

CITY OF BELMONT
PLANNING COMMISSION
SUMMARY MINUTES

TUESDAY, FEBRUARY 21, 2012, 7:00 PM

Chair Reed called the meeting to order at 7:00 p.m. at One Twin Pines Lane, City Hall Council Chambers.

1. ROLL CALL

Commissioners Present: Reed, Mercer, Parsons, Horton, Mayer, d'Souza

Commissioners Absent: Wheeler

Staff Present: Community Development Director de Melo (CDD), Senior Planner DiDonato (SP), City Attorney Renne (CA), Recording Secretary Turning (RS)

2. AGENDA AMENDMENTS - None

3. COMMUNITY FORUM (Public Comments) - None

4. CONSENT CALENDAR - None

5. PUBLIC HEARINGS:

5A. PUBLIC HEARING – 1320 Talbyrn Drive

To consider a Parcel Map and Single Family Design Review to: (1) subdivide the existing lot into four new lots, and (2) build one new single-family home on each lot. The project would also include a Major Encroachment Permit for the construction of retaining walls within the public right-of-way.

(Appl. No. 2006-0071)

APN: 045-201-190; Zoned: R-1A (Single Family Residential)

CEQA Status: Mitigated Negative Declaration

APPLICANT: Steve Lesley

OWNER: Anthony Matiasic

PROJECT PLANNER: Damon DiDonato, (650) 637-2908

Chair Reed determined that no one on the Commission had any ex parte communications on this item.

SP DiDonato summarized the Staff Report utilizing a Power Point for his presentation. He noted that, in terms of the lot size per slope, the project was submitted before the current slope density requirements were adopted. Staff believed that the Initial Study and Negative Declaration was prepared in accordance with CEQA and recommended that the Planning Commission recommend it to the City Council, that the Parcel Map is consistent with the objective, goals, policies and standards of the General Plan, the Subdivision Ordinance and the Zoning Ordinance, and that the Major Encroachment Permit (MEP) is consistent with the requirements of Section 22.6 of the Municipal Code. It has been reviewed by the Director of Public Works, who has supported the permit, and it does include public benefit in terms of

the installation of a 3-way stop, roadway improvements and relief of Public Works from maintenance of the public right-of-way (PRW).

Responding to Commissioner Mayer's question regarding current ownership of the private road, SP DiDonato stated that there is a portion of the PRW that is adjacent to the project site, which is currently used by the applicant as his driveway access. When it needs to be widened and a private road needs to be constructed across the driveway, it would need to become a private road and in order for it to be a private road, the City would need to vacate that portion of the PRW and the applicant would need to request that vacation and then purchase the property for construction of the private road. He confirmed that the ownership of the road would then fall to the Homeowners' Association (HOA) that would jointly own that private road and would be very similar to the other responsibilities that the HOA for this private subdivision would be required to take care of, such as the retaining walls and the PRW, the turn-around and everything else associated with the development.

Commissioner Mayer asked what difference it would make to this project if it were not grandfathered in and if the new slope and density conditions were to apply. SP DiDonato responded that the properties at #2 and #3 based, on their slope, would be too small for the lot size.

Commissioner Mayer asked if Rose Lane is a public or a private street. SP DiDonato responded that staff had assumed that it was a private road; however, the applicant submitted some older ordinances and deeds that suggested that it might be a public road. The Department of Public Works is investigating that. Regarding sewer line capacity, SP DiDonato stated that the applicant would be responsible to connect to the sewer. The Public Works Department has indicated that there is capacity within the system for that line; however, there are studies that need to be submitted. If there are any improvements that need to be done to make the sewer system viable, including on Rose Lane, responsibility would fall on the applicant.

Commissioner Horton asked for clarification of what will be sold to the developer and what will remain as PRW. SP DiDonato indicated the lines on a power point slide. Commissioner Horton questioned the wording of Draft Condition of Approval 23; she felt it sounded like the City would be responsible for maintenance of the PRW rather than the HOA. CDD de Melo added that if they get to that point, all conditions of approval can be clarified with additional or modified language. Commissioner Horton added that she was trying to understand why the retaining wall is in a PRW rather than on the developer's property. She further questioned why a sidewalk is called for on a street that has no other connecting sidewalks. SP DiDonato responded that the theory would be that as development occurs more sidewalks would connect to that sidewalk.

Commissioner Mayer questioned the necessity of the stairway that doesn't seem to go anywhere. SP DiDonato responded that the sidewalk hooks up to the cul de sac for the project. Commissioner Horton commented that it is a whole lot more hardscape for no good reason.

Commissioner Horton questioned the process if the Commission approves the Mitigated Negative Declaration (MND) and the Subdivision Map without a Single-Family Design Review (SFDR) in front of them; i.e., does it mean that the houses can actually be built there? CDD de Melo responded that the Commission is not being asked to adopt the documents; the entire package will ultimately go to City Council for certification and adoption. Commissioner Horton asked if recommending adoption is saying that it's ok to build the 4 houses on the property. CA Renne stated that approval of the CEQA document is not approval of the project itself; it is just approval of the study of what the project's potential impacts

would be on the environment and what mitigation measures are necessary, if any, to address any potential impacts. He added that recommendation of the Subdivision Map to Council is only saying that this parcel can be divided into 4 separate parcels. The Subdivision Map is the division of the land, creation of the individual lots, how they access, how they will be served by utilities, the lot pattern, the location of the pads for the homes. It is not approval of a specific design, its approval of the division of the land. SP DiDonato confirmed that it is not approval of any specific construction on the 4 sites, adding that one wouldn't typically have to see that in a Tentative Map. It is being provided here because the applicant has also applied for Design Review, which has not as yet been analyzed by staff.

Commissioner Parsons questioned if the Commission approves the MND does that mean that they are locked into 4 houses on that lot. CA Renne stated that the action is recommending approval to the City Council and the action of the City Council with respect to the MND. The MND does not approve the project; it only addresses environmental impacts and states whether the environmental analysis was done correctly. It will use as its basis the project as described as a 4-unit project. If it were designed with less intensity and less potential impact it would be covered; if it were to be more intense they potentially might have to reconsider the environmental study.

Commissioner Horton concluded that the applicant has gone beyond submission of a Subdivision Map and she was concerned that there is language in the Subdivision Map that applies directly to the design of the homes.

SP DiDonato confirmed for Commissioner Parsons that the Commission is being asked to make recommendations to Council in terms of the Parcel Map, the MEP, the Initial Study and the MND. He added that if Commissioners feel that more things need to come back or more time needs to go by before they can make those recommendations he asked that the project be continued to another meeting. SP DiDonato clarified that the Vacation part of the project was not noticed as there was no analysis for General Plan consistency for the Vacation. He further explained that the MEP involves construction of permanent encroachment into the PRW and that Vacation involves essentially giving a portion of a PRW to a developer or to an adjacent property owner for potential development or just for having extra land adjacent to their property. He confirmed that the MEP under consideration would be just the retaining wall as pointed out on the power point slide. The retaining wall on the north side of the property is currently on City property but after Vacation it would be the applicant's property for construction of a private road if they were to vacate the property and purchase it.

Vice Chair Mercer asked where the property takes legal access to the street. On a power point slide, SP DiDonato pointed to the street frontage of the property as being adjacent to the PRW, further explaining that the driveway is within the PRW, most driveways are in at least a portion of a PRW and that a parcel that is adjacent to a PRW has street frontage. He added that this one is unusual in that it is long and parallels the PRW as opposed to being perpendicular to it. He believed that this lot was created before the lot next door, and was not land locked since it is adjacent to a PRW; landlocked would be surrounded by private property on all sides with no PRW adjacent to it.

Commissioner d'Souza questioned the requirement for a comment period for the MND, noting that he had not seen this one. SP DiDonato responded that it had been sent to Commissioners in November.

Regarding the proposed maintenance agreement with the City of Belmont and since so many HOAs and developers have been going broke, Commissioner d'Souza asked how they would insure that the agreement could be met after the project is completed. Noting that this HOA would not be formed for

approximately 5 years, CDD de Melo responded that staff was not prepared to respond to this question but will devise a response for him.

Responding to Commissioner Mercer's question regarding regulations governing retaining walls next to property lines, SP DiDonato stated that a 6' retaining wall can be built on the property line and anything higher would need to be stepped. He added that they are treated much like fences.

Chair Reed questioned if they have "put the cart before the horse" by working on a parcel map and MND if the City Council should decide that they will not sell the land, will not give an encroachment permit and will not vacate anything. SP DiDonato confirmed that the project could not move forward in that event. CDD de Melo reminded that there are two separate processes – 1) an evaluation of the project for environmental review and 2) evaluation of the merits of the project entitlements. He reminded that CEQA requires evaluation of a project and that staff is required to present the totality of the project to the bodies that have a hand in making the decision. They have not asked the Commission to take an action relative to approval of the project because it is connected to Council action. They are making recommendations on the project at this time based upon the completeness of the project submittal. The SFDR is not included because it is going to be borne out as part of future decisions as it relates to the access for this project via the MEP and the street Vacation. He understood that Commissioners would like to have the single answer on the Vacation and the Encroachment but the analysis of the project does not allow that single question to be the driver of the project; they have to have the context behind that decision.

