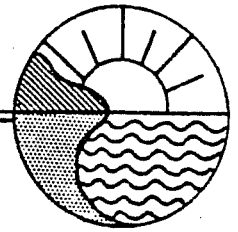


# AGENDA



## Planning Commission – City of Pacifica AMENDED AGENDA

DATE: October 17, 2011  
LOCATION: Council Chambers, 2212 Beach Boulevard  
TIME: 7:00 PM

### ROLL CALL:

### SALUTE TO FLAG:

### ADMINISTRATIVE BUSINESS:

Approval of Order of Agenda

Approval of Minutes: September 19, 2011

Designation of Liaison to City Council Meeting of: October 24, 2011

### CONSENT ITEMS:

None

### PUBLIC HEARINGS:

1. CDP-329-10  
UP-017-09 **USE PERMIT and COASTAL DEVELOPMENT PERMIT**, filed by the applicant and owner, James Payne, to operate a range of C-3 (Service Commercial) outdoor uses at 800 to 1046 Palmetto Avenue (APN 009-074-070, 080, 090, 100, 110, 140, 160 and 240). Proposed Action: Deny range of C-3 outdoor uses.

### CONSIDERATION ITEMS:

2. Consideration and possible (1) rescission of the motions related to the Calera Parkway Draft Environmental Impact Report made September 19, 2011, (2) declaration of testimony thereon to be null and void, (3) acknowledgement of independent corrective actions taken, and (4) commitment to attend a Brown Act compliance training

### 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

## Agenda Memo

**DATE:** October 17, 2011

**TO:** Planning Commission

**FROM:** Kathryn Farbstein, Assistant Planner 

**SUBJECT:** Agenda Item No. 1: Applicant Requests Approval to Operate a Range of C-3 Outdoor Uses at 800-1046 Palmetto Avenue; Use Permit, UP-017-10 and Coastal Development Permit, CDP-329-10 (APN 009-074-070, 080, 090, 100, 110, 140, 160, and 240)

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Background: This portion of the project was continued to a date uncertain from the Planning Commission meeting on February 7, 2011 (staff report and meeting minutes attached) to allow the applicant time to complete the required environmental review process. On May 9, 2011, the applicant requested and was granted an extension of time.

CEQA: Staff determined that due to the location of the subject site in a sensitive area along the bluffs above the ocean and the range of uses that could be located close to the bluffs, environmental review would be necessary. During the meeting earlier this year, the Planning Commission concurred with staff's determination. Staff obtained three scopes of work from environmental consultants as well as assisting the applicant to clarify the types of proposed uses on the subject site. The scopes of work including the costs were given to the applicant on August 1, 2011.

### Staff Analysis:

The applicant has not initiated the required environmental review process for the project. Therefore, staff is bringing this project back to the Planning Commission and recommending denial due to lack of environmental review and progress on this project.

### FINDINGS

**1. Findings for Denial of the Use Permit:** The Planning Commission finds that the proposal is inconsistent with the applicable laws of the City in that the environmental review has not been completed as required by CEQA; and therefore, the Planning Commission cannot adequately review the project.

**2. Findings for Denial of the Coastal Development Permit:** The Planning Commission finds that because environmental review has not been completed for this project as required by CEQA, the Planning Commission cannot adequately review this project.

### **COMMISSION ACTION**

#### **MOTION FOR DENIAL:**

Move that the Planning Commission find that the project is not exempt from CEQA and DENY UP-017-10 and CDP-329-10, and adopt findings contained in the October 17, 2011 Agenda Memo, and incorporate all maps and testimony into the record by reference.

#### Attachments (Planning Commission Only)

- 1) February 7, 2011 Staff Report
- 2) Planning Commission Meeting Minutes from February 7, 2011

CITY OF PACIFICA  
MEMO

**Date:** October 17, 2011

**To:** Planning Commission

**From:** George White, Planning Director

**Subject:** Agenda Item No. 2: Consideration and possible (1) rescission of the motions related to the Calera Parkway Draft Environmental Impact Report made September 19, 2011, (2) declaration of testimony thereon to be null and void, (3) acknowledgement of independent corrective actions taken, and (4) commitment to attend a Brown Act compliance training.

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**DISCUSSION:**

A citizen complaint was filed with the District Attorney's Office alleging that a Brown Act violation occurred at the September 19, 2011 Planning Commission meeting. The complaint alleges that the Commission approved three motions related to the Calera Parkway Draft Environmental Impact Report ("DEIR") without providing proper public notice of their action. Specifically, under review are the Commission's motions: (a) scheduling an October 3<sup>rd</sup> informational meeting, (b) scheduling an October 17 Planning Commission hearing on the DEIR, and (c) directing staff to request an extension of the comment period to November 17<sup>th</sup>.

Following the September 19, 2011 meeting the Planning Commission meetings scheduled for October 3<sup>rd</sup> and 17<sup>th</sup> were cancelled. The City Council agendaized and addressed the issue at its regular September 26, 2011 meeting. The Council directed staff to work with CalTrans to extend the public comment period for the DEIR, which was accomplished.

The City takes compliance with governmental transparency laws very seriously and recognizes the importance of providing public access to the decision-making process. To address this issue, it is recommended that the Commission take the following corrective actions:

- The Commission should formally rescind all three motions on the topic: (a) scheduling an October 3<sup>rd</sup> informational meeting, (b) scheduling an October 17 Planning Commission hearing on the DEIR, and (c) directing staff to request an extension of the comment period to November 17<sup>th</sup>.
- The Commission should declare any testimony on the matter made at the September 19<sup>th</sup> meeting to be null and void.

- The Commission should acknowledge the corrective actions that have been taken: (1) the October 3<sup>rd</sup> and 17<sup>th</sup> Planning Commission meetings on the DEIR were cancelled and (2) the City Council independently addressed the issue of the DEIR extension at a duly noticed public meeting which gave the public an opportunity to participate on the matter.

In addition, it is recommended that the Commission attend a Brown Act Training Seminar to be scheduled through the City Manager and City Attorney offices.

**COMMISSION ACTION REQUESTED:**

- (1) Rescind the three motions related to the Calera Parkway Draft Environmental Impact Report (DEIR) made September 19, 2011;
- (2) Declare that the Planning Commissioner's testimony made regarding the Calera Parkway DEIR is null and void,
- (3) Acknowledge that the Planning Commission meetings related to the DEIR have been cancelled and the City Council independently addressed the issue at a duly noticed public meeting, and
- (4) Commit to attending a Brown Act training seminar.