

Anya Grahn

From: Sanford Melville <smelville@outlook.com>
Sent: Monday, September 25, 2017 11:29 AM
To: Adam Strachan; Steve Joyce; Laura Suesser; Melissa Band; Douglas Thimm; John Phillips; Preston Campbell
Cc: Anya Grahn; Bruce Erickson; Sandra Morrison; jstafsholt@aps-tech.com
Subject: Comments Re Work Session - 638 Park Avenue - City Council Remand of a CUP for a Private Event Facility - September 27, 2017
Attachments: Analysis of Council Remand.docx

Dear Planning Commissioners,

The Staff report for the Kimball Private Event Facility CUP work session lightly references the Remand letter issued by City Council on April 14, 2017. The Remand letter is included as Exhibit A of the Packet (Packet pp. 213-215), but its content is only briefly discussed in the Staff report on Packet p. 205. Council remanded the Private Event Facility CUP for failure to meet the requirements of LMC 15-1-10, both for the indoor and outdoor portions of the proposed event facility.

I believe the starting point for this CUP review must be Council's Remand letter. Accordingly, I have prepared a brief 4-page analysis of the Remand letter on a paragraph by paragraph basis including LMC references for your review. **This analysis is attached for your consideration.**

In summary, it seems to me that the fundamental issue with this Private Event Facility is the "outdoor" component. A CUP would not be required if this was a smaller indoor Private Event Facility. Why is it in the public's interest to grant a CUP for all time for this large Private Event Facility without further City review? Why not require an Admin-CUP for outdoor private events at this facility? Why should the City relinquish control of large private events (and the related noise, traffic, parking issues) for the benefit of this one business?

I urge the Planning Commission to carefully consider City Council's many concerns, as stated in Council's Remand letter, about this CUP and act to mitigate its impacts accordingly.

Thank you for your consideration.

Sanford Melville
527 Park Ave.

Analysis of City Council Remand to the Planning Commission on the Appeal of a Private Events Facility at 638 Park Avenue (Historic Kimball Garage)

The starting point for this CUP review must be the City Council's Remand letter itself, dated April 14, 2017, which is found at pp. 213-15, Exhibit A, of the Packet. Council remanded the Private Event Facility CUP for failure to meet the requirements of LMC 15-1-10, both for the indoor and outdoor portions of the proposed event facility. Council's Remand provided specific directions which are stated in the numbered paragraphs of the Remand letter. These are summarized below under the six specific topics of unmitigated noise, traffic, parking, incompatibility, visibility, and required City monitoring.

It should be noted that this proposed CUP is for the operation of a permanent indoor/outdoor rooftop private event center at the site of the historic Kimball Garage, adjacent to a residential neighborhood. The occupant capacity for this private event facility is up to 480 people. The event center has a large outdoor component – it includes as part of the event facility an outdoor rooftop terrace of 2,530 square feet over the historic Kimball garage, plus a 477 square foot outdoor balcony overlooking the Heber Avenue-Main Street corner – over 3,000 square feet of outdoor event space. Typical operating hours for this nightly event center will be between 8am and midnight, with outdoor speakers and music allowed 11am to 10pm.

The attached photo (see Attachment 1 hereto) shows the site at the corner of Heber and Park Avenues of the Kimball Garage building. The proposed CUP for outdoor event Use is on an open deck on the roof of the building.

1. Unmitigated Noise Impacts from Outdoor Rooftop Event Space

In Remand paragraphs 3 & 15, Council found that the impacts from noise from the proposed outdoor second level event space were not mitigated, and did not meet the CUP criteria of LMC 15-1-10(E)(12). This included noise from amplified outdoor music and human chatter, and Council found that “the glass railing and open space on the deck would amplify the noise and create noise impacts on the roof deck which cannot be mitigated.” Remand para. 4 & 5.

Council remanded the CUP for further review by Planning Commission to mitigate the impacts of sound and noise created by the use of the outdoor space so that these sounds do not unduly impact neighbors, and suggested a number of specific restrictions on use. Remand para. 20 & 21. Council asked Planning Commission to *closely* review impacts related to CUP criteria 12 (i.e., noise). Remand para. 22 & 25. Council stated it “is unable to find a way to mitigation for noise”, and asked Planning Commission to find a better way to mitigate or to restrict the event usage to limit the noise. Remand para. 25 & 27.

The applicant has provided a noise management plan (See Exhibit D-1 of the Staff report). In my opinion this complex plan will be unworkable and ineffective, it relies on neighbors to complain, and will not prevent intrusive noise from events on the open rooftop deck.

2. Unmitigated Traffic Impacts and Lack of Loading Zone

In Remand para. 6 & 15, Council found that the traffic impacts of the proposed use had not been mitigated, and did not meet the CUP criteria of LMC 15-1-10(E)(2), (4), (6), and (13). Council found the “impacts included likely bottlenecking on the corners of Heber Avenue and Main Street as well as Heber Avenue and Park Avenue, particularly during peak load-in and load-out times.” Remand para. 6. Council also found that “unmitigated impacts included the lack of a load-in and load-out zone or a clear traffic mitigation plan for events.” Remand para. 8.

Council remanded for further review, including of the Indoor use of the private event facility, and required additional mitigation evaluation by the Planning Commission on loading areas and traffic. Remand para. 16. Council also remanded the CUP for further review to mitigate the impacts due to traffic from deliveries loading and unloading for events and load in/load out areas, and due to patron use including loading and unloading and pick up. Remand para. 19. Council requested Planning Commission to “closely” review the impacts related to CUP criteria 2, 6, and 13 (i.e., traffic circulation, and load/unload zones), and Council stated that “More specific conditions are needed to mitigate current [loading traffic] impacts.” Remand para. 22 & 24.

As noted in the Staff report (p. 210), the applicant has not proposed any new information to mitigate traffic impacts.

3. Unmitigated Increased Parking Demand

In Remand para. 7 & 15, Council found that the impact of the increased parking demand from the proposed Events Facility use was not mitigated, and did not meet the criteria of LMC 15-1-10(E)(5).

Council remanded the CUP for further review of the private event facility, including the indoor use, and required additional mitigation evaluation by Planning Commission on the parking issue. Remand para. 16. Council asked Planning Commission to *closely* review and address impacts related to CUP criteria 5 [parking], and stated that “more specific conditions are needed to mitigate current impacts.” Remand para. 22 & 24.

As noted in the Staff report (p. 210), the applicant has not proposed any new information to mitigate parking impacts.

4. Incompatibility of Use of Roof Deck as Event Space

In Remand para. 9 & 10, the Council found that the proposed use of the second level roof deck as Private Event Space was not compatible with the surrounding residential uses, since it was very visible due to its geographic location at the bottom of the street and too public and impactful to the surrounding neighborhood. See LMC 15-1-10.

Council remanded the CUP for further review by the Planning Commission to mitigate the impacts of the Outdoor space on compatibility, suggesting a number of restrictions on use. Remand para. 21.

The applicant has provided list of neighboring businesses as a point of comparison (See Exhibit D-2 of the Staff report). It is important to note that none of the neighboring businesses are commercial private event facilities and they would all require an Admin-CUP for a large private event.

5. Visibility of Use of Roof Deck

Council found that the use of the proposed roof deck on the second level was very visible due to its geographic location at the bottom of the street, and that such use conflicted with the BOA's findings that activities on the deck should be visually minimized. Remand para. 10 & 11. (Also see attached photo of the Kimball Garage site - Attachment 1).

Council suggested that possible mitigation of impacts could include limitation on the number of days and times the roof deck would be in use, and on-going monitoring with the Planning Commission to ensure compliance with conditions of approval. Remand para. 12 & 13. Council also suggested mitigations including "reducing the visibility of the roof deck", and "at a minimum a strong re-evaluation of the design" to reflect the BOA's requirements in their decision. Remand para. 14, 17, 21, & 26.

The applicant's current proposal has withdrawn the request for a CUP for the tent. The applicant will go through an Administrative CUP process for tents. However, this does not address the rest of the visibility issues of the proposed use of the rooftop deck mentioned by Council, and which concern was an important part of the BOA's findings.

6. Unrestricted Use of Roof Deck and Monitoring by City

Council found that the use of the proposed second level roof deck was too unrestricted. Remand para.10. Council remanded the CUP for further review by Planning Commission to mitigate the impacts of the Outdoor space, such as further limits on its use and to focus on strong mitigation of impacts. Remand para. 21. Council also suggested on-going monitoring with the Planning Commission to ensure compliance with conditions of approval, and affirmative review by the City incrementally by the use, and more frequently than once per year. Remand para. 13 & 23. Council was concerned that it should not be up to the neighbors to file complaints to assure compliance with any conditions of approval. (See Minutes of Council hearing.)

The applicant has not proposed any new information to mitigate this impact.

Attachment 1 - Kimball Garage

