

Midway City Council
6 October 2020
Regular Meeting

Hidden Creek Bed and Breakfast /
Conditional Use Permit /
Additional Use



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: October 6, 2020
NAME OF PROJECT: Bed and Breakfast
NAME OF APPLICANT: Meghan and Conner Clark
AGENDA ITEM: Conditional Use Permit
LOCATION OF ITEM: 535 Cari Lane
ZONING DESIGNATION: R-1-15

ITEM: 5 & 6

Meghan and Conner Clark are proposing a Conditional Use Permit for a Bed and Breakfast. Their property is 2.19 acres and is located at 535 Cari Lane. The property is in the R-1-15 zone.

BACKGROUND:

Meghan and Conner Clark are requesting a Conditional Use Permit (CUP) for a Bed and Breakfast. Their home is located at 535 Cari Lane and is located on 2.19 acres. The property is in the R-1-15 zone which allows Bed & Breakfasts as a conditional use. One of the criteria for a Bed & Breakfast is that the property on which the establishment is located is at least two acres in size. A CUP can, therefore, be granted if the applicant can comply with all the requirements (see list on the following page). Four bedrooms would be available for guests to rent.

The City has lost some of its Bed and Breakfast establishments over the years including Inn on the Creek and Johnson Mill. The loss of these facilities impacted the local economy and the City's tax base. Adding a new bed and breakfast will help the City retain the resort tax and will help the local economy. The property is located on Cari Lane which is one of the City's collector roads. Guests will be able to walk to Main Street and enjoy all that Midway has to offer.

There are existing RV hook-ups on site from the previous owner. Zoning does not allow for any type of commercial use for an RV park therefore the RV hook-ups may not be rented.

Below is a list of the requirements in the code for Bed and Breakfast businesses (staff's comments in italicized based on information gathered during meeting with the applicants):

Bed and breakfast establishments shall be allowed as a conditional use in any zone, but only if at least **one** of the following criteria is met and such a use is not prohibited by private Covenants, Conditions, and Restrictions (CC&R's) governing the lot:

1. Located in the Transient Rental Overlay District (TROD)
2. Established in a structure that is at least 75 years old
3. Located on lot that is at least two acres in size – *property is 2.19 acres*
 - A. The lot shall have at least 100 feet of frontage on a dedicated street, *Lot has approximately 320' of frontage.*
 - B. One off-street parking space shall be provided for each employee plus one space per sleeping room. Parking shall not be allowed in the front setback area. Parking must be paved. *Parking will be paved and there is planned six parking stalls which includes the two stalls required for the residence and four stalls for the four rental rooms.*
 - C. Breakfast shall be the only meal served. Breakfast meals shall only be served to residents, employees, and overnight lodgers. *Only breakfast will be served.*
 - D. No cooking facilities shall be allowed in the sleeping rooms. *No issue.*
 - E. Such use shall conform to all applicable health, safety and building codes. *The applicants are in the inspection process, but final inspections have not been completed. Before a business license is issued all inspections will need to be approved.*
 - F. No structural alterations shall be allowed which change the residential character of the structure. *No alterations are planned. Recently the dwelling was remodeled but the alterations do not appear to have impacted the residential character of the neighborhood.*
 - G. Alcoholic beverages may not be served unless a license has been granted by the Utah Department of Alcoholic Beverage Control and the City Council has specifically approved the same as part of the conditional use permit. *The applicants will not pursue an alcohol license, but the applicant would like events to have the ability to serve alcohol. For this to be a possibility, the City Council would need to approve of the concept of events having the ability to serve alcohol as part of the conditional use permit. For any particular event to serve alcohol, an event permit license would need to be*

submitted to the Midway City Business License Administrator for approval of local consent. Each event would need to apply for a separate permit.

H. Receptions, banquets, or catering may be permitted as an additional use to an approved bed and breakfast conditional use when the applicant can show adequate facilities and parking exists on the lot or when arrangements are made with the permission of surrounding lot owners. *The applicants would like to have receptions, banquets, and catering approved as part of the conditional use permit. The applicant has submitted a parking plan that has stalls for 72 stalls that could be used for events. The stalls would not be hard surface because events would be sporadic, and the code does promote not altering the residential character of the neighborhood. Therefore, the parking would be mostly on the large grass areas in front of the dwelling but in not in the 30' front setback which is not allowed by the code. The applicant submitted the following information:*

“During family reunions, events, or receptions, the overflow parking will be on the large front lawn and in the south and west parts of the property. There will always be an owner or representative on the premises, whether for bed and breakfast guests or receptions. If events choose to have music, the noise will be off by 9:30PM in order to not disturb the neighbors. There will be parking attendants as well as event managers to ensure guests park in the correct areas. Managers will ensure the home is properly cared for and guests follow Midway City policies and respect the surrounding community.

Certain events may choose to serve alcohol and those vendors will maintain their own license and obtain individual permission from the City, if applicable.

We're confident the improved venue will have a positive impact on the community, increase local business activity, and provide City tax revenue.”

Large events will impact the area and any identified nuisance issues should be mitigated. The property is in a residential zone with several homes surrounding this property, particularly two that are directly north across the street. The property does have direct access to one of the City's main collector roads being Cari Lane so guests will be able to arrive and leave the property without accessing any local streets. The applicant also stated that music and noise will not be an issue after 9:30. At all times the property will need to comply with noise level standards as stated in the municipal code. The dwelling is setback from Cari Lane by a distance of about 160' and it appears most activities will take place south of the dwelling so those activities which is farther from the surrounding homes. If approval is granted and the City receives any complaints, then staff will review noise levels to assure that activities are in compliance with city code standards.

Staff is recommending that the impacts of the proposed use will be similar to the impact that a subdivision would have in the same zone. The property is 2.19 acres, if a

subdivision was approved on a parcel this size in the R-1-5 zone there would most likely be five lots in the subdivision (about 15% would be used for right-of-way to create the required street frontage for the lots that would reduce the density from six lots to five lots). Each lot would generate about 10 vehicle trips per day which, for five lots, would be 50 trips per day. Since a bed and breakfast requires a permanent residence, 10 trips per day would be used by the residents. This would leave 40 trips that could be used for events (in this example no trips are being used for the normal bed and breakfast quests which could equal eight trips per day based on four rentable rooms). 40 trips would allow for 20 parking stalls, one trip when a vehicle arrives and one trip when the vehicle leaves. Staff feels establishing a similar impact for the proposed business that a residential development would have in the same zone creates equitable impact balance for the proposed business and the residents of the zone. Staff also recommends that all events are limited to a maximum of 40 guests. This is based on an average of two occupants per vehicle. The City and the applicant both researched similar type facilities in Utah and around the country. That research showed that many facilities are limited to the number of events they have each year. It appears that many average between 10-30. Blue Boar Inn located here in Midway has about 10 events per year. Blue Boar Inn is in the Resort Zone, but it does border a neighborhood in a residential zone. Staff has not received a complaint of any type regarding the Blue Boar Inn in the past 10 years. Staff feels that this example works and should be the template for the proposed business. Therefore, staff is recommending that the proposed business is limited to 10 outdoor events per year. This will help reduce the impact of events on neighbors who purchased property in a residential zone.

I. Any commercial or retail use shall be incidental to the bed and breakfast establishment use, i.e. gift shop, and shall be limited to 5 percent of the total square footage of the main floor of the residence. *No commercial space is planned.*

J. All signs shall comply with the current Title 16. *There applicant is planning on a sign for the business. The maximum size sign is 2 square feet. The sign will need to be reviewed and approved by the Visual and Architectural Committee before installation.*

K. A Midway City business license shall be required as a condition of approval. *The applicants have submitted a business license application to the City.*

L. The bed and breakfast establishment shall, at the time of approval and thereafter, be the property owner's primary residence. Conditional use approval shall cease upon sale of the property. The new owner shall apply for conditional use approval before operating the bed and breakfast establishment. *This property will be the applicant's primary residence.*

M. Supervision by an on-site manager or owner shall be required on an overnight basis when the establishment has guests. *The applicant has stated that there will always be an owner or manager present when guests are present.*

N. Care shall be taken to ensure that no exterior lighting shines directly onto adjoining property. Incident light at the property line shall not measure more than ten foot-candles. *No new lighting is planned.*

O. A fire hydrant shall be within 250 feet from the property. *There is a fire hydrant within 250' of the property.*

P. The Fire Marshal shall determine maximum occupancy. *The property will need to be inspected for maximum occupancy.*

Q. A site plan shall be submitted with the conditional use application. *A site plan has been submitted and included with this report.*

This item has been noticed in the local newspaper for two weeks and on the City's and State's website for the City Council meeting. Mailed notice was mailed to all property owners within 600' before the public hearing at the City Council meeting.

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 Planning 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; *The zoning district is R-1-15 which is a residential zone. The code allows Bed and Breakfast establishments in the zone, but they should not impact the integrity and character of the zone. If events are held that do impact the integrity and character of the zoning district, then staff will need to work with the applicant and if issues are not resolved then potentially the approval could be revoked.*
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 is required to apply and receive approval of a business license before they will be allowed to open for business. This license requires the applicant to register with the State for tax purposes, have their dwelling inspected by the building inspector, fire marshal, and health inspector.*
4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *The property is located in a FEMA flood zone but there are no plans to make any modifications to the existing area in the flood zone.*
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; *This proposal will impact the area/neighborhood. Staff recommends that the business is limited to 20 vehicles per event, 40 guests, and 10 outdoor events per year to mitigate the impacts on*

the surrounding properties in the residential zone. If events are held that do impact the integrity and character of the zoning district, then staff will need to work with the applicant and if issues are not resolved then potentially the approval could be revoked.

6. The subject site is physically suitable for the type and density/intensity of the proposed use; *Normal Bed & Breakfast activities should not have a significant impact on the area. Large gatherings may be an issue that will need to be addressed if code violations are identified.*
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 though traffic for large events may be an issue. The City may consider a maximum number of attendees/vehicles for the site based on its location within a residential district. The City may also regulate access to Cari Lane based on safety issues.*

PLANNING COMMISSION MOTION:

Motion: Commissioner Bouwhuis: I make a motion that we recommend approval of the Conditional Use Permit for a Bed and Breakfast. Their property is 2.19 acres and is located at 535 Cari Lane. The property is in the R-1-15 zone. We accept staff findings include the finding that frequent large events could have significant impacts on the neighborhood. We accept condition number 3 that states that no parking associated with the business or any event is allowed along Cari Lane at any time and add a condition that we limit the frequency and event sizes to be determined after the public hearing. Condition 1 and 2 shall be removed and the CUP to be reviewed with planning commission and city council a year after the final approval has been made from the City Council.

Seconded: Commissioner Simons

Chairman Nicholas: Any discussion on the motion?

There were some clarifications added to the motion

Chairman Nicholas: All in favor.

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

Nays: None

Motion: Passed

ITEM 5 CONDITIONAL USE PERMIT

POSSIBLE FINDINGS:

- The proposed use is a conditional use for a property greater than two acres in any zone.
- The property is located along a collector road with direct access to that road.
- Traffic will increase in the neighborhood, but the increased traffic will still fall within established traffic count standards.
- The proposal does comply with the requirements of the code.
- The City Council has broad discretion regarding if alcohol is allowed for the proposed CUP.
- Additional rental rooms will help the City retain its ability to collect resort tax.

ALTERNATIVE ACTIONS:

1. Approval (conditional). This action can be taken if the City Council finds 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 finds 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 finds that the request does not meet the intent of the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

PROPOSED CONDITION:

1. No parking associated with the business is allowed along Cari Lane at any time.

ITEM 6 ADDITIONAL USE (Receptions, banquets, or catering)

POSSIBLE FINDINGS:

- The property is located along a collector road with direct access to that road.
- Traffic will increase in the neighborhood, but the increased traffic will still fall within established traffic count standards.
- The City Council has broad discretion regarding if alcohol is allowed for the proposed CUP.

ALTERNATIVE ACTIONS:

4. Approval (conditional). This action can be taken if the City Council finds that conditions placed on the approval can resolve any outstanding issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)

5. Continuance. This action can be taken if the City Council finds 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

6. Denial. This action can be taken if the City Council finds that the request does not meet the intent of the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

PROPOSED CONDITIONS:

2. The business is limited to a maximum of 20 vehicles for any events.
3. The business is limited to 40 guests for any event.
4. No parking associated with the business or any event is allowed along Cari Lane at any time.
5. 10 outdoor events are allowed per year.
6. All events must end by 10pm.
7. The conditional use permit is re-evaluated in one year by the Planning Commission and City Council (public hearing) to allow a review and analysis of any issues that are identified. The City Council at that time can issue a permanent condition use permit based on identified issues, the applicant's compliance to the City's code, and compliance with the temporary conditions that were place on the permit.

Exhibits

Exhibit 1 – Location Map

Exhibit 2 – Site Plan

Exhibit 2 – Site Photos

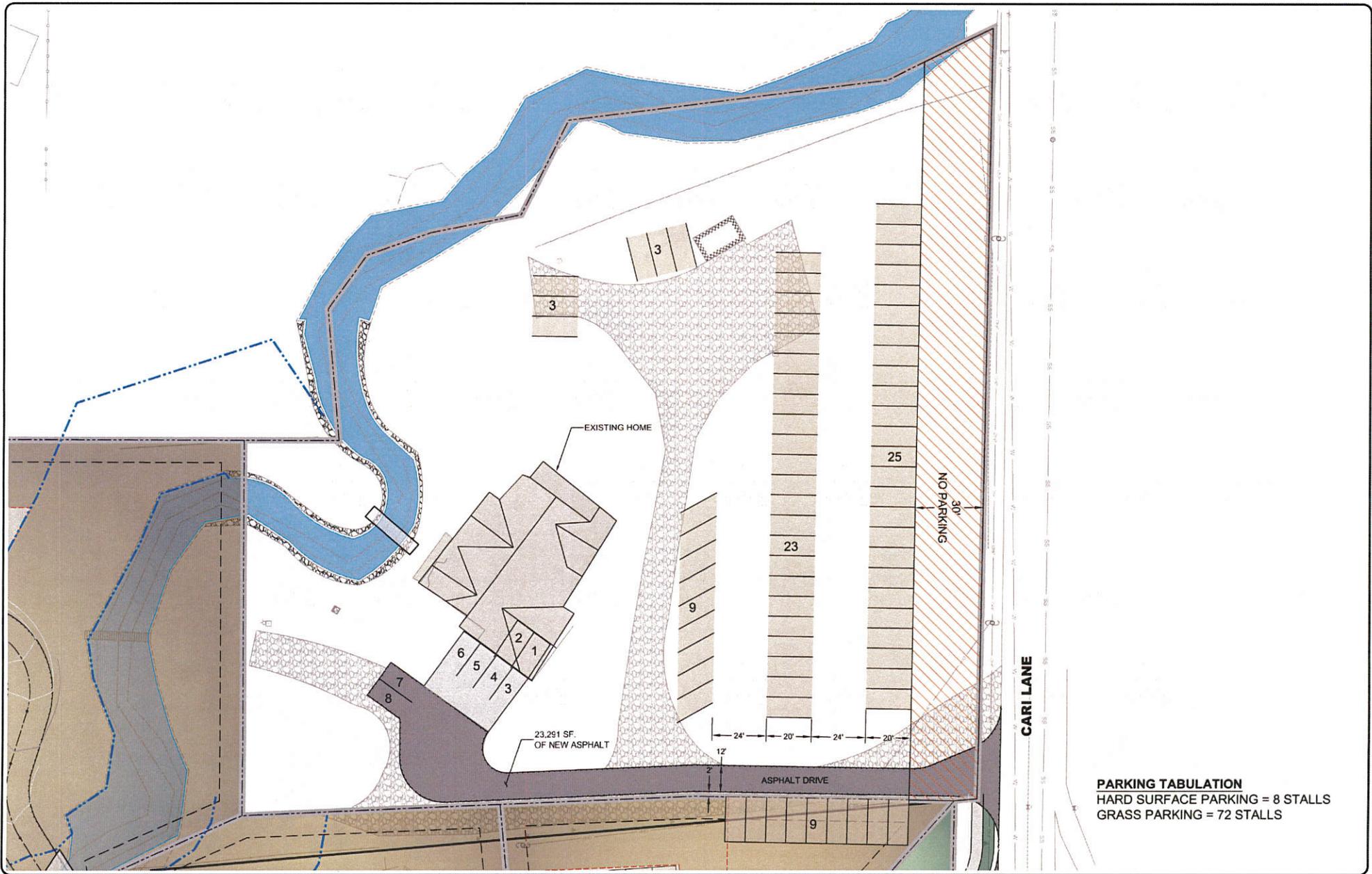
Exhibit 3 – Applicant’s Letter & Analysis of Similar Facilities

Exhibit 4 – Staff’s Comparison of Similar Facilities

Exhibit 1



Exhibit 2



PARKING TABULATION
 HARD SURFACE PARKING = 8 STALLS
 GRASS PARKING = 72 STALLS

Exhibit 3







Exhibit 4

Hello Mayor, Michael, and Melannie-

Here is the data we've compiled from other towns and Bed and Breakfast owners that hold wedding receptions. See attached spreadsheet.

