

Midway City Planning Commission Regular Meeting March 18, 2015

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 7:00 p.m., March 18, 2015, at the Midway City Community Center
160 West Main Street, Midway, Utah

Attendance:

Mickey Oksner – Chairman
Stu Waldrip – Co-Chair
Jim Kohler
Natalie Streeter
Bill Ream

Staff:

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

Excused

Chip Maxfield
Steve Nichols
John Rather
Nancy O'Toole

6:45 P.M. Work/Briefing Meeting

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

7:00 P.M. Regular Meeting

Call to Order

- Welcome and Introductions; Opening Remarks or Invocation; Pledge of Allegiance
Commissioner Waldrip gave the invocation. Chairman Oksner led the Pledge of Allegiance.

Regular Business

1. Review and possibly approve the Planning Commission Minutes of February 18, 2015.

Chairman Oksner asked if there were any discussion on the motion

There was none

Motion: Commissioner Waldrip; I move that we approve the minutes in principal to be corrected of typos.

Seconded: Commissioner Kohler

Ayes: Commissioner Waldrip, Ream, and Streeter

Nays: None

Motion: Passed

ITEM: 2

Tara Stafford is requesting a Conditional Use Permit to build a new schoolhouse where they will operate the Growing Light Montessori School. The property is located at 22 South Fox Den Road. This proposal is located in the C-2 zone.

BACKGROUND:

Tara Stafford is requesting a Conditional Use Permit (CUP) to construct a schoolhouse for the Growing Light Montessori School. She would like to relocate from their current location at 45 North Center Street. The Growing Light Montessori School has been located in Midway for about 10 years. The school has been moved at least three times during that period and now the owners feel that it is time to build their own building designed specifically as a school.

The property where they would like to construct is lot 1 in Midway Valley Estates Subdivision. Lots 1 and 2 in the subdivision plat are listed as either residential or commercial. In the C-2 zone private academies are listed as conditional use. Schools are allowed in all commercial and residential zones in the City as a CUP. Even though the owners could have located the school almost anywhere in the City they chose a site on Main Street for the visibility and to be centrally located with easy access. The owners think many of their students will arrive from surrounding subdivisions by walking to school and the City has many connecting sidewalks in the area

The proposed plan is to situate the school in the northwest corner of the lot fronting Main Street. There will be a door facing Main Street, which is required by the code, though the students will enter from a door on the south side of the building. The two driveway access points for the parking area and drop off zone will be from 500 East. The driveway will be a pull through which is much safer in a school zone. They will landscape the lot entirely. The landscaping will include fruit trees and a garden area which will be used as educational tools for the students. Enrollment will most likely continue to be about 30 students. The maximum number of students will be 35.

The building itself has been reviewed and by the Visual and Architectural Committee (VAC). The VAC does recommend approval of the structure as presented. Generally the building does look agricultural but the owners have added some architectural features to make the building more distinct and to give it some Swiss/Old European elements. Some of these features include exposed beams, roof overhangs, a bell tower, wood shutters, and window flower boxes among others. The building itself will be covered with hardiplank.

ANALYSIS:

The comments in italicized represent Planning Staff's comments pertaining to compliance or lack of compliance with the findings the Planning Commission 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 of the applicable provisions of this Code; *planning staff*

believes that the proposal will not have a significant impact on the neighborhood. Also, as staff has analyzed the proposal it appears that it will comply with the provisions of the Code.

2. The proposed use is consistent with the General Plan; *no issues have been identified.*
3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations; *the proposal is required to have an approved business license with the City. The applicant has current license and has applied for the license for the new location. The new license 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; *No issues have been identified.*
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses with the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City; *the proposed use will create more traffic for the area but the increased traffic will not be above what the local street was designed to accommodate.*
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 a school.*
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; *no issues have been identified.*

POSSIBLE FINDINGS:

1. The proposed use is a conditional use in the C-2 zone.
2. The proposal will increase traffic in the area.
3. The proposal is consistent with the General plan

ALTERNATIVE ACTIONS:

1. Recommendation of Approval. 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. Recommendation of 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

- Tara Stafford introduced herself
- Chairman Oksner: Was that a barn door on the side of the building?
 - Tara: Yes, it is a faux barn door.
- Chairman Oksner: Will this new location of the school require a crossing guard?
 - Tara: We haven't had to have that at our current location. The students are 3-6 years old. They will be accompanied by a parent.
- Chairman Oksner: Michael, would that be a City operation?
 - Planner Michael: The City does pay for crossing guards. I don't think it needs one.
- Chairman Oksner: What about the fencing around the play area?
 - Tara: We plan to do a white picket fence, just like the one we have currently. It will border the parking area.
- Chairman Oksner: It will completely surround the play area?
 - Tara: The perimeter but on the west side since there is a residence there we would do the privacy fencing.
- Planner Henke: The State will require and inspect their fence

Chairman Oksner asked if there were any discussion on the motion

There was none

Motion: Commissioner Ream, I move that we approve the Growing Light Montessori School project. No conditions except what has been done by the architectural staff. I move that we approve it the way it is.

Seconded: Commissioner Streeter

Chairman Oksner asked if there were any discussion on the motion

Amendment to the motion: Commissioner Waldrip; If the second and the maker of the motion will agree, I think that we should accept the report by the staff and find that the proposed use is a conditional use in the C-2 zone. Although the proposal will increase traffic in the area that it is in the planned traffic burden for the area and that the proposal is consistent with the general plan.

Chairman Oksner asked if there were any further recommendation or discussion

There was none

Votes: Ayes: Commissioner Kohler, Ream, and Waldrip

Nays: None

Motion: Chairman Oksner, Motion stands as Passed

ITEM: 3

Lynn A. David is requesting a Conditional Use Permit for a Cottage Industry Bed and Breakfast business and will be called The Hiking Inn. His home is located 364 Tanner Lane and is in the R-1-22 zone.

BACKGROUND:

Lynn David is requesting a Conditional Use Permit (CUP) for a Bed and Breakfast that will be called the Hiking Inn. The home is located at 364 Tanner Lane and is lot 33 of Plat D in Alpenhof Estates. The City Code allows Bed and Breakfasts as CUP in every residential zone in the City as long as the applicant can comply with all the requirements (see listed in this report).

Mr. David is an avid hiker and the premise for his business model is that visitors to his inn would also be shown any of the numerous hiking trails in the area, if desired. He would be a personal tour guide on these hikes. His residence is relatively large and has five bedrooms that could be booked. He has other bedrooms that would not be part of the booking pool. There is a large concrete pad that will be used for parking on the south side of the home.

Below is a list of the requirements in the code for Bed and Breakfast businesses:

- A. The lot shall have at least 100 feet of frontage on a dedicated street,
- B. One off-street parking space shall be provided for each employee plus one space per sleeping room. Parking shall not be allowed in the front setback area. Parking must be paved.
- C. Breakfast shall be the only meal served. Breakfast meals shall only be served to residents, employees, and overnight lodgers.
- D. No cooking facilities shall be allowed in the sleeping rooms.
- E. Such use shall conform to all applicable health, safety and building codes.
- F. No structural alterations shall be allowed which change the residential character of the structure.
- G. Alcoholic beverages may not be served unless a license has been granted by the Utah Department of Alcoholic Beverage Control and the City Council has specifically approved the same as part of the conditional use permit.

- H. Receptions, banquets, or catering may be permitted as an additional use to an approved bed and breakfast conditional use when the applicant can show adequate facilities and parking exists on the lot or when arrangements are made with the permission of surrounding lot owners.
- I. Any commercial or retail use shall be incidental to the bed and breakfast establishment use, i.e. gift shop, and shall be limited to 5 percent of the total square footage of the main floor of the residence.
- J. All signs shall comply with the current Title 16.
- K. A Midway City business license shall be required as a condition of approval.
- L. The bed and breakfast establishment shall, at the time of approval and thereafter, be the property owner's primary residence. Conditional use approval shall cease upon sale of the property. The new owner shall apply for conditional use approval before operating the bed and breakfast establishment.
- 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

This item has been noticed in the local newspaper for two weeks and in the State's website for the Planning Commission meeting. Mailed notice will be sent out to all property owners within 600' before the public hearing before the City Council.

ANALYSIS:

The comments in italics represent Planning Staff's comments pertaining to compliance or lack of compliance with the findings the Planning Commission 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 of the applicable provisions of this Code; *planning staff believes that the proposal will not have a significant impact on the neighborhood. Also, staff has analyzed the proposal and it appears that it will comply with the provisions of the Code.*
2. The proposed use is consistent with the General Plan; *no issues have been identified.*
3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations; *the applicant is required to apply and receive approval of a business license before they will be allowed to open for business. This license requires the applicant to register with the State for tax purposes, have their dwelling inspected by the building inspector, fire marshal, and health inspector.*

4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *no issues have been identified.*
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses with the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City; *the proposed use is a CUP for the zone and the traffic counts for the local streets will fall within established traffic count standards.*
6. The subject site is physically suitable for the type and density/intensity of the proposed use; *it appears that the proposal is suitable based on the proposed 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; *no detrimental impacts have been identified.*

POSSIBLE FINDINGS:

1. The proposed use is a conditional use in the R-1-22 zone.
2. Traffic will increase in the neighborhood but will but the increased traffic will still fall within established traffic count standards.

ALTERNATIVE ACTIONS:

1. Recommendation of Conditional Approval. 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. Recommendation of 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
- Commissioner Kohler: Just a question regarding the parking. I noticed in your requirements Michael that it stated that they can't use the set back. Does that include then the driveway? They cannot use it back to the 30 feet?
- Planner Henke: They can park behind the 30 foot setback. There is parking space behind the 30 foot setback, including the garage area.
 - Commissioner Streeter: How many employees?
 - Planner Henke: My understanding is there are no employees, just the two property owners.
 - Chairman Oksner invited Lynn up to the podium to answer questions from the commissioners.
 - Lynn: Applicant introduced himself and gave a little bit of his background. He is not a native to Utah, although he lived in Utah from 1961 to 1965 and went to Skyline high school. He found Midway in 2011. He and Mary (his partner) has been working the last 4 years to turn this home into a Bed & Breakfast. The home has seven (7) bedrooms, but according to the regulations there can only be a maximum of five (5) bedrooms in a bed and breakfast. It is a three (3) level home. The top level is what we call the Solitude Suite. Each bedroom has its own private bathroom. On the first floor you have the master bedroom and you have a second smaller bedroom which we are calling the Snowbird Suite. Lower level there are four (4) bedrooms, only three (3) of which will be used. Those are the Alta, The Canyons and The Snowbird Suite. We are naming the rooms after the ski resort areas. There is a large family room on that level. There is a game room with a foosball table, there's another room with a pool table. We've collected many, many games. We have games, puzzles, movies, and library. Our focus is to be very family oriented.
We have started to put together a room book and various activities for around the Midway, Heber Valley and the Park City area. It has things you can do while here and places where you can eat out at.
Breakfast will be a healthy breakfast. We will be featuring granola, yogurt, fresh fruit, and Danishes, things like that. If people want a heavy breakfast, I will give each person a breakfast coupon for Café Galleria. On a personal note, I'm not a good cook and I do not want to get into a disagreement over how their breakfast was cooked, so I will stay away from that.
 - Planner Henke: What is the story behind the name of your bed and breakfast?
 - Applicant Lynn David: Mary and I like to hike. Every time we come to Midway we go on at least one hike. The idea will be that if they want to go hiking it would also be available. We have been taking pictures on all the hikes that we have been on over the last four (4) years and we've got scrap books made up so people could see what they would see if they went on various hikes, and we rate them as a two hour, a four hour, or a six hour hike. We also rate them beginner intermediate and advanced. We want to make

- sure that people do not get in over their heads.
- Commissioner Ream: What is the nearest trail head from your place?
 - Applicant Lynn David: Literally when you walk out the front door you go a150 feet to the North and you will be on a trail head that will take you up to 2,000 feet to the road that looks down on Deer Creek.
 - Commissioner Streeter: What is in that empty lot next to Mr. David's lot?
 - Planner Henke: This is a buildable lot, eventually there will be a home there.
 - Commissioner Streeter: Some day when you have a neighbor and we have snow on the ground. Where are you going to put all the snow? As for now you can plow it on to the empty lot, but in the future it will be a problem because a house will be built on that lot. What is your plan as far as having a space for you and five (5) extra parking spaces?
 - Applicant Lynn David: This can be solved in two (2) ways. It can go into the drainage area that you cannot see in these pictures. There is a dry creek bed in front of the entire front of the house and it would flow down the north side of house. The other option would be going straight east with the snow. We have also improved the contour on the extreme south side. The water use to run towards the house and now it takes it to the back yard.
 - Chairman Oksner: Have you thought how you will park 5 extra cars?
 - Applicant Lynn David: There is plenty of room to park three (3) cars facing east and then one on the south side and another car parked behind that one.
 - Chairman Oksner: Can you accommodate an RV?
 - Applicant Lynn David: Yes, an RV could fit in the west garage.
 - Commissioner Ream: I noticed that there weren't any letters from neighbors. Did we hear anything from the neighbors concerning this matter?
 - Planner Henke: This meeting is to give City Council recommendation. We will send out the letters within 600 feet for the April City Council meeting which will be a public hearing. Lynn has met with the HOA president.
 - Applicant Lynn David: Yes, I have spoken with the HOA president several times and we have gone through the CCR's and she felt that there would be no objection.
 - Commissioner Ream: The CCRs allow a B&B in the HOA?
 - Applicant Lynn David: Yes.
 - Chairman Oksner: I have a question about food, alcohol and banquets. Do all of these require permits?
 - Planner Henke: They have not applied for a liquor license. That would require City Council approval.
 - Applicant Lynn David: We do not plan to serve alcohol. The only meal will be breakfast.
 - Commissioner Kohler: Swiss Alpine Mountain Estates is immediately to the west of this area. There are two (2) trail heads that are up on the other side of Swiss Mountain Estates that leads on to the state park. Swiss Mountain Estates has a sign under their entrance stating that their area is limited for residents and guests only. Are those public roads or are they Swiss Mountain Estate Roads?
 - Planner Henke: It's my understanding that those plats say public right of way, I think the County has argued those are public roads.
 - Commissioner Kohler: How does this process work from here?
 - Planner Henke: Planning Commissioners will make a recommendation and then it will go to City Council. The Hiking Inn will need to receive a business license from the City;

inspections will be done after that. The City Councilman will consider the Planning Commissioners and the public's input and then they will make their decision.

Chairman Oksner asked if there were any discussion on the motion

There was none

Motion: Commissioner Streeter; I move that we approve the Conditional Use Permit for The Hiking Inn at 364 Tanner Lane with the comments and findings made by staff. The proposal is a Conditional Use in the R-1-22 zone.

Seconded: Commissioner Ream

Chairman Oksner asked if there were any further recommendation or discussion

Votes: Ayes: Commissioner Waldrip, Streeter, Ream

Amendment to the motion: Commissioner Kohler; I'm wondering if it would be ok with the motion maker and the second that we add to the motion. While we are recommending approval to the City Council that we are recognizing further input regarding occupancy and consideration of the public.

Chairman Oksner: Natalie, do you accept as amended?

Motion Maker: Commissioner Streeter: Gladly.

Chairman Oksner: As amended, do I have a second?

Seconded: Commissioner Ream; Sure.

Chairman Oksner asked if there were any further recommendation or discussion

Chairman Oksner: All in favor of the modified, aye.

Votes: Ayes: Commissioner Waldrip, Streeter, Ream, and Kohler

Nays: None

Motion: Passed as modified

ITEM: 4

Justin Roylance is requesting a Zone Map Amendment of the Midway City Land Use Map. He is requesting that his property that is located at 640 North Pine Canyon Road be included in the Transient Rental Overlay District.

BACKGROUND & ANALYSIS:

Justin Roylance is requesting an amendment the Midway City Land Use Map. He would like his property included into the Transient Rental Overlay District (TROD). This would allow him to apply for a Conditional Use Permit which would give him the ability to rent the home as a transient rental. A transient rental is defined as a dwelling is rented for two to 30 days. Any rental of a dwelling for more than 30 days is considered a long term rental and does not require any licensing from the City and does not need to be located in the TROD. A transient rental license has several restrictions that regulate items such as the number of people that can stay in the home, number of vehicles that can be parked at the home, a locally licensed property management company must manage the home, the home must pass several inspections, and other requirements also apply. Homes that are licensed in the City as transient rentals have generally

had very few complaints from neighbors. If the property manager is proactive about informing renters of the rules then there usually are not any problems. We have found over the past several years that whenever a home is proposed as a transient rental the neighbors have been quite vocal in their opposition.

The Roylance home has been rented since last fall. A resident of Midway brought the online listing to the attention of the City and City contacted Mr. Roylance regarding the matter. By the time the City contacted Mr. Roylance had successfully rented the home several times without incidence or complaints from the neighbors. Mr. Roylance feels that he can continue to successfully rent his home by following the regulations in the Code and by carefully screening those who would like to rent his home.

The City has been restrictive regarding rentals and only allows them in the overlay district. Generally commercial areas and areas near the resorts are included in the overlay zone. The property in question is contiguous to Midway Village which is in the overlay zone. One reason why the City has been restrictive regarding transient rentals is because the balancing act the City must handle regarding property owners and neighbors. Transient rentals are good revenue sources for the owners of the property and they generate transient rental taxes for the City. They also make it easier for tourists to visit the City and to spend money in the local economy. The other side of the issue is they create added competition for the resorts in town and they can be disruptive to the neighborhood. Striking the balance between all these issues has been difficult and has led the City to create the overlay district which covers areas that are generally more conducive to rental units because of the surrounding uses in the area. The Roylance home is located near the resort area but would best be described as being in a residential neighborhood.

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 was sent out to all property owners within 600' before the public hearing before the Planning Commission.

POSSIBLE FINDINGS:

- The proposed property is contiguous to the TROD.
- The applicant will need to apply for a Conditional Use Permit if the zone amendment is successful.
- Renting the property will generate more transient rental taxes for the City.
- The City has received letters both in opposition and support of the proposal.

ALTERNATIVE ACTIONS:

1. Recommendation 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. Recommendation of 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 acceptable and not in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial
-
- Planner Henke: The property is located on Pine Canyon Road, and is south of Midway Village. It is contiguous to Midway Village, which is located in the Transient Rental Overlay District. Though their CCRs do not allow overnight rentals right now, is my understanding.
 - Commissioner Waldrip: That is correct.
 - Commissioner Kohler: Would it also include the lot to the north if the applicant is successful?
 - Planner Henke: No. The only property that would be included in this zone would be the 640 N Pine Canyon Road property. That property could apply for this same type of change, but we would have to process it separately.
 - Planner Henke: With the zoning maps, a lot of times you want to keep specific zones together. Our State code to my understanding just with our last legislative session there can be more peninsulas now that what has been allowed in the past.
This is an overlay zone and they are not under those same requirements. We could have this property included in the overlay district without a problem. Looking around our City map you can see that we have situations where there are peninsulas in different areas.
 - Commissioner Streeter: To be clear Planner Henke, the piece that goes on the right side of the road from here. That is in the overlay district, but the CCR's, do not allow it?
 - Planner Henke: Yes. Commissioner Waldrip could probably give us a lot of detail.
This subdivision was originally included in the overlay district, but only ten (10) units within the subdivision were allowed to have overnight rentals. Since those CCRs were

recorded a number of people have built homes and moved in there. The sentiment has changed to not allow overnight rentals in that subdivision. They just recently had a vote to change the CCRs to exclude overnight rentals. This subdivision is within the zone, but again someone would have to meet the requirements of the City and the subdivision's CCRs in order to get approved and right now it doesn't look like it is an option.

- Commissioner Kohler: What was the process of putting this subdivision in the Transient Rental Overlay District when they were only partially allowing it, but now they do not allow it at all?
- Planner Henke: This predates my time with the City, but it's my understanding that when the City was creating the ordinance, back in I think 2007, contacted the different HOA's and the different subdivisions and only included those in the zone that allowed overnight rentals. Included was, Turnberry, down in Mountain Springs on Rainbow Lane.
- Commissioner Kohler: For example, Inn on the Creek is not included in that, correct?
- Planner Henke: Inn on the Creek is within that line also. The properties on Fairway Drive are not eligible for overnight rentals, because their CCRs have never allowed it.
- Commissioner Waldrip: I have a footnote by the way of history. The development of Midway Village was part of the overlay zone (both sides of Pine Canyon). When it was being contemplated originally it was conceived that the Homestead would include those residences in its overnight rental pool. That was the concept of the developer originally and that is how the overlay got gerrymandered to how it is now. As the development took place a lot of the homes had become permanent residences and the sentiment changed in the neighborhood and the CCR's were just simply silent on overnight rentals. I think, when the City gave approval of overnight rentals it was limited to ten (10). Full disclosure, I live in that development. It's been a hot button issue within the development. There was an owner of one of the homes that applied for an overnight rental permit and without going through all the details of that, it ended up dying on the vine because the CCR's were amended to not allow overnight rentals in that entire subdivision. A petition will be coming before this body to eliminate that development from the Transient Rental Overlay District.
- Commissioner Kohler: If Midway Village subdivision gets removed from the Transient Rental Overlay District then the item before us tonight will be an island, correct?
- Planner Henke: Yes, and we already have islands with this overlay district. So I do not see that as a problem just as long as it gets approved. If it gets left an island there is not a problem with State code as far as I know.
- Commissioner Streeter: The existing islands, are they grandfathered in or where they created with individual requests?
- Planner Henke: I don't think any individual requests have happened since the ordinance has been adopted. I think they were created, because at that time they were renting. State code allows islands as far as I know.
- Planner Henke: We did send out letters to the neighbors within 600' of the parcel. I have been able to talk to a number of the property owners. I've included the written letters that I received in the packet, there were two letters in opposition and one letter that was fine with this property being added into the overlay district.
- Planner Henke: The Cannons who had applied for a Conditional Use Permit in Midway Village voiced their support.
- Commissioner Ream: Is this a hardship case, do they need the income to keep the house?

- Planner Henke: In my opinion it is not in the realm of the Planning Commission to discuss the financial situation.
- Planner Henke: If the zone amendment is successful the applicant would then need to apply for a Conditional Use Permit. Renting the property will generate more transient rental taxes for the city.
- Commissioner Ream: My take on this, for us to change the overlay or zones we really have to have a compelling public interest. I don't see this at this point.
- Planner Henke: The one argument on this is the transient rental taxes. This will not save us from losing that resort tax, but the more transient rentals we lose the greater chance we have of losing that tax in 2020. It is a revenue generator and the other transient rentals we have in town that have property managers receive very few complaints of those as long as they get managed correctly.
- Commissioner Ream: Does our code require a property management company?
- Planner Henke: Yes it is in the Business Licensing section, these are watched over closely.
- Commissioner Streeter: We want rentals for tax base but this is the bad version of spot zoning. I have a problem creating an island of an overlay district. I have to agree, I do not see a compelling reason. Yes tax is good, but I do not think that overrides this awkwardness that would be created.
- Chairman Oksner invited applicant Justin Roylance to come forward.
- Applicant Justin Roylance introduced himself.
- Chairman Oksner: We have had two people suggest that this is misplaced. Can you overcome these objections by explaining how this would work?
- Applicant Justin Roylance: To address Mr. Ream regarding if this is financially needed. Yes it would help financially, but that is not the reason I'm doing this. We come here once per month and visit with my family. We love it here it is a family environment. We've always wanted a second home here. We come here and spend our money in Midway.
- Chairman Oksner: What impact will this have on neighbors if this gets approved? Would you expect a family of five (5) or more?
- Applicant Justin Roylance: In a perfect world we'd like to only rent to a family.
- Chairman Oksner: One neighbor has complained about the noise. Midway City does have a noise ordinance. If this gets approved there will be certain conditions that will apply. It must be unobtrusive to the neighbors.
- Applicant Justin Roylance: We love this home it is a nice home and we want it taken care of. We want people to come and enjoy it as we do as a family. We don't want to rent it to just anybody.
- Chairman Oksner: Do you vet potential renters, or a property manager will do that?
- Applicant Justin Roylance: I don't know how a property manager works, but yes we vet. We have it listed that it is only a 30 night stay. The people that contact us we have them send us a copy of their driver's license, we ask them how many people will be staying at the property. We want to know their intent.
- Commissioner Streeter: If your renters come for 30 days, they are not transient rentals are they?
- Planner Henke: No, they are viewed as long term and that does not require a license. Anything less than 30 days down to two (2) days is transient rental.

- Commissioner Streeter: Mr. Roylance, you're saying that you want people for one (1) month.
- Applicant Justin Roylance: I rent the house for 30 days already. The house was being rented before I bought it. There haven't been any complaints that have been filed on the property. I like my neighbors and I want to keep them happy. We want to be here full time someday. I don't want to rent it for less than 5 or 6 days. This is not a business for me it is to offset some of the cost. I hope in the future that we do not have to rent out the house.
- Commissioner Streeter: If you are trying to rent it for 30 days you do not need the property to be in the overlay district.
- Applicant Justin Roylance: No I don't, but there are not too many people that want to rent for 30 days, most people want it for six (6) months. That ruins it for us, because we want to come here on a monthly basis.
- Commissioner Streeter: How many days are you in the house each month?
- Applicant Justin Roylance: January I was here for two (2) weeks.
- Commissioner Streeter: Is that a typical month?
- Applicant Justin Roylance: In January I think that it will be, because we like to come up and enjoy the snow.
- Commissioner Kohler: Are you the owner of record?
- Applicant Justin Roylance: With County record, no I am not the owner.
- Commissioner Kohler: Are you leasing it now?
- Applicant Justin Roylance: I'm purchasing it.
- Commissioner Kohler: Lease with an option to buy?
- Applicant Justin Roylance: Yes.
- Chairman Oksner: Justin I'd like to invite you to sit down you can come back up later, but it is a public hearing so if there are individuals that would like to weigh in on this discussion now is the opportunity.
- Public; Gary Moeller: I live at 600 North Pine Canyon. It is true that we have not complained before, but I'm going to complain now. We have had problems in the past and have had issues with people. Mr. Roylance's driveway is right next to our master bedroom. We've had problems at night with people playing loud music and carrying on. Especially a few years ago when some snowmobilers had rented it. My wife and I have talked about this quite a bit and we both have the opinion that we do not want to have a nightly rental next to our house or next to our property.
- Chairman Oksner: How late into the evening or what time of day were you being disturbed?
- Public; Gary Moeller: I was asleep, so my wife told me. I go to bed around 10:30pm so it was after that. She said it was loud.

Chairman Oksner asked if anybody else wanted to comment on this proposal/property or have any further questions for Applicant Justin Roylance.

There was none

Chairman Oksner asked if there were any further discussion by the commissioners

There was none

Chairman Oksner asked if there were any discussion on the motion

There was none

Motion: Commissioner Kohler; I move that we provide the City Council with a recommendation of denying this request. We accept the staff reports and findings. We have also found with the finding that it is not in the public interest for a single overnight rental be established in an area where there is none now and the direction of the neighbors is going away from it. There have been some complaints from the neighbors so I recommend that we deny the request.

Seconded: Commissioner Waldrip

Chairman Oksner asked if there were any further discussion

Discussion: Commissioner Waldrip; the amount of tax revenue that would be generated from this rental would not even be a drop in the bucket. One home will not make a difference on the tax issue. The community is trending away from overnight rentals. Communities want to eliminate next door transient rental overlay. For the good of the community I think it is best to deny this request.

Commissioner Kohler: We do not feel it is in the public interest. Anything over 30 days that is not short term rental is permissible and would be encouraged. We would like to do away with the illegal rentals that have been taken place.

Applicant Justin Roylance: I have a couple questions. I'm trying to understand your opinions. The item just before me Item 3, they are in a residential neighborhood and are looking to have multiple people coming in on a nightly and daily basis and you're ok with that. My property is on an acre plus with a large home. My intent is not to take away from anybody's peace especially any of my neighbor's peace.

Commissioner Waldrip: Mr. Roylance if you had applied under the condition that you and your wife would be there 24/7 and run a B&B you'd have a different application.

Applicant Justin Roylance: What's the difference?

Commissioner Waldrip: You would be right there on top of it.

Applicant Justin Roylance: A property management company could be looking over the property. I would go for renting it out to one party a month. I don't understand the difference.

Planner Henke: Maybe I can clear up the difference. This is legislative action where we are looking at changing the zoning map where the other application is a Conditional Use Permit and that is more of an administrative application. We've already said that that property could be used for a bed and breakfast. Where this property we are looking at changing the zone so you could apply for a Conditional Use Permit. They are different types of processes in government. Legislative where a lot of public sediment is considered where the other Conditional Use permit those items are considered but not to the same standard.

Applicant Justin Roylance: I understand that what you are talking about is the letter of the law. I'm just saying that with a bed and breakfast you'll be having a lot more traffic and a lot more people in and out. I understand this is a recommendation for City Council and that this will move on to the City Council.

Commissioner Ream: If the property management lived there that would be different. If someone is making noise you've got the property manager right there and they are going to hear it.

Chairman Oksner: Justin just so you know that this is not personal, but what happened in Midway Village is that they did approve it and disapproved it following circumspect. It's the overall community that we have to be cognizant of. Having Midway experience it and deciding that they didn't like it before and having tried it shows you what you're up against.

Commissioner Ream: It still comes back that we are changing an overlay and unless there is a compelling interest you'd really have a hard time convincing me to change it. It actually goes the other way it's already an overlay and if some group comes to me and says they want to be pulled out of it they would have to show me a really compelling interest for me to change that overlay so they are no longer in it. I'll have the same attitude both ways.

Chairman Oksner asked if there were any further discussion

Ayes: Commissioner Waldrip, Ream, Kohler

Nays: None

Motion: The motion for denial passed

ITEM: 5

Kraig and Jeanette Higginson are requesting a Conditional Use Permit for a Personal Greenhouse larger than 1,000 square feet. Their property is located at 1170 South Center Street. The property is located in the RA-1-43 zone.

BACKGROUND:

Kraig Higginson and Jeanette are petitioning for approval of a large agricultural building (17,000 sq. ft.) of which part will be used to grow agricultural products (11,000 sq. ft.), for personal use. This proposal requires that a conditional use permit (CUP) be approved by the City because of the size of the greenhouse being over 1,000 sq. ft. The Higginson's had already received a CUP for a commercial greenhouse but would now like to abandon the commercial CUP permission and acquire permission for the large personal greenhouse. There are two main land use differences between a commercial and a personal greenhouse in this case. First, the Higginson's now will not have the ability to sell any produce. Second, they also will not have the ability to have any aquaculture or aquaponics component in their greenhouse. Some of the reason for the CUP change is because of the building code requirements for a commercial structure as compared to a residential structure. Also there may be some utility requirement changes also.

The building is now mostly completed and was constructed on the foundation of the Price barn which was destroyed by fire. It contains a kitchen area/family gathering area, large loft, storage area, garage, bedding and planting area, fruit tree garden, and three greenhouse areas. The aquaponics area listed in the original commercial greenhouse plan has been removed.

The building itself will appear agricultural in form. It has been constructed to have the form of a barn/agriculture building (see attached renderings) but walls are partially made of glass. The roof was constructed using polycarbonates which will allow 80% of sunlight to filter into the building in the greenhouse areas. The majority of the building will be used to grow agriculture for the extended family. They see this as a way to be more self-sufficient but also as a way for the family to work together.

This item has been noticed in the local newspaper for two weeks and in the State's website for the Planning Commission meeting. Mailed notice will be sent out to all property owners within 600' before the public hearing before the City Council.

ANALYSIS:

The comments in italicized represent Planning Staff's comments pertaining to compliance or lack of compliance with the findings the Planning Commission 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 of the applicable provisions of this Code; *planning staff believes that the proposal will not have a significant impact on the neighborhood. Also, staff has analyzed the proposal and it appears that it complies with the provisions of the Code.*
2. The proposed use is consistent with the General Plan; *no issues have been identified.*
3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations; *no issues have been identified.*
4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *no issues have been identified.*
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses with the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City; *the proposed use should not generate a significant amount of increased traffic for the area.*
6. The subject site is physically suitable for the type and density/intensity of the proposed use; *it appears that the proposal is suitable based on the proposed 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; *no detrimental impacts have been identified.*

POSSIBLE FINDINGS:

- The proposed use is a conditional use in the RA-1-43 zone.

- The proposal does meet the vision for agricultural development in the RA-1-43 zone.

ALTERNATIVE ACTIONS:

1. Recommendation of Conditional Approval. 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. Recommendation of 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
- Commissioner Kohler: This was passed as a commercial greenhouse back when it was first presented to us. Is the building there now?
 - Planner Henke: Yes. Not completed, but constructed.
 - Commissioner Kohler: There shouldn't be much of an issue to go to a smaller noncommercial greenhouse. That's not really a planning issue that is a building permit issue as to what requirements have to be there under the occupancy permit for the building.
 - Planner Henke: That is correct, they will have to meet the building code standards for this type of structure on what happens inside
 - Commissioner Kohler: Would those standards be a lessor on a noncommercial?
 - Planner Henke: There are some items that do change from commercial to personal. I would need to have our building inspector here for them to tell you the changes with the building code.
 - Commissioner Kohler: If they get approved as a personal greenhouse and later choose to make this commercial again they would have to come back and get approval again for the commercial use, correct?
 - Planner Henke: Yes, that would be my interpretation. They would be abandoning the commercial use. If they do get approved for a person greenhouse and wanted to go commercial they would have to come back here to get the commercial use activated.
 - Commissioner Streeter: How long has the glass been in?

- Applicant Kraig Higginson: Just over one (1) year.

Chairman Oksner asked if there were any further discussion by the commissioner

- Commissioner Streeter: I am concerned of the reflection because we did not have snow. Do we leave the condition on? I think it is the only thing that could be a problem.
- Planner Henke: This is a different application so it would have to be added as a condition to this specific application.
- Applicant Kraig Higginson introduced himself; we are fine with the condition staying on. We want to be a good neighbor, if the windows cause any glaring problems we would mitigate the problem. Yes, we would remedy the situation.

Chairman Oksner asked if there were any discussion on the motion

There was none

Motion: Commissioner Streeter; I recommend that we approve the Conditional Use permit for the Higginson's to have a personal greenhouse larger than 1,000 square feet. The use is a Conditional Use within the RA-1-43 zone the use does meet the vision for agricultural development in that zone. I move that we approve the findings by staff. This is to be approved with the condition that should the reflection off of the windows of the greenhouse be an issue for the neighbors that the Higginson's tint or otherwise mitigate the problem.

Seconded: Commissioner Ream

Chairman Oksner asked if there were any discussion

Ayes: Commissioner Waldrip, Kohler and Ream

Nays: None

Motion: Passed

ITEM: 6

Paul Berg, agent for Oakwood Homes of Utah LLC, is requesting a Plat Amendment of The Kantons of Midway PUD. The proposal will remove unit 32 from the plat. The property is located at 669 West Augusta Drive and is located in the R-1-15 zone.

BACKGROUND:

Paul Berg, agent for Oakwood Homes of Utah LLC, is proposing a plat amendment to The Kantons of Midway PUD located at the intersection of Homestead Drive and Augusta Drive just north of The Homestead. The recorded plat is composed of 34 building pads, public trails, and common area. The proposed amendment would remove building pad 32 from the plat. This would reduce the overall density in the subdivision to 33 units. The developer would like to remove the unit to preserve the views for the surrounding units and because the units in that area of the plat are clustered together.

The subdivision was approved on August 15, 2005 and was recorded shortly after that date. The plat was then amended and recorded on June 12, 2007. The proposed amended will amend the second amended plat. In 2007 three units were partially constructed on site and then were abandoned for a few years. Those units were torn down a few years ago and the site has sat vacant since then. There are currently two units build on the property which are units 33 and 34.

The developer is proposing to replace the unit with a pergola, benches, BBQ, and picnic table. The area of unit 32 will become common area that will be deeded to the HOA and owned be every unit owner in the PUD when the plat is recorded.

This item was noticed in the local newspaper for two weeks, posted in three public locations in town, and also posted on the State's public notice website. Once this item is forwarded to City Council letters will be sent to all property owners within 600' of the subdivision and an on-site notice will be posted on the property advertising the public hearing.

ANALYSIS:

The proposed plat amendment seems to not have any major negative aspects associated with it.

In order for the Land Use Authority to approve a plat amendment Utah State Code dictates that

(a) there is good cause for the vacation, alteration, or amendment; and

(b) no public street, right-of-way, or easement has been vacated or altered.

In this situation there is good cause to grant the approval because the number of lots in the subdivision will reduce and more open space will be created. Also, the aforementioned (b) does not apply in this situation because no public street, right-of-way, or easement will be impacted with the proposed amendment.

PROPOSED FINDINGS:

- The proposed amendment does meet the vision of the General Plan for the R-1-15 zone
- The number of units in the plat will reduce from 34 units to 33 units
- More open space and common area will be created in the PUD
- No public street, right-of-way, or easement will be vacated or altered

ALTERNATIVE ACTIONS:

1. Recommendation for 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

 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
- Commissioner Streeter: If they cap the water and sewer laterals, there's not going to be any access problems when they build the pergola?
 - City Engineer, Wes Johnson; The main line and lateral are connected to it. We are just saying that they need to disconnect the lateral at the main, not cap it out in the open space.

Chairman Oksner asked if there were any discussion on the motion

There was none

Motion: Commissioner Kohler; I'd like to move that we recommend to City Council to approve the proposal. We accept the conclusions of the staff report with the specific findings that the amendment does meet the vision of the general plan for the R-1-15 zone the units will reduce from 34 to 33 and the lot being removed will become a common area within the PUD, also the finding that no public street or right of way will be vacated or affected.

Seconded: Commissioner Ream

Chairman Oksner asked if there were any discussion on the motion

Ayes: Commissioner Ream, Streeter, and Waldrip

Nays: None

Motion: Passed

ITEM: 7

Derek Moser of Hymark Homes, agent for Morris and Frenndt Development LC, is requesting Preliminary Approval for Sunburst Ranch Phase II, a large scale planned unit development. The proposal is for 19 units on 4.41 acres. The subdivision is located on North Olympic Way and is in the R-1-22 zone.

BACKGROUND:

This request is for preliminary approval of Phase II of the Sunburst PUD. This phase is located in the northeast area of the development and will contain 19 units on 4.41 acres. The Sunburst master plan was originally approved by the City in 1997. The master plan contains three phases. The first phase is completed and contains 31 units. The second phase will contain 19 units. The third and final phase will contain 36 units. The total for the entire master plan is 86 units. The units in Phase II will be part of the Sunburst Home Owners' Association (HOA) and will have access to the amenities provided by the HOA. The units in phase II will also be subject to the design guidelines as stated in the CC&Rs and will to receive approval from the HOA.

ANALYSIS:

Roads – There will be a private cul-de-sac in this phase and a public road that will connect to future development to the north. North Olympic Way is a public road in phase I and will continue as a public road through phase II. It will be classified as a local street. There will be a five foot park strip and a five foot sidewalk line the road on both sides. The cul-de-sac, Olympic Circle, will be a private road with a public access easement and it will be maintained by the Sunburst HOA. There is a landscaping island that will be built in the center of the cul-de-sac which will be maintained by the HOA.

Visitor parking – There is one 3-stall and one 6-stall visitor parking areas included in this phase. The 3-stall is located only the private cul-de-sac and the 6-stall is located on the public road.

Sunburst HOA – Phase II will be included in the Sunburst HOA that exists for phase I. The CCRs include a boundary description that covers all three phases of the Sunburst PUD. The units in phase II will be subject to architectural review of the HOA. The residents will also be subject to any other rules that are stated in the CCRs. Residents will need to pay any dues that are required for maintenance of the private streets, common area, and amenities that currently exist or will be built in phase III.

Landscaping bond- The developer will be required to bond for the landscaping, as per the landscaping plan, in phase II at 110% of the estimated cost. This will be included in the construction for Phase II.

POSSIBLE FINDINGS:

- The proposal does match the approved master plan.
- The proposal does comply with the requirements of the land use code.

ALTERNATIVE ACTIONS:

1. Recommendation for approval. 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
- Planner Henke: My understanding is that each unit pays one thousand dollars into paying off some bonding or some improvements that have been made. Paul do you recall that? This is one thing that our attorney reminded me of.
- Commissioner Kohler: This was a City ordinance that was passed probably as a condition of approval that was filed with County, but the developer is responsible for some improvements that the homeowners association paid for; fifty thousand dollars and that is to be either paid within a ten (10) year time period. If it hasn't been paid within that time period it becomes due. It was to be paid by an additional one thousand dollars to each building permit.
- City Engineer, Wes Johnson; The landscaping component to Phase I.
- Commissioner Kohler: That was beyond that, there was the issue of the drainage that was put in place and who should pay for it.

- Planner Henke: The one thousand dollars per lot sounds correct.
- Commission Kohler: Yes.
- Commissioner Streeter: What is required for visitor parking?
- Planner Henke: We do, and if I remember correctly it comes out to one (1) stall for every two (2) units. There are nine (9) visitor parking spaces in Phase II. That would meet our requirement at least for this particular phase.
- City Engineer, Wes Johnson: Let me comment on cross sections a little bit. As the Master Plan was approved our roadway cross section will add a 50 foot right of way, because the Master Plan has been laid out with that 50 foot right of way we are a little reluctant to deviate from that. We recently updated our construction standards. The construction standard that was in place at the time required a four (4) foot sidewalk a four (4) foot park strip a two (2) foot curb and gutter and 27 feet of asphalt, which equaled the 50 feet. The updated construction standard changes asphalt from 27 to 30, still keeps the two (2) foot curb and gutter changed the four (4) foot park strip to five (5) foot, and changes a four (4) foot sidewalk to a five (5) foot side walk then leaves a one (1) foot buffer behind the sidewalk to the right of way. We propose to keep the 50 foot right of way as we transition from Phase I to Phase II as we extend in the future we will transition to the 56 foot. We are proposing that the right of way be right behind the side walk and we have a five (5) foot sidewalk a four (4) foot park strip a two (2) foot curb and gutter and 28 feet of asphalt. I wanted input from the Planning Commission, if you agree with our proposed cross section.
- Chairman Oksner: Would that preclude the existing roads street side parking or only on one side?
- City Engineer, Wes Johnson: There is no parking allowed on the street. However, the 28 foot cross section does allow for one (1) vehicle to park and still have two (2) way traffic in the roadway.
- Applicant Paul Berg: It's my understanding that parking is prohibited on roads that are 26 feet, 27 feet to 28' feet wide.
- Commissioner Streeter: Wes, what happens in Phase III, do we modified this version?
- Planner Henke: There are a couple of things and there are consequences by doing so. We do widen everything out in the right of way and that pushes the units back further and it reduces the open space. We've got a Master Plan in place I think we will have to do what we are doing in Phase II and see what works. We have the same standard for private and public roads.
- City Engineer, Wes Johnson: I suspect because of the Master Plan we'll be somewhat handcuffed to that, but rather that dictate what that answer is today if we accepted that section of Phase II that gives us the ability to see if it is going to work or not. I think it is going to work fine, but I feel a little reluctant to say that is what Phase III is going to be.
- Commissioner Streeter: I'm not pushing for anything, I'm just asking because of the changes.
- Commissioner Streeter: Are these mostly second homes?
- Planner Henke: Yes, there are a high percentage of second homes here.
- Commissioner Streeter: Paul, any plans with the temporary turn around? Does that become more open space or parking?
- Applicant Paul Berg: I think that would be an HOA decision. Depending on when that happens.

- Planner Henke: The HOA owns the property under that temporary turn around. They'd probably work with the developer.
- City Engineer, Wes Johnson: What we've done in the past that works well, we will now extend the curb, gutter and the sidewalk in that cross section because it is the modified mountable curb. The HOA would have the choice to put in parking or remove the asphalt and have open space.
- Commissioner Kohler: Wes, in your letter you mentioned that the storm water would be collected in a proposed retention pond. Will they not use the retention pond that is there or will there be another retention pond?
 - City Engineer: There will be another retention pond.
- Commissioner Kohler: There will not be additional construction, the retention ponds are already in place?
 - Applicant Paul Berg: When storm drain in Phase II was designed it was the same time as the Master Plan it took care of all the issues for Phase I. This was all done as one comprehensive storm drain from years ago.

Chairman Oksner asked if there were any discussion

There was none

Motion: Commissioner Waldrip; Mr. Chairman I move that we approve the application of Derek Moser on behalf of Hymark Homes who is the agent for Morris and Frenndt Development LC for preliminary approval of Sunburst Ranch Phase II. We adopt the report of the staff and we find specifically that the proposal does match the approved Master Plan and the proposal does comply with the requirements of the land use code.

Seconded: Commissioner Streeter

Chairman Oksner asked if there were any discussion on the motion

Discussion, Commissioner Kohler: Yes, I would like to add a condition to that. I suggest that a condition be added to your motion Stu, and that's that we recognize that the conditional approval will tie into the City requirement of the additional payment on the building permits to take care of costs that have already been put in place by the Home Owners Association for the storm drainage system that is in place.

Commissioner Waldrip: I'm not sure I understood that, just a minute let me see here.

Commissioner Kohler: That wasn't addressed in the staff report.

Commissioner Waldrip: Was this covered when I stepped out for a moment?

Commissioner Kohler: Probably.

Commissioner Waldrip: Can you explain to me what that proposed amendment is?

Commissioner Kohler: It is a proposed amendment to recognize that there is a standing City condition that was made part of the Master Plan. The Master Plan was brought forth when there was a different ownership as well I want to make sure that this gets carried forward. The Home Owners Association paid for part of those improvements and then it was with the final approval of the Master Plan and that is when it was acknowledged that the developer should have paid for those improvements. There was a condition that was put on the Master Plan that the developer would reimburse the Home Owners Association and that would be done either a one thousand dollar surcharge on every building permit as the subdivision was built out or after 10 years he would then be obligated to pay the whole amount.

Planner Henke: The improvements that were made benefited all of the Phases, not just Phase I.
Chairman Oksner: Was that a part of the original Master Plan or is that something we have to apply conditions to II and III?

Planner Henke: It was actually adopted by an ordinance. I think we are covered, but I think that it would be a good reminder to have it as a part of the motion.

Commissioner Waldrip: Is this for the catch basins?

Commissioner Kohler: Yes, the storm drainage system, catch basins and also facilities, pipe lines and other parts that are a part of the storm drainage system.

Chairman Oksner: So this needs to be included?

Commissioner Kohler: I'm suggesting that it be added just to keep it in the record and to keep it fresh in our minds. I would expect to bring this up when Phase III comes before us as well.

Commissioner Waldrip: Add an additional finding that there is still an obligation remaining from the approval of the original Master Plan to reimburse the HOA for expenses incurred for the installation on the storm drainage system on the same basis that an agreement was reached when the Master Plan was approved.

Commissioner Streeter: Seconded agreed

Chairman Oksner asked if there were any discussion on the modified motion

Ayes: Commissioner Ream, Waldrip, Kohler, and Streeter

Nays: None

Motion: Passed

ITEM: 8

Paul Berg, agent for Probst Enterprises and Dennis Higley, is requesting Master Plan Approval for the Probst Property PUD, a large scale planned unit development. The proposal is for 89 units located on 55.01 acres and will be developed in four phases. The proposal is located west of Valais and is in the RA-1-43 zone.

BACKGROUND:

Probst Enterprises and Dennis Higley are proposing a Master Plan approval of their property that was recently approved for annexation by the City. The property is 55.01 acres and will be developed in four phases. In all there will be 89 units in the four phases. The property will be developed as a Planned Unit Development (PUD). There will be a mix of public roads and private roads (all private roads will have a public access easement). There will be 50% open space that will be common area owned by the homeowner's association (HOA). There will also be a mix of public and private trails throughout the development along with private amenities that includes a clubhouse, tennis court, and basketball court.

The Land Use Code requires that 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 Probst property phasing plan does meet the requirements as reviewed by staff. Issues that have

been reviewed include access for each phase. Also open space per phase meets the requirements of the code. Both of these items will be discussed later in this report.

LAND USE SUMMARY:

- 55.01 acres
- RA-1-43 zoning
- Proposal contains 89 building pads
- Four phases
 - Phase I – 34 units
 - Phase II – 7 units
 - Phase II – 10 units
 - Phase IV – 38 units
- Project is a Planned Unit Development
- Private roads will be maintained by the HOA
- Public roads will be the responsibility of the City
- The lots will connect to the Midway Sanitation District sewer and to the City’s water line.
- 8’ paved public trail is planned along Canyon View Road and the connector road to Pine Canyon (as of yet is unnamed) and will be built by the developer.
- Sensitive land of the property include wetlands, stream corridor, and pot rock outcroppings

ANALYSIS:

Open Space – The code requires that with each phase that is approved there is enough open space to comply with the requirements of the code. For example, phase I must have at least 50% open space for that particular phase. If phase I has 75% open space then phase II only needs to have 25% open space as long as both phases are equal in acreage. Below is the open space table for this proposal:

Phase	Units	Total Area	Open Space	Total project Open Space
I	1-34	30.35 acres	18.30 acres	60.30%

II	35-41	3.73 acres	1.78 acres	58.92%
III	42-51	3.96 acres	1.40 acres	56.74%
IV	52.89	<u>16.97 acres</u>	<u>6.03 acres</u>	<u>50.09%</u>
Total		55.01 acres	27.51 acres	50.09%

As shown in the chart above the open space requirements are met for each phase and as a whole for the entire subdivision.

Access – Each phase of the subdivision must meet the access and cul-de-sac limitation requirements of the code. A cul-de-sac is limited to 500’ in length, unless approved otherwise by the City Council. Staff has reviewed the phasing plan and all street length and access requirements have been met as presented in the application.

Water – The developers have yet to meet with the Water Board to determine the recommendation about the amount of water that will be required for the proposal. Review by the Water Board will need to occur before this item is heard by the City Council.

Sensitive lands – The property does contain some wetlands that will not be disturbed through the development process. The wetlands will become part of the open space for the development and will be preserved. There are two pot rock mound geologic features on the property. These will be left undisturbed, as required by the sensitive lands section of the code, and will be preserved in the open space area the development. There also is a stream/ditch that runs through the property. It will be impacted by the roads crossing the development because of the culverts that will cover the ditch. Midway Irrigation Company owns an easement to the ditch area and will need to approve modifications made to the current ditch.

PROPOSED FINDINGS:

- The proposed master plan appears to meet the requirements of the code.
- The proposal does meet the vision as described in the General Plan for the RA-1-43 zone.

ALTERNATIVE ACTIONS:

1. Recommendation of Approval. This action can be taken if the Planning Commission feels there is good cause to approve the proposal.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s) if needed

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

ITEM: 9

Paul Berg, agent for Probst Enterprises and Dennis Higley, is requesting Preliminary Approval for Phase 1 of the Warm Springs PUD a large scale planned unit development. The proposal is for 34 units located on 30.35 acres which includes 18.3 acres of open space. The proposal is located west of Valais and is in the RA-1-43 zone.

BACKGROUND:

Probst Enterprises and Dennis Higley are proposing preliminary approval of phase I of the Probst property. Phase I is 30.35 acres and contains 34 units. The property will be developed as a Planned Unit Development (PUD) and will be similar to the Valais PUD to the east. The property will contain 18.3 acres of open space which equals 60.3% of the property in the phase. The first phase will contain all public roads because these roads are shown on the City's Master Road Plan. There will also be a mix of public and private trails throughout phase I. There are sensitive lands in this phase that contain wetlands, pot rock outcroppings, and a stream/ditch corridor.

LAND USE SUMMARY:

- 30.35 acres
- RA-1-43 zoning
- Proposal contains 34 building pads

- Project is a Planned Unit Development
- Public roads will be the responsibility of the City
- HOA will formed and all future phases will also become part of this same organization and subject to the same CCRs
- The lots will connect to the Midway Sanitation District sewer and to the City's water line.
- 8' paved public trail is planned along Canyon View Road and the connector road to Pine Canyon (as of yet is unnamed) and will be built by the developer.
- Sensitive land of the property include wetlands, stream corridor, and pot rock outcroppings

ANALYSIS:

Open Space – Phase I has more open space than is required but after all four phases are completed the open space will just meet the requirements of the PUD code. Below is the open space table for this all four phases:

Phase	Units	Total Area	Open Space	Total project Open Space
I	1-34	30.35 acres	18.30 acres	60.30%
II	35-41	3.73 acres	1.78 acres	58.92%
III	42-51	3.96 acres	1.40 acres	56.74%
IV	52.89	<u>16.97 acres</u>	<u>6.03 acres</u>	<u>50.09%</u>
Total		55.01 acres	27.51 acres	50.09%

As shown in the chart above the open space requirements are met for each phase and as a whole for the entire subdivision.

Access/roads – Phase I will have two access points and will comply with the requirements of the code. Both roads in this phase are shown on the City's Master Road Plan and therefore will be public roads maintained by the City. The right-of-way will be 56' with 30' of pavement. On the areas with sidewalks there will be a 5' park strip and the width of the sidewalk will also be 5'.

Unit setbacks - All units along public roads must have a 30' setback from the edge of the right-of-way. All units will also have a 30' setback from all the peripheral property lines of the PUD.

Water – The developers have yet to meet with the Water Board to determine the recommendation about the amount of water that will be required for the proposal. Review by the Water Board will need to occur before this item is heard by the City Council.

Sensitive lands – The property does contain some wetlands that will not be disturbed through the development process. The wetlands will become part of the open space for the development and will be preserved. There are two pot rock mound geologic features on the property. These will be left undisturbed, as required by the sensitive lands section of the code, and will be preserved in the open space area the development. There also is a stream/ditch that runs through the property. It will be impacted by the roads crossing the development because of the culverts that will cover the ditch. Midway Irrigation Company owns an easement to the ditch area and will need to approve modifications made to the current ditch. A comprehensive study must be submitted before City Council review of this item.

Property exchange/Canyon View Road Alignment – Canyon View Road and Burgi Lane intersection will need to be adjusted to comply with engineering/safety requirements. The current intersection does not comply with current standards for two reasons. The first is because of its offset to Magpie Circle located on the south side of Burgi Lane. Because Burgi Lane is classified as a collector road, the offset on the intersection must be 10' or less or 300' or more to create a safe intersection. By adding up to 1000+ trips per day on this road the intersection must be made safer. An agreement has been signed by all of the parties except the LDS Church regarding a land exchange to make a safer alignment possible. The property exchanges must be approved and signed between the LDS Church, Probst Enterprises, and Laren Gertsch before this item will be heard before the City Council as required by the annexation conditions.

Midway Sanitation District - the developers have yet to meet with the Sewer Board to determine the requirements regarding sewer connection to Midway Sanitation District. Approval by the Sewer District will need to occur before this item is heard by the City Council.

Geotechnical report - Staff has required that a geotechnical report be submitted for review. This must be submitted before the item is heard before the City Council.

Trail Alignment - The developer has proposed a public trail alignment through phase I that staff has reviewed. Staff has discovered there may be a more optimal alignment that will reduce the number of driveway crossings for the trail and therefore will make the trail safer. Staff will discuss this with the developer before the Planning Commission meeting.

Density Determination – The developer is proposing 89 units in the development. For a PUD, a developer receives 1.5 units for every acre based on gross acreage (no subtraction of property in roads). The total for this calculation is 82.52 units. They have also asked for a density bonus based on using architectural elements described in the code. The maximum density that could be received is .25 of a unit for every acre of ground which equals 13.75

units. The developer has asked for bonus of 6.48 units based on architecture. The Visual and Architectural Committee has reviewed the proposal and recommends the developer receive the density bonus for a total of 89 units in the PUD. They did recommend some conditions regarding driveway widths and landscaping that will be administered by staff through the building permit process.

PROPOSED FINDINGS:

- The proposal appears to meet the requirements of the code for PUDs.
- The proposal does meet the vision of the area as described in the General Plan for the RA-1-43 zone.
- A public trail will be built by the developer that will be an amenity to the entire community.

ALTERNATIVE ACTIONS:

1. 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. List accepted findings
 - c. Place condition(s) if needed
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

PROPOSED CONDITIONS:

1. The property exchange between the LDS Church, Probst Enterprises, and Laren Gertsch must be completed and recorded before the item is heard before the City Council.
2. The proposal will receive a recommendation regarding water from the Water Board before the item is heard before the City Council.
3. The Midway Sanitation District must approve the preliminary plans before the item is heard before the City Council.
4. A geotechnical report is submitted before advancing to City Council.
5. A sensitive lands study is submitted to the City before advancing to City Council.

Item 8 and Item 9 were discussed together. See the discussion below.

ITEM: 8; Master Plan Approval for the Probst Property PUD

ITEM: 9; Preliminary Approval for Phase 1 of the Warm Springs PUD

- Agent Paul Berg: Michael, can you please explain from an entitlement stand point from what you just presented from Master Plan to Preliminary? I want to make sure that we are all on the same page.
- Planner Henke: What we are doing in Master Plan is improving the phasing plan, that doesn't mean that there cannot be changes when each phase comes in. It's not set in stone. For instance, the last one we looked at Sunburst Ranch. We've got to work with what the Master Plan has, but we can't go in and modify the street standards based off of the current regulations. What we are granting with Master Plan are these particular phases with the number of units in each phase. We are saying at this point in time this phase meets our City requirements for open space and access. Basically we would be approving them for this map of the Master Plan that is here before us. They will have to come in for both preliminary and final for each of these different phases, so right now if the Master Plan is approved they can ask for preliminary approval on the purple phase/first phase. That would grant them the ability to not only ask for final approval, but be vested for this particular plan for at least Phase I the way that it is drawn up.
- Commissioner Streeter: It looks like on your topographic map that the retention ponds are down lower of the property, kind of far away.
- Agent Paul Berg: With a series of a pipe network that will be in place we will get it to the ponds.
- Planner Henke: All four (4) phases will be a part of one (1) HOA.
- Commissioner Streeter: Do you have conditions on the Master Plan too?
- Planner Henke: No, I didn't put conditions on the Master Plan, because I felt that the

- Master Plan had met the code requirements.
- Chairman Oksner: What are your future plans with the sensitive lands?
- Planner Henke: The sensitive lands will remain as pasture area.
- Chairman Oksner: Will there be a park in the open space?
- Agent Paul Berg: No, the park will be up by the clubhouse.
- Commissioner Waldrip: Do we need to make the land swap a condition in our motion?
- Planner Henke: The land swap is a condition of the annexation.
- Commissioner Waldrip: Is the annexation subject to the land swap still?
- Planner Henke: We've annexed the property but they are only able to move forward with their approvals if they can get the land swap, that's part of the annexation agreement.

ITEM: 8; Motion

Chairman Oksner asked if there were any discussion

There was none

Motion: Commissioner Waldrip; I move that we approve the Master Plan for Probst Enterprises and Dennis Higley concerning this 55.01 acre proposed development within the City. We accept the report by staff and find that the proposed Master Plan meets the requirements of the code and it meets the vision as described in general plan for the RA-1-43 zone.

Seconded: Commissioner Kohler

Chairman Oksner asked if there were any discussion on the motion

Discussion, City Engineer, Wes Johnson: the water model requires that their water line tie into Valais; upon Phase IV is that something that is appropriate right there? Is that something that is appropriate in a Master Plan? It's something that wouldn't happen until preliminary, but I think that it's something worth mentioning with this Master Plan approval in the future a waterline connection to the Valais be required?

Planner Henke: In my opinion, if it is going to help make the subdivision possible, then I think that we should probably mention that.

City Engineer, Wes Johnson: I think that is something that should be considered being added.

Commission Waldrip: I will amend my motion to add a condition for the approval of general plan before Phase IV development could be approved there would have to be in place an agreement to connect to the City's water system on the north west corner of Valais, adjacent to Phase IV.

Seconded: Agreed

Chairman Oksner asked if there were any discussion on the amended motion

Ayes: Commissioner Streeter, Kohler, and Ream

Nays: None

Motion: Passed

- Commissioner Streeter: Since this land swap is not a done deal yet should we be considering preliminary approval at this point?
- Planner Henke: Where this is a recommendation to City Council, I'm comfortable with you having a motion on this item. Council would not be able to approve it without that.

- Agent Paul Berg: To clarify for the Planning Commission this is not the first discussion on the land swap. The local facilities director, Dale Whimpey has already given his recommendation. It's now going to a committee to the church offices in SLC where this committee will review it. Some discussion and some local approval have already been given.
- Commissioner Streeter: This is a three way land swap on which the whole thing is really quit dependent, and they never go as smoothly as we would like them to.
- Agent Paul Berg: That is why it is not going to City Council until I at least have a letter of intent from the LDS Church.
- Commissioner Waldrip: This is a preliminary approval. I think that we should make a condition and if the condition is not satisfied then it doesn't go anywhere.
- Planner Henke: If the LDS Church came back and said that they were not in agreement with the alignment then it would be up to the developer to come up with an alignment that meets our engineering standards. They would have to come back before you and have you approve that new alignment.
- Commissioner Waldrip: If they ask for more land, for example to the north. There is that strip on the north side of the church property that's being proposed to be exchanged. The church says we want you to move that over ten (10) feet, that would change the configuration of Phase I.
- Planner Henke: It wouldn't go before Council until we had something in writing and if for some reason they change the plan they would have to come back to Planning Commission.
- Agent Paul Berg: All this process that we are talking about was also laid out during the annexation approval, so this isn't the first time this plan has been hashed out.
- Planner Henke: I think that the conditions of the annexation tie it down fairly well. We'll add this condition to this approval so it solidifies it.

ITEM: 9; Motion

Chairman Oksner asked if there were any discussion on the motion

There was none

Motion: Commissioner Kohler; Mr. Chairman I'd like to move that we recommend the conditional approval of Phase I of the preliminary approval with conditions of the unnamed PUD on the Probst property. We accept the findings of the staff report. Our findings are that the proposal appears to meet the requirements of the code for the PUD's. The proposal does meet the vision areas described in the general plan for the RA-1-43 zone and a public trail will be built by the developer that will be an amenity to the entire community. The proposed conditions as per the staff report; the property exchange between the LDS Church Probst Enterprises and Laren Gertsch must be completed in writing and recorded before the item is heard before the City Council, secondly, the proposal will receive a recommendation regarding water from the water board before the item is heard before City Council, three, Midway Sanitation District must approve the preliminary plans before the item is heard before City Council, fourth, a condition is

required that a geotechnical report be submitted prior to advancement to City Council and five, a sensitive lands study is submitted to the City before advancing to City Council.

Commissioner Waldrip: Mr. Chairman, can I ask a clarifying question of the maker of the motion?

Chairman Oksner: Certainly

Commissioner Waldrip: Thank you, Item #1 instead of being completed and recorded is an agreement in writing, is that what you understood?

Commissioner Kohler: Yes that is what I understood.

Planner Henke: There would be a letter of intent first and then record and it will probably take some time to have that recording done.

Commissioner Streeter: Do we also need the language that “as presented” so if there are any changes we know that it comes back?

Planner Henke: I think that would be appropriate.

Seconded: Commissioner Waldrip

Chairman Oksner asked if there were any discussion on the motion

Ayes: Commissioner Kohler, Waldrip, Ream and Streeter

Nays: None

Motion: Passed

ITEM: 10

Paul Berg, agent for BJ Wright, is requesting a Final approval for a small scale subdivision consisting of four lots on 10.41 acres. The property is located at about 970 South and 193 West. This proposal is located in the R-1-22 zone.

BACKGROUND:

This request is for final approval of a large-scale subdivision on 10.41 acres that will consist of four lots. The four lots proposed in the subdivision will obtain frontage along 970 S. There currently is a home on the property and that home will be located on lot 4 in the proposed subdivision. No property will be dedicated to the City for this development because when 970 S is developed it will be expanded to the north when the Saddle Creek PUD is constructed at a future date. The property is located in an R-1-22 zoning district and the lots do comply with the minimum requirements of frontage, width and acreage for a lot in this zone.

LAND USE SUMMARY:

- 10.41-acre parcel
- R-1-22 zoning
- Proposal contains 4 lots (lot 1 – 1.99 acres, lot 2 – 1.96 acres, lot 3 - 3.41 acres, and lot 4 – 0.91 of an acre)

- The lots will connect to the Midway Sanitation District sewer and to the City's water line

ANALYSIS:

Roads – The Wright Subdivision will not dedicate any right-of-way to the City. This is because when 970 S is widened by the developer of the Saddle Creek PUD it will be widened to the north. The developer of Saddle Creek will be reimbursed about \$157,000 to cover the cost of the expansion onto the Saddle Creek property from the transportation impact fees collected from each building permit in the development. This compromise was agreed to because expansion on the south side of the road would have taken more area from the already nonconforming setbacks of the structures on the south side of the road including the existing dwelling in the Wright Subdivision. The reimbursement is also based on the cost of relocation the Heber Light and Power transmission line that will need to be relocated farther to the north to accommodate 970 S. when it is widened.

Trails – There will be no trails built on the property. The trail planned for 970 S will be built in the Saddle Creek PUD common area on the north side of the road. This trail will be built when the Saddle Creek PUD is constructed.

Water Connection – The lots will connect to the City's water line currently located near Center Street. The developer will need to either post a bond at the time of recording of the plat or build the water line before the plat is recorded. Also the developer will need to pay any required fees for the waterline extension agreement for the water line near Center Street.

Sewer Connection – The lots will connect to Midway Sanitations District's line located near Center Street. There will be a sewer line built through the Eldon's Landing Subdivision that will bring the sewer line to 970 S. and the Eldon's Landing west boundary line. The BJ Wright subdivision will extend that line along 970 S. to service the four proposed lots.

Driveway Access – All four lots will access 970 S directly. Since 970 S. is a collector road and driveway access is limited, there will be a note added to the plat that will require all lots to have driveway turnarounds so no cars will back directly onto 970 S.

Open Space – There is an open space requirement for any standard subdivision over six acres in size. An area 1.56 acres in size will be delineated on lot 3 as open space.

POSSIBLE FINDINGS:

- The proposed lot meets the minimum requirements for the R-1-22 zoning district
- The proposal does meet the intent of the General Plan for the R-1-22 zoning district

ALTERNATIVE ACTIONS:

1. Recommendation of approval or conditional approval. This action can be taken if the Planning Commission feels the proposal complies with the intent of the ordinance or conditions are placed on the approval that 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. 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

POSSIBLE CONDITION:

1. A note is added to the plat that requires all lots to have driveway turnarounds so no cars will back directly onto 970 S.
 - Agent Paul Berg: There is an existing water line that runs south of the property line, that's going to be replaced. They will run a new line up to the lots so they can have pressurized irrigation.
 - Planner Henke: There is an existing natural gas line that runs through this property that services down to the Higginson's greenhouse property, so that may have to be moved a bit. Paul have you had a chance to look at that closer?
 - Agent Paul Berg: I did and the surveyor is trying to locate it. We're running a title report to see what the easement says.
 - Commissioner Streeter: If we approve this subdivision as is with lot three (3) having the large pasture in the back does that preclude future subdivisions because we are not allowing a cul de sac, or could lot three (3) subdivide later?

- Planner Henke: It could subdivide later, as long as it meets the code requirements they could apply for a plat amendment.

Chairman Oksner asked if there were any discussion on the motion

There was none

Motion: Commissioner Waldrip; I move that we grant final approval for a small scale subdivision consisting of four (4) lots on 10.41 acres on the south part of town as proposed by BJ Wright through her agent Paul Berg. We accept the staff report and particularly note that there is an issue with the respect with the water connection will have to be resolved that the developer should be aware of. We find that the proposed lots meet the minimum requirement for R-1-22 zones and that the proposal meets the intent of the general plan for that same zoning district. With a condition that a note is added to the plat when it's presented for approval that requires all lots to have driveway turnarounds so no cars will be tempted to back directly into 970 South.

Seconded: Commissioner Streeter

Votes: Ayes: Commissioner Ream, Kohler, Waldrip, and Streeter

Nays: None

Motion: Passed

- Chairman Oksner; Michael, I'm going to recommend that item 11 be put off at this time. Before we leave there is a change to the issues that we discussed at the last meeting. The very first thing is the square footage of Ridley's, since it is about double the size we had originally thought that it was, I'm going to ask the commissioners to reconsider if you want 25,000 square feet wherever it says 12,000 square feet.
- Planner Henke: Right now I left line number one (1) where it talks about retail, grocery and service stores at 25,000 square feet, because the thought was that we make a maximum standard as the standard we already have in town. If we want to change that to something smaller we defiantly could.
- Commissioner Waldrip; Something for the commissioners to think about. If RV means motorhomes I'm not so sure we want motorhome sales in our town.
- Planner Henke: Let me add in a couple more notes real quickly. We talked about mixed use and the minimum for commercial. I had originally said about 14 units per acre; I think that is a bit high. After talking to some other planners, seven (7) units per acre us more of where we might want to be. We might even want to lower that. We might want to set this low so people would have to buy development rights from a property to bring it into a commercial area. I'll explain this in a lot more detail in the future. My other note, I think that we will want to add the word commercial in front of the word condominium to specify that it is only a commercial use. Any other condominium would have to meet our condominium standards.
- Commissioner Ream: What is the trend toward micro-units, not commercial, tiny units 500 to 700 square feet? If someone came in and said that they wanted to do a development of micro-units, I've noticed that this is big in Canada and overseas. Would

that fit, would we want it to fit?

- Commissioner Streeter: Are you talking office condos?
- Commissioner Ream: No.
- Planner Henke: The minimum would be 900 square feet in the R-1-7 zone. We could add in the mixed use section if we wanted to go lower than that we could specifically state that if you are doing a mixed use project and you are going to have some apartments then you could go down to a smaller number. If Planning Commission wants to go that direction you could allow a smaller number for that mixed use.

ITEM: 11

Midway City is considering a Code Text Amendment of Section 16.5.2: Permitted and Conditional Uses. The Planning Commission will consider all permitted and conditional used in the C-2 and C-3 zones and could possibly remove and add some uses. Furthermore, regulations may be added to some uses.

CHAPTER 16.1 COMMERCIAL C-2 AND C-3 ZONES

- Section 16.5.1 Objectives and Characteristics**
- Section 16.5.2 Permitted and Conditional Uses**
- Section 16.5.3 Site Development Standards**

Section 16.1.1 Objectives and Characteristics

These zones have been established as districts in which the primary use of the land is for planned and integrated commercial and service uses. It is intended that these zones shall be characterized by a harmonious grouping of a variety of stores, shops, office buildings, or other permitted uses in an organized development. These zones have also been established to create new development which is characterized by well landscaped frontages, safe access and egress, proper parking design, coordinated site planning, and buildings which follow the objectives of the City Master Plan and resort architectural requirements. Emphasis in the approval of plans in the C-2 zone shall be to protect the appearance of the entrances to the City. Development in the C-3 zone is intended to create a shopping and financial center for the City and surrounding territory. Another objective of the commercial zones is to mitigate potential negative impacts upon residential zones caused by commercial activity. The City commercial zones are surrounded by residential areas on all sides and buffering restrictions are necessary.

Section 16.1.2 Permitted and Conditional Uses

A. The peculiar character and nature of conditional uses (those designated by "C") require special consideration. Therefore, the Planning Commission review of these conditional uses shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and

harmonious development in accordance with existing and future needs. The City Council shall deny or approve these conditional uses based upon the character of the zone, the surrounding land use, traffic, utilities and other public requirements.

B. In the following list of possible uses in the C-2 and C-3 zones, those designated "P" will be a permitted use. Uses designated as "C" will only be allowed when approved as a conditional use by the City Council. Uses designated as "N" will not be allowed in the zone.

USES	C-2	C-3
Retail, grocery, and service stores (up to 25,000 sq. ft.)	P	P
Professional offices and clinics	P	P
Auto detailing and service stations	C	N
car washes	C	N
Alcohol dispensing establishments	C	C
Residential Facilities for Elderly Persons (maximum 14 units per acre)	C	C
Rest Homes/Nursing/Convalescent Facilities (maximum 14 units per acre)	C	C
USES	C-2	C-3
Day Care	C	N
Art Studios (paint and metal)	C	C
Engraving, publishing, and printing	P	P
Fraternity buildings, clubs, and lodges	C	C
Mortuaries and wedding chapels	P	P
New and used vehicle sales (excludes RV sales)	C	N
Hospitals	P	P
Hotels/motels, bed and breakfast establishments	C	C
Cafes and restaurants	P	P
Public and quasi-public buildings (police/fire stations)	P	P
Recreational activity businesses	P	C
RV, ATV, motorcycle, side by side UTV, OHV sales	C	N
Barber, beauty shops, and massage therapy clinics)	P	P
Vehicle parking	P	P
Repair shops (other than auto)	C	C
Veterinarian and pet grooming services	C	C

Walk-in theaters	C	C
R-1-7 Residential	P	P
Mixed Use (20% minimum commercial, up to seven units per acre)	C	C
Commercial PUDs and condominium projects	C	C
Private academies/studios (education, art, dance, sports, etc.)	C	C
Carpentry and woodworking shops (no outside storage)	C	C
Electrician shops (no outside storage)	C	C
Plumbing shops (no outside storage)	C	C

(2012-11, Section Added, 04/11/2012) (2013-15, Section Amended, 12/11/2013)

Section 16.1.3 Site Development Standards

A. Minimum lot area: none

B. Minimum building setback from property line for all commercial structures:

1. Front. 10' minimum and 30' 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. The City Council may approve a setback different than listed in this section based on specific circumstances of the site and building orientation of a proposal.
2. Side. None
3. Rear. None
4. Fuel pumps. 20 feet from any street
5. Setback from residential zones or existing residential uses. 15 feet

C. Building Heights

1. Minimum: 8 feet (see Section 16.13.110)
2. Maximum: 35 feet (see Section 16.13.100)

D. All building sizes and setbacks are also subject to the requirements of the building code adopted by the City Council. Building heights shall be subject to this Title.

E. All parking shall be located at the side or rear of the main building on each commercial zoning lot.

F. Each new construction commercial building must have a door facing Main Street if the lot fronts Main Street.

G. Structures must comply with the Clear View of the Intersecting Streets as defined in this Code.

(2010-32, Section Amended, eff. 12/08/2010)

Chairman Oksner asked if there were any discussion

There was none

Motion: Commissioner Streeter; I move that we continue item 11 our Code Text Amendment until next time.

Seconded: Commissioner Ream

Chairman Oksner asked if there were any discussion on this motion

There was none

Ayes: Commissioner Kohler, Streeter, Ream and Waldrip

Nays: None

Motion: Passed

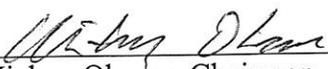
Chairman Oksner asked for a motion to adjourn

ADJOURNMENT

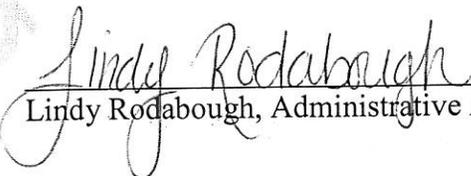
Motion: Commissioner Waldrip; Chairman I move that we adjourn.

Seconded: Commissioner Ream

Adjourn: 10:10pm



Mickey Oksner, Chairman



Lindy Rodabough, Administrative Assistant