

**ITEM #1** 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

## **OVERVIEW**

Provo Development Services is requesting the Planning Commission 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 Friday 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.

The calls above led to the CUP revocation request being made at the April 12<sup>th</sup>, 2023, Planning Commission meeting. At that meeting after hearing from city staff, the business owners, the property owner, and the public; the Planning Commission continued the item with the following findings/conditions:

1. That the business owners and property owners are committed to ensuring security in the parking lot, better lighting, and additional cameras at the site to reduce the number of police calls and disturbances on the property.

Since that hearing over one year ago, the business owners indicated to staff that they had hired additional security personnel and strengthened entrance policies, added a front door camera and side door camera, and marketed that no drinking is permitted. They also mentioned the owners fixed the parking lot lighting but did not install any additional cameras.

Provo PD has provided a new list of reports at or related to the site since the April 2023 hearing. That list is detailed in more depth in the attachments but consists of 29 calls since the last hearing, many of a serious nature.

## **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 the standards of Section 14.02, Provo City Code.
3. There have been fifty-two (52) police calls related to the conditional use at 1700 N State Street since January 2022.

## **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 have 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 the business is 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**  
**1/28/23: Drug Offense / Possession / DUI**  
**2/10/23: Alcohol Offense**  
**2/11/23: Alcohol Offense / DUI**  
**2/25/23: Probation Offense / Juvenile**  
**3/4/23: Drug Offense / Suspicious Activity**  
**3/19/23: Theft / Automotive**  
**3/31/23: Assault / Firearm**  
**4/1/23: Public Peace / Disturbance / Noise**  
**4/8/23: Public Peace / Loud Music**  
**5/27/23: Assault / Weapon**  
**6/4/23: Alcohol Offense / Probation Offense / Juvenile**  
**6/10/23: Trespassing**  
**6/24/23: Theft / Property**  
**7/22/23: Weapons Offense**  
**8/18/23: Public Peace / Loud Music**  
**8/19/23: Alcohol Offense / Obstruction**  
**9/1/23: Fire Alarm**  
**11/4/23: Assault / Alcohol Offense**  
**12/23/23: Suspicious Activity / Alcohol Offense**  
**3/23/24: Assault / Injury**

**3/30/24: Disorderly Conduct**  
**3/30/24: Assault**  
**4/6/24: Trespassing**

(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
4. April 12<sup>th</sup> Planning Commission ROA
5. Police calls report

# ATTACHMENT 1 – AREA MAP



## 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

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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.

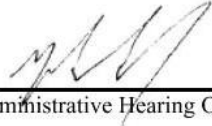
**NEIGHBORHOOD AND PUBLIC COMMENT**

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.



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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

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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**

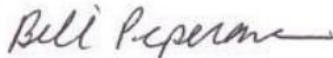
Key points discussed by the Planning Commission included the following:

- 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.



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Planning Commission Chair



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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.

## ATTACHMENT 4 – APRIL 12 PLANNING COMMISSION ROA

Provo City Planning Commission  
**Report of Action**  
April 12, 2023

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ITEM #1 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

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The following action was taken by the Planning Commission on the above described item at its regular meeting of April 12, 2023:

### CONTINUED

On a vote of 6:0, the Planning Commission continued the above noted application to August 2023.

Motion By: Andrew South

Second By: Robert Knudsen

Votes in Favor of Motion: Andrew South, Robert Knudsen, Lisa Jensen, Jeff Whitlock, Daniel Gonzales, Melissa Kendall  
Lisa Jensen was present as Chair.

- New findings stated as basis of action taken by the Planning Commission or recommendation to the Municipal Council; Planning Commission determination is not 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. After an overview of the staff report from planning staff, Sargent Grow gave additional background and updates on Police calls to the site associated with the dance hall and responded to questions from the Commission.

#### **CITY DEPARTMENTAL ISSUES**

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

#### **NEIGHBORHOOD MEETING DATE**

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

#### **NEIGHBORHOOD AND PUBLIC COMMENT**

- The Neighborhood Chair was present /addressed the Planning Commission during the public hearing.
- The Neighborhood Chair was not present or did not address the Planning Commission during the hearing.
- This item was City-wide or affected multiple neighborhoods.
- Multiple Neighborhood Chair(s) were present or addressed the Planning Commission.
- 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:

- Suzanna and Alfredo (of Enigma Events) noted that the events they hold are family events and do not result in many issues. They stated that they would like to find a resolution for their business to continue and have a chance to resolve issues stemming from the other users on the site.

- Luis Castro (of Afuego Fridays) noted that he holds Friday dances that are meant to be 18 and older, drug-free, and as a safe place for young people to go on the weekend. He also stated that he has been confused about his ability to control issues in the parking lot but would like to be able to resolve issues.
- Evan Rye (representing the property owners) illustrated his recent purchase of the building and leases and showed a willingness to increase lighting and cameras to help resolve the issues. He stated that the lease with these users contract 151 parking stalls for events.
- Jon Sanchez has worked with the business owners and would like to see them continue the business, stating that they do their best to control the events inside the building with security.
- Dulce Navas related her experience from attending events at Afuego Fridays, stating that she feels safe and that they check for weapons and drugs at the door.
- Ezra Castro spoke on the need for an event space like Afuego Fridays and believes that they do all they can to make people feel safe at events, but they struggle to control people once they leave the venue.
- Alexandra Miranda related her experience working with the club and attending events and stated that the issues seem to be coming from the parking lot that isn't controlled by the business owners.
- Andreas (did not state last name) spoke on his experience working with Afuego Fridays and has seen the business owner try to run a clean and safe place and thinks the business continuing is important to the community.

#### **APPLICANT RESPONSE**

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

- Planning staff and Sargent Grow responded to the PC questions on the history of the use and what ability the commission has to work with the business and property owners to resolve the issues on the site.

#### **PLANNING COMMISSION DISCUSSION**

Key points discussed by the Planning Commission included the following:

- The Commission asked questions regarding the use and how many of the police calls are directly tied to the use, what attempted resolutions have been sought, how it compares to other dance halls in the city, and what standards the Commission would have to use as a basis for revocation.
- The Commission asked the business owners and property owner clarifying questions on the events, what measures have been taken, and how this revocation would impact them.
- The Commissioners discussed that there is a willingness to hire security for the parking lot from the business owners, and a willingness to increase lighting and security from the property owner; and that they should be given time to try these measures and see if it improves the number of calls and complaints at the site.
- The Commission detailed when the calls have come into the police, what the adjacent users were, and how some of the calls may not be directly tied to the events associated with the CUP.

#### **FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION**

The Planning Commission identified the following findings as the basis of this decision or recommendation:

- That the business owners and property owners are willing to enhance security in the parking lot, lighting, and cameras at the site to reduce the number of police calls and disturbances on the property. A continuance of four months would allow them to install these measures and demonstrate to staff that things are improving. The next staff report should give more details on the police calls to pinpoint the cause of the calls.



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Planning Commission Chair



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Director of Development Services

