



DATE: February 26, 2018

File: UP 17-25

TO: ZONING ADMINISTRATOR

FROM: Shannon Costa, Assistant Planner, 530-879-6807, shannon.costa@chicoca.gov

RE: Use Permit 17-25 (1078 Gallery)
1710 Park Avenue, APN 005-232-003

RECOMMENDATION

Planning staff recommends that the Zoning Administrator find the project categorically exempt from environmental review and approve Use Permit 17-25 (1078 Gallery), based on the findings and subject to the recommended conditions of approval.

BACKGROUND AND ANALYSIS

The 0.2-acre project site is located at 1710 Park Avenue, on the southwest corner of West 17th Street and Park Avenue (see **Attachment A**, Location/Notification Map and **Attachment B**, Plat to Accompany Use Permit 17-25). The site is zoned CC-COS-SD8 (Community Commercial with Corridor Opportunity Site and Special Design Considerations Southwest Chico Neighborhood overlay) and is designated Commercial Mixed-Use on the City of Chico General Plan Diagram. Surrounding land uses include commercial uses to the north, east and west, with residential uses to the south and southwest. Pursuant to Chico Municipal Code (CMC) 19.44.020, Table 4-6 (*Allowed Land Uses and Permit Requirements for Commercial Zoning Districts*), Footnote 5, a use permit is required for businesses which allow amplified music within 300 feet of a residential zoning district.

This is a request to allow amplified music within 300 feet of a residentially-zoned district as an accessory use to an art gallery. The applicant, 1078 Gallery, intends to occupy the existing 1,900 square foot commercial building (formerly occupied by Sierra Market), where it will hold a variety of art events, including art receptions, readings, theatre and comedy performances, live music events and will feature incidental alcohol sales. The applicant anticipates holding live music events eight (8) or more times per month. No site improvements are proposed, although the applicant intends to make some minor cosmetic changes to the interior and exterior of the building (paint).

DISCUSSION

The existing building is made of concrete block and is approximately 1,900 square feet in size. Patrons would enter and exit the building utilizing the front door that faces Park Avenue. The applicant has notified surrounding neighbors of their intent to occupy the building and did not receive any negative feedback as of the date of this report.

Potential issues related to the establishment and operation of an art gallery featuring amplified music within 300 feet of a residential district include noise disturbances, vehicle parking and alcohol consumption. Each of these issues is discussed briefly below.

Noise Disturbances

The primary concern related to live or amplified musical performances is noise disturbances, specifically noise impacts to nearby properties. This concern is the source of the CMC requirement that a use permit be issued to authorize amplified music within 300 feet of a residentially-zoned property. While the primary noise source is the musical performance itself, there are also secondary noise concerns related to patrons congregating outside the venue, as well as vehicle noise from those attending the performances.

The applicant has indicated that most music events would occur on weekends, but occasionally there are events mid-week. Types of music events range from folk to heavy-metal and punk music performances. According to the project description provided by the applicant, the average attendance for shows ranges depending on the type of performance, but is on average about 30-35 people. Some larger, more popular shows could draw crowds of up to 100 people (see **Attachment C**, Project Description). To provide adjacent residential neighbors with some prediction of when events would occur, staff recommends a condition of approval limiting the number of live music events to ten events during a one-month period.

As mentioned, the existing building is constructed of concrete, and the rear wall that faces the adjacent multi-family housing complex is CMU brick that should sufficiently attenuate the sound. Staff recommends a condition of approval that all doors, windows and other openings be closed whenever music is being played, including rehearsals and sound checks. In addition, staff recommends the music be limited in volume so that no sound greater than 60 dBA is projected beyond the source (the building). This technical sound level requirement, found in CMC 9.38.040, already applies to all commercial properties; however, staff recommends that it be included as a condition of approval for reinforcement. It should also be noted that the use permit would not exempt the events from any regulations set forth in the City's Noise Ordinance (CMC 9.38).

There is a large yard area in the rear of the site, adjacent to the neighboring multi-family housing complex, where patrons could congregate outside the venue; staff recommends that event staff also patrol the immediate premises to discourage loitering and loud behavior outside the venue. As mentioned, it is not anticipated that any significant changes would be made to the building façade or exterior improvements, however, staff recommends a condition of approval that gallery staff obtain the necessary permits to remove the non-conforming pole-sign located along the southerly property line and that a bicycle rack be installed near the front entrance of the building.

