

Midway City Planning Commission Regular Meeting April 16, 2014

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 7:00 p.m., April 16, 2014, at the Midway City Community Center
160 West Main Street, Midway, Utah

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

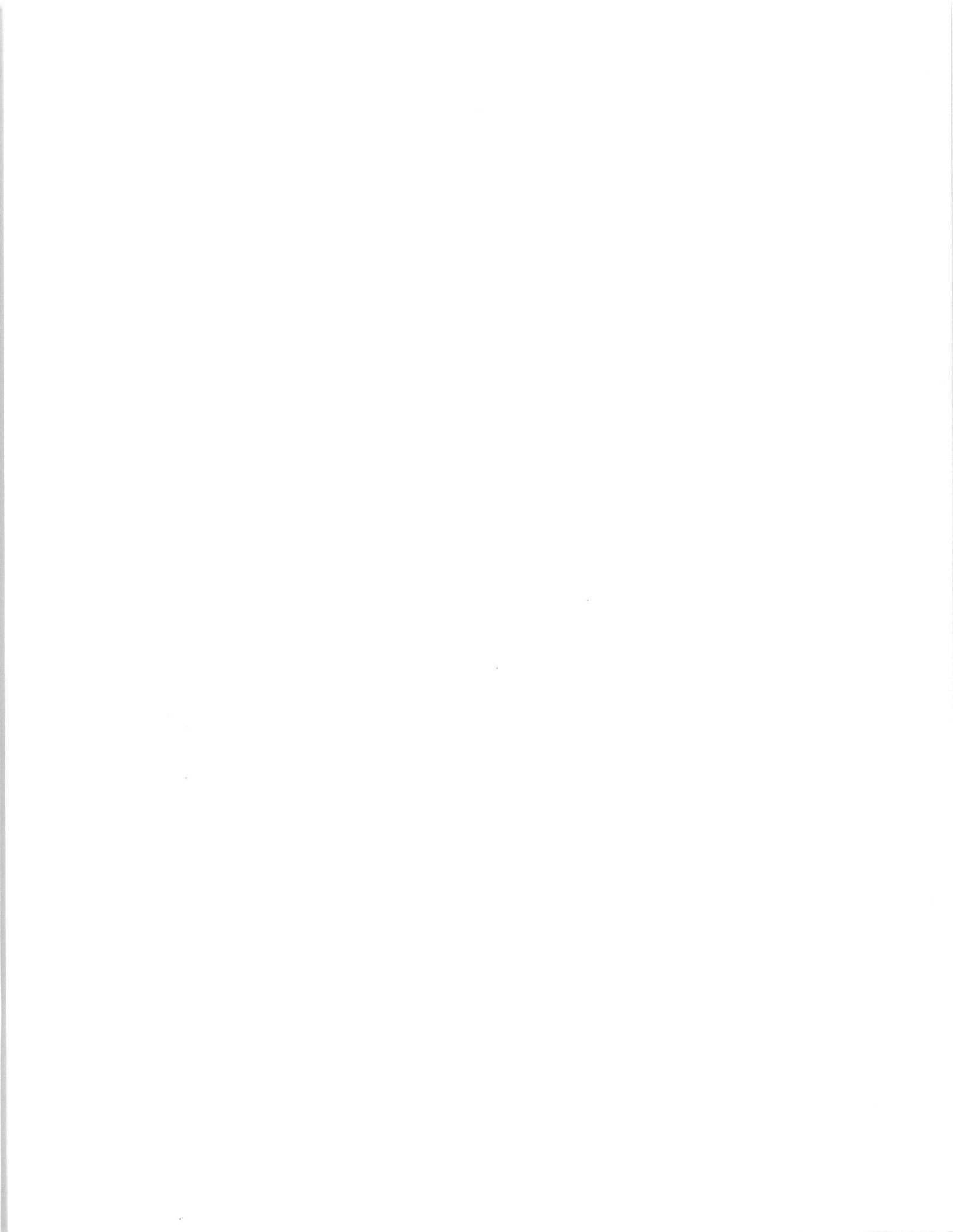
- Welcome and Introductions; Opening Remarks or Invocation; Pledge of Allegiance

Regular Business

1. **Review and possibly approve the Planning Commission Minutes of December 18, 2013.**
2. **Brad Wilson, Midway City Recorder, will swear in Steve Nichols as a full time member of the Planning Commission and William Ream and Nancy O'Toole as alternate members of the Planning Commission.**
3. **Public Hearing for Code Text Amendment. Kraig Higginson is proposing an amendment to Chapter 16.2.33 in the Land Use section of the Midway City Municipal Code. The amendment would allow aquaculture and aquaponics in commercial greenhouses in the RA-1-43 zone.**
 - a. Discussion of Code Text Amendment
 - b. Public Hearing
 - c. Possible recommendation to City Council
4. **Paul Berg, agent for Aliya Development is requesting a Concept Plan for the High Valley Ranch PUD-Amendment. The proposed PUD consists of 37 lots on 22.16 acres. The property is located at 700 South Center Street and is located in the R-1-22 zone. This item is a discussion item only, and no action will be taken.**
 - a. Discussion of proposed Concept Plan
5. **Paul Berg, agent for Richard Peery, will be reviewing a proposed annexation into Midway City of 44.88 acres. This item is a discussion item only, and no action will be taken.**
 - a. Discussion of proposed annexation

Planning Commission Minutes

December 18, 2013



**Minutes of the
Midway City Planning Commission**

**Wednesday, 18, December, 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
Jim Kohler
John Rather
Natalie Streeter
Chip Maxfield

Staff:

Michael Henke – City Planner
Jennifer Sweat – Administrative Assistant

Excused:

Stu Waldrip
Karl Dodge
Steve Nichols

6:52 P.M. Work/Briefing Meeting

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

7:00 P.M. Regular Meeting

Call to Order

Chairman Kohler opened the meeting and welcomed the commissioners, staff and public. Paul Berg, Midway City resident gave the invocation. Chairman Kohler led the Pledge of Allegiance.

Chairman Kohler stated that by way of information Commissioner Dodge, Commissioner Waldrip and Commissioner Nichols were excused from tonight's meeting.

Regular Business

1. Discussion and Possible adoption of the 2014 Planning Commission Meeting Dates

Planner Henke stated that in the Planning Commission meeting packet there was a listing of meeting dates for the Planning Commission for the 2014 year that was available for review prior to the meeting.

Motion: Commissioner J. Kohler made a motion to adopt the 2014 Planning Commission Meeting Dates as presented.

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

No further discussion were needed

Seconded: Commissioner Oksner seconded the motion.

Votes: Ayes: Commissioner Rather, Commissioner Streeter and Chairman Kohler

Nays: None

Motion: Passed

2. Review and possibly approve the Planning Commission Minutes of November 20, 2013

Commissioner Streeter stated that she had noted that on page three (3), 2nd full paragraph, 2nd line “Eventually this trail will connect to a trail “that will built” in the Midway Village PUD..... the words “that will built” be removed as the trail from Farm Springs will connect to an existing trail in Midway Village. Administrative Assistant Jennifer Sweat stated she would make that change.

Motion: Commissioner Mickey Oksner made the motion to approve the Planning Commission minutes of November 20, 2013 with the correction as noted by Commissioner Streeter.

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

No further discussion were needed

Seconded: Commissioner J. Kohler seconded the motion.

Votes: Ayes: Commissioner Rather, Commissioner Streeter and Chairman Kohler.

Nays: None

Motion: Passed

3. Election of Chairman and Vice Chairman of the Planning Commission

Chairman Kohler stated that any of the current members could be nominated for Chairman and Vice Chairman, and they do not need to be present to be nominated.

Commissioner John Rather nominated Commissioner Mickey Oksner, who has been serving as Co-Chairman, as Chairman of the Planning Commission.

All commissioners agreed with this nomination, and Commissioner Oksner was elected as Chairman of the Planning Commission.

Commissioner Mickey Oksner nominated Commissioner Stu Waldrip as Co-Chairman of the Planning Commission.

All commissioners agreed with this nomination, and Commissioner Stu Waldrip was elected as Co-Chairman of the Planning Commission.

Commissioner John Rather had a conflict arise and requested to be excused from the meeting at 7:08 p.m. which was accepted by Chairman Kohler, as the commission did have a quorum. Commissioner Chip Maxfield arrived at 7:09 p.m.

4. Paul Berg, agent for Daniel Luster, is requesting a Final Approval for Farm Springs. The proposal is a large scale-subdivision and consists of 14 lots on 26 acres. The property is located at 550 North Center Street and is located in the R-1-15 zone.

Planner Henke thanked Chairman Kohler and the Commissioners.

Planner Henke stated that this request is for final approval for the proposed project named Farm Springs, previously known as The Settlement. The project consists of 14 lots on 26 acres. The proposal does have sensitive lands over part of the property and it is in an area where a future planned collector road will be built along with an accompanying trail. The 600 N. collector road that is a part of this development is an important connector road for the City. There are few east-west connections and this is one of the last options available on the north section of town. Since 1977 this road has been part of the City's Transportation Master Plan. This property has been known as The Settlement for the past two times that it was proposed for development. Those plans consisted of 36 lots in a Planned Unit Development then last year it was proposed with 11 lots. Neither of those two plans currently have any entitlement.

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 City Council granted preliminary approval on December 11, 2013 but there are ten issues that they would like to be addressed before the item returns to the City Council for final approval. These items include the following:

1. Street cross section – The developer is proposing that the City approve a rural cross section for the project instead of a more urban cross section. The City Council instead approved an urban cross section that includes curb, gutter, and a sidewalk while the rural cross section would have a swell instead of the curb and gutter with an 8' wide hard surface trail on the north side of the road.
2. Trail – The developer proposed an 8' paved trail to be constructed through the property. The City Council approved the trail to be 6' wide concrete trail.
3. Basements – Basements will not be allowed in the subdivision. This is based on the possibility of disrupting unground water in the area. Foundations will not be allowed to break the pot rock under the dwelling sites. The foundations will be placed on the pot rock and the final grade will need to be at a depth to meet frost depth requirements.
4. Clay dams – Clay dams will be constructed as needed when water is encountered on the property. They will serve as a barrier to keep the water in its original location if a disturbance occurs through construction.
5. Saw cuts – Excavation for infrastructure will use saw cuts instead of hammering. This should reduce the chance of fracturing the rock which could disrupt the underground hydrology in the area.

6. Irrigation ditch – the irrigation ditch that crosses the property is owned by Midway Irrigation. The developer would like to reroute the ditch and create a water feature along the road. The irrigation company will make a final decision if this will be allowed. They will decide where it is located and if it will continue to be an open ditch or if it will be piped.
7. Landscape plan – A landscape plan will be required for open space areas. Also a bond will be required to ensure the landscaping is installed as per plan.
8. Fence line agreements – There are two fence lines in contention on the property. Fence line agreements will need to be signed before the plat is recorded.
9. Access agreement – A neighboring land owner has claimed there is an access agreement for lot one (1) of the Pope Small Subdivision. She would like the easement shown on the plat. The City Council has asked that she provide documentation of the agreement before the easement is included in the plat.
10. Road escrow – The far west end of 600 N will not be constructed initially until the road connects to the west. The developer will be required to place the estimated amount of the road in an escrow account. The funds will be used once the road is constructed in the future.

Paul Berg, agent for Farm Spring was present for any questions the commissioners had for him.

Commissioners discussed the ten (10) items brought forward by the City Council, and discussed each item with Paul Berg. They discussed the pro and cons of street cross section (item one), the trails (item two), basements (item three) and the irrigation ditch (item six). They also discussed landscaping, type of trees, etc.

Mr. Berg stated that in regards to item eight (8) they felt they had reached fence line agreements and at this point they are working on drafting agreements with those parties.

It was also Mr. Berg's opinion that the applicants did not have a problem with items four (4), five (5), seven (7) or ten (10) at this time, and if that was the final recommendation of City Council they would abide by those guidelines.

Chairman Kohler asked if the commissioners had any other questions for Mr. Berg or Planner Henke. They did not.

Motion: Commissioner Maxfield made a motion for Final Approval for Farms Springs Subdivision. He moved to accept the staff findings, with recommendations that in regards to Item One (1) that it be approved as rural cross section, Item Two (2) the trail be an eight (8) foot paved trail, and to clarify on Item Three (3) to change the language from "basement" to state "do not disrupt the pot rock or water table" and on Item Six (6) the irrigation ditch to be allowed to remain opened as shown on the plans presented this evening.

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

No further discussion were needed

Seconded: Commissioner Streeter seconded the motion.

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

Nays: None

Motion: Passed

5. Public Hearing for proposed General Plan Amendment of the Moderate Income Housing Elements (pgs. 41-44). The proposed amendment would modify the language in this section of the General Plan.

Planner Henke thanked Chairman Kohler and the Commissioners.

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 tonight is a public hearing for a proposed General Plan Amendment to the City's General Plan. The proposed change would modify the Moderate Income Housing Element of the Midway City 2011 General Plan (pgs. 41-44) to replace references to Affordable Housing with Moderate Income Housing; to clarify where multi-family dwellings are allowed; to make Moderate Income Housing a voluntary effort; and to confirm that the existing inventory of Moderate Income Housing provided by naturally occurring zoning districts, mixed uses and voluntary inclusionary zoning is sufficient to provide an adequate supply of Moderate Income Housing.

Planner Henke stated that Midway City has an adopted General Plan from 2011. One section of the plan addresses the Moderate Income Housing Element. Other municipalities have modified or are in the process of modifying their ordinances regarding Moderate Income Housing which have proven difficult to enforce or monitor. This issue has been discussed with the Planning Commission on several occasions.

Planner Henke stated that Utah law requires that municipalities, through the general plan process, include a plan for Moderate Income Housing addressing the following five issues:

- 1) An estimate of the existing supply of Moderate Income Housing located within the municipality.
- 2) An estimate of the need for Moderate Income Housing in the municipality for the next five years as revised bi-annually.
- 3) A survey of total residential zoning.
- 4) An evaluation of how existing zoning densities affect opportunities for Moderate Income Housing.
- 5) A description of the municipality's program to encourage an adequate supply of Moderate Income Housing.

Planner Henke stated that he has reviewed the language of the Moderate Income Housing Element, and finds the following:

- 1) There are approximately 350 residential units that meet the definition of Moderate Income Housing in the City. This equates to approximately 18% of the total housing units according to the 2010 Census.

- 2) The City's Moderate Income Housing is available in a combination of Resort Zone condominiums, Planned Unit Development townhomes, trailers and smaller houses (including duplexes) in the R-1-7 and R-1-9 residential zones.

Planner Henke stated that as a result of the review, he is recommending a number of changes as well.

- 1) In the Survey of Residential Zoning section, the R-1-9 zone has been added to accurately reflect the zoning code.
- 2) In the Evaluation of Zoning's Effect on Housing Opportunities section, a description of the types of housing which comprise the Moderate Income Housing in Midway has been added.
- 3) In the Program to Encourage Moderate Income Housing section, Moderate Income Housing is now described as 'voluntary' and there is a reference to "up to a 5% density bonus for developers who wish to participate".
- 4) All references to Affordable Housing have been replaced by Moderate Income Housing.
- 5) Summary bullet points in the box titled "Midway's Moderate Income Housing Ordinance" have been updated to reflect methods of contribution preferred by the City in this amendment.
- 6) Moderate Income Housing Objectives Goals, Objectives, and Policies have been updated and revised.

Planner Henke stated that the General Plan is a guiding light for the community and is developed to help the city grow in a manner that is harmonious with that plan. A general plan should be a vision that has been created by the citizens of the community of what the City should become as it grows and develops. When decisions arise it is essential that decision makers review the General Plan and base any decisions made from what it outlined in that document.

Planner Henke stated that Title 16, Chapter 16.20 of the Midway City Municipal Code Affordable Housing has recently been considered by the Planning Commission. The Planning Commission recommended that the chapter be deleted in its entirety and that issues related to Moderate Income Housing become voluntary and addressed through the General Plan. This necessitates an amendment to the General Plan. The City Council will consider the revisions to Title 16 together with this General Plan Amendment once the Planning Commission makes its recommendation on the General Plan Amendment.

Planner Henke stated that the findings for this item are:

1. The recommended changes are consistent with the requirements of state law which require that municipalities, through the general plan process, have a plan for moderate income housing addressing five issues.
2. The recommended changes comply with the five issues.

Chairman Kohler opened the meeting to a Public Hearing to received public comments.

No Comments were given.

Chairman Kohler closed the Public Hearing

Motion: Commissioner Maxfield made the motion to accept the proposed General Plan Amendment to the City's General Plan. The proposed change would modify the Moderate Income Housing Element of the Midway City 2011 General Plan (Pages 41-44) to replace references to Affordable Housing with Moderate Income Housing; to clarify where multi-family dwellings are allowed; to make Moderate Income Housing a voluntary effort; and to confirm that the existing inventory of Moderate Income Housing provided by naturally occurring zoning districts, mixed uses, and voluntary inclusionary zoning is sufficient to provide an adequate supply of Moderate Income Housing. Commissioner Maxfield moved also accepted staffs findings, and forward this recommendation to City Council.

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

No further discussion were needed

Seconded: Commissioner J. Kohler seconded the motion.

Votes: Ayes: Commissioner Street, Commissioner Oksner, and Chairman Kohler.

Nays: None

Motion: Passed

Planner Henke stated that he would like to thank Chairman Kent Kohler and Commissioner Karl Dodge for their time served on the Planning Commission. We wish them well on their new adventure as Council Members.

Chairman Kohler asked for motion to adjourn.

Commissioner Oksner moved for adjournment @ 8:45 p.m.

Motion Accepted.

Michael "Mickey" Oksner, Chair

Jennifer Sweat, Admin Assistant

Brad Wilson, Midway City Recorder, will swear in Steve Nichols as a full time member of the Planning Commission and William Ream and Nancy O'Toole as alternate members of the Planning Commission.

Public Hearing for Code Text
Amendment. Kraig Higginson is
proposing an amendment to Chapter
16.2.33 in the Land Use section of the
Midway City Municipal Code. The
amendment would allow aquaculture
and aquaponics in commercial
greenhouses in the RA-1-43 zone.



PLANNING COMMISSION STAFF REPORT

DATE OF MEETING: April 16, 2014

NAME OF APPLICANT: Kraig T. Higginson

AGENDA ITEM: Code Text Amendment of Title 16: Chapter 16.2.33: Definitions; Commercial Greenhouses

ITEM: 3

Public Hearing for a Code Text Amendment. Kraig Higginson is proposing an amendment to Chapter 16.2.33 in the Land Use section of the Midway City Municipal Code. The amendment would allow aquaculture and aquaponics in commercial greenhouses in the RA-1-43 and the B & MP zones.

BACKGROUND:

The proposed code text amendment would change the definition of commercial greenhouses so that aquaculture and aquaponics would not be excluded as uses within those structures. Currently the definition specifically states that “aquaculture and aquaponics are not allowed.” The applicant’s proposed change would delete that sentence from the definition and would in turn allow those uses. Potentially the sentence could be changed to “aquaculture and aquaponics are allowed” and may be a better way to clarify the intent of the proposed amendment.

The 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 commercial greenhouse code. The original commercial 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 this item 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. This leads us to the current application by Kraig Higginson. The applicant received approval for a Conditional Use Permit for a commercial greenhouse on November 13, 2013. His greenhouse is currently under construction and he would like the ability to raise fish in the approved greenhouse. His proposed amendment would allow him to achieve that goal. The proposed change will also allow and future commercial greenhouses in the RA-1-43 and B & MP zones to also raise fish. This will be further discussed in the analysis section of this report.

ANALYSIS:

Though the applicant's goal is to allow the raising of fish in his particular facility, a change to the code will allow all future commercial greenhouses to have fish. This includes all the RA-1-43 and B & MP zones along with any property that is rezoned to these two zones and any areas annexed into the City with these two zoning classifications. There is really not a way to single out this particular property without affecting the entire area of both zones and this should be a consideration with this request.

As mentioned earlier in this report, 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 allow fish in commercial greenhouses if an application was made and the applicant could propose an acceptable plan. The applicant feels that his plan is acceptable. It is a much smaller operation than plans that were reviewed by the City over the past few years and he feels there are no negative impacts. Staff does agree that the plan for the commercial greenhouse under construction does not seem to have any issues associated with it. It is on a relatively small scale. The structure is located near Snake Creek but, as per the submitted plans and per the applicant, there will be no water from the greenhouse that will enter Snake Creek. The State's Department of Agriculture will also continually inspect the facility. Their website states the following:

“The UDAF Fish Health Program serves the aquaculture industry by providing fish health and culture information and by enforcing those rules that govern the operation of aquaculture facilities and the spread or introduction of disease. The program registers commercial aquaculture and fee fishing facilities, conducts fish health inspections for those operators wishing to sell live products, issues entry permits for all imports of live fish or eggs into Utah, performs export inspections of brine shrimp, maintains a current listing of those facilities determined to be fish health approved for movement of live fish or eggs, offers limited diagnostic services for operators, and provides advice and information on aquaculture and fish health.”

Utah State Code also encourages aquaculture as found in Title 4-37-102

4-37-102. Purpose statement -- Aquaculture considered a branch of agriculture.

(1) The Legislature declares that it is in the interest of the people of the state to encourage the practice of aquaculture, while protecting the public fishery resource, in order to augment food production, expand employment, promote economic development, and protect and better utilize the land and water resources of the state.

(2) The Legislature further declares that aquaculture is considered a branch of the agricultural industry of the state for purposes of any laws that apply to or provide for the advancement, benefit, or protection of the agricultural industry within the state.

Again, this particular greenhouse does not seem to have any relevant issues but the proposal must be analyzed by consider the impacts on a community level because of the potential impact on the RA-1-43 and B & MP zones and the areas that surround these zones.

Current Code Text

Title 16.2.33: Definitions

33. *Greenhouse, Commercial. A structure or portion of a structure usually made of glass or other translucent material, for which the primary purpose is the cultivation or the production of wholesale: nursery stock, annual or perennial flowers, fruits, vegetables or landscaping plants. This could include hydroponics or plants grown in soil. Aquaculture and aquaponics are not allowed.*

Proposed Code Text Amendment

Applicant's Proposal

33. *Greenhouse, Commercial. A structure or portion of a structure usually made of glass or other translucent material, for which the primary purpose is the cultivation or the production of wholesale: nursery stock, annual or perennial flowers, fruits, vegetables or landscaping plants. This could include hydroponics or plants grown in soil. ~~Aquaculture and aquaponics are not allowed.~~*

Staff's Alternative Option

33. *Greenhouse, Commercial. A structure or portion of a structure usually made of glass or other translucent material, for which the primary purpose is the cultivation or the production of wholesale: nursery stock, annual or perennial flowers, fruits, vegetables or landscaping plants. This could include hydroponics or plants grown in soil. Aquaculture and aquaponics are ~~not~~ allowed.*

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:

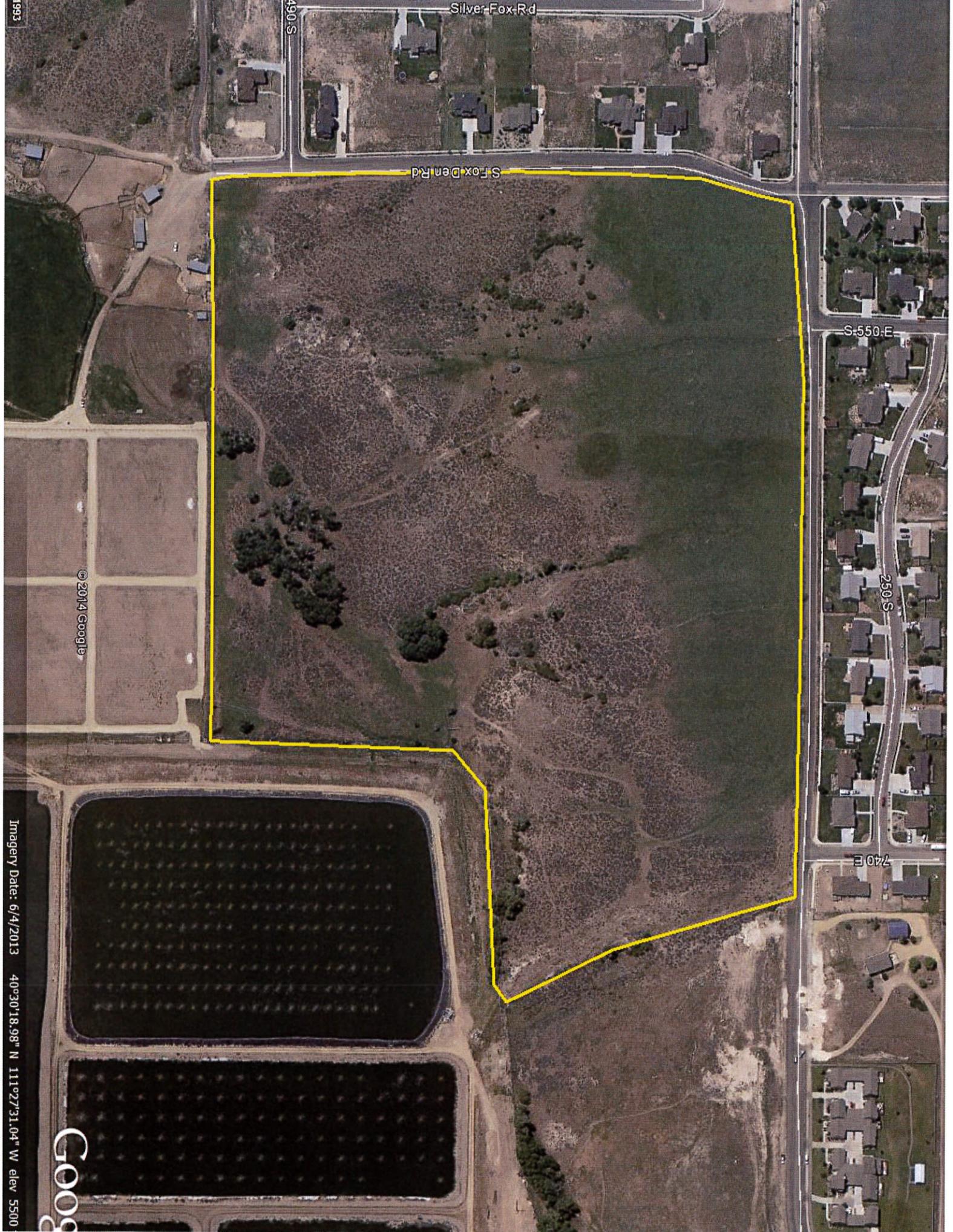
- Commercial greenhouses would allow aquaculture and aquaponics in the Residential Agricultural Zone (RA-1-43) and the Business and Manufacturing Park Zone (B & MP) that the City has established.
- State Code promotes aquaculture in Utah.
- Commercial greenhouse regulations have been sufficiently developed and this use will only be allowed through the approval of a Conditional Use Permit.
- Sufficient potential impacts and mitigations for commercial greenhouses have been identified to protect neighboring property owners and the City residents in general.
- Personal greenhouses will not be allowed to have aquaculture or aquaponics.

ALTERNATIVE ACTIONS:

1. Recommendation for approval. This action can be taken if the Planning Commission feels 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 of 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

Paul Berg, agent for Aliya Development is requesting a Concept Plan for the High Valley Ranch PUD-Amendment. The proposed PUD consists of 37 lots on 22.16 acres. The property is located at 700 South Center Street and is located in the R-1-22 zone. This item is a discussion item only, and no action will be taken.

Paul Berg, agent for Richard Peery, to review a proposed Annexation of 44.88 acres. This item is a discussion item only, and no action will be taken.



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