

MINUTES

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

August 20, 2018

7:00 p.m.

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

ROLL CALL: Present: Commissioners Stegink, Clifford, Kraske, Nibbelin,
Rubinstein and Chair Campbell
Absent: Commissioner Gordon

SALUTE TO FLAG: Led by Vice Chair Clifford

STAFF PRESENT: Planning Director Wehrmeister
Asst. City Attorney Sharma
Contract Planner Aggarwal

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

The motion carried **6-0**.

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

**APPROVAL OF
MINUTES:
AUGUST 6, 2018** Commissioner Nibbelin moved approval of minutes of
August 6, 2018; Commissioner Stegink seconded the
motion.

The motion carried **6-0**.

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

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF SEPTEMBER 10,
2018:**

Planning Director Wehrmeister stated that they would not need a liaison.

ORAL COMMUNICATIONS:

Ron Maykel, Pacifica, referred to the development on San Pedro Terrace Road, west of the rehab center and stated that there were a group of eucalyptus trees and pampas grass removed which he considered a positive thing. He stated that along the creek there were about a dozen smaller eucalyptus trees and he thought it would have been nice to have the developer abate those trees because they are terrible for creeks. He suggested that, in the future, they consider a broader sense of environmental weed abatement.

Gio Guadagnini, Pacifica, asked why the door was open at this and the previous meeting and before that it was closed. He stated that he counted five violations on this building. He asked what the city had to say. He stated that he got off on Manor Drive where the shopping center is, and he asked why there are curb cuts and no curb cuts. He asked how people like him are supposed to get around. He stated that he was doing this for everyone else like him. He asked why they don't have a button to push to have the door open. He stated that there was no light where the curb cut is where they come into the building. He stated that there was no paint, no yellow pad and a lot of the curb cuts are too steep and none of them have markings or lights. He asked if the city cared about the community. He concluded no because they don't even finish what they started which is a court order. He asked when they are going to fix Gateway Drive. He stated that he was tired of breaking his chair and tired of waiting 5-10 weeks to get a part. He asked when they will have a town meeting and talk to them and give them answers. He stated that he has an attorney lined up for the ADA. He asked about the women who walk with strollers pushing their babies. He stated they only care about Palmetto and Linda Mar Boulevard. He asked about putting street lights and curb cuts in. He would give the mayor his chair and let him work it. He stated that he means it because he was giving this to his attorney. He stated that he already sued the city once and he won, and they still didn't finish anything. He stated that it cost the city \$782,000 for a shoulder replacement. He stated he wants a town meeting and answers. He stated that they must give him that town meeting with answers or he goes public with it and will get signatures and see to it that they get replaced. He stated that they were barking up the wrong tree. Safety first. He talked about him riding in the street because there is no way to get on the curb cuts or sidewalks because there is none.

Planning Director Wehrmeister stated that for clarification this is a meeting of the Planning Commission and she knows Mr. Guadagnini comes to City Council meetings regularly. She will forward his comments to the Public Works Director who is in charge of CIP projects, but CIP projects are not within the purview of this Commission.

Mr. Guadagnini stated that he is suing the city for repairs on his chair and suing for a new chair because he bent the frame on this one. He stated that when he goes up on Gateway the left front wheel shakes like a shopping cart.

Chair Campbell stated that they have received his comments, and he thanked him for coming up but his time is up.

Mr. Guadagnini stated that he is going public with it and will get signatures to get them all removed. He stated they are barking up the wrong tree. They have his complaints and his number and he advised them to use it and call him.

CONSENT ITEMS:

None.

PUBLIC HEARINGS:

**1. CDP-398-18
UP-108-18**

File No. 2018-039 – Coastal Development Plan CDP-398-18 and Use Permit UP-108-18 to provide coastal access improvements on City owned property that would consist of a multi-purpose trail park along the west side of the 400 block and a portion of the 500 block of Esplanade Avenue (APNs 009-161-020, 009-161-010, 009-131-030).

Planning Director Wehrmeister stated that she has nothing further to add other than that the continuance is to allow for public input on the CEQA document for this project and recommends that it is continued to October 15 as mentioned.

Commissioner Nibbelin moved that the Planning Commission continue the item to October 15, 2018; Vice Chair Clifford seconded the motion.

The motion carried **6-0**.

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

- 2. SP-151-15** **Extension of Specific Plan, SP-151-15** to construct a two-story 4,238 square foot single family residence on Lot 2, part of the Harmony @ 1 Development at Fassler Avenue and Roberts Road (APN 022-150-460). Recommended CEQA Action: N/A

Contract Planner Aggarwal presented the staff report.

Vice Chair Clifford asked confirmation that they were asked to retroactively extend from July 17, 2017 until July 13, 2019. He wanted a clear idea of why that happened.

Planning Director Wehrmeister stated that it was a mistake by staff and was not processed.

Vice Chair Clifford stated that he heard that all Public Works parts of the project have already been taken care of but he was seeing some conditions of approval for the overall project that haven't been met that he thought should have been met by now because it has been 10-12 years since it was originally approved. He was aware they were not a part of this particular application but they still seem to be outstanding, one being the 100 trees that are supposed to be planted. He referred to the Mission Blue Butterfly habitat that was supposed to be expanded and asked whether any work has been done on that. He stated that he has a sense that everything is not ready on the overall project, mentioned that they don't have the wind turbines on the lights that have been installed.

Planning Director Wehrmeister stated that the improvement plan for items you would normally associate with public improvements and public right-of-way improvements was approved years ago. She thought the major improvements are complete but there may be a few things that are minor in nature and still need to be completed. She stated that there are larger overall conditions as he mentioned, such as the trees, but those conditions did not have specific timing triggers and from the records she found when the improvement plan was approved, staff did not ask for those improvements to be installed on a particular timing trigger. She stated that when they ask to pull a building permit, needs to answer all of those questions at this time.

Vice Chair Clifford concluded that they have to answer those questions.

Planning Director Wehrmeister stated that they are bound by, not only the specific plan conditions, but all of their original conditions and they will be asking for a plan of action to comply with all of the broader conditions of approval. She stated that she will have the applicant speak further to this, but one thing that was approved with the improvement plan was the street light standards and she believed they have some sort of photo cell associated with them and they are trying to get closer to being net neutral which was part of the condition, but they obviously do not have a wind turbine on them. She stated that she was not here when it was approved so she will also let the applicant speak further to that.

Commissioner Stegink stated that he was disclosing that he has discussed the project encompassed at 151-15 with applicant, Mr. Chavarria, within the last year. His second disclosure is that FEPC requires him to recuse himself from 106-18, Taco Bell, due to proximity and he has to declare that before Item 3 is discussed. He asked if applicant ever revoked or pulled back the application or if it fell through the cracks.

Planning Director Wehrmeister stated that it fell through the cracks.

Commissioner Stegink asked if they were being charged double fees because of our not processing it or are they being charged the same amount of fees they would have been charged a year ago.

Planning Director Wehrmeister stated that they are being charged the same amount of fees.

Commissioner Stegink concluded it is net zero for them.

Javier Chavarria, applicant, stated that he is once again in front of them with Harmony @ 1. He stated, as referred to by Vice Chair Clifford, it has been a long road with a lot of bumps. He stated that the latest one was a change of ownership. He explained that, unfortunately, the previous group that had the project ran into some serious financial issues and the new ownership group had to come in and fortunately, it is a solid and well-funded group and they have faith and hope that the project will be brought to completion. He stated that part of the delay was that a change of ownership requires a change of the subdivision agreement and they have been in the process with Public Works and it will not be until later this week that the documents will be completed. He stated that one thing they needed to do was the landscape plan. Referring to the 100 trees, they have a landscape architect and landscape plan prepared that has not been formally submitted because they need to have all the documentation of the subdivision completed to submit on behalf of the new ownership group. He stated that throughout the process they are about 96-97% completed. He stated that all the infrastructure is in and with most of the conditions of approval, if not completely met, they do have a plan of action, and they have documentation for those that have been completed. He stated that the previous ownership group had a plan to start construction right away and ran into financial issues and then the project went into a stall and now the plan is to reactivate this, get the building permit and start construction soon. He stated that they have submitted applications to the Planning Department for lots 7, 8 and 9 which were also in the process of being reviewed but were stalled because of the same reasons. He stated that they have plans to get those applications reactivated and resubmitted and try to get those homes in place. He stated that Lot #3 has been purchased and the new owner is actively working with them to get his house designed to his standards and they are almost there and it has been submitted. He stated that they are confident that this time the project will come to fruition and the conditions of approval will be met. He referred to the street lights, stating that when they prepared the improvement plans they looked at the market and what was available for wind turbines. He stated that the wind turbines were less energy efficient than LED lighting. He stated that they not only presented a little bit of a hazard for birds but required energy to be connected to them because, when there is not enough wind for the turbine to work, they need electricity so that all the elements of the machine stay alive and ready to turn when the wind blows. He stated that an expert prepared an assessment of the energy consumption of the wind turbines compared to LED lighting and LED lighting was by far a better and greener option. When the improvement plans were prepared, the wind turbines were replaced by LED lighting based on those recommendations at the time the improvement plan was approved by Council.

Vice Chair Clifford asked who accepted the plans.

Mr. Chavarria stated it was the City Council.

Vice Chair Clifford stated that he didn't see them change the actual written condition.

Mr. Chavarria stated that the condition wasn't changed but the lights are reflected on the plans.

Chair Campbell opened Public Hearing.

Zack Boucher, Pacifica, stated that he purchased 209 Roberts Road with his wife. They have been long time residents of Pacifica and were thrilled to be members of the community officially and not renters. He stated that the Dolphin Point Association was pivotal in the last help in getting the spec home that was approved and never ended up getting built. He stated that the amount of construction going on could very well impact their parking, utilities and the community, not just in Dolphin Point but down in Portola Shores. He would like to have assurances or some type of fines levied in the event that it did happen that the Harmony @ 1 community would owe back to the communities in Dolphin Point. He couldn't speak for those in Portola Shores but if there are members of Portola Shores present, they might feel the same way in regard to disruptions of any utilities, and his request was for consideration for that. He didn't know about the expert study on the wind turbines versus LED lightings but he would take special consideration into taking a look at that as we definitely live in a windy community there and he would urge the committee to look at that one carefully. He stated that he would like to know if these Spec homes are getting built or not officially because they have been going back and forth for the better part of 6-7 years for the actual building part. He hoped, if it is getting done, it will get done in one fell swoop, smoothly and easily. His main point for speaking was for special consideration for people who own and live on Robert's Road regarding all the large equipment going in and out during the time period when building will commence.

Ron Maykel, Pacifica, stated that he hadn't planned to speak on this issue, but when he saw it on the agenda, he had to take the opportunity as he was on the Planning Commission with several present commissioners when they made the initial approval of the project. He stated that he was going through his old historical data and came across the 46 conditions that were imposed upon the Harmony @ 1 project. He thought it was amazing but over the top. He stated that it was a real disappointment to see it end up the way it has. He stated that they finally removed a lot of the debris that had been on Robert's Road, adding that it looked like a war zone for a while but they finally got it cleaned up. He stated that the project should be looked at closely in terms of the dos and don'ts sometime in the future. He stated that it was once a coastal prairie habitat and now it was destroyed and we have to live with all this going on for many years. He hoped they learn from the past and not make the same mistake again. He was looking forward to the Fassler project getting finished.

Chair Campbell closed the Public Hearing.

Mr. Chavarria thanked the neighbor for expressing his concerns and he wanted to make a comment that there will not be any mass construction. He stated that the project was not set up as a subdivision where all the homes will be built and people will come and see. It is a different type of project, basically a series of custom homes. He agreed there will be disturbances during construction. They have worked with the prospective contractors being considered for construction on making very sure that they are sensitive to traffic and neighbors and trying to preserve the area as much as possible. He concluded that it has been a difficult road. He stated that, as a resident of Pacifica, he didn't like to see the site unfinished. He stated that the project was approved and he thought, if they all work together to build it the way that it was supposed to be built and put those beautiful homes in there, it will be a nice project and an improvement for the city, and definitely an improvement from the condition that it has been for the past years. He

stated that getting the extension on the permit application will help them to start working towards the final goal of getting that hill landscaped, the homes built and getting the project completed.

Vice Chair Clifford stated that he heard from the applicant that he didn't think they had to do anything beyond LED light bulbs and he asked the Planning Director if that was accurate as he was seeing a condition of approval that calls for wind turbines, adding that he was not tied to wind turbines. He was tied to a basically completely neutral system when it comes to energy.

Planning Director Wehrmeister stated that, because this was all approved before she started, she would venture to say that Mr. Chavarria's recollection is better than hers, but she stated that she could research that and find what was put onto the improvement plans.

Commissioner Nibbelin stated that he would support or make a motion to extend the specific plan subject to any other comments or conversation about it.

Chair Campbell explained to the public that they cannot open public comments again.

Commissioner Nibbelin moved that the Planning Commission EXTEND Pacific Plan SP-151-15 for two years, beginning on July 13, 2017 with an expiration date of July 13, 2019; Vice Chair Clifford seconded the motion.

The motion carried **6-0**.

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

- 3. UP-106-18** **File No. 2018-021 – Use Permit UP-106-18** for a 1,112 square foot outdoor seating area with alcoholic beverage service at an existing restaurant, “Taco Bell Cantina” at 5200 Pacific Coast Hwy. (APN 022-191-190) Recommended CEQA Action: Class 1 (Existing Structures), Categorical Exemption, CEQA Guidelines Section 15303.

Contract Planner Aggarwal presented the staff report.

Chair Campbell asked for input from the Police Chief about the signage and requirement to prevent access to the beach from the back deck. His understanding of the condition was that there would be signage on the back deck that would say no alcohol beyond that point and he asked if the gate would be locked or would access be prevented from people coming in and out of the back deck from the beach.

Chief Steidle stated that he took a tour of the site and they already had that in place. He stated that there was signage there to keep the patrons with alcohol off the beach area where there is no alcohol allowed which was his initial concern. He stated that the gate was at the top of a couple of steps that lead onto the beach. It says do not enter on one side and on the other side it has a crash bar on it and states emergency exit and, should a patron need to get out in an emergency, they only need to push it and it will open up. He added that it is alarmed.

Chair Campbell stated that he got a lot of feedback from beach users who are disappointed at the prospect of not being able to get back to that back deck, particularly surfers. He asked, if you have a sign stating no alcoholic beverages beyond a specific point, whether that was enough from the Chief’s point of view.

Chief Steidle stated that he didn’t think that does enough. He stated that the idea of the gate was to put a physical barrier there so if someone wants to violate that rule and bring the alcohol onto the beach, they have to go through the alarm door to do it.

Chair Campbell concluded that they could walk through Taco Bell itself and come around.

Chief Steidle agreed, adding that an element of the community was probably going to do that no matter what.

Chair Campbell wondered whether, if you are that type of person that would bring the Taco Bell container full of alcohol onto the beach, you would just walk through the cantina and go out the other side so he wondered if the gate buys them much deterrence.

Chief Steidle thought the gate would be a deterrent for a lot of people. He stated that, in looking at these types of conditions before he looked at the site once it was set up, he thought about it and concluded that all they can ask them to do is do some due diligence. He stated the things will be put in place so the average person trying to obey the law is going to do it. He didn’t think there was anything that anyone can do that will stop it 100%, but he felt for the most part it will keep most of the alcohol off the beach for law abiding people. Those who will go out through Taco Bell and go around to the beach are the same people who will grab the 12-pack from Safeway or Quick Stop and do the same thing.

Chair Campbell understood and his concern was not so much the concern about the people coming on the beach, but his overriding concern regarding the appeal of the Taco Bell to many that was being able to walk up the back deck with the wet suit on full of sand and order from that window. He hated to lose that because of this use permit but he understood the Chief saying they need to stop the access there.

Chief Steidle thought it would be best practice to do that.

Vice Chair Clifford stated that he has been asked questions about whether a cantina is legally exempt from having trash cans where a Taco Bell is not.

Planning Director Wehrmeister stated that she has not heard of that at all. She stated that, when the two trash cans were removed from the front of the building and she asked that they be replaced, she was never told that their reason for the removal was because of the change to a cantina model.

Commissioner Nibbelin stated that he doesn't get to Taco Bell after midnight on Saturdays and he asked if the operation was currently open until that hour on weekends.

Contract Planner Aggarwal stated that the project description specifies the hours that it is open, 7 am to midnight on Sunday to Thursday and 7 am to 2 am on Friday and Saturday.

Commissioner Nibbelin stated that he was trying to confirm if that reflects current conditions or what they are asking for.

Contract Planner Aggarwal stated that they are asking for these hours. She stated that the applicant could better answer that.

Commissioner Nibbelin asked if there were people out on the deck with alcohol. He recognized that this was offset from any residences but he was curious about whether there were any concerns about noise that late at night.

Contract Planner Aggarwal stated that the residential neighborhoods were separated from this location by Highway 1 in between and the closest building is a building which contains restrooms should there be any noise concerns from this location.

Commissioner Nibbelin stated that he had no concerns until it gets late and there isn't a lot of ambient noise from midnight to 2 am.

Commissioner Kraske asked if there will be any upgrades to the aesthetic appearances of the deck.

Contract Planner Aggarwal stated that they haven't proposed any upgrades to any of the features of the deck such as lighting or seating, and it is essentially legalization of outdoor seating.

Commissioner Kraske asked if they will be allowed to put beer signs or are those signage not allowed.

Planning Director Wehrmeister stated that they would need to adhere to the existing sign regulations.

Chair Campbell asked if children will still be allowed on the deck. He concluded that kids can come through, order and sit on the deck.

Planning Director Wehrmeister responded affirmatively.

