



## Planning Commission Staff Report

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November 18, 2009  
Item 6.a.

- SUBJECT:** PCUP-257
- APPLICANT:** Mari Kennard, Redcoats British Pub and Restaurant
- PROPERTY OWNER:** James Byrd
- PURPOSE:** Application to modify the approved conditional use permit (PCUP-129) for the operation of Redcoats British Pub and Restaurant to expand the days/hours for indoor music.
- LOCATION:** 336 St. Mary Street
- ZONING:** Zoning for the property is Central Commercial (C-C), Downtown Revitalization, Core Area Overlay District.
- ATTACHMENTS:**
1. Exhibit A, Recommended Conditions of Approval
  2. Exhibit B, Proposed Written Narrative
  3. Exhibit C, Approved Floor Plan, Music/Dancing Floor Plan, Eastern Courtyard Floor Plan, and Rear Patio Floor Plan
  4. Exhibit D, Location Map
  5. Exhibit E, Public Noticing Map
  6. Exhibit F, Letter from Christine Saldivar, Pleasanton Downtown Association
  7. Exhibit G, Letter from Bob Byrd
  8. Exhibit H, City Council Resolution No. 05-008
  9. Exhibit I, Letter Approving Breakfast Service
  10. Exhibit J, Letter Approving Outdoor Dining Area in front of the Building and Approved Outdoor Dining Plans
  11. Exhibit K, Hours of Operation for Selected Downtown Restaurants and Bars

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### I. BACKGROUND

On February 1, 2005, the City Council (on appeal) approved an application for a conditional use permit (Case PCUP-129) to allow the Redcoats British Pub and Restaurant at 336 St. Mary

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Street to serve alcohol after 10:00 p.m. The conditional use permit was approved subject to 24 conditions of approval (see attached City Council Resolution No. 05-008, Exhibit H).

On May 22, 2008, the Planning Division approved Redcoats' request to modify the hours of operation to allow 9:00 a.m. openings on Saturdays and Sundays to allow breakfast service (see attached letter, Exhibit I), finding that this minor change was consistent with the previous use permit.

On June 13, 2008, the Planning Division approved Redcoats' request to install a 14-seat outdoor dining area with alcoholic beverage service in the public sidewalk in front of the business (see attached letter, Exhibit J).

With these modifications, Redcoats' approved hours are:

Business Hours

- Monday through Thursday: 11:30 a.m. to 12:00 midnight
- Friday: 11:30 a.m. to 1:00 a.m.
- Saturday: 9:00 a.m. to 1:00 a.m.
- Sunday: 9:00 a.m. to 11:00 p.m.

Holiday Hours: May remain open until 1:00 a.m. on March 17<sup>th</sup> (St. Patrick's Day), July 3<sup>rd</sup>, the Wednesday before Thanksgiving Day, December 23<sup>rd</sup>, and New Year's Eve.

Inside Live and Disc Jockey (DJ)/Recorded Music and Dancing Hours

- Friday and Saturday nights from 9:45 p.m. to 1:00 a.m.

Outdoor Dining Hours

- At the south (rear) of the building: Close at 9:45 p.m. daily.
- At the eastern side of the building: Close at 11:00 p.m., Sunday through Thursday and 1:00 a.m. on Fridays and Saturdays.
- At the front of the building: From 11:30 a.m. to 9:45 p.m., Monday through Friday; and from 9:00 a.m. to 9:45 p.m. on Saturdays and Sundays.

For your information, staff has attached a list of the hours of operation for some of the other Downtown restaurants and bars (please see Exhibit K).

On September 21, 2009, Mari Kennard, owner of Redcoats, submitted an application to the Planning Division requesting to expand the days for indoor DJ music and dancing. The Director of Community Development may approve minor modifications to an existing conditional use permit or refer the matter to the Planning Commission if judged to be substantial. The Director of Community Development determined that the proposed modification was a substantial change and has referred this matter to the Planning Commission for review at a public hearing.

## II. SITE DESCRIPTION

The subject property is located on the south side of St. Mary Street and contains an approximately 7,685-square-foot, two-story building. Redcoats is located in the approximately 3,172-square-foot first floor tenant space. The second floor is currently unoccupied. The property is bordered on the south by a 72-space City parking lot, on the west by Fernando's Restaurant, and on the east by the 320 St. Mary Street (State Farm Insurance) and 641 Main Street (Wine Steward) buildings. Commercial buildings are located to the north, across St. Mary Street. The nearest residence is located approximately 30 feet to the east on the second floor of the 312 St. Mary Street building (Al's Hair Design is on the first floor). This second floor residence was constructed in 2005-06. Other residences are located on the west side of Peters Avenue. Two driveways on Peters Avenue lead to the City parking lot behind the building. The aerial photograph below (Figure 1) shows the project site (outlined in red) and the adjoining land uses.



Figure 1, 2005 Aerial Photograph of the Site and Surrounding Area

## III. PROPOSED PROJECT

The applicant's existing conditional use permit allows live and DJ/recorded music and dancing inside on Friday and Saturday nights starting at 9:45 p.m. and ending at 1:00 a.m. The applicant has requested to have DJ music and dancing inside from 9:00 p.m. to 12:00 midnight on Wednesdays and Thursdays. No other changes to the business operation are proposed.

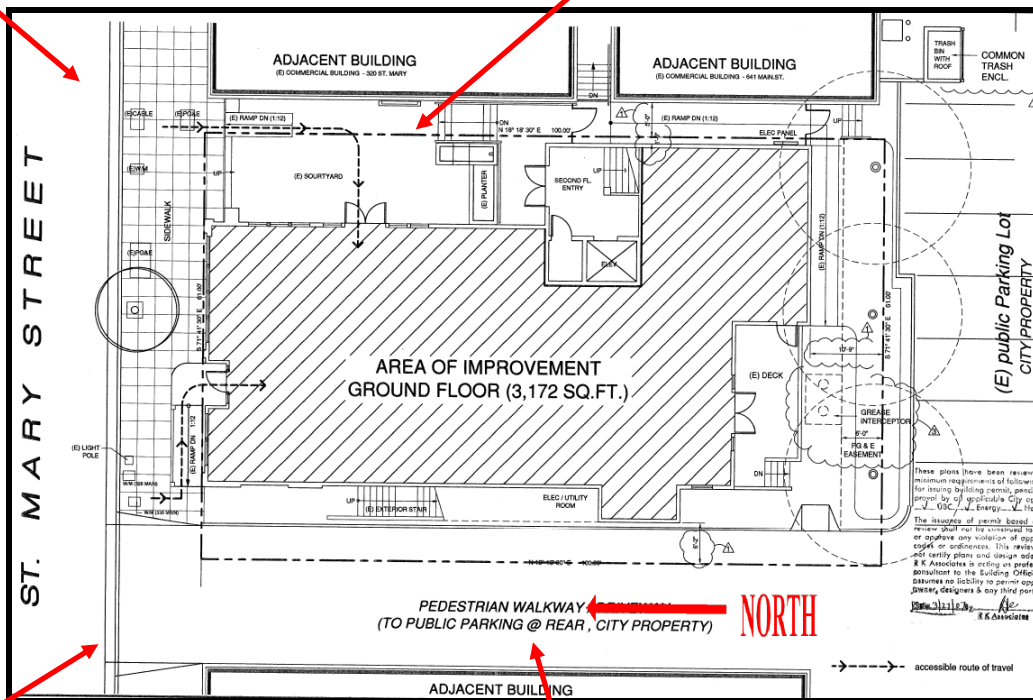


Figure 2, Site Plan and Site Photographs

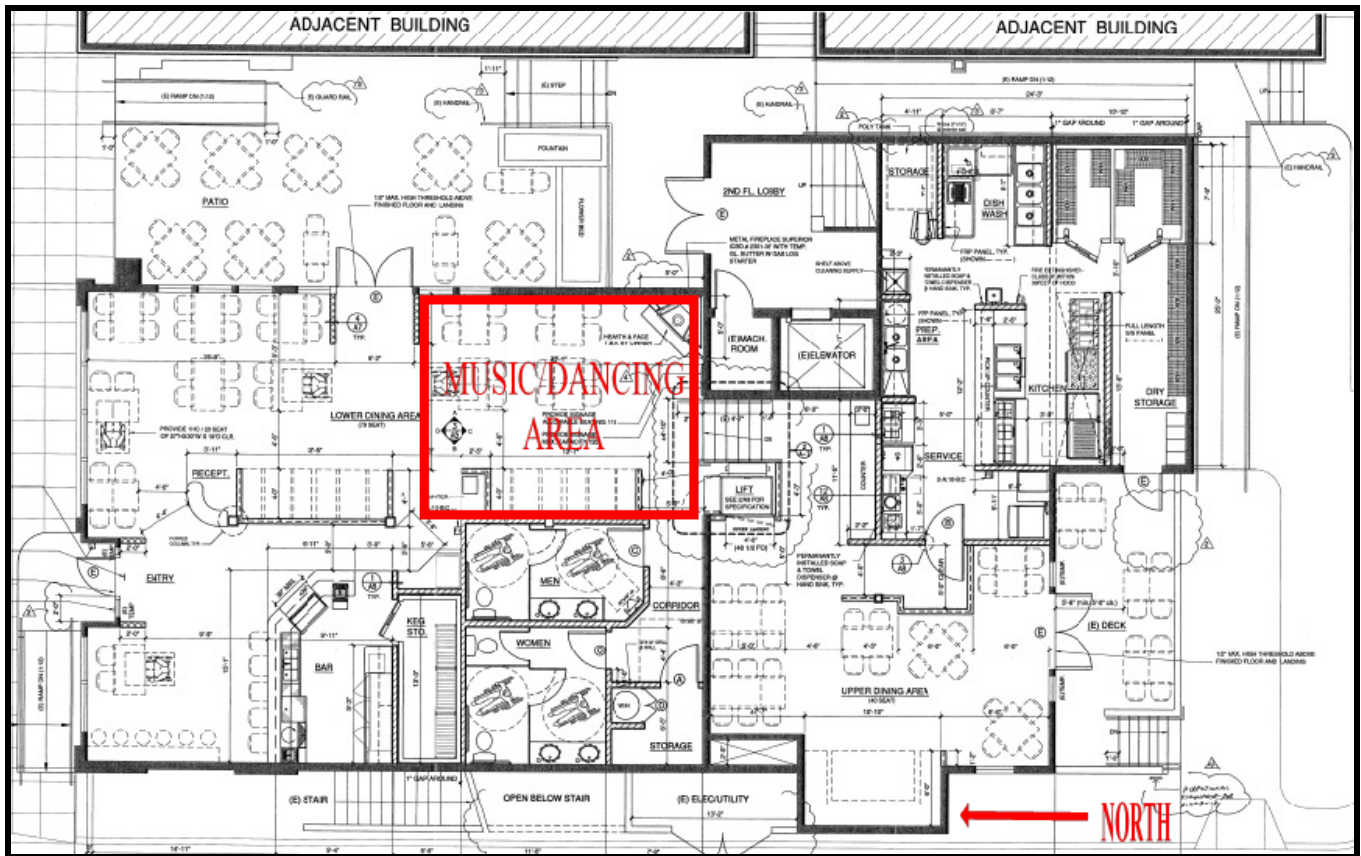


Figure 3, Floor Plan

#### IV. ANALYSIS

Conditional uses are those uses which, by their nature require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding properties. In order to achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for use permits or for modifications to an existing use permit that has been referred by the Director of Community Development.

#### Land Use

Redcoats is located in the Central Commercial zoned area of Downtown Pleasanton, containing mixed land uses including retail, office, and residential uses. The nearest residence, a second floor apartment unit constructed in 2005-06, is located approximately 30 feet east of the subject property at 312 St. Mary Street. This residence is also within the Central Commercial zoning district. Gene and Genie Finch own and live in this apartment unit. In order to meet Building Code emergency egress requirements, a second floor window for the apartment bedroom was installed along the western building wall of 312 St. Mary Street. This bedroom window exits into an alleyway on the adjoining 641 Main Street and 336 St. Mary Street properties, which are both owned by James Byrd. Since the Finches didn't own the adjacent alley, they had obtained

an easement from James Byrd for emergency egress from the proposed bedroom window. The Finches' apartment unit also has a balcony on the front elevation and several rooftop skylights. The Finches recently contacted staff with concerns regarding Redcoats' existing business operation and the proposed expanded indoor music/dancing hours. The Finches indicated that Redcoats' customers are smoking within and adjacent to the outdoor dining area on the east side of the building, preventing them from sitting on their front balcony or opening the balcony windows without being impacted by smoke. The Finches have also indicated that Redcoats' eastern side door is propped open sometimes, increasing the noise levels at the Finches' residence. As a result of the noise, the Finches stated that they do not open any of their windows or skylights. Regarding Redcoats proposal to expand the indoor music and dancing, the Finches indicated that they do not support music until midnight on Wednesdays and Thursdays. The Finches indicated that music would be acceptable until 10:00 p.m. on Wednesdays and Thursdays if Redcoats were to keep the eastern side door closed at all times and customers and employees used the front door to access the eastern side patio area.

Staff is sensitive to the potential land use conflicts in the Downtown between existing residents and commercial uses which may have spillover effects on those residents, such as traffic, parking, noise, or similar issues. In evaluating use permits which have potential impacts, staff has looked carefully at the specifics of proposed operations and has tried to achieve a balance between maintaining a reasonable quality of life for Downtown's residents and the objective of having a successful Downtown that accommodates a variety of businesses and activities which draw people to the area both during the day and at night. The Finches' apartment is located in a commercial zoning district where mixed residential and commercial uses are encouraged. The Finches' close proximity to Redcoats and other commercial businesses exposes them to a greater degree of spillover impacts such as noise, litter, parking, etc. than a typical residential neighborhood and it may not be realistic for residents living in or near the Downtown to expect the same level of peace and quiet as those who live outside of the Downtown.

With the current application, the applicant would like to add two more nights of indoor DJ music and dancing at her business to make it more competitive in these tough economic times and staff believes that the existing and recommended conditions of approval would ensure that the surrounding uses are not unreasonably impacted due to noise, litter, or other nuisances. For example, the existing conditions of approval require the applicant to maintain the area surrounding the restaurant/bar in a clean and orderly manner at all times and to monitor the area outside of the business to ensure peace and quiet. The applicant has hired security staff to help enforce these conditions. In addition, to prevent the possibility of this business becoming a "dance club," an existing condition limits dancing to the 16 ft. by 19 ft. dance area shown on the floor plan and the size of the dance floor cannot be enlarged. Additional conditions addressing noise and smoking are discussed below. Should future problems arise from this use, a condition allows the City to bring the application back to the Planning Commission for additional conditions to mitigate and/or prevent any nuisances that were identified. Therefore, from a land use perspective, staff finds the use to be acceptable, as conditioned.

## Smoking

The Finches had complained to staff last year about Redcoats' customers smoking in front of their building. As a result of this complaint, staff had worked with the Finches, the applicant, and the property owner of the Redcoats building to have a "smoking bench" with ash/cigarette butt receptacle installed on the west side of the Redcoats building. Redcoats' staff was to direct smokers to use this area. These requirements were included as a condition of approval of Redcoats' front outdoor dining area (see condition no. 9 of the attached letter, Exhibit J). When staff informed Ms. Kennard about the Finches' recent smoking complaint, Ms. Kennard indicated that it is difficult to control smokers after they leave the building. In addition, she indicated that the cigarette receptacle was recently stolen. Ms. Kennard stated she has been recently directing patrons to smoke in the outdoor dining area on the east side of the building. Staff informed Ms. Kennard that smoking is not allowed in outdoor dining areas and reminded her that the smoking area was located on the western side of the building in order to minimize smoke and noise impacts on the Finches. Staff requested Ms. Kennard to replace the cigarette receptacle and to direct customers to use this area for smoking. The applicant agreed and this item has been included as a condition of approval. Staff acknowledges that it can be difficult to control smokers once they leave the building and that smokers can legally smoke on the public sidewalk as long as they are a reasonable distance (generally 20 feet or more) from building entries to ensure that smoke does not enter the building. However, staff believes that the applicant should make reasonable efforts to encourage smokers to smoke on the west side of the building and to request smoking customers to be quiet while going to and from the smoking area.

## Noise

Redcoats currently has live bands and DJ music for patrons to listen and/or dance to on Friday and Saturday nights and the applicant would like to expand the DJ music and dancing to Wednesday and Thursday nights. Musical equipment and speakers are located in the rear left corner of the lower first floor (next to the fireplace) and are oriented to direct music towards the front of the building. The applicant monitors the noise level to ensure that the music is not too loud.

Staff notes that there have been occurrences in Pleasanton where bars impacted adjacent residences, with noise impacts being the most common problem. Several conditions were included with the original use permit to address potential noise impacts on the surrounding residents and businesses. For example, a condition required the building walls be modified to ensure that the City's noise regulations could be met. In response to this condition, the applicant installed sound-reducing resilient channels in the exterior building walls as part of the tenant improvements. Also, the doors of the establishment must remain closed except when being used for ingress/egress purposes and the doors must be self closing. In addition, the windows must remain closed during business hours. The applicant has indicated that the only time the eastern

side door is left open is during brief periods when bands/DJs bring the musical equipment into and out of the building and there is no music playing during these brief times.

The proposed activities are also required to comply with the noise regulations of the City's Municipal Code that were designed to protect the peace, health, safety, and welfare of the citizens. The Municipal Code does not allow a commercial property to exceed a noise level of 70 decibels (dBA) at the property line. However, if a business is located within 300 feet of a residential zoning district and remains open for business at anytime between the hours of 10:00 p.m. and 6:00 a.m., then the business cannot exceed a noise level greater than 60 dBA at the residential zoning district property plane during the hours of 10:00 p.m. and 6:00 a.m. The latter requirement applies to the subject business as the nearest residential zoning district, located on the west side of Peters Avenue, is approximately 225 feet away. Staff believes that compliance with these adopted regulations provide the level of noise protection to residents consistent with community values.

#### DJ Music/Dancing Hours

The Finches have requested that the Wednesday and Thursday music end at 10:00 p.m. and that Redcoats' customers and employees only use the front door to access the eastern side patio area when music is played on Wednesdays and Thursdays. Staff believes that the applicant's request to allow indoor music and dancing until 12:00 midnight on Wednesdays and Thursdays is reasonable and that businesses on or near Main Street should be allowed to conduct late-night activities as long as they operate in a manner which respects the nearby residents. Staff also believes that requiring customers and employees to only use the front door would be too onerous and difficult for the applicant to enforce. Additionally, the eastern side door is a required exit door and could not be locked during business hours. Staff notes that the eastern side patio closes at 11:00 p.m. on Wednesdays and Thursdays and the number of people using the eastern side door should substantially reduce after 11:00 p.m.

If the Commission believes that additional measures are required to minimize impacts on the Finches, then staff recommends that the Commission consider closing the eastern outdoor dining area at 10:00 p.m. on Wednesdays and Thursdays whenever music/dancing occurs or limiting the indoor music/dancing to 11:00 p.m. on Wednesdays and Thursdays.

#### TIPS (Training for Intervention Procedures)

The applicant's original use permit was approved before the City started including a standard condition of approval requiring employees serving alcohol to undergo a training program, such as TIPS, that is designed to prevent intoxication, underage drinking, and drunk driving. Therefore, this condition has been included with the current application.



## Pleasanton Downtown Association

The application was referred to the Downtown Vitality Committee of the Pleasanton Downtown Association (PDA). The Committee passed a motion supporting the applicant's request (please see attached letter, Exhibit F). The PDA further indicated its desire to have businesses stay open later on Main Street and on the side streets for at least one half block from Main Street to create a "night life" Downtown. The PDA also stated that side street development is essential to achieving the critical mass necessary for a successful Downtown.

### **V. PUBLIC NOTICE**

Notices regarding the proposed application and related public hearing were mailed to property owners and tenants within 1,000 feet of the subject property. At the time this report was written, staff had received a phone call from Dr. Howard Long, who lives and works at 363 St. Mary Street, indicating that Redcoats has been a good neighbor and that he has never had problems with the business or its customers. In addition, staff received a phone call from Bill Apperson, 530 St. Mary Street, stating that intoxicated people litter and urinate on his property. Staff had also received a letter from Robert Byrd requesting that Redcoats' application be approved (please see attached letter, Exhibit G). As discussed earlier in this report, Gene and Genie Finch had contacted staff indicating their concerns with the proposal.

### **VI. FINDINGS**

The Commission needs to make the following findings prior to the granting of a use permit:

- A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.**

Objectives of the zoning ordinance include: protecting existing land uses from inharmonious influences and harmful intrusions; fostering harmonious, convenient, workable relationships among land uses; and insuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, staff believes that the proposed indoor music/dancing activities at the existing restaurant/bar would not adversely impact the surrounding businesses and residences and would be consistent with these objectives.

The restaurant/bar is located in the Downtown, which permits a variety of commercial, office, and residential uses. Allowing the expanded indoor music/dancing hours at Redcoats British Pub and Restaurant is in accordance with the purposes of the Central Commercial zoning district to provide locations to offer commodities and services to the residents of Pleasanton and surrounding areas. The proposed operation would also be consistent with Downtown Specific Plan goals of increasing the diversity of the area and

encouraging businesses to remain open later at night. The existing and proposed conditions of approval give the City the appropriate controls to ensure that the use does not have any negative impacts on the surrounding residences and businesses. If necessary, the application could be brought back to the Planning Commission for additional conditions to mitigate and/or prevent any nuisances that were identified. In summary, staff feels this finding can be made.

**B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.**

The proposed expanded music/dancing hours at Redcoats British Pub and Restaurant is not anticipated to generate adverse impacts on any of the surrounding properties due to the existing and proposed conditions of approval that will ensure that the safety and general welfare of the surrounding neighborhood is maintained. The proposed activities would also need to comply with the City's noise regulations, which were designed to protect the peace, health, safety, and welfare of the citizens of the City. Conditions have been included that would require the applicants to mitigate any future nuisances as a result of the proposed use. Therefore, staff feels this finding can be made.

**C. That the proposed conditional use will comply with each of the applicable provisions of the zoning ordinance.**

The site's Central Commercial zoning conditionally permits restaurants which sell alcohol past 10:00 p.m. Staff feels that the recommended conditions of approval will help to integrate the expanded music/dancing hours without detrimentally affecting the surrounding properties and the City in general. As with any use permit, this use can be revoked if the conditions are not met. As conditioned, the proposed modification to the existing use permit would comply with all applicable provisions of the Zoning Ordinance. Therefore, staff believes this finding can be made.

## **VII. ENVIRONMENTAL ASSESSMENT**

Projects of this nature are categorically exempt (Section 15301, Existing Facilities, Class 1) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

## **VIII. CONCLUSION**

Staff believes that businesses on or near Main Street should be allowed to have late-night activities such as music and dancing as long as they operate in a manner which respects the nearby businesses and residents. Staff believes that the applicant's proposal as conditioned will

be a benefit to the Downtown and that measures are in place to protect the surrounding uses from unreasonable impacts.

## **IX. STAFF RECOMMENDATION**

Staff recommends that the Commission approve Case PCUP-257 by taking the following actions:

- 1) Make the conditional use findings as listed in the staff report; and
- 2) Approve Case PCUP-257 subject to the conditions listed in Exhibit A.