.

Greg Zike, applicant, stated that Mr. Garcia did a fabulous job of laying out the development plans and thought it will be a quick run through with just a couple of comments or respond to the four questions and then there will be time at the end. He stated that they purchased the Fairmont Shopping Center in 2019 and were excited to be part of the community. He stated that the lack of a development plan was identified during due diligence for their purchase and the last 18 months slowed them down. He appreciated them working together on putting the schedule back as originally planned. He went through some slides that touched on the same things as staff's presentation. They are at a 93% occupancy rate and provide about 220 jobs to the community with Safeway and Rite-Aid as the anchor tenants. He stated that using C-2 zoning has raised challenges for prospective tenants. He referred to Commissioner Hauser mentioning what that process looks like, and they had a youth educational and dance location that was looking to be there but it was a single proprietor and the process was too broad, lengthy and expensive for her to take on, and she ended up going somewhere else. He stated that is why they want to do this and are requesting the list of uses so local professionals can do things and have the landlord take some of the responsibility on getting the uses permitted initially as opposed to be conditional. They want to provide flexibility for future market conditions, referring to Chair Nibbelin mentioning Tesla dealerships inside, stating that they don't do test drives out of those locations. He stated that they have some of those nationally and they have zero parking impacts above any retail due to the small number of people who purchase cars. He wasn't sure boats would ever be sold inside but it came as a package with both vehicle and boat sales interior. He stated that their goal was to increase the occupancy and keeping the center vibrant and store fronts full. He stated that, with uses already part of the C-2 approved list, and they want to shift a few over to the permitted side. He mentioned that there was no grading, no construction, no modification of the number of spaces, with continued use of the existing sign program, and a lot of these things would normally be part of the development plan and they will all stay the same. He referred to Commissioner Hauser's comments, stating that they didn't address residential as it was a conditional item. It came up in the open comment, but it was already part of C-2 and they kept it

on the list but didn't envision it or account for traffic or parking related to those uses. He referred to placing square footage restrictions on most intensive uses, and they did a lot of math and talked to experts, etc., and tried to picture the right mix of what the tenants look like moving forward with the understanding that they want people to come into the center and find a parking spot easily. They want to make it a vibrant center and one that people can come to and find a parking spot. He stated that it permits auto services in building where one currently exists. He thought they were switching from a non-conforming to permitted use but only in a single building and they added some location requirements for certain uses, such as in the back at Hickey, where there is an office space and storage and there may be a future possibility for that with low traffic use. They studied several land use scenarios, and were comfortable. They were available to answer any questions.

Chair Nibbelin opened the Public Hearing.

Planning Director Wehrmeister introduced the speakers.

Vicki Sundstrom, Pacifica, stated that she is a traffic and transportation professional and has been reviewing the plans. She was pretty excited to hear about possible changes coming up to where she does all her shopping. She has driven by that center every day for 20 years and she understood the transportation report. She stated that the traffic study by Kittleson does not include a number of elements required for such a report. She stated that the existing trip data collection methodology was not provided. She stated that it mentions baseline data or existing data but it was not clear where that came from and there are no traffic counts provided to substantiate that information. She stated that the parking utilization data collection method was not provided, and traffic and conditions around the center have changed considerably since 1960s and numerous traffic issues exist around the access/egress of the facility which is seen daily. She stated that some data collection was done during the school break and the data would not be correct. She stated that the report didn't include existing traffic conditions, and they were not talking about what is on site but the roadways along the strip mall. She mentioned several other data, such as traffic count, were not provided or evaluated. She stated that any addition to traffic will impact everything on the roadway and they are already seeing issues today, and whatever they are adding is going to add to an area that already has a problem. She stated that the required VMT analysis, street queuing backup and impact of traffic backups on Highway 35 was not addressed, adding that intersections at Gateway and Hickey and Highway 35 and Hickey would have to be addressed in the analysis.

