

Midway City Planning Commission Regular Meeting Minutes June 11, 2019

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 7:00 p.m., June 11, 2019, at the Midway City Community Center
160 West Main Street, Midway, Utah

Attendance

Jim Kohler – Chairman
Kevin Payne– Vice Chairman
Jeff Nicholas
Natalie Streeter
Bill Ream
Heather Whitney
Rob Bouwhuis
Jon McKeon

Staff

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

Excused

Nancy O’Toole

7:00 P.M. Regular Meeting

Call to Order

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

Item 1:

Vote for Chairman and Vice Chairman

Voted in for Chairman is Jim Kohler

Voted in for Vice Chairman is Kevin Payne

Item 2:

Discussion and possible adoption of the start time of future Planning Commission meetings

Motion: Commissioner Nicholas: I make a motion to approve the planning commission meeting time to change from 7:00pm to 6:00pm and no new agenda items to begin after 10:00pm.

Seconded: Commissioner Streeter

Chairman Kohler: Any discussion the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners: Streeter, Payne, Ream, Nicholas, Bouwhuis, McKeon (Alt Whitney no vote)

Nays: None

Motion: Passed

Item 3:

Review and possibly approve the Planning Commission Meeting of May 14, 2019.

Motion: Commissioner Payne: I make a motion to postpone the approval of the planning commission minutes of May 14, 2019. To give time to review the comments that were submitted by Commissioner Whitney.

Seconded: Commissioner Streeter

Chairman Kohler: Any discussion the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners: Streeter, Payne, Ream, Nicholas, Bouwhuis, McKeon (Alt Whitney no vote)

Nays: None

Motion: Passed

Item 4:

Debbie Elmer is requesting a Conditional Use Permit for a for a mixed-use development on her property that will include a business (daycare) and a residence. The property is located at 65 South Center Street and is in the C-2 zone.

Planner Henke gave a presentation

Land Use Summary

- 0.34-acre lot
- C-2 zone
- Proposal is an in-home preschool/daycare
- Access from Center Street/Hwy113

Preschool Proposal

- Ages 3-4
- Class of 16 children
- Classes 4 days each week
 - Monday - Thursday
- 9:15am to noon
- 12:45 to 3
- Will follow the Wasatch County School District calendar

Discussion Items

- Safety for pick-up and drop-off of the students
 - Center Street/HWY is an arterial road
 - Pull through driveway
- State regulated
 - Utah Department of Health, Child Care Licensing Program
 - Inspections and licensing

Possible Findings

- The proposed mixed-use development is a conditional use in the C-2 zone.
- Preschools and daycares are permitted uses in the C-2 zone.
- The proposal will increase traffic on Center Street.
- The applicant will need to receive approval for a business license which requires health, fire district, and building department approvals.

Proposed Conditions

- Any increase in the number of students or classes above what has been proposed will require the Conditional Use Permit be reevaluated and approved by the City Council.
- All inspections must be completed, and a business license issued before the preschool may hold any classes.
- If any safety issues are identified after approval is granted, then the applicant must work the City to alleviate any issues and if the issues cannot be alleviated then the conditional use permit and business license may be revoked.

Debbie Elmer the Owner of Wasatch Learn and Play Preschool addressed the requirement for square footage and explained that yes, there is a formula that is used by the state regarding the number of children and the square footage. It is quite possible that the state would allow more children than the 16 that is her maximum.

Fire, Building and Health Department has signed off on the license and they just need to have the city approval and then the state will finalize the state license.

Debbie Elmer addressed the parking issues and plan and explained the drop off and pickup plan can and will be established.

The question came up about the possibility that the city may need to move the school zone sign as it is in the middle of the front of the property. Wes Johnson stated that the city does not regulate the zone for the school. That is strictly made by UDOT and could not be moved by Midway City.

The question was brought up that what would happen during swiss days, Debbie stated that her school year would always start the week after Labor Day and would not be an issue or concern for Swiss Days.

Motion: Commissioner Bouwhuis: I make a motion that we approve the Conditional Use Permit for Wasatch Learn and Play, located at 65 W Center. That we accept all possible findings identified by staff along with the proposed conditions in the staff report, and one condition that the area be fenced.

Seconded: Commissioner Streeter

Chairman Kohler: Any discussion on the motion?

Chairman Kohler: All in favor.

