



PLANNING COMMISSION MEETING STAFF REPORT

DATE OF MEETING: March 21, 2018
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Title 16

ITEM: 6

Midway City is proposing a Code Text Amendment of Midway City's Land Use Code of Title 16.16.4: Concept/Master Plan. The City would like to review the current code and potentially amend the regulations to require that water rights for the master plan are tendered to the City when the master plan is approved.

BACKGROUND:

Staff is proposing an amendment to the Land Use Code that would require that water rights for master planned developments (multi-phase) are tendered to the city at the time of approval of the master plan instead of the current code requirement that the water rights are given to the City per phase. The proposed amendment would require that the developer provide all the water rights for the entire development before the master plan agreement is recorded. Currently, the developer receives a calculation of the required quantity of water for the entire development before the master plan is approved but is not required to give the water to the City until the recording of each phase. The water that is given to the City for each phase is only the amount of water required for that particular phase. The current states the following in section 16.16.4(A)(20)(a):

a. Phases that implement Master Plans shall prepare applications for Preliminary and Final Approvals as otherwise required under this Chapter for PUDs and Standard Subdivisions 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.

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, roads, sensitive lands protection, and open space are proposed with the first phase to allow the project to function without subsequent phases.

Staff is proposing the following language:

a. Phases that implement Master Plans shall prepare applications for Preliminary and Final Approvals as otherwise required under this Chapter for PUDs and Standard Subdivisions 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.

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. Water rights required for all phases of the master plan shall be tendered to the City before the recording of the Master Plan Development Agreement.

e d. 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,~~ roads, sensitive lands protection, and open space are proposed with the first phase to allow the project to function without subsequent phases.

The City is proposing this change because there have been situations in the City and Wasatch County that developers have sold the water rights that are required for a development before the development is finished. An example of this is Soldier Mountain PUD that was approved in the field next to the LDS church on south center street. That

project received approval just before the recession began in 2008. The developer was going to lose the property to the lender, so developer preceded to sell off some of the water rights before foreclosure took place. Another example is the Triple Crown subdivision located in Wasatch County. That development was approved and recorded but the water was never turned over to the County. The recession began, and the developer lost the development to a lender but before the lender gained control of the property the developer sold the water rights and left the subdivision dry. The proposed code text amendment will require the water rights to be turned over to the City at the initial stage of the approval process, so we can avoid the situations like those described above.

The Water Board has discussed this issue and recommends approval of the proposed amendment.

This item has been noticed in the local newspaper for two weeks, posted in three locations in town, on the City's website, and on the State's website for the Planning Commission meeting.

POSSIBLE FINDINGS:

- Water rights for the entire master plan will be tendered to the City earlier in the approval process to assure that the developer owns sufficient water rights for the entire project
- A developer will not be able to sell water off a property after the master plan agreement has been recorded

ALTERNATIVE ACTIONS:

1. Recommendation for approval. This action can be taken if the Planning Commission feels that the proposed language is an acceptable amendment to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings

2. Continuance. This action can be taken if the Planning Commission would like to continue exploring potential options for the amendment.
 - 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 proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial