

# Midway City Planning Commission Regular Meeting Minutes November 10, 2020

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 6:00 p.m., November 10, 2020, at the Midway City Community Center  
160 West Main Street, Midway, Utah

## Attendance

Jeff Nicholas- Chairman  
Rich Cliften (Zoom)  
Andy Garland  
Michelle Crawford (Zoom)  
Heather Whitney  
Craig Simons

## Staff

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

## Excused

Rob Bouwhuis- V Chairman  
Bill Ream  
Jon McKeon

## 6:00 P.M. Regular Meeting

### Call to Order

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

### Chairman Jeff Nicholas removed Item 1 and 2 from the meeting

Item 1: October 13, 2020 Minutes

Item 2: The Homestead Phase 1 of the Homestead Master Plan

### Item 3:

Kirk Malmrose, agent for John Zenger Trust, is proposing final approval of phase 1 of The Reserve at Midway (formerly known as Midway Vistas). The Reserve at Midway contains 27 lots on 46.89 acres, of which, there are 13.63 acres of open space. The property is located at 285 Luzern Road and is in the RA-1-43 zone.

## **Planner Henke gave a presentation**

### **Land Use Summary**

- 46.89 acres in phase 1
  - Entire master plan 83.19 acres
- 13.63 acre of open space
- RA-1-43 zoning
- Proposal contains 27 building lots
  - Entire master plan contains 49 lots
- Project is a standard subdivision
- Private roads will be the responsibility of the HOA
  - Public access easement on all roads and sidewalks
- The lots will connect to the Midway Sanitation District sewer and to the City's water line.
- Paved public trails and a public trail easement for a back-country trail
  - Project will participate in an off-site trail about 300' in length along Homestead Drive

### **Water Board Recommendation**

The Water Board has reviewed the master plan and has determined that 191.24-acre feet are required for the entire project. Phase 1 would dedicate 120.18-acre feet, Phase 2 would dedicate 32.7-acre feet, and phase 3 would dedicate 38.36-acre feet. All the required water rights will be held in escrow before the master plan agreement is recorded.

### **Possible Findings**

- The proposal complies with the requirements of the code for standard subdivisions.
- The proposal does meet the vision of the area as described in the General Plan for the RA-1-43 zone.
- The public trails will be built by the developer that will be an amenity to the entire community.

### **Proposed Conditions**

- The developer will pay the cost of building a 300' section of trail along Homestead Drive that will take the place of the trail that the City built along Burgi Lane that was originally required of the developer. Payment is required before the phase 1 plat is recorded.
- All approved non-irrigated areas will be noted on the plats.
- A note is placed on the plats informing future owners that the 15 most elevated lots will each require an irrigation pump because they are located above the irrigation ditch.
- Private roads and sidewalks in the development will have a public access easement which will be noted on the plats and in the development agreement.
- Private trails with public trail easements will be maintained by the City with an annual maintenance fee paid by the HOA.

### **Commissioners and Staff Comment**

There was a discussion regarding the new trail proposal. Michael stated that the new proposal would be favorable to the Trails, Trees and Parks committee as the Chairman Rob Bouwhuis has been wanting the change, and with good negotiations between parties and the city, it was agreed upon to make it happen.

There was a discussion on water and overflow and the buried tanks. Wes Johnson and Paul Burg explained how it works and it is a mechanical device. The reason there will not be a detention pond is because the area where the tanks will be needed for overflow is because of the slopes and a detention pond cannot be built on a slope like a normal flat subdivision.

There was a short discussion regarding the dumpster location and an agreement has been submitted. The dumpsters will be moved to the new area sometime in the spring.

Russ Watts has worked with the trash company and have created a plan for the garbage trucks to be able to get in and out of the area safely.

There was a discussion about the HOA maintain the trails instead of the City with the HOA paying an annual maintenance fee to the city. Russ Watts has good new language that will be sent to Wes Johnson and Corbin Gordan for review. This will be done before city council. There was more discussion about some of the issues that has happened to other developments and the trails. Wes Johnson wants to make sure that all the bases have been covered. Russ Watts has committed to make that happen.

There was a discussion about a letter the city and a concern about outside lighting. Michael explained that we do have a dark sky ordinance, however single-family homes have a different standard. It is very difficult thing to regulate every home in a subdivision and single family and is a very difficult to police. Russ Watts stated that they do have a dark sky regulation in their CCNRs and in other projects within the city.

