Provo City Planning Commission

Report of Action

February 08, 2023

*ITEM 1 David Kang requests Ordinance Text Amendments to Section 14.34.250(3) (Standards for Conditional Uses - Dance Halls) to expand the permitted area and reduce the distance from one- or two- family dwellings in the Downtown area. Downtown Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20220404

The following action was taken by the Planning Commission on the above described item at its regular meeting of February 08, 2023:

RECOMMENDED DENIAL

On a vote of 5:0, the Planning Commission recommended that the Municipal Council deny the above noted application.

Motion By: Melissa Kendall
Second By: Robert Knudsen
Votes in Favor of Motion: Melissa Kendall, Robert Knudsen, Lisa Jensen, Andre South, Jeff Whitlock
Lisa Jensen was present as Chair.

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

TEXT AMENDMENT
The text of the proposed amendment is attached as Exhibit A.

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.

CITY DEPARTMENTAL ISSUES
- The Coordinator Review Committee (CRC) has reviewed the application and expressed their concern.

NEIGHBORHOOD MEETING DATE
- No information was received from the Neighborhood District.

NEIGHBORHOOD AND PUBLIC COMMENT
- The Neighborhood District Chair was not present or did not address the Planning Commission during the hearing.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC
Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Rachel Whitlock expressed support for the proposal if the parking concerns could be addressed.

APPLICANT RESPONSE

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

- Mr. Kang provided a history of acquiring the property at 384 W Center and his plans for the site. He hopes it can be a benefit for downtown with the text amendment he has proposed.
- Potential tenants of the building at 384 W Center spoke to their proposal and ideas for the use of the building as a ballroom dance hall and rental hall for events.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Mr. Knudsen asked for staff to confirm the distance of the homes from the 384 W Center property and asked how the City monitors for noise. He also confirmed with staff that there was no feedback from the neighborhood on the text amendment request.
- Mrs. Jensen clarified that the buffer requirement in Section 14.34.250(3) also applies to the parking regulations for dance halls.
- The Commission discussed options for increased parking on the site, parking concerns for adjacent properties, and if there would be any other options for similar use of the building without the text amendments.
- There was concern that the amendments would apply to the entire downtown area and that it could cause issues for the adjacent neighborhoods.
- The Commission discussed competing interests of protecting residences downtown and economic growth downtown with each other and Keith Morey (Provo Economic Development).
- Noise concerns were not as relevant in considering this amendment, but parking and reducing buffers from homes makes it difficult to recommend approval for the proposal; even though the business idea at 384 W Center is supported.
- Possible decisions were discussed, including recommending part of the text amendment for approval, while not decreasing the buffer.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning 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 Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Community and Neighborhood Services Department, 330 West 100 South, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission'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

EXHIBIT A

14.34.250

Standards for Conditional Uses.

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(3) *Dance Halls.*

(a) In the construction of this Section the terms “public dance” and “dance hall” shall have the meanings set forth in Chapter 6.15, Provo City Code.

(b) A public dance shall be allowed in any nonresidential zone subject to the requirements of Chapter 6.15, Provo City Code; and provided, that not more than one (1) public dance may be held at the same location in each of the following time periods: June-August, September-November, December-February, and March-May.

(c) Dance Halls (including motion picture theaters, ice skating, roller skating and skate boarding) are subject to the following standards:

(i) Compliance with the requirements of Chapter 6.15, Provo City Code.

(ii) One (1) off-street parking space shall be provided for each four (4) occupants, based on the maximum occupancy load for the use, or as otherwise determined by the Planning Commission. The parking shall be in compliance with Section 14.37.080, Provo City Code, and if located off premises, shall comply with Section 14.34.320, Provo City Code, as a conditional use.

(iii) The parking lot shall be lighted sufficiently to provide safety to customers and clients. The amount of lighting shall be determined by the Provo City Energy Department.

(iv) In determining conveniently located parking, the Planning Commission shall consider:

(A) The visibility of the parking area from the building; and

(B) The lighting, existing physical development, and types of uses between the parking lot and the facility.

(v) Buildings to be used for such uses shall have frontage on an arterial or collector road, or have access to said road within three hundred (300) feet from the main entrance of the building.

(vi) No dance hall use shall be located closer than four hundred (400) feet to any public elementary or secondary school, or any one-family or two-family residence, measured in a straight line between the closest property lines of lots on which the respective uses are located, except as provided otherwise in Subsection (3)(c)(vii) of this Section.

(vii) A dance hall located within the area described in Subsection (3)(c)(vii)(A) shall not be located closer than ~~two~~one hundred (~~2~~100) feet from any one- or two-family dwelling, measured in a straight line between the closest property lines of lots on which the respective uses are located, except as provided in Subsection (3)(c)(vii)(B) of this Section.

(A) This Subsection (3)(c)(vii) applies to the area bounded by 100 East, 200 South, ~~3~~400 West, and 200 North.

(B) Subsection (3)(c)(vii) of this Section shall not apply to any one-family attached dwelling (condominium) unit located in a commercial building where:

(I) A dance hall is located; and

(II) Where an owners association exists to manage issues between all owners of property located within that building.

(C) Designated off-street parking may be located nearer than ~~two~~one hundred (~~2~~100) feet to a one- or two-family dwelling in the area described in Subsection (3)(c)(vii)(A) of this Section; provided, that:

(I) One (1) full time security person is on duty at the parking lot for each one hundred (100) automobiles parked;

(II) Parking lots will be closed and vacated within thirty (30) minutes of closing of the dance hall by dance hall security personnel; and

(III) The dance hall operator is responsible for control of noise, conduct and litter in the designated parking areas from one (1) hour before opening until one (1) hour after closing of dance hall operations.

(viii) After application is made for a conditional use permit, a neighborhood meeting shall be conducted prior to a public hearing. Such meeting shall involve the applicant, neighborhood chair, and representatives from the City. Notification of the meeting shall be given to property owners within five hundred (500) feet of the use at the expense of the applicant.

(ix) No musical instruments, stereophonic equipment, sound amplifier or similar device shall be operated in such a manner as to create a noise or vibration disturbance across a real property boundary. If such a device is plainly audible on property of another or within a building other than that within which the device is located, and if a complaint is made to the Police Department and verified by the Department that a noise disturbance exists, this shall serve as prima facie evidence of a violation of this requirement.

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