



City of Sanibel

800 Dunlop Road
Sanibel, FL 33957

Meeting Minutes - Final Planning Commission

*The times are estimated, but public hearings will not commence prior to
the time stated*

Tuesday, February 9, 2021

9:00 AM

City Hall

1. Call To Order

The meeting convened at 9 a.m.

2. Pledge of Allegiance (Commissioner Nichols)

Commissioner Nichols led the Pledge of Allegiance.

3. Roll Call

Present: 7 - Vice Chair Roger Grogman, Commissioner Eric Pfeifer, Commissioner Matthew Kirchner, Commissioner Karen Storjohann, Commissioner Paul Nichols, Commissioner Ty Symroski, and Commissioner Laura DeBruce

a. Motion to excuse absent member(s):

All members were in attendance.

4. Public Comments on Items Not Appearing on the Agenda

There were no comments from the audience.

5. City Council Liaison Report

Vice Mayor Smith gave a brief report regarding the February 2, 2021 meeting.

- Ordinance 21-001 passed regarding fees for the B and BC parking stickers
 - * Launch fee of \$20 was made permanent
 - * Algiers/Gulf Side City Park - now accepts A and B stickers
- Resolution 21-017 qualifying six candidates for the March 2nd election
- Approval of wearable body cameras for the Police Department
- Manatee protection program approved and moving to next steps
- Jordan Marsh project presentation by Mark Thompson

6. Consent Agenda

a. Approval of the January 26, 2021 Minutes

Vice Chair Pfeifer moved, seconded by Commissioner Kirchner to adopt the January 26, 2021 minutes. The motion carried.

7. 9:05 - Public Hearings:

- a. Consideration of an application filed for a **Certificate of Appropriateness** to allow for the construction of an accessory structure at the Sanibel Historic Museum and Village located at 800 Dunlop Road - tax parcel No. 26-46-22-T2-00007.0000. The application is submitted by Emilie Alfino, Sanibel Historic Museum and Village Executive Director, on behalf of property owners, City of Sanibel. **Application No. 21-12551DP**

Director Williams read into record the description of Application 21-12551DP.

The Commissioners were polled for site visits, ex-parte communications, and conflict:

- Chair Grogman	Site Visit	No Ex-parte	No Conflict
- Vice Chair Pfeifer	Site Visit	No Ex-parte	No Conflict
- Commissioner Kirchner	Site Visit	No Ex-parte	No Conflict
- Commissioner Nichols	Site Visit	No Ex-parte	No Conflict
- Commissioner Storjohann	Site Visit	No Ex-parte	No Conflict
- Commissioner DeBruce	Site Visit	No Ex-parte	No Conflict
- Commissioner Symroski	Site Visit	No Ex-parte	No Conflict

Scotty Lynn Kelly, City Clerk, swore in the following:

- Keith Williams, City of Sanibel, Director of Community Services
- Craig Chandler, City of Sanibel, Planner
- Joel Caouette, City of Sanibel, Natural Resources Department
- Emilie Alfino, Executive Director, Sanibel Historic Museum & Village

Planner Craig Chandler entered the supplemental Staff Report and attachments as City Exhibit C-2. Attachments include: A) Permit Application; B) Applicant's Narrative Response to LDC Sec. 98-151; C) Site and Building Plans; D) Staff Analysis of Subject Parcel; E) Staff Historic Preservation Profiles; and F) Natural Resources Wildlife Inspection Report.

Mr. Chandler gave a brief report stating the request was due to the proximity of the proposed structure to four historic structures: Old Bailey's General Store, Morning Glories Cottage, Caretaker Cottage, and Shore Haven. The proposed structure will increase developed coverage area by approximately 800 square feet and will not increase the sites developed foot print.

Mr. Chandler stated Planning staff finds the proposed structure will meet all applicable setbacks, height limitations, and separation requirements from other structures on site and the roof's form and material provides the best opportunity to demonstrate aesthetic consistency with the other structures. Staff concurs with the applicant's narrative response and finds the structure as proposed to be consistent with the 11 standards and will not result in the diminishment of historic character of the site and

other historic structures.

Natural Resources Department staff conducted a site inspection to verify no native vegetation or wildlife will be impacted, specifically there are no gopher tortoise burrows within 25 feet of the project area.

On February 4, 2021, the Sanibel Historic Preservation Committee passed a resolution recommending to the Planning Commission approval of a Certificate of Appropriateness to allow for the construction of an open air pavilion as proposed by the applicant.

At the time of hearing only one public comment regarding the scope of work proposed was received.

If the Planning Commission finds that the proposed plans are in conformance with all applicable Sanibel Code requirements for a Certificate of Appropriateness, then staff recommends approval be subject to the 10 conditions as listed in the staff report.

Discussion ensued regarding condition 5 being to comply with flood and storm proofing and that that relates to anchoring the structure to the foundation. Additional discussion related to the site having reached capacity for additional structures of at the Historical Museum and Village.

Scotty Lynn Kelly, City Clerk, swore in the following:

- Joel Caouette, City of Sanibel, Natural Resources Department

Mr. Caouette stated the Black Olive was located to the northeast of the proposed structure and the fig was to the southeast. He further stated this was a standard recommendation as the trees could be touching the structure.

Scotty Lynn Kelly, City Clerk, swore in the following:

- Emilie Alfino, Executive Director, Sanibel Historic Museum & Village

Ms. Alfino stated there were no additional comments from the applicant.

There were no public comments from the audience.

Ms. Alfino stated that the applicant agreed with the conditions as listed in the staff report.

Commissioner Kirchner moved, seconded by Commissioner Storjohann to approve Application 21-12551DP, with the 10 conditions listed in the staff report, to direct staff to prepare a Resolution in conformance with this motion, to close the public hearing in this matter, and to authorize the Chair to execute the Resolution without bringing it back for further consideration. The motion carried 7-0.

- b. Consideration of a request for a **Conditional Use Permit**, filed pursuant to Land Development Code Sections 126-81, Purpose and Scope, 126-82, General Requirements, and 126-94, Vehicle Rental and Leasing, to allow for the operation of a new bike rental and retail business and associated improvements at Unit 3 of the Islander Center; and Consideration of a request for **Development Permit**, filed pursuant to Land Development Code Section 82-421, Application, to implement the proposed Change of Use and associated improvements. Islander Center, Unit 3 is located at 2407 Periwinkle Way (tax parcel no. 26-46-22-T2-00004.0070). The applications are submitted by Steven C. Hartsell, Esq., Pavese Law Firm, on behalf of the property owner, 2407 Periwinkle Sanibel LLC. **Application Nos. 21-12559CUP & 21-12562DP**

Director Williams read into record the description of Applications 21-12559CUP and 21-12562DP.

The Commissioners were polled for site visits, ex-parte communications, and conflict:

- Chair Grogman	Site Visit	No Ex-parte	No Conflict
- Vice Chair Pfeifer	Site Visit	No Ex-parte	No Conflict
- Commissioner Kirchner	Site Visit	No Ex-parte	No Conflict
- Commissioner Nichols	Site Visit	No Ex-parte	No Conflict
- Commissioner Storjohann	Site Visit	No Ex-parte	No Conflict
- Commissioner DeBruce	Site Visit	Ex-parte	No Conflict
- Commissioner Symroski	Site Visit	No Ex-parte	No Conflict

Commissioner DeBruce stated her communications were via the applicant's website while registering to rent a bike as well as speaking to the property manager while doing a site visit.

Scotty Lynn Kelly, City Clerk, swore in the following:

- Keith Williams, City of Sanibel, Director of Community Services
- Steve Hartsell, Pavese Law Firm, Attorney on behalf of Business Owner Unlimited Biking Sanibel Island, LLC and Applicant 2407 Periwinkle Sanibel, LLC
- Josh Ooyman, City of Sanibel, Planner
- Craig Chandler, City of Sanibel, Planner
- Holly Milbrandt, City of Sanibel, Natural Resources Department
- Leigh Gevelinger, Landscape Designer
- Joel Caouette, City of Sanibel, Natural Resources Department
- Hakan Ugdur, Business Owner, Unlimited Biking Sanibel Island, LLC
- Jim Strothers, Transportation Engineer
- Billy Kirkland, Business Owner, Billy's Bikes

Mr. Ooyman gave a brief report stating the request was for approval to establish a new bicycle rental and retail sales business with a total inventory of 100 bicycles to be stored entirely inside the commercial unit. The proposed bicycle rental and sales business will be located within an existing commercial building that is nonconforming

with current flood regulations, landscape buffers, coverage and developed area limits, and setback requirements.

All commercial activities associated with the proposed rental use is proposed to be conducted completely within the existing 1,452 square foot commercial unit with no increase in commercial floor area. The applicant will utilize an existing door at the rear of the building, leading to an area near the existing dumpster pad, to bring bicycles to customers and to receive returns. Except for bicycle pick-up and returns, no commercial activities associated with the proposed business will be allowed within any parking area or anywhere else outside the subject commercial unit.

During a site visit, staff verified that two of three existing angled parking spaces near the dumpster were being utilized as designated parking spots. The third spot obstructs access to the dumpster and vehicular egress of one of the parked vehicles. The Applicant has indicated that the lease for the commercial unit provides them exclusive access to the two parking spaces nearest the dumpster and those spaces would be employee parking. Bicycle racks added in the proposed pick-up area should alleviate issues with bicycles being parked in a way that obstructs vehicular access to the parking spaces. The applicant has stated plans to include bike racks in the back area along the wall for temporary bicycle parking during the return and pick-up processes.

The applicant's engineer has addressed traffic impact and parking requirements for the proposed use. Staff concurs with the applicant's determination that the Islander Center does not provide a conforming total number of off-street parking spaces based on the total requirements of existing land uses. The proposed use requires 11 off-street parking spaces, which is greater than the parking otherwise required for the previous retail use of the unit. City Engineer Keith Williams expressed his belief that trips generated will not increase with the proposed use, but that existing parking demand exceeds existing parking supply at the proposed location. Staff further concurs with the applicant's narrative response that there are no apparent opportunities for shared parking at adjacent land uses.

Staff finds support for bike rental use at the proposed location with a maximum rental inventory of 70 bikes, which would result in a parking demand of less than 7.3 parking spaces. Staff also recommends the property owner supplement bike parking facilities, which currently provide support for only 13 bikes.

Staff acknowledges the applicant's determination that the proposed use does not constitute Formula Retail by definition, however staff does not find this explanation meets the spirit of the regulation and recommends consideration of amending the Formula Retail definition separate from this public hearing.

No public comments have been received regarding the subject applications.

If the Planning Commission finds the proposed bicycle rental business at the Islander Center meets the general and specific conditional use requirements, staff recommends the nine conditions listed in the staff report be included with any approval of the conditional use and development permits to implement the conditional use.

Mr. Chandler spoke to condition number 4 limiting the number of bicycles to 70 and that the number of required parking spaces would be 8 for this use.

Commission inquired about the traffic study being from 2007, which Director Williams noted was the last time the City recorded traffic conditions in the area. Discussion ensued regarding the number of bikes available for rent and sale, adequacy of parking spaces, sidewalks being uneven and a trip hazard, confirming mopeds were not included in the request and could be removed as a reference from the proposed conditions, and if bike racks were being added. Mr. Chandler noted the development permit in conjunction with the Conditional Use Permit would be issued to the property owner, not the business owner and would be addressed in that permit.

Discussion ensued regarding whether the business qualified as formula retail. Director Williams clarified there are no general prohibitions for formula retail, just a cap for square footage limitations. Staff intends to recommend to Council that the definition of formula retail be updated and that businesses such as this that would qualify under the updated definition would then be added to the formula retail inventory.

There are only two employees planned to be at the store, and employee parking spots are included in the parking inventory. There is no additional formulation for employee parking. Further discussion ensued regarding if there was a code requirement that lights be provided on rental bikes, and it was confirmed there are no code requirements, but this requirement could be added as a condition. Concerns were raised that the parking spots next to the dumpster were not safe, which the applicant had suggested would be for staff parking. Additional concerns were raised relating to the storage of the bicycles, the business catering to visitors, where the maintenance of the bikes would occur, whether there would be a vehicle for transporting bikes to renters or helping renters with a breakdown or flat tire, and concerns regarding traffic flow and parking issues as two other units in the center are restaurants.

Steve Hartsell, Attorney on behalf of the applicant, provided a brief PowerPoint Presentation and provided a copy for the record. Mr. Hartsell explained Hakan Ugduur will be operating the business, Leigh Gevelinger provided the landscape design and Jim Strothers prepared the traffic study which was reviewed by the City Staff. The shopping center met the codes at time of construction, so it is grandfathered, despite codes having changed. Mr. Ugduur does not intend to have outdoor storage

and plans to use the area near the dumpster for bike pickup and drop-off. All bikes are within the width requirements as stated by code. The original request was for 100 bikes and parking requirements were based on that. Each use in the center has to provide an adequate number of parking spaces. The shopping center met parking requirements when built, and there is no room for additional spots. The unit has eight parking spaces associated allowing for only 70 bicycles. Mr. Hartsell spoke to condition 7a being a total of 100 bikes which included rental and retail; however, if only 70 rentals were allowed that was acceptable to Mr. Ugdur. Mopeds could be stricken from any allowance or condition, as they are not part of the business plan.

Mr. Hartsell began speaking to the waiver applications for the landscaping issues. As this was the next scheduled hearing, staff and Commission requested to open the next hearing and hold it concurrently.

- c. Consideration of a request for **Waiver**, filed pursuant to Land Development Code Section 82-351, Authorization, to allow for less than the required installation, location, numbers, types, size and variety specified for commercial vegetation buffers and landscaping, as required by Division 2, Commercial and Institutional Uses, Land Development Code Section 122-46, General Requirements; and Consideration of a request for **Waiver**, to allow for modifications and improvements to lawfully-existing nonconforming parcels of land, buildings or structures, that are situated within the minimum front, side or rear setback. The application is submitted by Steven C Hartsell, Esq., Pavese Law Firm, on behalf of the property owner, 2407 Periwinkle Sanibel LLC. **Application No. 21-12561WVR**

Director Williams read into record the description of Application 21-12561WVR.

Scotty Lynn Kelly, City Clerk, swore in the following:

- Keith Williams, City of Sanibel, Director of Community Services
- Josh Ooyman, City of Sanibel, Planner
- Craig Chandler, City of Sanibel, Planner
- Holly Milbrandt, City of Sanibel, Natural Resources Department
- Joel Caouette, City of Sanibel, Natural Resources Department
- Leigh Gevelinger, Landscape Designer
- Billy Kirkland, Business Owner, Billy's Bikes
- Hakan Ugdur, Business Owner, Unlimited Biking Sanibel Island, LLC
- Steve Hartsell, Pavese Law Firm, Attorney on behalf of Business Owner Unlimited Biking Sanibel Island, LLC and Applicant 2407 Periwinkle Sanibel, LLC

Mr. Ooyman gave a brief report regarding the two waiver requests, one for the commercial structure to be set back no less than 100 feet from the centerline of Periwinkle Way, and the other relating to front, side, and rear vegetation buffers. Regarding the first request, staff has no objection, and the proposed use will not increase coverage or developed area on site, will not modify the existing structure, and the subject commercial suite is not located within the encroachment area. Staff

does not support the second request. The front buffer vegetation plan increases compliance of the existing buffer but fails to bring it into full compliance, falling short by 25 trees, eight shrubs, and 135 groundcovers. The City's Natural Resources Department finds that there is sufficient area to fully comply with the types, varieties, and numbers of plants required and recommends that a revised vegetation plan be submitted that demonstrates full compliance with front commercial buffer standards. The existing side (east and west) and rear (south) vegetation buffers do not comply with the size and location of the required buffers, nor do they comply with the types, varieties, and numbers of plants required. Natural Resources finds that there is insufficient room for the property to fully comply with the City's buffer standards along the side and rear property boundaries and does not oppose the waiver request for these vegetation buffers.

Staff supports the waiver request to the required front setback for the existing nonconforming commercial structure to remain as is; however, staff finds that based upon the sufficient size and location of the front vegetation buffer, full compliance with all commercial buffer standards can be achieved and should be required at that location. Therefore, staff does not support the waiver request specific to the front vegetation buffer. Staff supports granting waivers to the side and rear vegetation buffers, subject to the removal of invasive plants and revegetation with native species.

Should the Planning Commission find that the waiver applications meet all the waiver standards of LDC Section 82-351, then the Planning Department recommends the two conditions included in the staff report with any approval.

Commission inquired if the interconnectivity was part of the shared use path. Mr. Chandler stated it was a staff request for administrative deviation to include interconnectivity with the bike path. Discussion ensued regarding line of sight and height restrictions for the vegetation and trees which does not change the requirements for the vegetation buffer. The closest point from the building to the shared use path is where the interconnectivity would be located. Mr. Hartsell noted that the neighbor to the west would also have to agree for there to be cross access easements. Mr. Chandler spoke to difficulties of creating the cross access easement and the closeness of the shared use path. Director Williams spoke to the front walk-way having steps and being elevated which would include crossing a retention area if extended, creating engineering issues that are site specific.

Discussion ensued regarding the survivability of plants in relation to planting guidelines, not having bikes on the sidewalks as the walkway is uneven, and the entrance should have sign that says "walk bikes from here". Further discussion ensued regarding the staff report and application not speaking to the planting beds directly in front of the building and where the interconnectivity path was being proposed. Mr. Hartsell stated it was an approximately 25-30-foot extension of the sidewalk on the north side of the

building connecting to the bike path. Director Williams noted the sidewalk extension would be a separate throughway than the entry and exit to each unit. Mr. Hartsell noted the applicant was in agreement with the proposed interconnectivity path.

Additional discussion ensued regarding timeline for the landscaping to be completed in relation to the opening of the business, which Mr. Hartsell stated was a condition of the development permit and would be within 120 days. Mr. Hartsell, asked Leigh Gevelinger, Landscape Architect, to give a brief report regarding the proposed landscape plans. Ms. Gevelinger stated that the original plan was provided on December 18, 2020 and upon conducting a site inventory sited 57 trees with 60 trees required, the entire buffer area is a stormwater retention swale which limits the survivability of the plantings, the proposed plan would bring the tree species to 90% native and the ground and shrub species to 100% native throughout the front buffer and does not have the punchout for the bike path access. An updated plan will be submitted for review.

The Commissioners were polled for site visits, ex-parte communications, and conflict regarding the waiver application:

- Chair Grogman	Site Visit	No Ex-parte	No Conflict
- Vice Chair Pfeifer	Site Visit	No Ex-parte	No Conflict
- Commissioner Kirchner	Site Visit	No Ex-parte	No Conflict
- Commissioner Nichols	Site Visit	No Ex-parte	No Conflict
- Commissioner Storjohann	Site Visit	No Ex-parte	No Conflict
- Commissioner DeBruce	Site Visit	Ex-parte	No Conflict
- Commissioner Symroski	Site Visit	No Ex-parte	No Conflict

Commissioner DeBruce noted her ex-parte communications disclosure was to the same as described for the first hearing.

Public Comment:

Billy Kirkland - spoke to the necessity of vegetation being low enough to allow bikers and traffic to see each other

Mr. Hartsell stated they were in agreement with the conditions included in the staff report and spoke to the conditions of the waiver, again stating that they were in agreement to provide additional enhanced vegetation without being able to reach 100% compliance. Discussion continued regarding the back and side yards being updated to meet compliance. Ms. Gevelinger stated they have worked with Natural Resources and would remove 4 Mahoe trees and bring vegetation into full compliance in the east buffer. Mr. Chandler spoke to there being six standards that must be met for approval of the waiver, he read into record the first standard. As it relates to the side and rear there is not enough room for compliance. He also read into record standards three and six. Staff recognizes hardship for side and rear buffers but not for

the front buffer. Commission inquired if the planting would be detrimental to the existing native trees and if line of sight will be considered to which Ms. Gevelinger stated the plan was to not disturb existing vegetation and line of sight safety would be considered.

Discussion returned to consideration of the conditional use and development permit applications. Hakan Ugdur, business owner spoke to being one location with no plans for additional storage locations and there are no plans for internal renovations. Commission further spoke to the need for the business to have applied as formula retail, the Unlimited Bikes website states intention to provide tours and already advertises Sanibel as a location. Mr. Hartsell spoke to the difference between formula restaurants and formula retail. Formula restaurants are prohibited, and formula retail requires a conditional use application. Mr. Hartsell noted it was a rental business not a retail business and stated that by definition the business is not formula retail. Mr. Ugdur spoke to the separate locations being designed individually with a standard logo for the whole company as well as each location having individual logos.

Discussion ensued that repairs would be contracted off site and what the process would be for helping a renter with a disabled bike. Mr. Ugdur stated two staff members would work the store and there would be a mobile employee that would drive around the island and deliver replacement bikes when needed and take the disabled bikes to the contract repair shop. Mr. Ugdur stated the van would not occupy parking in the center, because it would always be on the move.

Discussion ensued regarding if the three parking spaces by the dumpster were included in the parking count that determined the 70 bikes. Mr. Hartsell states it is proper to include them as they would be employee parking as well as an area for bikes to be picked up and returned. Delivery of bikes is a possibility of the business plan. Mr. Hartsell spoke to Mr. Ugdur investing money to get to this stage of approval, he feels he can be successful with the 70 bikes for rentals. He further spoke to the parking standards requiring 5 parking spots for the first 40 bikes and 1 spot per each additional 10 bikes. Accommodations were made as Staff stated there was only sufficient parking based upon 70 bikes not 100, and vegetation would also be upgraded to improve the entire site.

Commissioner Pfeifer spoke to the six requirements listed in Land Development Code section 126-82 which are requirements to approve conditional use. Discussion ensued amongst all the Commissioners that based on these standards, the application and testimony received, and personal observations in site visits to the property, the proposed use does not appear to be compatible with the other businesses in the center. Commissioners detailed various concerns, including internal compatibility with other uses on the same site, inadequacy of parking, safety concerns for bicycle renters related to fitting and testing of rental bikes in a parking lot with high traffic flow, safety

concerns for bicyclists having to ingress and egress to a business in the middle of a shopping center with restaurants and other businesses with high traffic flow, and an incomplete site plan that did not include interconnectivity. Further discussion returned to formula retail and areas of the parking lot being used by renters to get accustomed to riding a rental bike.

Attorney Agnew spoke to the issue of formula retail and that Staff's opinion remains that the proposed business does not fit the technical definition of formula retail, based upon communications with the Applicant's Attorney that the business is not required by a particular contract or other arrangement to operate under the same name and in the same manner as his other store locations bearing the same name. He further spoke to an affidavit being required stating that a business is not a formula restaurant, and that he recommended that, if this application was approved, a similar affidavit should be required stating this business was not formula retail, as a condition as the Unlimited Bikes website provides information relating to franchise opportunities and exclusive arrangements with Cannondale, which makes it appear to be formula retail. Discussion ensued regarding would a contract between Unlimited Bikes and Cannondale count as the contractual agreement requiring the business to be included the formula retail inventory. Commission inquired as to if any of the current locations were franchise to which Mr. Ugdur stated he does not have an exclusive contract with Cannondale and none of the businesses are franchise.

Mr. Chandler spoke to administering the code as it is written, parking requirements can be a guide only, best practices for bike safety such as interconnectivity with the path and lights on bikes, definitions cannot be revised easily, and the requirements relating to formula retail. Commissioners spoke to an owner of multiple business locations qualifying as formula retail. Mr. Hartsell spoke to conversations had with staff and Attorney Agnew which resulted in the formula retail application being removed from consideration. The Applicant and Property owner believe the proposed business is compatible with the other businesses in the center and that the operation will be a benefit for residents and tourists and will not upset the balance on Sanibel.

Discussion ensued if tours would be considered to which staff and applicant noted was not part of the application. Discussion regarding if the bikes would be rented hourly, monthly, or weekly to which Mr. Ugdur stated they were focusing on short term rentals.

Mr. Chandler spoke to off street parking noting the facility provides 58 parking spots currently and 65 spaces would be required based on current code. No change of use may be permitted that increases the required parking. The applicant did accept a recommendation from staff to reduce inventory, and staff did find support for a conditional use permit with the conditions listed in the staff report.

The applicant agrees to the 10 conditions.

Public Comment:

Billy Kirkland - spoke to not being against approval of the business, generally, but he does not feel the particular location is safe for the type of business proposed.

Discussion ensued regarding the enforcement and interpretation of the laws of Sanibel, the safety aspects and concerns of the location, and the need to address the definition or interpretation of formula retail.

Commissioner Pfeifer moved, seconded by Commissioner Kirchner to disapprove Applications 21-12559CUP and 21-12562DP.

Attorney Agnew spoke to drafting a proposed resolution to be brought back for Commission review and approval. Mr. Hartsell inquired what could be done to get an approval. Commissioner Pfeifer stated his reason for disapproval was based on the number of bikes, parking issues, and the activity in that location. Mr. Hartsell spoke to information and facts presented supporting approval and that Commission should base their opinion and decision on the testimony and evidence.

Commission inquired if there should be a continuation and determined they should proceed with making a decision. Discussion ensued regarding the inclusion of the interconnectivity option for which plans have not been provided. Mr. Hartsell spoke to the staff request for, and applicant approval of, the condition requiring the interconnectivity path. Mr. Williams spoke to Commission's concern noting that if not having interconnectivity plans were the only concern the hearing could be continued however the Commission indicated that was not the case. Commissioners spoke to the location not being suitable for safety-related reasons, parking being inadequate, and the business appearing to be formula retail. Mr. Hartsell spoke to formula retail not being prohibited and if the Commission wanted to add a condition for formula retail and stated the applicant is happy to comply. Mr. Hartsell inquired if there was a way to address the design to make the internal compatibility work. Commission expressed concerns that the interconnectivity path would create additional safety issues.

Discussion ensued amongst the Commissioners regarding these issues and concerns that the Commission believed should have made staff not support the request, not being aware of any changes that could be made to make this particular site acceptable for this use, and that enough information had been provided during the hearing and through site visits to make a decision.

Attorney Agnew noted that if the hearing were closed then the Resolution would be brought back to review it for conformance with the hearing and approval.

Vice Chair Pfeifer moved, seconded by Commissioner Kirchner to disapprove Applications 21-12559CUP and 21-12562DP, to close the public hearing in this matter, and to bring the draft Resolution back to the next Planning Commission meeting solely for the purpose of ensuring the resolution is in conformance with this motion before authorizing the Chair to execute the resolution. The motion carried 7-0.

Staff expressed that the application for the waiver included a buffer and the setback waiver and that they should be considered separately. Discussion ensued regarding the vegetation waiver being moot and the need for approval of the waiver for the setback to be approved.

Commissioner Storjohann moved, seconded by Vice Chair Pfeifer to approve waiver request number 1 and disapprove waiver request number 2 of Application 21-12561WVR. The motion carried 7-0.

Commissioner Kirchner stepped out of the room at 1:14 p.m.

Commissioner Storjohann moved, seconded by Vice Chair Pfeifer to close the public hearing in the matter of Application 21-12561WVR and to bring the draft Resolution back to the next Planning Commission meeting solely for the purpose of ensuring the resolution is in conformance with this motion before authorizing the Chair to execute the resolution. The motion carried 6-0 with Commissioner Kirchner absent.

Absent: 1 - Commissioner Kirchner

8. Report from Director of Community Services

- a.** Monthly Planning Branch Reports
 - i. Development Permit Activity Report - January 2021
 - ii. Code Enforcement Activity Report - January 2021
- b.** Upcoming meeting dates:
 - i. Planning Commission - Tuesday, February 23, 2021
 - ii. Report to City Council - Tuesday, March 2, 2021 - Commissioner Pfeifer

Director Williams noted the attached monthly reports and the upcoming meeting schedules.

Commissioner Kirchner rejoined the meeting at 1:16 p.m.

Discussion ensued regarding a Planning Commission meeting scheduled for the week of the Thanksgiving Holiday and the possibility cancellation.

9. Report from Commission Members

Commissioner Storjohann spoke to a hazardous warning card document received in her mailbox, Director Williams noted City staff is unfamiliar with the document and the

information does not pertain to any City business

Vice Mayor Smith suggested a 30 minute break before convening the LDC meeting

10. Report from Commission Chair

Chair Grogman spoke to the learning opportunity available for Commissioners if Council directs them to review and update formula retail in the code.

11. Public Comment

There were no public comments from the audience.

12. Adjournment

There being no further business the meeting adjourned at 1:20 p.m.