Midway City Planning Commission Regular Meeting
May 20, 2015

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 7:00 p.m., May 20, 2015, at the Midway City Community Center
160 West Main Street, Midway, Utah

Attendance:
Stu Waldrip – Co-Chair
Natalie Streeter
John Rather
Jim Kohler
Nancy O'Toole

Staff:
Michael Henke – City Planner
Lindy Rodabough – Admin Assistant
Wes Johnson – City Engineer

Excused
Mickey Oksner – Chairman
Chip Maxfield
Bill Ream
Steve Nichols

6:45 P.M. Work/Briefing Meeting

- City Council Liaison Report, no action will be taken and the public is welcome to attend.

7:00 P.M. Regular Meeting

Call to Order

- Welcome and Introductions; Opening Remarks or Invocation; Pledge of Allegiance Opening Remarks or Invocation. Commissioner Rather offered the invocation. Commissioner Waldrip led the Pledge of Allegiance.

Regular Business

1. Review and possibly approve the Planning Commission Minutes of March 18, 2015.

Commissioner Waldrip asked if there were any discussion on the motion
There was none

Motion: Commissioner Streeter; I move that we approve the minutes with corrections made.
Seconded: Commissioner O'Toole
Ayes: Commissioner Rather, O'Toole, Streeter and Kohler
Nays: None
Motion: Passed

Approved Minutes

ITEM: 2

Kraig and Jeanette Higginson are requesting a Code Text Amendment that would add a new section of code that would govern agricultural greenhouses. The sections of code that they propose to add and modify are located in Chapter 16.2, 16.4.2 and Chapter 16.13.46

BACKGROUND:

This item was continued from the April 15th Planning Commission meeting so that staff could gather more information regarding the ramifications of the proposed code text amendment. Staff organized a meeting between City staff and the Higginsons and their representatives which took place on April 24th. The meeting was very productive and many of the unanswered questions that were asked in the Planning Commission meeting can now be answered.

First the proposed amendment has now changed from the original proposal of adding a third category of greenhouse to the alternative that was discussed in the Planning Commission meeting. The proposal now is to change the word "commercial" to "agricultural" throughout Title 16. There are 11 places in Title 16 that the word "commercial" would be substituted for the word "agricultural" if the proposed change is approved. None of the regulations and requirements would change regarding this type of greenhouse. Also the applicant is now not proposing to change the definition of agriculture in the City's code. The applicant feels that this proposed change is a better description of the greenhouse use described in the Code and it will also help promote agriculture in Midway and preserve the City's agricultural heritage.

What was discovered in the meeting with the Higginsons (of which the Higginson's greenhouse was discussed in detail though the code text amendment would cover all commercial greenhouses) is that it appears possible for the Higginsons to achieve their goal of building the structure that they had originally planned to build. They have a designer that will work with the City's building department so that all applicable uniform building code regulations are met. The change of the word "commercial" to "agricultural" does not necessary change any of the building code requirements but it may help the Higginsons when their property is appraised for property tax purposes. The City's General Plan does promote agriculture for a number of reasons that includes preserving Midway's agricultural heritage and promoting a sustainable community so it appears there is support or the amendment in that manner. In all staff feels the proposed amendment does not put the City at risk and may actually help promote the General Plan.

Below is the original staff report from the Planning Commission's April meeting:

The proposed code text amendment would change several areas of the City's Municipal Code and it would also add a section of code to Supplementary Requirements in Zones. Here is a brief synopsis of the proposed changes. Each will be explored in more detail further in this report. First the definition of agriculture would now include animals. Second, a new category of greenhouse would be added to the code that would be called an "Agricultural Greenhouse." Third, the RA-1-43 section of code would be modified to include the word "agriculture",

replacing the word "livestock", and add Agricultural Greenhouse as a conditional use. Fourth, a new section of code would be added to Supplementary Requirements in Zones that would state the requirements for an Agricultural Greenhouse. Below is an explanation of the process that the City experienced regarding the code that is now in place. This history is important because much time and effort by the Planning Commission, City Council, and staff was expended to create the current code. The public also endured many hours of public hearings and their public comment helped shape the current code. This time and effort should be considered before any further changes are made to the code.

The personal and commercial greenhouse code has been an issue of debate in the City. It has been reviewed by the Planning Commission and the City Council on several occasions and many members of the community have been able to comment on the issue. Here is a brief history of the greenhouse code. The original greenhouse code text was originally presented to the Planning Commission on November 28, 2012. After much discussion and public comment, the Planning Commission decided to consider commercial greenhouses as a conditional use in the RA-1-43 residential zone. They requested a work meeting to continue the discussion and further develop proposed regulations. That work meeting was held during the regularly scheduled Planning Commission meeting of December 19, 2012. During that meeting the Commission agreed to retain the current definition of agriculture and separate the discussion of agriculture from commercial greenhouses. They also agreed to utilize a tiered approach in making decisions about whether to consider plants in the soil, hydroponics, or aquaculture. The Commission gave staff direction, requested examples, and asked to have the item back on the January 16, 2013 meeting for further discussion. At the January 16, 2013 meeting, the Commission agreed to move forward with commercial greenhouses as a conditional use. After considering numerous examples of acreage, land acreage/greenhouse area ratio, size and scale, height, setbacks and screenings, the Commission expressed preferences and asked that the item be brought back for further consideration at the February 20, 2013 meeting. At that meeting the Planning Commission decided to add, as a conditional use, commercial greenhouses to the B & MP zone. They made several other changes to the ordinance and then made a motion to approve the proposed code text amendments to the City Council.

The City Council first heard the proposed personal and commercial greenhouse ordinance on March 13, 2013 and also held a public hearing at that same meeting. The item was then continued to a work meeting that was held on March 28th and then another on April 24th. In those two work meetings the City Council discussed the details to the ordinance at length. There were discussions regarding those details and were inserted into the proposed text. Overall, the Planning Commission discussed the proposed changes in four separate meetings spanning from November 2012 to February 2013 and the City Council will also have spent four meetings (including the May meeting) spanning from March to May. The commercial greenhouse code was then approved and adopted as code on May 8, 2013. In that meeting the City Council excluded aquaponics and aquaculture as uses allowed in commercial greenhouses. It was discussed in that meeting that they would consider a code text amendment in the future to again allow fish in commercial greenhouses if an application was made and the applicant could propose and acceptable plan. In 2014 Kraig Higginson applied for a code text amendment that would allow aquaculture and aquaponics in commercial greenhouses. The City Council did approve that amendment on June 28, 2014.

The applicant received approval for two separate conditional use permits for greenhouses. The first was for a commercial greenhouse and approval was received on November 13, 2013. Mr. Higginson then applied for a Conditional Use Permit for a personal greenhouse, thus voiding the approval for the commercial greenhouse, and received approval on April 8, 2015.

This leads us to the current application by Kraig Higginson which, if approved, will create a third category of greenhouse. In the "Analysis" section of this report the proposed changes will be reviewed in detail.

ANALYSIS:

The first proposed change to the code is in Section 16.2: Definitions. Currently the definition of agriculture is the following:

> *Agriculture. The growing of soil crops in the customary manner in the open. It shall not include livestock-raising activities nor shall it include retailing of products on the premises.*

The applicant would like to change that definition for the following:

> *Agriculture. The science and art of the production of plants and animals useful to man, including the preparation of plants and animals for human use and includes storage and disposal by marketing or otherwise.*

It is staff's understanding that the applicant has used the definition out of State Code for agriculture. The issue that staff has identified with amending the definition for agriculture is the inclusion of animals in that definition. The way that the Municipal Code was written specifically excluded animals in the definition. This is because in the RA-1-43 zone agriculture is listed as a permitted use but also livestock is listed separately as a permitted use. There are specific regulations regarding the number of animals a property owner may have on a property based on the size of the property and the type of animals they have. The code was tailored to not include animals in the definition of agriculture because otherwise there would be no limit to the amount of animals a property owner could have, that is why it was listed separately.

The second proposed change would add a new category of greenhouse that would be called an "Agricultural Greenhouse." This would be added also to Section 16.2. The definition would be the following:

> *Greenhouse, Agricultural. A structure or portion of a structure usually made of glass or other translucent material, for which the primary purpose is for the science and art of the production of wholesale agricultural products including customary food that is proper for human consumption. This could include hydroponics, aquaponics and plants grown in the soil.*

Currently the Code has a definition for a personal greenhouse and a commercial greenhouse. This proposal would add a third category. The applicant is proposing to add text in the

Supplementary Requirements of Zones that would list the regulations for this new type of greenhouse. The details of these regulations will be described later in this report.
The third proposed change is to the RA-1-43 section of code. This section would be modified to include the word "agriculture", replacing the word "livestock", and add Agricultural Greenhouse as a conditional use. Staff feels that the change of the word "livestock" to "agriculture" could create problems with the Code for the aforementioned reasons. It is staff's opinion that this specific change is not necessary to meet the applicant's goals of creating a new category of greenhouse. The second part of the change to this section is to Agricultural Greenhouse as a conditional use in the RA-1-43 zone.

Fourth, a new section of code would be added to Supplementary Requirements in Zones that would state the requirements for an Agricultural Greenhouse. This section's text is similar to the Section 16.13.45: Commercial Greenhouses with one main difference. This difference is the buildings could not exceed more than 15% of the total parcel acreage. This is compared to 35% for commercial greenhouses. There are some other differences also such as the section on grow lights has been removed and the drainage plan requirements has been taken out of the Potential Impacts and Mitigation section of the code (the applicant feels that section is redundant). Otherwise the only major difference is the maximum size of the buildings has been reduced from 35% to 15% of the parcel area. This means on a 70 acre parcel the maximum size of an "Agricultural Greenhouse" would be 457,380 square feet or 10.5 acres. A commercial greenhouse on a 70 acre parcel could be 1,067,220 square feet or 24.5 acres in size. Basically the proposed change would limit the size of the structures further from the current commercial requirements but all the other benefits of a commercial greenhouse would still be present including aquaculture and aquaponics and the ability to wholesale any agricultural products. The building in essence would still similar in every way to commercial greenhouses except for the maximum size those buildings could be which would be reduced from 35% to 15% of the parcel area.

This leaves the City with the following questions; Are these proposed amendments and additions to the Code beneficial to the community? Does this use help the City to create the vision the community has for the area? Does the City already have a section of code that accomplishes these goals?

NOTICING:

As required by State and local ordinance this item was noticed for two weeks in the Wasatch Wave and on the State website. Notice was also posted in three public locations in the City.

PROPOSED FINDINGS:

- Agricultural greenhouses would allow aquaculture and aquaponics and the wholesaling of produce in the Residential Agricultural Zone (RA-1-43).
- Agricultural greenhouses would be limited to 15% of the entire parcel area.

- Sufficient potential impacts and mitigations for agricultural greenhouses have been identified to protect neighboring property owners and the City residents in general.

- Agricultural greenhouses to meet the vision as described in the General Plan for the RA-1-43 zone.

ALTERNATIVE ACTIONS:

1. Recommendation for approval. This action can be taken if the Planning Commission that the proposed language is an acceptable amendment to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings

2. Continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for continuance
        i. Unresolved issues that must be addressed
    d. Date when the item will be heard again

3. Recommendation for Denial. This action can be taken if the Planning Commission feels that the proposed language is not an acceptable amendment to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for denial

Applicant Kraig Higginson: Agriculture is more of what I am doing and then I can wholesale as well. I'd ask that I do not have to go back to all the meetings to get approved as agriculture; when all that was done is change the word from commercial to agricultural.
Commissioner Waldrip: I think you have to go back to City Council.
Planner Henke: We have to notice per out local code etcetera. There is not anyway that I am aware of in the code where we can skip that step of going through that process. It would be a public hearing before the City Council. The Planning Commission cannot make a motion on something that is not on the agenda. Let's have a recommendation made. If I run into a problem I'll talk to our City attorney.

Commissioner Waldrip asked if there were any discussion on the motion
There was none

Motion: Commissioner Streeter; I move that we recommend for approval the code text amendment suggested by the Higginsons that would add a new section of code that would govern agricultural greenhouses the section of code that they propose to add and modify is located in chapter 16.2, 16.4.2 and 16.13.46.
Amend Motion: Commissioner Streeter; I would like to amend my motion so that chapter 16.13.46 is actually 16.13.45 which is the section of Midway code covering what is now listed as commercial greenhouses. I further move that we accept staff's report on this and their findings.
Seconded: Commissioner O'Toole
Ayes: Commissioner Rather, O'Toole, Streeter, Kohler
Nays: None
Motion: Passed

Commissioner Waldrip: Another motion with the respect to the request to try to short circuit the system a bit in a very practical way. We need to augment the agenda to include a new item and vote on that first. The new item would be a proposal from the Higginsons that the Planning Commission bypass the notice and agendizing process, because the matter has been adequately and thoroughly ventilated before us already does not require public hearing and I think by doing that we should be able to make a recommendation to the City Council that the recommendation that Mr. Higginson suggested that his application be approved and recommended by the Planning Commission to permit an agricultural greenhouse on his property.

Motion: Commissioner Streeter; I move that we augment the agenda for the Planning Commission meeting tonight may 20th that we add essentially a 2a to the agenda that we discussed the possibility of allowing the Higginsons skip having to repeat this process that they have already been through with the Planning Commission.
Seconded: Commissioner O'Toole
Ayes: Commissioner Rather, O'Toole, Streeter, Kohler
Nays: None
Motion: Passed

Commissioner Waldrip: The agenda is augmented to provide an additional item 2a that we treat the request by the Higginsons at the level of the Planning Commission to have been made and consider recommending to the City Council that the proposed Conditional Use Permit as an agricultural greenhouse for their property be recommended to the City Council with a positive recommendation from the Planning Commission.

Commissioner Kohler: Mr. Chairman, just a point of clarification. The proposal that went forward was for greenhouse vegetated material only not aquaponics, isn't that correct? So what we would be moving forward without further discussion would be the exact same proposal that we had before us at that time.

Clarified motion, Commissioner Waldrip: To clarify the motion it would be just to approve the growing plants in soil process in the new agricultural greenhouse and wholesale their product.
Commissioner Waldrip asked if there was any further discussion
There was none
Ayes: Commissioner Rather, O'Toole, Streeter, Kohler
Nays: None
Motion: Passed

Commissioner Waldrip: That means that we will recommend approval of agricultural use under the new definition at the same time the City Council is considering whether or not to make an agricultural adjustment.

ITEM: 3

Paul Berg, agent for Probst Enterprises and Dennis Higley, is requesting Preliminary Approval for Phase 1 of the Warm Springs PUD a large scale planned unit development. The proposal is for 34 units located on 30.35 acres which includes 18.3 acres of open space. The proposal is located west of Valais and is in the RA-1-43 zone.

BACKGROUND:

Probst Enterprises and Dennis Higley are proposing preliminary approval of phase I of the Probst property. Phase I is 30.35 acres and contains 34 units. The property will be developed as a Planned Unit Development (PUD) and will be similar to the Valais PUD to the east. The property will contain 18.3 acres of open space which equals 60.3% of the property in the phase. The first phase will contain all public roads because these roads are shown on the City's Master Road Plan. There will also be a mix of public and private trails throughout phase I. There are sensitive lands in this phase that contain wetlands, pot rock outcroppings, and a stream/ditch corridor.

LAND USE SUMMARY:

- 30.35 acres
- RA-1-43 zoning
- Proposal contains 34 building pads
- Project is a Planned Unit Development
- Public roads will be the responsibility of the City

- HOA will be formed and all future phases will also become part of this same organization and subject to the same CCRs

- The lots will connect to the Midway Sanitation District sewer and to the City's water line.

- 8' paved public trail is planned along Canyon View Road and the connector road to Pine Canyon (as of yet is unnamed) and will be built by the developer.

- Sensitive land of the property include wetlands, stream corridor, and pot rock outcroppings

ANALYSIS:

Open Space – Phase I has more open space than is required but after all four phases are completed the open space will just meet the requirements of the PUD code. Below is the open space table for this all four phases:

Phase	Units	Total Area	Open Space	Total project Open Space
I	1-34	30.35 acres	18.30 acres	60.30%
II	35-41	3.73 acres	1.78 acres	58.92%
III	42-51	3.96 acres	1.40 acres	56.74%
IV	52.89	16.97 acres	6.03 acres	50.09%
Total		55.01 acres	27.51 acres	50.09%

As shown in the chart above the open space requirements are met for each phase and as a whole for the entire subdivision.

Access/roads – Phase I will have two access points and will comply with the requirements of the code. Both roads in this phase are shown on the City's Master Road Plan and therefore will be public roads maintained by the City. The right-of-way will be 56' with 30' of pavement. On the areas with sidewalks there will be a 5' park strip and the width of the sidewalk will also be 5'.

Unit setbacks - All units along public roads must have a 30' setback from the edge of the right-of-way. All units will also have a 30' setback from all peripheral property lines of the PUD.

Water – the developers have yet to meet with the Water Board to determine the recommendation about the amount of water that will be required for the proposal. Review by the Water Board will need to occur before this item is heard by the City Council.

Sensitive lands – The property does contain some wetlands that will not be disturbed through the development process. The wetlands will become part of the open space for the development and will be preserved. There are two pot rock mound geologic features on the property. These will be left undisturbed, as required by the sensitive lands section of the code, and will be preserved in the open space area the development. There also is a stream/ditch that runs through the property. It will be impacted by the roads crossing the development because of the culverts that will cover the ditch. Midway Irrigation Company owns an easement to the ditch area and will need to approve modifications made to the current ditch.

Property exchange/Canyon View Road Alignment – Canyon View Road and Burgi Lane intersection will need to be adjusted to comply with engineering/safety requirements. The current intersection does not comply with current standards for two reasons. The first is because of its offset to Magpie Circle located on the south side of Burgi Lane. Because Burgi Lane is classified as a collector road, the offset on the intersection must be 10' or less or 300' or more to create a safe intersection. By adding up to 1000+ trips per day on this road the intersection must be made safer. An agreement has been signed by all of the parties except the LDS Church regarding a land exchange to make a safer alignment possible. The property exchanges must be approved and signed between the LDS Church, Probst Enterprises, and Laren Gertsch as required by the annexation conditions.

Midway Sanitation District - the developers have yet to meet with the Sewer Board to determine the requirements regarding sewer connection to Midway Sanitation District.

Geotechnical report - Staff has received a geotechnical report for the property.

Trail Alignment - The developer has proposed a public trail alignment through phase I. that staff has reviewed. Staff has discovered there may be a more optimal alignment that will reduce the number of driveway crossings for the trail and therefore will make the trail safer. Staff will discuss this with the developer.

Density Determination – The developer is proposing 89 units in the development. For a PUD, a developer receives 1.5 units for every acre based on gross acreage (no subtraction of property in roads). The total for this calculation is 82.52 units. They have also asked for a density bonus based on using architectural elements described in the code. The maximum density that could be received is .25 of a unit for every acre of ground which equals 13.75 units. The developer has asked for bonus of 6.48 units based on architecture. The Visual and Architectural Committee has reviewed the proposal and recommends the developer receive the density bonus for a total of 89 units in the PUD. They did recommend some conditions regarding driveway widths and landscaping that will be administered by staff through the building permit process.

PLANNING COMMISSION RECCOMENDATION:

The Planning Commission recommended conditional preliminary approval of proposed plan by a vote of 4-0 with the conditions listed at the end of this report.

PROPOSED FINDINGS:

- The proposal appears to meet the requirements of the code for PUDs.
- The proposal does meet the vision of the area as described in the General Plan for the RA-1-43 zone.
- A public Trail will be built by the developer that will be an amenity to the entire community.

ALTERNATIVE ACTIONS:

1. 1.(Conditional) Approval. This action can be taken if the City Council feels there is good cause to approve the proposal.
    a. Accept staff report
    b. List accepted findings
    c. Place condition(s) if needed
2. Continuance. This action can be taken if the City Council feels that there are unresolved issues.
    a. Accept staff report
    b. List accepted findings
    c. Reasons for continuance
        i. Unresolved issues that must be addressed
    d. Date when the item will be heard again
3. Denial. This action can be taken if the City Council feels that the request does not meet the intent of the ordinance.
    d. Accept staff report
    e. List accepted findings
    f. Reasons for denial

PROPOSED CONDITIONS:

1. The property exchange between the LDS Church, Probst Enterprises, and Laren Gertsch must be approved, in writing, before the item is heard before the City Council.

2. The proposal will receive a recommendation regarding water from the Water Board before the item is heard before the City Council.

3. The Midway Sanitation District must approve the preliminary plans before the item is heard before the City Council.

4. A geotechnical report is submitted before advancing to City Council.

5. A sensitive lands study is submitted to the City before advancing to City Council.

City Engineer: Wes Johnson; This project still needs to go before the Sanitation District. We don't know for sure, but Laren Gertch might have some utilities on the property that could potentially be owned by the developer. He would be given a utility easement if the property is owned by the developer.

Member of the public, Laren Gertch: It has been discussed that my current access to my home would not be changed. It's been brought up at City Council and discussed several times about keeping my current access the same; however none of these maps show that, they all show my driveway being moved. In fairness to the exchange agreement concerning utilities among other things need to be addressed before it goes before City Council. In the exchange I was asked if the sewer easement could come across my property and I allowed them to do that in exchange for that we have a condition that I will still have access to the water that I currently have access to.

Planner Henke: I received a number of calls from residences from the Valais, they are interested in maintaining their views. There has been some fill brought in and we do measure height of structure off of natural grade how it exists before any fill is brought in. I have talked to the attorney for the Irrigation Company and they want an easement shown on the plat for the ditch, so we will try to work that out too.

Paul Berg: If we have not reached the agreement but I do not see anything substantial. Waiting for attorney for easement of the ditch.

Laren Gertch: Can the City put the trail in front of Canyon View and then have the developer reimburse the City?

City Engineer: Wes Johnson; Yes that is an option.

Commissioner Streeter; is the name The Sages, with or without an apostrophe?

Paul Berg; we did some research and found another project called The Sage's in another state and it had the apostrophe.

Commissioner Streeter; I'd like to suggest that the apostrophe gets dropped.

Commissioner Waldrip asked if there were any discussion on the motion
There was none

Motion: Commissioner Streeter; I move that we approve final approval of Phase I of the Sages PUD formerly known as Warm Springs PUD, a large scale planned unit development the proposal is for 34 units located on 30+ acres. The proposal appears to meet the requirements of the code for the PUDs the proposal does meet the vision of the area as described in the general plan for the RA-1-43 zone. A public trail, the route to be determined later will be built by the developer that will be an amenity to the entire community. We accept the staff reports, we do put the following conditions on this approval. One, the property exchange between the LDS Church, Probst Enterprises and Laren Gertch must be approved as presented in writing before the plat is recorded as proposed by staff with a couple edits and proposal 1 must be approved as presented two, must approve the final plans rather than preliminary. Three, add a condition that the driveway for Laren Gertch be maintained in its current location. Four, that is meets the annexation agreement requirements.
Amendment to motion, Planner Henke: The conditions of the signed annexation agreement be a requirement of Phase I approval.
Commissioner Streeter: I approve your amendment
Seconded: Commissioner Kohler
Ayes: Commissioner Rather, O'Toole, Streeter, Kohler
Nays: None
Motion: Passed

ITEM: 4

Midway City is proposing a Code Text Amendment for Section 16.13.35: Bed and Breakfast Establishments. The Planning Commission will discuss the current ordinance to decide if any changes need to be made regarding requirements and areas where this use should be allowed.

BACKGROUND & ANALYSIS:

The purpose of this item is to review the current ordinance for Bed and Breakfast Establishments, specifically the locations where this use is allowed. The City recently had an application for The Hiking Inn Bed and Breakfast which was approved by City but the neighbors in the area were very concerned with how the Bed and Breakfast would affect the neighborhood. It was decided by the City to open the discussion regarding the current ordinance to explore potential changes that might be more acceptable to residents of the City.

The current Bed and Breakfast ordinance found Section 16.13.35 has been in the City Code most likely at least 10 years. Midway has a history of Bed and breakfast establishments that include Invited Inn, The Johnson Mill, Inn on the Creek, and the Blue Boar Inn. Those establishments were all built before many of the current residents of the City moved here and it is possible that what was acceptable when they were built is not acceptable now. The population was much less

then and the residences were more widely dispersed so the impact of those establishments was probably minor. Today Midway has many more residents and there is sentiment that a commercial business, such as a Bed and Breakfast, may not be compatible in a purely residential neighborhood. Many residents in Alpenhof were completely surprised that a commercial business was allowed in their neighborhood. The concerns they raised covered a large spectrum and included how their property values would be affected, liability on their property, safety of their children, and traffic to name several. The current ordinance allows Bed and Breakfasts in any zone in the City as a Conditional Use.

Bed and breakfasts are important to the City as a good source of tax revenue. This revenue benefits all the residents of the City because they potentially lower everyone's taxes because of the extra taxes collected from commercial property tax, transient rental tax, resort tax, and sales tax generated from tourism. It would be short sited to limit this use in a way that it becomes not feasible because of the location limitations. Another item to consider is the General Plan does promote economic development and tourism is one of our best sources of development and revenue.

Staff has discovered some options for the Planning Commission to discuss regarding this issue which are the following:

- Limit Bed and Breakfasts to the Transient Rental Overlay District (TROD). This area has already been decided by the City to be an area where transient rentals (nightly) are allowed. This area covers the commercial zones and the areas around the resorts along with some scattered islands around the City. It would seem reasonable to limit this use to this transient rental district.

- Allow Bed and breakfasts to areas within 1300' (quarter mile) of the resort zone or the TROD. This would limit them to the general area where most the tourism is located.

- Allow them only in structures that are considered historic (75 years or older). This would reduce the potential sites greatly in the City.

- Allow a combination of the options above such as allowing them in the TROD and in structures that are at least 75 years old.

- We could also leave the ordinance as is which allows Bed and Breakfasts in any zone in the City as a Conditional Use.

POSSIBLE FINDINGS:

- Bed and Breakfasts help promote tourism which is part of the vision described in the General Plan.

- Bed and Breakfasts are good sources of tax revenue for the City which in turn benefits all Midway residents.

- Bed and Breakfasts are a commercial activity that may not be a compatible land use for every zone or area in Midway.

ALTERNATIVE ACTIONS:

1. Recommendation for approval. This action can be taken if the Planning Commission feels that the proposed language is an acceptable addition to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings

2. Continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for continuance
        i. Unresolved issues that must be addressed
    d. Date when the item will be heard again

3. Recommendation of denial. This action can be taken if the Planning Commission feels that the proposed language is not an acceptable addition to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for denial

Member of the public, Bill Stern: Owns the Invited Inn Bed and Breakfast, purchased his property in 1998 and opened in 2002. The main reason I'm here, we were restricted to the resort zone. I do not see the difference between TROD or a B&B.
Commissioner Waldrip: The character of the City has been changing from some years ago. We have people that want to maintain residential and agricultural aspects of our community. My thought is to allow them with in the zone of the TROD and the historical structures.
Lauri Sibulkin: On the topic of traffic, I'm a truck driver. I think that the City should require off street parking. If someone does a B&B on a large piece of property, for instance 1 acre or larger the roads can handle the traffic okay because nobody has to park on the street.
Planner Henke: The ordinance does require off street parking. Every room has to have one (1) stall off street that is behind a 30 foot setback; plus there has to be two (2) stalls for the owners.
Commissioner Waldrip: I'm going to suggest to staff to bring us back a proposal of all three (3) of those options in it and then we can continue our discussion.

*No motion was taken since it was a discussion topic; moved onto the next agenda item.

ITEM: 5

Midway City is proposing a Code Text Amendment that would remove Section 16.26.11: Amendments to Ordinance and Map. This section is redundant with Section 16.26.7: Amendments.

BACKGROUND & ANALYSIS:

Staff has found two section of the Land Use ordinance that basically cover the same items which are Code Text Amendments and Zoning Map Amendments. It is proposed by staff that one of the two ordinances is removed from the Code to eliminate any confusion regarding the process or requirements when petitioning either type of amendment. Staff would like to remove Section 16.26.11 and leave Section 16.26.7 in the Code. The sections are as follows:

Section 16.26.11 Amendments to Ordinance and Map

This Municipal Code, including the zoning map, may be amended as hereinafter provided.

A. Intent with Respect to Amendments. It is hereby declared to be public policy that this Code shall not be amended except to more fully carry out the intent and purpose of the General Plan of the City and of this Code.

B. Procedure. Any person seeking an amendment of the Municipal Code or zoning map shall

submit to the City a written petition designating the change desired and the reasons therefore and shall pay the required fee to the City. Upon receipt of the petition and the paying of the filing fee, the Planning Commission shall consider the request and shall certify its recommendations to the City Council with respect to the request within 30 days from receipt of the request. Failure on the part of the Planning Commission to certify its recommendations to the City Council within 30 days shall be deemed to constitute approval unless a longer period is granted by the City Council. The fee required herein shall not be returned to the applicant. The Planning Commission or City Council may also initiate amendments to this Code or zoning map.

C. Public Hearing Required Before Amending-Notice. Amendments to this Code may be adopted only after a public hearing is held in relation thereto before the City Council at which parties in interest and citizens shall have an opportunity to be heard. A notice of the time and place of such hearing shall be published in a newspaper of general circulation within the area, or by posting said notice in three public places within the City. Public notice shall be per Utah law and per Title 16 of the Midway City Municipal Code.

Section 16.26.7 Amendments

This Midway City Land Use Title and accompanying zoning map may be amended as follows:

A. The Planning Commission shall, after providing the proper notice requirements, hold a public hearing on a proposed amendment to the Land Use

Title or zoning map. After holding the public hearing and receiving any public comment on the proposed amendment, the Planning Commission shall make a recommendation to the City Council on the proposed amendment.
B. The City Council may amend any provision of the Land Use Title or the accompanying zoning map after the Planning Commission has held a public hearing and made a recommendation to the City Council on the proposed amendment; provided, however, that the City Council shall, after providing the proper notice requirements, also hold a public hearing on the proposed amendment before voting on the amendment.

POSSIBLE FINDINGS:

- It may be confusing to applicants of either a Code Text Amendment or a Zone Map Amendment because there are two sections of code that regulate the same type of petition.

- There is no need to have redundant sections of code in Title 16.

ALTERNATIVE ACTIONS:

1. Recommendation for approval. This action can be taken if the Planning Commission feels that the proposed language is an acceptable addition to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings

2. Continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for continuance
        i. Unresolved issues that must be addressed
    d. Date when the item will be heard again

3. Recommendation of denial. This action can be taken if the Planning Commission feels that the proposed language is not an acceptable addition to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for denial

Commissioner Waldrip asked if there were any further discussion
There was none

Motion: Commissioner Streeter; I move that we approve the code text amendment to remove section 16.26.11 Amendments to Ordinance and Map be eliminated because it is redundant with section is redundant with Section 16.26.7: Amendments.
Seconded: Commissioner O'Toole
Ayes: Commissioner Rather, O'Toole, Streeter and Kohler
Nays: None
Motion: Passed

ITEM: 6

Midway City is proposing a Code Text Amendment of Section 16.13.19: Sewage Disposal, to clarify the measurement of distance to an available public sewer.

BACKGROUND & ANALYSIS:

Staff has found Section 16.13.19: Sewage Disposal to be inconsistent with State Code and the requirements of Midway Sanitation District (MSD). Therefore the City would like amendment the current code so that is mirrors that language in State Code and as found in Midway Sanitation District's regulations. The current City code requires the measurement for requiring sewer from the structure while the State and MSD require the measurement from the property line.

The current code in Section 16.13.19 is as follows:

> ***Section 16.13.19 Sewage Disposal***
> *Domestic liquid waste facilities in all dwellings and other buildings used for human occupancy which buildings are located within 300 feet to an available public sewer shall be connected to a public sewage system. Where domestic liquid waste facilities are located further away than 300*
> *feet from any available public sewer, a public sewer shall either be extended to connect with such facilities or else the facilities must be constructed in accordance with health department standards before a building permit shall be issued for the building in which the sewage facilities*
> The proposed text is the following:

> ***Section 16.13.19 Sewage Disposal***
> *Domestic liquid waste facilities in all dwellings and other buildings used for human occupancy which buildings are located on property of which the property line is within 300 feet to an available public sewer shall be connected to a public sewage system. Where domestic liquid waste facilities are located on property of which the property line is further away than 300 feet from any available public sewer, a public sewer shall either be extended to connect with such facilities or else the facilities must be constructed in accordance with health department*

standards before a building permit shall be issued for the building in which the sewage facilities are to be constructed.

POSSIBLE FINDINGS:

- It is confusing to property owners when one entity has a different requirement from another entity therefore, when possible, regulations should be the same.

ALTERNATIVE ACTIONS:

1. Recommendation for approval. This action can be taken if the Planning Commission feels that the proposed language is an acceptable revision to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings

2. Continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for continuance
        i. Unresolved issues that must be addressed
    d. Date when the item will be heard again

3. Recommendation of denial. This action can be taken if the Planning Commission feels that the proposed language is not an acceptable revision to the City's Municipal Code.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for denial

Commissioner Waldrip asked if there were any further discussion
There was none

Motion: Commissioner Kohler; I move that we recommend approval to the City Council of the proposal for a code text amendment of section 16.13.19 sewage disposal to clarify the measurement of distance to an available public sewer. Our finding is that it is confusing to property owners when one entity has different requirements then the other entity therefor when

possible the regulations should be the same and we'll accept the staff report and recommend that we accept the proposed text as suggested in the staff report.
Seconded: Commissioner O'Toole
Ayes: Commissioner Rather, O'Toole, Streeter and Kohler
Nays: None
Motion: Passed

ITEM: 7

Midway City is proposing a Code Text Amendment of Title 10, Water, to amend water requirements for development in areas served by Midway City.

BACKGROUND:

The City Council recently adopted Resolution 2015-05 which is a notice of pending ordinance regarding water. The City plans to review the current water requirements to see if any changes should be made. The City will have 180 days to take action on the Resolution. If it is discovered that an amendment should be made then the proposed change will be discussed before the Planning Commission and a recommendation, if a motion passes, will be forwarded to the City Council. Attached to this report is a copy of the recently adopted Resolution 2015-05.

*No motion was taken since it was an informational item for the Planning Commission at this point; moved to adjournment.

Commissioner Waldrip asked if there were any further discussion
There was none

Adjournment
Motion: Commissioner O'Toole: I move that we adjourn.
Commissioner Waldrip: Non debatable, does not require a second.
Ayes: Commissioner Rather, O'Toole, Streeter and Kohler

Adjournment: 9:11pm

Mickey Oksner, Chairman

Lindy Rodabough, Admin Assistant