Chair Reed noted that the draft Resolution language does not include the MEP so he did not do due diligence on the encroachment aspect and was not prepared to make a recommendation on that. SP DiDonato pointed out that page 9 of 10 of the draft Resolution included an MEP analysis but offered to bring it back to the Commission with the Vacation. CDD de Melo added that the project would need to be noticed as such for General Plan conformity as it relates to the MEP and the street Vacation and would come back to the Commission before any action could be taken on those two aspects of the project that go before Council.

Chair Reed opened the public hearing.

Steven Leslie, architect for the project, addressed the Commission and noted that owner Anthony Matiasic, the Civil Engineer, the Geotechnical Engineer and the Traffic Engineer were all available to answer questions. He said that they had been working on this project for 6 years and were grateful to staff for working with them. They have abided by all of the codes and ordinances to which they had to conform. He said that it would have been nice and would have saved the owner a lot of money had they not had to design homes and do a soils report, etc. He said that he had asked Public Works why the steps to nowhere were required and were told that it had to be done in order to get approval. At the beginning of the project they did not know whether the City was going to go with a Vacation and/or was the City going to retain the PRW and improve it themselves even if the applicant agreed to pay for it and maintain it. He encouraged the Commission to approve the MND, the MEP and the Parcel Map to go to City Council. He expects that they will come before the Commission many, many more times if it goes forward through Council.

RS Turning noted that there were 10 requests to speak and that each speaker would be allowed 3 minutes. Chair Reed asked that speakers speak into the microphone so that their comments will be picked up by the recording.

Matthew Ghiglier, a San Francisco resident planning to build a new home in Belmont, believed that this project would be an ideal location for his family and hoped that the project would move forward.

Marie Fir, a San Bruno resident interested in possibly purchasing one of the proposed home, urged the Commission to approve the application.

Diana Gremett, San Jose resident, asked the Commission to allow the owner the opportunity to build the homes because she would like to be able to purchase a new home in Belmont.

Andy Gremett, San Jose resident, mentioned the financial burden of moving into an older home and said that moving into a new home in Belmont would be a fantastic opportunity.

Elaine Patterson, Belmont resident, expressed concerns about hill movement and about the number of houses proposed. She questioned who would pay if her property is damaged due to slides. She and her neighbors have documented the number of slides in the area and had given the information to Mr. de Melo.

Julia Tower, Belmont resident, expressed concerns about traffic, estimating that there would be 3 cars per home or 12 more cars making daily trips up and down Talbyrn Drive and maneuvering the blind curve. She was also concerned about irrigation, but was pleased that the turf would be replaced by drought-resistant plants. She read some quotations from the Minutes of the July 6, 2006 Planning Commission meeting.

Robert Applegate, San Carlos resident, expressed support for the project, and felt that these types of in-fill projects are what the City needs in order to add more housing.

Gerry Greenberg, Belmont resident, said that he had already spent over a quarter of a million dollars dealing with problems on the hill. Every few weeks he has to pick up rocks that roll down the hill and after every rainstorm it is a wash. The hill is unstable. He stated that at this time he would not buy a home on that hill and believed that putting more housing on the hill puts his house in danger. He asked if they will warrant him if there is further movement of the hill so that he will not have to pay for it. He believed it is criminal to put homes there.

Anne Mohdranoff, Belmont resident, believed that, since lots 2 and 3 would be non-conforming by current City zoning, why would the City even agree to this MEP. She could not see any benefit to the City; the developer would benefit. The sidewalk does no good. She believed the City could deny the development. Lot 3 is one of the steepest proposed lots. She mentioned a house on Rose Lane that currently has documented foundation problems. She asked who will take care of the current residents. She said that she has a bare 8' cut on the side of her house and feared that any vibration from heavy equipment up there could cause her to lose her house. She saw no compelling reason to approve the Parcel Map.

Steve Braat, Belmont resident, commented that the key concern for him is density versus slope, especially with houses 2 and 3. He said that they are talking about 200 truck loads of dirt coming in up the steepest road in Belmont. The top half of Talbyrn is in poor condition and needs repaving. He was also concerned about trees and view lines; he did not understand how they got down to 14 trees and feared that people who buy those houses will want the neighbors to cut down their trees, which would

change the view lines and sight lines into the backyards of 107 and 105 Rose Lane. He added that Rose Lane should not be used for any parking, construction access whatsoever; it is considered by the neighbors to be a private street. He asked for a governance model that would assure that construction be wrapped up quickly and asked for warranties that would pay the surrounding neighbors if there is damage to the existing houses. He recommended an escrow fund to help in the even there is any damage. He concluded by recommending that, if anything is approved, it be a much smaller development – not 4 houses.

Janet Pepe Davis, Belmont resident with an office in Belmont, had met the owner, walked the site and looked at the plans. She thought the large lots and large homes would be beautiful. She believed the homes were on stable areas and saw no problem with sliding with modern construction and that the landscaping would help with drainage and site coverage. The lot currently is overgrown and an eyesore. She could not see how the development could inhibit the views or properties below it. She believed it would be a fabulous addition for Belmont where more homes that have nice square footage and quality construction are needed.

Paul Matiasic, son of the property owner, believed the project can and should be approved for many different reasons, not the least of which is that there is real value added to the City on a number of different levels:

- The commodity of new construction, new homes, new development, which is a scarce to non-existent commodity in Belmont.
- The benefit of traffic condition improvement. It is the applicant's position that the City should have done something about the hazards of driving Rose Lane a long time ago. According to the Traffic Engineering review and reports, all motorists on Rose Lane will benefit. The implementation of the 3-way stop will improve visibility at the site.
- The retaining walls will help with stabilization. The geotech work that has been done to date and the stabilization procedures that will be implemented makes this particular site exponentially safer and more stable than it is right now. He believed that homes located below are in greater peril of some type of slide difficulty if the land is not improved and improving it in this way is to the benefit of all.
- In terms of the benefit to the City, there's a pecuniary benefit. 4 new homes on this site will provide additional revenue to the City; fewer layoffs, fewer services being cut.

MOTION: By Commissioner Parsons, seconded by Commissioner Horton, to close the Public Hearing. Motion passed 6/0/1 by a show of hands, with Commissioner Wheeler absent.

Commissioners commented as follows:

Commissioner d'Souza:

- Began by commenting on a SFDR, which CDD de Melo pointed had not been analyzed by staff at this point and asked that comments be limited to the Parcel Map and other entitlements that were included in the Staff Report.
- Would like to see Rose Lane clarified.
- Would like an answer to the issue of the maintenance agreement.
- Would like to see a full life cycle cost analysis done for the roadway and sewer.

Vice Chair Mercer:

- Visited the property and was again disappointed that there was no public notice posted on the site, which she thought was negligent. She walked up and down Talbyrn and Rose Lane but, unfortunately, “Private Property” signs kept her from actually getting onto the property.
- Took issue with 5 of staff’s findings on the MND:
 - Item 4F. Felt that the conservation easement created a potentially significant impact rather than a less than significant impact.
 - Item 6, Geology and Soils. She thought 6Aii regarding Landslides and 6B regarding Erosion and Topsoil warranted a potentially significant impact. They are going to be removing over 2,000 cubic yards of soil which, perhaps could be divided by 4 and maybe for one property that might be ok, but there are 4 properties, 2000 cubic yards off of one little acre out of one little lane down one very narrow windy road. She thought it would be a far greater potential impact.
 - Disagreed with staff’s appraisal of Item 9D about Drainage Pattern and Run-off. She believed there is a potential for additional drainage seeping down into Twin Pines and potentially causing slide exposure below these properties since they are directing the run-off to percolation areas that will go down into that soil below these properties and eventually come out at Twin Pines.
 - Disagreed with the rating for Item 4A about Fire Protection. She thought it would be almost impossible for a large fire truck to get in – the standard turning radius required under the development standards for a cul de sac is a 45’ radius. This is a 30’ radius, so that a large ladder truck could not get out and could not access the other side of the properties, which is the downhill side where a wild fire would be burning up from.
 - Disagree with staff’s findings for 16A regarding Traffic. On Talbyrn there are 26 homes that are down hill from this property and 28 homes that are up hill, for a total of 48 homes. 4 more is an 8% increase on a street that is already extremely heavily trafficked, extremely narrow and extremely dangerous.
 - She said that one can mitigate just about anything and build anything but in the end the cumulative effect of all that mitigation has to be weighed. She felt that this project is such a push and requires so many excessive steps to mitigate the intensity and the danger of the slope that she could not find for recommending that the Council adopt the MND.
- Regarding the Parcel Map
 - She felt that it is hard to overcome the issue that there is no access to this property and that, even if the Commission recommends approval, it is a moot point because the easement does not belong to this property and is not even adjacent to this lot. She likened it to living on a corner in any other neighborhood and your neighbor was allowed to drive down the side of your property in order to get to theirs. It did not make sense to her.
 - The ordinance as written, even if the property is grandfathered in, requires 50’ of frontage for a lot. There is probably 50’ of frontage somewhere for one house and but she did not see where the frontage is for all these other lots unless it is in fact a City street. If it is a City street, then it is required to have a 45’ radius. To her, the project is trying to “have its cake and eat it too” – it’s trying to say that this is a street and therefore our 50’ access is on our street but then again it’s trying to say it is not a street so we don’t have to have a 45’ turning radius.
 - Found the encroachment to be excessive; it is a 10’ rise over a 10’ run, which is a 100’ slope. She understands it 2 steps, not one 10’ wall. The subdivision ordinance specifically says “with respect to special provisions for the subdivision of land having slopes of 10% or greater that maximum fill slopes are to be two horizontal to one vertical,” which is a 50% and this is a 100%.

- She disagreed with the concept of creating a private street, which have led to problems for the City in the past when the residents find that their street needs \$200,000 worth of engineering to shore up – we know that’s the price tag because there was a resident off of Wakefield beyond Hallmark that spent \$200,000 shoring up the back of his property. There have been residents all over town who will say that \$200,000 is the price tag to engineer and shore up a slipping hillside and when property owners cannot come up with that it comes to the City to do it. She thought there is a sound reason why the zoning code requires every property to have its own frontage and for private owners not to be having these little streets because of the maintenance and expense and the risk that they will not be able to afford in the future. She did not think it would be in the City’s best interest to allow another private street.
- She found that the intersection on Talbyrn is a bad idea and that it is unsafe access. If the City wanted a stop sign we could put it there tomorrow if we thought it was a good idea. She does not see that as a benefit that the project is offering because we could put it there now so we’re not gaining a stop sign because of the project. The City does not need a wall there so we’re not gaining a wall there. The resident of 1310 does not feel right now that they need a retaining wall directly on their property line – that’s not a benefit to them. She could not see any benefit in 30 or 40 feet of sidewalk in a place where people can’t walk anyhow, so she could not see any public benefit and believed it creates a dangerous access point on Talbyrn.
- For all of those major reasons, she could not recommend or find in favor of this Parcel Map.

Commissioner Parsons:

- Thanked the potential future residents for coming to the meeting and suggested that there are well-maintained, beautiful homes that exist in Belmont that would not require a lot of money to fix up, and he encouraged them to move to Belmont.
- Regarding the MND
 - Agreed with everything Vice Chair Mercer said.
 - Thought the whole tone of it did not say what Belmont is and addressed the issues as if Belmont is a very dense, heavily occupied City.
 - Disagreed with the comment that 535 cubic yards is not considered excessive cut or fill for the development of a single-family home in Belmont. Bringing dirt up or down that road would be horrendous; it’s an unsafe road to drive.
 - Traffic is a major issue and was not addressed correctly.
 - When they talk about flora and fauna and the animals, he believed they indicated that the property was developed around it and not adjacent to open space. He differed with that and believed Twin Pines Park is below a good piece of that property and felt that that needs to be rewritten.
 - Could not recommend the MND in its current form.
- Regarding the Subdivision Map
 - He said that he started studying architecture, landscape architecture and planning in 1959 and believed this subdivision would fail Design 101 and was a terrible design.
 - The access road coming in the way it does with a steep road coming in at the side is ridiculous and the 3-way stop sign is also ridiculous. 4 houses should not be built with that kind of access onto that street.

- He disagreed with the comments made by the traffic safety people, noting that they recently denied a stop sign on a relatively flat street that had 80 to 100 houses on it to slow the traffic down, but now say that for 3 more houses they'll put in a stop sign. They know it is not safe to pull out there.
- The retaining wall and the steps look like something built in the 50's and 60's on Market Street going up to Twin Peaks – it is not Belmont.
- It is essentially a flag lot and he did not think the City approved flag lots, but maybe there is some way around it. He did not think it was a good idea.
- Did not believe the access on the road meets safety criteria for the Fire Department and does not meet the City's subdivision regulations on two streets intersecting.
- Referred to the intersection of F Street, El Camino and 5th Avenue as an example of what had been a dangerous intersection. CalTrans thought the road was so dangerous they allowed the City to turn the road so it became a T intersection instead of like it had been.
- Saw no advantage to the City. He saw a lot of land moving down the road when the residents decide not to pay for maintenance of the retaining walls.
- Thought the Vacation would give special privilege to the developer because now he could develop four houses, but it would take away the same privilege to the neighbor who lives in the adjacent house. If that neighbor wanted to reorient his house and put his driveway off Talbyrn through the easement he could no longer do that because the City gave it to this developer as a private road. By vacating that land and turning it over to private property owners it takes it away from access for the neighbor on that same PRW.
- He could not find for this proposal. He thought there would be more trees lost and that it is counter to anything in the General Plan and the Hillside Plan – it is somebody trying to make a lot of money at the expense of Belmont. He guaranteed that no matter what tax base the City got from the development it would not cover the cost of what the City has to pay for schools, roads, fire and everything else for 3 houses.

Commissioner Horton:

- Could support the MND.
- Regarding the Parcel Map
 - According to the laws that are in place, she could find for subdividing this parcel except that she could not find for the road.
 - She could not recommend the Vacation; the sale, the sidewalk and the steps. She questioned why the wall is in the PRW and not in the private property and noted that it is benefitting this property and nobody else.
 - It is a flag lot of sorts, so she could not support the subdivision map that has the MEP attached to it.

Commissioner Mayer:

Said that he approached this from a somewhat different angle:

- He believed that property owners have the right to develop their properties in accordance with the regulations and zoning ordinances and so forth that apply in a given situation.
- It seemed to him that there are some questions which he shared earlier regarding how the driveway works.
- Did not see anything that contradicted Belmont zoning ordinances.
- Would like to have an answer to the question about frontage that Vice Chair Mercer brought up.

- Stated that it is a less than ideal situation but agreed that developing this property would probably enhance the stability and the safety of the hillside.
- Could make for the MND but there are some questions about the lot subdivision that might still need to be addressed.

Commissioner Parsons added the comment that recently a project was taken to the City Council before it came to the Commission regarding subdivision of a piece of property behind Miramar Terrace. The proposal had come in for more than two or three units and the City Council did not approve the subdivision or the density on that lot. That lot was fairly flat and had easy access so he wanted to point out that the City wants to operate for everybody the same way.

Commissioner Mayer added that he thinks it is risky to make decisions based on what might happen down the road. There might be problems with that retaining wall and there might be a problem with the maintenance and the ability of the property owners to follow through on the maintenance agreement but that is “could be,” and “might be,” and in his opinion they could not make decisions based on that.

Chair Reed:

- Believed that in 1955 this property could have been subdivided without any problem. It would have been subdivided for 4 or maybe 5 houses, because the lots in those days were much smaller.
- Agreed with the owner’s son that there would be economic benefit here; there would be 4 new houses paying into the property tax base.
- Did not find anything in the MND that stands out as a big issue.
- Regarding the Parcel Map, the finding that “the proposed map is not consistent with the General Plan and Specific Plan” is a really close call in this case. The General Plan talks about density and slope and he believed this to be a really tricky project given today’s General Plan, but even with that he said that he could probably support it.
- It bothered him that the whole project is contingent upon a decision to sell land, grant an easement and a Vacation, appraisal and sale and a major encroachment – these are all things that have to happen for this project to be viable and he had no idea whether they will happen or not.
- Concluded that he is generally in favor of the project with the exception of the Parcel Map and the General Plan.

CDD de Melo confirmed for Chair Reed that the encroachment actions are not before the Commission at this time. The General Plan conformity as it relates to the encroachment for the street Vacation is not before them; it would have to come back at a different time. The Resolutions that are presented are in relation to recommending to the City Council the adoption of the environmental study and recommending the Parcel Map. If the Commission believes there is additional information needed to make that recommendation or if they are unable to make that recommendation staff is going to be bringing these actions to the City Council and they are wholly dependent upon the MEP and the street Vacation activities, so it depends on if there are the votes here tonight to take action on the Resolutions, but there is still some incompleteness as it relates to the project because of SFDR, etc.

Commissioner Horton asked for clarification that the way the subdivision map Resolution is written the Commission would be recommending for an associated MEP. CDD de Melo responded that they cannot finish that action off until the General Plan conformity resolution comes back to them. Commissioner Horton reiterated that a couple of the Commissioners said that they are in agreement with the subdivision but they have a problem with the other half; they cannot find for the encroachment piece.

Vice Chair Mercer believed that it is all moot but CDD de Melo stated that they can actually tailor the resolution based upon the actions that they are prepared to make at this time. If they believe that there is insufficient information as it relates to the major encroachment then they don't have to take that action or they can re-write the Resolution. He added that if Commissioners are not prepared to take any of the actions at this time, in a recommending fashion, they are not at liberty to do so.

CA Renne interjected that adopting a Resolution is simply a way of capturing a decision on the various entitlements that are before the Commission. They do not need to feel captive to the Resolution. Instead he urged them to look at the individual entitlements and the recommendations that are before them – the MND, the Encroachment, and the Subdivision – and determine whether they can take an action on those. If their action on those 3 items isn't consistent with what's in the Resolution, staff can bring the Resolution back tailored to meet their requests. As an example, they could review the MND and decide it is adequate but decide they don't have sufficient information to act on the other two.

CA Renne further wanted to clarify one aspect of what they do with an MND. It is about whether or not the environmental study is adequate and whether the mitigation measures are adequate to address any of the identified impacts in the environmental study. Finding the environmental study adequate is not an endorsement of the project – it is a review of whether or not the analysis was done correctly on the potential environmental impacts.

Commissioner Mayer asked what happens if the Commission decides to take no action on either of the Resolutions – i.e., does that just stop the project and they back go to the drawing boards or does it go on in any case to the City Council in its present form? CDD de Melo stated that staff would certainly be interested in a position that the Commission may have relative to the parcel map and relative to the environmental study, but we are recommending that the Council be the body to certify the environmental study. The Council has to take an action related to the major encroachment permit and the street Vacation. He restated that the words of the Resolution do not bind the Commission. Either at the Commission or the Council level there have been actions where the Commission has said that they need to bring conditions of approval back because they have made edits and want to review them a second time. If the Commission is of a mind to take an action on any of the entitlements that they are charged to make, they can tailor the Resolution, and staff and could bring it back to a subsequent meeting.

MOTION: By Commissioner Horton, seconded by Commissioner Mayer, to adopt the Resolution recommending City Council adoption of a Mitigated Negative Declaration of Environmental Significance in a mitigation monitoring and reporting program for the subdivision of an existing 1.34-acre lot into 4 new lots and the construction of one new single-family home with an attached garage on each lot at 1320 Talbyrn Drive.

Ayes: Horton, Mayer, Reed
Noes: d'Souza, Parsons, Mercer
Absent: Wheeler

Motion tied/failed 3/3/1

MOTION: By Commissioner Horton to adopt the Resolution recommending City Council approval of a Parcel Map for the subdivision of an existing 1.34-acre lot into new lots, quantity to be determined, at 1320 Talbyrn Drive.

Commissioner Horton clarified that she was not moving the private road and could not say how many lots there should be because they do not have a frontage. CA Renne stated that she, in essence, is not recommending approval of the subdivision map as submitted and recommended that she not attempt to condition the approval based upon some indeterminate drawing of lines.

Motion failed for lack of a second.

MOTION: By Commissioner Parsons, seconded by Vice Chair Mercer, to adopt a resolution recommending the City Council disapprove the proposed Parcel Map for the subdivision of an existing 1.34-acre lot into 4 new lots at 1320 Talbyrn Drive.

Ayes: Parsons, Mercer, d'Souza
Noes: Horton, Mayer, Reed
Absent: Wheeler

Motion tied/failed 3/3/1

CA Renne stated that if there is going to be a motion to disapprove the map – that is, if the site is not found to be suitable for the building and if it is an affirmative vote – he asked that the motion include one finding or more that they feel they are unable to make. To clarify, since the last vote was a vote to deny the map he was asking that a reason be stated consistent with the factors for denying a tentative map. If there is going to be an affirmative vote to not approve the map he asked that it be supported by a finding. Since the last motion failed that was unnecessary. He further wanted to make clear that the MND did not move forward with an approval recommendation. If it goes forward it goes forward without a recommendation. If the subdivision map goes forward it would go forward without a recommendation.

Commissioner Mayer pointed out that Commissioner Horton was trying to modify the Resolution – she did not explain specifically that she wanted to get rid of the encroachment issue. Commissioner Horton added that she believed that the property has access on a public street and cannot continue to have access on a public street and she did not see a solution to that particular option.

Commissioner Parsons said that giving up the easement is a benefit to the property owner at the expense of the adjacent property owner because it would become a private road. If he wanted to build a driveway and reorient his house he could not because it would be private property. Commissioner Horton believed it would be a special favor. Commissioner Parsons reiterated that it is not consistent with the specifics of subdivision maps with respect to the road. He added that he did not think it meets traffic safety considerations adequately and that the property is not suitable for this type of development because of the way it is currently exists and without giving a special privilege. He suggested that staff could craft the wording and bring it back.

Vice Chair Mercer said that the Planning Commission is not prepared to make a recommendation so staff would have to take it forward without the Commission's recommendation. She added that even if they

could all agree to not recommend it still would not be recommended; it doesn't have any effect on the bottom line.

Chair Reed said that the message is that they have a deeply conflicted Planning Commission that views this as a very tough issue with no simple solution. Those who approved it probably did so in a difficult way and those who denied it would love to see something work here but can't find for it as such.

CDD de Melo stated that the Commission has taken an action – which is no action – on the project. The results of this decision will be forwarded to the City Council because they need to review other aspects of the project.

CA Renne stated that if the applicant elects to move forward, before it goes to City Council for action on the Vacation it would be advisable also on the conveyance of the property. Before the City Council can vacate the land and before the property can be sold the General Plan conformity finding would have to be made as to those two actions. Both of those are matters that would come to the Commission to report on the conformity of the proposed action, and then the City Council would be able to act on that. Therefore, if the applicant decides to move forward with the project as it is being proposed right now, the Commission will see this project again before it goes to City Council for approval.

CDD de Melo added that the General Plan conformity as it relates to the MEP and the street Vacation is required to be scheduled with the Planning Commission before there would be an action before the City Council. CA Renee interjected that the one matter that the Council could take action on at this time would be to determine whether or not the environmental study is adequate. The question of how the project will achieve access will be the subject of the Vacation discussion and finding and the decision by the City whether or not to sell the land, and then a General Plan conformity finding to support that in a formal Council action.

Chair Reed called a 5-minute break at 8:55 p.m. Meeting resumed at 9:00 p.m.

6. REPORTS, STUDIES AND UPDATES:

CDD de Melo reported as follows:

6A. North Road Right-of-Way

No update at this time

6B and 6D. Caltrain Modernization Program and High-Speed Rail (HSR)

A letter had been prepared to the Caltrain Modernization Program manager that describes the City's concerns and opposition to the passing tracks. Based upon the position of the City as it relates to HSR in the business plan comment letter of mid-January, what is called the mid-line segment having any passing tracks is essentially not acceptable to the City if there are objections to HSR as a project either locally or on the State level. There are 4 sets of passing tracks being studied in the northern segment, the full mid-line and the short mid-line involve passing tracks along Belmont's right-of-way or at least Belmont's segment of the railway and as it is designed it would be one additional track on the each side of the current track. He added that there is potential that there would be only one passing track as opposed to two but it is almost a moot point from Belmont's commenting perspective because, if there is no support for High-Speed Rail as a project than there is no support for passing tracks of any kind, whether its one or two. It was planned to send that letter out on a staff basis the following day, and to present it to City

Council as part of their HSR update the following Tuesday. At that meeting Council will be discussing that letter as well as whether or not the HSR Ad Hoc committee will continue to function.

Chair Reed asked what role passing tracks play in Caltrain's business plan. CDD de Melo responded that the business plan and the Caltrain Modernization Plan are two distinct issues – The Caltrain Modernization Plan deals with the opportunity of creating electrification along the Caltrain right-of-way and all the ancillary improvements that would be made to accommodate new rolling stops; new changes and improvements to accommodate a more efficient Caltrain. Chair Reed suggested that they are moving away from diesel to electricity to make them more economically viable and CDD de Melo responded that the connected concern is that it still involves HSR and if Belmont is not supportive of HSR on either local or a State-wide basis, then anything short of just using our current right-of-way for Caltrain electrification doesn't meet our objections about passing tracks. Chair Reed asked if they can modernize Caltrain – electrify the rails and make it economically viable, as a separate issue from HSR – if they could find the money. CDD de Melo responded that they could do that but the challenge is finding the money. He stated that obviously there is money that is already earmarked for some components for Caltrain electrification but there are also components that do not have a viable funding source – the link is the HSR.

Commissioner d'Souza noted that there is a difference – it's not HSR because HSR has two elements – the train itself plus the connecting lines. The connecting lines are budgeted separately and the Caltrain and the one in LA are the two priorities for the connecting lines so that the connecting lines could still get funded even if HSR never got built. Discussion ensued. CDD de Melo concluded that more information will follow at the Council level on the 2/28. He stated that he will provide the Commission with updates from a 2/29 meetings of the Peninsula Consortium of Cities.

6C. Sam Trans – Reduction of Services

RS Turning reported on her efforts to gather information on this item. She had attended a seminar and talked to representatives, who could not verify could not very any planned reduction or elimination of services. Specifically she had inquired about routes 260 and 295, and was referred to Sarah Navong, who had not returned her call. When she has more information she will update the Commission either by email or it will be on the next meeting agenda.

6D. High-Speed Rail (HSR)

See discussion above.

6E. Ralston/US-101 Landscape Project

No update at this time.

7. CITY COUNCIL MEETING OF TUESDAY, FEBRUARY 28, 2012 – 7:30 P.M.

Liaison: Commissioner Parsons asked to be excused.

Alternate Liaison: Commissioner Mayer will attend the meeting.

9. ADJOURNMENT:

The meeting was adjourned at 9:07 p.m. to a Regular Planning Commission Meeting on Tuesday, March 6, 2012, at 7:00 p.m. in Belmont City Hall.

Carlos de Melo

*CD's of Planning Commission Meetings are available in the
Community Development Department
Please call (650) 595-7416 to schedule an appointment.*

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