

Midway City Planning Commission Regular Meeting Minutes November 12, 2019

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 6:00 p.m., November 12, 2019, at the Midway City Community Center 160 West Main Street, Midway, Utah

Attendance

Jim Kohler – Chairman
Kevin Payne – Co-Chairman
Natalie Streeter
Jeff Nicholas
Rob Bouwhuis
Heather Whitney
Jon McKeon

Staff

Michael Henke – City Planner
Lindy Rodabough – Admin. Assistant
Wes Johnson – City Engineer

Excused

Bill Ream

6:00 P.M. Regular Meeting

Call to Order

- Welcome and Introductions; Opening Remarks or Invocation; Pledge of Allegiance
 - Open remarks was given by Commissioner Streeter
 - Chairman Kohler led the Pledge of Allegiance

Note:

There were no Planning Commission Meeting Minutes to review and approve for October 8, 2019.

Item 1:

Brett Walker, agent for Probst Raspberry LLC, is requesting preliminary/final approval of The Willows at Midway, a rural preservation subdivision. The proposal is for a 5-lot subdivision on 36.72 acres. The property is located at about 100 South and 500 West and is in the RA-1-43 zone.

Comments and Questions

- No discussion on this item

Chairman Kohler continued this item due to unresolved issues

Item 2:

Midway City is proposing a code text amendment of Section 16.16.4 (A)(20)(a): Concept Plan/Master Plan. The proposed code will limit the number of phases and plats allowed in a master planned development based on the number of units in the master plan.

Planner Henke gave a presentation

BACKGROUND:

Midway City Planning Commission and City Council have recently reviewed two proposals that dealt with phasing in master plans. The first proposal was a code text amendment which would have allowed for multiple plats to be recorded per each phase of an approved master plan. After careful review, the proposal was denied. The second proposal was a master plan amendment that petitioned the City to increase the number of phases in an approved master plan from three to eight. This proposal was approved but the number of phases was reduced to five. After reviewing both proposals the Planning Commission and the City Council asked staff to review the code and to propose potential amendments for consideration. It became apparent through the discussions by the Planning Commission and City Council that some additional standards should be established regarding phasing and, potentially, the number of units required per phase.

The process of approving and recording multiple plats requires much time and effort for the Planning Commission, City Council and for staff so the proposed amendments have been tailored to establish standards that are fair for the City and the developer. Per the current code, it is possible that a separate plat could be requested for each unit or lot in master plan. For this to happen, the developer would need to propose as many phases as units or lots in the proposal. It was concluded that this scenario is unlikely, but the City should amend that code to direct development in a manageable and orderly manner.

As mentioned previously, the City has some standards for master plans which include that a proposal must demonstrate that approval of the project in multiple phases can occur such that the project can still function autonomously if subsequent phases are not completed. Therefore, the Master Plan application must demonstrate that sufficient property, water rights, roads, sensitive lands protection, and open space are proposed with the first phase to allow the project to function without subsequent phases. The City will consider additional phasing requirements to this list.

Staff has developed three options for the City to consider which will be discussed below.

Option 1: Establish a minimum number of lots/units per plat.

The City may adopt code that requires a specific number of lots/units per plat. By requiring a minimum number, the City is assured that each plat has enough units/lots to justify the time and effort spent for reviewing, processing and approving each phase. Staff has considered numbers from 5-15 as the minimum requirement. Potential code language that could be added to Section 16.16.4 (A)(20)(a) as follows:

A minimum of ten units/lots shall be included in each phase of the master plan.

Option 2: Establish a minimum number of lots/units per plat on a percentage basis.

The City may adopt code that requires a specific number of lots/units per plat based on a percentage of the overall number of units in the development. For example, the code could require that 20% of the units/lots are included in a plat. This approach would guarantee no more than five plats would be included in the master plan. A 40-lot development would require at least eight lots per plat. The disadvantage with this approach is that very large developments would have a relatively large number of units/lots in each plat while a smaller development could have a small number of units/lots per plat. Potential code language that could be added to Section 16.16.4 (A)(20)(a) could as follows:

A minimum of 20% of the units/lots of the master plan shall be included in each phase of the master plan.

Option 3: Establish the number of phases based on the number of units/lots in the development and allow the developer flexibility on the number of units/lots per plat.

The City may adopt code that establishes the number of plats based on the number of units in the development but still allows flexibility regarding the number of units/lots per plat. For example, the code would allow for one plat per development and another plat for every 15 units/lots. A 60-lot development would allow for five plats. The developer would then be able to determine how many units are in each of the five plats. This would assure the City that there would not be an excessive number of phases, but it would also allow flexibility for the developer regarding the number of units/lots per plat. Potential code language that could be added to Section 16.16.4 (A)(20)(a) could be as follows:

The number of phases in a development shall be determined by the number of lots/units. One plat is allowed per development and an additional plat is allowed for each additional 15 units/lots. Once the number of phases has been determined, the developer may choose the number of units/lots included in each phase. For example, a 60-lot development would allow for five plats. The developer could have 12 lots in the first phase, four lots in the second, 14 in the third, 22 in the fourth, and eight in the last phase.

POSSIBLE FINDINGS:

- The proposed amendments will establish standards for master plan phasing.

- The proposed amendments will assure that number of phases/plats in a development is manageable.
- The proposed amendments may save time for the Planning Commission, City Council, and staff.
- Option 3 allows the developer to have flexibility regarding the number of units that can be included in a phase/plat.
- The proposed amendments do not change the fact that all other master plan requirements (open space, water requirements, traffic circulation, etc.) are still required for each phase.

ALTERNATIVE ACTIONS:

1. Recommendation of Approval. This action can be taken if the Planning Commission feels that the proposed language is an acceptable amendment to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
2. Continuance. This action can be taken if the Planning Commission would like to continue exploring potential options for the amendment.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again
3. Recommendation of Denial. This action can be taken if the Planning Commission feels that the proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

Comments and Questions

- Limited of staff time
- Fees must cover the time to process applications
- Minimum lots per phase
- Limited of staff time
- Plat/Phase=same thing
- Maximum number of phases

- Minimum number for the first phase
- First phase 15 lots/units
- PUD minimum
- 2 plats at 28
- 42 units/3 plats
- Units shall be grouped or clustered in each phase

Public Hearing Open

None

Public Hearing Closed

Motion: Commissioner Streeter: I move that we propose a code text amendment of section 16.16.4 (A)(20)(a) of the Concept Plan/Master Plan. This proposed code will limit the number of phase/plats allowed in a Master Plan development based on the number of units in the Master Plan. We accept the findings of staff and we suggest that the language be “the maximum number of phases in a development shall be determined by the number of lots/units”. One plat is allowed for each 15 lots or portion thereof, of the development. Once the number of phases has been determined the developer may choose the number of units/lots included in each phase. Just to be clear phase and plat are interchangeable.

Planner Henke: I considered having the example included in the ordinance

Commissioner Streeter: I will amend my motion to include at the end of the previous motion. For example: a 61-lot development would allow for five (5) plats. The developer could have 12 lots in the first phase, four (4) lots in the second, 14 in the 3rd, 23 in the 4th, and eight (8) in the last phase.

Seconded: Commissioner Nicholas

Chairman Kohler: Any discussion the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners: Streeter, Payne, Nicholas, Bouwhuis, Whitney and McKeon

Nays: None

Motion: Passed

Item 3:

Midway City is proposing a code text amendment of Section 16.2: Definitions. The proposed code will define One-Family Dwellings. Also, this proposal will define when a second kitchen is allowed in a one-family dwelling and will explain what constitutes a second kitchen.

BACKGROUND:

Midway City is proposing a code text amendment that would add language to the definitions section of the code that would define one-family dwellings. The reason for this proposal is staff is constantly

discussing this issue with people interested in constructing in Midway and, though less frequently, with residents that would like to finish their basements or add additions to their homes. The code allows for one-family dwellings in all residential zones but there is not a definition of a one-family dwelling anywhere in the code which has required staff to use its best judgement on this issue.

Sometimes building permits are submitted to the City that are essentially duplexes. The permits include two kitchens and include doors that separate two living areas. Staff has been consistent on dealing with this issue and has required one kitchen to be removed or reduced to a wet bar, or the lockout to be removed. If a second kitchen has been allowed, after the determination has been made the dwelling is not a duplex, then a second kitchen affidavit has required to be recorded on the lot, so any future owners also know that the dwelling is a one-family structure. It will be much easier for staff and for the public if there is a clear definition that can be shared with those interested in building in Midway or making additions or improvements to their existing dwelling. State code requires cities and counties to have clear and precise language in their land use codes which leaves little area for interpretation. The lack of definition that we currently have leaves the City in a vulnerable position if there is ever a legal issue that arises over this issue. There is also the bigger issue that should be considered regarding one-family dwellings that are illegally converted to duplexes. Structures that were approved as one-family dwellings but are built with everything required to house two families are easily converted to this situation and essentially double the density and use on a single-family lot. Doubling the density has a compounding effect on the community regarding demand on services, traffic, parking, number of students in the schools, etc. Also, without clarity of code, staff believes that the size of homes are larger because property owners build bigger structures with the idea of having more than one family in a dwelling. If it is clear that only one kitchen is allowed, then much of the discussion and debate can be avoided along with unintended consequences on a communal level.

