



Provo City Planning Commission

Report of Action

April 13, 2016

ITEM 2* Susan Christensen requests an Ordinance Text Amendment to Section 14.32 of the Provo City Code to allow for reuse of an existing commercial building in the Residential Conservation Zone. Although this application has city wide implications, the specific address for this request is 389 East 200 North. *Joaquin Neighborhood and City Wide Impact.* 15-00200A, Robert Mills, 801-852-6407

The following action was taken by the Planning Commission on the above described item at its regular meeting of April 13, 2016:

ACTION or RECOMMENDATION

On a vote of 6:0 (2 absent), the Planning Commission recommended forwarding a positive recommendation to the Municipal Council to approve the above noted application.

Motion By: Kermit McKinney

Second By: Brian Smith

Votes in Favor of Motion: Ross Flom, Deborah Jensen, Ed Jones, Kermit McKinney, Jamin Rowan, Brian Smith, Maria Winden

(Ross Flow 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.

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

- Although the ordinance text amendment will apply to the RC Zone throughout the City, only two sites have been identified that would be affected by the proposed amendment; the applicants' property at 397 East 200 North in the Joaquin Neighborhood and a similar property in the Franklin Neighborhood at 586 West 300 South. Both have existing residential structures with attached nonconforming commercial structures.
- Two additional uses will be added to the list of conditional uses permitted within the RC Zone as well as specific provisions regulating the structures wherein those uses can be located and operated.

- The proposed ordinance text amendment will not allow the construction of any new commercial structures; rather, it will only allow the reuse of existing commercial structures within the RC Zone.
- It is anticipated that any negative impacts to the neighborhood can be addressed adequately through the conditional use process.
- The suggestion to add the “Bicycle and parts” use was the suggestion of the neighborhood chair and committee members in the hope to allow the Provo Bicycle Collective to be a part of the Joaquin Neighborhood. The applicant was amenable to the idea.

CITY DEPARTMENTAL ISSUES

- There is a concern regarding unloading of goods; however, that will be regulated by the Conditional Use Permit.

NEIGHBORHOOD MEETING DATE

- The neighborhood chair explained that three (3) neighborhood meetings have taken place related to the proposed ordinance text amendment. Only one person voiced opposition.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Joaquin Neighborhood Chair and Franklin Neighborhood Vice Chair were present and addressed the Planning Commission during the public hearing. The Joaquin Chair explained that the neighborhood has been very supportive of the possibility of having the building reused and to have it become an amenity for the neighborhood instead of an eyesore. He expressed appreciation to the applicants for being willing to work with the community. He also mentioned that he had been involved in the neighborhood planning process for the Joaquin Neighborhood Plan. It was very important to the neighborhood that the existing commercial structure at 397 East and 200 North be rehabilitated into a usable space. He was very grateful for the efforts that have led to this point and urged the Planning Commission to recommend approval to the Municipal Council.
- The vice chair of the Franklin Neighborhood asked if the commercial structure at 586 West 300 South has a current proposal for some type of business planned. Staff responded that the owner was contacted and is waiting to see what happens with this proposed amendment. Staff also explained that the residential structure with the attached commercial structure in the Franklin Neighborhood is actually identified for mixed use on the future land use map in the recently adopted Franklin Neighborhood Plan. She expressed support for the proposed amendment.
- Over ten (10) members of the public spoke in support of the proposed amendment. The supporters were primarily associated with the Provo Bicycle Collective or nearby neighbors.
- Staff received eight (8) emails from community members expressing support of the proposed amendment.

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:

- One neighbor expressed the concern of parking. He is supportive of the proposed amendment and the Provo Bicycle Collective, but did want to raise the concern of parking because he lives across the street and may be impacted by the reuse of this building.
- The vice chair of the Joaquin Neighborhood followed by explaining that parking is an issue in the entire neighborhood and they are working with the City on a parking plan to hopefully make the parking situation better.

APPLICANT RESPONSE

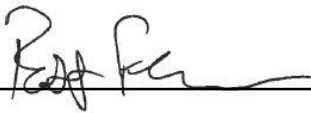
Key points addressed in the applicant's presentation to the Planning Commission included the following:

- The applicant spoke in support of the project. He explained that as a child he had visited the subject commercial structure in Joaquin when he was young and it was operating as a store. It was a benefit to the neighborhood then and it his intention to have it be a benefit and amenity for the neighborhood again. The applicant is not interested in tearing down the structure; rather, he wishes to renovate the building. The applicants were originally planning to reintroduce the grocery use, but were very enthusiastic about the idea of the Provo Bicycle Collective. They have been able to sign a lease, pending the adoption of the proposed ordinance.

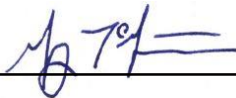
PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Mr. McKinney asked staff about the potential parking impact at the Joaquin location. Staff explained that the Conditional Use Permit will help to mitigate parking issues, but also that because of the location of the Joaquin structure, most people would likely walk there. Also, if the use will be a bicycle shop, many people would bike there.
- Mr. Jones asked if the existing commercial structures could be utilized for residential use. Staff responded that it would be possible, but the problem lies in the effort and expense that would be required to make them livable spaces.
- Ms. Winden asked if there is room for bicycle parking. Staff responded that it seemed there would be sufficient room behind the sidewalk and also that parking for bicycles could probably be made available inside.
- Mr. Jones asked about the equity of the Provo Bicycle Collective as a tax exempt organization compared with other users. The executive director of the Bicycle Collective explained the benefits the organization offers and also explained that when customers are interested in just purchasing a bicycle they refer them to other commercial shops. They also provide a valuable environment wherein people can gain work experience to go to other shops.
- Mr. Smith commented on a general basis that he hoped the City will see more of these types of neighborhood shops in all the neighborhoods of the City so we don't have to continually rely on automobiles for all our needs.



Planning 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 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 Development 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



**Planning Commission
Staff Report
Ordinance Amendment
Hearing Date: April 13, 2016**

ITEM 2* Susan Christensen requests an Ordinance Text Amendment to Section 14.32 of the Provo City Code to allow for reuse of an existing commercial building in the Residential Conservation Zone. Although this application has city wide implications, the specific address for this request is 389 East 200 North. ***Joaquin Neighborhood and City Wide Impact. 15-0020OA, Robert Mills, 801-852-6407***

Applicant: Craig and Susan Christensen

Staff Coordinator: Robert Mills

Property Owner: N/A

Parcel ID#: N/A

Current General Plan Designation: N/A

Proposed General Plan Designation: N/A

Current Zone: RC

Acreage: N/A

Number of Properties: Applicable properties in the RC Zone

***Council Action Required:** Yes

Related Application(s): N/A

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 27, 2016, at 5:30 p.m.*

2. **Recommend Denial** of the proposed ordinance amendment. *This would be a change from the Staff recommendation; the Planning Commission should state new findings.*

Relevant History: The applicant owns a home with an attached nonconforming commercial structure at the corner of 400 East and 200 North. The commercial structure at this location has existed for many years and has had various commercial operations. The building is currently not in use.

An additional dwelling with an attached nonconforming commercial structure is located at the corner of 300 South and 600 West in the Franklin Neighborhood, which is also in the RC Zone.

These are the only known structures to which this ordinance amendment would apply even though it is a City Wide amendment.

Neighborhood Issues: Staff has met with the neighborhood chairs of the Joaquin and Franklin neighborhoods. The Joaquin Neighborhood Chair and several other neighborhood members are supportive of the proposed amendment.

The Franklin Neighborhood Chair expressed a desire to allow the intended use through the approval of a use variance rather than a change to the City Code; however, a use variance is not allowable because of State statute.

Summary of Key Issues:

- The Joaquin Neighborhood Plan, which was adopted in July 2014, specifically calls for the existing commercial structure at the corner of 400 East and 200 North to be reused for neighborhood commercial use.
-
- The proposed amendment only allows for reuse of existing commercial structures in the RC Zone, no new commercial structures would be permitted by the adoption of the proposed ordinance amendment.

Staff Recommendation: Staff recommends the Planning Commission forward a positive recommendation to the Municipal Council to adopt the proposed ordinance text amendment.

OVERVIEW

Section 14.32.020 of the Provo City Code provides a list of all permitted uses which can be established in the RC Zone, either by right or through an approved Conditional Use Permit (CUP). While a number of uses are allowed in the RC Zone, the applicant and neighborhood have identified two additional uses which are currently not permitted, but could be desirable neighborhood amenities. The proposed uses include a small neighborhood grocery store and a bicycle repair and sales shop. Both of these uses are complimentary to the primary residential uses in the neighborhood and can enhance the neighborhood feel while providing desirable services.

The uses would only be allowed in existing commercial structures in the RC Zone, of which there are only two such structures. Other nonconforming uses have historically occurred in these nonconforming commercial structures; however, pursuant to Section 14.36.090, when a nonconforming use has been discontinued for more than one (1) year, it cannot be reestablished. Therefore, in order to establish these uses, they must be allowed as a permitted use, albeit, the uses will require a Conditional Use Permit.

As owners of one of the properties with an attached, nonconforming commercial structure, the applicants would like to reestablish either of the proposed uses to enhance the neighborhood and revitalize the space. Staff has also spoken with the owners of the existing commercial structure in the Franklin Neighborhood and they are not opposed to the amendment.

It should be noted that the Joaquin Neighborhood Plan specifically calls for the reuse of the existing commercial building at the corner of 400 East and 200 North for commercial purposes for the benefit of the neighborhood. Additionally, the draft Franklin Neighborhood Plan notes that the existing commercial structure at the northeast corner of 300 South and 600 West is recommended to become part of a mixed use zone which would allow for a broader range of uses.

FINDINGS OF FACT

- In the RC Zone, there are two known nonconforming, commercial structures which are currently not in use.
- The proposed ordinance text amendment would add neighborhood grocery store and bicycles and parts as conditional uses in existing commercial structures in the RC Zone.
- The proposed ordinance will not permit the construction of new commercial buildings in the RC Zone.
- The Joaquin Neighborhood Plan calls for a commercial use to be reestablished in the existing commercial building at approximately 387 East 200 North.

STAFF ANALYSIS

1. Provo City Code Section 14.02.020(2) sets forth the following guidelines for consideration of ordinance text amendments:

Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan: (responses in bold)

- (a) *Public purpose for the amendment in question.*

The public purpose for this amendment is to allow additional conditional uses in the RC Zone that will add neighborhood amenities and increase the livability of neighborhoods in the RC Zone.

- (b) *Confirmation that the public purpose is best served by the amendment in question.*

The amendment will help to meet the desired future land uses noted in the adopted Joaquin Neighborhood Plan and the Franklin Neighborhood Plan.

- (c) *Compatibility of the proposed amendment with General Plan policies, goals, and objectives.*

The amendment helps to meet the guiding principles, policies, and goals in Chapter Six (Land Use) in establishing land use regulations for the Central Area Neighborhoods (which include Joaquin and Franklin). Specifically, the proposed amendment supports these neighborhoods in being places “where residents and property owners live and invest their time, energy, and money because they are family friendly” and encourages pedestrian-friendly design.

- (d) *Consistency of the proposed amendment with the General Plan’s “timing and sequencing” provisions on changes of use, insofar as they are articulated.*

There are no “timing and sequencing” provisions related to this request.

- (e) *Potential of the proposed amendment to hinder or obstruct attainment of the General Plan’s articulated policies.*

This amendment will not hinder or obstruct attainment of the General Plan’s policies or goals.

- (f) *Adverse impacts on adjacent land owners.*

There is no off-street parking available at the existing commercial structure located at approximately 387 East 200 North. The absence of off-street parking can create a negative adverse impact on surrounding land uses and land owners. However, in this case, the property is ideally located within walking or biking distance to the residents who will be utilizing the commercial use, thus greatly reducing the need for automobile dependence.

In the process of identifying the site for the potential reestablishment of a commercial neighborhood amenity, residents of the neighborhood were fully aware that parking would not be available. However, residents were still supportive of the reestablishment of a commercial use at the site as a neighborhood commercial amenity.

- (g) *Verification of correctness in the original zoning or General Plan for the area in question.*

This amendment has been verified with the RC Zone and is consistent with the provisions of the zone.

- (h) *In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.*

There are no conflicts.

