

Midway City Council  
19 May 2020  
Regular Meeting

Café Galleria /  
Liquor License



## CITY COUNCIL MEETING STAFF REPORT

**DATE OF MEETING:** May 19, 2020

**NAME OF PROJECT:** Café Galleria

**NAME OF APPLICANT:** Andy Jenkins

**AGENDA ITEM:** Local consent for the purchase, sale, and consumption and use of alcoholic beverages

### **ITEM: 8**

Andy Jenkins is applying for a Conditional Use Permit for an alcohol dispensing establishment. His restaurant is Café Galleria which is located at 101 West Main Street. The property is 0.24 acres in size and is located the C-2 zone.

### **BACKGROUND:**

Andy Jenkins is the new owner of Café Galleria and he is requesting approval a Conditional Use Permit for an alcohol dispensing establishment. He recently purchased Café Galleria and is seeking the same permission from Midway that the previous owner had received which is the ability to sell and serve beer and wine at the restaurant. The property is located at 101 West Main Street and is in the C-2 zone and restaurants are permitted uses in that zone though alcohol dispensing establishments must be approved as a conditional use permit if they are allowed to serve alcohol. If the conditional Use is granted and local consent is approved, then they will need to apply with the Department of Alcoholic Beverage Control (DABC) for state approval.

The approval of a CUP 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. We do know tourism does generate business and taxes and some would argue that limiting beer licenses could damage tourism in the City.

Currently the City has approved the following licenses:

Tarahumara  
The Corner Restaurant  
Zermatt Resort  
Homestead Resort  
7-11  
Main Street Station  
Ridley's  
Blue Boar Inn  
Midway Mercantile

A Proximity Variance is required for this approval because of Café Galleria's proximity to Midway's Town Square. The front door of Café Galleria's to the Town Square is about 100'. State Code requires a minimum straight-line measurement of 200' for a license to be granted without a variance by the City. Therefore, since the distance is less than the requirements, the City will also have to grant a "Local Consent for Proximity Variance".

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 City Council must make in considering this request. Section 16.26.120 requires specifically the City Council 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.*
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 shall obtain approval of the CUP, Local Consent and Consent for Proximity Variance from the City Council and obtain and comply with all applicable state licensing requirements of the DABC.*

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 and associated traffic is consistent with commercial uses in the commercial zone of the City.*
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 existing approved use and typical events.*
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 license would continue to allow the sale of beer and wine at Café Galleria
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- The proposal is the same as the current approval for alcohol sales at Café Galleria
- The restaurant property is located within 200' of public property
- The State will require a proximity variance because of the location near the Town Square
- The State does regulate this type of alcohol license

**ALTERNATIVE ACTIONS:**

1. Approval (conditional). This action can be taken if the City Council 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 City Council 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 City Council 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 CONDITIONS:**

The following condition is the same condition that was approved for The Corner Restaurant and for Midway Mercantile.

1. No alcohol related signage will be visible on the exterior of the building or on the inside, visible from the outside.