

## **Midway City Planning Commission Regular Meeting Minutes August, 2020**

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 6:00 p.m., August 11, 2020, at the Midway City Community Center  
160 West Main Street, Midway, Utah

### **Attendance**

Jeff Nicholas- Chairman  
Rob Bouwhuis- V Chairman  
Bill Ream  
Rich Cliften  
Andy Garland  
Heather Whitney  
Craig Simons

### **Staff**

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

### **Excused**

Jon McKeon  
Michelle Crawford

### **6:00 P.M. Regular Meeting**

#### **Call to Order**

- Welcome and Introductions; Opening Remarks or Invocation; Pledge of Allegiance
  - Invocation was given by Commissioner Clifton,
  - Chairman Nicholas led the Pledge of Allegiance

#### **Item 1:**

Review and possibly approve the Planning Commission Meeting of July 14, 2020.

**Motion:** Commissioner Garland: I move that we approve the Planning Commission meeting minutes of July 14, 2019 with the changes given to Melannie Egan.

**Seconded:** Commissioner Ream

**Chairman Nicholas:** Any discussion the motion?

**There was none**

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Ream, Bouwhuis, Whitney, Simons, Cliften and Garland

**Nays:** None

**Motion: Passed**

## **Item 2:**

Kirk Malmrose, agent for John Zenger Trust, is proposing preliminary approval of phase 1 of Midway Vistas. Midway Vistas phase 1 contains 27 lots on 46.89 acres, of which, there are 13.63 acres of open space. The property is located at 285 Luzern Road and is in the RA-1-43 zone.

### **Planner Henke gave a presentation**

## **Land Use Summary**

- 46.89 acres in phase 1
  - Entire master plan 83.19 acres
- 13.63 acre of open space
- RA-1-43 zoning
- Proposal contains 27 building pads
  - Entire master plan contains 49 lots
- Project is a standard subdivision
- Private roads will be the responsibility of the HOA
  - Public access easement on all roads and sidewalks
- The lots will connect to the Midway Sanitation District sewer and to the City's water line.
- 8' paved public trails and a public trail easement for a back-country trail
  - Project will participate in an off-site trail about 300' in length along Homestead Drive

## **Discussion Items**

- Open space
  - 15% required
  - 30% proposed
    - Lots may reduce in size and frontage by 15%
- Sensitive lands
  - 25% slopes and greater
- Density limited to 49
  - 27 in phase 1
- Access
  - Interlaken Road use agreement
- Public Trails
  - Offsite trail requirement
- Interlaken dumpsters in Valais Park
- Edelweiss Lane access

## **Water Board Recommendation**

- The Water Board has reviewed the master plan and has determined that 191.24-acre feet are required for the entire project. Phase 1 will dedicate 120.18 acre-feet.
- Secondary water meters
- Irrigation pumps required for 15 lots
- All the required water rights will be held in escrow before the master plan agreement is

recorded.

### **Possible Findings**

- The proposal complies with the requirements of the code for standard subdivisions.
- The proposal does meet the vision of the area as described in the General Plan for the RA-1-43 zone.
- The public trails will be built by the developer that will be an amenity to the entire community.

### **Proposed Conditions**

- The developer will pay the cost of building a 300' section of trail along Homestead Drive that will take the place of the trail that the City built along Burgi Lane that was originally required of the developer. Payment is required before the phase 1 plat is recorded.
- All approved non-irrigated areas will be noted on the plats.
- A note is placed on the plats informing future owners that the 15 most elevated lots will each require an irrigation pump because they are located above the irrigation ditch.
- Private roads in the development will have a public access easement which will be noted on the plats and in the development agreement.

### **Commissioners and Staff Comment**

There was a discussion regarding the trail on the east of the development. Michael Henke told the committee that a property owner Steve Wilson recently communicated with the City that he does not want keep the trail open any longer now that a new trail option is on the plan and he does not want the liability any longer.

Steve Wilson on Interlakin Drive spoke about the trail and the signage that he put up to protect landowners from liability from a State Law view. The signage allows them to change or discontinue the use. But with the new subdivision, he believes that there will just be too many people going through his property. Now that there is a new trail option that is on the plan, they feel that it is time to close the trail. He also stated that if the trail was moved there may be room for negotiation, but he will not grant an easement through the middle of his property.

There was a discussion regarding the proposed 8-foot trail and the possibility of changing the trail width to a 6-foot trail. Because of the easement width it would be possible to widen the trail back to 8-feet if the need becomes necessary.

There was a short discussion regarding paved trail vs a soft surface trail. This plan has always just been paved trails with this project and there has been no discussion with any of these change from paved to a road base. The standard throughout Midway is paved. City community trails and rural adventure trails should be defined.

There was a discussion regarding the location of the dumpsters and would the dump truck be able to make the turn. Wes Johnson stated that the city cannot dictate a private vehicle from not driving on a public road and the dump truck is a legal vehicle and the driver could not be forced to avoid certain public roads. Making the turn could be a hazard as it could force the dump truck to pull into oncoming traffic.

**Motion:** Commissioner Bouwhuis: I make a motion that we recommend approval of the preliminary approval of phase 1 of Midway Vistas. Midway Vistas phase 1 contains 27 lots on 46.89 acres, of which, there are 13.63 acres of open space as noted. The property is located at 285 Luzern Road and is in the RA-1-43 zone. We accept staff findings and the conditions listed as noted in the staff report which are that The developer will pay the cost of building a 300' section of trail along Homestead Drive that will take the place of the trail that the City built along Burgi Lane that was originally required of the developer. Payment is required before the phase 1 plat is recorded. All approved non-irrigated areas will be noted on the plats. A note is placed on the plats informing future owners that the 15 most elevated lots will each require an irrigation pump because they are located above the irrigation ditch. Private roads in the development will have a public access easement which will be noted on the plats and in the development agreement.

**Seconded:** Commissioner Garland

**Chairman Nicholas:** Any discussion on the motion?

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Ream, Bouwhuis, Whitney, Simons, Cliften and Garland

**Motion: Passed**

### **Item 3:**

Meghan and Conner Clark are proposing a Conditional Use Permit for a Bed and Breakfast. Their property is 2.19 acres and is located at 535 Cari Lane. The property is in the R-1-15 zone.

### **Planner Henke gave a presentation**

### **Land Use Summary**

- 2.19 acres
- Zoned R-1-15
- Applicant is proposing 4 rooms for rent
- Applicant would like the ability to host banquets, receptions, and catering
- Applicant is proposing the ability to have alcohol through the approval of an event permit license for each event

### **Discussion Items**

- Parking for events
  - Applicant has 72 stalls for events, is this too intense for a residential zone?
  - 9 stalls are on a separate parcel that is currently owned by the applicant but may not be in the future
- RV hookups
- Signage
- Primary residence
  - On site supervision required whenever guests are present
- Maximum occupancy has not been determined and this could help with the parking calculations and determining maximum stalls

- No parking within 30' of the Cari Lane right-of-way
- No Parking along Cari Lane
- Should alcohol be permitted for events?
- Noise issues in a residential neighborhood
- Traffic issues in a residential neighborhood
  - The CUP could limit the number of guests/vehicles for the property
- Required parking and access for B&B must be paved
  - Parking for events could remain grass to not alter the character of the neighborhood

### **Possible Findings**

- The proposed use is a conditional use for a property greater than two acres in any zone.
- The property is located along a collector road with direct access to that road.
- 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.
- The City Council has broad discretion regarding if alcohol is allowed for the proposed CUP.
- Additional rental rooms will help the City retain its ability to collect resort tax.

### **Proposed Conditions**

- The business is limited to a maximum of 72 vehicles for any events.
- The business is limited to 144 guests for any event.
- No parking associated with the business or any event is allowed along Cari Lane at any time.

### **Commissioners and Staff Comment**

There was a discussion regarding the size of gatherings. We could limit as part of the conditional use permit to limit the size of the event as far as guests and how many events could be done each month. Which would help with the neighbors to know what to expect. The CUP can regulate these things.

There was a discussion about the occupancy of the home, the renters and possible event guests. Michael Henke stated that our building inspector is certified to determine occupancy.

Jeremy Clark spoke about the desires of the bed and breakfast and the code states that events can be done as well. He explained how the reception would work with the bed and breakfast. The guests would use the paved parking and their guests for their event would be a short-term event. He explained that they are not planning on renting all rooms to individuals, they plan on renting the rooms to a family for a reunion or event, most in the summer, but some during the winter, but the winter events would be much smaller because they would be inside and the fire marshal would determine the size. The events will be mostly on the weekends with a rare weekday event and he expects about 40 per year.

The CUP does not transfer to any new owner if the current owner sells.



There was a discussion regarding bathrooms and ADA requirements. Michael Henke stated that he would have to get some of the information from the Building Department Official and bring it back to the commissioners.

There was a discussion about the traffic and the impact on the area. Jeremy Clark was asked to explain if he was wanting to turn the property into a River Bottoms Reception center vs a Bed and Breakfast. He stated that his intent is not to be a River Bottoms he intends to be a bed and breakfast to be used by a family for family reunions and an occasional reception or larger event.

There was a discussion about what the neighbors think. Michael stated that the public hearing does not happen until it reaches the City Council level. That is where the notices will be sent to the residents and property owners that are in the 600 feet radius and they could attend the city council meeting to express their concerns or support.

It was asked if staff could do research on other type of businesses that do this type of business. Michael stated that we could try to find something similar.

One of the possible conditions could be that if the CUP were to be approved is that they must come back in a year and reapply to continue. The year would give the city the time to truly understand the real impacts that would happen in the community.

There was a discussion to take out the first two conditions, so City Council could determine these after they had time to review other Bed and Breakfasts with reception events that are like this one. Those two conditions are that the business is limited to a maximum of 72 vehicles for any events, and that the business is limited to 144 guests for any event.

**Motion:** Commissioner Bouwhuis: I make a motion that we recommend approval of the Conditional Use Permit for a Bed and Breakfast. Their property is 2.19 acres and is located at 535 Cari Lane. The property is in the R-1-15 zone. We accept staff findings include the finding that frequent large events could have significant impacts on the neighborhood. We accept condition number 3 that states that no parking associated with the business or any event is allowed along Cari Lane at any time and add a condition that we limit the frequency and event sizes to be determined after the public hearing. Condition 1 and 2 shall be removed and the CUP to be reviewed with planning commission and city council a year after the final approval has been made from the City Council.

**Seconded:** Commissioner Simons

**Chairman Nicholas:** Any discussion on the motion?

There were some clarifications added to the motion

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Ream, Bouwhuis, Whitney, Simons, Cliften and Garland

**Nays:** None

**Motion:** Passed

#### **Item 4:**

Bi-Law Training

## **Planner Henke gave a presentation**

### **Planning Commission Bi-Laws**

#### **Article 2: Number and Terms**

- Regular members
- Alternate members
- Terms
  - 4-year terms
  - 2 terms maximum
  - Alternate members have no time limit

#### **Article 3: Mode of Appointment and filling Vacancies**

- If a member moves out of Midway for more than 60 continuous days, then the member's office is vacated
- If a member misses more than 25% of the PC meeting, then the member's office is vacated
- Any member may be removed for cause by the Mayor upon written charges and after a public hearing, if such a hearing is requested

#### **Article 4: Authority and Duties**

- Adoption of the General Plan
- Adoption or amendment of land use ordinance, zoning maps, other official maps
- Hear and make recommendations on land use applications

#### **Article 5: Planning Commission Officers**

- Chair
- Vice-chair
- Secretary
- Election in June of each year

#### **Article 6: Duties of Officers**

- Chair presides, calls special meetings, signs all documents, appoints all committees, remain as non-partisan as possible and conduct meetings in a fair manner, ensures training of Open Meetings Act in September of each year
- Vice-chair performs the duties of the chair in an absence, shall succeed to the office until next meeting
- Secretary shall keep records, create reports, prepare the agenda, and perform administrative duties

#### **Article 7: Meetings**

- Regular meeting dates for each year must be posted
- Any changes must be posted 24 hours prior to the meeting schedule
- Work meetings or field trips may be called by the chair or by a quorum of the commission
- Submission of applications must be a minimum of 21 days before the meeting
- Application materials must be submitted to the PC 7 days before the meeting

#### **Article 8: quorum and Conduct of Meetings**

- Quorum requires 4 members

- When a quorum is not present no official action may take place
  - All public hearings without a quorum will be rescheduled for the next regular or special meeting
- Each member of the Planning Commission shall have one (1) vote. A vote of the majority of the quorum of the Planning Commission, but never less than three (3) votes, shall be required for the approval of any motion or required action before the Commission. Voting shall be done by roll call. The Chair shall be considered a member of the Commission for purposes of a quorum. In any meeting with only four (4) members present, the Chair shall vote. In a situation where there is a two (2) vote to two (2) vote tie, the item shall be sent to the City Council without recommendation
- Any member who recognizes that he or she may have a possible conflict of interest relative to a matter on the Commission agenda shall disclose his or her interest publicly before that matter is heard and/or, as circumstances warrant, shall recuse him or herself and leave the room during the Commission's deliberation and vote on that matter
- All meetings are open to the public

#### **Article 9: Order of a Regular Meeting**

1. Opening remarks or invocation / Pledge of Allegiance
2. Call to order and determination of quorum.
3. Approval of the minutes of the previous meeting.
4. Address items carried over from a previous agenda and new items on the present agenda. Items on the agenda shall be arranged to accommodate participant and public interest if possible.
5. For agenda items that, pursuant to its assigned duties, will result in a Commission recommendations to the Midway City Council the Chair shall call for:
  - a. Presentation by staff summarizing its findings and recommendations relevant to the item.
  - b. Testimony of boards and committees (water, sanitation, trails ...) relating to the item.
  - c. Presentation by the applicant/petitioner
  - d. Commission discussion

The Chair:

- i. opens the commission discussion and outlines possible action; approval, approval with conditions, continuation, or denial.
  - The Commission discussion is closed to the applicant/petitioner and public unless the Commission requests additional information.
  - If additional information is required, the Chair may, as he or she deems appropriate, allow public comment to seek the needed information. The Chair should ensure responses are limited and focus on the information requested.
- ii. closes the Commission discussion portion of hearing

#### **Article 10: Order of Public Hearing**

The order of the Public Hearing shall be as follows:

1. Call to order and determination of quorum.
2. Presentation by staff summarizing issues relevant to item.
3. Testimony of agencies (water, sanitation, ...) relating to the item.
4. Presentation by the applicant/petitioner
5. Public comment portion of hearing. The Chair shall:
  - a. Request written comment from the public



### **Article 11: Minutes**

- Written minutes and recordings are public record
- A summary of all matters discussed and/or decided by the Commission. This summary shall include;
  - i. the name and the substance of any testimony or comments received from any person recognized by the Chairman who is not a member of the Planning Commission (staff, the applicant or other interested parties),
  - ii. the substance of comments made by members of the Commission and
  - iii. a brief summary of any alternative decisions / actions considered by the Commission.
  - iv. A restatement of all motions, a complete itemization of all conditions or recommendations associated with each of the motions and a record, by individual member, of each vote taken by the Planning Commission

### **Article 12: Conduct of Planning Commission Members**

- Conflicts of interest
- Abstain and recuse
- Gifts and favors
- Treatment of information
- Political activity
- Ex Parte contact
- Disciplinary action

### **Article 13: Conduct of Persons before the PC**

- Conduct to be according to Roberts Rules of Order
- Members of the public have an obligation to remain in civil order.

#### **Public Clamor**

- a. The Commission should be prepared to manage any situation which might arise during its meetings.
- b. Members of the Commission must resist the potential of becoming unduly influenced by persuasive, but often irrational comments or actions.
- c. A "straw vote" of attendees should not be taken as a true representation of the entire community.

#### **Adjournment**

**Motion:** Commissioner Ream

**Second:** Commissioner Whitney

9:20 pm

  
Chairman – Jeff Nicholas

  
Admin. Assistant – Melannie Egan

