

**TOWN OF SAN ANSELMO PLANNING COMMISSION MEETING  
MONDAY, SEPTEMBER 15, 2014**

COMMISSIONERS PRESENT: Chair Brasler, Co-Chair House, Commissioners Cronk, Krebs, Pipkin, Sisich, Swaim

COMMISSIONERS ABSENT: None

**CALL TO ORDER**

Commissioner Brasler called the meeting to order at 7:00 p.m.

**OPEN TIME FOR PUBLIC EXPRESSION**

No one spoke.

**PLANNING DIRECTOR'S REPORT**

Interim Planning Director Diane Henderson reported that the Ice Cream Social held at Imagination Park was a success and that she hopes the Commissioners will consider attending the event next year. She extended an invitation to the Commissioners to attend the Seminary's ribbon cutting ceremony and thanked them for their work on the project. Henderson advised that Interim Planner Elizabeth Jonckheer was not present at the current meeting.

**PUBLIC HEARING ITEMS**

**CONSENT AGENDA**

Minutes of Planning Commission Meeting August 15, 2014

M/s, House/Swaim, to approve the minutes of August 15, 2014.

Ayes: Brasler, House, Krebs, Pipkin, Sisich, Swaim

Noes: None

Abstain: Cronk

Absent: None

UP-1405, Patrick Cousens, 790 Sir Francis Drake Boulevard, 006-091-68: Use permit for 3,887 square feet of office space on the second floor of the new commercial building. The project site is located in the C-L Zoning District (Staff person: Jonckheer).

Brasler asked if the conditions of approval have been met.

Public Works Director Sean Condry advised that once electrical power is secured, the landscaping is complete, and all other conditions of approval have been addressed, the work will be reviewed for completeness before the permit is signed off.

Commissioner Sisich would like to be assured that landscaping is complete before the tenant moves in.

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Henderson noted that if there is a legitimate issue with installing the landscaping, such as bad weather, the project sponsor may be able to post a bond in lieu of completing the landscaping before the tenants take occupancy.

Condry confirmed that the project sponsor has been proactive and that a temporary certificate of occupancy may be granted if a bond is posted. Bonds and other forms of payment can be required to make sure the conditions of approval are ultimately met.

As there was no public comment on the project, discussion returned to the Planning Commission.

M/s, Sisich/House, to move the staff report.

Ayes: Brasler, Cronk, House, Krebs, Pipkin, Sisich, Swaim

Noes: None

Abstain: None

Absent: None

**REGULAR AGENDA**

UP-1406, Ben Hillman, 800 Sir Francis Drake Boulevard, Red Hill Shopping Center, APN 006-061-06: Use permit for weekly reoccurring, live amplified music associated with Off the Grid, a mobile food truck market. Amplified music performances are proposed between 6 P.M. and 8 P.M. on Tuesday evenings. The project site is located in the C-L Zoning District (Staff person: Jonckheer).

Henderson presented the staff report.

Sisich asked for clarification with regard to the possibility of amending or revoking use permits.

Town Attorney Megan Acevedo advised that if there is deviation from the conditions of approval set form when the use permit is issued, the Town would have the opportunity to bring it back particularly as it concerns violation of health or safety standards. The effort must be made to amend the conditions of approval and to make it workable. If the amended conditions cannot be met, the permit can be revoked.

Commissioner Cronk asked if action can be taken if there is not a violation of the use permit, but that the approved decibel level is problematic.

Acevedo replied that it would be subject to a nuisance standard; if the situation was causing a significant problem for a significant number of people, the matter could be brought back to the Town. It would pose more of a challenge, however, because the permit was granted with that approved decibel level.

Cronk asked if the shopping center has discretion if they no longer want the musicians on site.

Brasler asked the applicant to speak about the project.

Applicant Ben Hillman confirmed that the shopping center has a termination clause in a signed Memorandum of Understanding.

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Hillman stated that the Red Hill Shopping Center reached out to his organization to stimulate economic activity and to create a community-driven sense of liveliness. Hillman shared decibel level reports from several markets currently run by Off the Grid. The music is provided by acoustic guitars and the hours of performance are shortened in November because of seasonal changes, resuming the original schedule in March. Off the Grid currently operates 39 similar markets in other jurisdictions. If the use permit is approved, the first performance at Red Hill will take place on Tuesday, September 30.

Commissioner Swaim asked Hillman about the sound level of the music.

Hillman replied that the musicians seek an ambient level at which individuals can engage in conversation.

Cronk asked about the impact to entrances and exits in the area.

Henderson responded that it had been determined that the food truck is an allowed use; the Town Manager and Council agreed that it is appropriate.

Condry added that the music takes place when commute traffic is thinning on Sir Francis Drake so congestion is less of a concern.

Brasler invited members of the public to speak.

Steve Lamb, Laurel Avenue, asked what the procedure would be if the applicant wanted to provide music on additional nights.

Henderson responded that the applicant would need to return to the Planning Department for review.

Victor Turkan, Sir Francis Drake Boulevard, stated that he would be the party most impacted by the music. He is not opposed to the food trucks but he believes the proposed decibel level of the music is much too high and would like it lowered to 70 or less. His biggest concern is for the quality of life of his family.

Henderson clarified that the maximum amplification of the music is 125 decibels at the source, which is beneath a tent or canopy. The tent or canopy is over 100 feet from the property line and at the property line the decibel level ranges from 32 to 94. There is another 50 feet of traffic lanes on Sir Francis Drake before residential properties, such as Mr. Turkan's, where the sound will be significantly lower than 125 decibels.

Laryssa Turkan, Sir Francis Drake Boulevard, is a high school junior concerned about the noise from the music. She has young siblings who sleep in a room on the Sir Francis Drake side of the home and believes it will be increasingly difficult to put them to bed with music coming from the food truck venue.

Joan Weinheimer, Sais Avenue, is concerned that the entire project, including but not limited to the music, was not reviewed by the Planning Department. She is worried about air pollution from the generators on the food trucks as well as the noise pollution from the generators and the amplified music.

Brasler closed the public expression and returned the discussion to the Commissioners.

He asked for clarification of counsel with regard to rules prohibiting amplified sound in commercial zones.

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Acevedo clarified that the code prohibiting amplified sound applies to commercial zones. Red Hill Shopping Center is in a Specific Plan Development (SPD) governed by its own set of rules.

Henderson explained that an SPD is a special zoning district and that the Commission approved a master plan for the SPD that allows the shopping center. Food trucks are an approved accessory use to a shopping center.

Brasler asked the applicant to respond.

Hillman responded that his company has no intention of featuring music more than once a week at Red Hill. He added that all of the concerns voiced were reasonable and that because he wishes to remain at the shopping center, it would not be in his best interest to have electric guitars and full drums in the area.

Brasler returned discussion to the Planning Commissioners.

Commissioner Pipkin confirmed the proposed hours of operation and the number of weeks per year that Off the Grid and the musicians would be present at Red Hill.

Sisich asked Hillman if there had been complaints about music volume in other jurisdictions.

Hillman responded that at an Off the Grid venue in Berkeley, 800 letters were mailed to residents and Off the Grid received one objection to the music. The company has tried to mitigate the situation appropriately and the final decision was that the music was not encroaching. There have been no subsequent complaints in that location.

Commissioner Krebs asked Hillman if he would be comfortable agreeing to a decibel level lower than 125.

Hillman responded in the affirmative, noting that the musicians typically seek a maximum decibel level of 90.

Swaim clarified that the use permit is being sought for the amplified music specifically.

Cronk asked if given that the traffic on Sir Francis Drake is expected to decrease around 6 p.m., will there be enough ambient traffic sound to cover the sound of the music.

Henderson clarified that she believes Condry was stating that commute traffic drops off around 6 p.m. so, from a traffic volume perspective, no problems are anticipated. At that hour, there will be sufficient ambient sound from the traffic on Sir Francis Drake.

Brasler observed that Off the Grid seems generally cooperative and sensitive to neighbors' concerns; he doesn't believe the sound level of 70 to 125 decibels during the prescribed hours is excessive. He does not support the suggested six-month review of the use permit. Brasler thanked the neighbors for coming and he supports the project.

Commissioner House believes that if 90 decibels is typical of other jurisdictions, it should be enforced at Red Hill. She added that to a certain extent, there will be self-policing—if customers are annoyed by the music, the vendors will complain. House empathizes with neighbors of Red Hill Shopping Center as they most

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likely hear far more commercially generated noise than those residents not in close proximity to a busy shopping center. House supports the project particularly if a six month review of the use permit is required.

Krebs empathizes with the neighbors and observed that the Planning Commission tries to seek a balance between the desire for community events and the needs of local neighbors. He supports the six month review and the 90 decibel constraint.

Pipkin generally concurs with her colleagues and does not believe a six month review is useful. She is appreciative of the entrepreneurial endeavor and supports the staff report.

Cronk is appreciative of the applicant's desire to be a good neighbor and of the opportunity for local artists to participate by creating community and supporting economic vitality. She also wants to acknowledge neighbors' concerns and would vote in favor of the use permit with the 90 decibel level limitation and the requirement of a six month review.

Sisich is in favor of granting the use permit, observing that outdoor activities come with noise. He does not believe a six month review period is necessary, noting that the manner in which community concerns were addressed by Off the Grid in Berkeley seems appropriate.

Swaim concurs with Sisich, adding that what has been proposed is reasonable. The music is an important element of the success of the food trucks. He does not believe a six month review is needed but will defer to the other Commissioners.

Hillman will use a phone application to measure decibels and keep the volume within the prescribed constraints.

M/s, Krebs/House to approve the staff report with the addition of a limit of 90 decibels.

Ayes: Brasler, Cronk, House, Krebs, Pipkin, Sisich, Swaim

Noes: None

Abstain: None

Absent: None

Brasler reminded all of the ten day appeal period.

ITEMS FROM PLANNING COMMISSION

None

ADJOURN TO THE MEETING OF OCTOBER 6, 2014

Brasler adjourned the meeting at 8:25 p.m.

Respectfully submitted,  
Nancy Harris