Dan Stegink, Pacifica, stated that in the early 1960s, there was a live monkey cage in the parking lot that was visible on some photos. It appears all the shopping center master plans and master use lists disappeared sometime in the summer of 2013. He stated that they are all still available, some with the County, some on the parcels themselves through the title company, and he urged the Commissioners to make any decisions contingent on the presentation of the actual most recent recorded master use list or plan by any appellant within the 10-day period. He referred to the property owner First Washington being based in Bethesda, Maryland, home town of the Pentagon and he wouldn't be surprised about their different beliefs about what guns are appropriate in shopping centers servicing dense neighborhoods on all three sides of the center, with the fourth side being the highway. He mentioned a gun store in California that was rammed by a car, and the driver brought ammunition and began shooting the shotguns inside the building and they may ask why that might be relevant to Pacifica. He stated it was because the responding sergeant was Dan Steidle who is now Chief Steidle and that gun shop was in Pacifica in 2005. He stated that

there is a history of things going awry. He suggests gun sales not be allowed at this location. He mentioned any vehicle sales by California law require two separate delineated display spots for any licensed dealers. He stated that, during the 2018 presentation for I Love Kickboxing, he thought this property was presented as C-1. He then referred to the parking use study, stating that anyone using Google Earth can count numbers higher than 245 spaces in seven different photos presented in that parking lot. He hoped that the Covid pandemic will not be representative of the usage of the parking lot facility. He stated that Hickey is always packed on both sides. He also suggested that the Alcohol Beverage Control is saturated by the state for both the census tracts of this property location.

Planning Director Wehrmeister stated that there were no more hands raised.

Chair Nibbelin stated applicant had two minutes to respond.

Mr. Zike stated that, related to the firearm sales already in C-2, they were going to leave it on the conditional permitting side and, if a request comes in for that and they feel comfortable with it from a merchandise standpoint, they will go through the appropriate process, but he wasn't requesting that now. He referred to the comments on traffic, stating that he would defer to their local team, Mr. Banks or Mr. Northhart, and he asked that they address quickly. He understood that they provided what was required to be provided.

Curtis Banks, Urban Planning Partners, stated that they were not asked to provide a thorough range of traffic analysis and the request was to look at the proposed uses and its impact on the amount of traffic or cars coming to and from the center, which is what they provided. He stated that it was done before Covid and has been underway for quite some time. He stated that there was a pause during Covid, but they have looked at the worst case scenarios from that standpoint. He stated that the information was provided, parking looked at over a period of time during the day, and they have the worst case scenarios before them.

Commissioner Hauser stated that it might be a technical issue, but when staff mentioned that there were no more hands, she saw hands from the public go up, and she wanted to be sure they don't have any issue with missing members of the public who wish to speak.

Chair Nibbelin stated that he didn't notice that, and he suggested they step back. He did see a hand a moment ago.

Planning Director Wehrmeister that Ms. Duran is a member of the public and she was trying to promote a consultant and she thinks she promoted Ms. Duran. If she would like to speak, she can put her hand back up, and meanwhile she has "Gil" who is able to speak.

Chair Nibbelin stated that they can adjust for those who had their hands up late. He stated that "Gil" was having technical problems and he suggested that they come back to him.

Betty Duran, Pacifica, stated that she thought she wouldn't have the opportunity to speak. She was nervous about the proceedings, stating that she had great concerns about Item #5, the cannabis store and the firearm store, and parking is a great issue. She lives about two doors down from the shopping center. She stated that this is not her first time, and elements that may be conditioned sounds great, but when they get an element that's conditioned and the conditions aren't met, the community will have to live with it. She referred to the General Plan mentioning

preserving the unique quality of a neighborhoods, and she thought this will not preserve those unique qualities of this neighborhood. She referred to the land use development that shall protect and enhance the individual character of each neighborhood, and these two things, cannabis and gun store, as well as others, are not going to enhance the character of the neighborhood. She was deeply concerned and was exasperated by the fact that it is not just this coming to Planning Commission but others, and as a city, all we do is go on appeal. She asked if they can look at it and see what the community wants and what they do not want. She didn't understand it, but was concerned about the Firestone Store, stating that a section mentions eliminating it, but they don't say it in their permitted uses. She stated that this does not keep with the General Plan for the neighborhood and does not protect them. She stated that this is not what they want for their neighborhood.

Gil, Pacifica, stated that Betty Duran reiterated most of the things he was concerned about. He wasn't a high tech person, and he asked if the permit process would allow the shopping center to move in a new lessee without going through the Planning Commission.

Chair Nibbelin stated that they can't specifically answer on this, but maybe after comments, they can discuss issues brought up.

Gil stated that the public should have the option to bring a concern on any new lessee being added to the complex. The shopping center should afford the public a 90-day period of notice that they are going to add a new facility. He stated that bars, cannabis clubs, etc., would be challenged. He didn't think they need facilities that could attract criminal elements as there is enough crime there already. He stated that a massage parlor in previous years turned out to be a prostitution ring. He stated that they are located near a freeway and there has been a lot of crime committed where people can get on Skyline and take off to the freeway. He understands the business needs to make a profit, but certain types of businesses should not be in the neighborhood as they don't want it to turn into a sleazy strip mall. He apologized for the confusion.

