MINUTES OF THE
MIDWAY CITY COUNCIL

(Work Meeting)

Friday, 20 May 2016, 9:00 a.m.
Midway Community Center, City Council Chambers
160 West Main Street, Midway, Utah

Note: Notices/agendas were posted at 7-Eleven, Ridley's Express, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the City Council, City Engineer, City Attorney, Planning Director, Public Works Assistant Crew Chief, and The Wasatch Wave. The public notice/agenda was published on the Utah State Public Notice Website and the City's website. A copy of the public notice/agenda is contained in the supplemental file.

1. Call to Order

Mayor Bonner called the meeting to order at 9:01 p.m.

Members Present:

Colleen Bonner, Mayor
Ken Van Wagoner, Council Member
Karl Dodge, Council Member
Kent Kohler, Council Member
Lisa Christen, Council Member
Bob Probst, Council Member

Staff Present:

Michael Henke, Planning Director
Kraig Powell, Attorney
Wes Johnson, Engineer
Shane Owens, Public Works Assistant Crew Chief
Brad Wilson, Recorder/Financial Officer

Note: A copy of the meeting roll is contained in the supplemental file.

2. Midway Self Storage and Offices/Conditional Use Permit (Mark Steven Banks) –

Discuss a Request for a Conditional Use Permit for a Mixed Use Development, that would Include One Residential Unit, Two Commercial Buildings, and Warehousing and Mini-Storage Units, located at Approximately 525 East Main Street (Zoning is C-2) – Recommended for Approval with Conditions by the Midway City Planning Commission.

Michael Henke gave a presentation regarding the request and reviewed the following areas:

- Land use summary
- Location of the proposed development
- Zoning map
- Concept site plan

- Setbacks
- Renderings
- Aerial view
- Items of discussion
- Engineering
- Landscaping
- Fencing/wall
- Lighting plan
- UDOT approval
- Timing of construction
- Traffic analysis
- Storage unit requirements in the Municipal Code
- Proposed findings
- Possible conditions

Mr. Henke also made the following comments:

- Additional parking stalls had been added.
- The entire project would be constructed at the same time.
- Received a concept plan that week for residential development just to the north.
- Wanted the rooflines of the storage units broken up.
- The developer wanted to work with the neighbors on the landscaping.
- He and the Mayor met with the developer.
- Wanted the landscaping around the project to be manicured.
- A storm drain plan was needed.
- The fencing/wall would be more substantial around Inez Wilde's property. Wanted to protect her from noise, light, etc.

Note: A copy of Mr. Henke's presentation is contained in the supplemental file.

Wes Johnson reviewed the peek trips for the storage units per hour and per day for weekdays and weekends. He was unable to determine the trips for the commercial buildings because their uses were yet to be determined.

Council Member Dodge asked how the trips compared to residential development. Mr. Johnson responded that residential development had more trips per day.

Council Member Christen worried that the commercial buildings would not be filled and asked if occupancy requirements could be mandated. Mr. Henke responded that the City could not require that they be occupied.

Council Member Christen asked if the interiors of the commercial buildings would be finished. Mr. Henke responded that they would be finished to suit the tenants.

Council Member Van Wagoner asked the status of the property just to the east. Mr. Henke

responded that it was no longer under contract for sale. Council Member Van Wagoner pointed out that no landscaping was planned on the east side of the proposed project. Mr. Henke indicated that no setback was required unless the neighboring property was residential. He added that any drainage could not fall off of the roofs and onto someone else's property.

Council Member Van Wagoner asked about the water system in the development. Wes Johnson indicated that there would be fire hydrants throughout the project. He said that the City would have to determine if it was responsible for those hydrants and the associated piping.

Kraig Powell reviewed a memo that he wrote regarding conditional uses and made the following comments:

- Conditions placed on a conditional use permit had to be based on issues referenced in the Municipal Code. They needed to be reasonable and could not make the project difficult or impossible.
- Conditional use permits were not usually deniable unless there was a large difference between a code and what the developer requested.
- Denials were risky.
- Conditions needed to be proposed to mitigate issues related to the Code.

Note: A copy of Mr. Powell's memo is contained in the supplemental file.

Mayor Bonner noted that two attempts were made to eliminate storage units from the commercial zones.

Wes Johnson made the following comments:

- The proposed project was unique because of the amount of impervious surface.
- Had not seen a storm drain plan or geotechnical study for the proposal.
- Assumed that the storm water would be stored underground.
- Underground storage depended upon the percolation rate.
- Requested a storm drain plan, geotechnical study and percolation tests before the project was approved.
- The area designated for snow storage was not large enough. The snow might have to be hauled off site.

Mr. Powell said that it would be difficult to place a condition on storm drainage because the details were not known. He suggested that the applicant meet with Mr. Johnson regarding the issue.

Mayor Bonner thought that the gates, along the exterior of the project, would be easy to climb.

Council Member Christen asked if the exterior landscaping would be mature. Mayor Bonner recommended trees with at least a two-inch caliper. Mr. Henke responded that was a standard width but the neighbors requested something larger.

Mayor Bonner suggested that there be a variety of trees with heights of 15 to 20 feet. She said that the grass around the exterior should be mowed and free of weeds. Mr. Johnson wondered if the applicant was willing to irrigate the landscaping.

Mayor Bonner asked if an on-site caretaker could be required. Mr. Henke responded that it was not required in the code but could be a reasonable condition.

Mayor Bonner reported that she met with the director of UDOT - Region Three regarding Main Street. Mayor Bonner indicated that UDOT needed to improve the entire road rather than do it piecemeal. She suggested that developers escrow the needed money until all of the street could be done. Mr. Johnson noted that there needed to be a constant slope which is why those blocks should be done at the same time. He suggested that at least the north side be done.

