

**MINUTES**

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

May 1, 2017

7:00 p.m.

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

**ROLL CALL:** Present: Commissioners Baringer, Evans, Cooper, Campbell,  
Gordon, Clifford and Chair Nibbelin  
Absent: None

**SALUTE TO FLAG:** Led by Commissioner Gordon

**STAFF PRESENT:** Planning Director Wehrmeister  
Assoc. Planner Murdock  
Asst. City Attorney Doherty  
Asst. Planner O'Connor  
Police Chief Steidle

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

Commissioner Clifford referred to page 13 of the packet.

Chair Nibbelin stated, if he was referring to the minutes, they could discuss that but first they need to vote on the agenda.

The motion carried **7-0**.

Ayes: Commissioners Baringer, Evans, Cooper, Campbell,  
Gordon, Clifford and Chair Nibbelin  
Noes: None

Commissioner Evans stated that he would be abstaining from voting on the minutes.

**APPROVAL OF  
MINUTES:  
APRIL 17, 2017**

Chair Nibbelin stated that it sounded like they would have some comments.

Commissioner Clifford referred to page 13 of the packet, and made a correction where Assoc. Planner Murdock stated "... the **log** gives the city 120 days ..." to "**law**."

Assoc. Planner Murdock stated that it was his recollection of that statement.

Chair Nibbelin asked if there were any other corrections.

Vice Chair Cooper moved to approve the minutes of April 17, 2017.

Chair Nibbelin referred to the last paragraph on page 14 of the packet which was attributed to him, and he thought it was Commissioner Cooper's comment regarding short term rentals, etc.

Vice Chair Cooper stated that it was his comment and he was in support of it.

Chair Nibbelin mentioned that there were several more corrections where, apparently his and Commissioner Cooper's voices were mixed up and the corrections needed to be made.

Vice Chair Cooper stated that he would have to see the video to know which comments were his because he cannot remember his exact comments.

Planning Director Wehrmeister stated that they could make the corrections and bring the minutes back.

Chair Nibbelin thought that would be good to ensure that the record was clear on everyone's comments.

Vice Chair Cooper withdrew his motion.

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF May 22, 2017:**

Chair Nibbelin stated that designation of liaison to City Council meeting for May 22, 2017 was needed regarding the 1567 Beach Boulevard permit extension and Commissioner Clifford had volunteered to cover this. He asked if they needed to discuss this any further.

Planning Director Wehrmeister stated that it was there as a reminder.

**ORAL COMMUNICATIONS:**

None

**CONSENT ITEMS:**

None

**PUBLIC HEARING:**

- 1. UP-081-17**                    **USE PERMIT UP-081-17**, filed by Applicant Jenny Wun of Modus For Replacement of Six (6) Relocated Antennas and Three (3) Additional Antennas Contained Within a New Ten (10) Feet Long by Seven (7) Feet Wide (77 sq. ft.) by Eleven (11) Feet Tall Enclosure at Roof Level at 5550 Coast Highway (APN 023-072-070). The Purpose of the Modification is to Improve Service Capacity Around the Project Site. Recommended California Environmental Quality Act (CEQA) Status: Categorical Exemption.

Chair Nibbelin stated that he noted the application was withdrawn and he asked if that was the case and they don't need to hear it at this meeting.

Planning Director Wehrmeister stated that the item was put on the agenda because it was noticed, but the application has been withdrawn.

**CONSIDERATION:**

- 2.**                                **Adoption of Resolution** determining that the 2017-2022 Capital Improvement is Consistent with the General Plan and Local Coastal Land Use Plan (LCLUP). Recommended CEQA Action: Exempt.

Asst. Planner O'Connor presented the staff report.

There were no public comments.

Commissioner Clifford stated that the charts were small font and he hoped the next time, if possible, they will enlarge the fonts and make it more readable.

Commissioner Baringer asked staff, if they approved this, whether this would waive any future comments they have on these projects if they are funded and go forward.

Planning Director Wehrmeister explained that they were only making a determination of the General Plan consistency and they were not waiving any rights to make further comments on projects.

Commissioner Baringer thought it would be awkward if they tried to assert it wasn't if they had a hearing. He concluded they were relying on staff as he hasn't delved in to whether these were all consistent with the General Plan, adding that they appear to be and staff made the case for them to be. He didn't think they would expect them to take a dive on every one of them and talk about them at this meeting.

Planning Director Wehrmeister expected them to rely on staff to do that, adding that they did the research, especially the new programs this year.

Vice Chair Cooper stated that they talked about the Rockaway Beach in lieu parking fees, and he asked why they didn't expand those to other regions of the city that have issues with parking, such as Palmetto.

Planning Director Wehrmeister stated that they have talked about that internally, and they need to do a parking and fee study. She stated that it was not transferable to a different area of town. She reiterated that they have discussed and it may be coming forward in the future.

Vice Chair Cooper stated that they put parking meters at the Linda Mar Beach and he asked if they have thought about putting other meters in as they get more parking and more businesses within the city, such as Rockaway.

Planning Director Wehrmeister stated that there was the demand issue, but she wasn't sure if they were there yet. She stated that there was a sensitivity that the Coastal Commission has on visitor serving parking and she knows that was a process to get Linda Mar paid parking. She stated that they can talk about that in the future but there were several steps to go through first.

Chair Nibbelin thought a motion would be in order.

Commissioner Gordon moved that the Planning Commission ADOPT the resolution included in attachment A finding that the proposed 2017-2022 Capital Improvement Program is consistent with the General Plan and the Local Coastal Land Use Plan; Commissioner Evans seconded the motion.

The motion carried **7-0**.

Ayes: Commissioners Baringer, Evans, Cooper, Campbell,  
Gordon, Clifford and Chair Nibbelin  
Noes: None

### **STUDY SESSION:**

#### **3. TA-106-17**

**Study Session on Text Amendment TA-106-17**, initiated by the City of Pacifica to Discuss Methods to Regulate the Location of Marijuana Businesses and Related Activities. The Text Amendment to be Discussed Would Affect Property Citywide. A Study Session Allows the Planning Commission to Receive Input from the Public and Provide Direction to Staff Regarding this Future Text Amendment, the Study Session is Open to the Public, Although it is Not a Public Hearing And the Planning Commission Will Take No Formal Action.

Assoc. Planner Murdock presented the staff report.

Commissioner Evans referred to the city having a lot of day care centers in town, and he asked if they were specified in the map.

Assoc. Planner Murdock stated that he made every attempt to include the Day Care Centers that would be subject to the 600-foot buffer in the map, but he cannot assure them that he has captured all of them at this point. He stated that it would require a more extensive research process to look into state licensing to ensure they had 100% accountability on the map. He added that the map did not include family day care homes, such as those within single family homes in residential neighborhoods. He stated that the state law exempts those from the 600-foot buffer.

Commissioner Gordon commended them, stating that the staff report was awesome, and he appreciated it. He thought, regarding the buffer zone, it was a concern if they expanded it to 1,000 feet from 600 feet, adding that he thought the 600 feet was the baseline by state law.

Assoc. Planner Murdock stated that he was correct.

Commissioner Gordon thought expanding it to 1,000 feet would be problematic in terms of zeroing out the available commercial properties that could host the various marijuana facilities to which they were referring. He asked if his understanding was correct.

Assoc. Planner Murdock stated that was generally his sense. He stated that the buffers, given the city's development pattern, were already difficult but manageable. He stated that to increase them or add other uses to the list of buffered uses, depending on the uses selected and the buffers selected, could rule out nearly all existing commercial areas.

Commissioner Gordon referred to the approach to regulating it, and stated that it sounded as though staff was recommending that they amend the existing C-1, C-2 commercial zoning districts along with a discretionary permit or using an overlay zone. He asked if he was correct.

Assoc. Planner Murdock stated that it was correct for dispensaries and retail locations, but there are other business types that recommended different methods.

Commissioner Gordon stated that he meant to limit it to dispensaries and retail places. He asked if they see pros and cons in recommending one or another.

Assoc. Planner Murdock thought, for the purposes of most careful control over the location and numbers, overlay zone is probably the preferable alternative.

Commissioner Gordon thought that would give a focus on the geographic area they were talking about.

Assoc. Planner Murdock stated that they can define not only the geographic boundaries but also the specific standards within that zone. He stated that, if they were to amend the C-1 or C-2 zones to allow dispensaries as a conditional use, it would be more difficult to carve out specific standards for dispensaries and retail marijuana outlets because those were general zoning districts that apply throughout the city to various different classes or types of businesses. To have the most precise regulation, he thought they would agree that overlay zones would probably be the best approach.

Vice Chair Cooper stated that there was one distinction he brought out during the study session that was not contained in the report, which was the difference between manufacturing and processing. He stated that there was one that processes the marijuana into a cannabis product, such as a brownie or facial product, which he thought was a lot different than the manufacturing facility which was using solvents and processing the product, which he thought were two totally different activities. He thought it was an important distinction to make because they are regulated differently within the state environment as well and he felt they should definitely be contained in our ordinance with a separation between the two. He stated that the other one they talked about

in a previous planning session was the delivery services. He stated that he didn't see any discussion in this report in regard to delivery.

Asst. City Attorney Doherty stated that Assoc. Planner Murdock and she were not aware of the processing license. She reiterated that there were two different kinds of manufacturing licenses, but she was not aware of a processing license.

Vice Chair Cooper stated that the difference was, if you had a product you wanted to make such as chocolate or brownies, that was an entirely different business than taking in a bulk amount of marijuana and processing it to a refined type of product. He stated that he attended a conference where they were totally different activities. He stated that it was important because one was a dangerous type of facility which exposed people to a lot of compounds, etc., compared to someone else who gets that concentrated product and was making a brownie, etc. He felt making that distinction in the ordinance was important. He thought a bakery wanting to make a product was a totally different regulation.

Assoc. Planner Murdock thought they understood that distinction from the study session. He thought, with the present study session, it wasn't clear how to best draw that line as there wasn't a separate license type they were aware of to draw that distinction from the state licensing standpoint. He stated that they will take this feedback and evaluate whether they think they can carve out a subset of the state license type through local zoning standards and whether it was an advisable approach or not.

Vice Chair Cooper stated that he would look on his phone and see if he can find the other one. He asked if they addressed the delivery portion of it. He stated that he had asked if an outside dispensary or service could deliver within Pacifica, and he thought they said they could. He thought, if they wanted their own delivery service in Pacifica, it would be tied to a dispensary.

Asst. City Attorney Doherty agreed, explaining that the delivery component under the state law was both for medical and non-medical and incorporates delivery into a retailer or a dispensary, but no separate license for delivery and staff had received direction during the study session that the City intended to keep it that way to have vertically integrated delivery services only. She added that the two types of manufacturing licenses existing for medical and non-medical were involving the use of volatile solvents and one does not. She understood, after talking to practitioners, that the product that can be created with non-volatile substances involved baking and similar processes. She stated that they can write into their ordinance limiting the scope of what can be manufactured with nonvolatile solvents.

Vice Chair Cooper thought there was a big process with CO2 processing of marijuana, and he asked if it was considered it a volatile or nonvolatile substance. He thought it was considered nonvolatile because it doesn't use a carcinogen of sorts but it does pose a real environmental health impact by releasing that much CO2 into the air without any other type of regulation.

Commissioner Baringer referred to the types of zoning approaches and thought all of them were good. He stated that he liked the buffer radius because they can keep the traditional approach to how we approve things within that context. He thought it gets a lot more complicated with overlays and new zoning districts. He stated that one concern he had was he thought it was important to use a conditional use permit for any zoning context they create. He stated that they have talked about it in the study session, and he thought it would make sense to have a short term

time element on the conditional use permit. He mentioned that other jurisdictions do that, stating that it may be five or ten years and at the end of five years, they have to apply again for a conditional use permit so if there is a history of marginal behavior, they can deal with it at that time rather than having it run until they decide they don't want to do it anymore or do something egregious and they can shut them down. He stated that he did not see that and wondered if they could incorporate that in.

Planning Director Wehrmeister stated that part of the reason they didn't see it in there was because the report focused on the location criteria and when they come back in two weeks, they will have the complete draft ordinance.

Commissioner Baringer loved the map and he knew, without having access to GIS software, it was complicated to do. He asked, referring to the radius, if they were okay if they wanted to go with 1,000 feet.

Assoc. Planner Murdock stated that they were, mentioning that the state law provides that municipalities and local agencies can establish a different buffer, including a greater buffer or recommend a lesser buffer. He stated that they have not recommended to increase the buffer but it was within the city's authority to do so.

Commissioner Baringer thought the 1,000 feet seemed to more substantially impact the back of the valley commercial locations. He stated that they were also hit by the 600-foot buffer pretty strongly. He thought that was the only area that seemed to be substantially impacted, with the rest of the commercial areas seeming to provide some opportunities for this type of use within the commercial zone.

Assoc. Planner Murdock thought it would rule out the majority of the Fairmont Shopping Center as well to go to a 1,000 foot buffer.

Commissioner Clifford asked, once the buffer was established and a business is located just outside of one, what happens if a day care, a school or youth group wants to open up in that area. He asked, if the store would get grandfathered, does the store have to go away or does the school get denied.

Assoc. Planner Murdock stated that, with the buffer as defined in state law and those sensitive uses are in effect and existing at the time the license is issued, and then a sensitive buffered use opens up within the buffer, it would not affect their ability to get the license or renew the license. He stated that they could address it differently in the city's standards with another process but they haven't defined what it would be. He stated that they would prefer not to create a bunch of non-conformities and having actions outside the control of the business affect their ability to go on was an ongoing concern.

Commissioner Gordon referred to the outdoor personal cultivation section, and he noticed that staff was recommending requiring that any residential property cultivating marijuana outdoors should cultivate it in the rear yard with a 6-foot solid fence with a self-closing locking gate and alarm, mentioning it is similar to properties with pools or spas. He asked if they were referencing pools and spas because it was a requirement or just to give them an idea of imagining a pool or spa with a gate and alarm.

Assoc. Planner Murdock responded that it was more so to indicate that there was an existing standard for that with a pool barrier requirement.

Commissioner Gordon asked if they were talking for commercial or residential.

Assoc. Planner Murdock stated it was residential.

Commissioner Gordon asked, if he wanted to put a hot tub in his back yard, whether he was required to put a gate around it with an alarm.

Assoc. Planner Murdock thought that was so for a hot tub, but definitely would be so for a pool as a safety precaution.

Commissioner Gordon concluded that, for a pool unit, they would be required to put a gate and alarm.

Assoc. Planner Murdock responded affirmatively.

Vice Chair Cooper stated that he had looked at the state license and he didn't see any distinction, but at the conference there was a distinction between them. He stated that he noticed in other cities very obnoxious dispensaries, such as all green, illuminating, to see it 3,000 miles away. He asked if there were any restrictions that they could put in the codes to not have that type of visual problem.

Assoc. Planner Murdock stated that he was not aware of anything that would limit a design review component to the discretionary permit process.

Vice Chair Cooper stated that he wants people to know where they are but he didn't want there to be a beacon. He then referred to the buffer zone map, and stated that, while he was aware of exceptions, looking at where the elementary school is on Manor, the freeway and the shopping center on the other side, he didn't think that the shopping center was related to the school location but it seems to flow within that boundary. He asked if there were exceptions to that rule if they came in front of the Planning Commission or were steadfast.

Assoc. Planner Murdock stated that the state law didn't provide any distinction if there was a significant barrier to movement, visibility, etc. He thought they could attempt to craft a different standard.

Vice Chair Cooper stated that he wasn't opposed to it but thought there might be a situation where the buffer would not apply.

Commissioner Campbell he referred to staff report mention of buffer being used by unscrupulous operators of marijuana businesses to crowd each other out. He asked if they had the latitude to make a distinction between retail facilities and a testing facility or was it all like that.

Assoc. Planner Murdock stated that reference to an unscrupulous operator boxing out other businesses was mentioned in the context of including a business to business separation as opposed to the 600 foot minimum buffer from sensitive uses. He stated that, if the Commission supported a business to business buffer, he didn't see any reason why they couldn't have

distinctions, making it apples to apples, such as dispensary to dispensary, etc. He stated that the anticipated impacts are different and there may not be a strong basis to exclude a testing facility, and he thought they have that latitude.

Commissioner Baringer stated that, while he knew it was discussed in the joint study session, they didn't vote on it and he assumed that they were not proceeding with any agricultural grow areas in terms of this ordinance. He asked if they were going to prohibit it or be silent on it.

Assoc. Planner Murdock stated that the guidance he took from the study session was that outdoor or indoor commercial cultivation were not of interest at this time and should be prohibited.

Vice Chair Cooper stated that one element that came up was the business plan of dispensaries and how they address security, safety, etc., and he asked how that was regulated by the city for someone to evaluate that.

Planning Director Wehrmeister stated that, in addition to the land use regulations, there will be licensing regulations run through the Police Department which will be in a different section of the municipal code. She stated that the Police Department will review the business plan, security measures, etc., and will require annual renewals and employee fingerprinting. She stated that the police chief was present if they want to ask questions as he has a good idea of what he will require. She stated that the city will have multiple layers of regulations, such as location, place, time and manner and the Police Department will be issuing licenses.

Vice Chair Cooper asked if they can make land use permits expire more rapidly than what they do for a building permit so that it does not drag on and on.

Planning Director Wehrmeister thought that was reasonable and they could work it into the regulations. She stated that she also would add that both permits will be contingent on each other so the police will not issue the license without the use permit, and vice versa.

Vice Chair Cooper stated that he gets nervous on the licensing portion even though it was not in their purview and even though they allow businesses to operate now and he hasn't seen a plan or that they have done a permit process currently and he questions what will make them follow through in the future.

Commissioner Gordon referred to the buffer map, stating that he was curious about the impact if the buffer partially cuts off a shopping center. He gave a specific example in connection with Eureka Square where it was cut in half and asked if the entire shopping center was off limits because the buffer zone extends to part of it.

Assoc. Planner Murdock was not aware of the state law defining that distinction and he thought it would be up to the Planning Commission to make a recommendation. He thought, from a staff perspective, the resolution they can achieve with the map was limited and determining whether one suite was within the buffer and another suite was outside the buffer would be difficult and, from a practical implementation standpoint, the simplest thing would be to rule out the entire parcel but he thought there may be drawbacks to that.

Commissioner Gordon referred to Vallemar and mentioned the example of the southernmost portion of the Vallemar commercial area, if they had a 1,000 foot buffer, and he thought they will

have to be consistent in terms of their application, he thought the easiest application would be to rule it out entirely as they might open themselves up to some possible litigation if they are willy-nilly about it.

Commissioner Evans thought this might be premature, but he asked if there were any tools for the Police Department to recover money used in manpower for extra security, etc.

Asst. City Attorney Doherty responded that the city and Police Department can recover costs through its license and permit fees related to enforcement of the program and issuance of the license and permit, including inspection, enforcement, etc.

Commissioner Baringer referred to the issue mentioned by Vice Chair Cooper, stating that he was confused about how they sequence the application. He thought they would already be approved by the Police Department before they came before the Commission and they would be dealing with a viable candidate to operate who was trying to secure a location. He asked if they were parallel and end at the same time.

Planning Director Wehrmeister stated that she did say that and added that the Asst. City Attorney was in the process of drafting that part of the ordinance. She stated that before an application for a use permit was made, someone would be vetted through the police licensing process. She stated that it wouldn't be issued but held until they finished the use permit process and part of staff's checklist will be that they have been fingerprinted and reviewed by the Police Department.

Commissioner Baringer appreciated that because he would hate to waste a lot of time, etc. on a candidate who couldn't pass the vetting of the Police Department. He assumed that would be in the ordinance.

Planning Director Wehrmeister responded affirmatively.

Chair Nibbelin understood they could add additional uses beside the schools, etc., if so inclined, and he wondered if, at an anecdotal level, they could speak to the impact if they were to add places of worship to the availability of commercial space.

Assoc. Planner Murdock thought it may not have a significant impact. Regarding any addition to the list of uses, he thought there was a need for staff to be able to readily identify these uses. He thought a large Catholic church was easy to identify but informal group meetings to worship in someone's home or in a commercial location were more difficult to identify and define.

Chair Nibbelin thought it was like the family day cares.

Assoc. Planner Murdock agreed, but added that they don't require a license and no state agency identifying where those places of worship are located. He suggested that, if they add anything, they have a clear definition that staff believes it could rely upon to identify these businesses in a reliable way.

Chair Nibbelin felt it was of concern to him and was a sensitive use that should be considered.

Vice Chair Cooper added that, with some of the businesses such as the tutoring center in the back of the valley, it would be very unfortunate to have a dispensary open up right next to it where

children are walking in and out of a facility all day long. He suggested a possible different type of restriction to protect businesses, such as a dental office, etc., and he thought it might hurt the businesses. He wasn't sure what the restriction would look like, but he thought there were others besides worship centers.

Assoc. Planner Murdock stated that staff acknowledges that there are many other uses that may be considered sensitive, but they were recommending against adding them to a strict buffer. He thought staff would add those as part of the findings for the discretionary permit and could inform the Commission's analysis of a particular application to weigh all of the merits and drawbacks to a particular applicant in a particular location and allow staff to build the evidence with a detailed analysis at that time as opposed to a rough, coarse tool with an outright buffer.

Chair Nibbelin stated that he wants to get to hearing from the public but he would take the last questions first.

Commissioner Baringer thought they could address the situation by having a larger radius for noticing for purposes of the CUP, adding that the Council has raised the question and there was a discussion of having a 500-foot noticing radius for projects and he thought this might be a good one to add to the list as it would pick up additional area. If anyone within that radius had an issue and wanted to be involved in the discussion they would be adequately noticed.

Commissioner Gordon referred to Vice Chair Cooper's comment regarding identifying other areas such as the tutoring center, stating that he was sensitive to the comment that they don't want to add more uses to the buffer zone so it was unworkable. He referred to being at the discretionary permitting stage, and asked about having something in the ordinance to discourage placements of retail outlets in places near a tutoring center.

Planning Director Wehrmeister suggested that they could call it a different thing, such as a marijuana business permit with its own findings and would be different and include typical use permit findings in addition to other findings which will be spelled out in the ordinance and easy for an applicant to read when they are researching a potential site for their business.

Commissioner Campbell referred to the existing non-licensed dispensary or retail establishments, asking if they are grandfathered in. He gave an example of testing or non-retail facilities being a good fit for C-1, C-2, and C-3 commercial areas, but retail facilities were only a good fit for C-3 areas. He stated that there was already an existing retail facility in a C-1 or C-2 area in Rockaway.

Asst. City Attorney Doherty stated that there were no grandfathering provision that would apply to existing medical marijuana dispensaries, even if they comply with the CUA, MMPA and MCRSA. She stated that there are decisions that directly address that point that there cannot be grandfathering in permissive zoning jurisdictions such as Pacifica.

Chair Nibbelin opened the public comments.

Cheryl King, Pacifica, stated that she has come before them previously as the MFTI psychotherapy intern, and she told them stories about how she guided her clients who try to ease their suffering of pain. She stated that at this time, she will be speaking as a former licensed childcare provider for 14 years with children ranging from newborns to age 12. She also had the

Academy of Dance at Sanchez School for seven years during that time also working with children. She stated that she was sensitive where children can be. She stated that the dispensary name, Surefire, was extremely strict with who can walk through the door which the Chief of Police can verify. She stated that it was a medical marijuana dispensary and the typical customers were senior ladies going there for cannabis spray. She hoped that they get a different idea that it was not a horrible place. She added that, when going to Vacaville Medical Hospital at the prison, there were children in the visitation room with criminals and perverts, with only two guards for 200 people. She assured them that children will not be getting in to a dispensary that is properly carding everyone.

Ian Butler, Pacifica, stated that he looked through the staff report and appreciated the changes made from the joint study session. He felt they were getting closer to a rational policy. He thought having more restrictions than what the state requires was a foolish thing to do, as he thought there were other vetting processes. He felt they needed to keep it simple as stated in the staff report, but also some landlords are reluctant to have one of those establishments in their buildings. He stated that, even if there were no restrictions, they may not get places where they are allowed. He stated that they have to be careful because if they put a lot of money into a ballot measure to get this tax revenue and they don't have any revenue because there are no dispensaries in town, they will have wasted a lot of effort on nothing. He didn't know if they were going to consider on site consumption which he recommended be allowed, but if they want more restrictions, they can have more restrictions for onsite consumption as they would want to have full ACA access for compliance. He thought the state minimum for ACA compliance is fine, but if they want access for those with medical needs, they need to have access to onsite consumption and would need to have ACA to the full extent. He liked allowing back yard growing behind a fence, but thought an alarm was going overboard. He stated that one reason they have crime associated with drugs was because they can't call the police if the drugs are stolen because it was illegal. If allowed, they know that the owner can call the police and that will help prosecute that.

Holly Smallie, stated that she liked mention regarding signage and what we want our community to look like. She mentioned taking her 12-year-old niece surfing and they passed a billboard about 420 and she was shocked that her niece knew what 420 meant. She gets signage, adding that in a dispensary, they can design it to look safe like CVS or Macy's. She gets that they don't want to desensitize children to what it might be. She stated that it is glamorized and children are curious and want to experiment and it was the elephant in the room. She understood that most people coming there are coming because they can't sleep, etc. She thought the recreational was beautiful so Pacifica can take the tax revenue. She understood that no one is using it on the streets, etc., and she stated that there was no risk. She understood the concern for exposure to children, but she felt we could be creative.

Tony, Pacifica, stated that he was looking at the map, and he had a question. He mentioned that we do have some existing medical marijuana dispensaries since 2010, and he hasn't heard any information on what that operation calls for service regarding public safety. He felt, if it is there, we should hear a report. He asked where those locations are as they are not indicated on the map, and asked if they were in violation of the buffer zone recommended by the state. He stated that he knows we have one on Palmetto and at Rockaway. He asked that they look at this in an adult fashion. He understood there were legal concerns, but asked that they explore it better. He referred to mention of consumption, with people asking if there will be places they can go to smoke their marijuana. He stated that one dispensary has purchased property with the hope of that being allowed someday. He stated that once you open the doors to the five areas of

marijuana distribution, etc., you will see consuming eventually. He asked which staff member will be going around to look into whose backyards are in compliance with a fence and alarm. He stated that people are already questioning whether an alarm is too much. He questioned if people will invest in alarms, particularly if it is rental property, and whether the owner will install everything that is in compliance so occupants can grow marijuana in the backyard. He mentioned people who say it is unsafe to have personal cultivation. He referred to a homicide in Colorado where a 15-year-old was shot and killed by the homeowner while trying to take his marijuana from the backyard and the second child is paralyzed for life. He stated that those are the conditions their regulations will set up and he asked that they be smart. He referred to someone saying it is dangerous, as well as lawyers from Colorado. He stated that the lives of children were at stake and he felt that, if people don't act responsibly, the Commission should ensure that those conditions do not exist. He hoped public safety is never negated because of potential revenues on taxes.

Mary Bier, Pacifica, stated that she was the Director of the Pacifica Prevention Partnership, a drug-free community support program through the Jefferson Union High School District. She was happy to see the map. She felt the buffer zones were incredibly important, adding that she would push for the 1,000-foot buffer zone as people in prevention push for that. She stated that she has been at all the schools talking about this and the school administrators are curious about the maps, and want to talk about their concerns about these establishments opening up 600 feet from the schools. She stated that some of their conversations have been about the increases in THC and edibles and how dangerous the edibles are for the children. She stated that some youth at Oceana were talking about the experience they had when they ate too much and were taken away by ambulance. She stated that we need to be mindful about the products being sold, where they are being sold and how, if they open up places. She had heard it would be 3 or 6, and she stated that the more places we have, it increases the access. She hoped that whoever gets a license to sell retail marijuana in Pacifica would work with the prevention partnerships to make sure none of those products get in the hands of our kids.

Donna Wagner, Pacifica, stated that she lives on the corner by Surefire Dispensary. She was also a neonatal nurse for 40 years. She is a medical marijuana user and she says that, being a client of the clinic around the corner from her, she has seen nothing as it was very well regulated. She stated that she cannot get in without a card. She stated that kids can't get in unless they are vetted. She stated that she has never seen any hanging around outside the dispensary and if she does, she asks who they are, mentioning her street having an issue with heroine several years ago. She understood their enormous responsibility of keeping Pacifica safe, and she appreciated that. She also felt they have to be responsible adults and treat a medical clinic as a medical clinic. She stated that it was a messy subject with feelings and emotions, as well as facts. She felt it was not an easy fix. She hoped that Pacifica considers all the options and makes it good for everyone, especially those who rely on it for their medication.

Brett Chapman, Pacifica, stated that he looked at the state law and saw that it pertained to the 600 foot buffer to all schools, but he didn't see where it pertained to daycare centers. He thought it was only state licensed schools. He wondered if there was anything that pertained to daycare centers.

Karina Cardenas, Pacifica, stated that she was an owner/operator at Manor for pharmaceuticals, and she asked if they were going to allow more than one location per district such as Palmetto. She knew Rockaway was the only one there and she was the only one on Manor but there was

more than one on Palmetto. She thought that was an issue that people want to know about. She asked if they could get a map that was more zoomed in to see where she falls on the map.

Chair Nibbelin closed the public comments.

Chair Nibbelin referred to page 10 of the staff report and page 213 of the packet, and stated that there were a number of questions under section 5, Planning Commission feedback. He thought, as a starting point, they might run through the questions or ask commissioners to address each of the questions.

Vice Chair Cooper thought having each commissioner answer them all at once would get a quicker response.

Chair Nibbelin agreed, and he stated they would start with Commissioner Clifford.

Commissioner Clifford addressed question #1, answering yes; #2, he was in favor of staying with the 600-foot buffer; #3, he was concerned that, if they put more uses, they will wind up not having any place where they can locate any of the businesses; #4, he agreed they should be subject to a discretionary permit; #5, he would prefer the overlays; #6 and #7, he agreed; #8, he thought there were other considerations when considering a marijuana business, such as medical dispensaries being secure with the card entry, but they were considering recreational marijuana facilities and they won't have the limit on adults coming to the store. He thought it was something to consider as the card wasn't a preventive measure on entering some of the facilities they are discussing; #9, he thought the screening, security and buffers were appropriate but he wasn't sure how they will be enforced except if someone complains. He thought it would wind up being code enforcement that would start something like that.

Commissioner Gordon, answered on question #1, yes; #2, 600-foot buffer was okay; #3, he didn't think it has to go into the buffer zone but something in the ordinance should say, to the extent possible, the location of marijuana retail outlets should be discouraged where there is significant foot traffic of children under the age of possibly 16 and they can point to it at the discretionary permit stage; #4, he answered yes; #5, he was in favor of the overlay zone; #6 and #7, he answered yes; #8, he referred to one speaker's concern regarding having a large number of retailers. He felt how many they want was a consideration. He mentioned discussing letting the market decide how many outlets the city can handle but it was a time-consuming process. He thought that would be covered with the overlay zone approach and they limit the number in the city to a specific amount, adding that he would be in favor of having no more than three; #9, he thought the pool/spa standard was too much for him. He agreed they should have it in the back yard but that was all he would require, adding that he thought an alarm was too much. He wasn't sure fencing needed to be required. He thought personal marijuana in the back yard will be more normal moving forward as the state has made it legal. He thought they were in a transition period, but he didn't think it will be a big deal as they go forward and he was in favor of just putting it in the back yard.

Commissioner Campbell addressed question #1, answering yes; #2, he thought it depends on the overlays and zoning. He understood they have to accommodate the marijuana businesses as they come into Pacifica as it was allowed by state law, but he thought they also need to be careful about accommodating the existing businesses and the element of surprise for existing businesses and neighborhoods and accommodate those that do not want to be located next to these types of

facilities. He thought it will be shocking if they allow dispensaries in C-1 and C-2. He was not persuaded by the example of Surefire and the other medical dispensaries, because they have been quiet but they have had to lay low. He thought, once the full commercial aspects of selling non-medical and medical marijuana are apparent, it will make no business sense to stay that way and he thought there will be a lot more traffic and it will be surprising to people in town in C-1 and C-2 areas. He was only talking about the retail uses. He was not convinced that they can get at the obnoxious signage. He stated that, if history is a guide, they haven't had a lot of success with that such as the smoke shops which he thought were obnoxious. He referred to the smoke shop in the Pedro Point Shopping Center but they had a hard time bring that Fog Zone sign down, mentioning getting into constitutional issues when you regulate someone's signage differently than someone else's. He stated that, if they don't have stringent overlay or distinctions about what was going into the C-1, C-2 and C-3 zoning areas, he would go for 1,000 based on the map, which would at least pick up the slivers of shopping center areas mentioned by Commissioner Gordon as problematic. He thought they want businesses on both sides of the fence to have a lot of certainty about where they can locate. He stated that, if you leave a sliver of a shopping center area where they can tuck something into the corner, it was more problematic than saying it is not allowed in the shopping center. #3, he was sensitive to the houses of worship situation. He was thinking of a facility that was designated as a non-tax area.

Chair Nibbelin thought some form of welfare or religious use exemption by the County Assessor was available.

Commissioner Campbell appreciated the input, adding that it gets away from the issue of someone meeting in the shopping center or someone's house; #4, he answered yes; #5, he thought the overlay zones could make a lot of sense as he thought it goes to the retail and dispensary aspects which are uses they want to locate in shopping areas that can handle the traffic, mentioning Fairway and Linda Mar, maybe Rockaway. He stated that, if the overlay doesn't work, he would say that retail should not be allowed in C-1 or C-2, but should be allowed in C-3 which allows significant possibilities, especially on north Palmetto or the quarry. He referred to the non-retail aspects and thought they could go into C-1, C-2 and C-3. He didn't see a problem as it won't have the traffic and they were accommodating the state requirement to allow the uses. He hoped they would not run afoul of the notion that they are boxing out all types of facilities.

Assoc. Planner Murdock stated that he was not aware of any state law requirement that they allow marijuana businesses. He stated that it was a policy that City Council communicated at the study session that they were willing to entertain those uses. He stated that the city could ban all marijuana related businesses.

Commissioner Campbell agreed they could do that. He stated he went to a conference on marijuana legalization and he knew there was some dispute about that. He agreed that it was a possibility; #6 and #7, he answered yes; #8, he thought he already expressed his thoughts; #9, he agreed that it was going to get more common to have marijuana growing outside and it will be hard to police and they were probably setting themselves up for failure to require fencing and alarms. He mentioned one instance where they had so much growing in the back yard that the scent of it got to a point where it did factor into considerations that made someone move. He thought it would be a code enforcement thing.

Vice Chair Cooper thanked the public for coming out as the input was always welcome and has a lot of impact on the commissioners and what they decide. On question #1, he answered yes; #2,

he was okay with the 600-foot buffer zone which he thought was appropriate; #3, he also thought it was appropriate to limit the K-12 schools, daycare centers, youth centers; #4, he was okay with the discretionary permit; #5, he was okay with having retailers in a C-2 zone if they were properly labeled. He would agree with some of the speakers that you would know they were there but they would be discreet; #6, he would limit that, mentioning that there was a difference between manufacturing a product and processing marijuana. He didn't think they should be processing within the city limits but he thought they should allow manufacturing of goods within the city limits; #7, he didn't see why they can't allow testing facilities within the C-2 zone; #8, he thought they should have restrictions on the graphics and labeling of the products, mentioning seeing some awful things for dispensaries as well as nice ones and he thought they should be allowed in the C-2 commercial zone. He also thought there should be a proximity restriction among the dispensaries not being too close to one another. He referred to the existing facilities, stating that he doesn't want to reward poor behavior and he didn't think there should be any grandfather clause in any existing facility. He felt, if they don't comply, that was part of business and shouldn't be grandfathered in; #9, he hears both sides of it. He didn't want to be a city that a 15-year-old goes into a back yard and picks up a plant and gets beaten on by someone. He didn't think it was that important to have outdoor cultivation. He stated at this time, he would like prohibition against outdoor cultivation.

Assoc. Planner Murdock referred to his references to retail and dispensary uses in the C-2 zone, and he asked if that was meant to exclude the C-1 zone from consideration.

Vice Chair Cooper responded affirmatively.

Commissioner Evans referred to question #1, answering yes; #2, he thought the 600-foot buffer was fine; #3, he thought discretionary permitting would take care of the third question; #4 and #5, he agreed to a discretionary permit for the retailers within overlay zones; #6, he answered yes, adding that it should be limited as he doesn't want to cause more action by the Fire Department; #7, he answered yes; #8, he mentioned that they limit signage in the front windows of the 7-Eleven stores so he saw no reason why they couldn't limit signage on these businesses. He definitely felt it should be low key. He didn't think it would happen, but he didn't want to become the car row for marijuana dispensaries; #9, he agreed with Vice Chair Cooper. He did not want to see more trouble and he thought outdoor cultivation could cause that and he was against it.

Commissioner Baringer, referred to question #1, answering yes; #2, he would like to see the 1,000-foot radius; #3, he mentioned that they had talked about addiction treatment centers and he thought those should be added. He thought Commissioner Clifford was adamant about that the last time they talked; #4, he thought all businesses should be subject to a discretionary permit. He would like to see a 5 or 10-year fuse on the discretionary permit with expiration on a date certain; #5, he would like to see an overlay zone as it might go a long way toward working out where they can put it in terms of C-1, C-2 and C-3; #6 and #7, he answered yes; #8, he wanted to make sure that whoever the applicant is they are completely vetted by the Police Department before they come before the Commission. He would like a prohibition on on-site consumption, at least for the initial round of facilities. He would also like to see a radius from the front door for a prohibition of consumption of 150-200 feet, asking staff to come up with something appropriate. He agreed that they can control signage and exterior design and he thought it would be appropriate in this situation.

Chair Nibbelin referred to question #1, answering yes; #2, he was in favor of 1,000-foot buffer.

Commissioner Baringer stated that he forgot to give his opinion on question #9 outdoor cultivation. He stated that the police chief was opposed to doing it and they had a lot of discussion at that last session. He thought it was probably okay if someone does it, but he thought it was appropriate to have restrictions and security measures. He didn't think they needed alarms on the doors, but if they allow them to grow it outside, they need to have some sort of security so youth cannot hop a fence and steal it. He didn't know how they enforce it, but he thought, if you require and someone is remiss, and it gets into the hands of young people, they should be liable.

Chair Nibbelin referred to question #3, stating they could come up with a definition of places of worship and add that to the list of things that are buffered; #4, he agreed on a discretionary permit, and thought staff suggested the idea of coming up with a specific permit unique to the uses addressing the particular impacts; #5, he thought overlay zones would be appropriate; #6 and #7, he answered yes; #8, he thought buffering between the facilities was appropriate, but didn't have a specific distance. He mentioned others spoke about signage already, and he thought consideration of traffic flow patterns would be something he would want to address in the discretionary permit; #9, he was opposed to outdoor cultivation so had no questions on security. He asked how else they can be helpful to staff.

Assoc. Planner Murdock stated the feedback was extremely helpful.

#### **COMMISSION COMMUNICATIONS:**

Commissioner Evans stated that, with a heavy heart, he was resigning from the Planning Commission as of the end of May. He stated that they will be moving south to be closer to family and grandkids. He referred to his years on the Planning Commission and the Open Space Committee, stating that they were enjoyable and he felt like he was doing something for the city. He felt it was a good mix of people and he hoped it continues.

Chair Nibbelin thought they would have one more meeting for accolades.

Commissioner Evans agreed that they do have one more meeting.

Chair Nibbelin stated that they are in shock so they will have wonderful things to say.

#### **STAFF COMMUNICATIONS:**

Planning Director Wehrmeister stated that they are going to have an updated sheet of frequently asked questions regarding rent stabilization. She stated that it will be updated on the website on Tuesday and they can get more information about the interim ordinance adopted. She stated that, on May 8, Council will consider placing an ordinance on the November ballot and will consider whether or not to adopt an urgency ordinance that would take effect sooner than the interim ordinance. She stated that the Library Advisory Committee was moving forward with an outreach plan to the community to decide the future of the libraries. She stated that there will be a mailer sent in the next week or so. She stated that the first community meeting will be at IBL on May 23.

Chair Nibbelin asked the Asst. City Attorney if he needed to read the disclaimer for the item they voted upon.

Asst. City Attorney Doherty stated that he didn't as the disclaimer was on the agenda.

**ADJOURNMENT:**

There being no further business for discussion, Vice Chair Cooper moved to adjourn the meeting at 8:38 p.m.; Commissioner Baringer seconded the motion.

The motion carried **7-0**.

Ayes: Commissioners Baringer, Evans, Nibbelin, Campbell,  
Clifford, Cooper and Chair Gordon  
Noes: None

Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:

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Planning Director Wehrmeister