



**MIDVALE**

In the Middle of Everything

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**Midvale City**  
**PLANNING AND ZONING COMMISSION**  
*Minutes*

**26th Day of April, 2017**  
**Council Chambers**  
**7505 South Holden Street**  
**Midvale, Utah 84047**

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***COMMISSION CHAIR:*** Kass Wallin

***PLANNING AND ZONING  
COMMISSION VICE CHAIR:*** Shane Liedtke

***BOARD MEMBERS***  
Colleen Costello  
Richard Judkins  
Evan Hanson

***STAFF:***  
Lesley Burns, City Planner  
Matt Hilderman, Associate Planner  
Nicole Selman, DCD Administrative Assistant

**GENERAL SESSION**

Chairman Wallin called the Planning & Zoning Commission meeting to order at 7:00 p.m. The meeting began with the recitation of the Pledge of Allegiance. He informed the public there were agendas on the front table along with a sign-in sheet for them to sign. He explained how the meeting would proceed. First, the Planning Department would brief the Commission; then the applicant would speak to the Commission; after which, the floor would be open to the public for their brief statements and comments.

## ROLL CALL

Mr. Hanson	Present
Mr. Liedtke	Present
Ms. Costello	Present
Mr. Wallin	Present
Mr. Judkins	Excused

## ACTION ITEM

### **1. REZ-22-30-153-008; A CUT ABOVE TREE PRESERVATION; 7321 SOUTH STATE STREET; REZONE 0.53 ACRES FROM SINGLE FAMILY RESIDENTIAL (SF-1) WITH DUPLEX OVERLAY TO STATE STREET COMMERCIAL; JEREMIAH ELDER (APPLICANT) (CONTINUED FROM 04-12-17 MEETING)**

Mr. Hilderman presented that Jeremiah Elder, president of A Cut Above Tree Preservation LLC business and representative of the property owner, submitted a complete application proposing to rezone and develop property, located to the rear and adjacent to the existing commercial structures to the West, at 7321 South State Street under the proposed State Street Commercial zone district development standards. This proposal includes two (2) parcels totaling approximately 0.76 acres (33,105.6) sq. ft.) and is currently vacant, undeveloped ground, excluding the applicant's machinery and equipment for his business located on the premise. The applicant is proposing, upon approval of the rezone request, to continue operating his primary office business and transactions at 7321 South State Street, #B and continue storing machinery, associated equipment, related construction trailer, and associated items on the rezoned property.

This proposal would require the property to be rezoned from SF-1 with a Duplex Overlay to the State Street Commercial zone; preliminary and final site plan approval that complies with the requirements of the SSC development standards; and approval of an Administrative Conditional Use Permit for any proposed outdoor storage use associated with the primary business.

## **PLANNING COMMISSION MEETING**

On Wednesday, April 12, 2017, this application was presented before the Planning Commission at their regularly scheduled meeting. During the discussion and review of this application, the Commission was concerned about language identified in the General Plan that states, "the Middle State Street Opportunity Area is intended to encompass properties that front on or have direct access to State Street and the area includes underutilized commercial uses facing State Street with limited parking (General Plan Pg. 52).

After further discussion and review, including citizen testimonies concerning this proposal, it was determined the Commission should TABLE a decision on this request to rezone until April 26, 2017 and required the applicant to:

*- Coordinate with the property owner(s) and discuss the possibility of making a*

*reasonable connection to the State Street property that is legal and binding; and  
-The property owner(s) are in agreeance to combine all parcels identified as 7321 South  
State Street into one identified parcel, under one ownership.*

The applicant was notified via written documentation and voice messages to provide the requested information. As of completion of this report, the applicant has not provided any written documentation nor verbal information confirming the information the Commission requested. The Planning Commission will need to determine if this additional information is necessary to forward a recommendation to the City Council and will allow the applicant additional time to collect the necessary information or if the Commission is comfortable moving forward and making a recommendation, at this time.

#### **STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission consider the appropriateness of this rezone request and considers all appropriate and applicable input received. If the Planning Commission has questions or concerns that cannot be answered at the meeting or if additional information is needed, Staff recommends the Planning Commission table a decision for a later date, stating the specific information being requested.

Mr. Wallin pointed out that the State Street Commercial Zone can have buildings that are up to 50 feet high with the possibility of going up to 70 feet high as long as the building is setback 50 feet from a residential zone. This property may not qualify for that type of development, however, that is a pretty significant height. He asked if there are any existing buildings on State Street that are close to that height. All the existing structures along State Street seem to be one-story.

Mr. Hilderman replied that all the existing buildings appear to be only one-story, however, the properties do have the potential to be redeveloped into taller structures.

Mr. Wallin added that the ordinance for the State Street Commercial Zone states that the entrances of all buildings shall front onto public streets. He asked if this property could be redeveloped to have structure that fronts onto a public street. The access way leading to this property is not technically a public street. He is concerned that this parcel could not be developed and also comply with the State Street Commercial Zone.

Mr. Hilderman explained that if the parcels are combined then the existing office building would still be identified as the primary use for this area. If the property owner chose to construct something on this lot later then the new structure would be considered accessory. It wouldn't necessarily need to front a public street. If this property isn't legally combined with the adjacent parcel then Mr. Wallin is correct. It would be difficult to develop this lot under those circumstances.

Mr. Liedtke added that he can think of a couple parcels on State Street with multiple buildings and some of the accessory buildings do not front a public street. There are some instances in development where it just isn't possible to achieve that goal.

Mr. Hanson commented that it bothers him that the parcels are not combined. That is something that needs be dealt with before the Commission can make a recommendation.

Mr. Liedtke stated this is a unique piece of property that the City will need to deal with at some point no matter what. It is important to consider whether this property should be left as something that goes to waste or should it be rezoned and converted into something that is a little more functional and serves a purpose. He isn't sure if there is a perfect use for this property, however, he does feel that rezoning it is a better option for this piece of land. It makes sense to combine both parcels, however, he isn't sure it would be a deal-breaker if they weren't combined. It would of course be preferable for the parcels to be combined.

Mr. Hilderman informed the Commission that the language for the request of a rezone requires the Planning Commission to make a recommendation within thirty day of closing the Public Hearing. This item was tabled during the last meeting and they do have the option to table it one more time if they would like to receive more information from the applicant before making a recommendation. If the Commission has not reached a decision on this item during the next meeting then it will automatically be sent to the City Council as a negative recommendation.

There were no further questions for Staff.

Jeremiah Elder with A Cut Above Tree Perseveration explained that this property is currently owned by a trust. The head of the trust has assured him that there would not be an issue with creating an access agreement between parcels. The members of the trust needed time to discuss the details of this option and write up some formal documentation. He was told that the documentation would be ready for this meeting, however, it would be late in arriving. That is as much information as he able to provide at this time. He currently does not have anything in writing.

There were no questions for Mr. Elder.

Mr. Wallin stated he would really like to see some documentation before moving forward with a recommendation. He does not think there is a good argument for rezoning this property if the two parcels are not combined.

Ms. Costello agreed with Mr. Wallin.

Mr. Hanson added that he cannot make a positive recommendation for this item if the two parcels are not combined. It does not make sense for the long-term potential development of this lot. This parcel could be developed for residential use and continued from Cottage Way just as easily as it could be rezoned and developed for commercial use. Denying a rezone does not prohibit this parcel from future development. If the parcels are combined then this property leans more definitively toward being a commercial use.

Mr. Wallin stated the head of the trust for this item is still not present with formal documentation. He recommended taking action on this item then reviewing it more during the next Planning Commission meeting.

**MOTION:**

Ms. Costello made a motion, *“I moved that we table this item until next Planning Commission meeting set for May 10, 2017.”*

Mr. Hanson seconded the motion. A roll call vote was taken.