CONCLUSIONS

The proposed amendment will help to improve the livability and viability of existing neighborhoods within the RC Zone by allowing existing commercial structures, which are currently not in use, to become valuable neighborhood amenities. The proposed uses to be added to the RC Zone are consistent with other uses already allowed in the zone and will be permitted only with an approved CUP with appropriate conditions.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a positive recommendation to the Municipal Council.

ATTACHMENTS

1. Proposed Amendments.

1 Amendments to Title 14.32, Residential Conservation Zone, to accommodate neighborhood
2 grocery markets and miscellaneous retail trade in existing commercial structures.

3 **14.32.020(6) Conditional Uses.** The following uses and structures are permitted in the RC zone
4 only after a conditional use permit has been issued, and subject to the terms and conditions
5 thereof.

6 Use No. Use Classification

7

8 5391 Dry Goods and general merchandise (yarn, linen, crafts, fabric, etc.)
9 (only in historic buildings as defined in this Title)

10

11 5410 Groceries. (only in existing commercial structures less than 2900 sf and that
12 comply with the provisions of Title 14.32.140(5))

13

14 5441 Candy, nut, and confectionary (only in historic buildings as defined in this title)

15

16 5952 Bicycles and parts (only in existing commercial structures that comply with the
17 provisions of Title 14.32.140(6))

18

19 **14.32.140 Other Requirements.**

20

21 (5) Grocery Standards. The following standards shall apply to all neighborhood grocery markets
22 in the RC zone.

23

24 (a) Maximum Size. Floor area for grocery shall not exceed 2500 square feet.

25 Attached residential structures do not count toward the total square footage.

26 (b) Hours of operation. Neighborhood grocery markets shall be open for business
27 no earlier than 7am and no later than 10pm.

28 (c) Loading and deliveries. Loading and delivery of goods is permitted only
29 between the hours of 8am and 9pm.

30 (d) Alcohol Sales. Neighborhood grocery markets in the RC zone shall be
31 prohibited from selling alcoholic beverages of any kind.

32 (e) Performance Standards. Neighborhood grocery markets shall comply with the
33 general standards of the RC Zone. In addition, all exterior trash containers,
34 heating or cooling equipment, refrigerators, and similar equipment shall be
35 visually screened, and located and/or designed to avoid noise, odor, glare, or
36 vibration impacts to neighboring properties.

37 (f) Design Review. Neighborhood grocery markets shall be compatible with
38 neighboring structures in terms of scale, massing, architectural character,
39 colors and materials, access, exterior lighting and landscaping. Exterior

- 1 changes shall require design review as outlined in Title 14.04A, Provo City
2 Code.
3
- 4 (6) Uses in Existing Commercial Structures. The following standards shall apply to all uses in
5 existing commercial structures in the RC zone.
6
- 7 (a) Maximum Size. Uses in existing commercial structures shall be confined to
8 the current floor area of the existing structure. If the existing commercial
9 structure is a noncomplying structure it shall be subject to the provisions of
10 Title 14.36.050 of this chapter.
- 11 (b) Hours of operation. Uses in existing commercial structures shall be open for
12 business no earlier than 7:00 AM and no later than 10:00 PM.
- 13 (c) Loading and deliveries. Loading and delivery of goods is permitted only
14 between the hours of 8:00 AM and 9:00 PM.
- 15 (d) Alcohol Sales. Uses in existing commercial structures in the RC zone shall be
16 prohibited from selling alcoholic beverages of any kind.
- 17 (e) Performance Standards. Uses in existing commercial structures shall comply
18 with the general standards of the RC Zone; however, the community
19 development director shall be authorized to modify parking and loading,
20 yard, and landscaping requirements. In addition, all exterior trash containers,
21 heating or cooling equipment, refrigerators, and similar equipment shall be
22 visually screened, and located and/or designed to avoid noise, odor, glare, or
23 vibration impacts to neighboring properties.
- 24 (f) Design Review. Uses in existing commercial structures shall be compatible
25 with neighboring structures in terms of scale, massing, architectural
26 character, colors and materials, access, exterior lighting and landscaping.
27 Exterior changes shall require design review as outlined in Title 14.04A, Provo
28 City Code.
29