



**SPECIAL MEETING MINUTES  
PLANNING COMMISSION  
CITY HALL COUNCIL CHAMBERS  
154 SOUTH EIGHTH STREET  
GROVER BEACH, CALIFORNIA  
WEDNESDAY, NOVEMBER 12, 2008  
6:30 P.M.**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a City meeting, please contact the City Clerk's Office (473-4568) at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to the meeting.

**CALL TO ORDER** 6:30 p.m.

**FLAG SALUTE** Led by Commissioner Long.

**PRESENT:** Commissioners: Long, Marshall, Nielsen, Peterson, Roberson, Vice Chair Coleman, and Chair Blum.

**PUBLIC COMMENTS:** *At this point of the meeting, members of the public may bring up any items within the jurisdiction of the Planning Commission that are not on the agenda. Please limit your comments to three (3) minutes. The Planning Commission will listen to all comments; however, in compliance with the Brown Act, the Commission cannot act on items not on the agenda.*

None received.

**REGULAR BUSINESS**

**1. Request for Change to Action Minutes for Planning Commission Meetings**

Pat Beck, Interim Community Development Director, presented the staff report and recommendation that the Commission concur in the use of "action minutes" for those minutes prepared in 2008 and continuing forward.

**Motion:** Commissioner Marshall moves to concur with the use of "action minutes" for those minutes prepared for meetings in 2008 and continuing forward.

**Second:** Commissioner Coleman

**Ayes:** Commissioners Long, Marshall, Nielsen, Peterson, Roberson, Vice Chair Coleman, and Chair Blum

**Noes:** None

**Absent:** NA

**Abstained:** NA

Commissioner Peterson asked how long it would take to catch the minutes up to date. Pat Beck indicated that she will work with the recording secretary to identify a schedule and bring this back at the next meeting.

**PUBLIC HEARING ITEMS:**

**2. Development Permit Application 08-009 (continued from October 14, 2008)**

**Appellant – Dr. John Gannon**

This application is an appeal of Staff's approval of a chimney as a minor modification. The subject site is located at 912 North 5<sup>th</sup> Street (Assessor Parcel No. 060-490-003) in the Coastal Planned Single Family (C-P-R-1) District. The project planner is Pat Beck.

Pat Beck, Interim Community Development Director presented the request that this item be continued to December 9, 2008, to allow a meeting between the parties to occur. Staff recommends this be continued to December 9, 2008.

City Attorney Koczanowicz clarified that the Commission should open the public hearing and close it for the night, and then take a motion to continue.

**Recommended Action:** Continue the item to the December 9, 2008, Planning Commission Meeting.

**Motion:** Commissioner Long moves to continue this matter to the December 9 meeting.

**Second:** Commissioner Peterson

**Ayes:** Commissioners Long, Marshall, Nielsen, Peterson, Roberson, Vice Chair Coleman, and Chair Blum. (Voice vote.)

**Noes:** None

**Absent:** N/A

**Abstained:** N/A

### **3. Development Permit Application 07-042**

#### **Applicant – Victor and Anna Barbosa**

This application is a request for approval of Site and Architectural Plans to construct a new two-story single family residence and two-story secondary dwelling unit. The subject property is located at 564 North 9<sup>th</sup> Street (Assessor Parcel No. 060-103-026) in the Single Family Residential (R-1) Zoning District. The project planner is Janet Reese.

Commissioner Marshall steps down, as his residence is within the 500' conflict of interest zone, and leaves the room.

Janet Reese presented a staff recommendation that this matter be continued to December 9, 2008 to permit the story poles to be installed and allow the view analysis to be completed. Staff will then prepare the staff report and proposed conditions and findings as needed. She indicated that the owner was called out of town unexpectedly and was not able to get the story poles in place to meet the deadline.

City Attorney Koczanowicz requested that the Commission open the public hearing and close it for the evening and then take a motion to continue the matter.

**Recommended Action:** Open the public hearing and continue to **December 9, 2008**.

**Motion:** Commissioner Peterson moves to continue this matter to the December 9, 2008 meeting.

**Second:** Commissioner Coleman seconds.

**Ayes:** Commissioners Long, Nielsen, Peterson, Roberson, Vice Chair Coleman, and Chair Blum

**Noes:** None

**Absent:** N/A

**Abstained:** Commissioner Marshall steps down due to conflict.

### **4. Development Permit Application 08-012**

#### **Applicant – Doug and Sue Shollenbarger**

This application is a request for approval of Site and Architectural Plans and Coastal Development Permit to construct a new two-story single family residence. The subject property is located at 883 North 6<sup>th</sup> Street (Assessor Parcel No. 060-501-026) in the Coastal Single Family Residential (C-R-1) Zoning District. The project planner is Janet Reese.

Janet Reese presented the staff report on this project and presented the site standards of the proposed development. There are two specific issues identified: slope of the driveway to allow a 5% slope and placement of a planter within the right-of way to mask the existing wall that extends into the right-of way currently on the neighboring property.

City Attorney Koczanowicz asked that the Commission consider additional wording in Condition PW-CE6, adding a sentence at the end concerning requirement to remove the planter within 15 days and to allow the city to remove the planter and place a lien on the property for any costs for the removal.

Commissioner Marshall asked if the type of document used by the City of San Luis Obispo could be used and recorded so that future owners would be aware of the requirement.

City Attorney Koczanowicz indicated that a condition would be sufficient but that the Commission could choose to have it recorded.

Commissioner Marshall asked if there wasn't something concerning this property heard previously by the City.

City Attorney Koczanowicz presents a history of the project site. A previous request was for a road vacation and a lot line adjustment to create two more typical lots, rather than the existing 30' lot. This project was not approved, largely in response to neighbor concerns. This resulted in this proposal coming forward for a single family residence on this narrow lot.

Commission Peterson asks about the total square footage of the residence and staff provides this information.

Chair Blum opened the hearing for comments.

Bardhyll Nushi, the applicant's representative indicates that staff gave a good overview of the project. He indicates that this project was designed to address the limited site, as a narrow 30' property and that the large oak tree also affects the design. He feels that they balanced the design around the average natural grade and height requirements without crowding the tree or harming the tree in the future, based upon review by an arborist. The design also allows the property to be used by the applicant through retirement. The project includes the use of a lift to achieve the second parking space, through a single car garage. He provided information concerning the noise from the lift, which indicates that it is similar to the noise from a garage door opener and for a limited period of time and that it will not affect the other residences. He entered this letter into the record.

He further presented a photograph to identify how the proposed project is less massive than other residences in the area. The story poles show where the structure will be placed but he believes that there is a distinct and integrated architectural style for this residence that will fit into the site and neighborhood, even though it is more modern. While they don't know what the residence on the vacant adjoining lot will look like, he believes it will likely be larger and will somewhat mask this project. He also discusses the color choices reflected in the story board to blend with the trees and natural grass of the area.

Commissioner Nielsen asks where the residence in the photo was located and Mr. Nushi and staff provided information that identified the location. He also expressed that after visiting the area he did not recall seeing homes this modern in the vicinity.

Mr. Nushi indicated that this is an older neighborhood with mostly larger parcels; there are some newer more modern structures as well. There are no common designs or material types. He indicated that the adjoining structure is quite massive and will likely be 6-7 feet above the proposed structure.

Commissioner Marshall asks questions concerning the material used in the planter and how it could be constructed to anticipate removal easily, should it be required in the future. Mr. Nushi explained the purpose and how they planned to address this concern.

Commissioner Marshall asked what the architectural style of the house was and the agent described it as contemporary style that has been tied throughout the design of entire site.

Commissioner Roberson had questions concerning the capability of the lift to hold all types of vehicles and whether the steepness of the driveway slope would affect the ability to use the lift and whether a future use of the right-of way would affect this.

Mr. Nushi spoke to the design and ceiling height at 11' and that it would continue to work even with a change in the right of way.

Testimony from the public:

Byron Pruitt – 850 N. 6<sup>th</sup> Street indicated that he does agree with this design and is opposed to the project. Development of a 20' wide home does not fit within the context of the neighborhood. He feels sorry for the applicant for the project who may have knowledge about the neighborhoods concerns.

Anita Shower, 867 N. 6<sup>th</sup> Street, distributes a report to each Commissioner concerning the project. Presents petition and asks for additional time since she is representing others. She presented a detailed history of the development of this area and when Horace Bagwell developed Grover City Heights, the area being discussed, and they were all quite large parcels. She discussed that a one point he gave 1 and 1/2 parcels to the corner, making it a parcel and giving it a benefit, as there was an easement at the back of the parcel for a right of way, and the corner would lose ground because of sidewalks and curb improvements. The property was then sold to the Clarks and in 1971 Dr. Shower. He subsequently purchased the lot to the east.

She described the history of the lot being discussed, ending with the sale of the property to Grayson and Friedman in 2005. Grayson and Friedman proposed purchasing a portion of the Shower's lot, so that they could develop two homes on the lot. The Shower's declined.

Grayson and Friedman applied to the City to build two homes, and that original proposal was defeated by the City Council in 2006. The smaller lot was sold to the Shollenbargers. There was strong neighborhood concern regarding this lot and whether it was legal. She has spoken to San Luis Obispo County and said they felt there has never been a split of this property separately and that this would require a Certificate of Compliance. She further indicated that she had talked with Jim Garing, City Engineer and Bob Perrault, the City Manager previously regarding this property and proposed development.

She expressed concern about impacts on the oak tree on the neighboring site, because the story poles extend into the canopy. This site is within Grover City Heights and has subdivision restrictions that would apply to this property. There were also complaints in 2006 by neighbors and that the use cannot be grandfathered in. She stated that the existence of an Assessor's Parcel Number isn't relevant to planning. If this is allowed, property values in the area will be impacted by this project.

Design standards illustrate that this neighborhood has large homes on larger lots with substantial yards.

Doug Shollenbarger, the applicant, currently lives at 838 Newport Avenue. He provided additional information on the proposed car lift and that it would accommodate both SUV's and pick-up trucks. When he purchased this property from Bob Grayson he informed them of the neighbors concerns prior to sale and he came and met with the Community Development Director, George Hansen as he was designing the residence. Mr. Hansen indicated the house design could be supported. The square foot price of this home will be greater than surrounding home. He also spoke to a future home on the vacant property next door and that it will only be allowed to have 22' width of the house – similar to his 20' width. He stated that the yard meets the City standards.

Commissioner Coleman asked a question about the certificate of compliance as identified by Anita Shower.

City Attorney Koczanowicz indicated that he would address this matter following the close of public comments.

Commissioner Roberson asked how this would relate to future development on the adjoining property, concerned with privacy from roof deck and windows.

Mr. Shollenbarger indicated that they will be nestled into the tree so that the large tree would camouflage the surrounding homes. They will not be looking into rear yards due to grade differences and there were no windows to the west to avoid conflict with the existing house.

Commissioner Coleman asked question concerning the condition of the oak tree and the report of oozing liquid.

Mr. Shollenbarger indicated they had a horticulturist evaluate this and it is a common condition, a bug under the bark like a wound that needs to heal.

Commissioner Peterson indicates that someone next door will build and will be faced with similar parameters. She is concerned with the windows that face the vacant lot.

Mr. Shollenbarger indicates that the lot drops off to the east approximately 6-7 feet lower and hopes they will look out over the house rather than into it.

Chairman Blum – closes the floor to public comments.

City Attorney Koczanowicz proposed further revised language concerning Condition PW-CE6 regarding removal of the planter. He reads this into the record as follows:

“PW/CE-6. The planter located in the public right of way shall be placed there subject to an encroachment permit and be designed in such a way so that it can be easily removed at the property owner's expense should the City or Utility need it removed. Failure by the property owner to remove the planter within 15 days of the request to do so would allow the City or Utility to remove the planter and lien the property for the costs. The Encroachment permit memorandum shall be recorded on the property.”

City Attorney Koczanowicz also indicated that after consultation with the City Engineer that this is a separate legal lot and that this was resolved previously. He discussed again the prior proposal that was rejected and indicated that the proposal at that time was to purchase a portion of the right of

way from the City and do a lot line adjustment, that proposal was rejected by the City. These are 2 legal parcels and can be sold separately (since 1971) and a Certificate of Compliance is not required.

The City Engineer, Jim Garing, spoke to the curb, gutter and sidewalk requirement and that once installed they would reflect the permanent improvements.

Commissioner Marshall asks if the City Engineer has any concern with the planter and Mr. Garing indicates that generally engineers do not like to see these types of improvements but that they can make it work. He also asked about the deed restriction on the original subdivision as raised by the speaker.

City Attorney Koczanowicz felt that this is not applicable to this present circumstance.

Commissioner Peterson requested that staff provide a copy of the Northern Hillside Plan so she could review this and staff provided.

Commissioner Marshall asked a question concerning the tree on adjoining property and what they would be allowed to do on their site.

City Attorney Koczanowicz and Interim Director Pat Beck spoke to this and that the applicant appears to have demonstrated a commitment to preserve the tree through the design features and the studies of the health of tree.

Commissioner Marshall expressed that the project appears to meet all requirements, setback, has a unique solution for the parking spaces with the single car garage. He indicates that staff has addressed his concerns and that he can support the project.

Commissioner Long asks whether there are other 30' lots within the city and staff indicates that there are only a limited number.

Commissioner Marshall asks about the original approval of the map in the 70's.

Commissioner Neilson speaks to other communities like Los Osos where there are 25' lots that are built on. He doesn't support the design and doesn't feel that it fits in with the neighborhood.

Commissioner Peterson indicates that after looking at the pictures and driving the area, that there are many similar modern/contemporary design.

Commissioner Coleman agrees they are trying to fit with the colors and it meets the ordinance requirements.

**Recommended Action:** Adopt the Resolution approving the Site and Architectural Plans and granting the Coastal Development Permit.

**Motion:** Commissioner Marshall moves for staff recommendation and to adopt Resolution 08-052 and 08-053, with the modifications read into the record by City Attorney Koczanowicz for Condition PW-CE6.

**Second:** Commissioner Coleman.

**Ayes:** Commissioners Long, Marshall, Nielsen, Peterson, Roberson, Vice Chair Coleman, and Chair Blum.

**Noes:** None.

**Absent:** NA

**Abstained:** NA

**5. Development Permit Application 06-036**

**Applicant – Lena Graves**

This application is a request for approval of Site and Architectural Plans, including two development concessions/incentives, for the construction of a four (4) unit apartment complex. One of the apartments will be income-restricted for a low-income household. The subject property is located at 1263 Mentone Avenue (Assessor Parcel No. 060-344-007) in the Multiple Residential (R-3) Zoning District. The project planner is Janet Reese.

Janet Reese made the staff presentation for this project. This project was previously heard at the October 14 meeting when it was presented as a variance from the parking requirements. During the hearing, the applicant's representative indicated that they would be willing to include one of the units as affordable which would require a redesign for parking in the front setback and would no longer require a Variance. This required that project be re-noticed and a new staff report prepared for the revised project.

Applicant representative, Roger Smith, is present to answer any Commission questions.

Commissioner Peterson spoke about how she has noticed trees through the city as she was walking precincts and how it related to the project.

Mr. Smith indicates that they are using trees preferred by the city, did cutback some trees with the relocation of the parking spaces. The trees provide shade on the site.

Commissioner Marshall thanks the applicant and agent for agreeing to include one of the units as affordable.

Commissioner Peterson also thanks them and feels it is a win-win situation and provides affordable housing.

Commissioner Marshall asks the City Engineer a question about curb, gutter and sidewalk design. Staff addressed how the sidewalk will be connected with the adjoining property at the final design and improvement stage.

**Recommended Action:** Adopt the Resolutions approving the Site and Architectural Plans and two development concessions/incentives for the provision of one unit being income restricted for a low-income household.

**Motion:** Commissioner Long moves that they adopt Resolution 08-043 concerning the two concessions and incentives provided for the provision of one low-income restricted affordable housing unit and Resolution 08-044 for Site and Architectural Plan.

**Second:** Commissioner Nielson.

**Ayes:** Commissioners Long, Marshall, Nielsen, Peterson, Roberson, Vice Chair Coleman, and Chair Blum.

**Noes:** None

**Absent:** NA

**Abstained:** NA

**6. Coastal Development Permit No. 06-040**  
**Property Owner – Brad Kessner**

This application is a request for a public hearing regarding a Coastal Development Permit that was issued for the construction of a secondary dwelling above a garage. The subject property is located at 370 Newport Avenue (Assessor Parcel No. 060-141-015) in the Coastal Residential (C-R-2) Zoning District. The project planner is Pat Beck.

Pat Beck, Interim Director, makes the staff presentation for this project. This is a request for a hearing on the Coastal Development Permit for a two-car garage with a Second Dwelling unit on the second story. The Second Dwelling unit is allowed “by right” if the design meets all the standards established in the ordinance. Since this project is located in the Coastal Zone, a Coastal Development Permit is also required. This step was missed and when the notice was sent out the adjoining property owner, Mr. Waggoner, requested that a hearing be held. Staff is of the opinion that the Coastal Development Permit for the requested second dwelling unit can be approved.

Commissioner Nielson asks staff about state law and whether views are protected.

City Attorney Koczanowicz discusses the Local Coastal Plan (LCP) and zoning ordinance requirements, particularly since the Second Dwelling unit is a ministerial approval and that if the requirements are met, the city cannot deny the project. In the C-R-2 zone, the LCP indicates that views should be considered for protection where it is feasible. He further discusses that staff worked with the applicant to minimize the impacts on views from surrounding residences.

Commissioner Marshal questioned how the ministerial approval of the Second Dwelling could lead to the Coastal Development permit hearing notice and City Attorney Koczanowicz described the process required by the Municipal Code.

Chairman Blum opened the hearing for testimony.

The applicant/property owner, Brad Kessner, spoke to the process this project has gone through. This was his primary residence and he spent 3 years developing a derelict property into the present status. In 2007, he heard from Mr. Waggoner concerning accessing his property on 4<sup>th</sup> Street through Mr. Kessner’s site and he then showed Mr. Waggoner his plans and delayed fence to assist the neighbor in his development. He feels that he has complied with all requests made by the city and has spent significant monies on construction. It would be a severe hardship to make any modifications, as a result of the error in not sending the notice. He asks that they approve the CDP. He understands why Mr. Waggoner would want the view but it is a constrained property and also Mr. Waggoner is involved in real estate and should know the rules and regulations.

Commissioner Long asks the applicant whether when he met with the neighbor the discussion included the second story above the garage and Mr. Kessner indicated yes and that George Hansen, the Community Development Director (at that time) was very helpful in working out all the drainage, parking, back-up requirements that led to this design and that there was no other design that would meet the requirements.

Commissioner Coleman question whether there was a view from the adjoining property previously or if it was already blocked by the existing development.

Mr. Kessner indicated that it was a “peek-a-boo” view through the trees and surround development.

Mr. Waggoner, the neighboring property owner who requested the hearing on the CDP, spoke and thanks staff and the Commission for taking the time to hear this matter. He indicates he considers

Mr. Kessner a friend and he understands it was not his fault that an error was made and the notice wasn't sent out. He summarized the process as he understands it and discussed the original notice for the one-story garage and his discussions with Mr. Kessner as the project changed. He agrees that he did meet with Mr. Kessner and at that time he thought that everything had been done correctly and there was nothing that he could do regarding the loss of the view.

Mr. Waggoner pointed out a small error in the staff report that states that the garage was existing and identifies two ordinance sections that he feels applies to the project. Section 9110.5 states that the maximum height of the residence can be 24'; however, it is only 14' for accessory structures. Section 9137.22 requires that the Second Dwelling unit be subordinate in size and appearance to the primary resident and he doesn't feel this design located above the garage meets this requirement. He provided pictures to show how the view is affected and while it is not wonderful it is also not a bad view and preferable to looking at the neighboring residence directly as with the current project. This project has obstructed his views, enjoyment of this house and will impact the value of the home for future owners. He suggests one solution that he asks the Commission to consider. This would require the second floor be removed and the placed in the area of the current garage and the city to waive or reduce the parking requirements. He thanks the Commission for hearing him out.

The public hearing was closed and returned to the Commission.

Commissioner Long asked a questions concern the height section cited by Mr. Waggoner. The director discussed that a garage, without the second floor for the second residence, would be considered an accessory structure and would be required to meet the 14' height. However, with the dwelling unit on the second floor, it is no longer considered accessory.

Commissioner Marshall asked the applicant about the size of the primary residence to determine if the subordinate requirement could be met and the applicant provided information on the size of both residences. He expressed that looking at the design even if the structure could have been placed on the other side of the property that the views would have been blocked. He indicates that he could support the use at this location.

City Attorney Koczanowicz reviewed again the provision of the Local Coastal Plan and that the focus is on protection of public views related to the beach and the dunes. The LCP recognizes that in multiple family areas where the density will be increased and generally require two-story development that more view losses will occur. The test is to provide for view protection where it is "feasible".

Commissioner Marshall acknowledges that the existing structure does block much of the view and is invasive of the space of the adjoining property but he cannot see a problem with the design as required to meet all the ordinance provisions.

Commissioner Blum discusses that in the C-R-2 zone we will be more of these impacts as properties transition to multiple family. He felt that the applicant had met the requirements.

Commissioner Marshall speaks to increasing affordability through density increases in the multiple family zone, and this will occur over time.

Commissioner Peterson addresses that Mr. Waggoner's property was more constrained because it was a tiny, substandard lot and that development on the Kessner property was inevitable and would have impacted this property in some way.

Commissioner Marshall asked whether Mr. Waggoner could propose a roof deck in order to still have access to ocean views and staff identified that this would require the necessary permits and review.

**Recommended Action:** Adopt the Resolution granting the Coastal Development Permit.

**Motion:** Commissioner Peterson moved for staff recommendation and approval of resolution.

**Second:** Commissioner Long.

**Ayes:** Commissioners Long, Marshall, Nielsen, Peterson, Roberson, Vice Chair Coleman, and Chair Blum.

**Noes:** None

**Absent:** NA

**Abstained:** NA

**COMMISSIONERS' COMMENTS:**

**Report from City Council Representatives** – Commissioner Coleman gave a summary of the last City Council meeting. Councilman Nichols responded to a question regarding the water recycling that is being evaluated and that when the update is complete, the council will review this again. Commissioner Coleman relays that the RFP for the update of the Land Use Element had also been approved and will be starting soon.

**Other Commissioners' Comments** – Commissioner Peterson attended the 2009 Economic Outlook meeting and relayed the information provided, particularly that things are pretty awful for the next couple of years. She discussed opportunities to address “green” energy improvement and the requirements of AB 32 that greenhouse gas emissions be reduced to the 1990 level by the year 2020 through actions that we take to improve energy efficiency. She also discussed homes in default and that we will see more and prices will be continuing to fall. Finally she expressed that she has enjoyed working the Commission over the years and will miss them as she begins to serve on the City Council.

**COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

Pat Beck, Interim Community Development Director spoke to the requirements for AB 32 to prepare a green house gas emissions inventory, with assistance from a consultant being hired by the APCD to work with 5 cities in the county; the Community 2050 draft that sets out the next step to link AB 32 and funding for transportation improvements; Habitat for Humanity affordable housing project will likely be before them in December; economic development work, and that we are still looking for staff time to look into the parking information that the Commission requested.

Commissioner Peterson was reminded that one of the things identified at the Economic Outlook meeting is that city's can review their planning requirements to look for ways to facilitate economic development, particularly in these difficult times.

**STAFF COMMENTS** None

**ASSIGNMENT TO ATTEND CITY COUNCIL MEETING(S)** Not done.

**ADJOURNMENT at 9:00.**

/s/  
CHAIR BLUM

/s/  
SECRETARY TO THE PLANNING COMMISSION  
PAT BECK, INTERIM COMMUNITY DEVELOPMENT DIRECTOR

(Approved at PC Meeting: December 9, 2008)