

**Midway City Planning Commission Regular Meeting  
January 16, 2013**

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 7:00 p.m. January 16, 2013, at the Midway City Community Center  
160 West Main Street, Midway, Utah

**Attendance:**

Kent Kohler - Chairman  
Mickey Oksner – Co-Chairman  
Karl Dodge  
Michael Hilliard  
John Rather  
Angie Kohler  
Steve Nichols  
James Kohler

**Staff:**

Michael Henke – Planner  
Sandy Norskog – Assistant Planner  
Jennifer Sweat – Administrative Assistant  
Kraig Powell – City Attorney

**6:50 P.M. Work/Briefing Meeting**

Planner Henke presented the City Council Liaison Report to the commission. They discussed the business that was discussed by the City Council in the January 9, 2013. No action was taken and the public was welcome to attend.

**7:00 P.M. Regular Meeting**

**Call To Order**

Chairman Kent Kohler opened the meeting and welcomed the public, commissioners, and staff.

Commissioner Nichols offered the invocation.

Chairman Kohler led the pledge of allegiance.

Chairman Kohler, by way of information, stated that Commissioner Stu Waldrip would be excused this evening, and Commissioner Steve Nichols will be a voting member tonight.

**Regular Business**

**1. Review and possibly approve the Planning Commission Minutes of December 19, 2012.**

**Motion:** Commissioner Angie Prince made the motion to approve the Planning Commission Minutes of December 19, 2012.

**Seconded** Commissioner Oksner seconded the motion.

**Votes: Ayes:** Chairman Kohler, Commissioner Oksner, Hilliard, Dodge, Rather, Nichols

**Nays:** None

**Motion:** Passed

**2. Julie Wagstaff, agent for Mogul Management, is requesting a Conditional Use Permit**

**for a transient rental unit located at 1075 North Turnberry Court. This proposal is located in the R-1-22 zone and in the Transient Rental Overlay District.**

Assistant Planner Sandy Norskog presented this item.

Assistant Planner Norskog thanked Chairman Kohler and the commissioners. As Chairman Kohler stated, this item is a request for a Conditional Use Permit (CUP) by Mogul Management for one transient rental unit located at 1075 North Turnberry Court. The applicant is proposing to rent the condominium as a transient rental if the CUP is approved. Transient rental units can be rented for periods of less than 30 days if located within the Transient Rental Overlay District (TROD) and properly licensed. This unit is within the TROD but outside of the Resort Zone (RZ) and therefore requires a CUP prior to obtaining the appropriate transient rental license. Additionally, each transient rental unit must be managed by a licensed transient rental unit property manager. It must comply with all of the requirements listed in Chapter 7.06 of the Midway municipal code.

Some of the requirements include two parking stalls per unit and a contract with a transient rental unit property manager who is licensed within the City. The applicant is prepared to submit a license application for the transient rental unit, as well as a license for transient rental unit property manager to manage their property. Their offices are located at 210 East Main Street in Midway. All inspections will need to be completed before any licenses will be issued.

The location of the property was presented via PowerPoint, showing aerial pictures, as well as on-site photos of the property.

Assistant Planner Norskog stated that the applicant representative, Julie Wagstaff was present and could answer any questions the board may have.

*Commissioner Oksner stated that the Homestead did previously have half a dozen units in the area that they were using as nightly rentals. Is this something that still occurs?*

Assistant Norskog stated that no, currently the Homestead does not have an active license for transient rental management, so they are no longer renting any condo's in this area nightly. Zermatt however does have an active license but they are only renting units in the hotel complex. There are a few others in the area that are managed separately.

*Commissioner Dodge asked if they would be able to put out "For Rent" signs, on the property or on the building?*

Assistant Norskog stated that she wasn't aware of anyone putting out signs stating the units were for rent. Typically the advertisement is handled online via vacation websites, such as VRBO, Homeaway, etc.

Planner Henke stated there are no limitations for having For Rent or For Sale signs, however in the case of Transient Rental units, we haven't had any problems with signs.

Chairman Kohler invited the applicant to come to the podium so she could add any information she was aware of regarding this matter.

Julie Wagstaff, the agent for Mogul Management, the applicant, stated that the HOA for Turnberry does have restrictions in place on putting up any For Rent signs. They are not allowed.

Planner Henke stated that the code does state you are not allowed to have signs up for transient rentals units. This will not be an issue with this unit.

Commissioner Oksner asked if there was a limitation on the number of units in the subdivision that could be used for short term rentals?

Assistant Planner Norskog stated that there is no limitations that she is aware of so any homeowner can apply for a rental unit. The letter sent to neighbors prior to city council is the mechanism that if anyone is concerned about the unit becoming a rental, they are able to voice those concerns at the meeting before City Council. Also Assistant Planner Norskog stated that as far as she was aware there was no limitation stated in the HOA CC&R's.

**Motion:** Commissioner Karl Dodge made the motion to approve the Conditional Use Permit for a transient rental unit located at 1075 North Turnberry Court, with the conditions as follows:  
1. Non-Compliance with the municipal code or complaints about tenants or the use of the property not resolved by a property manager that are brought to the attention of the City may result in the revocation of the transient unit license and 2. All inspections must be completed and issues corrected before a business license is issued.

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

Votes: Ayes: Chairman Kohler, Commissioner Prince, Hilliard, Rather, Nichols

Nays: None

Motion: Passed

3. Discussion regarding the proposed Code Text Amendments to Title 16.2: Definitions; Section 16.12: RA-1-43 Residential-Agriculture Zone; and a new section 16.13.44 would be added to Supplementary Requirements in Zones. The proposed amendments would allow commercial greenhouses as a conditional use in the RA-1-43 zone and personal greenhouses as a permitted use in all residential zones. Specific regulations would be adopted that would govern commercial greenhouses. This item was continued from the December 19, 2012 Planning Commission meeting.

Planner Henke thanked Chairman Kohler.

The Planning Commission held a work meeting on December 19, 2012. The purpose of the December 19<sup>th</sup> meeting was for the Planning Commission to better develop and discuss the issues regarding the definition of agriculture and the possibility of allowing commercial greenhouses in the RA-1-43 zoning district. Staff received direction in that meeting and has gathered the information so that the Planning Commission can further develop its recommendations, regarding these amendments, to the City Council.

A number of decisions were made in the meeting on December 19<sup>th</sup> that have helped staff better understand the direction the recommendation might take though there are still issues that need to be better defined. Planner Henke stated that he would discuss those outstanding issues later in the meeting.

Planner Henke stated that in the meeting on December 19<sup>th</sup> Staff introduced an alternative approach that was considered by the Planning Commission. This approach included three components. First, was to not amend the definition of agriculture as had been previously proposed. Second, was to allow personal greenhouses in every residential zone as a permitted use and would treat them as other accessory structures. Lastly, commercial greenhouses would be allowed as a conditional use in the RA-1-43 zone.

Planner Henke stated that the staff felt this approach would help ease some of the concerns regarding the changes proposed for the definition of agriculture. This would also avoid unintended consequences that could have resulted because of the change to the definition. In general it appeared the Planning Commission accepted the approach. Now the work is to better define the outstanding issues regarding the proposed amendments.

Planner Henke stated that one item that was discussed in the previous meeting dealt with how to address personal greenhouses. As per the commission's guidance, staff has developed a proposed definition for personal greenhouses that would be added to section 16.2 of the Land Use Ordinance:

*Greenhouse, personal: An accessory building on residential property in which plants are grown for personal use by the owner and/or residents of the property. No commercial uses or sales are permitted. The personal greenhouse is subject to all of the standards and restrictions for accessory structures in the specific underlying zoning district section of the municipal code.*

Below is an example of the proposed language that would be included under "permitted uses" in all residential zones. These zones include the R-1-7, R-1-9, R-1-11, R-1-15, and R-1-22.

#### **Section 16.11.12 Permitted Uses**

- A. One-family dwellings and related accessory buildings and uses. Accessory uses and buildings include garages, **personal greenhouses** and carports.

Planner Henke stated that the RA-1-43 has language distinct from the other residential zones. It is proposed that the current language be removed and proposed language be added to the code. The proposed language is the same language that would be added in all other residential zoning districts:

#### **Section 16.12.2 Permitted Uses**

- ~~B. One family dwellings and buildings accessory thereto located on one acre lots or larger.~~ **One-family dwellings and related accessory buildings and uses. Accessory uses and buildings include garages, personal greenhouses and carports.**

Planner Henke stated the proposed code is a work in progress and in the December 19<sup>th</sup> meeting there were a number of comments made that addressed issues that should be considered during the development of the proposed code. Planner Henke reviewed each of these comments:

- Acreage size – currently the proposed text requires a minimum of five acres to apply for a commercial greenhouse. This is an arbitrary number and could be changed to either more or less acreage.

- Open space – the current code text amendment does not require open space for commercial greenhouses. Greenhouses will only need to meet setback requirements. The current Land Use Code requires Planned Unit Developments to have 50% open space and Standard Subdivisions to have 15% open space. A similar requirement could be established for the impervious surface area of a commercial greenhouse project. The required open space could still be utilized for agriculture in a more traditional form such as pasture land, tilled land or potentially Christmas tree farms.
- Greenhouse size and scale – an issue that has been expressed to staff more than any other is the size of commercial greenhouses and how they will feel in an established residential/agricultural area. Currently there is no size limit proposed, though the size could be limited through the conditional use permit process based on the size of the property in question and the specifics of the surroundings uses to the proposal. The Planning Commission could recommend to the City Council a maximum size per greenhouse or a square footage percentage limitation of greenhouse size based on the acreage of the property. The idea behind a limitation is to help commercial greenhouses mix harmoniously in residential areas where the size of the dwellings and other accessory buildings are much smaller than the previously proposed greenhouses.
- Greenhouse height – currently the maximum height of any building is 35’ measured from natural grade. Greenhouses will also be allowed to rise to 35’ unless a specific limitation is placed on them.
- Setbacks and screenings – the proposed requirements for commercial greenhouses currently require consideration of screenings that include landscaping and berms. This idea could be developed further with more specific requirements.

Planner Henke stated that in the December work meeting a tiered approach was introduced to the Planning Commission. The purpose of this approach was to deal with the intensity of the use allowed in the commercial greenhouses. There are three options available and include the following:

- Plants in the ground
  - o Only allow plants to be grown in the traditional manner in the ground or in trays filled with soil
- Hydroponics
  - o Allows plants to be grown in water
- Aquaponics
  - o Allows plants to be grown in water and fish to also be raised in a symbiotic relationship

The question regarding the three scenarios listed above is if the intensity of the use is greater or not. If having fish inside the greenhouses is a more intensive use, should greater setbacks be required? Should more open space be required? Or can any impacts created from raising fish be mitigated so that setbacks, open space or any other issue be the same for this use.

Planner Henke stated that depending on the intensity of the use, the following examples for consideration in each tier should be considered and minimum standards established. Staff would like the following issues to be addressed and direction given so that the draft ordinance can be revised to reflect the minimum standards.

**Examples for consideration in each tier:**

- Acreage (minimum)
  - o 1 acre (43,560 sq. ft.) – minimum required for the RA-1-43 zone
  - o 5 acres (217,800 sq. ft.) – minimum required for greenbelt
  - o 10 acres (435,600 sq. ft.)
  
- Setbacks/screenings
  - o Minimum setbacks for the RA-1-43 zone (front 30', rear 30' & sides 15')
  - o 100' setbacks for greenhouses (all sides)
  - o 200' setbacks for greenhouses (all sides)
  
- Open space
  - o No open space required – setback minimums must be met
  - o 50% - same requirement as for PUDs
    - 1 acre (43,560 sq. ft.) – about 22,000 square feet of open space
    - 5 acres (217,800 sq. ft.) – about 2.5 acres of open space
    - 10 acres (435,600 sq. ft.) – 5 acres of open space
  - o 80% - based on intensity of use
    - 1 acre (43,560 sq. ft.) – about 35,000 square feet of open space
    - 5 acres (217,800 sq. ft.) – 4 acres of open space
    - 10 acres (435,600 sq. ft.) – 8 acres of open space
  
- Size/scale
  - o Tate Barn - 7,000 sq. ft.
  - o Town Hall - 12,000 sq. ft.
  - o LDS Church on Center Street - 18,000 sq. ft.
  - o The Store - 21,000 sq. ft.
  - o LDS Stake Center - 28,000, sq. ft.
  - o Elementary School - 65,000 sq. ft.
  - o Wal-Mart - 100,000 sq. ft.
  
- Height (many greenhouses fall between 25-30' tall)
  - o 25' height limit (typical for one-story modern single-family dwelling)
  - o 30' height limit
  - o 35' height limit (maximum allowed by code)

Planner Henke gave a visual demonstration of the above mentioned sizes, and what these guidelines would look like.

Planner Henke remind the commission that the following items were introduced to the Planning Commission in the December meeting. It appears there is no opposition to adding these issues into the proposed code. Staff will work to develop the language so that these two sections will be added into the draft code unless the Planning Commission gives direction that they are not needed.

- Photo simulations – it is important for the Planning Commission, City Council, staff, neighboring property owners and members of the community to understand the visual impact of a proposed commercial greenhouse development. Photo simulations from the surrounding area will be required for any proposal.
- Office, bathroom, warehouse facilities – commercial greenhouses will need to have support buildings so that the facility will be able to function properly. These buildings should be added to the site plan section of the requirements for commercial greenhouses.

Planner Henke stated that he felt the Planning Commission made good progress in the December work meeting regarding the proposal. The vision of Midway was discussed and how this type of use might be incorporated into the City while still maintaining that vision. With some more discussion and analysis the draft code can be amended so a recommendation can be sent to the City Council once the Planning Commission is comfortable with the proposed ordinance.

Planner Henke also stated that in the packet that was mailed out included examples of Staff Reports from different planning departments from around the country regarding commercial greenhouses.

Commissioner Rather asked RA-1-43 does that allow multiple buildings? Is there a limitation of spacing? Could there possibly be ten buildings on five acres?

Planner Henke stated that potentially you could have multiple buildings because there are no limitations currently in the code at this time. However you would need to meet the uniform building code. The only thing in the code is if you do have accessory structures they can only take up to 25% of your rear yard. That would be something we would calculate.

Commissioner Oksner stated that his big concern is size and design of the structures more so than the open space.

Commissioners talked about the concerns that they feel need to be looked at such as size and scope. If we had an Industrial zone in Midway then perhaps it would be a good fit. If hydroponics and aquaponics belong in Midway, do they belong in residential zones? Is there a difference between growing plants in soil or in water? Do we know enough about aquaponics, or do we need to learn more about it so we can make a better decision? The biggest thing brought up in other meetings was that no one wanted to look at greenhouses, so perhaps the thing they should be looking at is the size, not so much as what is going on inside, because that can be handled when submitting in application.

Commissioner Oksner asked Planner Henke about the status of a conference call with an expert?

Planner Henke stated that he did try to contact Sylvia Bernstein, however she didn't return his phone call and he wasn't able to set that up today. Planner Henke stated he wasn't aware of anything close by, except for the fish hatchery, and perhaps they could have someone from there come in.

Commissioner Dodge asked if we have ever talked about creating an industrial zone in Midway?

Planner Henke stated that there was some discussion especially when going through the General Plan process, about moving our business/manufacturing park to another area in Midway. Currently the area we have set apart for our business/manufacturing is outside the city limits. When we went through the General Plan process there was discussion about moving it to another site. The area discussed had a high water table, and limited access.

Commissioner Dodge stated that his biggest concern is that the areas we are talking about are the RA-1-43, and these really are part of the most beautiful parts of Midway. He would hate to see Commerical Greenhouses scattered all over our city. Maybe we should look at where it would have the lowest impact. If we want to have them in the city, then let's put them in a confined area not just anywhere in the RA-1-43.

Planner Henke stated that would be the same as we have done for the Transient Rental Overlay District, where we have outlined the area where that type of use can be, covering multiple zones. Potentially an overlay district could be drawn in the city, in a specific spot, and that is where that type of use would be allowed.

Commissioners continued the discussion on desired setbacks, size, and industrial vs. commercial uses. They discussed commercial greenhouses in other areas and their size. What type of guidelines do they want to have when discussing Personal Greenhouses and Commercial Greenhouses? The idea of "boutique" greenhouses was generally liked, and the Commissioners felt it would be a good fit for Midway. The biggest concern is having a commercial greenhouse in a residential area.

Planner Henke suggested a straw poll be taken of each one of the Tiered approach issues so we can better understand the direction the commissioners would like to go in.

Commissioners all decided that they are in favor of plants grown in soil.

Commissioners all decided that they are in favor of Hydroponics.

Commissioners all felt that they wanted to see more information on Aquaponics, or perhaps make aquaponics a conditional use permit only.

Commissioner Hilliard felt aquaponics could be based on a conditional use permit. He felt we could look at plants grown in the soil and hydroponics, and setup guidelines for them. Then if someone wants to come in aquaponics and leave the same imprint as plants grown in the soil or hydroponics, they can explain how that would work.

Commissioner's suggested different ideas for a potential motion and guidelines they all would feel comfortable with in regards to recommending to staff to bring back at the next planning

commission meeting. Planner Henke reviewed the previous shown slides showing the different setbacks and open spaces.

Commissioner Prince suggested that we look at creating an overlay district like we did with the transient rental zone for the areas that we would allow commercial greenhouses to be in. Commissioners Dodge and Hilliard were agreeable to this if it was possibility.

City Attorney Powell asked how many of the parcels in the RA-1-43 are five acre parcels? There may only be three or four parcels in the whole zone that would qualify for that.

Planner Henke stated that creating an overlay district is possible, but it would create some challenges. He believes a committee would need to be formed through the planning commission. They would need to decide where those lines would be drawn. It is a possibility but it would be a difficult process, because how would you define the criteria for those zones?

Planner Henke stated that he would work on putting together maps, and let them know how many RA-1-43 properties would have five acre or more acreage. Then he could bring back different scenarios with the suggestions that have been discussed tonight with the restrictions.

City Attorney Powell stated that everything we have been discussing, as Planner Henke stated would be a conditional use. If the commission decides to prohibit aquaponics but allow soil and hydroponics in greenhouses that is fine. However it is a possibility that the applicant could apply for a code text amendment to allow for aquaponics but it would be the responsibility of the applicant to provide the information as to why aquaponics should be allowed in Midway.

Planner Henke stated that it would force the developer or applicant to bring in their own experts to educate the commission, and the public because there would be public hearings.

Commissioners made a suggestion to staff that on commercial greenhouses we consider soil/hydroponic on at least five acres or more, 100 foot setbacks, appropriate screening (berms/trees/screens) maximum of 25 feet in height, no more than four buildings, at 10,000 square feet or less each per five acres. This would equate to about 23% building and 77% open space. This use would only be allowed in the RA-1-43 zones, and would require a Conditional Use Permit.

Commissioners made a suggestion to staff that on personal greenhouses we consider 25 feet height, and square footage no larger than 1000 square feet. Anything larger would need to apply for a conditional use permit in any residential zone. This use would be allowed in all zones, but again if larger than 1000 square feet, a conditional permit would be required.

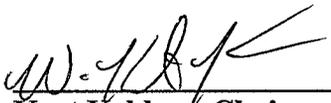
Planner Henke stated that he would take all of these suggestions and continue working on the draft ordinance. He will create different scenarios using these suggestions from the commissioners. Planner Henke stated that he would bring in maps showing RA-1-43 properties greater than five acres.

Commissioner Prince suggested that we look at all zones so we can see how many five acres areas we have, so we can see if we did do an overlay area, where would they be, and where the cluster might be using the criteria of five acres.

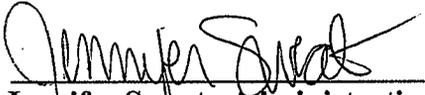
Commissioner Hilliard also asked for a specific map showing only the RA-1-43 zones.

Planner Henke stated that he would prepare those for the commissioners and present them at the next planning commission meeting.

Commissioner Prince moved for adjournment at 9:00 p.m.

  
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**Kent Kohler – Chairman**

  
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**Jennifer Sweat – Administrative Assistant**