

Midway City Planning Commission Regular Meeting Minutes January 12, 2020

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 6:00 p.m., January 12, 2020, at the Midway City Community Center
160 West Main Street, Midway, Utah

Attendance

Jeff Nicholas- Chairman
Andy Garland
Heather Whitney (Zoom)
Craig Simons
Bill Ream
Rob Bouwhuis- Vice Chair
Michelle Crawford (Zoom)
Rich Cliften (Zoom)
Jon McKeon

Staff

Michael Henke – City Planner
Melannie Egan – Admin. Assistant
Wes Johnson – City Engineer

Excused

6:00 P.M. Regular Meeting

Call to Order

- Welcome and Introductions; Opening Remarks or Invocation; Pledge of Allegiance
 - Invocation was given by Chairman Bouwhuis
 - Chairman Nicholas led the Pledge of Allegiance

Item 1:

Review and possibly approve the Planning Commission Meeting Minutes of December 8, 2020.

Motion: Commissioner Ream: I make a motion that we recommend approval of the minutes for December 8, 2020 with the changes that were given to Melannie Egan.

Seconded: Commissioner Bouwhuis

Chairman Nicholas: Any discussion on the motion?

There were some clarifications added to the motion

Chairman Nicholas: All in favor.

Ayes: Commissioners: Bouwhuis, Ream, Simons, McKeon, Whitney, Crawford, Clifton and Garland

Nays: None

Motion: Passed

Item 2:

Midway City is proposing a code text amendment of Section 16.26.13: Vested Rights of the Midway City Municipal Code. The proposed amendment would clarify vesting rights for land use applications. The proposal would also clarify the requirements for the validity of a land use application if the application has ceased to progress through the approval process.

Planner Henke gave a presentation

Vested Rights

Proposal would make two changes:

- Clarifies and defines when approval is not possible for a land use application because the City has formally initiated proceedings to amend its ordinance
- Clarifies and defines that an applicant of a land use application must, with reasonable diligence, pursue approval or the application will lapse
- Proposed code defines “formally initiated proceedings”
- Current Code:
 - An applicant is entitled to approval of a land use application...unless.
 - In the manner provided by local ordinance and before the application is submitted, the City has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.
- Proposed additional language:
- The City has “formally initiated proceedings” when:
 - A proposed ordinance is pending on the City Council’s agenda that would prohibit approval of the application as submitted and was placed on the agenda prior to the applicant’s submission; or
 - A proposed code provision is on the City Planning Commission’s agenda that would prohibit approval of the application as submitted and was placed on the agenda prior to the applicant’s submission.

Validity of an Application

- Currently an application may be submitted and vested under the code when it was submitted but never progress through the approval process
 - Applications may be on hold for years and even if the City changes code requirements, the application will be vested under the old requirements
 - Staff feels that a stalled application should lapse if requirements are not met
- Applicants submit applications they never progress for the following reasons:
 - To vest under current code and avoid new requirements
 - They want to apply before a moratorium takes effect

- Issues arise and the application fails to progress
- There are not enough funds to complete the process

- Current Code:

The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

- Proposed Code Amendments:

A. The continuing validity of a land use application that has been deemed complete is conditioned upon the applicant proceeding substantively forward to implement the completed application with reasonable diligence.

1. "Reasonable diligence" shall mean:

a. Placing the completed application and/or project on the City Council agenda or Planning Commission agenda every 180 days to move the application substantively forward towards final approval.

2. Failure to appear on the City Council or Planning Commission agenda as outlined in (D)(1)(a) and/or failure to show specific evidence that the project is moving substantively forward will result in a lapsed application.

3. After an application lapses, the applicant must restart the application process under the applicable land use ordinances in effect at the time of reapplication including paying all fees applicable to a new application.

Possible Findings

- The proposed amendment will assure that applications that fail to progress will lapse
- The City does not want applications to sit idle for months or years and vested on outdated codes
- The proposal will help assure that developments are developed under the most current codes and requirements

Commissioners and Staff Comment

There was a discussion regarding different scenarios in which the new language would apply.

1a should be 1d- There was a comment that we should take out "a" and just have D, 1,2 and 3. Go straight to the definition.

There was a discussion regarding how long it typically takes from the time an application is submitted and it gets on an agenda. Michael explained that it really varies depending on the type of application. Michael used the example of a road dispute. If the application is received, it would be possible to hold the application from one stage to another until the issue is resolved and the process can proceed.

There was a question about the verbiage of "vesting" and could we tie it into something else to make it more clarified. Michael stated that we are under state ordinances and therefore we cannot.

Motion: Commissioner Bouwhuis: I make a motion that we recommend approval of the code text amendment of Section 16.26.13: Vested Rights of the Midway City Municipal Code. The proposed amendment would clarify vesting rights for land use applications. The proposal would

also clarify the requirements for the validity of a land use application if the application has ceased to progress through the approval process. We accept the possible findings and with the small minor changes discussed in this meeting.

Seconded: Commissioner Simons

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners:

Nays: None

Motion: Passed

Adjournment

Motion: Commission Ream

Second: Commissioner McKeon

6:55 pm

Chairman – Jeff Nicholas

Admin. Assistant – Melannie Egan