



Provo City Planning Commission Administrative Hearing

Report of Action

April 6, 2016

ITEM 1 Heather Nielsen requests approval of a Conditional Use Permit for an Art Gallery (Use #5947) in a historic building located at 212 North 500 West, in the RC (Residential Conservation) Zone. *Timp Neighborhood*. 16-0001CUP, Josh Yost, 801-852-6408

The following action was taken on the above described item by an Administrative Hearing Officer, acting in behalf of the Provo City Planning Commission, on April 6, 2016:

Approve

Administrative Hearing Officer: Brian Maxfield

Includes facts of the case, analysis, and conclusions outlined in the Staff Report, with any changes noted. Administrative Hearing Officer determination is consistent with the Staff analysis and determination.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

OVERVIEW

Heather Nielsen requests a conditional use permit Conditional Use Permit for an Art Gallery in the William D. Roberts Home located at 212 North 500 West. This property has been used for a number of commercial businesses on the main floor and currently contains a residential dwelling unit on the second floor. The Landmarks Commission is tasked by ordinance to review land use applications pertaining to properties listed on the Provo Landmarks Register. The commission will review the suitability of the application to the historic property and provide a recommendation to the appropriate decision making body. In this case, the Landmarks Commission will provide a recommendation to the Planning Commission which will hear the conditional use application and make a final decision.

FINDINGS OF FACT

Section 16.02.020, Provo Code establishes the duties and powers of the Landmarks Commission including the following. (4) Review all applications for rezoning, conditional use permits, and variances which apply to designated or formally nominated, historic resources. Recommendations of the Commission shall be forwarded to the Planning Commission, Board of Adjustment, or Municipal Council, depending on which body makes the final decision on the matter. The art gallery and studio requested under the Conditional Use Permit is limited to the interior of the house and no changes are proposed to the exterior.

STAFF ANALYSIS

Because no changes are proposed to the exterior of the house or property to accommodate the proposed use, staff has no concerns with the application.

STAFF RECOMMENDATION

Staff recommends that the Landmarks Commission forward a recommendation of approval to the Planning Commission for a Conditional Use Permit for an Art Gallery (Use #5947) in a historic building located at 212 North 500 West, in the RC (Residential Conservation) Zone with the following conditions.

1. That the applicant apply for and receive a Certificate of Appropriateness for any alterations, maintenance or other work involving the exterior of the house or site as required by Provo Code 16.05.050.

NEIGHBORHOOD AND PUBLIC COMMENT

Delete all that do not apply The Neighborhood Chair was not present or did not address the Administrative Hearing Officer during the hearing. Neighbors or other interested parties were not present or did not address the Administrative Hearing Officer.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Administrative Hearing Officer included the following:

1. The applicant did not address the hearing.



Administrative Hearing Officer

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report for further detailed information. The Staff Report is a part of the record of the decision of this item.

Administrative decisions of the **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees, to the Community Development Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Hearing Officer's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS



**Planning Commission
Staff Report
Conditional Use Permit
Administrative Hearing Date:
April 6, 2016**

ITEM 1 Heather Nielsen requests approval of a Conditional Use Permit for an Art Gallery (Use #5947) in a historic building located at 212 North 500 West, in the RC (Residential Conservation) Zone. **Timp Neighborhood**. 16-0001CUP, Josh Yost, 801-852-6408

Applicant: Heather Nielsen

Staff Coordinator: Josh Yost

Property Owner: Heather Nielsen

Parcel ID#: 40880013

Current Zone: RC

General Plan Designation: Commercial

Acreage: .23

Number of Properties: 1

Number of Lots: 1

Total Building Square Feet: 3,080

Development Agreement Proffered: No

Council Action Required: No

Alternative Actions:

1. **Approve** the requested Conditional Use Permit, **with conditions**. *This action would be consistent with the recommendations of the Staff Report.*
2. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 20, 2016, 5:00 P.M.*
3. **Deny** the requested Conditional Use Permit. *The Planning Commission should state new findings.*

Current Legal Use: Commercial Unit and One-Family Dwelling

Relevant History: This application has been reviewed by the Landmarks Commission which has forwarded a recommendation of approval.

