

Minutes of the Midway City Planning Commission

**Wednesday, 21 August 2013, 7:00 p.m.
Midway Community Center
160 West Main Street, Midway, Utah**

Note: Notices/agendas were posted at 7-Eleven, The Store Express, the Midway City Office Building, and the Midway Community Center. The public notice/agenda was published on the Utah State Public Notice Website and a copy sent to The Wasatch Wave.

Attendance:

Kent Kohler – Chairman
Mickey Oksner – Co-Chairman
Karl Dodge
James Kohler
Stu Waldrip
John Rather
Chip Maxfield
Steven Nichols - Alternate

Staff:

Michael Henke
Sandy Norskog
Jennifer Sweat

Excused:

6:45 P.M. Work/Briefing Meeting

Planner Henke gave the City Council Liaison Report. No action was taken and the public was welcome to attend.

7:06 P.M. Regular Meeting

Call to Order

Chairman Kohler opened the meeting and welcomed the commissioners, staff and public. Commissioner Oksner discussed an article regarding water conservation. Chairman Kohler led the Pledge of Allegiance.

By way of information Commissioner Chip Maxfield will be a voting member tonight.

Regular Business

1. Review and possibly approve the Planning Commission Minutes of July 17, 2013

Motion: Commissioner James Kohler made the motion to approve the Planning Commission Minutes of July 17, 2013.

Chairman Kohler asked if there were any other discussions on the motion?

No further discussion were needed

Seconded: Commissioner John Rather seconded the motion.

Votes: Ayes: Commissioner Dodge, Commissioner Waldrip, Chairman Kohler, Commissioner Oksner, Commissioner Maxfield.

Nays: None

Motion: Passed

- 2. Paul Berg, agent for Russ Watts, is requesting a Plat Amendment of Phase 5C Plat “K” of the Valais Planned Unit Development. The amendment will adjust common area and limited common area around pads 242, 243 and 244. The proposal is located on Saxon Drive and is in the RA-1-43 zone.**
- 3. Paul Berg, agent for Russ Watts, is requesting a Plat Amendment of Phase 6 Plat “H” of the Valais Planned Unit Development. The amendment will add limited common area of the three driveways to pads 242, 243 and 244 located in Phase 5C. In addition Chancey Lane will be widened adjacent to the three lots. The proposal is located on Chancey Lane and is in the RA-1-43 zone.**

Planner Henke thanked Chairman Kohler and members of the commission. The two items on the agenda for Valais would be considered together, however these two items will require separate motions and votes.

Planner Henke stated that the applicant is requesting a Plat Amendment of Phase 5C Plat “K” and Phase 6 Plat “H” of the Valais Planned Unit Development. The amendment will add limited common area of the three driveways to pads 242, 243 and 244 located in Phase 5C. In addition Chancey Lane will be widened adjacent to the three lots. The proposal is located on Chancey Lane and is in the RA-1-43 zone. The plat was recorded on September 2, 2004 and includes twenty-six (26) building pads. The applicant is requesting that the driveways for lots 242,243 and 244 be moved from the west side of the building pads along Saxon Lane (Valais Phase 5C) to the east side of the building pads with access to Chancey Lane. Chancey Lane will be widened adjacent to the three buildings pads. The size and location of the building pads are unaffected. This new configurations allows the builder to build houses with walkout basements which have been popular in the neighborhood.

Planner Henke presented a power point presentation of the property.

(Note: A copy of the presentation is available in the supplemental file)

Planner Henke stated that the proposed plat amendment doesn't seem to have any major negative aspects associated with it.. In this situation there is good cause to grant the approval because the lots will become more marketable. The streets are private in this area and no public street, right-of-way or easements have been vacated or altered.

Once this item is forwarded to City Council, letters will be sent to all property owners within 600' of the subdivision and an on-site notice will be posted on the property advertising the public hearing.

Commissioner Maxfield made a comment that he felt this was a positive change because of his experience of living in Valais before selling his home a year ago. He did feel that the pear shape shared driveway for pads 243 and 244 may cause a problem with blocking traffic or snow removal problems.

The commissioners had a discussion regarding the shared driveway for pads 243 and 244. They all felt that each lot should have their own separate driveway because it could cause a problem in the future. The commissioners asked if there was anything listed in the code that a separate driveway would be required. Planner Henke stated no, there was nothing stated in the code. However we do have a separation from an intersection to a driveway in the code, but nothing stating you cannot have a shared driveway. There are other PUD's in Midway that do have shared driveways however there are none currently in Valais.

The commissioners also discussed the feasibility of having a hammer head and if a fire truck could turn around in that area. They also discussed if the hammer head driveway should be more of a bulb shape. Planner Henke stated that in the past the fire department has approved hammer heads if it meets their turning radius. Also having the hammer head would be an improvement of what is currently there.

Chairman Kohler asked Carl Berg, representing the applicant to come to the podium to discuss the suggested changes.

Carl Berg, from Berg Engineering, felt that the comments on the driveways were good, and he would certainly speak with the applicant to see if they would be ok with separating the driveways as had been suggested. He felt the hammer head would leave less of a footprint, and that the bulb would actually take away from the property, and wouldn't work. However he would speak with the owner about the suggested ideas.

Planner Henke stated that the following were possible findings: The driveway locations of buildings pads 242, 243, 244 in Valais Phase 5C will be moved from the west of the building pads to the east side of the building pads and the amendment will adjust common area and limited common area around these building pads. The density and the size of the building pads will not change; only the common area and the limited common area are affected. Access will be taken from Chancey Lane. Chancey Lane will be widened to twenty-seven (27) feet. No public street, right-of-way or easement will be vacated or altered. This is consistent with the Master Plan for the Planned Unit Development.

Chairman Kohler asked if there were any further questions?

No further discussions were needed.

Item #2

Motion: Commissioner Chip Maxfield made a motion to approve the Plat Amendment of Phase 5C Plat “K” of the Valais Planned Unit Development. The amendment will adjust common area and limited common area around pads 242, 243 and 244 and move the driveways from the West side of the pad to the East side of the pad. It was also moved to accept the staff findings and any conditions as written in the staff report.

Chairman Kohler aside if there were any other discussions on the motion?

No further discussions were needed.

Seconded: Commissioner Waldrip seconded the motion.

Votes: Ayes: Commissioners Dodge, Chairman Kohler, Commissioner Oksner, Commissioner J. Kohler and Commissioner Rather.

Nays: None

Passed

Item #3

Motion: Commissioner Chip Maxfield made a motion to approve the Plat Amendment of Phase 6 Plat “H” of the Valais Planned Unit Development. The amendment will add limited common area for three driveways to pads 242, 243 and 244 with the consideration of making the three driveways separate located in Phase 6, Plat “H”. In addition Chancey Lane will be widened adjacent to the three lots. It was also moved to accept the staff findings and any conditions as written in the staff report.

Chairman Kohler asked if there were any other discussions on the motion?

No further discussion was needed.

Seconded: Commissioner Waldrip seconded the motion.

Votes: Ayes: Commissioner Dodge, Chairman Kohler, Commissioner Oksner, Commissioner Rather, and Commissioner J. Kohler.

Nays: None

Motion: Passed

- 4. Genee Cluff, agent for Charlene Johnson, is requesting a Conditional Use Permit for an Alcohol Dispensing Establishment at Johnson Mill Inn. The applicant is requesting permission to serve alcohol at banquet events and in the Inn itself. Johnson Mill is located at 100 Johnson Mill Road and is in the Resort Zone.**

Planner Henke thanked Chairman Kohler.

Planner Henke stated the applicant is requesting a Conditional Use Permit for an Alcohol Dispensing Establishment at Johnson Mill Inn. The applicant is requesting permission to serve alcohol at banquet events and in the Inn itself. Johnson Mill is located at 100 Johnson Mill Road and is in the Resort Zone.

Planner Henke presented a power point presentation of the property.

(Note: A copy of the presentation is available in the supplemental file)

Planner Henke stated that an Alcohol Dispensing Establishments require a conditional use permit (CUP) in the Commercial and Resort Zones. The applicant wishes to have the ability to serve alcohol at weddings, small group events and in the Inn itself. They believe that these types of events fit well with the establishment and wish to add this service to existing services. They indicate that there is a demand for this additional service and that it is essential to the future success of the Inn to generate additional revenue.

Planner Henke stated that the applicant indicates that they can responsibly add these services in a setting that gives them control and the ability to monitor the amounts and limits of alcohol being served. They also believe that the addition to these services will be conducive to attracting more events that will benefit their business and the City.

Planner Henke explained that the approval of a CUP is an administrative act but, as per State Code, the approval of the ability to sell alcohol is a legislative act and the City Council has broad discretion in that decision. This leaves the City with the question of how many establishments that serve alcohol do we want in the City. This could be evaluated in a number of different ways. First, the approach could be taken to follow the lead of the State, which has a strict limit on the number of alcoholic licenses that are allowed in the State, and limit the overall number of Class A, B, and C licenses that are allowed in the City. The City could establish a number that is based on population and as the population grows the number of allowed licenses would also grow. Another position could be to review each request individually and approve or disapprove of the request depending on the circumstances of each application, which is the approach the City has taken. Planner Henke stated that we do know that tourism generate business and taxes and some would argue that limiting beer licenses could damage tourism in the City.

Planner Henke stated that if the CUP is recommended for approval to the City Council and the City Council approves it, a separate City Council agenda items will be required for Local Consent and for a Local Consent for Proximity Variance. The front door of Johnson Mill Inn to the edge of the grass of the Hamlet Park is about 420 feet. State Code requires a minimum walking distance of 600 feet or a minimum straight line measurement of 200 feet for a license to be granted without a variance by the City.

Planner Henke also further explained that the State will hold a public hearing in Midway City before the State can either grant or deny the request.

Planner Henke explained that recently the City Council had changed the code on this matter. We had quite an extensive code that gave a lot of criteria and requirements that needed to be met for local consent approval. City Council has gone in and removed all of that, and adopted a fairly simple ordinance, and it is more in line with State Code. Since this section is not part of the Land Use Code it did not have to go before Planning Commission. It is part of our Business Licensing Code.

In the new Code the applicant will go before City Council to get Local Consent first, and then they will apply for the Conditional Use Permit. Because this applicant is still under the old Code this item is coming to you first, and then it will go to City Council. In the future it will go to City Council first, then come to Planning Commission for the Conditional Use Permit, and then back to City Council.

Planner Henke stated that the possible findings for this item would be: An Alcohol Dispensing Establishment is allowed as a conditional use in the Commercial and RZ zone. The proposed use is consistent with similar establishments in the Commercial and RZ zone. The proposal is consistent with resort development in the RZ zone of the General Plan. The recommended conditions would be that the applicant must obtain approval of the Conditional Use Permit, a Local Consent for Proximity Variance and Local Consent prior to applying for a license with the State and all alcohol must be consumed on premise.

The commissioners discussed the possibility of adding additional conditions. Planner Henke stated you can add conditions such as restricted time, or no serving of “hard beer”. These are conditions that can be added. The commissioners liked this proposal as submitted because it would put the accountability on Johnson Mill Inn. There are already outside vendors coming in with alcohol and consuming the alcohol on the premises. The only item we are adding is the ability of Johnson Mill Inn to serve the alcohol to the guests of Johnson Mill rather than an outside vendor. They felt that it balances it out and it is a step forward, and an appropriate item to approve.

The commissioners asked if the neighborhood complaints had to do with alcohol. Planner Henke stated that most of the complaints have been about trespassing. Johnson Mill has built a wall around the property to try and limit any trespassing. An employee is stationed at the wall to make sure there isn’t trespassing. They also have tested the sound decibels to make sure they are not breaking any noise ordinances. The applicant indicated that the groups are told to start shutting down at 9:30pm and be totally out by 10:00 pm because of the noise ordinance.

Chairman Kohler asked the applicant or representative for the applicant to come up to the podium to answer any questions the commissioners had and to make any comments they may have.

Lisa Christen, who currently manages Johnson Mill Inn, was present. She is currently one of the main decision makers of the Johnson Mill, and helps to oversee the day to day operations. Charlene Johnson’s son, Bart Johnson, has asked her to do this.

Lisa stated that when they have a wedding or even a family reunion they can go out into the garden, and they can bring in alcohol. At this time the Inn has no control. They can’t tell them to not bring it because they do not offer it nor do they have a license for it. So the guests bring it in, and there is no accountability or control. A big issue for the Inn is the liability.

Lisa stated from a liability standpoint if they had the CUP and license, then they can offer the alcohol to guests. They cannot go off property and buy it and bring it in because the Inn offers it

to purchase. The caterer should be making sure these guidelines are followed, but the Inn has no control over that. They would like to be able to have more control, and be able to monitor it.

Lisa also stated that since last year's complaints they have not had any problems. They are trying to do everything they can to be good neighbors. They are having a sign made for the gazebo that states after 10:00 p.m. it is closed. They also feel if they have better control of the alcohol consumption they will be able to continue to be good neighbors.

Commissioner Oksner asked what was the typical size of the weddings or functions they have at the Inn?

Lisa stated that this past weekend they had a wedding for 250 guests, and also one that was for 40 guests. So they do range in size. From what she had been told in the past the largest wedding was for 450 guests.

Commissioner Rather asked if the Inn was currently for sale?

Lisa stated that currently they are not for sale, although everyone has probably seen it in the foreclosure notices. However they have been in a modification process for the past six and half months. Technically they are in default because the bank will not accept any payments until they make a decision, but it is not going up for auction. The family is not interested in selling the property.

Commissioner Rather asked what Genene Cluff's position was at this time with the Inn?

Lisa stated that she has done all of the leg work for this application, and had come on board to help with the food. Hopefully when they receive the permit and license for alcohol they will be also selling food, and she is really a good fit. Lisa stated she decided to speak tonight because she was more familiar with the business because she had been there longer and could answer any questions.

Planner Henke stated that it should be noted that if the CUP is granted it is for the current owner only. If the property was to change hands, they would lose the CUP and would need to reapply.

Chairman Kohler asked if there were any other questions?

No further questions were needed.

Motion: Commissioner Karl Dodge made a motion to approve the Conditional Use Permit for an Alcohol Dispensing Establishment at Johnson Mill Inn. They will be able to serve alcohol at banquet events and in the Inn itself, also accepting the findings of staff and place two conditions.

Chairman Kohler asked if there were any other discussions on the motion?

No further discussion was needed.

Seconded: Commissioner Waldrip seconded the motion.

Votes: Ayes: Chairman Kohler, Commissioner Oksner, Commissioner Rather, Commissioner J.

Kohler and Commissioner Maxfield.

Nays: None

Motion: Passed

5. Potential Code Text Amendments

Planner Henke stated these are some potential Code Text Amendments. What the City Council has done is looked at three distinct items, and they have enacted a potential Code Text Amendment change. These items are not action items. These are discussion items only to see what possible changes could be made, or if changes do need to be made at all.

1. Open Space Requirements

- a. Current Requirements are:
 - i. Subdivisions six or more acres in size
 - ii. R-1-11, R-1-15, R-1-22 & RA-1-43
 - iii. 15% Required
 - iv. Open space may be included within lots 2-acres or larger in size.
- b. Potential Changes
 - i. Add greater setback distances from collector roads
 1. Lot owners would need to maintain the property instead of the HOA.
 - ii. Increase the minimum number of acres needed that would require open space.
 - iii. Base open space requirements on the number of lots in the subdivision.

2. Affordable Housing

- a. Current Requirements:
 - i. Standard subdivisions and PUDS with five lots or more must have affordable housing for 10% of the units or lots
 - ii. Affordable housing options
 1. Inclusionary zoning (on-site)
 2. Off-site affordable housing
 3. Fees-in-lieu
- b. Potential Changes
 - i. Affordable housing becomes a voluntary program
 1. Developer receives specific bonuses for including affordable housing (Section 16.20.9)
 - ii. Affordable housing required only for resort developments

3. Power Lines

- a. Current Requirements:
 - i. Section 16.16.7; All utilities within the development shall be placed underground, including telephone, power and television
 1. Transmission
 2. Distribution

b. Potential Changes:

- i. Charge an “impact fee” for the burial or moving of all lines identified in the City that will be required with each building permit.
- ii. Only bury new lines and require developer to move or bury lines when required by widening roads.
- iii. Give the developer the option of to bury or not.

The commissioners and Planner Henke had a discussion on these three possible Code Text Amendments and discussed the current requirements and the potential changes.

Chairman Kohler asked for motion to adjourn.

Commissioner Waldrip moved for adjournment @ 9:02 p.m.

Motion Accepted.



Kent Kohler – Chairman



Jennifer Sweat-Admin Assistant