

**MINUTES**

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

March 18, 2019

7:00 p.m.

Vice Chair Clifford called the meeting to order at 7:02 p.m.

**ROLL CALL:** Present: Commissioners Berman, Kraske, Bigstyk and Vice Chair Clifford  
Absent: Commissioners Campbell, Nibbelin and Rubinstein

**SALUTE TO FLAG:** Led by Vice Chair Clifford

**STAFF PRESENT:** Planning Director Wehrmeister  
Sr. Planner Murdock  
Asst. City Attorney Bazzano  
Assoc. Planner O'Connor  
Sr. Civil Engineer Donguines

**APPROVAL OF ORDER OF AGENDA** Commissioner Kraske moved approval of the Order of Agenda; Commissioner Bigstyk seconded the motion.

The motion carried **4-0**.

Ayes: Commissioners Berman, Kraske, Bigstyk and Vice Chair Clifford  
Noes: None

Planning Director Wehrmeister clarified that the Commissioners were not voting on the accuracy of the contents of the minutes, just that they are prepared for those meetings, and the two new commissioners are free to act on the minutes. She stated that, if they didn't feel comfortable, they could hold them to a future meeting.

**APPROVAL OF MINUTES: FEBRUARY 4, 2019 AND MARCH 4, 2019** Commissioner Kraske moved approval of minutes of February 4, 2019 and March 4, 2019; Commissioner Berman seconded the motion.

The motion carried **4-0**.

Ayes: Commissioners Berman, Kraske, Bigstyk and Vice Chair Clifford  
Noes: None

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF MARCH 25, 2019:**

Vice Chair Clifford stated that they would not need a liaison.

**ORAL COMMUNICATIONS:**

None.

**CONSENT ITEMS:**

None

**NEW PUBLIC HEARINGS:**

- 1. File No. 2019-006 – Hearing on determination of status** related to A City-initiated merger of Lots 34, 35 and 36 of Block 25, Rockaway Beach Subdivision No. 1 (RSM 6/53).  
Recommended CEQA Action: Exempt pursuant to CEQA Guidelines Section 15061(b)(3).

Sr. Planner Murdock stated that Sr. Civil Engineer Raymond Donguines will provide the staff report for Item #1.

Sr. Civil Engineer Donguines presented the staff report.

Commissioner Bigstyk asked that the bear with him since he is new to the process. He asked if they have any discretion in terms of how the lots are merged or does it have to be one giant lot or broken into two lots, both of which comply.

Sr. Planner Murdock stated that, regarding the Municipal Code with lot mergers, staff's opinion was that the code requires that the lots be merged in their entirety into one lot because of the requirements to qualify for the merger and subsequent merger of all of the lots and they believe the appropriate outcome is one merged lot.

Commissioner Bigstyk asked if the developer has the option to put two residences on the one lot if it is big enough in other circumstances.

Sr. Planner Murdock explained that the development of any property in the city is governed by the General Plan and the applicable zoning designation, but the lot configuration does not determine the development potential whether one, two or multiple dwelling units. He stated that, in this case, the underlying General Plan designation is very low density residential or VLDR which indicates densities for residential development of a half-acre per dwelling unit. He stated that, with this property, the total land area of the one merged lot would be 11,250 square feet and per the General Plan, there may not be any development potential anyway regardless of the lot configuration. He stated that the property does not meet the minimum density provisions in the General Plan and staff felt how you configure them was a moot point.

Commissioner Bigstyk understood about the lot not conforming, and asked if, in other circumstances where the lot might conform, would he be able to do a one house project at one point and later do another house as a separate project.

Sr. Planner Murdock stated that it touches on aspects related to the General Plan and zoning, and the development standard for the minimum lot size is one relevant characteristic and the approved uses for the site is another relevant characteristic. He stated under the zoning for this site, R1H, single family residential hillside, it is one dwelling unit per lot. He stated that the property can be subdivided which is a separate process and must be compliant with the General Plan and zoning which indicates a half acre per dwelling unit in the General Plan and 5,000 square foot minimum lot size in the zoning. He stated that combining the two suggests that the minimum appropriate land area for any lot in the VLDR designation is a half acre.

Vice Chair Clifford referred to the ability to build on the lot, and stated that he thought we were not in a position to take property and if they came forward with a plan that met staff's approval they would likely get to build at least one home.

Sr. Planner Murdock stated that he touched on a complicated legal question regarding takings. He stated that the city is not allowed to take property without just compensation but is allowed to regulate development potential subject to certain standards. Whether this property could develop in its current form as separate lots or a single lot merged of 11,250 square feet which is less than a half acre is fact specific. He stated that an alternative for the property owner would be to seek a General Plan amendment changing the designation for his property and subject to a different density requirement and maybe there would be sufficient land area. He stated that there were a variety of potential ways that development potential of this property could be addressed but was not pertinent to this item's conversation about the technical aspects of the lot merger and whether those criteria have been met to satisfy the requirements for merger.

Vice Chair Clifford wanted to make sure the owner of the property had some kind of avenue forward.

Sr. Planner Murdock understood, adding that he mentioned it was a separate factual analysis that was not part of the lot merger requirement and this merger does not affect the development potential which is separately regulated by the General Plan and zoning ordinance.

Asst. City Attorney Bazzano added that the issue before the Planning Commission today was whether the merger meets the requirements of the Municipal Code and not whether the parcels would be developable going forward.

Dave Blackman, owner, stated that he was a 50-year resident and he stated that the two lots combine for 11,250 square feet. He disagreed that it was a moot point if it was one or two lots. He stated that, if they have seen his track record, he has been trying to build smaller homes. He had asked previously for 400 square feet and got pushed up to 450 square feet. He is doing a project in Moss Beach for 900 square feet, adding that if they have been by the motel he is building, he is doing cottages at 400 feet. He stated that he believes they have the choice to merge this or not, as the words were may merge, not required to merge. He stated that they were asking good questions. He understood that they could tell him he can't build on the lots, but they have to pay just compensation and cities don't usually choose to do that because it was very expensive. He stated that he would love to build very small homes but if they merge them, it will make it a little more difficult, but he stated it is okay if they merge this one. He stated that the next lots are 15,000 square feet apiece and more why he is here at this meeting. He hopes they don't merge this one and they have the choice to postpone this which will allow him to do a lot line adjustment that would make two 6,000 and 5,500 square foot lots if postponed and he would offer a deed restriction that he would never build more than one story or more than 1,000 feet if they entertain an extension to let him put that application in. But if they don't, he can walk away from that, but added that it doesn't stop someone from building a large home on a large lot which he hopes doesn't happen there. He reiterated that he was offering to do a lot line adjustment with two medium-sized lots. He believed that they were not accurate about the General Plan as he thought it was already in motion for the other lot owner to build. He hoped they don't merge them, but if they do, he understands. He will talk on the next item.

Asst. City Attorney Bazzano thought it would be wise to let the public comment proceed because it was not a formal applicant per se and this would not be the typical process where they give the applicant a specific amount of time.

Vice Chair Clifford thought they could bring him back up if they need to. He then opened the public hearing.

Chris Coppola, Pacifica, stated she lives in Rockaway Beach. She felt a couple of things are important which was the difference between the zoning in Rockaway Beach and the General Plan designations. She would like the Commission to follow the General Plan recommendations for housing. She stated the other things were quick and will go for both items 1 and 2. She stated that they have asked over again for Rockaway Beach to have a public planning process for the development of the area. She stated that there are many lots, most not according to the General Plan designations for houses, and it would be cheaper than having them do this over and over for every parcel for every possible development. She stated that the second issue was that no one knows where the lots are and she repeatedly asked that there be some visual cues put up when they have discussions so there can be informed discussions from the residents of Rockaway Beach. She stated that this gives her cognitive dissidence in terms of the negative mitigated declaration for the Dias Macias property which did a very limited cumulative analysis of the effect that the proposed road would have on the community in Rockaway Beach. She stated that they basically said the development of land east of the Dias Macias property would be moot because it was unlikely to be developed and she thought the negative mitigated declaration may have been short-sighted since it seems there are plans to develop the east end of Rockaway Beach.

Andrea Hiello, Pacifica, stated she lives in Rockaway Beach. She stated that they have been asking for years for a real plan for Rockaway as there are so many undeveloped parcels on both sides of the street and the roads are narrow and not taken care of by the city and was dangerous. She felt they need a plan that addresses all the questions regarding new development happening in the valley.

Vice Chair Clifford closed the public hearing but gave the property owner an opportunity to respond to the public comment.

Mr. Blackman said he will come back if they have any questions. Vice Chair Clifford then brought the item back to the Commission for deliberation.

Commissioner Bigstyk stated that he went to the area where he thought there was a street leading to the property and he found where a street might wind up but he wondered about it in general. While he wasn't asking a specific question, if addressed, he would appreciate it. He referred to the mention of the General Plan a few times and he assumed they would follow what was current rather than what was in the works.

Sr. Planner Murdock stated he was correct if they were considering a development application but this matter before them was whether the technical requirements for lot merger have been met pursuant to Article 12 of Chapter 1, Title 10 of the Municipal Code.

Commissioner Bigstyk concluded that they were not taking development into consideration but deciding whether those conditions have been specifically met.

Sr. Planner Murdock responded affirmatively.

Vice Chair Clifford asked Mr. Blackman to restate what he would like to do with his property if he could.

Mr. Blackman stated there was nothing in the short term. He stated that the most vacant lots are in Rockaway and if they develop each one individually, he thought Rockaway would be in bad shape. He felt, as a city, they should get together and figure out which areas should be built, shouldn't be built and mitigate it and maybe as whole purchase some of them. He agreed with the previous commenters and when he was present with other projects, he felt not dealing with it as a whole was dangerous. He stated that, in answering the question, he has four children entering adulthood and cannot afford to live in Pacifica. He stated that he built the house on Francisco for 600 square feet and he would like to build some homes of that size for them. He stated he will do it later unless the city comes up with a plan with which he agrees otherwise he would like to do very small homes.

Commissioner Berman agreed with the staff report that the lots do comply with the Municipal Code. She also felt subdivision and lot line adjustment in the future can be an opportunity. She felt, regarding Municipal Code compliance, the lots can be merged, and she agreed that, regarding CEQA, the lots are exempt as there was no substantial environmental impact, but for future site development, a site development permit should be received and at that time any CEQA requirements should be addressed.

Sr. Planner Murdock asked to address a couple of points raised by the property owner and correct them for the record. He stated that he indicated a variety of different lot sizes that he believes actually exist at the site, and he thought he may be confusing the assessor parcel boundaries with the actual underlying lot configurations. He stated that staff's research has indicated that the original subdivision conducted in the early 1900s, Subdivision No. 1, and the lots subject of this particular merger are the original 3,750 square foot lots that were subdivided and they believe the San Mateo County Assessor may have grouped the lots in a different configuration for taxation purposes, but those parcels do not reflect the underlying lots subject to the merger and based on evidence presented by staff were 3,750 square feet each and there are three of them contiguously located in this case for a total of 11,250 square feet of land.

Vice Chair Clifford concluded that they were not recommending merging things in such a way that three lots become two.

Sr. Planner Murdock stated that he was not and staff did not believe that was within the Commission's discretion. He stated that either the requirements for merger in their entirety are met or they are not met, based on facts and evidence presented. He stated that the property owner has described some other alternatives such as filing a lot line adjustment. He stated that staff did not believe that it is an option for the applicant given the requirements to merge, referring to and reading Section 10-1.1201 of the Municipal Code. He stated that staff believes the criteria have been met and the lots shall be considered merged. He stated that at this hearing, if the Commission weighs other evidence submitted by the applicant that suggests the lots do not meet the criteria then they shall not be merged. He felt that was where the "may" language comes from but he felt they were deemed to be and shall be considered merged if those requirements are met.

Planning Director Wehrmeister added that the lot line adjustment process, even though they have not received or analyzed that may be frustrated by the finding that staff needs to make that it is consistent with the General Plan.

Commissioner Bigstyk asked Sr. Planner Murdock to repeat what he said about the “may” language.

Sr. Planner Murdock stated that the property owner indicated that the Commission is not bound to merge the lots but “may” merge the lots. He stated that he disagreed based on the reading of Section 10-1.1201 which indicates that two or more contiguous parcels held by the same owner shall be considered merged if one of the parcels or units does not conform to the minimal parcel or lot size which is the case and all the requirements in Subsections a-d are met.

Asst. City Attorney Bazzano clarified that when a statute or ordinance uses the word “shall” it was a mandatory duty whereas “may” typically denotes discretion.

Commissioner Bigstyk moved that the Planning Commission FIND the lot merger is exempt from the California Environmental Quality Act; ADOPT the resolution included as Attachment D to the staff report determining that the Subject Lots shall be merged; and INCORPORATE all maps and testimony into the record by reference.

Commissioner Nibbelin arrived during this item’s presentation and felt compelled from voting because of his late arrival unless he was given a summary of what he missed and could be inclined to second the motion.

Commissioner Berman seconded the motion as she was in support of merging the lots.

The motion carried **4-0-1**.

Ayes:	Commissioners Berman, Kraske, Bigstyk and Vice Chair Clifford
Noes:	None
Abstain:	Commissioner Nibbelin

2. **File No. 2019-007 – Hearing on determination of status** related to a City-initiated merger of Lots 37 through 44 of Block 25, Rockaway Beach Subdivision No. 1 (RSM 6/53).  
Recommended CEQA Action: Exempt pursuant to CEQA Guidelines Section 15061(b)(3).

Sr. Planner Murdock stated that Sr. Civil Engineer Raymond Donguines will provide the staff report for Item #2.

Sr. Civil Engineer Donguines presented the staff report.

Vice Chair Clifford asked if these lots were each 3,750 square feet.

Sr. Civil Engineer Donguines stated that he was correct, as each lot was 3,750 square feet and 25 feet wide x 150 feet in length.

Vice Chair Clifford thought that comes to about 30,000 square feet.

Sr. Planner Murdock responded affirmatively, adding that for the record it was over a half acre.

Commissioner Bigstyk assumed the lots were parceled on the early 1900s and then they came to the conclusion that they want these lots to be 5,000 and if not they will automatically merge them. He asked why they were now deciding that the automatic switch to merge is something they decide to do rather than it having been decided in advance automatically.

Sr. Planner Murdock stated that he raises a good point. He stated that the city took hundreds of city initiated mergers through a comprehensive process in the mid-1980s, most of which were recorded in 1985 and 1986. He stated that the city has attempted to systematically undertake the mergers through a comprehensive analysis of lots in the ownership at that time. He stated that he thought the city has not undertaken a comprehensive analysis since then, adding that the analysis in the mid-1980s was precipitated by changes in state law which would have undone mergers under prior laws if they weren't perfected through this process they are undertaking at this meeting. He stated that, since then, there has not been a coordinated effort to go back and periodically revisit current ownership if they have sold or assembled property qualifying for merger. He stated that, in the case of the properties proposed in the present Items #1 and 2, the city learned of the common ownership and the qualification for merger as a result of working on a development project proposed nearby, and when analyzing the total development potential of the area as part of the environmental review process, he identified the property owned by Dave Blackman and David Blackman Construction, Inc. and two other property owners who have not contested the lot merger process, met the qualifications for merger and this process was mandated. He stated, as Asst. City Attorney Bazzano indicated, it was his opinion that the city has a duty and shall consider the lots merged if the criteria are met. He stated that would be considered the case and the lots shall be considered merged. He stated that, when learning that the criteria being met, the provided the proper notice that the code and state law requires and the property owner in this case has sought a hearing to determine the status of his property.

Commissioner Bigstyk thought it would be a large undertaking at this point to go back and see if there were any more instances like this and would be a major event for the city to undertake that.



Sr. Planner Murdock agreed.

Commissioner Bigstycyk asked, if there was a consensus, and understanding how much is going on for the city such as the goal setting, etc., could there be a recommendation added that, if there was consensus, that kind of undertaking down the road might be a good idea if Council decides.

Sr. Planner Murdock thought that could occur, and was a discussion needed between the City Manager and Planning Director Wehrmeister as far as their recommendation on priority and staff resources to undertake that and the recommendation of the Council. He stated that this has not come to the level of Council indicating this as a work plan.

Commissioner Bigstycyk acknowledged that he was entering into the public record that at least one opinion says it is not a bad idea. He then referred to packet pages 77-82, and he noticed the two property assessments were different, and in item #1, there were two different addresses on the two different property assessments. He has understood that it would be merged into one giant 30,000 square foot lot but he was noticing that there was a discrepancy in owner address on the two assessments and thought there was a slight difference between Lots 37-40 being ascribed to one address and Lots 41-44 being ascribed to a different address and he asked if that factors into their decision making.

Sr. Planner Murdock stated that he pointed out that the San Mateo County Assessor, for taxation purposes has a different owner address for David Blackman for one AP number as it does for another, and it was his opinion that it does not affect the basis for merger as the requirement was common ownership and the physical criteria. The owner is the same and no evidence has been presented that there was a different David Blackman who owns the property at one address and another at the other address. He stated that they didn't have any evidence to explain the discrepancy. He speculated that it may be a former address from the property owner, but it doesn't change the fact that the evidence indicates that David Blackman owns both of these collections of lots under the parcel numbers indicated and David Blackman is present and has received notice and due process to come to the hearing.

Commissioner Nibbelin stated that this is probably because he arrived late, and he stated that Commissioner Bigstycyk touched on it. He referred to page 61 and affected lot detail, and asked if the proposal was to merge all the lots into one resulting lot.

Sr. Planner Murdock responded affirmatively.

Commissioner Nibbelin thought the write up was clear, but he did have a question. He stated that it looked like two property owners had not appealed, and he assumed that was the Dias-Macias and Jacobs properties. He then stated that it looked like David Blackman Construction had three parcels but are not the subject of anything they were dealing with today.

Sr. Planner Murdock didn't know if he understood the question.

Commissioner Nibbelin stated that he was looking at the chart.

Sr. Civil Engr. Donguines stated that was hearing No. 1.

Commissioner Nibbelin understood that was the item he missed.

Dave Blackman, owner, stated that he was going to talk about the unintended consequences. He wanted to build little houses on Palmetto and enough people poked and pushed and pulled and now they have one big building there. He stated that staff has the ability to postpone this and let him do a lot line adjustment, put them in different name and do something. He stated that, if they don't he was fine, but he wanted to build little homes but, just like on Palmetto, he was getting pushed in the other directions. He stated that he didn't know what they could do with a 30,000 square foot lot. He stated that he did put some in his corporation and some in his personal name so it doesn't become one big lot. He acknowledged that he owns both of them. He wished they would slow down and have a big plan for Rockaway. He understood that this was mandatory since 1908 and mandatory at this time, although he wasn't sure he agreed with that.

Vice Chair Clifford opened the public hearing.

Chris Coppola, Pacifica, stated that Mr. Blackman was at her house years ago with his projects to build little houses. She thought little houses are great but they were usually around transit hub and don't require a 30-foot wide street to be built parallel to Rockaway Beach. She explained that there are three paper streets in Rockaway Beach, one on the south side into the north side. She stated that, in order to build little houses, they still need cars to get people to the little houses and they still need streets to get them out and thus she thinks we should stick to the General Plan. She mentioned to staff that she didn't know where the lots fall in terms of the General Plan as some of the lots are in the one acre required area, not the half acre required area, adding that, if we ever do a planning process and see a new General Plan, she thought it might make sense to have some deemed open space which was the plan of Council and the Commission in the past. She agreed that they need a plan and she knows there has to be housing and she thought little houses belong in transit hubs.

Vice Chair Clifford closed the public hearing but gave the property owner an opportunity to respond to the public comments.

Dave Blackman stated that he didn't understand the difference between two little houses or one large home as he thought it still requires the road but he thought that was a moot point.

Vice Chair Clifford brought the item back to the Commission for deliberation. Commissioner Bigstyk referred to Mr. Blackman's comments on lot line adjustments, and as he was knew to the technical aspects, he asked if they could clarify for him what it is and looks like, and would it solve the issue if he was allowed a small amount of time to do that and merge the property on his own terms.

Sr. Planner Murdock stated that a lot line adjustment was a procedure specified in the subdivision map act for adjustment of lot line boundaries of preexisting lots. It does not create new lots but only changes the boundaries of existing properties. He stated that the subdivision map act in its procedures for lot line adjustments has certain limitations which are quite relevant to the matter before the Commission under this grouping of lots. It may not affect more than four lots and, in this case, we have eight lots in question. He further explained that the lot line adjustment must be consistent with the General Plan and zoning. He stated that the General Plan in this area indicates

a minimum of a half-acre per dwelling unit. He stated that, for a variety of reasons, probably the fact that it would affect more than four lots in this case, a lot line adjustment would not be an option to reconfigure the entirety of the property in question. He thought the opportunity for that has passed and the Municipal Code requires the lots to be merged and shall be considered merged unless the criteria are not met, but it was staff's opinion that the evidence in the record indicates they qualify for a merger and shall be merged. He added that he hoped the Commission reaches that determination.

Commissioner Berman asked if staff can confirm that the owner will have the opportunity to subdivide in the future once the lots are possibly merged.

Sr. Planner Murdock stated that the applicant has the right to apply for a subdivision and, at that time, staff would review the proposed subdivision against the applicable General Plan, zoning and subdivision ordinance standards for subdivision of lots and would bring forward a recommendation to the Commission to approve, modify or deny the subdivision. He stated that they were not able to deny the applicant the right to apply for a subdivision but that was a separate process following a separate application to the city. He added that staff believed a lot line adjustment could make sense for the applicant, assuming the Commission approves this lot merger as well, to conduct a lot line adjustment between the David Blackman and David Blackman Construction, Inc., properties as the lots to be merged under this agenda item would exceed a half acre and the possibility exists that some of the additional balance above a half acre could be transferred to the other grouping of lots that were approximately 11,000 square feet to get them closer to being a half acre rather than leaving them in a significantly substandard condition.

Commissioner Berman asked, if in the future the lots are subdivided, whether the requirement of 5,000 square feet minimum and 50 foot minimum width will be applied to each lot that is subdivided.

Sr. Planner Murdock stated that it was not necessarily correct, explaining that the subdivision needs to be reviewed for General Plan compliance, zoning compliance and subdivision standard compliance. He stated that the applicant would have to indicate the slope of the area. He mentioned Table 4 in the subdivision standards which set minimum lot sizes based on slope. He stated that the applicant can pursue a subdivision based on different General Plan standards but other criteria must be met and are difficult to meet with most applicants relying on the simpler standards. He stated that, once that threshold is surpassed, then they look at General Plan and zoning standard consistencies because zoning sets forth much smaller lot sizes than the density standards which imply half acre lots and generally the more restrictive standard would apply, meaning the half acre minimum lot requirement would be imposed. He stated that those factual determinations could only be made subject to a future application which would be reviewed on its merits, and he was describing a general explanation of a typical procedure that might apply.

Commissioner Bigstyk asked if the lot line adjustments would apply within the context of the two properties once the merger occurs.

Sr. Planner Murdock responded affirmatively, adding that under this item they were considering a merger for David Blackman, an individual, and on the prior item, the lot merger was pertaining to property owned by David Blackman Construction, Inc., which was a separate legal entity and both controlled by David Blackman but separate legal entities for purposes of the lot merger. He

stated that the separate entities could conduct a lot line adjustment between the two perhaps to shift some of the land area from the 30,000 square foot land area to the 11,250 square foot land area. He thought that balance would be over a half acre from the 30,000.

Commissioner Bigstycyk stated that he felt silly asking this question but could only think to ask it this way. He asked if he would have to transfer the property to himself if he were to do such a thing.

Sr. Planner Murdock asked for clarification.

Commissioner Bigstycyk stated that David Blackman Construction owns one property and David Blackman owns the other. He stated that it was probably a legal nuance he is missing, but he asked if David Blackman would have to transfer some of his property to David Blackman Construction to do a lot line adjustment after the mergers happened.

Planning Director Wehrmeister stated she wasn't sure if she was understanding the question, but she thought the two parcels involved in a lot line adjustment do not have to be owned by the same individual. She stated that neighbors do lot line adjustments, which is very common.

Sr. Planner Murdock mentioned an example of city and private property owner, but added that in this case they are both controlled by the same "person" with one technically being a corporation and the other is an individual.

Commissioner Bigstycyk asked if they would be deciding that at this meeting.

Sr. Planner Murdock stated that they would not. The decision was whether the criteria are met and the property owner has the right to apply subsequent to this hearing to the engineering division of Public Works.

Commissioner Nibbelin moved that the Planning Commission FIND the lot merger is exempt from the California Environmental Quality Act; ADOPT the resolution included as Attachment D to the staff report determining that the Subject Lots shall be merged; and INCORPORATE all maps and testimony into the record by reference; seconded by Commissioner Kraske.

The motion carried **5-0**.

Ayes: Commissioners Berman, Kraske, Bigstycyk, Nibbelin  
and Vice Chair Clifford  
Noes: None

**3. TA-114-19**

**File No. 2019-003 – Text Amendment TA-114-19**, to amend Article 49 of the City of Pacifica Zoning Regulations (Title 9, Chapter 4 of the Pacifica Municipal Code [PMC]), as well as other articles of City of Pacifica Zoning Regulations, to increase the maximum number of allowed marijuana retail operations in the Rockaway Beach and Sharp Park Marijuana Operation Overlay Districts; to amend regulations related to: testing and manufacturing operations, findings for approval of use permits, prioritizing certain lottery list applicants, cannabinoid extraction by manufacturers, parking standards for marijuana operations, and other administrative amendments to create efficiencies in the permitting process and conform with State law amendments. Recommended CEQA status: Exempt pursuant to CEQA Guidelines Section 15061(b)(3).

Assoc. Planner O'Connor presented the staff report.

Commissioner Nibbelin stated he was interested in any analysis of the competitive effects of going from two to three potential permittees in these districts.

Tim Comarte, HDL Companies, stated that it depends on the local and regional demand which tends to be flat, meaning it is a constant. He stated that they do reach a point where, if they continue to add additional retail businesses specifically, at some point they will begin to cannibalize off of one another and divide the pie so each one has a smaller market share. He stated that going from two to three was not a dramatic increase such as going from two to five, where there would be a significant impact and the businesses might be complaining that they aren't making the revenue they anticipated. He stated that, obviously with a local tax, the city will not be generating the revenue expected.

Commissioner Nibbelin thanked him for the information, adding that he was concerned because the areas involved weren't especially large geographically and he appreciated his conclusion that three will not be extraordinarily detrimental to the entities already permitted.

Mr. Comarte added that they should keep in mind that an estimated minimum of 50% of all cities statewide were still prohibiting this kind of commercial activity and he felt they could help with information on what other jurisdictions are doing. He stated that they have a big one to the north, specifically San Francisco, but smaller cities have enacted regulations on this but a lot still have total bans in place that are allowed under Prop. 64. He stated that it would help draw business from surrounding areas.

Commissioner Nibbelin stated it would be a visitors' serving use.

Commissioner Bigstyk asked if a zoning standard was the same as a zoning regulation.

Assoc. Planner O'Connor responded affirmatively.

Commissioner Bigstyk asked if manufacturing and testing operations were not allowed to sell product directly to the consumer.

Assoc. Planner O'Connor responded affirmatively.

Commissioner Bigstyk asked if there were state-mandated steps between the manufacturer and retailer.

Assoc. Planner O'Connor responded affirmatively, adding that Mr. Comarte can help to describe it further. She explained that, in order for a product to get from a manufacturer to a retailer, they need to go through a licensed distributor. She stated that the amendments they are proposing would allow a local manufacturer to do a transport only distribution and allow them to distribute their own product to the retailer. They would need the appropriate state license to do that, but would be permitted.

Commissioner Bigstyk concluded that they would get permits to be a distributor as well as a manufacturer.

Assoc. Planner O'Connor responded affirmatively.

Commissioner Bigstyk compared to distilled spirits. He asked if taxes, fees, fines or penalties have been assessed for business past or present operating in Pacifica without a cannabis activity permit.

Asst. City Attorney Bazzano stated that the marijuana operation tax in the city code requires that, if a business is conducting any commercial cannabis activity, it is subject to the tax.

Commissioner Bigstyk stated that there were operation acting before they put the law in place and he understood at some point one business was trying to figure out how to give taxes to the city and were having difficulty until they finally figured it out. He asked if they have assessed such businesses at this point in time.

Asst. City Attorney Bazzano stated that there was a process for the Finance Department to get up to speed in implementing the tax, but the code provides that, if conducting commercial cannabis activity within the city limits, they are subject to the tax.

Commissioner Bigstyk asked if those businesses were given the bill for those taxes.

Asst. City Attorney Bazzano was not aware of every business getting a bill for tax, but she believed that the city has looked at commercial cannabis activity that has been conducted in Pacifica to determine if pursuing the outstanding tax amounts would be appropriate.

Commissioner Bigstyk concluded that they have all been given the opportunity to pay their due.

Asst. City Attorney Bazzano believes the city has looked at each one of them.

Commissioner Bigstyk remembered one commenting that they understood what they owed and questioned where they pay it.

Asst. City Attorney Bazzano stated that there was an application that came before the Planning Commission, Lytt, and there was a business operated by one of the owners of Lytt, and they were given the opportunity to pay the outstanding taxes.

Commissioner Bigstyk concluded that now, if anyone hasn't paid, it would be due to their own negligence.

Commissioner Bigstyk stated that he was getting at whether there should be an allowance of a grace period.

Asst. City Attorney Bazzano stated that the code does not allow a grace period.

Commissioner Bigstyk referred to Packet page 112, Section 9-4.4801, of definitions explicating stating that extraction methods may include heat. He stated that the overview of the discussion in the staff report mentions that chilling might be a part of the mechanical extraction process. He stated that he sees heat mentioned but not cold. He referred to the staff report of definitions and asked if cold needs to be interjected.

Assoc. Planner O'Connor explained that heat in this reference is being used as a noun to represent a type of energy and heat would include chilling which is the lack of heat.

Commissioner Bigstyk compared it to air conditioning referring to the cold process but also the warm process.

Assoc. Planner O'Connor agreed, and stated that they can suggest an alternative term to clarify that fact, with one suggestion replacing "heat" with thermal activity to describe the movement of the energy. She stated that the word heat was intended to include different levels of heat.

Commissioner Bigstyk wanted to be sure they maintained the legal criteria. He stated that by definition, a customer includes a person 18 years of age or older who possesses a physician's recommendation. He asked if persons meeting the definition of a customer need to clarify their medical, adult use, mixed use. He asked if they need to clarify where that type of customer is able to use their medicinal exemption.

Assoc. Planner O'Connor stated that the zoning code does not distinguish between an adult use retailer and a medicinal retailer. She stated that they have one applicant who has chosen to be purely a medicinal retailer and would allow a customer who meets this definition. The other applicants have been adult use and medicinal business. She stated that, in those instances, a customer would also be allowed in for their medicinal needs. She stated that, in the event they have an applicant only proposing retail adult use, the exception would not apply to that retailer.

Commissioner Bigstyk concluded that a customer 18 years of age with a physician's recommendation can walk into a facility that is both adult use and medicinal, but not be able to walk into a facility that is only adult use.

Assoc. Planner O'Connor responded affirmatively.

Commissioner Bigstyk asked if that was clarified in the 9-4.4803(d)(13) in Packet page 115.

Assoc. Planner O'Connor stated that it was not clarified because the zoning code does not provide that distinction and it would be the operator who would have to implement it.

Commissioner Bigstycck concluded that the burden was not on the city to clarify that.

Assoc. Planner O'Connor responded affirmatively.

Sr. Planner Murdock suggested that, should the Commission review an application for cannabis activity permit in the future that indicates they only intend to have adult use sales, that would be an appropriate time to impose a condition of approval that explicitly restricts access to those 21 years of age or older as it was not a distinction made in the text of the ordinance.

Commissioner Bigstycck thought the state already says that. He asked if manufacturing operations were subject to the same overlay districts since they would only be selling product to businesses or passing them on to distributors.

Assoc. Planner O'Connor stated that manufacturing operations are a conditional use in the C3 zoning district and do not need to be located in a cannabis overlay district.

Vice Chair Clifford stated, if okay with Commissioner Bigstycck, he would allow someone else to ask questions.

Commissioner Berman stated that she had a question regarding the proposed amendment Item G. Regarding public health, as production of cannabinoids will be consumed, she asked if there will be a condition applied where the retail facilities will have to comply with food prep requirements.

Assoc. Planner O'Connor clarified that the amendments discussed under Item G apply to manufacturers.

Commissioner Berman asked about the retailer having to produce their own.

Assoc. Planner O'Connor stated that retailers are not allowed to do those types of activities under a retail license where they repackage materials.

Commissioner Berman concluded that there wouldn't be an instance where a retailer in Pacifica would be producing their own or extracting their own.

Assoc. Planner O'Connor responded affirmatively.

Mr. Comarte stated that was under the umbrella of the manufacturing license, not the retail license.

Vice Chair Clifford mentioned that there are overlays throughout the city and the maximum of retail the city can have based on what has been approved is six, and they are now talking about putting six within two of the overlays. He concluded that we were not adding any more but staying with six unless it comes up for a vote.

Assoc. Planner O'Connor stated that the direction from Council was the citywide maximum would be constant at six and this was just increasing the number allowed in each of the two overlay districts.



Vice Chair Clifford asked if they have heard from either or both areas about concerns of impact of a third marijuana retailer in their area.

Assoc. Planner O'Connor stated that they have not.

Sr. Planner Murdock thought at a prior city meeting, not sure if Planning or City Council, some permanent retailers in the Sharp Park District expressed concern that three could be too many for the business climate and demand currently. He stated that they also have heard general concern about cannabis retail operations generally in the Rockaway Beach neighborhood, adding that someone appealed the 440 Old County Road marijuana use permit application but ultimately withdrew the application prior to the appeal being heard. He said there have been individuals unsettled about either cannabis retail operations generally or the degree of concentration. He stated that those comments pertain to the two affected overlay districts of Sharp Park and Rockaway Beach.

Commissioner Bigstyk asked if any businesses have applied in the other overlay districts.

Sr. Planner Murdock stated that during the initial application phase for the city's cannabis permitting process, the city received applications for three overlay district, Sharp Park, Rockaway Beach, as well as the Linda Mar overlay district which included the Linda Mar shopping center, Pedro Point shopping center and a couple independent commercial properties in the vicinity of the Pedro Point shopping center. He stated that subsequent to the Linda Mar overlay application making it to the marijuana use permit phase, the property owner withdrew authorization and that would have been the fifth potential marijuana use permit that could have been issued under the existing zoning regulations but seeing as that application was withdrawn it left them with only applications at Sharp Park and Rockaway Beach. He stated that they have not received applications for the Fairmont shopping or Park Mall shopping center overlay districts.

Commissioner Bigstyk asked for confirmation that the application was pulled back because ultimately they could not find a place to set up shop there.

Sr. Planner Murdock stated that the applicant had identified a property to establish a cannabis retail operation; however, after initially authorizing the application, the property owner withdrew the authorization for reasons that are private and unknown to the city. He asked clarification as to whether his question was pertaining to the first round of applications.

Commissioner Bigstyk stated it was on the first round of applications.

Sr. Planner Murdock clarified that the initial application phase is still in effect and they have not opened up new retail applications and they have no way to gauge what the level of interest could be for potential operators in the other overlay districts as they are not able to apply currently.

Commissioner Bigstyk concluded that, if there were applications in the other overlay districts, it might sway him as to whether or not to increase density in the two overlay districts. He concluded that they tried in the other overlays and that didn't work. He wondered if that was a common experience in the other overlay districts which is why there is such a high concentrated focus in Sharp Park and Rockaway Beach, and it informs whether to increase the amount of businesses admissible in those places. He referred to parking, and asked if they round up or down to the nearest whole number or do they not round at all.

Assoc. Planner O'Connor stated that the code already addresses it. She stated that, when they come up with a fractional parking space that is above .5, they round up and if below .5 they round down.

Commissioner Bigstyk stated that there was a term used on Packet page 127, initiation of revocation proceedings by the Planning Commission, which was regarding the nullification of a public safety license and that shall automatically terminate the cannabis activity permit issued to the licensee and terminate the ability of the licensee to operate a cannabis operation without initiation of revocation proceedings by the Planning Commission. He was not sure what it meant.

Planning Director Wehrmeister stated that, typically, if the city wants to revoke a use permit, there is a standard procedure to do that of giving due notice to the permittee and requires a hearing, but this wording is saying that, if the license is already revoked, the use permit is also revoked without going through the formal process.

Commissioner Bigstyk stated that, according to the new language in the ordinance, after the initial application phase ends, new applications for review by the Commission will essentially be tossed out if there is no space open for a new business. He asked if his assumption was correct.

Assoc. Planner O'Connor responded affirmatively, adding that once all the permits able to be issued and all applicants have been reviewed and qualified registration list, staff will bring for Council's approval to close the initial application phase. If there are remaining applicants on that list, they would be withdrawn and could apply under the process described under subsection b of that same section.

Commissioner Bigstyk concluded that once all the businesses are filled and application phase is over, those other applications are gone.

Assoc. Planner O'Connor responded affirmatively.

Commissioner Bigstyk concluded that no one would have a reason to apply again until they know there is an opening.

Assoc. Planner O'Connor stated that they could reapply for their public safety application and can stay on the list for a year as detailed in the code, and the chief would work with them to keep them renewed as they wish or their application may expire if they don't maintain that, but they can be in a waiting queue.

Commissioner Bigstyk concluded that they can remain in queue while the other businesses are continuing and they reapply every year.

Assoc. Planner O'Connor responded affirmatively.

Vice Chair Clifford opened the Public Hearing.

C. Matter stated that she represents Adam Zollinger who is an applicant for one of the retail use permits. She thanked staff, Commission and Council, stating that she has appeared before many councils and commissions and she can attest that what they have gone through with respect to the

CUP permit process happens all over no matter if a lottery process or merit based scoring process. She stated that the frustrations all of them have felt are also throughout the various constituencies in California and their diligence in working through the process doesn't go unnoticed or unacknowledged. She looked at the text amendment and, as a matter of transparency, she wanted to make sure that no new requirements are being placed on the applicants. She thought that, based on her review, there were no new requirements other than if something is deemed incomplete they have a certain time to comply. She stated that they were excited at the possibility of this text amendment to go before the Council for approval and, if approved, their application may begin to be processed by the city and they were hopeful that, if approved, they could begin the tenant improvements and be in business by the end of the year so they can serve the constituents of Pacifica and provide much needed tax revenue. She was also available if they have any questions for her or Adam.

Brian and Karina who thanked them for the new amendments and the time staff spent creating the ordinance.

Brian then stated was going to make some clarification on the uses of alcohol. He asked if they can have the ability to use alcohol as a thermal carrier and not as a solvent and not to extract cannabinoids from any cannabis plants but using it to freeze the already extracted cannabinoids. He stated that they need something that doesn't freeze and alcohol will be the carrier for that. He stated that they weren't looking to amend any of the ordinances to state they can use alcohol or ethanol for an extraction process, as they will not be extracting cannabinoids but just using it to put from one solid mass to a machine that will take it and distill the different cannabinoids based on their weight. He stated that their ultimate goal was to make a consistent product which is called distillate and they will be looking to partner with a local company called Trip Distillery. He stated that they manufacture and distill alcohol that they will be using in the process so they won't need to change any ordinance but allow a safety review of how they will be using the alcohol in the process. They are checking to see if it is okay for them to be allowed to do this. He stated that he could described the process or just assure them that there will be no extractions done with the use of alcohol as it would have already been extracted through heat and pressure and the alcohol will allow them to bring the temperatures down to a lower point below freezing so the fats will coagulate together and be filtered out.

Karina stated that the reason they are bringing it up now was because they are trying to create a full menu for a reputable brand that can create revenue for the city and they want to emphasize that they will be separating fats from cannabinoids.

Brian stated that the extraction of the cannabinoid process is fully completed at this part and there will be no extraction of cannabinoids with any type of solvents whatsoever but achieved through thermal means and the alcohol will be used as a carrier to get the extract of cannabinoids to another machine that will spin it and separate it, rotovap being the proper term for the machine, with no alcohol escaping in the air and pulling the alcohol out of the crude in the machine and placed back into the container and nothing escaping and all contained.

Commissioner Nibbelin thought this was a question appropriately to the Police Chief and staff. He was 100% sure he understood the science or technology they are mentioning. He was curious if staff or Police Chief has a perspective on the permissibility of this activity under the ordinance as currently drafted and sought to be amended.

Asst. City Attorney Bazzano recommended that Commissioner Nibbelin hold his question until after they have done public comment and they can answer the question.

Commissioner Nibbelin stated that if they aren't going to need any further information from the speakers who raised it that was okay as that was why he was asking the question now.

Mr. Young of Seaweed Hollistics stated that he was echoing the comments of those before him. He stated that before the Commission was what Seaweed Hollistics believes to be well thought out and reviewed regulations. He stated that whenever allies of the California Cannabis Industry Association have reached out to Pacifica, Planning staff has almost always been available to answer questions, adding that they appreciate that because it takes understanding to truly meet the needs of any community and Seaweed Hollistics' owner is Anna Liana Williams who is present. This is a woman owned business and they were excited about it as well as excited to see Commissioner Berman has been added to the Commission to ensure that a woman's voice has been added to the table of understanding and delivering on issues of importance when it comes to land use development issues. He stated that HDL Consultants is a state wide entity that has contracted with many cities to roll out this cannabis program. He stated that when it comes to 2-3 in a particular zone, Commissioner Bigstycck as well as Commissioner Nibbelin posed a wonderful question, and Seaweed Hollistics believes they will provide a certain level of customer service, product and customer experience that will not be found with any other retailer in Rockaway Beach. He stated that their history has shown that they have met the needs of the Pacifica community through their products and their ongoing work with the city attorney's office. He stated that they will resolve any past issues in a timely manner so they can move forward and secure findings of approval when it comes time for Seaweed Hollistics to be reviewed and approved by this Commission. He thanked them for their time, adding that they have a right to ask questions and no question is a bad question. They thanked them and look forward for approval of the findings requested by the mayor and Council.

Trish Battaglia, Pacifica, stated that she has grown up in Pacifica. She spoke at the meeting a few months ago stressing that they reconsider adding manufacturing. She stated that she is currently manufacturing in Oakland. She stated that she tried to do it in Pacifica but it did not work out. She has another manufacturing company which is not cannabis, and she was aware of all the rules and regulations. She stated that she was recently in Colorado touring an edible manufacturing company and following their model for cannabis. She stated that the biggest issue she sees is the perception of cannabis. She reported going to a club in Nevada City who reported experiencing a brightly lit way rather than a dark room with people with hoodies, sunglasses and a strong odor. She mentioned her sister using it for chronic pain at her suggestion. She mentioned the many medical uses and she truly believed in cannabis. She stated that Pacifica needs to help these patients. She stated that she was one of the faces of the manufacturing and not someone who they may have a preconception of what someone looks like. She stated that Pacifica needs the money and, if they open it up, people will go to where they feel comfortable with customer service of what they need and not about being afraid of not having extra clubs in the city or manufacturing. She thought it was ridiculous as people will not hang out in front of the clubs, but go in and out.

Archie Judan, Pacifica, stated he operates the cannabis wellness center on Palmetto Avenue. He stated that it was not one of the recently permitted facilities for cannabis resale but currently he has been issued a license for a patient resource center and general retail. He stated that they were still in the process of obtaining a dispensary license through the city but were also evaluating alternative lines of business within the city. He stated that their feasibility study identified over a

half dozen delivery companies located outside Pacifica and advertise their services to local Pacificans. He stated that the state allows them to deliver throughout the state and supersedes local jurisdiction. He stated that it was revenue streams being taken away from Pacifica. He asked if they were allowed to obtain a license to operate their services for delivery at the current property located on 2021 Palmetto Avenue. He stated that they would also like to request Commission support to develop communications with the city and creating a cannabis task force that would include city officials, local operators, and community stakeholders to help regulate the rapidly changing dynamics of the cannabis industry and would help the city continue to regulate cannabis activities while insuring public community and economic interest for Pacifica. He stated that programs can be implemented through the group, such as business improvement district, to aid with beautification projects and community events.

Commissioner Nibbelin reiterated that his question was in the context of receiving public comment on reference made to use of alcohol as a thermal carrier. He wondered what the state law says about that and what our local ordinance is currently and in the proposed amendment in regard the use of alcohol as a thermal carrier. He was curious as to what the ordinance said.

Sr. Planner Murdock stated that he would offer an opinion on one aspect and ask Mr. Comarte to offer his opinion and perhaps speak more generally if he has knowledge about that particular manufacturing process or any relevant aspects. He stated that, in drafting the ordinance, staff was most concerned with using solvents, whether volatile or non-volatile for extraction purposes. He stated that, on Packet page 112 to 113, subsection T is the definition for non-volatile solvents and he read the definition. He thought, with the inclusion of post extraction processing in relation to ethanol, it could prove problematic as the proposed ordinance is currently written to involve its use in the manufacturing process. He didn't know if he was prepared to offer an opinion as to whether this use could be conducted safely or appropriately, but he thought Mr. Comarte or others on staff will have an opinion.

Mr. Comarte stated that, to the best of his knowledge, state law is silent on the question of alcohol being used as part of the manufacturing process, and not in the regulations or statutes. He stated that ethanol was a form of alcohol extraction. His recommendation would be to allow staff and HDL to research the question and to table making a decision on it this evening to do the research and come back to them.

Commissioner Nibbelin thought that might constitute a further amendment at some juncture if they were going to tweak the language to exclude that particular use of ethanol or alcohol in the post extraction phase.

Sr. Planner Murdock thought that was a fair assessment.

Commissioner Nibbelin stated that was something he would be interested in directing. He would like knowledgeable people to assess the safety aspects of it and he thought it warranted further analysis.

Vice Chair Clifford agreed that they need to have the experts weigh in on this question.

Sr. Planner Murdock thought it may help their inquiry if the matter is continued to ask the public commenters to estimate the approximate volume of ethanol that they may be intending to use. He

stated that sometimes, with hazardous materials, the volume serves as an important threshold for safety and other permitting requirements and that option could be helpful for staff.

Commissioner Nibbelin wanted to dovetail on something Sr. Planner Murdock said, adding that it might be helpful to have something in writing from those who raised the points or the interests so they have some clear understanding of what the proposal is and what the background, technical information is.

Vice Chair Clifford closed the Public Hearing.

Commissioner Berman agreed with Commissioner Nibbelin that further research should be done regarding the use of ethanol for extraction.

Commissioner Kraske also agreed and would be willing to make a motion for continuance.

Commissioner Bigstycyk also agreed.

Vice Chair Clifford asked if they needed to continue the whole thing or just bring back that one segment.

Sr. Planner Murdock stated it would be their recommendation to continue the entire proposed ordinance as the Commission needs to make its recommendation on the totality of the regulations and piecemeal would not be staff's recommendation.

Commissioner Nibbelin stated that as long as they are going to continue it, he would like to offer another thought or observation. He stated that someone had raised a comment about the parking, and he appreciated having the Fehr & Peers report which looked like it came down as an assumption of one parking space for each 300 sq. feet of gross retail space. He stated that there was some language in the report that suggested that it should be something that was monitored. He was curious as to whether they could consider bringing into the regulation of some presumption or minimum of staff recommending a more exacting parking standard in appropriate cases or as time goes by and it turns out that one space for 300 sq. feet is in some way inadequate, would it be possible to put into the ordinance code some flexibility so it constitutes a minimum rather than a per se number from which they could not deviate. He would like staff to consider that.

Sr. Planner Murdock thought they could evaluate how best to address that.

Assoc. Planner O'Connor stated that the standard as proposed for amendment into the code would be considered a minimum and the applicant would be allowed to provide more parking than detailed in the code.

Commissioner Nibbelin stated that he was leaning towards a requirement in appropriate cases.

Sr. Planner Murdock stated that it has come up in prior applications and prior public hearings. He stated that, in certain instances, the parking code as written is a general matter and allows the Commission to conclude a particular use as a high intensity use. He stated that it requires certain facts, which was why he mentioned that they will look at the best way to address it when they come back if it is continued.

Planning Director Wehrmeister stated that they have two additional requests to speak but those who spoke have requested another opportunity and was in the discretion of the Commission.

Vice Chair Clifford stated that they have spoken already and had their three minutes. He did close the public hearing and he didn't think he would let them speak at this time. He thought they will be continuing the item and they will be able to speak when it is brought back.

Sr. Planner Murdock stated that perhaps they could provide written comments to staff subsequent to this hearing.

Vice Chair Clifford agreed that they can provide written comments to staff.

Sr. Planner Murdock asked if staff can have the opportunity before the Commission proceeds to any action to address the request for clarification from one of the speakers about potentially new requirements imposed on cannabis retail applicants, and he stated that Assoc. Planner O'Connor will briefly outline staff's response to that.

Assoc. Planner O'Connor stated that the three that staff wanted to highlight were the addition of a new finding for what is proposed and being referred to as a cannabis activity permit. There was a new finding that the Planning Commission would have to make to approve one of those permits. She stated that the parking standard was also a new requirement that would be imposed on the applications. She stated that, with the amendments, extra time would be permitted for the processing of the applications by allowing staff to do concurrent reviews of the public safety license and the cannabis activity permit concurrently and it would change the process slightly.

Vice Chair Clifford thanked her for adding that, and he hoped that answer was understood by the person asking the question.

Commissioner Bigstyk referred to Packet page 126, regarding applicant or any of its principals to enforce the Pacifica Municipal Code.

Commissioner Nibbelin thought it was a typo and should be "its" instead of "it".

Commissioner Nibbelin moved to continue this matter to a date recommended by staff in terms of having this matter brought back.

Planning Director Wehrmeister suggested April 1.

Commissioner Nibbelin moved to continue this matter to April 1 at the meeting at that time; Commissioner Bigstyk seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Berman, Kraske, Bigstyk, Nibbelin  
and Vice Chair Clifford.  
Noes: None

**4. TA-115-19**

**File No. 2019-004 – Text Amendment TA-115-19**, initiated by the City of Pacifica, to Amend Existing Zoning Regulations in Order to incorporate Amendments to California Law Related to Accessory Dwelling Unit Construction. Recommended CEQA Action: Exempt pursuant to PRC Section 21000 et. Seq. and the CEQA Guidelines Section 15282(h) and 15061(b)(3).

Assoc. Planner O'Connor presented staff report.

Commissioner Bigstyk understood that off street parking was one if there was any bedroom, and if they have more than two bedrooms, perhaps there could be more than one off street parking spot.

Assoc. Planner O'Connor stated that it would not be under the proposed amendment and would max out at one parking spot.

Commissioner Bigstyk thought he was reading on page 203, F1, and he was sure he misread it. He asked for clarification.

Assoc. Planner O'Connor stated that it was attachment C on page 203 was the existing one.

Commissioner Bigstyk understood now that they were transitioning from that requirement.

Sr. Planner Murdock stated that, as a practical matter, significant portions of the city already do not require parking for accessory dwelling units on account of their proximity to public transit. He didn't think they included the maps because they weren't immediately relevant to the discussion, but he described that significant portions within a half mile of Highway 1 and other portions of the city where there was regular daily bus service were exempt from providing parking for any type of ADU. He acknowledged that it was important to discuss it, but he thought it was important for the Commission to understand that the practical effect was that most ADUs proposed in the city aren't required to provide parking.

Commissioner Bigstyk asked if the garage was conferred into an ADU would those two spots need to be incorporated somewhere else on the property.

Assoc. Planner O'Connor stated that, if the conversion occurs within a half mile of a transit stop that would require the primary dwelling unit parking to be recreated somewhere else on the site.

Commissioner Bigstyk concluded that they have to be further than a bus stop in order for them to have to provide off street parking if they convert their garage into an ADU.

Sr. Planner Murdock stated that the important distinction was that, if you convert your garage which provides the off street parking for the primary unit, in all instances the ordinance requires them to replace the parking on site. He stated that, for sites beyond a half mile, they are allowed to provide those spaces in any configuration on the site. For locations within a half mile of transit or are otherwise exempt from providing off street parking, the garage spaces must be replaced as a garage on the site. He reiterated that spaces must be replaced in all instances, and where you are not providing parking for the ADU, you must replace the garage.



Commissioner Bigstyk concluded that it must be an actual garage.

Sr. Planner Murdock responded affirmatively.

Commissioner Bigstyk asked if he could briefly tell him what an efficiency unit is.

Sr. Planner Murdock stated that it would take them a moment to pull up the health and safety code, but an efficiency unit is one that falls below the typical threshold for a dwelling unit. He thought it may be allowed to be as small as 150 square feet in some instances. He stated that, as the name suggests, it is the bare minimum to safely have a habitable sleeping space. It also has limited kitchen facilities, not a full stove and range, but some implement to cook food and it also has hygiene facilities such as a bathroom and shower which may be combined into a single room. He stated that there are a lot of economies and efficiencies in the construction of the unit to make the best use of space and/or lower the cost of provision of the unit.

Commissioner Bigstyk stated that his brain didn't connect but now it has and he thanked him for the explanation.

Vice Chair Clifford opened the public hearing.

Kevin Casey, Pacifica, stated he was generally in favor of additional dwelling units and had a few questions. He stated that in San Francisco they have added a lot of them by adding them onto apartment buildings with no limits. He understood that Pacifica will not allow an Airbnb use of an additional dwelling unit and he wanted to confirm that it was the case as he believed they should only be used for housing.

Vice Chair Clifford asked if staff could answer his questions.

Assoc. Planner O'Connor stated that the language does require that the rental terms of the ADU be at least 30 days so it was not allowing for short term rentals. She stated that, in terms of the number of ADUs permitted on a site, it was one per site and the property needs to have a proposed or existing single family home.

Vice Chair Clifford thanked her for the answers, and he thought the speaker appreciates them.

Vice Chair Clifford closed the public hearing.

Commissioner Nibbelin stated that the last time they had this there was a diversity of views and his personal perspective was, given the times we live in and the challenges around housing such as affordable housing, he was in favor of things like ADUs as ways of addressing the significant shortage we have between jobs and housing. He stated that most of what they were talking about doing was required to bring our ordinance code into conformity with state law and he didn't believe there was a lot of discretion. He would be in support of the changes as ways as getting the city incrementally closer to making these forms of development feasible and attractive.

Commissioner Bigstyk thought it was well stated and he was in agreement and was ready to make a motion when appropriate.

Vice Chair Clifford encouraged him to do so.

Commissioner Bigstycck moved that the Planning Commission FINDS the proposed ordinance is exempt from the California Environmental Quality Act; ADOPTS the resolution included as Attachment A to the staff report to initiate the text amendment and recommend approval to the City Council; and INCORPORATES all maps and testimony into the record by reference; Commissioner Kraske seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Berman, Kraske, Bigstycck, Nibbelin,  
and Vice Chair Clifford  
Noes: None

**CONSIDERATION ITEMS:**

None

**COMMISSION COMMUNICATIONS:**

Commissioner Nibbelin apologized for his late arrival and welcomed the two new commissioners, Berman and Bigstyk.

Vice Chair Clifford also took the opportunity to officially welcome Commissioners Berman and Bigstyk and he would take a moment to thank Commissioner Josh Gordon for the many years he put in with the Commission.

Planning Director Wehrmeister stated that, with the Commission's permission, she wanted to offer because of his long tenure to prepare a resolution acknowledging him from the Planning Commission and welcome him back at a future date to receive the resolution.

Vice Chair Clifford stated that it sounded good to him.

Planning Director Wehrmeister thought proclamation was probably the correct term. She asked that, if they have any funny stories, they forward them.

Vice Chair Clifford stated things they want in the public record.

**STAFF COMMUNICATIONS:**

Planning Director Wehrmeister stated that Sr. Planner Murdock is giving one regarding Home for All.

Sr. Planner Murdock stated that they may have heard by now that he was providing a brief description about a very important community engagement effort the city was undertaking. It was a county wide program sponsored by the San Mateo County Manager's office called Home for All. He stated that Pacifica was fortunate to have been selected for this year's program. He stated last year was the first year and it was a pilot program. Pacifica is one of several cities in San Mateo County that is undertaking this process this year. The city has branded it Pacifica Connects and they hope it is an opportunity for neighbors and residents of all walks of life to connect with one another to talk about housing as it is the pressing issue of our day in this region and no less in San Mateo County. They are having a community conversation on April 13 at the Pacifica Community Center at 9:30 a.m., and are providing breakfast so no one has an excuse not to come if they are hungry or have children as they are providing child care for children, 3 and older. They want everyone to feel welcome as it is not a policy debate or a 3-minute comment period when they share their opinions on one side or the other. They will be at small tables and having intimate conversations with their neighbors about how the housing situation has affected them. They encouraged anybody interested to register, and they can access more information on the city's website and there is an option for an RSVP as it was important for them to estimate the number and an estimate for those who need childcare, disability accommodations, etc. If they want more information, he is happy to accept the calls to make sure they are informed.

**ADJOURNMENT:**

There being no further business for discussion, Commissioner Nibbelin moved to adjourn the meeting at 9:11 p.m.; Commissioner Berman seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Berman, Kraske, Bigstycck, Nibbelin,  
and Vice Chair Clifford.

Noes: None

Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director Wehrmeister