Neighborhood Issues: None noted.

Summary of Key Issues: The proposed conditional use complies with Provo Code 14.02.040 and does not include any alterations to the exterior of the building or to the site.

Staff Recommendation: Approve the Conditional Use Permit for an Art Gallery (Use #5947) in a historic building located at 212 North 500 West, in the RC (Residential Conservation) Zone.

OVERVIEW

Heather Nielsen requests a conditional use permit Conditional Use Permit for an Art Gallery in the William D. Roberts Home located at 212 North 500 West. This property has been used for a number of commercial businesses on the main floor and currently contains a residential dwelling unit on the second floor. The Landmarks Commission is tasked by ordinance to review land use applications pertaining to properties listed on the Provo Landmarks Register. The commission reviewed the suitability of the application to the historic property and has provided a recommendation of approval to the Planning Commission.

PLANNING REVIEW

1. Compliance with 14.02.040

The ordinance, in part, is as follows:

(1) The Planning Commission may, subject to the procedures and standards set forth in this Chapter, grant, conditionally grant, or deny an application for a Conditional Use Permit for uses allowed by the chapter for the applicable zone. The purpose of a Conditional Use Permit is to allow proper integration of uses into the community which may only be suitable in specific locations and may have potentially detrimental characteristics if not properly designed, located, and conditioned.

(2) The following standards shall apply to any request for a Conditional Use Permit:

(a) A proposed conditional use shall be granted unless the subject use will be detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity.

(b) A proposed conditional use shall be detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity:

(i) if the proposed use will cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, large gatherings of people, or other causes;

(ii) if the proposed use will unreasonably interfere with the lawful use of surrounding property;

(iii) if the proposed use will create a need for essential municipal services which cannot be reasonably met;

(iv) if the proposed use will in any other way be detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property in the vicinity.

(c) A change in the market value of real estate shall not be a basis for the denial of a proposed conditional use.

(d) If a part of a proposed conditional use is found to be contrary to the standards described in this section, the applicant may propose or consent to curative measures which will make the proposed use not contrary to the standards described in this section.

The proposed conditional use will not be detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity as analyzed with the above criteria as follows.

- i. the proposed use is not anticipated to generate dangerous amounts of vehicular traffic or parking or cause large gatherings of people. The proposed use is less intense than the photography studio use that formerly occupied the building.
- ii. the proposed use will not interfere with the lawful use of surrounding property as it will not generate any impacts readily evident to surrounding properties.
- iii. the proposed use will not create any additional need for essential municipal services.
- iv. there are no other anticipated detriments to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity.

2. Project Plan Approval

No project plan is required as no alternations are being made to the exterior of the building or to the site.

3. Design Review

Not applicable.

4. Landscaping

Not applicable.

5. Trash Container Enclosure

Not applicable.

6. Fencing

Not applicable.

7. Parking

Not applicable.

8. Signage

Not applicable.

9. Transitional Development Standards

Not applicable.

10. Design Corridor

Not applicable.

11. Other Concerns

None

CONCLUSIONS

The proposed conditional use meets the requirements of Provo City Code and should be approved.

RECOMMENDATION

Approve the Conditional Use Permit for an Art Gallery (Use #5947) in a historic building located at 212 North 500 West, in the RC (Residential Conservation) Zone.

CONDITIONS OF APPROVAL

1. The applicant must apply for and receive a Certificate of Appropriateness for any alterations, maintenance or other work involving the exterior of the house or site as required by Provo Code 16.05.050.

ATTACHMENTS

1. Property photograph.
2. Landmarks Commission Report of Action

ATTACHMENT 1

Property Photograph





Provo City Landmarks Commission
Report of Action
February 17, 2016

ITEM 2 Provide review and recommendation to the Planning Commission on the following application. Heather Nielsen requests approval of a Conditional Use Permit for an Art Gallery (Use #5947) in a historic building located at 212 North 500 West, in the RC (Residential Conservation) Zone. *Timp Neighborhood*. 16-0001CUP, Josh Yost, 801-852-6408

The following action was taken by the Landmarks Commission on the above described item at its regular meeting of February 17, 2016:

RECOMMEND APPROVAL

On a vote of 6:0, the Landmarks Commission recommended that the Planning Commission Council approve the above noted application.

Motion By: Matt Christensen

Second By: Jeff Ringer

Votes in Favor of Motion: Scott Campbell, Diane Christensen, Matt Christensen, Susan Fales, Jeff Ringer, Marian Wardle

Votes Opposed to Motion: None

Diane Christensen was present as Chair.

§ Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Landmarks Commission determination is generally consistent with the Staff analysis and determination.

RELATED ACTIONS

Conditional Use Permit 16-0001CUP, Hearing Pending.

STAFF PRESENTATION

The Staff Report to the Landmarks Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Landmarks Commission included the following:

Heather Nielsen requests a conditional use permit Conditional Use Permit for an Art Gallery in the William D. Roberts Home located at 212 North 500 West. This property has been used for a number of commercial businesses on the main floor and currently contains a residential dwelling unit on the second floor. The Landmarks Commission is tasked by ordinance to review land use applications pertaining to properties listed on the Provo Landmarks Register. The commission will review the suitability of the application to the historic property and provide a recommendation to the appropriate decision making body. In this case, the Landmarks Commission will provide a recommendation to the Planning Commission which will hear the conditional use application and make a final decision.

Section 16.02.020, Provo Code establishes the duties and powers of the Landmarks Commission including the following.

(4) Review all applications for rezoning, conditional use permits, and variances which apply to designated or formally nominated, historic resources. Recommendations of the Commission shall be forwarded to the Planning Commission, Board of Adjustment, or Municipal Council, depending on which body makes the final decision on the matter.

The art gallery and studio requested under the Conditional Use Permit is limited to the interior of the house and no changes are proposed to the exterior.

Because no changes are proposed to the exterior of the house or property to accommodate the proposed use, staff has no concerns with the application.

NEIGHBORHOOD AND PUBLIC COMMENT

The Neighborhood Chair was not present during the hearing. Neighbors or other interested parties were present or addressed the Landmarks Commission.

Jeremy King of 470 West 200 North stated he feels that an art gallery is one of the best possible uses he can imagine. He expressed his support for the applicant's proposal.

Marilyn Daniels 174 North 400 West expressed her support for the applicant's application.

CONCERNS RAISED BY PUBLIC

No concerns were raised by the public.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Landmarks Commission included the following:

Heather Nielsen explained that the proposed use of the building is for an art gallery for Glen Hopkinson. It will be a legacy gallery meaning that although it is a commercial gallery, it will not feature other artists.

LANDMARKS COMMISSION DISCUSSION

Key points discussed by the Landmarks Commission included the following:

Diane Christensen asked for clarification about the adequacy of parking for the proposed use. Staff explained that while the site does have adequate parking based on the applicable parking requirements, that the Conditional Use Permit hearing will analyze any adverse effects resulting from the proposed use including those related to parking.

Matt Christensen expressed his satisfaction at the thorough review process being conducted for this application.

Jeff Ringer asked staff to review the prior uses of the property. Staff explained that the property has been a mixed use commercial and residential property since the late 1970's.

Susan Fales asked for clarification regarding changes to the exterior of the building or site. Staff reiterated that there are no such changes proposed by the applicant.

Jeff Ringer stated that the application seems to be a very straight forward case.

Diane Christensen added that the proposed use is an awesome use of a historic building.



Landmarks Commission Chair



Director of Community Development

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Landmarks Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Landmarks Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Landmarks Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Landmarks Commission (items not marked with an asterisk) **may appeal** that decision to the Mayor, subject to the procedures in Section 3.06.010, Provo City Code.

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS