

Midway City Planning Commission Regular Meeting Minutes August 9, 2022

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 6:00 p.m., August 9, 2022, at the Midway City Community Center
160 West Main Street, Midway, Utah

Attendance

Jeff Nicholas- Chairman
Andy Garland
Laura Wardle
Kelly Lineback (Alt)
Rich Cliften
Craig Simons
Andrew Osborne (Alt)
Rob Bouwhuis- Vice Chair
Bill Ream

Staff

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

Excused

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 Andrew Osborne
 - Chairman Nicholas led the Pledge of Allegiance

Item 1:

Review and possibly approve the Planning Commission Meeting Minutes of June 14, 2022.

Motion: Commissioner Garland make a motion that we recommend approval of the minutes for June 14, 2022.

Seconded: Commissioner Bouwhuis

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis, Wardle, Osborne, Lineback, Garland and Simons

Motion: Passed

Item 2:

Heirloom Corner, LLC is applying for a Conditional Use Permit for an alcohol dispensing establishment. The restaurant is located at 195 West Main Street. The property is 0.28 acres in size and is located the C-2 zone.

Michael Henke gave a presentation

Proposal

- Proposal is for local consent to serve alcohol
 - Proximity variance is required because property is within 200' of public property
 - City Council has broad discretion to issue approval
 - Utah Department of Alcoholic Beverage Control will accept an application once City has approved local consent
- Condition Use Permit
 - Allows conditions to be required to mitigate impacts

Background

- The Corner Restaurant received a CUP and local consent on 5-9-2018 with the following condition:
 - No alcohol related signage would be visible on the exterior of the building or on the inside, visible from the outside including from 200 West.
- Ownership has changed and the new owners must receive approval from Midway and the State
- Restaurant currently cannot sell alcohol
- Signage is currently in violation of City code and owners have been asked to remove the signs

Possible Findings

- The proposed license would allow the sale of beer, wine, and liquor at Heirloom Common and Heirloom Market.
- The restaurant property is located within 200' of public property.
- The State will require a proximity variance because of its closeness to the Town Square.
- Currently there are signage code violations on the property.
- There have been large events held on the property, without City approval, that has created noise and parking concerns for the community.
- The State does regulate this type of alcohol license.

Proposed Conditions

- No alcohol related signage would be visible on the exterior of the building or on the inside, visible from the outside including from 200 West.
- The new monument sign must be installed by September 1, 2022, or the temporary

banners must be removed.

- A dumpster enclosure, reviewed and approved by the Vision Architectural Committee, must be constructed to mitigate the visual impact of the dumpster for neighbors and for passing motorists.

Applicant and Commissioner Comments

Rob Bouwhuis stated that one of the things that need to be addressed regarding the freezer on the west, he believes that we can ask to have that to be made more aesthetically pleasing.

There were some questions regarding drinking on the lawn. The drinking can only be done in the establishment. Tessa Santiago stated that the state requires that alcohol be served in a designated area. Provisions are in place with the state.

There was a conversation regarding the signage, and everything looks to be on track and the applicant will try and confirm a date for installation.

There was a conversation about having a condition for a deadline on the dumpster construction. Tessa Santiago stated that it would be good to have the date of October 31, 2022, and the committee thought that was very reasonable.

Motion: Commissioner Simons: I make a motion that we recommend approval for a Conditional Use Permit for an alcohol dispensing establishment. The restaurant is located at 195 West Main Street. The property is 0.28 acres in size and is located the C-2 zone. Approve the findings in the staff report and the conditions and add conditions that the date of October 31, 2022 for the completion of the dumpster enclosure, enclose the freezer with materials that match the building and that beer garden shall not be issued during Swiss Days.

Seconded: Commissioner Garland

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis, Wardle, Osborne, Lineback, Garland and Simons

Nays:

Recused:

Motion: Passed

Item 3:

Diane Vincent is petitioning for annexation of the Vincent Fields subdivision which would contain three lots on 9.46 acres. The property is in the Midway Growth Boundary and located at 1315 South Stringtown Road. The proposed zoning for the property is RA-1-43 (rural-agricultural 1 acre).

Michael Henke gave a presentation

Summary

- Diane Vincent
- 1315 South Stringtown Road
- 3 parcels – 9.76 acres
 - 5 acres - \$642,855 – OWC-1199-1
 - 4.06 acres - \$342,660 – OWC-1226-0
 - 0.7 acres - \$19,723 – OWC-1218-2
- County zoning
 - RA-1
- Midway planned zoning
 - RA-1-43
- Currently two dwellings in the property

Discussion Items

- Annexation
 - Would not form an unincorporated peninsula
- Density
 - Currently two dwellings & two water connections
 - Application is for three lots
 - County potential density is 7 lots (water system would be required)
- Access
 - Stringtown Road
- Road maintenance
 - Midway would annex and maintain Stringtown Road that fronts the property

Utah Code 10-1-104(6)

- "Peninsula," when used to describe an unincorporated area, means an area surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated territory and situated so that the length of a line drawn across the unincorporated area from an incorporated area to an incorporated area on the opposite side shall be less than 25% of the total aggregate boundaries of the unincorporated area.

Possible Findings

- The City will gain control over land use and zoning if the area is annexed.
- The proposal is a legislative action.
- The proposal will increase density and traffic to the area.
- The density of the project is relatively low at three dwellings on almost eleven acres. This will help promote the vision of the general plan to preserve more open area and a rural atmosphere.

Proposed Conditions

- Development on the parcel is limited to three lots. The three lots will be deed restricted and will not allow any further subdividing.
- The existing trailer is allowed to remain until either the son or the petitioner moves out of the existing dwellings. If either were to move, then the trailer would need to be removed within one month.
- A parks annexation donation fee of \$5,749.71 will be paid before the recording of the annexation plat.

Applicant and Commissioner Comments

There was a conversation regarding the funds that we would receive and how that would offset some of the expenses of maintaining the road. Wes Johnson stated that the road maintenance costs have been calculated but it is about half of a class C road. It could approximately be about 5000.00 per every 5 years.

There was a discussion about trails, Michael Henke stated that that would be addressed in the subdivision piece of this meeting and agenda.

Motion: Commissioner Ream: I make a motion that we recommend approval for the petition for annexation of the Vincent Fields subdivision which would contain three lots on 9.46 acres. The property is in the Midway Growth Boundary and located at 1315 South Stringtown Road. The proposed zoning for the property is RA-1-43 (rural-agricultural 1 acre). Accept staff findings and that the conditions listed in the staff report and the fees in the third condition be put into the general fund.

Seconded: Commissioner Garland

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis, Wardle, Osborne, Lineback, Garland and Simons

Nays: None

Motion: Passed

Item 4:

Kevin Payne is requesting a Plat Amendment of lot 2 of the Whimsy Willow Subdivision. The proposal would add 0.33 acres to lot 2. The property is located at 405 West 1120 South in the RA-1-43 zone.

Michael Henke gave a presentation

Proposal

- Amend Whimsey Willow plat
 - Add 0.33 acres to lot 2 (approximately 41' x 354')
 - Amendment can only occur after Vincent annexation plat is approved and recorded

Utah Code 10-9A-608(5)

- A lot line adjustment is an administrative action, according to state law, as long as the properties comply with the land use ordinance. Utah law states that "owners of record of adjacent parcels...may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b). Subsection (5)(b) states that "the land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance."

Possible Findings

- Lots 2 will continue to conform to the requirements of the RA-1-43 zone.
- State law requires a land use authority to approve a lot line adjustment if the exchange will not result in a violation of any land use ordinance, no violations have been identified
- State law states a plat amendment may be considered by the land use authority at a public meeting
- No public street, right-of-way, or easement will be vacated or altered
- The Vincent Parcel is not currently in the city limits so the plat amendment may not be recorded until the annexation is recorded.

Applicant and Commissioner Comments

Kevin Payne stated that the reason they want the additional 1/3 acre is to make up for the ag area and make room for an arena.

Motion: Commissioner Bouwhuis: I make a motion that we recommend approval of the plat amendment of lot 2 of the Whimsy Willow Subdivision. The proposal would add 0.33 acres to lot 2. The property is located at 405 West 1120 South in the RA-1-43 zone. We approve the findings in the staff report with no conditions.

Seconded: Commissioner Ream

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis, Wardle, Osborne, Lineback, Garland and Simons

Nays: None

Recused:

Motion: Passed

Item 5:

Kevin Payne, agent for Diane Vincent, is requesting preliminary/final approval of a three-lot subdivision to be known as Vincent Fields subdivision. The three lots total 9.3 acres and is located at 1315 South Stringtown Road and is in the RA-1-43 zone.

Michael Henke gave a presentation

Land Use Summary

- 9.76-acre total
 - OWC-1199-15 acres
 - OWC-1226-04.06 acres
 - OWC-1218-20.7 acres
- RA-1-43 zoning
- Proposal contains three lots
- Two existing dwellings
- Frontage on Stringtown Road
- Sensitive lands – None identified
- The lots will connect to the Midway Sanitation District sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary water line

Discussion Items

- Setbacks – 50' front setbacks along Stringtown Road
 - Existing structures will be considered legal nonconforming
- Bike Lane contribution
- Fire Flow – fire hydrants required within 500' of all future buildings

Water Board Recommendation

- 9.79-acre parcel (426,452 sq. ft.)
 - Area of lots (Lots 1, 2, 3, and 0.33 parcel)
 - 9.63 acres (419,482 sq. ft.)
 - Impervious area for lots
 - 0.73 acres (4 x 8,000 = 32,000 sq. ft.)
 - Irrigated acreage
 - 8.9 acres x 3 = 26.7 acre feet
 - 2 culinary connections (if trailer remains) (2 existing connections)
 - 1.6 acre feet
 - **28.3 acre feet requirement**

Possible Findings

- The proposed lots do meet the minimum requirements for the RA-1-43 zoning district

- The proposal does meet the intent of the General Plan for the RA-1-43 zoning district
- The subdivision will contribute to the master trails plan by adding funds the general trails fund that will be used to help accomplish the master trails plan
- The applicant will be required to install or bond for all unfinished improvements previous to the plat being recorded
- The duration of Preliminary/Final Approval shall be for one year from the date of approval of the development by the City Council. If the Final Plat is not recorded with the County Recorder within the one-year period of time, the development's approval shall be voided, and both Preliminary and Final Approvals must be re-obtained to reinstate the project, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for plat recording, with or without conditions. No more than three one-year extensions will be allowed. The granting or denying of any extension, with or without conditions, is within the sole discretion of the City Council, and an applicant has no right to receive such an extension.

Recommended Conditions

- Prior to the recording of the plat, the applicant will add \$20,490 to the general trails fund so that the bike lane can be completed in the future as part of a larger improvement project that will complete the bike lanes along the entirety of Stringtown Road where bike lanes are planned.

Applicant and Commissioner Comments

There was a question regarding the fire hydrants and if they need to be further into the lots and would they be private or public. Wes Johnson stated that they would be public and maintained by the city.

Motion: Commissioner Bouwhuis: I make a motion that we recommend approval requesting preliminary/final approval of a three-lot subdivision to be known as Vincent Fields subdivision. The three lots total 9.3 acres and is located at 1315 South Stringtown Road and is in the RA-1-43 zone. We accept the findings of the staff report and the one condition listed in the staff report.

Seconded: Commissioner Simons

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis, Wardle, Osborne, Lineback, Garland and Simons

Nays: None

Motion: Passed

Item 6:

Still Water Holdings LLC is petitioning for annexation of the proposed Kay's Landing subdivision which would contain five lots on 10.81 acres. The property is in the Midway Growth Boundary and located at 1375 South Stringtown Road. The proposed zoning for the property is RA-1-43 (rural-agricultural 1 acre).

Michael Henke gave a presentation

Summary

- Still Water Holdings LLC
- 1591 South Stringtown Road
- 2 parcels – 12.81 acres
 - 10.01 acres - \$950,950 – OWC-1218-0
 - 0.80 acres - \$22,540 – OWC-1218-1
- County zoning
 - RA-1
- Midway planned zoning
 - RA-1-43
- Deed restricted to 5 lots by previous owner

Discussion Items

- Annexation
 - Would not form an unincorporated peninsula
- Density
 - Limited to five lots per deed restriction
- Access
 - Stringtown Road
 - Midway limits development on once access roads
 - 1,300' length limit for cul-de-sacs
 - 2 points if access required (built to City standards)
- Road maintenance
 - Proposed cul-de-sac would be a public road

Utah Code 10-1-104(6)

- "Peninsula," when used to describe an unincorporated area, means an area surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated territory and situated so that the length of a line drawn across the unincorporated area from an incorporated area to an incorporated area on the opposite side shall be less than 25% of the total aggregate boundaries of the unincorporated area.

Possible Findings

- The City will gain control over land use and zoning if the area is annexed.
- The proposal is a legislative action.
- The proposal will increase density and traffic to the area.
- The density of the project is relatively low at five dwellings on almost eleven acres. This will help promote the vision of the general plan to preserve more open area and a rural atmosphere.

Recommended Conditions

- Development on the parcel is limited to five lots. The five lots will be deed restricted and will not allow any further subdividing.

Applicant and Commissioner Comments

Standard Subdivisions are required to be public roads. Smaller subdivisions could get neglected so Michael's interpretation is that we do not have the authority to make the cul-de-sac a private road.

There was a clarification Paul Berg regarding the easement for Randal Probst it will be on the west side of lot 1 directly behind the existing properties and homes.

Motion: Commissioner Ream: I make a motion that we recommend approval for the petition of annexation of the proposed Kay's Landing subdivision which would contain five lots on 10.81 acres. The property is in the Midway Growth Boundary and located at 1375 South Stringtown Road. The proposed zoning for the property is RA-1-43 (rural-agricultural 1 acre). We accept staff findings and the two conditions listed in the staff report.

Seconded: Garland

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis, Wardle, Osborne, Lineback, Garland and Simons

Nays: None

Motion: Passed

Rob Bouwhuis recused himself from the Item 7 and 8 but remained in the audience to be able to answer questions.

Item 7:

Berg Engineering, agent for Rising Heights LLC, is proposing a one lot subdivision, to be known as Rising Heights subdivision. The lot is 4.78 acres and is located approximately 950 E Michie Lane and is in the R-1-11 zone.

Michael Henke gave a presentation

Land Use Summary

- 4.78-acre parcel
- RA-1-11 zoning
- Proposal contains one lot
- Site of a future school
- Frontage on Michie Lane
- Sensitive lands – minor localized areas of greater than 25% slope
- The lot will connect to the Midway Sanitation District's sewer line, Midway City's culinary water line, and Midway Irrigation Company's secondary water line

Water Board Recommendation

- 4.79-acre parcel (208,652 sq. ft.)
 - Impervious area for school, roads, parking, & hardscape
 - 1.55 acres (67,518 sq. ft.)
 - Building 0.34 acres
 - Roads & Parking 0.7 acres
 - Hardscape 0.51 acres
 - Irrigated acreage
 - 2.65 acres x 3 = 7.95 acre feet
 - Grass 0.75 acres
 - Native/Wild Flower Mix 1.25 acres
 - Planter Beds 0.66 acres
 - Non-irrigated area
 - 1 culinary connection (250 day x 15 GPD x 85 people)
 - 0.98 acre feet
 - 8.98 acre feet requirement

Possible Findings

- The proposed lot does meet the minimum requirements for the R-1-11 zoning district
- The proposal does meet the intent of the General Plan for the R1-1-11 zoning district
- Review for access, road connectivity, and water rights have been considered for a future school and not any other uses.
- The applicant will be required to install or bond for all unfinished improvements previous to the plat being recorded
- The duration of Preliminary/Final Approval shall be for one year from the date of approval of the development by the City Council. If the Final Plat is not recorded with the County Recorder within the one-year period of time, the development's approval shall be voided, and both Preliminary and Final Approvals must be re-obtained to reinstate the project, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for plat recording, with or without conditions. No more than three one-year extensions will be allowed. The granting or denying of any extension, with or without conditions, is within the sole discretion of the City Council, and an applicant has no right to receive such an

extension.

Recommended Conditions

None

Applicant and Commissioner Comments

It was explained that the lot was not considered a “lot of record” and that is why the applicant is asking for a one lot subdivision.

Motion: Commissioner Simons: I make a motion that we recommend approval for a one lot subdivision, to be known as Rising Heights subdivision. The lot is 4.78 acres and is located approximately 950 E Michie Lane and is in the R-1-11 zone. We accept staff findings in the staff report with no conditions.

Seconded: Commissioner Garland

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis, Wardle, Osborne, Lineback, Garland and Simons

Nays: None

Motion: Passed

Item 8:

Berg Engineering, agent for Rising Heights LLC, is applying for a Conditional Use Permit for the proposed use (primary school) within the R-1-11 zone. The school would be located approximately at 950 E Michie Lane

Michael Henke gave a presentation

Project Overview

- Proposal: Create a 1-lot subdivision and build a school on the property
- Zoning: R-1-11
- Parcels: 4.78 acres
- Proposed Use:
 - 1 lot for a school

Discussion Items

- Setbacks – minimum 50’ setback from Michie Lane
- Driveway easement
- Fire Flow - A fire hydrant will need to be located within 500’ of the structures, measured

- by the route of a fire hose from the fire hydrant to the future building sites
- Parking - The school is providing 17 parking stalls, including two ADA stalls, in a specified parking lot along with approximately 23 other parallel parking areas lined along the driveway that will be used for events but not during pick-up or drop-off times.

Possible Findings

- The proposed use is a conditional use in the R-1-11 zoning district.
- The applicant has not provided engineered drawings for utilities or storm water facilities.
- The project will increase traffic to the area, but traffic counts will be within standards for the classification of the roads in the area.
- The duration of Approval shall be for one year from the date of approval of the development by the City Council. If the use is not acted on within a year of approval, the development's approval shall be voided, and a conditional use approval must be re-obtained to reinstate the project.

Recommended Conditions

- The applicant will need to provide a will serve letter from Midway Irrigation Company before the City Councils reviews the proposal.
- Engineered plans must be submitted before the City Council reviews the proposal.

Commissioner Comments

Michael Henke clarified the access current easement that is one the property.

There was a discussion regarding the safety and the rules of putting signage on Mitchie Lane. It was stated that the school being private it does not meet the requirements for a regular school requirement.

There was a conversation regarding the parking stalls and comparing it to Midway Elementary. The landscape plan was explained.

Motion: Commissioner Wardle: I make a motion that we recommend approval for a Conditional Use Permit for the proposed use (primary school) within the R-1-11 zone. The school would be located approximately at 950 E Michie Lane. We accept the findings in the staff report and the first condition listed in the staff report.

Seconded: Commissioner Ream

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

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

Nays: None

Recused: Bouwhuis

Motion: Passed

Item 9:

Midway City is proposing a code text amendment of Section 16.15: Resort Zone Landscaping Bond. The proposed code will clarify that a landscaping bond, separate from the construction bond, is required for resort development.

Michael Henke gave a presentation

Proposed Code

- Clarify that landscaping bond is separate from the construction bond
- Timing of the two bonds are quite different
 - Construction bond may be complete before landscaping is installed
 - Separating the bond will allow both to be established before the plat is recorded. The construction bond will be released when construction of infrastructure is complete, and the landscaping bond will be released when the landscaping is released.

Proposed Language

- 16.15.8 Completion and Recordation
- C. Landscaping Bond. Before recording any Subdivision Plat or Condominium Record of Survey of Map, a bond equal to 110 percent of the cost for construction and completion of the landscape plan shall be posted in accordance with requirements established, from time to time, by the City Council. The Landscaping Bond can be posted as a designated part of the Construction Bond.

Possible Findings

- The proposed code amendment will allow for better landscaping results in resort development common areas and open spaces.
- The proposed adjustment will allow administrating the code to be much simpler.
- Landscape and construction bonds must be posted separately before a plat is recorded.

Public Hearing Opened

None

Public Hearing Closed

Commissioner Comments

None

Motion: Commissioner Bouwhuis: I make a motion that we recommend approval for a code

text amendment of Section 16.15: Resort Zone Landscaping Bond. The proposed code will clarify that a landscaping bond, separate from the construction bond, is required for resort development. We approve staff findings and add the word instillation into the new wording

Seconded: Commissioner Simons

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis, Wardle, Osborne, Lineback, Garland and Simons

Nays: None

Motion: Passed

Adjournment

Motion: Commissioner Garland

Second: Commissioner Simons

8:30pm

Chairman – Jeff Nicholas

Admin. Assistant – Melannie Egan