

**Midway City Planning Commission Regular Meeting  
April 19, 2017**

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 7:00 p.m., April 19, 2017, at the Midway City Community Center  
160 West Main Street, Midway, Utah

**Attendance:**

Steve Nichols – Chairman  
Jim Kohler – Co-Chairman  
Stu Waldrip  
Jeff Nicholas  
Nancy O’Toole  
Kevin Payne

**Staff:**

Michael Henke – City Planner  
Lindy Rodabough – Admin Assistant  
Wes Johnson – City Engineer  
Corbin Gordon – City Attorney

**Excused**

Natalie Streeter  
Shauna Kohler  
Bill Ream

**6:50 P.M. Work/Briefing Meeting**

- City Council Liaison Report, no action will be taken and the public is welcome to attend.

\*No liaison report was given

**7:00 P.M. Regular Meeting**

**Call to Order**

- Welcome and Introductions; Opening Remarks or Invocation; Pledge of Allegiance  
Opening Remarks or Invocation.
  - ❖ Invocation was given by Kent Kohler
  - ❖ Chairman Nichols led the Pledge of Allegiance

**Regular Business**

**Swearing in the newly appointed alternate commission member.  
(Kevin Payne)**

Brad Wilson Midway City Recorder swore in Kevin Payne as an alternate member of the Planning Commission

**ITEM: 1**

**Review and possibly approve the Planning Commission *Work Meeting* of March 6, 2017.**

**Motion:** Commissioner O'Toole: I move that we accept the work meeting minutes and the regular planning minutes.

**Seconded:** Commissioner J. Kohler

**Ayes:** Commissioners J. Kohler, Waldrip, Nicholas, O'Toole, and Payne

**Nays:** None

**Motion:** Passed

**ITEM: 2**

**Review and possibly approve the Planning Commission *Regular Meeting Minutes* of March 15, 2017.**

**Motion:** Commissioner O'Toole: I move that we accept the work meeting minutes and the regular planning minutes.

**Seconded:** Commissioner J. Kohler

**Ayes:** Commissioners J. Kohler, Waldrip, Nicholas, O'Toole, and Payne

**Nays:** None

**Motion:** Passed

**Chairman Nichols allowed time for Commissioner Waldrip to excuse himself from the next two agenda items**

**Commissioner Waldrip:** There are a couple of things that I need to mention before I step out. One is that under our City code and the applicable law if there is a thought that perhaps a member of a commission or any other officer appointee or volunteer in the City of Midway believes that there may be a question with respect to a potential conflict of interest they are required to disclose and may or may not excuse themselves and not participate, but at least they are required to disclose it. I think that pretty much everybody in this room knows that I am a member of the board of directors of the High Valley Arts Foundation which is a public foundation, non-profit 501(c) 3 organization that is dedicated to benefit the public. There has been some inference that perhaps that involvement might raise a conflict of interest with respect to the C-4 zoning approval. I do not believe that is the case I think that it is entirely defensible. The other thing that I would like to disclose is that my wife and I made a loan to High Valley Arts (HVA) and HVA provided some funding to secure one of the pieces of property that could potentially at some point in the future, be involved in the C-4 zone. Although it is outside of the City limits and not included in the C-4 zone and may never be included in the C-4 zone and again I think that the argument that there is a potential conflict of interest there is defensible, I have chosen in consultation with our City attorney and after studying the matter thoroughly just as a matter of policy and good decorum to not admit that there is a conflict of interest in any respect with regard to either one of those involvements, but I

will depart and not participate in the consideration or the voting should it come to a vote with the respect to the proposed C-4 zone.

Having said that, I do as a matter of personal privilege want to make just one more comment. In our society, we hope that we can engage in civil discourse in the public square and while we have differences of opinions, sometimes strong ones, about certain matters and items that are important to our communities and our families. Hopefully we can discuss and debate those on a civil calm and polite manner and basis. Recently in our society we have been experiencing a lack of that decorum and we've had some bad examples set for us at higher levels of government than what we are dealing with here, we all know that. I'm worried that we are following that bad example here in our little town of Midway. Sometimes I think people who fear that they can't prevail on the merits of a particular argument are tempted to turn to an attack on the individuals who are on the other side on a personal basis. That's happened in our national political affairs and unfortunately, it's happened in our local affairs as well. I hope and pray and encourage a civil discourse without personal attack on individuals. My wife, myself and other individuals have been attacked in recent times inappropriately, untruthfully and unmercifully and I think that is a darn shame for our community. I just wanted to make that statement. I'd like to encourage everybody, including myself, when we debate an item when we have different views on something when we want to make a point that we do it in the form of civil discourse with politeness and with respect for one another and let the chips fall where they may and not yield to the temptation to make the matters personal and to attack the individuals that are on one side or the other.

- **Commissioner Waldrip left the hearing room**

### **ITEM: 3**

**Midway City is proposing a Code Text Amendment to add the regulations for the proposed C-4 zone (initially proposed as the Tourism Overlay Zone). The purpose of this zone is to create a community gathering area that is focused on tourism and retail. This zone will be walkable and is envisioned to have a central plaza with surrounding commercial and arts related businesses along with residential areas. The zone would cover the general area from 400 East to 700 East along Main Street on the north side of the street.**

**Chairman Nichols:** As we introduce this matter I'd like to encourage all of you to pay close attention to how it's introduced. We've been looking at this issue for at least a couple of months now. Information that you may have heard through the grape-vine or on social media may not have been accurate or may longer be accurate as this has evolved. So, if you would please pay close attention. With that I'd like to make the following introduction.

**Chairman Nichols:** For many years, Midway has benefited financially from the state resort tax, but I don't think very many citizens of the city know very much about. This is

funding that Midway receives because historically with the Homestead and Zermatt we have had a relatively high proportion of rental rooms in town as compared to homes. However, since the last Federal Census in 2010 residential growth in Midway has been very rapid. As a result, in the next Federal Census in 2020 we will not have the ratio of rental rooms to homes that is required to continue receiving this resort tax that we have long enjoyed. This year the resort tax is providing approximately 425k to the Midway City budget. Consequently, when that income is no longer available in 2020 there will be two immediate options, the first is to reduce City services to compensate for the lost funds or to increase property taxes to make up the short fall. This means that in 2020 property taxes for City residence would have to increase by an estimated 64% to compensate for the loss of the resort tax. Obviously, none of us want our property taxes to increase so dramatically. I think that we can all imagine ourselves three years from now getting an increased tax bill and asking why didn't the City Council do something about this ahead of time? Well, that is why we are here to discuss this issue tonight.

Another alternative is for Midway to develop more of a commercial tax base that can help fill the short fall from losing this resort tax. I understand that we all love Midway especially our own little corner of it just the way it is, I certainly do. However, I also think the need to control property taxes through more commercial development cannot be simply ignored. As a result of this the City government has been looking for ways to encourage commercial development, particularly development that will conform to the nature of the community while best addressing our need for a commercial tax base. Clearly, we would prefer some types of commercial development over others as better suited to Midway. This effort has led our City Council and staff to propose the new C-4 Commercial Zone located between Memorial Hill and Main Street that we will be discussing again tonight.

Procedurally this proposal made by City Council and staff comes first here to us on the Planning Commission. Our task is to apply our experience with land use in Midway and generally to consider and possibly refine the proposal. It is also a key function of the Planning Commission to solicit and receive public input on the proposal. For that reason I want to thank all of you that are here tonight and those of you that have been here in past meetings to give us your views on this idea. When the Planning Commission has finished its work, we will most likely make a recommendation on this proposal to the City Council. The City Council will then make the final decision on whether to enact this new commercial zone and if so, exactly what the provisions of it will be. Any recommendation that we the Planning Commission make is not binding on the City Council which can follow or disregard our recommendation in particular as they see fit. The intent of the new C-4 commercial zone as I indicated before is to encourage commercial development which Midway has for a variety of reasons not attracted in the past. The basic idea is to make the site more attractive to commercial development by relaxing some restrictions such as on building height and density, while also limiting the types of business that can be located in the zone to those that are thought to best suit the community. This is the only remaining undeveloped parcel on Main Street of significant size where this approach could effectively be attempted. Another key component for some in this proposal in the inclusion of a community arts facility with an outdoor amphitheater and other features. I understand that on one hand such a facility could help foster the commercial tax base we need and is very desirable to some

portion of the community. I also understand that for some such a facility would be better located outside the City to address noise and traffic concerns. I personally have some sympathy with both of those views. We all value the rights we have over the property we own, but for that to be we also have to respect the rights of others over their property. That necessarily limits what we as a community we can do to control the use what citizens make of their privately-owned property. What we are considering tonight, however, is one area where we as a community can collectively consider to what extent we will relax restrictions in order to foster commercial development in this particular location. At past Planning Commission meetings, we have heard extensive public comment that the C-4 proposal as originally made did not strike the right balance. Again, I want to thank of the members of the public for attending those meetings and providing their input. As a result of the conclusion of our meeting last month in March I requested the City staff revisit and consider revising some of the provisions of the C-4 proposal. Among other things I requested reconsideration and possible reduction of the proposal building height allowance and residential density, I also requested further consideration of parking spot requirements and related issues, requirements for buffering the new zone with surrounding properties and requirements for the phasing of residential verses commercial facilities. I also requested an analysis of the increase in tax revenues to be expected in the C-4 zone if enacted as compared to the tax revenue that would be expected from the same property if developed under the current commercial zoning. With that introduction, I will turn the time to our City Planner Michael Henke to report on progress.

### **Planner Henke gave the following presentation**

The purpose and intent of the C-4 zone is the following:

*The purpose of this district is to create a community gathering area that is focused on tourism and retail. This district will be walkable and is envisioned to have central plazas with surrounding commercial and arts related businesses and activities generally on the street level and residential on the upper floors and surrounding buildings. The C-4 zone provides for a mix of commercial, office, retail, arts related activities and multiple unit and attached residential uses of a higher density along Midway Main Street. Site and building design will be of a quality that enhances the character of Midway and offers a cultural and retail gathering area for the residents, visitors and tourists. A wide range of commercial and residential uses are allowed, including regional scale retail; provided, that it is compatible with the overall sustainable character of the area by fitting into an interconnected street network.*

On the following pages, you find the proposed code for the C-4 zone (the map for the C-4 is found in agenda item 8 of this packet.) This vision for the zone has been developed over the past year and really formed in the Economic Development and Resort committee meetings that were held during the General Plan revision. Also, over the past year, the City has received several development proposals for the area of the proposed zone. These include hundreds of storage

units on two of the parcels and two residential developments on the other. None of the proposed developments were considered to be very beneficial for the entire community. Based merely on a tax perspective, the residential developments would have cost the City revenue and the storage units would have created a very minimal gain for the City based on the fact there is no sales tax charged for storage unit rentals. These proposals made many aware that the properties will develop but if the City would like them to develop into something beneficial for the entire community then a change in the zoning needed to take place.

Another reason for creating the C-4 zone is to prepare the area for a performing arts center that is currently in the planning stage. A valley wide committee has been formed that is exploring how to fund the center and where it should be located. The site just north of the proposed rezone is the best location that has been identified. Between the zone, with its restaurants and retail, and the potential resort area to the north there can be a good synergy of uses that will help build each other up. The performing arts center will be an anchor to create activity in the district. Because these two parcels fall in between where the arts center is planned and the commercial area to the south it is important to not dissect the district with a relatively low density residential development.

One of the main ideas with the proposal is to create a performance based code. Basically, if the developer provides specific items in the development then they receive incentives. The C-4 zone is primarily commercially based but if the developer uses the performance items and creates an exceptional development then more residential can be added. The default in the code is 80% commercial and 20% residential for mixed use. If performance items are included, then that could slide to 20% commercial and 80% residential which is close to what the lending market typically allows for mixed use development. There is a list of performance items but one of the most important is the donation of property for a performing arts center. In return for creating the C-4 zone the City will increase density and allow the height limit to increase. Also, staff feels that density in the C-2 zone for the rest of the City should decrease as density increases in this zone. This will be separate code text amendment that would need to be approved. Another idea behind this proposal is by focusing the growth of commercial and residential in the C-4 zone we will better protect the rest of Main Street from development that could come in the form of losing some historic structures and other valuable open spaces that we currently enjoy. Reducing the density in the C-2 zone will help preserve Main Street as the C-4 area develops.

The following code needs review and is in a rough draft form. We need to consider if there are any ways that we can improve it.

Please contact me at 435-654-3223 ext. 105 if you have any questions.

## **Chapter 16.27 C-4 Zone**

### **Section 16.27.1 Purpose and Intent**

**C-4 Zone:** The purpose of this district is to create a community gathering area that is focused on tourism and retail. This district will be walkable and is envisioned to have a central plaza with surrounding commercial and arts related businesses and activities generally on the street level and residential on the upper floors and

arts related activities and multiple unit and attached residential uses of a higher density along Midway Main Street. Site and building design will be of a quality that enhances the character of Midway and offers a cultural and retail gathering area for the residents, visitors and tourists. A wide range of commercial and residential uses are allowed, including regional scale retail; provided, that it is compatible with the overall sustainable character of the area by fitting into an interconnected street network.

### **Section 16.27.2 Pre-Application Conference with Staff Member**

Any person wishing to develop in the C-4 zone shall meet with a staff member, check and review the zone information, obtain an application and review procedures, obtain information from the City regarding the City's plan of land use, streets, water, sewer, traffic, trails and parks, and public facilities; and have discussion about development review process and other requirements affecting the land to be developed. The developer shall then prepare plans and seek approval based on the information received and the process outlined below.

### **Section 16.27.5 Permitted Zones**

All property must be in the C-4 zone.

### **Section 16.27.6 Lot Size**

No minimum lot size is required.

### **Section 16.27.7 Open Space**

A 200' x 200' central plaza is required and will be reviewed as part of the master plan. If a master plan is proposed that does not include all the property within the C-4 zone then only half (100' x 200') if the central plaza will be required which will allow a future developer to complete the central plaza as part of a future master plan. The central plaza will be located generally in the central area of the zone at a minimum of 300' from all the C-4 boundaries except the north boundary. No other open space is required. The developer may choose to create off-site open space and/or pay a fee-in-lieu and receive residential bonuses based on the planned performance standards listed in this code.

### **Section 16.27.8 Height**

Building height within 100' of the C-4 boundary on the east and west areas of the zone is limited to 35' as described in other sections of this code. Between 100' and 200' of the C-4 boundary building height is limited 45'. Areas more than 200' from the C-4 boundary, buildings are limited to a maximum height of 55'. All height limits are measured from natural grade.

Building height within 200' of Main Street is limited to 35' as described in other sections of this code. Between 200' and 300' of Main Street building height is limited 45'. Areas more than 200' from Main Street, buildings are limited to a maximum height of 55'. All height limits are measured from natural grade.

Building height is limited to 55' from the north side of the C-4 zone as long as the height restriction from the east and west boundaries are met.

Architectural elements such as chimneys, bell towers, clock towers, finials, and like architectural features as well as flag poles may extend above the 55' height limit as specifically reviewed by the VAC and Planning Commission. The City Council will review any proposals and may approve an extended height limit of an architectural element. In no case will any living space be allowed above the 55' height limit and four stories is the maximum number of stories allowed for any structure.

### **Section 16.27.9 Animal Rights**

Animal rights may be petitioned by the applicant based on the proposed development plan for a development in the C-4.

### **Section 16.27.10 Frontage**

Zone frontage requirements are not required for development in the C-4.

### **Section 16.27.11 Trails**

Any trails crossing a development in the C-4 will be built by the developer and an easement will be deeded to the public for public use.

### **Section 16.27.12 Water Requirements**

All required water shares for culinary and secondary water will be tendered to the City before the recording of the subdivision plat or issuance of a building permit if a plat is not required.

### **Section 16.27.13 Sensitive Lands**

A structure may not be built on a site of slope 25 percent or greater. All other sensitive lands standards must be met as found in the Sensitive Lands Overlay Zone ordinance. The only exception to this is for an amphitheater.

### **Section 16.27.14 Access and Streets**

Development in the C-4 zone must have access to a public road or a private driveway built to City standards. Streets within the C-4 zone will be private streets maintained by the Property Owners' Association. The street width standards will be reduced from normal City standards to accommodate a pedestrian friendly experience. Street profile standards will be reviewed specifically by the VAC and Planning Commission. The City Council will make the final determination and grant approval of the allowed street profiles. It is anticipated that speed limits on streets in the C-4 zone be limited to 15 mph.

### **Section 16.27.15 Setbacks**

Minimum building setback from property line for all commercial structures:

Main Street:

1. Front. 10' minimum and 20' maximum from the property line; however, an accessory or secondary building may be allowed by the City Council to be set back further provided all provision of this Title are met.
2. Side. None
3. Rear. None
4. Setback from boundary of C-4: 15 feet

Inner public streets or private streets or driveways:

1. Front. None
2. Side. None
3. Rear. None
4. Setback from boundary of C-4: 15 feet

Parking setback is 15' from C-4 boundary.

**Section 16.27.16 Perimeter Landscaping**

A landscaped berm is required along the C-4 zone boundary along properties containing existing residences. The berm will be 4' in height to shield light from vehicles in the C-4 zone from shining onto neighboring residential properties. Berms are encouraged to be lushly landscaped. Trees shall have a minimum of a 2.5" caliper and at a minimum located every 25'. Two roughly parallel rows of bushes are required with each row containing a bush every 10' leaving a distance of about 5' between each bush giving a staggered effect. Landscaping must be approved by the VAC.

**Section 16.27.17 Permitted and Conditional Uses**

USES	C-4
Retail, grocery, and service stores (up to 25,000 sq. ft.) Tobacco sales and e-cigarettes (no more than 5% of total retail)	P
Bazaar (under 10,000 sq. ft.)	P
Bazaar (over 10,000 sq. ft.)	C
Professional offices and clinics	P
Alcohol dispensing establishments	C
Day Care (*as a component of another permitted or conditional use in the C-4)	P
Recreational activity businesses, photo, art, and craft galleries, retail show rooms	P
Short-term lodging facilities	P
Cafes and restaurants	P
Barber, beauty shops, massage therapy and day spas	P
Vehicle parking	P
Theaters (indoor and outdoor)	P
Mixed Use (80% minimum commercial square feet unless planned performance bonuses are earned, 30 residential units per acre, total of allowed units to be calculated on the gross amount of acreage in the master plan, units may be used	C

anywhere within the master plan but are not limited to 30 residential units per acre)		Use Rest ricti on:
Commercial PUDs, commercial and residential condominium projects (residential is allowed only as part of a mixed-use)	P	
Private academies/studios (education, art, dance, sports, etc.)	P	

Drive up window/drop off lane allowed only with special use review by the Planning Commission and the City Council.

### Section 16.27.18 Planned Performance Incentives

The standard requirement for mixed-use developments is 80% commercial square footage and 20% percent residential square footage. It is possible to decrease the commercial requirement and increase residential if improvements are made to the property from the following list:

Incentives for increased residential	Residential Percent
Water feature (40' diameter minimum)	1-10
Fire feature	1-5
Stage for musical performances*	5
Ice skating rink* (80' diameter minimum, roofless)	30
Movie theater* (minimum three screens)	35
Land donated for an arts center/Amphitheatre* (minimum five acres)	20
Fee-in-Lieu for open space (every \$100,000 is worth 1.5 points) (\$100,000 increases 5% each year starting in 2018)	1-20
Open space outside of the C-4 (developable and has a public benefit) (every acre is worth 1.5 points)	1-20
Purchase of development rights (0.75 points)	1-20

The maximum amount of allowed residential is 80%.

\*Limit one item in the C-4 zone

City Council reserves the right to offer other incentives than what is listed in the code.

### **Section 16.27.19 Standards and Requirements**

Standards and Criteria: Development plan review shall be based on the following building and site design standards and criteria, which are formulated to achieve the intents and purposes of the mixed-use districts in the short and long term. These standards and criteria shall be met unless an acceptable alternative is proposed that, upon review by the Planning Commission, City Council and the VAC, better meets the intents and purposes of the area:

1. General Criteria:

A. Encourage appropriate characteristics of Midway's traditional neighborhoods, including mixed-use development, European architecture, tree lined streets, interconnected street networks, and convenient access to parks and plazas, open space, transit and trails;

B. Provide an adaptable and interconnected transportation system that allows multiple modes of transportation, disperses traffic and provides streets that accommodate multiple transportation modes, including motor vehicles, bicycles and pedestrians;

C. Use manmade and natural features, such as open spaces, drainage corridors, parkways, streets and alleys, as development edges, transitions and interconnections;

D. Through a comprehensive site design approach, arrange residential, employment, retail, services and open space uses to be convenient to and compatible with each other;

E. Define the public space using building location and landscaping to promote pedestrian activity and create a high quality public realm;

F. Design early phases of development to be adaptable to additional phases of development to promote sustainability through long term quality and character;

G. Encourage housing in a range of densities, sizes and types;

## 2. Building Envelope:

A. Side yards that exceed fifteen feet (15') in width located adjacent to another side yard that exceeds fifteen feet (15') in width should be avoided unless the areas are to be used as a unified public gathering area or courtyard;

B. Pedestrian breezeways between buildings shall be a minimum of six feet (6') in width;

C. The use of front yard areas for buildings that have nonresidential uses on the ground floor shall be oriented toward the pedestrian and shall include related amenities such as entrance walks, plazas, benches, bike racks, raised flower boxes or other such features.

## 3. Buffering and Transitions:

A. Use design, positioning or other approaches to mitigate any potentially adverse impacts, such as noise, light and/or odor, to adjacent incompatible uses;

B. Locate, screen and buffer service, storage, delivery and refuse areas to minimize the view from streets and open spaces. Decorative walls, earthen berms, landscaping or architectural treatments may be used as screening methods;

C. Rear facing buildings, loading docks, service entries or overhead doors are not allowed on primary street facades, but if necessary may be located on secondary streets; provided, that such service functions meet the general design intent.

## 3. Parking And Circulation:

A. Provide safe and attractive pedestrian and bicycle connections to building entries and public sidewalks within parking lots and surrounding areas;

B. Minimize the visual impacts of parking areas, parking structures and residential garages on streets, open spaces and adjoining developments;

C. Improve the efficiency of parking areas by allowing multiple uses to share parking spaces, curb cuts and circulation drives;

D. Parking, including residential garages, shall be located to the rear of the building. Side yard parking is only allowed if specifically approved as part of the

master plan. Residential garage entrances wider than one bay shall not be located on the primary façade.

#### 4. General Site Design:

A. Incorporate required water quality and storm water management features into the overall site design;

B. All new utilities shall be placed underground in all streets;

C. Civic sites: Civic buildings, including, but not necessarily limited to, libraries, schools, recreation facilities, municipal buildings, or places of worship or assembly have a special public importance in the community. Retail, residential or privately owned office buildings are not included in the definition. Civic buildings may be allowed greater flexibility to make an architectural statement or provide additional gathering space. This flexibility may allow variation from the building frontage and required build to range requirements subject to review by the VAC and planning commission and approval from the City Council. This flexibility does not, however, allow parking lots to be located between the building and the primary street it faces.

#### 5. Large Footprint Buildings:

A. Retail commercial buildings with a footprint greater than twenty thousand (20,000) must meet the regulations:

1. Each building shall orient to the primary street it faces;

2. In the C-4, street level fenestration (design, construction, or presence of openings in a building. Fenestration includes windows, doors, louvres, vents, wall panels, skylights, storefronts, curtain walls, and slope glazed systems) requirements may be applied to only seventy five percent (75%) of the primary facade and will be evaluated during the VAC review process for compatibility with the overall intents and purposes of the district;

4. Detailing at intervals of twenty-five (25') to thirty feet (30') shall be provided to break up expanses of blank walls with no openings. Additionally, walls with no openings shall be set back from the right of way a minimum of fifteen feet (15') and buffered with landscaping. Street trees are required at intervals ranging from

20' to 35' and at least one row of additional plants and/or shrubs based on the recommendation from the VAC.

## 6. Building Design Criteria:

### A. Architectural Detail:

1. Create buildings that provide human scale and interest through use of varied forms, materials, details and colors;
2. Provide architecturally finished and detailed elevations for all exposures of the building;
3. Primary street facing walls of buildings may not have sections of blank walls that contain no openings in lengths that exceed twenty feet (20') in length;
4. Rooflines may be flat or pitched. Roofing shall not be of vivid primary colors (i.e., red, blue or yellow). Rooftop equipment shall be screened by roof components, parapets, cornices or other architectural features. Galvanized hoods and vents shall be painted to match the roof color;
5. Durable materials that complement Midway City's tradition of stone and masonry shall be used as either primary or secondary building materials.

### B. Entrances/Pedestrian Access:

1. Each building on a lot with street frontage shall have a primary entrance either facing or clearly visible and accessible from the primary street it faces;
2. Entrances shall be accessible to the public as a regular building entry from the sidewalk;
3. Along principal streets, entrances allowing public access from the sidewalk, for any building which is greater than fifty feet (50') in width, shall be provided with functional entrances at intervals of fifty feet (50') or closer to maximize street activity and pedestrian access opportunities, and to minimize expanses of inactive building wall;
4. The street level floor elevation should match the elevation of the sidewalk at the

front of the building as closely as possible to facilitate accessibility and primary street orientation.

#### C. Street Frontage:

1. A portion of the building frontage may be set back beyond the required build to range up to an additional twenty feet (20') if the space is utilized as a site plan approved courtyard, outside eating area or entryway that is open and accessible to the public sidewalk. This portion may be up to forty percent (40%) of the actual building frontage and shall not be used for a parking area;

#### D. Fenestration:

1. A minimum of sixty percent (60%) fenestration is required on the street level of all street facing facades. Street level is between two (2') and twelve feet (12') on these street types. Upper stories shall have a minimum of thirty percent (30%) fenestration for each story;

2. A minimum of sixty percent (60%) fenestration is required on the street level of all street facing facades for all nonresidential uses on neighborhood streets and pedestrian walkways. Residential uses on the street level must have a minimum of forty percent (40%) fenestration on street facing facades. Street level is between two (2) and ten feet (10') on neighborhood streets and pedestrian walkways. Upper stories for all uses shall have a minimum of thirty percent (30%) fenestration for each story;

3. Windows of tinted or reflective glass may not be located between two feet (2') and nine feet (9') above the sidewalk grade on street facing facades;

#### E. Design Standards:

The following landscaping standards shall apply to all new development within the C-4 zone.

A. Street Frontages: Street trees shall be provided on all street frontages at a maximum spacing of forty feet (40') on center unless the species to be used recommends spacing greater than forty feet (40'). Spacing should be as uniform as possible, with exceptions allowed to preserve clear visibility zones near intersections and driveway and alley access points.

B. Landscaped Park Strips: Street trees shall be planted within a landscaped park strip of at least six feet (6') in width, between the roadway and sidewalk, or tree grates of at least five feet (5').

C. C-4 Streets: On promenade streets where on street parking is permitted and where no landscape strip is present, street trees may be planted in sidewalk bulb out areas.

D. Distance to Light Standards: Street trees shall be planted no closer than twenty feet (20') to light standards.

E. Species: Street tree species selections shall help define the public space of the street, especially in residential neighborhoods. Different streets should be planted with different species to provide interest, variety, and to promote disease and pest resistance throughout a development area. More than one species may be used to create a pattern and/or provide accent along a street.

F. Location of Lighting Fixtures: Lighting fixtures providing pedestrian scaled illumination shall be placed on all principal and promenade streets spaced no greater than forty feet (40') on center to stagger with street trees. Spacing on other streets shall meet minimum required lighting levels.

G. Pole Height of Pedestrian Lighting Fixtures: The pedestrian lighting fixture pole height shall be fifteen feet (15'), with a base diameter of at least twenty inches (20"). Materials shall be cast iron and steel with a black finish. Single or double lamp fixtures may be used on principal, promenade or arterial streets. Single lamp fixtures shall be used on neighborhood roads.

H. Pole Height of Street Lighting, Parking Lot Lighting Fixtures: Street lighting fixtures and parking lot lighting fixtures shall have a pole height of twenty-four feet (24').

I. Tree Grates: Tree grates shall be five feet (5') square and of cast iron.

J. Tree Guards: Tree guards, if used, shall be a minimum of sixteen inches (16") in diameter and five feet (5') in height. Material is fabricated steel construction with a black high polish powder coat.

K. Trash, Recycling Receptacles: Trash and recycling receptacles shall be of fabricated steel construction with a black high polish powder coat finish. Receptacles shall be three feet (3') in diameter and four feet (4') in height. Trash

and recycling receptacles shall be placed side by side, with a lid to distinguish the recycling receptacle. A minimum of two (2) pairs of receptacles shall be placed per block face, unless otherwise approved by the city, on all principal and promenade streets. Other locations shall be approved during the development plan review process.

L. Bollards: Bollards shall be placed at all intersections along principal and promenade streets. They shall be constructed of cast steel with a black high gloss powder coat finish. Each bollard shall be four inches (4") in diameter and three feet (3') high. Bollards may be cast in, bolt down (surface mount), or removable. Bollards will be spaced a minimum of four feet (4') and a maximum of six feet (6') apart.

M. Benches: Benches shall be placed along all principal and promenade streets at a minimum of three (3) per block face. Benches shall be of a cast iron with steel straps and finished in a black high gloss powder coat. Benches shall be six feet (6') in length.

N. Bicycle Parking: Bicycle parking shall be placed in racks with a minimum capacity of three (3) bikes and a maximum capacity of seven (7) bikes. A minimum of one rack shall be placed on every block face for principal and promenade streets.

O. Paving Accents: Paving accents may be used to articulate building entries, pedestrian crosswalks, plazas, sidewalk bulb outs, or other areas as approved during the development plan review process. Paving materials may be brick, stained concrete or other durable materials that have a nonslip finish. Stamped concrete is not to be used for paving accents that are part of the streetscape area.

The following standards, requirements and conditions shall apply to all C-4 developments:

A. The project must be prepared by a design team composed of at least a civil engineer, land surveyor or landscape architect, all who must be licensed to practice in the State of Utah.

B. All dwelling units shall be served by a city-approved water supply. All utilities within in C-4 developments shall be placed underground, including telephone, power and television.

C. Dwellings and permitted structures shall be located to best comply with the intent of this Ordinance and shall meet the following standards:

D. All parking spaces, parking areas and driveways shall be hard-surfaced asphalt or concrete, and properly drained with no drainage running across public or private sidewalks.

E. The developer shall install all public improvements on-site and off-site as identified by the Planning Commission and City Council.

F. All street construction improvements in subdivisions and along public roads shall be constructed per public street construction widths and cross-section standards.

G. Provisions of the Sensitive Lands Section of this ordinance shall be adhered to within C-4 developments.

H. C-4 developments shall connect any trails shown on the City Master Trails Plan for the area.

I. Final engineering drawings (plans and profiles) for all public and private improvements, final grading plan, and final drainage and run-off plan with run-off calculations.

K. All documents and legal material shall be ready for recording.

L. Deeds of dedication for all public lands as required by the City, when not shown on a final plat.

M. Provisions for bonding of all improvements in a form acceptable to the City. The bond amount is to be 110 percent of the engineer's estimated cost for improvements.

N. All required final plat fees.

O. Phasing plan for final plats.

P. In the event the project will not be divided into separate ownership; the developer shall submit the same information as requested above except for the Record of Survey Map. A final site plan shall be submitted totally dimensioned

conforming to the approved preliminary plan.

### **Section 16.27.20 Master Plan**

Development of a Master Plan. The purpose of a Master Plan is to establish the development standards that will serve as a guide to all future development within a C-4 zone development. The Master Plan is intended to be of sufficient detail to describe the amount, type, size and location of all proposed buildings in the development and the impact of the proposed development on surrounding neighborhoods and Midway City as a whole. Although technical specifications of the proposed development, such as fully engineered plans or fully detailed architectural drawings, are not required as part of the Master Plan, it must be prepared by a development team composed of at least a civil engineer, an architect, a landscape architect, and an attorney, all of whom must be licensed to practice in the State of Utah.

1. Participation in the Master Plan. While one or more landowners within a City defined potential C-4 area may propose a Master Plan and maintain the role of the applicant as identified herein, all landowners within the C-4 area are encouraged to participate in the design of the Master Plan. Participation of all landowners within the C-4 zone, however, is not required for the City to approve a Master Plan for a development in the C-4 zone.

2. Review and Approval of the Master Plan. Public review and approval for C-4 Master Plans parallels the procedures set forth for a Concept Plan in other large scale development regulations of this Title. The standards for review of the Master Plan, however, are the standards set forth in this Chapter, in order to allow for flexibility and creativity in the development and review of the Master Plan.

3. Recordation of the Master Plan. Upon approval, the Master Plan and a Certificate of Standards and Conditions, and any amendments thereto, shall be recorded in the Wasatch County, Utah Recorder's Office. The Planning Director and City Attorney shall prepare the affidavit certifying the details and conditions of the Master Plan approved and the development standards to be applied within the development area, along with any other standards, conditions, or agreements pertaining to future development or responsibilities of landowners within the C-4 area. A detailed description of the submittals required for a Master Plan is presented in the Recreational Resort Master Plan Section of this Chapter.

A. An application for development with the following elements:

1. The names, addresses and contact information of the applicant and owners of the property.

2. A Statement of Purpose. The statement of purpose shall provide the project name, the applicant's rationale for establishing the development, the

development's objective and design theme, and how it will promote Midway City's Vision and comply with its General Plan.

3. A demonstration that the developer understands the City's Land Use Title and commits to meet its requirements. A Master Plan shall comply with the standards of Midway City Land Use Title. Notwithstanding, the applicant for a C-4 Master Plan may propose, and the City Council may approve, alternative standards for a development that is consistent with the unique circumstances of, and community objectives for, the development.

4. A site plan prepared to scale on a topographic base by a professional planning team which shows the concept of the major features of the project, including roads in relation to existing conditions and developments within one-fourth of a mile of the outside boundaries of the development. Ten copies of the Concept Plan on 11"x 17" size paper shall be submitted to the Planning Department for review by the Planning Commission.

5. Applicant entity name, primary contact name, civil engineer, architect and attorney, with respective contact information for each.

6. Development plan showing lot, pad or unit location and size(s).

7. Number of lots, pads, or units and how they conform to the underlying zone.

8. The types of buildings in the project by use and by architectural style, accompanied by conceptual architectural renderings.

9. All proposed common areas and/or amenities.

10. Any proposed public dedications proposals.

11. Conceptual Landscape Plan.

12. Open space provisions including the following information:

a. Location.

b. Size.

c. Description of how the open space plan conforms to the standards for open space.

d. Proposal for the final disposition and management of open space property.

e. Any off-site open space trading provisions as allowed by this Code shall be approved by the City Council before applying for preliminary plan approval; however, any proposals for this purpose should be disclosed as much as possible now.

10. Any trails proposed within the project including an analysis that shows how this trail plan works in conjunction with the City Trails Master Plan.

11. A topographic map that is suitable for GIS and CAD analysis or another acceptable digital format.

12. Sensitive Lands.

a. Topographic information.

b. Identify potential sensitive land issues and a plan for how to address these issues.

c. Potential wildlife issues with the project and on the site.

13. A description of how public participation will be conducted consistent with the Citizen Participation requirements of the City, as outlined in Title 16.

14. A summary of the water needed for the proposed project showing how much is owned now compared to how much is estimated to be needed to complete the project.

15. Letter of submittal for the concept plans to the Heber Valley Fire Special Service District that transmits the plans to them.

16. Architectural renderings that conform to the architectural requirements found in this Title.

17. The Concept Plan may be used as a guide to request a Master Plan Development Agreement that will be used to guide the development that include multiple phases. Master Plan Development Agreements may be requested prior to Preliminary/Final Approval because they provide the basis for the portion of the Development Agreement that describes the zoning entitlements of the property. A Master Plan request shall have the following characteristics:

a. Phases that implement Master Plans shall prepare applications for Preliminary/Final Approvals for each phase prior to implementation. The Master Plan request must show each of the proposed different phases and their construction sequence relative to each other. Each mixed-use phase must contain at a minimum 20% commercial square feet of the total square feet in the phase.

b. In addition to the utility requirements for Concept Plans, the Master Plan application must be prepared in sufficient additional detail to receive preliminary approval from the Midway City Water Board and the Midway Sanitation District, provide for the scheduling of all necessary water rights, water mains, sewer service interceptor capacity and laterals for the entire Master Plan along with a schedule that matches the phasing plan.

c. A Master Plan request must demonstrate that approval of the project in multiple phases can occur such that the project can still function autonomously if subsequent phases are not completed. Therefore, the Master Plan application must demonstrate that sufficient property, water rights, and roads are proposed with the first phase to allow the project to function without subsequent phases.

d. Special information must also be prepared for Master Plan applications to demonstrate that all facilities necessary to implement all life safety codes in effect at the time of application will be constructed and be maintained at the time the first

phase is requested of the City.

e. Master Plan applications must be reviewed by the Planning Commission and approved by the City Council.

f. No City Council approval may be considered until after a public hearing has been held to consider the recommendation of the Planning Commission with regard to the Master Plan.

g. The Planning Commission and City Council may schedule such public hearings and extra meetings as they deem necessary to find the information necessary to make a recommendation to the City Council for a Master Plan.

h. After approval by the City Council a Development Agreement must be prepared and executed by the applicant and the City, sufficient to describe the entitlement granted to implement the Master Plan. The Development Agreement must be signed by the applicant within 45 days of approval. If the Development Agreement is not signed within 45 days of Final Approval then all approvals are null and void.

#### 18. Definition of the C-4 Theme.

a. The theme of a C-4 development shall be consistent with vibrancy of a mixed-use development with associated activities that create a sense of place. A sense of place is created when site planning and architecture:

i. Concentrate activities and human interaction into identifiable spaces, such as a plaza;

ii. Assemble a built environment that connects buildings, spaces and structures through common scale, design, and materials;

iii. Incorporate into the built environment the natural features and cultural heritage of the area;

and

iv. Produce an identifiable image that is associated with Midway and its theme.

b. The design theme and associated design concepts proposed by the applicant shall be submitted to the Midway City Vision Architectural Committee (VAC) for review. The VAC shall forward their comments and recommendations to the Planning Commission and City Council for their consideration.

#### 19. Building design guidelines shall reflect:

a. The community's architectural character choices emphasizing Swiss/European Alpine themes (or other themes as approved by the City Council after a recommendation from the VAC and Planning Commission).

b. A built environment that emphasizes a human scale, pedestrian-orientated environment;

c. A built environment that is harmonious with the cultural and aesthetic values of Midway;

d. The natural physical attributes of the immediate vicinity;

- e. The use of building materials and colors that are compatible with the surrounding natural and built environment, and
- f. The bulk and scale of individual buildings within the C-4 area shall be compatible with, other structures within the development when the district is completed and with the natural environment.

20. Transportation Plan. C-4 Master Plan transportation element shall include a traffic impact analysis and a transportation demand management plan. The plan will determine the impact of increased vehicular traffic due to C-4 development and mitigates the impact of increased vehicular traffic due to the development. Further, the plan will assess the compatibility of the development plan with the Midway City Master Transportation Plan and demonstrate that traffic within the C-4 district confines moves efficiently and safely.

- a. Traffic Impact Analysis. At a minimum, this analysis shall contain:
  - i. Projections of external vehicle trips generated by the C-4 development.
  - ii. Analysis of levels of service impacts on roadway system segments and intersections serving the C-4 zone and surrounding neighborhoods, and
  - iii. Specification of improvements needed to any public roadway system segments and intersections that are needed as a result of increased traffic to and from the C-4 zone.
- b. Transportation Demand Management Plan: At a minimum, the Transportation Demand Management Plan shall:
  - i. Manage the generation of development related traffic to avoid undermining community character or endangering the public health, safety, and welfare. It shall encourage an optimum mix of automobile and pathway facilities within the C-4 zone;
  - ii. Promote multiple forms of transportation that are consistent with the transportation goals of the Midway City General Plan by providing safe, convenient, and direct access to transportation services and facilities (i.e., public transportation, paths and trails);
  - iii. Layout of streets, alleyways, and parking lots in a pattern that is sensitive to the natural terrain and surrounding uses.
  - iv. Manage the transportation demands of the C-4 zone so that it is consistent with the allocation of vehicle trips to the various roadway segments that serve the C-4 zone; and
  - v. Identify an equitable area cost sharing plan for transportation facilities and services.
- c. Service Vehicle Transportation Management Plan. This plan shall provide vehicular access appropriate for:
  - i. Emergency services, paying particular attention to fire and EMS access;

- ii. Recycling and refuse removal;
  - iii. Goods and services delivery; and
  - iv. Construction equipment during all phases of construction.
21. Parking and Loading Plan. The Master Plan shall conform to the general requirements of the parking sections of the Midway City Land Use Title.
22. Trails and Pedestrian Facilities Plan. Trails and pedestrian facilities, including access for the disabled, shall be integral components of the site design. The plan shall provide:
- a. Trails and pedestrian systems that shall provide safe, convenient, and direct access throughout the C-4 and transit facilities and to existing or future adjoining community pathway system, when they are adjacent to the C-4 zone.
  - b. Trails shall be provided for non-motorized transportation, except that motorized wheelchairs for the disabled shall be permitted. Bicycle racks and trail side seating, etc., shall be provided throughout the resort.
23. Water Use Plan. As water is so often a limiting factor for large scale developments in Midway City and surrounding areas a water use plan is a necessary element of a Master Plan. The Water Use Plan shall demonstrate compliance with Midway City's Water Use Title.
24. Other Utility Service Plans:
- a. The plan shall provide identification and acknowledgment of service providers. The applicant shall identify the provider of all infrastructure services and any associated facilities required to support the plan.
  - b. Where services are to be provided by an entity other than the applicant an impact analysis shall be performed if requested by the Planning Director. At a minimum, a document shall be obtained from each service provider demonstrating their commitment and ability to provide the required service to the Recreational Resort defined by the Master Plan. 'Will serve' letters shall be required from:
    - i. Midway Sanitation District;
    - ii. Solid waste disposal;
    - iii. Electrical service;
    - iv. Natural gas service;
    - v. Telephone, internet and other electronic services; and
    - vi. Any other utility service entity involved in the project.

#### **Section 16.27.4 Preliminary/Final Plan**

The developer shall prepare a preliminary/final plan and shall submit five copies of the plan on 11" x 17" size paper to the Planning Commission for its review. The purpose of this plan is to demonstrate how the proposed development plan will be able to meet the standards required under the zoning ordinance and other

applicable laws or regulations. The Preliminary/Final Plan is expected to contain construction drawings, and it is also expected that it will demonstrate compliance with this code. The Preliminary/Final Plan shall contain the following information:

- A. Type of development.
- B. Name of development.
- C. Applicant entity name, primary contact name, civil engineer, architect, designer and attorney, with respective contact addresses, phone numbers, and email addresses for each.
- D. Legal description with section tie.
- E. Zone boundaries and designations.
- F. North point and a scale consistent with a scale that is on a standard engineering scale ruler.
- G. A site plan showing location and dimensions of all lot lines, along with building feasibility for each lot.
- H. Dimensioned side, rear and front yards.
- I. Topography shown by contours at no greater interval than two feet except that a greater interval may be permitted when the property is outside the survey boundary if specifically authorized by the Planning Commission.
- J. The outside boundary of the project.
- K. Tabulation of land use:
  - 1. Total area and building area.
  - 2. Number of units and project density.
- L. Adjacent property owners.
- M. Typical street, roadway and driveway cross sections.
- N. A detailed statement and illustration of how the project will meet sensitive lands requirements.
- O. Existing and proposed easements, waterways, utility lines, canals and ditches.
- P. A plan for accommodating waterways, ditches and canals.
- Q. Proposed and existing sewage disposal facilities.
- R. Existing and proposed storm drain system with the related run-off calculations for the development site including routing the runoff water that leaves the site to a City storm drain or natural drainage approved by the City to accept the water.
- S. Existing and proposed water system indicating size of water lines and fire hydrant locations. Indications as to the capacity of the water system as it relates to the project when required.
- T. Environmental Assessment Review Statement.
- U. Any other information Staff or the Planning Commission may determine necessary relating to the site of the proposed project.

### **Section 16.18.18 Preliminary/Final Planning Commission Action**

Upon presentation of the preliminary final plan and documents, the Planning Commission shall approve them as submitted, approve them with conditions or may refer them back to the developer for one or more of the following reasons:

A. Due to the type of buildings, layout of structures, design of plan, or other aspects of the preliminary/final submittal, the Planning Commission determines the project to be inconsistent with the intent of this Ordinance or the Community General Plan.

B. The Planning Commission requires that certain specific changes be made within the plans.

C. The plans or documents have not been completed.

D. The fees have not been paid by the developer.

E. That this project is in substantial compliance with the intent of this Section as stated previously. The Planning Commission may impose such conditions on preliminary development plans as it may deem appropriate to meet the goals and objectives of this Chapter. The Planning Commission may disapprove the C-4 development, which is found to be deficient in meeting the intent of these provisions. Any such disapproval may be appealed to the City Council within ten days after the decision of the Planning Commission.

### **Section 16.18.19 Recommendation of Preliminary/Final Plan to City Council**

Upon the Planning Commission's approval of the preliminary/final plan of a C-4 development, the Planning Commission shall recommend this plan to the City Council for direction, with or without conditions.

### **Section 16.18.20 Public Hearing**

After receiving notice of Planning Commission approval of the preliminary/final plan, or upon the City Council's reversing on appeal the Planning Commission's disapproval of a preliminary/final plan, the City Council shall set and hold a public hearing to consider preliminary/final approval of the project.

### **Section 16.18.21 Preliminary/Final Approval of City Council**

After holding the public hearing, the City Council shall approve, approve with conditions, or deny the preliminary/final plan based on the same standards as required above for preliminary/final approval by the Planning Commission.

### **Section 16.18.22 Time Limit for Preliminary/Final Approval**

A. Any failure to submit a proposed preliminary/final plan application within one year of the approval of the concept plan by the Planning Commission shall terminate all proceedings and render the preliminary/final plan null and void.

B. The duration of Preliminary/Final Approval shall be for one year from the date of approval of the development by the City Council. If the Final Plat is not recorded with the County Recorder within the one-year period, the development's approval shall be voided, and both Preliminary and Final Approvals must be re-obtained to reinstate the project, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for plat recording, with or without conditions. Such conditions may include, but are not limited to, provisions requiring that:

1. Construction must be conducted per any new City standards in effect at the time the plat is ultimately recorded;
2. The property must be maintained in a clean, dust-free, and weed-free condition always;
3. Each extension will be for a one-year period only, after which time an annual review must be requested by the applicant and presented before the City Council; and/or
4. No more than three one-year extensions will be allowed. The granting or denying of any extension, with or without conditions, is within the sole discretion of the City Council, and an applicant has no right to receive such an extension.

### **Section 16.18.23 Final Plat**

In addition to all other requirements, the proposed final plat shall show an address block containing addresses for each dwelling unit and for each main building

within the plat, subject to approval by the Wasatch County Recorder's office.

#### **Section 16.18.24 No Building Permits Issued Prior to Plat Recording**

No building permit applications shall be submitted prior to the recording of the plat by the Wasatch County Recorder.

#### **Section 16.18.25 Completion of Construction and Issuance of Permits**

A. No building permits applications shall be submitted until the construction of the development is substantially complete; provided, however, that the developer in whose name the bond for the project is issued may submit a building permit application once the fire flow mechanisms are installed, operating and approved by the City Engineer. Once installed, operating and approved, fire flows must remain operating continuously thereafter.

B. No certificate of occupancy will be issued until construction on the development reaches final completion as determined by the City Engineer.

#### **Section 16.18.26 Construction Bond**

Prior to beginning construction of a development, the developer shall submit a bond to the City in the amount of 110 percent of the cost of all improvements and inspections as determined by the City Engineer.

#### **Section 16.18.27 Default**

In the event the developer defaults, fails or neglects to satisfactorily install the required improvements within one year from the date the plat is recorded, the City Council may declare the bond forfeited and the City may install or cause the required improvements to be installed using the proceeds from the collection of the bond or other assurances to defray the expense thereof.

#### **Section 16.18.28 Final Disposition and Release**

The developer shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than ten days prior to the release date of the bond or other assurance, the City Engineer shall make a preliminary inspection of the improvements and shall submit a letter to the City Council setting forth the conditions of such facilities. If conditions thereof are

found to be satisfactory, the City Council shall release the bond or other assurance. If the condition of materials or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability, the City Council may declare the developer in default.

### **Section 16.18.29 Record Drawing Submittal and Contents**

A. Prior to final bond release, an electronic copy of the final drawings in the latest version of AutoCAD or DXF format shall be submitted to the City Engineer. This drawing file needs to include adequate information regarding position and basis of bearing tied to established control as approved by the City Engineer.

B. As-built information shall be overlaid on this final drawing. The as-built drawing must be based upon actual field survey of the items on the following list:

1. Established survey monuments, benchmark, and permanent horizontal and vertical control.
2. Water: valves, fire hydrants, blow-offs, flush valves, and water meters.
3. Sewer: laterals and manholes with rim and inverts elevations.
4. Storm drain: Catch basins, curb inlets, and manholes with rim and inverts elevations, size and type of pipe, storm outlets and detention / retention systems.
5. Miscellaneous light pole locations, street sign locations, and utility box/transformer locations.
6. Pressurized irrigation: valves, blow-offs, flush valves, drains and water lateral locations.

### **Section 16.18.30 Total Compliance with all Regulations**

In case of failure or neglect to comply with all conditions as established during the approval process or regulations as identified in this Section, the City may refuse additional building permits and stop construction of all work at the site until such violations or noncompliance conditions have been eliminated.

### **Section 16.18.31 Warranty Bond**

The City Council shall authorize the release of 100 percent of the bond amount upon verification by the City Engineer that all work is complete and acceptable. The remaining 10 percent of the bond amount shall be retained by the City for a period of one year to insure quality of improvements. If improvements are found to be unacceptable to the City at any time during the one-year period, the City may use the bonding funds to replace or repair any improvements not installed

acceptably.

**Chairman Nichols:** I'd like to note for the record. We've had public comment on this issue at least twice we wouldn't normally have additional public comment, but since you're here we certainly appreciate you being here and I want to take the time to entertain public comment. I'm going to allocate 30 minutes for public comment.

### **Chairman opened the meeting to the public**

**Chris Johnson:** I moved here from Washington DC and I'm very familiar with impolite, uncivil and irrational political debate and I will head Commissioner Waldrip's request to avoid that. From what I've heard as a new resident, I've lived here for less than one year. What's not to like? I like having some residential development downtown with some more commercial and retail, it sounds really appealing. If it improves the economic situation of this City, all the better. Has staff considered whether this could be structured so that it is like City Creek and downtown Salt Lake or Santana Row in San Jose if anyone is familiar with that and other uses where they have commercial and retail on the ground floor and then the residential above those floors. I've seen those and it seems to me those promote the synergy among the components of the development and the vitality of the entire development.

**David Tew:** I want to acknowledge the leadership of our community. Since we moved here about 2.5 years ago from Oklahoma I've been very impressed. I was impressed with what the City did last year, inviting us as citizens to participate in the discussions about economic development, traffic and the vision for the future. I appreciate very much the pioneer heritage that exists. One of the reasons we moved to Midway is because we lived in a rural area in Oklahoma and appreciate that environment. For the past year and a half I have been involved with the arts. One of the responsibilities that I have had recently is the coalition to consider having a visual and performing arts center located somewhere in the Heber Valley, which would support the arts and make this a destination place for people that want to be involved in the arts. Over the past four or five months that coalition has identified eight (8) different locations and the recommendation of the coalition is the location right here that we are looking at tonight would be the ideal location because of the synergy that exist for all of the things that Planner Henke just described. It would be a place that people would have access to boutiques as well as restaurants and then enjoy the arts. I just wanted to acknowledge and thank you for your involvement. As we've considered this I've done some research with the Utah Code; Code 10-8-2 in section 3 says "that in the judgment of the municipal body they should always evaluate in their judgment when they are making decisions what provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality". Some of the considerations are whether that decision will accomplish the objections of the area of economic development, job creation, affordable housing, job preservation, preservation of historic structures and property and other public purposes. I endorse the recommendation because I think that it would be a benefit to all of us. I would not want to see a tax increase of 64%.

**Victoria Romney:** We have had our home here since 2000, and we love Midway. In the time that we've owned our home we've seen various developers come in and put in residential developments some of which are lovely and some of which are really ugly. It would be delightful to see a planned area like this with community features and the arts features and the residential features. It is so well thought out and thank you for all of your wonderful creativity and thoroughness on this. My question is. Have there been any financial studies? Do we have pretty good confidence that the population and tourism here can really support the commercial and art areas of this? We want that to be maintained. We do not want this to turn into just another residential fail.

**Planner Henke:** This code allows and encourages commercial on the lower and residential on the upper floors and so it is not an obstacle with the code. As for doing a financial analysis on the property we have not taken that step at this point. It is already zoned for commercial. This would most likely increase that commercial use and also the sales tax, but we'd have to hire a firm to go through and do that analysis. If we are directed to do that then we will do that.

**Chairman Nichols:** Well isn't it also fair to say that without knowing what businesses are going to be there it's very speculative as to what those numbers would be? We assume that anyone willing to invest in a development would do their homework as to whether or not that business is likely succeed.

**Inez Wilde:** My request is that since there is a 15' buffer away from the project if we could please put in the code but if the residence require that they can have masonry wall and then trees on the other side of the wall as a buffer away from the project. For noise and light, I would request that there could be a masonry wall and trees as a buffer around the property. I think that the arts are a worthy project, but I also know that when they built that huge arts center down at Dixie College that being next to a university really helped with the finances of it. I also know that it cost a whole lot more for upkeep of building equipment and employees and things they had planned on. So that is something that we need to think about, another thing that we need to think about is to make sure that the streets are wide enough for delivery trucks and that there is plenty of parking.

**Ryan Starks:** Professionally I am the economic development director for Wasatch County. We oversee the tourism promotion for the area as well as the Chamber of Commerce. During the past several months we've been very engaged with these discussion both with our City leaders, with other businesses. We recently hired a professional, an international branding expert named Roger Brooks. He came and he secret shopped our community over a seven day period and then he presented his findings to a group of about 100 of us just about a month ago. In that presentation he pointed out a few things that I think are worth sharing. He talked about the growth in the state of Utah as a whole. Right now, the state of Utah is the fastest growing state in the USA. This growth pressure that we all feel can be shared across the state. As we look at Wasatch County specifically we've grown by 4.8% since last year. Since the Olympics we've grown by about 65% in our population. I looked at some of the population data for Midway City specifically. In 2000 we had 2,420 residents as of today we are just about at the 5,000 mark. Over the past 15-16 years we have doubled in population. I think that growth is going to continue to come. Now as we talk about economic development a lot of people like to give me a hard time and say you just want

to develop everything. We feel that some of the best economic development opportunities is in preservation of open space. The open space creates an environment where people want to come and they want to gather and so we would commend the City and just applaud your efforts to find open space throughout the City. However, we also feel that this is a main street which is a commercial district within town. This is a prime opportunity for an excellent development. It's a part of my role as the economic developer director I visit with a lot of other cities and counties throughout the state and they are dealing with smoke stack factories and things that are undesirable. If anyone of these cities our counties had the opportunity to have a project of this caliber, a real crown jewel I think that they would salivate at the opportunity. I want to impress upon us that this is a very unique opportunity that may go away if we don't act on it. I think there is some real commercial value as the population continues to increase what happens to our tax funds? Like you said we are going to have to raise property taxes or find other solutions. I think that this is a win-win across the board. If we don't take action and we look at some of the other growth across Main Street we might end up with more mortuaries or drug rehab centers. Hopefully not, hopefully we have this opportunity to create something very special.

**Mindy Hardy:** This strikes a bit of a cord with me. I grew up in Kaysville in Davis County surrounded by farmland, and if you go back to my house now across the street from where I grew up is a giant Smith's Super Center and a gas station surrounded by a strip mall. So, I sympathize with the people who live right there, because it is hard to be in that position. At the same time, I've seen what it can turn into and how undesirable that has ended up for the people that still live there. My favorite thing from what I've heard tonight is that this is an opportunity to take the inevitable commercial growth in Midway and condense it into one attractive, pleasant area and therefore that can maintain the Main Street that we all love right now. To me that is a huge plus. My question is, there is a standing proposed development, the European Village. Is this code specific to that plan or if the code is changed to the C-4 is that open to any development, any developer to come in and use that code?

**Chairman Nichols:** It is open to any developer that acquires the property and meets the code.

**Roger Urry:** I'm not against the proposed development, my wife and I love the arts. I think an arts center is a wonderful idea. My main concern and I ask you to really consider the traffic that is going to be focused into that area there. There is about 700-800 feet between 580 East and Hamlet. There are already three (3) working entrances onto Main Street on the south side on the north side there is a potential for more. I don't really understand how you are going to be able to control all that traffic. Our neighborhood is being hemmed in by the traffic already at certain hours of the day. So, will you please come up with a really good plan? I appreciate all you've done, I do.

**City Engineer; Wes Johnson:** We're very well aware of the traffic congestion. Main Street is a UDOT owned highway and due to several comments about the delays at 4<sup>th</sup> East and at Center Street, UDOT came in and did a study at both of those locations and quickly found out that with the delays, stop time and congestion that both of these locations do warrant a traffic signal. So, possibly this summer, but absolutely next summer UDOT will be installing a traffic signal at 4<sup>th</sup> East and Main. This summer you will be seeing a light at Center Street and Main Street. One of the obstacles with 4<sup>th</sup>

East is 3<sup>rd</sup> East has a center turn lane and is fully widened. I'm concerned that this will need left hand turn lanes and center turn lanes. I'm concerned that we have a fully improved cross section at 3<sup>rd</sup> East and I don't want the road to narrow down at 3<sup>rd</sup> East then widen back at 4<sup>th</sup> East then narrow back down. UDOT is looking into trying to acquire funds to widen from 3<sup>rd</sup> East to 4<sup>th</sup> East. Ultimately it is our Master Plan improvement to have a center turn lane on Main Street as we get through and hopefully down through Michie Lane and down through the bridge where the sewer treatment plant and that fishing access is. We've commented to UDOT that we feel that is a dangerous intersection with a 55-mph speed limit, bend and intersection. Also in our Master Plan a center turn lane for River Road. We try to let as development comes in require them to provide the improvements that we are hoping for. In a nut shell, there will be a traffic signal at 4<sup>th</sup> East and a center turn lane on Main Street and on River Road.

**Candyce Barrett Mowers:** I have major concerns. Probably one of my biggest ones is still the height. I know you say it's only four (4) stories, it's actually 4.5 stories and if you count the Edelweiss building it's 3 point something with a half of a one at the bottom that you do not get to see the whole story. Plus 20 feet for the roof if they want a steep roof on it so you're still looking at four (4) story's plus something. The new apartment building next to Costco are four (4) story's without a high roof on it. Their roof is quite low. To me when I get down there they look big, even when I am far away and I look at them they look big. They do not look like a rural town to me they look like a big city.

**Chairman Nichols:** I don't want to disagree with you, but the roof must fit within that height limit.

**Candyce Barrett Mowers:** If we zone for 30 units and I recognize that on Main Street you're saying it's zoned for 20 units that nobody on Main Street right now owns enough property to put that kind of unit in with parking. I just did the math on 30 acres and if the developer decides not to put what we are talking about in he could actually put in 480 apartments which would be 1,200 people in that one small space. That's a whole lot of people in that small space. Just so everybody knows, 20 acres is .03 square miles the state of Utah considers 1,000 residents in a one square mile to now be urban and no longer rural. Which means we would be putting an urban area in that little tiny square area. That concerns me, I recognize that the developer has great plans, but don't know that's what the developer is going to do. I've lived a lot of years in this life where Federal and State Governments have said oh if you pass this we promise we are going this direction we won't go the direction that it could possibly go. I've lived with a whole lot of possibilities in my life the things that I didn't like that were promised weren't going to happen. I have concerns about 30 units per acre and the height. I want Midway to be rural. I love the arts I teach art. I have lived in my house for 60 years. I have seen a lot of changes in my life, I grew up here. I recognize that change needs to come. I recognize that we need to put something in there that is beneficial for the town. I'm just concerned that if we do it in such a way that leaves us open for things that we don't want.

**Planner Henke:** Regarding height the code does say a maximum of four (4) stories and a maximum of 55 feet for the top of the roof. So, it is limited to the four (4) at least in that center section and then less as you work your way out. Again, those numbers are not concrete that can be changed. Currently on the C-2 zone 20 units per acre. What was

initially proposed with this zone was 40 and that has been adjusted down to 30 and it could be adjusted down even further this number is also not concrete. The one thing that is uncertain is exactly what would make a development work of this magnitude how many residential units would there need to be to make it pencil out for a developer, and that is really unknown right now. That is something that needs to be considered also with this. If it is toned down enough it won't be attractive to a developer. A couple of other things to consider is if a developer does have to acquire open space off site that reduces density in the City also and if we do go through and reduce density on the rest of Main Street some of those smaller pieces' developers could buy up a few of those and combine those together and create a larger development and so just because it is fragmented doesn't mean that it isn't possible for somebody to combine those properties together. We would be avoiding that scenario if we were able to go and reduce that density on the others in the C-2 and C-3 zones.

**David Carson:** I think this is a great project and a great idea. Chairman Nichols you mentioned in your original remarks that some requirements have been relaxed a bit for the C-4. I reviewed the C-2 zoning text today. There are some restrictions to that in terms of use and Planner Henke pointed some of those out. The ones that I looked through in the C-2 code and I did not look at the conditional ones just the ones that are permitted that would not be permitted as I understand it from what Planer Henke has said. Things like construction jobs, electrical and plumbing I believe that would include HVAC, repair shops, I assume that's like small motor repair and commercial storage those things if I understand right are restricted for C-2. I think from a Main Street Midway those things are needed, but from a Midway Main Street point of view having those restricted for a nice development like this is actually a great feature. Regarding height, I drove by the office buildings on second east, I have never heard anybody suggest that that building was an eye sore or a blight on the City because it was too big or too tall and it is setting right there. The set back on C-2 I think is ten (10) feet I think that it is a little bit more than that and it is setting right there on the street at 48'. I look at this and realize if that building were going to be put here it would be 300 feet back off the street. We are okay with it right on the street it seems like putting it back 300 feet should be okay. I appreciate the work you all do. I know that it is not always comfortable and easy, but I appreciate your efforts.

**Maria Scovil:** I do appreciate the efforts of everybody to make this a development for everyone in the community and the residents around there. A couple of my concerns. I understand that commercial is going in there one way or another and I do appreciate the efforts to make it a pleasant development. My concern is something that you just said about to make it attractive to a developer. I get concerned when we have to make concessions to developers because the cost of the property is so high. Why can't it be that they meet somewhere in the middle so we can have a development there; commercial residential whatever, but it meets in the middle to where maybe the cost of the property comes down a little bit so it isn't such a burden to the community. You also said that having high density, you said residential is a burden to the community it brings in 1% of the property taxes. So why would we consider then putting that much residential there if it's going to be a burden? You're looking to bring in a greater tax base yet you're going to pack all this residential in there so that seems like a conflict to me. I'm just trying to understand why we are going to go so high and so close to the

residential borders. When you look at the setback off of Main Street it's at 200 feet yet it's less than that when it's bordering residential. I'm just wondering why it's more important to not border Main Street with the height restrictions as it is the residential people who are right there. I appreciate your time and effort and I appreciate you listening to what we have to say.

**Sheila Probst Siggard:** I grew up in Midway and I have just moved back. I lived in California and Washington DC. I worked in Washington DC for four (4) years and commuted from Virginia. When I was in Washington DC and I came back it took me three (3) years to adjust to Swiss Days again, because it had changed so much. I am very opposed to this project. I moved back to Midway, because I love open space. I have lived and worked in a variety of Cities. I moved from a beautiful development in Sandy. I just wanted to come and express some concerns. It's been stated that this project would be a crown jewel. Let me state very adamantly I think a crown jewel of Midway is an open Memorial Hill. My father and some of my uncle's names are on the plaque, so I go very deep. One of the comments that have been made is that the fireworks that we love in Midway would have to be decrease with that much density. I don't mean to sound like I'm thinking too much out of the box, but I would say leave some open space by our crown jewel and increase commercial density on other places on Main Street that already have development. I would say let us support our local businesses that are already here. One of the comments about this project that was made that it would bring synergy and stimulate the other businesses I disagree with that. There is so much shopping on line these days and people only have so much time. I think that they will either shop there or the local businesses where they are. One of my friends that was unable to come tonight talked about development they had seen in other cities and they talked about how when we have increased development you need more schools. Our school is bulging now. More people lead to more crime there are problems with water. We've had our fence replaced once by the city, because the busses that come down my little street which is full of potholes right now cannot be accommodated. So, I just wanted to state my feelings about this project. No one's roots go deeper than mine about Midway and again the crown jewel of Midway is Memorial Hill. Of course, other people in the valley would love to come here, yes. It is a beautiful place, but I just as soon have the art center somewhere else in the valley. I love arts. Within the last month, I've went to BYU and watched a wonderful production with four (4) Broadway stars. Our Town Hall is wonderful and I thank you for your time.

#### **Chairman Nichols closed the meeting to public comment**

**Commissioner O'Toole:** I know you made a point about the maximum incentive would be 20 % commercial and 80% residential, and that's what we don't want. I was looking and trying to calculate how much they would have to give in order to make it 20% commercial and 80% residential and I think that's not feasible. Let's just say a movie theater, and they gave us a couple of acres. You would have maybe 45%. We want more commercial than residential correct?

**Planner Henke:** Yes, that is correct.

**Commissioner O'Toole:** This is an incentive, but I don't see someone coming in and doing all of these incentives and then having only 20% commercial and 80% residential,

because that would defeat the purpose of the C-4 zone.

**Planner Henke:** Probably most likely the way a developer would make this project work is really only getting down to 20% commercial 80% residential. If the buildings are condominiumized and so those are sold that is where there is a rapid influx of money so it makes it easier for a developer to come in and create the buildings and the development. So, they would really need to get down to this 20/80. Regarding residential costs. One of the comments that we had before is, in our General Plan it talks about for every dollar that is brought into the city from a residential development we spend a dollar sixteen (\$1.16). So, it is really subsidized by other forms of revenue. That is really for quarter acre and third acre lot development. There is a lot of costs that goes into streets. When you have density that is closer together you don't have those same costs, so it actually ends up not being as much as a burden and maybe even a positive when you have higher density. It's when you spread out the density and you have a lot of roads that is where the cost comes in. Going back to the comment regarding 20% commercial and 80% residential, that's really where a developer needs to be in order to get the lending necessary to be able to go in and do a project, and so they are going to have to do items on this chart to get to that.

**Commissioner Nicholas:** A concern or a question I have is...We want to create something that will work for developers, because the land will just sit there or it will just be used as it would be used under a C-2 zone today. It wouldn't create or fulfill this vision we have. I don't know personally how developers would feel about the attractiveness of this based on this code. If they would feel like there's too many restrictions to make this profitable, to get financing to attract commercial businesses to sell residential units. So, I'm kind of in this space. I think the way that it is written sounds good, and I think that the vision is right, but I just don't know if from a financial perspective, a developer would say this will work we can make money here and we can partner with the city to do something really great. If we approve or adopt this code then what if no developers are on board with it?

**Planner Henke:** There is always an opportunity to go back and amend the code or revert back to the C-2 zone if we wanted to as a city. Again, we have a lot of parcels that are zoned C-2 and they've been that way for decades and they've never been built on. Just because we write a code doesn't mean it's going to be developed anytime soon. In this case, we do want to have something developed on the property. Many would say they do not want it developed at all, but we do know something will happen on the property eventually. Conversations that I've had, and we've not written it to cater to the developer, but there are developers that are watching this process closely so that tells me that there is some incentive to use this code.

**Commissioner Nicholas:** So, you feel like the way it's evolved here would still be attractive enough to developers that we might get some partners.

**Planner Henke:** To be honest with you it's just a matter of going through this process, I don't know. Just from conversations it sounds like it probably would work, but I guess nothing is for sure.

**Commissioner Nicholas:** Right, I understand. Thanks.

**Commissioner Payne:** Regarding the in-Lieu Fee of 100k for 1.5 points. I see you have built in there, escalators for increase in the land 5% a year. Rather than create a based on 100k for 1.5 points was it considered or could it be done on an acreage bases

that would provide the City with the open space in-Lieu which would afford the city the ability to not; you know if land prices go up substantially over the next five (5) or ten (10) years the city isn't getting short changed in that exchange rate.

**Planner Henke:** Again, this code could be amended if for whatever reason land values out pace that 5% this could be amended so we are not short changed. There is an option for in fee and lieu you do have the option of acreage also or just the development right. There is three (3) different options for creating open space.

**Commissioner Payne:** My point was more towards if land prices go up and as long as it is amended to correct for that so that if they are doing dollars in lieu than the city is still getting an equal exchange rate for land and open space.

**Planner Henke:** If we do have to do that we can do it through code text amendment in the future.

**Commissioner Payne:** For these incentives, I understand through; you know if this is approved any developer coming in is going to have to go through and meet all of the different code requirements. Then there were comments in the past in terms of how the city could have greater design oversight if you will on the details to make sure this is a good quality development over all. Is there a way to build into the incentives where a developer as part of this list here the first thing they have to do is agree to greater in terms of the design they do, is that even a possibility?

**Planner Henke:** Currently commercial development and anything within the C-2, C-3 or possibly the C-4 zone go through Visual and Architectural committee for review and we do have architectural standards listed in our code. We do have a good committee that's been put together and they do look at all the projects and signage that goes through the City. We do have quite a bit of leeway or oversight when it comes to architectural elements, because we do have them listed in our code. We do not require every element because we have a page and a half of those in the code. We make sure that there is character with every structure that's approved through the City. We do have oversight, it's not as far as a form based code you could say, but it's somewhere in between to where we can really dictate what they'll look like on the outside.

**City Attorney; Corbin Gordon:** From a legal stand point I think that you could legally create a specific architectural requirement in this zone if you wanted to and attach that.

### **Chairman Nichols asked for motion**

**Motion:** Commissioner J. Kohler: Mr. Chairman, I would like to make a motion. I move that we recommend that City Council consider moving forward with the proposed code text amendment to add the regulations for the proposed C-4 zone. I think we'll probably hit in the next item of the agenda the other parts that could be added to that motion.

**Seconded:** Commissioner O'Toole

**Chairman Nichols:** Do you have any findings that you want to add to your motion?

**Commissioner J. Kohler:** Let's use the findings, add those to the motion.

**Chairman Nichols:** Is there any discussion on the motion?

**Chairman Nichols:** From my own personal perspective, I think this code is better than it was the last time we looked at it, but there are still some details I wouldn't mind

working through further particularly with City Council, but I don't have a vote.

**Chairman Nichols:** Any discussion on the motion, other than my comment?

**Seconded:** Commissioner O'Toole

**Ayes:** Commissioners J. Kohler, Nicholas, O'Toole, Payne

**Nays:** None

**Motion:** Passed

#### **ITEM: 4**

**Midway City is proposing to rezone six parcels from the C-2 and R-1-11 zones to the newly proposed C-4 zone that would cover the general area from 400 East to 700 East along the north side of Main Street. This zone will be walkable and is envisioned to have a central plaza with surrounding commercial and arts related businesses along with residential. The property proposed to be rezoned is approximately 20.71 acres in size.**

#### **BACKGROUND & ANALYSIS:**

Midway City is proposing a zone map amendment of six parcels that are 20.45 acres in size that are currently zoned C-2 and R-1-11. The proposal is that the six parcels are rezoned to the proposed C-4 zone. This purpose of the action is based on the newly revised Midway City General Plan. Through the General Plan review process and based on previous development proposals for the area, the City has arrived at the conclusion that the property in question is more valuable to the entire community zoned C-4 instead of C-2 and R-1-11. The City is currently pursuing the adoption of a C-4 zone that would include the 20.45 acres proposed to be rezoned. The purpose and intent of the C-4 zone is the following:

*The purpose of this district is to create a community gathering area that is focused on tourism and retail. This district will be walkable and is envisioned to have central plazas with surrounding commercial and arts related businesses and activities generally on the street level and residential on the upper floors and surrounding buildings. The C-4 zone provides for a mix of commercial, office, retail, arts related activities and multiple unit and attached residential uses of a higher density along Midway Main Street. Site and building design will be of a quality that enhances the character of Midway and offers a cultural and retail gathering area for the residents, visitors and tourists. A wide range of commercial and residential uses are allowed, including regional scale retail; provided, that it is compatible with the overall sustainable character of the area by fitting into an interconnected street network.*

Over the past year, the City has received several development proposals for the six properties. These include hundreds of storage units on two of the parcels and two residential developments on the other. None of the proposed developments were considered to be very beneficial for the entire community. Based only a tax perspective, the residential developments would have cost the City revenue and the storage units would have created a very minimal gain for the City based

on the fact there is no sales tax charged for storage unit rentals. These proposals made many aware that the properties will develop but if the City would like them to develop into something beneficial for the entire community then a change in the zoning needed to take place. Rezoning these parcels is an important step in creating this commercial district.

The six parcels are the following:

<b>Property owner</b>	<b>Parcel Identification</b>	<b>Acreage</b>
Horizon Provider LC	OMI-0535-2-035-034	2.5
Brent Gold and John Demkowicz	OMI-0534-0-035-034	8.93
Karl Dodge	OMI-0535-1-035-034	6.17
Thomas Grose Real Estate LTD	OMI-0535-0-035-034	0.85
White September LLC	OMI-0528-1-035-034	0.86
White September LLC	OMI-0528-0-035-034	1.14

Another reason for rezoning the property is to prepare the area for a potential performing arts center that is currently in the planning stage. A valley wide committee has been formed that is exploring how to fund the center and where it should be located. The site just north of the proposed rezone is the best location that has been identified. Between the C-4 zone, with its restaurants and retail, and the potential resort area to the north there can be a good synergy of uses that will help build each other up. The performing arts center will be an anchor to create activity in the district.

This is a legislative matter so unless the City feels this is truly beneficial for the entire community then the zone change should not happen. The newly revised General Plan does support this rezone especially in the Economic Development and Resorts chapter.

**POSSIBLE FINDINGS:**

- The proposal is legislative matter
- The proposal will help create the vision of Midway as described in the General Plan
- The proposed rezone will help potentially secure the area for the performing arts center which will benefit members of the community and businesses in the area
- The proposal will help create a better economic base for the community
- Rezoning the property allow commercial/residential development in the parcels and not allow purely residential development on the property which would, most likely, have a negative financial impact on the City

**ALTERNATIVE ACTIONS:**

1. Recommendation of approval. This action can be taken if the Planning Commission

feels proposal is acceptable and in the community's best interest.

- a. Accept staff report
  - b. List accepted findings
  - c. Place condition(s)
2. Continuance. This action can be taken if the Planning Commission 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. Recommendation for denial. This action can be taken if the Planning Commission feels that the request is not acceptable and not in the best interest of the community.
- a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

**Commissioner J. Kohler:** Just a procedural question. We don't have a C-4 zone code text yet. That's something we just punted up to the City Council. Our motion coming forth to rezone these with something we don't have yet that would be a similar punt up.

**Planner Henke:** This would be a recommendation to the City Council much as the last item would be. So, there would be no need for the City Council to rezone the property if they didn't adopt a code. Really the code would have to come first and then the rezone.

#### **Chairman Nichols asked for a motion**

**Motion:** Commissioner O'Toole: I move that we recommend to the City Council that we rezone six parcels from the C-2 and the R-1-11 zones to the proposed C-4 zone and that we also include the possible findings from staff.

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

**Seconded:** Commissioner J. Kohler

**Ayes:** Commissioners J. Kohler, Nicholas, O'Toole, Payne

**Nays:** None

**Motion:** Passed

- **Commissioner Waldrip returned to the meeting**

#### **ITEM: 5**

**Kent Kohler is requesting a Conditional Use Permit for a mixed-use development that will include a business and a residence. The property is located at 37 West**

## **Main Street and is in the C-2 zone.**

### **BACKGROUND:**

This request for a Conditional Use Permit (CUP) by Kent Kohler is for a mixed-use project that will include a commercial area on the main floor of an existing structure and a residential unit on the lower floor of the same structure. The C-2 zone allows for mixed-use projects which, in turn, allows one residential unit for properties less than one-acre in size. The structure was originally a residence but was converted to commercial space years ago. The parcel on which the project is proposed is zoned C-2 and is 0.16 acres in size.

There are eight on-site parking stalls assigned to the property. For most uses, the code requires a stall for every 250-sq. ft. of public accessible. Also, one space is required for every residential unit of a mixed-use project. If the entire area of the upper floor is calculated for parking and a stall is added for the residential unit then a total of six stalls are required, which is two less than is provided by the applicant.

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 by 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 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 the applicable provisions of this Code; *planning staff believes that the proposal will not impair the integrity and character of the C-2 zone. The proposal appears to comply with the requirements specific to retail/office and mixed use projects as listed on the Municipal Code.*
2. The proposed use is consistent with the General Plan; *the proposed uses do comply with the vision of Main Street described in the General Plan. The General Plan promotes an active and vibrant Main Street and this proposal does promote that vision by containing both commercial and residential.*
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 businesses that will be located in the development are required to have approved business licenses with the City. The businesses will need to apply for licenses and they will be issued once all the requirements are met such as the issuance of the Conditional Use Permit among other requirements.*
4. There will be no potential, significant negative effects upon the environmental quality

and natural resources that could not be properly mitigated and monitored; *none 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; *none have been identified.*
6. The subject site is physically suitable for the type and density/intensity of the proposed use; *it appears that the location is suitable for this type of use.*
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; *utilities are already in place to service the proposed uses.*

#### **POSSIBLE FINDINGS:**

- The proposed use is a conditional use in the C-2 zone.
- The proposal is consistent with the vision of the General Plan for Main Street.

#### **ALTERNATIVE ACTIONS:**

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

**Applicant; Kent Kohler:** A little bit of history on this. My grandparents bought this house in 1947 and until my grandmother passed in 1999. I tried to get my dad to go in with me and buy it at the time for 70k and he wouldn't do it. I paid slightly over that a couple months ago, but that is kind of how it works with me. I buy high and sell low. I had the opportunity to pick this up so the main level is my insurance office business and then we want to development the basement for a small rental unit. I'm just excited it's back in the family.

**Chairman Nichols asked if there were any further discussion, there was none**

**Chairman Nichols asked for a motion**

**Motion:** Commissioner Waldrip: Mr. Chairman I move approval of the request for a condition use permit for a mixed-use development on behalf of Mr. Kohler. The property located at 37 West Main Street which is in the C-2 zone with a finding that the proposed use is an appropriate conditional use of the C-2 zone that the proposal is consistent with the vision of the General Plan for Main Street and that the matter be passed onto the City Council with our approval. I also accept the findings of the staff in the connection with the review they have done.

**Chairman Nichols asked if there is any discussion on the motion**

**Seconded:** Commissioner O'Toole

**Ayes:** Commissioners J.Kohler, Waldrip, Nicholas, O'Toole and Payne

**Nays:** None

**Motion:** Passed

#### **ITEM: 6**

**Brett walker is requesting a plat vacation of the Walker Ranch Subdivision. Walker Ranch is a one lot subdivision on 14.8 acres. The property is located at 566 Saddle Drive and is in the RA-1-43 zone.**

#### **BACKGROUND:**

Brett Walker is requesting to vacate the Walker Ranch Subdivision plat so that a new subdivision plat can be recorded in its place. The proposal, Dutch Hills Subdivision, contains six lots and

covers the entirety of the 14.8 acres of the current subdivision. The applicant is proposing to vacate the plat instead of a plat amendment because by vacating the plat, the name Walker Ranch Subdivision will not need to remain like it would if it were a plat amendment. If the plat is merely amended, then the original name must remain on the plat.

A plat vacation is a legislative item and City Council is not obligated to allow the vacation even if they feel that the applicant is complying with the requirements of the Code. This decision is entirely at the discretion of the City Council.

#### **ANALYSIS:**

The Walker Ranch Plat was recorded on August 6, 2012. It contained one building lot that covered the entire property which, in turn, allowed only one dwelling unit on the 14 acres. By vacating the plat the land owner is then allowed to subdivide the property using the existing zoning which, in the case, is RA-1-43. Potentially, about 11 lots could be created on the property. The density of the number of dwelling units will most likely increase if the plat is allowed to be vacated. The increased density will create more traffic and demand on City and school district services.

Also, the vacation of the plat will vacate the existing public trail easement that runs along the western boundary of the property. The Burgi Hill backcountry trail that was to occupy the trail easement was built outside the boundaries of the Walker Ranch plat on City property and therefore it is not necessary to secure the trail easement but the City could require the easement to be recorded again on a subsequent plat if it does feel that it is needed.

#### **PROPOSED FINDINGS:**

- Density and traffic in the area will most likely increase if the plat is vacated
- No public street, right-of-way, or easement will be vacated or altered

#### **ALTERNATIVE ACTIONS:**

4. Recommendation of (Conditional) Approval. This action can be taken if the Planning Commission feels there is good cause to approve the proposal.
  - a. Accept staff report
  - b. Reasons for approval (findings)
  - c. Place condition(s) if needed
5. Continuance. This action can be taken if the Planning Commission 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
6. Recommendation of Denial. This action can be taken if the Planning Commission feels that the request does not meet the intent of the ordinance.
- a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

**Chairman Nichols opened the meeting up for public comment  
No public comment; closed public comment**

**Commissioner O'Toole:** Is there any reason we wouldn't allow a vacation of a plat?

**Planner Henke:** By vacating the plat you do allow high density on the property. That is one thing to consider. The zoning here is one acre lots.

**Chairman Nichols:** Paul, any thoughts about controlling the traffic or the additional density being added here?

**Paul Berg:** Beyond what we've discussed for six (6) months, no.

**Chairman Nichols:** Is there any possibility of there being a connection with this subdivision between the cul-de-sac and the Burgi Hill Ranches?

**Paul Berg:** The portion that you see here is now common area for the Dutch Canyon Subdivision. This is actually property that Mr. Walker at least had easements over and had the right to use. He lost that in his being willing to help compromise with the City to then go with this loop road system to help discourage high speed through traffic and make people go around and go through all of these stop signs. Had he maintained his rights to this he would have had more frontage to help him develop more lots, but within cooperation with the City in trying to discourage through traffic this plan was adopted this went over to the Dutch Canyon HOA and it is now common area and he has lost access to it.

**City Engineer; Wes Johnson:** Paul we talked about with Mr. Walker a little bit of a concern with lots six (6) and one (1). I would like to have some control of where those driveways tie in.

**Chairman Nichols:** Having had this discussion can we call for a motion that addresses both agenda items?

**Planner Henke:** Yes, there isn't much more to cover with the other item.

**Chairman Nichols asked if there were any further discussion, there was none**

**Motion:** Commissioner Waldrip: I recommend that we approve the vacating of the Walker Ranch Subdivision, the one lot subdivision on 14.8 acres located at 566 Saddle Drive in the RA-1-43 zone. We accept the analysis and report of the staff with respect to this proposal. We find that the density and traffic in the area will most likely increase, but that is not really of a significant concern. That no public street, right of way or easement will be vacated or altered with the exception of the existing trail easement through the Walker Ranch Subdivision which we recommend be vacated, because the existing trail as it's actually built on the City property close to this existing easement already accomplishes the purposes that the trail easement was created for and therefore it is not really necessary and should not be a burden on the property. In conjunction with that action that we couple with it on the same motion the approval, preliminary and final approval of the new Dutch Hills Subdivision, a small-scale subdivision consisting of 14.8 acres and six (6) lots within that acreage also located at 566 Saddle Drive in the RA-1-43 zone. We accept the staff report as stated in the agenda and that we find that the lots comply with the minimum requirements for the RA-1-43 zoning district and are actually less dense than would otherwise be permitted. That the proposal does meet the intent of the General Plan for this zoning designation and that we recommend that the new subdivision be improved with a note on the subdivision documentation that the driveway access and the sidewalk configuration for lots one (1) and six (6) be required to be reviewed and approved by the city engineer before the final drawings for those improvements be approved.

**Chairman Nichols asked if there were any discussion on the motion**

**Paul Berg:** Just change the last part of that. Instead of final drawings building permit, because that is when the driveway location is determined.

**Commissioner Waldrip:** Same thing for the sidewalk, right? I accept that amendment.

**Chairman Nichols asked if there were any other discussion on the motion**

**Seconded:** Commissioner O'Toole

**Ayes:** Commissioners J. Kohler, Waldrip, Nicholas, O'Toole, Payne

**Nays:** None

**Motion:** Passed

#### **ITEM: 7**

**Brett walker is requesting Preliminary/Final approval of the Dutch Hills Subdivision. The proposal is a small-scale subdivision that is 14.8 acres in size and will contain six lots. The property is located at 566 Saddle Drive and is in the RA-1-43 zone.**

This request is for preliminary/final approval of a small-scale subdivision on 14.8 acres that will contain six lots. Currently the property is a one-lot subdivision that the applicant is attempting to vacate the plat. If he is successful with that petition then he may move forward with this proposal of the Dutch Hills Subdivision. Currently the property is being used mostly as agricultural land but there is also one dwelling on the property and there is an area of steeper slopes that is part of Burgi Hill. The zoning allows for a density of one dwelling per acre and it also requires a minimum of 15% open space which is being provided in lot 1. Potentially the property could

accommodate approximately 11 lots but the developer is proposing a less dense subdivision at about half the potential density. The proposed lots will obtain the required frontage from the preexisting roads of Saddle Drive, Dutch Meadows Circle, and Dutch Meadows Lane.

#### **LAND USE SUMMARY:**

- 14.8-acre parcel
- RA-1-43 zoning
- Proposal contains six lots
- Open Space 2.22 acres
  - Entirely located on lot 1
- Frontage along Saddle Drive, Dutch Meadows Circle, and Dutch Meadows Lane.
- The lots will connect to the Midway Sanitation District sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary water system

#### **ANALYSIS:**

*Access* – Access for the subdivision will be through Dutch Meadows Circle and Saddle Drive located in the Dutch Canyon Subdivision.

*Water Connection* – The lots will connect to the City's water line located under Saddle Drive, Dutch Meadows Circle, and Dutch Meadows Lane.

*Sewer Connection* – The lots will connect to Midway Sanitations District's sewer lines in the area.

*Secondary Water Connection* – The lots will connect to Midway Irrigation Company's irrigation line. The plans for this connection have not been finalized.

*Open Space* – 15% open space is required for the subdivision so 2.22 acres is being provided. The open space will be entirely located within lot 1 and will be located on the sloped area of the lot. Per code, lots that are over two acres in size may have the required open space included within the lot. The area delineated as open space will be shown on the plat and that area will not be allowed any structures.

*Sensitive Lands* – There are sloped areas located within the proposed subdivision. Areas of slope over 25% are considered sensitive and no residential development is allowed in this area. All the sensitive lands area fall within lot 1 and those areas will need to be noted on the plat so that no structures will be allowed in that area.

## **WATER BOARD RECOMMENDATION:**

The Water Board has not yet heard or made a recommendation for water requirements.

## **PROPOSED FINDINGS:**

- The proposed lots comply the minimum requirements for the RA-1-43 zoning district
- The proposal does meet the intent of the General Plan for the RA-1-43 zoning district

## **ALTERNATIVE ACTIONS:**

7. Recommendation of (Conditional) Approval. This action can be taken if the Planning Commission feels there is good cause to approve the proposal.
  - a. Accept staff report
  - b. Reasons for approval (findings)
  - c. Place condition(s) if needed
  
8. Continuance. This action can be taken if the Planning Commission 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
  
9. Recommendation of Denial. This action can be taken if the Planning Commission feels that the request does not meet the intent of the ordinance.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

**Motion:** See motion from item number 7

## **ITEM: 8**

**Christopher Huffman & Ethan Poppleton, agents for Return Development LLC, is requesting Final Approval for the Deer Creek Estates Subdivision Phase 1. The proposal is a large-scale subdivision that is 6.89 acres in size and comprises 10**

**lots. The property is located at 300 East Michie Lane (south side) and is in the R-1-15 zone.**

**BACKGROUND:**

Christopher Huffman & Ethan Poppleton are proposing final approval of Deer Creek Estates Phase I. The property is 14.84 acres and is zoned R-1-15 which allows for third-acre lots, though the developer has chosen to reduce the density and create lots closer to a half-acre in size. The property will be developed as a large-scale standard subdivision which will be developed in two phases. There are 20 lots total and ten of those lots are in phase 1. There will also be 15% open space that is proposed to be deeded to the City as a public park and is 2.23 acres in size. The park covers two separate parcels, one on each side of 300 East. Phase 1 will include all the required open space for the entire development (both phase 1 and phase 2).

A staff proposed change from the preliminary review of phase 1 is now the park is located almost completely on the west side of 300 East. This change was accomplished by moving two of the lots from the west side of the road to the east side. The reasons for proposing the change are the following:

- Staff feels that it will be safer for park users to have the larger area of the park in one location so that park users are not crossing from one side of the road to the other. With the previous plan with two equal sized park areas on both sides of the road, staff feels this would have promoted more crossings of the road and therefore lead to more potentially unsafe situations especially for younger park users.
- Staff feels that the park will be more functional if there is a larger playing area that is not dissected by a City street.
- There is a possibility that more park space could be added if properties to the west are developed and are required to create open space.
- Also, the west side of the road was chosen because the property is wider on the west side than on the east side.
- There is still a 50' area of park on the east side of the road that will be landscaped and will help maintain an open feel along Michie Lane.

There are two roads planned in the subdivision. The first is 300 East that will run north to south and create a four-way intersection with 300 East at Michie Lane as it enters Bowden Fields. Also 400 South is planned and runs East to West. This road will connect to the stub road in Fox Pointe and this road will stub to the west boundary of the proposed subdivision so it can connect to future developments. Some of the roads will require temporary turnarounds as required by the City Engineer.

The City code promotes that open space is located along collector roads wherever possible to

benefit the most members of the community and the applicant has complied with this request. The property has historically been used mostly as agricultural land.

**LAND USE SUMMARY:**

- 14.86-acre parcel
- R-1-15 zoning
- Proposal contains 20 lots, 10 lots in Phase I
- Developer is providing 2.23 acres of open space which does comply with the 15% requirement.
- Access from Michie Lane and 400 South
- The lots will connect to the Midway Sanitation District sewer, Midway City’s culinary water line, and Midway Irrigation Company’s secondary water line

**ANALYSIS:**

*Access* – The subdivision will have access from Michie Lane and from 400 South. The City is planning to construct Michie Lane from Center Street to 480 East this year. The developer will deed the Michie Lane right-of-way to the City as soon as they close on the property in March. Michie Lane will be a limited access collector road and will allow good traffic circulation for the southeast section of town.

*Geotechnical Study* – The Geotechnical Study was prepared by CMT Engineering Laboratories.

*Sensitive Land* – The developers have submitted to the City that no sensitive land or located on the property.

*Water Connection* – The lots will connect to water lines that will be built by the developer and connect to the City’s water lines along Michie Lane.

*Sewer Connection* – The lot will connect to Midway Sanitations District’s sewer lines located in the area.

*Secondary Water Connection* – The lots will connect to Midway Irrigation Company’s secondary which is already servicing the property. Laterals will be created for all 20 lots and both park parcels. Secondary water meters are required for each lateral including the park laterals.

*Sidewalks* – The developer will construct five-foot sidewalks on both sides of the streets within the development. The City will construct a six-foot sidewalk along the south side of Michie Lane.

*Lot frontage* – The Land Use code requires 15% open space for this proposal. The code also allows that the frontage and acreage of the lots may be reduced by 15% because of this requirement. For this proposal, the acreage has not been reduced for any of the 20 lots but the frontage has been reduced. None of the lots have less frontage than 85’, which is the minimum requirement in this case, but about half of the lots do have less than 100’ of frontage. All lots do comply with the frontage and acreage requirements of the code.

*Open Space/public park* – The Land Use Code requires a minimum of 15% open space for the development and the proposal does comply with that requirement. The developer is proposing that the open space is dedicated to the City as a public park. The City’s Master Park Plan Map indicates that a park should be in the general vicinity of this proposal therefore, accepting the park will comply with the vision as described in the General Plan. The developer has proposed to develop some of the park facilities but if the City would like to upgrade those facilities or add others then park impact fees could be used to accomplish this. Some amenities in the park include a sledding hill, park equipment, pavilion, sports court, walking trails, and landscaping.

#### **WATER BOARD RECOMMENDATION:**

The Water Board has recommended that 36.5 acre feet are tendered to the City before the recording of each plat. Phase 1 will need to tender 20.5 acre feet. Phase 2 will need to tender 16 acre feet. The Water Board also recommended secondary water meters are installed on each lot.

#### **POSSIBLE FINDINGS:**

- The proposal does meet the intent of the General Plan for the R-1-15 zoning districts
- The proposal does comply with the land use requirements of the R-1-15 zoning districts
- The City’s Master Park Plan Map indicates that a public park should be in the general vicinity of the proposal
- A public park will benefit the future residents of this proposal and the residents of the surrounding subdivisions

#### **ALTERNATIVE ACTIONS:**

10. Recommendation for Approval (conditional). This action can be taken if the Planning Commission feels that conditions placed on the approval can resolve any outstanding issues.

- a. Accept staff report
  - b. List accepted findings
  - c. Place condition(s)
11. Continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.
- Accept staff report
  - a. List accepted findings
  - b. Reasons for continuance
    - i. Unresolved issues that must be addressed
  - c. Date when the item will be heard again
12. Recommendation for Denial. This action can be taken if the Planning Commission feels that the request does not meet the intent of the ordinance.
- a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

**Commissioner Nicholas:** Is that park area large enough to do anything like soccer or baseball?

**Planner Henke:** No, it really is not envisioned to have active uses at this park, that could change. Right now, the idea is to have it as a passive neighborhood park.

**Commissioner Waldrip:** I think this redesign of the park to have unify it on one side of the road is a great idea.

**Chairman Nichol asked if there were any further discussion**

**Motion:** Commissioner O'Toole: I will make a motion to give final approval for the Deer Creek Estate Subdivision Phase 1. The proposal is a large-scale subdivision that is 14.84 acres in size of which phase 1 comprises of 6.89 acres in size and contains ten (10) lots and 2.23 acres of open space. We also accept the possible findings, I won't read those.

**Seconded:** Commissioner Nicholas

**Chairman Nichols asked if there was any discussion on the motion**

**Ayes:** Commissioners J. Kohler, Waldrip, Nicholas, O'Toole and Payne

**Nays:** None

**Motion:** Passed

**ITEM: 9**

**Christopher Huffman & Ethan Poppleton, agents for Return Development LLC, is requesting Preliminary Approval for the Deer Creek Estates Subdivision Phase 2.**

**The proposal is a large-scale subdivision that is 6.24 acres in size and comprises 10 lots. The property is located at 300 East Michie Lane (south side) and is in the R-1-15 zone.**

**BACKGROUND:**

Christopher Huffman & Ethan Poppleton are proposing preliminary approval of Deer Creek Estates Phase 2. The property is 14.84 acres and is zoned R-1-15 which allows for third-acre lots, though the developer has chosen to reduce the density and create lots closer to a half-acre in size. The property will be developed as a large-scale standard subdivision which will be developed in two phases. There are 20 lots total with ten lots in phase 1 and ten lots in phase 2. There will also be 15% open space that is proposed to be deeded to the City as a public park and is 2.23 acres in size. The park covers two separate parcels, one on each side of 300 East. Phase 1 will include all the required open space for the entire development (both phase 1 and phase 2).

There are two roads planned in the subdivision. The first is 300 East that will run north to south and create a four-way intersection with 300 East at Michie Lane as it enters Bowden Fields. Also 400 South is planned and runs East to West. This road will connect to the stub road in Fox Pointe and this road will stub to the west boundary of the proposed subdivision so it can connect to future developments. Some of the roads will require temporary turnarounds as required by the City Engineer.

The City code promotes that open space is located along collector roads wherever possible to benefit the most members of the community and the applicant has complied with this request. The property has historically been used mostly as agricultural land.

**LAND USE SUMMARY:**

- 14.86-acre parcel
  - 6.24 in phase 2
- R-1-15 zoning
- Proposal contains 20 lots, 10 lots in Phase 2
- Developer is providing 2.23 acres of open space which does comply with the 15% requirement.
- Access from Michie Lane and 400 South
- The lots will connect to the Midway Sanitation District sewer, Midway City’s culinary water line, and Midway Irrigation Company’s secondary water line

## ANALYSIS:

*Access* – The subdivision will have access from Michie Lane and from 400 South. The City is planning to construct Michie Lane from Center Street to 480 East this year. The developer will deed the Michie Lane right-of-way to the City as soon as they close on the property in March. Michie Lane will be a limited access collector road and will allow good traffic circulation for the southeast section of town.

*Geotechnical Study* – The Geotechnical Study was prepared by CMT Engineering Laboratories.

*Sensitive Land* – The developers have submitted to the City that no sensitive land or located on the property.

*Water Connection* – The lots will connect to water lines that will be built by the developer and connect to the City's water lines along Michie Lane.

*Sewer Connection* – The lot will connect to Midway Sanitations District's sewer lines located in the area.

*Secondary Water Connection* – The lots will connect to Midway Irrigation Company's secondary which is already servicing the property. Laterals will be created for all 20 lots and both park parcels. Secondary water meters are required for each lateral including the park laterals.

*Sidewalks* – The developer will construct five-foot sidewalks on both sides of the streets within the development. The City will construct a six-foot sidewalk along the south side of Michie Lane.

*Lot frontage* – The Land Use code requires 15% open space for this proposal. The code also allows that the frontage and acreage of the lots may be reduced by 15% because of this requirement. For this proposal, the acreage has not been reduced for any of the 20 lots but the frontage has been reduced. None of the lots have less frontage than 85', which is the minimum requirement in this case, but about half of the lots do have less than 100' of frontage. All lots do comply with the frontage and acreage requirements of the code.

*Open Space/public park* – The Land Use Code requires a minimum of 15% open space for the development and the proposal does comply with that requirement. The developer is proposing that the open space is dedicated to the City as a public park. The City's Master Park Plan Map indicates that a park should be located in the general vicinity of this proposal therefore, accepting the park will comply with the vision as described in the General Plan. The developer has proposed to develop some of the park facilities but if the City would like to upgrade those facilities or add others then park impact fees could be used to accomplish this. Some amenities in the park include a sledding hill, park equipment, pavilion, sports court, walking trails, and landscaping.

## WATER BOARD RECOMMENDATION:

The Water Board has recommended that 36.5 acre feet are tendered to the City before the recording of each plat. Phase 1 will need to tender 20.5 acre feet. Phase 2 will need to tender 16 acre feet. The Water Board also recommended secondary water meters are installed on each lot.

## POSSIBLE FINDINGS:

- The proposal does meet the intent of the General Plan for the R-1-15 zoning districts
- The proposal does comply with the land use requirements of the R-1-15 zoning districts

## ALTERNATIVE ACTIONS:

13. Recommendation for Approval (conditional). This action can be taken if the Planning Commission feels that conditions placed on the approval can resolve any outstanding issues.
  - a. Accept staff report
  - b. List accepted findings
  - c. Place condition(s)
14. Continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.

Accept staff report

  - a. List accepted findings
  - b. Reasons for continuance
    - i. Unresolved issues that must be addressed
  - c. Date when the item will be heard again
15. Recommendation for Denial. This action can be taken if the Planning Commission feels that the request does not meet the intent of the ordinance.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

**Planner Henke:** We will require the easements for the file of the turnaround that will not be on your property.

**Commissioner Waldrip:** How did the bulb get on the neighboring property? You are going to improve that and they are going to end up using it? Do you mind sharing with us how that worked out?

**Applicant; Christopher Huffman:** So, just to make it a benefit if Mr. Hues ever decides to develop that land, which from what we understand in the future he may be looking to build a home. If that was ever developed, rather than cutting out the sidewalks in the bottom two lots which are .6 and .64 acres rather than cutting that out for the emergency vehicles we thought that it would make more sense to be able to have a small roundabout on his land. So, a future developer if they wanted to wouldn't have to repave and refinish all of the sidewalks. Jonathan Hues actually contacted us and asked if we could work something together. It just made more sense and it seemed like a win-win for all the parties involved.

**City Engineer; Wes Johnson:** This is much cleaner without impacting the lots.

**Chairman Nichols asked if there were any further discussion**

**Motion:** Commissioner O'Toole: I move that we recommend to City Council preliminary approval for Phase 2 of the Deer Creek Estates Subdivision. It is proposed as a large-scale subdivision and it is 14.84 acres which in phase 2 is 6.24 acres in size and comprises of ten (10) lots. We also include the findings from the staff.

**Seconded:** Commissioner J. Kohler

**Chairman Nichols asked if there were any discussion, there was none**

**Chairman Nichols asked if there were any discussion on the motion, there was none**

**Ayes:** Commissioners J. Kohler, Waldrip, Nicholas, O'Toole, and Payne

**Nays:** None

**Motion:** Passed

**ITEM: 10**

**Jim Ashton, agent for Ashton Robertson Enterprises, is requesting Final approval for the Alder Meadows Subdivision. The proposal is a large-scale subdivision that is 5.16 acres in size and will contain 11 lots that could contain single-family dwellings or duplex dwellings. The property is located at 250 East 200 South and is in the R-1-9 zone.**

**BACKGROUND:**

This request is for final approval of a large-scale subdivision on 5.16 acres and will contain 11 lots. The 11 lots proposed in the subdivision will obtain frontage along new roads built within the subdivision. The property is in the R-1-9 zones which allows single-family dwellings and duplex dwellings (duplex lots require more frontage, acreage, and water than single-family lots). All 11 lots will comply with the requirement for duplex lots and the developer does plan to build duplexes on each lot. Because the property is less than six acres there is not an open space requirement. The parcel is located close to Main Street where many services are located. It is also close to the Midway Elementary School and an LDS chapel. The property has historically been used for agricultural.

A portion of the property was recently zoned R-1-9 where is had previously been zoned R-1-11.

As part of that approval, the developer is required to build some offsite improvements. These include a sidewalk along 200 South that will extend from the proposed subdivision to Midway Elementary. Also, a sidewalk is required along the 100 South, on both sides of the road, from the proposed subdivision to 200 East.

The General plan describes the R-1-9 zone as the following:

*The R-1-9 zone (9,000 sf lot) provides a residential environment within the City which is characterized by smaller lots and somewhat denser residential environment than is characteristic of the R-1-11 Zone. Nevertheless, this zone is characterized by spacious yards and other residential amenities adequate to maintain desirable residential conditions. The principal uses permitted in this zone shall be one and two family dwellings and certain other public facilities needed to promote and maintain stable residential neighborhoods. This zone should be planned with an emphasis on walkability.*

This proposal was noticed for two weeks in the Wasatch Wave, it was posted in three locations in Midway, and it was noticed on the State's webpage and the City's webpage.

#### **LAND USE SUMMARY:**

- 5.16-acre parcel
- R-1-9 zoning
- Proposal contains 11 lots
- Access from 100 South and 200 South
- The lots will connect to the Midway Sanitation District sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary water line

#### **ANALYSIS:**

*Access* – Access will be from 100 South and from 200 South. A stub road from the proposed subdivision will extend to the property on the east that will allow 100 South to continue to the east in the future.

*Water Connection* – The lots will connect to water lines that will be built by the developer and connect to the City's water lines along 200 East and 200 South.

*Sewer Connection* – The lot will connect to Midway Sanitations District's sewer lines located in the area.

*Secondary Water Connection* – The lots will connect to Midway Irrigation Company’s secondary which is already servicing the property. Laterals will be created for all 11 lots. Secondary water meters are required for each lateral.

**WATER BOARD RECOMMENDATION:**

This item was reviewed by the Water Board on February 6<sup>th</sup>. The board recommended that 23.1 acre feet of water are tendered to the City before the plat is recorded. This calculation is based on duplexes being constructed on each lot. Duplexes contain two dwelling units and therefore each lot requires 2.1 acre feet (1.3 for one residence and the irrigated area and 0.8 for the second residence.)

**VISUAL AND ARCHITECTURAL COMMITTEE RECOMMENDATION:**

This item was reviewed by the VAC on March 13<sup>th</sup>. The VAC recommended approval of the landscaping and elevations of the dwellings with some minor revisions that will take place during the building permit process.

**POSSIBLE FINDINGS:**

- The proposal does meet the intent of the General Plan for the R-1-9 zoning district
- The proposal does comply with the land use requirements of the R-1-9 zoning district
- The sidewalks crossing the property and connecting to neighboring roads and existing sidewalks will benefit the community by allowing safe pedestrian access.

**ALTERNATIVE ACTIONS:**

16. Recommendation of Approval (conditional). This action can be taken if the Planning Commission feels that conditions placed on the approval can resolve any outstanding issues.
  - a. Accept staff report
  - b. List accepted findings
  - c. Place condition(s)
  
17. Continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.
  - Accept staff report
  - a. List accepted findings

- b. Reasons for continuance
    - i. Unresolved issues that must be addressed
  - c. Date when the item will be heard again
18. Recommendation of Denial. This action can be taken if the Planning Commission feels that the request does not meet the intent of the ordinance.
- a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

**Commissioner O'Toole:** Wasn't this the property that we talked about the developer putting up a fence on the western boundary?

**Planner Henke:** This property was dissected by two zones and with the approval of the official rezone we were able to require some off-site improvements from the developer. So, he is required to make some offsite improvements which is abnormal. One of the conditions if I remember correctly was that a fence would be erected along that western boundary.

**Paul Berg:** He agreed to do the fence. Under the ordinance, the City cannot make him do a fence. The only thing that he asks is that he develop the homes and then put it in so it doesn't get damaged during construction.

**Chairman Nichols asked if there were no further discussion then he'd entertain a motion**

**Motion:** Commissioner Nicholas: I move that we approve the application of the Alder Meadows Subdivision, which is a large-scale subdivision that is 5.16 acres in size and will contain eleven (11) lots that could contain single-family dwellings or duplex dwellings located at 250 East 200 South in the R-1-9 zone. We accept the staff findings and that it does meet does meet the intent of the General Plan of the R-1-9 zoning district. It does comply with the land use requirement for the R-1-9 zoning district, and that the sidewalks crossing the property and connection to the neighboring roads and existing sidewalks will benefit the community by allowing safe pedestrian access. community

**Seconded:** Commissioner O'Toole

**Chairman Nichols asked if there were any discussion on the motion, there was none**

**Ayes:** Commissioners J. Kohler, Waldrip, Nicholas, O'Toole, and Payne

**Nays:** None

**Motion:** Passed

**ITEM: 12**

**Concept plan review for a proposed 20-lot subdivision called Midway Ranches Subdivision located at 1200 South Center. The property is 68.78 acres and is in the RA-1-43 zone.**

- Ten years ago, there was a Valais style PUD about 120 units. The applicants have worked with this church house to give them additional parking which will give them adequate parking.
- The trail will be something to discuss
- With the larger lots the flood plan is less of an issue
- Overall this meets the vision statement
- The barn will be a common area amenity
- Road way cross section; flat ribbon curb and sidewalk
- There are animal rights on these lots

**Concept plan: No motion, discussion only**

**ITEM: 13**

**Concept plan review for a proposed 16-lot subdivision called St. Prex Estates located at . The property is 11.54 acres and is in the – zone.**

- Potentially straighten out Swiss Alpine Road
- Trail makes bend part of that is if the road gets realigned. We do not want to lose our open space and or be penalized due to that road getting fixed
- Disagreement on whom as far as which future developer should fix the road so it is safe
- The road through this subdivision will be a public road. It will provide an additional route to the public
- This developer should work with the Hill Family to get this road reconstructed

**Concept plan: No motion, discussion only**

- **Chairman Nichols asked for a motion to adjourn**

**ITEM: 14**

**Adjournment:** Commissioner Waldrip: I so move  
Time: 10:15 pm

  
James Kohler – Co-Chairman

  
Lindy Rodabough – Admin Assistant

