

**MINUTES**

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

March 2, 2020

7:00 p.m.

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

**ROLL CALL:**

Present: Commissioners Berman, Nibbelin, Bigstycyk and Vice Chair Rubinstein

Absent: Commissioners Kraske and Campbell

**STAFF PRESENT:**

Sr. Planner Murdock  
Assoc. Planner O'Connor

**APPROVAL OF ORDER OF AGENDA**

Commissioner Nibbelin moved approval of the Order of Agenda; Commissioner Bigstycyk seconded the motion.

The motion carried **4-0**.

Ayes: Commissioners Berman, Nibbelin, Bigstycyk and Vice Chair Rubinstein

Noes: None

**SALUTE TO FLAG:**

Led by Vice Chair Rubinstein

**APPROVAL OF MINUTES:  
FEBRUARY 2, 2020  
FEBRUARY 18, 2020**

Commissioner Bigstycyk moved approval of minutes of February 2, 2020 and February 18, 2020; Commissioner Berman seconded the motion.

The motion carried **4-0**.

Ayes: Commissioners Berman, Nibbelin, Bigstycyk and Vice Chair Rubinstein

Noes: None

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF FEBRUARY 9, 2020:**

None.

**ORAL COMMUNICATIONS:**

None.

**CONSENT ITEMS:**

None

**PUBLIC HEARINGS:**

- 1. Amend UP-090-17      File No. 2020-005** – Amend Condition of Approval No. 3 of  
**Amend CDP-383-17** Planning Commission Resolution No. 987 to authorize construction of a driveway with impervious paving at 104-106 Bella Vista Avenue (APN 016-021-300). Recommended CEQA Action: Class 3 Categorical Exemption, CEQA Guidelines Section 15303.

Assoc. Planner O'Connor presented the staff report.

Vice Chair Rubinstein questioned if the comment letter from the Coastal Commission was a general guideline on impervious driveways or specific, but he thought there was nothing specific about the location.

Commissioner Nibbelin stated that the driveway with impervious ways is already there, and he asked what it would cost to correct this if they were going to insist on it.

Assoc. Planner O'Connor thought that would be a better question for the developer.

Commissioner Nibbelin stated he was trying to weigh the environmental impacts of the work required to correct the issue weighted against any particular value that might flow and he would be interested in hearing about that.

Sr. Planner Murdock thought it was important to note that the project did include additional storm water retention features that are not typically required for projects of this sort, and to the extent that many storm water measures are intended to reduce the "first flush" to limit pollutants entering into the storm water system, this project includes certain features that do accomplish that and staff's opinion was that it was instrumental to achieving that desired outcome.

Vice Chair Rubinstein asked if the condition of approval was put on erroneously, i.e., it shouldn't have been there in the first place.

Assoc. Planner O'Connor stated that it was there purposefully and the project description provided by the applicant and as stated in the public hearing the intention was that the pavers were going to be impervious. Other mentions of the pavers did not clarify that point and that condition of approval was included to make clear to the Planning Commission of what they were approving.

Commissioner Berman asked if staff determined that there was no C.3 provision requirement for the site, adding that from the drainage report in the plans, it looked like they were installing more than 2,500 sf of impervious surface which, for a residential home, she thought triggered C.3 treatment requirements.

Assoc. Planner O'Connor stated that they had features to address the C.3 including the roof drainage going to vegetated areas and also have a bio-retention system that would collect the runoff from the driveway and filter it through the property.

Commissioner Berman saw that and stated that, when looking through the plans, she was thinking under the assumption that the site was required to treat their runoff and it looks like the area

between the property line and the garage does drain to bio-retention. She thought it was a matter of the condition of approval specifically stated that a pervious driveway was needed, and she would ask the applicant but she thought it appeared that the runoff is being treated, just in a different means which brings up a question for clarification. In reference to the driveway they are discussing, she asked if it was the pavers between the property line and the garage or the driveway cut onto the road.

Assoc. Planner O'Connor stated that it was the driveway between the two dwelling units, and more than just the cut of the road.

Commissioner Berman concluded that the plan has the decorative pavers between the property line and the garage. She had a question about the letter they received from the Coastal Commission. She asked about the background on the project from which the letter came. She stated that she assumed that they didn't understand that the driveway was being treated by bio/retention. She asked for more background on the letter.

Assoc. Planner O'Connor stated that she talked to the author to understand where her comment was coming from because of the attached reports that are associated with the staff report. She thought her concern was mainly focused on, not necessarily addressing flooding concerns of today, but in the future with the LCP update on her mind. She didn't know how much detail the commenter got into before submitting that comment because, when she had her conversation, the commenter explained that the concern was associated with future potential flooding. She confirmed to her that the property was located outside of any projected vulnerabilities associated with sea level rise and the commenter was fine.

Commissioner Berman stated that she was trying to wrap her head around what was required of the site. She stated that she understood the C.3 provision requirements but also understands that there are often exceptions or negotiations when other means of treatment might be appropriate. She stated that, in general, it looks like the volume and flow of the site is not being changed which she imagined is the Coastal Commission's concern. She thought treatment appears to be treated through bio-retention, but she would let the applicant speak and she will ask further questions of him.

Sr. Planner Murdock clarified that staff's assessment was that this was not a C.3 regulated project which means that it is not required to capture its entire storm water volume. He stated that it is not a regulated project because it was less than 10,000 sf of new or replaced impervious surface and then becomes a small project. He stated that she indicated a threshold of 2,500 sf and there was no requirement to calculate or capture a particular design volume when you are a small project. They have to incorporate small project measures. He stated that, directing downspouts to vegetated areas and maximizing the use of pervious paving and other methods would qualify as small projects measures. He thought his reading of the storm water design report from the civil engineer of the project was that there was an incorrect assumption from the outset that applied what may be a County of San Mateo ordinance as referenced in the report that post-development flows do not exceed pre-development flows, but it was not a Pacifica requirement for this project. He suspected that was where the extra bio-retention feature came from, even though it was not a C.3 requirement applicable in Pacifica. He hoped that clarified it.

Commissioner Berman thought it did, adding that for a small project, they are required to implement some form of draining to vegetative area, installing bio-retention or installing pervious

facilities. She stated that there was no argument that they were not providing that, but she was trying to understand the background of the project and the means and necessities of requirements for it.

Vice Chair Rubinstein invited the applicant.

**Brian Brinkman, representative**, stated that he provided the design plans for the project originally and the original plans did indicate pavers. He thought, on one of the narratives, he did include the word impervious pavers. He stated that it then got incorporated as a condition of approval. He stated that, when the storm water calculations were done by the civil engineer, they were assuming that it was an impervious driveway and they were collecting all that water and why there were two different retention areas. He stated that when they were installing those features, they had the civil engineer come to make sure they were implementing everything they wanted. He stated that they indicated they didn't need to do pervious paving because it was all accounted for in their retention, and based on the cost difference, they went ahead with the concrete paving and even eliminated a concrete patio that was planned in the rear yard. He stated that there was less pervious paving than was intended and assumed under the original storm water calculations that were done for the project. He stated that there was a question for cost for replacement, and the contractor with whom they were working said it would be about \$30,000 to tear out the existing concrete and put in pervious paving. He was open to questions.

Commissioner Berman stated that staff answered most of her questions. She thought, based on the plans, drainage report and C3 calculations included, that it looked like the entirety of the drive pavers drained to the bio-retention, and she asked if the as-built condition reflected that.

Mr. Brinkman thought it did.

Vice Chair Rubinstein brought it back for deliberation, then asked if anyone wanted to make a motion.

Commissioner Berman stated that she had no issue on how the site has been constructed. She stated that, being a civil engineer, one of the main items they look at when they go into the construction document phase is to review the conditions of approval. She stated that, if there was something in the conditions of approval that is incorporated into the design, she would recommend reviewing the conditions of approval for the future, but would be inclined to approve.

Commissioner Nibbelin stated that it didn't appear that there was anyone from the public who wanted to speak on the item and they can close the public hearing effectively since they have discussed the matter. He noted the same things his fellow commissioners noted. He was convinced by the staff report that makes it clear that, impact wise, he didn't think this was a significant enough issue for them to deny the request put in front of them in light of the cost and the environmental impact of correcting the issue. He thought they were better off moving forward in the direction suggested by Commissioner Berman.

Vice Chair Rubinstein concurred with that thinking.

Commissioner Bigstyk agreed with his fellow commissioners.

Vice Chair Rubinstein made a motion to approve the removal of the condition.

Commissioner Berman asked if he wanted to make that motion.

Vice Chair Rubinstein suggested she make the motion which she had in front of her.

Commissioner Berman moved that the Planning Commission FINDS the project is exempt from the California Environmental Quality Act; AMENDS Condition of Approval No. 3 of Resolution No. 987 of the Planning Commission of the City of Pacifica in its entirety to provide that “The Project may construct a driveway with impervious materials” by adopting the Resolution included as Attachment A to the staff report; and INCORPORATES all maps and testimony into the record by reference; Vice Chair Rubinstein seconded the motion.

The motion carried **4-0**.

Ayes: Commissioners Berman, Nibbelin, Bigstycck and  
Vice Chair Rubinstein

Noes: None

**2. CDP-415-19**

**File No. 2019-033 for Coastal Development Permit CDP-415-16** to construct a 245 square foot (sf) first-story addition and 416 sf second-story addition to an existing 1,000 sf single-family residence with one-car garage located on a 5,000 sf lot at 246 Sterling Drive (APN 023-038-360). Recommended CEQA Action: Class 1 Categorical Exemption, CEQA Guidelines, Section 15301.

