

Midway City Planning Commission Regular Meeting Minutes November 8, 2022

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 6:00 p.m., November 8, 2022, at the Midway City Community Center 160 West Main Street, Midway, Utah

Attendance

Jeff Nicholas- Chairman
Andrew Osborne
Andy Garland
Laura Wardle
Kelly Lineback
Bill Ream (Zoom)
Genene Miles (Alt)
Travis Nokes (Alt)
Craig Simons-Vice Chair
(Zoom)

Staff

Michael Henke – City Planner
Melannie Egan – Admin. Assistant
Wes Johnson – City Engineer

Excused

Liaison Report

6:00 P.M. Regular Meeting

Call to Order

- Welcome and Introductions; Opening Remarks or Invocation; Pledge of Allegiance
 - Invocation was given by Andy Garland
 - Chairman Nicholas led the Pledge of Allegiance

Item 1:

Review and possibly approve the Planning Commission Meeting Minutes of October 11, 2022

Motion: Commissioner Garland: I make a motion that we recommend approval of the Planning Commission Meeting Minutes of October 11, 2022, as printed.

Seconded: Commissioner Wardle

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Lineback, Osborne, Miles, Wardle, Garland and Ream

Nays: None

Motion: Passed

Item 2:

National High School Rodeo Queen / County Fair Youth Participants (Sheila Siggard – Approximately 15 minutes) – Introduce McKardy Kelly, 2019 National High School Rodeo Queen and receive a presentation from youth who participated in the 2022 Wasatch County Fair.

Item 3:

Berg Engineering, representative for Derald Miller, is requesting a Zone Map Amendment of the Midway City Land Use Map. They are requesting that their parcel located at 1220 North Interlaken Drive be added into the Transient Rental Overlay District (TROD). The parcel is 5 acres and is zoned RA-1-43.

Michael Henke gave a presentation

Land Use Summary

- RA-1-43
 - Allows long-term rentals of 30 days or more
- 1 parcel
 - Miller – 5 acres
 - A concept plan has been submitted to subdivide the property
- Not contiguous to the TROD
- If included in the TROD then short-term rentals of 2-30 day are allowed as a Conditional Use
 - 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

Items of Consideration

- Property was a Bed & Breakfast in the 1990s and early 2000s
- Currently, a Bed & Breakfast is a conditional use on the property
- Access and utility easements must be obtained for any future land use changes
- City would benefit from Transient Rental Tax and Resort Tax
- Allowing zone changes does set a precedent

Possible Findings

- The proposed property is not contiguous to the TROD.
- The property does have a history of being used as a Bed and Breakfast.
- 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 and will help the City

to qualify to collect the Resort Tax.

- The City Council is under no obligation to approve the proposal but may do so if they find it will benefit the community.

The Derald Miller property located at 1220 North Interlaken Drive contains an existing residential structure built in 1982 that has a historical use as a bed and breakfast. The home operated as a bed and breakfast in the county and was annexed into Midway City in 2001. When Midway City created the Transient Rental Overlay District (TROD) in 2009 the property was not included although other bed and breakfast properties like the Johnson Mill, Blue Board Inn and Invited Inn were included. This request is to include the property in the TROD.

Below is a response to questions asked in the application to amend the zoning map.

Positive Impacts of the Proposed Change:

- Increases the number of rental options available for visitors to Midway City.
- Helps Midway City preserve it's resort tax status with the State of Utah.
- Increases sales tax and transient room rental tax income for Midway City
- Renovation of the home and improvements to the property that has not been maintained for many years.
- Allows the property owner to rent the existing home as a vacation rental or family reunion lodge instead of a bed and breakfast. Bed and breakfast is a dated rental model that is losing its popularity. Overnight rental of the entire home through a property manager and services such as VRBO and Airbnb are current methods for vacations.
- Allows the property owner the flexibility of living onsite and managing the property or hiring a property management company. If the property is operated as a bed and breakfast it must be the owners primary residence per Section 16.13.350.L of the Midway City code.
- Corrects the Midway City Zoning Map to include the property which has a historical transient rental use similar to other properties in Midway such as the Johnson's Mill, the Blue Boar Inn and the Invited Inn that were included in the TROD.

Miller Rezone



Negative Impacts of the Proposed Change:

- Some new neighbors in the area may not be aware of the historical transient use and may not be expecting overnight rentals since it is not shown on the current zoning map.

How the Proposal is in the Best Interest of the Community

- Increases the number of overnight rooms for visitors to Midway City.
- Helps Midway City preserve it's resort tax status with the State of Utah.
- Increases sales tax and transient room rental tax income for Midway City.
- Renovation of the home and improvements to the property that has not been maintained for many years.

We appreciate your consideration of the zoning map amendment. Please let me know if you have any comments or questions.

Applicant and Commissioner Comments

There was a discussion regarding island TRODS. Michael Henke stated that there are two island TRODS. The reason they exist is because they existed as a short term rental before the TROD was created.

There was a discussion regarding precedence and how that effects the future of Midway and possible issues in the future.

Paul Berg stated that the other bed and breakfasts were included in the TROD when it was created, he believes it was overlooked.

Paul Berg read some points in the letter that he included in the application.

It was clarified that the houses can only be rented by one entity. A bed and breakfast can have individual rooms rented. But the TROD short term rentals can only be rented as one unit.

There was discussion regarding the history of the various bed and breakfasts.

Andrew Osborne- Stated that he is against adding TRODS.

Public Hearing Open

Barbara McElhanney- 15 North 400 West- She stated she is against the proposal.

Eric Rossi- 1414 Mont Chapel Lane- He disagrees that the Castle home was overlooked when the TROD was created and he believes that it simply was not a bread and breakfast at the time the TROD was created. He is opposed to this and he does not believe this will have any effect on the rental tax.

Myron Lance- 28 North 300 West. He is very opposed to rezoning in any part of Midway. He is very disappointed in the direction it is going.

Leslie Rossi- 1414 Mont Chapel Lane- Does not want islands TROD's. Many people are wanting to make their home into a TROD and it is detrimental to the community. Keep the community

Neighbor to the Property (name and address unknown) She is against expending the TROD. She also stated about the TROD taxes are not keeping the property taxes down.

Greg Robinson 1358 Montauban- He would love to have the property restored.

Mrs. Miller (Property Owner) Their long term is to be here forever. The second home would be their home and they would be close by to make sure that the castle house is restored to it purpose and to also have our forever home.

Darold Miller- Far less intrusive than go back to a bed and breakfast model.

Public Hearing Closed

Motion: Commissioner Garland: I make a motion that we recommend denial of a Zone Map Amendment of the Midway City Land Use Map. They are requesting that their parcel located at 1220 North Interlaken Drive be added into the Transient Rental Overlay District (TROD). The parcel is 5 acres and is zoned RA-1-43. We accept the findings in the staff report.

Seconded: Commissioner Lineback

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Lineback, Osborne, Wardle, Garland and Ream

Nays: Commissioners: Miles

Recused:

Motion: Passed

Item 4:

Travis Nokes, representative for Atlas Holdings, is requesting a Zone Map Amendment of the Midway City Land Use Map. The property is divided between the C-3 (commercial) zone and the R-1-7 zone (residential). The proposal would rezone approximately 0.59 acres of property currently zoned R-1-7 to C-3. The applicant would also like the property included in the Transient Rental Overlay District. The property is located at approximately 256 West Main Street.

Michael Henke gave a presentation

Travis Nokes recused himself but stayed in the chamber to answer questions as he is the applicant.

Land Use Summary

- Zoned R-1-7
- Proposed zoning C-3 and TROD
- Contiguous to C-3 and TROD
- If included in C-3 zone, then all permitted and conditional uses in the C-3 zone would be allowed
- If included in the TROD then short-term rentals of 2-30 days are allowed as a Conditional Use
 - 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

Items of Consideration

- Surrounding property owners
- General Plan revision
 - Town Square visioning
 - Short-term rental

- Moderate income housing
- Moderate Income housing consideration
 - City cannot require moderate income housing except through negotiation
 - Proposed rezone could be approved contingent on requiring affordable housing (once a code is developed)
 - Allowing zone changes does set a precedent

Possible Findings

- The proposed property is contiguous to the C-3 zone and the TROD.
- The proposed revised General Plan has not yet been adopted so there is not clear direction regarding issues such as Town Square visioning and surrounding development, nightly rentals, and affordable housing.
- Transient rentals will help generate more transient rental taxes for the City and will help the City to qualify to collect the Resort Tax.
- The City has the ability to conditionally approve the proposal and require conditions that would not be possible for administrative actions.
- The City Council is under no obligation to approve the proposal but may do so if they find it will benefit the community.

Recommended Condition

If the City would like to approve the proposal, then it is only approved after the City and the developer have reached an agreement on affordable housing that will remain in perpetuity.

Applicant and Commissioner Comments

Michael Henke spent some time explaining the vision of Midway and the possible changes to the General Plan.

Travis Nokes spoke about the vision and reasons for wanting to develop the property and he gave a history of the property. He explained that he wanted to work with Midway to help have a launching pad for Midway employees and others that have a moderate income to provide them with affordable housing.

There was short discussion regarding fencing to protect the neighborhood from nuisances such as lights from cars etc. And yes, those issues can be requested for mitigation.

Travis Nokes stated that the commercial buildings in the beginning will be owned by one owner, but it could be possible that they could be individually owned at a later time.

There was a conversation regarding the parking spaces.

Public Hearing Open

Myron Lance 28 N 300 W- Is apposed and does not want this project. He wants a permanent neighborhood. Do not pass this.

Johnathon Clegg 247 W Main Street- Is opposed to the rezone of commercial and the TROD. He doesn't want more commercial inconsistent with the neighborhood.

Jared Alston, 60 North 400 W – He is opposed to this project. He is concerned that rezoning for merely financial gain is not right.

Scott McElhinney, 15 N 400 W- Is opposed to this request. Is there a community benefit? No, it is purely speculative at this point. This is just for parking and his need for it. Inconsistent to the general plan.

The neighbors will be adversely affected. The proposal is premature. He believes that zoning by piece mail is wrong.

Roben Gocker, address unknown- Is opposed to the project.

Roger Peay, 273 W 100 N- Is opposed. He is concerned the about the traffic. Wants to know about a traffic study. He is concerned about lighting. Worrying about changing the entire atmosphere of the area.

Sheila Siggard- Is opposed. She is concerned about the changes. Wants rural, agricultural and serene is what the citizens want.

Russell Athay, 5 N 400 W- Is opposed to the project. He doesn't understand how this project could be packed into such a small lot.

Robert Spencer- 200 W- Opposed all the changes. The current zoning has been around a long time.

Denny Hofines, 364 W Main Street- Is opposed to the project. The neighborhood is the oldest and quietest in Midway and he does not want the changes. One change led to another change. Does not want more nightly rentals, brings in crime. He believes that it is all money.

Susan Peay, 273 W 100 N- is opposed to the project.

Kayla Springer Atlas (Property Owner)– She explained the project. She stated that many people want to project, people want it. She explained the intention of the project.

Moody Resident, 50 N 400 W- Is not happy with the project.

Santa Spencer, 240 W Main Street- She is very opposed against this project. She is going to be surrounded by tall commercial buildings.

Grant Robertson, 16 S 240 W- Is opposed to the project.

Eric Rossi- Opposed to any zone change and TROD change. The owner has other options.

Sue Ellen Lime Canyon Road- Is opposed to changing more zoning. Wants to slow the growth and preserve the land and especially the wonderful pocket parcels.

Public Hearing Closed

Motion: Commissioner Lineback: I make a motion that we recommend denial of the Zone Map Amendment of the Midway City Land Use Map. The property is divided between the C-3 (commercial) zone and the R-1-7 zone (residential). The proposal would rezone approximately 0.59 acres of property currently zoned R-1-7 to C-3. The applicant would also like the property included in the Transient Rental Overlay District. The property is located at approximately 256 West Main Street.

Seconded: Commissioner Osborne

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Garland, Wardle, Miles, Osborne and Lineback

Nays:

Recused: Commissioner Nokes

Motion: Passed

Item 4:

Travis Nokes, representative for Atlas Holdings, has submitted a Preliminary application and Conditional Use Permit for the proposed Springer Farms, a mixed-use project on approximately 1.26-acres. The proposed plan is a commercial planned unit development and includes eateries, commercial space, and short-term lodging. The property is located at 65 North 200 West in the C-3 zone.

Michael Henke gave a presentation

Land Use Summary

- 1.26 acres
- C-3 zoning
- Frontage 200 West (SR 222) and access to Main Street
- Fronts Town Square
- Will be recorded as one plat
- Private driveways, parking, and landscaping that will be common area and will be maintained by the POA
- 3 buildings
- 26 units
 - Restaurant
 - 10 commercial spaces
 - 14 short-term rentals
 - 1 full dwelling (possible short or long-term occupancy)

Conditional Use

- Proposal is a conditional use
 - (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

- (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

Items of Consideration

- Water rights
 - Water Board review on 12-5-22
- Architectural theme
 - VAC review on 11-16-22
- Parking
 - 47 required stalls
 - 40 stalls are provided in the application area

Commercial parking may not be in the R-1-7 zone

- Setbacks
 - Commercial buildings bordering a residential use in a commercial zone is 8'
 - Commercial buildings bordering a residential zone is 15'
- Maximum height of 35'
 - Architectural elements may reach a height of 52.5'
- TROD

Property Owners' Association

- Access easement across property to Main Street
- Landscaping and fencing plan
- Lighting
 - All lighting to have full-cut-off except as allowed otherwise by code
- Dumpster and snow storage
- UDOT approval and improvements to 200 West

Possible Findings

- The proposal will benefit the City financially by creating a greater tax base and by providing more commercial options to the community.
- The proposal may help the City better comply with State requirements regarding the ability to collect resort tax.
- Commercial condominium developments are a conditional in the C-3 zone.
- Seven more stalls are required based on the proposed plans.

Recommended Conditions

1. A landscaping and fencing plan must be submitted for review by the VAC and Water Board.
2. An access easement will need to be recorded across the property not included in this application to assure continued access from Main Street.
3. The plan must be modified to comply with parking requirements, or a combined parking area plan or mixed-use parking plan must be submitted and approved by the City Council.

Motion: Commissioner Wardle: I make a motion that we recommend continuing the preliminary application and Conditional Use Permit for the proposed Springer Farms, a mixed-use project on approximately 1.26-acres. The proposed plan is a commercial planned unit development and includes eateries, commercial space, and short-term lodging. The property is located at 65 North 200 West in the C-3 zone. That we get further information in the staff findings.

Seconded: Commissioner Garland

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Garland, Wardle, Miles, Osborne and Lineback

Nays: None

Recused: Commissioner Nokes

Motion: Passed

Item 5:

Thomas Thibodeau is applying for a Conditional Use Permit for an alcohol (beer only) dispensing establishment that will be named Hidden Peak Provisions Craft Deli and Market. The applicant is also requesting Local Consent to sell alcohol. The restaurant is located at 93 West Main Street and is in the C-2 zone.

Michael Henke gave a presentation

Land Use Summary

- C-2 zoning
- 93 West Main Street
- Restaurant is a permitted use
- Alcohol requires a conditional use and local consent
 - Beer only restaurant
 - Restaurant limited
- Maximum 30% of sales may be alcohol
- Any customer that wishes to purchase alcohol must purchase prepared food

Possible Findings

- The proposed license would allow the selling of closed container alcohol at Hidden Peak Provisions.
- Less than 30% of all restaurant sales may be alcohol.
- Any customer wishing to purchase alcohol must also purchase prepared food.
- The State does regulate this type of license and approval from the Department of Alcoholic Beverage Services is required.

Proposed Conditions

- No alcohol related signage will be visible on the exterior of the building or on the inside, visible from the outside from 100 West.

Applicant and Commissioner Comments

Thomas Thibodeau clarified what type of restaurant it will be. It will be a deli that will serve sandwiches. Using featured producers that are high quality and local products. There will be some inside seating and perhaps a few outdoor seats in the summertime. People will also be able to buy meats and other products that they could take home and prepare themselves. Also, they will not be able to come in and purchase alcohol and take it home.

Motion: Commissioner Garland: I make a motion that we recommend approval for a Conditional Use Permit for an alcohol dispensing establishment that will be named Hidden Peak Provisions Craft Deli and Market. The applicant is also requesting Local Consent to sell alcohol. The restaurant is located at 93 West Main Street and is in the C-2 zone. We approve local consent; we approve the staff findings and to add a condition that there be no ability to have a beer garden and no alcohol signage.

Seconded: Commissioner Osborne

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Garland, Wardle, Miles, Osborne and Lineback

Nays: None

Motion: Passed

Item 6:

Berg Engineering, agent for Still Water Holdings LLC, is proposing preliminary approval for a five-lot subdivision to be known as Kay's Landing. The lot is 10.01 acres and is located at approximately 1375 South Stringtown Road and is in the RA-1-43 zone.

Michael Henke gave a presentation

Land Use Summary

- 11.14-acres
 - 1.5 acres of open space
- RA-1-43 zoning
- Proposal contains five single family building lots
- Access to lots is provided by a public cul-de-sac that will be built in the subdivision
- There are no known sensitive lands on the property
- The lots will connect to the Midway Sanitation District's sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary waterline

Items of Consideration

- Trails
 - 8' public trail along cul-de-sac
- Geotechnical report
- Open space

- 15% open space is required
- Storm water
 - Detention pond will be on lot 5
 - An access easement and storm drain easement will be included on the plat
 - An access gate must be provided if the area is fenced

Recommended Water Requirement

- 11.14-acre parcel (485,258.4 sq. ft.)
- 9.6-acre lot area (418,176 sq. ft.)
 - Impervious area for dwelling, accessory structures, hard surfaces
 - 0.92 acres (5 x 8,000 sq. ft. = 40,000 sq. ft.)
 - Irrigated acreage
 - 8.68 acres x 3 = 26.04 acre feet
 - 0.61 acres in park strip x 3 = 1.83 acre feet
 - Total irrigated acreage 9.29 (27.87 acre feet)
 - 5 culinary connections
 - 4 acre feet
 - 31.87 acre feet requirement

Possible Findings

- The proposal does meet the intent of the General Plan for the RA-1-43 zoning district.
- The proposal does comply with the land use requirements of the RA-1-43 zoning district.
- 1.5 acres of open space must be created as part of the development, which will be noted on the plat and restricted from future building or development.
- The property is restricted to five lots by a private deed restriction and by the annexation agreement.
- The duration of final approval shall be for one year from the date of final approval of the development by the City Council. Should a final plat not be recorded by the County Recorder within the one-year period of time, the development's approval shall be voided, and both preliminary and final approvals must be re-obtained, unless, on a showing of extenuating circumstances, the City Council extends the time limit for plat recording, with or without conditions

Proposed Conditions

1. Geotechnical study must be submitted with final application submittal.
2. 15% open space must be designated on the plans.

Applicant and Commissioner Comments

There was clarification on the water requirements.

Motion: Commissioner Lineback: I make a motion that we recommend approval for preliminary a five-lot subdivision to be known as Kay's Landing. The lot is 11.14 acres and is located at approximately 1375 South Stringtown Road and is in the RA-1-43 zone. We accept the staff report and the conditions listed in the report. We add a third condition to pay the bike lane fee.

Seconded: Commissioner Wardle

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Garland, Nokes, Wardle, Miles, Osborne and Lineback

Nays: None

Motion: Passed

Item 7:

Watts Enterprises, agent for Midway Springs LLC Series II, is proposing preliminary approval of phase 5 of Watts Remund Farms Planned Unit Development. The proposal contains ten building pads on 9.22 acres. The property is located at 400 North Farmhouse Way and is in the R-1-15 zone.

Michael Henke gave a presentation

Land Use Summary

- R-1-15 zone
- 10 pads in a PUD subdivision
- 9.22 acres
- 5.57 acres of open space
- Private road
- Sensitive lands include wetlands
- The lots will connect to the Midway Sanitation District sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary water line

Items of Discussion

- Sensitive lands protection
 - Wetlands must be fenced with temporary construction fencing during construction of infrastructure and during home construction
- U. S. Army Corps of Engineers Letter
 - Approval has been received to encroach on 0.034 acres of wetlands in Phase 5
- Trails
 - North-south paved public trail
 - East-west soft surface private trail with a public access easement

Water Board Recommendation

Phase 5 Water Rights per the 1/6/2020 Water Board Meeting:

Inside: 8.0/ac-ft

Irrigation: 6.75 ac-ft

Total Required: 14.75 ac-ft

Possible Findings

- The proposed plan does meet the requirements of the code for a PUD in the R-1-15 zone
- The public trail system in the development benefits the entire community by creating trails that connect to existing trails and helps complete the master trail plan
- The proposal does comply with the approved revised master plan for this phase
- 5.57 acres of open space must be created as part of the development, which will be noted on the plat and restricted from future building or development.
- A wetlands area of 0.034 acres will be encroached upon in phase 5 and a letter has been received from the U. S. Army Corps of Engineers approving the encroachment.

Proposed Condition

1. The applicant will be required to survey the boundary of the wetlands and then install and maintain temporary construction fencing while site improvements are being installed and while homes are under construction.

Applicant and Commissioner Comments

There were no changes made to the plans since the final approval was given to Phase 4.

Motion: Commissioner Garland: I make a motion that we recommend approval for preliminary approval of phase 5 of Watts Remund Farms Planned Unit Development. The proposal contains ten building pads on 9.22 acres. The property is located at 400 North Farmhouse Way and is in the R-1-15 zone. We accept the staff findings with the one condition listed in the report.

Seconded: Commissioner Lineback

Vice Chairman Simons: Any discussion on the motion?

Vice Chairman Simons: All in favor.

Ayes: Commissioners: Ream, Garland, Nokes, Wardle, Miles, Osborne and Lineback

Nays: None

Motion: Passed

Adjournment

Motion: Commissioner Garland

Second: Commissioner Osborne

9:59 PM



 Chairman – Jeff Nicholas



 Planning Tech – Melannie Egan