

Midway City Council
9 May 2018
Work Meeting

The Corner Restaurant /
Conditional Use Permit /
Local Consent /
Proximity Variance



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: April 18, 2018
NAME OF PROJECT: Alcohol Dispensing Establishment
NAME OF APPLICANT: Karl Probst
AGENDA ITEM: Conditional Use Permit
LOCATION OF ITEM: 195 West Main
ZONING DESIGNATION: C-2

ITEM: 8

Karl Probst is applying for a Conditional Use Permit for an alcohol dispensing establishment. The restaurant will be called The Corner Restaurant and is located at 195 West Main Street. The property is 0.28 acres in size and is located the C-2 zone.

BACKGROUND:

Karl Probst is requesting a Conditional Use Permit for an alcohol dispensing establishment. He recently purchased all three lots of the MIR subdivision located at 195 West Main Street and the restaurant will located on lot 1 while the other two lots will be left as landscaped open space. A dwelling was recently removed from lot 1 and the restaurant is currently under construction on that site. The property is in the C-2 zone and restaurants are permitted uses in that zone though alcohol dispensing establishments must be approved for a conditional use permit if they are allowed to serve alcohol. If the conditional Use is granted and local consent is approved, then they will need to apply with the Department of Alcoholic Beverage Control (DABC) for state approval.

If they receive City consent, the applicant will apply for a Full-Service Restaurant Liquor License from the DABC. They plan to offer beer, wine, and liquor, as well as non-alcoholic beverages in the restaurant that will feature contemporary comfort food. Regarding the restaurant, there will be two floors with 3,108 square feet on the upper floor and 2,826 on the lower floor. There will be approximately 147 seats, spread among the floors. There will also be outdoor seasonal seating.

The approval of a CUP is an administrative act but, as per State Code, the approval of the ability to sell alcohol is a legislative act and the City has broad discretion in that decision. We do know tourism does generate business and taxes and some would argue that limiting beer licenses could damage tourism in the City.

Currently the City has approved the following licenses:

Tarahumara
Café Galleria
Zermatt Resort
Homestead Resort
7-11
Main Street Station
Ridley's
Blue Boar Inn
Midway Mercantile

A Proximity Variance is required for this approval because of The Corner Restaurant's proximity to Midway's Town Square. The front door of The Corner Restaurant to the Town Square is about 100'. State Code requires a minimum straight-line measurement of 200' for a license to be granted without a variance by the City. Therefore, since the distance is less than the requirements, the City will also have to grant a "Local Consent for Proximity Variance".

Another item of discussion is signage related to alcoholic beverages. The City code does allow illuminated product signs which does include alcoholic beverage signs. Staff is concerned about any alcohol related signage in The Corner Restaurant building for a few reasons. First, the structure is very visible from Main Street, the City's main transportation corridor partly because of the 10' setback that is allowed in the commercial zones. Second, 200 West and Main Street are highly used so the restaurant will be very visible because of its location on the corner. All vehicles turning from 200 West, heading south, onto Main Street will see the restaurant. Also, the City recently constructed a trail directly north across Main Street that will be used by all age groups. Staff would not like the restaurant to have a bar appearance with alcoholic beverage signs because of the three items listed above.

This item has been noticed in the local newspaper for two weeks and in the State's website for the Planning Commission meeting. Mailed notice will be sent out to all property owners within 600' before the public hearing before the City Council.

ANALYSIS:

The comments in italicized represent Planning Staff's comments pertaining to compliance or lack of compliance with the findings the City Council must make in considering this request. Section 16.26.120 requires specifically the City Council Commission to find that:

1. The proposed use is conditionally permitted within the Land Use Title, and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all of the applicable provisions of this Code; *planning staff believes that the proposal will not have a significant impact on the neighborhood.*
2. The proposed use is consistent with the General Plan; *no issues have been identified.*
3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations; *the applicant shall obtain approval of the CUP, Local Consent and Consent for Proximity Variance from the City Council and obtain and comply with all applicable state licensing requirements of the DABC.*
4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *no issues have been identified.*
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses with the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City; *the proposed use and associated traffic is consistent with commercial uses in the commercial zone of the City.*
6. The subject site is physically suitable for the type and density/intensity of the proposed use; *it appears that the proposal is suitable based on the existing approved use and typical events.*
7. There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to insure that the proposed use would not be detrimental to public health and safety; *no detrimental impacts have been identified.*

