

MINUTES

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

July 16, 2018

7:00 p.m.

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

ROLL CALL: Present: Commissioners Kraske, Rubinstein, Gordon, Clifford,
Stegink and Chair Campbell
Absent:

SALUTE TO FLAG: Led by Commissioner Stegink

STAFF PRESENT: Planning Director Wehrmeister
Sr. Planner Murdock
Asst. City Attorney Sharma
Contract Planner Aggarwal
Bldg Official Shnell
Fire Inspector Preston

**APPROVAL OF ORDER
OF AGENDA** Commissioner Gordon moved approval of the Order
of Agenda; Vice Chair Clifford seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Kraske, Rubinstein, Gordon, Clifford,
Stegink and Chair Campbell
Noes: None

**APPROVAL OF
MINUTES:
JUNE 18, 2018** Commissioner Rubinstein moved approval of minutes of
June 18, 2018; Vice Chair Clifford seconded the
motion.

The motion carried **6-0**.

Ayes: Commissioners Kraske, Rubinstein, Gordon, Clifford,
Stegink and Chair Campbell
Noes: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF JULY 23, 2018:

Chair Campbell stated that they would not need a liaison.

ORAL COMMUNICATIONS:

None

CONSENT ITEMS:

None

Contract Planner Aggarwal stated that she was not specifically knowledgeable of the specific definition of an assisted living facility by the state. She stated that the state licensed the facility in 2007 and the assumption was that the state evaluated the status of the facility and its compliance with the state health and safety code. As city staff, they were focusing on the codes that the facility has to meet for city requirements.

Vice Chair Clifford concluded that she did not know the state's definition of a special care facility was and didn't think it was important to know that.

Contract Planner Aggarwal confirmed Vice Chair Clifford's conclusion..

Sr. Planner Murdock stated that their review focused on the Municipal Code requirements for approval of the permit.

Vice Chair Clifford asked how many and what types of patients were allowed under the current city permit.

Contract Planner Aggarwal stated that it was 12 ambulatory clients according to the current use permit which was approved in 1997.

Vice Chair Clifford referred to staff report stating that the Planning Department's records do not contain any records of the facility operator obtaining permission from the city of Pacifica to house up to 12 non-ambulatory patients in a total of 16 patients and asked if any new records came to light at this time.

Contract Planner Aggarwal stated that their research has not indicated any records pertaining to those two issues.

Vice Chair Clifford stated that he had a question for the fire marshall or fire inspector.

Fire Inspector Preston stated that the fire marshall was his supervisor.

Vice Chair Clifford stated that during his visit to the facility he noticed that the interior stairs were partially blocked by powered chair lifts and he asked if, under those circumstances, you can count them as full stairs under the two-stairway requirement. He asked hypothetically, if they have a fire at night and they lose power, is that was still a safe exit for the people.

Fire Inspector Preston stated that Inspector Zalinskis is the primary lead assigned for the project. He stated that he was on medical leave for a few weeks and he was standing in for him. He stated that it wasn't brought to their attention and he wasn't sure what his inspection entailed with the second floor or the exiting issue. He understood that the only remaining fire items was the fire alarm system. He stated that his background is in fire alarm as an alarm technician prior to joining the fire department and they were going to meet with the owner and her alarm company to discuss the modifications required to bring the system into full compliance. He stated that he wasn't aware of the exiting issue.

Vice Chair Clifford asked, as a fire inspector, if it was safe to consider an evacuation under a fire at night with smoke, no power with up to 12 non-ambulatory patients from a facility that has one staircase partially blocked.

Bldg. Official Schnell stated that he was at the inspection and there were two stairways with less than 10 occupants and they have to be 36 inches wide. He stated that the exterior staircase was 36 inches and the interior was 36 inches but that seat does encroach. He didn't know the allowable tolerances for encroachment into the stairway for the seat. He stated that there was encroachment for the hand rails but he wasn't sure about the seat. He thought that they will have to check on that as he thought it encroach down to about 16 inches.

Vice Chair Clifford stated that he heard him say less than 10 but there were more than 10.

Bldg. Official Schnell stated that it was occupants of the second floor. He stated that there were 16 total, but less than 10 on the second floor.

Vice Chair Clifford stated that there were also three extra people during the day and one person at night.

Bldg. Official Schnell stated that there were less than 10 occupants on the second floor and he thought that was one of the conditions of the Planning approval, less than 10 occupants.

Vice Chair Clifford asked if the employees don't count.

Bldg. Official Schnell understood what he was saying, but he stated that if there were more than 10 occupants on the second floor, the hallways would have to be 44 inches wide and stairways would have to be 44 and then nothing complies. He stated that, by saying there is only less than 10 occupants on the second floor, you have to have two exits at a minimum of 36 inches wide. He didn't know what they were allowed to encroach because it was just the width of the seat. He stated that there are some seats that will wrap around the corner and get out of the way or go up on the landing and get out of the way.

Vice Chair Clifford thought they would need to look at these and see if they were.

Bldg. Official Schnell stated that, on looking at it, it was pretty tight.

Vice Chair Clifford stated that he personally had difficulty going up and down those stairs.

Bldg. Official Schnell stated that it goes down to about 16 or 17 inches where the seat is.

Vice Chair Clifford then asked the fire inspector, regarding public safety for both the residents and first responders, if this was a good scenario.

Fire Inspector Preston stated that they would have to base it on what the minimum requirements are. He stated that, from the building department, if the two exits are required, they would want the 36 inches.

Vice Chair Clifford didn't hear confirmation that they know whether the restrictions changes and whether they have two stairways for safe access.

Fire Inspector Preston stated that there are two stairways that are 36 inches but he didn't know the tolerance allowed to encroach for a seat like that and he stated that they will definitely find out.

Commissioner Stegink thanked Vice Chair Clifford for that analysis, adding that it was pretty interesting stuff. He asked if the facility was inspected by the Department of Social Services also.

Contract Planner Aggarwal responded affirmatively.

Commissioner Stegink asked if it was annually.

Contract Planner Aggarwal thought it was a yearly inspection.

Commissioner Stegink stated that he was looking on line where says it has been inspected twice since January of this year and designation was residential care elderly. He stated that the recreational vehicle appears to be a residence and occupied. He asked, when they push them off the property, if there was a way to waive Section 9-4.2808. He stated that, if they are living there and weren't pushed to an RV on the street.

Contract Planner Aggarwal stated that she wasn't sure she understood the question.

Commissioner Stegink asked if there was a way to allow the RV to continue to remain there in a safe manner.

Contract Planner Aggarwal stated that they were looking at removal of the RV because it didn't meet the provisions of RV storage. And if it could do that and they let the RV remain there, they wouldn't have a parking space and the parking exception analysis was based on at least three parking spaces because of three attendants in the facility and if there is parking available for them on that basis they can make the findings for the parking exception.

Sr. Planner Murdock thought it would run afoul of the city's accessory dwelling unit ordinance to allow someone to continue to live in there even if they found the Commission was able to grant an exception for the parking standard which prohibits connecting utilities and allow habitation. He stated that he was not sure they could give a comprehensive response but he didn't think they could accomplish allowing someone to live in that RV.

Commissioner Stegink asked, if it was an uninhabited RV, whether a six-foot hinged gate solved the problem if there was space in front to maintain that third parking space.

Sr. Planner Murdock thought it would, stating that they were striving to resolve the code violation because the fence is not there. They didn't see a nexus or relationship to needing the RV for operation of the facility and its removal would enable the Commission to consider allowing for a 4th parking space to reduce the parking exception.

Commissioner Stegink stated that he took a look at as much of the facility as possible and thought it was an interesting place. He stated that it appears to have no ambulatory patient with everyone bedbound and very old. He thought it didn't appear that any of them owned a car with very few vehicles are not staff related. He asked if additional residents would require additional staff at that location.

Sr. Planner Murdock stated that it was their understanding that the state requirements are for three staff, given the 16 occupants of the facility as they are now. He thought they have not found information that all 12 or 16 of the residents are non-ambulatory as defined. He stated that there may be people with certain limitations but the applicant has indicated that only four who currently reside in the facility are non-ambulatory persons as defined under state regulations.

Commissioner Rubinstein asked if the RV was used for the operations for the facility or is there a staff member or patient living in there.

Contract Planner Aggarwal stated that their information from the applicant was that it was something they bought in 2015 to go camping, but was just being stored there. No one is living in it or inhabited. She stated that the applicant can further elaborate on that.

Rodica Ranga, applicant, stated she was the owner of Sunvalley Chateau Pacifica. She stated that they have been serving their community in Pacifica for 18 years. She stated that they take care of elderly people by supplying meals, medications, daily living supervision. She stated that the administrator will give them more information on their operations.

Christian Topirceanu, administrator, stated that he has been administrating the facility for five years. He stated that they were dealing with residents with physical and cognitive impairments. He stated that they have 16 residents, and four of them are bedridden, a lady with paralysis on the lower part of her body and three totally nonambulatory residents. They also deal with many residents coming in different conditions to the facility, such as discharged from rehabs such as Linda Mar and Manor. Their main goal is to provide the family and residents with a quality of life and try to improve their conditions. Some conditions are such as breaking their hip and their physician states that they can't go back home because of not enough supervision and then referred to such a facility as theirs. They try to improve their physical condition with physical therapy while meeting their daily needs.

Vice Chair Clifford asked how many people they employ.

Mr. Topirceanu stated that they have between 4 and 5 people working with them on any given day depending on what the specific daily living activities are, such as some days when they have to give showers to 16 people based on plan of care designed and approved by the families when they move in. He stated that they have three people every day during the day shift, 7:00 to 7:00 with two hours of breaks and days when they have a fourth person to assist the regular three to meet the needs in terms of showers or a higher level of work during the day. At night, they have one person who is supervising the facility to make sure that everyone is safe. If someone needs to be changed or go to the bathroom at night, the night person provides the assistance necessary.

Vice Chair Clifford concluded that on some days during the week they have four employees. He asked if he stays there during the day as he is the administrator.

Mr. Topirceanu stated that he stays there basically 120 hours a week to make sure they provide quality control they promise to the families when they move in. He supervises the whole operation and brings the groceries to the facility on Monday after doing the shopping and he stays there until Saturday morning except for some times during the week when he has to run errands related to the operation of the building.

Vice Chair Clifford asked if they employed a cook or is that one of the jobs for the attendants.

Mr. Topirceanu stated he didn't understand the question.

Vice Chair Clifford reiterated his question as to whether they employ a cook or a dietitian or is he the dietitian since he buys the groceries.

Mr. Topirceanu stated that his license covers that he is trained in order to cover the medication aspect. He stated that they have a plan designed by a nutritionist to cover their needs regarding meals. He stated that they are working without sources in terms of physical therapy, as those are licensed by the state to provide those services and when they come to the facility to provide their services to the residents they also trained their staff in order for them to follow up and provide the residents the physical therapy more than just what the insurance provides. Once the staff is familiar with the dynamics of the exercises to be done, they do it daily and sometimes more than once a day based on the strength of each resident. It is individualized and the physical therapist determines how many repetitions need to be done, what type, how they improve the condition of certain residents with those exercises. He stated that they learn from them as they are the ones studying it and his staff just follows their instructions. He stated that, with medication, they get direct instructions from the primary physician, keeping in touch with the medical office of each resident and getting instructions on what medications to give, when to stop or add, and just following instructions based on their experience.

Vice Chair Clifford stated that he was really trying to learn is how many people come to the facility. He mentioned that they have physical therapists, and he asked if they have visiting nurses or doctors, respiratory therapists, and he asked specifically how many people are coming through the facility on a daily basis.

Mr. Topirceanu stated that he would answer weekly because they are a small facility and they probably have 2-3 persons each one less than one hour inside the facility. There is never a physician but sometimes the physician's office sends a nurse to check different aspects of the residents. He stated that, on average, three persons weekly.

Vice Chair Clifford stated that, in terms of traffic flow and circulation, he would like to know how often and how their residents are taken to doctor, hospital, dentist appointments, emergency care, specifically how often it happens in a week.

Mr. Topirceanu thought it would be like every 3-4 months, with some residents who see the doctor once a year because the State of California is requiring to have an update of a physician report. For this reason, they don't have any physical or mental issue to specifically address but just need to go for a checkup for them to get the physician's paperwork that is required. He stated that each resident goes at least once to a doctor but if they have unusual events, they call 911. He stated within the past year, they called 911 twice because of a situation where they weren't sure about the right approach as the resident was acting in a different way. When you live with someone 24/7, you know their behavior and when they see a different behavior such as a case when a gentleman who has Parkinson's disease was sent to the hospital to be checked. It was nothing to worry about but some dehydration and he was sent back. He stated that it was not an exact science as these emergency events can happen frequently or never. They hope they can take care of them so they do not have this type of event but it was not an exact science.

Vice Chair Clifford stated that he was hearing that they never go to the dentist. He stated that was talking about a physical at a doctor's office once a year, and he asked if they have never had an instance where one of the patient's needs to go to the dentist.

Mr. Topirceanu stated that they are unusual events as most of their residents are using dentures because of being in an age group of 85-90, and some close to 100. He stated that there are exceptions but, unless there are denture breaks, they don't go to the dentist.

Ms. Ranga stated that all residents are medically stable as they are a residential care facility and not a the rehab place and when they get a cold or sick, then they call the doctor and make appointments and as such do not go regularly to a doctor.

Vice Chair Clifford stated that he wasn't quite at the age they are talking about, but as an older person he knows that issues come up on a fairly regular basis. He stated that at his age of 72, he finds that he has to go to the doctor fairly often or the dentist or to the hospital for some test. He was a little surprised that people much older than he is are not having to do that. However, he was just trying to find out how many people are coming to their facility on a routine basis. He concluded that they have nurses come occasionally.

Ms. Ranga states that if someone comes from the hospital with a broken hip, they have a nurse coming regularly or a physical therapist until they become stable. She stated that happens for about two weeks.

Mr. Topirceanu stated sometimes more.

Ms. Ranga stated that it may be 2-3 weeks, but Medical won't pay more than that, and that is when they have more traffic.

Vice Chair Clifford stated that they said it was fairly often that they get people from either Manor or Linda Mar and he asked how often they get people coming in.

Mr. Topirceanu stated that it was as often as they have an opening. He stated that they have residents who have been with them for 6-8 years. He stated that they got them eight years ago when they had the need to be placed in a facility with assisted living. He referred to his mentioning people in this age group needing to see the doctor, and he stated that their clients have a specific diagnosis which is already approached. They have either dementia, Parkinson's and was controlled by the medication and they have a stable life with the quality their condition allows them to have and they do not go often to see the doctor. He stated that there are clients who have been there for the last 3-4 years and only once to the doctor because it was required to follow up with the state procedure and bring them a new physician report. Other than that, they don't even have to go to the doctor because they were stable with the help of medication and there was no physical or mental issue with them.

Vice Chair Clifford thanked him for the answer, adding that he was only trying to get at how much actual traffic is at their facility. He stated that they mentioned eight patients and that would mean they would have another eight who are newer than those patients. He asked if some are very new and have more people coming into stabilize with physical therapy. He asked if that was a true statement.

Mr. Topirceanu stated that he will give him the example of their newest client, Mr. Carlos Martinez.

Vice Chair Clifford stated that he did not want to know his name or get into medical records.

Mr. Topirceanu stated that the gentleman moved with them through the institute of aging, and the social worker was looking for a place such as theirs to have him start living there. He stated that the social worker came in February when he moved in. Then between February and March, the social worker came every two weeks and after March she came probably once a month through April and currently she called to see if the situation is stable but she was not making visits. He stated that, in terms of his health, he is missing a limb so he has 2-3 appointments monthly because they are adjusting the prosthesis. He stated that, in this case, they have an arrangement with the insurance an arrangement with Redi-Wheels to pick him up, take him to the doctor, and returns him to the facility. He stated that each week they have 8-10 people coming to the facility on top of the daily staff and most of them are there for ten minutes and some up to a half hour. He stated that they have family members visiting and they stay there for 30-plus minutes. He stated that he didn't think there was ever a traffic jam in front of their facility except in the morning at about 8:00 as the spots are used by families who have kids in the school on Crespi Drive to park on the streets and it was really crowded then but on any given day, after 9:00 the street is empty. He stated that the lack of traffic is one of the reasons the families finding their place interesting as there is no sound and it was a peaceful place.

Vice Chair Clifford appreciated the detail. He stated that they were looking at getting them a parking exception for a certain amount of parking. He stated that he was hearing that there might be more parking there than what they were asking for. He stated that it will come up in their discussion, adding that he was not done yet.

Chair Campbell stated that he may want to give another commissioner a chance to speak.

Commissioner Stegink asked how long he has been employed at the facility.

Mr. Topirceanu stated five years.

Commissioner Stegink asked if he was correct that they have had 16 residents in 2018.

Mr. Topirceanu responded affirmatively.

Commissioner Stegink asked when it began.

Mr. Topirceanu stated that they have two controls of the state starting from January. They were in the middle of March and then probably two weeks after. He didn't know if it was already April or just the end of March.

Commissioner Stegink stated that he saw two inspections in February and ten Class A citations of the type that would typically be issued with a lack of fire clearance warning was given. He asked if any of the ten citations were for lack of fire clearance.

Mr. Topirceanu stated that it was not for fire clearance. He stated that Inspector Zalinskis was not here but they have him controlling the facility every day. He stated that it was just an update. He stated that they changed the legislation and they need to do certain upgrades or certain changes which, as soon as they were informed about the new law, they did it immediately and cleared.

Ms. Ranga clarified that it was not a violation, but ever since she has been in business in 2000, they get a yearly fire clearance with the Fire Inspector Zalinskis for the past ten years and a year ago they had to upgrade their fire sprinkler and be connected with the fire department which required a new alarm system and emergency lights. She stated that it was not a violation but an updated requirement to the facility.

Commissioner Stegink stated that he was not talking about the city or county but specifically about the state violations.

Commissioner Rubinstein referred to the RV, and asked if removal of the RV impact operations or affect the work there in any way.

Ms. Ranga stated it did not, adding that the RV was just parked there and she can remove it any time.

Commissioner Gordon thanked them for the work they do. He stated that he worked in a residential facility for many years and he was familiar with what they do, adding that it was very hard and important to our community. He stated that they take care of parents and grandparents that family cannot take care of and it was very difficult work. He knows that the facility was closely regulated with visits from licensing all the time. He stated that the commissioners should be aware that these residential facilities are closely scrutinized by the state agencies. He saw in the staff report that there were a couple of instances where they did renovations and did not get the building permit or the final inspection. He encouraged them when they do renovations to work closely with the Planning Department.

Ms. Ranga stated that in 2001 she did go to the Planning Department when she finished. She had about 4 or 5 permits and she was waiting to come to do the final inspection, even going to the Planning Department to ask for it, and after that she didn't know what happened but it just out of sight. She stated that she will call and have them come in.

Commissioner Gordon referred to an earlier discussion about a power chair.

Ms. Ranga stated that it was a chair lift and it goes upstairs. She stated that it has been there ever since she had the facility. She stated that she replaced it twice, but it has been there since she bought the facility.

Commissioner Gordon stated that the purpose of the lift was to take the non-ambulatory residents from the first floor to the second floor and back.

Ms. Ranga stated that even when ambulatory, sometimes it is hard for elderly people to go up stairs and they use it but they encourage them to walk the stairs as it was good exercise but if they need it they use it.

Commissioner Gordon concluded that it was needed to transport the residents from the second floor to the first floor and back.

Ms. Ranga asked how many residents use it.

Mr. Topirceanu stated that two use it.

Ms. Ranga stated that two residents use it and they have a capacity of 16 in the house and they use it for only two residents.

Vice Chair Clifford asked if they applied to the state to increase it from 12 to 16 or did the state come to them.

Ms. Ranga stated that she went to the state. She added a room in 2006 and did some remodeling. She then applied with the state to increase the capacity from 12 to 16. She stated that she was approved by the state and got a license for 12 non-ambulatory and four ambulatory. She then got the fire clearance for 12 non-ambulatory and four ambulatory and since then, they got annual visits with clearance for these residents.

Vice Chair Clifford stated that they didn't come back to Planning and get a use permit from the city.

Ms. Ranga stated that she did not know. She went to the Planning Department, got her conditional use permit for 12 and she presented to the state with her application. She stated that no one said anything so she didn't know she had to do this. She stated that ever since then they have been operating in the capacity of 16 residents.

Vice Chair Clifford asked what the actual scope was of building permit 21664-01, which was the building permit in 2001 that has not been signed off yet. He thought the building official could answer that.

Bldg. Official Shnell stated that he wasn't around then but he thought it was to make two new bedrooms.

Sr. Planner Murdock stated that Table 1 shows the description as enlarge existing closet and convert to bedroom on the second floor.

Vice Chair Clifford asked if that was the totality of that permit.

Sr. Planner Murdock stated that sometimes there is other very minor associated work, but the substantial work done was captured in that description.

Chair Campbell opened the Public Hearing.

John Keener, Pacifica, stated that he was a councilmember and this year mayor. He stated that he was present to express his appreciation to staff for providing an alternative to the recommended parking exception, which was for three vehicles off street and an exception of two, and in Packet page 27 there was a paragraph that outlines the alternative to that which was to allow tandem

parking and bringing it to four off street spaces and one exception space on the street. He thanked staff for highlighting that.

Chair Campbell closed the Public Hearing.

Vice Chair Clifford referred to applicant having a staff member on for a 12-hour period at night and he asked how the staff member gets their state required breaks.

Mr. Topirceanu stated that in a shift of 12-hours, they have ten hours working and two hours for breaks. He stated that, from 8:00 – 9:00 they have one break for dinner and before leaving from 7:00 – 8:00 they have breakfast and both meals are provided by the facility. He stated that, in the night shift of 12 hours, staff is working ten hours.

Vice Chair Clifford stated that they were working ten hours without the standard 15 or 10-minute break, or whatever is required by the state, but after a certain number of hours, they are entitled to but, also by law, required to take a break. He asked how it was facilitated with only one employee.

Mr. Topirceanu stated that every 15 minutes the night staff chooses to have one hour altogether and then one hour altogether. He stated that sometimes regardless of whether they take it or not, sometimes they come later and leave earlier. Sometimes they want to use the time for their own benefits and sometimes it was really needed. He explained that the night shift on Saturday does not have too many options with public transportation to leave from Pacifica. They need to catch a bus and organize the shift coming after and before to help each other with the commute. He stated that caregivers who are working for \$14-\$15/hour cannot commute with cars in the Bay Area and depend on transportation with bus and BART.

Vice Chair Clifford asked the city attorney if it was legal in state law for someone not to get their breaks at a spaced time.

Commissioner Gordon asked why this was relevant. He stated that he was an employment lawyer and there are specific statutes related to overnight workers at residential facilities. He stated that it is specifically regulated and he didn't know how that was relevant to planning.

Chair Campbell stated that they had two and would not have a third member discussing labor employment issues that are not agendaized. He would allow Counsel to respond.

Asst. City Attorney Sharma stated that she would reiterate that labor employment issues are not before the purview of the Commission at this time.

Commissioner Rubinstein stated that he would make a motion to approve.

Chair Campbell stated that, before they have a second, he supported the parking exception where they get rid of the RV and have the tandem parking. He thought that would be worth it.

Vice Chair Clifford stated that he was not comfortable voting on this when they haven't heard from the building or fire marshall regarding whether the staircase presents a public safety hazard. He felt it was an important issue in terms of the safety and well-being of the occupants and first

responders. He wanted an answer to that before he votes on this. He stated that he would move to continue this item until they get those answers from staff.

Commissioner Gordon stated that it sounds like there is plenty of off street parking during the day and he wasn't following the controversy between staff's recommendation and the parking alternative. He thought it was moot as there was plenty of off street parking day and night.

Sr. Planner Murdock stated that staff was trying to expand the requirement that they provide the greatest amount of parking that was practical and feasible. Staff's opinion was that there was an area to provide additional parking but to do so would require an additional exception the applicant had not requested. He stated that if there was a controversy it was that staff cannot deem that a parking space without the Commission affirmatively granting the exception to do so.

Commissioner Gordon concluded that the exception was to require tandem parking by the staff.

Sr. Planner Murdock clarified that it was to allow tandem parking and require staff to use that space for parking.

Commissioner Gordon stated that he did not want to be in a position to require their staff to do tandem parking when there was obviously lots of parking in the area.

Sr. Planner Murdock acknowledged that it was within the Commission's discretion if they feel that way. Staff was trying to find as much off street parking as they could for this facility to account for its own parking demand which is the standard practice they apply to all land uses under the city's parking regulations.

Commissioner Gordon then referred to Vice Chair Clifford's point, stating that he respects his concerns. He stated that the equipment that was encroaching was necessary in order to move the patients up and down from the first floor to the second floor and he didn't see that removing the equipment is any kind of option and they are stuck with it. He asked Vice Chair Clifford, if the equipment has to be there, what would be the remedy.

Vice Chair Clifford stated that Commissioner Gordon was assuming that it has to be there and there has to be non-ambulatory people on the second floor.

Commissioner Gordon referred to the applicant stating that, just because they are ambulatory, doesn't mean they can go up and down stairs such as people with knee replacements know.

Vice Chair Clifford stated that he understands his argument but his argument wasn't about day to day use. His argument was about public safety in the event of an emergency when there is no power as they can't use it and it was in the way.

Commissioner Gordon asked, in a worst case scenario, assuming there was a fire and power outage at night and it is dark and smoky, if he was saying that the equipment would make the staircase impassable.

Vice Chair Clifford felt it would make it much more difficult to pass and definitely make it more difficult for the first responders to safely evacuate everybody on the second floor.

Sr. Planner Murdock asked if that was something the fire marshall should evaluate.

Vice Chair Clifford stated that he was asking for a continuance based on both the fire marshall and the building official coming back with information, as they did not have answers now.

Commissioner Rubinstein stated that they have a motion to approve the Resolution.

Planning Director Wehrmeister stated that she has a potential solution. She thought she heard the building official say that they do have chairs that fold away or move around and get out of the way and she asked if a potential condition of approval be that they modify that equipment so that, when not in use, it was out of the way and the stairway is not impeded in any way.

Building Official Shnell stated that there were several options on stair lifts and different sizes with some closing up to only 2-3 inches. He did not know the tolerances that were allowed by the fire code. He stated that, once they find out that tolerance, there are a lot of new products and he was sure they can find a lift that slide up and almost get out of the way, with some going around the corner and out of the way.

Commissioner Rubinstein concluded that the lifts have been there for 20-plus years and they have inspected the facility for 20-plus years.

Rodica Ranga stated that the applicant informed them she replaced it a couple of times.

Mr. Topirceanu thought it could have been a different style of lift at the time or not in a correct position at the time of inspection.

Building Official Shnell stated that they need to find out the tolerance allowed and once they have that information he was sure they can find a lift that will take that into consideration and be legal.

Planning Director Wehrmeister suggested that, since it was a matter of concern to some on the Commission, it would be a condition of approval. She stated that they could draft the condition to state that the chair lift be replaced with a model that is within the tolerances of allowed for encroachment in the fire code.

Chair Campbell asked the applicant's viewpoint on this and whether they would be willing, if needed, to switch out the chairs if possible.

Ms. Ranga stated that the seats go up and stay up. They only put it down when they want to use it.

Chair Campbell concluded that the seat already folds.

Mr. Topirceanu stated that at the beginning of this year, they updated the chairs and they put the slimmest model on the market from a company that was providing this type of product and based on their catalog, they chose the slimmest. He stated that their two previous models were wide and now the reduced it because this model goes vertical and was not in the way and the chair folds totally. He stated that they were making every month or so a simulation of what to do in the case that something happens in order for the stuff to be updated to assist these residents. He stated that they have been seeing the fires in Santa Rosa where so many loss of lives and they

were aware of the situation. He stated that, without the chair lift, probably their ability to assist for evacuation will be less than it is because of having the chair. He stated that, without the chair, the staff will have to grab someone and run through the steps. He stated that, for all the other residents, they have an outside exit going directly from the living room to an outside stair. For those not able to walk, such as bedridden, this chair means the difference between getting out of the building or not.

Vice Chair Clifford asked if the chair he described had its own power system.

Mr. Topirceanu stated that it does.

Vice Chair Clifford asked clarification that it was independent of the house power.

Mr. Topirceanu stated that it did, and there was no fog or dark because the fire inspection they have been approaching in a previous question requires them to have a system to point out where the exits are with their own power system, concluding that the lights were there.

Vice Chair Clifford stated that he was asking if it was battery powered.

Mr. Topirceanu responded affirmatively.

Planning Director Wehrmeister stated that she had a suggested condition.

Planning Director Wehrmeister stated that the suggested condition would be that the applicant shall provide the existing chair lift model and specifications. If the chair lift does not meet fire code requirements the lift shall be replaced by a compliant model. The condition shall be implemented within 30 days of project approval and inspected by fire department and building department staff.

Chair Campbell liked that suggestion and the idea of the parking exception because he likes the idea of trying to squeeze the parking spots out of those who are trying to look for parking exceptions in general, adding that they have had a lot of parking exception requests in the last year or so. He thought it was a good city policy to squeeze as many parking places as they can when that kind of a request comes before them.

Vice Chair Clifford asked if he was talking about removal of the RV.

Chair Campbell responded that he was referring to removal of the RV and the tandem parking exception that would get them down to one parking exception if he understood that correctly.

Sr. Planner Murdock stated that he was correct, adding that to accomplish that they would need to make a couple of minor changes to conditions 3 and 4 which, if the Commission goes that route, he would read into the record.

Commissioner Rubinstein reiterated the mayor's thoughts about the Planning Department's creative use to be able to reduce the parking from 5 to 4 by taking out the RV. He stated that many of the questions they have are geared toward the operations which he felt were outside of what they were trying to approve. He likes the project and was glad the applicant was trying to correct something and they should support that. He asked what the status of his motion was.

Chair Campbell stated that it was on hold but still alive. He thanked Vice Chair Clifford for making the need known for as much parking as possible for the facility as it looks like they will need the parking exception.

Vice Chair Clifford stated that was what he wanted to reiterate that, in terms of the parking exceptions, it looks like there are more than the three employees during the day that this was being based on as there was the administrator and additional people coming, i.e., physical therapist, visiting nurses, etc., coming to the facility at least on a regular basis if not daily. He stated that it may turn out that they may need to grant the same number of exceptions even if they include the tandem parking where the trailer is as there are more people than the three with which they started. He thought they were at least at five during the day from the testimony he heard. He asked if staff concurred with that.

Sr. Planner Murdock agreed that a number greater than three could be at the site at any time. He thought staff's analysis was based upon the code requirement for off street parking and while it may not be precise to this particular facility's operational characteristics but they have to measure against the code on the books and the basis for their analysis.

Commissioner Stegink agreed with Chair Campbell on the parking exception in general. He stated that more parking spots make the property more valuable and the applicant does not appear to have a problem deleting the RV from the location. He asked the fire inspector if the DSS defer completely to the local fire inspection authority.

Fire Inspector Preston asked in what manner.

Commissioner Stegink stated all things fire.

Fire Inspector Preston stated that, when a residential care facility wants to open and the applicant applies for an A50 form which is a fire clearance request, they address their fire concerns. If there are building concerns, they refer those to the building department for proper permits and, once the fire department signs off on the 850 form, it is turned over to the Department of Community Care Licensing and they implement whatever physical requirements or special requirements are needed.

Commissioner Gordon stated that he wanted to make a motion that brings this ship to shore.

Chair Campbell stated that they have had a motion.

Commissioner Gordon asked if the mover of the motion was willing to adopt the Planning Director's proposed condition.

Commissioner Rubinstein asked if he was referring to the lift.

Commissioner Gordon responded affirmatively.

Commissioner Rubinstein restated his motion to approve with the new condition regarding the lift.

Vice Chair Clifford asked if they were going with the RV tandem parking.

Commissioner Rubinstein approved the removal of the RV and creation of two tandem parking spots.

Commissioner Rubinstein stated, that he was not personally concerned whether staff parks in those tandem spots or not.

Chair Campbell asked if they were clear on the motion.

Sr. Planner Murdock asked the maker of the motion to agree to the changes that he was about to read. On condition #3 on Packet page 42, he added an extra clause stating to create an additional off street parking space for facility staff and on condition #4, second paragraph, would be revised to read applicant shall require and take reasonable measures to insure that two employees (caregivers) shall park in the side yard parking area during daytime hours (between 7:30 am and 8:00 pm) in a tandem configuration. Applicant shall also insure additional staff parking in the provided off street parking facility and not on Ladera Way.

Chair Campbell stated that it sounds good and asked if they can get something in there about signage to make sure it is employee only.

Sr. Planner Murdock stated that he was not prepared to complete an analysis of the city's sign standards and whether a sign would be appropriate. His preference would be not to include signage if possible.

Commissioner Rubinstein approved the adoption of the conditions as amended. Commissioner Stegink second the motion.

Chair Campbell stated that they have had a second and called for the vote.

The motion carried **5-1**.

Ayes: Commissioners Kraske, Rubinstein, Gordon, Stegink,
and Chair Campbell
Noes: Vice Chair Clifford

Chair Campbell 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.

- 3. UP-041-15** **File No. 2018-038 – Annual Review of Use Permit UP-041-15** for
A 7-Eleven Store at 700 Hickey Boulevard (APN 009-540-030).
Recommended Action: Adopt the attached resolution.

Sr. Planner Murdock presented staff report.

Vice Chair Clifford referred to the handout they received regarding the 7-Eleven Good Neighbor plan, stating that he was assuming that it came from 7-Eleven which is a document of errors that they give to their staff.

Sr. Planner Murdock agreed, explain that, per the conditions of approval, 7-Eleven needed to prepare a good neighbor plan. He stated that shortly after the project approval in 2015, 7-Eleven submitted draft versions of these documents to city staff which they reviewed and commented and 7-Eleven accepted staff-s comments into the final document before them, adding that it was also available to the public in the rear of the chamber.

Jeff Brown, applicant, stated he was the Real Estate Manager for 7-Eleven and didn't have anything to say. They got the notification, had a couple of things to clear up, they cleared it up and they have no issues.

Chair Campbell opened the Public Hearing.

Betty Duran, Pacifica, stated that many may recognize her from their battle with 7-Eleven previously. She stated that her concerns were about ten conditions of approval and she listed them as Conditions 5, 12, 15, 16, 49, 56, 57, 59, 61 and 62. She then stated that the Fairmont community remains vigilant with respect to 7-Eleven. She stated that they never wanted it. They wanted a gas station. They have it so they must deal with it. She then addressed the specific conditions and explained the community's concerns for each one, concluding that their community has to be their savior.

Chair Campbell acknowledged that the applicant chose not to respond to comments made.

Chair Campbell closed the Public Hearing.

Commissioner Stegink referred to condition #57, reading it aloud, and asked if they had a date when the letter was sent.

Sr. Planner Murdock stated that he did have the date available, but he confirmed applicant had sent it prior to issuance of a building permit but they did not have the letter or date it was sent.

Commissioner Stegink asked confirmation that they do not have a copy of the letter.

Sr. Planner Murdock responded affirmatively.

Commissioner Stegink asked if they can request a copy of the letter.

Sr. Planner Murdock responded affirmatively.

Chair Campbell referred to the 3 sq. foot condition for alcohol, but lost the condition.

Sr. Planner Murdock stated it was condition 12.

Planning Director Wehrmeister stated it was in Packet page 59.

Chair Campbell stated that they got a public comment stating that it was over 3 feet and he asked staff comment.

Sr. Planner Murdock agreed that there was no excuse for that and it may have been an oversight on his part in preparation of the report. He stated that they can arrange to insure that it gets another .2 square feet reduce to fully comply with the condition.

Commissioner Gordon stated that the member of the community who spoke gave them a lot of information in a very quick format which makes it challenging for them to digest it when they are on the cusp of adopting the resolution. He appreciated it and encouraged them to speak all the information they find. He stated that this was an annual review which will happen again and he encouraged them to do next time was to put it in writing at least a week or two ahead of the meeting so they have a chance to review it and digest it and have a chance to go back to the applicant and they can do further fact finding. He appreciated her coming out and speaking.

Chair Campbell stated that they sometimes get public comments. He stated he was on the Commission when they had the item before them which was very controversial. He stated that it took a lot of work and they get comments on the fly that make them want to continue an item, but it was helpful to get them in advance. He understood that sometimes it can't happen. He thanked the speaker for coming.

Commissioner Rubinstein thanked the applicant for working with planning staff to correct whatever deficiencies were in the operations. He stated that he has optimism that he will continue doing that and work towards making sure each of the conditions are met.

Commissioner Stegink referred to the second half of condition #57 regarding assurance of compliance of all conditions of approval, and he asked if they have any information that 7-Eleven's corporate headquarters has done that.

Sr. Planner Murdock thought the lack of code enforcement history is evidence to him that there have not been significant concerns about the conditions of the stores. He didn't have records of the number of visits or site inspections 7-Eleven has conducted itself, but they have a nearly non-existent record of incidents or code enforcement violations at the 7-Eleven store that was analyzed at this meeting.

Commissioner Stegink referred to the condition of certificate of occupancy and asked if the city measured that liquor space at that time.

Sr. Planner Murdock stated that they did as part of the final inspection of the facility prior to issuance of a certificate of occupancy.

Commissioner Stegink asked if the liquor space was in compliance at the time they measured it.

Sr. Planner Murdock stated that it was, and was not .21 square feet over but was absolutely at or below the limitation at that time.

Commissioner Stegink stated that he inspected that liquor cooling area today and it was the top three shelves of adjustable height freezer, probably the size of a normal home cooler. He was assuming it was under 32 degrees. He asked if there was a way to make the capacity of that cooler less flexible that it couldn't be 80 square feet tomorrow and 3 sq. feet when staff looks at it and then expanded the second they leave.

Sr. Planner Murdock stated that he didn't know of a good mechanism for doing that.

Commissioner Stegink thought it could be a painted line, tape, or a separate fridge.

Sr. Planner Murdock stated that, to impose any additional condition of approval would require a public hearing and that has not been proposed.

Commissioner Stegink stated that it was his understanding that they have been non-compliant with this condition of approval since day one.

Sr. Planner Murdock stated that it was his knowledge that it was not the case. He stated that the area was inspected by him personally at the time and he was confident that it was compliant at the time of the inspection. He stated that, at some point between then and his inspection this year, the cooler went out of compliance and the applicant took steps he thought brought it into compliance with the measurements he took and reported in the report. He stated that he will follow up on to correct. He stated that the volume is compliant but to impose any additional condition or requirement would require a public hearing which has not been agendized or proposed at this meeting.

Commissioner Stegink asked if there was any method to insure that the fridge remains in compliance.

Sr. Planner Murdock stated that they have a sign in the store indicating the number to call if the public believes there is a violation at the site and the next annual review will result in another inspection by Planning Department staff.

Commissioner Stegink asked, if it was determined to be over at that time, whether the sanction would be another review in a year.

Sr. Planner Murdock thought the sanction would be requesting 7-Eleven to fix it and reporting the discrepancy is part of the subsequent annual review.

Commissioner Gordon stated he was ready to make a motion unless there was more discussion.

Chair Campbell stated that was it.

Commissioner Gordon stated that, based on the evidence he sees, the 7-Eleven store is in substantial compliance with the use permit and he moved to ADOPT the attached resolution finding that operation of a 7-Eleven convenience store at 700 Hickey Boulevard (APN 009-540-

030) is substantially in accord with Use Permit UP-041-15; Vice Chair Clifford seconded the motion.

The motion carried **6-0**.

Ayes: Commissioners Kraske, Rubinstein, Gordon, Clifford,
Stegink and Chair Campbell
Noes: None

Chair Campbell 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:

Vice Chair Clifford stated that the Library Advisory Committee did not meet this month and he has nothing to report.

Commissioner Stegink asked the status on the medical marijuana operations.

Planning Director Wehrmeister stated that they were processing the four applications and they have all received incomplete letters. Staff is awaiting responsive materials.

Sr. Planner Murdock clarified that it was recreational and medical marijuana, not medical marijuana exclusively.

Commissioner Stegink asked if there was a process by which they will fulfill any remaining permits after this process is over and they still have permits not yet issued.

Planning Director Wehrmeister stated that, as long as the limitations for each of the overlay zones are not overburdened, they can continue to move down the list of prioritized applications.

Commissioner Stegink recalled at the last meeting that someone mentioned an actor who had opened a popup marijuana store without any sort of approval and he asked if there has been any status change on their location.

Planning Director Wehrmeister stated that she wasn't at the last meeting.

Sr. Planner Murdock stated that they were continuing to pursue those code enforcement violations.

Commissioner Stegink asked if it was necessary that a specific complaint is made against that organization to have that inspected or is it automatic.

Planning Director Wehrmeister stated that, if they do not allow staff to go in and inspect, they can request an inspection warrant. She stated that it depends on the situation and how cooperative that business owner is.

Commissioner Stegink asked if there was any mechanism that would send staff there.

Planning Director Wehrmeister stated she wasn't sure she understood his question.

Commissioner Stegink asked if it was necessary that someone specifically complained about a business location to have it inspected.

Planning Director Wehrmeister stated that it was not.

Chair Campbell asked if an inspection warrant has actually been pursued by the city.

Planning Director Wehrmeister stated that it was for one location.

Chair Campbell asked if they know the addresses or the specific locations of the four that have been approved.

Planning Director Wehrmeister asked if he means those who have applications in.

Chair Campbell responded affirmatively.

Planning Director Wehrmeister stated that they do, but she does not have them memorized, but they can let them know where those applications are coming up.

Chair Campbell suggested for the next meeting.

Sr. Planner Murdock stated that they have a rather robust page on the city's website that is available at the main cityofpacific.org page and cannabis business licensing was one of the main tabs available to click and on the page they have an explanation of the phase 1, 2 and 3 processes with phase 3 being the phase in which they are currently with the review of the marijuana use permits. He stated that there was a listing of all of the qualified applicants, the lottery results and additional information that might be of interest.

Chair Campbell asked if it included the locations.

Sr. Planner Murdock stated it included the addresses and the name of the applicants, etc.

Vice Chair Clifford wanted to thank staff for all the hard work. He was sorry he didn't do this earlier when both the fire marshall and building official were present, but he appreciated all the effort that was put into this meeting and their ongoing efforts.

Commissioner Stegink asked if they had any idea when they expect any recreational or medical marijuana revenues to appear in the city's coffers.

Asst. City Attorney Sharma stated that she was concerned about any additional discussion on medical marijuana at this point and suggested that it be agendaized a future meeting.

Chair Campbell stated that he was monitoring and had only two speaking on it but he appreciated the caution.

Commissioner Stegink asked what the city's stance on people living in recreational vehicles in yards.

Planning Director Wehrmeister asked if he was referring to private property.

Commissioner Stegink responded affirmatively.

Planning Director Wehrmeister stated that it was not permitted and they need to be in an authorized recreational vehicle park, adding that we do have one in Pacifica. She stated that the State Department of Housing and Community Development does not list or permit RVs as permanent residences but only for use as recreational vehicles. She stated that was a long way of saying they are not permitted on private property.

STAFF COMMUNICATIONS:

Planning Director Wehrmeister informed them that on August 6, their first meeting that month, she would like to bring to them a midyear update as there have been a few new assignments on the Council's work plan for the department this year and some of them are also ongoing assignments. She stated that it was also a way for her to address several of the questions that the Commission has had recently such as schedule for general plan amendments, etc., and she will provide a comprehensive report to them at the next meeting.

Chair Campbell expressed appreciation for that.

ADJOURNMENT:

There being no further business for discussion, Commissioner Gordon moved to adjourn the meeting at 8:49 p.m.; Commissioner Stegink seconded the motion.

The motion carried **6-0**.

Ayes:	Commissioners Kraske, Rubinstein, Gordon, Clifford, Stegink and Chair Campbell
Noes:	None

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Wehrmeister