Vehicle Parking

Pursuant to CMC 19.70.040 (*Number of parking spaces required*), galleries must provide one parking space for each 500 square feet of gross floor area, plus 1 space per each official vehicle. The existing building is approximately 1,900 square feet and the gallery has no official vehicles. The site plan shows a total of 11 on-site parking spaces, which exceeds the CMC requirement of 4 spaces (see **Attachment D**, Parking Summary). On-street parking is provided on both sides of W 17th Street, and along Park Avenue. It is not anticipated that utilizing on-street parking would impact neighboring residential or commercial properties.

Alcohol Consumption

The applicant has indicated that alcohol sales are a major source of revenue for the gallery, and they currently possess a Type 40 license (on-site beer only) from the California Department of Alcoholic Beverage Control (ABC). Upon relocation to their new site, the applicant will be required to transfer their ABC license to the new location. Pursuant to CMC 19.76.200 (*Businesses Which Sell Alcohol*), they will be required to obtain a Zoning Verification from the Planning Department, which imposes further CMC conditions of approval to the license to help regulate and control nuisances that could be associated with alcohol consumption. Standards include line queuing and crowd control, limited hours of operation on certain holidays, and special training for staff that serves alcohol. Additionally, staff recommends a condition of approval that limits alcohol sales to art events only.

The project represents an adaptive reuse of an existing, uninhabited building and its use would liven the streetscape, bringing successful redevelopment along a key corridor in the City. The project is consistent with General Plan goals and policies that encourage the City to promote special events that will draw visitors to the community (ED-1.5), and enhance places for people to go after work, including recreation and art venues (ED-1.5.1).

ENVIRONMENTAL REVIEW

This project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301 (Existing Facilities). This exemption applies to the operation, permitting and leasing of existing facilities so long as the change in use represents a negligible expansion of what existed previously.

FINDINGS

Following a public hearing, the Zoning Administrator may approve a use permit application, with or without conditions, only if all the following findings can be made:

Use Permit Findings

- A. *The proposed use is allowed within the subject zoning district and complies with all the applicable provisions of Chapter 19.24 (Use Permits).*

Pursuant to CMC Section 19.44.020 (*Commercial/office zone land uses and permit requirements*), art galleries are an allowed use in the CC zoning district. Footnote 5 requires businesses within 300 feet of a residential district who allow amplified music to obtain a use permit. This use permit has been processed in accordance with the requirements of Chapter 19.24 (*Use Permits*).

- B. *The proposed use would not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the proposed use.*

The project, as conditioned, includes provisions for limiting noise outside the business to certain levels and will stipulate that patrons not congregate outside the venue in areas which could cause noise impacts to nearby properties. In addition, the use must comply

with all regulations set forth in CMC 9.38, the City's Noise ordinance, and 19.76.200 which regulates businesses which sell alcohol. These measures should sufficiently ensure that no significant negative impacts related to health, safety, and/or general welfare will affect those in the surrounding neighborhood.

- C. *The proposed use will not be detrimental and/or injurious to property and improvements in the neighborhood of the proposed use, as well as the general welfare of the City.*

The project consists of the reuse of an existing, uninhabited commercial building. No site or exterior improvements are being proposed as part of this project; therefore, no damage to public improvements would occur. At such a time the applicant pursues physical changes to the site or existing structures, existing regulations require that any damaged public improvements be repaired at the conclusion of construction.

- D. *The proposed use will be consistent with the policies, standards, and land use designations established by the General Plan.*

The project is consistent with the Community Commercial designation for the site, which allows a wide variety of commercial endeavors, including live entertainment. The project is consistent with General Plan goals and policies that encourage the City to promote special events that will draw visitors to the community (ED-1.5), and enhance places for people to go after work, including recreation and art venues (ED-1.5.1).

- E. *The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.*

The project involves the conversion of an existing, vacant commercial building. The operating characteristics of the use, including hours of operation, noise reduction measures, and required staffing will ensure that the use is compatible with other land uses in the vicinity.

CONDITIONS OF PROJECT APPROVAL

1. Use Permit 17-25 authorizes amplified music within 300 feet of a residentially-zoned district as an accessory use to an art gallery, in substantial accord with the "Plat to Accompany Use Permit 17-25 (1078 Gallery)" and in compliance with all other conditions of approval.
2. The permittee shall comply with all other State and local Code provisions, including those of the Building Division, Public Works Department, Fire Department, and Butte County Environmental Health. The permittee is responsible for contacting these offices to verify the need for permits.
3. The permittee shall ensure that music events are limited to ten events during a one-month period.
4. The permittee shall ensure that all doors, windows and other openings be closed whenever music is being played, including rehearsals and sound checks.

5. The permittee shall limit the volume of performances so that no sound greater than 60 dBA caused by the music event can be measured at any point on the perimeter of the property. All other provisions of CMC 9.38, the City's Noise Ordinance, shall be adhered to.
6. Alcohol sales are limited to gallery events only.
7. Gallery staff shall patrol the parking lot and back yard area to discourage loitering and loud behavior outside the venue.
8. The permittee shall obtain the necessary permits to remove the non-conforming sign located on the southern property line (that hangs over the sidewalk) prior to occupancy.
9. One bike rack shall be installed near the front entrance of the building prior to occupancy.
10. Upon transfer of the ABC license to the new location, the permittee shall obtain a Zoning Verification from the Planning Department.

PUBLIC CONTACT

A notice was published in the Chico Enterprise Record 10 days prior to the meeting date and notices were mailed out to all property owners and tenants within 500 feet of the project site.

DISTRIBUTION:

Internal (3)

Brendan Vieg, Zoning Administrator
Shannon Costa, Assistant Planner
File: UP 17-25

External (2)

1078 Gallery, Attn.: Erin Wade, 722 Flume Street, Chico, CA 95926
George and Eiliya Maida, 1646 Park Avenue, Chico, CA 95926

ATTACHMENTS:

- A. Location/Notification Map
- B. Plat to Accompany Use Permit 17-25 (1078 Gallery)
- C. Project Description
- D. Parking Summary



