



Provo City Planning Commission

Report of Action

June 26, 2024

ITEM 1* Justin Zsiros requests approval of a Zone Map Amendment from the RC (Residential Conservation) Zone to the CG (General Commercial) Zone in order to allow short-term rental at the property located at 210 South 500 West. Franklin Neighborhood. Mary Barnes (801) 852-6408 mabarnes@provo.org
PLRZ20240163

The following action was taken by the Planning Commission on the above-described item at its regular meeting of June 26, 2024:

RECOMMENDED DENIAL

On a vote of 8:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Jeff Whitlock

Second By: Robert Knudsen

Votes in Favor of Motion: Robert Knudsen, Lisa Jensen, Jeff Whitlock, Jonathan Hill, Andrew South, Daniel Gonzales, Barbara DeSoto, and Adam Shin.

Daniel Gonzales was present as Chair.

Votes against the Motion: None

- 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.

MAP AMENDMENT

A map representing 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. Additional key points addressed in staff's presentation to the Planning Commission included the following:

- The current and future land use for the surrounding properties.
- The code enforcement timeline
- Permitted and conditional uses within the General Commercial (CG) zone that are not compatible with the surrounding residential properties and the residential street.
- The impact of a short-term rental on the neighborhood, and the character of the neighborhood.
- If the rezone is approved, the lack of required parking for the short-term rental on the property.

CITY DEPARTMENTAL ISSUES

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

NEIGHBORHOOD MEETING DATE

- This application affects the Franklin Neighborhood in District 5. This item was briefly mentioned in the June 5th District 5 meeting. The rezone application was too late to officially be on the June 5th District 5 neighborhood meeting agenda. Planning staff did not present at the meeting.

APPLICANT PRESENTATION

The applicant is Justin Zsiros. The applicant's attorney, Jon Hogelin, started the presentation. Key points addressed in the Mr. Hogelin's presentation to the Planning Commission included the following:

- 500 W is a busy street, and all properties to the south of the subject property are commercial. The subject property is not an attractive option for a family to live in due to the proximity of the commercial, the busy road, and a four-plex directly north of the property. This is a lone residential unit amongst the commercial.
 - The resale value of the property goes down if it is only allowed to be a single-family home, it's not an ideal situation for families.
- 200 S represents a clear division between residential along 500 W and commercial along 500 W.
 - This parcel is the "ugly duckling", it's the only non-commercial property fronting on 500 W within this block. It has nothing to do with the adjacent residential properties.
- The concern that a new commercial use may replace the proposed home/short term rental use is misplaced, it would have to be a very small commercial footprint. This property is no different from the rest of the block of commercial properties to the south. If this parcel becomes commercial, it will not intrude on the residential neighborhood.
 - On 100 S/500 W, there is an H&R Block. We have an intermittent commercial and residential trend along 500 W. This is just making the block uniform, finishing it out.
- As for parking, there is space for 5 parking spots on the property. There is plenty of space for parking so that the neighborhood is not burdened. It would not crowd the street.
 - The garage has only 1 room, and the main house has 5 rooms. Sometimes the entire home is rented out to 1 family, or individual rooms are rented out to individuals. This could change depending on a possible future conditional use permit, if the rezone is approved.
- The operation of the short-term rental helps to pay for repairs and upkeep on the historical home. Right now, the maintenance is self-sufficient.
- Staff recommended applying for a commercial zone to get short-term rental. The applicant stated that he was not made aware of any other possible options, such as an ADU or a higher density rezone.

NEIGHBORHOOD AND PUBLIC COMMENT

- The neighborhood Chair was not present and 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:

- *Johnny Griffith, Franklin Neighborhood.* It's important to recognize the history of conservation here. There is an unknown element when your house backs onto commercial properties, and the existing commercial is grandfathered in. It's a done deal. This is not a done deal; the red line of commercial cannot be extended into the neighborhood. Concerned about the loss of historical integrity.
- *Brent Hutchinson, Franklin Neighborhood.* There has been a lot of changes in this neighborhood as commercial zones have expanded. It is a mistake to expand the commercial zone. If that house was on the market, it would not last a week. Housing is short, and research shows that short term rentals diminish housing supply. Franklin Neighborhood does not need more high-density housing and commercial.
- *Christopher Wilson, Franklin Neighborhood.* It is a beautiful property. Not against using it for a rental, would like to preserve it in its current state. However, parking is the biggest concern. A tenant of the short-term rental parked in front of Mr. Wilson's driveway a few weeks ago. The tenant was told that they could not park on the subject property, and that they had to park on the street. An ADU would require parking spots to be available on the property. If the rental is approved, ensuring there is adequate parking on the property would be great.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

After staff presentation:

- Commissioner Whitlock asked for more information on the RC zone, specifically questioning why the neighboring property to the south is permitted to continue as a locksmith, despite its RC zoning. The RC zone is a unique zone that allows the uses that existed in April 2002 to continue as permitted uses. If that use changes, it must either

conform to the permitted uses found in the RC zone or change into a different zone. Many commercial businesses were included in the RC zone back in 2002.

- Commissioner Gonzales asked what residential zones allow short term rentals. Currently, no primarily single-family residential zones allow short term rentals.
 - Commissioner Shin requested information regarding zones that would allow a short-term rental to co-exist with other single family residential homes. Short-term rentals are only permitted or conditional in commercial zones.
- Commissioner Jensen asked some clarifying questions on ADU requirements. This property could be eligible for an ADU, which would be a permitted use pending a review of the property.

After public comment:

- Commissioner Shin asked about the parking on the property and the tandem parking requirement for an ADU. The applicant reiterated that there are about three spots perpendicular to the driveway, and three tandem spots on the driveway. Staff responded that tandem parking is only permitted for a maximum of two cars, and parking space dimensions also need to be considered.
- Commissioner DeSoto stated that having a lot of traffic on 500 W is not a good justification for commercial. Housing stock is important, and the commercial properties are already encroaching on the neighborhood. Need to think of the future, and future traffic calming can help to improve the frontages. Commercial properties can increase crime because there are less people there at night. Investment properties have been detrimental to housing access. If it gets rezoned to commercial, it could be torn down.
- Commissioner Whitlock said that a short-term rental isn't a bad idea for this particular property, but making this property CG would create an opportunity for someone to tear down the property and create a new commercial use. The city has a limited toolkit when it comes to short-term rentals, there is clearly a need for them in residential neighborhoods. Looking into an ADU short-term rental use could be a good idea in the future.
 - Commissioner Hill agreed, saying that there is a significant demand for short term rentals. It would be nice if there were better tools, like an owner-occupied short-term rental.
 - Commissioner Shin pointed out that there is a market for short term rentals, and it provides a way for people to better participate in the local economy. Creating space for small-scale owner-occupied bed and breakfasts in neighborhoods could be worth looking into.
- Commissioner Jensen stated that this property would be the perfect match for an ADU, or possibly a duplex. There are housing needs in the state and in the city, and short-term rentals can diminish the housing stock in Provo. Putting this property on the list of historical properties with the Landmarks Commission can provide different avenues for restoration funds.
 - Most of the surrounding uses are not commercial, they are historical homes. This is not a commercial corner. Someone must be the boundary between the commercial and the residential, and it abuts only one commercial property. Short term rentals do not help to preserve or protect the neighborhood.
- Commissioner Gonzales summarized the applicant's arguments by saying that the busyness of 500 W and the adjacent commercial use is persuasive. However, this is an attractive house that people would buy despite the busy street. There are neighbor complaints about the short-term rental. Basic maintenance of a house should not be dependent on a city's decision on a rezone, that is an included cost in homeownership. The Landmarks Commission could help with grant funding to preserve the home. This does not meet the general and neighborhood plan for future land use.

DOAQ

Planning Commission Chair

Bill Peperone

Director of Development Services

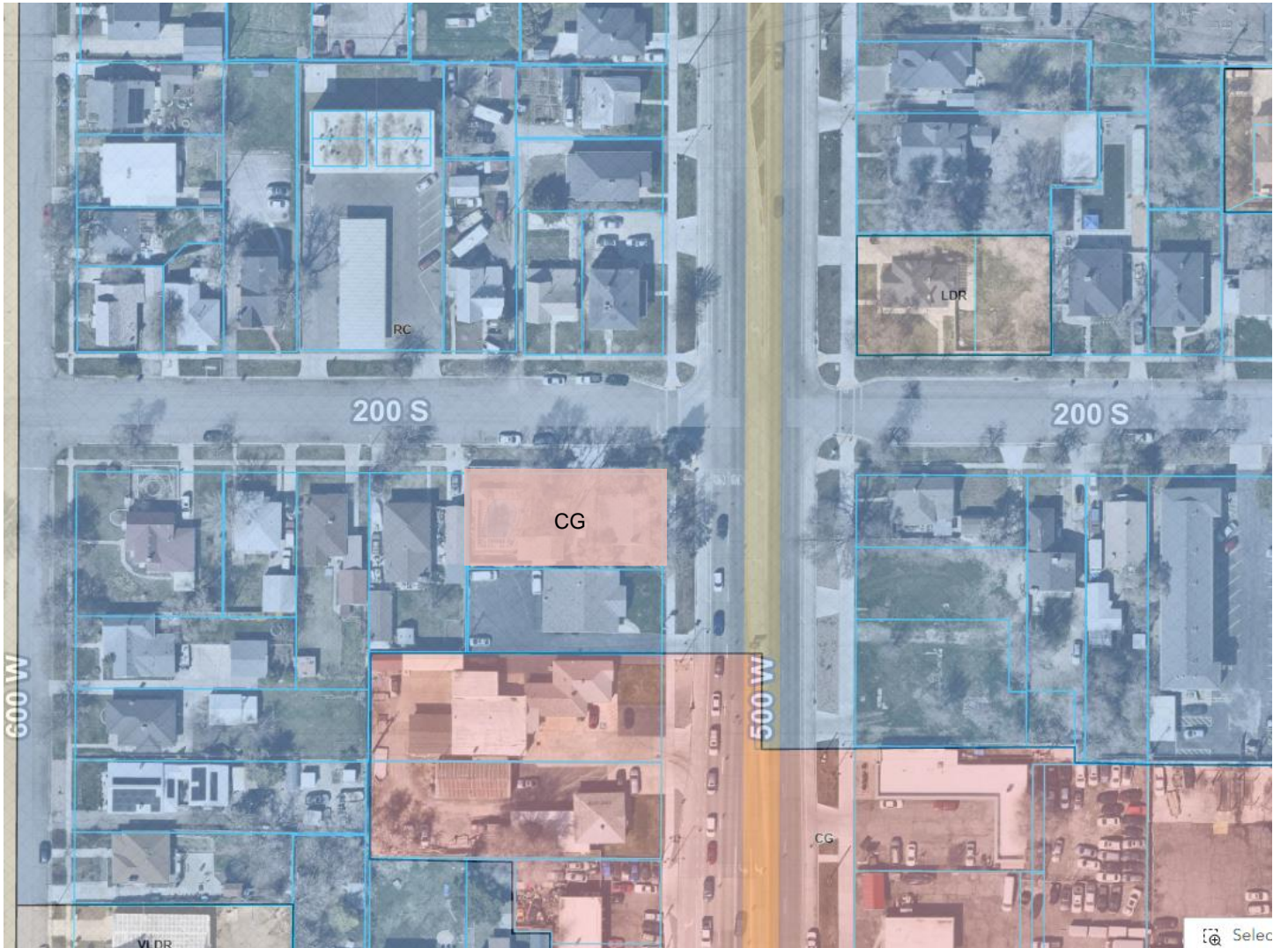
See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ 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 Development Services, 445 W Center St, 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



LEGAL DESCRIPTION: COM. AT NE COR OF BLK 39, PLAT A, PROVO CITY SURVEY; W 8 RODS; S 4 RODS; E 8 RODS; N 4 RODS TO BEG.

PROPERTY ADDRESS: 210 South 500 West, Provo, UT 8460

PARCEL: 04:036:011