Commissioner Rubinstein asked if there were any public safety concerns for people drinking at Taco Bell and crossing Highway 1 at 2 am or getting into cars.

Police Steidle didn't think there were any special public safety concerns on that location. He stated that there are numerous drinking establishments in town where people drink. He stated that he was more concerned about people driving than walking away. He stated that incidents of people walking away and becoming injured by vehicles was very slim, but it was the driving that was the issue in Pacifica.

Chair Campbell asked if the condition of the back gate was a firmly held condition that they would insist upon. He asked if there were other things that they could implement that would resolve that in a different way.

Police Steidle stated that he would be strongly opposed to removing that condition. He stated that the conversation didn't begin with putting the gate there but began with staff monitoring it and not allowing it. He had faith that Taco Bell is telling him the truth when they said they would do their best. He brought up the point that, when he was 16, he worked at Taco Bell and he knows what it is like when it gets busy in a restaurant or fast food chain. He can't imagine it as realistic that they can put staff out there to watch it all the time and he thought this was the next best solution.

Eric Moxley, applicant, stated that their plan was to turn that Taco Bell into an uplifted experience called Taco Bell Cantina where the décor is improved, specifically on the interior of the building, and they will implement different items from the normal Taco Bell that he felt would fit in the Pacifica community. He stated that he will address some of the questions mentioned. He stated that the surfers can still get to that back window. He stated that there is a gangplank around the outside of the building. He explained the challenges to the stairs as well as the ability to get to the window. He appreciated that they were thinking about the surfing community which was important to Taco Bell. He mentioned having many discussions with the Police Chief about the gate and he thought that was probably the best solution to deter people from taking alcohol onto the beach. They want to be good stewards of the community and acknowledged all the work to keep alcohol off the beach and they want to maintain that and be part of the community that upholds that. He stated that they have posted similar signage throughout the beach and on the patio. He referred to the trash cans, and stated that they own several Taco Bells and have removed trash cans from the majority of their parking lots as they have found that when people park their cars they empty their cars into the parking lots and the trash doesn't always make it into the trash cans. He stated that they found in the other restaurants that it has cleaned up their parking lots. He stated that he met with Lynn Adams of the Coastal Coalition after she reached out to talk to them about that. He stated that, since that meeting, they have installed four additional trash cans into the parking lot. He stated that they were quite full today, and they installed a trash can next to an easement. He stated that there was a lot of trash in

the trash cans but not much of it Taco Bell, but if it helps keep the trash off the beach they will do their part. He added that they have also committed to a maintenance program that picks up in their lot and around the patio and they will do their part to keep the beach clean. He stated that there were no plans for beer signage. They have one other cantina in their portfolio in San Francisco and they have a stipulation that they can't have beer signage as the community was worried about that so they don't put beer signage in the windows, adding that they aren't looking to be a night club but want to provide convenience for their consumers and allow them to have beer with their taco.

Chair Campbell thanked him for explaining that they can still access that window.

Mr. Moxley stated that he must be a surfer.

Chair Campbell stated that he does get out and he was hearing a lot mainly from the kids who want to access that window. He asked what design changes they will specifically do inside.

Mr. Moxley stated that the interior will get new flooring, adding that he is not the builder but they will have to submit applications for this. The walls will get upgraded to a nicer look, with plans to put a mural that speaks to the city of Pacifica on a large wall on the inside, adding that they have done that in many of the locations they have remodeled. He stated that anything in the consumer's sight line will be upgraded to a more modern look.

Chair Campbell stated that he did a little on line research and he saw some of the Taco Bell cantinas around the country where some significant upgrades were done and they had local art work and even sold local craft beer. He was wondering about getting a commitment to the local art work or something like that.

Mr. Moxley stated that the wall is already picked out for the mural and he stated that there was no artist commissioned at this point so it was worth exploring. He stated that there will be a nod to the Pacifica community and there was talk with the designers about a surf type mural.

Chair Campbell stated that was interesting, adding that they accomplished something like that with the Walgreen's in Manor where they have the pelican.

Vice Chair Clifford thanked him for putting the cans in the parking lot. He stated that he would like to make it a condition that they stay there. He asked if he was opposed to that.

Mr. Moxley stated that he was not as he thought it was reasonable.

Chair Campbell opened the Public Hearing.

Maiz Dwezk, Pacifica, stated that he just heard about this and he didn't think it was a smart idea to have Taco Bell become a cantina. He stated that the Taco Bell in Linda Mar was known for being able to eat and then play in the water and he does that all the time. He asked, if they are serving alcohol, what is to stop them from going out in the ocean to swim. He stated that his uncle died in a similar fashion. He acknowledged that there will be gates to stop it, but he asked what is going to stop someone from handing over beer. He didn't think it was logical. He understood the argument that they can get beer someplace else and then go to the beach, but if you are trying to prevent something, you need to prevent it, mentioning putting on a seat belt but

still get in a car accident and he could die, adding that it was a bad analogy. He stated that the point is that he knows a lot of people whom he could bribe easily and they would give him a beer if he will give them \$10 and he didn't think it will be that hard to give someone a beer if there is just a small gate as you can put your hand over the railing. He didn't think it was safe to drink and go swimming, as he knows swimming while drunk was not the brightest thing.

Chair Campbell thanked him for providing comment as it was much appreciated.

Zack Boucher, Pacifica, stated that he would like to thank the previous young gentleman because he brings valid and real concerns. He thought it was foolish to think they will put signs up or the restaurant franchise will put signs up and prevent people from passing alcohol through. He felt the only way to do that is to put someone there who is paid by Taco Bell to sit and monitor. He thought that was the only way to do it. He thought a multi-millionaire could afford to do that and he thought they should vote to enforce them to do it. He stated that the previous speaker's point was very valid and if they find a way to sneak alcohol through there and then drown in the beach, they can tie that to sales of alcohol and their life will be on their hands in some sense. He felt they need to be very diligent. His second point as someone who lives very close to the new restaurant that is being proposed, he loves having a taco and beer after surfing having surfed since he was 19, but he never has just one beer but many beers. He stated that his point is that he would like to have some type of noise enforcement for this because they live up the street and are able to see everything that goes on down there from Dolphin Point and when 10 pm. rolls around his child and wife want to go to bed, and he didn't want to be kept up on Friday, Thursday, Saturday by people raging at Taco Bell and getting wasted. He thought that was the point he was going to make with the Harmony @ 1 project that there should be some noise enforcement with regard to not working on weekends. He thought these were very valid concerns for the community that lives so close and has a unique perspective to both of these topics on today's agenda. He asked that they consider them as they are real and valid concerns and he hoped they make the right decisions.

Ron Maykel, Pacifica, stated he had a few questions, adding that while they can't answer them, if he gave them the question, they might be able to ask the Director. He stated that this is regulated by the local Coastal parameters and asked if this project has any role in sea level rise committee efforts. He stated that the coastal trail runs along the two parking lots, and he suggested they ask the franchise directors if there is any consideration for coastal trail connectivity through the parking lot. He is working on signage and maps connected with the coastal trail and he would like them to consider the coastal trail issue. He didn't know who did it, but he thanked them for removing those ugly plants that were bordering the parking lot on the north and south sides that were half dead as he felt their removal was an improvement. He supports one of the next speakers regarding pragmatic litter reduction.

Sonja Lancaster, Pacifica, stated she was with the Pacifica Prevention Partnership and they try to reduce the use of drugs and alcohol access for the youth and their families in our community. She asked that they weigh these important concerns and reconsider any thoughts towards allowing any possible sales and service of alcohol in the outside structure of Taco Bell. She stated that addiction is in epidemic proportions, and she asked that they not provide easy access of alcohol for our youth. The youth frequent the beach in a way to engage in alcohol free activities to be resilient and lead bright, healthy, happy futures. She asked that they not hinder their growth and not provide easy access and availability to alcohol on the outside steps of the beach that doesn't allow alcohol on it in the first place. She asked how easy it would be to pass a

cup over a gate. She imagined the cost involved to properly monitor and enforce this and she asked whose responsibility it would be, law enforcement, park rangers or Taco Bell employees who have enough just trying to fill orders. She stated that the increase of sales and service steps away from our ocean will only increase the possibilities of alcohol related surfer injuries. She asked if lifeguards stationed on both ends of the beach have been considered and factored into anyone's budget. She asked if jobs for our youth will be taken away because of the increase of alcohol sales as our youth cannot be employed to service and sell alcohol. She asked what kind of a future they are painting for our youth for jobs and employment and what they can do to feel good about themselves. She felt the idea of sales of alcohol on a beach will be costly, dangerous and the trash not being able to be kept up with by the employees of Taco Bell and the doors have been locked during business hours so no one else is allowed in after 9 pm when the sign says they are open until 11 pm because they could not keep up with everything going on in their store with mismanagement and staffing. She felt this was not a good idea, costly, dangerous and ugly, and that was not the picture they want for Pacifica's image.

Lynn Adams, Pacifica, thanked them for taking up this subject as it was not an easy choice. She stated that 20 million bottle caps were collected on the beach since 1988 on coastal cleanup day one day a year. She stated that they predict that by 2020 .5 trillion plastic bottles will be sold in a year which is billions per day which includes all the plastic caps on them. She didn't get any facts on the plastic cups that will be used in a day. She stated that straws used in a day in the United States would wrap around the world 2 ½ times. She stated that every 4th day the straws laid end to end would reach the moon. Sixteen billion disposable coffee cups with plastic lids are used each year; 4.5 trillion cigarette filters per year are discarded. She stated that these are some of the litter things our world is having to deal with and she had a conversation with Mr. Moxley about Taco Bell being a leader in whatever happens there, cantina or not, being a leader as a fast food industry in being on the ocean and extending sustainable practices to their business and introducing that to their clientele. She asked him not only to do that here, but in their franchise and if possible to reach to the corporate level. She felt that was what we need. Whatever happens with Taco Bell is that they have a partner for the ocean that is a leader in the world. She stated that when a business like Taco Bell partnered with Starbucks, McDonald's, they can make a big difference in the issues here which are important and necessary. She stated that we don't have time to put more plastic into the environment. By the year 2050, they expect more plastic in the ocean than fish by weight. She stated that they came up with a study that every time plastic breaks down it releases methane gas into the atmosphere in addition to the production of extraction of oil, shipping of oil, the processing of oil, carbon and sea level rise is really contributed greatly by plastic and she asked them to be sustainable.

Jim Fithian, Pacifica, stated he was speaking for the Beach Coalition but also as a Pacifican. He likes to look for the reality and there are some things you can do to attack what is going to happen anyway. He stated that 20 years ago when they started the Beach Coalition they went to Taco Bell as they would wash the trash off onto the beach. He stated that was a major problem, and they talked to them about it and they stopped doing it. He stated that they then started coming to their cleanups in uniform and he thought that was a fantastic thing they can do for the public and their image. He stated that they stopped doing that and he would love to see them back doing that. He thought that was good PR for Taco Bell and good for everyone. He understood what one speaker said about the plants in front, and he stated that it was a sad situation when they took the plants out and left the trash. He stated that they picked up the trash the next morning. He stated that it wasn't a lot of household trash. He stated that the reality is that Taco Bell is not littering but the people who are going to Taco Bell are. They leave the tray with the trash on the

deck and then it starts flying off to the beach. He stated that it was reality and he asked what they can do to fix that. He liked some of the ideas. He thought it made perfect sense having one of their employees every hour to go around Taco Bell and pick up the trash. He thought that was good PR and they are picking up the trash that was going to be there. He was not a great fan of alcohol on the beach but he felt it was more the party trash and party atmosphere that was a little more concerning to him after having done cleanups of those parties for many years before they took out the firings on the beach. He felt there are solutions. He loved the letter written to Lynn Adams. He liked the idea of a person being out there. He acknowledged that it will cost something but they are going to have to have someone monitoring as people will pass the beer out. He stated that 2 am was not reasonable to him. He stated that now it was open to 11 pm which he thought was more reasonable. He thought, if people are out there until 2 am, they will have the party trash and the parties they can't address. He mentioned that the Police Chief mentioned someone who was working there is not going to be able to keep up. He thought if it passes all these things have to be taken into account to make sure it is a good representation of Taco Bell on the beach, adding that it has been great for many years.

Chair Campbell closed the Public Hearing.

Mr. Moxley appreciated all the comments from the community. He stated that they want to be good stewards and good partners to the community. He stated that they will continue to work with Lynn Adams and her team to do the right thing. He stated that after one meeting when she reached out to them, they came up with several solutions that will help this Taco Bell specifically be better stewards of the earth. He stated that they have come up with a game plan to keep up with the garbage and to make sure they keep the beach clean and he sent it to her this morning. It does entail taking care of the surroundings including just outside of the patio. He stated that they have installed the trash cans. He pointed out that this is an existing restaurant that does have an alcohol license already and it will be a cantina. He stated that none of those are in question but they were asking to extend the ability to serve food and alcohol on the patio. He stated that they take the serving of alcohol very seriously. He stated that each of the front-of-the-house employees are tips trained so they understand how to responsibly serve alcohol. They have adopted a responsible alcohol service policy that they have worked on with the Police Department, specifically San Francisco. He stated that they have had this liquor license at the Pacifica location since January and there has been no incident. He stated that they have a different type of liquor license in San Francisco all with no incident because of the training that they do and because of the seriousness in which they take the responsibility of serving alcohol. He again stated that they don't take that responsibility lightly and the proximity of the beach and the ability of a person to actually hand a beer over the edge is a far drop, 8-10 feet, and they have not just one individual but everyone who is the front-of-the-house staff is tips trained and they don't have just one individual monitoring but upwards of 25 employees and half of them are front-of-the-house. They will continue to monitor as that is one of the stipulations of having an alcohol license or the ability to serve alcohol, having to be responsible with it.

Commissioner Nibbelin stated that the speakers reminded him of a question he had, which was specific to the hours of operation. He asked what the current hours of operation were and the state of affairs with respect to the deck. He stated that he had some concerns about the late hours on weekends. He appreciated that he clarified what they were there to consider, not considering the cantina as a concept. He did have concerns about the outdoor alcohol serving particularly on weekends as they get into the later hours.

Mr. Moxley stated that the hours of operation that are posted in the report are current hours of operation and there was not a plan to skew from that.

Commissioner Nibbelin asked if those were the current hours of operation indoors.

Mr. Moxley stated that they were the current hours of operation.

Chair Campbell asked if they were open to 2 am now.

Mr. Moxley stated that there was a comment made about the walk up window, and he stated that they will not be serving alcohol through that window and anyone who desires the purchase of beer will have to purchase it inside.

Commissioner Nibbelin got that, but he was concerned about the drinking of it outdoors after a certain hour.

Mr. Moxley stated that they would have to abide by the ABC laws in that case.

Vice Chair Clifford stated that he sees the step and the gate area as the weak point in terms of being able to hand booze off the deck area. He did look at the other side and it was very steep and on the rocky side. He asked if he would consider putting up a Plexiglas upper barrier on that area so that someone coming up to the stairs cannot get beer from someone on the deck.

Mr. Moxley stated that he would not be opposed to looking at creating some sort of barrier but thinking about the fact that, if someone wants to break the law, they will find a way to break the law. He stated that, like in any other restaurant, they could walk out the front door with a bottle of wine.

Vice Chair Clifford stated that he has been around long enough to know that people are quite inventive when it comes to breaking laws that they don't like. He also knows that, if you put impediments in front of people, they tend to be very lazy and will not break the law because they have an impediment, not because they don't want to.

Mr. Moxley stated that was how he and the Police Chief came to the conclusion that the gate would deter people.

Vice Chair Clifford stated that he wanted to add a little something to it to keep that hand from going across that gate. He stated that you don't have to open the gate to hand a beer to someone. He stated that it was a suggestion, not saying he has to do it to get the approval.

Mr. Moxley thought that was a fair idea.

Commissioner Rubinstein stated that this Taco Bell was a famous Taco Bell on the beach. He stated that it was an iconic restaurant in Pacifica and known throughout the country. He stated that it was also on one of their best state beaches where they surf and everyone hangs out on the weekend. He asked if it was feasible for this Taco Bell to implement biodegradable cups, straws or other ocean friendly type items to help bridge those two things. He stated that it was a unique situation with a Taco Bell that they operate inside, but they also are operating on the beach which is very unique and he thought it was a unique opportunity for Taco Bell. He didn't know if this

was something Taco Bell would do across the country like Starbucks is doing, but specifically for this location, he asked if it was feasible to have those types of products implemented. He thought it would be great PR for Pacifica and would help mitigate the image of Taco Bell on the beach.

Mr. Moxley stated that it was a great question. He stated that immediately after meeting with Lynn Adams and having discussions along those lines, explaining that he was a small business owner and franchisee of the larger corporation, the larger corporation recently chose to use plastic cups, and he immediately called the corporation to talk about the implementation of the use of a paper cup, potential use of a paper straw and things that are more environmentally friendly and they were very receptive. He stated that the paper cups and paper straws have been ordered and they expect to implement those in short order. He also requested the use of more environmentally friendly cutlery. He stated that the current Taco Bell specs is plastic but there are other alternatives out there and he reached out through the corporation to start those discussions and see if they can get down that road. He agreed with him that this was an opportunity to make an impact. He stated that they are attempting with the first step on the paper cups. They have also taken the straws and plastic lids that are in existence in today's operation and put them behind the counter and they can talk to people and tell them that they are available if they would like to have them but they don't want to set them out on the counter for everyone to grab. If they are going to use them, they will give them to them for the time being, but behind the counter so people aren't just grabbing them. He stated that they are going to be there a long time and he will commit to continuing to work with the Coastal Coalition and Lynn Adams to do the right thing and make an impact in changes where they can.

Commissioner Rubinstein asked if it would be feasible for him to accept it as a condition of approval for the outdoor deck to have specific biodegradable cutlery, cups, straws, lids.

Mr. Moxley thought the condition they were talking about for the exterior of the deck is discussing specifically their desire to serve alcohol out there and with the alcohol people aren't able to take that away from the patio and the environmental impact or the person's ability to take that and go on to the beach or litter the beach doesn't exist because they can't leave their property with it and they have control over the things that the alcohol will be served in.

Commissioner Rubinstein stated he was not suggesting just for the outdoor use but for the entire restaurant and all of the litter that was coming out of the restaurant and ending up in the ocean that it would be biodegradable.

Mr. Moxley stated that it was an existing restaurant that uses items today and they were committing to changing the items that they can as the franchisee of a larger corporation.

Commissioner Rubinstein understood, adding that it was a very unique Taco Bell like none other in the entire franchise and in the country that is like his.

Mr. Moxley agreed with him.

Commissioner Rubinstein thought it was an opportunity for us to use as a lever to try and implement some kind of better practices at least in this one store and maybe committing to a timeline to do it. He stated that Starbucks just announced that they were doing it and it was going to take 2-3 years. He stated that he was opening this up for discussion because it was a unique opportunity for him to bring it up.

Mr. Moxley stated that the franchise, and Starbucks owns the majority of their stores, can push a button and as a company across the country, they can make a change. He stated that as a small business owner who lives in the Bay Area he cannot do that for Taco Bell. He can commit to changing what he has been told he can change today, the to-go beverages that people are able to take they are committed to changing to paper cups. He stated that they will allow them to change to a paper straw which he thinks in one day for a franchise that owns 7,500 restaurants, and he was a small fish for them, to get that done in this one store that is a very unique store and very famous store is an accomplishment. It came through education from this community. He can only commit to continuing to try to move that forward. Without being the franchisor and holding the cards, to commit on a timeline for other items or commit even to making them happen, he cannot make that commitment because he is not the franchisor.

Chair Campbell stated that he has a best management practices plan that he has developed in conjunction with the Pacifica Beach Coalition, and he thought that was fully baked or under discussion.

Mr. Moxley stated that they have implemented what he sent to Lynn Adams this morning and he didn't know if she would agree that it was fully baked, but he was happy to continue to talk to her about it. He reiterated that they want to do their part. He stated that it is a famous spot, iconic and in the middle of a beautiful community and they want to do their part to make sure it continues to shine. He stated that they will continue to work to make sure that it is what they want it to be.

Chair Campbell stated that he will import this from environmental law with municipal storm water practices and they have to come up with a best management plan, basically a good housekeeping plan and something that is written down and incorporated in the storm water pollution prevention plans. He stated that it is involving having personnel going around periodically and making sure that the grounds are clean, nothing is going to get entrained in air, water.

Mr. Moxley stated that he would be glad to submit what he sent to Lynn Adams.

Chair Campbell stated that everyone would have to digest it but it was probably along the lines of what he was talking about, adding that Mr. Moxley handed him the management plan for outside cleaning maintenance for the Taco Bell Cantina Pacifica. He didn't know if it could be wrapped up formally into the approval. He thought that was one of the big things.

Mr. Moxley was happy to have that.

Chair Campbell concluded that they have been serving alcohol there since January.

Mr. Moxley responded affirmatively. He stated it was a very low mix. He stated that it was advertised on their menu boards as a cantina and branded in the city of San Francisco. He stated that the alcohol mix was about 5% of their total sales which is a very low mix. He stated that restaurant happens to be a block away from the ballpark. He stated that the Pacifica location has not gone through a full blown remodel as of yet and the mix of the beer they are selling is very low. He stated that the only display of the beer is on the back counter. He stated that it was available for public consumption but was not on a menu board. As the remodel gets done and

new menu boards are installed and on the menu board you can see that there is beer sold. He would expect that the mix would land somewhere in the neighborhood of 4-5% of total sales.

Chair Campbell referred to kids reaching over, and he knows that Taco Bell gets busy. His children go there when they get hungry from surfing and he knows it gets busy and chaotic and he knows kids who have worked there and had some stories to tell about how chaotic it can get. He liked the notion of having someone out on the deck hanging out and making sure things are occurring as they should. He stated he knows it is a steep drop off the back but you could get up on that railing without too much trouble if you're a teenager. He asked if there was any way they could get more eyes out there.

Mr. Moxley stated that, in the responsible alcohol serving policy they implemented in the San Francisco location, they committed to having team members in the dining room monitoring and making sure that no beers go out the front door in that location and they have no incidents of alcohol leaving the front door. People aren't able to leave because there is no drive through location and it is just a small restaurant. He thought what he was asking was if they monitor to make sure with people in the dining room that they are doing their part to keep the alcohol on the patio and as part of the ABC license that was already their responsibility to make sure that alcohol isn't being sold or passed to minors. He didn't think that was anything that they would be opposed to. They monitor the dining room and the patio, as it is an extension of the dining room, on a regular basis now and they will continue to do that. He stated, if he was asking to have a stationary person on the patio, it was a busy location and the most effective use is to have someone continually doing what they do now, checking to make sure the garbage cans aren't full, make sure the bathrooms are clean, and in their policy the responsible serving of alcohol policy was part of the drill and part of the path of the employees is to not only make sure they do the things they would do in a normal Taco Bell to keep it clean and organized, but they have added to make sure that alcohol isn't going where it is not supposed to be and make sure that minors aren't consuming. He thought that was already contained in their responsible alcohol service policy.

Commissioner Nibbelin stated that he was not opposed to this proposal. He continues to have concerns about the notion of serving alcohol outdoors as late as requested and he would be in support of a motion that may be looked at hours that were somewhat truncated from the actual hours of the restaurant in terms of serving alcohol outdoors on the patio. He was thinking of 10 pm during the Sunday through Thursday and more like midnight on the weekends which he thinks is somewhat modest recognizing the applicant may not feel that way but that was where he was with respect to the hours. He didn't have any great concerns with respect to the other conditions.

Chair Campbell stated that they have been serving alcohol and they have alcohol serving establishments nearby such as the Tap Room and La Playa and some other places. He felt alcohol gets on the beach. He was not a huge fan of more alcohol on the beach having raised two kids in Pacifica. He stated that it sounds like it is going to happen and they are going to serve alcohol at this Taco Bell. What was at issue was whether they serve it on the back deck or not. He would like to move to continue this item because he would like to get a little bit more thought on this. He would like more time to look at the outside cleaning/maintenance plan because the Pacifica Beach Coalition representatives are correct that they are outside and it is a windy beach and they do have stuff that just blows around. He stated that he has been on that patio and people drop things and off it goes. He thought that he doesn't have time to digest it at this time but he would

like to see if the applicant can take this, work with staff, incorporate it into the next version of the proposed action for the outside to see if that can get them to a place where they are comfortable. He thought that plan could incorporate some more aspects of having people not only patrol for trash but making sure that alcohol is not going over the side of the gate. He added that maybe it also includes something, as mentioned by Vice Chair Clifford, about having a little bit more to that gate than is there now as far as having people handing over alcohol. He stated that the beach is heavily trafficked and has a lot of youth. It was an attractive nuisance to have people drinking out on that patio and so close to so many youth who use the beach. He knows they sometimes have a probationary period installed for services. He thought they did it for 7-Eleven on Hickey where they had a one-year probation.

Planning Director Wehrmeister stated that it wasn't really a probationary period, but an annual review. If there were problems, they would have to go through the formal proceedings to revoke their use permit. They have done annual reviews before.

Chair Campbell stated that, at the very least, if he can prevail on the other commissioners to continue the item, he would like to have that as a condition where they come back and take a look at it in a year.

Commissioner Rubinstein agreed with him on an annual review and limited hours for the outdoor seating would also be acceptable.

Chair Campbell was in agreement with Commissioner Nibbelin on limiting the hours and they should take another look at that. He stated that with the annual review, they take a look at it and he asked what the "teeth" was on it. If there are a ton of complaints, and ABC finds something wrong, would they decide the outside patio doesn't work.

Planning Director Wehrmeister stated that the first step was drafting good conditions that the Commission is comfortable with and feels it meets the intent of the approval. Then at the annual review, if they are not complying with the conditions of the use permit, upon direction, they would initiate the formal proceedings which are codified to actually go through the use permit revocation process and noticing is required and specific findings that they will have to make. She stated that any use permit can actually be revoked but this would trigger an actual proactive annual review.

Vice Chair Clifford stated he was not opposed to continuing it to make some adjustments to the conditions. He stated that he wanted to add the one condition that the trash cans in the parking lot stay there regardless and they don't decide that it was creating more mess and they will just yank them again so he wanted a written condition to have trash cans in the parking lot. He was open to continuing the item to go over this, look at hours of operation, etc.

Commissioner Nibbelin stated that unless anyone else had input, he would be prepared to make a motion to continue the item to the next meeting so staff can reasonably bring it back after having addressed the concerns that have been raised.

Chair Campbell stated that it looks like they are going to have a cantina and if they are going to have that, he would like to entertain discussions with the applicant to see if they can get a better understanding of the improvements and upgrades that are going to happen and the timeline for them happening so that they can better understand them. He was seeing that they were allowing

alcohol on the beach and he wants to be sure they are getting something back because they were giving up a lot. He would like to understand that, if they are going to have a cantina, it is going to be something that is really going to look nice. He thinks the applicant wants the same thing but he thought it was a trustful verify process. He asked if he can bring the applicant back.

Asst. City Attorney Sharma stated that discussion is closed.

Chair Campbell stated that while he would like to, on advice of counsel, he can't but he thought discussions can happen between staff.

Commissioner Nibbelin stated that he was ready to make a motion.

Planning Director Wehrmeister suggested that they continue to a date specific. She stated that they can do the next meeting on September 4, adding that it was a Tuesday because of the Monday holiday or they can do September 17.

Mr. Moxley preferred the 17th.

Chair Campbell agreed, adding that the Tuesday after Labor Day was fraught with danger with people not being here.

Planning Director Wehrmeister stated that the motion would be to a date specific of September 17.

Commissioner Nibbelin moved that the item be continued to September 17; Commissioner Rubinstein seconded the motion.

The motion carried **5-0**.

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

Noes: None

COMMISSION COMMUNICATIONS:

None.

STAFF COMMUNICATIONS:

Planning Director Wehrmeister let them know there was interest in whether or not a restaurant was going to take over the Surf Spot. They did get a building permit application within the last two weeks. She stated that there was also something similar going on at the old Sea Horse on Palmetto. She trusts that they saw that she provided another ADU update on a resource website today. She stated that they have some hard copies of the workbook available at the front counter if they know of anyone who is interested. She stated that the marijuana use permit applications are still incomplete at this time. She hopes to have an update on those soon. She mentioned again that the next meeting was on September 4 which is the Tuesday after the holiday, and they do have agenda items scheduled. If there are any conflicts, she asked that they let staff know early.

Commissioner Rubinstein asked if the liquor license stayed with the Surf Spot or do they have to bring in a new one.

Planning Director Wehrmeister did not know whether the ABC license was purchased.

Vice Chair Clifford asked the Planning Director to give them an update on the library committee because he was unavailable for the last meeting.

Planning Director Wehrmeister stated that the major item was that they have made great strides in their conversations with the San Mateo County library system to determine what they can do with the Sanchez site in providing services to the community while still having a main branch that is open 60 hours a week. They were continuing those conversations and they were getting feedback from the Library Advisory Committee regarding shared use with Recreation and expanding the hours that the site is available to the community in total so it becomes an even greater community benefit than it already is.

ADJOURNMENT:

There being no further business for discussion, Commissioner Nibbelin moved to adjourn the meeting at 8:54 p.m.; Vice Chair Clifford seconded the motion.

The motion carried **5-0**.

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

Respectfully submitted,

Barbara Medina

Planning Commission Minutes
August 20, 2018
Page 22 of 22

Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister