

**Minutes of the
Midway City Planning Commission**

**Wednesday, 19 June 2013, 7:00 p.m.
Midway Community Center
160 West Main Street, Midway, Utah**

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

Attendance:

Kent Kohler – Chairman
Mickey Oksner – Co-Chairman
Karl Dodge
Angie Prince
Chip Maxfield
Stuart Waldrip
James Kohler

Staff:

Michael Henke – City Planner
Sandy Norskog – Assistant Planner
Jennifer Sweat – Administrative

Excused:

John Rather

6:55 P.M. Work/Briefing Meeting

Planner Henke presented the City Council liaison report from the June 12, 2013 City Council meeting. No action was taken and the public was welcome to attend.

7:00 P.M. Regular Meeting

Call to Order

Chairman Kohler opened the meeting and welcomed the commissioners, staff and public. Invocation was given by Commissioner Prince. Chairman Kohler led the Pledge of Allegiance.

By way of information Commissioner Rather was excused from this meeting. Commissioner Chip Maxfield will be a voting member this evening. Also tonight will be Commissioner Prince's last meeting. She has served on the commission for 6 ½ years and we would like to thank her for her service.

Regular Business

1. Review and possibly approve the Planning Commission Minutes of May 15, 2013

Commissioner Prince stated that the only change she saw was her last name was listed as

“Kohler” instead of “Prince”. It was stated that change would be made.

Motion: Commissioner Dodge made the motion to approve the Planning Commission Minutes of May 15, 2013 with the correction of Commissioner Prince’s last name from “Kohler”, to “Prince”.

Seconded: Commissioner Prince seconded the motion

Votes: Ayes: Commissioner Dodge, Commissioner Waldrip, Commissioner Oksner, Commissioner Maxfield, and Chairman Kohler.

Nays: None

Motion: Passed

2. Paul Berg, agent for BJ Wright, is requesting a Preliminary approval for a large scale subdivision consisting of four lots. The property is located at about 970 South and 193 West. This proposal is located in the R-1-22 Zone.

Planner Henke thanked Chairman Kohler, and Planning Commissioners. Planner Henke handed out a letter from the City Engineer that was received after the Staff Report was sent out.

(Commissioner J. Kohler arrived to the meeting @ 7:10 p.m. and joined the other commissioners on the stand.)

Planner Henke stated that this request is for preliminary 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 four (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 which will be handled by Saddle Creek PUD 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.

Planner Henke stated that the applicant will not be required to expand the road, nor will they be required to bury or move the power lines as this will be the responsibility of the Saddle Creek PUD.

Planner Henke presented a power point presentation of the property.

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

Commissioner Waldrip asked if the power lines would be buried, or would they remain in the air?

Planner Henke stated they could be buried but because these are transmission lines, Heber Light and Power would prefer them to not be buried. The cost will be substantial for Saddle Creek PUD, around \$350,000.

Commissioner Prince asked the size of the road currently?

Planner Henke stated that it is currently eighteen feet wide, and will likely expand about another twelve feet.

Planner Henke stated that possible findings for this property included that the Water Board and Sewer District must approve the proposed plans before the item is heard before the City Council. Planner Henke presumed that the subdivision would be on the upcoming agendas.

Paul Berg, agent for BJ Wright, stated that yes, they would be turning in applications to appear before the Water and Sewer District at regular meetings for July, and would obtain approval prior to going to City Council.

Planner Henke stated that this would be coming back to Planning Commission for Final Approval, as this request was only for Preliminary Approval at this time.

Commissioner Dodge asked if they anticipated any problems getting an easement for the sewer line?

Mr. Berg stated that no, they had already spoken to Thom Wright, who represents the Elden Wright Trust, and he has already agreed to the easement. It is just a matter of getting the documents signed.

Commissioner Dodge had a question that was more general in nature: You stated that a subdivision this size has to have 1.56 acres of open space is that 15% open space?

Planner Henke stated that there were a couple of things to talk about regarding open space. Commissioner Dodge was correct that it was 15%. According to our current code, it can be included in a lot of two (2) acres or more in size. It would still be private property. It is just an area of the lot that is deemed non-buildable.

Planner Henke stated that City Council did approve a notice of pending ordinance change regarding open space. It is related to the size of projects and the required open space. A project this size with 15% open space that isn't included in the lot, is difficult to maintain by an HOA with the low number of property owners. The idea is to go through and evaluate the open space requirement and determine what is reasonable for a small subdivision.

Commissioner Dodge asked once this subdivision is approved, can an individual lot owner come in and subdivided their property?

Planner Henke stated that technically they could, however they would have to apply for a plat amendment and go through a subdivision approval process. We do not have any regulations stating they can't do that unless they place a note on the plat that states "no further subdividing will be allowed".

Mr. Berg stated that they only ways to further subdivide this property would be to build another road and they barely meet the requirements right now. Two lot owners would have to do this

together, and it isn't something he thinks they will do.

Commissioner Oksner wanted to clarify that this subdivision would not include the changes to the road and the poles because the subdivision to the north would need to make those changes?

Planner Henke stated that was correct, the City already has a development agreement with Saddle Creek PUD.

Mr. Berg mentioned that also they discovered that the water line was only a two (2) inch line. The required minimum was an eight (8) inch line, which the City would then upgrade to a twelve (12) inch line.

Planner Henke stated that was correct and that most likely whoever installed the water line would have a water line extension agreement.

Chairman Kohler asked if there were any further questions?

No further discussions were needed.

Motion: Commissioner Prince made a motion to approve the Preliminary approval for a large-scale subdivision consisting of four lots. The property is located at about 970 South and 193 West. This proposal is located in the R-1-22 Zone. The Water Board and Sewer District must approve the proposed plans before the proposal will be placed on a City Council agenda.

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

No further discussions were needed.

Seconded: Commissioner Waldrip seconded the motion

Votes: Ayes: Commissioner Oksner, Commissioner Dodge, Commissioner Maxfield, Commissioner J. Kohler and Chairman Kohler.

Nays: None

Motion: Passed

3. Millie Medby is requesting a Conditional Use Permit for a Class "B" Beer License that would allow the sale of beer and wine in her business, Fill'er Up Coffee Station. The property is located at 210 East Main Street. This proposal is located in the C-2 Zone.

Planner Henke thanked Chairman Kohler and members of the commission.

Planner Henke stated that this request is for Conditional Use Permit for an Alcohol Dispensing Establishment for the Fill'er Up Coffee Station. The existing business currently offers food and non-alcoholic beverages. The applicant desires to offer beer and wine to her clientele if desired. If approved the applicant will be required to obtain the appropriate and required Class "B" Beer Business License from the City and to obtain the appropriate and required approval from the State of Utah Department of Alcoholic Beverage Control (DABC).

Planner Henke stated the approval of the Conditional Use Permit is an administrative act but, as

per State Code, the approval of the ability to sell alcohol is a legislative act and the City has broad discretion in that decision. This leaves the City with the question of how many establishments that serve alcohol do we want in the City?

Planner Henke presented a power point presentation of the property.

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

Planner Henke stated that no notice had been sent out to those within 600 feet of the property, because tonight is not a public hearing. However if it is approved tonight, the letters will go out in the next week to those property owners, who can then express their concerns at the Public Hearing which would be held at the City Council meeting.

Planner Henke stated that the possible conditions for this Conditional Use Permit would be the applicant must apply for and obtain a Class "B" Beer License from Midway City. The applicant must obtain approval from State DABC and post the required bond. The DABC will also have a public hearing on the license. All alcohol must be consumed on premise, and they will be subject to all terms and conditions within Chapter 7.03 of Midway City Municipal Code and the rules and regulations of the State of Utah.

Planner Henke stated that Mille wasn't able to attend the meeting. However she did send a representative, Megan Russell, so if anyone has any questions, they can ask Megan.

There was a discussion regarding the "Zion Curtain" policy and also if the State would even consider giving a license to the business, and if the business would be able to meet the city policy of food sales being at least sixty (60) percent of gross money receipts, and how that is monitored.

Ms. Russell stated that the owners have always complied with any requirement they have been given. If what they may have doesn't work for the "Zion Curtain", they will do whatever is needed to comply. Ms. Russell spoke with someone in the DABC Office, and they felt that as long as everything is approved through the City, there should not be a problem.

Planner Henke stated that in regards to the food sales, the City can request to look at their gross receipts to calculate if they are meeting that requirement. We haven't had to do that in the past, however if the City received a complaint then we would certainly be entitled to ask that question.

Planner Henke stated that Fresh Bakery had just received final approval to move into the house behind the business and they would be selling their food items through Fill'er Up Coffee Station. Ms. Russell stated that Fresh Bakery would be primarily running a wholesale business, and catering. However they would be selling all the retail items from Fresh Bakery at Fill'er Up Coffee Station, and that should increase the food portion that is sold. Planner Henke stated that Fresh Bakery has been in the community for some time, and they have a following, so they should do well with having their food sold in this new location.

Commissioner Maxfield asked how long the process for this type of use would take?

Planner Henke stated that assuming there is a recommendation from Planning Commission, this will go before the City Council next month, and once local approval is given, and the State will begin their process. It should take approximately about two months.

Ms. Russell indicated they needed to have all the paperwork into the State by July 10th, (cutoff) which is the day of the City Council meeting. Planner Henke stated that would be the Mayor's call. If she feels like it will be approved then she might be inclined to sign the paperwork.

Chairman Kohler asked if there were any other questions?

No further questions were needed.

Motion: Commissioner Stuart Waldrip made a motion to approve a Conditional Use Permit for a Class "B" Beer License that would allow the sale of Beer and Wine with the following conditions: The applicant must obtain a Class "B" Beer License from the City of Midway, the applicant must apply for and obtain approval and license from the State of Utah DABC, and that the applicant will uphold the terms and conditions within Chapter 7.03 Alcoholic Beverages of the Midway City Municipal Code and State of Utah. Also the findings were accepted as written in the Staff Report.

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

No further discussion was needed.

Seconded: Commissioner Dodge seconded the motion.

Votes: Ayes: Commissioner Oksner, Commissioner J. Kohler, Commissioner Maxfield, Commissioner Prince, and Chairman Kohler.

Nays: None

Motion: Passed

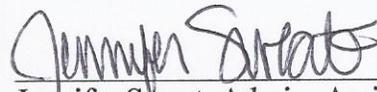
Commissioner Waldrip made the statement that there is a division of attitude about such things in the community. The reason he made the motion and the reason he is in favor of allowing such uses, is primarily based upon the positive effect it will have on attracting visitors to the City of Midway, who will then spend money here, and help out our local economy. He doesn't necessarily favor the consumption of alcoholic beverages but it is a practical fact that it attracts visitors.

Chairman Kohler asked for a motion to adjourn

Commissioner Prince moved for adjournment @ 7:50 p.m.



Kent Kohler, Chairman



Jennifer Sweat, Admin. Assistant