

MINUTES

**CITY OF PACIFICA
PLANNING COMMISSION
COUNCIL CHAMBERS
2212 BEACH BOULEVARD**

June 3, 2019

7:00 p.m.

Chair Clifford called the meeting to order at 7:00 p.m.

ROLL CALL: Present: Commissioners Berman, Campbell, Rubinstein,
Nibbelin, Kraske, Bigstycyk and Chair Clifford.
Absent: None

SALUTE TO FLAG: Led by Commissioner Nibbelin

STAFF PRESENT: Planning Director Tina Wehrmeister
Sr. Planner Christian Murdock
Asst. City Attorney Deepa Sharma
Assoc. Planner Bonny O'Connor
Asst. Planner Helen Gannon
Contract Planner Gnos

APPROVAL OF ORDER OF AGENDA Commissioner Nibbelin moved approval of the Order of Agenda; Commissioner Bigstycyk seconded the motion.

The motion carried **7-0**.

Ayes: Commissioners Berman, Campbell, Rubinstein,
Nibbelin, Bigstycyk and Chair Campbell
Noes: None

APPROVAL OF MINUTES: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF JUNE 10, 2019:

Planning Director Wehrmeister stated that the Planning Commission recommended an ordinance implementing the parcel adjacent to 2100 Palmetto Avenue development agreement and the first reading will be June 10 and they will need a liaison.

Commissioner Kraske volunteered to be the liaison.

ORAL COMMUNICATIONS:

None

CONSENT ITEMS:

None

NEW PUBLIC HEARINGS:

- 1. PSD-839-19** **File No. 2019-001 – Site Development Permit PSD-839-19**
CDP-403-19 **and Coastal Development Permit CSP-403-19** for construction
of a new two-story, single family residence on a vacant
nonconforming lot on Buckingham Way (APN 016-304-140).
Recommended CEQA Action: Class 3 Categorical Exemption,
CEQA Guidelines Section 15303.

Asst. Planner Gannon presented the staff report.

Commissioner Bigstyk asked what the logic was behind the minimum 5,000 sq. ft. lot requirement.

Sr. Planner Murdock explained that the 5,000 sq. ft. minimum requirement was a common size throughout California, and he thought it was to have a common density and that size helps implement the low residential density in the General Plan and is the most common land use prescribed in the City's planning documents.

Commissioner Bigstyk referred to the 14th condition of approval in packet page 24, and he asked what the one hour minimum rated wall requirement meant.

Asst. Planner Gannon explained that the condition was written by the building official and one hour rated was for fire protection.

Sr. Planner Murdock added that it was a minimum design standard to slow the spread of a fire from one structure to another and with the normal 5 feet standard setbacks between structures, the one hour minimum was the requirement.

Commissioner Bigstyk concluded that an hour was the least amount of time required for a fire to burn through that wall.

Sr. Planner Murdock thought, from a laboratory standard, one hour was the acceptable design standard thinking, but he wasn't sure that it would withstand a fire for that length of time but that was the thought process behind that decision.

Commissioner Bigstyk stated that he spoke to the neighbor who raised the question as to the height of the building, and he asked if it was going to be the approximate height of the neighboring building.

Asst. Planner Gannon responded affirmatively.

Abey Mullassery, owner, stated that he comes from India where he lived close to the coast. When he moved here and visited Sharp Park, he felt it was similar to his home in India. He stated that he was a software engineer with a healthcare company and his wife was an assistant principal in a nearby high school. He wanted to live in a similar area to his home in India and when this property came up they decided to go for it. Because of the narrow size, they needed two floors and he understood the neighbor's concern and as such was considering not having a fence so they can share the land between the two properties, and he was trying to not have a lot of windows to

ensure privacy for the neighbor, and would just do what was required by the code. He stated that they would love to have their kids attend school in Pacifica and for them to have the opportunity to work in the community.

Chair Clifford opened the Public Hearing.

Clara Gillies, Pacifica, stated that she lives next to the vacant lot and accesses her duplex in the back from the 34-inch sidewalk along the side of the vacant lot. She mentioned that one concern was how she would get a product, such as a refrigerator, into her condo if the fence was separating the properties. She thought addressing the fire issue was a good idea and, if there is no fence and she will be able to move furniture through that path to her condo, she would be okay.

Chair Clifford stated that they cannot comment or make any promises at this time, and asked if she had anything else she wanted to say.

Ms. Gilles stated that she was pleased to hear about the window situation as her kitchen and dining room window would face their house.

John Paul Sumicurro, Pacifica, stated that he lives in the unit behind the vacant lot. He looked at the plans and thought they were very nice. He referred to mention of a sidewalk in the plans and he stated that there was no sidewalk and if one were added, he thought it should be on the other side. He asked if there had been an environmental impact study done or traffic studies done. He also mentioned that he now had a view of the pier and ocean, along with his neighbors, and would be losing that view after decades of having nothing on that lot that obstructed their view. He then asked how long the construction would take and what the hours of construction would be. He mentioned that he worked in medical surgery with crazy hours and questioned how this would impact him being able to save lives. He felt they could reach amicable decisions and, while pleased with new growth in Pacifica, he wanted to know Pacifica would continue to be the city we have all grown to love.

Mike McGann, Pacifica, stated all the structures on the block were two stories except for his residence, and he didn't see a problem granting this family's two-story structure. He thought, if there was a communal setback between the two houses, there would be one for egress and for the fire department to get in and out in an emergency. He referred to mention of the sidewalks, stating that if he gets a permit to build a sidewalk, there will definitely be sidewalks in front of the house but that will go through the planning process. He supported the project.

