



# Staff Report

PLANNING DIVISION  
COMMUNITY & ECONOMIC DEVELOPMENT

To: Salt Lake City Planning Commission  
From: Everett Joyce, 801-535-7930  
Date: August 27, 2014  
Re: PLNPCM2014-00386 The Avenues Proper - Social Club

## Conditional Use

**PROPERTY ADDRESS:** 376 8th Avenue, Salt Lake City, UT  
**PARCEL ID:** 09-31-259-006  
**MASTER PLAN:** Avenues Community – Mixed Use  
**ZONING DISTRICT:** RMU-35 Residential Mixed Use

**REQUEST:** The petitioner, ALR Restaurant Group, LLC, is requesting conditional use approval for a social club located at 376 E 8th Avenue. Per Section 21A.33.020, Table of Permitted and Conditional Uses for Residential Districts of the Zoning Ordinance, Alcohol, social club (2,500 square feet or less in floor area in the RMU-35 zone requires conditional use approval subject to conformance with the provisions in section 21A.36.300 “Alcohol Related Establishments”. The Planning Commission has final decision making authority for Conditional Uses.

**RECOMMENDATION / MOTION:** Planning Staff recommends that the Planning Commission approve the proposed social club conditional use. The motion to approve is below:

Based on the findings listed in the staff report, public testimony, and discussion by the Planning Commission, I move that the Planning Commission approve PLNPCM2014-00386, The Avenues Proper Social Club as proposed and subject to complying with all applicable regulations. Due to the potential for detrimental impacts created by the proposal identified in the report, the Planning Commission applies the following conditions of approval to the project:

1. That the security and operations plan be approved by the Salt Lake City Police Department and Building Official, before being submitted for recordation with the City Recorder's office. The plan will need to be recorded before a business license is issued.
2. Obtain a valid license issued by the Utah state division of licensing, and a valid business

- license issued by the city.
3. Ensure that exterior lighting is shielded from the abutting residential property to prevent the lighting from being a nuisance.

**ATTACHMENTS:**

- A. Vicinity Map
- B. Site Aerial and Photographs
- C. Building Use Plan
- D. Additional Applicant Information
- E. Existing Conditions
- F. Analysis of Standards
- G. Public Process and Comments
- H. Dept. Comments
- I. Motions

**PROJECT DESCRIPTION:**

The applicant, ALR Restaurant Group, LLC, is proposing to operate a social club within a portion of a restaurant located at approximately 376 E 8th Avenue. The Salt Lake City Zoning Ordinance defers to State Statute to define a social club. The State Retail License Act, and Chapter 6, Part 4, identifies that a club license includes a social club license. "Social club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License.

The existing building at 376 E 8th Avenue has two establishments, Hatch's Family Chocolates, approximately 1,776 square feet and the Avenues Proper Restaurant approximately 3,561 square feet. The existing restaurant has an on-site beer brewery. The applicant desires to provide a social club as part of the existing restaurant space. The social club area would consist of approximately 650 square feet of the restaurant. The social club would share the entry hosting area, kitchen, restrooms and hallways. The total shared area is approximately 1,650 square feet. The specific social club area and shared areas total approximately 2,300 square feet, less than the maximum 2,500 square foot allowed.

The existing restaurant use has hours of operation that range from 10:30 am to 12:00 am and with the social club will be it will be open until 1:00 am on Friday and Saturday. Hours of operation of alcohol related uses are also regulated by the State of Utah. The hours proposed meet the State requirements.

The proposed social club area seats up to 20 persons. There will be no additional seating provided than already exists.

The existing parking lot is signed for parking for Hatch's Chocolate and the Avenues Proper parking. The parking is open and shared by both businesses.

The subject property is noncomplying with parking lot landscape requirements. The existing parking lot has a six foot perimeter landscaped area with fencing and parking lot lighting. The existing parking lot contains 33 stalls and the existing and proposed uses require a total of 23 parking spaces. A comparison of the existing site and zoning site development standards are provided in Attachment "E" Existing Conditions.

**KEY ISSUES:**

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

**Issue 1** Security Operations Plan, site and floor plan review and obtain licenses

As a part of the requirements for the proposed conditional use, the applicant has submitted a security and operations plan. The security and operations plan is located in Attachment D on page 13. Pending

approval from the Salt Lake City Police Department and Building Services Division, the plan will be filed with the City's Recorder's office given the conditional use permit is approved. Pending conditional use approval the applicant will be required to obtain a valid license issued by the Utah state division of licensing and a valid business license issued by the city.

**Issue 2** Exterior lighting.

Existing lighting within the parking lot will be used to illuminate the trash enclosure and the designated smoking area. The parking lot lights should produce a minimum foot candle that provides safe lighting for the parking and access to the building, but does not intrude on the adjacent residences to the south, east and west. The property owner should minimize any lighting that may shine onto the abutting residential property as a condition of approval. Staff recommends this as a condition of approval to prevent the lighting from becoming a nuisance.

**Issue 3** Drinking only establishment in a residential neighborhood

It was stated that drinking only establishments should not be in a residential neighborhood. The subject property was rezoned to RMU-35 in 2012. The RMU-35 zoning district permits social clubs less than 2,500 square feet in area as a conditional use. The purpose statement for the Conditional Use chapter states a conditional use is a land use which, because of its unique characteristics or potential impact on the municipality, surrounding neighbors or adjacent land uses, may not be compatible or may be compatible only if certain conditions are required that mitigate or eliminate the negative impacts. Conditional uses are allowed unless appropriate conditions cannot be applied which, in the judgment of the planning commission, or administrative hearing officer, would mitigate adverse impacts that may arise by introducing a conditional use on the particular site. Staff has recommended conditions to mitigate any adverse impacts of the conditional use; the Planning Commission can modify or add to those conditions.

**Issue 4** Drunkenness and drug related crime.

An issue brought forward was that the social club use will bring drunkenness and drug related crime into the neighborhood. Social club and restaurants that serve alcohol are required to have a valid license and operate under the regulations of the Utah Department of Alcoholic Beverage Control. Violation of alcohol regulations could result in revocation of the alcohol license. Whether a social club would bring drug related crime to the neighborhood has not been substantiated and without empirical data cannot be treated as an issue related to permitting a social club as a conditional use.

