

Midway City Planning Commission Regular Meeting Minutes October 10, 2023

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 6:00 p.m., October 10, 2023, at the Midway City Community Center
160 West Main Street, Midway, Utah

Attendance

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

Staff

Michael Henke – City Planner
Melannie Egan – Planning Tech
Wes Johnson – City Engineer

Excused

Genene Miles (Alt)
Katie Villani – Planner
Kelly Lineback

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 Commissioner Osborne
 - Chairman Nicholas led the Pledge of Allegiance

Item 1:

Review and possibly approve the Planning Commission Meeting Minutes of September 12, 2023

Motion: Commissioner Garland: I make a motion that we recommend approval of the Planning Commission Meeting Minutes of September 12, 2023, as corrected.

Seconded: Commissioner Ream

Chairman Nicholas: Any discussion on the motion?

Vice Chair Garland: All in favor.

Ayes: Commissioners: Ream, Wardle, Osborne, Nokes, Garland and Simons

Nays: None

Motion: Passed

Item 2:

Sheila Siggard County Fair Youth Livestock Presentation- Not Presented. Will present in November

Item 3:

Midway City is proposing a code text amendment that would update and clarify provisions in Section 16.16.070.A.16 of the Midway City Land Use Code regarding boundary line adjustments affecting open space and common area in recorded standard subdivisions and planned unit developments.

Michael Henke gave a presentation.

Code Amendment

- Clarifies language that prohibits the sale of open space or common area that would alter the boundary line of the subdivision.
- General Plan promotes preservation of open space
- Questionnaires of Midway residents have found that open space is a top priority
- Midway residents pay extra taxes for the open space bond to preserve open space
- Midway has adopted a pending ordinance to allow the code clarification to be addressed

Current Language

- Once a standard subdivision or a PUD is recorded no external boundary line adjustments that affect designated open space or common area or sale of designated open space or common area that alters an external boundary, including boundary line adjustments that would take portions of the designated open space or common area and move it outside of the recorded plat.

Proposed Language

- Once a standard subdivision or PUD is recorded, external boundary line adjustments that would affect designated open space or common area within the subdivision or PUD shall not be permitted. Neither shall the sale of designated open space or common area that would alter an external boundary line of the subdivision or PUD be permitted. This includes, but is not limited to, boundary line adjustments that would take portions of the designated open space or common area and move them outside the recorded plat.

Discussion

- Language has been added to complete the sentence fragment.
- The provision continues to prohibit the sale of designated open space or common area that would alter the boundary line of the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- The provision continues to prohibit boundary line adjustments that would affect designated open space or common area within the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.

Possible Findings

- The proposed lots meet the minimum requirements for the R-1-11 zone.
- The proposal does meet the intent of the General Plan for the R-1-11 zone.
- The proposal does comply with the requirements for the Density Reduction Subdivision code.
- The subdivision helps comply with the vision stated in the General Plan to preserve open space and a country/rural atmosphere.
- The lots will be deed restricted so they can never be further subdivided.
- The duration of Preliminary/Final Approval shall be for one year from the date of approval of the development by the City Council.
- Language has been added to provide an example of prohibited actions to further clarify the intent of the provision.
- The language continues to reflect the intent and importance to the City of Midway of protecting its green spaces and contractually protected open space and common areas, both for the benefit of its citizens generally, as well as homeowners that purchased land in subdivisions and PUDs relying upon plats and development agreements as recorded.
- Allowing otherwise risks opening a floodgate for applicants of new and/or established subdivisions and PUDs to seek to alter boundaries and/or sell open space or common area for financial return, reduction in maintenance costs, and/or other reasons.

Proposed Conditions

- The proposed amendment clarifies the language of Section 16.16.070.A.16 by eliminating a fragmented sentence without changing the intent and meaning of the provision.
- The provision continues to prohibit the sale of designated open space or common area that would alter the boundary line of the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- The provision continues to prohibit boundary line adjustments that would affect designated open space or common area within the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- Language has been added to provide an example of prohibited actions to further clarify the intent of the provision.
- The language continues to reflect the intent and importance to the City of Midway of protecting its green spaces and contractually protected open space and common areas both for the benefit of its citizens generally and homeowners who purchased land in subdivisions and PUDs relying upon plats and development agreements as recorded.

Public Hearing Open

None

Public Hearing Closed

Comments

There was a discussion regarding internal and external open space. Internal open space is protected by state code. The external open space language needs to be clearer to protect it with certainty.

There was a discussion regarding a recent attempt by an HOA that wanted to sell off their external open space.

Motion: Commissioner Ream: I make a motion that we recommend approval of a code text amendment that would update and clarify provisions in Section 16.16.070.A.16 of the Midway City Land Use Code regarding boundary line adjustments affecting open space and common area in recorded standard subdivisions and planned unit developments. Including the change to the language in the code as discussed.

Seconded: Commissioner Garland

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Wardle, Osborne, Nokes, Garland and Simons

Nays: None

Motion: Passed

Item 4:

Midway City is proposing a code text amendment of Section 16.02: Definitions and Section 16.13.280: Cottage Industries and any other sections referring to cottage industries. The proposed code will modify the language or remove the provisions for Cottage Industries.

Michael Henke gave a presentation.

Code Amendment

- Allowed as a Conditional Use Permit in all residential zones
- Rarely has been applied for in the past 10 years
- Allows commercial uses in residential zones
 - Clientele visiting the business
 - Increased traffic
 - Commercial signage
 - Architectural standards of accessory structure housing businesses

- Even though there are strict regulations there may be unintended consequences for the surrounding properties
 - The City Council shall determine if the number, height and floor area of any accessory building devoted to the cottage industry is in harmony with the size of the property and the density of the surrounding area.
 - The physical appearance, size and number of accessory building(s), and other activities in connection with the cottage industry, shall not be contrary to the objectives and characteristics of the zone in which the cottage industry is located.
 - H. The cottage industry shall not have more than three customer/client vehicles parked at the residence at any time, provided all vehicles can be legally parked in normal parking places on the lot of the cottage industry.

Current Language

- Cottage Industry. A business in a residential area conducted primarily by the residents of the property where customers or clients come to the home and/or where items are manufactured within an attached or detached garage or other outbuilding. Neither manufacturing nor storage of items related to the business are allowed outside of a building(s), which building(s) is/are approved by the City Council as a part of the conditional use approval.

Cottage Industry VS Home Occupation

- Home Occupations occur completely within the home, are clearly incidental to the residential use of the dwelling and allow no customers or other business to be conducted at the home
- Cottage industries may occur in an accessory building, allow customers and employees outside the residents of the home, and may require additional parking

Proposed Language

- Remove cottage industry from the code
 - Home occupations will still be an option and have less of an impact on residential zones

Discussion

- Language has been added to complete the sentence fragment.
- The provision continues to prohibit the sale of designated open space or common area that would alter the boundary line of the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- The provision continues to prohibit boundary line adjustments that would affect designated open space or common area within the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.

Proposed Conditions

- The Home Occupations classification allows an avenue for residents to work from home while

ensuring consistency with residential character of neighborhoods by requiring use to be secondary and subservient to residential use, that structures look residential, that work be restricted to residents, and no customer traffic. Cottage Industries, which do not share these restrictions, do not ensure consistency with residential zoning and use. Accessory buildings need not necessarily appear residential, customer and delivery traffic are permitted, and it is ambiguous where the line on manufacturing or light manufacturing falls.

- The Cottage Industries provision, in its current form, does not appear to set easily definable limits upon the scope of permissible work and manufacturing. The code limits the number of employees to the residents in the home and two others. There do not appear to be any limits on the type of manufacturing allowed.
- As more building occurs in Midway and density increases, deviations from residential use in residential zones logically may become more pronounced and bothersome to residents in these zones.
- The Cottage Industries provision in its current form is rarely used (approximately one application in the last decade). Most work in residential areas falls under home occupations, which share the advantages of cottage industries, but not the disadvantages, as set forth above.

Comments

There was a discussion regarding the fact that the code is outdated. But there is a gap with the business who may have limited clientele such as hairdressers. Michael stated that he could draft a change to the home occupation to open up having a limited and conditional clientele if the committee directs them to.

Public Hearing Open

None

Public Hearing Closed

Motion: Commissioner Osborne: I make a motion that we recommend approval of a code text amendment of Section 16.02: Definitions and Section 16:13.280: Cottage Industries and any other sections referring to cottage industries. The proposed code will remove the provisions for Cottage Industries in the current code.

Seconded: Commissioner Nokes

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Wardle, Osborne, Nokes, Garland and Simons

Nays: None

Motion: Passed

Item 5:

Midway City is proposing a code text amendment of Section 16.13.130: Location of Barns. The proposed code will clarify the language regarding barns and setbacks.

Code Amendment

- Clarify language regarding barns and other animal related facilities and setbacks
- Historically, the 100' setback has applied to corrals, coops, pens, and barns housing animals (as opposed to hay storage or other non-animal use)
- Because the Code does not define "Barn" for purposes of this provision, it arguably could be applied to any structure that looks like a barn, even if not used to house animals.
- There are structures that some would define as a barn and others would define as a shed or other accessory structure.
- The purpose of this proposal is to clarify the interpretation that has been used in Midway for decades.

Current Language

- No barn, corral, or coop shall be constructed closer than 100 feet from any existing dwelling on an adjacent lot or parcel or public street, nor shall any corral, pen, or coop be constructed or maintained closer than 30 feet to any open waterway that drains into a natural stream. Surface drainage from corrals, or coops shall not be permitted to drain into a waterway that drains into a natural stream.

Proposed Language

- No barn (used to house animals), corral, pen, or coop shall be constructed closer than 100 feet from any existing dwelling on an adjacent lot or parcel or public street, nor shall any barn (used to house animals), corral, pen, or coop be constructed or maintained closer than 30 feet to any open waterway that drains into a natural stream. Surface drainage from corrals, pens, or coops shall not be permitted to drain into a waterway that drains into a natural stream.

Discussion

- Language has been added to restrict application to barns used for purposes of housing animals, as opposed to storage of hay or other non-animal use. This is consistent with the historic application of this provision, as issues related to animals, such as noise, excrement, odor, etc., prompt setback requirements.
- Use of barns or barn-like structures for non-animal storage do not raise the same issues as animals.
- Restricting application to barns used to house animals makes the provision more internally consistent as corrals, pens, and coops are all associated with animal use.
- Ease of application: restricting application to structures used to house animals is a much simpler use to identify than trying to distinguish barns or barn-appearing structures based upon appearance or other less defined usages.
- The word "pen" appears in some places in the provision but not in all. The proposed revision uses the word "pen" more consistently throughout the provision to make the language more uniform and even.
- The language continues to reflect the longstanding intent and importance of separating animals and associated noise, odor, excrement, etc., from neighboring dwellings and

waterways.

Possible Findings Check Slides

- Ease of application: restricting application to structures used to house animals is a much simpler use to identify than trying to distinguish barns or barn-appearing structures based upon appearance or other less defined usages.
- The word “pen” appears in some places in the provision but not all. The proposed revision uses the word “pen” more consistently throughout the provision to make the language more uniform and even.
- The language continues to reflect the longstanding intent and importance of separating animals and associated noise, odor, excrement, etc., from neighboring dwellings and waterways.

Public Hearing Open

None

Public Hearing Closed

There was a discussion regarding setbacks

The code has been changed over the years and animal rights and number of animals is based by acreage and the point system.

Motion: Commissioner Garland: I make a motion that we recommend approval of a code text amendment of Section 16.13.130: Location of Barns. The proposed code will clarify the language regarding barns and setbacks. We accept the findings in the staff report.

Seconded: Commissioner Wardle

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas All in favor.

Ayes: Commissioners: Ream, Wardle, Osborne, Nokes, Garland and Simons

Nays: None

Adjournment

Motion: Commissioner Simons

Second: Commissioner Wardle

7:35 PM

Approved