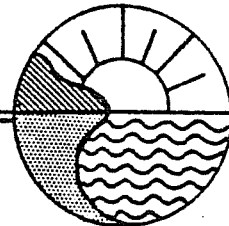


# AGENDA



## Planning Commission – City of Pacifica

DATE: February 7, 2011  
LOCATION: Council Chambers, 2212 Beach Boulevard  
TIME: 7:00 PM  
ROLL CALL:  
SALUTE TO FLAG:  
ADMINISTRATIVE BUSINESS:

Approval of Order of Agenda

Approval of Minutes: January 18, 2011

Designation of Liaison to City Council Meeting of: February 14, 2011

### CONSENT ITEMS:

### PUBLIC HEARINGS:

1. UP-017-11 USE PERMIT and COASTAL DEVELOPMENT PERMIT, filed by the applicant and owner, James Payne, to legalize fencing and to operate a range of C-3 (Service Commercial) outdoor uses at 800 to 1046 Palmetto Avenue (APN 009-074-070, 080, 090, 100, 110, 140, 160 and 240). Recommended CEQA status: 1) Legalizing the fencing is exempt from CEQA, and 2) Allowing the range of C-3 outdoor uses is not exempt from CEQA. *Proposed Action:* 1) Approval for legalizing fencing and 2) Continuance for the range of C-3 outdoor uses pending environmental review.

### OTHER AGENDA ITEMS:

### COMMUNICATIONS:

Commission Communications:

Staff Communications:

Oral Communications:

This portion of the agenda is available to the public to address the Planning Commission on any issue within the subject matter jurisdiction of the Commission that is not on the agenda. The time allowed for any speaker will be three minutes.

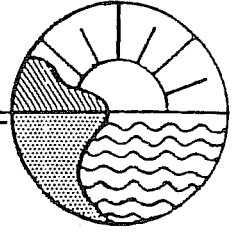
### ADJOURNMENT

Anyone aggrieved by the action of the Planning Commission has 10 calendar days to appeal the decision in writing to the City Council. If any of the above actions are challenged in court, issues which may be raised are limited to those raised at the public hearing or in written correspondence delivered to the City at, or prior to, the public hearing. Judicial review of any City administrative decision may be had only if a petition is filed with the court not later than the 90th day following the date upon which the decision becomes final. Judicial review of environmental determinations may be subject to a shorter time period for litigation, in certain cases 30 days following the date of final decision.

The City of Pacifica will provide special assistance for disabled citizens upon at least 24-hour advance notice to the City Manager's office (738-7301). If you need sign language assistance or written material printed in a larger font or taped, advance notice is necessary. All meeting rooms are accessible to the disabled.

*NOTE: Off-street parking is allowed by permit for attendance at official public meetings. Vehicles parked without permits are subject to citation. You should obtain a permit from the rack in the lobby and place it on the dashboard of your vehicle in such a manner as is visible to law enforcement personnel.*

# STAFF REPORT



PLANNING COMMISSION-CITY OF PACIFICA

**DATE:** February 7, 2011

**ITEM:** 1

## PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of Public Hearing was published in the Pacifica Tribune on January 26, 2011 and 32 surrounding property owners and occupants were notified by mail.

**FILE:** UP-017-10  
CDP-329-10

**APPLICANT and OWNER:** James Payne, P. O. Box 77424, San Francisco, Ca 94107

**LOCATION:** 800 - 1046 Palmetto Avenue      **APN:** 009-074-070, 080, 090, 100, 110, 140, 160, and 240

**PROJECT DESCRIPTION:** The applicant proposes to legalize fencing and obtain approval to operate a range of C-3 outdoor uses on the subject site.

General Plan: Commercial

Zoning: C-3 (Service Commercial District)/CZ (Coastal Zone)

**RECOMMENDED CEQA STATUS:** 1) Exemption #15303 (e) to legalize the fencing; and 2) Not exempt for the range of C-3 outdoor uses.

**ADDITIONAL REQUIRED APPROVALS:** Appealable to Coastal Commission

**RECOMMENDED ACTION:** 1) Approval fencing; and 2) Continuance for the range of C-3 outdoor uses pending environmental review.

**PREPARED BY:** Kathryn Farbstein, Assistant Planner

***ZONING STANDARDS CONFORMANCE:***

<b><u>Standards)</u></b>	<b><u>Required</u></b>	<b><u>Existing</u></b>	<b><u>Legalized</u></b>
Fence Height Commercial	6'	5-8'	6'

**PROJECT SUMMARY**

**A. STAFF NOTES:**

**Background:** Planning permits have been granted for portions of the subject site that date back to 1977. Based on research by staff, in 1985 a Use Permit was approved to allow the property owner to operate an auto-wrecking business with storage of vehicles to be dismantled and sale of used auto parts at 830 Palmetto Avenue. The subject business had been in operation prior to City incorporation and was required to obtain the permit for the change in ownership in order to continue operating. Pacifica Municipal Code Section 9-6.05 (see Attachment d) states that such permits are non-transferrable. The Use Permit encompassed all the properties included in this current proposal. The lot addressed as 830 Palmetto Avenue contained the main part of the business and the surrounding lots were used mainly for vehicle storage. It was conditioned upon project approval that if lot 14 (900 Palmetto Avenue) was used for vehicle storage that lots 7, 8, 9 and 11 (vacant lot to the north addressed as 800 Palmetto Avenue) could not be used for that purpose without amending the approved permit. The condition also stated that if the lot south of 830 Palmetto Avenue was used for storage, that 800 Palmetto Avenue could not be used without amending the Use Permit.

In 1993, a Use Permit was approved to allow the auto dismantling business, which was then utilizing 830 Palmetto Avenue and the lot to the south, to change hands and expand further southward. On May 6, 1996, the Planning Commission granted Use Permit, UP -780-96 and Coastal Development Permit, CDP-98-96 and Parking Exception, PE-62-96 for the conversion of an existing garage to a lab and the adjacent dwelling was converted into business offices at 900 Palmetto Avenue. In November 2000, the property owner requested approval to operate an outdoor storage facility with a 10,000 square foot paved area and legalize existing fencing around 800 Palmetto Avenue. The request for approval of a storage facility was eventually withdrawn. On November 19, 2001, the Planning Commission granted approval of Coastal Development Permit, CDP-199-01, and Site Development Permit, PSD-701-01 to legalize approximately 7 foot tall fencing along the north and east side of the vacant lot addressed as 800 Palmetto Avenue and located just south of the public parking area. The lots were vacant at that time and no permits have been granted since.

Most recently, a study session was conducted on August 3, 2009 regarding the legalization of fencing within the interior and along the west side at the edge of the bluff at 800 Palmetto Avenue. In addition, the study session reviewed the applicant's proposal to expand the existing auto wrecking business. During the study session, several Commissioners expressed concerns regarding geotechnical issues and stormwater treatment.

**2. Current Conditions:** The subject site consists of eight lots as identified by the San Mateo County Tax Assessor. Some of these lots are small, irregularly shaped lots and may be portions of the former railroad right of way. The applicant has owned at least some of these lots since 1985 and currently owns all eight of these lots. Attached are two letters from the owner regarding the proposed project that staff received with the submittals for the Planning permit application.

The subject site includes the lots from 800 Palmetto Avenue southward to 1046 Palmetto Avenue which currently contains Recology, the recycling business. As described above, 800 Palmetto Avenue is a completely fenced in vacant lot with no record of an active business license which is located south of the public parking lot. The next largest property to the south and addressed as 830 Palmetto Avenue contains a building at the front of the lot that currently has three businesses with active business licenses. The three businesses are: 1) Coastside Towing, Storage and RV Repair, 2) Big Guys Towing, and 3) Pacifica Auto Wrecking. According to the Finance Department, the applicant owns and operates Coastside Towing and Pacifica Auto Wrecking. The next largest lot to the south is addressed as 900 Palmetto Avenue and is identified on the site plan as a residence with a detached garage. The last large lot that forms the southern boundary of the subject site and addressed as 1046 Palmetto Avenue contains a recycling center which has a current business license.

**3. Project Description:** The applicant is requesting approval of a range of C -3 Service Commercial District uses that will be conducted outdoors on any one of his properties currently addressed as 800, 830, 900 and 1046 Palmetto Avenue. The applicant has identified the range of C-3 uses in the attached letter dated December 6, 2010. Some examples of these uses include: equipment sales, recycling, storage and trucking. A total of 29 uses have been identified. However, the applicant is not proposing to construct any buildings or structures other than legalizing the fencing that will be discussed below. The applicant has stated that with approval of a range of uses, he will be better able to rent out his commercial properties instead of having each individual tenant obtain approval of a Coastal Development Permit and a Use Permit for a specific type of business activity.

The applicant is also requesting legalization of the completed five foot chain link fence near the western property line and located at the top edge of the bluff for the property at 800 Palmetto Avenue. In addition, another fence within the interior portion of 800 Palmetto Avenue has been started and this fence appears to be partially constructed by using telephone poles that are approximately 8 feet in height.

