

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA FINDING THE MINIMUM REQUIREMENTS ARE MET FOR A RENT INCREASE FOR THE GATEWAY MARYMOUNT PROJECT AT 435 GATEWAY DRIVE (APN 009-540-110, 120, 130, 140, 150, 160, AND 170), AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

Initiated by: Law Offices of Mark Haesloop (“Applicant”).

WHEREAS, an application has been submitted to allow the property owner to increase rents pursuant to Municipal Code Section 9-4.2455(e) located at 435 Gateway Drive (APN 009-540-110, 009-540-120, 009-540-130, 009-540-140, 009-540-150, 009-540-160, and 009-540-170); and

WHEREAS, in 2008, the City approved an application for a Condominium Conversion and the Final Map subdividing the project into 170 individual condominiums plus three common parcels was recorded on August 22, 2014; and

WHEREAS, Municipal Code Section 9-4.2455(e) requires Planning Commission review of rent increases for condominium conversions for which relocation has not taken place in accordance with three criteria: (1) prevailing rents for similar units; (2) the residential rent component of the Bay Area Cost of Living Index of the United States Department of Labor; and (3) the condition of the units; and

WHEREAS, the applicant has not previously sought a rent increase from the Planning Commission pursuant to Municipal Code Section 9-4.2455(e); and

WHEREAS, the applicant proposed that for existing tenants, upon the expiration of their current term, rent increases will be limited to 25 percent or to market rate, whichever is less; and

WHEREAS, the applicant proposed that existing tenants with month-to-month leases will not experience a rent increase for one year from the date of the adoption of this resolution; and

WHEREAS, the applicant proposed that new tenants will be charged up to market rate for their unit; and

WHEREAS, the applicant proposed that for tenants over age 62, and those with disabilities, rents may only be increased up to 10 percent; and

WHEREAS, the applicant proposed the establishment of 26 income-restricted Below Market Rate rental units; and

WHEREAS, in the event that an occupant of a designated Below Market Rate rental unit does not qualify for the Below Market Rate rent restriction and continues to stay in the unit, the applicant proposed to contribute the difference between the paid rental rate and the BMR maximum rent to the City of Pacifica Housing Fund; and

WHEREAS, future rent increases require Planning Commission Review; and

WHEREAS, the Planning Commission of the City of Pacifica did hold a duly noticed public hearing on June 5, June 19 and July 17, 2017, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its findings, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.
3. The Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines 15301 (14 Cal. Code Regs. §15301) and CEQA Section 15061(b)(3) and therefore directs staff to file a Notice of Exemption for the Project.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby make the following findings pertaining to the project:

1. That the following rent increase, along with the additional Below Market Rate Rental Unit restrictions, are consistent with Municipal Code Section 9-4.2455(e):
 - a) Existing tenants may experience rent increases of up to 25 percent or to market rate, whichever is less; existing tenants with month-to-month leases will not experience rent increases for at least one year;
 - b) New tenants may be charged up to market rate for their unit;
 - c) Tenants who are over the age of 62 on August 14, 2014, or who have verifiable and documented disability, will not have their rent increased more than 10 percent, and shall be entitled to renew their leases annually;
 - d) Establishment of 26 income-restricted BMR rental units upon approval of this Resolution until they are sold, at which time they will become income-restricted ownership units. Upon the designated units becoming income-restricted BMR rental units, the units will remain at current rents until the expiration of the current occupants' lease terms, or six months,

whichever is later. Before the expiration of existing tenants' lease terms who currently occupy the designated-BMR units, the applicant will send a notice to the current occupants, notifying them that they may apply for BMR status and that they must provide proof of income eligibility. Upon the expiration of their term or six months from the date of the approval of the resolution, whichever is later, the unit will become income restricted. In the event that a current BMR unit occupant does not qualify for a BMR unit, the tenant will be given the right to rent the first available market rate unit of comparable size and configuration, with a rent increase of 25 percent or to market rate, whichever is less. The applicant proposes to pay all reasonable and customary moving expenses for the move to a market rate unit. Should the BMR occupant choose to relocate to another location within the City of Pacifica, the applicant shall pay the tenant's actual normal and customary moving expenses, not to exceed three times the tenants current rent. In the event that an occupant who does not qualify for a designated-BMR rental unit chooses not to relocate within the project, the tenant may stay in their unit at rental rate comparable to non-BMR restricted units, and the applicant will pay the difference between the paid rental rate and the BMR maximum rent to the City of Pacifica Housing Fund. The applicant shall enter into an agreement with the City of Pacifica in a form approved by the City Attorney, that outlines applicant's responsibilities and requirements of administration of the BMR rental units.

2. That the project is exempt from the CEQA as a Class 1 exemption provided in Section 15301 of the CEQA Guidelines.

15301. Existing Facilities

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

3. The project qualifies for an exemption pursuant to CEQA Section 15061(b)(3) which states that the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The applicant's proposed rent increase request would not result in any physical modifications to the project site, and therefore, does not have the possibility to have a physical impact on the environment.

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The Planning Commission finds that substantial evidence establishes that this project is subject to these exemptions. The project consists of a proposed rent increase which involves an existing development and new construction will not occur. Therefore, there is substantial evidence in the record to support a finding that the project is categorically exempt from CEQA.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica finds that the minimum requirements of the Municipal Code Section 9-4.2455(e) have been satisfied for a rent increase, and therefore approves the application subject to the limitations described herein and in the staff report.

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Passed and adopted at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 17th day of July 2017.

AYES, Commissioners:

NOES, Commissioners:

ABSENT, Commissioners:

ABSTAIN, Commissioners:

John Nibbelin, Chair

ATTEST:

APPROVED AS TO FORM:

Tina Wehrmeister, Planning Director

Michelle Kenyon, City Attorney