**Issue 5** Expansion of the bar into the entire restaurant.

The social club area request is approximately 650 square feet. Social clubs within the RMU-35 district are limited to less than 2,500 square feet in area. If the social club conditional use is allowed, then Section 21A.54.135 of the zoning ordinance could allow an administrative expansion of up to 25 percent of the approved floor area for a possible expansion of approximately 163 square feet. Any increase desired above this amount would require another conditional use application approval.

**DISCUSSION:**

The proposed conditional use for the social club should be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably detrimental effects of the proposed use. A social club is a conditional use in the RMU-35 Residential Mixed Use zoning district, given the social club is limited to be less than 2,500 square feet. The proposed social club, as requested, will be limited to approximately 650 square feet.

The social club would operate in an existing building, currently zoned residential mixed use. Since the applicant is not proposing to make any structural exterior additions, the minimum standards for the

development have been met or are legal noncomplying since the building already exists. The subject property complies with all other applicable zoning regulations as discussed in Attachment F.

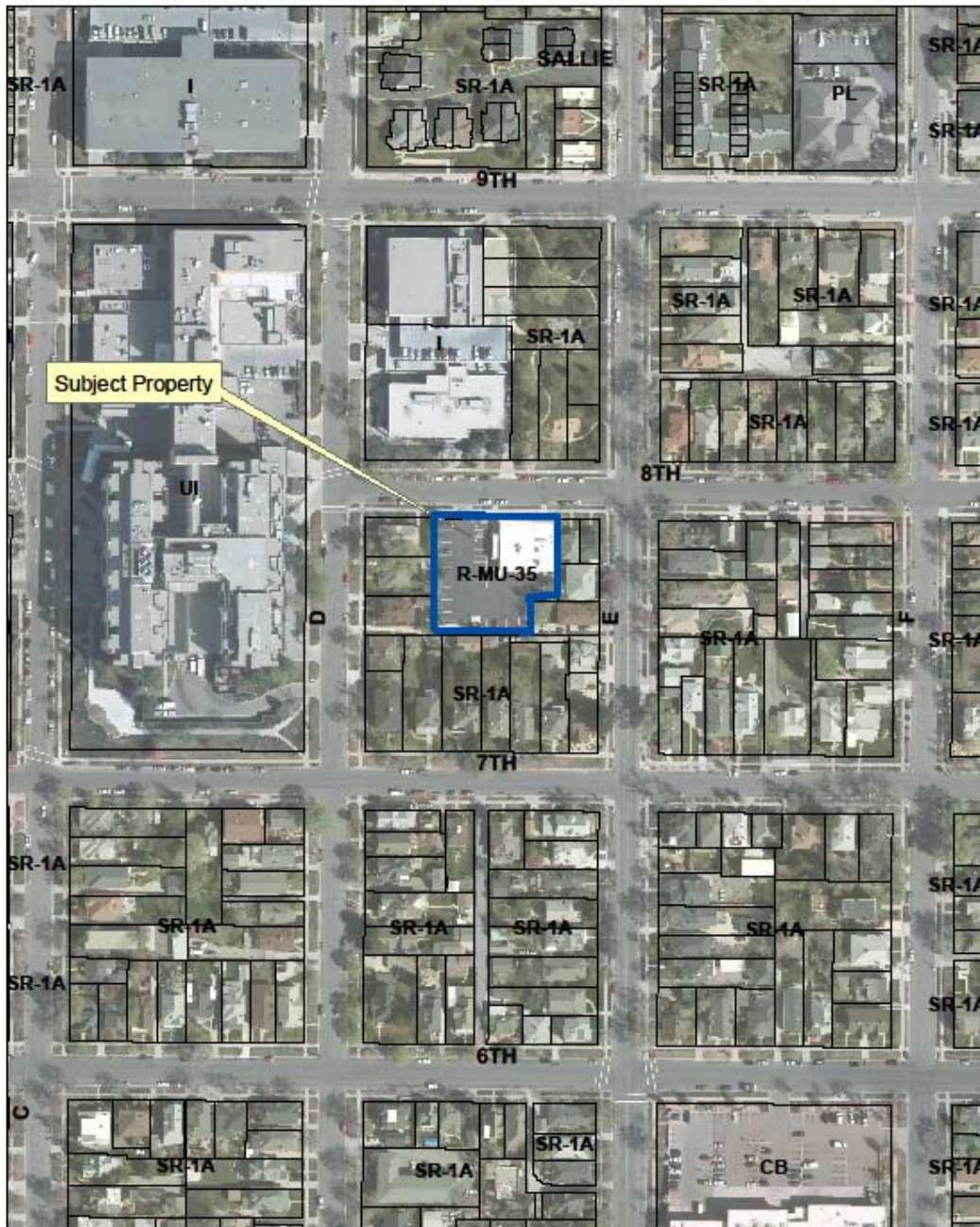
The existing site landscaping includes a six foot landscape area along the perimeter on the parking lot. An existing chain link fence with slats is located at the property line of the parking lot area. The existing landscaping being adjacent to fencing minimizes hiding places on the property. A few small shrubs and grasses exist along the front portion of the property on 8th Avenue. To discourage any potential hiding places, staff recommends the existing landscaping be maintained.

The Avenues Community Plan designates the area as mixed use and the proposed social club would align with this designation. The Zoning Ordinance designates this property as RMU-35 or Residential Mixed Use. With the change in the alcohol related establishments in 2012 by the City Council; alcohol related establishments were added as a conditional use in this zoning district. Given that the anticipated detrimental effects could be mitigated with reasonable conditions, the conditional use shall be approved.

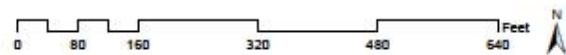
**NEXT STEPS:**

If approved, the applicant will be required to obtain all necessary building permits, alcohol licenses, and business licenses for the project and meet conditions of approval. If denied, the applicant would not have City approval for the conditional use for the proposed social club.

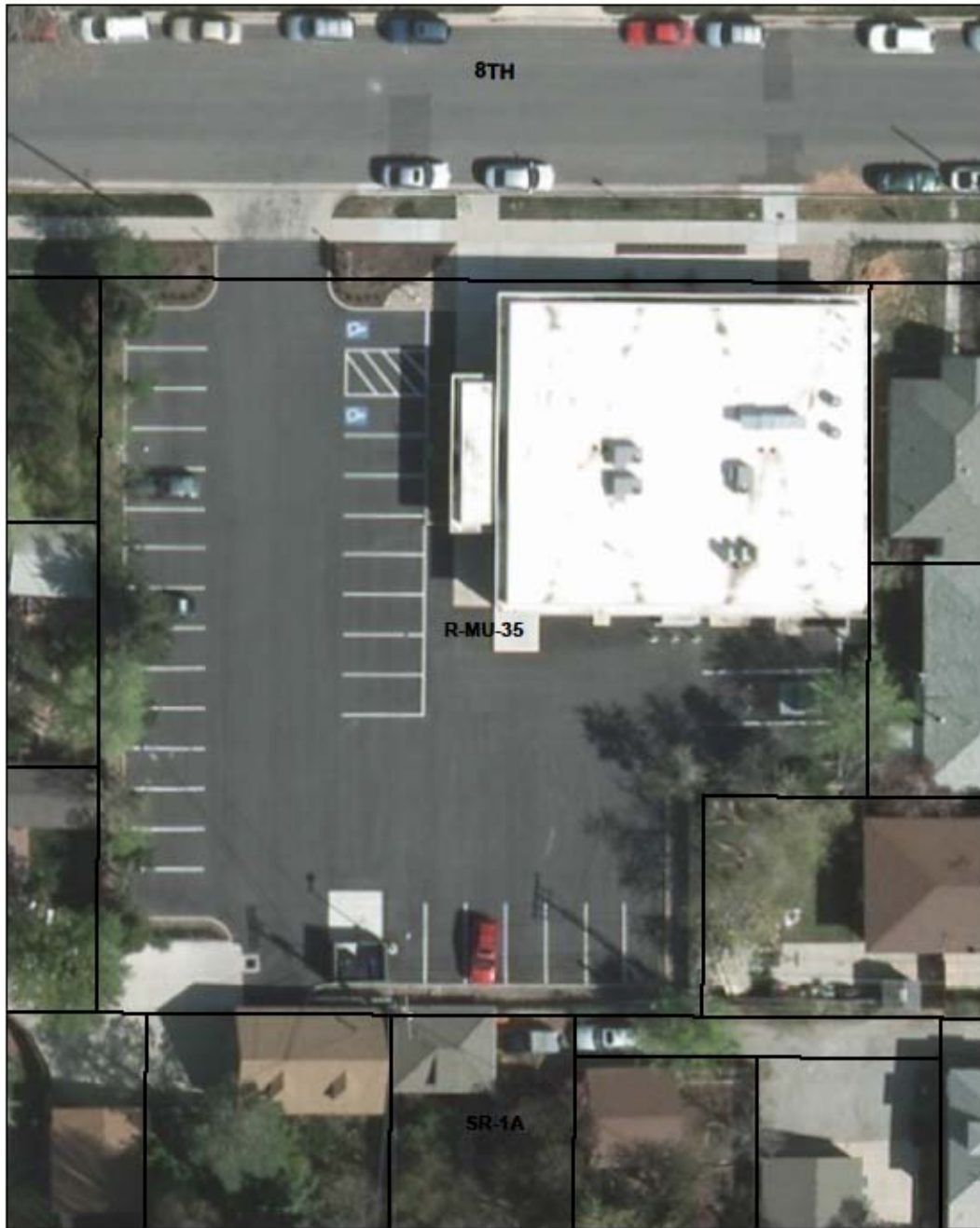
# ATTACHMENT A: VICINITY MAP



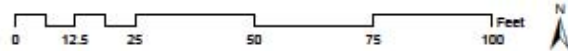
376 East 8th Avenue



# **ATTACHMENT B: SITE AERIAL AND PHOTOGRAPHS**



376 East 8th Avenue





Front view of site from 8th Avenue



Building front with outdoor patio and bike rack



Trash enclosure area with adjacent property detached garages to the south



Parking lot - looking west



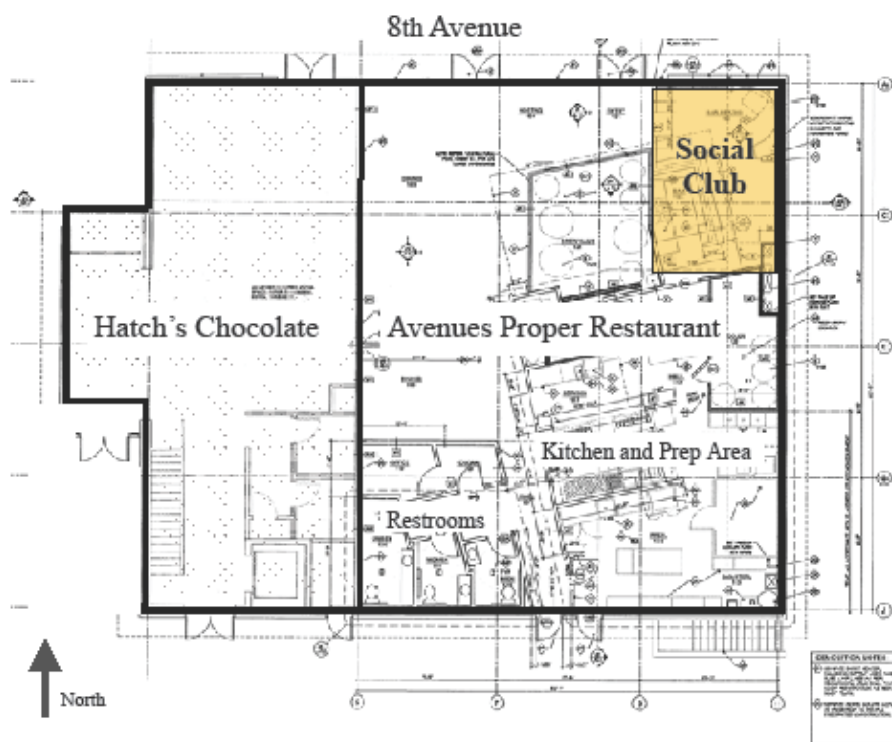



Parking lot - looking southeast



Parking lot – west lot line looking north

# ATTACHMENT C: BUILDING USE PLAN



 Social Club Area—Approximately 650 sq ft

 Building

**NOTE:** Shared Area: Approximately 1,650 sq. ft. The restrooms, hallway, kitchen and prep areas of the restaurant are shared by the social club

Total Club Use Area: Club and shared areas—2,300 sq ft

# ATTACHMENT D: ADDITIONAL APPLICANT INFORMATION



SALT LAKE CITY PLANNING

## Conditional Use

PLNPCM2014-00386

**OFFICE USE ONLY**

Project #: PLNPCM2013-00115	Received By: A Anglin	Date Received: 3/7/13	Zoning: R-MU-35
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Project Name: Avenues Proper Restaurant and Publick House

**PLEASE PROVIDE THE FOLLOWING INFORMATION**

Request: SOCIAL/DINING CURB LICENCES, BROW PUB

Address of Subject Property: 376 8th AVE, Ste B, SLC, UT, 84103

Name of Applicant: ALR RESTAURANT GROUP, LLC  
K ANDREW TENDICK, OWNER/MEMBER Phone: 801-828-5310

Address of Applicant: 3180 S. 800 E., SLC, UT, 84106

E-mail of Applicant: andrew@avenuesproper.com Cell/Fax: 801-828-5310

Applicant's Interest in Subject Property:  
 Owner     Contractor     Architect     Other: REQUIRING RESTAURANT SPACE

Name of Property Owner (if different from applicant): Steve Hatch

E-mail of Property Owner: steve@hatchfamilychocodates.com Phone: 801-641-6228

→ Please note that additional information may be required by the project planner to ensure adequate information is provided for staff analysis. All information required for staff analysis will be copied and made public, including professional architectural or engineering drawings, for the purposes of public review by any interested party.

**AVAILABLE CONSULTATION**

→ Planners are available for consultation prior to submitting this application. Please call (801) 535-7700 if you have any questions regarding the requirements of this application.

**WHERE TO FILE THE COMPLETE APPLICATION**

Mailing Address: Planning Counter PO Box 145471 Salt Lake City, UT 84114	In Person: Planning Counter 451 South State Street, Room 215 Telephone: (801) 535-7700
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**REQUIRED FEE**

→ Filing fee of \$664.44 plus \$110.74 per acre in excess of one acre, plus additional cost of postage for mailing notice.

**SIGNATURE**

→ If applicable, a notarized statement of consent authorizing applicant to act as an agent will be required.

Signature of Owner or Agent:	Date:
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ALR Restaurant Group, LLC  
DBA: Avenues Proper Restaurant & Publick House  
376 8<sup>th</sup> Ave, Ste. B  
SLC, UT 84103  
801.828.5310

Re: Conditional Use Permit For Social/Dining Club License

1. Project Description

In seeking a Dining/Social Club License we hope to better serve our patrons needs. We have committed many resources to building our restaurant and are excited to become part of the Avenues community. Our intent in seeking this license is to provide our neighbors the opportunity to stop in for a beverage of their choice without a specific mandate to order food. This fits in with our business model and will hopefully contribute to our sustained success and ability to serve our local community's food and beverage needs for years to come.

2. Conditional Use Information

- Our anticipated hours of operation are 11 am - 10 pm, 7 days/week
- The adjacent properties uses are:
  - Abutting on either side of the property are residential houses
  - Across the street there are private medical offices
- During the highest shift we anticipate 10-12 employees working on site
- This conditional use will not affect our seating/add additional seating
- Yes, we have spoken with home-owners on our block and have received nothing but positive and supportive feedback

Andrew Tendick,  
Avenues Proper Restaurant & Publick House  
Owner/Member

\* We ~~would~~ <sup>are</sup> be seeking a Brewpub license as well. We have been approved by the zoning commissioner to brew beer under a restaurant license due to our small batch size. We would like to submit for a Brewpub license ~~and we would like to be able to have a head of~~ as well just to cover our bases.

## Security and Operations Plan Avenues Proper Social Club – 376 East 8<sup>th</sup> Avenues

In accordance with Conditional Use PLNPCM2014-00386 for a “social club”

1. Should Avenues Proper ever field a complaint we will take action on it as soon as possible. Our company phone number is listed on our website and there is always a manager on duty at the restaurant who is available to assist in solving any issue that should arise. If the manager on duty is unable to rectify the situation he/she will bring the issue to ownership and the matter will be addressed and resolved immediately.
  - a. Our hours of operation are currently:
    - i. Tuesday 11 am – 10 pm
    - ii. Wednesday 11 am – 10 pm
    - iii. Thursday 11 am – 10 pm
    - iv. Friday 11 am – 12 am
    - v. Saturday 11 am – 12 am
    - vi. Sunday 10:30 am – 9 pm
  - b. If business demands it with a Social Club we could change our hours and stay open later most nights of the week. As it is we are already open late and have no issues with the neighborhood and/or surrounding residences.
2. The owners of Avenues Proper will attend any Greater Avenues Community Council meeting upon request to resolve any issues or complaints regarding our business.
3. The construction of our proposed Social Club area will not exceed the permissible sound levels according to the requirements of our zoning district. This space currently functions as an extension of our restaurant space, and is an interior space with no windows. The space has solid interior walls, comprised of cinderblock and/or insulated sheetrock walls. We fill this space up nightly with restaurant patrons and any noise created within the space is not audible outside of the restaurant walls.
4. Any live entertainment will be located inside of our building and will be subject to conform to the sound limits of our zoning district.
5. There is no exterior space for our social club, and thus there will absolutely not be any electronically amplified sound on the exterior of the premises.
6. Our designated smoking area is located towards the end of our parking lot near the dumpster. This area conforms to Utah state law, and is far more than 25 feet from any entrance or exit. In addition, the designation of this location does take into account our neighbors that populate the surrounding borders of our parking lot. The area not only meets the required legal obligations, but also is placed far enough from any neighboring homes to avoid the smell of cigarettes reaching their residences. We will also monitor the exterior and remove any graffiti from the building within 48 hours should it ever happen.
7. As part of our nightly closing procedures the server/bartender/or manager on duty will perform a sweep of the exterior and collect and dispose of any trash strewn on the premises.
8. Portable trash receptacles on the premises will be emptied daily and automated receptacles will be emptied at least weekly. Automated receptacles shall be located only within a city approved trash storage area.