**4. General Plan, Zoning, and Surrounding Land Use:** The General Plan designation for the subject property is Commercial and the zoning designation is C-3, Service Commercial District and is also in the Coastal Zone. The subject site is also located within the Appeal area of the Coastal Zone. The site is bounded by the Pacific Ocean on the west side and Palmetto Avenue on the east side. The properties to the north, south and east across Palmetto Avenue have the same General Plan and Zoning designations. The surrounding land uses include a public parking lot and RV Park to the north, and a variety of auto related businesses including a dog therapy facility to the south.

**5. Municipal Code and Regulatory Standards:** The proposal requires approval of a Coastal Development Permit and Use Permit. The Coastal Development Permit is needed to allow for the increased intensity of use and fencing at the site. The bluff top location of the site precludes the project from qualifying for any exemption to the Coastal Development Permit requirement. The Use Permit would be needed to allow for the range of C-3 outdoor uses as defined by the applicant that could operate on any lots within the subject site. The use is consistent with the General Plan designation for the area.

**6. CEQA Recommendations:**

1) Fencing: Staff has determined that the proposal to legalize the fencing is exempt from the California Environmental Quality Act (CEQA) under Section 15303 below:

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

(e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

The fence that has been constructed along the western edge of 800 Palmetto Avenue and the partially constructed interior fence are considered accessory structures as shown above, and therefore, are exempt from CEQA.

2) Range of C-3 Outdoor Uses: Staff has determined that the proposal to approve a range of C-3 outdoor uses is not exempt from CEQA under Article 19. As stated in Section 15300.2 Exceptions:

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

In staff's opinion, the proposed range of uses such as equipment sales, recycling, storage and trucking that would be conducted on the subject site which is on a bluff-top overlooking the ocean are the types of activities that may have a significant effect on the environment. For example, two of the potential environmental issues are discussed below because these are types of issues that need to be addressed through environmental review before the Planning Commission can adequately review the proposal.

Geotechnical Stability: The Zoning Code, General Plan and Local Coastal Land Use Plan all require that a thorough geotechnical study be prepared for proposed developments on bluff-top properties. In addition to assessing site suitability, the study should show the net developable

area of the site. Net Developable area is defined as the portion of the lot “determined to be adequate to withstand a 100-year hazard event.” Uses of setbacks, based on the 100-year hazard event, are encouraged to minimize damage to structures. Although Geotechnical Bluff Evaluations were submitted for some of the lots within the subject site (see Attachment b), the information provided is inadequate to address all the geotechnical issues that would be analyzed during environmental review.

Stormwater Run-off: All projects must take measures to reduce storm water runoff, and in particular, projects that are adjacent to the ocean need to ensure that stormwater runoff does not flow into the ocean. Such measures include minimizing run-off through site design measures, treating run-off to reduce contaminants and, in some cases, reduce the flow rate of run-off. As part of the submittal (see Attachment c), the applicant provided a detail of a 500 gallon sand-oil separator but there is minimal information regarding how the stormwater runoff will be collected on site and treated before flowing into the ocean.

**7. Use Permit:** The Planning Commission shall grant approval of a Use Permit only when all of the following findings are made.

- a. That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City;
- b. That the use of building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the Local Coastal Plan; and
- c. Where applicable, that the use or building applied for is consistent with the City’s adopted Design Guidelines.

**8. Coastal Development Permit Findings:** Section 9-4.4304(k) of the Municipal Code allows the Planning Commission to issue a Coastal Development Permit based on the findings specified below:

- a. The proposed development is in conformity with the City’s certified Local Coastal Program.
- b. Where the Coastal Development Permit is issued for a development between the nearest public road and the shoreline, the development is in conformity with the public recreation policies of Chapter 3 of the California Coastal Act.

**9. Analysis:**

Coastal Development Permit –

1) *Legalize Fencing:* The applicant is requesting approval to legalize the fencing at 800 Palmetto Avenue. The fencing that has been constructed along the edge of the bluff is necessary to prevent people from entering the property illegally from the beach according to the applicant. The

The partially completed fence along the interior of the property is necessary to better utilize the property according to the applicant. Staff believes that the fencing is appropriate for the location and use of the site. However, the partially completed interior fence may be over 6 feet in height. Because the existing fencing previously approved was approximately 7 feet in height and the fencing along the edge of the bluff is 5 feet in height, staff believes that the interior fencing should not exceed 6 feet in height. The height of the fencing on other lots within the subject site appear to be 8 feet in height which is a requirement for auto dismantling operation but auto dismantling has not been approved for 800 Palmetto Avenue. A fence on commercially zoned property can exceed 6 feet in height with approval of a Site Development Permit. Thus, staff is recommending a condition of approval to limit the height of the partially completed interior fence to 6 feet.

2) *Range of C-3 Outdoor Uses:* The applicant is requesting approval from the Planning Commission of a range of C-3 outdoor uses including equipment sales, recycling, storage and trucking. The 29 types of C-3 uses are specified by the applicant in his letter dated December 6, 2010 (see Attachment c). Because some of his property is vacant and currently underutilized, the proposed uses would result in an intensification of use; thus, requiring approval of a Coastal Development Permit. As discussed previously, staff has determined that the proposal for a range of C-3 outdoor uses is not exempt from CEQA. Environmental review is necessary to address any issues resulting from a variety of potential businesses that may impact the sensitive bluff-top location of the subject site. In staff's opinion, the proposal to allow a range of C-3 outdoor uses cannot be considered by the Planning Commission until environmental review has been completed. The applicant initially declined to allow staff to seek scopes of work proposals from environmental consultants. Recently, the applicant directed staff to obtain information from environmental consultants regarding environmental review of his proposal for a range of C-3 outdoor uses. Staff is in the process of obtaining information from several environmental consultants.

Use Permit – As stated previously, staff cannot agendize the project for a decision regarding Planning Permits until the appropriate environmental review has been completed. Once environmental review is completed and if the proposal is approved by the Planning Commission at a future date, the applicant would be allowed to rent the commercial space from 800 to 1046 Palmetto Avenue for a range of the identified uses without first obtaining a Use Permit and Coastal Development Permit. If the approval is granted, staff review would be limited to processing the business licenses for each of the potential 29 C-3 uses listed by the applicant and if staff determines that the proposed business is consistent with the pre-approved range of uses, the business license would be issued and approval of a Use Permit and/or Coastal Development Permit would not be necessary.

**10. Summary:** In light of the foregoing, staff recommends that the Planning Commission approve in part legalizing the fencing but continue the Planning permits to allow approval of a range of C-3 outdoor uses for the subject site identified as 800 through 1046 Palmetto Avenue pending environmental review. In staff's opinion, there are sufficient findings to approve Coastal Development Permit, CDP-329-10 for legalizing the fencing but the Use Permit, UP-017-10 and the Coastal Development Permit, CDP-329-10 cannot be granted to allow approval of a range of C-3 outdoor uses because environmental review has not been completed.

## RECOMMENDATION AND FINDINGS

### B. RECOMMENDATION:

Staff recommends that the Planning Commission **APPROVE** CDP-329-10 in part to legalize the fencing but **CONTINUE** CDP-329-10 and UP-017-10 to grant approval of a range of C-3 outdoor uses for a commercial site at 800-1046 Palmetto Avenue, subject to the following conditions:

#### Planning Department:

1. Development shall be substantially in accord with the plans entitled "Site Plan for Jim Payne" consisting of one (1) sheet, dated December 1, 2010, except as modified by the following conditions.
2. The height of the fencing to be completed on the interior portion of the site addressed as 800 Palmetto Avenue is limited to 6 feet.
3. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.
4. The applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City relating to applicant's project including, but not limited to, any Proceeding for personal injury, property damage, or death, or brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and /or any mitigation monitoring program, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorneys fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, City, and /or parties initiating or bringing such Proceeding. If the applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

### C. FINDINGS:

1. **Findings for Approval of the Coastal Development Permit to legalize the fencing:** The Planning Commission finds that the fencing to be legalized at 800 Palmetto Avenue, as conditioned, is in conformity with the City's Local Coastal Program and Public Recreation



policies of Chapter 3 of the California Coastal Act. Specifically, the fence along the western edge will provide a protective barrier to help ensure that people do not climb up onto the bluff and enter the property illegally and the interior fencing will help the applicant to better utilize the site. In addition, the design and scale of the fence is unobtrusive and allows views of the ocean. The project will not negatively impact any access to existing coastal recreation facilities, nor will it increase the demand for additional facilities or negatively affect any existing oceanfront land or other coastal area suitable for recreational use. The proposal will not have significant adverse effects, either individually or cumulative, on coastal resources.

D. **MOTION FOR APPROVAL:**

Move that the Planning Commission find that the portion of the proposal to legalize the fencing is exempt from CEQA, and **APPROVE** CDP-329-10, subject to conditions 1 through 4, based on findings contained within the February 7, 2011 staff report and incorporate all maps, documents, and testimony into the record by reference.

E. **MOTION FOR CONTINUANCE:**

Move that the Planning Commission find that the portion of the proposal to grant advance approval of a range of C-3 outdoor uses is not exempt from CEQA, and **CONTINUE** CDP-329-10 and UP-017-10 because environmental review has not been completed.

Attachments: (Planning Commission only)

- a. Land Use and Zoning Exhibit
- b. Letter from Applicant/Owner Received October 25, 2010
- c. Letter from Applicant/Owner Received December 6, 2010
- d. Chapter 6 Auto Dismantling Business
- e. Site Plan – 1 page full sheet size