

Midway City Council  
4 August 2020  
Regular Meeting

Bonner B&B /  
Conditional Use Permit



**CITY COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** August 4, 2020  
**NAME OF PROJECT:** Bed and Breakfast  
**NAME OF APPLICANT:** Larry and Ellen Bonner  
**AGENDA ITEM:** Conditional Use Permit  
**LOCATION OF ITEM:** 47 South 100 East  
**ZONING DESIGNATION:** C-2, R-1-9, & TROD

**ITEM: 10**

Larry and Ellen Bonner are proposing a Conditional Use Permit for a Bed and Breakfast. Their property is 0.78 acres and is located at 47 South and 100 East. The property is in both the C-2 and R-1-9 zones.

**BACKGROUND:**

Larry and Ellen Bonner are requesting a Conditional Use Permit (CUP) for a Bed and Breakfast. Their home is located at 47 South 100 East and is located on 0.78 acres. The property is dissected by two zones. Most of the property is in the C-2 zone and in the Transient Rental Overlay District (TROD) and a small section of the property is in the R-1-9 zone. One of the criteria for a Bed & Breakfast is that the Bed and Breakfast is in the TROD. Even though the property is dissected by two zones, it is staff's opinion that the dwelling itself is in the TROD. A CUP can therefore be granted if the applicant can

comply with all the requirements (see list on the following page). Three bedrooms would be available to guests of the business.

The City has lost some of its Bed and Breakfast establishments over the years including Inn on the Creek and Johnson Mill. The loss of these facilities impacted the local economy and the City's tax base. Adding a new bed and breakfast will help the City retain the resort tax and will help the local economy. The property is located within walking distance of Main Street and is located within a block of The Mercantile and Lola's. Guests will be able to walk to Main Street and enjoy all that Midway has to offer.

Below is a list of the requirements in the code for Bed and Breakfast businesses (staff's comments in italicized based on information gathered during meeting with the applicants):

Bed and breakfast establishments shall be allowed as a conditional use in any zone, but only if at least one of the following criteria is met and such a use is not prohibited by private Covenants, Conditions, and Restrictions (CC&R's) governing the lot:

1. Located in the Transient Rental Overlay District (TROD) - *project is in the TROD*
2. Established in a structure that is at least 75 years old
3. Located on lot that is at least two acres in size
  - A. The lot shall have at least 100 feet of frontage on a dedicated street, *Lot has 100' of frontage.*
  - B. One off-street parking space shall be provided for each employee plus one space per sleeping room. Parking shall not be allowed in the front setback area. Parking must be paved. *Parking is paved and there is room for 5+ parking stalls which includes the two stalls required for the residence.*
  - C. Breakfast shall be the only meal served. Breakfast meals shall only be served to residents, employees, and overnight lodgers. *Only breakfast will be served.*
  - D. No cooking facilities shall be allowed in the sleeping rooms. *No issue.*
  - E. Such use shall conform to all applicable health, safety and building codes. *The applicants have been inspected and approved.*
  - F. No structural alterations shall be allowed which change the residential character of the structure. *No alterations are planned.*
  - G. Alcoholic beverages may not be served unless a license has been granted by the Utah Department of Alcoholic Beverage Control and the City Council has specifically approved the same as part of the conditional use permit. *The applicants will not pursue an alcohol license.*
  - H. Receptions, banquets, or catering may be permitted as an additional use to an approved bed and breakfast conditional use when the applicant can show adequate facilities and parking exists on the lot or when arrangements are made with the permission of surrounding lot owners. *The applicants will not pursue approvals for receptions, banquets, or catering.*
  - I. Any commercial or retail use shall be incidental to the bed and breakfast establishment use, i.e. gift shop, and shall be limited to 5 percent of the total square footage of the main floor of the residence. *No commercial space is planned.*

J. All signs shall comply with the current Title 16. *There is a historic sign on site, specific to Midway and titled "Old Bonner Corner 1876", that has been in place for years. The applicants do not plan to install any other signage.*

K. A Midway City business license shall be required as a condition of approval. *The applicants have submitted a business license application to the City.*

L. The bed and breakfast establishment shall, at the time of approval and thereafter, be the property owner's primary residence. Conditional use approval shall cease upon sale of the property. The new owner shall apply for conditional use approval before operating the bed and breakfast establishment. *This property is the applicant's primary residence.*

M. Supervision by an on-site manager or owner shall be required on an overnight basis when the establishment has guests. *The owners will be present when there are guests.*

N. Care shall be taken to ensure that no exterior lighting shines directly onto adjoining property. Incident light at the property line shall not measure more than ten foot-candles. *No new lighting is planned.*

O. A fire hydrant shall be within 250 feet from the property. *The City recently upgraded the waterlines in the street fronting the property and new fire hydrants were installed. There is a fire hydrant within 250' of the property.*

P. The Fire Marshal shall determine maximum occupancy. *The property has been inspected.*

Q. A site plan shall be submitted with the conditional use application. *An aerial photograph is available and attached to this report.*

This item has been noticed in the local newspaper for two weeks and on the City's and State's website for the Planning Commission meeting. Mailed notice was mailed to all property owners within 600' before the public hearing at the City Council meeting.