Ayes: Commissioners Streeter, Payne, O'Toole, Nicholas, Bouwhuis (Alternates Whitney and McKeon-no vote needed)

Nays: None

Motion: Passed

Item 5:

Berg Engineering, agent for DPW Heber Inc., is requesting preliminary approval of phase 1 of the Saddle Creek Ranch subdivision. Phase 1 includes nine lots on 10.37 acres. The property is located at 970 South 250 West and is in the R-1-22 zone.

Planner Henke gave a presentation

Commission Streeter recused herself from this item.

Land Use Summary

- 9.84 acres
 - Mater Plan - 31.99 acres
- R-1-22 zoning
- Proposal contains 9 lots
 - Master Plan - 36 lots
- Open space
 - 2.91 acres (29.6%)
- Standard subdivision
- Public roads
- The lots will connect to the Midway Sanitation District sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary water line

Items of Discussion

- Water rights have been tendered to the City
- Phasing land use approvals may be received before transmission line movement or burial
- Transmission lines must be in the process of being buried or moved before construction begins
- Trails
- Water extension line agreements
 - Timing of payments

Possible Findings

- The proposed plans for phase1 comply with the requirements of the land use code.
- The proposal does meet the vision as described in the General Plan for the R-1-22 zone.
- Road improvements along Center Street and 970 South will benefit the community in general.
- The public trail built along 970 South will help complete the master trail plan that will benefit members of the community.

Proposed Conditions

- Required water extension line agreement fees are paid for all 36 lots before the recording of the plat for Phase 1.
- The developer will work with the post office to find a location, out of the sight visibility triangle, for the Cluster Box Unit that will service the subdivision and submit that plan with the application for final approval.
- Draft codes covenants and restrictions is submitted with the application for final approval that will form the HOA and have a maintenance plan for the common area and amenities.

Comments and Questions

Paul Burg stated that once Heber Light and Power starts to work on the power lines Saddle Creek would want to start our construction.

Reimbursements of the water line extension agreement, the developer would like to pay by phase, the city is not out any money. The fees are just a pass through and do not affect the city. Michael Henke will have to investigate the specific language. But the payments need to be made at the appropriate time by, taking some steps to assure the agreement stays in place regardless of if the payments are all made upfront or in phases.

Paul Burg explained the Street Design on 970 South.

A discussion ensued regarding the Rural Cross section, Paul Burg explained that he would like to have used it, but the ordinance prohibits him from doing so at this time.

Motion: Commissioner Nicholas: I make a motion at we recommend preliminary approval of Phase 1 of the Saddle Creek Subdivision , accept the staff finding, and that we include the following conditions, that the water line extension agreement be further researched and information shared with City Council so they can make a determination as to weather the connection fee should be paid up front or as the phases are approved, platted and recorded. Include the developer with work with the post office to find a location for the mailboxes, making sure that it isn't located in the line of site triangle. Draft CCRs be submitted with the application for final approval that will form the HOA and have a maintenance plan for common area amenities.

Seconded: Commissioner Ream

Chairman Kohler: Any discussion on the motion?

Chairman Kohler: All in favor.

Ayes: Commissioners: Payne, Ream, Nicholas, Bouwhuis, Whitney and McKeon (Alternate Whitney voted on this item as Natalie Streeter was recused)

Nays: None

Motion: Passed

Item 6:

Berg Engineering, agent for Probst Higley Developers LLC, is proposing a code text amendment of Midway City's Land Use Code. The proposed amendment would allow a developer to record multiple plats in a phase of a development.

Planner Henke gave a presentation

Code Text Amendment

- Proposed amendment would allow multiple plats to be recorded per a phase of development
- Section 16.16.20
 - Proposal would not modify any existing language
 - Proposal would add more language

Proposed Language

- Proposed amendment would allow multiple plats to be recorded per a phase of development
- Section 16.16.20
 - Proposal would not modify any existing language
 - Proposal would add more language
- lii. All utilities associated with the phase are bonded and constructed with the first plat within the phase.
- iv. The water rights for the entire phase are turned over to the city with the recording of the first plat within the phase. This requirement includes units that are planned within the phase but are not included in the first plat.
- v. Since the first plat for a phase contains the open space, roads and easements needed for utilities, the remaining plats for the phase will generally be building pads and small amounts of common area between or around building pads.
- vi. Once a developer has received final approval from the City Council for a phase, a separate final approval is not required for each plat if multiple plats are recorded.

Code Text Amendment

- All infrastructure is built for the entire phase as part of the first plat per phase
 - Roads, off-site improvements, storm drain, open space landscaping, etc.
- All water rights for the entire phase is tendered with the recording of the first plat per phase
- All open space for the entire phase is dedicated with the recording of the first plat per phase
- All bonding for the entire phase is established before the recording of the first plat per phase
- Allows flexibility for the developer
- Tax savings
- Reduces development risk

Items to Consider

- Administrative time
 - Planning department
 - City recorder
 - County surveyor
 - County recorder
 - Required signatures
 - 12+ signatures
 - Time is of short supply
 - Application fee should reflect the amount of time required
- Loss of property tax
- Minimum number of units should be required
 - Minimum of five units per plat
- Currently there is not a limit on the number of phases for a development

Possible Findings

- The proposed amendment would allow flexibility for the developer to record multiple plats per phase.
- The proposal would save property taxes for the developer.
- The proposal would reduce developer risk.

- The proposed amendment would increase administrative work for staff.
- An application fee could be adopted to the City's fee schedule to cover the City's costs.
- The City and other entities could potentially lose some potential property taxes because of the proposal.
- The developer has the ability to propose as many phases as desired with the current code.

Comments and Questions

Michael Henke stated that he would reach out to Heber City Planning Department to get some ideas on how they handle this, as Heber City does allow a developer to record multiple plats in a phase of a development. Look at their language in their code.

There was a conversation regarding the different types of taxes and how the taxes impact developers, especially when the market takes a downturn.

There was a discussion regarding how and when lenders lend money. Lenders don't lend until the plat is recorded.

Commissioner Streeter stated that she didn't like this idea. Most of all due to the burden that would be pushed to the planning department. Landscaping issues go back the code enforcement.

Public Hearing Open

None

Public Hearing Closed

Motion: Commissioner Payne: I make a motion to continue this item, give the staff time to reach out to Heber City, have a chance to fully understand what is involved and gather more information and detailed plan.

Second: Commissioner Nicholas

Chairman Kohler: Any discussion on the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners: Streeter, Payne, Ream, Nicholas, Bouwhuis (Alternate Whitney-no vote needed)

Nays: McKeon

Motion: Passed

Item 7:

Berg Engineering, agent for Probst Higley Developers LLC, is requesting Final Approval for Phase 3 and Phase 4 of the Scotch Fields PUD a large-scale planned unit development. The proposal is for 48 units located on 20.97 acres. The proposal is located west of Valais and is in the RA-1-43 zone.

Planner Henke gave a presentation

Land Use Summary

- 20.83 acres
- RA-1-43 zoning
- Proposal contains 48 building pads
- Planned Unit Development (PUD)
- The lots will connect to the Midway Sanitation District sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary water line

Possible Findings- add slide...missing from my copy

Water Recommendation

- The recommended water requirement for phases 3 and 4 is 76.4-acre feet. This calculation will supply the 48 culinary connections and the irrigated areas of phases 3 and 4. This also includes the removal of the culinary connection for the clubhouse.

Motion: Commissioner Ream: I make a motion that we approve the final Phase 3 and Phase 4 of the Scotch Fields PUD a large-scale planned unit development. The proposal is for 48 units located on 20.97 acres. The proposal is located west of Valais and is in the RA-1-43 zone. We accept staff report and findings and there are no further conditions.

Second: Commissioner Streeter

Chairman Kohler: Any discussion on the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners: Streeter, Payne, Ream, Nicholas, Bouwhuis and McKeon (Alternate Whitney-no vote needed)

Nays: None

Motion: Passed

Item 8:

Summit Engineering Group, agent for Zermatt Villages LTD, is requesting a zone map amendment that would change the zoning of a property from Recreational Resort Zone (RZ) to R-1-22 zone (22,000 square feet minimum for a single-family dwelling). The property is 5.99 acres and is located at 875 Bigler Lane.

Planner Henke gave a presentation

Land Use Summary

- 5.99 acres
- Recreational Resort Zone (RZ)
- Proposed zone R-1-22
- Access from Bigler Lane

Items of Discussion

- Density would reduce
- Allowed uses would greatly reduce

- Almost all commercial uses would be eliminated
- Property would remain in the Transient Rental Overlay District (TROD)
- Smoother zoning transition on the land use map
- RZ is difficult to develop with the size of the property
 - 100' setbacks
 - Would force structure(s) to the center of the property
 - 55% open space
- Economic impact
 - Taxes – property, sales, transient rental, residual economic impact on other businesses, resort

Possible Findings

- The proposed amendment will most likely reduce density on the property and traffic that would be generated from a larger development.
- The property will remain in the Transient Rental Overlay District that allows short-term rentals.
- The future dwellings could be short-term rentals or full-time residences if the property is zoned RZ or R-1-22 unless the City requires rental properties if the property is rezoned.
- If the property is used for short-term rentals then, most likely, the development will have a positive economic impact on the community.
- If the property is used for primary residences then, most likely, the development will have a negative economic impact on the community.
- If the property is developed using the RZ, commercial development will be required.

Mike Johnston stated that this is a remnant of the Zermatt. It is not owned by the owners of the Zermatt Resort. You are not going to get a resort on this small property. We are asking for a down zone to the R-1-22 zone which seems more appropriate for this property.

The owners of the properties will have access to the Zermatt amenities, there will be fees associated with the use agreement.

Not possible to put a resort on a 6-acre lot and the owner does not want to due to the limitations.

St George has some neighborhoods that are built to do exactly this. It is a common thing for people do, it is a huge industry and the owner is the developer. This is a very popular type of investment property type.

There was a discussion regarding the rental pool and how to enforce that these homes remain in the rental pool and not become a permanent residential home. How to protect the tax base, maintenance, etc.

Public Hearing Open

Brandon Wilson who lives in the Zermatt stated that he knows of people who want to build a large sports facility and he would approve that.

David Bolesta who lives at 625 North Homestead Drive stated that the City should be realistic and think about the neighbors that live there already. The noise will funnel right down to where

he lives and the neighbors. He questions that the hotel occupancy in the Resorts are at 40%, he believes it is not that high. Wants the city to be realistic and he does respect that the City will make good choices.

Randy Lundeen is concerned that he will not be able to get into the property as it is. He has a hard time to even get his farm equipment. It is a bad idea. Bad for the trailer court, he fears that those new homeowners are going to want to get rid of the trailer park and complain about the farm equipment. Keep it in the Resort Zone.

Steve Eddington a partner in the Zermatt Resort and the Homestead Resort stated that he agrees with Randy Lundeen. There is going to become a more of a demand for housing. He believes that there are architects and designers that could come in a create a hotel and use that in the Resort Zone. He doubts that there is a use agreement. He would do all he can to prove that there is not a use agreement. He understands that the owner wants to do something with the land. But, keep it in the Resort Zone and be cautious.

Brian Rasmussen came to see what was going to happen. He doesn't mind it; he would rather have 10 homes as opposed to 100 condos. However, he feels that the project may not work and there is no guarantee.

Mike Johnston stated that he has heard every side and he feels that the plan is a happy medium to all concerns. He believes that the neighbors would not like a 100-unit development to go in this area too much traffic and would also be head to head competition with the Zermatt. Having 10 ½ acre single family vacation homes would be more desirable and would bring people to the area. He stated that he was given the agreement by the owners and they believe it is enforceable, however he is not a lawyer. The agreement is 25 years and that it will be expiring soon and that is what is driving the owner.

The legal use easement the agreement, not only to use but to maintain the Zermatt. It could benefit the homeowners. There would be benefits for Zermatt and the Homestead. They would eat and shop there.

Public Hearing Closed

Motion: Commissioner Bouwhuis: I make a motion for recommendation for denial of the proposed zone map amendment that would change the zoning of a property from Recreational Resort Zone (RZ) to R-1-22 zone (22,000 square feet minimum for a single-family dwelling). The property is 5.99 acres and is located at 875 Bigler Lane. And that we accept the findings from the staff report.

Second: Commissioner Payne

Chairman Kohler: Any discussion on the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners: Streeter, Payne, O'Toole, Nicholas, Bouwhuis (Alternates Whitney and McKeon-no vote needed)

Nays: None

Motion: Passed

Closed Session

Commissioner Streeter: Motion to move into closed session
Commissioner Payne second

Commissioner Streeter: Motion to exit the closed session
Commissioner Payne second

Adjournment: Commissioner Streeter

11:45 pm

Chairman – Jim Kohler

Admin. Assistant – Melannie Egan

Approved