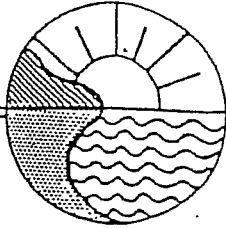


# AGENDA



## Planning Commission – City of Pacifica

DATE: Monday, December 15, 2008  
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 1, 2008

Designation of Liaison to City Council Meeting of: December 22, 2008 (cancelled)

### CONSENT ITEMS:

### PUBLIC HEARINGS:

1. UP-994-08 USE PERMIT, VARIANCE, and SITE DEVELOPMENT PERMIT, filed by the agent, Leah Hernikl, on behalf of the applicant, Metro PCS, 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., Pacifica (APN: 023-281-130). Recommended CEQA status: Exempt. Proposed Action: Continue to January 5, 2009 (Continued from December 1, 2008)  
PV-494-08  
PSD-773-08
2. UP-996-08 USE PERMIT, VARIANCE, and COASTAL DEVELOPMENT PERMIT, filed by the agent, Mark Bucciarelli, on behalf of the owner, Karl Seagren, to add a second and third story to an existing single-family residence at 61 Elder Lane, Pacifica (APN 016-315-190). The project is located in the Coastal Zone. Recommended CEQA status: Exempt. Proposed Action: Continue to January 20, 2009 (Continued from December 1, 2008)  
PV-495-08  
CDP-309-08
3. S-38-90 AMENDMENT TO SIGN PERMIT, SIGN EXCEPTION, and USE PERMIT, filed by the agent, Wendell Mueller, on behalf of the applicant, Safeway Stores, Inc. and the owner, Del-Camp Investments, Inc., to modify existing signage and add an outdoor seating area at 12 Manor Plaza, Pacifica (APN 009-134-130). The project is located in the Coastal Zone. Recommended CEQA status: Exempt. Proposed Action: Approval as conditioned  
SE-27-08  
UP-997-08
4. PV-496-08 VARIANCE, filed by the applicant/owner, David Blackman, to construct a single family dwelling that will exceed the coverage limitations of the Hillside Preservation District at 130 Dardenelle Avenue, Pacifica, CA (APN 018-113-060). Recommended CEQA status: Exempt. Proposed Action: Approval as conditioned
5. UP-987-08 USE PERMIT, PARKING EXCEPTION, SUBDIVISION, and CONDOMINIUM CONVERSION, filed by the agent, Michael McCracken, on behalf of the owners, David Walia, Regional Manager for Marymount Summit, LLC and Marymount Gateway, LLC, to convert an apartment complex with 170 units into condominiums at 435 Gateway Drive, Pacifica (APN 009-540-110, 120, 130, 140, 150, 160 and 170). Recommended CEQA status: Exempt. Proposed Action: Approval as conditioned  
PE-148-08  
SUB-216-08  
CC-05-08

### OTHER AGENDA ITEMS:

### COMMUNICATIONS:

Commission Communications:

Staff Communications:

Oral Communications:

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

## ADJOURNMENT

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

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

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

# CITY OF PACIFICA

## AGENDA MEMO

**DATE:** December 15, 2008

**TO:** Planning Commission

**FROM:** Christina Horrisberger, Assistant Planner

**SUBJECT:** Agenda Item No. 1: 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).

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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 and to prepare better renderings of the equipment enclosure. On November 17, 2008 a further continuance was 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 1, 2008.

The applicant has been working with Pacifica Center for the Arts tenants, but revised plans have yet to be submitted. Therefore, a continuance to the Planning Commission meeting on January 5, 2009 is requested.

### **COMMISSION ACTION REQUESTED**


Move that the Planning Commission **CONTINUE** UP-994-08, PV-494-08, and PSD-773-08 to the next Planning Commission meeting on Monday, January 5, 2009, with the public hearing open.

# CITY OF PACIFICA

## AGENDA MEMO

**DATE:** December 15, 2008

**TO:** Planning Commission

**FROM:** Lily Lim, Planning Intern 

**SUBJECT:** **Agenda Item No. 2:** Use Permit, UP-996-08, Variance, PV-495-08, and Coastal Development Permit, CDP-309-08, to construct a new second and third floor at an existing single-family residence at 61 Elder Lane, Pacifica, (APN – 016-315-190).

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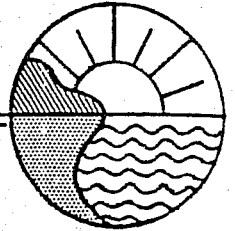
On November 17, 2008 and again on December 1, 2008 the Planning Commission continued consideration of Use Permit, UP-996-08, Variance, PV-495-08, and Coastal Development Permit, CDP-309-08, to construct a new second and third floor at an existing nonconforming single-family residence on a nonconforming lot at 61 Elder Lane. During the hearing on November 17, 2008 the Commission expressed concerns relating to the project's lack of consistency with the Design Guidelines, specifically relating to the scale and bulk of the proposed structure.

The applicant has been working on the concerns expressed by the Commission, but revised plans have yet to be submitted for review. Therefore, a further continuance to the Planning Commission meeting on January 20, 2009 is requested.

### COMMISSION ACTION REQUESTED

Move that the Planning Commission **CONTINUE** UP-996-08, PV-495-08, and CDP-309-08 to the next Planning Commission meeting on January 20, 2009, with the public hearing open.

# STAFF REPORT



## PLANNING COMMISSION-CITY OF PACIFICA

**DATE:** December 15, 2008

**ITEM:** 3

### PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of Public Hearing was published in The Pacifica Tribune on December 3, 2008. 51 surrounding property owners were notified by mail.

**FILE:** Amendment to S-38-90  
SE-27-08  
UP-997-08

**APPLICANT:** Safeway Stores, Inc.  
5918 Stoneridge Mall Rd.  
Pleasanton, CA 94588

**AGENT:** Wendell Mueller  
1515 SE Water Ave. #100  
Portland, OR 97214

**OWNER:** Del-Camp Investments, Inc  
1371 Oakland Blvd. #200  
Walnut Creek, CA 94596

**LOCATION:** 12 Manor Plaza (APN – 009-134-130)

**PROJECT DESCRIPTION:** Proposal to modify existing signage and add an outdoor seating area at 12 Manor Plaza, Pacifica, CA (APN – 009-134-130).

**General Plan:** Commercial

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

**RECOMMENDED CEQA STATUS:** Exempt Section 15311 (a)

**ADDITIONAL REQUIRED APPROVALS:** None

**RECOMMENDED ACTION:** Approve as conditioned

**PREPARED BY:** Lily Lim, Planning Intern

**ZONING STANDARDS CONFORMANCE:**

<u>Standards</u>	<u>Min./Max.</u>	<u>Existing</u>	<u>Proposed</u>
Total Copy Area	153 sq. ft. (Max.)	163.58 sq. ft.	169.90 sq. ft.

**PROJECT SUMMARY**

**A. STAFF NOTES:**

**1. Existing Site Conditions:** The subject property is located west of Highway 1 on the western side of a small strip mall known as Manor Plaza Shopping Center. The shopping center is surrounded by both multi-family and single-family homes as well as small businesses. A number of small businesses, a gas station, a recycling center and Safeway are within the shopping center. Additionally, a new Walgreen's drug store is under construction nearby.

**2. Background:** On November 19, 1990, the Planning Commission approved a Master Sign Program (MSP) for the Manor Plaza Shopping Center. Each roof sign had to be 10 feet wide, 22 inches high, approximately 1 7/8 inches thick and made from vertical grain redwood. The MSP also incorporated the seagull logo as part of each sign, although businesses were allowed to use their own logo instead of the seagull, provided it did not exceed the dimensions of the seagull. The MSP was approved to provide consistency and improve the visual aspect of the shopping center. The MSP has exempted Safeway from the program; however, it states that if any changes to the Safeway sign should occur, it must comply with the MSP. In 2007, an amendment to the MSP was approved for the replacement of an existing freestanding sign.

**3. Project Description:** The applicant proposes to replace the existing exterior signage for the Safeway store and add an outdoor seating area at Manor Plaza Shopping Center. The existing exterior signage has a copy area of 91.58 square feet and the proposed copy area is 71.21 square feet. Although the proposed copy area is smaller than the existing, the applicant also plans to add two smaller signs. The cumulative copy area, including the freestanding sign, will be 169.90. All three internally illuminated signs will be mounted on the front façade of the building. One of the smaller signs will be advertising the Starbucks kiosk inside the supermarket, while the other advertises Safeway's Signature Deli. The Starbucks sign is the smaller of the two, with a copy area of 7.07 square feet and the Signature Deli sign has a copy area of 19.62. Currently, the existing sign does not have a Safeway logo, whereas the proposed sign will include Safeway's "S" logo.

The outdoor seating area will be located on the sidewalk in between Safeway's two entrances and will consist of three circular tables with four built-in seats. Amongst the 12 seats, one is handicap accessible. All three tables will be fastened to the sidewalk and have a secured collapsible canopy.

**4. General Plan, Zoning, and Surrounding Land Use:** The General Plan designation for the subject property is Commercial and the zoning classification is C-1/CZ (Residential

Commercial/Coastal Zone). Properties north and south of the project area are zoned C-1, while the properties on the west are zoned R-3.

**5. Municipal Code and Regulatory Standards:** Although Safeway was originally exempt from the MSP, the proposed project requires an amendment to the MSP because the replacement sign does not conform with the MSP. A Sign Exception is also required because the proposed copy area exceeds the maximum allowed in Section 9-4.2906. Additionally, a Use Permit will be required pursuant to Section 9-4.2308 of the Municipal Code to address the proposed outdoor seating area.

**6. Amendment to Master Sign Program:** The current MSP exempts Safeway from the sign program, but it also states that modifications to the existing sign require approval from the City. Safeway is proposing to replace the existing Safeway sign and add two new signs. The proposed "Safeway" sign will be smaller than the existing sign and will incorporate a new Safeway "S" logo. The MSP allows an alternate logo that is unique to the corporate company or business, provided that it does not exceed the maximum horizontal and vertical dimensions of the approved seagull logo. The proposed logo does exceed the maximum allowed dimensions; however, Safeway is the anchor store for the shopping center and anchor stores are often allowed larger signage. The two smaller signs will be advertising the Starbucks kiosk and Safeway's Signature Deli inside of the supermarket. An amendment to the current MSP will be necessary in order to allow the proposed signage.

**7. Sign Exception:** The Commission, after a public hearing thereon, may grant an exception to the strict provisions of this article only when the Commission makes all of the following findings:

1. There are exceptional or extraordinary circumstances applicable to the property, building, or sign involved which do not apply generally to other property, buildings, or signs in the vicinity. Such circumstances may include the shape, size, location or surroundings of the subject property or buildings or the type or design of the sign involved;
2. That, owing to such exceptional or extraordinary circumstances, the literal enforcement of the specified provisions of this article would result in practical difficulty or unnecessary hardship not created by or attributable to, the applicant or owner of the property;
3. The granting of such exception will not constitute a grant of special privilege inconsistent with the limitations imposed on other properties or buildings in the vicinity;
4. The granting of such exception will not be materially detrimental to the public welfare or materially injurious to property or improvements in the vicinity; and
5. The granting of such exception will not be inconsistent with the general purpose or intent of this article.

Approval of a Sign Exception is required because the project exceeds the maximum allowable copy area as specified in the Sign Ordinance. The maximum copy area allowed for Safeway is 153 square feet. The proposed copy area is 169.90 square feet and will exceed the maximum allowed by 16.90 square feet. It should be noted that the existing freestanding sign was included

in the copy area calculation. The existing copy area is 163.58 square feet, therefore the proposed signs will increase the copy area by 6.32 square feet. The existing freestanding sign is 72 square feet and the existing sign area on the building is 91.58 square feet. The existing freestanding sign will not be modified. Although the existing building sign area is 91.58 s.f., the proposed sign area will be 71.21 s.f., which includes the "Safeway" letters and the "S" logo. The two smaller signs for Starbucks and the Signature Deli are 7.07 and 19.62 square feet respectively.

Staff believes that findings for the Sign Exception can be made because Safeway is the anchor store for the Manor Plaza Shopping Center and requires signs that are large enough to be seen from the highway. The shopping center benefits from being parallel to Highway 1, but without the proper signage it could be difficult for the public to differentiate among businesses. Larger signage for the anchor store could also be a benefit to the surrounding smaller businesses by drawing customers who may patronize them before or after visiting the anchor store. Staff believes granting the Sign Exception is consistent with the general purpose and intent of Article 29 and would not be materially detrimental to the public welfare or materially injurious to property or improvements in the vicinity.

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

1. 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;
2. 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
3. Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.

A Use Permit is required for this project in order to permit the proposed outdoor seating area. Pursuant to Section 9-4.2308, "All commercial and industrial uses conducted in any C or M District shall be conducted entirely within an enclosed structure unless a permit is obtained, as set forth in Article 33 of this chapter..." The outdoor seating area consists of three tables with built in seats and a collapsible canopy. The seating area will be located in between the two entrances to Safeway. There will be 11 built in seats and one empty area that is handicap accessible. All of the tables will be permanently secured to the sidewalk. There will be a 9 foot clearance on the southern side and a 3 foot 10 inch clearance on the northern side, leaving enough room for pedestrian access.

Plans were distributed to the Building, Fire, and Engineering Department. The Fire and Engineering Departments had no comments regarding the outdoor seating. Please refer to Conditions of Approval for the Building Departments comments.



It does not appear that the establishment, maintenance, or operation of the use or building applied for would, 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. Lastly, the use or building applied for is consistent with the applicable provisions of the City's adopted Design Guidelines and other applicable laws of the City.

**9. Design:** The Design Guidelines state that all signs should be unobtrusive and convey their message clearly and, when internally illuminated, it should illuminate the letters rather than the background. It also states that signs should be complementary to the overall design of the building and site. Staff believes that the proposed signs are consistent with Pacifica's Design Guidelines because the proposed signs will be unobtrusive and complement the overall design of the building. Additionally, the Safeway letters will be internally illuminated; therefore potential glare will be minimized.

**10. California Environmental Quality Act:** Staff recommends that the Planning Commission find this project is exempt from CEQA pursuant to Section 15311 (a) and Section 15332 (a)(b)(c)(d)(e) of the California Environmental Quality Act, because it is a placement of a minor accessory structure to an existing commercial facility:

15311. Accessory Structures

*Class 11 consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:*

*(a) On-premise signs*

15332. In-Fill Development Projects

*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 proposed signs are exempt from CEQA because they are on-premise signs. Additionally, the proposed outdoor seating area is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with applicable zoning regulations. The proposed project is less than five acres and is surrounded by urban areas within city limits. There is no habitat for endangered, rare or threatened species on the project site. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality and the site is adequately served by all required utilities and public services.

**11. Conclusion:** Based on the information the applicant has provided, it appears that the proposed project would not be detrimental to the health, safety and welfare of those residing and working in the neighborhood. The use is consistent with the City's General Plan and Design-Related Standards for signage, and with approval of the Amendment to the Master Sign Program, Sign Exception and Use Permit, will be consistent with relevant Zoning Regulations. Specifically, the proposed signs will provide ample identification for Manor Plaza Shopping Center and its anchor store. The proposed signs will also be compatible with the surrounding commercial development, and the proposed outdoor seating area will not be detrimental to the shopping center and could provide an added amenity. Therefore, staff believes that the findings necessary to grant an Amendment to the Master Sign Program, a Sign Exception, and a Use Permit for the proposed project can be made.

## **RECOMMENDATION AND FINDINGS**

### **B. RECOMMENDATION:**

Staff recommends that the Planning Commission **APPROVE** Amendment to the Master Sign Program (S-38-90), Sign Exception (SE-27-08) and Use Permit (UP-997-08) to modify existing signage and add an outdoor seating area at Manor Plaza Shopping Center at 12 Manor Plaza, subject to these conditions:

#### **Planning Department:**

1. Development shall be substantially in accord with the plans entitled "2008 Store Remodel, Safeway Store #3008, 12 Manor Plaza, Pacifica, CA, 94044," consisting of three (3) sheets, received on October 9, 2008, and two (2) sheets of attachments received on November 26, 2008 except as modified by the following conditions.
2. The applicant shall provide one copy of the approved and complete Master Sign Program document not to exceed 8 ½ by 11 inches in size to the Planning Director's satisfaction prior to building permit issuance.
3. 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. 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.

### **Building Department**

4. Fixed seating with required clearances must be maintained.

### **C. FINDINGS:**

**1. Findings for Approval to Amend the Master Sign Program:** The Planning Commission finds that the proposed Amendment to the Master Sign Program is consistent with the Design Guidelines in that the proposed signs will be unobtrusive and internally illuminated. Specifically, the proposed “Safeway” letters will be smaller than the existing letters. Additionally, Safeway will be able to incorporate their “S” logo into the signage and the internally illuminated signs will minimize any potential glare. The proposed “Starbucks” and “Signature Deli” sign will be used to identify the services provided by Safeway.

**2. Findings for Approval of Sign Exception:** The Planning Commission finds that the proposed Sign Exception is consistent with the general purpose and intent of Article 29 and would not be materially detrimental to the public welfare or materially injurious to property or improvements in the vicinity. The proposed sign will be 16.90 square feet larger than the maximum allowed copy area as specified in the Sign Ordinance.. The proposed sign will increase the existing copy area by 6.32 square feet, but granting the Sign Exception will benefit the shopping center by providing improved identification for the anchor store and drawing customers who may patronize other businesses before or after visiting the anchor store.

**3. Findings for Approval of Use Permit:** The Planning Commission finds that the proposed Use Permit is consistent with the applicable provisions of the City’s adopted Design Guidelines and other applicable laws of the City, and that the establishment, maintenance, or operation of the use would, under the circumstances of the particular case, 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. The proposed outdoor seating will be located on the sidewalk between Safeway’s entrances. The three tables with built in seating and a collapsible canopy will be permanently secured into the ground. One seat will be reserved for handicap accessibility. Since the tables will be permanently secured into the ground it will not affect any pedestrian access.

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

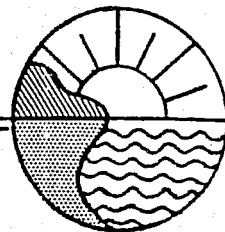
Move that the Planning Commission **APPROVE** Amendment to S-38-90, and SE-27-08 and UP-997-08 subject to conditions 1 to 4, and adopt findings contained in the December 15, 2008 staff report, and that all maps, documents, and testimony be incorporated herein by reference.

Attachments:

- a. Land Use and Zoning Exhibit
- b. Sign Program and Amendments
- c. Site Plans (Planning Commission Only)

# STAFF REPORT

PLANNING COMMISSION-CITY OF PACIFICA



**DATE:** December 15, 2008

**ITEM:** 4

## PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of Public Hearing was published in the Pacifica Tribune on December 3, 2008 and 44 surrounding property owners were notified by mail.

**FILE:** PV-496-08

**APPLICANT/OWNER:** David Blackman  
375 Keith Avenue  
Pacifica, CA 94044

**LOCATION:** 130 Dardenelle Avenue

**APN:** 018-113-060

**PROJECT DESCRIPTION:** Proposal to construct a new one guest room Bed and Breakfast Inn that would operate 10 days per year and also be used as a single family residence.

**GENERAL PLAN:** Utility

**ZONING:** P-F+/HPD (Public Facility with voter approval required to rezone/Hillside Preservation District)

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

### **ADDITIONAL REQUIRED**

**APPROVALS:** None.

**RECOMMENDED ACTION:** Approve as conditioned.

**PREPARED BY:** Christina Horrisberger, Assistant Planner

**ZONING STANDARDS CONFORMANCE:**

<u>Standards</u>	<u>Min./Max.</u>	<u>Existing</u>	<u>Proposed</u>
Lot Size	5,000 square feet	16,133 square feet	No Change
Maximum Allowable Coverage (HPD)	Lot -14%	79%	82%
Parking	2 car garage 2 uncovered	NA	2 car garage 2 uncovered
Driveway Width	20 feet	±16'	20'6"
Retaining wall height	6' (from finished grade on high side of wall)	Under 6' (from finished grade on side of wall)	Under 6' (from high finished grade on side of wall)

**PROJECT SUMMARY**

**A. STAFF NOTES:**

**1. Background:** The project parcel is roughly 1/3 acre in size with the majority of the area disturbed. The property was part of a residential subdivision in the early 1900's. It was sold to the North Coast County Water District (NCCWD) in 1958 and developed with a graded access road and concrete pad for use as a water tank site. The water tank was decommissioned in the late 1990's and NCCWD made several attempts to sell the land to public entities. In 2006, the land was sold to the applicant in public auction for private use.

In 1983, the City of Pacifica rezoned the property from residential to Public Facility through a ballot initiative. The initiative requires that future rezoning of the property be subject to a public vote. The proposed development does not require rezoning the property.

The property surrounding the project site is developed with single family homes.

**2. Project Description:** The proposed project is the construction of a two-story Bed and Breakfast Inn that would operate ten (10) days per year and also be used as a single family residence. The structure would include roughly 2,500 square feet of living area, a 757 square foot garage and two decks totaling 386 square feet. The structure would be two stories with a crawl space below part of the first floor living area. An improved driveway, two (2) outdoor parking spaces and upgraded retaining walls are also proposed.

The interior would include a living room, kitchen with pantry, bathroom, utility room and garage on the lower level. There would also be a deck wrapping around the living room on the west and south sides of the structure. Three bedrooms with private bathrooms and closets and a laundry room would comprise the upper floor. A small deck on the south side of the building, adjacent to

the largest bedroom, is also proposed. The applicant is proposing to rent out one of the bedrooms for ten days per year, when the home would also function as a bed and breakfast inn. No specific bedroom is proposed for this purpose because the applicant wishes to have flexibility in terms of how the rooms are used over time.

The undeveloped portion of the lot would be left undisturbed and the natural vegetation would be retained. The Heritage Trees on the neighboring lot would not be adversely impacted by the proposed project.

**3. General Plan, Zoning, and Surrounding Land Use:** The General Plan designation for the subject property is Utility and the Zoning Classification is P-F+/HPD (Public Facility with voter approval required to rezone/Hillside Preservation District) as shown in Attachment a. The land north and east of the site is also designated Utility. Just beyond the Utility designation is land designated for Open Space Residential use. Surrounding properties to the north, west and south have a General Plan designation of Low Density Residential. All of the surrounding properties are zoned R-1 (Single Family Residential), however, the land directly north and east of the site includes an overlay classification (B-10) that mandates larger lot sizes and greater setbacks between property lines and structures. There is also a small area north of the site that falls under the HPD classification. This area is part of a neighboring site that also formerly housed a NCCWD water tank. The remaining surrounding properties are not classified as HPD.

**4. Municipal Code:** B&Bs are neither a permitted nor a conditional use in any P-F district. The General Plan use designation of the site is Utility. However, Section 9-4.2306(a) of the Pacifica Municipal Code (PMC) allows for certain uses, deemed to have special site or design requirements, to take place in any zoning district and General Plan designation with approval of a Special Use Permit. One of the listed uses is bed and breakfast inns. PMC Section 9-4.462 defines B&Bs as “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.” Although the proposed development would function in this capacity for only ten days per year, it meets the PMC definition of a B&B. The subject lot is also zoned HPD and Section 9-4.463(c)(1) further states that, “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.” Therefore, use of a HPD site as a B&B is permitted without approval of a special use permit, but requires compliance with HPD regulations.

The HPD regulations limit the amount of land to be disturbed by a proposed development. For HPD purposes, coverage is all disturbance and a calculation is provided in Section 9-4.2257 to determine how much disturbance is allowed. In this case the maximum allowable coverage is a negative value (-14%). The lot is already disturbed and the existing coverage is 79% (12,726 square feet). The applicant is proposing to disturb an additional 488 square feet for a total of 13,214 square feet; an additional 3%. Therefore, approval of a Variance from the coverage limitation is required.

The P-F+ zoning district requires voter approval to allow the rezoning of property. Section 9-4.2256, which outlines HPD development procedures, requires rezoning to a Planned

Development (P-D) district for many types of developments. However, the Section specifically exempts the special uses described in Section 9-4.2306 from the requirement to rezone land. PMC Section 9-4.2306(c) (1) further states that properties located in the HPD need not be rezoned to a P-D district. Therefore, no rezoning of the property is needed.

Article 4.6 of the PMC provides development standards specific to B&Bs. Operational requirements include: the establishment must be owner occupied and managed; the maximum length of stay is 14 consecutive days within any 30 day period; breakfast is the only meal to be served; a guest register meeting certain criteria must be kept on site. Other development standards, concerning the number of parking spaces, prohibiting kitchens in guest rooms and establishment of a minimum lot size and maximum number of guest rooms, must also be met. It is not possible to ensure adherence with the operational requirements at this time, however, the applicant has indicated that conformance with all PMC requirements is intended. Any future divergence from these requirements would be considered a Code violation and be subject to enforcement. The remaining B&B development standards have been met by the proposed project. Development standards for P-F district development is determined according to the presumed use permit and site development that would be associated with a given project. However, since no use permit or site development permit is required, there are no specific development standards associated with the P-F district. The City's parking, driveway and retaining wall height requirements apply to all districts and would be met by the project.

In summary, the project location and type is unique and will not require rezoning of the property or an amendment to the General Plan designation. Approval of a special use permit and site development permit is not required, but a Variance is needed to exceed the maximum allowable coverage.

**5. 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 subject property was previously developed with a water tank and access driveway. It is on a sloped lot with substantially altered topography. The sloped, partially paved, driveway is curved and narrow, while the former tank site is a flat concrete pad. The site has been graded to produce nearly vertical slopes around the former tank location and driveway. Sand bag type retaining walls are present in some locations on the site. The additional coverage requested by the applicant is necessary to allow the development of a reconfigured driveway, that meets PMC



requirements for driveway widths and provides improved site access. The expanded coverage is also needed for the construction of improved retaining walls where the grade change is most prominent. Staff believes that the current condition of the lot, in conjunction with the size, shape and topography, create a special circumstance where strictly applying the coverage requirement would make it difficult for the applicant to meet other Code requirements related to driveway design. In this case there is only one other lot in the vicinity with identical zoning. It is also a decommissioned water tank site and has yet to be redeveloped. There are other projects in the area that are within the HPD, like the subject site, and have been granted Variances to exceed the maximum allowable coverage. Since the requested variance currently under consideration is for the purpose of allowing the development to expand the coverage, staff thinks that it is appropriate to compare this project to those in the HPD that were granted Variances to the coverage limitation. Accordingly, staff believes that unusual circumstances, including size, shape, topography, location, or surroundings, are applicable to the property and the strict application of the provisions of the HPD coverage requirement would deprive the property of privileges enjoyed by other property in the vicinity and under an identical HPD zoning classification.

The granting of a Variance to the HPD coverage limitation, with the conditions of approval identified below, will 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 and will not, under circumstances of this particular case, be materially detrimental to the public welfare or injurious to the property or improvements in the area. Further, the proposed project would meet the objectives of the City's adopted Design Guidelines.

**6. Design Guidelines:** The proposed project is on a sloped lot, in the back of the Vallemar neighborhood, where the surrounding sites are mostly developed. The Design Guidelines for hillside development encourage designs that complement topography, avoid linear arrangement of buildings and ridgeline development and minimize view impacts to existing development. Use of landscaping to soften the appearance of buildings is also encouraged. The Guidelines also address access on hillside lots and suggest that driveways follow hillside contours, that on-street parking turn-outs be provided and that driveway lengths be sufficient to accommodate a parked vehicle. Lastly, the Guidelines state that infill development should compliment existing neighborhoods in terms of scale, design, bulk and massing.

The proposed two story structure would be 27 feet 7 inches high at its tallest point and includes varied angles and setbacks to living spaces. The roofline is also varied and the proposed mixture of building materials would add further interest to the proposed design. The shape of the structure is somewhat like an "L" and is not linearly arranged. The structure would sit on a flat, somewhat depressed, portion of the lot. This minimizes the need to substantially alter site topography. The proposed retaining walls would be an improvement to the existing sandbag walls. The property is not on a ridgeline. The natural vegetation on the lot and mature trees on the neighboring lots will help obscure the structure when viewed from downslope. This will offset any possible glare that may be generated from west facing windows. The newly configured driveway provides better access and relates better to the lot than the existing driveway. Further, the driveway would generally follow the existing lot contour and be long enough to accommodate a parked vehicle (It should be noted that parking of vehicles in driveways is

prohibited pursuant to PMC parking regulations.) Although street parking on Dardenelle Avenue is limited, the project will not reduce the number of on-street spaces. Four parking spaces (2 garage and 2 on-site) are required and will be provided on-site. The design of homes in the Vallemar neighborhood is varied and there is a mixture of structure sizes and architectural styles. Staff believes that the proposal would provide adequate parking and blend with surrounding homes, as well as the with the natural landscape, in terms of topography, design, scale, bulk and massing. Lastly, The City's Open Space Committee had the opportunity to review the proposed design and members did not voice any objections.

**7. California Environmental Quality Act (CEQA) Recommendation:** : Staff recommends that the Planning Commission find this project is exempt from CEQA pursuant to Section 15303 (a): "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:

(a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption."

The proposed project is for one B&B, that would also function as a single family residence, on a previously disturbed site. Further, the applicant submitted arborist, geotechnical and biological reports confirming that no negative environmental impacts are expected to occur as a result of the proposed project. The City's traffic consultant confirmed that use of the site as a bed and breakfast as proposed would not result in significant traffic impacts.

**8. Conclusions:** Staff believes that the proposal to disturb an additional 488 square feet of land at 130 Dardenelle Avenue is reasonable given the physical characteristics of the subject property. Staff also believes that the project is consistent with the Design Guidelines and that the site would be improved by the project. Further, no adverse impacts to persons residing in the area or to the natural environment are expected to result from the project. Accordingly, it appears that the findings can be made to approve the requested Variance from the HPD coverage limitation. Staff's conclusions are limited to discussion of the findings needed to grant a the Variance, since no other permits are under consideration.

## **RECOMMENDATION AND FINDINGS**

### **B. RECOMMENDATION:**

Staff recommends that the Planning Commission find the project exempt under the California Environmental Quality Act and **APPROVE** PV-496-08, to exceed the maximum allowable HPD coverage at 130 Dardenelle Avenue, subject to the following conditions:

**Planning Department**

1. Development shall be substantially in accord with the plans entitled "DB Construction, APN 018-113-060, 130 Dardenelle Ave-Pacifica, CA" consisting of eight (8) sheets, dated February 14, 2008 and except as modified by the following conditions.
2. The applicant shall ensure that the public right of way is not obstructed by construction related vehicles working on the project and that emergency vehicle access is maintained at all times. Construction related materials and earth shall not be stored in the public right of way.
3. 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.
4. 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.
5. All recommendations identified in the arborist's report shall be implemented as specified in the arborist's report.
6. 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.
7. 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.

8. 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.
9. 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.
10. Roof drains shall discharge and drain away from the building foundation to an unpaved area wherever possible.
11. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.
12. 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.
13. 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.

### **Building Division**

14. A drainage plan, erosion control plan and all weather road, subject to City review and approval, must be in place before start of construction.

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

15. 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. New storm drain inlets shall be protected from being blocked by large debris to the Public Work Director's satisfaction.

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

16. New waterline for fire sprinkler system shall be per City Standards 300 and 301.
17. 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."
18. Proposed driveway shall not exceed a maximum slope of 18%.
19. Construction shall be in conformance with the San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented.
20. 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.
21. Prior to issuance of a Building Permit., a sidewalk agreement between the City and the applicant, must be signed for unimproved streets.
22. Construction shall be in conformance with the San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented.
23. 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 Variance:** The Planning Commission finds that due to special circumstances to the property such as size, shape, and topography, the strict application of the maximum allowable lot coverage deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification. Specifically, the maximum allowable lot coverage has already been exceeded by a previous development and the expansion of coverage is necessary in order to meet other

Code requirements. 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. Furthermore, the project is consistent with the Design Guidelines in that the proposed dwelling includes variations in the setbacks, roofline, massing and exterior materials, and would work with the existing site topography.

### **COMMISSION ACTION**

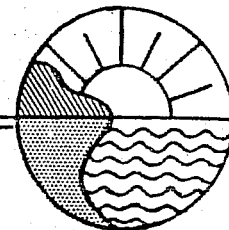
#### **D. MOTION:**

1. Move that the Planning Commission find the project exempt under the California Environmental Quality Act and **APPROVE** PV-496-08, subject to conditions 1 through 23, based on the findings contained within the December 15, 2008 staff report and all maps, documents, and testimony be incorporated herein by reference.

#### Attachments for Planning Commission Only

- a. Land Use and Zoning Exhibit
- b. Information packet and photos provided by applicant
- c. Plans and Elevations

# STAFF REPORT



## PLANNING COMMISSION-CITY OF PACIFICA

**DATE:** December 15, 2008

**ITEM:** 5

### PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of Public Hearing was published in the Pacifica Tribune on December 3, 2008. 214 surrounding property owners and tenants were notified by mail.

**FILE:** UP-987-08  
CC-05-08  
SUB-216-08  
PE-148-08

**APPLICANT:** Michael D. McCracken, Esq., McCracken & Byers, LLP, 1920 Leslie Street, San Mateo, CA 94403-1325

**OWNER:** David Walia, Regional Manager, 435 Gateway Drive, Pacifica, CA 94044

**LOCATION:** 435 Gateway Drive (APN 009-540-110, 120, 130, 140, 150, 160 and 170))

**PROJECT DESCRIPTION:** Convert 170 existing apartment units into condominiums. The tennis court will be removed and replaced with 50 parking spaces. The apartment units will be refurbished with new appliances, improvements will be made to the exterior of the buildings and the landscaping will be upgraded; however, no substantial structural alterations will be made.

General Plan: High Density Residential  
Zoning: Planned Development

**CEQA STATUS:** Exempt Section 15301 (k)

**ADDITIONAL REQUIRED APPROVALS:** None. The project is appealable to the City Council.

**RECOMMENDED ACTION:** Approval with conditions.

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

**ZONING STANDARDS CONFORMANCE:** No development standards would apply because no physical changes will occur to the building.

## PROJECT SUMMARY

### A. STAFF NOTES:

1. **Project Description:** The applicant is proposing to convert the Summit at Skyline & Marymount Gateway Apartments totaling 170 units into condominiums, which were originally built around 1970. The subject site is an irregularly shaped property comprised of seven lots and located on the eastside of Gateway Drive. The Summit at Skyline complex is located on the northern portion of the lot and consists of 98 apartment units while the Marymount Gateway Apartments contain 72 units. The Summit at Skyline has 26 one bedroom with one bathroom units, 40 2-bedroom with one bathroom units and 32 two-bedroom with two bathroom units. The Marymount Gateway Apartments have 20 two-bedroom with one bathroom units, and 52 one-bedroom with one bathroom units. The total for the entire project is 78 one bedroom and one bathroom units, 60 two-bedroom and one bathroom units, and 32 two-bedroom with two bathroom units. It should be noted here that the information listed in the Unit Mix on page 4 of the Property Condition Assessment (previously distributed) is inaccurate according to the property owner representative.

2. **Material Previously Distributed:** On December 4, 2008, a memo with several attachments was distributed to the Planning Commissioners. The attachments included a reduced copy of the Tentative Condominium Map, informational reports on the physical condition of the project such as the existing condition of the roof, paint and foundation and which portions of the structure need repairs, 145 letters of intent to purchase from tenants, and other information required in Section 9-4.2453 Required reports and information in the Zoning Ordinance. The Planning Commission is responsible for reviewing all this information and approving the final form of this information as stated in Section 9-4.2453 (10) b of the Code. In addition, if the project is approved, this same information will be given to each purchaser of a unit.

The property is improved with 16 two-story multi-family residential buildings with addresses from 405 to 467 Gateway Drive. Seven of the buildings have tucked under parking stalls. The current amenities include two laundry rooms with 14 washers and dryers at each location, a single-story clubhouse/leasing building, a swimming pool and a tennis court.

As part of the conversion proposal, the applicant would keep the buildings intact, and refurbish the interior and exterior of the structures. Upgraded landscaping would be provided as shown on the attached proposed landscaping plan (see Attachment I). As discussed previously, if the project is approved, the tennis court would be removed to provide more onsite parking. New appliances would be provided in each unit. As required in the Inclusionary Housing Ordinance, 26 units would be offered at below market rate to the tenants.

3. **General Plan, Zoning, and Surrounding Land Use:** The General Plan designation for the subject site and the surrounding area is High Density Residential. The Zoning for the subject site and surrounding properties is Planned Development. The immediate neighborhood primarily consists of two story buildings containing multiple family dwellings.



**4. Municipal Code and Regulatory Standards:** Article 24.5 of the Zoning Code addresses residential condominium conversions. A Use Permit and Tentative Condominium Map are required along with approval of the Condominium Conversion. The purpose of regulating condominium conversions is to ensure that a balance remains between rental and ownership housing in the City of Pacifica. However, very few condominium conversions have taken place over the years. This project is the fifth application that has been processed since the early 1980's. The requirements as listed in Article 24.5 of the Zoning Code would apply to this 170 unit project. For example, before staff can process a condominium conversion application, one of the following factors listed in Section 9-4.2452 (b) must exist such as a rental vacancy rate of 5% or more, 75% of the tenants support the conversion, or 40% the units will be sold or rented to low and moderate-income households. In this case, the second factor applies as tenants lawfully in possession of 75% of the units provided written assurance that they supported the conversion of their units to condominiums. Thus the application could be accepted under Section 9-4.2452. The applicant submitted 145 letters signed by the tenants in support of converting their rental units to condominiums, which means that 85% of the tenants are willing to purchase their units. However, 21 tenants or 12% of the tenants chose not support the condominium conversion of their units. Four of the units were vacant.

**5. CEQA Recommendation:** The relevant portions of the CEQA exemption is quoted below:

**“15301. Existing Facilities**

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

Examples include but are not limited to:

(k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt; “

This condominium conversion project will not involve an expansion of use in that the 170 residential units currently exist as apartments and the change requested is in the ownership from rental units to individually owned condominiums. No substantial changes will be made to any of the structures; rather, cosmetic improvements will be made such as new paint, landscaping and appliances within the units. The tennis courts will be removed and replaced with 50 parking spaces to increase the number of parking spaces available for the units and all the other amenities such as the swimming pool will remain.

**6. Use Permit:** The Planning Commission must review the project to ensure that the following findings can be made to grant a Use Permit:

1. 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.
2. 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.
3. Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.

**7. Condominium Conversion Standards:** Numerous standards are required for condominium conversions as listed in Section 9-4.2454. The project must be in compliance with the zoning, building, mechanical, and fire Codes that existed at the time of building construction. As mentioned previously, a building permit was issued in 1970 and the some of the buildings were completed the following year. All applicable codes were satisfied prior to allowing occupancy of the buildings more than 35 years ago. As indicated in the Compliance Statement provided by the applicant (see Attachment b), the project satisfied and will satisfy all the building codes applicable at the time of construction, and where feasible, the project will be upgraded to meet the current building codes. However, the project does not satisfy the current parking requirements; and therefore, approval of a Parking Exception is necessary, which will be discussed further in this staff report.

All the converted units will have double pane windows and sliding glass doors to reduce sound transmission. The walls and ceilings of all the units will receive new insulation to further reduce noise impacts.

In terms of fire protection, all battery operated smoke detectors will be replaced with hard wired detectors. The Homeowner Association (HOA) documents will establish periodic fire drills, fire inspections and other measures to enhance fire safety.

The HOA will pay all costs for water and garbage collection. Because each unit will be separately metered, the homeowner will pay for gas and electricity charges. All converted units will be furnished with new appliances and fixtures, with manufacture warranties. Any water heater greater than three years in age will be replaced with a new water heater. In addition, mechanical, plumbing and electrical systems in the common ownership areas will also be covered by a one-year warranty.

The applicant will remove stucco and wood which has been compromised with water damage over the years, including replacing stair handrails and other structural work as described in the Property Condition Assessment (previously submitted) and as required in Section 9-4.2454(h) of the Zoning Code. Contingency fees of \$200 per unit are also required under Section 9-4.2454(i)

to be used solely and exclusively as a contingency fund for emergencies which may arise relating to open space areas, exterior portions of dwelling units, and such other restoration or repairs as may be assumed by the HOA. In addition to retaining the laundry facilities currently available in two different locations, the applicant will provide at least one washer and dryer for every 5 units as required by the Section 9-4.2454(f).

**8. Condominium Conversion Findings:** The Planning Commission shall not approve an application for condominium conversion unless the Commission finds that:

- (1) All provisions of Article 24.5 are met;
- (2) The proposed conversion is consistent with the General Plan and the adopted Housing Element;
- (3) The proposed conversion will conform to the provisions of the Code in effect at the time of the project approval, except as otherwise provided in Section 9-4.2454;
- (4) The overall design and physical condition of the condominium conversion achieves a high standard of appearance, quality, and safety;
- (5) The proposed conversion will not displace a significant percentage of low-income or moderate-income, permanently or totally disabled, or senior citizen tenants and delete a significant number of low-income and moderate-income rental units from the City's housing stock at the time when no equivalent housing is readily available in the Pacifica area;
- (6) The application process has conformed to all the requirements of the Map Act of the State; and
- (7) The dwelling units to be converted have been constructed and used as rental units for at least three (3) years prior to the application for conversion.

**9. Subdivision:** The Planning Commission may approve or conditionally approve a tentative condominium map if the Commission finds that the proposed subdivision is consistent with the General Plan and the zoning provisions.

**10. Parking Exception Findings:** A Parking Exception can be granted if the Planning Commission finds that the establishment, maintenance, and conducting of off-street parking facilities as proposed are as nearly in compliance with the Code requirements as are reasonably possible. In this case, 327 onsite parking spaces are required and 222 spaces are provided for a shortfall of 105 parking spaces.

**11. Staff Analysis:**

Use Permit – The establishment of condominiums in this apartment complex, under the circumstances of the particular case, will not be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood because the use of the building will not significantly change. Instead of rental units, the building would contain residential units that can be owned by different individuals with common areas owned jointly, and the responsibilities of each owner will be governed by the CC&R's. The proposed condominium use is consistent with the applicable provisions of the General Plan in that high density residential units such as the

existing apartment complex on the subject site are consistent with the General Plan designation, and no additional units will be added to the site. The PD Zoning Designation requires the subject site to be consistent with the surrounding properties and in this case, the immediate neighborhood contains many apartment complexes similar to the existing Summit at Skyline and Marymount Gateway Apartment complex. The other applicable laws in the Zoning Code will be discussed further below in the next section of the staff report. The conversion will not result in any substantial physical change to the building; and therefore, the Design Guidelines do not apply in this case.

Condominium Conversion – The applicant has satisfied all the code requirements for submitting a complete application and presenting the necessary information to the Planning Commission. If the project is approved, any remaining requirements will be satisfied prior to approval of the Final Map or certificate of occupancy. The proposed condominium conversion is consistent with the General Plan and the Housing Element in that 170 units will be converted into private ownership and 26 of the condominiums will be sold at below market rates. Currently, only one tenant receives housing assistance. As discussed previously, 85% of the tenants are willing to purchase their units. Although the amount of rental housing will be reduced if the project is approved, 26 affordable housing units will be provided to people that would not be able to purchase a home otherwise. When the apartment complex was constructed in approximately 1970, the project met all the Municipal Code requirements in effect at that time and will continue to meet those requirements, and will meet current building codes where feasible. Any requirements relating to the proposed condominium conversion will be completed prior to approval of the Final Map or certificates of occupancy. The overall design and the physical appearance of the Summit at Skyline & Marymount Gateway Apartments proposed for a condominium conversion achieves a high standard of appearance, quality, and safety as stated in several of the reports submitted by the applicant and as determined by staff during site inspections of the buildings. The proposed conversion of the 170 apartments into condominium units will not significantly displace low-income, moderate-income, disabled people or senior citizens tenants; nor will it delete a significant number of affordable rental units in that 85% of the overall tenants and 60% of the senior citizens support the conversion. Of the two handicapped people residing at the apartment complex, one of the tenants did not support the conversion. As conditioned, the project conforms to all the requirements of the Map Act of the State. According to the applicant, the dwelling units have been used as rental units for the previous three years and the rental rolls submitted (previously distributed) reflect this for the Marymount at Gateway Apartments. The Summit at Skyline portion of the complex was purchased more recently and the rental rolls available start in April of 2006 through December of 2008. However, based on staff's site inspections, it is apparent that the 98 units for the Summit at Skyline portion of the project have been operating as rental units.

Subdivision – In this case, the proposed conversion of a duplex into a condominium is consistent with the General Plan and the zoning requirements as discussed previously in the staff report.

Parking Exception – The existing number of on site parking spaces is 222, and 170 parking spaces or 77% are covered spaces with a carport or as tuck under spaces. However, 327 onsite parking spaces are required under Section 9-4.2818 (a)(2) of the Zoning Code; and therefore,

although the project satisfied the parking requirements at the time of construction, there are 105 fewer parking spaces than required under the current Code. As detailed on the attached parking layout (see Attachment k), the applicant is proposing to remove the tennis courts and provide an additional 50 parking spaces. The Parking Exception is necessary to allow the conversion with 55 fewer parking spaces. The applicant has provided an explanation of its need for the Parking Exception (see Attachment c). The number of occupants of the apartment units should not significantly change due to the conversion into condominium units, and therefore the demand for parking should not change significantly either. With the condominium conversion, an additional 50 parking spaces will be provided thereby increasing available parking at the site and offsetting any increased need in parking. In staff's opinion, the findings can be made that the 272 onsite parking spaces as proposed are as nearly in compliance with the Code requirements as are reasonably possible on this project site.

Affordable/Inclusionary Housing – As stated in Section 9-4.2455 (k) of the Zoning Code, the Planning Commission shall consider the following: 1) whether the displacement of the tenants would be detrimental to the health, safety, or general welfare of the community; 2) the role the apartment complex plays in the existing housing market in terms of providing low-income and moderate-income housing; 3) the need for lower-cost home ownership opportunities which are increased by conversion of apartments; and 4) if the Commission determines that the vacancies have been increased for purposes of preparing for the conversion, the project may not be approved.

In response to item #1, based on the 145 letters submitted by the tenants in support of the conversion, at most, 25 households would need to be relocated to other rental units. Section 9-4.2455 (f) provides extra help for tenants choosing not to purchase a unit and in need of assistance such as people older than 62 years of age, tenants with low or moderate incomes and tenants with minor children. All tenants that will be moving out receive moving expenses as stated in Section 9-4.2455 (g) and relocation assistance (h). In staff's opinion, 15% of the tenants would be displaced, all tenants receive moving expenses and relocation assistance, and tenants in need would receive additional help such as long term leases for the elderly and handicapped; and therefore, the displacement of a small percentage of the tenants would not be detrimental to the health, safety, or general welfare of the community.

In response to item #2, all the units except one are at market or near market rates as stated by the applicant. Thus, the existing apartment units are not providing affordable housing to low-income or moderate-income households except for one tenant.

In response to item #3, due to the requirement in the Inclusionary Housing Ordinance, which will be discussed below, 26 units will be sold at below market rates. Tenants that previously could not afford to own their dwellings will be given an opportunity to purchase their condominium unit at a more affordable price.

In response to item (#4) (which states that the Planning Commission may not approve the project if it determines that the number of vacancies in the apartment complex were increased to prepare for the condominium conversion), staff believes that the vacancies have not been increased.

Upon review of the monthly vacancy rate, it is apparent that there are fewer vacancies in late 2007 and early 2008 than the previous years. In other words, the more of the units are being rented out recently even though the project is undergoing conversion to condominiums.

The Inclusionary Housing Ordinance was adopted on May 29, 2007, which requires 15% or 26 units from this project to be sold at below market rates. As required by Section 9-4.4709 (a), the applicant has provided an Inclusionary Housing Ordinance Compliance statement (see Attachment e) that states 26 affordable units will be provided, interspersed among the 170 units and that the affordable units will have the same amenities as the other units. In addition, staff is recommending a condition of approval that the applicant shall execute an inclusionary zoning Compliance Agreement.

**12. Summary:** In summary, staff concludes that the proposed conversion of 170 units into condominiums satisfies all Code requirements. In addition, the proposal will not significantly delete the amount of rental housing available in the City of Pacifica in that 26 units will be provided as affordable housing.

### **RECOMMENDATION AND FINDINGS**

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

Staff recommends that the Planning Commission **APPROVE** Use Permit UP-987-08, Condominium Conversion CC-05-08, Parking Exception, PE-148-08 and Tentative Condominium Map, SUB-216-08 for the conversion of 170 apartment units to condominiums at 435 Gateway Drive, subject to the following conditions:

#### **Planning Department:**

1. Development shall be substantially in accord with the plans entitled "Tentative Condominium Map Marymount Gateway Apartments for Condominium Conversion" consisting of ten (10) sheets, received November 26, 2008 except as modified by the following conditions.
2. Prior to approval of the Final Condominium Map, the applicant shall comply (or provide an enforceable commitment to comply) with the requirements listed in Zoning Code Section 9-4.2454(a)(c)(d)(e)(f)(g)(h) and (i), and prior to issuance of a certificate of occupancy for each unit, applicant shall demonstrate compliance with the requirements of Zoning Code Section 9-4.2455(b)(2),(c)(d)(f)(g)(h)and (i).
3. As a condition of the Tentative 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 Pacifica and its agents, officers, or employees to attack, set aside, void, or annul approval of subdivision, SUB-216-08. 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.

4. As a condition of the Use Permit, Condominium Conversion, and Parking Exception, 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.
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, common areas, utility areas within common areas, landscaping and building signage, sanitary sewer, private storm drain and other features. Maintenance of the 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. Prior to the approval of any final condominium map, the applicant shall execute and record an Inclusionary Zoning Compliance Agreement, approved as to form and content by the City Attorney, for the below market rate units,

**Public Works/Engineering:**

7. The applicant shall submit a final map to the Engineering Division for approval by the City Engineer. Final map shall be per Sec. 10-1.505 of the Pacifica Municipal Code. All required monumentation shall be shown on the map and set prior to recordation of the map. Prior to approval of the map, a Subdivision Improvement Agreement shall be executed, and all necessary fees and bonds associated with this agreement shall be paid by the applicant.
8. Should the applicant desire to record the final map prior to completion and acceptance of improvements, a bond in an amount determined by the City Engineer must be provided. The bond may be in the form of cash, instrument of credit or surety bond. In addition, the Subdivision Improvement Agreement shall be executed to guarantee that the work will be done in accordance with the approved plans.



9. Applicant shall enter into the Subdivision Improvement Agreement with the City of Pacifica to construct all on-site and off-site improvements, as depicted on the approved Tentative Condominium Map, and to comply with any conditions and mitigations imposed on this project, prior to approval of the final map.
10. Prior to the execution of the Subdivision Improvement Agreement, applicant shall submit to Engineering Division the construction plans and necessary reports and engineering calculations for all on-site and off-site improvements to the satisfaction of the City Engineer. All plans and reports must be signed and stamped by a California licensed professional.
11. Prior to approval of the final map, the applicant shall verify that all public and private utilities have been provided to serve the subdivision. Approvals and/or agreements shall be obtained from all utilities.
12. Prior to approval of the final map, the applicant shall merge the condominium properties into one lot.
13. Prior to approval of the final map, the applicant shall provide dimensions of each condominium unit.
14. An Encroachment Permit must be obtained for all work within City right-of-way. All proposed improvements within City right-of-way shall be constructed per City Standards.
15. The applicant shall install all utilities under ground.

C. **FINDINGS:**

1. **Findings for Approval of Tentative Condominium Map:** The Planning Commission finds that the proposed subdivision for a condominium conversion is consistent with the General Plan and Zoning Ordinance of the City of Pacifica in that multiple family dwelling units at a high density are allowed on the site and the condominium conversion satisfied all Municipal Code requirements upon approval of a Parking Exception.
2. **Findings for Approval of Use Permit:** The Planning Commission finds that the proposed condominium conversion, under the circumstances of the particular case, will not be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood because the use of the building will not significantly change. The change of use impacts the ownership of the building in that each unit will be owned separately and the common areas will be shared instead of one company owning the subject site, including all 170 units. The proposed condominium use is consistent with the applicable provisions of the General Plan in that the high density residential use of multiple family dwellings for the subject site is consistent with the General Plan designation, and no additional units will be added to the site. The conversion will not result in any significant physical change to the building; and therefore, the Design Guidelines do not apply in this case.

3. **Findings for Approval of Condominium Conversion:** The Planning Commission finds that the proposed condominium conversion has satisfied all the code requirements for submitting a complete application and staff has presented the necessary information to the Planning Commission. In particular, the proposed condominium conversion is consistent with the Housing Element in that 170 units will be converted from the rental supply to unit ownership, 26 units will be utilized as affordable housing. The overall design and the physical appearance of the Summit at Skyline & Marymount at Gateway Drive Apartments proposed for a condominium conversion achieves a high standard of appearance, quality, and safety as stated in several of the reports submitted by the applicant and as determined by staff during site inspections of the of the buildings. The proposed conversion of the units into a condominium will not significantly displace low-income, moderate-income, disabled people or senior citizens tenants nor will it delete a significant number of affordable rental units. As conditioned, the project conforms to all the requirements of the Map Act of the State. The dwelling units to be converted have been constructed and used as rental units for at least three (3) years prior to the application for conversion. Finally, the Planning Commission has considered the issues listed in Section 9-4.2455 (k) of the Zoning Code.

### **COMMISSION ACTION**

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

Move that the Planning Commission find the project exempt under the California Environmental Quality Act and APPROVE UP-987-08, CC-05-08, PE-148-08 and SUB-216-08 for the conversion to condominiums at 405 to 467 Gateway Drive subject to conditions 1 through 15, and adopt findings contained in the December 15, 2008 staff report, and incorporate all maps and testimony into the record by reference.

Attachments: (Planning Commission only)

- a. Land Use and Zoning Exhibit
- b. Compliance Statement Submitted by Applicant
- c. Request for Parking Exception Submitted by Applicant
- d. Parking Summary
- e. Inclusionary Housing Ordinance Compliance Statement Provided by Applicant
- f. Maintenance Items
- g. Quantity Take Off
- h. Photos
- i. Existing Plans and Elevations from City Records – Site Plan, Elevations and Sections, Grading Plans, Landscape Plans, Lighting Plans, Utilities Plans
- j. Seismic Report Dated November 7, 1998
- k. Parking Study Plans with Proposed Layout
- l. Proposed Landscape Plans
- m. Proposed Tentative Condominium Map

*The attachments listed below were distributed previously to the Planning Commission:*

The following is a list of the Attachments as listed in Section 9-4.2453:

Reduced Version of the Tentative Condominium Map

- (1) Property Condition Assessment by LandAmerica dated April 21, 2008
- (2) No report provided for condition of appliances because all new appliances will be provided by the applicant.
- (3) Wood Destroying Pests and Organisms Inspection Report by Hydrex of San Mateo dated September 25, 2007
- (4) Geologic and Geotechnical Evaluation (soils report) prepared by Cornerstone Earth Group dated September 12, 2008
- (5) Report on Condition of Paint by Bob's Painting dated September 25, 2008
- (6) Report by Larry Guy, Roofing Contractor dated October 30, 2007
- (7) Draft Declaration of Covenants, Conditions and Restrictions provided by the Agent
- (8) The following specific information concerning demographic and financial characteristics of the project is included in the Table.
  - (i) Square footage and number of rooms in each unit (Information in Table)
  - (ii) The rental rate history for the previous three years has been provided for the Gateway complex of 72 units but the Summit complex of 98 units can only provide 33 months (92%) due to when the Summit apartments were purchased
  - (iii) The monthly vacancy rate for each month during the preceding 2 years
  - (iv) Complete listing of number of tenants and tenant households such as: (Information in Table)
    - (aa) Households with persons 62 years of age or older;
    - (ab) Family size of households, including a breakdown of households with children under 5 years of age, and between five and eighteen years of age;
    - (ac) Households with handicapped persons;
    - (ad) Length of residence;
    - (ae) The age of tenants; and
    - (af) The designation of low-income and moderate-income households and whether receiving Federal or State rent subsidies.
  - (v) The proposed price range of the units;
  - (vi) The proposed homeowners' association fees; and
  - (vii) A statement of intent as to the types of financing programs to be made available, including any incentive programs for existing residents.
- (9) Signed copies from each tenant of the notice of intent to convert - 82 for Summit and 52 for Gateway, and 21 certified mail receipts.