

MINUTES

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

October 19, 2020
7:00 p.m.

Chair Nibbelin called the meeting to order at 7:01 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-39-20, 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.

Sr. Planner Murdock took a verbal roll call.

ROLL CALL: Present: Commissioners Berman, Bigstycyk, Godwin, Hauser and Chair Nibbelin
Absent: Commissioner Leal and Ferguson

SALUTE TO FLAG: Led by Commissioner Godwin

STAFF PRESENT: Planning Director Wehrmeister
Sr. Planner Murdock
Asst. City Attorney Sharma
Police Chief Steidle
Dep. Fire Chief Lauderdale
Assoc. Planner O’Connor
Asst. Planner Gannon
PW Field Svcs, Dep. Director Bautista
PW Sr. Civil Engr. Donguines

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

Sr. Planner Murdock took a verbal roll call.

The motion carried **5-0**.

Ayes: Commissioners Berman, Bigstycyk, Godwin, Hauser and Chair Nibbelin
Noes: None

APPROVAL OF MINUTES: Commissioner Hauser moved approval of the minutes of August 17, 2020, September 8, 2020 and September 21, 2020; Commissioner Bigstycyk seconded the motion.
AUGUST 17, 2020
SEPTEMBER 8, 2020
SEPTEMBER 21, 2020

Sr. Planner Murdock took a verbal roll call.

The motion carried **5-0**.

Ayes: Commissioners Berman, Bigstych, Godwin, Hauser
and Chair Nibbelin

Noes: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF OCTOBER 12, 2020:

Sr. Planner Murdock confirmed that no liaison was needed for the meeting.

ORAL COMMUNICATIONS:

None.

CONSENT ITEMS:

None

NEW PUBLIC HEARINGS:

- 1. MUP-1-18** **File No. 2018-022 – Annual review of Cannabis Retail Operation**
Located at 2110 Palmetto Avenue (APN 016-182-360).
Recommended CEQA Action: Exempt pursuant to CEQA
Guidelines Section 15378.

Asst. Planner Gannon presented the staff report.

Commissioner Bigstyk asked that Chief Steidle elaborate on the calls for service that occurred.

Chair Nibbelin commented on a problem with the audio by Chief Steidle and also mentioned that Commissioner Ferguson has joined the Commission meeting.

Chief Steidle stated that they had a total of nine calls for service. He explained that what he was looking for in these types of calls is whether the business is creating a quality of life issue or undue burden on law enforcement resources or in violation of their condition of approval for their cannabis activity permit. He stated that some of the calls were the type of calls with any business, such as irate customers and he thought there was only one call that had to do with someone smoking cannabis in a vehicle out front which was reported to the police. The management of Lytt was very cooperative. One thing they worked on with the cannabis businesses was to break that stigma with law enforcement now that they are legal and they want to develop relationships. He stated that Lytt has been very responsive and invited the police in for training purposes on numerous occasions. He reiterated that they were mostly seeing unhappy customers and smoking cannabis in a vehicle, one which was dealt with by Lytt's security guard. He stated that there were a few for social distancing of public health order violations and not directly related to the business, and they probably have about a thousand since the Covid problem started. He felt that there was nothing that concerns him and they have had a good relationship with Lytt's management as they have been very responsive to the police.

Commissioner Bigstyk stated that was his read of the report that Lytt seems to be doing everything they can to work with the police and will call them immediately if there is a problem, asking if that was a fair characterization of the situation...

Chief Steidle agreed that was a fair characterization. He felt they were doing the right thing by reporting what they should be reporting and reaching out to the police when necessary and he considered that being a responsible business in the community.

Chair Nibbelin asked if the applicant was present and did they contemplate hearing from the applicant.

Asst. Planner Gannon stated that he was in attendance, but she was not aware if they want to speak or not.

Chair Nibbelin thought they could open up the public hearing, and the applicant wants to address the Commission, they can feel free to do that.

Sr. Planner Murdock stated that there were no hands raised, and concluded that there were no speakers.

Chair Nibbelin closed the public hearing.

Commissioner Hauser appreciated the fact that the owner is working well with the city and didn't have questions. She thought it was a great staff report and she was willing to make a motion if there are no other discussions.

Chair Nibbelin thought the staff report was great. He stated that it looked like the conditions of approval only contemplated one report back to the Commission, and in Table 1, most of the conditions of approval were evident by the narrative that followed, and there were about 6-8 conditions of approval where he couldn't tell from the chart what the condition of approval was. He did not consider it a criticism but thought it would be good to have a description of each condition "baked" into the table.

Sr. Planner Murdock appreciated the feedback and he stated that they will incorporate that in moving forward.

Commissioner Hauser moved to ADOPT the attached resolution to FIND that the annual review of the cannabis retail operation is exempt from the California Environmental Quality Act, to FIND that the operation of the cannabis retail operation at 2110 Palmetto Avenue (APN 016-182-360) authorized by Marijuana Use Permit MUP-1-18 (File No. 2018-022) is in full compliance with the requirements of Article 48 of Chapter 4 of Title 9 of the Pacifica Municipal Code; and to INCORPORATE all maps and testimony into the record by reference; Commissioner Bigstycck seconded the motion.

Sr. Planner Murdock took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Berman, Bigstycck, Ferguson, Godwin,
Hauser and Chair Nibbelin

Noes: None

CONTINUED PUBLIC HEARINGS:

2. **PSD-714-02
UP-904-02
SUB-204-02
Heritage Tree Removal
Authorization
Authorization for
Logging Operations** **File No. 2002-001 – Site Development Permit PSD-714-02,
Use Permit UP-904-02, Tentative Subdivision SUB-204-02,
Authorization for Heritage Tree Removal and Authorization
for Logging Operations** for construction of four new townhouse
duplex buildings (total of eight dwelling units) and associated
subdivision for condominium purposes, on an approximately
53,000-sf (1,217 acres) undeveloped lot located on the east side
of Monterey Road approximately 250 feet southeast of the
Monterey Road and Hickey Boulevard intersection (APN 009-
381-010) in Pacifica. The project would include removal of
six heritage trees and 51 non-heritage trees. Recommended
CEQA Action: Adoption of a Mitigated Negative Declaration
and Mitigation Monitoring and Reporting Program.

Assoc. Planner O'Connor presented the staff report.

Chair Nibbelin thought a lot of work has gone into this since they last considered the matter and they have the benefit of a lot of public input as well. He asked if there were any questions for staff.

Sr. Planner Murdock asked that they provide Commissioners the opportunity to disclose any ex parte communications they may have had outside of the public hearing.

Chair Nibbelin thanked him for that reminder and asked if any commissioner had an ex parte communications to report.

Commissioner Berman stated that she had one on one correspondence with a few community members but no other commissioners were present and her correspondence will not play a bias on the meeting and deliberation.

Commissioner Bigstyk stated that he had a conversation by phone with Christine Boles, as well as a few of her emails, and as Commissioner Berman stated, he did not think this biased him in his judgment at this meeting.

Commissioner Godwin stated that he had a relatively brief telephone conversation with Summer Lee and discussed her concerns about the project as a neighbor. He didn't think it will bias him or affect his deliberation approach.

Chair Nibbelin then asked if anyone had questions for staff.

Commissioner Bigstyk wanted to address a subject that was brought up by neighbors. The parking spots at 504 Monterey Road were currently not available and there has been more need for on street parking. He stated that he went there and thought there were six parking spots. He asked who is responsible for the parking spots at 504 Monterey Road.

Assoc. Planner O'Connor stated that they heard that complaint and took note of that in the public comments, and they passed it on to their code enforcement officer to investigate to see if there was any action that needed to be taken.

Commissioner Bigstyk stated that when he went by the site today, it seemed that the strip of land next to 513A where there is a ditch, and there seemed to be more plants there last time and someone had chopped it down. He had a chance to walk up to it and look at it closer and could see where drainage might occur into the trough. He wondered if they know what that drains into. He stated that it looked blocked when he was looking at it and wasn't sure if it was blocked, what it drains into and who was responsible for the upkeep of that particular drain.

Assoc. Planner O'Connor thought she would see if Sr. Civil Engineer Donguines might know the drainage.

Commissioner Bigstyk clarified that it was on the property next to 513A on the other side of the wall.

Sr. Civil Engineer Donguines stated that the water was currently private and a storm drainage within the private property is the responsibility of the private property but as soon as it goes into the right-of-way, it is the city's responsibility to contain the pipes without the right-of-way.

Commissioner Bigstyk stated that at a casual glance of the report, it was evident how much time and work has been put into addressing a lot of the concerns of Commission and doing the work to flesh it all out. He stated that how much work has gone into this was not lost on him going into this proceeding and he thanked staff. He then referred to two concerns that were beaten upon him as he read as many community concerns as possible, i.e., water runoff and landslides. He stated that his approach was to ask as many questions in as many ways as he can think of regarding water runoff and landslides. He stated that, first and foremost, he wants to make sure that, if and when he casts a yes vote, he is sure everything is as safe as they can possibly make it, and to give the public every opportunity to be given the impression, if possible, that this will be as safe as it can possibly be. He then mentioned the frequent concerns he saw that were very genuine concerns which were the water runoffs and any landslides that this project might create, and he asked staff to address those two issues to get them started.

Assoc. Planner O'Connor stated that, if he didn't mind, they would separate them because it will be two different engineers responding. With the runoff, she will ask Sr. Civil Engineer Raymond Donguines and Consultant Mark Lander talk about the drainage calculations they received from the applicant and review they performed to analyze the runoff.

Sr. Civil Engineer Donguines stated that the storm water within the site will be divided into the existing coming up the hill and that will be the same. The pipe is being extended east and the water coming off site will go directly into that storm drain pipe and go into the storm drain system. The other site is the new development, and the impervious surfaces being created by the developer, i.e., pavement, driveway, roofs and those will be treated through the C3 storm water system. The applicant has proposed a series of bio-retention planters and a detention basin to

hold the excess or the difference in the flow on site and meter it slowly so that it is not adding to the peak flow coming off the site and contributing to the city storm drain system downstream.

Commissioner Bigstyk concluded that the trough centers are supposed to hold the water, and he was asking if there was any concern whatsoever that they are not big enough that they could possibly hold the water that eventually they will be releasing, i.e., is there any concern that it is possible that the troughs could overflow from a big storm.

Sr. Civil Engineer Donguines stated that the applicant has based the size on the San Mateo County C3 requirements, stating that he will turn the question over to Mark Lander, their peer reviewer who can probably explain it better.

Consultant Lander stated that there were three things going on, with two things required under the city's storm water permit through the State of California, one, the runoff being treated before it leaves the site and the requirement is that a fairly low amount of runoff of a one-year storm has to be treated. The remainder of the water can bypass the treatment but it has to be retained on site which is hydro-modification and the state permit requires that the water be held on the site and the preexisting condition up to a ten-year storm. He stated that, in this case, the applicant's consultant has run the Bay Area hydro-modification model, the band model, which determines that detention up to a 25-year storm. There are two detention tanks which are designed to handle the 25-year storm. There is an additional third tank added in above Monterey Road which should be adequate to handle the addition 100-year storm total. He stated that it will have to be verified during final design. If not, there is room on site to put in bigger storage tanks. He stated that the 100-year storm is typically the highest storm, which is used during this design.

Commissioner Bigstyk stated that, what occurred to him as he was listening to him was that 2016 was when they had the really big storms and it triggers all sorts of questions in his head about climate change, frequency with which 100-year storms become the new 25-year storm, and he was glad they addressed the 100-year storm model, as it was a concern raised in his mind. He thought it sounds as the detail is being addressed, but he asked if it would be necessary to put a condition of approval that they want that larger tank or is it certain that we will have a system in place that could handle 100-year storm. He questions how many of these supposedly rare storms we have been seeing lately, and he wanted to be very thorough in his questioning.

Consultant Lander thought the condition of approval would not hurt and we have a letter from the design engineer indicating that he will design to the 100-year storm, and he thought he and staff have adequate notes to that effect in files, but the condition of approval would be a good idea.

Commissioner Bigstyk asked if Sr. Civil Engineer Donguines had more to say.

Sr. Civil Engineer Donguines thought Mr. Lander covered it all.

Assoc. Planner O'Connor referred to the commissioner's landslide question, and stated that as part of the CEQA review they had Raney and their sub consultants review the geotechnical work performed by the applicant. She stated that, in terms of a peer review of the applicant's work, she will invite Consultant Shane Rodacker to talk about his findings in his peer review of the geotechnical.

Consultant Rodacker stated that he had a chance to review the applicant's geotechnical reports for the project, as well as some other background reports that are applicable to the site. He stated that, in their opinion, the applicant's geotechnical study has adequately characterized the potential geotechnical and geological constraints for the project and the mitigation measures that are discussed in their reports seem reasonable for the identified constraints.

Commissioner Bigstycyk asked him to repeat the identified constraints.

Consultant Rodacker stated that they were obviously slope stability as part of the project as it is a hillside. The design level slope stability analysis will come forth during project design which is typical for development projects. The southern margin of the site has a natural drainage that is within the drainage and at points above the drainage landslide deposits exist, relatively shallow debris flows that tend to stay within that drainage. The mitigation measures that were identified by the applicant's geotechnical engineer were generally deflection and insured the natural topography of that area would harness the reflows to keep them away from habitatable structures and allow those flows to carry on through the site and not threaten life or safety.

Commissioner Bigstycyk referred to the reflows that came up a lot in a lot of public emails, and he is trying to address things as thoroughly as he is able. He asked if staff looked at the prior geotechnical review that took place in 1991 and did it factor into their research.

Consultant Rodacker stated that he took a look at that, if the question was for him.

Commissioner Bigstycyk asked whoever wants to take it. He asked if they ran across anything interesting that came out of looking at the 1991, more or less in alignment with the recent analysis.

Consultant Rodacker stated that there wasn't anything in there that was surprising to him. He stated that the documents he reviewed consisted of a geotechnical report by a company named John C. Holmes Associates which he didn't think exists anymore. The review documents, an initial review, and a second more thorough review was performed by Cotton & Associates, or recently as Cotton Shires & Associates. He stated that they provided comments on the report on things that need to be addressed further. Apparently, in looking at the documents provided to him, the project stopped at that point.

Commissioner Bigstycyk asked if he agreed that they don't need to be looked at further or are the elements incorporated in a more recent review.

Assoc. Planner O'Connor stated that she can't hear him.

Commissioner Bigstycyk apologized. He referred to those elements that needed further analysis in Cotton & Shires review and he asked if they were things that have been addressed and do they need to be addressed further or has the most recent reviews seem to have addressed those elements.

Consultant Rodacker felt the recent reviews and geotechnical report did touch on the items within the Cotton Shires review that were still pertinent. There were aspects of that former project that do not seem to have carried through to this one, predominantly the use of keystone walls

throughout the site. He stated that what he has seen so far infers a different type of wall system will be used to develop the site.

Commissioner Bigstycyk asked if he had any reason to suspect that the keystone wall system is something that should be revisited or is he content that the system currently being recommended should be sufficient.

Consultant Rodacker stated it wasn't something that was being proposed for this current project, particularly for the large wall in the hillside behind the townhomes which would be most critical in his view.

Commissioner Bigstycyk asked if it would be helpful to look at that methodology. He stated that safety is what they are trying to get at, and he asked if the keystone wall methodology was an approach that should be studied before this is cleared for liftoff.

Consultant Rodacker didn't think it should be considered at all for the large wall behind the townhomes. He didn't think it would be appropriate, given the type of grading that would be necessary to build such a wall.

Commissioner Bigstycyk asked if they know when the last landslide occurred and do we have an idea how often landslides seem to occur.

Consultant Rodacker stated that he didn't have that information off the top of his head. He stated that there were discussions of some relatively recent debris flows in that drainage on the southern end of the site. He thought everyone involved with the project understands that it could occur again within that drainage, but in his view, there was appropriate mitigation measures in place to deal with it should it occur.

Commissioner Bigstycyk understood that those mitigation measures include the homeowners association signing off that they need, as an entity, to do their due diligence to make sure that it is taken care of if and when it occurs because of they don't take care of them when it occurs, there are going to be monetary ramifications. He asked if that is accurate or if there is more that he should be seeing or is he wrong.