Planning Director Wehrmeister introduced one more person.

Christine Boles, Pacifica, stated that she lives down the hill from this project, and she shops there regularly. She welcomed the new owner and thanked them for pursuing a proper plan development application so that everyone understands the allowed uses. She was happy to see housing as one of the potential uses above retail and she was disappointed that they are not looking at that now. She stated that, given Pacifica's lack of affordable housing, she encouraged them to consider these uses as we strive to meet our regional housing needs allocation numbers given to us. She stated that these large flat sites close to services and public transportation are ideal. She stated that more residents living just a few steps away will also increase foot traffic and sales to their merchants without adding to the neighborhood traffic, a win-win for everyone. She questioned the parking study. She asked if they can confirm the time of day when the data was obtained, only mentioning weekdays and weekends, but not the times. She would find it interesting to hear or see the survey if nearby neighbors agree and if things were different pre-Covid. She stated that, with Covid, she is limiting her shopping to once a week and is not normal for her. She is there mid-day or early evening and she can find a space, but does have to look around and has not seen a 30% empty lot except late at night when most stores are closed. She saw the plan with spaces along the rear parallel to Skyline, and asked if these were counted in the total numbers. She wasn't aware that those were available to the public. She was also curious regarding the outdoor seating they are looking to add to permitted uses and if it would reduce

available parking as the sidewalks seem to narrow to support dining and provide handicapped access and she was concerned about losing more parking. She understood there was no application for a cannabis store but she was hoping someone from the Planning Department can clarify the city's limits on retail cannabis. She stated that, per meetings she has attended, she thought there was a limit of six cannabis stores in the city and two per neighborhood such as Sharp Park, and asked for confirmation. She agreed with Dan Stegink's comments about not allowing gun sales in a residential neighborhood and checking the records. If available, it seems like a major oversight in Planning from 2013. She also agrees with Vicki Sundstrom as it sounds like the traffic study was not done thoroughly and properly and she requested that it be redone so they know they have accurate information.

Chair Nibbelin asked Mr. Zike if he wanted another minute to address issues raised.

Mr. Zike stated that the parking study was completed pre-Covid, February 2020, were done at noon, 4 pm and 6 pm, during the week and on weekends and per the traffic guidelines, they were the recommended times to take shopping center parking studies. He stated that, related to cannabis, marijuana and firearm sales, they are already in the C-2 as he understands it and are still conditional use permits, i.e., still a process to go there. They were not applying for those and they have almost 2,500 tenants and 105 shopping centers nationally and they do not have a single cannabis store or a firearms store.

Chair Nibbelin closed the Public Hearing.

Commissioner Hauser thanked staff for a clear and well-presented presentation. She thought the information was clear. She also thanked Mr. Zike's company for their investment in Pacifica. She stated that the prior property owner presented to the Economic Development Committee a couple of times and they have heard about some of the challenges with tenants leasing space and what they allowed for other spaces and she recognizes that, in addition to zoning, there are other challenges present at the shopping complex. She thought it was a great location and she shops there a lot. She stated that the traffic study was done by Kittelson which is a reputable firm. She didn't know if her subjective experience is helpful but she has never had a problem parking there when she patronizes the shopping center. She knows that it is a conditional use permit, but she also feels uncomfortable with the idea of even a conditional allowance for firearms as a Pacifica preschool is .3 miles away, Sunset Ridge and Fairmont West are less than a half mile away and they would be allowing child centers in the shopping center as a permitted use. She appreciated if that use would be disallowed from the shopping center which she thought would be appropriate in the context of the neighborhood. Other than that, she was supportive of the proposal. She appreciated the work Mr. Zike's team has done to bring things up to current standards.

Commissioner Leal referred to the property in the back at 305 Hickey, stating he remembered going there. He was sure it was a Comcast retail store and returned equipment there before they moved to Serramonte and he remembers parking there and it was open to the public. He agreed that a lot of people don't know about the parking and it looks like it was included in the overall count. He stated that the unique thing about this shopping center was that there is zero street parking available as it is red curb all the way around it or traffic lanes, and going forward, they have to look at parking on site, especially if there is ever residential. He asked if the existing businesses on-site meet the existing permitted uses. Based on his brief view of the conditional uses, it didn't seem like any fall into that category but he was not sure of every tenant on the site. He wanted to know if all the existing businesses meet the current permitted uses.