POSSIBLE FINDINGS:

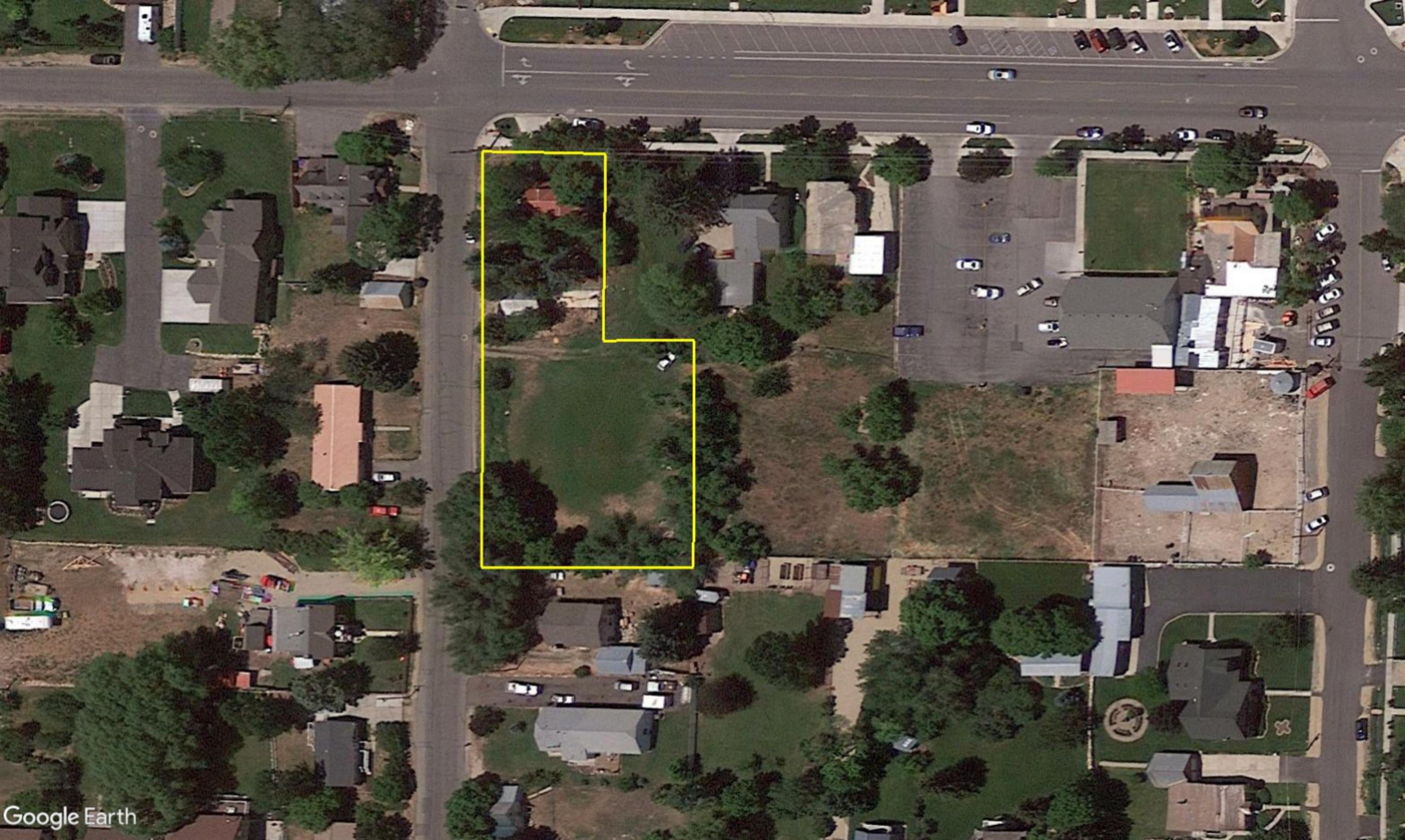
- The proposed license would allow the sale of beer, wine, and liquor at The Corner Restaurant
- The restaurant property is located within 200' of public property
- The State will require a proximity variance because of the location near the Town Square
- The State does regulate this type of alcohol license

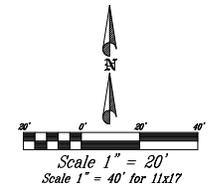
ALTERNATIVE ACTIONS:

1. Approval (conditional). This action can be taken if the City Council feels that conditions placed on the approval can resolve any outstanding issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)
2. Continuance. This action can be taken if the City Council feels that there are unresolved issues.
 - 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. Denial. This action can be taken if the City Council feels that the request does not meet the intent of the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

POSSIBLE CONDITIONS:

1. No alcohol related signage will be visible on the exterior of the building or on the inside, visible from the outside.
2. No alcohol will be served after 10pm.





PLANT SCHEDULE

TREES	QTY	COMMON NAME	SCIENTIFIC NAME	COL. T	COL. H
	3	Autumn Purple Ash	Fraxinus americana Autumn Purple	0.18	2' Gal
	4	Canada Red Chokeberry	Prunus virginiana Canada Red	0.8	2' Gal
	1	Green Ash	Fraxinus pennsylvanica	0.18	2' Gal
	5	Paper Birch	Betula papyrifera	0.8	2' Gal
	8	Bar Harbor Maple	Acer glabrum	0.18	1.5' Gal
	3	Shadblow Locust	Robinia pseudoacacia	0.8	2' Gal
	2	Spec. Tree	Cornus amomum	0.18	2' Gal
SUB. BS	QTY	COMMON NAME	SCIENTIFIC NAME	COL. T	COL. H
	1	Arctic Fire Dogwood	Cornus sanguinalis Arctic Fire™	5	Gal
	1	Blue Ice	Physocarpus opulifolius Blue Ice	5	Gal
	12	Dark Arctostaphylos	Arctostaphylos uva-ursi	5	Gal
	1	Green Mound Albion	Quercus agrifolia Green Mound	5	Gal
	20	Japanese Spirea	Spiraea japonica Anthony's Star™	5	Gal
	8	Red Leaf Japanese Barberry	Berberis thunbergii Red Leaf	5	Gal
	8	Sheila's Crapemyrtle	Lagerflora indica Sheila's	5	Gal
SHRUBS	QTY	COMMON NAME	SCIENTIFIC NAME	COL. T	COL. H
	1	Mojo Pine	Pinus strobus Mojo	5	Gal
GRASSES	QTY	COMMON NAME	SCIENTIFIC NAME	COL. T	COL. H
	22	Feather Reed Grass	Calamagrostis canadensis	1.24	
PERENNIALS	QTY	COMMON NAME	SCIENTIFIC NAME	COL. T	COL. H
	18	Autumn Glory	Sedum spectabile	1.14	
	1	Black-eyed Susan	Rudbeckia hirta	1.14	
	14	Common Blue Geranium	Geranium phaeum	1.14	
	21	Shrimp-like Geranium	Geranium x Shrimp-like	1.14	
	3	Shrub-like Geranium	Geranium x Shrub-like	1.14	
	5	Summer Pastels	Shibubakia multiflora	1.14	
IRIS	QTY	COMMON NAME	SCIENTIFIC NAME	COL. T	COL. H
	2.56	Blue Iris	Iris sibirica	1.14	
MULCH	QTY	COMMON NAME	SCIENTIFIC NAME	COL. T	COL. H
	221	2-4" Co. Red Bark	Red Bark	1.14	

THIS DOCUMENT IS RELEASED FOR REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION UNLESS SIGNED AND SEALED.

PAUL D. BERG, P.E.
SERIAL NO. 295585
DATE: 15 MAR 2018

LYTHGOE DESIGN
THE CORNER

LANDSCAPE PLAN

380 E Main St, Suite 204
Midway, UT 84049 ph: (801) 723-7000

DESIGN BY: CNE | DATE: 15 MAR 2018 | SHEET L01
DRAWN BY: CNE | REV: |