

Midway City Planning Commission Regular Meeting Minutes February 13, 2024

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 6:00 p.m., February 13, 2024, at the Midway City Community Center
160 West Main Street, Midway, Utah

Attendance

Andy Garland- Vice Chair
Travis Nokes (Alt)
Andrew Osborne
Laura Wardle
Kelly Lineback
Genene Miles (Alt)

Staff

Michael Henke – City Planner
Melannie Egan – Planning Tech
Katie Villani – Planner

Excused

Bill Ream
Jeff Nicholas- Chairman
Wes Johnson – City Engineer

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 Lineback
 - Vice-Chairman Garland led the Pledge of Allegiance

Item 1:

Review and possibly approve the Planning Commission Meeting Minutes of November 14, 2024

Motion: Commissioner Wardle: I make a motion that we recommend approval of the Planning Commission Meeting Minutes of November 14, 2024.

Seconded: Commissioner Lineback

Chairman Nicholas: Any discussion on the motion?

Vice Chair Garland: All in favor.

Ayes: Commissioners: Lineback, Osborne, Nokes, Wardle, Miles

Nays: None

Motion: Passed

Item 2:

Review and possibly approve the Planning Commission 2024 Meeting Calander.

Motion: Commissioner Lineback: I make a motion that we recommend approval of the Planning Commission 2024 Meeting Calander

Seconded: Commissioner Nokes

Chairman Nicholas: Any discussion on the motion?

Vice Chair Garland: All in favor.

Ayes: Commissioners: Lineback, Osborne, Nokes, Wardle, Miles

Nays: None

Item 3:

Chuck Heath, representative for Midway Mtn Spa LLC, has submitted a Master Plan Amendment for the Ameyalli Resort on 28.87-acres. The proposed Master Plan Amendment would amend the Master Plan Agreement to allow portions of the Well-Being Center to exceed 35 feet above natural grade and would also amend to reduce the approved required parking, among other changes. The property is located at approximately 800 North 200 East in the Resort Zone.

Michael Henke gave a presentation.

Applicants Proposed Amendment

- Height Limit increased from 35' to 48' measured from natural grade
- Request to reduce the number of required parking stalls
- Reduce the number of phases from four to two
- Remove one of the inner private roads and replace it with a walking path

Master Plan Amendment

- Amending the approved master plan is a discretionary decision.
- The City Council is under no obligation to amend the approved and recorded agreement unless they feel it is in the best interest of the community.
- The City Council may also ask for changes to the master plan agreement during this process.
- If both parties agree to the proposed amendments that either side is petitioning, then the master plan may be amended, and the new agreement may be recorded.
- If either party does not agree, then the existing master plan continues to govern the development.

Height Limit Increase

- Increase height limit from 35' to 48'

- Applicant has stated that a relatively small portion of the structure would exceed 35' if approved
- The master plan agreement states the following: "Structures in the development cannot exceed 35 feet in height, measured from natural grade."
- Summit Land Conservancy also restricts the height of structures to 35'
- Applicant claims the height increase is needed because: "This is being requested due to found groundwater levels in the core building area during excavation of Phase 1 utilities and additional test holes taken for the core building."

Applicants Proposed Amendment

m) *Height of Structures* – Structures in the development cannot exceed 35 feet in height, measured from natural grade. **except for the core building which can be 48' in height above natural grade.**

- Required parking is 302 stalls
- Applicant is proposing to reduce parking to 287 stalls
- Proposal is to reduce parking by 15 stalls
- Reduction proposal is based on the resort having vans on site: *"One 15 person resort owned passenger van is the equivalent of 5 cars or 5 parking spaces. Three vans are proposed for the resort."*
- Remove private road from phase 2 and replace it with a walking path
- This will allow more spacing between the cottage units
- Staff has reviewed the proposal for code requirements and no issues have been identified

Possible Findings

- The proposed amendment to increasing height could negatively impact neighboring properties.
- The Resort Code does allow heights up to 55' if all requirements are met.
- It is currently unknown if there will be enough parking for the resort, much like any business, it is recommended that a contingency plan is developed in case parking is not sufficient.
- Reducing phasing from four to two phases should not have negative consequences.
- The removal of the private road from phase four will comply with fire code requirements and will create better spacing for the area.

Recommended Conditions

- The developer floats balloons at the site of the core building at heights of 35' and 48' to help visualize the impact of the proposed change.
- The developer includes more landscaping, mostly conifers, along the boundary with Lacy Lane Estates to help mitigate the visual impact of the increased height of the core building.
- The developer identifies future potential parking areas that will be developed if parking is determined to be an issue at the resort.

Comments

Andrew Osborne asked if there were comparisons of what was approved as to what the simulations show in the presentation. Michael Henke stated that there were not, but the planning commission can ask for it if they choose.

The maximum occupancy if the resort was fully occupied? 237 rooms in total.

It was clarified that the underground car park is a level 1 car park, not underground parking.

If land Conservancy does not agree with the height of the building, than the land conservancy would have to civilly pursue the agreement.

Travis Nokes clarified that the VAC does not approve on the height, the VAC recommends approval regarding the bare walls in the higher areas. And those changes were made in the presentation.

The architect stated that the two areas that are higher is basic are the elevator shafts. The height will need to 10 feet higher but the core building will meet the 35', it is mostly the elevator shafts. The shafts are approx. 15' x 15' and one is 10' x 20'. The design has not changed and has always had a step up and down.

Public Comment

Leslie Smoot who lives at Lacy Lane. We have not seen ground water mitigation without raising height. There are architectural alternatives that do not have to raise the height. We would like to see new designed. Public funds were used on this project, we urge you to adhere to the 35'.

Ryan Seare who lives in Lacy Lane. He is concerned the height is going higher and will have impact on people looking into private yards.

David Pursh also who lives in Lacy Lane is worried about the cars and parking area that will be raised as well.

Chuck Heath the developer commented from Zoom. He believes that he is complying with the height limit of 35'. We do believe that the architectural elements are also below the code of 55'. He believes that his intention has always been to comply with the code. Travis Nokes stated that the wording says "core" building seems like they could raise everything to 45' if this approved. Chuck Heath stated that they would be willing change the wording so that could not be misconstrued.

Yes code allows up to 55' but they don't have open space and land conservancy. What was the intent and what kind of precedence will this set.

Chuck Heath stated that Summit Lands is fine with the height changes, they just don't want the entire building to be at 45' but they are willing to modify the agreement.

Paul Berg talked about the parking calculations. He explained the chart and broke it into categories. He showed areas that could add parking here and there to make up the difference.

Travis Nokes would like a diagram of the skyline between the two designs. To get a real feel of the two proposals and the differences.

Laura Wardle stated that because of the public money that was invested on open space, she is stated that we have an obligation regarding that and is concerned.

Genene Miles is also concerned why these geo studies were not done before and why are the problems here now in the middle of the project.

Motion: Commissioner Lineback: I make a motion that we recommend denying for a Master Plan Amendment for the Ameyalli Resort on 28.87-acres. The proposed Master Plan Amendment would amend the Master Plan Agreement to allow portions of the Well-Being Center to exceed 35 feet above natural grade. We then approve and would also amend to reduce the approved required parking, with the condition that if at a future date a plan for extra is needed that a backup parking plan would be in place. We also approve of the reduction of four phases to two phases and to allow the private road to be removed and a walking path in its place. that The property is located at approximately 800 North 200 East in the Resort Zone.

Seconded: Commissioner Wardle

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Lineback, Osborne, Nokes, Wardle, Miles

Nays: None

Motion: Passed

Item 4:

Kevin Payne of Payne Family Trust is requesting Preliminary/Final approval of a Rural Preservation Subdivision to be known as Vincent Fields Rural Preservation Subdivision. The property is five acres and located at 1281 South Stringtown Road and zoned RA-1-43.

Katie Villani gave a presentation.

Land Use Summary

- 5.0-acre parcel
- RA-1-43 zoning
- Proposal contains one lot
- Private driveway, which requires a 30 foot wide easement for access across the new Lot 1 of the Vincent Fields Subdivision – Amended.
- Sensitive lands – None identified
- The lot will connect to Midway City's culinary water line, Midway Irrigation Company's secondary water line and Midway Sanitation District (although the parcel is large enough that it could have an onsite septic system as approved by the Wasatch County Health Department).

Discussion Items

- Deed restriction for Rural Preservation Subdivision

- Deed restriction for Whimsy Willow Lot 2
- 30' Access easement
- New sewer lateral

Possible Findings

- The proposed lot meets the minimum requirements for the R-1-43 zoning district
- The proposal does meet the intent of the General Plan for the R-1-43 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 plat will contain a note using the triangular system to explain its formation through vacating land from the Vincent Fields Subdivision.
- In accordance with the applicant's representation and understanding that "No additional lots are being created", each of the three plats (Vincent Fields Subdivision – Amended, Whimsy Willow Subdivision – Lot 2 Third Amendment, and the Vincent Fields Rural Preservation Subdivision) shall contain a prohibition against further subdivision as a condition of recording.
- The plats for the Vincent Fields Subdivision – Amended and the Whimsy Willow Subdivision – Lot 2 Third Amendment shall similarly contain notes using the triangular system to explain the changes (i.e.: The 5.00 acre rural preservation lot resulted from reconfiguring an existing 4.00 acre lot [former Lot 1 of the Vincent Fields Subdivision] and a 4.16 acre lot [former Lot 2 of the Vincent Fields Subdivision] into a 1.00 acre lot [new Lot 1 of the Vincent Fields Subdivision - Amended] and a 5.00 acre lot [new Vincent Fields Rural Preservation Subdivision], with the 5.00 acre lot vacated from the Vincent Fields Subdivision to become the new Vincent Fields Rural Preservation Subdivision and the remaining 2.16 acres being added to the existing Lot 2 of the Whimsy Willow Subdivision).
- A fire hydrant will need to be located within 500' of the future dwelling, measured by the route of a fire hose from the fire hydrant to the future home site.
- A new sewer lateral hookup with placement as approved by the City Engineer and the Midway Sanitation District.
- Before being placed on the City Council Agenda, the applicant will need to show a 30' wide driveway easement to allow access to the proposed rural preservation subdivision lot (which it is understood also will serve as a Public Utility Easement). The proposed Vincent Fields Subdivision – Amended and the Vincent Fields Rural Preservation Subdivision plats shall be revised to show a 30' wide rather than 20' wide easement.
- The plats for the Vincent Fields Rural Preservation Subdivision, Vincent Fields Subdivision – Amended, and the Whimsy Willow Subdivision – Lot 2 Third Amendment will be filed contemporaneously, and the Vincent Fields Rural Preservation Subdivision Plat shall not be filed without filing of the Vincent Fields Subdivision – Amended showing the required access

easement, unless the applicant shows proof of a separately recorded 30' wide access easement meeting the access requirements set forth above.

Comments

Kevin Payne clarified the acreage of the lots. He stated that the reason he wanted. The intent is to keep all of the. He explained that if he increased the acreage.

Motion: Commissioner Wardle: I make a motion that we recommend approval for a Rural Preservation Subdivision to be known as Vincent Fields Rural Preservation Subdivision. The property is five acres and located at 1281 South Stringtown Road and zoned RA-1-43. Accept the staff findings and all of the conditions listed in the staff report.

Seconded: Commissioner Lineback

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Lineback, Osborne, Wardle, Miles

Nays: Nokes

Motion: Passed

Commissioner Travis Nokes recused himself from the Committee, stayed in the chamber to answer questions as the developer.

Item 5:

Travis Nokes is requesting a Plat Amendment of the Robey Building of Springer Farms. The proposal would subdivide the Robey building into ten units. The Robey Building will consist of seven short-term rental units on the upper floor and three commercial units on the lower floor. The property is located at 65 N 200 W and is in the C3 zone.

Michael Henke gave a presentation.

Application Summary

- C-3 zone
- 1.26 acres
- Unit 4 is 4,747 square feet (building footprint)
- Unit 4 will be a condominium plat
- Unit 4:
 - Three lower floor commercial units
 - Seven short-term rentals (will not include kitchens or individual laundry facilities)
- Private driveways, parking, and landscaping that will be common area and will be maintained by the Property Owners' Association

Springer Farms

- Subdivide unit 4 into 10 units
 - 3 commercial units on lower level
 - 7 nightly rental units on upper level
- 13 units in Springer Farms Plat
- Previously required conditions
 - Fencing be installed per the proposed fencing plan and compliance with City requirements.
 - The windows facing off the property, on the second floor of any buildings, had to have window coverings installed on them.

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 use in the C-3 zone.

Proposed Conditions

None

Comments

Travis Nokes stated that nothing changes except that each will receive their own tax id number.

Motion: Commissioner Osborne: I make a motion that we recommend approval for a Plat Amendment of the Robey Building of Springer Farms. The proposal would subdivide the Robey building into ten units. The Robey Building will consist of seven short-term rental units on the upper floor and three commercial units on the lower floor. The property is located at 65 N 200 W and is in the C3 zone. Accept the findings in the staff report with no conditions.

Seconded: Commissioner Lineback

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Lineback, Osborne, Wardle, Miles

Nays: None

Motion: Passed

Item 6:

Travis Nokes is requesting Preliminary Approval to subdivide the Robey Building of Springer Farms into a commercial condominium. The proposal would subdivide the Robey building into ten units. The Robey Building will consist of seven short-term rental units on the upper floor and three commercial units on the lower floor. The property is located at 65 N 200 W and is in the C3 zone.

Michael Henke gave a presentation.

Application Summary

- C-3 zone
- 1.26 acres
- Unit 4 is 4,747 square feet (building footprint)
- Unit 4 will be a condominium plat
- Unit 4:
 - Three lower floor commercial units
 - Seven short-term rentals (will not include kitchens or individual laundry facilities)
- Private driveways, parking, and landscaping that will be common area and will be maintained by the Property Owners' Association

Springer Farms

- Subdivide unit 4 into 10 units
 - 3 commercial units on lower level
 - 7 nightly rental units on upper level
- 13 units in Springer Farms Plat
- Previously required conditions
 - Fencing be installed per the proposed fencing plan and compliance with City requirements.
 - The windows facing off the property, on the second floor of any buildings, had to have window coverings installed on them.

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 use in the C-3 zone.

Proposed Conditions

None

Comments

None

Motion: Commissioner Osborne: I make a motion that we recommend approval to subdivide the Robey Building of Springer Farms into a commercial condominium. The proposal would subdivide the Robey building into ten units. The Robey Building will consist of seven short-term rental units on the upper floor and three commercial units on the lower floor. The property is located at 65 N 200 W and is in the C3 zone. Accept the finding in the staff report with no conditions.

Seconded: Commissioner Wardle

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Lineback, Osborne, Wardle, Miles

Nays: None

Motion: Passed

Commissioner Travis Nokes rejoined the committee

Item 7:

Lane M. Lythgoe, agent for Steven B. Heiner, is proposing a code text amendment to add Section 16.13.130: Setback Exceptions for Historic Building Structural Reinforcement. The proposed code would add a Section 16.13.130 that would specify setback exceptions for historical structures and would allow historic building owners the ability to structurally reinforce their structures if the current footprint of the structure is nonconforming to the current setback codes.

Michael Henke gave a presentation.

Proposed Code Amendment

- Mr. Heiner resides at 271 North Center Street, which is located in the R-1-15 zone. Mr. Heiner's residence consists of a single story cottage with detached garage located on a .15 acre lot.
- Under existing code, lots as small as .15 acre are not permitted and main dwellings in the R-1-15 zone require a minimum setback of thirty (30) feet both front and rear. While both Mr. Heiner's lot and residence do not meet code, both the lot and structure preexist 1961 and the first zoning regulations in Midway so continue as legal nonconforming.
- Mr. Heiner seeks to renovate and enlarge the residence and has employed Mr. Lythgoe as his architect. Mr. Heiner advises he seeks to preserve the historic appearance and structure of the residence. Mr. Lythgoe advises that to preserve the historic structure, including the pot rock, the masonry structure would need to be reinforced with 10 inch by 10 inch vertical beams, which would in turn increase the footprint of the structure by 10 inches. As a legal nonconforming structure, the structure may not be made more nonconforming without authorization under the Code.
- The applicant requests that Midway City amend its code to provide an avenue for historic homes on nonconforming small lots the ability to reinforce the structures to preserve the historic nature and appearance of the structure when the modification will not increase the footprint of the structure by more than the depth of the support, and in no event more than one foot in any direction.
- The Applicant has not yet supplied proposed language for the code text amendment, nor provided details as to the proposed location of the structure and how the designs for the

structure will affect the current setbacks.

- Code text amendments fall under the category of a legislative action. Therefore, the City Council has broad discretion regarding the proposal.

Discussion

- It appears the requested application is limited to an existing recorded lot which does not meet the current minimum lot area and/or width requirements.
- It appears the requested application is limited to a nonconforming lot containing an existing dwelling that is legal nonconforming and would fall under the Protection of Older Buildings for Historic Preservation Provisions of the Code (Chapter 12.06).
- It appears the requested application is limited to structural changes to provide structural support, only, and which do not increase the footprint of the structure by more than the depth of the structural support and in no event more than one foot in any direction.
- While the Applicant seeks the code text amendment for his specific residence, any such amendment would apply to other comparable historic buildings which meet the same requirements.

Possible Findings

- The proposed amendment would allow the applicant to expand his dwelling while theoretically preserving the historic masonry and pot rock by permitting structural supports outside of the existing footprint of the dwelling. However, the dwelling, which is currently nonconforming with front and rear setbacks, would be made even more nonconforming in an amount equal to the depth of the added structural support.
- Restricting application to legally nonconforming, historic structures on small lots should limit applicability of such provision.
- Midway City has an interest in preserving historic structures, as evidenced by the Protection of Older Buildings for Historic Preservation Provisions of the Code.
- Consider making any such provision subject to review and recommendation by the Historic Preservation Committee, with final approval to rest with the Planning Director.

Comments

Mr. Lythgoe stated that the city is losing too much of history. He gave an explanation of why and how the reinforcement need came to be and how they came up with the half-timber reinforcement exoskeleton of the foundation.

Mr. Lythgoe shared a slide show that showed designs of the current structures and the new structure with the super half-timber as the structure beams. He explained how the half-timber is very European and he gave a history of the half-timber.

Public Hearing Open

None

Public Hearing Closed

Motion: Commissioner Osborne: I make a motion that we recommend approval of a code text amendment to add Section 16.13.130: Setback Exceptions for Historic Building Structural Reinforcement. The proposed code would add a Section 16.13.130 that would specify setback

exceptions for historical structures and would allow historic building owners the ability to structurally reinforce their structures if the current footprint of the structure is nonconforming to the current setback codes. Approved the findings of the staff report.

Seconded: Commissioner Lineback

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners:

Nays: None

Motion: Passed

Adjournment

Motion: Commissioner Wardle

Second: Commissioner Miles

8:47 PM

Vice-Chairman – Andy Garland

Planning Tech – Melannie Egan