Mike Johnston, Summit Engineering and representing the applicant, made the following comments:

- Main Street needed to be redone collectively.
- The gates, around the exterior of the project, would be for maintenance access, large enough for small vehicles, and locked.
- The applicant did not want to spend a lot of money on the project until it was approved.
- The designated area for snow storage was for just the commercial buildings at the front of the project. The snow around the storage units would be hauled away.
- Would do a lot of testing to prepare a storm water plan.
- Suggested pervious surface which had an eight-year history.
- The storm water plan would be the first thing done after approval.
- The irrigation ditch on the west side would be filled in because it would no longer be needed.

Council Member Kohler asked that there not be a gate into Ms. Wilde's property. Mr. Johnston responded that the wall would be continuous to the west of the property line.

Council Member Probst asked about the options for storm water. Mr. Johnson responded that slope, gutters, collection systems, underground retention, and pervious asphalt were all options. He noted that oil needed to be separated from the water. He said all water needed to be retained on the property and there needed to be adequate separation devices.

Mr. Johnson indicated that the separation devices needed to be cleaned and checked.

Mr. Johnston indicated that the number of storage units could be reduced somewhat to accommodate storm water.

Mr. Henke indicated that the industry standard was for storage units to be accessible 24 hours a day. He noted that the City had previously limited the hours of operation for other storage units.

Steven Banks, applicant, made the following comments:

- A lot of feasibility studies had been done regarding hours of operation for storage units.

- Hired an expert on storage units.
- 24-hour accessibility was standard.
- Storage units were usually in industrial areas which had a high crime rate.
- To limit the hours of operation the City had to have evidence that it would actually reduce criminal activity.
- Had signed a contract with a company to manage the units.
- The company's standard was to have 24-hour accessibility.

Council Member Christen noted that Daniel Road Storage was closed at night. She said other reasons for limiting the hours of operation were noise and the inconvenience to neighbors.

Mayor Bonner thought that limiting the hours would be an inconvenience to the applicant but not an undue hardship.

Mr. Banks said that the City would have to provide studies that the noise would be a problem. Council Member Van Wagoner cautioned that it would take time to perform such studies.

Mr. Powell thought that staff needed to spend time with the applicant on the noise issue. He indicated that the City might have to work with the applicant's studies and experts. He added that the City could take the necessary time to resolve the issue.

Mr. Powell said that limiting the hours of operation would depend upon how many trips there were at night. He said if there were only two or three then limiting the hours would not be an undue hardship. Mayor Bonner asked Mr. Banks to provide information on the number of trips during the night.

Council Member Kohler indicated that a meth lab has recently been discovered in a storage unit in Utah. He said that the chance of illegal activity would be reduced if the hours of operation were limited to the daytime. Mr. Banks responded that he had to access a storage unit after midnight when he moved. He said that the units would be secured and gated with only tenants having access. He thought that illegal activity could happen during the day.

Mayor Bonner asked if the City should facilitate the meeting with the applicant and the neighbors regarding the landscaping. Mr. Johnston liked a meeting facilitated by the City. Mr. Powell agreed that type of meeting was preferable.

The Council agreed that the meeting should take place before a decision was made on the conditional use permit.

Mayor Bonner requested a landscaping plan prior to any action.

Amaria Scovil, who owned property next to the proposed project, opposed the development and did not want the meeting to be seen as a sign of approval.

Mr. Powell made the following comments:

- It was rare that the City had a conditional use permit request of this scale.

- The project was a conditional use in the zone where it was proposed.
- The City had considered removing storage units from the zone and ultimately left them in.
- Utah law required that a conditional use permit be approved if the conditions imposed mitigated the undue effects of the project. The conditions had to be reasonable and based on requirements listed in the Municipal Code.
- The City could be sued over the project no matter what happened.
- The Council could entirely remove conditional use permits from the Code.

Mayor Bonner asked what the worst case scenario would be if the City was sued. Mr. Powell said that the City would lose the subsequent court case if it denied the request. He added that the developer would have to reject the reasonable conditions required by the Council.

Mr. Henke indicated that a denial would have to be based on safety issues. He noted that a carwash, which was a conditional use permit, had been denied by the Council because of poor access and dangerous ice build-up.

Mayor Bonner asked when the requested information, such as storm water drainage, needed to be provided. Mr. Johnson did not want a comprehensive plan, prior to approval, but did want to meet with the developer to address the storm water issue. Mr. Powell noted that certain things could be required prior to the building permit being issued.

3. Department Reports

Colleen Bonner, Mayor

Community Center Brick – Mayor Bonner reported that Council Member Probst repaired the brick on the Community Center. She thanked him for his work.

Shane Owens, Public Works Assistant Crew Chief

Town Hall Stage – Mr. Owens reported on the costs to level and resurface the stage in the Town Hall. Council Member Dodge suggested just resurfacing rather than leveling it.

Wes Johnson, Engineer

Catch Basin/1400 West – Mr. Johnson reported that he met with KW Robinson Construction, Lance Excavating, and JB Gordon Construction regarding the catch basin in the Alpenhof Subdivision and 1400 West. He would bring a contract recommendation to the Council at its next meeting.

Kraig Powell, Attorney

Food Trucks – Mr. Powell indicated that a draft ordinance, regarding food trucks, would be considered at the Council's next meeting. He said restaurant owners would be invited to attend the meeting.

4. Adjournment

Motion: Council Member Kohler moved to adjourn the meeting. Council Member Christen seconded the motion. The motion passed unanimously.

The meeting was adjourned at 10:34 p.m.

Colleen Bonner, Mayor

Brad Wilson, Recorder