Mr. Liedtke Yes  
Mr. Hanson Yes  
Ms. Costello Yes

Motion carried unanimously

Ms. Burns asked the Commissioners for some clarification on what they expect to see in the language of the legally binding documentation from the property owner.

Mr. Hanson explained the documentation needs be explicit in stating that the two parcels will be combined into one. If that is done then it easier for the Commission to argue that a rezone is appropriate for this piece of property.

Mr. Wallin added that the applicant mentioned getting an access agreement for the two parcels. He does not think that is sufficient. The parcels need to be combined. He noted that the head of the trust for this property arrived and suggested reopening the item for discussion.

**MOTION:**

Mr. Liedtke moved to reopen this action item. Ms. Costello seconded the motion. A roll call vote was taken.

Mr. Liedtke Yes  
Mr. Hanson Yes  
Ms. Costello Yes

Motion carried unanimously

Mr. Elder stated he was under the impression that he needed to provide an access agreement or combine the parcels. He was unaware that an access agreement would be insufficient. The trust has provided written documentation for an access agreement. He is confused because he is now being told that his documentation is not a viable option.

Mr. Wallin stated an access agreement does not qualify this parcel to be appropriately rezoned. Based on the discussion that has taken place during this meeting the Commission has gained some clarity in finding that the two parcels need to be combined.

Jennifer Fairbourn stated that her parents are the owners of this property. She is currently working as the property manager for this location. She is in full support of Mr. Elder and his business. She asked what kind of costs would be involved in combining the parcels and how it

might affect property taxes.

Ms. Burns stated the Planning Commission is not a body that can answer that question.

Mr. Wallin added that this is something that would need to be discussed with the trust and they may need to consult with an attorney. The Planning Commission isn't necessarily requiring that this all be done by the next meeting. Formal documentation stating that the trust is in support of combining the parcels and that they are moving forward with doing so would be acceptable. Ultimately, the Planning Commission is hoping to have a written statement that defines what the property owner wishes to do with this parcel.

Ms. Burns stated that the Planning Commission is making a recommendation for a rezone that will be forwarded to the City Council. It is important to include language in the recommendation that explains the necessity to legally combine the parcels.

Ms. Fairbourn added that she is in full support of this application, however, she would like to be informed on any documents or further applications she will need to provide in order to receive a positive recommendation. She would like City Staff to give her written details with more information on what her options are for meeting the potential approval of a rezone from the City Council.

Mr. Liedtke provided Ms. Fairbourn with more information on how she can move forward with legally combining the parcels.

The Planning Commissioners spent some time explaining to Ms. Fairbourn how the entire process for a rezone works. They explained the next steps for the applicant if a rezone is approved and what the responsibilities of the trust will be during that process.

There was no further discussion for this item.

**MOTION:**

Ms. Costello made a motion, *"I moved that we table this item until next Planning Commission meeting set for May 10, 2017."*

Mr. Hanson seconded the motion. A roll call vote was taken.

Mr. Liedtke Yes  
Mr. Hanson Yes  
Ms. Costello Yes

Motion carried unanimously

**DICUSSION ITEM**

**2. MIDVALE MUNICIPAL CODE LAND USE APPLICATIONS, REVIEW PROCESSES AND BODIES**

Ms. Burns explained that she received a request from Mr. Wallin for City Staff to provide the Planning Commission with an overview of the various land use applications made available by Midvale City and the review process for each of those applications. She gave a presentation that illustrated the purpose of each application, the bodies responsible for reviewing them and the process for approving or denying an application.

### **MINUTES**

#### **3. REVIEW AND APPROVE MINUTES OF FEBRUARY 8, 2017; MARCH 22, 2017; AND APRIL 12, 2017**

Ms. Costello moved to approve the minutes of February 8, 2017 with amendments. Mr. Liedtke seconded the motion. Motion carried.

Mr. Liedtke moved to approve the minutes of March 22, 2017 with amendments. Mr. Hanson seconded the motion. Motion carried.

### **ADJOURN:**

Mr. Liedtke moved to adjourn at 8:36PM.



Nicole Selman  
CD Administrative Assistant