Midway City Council
9 May 2018
Regular 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

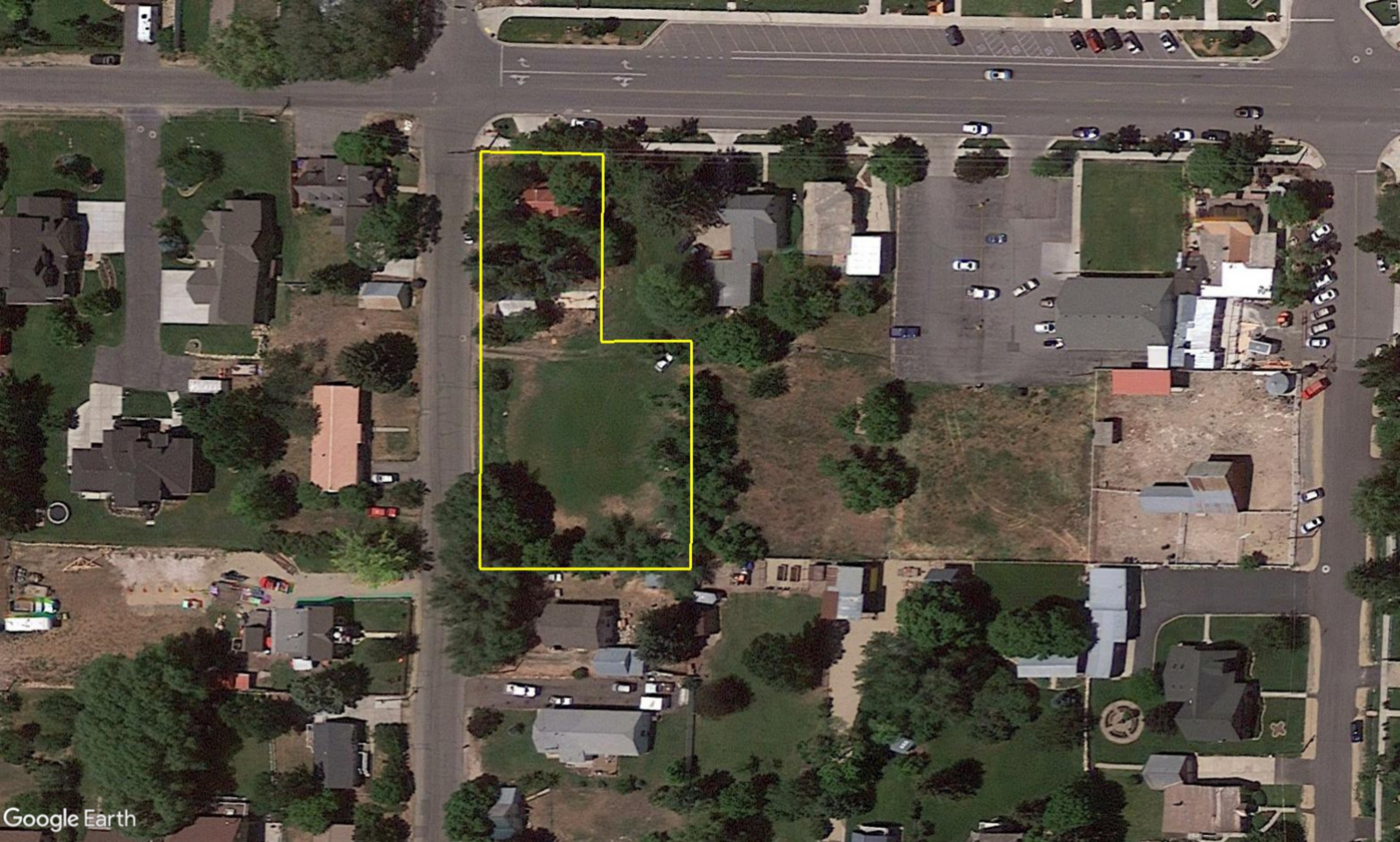
3. Denial. This action can be taken if the City Council feels that the request does not meet the intent of the ordinance.

    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.


Google Earth

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20' 0' 20' 40'

Scale 1" = 20'

Scale 1" = 40' for 11x17

PLANT SCHEDULE

TREES	QTY	COMMON NAME	BOTANICAL NAME	CONT	CAL
	3	Autumn Purple Ash	Fraxinus americana (Autumn Purple)	B&B	2" Cal
	4	Canada Red Cherry	Prunus virginiana (Canada Red	B&B	2" Cal
	1	Green Ash	Fraxinus pennsylvanica	B&B	2" Cal
	5	Paperbar Maple	Acer triseum	B&B	2" Cal
	8	Sentinel Crabapple	Malus "Sentinel"	B&B	1.5" Cal
	3	Shademaster Locust	Gleditsia triacanthos inermis Shademaster ITM	B&B	
	2	Spring Snow Crab Apple	Malus (Spring Snow)	B&B	2" Cal

SHRUBS	QTY	COMMON NAME	BOTANICAL NAME	CONT
	[illegible]	Arctic Fire Dogwood	Cornus sanguinea (Arctic Fire) ITM	5 Gal
		Dakota Fire Ninebark	Physocarpus opulifolius (Dakota Fire)	5 Gal
	12	Dwarf Arctic Willow	Salix purpurea (Nana)	5 Gal
	[illegible]	Green Mound Alpine Currant	Ribes alpinum (Green Mound)	5 Gal
	20	Japanese Spirea	Spiraea japonica (Anthony Waterer)	5 Gal
	8	Red Leaf Japanese Barberry	Berberis thunbergii (Atropurpurea	5 Gal
	8	Shrubby Cinquefoil	Potentilla fruticosa (Mango Tango)	5 Gal

EVERGREEN SHRUBS	QTY	COMMON NAME	BOTANICAL NAME	CONT
	1	Mugo Pine	Pinus mugo (Slowmound)	5 Gal

GRASSES	QTY	COMMON NAME	BOTANICAL NAME	CONT
	22	Feather Reed Grass	Calamagrostis acutiflora (Karl Foerster)	1 Gal

PERENNIALS	QTY	COMMON NAME	BOTANICAL NAME	CONT
	18	Autumn Joy Sedum	Sedum "Autumn Joy"	1 Gal
	[illegible]	Black Eyed Susan	Rudbeckia fulgida sullivantii (Goldsturm)	1 Gal
	14	German Iris	Iris Germanica	1 Gal
	21	Johnson's Blue Geranium	Geranium (Johnson's Blue	1 Gal
	3	Stella de Oro Daylily	Hemerocallis (Stella de Oro	1 Gal
	5	Summer Pastels Yarrow	Achillea millefolium (Summer Pastels)	1 Gal

GROUND COVERS	QTY	COMMON NAME	BOTANICAL NAME	CONT
	2,564 sf	Bark Mulch	Bark Mulch	Mulch
	18,625 sf	Kentucky Blue Grass	Poa pratensis	sod

MULCH	QTY	COMMON NAME	BOTANICAL NAME	CONT
	221 sf	2-4" Cobble Rock	Dewitt Pro 5 Weed Barrier Washed Landscape Rock	mulch

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PAUL D. BERG P.E.

SERIAL NO. 295595

DATE: 15 MAR 2018

LYTHGOE DESIGN

THE CORNER

LANDSCAPE PLAN

berg LANDSCAPE ARCHITECTS
380 E Main St, Suite 204
Midway, Ut 84049 ph. (801) 723-2000

DESIGN BY: CNB	DATE: 15 MAR 2018	SHEET
DRAWN BY: CNB	REV:	L01