



**City of Sebastopol**  
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## **UNAPPROVED DRAFT MINUTES**

PLANNING COMMISSION  
CITY OF SEBASTOPOL  
MINUTES OF June 14, 2022

### **PLANNING COMMISSION:**

The notice of the meeting was posted on June 9, 2022.

- 1. CALL TO ORDER:** Chair Fritz called the meeting to order at 6:00 P.M. and read a procedural statement.
- 2. ROLL CALL:**
  - Present:** Chair Fritz, Vice Chair Oetinger, and Commissioners Burnes, Douch, Fernandez, and Kelley
  - Absent:** None.
  - Staff:** Kari Svanstrom, Planning Director  
John Jay, Associate Planner

### **3. APPROVAL OF MINUTES:**

**March 8, 2022**

Commissioner Fernandez moved to approve the minutes as presented.

Vice Chair Oetinger seconded the motion.

AYES: Chair Fritz, Vice Chair Oetinger, and Commissioners Burnes, Douch, Fernandez, and Kelly  
NOES: None  
ABSTAIN: None  
ABSENT: None.

**4. COMMENTS FROM THE PUBLIC ON ITEMS NOT ON AGENDA:** None.

**5. STATEMENTS OF CONFLICTS OF INTEREST:** None.

### **6. REGULAR AGENDA ITEMS:**

- A. Peacetown Concert at The Barlow – Temporary Use Permit (TUP) (File 2022-038)** – Consideration of a Temporary Use Permit to permit music stages at the parking lots of The Crooked Goat (120 Morris Street #120) and

Foundry/Woodfour Building (6780 Depot Street #160) and the Community Market south lawn (6762 Sebastopol Avenue #100) from June to September for the "Peacetown" event. (Stages are also to be provided at The Barlow Event Center and HopMonk, which already are permitted for live events and will not be part of this application review.)

Associate Planner Jay presented the staff report.

Chair Fritz asked for Planning Commission questions of staff.

**Linda Kelley, Commissioner**

The conditions of approval state the live music would cease at 7:30pm and the applicant was asking for 8:30pm. Is that a typo or did something change?

**John Jay, Associate Planner**

The events run until 8:00pm, and the live music portion would need to cease by 7:30pm.

**Linda Kelley, Commissioner**

Is the parking attendant or monitor for private property also going to monitor if people are parking in the overflow on Morris Street and make sure that people are parking in the right areas?

**John Jay, Associate Planner**

I'm not sure on that. If Jim Corbett is here, I would have him answer that question. I believe they do have parking attendants for the Morris Street parking, but I'm not certain.

**Paul Fritz, Chair**

Related to the timing, the application talks about actually 8:30pm, I believe, and then in the conditions of approval it talks about 7:30pm. Was that discussed with staff with the agreement that the music would stop at 7:30pm? I know in Ives Park the music usually went until 8:00pm. I'm also wondering how does this relate to the Noise Ordinance in terms of that timing? Do we have a similar time period as part of the Noise Ordinance?

**Kari Svanstrom, Planning Director**

I can take the Noise Ordinance part of the question first. We have a Noise Ordinance that is based on decibels. The timeframe for it for evening hours during the week, I believe, is 10:00pm, so it is after even the 7:30pm or 8:30pm hours. My assessment is that even though the condition of approval is not to exceed the Noise Ordinance, I think it generally probably does just based on casual observation. We haven't measured it, and we haven't gotten complaints about the noise other than a comment from a business owner who is also interested in live music at his venue. Sorry, could you repeat the first part of your question?

**Paul Fritz, Chair**

The application mentions 8:30pm, but it wasn't clear if that was just the event or the music and if staff had some conversation about cutting music off earlier, because I know when they did this in Ives Park the music usually went until 8:00pm.

**Kari Svanstrom, Planning Director**

I can tell you I have the flyer that Jim Corbett has produced and it is Wednesdays, 4:30pm to 7:30pm at all the stages, so music until 7:30pm.

**Deborah Burnes, Commissioner**

Parking seems to be an issue in downtown in general. I know with this application that they're going to keep the street open so there will be more parking there, and there will be overflow, but it seems like there still won't be enough parking with all those stages in the current parking lots right now. Has anybody done any assessment on this of how many people have attended their venues, what they're expecting with three stages now, and if there is actually parking?

**Kari Svanstrom, Planning Director**

I just got a text from Jim Corbett. He's going to try to call in, so he might also know the answers to some of these questions. Staff has not done an assessment. We know there are a number of spaces at the Morris Street, and I see Jennifer Adametz from The Barlow, and here is Jim as well, so that's probably a question they can address regarding the expected attendance, the available parking, how many spaces are at the Morris Street, and how many are being taken up by the application? It's certainly less than last year with McKinley Street being open; so all that street parking is available. It is the smaller lots in between Woodfour and the Foundry building over by Acre Pizza, and that green lawn Village Green area for the Children's Village, are the only two parking spaces being blocked off. I'll defer the rest of that to the applicant.

**Kathy Oetinger, Vice Chair**

I may be jumping ahead, but I'm looking at the findings and seeing that condition of approval #2 is very similar to condition of approval #8, and I'm wondering if we need to ask about the differences so we can determine that when we're asking the client later? It's about sound. The first one refers to the 50 feet from the site, and the other one doesn't mention that but it does give the Police Department authority. Are those the same or is there something different that we need to pay attention to?

**Kari Svanstrom, Planning Director**

They are generally the same, and it might make sense to do one versus the other. The reason we've used 50 feet from the event site is that's pretty much where the Noise Ordinance dies off, so if you're on your site and 50 feet from the property, in this case those would be across the streets, so it would be on The Barlow campus in particular and we may want to specify 50 feet past The Barlow campus, or is it each of the stages? Obviously, there is a volume control so that the stages don't disrupt each other as well.

**Kathy Oetinger, Vice Chair**

So we might be leaning toward condition #2 then.

**Kari Svanstrom, Planning Director**

I'll say it's a little bit easier to monitor, because you can just simply go 50 feet away. Laguna Park Way, which I have measured for other reasons, is a 50-foot right-of-way from back of sidewalk to the other side of the street.

**Evert Fernandez, Commissioner**

In regard to the music timing, they're going to have a stage also at HopMonk, and they have music much longer than that, so how is that handled? Is that going to be part of the 7:30pm, or does it go to their normal time?

**Kari Svanstrom, Planning Director**

Both the HopMonk and the event center have use permits for live music events already. They are not part of this review. In that instance, yes, the HopMonk stage could go on longer if it wanted to. It would just need to abide by the HopMonk's use permit regulations.

**Zachary Douch, Commissioner**

You were saying HopMonk, but you meant Crooked Goat, is that right?

**Paul Fritz, Chair**

The HopMonk is actually included as part of Peacetown.

**Kari Svanstrom, Planning Director**

Yes, there are two stages that aren't under consideration tonight. That is the HopMonk at their regular music venue, and the events under The Barlow, just because they don't need permission; they already have that.

Chair Fritz asked for further Commission questions. Seeing none, he opened public comment and asked for the applicant's presentation.

The applicant gave a presentation and was available for questions.

Chair Fritz asked for Commission questions of the applicant.

**Paul Fritz, Chair**

There were a couple of questions just confirming the time. So the music is going to stop at 7:30pm, is that correct?

**Jim Corbett, Applicant**

The music is basically from 4:30pm to 7:30pm. We've moved the HopMonk to a little bit later, just because last year people would leave the main thing and go over to the HopMonk but that would be finished. I think the Crooked Goat was probably going to go until 8:00 o'clock, but they're starting a little later and they go until 8:00pm. But generally everything else would be tied up by 7:30pm.

**Paul Fritz, Chair**

There was also a question about parking. Have you guys looked at how many people you expect and how many parking spaces are available? We know you have more available this year because McKinley Street is going to stay open, but have you done any research or investigation of the number of parking spaces versus the projected number of attendees?

**Jim Corbett, Applicant**

The Barlow has that overflow parking at the old cement plant, and that can park like 150 cars. We are keeping McKinley Street open, so cars can park there, and we do have a parking monitor in the Rialto Cinemas lot. She, rightfully so, does not want our event taking up her parking places, so we have hired a security guard to watch so that people do not park in the Rialto space.

**Paul Fritz, Chair**

I know the Rialto has several different entrances to the parking lot. Would you have someone at each location?

**Jim Corbett, Applicant**

I'll have to check to Kari on that, but I know for sure we have one guard, and he tries to keep an eye on both places. I think the last week there was a complaint, but he was there, so we're going to make sure that we time stamp the security guard being there.

**Deborah Burnes, Commissioner**

I'm still confused about the parking. You said there are 100 overflow spaces on Morris Street, and then there is the parking on McKinley being open, but I had read that they were expecting around 1,000 people, so are you saying there is adequate parking for all of that attendance? Have you done any assessment of what the actual numbers of people who are coming are and the actual numbers of parking?

**Jim Corbett, Applicant**

I know there are at least 150 spots in the overflow parking down on Morris Street, and then Morris Street is open for that. Because of the industrial space, people are also [sound cuts out] which doesn't have any activity going on down there.

**Deborah Burnes, Commissioner**

Can you repeat that? Because of the industrial space, what is that?

**Jim Corbett, Applicant**

The stuff that's on Morris Street, sometimes people park up in there. I don't know if that's legal or not.

**Deborah Burnes, Commissioner**

It's actually not legal, and there are several tenants up there who complained.

**Jim Corbett, Applicant**

Well, I guess we can put some signage up there. The community center said there was no problem with people parking in their spot, because they don't have a lot of stuff going on a Wednesday.

**Deborah Burnes, Commissioner**

So again to my original question, have you guys done an assessment?

**Jim Corbett, Applicant**

I have not. Last year it seemed to be once we got the thing solved with the Rialto, a lot of locals will walk on down and don't need parking. Parking is usually from the people who show up from out of town.

**Paul Fritz, Chair**

I see Jennifer is on the call. Do you know how many parking spaces are in The Barlow altogether?

**Jennifer Adametz, Applicant**

I don't have that data off the top of my head; but I could get that information to you shortly.

**Paul Fritz, Chair**

Does staff have a Barlow parking count easily accessible?

**Kari Svanstrom, Planning Director**

I counted very quickly the spaces that are being blocked off as part of the event, and it looks like that's around 48-50 spaces; it's hard to tell because the Crooked Goat has done some of the temporary parklet stuff there in some of their spaces. There are a total of 469 spaces. We have been trying to track when, for example, Region took a couple of parking spaces to do their patio and that kind of stuff, so that should be fairly accurate. So, 469 minus the 50.

**Paul Fritz, Chair**

So a little more than 400.

**Kari Svanstrom, Planning Director**

Yes, approximately 400 plus the overflow on Morris Street.

**Evert Fernandez, Commissioner**

Jim, when the event was at Ives Park, what was the attendance there usually?

**Jim Corbett, Applicant**

At our height we probably had 1,200 people there, and that parking of course was mostly in the neighborhoods.

**Evert Fernandez, Commissioner**

Because trying to determine the number of cars, we look at the event at Ives Park versus downtown to get an idea of how many people actually drove or walked to the event. I don't know if there was an issue.

**Jim Corbett, Applicant**

For sure when we were at Ives Park there was more walking to the park by the local neighbors, and the cars that came in were from out of town, but they were parking in the neighborhood, so in way there is definitely more public parking in The Barlow. Also, the plaza is a place that people will park too and walk down into The Barlow, and I believe that's public parking too.

**Evert Fernandez, Commissioner**

When you were doing it at Ives Park, the music usually went to what time there?

**Jim Corbett, Applicant**

We went 5:00pm to 8:00pm in Ives Park, so we've backed that up a little bit to 4:30pm to 7:30pm, and it stretches to 8:00pm at the Crooked Goat.

**Evert Fernandez, Commissioner**

I noticed on the original application you applied for 8:30pm. Is 7:30pm adequate time, or would 8:00pm be more appropriate to match the other stages, since there is music going on in other places?

**Jim Corbett, Applicant**

I wanted to stretch out, so realistically there will be music going on until 8:00pm in The Barlow, but the stage at the Blue Ridge Kitchen will end at 7:30pm sharp. The Foundry will stop at 7:00pm, and Community Market will stop at 7:30pm.

**Evert Fernandez, Commissioner**

I guess my question is that if it could all end at 8:00pm, would that be more appropriate since there's other music going on anyway, whether it's a block away or not, or is it just by design or by plan that that works better?

**Jim Corbett, Applicant**

I wanted to get most of the stuff done by 7:30pm and then have a couple of little spots where people could drift off to the other venues, and at the HopMonk they're going from 6:00pm to 8:30pm, but that's typical of what they do already anyway.

**Evert Fernandez, Commissioner**

Regarding the parking attendant at the Rialto, how is that determined? Do they basically just watch people drive in and see if they get out of their car and walk into the theater or walk to the event?

**Jim Corbett, Applicant**

Jennifer can maybe answer that better than I, but basically he's walking back and forth. We do have signs up there and he knows what he has to do, so he'll watch the people get out and if they get their lawn chairs and they're going to the event. He's been cursed a few times by people who he asked to move their cars. We want to be good neighbors to the Rialto, so whatever that takes, we want to do that.

**Evert Fernandez, Commissioner**

That's one of my concerns. The Rialto has been very patient with trying to get along, but if it hurts their business, and it seems like with one guard, by the time they're engaging somebody to not park there at the event, two or three other cars can come in, so I want hear more about that plan as to how that's going to be monitored.

**Jennifer Adametz, Applicant**

I understand the sensitivity of that parking lot. We certainly want to be good neighbors to the Rialto. I requested the plans of that parking lot from Kari and John, because that full parking lot, as I now understand, is not for the Rialto; a portion of that toward the Whole Foods side is public. I have the guard in between the entrance off Laguna Park Way and the entrance off of McKinley Street, and I personally walked back and forth multiple times to check the lot and check with the guard, and that lot was clear. He was definitely doing his job. He's not just a little guy in a tee shirt, he's a big man in a vest with a big, white security truck, and we trust him. We've used him when I have to monitor other parking areas; we have issues with Community Market. He understands the severity and the sensitivity of the situation and I have absolute confidence that he can perform that job. The distance between the two entrances off Laguna Park Way and McKinley Street to me is reasonable. If cars were just pouring in the lot nonstop, like entering into the fairgrounds or something and you've got trails of cars, but that's not what we experienced in that parking lot. You do get people that drive in thinking that they got a great parking spot and they're going to walk off, but that's not what is allowed and not what the security guard will allow, so I have great confidence, just as I witnessed last week at Peacetown, that we will not have an impact to that lot, that that lot will be guarded with the utmost respect and care, and if anybody ever has an issue you can reach me any time of day or night and I will address it. But again, he has made very clear that that lot is a priority and we need to keep it secure for guests that are visiting the theater. I feel very confident that he can do that job.

**Evert Fernandez, Commissioner**

Parking along McKinley Street in the past has been closed, which facilitates people walking around. How is that flow going to happen with a lot of people all over and people coming and going there? Do you think that's going to cause any problems, or how is that addressed?

**Jennifer Adametz, Applicant**

When Jim applied for the use permits last year and we hosted Peacetown, our original plan was to close the street and we did a full McKinley Street closure, just like we do with HEAD WEST. We found that to be unnecessary. Without the street being really elevated and used, without all the booths and everything happening in the street, it seemed almost like a dead zone, and we do have the sidewalks for guests to walk up and down the street. We tried

also smaller portions of McKinley Street being closed, but logistically to make it safe and to make sure cars don't get bottlenecked we felt that it wasn't necessary, again because the street is not being utilized for the actual event. Peacetown was just one stage right there at the corner of McKinley at the four-way stop, and the street was just crammed with people, but because the stages are off of the street it absolutely makes sense that we would not close it. If we feel it becomes a safety issue, we would absolutely address it, but I don't personally imagine hoards of people needing to be in the street or walking in the street. We have not witnessed that.

**Linda Kelley, Commissioner**

I don't know if Jennifer heard my question on what are the issues with parking over in the overflow parking at Morris Street. Does anyone make sure that people are parking and don't block other people in? How does that work?

**Jennifer Adametz, Applicant**

While that lot is not an optimal lot, we've put in some minimal striping to help guide cars. It's the best we can do in a situation where the lot is at this point. We use this lot when we also have HEAD WEST and we have a lot of guests on the property as well. With the striping and the guides around, once people get in those spots it's a very clear and obvious pattern for vehicles. We put delineators on the sides of the parking spaces in the biggest, flattest portion of the lot to ensure that a car will not mindlessly park next to another car thinking it's a space when it's actually a driveway, for lack of a better term. We have never had any vehicles stuck in the lot, and we've been using it now for quite a while with big traffic events such as IPA 10K, HEAD WEST, and Peacetown last year, so I feel confident the lot can be used in the current conditions safely for guests, especially because the event is over in daylight and it's safe for people to get in and out.

**Linda Kelley, Commissioner**

Do you know how many parking spaces are over there? I heard 100, but then I heard 150.

**Jennifer Adametz, Applicant**

Depending upon the vehicles in the flattest portion, and then how they can go up and around, I know we can get over 100 cars in there. It's not an exact science, because they are not striped. I'm happy to walk the site tomorrow and get a better estimation. When the lot has been full I have not counted vehicles in the lot to confirm. I know our plans for the lot, in talking about improvements if those get approved, would fit more cars than fit now, just because the grading of the lot is not optimal for the most cars to fit. I don't have an exact answer since it's not perfectly striped throughout the whole lot, but I know we can definitely fit over 100 vehicles in that lot.

**Deborah Burnes, Commissioner**

I have one last question about the flow of traffic and people. There isn't a crosswalk there from the parking lot over to the event at The Barlow, and I notice that people take that turn awfully fast and come fast to the beginning of Morris Street, and I also notice people for the event just going back and forth on Morris Street, and since there's no crosswalk there, they're not walking all the way down to the light at the end. Have you had any complaints or concerns, or thought about how you would flow pedestrians without a crosswalk going from that parking lot?

**Jennifer Adametz, Applicant**

I would absolutely love to have a crosswalk there; I think it would be beneficial. We've never guided people to go to the lights, unfortunately; I know that that's the safest option. I don't have a great answer for that. I feel like people usually make smart choices when



crossing a street. When I have to go check on the lots I cross the streets just from Laguna Park Way over to Morris, while paying attention. We do not have any sort of plan in place. We don't have a crossing guard or anybody out assisting with pedestrian traffic there, but we have had very high traffic events while utilizing that lot and have thankfully not encountered any issues, but I completely understand your concern; it's a concern for myself as well.

Chair Fritz asked for further Commission questions for the applicant. Seeing none, Chair Fritz opened public comment.

**Ky Boyd, Owner Rialto Cinemas**

This is a photo of the guard at last week's Peacetown concert sitting in his big white truck near the McKinley Street entrance to the parking lot with absolutely no visibility of either the Laguna Street or the western entrance to the parking lot from the City lot. How is this effective? It is not. He doesn't get out of his truck, he doesn't wander around; he stays there and he sits. And last week he wasn't there. We had to call and complain to Kari to get him to show up. The Barlow has consistently and constantly failed to do their duty under their obligations under the original permit. Peacetown has failed to do their duty under the obligations of the original permit. We had to call constantly last year. They had volunteers who don't show up. I know they're not going to have volunteers this year, but they didn't even check to make sure their guard was there this time. The last of respect and attention to detail has been a continual pain for us, and we strongly encourage the Commission to not approve this permit. We want Peacetown to go back to Ives Park where it belongs. The Barlow is not a site that can accommodate the amount of people that they are trying to attract. There's not enough parking. They told you they haven't done a parking study, which is painfully clear. Their patrons totally disregard the rights of the neighboring businesses and property owners. It's just an untenable situation. We're tired of it, we don't want it, and it's unacceptable. My one other comment is there was an event at The Barlow last year—not a Peacetown event but some sort of comedy event at the Fern Bar—with amplified sound, and they had a comedian there who was swearing. I walked out the front door of my building and I'm hearing this person dropping F-bombs, and I think that it needs to be said in the conditions on this permit, no matter where it is, that there needs to be a prohibition about foul language, because this is promoted as a family event and we're a family-oriented business, and I don't think it's appropriate when you have amplified sound that there is profanity, because that's not expected. The other thing is, if the event is going to go forward, there need to be real, enforceable penalties that can be leveled by the Police Department or the Planning Commission on The Barlow and on Peacetown for noncompliance, because last year I was told there was nothing the City could do when they didn't comply with having volunteers. There need to be real, concrete, substantial penalties for noncompliance, and there needs to be enforcement by the City. The City has to do its job.

**Sue Drury**

I support everything that Ky just said, but I am here to talk about a few different things. There was a good neighbor policy where the applicant said that he notified all of his neighbors, but I own Johnson Street and my property touches his, and I was not notified. I found out about this meeting through Ky, so I find that really disappointing that he didn't notify me. I would also like to point out that there are three entrances to the theater parking lot. I know that because I had to post three signs for handicapped or towing, so one person cannot monitor three entrances; there is one where the public parking lot is, one on McKinley, and one on Laguna Park Way. Lastly, my family owns Johnson Street, I'm one of the owners, and last year for several weeks he had more than 50 cars in my lot. More than 50 cars, and I complained, and I complained to Kari, and he did absolutely nothing about it.

Week after week the cars were parked there. So I would like to know what is he going to do to monitor my parking lot that's between the Rialto and The Barlow. There is a parking lot right there. What is he going to do to keep the cars out? I would like him to answer that question when the time comes.

**Jennifer Adametz, Applicant**

I feel a little sad and disheartened hearing the negative tone coming from some of our neighbors. I am the property manager at The Barlow. Last year was last year, and I feel like this year brings us an opportunity to improve upon our plan and our assistance to our neighbors, including the Rialto. I heard the comments about the guard. When I visited that lot he was not in his truck, but I am happy to make that very clear for any upcoming events, including the event tomorrow. I do not believe three guards are necessary for that lot, especially when one of the entrances enters into the public side, but the two entrances I believe can be monitored by a guard on foot. I will make sure he's on foot. I will be there during the events. We want to be good neighbors and we want to be given a chance.

**Roxanne Goodfellow**

I was here last week during the event at the theater, and I was actually the one who took that photo of the guard. I had been going up and down McKinley Street to see if the event was happening, and that started at 4-4:30, and that truck was never there until I finally called to have someone come. When the guy came, he sat in the truck and I did not ever see him get out. This problem is one that probably everybody can understand. Our business is down by about 70% right now, and anything that acts as a deterrent for our patrons really impacts us a lot. The amount of time and energy that we have had to spend on dealing with issues like Peacetown, and now with HEAD WEST, is time that we don't really have. We want to be a good neighbor too, but we're not feeling the love a whole lot and/or a lot of consideration. I don't know the back story as to why this event ended up at The Barlow, why it's still not at Ives Park, but I would seriously like to ask somebody to please consider moving it back there, because it's just such an ongoing problem all of the time, every time there is an event. We have the same situation with the farmers market. We've put up the signs. There were no signs put up for Peacetown last week. We are the ones who are out there monitoring, and I've been yelled at, screamed at, had profanity, and my staff the same thing. We should not have to deal with this. Having one person in that lot is not enough, especially when it starts being really busy, so if you could please consider moving it back to Ives Park, that would be really great and would be greatly appreciated.

Chair Fritz asked for further public comment. Hearing nothing further, Chair Fritz closed public comment.

**Jim Corbett, Applicant**

Peacetown's intention is to benefit everybody in the area and I would love to have the Rialto benefit from Peacetown, maybe by saying at 7:30pm come to the movies and we have 10% off or whatever. I would like to commit two guards to it, and I'll talk to Jennifer about that, so we will monitor both the Laguna spot and the McKinley spot. I think that that's a fair thing to have two guards there; and that should be able to take care of that. I'm totally for the Rialto being successful. Obviously it's not possible to move Peacetown back to Ives Park this year because of the number of people we have, but it is a consideration to move back to Ives next year. We had to move here last year because of COVID and we couldn't get people at Ives Park, so that's why we first moved here, and most of the businesses that were here really enjoyed it, and some of the outlying businesses also benefited from it too.

The Commission discussed the application as follows:

**Zachary Douch, Commissioner**

I appreciate the dialogue and hearing from Ky and other business owners there; that's an important element here, no doubt about it. One issue of concern I hear is the potential for parking problems. To me that's been more or less addressed in that we have seen successful events without impacting parking. If I understand from Ky and the others, it was a little unclear—and maybe this is a question—as to whether the Rialto lot was actually being filled up and whether their guard was there on time or not, so it wasn't clear to me how impacted that parking lot was. But, irrespective of that, I absolutely think that conditions should be that there are security personnel at each of the entrances, and I think that should be something that is considered for all events at The Barlow. We have enough history, and this was enough of a concern at the very earliest applications, and with these types of applications we always have said let's take people at their word and hope they're going to be able to achieve what they want to achieve, what The Barlow undoubtedly wants to achieve, what Ky and other business owners want to achieve. We've tried that for several events and we're seeing that it's pretty consistently an issue, so I would support a condition that requires more robust professional security monitoring of that parking with at least two people, and of course those security personnel should be a legitimate security company that's bonded and insured to do that work. That's where I would say my biggest point of concern is. To Ky's point of amplified music and swearing, I think for Peacetown it probably goes without saying that we're not going to have profanity, but I take that to be an unfortunate story and something that I would probably talk to that business owner about, given the opportunity. But again, my concern here is with that particular parking lot. I think parking generally we've got about 400 onsite, a good 100 or so off of McKinley, and we've got the other parking area in the plaza, so I think the parking is generally adequate.

**Kathy Oetinger, Vice Chair**

I appreciate Zac's comments and agree with them. I think he's suggesting that we add another condition of approval, maybe F, that requires sufficient parking guards at the theater lot, and I'm guessing two might be okay, so I'm recommending we add that. I think we should eliminate condition #8 and put in condition #2. I think the 7:30pm is okay. I feel like it would be okay to make it 8:00pm if other people want to do that, just in case something wants to continue and the mood is right and everything is going well; I don't think 7:30pm is a magic number.

**Deborah Burnes, Commissioner**

I am concerned listening to the owners of the Rialto and knowing the stress they've been under and having their business down 70%. One thing that struck me was one of them said the amount of time they're spending on monitoring this, in essence policing it. They just don't have the time, being already strapped and struggling and trying to just make it through COVID, so I think that the onus should not be on them. They were told last year that the City and the police couldn't do anything if Peacetown is not following the conditions of the permit. What could be done about that so we alleviate the tension between Peacetown and the Rialto so the Rialto is no longer monitoring the parking lot, and that there are some systems in place for if it's not happening?

**Paul Fritz, Chair**

Kari or John, can you address this? These are conditions of approval, so they're required to follow them. It seems like the City should be able to do something if they're not compliant.

**Kari Svanstrom, Planning Director**

I had a lot of conversations with Ky and Sue and folks from the theater, and can attest to the fact that it was a lot of time and a lot of patience on their side. I had a lot of communications with The Barlow. I don't think Jennifer was with The Barlow at that time, but certainly with Yolanda and Jim. The potential penalty for not following the conditions of approval is revocation of the use permit, and last year the cinema was very patient, but I did let both Jim and the cinema know that I was not able to approve it at a staff level, and if Peacetown wanted to continue the next year I encouraged Jim to return to Ives Park. I understand the decision and I don't have an issue with that per se, but I did note that not only was it going to be more than six months, but the amount of time that staff had to deal with this and revocation is an all or nothing thing. I don't know if there's something in between, such as reducing the number of stages if things don't work out. It's a use permit, so the Commission can provide any number of conditions as triggers if that is a direction they'd like to go.

**Deborah Burnes, Commissioner**

I've been hearing you say that. I love Peacetown and think it's a fantastic addition to our community, and yet there is absolutely no way that both your department and the businesses should have to spend this much time and energy and effort. I would hate for the use permit to be revoked, but I think if I were the Rialto I'd want some assurance in there, especially hearing how patient they were and how much time you spent on this last year, so it could be a win-win situation.

**Kari Svanstrom, Planning Director**

Ky did contact me on Wednesday when there wasn't the monitor. I had to send John out to the site, and I also had to contact the applicants, The Barlow and Jim, and it turns out that the parking monitor had been down at the Community Market parking lot, and my understanding is whoever was scheduled for the theater lot hadn't shown up. Jennifer was great at addressing that and making sure that that was corrected. By the time John got down there from City Hall they had corrected that and he was at the Rialto site. But I agree. Frankly, I don't want to spend my summer having to try to mitigate these issues too, and so that's part of why we're bringing it to the Planning Commission, because this is a serious issue for surrounding businesses and I think the applicant needs to understand that and really take the conditions of approval seriously.

**Evert Fernandez, Commissioner**

I've also been very supportive of Peacetown because it's a great community event, but also when we make approvals, whether it's for zoning or events, one of the conditions is that there is not a detriment to the area or surrounding businesses. My concern has been in the historical events that have continued to happen and how it's continued to be a problem. It seems to me that the control of the security for the parking lots should not be with The Barlow; it should be with the Rialto. They should be the ones directing the security team paid for by The Barlow, but it should be under the control of the Rialto so they can have the area monitored to their satisfaction. Part of the frustration is that there are supposedly people to monitor there, but they're not doing their job. As Debbie mentioned, the week-by-week monitoring, what I look for is if there is a problem what has been done to resolve it? Not that it just continues every week and then promises are made. I know it's a different time and new promises are being made, but I'm torn between those issues again with a great community event. I would support going to 8:00pm. Like I said, there are other stages there. They could stop at 7:30pm if they like, but that way there's no issue with some stopping and some not. If they choose to stop whenever they want to, I think that's fine. But I have those concerns, and I don't know how many chances The Barlow had and how often the Rialto has had the problems, to continue that.

**Zachary Douch, Commissioner**

Speaking to Debbie's question about what the City can do, one reason these are renewable permits is so we can have exactly this discussion. As Evert points out, there is a history of good intentions but poor results around this issue, so it's incumbent on us to set conditions that are more onerous and more specific around monitoring the parking in that particular lot, and I think that is the remedy. It will remain to be seen whether it works, but one thing that's clear from the input here from both the applicant and the business owners is that everybody wants to make it work; we all support this event. I think there needs to be a condition that requires professional security at that location, not a guy in a truck but professional security, and maybe even a security plan that is written for how it's going to work so that if there are shortcomings they are specific and can be addressed in future applications or indeed partway through the year, but I would say that the responsibility and the thing we can do to remedy the issue is make a condition that's a little more onerous.

**Evert Fernandez, Commissioner**

The other thing that was brought up was is there some way to not be a negative for the Rialto? With that many people there, there's got to be some way that it could be beneficial. A discount would have to be subsidized by another organization other than the Rialto. This might be crazy talk, but perhaps having a booth outside selling popcorn and refreshments, somehow that they could benefit from all those people there, promote their theater, and make it a positive while Peacetown is there.

**Kari Svanstrom, Planning Director**

Sue Drury, the property owner of the theater parking lot had a question about what she calls "Johnson Street." I want to note something that may help provide a solution that the Commission could consider if the applicant is open to it. This is the parking lot for the Rialto. This is Johnson Street, and it actually does provide parking. I might need Sue's help to understand this. You can see the number of spaces at The Barlow up to there. I don't know if it's double loaded parking or not, but she does run that for \$200 a day and it's at least 50-75 spaces. I don't know if that is something the applicant would be open to. Obviously, if there's a parking monitor at the Rialto they can guide vehicles to parking that's right there until that's full, and then everyone else who is parking down on Morris Street isn't looking to try to park in that lot. That's one solution. And I did have a question in terms of response to Ky's comment about a financial penalty. We do have penalties in our municipal code for violations of the municipal code. Technically I believe that can include violations of a use permit, but I would need to check with the City Attorney on that if that were a direction the Commission wanted to go.

**Paul Fritz, Chair**

Jim or Jennifer, do you have a thought about renting those spaces, as Kari mentioned?

**Jim Corbett, Applicant**

I'll speak to Jennifer about this, but we will have two paid professional security guards for the rest of Peacetown; we have 13 more weeks available. I guess there are parking spaces there, but it's kind of a weird space because you've got to go around the dumpsters to get there. The other thing I would like to put out to the Rialto is we put out a newsletter to a couple thousand people letting them know who is playing at Peacetown, but I'd love to be able to put what is playing at the Rialto and the starting times. We want you guys to be successful, and Jennifer and I want to take our responsibility very seriously in keeping your lot clear for your customers, but we also want to drive some customers to your theater, because I know more people are watching at home now that COVID has hit, but there's nothing better than the experience of watching it in the movie theaters and I really appreciate that we have such a quality music theater here in town and I use you guys a lot,

so I want other people to do the same and I want Peacetown to benefit the Rialto, not to your detriment, so I hope you hear me loud and clear on that.

**Paul Fritz, Chair**

I'm wondering if there's like a timed check-in? Since Peacetown is happening every week and we have a Planning Commission hearing in two weeks, can we get feedback from the next two weeks, tomorrow and next week, and get a report from the Rialto at that meeting to find out how things are going and have this as a conditional use permit that's conditioned for the next two weeks? Make sure everyone is on their best behavior for the next two weeks before we authorize it for the rest of the summer?

**Evert Fernandez, Commissioner**

I support that.

**Paul Fritz, Chair**

Is that something we could do, Kari?

**Kari Svanstrom, Planning Director**

Yes. I'm thinking about it terms of the logistics of the correct manner to handle that. I did at a staff level authorize tomorrow's event, so the Commission does not need to do that. We have a seven-day appeal period for any decision the Planning Commission makes, so it would be next Tuesday for next Wednesday's event. You certainly could approve the single event on that next Wednesday and then you'd have your next meeting before the next event. Just so the Commission is aware, you can ask to review a use permit at any time, so that's not a problem in terms of agendaing, but I guess what we're talking about here is a split approval. You're allowed to approve any part of the use permit, so yes, you can approve just a certain number of events and then ask to review it.

**Paul Fritz, Chair**

Or can we approve the whole thing tonight, and then at our next meeting ask for a check-in to be put on the agenda to make sure that this is going well, or else we're going to revoke it if things are not going well over the next two weeks? Does that make sense, or would it be better to just do the one event? But if we just do the one event, then we have to come back in two weeks and approve the rest of the summer if it is going well, so we have to agendaize it kind of equally, I guess.

**Kari Svanstrom, Planning Director**

From a legal notice it's actually easier to do a partial approval, because we would have to do a whole new notice on a potential revocation and that would probably confuse a lot of people. I think those who are interested are here tonight, and so what you're saying, if that's the way the Commission wants to proceed, should be pretty clear to everyone that there is a two-week trial period leading up to a continued public hearing by the Commission in terms of an approval for the rest of the season.

**Zachary Douch, Commissioner**

If you're going to do something like that I think we should approve a good portion, perhaps the next four weeks, and ask that Kari do a staff approval of the rest of the events, assuming there are no ongoing issues, so it can happen potentially without any Planning Commission time. Kari, would you see that as a problem? In other words, if we were to say approve until the beginning or middle of July, and then it could go to staff approval for the remainder, so split it but not have it come back?

**Kari Svanstrom, Planning Director**

I would want the Commission to be very clear if there are any complaints, or if there's a complaint one week out of the five, on what's okay? Is it just everything is working swimmingly, which is what I think everyone here wants? Rather than delegating your power to me, I would probably recommend that you continue it to the date certain for the remainder of the series and just put it on the consent calendar if there is not an issue. If there is an issue, then have a continued public hearing for that. I will need to check with the City Attorney to see if we need to renote that, and that would certainly be helpful in that way.

**Zachary Douch, Commissioner**

Frankly, my preference would be to approve the entire thing with some kind of check-in, Chair Fritz, but I hear what you're saying and understand your thinking.

**Paul Fritz, Chair**

I think a check-in is good, and I actually would like to have it come back to the Commission so we can hear for ourselves how it's going and not just rely on staff to do that, and I'm open to whatever mechanism seems to make the most sense, but I want to make sure that we're being responsive. I believe Peacetown, like Jim said, wants to support the community and make everyone successful, and I'm sure they don't want to see the Rialto hurt by this, and I certainly don't either, none of us do. But we want to make sure that rules are being followed and that lot is being kept open, so I think it makes sense for us to hear back and not just have it go through the summer as chaos develops, but I think we need to do our part and hear, whether it's two weeks or four weeks. I'm not sure of the best way to structure that; I'll lean on Kari for that.

**Deborah Burnes, Commissioner**

I didn't get to address what Kari said earlier about what does the Commission think about a potential monetary penalty and that she could reach out to the City Attorney, and I think that would be a great idea. I love having something tangible instead of open-ended.

**Kari Svanstrom, Planning Director**

That was one of our questions from the public comment. Normally with a use permit, yes, you can revoke it. We do have a section in our code for penalties for violation of the Zoning Ordinance, which is \$500 per instance, and I think you'd want to make it very clear when that would be applicable and add that into the conditions of approval. I would also want some caveat that if determined by the City Attorney to be a valid way of handling this, because normally it's more for things like illegal habitation of a shed or something like that, or a fence that someone builds that's way too high and they refuse to move it kind of thing.

**Paul Fritz, Chair**

Instead of a monetary penalty I'd rather just go for revoking the use permit and saying if it continues to be a problem we're going to have to shut it down. I don't think a monetary penalty is necessarily going to do anything. I think the issue would be it's just not working. I don't think money is going to make it work any better.

**Kathy Oetinger, Vice Chair**

On of my thoughts, rather than revoking the permit would be to scale the stages back to some extent. I don't know whether the market would be reduced or the attendance would be reduced, which would be the goal, to make it possible for people to park without using those spaces, but that might be another alternative, to just reduce how much happens on that one night as the penalty rather than revoking the whole event. It doesn't really solve

the problem of management of the parking lot, and that's what we're trying accomplish. Do we need to have four guards there? That would be better than stopping the whole thing.

**Paul Fritz, Chair**

I certainly don't want to stop it either, but it's unfortunately such a convenient parking lot, no matter how many stages are there I think people are just going to be drawn to that parking lot because it's right there, unless the only stage is the Crooked Goat, which is the farthest one away.

**Kathy Oetinger, Vice Chair**

So it really becomes a matter of how many guards do you need to protect the parking lot? We'd just need more guards until it's effective.

**Paul Fritz, Chair**

Yes. And in some way I feel like I don't even necessarily want to say a number of guards, it's just you can't let anyone park in that lot. If you need ten guards or two guards or whatever you need, do what you need to do to make it work, and I don't care how many that is. I don't know that we need to specify a number. I think it's just no one can park in that lot and do whatever it takes to make sure that doesn't happen.

**Evert Fernandez, Commissioner**

With respect to cutting back on the stages, I think Chair Fritz is right. Regardless of the size of the event people are going to park there. Going back to my thoughts on having the Rialto control that monitoring, we also don't want to create any negativity toward the Rialto, and if you've got a parking attendant who is not sensitive to that it reflects badly on the Rialto that they're the ones doing that. So how does it need to be handled? What do you say to an individual? If there's an issue, how do you handle that portion of it? I can see people being put off when they park there and take the time to get all their stuff out of the car, and as they're walking away someone comes and tells them they can't park there, so it's not only handling the event, but how is that handled? It seems with the Rialto being in control of that, they can have it done in the way that it's supposed to be done so it doesn't create negativity.

**Paul Fritz, Chair**

To create a non-negative view of the Rialto, I think it should be more Peacetown branded, like the guard should wear a Peacetown shirt as a representative of Peacetown, because if you put the Rialto in that position it does make more of a negative connotation toward the Rialto. It's more Peacetown is telling us we can't park here, not the Rialto.

**Evert Fernandez, Commissioner**

Yes, my intent wasn't to have the Rialto have security guards there with their name, but they should have some say as to how those security guards are monitoring the parking lot and what they're saying and how they're doing it. They could be hired by The Barlow, uniforms say Peacetown, but then now how is that handled? At least let it be known that they do have a say and that's part of it. I'm not sure exactly how to address that, but I think that needs to be one of the conditions, because if something doesn't happen or the guy is not doing his job and the Rialto is complaining, versus they're the ones that are directing it.

**Zachary Douch, Commissioner**

I would just point out there seems to be a real will to solve this. A question for you, Kari, is can this application go forward, be approved, and then have a check-in, and if it has a



check-in with the Commission can the Commission revise conditions of approval partway through, or is it a done deal?

**Kari Svanstrom, Planning Director**

Absolutely, yes.

**Zachary Douch, Commissioner**

So in that case, what I would really favor here is an approval of this event with adequate security, a minimum of two guards, and if Peacetown could be involved with getting badges for the security guards that say "Peacetown" on them. It's all getting on with each other and I think the will exists here, so if we can take people at their word at the same time as being responsive to the concerns, I feel approving this application may be the way forward with a check-in perhaps in four weeks with the possibility of revising conditions of approval at that time, if necessary, or absolutely worst case would be revocation, but I can't imagine that we would get to that point. I think there is enough good will and good intent here that we should be able to move forward with this application.

**Evert Fernandez, Commissioner**

Because this is so much involved with the Rialto, I think I'd like to open it up to have any comments from the representative from the Rialto, because again, we're talking about all these conditions of approval and so forth. I know he spoke as part of the public, but I'd like to give him another opportunity if he has anything further to say, or to comment on any of the stuff that's been said here, because there's been a lot of stuff said and proposed, and I'd like to give him another opportunity to speak on that.

**Paul Fritz, Chair**

Is anyone opposed to that? Okay, thank you, Evert. Ky, would you like to make any other comments about what you've heard us discussing?

**Ky Boyd, Owner Rialto Cinemas**

I'm very pleased that you guys are taking this seriously. Thank you. I like the idea of the parking lot monitors or guards being branded as Peacetown concert series. I'm not sure about whether our people should be doing it, because then how do I make sure that I get paid for that additional expense that I have to take on? And that doesn't seem right that I have to pursue getting paid. We need better monitoring of our lot, and I know that Sue Drury feels that our lot includes Johnson Street, and so that needs to be part of the monitoring. She expects everyone to know what Johnson Street means, but unless you're living there you don't know it means that kind of nebulous strip between what The Barlow refers to as the "theater building" and us. I think two guards is a great idea, and I think that we check back in a month or every month or something. I think one check-in and then we're back to where we were with there's no penalty for non-compliance is problematic. I still like the idea of a financial penalty, because I think revoking the whole thing is kind of extreme, but a financial penalty has consequences and that gets people's attention. We can have a lot of good intentions, but it's really the follow-through, and that's where the problem has been.

**Evert Fernandez, Commissioner**

I wanted to clarify something. My intent wasn't to have Rialto hire anybody. Basically they would be guards hired by The Barlow with the Rialto management giving instructions as to how to do their job to monitor that parking lot, so there is no reimbursement, but the Rialto has some say as to how they monitor the area.

**Ky Boyd, Owner Rialto Cinemas**

I hear what you're saying, but what that sets up is okay, these people are paying me and this person is giving me my instructions, and if those two things are in conflict, who is my boss? Having been in situations where it wasn't clear who my boss was, I don't want to put anyone in that position.

**Evert Fernandez, Commissioner**

I think it just needs to be made clear that they're monitoring your lot and it has to be done a certain way, and if it's not, then it's a problem for whoever hired them.

**Kari Svanstrom, Planning Director**

A suggestion for that, perhaps there is a meeting with Jennifer, the security, Jim, and Ky to understand the specific concerns before the next event. I realize that takes your time, Ky, but it might help to understand.

**Ky Boyd, Owner Rialto Cinemas**

I'm not able to meet at the moment because I'm at home for specific reasons.

**Kari Svanstrom, Planning Director**

I think The Barlow could probably arrange a Zoom meeting. It doesn't necessarily need to be before tomorrow's event, I'm just thinking in the spirit of cooperation, if you're willing to meet at some point, even via Zoom.

**Ky Boyd, Owner Rialto Cinemas**

That's amenable. Afternoons are better than mornings.

**Kari Svanstrom, Planning Director**

And maybe that's a suggestion and not a condition of approval; that's up to the Commission.

**Paul Fritz, Chair**

It's clear what the issue is. The issue is people for Peacetown are parking in the Rialto's lot and the Rialto doesn't want that. I don't know that Ky cares how it's done; I think he probably just wants it done. He just doesn't want people parking in his lot, which is understandable, so whether or not Ky participates in a meeting with everyone is up to him. I think we all know what the goal and intent is, whatever the process is. I have a question for I'm not sure who, what we're calling the Johnson Street lot, do people park there? I don't know that I've seen people parking there before, and how do you actually do that? Do people park there for the movie theater, Ky?

**Ky Boyd, Owner Rialto Cinemas**

No, they don't generally park there for the movie theater. What happens is when parking gets tight in the area people get creative. Most of the people enter from McKinley Street, or if you go to the other end of the lot, they enter from the Spirit Works parking lot, which doesn't make the Spirit Works parking people very happy either.

**Paul Fritz, Chair**

Can that be blocked off somehow?

**Ky Boyd, Owner Rialto Cinemas**

What happens is all of our garbage service for the property, which is more than just the theater, is on Johnson Street, so we can't totally block that off, because then there's no way for garbage pickup. Also, the Smokehouse Bistro has that little music stage, and their

musicians tend to park right there so they can back their vehicles up and unload onto the stage, so that is used somewhat for parking for those businesses. I don't think Patisserie uses it at all.

**Paul Fritz, Chair**

Let's bring this back to the Commission. Do we need to craft another condition, or is this something that we can just ask Kari to agendaize for the first meeting in July to review how things are going?

**Zachary Douch, Commissioner**

I was going to do a first stab at crafting a motion, if you like.

**Paul Fritz, Chair**

I want to clarify a couple of conditions before we get to that, and it's related to this parking question. Condition #4, which is on page 5 of the staff report, reads, "A professional security firm shall be present and monitor parking areas to ensure the public does not park in private lots for the event." So far we've been talking about a security firm monitoring the Rialto parking lot, and we should be clear in the conditions that that's the lot we're talking about and not every private parking lot downtown. It's a little bit broad right now, and since we're mostly concerned about the Rialto and that's what the discussion has been about, I'd like to be that specific for that condition. And I agree with Vice Chair Oetinger that we should eliminate Condition #8 since it's kind of a repeat of Condition #2. I'm not sure what Condition #5 is saying.

**Kari Svanstrom, Planning Director**

The intent of that is, because we did have an application for HEAD WEST as part of the special event permit to close part of the public part of McKinley Street, this is making clear that no public areas are being used for the event, because it requires a different process through Public Works and Engineering, insurance, and a lot of other things.

**Paul Fritz, Chair**

I'm okay with Evert's earlier suggestion of allowing 8:00pm as the end of the music time since it sounded like there may be some stages going until 8:00pm. I don't want anyone to get into trouble if someone goes past 7:30pm, so are other Commissioners are okay with changing the time to 8:00pm, which would be in Finding #3, and that shows up on Condition #7?

**Kathy Oetinger, Vice Chair**

In Condition #4, are we specifying that we require two security personnel at the Rialto lot? Is that what your intention was for Condition #4?

**Paul Fritz, Chair**

I just want it to say the Rialto lot; I don't care how many guards are there. If we want to condition at least two as a minimum, I would be okay with that, but again, I just want there to be no one parking in that park, no matter how many guards it takes.

**Kathy Oetinger, Vice Chair**

I would think a minimum of two, because it's already not working with what they have, so we should increase it.

**Paul Fritz, Chair**

I'm okay with that? Anyone else?

**Zachary Douch, Commissioner**

I agree. I think you should call that out that the only parking lot that is referred to is the Rialto parking lot. Technically you could extend it to some of the industrial lots down on Morris Street, but we all know that they're talking specifically about the Rialto lot, so I think it's okay to say, "the Rialto and other private lots, with a minimum of two security guards at the Rialto lot."

**Paul Fritz, Chair**

But are we expecting those two guards to be monitoring those other private lots?

**Zachary Douch, Commissioner**

There doesn't seem to have been a need, so I would say that in the same way you don't care how many there are, providing they're speaking to this issue.

**Paul Fritz, Chair**

I would just rather say just the Rialto lot and not mention other private lots.

**Zachary Douch, Commissioner**

That's fine with me. But I agree with Vice Chair Oetinger that we should specify a minimum of two guards, just because we talk about that specifically more than anything else.

**Paul Fritz, Chair**

That's fine with me.

**Evert Fernandez, Commissioner**

I would agree with that.

**Linda Kelley, Commissioner**

I agree with where you're all going. I wanted to just remind Jim Corbett that the community events building where you're going to have potentially the latest music inside The Barlow is across the street from residential neighborhoods, and they have been very patient and tolerant, but wanted to give you a gentle reminder that Johnson Street and Flynn Street, I don't want them to be forgotten and impacted with events any more than they are. I don't know if Jim heard that or not.

**Kari Svanstrom, Planning Director**

He's nodding and giving a thumbs up, Commissioner Kelley.

**Linda Kelley, Commissioner**

Thank you, Jim. And I'm fine with everything else that's going down.

**Paul Fritz, Chair**

Kari, do you want to give us a motion primer?

**Kari Svanstrom, Planning Director**

I have tried to track the changes. Let me show you the Word document I've been working up and you can tell where I got it wrong. For Item #4, "A professional security firm shall be present and provide a minimum of two parking guards to ensure the public does not park in the Rialto parking lot during the event. Parking/security shall be branded as 'Peacetown' concert series." Then for the music, was the decision to change it all to 8:00pm?

**Paul Fritz, Chair**

Yes, 8:00pm.

**Kari Svanstrom, Planning Director**

And then the second sound condition is being deleted. Item #2 is being capped. I just slid in, "The Planning Commission will continue the public hearing to review the Temporary Use Permit at its July 12<sup>th</sup> 2022 Planning Commission meeting. The Planning Commission may modify conditions of approval to the TUP at that time," just to make it clear that that is one of the conditions.

**Zachary Douch, Commissioner**

Can I clarify, that means we are approving the entire series, but with the continuation of the public hearing in four weeks?

**Kari Svanstrom, Planning Director**

That's how it's currently written. Whoever makes the motion gets to clarify what they want to do with that one. These are just the changes that I'm trying to track.

**Evert Fernandez, Commissioner**

I think you want to make it clear that the Commission reserves the right to also review it as a future meeting.

**Kari Svanstrom, Planning Director**

This could also say, "may modify the conditions of approval or revoke the use permit at that time," if you wanted to make sure you have that understanding.

**Paul Fritz, Chair**

And this allows us, if we meet in a month and we say we want to review it again in another month, to add a condition or just agendaize it to review in another month.

**Kari Svanstrom, Planning Director**

Absolutely, and that is because you can modify the conditions of approval. Yes, you can assess that at that time, and then we're also kind of continuing the hearing and everyone who is aware and interested in this know the date tonight, so they'll know to show up.

**Paul Fritz, Chair**

And then the recommended findings, we also need to change the time until 8:00pm.

Commissioner Douche made a motion to approve the application as amended.

Vice Chair Oetinger seconded the motion.

Chair Fritz asked for further Commission comments. Seeing none, he asked for a vote on the motion.

AYES: Chair Fritz, Vice Chair Oetinger, and Commissioners Burnes, Douche, Fernandez, and Kelley.

NOES: None

ABSTAIN: None

ABSENT: None

**Kari Svanstrom, Planning Director**

I will ask Jennifer as a point, if you are able to get the two guards for tomorrow that would be great. Technically this wouldn't start until the approval is final in one week. There is a

seven-day appeal period, and then this will final, unless it's appealed, in which case it would be scheduled for the City Council.

- B. Habitat for Humanity – 333 N. Main Street (File 2002-006)** Proposal for the construction of a 6,000 square foot new residential building and associated site and landscaping improvements on a vacant 7,286 square foot lot. The building would consist of (4) three bedrooms structured in two-story townhouses with (4) one-car garages. The entrances to the townhouses will face North Main Street. The garages will be accessed from an existing driveway at the north edge of the property. The project entitlements include: a Tentative Map, Conditional Use Permit to allow residential-only use in a Commercial Zone, and Environmental Review.

Associate Planner Jay presented the staff report.

Chair Fritz asked for Planning Commission questions of staff.

**Paul Fritz, Chair**

I was questioning earlier whether this project needed a conditional use permit for the 100% residential because it's an affordable project and we do allow affordable projects as a permitted use in the downtown corridor.

**John Jay, Associate Planner**

Affordable housing, by our definition, requires the units all be deed restricted for occupancy of very-low, low, and moderate income households, and this project as it's proposed in the application is privately owned per unit, so it would not meet that affordable housing criteria. The intent for the affordable housing section that's also in the resolution and policy goals is meant to state that the Habitat program is a more affordable means of homeownership than a private development company that would come in and do something like this.

Chair Fritz opened public comment.

The applicant gave a presentation and was available for questions.

Chair Fritz asked for Planning Commission questions of the applicant.

**Kathy Oetinger, Vice Chair**

On one of the maps I saw that there are Lots #5 and #6 that are the first two garages off of Main Street. Are those purchased separately, or do they actually belong to the unit where it showed they had access?

**Jeff Katz, Architect**

The way that everything is set up is each unit has a corresponding garage that is deeded as part of that unit. Essentially every unit has a standalone garage that is part of the property and they are assigned.

**Kathy Oetinger, Vice Chair**

Why are they are labeled Lot #5 and Lot #6 on some drawings?

**Paul Fritz, Chair**

It might be the tentative map.

**Jeff Katz, Architect**

I actually pulled that drawing out of the presentation, because it was repeating some of this information. I apologize I don't have that for you.

**Kathy Oetinger, Vice Chair**

Okay, as long as there aren't two other lots.

**Kari Svanstrom, Planning Director**

Vice Chair Oetinger, I'll pull it up right now.

**Jeff Katz, Architect**

Yes, it's a little confusing the way it's structured there, so we can request some clarification, but the intent is that each unit has a garage that is part of that unit.

**Kathy Oetinger, Vice Chair**

It's not a separate purchase?

**Jeff Katz, Architect**

No.

**Evert Fernandez, Commissioner**

I don't know if this is a question for staff or not, but some of the parking that would be in the front on Main Street, is any of that designated for, say, delivery or bringing some furniture in, or an appliance? Would they basically park on Main Street and then bring it up, or would they go to the back of the unit? How do you envision that working?

**John Jay, Associate Planner**

Those spaces out front would be public parking spaces, so if that space was available at that time and it made the most amount of sense for a delivery truck to use that space, I think that's what they would do. Those four spaces out front are not designated to the project itself; it's just additional parking for the project as allowed in our code.

**Kari Svanstrom, Planning Director**

We've all seen where moving vans or deliveries just pull up to a regular space along the street and use that to deliver furniture and whatnot, and so they could do that, or they could arrange to do it off of the easement. One of the lots it could be through the garage in the unit, and I guess if the applicant has some other ideas of how that might be facilitated off of the easement. The easement is a through easement, so it's not available for parking, although obviously UPS and others do sometimes.

**Jeff Katz, Architect**

I would add that only one of the units has direct access from the garage into the unit, so the balance of them would require any sort of deliveries coming in through the front door. We do have one unit that has rear access off of that drive, but again, the other two units don't have any sort of direct access except off of the street, so if there were no available parking on the street, then any sort of delivery would have to make some other accommodation.

**Linda Kelley, Commissioner**

My issues before were accessibility, and going up to the front porch in a wheelchair. Can't really access it from the back even if you could get to the other two units from back there. There are no bedrooms on the bottom floor, so very difficult to age in place or to have a

medical need, and just very concerned that we're losing an opportunity to have some accessible units, or at least one accessible unit.

**Jeff Katz, Architect**

We have discussed this internally. It is a challenging site due to grades. The one thing that we did talk about was providing infrastructure both at the front porch and within the unit to accommodate a future lift if whomever purchased the unit needed to get access both to the unit and to the second floor, so that is something that we certainly can look to provide.

**Linda Kelley, Commissioner**

I guess this is for staff as well as the applicant. Could the garages be developed into an ADU, and how does that fit into this mix?

**Steve Kent, Habitat for Humanity Sonoma County**

I think our intention was that the garages would be deeded with the units. They couldn't be sold separately. We need the garages to meet the parking requirements, so it wasn't our intention that they would be saleable as ADUs.

**Linda Kelley, Commissioner**

ADUs actually aren't saleable, because they are part of the property and it's just an additional housing unit. That's why if those were owned by each of the units could they be developed into an ADU? What would you say would be the barriers?

**Kari Svanstrom, Planning Director**

Once the units are built there would be nothing stopping someone from converting a garage to an ADU unless you make it a condition of approval as part of the final map, because if they were proposing it now they would have to provide the garage spacing and they'd have to find a way to provide the ADU, but under the state regulations you cannot stop someone from converting an enclosed garage to an ADU, even if it reduces the parking on the site below what is required.

**Linda Kelley, Commissioner**

That's what I thought.

**Paul Fritz, Chair**

From a practical standpoint it would be really challenging to make any of these an ADU, with the exception of maybe the one that's actually attached to its unit. The fact that they're separated, to try to get utilities to one of those other garages, water and sewer and gas, would be a daunting task and I doubt anyone would take it on, just because it would be pretty challenging to work that out since they're not contiguous to the unit itself.

**Kari Svanstrom, Planning Director**

And Chair Fritz, one other thing I would note, oftentimes I've seen garage structures not be lots but be like a G-1 space and it is attached to the unit in that way without being a separate lot, and all of those units actually sit on a common area. That's much more common. I know the City Engineer did include a condition of approval, but the final map needs to be prepared by a civil engineer, and Jeff and Steve, I don't know if you're engineer is here tonight or not to maybe address that.

**Steve Kent, Habitat for Humanity Sonoma County**

He's not here tonight.



**Kari Svanstrom, Planning Director**

Got it. So that is something that when we look at the conditions, if it's not clear with the way it's designated right now. I'm not an engineer, but I think I can help the Commission craft a condition regarding that is they wanted to.

**Evert Fernandez, Commissioner**

Without going through a lot of expense or redesigning, are there things that could be done to facilitate at least a little easier down the road if there's going to be an ADU? Chair Fritz, when you were talking about how difficult it would be once it's built, I can see all the roadblocks to doing it. Are there things that could be incorporated that might make it easier down the road, or is that just wishful thinking?

**Jeff Katz, Architect**

The way that each of these units is served from a utilities standpoint, it would be very difficult to in essence tie into those same utilities that were serving the individual unit. If having the ability to make these into ADUs down the road is something that is desired, we could look at how the utilities are run and try to create some stub-outs or at least the potential for that. Steve didn't really touch on the cost issues and we don't really want to focus on that tonight, but we all know that cost of construction has gone up since this meeting started tonight, so we also want to be respectful of that.

**Evert Fernandez, Commissioner**

I understand. I'm just saying if there are things that could be done that might not be too expensive; keep that in mind. Anything that would make it easier down the road would be a positive.

**Paul Fritz, Chair**

The roof deck that's above the two garages, I imagine it would be available to all four units, and since it's sitting on top of two other privately-owned properties is that just like a CC&R description or something like that that would allow the full community to access that roof deck?

**Jeff Katz, Architect**

That's how we're envisioning that, yes.

**Paul Fritz, Chair**

From my understanding about how Habitat for Humanity works, regarding my question about the affordability issue, these are not deed restricted, so once your first family builds a unit, they've purchased the unit, then at that point it's kind of just on the open market for them and they could sell it next year or in five years. Do they sell it to another Habitat family, or how does that stay affordable? What's the mechanism for that?

**Wayne Kleefeld, CEO, Habitat for Humanity Sonoma County**

Yes, they're deed restricted for 30 year.

**Steve Kent, Habitat for Humanity Sonoma County**

If anyone wants to sell it within the 30 years, it basically comes back to Habitat for Humanity to find a family.

**Paul Fritz, Chair**

Not that this makes a big difference, but to staff, if these are individual lots that have a 30-year deed restriction on them for affordability, does that not meet our affordability definition?

**John Jay, Associate Planner**

I'll refer to Kari, but I believe that would meet our requirements for the affordable housing definition.

**Kari Svanstrom, Planning Director**

I'll need to review that. Just out of curiosity, Chair Fritz, is there a reason you're asking this in relationship to the project approval, or are you just curious?

**Paul Fritz, Chair**

Mostly just curious, so I guess it doesn't really make a difference. We're still looking at this tonight. I guess the question is does it need a conditional use permit, or is it just the tentative map that we're reviewing? I don't know if the procedure really makes a difference.

**Kari Svanstrom, Planning Director**

It would need to meet the definition of affordable housing. I know for inclusionary housing it needs to be deed restricted in perpetuity, but I don't know if it's being done voluntarily as affordable housing if that is the same case, so let me do a quick look up of that. And what was the deed restriction length?

**Steve Kent, Habitat for Humanity Sonoma County**

Thirty years.

**Kari Svanstrom, Planning Director**

And then the other thing I would want to confirm is that the income level met at least the moderate restriction, which 120% of median income.

**Steve Kent, Habitat for Humanity Sonoma County**

That's our intention, for sure.

**Paul Fritz, Chair**

Our definition doesn't have a time on it; it just has very-low, low, or moderate.

**Kari Svanstrom, Planning Director**

And 30 years is a fairly long time. I have actually seen deed restrictions that the City has that have been shorter, more like 20 years, so I think that would be significant enough should the Commission concur that it could be considered affordable housing. We would need to make that a condition of approval tonight for them to be exempt from the conditional use permit, because we don't have that anywhere in their application materials.

**Paul Fritz, Chair**

And again, I don't know if it's important or not. I don't know if there's a fee difference that they can get a credit back.

**Kari Svanstrom, Planning Director**

It's all on a deposit account, so it's the hours that we're working on the project.

**Paul Fritz, Chair**

So there are no development fees related to that or anything like that?

**Kari Svanstrom, Planning Director**

Correct, other than the entitlements that you're reviewing.

**Paul Fritz, Chair**

Then I guess it doesn't really matter, but it's good to have that understanding. Then one thing that hasn't come up, but was a question in the staff report, I wanted to get everyone's feedback on this floor area ratio question. The downtown core requires a floor area ratio of one, and this project meets that requirement if the easement is excluded, and I'm okay with that interpretation. There's no kind of formal interpretation of that and the staff was asking us to weigh in on that, so I wanted to say that I am okay with that interpretation for this. If anyone else has a comment one way or the other on that, or if you disagree, please let us know so we can talk about it.

**Evert Fernandez, Commissioner**

Just for public information, the material in between the walls of the residences, we wanted to make sure that with the close proximity that sound and noise is kept to a minimum between the units. I wondered if you could comment on that, and any kind of environmental? Does it have the ability to catch rainwater or facilities for solar panels, that kind of thing available?

**Jeff Katz, Architect**

The sound attenuation between the units will be addressed by a centrally double wall system with sound insulation. We will have an acoustical engineer as part of the team take a look and make any recommendations for how we treat that, but we certainly are going to be looking to create sound attenuation between the units. We have not incorporated at this point any rain harvesting components into this project. Certainly we can take a look at it if that's something that you want to make as a condition. We are required by building code to make all buildings solar-ready, and we have not yet assessed the cost of actually providing the panels, but the roof will be designed to accommodate those, and there will be conduit to the panel location so that either the project or the individual homeowners could add photovoltaics in the future.

**Evert Fernandez, Commissioner**

What about as far as the ability to charge an electric vehicle in the garage, or at least have it available to do that in the future? I know it may not be feasible, but at least if someone wanted to put something there, just like you have the solar panel ready, is there something that could be done there to facilitate that?

**Jeff Katz, Architect**

Absolutely. We can provide infrastructure and accommodate power to serve a charging station in each of the garages. It doesn't really have anything to do with the photovoltaics, but certainly anybody purchasing those units could well, and probably will down the road, have electric vehicles that need charging.

Chair Fritz asked for further Commission questions. Seeing none, Chair Fritz opened public comment.

**Bob Herd**

I live at 337 North Main Street and I'm the president of the HOA here. I have a few concerns. How is drainage going to be handled, especially if they are flat tops? I brought it up in the last meeting about the plans are showing them using access to the driveway that's owned by Cypress Hill HOA and Main Street Village, which is behind us. How is that going to be handled? Because we have to pay for the upkeep and the taxes and everything on property that somebody is now using in their plan to have access to their dwelling. Last time I asked about how garbage storage and pickup is going to be handled. It was brought up about somebody living in a garage, because the one unit on the end somebody actually

could live in the garage, because they're going to have full access to the house, so what's going to stop that from being turned into an apartment? How can it be affordable housing? I don't understand that when the properties are being sold. Lastly, there's already a sign in the lot saying that these are coming and it hasn't been approved yet.

Chair Fritz asked for further public comments. Seeing none, Chair Fritz closed public comment.

The Commission discussed the application as follows:

**Paul Fritz, Chair**

If we could respond to some of Bob Herd's questions. Regarding the driveway, I'm assuming there's an access easement that benefits this property? Can someone confirm that?

**John Jay, Associate Planner**

Yes, that's correct.

**Paul Fritz, Chair**

So there was an easement whenever your development was built, Bob, that granted the future developer of this property use of that driveway to access this parcel, so it would be in your deed someplace that that is actually legally the case. Whether or not they're required to participate in the maintenance, I have no idea; that would part of the original documentation of that.

**Kari Svanstrom, Planning Director**

There are easement documents within the title reports and the grant deeds that were given as part of the project application, they start around page 76, and those are part of the PDF documents. I found the one for the Masonic Lodge, and I know there is another one for the other development. Oftentimes when easements were granted there wasn't necessarily a maintenance agreement to that. That is certainly something that we can encourage. If easements don't have a maintenance agreement recorded as part of the property they are subject to a civil code, which does generally proportion the maintenance costs among the variance parties based on distance and some other factors. I'm not going to get into the civil components of that, because I'm not a lawyer, but that's generally how they're handled. We can't put a condition of approval on a project that requires something from another property owner; however, it is something that we would encourage the Habitat for Humanity folks to coordinate with the other HOAs. Bob, you said there are two other developments. Do they both share in the maintenance at this point?

**Bob Herd**

Yes, we share the maintenance and the lighting, and there's a property tax that we have to pay on this annually as well, and none of it is cheap. My issue is that somebody wants to use property that's deeded to our HOA and the HOA in the back and take advantage of our lighting, take advantage of our upkeep, and have no stake in the preservation of it.

**Kari Svanstrom, Planning Director**

Bob, it's better for everybody if there's an agreement, because obviously that carries through in time and it sounds like that's what the two existing developments have. I'd encourage that you have the Habitat for Humanity enjoin into that in some regard. Like I said, there is a civil code that regulates that based on the amount of easement, so the person at the end of the road usually has to pay more than the person at the beginning of the road. An easement is a form of ownership for whatever rights that easement is for, so if there's a right to access over it, then that is part of the property rights of the subject

property, and there is an easement for this parcel on that access way as part of their documentation.

**Bob Herd**

So expenses can be shared, or they can't be unless it's set up with us?

**Kari Svanstrom, Planning Director**

I can talk to you about some of the specifics afterwards, but what I'm trying to say is in terms of the cost there is civil law that generally regulates that, so you can't just use someone else's easement as an easement owner and not do anything.

**Paul Fritz, Chair**

Jeff, do you have thoughts about the garbage can storage question, how that's going to work?

**Jeff Katz, Architect**

We did speak about that and would anticipate that each homeowner's trash would have bins that would be kept in their garage units and then put out on trash day.

**Paul Fritz, Chair**

Does the garbage get picked up on Main Street, or do the garbage trucks come up on your property, Bob? You have pick up there, in which case they would probably just put them in front of their garage on their driveways?

**Bob Herd**

Right now we have dumpsters, so we don't have that pickup like you're talking about. But then there's a problem of where are they going to put the garbage cans? Because each house going to have three. That's a big thing.

**Paul Fritz, Chair**

It sounds like they have storage locations worked out. They'll have to work out the pickup locations with Recology; I don't know exactly what that would be.

**Bob Herd**

Again, that's going to put them out on to the street, if that makes sense.

**Paul Fritz, Chair**

Potentially, yes.

**Bob Herd**

And those garbage trucks are more wear and tear on the street.

**Kari Svanstrom, Planning Director**

I would note there are a lot of properties on Healdsburg Avenue that do put their garbage out on the street, so that isn't an uncommon thing either.

**Paul Fritz, Chair**

Yes, all the way down Main Street most of the garbage is out. A lot of garbage is out on Main Street. There was a question about affordable housing. Steve or Wayne, do you want to discuss how this is considered affordable housing, how this works?

**Steve Kent, Habitat for Humanity Sonoma County**

When we have a family we sell them the house and they pay what they can afford based on the AMI and their income and so forth, and if our costs are higher than that we have to make up the difference. In the 30-year timeframe if they want to sell the house, basically the price gets readjusted, but I believe that there's some limit on the amount of gain they can get selling the house. And then a new Habitat family would come in under the same situation, so it's not something where an affordable person can buy it and live there for three years and sell it at a market rate or anything like that. They basically sell it at an affordable rate and it goes to a new affordable housing family. It would be higher than what the original family paid for it, but it would not be a market rate, it would still be an affordable rate. It would be basically as though it was a new Habitat house that hadn't been lived in, starting over.

**Bob Herd**

How would you choose that family to purchase that house? Is it like first come, first served, or is it the person with the highest income?

**Steve Kent, Habitat for Humanity Sonoma County**

Neither. It would go through the same evaluation process that we go through whenever we have a Habitat family, so there are a lot of considerations.

**Paul Fritz, Chair**

Then living in the garage, you had a question about that. We discussed that a little bit. There's legally nothing to stop someone from converting these, but I think there are probably some issues with that happening. Then there was a question about drainage.

**Jeff Katz, Architect**

As with any project, we're required to capture and treat all of the drainage on our site. You asked specifically about the flat roofs. They're not actually flat, that's just how we describe them, so they will slope. They will come down and then that water is captured and treated onsite as part of our storm water treatment.

**Bob Herd**

I'm sorry I didn't ask this before, but my house directly backs up to the farthest south unit, so I'm the one with the retaining wall that's holding my house up. So you say that you're going to leave the existing retaining wall? It doesn't go all the way to the property line, so you're going to extend it all the way to the property line and then down that existing driveway? I just don't want my house to fall down.

**Jeff Katz, Architect**

The existing retaining wall is right here, and so we are putting a new retaining wall in here. This retaining wall has a footing on it and we need to stay away from essentially impacting anything that's the sphere of influence for that footing. We have a new wall coming in here, and then this area in between will maintain essentially the existing grades that are there now, so there is nothing to undermine your existing retaining wall. We have a new retaining wall that basically runs from where my cursor is now south to the corner, and then out toward Main Street where we daylight and match up with existing grade.

**Bob Herd**

At the back is there going to be a fence that's running the full length of the property, or no? Just the retaining wall will be the back fence?

**Jeff Katz, Architect**

In essence that will be the back fence, yes.

**Kari Svanstrom, Planning Director**

One thing I would note, Bob, is that there will be a Design Review Board hearing that will talk about more of these details at a later date, and you'll get a notice about that as well, I believe.

**Linda Kelley, Commissioner**

Would this project be like other Habitat for Humanity homes that have the prospective owner also contribute hours to building or in-kind or something?

**Wayne Kleefeld, CEO, Habitat for Humanity Sonoma County**

Correct. They're required to either contribute to the actual construction, or we have the restore, but Habitat International, I think they're pegging it now at 250 hours per family. Let's call it sweat equity.

**Linda Kelley, Commissioner**

We were talking about potential ADUs in the garages. Do the owners of the four units own the separate garages that include the roof with the wonderful planter boxes? How does that work?

**Jeff Katz, Architect**

The roof deck is covered under CC&Rs to be a sort of common area that is shared between the four units.

**Linda Kelley, Commissioner**

I'm just wondering if there is another glitch other than infrastructure already built in and things like that. In terms of accessibility, if you can't create accessibility like having a bedroom downstairs or being able to get into it easily from maybe the back patio that at grade would make it easier, would you consider putting in some of the blocking in the bathroom? Downstairs, I don't know if that's the kind of bathroom that you can turn around with a wheelchair, but upstairs it's big enough to have those kinds of features.

**Jeff Katz, Architect**

Absolutely. Blocking the wall and accommodation for ground floors and those sorts of things can certainly be accommodated as part of that.

**Linda Kelley, Commissioner**

Even just blocking in the shower so that you can have it later on? It's so cost prohibitive to try to retrofit, as you know. Universal design isn't just for mobility, it also has to do with hearing, and it has to do with sight, and also where you put plugs, but I know that the law requires that if you're selling a house that hasn't been built yet that you have to offer the new perspective owner an opportunity to have it be built as universally designed as possible; that's the state law. I'm sorry to harp on this, but we should be able to live in our dwelling units without it being so prohibitive, and so I'm just asking or pleading with you to go a little extra step and see what kind of acceptability or adaptability you can add, and I appreciate that.

**Jeff Katz, Architect**

Understood.

**Evert Fernandez, Commissioner**

Question for staff. The garage units are satisfying parking requirements as part of that. Once individuals move in, let's say the first garage, because it has the door continuing into the main living area, someone turns that into a bedroom and then the other three garages are storage. Is that taken into consideration, or is that just something we have no control over?

**John Jay, Associate Planner**

I think it's always taken into consideration, and unfortunately I don't think we have any means to prohibit anything like that. It seems like especially in the State of California nobody uses their garage for a car anymore, but unfortunately the garage requirement does meet the parking standard, but it's always considered that potentially at some point in time it could be turned into storage or a room or whatever the case may be, but I don't think we have any means of prohibiting that within our current zoning code.

**Paul Fritz, Chair**

If you turned it into a room, just another bedroom for the house, you'd have to get a building permit, and we wouldn't give them a building permit, because they would lose their garage.

**Kari Svanstrom, Planning Director**

Right, that we would be able to regulate.

**Paul Fritz, Chair**

Yes, we can regulate that, but again, like Kari said earlier, you can turn it into an ADU and lose your parking space. State law allows that to happen, but again, they would have to apply for a building permit and we would see it and understand what was going on.

**Kari Svanstrom, Planning Director**

Right, and in that instance, usually when there is a development like that, because that whole garage structure, as Jeff was saying, the roof is common area, well the reality is the entire structure ends up being common area, because it's one structure. The townhomes themselves, as conditioned by our building official, will be constructed basically as separate units but are attached. Obviously, they're subject to regulations in terms of modifications that are usually part of CC&Rs; you're kind of free to do what you want to inside of it. Jeff, I don't know if you have a sense, once these are constructed is it going to be joint maintenance for the roofing and stuff like that because they're not attached?

**Jeff Katz, Architect**

Right, we did talk about that.

**Kari Svanstrom, Planning Director**

Usually the exteriors of buildings that are like this, like The Barlow townhomes, the maintenance of the entire exterior, it's like a condo. They are part of the HOA, and the maintenance cost from that and sort of the ownership of that is with a common ownership. The same thing will happen with the garage buildings. And so, Jeff, looking at your tentative map, I think the lot structure will change. You'll have four lots, and then you'll have four sort of G-spaces or something that designate the garage to be attached, so four lots plus a common area lot is what you'll end up with in the final map, and I know that's something the City Engineer will require as well as part of their final map process. So because it's common ownership, I don't know, Jeff, what your thought is about the CC&Rs, but it would be very difficult to get infrastructure and the maintenance requirements if one of the units was an ADU and the others were storage. Also from the building perspective, I think our



building official would have concerns about the separation of the space, because if someone is storing chemicals next door, because they do glazing, pottery, whatever, that might be dangerous and you don't necessarily want that next to a living unit. So there are a lot of complexities with ADUs. I know it's a possibility, but I do kind of agree with Jeff, it's probably not very likely in this situation.

**Evert Fernandez, Commissioner**

How many spaces were in front of them on the street parking, was it three or four?

**John Jay, Associate Planner**

Four.

**Evert Fernandez, Commissioner**

So technically they would probably park in front of the street there; that's public parking anyway. A second question is regarding rainwater capture, that kind of thing. Is that something that we could condition or review, or is that something more Design Review Board, or at least for them to consider it? I'd like them to check it out to see if it's feasible. I wouldn't want to put it as a condition and find out it's something really expensive. How could we handle something like that?

**John Jay, Associate Planner**

I think the best solution would be we consider it as a recommendation from the Planning Commission that the Design Review Board review the rainwater harvesting consideration for the project and if there's a way that the applicant could provide that into the project.

**Kari Svanstrom, Planning Director**

I think that's an excellent idea. That is what the Commission did with Starbucks very recently for the EV stations and the bicycle parking, so that was worked out at the design review level and required by the Design Review Board. You could actually add as a condition a recommendation that the applicant consider the rainwater and Design Review Board review that, or you can make it as an informal recommendation and John will carry that through.

**Zachary Douch, Commissioner**

Before we make that recommendation, perhaps we could hear from Jeff Katz regarding the feasibility. From my own experience, with a site so constricted as this one rainwater harvesting would be an extremely problematic proposition, so I'd hate to forward a recommendation and have the applicant spend a lot of time on something if it's simply non-viable.

**Jeff Katz, Architect**

We haven't explored it in depth. I would tend to agree that it is going to be a challenge on this site. In looking at opportunities to capture roof drainage, I love the optimism that we're going to have enough rainwater to capture, but it also is problematic in designing irrigation systems that rely on a source that can't really be relied on. We are happy to look into it, but it is difficult for me today to commit that we could actually come up with a workable solution.

**Evert Fernandez, Commissioner**

For example, can you catch rainwater for the roof garden? Something as simple as that to consider, even if it goes into barrels and use that for watering, that's an improvement.

**Jeff Katz, Architect**

Right. There are certainly fairly simple systems that can supplement as opposed to being relied on for a water source, so we can take a look at that.

**Steve Kent, Habitat for Humanity Sonoma County**

I capture rainwater on both sides of my house. It's very limited, because unless you have huge storage it takes an inch of rain to fill 500-gallon tanks, and so I think it would be difficult to make it financially feasible to do it in a situation like this, even though I'm a big proponent of it.

**Paul Fritz, Chair**

In the resolution on page 6 of the staff report, referring to some of the General Plan policies, Item 6, I think there's something left off of that: "The City will encourage development of new housing to meet a range of income levels, including market rate housing and a variety of housing sizes and types by developing four townhome units within proximity to..." and the sentence just ends.

**Kari Svanstrom, Planning Director**

I believe this was supposed to be "proximity to schools, office, and retail resources."

**Paul Fritz, Chair**

So maybe similar to Item 4. It's a different policy, but it's sort of a similar response.

**Kari Svanstrom, Planning Director**

Correct. Or you could just delete that since it's already stated.

**Paul Fritz, Chair**

It's a different policy, but maybe the language of how it's addressing is sort of similar. I think it needs something there; we can't just leave it hanging.

**Kari Svanstrom, Planning Director**

And if we do know that this is going to be moderate-income level then we can also just note that instead, because as a city we don't have very much moderate-income homeowner opportunities. We have a lot of moderate-income, but that's because they're small ADUs that the rent not high. So in that regard in terms of what the City is providing, that is certainly a range to have four moderate-income levels townhome ownership opportunities.

**Steve Kent, Habitat for Humanity Sonoma County**

It's highly unlikely it would be very-low. Low I believe goes up to 80% AMI. I think it's possible we could hit that maybe with one or two, I don't know.

**Kari Svanstrom, Planning Director**

We could say moderate- or low-income ownership opportunities, and I think that's really what the policy is talking about.

**Paul Fritz, Chair**

Okay, if we could clarify that language. And Item 8, Policy D-5, I think it should say, "...by providing affordable housing to a variety of families through the Habitat," just a grammatical fix there. Then on the top of page 7, Item B, I'm not sure what the second sentence is saying.

**Kari Svanstrom, Planning Director**

The finding for the conditional use permit of Residential only is that it's not going to be detrimental if you have businesses all around and you are creating a big void in the retail and window shopping area, so is it detrimental to the nearby businesses? This is B?

**Paul Fritz, Chair**

Yes. I guess the second sentence just reads kind of strange to me as well.

**Kari Svanstrom, Planning Director**

"The lots behind this project are Residential Multi-Family." Oh, I see, it's just the grammar that's odd. It's basically stating that the existing uses around this are not Commercial, therefore it's not really going to have an impact on existing Commercial businesses, so this is just outlining. "The lots surrounding this project are Residential Multi-Family and a Masonic Lodge to the north, and as such the project would be compatible with nearby uses," is probably a better way of stating it.

**Paul Fritz, Chair**

Then C I think should read, "The site would be difficult to develop as a Commercial use due to the lot configuration and size and parking requirements." We don't have anything that has no parking requirements. "Always require parking," I think reads better.

**Evert Fernandez, Commissioner**

I don't know if it's amenable to the Commission to add in the recommendation that the Design Review Board and the applicants look at rainwater capture.

**Paul Fritz, Chair**

I'm okay with that as a soft recommendation, but I don't want to put that in as a condition.

**Evert Fernandez, Commissioner**

I don't either.

Commissioner Douch made a motion to recommend City Council accept the resolution, as amended.

Commissioner Fernandez seconded the motion.

**Deborah Burnes, Commissioner**

There was rainwater catching, and there was also the issue of making it ready for solar and handicapped, if you wanted to put the soft recommendations in for those as well.

**Paul Fritz, Chair**

The handicapped we can put a soft recommendation in for as many kinds of features as possible that will make them adaptable in the future, and the solar is a building code requirement to be solar-ready, so they have to follow the building code for that.

**Evert Fernandez, Commissioner**

And also for the electric car setup.

**Paul Fritz, Chair**

I think the infrastructure for the electric car is part of the building code now, and depending on when you get this submitted, Title 24 changes on January 21<sup>st</sup>, so I think it's going to be a requirement if it's not submitted this year.

Chair Fritz asked for further Commission comments. Seeing none, he asked for a vote on the motion.

AYES: Chair Fritz, Vice Chair Oetinger, and Commissioners Burnes, Kelley, Douch, and Fernandez.

NOES: None

ABSTAIN: None

ABSENT: None.

**7. REGULAR AGENDA ITEMS:**

**A. ELECTION OF CHAIR, VICE CHAIR**

Commissioner Kelley made a motion to nominate Vice Chair Oetinger as Chair of the Planning Commission.

Commissioner Fernandez seconded the motion.

AYES: Chair Fritz, Vice Chair Oetinger, and Commissioners Burnes, Kelley, Douch, and Fernandez.

NOES: None

ABSTAIN: None

ABSENT: None.

Commissioner Fritz made a motion to nominate Commissioner Fernandez as Vice Chair of the Planning Commission.

Commissioner Burnes seconded the motion.

AYES: Chair Fritz, Vice Chair Oetinger, and Commissioners Burnes, Kelley, Douch, and Fernandez.

NOES: None

ABSTAIN: None

ABSENT: None.

**8. SUBCOMMITTEE UPDATES**

None.

**9. PLANNING DIRECTOR'S REPORT**

Director Svanstrom provided updates.

The Commission asked questions of Director Svanstrom.

**10. ADJOURNMENT:** Chair Oetinger adjourned the meeting at 9:29 p.m. The next regularly scheduled Planning Commission meeting will take place on Wednesday, June 28, 2022 at 6:00 p.m.