Consultant Rodacker wouldn't say he was wrong, but he thought the mitigation measure that is key is the design of the site. He stated that all the habitable structures have been kept away from that area. The grading of the site is such that if there were a debris flow in that area, it would come down natural drainage, essentially out the driveway if severe enough and miss any townhome structures.

Commissioner Hauser referred to wording of mitigation 4-4 that was in a way that the ephemeral ditch would be a wetland that would trigger a 404 action. She stated that it wasn't clear to her how the condition reported if the jurisdiction delineation was meant to cover the entire site or just area within the ditch. She asked if they were surveying the entire site for wetlands.

Assoc. Planner O'Connor stated that she can provide an initial response and wildlife biologist Brian Kearns can fill in if she misses anything. She stated that WRA did a reconnaissance level survey of the site and they found the area where vegetation community that may represent a

wetland. The mitigation measure would be focused on just that drainage area where they identified a potential jurisdictional wetland would occur and not the entire site.

Commissioner Hauser asked clarification that, even though a formal delineation wasn't conducted, a reconnaissance level survey indicated that the only place that biology experts thought that there could be wetlands was the ephemeral ditch. She asked if that was accurate.

Assoc. Planner O'Connor thought so but she allowed Brian Kearns to confirm that.

Biologist Kearns stated that she was correct. She stated that the reconnaissance survey did a general view of the whole site and identify areas where there could be wetlands using vegetation as their main indicator but also the presence of water, and occasionally they can use soils to give them a sense. He stated that the formal delineation builds on that and makes everything more specific so they can hone in on areas that can be considered wetlands. He stated that it can be considered an additional level of detail. He stated that, when they do these for reconnaissance level site visits, it takes into account the whole site. The recommendation for the formal delineation focuses it down in this case to the ephemeral ditch.

Commissioner Hauser thought he looked at plans clearly and asked if he looked at the hydric soils or whatever the terminology is. She understood it was a 2/3 indicating that there is a potential wetland and she asked if he looked at 2/3 categories.

Biologist Kearns stated that he conducted the wildlife portion of the site visit and he was not certain what the wetland person did, but typically these types of assessments address these strategies when looking at those indicators. He stated that typically most areas aren't sufficient to define a wetland, but in this case, the fact that the maintenance of soils are indicators as well and would have been enough to key in on that point.

Commissioner Hauser thought it sounds like the ephemeral ditch could be a wetland but this formal delineation has not been done yet. She stated that the response to a comment letter that Raney and staff and WRA put together mentioned that there are several protected species that are not projected to occur on site because they typically prefer wetland in marsh habitats. She is not getting the continuity if the MND states that the wetland delineation has not happened yet, but would be required prior to construction, and she asked how they are making assessment that those protected species aren't on site.

Biologist Kearns stated that it was basically that not all wetlands are created equal. He thought he has seen some of the comments mentioning specific species such as a common yellowthroat is a California protected species under CEQA. He stated that it was a widespread species but the protected species is a sub species that lives in the Bay Area. He stated that their experience in widespread surveys, this species lives specifically in more marsh type areas and soft marsh, coastal areas, inundated with water most of the time is where they breed and the habitat they really need to consider under CEQA is the breeding habitat. There is that distinction in the PRA and the MND as well that, although a species may forage on a site or move through a site, that doesn't necessarily indicate the need for mitigation. He stated that the violations under Fish and Game Code or Migratory Bird Treaty Act would be specific to destruction of nesting and they discuss in their impact to mitigation. He stated that they stand by the claim that the common yellowthroat could forage on the site occasionally but unlikely to nest there. The habitat could be considered a

wetland pending results of the delineation but it doesn't match with where they believe that species exists. He stated that with the red-legged frog do use wetland habitat but it has to be inundated for extended periods of time for them to complete their development process of 20 weeks and they don't have any reason to believe that ephemeral drainage ditch would be inundated for a sufficient period to support that kind of development or any kind of population. He stated that those were the foundational bases of their conclusions for those two species.

Commissioner Hauser asked if there have been red-legged frogs within a quarter mile of the site or a close radius.

Biologist Kearns stated he missed the first part of her question.

Commissioner Hauser asked if red-legged frogs have been found within a close proximity to this site or how the closest siting has been.

Biologist Kearns thought there was documented occurrences in the Dept. Fish and Wildlife's database of approximately one mile of the site which is a bit outside of how far they typically see these frogs dispersed. He stated that the habitat matrix around the vicinity is pretty broken up by development and roadways and they typically consider those to be barriers for dispersal specific especially for a species that are smaller and unable to leave the ground like birds would be. He stated that there is also the case that, because there is no aquatic habitat on site, the impetus for red-legged frogs to move to the site isn't there. They don't believe the habitat is attractive to them and they are unlikely to move through the site much less use it for any critical portion of their life.

Commissioner Hauser wondered on how this project meets the hillside ordinance in our municipal code as she saw several letters from the public that were asking that questions.

Assoc. Planner O'Connor asked if she was referring to the Hillside Preservation ordinance.

Commissioner Hauser thought that there was a table in the municipal code that referred to a minimum lot size of two acres for a subdivision that is over 50% slope and 1.2 for 35% slope. She didn't know if that was overall slope of the site was but that may be a question for the applicant.

Assoc. Planner O'Connor stated that this site is a little over 51% slope and in regard to her question, she thought she was referring to a subdivision standard in the subdivision regulations. She stated that it was a section of our code that establishes grading and lot size standards for hillside subdivisions, and current staff does not believe that this standard applies to the project as this project is a subdivision for condominium purposes which is different from a standard subdivision as it was subdividing airspace into individual interests rather than subdividing land as a traditional subdivision is. The land is not being affected by the subdivision and staff does not believe it is appropriate to apply this standard that is not affected by the condominium subdivision action. She stated that there are other regulations in the code that do address development standards for these types of projects and, if this was a subdivision of land, where roads were being created or separate lots were being created, then staff would find it appropriate to apply those standards.

Sr. Planner Murdock stated that they describe this point in greater detail in the staff report on packet page 86. He clarified that it was not simply staff's opinion. They thoughtfully considered this point, and they evaluated the municipal code, the definitions in the code as well as state law, and reading all those together as described in the staff report provides a sound basis for concluded that these lot size and grading standards are not applicable to this condominium subdivision whereas other standards in Title 10 are generally applicable to all subdivisions and this lot size and grading standard table is clearly limited to lots which are defined in the municipal code as land. He stated that there was a key distinction factually. He stated that additional support is provided in the subdivision map act which is the state law governing subdivisions. He stated that where it discusses condominium subdivisions there articulates in plain language that standards such as lot size are limited to subdivisions of land and are not to be applied to condominium subdivisions and they think there is a sound basis in law and fact, not simply staff opinion and analysis to support their conclusion on the matter.

Chair Nibbelin stated that he was going to take the liberty of asking Asst. City Attorney Sharma if she wants to add to this from the perspective of the city attorney's office.

Asst. City Attorney Sharma agrees with Sr. Planner Murdock's assessment and analysis in the staff report.

Commissioner Hauser stated that one thing they talked about a lot during the last hearing was doing a full sidewalk replacement and she believes the Applicant agreed to do that. She wanted to understand how they arrived at a partial sidewalk replacement.

Assoc. Planner O'Connor stated that she didn't capture the question clearly and asked her to repeat it.

Commissioner Hauser stated that, at the last hearing, one item they spent a lot of time on was whether or not there would be a full sidewalk replacement and the drawings and staff report acknowledged that there was a portion of existing sidewalk that would be maintained and a small portion of a sidewalk replacement, and she wondered, since the applicant had agreed to provide a sidewalk replacement at the last meeting, how staff came to the conclusion that the requirement would not be something that we were going to propose at this meeting.

Assoc. Planner O'Connor thought it was determined that there wasn't a nexus for a full sidewalk replacement. She stated that the applicant has offered their proposal to replace portions of the existing sidewalk that are in poor condition or damaged but there was not a nexus to have the city require more than that.

Commissioner Hauser appreciated that there was an inclusion of a softscape plan this time, and she had asked for that at the last hearing. She noted that the planting plan and the planting shown on the renderings are very distinct. They don't match and she was wondering which document they should be looking at and was the document that they would be approving at this meeting if this project moves forward.

Assoc. Planner O'Connor stated that they would be approving a preliminary planting plan as shown in the plan set. She stated a condition of approval would require that a final landscaping plan be prepared and it would at least meet the minimum of replacement planting and species as

proposed and, based on the ability to find a nexus for requiring certain size plants and tree replacements they would see that added within the final landscaping plan.

Commissioner Hauser referred to Section 5 of the staff report about housing accountability act compliance which talks about a couple of findings that would potentially need to be made or not regarding the project, and she wanted staff to elaborate on that as she wasn't sure what the link to the project was.

Sr. Planner Murdock stated that he would answer her question initially. He stated that the purpose of the analysis in Section 5 relates to the fact that this project site is located within the housing site inventory of the city's adopted housing element. By including this site in the housing site inventory, there were special legal requirements applicable to review of projects on the site for the city. He stated that among the various legal requirements is the issue of whether a project is proposed at a density below what was indicated as assumed in the housing element inventory. He stated that what was assumed for this site, based on its size and general plan density was nine dwelling units. The applicant proposed the project at 8 dwelling units which is one dwelling unit less than the housing inventory table. As a result, the city needed to make findings, should this project be approved, that they would still have sufficient sites elsewhere in the city to comply with their original housing needs allocation for RENA with the thought being that the state did not want projects proposed at less density than had been assumed and therefore the city would not ultimately be able to achieve the number of developed units necessary for the RENA across the various income categories. They conducted the analysis and concluded that the project as proposed by the applicant with eight dwelling units would not cause a problem for availability of sufficient sites in the city's housing element.

Commissioner Hauser she concluded there was enough inventory and the project was still proposing a density within the range of the General Plan.

Sr. Planner Murdock agreed, clarifying that they are ensuring that the project was consistent with the General Plan land use designation which has a range of allowable density. He stated that the next test for the General Plan's housing accountability compliance is to ensure that if the project proposes fewer units than assumed in the housing inventory, it would not adversely impact availability of sufficient sites to meet the city's housing needs across the range of income level.

Commissioner Ferguson thanked staff for all the work they put into this. He stated that this was his second meeting and first time speaking and he asked that they bear with him if he is off on the decorum as he is still learning. He has several questions for various individuals. His first question for Mr. Lander is regarding discussion of that the site would have to treat the storm water and he asked if he could elaborate on the process, i.e., how are they treating it, how long are they holding it and the methods, at which point do they release it into the general aquifers.

Consultant Lander stated that the state's storm water permit requires that storm water leaving a newly developed site be treated which includes oil, metals, etc., are filtered out of the water before it is discharged into the storm drain and ultimately into the ocean. The required design treatment is the one year storm in that 80-90% of rainfall comes off during low flow storms which is where they pick up the oil, etc., accumulated between storms. He stated that higher flows do not need to be treated but they do need to be detained. He stated that, in this case, the driveway runoff is being directed into a holding tank which will meter the flow out at the one-year storm range into a detention cell, which is a flow through planter. He suggested they think

of a concrete bathtub full of gravel and a planting mix. The bathtub is planted, water flows through the top of the mix and filters through the mix, then the gravel and goes out through the sub drain and is discharged into the city's storm drain system. He stated that the water is treated and not detained. The water detention is being provided by the holding tank. He stated that the rooftop drainage is reverse. That drainage is directed into a planter and the planting mix can only absorb so much water as it is designed to take a one-year storm and once you get into a higher storm as a ten year storm, the water starts to back up and there is an overflow outlet built into the planter which allows the water to drain out and that runoff is going to be stored in one of two downstream detention tanks. Water will be metered out of those two detention tanks before being discharged into the storm drain system on Monterey Road. He asked if that long answer helped.

Commissioner Ferguson responded "a little", then asked some follow up questions. He referred to his description of treating of the one-year storms, and he asked if he was talking about it flowing through a drain, a garden, a bio-retention basin and passing through the soils and the gravel is the treatment.

Consultant Lander agreed that was the treatment.

Commissioner Ferguson referred to his discussion of the retention and metering of the five-year larger storms, and he asked, if they get a 100-year storm and they have to hold it, what time frame do they have to hold it and at what point do they release it and how is it metered and who determines this.

Consultant Lander stated that it will be metered out at no greater than the preexisting rate off the site, the ten-year storm, and hydro-modification is also required by the state permit and requires water runoff be metered so that, up to the ten-year storm, it is not leaving the site at a rate higher than if water would have previously left the site in an undeveloped condition. He stated that, in this case, JC Engineering has provided calculations that take them all the way to a 25-year storm. There is a third tank shown on the plans, and it should be able to take the 100-year storm. The water is held in the tank so that over the duration of a storm, probably 24-hour storm, the difference of water that comes off preconstruction compared to the volume of water that comes off post construction is held within that tank. After the storm and water is no longer coming in the tank, it will then drain out metered at a flow rate that will never be greater than what the flow rate was before the development occurred.

Commissioner Ferguson stated that he understood the process, and maybe his question wasn't clear. He asked if they are talking about a valve that is operable and someone is physically controlling the flow out and is there a programable logic controller that is controlling how the water comes out.

Consultant Lander stated that there is an orifice or a weir built into the tank and the orifice is design-sized so that the water cannot leave through that orifice above a certain design rate which would be the preconstruction flow. He stated that there is no one has to go out and turn on a valve, push a button. It is a passive system. It has to be maintained and cleaned out on occasion but does not require someone to go out and operate it. He asked if that answers his question.

Commissioner Ferguson agreed it answered the question. He had a follow up question that may be for him or Assoc. Planner O'Connor. He asked if there has been any thought to a restriction during the construction process of imposing that the grading, retaining wall construction,

construction of bio-retention basins and drainage system be restricted to only dry weather seasons. He thought a responsible storm water pollution prevention plan would be really challenging given the grade and scope of the excavation he has seen on this project.

Sr. Planner Murdock stated he would address the question. He stated that we have a municipal code provision addressing the issuance of grading permits and where grading would be proposed separate from the building permit process, they have a limitation on dry weather rating to restrict the grading to only those times of year outside of the wet or rainy season. He added that, upon providing a sufficient storm water for BMP (best management practices) plan for erosion control on the site, the building official can authorize grading during the rainy season. He thought the hillside condition of this very steep site would probably factor into that determination as to whether the erosion control methods are adequate. He stated that he cannot speak for what the building official's determination will be and whether sufficient BMPs could put in place but he thought it was possible to grade in the rainy season, although the presumption is that it will not occur during the rainy season. He stated that, if grading were to occur as part of the building permit process, a storm water control plan would be necessary and it would need to be to the building official's satisfaction that it could control the erosion. He asked Assoc. Planner O'Connor to address if there is a mitigation measure that might address grading as he was not sure if there was one on this project. He then stated that they could check for the Commissioner, stating that it is common but not always the case where there is a mitigation measure for CEQA purposes that control the timing of grading for water quality reasons or other reasons.

Commissioner Ferguson stated that there was more to his question than just the grading. He knows the grading is substantial once they open up the cut and they have time to build in all the retention basins discussed as he imagines they don't happen overnight. He didn't know how they plan to construct, the crew size their planning or time of year but he was worried that there could be a scenario in which the walls are up, the dirt has been removed and now they have different soil condition exposed to a winter environment and the grading could have been done months earlier but they have a site that is not prepared to handle the storm and they have a different runoff condition.

Sr. Planner Murdock agreed that is the exact scenario that the city's grading ordinance is intended to control to try and prevent by assuring that there is appropriate erosion control measures in place or preventing the grading as part of the grading permit. He thought one of the engineers could speak more to what the measures are and their efficacy during high flow winter weather events.

Commissioner Ferguson stated that he has an additional question to add on to it if they are putting this question to the engineers. He stated that maybe Consultant Rodacker addresses this, but what jumped out to him the most was reading that the maximum height of any retaining wall in the back of the building is to be five feet and he thought the applicant could confirm that. He stated that the plans seem to show a very tight series of walls tiered, one above another, and he was hoping someone could give him an idea regarding one of the total grade change between the drive by behind the units and if this has been looked at in the construction it seems like this is a feasible, adequate and best practices way to change the grade for this type of a slope that close behind a densely populated new division.

Sr. Planner Murdock thought it would take some time to get that technical information on the grades at the site. He asked what team member would like to take that project concept part of

Commissioner Ferguson's question, adding that it may be a question most appropriate for the applicant to describe the process that went into designing the project and once they have that, they can have the geotechnical peer reviewer Rodacker address the points as to his considerations of the peer review. He stated that the project applicant would be appropriate to respond once the chair advances them to that phase of the hearing, but not necessarily now.

Chair Nibbelin asked if they could put a tack in that question.

Sr. Planner Murdock agreed, stating that he thought it was a question appropriate for the applicant but they are not at the applicant's presentation or question and answer phase.

Chair Nibbelin agreed, and asked Commissioner Ferguson if he had any further questions.

Commissioner Ferguson stated that he did not and would yield back.

Commissioner Godwin stated that he had a few questions on draining. He asked if there was any annual inspection of the completed system contemplated by the city or offered by the applicant as he didn't see it in the documents.

Assoc. Planner O'Connor stated that they have added a condition of approval to require the HOA as part of the CCNR to submit an annual proof of maintenance of their catch basins and pipes to make sure they are in working order prior to each rainy season.

Commissioner Godwin referred to the water table level at 11 feet, and he didn't think it was unusual for Pacifica as he thought a number of houses have half that, and he asked if staff was concerned about the water table on the site, given the slope of the hill.

Assoc. Planner O'Connor invited Consultant Rodacker to provide his thoughts on the water table.

Consultant Rodacker asked if he would repeat the question as he stepped away for a restroom break.

Commissioner Godwin stated that he noticed in some of the documentation that the water table on the site was 11 feet and in Pacifica there are a lot of places where the water table is half that, and he asked if he saw this as a problem, given the steepness of the site.

Consultant Rodacker stated that localized seepage will be something that needs to be dealt with in design, particularly with the drainage system for the large retaining wall behind the townhomes. He stated that the 11 foot ground water measurement came from borings that were performed on the fringes of the site. He stated that, in his opinion, those are not representative of the bedrock cut that is going to be performed for the bulk of this site.

Commissioner Godwin stated that there have been a lot of lakes that put on a website what their depths were dynamically on a day by day basis, and he asked if there are simple sensors, flow meters and something to report the status of how full the retention basins are and maybe pipe out to a site of the city that could be cheaply maintained. He stated that a number of the neighbors have indicated that they were concerned about the maintenance of the drainage system and debris clogging and asked if there was some simple information they could give them at each storm as that would mitigate a lot of the concerns and asked if that was a wise approach.

Consultant Rodacker thought he was asking him something that was better answered from a civil design perspective if he heard the question correctly.

Commissioner Godwin asked if he should hold the question for the applicant.

Chair Nibbelin thought he should unless there is someone on the team who can address it from a civil design perspective.

Sr. Planner Murdock asked Sr. Civil Engineer Donguines and Consultant Lander if either had an opinion as to other communities that may monitor storm water detention system and what the options could be for that.

Consultant Lander stated that he hasn't seen marker required for a private system this small. He stated that you might see it for a large dam, larger flood control system. He has never seen it applied for a system this small but he thought there was probably some technology out there which could do what Commissioner Godwin is suggesting but he has not seen that applied to something that was this small in the past.

Chair Nibbelin opened the public hearing and asked the applicant for any presentation or information to share, adding that he can leave a portion of his ten minutes to answer questions from speakers.

Javier Chavarria, applicant, stated he is with JC Engineering. He was going to summarize what they have done to improve their project following the directions they received at the previous meeting. He thought staff has done a good job in summarizing what they have done and he was going to emphasize a few of the points to be sure they are very clear about what they are doing. Regarding the request for a high level garbage management plan, they have redesigned the front of the site so that every building has direct access to the site without any steps and can easily put out garbage bins. They designated areas behind the sidewalk where they can be placed and be very accessible to the garbage collection people. He stated that they also asked for a turnaround for the guest parking and they analyzed the site and relocated previous parking as parallel parking and put in a perpendicular parking so it would function better, more visible from the street and will allow for the location of a three-point turnaround at the end of the property. He stated that they were asked for more information on how to minimize the mass of the building and mitigate the tall appearance of the buildings. They consulted with other landscape architects and they recommended the use of the oak trees that they were proposing as they are good for the area, grow nicely, easily maintained and shaped in a manner that they look like something that belongs on the site and it helps to minimize the mass seen from the street. He referred to their request to work more detail on the drainage system, and they went further than normally required at this level of conceptual approval and did formal calculation for the sizing of the flow through planters. They prepared a more comprehensive drainage plan so that all the waters are clearly shown how they are flowing through so plant checkers and peer reviewers can understand the concept. He stated that they are confident that they can achieve proper controlled drainage of the site that would actually be improving the conditions that currently exist. He stated that the existing drainage normally gets clogged and is not correctly maintained. He stated that the drainage collects a lot of water that comes from the adjacent buildings. He stated that there was no maintenance plan that the adjacent buildings have to maintain this area and they will be improving the conditions with their drainage. He stated that they were also asked to consider the

construction of a sound wall for the benefit of the adjacent neighbor and they contacted the neighbor, had a meeting on site and he expressed no interest on the construction of a sound wall. They were asked what the HOA was going to do make sure the project functions correctly. He stated that the CC&Rs are going to be prepared in such a manner that it gives proper direction to the association on how to maintain the drainage and site and the budget of the association will include, as part of their yearly plan, a fund for those specific purposes. He stated that, in addition to the items the Commission asked, they also enhanced their plan by implementing a lot of the recommendations that the soils report had. He stated that they normally include those on the engineering plans and building permit but at this time, because of the concerns they expressed, they added catchment walls that are intended to protect the site from any possible debris coming from that questioned area. He stated that the catchment wall and design of the site is done in a tier manner in case that some disastrous condition occurs at the gully area, and the catchment walls will contain some of that movement and, if not contained, it will be able to come and store in those tier sections of the back of the buildings. He stated that, through the public comments, there have been some insulting and bad comments in attacking his capacity and integrity as a professional, adding that he was not going to entertain those comments. He knows they are doing the best that they can and are trying to be as transparent as possible. He stated that they have already touched on one of the items that is being mentioned, which is an older soils report that was done in the early 90s. He explained that they were not trying to hide any information from that report, but the current soils report that they have confirms the findings of that report. He stated that the report done in the 90s did 12 borings, and 10 out of the 12 show bedrock within four feet of the surface and two show bedrock much deeper at 7-11 feet which is the area where the debris flow occur. He stated that, in following the best engineering criteria, they moved the homes out of that section, put them in the area where the bedrock is sound and stable. He stated that they have done exactly what Cotton Shires did under peer review, which was eliminate keystone walls and they are using tieback walls and piers support the retaining walls. He stated that they are using much better principles of engineering and drainage to ensure that the project is safe and sound and they are taking care of the public safety and the suitability of the project for the area. He stated that they have taken every step that is possible at this stage of conceptual design to make sure that their project will be feasible at the time of the formal design. He stated that some of the questions they have, they can answer later on. He stated that John Kontrabecki, the project sponser, also had a few comments to make and will be available for any questions they have on the technical aspects, and their soil engineer Dan Dyckman is also available to answer any questions they may have.

Mr. Kontrabecki stated that he wanted to make a few comments on the project review process. He stated that, when he introduced himself to the Commission at the last meeting, he shared that he had a great deal of experience developing property in Bay Area counties, including San Mateo, Santa Clara, Alameda, and also in Europe. He stated that every real estate project goes through two kinds of governmental review, conceptual review and technical review. He stated that the two review processes were designed to answer two different questions. The first is what is being proposed and the second is how do you build it. He stated that this project is in the conceptual review process and was triggered by their project application. He stated that the scope of review is to determine whether the project conforms to the general planning and zoning ordinance for Pacifica and there is also an environmental review that has to conform to the requirements of CEQA and the Commission has the authority to conduct an esthetic review as well. He stated that it was within the authority of the Planning Commission to approve or disapprove the project. He stated that the technical review is triggered by a building permit application and the scope of review is based upon a review of the technical documents proposed by the owner to build the

project. He stated that the review is conducted by the building department with the assistance of outside consultants. He stated that the standard is Pacifica's building code. He stated that the building department has the authority to issue the building permit provided that it complies with law. He stated that this is textbook for the commissioners but probably not clear to the public who are participating in this event. He stated that Christine and Robert Boles are architects and residents of Pacifica and they are opposing the project. He stated that, when he reviewed the package that was prepared by Planning staff, the bulk of the communication in the package is coming from the Boles, and he noticed that they are conflating conceptual review with technical review. He stated that they appear to be trying to turn building permit questions into CEQA issues and that is muddying the conceptual review process. He stated that the Boles appear to have little experience in processing projects for conceptual review and are disrupting the process and wasting staff time with excessive correspondence and demands for meetings to advocate points that are outside the scope of conceptual review. He stated that the planning package has over 1,000 pages of documents and he has never seen anything like this for a project of this size.

Sr. Planner Murdock reminded him that he has 30 seconds left.

Mr. Kontrabecki stated that the Boles can raise their technical questions during the technical review. He stated that their attack on this project has been highly irregular and he asked the Commissioners to consider this. His second point is that their correspondence is littered with comments that question the competence of Mr. Chavarria and planning staff and his character as well as the character of Mr. Chavarria. He felt personal attacks on sponsors and staff are unprofessional and have no place in the process and he hopes the commissioners bear that in mind.

Sr. Planner Murdock introduced all speakers.

Madhu Mathew, Pacifica, stated that he lives on Monterey Road, close to the proposed project. He stated that, since the last public hearing, they have witnessed a terrible chain of events, unprecedented number of wild fires, severe habitat loss, unbreathable air, dark orange skies in the middle of the day. He stated that these are supposed to be extreme once in a lifetime events but with runaway climate change, they are becoming every day or common, just as mentioned by Commissioner Bigstycyk mentioned. He stated that the planners and commissioners, they are the caretakers of the city. He requests that they not operate in a business as usual manner. He thought they need to consider conservation and sustainability more seriously. He stated that Half Moon Bay is set to adopt a land use plan that attempts to better balance utilization and conservation and it was his appeal today. He stated that the Vista Mar project as currently proposed is clearly design to maximize height and ocean view to sell these are premium priced units to make the most profit and dig up the entire hillside in the process. He referred to the Commission mention affordable housing stock as an important issue but even with one high price unit does not address affordable housing stock in the medium or short term horizon but contributes to community displacement effect because of the inflationary price pressures. He stated that people like teachers, nurses, first responders all continue to face that price pressure and are forced to move further away to afford comparable housing. He stated that the project has a lot of negative environmental effects, severe erosion risk, land risk and in his opinion no real societal benefit. He stated that, if they do a simple search, there is a long history of bankruptcy in related court proceedings and this is another aspect of risk which he is worried about. He felt the project should, at minimum, consider going through the proper EIR due diligence. He stated that, as a group of concerned neighbors, they have tried to hire outside experts to highlight these issues and

an EIR can explore alternate sustainable build options that truly benefit the neighborhood and not scar it permanently like the Harmony One project.

Robert Boles, Pacifica, complimented the commissioners on their wonderful questions and listening to them. He referred to the comment that he and his wife were driving the criticism of this project. He stated that it wasn't just them, but there are several dozen community members that are very upset by this project. He stated that they may have done most of the writing but it was not just them. He referred to Mr. Kontrabecki making a point that this is a conceptual review and there will be a technical review later. He stated that the technical review is done by the billing department and outside plan checkers and they don't get to see or comment on it and they have no way to question the technical viability of the project later on. This is their one chance to make comment on what they feel is a really terrible design. He referred to the geotechnical aspects of the project, and they have been complaining for nine months that the project's geotechnical report had only two shallow borings and neither areas were where the buildings or major excavations were to be made. He stated that the earlier soil reports they heard about at this meeting have never been brought to public light. He stated that it was sleuthing by their neighborhood group that brought them to light otherwise they would not have heard about them. He stated that the current project civil engineer was involved in the earlier project and he knew about them. He stated that it was a mystery to them why he has withheld this information and why staff in their research of the project records never made comment on them, never brought them to life. He stated that it wasn't a mystery but outrageous. He stated that they are at the 11th hour and they have finally been brought to light. He stated that those earlier reports found four landslides on the site and their researches found ten landslides in the near vicinity on the very same green stone hillsides. He stated that the project cannot be considered safe without further investigative study of the geotechnical aspects. He stated that there was evidence of natural seepage, landslides, debris flow and is not a safe site. He stated that there are grave concerns about the water table pushing against the retaining walls of the project and further adding to water within the project retention systems that have not been addressed by the current design. He stated that, given all this, he asked if they could in good conscience make the necessary findings for a use permit that this is a safe site for the public.

Gail Shoemaker, Pacifica, stated that she is part of a citizen's group called Tree City Pacifica, and they organize in Pacifica and support the city's Tree City USA designation. She stated that the Pacifica Arbor Day proclamation recognizes that trees come back and climate change which is in alignment with the city's climate action goals. She stated that, for this reason and others, Tree City Pacifica supports mitigation for the removal of trees. She stated that, at the last Planning Commission meeting, she requested that, if 57 trees are removed, the Commission require the developer to plant three trees for each heritage tree and one tree for each of the other trees logged. She stated that South San Francisco has been a Tree City USA for more than 30 years has a plant back requirement of three trees for every heritage tree removed. She stated that at a recent Pacifica Council meeting, Council voted for a 3-1 replacement ratio for heritage trees removed in a Rockaway development. She stated that, in lieu of the 3-1 replacement for heritage trees and 1-1 for trees in logging operations, Tree City Pacifica also supports the payment of fees into a tree fund. She stated that Pacifica does not have sufficient funds for tree maintenance and replacement. The tree budget under public works has gone from over 50 weeks of maintenance a year to only six weeks a year. She stated that other cities help cover the cost of tree maintenance and replacement by creating a mitigation fee structure that goes into a specific tree fund. They request that, if they approve this development, they require the tree replacement ratio of 3-1 for heritage trees and 1-1 for other trees logged or mitigation fees for a Pacifica tree fund.

Paul Toteh, Pacifica, stated that he was part of Tree City Pacifica and as Pacifica considers policies regarding replacing down trees, he encourages the city to do what it can to replace both heritage trees and others that fall to make way for development. He urged it because we are living in unprecedented times since the beginning of the year there have been over 8,300 wild fires that have burned more than 4 million acres in California. He stated that our trees are going up in smoke that is making our planet and us sicker than ever even though Pacifica has not lost trees due to fires, we can do our part to help the state recover those that have been lost. Trees help clean the air and we need to protect and add to our current tree population. He supports the 3-1 ratio for heritage tree replacement and the 1-1 for logging operations, \$750 for heritage trees and \$250 for logged trees to supply a city tree fund.

Nancy Foster, Pacifica, stated that she lives on Monterey Road. She stated that, after reading the information in the staff report, she has become very concerned about the project. She stated that what jumped out to her the most is one performed by SWAPE where they conclude that the emissions and health risk impacts are underestimated and inadequately addressed. She stated that, according to them, if you are within 150 feet of the project, the infant, child and lifetime cancer risks are 20 times the allowable threshold. She stated that she and her husband and two small children live within that range of the project and she asked how staff not demand a more thorough evaluation of this impact before allowing it to move forward, especially since per the report the data originally provided by the applicant to model emissions and health risks were so far off to the point that they were basically suspect. She understood that there was a disagreement over the results but that fact of expert disagreement would require an environmental impact report. She stated that the project needs a real review that cannot be compromised. She asked that they demand an EIR if this project is allowed to proceed.

Ann Crow, Pacifica, stated that she lives on Hickey Blvd., close to the area where the trees may be removed. She stated that there is constant traffic on Hickey and Monterey and the 57 trees have been doing their innate work to pull the carbon emissions daily from the area. She stated that their removal will be a loss that can directly affect the health of all the neighbors. She stated that new trees to replace them must be implemented in the area. She was also concerned for the wild life that lives there and will be adversely affected. She stated that change is inevitable but common sense change can be enacted that preserves and restores the health of the air for all. She stated that breathing is fundamental and trees are our host to good living.

Christine Boles, Pacifica, stated that she is a licensed architect and lives on Monterey Road downhill from the project site. She stated that Mr. Kontrabecki gives her too much credit. She stated that, since February when she filed her first complaint about the project, her main concerns related to the threat of hazards this project would create is such large scale transformation of this very steep site. She did not understand how the project has gotten this far in the planning process. She stated that, in most Bay Area cities in which she works would have rejected this proposal from the start and not waste everyone's time and money. She stated that the Planning Department, in failing to do their due diligence to require a thorough geotechnical investigations has downplayed the very real threats this project poses. She stated that, based on faulty analysis in the staff report for the August 3 meeting, the Commission seemed ready to approve this project until the neighbors started speaking up. She stated that they want to thank Commissioners Bigstyk, Berman and Hauser who gave enough credence to their complaints to allow the project to be continued. She stated since that meeting, the newly formed Vista Mar preservation alliance got to work and together they spent hundreds of hours analyzing the project and thousands of

dollars hiring experts who call into question the validity of the initial environmental study and mitigated negative declaration. She stated that, in the last two weeks, they were finally given access to some but not all of the project files they requested. She stated that those files are damning as the discovery of the additional geotechnical investigations that show four previous landslides, subsurface water at the end of August and the presence of a natural spring on the site clearly shows that the project geotechnical and biological analysis is not thorough as required by CEQA and in the General Plan for projects on the hillside. She read a section of the General Plan about the large steep area of Monterey Road which is their neighborhood that requires a thorough geotechnical investigation that was not done, and recognition of the high visibility of the area which staff argues is not visible but is very visible if you walk around or drive around their area. She encouraged everyone to do so. She stated that the project does not minimize height which is a requirement of that section of the General Plan. They are at the height maximum of 35 feet and they are building an extra 18 feet of fill and the project will be 57 feet over the street. She stated that the building mass is factored in the height but also articulation and relationship to the community as the project towers over the neighborhood and is not appropriate for this site. She stated that the retaining walls are ridiculous and the retaining walls need to be minimized to the extent feasible and there are so many retaining walls 25 feet and stepped up to 30-40 feet in some areas. She stated that there is no way to say this project meets the General Plan and they cannot approve this project at this meeting.

Kai Martin, Pacifica, stated he is a member of the Tree City of Pacifica. He stated that as noted by others, Tree City Pacifica supports the mitigation for removal of trees. He also echoed the support for the payment of fees into a tree fund to be used by the city for tree maintenance or replacement. He stated that a mature tree can absorb approximately 150 kg of CO₂ per year and cutting down 57 trees, a lot of which are mature, impacts all of that. He stated that trees can reduce 60% of particulates from car exhaust, as well as reducing ozone dust and/or smoke. They can increase property value and rents. They add by diversity and provide runoff control as some people have noted serious concerns about the slope of the hill and slides. He stated that trees block noise as much as 40% and shoppers claim to spend more when there are a lot of trees. He stated that this goes down to tree maintenance and replacement is critical to enjoy the benefits that trees bring and Pacifica does not have sufficient funds. He stated that it is often cheaper to cut down a tree than to maintain it. He stated that we need our trees and need to maintain them or replace them. He stated that the city needs funding to accomplish this. He supports the 3-1 replacement for heritage trees and 1-1 for logging operations. A developer or private individual planting 3 trees in the ground at a time with poor care and is not achieving what Pacifica is trying to accomplish with the heritage tree ordinance and the climate action goals. He suggested the \$750 per heritage tree or \$250 per tree in a logging operation fee that would go to a city tree fund. He felt it was vital for our community now and into the future.

Summer Lee, Pacifica, stated she has lived on Monterey Road for 20 years. She stated that it is rare for a current project to start with a date that goes back 18 years. She stated that it is very rare for a staff report to ignore the project's history when being presented to a Planning Commission for approval. She stated that this project technically started in 2002 but in reality it started in 1991 when Mr. Chavarria brought a nearly identical project of nine units to the Planning Commission and City Council where it was denied for the same reasons it should be denied at this time, that they find that the design of the subdivision and the proposed improvements are likely to cause substantial environmental damage. She stated that, upon rejection, Mr. Chavarria said on record that he will not change his design. He also admits that he cannot meet the geotech review requirements. She stated that in 2002, Mr. Chavarria changes the project name and opens

an application for the same project with one less unit against the city's previous request for a substantial reduction in units and told to redesign. He submitted a geotech report done in 2002 that only performs two peripheral borings. He fails to bring forth the 1991 geotech report that performs 12 borings, finds brown water and four landslides on the property. In 2004, Planning staff determined that Mr. Chavarria's application was incomplete and outdated. She stated that, during this time, the Planning Commission had a study session that overwhelmingly denies the project because of site difficulties and hazards. In 2007, the project came back to Planning and staff again determines that the project application is complete for lack of analysis. In 2010, Mr. Chavarria submits a new hydrology report and a biological constraints analysis performed in 2007 and his report calls for a wetland delineation. She stated that four years later, Mr. Chavarria resubmits the project and claims that the project has no connection to biologically sensitive areas and proposes a driveway over the wetland. Again, the Planning staff finds the application incomplete citing issues like too high retaining walls. Six months later, Mr. Chavarria submits again, claiming no heritage trees on site. Staff states in a memo that they cannot exempt the project due to Mr. Chavarria's own submitted 2007 report states a high likelihood of wetland and Mr. Chavarria replies that he would rather keep his project as designed and calls his own report erroneous. He asks to go to the Planning Commission and at this time the Commission does a joint study session with City Council and overwhelmingly denies the project, again because of site difficulty. She stated that the last thing in the record is around 2018 when Mr. Chavarria becomes an officer and shareholder in Vista Mar. She stated that the long timeline makes clear that the only real geotech survey this project has had is from 1991 and it was so negative it killed the project. She stated that the project has been rejected over and over since 2002 with the applicant bringing the project back again and again, in his own words, with no meaningful changes. She stated that what has changed is that the reports that warn against the project somehow fall out of the records. She ends with the irony of Mr. Kontrabecki writes into the record threatening that one neighbor is upholding the process, claiming in litigious terms that this is not a regular process and the law provides for the review of projects. She concluded that these 18 years have not been regular.

Sandy Ayers, Pacifica, stated that he is a resident of Pacifica and a landscape architect who has been practicing on the peninsula for 20 years. He has been part of a lot of development and a lot of mitigation and seen a lot of tree ordinances as well. I knows Pacifica is trying to adopt one, and he thought this project was a good spot to start with the implementation of the tree fund proposed earlier by fellow citizens. He was part of a project recently in San Mateo and their specific heritage tree ordinance has an interesting population in the way that they do it with species valued, etc., and through this process they wind up with a landscape value per tree which is multiplied and you can mitigate this with some planting back trees but you can't always fit a 2-1 or 3-1 ratio of trees back on to a site once you have removed it or should you try in most instances without jeopardizing the health of the future trees. He stated that they would be creating some sort of a surplus which would be donated into a fund that could be used for maintenance of trees we already have and planting new trees elsewhere. He stated that with the project he was on in San Mateo a single cedar tree was calculated for the LU value at \$321 per LU value and the cost of the one tree was \$7,524, and he thinks the pre-proposed \$750 per replacement tree and \$250 for a logging tree is a fraction of that, but even at those numbers they can generate a lot of value for Pacifica and maintain the trees we already have that extremely underfunded. He would like to see Council apply that to this project and initiate that fund with this project and let it be something that they can contribute to going forward via not punitive damages but in lieu damages of planting and possibly contributions from the public. If someone

wants to donate money to the tree fund, he would like that to be a possibility as he thought it was of great value and fair to ask of anyone proposing development which he considers a win-win.

Nimmy Mathew, Pacifica, stated that she lives on Monterey, uphill from the proposed construction site. She thanked the Commission for this opportunity to express her concerns. She first wanted to send a “shout out” to Christine and Bob Boles for helping her and other neighbors make sense of the Vista Mar development plan and the impact to the neighborhood. She stated that, contrary to what Mr. Kontrabecki indicated, the assistance provided by the Boles to concerned neighbors have been invaluable. She stated that her major concern is on the impact of parking due to the proposed construction. She stated that Monterey and Hickey are already busy streets with limited parking due to a school, church and residential units. She understood that, with this construction, they will lose roughly 300 feet of curb space, taking away 15 parking spots. She stated that this project will reduce the already scarce available parking on both of the streets and any social gatherings or parties arising from the new development will further add to the situation and take away more parking spots. She stated that the condo unit at 504 Monterey across from the proposed development has faced erosion issues and their parking area is unusable as Commissioner Bigstycck noted. She stated that they have been using the available street parking along Monterey which will now be taken away and take away available parking along the streets. She stated that the strip of Hickey near the development area is also used as school parking spots for parents during the morning drop off and after school pickups for Sunset Ridge Elementary School. She stated that the increased number of dump trucks and vehicles during the construction will adversely affect the limited parking on Hickey. She stated that, in addition to a parking shortage, they will face increased traffic and noise during and post construction. She urged the Commission to seriously reconsider this plan given the impact to the neighborhood and not approve this project.

Claudia de Luna, Pacifica, stated her family has lived on Monterey Road for over 13 years. She stated that there are a lot of back and forth on concerns about the project, and she stated that an analysis is not mitigation. She stated that, if she takes her car to her mechanic with a knocking noise in the engine, he doesn't tell her to keep driving it and hopefully nothing bad will happen. She stated that they have differing expert opinions on several levels. She stated that the legal guidance they have received is that an EIR is required and the prescribed process for moving forward in these circumstances. They all believe that a thorough analysis via an EIR will show the clear rationale for not building on this land. She stated that there is a more important point to be made, as should this land be developed at all, starting with the 2980 General Plan when this section of land was called to be specifically the large steep area along Monterey and Norfolk Place. She stated that conditions in that plan began requiring a thorough geotechnical investigation which she knows has been mentioned already. She stated that tells her that even 40 years ago the instability of the slope was recognized. It states that high mass and retention walls should be minimized as much as possible and recognition of the high visibility of the area. She stated that it has been argued that the project is not visible from Monterey Road but it is highly visible from other places and even further out. She believes that is what the authors of the 1980 General Plan meant to convey which is it is a part of the Pacifica vista and you go southward into Pacifica and since then they have seen former staff and Commissioners deny this development for many of the same reasons that neighbors and concerned Pacifica homeowners are citing. They have seen draft plans that earmarked the land as part of the Hillside Preservation District and if the updated General Plan had been approved they would not be here today as the land would have been designated as ROSA and this proposed development would not be suitable. She stated that the city's intent for that land as captured in developing versions of the General Plan is clear.

She asked that they not allow this development to progress by exploiting the gap between Pacifica's vision for itself captured in the updated General Plan and delays in implementing that new General Plan. She stated that there might be an unhealthy real estate influence in these proceedings and they are committed to finding ways to reduce that influence.

Elisa Boles, Pacifica, stated that she is a part time residence on Monterey Road downstream from the Vista Mar project. She was a PhD student in civil and environmental engineering at Stanford. She stated that many neighbors are extremely concerned about water runoff and flooding from this project. The developer and civil engineer prodded by their concerns have made some amendments to the project during the design since the last Commission hearing. They claim that post construction runoff will be less than the natural runoff but there are major errors in their calculation that are disquieting. She stated that per review by their civil engineering consultant, Cliff Bechtal, shows that the design of the drainage system is flawed as there are large areas of the ground that are noted as permeable in the band calculations that will actually drain into retaining wall sub drains and not into the ground as suggested in the calculations. She stated that natural underground water would also get pushed against the retaining walls and funnel into the storm drain. None of this additional water has been accounted for. She stated that the band calculations are flawed and do not prove that post construction runoff will be equal or less than preconstruction runoff. She added that the hydrology report or drainage study submitted for the project is extremely limited in scope and misidentifies the swale catchment area, showing a much smaller area than the real area. She stated that a Stanford hydrology professor to whom she showed the report said that, if a student had turned this in, they would have failed the assignment. She stated that no effort was made to study the effect of the property's runoff in combination with runoff from upstream properties and its effect on downstream properties. She stated that there was not even a record of existing storm drain facilities in the vicinity of the project and she questioned how they can assure them that this project won't exacerbate flooding in their neighborhood. She stated that further geotechnical and hydrological studies need to be prepared before even considering approval for this project.

Chris Lopez, Pacifica, stated that his back yard runs into the creek that this project would impact. He expressed his concerns about this drainage and erosion issues at the August meeting. He was relieved to hear Commissioner Bigstyk to insist that, when the project comes back to the Commission, it should have calculations for those who are concerned about the drainage issues and they can be confident in responding to those concerns. He stated that, as the Boles point out, they don't have any of the information that they were promised. He stated that the staff report says that the documentation has been reviewed by Engineering staff and peer reviewed but no peer reviewer is named. He stated that their review is not included in the staff report. He thought it sounded like there is more information being withheld and not brought forward from this applicant in the staff report. He stated that the geologist they hired to review the project claims that the water table has not been accounted for in the design and that it might dis-stabilize the hillside. He asked why they are not studying this. He thought to vaguely dismiss this or promise to study it down the road is alarming. He stated that the project backs 35 feet into the ground on a 52% slope and he thought it was incumbent for the Commission to insist on a third party analysis of all these concerns before letting it proceed. He asked that they not let the project proceed until and EIR is performed.

Garrick Meeker, Pacifica, stated that he lives a few houses from the Vista Mar project. He was concerned about the drainage swale wetland at the south end of the project and how it will be drained. He stated that there is currently a concrete head wall collecting the storm water for

which the city has maintenance responsibility. He stated that the area is covered with wetland vegetation but it is fairly easy to reach to maintain it. He stated that any debris that flows past the drain goes onto a wide plane before it hits the sidewalk and the road. He stated that the new design pushes the collection plane up the hill behind a tall retaining wall out of site of the new residents who will be responsible for its maintenance. He stated that it will be difficult to reach the drain and will probably be covered with vegetation shortly after construction. He stated that their civil engineering consultant says the new drain design will easily clog so the debris which comes down the hill will have to find another path to drain which will be a narrow concrete spillway next to the new driveway. He thought it was clear that the water and debris from a big storm will shoot out onto the road with some force. He stated that the street has clogged in the past few winters, and they have seen the large grates pop out of the gutters and it was an area that was visible. He asked if they can trust the homeowners to be responsible for a system they don't normally see. If they are made responsible for drainage water which primarily comes from other properties up the hill, the city should continue to maintain the system and it should be designed property to minimize the risk of clogging. He stated that ideally the wetland and swale should be left as is.

Susan Miller, Pacifica, stated that she lives in Rockaway Beach. She is aware of the Vista Mar development and has spoken with the neighbors and agree with all of their research into this project. She asked that staff demand an EIR and the project not go ahead until much further study and all the neighbors' questions are answered. She also learned that there will be a requirement for the HOA to maintain the drainage for the project, and she asked how that will be monitored, such as the city monitoring that they will do the correct monitoring of the drainage or will it be up to them. She would like the city to monitor their maintenance. She was also part of Tree City Pacifica and like what her fellow members have already said. She would like \$750 for each heritage tree that is removed to be added to a fund and \$250 for non-heritage trees. She would also like when trees are replaced in the area that they are Pacifica appropriate trees, adding that Tree City Pacifica has a list of trees that do well in their town and she asked that when any landscaping is done, those trees be considered.

Kristin Cramer, Pacifica, stated that at the August meeting, Commissioner Berman asked staff to explain why this site does not qualify for an EIR process. She stated that an EIR is triggered when a project may have the potential for significant impacts that may not be mitigated to less than significant. In his email to them on Friday, her attorney, Mr. Gaffney confirms this and that the law sets a very simple and low threshold for this triggering but it takes only one expert to conclude that the project will have a potentially adverse impact even with mitigation. She stated that they can have 2-4 experts in agreement, but if one expert disagrees and there is any doubt, then an EIR must be prepared to resolve the doubt which is the law. She stated that, since the August meeting, they have brought them six extremely reputable experts that submit that this project will have adverse impacts that cannot be mitigated. She stated that their evidence is so overwhelming that Mr. Kontrabecki reached out to their geologist and personally threatened him, stating that if he did not retract his conclusions by October 5, he would take action against him. She stated that, at a minimum, this is blatant intimidation and tell that their findings are substantial. She asked why staff has not initiated an EIR. She thought an email that Assoc. Planner O'Connor sent to the applicant on February 14, 2019 suggests that maybe they too are being intimidated. She stated that, in the email, she informed the applicant of the city's choice for consultant for the initial study. She explained who the city had chosen the firm and group because a significantly lower bid for Raney had failed to address four main areas of impact required under CEQA. She stated that Mr. Kontrabecki replied objecting to the decision and

insists on an in person meeting. She stated that apparently that meeting wasn't very fun for the staff because they returned their written decision and low bid Raney became the project's consultant. She stated that they now have an ISMDA whose mitigations are merely vague promises to study it later and their answers boil down to "we believe that won't be an issue." She stated that in working with staff, it was clear they feel their hands are tied and would welcome some cover and relief from the Commissioners. She stated that two staff members explicitly said that they make sure to take their case to the commissioners. She stated that they were here, and she concluded that they cannot be intimidated by an excessively litigious applicant. That is the privilege of their position, but it is also their obligation to not defer. She asked that they not kick this monstrosity down the road as they have before them overwhelming and substantial evidence of potential impact from top shelf experts and they have a community that is alarmed, in need of their help and right behind them. She stated that it is above all their pay grades to try and argue with these experts point by point as that is not the purpose of the CEQA process. She stated that the only question they have to answer is whether there is any doubt or disagreement between the experts regarding the potential impacts of this project. She stated that the answer is a resounding yes. She asked that they give this project the proper review that their community deserves.

Kelsey Coles, Pacifica, stated she lives down slope of the proposed development. She stated that one reason she moved to Pacifica was because of the amazing variety of wildlife that we have. When she read

Chair Nibbelin stated that they can't hear her now.

Ms. Coles stated that one of the reasons she moved to Pacifica was the amazing variety of wildlife we have. When she read the developer commissioned WRA report on the biological resources of Vista Mar, she was astonished by its failure to capture the diversity and abundance of important wildlife on that property. She stated that Shawn Smallwood, the renowned UC Davis expert, commented on WRA's report, visited the site and reviewed the ISMND. His findings stated that the project will result in potentially significant detrimental and/or adverse biological impacts even with implementation of the proposed mitigation measures. She stated that, although the city attorneys have allowed for further future analysis at the building phase as a mitigation it seems that they are ignoring their role and responsibilities as commissioners to evaluate this project by making sure it adheres to the General Plan and the CEQA law. She stated that this uses the standard evaluation before granting approval, not at the building phase. She stated that in this case, because they cannot bring an endangered bird back to life, they can't rebuild a destroyed nest, they can't take back the carbon emitted into the atmosphere by transplanting or logging a 30-year-old tree. She stated that this is why evaluation is done now, not later, to see if there is a hazard that cannot be reversed and see if there are alternatives. She stated that, because Dr. Smallwood found the impacts on wildlife cannot be mitigated to less than significant by the negative declaration, an EIR must be implemented as a number of others have mentioned. She stated that they don't need to deliberate on whether they think WRA's pro developer report is more qualified and accurate than Dr. Smallwood's status in science. The legal standard is simple. Dr. Smallwood cast doubt on WRA's report using substantial evidence and an EIR is the law. She stated that, for over 18 years, Pacifica has denied this project and now the residents he represents believe they have delivered substantial evidence to support denial. She stated that, at the very least, they ask that there is no harm for the Commissioners to take their roll back from the city attorney and ask for an expanded analysis of this project.

Gary Benjamin, Pacifica, stated that he reiterated that, given all the things raised by prior speakers and the letters they have in their packet, this was an extremely risky project and he would like to highlight one area. He stated that, in his business career, he has had the opportunity to manage vendor evaluations in the tens of millions of dollars, and he stated that the most important thing they look at is the reliability and track record of the vendor. He would like to talk about the track record of this company, TKG. He stated that this company filed for bankruptcy in 2002, then years later in 2012, that bankruptcy was still being litigated. He stated that, during the process, John Kontrabecki was found guilty by the bankruptcy judge of being in contempt of court for having attempted to hide TKG assets by transferring ownership of those assets to companies owned by a friend of his in Poland. The judge ordered Mr. Kontrabecki to unwind the transfers and he did not comply so the judge imposed fines leading up to \$15,000 per day. Eventually Mr. Kontrabecki was incarcerated for failing to comply with the court. Finally, he was able to meet the judge's demands and unwind the transactions. He stated that this is the sort of person that they are talking about going into business with. He stated that this is a very risky project and once the hillside is destroyed there is no going back. If the builders discover conditions that will make the project more expensive or if the economy takes a dive and the project no longer looks like it is going to be profitable, given the track record, they may just decide to walk away and Pacifica tax payers will have to foot the bill for trying to repair the hillside in order to mitigate the flood and landslide risk. He stated for these and all the other reasons raised by other speakers, he urged the Commission to reject this project.

Reina Heinz, Pacifica, stated that she lives downslope from the proposed development. She was concerned about the current wetland and biodiversity special status species evaluation. With reference to the wetlands, an official wetland delineation has not been done. She stated that, with the criteria met, the delineation is under the jurisdiction of the US Army Corp of Engineers and CDFW and the delineation is a legal obligation under the clean water act and CEQA. She stated that it was not legal to do a wetland delineation as a preconstruction mitigation effort and must be done as part of CEQA when there is evidence of one, and evidence of wetland and riparian habitat was documented in the 2007 live oak biological report with additional evidence in the 2019 WRA biological resource assessment and its potential corroborated by our community hired local biologists, Coast Ridge Ecology, supporting evidence and capturing this criteria necessary for wetland delineation includes 1) California Fish and Wildlife Map data, indicating wetland riparian habitat presence at the proposed site; 2) WRA's biological resource assessment documenting the presence of an arroyo willow thicket and femoral drainage ditch or stream. In addition the 2007 live oak biological report documents the potential for hydric inclusion soils meeting criteria combined analyzing wetland presence and a lake and streambed alteration agreement or a 1600 under the jurisdiction of the US Army Corp of Engineers and/or CDFW and is required to be completing and approved by CDFW prior to project approval or for permitting. Additionally, she stated that if there is a wetlands, the project would need to be completed redesigned to move the driveway off this area. She stated that affordable units are a condition of approval. She stated that that additional separations from wetlands would not be required as the project was not in the coastal zone. If a wetland was confirmed, subsequent major project revisions would likely move the driveway north, and reducing the number of units from 8 to 7 and losing its affordable unit requirement. Addressing biodiversity and special species status, there is a need for an EIR. She stated that there are numerous records of special status, plant and wildlife species in the vicinity and only an in depth field survey would adequately address all the possibilities prior to project approval and not as preconstruction mitigation, especially regarding California red-legged garter snakes, hoary bat and Mission blue butterflies and callippe silverspots where these latter species are documented less than a mile away and the butterfly

presence absence was surveyed at the wrong time of year in the July 2019 WRA report, not in April or May when they are present on host plants. She stated that, looking into the future, they need commissioner who align with and represent their values as a coastal community and align with Gavin Newsom's new executive order seeking to conserve 30% of the state's land and coastal waters by 2030.

Chair Nibbelin acknowledged that the applicant had ten minutes of comment, but he was going to afford the applicant three minutes to respond to anything in particular they want to, based on the comments from the public.

Mr. Chavarria speak to a couple of items. He stated that they raised the fact that some of the calculations were faulty regarding the drainage, and they have used a published software by San Mateo County which is BAHM. They have a model the site according to the instructions on how to do that project. They are not using any permeable area, not using any increased drainage on the site. All the areas are being accounted onto the system. He asked if it was 100% perfect and correct now? He thought not, and there will be adjustments and improvements done through the process of the building permit through the process of formal design. He stated that, for the status of the conceptual design they have now, the project is property designed, the drainage is working correctly, and he feels confident to put his professional stamp behind that. He stated that, not only his but that of three or four professional engineers that work in their firm. He stated that, regarding the sidewalk replacement mentioned earlier, he stated that there is no need to replace a sidewalk when it is not damaged, adding that replacing the sidewalk that is not damaged would increase the impact in the area by creating more disturbance and more problems for the site. He stated that they have added to the plans a note that clearly establishes that they will repair any area of the public right of way, sidewalks, streets, any anything in the frontage of the property that is defective or not accepted condition to the city engineer whether it is existing and is damaged, whether it is damaged by the construction, and at the end of the project they want to have a perfectly looking area. He stated that there has been a lot of talk about the adequacy of the work. He respects the professionals that they have hired to rate the project, but the professional they have hired to prepare all the reports of biology, drainage and everything else are also reputable people, licensed people and the consultants that the city have on staff like the soil engineer that reviewed the previous reports and he had reviewed all the reports from 1991 and they are well qualified people who will not have any benefit on endorsing the project or saying that what they have done is correct if they didn't feel that it was property and correctly done.

Chair Nibbelin stated that he needed to wind it up, adding that it was possible that it will come back to him as questions or comments by the Commission.

Mr. Kontrabecki asked if he can make a brief comment.

Chair Nibbelin stated that, if they have stuff back from the Commission, he may have the opportunity to speak but to keep things on track and honoring the ordinary process they use in terms of time for various parties, they will bring it back to the Planning Commission for deliberation.

Chair Nibbelin closed the Public Hearing.

Commissioner Berman stated that a lot of her clarification questions were answered and already asked by Commissioners earlier. She wanted to wait and hear the applicant's initial presentation

and public comments as there were more items presented in public comment that she wanted to think about. She referenced the storm drainage, and stated that she appreciated Mr. Chavarria's effort in this planning submittal. She stated that, as someone who has used the BAHM program on the coastline and on a very deeply sloped undeveloped lot, she knows that the program is not intuitive to an average person and you have to run the program to understand it. She appreciates the efforts that he and the applicant have done to complete the BAHM model as well as the San Mateo County storm water treatment calculations for each drainage unit in the area. She didn't have many questions regarding drainage but in an effort to touch on her perspective of the drainage on the site and understanding that hydro modification requirements for almost any site on the peninsula will be more stringent than typical C3 treatment requirements. She stated that it comforts her to know that the BAHM model, even if preliminary as they are not at the building permit phase, the BAHM model was performed from the two-year to the 25-year storm which she thought the state required two years to ten for hydro modifications. She knew there were some comments regarding the pervious surfaces on site that will inevitably drain to the storm drain system. She didn't find these to be an issue and she can tell from the calculations in the report from the BAHM model that the pervious areas are accounted for in the basins and the drainage management area of the site will account pervious areas which have a different runoff coefficient which is the difference between pouring a bucket of water on impervious concrete versus pouring a bucket of water on compacted gravel. She was happy to see that. She referenced the drainage capacities downstream of the site, and she felt comfortable with what the applicant has presented given the hydro modification requirements at the site. She stated that the site's permit requirements have to attenuate the flows and the volumes from the site in an effort to protect the local stream to which the site discharges. She was confident because the applicant is showing compliance with the state permit storm water treatment and PMC requirements. She was satisfied with the storm water management at the site. She had a question regarding the storm water treatment. She stated that there was mention that there were three detention tanks and she only saw two on the storm water management plan, and she asked if someone can direct her to where the third one is.

Mr. Lander stated that there is one located at the far north end of the driveway, one located close to Monterey Road behind the sidewalk below Unit 1 and there is a third located where the driveway intersects Monterey Road at the south end of the project.

Commissioner Berman stated that the one near Unit 1 is the one she missed. She then asked staff to reiterate why an EIR is not required for this project.

Asst. City Attorney Sharma stated that the legal standard for preparing an EIR is that the city must prepare an EIR whenever substantial evidence in the records supports a fair argument that a project may have a significant effect on the environment. If substantial evidence in the records supports a fair argument, the local agency must prepare an EIR even if other substantial evidence exists that there is no significant effect. She stated that facts, reasonable assumptions predicated on facts, expert opinions all constitute substantial evidence. She stated that argument, speculation, unsubstantiated opinions or narrative or evidence that is inaccurate or erroneous or is for some reason not credible does not count toward substantial evidence. She stated that staff has provided responses to various expert reports and comments which tend to show that the comments received fall in the latter category as they generally attack the methodology used to reach conclusions but do not definitively provide that substantial evidence in the record that supports there would be a significant effect on the environment. She stated that it was ultimately

the Commission's task to determine whether there is substantial evidence in the record and refer to staff for any specific technical questions they might have.

Commissioner Berman asked if the record was the staff report that has all the public comments incorporated with it.

Asst. City Attorney Sharma stated that the record is all the information before them such as ISMD, public comments, written comments, comments they just heard, and they are all part of the record in front of them.

Commissioner Berman asked what the city's stance was on receiving technical reports or memorandums from professionals in a certain field as a public comment.

Asst. City Attorney Sharma stated that she didn't understand her question.

Commissioner Berman stated that we have our city engineer, a third party engineer on behalf of the city, but if a member of the public is a civil engineer and they submit a report from their professional opinion as well as a public comment, she asked what the city's stance on that, mainly to protect the city.

Asst. City Attorney Sharma stated that it was the Commission's role to evaluate the credibility of that information. She stated that, because a public commenter does not have credentials that could weigh in favor of it being substantial evidence, that doesn't make it positive that it is. She doesn't know if the city has any usual or customary practices.

Sr. Planner Murdock stated that it was relevant to consider, not only is the comment from an objective third party licensed professional or other qualified expert, but is there some potential personal bias that will benefit gain from providing the comments. He stated that a licensed professional who lives next door to a project and is opposed to the project, they may need to weigh the way the credibility of the professional opinion being rendered when there is also likely a significant personal benefit or impact from the project that could have influenced that professional opinion, and he thought that was a practical example of what Asst. City Attorney Sharma is indicating as to weighing the credibility of that licensed professional's opinion.

Commissioner Berman thought it was an odd question. She stated that there were a good amount of questions on trees and she appreciated the community's concerns with trees and landscaping and she asked what the amount of new trees being replaced. She asked if it was six heritage trees being removed and how many are being planted.

Assoc. Planner O'Connor stated that the preliminary landscaping plan shows that six heritage trees will be removed and the applicant has proposed 14 replacement trees and the replacement ratio was greater than 2-1. She stated that the applicant has also proposed a number of other trees on the site. She stated that for the total number they have only detailed ten more trees and five large shrubs on the site. The condition of approval will require that the final landscaping plan include a 1-1 in kind replacement for all non-heritage trees removed. She stated that they found a nexus for that under the subdivision standards and trees will be replaced at a 1-1 ratio for non-heritage trees with in kind species and if it is found unsuitable to house that number of trees with the development on the site, then an in lieu fee can be determined.

Commissioner Berman thought the in lieu fee is based on the project.

Assoc. Planner O'Connor stated that there was no set formula in the municipal code which states that the evaluation of the value of the tree will be determined.

Commissioner Berman asked what the city require in size for the replacement trees, such as 24 inch or what typical size is required for replacement.

Assoc. Planner O'Connor stated that for the non-heritage trees, it will be in kind and will be dependent on what going to be removed. For the heritage trees, the applicant has proposed 15-gallon sized trees; however, the condition of approval has stated that the final landscaping plan shall include 24-inch box trees where the city can feasibly request for that size of tree.

Commissioner Berman asked if staff can touch on the history of the past denial of the project.