- **Motion:** Commissioner Simons: I make a motion that we recommend final approval of phase 1 of The Reserve at Midway (formerly known as Midway Vistas). The Reserve at Midway contains 27 lots on 46.89 acres, of which, there are 13.63 acres of open space. The property is located at 285 Luzern Road and is in the RA-1-43 zone. With the conditions and findings in the staff reports with the omission of condition number three (3) as it has already addressed with Midway Irrigation Company. Condition one (1) of The developer will pay the cost of building a 300' section of trail along Homestead Drive that will take the place of the trail that the City built along Burgi Lane that was originally required of the developer. Payment is required before the phase 1 plat is recorded. Condition two (2) that All approved non-irrigated areas will be noted on the plats. Condition four (4) that private roads and sidewalks in the development will have a public access easement which will be noted on the plats and in the development agreement. And condition five (5) stating that private trails with public trail easements will be maintained by the City with an annual maintenance fee paid by the HOA. This condition will be modified by the developer and the city.

**Seconded:** Commissioner Garland

**Chairman Nicholas:** Any discussion on the motion?

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Garland, Whitney, Simons, Cliften and Crawford

**Nays: None**  
**Motion: Passed**

**Item 3:**

Bill Probst, agent for Scotch Fields HOA, is requesting a plat amendment of Scotch Fields Phase 2. The proposed amendment would create a private road easement that would connect Canyon View Lane to property to the north owned by Clark Investment Group LLC for a potential future road. The area of the easement is 0.14 acres. The property is located at 330 West Canyon View Lane.

**Planner Henke gave a presentation**

**Plat Amendment**

- Create a 56' wide road easement that would connect Canyon View Lane with Clark Investment Group LLC
  - If approved, a road could be built on the easement in the future
  - Another access to the Clark Investment Group LLC property would expand the development potential of the property

**Items of Consideration**

- Development potential of the Clark property with or without a second point of access
- Clark property is in Wasatch county and its land use rights are in the County. The City has no obligation to help provide access or two make the property more developable.
- The General plan promotes open space and a rural atmosphere. Without a second point of access, the property will have less density which will create more open space and a more rural feel.
- Public trail crossing of the proposed road will need to be realigned and an easement will need to be dedicated for the new alignment.
- Scotch Fields PUD must have 50% open space. The building of the proposed road will leave the development with less then the required amount. The developer is proposing that some of the Clark property is dedicated as open space for Scotch Fields if the road is ever built.
- If the proposed road is public then the property will need to be dedicated to the City.

**Possible Findings**

- Allowing the plat amendment would increase the potential density and intensity of development on the Clark property.
- With a second point of access, the Clark property could have more commercial development that would create more tax base and, potentially, more rental rooms that would help the City to continue to comply with State requirements for the resort tax.
- Future development on the Clark property, with only one point of access, will have less density and have more open space.

- The City Council has full discretion regarding this type of plat amendment.

### **Commissioners and Staff Comment**

Heather Whitney disclosed that she is in an escrow phase of the Clark Property that is located directly north of the proposed amendment for Scotch Fields Phase 2. Paul Burg and Bill Probst both stated that they were fine with the disclosure and that they did not feel that recusal was necessary.

It was discussed that the developer of the Clark Property would pay for the road. Maintenance would depend on if the road is dedicated as public or private.

Paul Berg stated that this plan is just to help with discussion with potential buyers. It doesn't mean that it would necessarily be needed nor granted, but it gives them the answers they need to negotiate with potential buyers.

Bill Probst the developer of Scotch Fields stated that he will be very careful with what he approves if he even he would approve a proposition that could possibly be developed there. His home is right in that area and he stated that he has already turned away a developer that wanted to bring in 84 rental units. He does not want that near his personal home. Michael stated that even if this is approved, the city still has full discretion during the annexation process not to approve a development with too much density.

There was a discussion about the positives and negatives, and it was stated that the city has their cards with the annexation process and Bill Probst would have his cards by giving him negotiation potential.

Most of the commissioners agreed that this would be a good idea to approval. Michelle Crawford no. She didn't think it would be necessary at this time

**Motion:** Commissioner Simons: I make a motion that we recommend approval of a plat amendment of Scotch Fields Phase 2. The proposed amendment would create a private road easement that would connect Canyon View Lane to property to the north owned by Clark Investment Group LLC for a potential future road. The area of the easement is 0.14 acres. The property is located at 330 West Canyon View Lane. Accept findings in the staff report and a condition of and the condition of the developer of the Clark Property in the future to make up the difference of the lost open space if the easement and road get built.

**Seconded:** Commissioner Garland

**Chairman Nicholas:** Any discussion on the motion?

There were some clarifications added to the motion

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Garland, Whitney, Simons and Cliften

**Nays:** Crawford

**Motion:** Passed

### **Item 4:**

David Johnson, agent for Sally P. Brinton, is proposing final approval of a large-scale subdivision that will be known as Huntleigh Woods Subdivision. The proposal contains nine lots on 8.1 acres. The property is located at 885 North Pine Canyon Road and is in the R-1-15 zone.

### **Planner Henke gave a presentation**

#### **Land Use Summary**

- 8.1 acres
- R-1-15 zone
- 9 lots
- Public road
- 100' foot setback from Pine Canyon
- Public trail along Pine Canyon Road
- Homestead Golf Course

#### **Discussion Items**

- Sensitive lands
  - Floodplain
    - Zone AE & X
    - Located entirely in open space
- Existing culinary water line
  - Must be relocated
- Open space
  - 1.22 acre required
  - 2.01 acres provided
- 100' Setback from Pine Canyon Road
  - Setback for all structures

Will be noted on the plat

#### **Water Board Recommendation**

- 8.1-acre parcel
  - Area of parcel
    - 352,836 sq. ft.
  - Lots – 213,444 sq. ft (4.9 acres)
    - Impervious area for lots
      - 72,000 sq. ft. (9 x 8,000)
  - Irrigated area
    - Irrigated area of lots – 141,444 sq. ft. (3.24 acres)
    - Irrigated open space – 87,555.6 sq. ft. (2.01 acres)
    - Park strip (estimation) – 7,830 sq. ft. (0.18 acres)
  - Total irrigated acreage
    - $5.43 \times 3 = 16.29$ -acre feet
- 9 culinary connections
  - 7.2-acre feet (9 x .8)
- 23.49-acre feet requirement

## **Possible Findings**

- The proposal does meet the intent of the General Plan for the R-1-15 zone
- The proposal does comply with the land use requirements of the R-1-15 zone
- A public trail will be built as part of the subdivision that will benefit members of the community
- 2.01 acres of open space will be created as part of the development

## **Commissioners and Staff Comment**

There was a discussion as to how a golf course could be considered open space. Michael Henke explained that the city wants golf courses listed as open space and protected. If the golf course ever goes away the property could be developed and there could be homes built in that area. Having this area listed as open space assures that that would never happen.

**Motion:** Commissioner Simons: I make a motion that we recommend final approval of a large-scale subdivision that will be known as Huntleigh Woods Subdivision. The proposal contains nine lots on 8.1 acres. The property is located at 885 North Pine Canyon Road and is in the R-1-15 zone. We accept finding in the staff report and that the water that is needed for the Homestead will be resolved.

**Seconded:** Commissioner Whitney

**Chairman Nicholas:** Any discussion on the motion?

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Garland, Whitney, Simons and Cliften

**Nays:** Crawford

**Motion:** Passed

## **Item 5:**

Derek Kohler of Summit Engineering, agent for Randall K. Probst, is requesting preliminary/final approval of a Rural Preservation Subdivision to be known as Probst Farm. The property is five acres and located at 495 North Center Street and zoned R-1-15.

**Planner Henke gave a presentation**

## **Land Use Summary**

- 5.02-acre parcel
- R-1-15 zoning
- Proposal contains one lot
- Private driveway
- Sensitive lands
  - Wetlands
  - Major geologic features

- Minor geologic features
- The lot will connect to Midway City's culinary water line, Midway Sanitation District's sewer line, and Midway Irrigation Company's secondary water line

### **Possible Recommendation**

- 5.02-acre parcel
  - Area of parcel
    - 218,671 sq. ft.
  - Historically Irrigated
    - 196,020 sq. ft. (4.5 acres)
  - Impervious area for lots
    - 8,000 sq. ft. (1 x 8,000) (0.18 acres)
  - Irrigated acreage
    - 4.3 x 3 = 12.9-acre feet
    - 1 culinary connection
  - 0.8-acre feet
  - 13.7-acre feet requirement

### **Possible Findings**

- The proposed lot meets the minimum requirements for the R-1-15 zoning district
- The proposal does meet the intent of the General Plan for the R-1-15 zoning district
- The proposal does comply with the requirements for the Rural Preservation Subdivision code
- The subdivision helps comply with the vision stated in the General Plan to preserve open space and a rural atmosphere
- The lot will be deed restricted so it can never be further subdivided

### **Proposed Conditions**

- The deed restriction that will be recorded towards the lot must be submitted to the City for review and recorded immediately after the plat is recorded.
- A note on the plat is included with language that clearly states that subdividing the lot is prohibited.
- The driveway easement document is submitted to the City for review and recorded before the plat is recorded.
- 13.7-acre feet of water is tendered to the City before the plat is recorded.

### **Commissioners and Staff Comment**

There was a discussion about the barns and if they could be torn down. Michael stated that if the barns were tore down that they most likely would not be rebuilt because currently they are in the no build area.

- **Motion:** Commissioner Whitney: I make a motion that we recommend approval



preliminary/final Rural Preservation Subdivision to be known as Probst Farm. The property is five acres and located at 495 North Center Street and zoned R-1-15. Accept the staff findings and the proposed conditions which are that the deed restriction that will be recorded towards the lot must be submitted to the City for review and recorded immediately after the plat is recorded. A note on the plat is included with language that clearly states that subdividing the lot is prohibited. The driveway easement document is submitted to the City for review and recorded before the plat is recorded. And that 13.7-acre feet of water is tendered to the City before the plat is recorded.

**Seconded:** Commissioner Garland

**Chairman Nicholas:** Any discussion on the motion?

There were some clarifications added to the motion

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Garland, Whitney, Simons, Cliften and Crawford

**Nays:** None

**Motion:** Passed

### **Item 6:**

Midway City is proposing to adopt new code text to the Midway City Municipal Code. Section 16.2: Definitions and Section 16.30: Cannabis Production Establishments and possibly other sections of code would add regulations regarding cannabis.

### **Planner Henke gave a presentation**

#### **Code Text Addition**

- Define Cannabis Production Establishments and determine the zone in which they are allowed.
- Section 16.2: Definitions
  - Cannabis Production Establishments. Shall mean a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory, as those terms are defined in §4-41a of the Utah Code. (as amended).
- Section 16.30
  - Cannabis Production Establishments: Cannabis Production Establishments shall only be allowed as a permitted use in areas zoned B&MP (Business and Manufacturing Park) and C-2 (Commercial), subject to commercial architectural guidelines as established in this code, and shall not be allowed as a temporary and seasonal use. Cannabis Production shall meet all statutory and regulatory requirements, including those contained in §4-41 of the Utah Code.

#### **Possible Findings**

- State Code allows cities to decide which zones to allow for cannabis production
- If the City does not designate a zone, then any agricultural or industrial zone will be permitted zones for production
- Medical Cannabis Pharmacies will be allowed in Midway's three commercial zones C-2, C-3, and RZ

## Commissioners and Staff Comment

There was a short discussion as to why the language of shall not be allowed as a temporary and seasonal use is written in the new code. Michael stated that the reason is that it would further discourage a cannabis business coming to Midway.

There was a discussion about restricting signage and advertisement. Michael explained the sign code.

### **Public Hearing Open**

**None**

### **Public Hearing Closed**

**Motion:** Commissioner Whitney: I make a motion that we recommend approval to adopt new code text to the Midway City Municipal Code. Section 16.2: Definitions and Section 16.30: Cannabis Production Establishments and possibly other sections of code would add regulations regarding cannabis. We accept the staff report and findings and the proposed language.

**Seconded:** Commissioner Simons

**Chairman Nicholas:** Any discussion on the motion?

There were some clarifications added to the motion

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Garland, Whitney, Simons, Cliften and Crawford

**Nays:** None

**Motion:** Passed

Adjournment

**Motion:** Commission Whitney

**Second:** Commissioner Simons

8:45 pm



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Chairman – Jeff Nicholas

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Admin. Assistant – Melannie Egan

Approved

