

## Midway City Planning Commission Regular Meeting Minutes December 10, 2019

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 6:00 p.m., December 10, 2019, at the Midway City Community Center 160 West Main Street, Midway, Utah

### Attendance

Kevin Payne- Vice Chairman  
Bill Ream  
Rob Bouwhuis  
Natalie Streeter  
Heather Whitney  
Jeff Nicholas  
Jon McKeon

### Staff

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

### Excused

Jim Kohler-Chairman

### 6:00 P.M. Regular Meeting

#### Call to Order

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

#### Item 1:

Review and possibly approve the Planning Commission Meeting Minutes of October 8, 2019 and for November 12, 2019.

**Motion:** Commissioner Ream: I make a motion to approve the regular planning commission minutes of October 8, 2019 and for November 12, 2019 with the recommended changes given to Melannie Egan.

with the minor corrections.

**Seconded:** Commissioner Streeter

**Vice-Chairman Payne:** Any discussion the motion?

**There was none**

**Vice-Chairman Payne:** All in favor.

**Ayes:** Commissioners: Ream, Streeter, Nicholas, Bouwhuis, McKeon

**Nays:** None

**Motion: Passed**

## **Item 2:**

Berg Engineering, agent for Watts Enterprises, is requesting Preliminary Approval for phases 2, 3A, 3B, and 3C of Watts Remund Farms Planned Unit Development. The proposal is for 58 single-family dwelling units located on 34.91 acres. The proposal is located at 200 East 600 North and is in the R-1-15 zone.

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

#### **Land Use Summary**

- R-1-15 zoning
- 34.91 acres
  - 15.71 acres of open space
- Planned Unit Development
- Proposal contains 58 building pads
  - Phase 2 – 18.05 acres – Units 40-52, 59, 60, 69-76, 84-87
  - Phase 3A – 3.53 acre – Units 53-58, 61-68
  - Phase 3B – 4.1 acres – Units 77-83
  - Phase 3C – 9.22 acres – Units 88-97
- Private roads will be maintained by the HOA
- The lots will connect to the Midway Sanitation District sewer and to the City's water line.
- 6' paved public trail is planned to run north and south through the length of the property, another privately maintained trail with public access will run along the southern and eastern boundaries, lastly a trail will connect to Swiss Paradise Lane and then to the planned River Road roundabout at memorial Hill
- Sensitive lands of the property include wetlands, and stream corridors

#### **Site Studies**

- Phase 1 Environmental Study
- Surface Water Sampling Results
- Hydrology Study
  - to be completed over the coming years
- Wetlands Study
- Traffic Analysis
- Geotechnical Study

#### **Water Board**

- The Water Board has yet to review the amended master plan. A recommendation must be made before the proposal will be placed on a City Council agenda.

## **Possible Findings**

- The proposed plan does meet the requirements of the code for PUDs.
- The public trail system in the development will benefit the entire community by creating a trail away from collector roads.
- The proposal does comply with the approved master plan.

## **Comments and Questions**

Commissioner Ream asked about the trail system and the maintenance of the trails. Michael Henke clarified that the some of the trails will be maintained by the city.

No changes have been made to this master plan since it was approved in PC, except that some of the pads have been increased in the back so those owners can have a covered porch or pergola. Not all pads have that option.

There was a discussion about the trails being hard surface and soft surface. Paul Berg stated that the soft surface will be slag and Michael Henke stated that Dutch Fields would be a good example of what a slag surface is.

There was a discussion regarding the water sampling. The Water sampling results did not show any issue. The Hydrology Study is and ongoing study. Wetland Study is a one-time snapshot.

Paul Berg explained that what they have done and all the studies for the dairy and sulfur issues have been addressed and as there are no longer any issues, those studies do not need to continue.

**Motion:** Commissioner Nicholas: I make a motion to recommend approval for Preliminary Approval for phases 2, 3A, 3B, and 3C of Watts Remund Farms Planned Unit Development. The proposal is for 58 single-family dwelling units located on 34.91 acres. The proposal located at 200 East 600 North and is in the R-1-15 zone. We also accept the staff report and staff findings.

**Seconded:** Commissioner Bouwhuis

**Vice-Chairman Payne:** Any discussion the motion?

**There was none**

**Vice-Chairman Payne:** All in favor.

**Ayes:** Commissioners: Ream, Streeter, Nicholas, Bouwhuis, McKeon

**Nays:** None

**Motion: Passed**

## **Item 3:**

Berg Engineering, agent for Mountain Spa Investors LLC, is requesting a non-entitlement review of a concept plan for Mountain Spa which contains 156 units. The property is 78 acres and is located at 800 North and 200 East. The property is partially in the R-1-22 zone and partially in the Resort Zone.