The interesting thing to me was most of these venues were in residential settings, very close to homes and apartments with little open space buffer, but had zoning that allowed commercial. Our home is in a residential zone, but is much further away from homes and apartments than all of the comparables. In other words, Midway's residential zoning that allows for Bed and Breakfasts and events more effectively prevents residential disturbance than the comparables because the 2 acre requirement creates an effective open space buffer from surrounding residential neighborhoods.

Summary Points:

Compared to our B&B, Hidden Creek Lodge:

- Most Bed and Breakfasts that hold receptions are closer to residential and have less off street parking
- Only one venue was on a larger lot parcel (La Caille in Sandy)
- Most use on street parking for overflow (all parking is on-site for our B&B)

Additional:

- Few complaints to City for noise, parking disturbances from any venues
- Most B&Bs we surveyed hold 10-30 outdoor events per year
- Midway City precedent: Blue Boar Inn, while RZ zoning, is closer to residential than we are and the outdoor grass area shares a fence with homes. They hold 10 outdoor events per year. High Valley Arts, per its director, has loud music 20 nights per summer for practices and performances. There are about 10 outdoor Saturday night concerts on Saturday nights each summer at Homestead/Zermatt nearby.

Conclusion: We think a maximum of 20 outdoor events per year is reasonable during the 1 year trial period established by the Planning Commission.

I suspect we will hold 2-3 events this year, and by next year we may only hold a few more (it's disruptive to our lifestyle).

Thank you,
Jeremy and Meghan Clark

Bed and Breakfast Wedding venue

| <u>Name</u> | <u>Address</u> | <u>Capacity (Indoor/Outdoor)</u> | <u>Outdoor Events/yr</u> |
|----------------------------|------------------------------|-----------------------------------|-----------------------------|
| Ellerbeck Mansion B&B | 140 North B Street, SLC | 30 indoor seating, 75 I/O seating | 10-20 (guess of new owners) |
| Riter Mansion | 168 N 100 E, Logan | | 2-3/week (24-36?) |
| La Caille | 9565 S Wasatch Blvd Sandy, U | 300 | 20-30 |
| StoneGate weddings | 886 W 2600 N Pleasant Gr | 200/1500 | 20-30 |
| Washington Schoolhouse Hot | 543 Park Ave, Park City | 45 indoors | |
| The Iron Gate Inn B&B | 100 N 200 W Cedar City | 200 | 10 |
| Old Rock Church B&B | 10 S Main St Providence, UT | 100/300 | 12-15 |
| Blue Boar Inn | Midway, UT | 100 | 10 |

| <u>Hours</u> | <u>Residential situation</u> | <u>Noise, parking complaints per City, Misc</u> | <u>Alcohol?</u> |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|-----------------|
| | amongst houses, apartments across street | None | yes |
| 10 p | Downtown Logan, houses and businesses | none reported | yes |
| 10 p | adjacent to dozens of homes | music stops 10pm due to surrounding neighbors | Yes |
| 0PM (9pm) | middle of residential area, zoned commercial, no residential adjacent and all around | parking on site and owner owns business across | No |
| 11p | Per owner: Apartments share fence with outdoor area, commercial within residential setting; no school and residential adjacent and nearby | | yes |
| 10 p | adjacent to residential PUD, shares fence | 30 parking on site, 45 more on streets | yes |

Exhibit 5

| <u>Name</u> | <u>Address</u> | <u>Capacity (Indoor/Outdoor)</u> | <u>Outdoor Events/yr</u> | <u>Hours</u> |
|-------------------|------------------------------|--------------------------------------------------------------------------------|-------------------------------------------------------------------------|--------------|
| Barbwire and Lace | 2131 N 180 W, Pleasant Grove | 82/300 (rarely used, usually a lunch) Average gatherings are 40-80 for both | 2 per week (CUP limit) average 30 1 during the week and 1 on weekend | 10p |
| Hancock Inn | 33 Main Street, NH | 75/ 150 | | 10p |
| Ashby Inn | 629 Federal Street, Paris VA | 60/100 | | 10p |
| The Bungalow | Pleasant Grove Utah | 50/70 | | 10p |
| Wild Oak | Lindon UT | 150/150 | | 10p |

Residential situation

Surrounded by single family homes

Mixed Use type area

Residential

Residential and Mixed use

Some residential

Noise, parking complaints per City, Misc

None, had a one year review, originally was an B&B

Went straight small reception center after the B&B

became too much of a hassle. Only works during

the months of May thru Oct.

Total 3 acres-1 for the venue and 2 for parking

and her animals.