

**Minutes of the  
Midway City Planning Commission**

**Wednesday, 18 September 2013, 7:00 p.m.  
Midway Community Center  
160 West Main Street, Midway, Utah**

**Note:** Notices/agendas were posted at 7-Eleven, The Store Express, the Midway City Office Building, and the Midway Community Center. The public notice/agenda was published on the Utah State Public Notice Website and a copy sent to The Wasatch Wave.

**Attendance:**

Kent Kohler – Chairman  
Chip Maxfield  
James Kohler  
John Rather  
Karl Dodge

**Staff:**

Michael Henke  
Sandy Norskog  
Jennifer Sweat

**Excused:**

Mickey Oksner  
Stuart Waldrip

**6:53 P.M. Work/Briefing Meeting**

Planner Henke gave the City Council Liaison Report. No action was taken and the public was welcome to attend.

**7:10 P.M. Regular Meeting**

**Call to Order**

Chairman Kohler opened the meeting and welcomed the commissioners, staff and public. Commissioner Chip Maxfield gave the invocation. Chairman Kohler led the Pledge of Allegiance.

By way of information Commissioners Oksner and Waldrip are excused from tonight's meeting.

**Regular Business**

**1. Review and possibly approve the Planning Commission Minutes of August 21, 2013**

**Motion:** Commissioner Chip Maxfield made the motion to approve the Planning Commission Minutes of August 21, 2013

**Chairman Kohler asked if there were any other discussions on the motion?**

No further discussion were needed

**Seconded:** Commissioner James Kohler seconded the motion.

**Votes: Ayes:** Commissioner Dodge, Commissioner Rather and Chairman Kohler

**Nays: None**

**Motion:** Passed

**2. Brad Wilson, Midway City Recorder, will swear in Chip Maxfield as a full member of the Planning Commission.**

City Recorder Wilson swore in Commissioner Maxfield making him a full member of the Planning Commission.

Chairman Kohler indicated that we would be moving item number five (5) to item number three (3) while we wait for the other applicants to arrive.

**3. Leslie Mascaro, agent for Henry Walker Homes, is requesting a Conditional Use Permit for the Kantons of Midway Planned Unit Development. The applicant is proposing that all units have the ability to be rented on a nightly basis. The development consists of 34 units and is located at the intersection of Homestead Drive and Augusta Drive in the R-1-15 zone within the Transient Rental Overlay District (TROD)**

Planner Henke thanked Chairman Kohler and Commissioners.

Planner Henke stated that The Kantons of Midway PUD is located in R-1-15 zone within the TROD but outside the Resort Zone. Therefore a CUP is required prior to applying for a Transient Rental Unit License. There are 34 units in the development and the applicant has indicated that the CUP will apply to the entire development and overnight rentals will be allowed for each unit. The applicant plans to disclose to each of the prospective buyers that overnight lodging is permitted thereby eliminating the Municipal Code requirement for approval from common wall or shared driveway neighbors.

Planner Henke stated that a notice will be recorded against each lot so any buyer will know, through their due diligence, that the units may be rented on a nightly basis if properly licensed.

Planner Henke presented a power point presentation of the property.

(Note: A copy of the presentation is available in the supplemental file)

Planner Henke stated also there are benefits that the City receives from transient rental units. One benefit is that all owners of transient rental units pay a transient rental tax. Another benefit is the resort tax the City collects. Few cities in Utah qualify to be able to gather this tax. If the ratio of nightly rental rooms and units compared to non-rental units remains high enough the City can continue to collect the resort tax. Currently this amounts to about \$350,000 each year and could easily be \$450,000 by 2020 when the State will review the figures to see if the City still qualifies.

If the majority of the units in The Kantons are transient rentals they will help Midway continue to qualify for the resort tax.

Planner Henke stated that possible findings would be as followed:

- The proposed use is a conditional use in the R-1-15 zone and is located in the Transient Rental Overlay Zone.
- The proposal does meet the vision for residential development the R-1-15 zone within the TROD in the General Plan.

Planner Henke stated that the proposed Conditions would be as followed:

- Record a Separate TRU disclosure document for each residential unit
- Each owner must obtain a TRU License
- Each Owner must have a City licensed TRU property manager
- Each Owner must comply with Chapters 7.06 and 16.19 of the Midway Municipal Code.

Leslie Mascaro, representing Henry Walker Homes, stated that Planner Henke did very well in presenting their request. In addition to recording the disclosure document against each unit, it will also be stated in their CC&R's. When the potential buyer does their due diligence, it will be reflected in the title report, as well as the CC&R's. Ms. Mascaro stated that they are currently in negotiations with a local property manager, so that when this process is finished they are able to comply with the conditions.

Leslie Mascaro also commented that the intent of Henry Walker Homes is to sell the homes as a primary residence for the buyers. However they would like the units to have the option for transient rentals, and that is why they decided to go through this process.

**Chairman Kohler asked if there were any other questions?**

No further questions were needed.

Prior to making his motion Commissioner Dodge commented that he felt this was something we should encourage in the City. Transient rental units help maintain the tax revenues we are currently enjoying.

**Motion:** Commissioner Karl Dodge made a motion to approve the Conditional Use Permit (CUP) for Henry Walker Homes to allow transient rental units in each of the units sold within the development, with the condition that the CUP allowing transient rentals be recorded so that each potential owner would be aware. Also additional findings and conditions in the staff report were also accepted.

**Chairman Kohler asked if there were any other discussions on the motion?**

No further discussion was needed.

**Seconded:** Commissioner Chip Maxfield seconded the motion.

**Votes: Ayes:** Commissioner J. Kohler, Chairman Kohler and Commission Rather

**Nays: None**

**Motion:** Passed

- 4. Paul Berg, agent for Russ Watts, is requesting a Final Approval of Phase IX (9) of the Valais Planned Unit Development. This phase consists of 15 units. The proposal is located at Provence Way and is in the RA-1-43 zone.**

Planner Henke thanked Chairman Kohler and Commissioners.

Planner Henke presented a power point presentation of the property

(Note: A copy of the presentation is available in the supplemental file)

Planner Henke stated that this is a request for final approval of Phase IX of the Valais PUD. This phase is located in the northeast area of the development and is bordered by the Interlaken Road on the east and the Zenger property on the north. The proposal contains 15 units. The units in phase IX will be part of the Valais HOA and will have access to the amenities' provided by the HOA. The Planning Commission recommended approval of the preliminary plan on July 17, 2013 and the City Council approved the preliminary plan on August 14, 2013.

Planner Henke stated that a large retaining wall will be constructed between Friborg Lane and Interlaken Road. This is required because of the steepness of the slope between these two roads. All construction plans for this wall will need to comply with City construction standards and be approved by the City's engineer.

Planner Henke stated the roads in this phase will be private and maintained by the Valais HOA. The developer has proposed a 20' wide road for Burgendy Lane. Staff has determined that the road must meet the minimum street standards. Planner Henke also told the commissioners that he had provided a copy of a letter from Horrocks Engineers received after the packet was sent out, and asked the commissioners to review the letter as well which also recommends that the road be 30-feet which is the current City Standards.

Paul Berg, agent for Russ Watts, stated that they would like to keep the road if possible to 20' feet because the units for this phase have decks off the back of the units, and making the roads 30' feet would make it difficult to have the size of decks desired. They used the fire standard of 20' feet instead of 30' feet, or even 27' feet which is what the roads were in earlier phases. Mr. Berg stated that they had to make the decision to go with the fire standard or going with the City Standard, and they went with the fire standard.

The commissioners had a discussion regarding the road size, and what it would mean to have 20', 24' 27' or 30' road. Paul Berg stated that they would like the 20' however they would be happy with 24' or 27'. However he does know that in Phase 8, City Council required a 30' road. Mr. Watts is aware that is a possibility for Phase 9. They discussed whether the road would be used to exit the development. Most likely the other main road would be used.

Commissioner Maxfield and Commissioner Rather felt that having the road be 24' or 27' would

be adequate for the subdivision because there are other roads in the subdivision at 27' feet, and there are not any problems with access, traffic, snow removal etc.

Commissioner Dodge didn't feel that it made sense to go from a 27' foot road to a 20' foot road or for that matter a 30' foot road to a 20' foot road. Commissioner J. Kohler felt that 27' foot road might be the best thing to do in this case, as it was the City standard when the development started.

**Chairman Kohler asked if there were any further questions?**

No further discussions were needed.

**Motion:** Commissioner Chip Maxfield made a motion to approve Final Approval of Phase IX (9) of the Valais Planned Unit Development. It was also moved to accept the staff findings and any conditions as written in the staff report with the exception that the commissioners would recommend to city council that the road on Burgendy Lane road be 24' feet wide instead of 20' wide.

**Chairman Kohler asked if there were any other discussions on the motion?**

No further discussion was needed.

**Seconded:** Commissioner Rather seconded the motion.

**Votes: Ayes:** Chairman Kohler

**Nays:** Commissioner Dodge, Commissioner J. Kohler

**Motion:** Passed – Commissioner Maxfield, Commissioner Rather, Chairman Kohler voted Aye

Planner Henke stated that he would present this recommendation to City Council as moved.

**5. Robert Duncan, is requesting a Preliminary/Final approval for the Duncan Subdivision. The proposal consists of two (2) lots on 2.90 acres. The property is located at 375 East 600 North and is located in the R-1-22 zone.**

Planner Henke thanked Chairman Kohler and commissioners. Robert Duncan was not able to attend the meeting and Paul Berg would be the agent for the Duncan Subdivision.

Planner Henke presented a power point presentation of the property.

(Note: A copy of the presentation is available in the supplemental file)

Planner Henke stated that the request is for a preliminary/final approval of a small-scale subdivision on 2.90 acres that will consist of two lots. The Duncan residence and (future) studio are currently located on Lot 2 (2.12 AC). This proposal will create Lot 1, a .50 acre lot at the southeast corner of the parcel. The new lot will be a corner lot with frontage along 600 North and River Road. The property is located in an R-1-22 zoning district and the lots comply with the minimum requirements of frontage, width and acreage in this zone.

Planner Henke stated that the proposal is to dedicate the.28 acres of property located in the right-of-way of 600 N to the City. Also a 10' easement for an 8' hard surface public trail along River Road and 600 N. will be dedicated with this subdivision. The fence in the northeast corner of lot two (2) will be relocated to accommodate the future trail that will be constructed in the 5K Ranch this fall.

Planner Henke also stated that the driveway access will be taken from 600 North, and no access will be allowed from River Road. Also a fifty (50) foot setback is required along River Road. A thirty (30) foot setback is required along 600 North.

Commissioners had a discussion regarding the trails in the subdivision, as well as if the fence would be required to be moved.

Planner Henke stated that in the past we have never moved a fence or taken down landscaping. The City just makes sure they receive the dedication so they would like to widen the road later or build a trail, then it's possible, but rarely is this done.

Paul Berg stated that he knows of two or three people who have elected to make the change themselves as soon as it was dedicated, but he is not aware of a time when the City has insisted the fence be removed.

**Chairman Kohler asked if there were any questions?**

No further questions were needed.

**Motion:** Commissioner Chip Maxfield made a motion to approve the Preliminary/Final approval for Duncan Subdivision. It was also moved to accept the staff findings and any conditions as written in the staff report, including that there be a 10' easement for an 8' hard surface public trail along River Road and 600 North, as well as the fifty (50) setbacks from River Road for lot one and two for any future buildings.

**Chairman Kohler asked if there were any other discussions on the motion?**

No further discussion was needed.

**Seconded:** Commissioner J. Kohler seconded the motion.

**Votes: Ayes:** Commissioner Dodge, Chairman Kohler and Commissioner Rather

**Nays: None**

**Motion:** Passed

**6. Potential Code Text Amendments**

Planner Henke stated that he would again be discussing the same possible Code Text Amendments that were discussed last meeting. With that discussion Planner Henke feels that he has a better understanding of where the commissioners stood on those changes. Again these items are not action items.

In regards to open space requirements, it was the understanding of Planner Henke that the

commissioners would not elect to make any changes to the current code. The Commissioners agreed that they would not like to elect to make any changes.

In regards to affordable housing, Planner Henke and the commissioners discussed the current requirements and potential changes. Planner Henke suggested having a straw poll:

Commissioner Dodge, Chairman Kohler, Commissioner Maxfield, and Commissioner Rather voted to remove Affordable Housing completely from the Code.  
Commissioner J. Kohler wanted more information

Planner Henke and the commissioners discussed power lines, and discussed the current requirements and potential changes for power lines. It was also decided that the code would be left as is, with the interpretation being that unless it was on a collector road we leave the power pole as is.

Planner Henke stated that he would bring these three items next month as action items using this feedback.

Chairman Kohler asked for motion to adjourn.  
Commissioner Dodge moved for adjournment @ 8:54 p.m.  
Motion Accepted.

  
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Kent Kohler, Chairman

  
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Jennifer Sweat, Admin Assistant