



Planning Commission Hearing Staff Report Hearing Date: March 22, 2023

ITEM #7 Provo Development Services requests a Conditional Use Permit Revocation of PLCUP20190309 for a dance hall in the CG (General Commercial) zone, located at 1700 N State Street. Carterville Neighborhood. Aaron Ardmore (801) 852-6404
aardmore@provo.org

Applicant: Provo City Development Services

Staff Coordinator: Aaron Ardmore

Neighborhood: Carterville

Council Action Required: No

Current Legal Use: The property currently has a variety of commercial uses permitted in the CG zone including a bakery, restaurant, salon, wireless store, thrift store, and car wash. The business in question in suites 1-4 at this location has current business licenses as "Afuego Fridays LLC" and "Enigma Events LLP" for non-alcoholic dance halls (SLU Code 7396).

Relevant History: Enigma Events LLP has been active since August 2018 under a previous Conditional Use Permit at 591 S 100 W (known as Eclipse). In June of 2020 an application was made to transfer the Business License (#56343) to 1700 N State Street. The new CUP (PLCUP20190309) was approved for this location on December 4, 2019. A second dance hall business license (LCB202100030) was approved for Afuego Fridays on January 22, 2021.

Neighborhood Issues: There have been many issues reported in the neighborhood from the events held at 1700 N State Street.

ALTERNATIVE ACTIONS

Deny the requested revocation of the Conditional Use Permit (PLCUP20190309). *This action would not be consistent with the recommendations of the Staff Report.* The Planning Commission should state new findings.

Continue to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 12th, 2023, 6:00 P.M.*

Summary of Key Issues:

Business Licenses #56343 (Enigma Events) and LCB202100030 (Afuego Fridays) rely on the same CUP from 2019.

Section 14.02.070(4) of the Provo City Code sets forth the criteria for which a CUP may be revoked. Staff has evidence that subsection 14.02.070(4)(e), Provo City Code, has been met to revoke the CUP and business licenses for dance halls at 1700 N State.

Staff Recommendation:

Staff recommends the Planning Commission **Grant** the proposed revocation of a conditional use permit (PLCUP20190309) for a dance hall on parcel #19:064:0027 based on the findings within this report.

OVERVIEW

Provo Development Services is requesting the Planning Commission to revoke a Conditional Use Permit for a dance hall at 1700 N State Street. This action has been taken as a result of meetings with the Provo City Ombudsman and Provo Police officers. Those meetings have indicated an ongoing issue of additional police dispatch and 911 calls stemming from Enigma and Afuego Fridays events.

Between January 2022 and January 2023 there were thirty-one (31) police reports filed related to the dance halls at 1700 N State Street. Of these calls there were seven (7) disorderly conduct, four (4) assaults, and four (4) drug and alcohol offenses. The increased city services and disruption to the neighborhood and adjacent businesses on the property has motivated staff to request the Planning Commission to revoke the conditional use permit on this property, and thereby, disallow dance halls at this address.

FINDINGS OF FACT

1. The Planning Commission granted a conditional permit for a dance hall on Parcel 19:064:0027 (1700 N State Street) on December 4, 2019.
2. Conditional Uses must abide by standards of Section 14.02, Provo City Code.
3. There have been thirty-one (31) police calls related to the conditional use at 1700 N State Street between January 2022-January 2023.

ANALYSIS

While City Staff feel that there has been unreasonable harm to the health, safety, and general welfare of persons or property in the area of the dance hall at 1700 N State Street, Provo City Code states specific criteria in which the Planning Commission can revoke a CUP.

§14.02.070 provides the requirements and procedures relative to a request for a revocation of a condition use permit. Subsection (1) states: *“The Planning Commission, on its own motion or upon a staff recommendation or after receipt of an applicant’s request, may hold a hearing upon the question of modification or revocation of a Conditional Use Permit granted under or pursuant to the provisions of this Section.”* The applicant has submitted the subject request.

Subsection (4) provides as follows: “A Conditional Use Permit may be modified or revoked if the Planning Commission finds one (1) or more of the following:” **(staff will insert a response or comment to each possible finding listed in [4])**

- (a) that the use permit was obtained by misrepresentation or fraud;
Staff see no evidence that the subject permit was obtained by misrepresentation or fraud.
- (b) that the use for which the permit was granted is not being exercised;
Staff has verified that the use granted is being exercised.
- (c) that the use for which the use permit was granted has ceased or has been suspended for six (6) months;
The use is currently being exercised and has not ceased nor been suspended.
- (d) that the conditions imposed upon said use permit have not been complied with;
Staff believes that the regular congregating of persons outside of the building into a shared parking lot and neighboring properties is a violation of the standard condition of unreasonably interfering with the lawful use of surrounding property, per Subsection 14.02.040(2)(b)(ii). Additionally, staff

finds that they are in violation of the more general conditions of a CUP relating “to the health, safety, and welfare of persons or injurious to property in the vicinity” as evidenced by the information in this report.

(e) that the use is detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity, except that a change in the market value of real estate shall not be considered an injury to property; or

Staff believes, as cited above, the number of police calls and the reports and results of those calls, gives evidence that the use has become detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity. Those reports are summarized below:

**1/8/2022: Disorderly Conduct
2/4/2022: Suspicious Activity
3/19/2022: Suspicious Activity
3/20/2022: Disorderly Conduct
4/8/2022: Warrant Arrest
5/7/2022: Suspicious Activity / Nuisance
5/7/2022: Civil Issue
5/8/2022: Assault
7/30/22: Disorderly Conduct / Assault
7/30/22: Alcohol Offense / DUI
8/7/22: Suspicious Activity / Criminal Mischief
8/27/22: Trespassing
9/10/22: Suspicious Activity / Warrant Arrest
9/11/22: Disorderly Conduct / Fight
10/8/22: Disorderly Conduct / Assault
10/28/22: Suspicious Activity / Weapons Offense
10/29/22: Assault / Drug Possession / Alcohol Offense
11/4/22: Criminal Mischief / Graffiti
11/10/22: Criminal Mischief / Graffiti
12/3/22: Citizen Dispute / Assault
12/14/22: Criminal Mischief / Graffiti
12/16/22: Alcohol Offense
12/24/22: Disorderly Conduct / Fight
1/6/23: Alcohol Offense
1/7/23: Warrant Arrest
1/14/23: Drug Offense / Possession
1/20/23: Drug Offense / Possession / Sale**

(f) that the conditional use has been materially altered or expanded beyond the scope of the use originally authorized. Factors such as, but not limited to, increased number or size of structures, finding that a nuisance exists, or alteration of the approved project plan may be cause for modification or revocation of a conditional use permit.

Staff believes that increased spillover outside of the building has created nuisances on the property that has now expanded beyond the scope of the use originally authorized.

CONCLUSIONS

Section 14.01.070(4), Provo City Code, sets forth the allowable findings by which the Planning Commission may revoke or modify a conditional use permit. The City asserts that under Subsection 14.02.070(4)(e) that the CUP should be revoked.

ATTACHMENTS

1. Area Map
2. April 2010 CUP Report of Action
3. December 2019 CUP Report of Action

ATTACHMENT 1 – AREA MAP

Provo Map



.

.

.



0 0.0175 0.035 0.07 mi

Author: Provo City

Date: 3/13/2023

This map is for graphical representation only and not for construction or defining feature locations.

ATTACHMENT 2 – APRIL 2010 CUP REPORT OF ACTION

Provo City Planning Commission Administrative Hearing

Report of Action

April 6, 2010

ITEM 1 Oscar Saldana requests approval of a conditional use permit to allow a Dance Hall on property generally located at 590 S. 100 W. in the ITOD (Interim Transit Oriented Development) zone. *CBD Neighborhood* 10-0008CUP

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, 2010:

CONDITIONALLY APPROVED

Administrative Hearing Officer: Mark Boeckel

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

Conditions of Approval:

1. Perpetually abide by all standards of section 14.34.370(3) and chapter 6.15 Provo City Code, such as providing security, limiting noise, and all other regulations. It was also reenforced to the applicant that no alcohol be allowed on the premises as part of the dance hall use;
2. No business activity shall commence without amending the applicant's business license to include a Dance Hall.

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. Staff responded to neighborhood concerns by stating that many of the of the potential negative affects of the business are not specifically related to the use as a dance hall, but could also be associated with any number of other permitted uses. The City would monitor and maintain peace and order through its enforcement programs.

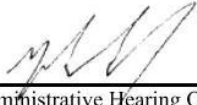
NEIGHBORHOOD AND PUBLIC COMMENT

The property owner was present to express support for the applicant and the proposed business. No other members of the public were present to address this item. Staff was contacted in writing and by phone from members of the public prior to the meeting. Key issues raised before the meeting include the following:

- Increased potential for vandalism and loitering in the area as an result of large gatherings of people;
- The need for increased maintenance along sidewalks in front of neighboring businesses to keep proper pedestrian access;
- Sale and use of alcohol by patrons of the dances.

APPLICANT RESPONSE

The applicant was present but did not speak to the item.



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

ATTACHMENT 3 – DECEMBER 2019 CUP REPORT OF ACTION



Provo City Planning Commission
Report of Action
December 04, 2019

ITEM 1 Enigma Events LLP requests a Conditional Use Permit for a dance hall, located at 1700 N State Street in the General Commercial (CG) zone. Carterville neighborhood. PLCUP20190309

The following action was taken by the Planning Commission on the above described item at its regular meeting of December 04, 2019:

APPROVED WITH CONDITIONS

On a vote of 5:0, the Planning Commission approved the above noted application, with the following conditions:

Conditions of Approval:

1. A copy of a shared parking agreement from the property owner is provided to staff for the 151 parking stalls to be shared out of the 219 stalls;
2. Requirements and standards in 14.34.370 – Dance Halls as a Conditional Use shall be followed;
3. Requirements and standards in 6.15 – Commercial Entertainment Business Security shall be followed;
4. That the hours of operation are followed per 6.15.060; and
5. Without an approved grease trap, no on-site cooking is allowed; food warming only.

Motion By: Maria Winden

Second By: Shannon Ellsworth

Votes in Favor of Motion: Maria Winden, Shannon Ellsworth, Deborah Jensen, Russ Phillips, Laurie Urquiaga
Deborah 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.

APPROVED/RECOMMENDED OCCUPANCY/PARKING

604 occupants with 151 parking stalls (1 stall per 4 occupants)

Land Use Code 7396

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

- If there will be cooking then an approved grease trap would be required.

NEIGHBORHOOD MEETING DATE

- The Neighborhood Chair determined that a neighborhood meeting would not be required.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair was not present or did not address the Planning Commission during the hearing.

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:

- A letter was received from a member of the public that expressed concerns with the noise that would be created from the proposed use as a dance hall.

APPLICANT RESPONSE

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

- This would be a great use for this location and allow an existing business in Provo to be relocated within Provo due to new development of the existing site.
- A lighting study has been done for the site. There is existing lighting that provided sufficient light to the parking lot.
- This proposed use has full support from the property owner.
- They will follow the hours of operation as outlined in the Provo City Code.
- They have been working on upgrades to the ceiling and walls for more sound proofing in an effort to reduce noise and comply with noise ordinances.

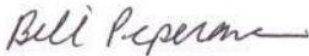
PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- A Commissioner indicated that she lives near the existing dance hall and has not heard complaints from neighbors about noise or parking.
- This location makes sense and would be good use for the vacant space.
- The staff report has good conditions that will help ensure that the use fits well at this location.



Planning Commission Chair



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.