Nadia Pichko, architect, referred to the fence and access to the property on the right side to the back unit, stating that the owner did not plan on putting a fence by the pathway to that unit. She referred to the sidewalk, stating that Public Works or engineering would require them to do that and they will follow the city's guidelines. She stated that the second story was required to get the square footage because of the narrow size of the lot and they did the best they could to keep the minimum distances, allow for fire access and provide the one hour minimum fire wall.

Commissioner Nibbelin asked about the public comment on the length of time to complete the construction of the project.

Ms. Pichko stated that they have talked to several contractors and they are estimating about six months for the length of construction, adding that they were looking at prefabricated materials

such as walls that are made at the factory and if the price was comparable to conventional construction, that would be the owner's preference in order to build it as quickly as possible. She stated that they will follow the hours for construction set by the city.

Commissioner Nibbelin thought that type of construction would mitigate some of the site construction impacts.

Ms. Pichko responded affirmatively.

Chair Clifford closed the Public Hearing.

Commissioner Nibbelin asked staff to remind them of the city's designated hours of construction.

Sr. Planner Murdock stated that it was Monday through Friday, 7:00 a.m. to 7:00 p.m. and Saturday and Sunday, 9:00 a.m. to 5:00 p.m.

Commissioner Nibbelin stated that he was in support of the project after hearing the comments and support from the public and what the architect and owner are trying to achieve.

Commissioner Kraske stated that he also was in support of the project.

Commissioner Bigstycyk commented that it reminded him of shotgun shacks in New Orleans and brought a smile to his face, adding that he was also in support of the project.

Commissioner Campbell stated that he was in favor of the project.

Commissioner Rubinstein stated that he also was in favor of the project.

Commissioner Berman stated that she was in favor of the project and was ready to make a motion.

Chair Clifford stated that he was also in favor of the project.

Commissioner Berman moved that the Planning Commission FINDS the project is exempt from the California Environmental Quality Act; APPROVES Site Development Permit PSD-839-19 and Coastal Development Permit CDP-403-19, by adopting the attached resolution, including conditions of approval in Exhibit A; and INCORPORATES all maps and testimony into the record by reference; Commissioner Rubinstein seconded the motion.

The motion carried **7-0**.

Ayes: Commissioners Berman, Campbell, Rubinstein,
Nibbelin, Kraske, Bigstycyk and Chair Clifford
Noes: None

Chair Clifford declared that anyone aggrieved by the action of the Planning Commission has ten (10) calendar days to appeal the decision in writing to the City Council.

2. RIA-2-18

File No. 2018-036 – Rent Increase Application RIA-2-18

to increase the rent at the Marymount Gateway Apartment Complex to 12.5 percent or current market rate, whichever is less.

Recommended CEQA Action: Exempt pursuant to CEQA

Guidelines Section 15061(b)(3) and Class 1 Categorical Exemption Section 15301.

Contract Planner Gnos presented the staff report.

Commissioner Bigstyk referred to an application in 2017 for a 12.5% raise in rents.

Contract Planner Gnos responded affirmatively.

Commissioner Bigstyk referred to a list of 170 units in packet page 88 where the below market rate units were highlighted. He stated that the math made sense within the context of the report with all the other units, but with unit 134 he thought \$2,600 was currently being paid and \$3,298 was market rate and \$2,925 was being proposed, and he asked if that unit would be capped at 80%. He stated that he calculated that 80% of the fair rate was about \$2,638 which was not much more than it was presently, and he wondered how that gets factored later.

Contract Planner Gnos stated that it would be the responsibility of the affordable compliance consultant to confirm it, but it was right on the edge. She stated that there were a lot of factors going into what was allowed by HUD, including utilities and the rent role they have doesn't include utilities. This gives them a general picture but the consultant will have all the details for each unit to ensure it doesn't exceed.

Commissioner Bigstyk thought it was consistent except for that one unit, and he concluded this was the proposal and at a certain point the consultant would request appropriate changes.

Contract Planner Gnos agreed, clarifying that, if they adopt the resolution, they would be saying they were approving up to a 12.5% rent increase and could go to market or to the applicable HUD limit.

Commissioner Bigstyk stated that his understanding was that condominium conversion didn't mean there was any change to the physical environment of the units, and he asked if he could sell it at that point once the conversion is made or did it require a physical change.

Contract Planner Gnos stated that it depends on how the units were constructed. She explained that, to sell them as condominiums, they have to have firewalls and certain improvements made to the building. She thought they went through that process two years ago and they had all the permits when the map was finalized and did the physical conversion.

Planning Director Wehrmeister stated that she would need to verify that.

Chair Clifford stated that one thing they would have to do to sell the individual units was to have individual gas and electric meters for each unit, which he stated has not taken place at the present time.

Contract Planner Gnos stated that she did not recall.

Commissioner Bigstyk asked why it took three meetings in 2017 to come up with the resolution that was approved.

Contract Planner Gnos stated that it was because they had heard nothing about the condition of the units and when the residents came they were complaining about the condition of the units, causing several meetings and tours conducted by the commissioners, to nail down the condition of the units.

Commissioner Bigstyk concluded that all the below market rate apartments are not currently occupied and he asked if the rest of the units were occupied.

Contract Planner Gnos stated not according to the rent rule, and he could look at pages 87 and 88 to see the vacant lists.

Commissioner Bigstyk stated he was confused as to whether the physical requirement for a condominium conversion has taken place and asked the logic of going through a condominium conversion if the intention isn't to sell the units as condominiums sooner than later.

Contract Planner Gnos thought that was best for the applicant to answer but she thought his answer previously was about the market.

Commissioner Nibbelin thought there was no particular time limit on the actual carrying out of a condominium conversion once they have gotten an approval for that application and they could wait forever until they decide it was advantageous to sell them.

Sr. Planner Murdock agreed, adding that he was not aware of any prescribed time limit for sale of the units once the condominium subdivision has been approved and recorded.

Commissioner Nibbelin asked for an update on how relocation benefits or the relocation process fits in the context of all this as he understood this process to increase rents works in tandem with the relocation process and ensuring that they are available themselves of any protections or benefits exist in the relocation process.

Contract Planner Gnos asked clarification if it was the relocation process.

Commissioner Nibbelin confirmed that, adding that it doesn't have to be a lengthy response, and wondered if there were relocation benefits available under certain circumstances that they are trying to protect.

Assoc. Planner O'Connor stated that the reason for the Planning Commission approval was to help prevent pushing out tenants, but there were other relocation benefits in terms of, if there is a market rate tenant in a BMR designated unit, they have the ability to receive relocation funds to find a new unit to occupy or they can choose to stay in the BMR unit and pay full market rate with the difference going towards a city affordable housing in lieu fund.

Commissioner Nibbelin referred to the conditions of an owner having to wait until a lease term ends before he could sell an inhabited unit and he asked if there were any other benefits to a tenant under those circumstances.

Planning Director Wehrmeister stated that there were various tenant protections under the ordinance, such as moving expenses, relocation assistance, etc. She added that some are qualified by a period of time after the tentative map approval. She stated that the ordinance addresses relocation and moving expenses and when you have a senior non-purchasing tenant.

Commissioner Nibbelin explained that he was trying to state that the reason the rent protection was in there was to insure that people aren't pushed out owing to undue rent and not avail themselves of those protections.

Planning Director Wehrmeister responded affirmatively.

Commissioner Nibbelin referred to tenants over 62 or disabilities, and on packet page 33, he was trying to understand the reference to August 14, 2014 and the significance of that date.

Contract Planner Gnos thought that was the date of the map recording.

Commissioner Nibbelin thought it might, but he stated that the staff report made reference to August 22, 2014 being the recording of the map.

Contract Planner Gnos thought that could have been an error and it could need to be 22 instead of 14.

Commissioner Bigstyk stated that, assuming the conversion takes place as planned, he thought the owner could sell it by unit and, with vacancies existing now, it should be a simple matter for the owner to sell a vacant unit.

Contract Planner Gnos responded affirmatively.

Planning Director Wehrmeister thought she would like to clarify that, from the research done following the last hearing on rent increases, they determined that the code stated the physical improvements needed to meet the functional standards of a condo are required to be met prior to sale of condominium and why there were in a situation where they have a map recorded but not all the functional improvements have been completed.

Commissioner Bigstyk asked if it was possible to make those improvements before the tenant has moved out.

Planning Director Wehrmeister stated that she could not say as she had no idea how disruptive some of the improvements would be and what they have left to do.

Commissioner Bigstyk assumed that on the vacant apartments it would be a simple matter to make the improvements on those and sell them while there are still renters in other units.

Planning Director Wehrmeister thought it would take more study as some improvements are individual meters, water heaters, etc., and she didn't know if it was simple to do on a unit by unit basis.

Commissioner Bigstyck visits the units and understood there were various clumps of apartments. He thought she was suggesting that those little buildings would have to be vacated before the improvements could occur.

Planning Director Wehrmeister thought it was more probable to do it building by building rather than unit by unit.

Chair Clifford referred to mention of the protections, and he asked how many were still in effect as he thought a great deal of time passed since the original condo conversion was approved. He thought it was based on two years.

Planning Director Wehrmeister thought the moving expenses didn't have the time qualifier, but relocation assistance was to be provided for a minimum period of four months following the tentative map approval and that was probably timed out. She thought any special case protections regarding tenants of 62 or older appeared to still be in effect. She stated that the rent increases are still in play. She thought it was the moving expenses that were still operative.

Chair Clifford referred to mention in staff report of it being 12.5% or market rate, and he read it was whichever is lower.

Contract Planner Gnos stated that was what they put in the recommendation and resolution, and the applicant has asked for at least 12.5% or market rate.

Chair Clifford understood that the change was a request from the applicant.

Contract Planner Gnos reiterated that the applicant was asked for at least 12.5% but no higher than market rate. She stated that based on Planning Commission's action previously, she continued with the request for 12.5% or market rate, whichever is less.

Mark Haesloop, applicant, stated that condominium is a form of ownership of real property and a form of operating of buildings, and was the reason for the original application in 2008 being a subdivision map for the condominium form of ownership and conditional use permit for the operation of a condominium on the property. He stated that no certificate of occupancy has been issued and not one final inspection from the building department has been completed. He stated that they have a building with separate units that are owned but essentially still operated as a rental facility even though there is a vested conditional use permit that, upon certain conditions, such as obtaining certificates of occupancy on the units, they can sell the units and operate it as an independent condominium. They would have to have separately metered water, etc., and to sell units they will have to do those things at some point in time. He stated that they were before the Commission on this rental increase because not one tenant has been displaced or evicted but has continued as previously. He mentioned that it was a 171 unit project. Their application was asking for a minimum of 12.5% which only gets them to where they should have been the last time but they didn't get it because of the questions regarding the condition of the property. He stated that they now say they have been proactive and the property is much improved. He stated that they are looking for a minimum to get them where they thought they should be at that previous time. He wasn't asking for a specific amount for a one-bedroom, two-bedroom, etc., in the application because when the application was made on April 3, 2018 rents have gone up. He didn't know why it took the city over a year to process the application. He stated that their rent was significantly below market rate for median income units and many market rate units were

below the allowable below market rate ceiling and they were asking for a significant increase because they have not had much increase since 2008, with a 12% increase since then when market rates have gone up 67%. They thought the application should be a minimum of 12.5% and he suggested in his letter that they should go to the weighted average for units in Pacifica, not the high or low end, and they were included in the report on packet page 171. He felt those were the appropriate number for the application to get them close to market rate. He stated that they have entered into a below market rate agreement with non-profit HIP Housing who are managing the below market rate units. He stated that they were happy to continue with the age 62 and disabled stabilization measures. Other than what is in the ordinance, the only other thing they are requesting is the rent increase which will require an amendment to the ordinance based on the Commission's decision on the appropriate rate. He stated that the ordinance law issues three criteria for determination, what the market rate is, what the consumer price index is and the condition of the property. He added that the number for the market rate in Pacifica was higher than the CPI number and the condition of the property was significantly improved over the previous decision. He thought it warranted an increase of more than 12.5%. They would like to get to the weighted average which they felt was the right place to be. He was open to questions.

Commissioner Bigstycyk asked if it was their intention to sell them as condominiums.

Mr. Haesloop stated that he did not do the conversion in 2008 but came in around 2015 or 2016. He stated that this project was owned by two separate LLCs with multiple shareholders and he didn't think there has been a majority vote of the shareholders to put the units up for sale or would be in the near future. He stated that, in 40 years of doing land use law, the most prevalent reason he sees for doing condominium conversions is estate planning. He gave an example of an owner of a 21-unit building and three children, who rather than force the sale of the building or one child buy out the other, they can divide it up and give seven to each of their kids which often happens. He stated that condominium conversions are rare in San Mateo County.

Commissioner Bigstycyk concluded that the reason for doing it was for flexibility in the future.

Mr. Haesloop thought that was ultimately the case and he thought there might also be tax considerations among the shareholders.

Commissioner Berman stated that in the staff report it mentioned that there were quite a few vacant units and she thought the Pacifica average was 2.7% vacancy and the staff report showed 14% vacancy for the normal market rate units.

Mr. Haesloop stated that was because some of the units are being refurbished as they go along. He stated that between 2008 and 2017 when they had no rent increases, there was a little bit of deferred maintenance. He stated that there are normal turnovers of rent. He stated that vacancy was a snapshot and not the same picture every day. He stated that this shows what it was at the time they looked at the report. He stated that about 10% of the units turn over annually and on a 171-unit project about 17 units were turning over on an annual basis. He stated that during that time frame, they may have 2-3 units vacant while being refurbished, but the county average was what it was.

Commissioner Berman stated that she just wanted to be sure there were still people trying to rent at the current rate and she questioned if it was already too expensive as rent in the area was very expensive.

Mr. Haesloop commented that he had grown children and knows how bad the rent is.

Commissioner Nibbelin stated that Commissioner Berman asked a very good question but he wanted to be sure he understood. He mentioned that there are a number of vacant units and he assumed there were leases entered into recently. He didn't think anything in the existing resolution would prevent the property owners from charging current market rents, adding that he was curious what the current market rents are with respect to leases entered in the last couple of months, such as \$2914 or \$3298, etc.

Mr. Haesloop stated that the rent roll like everything else was a snapshot.

Commissioner Nibbelin got that.

Mr. Haesloop was sure that units that became available and rented at market price would be higher.

Commissioner Nibbelin stated that his specific question was regarding whether rent leases entered into in the last couple of months were at those rates.

Mr. Haesloop responded affirmatively, explaining that the real issue was that they have tenants who have been there a long time and are 60% below market.

Commissioner Nibbelin understood that was what he was saying, but he was curious as to whether they were charging those rents as being the current weighted average rents.

Mr. Haesloop stated that in 2017 when they got the rent increase, people came in and got market and the owners can't raise their rent 2-4 years out without the Commission's permission.

Commissioner Nibbelin stated that someone who rented today could be charged market.

Mr. Haesloop agreed they could charge market but they can't raise their rent if they stay 2-4 years without the Commission's permission.

Commissioner Nibbelin understood that.

Mr. Haesloop stated this was generally not what Planning Commission's do, but he appreciated their trying to do it.

Chair Clifford stated that they talked about leases, and he asked if they have leases or month to month.

Mr. Haesloop stated that their standard was a one-year lease.

Chair Clifford asked if it was renewed for a year when the time is up.

Mr. Haesloop stated that it can be or can go month to month at that juncture, but they cannot raise the rent month to month without the Commission's permission.

Chair Clifford asked, in terms of an actual document that says that they are entitled to live there for a year, if it happens once and then goes month to month.

Mr. Haesloop stated that he understood that, if the tenant comes and says they want to sign up for another year, that was fine, but if they say they might stay another six months, month to month is fine.

Chair Clifford asked if that was his understanding or what was actually happening.

Gwen Aponte, Resident Manager, stated that no one asks for another lease.

Mr. Haesloop concluded that no one asked for another lease.

Chair Clifford concluded that it was one year and then it becomes month to month.

Mr. Haesloop responded affirmatively.

Chair Clifford thanked him for that clarification, adding that he didn't want the conception to be that there was an unending line of leases happening.

Mr. Haesloop stated that was only for people 62 or older on August 14, 2014 or were disabled on that day, adding that they had a perpetual right to stay.

Chair Clifford referred to vacancies and stated the below market rate units seem to be very high at 32.5%. He asked why the below market rate units are so heavily weighted towards being vacant.

Mr. Haesloop stated that he didn't know that for sure as it was totally managed by HIP Housing. He stated that he has been doing it for a while and one of the problems with inclusionary housing is finding people who qualify particularly in the moderate range. He mentioned doing a project in East Palo Alto with a three-bedroom unit that was in the BMR program and the city could not find someone who could qualify income wise for the three-bedroom unit. He stated that part of that was that HIP had the problem when they took over the contract that there were people living in units designated as BMR but did not qualify to be in such a unit. He stated that the question was what they do with those people at that time. He stated that, if they had an equivalent unit, they offered it but didn't force them to take an equivalent unit.

Chair Clifford asked if they didn't qualify because they were making too much money or don't make enough that they qualify for the 80% of income.

Mr. Haesloop stated that he can't speak to the units in this project, but his experience was that people make too much money or too little money.

Commissioner Bigstyk referred to the term "use permit" and he wondered how much that use permit lasts.

Mr. Haesloop stated that the conditional use permits to operate the structure as a condominium is fully vested.

Commissioner Bigstyk concluded that there was no limit on how long that lasts.

Mr. Haesloop responded affirmatively.

Commissioner Berman thought it sounded that there were a high amount of BMR units vacant and for the case where people don't make enough, she asked what the vacancy between the 80% AMI and the 120% AMI was, such as which one was more vacant in the complex.

Mr. Haesloop asked if he could get an answer. He then stated that there are no vacant BMRs in the building today.

Chair Clifford thought that was different from what was stated in the staff report.

Mr. Haesloop explained that, when he filed the application in April 2018, it was not the same picture as it is today.

Commissioner Berman asked when they experience the most turnaround with tenants, such as the end of spring when students might be leaving, as it could apply for when the staff report was written in context with the area.

Mr. Haesloop stated that he can ask, but he thought in real estate they see apartments turnover in the summer and not very frequently in December.

Ms. Aponte responded March and November.

Mr. Haesloop stated that the high turnover months were March and November. He stated that Gwen Aponte, Resident Manager, responded.

Commissioner Berman asked how many tenants have lived there for over four years.

Ms. Aponte stated it was probably half.

Chair Clifford opened the Public Hearing.

John Keener, Pacifica, stated that he was going to recommend an inspection by an appointed subcommittee of the Planning Commission, as was done two years ago, before deliberating on a rent increase for this property. He stated that at that time several tenants testified as to the rundown nature of the buildings and units, such as nonworking appliances, plumbing issues, rats and vermin, etc. He stated that an inspection by Commissioners Clifford and Beringer showed that from the outside the property looked rundown, asphalt breaking up, etc. and two units were inspected with rotting counter tops, etc., with oral testimony confirming other units with similar problems. He then questioned if a rent increase was justified based on the condition of the units. He again recommended inspection by a subcommittee, possibly accompanied by city and county inspectors and fire inspector, and applicant required to provide receipts of claimed improvements over the last two years which would require bringing this request back at a later date.

Ann Gleason, Pacifica, stated that she thought she was in one of the BMR units. She stated that she turned 70 with disabilities but was concerned with rent increase because of being retired and on a fixed income and cost of living was going up. She stated that many people are moving out

of state, and she spoke to managers of U-Hauls who stated that they can't replace them. She asked where that left the rest of them.

Carolyn Jaramillo, Pacifica, stated that she would like to reiterate John Keener's comments that no rent increase should happen without another inspection of the units to assure that they are satisfactory to tenants. She referred to all the numbers mentioned, and stated that she read an article by researchers for Journal of Urban Affairs, entitled "New Perspectives on Community Level Determinants of Homelessness". She stated that they found that \$100 increase in monthly rent in big cities was associated with a rise of 15% in homelessness and that rise is worse in smaller cities. She thought every city's Planning Commission needs to put that into their consideration when discussing rent increases.

Gloria Stofan, Pacifica, stated that she had a lot of questions and was glad the Commissioners were able to get some answers. She was concerned about the high vacancy, particularly with the BMR units. She was glad to hear that they are filled. She remembered reading in the Tribune several years ago regarding complaints about the conditions of the units and she would also like to see a current inspection, particularly from the fire department. She stated that her husband was in the fire department and she thought it would be important to have that done again. She understood that converting to condos meant ownership, but she thought this could go on for a long time and she thought the apartments were like a cash cow. She stated that it upsets her as they are trying to get people off the street and out of cars and find affordable housing and they are asking for higher rents. She acknowledged that the owner has the right to ask for it, but she felt it was getting ridiculous.

Jamie Bruner, Pacifica, stated that she lives at the apartments. She has been thankful that there have not been rent increases. She stated that, as a single mother, it was hard to make ends meet. She stated that, if she had to pay market rent, she would have to leave the state. She understood they are in business to make money but she stated that there are so many units recently rented at market value. She stated that they went through a 13.5% increase the previous year, and since she has not gotten a raise, there was no way she can afford to pay more rent at this point.

Wanda Whitaker, Pacifica, stated that she lived in the Gateway Apartments. She appreciated the opportunity to speak on this critical issue. She asked that they deny the request for an increase or, at minimum, delay it for at least 12-18 months. She stated that the subcommittee found a number of deferred maintenance issues and they were not mentioned in this meeting's report as being addressed. She stated that no seismic upgrades have been done. She stated that, in 2008, approval determined that tenants over the age of 62 on August 22, 2014, would not have their rent increased more than 10%. She stated that she was 64 and faces the exorbitant increases from which this Commission sought to protect seniors and disabled from experiencing. She stated that only about 20% of 34 units are long term tenants who would be eligible for relocation costs when the conversion takes place. She stated that rate increases negatively impact long term tenants and appear to be strategic and displace long term tenants and allow the owners to avoid paying relocation costs. She hoped the Commission would look closely to ensure the process is not being exploited for the sake of profits. She stated that the 2017 package provided an occupancy report showing how long tenants were in their units and vacant units but the current documentation does not provide this information. She stated that the BMR units shown in the package are mostly vacant units and she felt they were arbitrarily selected. She felt they needed to know how and why they were selected. She stated that, as a senior on Social Security, prior to the designation of BMR units, she should have been notified of the opportunity to apply or her

unit should have been designated. She felt this would be a way to mitigate the impact of increases to tenants who turn 62 after August 2014. She mentioned that they had discussed when they would come back for another rental increase and the director said she would be comfortable with three years and she felt a decision should not be made before 2020. She asked that they withhold their decision until the deferred maintenance observed by their subcommittee is addressed and the 2017 occupancy charts are compared. She stated that, in July 2017, Mr. Haesloop stated that a sense of inherent fairness was a missing criteria and she agrees. She stated that the cost of labor and materials was much higher now than it was ten years ago and management deferred maintenance because the soft market did not best serve them and now they want an increase claiming the cost of maintenance. She felt this was a demonstration of lack of inherent fairness to the tenant and she asked the Commission to hold them a higher standard of ownership and deny the increase.

Ellen Hage, Pacifica, stated that she was a Pacifica resident and homeowner and member of Faith in Action Bay Area. She was in agreement with the previous speakers. She stated that there was a human cost of what was going on. She felt that the real estate market doesn't care about people. She was concerned about tenants being displaced because of rent increases, particularly for the BMR units. She felt there should be required inspections before going forward.

David Fadda, Pacifica, stated that he has been a tenant for six years and can verify a lot of what his fellow tenants have said. He recommended that an inspection from a subcommittee be taken of the apartment building. He stated that, for six years, he has watched parts of the apartment decompose and fall apart. He stated that, when he has requested that things be fixed, he has been hit with annoying consistent papers to fill out. He fills them out and they don't get done. He stated that the back railing of his apartment has rotted internally and fallen off. He acknowledged some improvements were made and were appreciated but felt they did not really improve the quality of life for the majority of the tenants. He stated that he doesn't need a heated pool, but better washing machines, etc.

Teresa Tolibas, Pacifica, stated that she has lived in the apartments for 15 years and was present at the meeting in 2017, and they were talking about things then that have not been resolved. She acknowledged that there are things that have been done and she was in support of Gwen who has been trying but the ownership was not stepping up to improve the quality of life as previously mentioned. She agreed with Mr. Keener to have another inspection to get everyone on board regarding market rate quality. She stated that her apartment was one they inspected previously and suggested that they look at it again, and she also felt they should weigh the percentage of increase versus the quality of the unit.

Juan Trupp, Pacifica, stated that he received the notice of this public hearing and he came because he agrees with the speakers expressing their emotions. He felt it was clear that with the rate increase they need to compare apples with apples and oranges with oranges. He felt that in a free market you can ask whatever you want but he knows the Bay Area and the location of these facilities and the value of what they are asking doesn't compare to the situation of the existing premises.

Mr. Haesloop acknowledged that no one wants their rent raised or wants to pay more for what they had today than yesterday, but to continue to make improvements on the property, they can't continue to operate with revenues from many units that go back to 2008. He referred to the inspection and stated that they were asked by staff to provide them with information concerning

the annual inspections they do, number and time taken for request for service, and their books and records showing what was spent on repairs, maintenance and improvements since the last application. He stated that, if staff thought an inspection by someone else was required, they would have permitted that. He stated that they believe the project is in significantly better condition than it was in 2017 and increases in rents will allow them to continue to manage it. He didn't want to get into issues, but he felt inherent fairness means fairness to all parties which includes the landlord. He stated that it wasn't political to think of landlords as needing fairness. He thought the interesting thing was where the tenants would be today if they had not done the condo conversion in 2008. He stated that these units would be at market rate today and the tenants have had the benefit of the conversion ordinance restrictions for a number of years. He stated that they were not asking for the restrictions to be removed. If they decide to sell, there will be rental assistance, moving expenses and the notices required by both state and municipal law. He felt the key element was maybe they made a mistake by converting to a condo and they wouldn't be where they are now and the benefit of that mistake rests with the current tenants.

Chair Clifford closed the Public Hearing.

Commissioner Bigstyk stated that he didn't see the subject of relocation benefits in the staff report and he was curious about it, but it would not factor into his decision at this time. He stated that another thing that wasn't in the staff report was the idea of doing a review and inspection of what the units look like. He also stated that the report did not have a list of what needed to be fixed and what was fixed. He stated that, on looking at the units from the outside, they looked nice as though they had recently been painted. It triggered his thoughts about what the inside looked like, and he would be interested in continuing the item until he knows what the condition of the units are because he didn't have that data now. He stated that personally this was a foreign world, and he stated that he qualified as one of the very low and he could not live in one of their units. He stated that it was difficult because, if you become a landowner, there is a construct that you should have your due, but in this time and place where the term of housing crisis is constantly being used, there is a question about what fair means as they go forward. He stated that personally renting a single family residence and took the opportunity to have a good relationship with the landlord, it was a one on one relationship and the mindset of 170 residences and they have to figure out a way to do what is fair for all. He respected the numbers which presented some degree of fairness, he would like to be sure of the state of the units and have a subcommittee inspection before going forward to be sure if the 12.5% was fair at this time.

Commissioner Campbell stated that having voted on this in 2008, he didn't expect to be doing it again. He thought the condo conversions were more imminent then. He stated that, since they have the problem of the inability to make improvements without a rate increase, he felt it would be interesting to get more data and evidence of the inability. He stated that, since they did a subcommittee before, he was convinced to do something like that. He stated that, in his line of business, when their inspectors identify an issue or problem, they usually have a followup inspection to demonstrate that things have been brought into compliance. He could be interested in continuing the item until they get a subcommittee finding.

Commissioner Berman stated that she agrees with Commissioners Bigstyk and Campbell. She stated that one of the criteria for rent increase was to understand the condition of the units which would be helpful for the Planning Commission to understand the present condition of the units. She suggested to Planning that in the future they make an inspection as part of the approval process for rent control. She thought this will be an ongoing situation for apartment complexes in

Pacifica for years to come. She didn't know if it was possible but it could be a benefit for the city and residents as a requirement for planning approval. She would like to see more data on the conditions of the units, adding that she thought it was catch 22 where increased rent helps the property owner to make the living situation for the tenants better.

Commissioner Nibbelin appreciated the opportunity to hear from the applicant and the public. He felt it was a challenging situation with a lot of factors to consider, which includes fairness to the tenants and is an intended component of the ordinance, as well as fairness to the property owners with a notion that a reasonable rate of return is due to property owners which was the underpinning of the factors they must weigh. He was ambivalent on the notion of a subcommittee to inspect. He thought staff should get what they believed was appropriate in consideration of this factor, but he would not stand in the way of a continuance if that is the weight of the Commission. He thought it sounded that the applicant cooperated as staff asked. He had thoughts on prevailing rents for similar units and he had taken a look at the comparables included in the market rate housing report. He thought not every one of the ten comparable units was created equally. He thought the ones along Skyline were probably better in the rent rates reflected such as No. 3, Pacifica Parks or No. 6, Skyline Vista, or Fairmont Apartments, etc., and he thought the rates there may be more significantly weighted than some those closer to the ocean which probably generate or justify higher rents owing to the more desirable locations. He would be interested in knowing if they gave a greater level of weight to those oriented projects and end up with a different result. He referred to the rent roll and stated that he didn't see a single rent that reflected the market rates that were identified as the weighted average market rents for Pacifica. He understood that 50% of the units were currently occupied by those who have been there for quite some time, but he thought it was unusual if those were the prevailing market rents given that the property owners have the ability to charge market rent when they enter into new leases that none of the current rents appear to reflect those levels. He thought it calls into question the extent to which market as identified is really market for this complex. He thought those thoughts might be worthy of further analysis.

Chair Clifford stated that he was on the Commission in 2008 when the condo conversion was done. He remembered it as being very eminent and there was a great deal of talk about getting all the units done and making sure that the existing tenants had the opportunity to have the right of first refusals. He stated that there was much said about the condo conversion being an actual conversion to selling the existing units. He was one of the two commissioners who inspected and returned with the report. He was in favor of going back out and looking one more time to see what kinds of improvements have been made and see if there are areas needing more improvement before he decides on whether to vote for an increase in rent. He would be in favor of a continuance and an establishment of subcommittee of two to review the facilities.

Planning Director Wehrmeister stated that they can assist the Commission in facilitating the inspection. She wanted to be clear on the expectations for both the Commission and audience maintained that this site visit is done by a subcommittee to report back to help the full Commission in making their determination about the general condition of the units and was not a building inspection report, and they will not be inspecting crawl spaces or going on the roof, etc. She stated that they confirmed with the Fire Department that they did the annual inspection last year and they passed.

Chair Clifford added that the Commission realized that the only units they can inspect are those into which they are invited. He asked that any tenant willing to allow them to inspect their unit

reach out to staff and they can get a list for the subcommittee. He stated that, if the applicant has vacant units they are willing to have the subcommittee inspect, that would also be helpful.

Commissioner Berman asked that, if this project comes back as an agenda item, the staff report be updated with the applicant's request in the applicant's letter if they would like the 12.5% increase.

Commissioner Nibbelin stated that, with a continuance, he would also like to get the most current rent roll from the applicant of rents being charged for units in the complex.

Commissioner Bigstyk mentioned Mr. Keener's list of officials he recommended for checking and he was curious if the Commission thought a subcommittee will do the job or if any of that should be looked into.

Chair Clifford referred that to staff, stating that they can set up a subcommittee but he didn't know that they could request anyone else.

Planning Director Wehrmeister thought it was more appropriate to be a subcommittee of the Commission. She requested that, with any motion made to continue with a subcommittee, the two person committee be identified.

Chair Clifford stated that he would be one of them as he has a history of having already done inspections and he would be able to see and identify improvements if that is where the Commission is going.

Commissioner Bigstyk stated that he was ready to make the motion but he didn't know if he was the right person for the subcommittee but would be happy to unless someone with more expertise would like to volunteer.

Commissioner Berman didn't necessarily think she had more expertise but she would also be willing if no one else would like to.

Chair Clifford stated that they would accept her. He stated that they needed a motion to set up the subcommittee but had the two people interested.

Commissioner Nibbelin stated that Commissioner Bigstyk had his light on and was interested in making a motion.

Commissioner Bigstyk was happy to make the motion, adding that he thought a civil engineer has more to think about than a writer.

Commissioner Bigstyk moved that the Planning Commission continue the project until they have a subcommittee comprised of Commissioner Berman and Chair Clifford to take a look.

Planning Director Wehrmeister stated that they will make that to a date unspecified, and they will re-notice.

Commissioner Kraske seconded the motion.

Planning Commission Minutes

June 3, 2019

Page 18 of 22

The motion carried **6-0**.

Ayes: Commissioners Berman, Campbell, Nibbelin, Kraske,
Bigstyeck and Chair Clifford

Noes: None

Chair Clifford stated that Commissioner Rubinstein had to leave and left at approximately 8:15 p.m.

3, SUB-241-18

File No. 2018-047 – Tentative Subdivision Map SUB-241-18, to subdivide a 60,964 sq. ft. parcel into two lots of 53,550 sq. ft. and 7,414 sq. ft. at the corner of Malavear Dr. and Sheila Lane (APN 023-270-580).

Recommended CEQA Action: Class 1 Categorical Exemption, CEQA Guidelines, Section 15301.

Chair Clifford stated that he will recuse himself because his property is bordering on the boundaries. He asked that Commissioner Nibbelin assume the position of chair.

Asst. Planner Gannon presented the staff report.

Commissioner Campbell mentioned her reference to a lawsuit of a neighbor's concern about Pacifica versus City Council and he was curious about what the suit was.

Sr. Planner Murdock stated that he didn't have the full details but thought there was some question about the adequacy of the environmental review. He thought some of the issues of the settlement reached were in terms of the detention pond designed into the subdivision improvements and easements on the upper limits of the slopes to the west.

Commissioner Bigstycyk stated that when he visited the property, he was confused until he got home and reviewed the map. He understood that the space where the ponds were the ADU.

Asst. Planner Gannon stated that where the pond is was the same parcel where the ADU is currently located.

Commissioner Bigstycyk stated he was confused because he thought they were two separate lots and two separate housing units.

Asst. Planner Gannon stated that it was one parcel currently but as proposed the pond would be on the same property as the ADU, then turning into the primary residence of the lot.

Sr. Planner Murdock added that the zoning map has that corner at Sheila Lane and Malavear designated as R1 single family residential and the balance of the parcel was zoned as agriculture/B5 lot size overlay.

Commissioner Bigstycyk asked if the ADU was only 844 sq. feet.

Asst. Planner Gannon responded affirmatively, adding that city standards state they need to have at least 850 sq. feet to be considered a primary dwelling unit and that has been included as a condition.

Commissioner Bigstycyk stated that there is reference in the staff report that six feet would seem negligible and he agreed as he thought when it looked at it he saw a house and one of the conditions for approval was adding on six square feet. He asked how they add six feet to something that was already there.

Asst. Planner Gannon stated that she didn't have the answer, adding that they discussed it with the designer. It may be challenging but the standards do call for 850 so whether six feet or 20-100 square feet will be added was up to them.

Commissioner Bigstycyk asked, since the term negligible was being used, what the benefits were to have that as a condition of approval versus doing an exception of such a thing is possible.

Asst. Planner Gannon was not aware of any exceptions they can apply except for possibly a variance that would require to prove hardship, and that would be up to the applicant to prove that and staff would also need to make that finding. She stated that it has been included as a condition because those are the regulations and they need to follow them.

Commissioner Bigstycyk looked forward to seeing how they improve on it as it was already a beautiful site.

Dave Melton, applicant, stated he stated the project in 2006 as it was in the best interest of his family to have a main house and an in-law but over time things changed a little bit and for the best interest of his family he was trying to separate it. He did find six square feet where he could add on to the house. He stated that the extra closet in the master bedroom doesn't take any garage space but needs to be accounted.

Acting Chair Nibbelin opened the Public Hearing, and seeing no one, closed the Public Hearing.

Commissioner Bigstycyk felt it was lovely and everything seems to be in order and he was happy to make a motion when appropriate.

Commissioner Bigstycyk moved that the Planning Commission 1) finds the project is exempt from the California Environmental Quality Act; 2) approves Tentative Subdivision Map SUB-241-18 by adopting the attached resolution, including conditions of approval in Exhibit A; and 3) incorporates all maps and testimony into the record by reference; Commissioner Berman seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Berman, Campbell, Kraske, Bigstycyk
and Acting Chair Nibbelin.

Noes: None

CONSIDERATION:

None

COMMISSION COMMUNICATIONS:

Commissioner Bigstyck stated that he attended the last Home for All meeting which was a success with many new people at the second meeting with topics discussed that were not discussed at the first meeting with feedback on possible affordable housing solutions.

STAFF COMMUNICATIONS:

Sr. Planner Murdock stated that the City Council recently approved the library's conceptual design plan with a voter survey update which showed improved support for a library project. Council has directed staff to do additional community outreach and re-survey later in the year. He stated that, as mentioned by Commissioner Bigstyck, they had a nice Home for All meeting on May 21 with more than 90 residents and we were only city of the participating cities in the county's Home for All program and increased attendance at its second meeting. They thanked the community and partners for interest and they credited staff for getting the word out. He stated that they were hopeful that the energy and interest in housing and being involved in planning for the community in the future will carry forward into the General Plan, Local Coastal Program and Sharp Park specific planning processes. To help get the word out and keep the community informed, they have launched a specific website for those activities called "planpacific.org." which is a stand-alone website with information about the General Plan update, Local Coastal Program update and the new Sharp Park specific plan processes as well as the upcoming community meeting dates once they are finalized with the locations and times. He stated that contact information for staff was also on the site but anyone with questions can reach out to him at the Planning Department.

Commissioner Campbell asked if the city had any official position on Senate Bill 50.

Sr. Planner Murdock stated he was not aware if they sent a comment letter on the legislation.

Acting Chair Nibbelin thought it was fantastic to hear about all the community engagement.

ADJOURNMENT:

There being no further business for discussion, Commissioner Kraske moved to adjourn the meeting at 9:09 p.m.; Commissioner Berman seconded the motion.

The motion carried **5-0**.

Ayes: Commissioners Berman, Campbell, Kraske, Bigstyck,
and Acting Chair Nibbelin
Noes: None

Planning Commission Minutes

June 3, 2019

Page 22 of 22

Respectfully submitted,

Barbara Medina

Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister