

MINUTES

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

September 6, 2022

7:00 p.m.

Chair Berman called the meeting to order at 7:02 p.m.

Chair Berman explained the conditions for having Planning Commission meetings pursuant to Government Code Section 54953 (as amended by AB 361), to conduct necessary business as an essential governmental function as a teleconference meeting with no meeting location open to the public. She also gave information on how to present public comments participating by Zoom or phone.

ROLL CALL: Present: Commissioners Domurat, Ferguson, Godwin, Leal, Wright and Chair Berman
Absent: Vice Chair Hauser

SALUTE TO FLAG: Led by Commissioner Ferguson

STAFF PRESENT: Planning Director Murdock
Asst. City Attorney Sharma
Sr. Planner O'Connor

Chair Berman opened public comment regarding the administrative business, and seeing no one, closed public comment.

APPROVAL OF ORDER OF AGENDA Commissioner Ferguson moved approval of the Order of Agenda; Commissioner Godwin seconded the motion.

Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Domurat, Ferguson, Godwin, Leal, Wright and Chair Berman
Noes: None

APPROVAL OF MINUTES: None

DESIGNATION OF LIAISON TO CITY COUNCIL MEETING OF SEPTEMBER 12, 2022:

None

ORAL COMMUNICATIONS:

None.

CONSENT ITEMS:

None

PUBLIC HEARINGS:

- 1. CDP-440-22** **File No. 2022-015 – Coastal Development Permit CDP-440-22,** for erection of one variable message sign and associated improvements within State Route (SR) 1 right-of-way as part of Caltrans SR 1 Traffic Operations, Caltrans has a proposed and alternative location. The proposed location is east of the SR 1 roadway and immediately west of APN 018-140-700. The alternative location is east of the SR 1 roadway and immediately northwest of the Pacifica Police Department at 2075 Coast Highway (APN 018-051-050) in Pacifica. Recommended CEQA Action: Consider the State Route 1 Traffic Operational Systems Improvements Project (Post Miles 04 SM-1-26.43 to 47.20) Initial Study with Negative Declaration (SCH No. 2020080229) prepared by Caltrans, District 4.

Sr. Planner O'Connor presented the staff report.

Commissioner Wright thought the process they went through seemed to have them not going as smoothly and working together as well as they might and he wondered if staff had any suggestions on future dealings with Caltrans on how they could not have to vote them down and work better with them to come up with the right thing in the first place.

Sr. Planner O'Connor thought, in general, our city communicates well with Caltrans through Public Works in getting the communications between them and Planning may be of benefit in terms of coordinating future projects.

Commissioner Wright stated that he wasn't disappointed with what Planning staff did, but he thought there was some back and forth they could have avoided and had a better spirit of cooperation, as it seemed a bit adversarial at the last meeting, and he wanted to work better with them in the future. He appreciated that they worked together and came up with an alternative site that he thinks is far superior to where they started.

Commissioner Domurat asked if they were expecting any presentation from Caltrans on how they feel about this alternative.

Sr. Planner O'Connor stated that the applicant is present and they do have a presentation available.

Commissioner Domurat would like to hear from them.

Chair Berman asked they have questions for staff before they hear the applicant's presentation. She stated that, seeing no hands raised, she opened it up to the applicant.

Nandini Shridhar, Project Manager, stated that Sr. Planner O'Connor already presented the facts of the case and they weren't planning to repeat that in a presentation but they were present to answer any questions they might have. She stated that, at the last public hearing, the Commission had voted on the wireless detection device, a contraption that is mounted on existing signal poles, which was at 9-1, and on the 9-2 location, the Commissioners pointed out that there was a

conflict with the housing development. She stated that they went along with the Commission's recommendation of locating the VMS sign to the north of Reina del Mar. She stated that they have a set of parkland slides and Sr. Planner O'Connor can show them a simulation of that location that they are now proposing, which is consistent with what the Planning Commission desires. She asked if that was okay.

Chair Berman stated that it sounds fine to her.

Sr. Planner O'Connor asked Ms. Shridhar if they have everyone present as a panelist that she needs for her presentation or is there anyone else that she needs to promote.

Ms. Shridhar stated there was Chris Paddock, Aung Maung, Zachary Gifford.

Sr. Planner O'Connor stated that she will share her screen with their presentation.

Ms. Shridhar stated most of it was what Sr. Planner O'Connor described, but she thought it would be great to show the simulation of 9-2. She showed the sign, and stated that the signs would be off most of the time unless there was an emergency or an incident along the route and that is what it would look like. She stated that the posts are about six feet from grade. She stated that the metal beam guardrail is to protect the VMS and motorists in case they were to veer off the route for any reason. They tried to use materials for the posts that are more in sync with the rural character of the route and the environment. They did their best to locate in a location where there is already a billboard and power supply which is critical for the VMS. She thought the Commission was aware that this is part of a much larger project which goes through other jurisdictions along the 20-mile segment of Highway 1 where they are proposing some other VMS signs as well. She stated that their team is available for any questions.

Chair Berman asked if any commissioners had a question for the Caltrans team.

Commissioner Ferguson referred to the guardrail they proposed, and asked if there was a guardrail in the original proposal.

Ms. Shridhar thought there was but the original proposal was also an elevation and slightly higher than the roadway. She asked Aung Maung if he could answer the question. She reiterated that she thought there was a guardrail there and they tried to place it adjacent to the five VMS they are proposing along the 20-mile stretch to prevent anything from hitting it.

Commissioner Wright wondered if they have sufficient room in the event that they need to service the sign, i.e., can they pull off the roadway behind the guardrail to offer them some protection while they are working on the sign.

Ms. Shridhar thought they do as they have looked into all of that and they have the ability to obtain power supply and service the cabinets in the VMS as needed over time. She stated she can't see anyone so she doesn't know what is going on.

Chair Berman stated that she isn't seeing any hands.

Ms. Shridhar stated that Aung Maung was their technical person, and if he raises his hand, they can let him speak.

Mr. Maung stated that there are any questions, he can assist in providing answers.

Ms. Shridhar asked him if he heard the question the asked about having enough room.

Mr. Maung stated that it is correct that they have the room to service the cabinet off behind the guardrail.

Chair Berman didn't see any other hands, and she thanked everyone on city staff and Caltrans team for working together and coming up with this superior location which she thinks will benefit more people from the community and is in quite efficient spot.

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

Commissioner Ferguson stated that they have seen this once before and reconfirming if any changes were made beside the location. He feels good about the changes made and echoed Chair's statement that it is a superior location and addressed every problem he had the first time around.

Chair Berman asked Commissioner Leal if he had anything to add or was he ready to make a motion.

Commissioner Leal stated he would echo Chair Berman's comments in thanking staff and Caltrans coming together to turn it around quickly. He knew it was a long process to get them to the first hearing. He agree that this location is positive for the community. He was in favor of the original location at that time and still in favor of the project. He reiterated the need for this in this area, as there was an incident two weeks that could have potentially directed traffic up Sharp Park Road to avoid going south on 280 around Serramonte where the sign could have been helpful, but they didn't have a sign in that community and he sees the benefit. He stated his opinion is that the distance from the Sharp Park Road turnoff to the sign is still about a half mile and motorists can still get over in time if they see a sign and make adjustments to their direction of traffic. He agrees with the comments made.

Chair Berman asked if there were any more comments or ready to make a motion.

Commissioner Ferguson moved that the Planning Commission FINDS the State Route 1 Traffic Operational Systems Improvements Project (Post Miles 04 SM-1-26.43 to 47.20) Initial Study with Negative Declaration (May 2021, SCH No. 2020080229) prepared by California department of Transportation, District 4 adequate for purposes of complying with the California Environmental Quality Act; and APPROVES Coastal Development Permit CDP-440-22 by adopting the resolution included as Attachment A to the staff report, including conditions of approval in Exhibit A to the resolution; and incorporates all maps and testimony into the record by reference; Commissioner Leal seconded the motion.

Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Domurat, Ferguson, Godwin, Leal,
Wright and Chair Berman
Noes: None

2. TA-122-22

File No. 2022-017 – Text Amendment TA-122-22, initiated by the City of Pacifica, to amend various Pacifica Municipal Code provisions to create zoning provisions applicable to processing and issuance of outdoor commercial permits for existing commercial businesses. Recommended CEQA Action: Exempt from the California Environmental Quality Act (CEQA) under Class 1, Class 3 and Class 4 exemptions under CEQA Guidelines Section 15301, 15303 and 15304 and under the “General Rule” exemption in CEQA Guidelines §15061(b)(3).

Sr. Planner O’Connor presented the staff report.

Commissioner Domurat stated that he was sure there were fee structures for the permitting and use of this area, and he asked if there was some allocation of some kind of fees other than escrow that, when the permittee or user abandons that site, any repairs or damages done to that area are taken out of some escrow fee or return to them if there has been no damage. He stated that, if they are mounting something into that area of the right-of-way, it is returned to the community in the same condition as it was given before they did any kind of modifications.

Sr. Planner O’Connor stated Council has directed staff to propose a flat fee for this process and those will be presented to Council when the ordinance is ready to be adopted. She referred to his question of holding a deposit to address potential damage, and she thought their encroachment permit process does have conditions that would require that. In addition, they were recommending that they require the applicants to enter into a license agreement and that is possibly something where they can add a condition to make sure that sufficient funds are obtained to address any potential damage to the public right-of-way.

Commissioner Leal referred to the use of the spaces and the limitations of the public in using them, and stated that many of the spaces will be in commercial areas which have multiple commercial businesses. He asked, if patrons of other businesses get a cup of coffee and want to sit in the spaces approved for another business, whether there are limitations related to that and who controls who can use the spaces as he read that it is an extension of the commercial business that applied for it.

Sr. Planner O’Connor stated that, with spaces in the public right-of-way, that space will be available to the public regardless of the fact that they’re customers of the sponsoring business. She stated that Council is aware of that, and they believe from the experience of the existing parklets, that the public in general be mindful if a business says they need the space and request that they sit somewhere else. She thought the public will have the right to be there if they choose to be.

Commissioner Ferguson appreciated seeing this project and it was thoughtful work by staff for providing these outdoor spaces. He stated that they’re steered towards the encroachment permit freezing the right-of-way but it sounds that there is some other way to use the space using a use

permit. He asked if they can explain one method versus the other and what the difference is and he mentioned that a list of businesses eligible for an encroachment permit notes personal services and offices, but he didn't know what a personal services was and he asked for an example of what that is.

Sr. Planner O'Connor referred to his second question, explaining that their code doesn't have a definition of an office or personal services, but she believes from past history that it is language that is included in their C1 neighborhood commercial regulations for permitted uses and, in the past, she thinks staff has interpreted personal services to be barbershops, salons or professional offices such as insurance companies, etc. She stated that they don't have definitions of those items but they will continue to implement their current interpretations of those terms moving forward with these permits. She then referred to his first question regarding the benefit of this permit versus a use permit, and stated that our code allows a commercial business to obtain a use permit to conduct commercial uses outside of an enclosed structure and that process requires a public hearing to come to the Planning Commission for approval and often it is an expensive and time consuming process that many commercial businesses are not eager to go through. The intention of this process is to provide a more streamlined process but with it comes some limitations of the extent that they will be allowed to conduct their commercial business outside. She stated that another benefit of this process is that it would allow you to do that business within the public right-of-way whereas that isn't an option currently under our use permit process.

Commissioner Wright stated that, in the picture they showed of a building on a corner where they had sidewalk furniture that was actually on private property, and in terms of provisionally impaired people, he noticed that there wasn't any obstruction to stop people using a cane from running into those chairs, tables, etc., and he asked if that is being considered for any of these sidewalk issues. He stated that in the city, they typically make them put a plantar box there to alert people so they don't run into someone's table full of food.

Sr. Planner O'Connor stated that was not a design requirement of a sidewalk public right-of-way space on the sidewalk. She stated that, if it is required under ADA or part of the building code, they can implement those improvements as necessary, but that is not currently a requirement of the ordinance as drafted.

Commissioner Wright referred to her statement that it was a first come first serve basis, and he wondered, if there are two businesses on the same block that would like to have access to the street and the end of the first year has come and somebody else wants to apply for one and somebody wants to reapply to keep their existing spot, how is that worked out.

Sr. Planner O'Connor stated that it is a first come first serve basis, as long as the person is reapplying and obtaining a renewed outdoor activity permit, and they will be able to continue that use. She stated that the ordinance does require that the applicant for the parking lane scenario reach out to its commercial neighbors and inform them of their intent to apply or reapply for this permit. She stated that it was Council's desire that this type of communication would encourage some coordination between the business owners to find a solution that helps everyone and reduce appeals for applicant's going through the process.

Commissioner Wright asked, in the event they are putting up umbrellas or canopies, etc., if they get a big wind and somebody gets hit by one of these flying things, whether we aren't incurring any liability as a city for any of those things, but it goes with the permit holder.

Asst. City Attorney Sharma stated she was having some lighting issues and her camera is off at the moment. She stated, in order to tie any liability to the city, there would have to be some sort of causal connection and a permit is a very attenuated circumstance in the event someone is injured by a windstorm or something of that nature that occurred on the property. She didn't see foresee exposure based on that.

Commissioner Godwin stated he was going to ask a similar insurance question that was just asked and his question was answered.

Commissioner Domurat stated, similar to the question just asked, he would like further clarification. He asked if it was true that the permit holder will have the liability responsibility for anything they would put up so it doesn't fall on someone's head. He asked, if you are a member of the public and go to that area and you do something that causes some kind of damage to someone else, why you would have the permit holder liable for people who use that area, are the public and not part of the business. He is leery about what Commissioner Lead brought up about the public use of this thing. He stated that, if you charge someone a fee, it's a short term lease for that space and the city will allow it because it is city property, he would be challenged. He thought, if you are a small restaurant, takes reservations and those 3-4 areas are part of your business and you have members from the public sitting there, there would be a lot of conflict there. He wasn't sure, when you charge someone a fee, what rights they have to tell others that they can't use it. He stated that the same thing would apply for the liability. If that restaurant owner is liable, is he also liable for members of the public that he doesn't want to have there. He thought it sounds like a lot of confusion and there could be a lot of challenges about things like liability insurance, etc. He didn't know if he had a question or maybe they can figure out a couple of questions out of that, but he felt it was a good point when you start looking at the public using the spaces.

Chair Berman asked Sr. Planner O'Connor if she wanted to respond.

Sr. Planner O'Connor stated that the only clarification she would make is that they will be charging them a fee to process the permit, and she didn't believe the fee would be for the use of the space. She stated that it has not only been the recommendation of City Council that they keep these spaces in the public right-of-way open to the public, and she stated that Asst. City Attorney Sharma spoke when she dropped off, and she thought her recommendation was that the status that we keep these areas in the public right-of-way open to the public. She didn't have a good answer, but it is noted.

Asst. City Attorney Sharma clarified that this is not a lease agreement, so there is no charge for using the space and only processing costs. She stated that the liability depends on the specific circumstance, and it is hard to opine on a hypothetical circumstance when a member of the public could file suit against the business owner but through a licensing agreement and encroachment permit and city's permitting decision. She stated that the city would not have exposure for approving the ordinance.

Planning Director Murdock added that another component to this response is that it is an option for a business or owners to enter into this type of public right-of-way facility that would expose them to whatever risk he is perceiving may be present. He stated that they are not obligated to

undertake that and there are other options to undertake outdoor uses on private property where they may have the right to exclude general members of the public to manage their exposure.

Commissioner Wright asked if it would make sense for them to recommend to Council that they consider adding language to have them be named as additional insured or indemnified once the permit is issued.

Sr. Planner O'Connor asked Asst. City Attorney Sharma if that is a question she can help answer.

Asst. City Attorney Sharma stated that indemnification is usual a standard provision in an encroachment agreement and she would imagine that it is also true in Pacifica, although maybe Planning Director Murdock can answer that it is a standard provision in permit licenses.

Planning Director Murdock thought such language was already in the recommended ordinance text on packet page 293, subsection 5204F, proof of commercial liability insurance and endorsement showing the city of Pacifica as an additional insured on such policy.

Commissioner Wright stated that calms him about that.

Chair Berman stated she had a couple of questions before public comments. She referred to the non-amplified sound, and asked if Pacifica considers the standard boombox speaker amplified sound or additionally the use of any projection of sound other than acoustic guitar being considered as amplified.

Sr. Planner O'Connor stated that the intention was it was all acoustic, and boombox would be considered amplified as you can increase and decrease the volume on the speakers. She stated the intention is purely acoustic.

Chair Berman thought this may be addressed in the building code requirements that are implied, but she asked if there was intended to be lighting requirements for the parklet. She saw in the staff report that there shall be no electrical hookups directly connected to the parklet, but there could be battered powered electrical facilities there. She wondered if there were intended to be lighting requirements, like foot candle requirements in the parklets.

Sr. Planner O'Connor stated that there were no standards that are provided in the ordinance or the guidelines for that other than the fact that they would be allowed, as long as they are not connecting to the city power or crossing the public right-of-way, but there were no specific lighting requirements for that.

Planning Director Murdock added that they are also prohibited from using internal combustion generators so they need some sort of other battery pack to power such a lighting source.

Sr. Planner O'Connor agreed.

Chair Berman stated she had a few more questions and comments, but she will save them until after public comment. She asked Commissioner Domurat if he had another question before public comment.

Commissioner Domurat stated that this was taking everyone by surprise a few years ago, and he wondered if the city had an opportunity to do any lessons learned from any other communities on the peninsula or in San Francisco. He was trying to look at the whole community of Pacifica and where this would happen. He didn't think we have as much as San Francisco would have where they have a lot of competition for that sidewalk space and he wondered if there were any lessons learned from others have done through successes and failures and challenges they may have found.

Sr. Planner O'Connor stated our ordinance is a bit more unique than what she has seen for other jurisdictions as many of them are primary outdoor dining ordinances and it has been the city's desire to make this much more of an inclusive ordinance. She stated that it brings new aspects to it that we may have to go through lessons learned. She stated that the ordinance as designed now is based off of the temporary ordinance we have been operating under for the last two years and Council has provided further direction based on what they heard of what is or is not working or what they want this to include. She didn't know if they reviewed so many lessons learned from other jurisdictions, but she thought they have incorporated lessons from ourselves.

Commissioner Godwin didn't check on this, but he would like to know if more and more people are bringing dogs to outdoor restaurants and he asked if there are any restrictions on animals or are they prohibited.

Sr. Planner O'Connor stated that there is no mention of dogs as to whether they are permitted or not in the ordinance.

Commissioner Godwin asked, if a member of the public shows up with a dog and its an eating establishment, if there is some room for some conflict between what people assume is appropriate and inappropriate.

Sr. Planner O'Connor stated that they are viewing this as an extension of the sidewalk or a public area space, and it doesn't change the conflict that may occur under current scenarios.

Commissioner Wright asked them to refresh his memory about what our policy is on those propane heaters and if they consulted with the Fire Department to make sure they're on board with that.

Sr. Planner O'Connor stated that the Fire Department has reviewed the guidelines in terms of the propane heating element and the design guidelines does include buffers that need to be maintained from these units and fire extinguisher minimums that need to be established to accompany those types of heating elements.

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

Commissioner Wright stated that they have a new Sharp Park Plan, and he thought, if they are trying to promote that area and draw in more restaurants, etc., perhaps one little parklet in our main business sectors may not be enough. He asked if there was any contemplation of increasing the number or are they going to wait to see how it goes with the one and go from there.

Sr. Planner O'Connor stated that there are concerns about allowing too many parklets and the impact it may have on coastal access and managing it at one per block does help the city in the

future when they want to come back for an umbrella CDP to help those applicants build a parklet without having to get their own CDP and it helps with that standard that coastal access will not be impacted.

Planning Director Murdock added that they all understand that it is easier to give than to take, so starting conservatively with one space per block, seeing how that goes and how all the different impacts can be balanced as Sr. Planner O'Connor said, parking among them is probably a prudent approach in staff's recommendation and, at some point in the future if appropriate, the city could add additional spaces per block or have some other criteria for determining an appropriate number.

Commissioner Ferguson stated there is a note on the potential for coastal use permitting in the coastal zone which would be all of west Sharp Park wherever it is applicable, and he asked if that applies in the current temporary system we have, i.e., are people going before the Coastal Commission or getting some kind of a coastal use permit for anything they are doing in the street in the coastal zone or is it just has not occurred yet.

Sr. Planner O'Connor stated that the applicants under the temporary Covid-19 temporary outdoor activity permit did not obtain any coastal development permit for their spaces and this would be a change from that.

Commissioner Ferguson asked if that would apply to all businesses in the coastal zone.

Sr. Planner O'Connor stated that they would have to review them on a case-by-case basis, but it is likely the placement of furniture or structures will be considered development and all developing is triggering of a coastal development permit unless it's exempt. She stated that they currently don't have any exemptions that clearly apply to a mass scenario and they believe that proceeding with an umbrella CDP would basically serve as that kind of streamlined process that the city will do that for the applicant so they can check it off their list as long as they meet the standards of the umbrella CDP details.

Chair Berman stated she will ask some of her questions. She referred to the draft guidelines on packet page 386, and thanked staff for preparing it as she thought it was very helpful and will be for business owners that want to pursue this. She referred to the general standards regarding the wire and electrical cords, and asked if we can add some mention of ensuring that they aren't tripping hazards. She understands the intent is not to have cords span into parklets but if there are any electrical cords used, she wants to make sure there are no tripping hazards.

Sr. Planner O'Connor stated that they can add that.

Chair Berman stated that in that same general standard section, she asked if consideration for vehicular site triangle considered or will that be a part of the encroachment permit process for any parklets in particular.

Sr. Planner O'Connor stated site triangles were not specifically considered, however, in the ordinance, parklets will need to be set back from intersections of at least 25 feet and that was reviewed by Engineering and found to be adequate. She stated that specific triangles of each intersection was not conducted.

Chair Berman wanted to hear that Public Works was able to give their input. She referred to section 3 for additional standards for designated outdoor commercial area on the sidewalk of a public right-of-way, and she asked if they could add mentioning maintaining the 4-foot minimal sidewalk clear tier. She knows it is mentioned in the ordinance language but she thought these guidelines are going to be more easily referenced by business owners.

Sr. Planner O'Connor stated that they do that.

Chair Berman referred to section 4 of the guidelines for the additional standards for designated outdoor commercial area on private property, and wondered if it would be beneficial to clarify that these need to remain outside of emergency vehicle access lanes.

Sr. Planner O'Connor stated her only suggestion to that addition is maybe the word necessary as she believes they currently have one outdoor activity area that is within an emergency access pathway but she believes our emergency responders have found that it is not a necessary access way so she would suggest the word necessary in front of her addition.

Chair Berman agreed with that, adding that it was something that came to mind that she wanted to bring up. If her team and the Fire Department did not believe it will be a burden to them if there is furniture and potentially some semi-permanent structures encroaching into EVA lands on private property, she would defer to them. She saw Commissioner Leal's hand go up. She had some comments on the text amendments but she will break it up and pass it off to him.

Commissioner Leal had some comments. He was happy to see this program come into some formality within Pacifica and he thought these spaces were great and something they talked about this 5-6 years ago when he was on the Economic Development Committee to make it more official within Pacifica. He sees it as a great opportunity with the Sharp Park Specific Plan, Coastal Plan, General Plan, etc., and it is great to see the momentum with this happening. He was In favor of this program. He wanted to add a comment regarding the lack of amplified music and the hours and days when it was limited. He stated that his initial reaction on reviewing the guidelines around 4 to 8 pm, and he thought 8 pm was quite early to cut it off especially if not amplified. He thought 10 pm was more appropriate, then on doing research on businesses that may be using the space and may have life entertainment, most close by 8 p m, and he was initially going to propose changing the hours but after looking at the business are currently using them, they close at 8 pm so he wasn't going to suggest any changes for now as the staff report says that we have the opportunity to change it in the future, if there is a need or demand to expand that in the future, as it is on the table.

Chair Berman stated that his comment overlaps with another one she had regarding the amplified music. She stated, in her experience, utilizing parklets in other cities, she enjoy when there is some light background music or an extension of whatever is playing in the restaurant and it extended to the parklet. She thought it was a nicer experience, and she would hate to restrict businesses from appropriately playing just moderately quiet harmless music and she wondered if, perhaps just the noise ordinance section can be referenced in this text or the decibel limit. She felt the non-amplified definition is a little limiting and affecting anyone with an acoustic guitar or their voice, not even a microphone. She wondered about any other opinions from Commission or staff.

Planning Director Murdock stated that he will jump in. He stated, from staff's perspective, regulation of noise is one of the most challenging community impacts to regulate. He stated that the equipment needed to do some quantitative measurement can be difficult to obtain, to calibrate it and make it widely available. He stated other more subjective measures such as disturbing noise levels is very subjective and difficult to apply fairly and uniformly. He wished they had someone from the police department to comment on their experiences in regulating loud and unruly parties. He suggested that the Commission delineate some reasonable balance and, if they want something more than non-amplified music, setting some distance standard where it is no longer audible that is easier to apply and understand for the business owners who also need some guidelines as to how loud their music can be, and if they can pace off 25 feet or what the Commission determines is an appropriate distance for managing that impact as that might be a more workable standard than referencing another ordinance or a particular decibel level.

Commissioner Leal added that he feels, with the non-amplification as well as the hours, they kind of tip the scales too far in terms of the tentative entertainment value where it may over correct, such as someone with a full drum set with no amplification may produce much more noise than someone on a guitar with a microphone and small speaker. He understands the intent they are trying to get to, but the way its written it still doesn't get to the intent that people are looking for. He stated that, in reading the Council's study sessions comments, as well as public comments that was previously, a lot of people look at it as a way of measuring decibels. He agreed with Planning Director Murdock that it is hard to measure that. He stated that, if they had a way to provide guidance, that would be great but he didn't know if there was any precedent in terms of other examples that some other jurisdictions put out that we could use. He was in favor of adjusting that to allow for some level of amplification if they can find the right examples.

Chair Berman valued his opinion, and she suggested that they put a pin in that and go on.

Commissioner Wright stated he would support the general idea of some soft music playing in the background that isn't disturbing to other people or nearby people living in a residential spaces above with small children who go to bed at 8 pm. He liked Planning Director Murdock's suggestion of a certain number of feet away that it be inaudible, but he could support that. He stated that he has a decibel meter if they did want to do measurements and could help them with that.

Chair Berman thanked him for volunteering to be on call.

Commissioner Domurat stated that you can measure decibels on every I-phone so there are apps for that. He measured how loud the trains were on BART every time it goes through the tunnel and shaking and is violently loud and he measured the decibels. He stated that, to formally measure it, is an official measurement and you will probably get neighbors next door coming and saying that the decibels are high. He stated that is very easy to do, but he thought they were pointing out that it will be situational. If you are somewhere like Pedro Point Shopping Center and you have a little bit louder music, your neighbors will tell you whether or not it's appropriate or not. If you have a small restaurant that is in a neighborhood, he thinks it will be situational and will monitor itself, and you have to be respectful of your neighbors and if you are doing something that is too loud and too long, then you should change it. He didn't see that as an issue, and he thought it was a good idea to do these things but he thought there will be some challenges in certain areas like in Rockaway Beach with people coming in and sitting in the areas when the

restaurant is depending on it for their business, but otherwise, he thought it was great that they are moving forward on this.

Chair Berman thanked him, and then stated that they could circle back to the noise aspect and let them ruminate on it in the meantime. She had another item she wants to deliberate on, i.e., she has a concern with the mad rush that she feels may happen on a block that has a lot of bike rent commercial businesses. She had one clarification question regarding one permit per block, specifically does that include both sides of the street.

Sr. Planner O'Connor stated that it does.

Chair Berman then referred to one permit per block and asked if that also includes tables and chairs on the sidewalk.

Sr. Planner O'Connor stated that density limitation is only applicable to the outdoor commercial permits in the parking lane.

Chair Berman was wondering what other members of the Commission might think of or agree with her concern of not allowing equity to the businesses if multiple businesses aren't able to use the same parklet because they are across the street from each other.

Commissioner Domurat gave an example, i.e., he was in Seattle and some of the communities where it is all commercial and almost all restaurants, and everyone has their own parklet right next door to each other and everything seems to work great. The sidewalk is open, people pass by, the parklets are being used. He didn't know if they were open to the public or not, but every single restaurant had its own parklet right next to each other and they all seemed happy about that. He wasn't sure if it was a challenge other than a safety issue and traffic pattern issue.

Commissioner Wright shares the concern with the opposite side of the street issue and he also shares her concern about the initial onslaught of applicants. He suggested that it might be a better thing to open up an initial application period such as for two weeks, and then have a lottery if there are multiple applicants as opposed to a strict first come, first serve type of thing.

Chair Berman was wondering about staff's opinion on why they landed on the first come, first serve approach versus something like a lottery.

Sr. Planner O'Connor stated that a lottery system can be a little complex to create and manage and that was why she didn't draft that style up for this. She added that she didn't know if she shares the Commission's concern about an onslaught of on street parking lane applicants coming in right-of-way as currently applicants can seek to establish these spaces under the temporary outdoor activities permit process which has currently a lot less standards that would need to be met in order for them to do that and they only have two of those applicants within the entire city. She didn't see why, in the scenario where requirements are a little bit more stringent and a more complex process, they would want to establish an on street parking space.

Chair Berman thought she brought up a good point which is a good perspective to have, i.e., the current process to open a parklet is simpler than what it is going to be. She believes it is only a Grape in the Fog and Breakers that she is aware of that utilize the right-of-way parking.

Commissioner Godwin stated he kind of supports Sr. Planner O'Connor's point, at least in his going out on the peninsula, he sees that the number of places with parklets is going down, not up, and the idea that we are going to have a great rush to do something that other people don't seem to want seems a little optimistic to him.

Commissioner Domurat stated that he thinks they may see it be seasonal, as with the present temperatures now, everyone would want to sit outside, but as we get into our winter timeframe, he thinks they will see less and less people utilizing it. He concluded that they will have a seasonal situation during the summer months seeing more use and applications and in the winter time we wouldn't.

Chair Berman thought her concern was addressed, especially knowing this is our first attempt at establishing a permit process for the parklets and they could always revisit it. She asked Sr. Planner O'Connor what the process would be of revisiting this, i.e., is it possible to receive an annual report a year after this is established and amend the text if deemed necessary.

Sr. Planner O'Connor stated that it is an option for Planning Commission to recommend, and that might be a recommendation for which the City Council is supportive. She thought, outside of that, it is just going to be the Councilmembers hearing from their constituents on what is or is not working and directing staff accordingly.

Commissioner Domurat asked, if an applicant puts in an application, whether there is an appeal process from others in the neighborhood against that, and would that drive the potential to make changes as we go if an appeal was brought in front of the Commission.

Sr. Planner O'Connor didn't know if that was an automatic assumption if the permit gets appealed because someone doesn't agree that staff has made the appropriate findings in issuing the permit, but they will process that as they would any other administrative appeal where they bring it to the Planning Commission to take action on it. She thought it may be, at that time, that they will see a need for an edit or revision to address an issue.

Chair Berman stated that she wasn't necessarily recommending that they perceive this now, but she asked if it would be possible to add a provision for subsequent permits on one block, given that they go through public hearing and review by the Planning Commission. She gave the example if there is one parklet on Palmetto and that was the first come, first serve business, and the next year that the business reapplies and gets it again, and another business across the street wants to open a parklet, and asked if they can pursue a different path to getting a permit where it has to go through Planning Commission review.

Sr. Planner O'Connor thought the alternative path that the commercial business owner would have to find another business that they could team up with to place a parklet in front of a business that is a block away so it wouldn't be in front of their property but in front of their co-business sponsor's property. She stated that, as drafted, that is the only alternative path that the ordinance provides.

Chair Berman stated that she didn't know if she agrees with that approach logistically, depending on what the service is, but she isn't overly concerned now, so she was in favor of approving the text as written and deliberated on at this meeting, but she thought it was something to consider for the future. She wants to circle back to her questions about lighting. She thought it was important

to have the parklet areas properly lit and she didn't know if the best means to do that was through the encroachment permit review process and whether some form of the building code can be applied to the parklet. She feels that the parklets do need to be properly lit. She then circled back to the noise item that they discussed earlier, and asked if the Commission wanted to look into a different means of measuring the noise output or are they okay with the text as written for non-amplified.

Commissioner Leal did research and he had a couple of examples to share with the commissioners of what other jurisdictions are doing. He referred to Santa Monica where they don't allow any amplified systems which are proposed. He stated that San Francisco does quantify the rules for outdoor use of amplified sound. In addition to limiting hours, they also have a permitting process for these events, but what it says in their pamphlet is that the volume of sound must be controlled so it is not audible more than 250 feet from the furthest attending audience member. He thought 250 feet seemed like a reasonable amount of distance. He also found in San Francisco's and Half Moon Bay's code is that it is not quantifiable but qualitative that amplified sound may not be unreasonably loud, ruckus or disturbing to persons with normal sensitivity within the area of audibility.

Planning Director Murdock stated that he also thought about the question of noise and, similar to what Commissioner Leal found in San Francisco, he referenced the general plan on outdoor allowable noise levels for commercial areas, and in general they are 65 decibels and if they consider that an outdoor activity is not generating more than that, then generally speaking, the estimated distance is about 175 feet before that noise approaches the ability of humans to perceive with ordinary human hearing and it is a similar amount but a little more conservative than what Commissioner Leal found, but 175-foot distance would seem to achieve consistency with the General Plan noise levels and something readily quantifiable by enforcing agent or officer.

Chair Berman thanked both of them, adding that it was extremely helpful. She was personally in favor of radial perceived noise limit. She asked Planning Director Murdock if he had a recommendation of a preferred distance if it is radial or decibel if it's an objective limit.

Planning Director Murdock stated that he does, and he added to Commissioner Leal's point about a block distance, stating that the distance from Montecito Avenue to Santa Rosa Avenue on Palmetto is about 190 feet, and that gives you a sense that you don't want the noise spilling over to the next block or multiple blocks, and he thought it was a workable standard. He would recommend not tying it to a decibel level but a perception level with an objective distance which he thought is readily available for staff or police to take out a wheel and measure as that is equipment that is readily available to them to use that ordinary human perception standpoint. He thought it was favorable to the business operators as any additional background noise from vehicles or other sources of noise are likely to attenuate that noise source at less than that distance.

Chair Berman agreed and thought it sounds reasonable. She asked if they land on 175 or 150.

Commissioner Wright stated that he could support the 175 number.

Chair Berman saw agreement from Commissioners Leal and Ferguson. She asked Commissioner Godwin what his thoughts were.

Commissioner Godwin was still thinking about it, but he likes the ideas of something about the level of an allowed truck coming by which he thinks is around 60 decibels and he thought somewhere around 150 feet would be a reasonable distance if people want to use that. He was looking of some references to see what he finally thinks.

Commissioner Domurat would go with 150 and they modify it later. If it doesn't seem loud enough, they can go to 175 or 200. He stated that they can just settle on a number and they can change it later. He stated that 150 sounds good, being more rounded than 175.

Chair Berman stated that she will leave it to whomever makes the motion.

Sr. Planner O'Connor asked if she would clarify if that is the limitation within the same hours and days as detailed in the ordinance.

Chair Berman stated that it was her assumption that it would be, and asked if any other commissioners had thoughts.

Commissioner Ferguson thought about the hours and Commissioner Leal brought up the 8:00 stop time which he did think was appropriate. He stated for people that don't have regular hours and sometimes it's nice to not have music playing. He thought it may start too late especially on the weekend and no music before 4 pm and referred to the influx of when people were here on the weekend and they are trying to attract tourists. He thought 4 pm is more than half the useful hours in planning to attract people as people are heading home. He stated that he would plan for probably noon or 11 am which would allow people to sleep in and that would just be for Saturdays and Sundays.

Chair Berman stated that it was just for Saturdays and Sundays, and she asked Commissioner Ferguson if, on Thursdays and Fridays, he would support starting at 4 pm.

Commissioner Ferguson didn't know what drove that 4 pm start time, i.e., being respectful of schools and whatever else might be going on, but he didn't see a reason to bring it earlier than that. He stated that was just for the parklet applications, as if you look at a business like Winter's that plays music outdoors in their parklet parking lot and they are still using it outside these hours.

Chair Berman thought the language was under the general provisions applicable to all permittees. She asked staff to clarify whether this only applies to parklets or all permittees.

Sr. Planner O'Connor stated that it was for all permittees.

Commissioner Ferguson asked if your allowed to run a jackhammer or hammer drill on concrete by my next door neighbor, he would have no problem with someone playing music if that really is the limitations anywhere on private and commercial property and he suggested putting it a 8am.

Chair Berman stated that, to summarize where they are getting to for a motion, she supports Commissioner Ferguson's recommendations or ideas on adjusting the noise aspect of the provision which is for Thursdays and Fridays the provision would remain from 4-8 pm and she asked if it would be Fridays, Saturdays and Sundays.

Commissioner Ferguson stated that for Fridays, Saturdays and Sundays. He stated that they recognize public holidays.

Chair Berman stated that Saturday and Sunday would start at noon.

Commissioner Ferguson stated he was fine with pushing Friday to noon as well. He didn't know what businesses would be taking advantage of that, but if it helps someone, that's great.

Chair Berman understood.

Commissioner Wright asked if they were adding public holidays.

Commissioner Ferguson agreed, adding that he wasn't sure how to quantify that, but that is a big opportunity as that is when we are getting our biggest influx of tourists.

Chair Berman asked Sr. Planning O'Connor if she has direction should the Commission pass the motion and approve where we are getting at with this noise language.

Sr. Planner O'Connor stated that the consensus she heard was revising the noise standards to allow for live entertainment to be audible for a distance of 175 feet from the source and allowing it to occur 4-8 pm on Thursday and 12-8 pm on Friday, Saturday and Sunday and maybe, if the Commission is open to it, we can add city-observed holidays.

Commissioner Ferguson stated that was great.

Commissioner Godwin was also in favor of that.

Chair Berman stated she was also.

Planning Director Murdock suggested an alternative approach to federal holidays as those are enacted by law and are a more standardized reference as there are no city adopted holidays but are holidays observed in memorandum of understandings with the union but he thought it is a confusing hodgepodge of sources.

Chair Berman agreed that federal holidays are quantitative enough.

Planning Director Murdock stated that there were a handful of other potential revisions that the Commission discussed, not all of which he was clear on their being a Commission consensus. He stated if this is the appropriate time, he can read through them and they can give head nods or confirmation if that is not the consensus of the Commission.

Chair Berman agreed.

Planning Director Murdock referred to Commissioner Domurat mentioning efforts to obtain a sufficient deposit or bond for damage to the public right-of-way to ensure it is returned to the pre-permitted condition. He thought they discussed that it was handled in the encroachment permit process and there are standard conditions to that effect that he checked on the Public Works website and that issue is likely already addressed. He didn't know if there was a desire for the Commission to insert something in the ordinance.

Chair Berman stated that she saw Commissioner Domurat nodding and she stated it was also okay with her.

Planning Director Murdock stated that they will delete that. He then said Commissioner Wright recommended requiring some sort of delineation of sidewalk furniture for visually impaired persons to prevent them from walking into tables and chairs. He thought they were unclear on whether that is a formally applicable standard in the California building code and the Commission may want to include that to ensure the safety of those persons with visual impairments.

Commissioner Ferguson ask if, within the parklet provisions that are mentioned in the document, there was any provision for securing the space as far as it's in a parking spot. He assumed they were not putting table and chairs into the parking spot, but some provision for a physical barrier to separate from traffic. He saw a one-foot buffer zone but he didn't see anything that speaks specifically to the size and protection and visibility of separating that space from the roadway and adjacent parking spots.

Planning Director Murdock asked Sr. Planner O'Connor if she wanted to touch on those barrier requirements and types of permitted locations to which they would apply.

Sr. Planner O'Connor stated that, in the design guidelines, there are those types of standards that are applicable to designated outdoor commercial areas in the parking lane of the public right-of-way. She stated that it has low bearing weight minimums, details impact standards for the walls, it needs to be able to manage an impact and those are repeated for parklets that are created on private property as well. She stated that it is a perimeter wall of parklet with corners being able to withstand 500 pounds of horizontal force and wall reinforcement with 500 pounds of horizontal force placed every 15 feet. She stated that those standards are included in the guidelines.

Commissioner Wright asked if there was some kind of language in there about obstructing vision of street signs, such as if you have an 8-foot high parklet structure and you are blocking a no parking during certain hour sign and somebody parked next to the parklet and gets cited for a sign they couldn't see.

Sr. Planner O'Connor stated that there is not currently any language for that. She noted that the parklet standards do allow for the sidewalls of the parklet to be of a certain height, and then the remaining height needs to be opaque or being able to be seen through the parklet above a certain height. She stated that there is no standard that specifically addresses the need to not block street signs.

Planning Director Murdock stated that he is trying to interpret the discussion of the barriers, and he asked if her opinion was that the existing standards would achieve Commissioner Wright's desire for the area to protect visually impaired persons.

Sr. Planner O'Connor stated that the standards would be adequate to address the visually impaired and the parking lane scenario of public right-of-way but not the sidewalk scenario for the public right-of-way.

Planning Director Murdock stated that he was seeking a consensus from the Commission if adding that requirement to sidewalk locations is desired.

Chair Berman asked if Commissioner Wright might want to start on his thoughts as he was bringing up the concern that tables and chairs especially in the sidewalk pose a hazard for someone walking with a cane or a visually impaired person, and asked his thoughts on adding provisions for planters or some barrier to be between the commencement of the rest of the sidewalk in the longitudinal manner and then the start of the chairs and tables.

Commissioner Wright stated that it has been his experience in the city where a lot of his friends have sidewalk encroachment permits that it is a requirement there. He stated that, typically, people build planters on wheels so they can wheel them out of the way at the end of the day which serves a multitude of masters as separates their space and offers the visually impairment an impediment before stumbling into a table and chairs. He would be in favor of adding some kind of language that staff would support to get there.

Chair Berman agrees with him, adding that it is also a better experience for the person sitting at the outdoor chairs and table as you feel like you are in a more appropriate dining space rather than just on the sidewalk. She asked for any other Commission input.

Commissioner Ferguson agreed with both sentiments.

Chair Berman thanked him for his input. She then saw head nods from Commissioners Leal, Domurat and Godwin. She thought they have reached a consensus on that.

Planning Director Murdock packaged that into requiring delineation of sidewalk furniture such as with a fence or planters not more than 42 inches in height to prevent visually impaired persons from walking into tables and chairs on sidewalk locations. He next heard about revising the guidelines, Section 1.e to clarify electrical cables and extension cords shall not constitute a tripping hazard.

Chair Berman agreed.

Planning Director Murdock stated he will assume consensus of the Commission unless anyone speaks up in opposition. He then referred to Section 3 of the guidelines revised to clarify a requirement to maintain a 4-foot sidewalk clearance.

Chair Berman sees no opposition, except Commissioner Wright has his hand up.

Commissioner Wright wants to back up to the extension cord piece, and he asked him to go over it one more time.

Planning Director Murdock stated that they would be revising guideline Section 1.e on packet page 386 to also clarify that electrical cables and extension cords shall not constitute a tripping hazard, adding that Chair Berman's concern was that, while it is implied, it is not explicit that they shouldn't be laid across the sidewalk in such a manner as to create a tripping hazard.

Chair Berman confirmed that.

Commissioner Wright stated that they do have things you can put them in that wheel chairs can bounce over and there are all kinds of ways to deal with that.

Planning Director Murdock asked Sr. Planner O'Connor to clarify if she looked further into this, as he recalled that permanent electrical installations was the only authorized way to achieve an electrical connection other than a battery-powered generator and asked her for more insight to that issue.

Sr. Planner O'Connor stated that she didn't know if she can list all the potential methods that can be used, but a solar powered battery charger for an electrical source just as long as they are not obtaining power from city connections or using a connection that would cross the public right-of-way as those scenarios are prohibited.

Commissioner Domurat asked if that includes an overhead wire or a structure that can be built from the restaurant or facility overhead and then to the parklet.

Sr. Planner O'Connor stated that it does include that scenario.

Chair Berman referred to widely used, rubber or plastic, cord encasers that she has seen on construction sites or for temporary power service, and she stated that she didn't have as much of a concern with those, but more like when cords are just duct-taped to the ground and kicked loose. She stumbled on some in the past and that is where her comment comes from.

Planning Director Murdock understood, adding that it sounds like as drafted shall not constitute a tripping hazard may allow some discretion for approved and ADA compliant methods of laying an extension cord across the sidewalk in a manner that would be consistent with that guideline.

Chair Berman agrees with that, and asked if anyone was opposed, and reported no opposition.

Planning Director Murdock then moved on to guideline Section 3, revise and clarify the requirement to maintain 4-foot sidewalk clearance and he thought Chair Berman's concern was that, as stated in the ordinance, the permitter may jump to the guidelines and it was important enough to put it into the guidelines as well.

Chair Berman agreed and saw no hands in opposition.

Planning Director Murdock referred to Section 4, revised to clarify that the permitting locations must remain outside necessary emergency vehicle access lanes.

Chair Berman agreed.

Planning Director Murdock stated that the next item was to ensure parklets are properly lit to ensure safety.

Chair Berman agreed.

Planning Director Murdock referred to revise the noise standards to allow amplified sound provided it is not perceptible beyond 175 feet from the permitted location. He thought they need to clarify amplified and not amplified as he didn't think non-amplified sound is allowed to go beyond 175 feet but all sources of sound.

Chair Berman agreed it was all sources of sound.

Planning Director Murdock referred to revising the hours for allowing amplified and non-amplified sound to 12-8 pm on Friday, Saturday and Sunday and federal holidays, and keeping the hours as drafted for Thursday.

Chair Berman agreed, and saw no opposition.

Planning Director Murdock asked for some clarification with respect to the noise standard, he stated that it came up primarily in the context of amplified sound and they confirmed a moment ago that non-amplified sound like an acoustic guitar or non-amplified vocals would fall within that, but he asked if it was the desire of the Commission to impose a standard for speech where people are conversing within the outdoor area to also fall within that or is it music and do they need to tailor that sound standard in some other way.

Chair Berman stated that she will pass that to the Commission for thoughts.

Planning Director Murdock stated one other point to consider is that the permittee may have the ability to control sources of intentional sound such as music from speakers or musician, but they may have less of an ability to control the voices of the people utilizing the space and they may not necessarily be associated with the business as well.

Chair Berman understood.

Commissioner Ferguson stated that his thought was like a trombone for loud voices as they are talking around the street where you can drive any manner of motorcycle that you can hear for two miles on Highway 1, and he thought the standard should be irreversible but it was not enforceable to people talking because it's a public right-of-way and he thinks it's a non-starter but he would be in favor of including it for all manners of sound.

Commissioner Godwin stated that they might want to include entertainers that are employed by the business and they are giving a comedy act or some sort of rap poetry or something and they may want to include them in the noise limit.

Commissioner Domurat thought the only way to enforce it is to limit the time or hours that the parklet can be used so a last seating for a meal would be 8:00 or 9:00 pm and that is the way you can control it but after 9:00 or 10:00 you can't use the parklet and there should not be the public out there. He stated that, if you want to get that specific where you are going to talk about people talking and trying to have dinner, you can cut off the use of it after a certain time and a reasonable time may be 9:00 pm or 10 pm .

Commissioner Leal agreed with Commissioner Ferguson as you just have a general guideline across all types of sound and they don't have to get down to whether it was live entertainment or a speaker attached to the building and playing light music to the group 10 feet away from the speaker in the parklet or outdoor space. He would suggest it being universal and they already have the time restriction to 8:00 pm and he thought they were covered.

Chair Berman agreed with Commissioners Leal and Ferguson. She agreed with Commissioner Ferguson when he said that, given that it's the public right-of-way, it kind of implies that public

conversing noise or roadway noise can't be controlled and she thought it would be unreasonable to assume that the business owner would have to inherit literally any public noise that comes from around their establishment. She agrees with Commissioners Leal and Ferguson. She appreciates Commissioner Domurat's note that, if we really wanted to control the noise from the establishment from all bases to put a limit to the use of the parklet, she didn't think it was necessary at this time. She thought the normal store business hours would be appropriate but, if in the future this does become a nuisance, that could be something they can hold in their back pocket.

Commissioner Domurat stated, in talking about the sound, amplification, public use, if a facility or restaurant closing down at 10 pm, is there any responsibility for that permitholder to secure that area so you don't get people sleeping on those benches or parks and hanging out there until 2:00, 3:00, 4:00 am. He stated that it is an attractive space for people walking the streets after the establishment closes to use it. He asked if they have talked about that.

Chair Berman thought about that when she was reviewing the staff report, but she thought there was a section in the language that furniture would need to be brought in or kind of restrained at one location and she interpreted it as the furniture would not be out for people to be using it in the middle of the night.

Sr. Planner O'Connor agreed and that language is available on page 386.

Planning Director Murdock stated that the Commission seems to be honing in on standards applicable to sources of noise generated by the permitted activity and he thought, for other sources of noise that are unrelated to the business, the city will have to use some judgement in the enforcement. If it is some unruly party outside the hours of the permitted activity, is it attributable to the permittee or the person conducting the excessive noise. He thought that was a judgement call by the enforcing official on the part of the city and they will have to rely on some discretion and other general laws that exist to manage loud noises and unruly behavior.

Chair Berman agreed with that, and asked if Commissioner Domurat had anything to add.

Commissioner Domurat stated that he was just reading and the staff information stated that furniture shall be stored inside or secured during non-operation. He stated that he has seen in some of parklets where they build a picnic park bench kind of thing that would not lend itself well to be carrying inside, whether they have to turn them upside down or something that will discourage use in off hours. He thought there might be something like that.

Chair Berman thought that was a good point, aside from temporary bird spikes. She wasn't sure if staff has any thoughts.

Commissioner Domurat asked if that seems to have been a problem as we have had these parklets around, and he asked if anyone noticed or they heard anything about after hours that people were using it or hanging out there in Pacifica or is it a non-issue.

Sr. Planner O'Connor stated that, with the recorded complaints about our current outdoor activity permit that were recorded by former staff, that was not an issue that was recorded and she didn't have any evidence of that occurring.

Planning Director Murdock stated, to Commissioner Domurat's point, on packet page 386, section 1.i could be revised to say furniture shall be stored inside or secured to prevent use during non-operation hours of the business sponsor.

Chair Berman thought that was a simple way to address the concern. She asked Commissioner Domurat if that was good, and she saw a thumbs up.

Commissioner Wright wanted to be sure they were comfortable that they have had enough input from law enforcement and they are were not setting them up to walk the plank and have they communicated enough with them and have a process in place if they need more support or a rule change. He asked how they envision that in the future.

Sr. Planner O'Connor stated that the police department was provided an opportunity to review the draft ordinance and they had no concerns with the language and they would just absorb the patrolling of these units with existing staff and existing operations.

Planning Director Murdock had another point as it relates to noise to ensure that the Commission considers all relevant factors, i.e., with respect to the hours of operation, they are limited to the hours of operation of the permitted business and there are no expressed hours of operation limitations in the city and it is conceivable the parklet could be associated with the permitted business that has 24-hour operations and that could inadvertently noise impacts into the wee hours of the night or morning that aren't apparent on the face of the ordinance.

Chair Berman thought that the fact that they were leaning towards a more general noise restriction could be beneficial based on the interpreter or the law enforcer.

Commissioner Domurat thought it was common sense that, the music and noises of the parklet gets turned off at 8:00 pm but that can move inside to the facility where they continue playing their music until close of business. He asked if that goes without that, once it shuts down at 8:00 pm for the outside, that doesn't mean they have to shut it down at 8:00 pm for the inside.

Planning Director Murdock stated that nothing in the ordinance would regulate the operations of the interior business space.

Chair Berman thought, vise versa, what Planning Director Murdock was bringing up is that there is no limit to when the parklet can be used because it's attached to the indoor business hours.

Planning Director Murdock agreed, stating that in a hypothetical, they have a 24-hour restaurant and they have diners and as the ordinance as drafted, using the parklet outdoors conversing, potentially causing noise, other generally applicable laws might apply but there are no guidelines to prevent those kinds of issues from occurring and from triggering police response. He thought in other types of outdoor uses, the Commission may say perhaps they should stop at 10 pm because that might be a cutoff for night time noise hours where lower noise levels are appropriate for a neighborhood or a business area as compared to daytime use where amplified music might be acceptable from 12 pm to 8 pm on certain days. He stated that it may vary and the Commission may want to be more descriptive in the allowable hours overall for all outside permitted activity.

Commissioner Wright stated that he would be in favor of a hard cap that's compliant with the noise ordinance of Pacifica.

Chair Berman stated that sounds like an appropriate correlation, and she asked Planning Director Murdock if that potentially addresses that concern.

Planning Director Murdock stated it was up to the Commission. He stated that the General Plan says that the daytime hours for noise are 7:00 am to 10:00 pm and night time hours are 10:00 pm to 7:00 am. He didn't know if the Commission is inclined to limit a coffee shop from operating its outdoor activity area before 7:00 am as many people like to get coffee very early in the morning. He thought the 10:00 pm one is maybe a little more understandable to him for late evening cutoff.

Commissioner Ferguson finds it difficult to find coffee early morning in Pacifica so he didn't see it as being a problem.

Chair Berman thanked him. She stated she will support the 10:00 pm cutoff.

Planning Director Murdock thought the Commission will need to establish the other end of that. He stated that closing at 10:00 pm does not help if you can open up at 10:01 pm and begin operating again so 7:00 am is already established in the General Plan and, to Commissioner Ferguson's point, maybe it won't adversely impact businesses to have that as the morning period. He stated that this is to allow businesses to use the streamlined program as they could, in many instances, still pursue a use permit through the regular process if they want to operate outside of those established hours and it is not as though it couldn't occur, just that it wouldn't be part of this program.

Commissioner Ferguson stated he could support a 7:00 am start and he could easily support an 8:00 am start time because people are not often moving by 8:00 am. If you have areas of mixed use like in Sharp Park, you could have coffee shop patrons outside of a parklet window in which noise is noise.

Commissioner Godwin thought they only have a couple of businesses in town that are currently taking advantage of the parklets, and we are trying really hard to regulate a couple of businesses and maybe a couple of potential others and he thought they could do something a little looser and modify it if there is a great demand for these services which hasn't appeared in the last two years.

Chair Berman asked him if he would want to leave it open-ended and not prescribe operation hours for the parklets at all or be in line with the city ordinance of the noise operation.

Commissioner Godwin stated his first preference would be to leave it open and not have it and his second preference would be to use the existing daytime and nighttime hours in the plan because they are putting a lot of effort into something that is just for a couple of businesses. He thought that was plenty for right now. He thought, if it turns out that this becomes a problem, they can modify it later.

Planning Director Murdock stated that he was hearing an overall hours of operation limitation of 7:00 am to 10:00 pm for all permitted activity types.

Chair Berman stated that it sounded like Commissioner Ferguson agreed with that approach. She also agrees with that approach.

Commissioner Wright stated he was in favor of it.

Chair Berman saw a thumbs up from Commissioner Domurat. She concluded that they have reached a majority consensus.

Planning Director Murdock thanked her for letting him walk through those individual points to confirm.

Chair Berman stated that it was so helpful. She asked, now that staff received clarification on their direction, if anyone was willing to make a motion.

Commissioner Ferguson stated that he had a question before making a motion. He stated that he could be open to doing it. He asked how they reference the corrections made, i.e., would they say the conditions as discussed and agreed in the minutes of the meeting.

Planning Director Murdock stated that he would make the recommended motion in the staff report and say, with additional modifications as read by staff.

Chair Berman stated that, as they wait for a motion, she forgot to pay a compliment to staff. She was happy to see the survey from the business owners, as she thought it was a great outreach that city staff did. She thanked Planning Director Murdock and Sr. Planner O'Connor for leading that.

Commissioner Ferguson asked staff if they could direct him towards the page that has a recommended motion on it.

Sr. Planner O'Connor stated that it is the last page of the staff report which is on packet page 286.

Commissioner Ferguson moved that the Planning Commission FINDS the proposed ordinance is exempt from the California Environmental Quality Act; ADOPTS the resolution included as Attachment A to the staff report to initiate Text Amendment TA-122-22 and recommends approval to the City Council; and INCORPORATES all maps and testimony into the record by reference with additional modifications as read by staff; Commissioner Wright seconded the motion.

Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Domurat, Ferguson, Godwin, Leal,
Wright and Chair Berman
Noes: None

Chair Berman stated this is a really exiting progression for the city.

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

COMMISSION COMMUNICATIONS:

Chair Berman thanked Vice Chair Hauser for serving as liaison to City Council's adoption of the Sharp Park Specific Plan. She wasn't able to attend that meeting but she knows she probably did a really stellar job, and she thanked her for her time.

STAFF COMMUNICATIONS:

Planning Director Murdock stated, continuing on with her comments, Vice Chair Hauser served as the Planning Commission's liaison at the Special Meeting of City Council where the considered the Sharp Park Specific Plan and incorporated the vast majority of the Planning Commission's recommendations, made a few changes of their own and ultimately adopted the Specific Plan. He stated that the Council is grateful for the Planning Commission's hard work over five substantive public hearings to shape the plan in the way the Commission did. He was also grateful for the Commission's work as it was really well thought out and he knows the community appreciates that as well. He stated that the next step is for staff to package up the Sharp Park Specific Plan and the Local Coastal Program amendment and send that to the Coastal Commission and its own undertaking which is very staff intensive and relates to the next communication he has which is the city's Local Coastal Land Use Plan which City Council approved in February 2020. He stated that the Coastal Commission accepted that application as filed on August 12, two and a half years after the City Council approved it. He stated that it could be some time before they see the Sharp Park Specific Plan come before the Coastal Commission for consideration but it is all part of the process and sometimes those processes are lengthy but they will be doing their best within their means and resources to advance the Specific Plan and the LCLUP as well.

Chair Berman thanked him as well as Sr. Planner O'Connor and Asst. City Attorney Sharma for all their hard work as it has been a long process.

ADJOURNMENT:

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

Planning Director Murdock took a verbal roll call.

The motion carried **6-0**.

Ayes: Commissioners Domurat, Ferguson, Godwin, Leal,
Wright and Chair Berman
Noes: None

Respectfully submitted,

Barbara Medina
Public Meeting Stenographer

APPROVED:

Planning Director Murdock