Mr. Garcia stated that all uses are compliant with the exception of the Advance America Alternative Finance Service located at 765 Hickey Boulevard.

Commissioner Leal asked about the distinction between bars and nightclubs. He stated that some may see them as the same, one is under permitted and one is conditional. He was curious as to what the difference was between the two, such as live music, etc., that tips it from permitted to conditional use.

Mr. Garcia stated that they would have to double check with definition to provide a more succinct answer.

Mr. Aknin suggested that they take a look at the definition. He stated that, typically, he hit what it is, i.e., typically live amplified music distinguishes a nightclub over a bar. They could look into it while they answer other questions to see if it is defined any further.

Commissioner Leal referred to an issue Commissioner Godwin brought up around item 17 under the permitted uses, renewable energy structures, and asked if new structures which house renewable energy must get a permit or could they put a structure in the middle of the parking lot that takes up zero parking and put a big battery in there. He was curious as to whether they were allowing permitted uses of new structures on the site or is he misinterpreting that.

Mr. Aknin stated that the term structure is used, as it is a building code term and they need to get a permit when they build a structure. He stated that they can't foresee any type of technology in the future, and as previously stated, they are thinking more along the lines of car chargers, solar panels, etc., not putting a larger building in the middle of the parking lot.

Commissioner Leal stated that the term is also related to energy storage, and what is energy storage.

Mr. Aknin stated that he isn't an expert in energy storage, but he thought it would be like battery type facilities that would store energy so they could charge cars or battery backups for electricity.

Planning Director Wehrmeister stated that she can speak to the bar versus nightclub question. She stated that those terms are from the existing C-2 zoning ordinance and under permitted uses, it says bars, under conditional uses, it says social halls, clubs, theaters and nightclubs. She thought it suggests a higher occupancy to her and potentially more noise, such as amplified music. She then referred to the definition section of the zoning ordinance, there is not a clear differential definition between the two.

Commissioner Leal stated that he was curious as to whether there was any zoning definition to that distinction.

Commissioner Godwin wanted to respond to Commissioner Leal's question. He stated that most of the energy storage structures tend to be battery stacks at the moment, but there are certainly hydrogen tanks and flow batteries which, for example could be like vanadium dissolved in sulfuric acid which provide low-cost electric storage. He thought, from terminology in the proposed master use list, they were passing the responsibility over to the building department as to what among those current technologies or others to be developed would be allowed on this site.

Chair Nibbelin asked if there were currently any limitations on hours of operation that are baked into this specific P-D zoning.

Planning Director Wehrmeister stated that she would need to ask Mr. Garcia or the applicant if there are.

Mr. Garcia stated that, within the outdoor dining, there are some restrictions on what is allowed for the business hours for outdoor dining but he would ask the applicant regarding hours in general. He stated that the hours permitted for the outdoor dining is 8 am to 10 pm.

Chair Nibbelin stated that they weren't aware of any specific limitations on hours of operation baked into this specific zoning for this P-D.

Mr. Garcia stated not currently.

Chair Nibbelin referred to firearms, and asked Asst. City Attorney Bazzano that he wanted to make sure they were checking the blocks in respect to the Second Amendment, as they have a situation involving firearm sales as a conditional use. He couldn't think of any reason why they couldn't strike that if that was ultimately what they wanted to do by recommendation to Council, and he was curious whether she had any thoughts or concerns about that.

Asst. City Attorney Bazzano stated that they have heard from staff, and she asked that they reiterate it if she states anything incorrectly. She stated that gun sales are already a conditional use in C-2, and already allowed as a conditional use in this commercial district, and where the shopping center is located. She stated that the conditional use permit is consistent with the C-2 designation. She thought that, including it in the master use list is consistent with that requirement. It would require a conditional use permit, and that is a discretionary review process and it would come back to the Planning Commission for discussion at that point.

Chair Nibbelin asked, recognizing the P-D as its own specific zoning district, whether it was within their discretion to do something that is narrower than C-2.

Asst. City Attorney Bazzano stated that she would have concerns about that because it is allowed in the C-2 as a conditional use. If they are trying to maintain consistency with C-2, they would want to leave it in as a conditional use permit. She would defer to Planning staff, but because they omit it from this does not necessarily preclude the tenant from seeking to add it later.

