



The applicant is also proposing to add language to Section 16.13.36: Commercial PUDs and Condominium Projects

*E. Mixed use developments may include commercial and residential condominiums. Owners Association bylaws along with covenants, conditions and restrictions for the various commercial and residential uses must be established per item A of this section.*

If the proposed change is approved, then first, it will allow the developer to sell units immediately after they are constructed. This is an advantage to the developer because they can recoup investment money with the sell of each unit. With apartments, it takes the developer much longer to recoup the investment money as the rent for the apartment can be used to pay off the initial investment. In the long term, developers have the potential of making more money with apartments than condominiums, but the return is long term. The advantage of condominiums compared to apartments for those living in the units is ability to own the unit and create equity.

This item has been noticed in the local newspaper for two weeks and in the State's website for the Planning Commission meeting.

**POSSIBLE FINDINGS:**

- The proposal would allow individuals to purchase a residential unit in a mixed-use project and create equity
- An HOA must be established with the recording of the plat of a residential condominium project
- Commercial projects currently can be commercial condominiums in the C-2 zone

**ALTERNATIVE ACTIONS:**

1. Recommendation of Approval. This action can be taken if the Planning Commission feels that the proposed change is an acceptable amendment to the Municipal Code.
  - 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 is not an acceptable amendment to the Municipal Code.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

MIDWAY CITY  
- Planning Office -

75 North 100 West  
Midway, Utah 84049

Phone: 435-654-3223x105  
Fax: 435-654-2830  
mhenke@midwaycityut.org

Application to Amend the Land Use Code Text  
Application Fee: \$1000 + Costs  
(Costs include any Engineering Review expenses or legal noticing.)

Owner(s) of Record:

Name: WTN LLC Phone: 801-673-5630  
Mailing Address: 5200 S Highland Drive City: Salt Lake State: Utah Zip: 84117  
E-mail Address: russ@wattsenterprises.com

Applicant or Authorized representative:

Name: Russ Watts Phone: 801-673-5630  
Mailing Address: 5200 S Highland Drive City: Salt Lake State: Utah Zip: 84117  
E-mail Address: russ@wattsenterprises.com

Section(s) to be amended:

16.5.2 and 16.13.36 See attached for the proposed amendments.

Reason and Justification for the Amendment:

Section 16.13.36 only specifies commercial condominium projects. Mixed use is a conditional use in the C-2 zone under 16.5.2 however the code does not specify the type of residential ownership that is allowed.

This amendment ~~should~~ clarify the code.

NOV 17 2017

FOR OFFICE USE ONLY

STAFF:

Date Received: Midway City Corp.  
Received By: L. Kerkabrough  
Fee Paid: \$1,000.00

Application Number: \_\_\_\_\_  
Zone: \_\_\_\_\_  
Tax ID Number: \_\_\_\_\_

PLANNER:

Complete / Incomplete  
Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_

**Our Vision for the City of Midway is to be a place where citizens, businesses, and civic leaders are partners in building a city that is family-oriented, aesthetically pleasing, safe, walkable and visitor friendly. A community that proudly enhances our small town Swiss character and natural environment, as well as remaining fiscally responsible.**

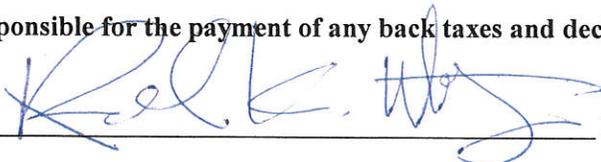
**Please give us a detailed statement on how the proposal will help implement our vision (i.e. architecture, landscaping, trails, etc.). Visit our website to view our General Plan.**

Mixed use developments encourage walkable neighborhoods. Allowing residential condominiums instead of only apartments in mixed use areas provides opportunities for property ownership which helps families and promotes a greater sense of community.

**Please read and sign before application submittal**

I declare under penalty of perjury that I am the owner or authorized agent of the property subject to this request and the foregoing statements, answers and attached documents are true and correct. As the applicant for this proposal, I understand that my application is not deemed complete until the Planning Office has reviewed the application. I further understand I will be notified when my application has been deemed complete. At that time I expect that my application will be processed within a reasonable time, considering the work load of the Planning Office.

**I fully understand that I am responsible for the payment of any back taxes and declare that I am responsible for all fees incurred.**

Signature of Owner or Agent:  Date: 11/16/17

**IMPORTANT: Your application cannot be processed until determined complete by the Planning Staff. An application shall be considered complete when all applicable fees are paid (such as Midway Water Board, Midway Sanitation District, out-of-pocket expenses, etc.) and all items listed herewith are provided or considered not applicable by the Planning Office. All application fees are non-refundable.**

November 16, 2017

Michael Henke  
Midway City Planner  
75 North 100 West  
Midway, Utah 84049

Re:    Code Text Amendment  
      Sections 16.5.2 and 16.13.36

Dear Michael:

The Ganary has received a conditional use approval for a mixed use development at 695 East Main Street. Sections 16.5.2 and 16.13.36 allow for commercial condominiums in the C-2 zone but are silent on residential condominiums. The attached request is to allow residential condominiums in mixed use developments by amending these sections of the code.

Currently only apartments are allowed in mixed use developments. This change will provide more affordable opportunities for families to own a home in Midway. Home ownership helps promote a greater sense of community. Owner occupied housing is typically better cared for than rental housing. We have not identified any negative impacts for this proposed change.

This proposed change furthers the vision of Midway City in that it supports a walk able Main Street and is family oriented. The proposed change is consistent with the current C-2 code that allows mixed use developments. The current code already allows commercial condominiums in the C-2 zone. This amendment would also allow residential condominiums in a mixed use development.

If you have any questions regarding this request please call me at (435) 657-9749.

Respectfully,



Paul Berg, P.E.

M. Supervision by an on-site manager or owner shall be required on an overnight basis when the establishment has guests.

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

O. A fire hydrant shall be within 250 feet from the property.

P. The Fire Marshal shall determine maximum occupancy.

Q. A site plan shall be submitted with the conditional use application.

2015-11, Section Replaced eff. 7/8/15)

### **Section 16.13.36 Commercial PUDs and Condominium Projects**

Commercial projects within the C-2 and C-3 Zones may be approved and recorded as PUDs or condominiums under the following criteria:

A. Commercial condominium projects shall be considered a conditional use and in addition to these requirements, shall be subject to the State of Utah Condominium laws and Midway City Conditional Use and Special Exception Approvals and Regulations, as outlined in this Title.

B. Standards and Requirements. Commercial PUDs and condominiums shall meet the standards and requirements of the Commercial C-2 and C-3 Zones, and supplementary requirements in Zones, all as outlined in this Title.

C. Approval Process: Any person wishing to construct a commercial PUD or condominium project shall obtain information from the City regarding the City's plan of land use, streets, public facilities and other requirements affecting the land to be developed. The developer shall then prepare plans and seek approval based on the information received.

D. The maximum height of all buildings shall be determined as part of the development review process for commercial PUD's or condominium projects. For heights greater than 35 feet, the applicant shall submit to the City Council, after receiving a recommendation from the Planning Commission, sufficient documentation indicating that heights above 35 feet are justified and not detrimental to the surrounding property owners. It is suggested that a scale model of the site be submitted to clearly illustrate the potential impacts of increased height on adjacent landowners.

E. Mixed use developments may include commercial and residential condominiums. Owners Association bylaws along with covenants, conditions and restrictions for the various commercial and residential uses must be established per Item A of this section.

|  |   |   |
|--|---|---|
| Rest Homes/Nursing/Convalescent Facilities/Assisted Living   | P | P |
| Day Care   | P | P |
| Recreational activity businesses, photo, art, and craft galleries, retail show rooms                 | P | P |
| Engraving, publishing, and printing  | P | P |
| Mortuaries and wedding chapels   | P | P |
| New and used vehicle sales <u>and rentals</u>  | C | N |
| Hospitals  | P | P |
| Short-term lodging facilities  | P | P |
| Cafes and restaurants  | P | P |
| Public and quasi-public buildings (police/fire stations)   | P | P |
| Barber, beauty shops, massage therapy and day spas   | P | P |
| Vehicle parking ( <u>not associated with another use</u> )   | C | C |
| Repair shops (other than auto) (no outside storage)  | P | P |
| Veterinarian and pet grooming services (no outside kennels or keeping of animals)                    | P | P |
| Mixed Use (See Section 16.5.2(I))  | C | C |
| Commercial PUDs and commercial condominium projects <u>Residential condos in mixed use projects.</u> | C | C |
| Private academies/studios (education, art, dance, sports, etc.)                                      | P | P |
| Carpentry and woodworking shops (no outside storage)   | C | C |
| Electrician shops (no outside storage)   | P | P |
| Plumbing shops (no outside storage)  | P | P |
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2-11, Section Added, eff. 04/11/2012; 2013-15, Section Amended, eff.03/18/15; 2015-04, Section Amended eff. 7/8/15; 2016-13, Section Amended eff. 7/13/16; 2016-15, Section Amended eff. 11/2/16)