Realtor.com defines a single-family home as the following: "a structure maintained and used as a single dwelling unit." The site goes on to explain that there should only be one kitchen as described in the following: "A single-family home has one kitchen. Adding a kitchen to an in-law suite or carriage house will alter a home's zoning classification."

Option 1:

Staff proposes that the following definition is added to the definitions section of the Land Use Code found in Section 16.2:

60. One-family dwelling. A building designed for use as a residence and includes only one kitchen and does not include basement suites, mother-in-law suites, or lockout units. Wet bars are allowed in one-family dwellings and may include a sink, microwave, and refrigerator but may not include a stove, oven, or dishwasher.

Option 2:

If the City would like to continue to allow two kitchens in a dwelling, then the circumstances when a second kitchen will be allowed need to be clearly stated. It is important that if a dwelling can have a second kitchen that the home functions as single-family dwelling and not as a duplex. This means that the second kitchen is integrated into the dwelling so that it does not function as a separate living

space. The code could allow a second kitchen if the only access to the second kitchen is through the main part of the dwelling and there is no access from the garage or an outside entrance. Also, another option is to allow a second kitchen if there is not a door between the two kitchens. Both options are manageable for staff regarding administering the City's code for one-family dwellings. If a second kitchen option is adopted by the City, then there should always be a second kitchen affidavit recorded on the property. Potential code language could be the following:

60. One-family dwelling. A building designed for use as a residence and does not include basement suites, mother-in-law suites, or lockout units. If a one-family dwelling includes more than one kitchen then one of the following options are required; 1. There is not a separate access to the second kitchen from outside the dwelling or from the garage, 2. There is not a door between the two kitchens. Wet bars are allowed in one-family dwellings and are not subject to the same restrictions as second kitchens and may include a sink, microwave, and refrigerator but may not include a stove, oven, or dishwasher.

Adopting one of the two options in this report will help and staff to administer the code and it will help the public to understand the options available when building in Midway.

POSSIBLE FINDINGS:

- The proposed amendment will define one-family dwellings
- The proposed code will define if and under what circumstances second kitchens are allowed
- The proposed amendment will help staff to better administer the City's code
- The proposed amendment will help the public to understand the options available when building in Midway

ALTERNATIVE ACTIONS:

4. Recommendation of Approval. This action can be taken if the Planning Commission feels that the proposed language is an acceptable amendment to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings

5. Continuance. This action can be taken if the Planning Commission would like to continue exploring potential options for the amendment.
 - a. Accept staff report
 - b. List accepted findings

- c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again
6. Recommendation of Denial. This action can be taken if the Planning Commission feels that the proposed amendment is not an acceptable revision to the City's Municipal Code.
- a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

Comments and Questions

- Add code to the supplementary section regarding Second Kitchen Affidavit
- Commissioners like option 2 best with a few changes
- No renters
- Continue this item come back with language for both sections of the code

Public Hearing Open

None

Public Hearing Closed

Motion: Commissioner Streeter: I move that we continue the item 3 the code text amendment of section 16.2: Definitions. We will continue it to a later date to allow staff time to flesh out the language a little more specifically using option 2 as a template. Items that they'd flesh out would be the 2nd second kitchen affidavit and the stipulation of no renting ADUs would not be considered in this they would also define dwelling to avoid outside kitchen becoming a second kitchen.

Seconded: Commissioner Payne

Chairman Kohler: Any discussion the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners: Streeter, Payne, Nicholas, Bouwhuis, Whitney, McKeon

Nays: None

Motion: Continued

Item 4:

Midway City is proposing a code text amendment of Section 16.13.6: Accessory Buildings Prohibited as Living Quarters and Section 16.2: Definitions. The proposed code will better describe what is allowed in an accessory structure and define what is considered living quarters. The proposed amendment will also address breezeways and their relation to accessory structures.

BACKGROUND:

Midway City is proposing a code text amendment that would add language to the definitions section of the code that would define accessory buildings. The proposed amendment also clearly states what is allowed in accessory structures and addresses lengths of breezeways and their relation to accessory structures. Staff has found that better defining these issues will make administering the code easier and the public will have better guidelines regarding accessory structures.

Staff has found that determining what is “living space” is problematic without a definition in the code. Generally, staff has described living space as bedrooms, kitchen full bathroom, and laundry facilities. Rooms such as offices, hobby rooms, game rooms, music rooms, craft rooms, swimming pool areas, and such as nonliving space.

Staff has had many discussions, over the years, on this issue and feels that adopting the following definition will greatly help both the public and staff:

Section 16.2.7a Building, accessory

A subordinate building, located on the same Lot as the main building, the use of which is incidental to that of the main building. Accessory buildings are structures including, but not limited to: attached or detached garages, sheds, playhouses, treehouses, storage buildings, pergolas, garden structures, greenhouses, private studios, boathouses, pool houses (may include showers), cabanas, and other similar buildings. Accessory buildings may include rooms such as offices, hobby rooms, game rooms, music rooms, and craft rooms. An accessory building may not include any living space which includes rooms such as bedrooms, kitchens, full bathrooms, and laundry facilities. Accessory buildings are to be used exclusively by the owners or occupants of the main residential building and their temporary guests or invitees. Accessory buildings are not permitted to be used as sleeping quarters or as living space.

Staff is also proposing to amend Section 16.13.6: Accessory Buildings Prohibited as Living Quarters. The current code reads as follows:

Section 16.13.6 Accessory Buildings Prohibited as Living Quarters

Living and sleeping quarters in any building other than the main residential building is prohibited except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.

Those who have wished to have living quarters in accessory structures have suggested that attaching the accessory structure to the main dwelling by connecting a breezeway makes the accessory structure part of the main structure. Some have even suggested building a breezeway of up to 200’ to have living space in what staff has considered an accessory structure even with the breezeway connection. Staff would like to adopt a standard to the length of a breezeway that determines when a structure is part of the main structure or when its an accessory structure.

The proposed code for Section 16.13.6: Accessory Buildings Prohibited as Living Quarters is as follows:

Section 16.13.6 Accessory Buildings Prohibited as Living Quarters

A. It shall be a violation of the Midway City Code to use, or to allow the use of, an accessory building as sleeping or living quarters. Violations of this section of the Code shall be enforced as set forth in the Midway City Code for other violations.

B. Living and sleeping quarters in any building other than the main residential building are prohibited except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.

C. "Living and sleeping quarters" in an accessory building shall be defined to include bedrooms, kitchens, laundry facilities, and/or full bathroom facilities.

D. It shall be a violation of this Code to rent, lease or otherwise allow for any person to use an accessory building for sleeping or living quarters.

E. Breezeways or covered awnings connecting an accessory building to the main residential building are limited to twenty (20') feet in length for the entire structure to be considered the main residential building which allows living space in the entire structure. If a breezeway is greater than 20' in length, then the structure connected to the main structure is an accessory building is not allowed to have any living space.

POSSIBLE FINDINGS:

- The proposed code will define living space and what is allowed in accessory structures
- Allowed and prohibited uses are clearly stated for accessory buildings
- The proposed amendment will help staff to better administer the City's code
- The proposed amendment will help the public to understand the options available when building in Midway

ALTERNATIVE ACTIONS:

7. Recommendation of Approval. This action can be taken if the Planning Commission feels that the proposed language is an acceptable amendment to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings

8. Continuance. This action can be taken if the Planning Commission would like to continue exploring potential options for the amendment.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again

9. Recommendation of Denial. This action can be taken if the Planning Commission feels that the proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

Comments and Questions

- Length/distance between the two structures
- Distance between wall to wall

Public Hearing Open

None

Public Hearing Closed

Motion: Commissioner Streeter: I move that we continue code text of 16.13.6 we will continue them to a later date for staff to item 4 code text amendment suggestions made by the commission

Seconded: Commissioner McKeon

Chairman Kohler: Any discussion the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners: Streeter, Payne, Nicholas, Bouwhuis, Whitney, McKeon

Nays: None

Motion: Continue

Adjournment

Motion: Commissioner Streeter: I motion to adjourn

Second: Commissioner Nicholas

9:10 pm

Chairman – Jim Kohler

Admin. Assistant – Melannie Egan

Approved