

**MINUTES**

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

August 19, 2019

7:00 p.m.

Chair Clifford called the meeting to order at 7:04 p.m.

**ROLL CALL:** Present: Commissioners Berman, Campbell, Nibbelin, Kraske,  
Bigstyc and Chair Clifford  
Absent: Commissioner Rubinstein

**SALUTE TO FLAG:** Led by Chair Clifford

**STAFF PRESENT:** Planning Director Wehrmeister  
Asst. City Attorney Sharma  
Assoc. Planner O'Connor  
Contract Planner Gnos

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

The motion carried **6-0**.

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

**APPROVAL OF  
MINUTES:  
JULY 15, 2019** Commissioner Nibbelin moved approval of minutes of  
July 15, 2019

Chair Clifford stated that on packet page 17 at the bottom of the page they have two “thats” in a row, and he asked that they remove one of them.

Commissioner Nibbelin again moved approval of minutes of July 15, 2019 subject to that correction; Commissioner Berman seconded the motion.

The motion carried **6-0**.

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

**DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF SEPTEMBER 9,  
2019:**

Chair Clifford stated that there would be the Lot 37 Salada Avenue appeal and asked for a liaison volunteer.

Commissioner Nibbelin volunteered.

**ORAL COMMUNICATIONS:**

None.

**CONSENT ITEMS:**

None.

**CONTINUED PUBLIC HEARINGS:**

- 1. RIA-2-18**                      **FILE No. 2018-036 – Rent Increase Application RIA-2-18** to increase the rent at the Marymount Gateway Apartment Complex to current market rate. Recommended CEQA Action: Exempt pursuant to CEQA Guidelines Section 1506(b)(3) and Class 1 Categorical Exemption Section 15301.

Contract Planner Gnos presented the staff report. She concluded by stating that they could ask questions now or wait until after Commissioners gave their site condition survey results.

Chair Clifford suggested that they ask questions now on her staff report and then Commissioners can give their report with separate information.

Commissioner Nibbelin appreciated the clarity in her report of walking them through the work done by the owners since the last meeting. He mentioned that staff couldn't adjust to the physical condition and he thought it was a significant factor. He questioned, as they hear more about the physical conditions concern, how they can convert that into percentages or dollars. He asked if staff had any help on that.

Contract Planner Gnos stated that she could let Stephanie comment because she did the work, but she stated that it was not a standard as they usually do rental surveys for finance applications by state standards and that was not one of the standards. She concluded that she didn't have an easy answer and they would have to make it up as they go along, as well as gain access and get tenants willing to let them do that kind of survey.

Commissioner Nibbelin appreciated that, adding that it wasn't a criticism but an observation as they only have half the equation with respect to all that as they don't have the condition of the comps and he thought it was unclear where they would go.

Commissioner Campbell thanked her for the report and then referred to the rent roll and maintenance costs, and asked if there was any indication that the money was going towards capital improvements.

Contract Planner Gnos stated not that she had access to but suggested that the applicant may be able to clarify more. She was only able to compare the amount he gave her that he had been spending on maintenance and amount of gross rents which did not include other costs.

Commissioner Bigstyk thanked her for the staff report and referred to the term "goal posts" in terms of conditions, and looking at how much rent goes toward improving conditions, he asked if there was an amount of money they should be looking for that is spent on improving the conditions on a regular basis.

Contract Planner Gnos stated that one item some people want to look at is operating expenses, such as maintenance, payroll, etc., not just improvements, but that is not public information. She stated that they probably could get it from the applicant, but the other comps would not want to give it up.

Commissioner Bigstyk asked, without knowing that generally, if there was a percentage they should be looking for in terms of what they thought they should be spending based on the income.

Contract Planner Gnos stated that, not being in property management, she didn't know that they could answer that question.

Commissioner Bigstyk stated that he had another question which he thought she clearly stated now, but he wanted to be sure it was clearly stated. He referred to Pacifica's Municipal Code stating that it was requested that they not go through this process again, but because of the code they have to keep going through this process.

Assoc. Planner O'Connor agreed, adding that without a change to the zoning ordinance it didn't seem appropriate to ignore that requirement.

Commissioner Bigstyk concluded that, to avoid this process, a method would be to change the ordinance.

Assoc. Planner O'Connor responded affirmatively.

Commissioner Bigstyk asked if undoing of the condo conversion that has already gone through would preclude them from having to do this again.

Assoc. Planner O'Connor asked clarification as to what he meant by undoing the condo conversion.

Commissioner Bigstyk explained that initially they applied for a permit in order to go to condo conversion. He asked if they could say they changed their mind and want to put it back the way it was and undo the process where they have a permit to do that.

Assoc. Planner O'Connor stated that there was already a subdivision map that was recorded and it would require a merging of all those properties, adding if anyone knew how that might occur.

Asst. City Attorney Sharma agreed, explaining it would require a lot merger and other approvals. If that would occur, the Planning Commission would not have purview over rent increases.

Commissioner Bigstyk concluded that, in theory it could happen, but it would be quite a bit of work.

Asst. City Attorney Sharma agreed.

Commissioner Berman thanked the work put into the staff report. She referred to the applicant wanting to match the market rent of the comps, and she concluded that the 12.5% increase was the minimum they were requesting.

Contract Planner Gnos stated that they were requesting straight to market rate, and they put the 12.5% column in because that was what got approved last time.

Commissioner Berman understood, explaining she wanted to bring it up because of a variance with some being higher or lower and she concluded that the applicant wants to propose an increase of market rate.

Contract Planner Gnos responded affirmatively.

Commissioner Nibbelin referred to the maintenance budget and property improvements, and thought they had data back to September 2017 with respect to maintenance costs, and at least during the last quarter of 2017 a large average of about \$31,000 per month for maintenance costs and something like \$19,494 for 2018 and \$18,148 for 2019. She asked if that reflects lower amounts that were spent in prior years as he was trying to understand what the longer term trend was.

Contract Planner Gnos stated, as they explained it, 2017 was when they were doing the original rent increase with a large number of tenants who stated that they need to fix things, and they went in to get a jump on the stuff. She stated that \$18,000 was only the whole year that they have available.

Commissioner Nibbelin stated that he was trying to get a sense of what happened in 2014-2016 and whether they have the numbers as a reflection of things that weren't done in those years or if it was an average over time.

Contract Planner Gnos stated that they only asked them for the information since the approval of the rent increase, but not for past information, adding that they may know generally and may be able to answer that question.

Chair Clifford asked affirmation that, although they are asking for market rate, it was not an all or nothing proposition. He thought they had a full range of options and could give them market rate or less or nothing.

Assoc. Planner O'Connor responded affirmatively.

Planning Director reiterated that it was correct based on the three factors in the Municipal Code.

Commissioner Bigstyk asked for clarification on the date regarding 62 or older individuals.

Contract Planner Gnos thought it was August 2014.

Assoc. Planner O'Connor stated that it was August 2014.

Commissioner Bigstyk concluded it was 62 or disabled and in before August 14, 2014.

Contract Planner Gnos stated that it was the age of 62.

Commissioner Bigstyk thought it was prior to that date, and concluded that if you turn 62 after that date you would not have that benefit.

Assoc. Planner O'Connor responded affirmatively.

Commissioner Bigstyk asked if it was possible to discuss adjusting the date at which that is given to someone over 62 or disabled at this time.

Asst. City Attorney Sharma stated that they could.

Chair Clifford stated that they would now move on to the subcommittee's site inspection report for the Marymount Gateway properties. He stated that the subcommittee consisted of Commissioners Clifford and Berman and inspections were conducted on 7/8/19 which included three units and the general site with volunteering tenants and 2-3 vacant units in the process of being refurbished for new tenants with the property manager. Chair Clifford then made a PowerPoint presentation of their inspection report. He asked Commissioner Berman if she had anything to add.

Commissioner Berman felt he had touched on everything, adding that her personal biggest concern was the mold they found which she thought bordered on health concerns. She then pointed out a few other concerns she had.

Chair Clifford added that, in the apartment with the worse mold problems, he had to leave after he started experiencing an asthma attack due to the exposure to that condition. He then mentioned a few other problems that might contribute to health condition. He also mentioned that the laundry area was greatly improved with all new appliances. He added that they were in the process of doing the roofs, doing a building in one section then going to another section, with basically one a month being done until all the buildings are done. He thought getting the roofs done was great, but the buildings have a moisture and mold issue that was recognized when they voted for the condo conversion. He stated one of their conditions of approval for the condo conversion which was roughly 12 years ago was that they would redo the failing stucco, replace windows with double pane windows, and get rid of the moisture problems. He acknowledged that they were making progress in terms of sealing the roofs, but water was past the roofs and inside the walls. He was deeply concerned for the health of the residents.

Commissioner Berman added that some of the units, including one lower unit that was inhabited, had electrical issues with a wall experiencing moisture and the outlets were spotty.

Chair Clifford recalled that the outlets mostly didn't work, but they were intermittent and was not a good sign.

Commissioner Berman agreed that it was possibly hazardous. She also acknowledged Chair Clifford commenting that a lot of work was done, such as the pool and common areas. She agreed there was still room for improvement but there were efforts being made.

Chair Clifford asked the applicant to come up and speak.

Mark Haesloop, applicant, stated that he was glad they noticed the improvements since the previous meeting in 2017 which continues. He stated that they didn't know which units they looked at and whether they were longtime residents or problem tenants, acknowledging that you always have a few residents who are somewhat disgruntled and not very good at maintaining their own units. He stated that he didn't know if they were cherry-picked or not, as he thought it was more indicative of units shown to be in the process of being refurbished for new tenants which is the product going forward which needs additional funding to continue with the improvements.

He felt that was something they need to keep in mind. He referred to the comment of \$340,000 monthly income and only a certain amount for maintenance, which he explained was ongoing maintenance. He stated that they also have capital improvements, debt service and fairly significant property taxes. He stated that the common areas that they consider their responsibility to keep up on a daily basis were all in good shape. He stated that, in looking at the staff report recommendation to approve the resolution given to them, they were willing to consider it an appropriate resolution for this meeting. He stated that the problem he has is part of the process. He asked why it takes 14 months to have one of these applications heard. He stated that property rents go up on an annual basis between 3 and 6 up to 8% a year. He stated that, in the 18 months from the previous time in 2017 to today, they have had a 12% increase in rents. He stated that he has full blown EIRs on major projects that have been acted upon in 9 months to a year and mitigated negative declarations in 4 to 6 months, and he questioned why it takes 14 months to have a rent application reviewed. He stated that, whatever they get at this meeting, if it less than going to market, they were behind the eight-ball and he asked if they should file a new application the following morning, adding that he has never had an explanation from staff why this takes longer than other things that come before Planning on a regular basis. He referred to a comment by Commissioner Bigstycck, stating that one of the problems with Pacifica's ordinance is that it doesn't comply with the subdivision map act which has a provision where they can do a condo conversion and enter into a ten-year agreement with the city that it will stay as a rental project. He stated that, in other cities, they have the ability to have a subdivision map approved. He stated that there were two elements to this, the subdivision map and the conditional use permit that allows them to operate as a condominium, and then continue to operate under a conditional use permit as a rental project, but that was not in Pacifica's statute when drafted in the 1990s. He mentioned that there were several people wanting to speak. He thought the resolution as drafted and recommended by staff was appropriate. He stated that, based on the property's conditions the previous time, the city gave them 12.5% rent increase and was half of what the market rate was at that time. He stated that 12.5% now would only bring them to market rate in 2017. He reminded them that they need to make findings based upon facts and not emotions or other aspects and felt the findings are exceedingly important.

Commissioner Campbell thanked him for reminding them that they need to establish facts. He stated that he brought up the differential between the \$20,000-\$30,000 they spend on monthly maintenance versus the \$350,000 that comes in on rental income. He stated that it doesn't take into account capital improvement, costs associated with certain things or other annual expenses. He asked if they were something he could document as he felt it would be helpful to see in the record.

Mr. Haesloop stated that they can do a full audit, but he asked that they keep in mind that this process is not inexpensive. He stated that it cost them \$40,000 for consultant and staff time to apply for this application. He stated that, if they are asking them to do a full audit of all their books, he thought it could be done, but they were looking at another \$25,000-\$30,000 to accounts.

Commissioner Campbell clarified that he was not asking for a full audit, but they were talking about deferred maintenance costs, and they were at a \$3.5 million differential between rents and monthly maintenance costs. He thought it was a curious situation for them when they see deferred maintenance costs but see a black box of a \$3.5 million differential per year. He asked where that money is going.

Mr. Haesloop stated that he didn't know, adding that he was the land use person, not the accountant. He stated that the other side of the coin is what he was comparing it to. He thought they would have to go to one of the apartment associations to figure it out and see what the trends are. He stated that Pacifica has big apartments and they have this down to a science. He stated that his clients are two LLCs that are small time investors.

Commissioner Campbell thought they could get into a discussion of who would have the burden of showing that, the Commission or the city.

Mr. Haesloop stated that they could show their numbers, but he asked what they compare them to. He asked, if instead of \$15,000 it was \$40,000, whether that the right number or should it be \$80,000. He didn't know if the number has any meaning to it.

Commissioner Campbell stated that lawyers love to say a reasonable number would be the number.

Mr. Haesloop thought a reasonable number has to be in comparison to all factors, and he didn't know what the factors were.

Commissioner Campbell agreed that they don't know what the factors are either.

Mr. Haesloop didn't think any of those factors were envisioned in their statute or the three conditions, i.e., market, CPI and general condition of the property, not whether they make a 2% profit or 20% profit.

Commissioner Bigstyk thought what factors into the amounts spent on improvements is the conditions of the units as they currently are and his concern was whether the conditions will be improved within a specific period of time for him to say yes that they are worth market rate. He referred to Chair Clifford's question and asked to the best of their knowledge whether they had some idea what the people he represents thinks a reasonable amount for maintenance should be.

Mr. Haesloop stated that he did not have a clue.

Commissioner Bigstyk thought his question was already answered but he liked to make sure that the obvious is set so the rest doesn't have to be thought about anymore. He asked whether a new tenant came in paying market rent.

Mr. Haesloop stated that they do as it was approved in 2017. He added that it was the market rate in 2017, not today.

Commissioner Bigstyk asked, if someone moved in today, whether they be paying the market rate of 2017 or 2019.

Mr. Haesloop thought it was not the market rate that was 35 or 40% above that now.

Commissioner Bigstyk asked clarification as to whether someone who moves into a vacant unit today would be paying today's market rate.

Mr. Haesloop stated that they would not be paying \$3,000-\$4,000.



Commissioner Berman referred to Commissioner Campbell's question and what is spent on maintenance with what comes in with rent, and she referred to the three items then can consider for whether or not rent gets increased, which is understanding that with the rent increase there will be more funds for maintenance and why the applicant would partially like rent increased. She stated that it helps them to understand what proportion of the increased rent will go to benefit the maintenance of the property and improve on some issues. She thought the proportion was very low now, and there was only \$19,000 spent per month. She asked, if there is a rent increase, will it help boost the maintenance funding as she was concerned with the funds being put into maintenance from the rent income.

Mr. Haesloop asked her how much specific number they should be putting into maintenance.

Commissioner Berman stated that she could not. She stated that it was all related in understanding the amount that rent gets increased and whether hopefully the amount of maintenance funds will also increase. She felt it would help them understand what the ratio is.

Mr. Haesloop stated that the problem he has is that he doesn't know what the ratio is either. He asked, if they allow \$1,000 a month rent, should all of it go into a maintenance fund or 80%, 50%, etc. He stated that they don't have those figures and he didn't know how they make that a factual finding and determination at this hearing.

Commissioner Nibbelin stated that he recalls the county housing department had an inspection program that dealt with certain buildings that had high levels of tenant concerns expressed and he thought some of these units had been a part of that county inspection program. He also recalled a report from a couple of months ago that the county has taken this set of buildings off of its program. He asked staff about their recollection.

Assoc. Planner O'Connor stated that the county does regular inspections if there is a reason for that. She thought the routine was every four years, and if there is a reason to come back sooner they put a property on a more frequent loop. She stated that their last inspection was in 2017 and they took this property off the need for more frequent inspections.

Commissioner Nibbelin stated that his recollection was that it was every two years or more frequent if there was a concern. He stated that he has concerns about habitability, but he wanted to be sure they have all the facts on the table.

Chair Clifford asked if the county inspects individual units or just the property in general.

Assoc. Planner O'Connor stated that she did not know the answer to that.

Mr. Haesloop stated that there were two things he felt were important. He stated that as he describes the project, he makes it sound like a slum and it was not. He stated that, in comparison to the housing stock in San Mateo County, this project has been no worse than any other which he felt was reflected by the fact that the county has not selected it for a higher level of scrutiny. He stated that, if any tenants think there are housing code violations, they were able to make a complaint to the San Mateo County Housing Department or even Pacifica's building department. He stated that the vast majority of the 170 people who live there apparently do not have that level of concern. He stated that one of owners has a speaker card.

Chair Clifford stated that he will let Commissioner Campbell ask his question first.

Commissioner Campbell thought the owner might be able to answer it. He wasn't asking for a ratio or what is fair but was it looked as if they have a monthly cost for maintenance of an outlay of \$20,000-\$30,000 with a \$300,000 differential coming in. The applicant stated that it didn't take into account capital improvement projects, etc., which the Commission does not know about and isn't reflected in the records, and that was what he was questioning. He thought the owner might be able to explain that.

Mr. Arjun Bhagat, owner, stated that they are having to dig into their own pockets to fund some of the improvements for the project because for the last decade they have been kept under market. He stated that the roofs was \$30,000-\$40,000 per roof and the money is not coming out of the system. He stated that they are not a group from Wall Street with a ton of money, but doctors, engineers, and local investors that put money into the community to buy the building. He stated that the roofs cannot be done from the income and they are lending the money back to the LLC. He stated that utility costs have been going up for the last decade, i.e., they are paying \$17,000 a month to PG&E, \$80,000 a month for mortgage, \$22,000 a month for utilities. He stated that the city costs keep going up. He stated that he could take photographs and show wires in this building, and they could cherry pick what makes for a bad situation. He stated that, in a building of 170 units, you can find problems. He stated that they are trying the best they can to continue to invest with very limited amounts of capital available. He stated that, if they had the rents, they would be able to make more expensive decisions than having to dip into their own pockets to keep making improvements. He asserted that almost every investor is a local person living here and there are investors in their 70s who are putting their retirement money into this, adding that they are asking for loans to pay for educating their grandchildren because there is no cash flow which they were expecting. He stated that they were having this discussion because they made a strategic error to do a condo conversion. He stated that, if they could reverse this and just be a rental property, they would not be having this meeting and would be able to charge market rents. He explained that a market rent was when a new person comes in and tells the manager they are willing to pay a specific amount of rent. He stated that tenants are being disingenuous when they say they are living in a place they hate but they don't want to move out. He stated that it doesn't make sense because, if the place is so bad, they are not forcing them to continue living there. He stated that they are the only property in Pacifica that is being tied down to this kind of rent. He asked that they let them charge market rent. He stated that they are willing to live with all the issues, etc., and he felt it was not fair.

Commissioner Campbell appreciated the explanation of market rent. He referred to his statement that the investors were local, and he asked if he lives in Pacifica.

Mr. Bhagat stated that he does not, adding that they are all local in the Bay Area.

Commissioner Campbell thought that could mean a lot of things and he stated that just being able to find a place to rent ignores a lot of the rental problems in the Bay Area.

Mr. Bhagat asked if that was a problem for just these two LLCs. He stated that they are in a peculiar place. He stated that there was a logic for why they should be controlling the rent which he said was that developers come along, do a condo conversion and they forcibly push out tenants when they are ready to sell the condos and it was to protect people from that and not for any other

reason that they were supposed to come to the city for getting approval. He stated that the idea was to not push out tenants unfairly because, in a condo conversion, you are supposed to pay a tenant an amount of money when they leave and the owners were ready to sell the unit but he stated that they are not doing that. They are only a rental unit now.

Chair Clifford thanked him for his explanation and comments. He stated that they were well passed the ten minutes.

Mr. Bhagat stated that he had two minutes.

Chair Clifford stated that, if he has a card in, he will listen to him then, and he will have three minutes to speak. Chair Clifford opened the Public Hearing.

Gary Meyer, Pacifica, stated that he was the 76-year-old person mentioned, adding that he worked hard all his life, saved money, invested in this project and now he was told they can't charge market rents as they have to take care of the tenants. He stated that he cares about them but he also cares about his own livelihood. He asked where the money is supposed to come from to do all the improvements they suggest if they can't get close to market rent. He suggested a compromise and asked that they let go to the BMR and see what kind of improvements they do as they will have to return next year if they want anything more. He stated that they can do their inspection next year and see if that money wasn't spent for the right reasons.

Lynda Martin, Pacifica, stated she is a long term resident for more than 30 years. She is a homeowner and not a renter, but she cares deeply about our city. She stated that she has firsthand knowledge of this apartment complex with friends there. She is glad that they have noticed some problems. She stated that over the years her opinion of the building is that to say it was extremely under maintained was an understatement. She stated that there have always been lots of problems. She stated that she was surprised that they were wanting to do a condo conversion as she would never want to buy a building like that with different structural stuff with issues. She stated that she is a landlord and owns rental property, but in other places, and she knows what it is like to be a landlord of rental units. She stated that the rental rates they are asking for are just unconscionable. She stated that one person's rent is currently \$1,400. She is single, a senior and they want her to go to fair market value which would be \$2,600 at a rental increase of 85%. She stated that she usually raises rent at less than 5%. She stated that she has never raised even 10%. She stated that people cannot afford increases of 85% and it is just not right. She felt, if you give them a rate increase, it should be something where they can see whether it is 10% or so, but not fair market. She stated that, as a landlord, she has to maintain her building up to code, but she wants to maintain them in nice condition and she does and pays what she needs to maintain the building. She stated that, when you buy property, you have to have reserves and when you buy property, you will be losing money which is part of buying property but eventually you will make money if you stay there long enough. She stated that you don't need a rent increase in order to maintain a building. She stated that if they give a rental increase there is no guarantee if they have not been maintaining it for the past years, there is no guarantee the money will go to it.

Suzanne Moore, Pacifica, stated that the onsite survey reveals poor maintenance of this property and the past rent increases far exceed what has been spent on maintenance. She feels that the Planning Commission should recommend no rent increase and future petitions for rent increase must continue to be approved through the Planning Commission.

Wanda Whitaker, Pacifica, stated she lived in Gateway Apartments and thanked them for taking the time to address this issue and allow her the opportunity to speak. She stated that she has been a long time resident at Marymount Gateway Apartments since 2003. She considers herself a stellar tenant who paid rent on time, very quiet and has no complaints against her except for the parking issues which have been challenging for visitors. She stated that it was not their fault that the landlord has been increasing the rent yearly by 5-8% or has not been doing it yearly. She stated that now, because of a soft market in 2008 and lawsuits over the years, a situation is created where they must be over burdened with a substantial hike in rent. She stated that it was challenging and lawful but unethical. She referred to percentage conditions after improvements, and stated that to request maximum BMR of a person with a household income of \$96,850 a year or to market rate at the end of term was unfathomable. She stated that most long time tenants are on a month to month terms and not a lease. She stated that BMR maximum represents a 60% increase in rent and market rate much more. She felt the landlord was being quite disingenuous. She stated that people with disabilities and seniors and longtime renters such as her who will turn 62 after August 14, 2014 should qualify for not more than a 10% increase. She stated that she will be turning 62 and will be least likely employed and making the amount of income because of her age. She asked them to consider lowering the rental rate for seniors 62 or over to 10% and a rent increase not to exceed 12.5% for other tenants.

Steven McDonald, San Mateo, stated he was Vice President of Property Management for HIP Housing and Nori Jaba was their consultant and owns her own consulting firm. He stated that they were hired by Marymount Gateway on December 1, 2018 to perform the compliance for the BMR program tenants. He stated that the report came from their work over the past nine months and the message they wanted to say was that the process was very time consuming and they created a form that required the tenants to participate in the process. He stated that they cooperated but it was a long process and some were holdouts and given them a little bit of grief. He stated that Nori would give them a couple of key points.

Nori Jaba, San Mateo, stated that she did the income certifications and met with all the tenants and four tenants were over income and four tenants were over on the rent limits and those have been corrected. She pointed out that, for tenants over income, as the resolution is written there is nothing that can be done. She stated that they are welcome to stay in their units, and she pointed out that those tenants are still in the units and taking away a low income unit for someone who really does need it. She stated that almost all the remaining tenants are low income tenants, although they have moderate income units and low income units, and the low income tenants are greatly benefitting from the BMR designation and is helping the community. She stated that Marymount rents with the increases of 10% for seniors and disabled and 12.5% for the others are well below the BMR limits. She stated that it was an anomaly as in most BMR housing in the county they will be paying the BMR limit rent in most cases and to have it way under is a benefit for the community.

John Keener, Pacifica, stated that this decision rests on three components. He stated that the third component, the condition of the units, was in question. He stated that staff took pains in their report to say that they haven't verified the condition of the apartments or other claims of the owners. He stated that the Planning Commission subcommittee has inspected several apartments and they reported that maintenance was lacking with mold as a common issue as well as intermittent working outlets, etc. He stated that this was in spite of the owners spending an average of \$21,000 a month, with most on exterior issues such as roofs, which also need maintenance. He stated that rents have increased by \$53,000 a month over the same period, at an

average of 19% in less than two years. He stated that some was due to raising rent when a unit is vacated but some due to the 12% increase granted two years ago. He has little sympathy for owners who have failed to maintain the condition of their apartments for the tenants. He felt it went back more than two years since the last rent increase. He stated that the owners claim poverty. He stated that talk is cheap and he asked that they open their books and suggested that the Commission not take their word for it. He stated that he would give them no increase until the condition of the units improves, such as fix all plumbing, replace appliances and get rid of mold. He suggested that, if they grant an increase, they extend the 10% cap on increases for seniors and disabled so that it applies to anyone when they reach 62, not when they reach 62 on a certain date 4-5 years ago. He didn't believe the owners merited an increase because they failed to maintain the tenants' apartments despite a 19% increase in total rents.

Teresa Tolibas, Pacifica, stated that she wasn't planning to speak but she needed to address some things that were brought up and clarify some things. She stated that the owner has said that they have been prevented from raising rates, which she stated was true as she has been in her apartment for 15 years. She stated that, when they applied for condo conversion, part of it was that they couldn't raise rents for two years after the application. She stated that there was a lawsuit that was brought and it was found that they did raise it. She stated that the lawsuit took eight years to resolve, and they couldn't raise the rates for eight years. She thought their situation was something they made themselves. She stated that, during the eight years when they couldn't raise rates, they didn't maintain it and now that they can come to the city and ask for rates to be raised, she asked if that means they will do all the things they should have done in this eight years when they couldn't get rates raised. She thought it was not fair that in the three years when they were able to raise rates, they will get market rate to make up for eight years they couldn't get to market rate. She thought it was not fair to go all the way to market rate, but she thought the 12.5% rate would be fair which is what the Planning Commission had set in 2017.

David Foddo, Pacifica, stated that he didn't wish anyone ill will. He stated that he has had the pleasure of living with a lot of these people, and he has never had any problem or disagreement. He thought they have a nice community especially with Wanda making sure everyone is doing okay and keeping an eye on things. He would find it dishonest to say someone is a problem tenant. He referred to the comment made about cherry picking, and he watched it slowly deteriorate. He tends not to lie, and doesn't always sugar coat things. He didn't say that it was hell hole or a slump, and he thought Pacifica was a nice place. He stated that no one is sticking a gun to their head and saying they must live here, but he felt that they need to be honest. He stated that in California, and especially in the Bay Area, there is a huge amount of increase in rent and cost of living. He agreed with the landowner that he is getting hit with those costs, but tenants are also getting hit with those costs. He stated that it keeps going up and not enough people are doing much about it. His final point is that there is an Assembly Bill 1482 which was proposed from Assemblyman David Chew who was a Democrat in San Francisco and he would have enough experience and knowhow that there is a huge problem now with the cost of living, especially in rentals. He stated that this bill is putting an annual cap statewide at 7% and he thought that was agreeable. He stated that, if you give the landowners an increase, he would ask that they keep it at that 7% because the state is saying that is good across the state and he felt that it was good enough for Pacifica as well.

Gloria Stofan, Pacifica, stated that she spoke once before when the applicant first came to the Commission. She stated that her major concern is the inspections that occurred within the last two months. She stated that the mold issue is really very caustic, referring to Chair Clifford

stating that he almost felt like he was going to have an asthma attack. She stated that she has asthma and that was not fun. She hoped that, with that in mind, the owners can understand her concern. She thought they had in their hearts the need and want to improve their units, adding that it was important, as mentioned by the previous speaker, to understand that we have a real issue with rents and how their hitting not just Pacifica but the Bay Area and maybe put a cap on where they are with the rent issue. She was concerned that at this time they not allow any rent hike until the mold issue is taken care of as it bothers her. She was sure there were children involved in some of the units which concerns her.

Gwen Aponte, Pacifica, stated that she is the present property manager. She agreed with everything that was said but she will buffer it with stating that not everyone here has she seen. She stated that she has gone to some apartments when invited and if there is a mold issue, she states that they need to open the windows. She stated that there are people who never open windows and never turn on their fans. She stated that she cannot help them if they don't want to be helped. She stated that she has a cheat sheet on how to beat the mildew. She stated that you have to know how to clean and want to clean. She stated that they have to dry the bathroom. She stated that you cannot have five people taking a shower and think that they are going to turn on that fan for three minutes and it will take away the problem. She referred to mention of the laundry room, and people are taking a bath and overflow problem, and she stated that when there is a problem they fix it. She stated that, if they come into her office, she asks them how they are doing and what she can do for them. She stated that she will spend money on them, and she will spend as much as she has. She stated that she will replace windows if broken whether the tenant broke it because that is her job. She stated that she will give them a nice place to live, but she asks how much they are willing to do, giving several examples, and concluding that she can't help them if they can't help her.

Mr. Haesloop stated that the issue of the 62 age limit was statutory and it was as of the date of the filing of the subdivision map and they can't change it. He referred to the Commission wanting them to spend more of the rent increase on maintenance, and he asked them how much and explain how they came up with that formula. He stated that just saying they need to spend more doesn't do them any good. He stated that the issue was simple as explained by Mr. Bhagat, which was the whole purpose of why they were here was because the statute doesn't want the landlord raising the rents precipitously to clear the place out and displace tenants. He stated that, since they applied for the condo conversion, this group has not evicted anyone or displaced any tenants and no intention of doing so. He stated that was the whole purpose of the review of the rent increases to make sure that the rent increases are not punitive to drive people out and displace them. He thought that concept was getting lost. He stated that they heard a lot of people talk about the economic problems in the Bay Area and he stated that this project and Pacifica are not going to be able to deal with those issues. He stated that this is not a rent control ordinance and not a rent control property. He stated that the arguments about what is fair are very genuine but not germane to the consideration at this time.

Chair Clifford closed the Public Hearing.

Commissioner Campbell appreciated everyone coming out, applicant and tenants. He read in the staff report that the March 2017 rent rule submitted by the applicant for the previous rent increase application detailed \$280,000 in monthly rent, and the total rents according to the rent roll two years later was \$335,000 and there was a \$50,000 increase in those two years, and it went from \$31,000 per month in maintenance in 2017 and going down to \$19,000 in 2018 and down to

\$18,000 again. He stated that the trend line was curious and he asked about the differential of \$300,000 and there is a trend line of monthly maintenance going down while rental income is going up. He asked where the money was going, and what he understood from applicant's representative was that there were other numbers out there that they should be taking into consideration such as capital expenditure numbers and the owner also provided some numbers, adding that it was not in the record. He stated that they were basing their decision on the record and facts in the record and they were supposed to look at maintenance or the condition of the property which they base a decision on. If they have an issue of deferred maintenance affecting the conditions of the property, he felt it was a germane issue to address. He stated that the facts he was trying to elicit from the applicant's representative and the applicant himself were going towards that issue. He stated that he didn't know if he could make any decision if there are other facts out there they should be taking into consideration with regard to the decision. He would like them on the record and look at them. He was clear that they were asking the applicant to spend more money or they were supposed to arrive at some sort of reasonable amount. He wasn't saying if maintenance overall was adequate or not but that they seem to lack some figures in the record that the applicant mentioned himself. He would like to have those as it seems like they have a deferred maintenance issue. He stated that, if they have that and a poor condition of the property it seems odd to raise the rent on tenants if they have been living in an apartment complex that has been suffering from deferred maintenance for years.

Commissioner Nibbelin stated that he has the utmost respect for Commissioner Campbell's perspective on things but his senses are a little less sure that they need to defer a decision on the basis of information that might be missing around the amounts being spent. He thought the condition of the property was absolutely salient and was called out specifically in the ordinance code. He thought the \$31,000 figure for the last quarter of 2017 was interesting as it strikes him as an anomaly probably done in reaction to some specific things being talked about at that time. He was interested in know the trend line was prior to 2017 but it wasn't available. He stated that, at the end of the day, they have the current condition of the property. He thought they had the benefit of a couple of their colleagues who went in to look and they have heard various things from the public and the owners. He was disinclined to defer a decision as they have already deferred it for a significant time already. He would like to reach some decision at this time as it was fair to the owner as well as the public to move forward. He acknowledged that some significant concerns have been raised about the condition of the property and they should find themselves articulated in some way in terms of what they think is appropriate by way of a rent adjustment. He referred to new leases and thought the property owners were able to charge whatever market was. He didn't see a single rent on the rent roll that actually reflects the market rents or adjusted market rents. He thought the one bedroom, one bath were at \$2,500 and he thought it constitutes the higher end of market and looking at the negotiations the property owners have been able to land in the context of this property. He didn't see a basis for the market being any higher than that as the property owner is able to negotiate what he can get. He thought the most competent evidence was what has been negotiated for the property in question.

Chair Clifford stated that he did some work with the numbers provided and the gross rent per year currently is \$4, 022,844. He stated that the average monthly maintenance over the full 18 months was \$21,215. He stated that basically worked out to 6.33% of what they were getting which was not a huge amount spent on maintenance, especially when they take into account that they are doing a major piece of maintenance in replacing the roofs which is an every 30-year event and he thought they should have been banking for that over the course of owning the property. He stated that the \$100,000 on roofs spent so far is almost half of what they are

spending on maintenance which would bring maintenance for everything else to around 3%. He was sure that was not sufficient based on how long the deferred maintenance has been going on. He referred to when they approved the condo conversion and stated that there was a condition that the stucco needed to be done because it was deteriorating and allowing moisture in, windows needed to be replaced and trim needed to be taken care of because it was also deteriorating and he thought that was roughly 11-12 years ago and most of those things still exist and have not been addressed. He was not comfortable going anywhere near market rate at this point but was willing to go with a rent increase. He didn't think the property was any kind of slum but was a sound property that needs a lot of attention at this point in time. He referred to mention of tenants not turning exhaust fans on, and suggested that the replace the exhaust fans and instead of a standard switch you get the moisture detecting switches that are now current code and the fans stay on until the moisture is gone. He stated that, if they take care of that in every apartment, they won't have a problem with that issue.

Commissioner Berman agreed with Chair Clifford's statements as she didn't think increasing the rent slightly would be unjustified, but she didn't feel comfortable with market rate. She referred to his mention of the agenda item regarding condo conversion where the Commission added a condition for maintenance.

Chair Clifford stated that was when the condo conversion happened, but technically it happened but they haven't started selling any of the units and he didn't know how it works out legally and wasn't where he was coming from. He did know that the problem was recognized 1 2 years ago regarding a moisture issue and the stucco and windows were deteriorating and it has not been addressed. He stated that they are now dealing with the issue of the roof and he congratulates and applauds that, but other issues around moisture in the buildings have not been addressed yet.

Commissioner Berman understood there were different items that the Commission could request at this time with this agenda item, and she knew they could strongly recommend some maintenance improvements, and she asked if they were able to condition given the nature of this agenda item.

Contract Planner Gnos stated that, based on the language in the condo conversion ordinance, she didn't think they have the discretion to place restrictions dealing with maintenance.

Commissioner Berman agreed with Chair Clifford and summarized what they saw on their site inspection. She felt there were items outside of the tenants' control regarding the mold and that was her main concern.

Commissioner Campbell agreed with Commissioner Nibbelin that they should make a decision at this time as it has been a long time. Regarding allowing a modest increase in the rent, he stated that he would be more inclined to do so if he knew the increased rental income would go towards more monthly maintenance. He stated that, in the record, total rent income went up over the last two years by about \$50,000 but monthly maintenance expenditures went down and the record doesn't reflect that getting more rent results in more maintenance. He stated that, without that in the record, he gets queazy about giving them a modest increase in rent and questions why. He stated that he wasn't clear on that other than there has been a huge increase in rent in the Bay Area and the condition of the property was in question. He thought, if they come to a place of a modest increase in the rent, he might go along with that to get a decision made, but as it stands now, he was less inclined to allow for any rental increase. He thought he might change in the



future with recorded evidence that the monthly maintenance expenditures are trending upward or getting resolved. He was stuck with why he would vote for that.

Commissioner Bigstyk apologized for an earlier comment when he conflated Commissioner Campbell's name with Chair Clifford's. He then referred to Commissioner Berman's comment that, after having reviewed the questionable conditions, she would support a slight increase, and he asked if she had a number in mind as to what the slight increase might be.

Commissioner Berman stated that she was inclined to stick with the 12.5% but she appreciated Commissioner Campbell's recent conclusion and she sees in packet page 26 that there is no correlation to increase rent for assistance of maintenance costs. She thought it was an item they keep coming back to, and she understood that they can't give a number or say how much to spend on maintenance. Her biggest inclination to approve a small rent increase is to hopefully help some issues they did see. She also agreed that it was for everyone's benefit that they come to a conclusion at this time. She was inclined to be around 12.5% as she can tangibly see the numbers and she feels somewhat comfortable with those numbers, given the units she saw.

Commissioner Bigstyk added the fact that two of the residents said that 12.5% might be a reasonable number interested him, but he also recalls from the previous meeting that one resident said 12.5% was so much for her personally that she would have to leave California if that was the amount to which they raise the rent. He thought one option in the staff report was dividing it up in two and doing half this year and half next year. He referred to the question of continuously returning every year, and he personally didn't think it was a fun process and he thought it was recommended that it wasn't a fun process for the owners either. He stated that they can't undo it, but one idea is that they can say they are allowed to raise rent a specific amount every year for a specific number of years. He asked if that was a correct idea.

Assoc. Planner O'Connor responded affirmatively.

Commissioner Bigstyk asked how many years they could allow that to go on, referring to mention of ten years.

Contract Planner Gnos stated that all that was required was Planning Commission authorization and they can structure it however they choose to do so.

Commissioner Bigstyk thought they could mention a specific percent for a specific number of years and they don't have to have this conversation next year but 3 or 5 years down the line. He referred to a landlord stating that 5% was in the ballpark of what she has been comfortable raising the rate and was the number spoken by other landlords and not far off from what his landlord does with his and that seems to have a basis on how business tends to operate. He thought an option could be 5% for five years or some number for a specific number of years. He was intrigued that 12.5% would work for certain tenants, but he recalls that it was not a number that works for all tenants. He stated that, as a renter, that number does worry him.

Commissioner Kraske stated that he appreciated all the questions his fellow commissioners asked as well as public testimony. He stated that, given the condition of the units, he cannot, in good conscience, go forward with an increase to market rate but he was open to a modest increase of 5-7%.

Commissioner Nibbelin stated that it was an important question, and the city code indicates that when they get an application like this, they consider three factors, i.e., the prevailing rents for similar units and the residential rent component of the Bay Area cost of living index, which he did not question that the number has been inflated. He stated that there will be a significant delta if you look in the vacuum in some instances, but it is between what people are taking in and what they are spending on expenses as it was in the nature that the index has moved in the last several years. He thought Commissioner Bigstyk working in collaboration with others hit on something he would be comfortable with. He stated that they have concern and sympathy for the potential displacement effects of the present environment and he has spent a lot of time thinking about it professionally. He also thinks about creating the right incentives for owners and trying to look at all the equities and recognizing statutory factors. He liked the idea of a proposal that they authorize a rent increase of 7% a year over three years which would not get the property owners everything they are asking for now, but it would give them time to think about how to mitigate the impact and save everyone from dealing with it year in and year out. That is the motion he would recommend making.

Chair Clifford stated that the 7% is the number that has been gelling for him partly because of state legislation which is looking at 7% after a lot more resources than our city has available and with input from renters and rental organizations.

Commissioner Nibbelin thought that statute speaks to a 7% increase but doesn't say they can't raise it more than 7%.

Chair Clifford added that it hasn't passed yet.

Asst. City Attorney Sharma clarified that it was 7% plus the cost of living.

Chair Clifford added that it was also plus local inflation and he was going to mention next.

Asst. City Attorney Sharma stated that the number is subject to change.

Chair Clifford agreed that all of that was subject to change but they have to make a decision now and they can't wait for the state legislature to get their stuff done. He stated that the 7% plus the inflation rate for the Bay Area of 3% comes to 10% and they could comfortably do a 10% increase now and authorize a 5% increase for the next year and the following year. He thought it give them a good bump over what they are now getting and gives them another 5% per year for the next two years with a total of 20% increase over three years.

Commissioner Campbell asked clarification that the 10% this year incorporates the inflation index and the 5% the next year does not incorporate the inflation.

Chair Clifford agreed that the next two years would be a straight 5% each year.

Commissioner Campbell stated that, in 36 months, it is a 20% increase in rent.

Chair Clifford stated that the reason he voted for the 12.5% the last time was to make sure that they had money to do the repairs and maintenance which he stated needed to be done. He stated that he didn't want to say they had to do something and not give them the opportunity to have the money. He stated that, by giving them 10% now, they don't know how they will spend it and

they have no say in what they do with the money, but after three years, if these buildings are still in the same shape and he is still on the Commission, he will not vote for any more rent increases. He wants that out there and he doesn't care where the money comes from but there has to be a distinct improvement in the living conditions for those living there and paying the rent and supporting the buildings.

Commissioner Berman stated that she will be there and will remember.

Commissioner Campbell doubted that he will be there, but that was 36 months before they find out whether conditions are improving. He stated that, in the meantime, it was a 20% rent increase and he was a little uncomfortable with the size of that amount.

Chair Clifford stated that they could possibly schedule another subcommittee to inspect the property after each year.

Commissioner Campbell thought that was a good idea. He stated that it is a painful process and he hates to come back next year but he thought to wait 36 months to see if conditions improve and increase rent by 20% seems like he would accept the pain to do it again.

Commissioner Nibbelin stated that the rent increase was 10%, 5% and 5% or 7% three times. He stated that they were making decisions on the basis of the conditions they know of today and that is what the code contemplates. He stated that his perspective is that they adjust in their minds below market on the basis of the current conditions.

Commissioner Bigstyk stated that he would support 10%, 5% and 5% if that is proposed at this time. He was a hesitant because of that one lady on the 12.5% and overall he thought it was more than fair. He would definitely do the 7% over three years but either one works for him. He asked clarification that they were saying 10% or market whichever is less or 10% period.

Commissioner Nibbelin thought that was important, and his motion was actually 7% which he thought would provide some mitigation for those but he thought 7% or market whichever is less. He didn't think market in most instances would be relevant but whichever is the lesser amount.

Commissioner Bigstyk stated that was a motion he was definitely be able to support.

Commissioner Campbell stated that 7% flat, 5%, 5% would be an amount he would be inclined to support.

Commissioner Berman would support the several different percentage proposals because there were several other things they touched on and she asked staff about the question of raising rent for people who are 62 as of August 14, 2014 and it was mentioned that they cannot change that.

Asst. City Attorney Sharma stated that they can change that.

Commissioner Berman stated that, if they end of deciding between 7% and 10%, it may be irrelevant and if anyone else has anything to say about tenants with disabilities or senior tenants.

Asst. City Attorney Sharma clarified that they can change it, but it would need to bear connection to the condition of the units or the other criteria available to them. For example, if there was some

hardship that people with disabilities or people over 62 and older face based on condition of the units, the Commission would need to make the findings in order to make the change for those groups.

Commissioner Berman thought they couldn't make the findings today.

Asst. City Attorney Sharma stated that they can if they would like to discuss why the condition of the unit has particular impact to people in those protected groups.

Commissioner Campbell stated that if the steps weren't in good condition that would have a particular impact for those over 62 or with disabilities.

Asst. City Attorney Sharma responded affirmatively.

Commissioner Berman thought they could talk about it for a minute. She asked if it was possible to bring back the annual inspection that was subjected to the property previously. She clarified that not a subcommittee but a third party inspection.

Commissioner Nibbelin stated that was the Department of Housing and they had a specific program to administer those, but he thought it was bi-annual. He referred to that department doing it with particular units that were on the radar.

Commissioner Berman concluded that it wasn't an opportunity. She was dovetailing on the idea that they didn't want to have to do this next year and she was looking at other options. She asked if anyone had input on tenants with disabilities or the elderly.

Commissioner Bigstyk stated that Commissioner Campbell's idea of doing a 7%, 5%, 5% addresses his concern about any tenants who might find 10% as prohibitive. He would make that motion as proposing it and he supports it wholeheartedly. He referred to the 62 with disabilities, and if they are talking about a 7%, 5%, 5%, he thought it precludes the conversation on 10%.

Chair Clifford responded affirmatively.

Commissioner Bigstyk stated that whether they want to recalibrate that as people are getting older, he thought that was an issue to talk about in mold, as if they have a visceral experience of walking into a place and having an asthma attack that would affect those who are getting older or those with certain disabilities. He stated that on that basis, he thought it was a conversation they could have and he would support any ideas put forth.

Commissioner Nibbelin thought his mind might have been wandering. He stated that the resolution they have contemplated the notion of going up to market with respect to current tenants and a cap of 10% increase for tenants over 62 on August 14, 2014. He asked if the point of the question was whether they should do something different in light of the 10%, 5%, 5%, etc.

Commissioner Berman asked, if they adjust the rate of rent for the rest of the tenants, whether they should consider a different rent increase adjustment for elderly.

Commissioner Nibbelin thought it was a good point as the original resolution contemplated something different for those two populations as a notion of up to market for current tenants and

10% increase for those who fit into the age or disability categories subject to future approval of rent increases. He stated that they already had a scenario where they were going to have a differential treatment of those two populations and he didn't see why they couldn't stay with the text they have in the resolution which contemplated a 10% increase. He asked if there was a legal reason why they couldn't do that as they were going to treat them differently anyway.

Planning Director Wehrmeister agreed that they were going to treat the two groups differently. She stated that, depending on which scenario they go with, the potential is that they wouldn't want those over the age of 62 to have a larger amount.

Commissioner Nibbelin didn't see why they couldn't stay at that.

Commissioner Berman stated that it could be an irrelevant item if they are considering no more than 10% anyway. She wondered, if they go with 10% for regular tenants, if they should consider 7% for elderly.

Commissioner Nibbelin agreed or another scenario would be 10% for both in the first year and nothing thereafter subject to further action by the Commission with respect to those over the age of 62 or disabled. And they get hit with that but no subsequent action.

Commissioner Berman thought that was a good proposal.

Chair Clifford stated that they have a lot of proposals and they need to focus in and find the proposal that will fit an actual motion.

Commissioner Nibbelin stated that he could make a motion and see what people think.

Planning Director Wehrmeister stated that, before they make a motion, she heard one person mention and she didn't think she heard it again about continuing subcommittee inspections and she wanted to be sure she understood if the motion was going to include something like that so staff can help prepare language as she stated that was something unusual and not typical.

Commissioner Nibbelin stated that it wouldn't have been his motion.

Commissioner Nibbelin moved that the Planning Commission finds the project is exempt from the California Environmental Quality Act and finds that the minimum requirements of Pacifica Municipal Code Section 9-4.2455(e) for rent increase have been met by adopting the resolution in Attachment A subject to modifications; and incorporates all maps and testimony into the record by reference.

He thought he would be looking on page 33 of the packet stating "be it further resolved that the Planning Commission of the City of Pacifica does hereby make the following limitations. Effective on the date of this resolution becoming final, tenants renting units prior to the execution date of this resolution experience a rent increase in amount equal up to 7% of the then current rental rate as of the date of this resolution and an additional amount equal to 7% and building on the idea of the then current rental rate as of the date 12 months after that and then another 12 months an additional 7% or words to that effect. He stated that, if one of those 7% is not taken 12 months thereafter can they capture it if they wait a couple of months or they just skip the second

one and they do 14% if they decided not to raise it. He hadn't thought it through and wasn't sure if there was any thinking on that point.

Chair Clifford stated that he would be uncomfortable with that because then they have tenants being faced with a very large rent increase at one time.

Commissioner Nibbelin stated that specifically three increases of up to 7% on being on adoption of the resolution and 12 months after the adoption of the resolution and 12 months after that date which was 24 months after the date of adoption of the resolution. He added that tenants over the age of 62 or verified documented disability would not have their rent increased by more than 7% as of the date of the resolution and 3% 12 months thereafter.

Commissioner Campbell asked clarification that he thought it was 10%, 5%, 5%, not 10%, 7%, 7%.

Commissioner Nibbelin stated that he did 7%, 7%, 7%. He personally thought that it will be an impact no matter how they do it, but he felt the 7% was less painful than 10%.

Chair Clifford stated that he would vote for that if they add a condition that they have followup inspections each year to make sure that the maintenance is happening and the conditions of the property are improving.

Commissioner Nibbelin deferred to staff on that, adding that he would be willing to amend the motion to include that.

Planning Director Wehrmeister wanted to make sure she understood that the inspection would consist of Commissioner in a subcommittee.

Chair Clifford stated two commissioners in the subcommittee.

Planning Director Wehrmeister stated that there would not be the need to have a hearing to report back, maybe in writing or communications unless the subcommittee finds that there is a need to do so because perhaps conditions have greatly diminished. Otherwise, there would not be a need for hearings for the increases that are being approved if the motion is approved and they would go on. She stated that they can do that annually and get them to appoint a subcommittee annually and do that.

Chair Clifford stated that was how he envisioned it, only if the subcommittee reported that things were getting worse or not improving at all and they could call a hearing at that point.

Commissioner Campbell stated that his light was on but he was not going second. He appreciated what Commissioner Nibbelin was attempting to do but he will not be seconding it.

Commissioner Kraske seconded the motion.

Commissioner Bigstyk stated he didn't hear it but asked if the maker of the motion was open to an amendment of 7% or market rate, whichever is less.

Commissioner Nibbelin stated that it was an amendment he would accept.

Commissioner Bigstyk stated that, if that amendment is included in the motion, he was ready to vote.

Chair Clifford stated that they have a motion and a second.

The motion carried **5-1**.

Ayes: Commissioners Berman, Nibbelin, Kraske, Bigstyk and  
Chair Clifford

Noes: Commissioner Campbell

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.

**COMMISSION COMMUNICATIONS:**

Commissioner Campbell thanked staff for a great staff report and really assisted in the deliberations more than he can express.

Commissioner Bigstycck echoed that sentiment.

Chair Clifford also echoed that sentiment, adding that he knows all the hard work that goes into this.

**STAFF COMMUNICATIONS:**

Planning Director Wehrmeister reminded them that the next meeting is on Tuesday, September 3, because of the Labor Day holiday. She stated that the joint study session with City Council was Monday, August 26, starting at 5:00 p.m. and the staff report will be published the upcoming Wednesday. She stated that on the upcoming Wednesday they are going to launch an updated library project website to provide more educational opportunities to the public about the project and they will also start seeing more social media and ads pushing people to the website to learn more about the project. She stated that, on August 28, there will be the ribbon cutting for the San Jose-pedestrian overcrossing.

Assoc. Planner O'Connor stated that it was at 11:00 a.m.

Planning Director Wehrmeister stated that the decision on the annual review for the 7-Eleven project was appealed and that will be going to City Council most likely at the second meeting in September and they will be back for a liaison appointee.

**ADJOURNMENT:**

There being no further business for discussion, Commissioner Bigstycck moved to adjourn the meeting at 9:29 p.m.; Commissioner Nibbelin seconded the motion.

The motion carried **6-0**.

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

Noes: None

Respectfully submitted,

Barbara Medina  
Public Meeting Stenographer

APPROVED:



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Planning Director Wehrmeister