

Midway City Council  
18 September 2018  
Regular Meeting

Lola's Street Kitchen /  
Conditional Use Permit to  
Serve Alcohol



## **CITY COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** September 18, 2018

**NAME OF PROJECT:** Lola's Street Kitchen

**NAME OF APPLICANT:** David Perez-Medina

**AGENDA ITEM:** Conditional Use Permit –  
Alcohol Dispensing Establishment

**LOCATION OF ITEM:** 24 East Main

**ZONING DESIGNATION:** C-2

### **ITEM: 8**

David Perez-Medina is applying for a Conditional Use Permit for an alcohol dispensing establishment. He is petitioning for the ability to serve beer and wine at Lola's Street Kitchen located at 24 East Main Street. The property is 0.07 acres in size and is located the C-2 zone.

### **BACKGROUND:**

David Perez-Medina is requesting a Conditional Use Permit for an alcohol dispensing establishment. He recently opened Lola's Street Kitchen at 24 East Main Street at the site of what was Timp Freeze. They are asking the City for approval to serve beer and wine at the establishment. 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 the City does grant approval, then the applicant will be able to apply for state approval through the Utah Department of Alcoholic Beverage Control (DABC).

If they receive City consent, the applicant will apply for a Limited or Full-Service Restaurant Liquor License from the DABC. They plan to offer beer and wine, as well as non-alcoholic beverages in the restaurant. The restaurant has indoor and outdoor seasonal seating. The outdoor seating is located to the west of the building with a row of seats that parallel Main Street. The DABC allows alcohol to be served the following hours:

- Licensed restaurants may sell heavy beer and wine from 11:30 a.m. to 11:59 p.m. Monday through Friday. On Saturday and Sunday, legal holidays and private parties, the hours are 10:30 a.m. to 11:59 p.m. The hours of beer sales are the same, except beer may be sold until 12:59 a.m.

The City may choose to limit hours of sale as a condition of approval if desired.

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 alcohol 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  
The Corner Restaurant

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 Lola's building because the structure is very visible from Main Street, the City's main transportation corridor, because the structure is nonconforming to the required front setback. Staff feels that alcoholic related signage would create a bar appearance which would detract from the vision of Main Street, as described in the General Plan. The two most recent CUPs that were approved for Midway Mercantile and for The Corner Recurrent both were approved with the condition of sign location limitations.

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 and Local Consent 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 ensure that the proposed use would not be detrimental to public health and safety; *the site of Lola's does not have any off-street parking as required by code and is legal nonconforming. Because of its status as legal nonconforming, the City cannot require parking for the site.*

## **PLANNING COMMISSION RECOMMENDATION:**

**Motion:** Commissioner Ream: I recommend to City Council approval of the conditional permit as outlined in Item 3 for Lola's Street Kitchen located at 24 East Main Street located in the C-2 zone. That we incorporate the finding of staff and that we include the condition of no alcohol related signage will is readily visible from the sidewalk.

**Seconded:** Commissioner O'Toole

**Chairman Kohler:** Any discussion on the motion?

**There was none**

**Chairman Kohler:** All in favor.

**Ayes:** Commissioners: Waldrip, Ream, Nicholas, O'Toole and Payne

**Nays:** None

**Motion: Passed**

## **POSSIBLE FINDINGS:**

- The proposed license would allow the sale of beer and wine at Lola's Street Kitchen
- The restaurant property does not require a proximity variance because it is not located within 300 feet measured by ordinary pedestrian travel, or 200 feet measured in a straight line

## **ALTERNATIVE ACTIONS:**

1. Approval (conditional). This action can be taken if the City Council 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 readily visible from the sidewalk.