

638 Park Ave CUP ISSUES (Not addressed or mitigated)

USAGE

- What is the Usage?
- Liquor Permitted, Where? What hours? Which Days/ week?
- Special Events Permit Required?
- Master Festival License?

Live Music Allowed?

- Need Special Event Permit?
- Need MFL?
- Allowed 11AM-10PM 365 days per year

Amplified Music Allowed?

- Hours 11AM- 10PM 365 days per year.

What is usage on Heber Ave Level?

- CUP Private Event Planning Commission

25. The LMC defines this as a facility where the primary Use is for staging, conducting, and holding Private Events. Private Events are events, gathering, party, or activity that is closed to the general public or that requires an invitation and/or fee to attend. **A Private Event Facility is a Conditional Use in the Heber Avenue Sub-zone and is not permitted in storefronts along Heber, Park, and Main Street.**

City Council Remand March 30, 2017 (14+ Months Ago)

- Council Remanded on 27 points
- Point #15: failure to mitigate required CUP requirements 2,4,5,6,7,10,11,12,13, &16.
- CUP requirements 3,9,14, & 15 are not applicable.
- The developer's project only meets CUP criteria, 1 & 8.
- All 16 criteria are required for a CUP approval and they are listed below as a direct cut & paste from the applicable LMC.

CUP Requirements

- **REVIEW**. The Planning Department and/or Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items:
 1. size and location of the Site; **PASSED**
 2. **FAILED:** traffic considerations including capacity of the existing Streets in the Area;
 3. utility capacity, including Storm Water run-off; **N/A**
 4. **FAILED:** emergency vehicle Access;
 5. **FAILED:** location and amount of off-Street parking;
 6. **FAILED:** internal vehicular and pedestrian circulation system;
 7. **FAILED:** Fencing, Screening, and landscaping to separate the Use from adjoining Uses;
 8. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots; **PASSED**
 9. usable Open Space; **N/A**

CUP Requirements

10. **FAILED:** signs and lighting;
11. **FAILED:** physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing;
12. **FAILED:** noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site;
13. **FAILED:** control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas;
14. expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities; N/A
15. within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site; and N/A
16. **FAILED:** reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding.

CUP Requirements

- Every one of the 16 items must be mitigated to grant a CUP. According to the highest elected body in this city, this project fails to mitigate 10 of these items. Failure to mitigate any one of these ten is a requirement to deny the CUP. **THIS CUP MUST BE DENIED!**
- The 13 month late response from the developers is woefully inadequate on all 10 of these CUP points.
- Especially the noise “study”. Study should be rejected.
- This incomplete and late response shows the developers intent, attitude and disrespect to the neighborhood and the town they expect to dominate with their events.

Private Event vs. Special Events (License Required)

SPECIAL EVENTS: as defined by the LMC, are those events, public or private, with **either public or private venues**, requiring City licensing **beyond the scope of normal Business and/or liquor regulations** or creates public impacts through any of the following:

- (A) Use of City personnel; or
- (B) Impacts via disturbance to adjacent residents; or
- (C) Traffic/parking; or
- (D) Disruption of the normal routine of the community or affected neighborhood; or
- (E) Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.

Applicant will create 4 of these 5 impacts for every event.

Let's hope all these impacts are not considered "normal Business"

They require a Special Event Permit (not a business license).

Weddings are special events. Ask your wife!

Occupancy Mitigated?

- In 2015, the Kimball hosted an event with an occupant load of 697 people. The applicant finds that the proposed Private Event Facility will have an occupancy load of 480 people, a 32% reduction from past event occupancy loads.
- Really! 1 event in one year (probably had a special event permit?)
- 2015 Kimball Impact of 697 people
- CPP Potential impact $480 \text{ people} \times 365 = 175,200 \text{ people}$
 - Allowing 175,000 people a year is not a 32% reduction
- This 175,000 people is not just what you are allowing.
It is what you are incenting!

Noise Ordinance Enforcement

- [6-3-3 Jurisdiction](#)
- All noise control in this Chapter shall be subject to the direction and control of the Police Department, Building Department and City Manager.
- [6-3-9 Noise Levels](#)
- The making and/or creating of excessive or unusually loud noise or sound within the City as identified in the following Subsection (A), or identified and measured in the manner prescribed in Subsection (B), or in violation of restricted hours as outlined in Subsection (C) is unlawful.
- (A) On the public right-of-way or upon public property, from the source or device as to be plainly audible at a distance of fifty feet (50') or on private property, as to be plainly audible at the property line.
- (B) The noise shall be measured at a distance of at least twenty-five feet (25') from the source of the device upon public property or within the public right-of-way or twenty-five feet (25') from the property line if upon private property, and shall be measured on a decibel or sound level meter of standard design and quality operated on the "A" weighing scale. A measurement of sixty-five (65) decibels shall be considered to be excessive and unusually loud.
- (C) Hours of restriction are as follows:
 - Residential- 10 pm to 7 am Monday through Saturday
Not before 9 am Sunday
 - Commercial- 10 pm to 6 am- Monday through Saturday

Impossible for the applicant to comply with the current PC Noise Ordinance!

It would require continuous enforcement...

Possible Real World Mitigations

- Limit number of days per week/ month/ year that allow any outdoor occupancy.
- **Current PC example: OPERATION DAYS/HOURS/MONTHS.** This stage may be programmed a maximum of two (2) days per week from June 1st through Labor Day. Programming is limited to a maximum of three (3) hours per day and shall begin no earlier than 12:00 Noon and conclude no later than 8:30 p.m. Programming of this stage shall not conflict with any City-sponsored or duly licensed Special Event as approved by the Special Events Department, including but not limited to dates reserved for the Park City Arts Festival. A timer device will be installed that shuts the power of the stage and sound system off at 8:30 p.m.
- **TYPE OF MUSIC.** Solo and duo acts with microphones for vocal, with prerecorded music during breaks. For amplified events, the program manager shall be responsible to ensure that the sound system maintains the sound...
- Limit times for outdoor occupancy:
 - 8AM – Midnight 365 days per year is outrageous!
- Do not allow any live music, ever!
- Only allow loudspeakers indoors!
- Lower Occupancy 522 far exceeds Old Town neighborhood limits
- Limit hours for loudspeakers to earlier than 10PM. (Most Old Town Residents cool their houses with open windows. No A/C)
- Meet with the PC Police Dept. to learn how they do/ do not enforce the current noise ordinances.
- Equip the PC Police with noise meters.

Possible Real World Mitigations (cont)

- Lower the number of days the tent is allowed. (or eliminate it)
- Expressly require that the heaters, tables, chairs etc... are removed every night.
- Enforce the code:
 - No Private events on groundlevel ever: Heber or Main!
- Increase proper signage for parking
- Enforce parking regulations. Speak to police about how they do not enforce the parking regulations near that venue and why?
- Create stringent load/ unload requirements to keep traffic on Heber Ave flowing (especially critical for PC buses).
- Create rules regarding Uber and other unlicensed “taxi services”
- Have PC Police assigned for start/ end times of events
 - Traffic control & parking enforcement

Possible Real World Mitigations (cont)

- Do not grant “Public Outdoor Music Plaza” Status to this private venue.
- Enforce the below statute:
- [4-8A-12 Plaza Licenses In Lieu Of Administrative Permit For Outdoor Music And Outdoor Speakers](#)
- The Special Event Permits granted under this Chapter are in lieu of any administrative conditional permit (CUP) for outdoor music, including outdoor speakers, pursuant to Title 15 of the Municipal Code, Land Management Code. **The Planning Department shall not issue any outdoor music permits in the Historic Commercial Business (HCB) zoning district north of Heber Avenue. The City may still issue outdoor music permits in conjunction with an approved Special Event Permit.**