9. Our parking lot has 33 parking stalls, far exceeding the requirement for off-street parking. There is additional off street parking on the north side of 8<sup>th</sup> Avenue adjacent to the medical office property. Other on-street parking in the area is permit only (Permit Area #3) and is managed through Salt Lake City. Regulations and restrictions are in place and there are signs in the area next to adjacent residential properties. These regulations protect the surrounding residential properties as our customers are not allowed to park in these areas. As a functioning full service restaurant for over 15 months our parking has been more than sufficient to fill the parking needs of our customers without adversely affecting the neighborhood.

A copy of this plan is to be distributed to the Fire Department, Police Department, and the Greater Avenues Community Council.

Contact information for the owners of Avenues Proper:

Andrew Tendick  
[Andrew@avenuesproper.com](mailto:Andrew@avenuesproper.com)  
801.828.5310

Liam Connelly  
[Liam@avenuesproper.com](mailto:Liam@avenuesproper.com)  
801.554.1981

Rio Connelly  
[Rio@avenuesproper.com](mailto:Rio@avenuesproper.com)  
801.746.9477

# ATTACHMENT E: EXISTING CONDITIONS

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## Current Zoning Requirements – RMU-35 Nonresidential Use

Zoning Standard	Required	Existing	Status
Min Lot Area	5,000 sq. ft.	26,734 sq. ft.	Complies
Min Lot width	50'	174'	Complies
Front Yard Setback	No setback required. Maximum of 15'	7'	Complies
Interior Side Yard	No setback required	4' / 80'	Complies
Rear Yard	25% lot depth – but need not exceed 30'	42' / 91'	Complies
Parking Spaces	Production – 11 Retail Goods – 4 Restaurant / Club – 8 Total : 23	33	Complies
Building Height	20'	15'	Complies
Required yards for legally existing buildings	No greater than the established setback line	6'	Complies

## Adjacent Land Uses

The property is located in a residential area, surrounded on three sides by single family residential homes, with a large medical office and its related open space to the north. The IHC Hospital is located a half block to the west. Primary access to the property is from 8th Avenue to the north, and a small driveway on the west from C Street.

## Applicable Master Plan Policies

In 2010, the Salt Lake City Council approved Ordinance No. 79 of 2010 amending the Avenues Master Plan with respect to the 376 East 8th Avenue property. The future land use map of the Avenues Master Plan was amended changing the designated land use from single family residential to mixed use. It was found that the amendment was consistent with the criteria established in the Avenues Master Plan for a zoning change. The same ordinance also amended the zoning map for the subject property from Special Development Pattern Residential (SR-1A) to Residential Mixed Use (RMU-35).

# **ATTACHMENT F: ANALYSIS OF STANDARDS**

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## **21A.54.080 Standards for Conditional Use**

**Approval Standards:** A conditional use shall be approved unless the planning commission, or in the case of administrative conditional uses, the planning director or designee, concludes that the following standards cannot be met:

1. The use complies with applicable provisions of this title

**Analysis:** Section 21A.33.020 Table of Permitted and Conditional Uses for Residential Districts lists alcohol, social clubs (2,500 square feet or less in area) as a conditional use in the RMU-35 Zoning District with a qualifying provision, note 9, which states, "Subject to conformance with provisions in the section 21A.36.300, Alcohol Related Establishments, of this title".

The proposed use is part of an existing commercial site with a developed parking lot and building already located on the site. The applicant is not proposing to make any structural exterior changes to the existing building or site as part of the conditional use request.

The existing building at 376 8th Avenue has a retail goods establishment of approximately 1,776 square feet and the Avenues Proper Restaurant consists of 3,561 square feet. The existing facility is a restaurant without drive-through facilities with an on-site beer brewery. The applicant desires to provide a social club as part of the existing restaurant. The social club area would consist of approximately 650 square feet of the restaurant. The social club would share the entry hosting area, kitchen, restrooms and hallways. The total shared area is approximately 1,650 square feet. Combining the specified social club area and the shared areas the total potential social club use would be approximately 2,300 square feet.

**Finding:** The proposed social club meets the less than 2,500 square feet in area standard. The proposed use meets the site development standards and complies with applicable provisions of this title.

## **21A.36.300 Alcohol Related Establishments Requirements**

Section 21A.36.300 Alcohol Related Establishments. The purpose of this section is to permit the establishment of taverns, social clubs, dining clubs, brewpubs, and microbreweries as defined in chapter 21A.62 of this title, subject to licensing procedures, and where appropriate, conditional use standards. There are several items within this code section that are discussed below.

Section 21A.36.300.B – License Required: No tavern, social club, dining club, brewpub, or microbrewery shall be established, operated, or maintained within the City without a valid license issued by the Utah Department of Alcoholic Beverage Control, and without a valid business license issued by the City.

**Analysis:** The applicant will need to go through the process with the Utah Department of Alcoholic Beverage Control for the social club license. The license will be granted pending approval of the conditional use application. Should the conditional use be approved, the applicant will also need to obtain a business license from the City.

**Finding:** If the application is approved, the proposed use will need to meet this portion of the standard. It cannot be met unless the conditional use approval is granted.

Section 21A.36.300.D. – Taverns, Social Clubs, Dining Clubs, Brewpubs, and Microbreweries; Authorized As Conditional Uses: Taverns, social clubs, dining clubs, brewpubs, and microbreweries may be allowed as conditional uses pursuant to the provisions of Chapter 21A.54 of this title, and



pursuant to Subsection B of this section in zoning districts noted in the tables of permitted and conditional uses provided the following standards are achieved:

21A.36.300.D.1.a. – Require that a security and operations plan be prepared by the applicant and approved by the Salt Lake City Police Department and the Building Official, and filed with the City Recorder's office, which shall include:

- (1) A complaint-response community relations program;
- (2) A provision for a representative of the tavern, social club, dining club, brewpub, or microbrewery to meet with neighbors upon request in order to attempt to resolve any neighborhood complaints regarding the operations on the business premises;
- (3) Design and construction requirements to ensure that any sound level originating within the premises, measured within fifteen feet (15') from an exterior wall or door thereof, does not exceed the maximum permissible sound level set forth for the applicable zoning district in Chapter 9.28 of this code;
- (4) A provision stating that live entertainment shall only be located within an enclosed building subject to the foregoing sound limit;
- (5) Prohibiting electronically amplified sound in any exterior portion of the premises;
- (6) Designation of a location for smoking tobacco outdoors in conformance with state law;
- (7) A provision stating that any trash strewn on the premises be collected and deposited in a trash receptacle by six o'clock (6:00) A.M. the following day, including any smoking and parking lot areas;
- (8) A provision stating that portable trash receptacles on the premises be emptied daily and automated receptacles be emptied at least weekly. Automated receptacles shall be located only within a city approved trash storage area; and
- (9) A parking management plan, which shall include consideration of the impact of parking on surrounding neighborhoods.

**Analysis:** For items 1-9 noted above the applicant has submitted a security and operations plan that states all of the requirements of items 1-9 will be completed as required above. A copy of the security and operations plan can be found in applicant's materials in Attachment D. The Building Services Division and Police Department review and approval have been included as a condition of approval and the final document is to be recorded with the City Recorder's office.

**Finding:** The security and operations plan as proposed by the applicant meets this portion of the standard and planning staff does not recommend any additional changes to the document. The plan will need Building Services Division and Police Department review and approval prior to the document being recorded with the City Recorder.

21A.36.300.D.1.b. – Require a review and approval of the site and floor plan proposed for the premises by the Salt Lake City Police Department. Such review may require design features for the purpose of reducing alcohol related problems such as consumption by minors, driving under the influence, and public drunkenness;

**Analysis:** The proposed site and floor plan were forwarded to the Police Department for their review. No issues were mentioned.

**Finding:** Staff finds that this portion of the standard has been met.

21A.36.300.D.1.c. – Require buffering where a tavern, social club, dining club, brewpub, or microbrewery abuts a residentially zoned parcel. Said buffering shall include vegetative landscaping or walls along any property line or within any required yard area on the lot where the premises are located;

**Analysis:** The building in which the social club sits abuts residentially zoned property along the west, south and east property lines. The 650 square feet social club area occupies a small portion of the 3,561 square feet restaurant space of the existing building. The social club sits within the restaurant structure. The social club area occupies a northeast corner of the interior space of the restaurant and is adjacent to the east wall of the building. The east wall of the building has no window openings. The space and the walls of the building provide a buffer between the social club and the residential properties. The walls of the existing building are approximately 4 feet from the east residential property, 42 feet from the south residential property and 80 feet from the west residential property.

**Finding:** Staff finds that this portion of the standard has been met given the circumstance of the social club only occupying a small portion of the building. The majority of the building will be used as a restaurant retail uses, which are permitted uses.

21A.36.300.D.1.d. – Require that landscaping be located, and be of a type, that cannot be used as a hiding place;

**Analysis:** The social club area is in a small interior space within the building and is part of the existing development which has landscaping in place. Existing landscaping in open areas consist of small ornamental plants and grasses. Larger landscape materials are located along the perimeter of the parking lot adjacent to fencing. It would be difficult for this type of landscaping to be used as a hiding place.

**Finding:** The proposed landscaping is sufficient for the proposed project and should be maintained. Staff feels that this portion of the standard is met.

21A.36.300.D.1.e. – Require that the exterior of the premises be maintained free of graffiti, including the main building, any accessory buildings or structures, and all signs. Graffiti shall be removed from the exterior of the premises within forty-eight hours, weather permitting.

**Analysis:** The applicant has stated in the security and operations plan that graffiti will be removed within the required 48 hours, weather permitted.

**Finding:** This portion of the standard is met and is also a stated condition of approval.

21A.36.300.D.2.a - Limit the size and kind of signage located on the outside of any building in conformance with Chapter 21A.46 of this title;

**Analysis:** The applicant has not proposed any signage at this time. Any new signage must conform to the requirements of the sign regulations in Chapter 21A.46.

**Finding:** Staff finds that this portion of the standard is not applicable.

21A.36.300.D.2.b. – Require parking area lighting to produce a minimum footcandle that provides safe lighting for pedestrians, but does not intrude on residents' enjoyment of their homes;

**Analysis:** The applicant has indicated he intends to utilize the existing lighting on the premises. Lighting located on the building and parking lot lighting is located on the perimeter landscaped areas and projects into the parking lot should be shielded in order to direct the light downward as a condition of previous development approval of the existing site.

**Finding:** A condition of approval to shield the current lights from any residential property would mitigate any negative impact from lighting on the adjoining properties. Staff finds that with this condition, this portion of the standard has been met.

21A.36.300.D.2.c. – Consider the proposed location of an outdoor smoking area in the security and operations plan and the potential effect on neighboring residences, businesses, and buildings and designating a new area if the potential effects of the area in the security and operations plan appear to adversely affect neighboring residences, businesses, and buildings.

**Analysis:** An outdoor smoking area has been provided more than 25 feet from the building into the parking lot, next to the garbage receptacle enclosure, and about 15 feet from the rear property line. The proposed outdoor smoking area has been located in this area to minimize impact to adjoining neighboring residences. This area is located adjacent to the rear yards of the residences to the south. The adjacent properties have detached garages located near the property line at this location.

**Finding:** The proposed smoking area has been located to minimize impact to adjoining businesses and neighboring residents. Staff does not feel that a condition of approval could be included that would better mitigate the impact of the smoking area. The proposed area appears to be the location with the least amount of impact and therefore, staff finds that this portion of the standard is met.

2. The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;

**Analysis:** The property is zoned Residential / Mixed Use - RMU-35. The use is permitted as a conditional use subject to specific Alcoholic Related Establishment requirements. The proposed social club is proposed in a small portion of an existing restaurant with brewing capabilities. The restaurant serves alcohol to dining patrons. Restaurants are permitted uses and considered compatible with surrounding uses. Serving alcohol directly to patron within the same establishment would not bring the use to a level of incompatibility than already exists for the compatible use. The proposed social club is similar to businesses that operate on the property.

**Finding:** The social club is compatible with the surrounding uses. The social club area is approximately 650 square feet and its small scale fits the surrounding neighborhood. The analysis of other conditional use standards identified several conditions of approval that will further the compatibility between this use and surrounding uses. This standard is met.

3. The use is consistent with applicable adopted city planning policies, documents, and master plans; and

**Analysis:** The Avenues Community Master Plan designates this property as Mixed Use. Salt Lake City Ordinance No. 79 of 2010 amended the Avenues Master Plan future land use map of the Avenues Master Plan for the subject property from single family residential to mixed use. The property was also zoned to the RMU-35 classification with the adoption of the above ordinance. The zoning is compatible with the master plan designation.

**Finding:** The use is consistent with the adopted Avenues master plan and the proposed use is listed as a conditional use in this zoning district.

4. The anticipated detrimental effects of a proposed use can be mitigated by the imposition of reasonable conditions. (Refer to Detrimental Impacts Chart for details)

**Analysis:** Zoning Ordinance section 21A.54.080.B identifies specific items that may determine what constitutes a detrimental effect. In determining a detrimental effect, the items discussed below in 21a.54.080B Detrimental Effects Determination shall be complied with.

**Finding:** As identified in the Detrimental Effects chart below that evaluation of the criteria related to the proposed social club conditional use; the rationale and findings show that the proposed social club conditional use complies with the specific detrimental effects determination criteria for conditional uses.

**21a.54.080B: Detrimental Effects Determination:** In analyzing the anticipated detrimental effects of a proposed use, the planning commission, or in the case of administrative conditional uses, the planning director or designee, shall determine compliance with each of the following:

Criteria	Finding	Rationale
1. This title specifically authorizes the use where it is located	Complies	An alcohol, social club (2,500 square feet or less in floor area) is listed as a conditional use in the RMU-35 zone
2. The use is consistent with applicable policies set forth in adopted citywide, community, and small area master plans and future land use maps	Complies	The use is located in an area zoned and designated by the associated master plan as “mixed use”. See finding in conditional use standard 3 above.
3. 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	Complies	The use is compatible in intensity, size, and scale to existing commercial uses in the area. The site consists of commercial uses and the proposed social club is part of an existing restaurant. The proposed social club will be incorporated within the existing building footprint. The building’s exterior will not be modified to accommodate the proposed conditional use.
4. The mass, scale, style, design, and architectural detailing of the surrounding structures as they relate to the proposed have been considered	Complies	No structural additions will be made to the existing building. The proposed use will share the restaurant kitchen and restrooms spaces of the existing Avenues Proper Restaurant. There will not be any change to the exterior of the building or site. The existing building is a one story brick structure and the lot contains hard surface parking and perimeter landscaping and fencing. The surrounding area consists of numerous brick structures. The existing building fits in with the 1-2 story buildings on the block on which it is located.
5. Access points and driveways are designed to minimize grading of natural topography, direct vehicular traffic onto major streets, and not impede traffic flows	Complies	The proposed use will have vehicle access to an existing parking lot with an established driveway that has been used for previous development. The proposal will have no traffic impact above the capacity of the existing use and the restaurant use.
6. The internal circulation system is designed to mitigate adverse impacts on adjacent property from motorized, non-motorized, and pedestrian traffic	Complies	The existing parking lot is designed to provide safe maneuvering of motor vehicles. The driveway is located in area that provides drivers with clear views of pedestrians and bicycles. Internal circulation has been designed to accommodate the existing uses and will accommodate the proposed use.
7. The site is designed to enable access and circulation for pedestrian and bicycles	Complies	The existing site has off-street parking, driveway ingress and egress, sidewalks that connect the interior of the property to the public sidewalks on 8th Avenue and direct access from the building to the 8th Avenue public sidewalk. As identified in the Transportation Division review comment in Attachment H the site has the required parking and bike rack facilities.
8. Access to the site does not unreasonably impact the service level of any abutting or adjacent street	Complies	The proposed use will not increase off street parking demand above what is required for the existing uses on the site therefore the with street level of service on the street will not be unreasonably impacted above the existing level of service due to the proposed use.
9. The location and design of off-street parking complies with applicable standards of this code	Complies	The off-street parking is on an established parking lot. The location and design of the parking lot is legally established with the existing development and meets

		the zoning standards.
<b>10. Utility capacity is sufficient to support the use at normal service levels</b>	<b>Complies</b>	Use has access to all necessary utilities which are in place for the existing restaurant use.
<b>11. The use is appropriately screened, buffered, or separated from adjoining dissimilar uses to mitigate potential use conflicts</b>	<b>Complies</b>	The existing site is an established development and the proposed use is to be incorporated within the existing restaurant. The site meets the landscaping and screening requirements for the RMU-35 zone. The landscape requirements for alcohol related uses are also met by the existing site improvements in place.
<b>12. The use meets City sustainability plans, does not significantly impact the quality of surrounding air and water, encroach into a river or stream, or introduce any hazard or environmental damage to any adjacent property, including cigarette smoke</b>	<b>Complies</b>	The proposed use meets city sustainability plans by encouraging patrons to walk or ride their bikes to the site. There will be no anticipated negative impacts that significantly affect the surrounding environment. The applicant proposes to provide an outdoor smoking area located in the parking lot near the trash receptacle structure and will be subject to the standards of the Salt Lake County Health Department.
<b>13. The hours of operation and delivery of the use are compatible with surrounding uses</b>	<b>Complies</b>	The existing restaurant use has hours of operation range from 10:30 am to 12:00 am and with the social club will be open until 1:00am on Friday and Saturday. The proposed social club will maintain similar hours as the restaurant and would be compatible with the surrounding uses. Hours of operation of alcohol related uses are also regulated by the State of Utah. The hours proposed meet the State requirements.
<b>14. Signs and lighting are compatible with, and do not negatively impact surrounding uses</b>	<b>Complies</b>	Signs and lighting are in place for the existing restaurant and meet applicable Zoning Ordinance requirements. As a condition of approval the applicant will ensure that lighting is shielded from abutting residential properties.
<b>15. The proposed use does not undermine preservation of historic resources and structures</b>	<b>Complies</b>	There are no historic sites or features on property.

## **ATTACHMENT G: PUBLIC PROCESS AND COMMENTS**

Notice of the Planning Commission hearing was sent to property owners and tenants located within 300 feet of the subject property on August 14, 2014.

The subject property was posted on August 14, 2014 with a sign indicating that a public hearing regarding the property is scheduled for August 27, 2014.

The proposal was presented to the Avenues Community Council on August 6, 2014.

There was a mix of support and opposition for the proposed social club use. Concerns raised were:

- That the use is not appropriate there should not be drinking only establishments in a residential neighborhood.
- The use will bring drunkenness and drug related crime into the neighborhood.
- If allowed, the use will expand and the restaurant will become just a bar.

# **ATTACHMENT H: DEPARTMENT REVIEW COMMENTS**

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## **Engineering**

No objection to the proposed CUP. It is recommended that the property owner grind the uneven joint in the sidewalk to mitigate the tripping hazard.

## **Transportation**

As shown on Sheet G0.0, notes the required parking, ADA and bicycle stalls, as required.

## **Zoning**

The Building Services Division previously issued a permit for a restaurant producing beer in batch sizes less than (7) U.S. barrels (31 gallons). Currently, the applicant is seeking conditional use approval for a Social Club. Social Clubs and Dining Clubs with 2,500 square feet or less in gross floor area are allowed as a conditional use in the RMU-35 zone. The Building Services Division has the following comments related to zoning.

- 1) This establishment is approximately 3,500 square feet and exceeds the maximum allowable 2,500 square feet of floor area allowed in the RMU-35 zone. Chapter 21A.62, states that:

“Gross floor area” (for determining size of establishment) means the sum of the gross horizontal area of all floors of the building measured from the exterior face of the exterior walls or from the centerline of walls separating two (2) buildings. The floor area of a building shall include basement floor area, penthouses, attic space having headroom of seven feet (7') or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses. Space devoted to open air off street parking or loading shall not be included in floor area.

- 2) If issues related to size of establishment are resolved a building permit will be required which addresses the following zoning issues:

Construction drawings for the change of use shall be provided along with a recorded copy of the security and operations plan indicating compliance with Section 21A.36.300 for alcohol related establishments.

## **Fire**

Change of occupancy items is required.

## **Planning**

On Jun 4, 2014, at 5:17 PM, "Paterson, Joel" <[joel.paterson@slcgov.com](mailto:joel.paterson@slcgov.com)> wrote:

Wilf,

I talked with Larry Butcher about this today. The Zoning Ordinance defines social club by referring to a definition in State Code. Larry and I are having problems finding the actual definition is the State Code. However, We both agree that our ordinance simply limits a social club in the RMU-35 to 2,500 sf or less is size but the code does not define what is included in the size requirement. The floor plan shows that the club will be separated from the restaurant by a door which would allow for controlled access. I don't think we can say that the proposed social club exceeds the 2,500 sf requirement simply because the proposed club is adjacent to a restaurant and the club would share a kitchen and bath rooms. Even if the shared kitchen space is included in the size calculation with the club, the area is under 2,500 sf. Because Mr. Tendick's proposal is for a social club that is well under the 2,500 sf limit we should process the conditional use application.

JOEL PATERSON, AICP  
Planning Programs Coordinator

# **ATTACHMENT I: MOTIONS**

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### **Commission Options**

If the project is approved, the applicant will need to comply with any conditions made as part of the approval before the Planning Division will sign off on a business license. Typically, conditions are to be met prior to issuance of a building permit, but the applicant has already obtained a building permit to do all of the improvements inside the building for the existing restaurant. Should the project be approved and it is not appealed, the applicant will need to apply for a business license. After that, the applicant will need to obtain approval from the Utah Department of Alcoholic Beverage Control.

A proposed conditional use shall be denied if:

1. The proposed use is unlawful; or
2. The reasonably anticipated detrimental effects of the proposed conditional use cannot be substantially mitigated as proposed in the conditional use application or by the imposition of reasonable conditions to achieve compliance with applicable standards set forth in this section.

The use is an allowed conditional use in the zoning district in which it is located. It would not be considered an unlawful use. The potential impacts of the proposed tavern on the community will likely be mitigated through conditions of approval when legally feasible. As stated previously, the hours of operation for the proposed tavern itself cannot be regulated by the City.

### **Potential Motions**

The motion recommended by the Planning Division is located on the cover page of this staff report. The recommendation is based on the above analysis. Conditional uses are administrative items that are regulated by State Law as well as City Ordinance. State law *10-9a-507 Conditional Uses* states that “a conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.” If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. If the Planning Commission determines that this is the case, then the Planning Commission must make findings related specifically to one of the standards below, identify the reasonably anticipated detrimental effects, and find that the detrimental effects cannot be reasonably mitigated.

**Consistent with Staff Recommendation:** Based on the testimony, plans presented and discussion by the Planning Commission, I move that the Planning Commission approve PLNPCM2014-00386 conditional use to allow the operation of a new social club, located at approximately 376 8th Avenue. Due to the potential for detrimental impacts created by the proposal identified in this report, staff recommends the Planning Commission applies the following conditions to the project:

1. That the security and operations plan be approved by the Salt Lake City Police Department and Building Official, before being submitted for recordation with the City Recorder's office. The plan will need to be recorded before a business license is issued.
2. Obtain a valid license issued by the Utah state division of licensing, and a valid business license issued by the city.
3. Ensure that exterior lighting is shielded from the abutting residential property to prevent the lighting from being a nuisance.

**Not Consistent with Staff Recommendation:** Based on the testimony, plans presented and the following findings, I move that the Planning Commission deny the conditional use to allow the operation of a new social club, located at approximately 376 8th Avenue. The proposed conditional use will create



detrimental effects, which cannot be reasonably mitigated. Therefore, the proposed conditional use is not compliant with the following standard or standards:

1. The use complies with applicable provisions of this title;
2. The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;
3. The use is consistent with applicable adopted city planning policies, documents, and master plans; and
4. The anticipated detrimental effects of a proposed use can be mitigated by the imposition of reasonable conditions.