## **Planner Henke gave a presentation**

### **Land Use Summary**

- 78.02 acres
- Zoning
  - R-1-22
  - RZ
- Sensitive lands
  - Wetlands
  - Hot pots

### **Concept Plan**

- 156 units
- Planned Unit Development (PUD)
- 130' setback from River Road
- 130 Setback from Burgi Lane
- 60' Setback from property line

### **Comments and Questions**

Michael Henke explained that the Resort Tax is not in compliance and annexing the campgrounds is just a Band-Aid for the next couple of years and then we will be out of compliance again.

There was a discussion about what is a unit that is qualified. If a property is available for rent on January 1<sup>st</sup> of every year it qualifies for the resort tax. The city files reports to the state using data from the city.

Paul Berg explained the motivations, and reasons for the zone change.

### **Ty Leistier gave a presentation**

He stated that this is just a concept and stated that this property has been vacant for many years. The economic development report clearly states that a resort is not supportable at this time.

There was a discussion of the traffic concerns and height concerns

Trails will not be built like Midway City wants if a resort is not built

Commissioner Nicholas asked if they planned to develop this or is it just seeking approval and then selling. Ty stated that they wanted to focus on the concept.

Making a zone change with no guarantees that the houses will be rented, will leave the city vulnerable if the project does not proceed.

Coral Canyon Project is a 2500-acre project, with over 1000 acres of open space and trails

There was a discussion regarding Airbnb, their reservation systems and the potential for error's of doubling the number.

Ty explained that there are ways to make sure that the units are rented by using the CC&Rs.

There was a discussion about open space

There was a discussion about having a rental management for the entire property for short term.

#### **Item 4:**

Midway City is proposing a code text amendment of Section 16.2: Definitions. The proposed code will define One-Family Dwellings. Also, this proposal will define when a second kitchen is allowed in a one-family dwelling and will explain what constitutes a second kitchen.

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

#### **One Family Dwellings**

One-family dwellings

- Permitted in all residential zones

Duplexes

- Permitted in the R-1-7 & R-1-9 zones

One-family dwellings needs to be defined so that staff can administer the code and the public can understand what is allowed

- State code requires clear and concise language

Currently staff reviews building permits to determine if what is proposed is a one-family dwelling or a duplex

- If a proposal has two kitchens one of the following must happen:
  - One kitchen must be removed or reduced to a wet bar
  - One kitchen cannot be "locked out" from the other
  - The second cannot have its own access from the outside or through the garage

If there are two kitchens, then a second kitchen affidavit is always required and recorded on the property

One-family dwellings that become duplexes have impacts on the community

Demand on service increases

- Traffic
- Parking
- Students in schools
- Water rights
- Impact fees

- Resort tax (increased population)
- Potentially promotes larger structures

Realtor.com defines a single-family home as the following:

- “A structure maintained and used as a single dwelling unit.” The site goes on to explain that there should only be one kitchen as described in the following: “A single-family home has one kitchen. Adding a kitchen to an in-law suite or carriage house will alter a home's zoning classification.”

### **Option 1**

Add the following language:

- *60. One-family dwelling. A building designed for use as a residence and includes only one kitchen and does not include basement suites, mother-in-law suites, or lockout units. Wet bars are allowed in one-family dwellings and may include a sink, microwave, and refrigerator but may not include a stove, oven, or dishwasher.*

### **Option 2**

Add the following language:

- *60. One-family dwelling. A building designed for use as a residence and does not include basement suites, mother-in-law suites, or lockout units. If a one-family dwelling includes more than one kitchen then one of the following options is required; 1. There is not a separate access to the second kitchen from outside the dwelling or from the garage, 2. There is not a door between the two kitchens. Wet bars are allowed in one-family dwellings and are not subject to the same restrictions as second kitchens and may include a sink, microwave, and refrigerator but may not include a stove, oven, or dishwasher.*

### **Additional Language in 16.13.40**

C. If a one-family dwelling includes more than one kitchen then one of the following options are required;

1. There is not a separate access to the second kitchen from outside the dwelling or from the garage,
2. There is not a door between the two kitchens.

Wet bars are allowed in one-family dwellings and are not subject to the same restrictions as second kitchens and may include a sink, microwave, and refrigerator but may not include a stove or oven.

D. If either of the aforementioned requirements are met that allow for a second kitchen then a second kitchen affidavit must be recorded, which prohibits that any area of the dwelling to be rented separately from the rest of the dwelling, with the County Recorder on the lot before a building permit is issued for the kitchens.

E. Outside kitchens are allowed.

### **Other Options**

Allow second kitchens with clearly defined parameters

- Limit the size of the accessory unit
- Require water rights
- Require impact fees
- Second kitchen affidavit
- The Planning Commission and City Council would need to identify the consequences of this action
- Affordable housing

### **Possible Findings**

- The proposed amendment will define one-family dwellings
- The proposed code will define if and under what circumstances second kitchens are allowed
- The proposed amendment will help staff to better administer the City's code
- The proposed amendment will help the public to understand the options available when building in Midway

### **Comments and Questions**

Commissioner Bouwhuis had some suggestions on the wording of the code and Michael Henke agreed to make those changes.

There was a discussion about a lock out and the benefits of not having a door at all vs a door with no lock.

**Motion:** Commissioner Bouwhuis: I make a motion of recommendation of approval for a code text amendment of Section 16.2: Definitions, as well as Chapter 16.13.40 with the agreed changes recommended by committee members in this meeting.

**Seconded:** Commissioner Streeter

**Vice-Chairman Payne:** Any discussion the motion?

**There was none**

**Vice-Chairman Payne:** All in favor.

**Ayes:** Commissioners: Ream, Streeter, Nicholas, Bouwhuis, McKeon

**Nays:** None

**Motion: Passed**

### **Item 5:**

Midway City is proposing a code text amendment of Section 16.13.6: Accessory Buildings Prohibited as Living Quarters and Section 16.2: Definitions. The proposed code will better describe what is allowed in an accessory structure and define what is considered living quarters. The proposed amendment will also address breezeways and their relation to accessory structures.

### **Accessory Structures (relook at the pp and fix this)**

## Section 16.13.6: Accessory Buildings Prohibited as Living Quarters

Living and sleeping quarters in any building other than the main residential building is prohibited except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.

- Living space in accessory structure needs to be defined so that staff can administer the code and the public can understand what is allowed

State code requires clear and concise language

- Breezeways must also be addressed

Staff has determined living space as the following:

- Bedrooms
- Kitchens
- Full bathrooms
- Laundry facilities

Staff has determined nonliving space as the following:

- Offices
- Hobby rooms
- Game rooms
- Music rooms
- Craft rooms
- Swimming pool areas

Potential code language:

- *Section 16.2.7a Building, accessory*
- *A subordinate building, located on the same Lot as the main building, the use of which is incidental to that of the main building. Accessory buildings are structures including, but not limited to: detached garages, sheds, playhouses, treehouses, storage buildings, pergolas, garden structures, greenhouses, boathouses, pool houses (may include showers), cabanas, and other similar buildings. Accessory buildings may include rooms such as offices, hobby rooms, game rooms, music rooms, and craft rooms. An accessory building may not include independent living space which includes rooms such as bedrooms, kitchens, full bathrooms, and laundry facilities. Accessory buildings are to be used exclusively by the owners or occupants of the main residential building and their temporary guests or invitees. Accessory buildings are not permitted to be used as sleeping quarters or as living space.*

### **Breezeways**

- Those who have wished to have living quarters in accessory structures have suggested that attaching the accessory structure to the main dwelling by connecting a breezeway makes the accessory structure part of the main structure.
  - Staff feels that up to a determined length that this may be the case
  - Staff suggests adopting a breezeway length limit for when a structure is considered an accessory structure



## Proposed Code

- *Section 16.13.6 Accessory Buildings Prohibited as Living Quarters*
- *A. It shall be a violation of the Midway City Code to use, or to allow the use of, an accessory building as living quarters. Violations of this section of the Code shall be enforced as set forth in the Midway City Code for other violations.*
- *B. Living quarters in any building other than the main residential building are prohibited except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.*
- *C. "Living quarters" in an accessory building shall be defined to include bedrooms, kitchens, laundry facilities, and/or full bathroom facilities.*
- *D. It shall be a violation of this Code to rent, lease or otherwise allow for any person to use an accessory building for living quarters.*
- *E. Breezeways or covered awnings connecting an accessory building to the main residential building are limited to twenty (20') feet in length for the entire structure to be considered the main residential building which allows living space in the entire structure. If a breezeway is greater than 20' in length, then the structure connected to the main structure is an accessory building is not allowed to have any living space.*

## Possible Findings

- The proposed code will define living space and what is allowed in accessory structures
- Allowed and prohibited uses are clearly stated for accessory buildings
- The proposed amendment will help staff to better administer the City's code
- The proposed amendment will help the public to understand the options available when building in Midway

**Motion:** Commissioner Streeter: I make a motion that we continue Item 5 proposing a code text amendment of Section 16.13.6: Accessory Buildings Prohibited as Living Quarters and Section 16.2: Definitions. Bring back in January to allow staff to make the suggested changes.

**Seconded:** Commissioner Nicholas

**Vice-Chairman Payne:** Any discussion the motion?

**There was none**

**Vice-Chairman Payne:** All in favor.

**Ayes:** Commissioners: Streeter, Ream, Bouwhuis, Whitney

**Nays:** None

**Motion: Passed**

## **Adjournment:**

**Motion:** Commissioner Bouwhuis: I motion to adjourn

**Second:** Commissioner Streeter

9:37 pm

Approved