



Staff Report

PLANNING DIVISION
COMMUNITY & ECONOMIC DEVELOPMENT

To: Salt Lake City Planning Commission
From: Everett Joyce, 801-535-7930
Date: May 28, 2014
Re: PLNPCM2014-00106 Nonconforming Restaurants – Outdoor Dining Text Amendment

Zoning Text Amendment

PROPERTY ADDRESS: Citywide
PARCEL ID: Citywide
MASTER PLAN: Citywide
ZONING DISTRICT: Citywide

REQUEST: The petitioner, Jude Rubadue is requesting a Zoning Text Amendment to allow outdoor dining associated with a nonconforming restaurant use. The applicant's property is located at 564 E Third Avenue. The request is submitted in order to operate outdoor dining in the side yard setback area of a nonconforming restaurant. This text amendment will affect all nonconforming restaurants citywide. The Planning Commission is required to transmit a recommendation to the City Council for the Zoning Text Amendment request.

RECOMMENDATION: Staff recommends that the Planning Commission take public comment on the proposed text amendment and that after public input close the hearing. Staff further recommends that the Planning Commission discuss and provide staff direction on the following issues:

1. Currently, nonconforming uses are not allowed to add outdoor dining. In the past, the ability to add an outdoor dining component to a nonconforming use was permitted through a special exception approval. Should the City allow nonconforming uses the ability to add outdoor dining as an accessory use?
2. If the Planning Commission supports allowing outdoor dining for nonconforming uses, the ordinance must be amended. The staff report contains two options for a text amendment, the Applicant's (Attachment C) and the Staff's (Attachment D). Both options allow nonconforming uses to add outdoor dining through a special exception. Direction is desired concerning the appropriate procedure and standards of review to be utilized to permit outdoor dining for nonconforming uses.
 - a. The Applicant proposes that new nonconforming use outdoor dining standards be integrated into chapter 21.A.38 Nonconforming Uses and Noncomplying Structures.
 - b. The Staff proposes that nonconforming use outdoor dining standards be incorporated within chapter 21.A.40 Accessory Uses, section 21.A.40.065 Outdoor Dining, and chapter 21.A.52 Special Exceptions, integrating the process into the established framework of the zoning ordinance.

After the Planning Commission's review and discussion, the Planning Staff recommends that the Commission determine which option, the Applicant's or the Staff's they are in support of and would recommend be forwarded on to the City Council. If further discussion or additional text modification is desired, Staff recommends that the Planning Commission table the item and provide direction to staff as to what additional information they would require.

When the Planning Commission has made a final recommendation it will be forwarded to the City Council to approve, deny or approve a modified amendment to allow outdoor dining associated with a nonconforming restaurant or similar use.

ATTACHMENTS:

- A.** Vicinity Map
- B.** Applicant's Original Text Proposal
- C.** Applicant's Modified Text Proposal
- D.** Staff Optional Proposal
- E.** Existing Conditions
- F.** Analysis of Standards
- G.** Public Process and Comments
- H.** Dept. Comments
- I.** Motions

PROJECT DESCRIPTION:

The applicant submitted a proposed text amendment that allows for outdoor dining related to nonconforming restaurants. The proposed text basically permits outdoor dining subject to submittal of site plan showing that the outdoor dining does not impede pedestrian or vehicular traffic and has a main entry control point. The proposed text prohibits imposition of any requirements or conditions and may only be denied if the applicant fails to submit an appropriate site plan that addresses pedestrian and vehicle traffic and that contains an entry control point as required by state liquor laws.

After receiving input from the open house concerns and abutting property owner input, the applicant submitted a revised text amendment proposal (current proposal provided in Attachment C). The modifications included that outdoor dining for nonconforming restaurants to be allowed as a special exception with a required administrative hearing. Modifications included that outdoor live music would be prohibited. However, the proposed process states that in approving an application under this section the Planning Director may not impose any requirements or conditions other than those set forth in this section. An application may only be denied if the applicant fails to satisfy the requirements of the nonconforming use outdoor dining section.

The existing outdoor dining regulations for permitted restaurants within the CN and RB zoning districts requires that outdoor dining be approved through the special exception process. The proposed text amendment for a nonconforming use process for outdoor dining would also be a special exception. The special exception process provides an opportunity to obtain public input on the proposed outdoor dining which can be helpful in obtaining an approvable design that helps mitigates potential impacts upon adjacent property owners.

KEY ISSUES:

The key issues listed below have been identified through the analysis of the project, neighbor and community input and department review comments.

- 1. Issue 1. Parking
- 2. Issue 2. Noise
- 3. Issue 3. Lighting
- 4. Issue 4. Litter
- 5. Issue 5. Loss of Privacy
- 6. Issue 6. Odors
- 7. Issue 7. Presumption of Approval
- 8. Issue 8. Maintain Neighborhood Amenities

Issue 1 Parking

The original proposal did not have any off-street parking requirements for outdoor dining facilities associated with a nonconforming restaurant. Concern was raised that the proposed ordinance disregards the requirement for off-street parking, which is required for outdoor dining for complying restaurants.

Since public input, the applicant has modified the proposed text amendment so that off-street parking for outdoor dining is treated similar to the existing special exception process. The existing requirement for off-street parking for outdoor dining within the neighborhood commercial districts requires that parking is required for outdoor dining areas that exceed 500 square feet in area.

Issue 2 Noise

Concern was raised regarding noise of outdoor dining facilities, particularly with respect to live music performances and with outdoor speakers playing music. Related to the noise activity was concern regarding the hours of operation.

The special exception for outdoor dining requires that the activity complies with title 9, chapter 9.28 of the City code. This code prohibits noise levels in residential use areas that exceed 50 dBA from 9:00 P.M. to 7:00 A.M. and 55 dBA from 7:00 A.M. to 9:00 P.M. The noise level measurement dBA is an A-Weighted Sound Pressure Level. As a comparison motor vehicles are limited to 80 dBA. Noise is also regulated through chapter 21A.36 General Provisions section 21A.36.180 Environmental Performance Standards.

Issue 3 Lighting

There is concern that additional lighting for outdoor dining areas would impact adjacent properties. Lighting is addressed in chapter 21A.24, the general provisions of residential districts of the zoning ordinance. Requirements are that on site lighting shall be located, directed or designed in such a manner as to contain and direct light only to the property on which it is located and not to glare onto adjacent properties.

Issue 4 Litter

Concern was raised about wind carrying trash through the neighborhood. Litter is addressed in chapter 9.12 of the City code, property owners are required to pick up any litter which is deposited by any person within the property and this would include clean up of outdoor dining areas.

Issue 5 Loss of Privacy

Having public activity outdoors on smaller properties creates a loss of privacy for abutting property owners. Location of such facilities should be properly screened. The special exception process allows for input from abutting property owners. Chapter 52, Special Exceptions section 21A.52.070 allows conditions and limitations necessary to prevent or minimize adverse effects upon other properties in the vicinity which include location, landscaping and screening. The location and screening of any outdoor dining is not directly recognized in the applicant's proposed process.

Issue 6 Odors

Concern was brought forward regarding smoking and food odors. The special exception for outdoor dining prohibits smoking. Food odors are already regulated through chapter 21A.36 General Provisions section 21A.36.180 Environmental Performance Standards. This section requires compliance with applicable performance standards governing noise, vibration, air pollution, odors, fire and explosion hazards and toxic substances.

Issue 7 Presumption of Approval

There was concern that the nonconforming restaurant outdoor dining text proposal had no process requirements that would allow input from neighbors. This issue was addressed through the modification to have outdoor dining approved only as a special exception with a required administrative hearing with the possibility of going to the Planning Commission. The proposed text standards limit the ability of the administration to impose any additional requirements or conditions other than those set forth within the proposed text section. The included criteria for compliance with

the environmental performance standards allows for requirements or conditions as set forth in the purpose statement of 21A.36.180 Environmental Performance Standards. The purpose of environmental performance standards is to help ensure that the activities and processes employed by any use protect the environment, and the use and enjoyment of nearby properties by limiting the emission of potentially harmful noise, vibration, air pollution, odor and other forms of environmental impacts.

Issue 8 Maintain Neighborhood Amenities

There was concern if the City did not allow outdoor dining there would be a loss of neighborhood amenities. Small restaurants embedded in the neighborhood add to the livability of the area. Community members identified value in walking to destinations such as neighborhood dining. Outdoor dining provides a gathering and community building purpose. Outdoor dining supports maintaining a vibrant local economy of the neighborhood.

DISCUSSION:

A discussion of the applicable master plan policies is provided in Attachment E - Existing Conditions. A summary of the standards for zoning text amendments with compliance status and a statement of the rationale for compliance to the standards are provided in Attachment F - Analysis of Standards.

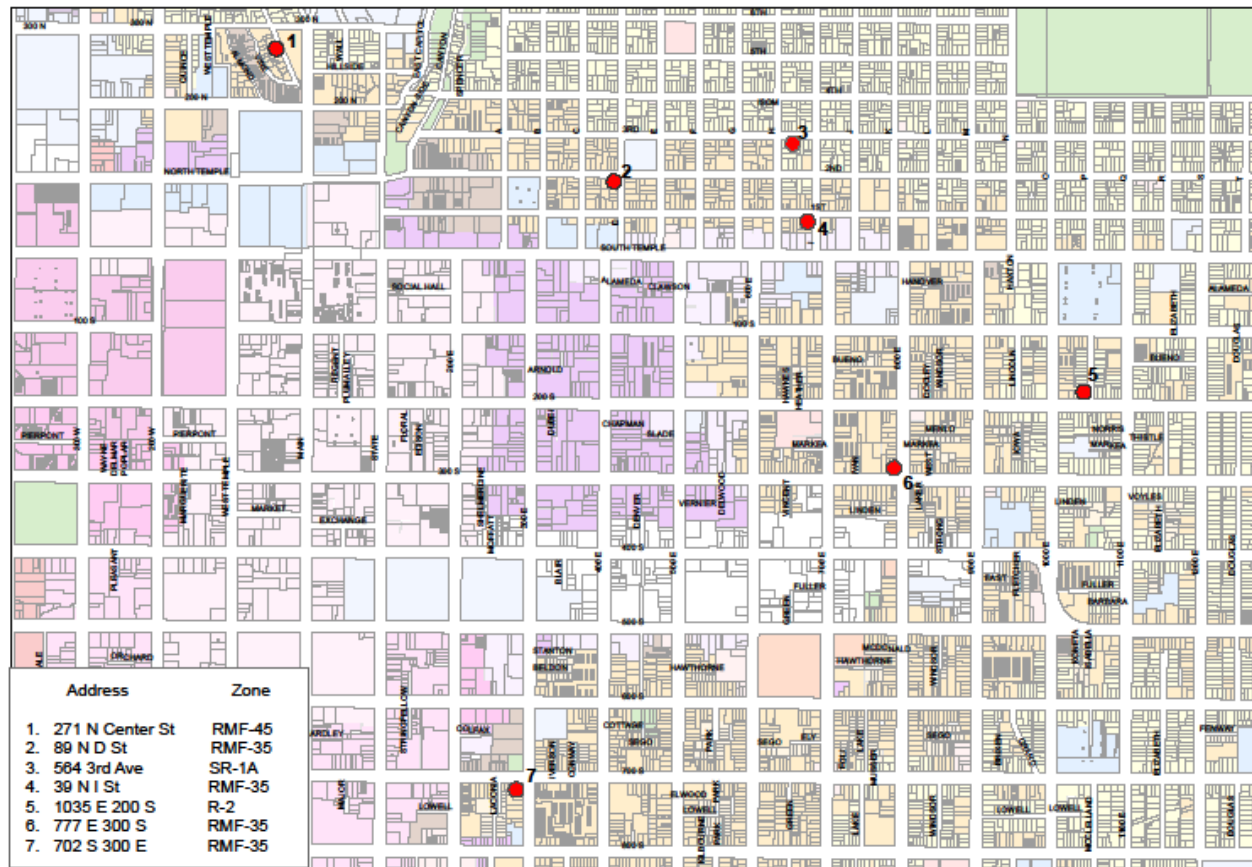
NEXT STEPS:

The Planning Commission action to recommend approval or denial of the proposed text amendment will be transmitted to the City Council for final action.

If approved, the applicant will be required to obtain special exception approval based upon the special exception standards and obtain all necessary permits for any outdoor dining project. The special exception in the case of the applicant's property, the outdoor dining would be limited to less than 500 square feet due to the site not having the ability to provide off-street parking for a larger dining area. Other nonconforming restaurants that have outdoor dining areas that were not approved by the city would also be required to obtain special exception approval.

If denied the applicant would not have City approval to develop outdoor dining associated with the existing nonconforming restaurant. Other nonconforming restaurants that were not previously approved by the City would need to remove their outdoor dining facilities unless the outdoor dining existed at the time the property became nonconforming.

ATTACHMENT A: VICINITY MAP



Petition PLNPCM2014-00106 - Nonconforming Restaurants - Outdoor Dining Text Amendment

● Nonconforming Restaurants



The proposed text amendment would affect all nonconforming restaurants, delis and retail establishments that serve food or drinks citywide. The map shown above shows those existing restaurants that were identified in the Small Neighborhood Business Amendment land use analysis completed in 2011. There are additional nonconforming retail service uses throughout the city. Not all nonconforming restaurants, delis and retail establishments that serve food or drinks may be known. Below is a list of known nonconforming restaurant and retail food service uses.

Nonconforming Restaurants and Retail Food Service Establishments					
Address	Zone	Business Name	Type of Business	Lot Size (acres)	Amenities
564 3 rd Ave	SR-1A	Avenues Bistro on Third	Restaurant	0.10	
39 N I St	RMF-35	Café on 1 st	Restaurant	0.19	Outdoor Dining on property and public right of way
89 N D St	RMF-35	Indian Market and Grill	Market/Restaurant	0.06	Outdoor Dining on property and public right of way
702 S 300 E	RMF-35	Kyoko Kitchen	Restaurant	0.23	Outdoor Dining
1035 E 200 S	R-2	Coffee Noir	Restaurant/Cafe	0.03	Outdoor Dining on property and public right of way
777 E 300 S	RMF-35	Niche	Restaurant/Cafe	0.35	Outdoor Dining
271 N Center St	RMF-45	EMS Deli /Alchemy Coffee	Restaurant/Deli/Retail Service	0.25	Outdoor Dining
265 E 900 S #B	RMF-30	The Chocolate Conspiracy	Retail Service	0.11	
82 N E St	RMF-35	Jack Mormon Coffee	Retail Service	0.06	Sitting rock with umbrella in public right of way
401 E 1 st Ave	RM-35	Java Joes	Retail Service	0.09	Drive thru
902 S 1100 E	SR-1	Café Espresso	Retail Service	0.07	Drive thru
1080 E 500 S	RMF-30	Little Caesar's	Restaurant/Take Out	0.23	

ATTACHMENT B: APPLICANT'S ORIGINAL PROPOSAL

Original Proposed Text Changes Submitted by the Applicant

Section 21A.38.170 Nonconforming Restaurant Outdoor Dining Uses

A legal nonconforming restaurant use, as the term restaurant is defined in section 21A.62.040 of this code, may include and allow outdoor dining so long as the outdoor dining meets the requirements in subsections A, B and C below:

- A. Outdoor dining must occur on the same parcel as the nonconforming use.
- B. Applicant shall submit a site plan demonstrating the following:
 - 1. That all proposed outdoor dining activities will be conducted on the same parcel as the nonconforming use and that no activities will occur within any public rights of way, unless Applicant secures separate approval from the City;
 - 2. The location of any paving, landscaping, planters, fencing, canopies, umbrellas, or other table covers or barriers surrounding the area;
 - 3. The outdoor dining will not impede pedestrian or vehicular traffic; and
 - 4. The main entry has a control point as required by state liquor laws.
- C. Applicant shall submit the above described site plan and application to the Zoning Administrator for decision. In approving an application under this section the Zoning Administrator may not impose any requirements or conditions other than those set forth in this section. An application may only be denied if the Applicant fails to satisfy the above stated requirements
- D. Any such allowed outdoor dining will not be deemed to constitute the unlawful enlargement, expansion or extension of the nonconforming use.
- E. An appeal of the decision of the Zoning Administrator under this section shall be to the Appeals Hearing Officer as an appeal of administrative decision pursuant to the procedures and standards set forth in chapter 21A.16

ATTACHMENT C: APPLICANT'S CURRENT PROPOSAL

The applicant has submitted the following revised text amendment proposal in response to issues brought out in the open house public input process. *Note: The proposed text below would be all new text within Chapter 38 Nonconforming Uses and Noncomplying Structures.*

Proposed 21A.38.170:

Nonconforming Restaurant Outdoor Dining Uses

A legal nonconforming restaurant or similar use may include and allow Outdoor dining, as defined in chapter 21A.62 of this title. Outdoor dining in the public way for a nonconforming restaurant or similar use that serves food or drinks shall be permitted subject to all city requirements. The Planning Director may approve onsite Outdoor dining as a special exception processed in accordance with this chapter. Except as expressly set forth in this section, the provisions of chapter 21A.52 of this title shall not apply to the Planning Director's review of a proposed Outdoor dining application. In considering a special exception application, the Planning Director shall apply subsections A through F of the general standards and considerations for special exceptions, 21A.52.060 of this title, to the proposed Outdoor dining. The Planning Director shall approve the special exception if the proposed Outdoor dining substantially complies with subsections A through F. The Planning Director shall not use the nonconforming restaurant use as a basis for denying a special exception. In addition, Outdoor dining shall meet the requirements in subsections A to H below:

- A. Outdoor dining must occur on the same parcel as the nonconforming use.
- B. Outdoor dining must occur within the landscaped yard or buffer area unless otherwise approved by the Planning Director.
- C. Applicant shall submit the following:
 - 1. A site plan showing:
 - a. That all proposed Outdoor dining activities will be conducted on the same parcel as the nonconforming use and that no activities will occur within any public rights of way, unless Applicant secures separate approval from the City;
 - b. The location of any paving, landscaping, planters, fencing, canopies, umbrellas, or other table covers or barriers surrounding the area, proximity to neighboring properties, placement of lighting and tables, and available parking;
 - c. The main entry has a control point as required by state liquor laws
 - 2. A complete description of the proposed use including:
 - a. The maximum Outdoor dining occupancy, Outdoor dining activities, and hours of operation;
 - b. How the Outdoor dining will impact pedestrian or vehicular traffic;
 - 3. A mailing label list of all of the property owners within three hundred feet (300') of the proposed use; and
 - 4. Such other information or documentation as may reasonably be deemed necessary for proper review and analysis of a particular application.
- D. No live music shall be performed in the Outdoor dining area. No loud speakers shall be played in the outdoor dining area unless the decibel level is within conformance with the Salt Lake City noise control ordinance, title 9, chapter 9.28 of this code.

- E. No additional parking is required unless the total Outdoor dining area ever exceeds five hundred (500) square feet. Parking for Outdoor dining areas in excess of five hundred (500) square feet is required at a ratio of two (2) spaces per one thousand (1,000) square feet of Outdoor dining area. No additional parking is required in the D-1, D-2, D-3, D-4, TSA, or G-MU zones.
- F. Smoking shall be prohibited within the Outdoor dining area and within twenty five feet (25') of the Outdoor dining area.
- G. The proposed Outdoor dining must comply with the environmental performance standards as stated in section 21A.36.180 of this title.
- H. Outdoor dining shall comply with all requirements of chapter 21A.48 (Landscaping) and section 21A.36.020 (Lot and Bulk Controls) of this title, provided, however, that the Planning Director may waive any landscaping or lot and bulk control requirement for good cause, and as necessary to allow Outdoor dining given the constraints of a particular nonconforming use.
- I. Applicant shall submit the above described site plan and application to the Planning Director for decision.
- J. The Planning Director shall set an administrative hearing for the consideration of the application and mail notices to the property owners within three hundred feet (300'). At the administrative hearing, the Planning Director shall hear and consider the input from the applicant and any other persons.
- K. In approving an application under this section the Planning Director may not impose any requirements or conditions other than those set forth in this section. An application may only be denied if the Applicant fails to satisfy the above stated requirements.
- L. The Planning Director may refer any application to the Planning Commission due to the complexity of the application or the significance of changes to the property or the surrounding area.
- M. Any such allowed Outdoor dining will not be deemed to constitute the unlawful enlargement, expansion or extension of the nonconforming use. Any approval of an Outdoor dining use under this section shall not be deemed to include an approval of any material modifications to the approved use or an approval of any future enlargement of the use. Any such material change or any future expansion must be approved by a separate application under this section.
- N. An appeal of the decision of the Planning Director (or Planning Commission if referred under subsection J above) under this section shall be to the Appeals Hearing Officer as an appeal of administrative decision pursuant to the procedures and standards set forth in chapter 21A.16.

ATTACHMENT D: STAFF OPTIONAL PROPOSAL

This option adds nonconforming restaurants and similar nonconforming uses to the existing outdoor dining standards in Chapter 40 Accessory Uses. An applicant would need to process the application through the provisions of the special exception process in Chapter 52 Special Exceptions. *Note: The underlined bold text is the staff's proposed text amendment to accommodate outdoor dining for nonconforming uses.*

21A.40.065: OUTDOOR DINING:

"Outdoor dining", as defined in [chapter 21A.62](#) of this title, shall be allowed within the buildable lot area, in all zoning districts where such uses are allowed, as either a permitted or conditional use. **Outdoor dining in the public way shall be permitted subject to all city requirements.**

Outdoor dining is allowed within the required landscaped yard or buffer area, in commercial and manufacturing zoning districts where such uses are allowed. Outdoor dining is allowed in the RB, CN, MU, R-MU, RMU-35 and the RMU-45 zones **and for nonconforming restaurants and similar uses that serve food or drinks** through the provisions of the special exception process (see [chapter 21A.52](#) of this title). All outdoor dining shall be subject to the following conditions:

- A. All requirements of [chapter 21A.48](#) and section [21A.36.020](#) of this title are met.
- B. All required business, health and other regulatory licenses for the outdoor dining have been secured.
- C. A detailed site plan demonstrating the following:
 - 1. All the proposed outdoor dining activities will be conducted on private property owned or otherwise controlled by the applicant and that none of the activities will occur on any publicly owned rights of way unless separate approval for the use of any such public rights of way has been obtained from the city;
 - 2. The location of any paving, landscaping, planters, fencing, canopies, umbrellas or other table covers or barriers surrounding the area;
 - 3. The proposed outdoor dining will not impede pedestrian or vehicular traffic; and
 - 4. The main entry has a control point as required by state liquor laws.
- D. The proposed outdoor dining complies with all conditions pertaining to any existing variances, conditional uses or other approvals granted for property.
- E. Live music will not be performed nor loudspeakers played in the outdoor dining area unless the decibel level is within conformance with the Salt Lake City noise control ordinance, [title 9, chapter 9.28](#) of this code.
- F. No additional parking is required unless the total outdoor dining area ever exceeds five hundred (500) square feet. Parking for outdoor dining areas in excess of five hundred (500) square feet is required at a ratio of two (2) spaces per one thousand (1,000) square feet of outdoor dining area. No additional parking is required in the D-1, D-2, D-3, D-4, TSA, or G-MU zone.
- G. Smoking shall be prohibited within the outdoor dining area and within twenty five feet (25') of the outdoor dining area.
- H. The proposed outdoor dining complies with the environmental performance standards as stated in section [21A.36.180](#) of this title.

ATTACHMENT E: EXISTING CONDITIONS

The identified nonconforming restaurants and retail food service establishments are located within residential zoning districts. The vicinity map and tables in Attachment A show which residential zoning district the known nonconforming uses are located.

Master Plans

The following related policies are contained within the community master plans of Salt Lake City.

Central Community Master Plan

It is explained within the Central Community Master Plan that “changes in commercial land uses are inevitable and need to be managed,” identifying that “many small business properties within the City are nonconforming” uses, and “some of the properties may or may not be appropriate for a different land use designation.” The following policies relate to nonconforming use text changes:

- Ensure that future amendments to the zoning map or text of the zoning ordinance do not result in a significant amount of nonconforming land uses.
- Encourage appropriate reuse of existing nonconforming or noncomplying commercial and industrial structures on a case-by-case basis.

Sugar House Community Master Plan

Under the element of “Neighborhood Commercial” within the Sugarhouse Community Master Plan, the “community supports a Citywide effort to revise and strengthen the Neighborhood Commercial zoning district.” This support includes the recommendation that “the City should give serious consideration to creating a new less intensive neighborhood commercial zone or using performance zoning techniques to allow single parcels to be zoned commercially. Notwithstanding the acknowledgement that neighborhood business can be positive for the City and neighborhood, the community emphasizes the need to protect adjoining residences from negative impacts of these commercial uses. These impacts include: lighting, noise, smells, insensitive design, traffic and parking.”

Additional consideration for neighborhood commercial uses includes nonconforming properties, “used for commercial or business purposes,” but are zoned residential. As nonconforming property, the business is very limited in terms of expansion or rebuilding, even if a disaster strikes. In some cases, these nonconforming businesses have been present and operating for many decades and have served the surrounding residential area without undue harm to that neighborhood. However, rezoning the property to commercial bestows upon that property significant value and rights including allowing the possibility that the current use could be replaced with any use permitted in the commercial zone. Therefore, the City should be cautious in rezoning these nonconforming properties to commercial. Each one should be considered on its own merits, with the public and surrounding residents given the opportunity to provide input into the decision making process.

Neighborhood Commercial Policy

- The City should explore new techniques and ordinances that support small businesses to serve residents within the surrounding neighborhood while mitigating impacts that may adversely affect the residential character of the neighborhood.

East Bench Community Master Plan

The East Bench Master Plan addresses non-residential land uses and provisions regarding non-conforming businesses within the community. Within the Master Plan, it is encouraged that “since nearly all properties zoned for business are occupied, most new business development will require either redevelopment of existing sites or a change of zoning to accommodate business activities in locations previously zoned for residential use.” Beyond the non-residential land uses of the East Bench, the “expansion of non-conforming businesses is a related concern. In most cases, such expansions would be undesirable to surrounding property owners.”

Capitol Hill Community Master Plan

Within the Capitol Hill Master Plan, small-scale and neighborhood oriented commercial services are encouraged, catering to “both vehicular and non-vehicular patrons will help improve the livability of the community.” The Master Plan further encourages these uses with actions including “amend the existing Capitol Hill Community Zoning Map to place incompatible commercial activities in residential neighborhoods in a non-conforming state as the means of phasing them out.” Further explanation from the Master Plan includes actions which “maintain existing neighborhood oriented commercial land uses and encourage new neighborhood commercial uses in areas where appropriate such as 300 West,” and further recommendation for “a new ordinance which encourages the reuse of small neighborhood commercial structures to provide neighborhood commercial uses where appropriate.”

The Capitol Hill Community Master Plan contains the following Action Items:

- Provide incentives to encourage nonconforming dwellings to be converted back to single family or duplex dwellings.
- Encourage nonconforming retail commercial uses to relocate to the neighborhood shopping node where appropriate.

Avenues Community Master Plan

The Avenues Master Plan specifically addresses non-conforming uses, and standards for providing additional business zoning. The Master Plan explains that “the City should not grant variances to rebuild structures containing nonconforming uses. Once the structure has deteriorated, as defined in the nonconforming use ordinance, the property should revert to a use conforming to present zoning.”

Summary

Based upon the broad dispersion of nonconforming properties many of the Planning Community Master Plans apply to this proposal. Many have language regarding addressing neighborhood commercial and nonconforming uses. Community plan policies both support and oppose the continuance of nonconforming uses. State code revisions to nonconforming use regulations have occurred since adoption of existing plan policy and made portions of the policies obsolete, particularly the reconstruction of nonconforming uses when destroyed by natural calamity or fire.

As a nonconforming property, the business is very limited in terms of expansion or rebuilding. In some cases, these nonconforming businesses have been present and operating for many decades and have served the surrounding residential area without undue harm to that neighborhood.

Zoning

Nonconforming Uses

Chapter 38 Nonconforming Uses and Noncomplying Structures contains the following intent statement:

The intent of this chapter is to allow continued use of legal nonconforming uses and noncomplying structures, while at the same time protecting existing conforming development and furthering orderly development and improvement of the community. Certain nonconformities are permissible as is their continued use so long as in their particular location they are not detrimental to the surrounding neighborhood.

1. Uses of nonconforming and noncomplying buildings, structures or land which are compatible and complement existing or planned development patterns should be allowed to continue. Improvement for better integration into the surrounding neighborhood should be sought as much as possible.
2. Nonconforming and noncomplying situations which hinder the attainment of the city's master plan, create a nuisance, or are a hazard to a community or neighborhood, should be eliminated or brought into compliance with the provisions of this title.

21A.38.080: MOVING, ENLARGING OR ALTERING NONCONFORMING USES OF LAND AND STRUCTURES:

No nonconforming use may be moved, enlarged or altered and no nonconforming use of land may occupy additional land, except as provided in this section.

- A. Enlargement: A nonconforming use may not be enlarged, expanded or extended to occupy all or a part of another structure or site that it did not occupy on the effective date of any amendment to this title that makes the use nonconforming. A nonconforming use for the purposes of this section may be extended within the same structure or as an addition to the same structure, provided the enlargement does not increase the need for additional hard surface parking than is existing on the property.

Accessory Uses

21A.40 ACCESSORY USES, BUILDINGS AND STRUCTURES

Chapter 21A.40 Accessory Uses Building and Structures is intended to provide general regulations, applicable to all zoning districts, for accessory uses, buildings and structures which are customarily incidental and subordinate to the principal use and which are located on the same lot. It is further intended to provide specific standards for certain accessory uses, buildings and structures.

Outdoor Dining

21A.40.065: OUTDOOR DINING:

Outdoor dining, as defined in Chapter 21A.62, shall be allowed within the buildable lot area, in all zoning districts where such uses are allowed, as either a permitted or conditional use.

Outdoor dining is allowed within the required landscaped yard or buffer area, in commercial and manufacturing zoning districts where such uses are allowed. Outdoor dining is allowed in the RB, CN, MU, R-MU, RMU-35 and the RMU-45 zones through the provisions of the Special Exception process (see chapter 21A.52 of this title). All outdoor dining shall be subject to the following conditions:

- A. All requirements of chapter 21A.48 and section 21A.36.020 of this title are met.
- B. All required business, health and other regulatory licenses for the outdoor dining has been secured.
- C. A detailed site plan demonstrating the following:
 - 1. All the proposed outdoor dining activities will be conducted on private property owned or otherwise controlled by the applicant and that none of the activities will occur on any publicly owned rights of way unless separate approval for the use of any such public rights of way has been obtained from the city;
 - 2. The location of any paving, landscaping, planters, fencing, canopies, umbrellas or other table covers or barriers surrounding the area;
 - 3. The proposed outdoor dining will not impede pedestrian or vehicular traffic; and
 - 4. The main entry has a control point as required by state liquor laws.
- D. The proposed outdoor dining complies with all conditions pertaining to any existing variances, conditional uses or other approvals granted for property.
- E. Live music shall not be performed in the outdoor dining area. Applicant may play loud speakers in the outdoor dining area so long as the decibel level complies with the Salt Lake City noise control ordinance, title 9, chapter 9.28 of this code.
- F. No additional parking is required unless the total outdoor dining area ever exceeds five hundred (500) square feet. Parking for outdoor dining areas in excess of five hundred (500) square feet is required at a ratio of two

(2) stalls per one thousand (1,000) square feet of outdoor dining area. No additional parking is required in the D-1, D-2, D-3, D-4, TSA, or G-MU zone.

G. Smoking shall be prohibited within the outdoor dining area and within 25 feet of the outdoor dining area.

H. The proposed outdoor dining complies with the Environmental Performance Standards as stated in Section 21A.36.180 of this title.

Special Exceptions

21A.52.060: GENERAL STANDARDS AND CONSIDERATIONS FOR SPECIAL EXCEPTIONS:

No application for a special exception shall be approved unless the planning commission or the planning director determines that the proposed special exception is appropriate in the location proposed based upon its consideration of the general standards set forth below and, where applicable, the specific conditions for certain special exceptions.

A. Compliance With Zoning Ordinance And District Purposes: The proposed use and development will be in harmony with the general and specific purposes for which this title was enacted and for which the regulations of the district were established.

B. No Substantial Impairment Of Property Value: The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located.

C. No Undue Adverse Impact: The proposed use and development will not have a material adverse effect upon the character of the area or the public health, safety and general welfare.

D. Compatible With Surrounding Development: The proposed special exception will be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accordance with the applicable district regulations.

E. No Destruction Of Significant Features: The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance.

F. No Material Pollution Of Environment: The proposed use and development will not cause material air, water, soil or noise pollution or other types of pollution.

G. Compliance With Standards: The proposed use and development complies with all additional standards imposed on it pursuant to this chapter.

21A.52.070: CONDITIONS ON SPECIAL EXCEPTIONS:

Conditions and limitations necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the special exception or upon public facilities and services may be imposed on each application. These conditions may include, but are not limited to, conditions concerning use, construction, operation, character, location, landscaping, screening and other matters relating to the purposes and objectives of this title. Such conditions shall be expressly set forth in the approval record of the special exception.

Definitions

Section 21A.62 DEFINITIONS

OUTDOOR DINING: A dining area with seats and/or table(s) located outdoors of a restaurant, brewpub, microbrewery, social club, tavern, market, deli, and other retail sales establishment that sells food and/or drinks, and which is either: a) located entirely outside the walls of the building of the subject business, or b)

enclosed on two (2) sides or less by the walls of the building with or without a solid roof cover, or c) enclosed on three (3) sides by the walls of the building without a solid roof cover.

Neighborhood Commercial/Business Districts

The CN neighborhood commercial district is intended to provide for small scale, low intensity commercial uses that can be located within and serve residential neighborhoods.

The purpose of the RB residential/business district is to create vibrant small scale retail, service, and office uses oriented to the local area within residential neighborhoods along higher volume streets. Development is intended to be oriented to the street and pedestrian, while acknowledging the need for automobile access and parking.

The purpose of the SNB small neighborhood business zoning district is to provide areas for small commercial uses to be located adjacent to residential land uses, including mid block. This district will preserve and enhance older commercial structures and storefront character by allowing a variety of commercial uses and placing more strict regulations on new construction and major additions to existing buildings. The regulations are intended to restrict the size and scale of the commercial uses in order to mitigate negative impacts to adjacent residential development and encourage pedestrian oriented development.

Comparison of Nonconforming and Accessory Use Outdoor Dining Ordinances					
	Current Nonconforming Ordinance		Pending Nonconforming Ordinance	Proposed Nonconforming Restaurant – Outdoor Dining	Accessory Use - Outdoor Dining For Permitted Uses
Expansion of structure	Permitted - If no increase in parking above what is existing on site	Conditional Use - If additional parking required	Special Exception - If the increase is less than 25% of the gross floor area or 1,000 sq. ft whichever is less	N/A	N/A
Expansion of use onto additional land	Not permitted through IRT interpretation	Not permitted through IRT interpretation	No nonconforming use of land may occupy additional land	Special Exception	Special Exception

ATTACHMENT F: ANALYSIS OF STANDARDS

ZONING TEXT AMENDMENTS

21A.50.050: A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard. In making a decision concerning a proposed text amendment, the City Council should consider the following:

Factor	Finding	Rationale
1. Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents;	Complies	<p>Existing policy identifies that the City should explore new techniques and ordinances that support small businesses to serve residents within the surrounding neighborhood while mitigating impacts that may adversely affect the residential character of the neighborhood.</p> <p>Many small business properties within the City are nonconforming uses. Existing policy acknowledges that neighborhood businesses can be positive for the City and communities. Changes in commercial land uses are inevitable and need to be managed.</p> <p>The community emphasis to protect adjoining residences from negative impacts from nonconforming commercial uses has been considered through the standards of the proposed special exception.</p> <p>The proposed text amendment supporting nonconforming restaurants does not hinder the attainment of the city's master plan nor create a nuisance or hazard to the community. The regulations are intended to restrict the size and scale of the commercial uses in order to mitigate negative impacts to adjacent residential development and encourage pedestrian-oriented development.</p>
2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;	Complies	<p>The proposed text amendment to allow outdoor dining associated with restaurants, delis and other retail service establishments that serve food or drinks supports the continuance of legal nonconforming uses. The special exception process protects existing conforming development. The proposed text amendment supports improvement to the community by providing additional neighborhood amenities and supports a walkable neighborhood.</p> <p>The noted impacts that have been raised as concerns by the public include; noise, odors, light and parking. Noise and Odor regulations are primarily enforced through Title 9 Health and Safety Chapter of the Salt Lake City Code. Light is being managed directly within the ordinance requiring lighting to be contained within the property by down directed and shielded from adjacent properties. In an effort to mitigate potential</p>

		<p>impacts outdoor dining accessory uses over 500 square feet in size must have adequate required parking.</p> <p>The proposed ordinance does not create any conflict with specific purpose statements of the zoning ordinance. Any changes in the development or operations of a property triggering an impact would be evaluated as part of the review process of the special exception review and approval process and would require compliance with any applicable standards or site modifications and/or limits to reduce impacts.</p>
3. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards;	Complies	<p>Any new construction may have a potential to impact the Local Historic District Overlay. The proposed ordinance reinforces the intentions of the Local Historic District Overlay by reinforcing the traditional development patterns within the district. Any development within an overlay district would remain subject to the standards of the applicable overlay district.</p>
4. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.	Complies	<p>Outdoor dining is permitted for restaurants, delis and retail service establishments as an accessory use within the neighborhood business districts that are typically mixed throughout residential areas and adjacent to residential uses. Allowing nonconforming restaurants, delis and retail service establishment that serve food or drinks to provide outdoor dining as an accessory use would permit similar uses that are now permitted within residential areas within the RB and CN zoning districts. To make neighborhoods and the related neighborhood service businesses that provide food services more walkable the City permits outdoor dining as an accessory use.</p>
NOTES:		

ATTACHMENT G: PUBLIC PROCESS AND COMMENTS

An open house was held on April 17, 2014 regarding the petition request. The information sheet below was provided at the open house and placed on the City's open house web site. Notice of the open house was placed on the City website and sent to the Planning listserve. Mailed notice was sent to the nonconforming restaurants listed in the information sheet as well as adjacent property owners and tenants to these nonconforming restaurants. The Open House attendance roll sheets and comments are provided bellow the information sheet.

Nonconforming Restaurants - Outdoor Dining

PROPOSED TEXT CHANGE - INFORMATION SHEET

Staff contact: Everett Joyce at 801-535-7930 or everett.joyce@slcgov.com

Introduction

The Planning Division is currently working on Petition PLNPCM2014-00106 to amend Chapter 38 Nonconforming Uses and Noncomplying Structures of the zoning ordinance. The request relates specifically to nonconforming restaurants and the provision of a process to allow outdoor dining at these types of businesses. This is a request by the property owner of an existing nonconforming restaurant at 564 E 3rd Ave. However the text amendment would affect all nonconforming properties with a restaurant use citywide.

Proposed Text Changes Submitted by the Applicant

Section 21A.38.170 Nonconforming Restaurant Outdoor Dining Uses

A legal nonconforming restaurant use, as the term restaurant is defined in section 21A.62.040 of this code, may include and allow outdoor dining so long as the outdoor dining meets the requirements in subsections A, B and C below:

- A. Outdoor dining must occur on the same parcel as the nonconforming use.*
- B. Applicant shall submit a site plan demonstrating the following:*
 - 1. That all proposed outdoor dining activities will be conducted on the same parcel as the nonconforming use and that no activities will occur within any public rights of way, unless Applicant secures separate approval from the City;*
 - 2. The location of any paving, landscaping, planters, fencing, canopies, umbrellas, or other table covers or barriers surrounding the area;*
 - 3. The outdoor dining will not impede pedestrian or vehicular traffic; and*
 - 4. The main entry has a control point as required by state liquor laws.*
- C. Applicant shall submit the above described site plan and application to the Zoning Administrator for decision. In approving an application under this section the Zoning Administrator may not impose any requirements or conditions other than those set forth in this section. An application may only be denied if the Applicant fails to satisfy the above stated requirements*
- D. Any such allowed outdoor dining will not be deemed to constitute the unlawful enlargement, expansion or extension of the nonconforming use.*
- E. An appeal of the decision of the Zoning Administrator under this section shall be to the Appeals Hearing Officer as an appeal of administrative decision pursuant to the procedures and standards set forth in chapter 21A.16*

List of Nonconforming Restaurant / Retail Services Properties

The table below lists nonconforming restaurants that were identified through the Small Neighborhood Business land use analysis in 2011. Of the twelve properties identified in the land use analysis, only seven of the uses currently have a restaurant use with the remaining being a retail service use. Of the seven nonconforming restaurant properties, six have existing outdoor dining facilities. The proposed ordinance changes would not affect existing legal nonconforming outdoor dining facilities. However, any request for expansion of such facilities would require any new outdoor dining area to meet any ordinance criteria that may be adopted through this text amendment process.

Nonconforming Restaurants, Delis and Retail Service with Food or Drinks					
Address	Zone	Name	Type	Lot Size	Amenities
654 3 rd Ave	SR-1A	Avenues Bistro on Third	Restaurant	0.10	
39 N I St	RMF-35	Café on 1st	Restaurant	0.19	Outdoor dining on property and public right of way
89 N D St	RMF-35	Indian Market & Grill	Market/Restaurant	0.06	Outdoor dining on property and public right of way
702 S 300 E	RMF-35	Kyoko Kitchen	Restaurant	0.23	Outdoor dining
1035 E 200 S	R-2	Coffee Noir	Restaurant/Cafe	0.03	Outdoor dining on property and public right of way
777 E 300 S	RMF-35	Niche	Restaurant/Cafe	0.35	Outdoor dining
271 N Center St	RMF-45	EMS Deli / Alchemy Coffee	Restaurant/Deli/ Retail Service	0.25	Outdoor dining
265 /E 900 S #B	RMF-30	The Chocolate Conspiracy	Retail Service	0.11	
82 N E St	RMF-35	Jack Mormon Coffee	Retail Service	0.06	Sitting rock with umbrella public way
401 E 1st Ave	RMF-35	Java Joes	Retail Service	0.09	Drive thru
902 S 1100 E	SR-1	Café Espresso	Retail Service	0.07	Drive thru
1080 E 500 S	RMF-30	Little Caesar's	Restaurant/Take Out	0.23	

Source: Nonconforming Properties identified in the Small Neighborhood Business Amendment Land Use Analysis, 2011.
Updated through field inspection – April 2014.

Text Amendment Process

A petition to amend the zoning ordinance text is required to be processed through a public hearing with the Salt Lake City Planning Commission, which forwards a recommendation to the Salt Lake City Council for a public hearing and final decision.

PLANNING DIVISION OPEN HOUSE

Nonconforming Restaurant – Outdoor Dining
Petition No. PLNPCM2014-00106

ATTENDANCE ROLL – April 17, 2014

PRINT NAME <u>Cassidy Best</u> ADDRESS <u>1st Ave</u> ZIP CODE <u>84103</u>	PRINT NAME <u>Jonathan Genzen</u> ADDRESS <u>573 E. 3rd Ave</u> ZIP CODE <u>84103</u>
PRINT NAME <u>Kathie Radbourn</u> ADDRESS <u>564 3rd Ave</u> ZIP CODE <u>84103</u>	PRINT NAME <u>Jennifer Genzen</u> ADDRESS <u>573 E 3rd Ave</u> ZIP CODE <u>84103</u>
PRINT NAME <u>Linda Taylor</u> ADDRESS <u>369 I Street SE</u> ZIP CODE <u>84103</u>	PRINT NAME <u>Steven Walter</u> ADDRESS <u>418 'K' Street</u> ZIP CODE <u>84103</u>
PRINT NAME <u>Erik Daniels</u> ADDRESS <u>323 n center st #109</u> ZIP CODE <u>84103</u>	PRINT NAME <u>Derek Kitchen</u> ADDRESS <u>850 so 400w. #302</u> ZIP CODE <u>84101</u>
PRINT NAME <u>DAYID ALDERMAN</u> ADDRESS <u>1217 4th Ave</u> ZIP CODE <u>84103</u>	PRINT NAME <u>Petra</u> ADDRESS <u>570 s montgomery st</u> ZIP CODE <u>84104</u>
PRINT NAME <u>Peg. Alderman</u> ADDRESS <u>1217 4th Ave</u> ZIP CODE <u>84103</u>	PRINT NAME <u>Eric Wiseman</u> ADDRESS <u>126 H Street, SEC</u> ZIP CODE <u>84103</u>

PLANNING DIVISION OPEN HOUSE

Nonconforming Restaurant – Outdoor Dining
Petition No. PLNPCM2014-00106

ATTENDANCE ROLL – April 17, 2014

<p>PRINT NAME <u>Joe Marotta</u></p> <p>ADDRESS <u>839 E. Santa Fe</u></p> <p>ZIP CODE <u>84102</u></p>	<p>PRINT NAME <u>Lisa Fife</u></p> <p>ADDRESS <u>30 E. Hillside Ave</u></p> <p>ZIP CODE <u>84103</u></p>
<p>PRINT NAME <u>M. Scott Gardner</u></p> <p>ADDRESS <u>3060 So. 900 East</u></p> <p>ZIP CODE <u>84106</u></p>	<p>PRINT NAME <u>Peter Harvey</u></p> <p>ADDRESS <u>123 2nd Ave.</u></p> <p>ZIP CODE <u>84103</u></p>
<p>PRINT NAME <u>Allen Sybrant</u></p> <p>ADDRESS <u>4636 Sycamore Drive</u></p> <p>ZIP CODE <u>84117</u></p>	<p>PRINT NAME <u>Barbara Cox</u></p> <p>ADDRESS <u>123 2nd Ave</u></p> <p>ZIP CODE <u>84103</u></p>
<p>PRINT NAME <u>Dennis Pierkey</u></p> <p>ADDRESS <u>738 10th Avenue</u></p> <p>ZIP CODE <u>84103</u></p>	<p>PRINT NAME <u>Beth Ann B. Price</u></p> <p>ADDRESS <u>585 3rd av.</u></p> <p>ZIP CODE <u>84103</u></p>
<p>PRINT NAME <u>ALAN ANDERSON</u></p> <p>ADDRESS <u>543 J Street</u></p> <p>ZIP CODE <u>84103</u></p>	<p>PRINT NAME <u>Tamara B. Wharton</u></p> <p>ADDRESS <u>1487 S. Edison St.</u></p> <p>ZIP CODE <u>84115</u></p>
<p>PRINT NAME <u>PEG MCENTEE</u></p> <p>ADDRESS <u>2505 DOWNINGTON</u></p> <p>ZIP CODE <u>84108</u></p>	<p>PRINT NAME <u>PAUL MAUREZ</u></p> <p>ADDRESS <u>35 E ST, #629</u></p> <p>ZIP CODE <u>84103</u></p>

PLANNING DIVISION OPEN HOUSE

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

ATTENDANCE ROLL – April 17, 2014

PRINT NAME <u>Jack Plums</u> ADDRESS <u>3270 So 1600th</u> ZIP CODE <u>84119 SLC UT</u>	PRINT NAME <u>Karen Waldburger</u> ADDRESS <u>577 3rd Ave.</u> ZIP CODE <u>84103</u>
PRINT NAME <u>Aimee Chadbourne</u> ADDRESS <u>265 E. First Ave SLC UT</u> ZIP CODE <u>84103</u>	PRINT NAME <u>TWRE CERUNG</u> ADDRESS <u>98 W ST.</u> ZIP CODE <u>84103</u>
PRINT NAME <u>Carlin Miner</u> ADDRESS <u>4256 N. Searched</u> ZIP CODE <u>84604</u>	PRINT NAME <u>Jerry Pacheco</u> ADDRESS <u>1799 W Dale Ridge Ave SLC UT</u> ZIP CODE <u>84116</u>
PRINT NAME <u>Joe WARRER</u> ADDRESS <u>1754 600 N</u> ZIP CODE <u>84116</u>	PRINT NAME <u>Kristen Stowell</u> ADDRESS <u>126 H St. SLC, UT</u> ZIP CODE <u>84103</u>
PRINT NAME <u>Maria de Lourdes</u> ADDRESS <u>1754 W. 600 N.</u> ZIP CODE <u>84116</u>	PRINT NAME <u>Ryan CORBIN</u> ADDRESS <u>1441 E 1st Michigan</u> ZIP CODE <u>84103</u>
PRINT NAME <u>Mary Ann Wright</u> ADDRESS <u>187 R ST</u> ZIP CODE <u>84123</u>	PRINT NAME <u>Stacey Rae Allen</u> ADDRESS <u>835 East 1st Ave #B5</u> ZIP CODE <u>84103</u>

PLANNING DIVISION OPEN HOUSE

Nonconforming Restaurant – Outdoor Dining
Petition No. PLNPCM2014-00106

ATTENDANCE ROLL – April 17, 2014

PRINT NAME <u>MAHALA KERHART</u>	PRINT NAME <u>Paul Jones</u>
ADDRESS <u>48 V STREET</u>	ADDRESS <u>171 No. Virginia St</u>
ZIP CODE <u>84103</u>	ZIP CODE <u>84103</u>
PRINT NAME <u>JON KEN</u>	PRINT NAME <u>Kimberly Jones</u>
ADDRESS <u>164 E St.</u>	ADDRESS <u>171 N. VIRGINIA ST.</u>
ZIP CODE <u>84103</u>	ZIP CODE <u>84103</u>
PRINT NAME <u>Judith Rubadue</u>	PRINT NAME <u>Judith Bergsten</u>
ADDRESS <u>1121 East 200 So</u>	ADDRESS <u>559 3rd Av</u>
ZIP CODE <u>84102</u>	ZIP CODE <u>84103</u>
PRINT NAME <u>WENDY AJAX</u>	PRINT NAME <u>IGOR BEST-DEVEREUX</u>
ADDRESS <u>(922 S. 1200 East)</u>	ADDRESS <u>1075 N. OAK FOREST RD. SLC</u>
ZIP CODE <u>84105</u>	ZIP CODE <u>84103</u>
<u>P.O. BOX 520803 - 84152-0803</u>	
PRINT NAME <u>VICTORIA Piper</u>	PRINT NAME <u>Paula Braley</u>
ADDRESS <u>938 S Greenwood Tr</u>	ADDRESS <u>2406 E 200 S SLC UT 84109</u>
ZIP CODE <u>SLC 84105</u>	ZIP CODE <u>84109</u>
PRINT NAME <u>Ronald LeMass</u>	PRINT NAME
ADDRESS <u>559 E 3RD Avenue</u>	ADDRESS
ZIP CODE <u>SLC, UT 84103</u>	ZIP CODE

To Whom It May Concern:

The home I own, have lived in and loved for 14 years shares a property line with one of the City's nonconforming restaurants. (This restaurant is located on a small .1 acre parcel, mid-block, has a hair salon and two single-family homes as neighbors, and cannot provide off-street parking). We have been neighbors to this property, without complaint, for more than a decade. However, when the current business owner began operating an unauthorized dining patio in the property's side and rear yards, my family began to experience the negative impacts an outdoor dining patio in a residential neighborhood can bring.

Excessive Noise

Dining noise from the patio ranged from 42-70 decibels. When live music was performed the noise levels ranged from 60-80 decibels. When large parties were seated the noise level peaked at 70 decibels. (These levels regularly exceeded the levels permitted by Section 9.28.060).

Noise 15-18 hours a day

This restaurant's patio was open 7 days a week from 7am to 10 pm. Early morning set-up, closing activities, and parties seated just prior to closing resulted in noise 15-18 hours a day.

Increased Demand on Parking

The outdoor dining patio doubled the seating capacity and enlarged the square footage of the restaurant increasing demand for parking on a block where several of the homes and duplexes do not have off-street parking.

Loss of Privacy

With no buffer between the outdoor dining patio and our fence line, we experienced a loss of privacy, including diners peeking over the fence into our backyard. This happened enough times that we raised a section of fence to discourage the behavior.

Light Intrusion

Lights from the outdoor dining patio shined into our bedroom windows until 10pm or later (at times all night when the restaurant staff forgot to turn them off when closing).

Excessive Odors

The unique set up of this restaurant's dining patio had staff using the side or kitchen door to serve outdoor dining patrons. The use of this door reduced the efficacy of the ventilation system. This coupled with the increase in meals cooked and the fact that our home is cooled by a swamp cooler caused our home to be filled with cooking odors from the restaurant. Cigarette and cigar smoke from outdoor diners, as well as cigarette butts dropped on our property were also problematic.

Despite our efforts to mitigate these impacts through interactions with the business and property owners, the impacts continued until the City determined the patio was unauthorized and closed it.

I offer this brief account of my experience to highlight the need for any text amendment regarding nonconforming restaurant outdoor dining use to include a "No Presumption of Approval" clause. If outdoor dining is deemed suitable at a specific site, the zoning text should include mandatory conditions (as required of other outdoor dining uses in the City) as well as any additional conditions necessary to mitigate the impact an outdoor dining patio is sure to bring on neighboring residents.

Thank you for your consideration,

Kristen Stowell
126 H Street
SLC, UT 84103
kstowell@xmission.com

Nonconforming Restaurants – Outdoor Dining Uses Comments on Proposed Text Amendment (PLNPCM2014-00106)

Proposed text amendment PLNPCM2014-00106 Nonconforming Restaurant Outdoor Dining Uses (Section 21.A.38.170) seeks to allow outdoor dining in conjunction with a legal nonconforming restaurant which may be located within residential areas.

As written, this proposed text amendment is **highly problematic**.

The proposed text amendment as written...

- **Fails to require or even allow the City to evaluate and determine if the nonconforming restaurant's property is suitable for outdoor dining.** (The 12 properties identified by the City vary greatly in size, zone, services offered, block location, available parking, and neighboring properties).
- **Fails to require submission of a thorough application** and detailed site plan that would assist the City in making a determination of suitability for outdoor dining at a given site.
- **Fails to require that neighboring property owners be notified** of a pending application and be given the opportunity to comment on the proposal.
- **Fails to require compliance with the basic conditions required of other outdoor dining patios in the City.** (Section 21A.40.065: Outdoor Dining specifies requirements for landscape buffers, restrictions on live music and smoking, parking requirements, and compliance with environmental performance standards including noise, odors, and pollution control).
- **Specifically prohibits the City's Zoning Administrator from imposing any of the above listed (or additional) requirements or conditions on the outdoor dining patio.**
- **Fails to acknowledge that an outdoor dining patio in a predominantly residential neighborhood may call for additional requirements and conditions** (above and beyond what is required of outdoor dining found in more commercial parts of the City) in order to mitigate the impact of outdoor dining on neighboring residents.

Any changes to the zoning text regarding outdoor dining at nonconforming restaurants **should include...**

- **No presumption of approval.** Each proposed outdoor dining use should be evaluated on an individual basis in order to determine whether the outdoor dining use is appropriate at a particular location. (Similar to Section 21A.54.100 No Presumption of Approval)
- **An application process** that requires a complete description of the proposed use (including maximum outdoor dining occupancy, outdoor dining activities, and hours of operation), a detailed site plan (including location of patio, fencing, buffers, proximity to neighboring properties, placement of lighting and tables, and available parking) and other information or

documentation deemed necessary for proper review and analysis of a particular application. (Similar to the application process detailed in 21A.54 Conditional Uses)

- **A requirement to notify neighboring property owners** of the proposed outdoor dining use and the opportunity for neighboring property owners to comment regarding the proposal.
- **A requirement that the City review each application, site plan, and supporting materials to evaluate anticipated detrimental effects.** (Section 21A.54.080 B. Standards for Conditional Uses lists some applicable points for review. The City should determine if “the use is consistent with...small area master plans”; “the use is well suited to the character of the site, and adjacent uses as shown by an analysis of the intensity, size, and scale of the use compared to existing uses in the surrounding area”; “the use is appropriately screened, buffered, or separated from adjoining dissimilar uses to mitigate potential use conflicts”; “the use meets City sustainability plans, does not significantly impact the quality of surrounding air and water ... or introduce any hazard or environmental damage to any adjacent property, including cigarette smoke”; “the hours of operation ... are compatible with surrounding uses”; “signs and lighting are compatible with, and do not negatively impact surrounding uses”).
- A determination by the City to (1) **approve** the outdoor dining use as proposed; (2) **approve** the outdoor dining use **subject to specific conditions or requirements**; or (3) **deny** the outdoor dining use.
- **A requirement that approved outdoor dining use comply with the basic conditions required of all City outdoor dining patios** including required buffers, restrictions on live music and smoking, parking requirements, and compliance with environmental performance standards. (As specified in 21A.40.065 Outdoor Dining)
- **A requirement that conditionally approved outdoor dining use comply with any additional conditions or requirements** specified by the City that serve to mitigate the impact of outdoor dining on neighboring residents. (Additional conditions or requirements to consider should include, lighting restrictions, limits on hours of operation, limits on square footage and maximum occupancy of outdoor dining, guidelines regarding the seating of large parties, or hosting of large events).
- A statement that **approval of outdoor dining does not change the property's designation as a nonconforming use** and as such must comply with other City rules and regulations governing nonconforming uses. (Such as those found in 21A.38 Nonconforming Use and Noncomplying Structures).
- A requirement that a **new application must be filed** if additions, expansions, or significant changes in outdoor dining use are anticipated at a nonconforming restaurant, or if a new business occupies the property.

Attention: Everett Joyce (everettjoyce@slcgov.com)
Erin Mendenhall (SL City Council)
Stan Penfold (SL City Council)
Maryanne Wright (President Greater Avenues Council)
Date: April 28, 2014
Subject: Nonconforming Restaurant at 564 E 3rd Ave. SLC, UT

To Whom It May Concern:

My husband, Jim Tyrrell, sent an email on April 25, to Everett Joyce expressing our concern regarding the request by a nonconforming restaurant owner, located at 564 E. 3rd Avenue: Petition No. PLNPCM2014-00106. We were unable to attend the open house held on April 17; however, we did receive the information packet. Because we have been so negatively affected by the business expansion, Jim asked that we receive notification as to how and when we could give our input on the matter.

As an owner of two homes located directly across the street (553 and 555 E. Third Avenue), I am writing this e-mail to put in writing, in advance of the next planning meeting, my specific concerns with the expansion of the indoor restaurant onto an outdoor patio. I would also like to express my displeasure with the proposed changes submitted to the city planning division by the current property owner and the proposed text amendment PLNPCM2014-00106, which would affect all of the city's nonconforming restaurants seeking to allow outdoor dining.

BACKGROUND

When we purchased our home 33 years ago, there was a small hair salon/barber shop and an intimate, historic, "foot traffic" pharmacy located across from us. We enjoyed having our eclectic neighborhood and patronized all three of these little businesses on a regular basis, becoming friends with the owners. We did not have complaints about the activities there.

In fact, when the pharmacy was closed and a food catering service began occupying that space, we did not try to stop or impede the business. We were told that the catering business would provide service and/or food for customers in their own homes or businesses. We were also given to understand that only a small amount of the catering business would be for "pick up" customers, and for "foot traffic" (on the premises) food dining. We were given to understand that there would be no more than one table outside the building as the dining would take place at the tables inside. Further, we understood that the small delivery vans would park and be loaded on the driveway to the west of the building. For the most part, this was the case.

CURRENT HISTORY WITH THE BISTRO ON THIRD

When the current restaurant owner began operating a full-fledged restaurant; expanded her days of operation to seven; expanded business hours from 8 am to 10:00 pm (with preparation and cleanup time requiring employees to be on the premises before and after posted business hours (some customers lingering till midnight); expanded her

seating area to include a converted driveway/patio (covered with hundreds of lights); added an unauthorized "speakeasy" in the basement of the building; and began using non-owned yards adjacent to her rented "space" to accommodate even more customers, our lives were totally negatively impacted!

My husband and I continue to ask ourselves, how and where did she get authorization to make these intrusive expansions to a once somewhat quiet, mostly "foot traffic" neighborhood business? As home owners of two historic homes across the street from the restaurant, we feel the neighbors deserved the opportunity to voice their concerns before the expansions were made. We wonder how the business owner was able to do this without our input and written agreement and without city zoning approval?

The expansion of the business, on such a small parcel of land (.1 acre), that has no parking available, has made the parking available to us, our renters in the home we own next door, our children and our visitors, almost impossible. The addition of noise, loud laughter, smoking, drinking, strong odors, etc., at all hours of the day and into the late evening hours has turned our block into what feels like a downtown urban "strip mall". No longer does it feel like a quaint residential street in the Avenues that enjoys sharing its residential space with a couple of small, quiet, un-intrusive "neighborhood-friendly" businesses.

PARKING AND TRAFFIC HISTORY ON THIRD AVENUE

When we purchased our home in the early eighties, 3rd Avenue was still a relatively quiet street. Since that time, it has become home to the UTA bus route, a designated Avenues' bike lane, as well as one of the main thru fares to the downtown (from the ever expanding growth of the upper Avenues and Federal Heights areas) causing a great increase in traffic and traffic related problems to our street.

We raised seven children on the corner of 3rd and H Streets and I have both lived and worked in the lower Avenues for the better part of 34 years. I have been a strong proponent of the Avenues, enjoying its diversity and unique atmosphere. However, I have experienced a great deal of anxiety for the safety of our children and now our grandchildren, as the traffic and the "lack of parking" has increased. Namely: cars are often parked so close to the corners that pedestrians and/or vehicle drivers cannot see around them to on-coming traffic. Last summer, when six of our grandchildren were on our front lawn playing, one such accident occurred. They witnessed the accident, heard the squealing car tires, etc. They were very disturbed by the entire experience. We often hear the honks, and tire squeals from the near misses of cars hitting each other on our "residential" corner. One LARGE truck was parked halfway into the sidewalk entrance at our corner for almost a week. The owner only moving it when I threatened to call the city and have it towed away.

With the expansion of a business across 3rd Avenue my concern has been heightened. Because the business does not have any designated parking spaces, the employees and customers, have to park on the street. They park in front and to the side of our homes (where there is already a lack of parking even for the residents), as well as in

front of our neighbors' homes. The increased capacity of the restaurant to serve as many as 70 people at one time, has brought additional cars and people onto our street.

Our visitors and family members have to park up or across H street (if there is even parking in those places), carry their food and bags, try to keep little children and/or dogs from being hit by a speeding car, just to come see us. It is very disturbing and frankly, not "right". We own two very expensive homes and pay high city taxes while our children, visitors, etc., often cannot find adequate parking in front or to the side of either of them because there are so many, supposedly, foot traffic restaurant patrons parking on our streets.

PARKING AND/OR "FOOT TRAFFIC" CUSTOMERS?

Despite what may have been told to the media and others, the expansion of the business has added tremendously to the traffic and parking problems already existing in this historic area of our city. The Bistro on Third is **NOT** mostly patronized by "foot traffic". Unless the foot traffic means parking around our homes and "walking" across the street and/or around our corner to the restaurant. Very often all those "walking" customers, walk over our grass to get to the sidewalk, some loiter in front of our homes, some discard their cigarette butts on our lawns, leaving us to clean up after them. We very often have to pick up beer cans and trash thrown on our grass by other neighborhood "walkers". It is very irritating. We spend much time and money maintaining our yards and homes and do not appreciate having so many "walking" customers treating our yards as an extension of a non-existing parking lot as they return to the cars from "walking" to the restaurant. We **live and raise** our children on this corner, while most of the Bistro patrons drive from their quiet residential neighborhood streets to ours, bringing with them added traffic and parking problems; loud laughter/noise, drinking, smoking, etc.

We have been given to understand that the Bistro served an average of 6,000 customers a month last summer. Even if a person did not see the cars park, as we did, it is not reasonable to believe that those 6,000 people "walked" and did not drive from many parts of the city to patronize the business. Many of those 6,000 people parked in front and on the side streets of the residents' homes. Also, despite what might have been indicated to you or others, we **have** spoken to the owner as well as to some of her advocates, on several occasions, voicing our concerns, our irritation with the expansion, the additional traffic, parking, noise, lights, loss of privacy, etc., and asking for consideration of how her business was impacting our lives and the lives of our children, grandchildren and visitors.

When we watched, all last summer, the Bistro, its patrons and the parking demands expanding, we realized our conversations had not had much impact on the business owner. We had tried to be good neighbors, choosing **not** to call the city with our concerns. Instead, we tried to be patient, waiting to see if our concerns would be addressed by the business owner. At the end of the summer, our daughter finally called city parking enforcement asking for information as how we could curtail the ever increasing demand on the limited parking spaces around our homes. She was told

that even though we pay a great deal in city taxes, care for, and pay for, the watering of the grass and trees on the city owned parking strips, we did not have much recourse available to us with the parking and traffic issues that had become such a problem.

LOSS OF PRIVACY

We have lost much privacy since the Bistro opened, as the customers sit on the patio and watch our homes and our family's habits and/or activities. I have had some of the customers, as they are getting into their cars in front of our home, tell me they have been sitting for an hour and half on the patio across the street watching me and looking at our homes. Even asking the waiters questions about the homes and their history. I feel my family and I have been very exposed to many, many strangers and worry about our safety and vulnerability. I miss the relative peace and quiet that we used to have with a business located across the street that catered to indoor dining and I felt met the small "foot traffic" neighborhood criteria.

NON-FAMILY FRIENDLY?

When did our residential Avenues' streets become "non-family friendly"? And become instead, homes to businesses with "night club type" atmospheres? (Specifically The Bistro on Third) When did our city planners and surrounding neighbors give authorization to the nonconforming business owner at 564 E. Third Avenue to expand way beyond the original intent of that business space? I believe the Bistro on Third and the designated "space", housing the business, should be made to conform to the regulations already set forth by the city council and not be allowed to operate patio dining.

PROPOSED TEXT AMENDMENT: PLNPCM2014-00106

I recently read the proposed text amendment for changing the nonconforming restaurant outdoor dining uses to allow outdoor dining in conjunction with a legal nonconforming restaurant which may be located within residential areas of our city. I believe, as written, the text is very problematic.

It seems to me that the text, as written, in PLNPCM2014-00106 would regulate nonconforming restaurants, even less than they currently are. I believe that nonconforming restaurants should have at least as much oversight as conforming restaurants, certainly not less. The proposed changes would affect all of the nonconforming restaurants alike and does not take into consideration the specific circumstances of the individual business.

For instance, I have driven or walked by most of the restaurant examples (and all of those located in the Avenues) submitted by the Bistro on Third's owner. I cannot see how most, if any, relate to the business at 564 3rd Avenue. The Bistro is completely surrounded by residential homes, except for the small hair/barber shop attached on the east side of the building, and has NO parking spaces.

The Cafe on 1st has a parking lot (with spaces available for the cafe) to its west, a large parking lot to the east, an apartment building to its south, and only two residential

homes located to the north (with other apartment buildings on the rest of the block and kiddy-corner. The Indian Market and Grill does not tout feeding 6,000 people a month and only places one table outside. At no time have I, personally, seen more than two people patronizing that business at the same time. The Java Joes on the corner of E and 1st Avenues is a drive through business, not a sit down restaurant and is surrounded by apartment buildings with a parking lot and business to its south. The Jack Mormon Coffee does have one sitting rock and umbrella; but I have not seen 50 to 70 people occupying the outside space anytime when I have driven or walked by in the many years I have lived in the Avenues. The other nonconforming businesses listed are not even located in the Avenues. How can they compare? (ie: The Little Caesars on 13th East near the UofU campus and surrounded by all types of businesses, not residential homes?)

CONCLUSION

I have read many of the Bistro's "supporter-comments" and agree that the food served at the restaurant is very good and is very beautifully presented using fresh ingredients, etc. I know that the mayor of Salt Lake and others are encouraging "foot traffic" neighborhood businesses in the Avenues, with which I do not disagree. And I recognize that the business owner at 564 Third Avenue is a "hard worker", as she and/or her advocates have stated on many occasions. My husband and I, too, are "hard workers", as we have lived in and/or owned and remodeled seven homes in the lower Avenues. We have cared very much about the historic and unique atmosphere of this "residential" neighborhood and have tried our best be part of maintaining it. I also want you to know that I am not out to "put some poor, single woman" out of business nor do I want to "stop all of my neighbors from having a party at night with lights and music". I have had them myself. However, none of these are the issues being discussed.

The issue lies in the fact that the business was expanded without proper authorization, without neighbor agreement and without meeting the proper city zoning ordinances. It was expanded in a building that does not provide adequate space inside--for 6,000 diners a month--has no conforming patio space outside and provides no parking-- in a totally **residential neighborhood!** The expansion of the business has negatively affected many of the surrounding neighbors, including us. The proposed text amendment, as written, (PLNPCM2014-00106) and the changes suggested by the property owner of 564 Third are very problematic and need to be addressed, discussed and the best interest of **all parties** taken into consideration. I agree with my neighbor, Kristen Stowell, and her assessment of the proposed text amendment. I have enclosed a copy of her suggestions (WITH MY ENDORSEMENT) for your consideration.

Thank you very much.

Rita Tyrrell
553 E. 3rd Avenue
Salt Lake City, UT 84103
801.718.5099
jltyrrell@msn.com

Nonconforming Restaurants – Outdoor Dining Uses Comments on Proposed Text Amendment (PLNPCM2014-00106)

Proposed text amendment PLNPCM2014-00106 Nonconforming Restaurant Outdoor Dining Uses (Section 21A.38.170) seeks to allow outdoor dining in conjunction with a legal nonconforming restaurant which may be located within residential areas.

As written, this proposed text amendment is **highly problematic**.

The proposed text amendment as written...

- **Fails to require or even allow the City to evaluate and determine if the nonconforming restaurant's property is suitable for outdoor dining.** (The 12 properties identified by the City vary greatly in size, zone, services offered, block location, available parking, and neighboring properties).
- **Fails to require submission of a thorough application** and detailed site plan that would assist the City in making a determination of suitability for outdoor dining at a given site.
- **Fails to require that neighboring property owners be notified** of a pending application and be given the opportunity to comment on the proposal.
- **Fails to require compliance with the basic conditions required of other outdoor dining patios in the City.** (Section 21A.40.065: Outdoor Dining specifies requirements for landscape buffers, restrictions on live music and smoking, parking requirements, and compliance with environmental performance standards including noise, odors, and pollution control).
- **Specifically prohibits the City's Zoning Administrator from imposing any of the above listed (or additional) requirements or conditions on the outdoor dining patio.**
- **Fails to acknowledge that an outdoor dining patio in a predominantly residential neighborhood may call for additional requirements and conditions** (above and beyond what is required of outdoor dining found in more commercial parts of the City) in order to mitigate the impact of outdoor dining on neighboring residents.

Any changes to the zoning text regarding outdoor dining at nonconforming restaurants **should include...**

- **No presumption of approval.** Each proposed outdoor dining use should be evaluated on an individual basis in order to determine whether the outdoor dining use is appropriate at a particular location. (Similar to Section 21A.54.100 No Presumption of Approval)
- **An application process** that requires a complete description of the proposed use (including maximum outdoor dining occupancy, outdoor dining activities, and hours of operation), a detailed site plan (including location of patio, fencing, buffers, proximity to neighboring properties, placement of lighting and tables, and available parking) and other information or

documentation deemed necessary for proper review and analysis of a particular application. (Similar to the application process detailed in 21A.54 Conditional Uses)

- **A requirement to notify neighboring property owners** of the proposed outdoor dining use and the opportunity for neighboring property owners to comment regarding the proposal.
- **A requirement that the City review each application, site plan, and supporting materials to evaluate anticipated detrimental effects.** (Section 21A.54.080 B. Standards for Conditional Uses lists some applicable points for review. The City should determine if “the use is consistent with...small area master plans”; “the use is well suited to the character of the site, and adjacent uses as shown by an analysis of the intensity, size, and scale of the use compared to existing uses in the surrounding area”; “the use is appropriately screened, buffered, or separated from adjoining dissimilar uses to mitigate potential use conflicts”; “the use meets City sustainability plans, does not significantly impact the quality of surrounding air and water ... or introduce any hazard or environmental damage to any adjacent property, including cigarette smoke”; “the hours of operation ... are compatible with surrounding uses”; “signs and lighting are compatible with, and do not negatively impact surrounding uses”).
- A determination by the City to (1) **approve** the outdoor dining use as proposed; (2) **approve** the outdoor dining use **subject to specific conditions or requirements**; or (3) **deny** the outdoor dining use.
- **A requirement that approved outdoor dining use comply with the basic conditions required of all City outdoor dining patios** including required buffers, restrictions on live music and smoking, parking requirements, and compliance with environmental performance standards. (As specified in 21A.40.065 Outdoor Dining)
- **A requirement that conditionally approved outdoor dining use comply with any additional conditions or requirements** specified by the City that serve to mitigate the impact of outdoor dining on neighboring residents. (Additional conditions or requirements to consider should include, lighting restrictions, limits on hours of operation, limits on square footage and maximum occupancy of outdoor dining, guidelines regarding the seating of large parties, or hosting of large events).
- A statement that **approval of outdoor dining does not change the property's designation as a nonconforming use** and as such must comply with other City rules and regulations governing nonconforming uses. (Such as those found in 21A.38 Nonconforming Use and Noncomplying Structures).
- A requirement that a **new application must be filed** if additions, expansions, or significant changes in outdoor dining use are anticipated at a nonconforming restaurant, or if a new business occupies the property.

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining
Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Cindy Bell
Address) 126 E. Braewick Rd.
SLC 84103
(include zip code)
Phone 415.517.8989

Comments:

This proposal is clearly written in the interest of the restaurant. However, it fails to consider the interest of the City or the neighborhood in which it resides. If this is approved, nonconforming restaurant outdoor dining areas will be exempt from basic restrictions applied to other patios throughout the City, such as control of noise, odor, smoking, and parking. It prohibits any process of individual property review based on specific location by the City. It also eliminates the common process of notification and comment ~~period~~ for adjacent property owners.

this proposal is basically written to allow this restaurant, and all future restaurants with outdoor dining, to avoid most of the typical, necessary, and significant processes of review, approval, and restriction, which serve the City and its residents. and protect the rights of

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Ronald A. DeMass / Judith C. Bergslien
559 Third Avenue
Salt Lake City, UT 84103

April 24, 2014

Everett Joyce
Senior Planner
Salt Lake City Planning Division

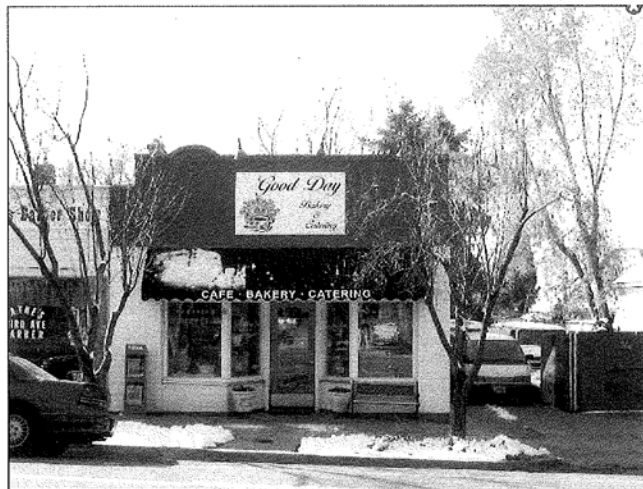
Re: Petition PLNPCM2014-00106 (Nonconforming Restaurants – Outdoor Dining)

Mr. Joyce:

Thank you for taking some time during the Open House on Thursday, April 17, 2014, to discuss some of the issues about this petition for a zoning change that affects one of the properties identified in your non-conforming restaurants map. The Avenues Bistro on Third is located directly across the street from our residence in the historic area of the Salt Lake City Avenues. My wife and I have lived in our home at 559 Third Avenue for the last 30 years and 16 years respectively.

We have many concerns about the proposed zoning change that would allow outdoor restaurant seating at this location and ultimately must oppose any such change to the zoning ordinances that disregard parking requirements in relation to customer capacity. The conversion of this property to a restaurant during the last 2 years has had some negative impacts to our neighborhood with respect to parking, traffic, noise, and several other nuisances.

When Ms. Rubadue originally purchased the building in question and requested a conditional use for a catering business (Ruby's Catering – approximately 1986) the immediate residents agreed to her plan for a catering business with a take-out dining option. When asked to sign the agreement, it was clearly stated by Ms. Rubadue that she was restricted to only ONE table inside for customers to use while waiting for take-out orders, and the delivery vans would be kept off the street and parked in the driveway on the west side of the building (as shown in the following photograph).



This agreement was observed during the existence of Ruby's Catering, Boswell's Catering, and the Good Day Bakery and Catering businesses that operated at this location through 2011. Prior to the catering business, this location was a pharmacy. Adjacent to this property is both a Beauty Shop and a Barber Shop, both owner operated for many years. Each business has ONE on-street parking space directly in front on Third Avenue.

Ruby's had regular daily hours (approximately 9am – 6pm) and was closed to the public in the evenings and on Sundays. Ms. Rubadue was indeed true to her statements and the impact on parking was minimal for many years and was a welcome business in the area. Most of the traffic activity involved preparing, loading, and unloading for catering service at other locations. The other businesses had just a few customers at any given time during the day when most residents were away at work.

Many homes, including several multi-family homes and apartments, on Third Avenue and the surrounding streets have no off-street parking. Available on-street parking is limited in this neighborhood and must accommodate residents and the three businesses. For more than 30 years this has been accomplished and demand from the businesses was reasonable. Since the Bistro opened in 2012, its driveway has been blocked by a small fence and its limited off-street parking capacity has been eliminated.

According to newspaper articles published by the Salt Lake Tribune (*July 27, 2012, Review: Soaking up the flavors of a new Avenues neighborhood joint, by Stuart Melling; November 14, 2013, After Complaint, Salt Lake City Closes Avenues Bistro Patio, by Kathy Stephenson; and January 7, 2014, Avenues Bistro Closes Its Basement Speakeasy, by Kathy Stephenson*) the restaurant has approximately 32 seats on the main level, a 12-seat Speakeasy in the basement (now closed due to fire-code issues), and another 32 seats on the patio (previously the driveway) in use until last year (now closed due to zoning violations). At capacity, this would allow for 70+ customers at any given time.

The parking demands for customers, owners, employees, suppliers, and deliveries create traffic congestion and many problems in the area of Third Avenue and H Street (between Second and Fourth Avenues). The hours of operation (originally 8 AM – 10 PM, Wednesday – Monday, closed Tuesday) created a stress on the parking starting early in the mornings and continuing until late in the evenings. It has been our experience that most customers drive to the Bistro and only a small percentage walk from the immediate neighborhood. The busy times for the restaurant coincide with the demand for on-street parking for residents, especially in the evenings and weekends. Therefore, the parking situation is both a huge concern and problem.

According to 21A.38.080 Section B:

"Exterior Or Interior Remodeling Or Improvements To Structure: Exterior or interior remodeling or improvements to a structure containing a nonconforming use shall be allowed provided the improvements do not increase the parking requirement."

The original non-conforming use was for the catering/take-out service described above (Ruby's, Boswell's, and Good Day). Converting this into a sit-down restaurant with the potential for 40+ seats (inside) has changed the original non-conforming use and significantly increased the parking requirements. Additional seating for outside dining increases that to a capacity of 70+ seats and further changes the non-conforming use and drastically impacts the street parking. We do not know how these changes were approved by the city without the notification, input, and approval of the residents in the immediate area. A single business, with one parking spot, should not be allowed to monopolize the parking of an entire street and the surrounding neighborhood.

The Salt Lake City Ordinances found in Chapter 12.56.440 (Stopping or Parking; Prohibited in Certain Areas) state the following restrictions that are now routinely violated because of the increased demand for street parking:

- In front or within five feet (5') of a private driveway
- Within five feet (5') of a fire hydrant, as measured in both directions along the street from the center of hydrant
- Within twenty feet (20') of a crosswalk at an intersection

According to city codes 12.04.110, 12.04.235, 12.04.595, Legal crosswalks exist at all intersections, extending out from the edges of the sidewalks. Crosswalks exist even if there are no painted lines.

Additionally, city code 12.52.140 (Bicycle Lanes; Vehicle Restrictions), states: No motor vehicle shall at any time be driven within or through, or parked or stopped within a marked bicycle lane, except briefly when turning into an intersection, street, alley, driveway or other parking area.

Third Avenue is one of the busier streets in the Avenues area. It is a commuter street for the University and Hospitals. It is also bus line. It has a marked bicycle lane on both sides of the street. However, outside of the normal weekday rush hours, it has always been reasonably quiet during the evenings and weekends and residents had a reasonable expectation of parking in front of or near their homes. When the restaurant is open, this is no longer the case. Additionally, we regularly observe the following parking and safety violations and some general annoyances:

- 1) Driveways are obstructed by vehicles parking up to and over the line of the driveway partially or completely obstructing visibility of oncoming traffic, bicycles and/or runners in the bike lane when exiting the driveway, and in some cases preventing ingress and egress completely.
- 2) Obstructed views crossing Third Avenue and H Street. Several accidents involving automobile collisions have occurred during the last year at this intersection as a result of the lack of visibility of oncoming traffic.
- 3) Access to the fire hydrant on the north side of Third Avenue (between 567 and 573) is frequently either partially or completely obstructed
- 4) The bicycle lane is partially obstructed.
- 5) Customers and delivery trucks making U-Turns from the parking or street lanes and turning around in private driveways attempting to get a closer spot to the restaurant
- 6) Garbage, recycle, and yard waste cans pushed together by vehicles and customers attempting to make room to park on the street, causing the city to leave cans unemptied when they are pushed back off the street and into the gutter or too close to a parked car for the lifting arms of the trucks to operate.
- 7) Customers hanging around their cars smoking before / after they go into the restaurant, leaving cigarette butts on the curb area, sidewalks, driveways, and yards.
- 8) Empty beer cans and bottles were left on the curb area almost every weekend last summer before the Bistro patio was closed.
- 9) The sum of all the voices from the patio can easily be heard across the street and customers and/or employees can often be heard after 11 p.m.
- 10) Light intrusion into our home from strings of lights on trees, around windows and throughout the patio which are often left on all night long, plus the orange-neon Bistro sign, is lit 24 hours a day.

These are issues we and many neighbors have dealt with now for over two years since the restaurant opened. Although rare before, it is now a regular occurrence. As the Bistro kept increasing their seating (without the proper occupancy permits), this only became worse.

A review of the list of non-conforming food service businesses shows that the areas involved are vastly diverse areas. The restaurants that are somewhat similar to the Bistro each have significant off-street parking available. Any proposed zoning changes need to take into consideration the specific area that is impacted, the type of neighborhood it occupies, and the impact on the area residents. Area residents should have ample opportunity to review, comment, and approve such changes before a new business occupies the area. The burden of mitigating the issues should be on the business and not imposed on the area residents.

Therefore, we are opposed to any zoning change that would allow outdoor seating and additional parking demands at this location. I believe other city residents will have similar concerns for their own neighborhoods and the proposed text changes to Section 21A.38.170, as outlined in the Information Sheet, threaten the harmony and balance between residents and businesses that operate within our city neighborhoods.

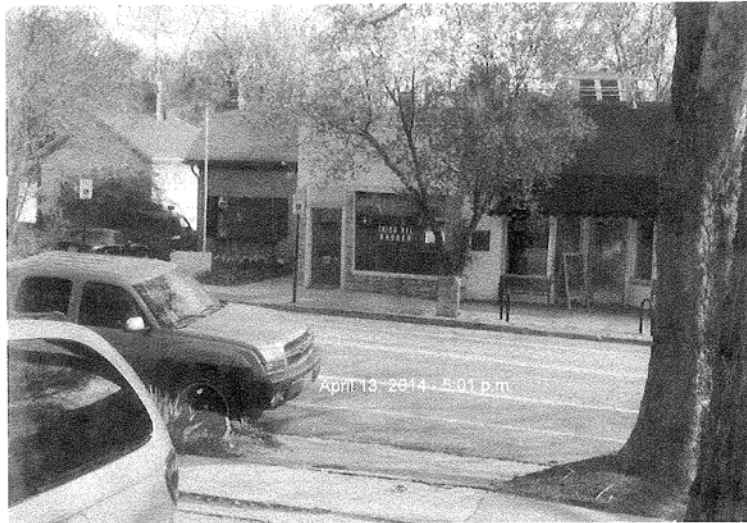
Respectfully,

Ronald A. DeMass
Judith C. Bergslien

P.S. The following pictures are recent examples of the problems we have cited in this response.



SUV blocking the fire hydrant.



Truck parked too close to driveway.



Truck parked too close to driveway and tires over the bicycle lane.

Joyce, Everett

From: Peter Michael Harvey [P.Harvey@m.cc.utah.edu]
Sent: Friday, April 18, 2014 9:00 PM
To: Joyce, Everett
Subject: Comment on zoning amendment petition 2014-00106

Yesterday I stopped in at the Planning Division's open house to learn about a proposal to allow outdoor dining at some existing restaurants north and east of downtown SLC. I had seen a poster announcing the open house when I had lunch earlier in the week at a restaurant close to where I live.

My biggest concern about allowing outdoor dining at any restaurant would be the impact on neighboring residences and businesses, primarily because of the potential for loud noise and wind-carried trash. But enforceable local ordinances are already in place that prohibit noise, littering, and other nuisances, and it's not clear that outdoor diners at a restaurant are necessarily a greater potential source of these problems than inconsiderate residential neighbors might be. And unlike the situation of inconsiderate neighbors, the owners and staff of a restaurant have a real incentive to ask patrons to be considerate (and if necessary ask them to leave, a remedy that is not available when there's a noisy neighbor next door). I imagine that the purpose of zoning ordinances is more aimed at organizing the function and character of neighborhoods and commercial areas than at enforcing behaviors that are already regulated by other city ordinances.

Outdoor dining won't prove successful, and won't continue to be offered, if it doesn't meet a need of at least part of the community. Whether or not there is a real need for outdoor dining is a matter that potential customers will determine with their wallets and their feet. I say "feet" figuratively, but also to make the point that with the exception of Niche, none of the restaurants on the map that was distributed at the open house seem to be "destination restaurants" that draw their patronage from a wide cross section of city and county residents willing to drive some distance. Rather, most of them appear to be businesses that serve residents of their immediate and surrounding neighborhoods, and townspeople who work at local businesses, hospitals, or schools and who pass near these them when traveling to and from work or study. Neighborhood planning, embodied in zoning ordinances, meets a need when it allows residents to enjoy opportunities outside their homes without traveling far from their neighborhoods. Permitting outdoor dining seems to be one way that planners can foster this kind of amenity for their community.

Peter Harvey
123 2nd Avenue
SLC UT 84103

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining
Petition No. PLNPCM2014-00106

Comment Sheet

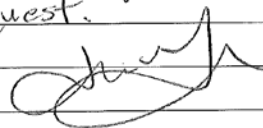
Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Jonathan Genzen
Address) 573 E. 3rd Ave
84103
(include zip code)
Phone 801-520-5825

Comments:

I support the petition to allow outdoor dining at the non-conforming restaurant at 573 E. 3rd Ave (The Avenues Bistro).

My wife and I live across the street and view the Bistro as a valuable asset to the community. We support outdoor dining at this location. They are quiet friendly neighbors, and we have never noticed any problem with noise or crowds. Thank you for considering our request.



Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

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Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Jennifer Genzen

Address 573 E 3rd Ave.

SLC, UT 84103
(include zip code)

Phone 801-656-9926

Comments:

I support the Bistro & the opportunity for them
to have outdoor seating. We love this restaurant
and want it to succeed.

Thank you!

Jennifer Genzen

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Drs. Jonathan and Jennifer Genzen
573 E 3rd Ave.
Salt Lake City, UT 84103

April 17, 2014

Dear Mr. Joyce,

This letter is regarding the café on our street, The Avenues Bistro on 3rd, which has been forced to close its outdoor seating area. The bistro usually keeps their outdoor seating open, even when it's cold out, as it's very charming and popular among diners. We live directly across the street from the café and have never had issues with noise or smells coming from the café. In fact, we purchased our house earlier this year in part because of the charming dynamic that the café brought to this lovely neighborhood. It's a very quiet establishment, and given that they use local food and hire local workers, the café adds to our local economy. Without the outdoor seating, the café may not be financially viable. This could damage not only the future of that business (and any other business) in that location, but could also negatively impact our property values – particularly if any business that follows is not as neighborhood-friendly as The Avenues Bistro.

We therefore request that the zoning regulations be modified to allow for outdoor seating at the café in order to help keep this establishment going and to maintain the vibrant local economy of our neighborhood.

Thank you for your consideration.

Sincerely,

Jonathan R. Genzen, M.D., Ph.D. &
Jennifer T. Genzen, Ph.D.

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

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Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Paula Bralcy
Address) 2406 E 2100 S.
84109
(include zip code)
Phone 801-787-4303

Comments:

Please allow patio dining @ the Avenues
Bistro. This is a treasure to our community
and isn't viable without the revenue
generated via the patio dining.
Much of the patronage @ this establishment comes
from the walking community and does not
require parking.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name IGOR BEST-DEVEREUX

Address) 1075 N. OAK FOREST RD. SLC. UT 84103

(include zip code)

Phone 801 521 1721

Comments:

OUTDOOR DINING IS A WONDERFUL AMENITY
TO THE CITY. I OWN A BUSINESS ON S. TEMPLE
AND ENJOY BEING ABLE TO TAKE CLIENTS & VISITORS
TO LUNCH AT RESTAURANTS LIKE THE AVENUE RESTRO.
AS LONG AS THERE ARE SENSIBLE CONTROLS ON NOISE OR
ANY NUISANCE I THINK OUTDOOR DINING IN THE
AVENUES ENHANCES THE CHARACTER AND ENJOYMENT
OF THE AREA. I HOPE THE PLANNING DIVISION WILL
BE SUPPORTIVE AS I BELIEVE THIS IS A BENEFIT
TO THE COMMUNITY.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Stacey Rae Allen
Address) 835 East 1st Ave #B5
Salt Lake City, UT 84103
(include zip code)
Phone 801.918.4090

Comments:

I am thankful for the income that the Avenue's Bistro provides me. It allows me to sustain myself + thereby continue my contribution to the Salt Lake City economy. Prior to this job I had been seeking unemployment benefits. ~~If~~ I lose this job due to lack of patio seating capacity I will be back to seeking unemployment benefits. I cannot imagine how this aids the greater population.

All this: not to mention that Kathie Chaelbourne is the most conscientious owner that I have ever worked for. Conscientious of me as an employee, of the patrons who she services, + of the community that surrounds her - on the micro + macro scale. If anyone should be in business in a concerned community - it's her.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Alba Sybert

Address 4636 Sycamore

84117
(include zip code)

Phone 801 891 8351

Comments:

I work for a local Road Service
company, it is important to support
local & local neighborhood biz.
Don't let 1 voice ruin Hundreds who enjoy
if it complies to hour of operation
and close when city allows this
should be good for community
support spend and revenue

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name PEG MCENTEE

Address) 2505 DOWNINGTON

84108
(include zip code)

Phone 801.673.0085

Comments:

SALT LAKE CITY NEEDS AS MANY EXCELLENT
RESTAURANT AS IT CAN GET. THE AVENUE
BISTRO ON THIRD IS AN EXEMPLARY ESTABLISHMENT
FOOD, SERVICE, DECOR AND INTIMACY.

I DINED ON THE TERRACE LAST AUGUST WITH TWO CLOSE
FRIENDS. WE CHERISH THE ABILITY TO SIT
AMONG THE TREES, THE FLOWERS, UNDER THE
UMBRELLA ON A BEAUTIFUL SUMMER.

I HOPE THE CITY WORKS EXPEDIENTLY TO
ENABLE THE BISTRO AND OTHERS TO PROVIDE
A COSMOPOLITAN EXPERIENCE IN SALT LAKE.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Karen Waldburger
Address) 577 Third Avenue (own) 84103
613 Egl. Ct. (live) 84102
(include zip code) (behind Banbury cross, whose donut
Phone 801 674-3590 trying smells are welcome
by everyone in the area.)

Comments:

I own 577 Third Avenue, grew up there [1956-1973].
My parents in passing [1990; 1997] left the
property to us kids. My sister died 9-2-2013.
I know where the Avenues Bistro plus two hair
cutting business reside have been businesses for
more than sixty years. People on the Avenues,
especially in that neighborhood have always utilized
the businesses. Parking has always been
sparse. In all honesty? Some people who
have complained might possibly be in code violation
themselves. The dwelling immediately west of the Bistro:
used loud machinery, built a 3-story obstructing view
of long time residents. The complainer from the NW
corner of "H" and 3rd recently rebuilt concrete steps and walk ways
with increased noise, sidewalks blocked, and since the 1980s
have held wedding receptions on their properties eliminating
parking spaces on streets.] The last complaints; noise

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

after 10 is subdued - nothing close to house parties
behind the Bistro, and smells are squoory
and less noticable than any barbecue!

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Baibina R. Rose
Address) 585 3rd av.
S.L.C. Utah 84103
(include zip code)
Phone 801-322 0674

Comments:

this bistro
The bistro owner makes her place look beautiful and
she works with the neighbors. I own the beauty salon
and we help each other. She helps the homeless.
It will be sad if the patio is gone.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name MARK & LINDA TAYLOR
Address) 369 I St., SALT LAKE CITY, UT 84103
(include zip code)
Phone 858-225-2005

Comments:

THE SMALL BUSINESS IS A MAINSTAY OF A COMMUNITY AND THE AVENUES BISTRO ON THIRD AVE IS ONE OF THOSE SMALL BUSINESSES. THE "BISTRO" HAS VASTLY IMPROVED THE QUALITY OF LIFE IN THE NEIGHBORHOOD. THE CLIENTEL ARE NEIGHBORS AND FRIENDS OF THE BISTRO MANAGEMENT. KATHY, THE BISTRO OWNER, MAKES AN EXTRA EFFORT TO BE A GOOD NEIGHBOR.

PATIO DINING IN A NEIGHBORHOOD RESTAURANT ADDS TO THE CHARM OF THE ESTABLISHMENT AND THE NEIGHBORHOOD ALIKE.

from my perspective THE VAST MAJORITY OF NEIGHBORS, AND ALL OF THE PATRONS, FULLY SUPPORT THE BISTRO AND ENJOY THE PATIO.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Reg. Alderman
Address) 1217 4th Ave
84103
(include zip code)
Phone 281-731-8269

Comments:

We have enjoyed numerous lunches & dinners at this wonderful neighborhood restaurant and dined both inside and out. The patio is fabulous, private, and while dining there we have never experienced loud outbursts or obnoxious behavior from fellow diners. The restaurant and patio brings a dining experience that the neighborhood has longed for and embraces. While adjacent neighbors would have concerns, I am sure that there can be an amicable agreement so that everyone may enjoy the Bistro for years to come - inside & out!

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name DAVID ALDERMAN
Address 1217 9th AVE SLC, UT 84103
(include zip code)
Phone 281-435-9080

Comments:

I FULLY SUPPORT THE PROPOSED CHANGES.
THE OTHER NON-CONFORMING RESTAURANTS SHOW THAT THIS TYPE OF ARRANGEMENT DOES WORK. HAVING SMALL RESTAURANTS EMBEDDED IN THE NEIGHBORHOOD REALLY ADDS TO THE ~~LIVABLE~~ 'LIVABILITY' OF THE AREA.
I CAN UNDERSTAND IMMEDIATE NEIGHBORS HAVING CONCERNS. THE MOST OBVIOUS WOULD BE HOURS OF OPERATION, BUT IT SEEMS THAT THE OUTDOOR/INDOOR HOURS COULD BE IMPLEMENTED TO ADDRESS THIS - FOR EXAMPLE, LIMIT OUTDOORS ~~HOURS~~ BETWEEN 8 AM AND 9 PM.
THE IMPACT ON EXISTING N-C RESTAURANTS WOULD SEEM TO BE TO REQUIRE THEM TO MOVE OFF PUBLIC R-O-W. BUT WORKING AROUND FOR THIS EXCEPTION.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name THURE CERLING
Address) 98 W STREET
84103
(include zip code)
Phone 801-864-2554

Comments:

3RD AVENUE BISTRO IS A WONDERFUL ADDITION TO
SLC & THE AVENUES. IT IS MY FAVORITE PLACE TO
BRING VISITORS FOR DINNER – IT IS A PLACE WHERE
WE CAN TALK, DISCUSS, AND THINK. AND ITS
FRIENDLY ATMOSPHERE WELCOMES VISITORS TO SALT LAKE.

I HAVE VISITED MANY TIMES IN THE ~ 2 YEARS
SINCE OPENING – PERHAPS 30 * TIMES.

THE OUTDOOR PATIO, WHEN OPEN, WAS MY FAVORITE
PLACE – AGAIN, IT IS QUIET & CALM ENOUGH FOR
GOOD DISCUSSION.

I LOVE THIS PLACE!

I HAVE EATEN AT ALL THE LISTED NON-COMPLIANT
RESTAURANTS AS SHOWN ON THE MAP. I LIKE THEM ALL & THEY
ADD A GREAT FEATURE TO SLC.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

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Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name MAHALA KERHART
Address) 98 U STREET
84103
(include zip code)
Phone 801.898.2531

Comments:

We were distraught when the patio closed — and further distraught because it remains closed — at the avenues bistro, one of our favorite restaurants in the city. We value visiting with neighbors, walking to destinations, and the quiet city atmosphere (and locally-sourced food) at the bistro. We don't understand why outdoor dining is being discouraged — and a business threatened — in our neighborhood. Losing neighborhood dining

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

throughout the city would be a great loss!

Planning Division Open House

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Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Jerry Pacheco
Address) 1799 W Dale Ridge Ave
SLC UT 84116
(include zip code)
Phone 801 654 6564

Comments:

I am an employee at the Avenues Bistro on Third. I work in the kitchen & have been privileged to be there for a year. I was working when we heard the patio would be shut down & could see how it devastated the staff & Kathy, the owner. Since then, our business has not been the same. We've had to lay off staff & cut costs elsewhere. Once we were thriving & now we struggle each month to stay afloat. The damage to morale is incalculable. This tiny restaurant provides good food & joy to the whole neighborhood & it needs the patio to survive. Local businesses also affected & will benefit from this amendment.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

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Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Derek Kitchen

Address) 850 so. 400 w. #302

Salt Lake city, UT 84101
(include zip code)

Phone 801-674-6141

Comments:

It is essential to the neighborhood + surrounding community to permit outdoor dining for the purposes of gathering & community building. As our city seeks to become more sustainable and walkable, outdoor dining is a valuable tool that the city can use to encourage shared spaces that are treasured by many. I understand concerns regarding noise + disturbances, but as long as restaurants obey quiet hours, there should be no issues. I fully support this amendment.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

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Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Carlin Miner
Address 4256 N Scenic Dr Provo UT 84604
(include zip code)
Phone 801 691 9225

Comments:

~~Carlin~~
Eating out is one of my favorite things to do, and being able to enjoy the beautiful weather outdoors with my meal makes the experience multiple times better. Outdoor dining really connects people more & they can liven up any neighborhood.
Please allow outdoor dining in residential areas.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

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Nonconforming Restaurant – Outdoor Dining

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Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Amee Chadbourne
Address) 269 East First Ave SL UT
#16 84163
(include zip code)
Phone 801 707 3032

Comments

Avenues Bistro is a sustainable living restaurant that is very involved in the community. Our patio is a very important part of the bistro & without our patio we cannot stay open. We buy as many local ingredients as possible & support local always. We would love to continue to do this with our patio.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

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Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Petra
Address) 570 Montgomery St SLC UT
84104
(include zip code)
Phone 801-574-1936

Comments:

I am an employee at the Avauces Bistro
on 3rd and the place is amazing.
I Love working for Katie Chadbourne.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

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Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Kathie Chadbourne

Address) 564 e 3rd Ave

84103

(include zip code)

Phone 801.833.3443

Comments:

Avenues Bistro is a
community neighborhood friendly
restaurant driven by
community generosity
and
community profitability, NOT
monetary profitability -
Urban Farm Garden to table
restaurant
E2 business environmentally friendly
wind powered community staffed
walkable no dumpsters
Avenues Bistro wishes to work
well within our neighborhood.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

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Nonconforming Restaurant – Outdoor Dining
Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Erk Daniels
Address) 323n center st # 104
84103
(include zip code)
Phone 801-638-8279

Comments:

Avenues Bistro on the rd is a vital part of the Avenues Community. It provides jobs, Good Food, a great community meeting place. It would be a shame for it to close down over a zoning ordinance.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

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Nonconforming Restaurant – Outdoor Dining
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Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Judith Rubadue
Address) 1121 East 200 So
84102
(include zip code)
Phone 801-694-2832

Comments:

I am in favor of the text
amendment and out door
dining @ Avenue Bisto.
Thanks

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

Petition No. PLNPCM2014-00106

Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name John FORBYN

Address) 115 H St Apt 3 84103

(include zip code)

Phone 801.772.9084

Comments:

I have lived a few houses away from Avenues Bistro ~~when~~ since it opened. I have never noted any inappropriate levels of noise or traffic, even on warm nights with a full patio of customers. I walk my dog past the bistro at various times of day and it has now occurred to me that the bistro's activities could be a disturbance to its neighbors.

I think that the benefits to the community and the local economy far outweigh any compromises presented by even a busy weekend brunch or dinner time.

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Planning Division Open House

April 17, 2014

Nonconforming Restaurant – Outdoor Dining

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Comment Sheet

Please provide us with the following information, so that we may contact you for further comment, if necessary (please print clearly, thank you):

Name Cassidy Best
Address) 7th ave. 84103
vmn@slcgov.com
(include zip code)
Phone 801347 9406

Comments: Our paito has been a staple for the people of the neighborhood. Our bistro is not the same without it. we have worked hard to provide a comfortable place for everyone to eat, enjoy, and relax in the evening. Since ~~we~~ have closed our paito not a day goes ~~by~~ By that our customers have expressed sadness!

Staff contact: Everett Joyce 801-535-7930 or everett.joyce@slcgov.com

Joyce, Everett

From: MarySue & Chuck Howisey [howisey637@comcast.net]
Sent: Wednesday, April 16, 2014 8:45 PM
To: Joyce, Everett
Subject: Outdoor dining

One of the things we love to do in the warm months is enjoy dinner outside. The outdoor dining around the city is limited and we'd love to see more of it made available. We live a few blocks from The Avenues Bistro and strongly support their restaurant. They have a lovely space for outdoor dining and we strongly encourage the Salt Lake City Council to approve outdoor dining all around the city.

Thank you for your consideration.

Sincerely,
Chuck and Mary Sue Howisey
637 Third Avenue
Salt Lake City, UT 84103
801-554-9713

Joyce, Everett

From: 777ladyluck@gmail.com on behalf of Logan McLean [loganmcleand@gmail.com]
Sent: Thursday, April 17, 2014 7:25 AM
To: Joyce, Everett
Cc: mj gregoire; Andrew Fedoravicius
Subject: Avenues Bistro

Hi,
I would like to write a letter of support of Avenues Bistro.

The Avenues bistro has been a lovely addition to our neighborhood community. Not only did it provide another place for people to meet, the owner has created a welcome environment for people to enjoy delectable food, much which is grown on the property. Her outdoor gardens and seating are a beautiful part of this experience as you can both wander through the gardens and see the produce that you are eating, and sit in an inspiring space and dine. There are very few places in Salt Lake City in the downtown area where you can dine in a natural setting...without cars and buses passing by.

Outdoor dining is a major reason to visit dining establishments in the late spring though early fall. Many of us select our place to dine based on the beauty and serenity of the patio. Cocina, Paris, Dolcetti, Fresco's are neighborhood patios that are quite popular in the summer. Therefore, the revenue for these establishments depend on them being able to operate these patios.


Please consider supporting outdoor dining so that our community can enjoy this luxury.

Thank you,
Logan McLean

Joyce, Everett

From: Stephen Clark [SClark@joneswaldo.com]
Sent: Wednesday, April 16, 2014 8:39 AM
To: Joyce, Everett
Subject: Jude Rubidoux Proposal for Outdoor Dining

Mr. Joyce, I am writing in favor of the subject proposal. My spouse David and I live on 11th East between 1st and 2nd South. We have immensely enjoyed having Coffee Noir as a walkable destination in our neighborhood, and it has enhanced the neighborhood feel. Jude Rubidoux is our neighbor. We share her commitment to building and improving the quality of life in our city through a variety of options for dining and socializing. Outdoor seating, appropriately regulated, at establishments like Coffee Noir add a neighborhood feel and a city vibe that we residents, young and old, enjoy. Thank you for considering Jude's proposal. Please let me know if we can provide additional information or perspective in support. Stephen

 <small>Attorneys Est. 1875</small>	<small>PASSION. PERSPECTIVE. PEOPLE.</small> Stephen C. Clark <i>Attorney</i>
170 S. Main St., #1500 Salt Lake City, UT 84101 Fax: 801.328.0537 www.joneswaldo.com	Direct: 801.534.7437 Bio

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Joyce, Everett

From: Joanne Kaeske [jkaeskern@gmail.com]
Sent: Sunday, April 13, 2014 4:23 PM
To: Joyce, Everett
Subject: Patio at Avenues Bistro

We are in favor of a patio eating Area at Avenues Bistro. It is very needed!'

Joanne and Mike. Kaeske
239-470-1942
Sent from my iPhone

Joyce, Everett

From: Zachary Cohen [cohenzack1231@gmail.com]
Sent: Saturday, April 12, 2014 6:53 PM
To: Joyce, Everett
Subject: Patio for avenues bistro

I <3 patios. Please let them exist at the avenues.

Sent from my iPhone

Joyce, Everett

From: Lauren [laurenamicucci@gmail.com]
Sent: Saturday, April 12, 2014 2:18 PM
To: Joyce, Everett
Subject: Avenues Bistro Patio!

Hi Everett - I am emailing on behalf of Avenues bistro on 3rd. I love their outdoor patio especially now that summer is around the corner. Please help keep the character of the restaurant and the Avenues!

Best,
Lauren

Sent from my iPhone

Joyce, Everett

From: MJ Gregoire [mjgregoire1@gmail.com]
Sent: Wednesday, April 16, 2014 3:58 PM
To: Joyce, Everett
Subject: two more residents in favor of outdoor dining at the Avenues Bistro

Hello Everett,

We are aware of the meeting tomorrow (Outdoor Dining with a Nonconforming Restaurant Use) and would like to express our support for outdoor dining at the Bistros on Third Avenue. This restaurant has been an incredible addition to the Avenues community. It has become a local gathering spot for friends and neighbors. Countless times over the past few years we have gathered there with friends from the Avenues. Every time we go we encounter other friends and neighbors. The atmosphere that Kathie has created at the Bistro is unlike any other restaurant we frequent in the city. It is unusual that one place can have such a large impact on a community, but the Bistro has managed to do this. It would be a great loss to the Avenues, and all of Salt Lake City, if restaurants of this type are not permitted. We sincerely hope that the Planning Division will take into consideration the importance of outdoor dining and appreciate that it is a factor that makes a city civilized and a more desirable place in which to live. We strongly urge you to consider our voice when you make your decision. Thank you.

Sincerely,

Mary Jane Gregoire and Dan Sommers
375 10th Avenue
Salt Lake City, UT 84103

Joyce, Everett

From: Craig Nelson [cnelson@western-geologic.com]
Sent: Wednesday, April 16, 2014 12:45 PM
To: Joyce, Everett
Subject: PLNPCM2014-00106 Outdoor dining with a nonconforming restaurant use

Hi Everett:

I am writing to you because business travel prevents me from attending the open house meeting regarding the Avenues Bistro on Third patio outdoor dining matter. I'd like to go on record in support of amending the zoning regulations to allow outdoor dining at the bistro. Salt Lake City needs to support the concept of a walkable city, and having local businesses like the bistro with outdoor dining only enhances the quality of life in a neighborhood. It does not detract from it. I heartily recommend whatever zoning changes are needed to allow outdoor dining and to support local businesses that strive to be good neighbors.

Best regards,
Craig

--

Craig V Nelson, PG, CEG, CEM
Western Geologic, LLC
2150 South 1300 East, Suite 500
Salt Lake City, Utah USA 84106

Office: 801-359-7222
Mobile: 801-750-0090
Fax: 855-990-4601
Email: cnelson@western-geologic.com
WebPage: www.western-geologic.com

Joyce, Everett

From: Elijah Lothrop [bigecoach@msn.com]
Sent: Thursday, April 17, 2014 4:20 PM
To: Joyce, Everett
Subject: Avenues Bistro

I am writing you late today concerning the Avenues Bistro. There has to be a better way to handle this then dragging it out for months and potentially sending this restaurant out of business. This is the exact definition of not only a local business but a neighborhood local business. Place people can gather. Families feel comfortable taking their kids. A social place easily accessible from your front door. Having local businesses in the neighborhoods is something I know Mayor Becker has supported and been vocal about. Please help this local neighborhood female small business owner keep her restaurant. I am sure there is a solution all parties can agree on. Please take this into consideration when making your decision this afternoon. Thank you for your time.

Eli Lothrop

Joyce, Everett

From: Katie Hewitt [katiehewitt1@hotmail.com]
Sent: Thursday, April 17, 2014 5:06 PM
To: Joyce, Everett
Subject: The Avenues Bistro

Dear Mr. Everett,

I am writing this in concern of the Avenues Bistro, which is coming up tonight at the Planning Division Open House. We are Avenues residents, and this is by far our favorite place to eat. We live close and love to walk down the street for a quick bite, dessert, or drink. We understand that some of our neighbors aren't as keen on this establishment, but we wish to have our voice heard on this issue. The Bistro is exactly the kind of restaurant that makes us want to live in the Avenues -- its style, locally-sourced food, and the fact that it isn't some established chain is what makes the Avenues unique and draws people out of their homes as true neighbors. The owner knows our names and cares about us -- as we do her!

This place is always PACKED, and it would be such a shame to have such a unifying neighborhood place go under because a few people have some issues. I may be naive to these issues, but can't there be some sort of compromise? The restaurant can't support itself without its patio seating, but neighbors are upset about noise and parking. Couldn't these residents have some street parking reserved for them? Or receive free meals at the establishment for the right to open the patio? Or could the patio close early? I just think that there have to be options that are fair to both parties.

Anyway, this is the voice from a resident, and we hope you will consider such ideas.

Thanks,
Katie Bullock

Joyce, Everett

From: Maggie [maggielaun@comcast.net]
Sent: Thursday, April 17, 2014 5:18 PM
To: Joyce, Everett
Subject: Avenues Bistro

As a long time lover of walking neighborhoods, I would be so sad to have the Avenues Bistro out of business because of being unable to porch dine. I am sure you are meeting right now and I am not able to be there but please spare the Bistro and allow them to dine on the porch in the summer.

Maggie Laun

Joyce, Everett

From: SHARPIEEMAIL [sharpiesemail@gmail.com]
Sent: Friday, April 18, 2014 9:34 PM
To: Joyce, Everett
Subject: Avenues Bistro on Third (Non-Conforming Restaurant - Outdoor Dining -Petition PLNPCM2014-00106

Importance: High
Sensitivity: Confidential

Good Morning . . .

I am writing as a concerned citizen regarding the matter of the :
" Avenues Bistro on Third." (Non-Conforming Restaurant - Outdoor Dining -
Petition PLNPCM2014-00106)

This is one of the finest establishments in Salt lake City and is a credit to the city in every regard. The services provided by this establishment are excellent and is a tribute to the proprietor, Kathie Chadbourne and all who support her. Of particular note is the beautiful and pleasant outdoor dining area. This is a very welcoming extension of this wonderful establishment and is one of the many reasons we continue to offer our long-standing patronage.

The restrictions being considered would be a travesty of unusual proportion and are without cause in my opinion. The proposed restrictions serve a very few and are not only wholly illogical but actually seem mean-spirited in nature.

Please support the eradication of any restrictions, (Non-Conformity) being considered relative to this entire establishment and the incredible owner.

Have you ever been a patron at this establishment, if you have not, I invite you to bask in the loveliness offered; not only the excellent menu but the environment and camaraderie offered, inherent in it's very existence !! Imagine the patio filled with grateful and happy patrons . . . as it once was . . .

Kathie Chadbourne should well receive a public commendation and long-standing rounds of applause from the city, for that which she has created and offers, rather than the non-sensical prejudice which she has endured. Let the Patio Dining Begin

Thank you for your time and consideration . . .
Be Well and Enjoy Life,

Stace Sharp

Joyce, Everett

From: Alan Andersen [arandersen@gmail.com]
Sent: Sunday, April 20, 2014 6:19 PM
To: Joyce, Everett
Subject: Comment - Petition # PLNPCM2014-00106 - Outdoor Dining Avenues Bistro

Name: Alan Andersen
Address: 543 J Street, Salt Lake City, UT 84103
Phone: 801-819-5512

I SUPPORT the above-referenced petition to allow outdoor dining at Avenues Bistro on Third.

This property is the ONLY non-conforming restaurant use to have its outdoor dining shut down. All six of the other such properties have outdoor dining under the existing non-conforming use ordinance. I believe the existing ordinance permits such use, as the definition of restaurant includes outdoor dining. But if this amendment is required, it is only to correct an egregious injustice to the one remaining restaurant that has had its outdoor patio shut down, cutting out 40% of its revenue and putting the business in serious jeopardy.

Outdoor dining is NOT an optional feature for these types of restaurants, especially this one that is an integrated farm-to-table concept that includes lush and residential-consistent gardens, along with the patio.

Today is Easter Sunday. At noon today, according to the owner, the Avenues Bistro was EMPTY, devoid of customers, while a drive-by of the other non-conforming restaurants showed their outdoor dining patios filled with customers. The Avenues Bistro purchased a full inventory of food for this holiday event, which food is now sitting spoiling and unused for lack of a patio and will have to be discarded.

Only three neighbors have complained and it is clear that their complaints relate to the presence of the restaurant itself, with the patio issue simply being the excuse. The complainants simply want this legal non-conforming restaurant, which has been there for generations, well before they moved into the neighborhood, to be driven out of business for lack of a patio. There is no material adverse impact from the patio itself, especially with the proposed mitigating plans for a re-opened patio.

Time is of the essence. I urge the City to move quickly on this because even if relief is granted eventually, it will be too late to save this business if not done soon.

Sincerely,
Alan Andersen

Joyce, Everett

From: Lawrence Coffman [bluesmile97@gmail.com]
Sent: Monday, May 12, 2014 3:47 PM
To: Joyce, Everett
Subject: Avenues Bistro Patio

Hi Everett, my name is Lawrence Coffman and I would just like to voice my support for The Avenues Bistro on Third being able to use their patio for dining. As a long time resident of The Aves, I feel that The Bistro adds immeasurably to the charm and ambience of the neighborhood, and their lovely patio is a huge part of that. It's a place where people can go and enjoy delicious food, good company, and the pleasures of the outdoors in a setting that's both homey and non-intrusive, and I for one would be terribly sad to see it go.

Thank you for your time and consideration.

Sincerely,

Lawrence Coffman

ATTACHMENT H: DEPARTMENT REVIEW COMMENTS

Department	Reviewer	Accela Comments
Transportation Review	Barry Walsh	Transportation requires that notation for the expansion address requirements for existing parking, ADA, and bicycle compliance and provide for intensification of required and provided parking.
Fire Code Review	Edward Itchon	As long as the outdoor dining does not exit through the restaurant. If it does then the building occupant load must be combined with the outdoor dining occupant load and if the combined number is 100 or more then automatic fire sprinkler system is required with fire alarm and interconnection to an approved remote station.
Engineering Review	Scott Weiler	No objections.

ATTACHMENT I: MOTIONS

Consistent with Staff Recommendation: Based on the findings in the staff report, public input and discussion, I move to transmit a favorable recommendation to the City Council to adopt the proposed zoning text amendment to allow a special exception process for outdoor dining when associated with a nonconforming use.

Not Consistent with Staff Recommendation: Based on the staff report information, public input and discussion and the following finding(s), I move that the Planning Commission transmit a negative recommendation to the City Council relating to the request to allow a special exception process for outdoor dining when associated with a nonconforming use.

The Planning Commission shall make findings on the Zoning Text Amendment standards as listed below:

1. Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the City as stated through its various adopted planning documents;
2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;
3. The extent to which a proposed map amendment will affect adjacent properties;
4. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards; and
5. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.