

MINUTES

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

January 7, 2019

7:00 p.m.

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

ROLL CALL: Present: Commissioners Clifford, Gordon, Kraske, Nibbelin,
Rubinstein and Chair Campbell
Absent: None

SALUTE TO FLAG: Led by Commissioner Rubinstein

STAFF PRESENT: Planning Director Wehrmeister
Sr. Planner Murdock
Asst. City Attorney Sharma
Asst. Planner Gannon
Sr. Civil Engr. Donguines

**APPROVAL OF ORDER
OF AGENDA** Commissioner Gordon moved approval of the Order
of Agenda; Vice Chair Clifford seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Clifford, Gordon, Kraske, Nibbelin,
Rubinstein and Chair Campbell
Noes: None

**APPROVAL OF
MINUTES:
DECEMBER 3, 2018** Commissioner Gordon moved approval of minutes of
December 3, 2018; Commissioner Nibbelin seconded
the motion.

The motion carried **6-0**.

Ayes: Commissioners Clifford, Gordon, Kraske, Nibbelin,
Rubinstein and Chair Campbell
Noes: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF JANUARY 14, 2019:

Chair Campbell stated that they would not need a liaison.

ORAL COMMUNICATIONS:

None

CONSENT ITEMS:

1. **File No. 2018-059** – Report on Planning Administrator’s Use Permit Determination for 2130 Palmetto Avenue (APN 016-182-360).

Sr. Planner Murdock presented staff report.

Vice Chair Clifford moved to accept Planning Administrator’s determination that a use permit is not required; Commissioner Nibbelin seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Clifford, Gordon, Kraske, Nibbelin,
Rubinstein and Chair Campbell
Noes: None

NEW PUBLIC HEARINGS:

- 2. S-128-18** **File No. 2018-037** – Sign Permit S-128-18 and Sign Exception
SE-31-18 SE-31-18, for a Master Sign Program to establish tenant signage
criteria at the Fairmont Shopping Center located at the northern
corner of Hickey Boulevard and Gateway Drive (APN 009-440-070)
to APN 009-004-120),

Sr. Planner Murdock presented the staff report.

Commissioner Nibbelin moved that the Planning Commission continue this item to the regular meeting of January 22, 2019; Vice Chair Clifford seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Clifford, Gordon, Kraske, Nibbelin,
 Rubinstein and Chair Campbell.
Noes: None

- 3. PSD-835-18** **File No. 2018-046 – Site Development Permit PSD-835-18,**
CDP-400-18 **Coastal Development Permit CDP-400-18; Use Permit**
UP-110-18 **UP-110-18 and Tentative Subdivision Map (Condominium)**
SUB-240-18 **SUB-240-18, for the construction of a three-story, two-unit**
Residential condominium duplex on a 4,726 square foot (s.f.) vacant
lot at 2105 Beach Boulevard (APN 016-182-010).

Asst. Planner Gannon presented the staff report.

Vice Chair Clifford asked where the southern seawall starts, at the pier or the other side of the pier.

Asst. Civil Engr. Donguines stated that it started at the pier which is the dividing line.

Vice Chair Clifford requested confirmation whether the pier is part of the seawall.

Asst. Civil Engr. Donguines stated that the pier has its own different type of protection.

Vice Chair Clifford requested confirmation that the southern seawall was in front of this property.

Asst. Civil Engr. Donguines confirmed that the southern seawall is in front of this property, adding that this seawall was built separately from the northern portion.

Vice Chair Clifford asked how long ago the southern seawall was built.

Asst. Civil Engr. Donguines stated that the northern seawall was built in 1987, then clarified that the northern portion was built in 1984 and the southern portion was built in 1987.

Vice Chair Clifford asked if there have been any failures along the southern portion.

Asst. Civil Engr. Donguines stated that they have not experienced any.

Vice Chair Clifford asked what their maintenance schedule was on the southern portion.

Asst. Civil Engr. Donguines stated that they do address the sand that builds up. He stated that they have a storm drain outlet at the pier and the only maintenance was to clear the sand so the storm drain is free to flow.

Vice Chair Clifford requested confirmation that there was no refurbishing of the revetment.

Asst. Civil Engr. Donguines stated that they have not reinstalled any revetment in the southern portion of the seawall.

Vice Chair Clifford asked if they inspected it on regular occasions.

Asst. Civil Engr. Donguines stated that they have not been diligent in their maintenance and inspection but they did a penetrating radar on the northern portion but not the southern since they have not experienced any failures.

Vice Chair Clifford asked if they have experienced any failures at the pier itself.

Asst. Civil Engr. Donguines stated that they have not experienced failures at the pier, but at the northern portion of the pier the retaining wall did experience some failure.

Vice Chair Clifford stated that he remembered some failure in the roadway in front of the pier.

Asst. Civil Engr. Donguines agreed that next to the pier a portion of the retaining wall and wall cap did fail in mid to early 2000.

Vice Chair Clifford asked the status of the foundation and break underneath the ChitChat as that is where the pier is anchored and he wanted to know what kind of shape that was in.

Asst. Civil Engr. Donguines stated that there was some metal foundation holding up the base of the pier, but they haven't inspected that portion recently.

Vice Chair Clifford stated that he saw a recent picture of that and he stated that the metal is completely eaten away where the waves break. He stated that there was a section underneath the pier itself that was still hanging but where the waves break over the rocks it is gone. He stated that they probably should take a look at it to know what the status was as we didn't want to lose the pier.

Asst. Civil Engr. Donguines stated that they have done multiple repairs to the piles but not at the base.

Vice Chair Clifford asked if they have a budget for maintaining the southern portion of the seawall.

Asst. Civil Engr. Donguines stated that currently there is no budget for the maintenance, but that they do maintenance as needed.

Commissioner Gordon stated that staff mentioned getting 7-8 letters on this project. They appreciate input from the public. He stated that there were some themes in the letters and he would try to flush those out in his questions. He understood that it was the engineering recommendation that the applicable conclusions from the coastal hazard study, technical report for 2212 Beach Blvd. are fully applicable to the project site. He asked if he was correct.

Asst. Civil Engr. Donguines stated that he understood what he was saying about the Moffatt and Nichol report but he can't conclude that for that particular area.

Sr. Planner Murdock stated that the statements made in the staff report and Asst. Planner Gannon's presentation indicated a characterization of the nature of the wall and protection it provides to properties fronting it, and he thought there was not a particular a statement as Commissioner Gordon posited with respect to the subject site at 2105 Beach Blvd. but factual information about the existing southern portion of the seawall south of the pier and its relationship to protection it provides to sites adjacent to it.

Commissioner Gordon understood his explanation and added that he had done a bad job of paraphrasing. He then thought the idea was that the Moffatt report concluded that the seawall

fronting it, which was the same seawall fronting the project site, would adequately protect this building from wave intrusion and damage from the ocean.

Sr. Planner Murdock stated that it was except for tsunami hazards as expected in that statement.

Commissioner Gordon understood, and then thought the idea was since the chamber building and the project building are close enough in proximity and front the exact same wall, the conclusions about the efficacy of the wall to the chamber site was applicable to the efficacy of the wall to the project site.

Sr. Planner Murdock agreed that was the reason staff included that information in reference to the report, drawing a parallel between the measure of protection provided to 2212 Beach Blvd. and the site at 2105 Beach Blvd., which was the subject of this application.

Planning Dir. Wehrmeister added the obvious observation since the time it was built in the early 1980s of it being consistently performing along its length which was different than the northern portion of the area, and that crews perform inspections after storm events.

Commissioner Gordon understood, stating that the wall that fronts the project site and the chamber site have not had any experiences of failure. He then stated that the project site was on the border of the end of the seawall and the northern face of the proposed project would arguably be exposed to wave intrusion. He asked, if they get a storm going east and south, is it possible that the wall protecting the project site in those circumstances would not be the seawall south of the pier but the retaining wall north of the pier.

Sr. Planner Murdock thought it was conceivable that some storm event could be generated southeasterly and overtop the seawall north of the pier. He stated that they don't have any evidence presented to prove that such a storm has occurred and that overtopping from that storm has reached this project site. He added that they were well aware of instances on the northern section of the wall where wave overtopping has created localized flooding for areas of Beach Blvd. north of the pier but not aware that evidence has been submitted as he described from a storm affecting seawall north of the pier, crossing Beach Blvd., going south of the pier and ultimately reaching the site.

Commissioner Gordon stated that it sounded like it was staff's view that it was unlikely.

Sr. Planner Murdock agreed that, in staff's opinion, it was unlikely.

Commissioner Gordon thought the way that 2105 Beach Blvd. differs from 2212 Beach Blvd. was not only that it was closer in orientation to the northern portion of the retaining wall but also that it doesn't have such a large setback from the seawall itself. He knows that in the Moffatt report, setback from the seawall was a factor that was discussed because the 2212 Beach Blvd. building was sufficiently set back from the seawall and overtopping was only going to come to a point of a distance of 40 feet from the seawall.

Sr. Planner Murdock thought he recalled the same figures. He will confirm that he was correct in those two characteristics he indicated. He stated that this project would vary from the 2212 Beach Blvd. site. He added that, based on what he recalls and Councilmember Gordon recalls as the 40 foot distance cited in the Moffatt and Nichol report for the 2212 Beach Blvd. project, the

distance from the edge of the southern portion of the seawall south of the pier to the front property line of the 2105 Beach Blvd. site was approximately 50 feet and then another 18 feet into the site would be where the building would begin, which was approximately 68 feet from the seawall to any building affected by the overtopping. He reiterated that there was no evidence that staff was aware of that such overtopping has existed in the manner he described that would affect the building proposed.

Commissioner Gordon stated that he has learned, and thought staff was aware, that you never underestimate the power of the ocean.

Sr. Planner Murdock agreed.

Commissioner Gordon stated that he was trying to conclude that the chamber site was not the same as the project site and he thought the question was whether the differences are material.

Sr. Planner Murdock stated that staff has not noted a material difference that would cause them to discount or ignore entirely the conclusions in the Moffatt & Nichol report which was the reason they included reference to it as a helpful piece of factual information prepared by qualified coastal engineers. He also thought it was important to note that, despite the history of failure of the section of the seawall north of the pier, even in the cases where there has been localized failures, he was not aware, adding that Mr. Donguines may confirm, that those extended inland to the eastern extent of Beach Blvd., such that the failures have immediately affected private property east of Beach Blvd. He stated that, even in the worst case scenario, based on what the city has experienced in the past, they were not aware that this project not located in front of the northern seawall and adjacent and angled southeast of the pier would be subject to such influences, even in the event of a localized failure.

Commissioner Gordon stated that, with that conversation, some consistent questions from the public's letters were why wasn't a technical report from an independent consultant prepared for 2105 Beach and why were they relying on a report from a different site that has some differences, regardless of whether they are material or not. He asked that he respond to that.

Sr. Planner Murdock thought it was a fair critique. Staff carefully considered it in response to the comment before the meeting. He stated that, for good reasons, staff did not require such a report for this project on account of the Moffatt & Nichol analysis providing general information about the area and the lack of other identifiable or obvious geotechnical hazards to the site with coastal erosion being the most immediate and apparent and they thought the Moffatt & Nichol report and the history of high performance of the southern seawall did not necessitate that type of report to make staff comfortable making the findings to recommend approval of the project. He thought it was a fair criticism that the General Plan does call for such a report to be prepared and ordinarily it would be done at the building permit stage to assess the hazards presented by other geotechnical hazards such as seismic hazards and liquefaction hazards caused by earthquake, etc., based on soil conditions specific to the site. Among geotechnical hazards would be coastal erosion hazards. He stated that, if it was the Commission's desire, staff thinks it is reasonable to require such a report to be prepared and they were confident that it would likely conclude that there was no coastal erosion hazard for the reasons staff identified but it was a fair criticism made in the letter.

Planning Dir. Wehrmeister added that the General Plan requirements stated in the comment letters do essentially require that the analysis and recommendation be based on factual evidence from a qualified consultant. She didn't know if it necessarily stated that you must have a separate study for each individual lot. She asked, if the Moffatt & Nichol study happened to be on the lot next door, whether another applicant need to go through it and will it be different because it was a separate lot. She stated that was part of their analysis.

Commissioner Gordon understood and wouldn't take that position just because it was a different project that they needed to come up with a different report. He stated that the question was how material the differences are and that was something they can discuss as the deliberations go on. He had a question raised by the comments. He stated that, in the Moffatt report, it says that given that the beach and seawall will continue to be maintained, and the report assumes that the city is going to do everything it can to properly maintain the seawall. He asked what that means in terms of practical steps the city needs to take on an ongoing basis to maintain it.

Asst. Civil Engr. Donguines stated that ideally they would do an annual structural inspection of the wall to make sure there are no physical failures that are visible and maintain or add to the revetment that was in front.

Commissioner Gordon asked about sand replenishment.

Asst. Civil Engr. Donguines stated that there is a lot more sand in the south than the north so there were no plans for replenishment there.

Commissioner Gordon hypothetically asked if the project gets approved and built and they have enough sand now on the southern portion but if they run out of sand and it was going to cost \$50 million to fix it and the city doesn't have the money and they get El Nino and serious damage happens all across Beach Blvd. and this particular house is severely damaged and the owner was under the impression that the city was going to maintain the seawall but the city didn't have enough funds to maintain the seawall. Now the owner is upset and wants to bring an action against the city for its negligence in not maintaining the seawall and being a causal factor in damage to the house. He asked if there were things the city can do up front to insulate itself from liability in those kinds of circumstances.

Asst. City Attorney Sharma stated that discretionary immunity applies.

Commissioner Gordon asked if she could describe what that is.

Asst. City Attorney Sharma stated that, by virtue of approving the permit, that doesn't raise liability in that situation he described. She stated that the challenger would have to make a showing overcoming governmental immunity.

Commissioner Gordon asked if basic negligence was enough to overcome that or did they need willful negligence.

Asst. City Attorney Sharma stated that the inquiry would be based on whether the city had acted reasonably. Those are the principles that would come into play. She was not aware of what the city could do on the front end except to say that, in the event that such a lawsuit would happen the factual circumstances surrounding what lead to the wall failure would necessitate the outcome.

Commissioner Gordon stated that some of the concerns raised by a lot of the letter writers were why the city would be incurring such potential liability by letting a project be built so close to a known hazard. He stated that, if everything goes perfectly with the seawall, that was great but life doesn't always work like that. He thought that was a legitimate concern and he would not want the city to go broke compensating homeowners on Beach Blvd. for a failed seawall.

Asst. City Attorney Sharma referred to the principles of tort law.

Commissioner Gordon stated that his hypothetical didn't assume that the city knew it had to do X, Y and Z to maintain the seawall and it did not. He stated that it would be for a reasonable reason such as the city didn't have enough money. He thought it sounded like there was nothing the city can do aside from arguing immunity, etc.

Asst. City Attorney Sharma stated that the City would only know when they get to it.

Vice Chair Clifford referred to Asst. Civil Engr. Donguines responding to Commissioner Gordon stating ideally they would inspect it every year, and he asked how often they actually inspect it.

Asst. Civil Engr. Donguines stated that he has no records of that now and cannot answer the question.

Planning Dir. Wehrmeister stated that there may be a difference in the type of inspections but she understood that, when there is a large storm, Public Works staff is regularly patrolling the site, monitoring the site and if there was something happening that needed attention, they are watching it.

Asst. Civil Engr. Donguines stated that they monitor the seawall. He was saying that ideally a third party structural engineer would come in and do a full inspection of the wall.

Vice Chair Clifford asked if that has or has not happened yet.

Asst. Civil Engr. Donguines stated that he didn't recall as he didn't have that information at this time.

Vice Chair Clifford knew they watched it because they have to deal with it but in terms of an actual inspection as he outlined, he didn't know if one has been done.

Asst. Civil Engr. Donguines stated that they have done the radar survey on the northern portion of the wall and they had a ground penetrating radar inspect the whole northern area and they were trying to see if there were any voids in the northern portion.

Vice Chair Clifford understood that was the northern end but they were talking about the southern end.

Asst. Civil Engr. Donguines stated that, since they have never had any failures, they were not concerned but they should do some.

Brian O'Flynn, applicant and owner, stated that he has been in Pacifica about 20 years and was a builder for about 40 years. He stated that this project was approved two years ago. He pursued the permit diligently with essentially the same project but at the end, they designed all seven of the principles of tsunami resistant construction and it took the engineer time to incorporate them. They passed through all the different departments with their permits and at the end the city attorney did not finish their review of the subdivision improvement agreement which was a condition of being able to pull his permit by having it filed with the county as they were still in the review process. He stated that he passed all the different departments and had been approved but he came up short on the time and couldn't extend which was why they were back at this time. He stated that when he did submit it, all the structurals did include the tsunami resistant elements and he delineated some of them since that was some of the concerns by the people who were part of the managed retreat camp. He stated that the building on the ground floor has 10-inch thick concrete walls, on the sides and between the two units. There were steel moment frames on the upper floors for sheer strength and the ground floor has its own concrete seawall that wraps around the property. He stated that everything on the ground floor is water resistant or tear away floors as there was nothing structural that can be taken out. He stated that, if the patio doors go, there will be damage but it will not be structural damage and a redundant system is in place. He was a thorough builder and everything was made to withstand the test of time, even given the harsh salt environment as it is either stucco, concrete, stainless, fiberglass components and the attention to detail was very thorough on the project. He stated that he plans on living in one of the units and keeping it for a long time. He referred to some of the concerns raised regarding the seawall. He stated that the project was behind the pier and if you know the pier well, there were two wing walls over four feet tall that extend out either side and the southern wing wall probably protects about 75% of the project, in addition to the seawall. He stated that the southern seawall is a different structure from the northern seawall which was more of a revetment. The southern seawall has shown no signs of failure. He stated that their particular foundation was a 24 inch thick matslab with epoxy rebar connected with grade beams which go lower than that and are then connected with piers which are drilled down ten feet to stabilize the whole structure. He stated that, in addition to it being resistant to tsunami forces and allowing little resistance to the waves probably up to the first eight feet tall with structural steel on top of that, the matslab was also engineered to stay in place even in the event of some failure around it. He stated that he has been proactive on the project and spent more money because he plans on keeping the building and making it a pilot project to show Pacifica what can be done. He mentioned that there are a lot of countries and cities with similar situations along the coast and there were proactive measures that can be taken to protect infrastructure. He stated that there were few buildable lots in the Salada Beach neighborhood and this will be the strongest building in the area and a beacon on what can be done to stabilize things and protect investments. He thought the people who wrote the letters were from outside the immediate neighborhood. He thought it was good to bring up their concerns but he thought the letters he saw were focusing on the seawall north of the pier and not the seawall directly in front of the property and what was there was significant protection from the pier and two wing walls. He then introduced his architect, Alan Martinez, to share the time.

Alan Martinez, architect, stated that, when the owner came to him, one of the things he wanted was tsunami safety. He pointed out that all the exterior walls on the first floor are concrete, center structural wall is concrete, columns holding up the balconies are round concrete columns and it was a matslab with drilled piers that are concrete and the exterior corners of the building are round as well as the corners of the balconies which reduces the wind resistance and water flow and the openings facing the ocean can break out so water can flow through the building. He

stated that the staircases are also concrete and steel and interior staircases are steel which will allow someone in the building following a tsunami the ability to get out. He stated that this will probably be one of the few buildings still standing after a tsunami because of the measures they have been taken. He stated that a lot would have to fail on the north side before it gets to this building but this building would be fairly safe even if a lot of the street is gone. He didn't see any reason to not approve the project as they have done just about everything sensible that can be done to resist tsunamis.

Vice Chair Clifford stated that the only thing that concerns him about the design in terms of a tsunami is whether the piers reach bedrock.

Mr. Martinez stated that they didn't as they go down ten feet and he didn't remember how deep bedrock was.

Vice Chair Clifford asked if they did a bore sample.

Mr. Martinez stated that they did.

Vice Chair Clifford asked if the soils bore went down to bedrock.

Mr. Martinez didn't think so.

Mr. O'Flynn added that the piers were not even required by the engineer but he insisted that they put in as an extra support in case there was a catastrophic event where the road washed away. He stated that the matslab was also bigger than required but they knew they didn't have to go to bedrock as it was not required. He stated that they were going beyond the requirements of the engineer.

Chair Campbell opened the Public Hearing.

Stan Zeavin, Pacifica, stated this was just one of many decisions that the Planning Commission will be making on hazard zoned property, and he thought it should be obvious that eventually sea level rise (SLR) will be coming much of Pacifica's coast and the only debate is when. He stated that even the best built sea walls and sand nourishment are not permanent and will need repair work in the future as well as sand nourishment which will need to be replenished every 6-20 years. He pointed out that the purpose of sand nourishment, besides extending a beach's life, was to keep the ocean away from the seawall which will extend the seawall's life. He then referred to the Moffatt & Nichols report which the city used to show that things along the coast will be fine until the turn of the century but he thought they didn't use proper or complete interpretation of the report. He mentioned three parameters in the summary which must be met for the city's conclusion to hold, specifically that SLR must be no more than 5.5 feet by the end of the century, a seawall must be kept in repair for the remainder of the century and the beach must be nourished until the end of the century. He stated that to repair the seawall will cost millions and the cost of nourishment of the beach could reach into \$100 million. He stated that, if the city can't find future grants for upkeep of the wall or future beach nourishment, any new building in the zone should be built to stand on its own as stated in the 1980 LCP and the CCC guidelines, adding that there was no guarantee that Beach Blvd. won't be overwhelmed before the end of the century. He stated that the county and state SLR was already moving over six feet by the end of the century. He stated that Pacifica needs to be protected from future liability due to the property

damage from SLR and future generations don't need to inherit a bigger bill and the city should demand any owner of said property assume full responsibility for any liability associated with the property. He stated that he didn't see the coastal development permit for this property, but since the 1980 LCP and the present guidelines from the CCC have not been followed, he thought it would be interesting to see if the report fits into the CDP framework. He stated that, if you care about the future survival of Pacifica, they need to find the balance between science and present day profits versus future expenditures created by SLR. He asked if could have more time to say something.

Chair Campbell stated he was out of time but they did have his letter.

Margaret Goodale, Pacifica, appreciated the efforts that the builder has gone to provide a building that can stand against tsunamis and wave over topping, but she thought using the Moffatt & Nichol's report to justify safety because the site is protected by a seawall was risky. She stated that they don't know what is going to happen and this property is closer to the ocean than the 2212 property and is more at risk. She stated that the steps taken by the builder sound good and seem to meet what the Coastal Commission was asking the city to do. She thought the Moffatt & Nichol report had some hidden specific comments, such as saying long term sea level rise is expected to increase the frequency of over topping events if the wall is maintained at its current elevation and the increased hazard is expected to apply to a sea level rise greater than one foot and if the seawall was not maintained the bluff could retreat and over topping can be expected as early as 2050. She stated that it was the part of the Moffatt & Nichol report that she does not hear anyone referring to. She stated that, as a 41-year resident, any new coastal development must be conditioned to protect itself as this one may without reliance on any expectation that a seawall may be built, raised or even maintained by the city in the future at the expense of all Pacificans.

Hal Bohner, Pacifica, stated that he was one of the people who wrote letters and hoped they will consider it. He stated that, with the use of the Moffatt & Nichol report, they seem to be focused on the idea of why they should require a geotech report for this project or any projects in the future if they have that report. He felt the reason for that was potential liability as having a geotechnical analysis would mean that they have a professional who was on the hook for saying this project is safe but without the geotechnical report, the city will not have that legal protection. His next point was that the geotechnical report will presumably tie to the design of the project. He stated that they heard a lot about the specific engineering details of the project and he thought they could be fine but he wasn't a geotechnical engineer and he felt they need professionals who oversee this and can tell the city that the work was being done correctly under the circumstances, but he didn't think the city has that. They were relying on the city engineer who very infrequently deals with this kind of problem and it was not his expertise. He thought the city should demand that a person with specific expertise look at this project and surrounds and decide that everything is going to be okay. He referred to the fine line the city was drawing that the project was protected by the seawall south of the pier and ignoring the retaining wall north of the pier as if the location of the project means it will be fully protected by the seawall. He stated that, if the retaining wall goes and they think this project will not be affected by that, or the sewer systems goes and the city needs to move that system, their approach was not a good one and he urged them not to approve the project as it will have their names on it in the future.

Tim Santy, Pacifica, stated that he has been living in the area for about four years and has known Mr. O'Flynn for about three years and has watched his work on the property next to the present project site and has discussed some of the details on it, and he felt this was a fantastic project to

turn a very visible lot into a beautiful new space that will add value to the area and he was in favor of it and hoped the Commission was on the same page.

Susan McCarthy, Pacifica, stated that she was a 35-year resident and was in support of the project as she felt Mr. O’Flynn was an experienced builder and has the skills to complete the project and has beefed up the engineering regarding tsunamis beyond what was required. She mentioned Hurricane Michael at Mexico Beach which was flattened by the storm and stated there was one house with similar engineering that was essentially unscathed as the breakaway wall worked as it was supposed to and they had no damage beyond the breakaway wall.

Annette O’Neill, Pacifica, stated that she has lived in Sharp Park since 1985, a block away from Beach Blvd. and she was fully supportive of the project based upon Mr. O’Flynn’s track record of building exquisitely, lovely buildings that have added to the neighborhood. She stated that the city was making a lot of investments in West Sharp Park in the Palmetto streetscape and were hoping to develop the sewage plant and she felt this project will add to the appeal of the area.

Sean Jodoin, Pacifica, stated that he lives on Beach Blvd. and was expressing his approval for this project. He understood some of the issues brought up didn’t actually address the project in question. He felt it was a beautiful design, well thought out, well engineered and will bring more intrinsic value to the area. He pointed out that it is an empty lot for a long time and it will only be better for the community and will benefit the city as using this as an artwork for the area to draw people to the area and he thought they would want his design as a face of the city at this location.

Eric Brunner, Pacifica, stated he has lived next to Mr. Santy for four years and has known Mr. O’Flynn for about three years. He has seen the progression on the “blue house” that everyone mentioned and he sees that he puts well-thought ideas in his designs. He has asked questions about the project and felt he has given the right information. He agreed with the comments that this will bring great value to the community. He was in full support of the project.

Chair Campbell closed the Public Hearing.

Mr. O’Flynn stated that it was important to focus on this project which was in front of the existing southern seawall not the northern seawall. He stated that he sees Public Works there all the time, especially during storms and are concerned about the drainage from the streets. He stated that he has managed to come up with an innovative cutting edge solid design and they can use that to point to on how to build especially on the chamber site where they hope to develop a hotel and conference center. He stated that he builds high quality buildings, adding that Mr. Martinez, the architect, did a great job on designing the building with him.

Vice Chair Clifford asked him if he had a soil engineer and structural engineer look over his plans.

Mr. O’Flynn responded affirmatively, adding that the structural engineering was based on the soils report. He stated that the structural engineer engineered the project to a higher extent because of his tsunami resistant criteria; otherwise it would have been a post tension mat slab surface while his is super deep with grade beams. It was not going to be a cheap place to build, but he wanted a very durable building. He stated that the concrete seawall was separate from the building and there was a lot of redundancy built in but it will be durable and look good for a long time. He thought it would go 100 years. He stated that he had an idea he planned to pursue with

neighbors and an engineer which was a cost effective way to retrofit the north revetment. He stated that he spoke about that in one meeting to the consulting engineer who thought it was a very good idea and could save the city a lot of money. He would be happy to coordinate on that and get the ball rolling by hiring some consultants, adding that his property was not that side of the pier but he felt it was important to preserve the neighborhood even beyond Beach Blvd.

Commissioner Rubinstein asked if there was a specific nomenclature to which he designs that they could understand.

Mr. O'Flynn stated that, if they read the handout he gave them on page 5, it talks about eight strategies for tsunami resistance, and in his design pretty much everything is included except for keeping vegetation and reefs intact which was not applicable.

Commissioner Gordon asked staff if there was a geotech report prepared the first time this project came through in 2016.

Planning Director Wehrmeister stated that there was a soil report prepared for the analysis of the building permit. She mentioned that, as the applicant stated, it was never issued but the building division was done with the review and ready to issue it. It was a soils report that engineers would use to determine an appropriate foundation construction but wasn't a geotech report on the wall, just what would be needed to issue a building for the project.

Chair Campbell thought the project design looks great. He stated that his philosophy was, if you want to build on the coast, he didn't want to pay for it. If something goes wrong, such as the existing maintenance of the pier still allows for overtopping and something happens, he didn't think the taxpayers should have to pay for damage to a building if things are maintained as necessary. He referred to a comment regarding relying on the Moffatt & Nichols report, and asked how much work it would be to contact Nichols and ask if the report works for 2105 to get the liability protection.

Planning Director Wehrmeister didn't know if that would be terribly costly or time consuming, but she would want to get some clear direction as to what the Planning Commission would be expecting. She stated that some of the speakers seemed to be implying that a more substantial engineering review of the wall itself is something the Planning Commission should get and she wanted to be sure they are asking for the analysis that was needed.

Chair Campbell thought, if an engineer contracted by the city says that the report as amended protects 2105 adequately by the existing seawall if maintained adequately, it goes a long way towards protecting the city's taxpayers from court claims.

Commissioner Nibbelin thought it was an interesting idea. He was convinced that the information they have appears to be materially on point with the Moffatt & Nichol report and he was not seeing anything that suggests there was a material difference between the analysis pertaining to the chamber property relative to the project site of 2105, and he was comfortable relying on the material they have currently with respect to the proposed project. He added that he would not have a strong opposition if it would give them greater protection. He was not clear, given the immunities that exist under the government claims act, and would be concerned about inverse condemnation claims down the road if they were not adequately maintaining facilities which he thought was a separate and distinct issue from the reports in front of them which was

whether they have an adequate maintenance plan and implementing it. He referred to the concerns raised regarding the conditions to the north revetment area, and he was of the opinion that, if this was not an approvable project, given all that has been done, there was probably nothing that could be approved for this parcel. He was in favor of moving forward and approving the project.

Commissioner Gordon was in favor of approving a project for that parcel, stating that it was such a centerpiece across from the pier and it was vacant and looks horrible. He thought the sooner they can get something beautiful there would be a facelift for the entire neighborhood. He wants something there, but wants to be sure they are doing it the right way. He was concerned that they don't have any independent evaluation for this specific project. He referred to the project's specific evaluation of the engineering and building in relationship to the proximity to the seawall, considering sea level rise, wave overtopping, and asked to what extent would an independent evaluation directed to this specific project would assist the city in the event of any kind of claim against it for something bad happening to the house built. He asked if he was clear.

Asst. City Attorney Sharma understood that he was asking if a separate report would garner additional protection to the taxpayers in the event that something was to occur to this wall. She stated that, if there was signoff from an independent evaluator, she could see additional protection because the city would have directly acted in reliance of an expert report. She added that there are findings that the existing report applies to this project for reasons mentioned by staff.

Commissioner Gordon was uncomfortable if that would fall in a court of law. He asked how they could say the city was reasonable in relying on a report that was for a different project site with arguable material differences in orientation. He was in favor of the project, but he thought it would be smart to get expert signoff as he was not an expert in this area. He believes that this house is being constructed according to the highest standards and maybe it is the strongest house but the only proof they have is the builder and architect saying it and he asked what objective independent analysis was being done on this design in this location.

Vice Chair Clifford stated that he was ultimately in favor of the project, but had questions not related to the seawall. He was concerned that they didn't get the soils report and he would have loved to look at that. He would also like to look at the structural engineer's report as they would have been helpful for him to determine whether the ten-foot deep piers are adequate and it does not need to go to bedrock. He stated that he has been working on a project where he could not get the soils engineer or structural engineer to agree with him that it didn't need to go down 24 feet and six feet into bedrock, adding that this didn't have a house on it, but just retaining walls on the hillside. He was concerned that they were not hitting bedrock with this project and he would like some confidence that it was okay because a structural engineer and a soils engineer have signed off on not going to bedrock for the house and it will be sound without that. He added that the rest of the project looks good and sounds good and the seawall is sound in that area. He would vote for it if he had that other information to go over.

Commissioner Rubinstein stated that he didn't want to be argumentative to his fellow planning commissioners but he thought a lot of the conversation has been hypothetical and outside of their lane in some respects in the legal sense. He was fully in support of the project and would make a motion to approve the project if there was no more deliberation. He thought additional reports would be onerous and probably duplicative and he didn't see any need for that.

Commissioner Kraske stated that it was a wonderfully designed building and would provide value to the neighborhood but thought the liability risk would overshadow or outweigh the value it would provide. He thought there was uncertainty with sea level rise now and he would tend to rely on the guidance of the General Plan which seems to state that they would need a geotechnical report for any development on the lot.

Chair Campbell stated that he wanted to stay in their lane, but from his perspective he thought it was possible that a revised Moffatt & Nichols report would be duplicative and might contain one line which says that this report works for 2105. He thought that would probably get them there, but it would be a report specific to this project site and that was what the General Plan requires, so he thought they should probably do it. He was curious what the applicant would think about a limited type of report. He stated that he was not interested in a whole new geotechnical report of the seawall and a sea level rise study. He was trying to get a report specific to the project that the city was comfortable with.

Mr. O'Flynn stated that he was a little concerned because they have the Moffatt & Nichol report which talks about the Chamber site which he thought says the seawall is good in front of this site. He stated that the project site was only two properties away and closer behind the pier with 75% of the building itself was protected by the pier and the wing wall that comes out from there. He thought it was redundant and he wouldn't want to get involved in hiring his own engineer to look at something as the seawall looks like it has already been done. He stated that he would have no objection to going back to the author of the Moffatt & Nichols report and saying that they have analyzed this site and add one line saying the site across from the pier and two properties north and their report was applicable to that site as well. He added that even that seems redundant.

Chair Campbell got what he was saying.

Mr. O'Flynn asked if he was saying the city goes back and contacts the consultant who pays for it and says to review that. He thought they could take a look at it and say the seawall is the same as it continues up there, and they couldn't imagine the soils being structurally different. He stated that the danger was going down a deep rabbit hole of pursuing hypotheticals when they already have a really good report and no evidence of failure of a real sea wall in front of the property. He stated that it was even more protected behind the pier for 75% of the building and he was getting a little nervous.

Chair Campbell understood that.

Mr. O'Flynn stated that it was already approved in terms of Commissioner Gordon's concern, as the actual soils report which was the basis of the engineering and was over engineered beyond what was required and was already reviewed by the Pacifica building department officials who put their stamp of approval on it pending the approval of the subdivision improvement agreement before the permit could be pulled. He added that it was unusual for a project because normally they would not have it engineered before they come to the commission. He stated that this has already been approved once and he did over-engineered it for what was required and it has already gone through building with all the soils report, engineering, and was approved but not issued. He thought it was veering into overkill, especially with no evidence of the seawall being in jeopardy and it was done for the chamber project and was probably 150 feet north and more protected by the pier.

Commissioner Nibbelin stated that his own inclination would be to second a motion by Commissioner Rubinstein, but trying to count noses and be pragmatic, one of the things that Vice Chair Clifford was interested in was seeing the soils report and the thought of a brief continuance to allow for the distribution and analysis by commissioners capable of understanding those kinds of things. He thought possibly directing staff to check in with Moffatt & Nichol and see if they would be willing to state for the record briefly that the conclusions set forth in the coastal hazard study for 2212 Beach Blvd. are relevant and applicable to the present project. He was disinclined to require that for the reasons stated as they get that report for purposes of the approval of the report. He thought the local coastal program can be interpreted for the proposition that they need to have a report but he didn't know if it needed to necessarily be a report that was specifically prepared for the present project but meets the spirit of the LCP to have a report that is relevant and generally applicable to the present project. He would support a continuance for those purposes.

Chair Campbell was in general agreement with that. He thought there was an argument to be made that they may not need a specific report that this meets the spirit of it. He asked if this was worth doing.

Asst. City Attorney Sharma stated that whether it was worth doing was a decision for the Commission. She stated that she looked at the General Plan language and it echoes staff's comments that there isn't a specific requirement that every single project have its own geotech report.

Commissioner Gordon thought it got back to the original crux of the question which was to what extent is the chamber site fully relevant, analogous and fully applicable and feeling material to the project site. He thought they were going in circles, but he didn't want to get engaged in circular reasoning and say it is fully relevant and therefore they can rely on it. He thought that begs the question of whether it is fully relevant. He understands that you can throw a softball and hit the other project, but that wasn't the issue. He stated that the issue was whether the city has a document that, in the event something goes wrong, the city was protected. He thought it was a waste of time to go back to Moffatt & Nichol and ask if they would write one sentence that says that report applies to this project if the examination and investigation that they go through is so cursory that it doesn't look like it is reasonable for the city to have relied on that kind of cursory write up. He felt they were back to square one. He stated that, from a procedural standpoint, he didn't think it was a bad idea to make a motion and second it and see where the votes lie. They might have enough votes and if it fails then they could end it now by going for it.

Commissioner Nibbelin thought Vice Chair Clifford expressed some concerns that he wants to make sure get addressed before he would want to make or second a motion. He thought the soils pieces was something that could bear on this, adding that he was trying to articulate whether they have information that was reasonable to rely on a report that was done for a different property because it was material, relevant or reasonable enough in totality for them to rely on it with this project. He stated that he didn't think they will get any piece of report that is ultimately going to protect the city against any theoretical or claims they might end up with as to whether they have acted reasonably under the totality of the circumstances with the information reasonably to be considered.

Commissioner Rubinstein stated that there is a soils report and the builder relied on it, and the engineering relied on it to review his permits, and he thought it has been reviewed in that course of work. He stated that some of them just want to take a look at that report to oversee that.

Vice Chair Clifford stated that he was hearing from the applicant that there is a soils report and a structural engineer's report based on that. He stated that in the plans they got, there were no structural pages and he wasn't able to look and see what was there in terms of what they were proposing to build. He stated that he was hearing that they were ready to issue the permit in terms of the building department but they haven't issued the permit because the Commission has not approved it.

Planning Director Wehrmeister stated that this was the permit that expired.

Vice Chair Clifford stated that he would really like to see that structural information so he is comfortable in his vote. He stated that, if they have a vote now without the information to look over, he will vote against the project because he was not operating with certainty and really needs to see the information. He understood that type of information as he works with it often, and he would love to see it, verify what they reports are and talk with the building official as to whether everything was okay as far as he was concerned otherwise he was not comfortable with that.

Planning Director Wehrmeister appreciated that he has a particular area of expertise on the Commission. She stated that, if this is going to be continued, it was fine and they can always come as any member of the public to ask to look at but not copy the document. She stated that the Planning Commission wasn't typically going to be provided with those types of documents.

Vice Chair Clifford stated that he was coming from his own personal experience with being forced to drill over 24 feet deep for something that is nowhere near as being in danger as this project might be. He would love to read the documents before he approves the project.

Mr. O'Flynn stated that, if several members of the Commission want to go to the department to review the soils report and the structural engineering and they want to postpone it, he can bring his structural engineer the next time to answer any questions. He was not opposed to an analysis of his project as he believes it is a very solid project. He was just concerned because they are 150 feet north and have the same seawall and it was probably stronger behind the pier, and he didn't want to veer into some esoteric rabbit hole when there are no facts pointing to there being any substantial difference as they talk about the same seawall, just 150 feet north, and if there was any problem in the seawall, they would have mentioned that in the report. He appreciated their concerns and he would be happy to provide his structural engineer to the continuance and they can check out the structural plans and they can possibly bring plans with them to show them the redundancy in the foundation and superstructure.

Vice Chair Clifford stated he would be happy if he will do that.

Chair Campbell thanked him, adding that he was mindful of staff's comments. He stated he wasn't an expert but if the city signs off on the soils engineering he was good with that. He wanted to give clear direction to staff, if the motion is going to say something about contacting Moffatt & Nichol, that he was being flippant about a sentence and was thinking it may be a paragraph. He would be comfortable if a reputable consultant like Moffatt & Nichol actually said

even in a sentence that this report was adequate for this project. He assumed they would put some thought behind that statement before they signed off on it.

Planning Director Wehrmeister stated that they were not sure if Moffatt & Nichol is available or if they feel there might be some conflict, but they do have other geotech engineers that work for the city. She understood the intent about it not being a new start from scratch study and would be based off of the information already available in the record.

Chair Campbell clarified that it was just him saying that and he didn't know how the other commissioners felt about it.

Commissioner Nibbelin thought that was a reasonable way forward. He stated that, if they are at a point, he would make a motion to continue this item.

Planning Director Wehrmeister asked if they could recommend February 4.

Commissioner Nibbelin moved that the Planning Commission continue this item to February 4 and in the interim staff reach out to Moffatt & Nichol or other geotechnical firm as deemed appropriate by the Planning Director or delegate to ask for any additional supplemental tiered information that might be available as it pertains to this project specifically and that in the interim; Commissioner Kraske seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Clifford, Gordon, Kraske, Nibbelin,
Rubinstein and Chair Campbell.
Noes: None

**4. PSD-824-17
CDP-302-17
UP-089-17
PE-177-17**

File No. 2017-038 – Site Development Permit PSD-824-17, Coastal Development Permit)CDP-302-17, Use Permit UP-089-17, and Parking Exception PE-177-17 to construct a new three-story mixed-use commercial and residential building consisting of ground floor commercial space and second and third floor residential unit to the rear of an existing legal nonconforming single-family residence on a 5,000 square foot parcel at 1276 Danmann Avenue (APN 023-015-030). Recommended CEQA Action: Statutory Exemption, CEQA Guidelines Section 15270(a).

Sr. Planner Murdock presented staff report.

Chuck Reiker, owner, gave a brief history of the property stated that they have lived in the house on that property for 16 years and the property has been in their family for over 55 years. He stated that they had a fire in the detached garage and added to the size issue with the current house and they decided that they had to expand the living area. They were looking at two options, demolish the small house and build a mixed use duplex with commercial space and the second was to leave the existing house and build a smaller structure in the rear of the property. He stated that, because of the sentimental reasons for the building itself and its aesthetics, they opted for the second option. He then turned to Brian Brinkman, the architect, to discuss issues with planning.

Brian Brinkman, applicant, stated that he worked with the owners on designing the project. He stated that Mr. Reiker's family has been living in the house on the property for some time with growing problems concerning space. He was contacted by Mr. Reiker to determine what was feasible. He reiterated the two options and he chose the second option in the interest of preserving one of the older remaining structures on Pedro Point built in 1905 with sentimental value to the family, and they felt it would be a lesser impact to the neighborhood to leave the existing home and build a smaller building over 80 feet from the existing street as opposed to a larger mixed use duplex that would cover the entire site. He stated that there were various required findings cited in the report that would not allow them to grant the requested permits and he summarized the concerns. He referred to exterior lighting and designation of trash areas, stating exterior lighting was shown on the floor plan and elevations and the trash area was not specifically shown on the current drawing but was intended to be at the rear of the garage for the residential unit and the commercial space would have an area to the west of the building where they would keep the containers. He referred to references to the selective demolition of the existing two-car garage. Although it was technically correct but for clarity he pointed out that although the garage currently exists, a fire significantly destroyed it and to be used it would have to be completely rebuilt. The report cites PMC Section 9-42813C3 which requires a 20-foot width for a driveway serving multiple residential units and having two-way traffic, adding that he has not found an answer to defining what is considered two-way traffic but there are many instances in the city where a 20-foot wide driveway is not provided for similar or larger projects. He stated that one project was a mixed-use development completed last year in which his office is currently located on Carmel Avenue and Francisco Blvd. in Sharp Park and a 12-foot driveway was provided that serves two commercial spaces and three residential units with a total of eight parking spaces. He has not encountered an issue with that driveway. He stated that even the project they were just looking at has a 13-foot, 3-inch wide driveway that serves two residential units and he wasn't sure how this applies. He referred to the driveway being blocked while someone is parallel parking in one of the two spaces provided along the driveway but that was a

true statement in about any parking configuration, whether a few parking spots or a large parking lot, as someone pulling in and parking in front of you, you have to wait for them to do their thing before you can go by and park. He referred to issues with the proposed landscaping, and confirmed that they were proposing 15.2% where 10% is required, which is 50% more than required. He stated that the report suggests that the proposed parking arrangement results in a continuous expansive paving area with no landscaping proposed to break it up, adding that it was a small driveway with parking and you don't put planters in the way that would inhibit your ability to park. They have proposed that the main portion of the driveway be pavers which will help with the total impervious surface of the project and would have a more pleasing aesthetic than concrete or asphalt. He stated that the main landscaping section between the two buildings will help screen the existing home from the proposed commercial space as the new residential space is already above the commercial so there was separation there. He stated that they didn't specify any plantings but they do intend on planting some screening plants along the back of the rear guard of the existing home to shield it from the proposed new accessible parking space. He stated that the staff report appears to have assumed that this was all going to be turf but that is not the case. He stated that another concern discussed in the report was the location of the proposed building and its proximity to the rear outline. He stated that the first floor of the structure has a one foot rear setback and the second and third stories where the residences are have a 3foot 3 setback but the report doesn't specify that the first floor at the rear is completely underground and from the properties to the north it would appear as a two-story building to the adjacent residences. He stated that one house to the west at 275 San Pedro already has a two-story home built next to it with a standard five-yard setback which was less than two feet more than the setback they were proposing and there were no issues with that. He stated that along the rear of the building at the top of the third floor at the gutter line, it is 18-19 feet above the adjacent grade and the ridge is 7 feet taller but is setback ten feet further from the edge of the building. He stated that the roof was designed as a hip in order to reduce any appearance of height and was designed with a moderate pitch in order to give it some connection to the existing steeper pitch on the home existing on site. He stated that they would be open to reducing the roof pitch if the Commission felt that doing so would be an improvement to the project, but they are not sure it is. He stated that the staff report also discusses concern over the proposed location of the commercial space which draws on the desire for the large undeveloped land that lies between Danmann Avenue and the Pedro Point Shopping Center to be developed into an attractive visitor serving center as described in the local LCP and the proposed commercial space does not orient itself well enough to that development. He stated that the property in question is privately owned and there are currently no plans to develop it. It also has significant wetland issues that would need to be overcome in order to develop it. He stated that they feel it is unreasonable to require a small property be developed based on a large property's potential future development. He stated that, although all of Danmann is zoned commercial, it didn't seem to have the quantity of traffic or the type of circulation that would necessitate street frontage in order to maximize the potential of the commercial spaces and they feel most of the patrons that go there would have prior knowledge from Yelp, Google, etc., rather than passing by and seeing it and stopping in. He stated that the staff report stated that the proposed building was out of character with the neighborhood, and he stated that the majority of the houses in the neighborhood are two stories while this is three stories set 80+ feet back from the street and two stories to all the residences and they feel that comment was out of character and unjustified. They feel they have provided a project that improves the site, provides a great transition between commercial and residential areas along which it resides, provides the least visual impact when considering other options for the site and meets all the zoning requirements with the exception of the parking exception for the one uncovered space. He felt they carefully analyzed the project's impacts during the design process

and they have adequately addressed the concerns brought up in the staff report. They hope Commission agrees that they can make a motion to approve the project at this time.

Commissioner Gordon stated that it was pretty unusual for a project to come before them with the recommendation to deny it “right out of the gate.” He stated that typically, when they get their plans together, there was a give and take between staff and the applicant where a lot of the issues get worked out. He asked if this was a situation where they couldn’t see eye to eye with planning and they decided to take it to the Commission.

Mr. Brinkman stated that the project started with a planner who was no longer in Pacifica. He stated that there was some dialogue but there was some issue with the location of the commercial space brought up by the previous planner and they worked on that but they never came to an agreement. Then there was the parking issue and they added the two parking spaces on the side of the driveway as a result of that, but they haven’t had any further communication on this project. He stated that it was deemed complete four months ago. He stated that they have been asked for some additional information but until the report came out they didn’t know that it was going to be recommended for denial.

Commissioner Gordon assumed they have only known for two weeks.

Mr. Brinkman stated that it was the middle of the previous week.

Chair Campbell opened the public comments.

Allison West, Pacifica, stated that she lives around the corner from the subject project. She stated that she read the denial and thought it was thoughtful, well-reasoned, long and detailed and she was in complete agreement. She stated that there were a couple of key issues. She didn’t think the project fits in the neighborhood. She stated that they have a 1995 general plan that you have to keep it in compliance with what the neighborhood looks like and she didn’t agree with the architect saying that it enhances the flavor of the neighborhood. She stated that it will be a big block structure and her front porch will look at it across the street and regarding the commercial use, the plan was clear that it has to be visitor focused and that means the public has to know about it. She stated that, unlike Yelp reviews, that was not what the plan was about and having a tutoring center wasn’t a way to have visitor focus. She stated that the biggest issue was the parking variance. He understood they had a fire, but she thought they need to rebuild the parking structure but to get a variance for something they are electing to not do was not going to help the neighborhood. She stated that there have been many parking variances in Pedro Point and it was getting to the point where it was difficult for those who live there to navigate, especially on busy beach days and they would like them to put a moratorium on any parking variance in Pedro Point. She stated that they have spot zoning that goes on which was a huge safety issue the residents hope the Commission will take into account. She stated that she has a letter to put into the record.

Joanne Gold, Pacifica, stated that she was a 20-year resident of Pedro Point. She thanked the Planning Commission for a thoughtful, careful review of this plan. She was in agreement with Ms. West on the recommendation to deny the permits as the scale of the project, setbacks, etc., were inappropriate for the community and out of character. She respects that the family has lived there for a long time but she felt it was inappropriate for that project size in the community. She was also concerned about the parking exemptions as the area was already a difficult area in which to park and most of Pedro Point was becoming increasingly difficult to park. She felt too many

parking exemptions have been handed out at Pedro Point such as mixed use projects on San Pedro Avenue and they were already having a negative impact of those parking exemptions even with the construction vehicles. She was concerned about the parcel over development of Pedro Point. She stated that the community has had a history of wanting to put a statement about the community plan and the Pedro Point Improvement Association put together a document that detailed the community support for planning and building in the community, mentioning some of the specific issues. She asked the Commission to work with Pedro Point residents and use their 1995 plan as a guide to develop and adopt a neighborhood community plan for Pedro Point as was done at Rockaway Beach and also requested that they impose a moratorium on future parking exemptions until adoption of a plan.

Jacqueline Pan, Pacifica, stated that she was the owner of 276 Kent Road located at the rear of the proposed development. She was in support of the Commission denying the application. She seconded the concern that the height and mass of the development would restrict the natural light available to her property which was directly in the rear of the proposed development and she thought the project would impact her privacy as it would overlook her back yard and the rear of her house.

Carol Matyus, Pacifica, stated that she lived on San Pedro Avenue and has lived on Pedro Point for 54 years. She stated that this project will put her back yard into the shade for most of the day. She felt they needed appropriate setbacks. She stated that there was also a privacy issue with a large three-story building directly behind her house. She felt this project puts an almost 3,000-square foot building on a 25 x 100 foot lot and she also felt there was not enough street parking for this project. She stated that she lets her neighbors use her driveway if they can't find parking.

Dave Colt, Pacifica, stated that he has lived next door to that project since 1960. He stated that the neighborhood has grown 90% of what it was as they have built huge ugly homes on Pedro Point in the 1970s and 1980s. He stated that there were a lot of people present who were against the project. He stated that the owner said the project was under the cut of the buildings behind it and not that high with plenty of off street parking. He supported the project. He stated that he was a good builder and there was plenty of room. He stated that Danmann Avenue was all commercial and there was nothing there. He stated that the houses across the street were huge and went to the front but there is plenty of parking at the back of the property. He stated that he didn't know why planning thought it was not accepted and they wanted to have it done again.

Mr. Brinkman clarified that it was a parking exception, not a variance and was for a total of one space. He stated that 740 sq. feet requires two spaces and the commercial space was over 400 sq. feet and also requires two. He stated that they have three of the four spaces they are providing and they were asking for one. He stated that they didn't widen the driveway at the street to keep as much of the street frontage as possible for street parking. He stated that they mentioned two other projects with parking exceptions and none of those have been finished yet and comparing construction workers' cars compared to the project when built wasn't applicable. He referred to the issue of privacy concerns and they took that responsibility when designing it. He stated that the plans at the rear on ground level have some kitchen windows but there will be a fence in the rear yard and it will be like any first floor ground level house and the fence will block most of the view to the adjacent property. On the second story, he stated that there were a total of four windows, two in one bedroom and two in a stairwell high above to let light into the stairwell. He stated that, if they felt it was necessary, they could remove the two windows from the bedroom so

there was no way to see into the neighbors' property. He stated that the decks were put in the front to maintain the privacy to those adjacent residences.

Chair Campbell asked, to better understand the parking situation, for him to explain the situation. He stated that the garage was burned.

Mr. Brinkman stated that it was for the new residence. He stated that they have the accessible area for the commercial space and an additional space for the commercial alongside the driveway and one more space along the side for the small existing home.

Chair Campbell concluded that it only has one space.

Mr. Brinkman stated that it only has one covered spot when it was supposed to have two.

Chair Campbell closed the public hearing.

Commissioner Gordon asked staff, from what they heard from the applicant, if there could be adjustments made where they could get comfortable with the project.

Sr. Planner Murdock didn't think they could without completely reconfiguring the site. He stated that it was staff's opinion that the presence of the lawful non-conforming single family residence at the front of the site precludes any ordinary utilization of the site in a commercial capacity. He stated that the staff report noted they support reductions or eliminations of non-conforming uses to bring sites into their intended use within the city's planning documents. He stated that this project was not a step in the right direction in staff's opinion. He stated the selectively demolishing the garage but retaining the residence didn't seem to further the purpose of intent of the site to be commercial but held on to the lawful non-conforming residential use for the various relevant reasons indicated by the applicant. He stated that to try to intensify the site with commercial use as proposed was not consistent and staff could not reconcile those two imperatives. He stated that, short of demolishing the single family residence or substantially altering it to construct an addition that would transform the structure, it was not something that he or staff could imagine occurring at the site.

Commissioner Gordon concluded that commercial has to front the street.

Sr. Planner Murdock stated that there was no explicit standard in the planning documents that says a particular setback or that it must front on the property line of the commercially designated site but this was the complete opposite of that. He stated that there was no reasonable but small setback from the front provided for landscaping or sensitive buffering from the street. He stated that the proposed project was as far as you can get from the street orientation that staff thinks would give the site the best opportunity to function as a viable commercial location. He stated that, as currently proposed, there would be next to no visibility from the street to the commercial space and he wasn't sure how that would enable it to function as a visitor's serving use except in the narrow instances indicated by the applicant of people pre-identifying the site through research rather than happening onto the site as they expect a visitor's serving use.

Commissioner Nibbelin referred to the commercial zoning and asked if it would be possible to develop an acceptable commercial use that would include a residential component.

Sr. Planner Murdock thought there was a likelihood for that. He stated that this configuration was not that project and the gross imbalance of commercial floor area to residential floor area, the massive scale of the structure and other reasons identified in the staff report, they hoped that the project could manifest in a mixed use orientation to create a thriving visitor's serving use and create one or more dwelling units, as they knew housing was badly needed in the community. He stated that staff was not against a mixed use project, but against this project in its current form.

Vice Chair Clifford stated that, on looking at the report documents, he thought the commercial was only 17% of the building. He asked if that was correct.

Sr. Planner Murdock stated that he would need to do the calculations but it was a small proportion of the floor area.

Vice Chair Clifford thought he saw that in the report, and he would not be comfortable with just 17% even if they were comfortable with where it was.

Commissioner Rubinstein thought it was bewildering as to why the applicant hasn't worked with Planning to retool the project as they have missed the mark on so many levels. He stated he has never had an experience where the applicant and architect come and the decked was stacked against them and they did not withdraw the project to retool and rework it for a viable project. He stated that he had no alternative but to not vote for the project and make a motion to vote on that.

Chair Campbell stated that he found the parking exception was the hardest part for him, particularly for the residences as so many people come before them and comply with that parking requirements for residential. He stated that, with so many residential projects that have to comply with that, he can't get over that. He stated that the exceptions with this Commission over the past year were approving three significant parking exceptions at Pedro Point, but he felt they were reaching a saturation point. He thought the point where they grant any variances or exceptions at Pedro Point was coming to an end. He stands by the ones he voted for but he thought it was getting to a crisis point.

Mr. Brinkman stated that he spoke with the previous planner on the concept of converting the existing house to commercial to help balance it out to provide only one residence on the site, specifically the new one above the other small commercial space if they met the parking for that. He thought the main issues was the location of the commercial and there was a lot of stuff that didn't have a lot of meat to it but thrown in to support that. He wondered if converting the front building to commercial to comply with street facing commercial would have a different feeling towards the project.

Chair Campbell thought it would be difficult to do it on the fly.

Mr. Brinkman stated that he was trying to get a feel for the rest of the items, such as the location next to residential with the setback. He stated that it was their opinion that it was grossly exaggerated in the report, but if they would support something like that, they would want to explore doing something like across the street, and doing a big three-story commercial two unit duplex.

Chair Campbell stated that they will see what comes out of their deliberation and they may have more questions or comments.

Commissioner Rubinstein thought it was not the right forum and they should have that conversation with planning and figure out what the project is, but not before the Planning Commission.

Mr. Brinkman stated that it wasn't brought to their attention until Wednesday night when the report was processed.

Commissioner Rubinstein stated that he would have them withdraw the project, retool it and make a great project. He stated he could not approve this one.

Vice Chair Clifford stated that one concern he has is the light and air concern for the neighbors behind them as he thought the size would create a problem for the neighbors' backyards.

Commissioner Gordon stated that this project would have been better served if they had gotten notice that there was going to be an intent to deny. He wondered, if they had come down and had conversations with staff, if there was a way to give applicant some notice ahead of time so he is not stumbling at the dais asking what they can do. He agreed with Commissioner Rubinstein that that was a conversation that should have been had one to one with planning.

Planning Director Wehrmeister stated that she would respectfully disagree with the applicant that they just found out about it when the staff report was published. She stated that staff had been in communication with Mr. Brinkman about staff's feelings on the project, and she confirmed with Sr. Planner Murdock that they had indicated that before the application was formally submitted and there were preliminary conversations with staff.

Commissioner Gordon moved that the Planning Commission adopt the attached resolution to DENY Site Development Permit PSD-824-17, Coastal Development Permit CDP-392-17, Use Permit UP-89-17 and Parking Exception PE-177-17; and to incorporate all maps and testimony into the record by reference; Commissioner Nibbelin seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Clifford, Gordon, Kraske, Nibbelin,
Rubinstein and Chair Campbell

Noes: None

COMMISSION COMMUNICATIONS:

Vice Chair Clifford would like staff to consider looking at the report on what the neighbors would like from 1995.

Chair Campbell asked, with the parking exception variance issues they are having at Pedro Point, if they could get on the agenda on whether it would be worth a specific plan at Pedro Point at least with parking. He felt they were reaching a point where some clear guidance from the city would be worthwhile as it may have reached a tipping point.

Planning Director Wehrmeister stated that they were getting into goal setting for the next budget cycle and she will make sure the City Manager is aware of this request.

STAFF COMMUNICATIONS:

Planning Director Wehrmeister let them know that on January 14, Council will hear a study session and consider providing staff direction on various potential amendments to the cannabis regulations. She stated that some are more administrative as they have almost completed the first round.

Chair Campbell asked the audience to take their conversations outside.

Planning Director Wehrmeister stated that Council will have a study session and consider providing direction to staff regarding some amendments to the cannabis ordinance. If they get direction to make amendments, that will be coming before the Planning Commission for a recommendation. She stated that the next regular meeting on Monday, January 21, was the Martin Luther King Jr. holiday and their meeting will be moved to January 22. She stated that recruitments for the vacant position and one expiring term were underway and they will start seeing notices about that to the public. She stated that she would send an email to remind them regarding the 21 elements planning commissioner training opportunity, free of charge. She also will send information on the League of California Cities planning commissioner academy in Long Beach, but stated that they don't have a budget to send the Planning Commission but if they are interested, she will forward it to them.

ADJOURNMENT:

There being no further business for discussion, Vice Chair Clifford moved to adjourn the meeting at 9:26 p.m.; Commissioner Nibbelin seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Clifford, Gordon, Kraske, Nibbelin,
Rubinstein and Chair Campbell
Noes: None

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Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister