

Midway City Planning Commission Regular Meeting Minutes May 11, 2021

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 6:00 p.m., May 11, 2021, at the Midway City Community Center
160 West Main Street, Midway, Utah

Attendance

Jeff Nicholas- Chairman
Andy Garland
Craig Simons
Rob Bouwhuis- Vice Chair
Rich Cliften (Zoom)
Bill Ream
Heather Whitney
Laura Wardle

Staff

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

Excused

Jon McKeon

6:00 P.M. Regular Meeting

Call to Order

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

Item 1:

Review and possibly approve the Planning Commission Meeting Minutes of April 13, 2021.

Motion: Commissioner Garland: I make a motion that we recommend approval of the minutes for April 13, 2021 with the changes that were given to Melannie Egan.

Seconded: Commissioner Bouwhuis

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Whitney, Bouwhuis, Garland, Simons, Ream and Wardle

Nays: None

Motion: Passed

Item 2:

Berg Engineering, agent for Joseph Probst, is requesting preliminary/final approval of a one lot subdivision to be known as Jomar subdivision. The lot is one (1) acre and is located at 320 West 500 South and is in the RA-1-43 zone.

Planner Robinson gave a presentation

Land Use Summary

- RA-1-43 Zone
- One Lot Small Subdivision
- 1 acre in size
- No New Roads
- The lots will connect to the Midway Sanitation District sewer (via privately owned sewer lateral), Midway City's culinary water line, and Midway Irrigation Company's secondary water line

Waterboard Recommendation

- 1 acre parcel (43,560 sq. ft.)
 - Impervious area for lots
 - 0.18 acres (8,000 sq. ft.)
- Irrigated acreage
 - 0.82 acres x 3 = 2.46 acre feet
- 1 culinary connection
 - 0.8 acre feet

Total Water Requirement - 3.26 acre feet

Discussion Items

- Sewer - The proposed lot is not able to gravity flow to sewer in Street Lane. The current proposal is that it will connect to the sewer in Street Lane via a privately owned 2" pressurized sewer lateral. When the sewer is brought within 300' of parcel boundary, allowing it to gravity flow, it will be required that the parcel be connected to the new line and the private lateral is abandoned.

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 before 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, 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.

Proposed Conditions

1. Prior to the recording of the plat, the applicant will add \$4,550 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 500 South where bike lanes are planned.
2. The applicant must record a document notifying future property owners that when a traditional gravity flow sewer main is within 300' of the parcel boundary, they will be required to connect and abandon the pressurized sewer lateral. This requirement should also be noted on the plat.
3. Before being placed on a City Council Agenda, the applicant will need to provide a will serve letter from Midway Irrigation Company.

Commissioners and Staff Comment

There was a discussion on having a timeline or deadline to connect to the sewer when it is brought within 300' of parcel boundary. Wes Johnson stated that it was a good idea to have a time condition. Paul Berg stated that the condition could follow the state regulations.

There was a discussion about the bond and when it should be paid. Wes Johnson stated that they need to bond or put the line in. It should be done at this point even if the owner does not build in the near future. Wes Johnson stated that it could be an issue at a future date and having them put the line in or bond for it makes this possible issue a non-issue for the future.

Motion: Commissioner Simons: I make a motion that we recommend approval preliminary/final of a one lot subdivision to be known as Jomar subdivision. The lot is one (1) acre and is located at 320 West 500 South and is in the RA-1-43 zone. We accept the findings listed in the staff report and the three (3) conditions listed in the staff report along with adding two (2) conditions that there is no time limit to connect to the sewer and record a document that describes the existing sewer system.

Seconded: Commissioner Garland

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Whitney, Bouwhuis, Garland, Simons, Ream and Wardle

Nays: None

Motion: Passed

Item 3:

Berg Engineering, agent for Panda Properties, is requesting preliminary/final approval of a one lot subdivision to be known as Burgi Hill subdivision. The lot is 1.69 acre and is located at 1218 Interlaken Road and is in the RA-1-43 zone.

Planner Robinson gave a presentation.

Land Use Summary

- RA-1-43 Zone
- One Lot Small Subdivision
- 1.69 acres in size
- No New Roads
- The lots will connect to the Midway Sanitation District sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary water line

Possible Findings

- Water was turned over by the applicant to the city with the previous application.
- The proposed lot meets 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 applicant will be required to install or bond for all unfinished improvements before 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, 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.

Proposed Conditions

None

Commissioners and Staff Comment

Motion: Commissioner Bouwhuis: I make a motion that we recommend to approve preliminary/final application of a one lot subdivision to be known as Burgi Hill subdivision. The lot is 1.69 acre and is located at 1218 Interlaken Road and is in the RA-1-43 zone. We accept staff findings and with no conditions.

Seconded: Commissioner Ream

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Whitney, Bouwhuis, Garland, Simons, Ream and Wardle
Nays: None
Motion: Passed

Item 4:

Berg Engineering, agent for Jared and Kurt Wilson Farm LLC, is requesting a review of a concept plan for an 8-lot standard subdivision to be known as The Farm at Wilson Lane subdivision. The subdivision is on 10.28 acres and is located at 1500 North Canyon View Road and is in the RA-1-43 zone.

Planner Henke gave a presentation.

Land Use Summery

- RA-1-43 Zone
- Eight Lot Standard Subdivision
- 10.28 Acres
- Proposed cul-de-sac public road
- 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

- **15 % Open Space Requirement** - Allowed in private lot if lot is 2 acres or larger. Must provide building envelope and limit what can be done on open space.
- **Pedestrian Access** - Applicant will need to provide pedestrian access along Canyon View Road, or ADA ramps that connect into trail on west side of Canyon View Road.
- **ROW Dedication** - Applicant will need to ensure that they have dedicated the necessary ROW for Canyon View Road.

Commissioners and Staff Comment

There was a discussion about the 30 foot back setbacks on the Valais. Michael Henke clarified that it is a 30 foot setback, and the map line was a little off.

There is no requirement in this neighborhood to have a HOA and that the homeowner of lot 4 with the open space would have a requirement to maintain it. It would be desirable if they could use the area for horses, but it would be up to the homeowner.

Are there any plans about the berm? Bill Ream wanted to know if it was going to stay. Paul Berg stated that they were just going to let the homeowner decide if they wanted to keep it or not.

No Motion

Item 5:

Midway City is proposing to amend Section 16.26.8 Non-Conforming Buildings and Uses of the Midway City Municipal Code. The potential amendment would clarify regulations regarding non-conforming buildings and uses.

Planner Henke gave a presentation.

Proposal Background

The proposed code would clarify when nonconforming buildings and structures can be enlarged. Specifically, in certain situations it would allow a property owner to enlarge some legally nonconforming buildings or structures if the proposed addition complies with current land use requirements. The current nonconforming building and use code allows a property owner to maintain and rebuild a nonconforming structure if certain requirements are met, but it does not allow for the enlargement of a nonconforming structure.

Proposed Code Language (Red is the proposed changes)

Section 16.26.8 Non-Conforming Buildings and Uses

In view of the fact that no further development or change in use can be undertaken contrary to the provisions of this Code, it is the intent of this Chapter that non-conforming uses shall not be increased nor expanded except where a health or safety official, acting in his official capacity, requires such increase or expansion. Such expansion shall be no greater than that which is required to comply with the minimum requirements as set forth by the health or safety official. Nevertheless, a non-conforming building or structure or use of land may be continued to the same extent and character as that which legally existed on the effective day of the applicable regulations. Repairs may also be made to a non-conforming building or to a building housing a non-conforming use. **The property owner bears the burden of establishing that any nonconforming use or nonconforming building or structure lawfully exists.**

A. Damaged Building may be Restored. A non-conforming building or structure or a building or structure occupied by a non-conforming use which is damaged or destroyed by fire, flood, wind, earthquake, or other calamity or act of nature may be restored, and the occupancy or use of such buildings, structure, or part thereof which legally existed at the time of such restoration is started within a period of one year from the date of destruction and is diligently prosecuted to completion, and provided that such restoration does not increase the floor space devoted to the non-conforming use over that which existed at the time the building became non-conforming.

B. Discontinuance or Abandonment. A non-conforming building or structure or portion thereof or a lot occupied by a non-conforming use which is, or hereafter becomes abandoned or is discontinued for a continuous period of 365 days or more shall not thereafter be occupied, except by a use which conforms to the use regulations of the zone in which it is located.

C. Change to a Conforming Use **or building**. A non-conforming use or building may be changed to a conforming use **or building**. Any non-conforming use or building which has been changed to a conforming use or building shall not thereafter be changed back to a non-conforming use or building.

D. Change to Another Non-Conforming Use Prohibited. A non-conforming use of a building or lot shall not be changed to another non-conforming use whatsoever. Changes in use shall be made only to a conforming use.

E. Reclassification of Territory. The provision pertaining to non-conforming uses of land and buildings shall also apply to land and buildings, which hereafter become non-conforming due to an amendment in the Land Use Title.

F. Permits Granted Prior to Passage of Amendments to this Chapter. Notwithstanding the issuance of a permit therefore, no building which becomes non-conforming due to an amendment to this Chapter shall be built unless construction has taken place thereon to the extent of at least \$500.00, or an amount set by City Council from time to time, in replaceable value by the date on which said amendment becomes effective. Replaceable value shall be construed to mean the expenditure necessary to duplicate the materials and labor at market prices.

H. Enlargement of a Nonconforming Residential Building or Structure. A residential building or structure that is nonconforming due to height or setback may be enlarged through the building permit process only, if the enlargement complies with all applicable zoning requirements, including current height and setback requirements. See figure 1 of this section.

G. Enlargement of a Nonconforming Agricultural or Detached Accessory Structure. An agricultural or detached accessory structure that complies with current front setback requirements but is considered nonconforming due to side and rear setbacks, may be enlarged through the building permit process only, if the enlargement complies with all applicable zoning requirements, including current side and rear setback requirements. See figure 1 of this section.

Additional Considerations

- It is anticipated that adding the proposed language could result in more nonconforming buildings and structures, many being historic and of cultural value to Midway, being preserved by creating more flexibility in allowing property owners to enlarge structures.

Possible Findings

- The proposed code would address when and how certain nonconforming buildings and structures can be enlarged.
- The proposed code would allow for legally conforming additions to structures that were legally built but are now nonconforming due to current land use code requirements.
- The proposed code would only allow the enlargement of residential buildings and structures that are nonconforming due to height and/or setback requirements and agricultural or accessory structures that are non-conforming due to side and rear setbacks (must comply with current front setbacks). Structures that are deemed nonconforming due to other current land use code requirements would not qualify.
- The proposed amendment would allow for the enlargement of some nonconforming historic buildings and structures that otherwise would not be possible.

Commissioners and Staff Comment

Rob Bouwhuis suggested on the example diagram to remove the setback numbers and the word proposed. Each zone has different setbacks, and it would be better to leave the example diagrams without numbers.

Heather Whitney stated that we might need to have another example for a corner lot. Michael Henke stated that there could be several example diagrams.

There was a conversation about restoring a damaged building. Michael read the code about damaged buildings and yes, they would be able to restore in the same footprint.

There was a discussion about some conditions and regulations that are specific to the commercial zone. He believes that the historical integrity of the building and the new addition would need to match and not contrast. There was a discussion about involving the VAC in the approval process for any historical buildings in the commercial zone. Rob Bouwhuis wants to differentiate this specifically for the commercial zone and historical buildings.

Michael Henke stated that one of the reasons the city wants to change this code is that the City Council are considering changing the setbacks in zones which would create a lot of nonconforming structures and that will restrict a lot of homeowners from expanding any of their buildings.

There was a discussion regarding building forward to meet a front setback if the building has a setback that is further back than a current front setback. Rob Bouwhuis would like to have a step back setback.

Open Public Comment

None

Close Public Comment

Motion: Commissioner Bouwhuis: I make a motion that we recommend approval to amend Section 16.26.8 Non-Conforming Buildings and Uses of the Midway City Municipal Code. The potential amendment would clarify regulations regarding non-conforming buildings and uses. With the addition of another paragraph in the commercial zones that to preserve the historical character of Midway, enlargement of a non-conforming residential structure may be allowed if it meets all other requirements of this section. All modifications to the structure shall not detract from the historical nature of the existing nonconforming structure. The new modification shall be compatible in regard to size, location and design style as compared to the existing structure. Designs shall be reviewed by the city staff and VAC committee.

Seconded: Commissioner Simons

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners Whitney, Bouwhuis, Garland, Simons, Ream and Wardle

Motion: Passed

Item 6:

Midway City is proposing to amend Section 16.13.39 Off-Street Parking and Loading Uses of the Midway City Municipal Code. The potential amendment would allow for narrower commercial driveways if a historic structure would be impacted by development. The purpose of the amendment is to help preserve historic structures in the commercial zones.

Planner Henke gave a presentation.

Proposal Background

There is a concern that some properties with historic structures in the City's commercial zones may not be able to comply with the required commercial driveway width requirements. Currently the Off-Street Parking and Loading code requires a 24' wide driveway for ingress and egress and a minimum of 12' width for one-way traffic. The proposed amendment would provide additional flexibility for historic structures.

Proposed Code Language (Red is the proposed changes)

F. Access to Parking Facilities and Width of Parking Lot Driveway Lanes.

1. Access driveways for two-way traffic are a standard of twenty-four (24) feet wide. Based on a determination from the City Engineer, driveway widths may vary from twenty (20) to twenty-six (26) feet and provide for ingress to and egress from all parking and loading facilities. Widths above twenty-six feet (26), accommodating a dedicated turn lane, shall be approved by the City Engineer. Access driveways for one-way traffic shall be a minimum of twelve (12) feet wide. Each parking and loading space shall be easily accessible to the intended user. **On properties with commercial uses in the C-2 and C-3 zones, the City Engineer may approve a driveway width of 18' for ingress and egress driveway access or a driveway width of 10' for one-way driveway access if the following criteria are met:**

- a. **The property is in the C-2 or C-3 Zone**
- b. **The primary building or structure is more than 75 years old. This applies to the main structure and not to accessory structures.**
- c. **The available width between the primary building or structure and the side or rear property line is a minimum of eighteen feet (18) and maximum of twenty feet (20) for ingress and egress driveways and a minimum of ten feet (10) and maximum of twelve feet (12) for one-way traffic.**
- d. **There is no other on-site option for accessing the parking area of the business.**
- e. **The proposed parking facilities must comply with all other parking related requirements including stall widths, stall depths and drive aisle depths.**

Possible Findings

- The proposed amendment would create additional flexibility on driveway access widths for properties with historic homes in the C-2 and C-3 zones.
- The proposed language helps promote the preservation of historic structures while allowing for increased economic development in Midway's commercial zones, which is a goal described in the General Plan.

Commissioners and Staff Comment

There was a discussion regarding a drive thru and Michael stated that he could work on the language for that scenario.

There was a discussion about the 75-year-old language as there are other residential building in the commercial zone that may want to convert to commercial use, the driveway reduction would be beneficial to them as well and not just historical buildings. Keep the second part of B on the code.

Also state that this code is for existing structures and not new construction. Michael will work on the language.

Open Public Comment

None

Close Public Comment

Motion: Commissioner Whitney: I make a motion that we recommend approval to amend Section 16.13.39 Off-Street Parking and Loading Uses of the Midway City Municipal Code. The potential amendment would allow for narrower commercial driveways if a historic structure or an existing structure would be impacted by development. The purpose of the amendment is to help preserve existing structures in the commercial zones. Accept the findings in the staff report. The first part of Item B would be amended as discussed and Item D with businesses with a drive thru would be an exception.

Seconded: Commissioner Garland

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners

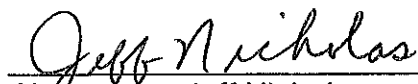
Motion: Passed

Adjournment

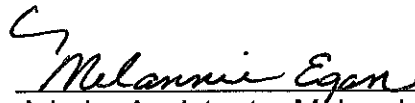
Motion: Commission Simons

Second: Commissioner Garland

9:10 pm



Chairman – Jeff Nicholas



Admin. Assistant – Melannie Egan