Sr. Planner Murdock stated that the applicant of the project contacted staff in the afternoon and asked for a continuance of the item. The applicant indicated that there were some additional items they want to work through with the neighbor related to the heritage tree which would be affected by the scope of work for this project. He stated that, to enable them to have more time to work through that item, they have asked for a continuance to a future hearing date. He stated that, given the uncertainty about how long it will take, staff was not recommending to continue to a particular date but rather to continue to a date to be determined.

Vice Chair Rubinstein asked if they need to vote for the continuance.

Sr. Planner Murdock asked that they make a motion to continue to a date to be determined.

Vice Chair Rubinstein moved to continue to a date to be determined.

Commissioner Berman asked if they were allowed to ask a question of staff for the project. She stated that, in the context of the previous agenda item, the conditions of approval included, Nos. 17 and 18, talk about installing a new sidewalk, curb, gutter and possibly bike facilities, and she stated that the road doesn't have any existing sidewalk, curb, gutter. She asked if it would be appropriate to remove those conditions or is the intent that the one frontage would have a sidewalk, curb and gutter.

Sr. Planner Murdock stated that the intent was to impose the requirements for those improvements with this project, but the following condition, No. 19, suggests that, if the owner is open to it, the city would support a deferred improvement agreement to such time as it does make sense to install them in light of the surrounding conditions. He stated that they would have the legal mechanism to compel the owner at that time.

Commissioner Berman concluded that No. 19 can still apply to Nos. 17 and 18.

Sr. Planner Murdock stated that was the intent.

Commissioner Berman referred to Condition No. 23, and stated it looked like a partial sentence.

Sr. Planner Murdock stated that they can clean up the language.

Commissioner Berman acknowledged that, adding that she wasn't sure if she was missing something.

Sr. Planner Murdock stated that it was not a well-formed sentence.

Commissioner Bigstyk stated that he was going to make a motion to continue to a date to be determined.

Vice Chair Rubinstein confirmed there were no other comments.

Commissioner Bigstycck stated that, if the motion was made by the Vice Chair, and then stated that he seconded the motion.

The motion carried **4-0**.

Ayes: Commissioners Berman, Nibbelin, Bigstycck and  
Vice Chair Rubinstein

Noes: None

**COMMISSION COMMUNICATIONS:**

Commissioner Berman stated that she attended the City Council meeting where they reviewed the Local Coastal Land Use Plan. She stated that the meeting went from 7:00 pm to 11:30 pm and she left slightly before then. She stated that main talking items Council brought up on the LCLUP were a minor language adjustment on the cost benefit analysis but was not substantial. They discussed clarifications on the substantial existing structural modifications definition, and similar items to theirs, and they wanted to make sure the language didn't restrict improvements on the sea wall and staff clarified that the SESM was more of a clarification than a definition, rather than a restriction or requirement. She thought it was helpful for the public. They discussed extensively on the Calson lot. She stated that there was an appeal on the agenda and Council denied the appeal of the Brown Act violation. There was a member of the community who wrote a letter to the city and city attorney saying that the Planning Commission meeting violated the Brown Act, given that the language was provided in the back of the room but not posted in the agenda. Council denied the appeal, and talking about the Calson lot, she was asked about Commission deliberation on the detached language where they removed detached language specifically from the Calson lot implementation item of the LCLUP and ultimately 4 to 1 decided that they wanted to reincorporate the detached language, mainly because they have a vision for smaller multiple buildings on the lot rather than one building with the thought that it may present an opportunity to reduce the scale on the lot. They removed detached language and approved the language that staff originally proposed. She stated that Council approved the LCLUP to be submitted to the Coastal Commission.

Commissioner Nibbelin appreciated that she sat through all that.

**STAFF COMMUNICATIONS:**

Sr. Planner Murdock stated that Commissioner Berman provided an excellent summary of the subject matter that he was going to cover. He just clarified one item, i.e., they are transmitting the Local Coastal Land Use Plan to the Coastal Commission for certification. He stated that the document upon Council's adoption is now known as the Certification Draft LCLUP, and that is why they try to affix an appropriate title to each version of the document to keep clear what phase of the process they are in. He stated that they are gathering the required background documents that the Coastal Commission requires to submit an LCP amendment and they will be transmitting that in the next week or so and beginning the important process to get the document certified. He thanked Commissioner Berman for the long slog.

Vice Chair Rubinstein 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.

**ADJOURNMENT:**

There being no further business for discussion, Commissioner Nibbelin moved to adjourn the meeting at 8:28 p.m.; Commissioner Berman seconded the motion.

The motion carried **4-0**.

Ayes: Commissioners Berman, Bigstyeck, Nibbelin and  
Vice Chair Rubinstein  
Noes: None



Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director Wehrmeister