Use Permit 17-25 (1078 Gallery)
1710 Park Avenue
APN 005-232-003-000

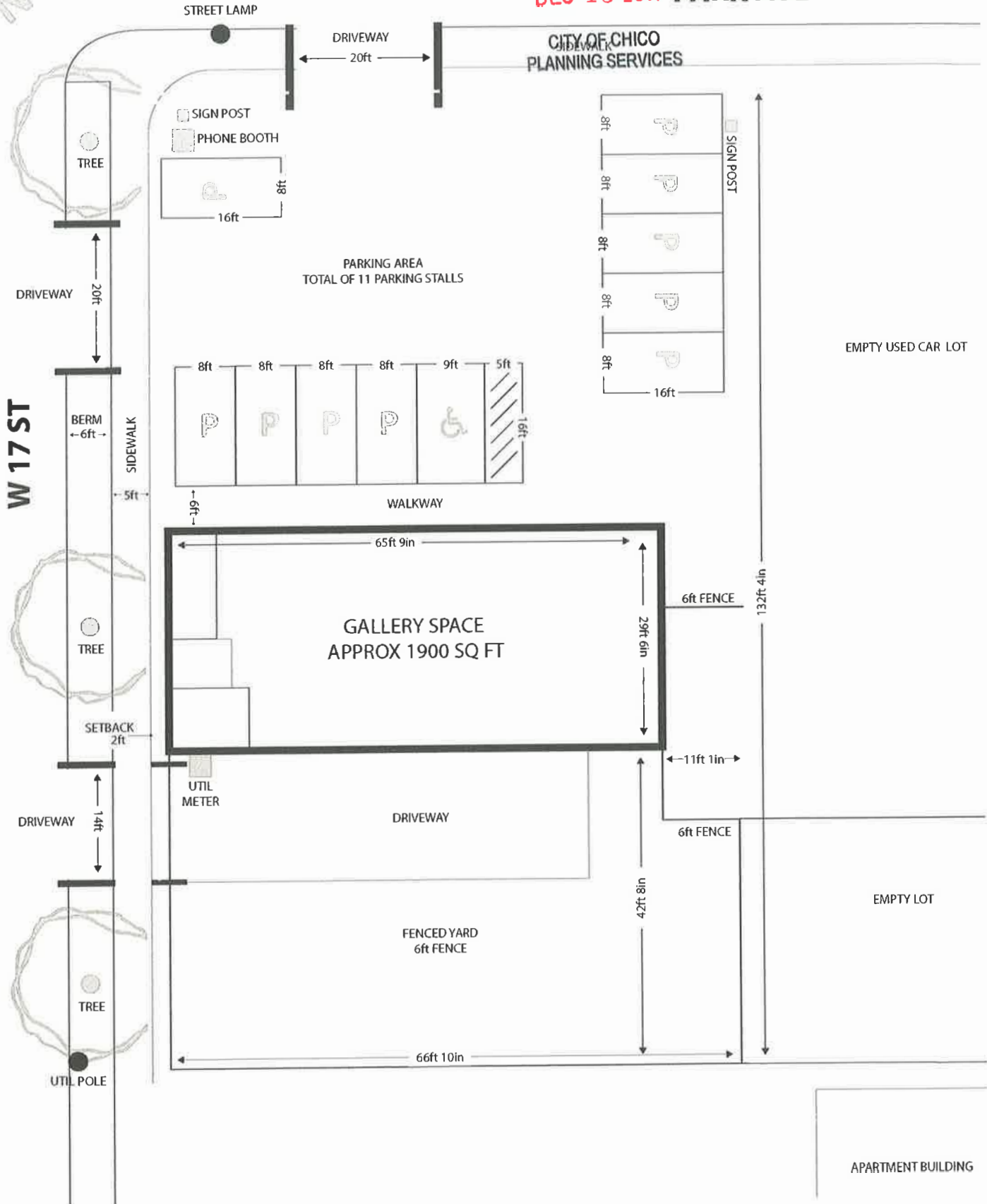
1710 PARK AVE

1078 GALLERY RELOCATION PROJECT

PARCEL # 005-232-003

RECEIVED

DEC 13 2017 PARK AVE



Events at 1078 Gallery

...

Art | Music | Literary | Theatre



Dance

Theater



Art



Music

Workshops



Comedy



Literary



Event Types and Frequency

1078 Gallery hosts a wide variety of events including:

- Art receptions (1/month)
- Concerts (approx. 6/month)
- Theater / comedy / dance performances (approx. 3/month)
- Readings / discussions (approx. 1/month)
- Community events / meetings / workshops (approx. 2/month)



Music Events—Genres and Attendance

For the past several years 1078 Gallery has hosted an average of 8 music events per month, in a variety of genres. Average attendance is 35-50 people, but some shows will draw a larger audience of up to 100 or more.

The gallery has always been an all-ages venue, and each genre tends to attract its own age group of fans:

- Classical (ages 45-70)
- Folk / singer-songwriter (ages 30-50)
- Rock (ages 20-45)
- Hip-hop (ages 20-40)
- Heavy metal / punk (ages 20-40)



Music Events—Hours

Planned music hours for 1710 Park Ave are 7-10 p.m., with setup/soundcheck usually beginning around 5 p.m.

Most concerts are on weekends, but occasionally there are events mid-week.



Music Events—Management

Music programming is handled by our Music Booking Collective, a group of volunteers who donate their time to put on music events. These are people who care about the Chico community and the reputation of 1078 Gallery.

For larger music events, we intend to hire paid door staff to monitor front of building, and paid cleaning staff who will make sure exterior of building is cleaned up after events.

“Respect the space” is something we stress at our events. Because we enjoy great support from the community, we find that, overwhelmingly, attendees to our events *do* treat the gallery space with care and respect.

Alcohol Sales

1078 Gallery presently has a Type 40 (beer-only) license from the California Dept. of Alcoholic Beverage Control.

We applied for this license in 2014 and it was granted to us with the support of the Chico City Council and the Chico Police.

The license will need to be transferred to the new space at 1710 Park Ave. Transferring the license is critical to our ability to make the 1710 Park Ave. space feasible for us.

Alcohol Sales

We offer beer at events for two reasons:

1. Adults in Chico aren't really interested in attending arts events without alcohol.
2. It's an important revenue stream—although beer sales amount to only 15-20% of our total income, this has helped us survive with no City funding for the past 3 years. (Prior to that, the gallery had received \$8-10k annually in support from the City of Chico).

Our volunteers are trained to request ID from attendees for beer purchases.

History

The gallery has never received a formal noise complaint.

In 11 years of having events at our previous location of 820 Broadway, there have been very few incidents of vandalism. All of these were minor (primarily occasional graffiti).



Parking summary for 1710 Park Avenue (UP 17-25 1078 Gallery)

Parking required pursuant to Chico Municipal Code 19.70.040:

Libraries, museums, art galleries, post office: 1 space for each 500 square feet of gross floor area plus 1 space per official vehicle.

Total gross floor area of 1710 Park Avenue: 1900 square feet

Parking required: 3.8 = **4 spaces required**

Number of official vehicles: 0

Number of spaces provided: **11 spaces provided**