#### **ANALYSIS:**

The comments in italicized represent Planning Staff's comments pertaining to compliance or lack of compliance with the findings the Planning Commission must make in considering this request. Section 16.26.120 requires specifically the Planning Commission to find that:

1. The proposed use is conditionally permitted within the Land Use Title, and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all of the applicable provisions of this Code; *planning staff believes that the proposal will not have a significant impact on the neighborhood. Also, staff has analyzed the proposal and it appears that it will comply with the provisions of the Code.*
2. The proposed use is consistent with the General Plan; *no issues have been identified.*
3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations; *the applicant is required to apply and receive approval of*

*a business license before they will be allowed to open for business. This license requires the applicant to register with the State for tax purposes, have their dwelling inspected by the building inspector, fire marshal, and health inspector.*

4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *no issues have been identified.*
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses with the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City; *the proposed use is a CUP for the zone and the traffic counts for the local streets will fall within established traffic count standards.*
6. The subject site is physically suitable for the type and density/intensity of the proposed use; *it appears that the proposal is suitable based on the proposed use.*
7. There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to insure that the proposed use would not be detrimental to public health and safety; *no detrimental impacts have been identified.*

#### **PLANNING COMMISSION MOTION:**

**Motion:** Commissioner Bouwhuis: I make a motion that we recommend the approval of the Conditional Use Permit for a Bed and Breakfast. Their property is 0.78 acres and is located at 47 South and 100 East. The property is in both the C-2 and R-1-9 zones. We accept the staff report and the findings and there are no conditions.

#### **POSSIBLE FINDINGS:**

- The proposed use is a conditional use for a property in the TROD.
- The property is within walking distance of Main Street with its restaurants and businesses.
- Traffic will increase in the neighborhood, but the increased traffic will still fall within established traffic count standards.
- The proposal does comply with the requirements of the code.

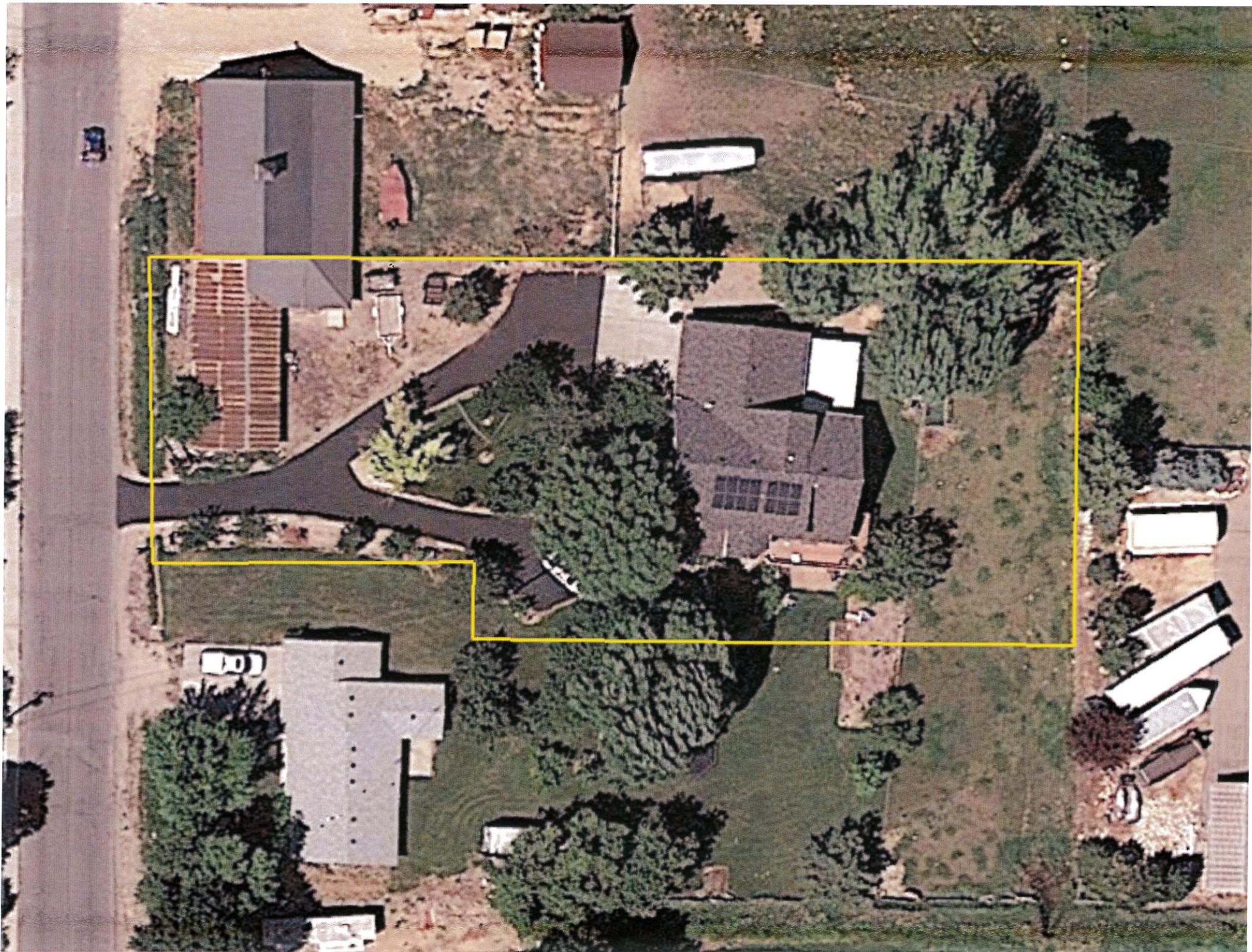
**ALTERNATIVE ACTIONS:**

1. Approval (conditional). This action can be taken if the City Council finds that conditions placed on the approval can resolve any outstanding issues.
  - a. Accept staff report
  - b. List accepted findings
  - c. Place condition(s)
  
2. Continuance. This action can be taken if the City Council finds 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 finds that the request does not meet the intent of the ordinance.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

**POSSIBLE CONDITIONS:**

Staff has no recommended conditions.









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