

## Planning Commission Meeting Transcript - November 9, 2022

**Discussion and Decision Phase Only. Timestamps based on video posted on planning commission calendar for 11/09/2022.**

**Commissioner Hente** [06:42:00] Alright at this time I'm going to close the public hearing, as I stated earlier our normal process is to allow the applicant to come back up and make short comments to give rebuttals to any of the comments that they have heard from the speakers who came to us during the public hearing. So, Mr. Mudd I'll allow you that opportunity.

**Mr. Mudd** [06:42:20] Thank you for the opportunity and thank you for your all's efforts towards, you know, considering this project. I'm going to walk through a good laundry list, but I think I can do it fairly quickly because there are some areas that I think need some distinct clarification. And along the way, there's been some discussion about what we've committed to and what we've not committed to. And we, as a function of the way the development plan works, we've made some very substantial commitments that are binding upon us and enforceable from the city. And I will try to point those out as I make my way through the questions. The first was the impact of sound checks on, I think, TCA in the school, and we have committed not to do sound checks Monday through Friday during the school season prior to 3 p.m. The next question and I may put this one towards the last is we shared all of our parking and traffic information with the fire department. They came back with no comments, but we even pressed in and set a face-to-face meeting. I think Bret is here and so he might be able to address some of the concerns that have been with that. But if I can get to my comments, maybe Bret can discuss the conversations that we've had there. There was a statement that we were declined in Murfreesboro, Murfreesboro, Tennessee. We have a 6-0 vote from the city council. We have two zoning and or planning commission votes to the positive. We are on a clear path to be putting an amphitheater there as well. And we were walking through what I believe to be good neighbor policies as we are in a corridor that has health care. And much like what we've got here, we want to make sure that we do not become an issue that impacts life as it relates to the local neighborhoods. And we will continue to do that. We are committed to one officer in each parking lot for 250 cars parked. As it relates to the parking study, there were comments made that the new apartment complexes are not included in the study. In fact, all of the apartment complexes are included in the study. And in addition to that, the intended use of land based on current zoning for stuff not built is in our traffic study. So we have looked out significantly into the future in building the nature of which traffic will flow through here. There was a statement that the from the maybe we were just talking from different origin points, but from the stage to the first house to north gate, give or take is 3000 feet. So it's in the half mile range. There was a statement that we were going to be eliminating bike lanes. We've not ever intended to eliminate bike lanes. It's not included in this. On the Merck & Hill, Merck & Hill did our first sound study. When we got it, we knew we needed substantial additional time and investment and expertise, including some on site visits which we invested in. Merck & Hill was not able to continue with that, and we did a fairly broad search, and we came across the gentleman that has been presenting to you today. He has been with Arup??? <unintelligible> for many years, which is a world leading acoustics firm. And he has led the acoustics for the Moody Amphitheater in Austin, for the type-A Pop Music, which is an 18,000-person amphitheater in Taipei, Taiwan, Nassau Memorial Coliseum in New York, all within recent years. And a laundry long list of additional like facilities, including many of Live Nation's facilities, which is one of the largest in the country. We do have an agreement with TCA. There's confusion in the way that that was stated. I actually have Kevin Patch online, I believe, if

we want to validate that. But the signed agreement is right here for the 475 spots. It's conditioned on available use. And Kevin is online if we need to validate that agreement. The comments that Russ made were related to the purchase of the additional land to bridge the potential environmental impact. There's a lot going on there that we have not included in in this in this filing. As it relates to why didn't we buy the land? We considered buying land. We've looked at numerous spots in this region. We are not a company that is going to build this and run away going public. We have a \$15 million investment in a facility going in Gainesville, Georgia, that will be open in April. Murfreesboro, Tennessee, will be north of 35 million. We anticipate operating a Bourbon Brothers Smokehouse and Tavern Boot Barn Hall and a Sunset on the Stones River Amphitheater there. We are very aggressive in looking at additional markets in the southwest United States, and I spend most of my time on that front. We are building a company that will take these three assets and work hard with local municipalities to bring an asset to those communities. And we are intending to go public. But that holding company has a broad range of business activities. The development plan is... there's a lot of discussion what happens if agreements go away? What happens if TCA is not available? We have made distinct commitments in the development plan to the 70% within a half mile and the 100% within two miles. If we don't have that capacity, the size of the amphitheater is by ordinance. It's got to shrink and we fully intend to follow that. We are going to coordinate at great length. These concerts are going to run predominantly between May and September. So it's not a 70 day season. The touring season runs May to September. We clearly have weather realities in Colorado that are going to make it unsuitable to to book large expense bands in during times where there's high risk for winter weather. And we anticipate, as we've said in most of our stuff, 50 to 60 routed concerts through here in that May to September timeframe. We have worked with industry, the industry leaders to come to that number, but we also believe there will be other uses, as I've mentioned, from graduations to which we have contracted with folks already if it's approved all the way through community events and church and religious events. The sound ordinance is a part of the city ordinance and we have to abide by it. Where we are not abiding by it, there is a process to get a hardship waiver. So we are standing behind the acoustics report to say we believe that we can create that sound footprint to those single family residences. I know there's a lot of skepticism there. We're relying on the experts to do that. And we've made huge, expensive, infrastructure changes to ensure that we get the best treatment within the context of this facility as it relates to sound. Where we are not able to meet those standards is we're asking for hardship. It's the apartment complex. We're working with the developer. We're asking for the proper allowance for that to occur. And that's all been submitted and in this process. The final thing is the addendum on page ten, and that's been brought up a couple of times on the Acoustics Report as it relates to the to the low frequency sounds. And it is I have gotten confused in reviewing it myself, but I have it in front of me here. And the thing that needs to be understood as it relates to this is that the 47 DB is the cumulative result that results as a function of the strategies that we're taking to reduce sound. So what it does is it steps itself down as we have no mitigation to electric acoustic mitigation to physical mitigation. And if all of that fails, we then have the operational capacity contracted in the riders as a requirement of our contract with the artist to shut it down. The same thing will happen in our amphitheater as happened to Lenny Kravitz or one of the others. When we had our time, the music is going to stop. We will not go over our committed times, period. So just those points of clarification I thought were important and thank you all for your consideration. I appreciate it.

**Mr. Mudd** [06:50:42] So you made reference to the fire marshal, I see he's in the audience Fire Marshal ??? Is there anything you want to add to this?

**Fire Marshal ???** [06:50:48] <unintelligible>

**Commissioner Hente** [06:50:50] Thank you sir. I'll see if any of my commissioners have any questions.

**Mr. Mudd** [06:50:54] I have a question.

**Commissioner Hente** [06:50:55] Go ahead.

**Commissioner Briggs** [06:50:56] For the Fire Marshal. First of all, thank you for being here.

**Fire Marshal** [06:51:05] You bet.

**Commissioner Briggs** [06:51:06] One of the issues that has been raised by several of the constituents is the access from station 22 to the community, to the facility. Do you see an issue with that based on the traffic flow?

**Fire Marshal** [06:51:26] Mr. Chair, members of the commission. Thank you. So, we have looked at the overall area from an operations perspective and recognized that there will be periods of high traffic. But I want to also remind the Planning Commission that we have a number of community events from time to time, whether it's Spring Spree, everything downtown. So, we have a very cooperative community with regard to that. We have the ability of what we call bucking traffic going the wrong way in traffic lanes to be able to make access. So the answer to your question is no, we do not foresee any significant issues at all for getting through. Does it mean it's not anticipated it's going to be congested? What I will commit is, as we do with all city events and issues, we study those things, we come back, if we have issues, we address that for the next event, but we don't see anything any more out of the ordinary than we deal with on a day to day basis.

**Commissioner Briggs** [06:52:28] Can I ask a follow-up real quick?

**Fire Marshal** [06:52:29] Yes sir.

**Commissioner Briggs** [06:52:30] So if one of the contingencies is, could it be that if it becomes a traffic issue, that you would pre-position vehicles on the other side of the traffic? To get to areas? I mean, is there some sort of mitigation steps that you take or do you have other stations that would cover that?

**Fire Marshal** [06:52:46] We, so, we have a number of stations that can come in from different areas, different even than 22's. As you know, by the first the next year, we're going to <unintelligible> Station 24. So, I we have not had to pre-position any apparatus to deal with any of those specific configurations or issues. We typically don't see issues, whether it's the Fallen Firefighter Memorial or the number of people who congest downtown. We work well with the Colorado Springs Police Department and any of the event sponsors. What I will say is that if we do find that that is a need, we will always react and respond appropriately doing what we need to, to provide service to the community. And the venue.

**Commissioner Briggs** [06:53:31] Thank you.

**Commissioner Hente** [06:53:32] John, go ahead.

**Commissioner Almy** [06:53:33] Yeah, just so we're on the same line here. There was a comment made that on the loop, with the center lane, that people could not get access into that whole Spectrum Loop area. Is it possible to use the center lane, keep it clear and use it for emergency response?

**Fire Marshal** [06:53:54] Yeah, we've talked with the applicant and recognize the ability to control traffic in different ways. People are not going to be jamming that I can foresee - all of the lanes of traffic that are down that loop. So, we can go in the middle and to the sides and then we can even make ourselves a little smarter – not that we want to drive up on the curb. But again, I, I see a large number of events in some very congested areas, and we address those through planning, and when we're addressing those things with the event. We will have crews as soon as the first event is gonna occur there. We're going to be driving through and, heaven forbid, but somebody gets hurt, we have a fender bender, we have an issue, we will respond. However, that behaves and acts will be factored back to the battalion chiefs. We will communicate all those issues to our troops, and make certain we make adjustments as necessary or even with the applicant currently and traffic engineering and PD if we need to address those issues.

**Commissioner Hente** [06:54:56] Any other questions for the fire marshal while we have him up here? Thanks.

**Fire Marshal** [06:54:57] Yes sir.

**Commissioner Hente** [06:55:01] Okay. I'm going to pull it back up to the commission here for any additional questions, comments, or proposed motions. But again, we have people who are not familiar with our process. I want to explain what happens at this point. Normally, this body serves as a recommendation to City Council. We pass something which is a recommendation to them. In this particular case, if you look at the agenda, we have approval authority with one exception. I'll come back to that. So, we can, so whatever we decide here today, whether we approve the project or not approve the project, that's the rule. However, if we approve the project, you meaning the people in opposition have every right to appeal this to City Council. Consequently, if we deny the project, the applicant has every right to appeal to the City Council. So, I guess what I'm saying is, even though that we have the approval authority here, I'm probably not going to be surprised if whatever happens today ends up in the City Council's laps. So, I say all that to say to you, I've been fairly strict about who I've allowed to talk and the rules we follow and everything. And that is because quite simply, when it goes to City Council and conceivably, into the legal system after that, one of the very first questions that will be asked is, did they follow the rules? And so, I want to make sure that we follow the rules. Madam Attorney, I think I've stated that all <unintelligible>. You agree with that?

**City Attorney** [06:56:25] Yes, that's correct.

**Commissioner Hente** [06:56:26] So, if I've been a stickler a little bit, I apologize for that because I have a feeling this will go beyond us. And I just want to make sure that when they ask the question "did they follow the rules", the answer is yes. One of you is not going to like the answer you get tonight, but at least I want you to be able to think that we follow the rules. So, at that point, I'll bring it up to the commission for any questions, any additional comments, any proposed motions. John, you've got your hand up first.

**Commissioner Almy** [06:56:49] Okay. There's been a lot of discussion about this project, and I think from both sides we've gotten good input. There's definitely a conviction on the part of the people pro and the people around the anti-side. But we've confused some things here. So, I'm not consulting anybody to discuss this, but. First of all, PlanCOS is sort of the overarching document for this type of project. In this area, we just approved that multi-family across the street not too long ago. It had the same sort of argument about parking and use of the property. That area is sort of transitional on the other side of Voyager. This is a different type of land use. And if you look around there, we've got outdoor golfing, which brings a lot of traffic, light, and not so much noise. And we've got other restaurants and other entertainment venues in that area. Going with the pro people, I think that this project there's a lot of plusses going for it. It is a good venue. It's a good music thing. It's a good money maker for the owner and for the city, and I think it adds to that area. However, we get into the area of sound. And, we have had a sound engineer working this as a consultant, and he's assuring us that they've got this under control. But we've got the public that is sensing that this is not under control. This is technical. The sound technology being used to mitigate the negative effects of this is pretty close to state of the art, but there's new stuff coming down all the time. So, I think there are other, there are other ways that maybe we could attenuate more of the noise. They've talked about mostly low frequency sound, how it travels, it's more omni directional. And we've talked about the high frequency sound which you get out of a rock venue that is loud, it hurts, it damages ears. But it attenuates pretty rapidly. Low frequency sound does not attenuate as rapidly. We're also talking in units called decibels. Decibels are not a linear measure, it's a logarithmic measure. So, when we go up one decibel, it's a big change, not just a little incremental change. So, it does more damage. I think the bottom line here, I think this is a good project. I think we have, as some people have said, we're sort of jamming a higher, a higher goal venue into a smaller area than would be if it was 50 acres here, we'd probably be a lot happier to do the work there, and everybody else would probably be happier. But I guess the bottom line is, I'm in favor of this type of project. I will probably vote for it but with a reservation that I don't think we have adequately proven the sound issue with the neighbors, the neighboring residential areas. You know, something as simple as going and taking a sound source and a low-frequency, a mid-frequency, and a high-frequency band. Do as an experiment. Go up into the residential area and see how much is attenuated. And have a human there to say, "Wow", that's loud" or "That's not a big deal at all" would go a long way to helping or proving the problem that the residents have in that area. So, I will vote yes but with a condition that more sound study be done.

**Commissioner Hente** [07:01:06] Jack, did you have something you wanted to bring up?

**Commissioner Briggs** [07:01:10] So. Bear with me on this alright, I'll try not to be too long. Because this may not go to City Council. I think we have to do the due diligence to get this right. Now. At this stage. And I certainly would like to get to yes on some sort of venue like this. I think it's a great idea for the community. I also have experienced very positive opportunities with what's happened in, in that area, with the other venues. I think they're very professionally run; I think they're well done, and I think it's a credit to the developers and to the company that they continue to try to do their very best. But is this the right place? And that's the question that I have. I have read all 550 plus pages of comment and all the other material, and I appreciate the active citizenship that goes through that. Additionally, I have some concerns with the idea that we have these ordinances and criteria in place - to be the check and balance to ideas. And so, when we are going to ask for a variance, it should be exceptional. Because if we don't, we tend to lose that idea of predictable planning. If we're loose with the nonuse variance, we begin to not have a good planning base to start with. So, with that being in mind and because this

is a very difficult decision, I go back to the principles-driven decision making. And what are the principles here? Well, for me, it's that I always am an active supporter of individual rights, property rights. Meaning, if I'm a property owner, I should have rights to what I want to do with my property. And also, I think it's part of the, sort of ethos of capitalism and that we try to work together for mutual advantage. But an element of that, or these rights, is the fact that we also have a responsibility not to unduly impact the rights of others, and their individual rights, property rights, and their ability to get to mutual advantage. Like I said, I want to get to yes on this because I think it's a great idea. But I'm not there yet. And so, to the chair, I have three things that I need more information on that I don't think are being answered here today, and I don't know if there's a continuance involved? But I would offer that to get to yes, I still need to hear three things. As best we can, to show that there will be continuous traffic flow in both directions on Voyager during an event. To the best... yeah, I know that we can't always guarantee that. We can't even guarantee it today. But that those steps are taken. The second is, as other commissioners have said, the low frequency voice is probably my biggest issue. I came from New York City, where I worked at a university that had a large venue and I lived next door to it. And the high frequency noise? It attenuates very quickly, but it's the low frequency noise that thumps. And you sort of heard me use my thump earlier today. And that, I think needs to be better addressed for better community confidence that something is being done - to that. And the third is a better description of why on-site parking, which has space and even space may be available next to the current facility, is not being explored more strenuously. I understand that, you know, bringing everybody in may be the thing that keeps it from doing it, that the dispersed parking in an ideal world might be the best place. But they all have consequences. And what's the balance in the consequence if the parking is on site, vice distributed. So, I would offer that those three answers need to happen before I could get to yes. Over. It's military for I'm done.

**Commissioner Hensler** [07:06:01] I'm just going down the line here.

**Commissioner Hente** [07:06:03] Umm. Sure, but Jack, did you want to propose something at this point or did? And if you did, I'm going to ask the city attorney if it's acceptable, I guess.

**Commissioner Briggs** [07:06:15] Well, I do want to hear from my colleagues on the matter.

**Commissioner Hente** [07:06:18] That's fair.

**Commissioner Briggs** [07:06:19] As I propose this, maybe there's some discussion up here that would change my mind or <unintelligible> that we're already there or something. And yeah, you know I'm open to that.

**Commissioner Hente** [07:06:32] That's fine. And yes, <unintelligible> I feel everybody's gonna comment anyways.

**Commissioner Hensler** [07:06:36] I'm ready to opine over here. So I think when new things happen and new development and new projects happen, it can be really scary. We don't know what's going to happen, we don't know how it's going to feel, and after it's done, we're like "Oh, maybe that's not so bad". So, I think that there's something to that. I think we all recognize that this neighborhood in this part of town is transitioning and growing, and that might be hard to accept. I heard a lot of comments and read a lot of comments about this not fitting and it's going into the middle of residential. And let's be

clear, this is zoned as a PUD and as a commercial entertainment center. And yes, residential is around it, but that's how communities grow with a mix of things with commercial and residential coming together to allow those benefits. I really appreciate all the neighbors that are here. I appreciate all the neighbors that are online. And I appreciate the 500 pages that we all read of neighbor comments because I think it's important to have that civic process. That's why we sit up here. That's all you sit there and come and tell us your feelings. And it's very, very important. So, I appreciate our staff. I know Tamara and others have worked relentlessly for months, so thank you. And I truly believe that JW and his team have the best in mind for this area and for our community, and that he does live here and he wants to improve and be a positive influence. I think that the cashout terms were a little alarmist. I think there's a lot of time and money put in by this team to make this project work, and I see those changes over time. I also saw that this, I don't know if it was JW and the same team, but I see changes that happened at the Magnum Shooting Center when there were noise complaints about that venue. And I know that's a separate issue, but something that I'm familiar with. So, with that, I do still have some concerns about the sound and I'd like to see maybe a better sound study or a next level study to figure out that attenuation and the sound tunnelling and whatever else. I also firmly believe that trains in the Air Force retreat to music at 4:45 every day are meant to be very loud and are meant to carry for miles and miles and miles for the safety and the reason that we all stop our cars and salute or whatever they do. I think that's different than a concert venue that's trying to keep the sound within the venue itself. So, I think that we're talking about apples and oranges in that regard. But I would like to see maybe a next level sound study as we've kind of talked about. But like you said, Jack and others, I do think that there's a lot of positives for this venue and for this project, and I am very supportive in many ways. My three things that I would like to see to be able to get to a yes are hard limits on the end time and making that like a 10 pm. I just think that if that can be proven out, then maybe it goes later. But I think an earlier time frame would be very helpful for this neighborhood to be engaged in this project. I'd like to see a little more discussion about parking on site. There's lots of land around. I know it maybe isn't the most economic decision, but I think it solves a lot of the woes. Not the best economic decision maybe for the developer, but it solves a lot of the woes to get more of that parking on site. And I'd also like to see more definition around the date, the number of days of events, because we've heard different numbers, 50 days, 60 days, 70 days, 100 days. I think it might be helpful to have a little more definition about how many days and what are those hard limits for those permits. And if that proves out well in the first year or two, then maybe that changes and maybe there's more support. So hard limits on the time frame at 10 pm, more parking on site and the number of days a year. And if those three things are a little more defined, then I think that I would be very supportive of this project.

**Commissioner Hente** [07:10:43] All right. Sticking with that <unintelligible> lingo. James.

**Commissioner McMurray** [07:10:49] So, I'm in support of the overall idea of this project. I think it could be a potentially great asset to the community. And, you know, the masterplan designations, the PUD, the zoning, all of those things indicate strongly that this use is appropriate to the site based on those criteria. But that said, there are, you know, what we've been talking about all day, some areas where the overall success of this project, that's going to be execution dependent. Right? Because it's, you know, it's in the community. And I think you're grappling with these questions about noise and about traffic and parking. I, you know, I'm inclined to trust the, you know, the modeling, you know, to say the 47 decibels would be that would be the number and that it would be within the nuisance limits. But we didn't receive the noise study in our packet, and I made the comment earlier in the day that I'd love to see that and how it maps on the ground so that

we can just have a, you know, full and clear understanding of what that looks like and verify that and just get a sense of that. I know that sometimes when we get into the science of noise modeling it, it quickly becomes very opaque because I've dealt with that type of planning in other contexts. But nonetheless, I think that some additional information there will help us. As far as the traffic and the parking plan goes. I mean, the applicant's clearly, you know, developed a first-rate venue. The amphitheater looks fantastic. And even people that, you know, are fearing about the impacts, I'm sure that we can all agree that the idea of going into this would be really fun. But as I, you know, looked closely at the site and this parking plan, I feel like we do need to give some additional consideration to the guest experience from car to gate. That's how I would phrase it. I think that the idea of dispersing parking is good from an impact standpoint. Utilizing parking lots that aren't in use is great. We're not creating more pavement and stormwater runoff and making better use of facilities and assets that are basically laying fallow in that kind of use. But, you know, there's still some questions in terms of, you know, where that's going to land. I've reviewed the parking agreements. and they're good, but it's obvious that they're not, you know, rock solid for the very long term. We don't know how those conditions will change. And so, based on that, I guess if I had three wishes too. Like I said, my aforementioned request to see the noise report and the geography of those impacts would be very helpful. I do think that we have the ability to squeeze more juice, so to speak, out of the site, particularly as it pertains to Spectrum Loop and how we can improve the walking experience for folks. I think the pedestrian experience is... So, for example, one concrete thing, I'll note. The six-foot sidewalk from the sidewalk from side access point to side access point, in my opinion, may not be sufficient. I went and walked the site at Weidner Field. I laid down and measured the width of the sidewalk very scientifically - ten-foot sidewalks right in the immediate vicinity. And I think based on the crowd levels we have, that we run the risk of people spilling out into the vehicular right of way. So, I'd like to see a little bit more care and consideration given there. And I think if we can create something of a, you know, environmental cues that help people understand I'm in an amphitheater district here. I'm supposed to walk in this area, there's lighting, there's, you know, the sidewalks are a little more ample and people are more likely to do that because people are we are weak and fragile creatures. We want the easiest way to get to a place. I spent a lot of time thinking about walkability in my line of work. And frankly, people aren't really going to be interested in walking longer distances. From the Voyager the data is across, excuse me, across Voyager and crossing Voyager and then traversing all that distance. They'll find the easy, they'll find the lowest point just the easiest path into the site that they can. And so, there's, we can think about the, you know, the parking we can think about, you know, some pedestrian refuges at the crossing sites, the access point across TCA. There's just many options I think that we can even go further in figuring that out. And so, I would love to individuals, if I could see two, if we could see two or three options to consider that, to see the tradeoffs and the pros and cons to, you know, this increases capacity at the expense of flow on Spectrum versus the other <unintelligible>. I think the team's very capable, and it could show us a few different options and help us understand where those tradeoffs are and what will maximize efficiency and effectiveness. And then I do think that I don't know how this works. If we have the ability to make this a condition of approval. But, I mean, I think that this the idea of the operational reviews that pertains to noise and traffic will be very important moving forward and making sure that there's some ability for there to be some transparency on that. That the public understands it. That there could be any number of formats for how that takes place. I have full trust that the applicant is acting in good faith in what they want to do, but what kind of assurances would we have to make sure we can fine tune and troubleshoot if this were to be approved over time? So. Those would be my three wishes.



**Commissioner Hente** [07:17:53] John, do you have anything else you want to add?

**Commissioner Almy** [07:17:57] No, I basically the other wishes are more in line with what I'm thinking too. Although the parking I think we can be pretty constructive on.

**Commissioner Hente** [07:19:09] I uhh. I'll get my comments in. I have oscillated during the course of the last 9 hours, back and forth. You know, somebody made reference to the fact that we voted down that apartment project to the east that was off of Spectrum also in that we were overturned by city council. I was one of those who voted against it. And I and I did. And in a reflection with some of my colleagues after that vote, it brought up the comprehensive plan. And I wondered if I followed the comprehensive plan as well as I should have. And even though I voted probably the way you guys liked, I didn't follow the comprehensive plan the way I should have followed it. And so, I've been, I'm going back to what John said a few minutes ago, and that is I'm thinking about the comprehensive plan in this regard. And so, I think the comprehensive plan supports this project. I really do. I will tell you; I think my colleagues that have already spoken, and I'm sure the ones that will speak after me, have raised some very good points, have raised some great things they'd like to have. But I have to ask myself, if we come back a month or two or three months from now and we have another presentation, and we hear more information, will we know anything more than we know now? And I think the answer to my question is probably not. I think they've hired the right experts. I think we; I guarantee you we're going to get to a point where they're going to present information and people will always dispute what they say. I get that. But I'm not sure that two or three months from now we'll know anything more than we know right now, and that they'll present anything substantially different than what we know right now. So, I guess in that line, I'm of a tendency to vote yes for this project and move forward. I like James' idea. I think we can make our approval contingent on certain factors. And I think we can do that as part of our motion. But I'm of the mind now to support the project, support the comprehensive planning put forward. Marty?

**Commissioner Rickett** [07:20:18] I do have a comment or two.

**Commissioner Hente** [07:20:20] I figured you would.

**Commissioner Rickett** [07:20:21] Just one question. Is there any agreement in place that stops the venue from being used 365 days a year?

**Mr. Mudd** [07:20:35] No agreement in place that keeps it from being used 365 days a year. There are encumbrances by day on when we can use the facility.

**Commissioner Rickett** [07:20:42] Okay. Thank you. I go back to, I understand the comprehensive plan and, you know, the whole thing. But we're here for code. Black and white. You have two review criteria that we've got to look through. One is for the development plan review criteria and the other is the nonuse variance review criteria. So as a commission, that's really our guideline. So, do they meet the three nonuse variance criteria? And do they meet the 13 development plan view criteria for the project? That really is the black and white question. You can pull in comprehensive planning. You can pull in whatever we want to, you know, make a decision one way or the other. But ultimately, our responsibility is the code. So based on that, I've got problems with the development plan being; your criteria number 1, criterion number 9, which is also related to criteria number 12, criteria number 13. And the biggest one being criteria number 5, which is the off-street parking criteria, which goes to the nonuse variance. So, in the

nonuse variance, it has only three criteria and I think it all has to work together. So, either we grant the nonuse variance and the development plan or really, if we do the development plan and not grant the nonuse variance, it probably doesn't work. But I don't see that they really met number 2 and number 2 of the nonuse variance. That is the extraordinary and exceptional physical conditions of the property will not allow a reasonable use of the property in its current zone in the absence of relief. Number 3 is the granting of the variance will not have an adverse impact upon the surrounding properties. And if we go to the development plan, very similar. And if you want, I'll read them or... Everybody knows what they are?

**Commissioner Hente** [07:22:56] We do.

**Commissioner Rickett** [07:22:57] Okay. So, I don't see that they've met all of the development review criteria nor all of the nonuse variance criteria.

**Commissioner McMurray** [07:23:06] So Marty, just to check in with this discussion, I'm inclined to agree, in fact I wrote them in my own list that we're not, personally I don't feel that we're quite there on nine and 12 of the development plan. And I think after you mentioned 13 and looking again, I would agree with that. And we're not quite there on the variance criteria number 3. I don't want to use that as a basis to deny and tell them to go home and let's not keep trying. I think that there's solutions that are available there, that aren't out of the realm of possibility. But just to just sort of jump on board with what you're saying, to say "yeah", I'm seeing along the same lines. And...

**Commissioner Rickett** [07:23:58] Trust me...

**Commissioner McMurray** [07:24:00] This needs to be cooked a little more maybe...

**Commissioner Rickett** [07:24:02] I agree but we're here today. We've got to make that vote today. If there's some adjustments they want to make, come back, I get that. That would make sense. That would actually meet those review criteria. I'm okay with that. I love the venue. I would love to have this in Colorado Springs. In all honesty, I drove to Denver for God knows how many concerts over my lifetime. I'd much rather be here. So don't get me wrong, the venue is awesome, but we've got to look at the black and white in the code.

**Commissioner Almy** [07:24:37] But the black and white, as I've said a couple of times recently, is subjective. And it's not crystal clear. You can read it one way and I can read it another way.

**Commissioner McMurray** [07:24:52] That's why there's nine of us.

**Commissioner Hente** [07:24:53] <laughter><unintelligible>That's exactly right. <unintelligible> Jim?

**Commissioner Raughton** [07:24:58] As I visited the site and walked it, I became convinced that there's enough development potential and buffering potential to protect the neighborhood from the sounds. And I think some of the experts that have supported this proposal have argued that. I also believe that they have adequately met, maybe even exceeded the parking requirements through their various devices. Several years ago, as you've heard me say before, I served on the steering committee for the PlanCOS, or steering committee for the comprehensive plan. And I was an outspoken supporter of the

chapter that was added <unintelligible> culture and the importance of art, history and culture and our history and the belief that this type of venue is needed. And because of that, I think this is a step in the right direction, and I will vote for it this evening.

**Commissioner Slattery** [07:26:12] Good evening, folks. I think this is a great project. I'm excited at the opportunity it brings for Colorado Springs from a cultural perspective, from a destination perspective, for our residents to enjoy concerts within reach of home. That said, as far as I'm understanding what's been presented today, some of the sound concerns will be, I guess, monitored through the revocable permit process? Not sure if staff wants to... but I believe there is a mechanism in place to monitor and address that issue, and I think that is why the proposed application is going through that permit process on a case by case so that those public protection features are in place indefinitely. That said, I'm going to agree with Marty somewhat on, I'm not sure that they've met the criteria of hardship for such a great reduction and relief of parking spaces. And I go back and forth a little bit with it. You know, I think I'm not so opposed to relief for off street parking and walking half a mile. And, you know, I think folks need to, especially in the warmer months, are quite capable of that. And I'm not sure if we can approve the development plan with the caveat that it's tweaked to accommodate spaces. But with all of the restaurants in those four buildings, there has to be some financial mechanism to share a garage or something that increases densification, probably increases height to mitigate sound as well. So, I think some of those ideas where we're going to build a parking garage that's going to sit empty a lot of the years is not considering the partnerships of the other adjacent developments and offsetting that cost. And I think that is where I hesitate with the second and third items on the list and I would be in favor for approving the development plan with... since this is probably going to City Council, modification to... you know, if a developer thinks that they can throw a different number out of a reduction... that if he gets too great of an ask in a reduction and that... There are a lot of contracts out there in the short term, especially with Compassion in the distance, and subjectivity to appropriateness that cast doubt in my mind of a great solution in that respect. And I commend the outreach because I'm sure there was a lot of meetings to come up with, with what you came up with. And you know, I'm not for building parking lots for parking lots sake, I think densification is great but potentially a shared and I don't know how if we can approve the development plan and not the others, if that's acceptable? Since one is contingent on the others? But that's where my thoughts lie.

**Commissioner Hente** [07:30:00] Colby, you get the last word, I guess, for the time being.

**Commissioner Foos** [07:30:03] Well, everybody kind of has already spoke for me. I guess that's the thing going last, right? You know, I think, Marty, Commissioner Rickett, kind of took the words out of my mouth. I think for me, there's some items on the, in the criteria, that quite haven't been met yet. And parking, obviously, is a big issue for me. A permanent venue with leased parking spaces and things like that. And I don't need to rehash everything everybody already said, but for me, I'd have a hard time approving the variances as they sit right now.

**Commissioner Hente** [07:30:38] Okay. So, it's do something time. Jack go ahead.

**Commissioner Briggs** [07:30:43] So let me ask, is this the time to throw the gauntlet down or do we have an opportunity... I guess I would counter with are they going to tell us something new in two or three months? Well, what about in a month? The discussion about parking, as an example. And other ways to mitigate what obviously is one of the biggest issues here. I wonder if we're not sort of forcing the issue here when this is such a

big thing. And if we get it... once we say yes, if we say yes, we live with what we've got, and now we've got to modify it as it goes. Whereas if we, and I don't know the procedure, maybe we say yes to something conditional. Contingent, thank you. You read the 500 plus comments in the community and no one really actually says, I hate the idea of a venue. They really are talking about the things that are traffic, noise in this spot. So, I wonder if we don't give the opportunity, this is a big deal, this is the first time we've really heard it out loud. I just wonder if there isn't some value to giving this... to let it stew just a little bit and give them the opportunity to address some of these very specific issues. I recognize I'm one on the board so I, I appreciate all those comments that they have helped me even as I've laid out my initial ones. That I would just ask that question now that we can actually talk about it in front of each other.

**Commissioner Hente** [07:32:30] Well I think the answer is no. And I'll look to the city attorney to get verification of this. You, we, can propose whatever we want. We can make any kind of motion that we want. I mean, within the boundaries of the law, and all that stuff and everything. But if you want to make a motion contingent, if you want to make a motion of deferring, I think those are all acceptable. Am I correct on that, Madam Attorney?

**City Attorney** [07:32:54] So Chair Hente, I, from what I'm hearing, there's been a few different kinds of proposals from the dais at this point. One's been to make what I would call inconsistent motions, approving one of the applications and denying the others. I would term that inconsistent votes. I would then ask you for a reconsideration of one or all of the votes at that point. The other has been to try to, kind of design from the dais. I think there's generally a disfavored view on that because it's very hard for us to come up and craft these conditions that staff can then implement with any kind of effectiveness. The other thought had been to continue it or postpone this item. I've heard that as well. I don't have any, you know, opposition to that. So, there's no there's no problems with that but, except for the obvious that it would be more time spent on this item. But that's my input on this, what I perceive to be the three different options that have been thrown out.

**Commissioner Hente** [07:34:13] Okay. I work under the theory under our rules that the chair does not make a motion or second a motion. So I'm looking to you guys.

**Commissioner McMurray** [07:34:22] Yep. I, can I just...

**Commissioner Hente** [07:34:25] Sure.

**Commissioner McMurray** [07:34:26] I'll just to respond to what Jack was just saying. I feel like <unintelligible> kind of taking the temperature of what I'm hearing up here. I feel like we're kind of in the stance of being able to approve with conditions or if we're not feeling quite that certain we could move to continue with specific guidance of what it is we actually want to see. In the short term I don't think we have a terribly difficult laundry list and I think if we come back, we can keep our focus and the public comment focused on those very specific things that we would outline. But I don't think we would want to come back for an open-ended public hearing. We've heard, you know, I think all of the input there so, you know, anything that we would be focusing on coming back would, in my view, would be best to be focused very strictly on whatever those things are that we would want to see come back. Otherwise, I think we should work towards that motion to approve with conditions. That's my sense.

**Commissioner Hente** [07:34:42] A matter of fact, when you laid out the criteria, I thought there was one more and James alluded to it. That is, could we make motions that are

suggested to us but attach conditions to those motions? It seems to me that we could do that.

**City Attorney** [07:35:56] I think that's right Chair Hente. I would just caution you in adding conditions to avoid...

**Commissioner Hente** [07:36:01] I know you're designing for the dais, which I typically don't like to do. I get that. Sure.

**City Attorney** [07:36:06] Exactly.

**Commissioner Hente** [07:36:07] But if we continued, I think it's incumbent upon us and I'm not saying I would support a continuance, but I think if we did, I think it's contingent upon us that we're very clear...

**Commissioner McMurray** [07:36:17] Yes. Absolutely.

**Commissioner Hente** [07:36:18] ...with the applicant what we want them to come back with.

**Commissioner McMurray** [07:36:20] Right.

**Commissioner Hente** [07:36:21] So there's no hesitation.

**Commissioner McMurray** [07:36:22] I don't want this to be vague.

**Commissioner Hente** [07:36:23] We're saying the same thing.

**Commissioner Rickett** [07:36:25] Can I make a suggestion?

**Commissioner Hente** [07:36:26] Sure.

**Commissioner Rickett** [07:36:27] Based on what we did with the apartment complex in the same area, we voted. But we laid down, as we just have, a lot of comments on things that we would like to see. City Council reviewed that. The developer changed the plan before they appealed it, presented it to City Council. To me, that might be the simplest way to not extend it. They've heard our comments. That would be another option.

**Commissioner Hente** [07:36:59] Now remember, there's, Jack made the point earlier and he's absolutely correct. There is no guarantee this would go to City Council.

**Commissioner Rickett** [07:37:05] That's true.

**Commissioner Hente** [07:37:06] It's possible, it is entirely conceivable that whatever we decide today, nobody appeals and then it's done. So, I like... Jack's comment was very applicable, and that is, we have to make the decision, we have to make the assumption that it won't go to City Council because it may not, although we can certainly get overridden with an appeal. But I don't want to have it open ended because you can't make the assumption that City Council will somehow fix things.

**Commissioner McMurray** [07:37:31] Right. By the same token, I would also suggest that given the likelihood that it would go to City Council, I would want to make sure that our

rationale is laid out clearly enough for them, that they can, that it would serve as the de facto recommendation as well. Not, you know, that they really have a clear understanding of our thought process.

**Commissioner Slattery** [07:37:54] Is it not true as well that any conditions of approval would be valid whether or not it goes to council? So, I think the mechanism would already be there with conditions of record on the motion.

**Commissioner Hensler** [07:38:10] I'm also reflecting on the fact that early, early this morning, for those of us who've been here all day, it was presented that this could have been administratively approved. So, I just wanted to think about, you know, kind of where we started and where we've gotten to, if that has adds any definition.

**Commissioner McMurray** [07:38:29] That being said, it almost certainly would have been appealed to us I would think. You know, the more I think about this I think I understand the concerns about designing from up here. And I know that throughout some kind of specific things is part of what I would, what I would want to see. One of my really my primary requests I would want to see, a couple or two or three alternatives to the... how we can get more out of the right of way. To increase the cap parking capacity and to think about that car to gate process for the folks walking in. I could even live without seeing more on the noise and let, you know, let the technical analysis on that stand and let the regulatory mechanisms in place to regulate that after the fact. I could, I'm comfortable enough with that to be okay with it. I wouldn't mind seeing a noise report if we're going to come back. Those really are the two things. So I don't I don't sorry... I don't feel an impulse to say, "try it this way, try to do this and this and this". I could come up with my own ideas. But really, I think the team can come up with two or three and we can talk it out and they might have their preferred and we go off that.

**Commissioner Hente** [07:40:02] Jack?

**Commissioner Briggs** [07:40:03] I would just maybe more strongly say that I would like to see more on the low frequency issue, but that's just it's from my perspective. So we would be something about seeing if we could get away from so much outside parking and more on site. And a better fidelity, I didn't mean to say it that way, on the noise - a picture when it comes to low. And I would be willing to make a motion for a continuance to give us until next our next meeting, which would be in December, to give the developer time to address those two particular issues. And then... but I'm a neophyte at doing that so I would need some coaching

**Commissioner Hente** [07:40:59] Jack before you anything, I have one question for the staff. I'm looking at a proposed motion that's in front of us. Has that been amended here during the course of the day? Because it seems to me that some of the things in this proposed motion, have done some of the things we've talked about in terms of updated traffic counts, agreement shall be executed with prior plan approval, <unintelligible> operational parameters, etc, etc, etc. It seems to me so that you've thought about some of this ahead of time in the proposed motion you have for us to. I didn't mean to interrupt Jack. I just want to get a clarification on that.

**Tamara Baxter** [07:41:45] No. So to answer your question, the proposed motion has not been changed from what was provided to you in your packet. And you are correct that there are some technical modifications that need to be addressed per traffic engineering

before that's done. And then we are requesting that an agreement be done between the venue operator and the city to address some of those items.

**Commissioner Hente** [07:42:14] Okay. Thanks for the clarification.

**Peter Wysocki** [07:42:16] Question for Tamara. Was the noise studies included in the packet or not?

**Tamara Baxter** [07:42:22] It was not. When we went back to look, it was not included in the packet. It is available online, so it is public record.

**Commissioner Hente** [07:42:31] And Jack, I think you're selling yourself short. I think you were very close to a proposed motion. I think you could make that. We could modify it maybe up here. But I...

**Commissioner Briggs** [07:42:41] If somebody could help me wordsmith it, I'll take my first stab at it. But I would propose the notion that we continue this conversation to the next official meeting that we have, a formal meeting, with the caveats to have the developer come back with further discussion on the low frequency noise impacts and the... a further study on options for more onsite parking, to reduce the amount of off-site parking. Period.

**Commissioner Raughton** [07:43:28] Mr. Chair, I, you know, I'm in a bit of a minority here, but Jack, there's a point at which we have to rely on professional status of the professionals, or that are working for us. And to refer to the developer to return to us, I would rather it be a referral to the professional staff hearing this conversation to make those judgments. And, you know, with the conditions that are in the motion.

**Commissioner Briggs** [07:43:53] Well the biggest driver for me, quite frankly, is I when I asked the question about whether or not the space between the restaurants and the lot, that that was supposed to be parking? And I asked, what about now? And it was not... the answer was not fulsome. I will just put it that way. Right? And so I see an opportunity here for a response to that. Now whether that's the staff or the developer, I don't know. But again, I am willing to massage this with the team up here to understand the best way forward, because I don't want to put us in a square corner either because of my newness.

**Commissioner Raughton** [07:44:35] Yeah. So Jack I think the professional staff that we've hired to help make recommendations on this should be empowered with this conversation and let them once again say, well these are the conditions we've been handed by the planning commission and we will now make our, you know, or proceed from there. I suspect it will go on to City Council. That's my, you know that's my sense of it but... but with modifications, like the apartment, with modifications. But returning it to here, returning it to us, I'm sorry, will only lend itself to that designing from the dais. You know, is it a six-foot walk or a ten-foot walk? You know, is it that type of discussion? And there's a point at which we have to rely on others - traffic engineers, planners, and engineering.

**Commissioner Slattery** [07:45:28] I have a question then. With the proposed version as written, and the condition number two, where the agreement between the operator and City of Colorado Springs will come up with an agreement not limited to parking, noise, traffic, etc... If we then approve the development plan but as our lovely attorney has

stated, are inconsistent and disapproving the variances... could the agreement then still come to play in?

**Commissioner McMurray** [07:46:01] And would it come to us? That doesn't come to us. That number two, is that intended to through planning commission? I would imagine.

**Peter Wysocki** [07:46:10] No, no it was not. So, I'm sorry to interrupt here. The design of the project DP (Development Plan) was predicated on not providing all of the onsite parking. I think that's what this, you know, at least what was referring to that if you approve the DP and then deny the variances, then the DP is just not viable because it is completely wrong design. Right? So if your intention is to go from against the variances, you might as well vote against the DP, right? With the continuance, it is acceptable to seek the applicant's comments on a continuance for any clarification on exactly what information is needed. We try to couch that in the agreement. Obviously we fully intend to address some of the topics raised by the Planning Commission in that agreement. But it would be acceptable Mr. Chairman if you so desire to seek any input or any comments from the applicant. What exactly information you're looking for? Because we're kind of starting to blend information versus conditions.

**Unknown** [07:47:26] Right.

**Peter Wysocki** [07:47:27] You know, if the condition says thou shall not operate more than 100 days a year, then that's pretty clear. If the condition is try to redesign to provide more parking on site. It's very vague and we would not know how to implement that. So, if it's acceptable, you know, certainly the applicant is willing to offer comments.

**Commissioner Hente** [07:47:53] Jack, can I do this? Can I ask the applicant to come back up and see if he can address some of the issues you raised at this point? Will you have any objection to that?

**Commissioner Briggs** [07:48:01] No.

**Commissioner Hente** [07:48:02] Sir would you like to come back up?

**Commissioner Hensler** [07:48:04] Before we do that, I did have a notification from someone that maybe there's some sound issues. Can we check with folks online if they're able to hear? Okay.

**Commissioner Foos** [07:48:14] I can hear, but it's scratchy. Again.

**Commissioner Hensler** [07:48:17] Okay. So maybe it's nothing that we can do. Just keep telling and talk loudly? Does it help if we talk more loudly, Colby?

**Commissioner Foos** [07:48:25] Yeah. I haven't had trouble understanding anybody else and speak, and it's just been a little bit, you know, fuzzy at times.

**Commissioner Hente** [07:48:32] All right. Thanks Colby.

**Tamara Baxter** [07:48:34] I would like to add that when the recording is recorded, it does not, it is not very easy to hear.

**Unknown** [07:48:43] <unintelligible> It resets it, it works fine.



**Commissioner Hente** [07:48:49] I'm sorry, is the recording intelligible enough that you can get the minutes out of it? Can you get a recording, an actual record of what was done today and said today?

**Tamara Baxter** [07:49:00] I think we can probably manage.

**Commissioner Hente** [07:49:07] We're gonna have a side comment about technology in here, but that's not a big surprise to you. So. I know who I'm calling tomorrow morning, so, as I promised I would. So.

**Commissioner Hensler** [07:49:19] Sorry to interrupt.

**Commissioner Hente** [07:49:20] I'm sorry, Mr. Mudd, would you like to please come back up?

**Mr. Mudd** [07:49:26] Again, I appreciate the level of thought and consideration this project. And look at a couple of things that I'm hearing that I just want to share our perspective because I think it would play into your decision on continuance and potential. There have been robust conversations with the administrative staff. They have pressed on this plan from many directions. The acoustic report that apparently is not in your packet but is online is a grade of, from where we started, that's exceptional in nature and very detailed. And it sounds like you might not have seen that. Taking that to another level and talking to our acoustics design is not going to deliver a great deal of additional value. If I begin to think about parking, which is another critical component of this, I'm compelled to ask you to vote on, close to or what we have today. If you look at the intersections that are going to be most challenged, that are the D intersections they will go, they will be the ones most impacted by consolidating substantial additional parking in a structure parking garage. So we believe and will come likely back with a very similar plan. The nature in which we tried to address that plan was with encumbrances, with the city, had the ability to control our volume so that we, in the event we did not have the parking available within a half mile. Now remember, a half mile is a not an inconsistent distance for a venue to have almost all of its parking for the predominance of its events. That is our plan. That's what we've structured. It's taken us six months to put that fabric together. The parking and shuttle plans to the point of the customer experience, we've been very astute to. Having that 5 to 11 and we are committing however many shuttles we need to achieve that because that hospitable experience is key to us delivering on our brand promise. So if you were to do a continuance, my fear would be that we would show up a month from now and we would look like the same group of folks that you saw the last time you were here. That is not saying that if you brought us specific recommendations, we will consider them all. I am having active discussions, as you all speak, about possibly lowering the time in the evening and making that commitment. So those are the types of things that we want to work with you on. But as the nature of the sound and as the nature of the parking, I don't know that there's a better foot that you're going to get forward if it's given 30 days and some general direction. We have hundreds and hundreds and hundreds of man hours and many, many, many resources that have been applied to consolidate what we believe is a solid path forward for this project. So I just wanted to give you that because the continuance I'm not sure you wouldn't be disappointed when we showed up. Because we'd be looking very the same unless you gave me very specific things to consider. Said differently, I've done my best putting our very best foot forward, given all the feedback we've gotten in collaborating with the administration. Thank you. I appreciate it.

**Commissioner Hente** [07:52:38] Gary. I'm sorry. We're past public comment. Nice try, though. I've got to be fair.

**Unknown** [07:52:51] He's part of the applicant. He's got to...

**Commissioner Hente** [07:52:54] You're right Gary. You're... I stand corrected. You are the applicant. He is the applicant, so he has the right to ask questions

**Gary Erickson** [07:53:03] So I'm Gary Erickson, the North Gate developer. The parking is the way it is because of me. I've developed most of North Gate. I have thousands of parking spaces sitting vacant since COVID we're ten, 20% at every office. All the parking lots are coming apart. My whole goal with this amphitheater was try to utilize the parking that's already there and pay them for it so they can bring their parking lots back up to acceptable conditions. The Progressive parking lots completely coming apart. They all are coming apart. I feel like it's a terrible planning to build a parking lot. You know, these guys are aggressively telling you 100 nights. The reality of it is Fiddler's Green did 28 concerts last year. For us to have more than 20 or 30 full blown concerts that are going to need all these parking spots is all we're gonna have in here. If it's 30 or 40 in the first year, that to create more parking is just not an option. They've come to me to want to buy more property and for me to put in a hard slab of asphalt that creates drainage issues, it's terrible planning to sit for 320 days out of the year to have a parking lot that's just not going to be used. It's just something that I can't accept. So that's going to be an issue to try and create more parking. We've got thou... I can't tell you... we had 6000 employees in Northgate prior to COVID. We probably have a thousand on site right now. So my whole concept of this is manyfold to try and create a community, not just a parking lot.

**Commissioner Hente** [07:54:57] Thank you sir. I have to look to you guys. Go for it.

**Commissioner Rickett** [07:55:09] Just my question on parking is... let's say TCC (sic, should be TCA) pulls their agreement which they had the right to do. Correct? Same with Compassion? Where are you at with parking?

**Mr. Mudd** [07:55:26] There's 465 spots at TCA. If you were to eliminate that parking, we would have to reduce the capacity of our amphitheater about 450 people. I'm doing quick math in my head. Given the commitments we've made in the development plan, if you were to pull Compassion for a full show, maybe about 500 spots out there that would be required, times 2.5. We'd have to reduce the capacity if we weren't able to replace it elsewhere by... what's the math? By 2,500. And we've committed to that. And so what we've done is put safeguard in place at great risk to our business, but also with the belief frankly, that we can develop better parking over time to offset the potential risk of the existing agreements that we do have in place. And that's the risk that we're willing to take as a business. And you're not going to be worrying about an event when we've got 8000 people and, you know, 500 parking spots to accommodate. That can't happen or you can pull our CO. We felt like it was a practical approach.

**Commissioner Hente** [07:56:26] Thank you sir. I want to go back. I think Jack made a motion. I think he did and I <unintelligible>

**Commissioner Briggs** [07:56:35] It wasn't eloquent but yes, I did.

**Commissioner Hente** [07:56:37] And so the parliamentarian in me says is there a second to Jackson motion?

**Commissioner McMurray** [07:56:45] Did we capture it at all in writing, just so we're clear again. Did you?

**Commissioner Briggs** [07:56:53] I got the ideas.

**Commissioner McMurray** [07:56:54] But because the motion will be these specific things, I want to make sure we lock it in. So what it was...

**Commissioner Briggs** [07:56:58] Okay. I'm making a motion to continue the conversation, to give the developer the opportunity to come back, with... after we've had the opportunity to talk about and look at the sound study to address any questions that we might have because we have not had the... I have not had the opportunity to look through that. And the second one being what other options and I know that you're saying you're just going to come back with what you got, but what are the other less-best options from your perspective that still exist out there, because I did not get a chance to see - if it was all on-site parking, what would that look like. I don't know how to write that up. But I'm looking to someone to help me.

**Commissioner McMurray** [07:57:52] So the, your right. So the traffic parking component of your motion is to explore an all on site solution.

**Commissioner Briggs** [07:58:08] I guess that would be the bookend yeah.

**Commissioner McMurray** [07:58:10] That would be one of the bookends.

**Commissioner Briggs** [07:58:12] Right. But what would be the impact of all... as great a on-site parking as possible.

**Commissioner McMurray** [07:58:17] Okay. I would.

**Commissioner Hensler** [07:58:24] If that's an actual motion, then we need a second and then we need to have discussion.

**Commissioner McMurray** [07:58:29] Or we can discuss to modify it the motion correct? <unintelligible> Sorry, the parliamentary process here is...

**City Attorney** [07:58:40] So a motion to postpone for a definite time does require a second is debatable as to the reasons for the postponement and the date of reconsideration and is amendable as to the date of reconsideration and requires majority of those <unintelligible>.

**Commissioner Briggs** [07:58:54] Okay, I think I got it.

**Commissioner Hensler** [07:58:56] <unintelligible> before you start discussing, do we need to go through the.

**Commissioner Hente** [07:58:59] Yes. Jack, I think based on what you just heard you want to restate it. Yes. Okay.

**Commissioner Briggs** [07:59:04] I'm making a motion to postpone to continue the conversation to the next formal meeting. To give the commissioners the opportunity to

review the sound impact study and provide the developer the opportunity to return with a maximum onsite parking plan. So, may I propose an amendment to that motion?

Yes.

**Commissioner McMurray** [07:59:38] So the secondary because I think we're getting... we're all volunteers. The other component I would like to see as part of the parking is, as you just described it, a bookend right, all on site a middle ground thing is to think about how to get a greater yield out of Spectrum Loop. Right, that's technically off site. But I would include that. That would be be another facet of this that I would like to be able to see, because I think... the reason for that is just so I can add a commentary that thing on Spectrum Loop... it's not subject to agreements. It's not subject to the tyranny of, you know, changing conditions or public property owners and things like that. That would be...

**Commissioner Hente** [08:00:37] I understand, but I'm trying to clean this up. You said you had an amendment to his motion.

**Commissioner McMurray** [07:59:38] So it would be to. Sorry. So it would be to include increased capacity, offsite on Spectrum.

**Commissioner Hente** [08:00:52] Is the motion maker amenable to that amendment?

**Commissioner Briggs** [08:00:54] Yes.

**Commissioner Hente** [08:00:55] Is there a second to that motion?

**Commissioner McMurray** [08:00:58] And I will second.

**Commissioner Hente** [08:01:01] Okay, my question is the way he phrased the motion, it sounded like we continued. Is that a proper term? And to me to be continued? Pardon me?

**Unknown** [08:01:13] <unintelligible>

**Commissioner Hente** [08:01:14] Oh, I understand, but assume we did. Assume that's passed we continued. Does that mean we basically take where we are today at this point in time at 6:12pm and we take it and we just continue the meeting then. And the reason I'm asking is, we've heard public testimony. So can we consider... so if we continue can we assume that we have already heard public testimony when we continue it next month?

**City Attorney** [08:01:40] <unintelligible> you obviously run the meeting so within your discretion. But my view is that this continuance would be to pick up at the place we are now and to continue the hearing at a later date.

**Commissioner Hente** [08:01:53] And so we have already heard public testimony and don't necessarily have to hear it again.

**City Attorney** [08:01:59] The hearing is, would be, yes. We have already heard that.

**Commissioner Hente** [08:02:03] You know why I'm asking?

**City Attorney** [08:02:04] I do yeah. And I think your inclination is right that the public testimony portion has already happened, and we would still be at the dais at that point that we continue this hearing for the December agenda.

**Commissioner Hente** [08:02:19] And knowing all, are the motion maker and the second okay with that discussion.

**Commissioner Briggs** [08:22:23] Yes.

**Commissioner Hente** [08:02:26] Peter?

**Peter Wysocki** [08:02:28] <unintelligible> I manage expectations a little bit. So we can certainly provide you with the sound study. I thought the presentation on the sound was summarized the study very eloquently, and I don't know if there's gonna be any new information that non-sound engineers can understand. That said, regarding parking, we have worked with the applicant for months on the parking. The re-striping of Spectrum Loop was not part of the original approval. That is something that we negotiated. We looked at on-site parking. I just want to <unintelligible> the planning commission almost promoted you or demoted you, <unintelligible> consider that. I don't know if there's another viable option for onsite parking. Short of constructing a parking garage, paving, you know, acres of on-site parking that would remain vacant majority of the time. It is just not an option that I think is feasible for this project. Now, I'm just being candid here. So if your expectation is further analysis of more parking can be provided? I think we reached a point, at least at step level, where we've worked on this for a number of months, and we've come a long way. And I just if you're expecting to see an analysis, okay, we can provide more onsite parking. I think we've reached the point where we are. So if you either support outside parking... Now, when we say outside, I mean, I look at Polaris Pointe as an entire subdivision, as an entire project. Right? So to me, Spectrum Loop parking and other sort of ancillary parking areas and agreements, within Polaris Pointe to me is part of one project area. Now the true outside is more outside, and we do do those in other circumstances of other projects throughout the city. But I don't know, we can bring you forward better solutions short of here's a 2000 stall parking stall. And is that a better solution than what's being provided? And I'm not asking here to vote, but I just want to manage that expectation.

**Commissioner Hente** [08:05:05] There is a motion and a second on the floor. Is there any, before I call for a vote, is there any further discussion on that proposed motion? And second. Colby, you're the... You have anything you want to add?

**Commissioner Foos**[08:05:21] No, I'm good.

**Commissioner Hente** [08:05:22] Okay. I'll just... the only comment I'll make is I have a hard time... I've only been doing land use public hearings for 14 and a half years. I have a hard time thinking of one that's been harder to get to a conclusion than this one. This is, this is a difficult... this is a tough subject. This is a difficult one. And I think both sides will recognize the fact that this is a tough decision, how we're going to get to where we're gonna get to. So based on that, there is a motion and a second on the table. Elaine, would you please call the roll?

**Elaine** [08:05:59] Commissioner Almy?

**Commissioner Almy** [08:06:00] Aye.

**Elaine** [08:06:01] Commissioner Briggs?

**Commissioner Briggs** [08:06:02] Aye.

**Elaine** [08:06:03] Commissioner Foos?

**Commissioner Foos** [08:06:05] Aye.

**Elaine** [08:06:07] Commissioner Hensler?

**Commissioner Hensler** [08:06:08] Nay.

**Elaine** [08:06:09] Commissioner Hente?

**Commissioner Hente** [08:06:10] No.

**Elaine** [08:06:11] Commissioner McMurray?

**Commissioner McMurray** [08:06:13] Aye.

**Elaine** [08:06:15] Commissioner Rickett?

**Commissioner Rickett** [08:06:16] Nay.

**Elaine** [08:06:18] Commissioner Raughton?

**Commissioner Raughton** [08:06:19] Nay.

**Elaine** [08:06:21] Commissioner Slattery?

**Commissioner Slattery** [08:06:22] Nay.

**Commissioner Hente** [08:06:24] Were you doing the math faster than I was doing it?

**Elaine** [08:06:26] It fails on a 4-5 vote.

**Commissioner Hente** [08:06:30] Okay. So we're back to the dais with what do we do next.

**Commissioner Slattery** [08:06:36] I'll make a comment and then a motion.

**Commissioner Hente** [08:06:39] Go for it.

**Commissioner Slattery** [08:06:40] And, hearing things of, you know, from the master developer and from staff and from the applicant. My yoyoing of more onsite parking to alleviate the neighbors is maybe unachievable. But I believe that there are conditions in place, and it sounds like there's a commitment from the developer and provisions in place operationally that these agreements for parking are contingent upon... Excuse me. Ticket sales are contingent upon the agreements in place for parking. So I think we, I'm satisfied with that answer at this point and will make a motion unless somebody else wants to jump in. But I'm satisfied with it. And I think for consistency, we'll have to say that the months

and hours that have gone into place, have come up with the best solution that we can come up with, and there are provisions in place to modify as needed. And as far as noise concerns, I'm not an acoustical engineer and don't think that, you know, reading the long study will provide me more information than I can grasp by hearing it here at the dais. So with that, I would like to make a motion to approve the PUD development plan for the Polaris Pointe South filing, number two project based upon the findings that the request meets the review criteria for granting a PUD development plan as set forth in city code section 7.36.606 and, that the review criteria for granting a development plan as set forth in city code section 7.5.502 E with the following conditions of approval: One, the LLC Transportation Consultant Traffic Inc. Technical Memorandum, dated October 14th, 2022, shall be updated to include the traffic count adjustments and split ratio. Additional analysis for Powers offramp Voyager Parkway intersection and include the project queue analysis and table five of the memorandum shall be approved by the City Traffic Engineer prior to approval of the project. Condition number two. An agreement between the venue operator and the city of Colorado Springs shall be executed prior to the plan approval. The agreements will outline operational parameters including but not limited to parking, noise, traffic movement and requirements for annual reporting. The agreement must be executed prior to the approval of the project.

**Unknown** [08:09:41] Second.

**Commissioner Hente** [08:09:42] There's a motion and a second, is there any point in a discussion?

**Commissioner Briggs** [08:09:45] I have a question about the agreement.

**Commissioner Hente** [08:09:46] Go ahead.

**Commissioner Briggs** [08:09:47] So do we get to see what the terms of the agreement are before it's approved?

**Commissioner McMurray** [08:09:52] It doesn't come to us.

**Commissioner Hente** [08:09:52] No, it would not come back to us.

**Commissioner Raughton** [08:09:56] That doesn't mean we can't see it.

**Commissioner McMurray** [08:09:59] We can look at it,

**Commissioner Raughton** [08:10:01] But we're not going to get to vote on it.

**Commissioner Briggs** [08:10:03] We get no input on it?

**Unknown** [08:10:04] <unintelligible>

**Commissioner Hente** [08:10:11] Jack? You could make an amendment to that motion and ask to see that.

**Commissioner Briggs** [08:10:16] I would like to make an amendment to the motion that we get to see the agreement which before it's approved. Can we do that?

**Commissioner McMurray** [08:10:26] We don't have approval authority so seeing it is nice, but. That's it. It's just nice.

**Commissioner Hente** [08:10:36] And it's my understanding that the motion maker does not want to include that?

**Commissioner Slattery** [08:10:43] Considering we don't have authority or jurisdiction over executing that agreement, I don't think it's a valuable addition to the motion.

**Commissioner Hente** [08:10:51] So again, there is a motion and a second on the table. Any further comments? Questions? Elaine, would you please call the role.

**Elaine** [08:11:00] Commissioner Almy?

**Commissioner Almy** [08:11:01] Aye.

**Elaine** [08:11:02] Commissioner Briggs?

**Commissioner Briggs** [08:11:03] Aye.

**Elaine** [08:11:05] Commissioner Foos?

**Commissioner Foos** [08:11:06] Nay.

**Elaine** [08:11:09] Commissioner Hensler?

**Commissioner Hensler** [08:11:10] Aye.

**Elaine** [08:11:13] Chairman Hente?

**Commissioner Hente** [08:11:14] Aye.

**Elaine** [08:11:16] Commissioner McMurray?

**Commissioner McMurray** [08:11:17] Nay.

**Elaine** [08:11:19] Commissioner Raughton?

**Commissioner Rickett** [08:11:20] Aye.

**Elaine** [08:11:21] Commissioner Rickett?

**Commissioner Raughton** [08:11:22] Nay.

**Elaine** [08:11:24] Commissioner Slattery?

**Commissioner Slattery** [08:11:25] Aye.

**Commissioner McMurray** [08:11:28] Is this the part where I explain the vote?

**Elaine** [08:11:31] This passes on a 6 to 3 vote.



**Commissioner Hente** [08:11:37] Sorry. I just... Colby? The technology's terrible. Colby I just want to make sure that you did vote no. Is that correct?

**Commissioner Foos** [08:11:43] Yes, that is correct.

**Commissioner Hente** [08:11:45] Okay. I thought I heard aye. That's why I wanted to make sure.

**Commissioner Foos** [08:11:47] Okay.

**Commissioner Hente** [08:11:50] Okay. We're onto the second item.

**Commissioner Slattery** [08:12:05] I will continue making another motion then here and push the button. Okay. I would like to propose a motion to approve the nonuse variance to city code section 7.4.204C1D2 for the Polaris Pointe South filing number four projects to allow shared parking on properties within two miles or 400 feet is the maximum distance. And to increase the maximum reduction of the number of onsite parking requirements to 85% where 35% is allowed based upon the findings that the request meets the review criteria for granting a nonuse variance as set forth in city code section 7.5.802, with the following condition of approval: An agreement between the venue operator and the City of Colorado Springs shall be executed prior to plan approval. The agreement will outline operational parameters including but not limited to parking, noise, traffic movement and requirements for annual reporting. This agreement must be executed prior to the approval of the project, and I would like to state on the record that part of that agreement includes capacity based upon the parking agreements in place.

**Commissioner Hente** [08:13:25] Is there a second?

**Unknown** [08:13:27] Second.

**Commissioner Hente** [08:13:28] There's been a motion to second. Is there any further discussion or questions? <unintelligible> Elaine, would you please call the roll?

**Elaine** [08:13:35] Commissioner Almy?

**Commissioner Almy** [08:13:36] Aye.

**Elaine** [08:13:37] Commissioner Briggs?

**Commissioner Briggs** [08:13:38] Nay.

**Elaine** [08:13:40] Commissioner Foos?

**Commissioner Foos** [08:13:41] Nay.

**Elaine** [08:13:43] Commissioner Hensler?

**Commissioner Hensler** [08:13:47] Aye.

**Elaine** [08:13:50] Chair Hente?

**Commissioner Hente** [08:13:52] Aye.

**Elaine** [08:13:54] Commissioner McMurray?

**Commissioner McMurray** [08:13:55] Nay.

**Elaine** [08:13:56] Commissioner Raughton?

**Commissioner Rickett** [08:13:57] Aye.

**Elaine** [08:13:59] Commissioner Rickett?

**Commissioner Raughton** [08:14:00] Nay.

**Elaine** [08:14:01] Commissioner Slattery?

**Commissioner Slattery** [08:14:03] Aye.

**Elaine** [08:14:06] And that passes on a 5 to 4 vote.

**Commissioner Hente** [08:14:12] I know. Thank you. And, Andrea, are you ready to make the last motion?

**Commissioner Slattery** [08:14:23] Okay. I would like to propose a motion. On... propose a motion to approve the nonuse variance to city code section 7.4.204B for the Polaris Pointe south filing number four project to increase the distance to allow on street parking to a half mile of the subject property boundary. Based upon the findings that the request meets the review criteria for granting a nonuse variance as set forth in city code section 7.5.802 with the following conditions of approval. An agreement between the venue operator and the city of Colorado Springs shall be executed prior to plan approval. This agreement will outline operational parameters including but not limited to parking, noise, traffic movement and requirements for annual reporting. This agreement must be executed prior to the approval of the project, and I guess I would also like to state that the parking requirements currently for parallel stand is a number. If the developer and city determine within the agreement that it's in the best interest to go to an alternate method of parking, not to be less than the number indicated, that that can be determined at the city's discretion. Is that too complicated?

**Unknown** [08:15:56] Second.

**Commissioner Hente** [08:15:57] I think I followed. Is that okay the wording she put in there? Madam Attorney, is that okay with the wording she put in there?

**City Attorney** [08:16:01] I think I understand.

**Commissioner Hente** [08:16:03] I think I did, too.

**City Attorney** [08:16:04] Let me just confirm, Commissioner Slattery. So you're saying that the agreement that's entered into between the city and the developer should include at least as many on-site parking as what was provided in the documentation?

**Commissioner Slattery** [08:16:18] Correct. So I'm saying basically we're hitting the minimum amount of parking that we are now with parallel. And as we heard from city

traffic, that's due to bike lanes, sides of the road, etc. If while the nuances of this agreement are being finalized with off street parking, if between, you know, if we take into account some of Mr. McMurray's ideas and considerations and it's amenable to both parties that that is an acceptable alternate to increased parking. Does that make sense? And is that...

**City Attorney** [08:16:54] That does. I understand that. Thank you.

**Commissioner Slattery** [08:16:56] Okay. Thank you.

**Commissioner Hente** [08:16:57] And is the seconder okay with all that clarification?

**Unknown** [08:16:59] Yes.

**Commissioner Hente** [08:17:00] So there's a motion with a second on the table. Any further discussions or questions? <unintelligible> Elaine would you please call the roll?

**Elaine** [08:17:07] Commissioner Almy?

**Commissioner Almy** [08:17:08] Aye.

**Elaine** [08:17:09] Commissioner Briggs?

**Commissioner Briggs** [08:17:10] Nay.

**Elaine** [08:17:11] Commissioner Foos?

**Commissioner Foos** [08:17:13] Nay.

**Elaine** [08:17:14] Commissioner Hensler?

**Commissioner Hensler** [08:17:15] Aye.

**Elaine** [08:17:17] Chair Hente?

**Commissioner Hente** [08:17:18] Aye.

**Elaine** [08:17:20] Commissioner McMurray?

**Commissioner McMurray** [08:17:22] Nay.

**Elaine** [08:17:23] Commissioner Raughton?

**Commissioner Rickett** [08:17:24] Aye.

**Elaine** [08:17:25] Commissioner Rickett?

**Commissioner Raughton** [08:17:26] Nay.

**Elaine** [08:17:27] Commissioner Slattery?

**Commissioner Slattery** [08:17:29] Aye.

**Elaine** [08:17:33] And that passes on a 5 to 4 vote.

**Commissioner Hente** [08:17:35] As I mentioned earlier, this, the decisions of the council, or the commission today are subject to appeal. I will read the appeal instructions in accordance with Chapter seven, Article five of the City Code. Any person may appeal to the City Council, any action of the City Planning Commission in relation to the zoning code where the action was adverse to that person. The notice of appeal on the 176 dollar fee should be filed with the city clerk no later than ten days after the action from which the appeal is taken, which in this case will be on Monday, November 21st, 2022. The appeal letter should address specific zoning code requirements that were not adequately addressed by the City Planning Commission. City Council may elect to limit discussion at the appeal hearing to the specific matters set forth in the appeal letter. And with that, we're done, and we are adjourned.