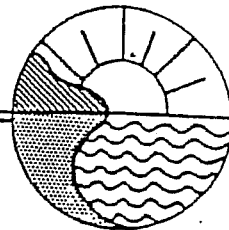


# AGENDA



## Planning Commission – City of Pacifica

DATE: Monday, January 5, 2009  
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: December 15, 2008

Designation of Liaison to City Council Meeting of: January 12, 2009

### CONSENT ITEMS:

1. CDP-291-07 EXTENSION OF PERMITS for an addition to a single-family residence at 139 Essex Way, Pacifica (APN 023-  
PE-139-07 026-050) Proposed Action: Grant extension request  
UP-982-07
2. UP-944-05 EXTENSION OF PERMITS for the construction of two-story mixed-use (commercial and residential) building at  
PSD-735-05 the northwest corner of Monterey Road and Waterford Street, Pacifica (APN: 009-058-040) Proposed Action:  
Grant extension request

### PUBLIC HEARINGS:

3. CDP-305-08 COASTAL DEVELOPMENT PERMIT, filed by the agent, Brian Brinkman, on behalf of the applicant, Andy  
Anderson, and owners, Larry and Sandra Anderson, to demolish an existing 2,150 square foot single family  
home and replace it with a new 4,300 square foot home, and raise the existing detached garage at 103 Essex  
Way Pacifica, CA (APN 023-036-190). The project is located in the Coastal Zone. Recommended CEQA  
status: Exempt. Proposed Action: Approval as conditioned (Continued from December 1, 2008)
4. UP-994-08 USE PERMIT, VARIANCE, and SITE DEVELOPMENT PERMIT, filed by the agent, Leah Hernikl, on behalf of  
PV-494-08 the applicant, Metro PCS, to install a new wireless communication facility, including a 40 foot tall flagpole with 3  
PSD-773-08 panel antennas and related equipment, at 1220 Linda Mar Blvd., Pacifica (APN: 023-281-130). Recommended  
CEQA status: Exempt. Proposed Action: Approval as conditioned (Continued from December 15, 2008)
5. CDP-302-08 COASTAL DEVELOPMENT PERMIT, USE PERMIT, and PARKING EXCEPTION, filed by the agent, Brian  
UP-988-08 Brinkman, on behalf of the owner, Pete Lommori to construct a single-family unit next to an existing dwelling at  
PE-151-08 134 Paloma Avenue, Pacifica (APN 016-022-040). The project is located in the Coastal Zone. Recommended  
CEQA status: Exempt. Proposed Action: Continue to January 20, 2009 (Continued from November 17, 2008)
6. PSD-774-08 SITE DEVELOPMENT PERMIT, USE PERMIT, TENTATIVE SUBDIVISION MAP, COASTAL  
UP-998-08 DEVELOPMENT PERMIT, VARIANCE, and PARKING EXCEPTION, filed by the agent, Lorin Hill, on behalf of  
SUB-217-08 the applicants/owners, Jama and Monica Houman, to construct a mixed use building with 3 one-bedroom  
CDP-310-08 condominium units above 2 commercial spaces, at 2270 Palmetto Avenue, Pacifica (APN 016-294-570). The  
PV-497-08 project is located in the Coastal Zone. Recommended CEQA status: Exempt. Proposed Action: Approval as  
PE-152-08 conditioned
7. UP-995-08 USE PERMIT and COASTAL DEVELOPMENT PERMIT, filed by the applicant, Cathy Chen-Rennie, on behalf  
CDP-308-08 of the owner, Friederich Binsfield, to operate a dog swimming and training business at 1040 Palmetto Avenue,  
Pacifica (APN 009-074-170). The project is located in the Coastal Zone. Recommended CEQA status: Exempt.  
Proposed Action: Approval as conditioned

8. PSD-730-04 EXTENSION OF PERMIT for construction of a single-family residence at the southwest portion of Troglia Terrace and Oddstad Way, Pacifica (APN 022-071-210 to -240). CEQA status: Exempt Proposed Action: Grant extension request

**OTHER AGENDA ITEMS:**

9. DISCUSSION OF BED AND BREAKFAST INN REGULATIONS Proposed Action: Direction to Staff

**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.***

# City of Pacifica

## MEMORANDUM

**DATE:** January 5, 2009

**TO:** Planning Commission

**FROM:** Kathryn Farbstein   
Assistant Planner

**SUBJECT:** Agenda Item No. 1: Request to Extend Coastal Development Permit, CDP-291-07, Parking Exception, PE-139-07, and Use Permit, UP-982-07 for One Year at 139 Essex Way (APN 023-026-050)

---

On December 17, 2007, the Planning Commission approved a Parking Exception, Coastal Development Permit, and Use Permit to construct a two-story addition of approximately 400 square feet to a two-story single family dwelling of approximately 1,200 square feet with an attached two-car garage on a substandard lot. In addition, a car turnout was approved alongside the garage to provide guest parking. Details of the project are contained in the attached staff report, minutes and grant letter from the Planning Commission meeting. The applicant is required to obtain a building permit and start construction within one year from the Planning Commission approval of the project. The Planning permits approval was due to expire on December 28, 2008.

On December 12, 2008, the applicant submitted a request for a one-year extension for the planning permits and the extension request is attached. According to the applicant's statement, the property owner is attempting to obtain financing for the addition and it is taking longer than anticipated due to the economic downturn.

Extension requests are not unusual and are generally granted unless there have been significant changes in conditions or circumstances affecting the property or area. In staff's opinion, no changes have occurred that would indicate the extension should not be granted. Therefore, staff recommends that the Commission grant the extension for one year.

### COMMISSION ACTION

Move that the Planning Commission **EXTEND** CDP-291-07, PE-137-07 and UP-982-07 for the addition at 139 Essex Way for one year to December 28, 2009.

#### Attachments:

1. Letter from Applicant Dated December 12, 2008
2. Staff Report and Minutes from Planning Commission Meeting December 17, 2007
3. Letter with Conditions of Approval Dated December 28, 2007



# CITY OF PACIFICA

## AGENDA MEMO

---

**DATE:** January 5, 2009

**TO:** Planning Commission

**FROM:** Lee Diaz, Associate Planner

**SUBJECT:** Agenda Item No. 2 Extension of Use Permit and Site Development Permit for the construction of two-story mixed-use (commercial and residential) building at the northwest corner of Monterey Road and Waterford Street (APN: 009-058-040)

---

On November 13, 2007, the City Council, on appeal, conditionally approved a General Plan amendment, Tentative (Condominium) Subdivision Map, Use Permit and Site Development Permit for the development of vacant parcel with a two-story mixed-use (commercial and residential) building at the northwest corner of Monterey Road and Waterford Street. Details of the proposal are contained in the attached staff report dated November 13, 2007. Also attached are the minutes of the City Council meeting.

The Use Permit and Site Development Permit were due to expire on November 13, 2008. The Tentative (Condominium) Subdivision Map expires 24-months after its approval (November 13, 2009) and the General Plan amendment runs with the land. On November 10, 2008, staff received the attached extension request. This is the applicant's first extension request. The applicants need a 12 month extension to complete the building permit approval process. According to the applicant, delays have occurred due to the integration of green architecture elements into the building design, the requirement of a second mean of egress to the building and budgetary constraints.

---

Extension requests are not unusual and are generally granted unless there have been significant changes in conditions or circumstances affecting the project or area. There have not been any changes that would indicate that the extension should not be granted.

### COMMISSION ACTION REQUESTED

---

Move that the Planning Commission **EXTEND** UP-944-05 and PSD-735-05 to November 13, 2009.

#### Attachments:

1. Letter from Applicant, 11/10/08
2. City Council Agenda Summary Report, 11/13/07 (attachments: Council Agenda Summary Report, 10/22/07)
3. City Council Minutes, 11/13/07)
4. Land Use and Zoning Exhibit



**CITY OF PACIFICA  
AGENDA MEMO**

**DATE:** January 5, 2009  
**TO:** Planning Commission  
**FROM:** Christina Horrisberger, Assistant Planner

**SUBJECT:** Agenda Item No. 3: Coastal Development Permit, CDP-305-08, to demolish an existing 2,157 square foot home and replace it with a new 4,015 square foot home on a raised grade, and raise the existing detached garage by 7 feet at 103 Essex Way (APN 023-036-190).

---

On September 15, 2008 the Planning Commission continued consideration of Coastal Development Permit, CDP-305-08, to demolish an existing 2,157 square foot home and replace it with a new 4,315 square foot home on a raised grade, and raise the existing detached garage by 7 feet. At the hearing the Commission expressed concern that the project was not consistent with several elements of the Design Guidelines. On October 6, 2008 the Commission reviewed a revised proposal. The modified project addressed many of the Commission's concerns, however, several concerns were still outstanding. Lack of subordination to topography and the scale of the home with respect to the lot and neighborhood were of particular concern. The Commission continued consideration of the requested permit a second time to give the applicant the opportunity to further modify the proposed design of the home. The applicant was unable to submit a revised proposal in time for the October 20, 2008 meeting and review of the project was again continued, although further comments regarding the project's lack of compliance with the Design Guidelines were offered. The applicant submitted a modified design for review at the November 3, 2008 meeting. The Commission reiterated their concerns about scale and topographical issues, noted that they had not been addressed and further continued review of the project. On December 1, 2008 the Commission reviewed a revised proposal that notably addressed their topographical concerns. However, the applicant was advised that the bulk, mass and lack of setback variation were still substantial issues. The applicant has since submitted a revised proposal.

The revised design would reduce the size of the proposed upper level (top floor) by roughly 250 square feet. This would be accomplished by reconfiguring the upper floor rooms and eliminating the vaulted ceiling on the main level. The result is more variation in wall angles, more usable outdoor space (decking) and much greater setbacks to the upper level on the east and west sides of the proposed structure. Since the widest point of the structure is at an east-west orientation, this is where the additional setbacks have the greatest visual impact and provide the most relief from structure massing and bulkiness. The setback to the upper level on the north facade has also been increased. The lower levels would remain unchanged, except that there will no longer be a vaulted ceiling on the main level. The plans have not been revised to reflect that and staff has

added a condition of approval requiring that the correction be included in the building permit plans if the project is approved. The proposal has also been revised to include a reoriented and more varied roofline. This further helps to break up the bulk and mass of the building, by adding more visual interest.

Together with a past revision, the overall reduction in the size of the home is 300 square feet from what was originally proposed. The entire reduction comes from modifications to the upper level of the home where the visual impact would be greatest. Coupled with the previous reduction to the site elevation and overall height of the building, the potential for any towering effect in the immediate vicinity has been reduced. Staff believes that the applicant has made a substantial effort to address the Commission's concerns about the scale of the home, with reference to the lot and neighborhood. In conclusion, it appears that the Commission's concerns have been addressed.

## **RECOMMENDATION AND FINDINGS**

### **RECOMMENDATION:**

Staff recommends that the Planning Commission approve Coastal Development Permit, CDP-305-08, to demolish an existing 2,157 square foot home and replace it with a new 4,015 square foot home on a raised grade, and raise the existing detached garage by 7 feet, subject to the following conditions:

### **Planning Department:**

1. Development shall be substantially in accord with the plans entitled "Anderson Residence Teardown/rebuild," consisting of sixteen (16) sheets, dated December 17, 2008 except as modified by the following conditions.
2. The applicant shall submit a final landscape plan for approval by the Planning Director prior to the issuance of a building permit. The landscape plan shall show each type, size and location of plant materials. Landscaping materials included on the plan shall be coastal compatible and drought-tolerant. Native plants shall be incorporated whenever possible. All landscaping shall be completed consistent with the final landscape plans prior to occupancy. In addition, the landscaping shall be maintained and shall be designed to incorporate efficient irrigation to reduce runoff, promote surface filtration and minimize the use of fertilizers, herbicides and pesticides. Landscaping on the site shall be adequately maintained and replaced when necessary as determined by the Planning Director.
3. The applicant shall be required to obtain a certificate of survey from a licensed surveyor at the first footing inspection of the building. The certificate shall certify that both



setbacks and elevations are as specified on the approved plans to the satisfaction of the Building Inspector.

4. Prior to the issuance of a building permit, the applicant shall submit information on exterior finishes, including colors and materials, subject to approval of the Planning Director.
5. All transformers, HVAC units, backflow preventer and other ground-mounted utility equipment shall be shown on the landscape and irrigation plans and shall be located out of public view and/or adequately screened through the use or combination of walls or fencing, berming, painting, and/or landscaping, to the satisfaction of the Planning Director.
6. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.
7. All vents, gutters, downspouts, flashing and conduits shall be painted to match the colors of adjacent building surfaces. In addition, any mechanical or other equipment such as HVAC attached to or protruding from the building shall be appropriately housed and/or screened to the Planning Director's satisfaction.
8. Roof drains shall discharge and drain away from the building foundation to an unpaved area wherever possible.
9. All trash and recycling materials, if stored outdoors, shall be fully contained and screened from public view within an approved enclosure to the Planning Director's satisfaction. The enclosure design shall be consistent with the adjacent and/or surrounding building materials, and shall be sufficient in size to contain all trash and recycling materials, as may be recommended by Coastside Scavenger.
10. All recommendations identified in the arborist's report shall be implemented as specified in the arborist's report.
11. The applicant shall hereby agree to 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 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, or brought against the City due to actions or omissions in any way connected to the applicant's project. 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.

12. Prior to submitting Building Permit plans, the applicant shall revise the main level floor plan to indicate that no "open to above" ceiling feature will be included over the living room.

### **Wastewater Division**

13. The applicant shall provide a video of the sewer lateral line. Depending upon the condition of the existing sewer line, if there are any visible signs of leakage, the applicant shall replace parts or the whole sewer line to current specification and codes to the satisfaction of the City Engineer.

### **Engineering Division**

14. Construction shall be in conformance with the San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented.
15. All recorded survey points, monuments, railroad spikes, pins, cross cuts on top of sidewalks and tags on top of culvert headwalls or end walls whether within private property or public right-of-way shall be protected and preserved. If survey point/s are altered, removed or destroyed, the applicant shall be responsible for obtaining the services of a licensed surveyor or qualified Civil Engineer to restore or replace the survey points and record the required map prior to completion of the building permit.
16. In lieu of overlay existing asphalt to street centerline across entire property frontage, applicant shall overlay existing asphalt with minimum 2 inch AC the whole street width across entire property frontage along Essex Way.
17. Add a note on the Site Plan that says, "Existing curb, sidewalk or street adjacent to property frontage that is damaged or displaced shall be repaired or replaced even if damage or displacement occurred prior to any work performed for this project."
18. Add a note on the Site Plan that says, "Any damage to improvements within the city right-of-way or to any private property, whether adjacent to subject property or not, that is determined by the City Engineer to have resulted from construction activities related to this project shall be repaired or replaced as directed by the City Engineer."

19. A sidewalk agreement must be signed for unimproved streets.
20. No debris box or equipment shed is allowed in the street or sidewalk.
21. An Encroachment Permit must be obtained for all work within the City right-of-way. All proposed improvements within the City right-of-way shall be constructed per City Standards.

### **Building Department**

22. Construction shall be in conformance with the San Mateo Countywide Storm Water Pollution Prevention Program. The applicant shall implement Best Management Practices during all phases of construction for the project.

### **FINDINGS**

1. **Findings for Approval of Coastal Development Permit:** The Planning Commission finds that the proposed home at 103 Essex Way, 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 design and scale of the project are compatible with the surroundings in the Pedro Point neighborhood and it will not have negative visual impacts or negatively impact 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 cumulatively, on coastal resources. Because the site is located entirely within a residential zone, no commercial activities will be impacted.

### **MOTION FOR APPROVAL:**

Move that the Planning Commission find the project exempt from CEQA, **APPROVE** Coastal Development Permit, CDP-305-08, subject to conditions 1 through 22 and adopt findings contained in the January 5, 2009 staff report, and incorporate all maps and testimony into the record by reference.

#### Attachments:

- a. Illustrative renderings (Planning Commission only)
- b. December 1, 2008 Staff Report and Minutes
- c. November 3, 2008 Staff Report and Minutes.
- d. October 20, 2008 Staff Report
- e. October 6, 2008 Staff Report and Minutes
- f. September 15, 2008 Staff Report and Minutes
- g. Plans and Elevations (Planning Commission and City Council only)



# CITY OF PACIFICA

## AGENDA MEMO

**DATE:** January 5, 2009

**TO:** Planning Commission

**FROM:** Christina Horrisberger, Assistant Planner

**SUBJECT:** Agenda Item No. 4: Use Permit, UP-994-08, Variance, PV-494-08, and Site Development Permit, PSD-773-08, to install a new wireless communication facility, including a 40 foot tall flagpole with 3 panel antennas and related equipment, at 1220 Linda Mar Blvd. (APN: 023-281-130).

---

On October 20, 2008 the Planning Commission continued consideration of Use Permit, UP-994-08, Variance, PV-494-08, and Site Development Permit, PSD-773-08, to install a new wireless communication facility, including a 40 foot tall flagpole with 3 panel antennas and related equipment, at the Pacifica Center for the Arts. At the hearing the Commission asked the applicant to meet with tenants of Pacifica Center for the Arts to address their concerns, to prepare better renderings of the equipment enclosure and to obtain information on the site selection process. On November 17 and December 1, 2008 further continuances were granted because the applicant was still working on gathering the requested information and working with the tenants. The applicant was still coordinating with the tenants and a subsequent continuance was granted on December 15, 2008.

Since the October 20, 2008 meeting the applicant has informed staff that they have coordinated with the four leaseholders, through their designated representative, and come to a compromise concerning the facility location. The new location is near the front of the property, to the right of the driveway as it slopes downward into the site and opens into the parking area. The revised facility location would be set back from the public right of way by 48 feet and well over 200 feet from each side lot line. All setback requirements would continue to be met by the project. The new location is farther away from the buildings. The revised lease area and equipment enclosure is 12 feet by 18 feet, whereas 10 feet by 18 feet was previously proposed. The proposed enclosure would be 7 feet tall, solid, painted gray to match the building and would include text reading "Pacifica Center for the Arts," like the flag. The text area would be illuminated at night by use of a ground mounted spotlight. The pole height remains unchanged at 40 feet tall (35 feet is the maximum allowed) and a Variance and Site Development Permit are still requested to allow the excess height. Otherwise, all Code requirements, including the requirement to screen the facility would continue to be met by the project. Although the facility would be more visible

from the street than the previous iteration, the enclosure would be disguised as a sign, located at a lower elevation than street level and would not appear out of place at the site.

The Commission also inquired about why the applicant was unable to secure a lease at the nearby fire station on Linda Mar Boulevard. The applicant has indicated that the firefighter's union objects to cell sites at fire department facilities (see attachment). As for improved renderings, the revised drawings are a bit clearer than the drawings submitted for the previous design. Revised photo-simulations have also been submitted, however, it should be noted that the proposed text was left omitted by mistake, and the elevation drawings should be referred to for text related details.

Staff believes that the applicant has addressed the Commission's concerns. Specifically, input from the Art Center leaseholders was solicited and incorporated into the revised design. Consequently, the revised location is farther from the buildings and signage promoting Pacifica Center for the Arts has been included in the proposal. However, there are still site tenants who are unsatisfied with the revised facility location. Messages from the leaseholders and tenants are attached. The applicant has provided an answer to the question concerning the fire station and submitted revised drawings as requested by the Commission. Staff believes that all of the findings can be made to support the requested permits and that the applicant has addressed the Commission's concerns.

## **RECOMMENDATION AND FINDINGS**

### **RECOMMENDATION:**

Staff recommends that the Planning Commission approve Use Permit, UP-994-08, Variance, PV-494-08, and Site Development Permit, PSD-773-08, to construct a wireless communications facility at 1220 Linda Mar Boulevard, subject to the following conditions:

### **Planning Department:**

1. Development shall be substantially in accord with the plans entitled "Sanchez Art Center, SF20160B," consisting of seven (7) sheets, dated December 12, 2008 except as modified by the following conditions.
2. The applicant shall clearly indicate compliance with all conditions of approval on the plans and/or provide written explanations to the Planning Director's satisfaction prior to approval of a building permit.
3. The applicant hereby agrees to hold the City and its elected and appointed officers, agents, employees and representatives harmless from claims, costs and liabilities for any personal injury, death, or property damage which arises directly or indirectly, as a result of the installation or operation of the wireless communications facility. If further studies

indicate that the telecommunications facilities such as those proposed will be detrimental to the health, safety and welfare of persons working or residing near the vicinity of said facilities, then the telecommunications provider shall be solely responsible for the removal, adjustment or replacement of the facilities. In no case shall the facility remain in operation if it is found to create a hazard to health, safety and welfare.

4. The applicant shall hereby agree to 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 to attack, set aside, void or annul the City's actions regarding this use permit, variance application, , approval or authorization, including, but not limited to, approvals and certifications pursuant to the California Environmental Quality Act, and /or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the applicant's project. 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.
5. Prior to issuance of a building permit, the lease agreement between the City of Pacifica and Metro PCS shall be amended to reflect the new project location.
6. All existing cracked, broken and displaced sidewalk, curb, gutter and driveway across property frontage shall be replaced per City Standards 100, 101A & 102 and to the satisfaction of the City Engineer.

## **FINDINGS:**

**1. Findings for Approval of a Use Permit:** The Planning Commission finds that the proposal to install a wireless communications facility at 1220 Linda Mar Boulevard would not be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or the general welfare of the City. The Commission finds that the proposal is consistent with the applicable provisions of the General Plan and other applicable laws of the City. Specifically, the Commission finds that the project meets all applicable Zoning Code requirements and provisions of the Design Guidelines.

**2. Findings for Approval of a Variance:** The Planning Commission finds that a special circumstance applies to the subject property which necessitates a Variance for the ground mounted, flagpole antenna structure to exceed the 35 foot height limit by 5 feet. The strict application of the Zoning Code imposes unreasonable limitations on the provision of wireless communications at this property. Because of the site's size, location and surrounding topography

it is necessary that the new antennas be placed at the proposed height. The Commission further finds that the proposal will not adversely affect the health or safety of the residents or people working in the area. The new antennas will not affect future improvements to the area. Finally, the Commission finds that the standards set forth in the Municipal Code have been met to the furthest extent possible.

**3. Site Development Permit:** The Planning Commission finds that the proposed 40 foot tall flagpole will not create potential traffic hazards, parking accessibility problems or a substantial detriment on the surrounding residential district. Nor will it result in insufficient landscaped areas, restricted light and air on adjacent properties, excessive damage to the natural environment or insufficient site and structural design variety. The Commission further finds that that the proposed flagpole is consistent with the applicable provisions of the General Plan and other applicable City laws and determines that the findings for denial of the Site Development Permit, pursuant to Zoning Code Section 9-4.3204 cannot be made.

## **COMMISSION ACTION**

### **D. MOTION FOR APPROVAL:**

Move that the Planning Commission find the project exempt from CEQA, and **APPROVE** UP-994-08, PV-494-08, and PSD-773-08, subject to conditions 1 through 6 and adopt findings contained in the January 5, 2009 staff report, and incorporate all maps and testimony into the record by reference.

#### Attachments:

- a. October 20, 2008 staff report and meeting minutes
- b. Revised photo simulations
- c. E-mail from applicant
- d. E-mails from leaseholder and tenant groups
- e. Revised plans




## City of Pacifica

### Agenda Memo

**DATE:** January 5, 2009

**TO:** Planning Commission

**FROM:** Kathryn Farbstein   
Assistant Planner

**SUBJECT:** Agenda Item No. 5: New Single-Family Residence Proposed at 134 Paloma Avenue; Coastal Development Permit, CDP-302-08, Parking Exception, PE-151-08 and Use Permit, UP-988-08 (APN 016-022-040)

---

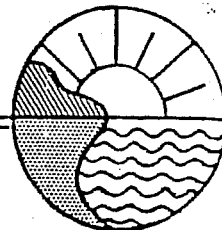
The Planning Commission continued this item from the November 17, 2008 meeting in order to allow the applicant to respond to issues raised by the Planning Commission. The applicant has requested additional time to prepare revisions and has asked for a further continuance to January 20, 2009.

#### COMMISSION ACTION

Move that the Planning Commission **CONTINUE** CDP-302-08, PE-151-08 and UP-988-08 to January 20, 2009, with the public hearing open.



# STAFF REPORT



PLANNING COMMISSION-CITY OF PACIFICA

**DATE:** January 5, 2009

**ITEM:** 6

## PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of Public Hearing was published in the Pacifica Tribune on December 25, 2009 and 54 surrounding property owners and 24 residents were notified by mail.

**FILE:** PSD-774-08  
CDP-310-08  
UP-998-08  
SUB-217-08  
PE-152-08  
PV-497-08

**APPLICANTS/OWNERS:** Jama and Monica Houmam  
82 Birch Lane  
Pacifica, Ca 94944

**AGENT:** Lorin Hill, Arch.  
6573 Shattuck Ave.  
Oakland, CA 94609

**LOCATION:** 2270 Palmetto Avenue (APN: 016-022-120)

**PROJECT DESCRIPTION:** Mixed use project with ground floor commercial of approximately 1,200 square feet and three one bedroom dwellings units above of approximately 1,150 square feet each.

**General Plan:** Commercial

**Zoning:** C-1/CZ/Appeals Area (Neighborhood Commercial/Coastal Zone)

**RECOMMENDED CEQA STATUS:** Exempt Section 15332

**ADDITIONAL REQUIRED APPROVALS:** Growth Management Allocation

**RECOMMENDED ACTION:** Approval as conditioned.

**PREPARED BY:** Christina Horrisberger

**ZONING STANDARDS CONFORMANCE:**

<u>Standards</u>	<u>Min./Max.</u>	<u>Existing</u>	<u>Proposed</u>
Lot Size	5,000 sq. ft. min	6,000 s.f.	No Change
Minimum Lot Width	50 ft. min	60	No Change
Height	35 ft. max	NA	35 ft.
Landscape Area	10%	NA	8.3%*
Side Setbacks to Decking and outdoor Stairs	4 ft. min	NA	None*
Dwelling Size	600 s.f. min	NA	1,144 s.f.
Usable Common Open Space (includes private open space)	450 s.f. per unit min	NA	403 s.f. per unit*
Private Open Space	130 s.f. per Unit min	NA	238 s.f. per unit
Private Storage Space	200 cubic feet per unit	NA	364 cubic feet per unit
<b><u>Parking</u></b>	<b><u>Minimum</u></b>		
Commercial – Number of Spaces	9 car stalls (3 covered) 2 bicycle spaces	NA	8 (3 covered)** 2 bicycle spaces
Back-up aisle width	25 ft. min	NA	25 ft.
Driveway width	20 ft. min	NA	20 ft.

\*Variances Requested

\*\* Parking Exception requested

**PROJECT SUMMARY**

**A. STAFF NOTES:**

**1. Project Description:** The current proposal consists of constructing a three story, 3,432 square foot, five unit condominium building, that would include two commercial units, two garages, a utility closet and a trash and recycling area on the ground floor and three one bedroom condominium units on the above levels. One commercial unit would be 571 square feet and the other would be 633 square foot, and both would include Palmetto Avenue frontages. Between the units would be a 20 foot wide driveway. Behind the units would be two fully enclosed garages,

large enough to accommodate three full sized vehicles (one for each residential unit), a 115 square foot trash and recycling area. The utility closet would be located behind the trash area, underneath an outside stairway connecting the dwelling units with the parking area. The outdoor, uncovered, parking area would be located behind the building and would include five parking stalls; one compact, one for disabled persons and three full sized spaces. Except for the space designated for disabled persons, the outdoor spaces would be for the common use of all units. Two bicycle parking spaces and a small landscaped area would also be provided. The second floor would consist of the lower levels of the three dwelling units, private outdoor areas for each unit, and an exit balcony and stairs leading into the parking area at ground level. The units would each include 572 square feet of living area on this level. A living room, powder room, closet and kitchen would be included within each space. Also, a 148 square foot rear deck is proposed for the southernmost unit and each of the other units would have a 162 square foot rear deck. The front of each unit would also include a 76 square foot front balcony on this level. All of the decks and balconies include plantings around the railings. The top floor would provide an additional 572 square feet of living area for each unit with each including a bedroom, full bathroom, closet, utility closet, laundry room and storage area. The exterior of the third level would include an exit balcony with stairs leading to the second level exit balcony and, ultimately, to ground level. The dwelling units would be condominiums and, therefore, each would be individually owned.

The proposed materials for the exterior of the building consist of composite shingles for the roof, horizontal lap siding, wood window and door trims and copper accent lighting. Various types of multi-paned windows, dormers and overhangs and plantings have also been incorporated into the exterior design. The proposed color scheme is yellow and green. There are no Heritage Trees on the property. No signage is proposed at this time.

**2. General Plan, Zoning, and Surrounding Land Use:** The General Plan designation is Commercial and the zoning classification is C-1/CZ (Neighborhood Commercial/Coastal Zone). The lot is also located within the appeals area of the Coastal Zone. The properties to the north and south of the subject site have the same General Plan and zoning designations. The property to the south is occupied by a mixed use development while the structure to the north is a single family residence on a commercially zoned lot. To the west is Birch Lane, a cul de sac with residential uses on the south side adjacent to the subject property and a City owned property on the north side and nearly adjacent to the subject property. The City owned site is occupied by a decommissioned wastewater treatment plant that also houses the City Council Chambers where public meetings are held. The properties across Palmetto Avenue to the east are zoned C-2 and C-3 (Community and Service Commercial) and are developed with commercial uses; one of which is a scavenger company.

**3. Municipal Code:** Development Permits are necessary for the proposed mixed-use project. A Coastal Development Permit is required for projects such as this one located in the Coastal Zone. A Parking Exception is needed because the proposed development would contain 8 parking spaces when 9 are required. The Variance is required to allow for development to have 8.3% of the lot landscaped when 10% is required, to allow the decks and outdoor stairway to be located closer than four feet from the side lot line and to permit the development to have an average of 403 square feet of usable open space when 450 square feet per unit is required.

**4. Site Development Permit:** Pursuant to Section 9-4.3204, a Site Development Permit cannot be issued if the Commission makes any of the following findings that the project would have one or more of the briefly summarized following negative impacts:

- a. Potential traffic hazards
- b. Parking accessibility problems
- c. Insufficient landscape areas
- d. Restricted light and air on the property or other surrounding properties
- e. Creation of a substantial detriment to an adjacent residential district
- f. Excessive damage to the natural environment
- g. Insufficient site and structural design variety

The proposed development would take place on a flat lot, in a developed area with little curvature of the roadway. The site is visible to travelers moving in both directions (northward and southward) on Palmetto Avenue. The driveway and parking area access meets PMC dimensional standards. Thus, no hazards are expected to result from vehicles entering or exiting the site and no internal accessibility problems are expected to occur. The proposed landscaping is slightly below the minimum required and a variance has been requested by the applicant. The proposed placement of landscape features would incorporate plantings throughout the property. Specifically, the parking area and areas in front of the commercial units would each include in ground landscaping, and all of the second floor decking would include perimeter plantings to soften the appearance of the building. Although the minimum required square foot area of landscaping would not be met, staff believes that a sufficient amount of well placed plantings are proposed and will enhance the appearance of the site. This will be discussed in more detail in the Variance section of this report.

The nonconforming residence on the neighboring lot to the north would receive less light as a result of the project, because the subject lot is currently vacant. This would occur as a result of almost any development of the site because it is zoned for commercial use, there are no setback limitations and the height limit is 35 feet. The proposed structure would not be as deep as the neighboring home and light would not be reduced in the rear yard. The east and west facing windows of the home would not be impacted at all. The structure to the south has no windows on the north side of the building and the residence to the west has a few east facing windows. The residence would overlook the parking lot, which would be 44 feet deep, and not be impacted by reduced light. Reduced airflow would not result from the development. Thus, staff does not believe that restricted light or airflow would result from the project.

The western aspect of the building is nicely designed, (see Design Guidelines section below), the trash and recycling area would be fully enclosed and there is no western access to the site. Creation of a substantial detriment to an adjacent residential district would not occur because the only residentially zoned lot is the lot to the west (rear). There are no sensitive natural features at the property and excessive damage to the natural environment is not expected to occur as a result of the project. The structure includes a variety of design elements and architectural features that would create visual appeal. Insufficient site and structural design variety would not result from the project.

**5. Use Permit:** The Planning Commission shall grant approval of a Use Permit to allow residential use above commercial 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 or 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.

In staff's opinion, the proposed use will blend in well with the existing mixed use, commercial and residential development in the immediate vicinity, and all along Palmetto Avenue. The commercial portion of the building will require a visitor serving use that will bring customers to the area that may visit other commercial enterprises in the neighborhood. Meanwhile, the residential condominium units would provide more housing for the City and add to the customer base in the immediate vicinity. The establishment of the mixed-use project on the subject site will not be detrimental to the health, safety, and welfare of the persons residing and working in the neighborhood and would attract residents and customers to an area that is currently being targeted for revitalization. The project is consistent with the General Plan and, with approval of the requested Variance and Parking Exception, other applicable laws of the City. The Design Guidelines indicate that façades of commercial buildings should be enhanced by the use of recesses, projections, and other details. The applicant has designed both commercial spaces to have large windows, angled corners next to the driveway to add visual interest, projections on the second floor and eaves and dormer windows above. Project design is discussed further under the Design Guidelines section below.

**6. Coastal Development Permit:** Section 9-4304(k) of the Municipal Code allows the Planning Commission to issue a Coastal Development Permit based on the findings specified below:

1. The proposed development is in conformity with the City's certified Local Coastal Program.
2. 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.

The mixed-use project is proposed within a commercial area, and therefore, complies with Coastal Act Policy #23 that states new development shall be located within or contiguous to an existing developed area that is able to accommodate it. There is a mix of commercial and residential uses within close proximity to this infill site. The proposed commercial space is limited to visitor serving commercial uses as required by the Local Coastal Plan. In staff's

opinion, the mixed-use project is located in an area with commercial and residential uses that can support visitor serving commercial activities and three dwellings at the site.

Because the subject site is not located between the nearest public road and the shoreline, the project does not need to conform to the public recreation policies of Chapter 3 of the California Coastal Act. Staff believes that the proposed mixed-use project meets the overall intent of the Local Coastal Program.

**7. Tentative Map:** Section 10-1.407 (b) of the Municipal Code states that the Planning Commission may approve a tentative parcel map if it finds that the proposed subdivision “is consistent with the General Plan, any Specific Plan, the Local Coastal Program, and the zoning provisions.” In addition, the proposed structure must allow for future passive or natural heating and cooling to the extent that this is feasible. Consideration may be given to climatic conditions. The impact of subdivisions on regional housing needs, keeping in mind availability of public services and fiscal and environmental resources, must also be considered. In this case, the subdivision will be for three condominiums above, and two commercial spaces below. The building is oriented from north to south, with east and west facing windows.

As described previously in this staff report, the proposed mixed-use development is consistent with the General Plan, the Local Coastal Program, and meets the residential density requirement, of one dwelling per 2,000 square feet of lot area, for commercial districts. As for natural heating and cooling, the property is located in an area where temperature is moderated by the nearby ocean. Indoor cooling systems are not generally needed, however, a number of west and east facing windows would be placed in each unit to take advantage of ocean breezes on warm days. South facing windows would be ideal for warming, however, there is a three story building immediately south of the project site that may hinder solar penetration if the building were oriented differently. Therefore, the proposed building orientation, with west facing windows to allow afternoon sun into the units, is the most feasible alternative for allowing passive solar heating. Concerning housing, public service availability and fiscal and environmental resources, the project would provide three additional housing units to the City, in an area where public services have been accounted for. The commercial units would complement surrounding land uses and encourage commerce in the area, which would be a positive fiscal impact for the City. No environmental resources are expected to be impacted by the project.

**8. Parking:** The Commission may grant exceptions to the City’s parking regulations in certain situations. Section 9-4.2824(a) of the Pacifica Municipal Code, concerning granting exceptions to parking requirements, states: “the findings of the Commission need include only that the establishment, maintenance, and/or conducting of the off-street parking facilities as proposed are as nearly in compliance with the requirements set forth in this article as are reasonably possible.” The Code further states that granting the aforementioned exception would be appropriate “in the event of practical difficulties and unusual hardship.” In this case, one vehicle space is required for every 300 square feet of retail commercial space and 1.5 parking vehicle spaces are required for each one bedroom residential unit. The Code further requires that at least one space for each residential unit be covered by a carport or located within a garage. The commercial space totals 1,204 s.f and requires 4 spaces and the residential unit calculation results in a fractional number;



4.5 spaces. The Code requires rounding up for fractional spaces of 0.5 or more. Therefore, 5 spaces are required for the condominiums; three of which must be covered. In addition, the Code requires a minimum of two bicycle spaces for commercial uses and allows for the accommodation of some compact parking spaces. No parking for disabled persons is required by the Zoning Ordinance provisions in this case, because 5 or more commercial spaces is the threshold that triggers the need for ADA accessible parking. The applicant is proposing to provide 8 vehicle parking spaces (3 full sized within garage areas, 4 full sized outside and 1 compact) and 2 bicycle parking spaces. The result is that the proposal is short by one vehicle parking space.

The Pacifica Municipal Code also requires that 10% of the total square foot area of commercial lots be landscaped. The California Building Code requires at least one parking and loading area for disabled persons. The dimensional space used by the landscaped area and ADA loading zone would be enough to accommodate a parking stall, but cannot be used for that purpose. Another issue is that the Design Guidelines discourage parking areas in fronts of buildings due to the negative visual impacts created by such configurations. Also, such configurations appear less inviting and may discourage patronage of commercial establishments. Throughout the review of this application several different parking configurations were explored that sought to meet Code requirements along with the objectives of the City's Design Guidelines. Each feasible alternate design that was explored lacked conformance with at least one PMC requirement. Since it is desirable to provide bicycle parking spaces to discourage driving and encourage use of public transit (public transit is available nearby), in ground landscaping is encouraged to aid in rainwater infiltration, the mixed nature of the proposed uses would likely not share the same peak parking times and ample street parking is available on Palmetto Avenue, the design currently under review was settled upon. In short, it appears that the site can accommodate the commercial spaces and residential units, but due to PMC handling of fractional spaces, the parking requirement could not be fully met. Staff believes that this is a practical difficulty for the applicant and that the City's requirements have been met to the degree that it is reasonably possible. Moreover, the mixed nature of the neighborhood and proposed development would likely attract more foot traffic than is experienced at commercial establishments with segregated land uses. Moreover, public transit is available nearby, street parking is available and the peak use hours of each proposed use may be staggered enough that parking on-site is not a problem. In short, staff believes that the findings can be made to grant the exception without resulting in any negative impacts to the neighborhood.

9. **Variance:** The Planning Commission shall grant a Variance only when all of the following findings are made:

- A. That because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under an identical zoning classification;
- B. That the granting of such Variance will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the subject property and will not, under circumstances of the particular

case, be materially detrimental to the public welfare or injurious to the property or improvements in the area;

C. Where applicable, that the application is consistent with the Design Guidelines.

The project includes a request for a Variance to forego approximately 1.7% of the required landscaping. The Zoning Code requires 10% (600 square feet), and approximately 8.3% (497 square feet) is being proposed. It should be noted that although the gross lot size is 6,000 s.f., the net lot size is 5,802 s.f. due to an easement that runs along the front of the property. If the net area were used, the proposed landscaping would total closer to 8.6%. The applicant is proposing landscaping in the southwest corner of the property (adjacent to the parking area), in front of the commercial units and around the second floor decks. It's true that the subject lot is flat and undeveloped, and that the structure could be scaled down to meet the landscape requirement; however, the mixed use nature of the project is not conducive to such a downsize at ground level because limiting the size of the commercial spaces may impact their viability. The location and surroundings are conducive to a mixed use development where ground floor commercial use is encouraged, putting the applicant at a disadvantage when it comes to meeting the landscaping requirement. Moreover, the applicant has included as much landscaping as is reasonably possible, given the proposed design, and it is well placed. The bulk of ground level plantings are at the front of the site. Combined with the balcony plantings, the overall impact of the proposed landscape would be aesthetically pleasing and the Design Guidelines for landscaping would be met. Lastly, granting a Variance from the landscape requirement would not under the circumstances of this particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the subject property or be materially detrimental to the public welfare or injurious to the property or improvements in the area.

Because the proposed residences would be condominium units instead of apartments, the applicant is required to provide private open space for each unit. This space is for the exclusive use of each respective unit occupant(s). In addition, usable open space is required. Usable open space may include private open space as well as other outdoor area aside from parking lots and exit corridors. Condominiums are required to have at least 130 s.f. of private open space and 450 s.f. of usable open space for each unit. In this case, the applicant is proposing to provide an average of 238 s.f. of private open space per unit and 403 s.f. of usable open space. An additional 188 square feet of usable open space is required. Therefore, a variance to the usable open space requirement is requested. It should be noted that more private open space is proposed than is required, and this type of space is more usable. In some cases private open space may be considered more desirable than common open space. In addition, the property is located just over one block from the beach where the municipal pier, a useable beach, greenway, public trails and picnic tables are located. This creates a situation where, due to the location and surroundings, the lot is conducive to mixed use developments. This may be a disadvantage with respect to meeting all Code requirements that would normally apply to any commercial or condominium development, but are not specific to mixed use projects. However, the aforementioned public recreational areas will offset the lack of usable open space provided on site. Further, the ground floor commercial units are essential to a successful operation and it be desirable to maximize these units, even if it means having slightly less usable open space than is required. Further, granting a Variance from the usable open space requirement would not under the circumstances of this particular case, materially affect adversely the health or safety of persons residing or

working in the neighborhood of the subject property or be materially detrimental to the public welfare or injurious to the property or improvements in the area. The Design Guidelines would not be impacted by granting the Variance.

A Variance from the setback requirement for decks, landings and outside stairways is also requested for the decks on the end units and the egress stairs behind the building. The Code requires that such features be located at least 4 feet from any side lot line. The portion of the Code that handles projections of this sort then goes on to describe the parameters within which they may encroach into required setbacks. It appears that this section may have been written with residential lots, where privacy is a concern, in mind. Accordingly, it does sufficiently provide for mixed use developments on commercial lots, where no setback to the buildings are imposed and firewalls blocking one building from the next are required. Therefore, the provisions of the Code may place an undue burden on the applicant by allowing the structure to be placed at the lot line, requiring usable and private open space, and then placing a setback requirement on the decks and stairs only. In this case, the special circumstance applicable to the lot could be that it is commercially zoned and surrounded by other commercially zoned properties, that are conducive to mixed uses where usable outdoor space must be provided. Moreover, the proposed decking meets the Design Guideline objectives, as proposed, but if indented by 4 feet on each side may appear awkward. Granting a Variance from the setback requirement for the decking and stairs would not under the circumstances of this particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the subject property or be materially detrimental to the public welfare or injurious to the property or improvements in the area.

**10. Design Guidelines:** The Design Guidelines indicate that façades of commercial buildings should be enhanced by the use of recesses, projections, and other details. The applicant has designed both commercial spaces to have large windows, angled corners next to the driveway to add visual interest, projections on the second floor and eaves and dormer windows above. The driveway in the center of the building also adds interest, while breaking up the massing of the building. The guidelines also call for variation of design elements and materials to provide visual interest. The proposed materials for the exterior of the building consist of composite shingles for the roof, horizontal lap siding, wood window and door trims and copper accent lighting. Various types of multi-paned windows, dormers, overhangs and plantings have also been incorporated into the exterior design. The Guidelines further recommend that scale and building design be complementary to the surrounding neighborhood. The current mix of structures in the vicinity is varied and includes several small buildings along with many that are of a similar size to the proposed structure. The public library and residences across the street and slightly northward are at a higher elevation. This adds further variation to the neighborhood scale. Staff believes that the proposed structure would blend in, scale and design wise, with the neighborhood. Another criterion for adequate design is the inclusion of landscaping that enhances the appearance of buildings, and fits with the building scale. By providing landscaping on the second floor, the eye is brought up to connect the ground level landscaping with the upper floor and create a cohesive feel. Also, the use of larger plantings at both sides of the building frontage and doors with green trim near the driveway will enhance this effect. The green trim and copper light fixtures tie in with the green and brown colors in the plantings. The Guidelines also promote that attention be paid to privacy. The firewall at the each side of the building will address this as it concerns the

neighbors to the north and south. The balcony partitions in front, and railing and plantings on the rear decks will promote this objective as it relates to the on-site unit occupants. The structure would be far enough away from the western neighbor that privacy should not be a problem. Across the street is the scavenger company and privacy should not an issue there either. Lastly, the Guidelines also recommend that parking be located to the rear of structures and this proposal complies with that guideline.

The only issue of concern regarding design is the proposed color scheme. The proposed 3 tone yellow and green scheme does not come across well in the plans and may not complement surrounding buildings. Staff has provided a condition of approval requiring the applicant to submit paint samples for City approval before a building permit is issued.

**11. CEQA Recommendation:** Staff is recommending that this project be exempt from CEQA as allowed in Section 15332, which pertains to infill development:

“Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.”

The project is consistent with the General Plan designation and, with approval of the requested permits, the Zoning Code. The project occurs within the City of Pacifica in an urbanized area of less than 5 acres, the site has no value as habitat for endangered species, approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality, and the site can be served by existing utilities and public services. The site is a vacant lot within a developed area with no endangered species on the site. No significant impacts to traffic, air or water quality are expected to occur. All utilities and public services are available at the subject site. Thus, staff recommends that the mixed-use development project be considered exempt from CEQA.

**12. Summary:** In staff’s opinion, the mixed-use project will blend well with the commercial and residential development already existing in the neighborhood and it will not negatively impact the adjacent residence or the surrounding neighborhood. Further, with approval of the requested Variance and Parking Exception, it would be consistent with all applicable City laws. In

addition, the proposed design has visual interest, and sufficient variety in shape and use of materials to create an attractive building. Also, it appears that special circumstances exist that warrant the granting of a Variance for landscaped area, outdoor projections and usable open space requirements. Thus, findings can be made to approve the Use Permit, Site Development Permit, Subdivision, Coastal Development Permit, Variance and Parking Exception.

If the Parking Exception is granted, given the coastal location of the site and the character of surrounding land uses, staff believes it is appropriate that the proposed commercial uses be visitor serving commercial uses that meet the parking ratio of 1 space per 300 s.f. of commercial lease area. Visitor serving commercial uses are defined as retail establishments, arts and crafts, art galleries, delicatessens, and recreational and sporting equipment sales and/or rentals. The project should have commercial uses that will attract visitors to the area, and support the existing visitor serving commercial uses. Therefore, staff is recommending a condition of approval to that effect. Any use not specified as a visitor serving commercial use would then be required to obtain approval of a use permit from the Planning Commission.

### **RECOMMENDATION AND FINDINGS**

#### **B. RECOMMENDATION:**

Staff recommends that the Planning Commission **APPROVE** PV-497-08, PE-152-08, SUB-217-08, UP-998-08, CDP-310-08 and PSD-774-08 for a mixed-use project at 2270 Palmetto Avenue, subject to the following conditions:

#### **Planning**

1. Development shall be substantially in accord with the plans entitled "Mixed-Use Building, Jama & Monica Houmam," consisting of nine (9) sheets, dated October 21, 2008, except as modified by the following conditions.
2. Prior to the issuance of a building permit, the applicant shall submit information on exterior finishes, including colors and materials, subject to approval of the Planning Director.
3. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to Recycling Areas. Areas adjacent to Recycling Areas shall be adequately protected from any adverse impacts associated with Recycling Areas by means of measures such as adequate separation, fencing and landscaping. Recycling Areas shall be located so they are at least as convenient for those persons who deposit, collect, and load the recyclable materials placed therein as the locations where solid waste is collected and loaded.
4. Allowed commercial uses shall be limited to those that require one parking space for each 300 square feet of gross leasable space, or less.

5. Declaration of Covenants, Conditions & Restrictions (CC&Rs). Prior to issuance of a building permit, the developer/owner shall prepare and record with the San Mateo County Recorder's Office a Declaration of Covenants, Conditions & Restrictions and Equitable Servitude's which shall run with the land and be binding on all future owners and occupants of each unit within the subject property and their successors, heirs and assigns, and shall be approved as to form and content by the City Attorney and Planning Director, which accomplishes the following:
  - a. The Declaration shall be binding upon each of the owners of each of the residential units on the subject property and their heirs, successors and assigns.
  - b. There shall be a Homeowners Association to manage the project. The Declaration shall specify that the Homeowners Association shall be responsible for the repair, maintenance and replacement of the building exteriors, exterior lighting, parking areas, driveway, common areas, utility areas within common areas, landscaping and building signage, sanitary sewer, private storm drain and other features. Maintenance of any private storm drain shall be the responsibility of the applicant and property owners.
  - c. The Declaration shall establish standards and guidelines for the maintenance, repair and replacement, where applicable, of all building exteriors, exterior lighting, parking, landscaping, signage, sanitary sewer, private storm drain, and other features and utility facilities within the common areas, to the satisfaction of the City of Pacifica. Maintenance of the private storm drain shall be the responsibility of the applicant and property owners.
  - d. The Declaration shall establish a mechanism for placing assessments against the owners of all residential units within the subject property for the purpose of financing the maintenance, repair and replacement of the building exteriors, common areas, parking, landscaping and building signage. The assessments shall be apportioned in an equitable manner.
  - e. The assessments shall be made, work shall be contracted for, and funds shall be disbursed by such person ("Agent") as may be delegated from time to time, by the Homeowners Association. The project owner shall act as the Agent as long as the project owner owns at least two of the units on the subject property.
  - f. Any assessment not paid when due shall become a lien against the unit of the nonpaying owner, which lien may be foreclosed by the Agent.
  - g. Communications. Each owner is responsible for, and shall agree to, furnish to each new tenant a copy of the CC&Rs prior to execution of a lease or purchase agreement for each unit.

- h. The Declaration shall establish procedures for designating a project "Manager," if different than the "Agent," who shall at all times be responsible for security and/or maintenance of the overall project. At all times the Manager shall provide his/her name and current phone number to the Planning Director, including any changes thereto.
- i. The Declaration shall include a provision that the provisions relating to this condition (Condition #5) shall not be amended without prior approval in writing from the City of Pacifica.
- j. The Declaration shall specify that the owners of each of the residential units on the subject property shall comply with all other applicable conditions of approval for the project.
- k. The Declaration shall name the City of Pacifica as a third party beneficiary with the right (but not the obligation) to enforce the provisions required to be included in the CC&Rs.

6. Landscape Conditions of Approval:

- a. The applicant shall submit a final landscape plan for approval by the Planning Director prior to the issuance of a building permit. The landscape plan shall show each type, size, and location of plant materials. Landscaping materials included on the plan shall be coastal compatible and drought-resistant. All landscaping shall be completed consistent with the final landscape plans prior to occupancy. In addition, the landscaping shall be maintained and shall be designed to incorporate efficient irrigation to reduce runoff, promote surface filtration, and minimize the use of fertilizers, herbicides, and pesticides. Landscaping on the site shall be adequately maintained and replaced when necessary as determined by the Planning Director.
  - b. Prior to building occupancy, the landscape architect responsible for preparing the required plans or his/her designee, or landscape contractor shall visit the site and, thereafter, provide to the Planning Director a written statement confirming compliance with the approved plans and materials. All landscaping and irrigation shall be completely installed prior to building occupancy.
  - c. All transformers, HVAC units, backflow preventors and other ground-mounted utility equipment shall be shown on the landscape and irrigation plans and shall be located out of public view and/or adequately screened through the use or combination of walls or fencing, berming, painting, and/or landscaping, to the satisfaction of the Planning Director.
7. Applicant shall submit a roof plan with spot elevations showing the location of all roof equipment including vents, stacks and skylights, prior to building permit issuance. All roof equipment shall be screened to the Planning Director's satisfaction.

8. A detailed on-site exterior lighting plan shall be submitted for review and approval by the Planning Director prior to issuance of building permits. Said plan shall indicate fixture design, illumination (photometric plan), location, height, and method of shielding. Lighting shall be directed away from adjacent properties to avoid adverse affects thereto. Building lighting shall be architecturally integrated with the building style, materials and colors, and shall be designed to minimize glare. Fixture locations, where applicable, shall be shown on all building elevations.
9. The applicant shall submit an application and plans for all signs, and obtain all City approvals, therefore, prior to installation of any signs.
10. The property owner(s) shall keep the property in a clean and sanitary condition at all times.
11. All applicable fees associated with the processing of this project shall be paid prior to issuance of a building permit.
12. As a condition of the Tentative (Condominium) Map, the subdivider shall defend, indemnify, and hold harmless the City of Pacifica and its agents, officers, and employees from any claim, action or proceeding against the City of Pacifica and its agents, officers, or employees to attack, set aside, void, or annul approval of subdivision, SUB-217-08. Pursuant to this condition, the City of Pacifica shall promptly notify the subdivider of any claim, action, or proceeding regarding the subdivision, and the City of Pacifica shall cooperate fully in the defense of such claim, action, or proceeding.
13. As a condition of the Coastal Development Permit, Site Development Permit, Use Permit, Parking Exception and Variance, the applicant shall hereby agree to 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 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, or brought against the City due to actions or omissions in any way connected to the applicant's project. 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.
14. No new building permit shall be issued until a Growth Management Ordinance allocation for each of the new residential units has been granted.



### **Wastewater Division of Public Works**

15. The applicant shall provide a video of the sewer lateral line. Depending upon the condition of the existing sewer line, if there are any visible signs of leakage, the applicant shall replace parts or the whole sewer line to current specification and codes to the satisfaction of the City Engineer.
16. No wastewater (including equipment cleaning wash water, vehicle wash water, cooling water, air conditioner condensate, and floor cleaning wash water) shall be discharged to the storm drain system, the street or gutter.

### **Fire Department**

17. Fire flow data shall be required per Fire Code, prior to issuance of a building permit and subject to City approval.
18. Fire sprinklers and fire alarms are required, per Fire Code, and compliance shall be indicated on the plans, subject to City approval, prior to issuance of a building permit..
19. Prior to issuance of a Building Permit, illustrate path of egress from rear of structure to "Public Way," subject to approval by the North County Fire Authority.

### **Building Department**

20. Construction shall be in conformance with the San Mateo Countywide Storm Water Pollution Prevention Program. The applicant shall implement Best Management Practices during all phases of construction for the project.
21. Roof drains shall discharge and drain away from the building foundation to an unpaved area whenever practical to the Building Official's satisfaction.

### **Engineering Division of Public Works**

22. Applicant shall submit a Final Condominium Map, and required deposit, for review and approval by the City. All required monumentation shall be shown on the map and set prior to recordation of the map.
23. Applicant shall install all improvements within the City right-of-way prior to approval of the Final Map. If the applicant desires approval of the Final Map before required public improvements have been installed, a bond in an amount determined by the City Engineer guaranteeing the installations of the improvements must be provided. Applicant's engineer shall provide staff an Engineer's Estimate for all required work within the City right-of-way.
24. Final Map shall be approved recorded prior to issuance of the building permit.

25. If the applicant desires approval of the final map before all required improvements have been installed, applicant shall enter into a Subdivision Agreement with the City of Pacifica to construct all on-site and off-site improvements, as depicted on the approved Tentative (Condominium) Map, and any conditions imposed on this project, prior to approval of the final map.
26. Overlay existing asphalt with minimum 2 inch AC to street centerline across entire property frontage.
27. Add a note on the Site Plan that says, "Existing curb, sidewalk or street adjacent to property frontage that is damaged or displaced shall be repaired or replaced."
28. Add a note on the Site Plan that says, "Any damage to improvements within the city right-of-way or to any private property, whether adjacent to subject property or not, that is determined by the City Engineer to have resulted from construction activities related to this project shall be repaired or replaced as directed by the City Engineer."
29. All existing cracked and broken sidewalk, curb and gutter across entire property frontage shall be replaced per City Standards 100 & 101A.
30. New driveway approach ramp shall be constructed per City standard 102.
31. New waterline for fire sprinkler system shall be installed per City Standards 300 and 301.
32. Add a note on the Site Plan that says, "All utilities shall be installed under ground."
33. All applicable City Standards shall be incorporated into all plans and referenced on the Site Plan.
34. An Encroachment Permit must be obtained for all work within the City right-of-way. All proposed improvements within the City right-of-way shall be constructed per City Standards.
35. All recorded survey points, monuments, railroad spikes, pins, cross cuts on top of sidewalks and tags on top of culvert headwalls or end walls whether within private property or public right-of-way shall be protected and preserved. If survey point/s are altered, removed or destroyed, the applicant shall be responsible for obtaining the services of a licensed surveyor or qualified Civil Engineer to restore or replace the survey points and record the required map prior to completion of the building permit.

**C. FINDINGS:**

1. **Findings for Approval of the Site Development Permit:** The Planning Commission finds that the size, location, and intensity of the mixed use development will not create a hazardous or inconvenient vehicular or pedestrian traffic pattern, taking into account the

proposed use as compared with the general character and intensity of the neighborhood; that sufficient landscaped areas have been provided; that the new structure will not unreasonably restrict or cut out light and air on the property and on other property in the neighborhood, nor will it hinder or discourage the appropriate development and use of land and buildings in the neighborhood or impair the value thereof; that the mixed use project is not substantially detrimental to the character or value of the adjacent R district and existing dwellings; that the new building will not excessively damage or destroy natural features of the site; that the design of the project is compatible with other development in the neighborhood, thereby making it consistent with the City's adopted Design Guidelines; and that the project is consistent with the General Plan, Local Coastal Plan and other applicable laws of the City. Specifically, the Planning Commission finds that the project is a blend of commercial and residential use that is compatible with a mixed use neighborhood, and that the has sufficient design variety.

2. **Findings for Approval of the Use Permit:** The Planning Commission determines that the proposed mixed-use development, as conditioned, is an appropriate use for the site. Specifically, the establishment, maintenance, or operation of the building applied for will not, under the circumstances of this 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. The Commission further finds that the request is consistent with the City's adopted Design Guidelines. In particular, the proposed use is a ground floor commercial spaces with three units above that will be compatible with the surrounding neighborhood.
3. **Findings of Approval of the Coastal Development Permit:** The Planning Commission finds that the proposed project, 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 design and scale of the project is compatible with the surroundings in the Sharp Park neighborhood. 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.
4. **Findings of Approval of Tentative Map:** The Planning Commission finds that the required findings can be made for granting approval of subdivision to create condominiums in that the proposed subdivision is consistent with the General Plan and Zoning Ordinance of the City of Pacifica. In addition, the site is physically suitable for the type and density of development, no substantial environmental damage will be caused by the project, and no public health problems will result from development of the subject property. The proposed Tentative Map, which will create condominiums for the residential and commercial spaces, is compatible and consistent with the adjacent and immediately surrounding properties that contain both commercial and residential uses.

5. **Variance:** The Planning Commission finds that a special circumstance concerning the location and surroundings of the site applies to the subject property which necessitates a Variance for a reduction in landscaped area and usable open space and for the elimination of the side setbacks to proposed decking and stairs. Specifically, the location and surroundings are conducive to mixed use projects, other projects in the vicinity are developed with mixed uses and the requested variances are necessary to allow the construction of the proposed mixed use project. The strict application of the Zoning Code could impose unreasonable limitations at this property and the strict application of the provisions of the chapter would deprive the property of privileges enjoyed by other property in the vicinity and under an identical zoning classification. The project would be consistent with the Design Guidelines and be compatible with neighboring structures. The Commission finds the project standards set forth in the Municipal Code have been met to the furthest extent possible.
  
6. **Parking Exception:** The Planning Commission finds that the establishment, maintenance, and conducting of the off-street parking facilities, as proposed, are as nearly in compliance with the requirements set forth in Article 28 as are reasonably possible. Specifically, the Commission finds that the eight proposed parking spaces are sufficient to accommodate the proposed development.

### **COMMISSION ACTION**

#### **D. MOTION TO APPROVE:**

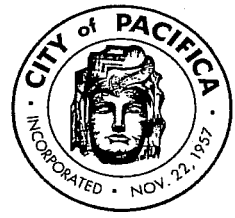
Move that the Planning Commission find that the project is exempt from CEQA and **APPROVE** PV-497-08, PE-152-08, SUB-217-08, UP-998-08, CDP-310-08 and PSD-774-08, subject to conditions 1 through 35, based on the findings contained within the January 5, 2009 staff report and all maps, documents, and testimony be incorporated herein by reference.

#### Attachments:

- a. Land Use and Zoning Exhibit
- b. Photos
- c. Plans and Elevations (Planning Commission only)

# Zoning & Land Use Exhibit

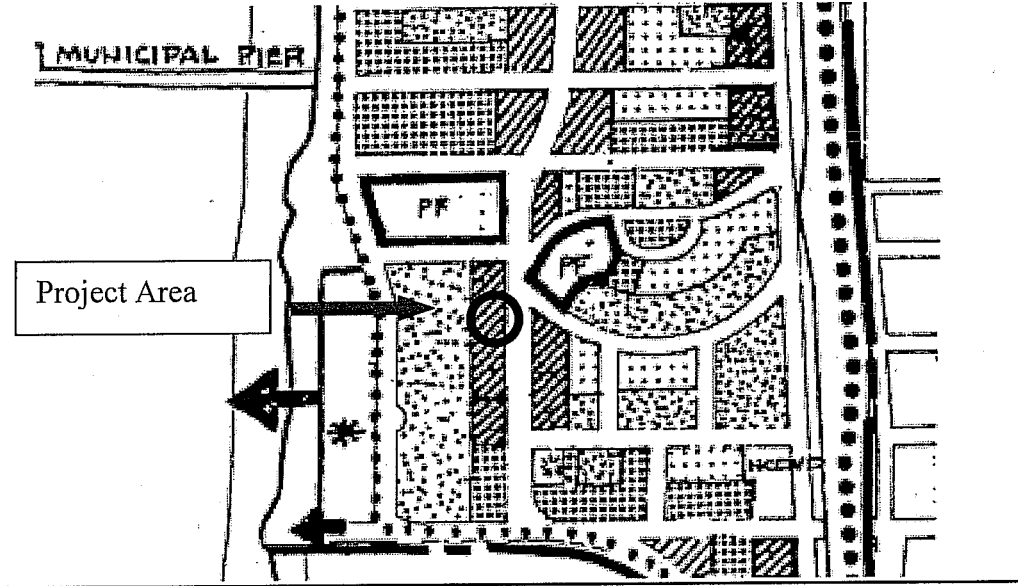
City of Pacifica  
Planning & Economic development Department



## General Plan Diagram

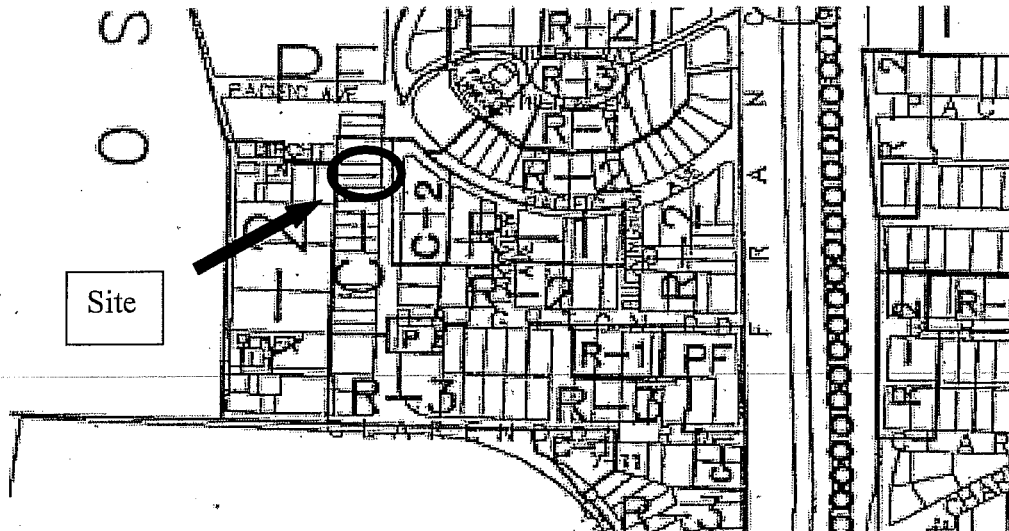
Neighborhood: West Sharp park

Land Use Designation: Commercial



## Zoning Map Diagram

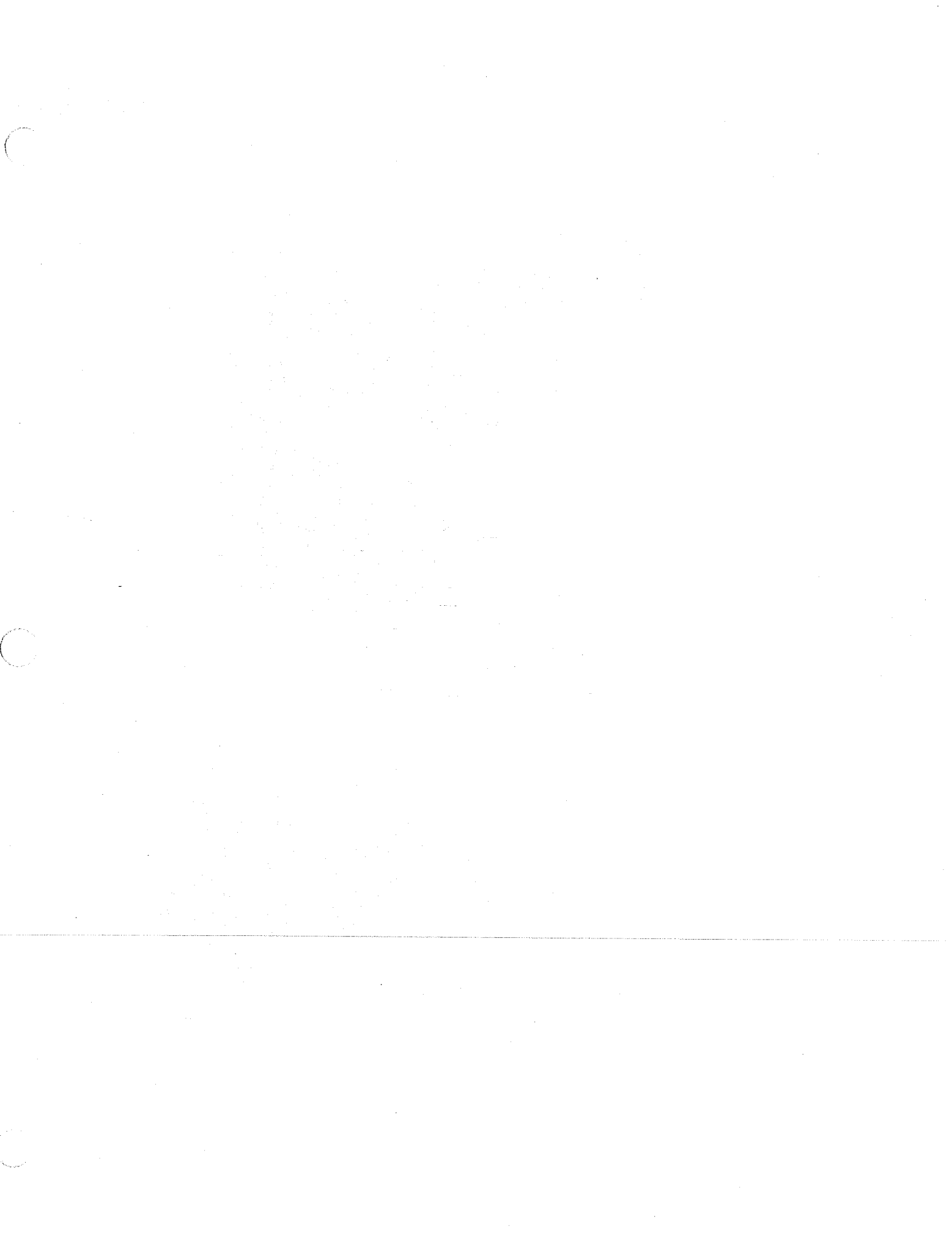
Existing Zoning District: C-1/CZ/Appeals Area (Neighborhood Commercial/Coastal Zone)



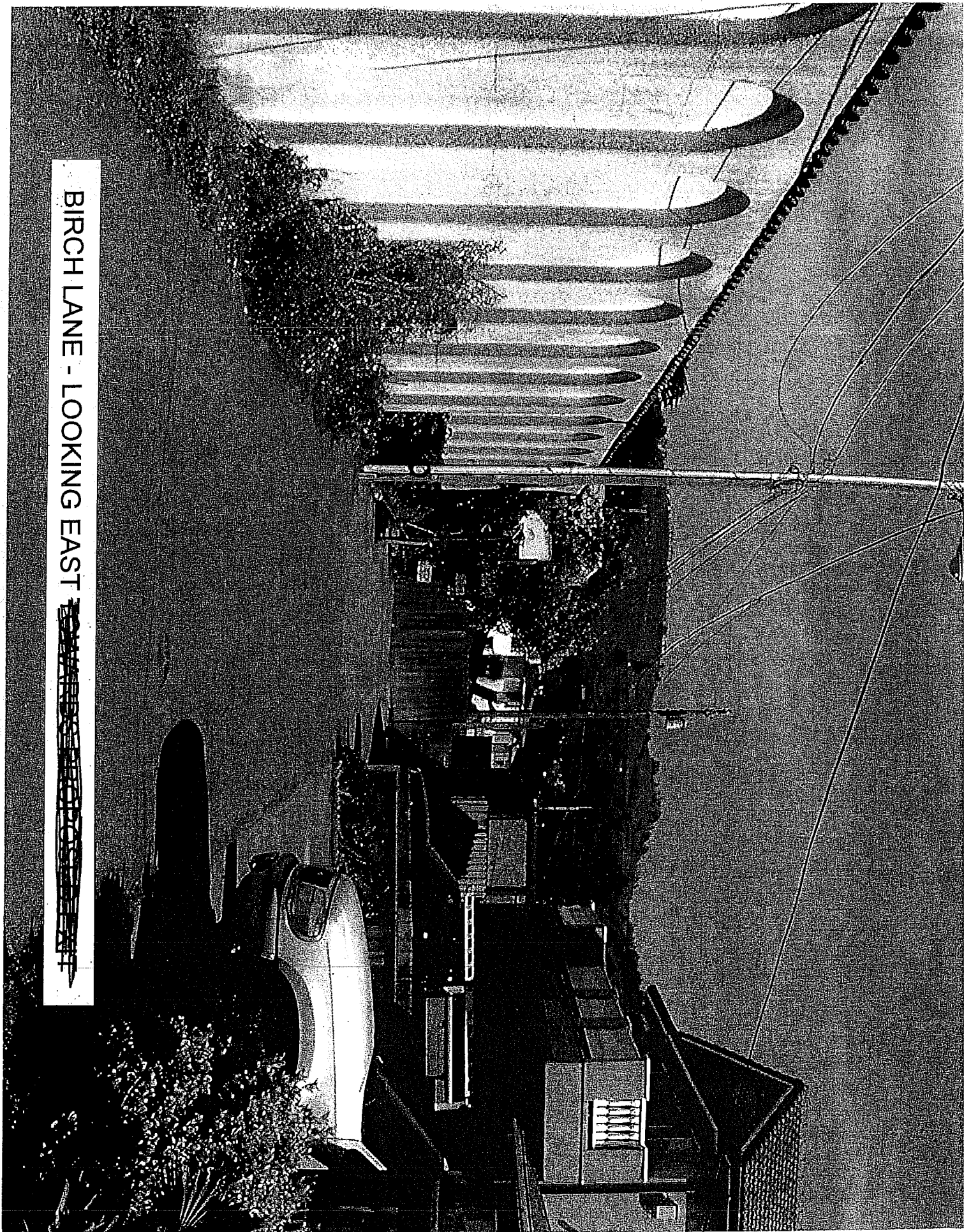
North

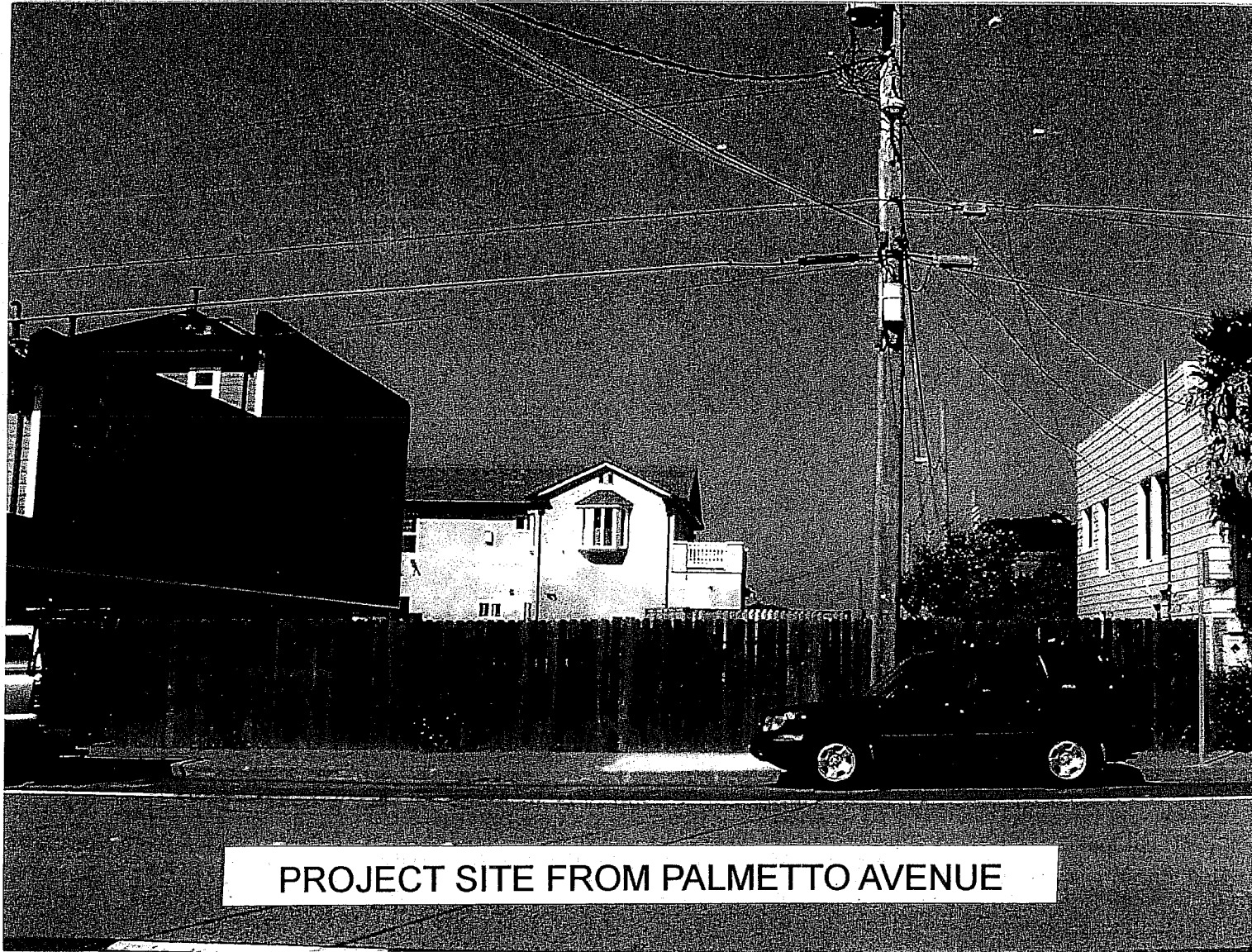
Scale: N.T.S.

Attachment A



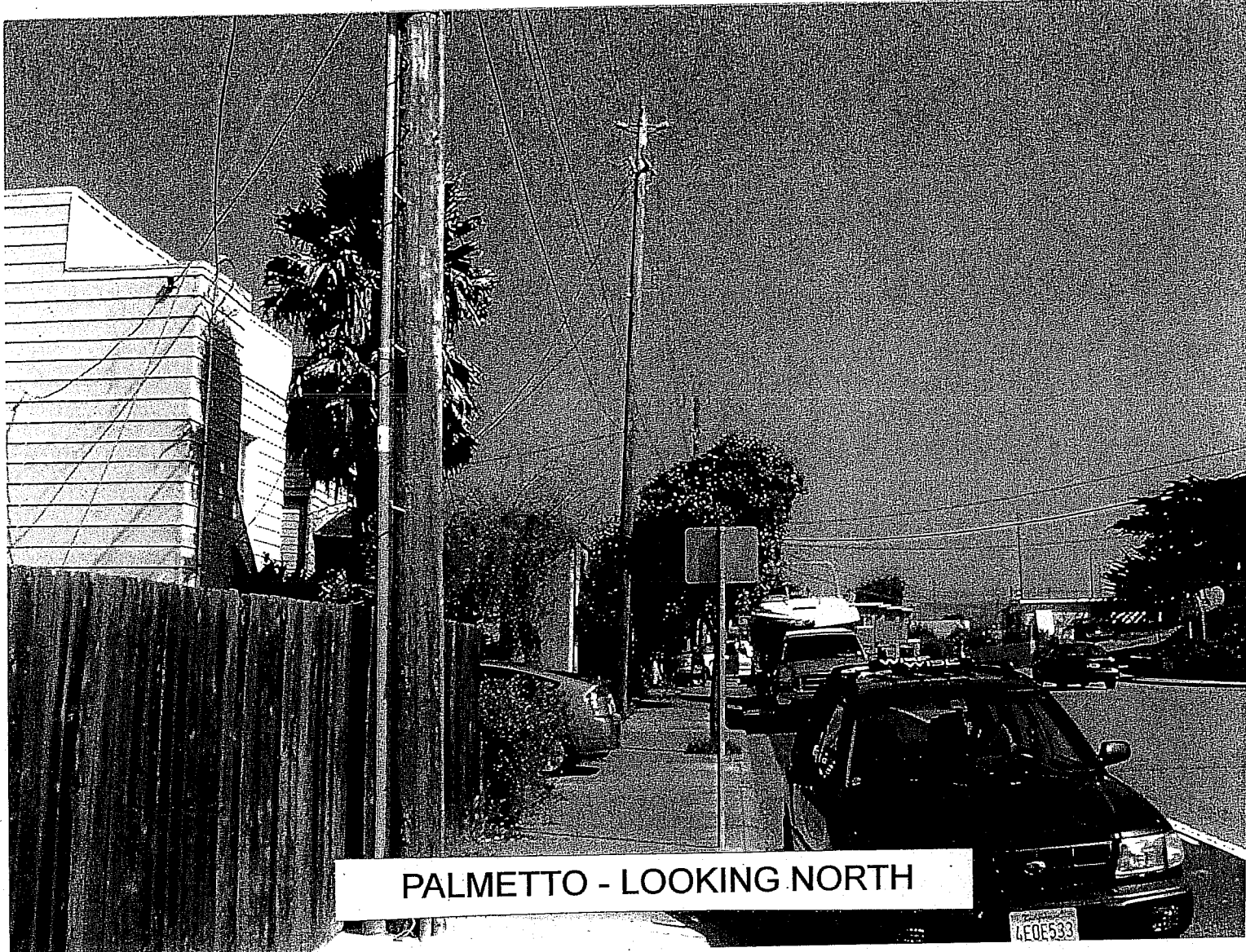
BIRCH LANE - LOOKING EAST



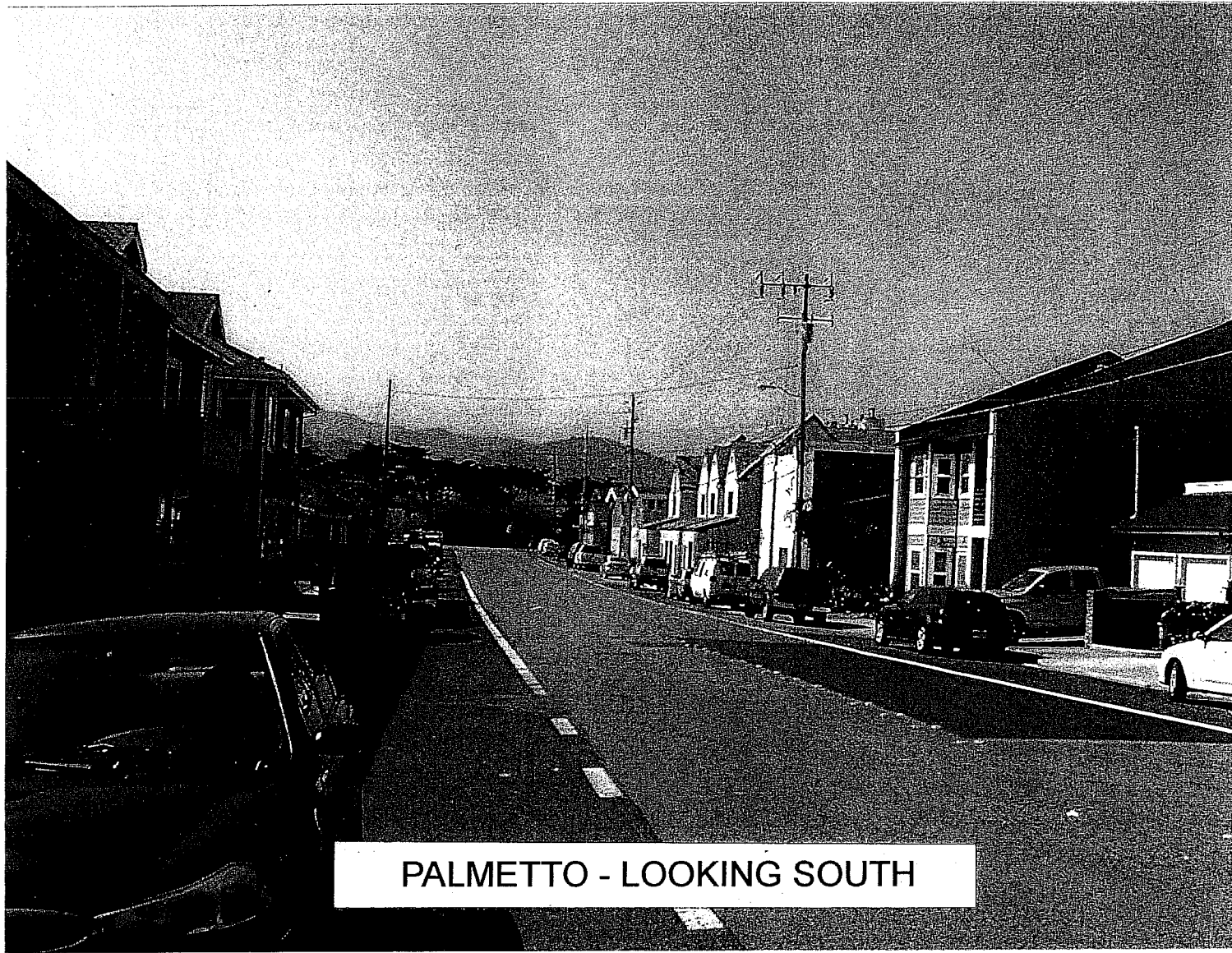


PROJECT SITE FROM PALMETTO AVENUE





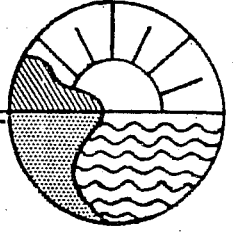
PALMETTO - LOOKING NORTH



PALMETTO - LOOKING SOUTH

# STAFF REPORT

PLANNING COMMISSION-CITY OF PACIFICA



**DATE:** January 5, 2009

**ITEM:** 7

## PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of Public Hearing was published in the Pacifica Tribune on December 24, 2008 and 22 surrounding property owners and occupants were notified by mail.

**FILE:** UP-995-08  
CDP-308-08

**APPLICANT:** Cathy Chen-Rennie, The Rex Center, LLC, 2046-48<sup>th</sup> Street, San Francisco, Ca 94116

**OWNER:** Friederich Binsfield, 805 Prairie Creek Drive, Pacifica, CA 94044

**LOCATION:** 1040 Palmetto Avenue

**APN:** 009-074-170

**PROJECT DESCRIPTION:** The applicant proposes to operate a dog swimming therapy and training business in an existing commercial space.

General Plan: Commercial

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

**RECOMMENDED CEQA STATUS:** Exempt Section 15303 (c)

**ADDITIONAL REQUIRED APPROVALS:** None

**RECOMMENDED ACTION:** Approval as conditioned

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

**ZONING STANDARDS CONFORMANCE:**

<u>Standards (C-3)</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
Lot Area	5,000 sf	16,395 sf approx.	No Change
Lot Width	50'	50'	No Change
Landscaping	10%	6% approx.	No Change
Maximum Height	35'	13'	No Change
Parking	6 spaces	6 spaces	No Change

**PROJECT SUMMARY**

**A. STAFF NOTES:**

**1. Project Description:** Proposed is the conversion of approximately 1,875 square feet of an existing tenant space into a dog swimming and dog training facility. The previous use was a surfboard manufacture shop. The tenant space proposed for the dog swimming and training facility fronts onto Palmetto Avenue with two parking spaces along the south side of the structure and four parking spaces at the back of the building. Another commercial building containing the Pacifica Muffler and Volvo auto repair shop is located on the back of the lot and separate from the proposed use with another parking area. An above ground indoor pool, approximately 8 feet wide by 17 feet in length with a capacity of 2,200 gallons of water, is proposed with a raised deck around it (see Attachment d). The pool will be located in the rear of the tenant space and will encompass approximately 25% of the tenant space. The remaining area will be utilized for training rooms, office space and a bathroom. Dog therapy will be offered in the swimming pool with the trainer and one dog in the pool at a time with either half hour or one hour appointments. The dog training sessions will have one or two trainers with up to 6 dogs at a time. The hours of operation proposed are Monday through Friday from 10 am through 9 pm, Saturday from 9 am through 5 pm and Sundays from noon until 5 pm. The applicant has provided additional information for the proposed business in the attached letters (see Attachments b and c).

Staff members from Wastewater, Engineering and Building have reviewed the proposal to ensure that the pool water will not be drained into the storm water system and to prevent drainage into the storm water system if the pool shell is damaged. These issues will be more thoroughly addressed during plan check.

**2. 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 CZ for Coastal Zone. The properties to the north, south and east across Palmetto Avenue from the subject site have the same zoning and General Plan designations as the subject site. The Pacific Ocean forms the property boundary on the west side of the site.

**3. Municipal Code and Regulatory Standards:** The Municipal Code Section 9-4.1201 (b) (7) requires that "all uses allowed as permitted or conditional uses in the C-1 and C-2 Districts, unless otherwise permitted in the C-3 District, and except residential uses" in the C-3 zone must

obtain approval of a Use Permit. In staff's opinion, the type of operation proposed is most similar to the following two uses: 1) "Veterinary hospitals and clinics" listed in Section 9-4.1101 (a) 7; or 2) "Pet care and sales establishments, including boarding and grooming" listed in Section 9-4.1101 (b) 2 as specified in the C-2 section in the Municipal Code. As stated previously, both of the uses listed above in the Zoning Code require review and approval of a Use Permit. In addition, in staff's opinion, it is the type of new operation that should be reviewed by the Planning Commission. The site is in the Coastal Zone and is an intensification of a use of land; therefore, approval of a Coastal Development Permit is also necessary.

**4. CEQA Recommendation:** The following excerpt is from the California Environmental Quality Act under Article 19. Categorical Exemptions:

**15303. New Construction or Conversion of Small Structures**

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:

(c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

The project is an existing approximately 1,875 square foot commercial space being converted into another commercial use; thus, it is exempted from undergoing environmental review.

**5. 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.

**6. 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.

**7. Analysis:**

Coastal Development Permit – The project is proposed within a commercial area, and therefore, complies with Coastal Act Policy #23 that states new development shall be located within or contiguous to an existing developed area that is able to accommodate it. There is a mix of commercial uses within close proximity to the site. In staff's opinion, the proposed dog swimming and training facility would be a unique type of business that may attract new customers to the City and it is located in an area that will not disturb residential uses.

As described in the Local Coastal Program on page C-33, the West Sharp area is one of the few areas available for service commercial uses. As discussed above, commercial uses in the neighborhood consist of light industrial and auto related uses. The Local Coastal Program states that service commercial uses such as the proposed dog swimming and training facility business are consistent with the existing development pattern, meet an important community need; and therefore, the proposed use would be an appropriate use for this site.

Although the subject site is located between the nearest public road and the shoreline, the project cannot provide safe public access to the beach because a steep bluff exists at the rear of the site that drops off into the ocean. In addition, no new structures are being added to the site because the applicant is proposing to start up a new business in an existing commercial space. In conclusion, staff believes that the proposed commercial project meets the overall intent of the Local Coastal Program even if public access cannot be provided as encouraged with the public recreation policies of Chapter 3 of the California Coastal Act due to the proposal not including any new development at the site.

Use Permit – Staff believes that the proposed change of use from a surfboard manufacture shop to a dog swimming and training facility would not 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. Specifically, the applicant is proposing a type of use that is unique in Pacifica and will be located in a light industrial area with few residential uses that would be impacted by any barking dogs.

**8. Summary:** In light of the foregoing, staff recommends that the Planning Commission approve the Use Permit, UP-995-08, and Coastal Development Permit, CDP-308-08 to allow a dog swimming and training facility at 1040 Palmetto Avenue. In staff's opinion, there are sufficient findings to approve the permits for this project because the proposed use will have minimal

impact to the existing and surrounding commercial businesses, and it may encourage additional visitors to the City of Pacifica.

---

## RECOMMENDATION AND FINDINGS

---

### B. RECOMMENDATION:

Staff recommends that the Planning Commission **APPROVE** UP-995-08, and CDP-308-08 for a dog swimming and dog training business within an existing commercial space at 1040 Palmetto Avenue, subject to the following conditions:

#### Planning Department:

1. Development shall be substantially in accord with the plans entitled "1040 Palmetto Avenue Pacifica CA 94044" consisting of ten (10) sheets, dated October 21, 2008, except as modified by the following conditions.
2. All trash and recycling materials, if stored outdoors, shall be fully contained and screened from public view within the proposed enclosure to the Planning Director's satisfaction. The enclosure design shall be consistent with the adjacent and/or surrounding building materials, and shall be sufficient in size to contain all trash and recycling materials, as may be recommended by Coastside Scavenger.
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 clearly indicate compliance with all conditions of approval on the plans and/or provide written explanations to the Planning Director's satisfaction prior to approval of a building permit.
5. 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.

#### Wastewater

6. The applicant shall provide a video of the sewer lateral line. Depending upon the condition of the existing sewer line, if there are any visible signs of leakage, the applicant shall replace parts or the whole sewer line to current specification and codes to the satisfaction of the City Engineer.

#### **C. FINDINGS:**

1. **Findings for Approval of the Use Permit:** The Planning Commission finds that the proposed change of use for an existing commercial space would not 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. Specifically, the applicant is proposing to start a dog swimming and training facility in an area with few residential uses; and therefore, barking dogs will not create negative impacts in the evening hours. In addition, the project has adequate parking and it is a unique business to Pacifica which may attract visitors to the City.
2. **Findings for Approval of the Coastal Development Permit:** The Planning Commission finds that the proposed project, 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 proposed unique business will attract customers and visitors to Pacifica. However, the project is not considered new development; and therefore, beach access cannot be required. 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 project is exempt from CEQA, and **APPROVE** UP-995-08, and CDP-308-08, subject to conditions 1 through 6, based on findings contained within the January 5, 2009 staff report and incorporate all maps, documents, and testimony into the record by reference.

Attachments: (Planning Commission only)

- a. Land Use and Zoning Exhibit
- b. Letter from Applicant Received October 21, 2008
- c. Letter from Applicant Dated November 25, 2008
- d. Plans and Elevations ( 10 pages – Mostly 8 1/2 by 11 Inches)



# CITY OF PACIFICA

## AGENDA MEMO

**DATE:** January 5, 2009

**TO:** Planning Commission

**FROM:** Lee Diaz, Associate Planner

**SUBJECT:** Agenda Item No. 8: Extension of Site Development Permit for the construction of a three-story single-family residence at the southwest portion of Oddstad Way and Troglia Terrace (APN 022-071-210 & -240).

---

On December 1, 2008 the Planning Commission considered an extension request for a Site Development Permit to construct a single-family residence at the southwest portion of Oddstad Way and Troglia Terrace. The Commission voted (7-0) to continue the extension request for a public hearing. Some of the Commission members had questions about the history of the project and others had concerns about the road maintenance agreement that was required as a condition of approval.

The Planning Commission originally approved the Site Development Permit for a three-story single-family residence on July 19, 2004. The Planning Commission's decision was appealed to the City Council on July 29, 2004. On November 22, 2004 the City Council denied the appeal and upheld the Planning Commission's approval of the Site Development Permit for the construction of the single-family residence. The original application for the Site Development Permit was filed on March 1, 2001. At that time the property was owned by a different entity.

The approved Site Development Permit was due to expire on November 22, 2005. On October 24, 2005 an extension of the Site Development Permit was requested. A new owner had purchased the property and was asking for additional time to meet the conditions of approval for the proposed single-family residence.

On August 30, 2006 the new property owner filed an application to amend the Site Development Permit. The Planning Commission approved the amendment to the Site Development Permit on November 20, 2006. The amendment to the Site Development Permit was due to a discrepancy between the originally approved topography map and the new topographic survey prepared by the new applicant. According to the new topographic survey, the subject property has a steeper slope than previously represented. Consequently, the proposed house would be approximately 9 feet higher from the existing house to the north. The maximum height of the proposed single family residence will still remain at 35 feet. In addition, the proposed driveway to the property

and the designed of the home also differed from the previously approved plans. The new owner was also required to record a road maintenance agreement with the City. The agreement was signed and recorded with the County of San Mateo. The agreement requires that the owner and its successors maintain all the roadway improvements on City right-of-way on both Oddstad Way and a portion of Troglia Terrace. Details are contained in the attached staff report dated November 20, 2006. Also attached are the minutes of the Planning Commission meeting.

The amended Site Development Permit was due to expire on November 20, 2007. On October 30, 2007 the owner requested an extension of the amended Site Development Permit. The Planning Commission granted a one (1) year extension on December 17, 2007. At that time, the final documents for the building permit were still being reviewed by the Planning and Building Department. Since the extension request was filed, the building permit has been ready for issuance once all required fees are paid to the City.

The building permit has not been issued because the applicant has not paid the fees. According to the applicant, he is still in the process of obtaining a loan to construct the residence. The Site Development Permit was due to expire on November 20, 2008. On November 3, 2008 staff received the attached extension request. This is the applicant's second extension request since the amendment of the Site Development Permit in 2006.

Extension requests are not unusual and are generally granted unless there have been significant changes in conditions or circumstances affecting the project or area. As indicated above, a question regarding the road maintenance agreement required as part of the project conditions of approval was raised at the December 1, 2008 Commission meeting. The Commission may alter or impose additional conditions if there is substantial evidence in the record that since the time of the original conditions there has been a change in circumstances or new information demonstrating that new or altered conditions are necessary to secure the purposes of the Zoning Code. In staff's opinion, there have not been any changes or new information that would warrant new or altered conditions.

If the Commission disagrees and wishes to add or alter conditions, or decides to deny the extension request, this item would need to be continued to the next meeting for the preparation of appropriate findings.

### **COMMISSION ACTION REQUESTED**

Move that the Planning Commission **EXTEND** PSD-730-04 to November 20, 2009.

Attachments:


1. Email from Applicant, 10/30/07
2. Planning Commission Staff Report, 11/20/06 (without attachments)
3. Planning Commission Minutes, 11/20/06

# CITY OF PACIFICA

## MEMORANDUM

**DATE:** January 5, 2009

**TO:** Planning Commission

**FROM:** Michael Crabtree, Planning Director 

**SUBJECT:** **Agenda Item No. 9** – Discussion of Bed and Breakfast Inn Regulations - Direction to Staff

---

**Background:** As the Commission is aware, staff has been working on a number of minor zoning code revisions and is prepared to bring forward a Resolution of Intent for Commission consideration in the near future. One of the items under consideration pertains to potential changes to the regulations for Bed and Breakfast Inns. However, given the Commission's recent consideration of a project involving a Bed and Breakfast Inn (B&B), staff believes it is appropriate to elicit feedback from the Commission regarding desired changes, if any, to the B&B regulations.

**Existing Regulations:** Attached is the complete text of the regulations for Bed and Breakfast Inns from the Pacifica Zoning Code. Following is a brief summary of each section.

**Sec. 9-4.461. Purpose.** This section lays out the purpose of the ordinance (to encourage commercial growth and "in response to growing public interest and concern about" the development of B&B's.

**Sec. 9-4.462. Bed and breakfast inn defined.** This section provides the definition of a B&B. Note that the definition states "An inn is a conditional use in all zoning districts."

**Sec. 9-4.463. Development standards.** Subsection (a) contains the minimum criteria that must be met in order to apply for a B&B; subsection (b) sets forth the standards that must be met; subsection (c) specifies the required permits, and subsection (d) addresses signage.

**Sec. 9-4.464. Legalization of existing bed and breakfast inns.** This section pertains to B&B's that might have been in existence prior to adoption of the ordinance.

It is important to note that B&B's are also identified as a special use under Sec. 9-4.2306. "Special use permit procedures" of the Municipal Code. Such uses are allowed under any zoning

district or General Plan designation with approval of a special use permit and site development permit from the Planning Commission.

**Discussion of Possible Ordinance Amendments:** The language of the “Purpose” section of the ordinance suggests that there was a belief that B&B’s could become a popular land use choice for homeowners and thus required regulation. Although B&B’s have obviously not become prevalent in the City, staff believes it is prudent to establish standards for this type of land use. Staff sees no need to amend the “Purpose” section of the ordinance.

As noted above, the “Definition” section of the ordinance states that B&B’s are a conditional use in any zoning district. While B&B’s would seem to be appropriate land uses for residential and commercial districts, staff questions whether such uses are appropriate in other zoning districts such as Public Facilities (P-F) and Open Space (OS). Staff suggests that the sentence that reads “An inn is a conditional use in all zoning districts,” be modified to read “An inn is a conditional use in all residential and commercial zoning districts.”

Subsection (c) of the “Development standards” section of the ordinance creates what staff is certain is an unintended result for B&B’s proposed on land within the Hillside Preservation District (HPD). It states, “A special use permit and site development permit must be approved by the Planning Commission for any inn proposed in any district with the exception of the Commercial Districts. In the Commercial Districts, only a site development permit must be approved by the Commission. If located in the Hillside Preservation District (HPD), the HPD regulations shall be followed and the special use permit and site development permit shall not be required.” This statement is included because the drafters of the ordinance concluded that any proposal on HPD land would go through the usual development procedure (rezoning the property to Planned Development (PD) with approval of a Development Plan). However, as stated above, B&B’s are also listed as a special use under the “Special use” section of the code. Among other things, this section states, “Relation to Hillside Preservation District regulations. Hillside Preservation District regulations shall be followed; however, planned development zoning shall not be required.” Therefore, B&B’s proposed on HPD land do not require rezoning to PD with an approved Development Plan, because they are listed in the “Special use” section of the ordinance, but they also are specifically exempted from the requirement to obtain a special use permit and site development permit per the B&B ordinance itself. The end result is that B&B’s proposed on HPD land are not required to obtain any discretionary permits. An over the counter building permit is all that is needed. Staff does not believe this was the intent of the B&B ordinance authors, and in any event believes that changes are needed to ensure B&B’s require discretionary review.

There are at least two possible code changes that would ensure that all B&B’s require discretionary approval by the Planning Commission. One is to remove the last sentence of subsection (c) of the B&B ordinance (“If located in the Hillside Preservation District (HPD), the HPD regulations shall be followed and the special use permit and site development permit shall not be required.”) Without this sentence, a B&B proposed on HPD land would require a use permit and site development permit; such uses would continue to be exempt from rezoning to PD

with an approved Development Plan due to the language in the “Special use” section of the ordinance.

Another approach is to remove B&B’s from the “Special use” section of the Municipal Code. Section 9-4.2306 (a) of “Special use permit procedures” states, “The purpose of this section is to prescribe the procedure for the accommodation, in any zoning district and General Plan designation, of uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings through the review and imposition of special conditions of approval.” It could be argued the B&B’s do not present any particularly special site or design requirements, and their operating characteristics and potential effect on surroundings would be at worst equivalent to, but likely less than, a small hotel. At any rate, if B&B’s were removed from the “Special use” section of the Municipal Code, a Use Permit and Site Development Permit would still be required, along with any appropriate environmental review.

Of the two options above, staff prefers the latter. There doesn’t appear to be any compelling reason to consider B&B’s a special use, nor does it seem appropriate to allow such uses in land zoned Open Space, Public Facilities, or Agricultural, without a zone change. Therefore, to ensure that discretionary review of B&B’s occurs (along with a noticed public hearing) and that such uses are located in appropriate zones, staff recommends that the Municipal Code be modified to allow B&B’s in all residential and commercial zoning districts as a conditional use (requiring a use permit and site development permit) and that B&B’s be removed from the list of uses under the “Special use permit procedures” section of the Code. Other minor changes to the B&B ordinance would be needed to ensure consistency. These would all be presented to the Commission at a future meeting for formal consideration.

**Conclusion:** The foregoing is staff’s evaluation of the present situation as it concerns the City’s B&B regulations. Staff is seeking Commission direction to move forward with the recommended Code changes, or other or different changes to the B&B regulations as determined by the Commission.

### **COMMISSION ACTION REQUESTED**

Move that the Planning Commission direct staff to process changes to the Municipal Code as outlined in the January 5, 2009 Planning Commission memo, or as otherwise determined by the Planning Commission.

attachment:

a. B&B Ordinance



## **Bed and Breakfast Inn Regulations – Pacifica Municipal Code**

### **Sec. 9-4.461. Purpose.**

It is the intent of the City to apply the regulations of this article to bed and breakfast inns to encourage commercial development which will promote the City and in response to growing public interest and concern about the development of this type of facilities.

A bed and breakfast inn ("Inn") which is approved by the Planning Commission and which conforms to the requirements of this article shall be considered a commercial use which is consistent with the existing General Plan and zoning designations for the subject property contingent on Planning Commission approval. The City's growth control ordinance shall not be applied to inns. Furthermore, it is the intent of this article to encourage the sensitive use of historic sites as inns and for new development proposals to include special architectural or historic character.

### **Sec. 9-4.462. Bed and breakfast inn defined.**

As stated in this article, "bed and breakfast inn" shall refer to any structure containing not more than twelve (12) guest bedrooms, which may be occupied by no more than twenty-four (24) persons, which are intended to be let to transient guests for compensation. A "guest bedroom" is a room primarily intended for sleeping and contained in the primary structure, which may contain furnishings, but may not lawfully contain any kitchen equipment. Bath facilities may be shared or may be separate for each guest bedroom. An inn is a conditional use in all zoning districts. An inn shall provide guest bedrooms and breakfast for transient guests.

### **Sec. 9-4.463. Development standards.**

(a) Applicability. An application for a bed and breakfast inn shall be considered only if the project meets the following minimum criteria:

- (1) The property is owner occupied and managed;
- (2) The property's size is at least 5,000 square feet;
- (3) No covenants, conditions and restrictions prohibit the use of the property; and
- (4) The structure shall meet the minimum requirements of the Uniform Building Code for the proposed occupancy or shall be upgraded to the satisfaction of the Building Official.

(b) Standards. The following standards shall apply to a bed and breakfast inn:

- (1) The inn shall be occupied and managed by an owner of the property;
- (2) The maximum length of stay for any guest shall be (14) consecutive days during any thirty (30) day period;
- (3) In residential districts, breakfast is the only meal that may be served and shall only be served to registered guests of the inn; however, restaurants may be permitted in commercial districts in conjunction with an inn;
- (4) No kitchen appliances or cooking facilities will be permitted in the guest bedrooms;
- (5) The number of permissible guest bedrooms shall be determined by dividing the square footage

of the subject lot by 1,800 square feet with twelve (12) being the maximum number of permitted guest bedrooms;

(6) A register must be maintained on the premises. The register must contain the guests' names, home address, and check in and check out dates. The register must be kept for a period of seven (7) years from the date of the last registration noted in the register; and

(7) In addition to the two (2) covered parking space required by Code for the owner's unit, one off-street parking space shall be provided for each guest room. If more than ten (10) guest rooms are proposed, additional parking may be required.

(c) Permits required.

(1) A special use permit and site development permit must be approved by the Planning Commission for any inn proposed in any district with the exception of the Commercial Districts. In the Commercial Districts, only a site development permit must be approved by the Commission. If located in the Hillside Preservation District (HPD), the HPD regulations shall be followed and the special use permit and site development permit shall not be required;

(2) Each conditional use approval is site specific and may not be transferred to another property than was originally approved; and

(3) Annual inspections of the inn shall be made by the City Fire and Planning Divisions and the inn must secure and maintain the appropriate County Health Department permits and certificates.

(d) Signs.

(1) In Residential Districts only one wooden sign, no more than six (6) square feet in area, will be permitted. The sign may be free standing or may be placed on an exterior wall or in a window. The sign may not be externally illuminated. The sign must: (a) conform to the City's Design Guidelines; and (b) receive sign permit approval by the Planning Administrator pursuant to Article 29 of Chapter 4 of Title 9 this Code.

(2) Inns located in any district other than Residential may have signs consistent with Article 29 of Chapter 4 of Title 9 of this Code.

#### **Sec. 9-4.464. Legalization of existing bed and breakfast inns.**

Existing inns which have not received a special use permit or site development permit are considered illegal. If an inn was in existence prior to the date of adoption of the ordinance codified in this article and if the property owner requests legalization, the Commission may waive the parking and lot requirement standards. It shall be the applicant's responsibility to provide evidence that the inn was in existence prior to the date of adoption of the ordinance codified in this article. The waiver of the standards for illegal inns shall be discretionary, and such waiver shall depend on individual circumstances and the ability to make findings for approval.

(§ 1, Ord. 559-C.S., eff. November 7, 1990)