Planning Director Wehrmeister clarified that it was a P-D (Planned Development) zone and they are using C-2 as a guide but she thinks the question is whether or not it can be narrower than C-2.

Chair Nibbelin understood that they were using C-2 by analogy but he assumed that P-D had its own kind of rules and criteria and it might be different from C-2.

Asst. City Attorney Bazzano clarified that it sounds like she misspoke or wasn't clear that was the way she was intending to use that for C-2, and they were trying to maintain consistency to C-2 because it is most analogous.

Chair Nibbelin stated that it was within walking distance if he wanted to go for a long walk to the shopping center. He has gone there for 15 years and he has never had any trouble parking except when construction crew is there. He didn't think parking was an extraordinary issue. He stated that there is occasional difficulty making a left turn out of the parking lot but he hasn't noticed it being a dramatic or extraordinary issue.

Commissioner Domurat asked if C-2 provides constraints on where something like an arms store, cannabis store or liquor store can be located in a neighborhood type environment. He thought you would think you would have to stay away a certain number of miles or feet from certain kind of communities for certain kinds of commercial businesses. He asked if C-2 defines all those things.

Mr. Aknin stated that he was following up on the municipal code from the last question and under firearms sales, it says the use permit for firearms sales activities shall not be approved if the proposed business premises are located within 1,000 feet of a legally operated public or private elementary, middle school, high school or a legally operated preschool is located or within 500 feet of any other firearms sale. He stated that there are some radius restrictions on where it could be located.

Planning Director Wehrmeister added that, regarding cannabis sales, this is a cannabis overlay zone area that the Council designated and she would not recommend that use be removed, but there is a limit of six in town and the six have been permitted, and unless one of them closes or otherwise relinquishes their cannabis license, another one would not be able to be permitted here and, similar to the firearm sales, there are also radius requirements and distancing requirements from schools and other sensitive uses and, at the time an application comes in, as you know those uses come and go and move around sometimes, then they would analyze it at the time the application is made.

Commissioner Hauser thanked Chair Nibbelin for keeping them honest and making sure that they are thinking about the bigger picture. She stated that the Second Amendment is important and she appreciated the question. She also appreciated Commissioner Domurat's point about the proximity. She feels that what Planning Director Wehrmeister said makes sense, not removing anything for the cannabis sales, but looking at this as a P-D and as a permitted use, we have child care centers of a certain size and, by the nature of one, it should preclude them from doing the other. She is supportive of all the applications but she would like to specifically see this use excluded.

Chair Nibbelin stated that, from his perspective, because it is a P-D zone, it is not necessarily the case that they have to incorporate everything C-2 allows. He was not opposed to her proposal if that is the direction the Commission wants.

Mr. Aknin added that he thought there was some correlation between the two that C-2 does not allow daycares by right but requires them to get a conditional use permit. This would allow daycare centers by right, as they are not allowed in C-2 and they could make a case that there should be further restrictions on conflicting uses.

Commissioner Hauser thought that was a great point. She appreciated that daycare centers would be by right, and she knows that limits the uses and it was very underserved in Pacifica and San Mateo County.

Commissioner Leal stated that he was in favor of removing firearm sales.

Chair Nibbelin stated that perhaps this is a point where it may be appropriate to call the question and that a motion would be in order.

Commissioner Hauser stated she would be happy to make a motion if no one has any comments.

Chair Nibbelin stated she can go ahead.

Commissioner Hauser moved that the Planning Commission FINDS the project is exempt from the California Environmental Quality Act; RECOMMENDS APPROVAL of Development Plan DP-83-21 by adopting the attached resolution; and incorporates all maps and testimony into the record by reference with the one change that firearms sales would be specifically excluded from the Development Plan; Commissioner Leal seconded the motion.

Planning Director Wehrmeister took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Domurat, Ferguson, Godwin, Hauser,
Leal and Chair Nibbelin

Noes: None

Asst. City Attorney Bazzano wanted to clarify that the vote was six ayes with no nays and one absence.

Chair Nibbelin agreed, clarifying that all six present commissioners voted in favor with one absent.

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:

None.

ADJOURNMENT:

There being no further business for discussion, Commissioner Hauser moved to adjourn the meeting at 8:25 p.m.; Commissioner Domurat seconded the motion.

Planning Director Wehrmeister took a verbal roll call.

The motion carried **6-0**.

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

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Assistant City Manager/
Planning Director Wehrmeister