Assoc. Planner O'Connor stated that she can touch on it a bit but the applicant may be the best person to fill it in. On her review of the records as described at the August 3 hearing, she understood that the project was brought to the Planning Commission and planning staff recommended denial of the project. Planning Commission denied the project in line with staff's recommendation. The applicant appealed that determination and brought it to Council and Council gave instruction to the applicant to provide design revisions based on geologic concerns of the project and traffic concerns of the project and to return to Planning Commission. With that direction, there was a time limit of when those revisions needed to be provided and the applicant ultimately determined that they were not going to make that timeline. That was in the 91-92 time frame. She understood that they resubmitted in 2002, went through a series of incompleteness reviews, then in 2015 the application through default was determined complete and the environmental review phase began. She stated that it didn't initially start as she understood staff was waiting on funding for a few years and in 2016 there was some further conversation with the applicant and in 2019 the environmental review phase officially started and brought them to where they are today.

Commissioner Berman asked if the applicant has anything to add to that question.

Mr. Chavarria stated that he can clarify it a little bit as to what has happened through the years. He stated that at the application of 1991, the property belonged to Mr. Andy Breslin, a local realtor and he entered into a contract to sell the property to a business man from Venezuela and they hired an architect from San Francisco to design the project and he was hired as the local civil engineer to process the civil aspects of the application. When the first project was denied by the Planning Commission, they had suggested to the owner a few modifications to the project but he did not approve of the changes and then he directed them to appeal to Council. They did go through the appeal and Council gave them some directions. There were certain things that were very achievable but at that point the gentleman from Venezuela decided that the project was not for him and he pulled the cord and decided not to proceed with the project. The owner of the property, Mr. Breslin directed him to write a letter to the city with the intention to preserve some of the work they had done in case someone else wanted to work on the project. He stated that, at that point, the project went dead until 2002 when another group of people became interested in the property. The reviewed the problems that the previous project had and that was how the project was redesigned from independent little lots that were proposed on the 1991 design and it was created as a condominium project and the houses were relocated so they were sitting on the

better portion of the site without the problems that the previous report had. The started working on the process and there were certain constraints, particularly there was a sewer line coming down on Monterey Road that needed to be replaced and it did not have capacity for the new sewage imposed by the project. He stated that replacing that sewer line became completely unfeasible for the project as it was too much money for the little project and the project went dormant. When the school was built they replaced the sewer line and at that point the sewer did not become a problem for the project and then the project was reactivated. Throughout that process, Mr. Breslin passed away and some of the other partners also passed away, some at a very early age as victims of cancer and the project walked at a very snail pace until a solid group of investors, led by Mr. Kontrabecki, came and bought the project and took it where they are. He stated that is the history of the project.

Commissioner Berman stated she had two more questions and save these until the end as she would like to hear what her fellow commissioners have to say about it. She stated that she understood there was a substantial grade on the site, and she had concerns with the wall height in the back of the site, but she can tell from the staff report that it doesn't necessarily contradict general plan code requirements for the city but the setback in the front of the site is the 3-foot wall height maximum and she understands that there are several tiers of three foot wall height but visually two tiers of 3-foot wall height from the sidewalk looks like a 6-foot wall. She was interested to see what the rest of the commission has to say or think about that. She also knows the site plan has been this way for a while, but she asked why the units cannot be designed similar to the other homes on Monterey Road where there is a dedicated driveway for each. She understood it would require either joint driveways for two units each, but she asked if there was a reason why they need the road in the back of the site.

Sr. Planner Murdock stated that the applicant provided some information to that affect at the fire hearing and can probably speak to the traffic engineer considerations for safety that were evaluated and led to changing the project design. He stated that before the applicant addressed that point, he would mention that additional driveways leads to additional lost on street parking which is another secondary impact of that type of project concept. He stated that they have heard from the public that loss of on street parking is a great concern for this neighborhood.

Commissioner Berman then asked if it was now being proposed that the curb in front of the property is going to be red stripped.

Sr. Planner Murdock stated that there was a portion for sight safety distance for the entry and exit driveways as proposed but he thought they would expect to see a much larger impact to on street parking beyond the area of red curbed in this proposal.

She asked if the applicant can speak to why we cannot pursue to have shared driveway in the front of each building to make the building structure a little more consistent with the other homes on Monterey Road where the garage is at the bottom with the driveway in front of the building.

Mr. Chavarria stated that the first and most important reason is what Sr. Planner Murdock just mentioned. The traffic engineering report established that there is very little sight distance in that section of the street for any vehicle to safely stop if they had driveways coming. He stated that the road kind of winds around and a car coming out of the driveway would not be easily seen by oncoming traffic. The second reason is putting the driveways from the front substantially increases the excavation. He stated that the maximum slope they can have on driveway is 18%

on the steeper area, an average of 15% from the street so that means that, if they set the garages, even taking advantage of the reduction of a 10 foot setback that the code allows, they can only raise the garage about 1 1/2 to 3 feet above street level. At that point, they will be cutting substantial amounts of dirt and if they scale the building behind it will require more and more retaining walls. He stated that they have the problem of traffic and the same problem of retaining walls. They did an analysis of the volume of excavation, putting the buildings accessing from the front as opposed to what we have right now in the volume of grading increased by about 30% from what they currently have. He referred to her question on the retaining walls in the back, stating that they could diminish the height of the walls and extend the grading further back onto the hill, but to minimize the grading as much as possible, they decided to tier the walls close together so they don't disturb the upper portion of the hill and they keep the development kind of in a tight space. He stated that the walls are constructed with 5-6 feet of separation between one another and those areas are going to be landscaped to mitigate the appearance of the high wall. They will not see from the front one single wall but will see small cities of work that act like planters and landscaping in between the walls will minimize the bulky appearance of the walls. He added that the bigger walls in the back are going to be constructed using shotcrete that can be carved to mimic rock and soften the appearance and it is not going to be a big massive wall but tinted concrete with some architectural treatment to make it blend easier with the hillside.

Commissioner Berman stated that he had more knowledge on the site than she does. She asked the question about trying to find a way to put the driveways or garages toward the front of the site in an effort to reduce the amount of retaining walls and grading at the back of the site if there was no longer a need for the access road. She will defer to his analysis of the site. She thanked Mr. Chavarria for his efforts in studying the turning, guest parking and the garbage management. She stated that she might have more questions but she was going to let others speak.

Commissioner Hauser stated that she reviewed the 1992 peer review done by Cotton & Associates and appreciated the fact that the applicant has removed the keystone walls that were the greatest concern. She saw a note about geotech style fabric on the grading plans which she thinks was the rationale for the concern and it wasn't the keystone walls themselves, but the geotextile and all the excavation for that. She stated that it was unclear that geotech style fabric referenced in the plants is part of the storm water system or is it actually accompanying the walls for some reason.

Mr. Chavarria stated that traditionally concrete line swales have been used behind retaining walls and in hillsides. He stated that about every time those concrete swales break apart as soils move, erosion occurs in the vicinity and we ended up with nonfunctional concrete swells hard to maintain and very problematic. He stated that, through a lot of analysis and investigations, they came up with the concept of using a geo reinforce, an earth swale and basically they will grade that portion of the hill behind the retaining walls just to create a swale. They will have some geograde to reinforce the soils in that section and prevent erosion. He stated that it is a greener approach, uses less concrete, works better and drains better. He stated that it is kind of a biotreated type of drainage system. There is no concrete, more stable as if the soil is move and the geo grid moves accordingly and continued to work and they think it is a better solution to a concrete swell.

Commissioner Hauser appreciated that they were literally between a rock and a hard place with a 15-foot minimum setback requirement on the frontage. She was trying to figure out how they were going to address the massing and if there was a way to remove some of the retaining walls

and because they have to start that far back she didn't see a possibility. She appreciated that. She then mentioned that at the last hearing she made the comment that she wanted to see stuff softened with landscaping which she thought would be a great strategy. She also appreciated that staff worked out what she thought was a well worded tree condition, and the updated renderings with large landscaping. She had two points, one is that they are currently being required to provide a 1-1 non-heritage tree removal. For the heritage trees, they are already providing 14 replacement trees while removing six. She asked if they would be amenable to adding the additional four replacement trees to meet the request of Tree City USA and one of the community members mentioned that there was a precedent set by Council to have the 3-1 on a prior project.

Mr. Chavarria agreed that they would.

Commissioner Hauser thought the renderings did a good job of adding large landscaping and softening it, but when she looks at the sixth page of the project sheets, where they added the majority of the large landscape, they were not really approving the renderings but approving the landscape plan if this moves forward. She thought the majority of the large landscaping was on the north side and as they are driving up the hill on Monterey they will see that. She thought there were landscape pockets in front of units 3 and 4 and potentially in front of Unit 7 as well and in front of Unit 8 where the landscaping that is on the renderings looks large and lush. They can look at the key and they are providing one-gallon grasses and other small landscaping that does not grow very large. She didn't think that accomplishes the massing reduction that they have talked about. She would like to figure out how to potentially work on a condition that spreads those larger landscape plantings further up the hill and she asked if that sounds like a fair idea and does it work for him.

Assoc. Planner O'Connor stated that condition of approval No. 15 does include language that states trees (24-inch box) or large shrubs (15-gallon) shall be required where feasible between units 2 and 3, units 4 and 5 and units 6 and 7. She just wanted to make Commissioner Hauser aware of that.

Commissioner Hauser thanked her, adding that she did see that but she didn't interpret it the way she is saying it and it makes her feel a little better. She thought the clarifying point for her would be in the landscape area as fronting Units 1, 2 and 3, rather than just between buildings. She asked Mr. Chavarria if they could add some language to condition No. 15 and that would completely resolve her massing concerns from the last meeting.

Mr. Chavarria stated that they have no problem on enhancing the landscape plan to comply with that condition.

Commissioner Hauser stated that a community member that talked about the wetland delineation legally being required now as a part of the entitlement rather than a part of permitting. She asked WRA to clarify for the record what the discrepancy in their thinking is or maybe Raney, whoever is appropriate.

Sr. Planner Murdock asked Mr. Stinson to respond to that as to delineation and/or ability to defer that particular element of the project.

Consultant Stinson agreed to respond, adding that hopefully WRA can fill in the gaps. He stated that the requirement for CEQA is to identify any potential impacts related to wetlands. Their

initial review of the site identified the potential for those wetlands and the mitigation is to get the appropriate permit. Part of getting that permit is an official verified wetland delineation. Part of the permit requirements come from the Army Corps which provides the additional requirements of one to one mitigation which was identified in the errata for that particular mitigation measure.

Consultant Kearns stated that WRA doesn't have anything to add to that as that very succinct.

Commissioner Bigstyk stated that he wanted to speak briefly about trees as he was in attendance at the Council meeting where they heard the appeal regarding the Oddstad Way site at Rockaway that the Commission had heard previously and he heard Council do the 3-1 ratio on the trees. He stated that a lot of the Tree City members whom he supports were speaking in terms of a city tree fund and he thought it might be entertained in other situations, he didn't know if this was the right venue to entertain that. He thought it should be brought up to the Council but he was addressing it to acknowledge that he heard them. He then referred to speakers who brought up the idea of a water table pushing against retaining walls, and he asked Mr. Chavarria to address that.

Mr. Chavarria suggested that he have their soil engineer, Mr. Dyckman, speak to that.

Mr. Dyckman explained that they put drains behind the walls to pick up the water that is trying to get to the wall. He stated that, if they didn't put the drains, it would build up and overpower the walls because the pressure goes up at least doubled or more than they designed for. He stated that putting in drains make the structure of the wall substantially more economical and they take care of and control the water regarding how much needs to be restrained, allowed to trickle out and the walls look better because they don't have leaks that stain the wall. He stated that drains behind the wall is a normal thing, and in a bedrock situation, the flows are low. They will get flows through the fractures as opposed to the body of the materials. He stated that the rock doesn't let the water through but just goes between the cracks. He stated that it was a fairly normal and conventional construction technique and he didn't see anything unusual about this situation.

Commissioner Bigstyk stated that he read in comments via email and a speaker mentioned about peer reviewers in the city not being named, and he thought that their peer reviewers are present at this meeting and he suggested that they bring that to the surface for the record and asked their peer reviewers to introduce themselves or staff correct him if that is someone else.

Chair Nibbelin suggested that staff identify those present who are.

Sr. Planner Murdock stated that he recalled the issue coming up with respect to storm water calculations, and he asked if that is the peer review to which he is referring.

Commissioner Bigstyk thought that was so.

Sr. Planner Murdock asked Mark Lander to identify who he works for and his qualifications.

Mr. Lander stated that he is Principal Engineer with CSG consultants. He stated that they have a non-call contract with the city to perform storm water reviews as part of the development. He handled the review on this project. He is a registered civil engineer since 1982 and he has been doing storm water work since the first storm water provisions came into exist in the background in 1990. He stated that he would be happy to answer any other questions.

Commissioner Bigstyk stated that another questions asked was how will the homeowners association be monitored and the context was to make sure they do what they are supposed to do in keeping everything clear of debris. He asked if someone can briefly explain how that works.

Sr. Planner Murdock stated that there are 2-3 parts to that. They mentioned earlier that there was a proposed condition of approval requiring an annual report to be submitted to Public Works describing the maintenance work performed by the HOA. He stated that storm water control measures on the site are part of the city's municipal regional permit (MRP) and C3 is one of the sections of the MRP. He stated that another part of the permit requires inspections of the storm water treatment measures on a periodic basis which he thought was not less than five years, but there is also a percentage of facilities in the city that need to be inspected and, based on the city's current number of storm water treatment facilities, it typically results in a more frequent inspection than once per five years, and that is another inspection component where the city establishes proper maintenance being performed. He stated that they also have the ability to respond to any complaints that may come from the neighborhood to ensure compliance with conditions of approval and that proper functioning of the storm water control mechanisms and drainage systems are maintained on the site. He thought there were at least those three parts for the city's ability to regulate and ensure that the proper maintenance and function of the facilities are performed.

Commissioner Bigstyk asked that they correct him if he is wrong, but he thought once they get past this phase, there were a few more borings regarding the bedrock cuts of the site that are going to be performed. He thought Mr. Chavarria may be able to help with that one.

Mr. Chavarria stated that, through the process of the design, they have a conceptual soils report that has done an analysis of the feasibility of the site to construct this project. He stated that, during the design phase, they go to a design level soils report that will have to address the slope stability analysis and a few other elements. He thought Mr. Dyckman can expand if Commissioner Bigstyk felt that was necessary.

Commissioner Bigstyk stated that, if Mr. Dyckman felt like commenting, he would welcome more data for himself as well as those from the public.

Mr. Dyckman stated that they are planning on doing some additional borings, probably a deep one towards the middle of the hillside to more effectively gauge what the inclination of the ground water table is, and they will grab some samples of the bedrock to test them for strength because, as part of the review process, they have gone through with the city's review consultant and they agree that they have to do a seismic slope stability analysis to be sure they have adequate strength in the materials out there and, if not, that their walls are beefed up to accommodate those higher than normal forces.

Commissioner Bigstyk asked at what point in the process does the boring sample occur, before or after they take out vegetation.

Mr. Dyckman stated that ideally it will happen shortly after the present process gets passed and they are actually on to the next stage of the process. He stated that no vegetation needs to be removed unless they have an issue getting the equipment to the spot on the site where they need to take the borings. He anticipated minimal if any disturbance to vegetation.

Chair Nibbelin had some questions, referring to a lot of comments on trees, and he would direct this to whomever is appropriate. He stated that they heard some proposals with respect to ratios, 3-1 replacement for heritage trees and 1-1 for straight logging operations, and he thought there was a proposal to include a fee as well, which he was asking for clarification on, which was a fee of \$750 for heritage trees and \$250 for trees removed as part of the logging operation. He asked whether they would need a nexus study or something along those lines before they can impose such a fee.

Sr. Planner Murdock thought they all respect and value the trees in our community and understand the important function they have and is the reason why the city has several different regulations governing tree removal of various types of trees, etc. He stated that they have requirements with respect to replacement of the trees in their municipal code or other city ordinances. He stated that there is no such replacement ratio required. Replacement may be required and reasonable limitations on that can be imposed, whether 2-1, 3-1, depending on the impact being mitigated. He stated that, with respect to fees, he was only aware of mention of a fee with respect to the heritage tree preservation ordinance with a prescribed method of determining the fee which is based on an appraisal of the tree's value. He thought a discussion of any set fee outside of that context for a heritage tree would be inappropriate. He thought they would allow the process detailed in the municipal code for heritage trees to be followed, and with respect to non-heritage trees, while his colleagues may be aware, he was not aware of provisions in other ordinances or the municipal code addressing fees. He stated that fees are a very particular body of law in California with respect to imposing fees generally. He stated that there was another separate set of considerations for imposing fees called an ad hoc basis or on a project specific basis. He thought, in this case, with the replacement of trees specified, that was addressed in the project impacts for purposes of addressing them within the Commission's purview, but it was not clear to him what basis they would have for imposing an additional fee on top of that or substituting replacement for payment of a fee. He stated that, should the Commission go that route, there was a very particular process they would need to follow to determine what that is to make sure it is rational and related to the project. He didn't believe they have enough information to do that at this meeting.

Chair Nibbelin understood. He then referred to comments on the history of the developer group and concerns about the possibility of a project getting started and certain things being done in the context of the project and then things stopping, and he hoped staff or the City Attorney could speak to the protections that are in place for ensuring that, if they end up with something that is partly done, they can insure that they will be able to mitigate the negative consequences to the community. He thought it was covered in the staff report, but he thought it would be worth touching on that again.

Sr. Planner Murdock stated that he would be happy to do that and Asst. City Attorney Sharma can provide additional detail where appropriate. He stated that there were two components to the project, subdivision improvements as part of the tentative subdivision map and project improvements with respect to construction of the buildings. He stated that the subdivision improvements are covered by assurity requirements in the city's municipal code, either cash deposit or bond or a combination thereof to insure the estimated cost of the work is provided through that financial mechanism to ensure that the city has the ability to step in and complete the work or at least render the site safe if the grading or other subdivision improvements were only partially completed. Regarding the building component of the project, he stated that the city has a nuisance abatement authorities which are general police power authorities, and unfinished

buildings, exposed excavated hillsides, etc., are nuisance conditions which the city can abate through the civil nuisance abatement process which the Asst. City Attorney can articulate better than he can. He stated that there are remedies available to the city to pursue completion of the work and to pursue cost recovery where appropriate. He thought there was adequate legal mechanisms for the subdivision and the building components of the project to ensure that they have the ability to render the site safe and to recover the city's costs where appropriate.

Asst. City Attorney Sharma stated that she echoed Sr. Planner Murdock's comments and they generally advise that the city's code enforcement process is adequate to protect the city in those circumstances.

Chair Nibbelin had another question for Asst. City Attorney Sharma regarding one speaker who made a statement about wetland delineations and suggested that there was something about the way they did wetland delineations maybe were not legal under the circumstances. He wanted to know if he got the comment right or was understanding it.

Asst. City Attorney Sharma stated that the way she understood it was that a wetland delineation after approval would somehow be an improper deferment or formulation of a mitigation measure. She stated that her response to that was that a requirement that a mitigation measure be developed in consultation with regulatory agencies can be sufficient under CEQA to insure that potential impacts will be adequately mitigated.

Chair Nibbelin stated that he had no more questions and asked if any other commissioners had questions or were they ready to move into the deliberation phase.

Commissioner Berman stated that one of her largest concerns is still the massing of the site and the scale, mainly because when she go to that road, she sees the smaller homes in comparison to this project. She enjoys the aesthetics of the project on its own but looking at the surrounding homes on the site, it was quite different. She wondered about the thoughts of the rest of the Commissioners, especially those with better aesthetic or architectural backgrounds, on the scale of not only the buildings but also the walls.

Commissioner Bigstyk asked if it was appropriate to answer that or would the chair like to call on them to answer that.

Chair Nibbelin asked him to go ahead and respond.

Commissioner Bigstyk stated that he wasn't opposed to conversation on this format. He stated that safety is his biggest concern and he tried to ask as many questions as possible, but after that, his next big concern was scale. He thought he brought this up at the last meeting, suggesting that Sr. Planner Murdock jump in briefly, when he raised the question that usually when he looks at the design guidelines in the staff report, there is data that not all the design guidelines need to be followed to the letter in order to approve a project and that is a little different than some of the other findings they go through. He did feel to a point that it was out of scale, but didn't know if it was out of scale enough that he feels comfortable putting a stop to the project based on that particular aesthetic alone. As far as the walls, he thought it was more difficult for him to visualize how that is going to look, as he hears clearly and can visualize the concerns of Commissioner Berman and he has a slightly different visualization when he hears the description by Mr. Chavarria. He stated that, if Mr. Chavarria's description is to be fully discerned, it sounds

like it might not be as great a visual impact, but getting back to scale and mass, in general it is a concern.

Commissioner Hauser stated that they talked about it at the last meeting that the scale was definitely one of the biggest concerns that she has had. She acknowledged that there were a lot of other technical things that have been studied and talked about and she thought about the context as they move south, and she didn't think the fact that the next buildings over are not directly adjacent. She stated that, even though the side setback on the southern property line is technically relatively small because of where the road is placed, she didn't think that would create a scale issue. She understood how we measure things in Pacifica and how we define building heights, but she thought the biggest issue she sees is that, between the grade of the road and the top of 35-foot buildings, there was a 57-foot difference in a lot of scenarios, and it was a hard question because on the one hand, they have a 15-foot minimum front setback, and if you are going to sink down the grades, you will end up with a huge retaining condition which is already a retaining condition on the rear and it will only get exacerbated. She thought it was like pulling levers. From her standpoint, she thought solving it with good, well-thought out landscaping is an important thing to do. She appreciated that there was a condition of approval where the Planning Director has to approve the finish of the retaining walls and the applicant was open to a condition where they increase the landscaping and move the breath of the larger size of landscaping further south, but she thought the thing that was difficult for her was that, by having the municipal code requirement that all of the walls along the frontage can only be 3-foot height maximum and you end up with more walls and a smaller planting area. She believes that a 5-foot clear area with a root barrier would be a sufficient space to get a really healthy tree, but when you are only moving these things three feet laterally, it becomes harder. She stated that it was a hard position for the applicant because of the natural topography of the site and it was a hard position for the city, but she thought there was a way to get there if the landscaping is done appropriately.

Commissioner Godwin stated that he has lived in a number of towns and almost all of them are more eclectic than Pacifica. He stated that this need for uniformity reminds him of Moscow where there is a massive block of things that are very similar. He thought, if you look at a place like Paris, they have very interesting buildings somewhat inserted into what for the last 100 years has been something they try to keep fairly uniform and it has worked out great. He thought it was also true in London and New York. He thought they could afford to shake things up a little bit.

Commissioner Ferguson stated that he shares the same concerns with Commissioners Bigstyk and Hauser, and he doesn't know the process that well yet and once it leaves this space, is this the last time for appointed representatives of the community to have a review other than just staff. He stated that they can send this on its way with a blessing saying that hopefully they mitigate this property like the retaining walls along 92 coming in and out of Half Moon Bay and they look great compared to most retaining walls, but if you are walking up that Creekside without the need for a highway there they look terrible. He asked if there was a way to make this work, make it aesthetically pleasing. He thought it was architecturally interesting. He thought the design was creative and innovative. He asked if any of that negate the fact that they are putting 50 feet of retaining walls in a residential neighborhood where there aren't currently 50 feet of retaining walls. This is where he is left not knowing where, if they send it along, they stop that from ending up being the case even if the best intentions are there.

Chair Nibbelin agreed with a lot of things all of the commissioners has stated. He was not too off put by the mass or size, as he thinks it was an interesting and good design. He stated that it struck

him that, having looked at the geotechnical aspects of things, to bring the development together in a way that creates more massing than they otherwise would have if there was an ability to use more of the site. He thought this was a good solution under the totality of the circumstances. He agreed with Commissioner Hauser that there is going to be a need to rely on landscaping and a lot of good thought around that to buffer and soften things.

Commissioner Berman appreciated the additional comfort that commissioners have stated. She agrees that enhanced landscaping will help the massing of the site in screening the walls in back of the site, but she still has a lot of hesitation on mainly the size in comparison to the nearby buildings. She stated that even the condos across the street are a little more spread out and appear smaller and they don't have the vast amount of retaining wall that this site would have. She stated that she understands the need for retaining walls. She wonders if there is a different way to orient things to reduce the massing. She thought landscaping is a good approach. She liked on item that Commissioner Ferguson mentioned that this is the opportunity where the public gets to comment their concerns and the opportunity for the Commission to ask for potential design changes or state their concerns, especially with all the assembly and senate bills. She stated that housing projects are in need and they could move forward without Commission comments and review at all if they comply with local jurisdiction code requirements and General Plan requirements. This is one is a tough one for her.

Commissioner Hauser was pretty much going to say what Commissioner Berman just said which is that, in light of a lot of the state legislation that has come out in the past year or two, she concurred that especially on a project that has been reviewed a lot and on which staff has done a ton of work and has come to the conclusion that this project is consistent with our land use guidelines. She stated that it was a privilege that they do get to comment on these things. She had two conditions of approval that she would personally like to see updated, one is the tree issue and she has some proposed language when they get to that juncture, and incorporating more landscaping language around that based on the conversation they had. The other is the condition of approval that pertains to the geotechnical report being to the satisfaction of the chief building official. She stated that, based on everything they have heard at this meeting and how she feels, it was very successfully peer reviewed at this juncture by staff who hired a third party consultant for the peer review. She thought it would be important to add the third party peer review process to the design level geotechnical report as well. She personally thought those were the two things she need to see to gain a baseline level of comfort around this.

Sr. Planner Murdock stated that the city already has an administrative policy No. 28 that requires just that, a third party peer review of the geotechnical reports submitted for building permit applications where there is any potential for civil engineering or geotechnical concerns. He thought the condition she is describing could more directly refer to that and reemphasize the fact that, in accordance with administrative policy No. 28, it insures a peer review of future geotechnical reports are conducted.

Commissioner Hauser mentioned condition 30 as pertains to the storm water portion that would have a third party peer review paid for by the applicant. She thought lifting that language and putting it on No. 28 would be more than sufficient.

Commissioner Bigstyk agreed with the conditions that Commissioner Hauser has brought up. He stated that they are very fortunate that they get to have this review process, given that the project is apparently in alignment with our housing element. He had a conversation with a

councilmember who told him that CCAG had recently come out with the new regional housing need allocation numbers and it looks like Pacifica's future numbers are substantially greater than they currently are, with the number mentioned was 1900. He didn't know if staff wants to comment on that, as he wants to be sure he is sending out proper information. Given that the numbers are going up substantially and we are required to make sure we are using our land in accordance with our commitment for which to use it, He has noted that the neighborhood has placed a substantial amount of concern into this project and, on the most fundamental basic level, if you strip away every bit of detail, this is a project that is very large for a neighborhood this size. It is a project where, under the most ideal circumstance, it means that the neighborhood gets to live with a very large thing incorporated into their neighborhood. That is not an easy thing to be asked to live with, and in this instance, there are a lot of very genuine concerns brought up, especially about safety. He stated that he was satisfied that he didn't think safety is going to be as great a concern as it might have been at the beginning of the process. He brought up the idea of a condition of approval to make sure that the catch basin can handle a 100-year storm event. He stated his chief concern is about safety, and given all the storms we have seen nationwide, and remembering the massive storm four years ago and that must be part and parcel to climate change being what it is. He asked the commissioners if they agree, but adding on that condition of approval for the basin that can take on a 100-year storm event would satisfy his concerns about safety and would hopefully address in some measure address some of the community's concerns.

Commissioner Ferguson agreed completely with Commissioner Bigstycyk in adding the 100-year basin. He lived on Esplanade when, instead of the usual 5, 6 or 8 inches, they lost 10 feet of bluff in one year, and he had a lot of neighbors lose their homes. He stated that they had their eyes closed for a while and it was something he thought about a lot, as the developer went through bankruptcy and left Pacifica with that bill and later we had congressional help, but he thinks about that a lot, given the scope of what is being asked of this hillside. It leads him to the point of raising his hand. He is currently on a project in San Mateo where a boring that was done ten feet from an excavation area proved to have the wrong conditions and it was going to result in millions of dollars in changes. He asked Assoc. Planner O'Connor to correct him if he is wrong, but he stated that there was no boring done in the actual location where the buildings are going to be developed on this site. He worries that they could have a condition there where someone is walking into something where they are going to create a huge excavation and a huge series of retaining walls held back, although he was sure their engineer correctly, without the proper borings in advance, were commissioned to approve a project that could be not right from the design. He didn't know who this is directed to, but if it is possible to put a condition in that a boring be presented that is actually within the area where the buildings are being developed, he would strongly push for that as a condition of approval.

Chair Nibbelin asked some clarification for that. He was under the impression that we need to get a geotechnical report that is somewhat more detailed before a building permit can be drawn for the project. He asked if that is right.

Sr. Planner Murdock stated that was correct. Regarding the specific location of borings, he didn't know if that has been prescribed thus far. He thought the evidence they have is at the site is likely to be adequate for development of these structures, but further investigation is needed to insure the proper technical design for the building foundation and other structural systems. He was not aware of anything that would prevent the Commission from specifying that not less than one boring must be performed within the footprint of the building. He would defer to one of the

qualified panelists they have on staff to articulate that in a way that would be achievable for the project applicant and obtain the desired technical outcome.

Chair Nibbelin asked if there was someone from staff who has the geotechnical knowledge to speak to that.

Sr. Planner Murdock asked if Consultant Rodacker would be willing to offer an opinion on that.

Consultant Rodacker stated that he mentioned it in earlier responses. He thought everyone on the applicant's side understands that there is going to be a design level geotechnical report for this project that will require additional borings. He stated that the applicant's geotechnical engineer mentioned as much earlier in one of their responses. He stated that, whether or not it becomes a condition of approval at a planning level which is up to the Commission, everyone understands that there will be additional borings on site for the design level study.

Sr. Planner Murdock suggested that, before the Commission prescribes the locations of the borings, they hear from the applicant's geotechnical engineer as to where he might conceive of those borings being located. He noted that there are four different buildings on the site plus various locations for retaining wall systems and, while well intentioned, it may not be the best idea for the Commission to prescribe technical details of particular followup geotechnical work.

Mr. Dyckman stated that the biggest issue he has is wanting to make sure they get a boring in location of the uphill retaining walls as that will be the area of their deepest cuts. He stated that their buildings may end up being on fill which means he can't drill that because it is not there yet. He also has to keep in mind that he wanted minimal disturbance to the hillside when he does his investigations and most likely his borings are going to be done in existing cut benches that are already there because that is where he can get equipment. He stated that, on steep slopes, he cannot get equipment there without starting to regrade those portions of the hillside to get a level building pads which allows him to drill. He stated that they will be somewhat constrained by the existing geometry of the site, but he wants to make sure that they get areas that are going to allow him to get to where they have their deepest cuts and where they have their most important foundations.

Chair Nibbelin stated that they are requiring a design level geotechnical report before building permits can be issued and it has also been confirmed that such a geotechnical report is going to be subject to peer review, either by city policy or by a condition of approval that the Commission might add to the mix. He thought prescribing at the planning phase the specifics of that design level geotechnical report is probably beyond what he commonly sees in the entitlement phase.. He has done this for a long time as a commissioner and as an attorney for the county where he does a lot of land use stuff. He knows it is a constant tension as to where they get this kind of information and it not a conversation of this project in particular, but his sense is that it is something more appropriately deferred to the specifics of where borings might occur. He referred to Commissioner Bigstyk's proposal that they require a catch basin that is capable of handling a 100-year event, and he asked how much bigger basin are they talking about. He stated that there is obviously going to be cost impact to that, and it didn't strike him that it is always the best idea to build to the most extraordinary cases. He stated that they don't design parking lots to Christmas level shopping and he has some concerns about that and wondered what staff thinks.

Sr. Planner Murdock agreed, as normally he thought it was inadvisable to design to the 100% event or at least the maximum capacity that would be anticipated at all times. He thought it was relevant for this project in the sense that avoiding adverse impacts to the offsite storm drain system is important and the applicant has offered to provide this level of design in order to prevent such adverse impacts. He stated that, as to the technical requirements to achieve that design for the 100-year storm detention, Mr. Lander may opine on that issue.

Consultant Lander stated that the three detention tanks are buried underground so they can be whatever size they are as they are not going to be visible. He stated that it was not like they are digging a larger open basin to store the water. He stated that it was a rule of thumb that a 100-year storm is probably 2 1/2 to 3 times the size of a ten-year storm, and they have already sized the tanks for 25-year storms and they were probably looking at maybe a 50% increase and maybe doubling the size of the tanks to get to 100-year storage. He stated that it was exponential. He stated that 100-year storm is not ten times of a ten-year storm.

Chair Nibbelin gets that. He asked what the additional level of protection that they are achieving for offsite facilities when they have a bunch of 100-year tanks when no one else has that level of protection, and they have water coming from all sorts of sources that are affecting some of the same offsite facilities.

Consultant Lander stated that, if there is a 100-year storm on site, there is probably 100-years storm around the rest of the city.

Chair Nibbelin stated that was his point.

Consultant Lander stated that it was probably experiencing some flooding. He thought that, by providing a 100-year detention on site, you can tell residents and people downstream that they may have a problem and this project did not make it worse.

Commissioner Berman didn't feel a need to design the site to retain or even detain a 100-year storm, and as Mr. Lander stated, it was likely that the rest of the city is experiencing the same storm event. She stated that it was much more common for cities to design more public infrastructure to retain or manage larger storm events. It was not very common that private property owners have to design even a 25-year storm, and certainly not 100-year storm. She stated that, from her review, the site has overland release near the driveway and she didn't have a personal concern of the property flooding or flooding nearby properties assuming that the site grading would be done in a manner that is acceptable to the building department review. She stated that it was a common building department review item to ensure that there is no cross property line drainage even for overlender lease situations. She has other concerns with the project that she doesn't think there is much of a solution to, but she wanted to mention her thoughts on that.

Sr. Planner Murdock reminded the Commission that this issue of storm water drainage and offsite infrastructure was a very critical issue raised by the public in the first public hearing on this project with additionally a number of public comments on the project. He understood the Commission's concerns, potentially with requiring the applicant to design to this higher level. He has heard a willingness by the applicant to design to this higher level and, by doing so, the greater number of storms that we can document that the project would not exceed the predevelopment condition in terms of storm water runoff, the stronger the argument in the record

that the project would not add adverse impacts to the offsite storm water infrastructure, including claims made about downstream erosion to the creek into which the storm water discharges would enter and it bolsters the factual record with respect to offsite impacts and were a key concern to the neighborhood. He has not heard any evidence as to what adverse impacts there would be to the project by incorporating the applicant's offer to design to retain a 100-year storm at this point. He was not sure what they would lose and he thought they would gain a lot.

Chair Nibbelin stated that his point was well taken. He stated that it was obvious if the applicant was willing to do it, it sounds like it can be done technically and without undo issues on the site. He thought he was more philosophical and unnecessary at this hour.

Commissioner Hauser stated that she was going to say that, based on what Sr. Planner Murdock said, she would support the 100 year storm detention. She mentioned that Commissioner Berman spent a lot of time talking about the sidewalk at the last meeting, and she has heard what everyone has to say on it, and she felt it was not a huge deal to her unless Commissioner Berman thought there was a nexus for it based on the street and highway codes, but she was not going to die on her sword for it. She wanted to hear if this was something she was still concerned about.

Commissioner Berman thanked Commissioner Hauser for reminding her of that. She didn't see a nexus that requires the sidewalk to be replaced, especially as there isn't any apparent damage. She stated that they did talk about it in length during the last meeting and it seemed like the applicant and everyone was on board with the replaced sidewalk. She thought it was more of an aesthetic item that the project could implement. She stated that it was beneficial to the surrounding public. If only portions of the sidewalk are going to be replaced and there are new driveways and slurry seal of the road in front of it, which she thinks is a COA usually for projects of this size. She would want the sidewalk to be replaced and she would like to include that as a COA if they are able to.

Chair Nibbelin would not disagree, but he thought there were some aesthetic concerns that they have been talking about and trying to mitigate aesthetic concerns. He thought it goes to the Asst. City Attorney as to what they think about whether they are going off the rails from a Nollan-Dolan kind of perspective if they are moving in this direction.

Asst. City Attorney Sharma thought she would need to hear a little bit more about the existing condition of the sidewalks and how the project would have an impact on the sidewalks' aesthetics to justify a replacement.

Chair Nibbelin thought there might be another question to the applicant as to whether this might be something they would be prepared in the same vein as the 100-year storm event situation as this might be something the applicant might be prepared to agree to by way of a condition.

Sr. Planner Murdock added that he was not sure if Sr. Civil Engineer Donguines has information as to the age of the existing sidewalk in this area. He didn't have to deal with the budgetary concern for the development project if this project is approved because he is not the applicant. He would think that selective replacement of some segments, but not all of them, may over the long term present a maintenance problem for the HOA in that now they are going to have to replace these other segments at different times as they age and become damaged and uplift. There could be some overall benefit to the development by just doing them all at once, even if the city wasn't in a position or chose not to require that replacement.

Chair Nibbelin suggested that Sr. Civil Engineer and/or Mr. Chavarria might want to speak to it.

Sr. Civil Engineer Donguines stated that he has walked the site several times and the majority of the sidewalk is not slated to be replaced are in good working condition and would last for another ten years if no damage is done to them by construction equipment or some other methods to destroy. As far as aesthetics, they would be a stark contrast in color with the new concrete and darkened sidewalks currently there.

Mr. Chavarria stated that the southern portion of the property where the access driveway and exit driveway are needs to be replaced as they have to create a wider driveway, the exit path and a portion of the sidewalk where the utility channel and utility trenches are going to come, where the water and sewer are, and they look at the general picture of the project, from Unit 3 south, all that needs to be replaced by the means of the work. The portion of the sidewalk that is currently in bad shape is approximately in front of where Unit 3 will be. Their contention is the very north end of the project, which is very low down, is an area that they are not even touching. It is like an appendix of the project. He stated that, if it is in good condition, in good working functionality, they do not see any reason that, not for aesthetic purposes as it is not on the front of the project and replacing the sidewalk creates additional work on the pavement in some of those areas. He stated that they are absolutely committed to have the best aesthetic appearance for their project. They want to create something nice and beautiful and they are not going to jeopardize that by a bad looking sidewalk. He stated that, to the satisfaction of the city engineer, they will replace any portion that is necessary to be replaced for functionality, aesthetics and safety of the public.

Chair Nibbelin he mentioned to his fellow commissioners that, if they want to try and sell the units, they are not going to want it to look bad.

Commissioner Hauser stated that the retaining walls go all the way to the northern property and they are the element that ties into the entire project and there are retaining walls along the entire frontage of the project. She stated that, personally, while the homeowners may only be seeing from where the condos start, people who are walking along Monterey and looking at it as a holistic project, and seeing it from property line to property line, that is how the retaining walls work. She stated that there was not a 30-foot setback on the northern portion where there is just landscaping and no retaining walls. She stated that, from an aesthetic standpoint, her preference would be to do the replacement. She referred to Article 2, Section 56, street and highway codes makes it a nexus but, if this is not something that everyone else feels good about, she will drop it.

Sr. Planner Murdock asked if they can ask Sr. Civil Engineer Donguines if there are methods to color the concrete such as with lamp black or other components to the concrete that would tone down the bright white appearance of the new sidewalks to better match the existing sidewalk which may not be replaced.

Sr. Civil Engineer Donguines thought there was a process where they could power wash the sidewalk to get the black mildew stuck in between the granules of the concrete and that might help with the color.

Sr. Planner Murdock stated that would be for the existing sidewalk sections. He asked if there was anything they can do with respect to the color of the new sidewalk sections to help them better match.

Sr. Civil Engineer Donguines stated that you could add color to the new concrete so it will better match the existing.

Chair Nibbelin thought it was like distressed jeans.

Sr. Civil Engineer Donguines stated that there is a product called lamp black, which is a black powder that they can add to the concrete to color it a bit so it is not white and a little bit more gray.

Chair Nibbelin asked if anyone wanted to put a motion together.

Commissioner Hauser stated that she would like to put a motion together. She thought the most complicated part of it is figuring out the wording for condition 15, the landscaping and tree item. She stated that she has taken a stab at it and if everyone is happy with the wording, she is happy to make a motion with the 100-year storm condition, adding that Commissioner Bigstycyk might take a stab at that one, and the change they made to condition 28 and she thought Sr. Planner Murdock already has language that is ready to be proposed.

Sr. Planner Murdock stated that he did. He thought, if it pleases the Commission, doing this condition wording on the fly is difficult. He has tracked suggested changes to the condition of approval thus far that he has heard the Commission discuss. He stated that, if the chair would be open to it, they could take a brief recess to allow staff to confer over the wording and then offer it by reading it into the record to make sure it satisfies the Commission's desires with respect to the project.

Chair Nibbelin asked how much time he needs.

Sr. Planner Murdock thought ten minutes would be sufficient for his purpose. He stated that he would want to confirm with respect to condition 15, he asked if there was a desire to increase the replacement ratio for heritage trees to 3-1 from 2-1.

Commissioner Hauser stated that she had several text changes that she hoped to float by everyone.

Chair Nibbelin stated that, before they take a recess, he asked if they make sure they have the high level _____ in the room about the motion which she has in mind.

Commissioner Hauser stated that for condition 15, one of the changes says that replacement heritage trees shall be 24-inch box sizes when feasible and she would like to delete the words when feasible and make sure they are actually 24-inch boxes. She thought there was a typo in the next sentence, "should a heritage tree be successfully be located as analyzed under condition 15" and she thought it was supposed to say 14, but she will defer to staff if she is misreading it. She stated that, based on what everyone has talked about as far as the fee, she thought deleting the last sentence which says due to concerns of the health and success of landscaping, an in lieu fee shall be utilized. She thought they take it out and leave it as tree replacement and moving the 2-1 to 3-1. She would like to add a sentence at the end that says something along the lines that the applicant and the HOA successor will be responsible for the success of the new trees for a period no shorter than five years. Any failing tree should be replaced and replanted at the applicant's or

successor's costs. She stated that the only other thing was adding the larger landscape at the frontage in places that Assoc. Planner O'Connor and she spoke about earlier. She knows it is a lot, but that was her feelings.

Sr. Planner Murdock thought he captured most of it. He stated that with respect to the last item, he explained at the last public hearing in response to a commissioner's question, the landscaping plan is required to be maintained in perpetuity and there were concerns about replacement ratios and survive ability which in some project context outside of this project are relevant, but in this context where it is a small project and there is a precise final landscape plan, the conditions require that in perpetuity and that the landscaping be maintained in a healthful condition or replaced. He thought that component is likely to be adequately addressed already. He asked Commissioner Hauser state again her request with respect to the fees. He stated that she suggested deleting some language.

Commissioner Hauser stated that the final sentence of that paragraph said that of a licensed qualified horticulturist, arborist or landscape architects recommends against the onsite replacement that the applicant could provide a fee. She thought it would behoove the project to delete that, especially as there has been no nexus study on what the amount of the fee would be and the fee only applies to heritage trees and the applicant is the one providing evidence of the value. She stated that there was a requirement to replace non-heritage trees which have no value as well then she didn't think this was a sentence that benefits the public or the project. She thought they delete the sentence outright.

Sr. Planner Murdock understood. He thought he had sufficient information for suggested edits to the conditions thus far and of course presuming a motion to approve the project which may be forthcoming. He would like to circulate these suggested edits among staff to make sure they agree that the language is appropriate and come back from a recess potentially to read those changes into the record and see if they meet the Commission's desires for the project.

Chair Nibbelin stated that they will be in recess until 11:30, and asked if that was sufficient time.

Sr. Planner Murdock agreed.

Chair Nibbelin called a recess and then resumed the meeting. He asked that they delve into the language that staff put together.

Sr. Planner Murdock thanked him for the recess to confer on that point. He referred to packet page 125, condition No. 15 on packet page 128. He read the proposed revised second paragraph in its entirety into the record. "The final landscaping plan shall include a tree replacement plan prepared by a qualified horticulturist, arborist or licensed landscape architect for replacement of the six removed heritage trees with like kind or equivalent substitution in terms of species. The replacement ratio to remove heritage trees shall be at a minimum 3-1 ratio as agreed to by the applicant. Replacement heritage trees shall be 24-inch box size trees. Should a heritage tree be successfully relocated as analyzed under condition 14, the relocated heritage tree shall count as one replacement tree in the tree replacement plan. The tree replacement plan shall also identify like kind and size equivalent substitutions for all removed non-heritage trees at a 1-1 ratio. Trees (24-inch box) or large shrubs (15-gallon) shall be required where feasible in the planter areas in front of Units 1, 2 and 3 and in the planter areas between Units 4 and 5 and between Units 6 and

7.” End of test. He got one thumbs up and moving on, they will go to condition of approval No. 28 and he will read it in its entirety. “Applicant shall incorporate all recommendations detailed in the letter geotechnical investigations for proposed new townhouses on Monterey Road in Pacifica, California, dated April 2002 as updated by the letter Monterey Townhouses, Monterey Road, Pacifica, California geotechnical report update, dated September 2, 2014 and letter Monterey Townhouses, Monterey Road, Pacifica, California response to geotechnical review comments dated August 3, 2019 and approved by the building official prior to issuance of a building permit, except as modified by the MMRP in Exhibit B, in accordance with the city’s administrative policy No. 28, the final geotechnical report shall be peer reviewed by an engineering consultant from the city and it must be found acceptable to the city as is or with recommendations. The applicant shall pay city the cost of the peer review, including the cost of staff time and any services determined to be necessary by the building official.” End of test. Moving down to Condition 31, read in its entirety as revised, “Applicant shall update its storm water treatment plan with the construction drawings to comply with all applicable requirements of provision C3 of the municipal regional permit, including but not limited to demonstrating that sufficient treatment areas have been provided to capture and treat storm water from all impervious surfaces created by the project. In addition to storm water treatment systems required by provision C3, and as volunteered by the applicant, the applicant shall demonstrate sufficient design details to detain the 100-year storm to the satisfaction of the city engineer. All necessary storm water treatment measures shall be installed prior to issuance of a certificate of occupancy.” He stated that concludes all the modifications to the draft resolution that staff heard the Commission discuss prior to the recess.

Chair Nibbelin thanked him and staff for the quick work on that. He then referred to Commissioner Hauser and asked if, following break and staff’s work on additional material, she was inclined to make a motion at this point.

Commissioner Hauser moved that the Planning Commission adopts the attached resolution, including conditions of approval in Exhibit A with modifications as read by staff on conditions 15, 28 and 31, and the Mitigation Monitoring and Reporting Program (MMRP) included as Exhibit B, to ADOPT the Mitigated Negative Declaration and MMRP for the project; to APPROVE Site Development Permit PSD 714-02, Use Permit UP-904-02, and Subdivision SUB-204-2, and to AUTHORIZE removal of heritage trees and logging operations; and to INCORPORATE all documents, maps and testimony into the record by reference; Chair Nibbelin seconded the motion.

Sr. Planner Murdock took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Berman, Bigstycck, Ferguson, Godwin,
Hauser 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.

COMMISSION COMMUNICATIONS:

Commissioner Bigstycck thanked staff for putting it all together and bearing with them as they try to do the best job they possibly can. He then thanked the community for wearing those masks. As someone who spends time in the community everyday watching people come and go from the store with masks worn, he was certain lives were being saved.

STAFF COMMUNICATIONS:

Sr. Planner Murdock stated that ABAG will be releasing the draft regional housing needs allocation, or RHNA methodology. He stated that it was mentioned earlier in the meeting that the methodology is recommended currently would assign the city over 1900 housing units under RHNA which is up from 413 housing units in the current RHNA assigned to the city. He stated that staff will be forwarding a memo to the Planning Commission this week with some additional details on that process and what it means for the city.

Commissioner Hauser stated that there will be eight more houses to contribute.

ADJOURNMENT:

There being no further business for discussion, Commissioner Bigstycck moved to adjourn the meeting at 11:40 p.m.; Commissioner Hauser seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Berman, Bigstycck, Ferguson, Godwin,
Hauser and Chair Nibbelin
Noes: None

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister