

# PLANNING COMMISSION STAFF REPORT

## “Jam in the Marmalade” Conditional Use (Petition PLNPCM2009-00774) 751 North 300 West Hearing date: December 9, 2009



Planning and Zoning Division  
Department of Community &  
Economic Development

### **Applicant:**

Robert McCarthy

### **Staff:**

Nole Walkingshaw 535-7128  
nole.walkingshaw@slcgov.com

### **Tax ID:**

08-25-451-010

### **Current Zone:**

MU (Mixed Use)

### **Master Plan Designation:**

Capitol Hill; West Capitol Hill  
Neighborhood, High Density Mixed  
Use

### **Council District:**

District 3 – Eric Jergensen

### **Lot size:** .26 Acres

### **Current Use:**

Bar/Tavern

### **Applicable Land Use Regulations:**

- Chapter 21A.32.130 MU District
- Chapter 21A.32.140 Table of Permitted and Conditional Uses (Qualifying Provisions)

### **Notification**

- Notice mailed November 24, 2009
- Sign posted November 25, 2009
- Posted to Planning Dept and Utah State Public Meeting websites November 24, 2009.

### **Attachments:**

- A. Site/Building drawings
- B. Photographs
- C. Departmental comments
- D. Public comments
- E. Security and Operations Plan
- F. Ordinance No. 65 of 2009

## ***Request***

This is a request for conditional use approval for a “Private Club” also known as a “Social Club” in the Mixed Use (MU) Zoning District. The current use of the property is as a Tavern. The change in use classification would allow the applicant to serve alcoholic beverages (including but not limited to beer, heavy beer, wine, or liquor as defined in Utah State Code) for on-premise consumption, without food service. The Planning Commission is the final decision making authority for conditional uses.

## ***Staff opinion***

Based on the findings listed in the staff report, it is the Planning staff’s opinion that the project adequately meets or will meet the applicable standards and therefore recommends the Planning Commission approve with the following conditions:

1. The proposed Security and Operations Plan will be reviewed by the Community Police Officer for recommendations, followed by a distribution to necessary groups, or agencies. The Planning Director will have final approval on the Security and Operations Plan.
2. The area beginning at the south east corner of the property will be landscaped from the corner of the property to the existing landscaped area on the south property line. The landscape buffer shall not encroach into the travel isle from the 300 West approach and shall not be less than 4 feet in depth. Curbing or fencing shall be in place to prevent vehicle access from the parking area to Reed Avenue. Planning Director will have final approval on landscaping and fencing.
3. Lighting repairs made to the shielded parking lot lights, the wattage of the lights shall be such that the light is contained to the premises and will avoid creating unnecessary light pollution. Lighting to the site will be adequate to provide for safe access and minimize dark places for security purposes. Removal, redirection away from adjacent properties or shielding of existing flood lights is required.
4. Compliance with all other City department requirements outlined in the staff report for this project.

## VICINITY MAP

751 North 300 West



## Background

### Project Description

The project site is located at 751 North 300 West in a (Mixed Use) MU zoning district. The applicant is seeking a Conditional Use approval for a “Private Club” also known as a “Social Club” in the Mixed Use (MU) Zoning District. The current use of the property is as a Tavern. The change in use classification would allow the applicant to serve alcoholic beverages (including but not limited to beer, heavy beer, wine, or liquor as defined in Utah State Code) for on-premise consumption without food service.

*Vehicle access* will be directly from 300 West via an existing 30-foot drive approach. The applicant proposes to accommodate vehicle parking on site with 11 total parking stalls; two ADA stalls have been provided. City Ordinance requires 2 parking spaces per 1,000 square feet of gross floor area for the use. The gross floor area of the building is approximately 3,200 square feet, requiring 7 stalls. The patio is approximately 1,760 square feet. The Outdoor Dining section of the ordinance requires 3 parking spaces per 1,000 square feet of area with a reduction of 500 feet available. There is a provision for a reduction in the total number of parking stalls required when pedestrian friendly amenities such as bike racks, baby buggy parking etc. are provided within 100 feet of

the entrance. This request does not include any of these items. There is an existing curb cut which has been terminated by the installation of a new fence. The curb cut is to be removed and curbing installed in its place.

*Adequate pedestrian access* the site accommodates pedestrian access from the west side of 300 West Street well. However there are no pedestrian access points (crosswalks) within 700 feet of the property providing pedestrian access from the east side of 300 West Street the closest crosswalk is south 1,170 feet at 600 North Street.

*Landscaping* has been maintained in compliance with the City Code and has been installed such that it does not provide hiding places.

*Lighting* for the project will be contained to the building and will avoid creating unnecessary light pollution. Lighting to the site will be adequate to provide for safe access and minimize dark places for security purposes. Currently there are two spot lights on a pole above the patio area. These lights are directed towards the parking area. There are also two older lights on poles with shields; these lights are not currently in use. Staff recommends repairing the shielded lights and shielding, redirecting away from adjacent properties or removing the two spot lights.

Surrounding uses include:

North (MU Zoning District): vacant commercial building

South (MU Zoning District): vacant parcel

East (MU Zoning District): Commercial and residential uses along 300 West Street with a mix of single family and multifamily uses within the neighborhood.

West (MU Zoning District): vacant parcel and residential along Reed Ave., with warehouse storage at the east end of the street.

## **Comments**

### **Public Comments**

The Capitol Hill Community Council discussed the project at their March 2008 meeting, voting on it and later retracting the vote based upon the text amendment requirements. They met again at their September 2009 meeting. The meetings have been well attended and there has been a great deal of opposition to the request. The Capitol Hill Community Council voted on the issue during their November meeting the vote was tied at 39 in support and 39 against. A note from the Council Chair stated that attendance for this vote was unusually high and that the tie vote should not be considered as ambivalence. Since 2008 there has been many comments received regarding this proposal, taken in various meetings with the community. Comments are attached to Attachment D.

## **Project Review**

### **Internal Project Review**

The project was provided to the following City departments for review: Engineering, Transportation, Fire, Public Utilities, Planning, Building Services, and Police. Departmental comments are attached to Attachment C.

## **Options**

If the petition should be *denied* the business could still operate as a tavern/bar and can serve beer that has an alcohol content of 3.2% without the selling of food. If denied the business would not be required to comply with

the requirements of the conditional use application, including the Security and Operations Plan or other noted conditions.

If the petition should be *approved* the business would be able to serve alcoholic beverages (including but not limited to beer, heavy beer, wine, or liquor as defined in Utah State Code) for on-premise consumption without food service. If approved the business would be required to comply with the requirements of the conditional use application, including the security and parking management plans, as well other conditions of approval.

## ***Analysis and Findings***

### **Standards for Conditional Uses; Section 21A.54.080**

- A. **General Standard for Approval:** A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards set forth in this section. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use shall be denied.
- B. **Specific Standards:** A conditional use permit shall be approved unless the evidence presented shows that one (1) or more of the standards set forth in this subsection cannot be met. The Planning Commission, or in the case of administrative conditional uses, the Planning Director or the Director's designee, may request additional information as may be reasonably needed to determine whether the standards of this subsection can be met.

#### **1. Master Plan and Zoning Ordinance Compliance**

The proposed conditional use shall be:

- a. Consistent with any policy set forth in the City-Wide, Community, and Small Area Master plan and future land use map applicable to the site where the conditional use will be located.

##### **Analysis: Capitol Hill Master Plan (2001):**

The Mixed Use Zoning District was developed during the preparation of the West Capitol Hill Neighborhood Plan in 1996 to address the complex development pattern found in the northwest portion of the neighborhood. Currently, the only area in the City that has Mixed Use zoning classification is in the West Capitol Hill Neighborhood, however, the zone may be appropriate in other areas of the City with similar development patterns and master plan policies.

Policies of the Capitol Hill Master Plan include:

##### **West Capitol Hill Neighborhood Section**

This area has always been an area of mixed uses including residential, commercial and industrial. Single family uses are interspersed with duplexes, triplexes and medium to high-density apartments as well as commercial and industrial uses. This development pattern has occurred because part of the area has never been zoned for residential uses. Land use conflicts have resulted from this development pattern where residential uses abut commercial and / or industrial uses without screening and buffering between the differing types of uses.

Historically the area west of 300 West developed with commercial and industrial uses along with single-family residential uses. Although there has been no extensive expansion of commercial and

industrial use, when expansion has occurred, existing homes were not protected from incompatible neighboring developments.

A mixed use area permitting both low-density residential and non-residential development and encouraging medium to higher density residential development is foreseen for the area between 600-900 North and 300 to 400 West. The corridor of 300 West is foreseen as a prime location for higher density residential development due to the access to a major arterial and proximity to Warm Springs Park and the Central Business District. Development in the blocks between 600 and 800 North Streets and 300 to 400 West Streets may also include freestanding buildings of a separate retail and residential nature.

**Finding:** The project satisfies this standard. Specifically to the point that the location is within the area between 600 and 800 North Streets and 300 to 400 West Streets, this area may also include freestanding buildings of a separate retail and residential nature. The improvements made to the property and the conditions of approval, will provide a buffering between the differing types of uses.

- b. Allowed by the zone where the conditional use will be located or by another applicable provision of this title.

**Analysis:** A text amendment request Petition PLNPCM2009-00045 Ordinance 65 of 2009 was recently adopted allowing the use as a conditional use with additional standards. The site has been reviewed for compliance with City zoning standards. Building permits for remodeling and fencing have been issued and the work approved.

**Finding:** The project satisfies this standard, with the exception of the need to remove terminated curb cuts and replace curbing along 300 West Street.

## 2. Use Compatibility

The proposed conditional use shall be compatible with the character of the site, adjacent properties, and existing development within the vicinity of the site where the use will be located. In determining compatibility, the Planning Commission shall consider the following:

- a. Whether the street or other means of access to the site where the proposed conditional use will be located will provide access to the site without materially degrading the service level on such street or any adjacent street;

**Analysis:** Access to the site will be from 300 West St., an arterial class roadway. The streets have the carrying capacity to serve this type of use without becoming degraded.

**Finding:** The project satisfies this standard.

- b. Whether the type of use and its location will create unusual pedestrian or vehicle traffic patterns or volumes that would not be expected with the development of a permitted use, based on:

- i) Orientation of driveways and whether they direct traffic to major or local streets, and, if directed to local streets, the impact on the safety, purpose, and character of these streets;
- ii) Parking area locations and size, and whether parking plans are likely to encourage street side parking for the proposed use which will adversely impact the reasonable use of adjacent property;
- iii) Hours of peak traffic to the proposed use and whether such traffic will unreasonably impair the use and enjoyment of adjacent property; and
- iv) Hours of operation of the proposed use as compared with the hours of activity/operation of other nearby uses and whether the use, during hours of operation, will be likely to create

noise, light, or other nuisances that unreasonably impair the use and enjoyment of adjacent property;

**Analysis:** The project site is will have a single drive approach located on 300 West Street to access the parking area. The driveway has been reviewed by the City Transportation Division and deemed adequate for the use. A terminated drive approach located on 300 West Street is to be removed and curbing replaced. No detrimental impacts to the safety, purpose, or character of the streets are likely. It is also proposed as a condition of approval to landscape the west property line such that egress from the property is on to 300 West Street and not Reed Avenue.

The existing parking lot and all required parking stalls are completely on site. There is the sense that there will be the need for off site or on street parking. There is a parking lane along 300 West providing additional parking. The residents on Reed Avenue are concerned with parking and activities on Reed Avenue. The applicant has posted signs requesting patrons not park along Reed Avenue and as a part of the required security plan a parking management plan has been prepared, see Attachment E: Security and Operations Plan. The intention of the parking management plan is to mitigate these impacts during peak hours of business. As a condition of approval Staff is recommending a landscaped buffer be installed along the south property line between the southeast corner and the existing landscaped area.

The likely hours of peak traffic will be evenings and weekends between 10:00 pm and 12:00 am. The intention of the security and operations plan is to mitigate these impacts during peak hours of business.

The proposed use will have typical hours of operation for social/private clubs. Current hours of operation are Tuesday-Saturday 5pm-1am. By law they can not serve past 1:00 am, and they have to remain open till 2:00 am if there are any customers present. This allows customers time to make sure they are ok to drive.

The intention of the security and operations plan is to mitigate unreasonable noise, light, or other nuisances for adjacent properties.

**Finding:** The project satisfies this standard provided the conditions of approval are met.

- c. Whether the internal circulation system of any development associated with the proposed use will be designed to mitigate adverse impacts on adjacent property from motorized, non-motorized and pedestrian traffic;

**Analysis:** The proposed vehicle circulation system is designed as an ingress/egress pattern, such that all vehicle traffic shall enter and exit the property from the same location along 300 West Street. This pattern should provide predictability to the adjacent uses. No adverse impacts are anticipated for adjacent property.

**Finding:** The project satisfies this standard.

- d. Whether existing or proposed utility and public services will be adequate to support the proposed use at normal service levels and will be designed in a manner too void adverse impacts on adjacent land uses, public services, and utility resources;

**Analysis:** Existing utility and public services have been deemed adequate by the City's Public Utilities Department. No modifications to the existing systems have been proposed any proposed changes would require permitting and approvals.

**Finding:** The project satisfies this standard with the recommended conditions of approval.



- e. Whether appropriate buffering or other mitigation measures, such as, but not limited to, landscaping, setbacks, building location, sound attenuation, odor control, will be provided to protect adjacent land uses from excessive light, noise, odor and visual impacts and other unusual disturbances from trash collection, deliveries, and mechanical equipment resulting from the proposed use; and

**Analysis:** The project design complies with landscaping, setback, and height requirements and does so without adverse impact to adjacent land uses. The applicant plans to locate a dumpster in the center of the site adjacent to the patio on the west side. The specific qualifying provision of the conditional use address specifically the issues sited in this standard and further discussion may be found in that section of the staff report. One of the qualifying provisions prohibits electronically amplified sound in any exterior portion of the premises. There has also been some discussion among staff to limit the hours of the Patio to 10:00 pm, this condition has not been made as a part of the recommended conditions, but may be worthy of discussion. The entire patio has been identified as a smoking area. The smoke and odor of smoking is difficult to contain in an open air format. The proposed smoking area is in conformance with state law, however if the intention is to somehow eliminate the odor from trespassing on to neighboring properties it may be necessary to prohibit smoking. The adverse affect of smoking is a difficult measurement; some might say it is the breathing of second hand smoke, others the mere odor. In this case the closest residential property is approximately 50 feet from the patio. Utah State law establishes a 25 foot buffer from entry ways to the smoking area. The National Cancer Institute states that any exposure to second hand smoke is harmful, and measures it, *by testing indoor air for nicotine or other smoke constituents. Exposure to secondhand smoke can be tested by measuring the levels of cotinine (a nicotine by-product in the body) in the nonsmoker's blood, saliva, or urine (1). Nicotine, cotinine, carbon monoxide, and other evidence of secondhand smoke exposure have been found in the body fluids of nonsmokers exposed to secondhand smoke.* Staff was not able to come to any conclusive statement that open air exposure from 50 feet way constituted second hand smoke exposure. Staff believes the odor of smoking on the patio will draft over to the surrounding properties. The only foreseeable way to control the odor would be to prohibit smoking all together, this condition has not been made as a part of the recommended conditions, but is worthy of discussion. Lighting recommendations have been made and are listed in the conditions of approval. The issues are also addressed in the security and operations plan.

**Finding:** The project satisfies this standard with the recommended conditions of approval. Discussions regarding Smoking and hours of operation of the patio may be worth discussion.

- f. Whether detrimental concentration of existing non-conforming or conditional uses substantially similar to the use proposed is likely to occur, based on an inventory of uses within one quarter 1/4) mile of the exterior boundary of the subject property.

**Analysis:** Research and analyses were done to determine the concentration of existing non-conforming or conditional uses substantially similar to the use proposed within one quarter mile of the property. No detrimental concentration of similar uses was found.

**Finding:** The project satisfies this standard.

### 3. Design Compatibility

The proposed conditional use shall be compatible with the character of the area where the use will be located with respect to:

- a. Site design and location of parking lots, access ways, and delivery areas;

**Analysis:** The proposed site design is similar to the existing design and use of the property; however the proposal improves the site by incorporating the required landscaped areas and

buffers. The terminated curb cut on 300 West Street will be removed and new curbing installed improving the access, and controlling vehicle movement in and out of the property. Staff is recommending as a condition of approval that; the area beginning at the south east corner of the property will be landscaped from the corner of the property to the existing landscaped area on the south property line. The landscape buffer shall not encroach into the travel isle from the 300 West approach and shall not be less than 4 feet in depth. Curbing or fencing shall be in place to prevent vehicle access from the parking area to Reed Avenue.

**Finding:** The project satisfies this standard with the recommended conditions of approval.

- b. Whether the proposed use, or development associated with the use, will result in loss of privacy, objectionable views of large parking or storage areas; or views or sounds of loading and unloading areas; and

**Analysis:** The proposed development is compatible with the character of the area, which is mixed commercial and residential area.

**Finding:** The project satisfies this standard.

- c. Intensity, size, and scale of development associated with the use as compared to development and uses in the surrounding area.

**Analysis:** The parcels directly west and south of the property are currently vacant undeveloped lots. To the north is a commercial building larger in size with limited parking, the property has been in disrepair for sometime and there is no active business license. Reed Avenue to the west is mostly single family dwellings and 300 West is a commercial corridor currently going through a period of redevelopment, primarily commercial, mixed-use and multi-family developments.

**Finding:** The project satisfies this standard.

- d. If a proposed conditional use will result in new construction or substantial remodeling of a commercial or mixed-use development, the design of the premises where the use will be located shall conform to the conditional building and site design review standards set forth in Chapter 21A.59 of this title.

**Analysis:** The proposed conditional use does not involve new construction or substantial remodeling. The existing building is currently being used as a tavern/bar and the requested use requires no significant building changes or changes in occupancy types.

**Finding:** The project satisfies this standard.

#### **4. Detriment to Persons or Property**

The proposed conditional use shall not, under the circumstances of the particular case and any conditions imposed, be detrimental to the health, safety, and general welfare of persons, nor be injurious to property and improvements in the community, existing surrounding uses, buildings, and structures. The proposed use shall:

- a. Not emit any known pollutant into the ground or air that will detrimentally affect the subject property or any adjacent property;

**Analysis:** There are no known emissions of pollutants into the air or ground, directly from the use. However patron smoking in the outside patio may affect adjacent properties. Standard 2e discusses the smoking issue as well, and a determination must be made as whether the affect is detrimental or not.

**Finding:** The project satisfies this standard subject to the smoking discussion and determination of action or mitigation. Currently the property is in compliance with state laws regarding smoking.



- b. Not encroach on any river or stream, or direct runoff into a river or stream;  
**Analysis:** The project is not located next to a river or stream.  
**Finding:** The project satisfies this standard.
- c. Not introduce any hazard or potential for damage to an adjacent property that cannot be mitigated;  
**Analysis:** Staff is not aware of other hazards or potential for damage to adjacent properties.  
**Finding:** The project satisfies this standard.
- d. Be consistent with the type of existing uses surrounding the subject property; and  
**Analysis:** The proposed use is consistent with existing use of the property in that the current use is a bar/tavern. The surrounding properties include vacant land and a commercial building directly abutting the property, with single family residential to the west along Reed Avenue.  
**Finding:** The project satisfies this standard.
- e. Improve the character of the area by encouraging reinvestment and upgrading of surrounding properties.  
**Analysis:** The applicant has made a significant investment into the property. This investment is coupled by other redevelopment projects in the area and encourages reinvestment in the area.  
**Finding:** The project satisfies this standard.

## 5. Compliance with Other Applicable Regulations

The proposed conditional use and any associated development shall comply with any other applicable code or ordinance requirement.

**Analysis:** All required improvements to the site have been completed with the exception of the terminated curb cut replacement. These improvements were made under permit and inspections have been performed completing the permit. The applicant is contracting the curb replacement and is aware of the permitting requirement of the Salt Lake City Department of Engineering.

**Finding:** The project satisfies this standard.

## Qualifying Provisions

- 1. In granting conditional use approval for a class B or C private club or association the Planning Commission shall:
  - a. Require that a security and operations plan be prepared and filed with the City which shall include:
    - i. Providing a complaint-response community relations program, and;
    - ii. Having a representative of the private club or association meet with neighbors upon request to attempt to resolve any neighborhood complaints regarding the operations on the premises;
    - iii. Requiring design and construction methods to ensure that any sound level originating within the premises, measured within fifteen feet (15) feet from an exterior wall or door thereof, does not exceed the maximum permissible sound level set forth for residential use districts in Section 9.28.060 of the City Code;
    - iv. Allowing live entertainment only within an enclosed building subject to the foregoing sound limit;
    - v. Prohibiting electronically amplified sound in any exterior portion of the premises;
    - vi. Designating a location for smoking tobacco outdoors in conformance with state law;

- vii. Requiring any trash strewn on the premises, including any smoking and parking lot areas, be collected and deposited in a trash receptacle by 6 a.m. the following day and;
  - viii. Having portable trash receptacles on the premises emptied daily and automated receptacles emptied at least weekly. Automated receptacles shall be located only within a City-approved trash storage area.
- b. Review the site plan and floor plan proposed for the premises, and as result of such review may require design features intended to reduce alcohol-related problems such as consumption by minors, driving under the influence, and public drunkenness;
  - c. Require buffering where a private club or association abuts a residential building or area, including landscaping or walls along any property line or within any required yard area on the lot where the premises are located;
  - d. Require that landscaping be located, and be of a type, that cannot be used as a hiding place, and;
  - e. Require that the exterior of the premises be maintained free of graffiti at all times, including the main building, any accessory building or structure, and all signs.

**Analysis:** The security and operations plan including the parking mitigation plan has been attached. Following the recommendations of the Planning Commission the Plan shall be presented to the community police officer for review and comments if changes are suggested they will be documented and the plan circulated to the Police, Fire and Planning Division. The site and floor plan proposed for the premises offer notable control over the access to and from the property and entrance to the facility. The security and operations plan and parking management plan coupled with the site layout should reduce alcohol related issues.

**Finding:** The project satisfies this standard with the recommended conditions of approval.

2. If necessary to meet the standards for approval of a conditional use set forth in Section 21A.54.080, the following conditions may be imposed:
  - a. Limit the size and kind of signage located on the outside of any building containing a private club or association in conformance with Chapter 21A.46.
  - b. Require parking area lighting to produce a minimum foot-candle that provides safe lighting for pedestrians but does not intrude on residents' enjoyment of their homes and;
  - c. Consider the proposed location of an outdoor smoking area in the security and operations plan and the potential effect on neighboring residences, businesses and buildings and designating a new area if the potential effects of the area in the security and operations plan appear to adversely affect neighboring residences, businesses and buildings.

**Analysis:** Current Signage is in compliance with Chapter 21A.46 of the Salt Lake City Code. Additional signage requires a sign permit. Banners or other promotional signage is not permitted. Lighting recommendations have been made and are listed in the recommended conditions of approval. The recommendations are intended to produces a minimum foot-candle that provides safe lighting for pedestrians but does not intrude on residents' enjoyment of their homes. The applicant is designating the entire patio area north of the building as the designated smoking area. Standard 2e of the staff report discusses the affects of smoking.

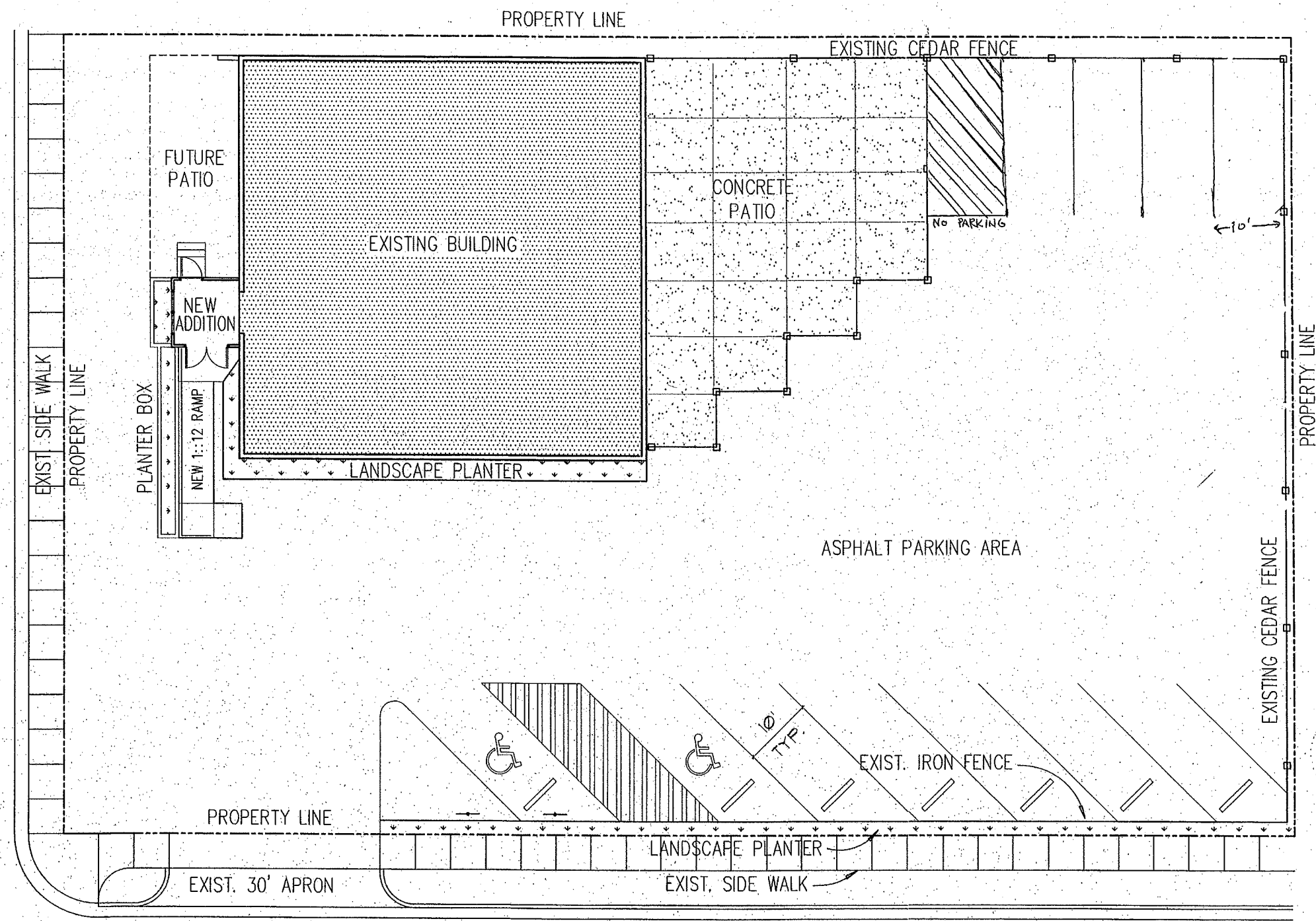
**Finding:** The project satisfies this standard, subject to compliance with the conditions of approval.



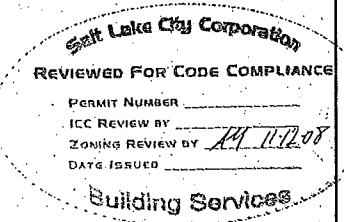
**Attachment 'A'**  
Site / Building drawings

A NEW ENTRY VESTIBULE ADDITION – AS BUILT  
 LOCATED AT 751 NORTH 300 WEST  
 SALT LAKE CITY, UTAH 84103

REED AVE



Amended 11-12-08



300 WEST

**SITE PLAN**

SCALE: 1/8" = 1'-0"



**Attachment 'B'**  
Photographs



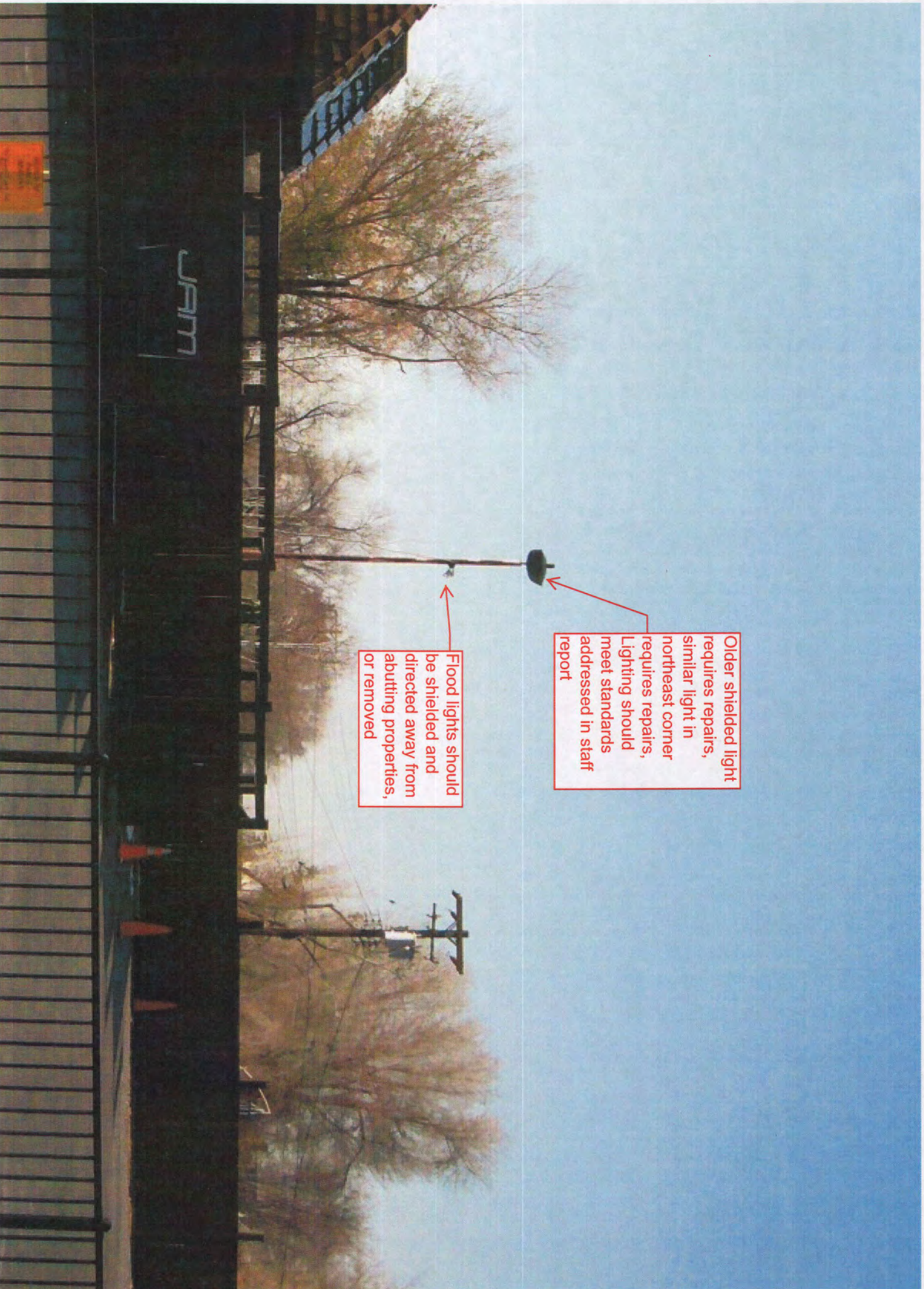


Area of Hard surfacing to be removed and landscaping to be installed. Intention is to minimize vehicle access and traffic to Reed Ave.

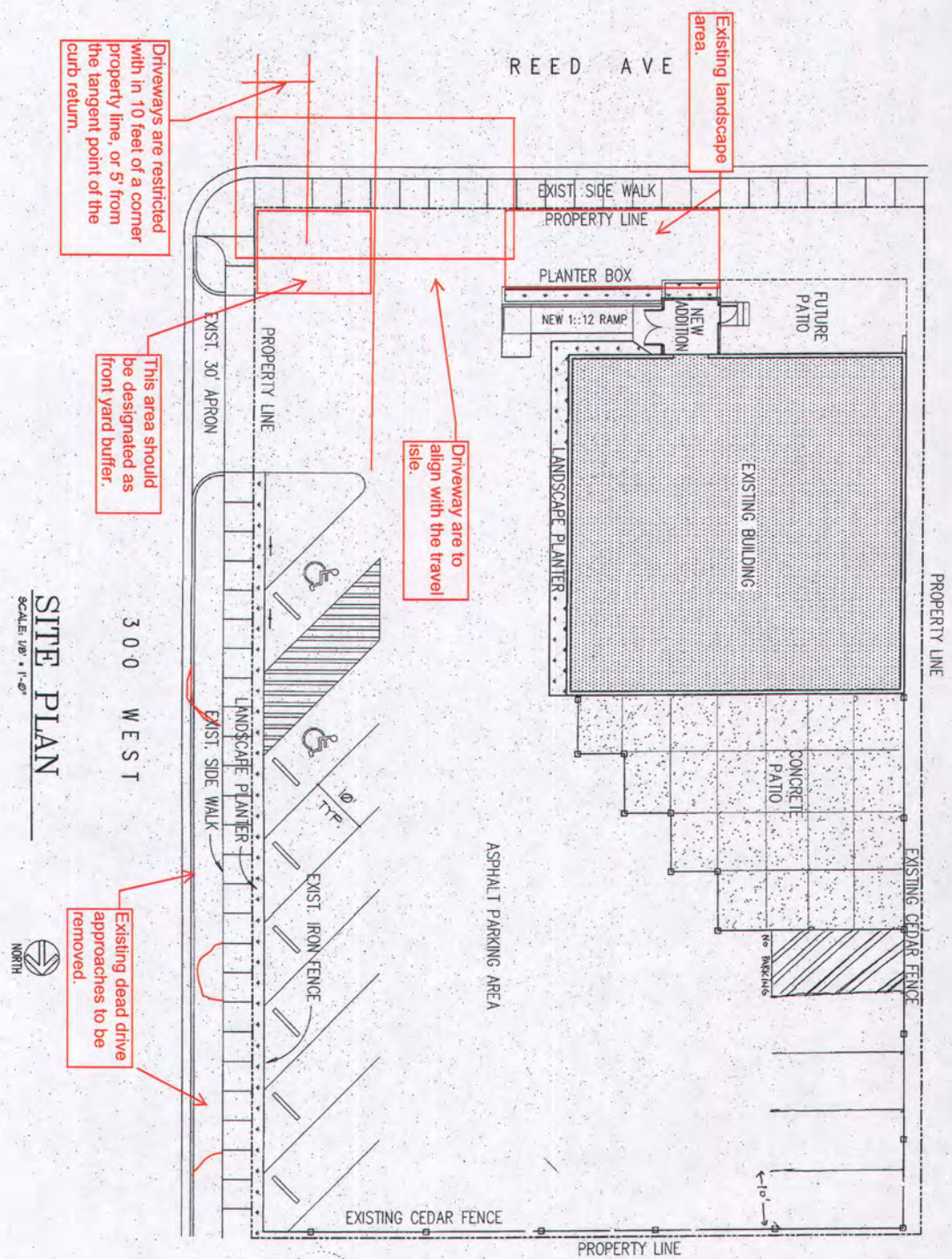


Older shielded light requires repairs, similar light in northeast corner requires repairs, Lighting should meet standards addressed in staff report

Flood lights should be shielded and directed away from abutting properties, or removed



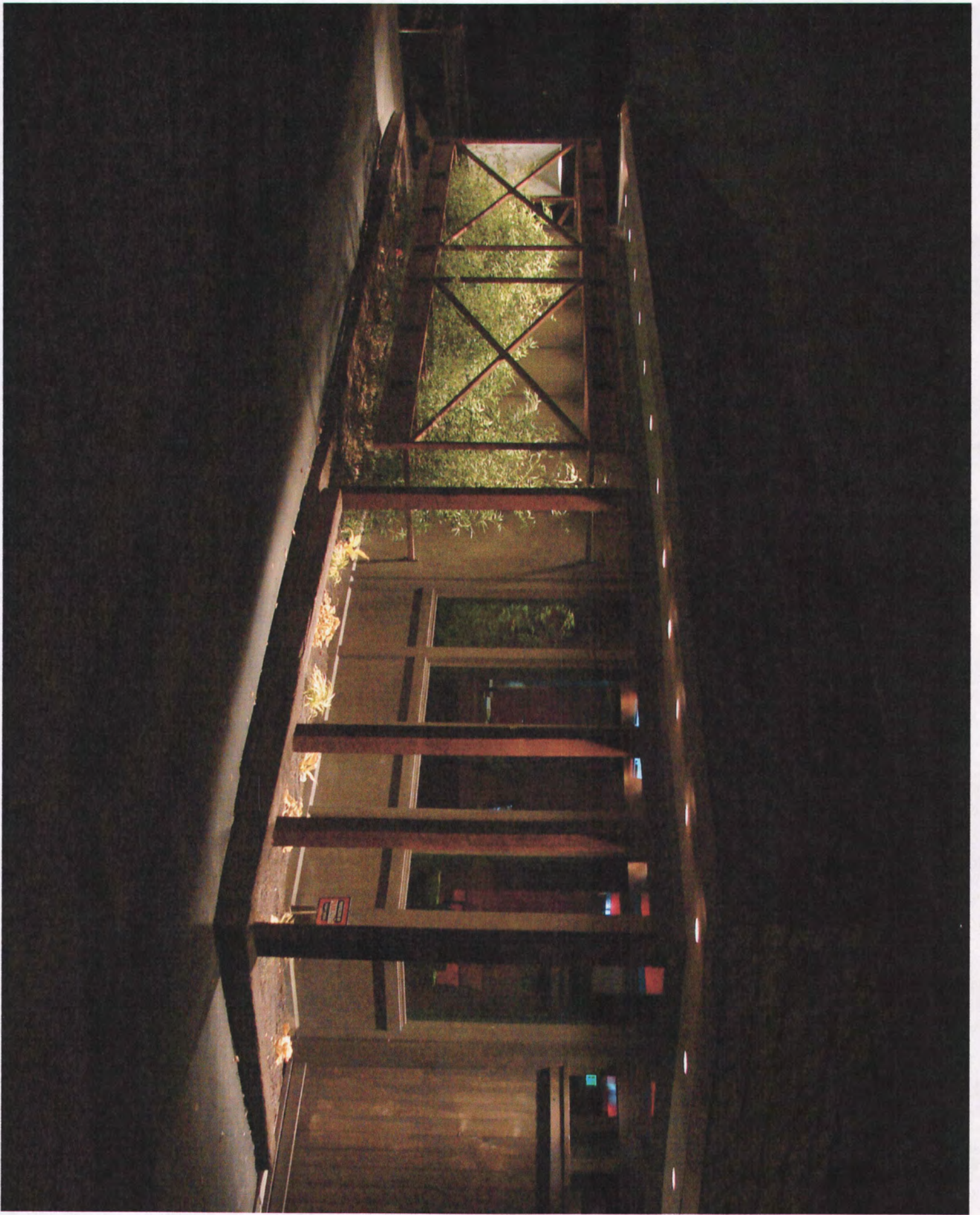




SALT LAKE CITY COMPASSION  
 REVIEWED FOR CODE COMPLIANCE  
 PROJECT NUMBER: 14-112-01  
 DATE REVIEWED: 11/12/01  
 Building Services

Amended 11-12-01





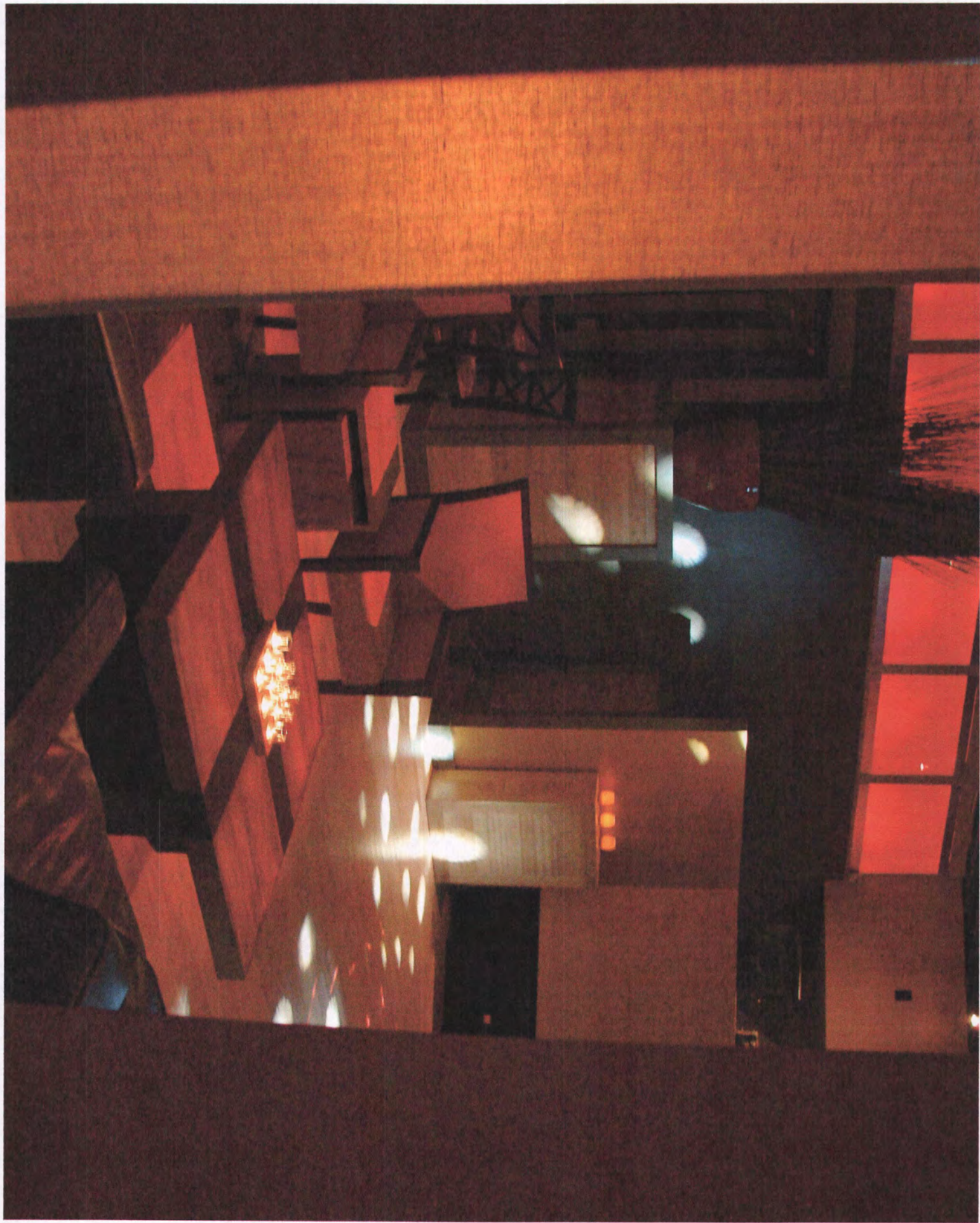












**Attachment 'C'**  
Departmental Comments



## Departmental Routing Comments

**Public Utilities:** We have reviewed the plan and have no objections to the Conditional Use Permit to operate a Social Club at 751 N 300 W.

**Fire:** No issues

**Building Code:** No issues

**Zoning Code:** The Building Services Department is unable to make any kind of recommendation for this Conditional Use proposal at this time for the following reasons;

1. Social Clubs/Class B and C clubs or associations are not listed as a Permitted or Conditional Use on the Special Purpose Districts Use Tables.
2. It is my understanding that the Zoning Text Amendment proposal PLNPCM2009-00045, to modify the use tables to allow private clubs (Class B and C clubs or associations) in a MU zone, has not yet been approved by the Planning Commission and City Council.
3. It is not know at this time whether there would be any qualifying provisions, for allowance of this type of use within the MU zone, such as sound levels originating within the building, whether any type of live entertainment/music would be allowed on any exterior portion of the site, whether any electronically produced sound/music would be allowed on any exterior portion of the site, how trash removal is to be addressed, etc.
4. It is not clear whether the Future Patio, as shown, is outside of the front/corner side yard setback, and therefore; whether outdoor dining would be allowed in this area per 21A.40.065.

**Engineering:** Based on the fact that there are no proposed changes or excavations within the Public Way regarding this application, we have no concerns.

### **Transportation:**

**First Review:** The division of transportation review comment and recommendations are as follows;

Per our past review request October 10, 2008 the site was not completed for the C.O. inspection requirements.

At that time ADA and parking stalls were not fully striped and marked. There was a dead drive approach on 300 West frontage that was blocked by the new fence that was to be removed and replaced with curb & gutter. No further inspection request have been make to transportation to date.

### **Second Review in Response to Reed Landscaping Question**

Question from Planning:

Last night the City Council adopted an ordinance allowing Social/private clubs in the MU zoning district the amendment is associated with the “Jam In the Marmalade” The address is 751 North 300 West, I am processing a conditional use Petition, Petition # **PLNPCM2009-00774** which was originally routed by Katia Pace this past summer.

The City Council amended the Planning Commissions recommendation in the ordinance requiring a **Parking Mitigation Plan** to be included with the security plan. Comments from the community have been that the increased parking and traffic along Reed Ave, have been/may be problematic. When looking at the site there is a rolled curb along Reed Ave and asphalt which grants access to the property it is in very close proximity to the 300 West approach. I am considering a recommendation to fence or bollard the South approach such that the entrance and exiting from the property will be from 300 West only, thus limiting traffic on Reed.

- What impacts may this suggestion have on ingress or egress?
- Is there a need for emergency access from Reed Ave?

I have attached a pdf of the site plan and images for your review.

Currently there is a terminated curb on 300 West which will require removal, the applicant is aware of this requirement and the need for permitting, this is currently a requirement of my review.

**Response:**

The division of transportation review comment and recommendation addressing access is as follows:

Current city ordinance addresses the location of the access driveway approach at intersections.

Number 1 the driveway cannot be within 10 feet of the corner property line.

Number 2 the driveway is to align with the isle space.

I would suggest that the area remaining at the corner be designated as a front yard buffer area with a 6 inch curb. See redline PDF.

The elimination of the Reed Avenue drive approach access limits the property to 300 West south bound entry exit only. With the Reed Ave driveway, access can be from the south or east as well. By removing the driveway it does not change the prospect of parking along the roadway. Due to the width of Reed Ave “no parking” restriction can be places fronting this parcel and or the full length of the roadway. By removing the dead drive approaches along 300 West parking can be legalized along that frontage.

**Attachment 'D'**  
Public Comments

**From:** [Pace, Katia](#)  
**To:** [Walkingshaw, Nole](#)  
**Subject:** FW: The Jam  
**Date:** Tuesday, September 08, 2009 5:42:45 PM

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**From:** Polly Hart [mailto:pollyh@xmission.com]  
**Sent:** Tuesday, August 18, 2009 10:22 PM  
**To:** Pace, Katia  
**Cc:** Sommerkorn, Wilford; Eric Jergensen Forwarder; marydms@slcgov.com; Gray, Frank  
**Subject:** The Jam

Katia-

I understand that you are now the planner for The Jam at Marmalade. As you probably know, in early 2008 The Jam came to the Capitol Hill Community Council asking for a vote on a proposed conditional use permit for their tavern to become a private club once the Salt Lake City zoning ordinance was amended for Mixed Use zones. At that time we voted in favor of the conditional use 31-17, however there was a great deal of controversy surrounding the project. The following month the trustees voted unanimously to nullify the vote, as the zoning text amendment had not yet occurred. In essence, we had been asked to vote on a conditional use that was not, at that time, legally allowable.

Below is the letter dated March 31, 2008 that I sent to Doug Dansie, who I understood was the planner at the time. I now forward it on to you, because our Community Council is not having a meeting in August, and our bylaws preclude us from being able to vote until October. I understand that you will be past the time frame of accepting community council input by then, so I am sending you our original vote from March, 2008. I will also send you our October 21, 2009 vote once that has taken place.

If you have any questions about all of this, or need any clarifications, please do not hesitate to call me.

Thanks,  
Polly Hart, Chair  
Capitol Hill Community Council  
(h)801-355-7203  
(c)801-231-8118

Doug-

I understand that you have been assigned as the planner for the proposed private club at 751 300 West. We had a presentation at the February meeting by the developers, along with a lengthy question and answer period. After a very brief recap at the March meeting, along with short comments by one neighbor, the council took a vote. Both the secretary and I each counted twice, and we came up with four different numbers for each count, so taking the lowest of all numbers we agreed to record the vote as 31-17 in favor of recommending a conditional use as a private

club. It should be noted that the neighbors who live along Reed Street between 300 W and 400 W were unanimously against the project, and Abigail West of 329 W Reed Ave. submitted a petition from those adjacent neighbors. I will bring in a copy of that petition, as I promised her that it would accompany this letter. My understanding of the petition is that some people crossed their names off the list after changing their minds, and some of the businesses listed are owned by residents who signed as individuals. This, in no way, should construe a diluted resistance from the neighbors. I have continually urged the neighbors to work with the developers and vice versa, as there is a great deal of acrimony between the two. I have agreed to bring the topic up at our April CHCC meeting for discussion, however I have refused the neighbors' repeated requests for a re-vote. I would also like to attend any meetings that you have with the developers, and I would like to set up a separate meeting with one or two neighbors, Brian Morris, you, and me. I make the last suggestion in hopes that we might be able to work through some design issues that could help mitigate some of the neighbors' concerns. Having you there would enable us to come up with solutions that would be allowable by city code.

Please feel free to contact me with any questions.

Polly Hart, Chair  
Capitol Hill Community Council

"I don't make trouble. I'm just really good at finding it." Zephyr

**From:** [Polly Hart](#)  
**To:** [Walkingshaw, Nole](#)  
**Subject:** The Jam vote  
**Date:** Wednesday, November 18, 2009 10:47:38 PM

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Nole-

Following the City Council's zoning text change last night on conditional uses for mixed use (MU) zones, the Capitol Hill Community Council took a vote on The Jam's application for a social club conditional use tonight. The result of the CHCC vote was a tie, thirty-nine (39) to thirty-nine (39). Therefore, we are not sending either a positive nor negative recommendation to the Planning Commission as to whether they should approve the conditional use petition.

As you know this has been a volatile topic, with people on both sides of the issue being very passionate. Our typical meeting attendance is fifteen to twenty people, and we had roughly eighty people at the meeting tonight. In other words, the tie vote was not a reflection of ambivalence on the part of the community. Thank you for taking our input on this subject. Regardless of how we vote, it is important and empowering to be considered and heard.

Yours sincerely,

Polly Hart, Past Chair  
CHCC

p.s. As of the end of our meeting tonight, I am no longer chair. We had trustee elections, and our new chair is Katherine Gardner. Her phone number is 801-328-1724. She is working on getting email, so in the meantime, you can use my email and I will print and deliver messages to her.

"I don't make trouble. I'm just really good at finding it." Zephyr

**Attachment 'E'**  
Security and Operations Plan



# Security and Operations Plan

## “Jam In the Marmalade”

Contact info:	Phone	Email	Fax
Robert McCarthy	801 598 2236	<a href="mailto:Stoneground@comcast.net">Stoneground@comcast.net</a>	801 531 7255
Brian Morris	801 891 1162	<a href="mailto:info@jamslc.com">info@jamslc.com</a>	N/A

**Hours of operation:** (Subject to change with seasonality and neighborhood demand, always following City and State rules and regulations) Tuesday – Saturday 5pm-1am

**Code of conduct:** A sign is posted upon entering and exiting the club that states: “Please be respectful of our neighbors when exiting the club please leave quietly”

**Bouncer:** On busy evenings Typically Thursday – Saturday a Bouncer will be present to provide a security presence.

**Distribution of plan:** A copy of this plan is to be distributed to the Fire Dept., Police Dept., and the Community Council.

### **Parking Management plan:**

- To lessen the impact of the surrounding area there is only one entrance and exit to Jam. It is located on 300 West in order to direct flow towards 300 West and away from Reed Ave.
- There is on premise parking following city code. The number of regular stalls and ADA stalls are in compliance with the city
- Jam has signed a lease for off premise parking of 12 stalls
- 300 west has plenty of street parking in front of Jam
- A sign is posted facing cars entering Reed Ave. asking Jam patrons not to park on Reed, but instead use our lot or 300 West.
- Our employees will inform patrons where the correct parking is for Jam. Including our Bouncer who will keep an eye on cars, ask patrons of Jam to move if they have parked on Reed and instruct them where to park.
- A sign to be posted informing patrons not to exit on to Reed Ave. this is not an exit. It is a gutter that in Salt Lake can look like an entrance and exit to a business.

**Complaint and response:** Upon request, A Jam representative will meet with the neighbors and community council to resolve any neighborhood complaints regarding the operations on the premises.

**Smoking:** Jam has provided a smoking area on our existing patio. It is more than 25 feet from any entrances or exits.



SALT LAKE CITY ORDINANCE

No. 65 of 2009

(An ordinance amending zoning provisions to allow private clubs  
in the Mixed Use (MU) zoning district as conditional uses)

An ordinance amending the text of Section 21A.32.140, *Salt Lake City Code* (Table of Permitted and Conditional Uses for Special Purpose Districts) to list private clubs as a conditional use in the MU zoning district.

WHEREAS, the Salt Lake City Planning Commission ("Planning Commission") held a public hearing on March 28, 2007 to consider the application of Robert McCarthy for an amendment to the text of the table of permitted and conditional uses in the City's Special Purpose zoning districts as set forth in section 21A.32.140 of the Salt Lake City Code to allow private clubs as a conditional use in the Mixed Use (MU) zoning district; and

WHEREAS, at its August 12, 2009 hearing, the Planning Commission voted in favor of recommending the aforementioned text amendment to the Salt Lake City Council ("City Council"); and

WHEREAS, the City Council has determined that the following ordinance is in the City's best interests,

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Amending the text of Section 21A.32.140 of the *Salt Lake City Code*. That the table, titled "Table of Permitted and Conditional Uses for Special Purpose Districts", which is located at section 21A.32.140 of the *Salt Lake City Code*, shall be, and hereby is, amended, in part, to add to that table the category of "Private Club, 2,500 square feet or less in floor area" to be listed alphabetically under the category of "Recreation, cultural and entertainment" uses in that table, with a corresponding qualifying provision such that the inserted provisions shall appear and read as follows:

Use	Permitted And Conditional Uses																
	RP	BP	FP	AG	AG-2	AG-5	AG-20	OS	NOS	A	PL	PL-2	I	UI	MH	EI	MU
Private Club 2,500 square feet or less in floor area																	C <sup>12</sup>

12. A conditional use permit for a class B or C private club or association shall be subject to the following qualifying provisions. For the purpose of these provisions a class B or C private club or association shall have the meaning set forth in Section 5.50 of the Salt Lake City Code, as amended.

A. In granting conditional use approval for a class B or C private club or association the Planning Commission shall:

i. Require that a security and operations plan be prepared and filed with the City which shall include:

- a. Providing a complaint-response community relations program, and;
- b. Having a representative of the private club or association meet with neighbors upon request to attempt to resolve any neighborhood complaints regarding the operations on the premises;
- c. Requiring design and construction methods to ensure that any sound level originating within the premises, measured within fifteen (15) feet from an exterior wall or door thereof, does not exceed the maximum permissible sound level set forth for residential use districts in Section 9.28.060 of the City Code;
- d. Allowing live entertainment only within an enclosed building subject to the foregoing sound limit;
- e. Prohibiting electronically amplified sound in any exterior portion of the premises;
- f. Designating a location for smoking tobacco outdoors in conformance with state law;
- g. Requiring any trash strewn on the premises, including any smoking and parking lot areas, be collected and deposited in a trash receptacle by 6 a.m. the following day;
- h. Having portable trash receptacles on the premises emptied daily and automated receptacles emptied at least weekly. Automated receptacles shall be located only within a City-approved trash storage area; and
- i. A parking management plan that takes into consideration the impact of parking on surrounding neighborhoods.

ii. Review the site plan and floor plan proposed for the premises, and as result of such review may require design features intended to reduce alcohol-related problems such as consumption by minors, driving under the influence, and public drunkenness;

- iii. Require buffering where a private club or association abuts a residential building or area, including landscaping or walls along any property line or within any required yard area on the lot where the premises are located;
- iv. Require that landscaping be located, and be of a type, that cannot be used as a hiding place, and;
- v. Require that the exterior of the premises be maintained free of graffiti at all times, including the main building, any accessory building or structure, and all signs.

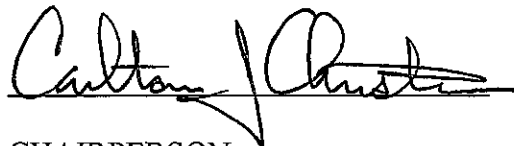
B. If necessary to meet the standards for approval of a conditional use set forth in Section 21A.54.080, the following conditions may be imposed:

- i. Limit the size and kind of signage located on the outside of any building containing a private club or association in conformance with Chapter 21A.46.
- ii. Require parking area lighting to produce a minimum foot-candle that provides safe lighting for pedestrians but does not intrude on residents' enjoyment of their homes and;
- iii. Consider the proposed location of an outdoor smoking area in the security and operations plan and the potential effect on neighboring residences, businesses and buildings and designating a new area if the potential effects of the area in the security and operations plan appear to adversely affect neighboring residences, businesses and buildings.

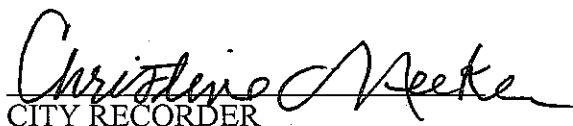
SECTION 2. Effective Date. This ordinance shall become effective immediately.

Passed by the City Council of Salt Lake City, Utah, this 17th day of November,

2009.

  
CHAIRPERSON

ATTEST AND COUNTERSIGN:

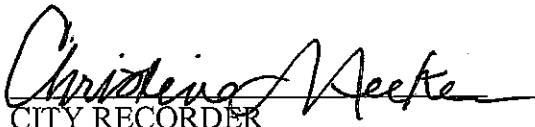
  
CITY RECORDER



Transmitted to Mayor on November 20, 2009

Mayor's Action: ✓ Approved.        Vetoed.

  
MAYOR

  
CITY RECORDER

(SEAL)

Bill No. 65 of 2009.  
Published: December 8, 2009.



**APPROVED AS TO FORM**

Salt Lake City Attorney's Office

Date: NOVEMBER 18, 2009

By:   
Paul C. Nielson, Senior City Attorney