



MIDVALE

In the Middle of Everything

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Midvale City
PLANNING AND ZONING COMMISSION
Minutes

24th Day of February, 2016
Council Chambers
7505 South Holden Street
Midvale, Utah 84047

COMMISSION CHAIR:

Richard Judkins

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

Kass Wallin

BOARD MEMBERS:

Allen Litster
Colleen Costello
Shane Liedtke
Don Slick

STAFF:

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

GENERAL SESSION

Chairman Judkins 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. Slick	Present
Mr. Wallin	Present
Mr. Litster	Present
Mr. Judkins	Present
Mr. Liedtke	Present
Ms. Costello	Excused

PUBLIC HEARING(S)

1. REZ-22-31-176-021; HAMLET REZONE; 8111 SOUTH 100 EAST; REZONE FROM SF-1 WITH AGRICULTURAL OVERLAY TO SF-1 WITH DUPLEX OVERLAY ON APPROX. 0.26 ACRES; MICHAEL BRODSKY/HAMLET DEVELOPMENT CORPORATION (APPLICANT)

Mr. Hilderman presented that the applicant and representative for the property owner, Michael Brodsky, is requesting that the property located at 8111 South 100 East be rezoned from a Single-Family Residential Zone with an Agricultural Overlay to a Single-Family Residential Zone with a Duplex Overlay. The proposal includes one parcel totaling an overall acreage of 1.28 acres. The applicant is proposing this amendment change for the purpose of constructing a two-unit residential structure (duplex). The applicant has provided a conceptual plan illustrating the anticipated use of the property and a proposed front, exterior elevation however, the Planning Commission will not be reviewing the specific site plan and details at this time. The General Plan Proposed Land Use Map designates this property as Medium Density Residential.

The current condition of the property is a vacant, undeveloped parcel and research conducted by Staff determined this parcel of property has been vacant for several decades. The rezone proposal is surrounded by existing single-family residences to the North, East, and South and has frontage along 100 East. The proposed two-unit residential structure will have direct access onto 100 East.

In order for this development to proceed as proposed, the following approvals shall be required from the City:

1. A rezone of the entire property from SF1-AO to SF1-DO;
2. Conditional Use Permit for the two-unit structure (duplex);
3. Site Plan; and
4. Subdivision Plat, if applicable.

At this time, the applicant is only requesting a rezone and further submissions of a detailed development plan and subdivision plat may proceed in the forthcoming.

General Plan Amendment and Rezone

The Midvale City General Plan Proposed Land Use Map identifies this property as Medium

Density Residential. This property is adjacent to existing single-family residential zones (SF1-AO) districts to the North, West, and South and an existing Clean Industrial zone district to the West. The General Plan Proposed Land Use Map identifies the North, South, and East areas as a proposed Medium-Density Residential use and the West area identified as a proposed High-Density Residential use. This proposed parcel of property along with the surrounding properties has the potential to be a Transit-Oriented Development. The proposed rezone from SF1-AO to SF1-DO will allow this property to continue correlating with the surrounding zone districts but provide an additional use for the property to assist in the initial beginning of development.

Under Section 17-3-1 of the Zoning Ordinance, the Planning Commission may recommend, and the City Council may grant, a rezoning application if it determines the rezoning is consistent with the goals and policies of the Midvale City General Plan, and the following:

1. The proposed rezoning is necessary either to comply with the Midvale City General Plan Proposed Land Use Map, or to provide land for a community need that was not anticipated at the time of the adoption of the Midvale City General Plan;
2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by natural characteristics of the land, including but not limited to steep slopes, floodplain, unstable soils, and inadequate drainage; or
3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area.

Staff believes the proposed rezone will provide additional residential uses in this area but not to the level of intensity for residential development that is identified in the General Plan. Staff also believes the following General Plan statements further correlate with the applicant's proposal:

“If the threatened neighborhood is to transition into other uses, it should be allowed to do so gracefully and with as much protection as possible, for as long as possible,”
(Urban Design Element 2-10);

“A much larger site between State Street and the LRT track at approximately 8000 South will not be a TRAX station initially; however, it is owned by UTA and straddles the border between Midvale City and Sandy City. The site is recognized by both municipalities as a TOD opportunity in partnership with UTA. A station is not currently proposed on this site; however, an integrated TRAX station and mixed-use TOD development is envisioned on the site.

Approaching redevelopment on these sites with an orientation toward TOD development is an opportunity...and to support ridership by increasing density at the station locations either through housing or employment.”
(Land Use Element 4-13, 4-14)

“The remaining undeveloped land in Midvale City is primarily small parcels and lots located within existing developed areas. These in-fill development opportunities must be compatible with adjacent land uses, i.e. new residential in-fill in residential areas,”
(Land Use Element 4-15);

“In older residential areas where large lots were the norm because people often kept animals and cultivated large gardens, there is interest in opportunities to subdivide and develop additional residential dwellings on the property. Of critical importance is compatibility with the surrounding residential, and adequate and safe access to neighborhood streets via dedicated streets,” (Land Use Element 4-15); and

“Wherever possible, property should be zoned to accommodate affordable housing and...affordable rental units are critical in providing housing opportunities for moderate and low-income families. The City should maintain a reasonable stock of rental housing and work to assist in the maintenance of existing, affordable housing units,” (Housing Element 6-34);

In reviewing this application and the above criteria, the Planning Commission shall consider the appropriateness of the rezone request and forward a recommendation to the City Council for its consideration. The City Council will determine a final decision on this legislative change request. This proposal will create a zone boundary that continues to join existing single-family neighborhoods; however this zone district will provide an additional residential use than the surrounding single-family residential zones.

STAFF RECOMMENDATION:

Based on a community need in the area and to comply with the Midvale City General Plan Proposed Land Use Map, Staff recommends the Planning Commission forward a recommendation for approval to the City Council to rezone the property located at 8111 South 100 East from Single-Family Residential with an Agricultural Overlay (SF1-AO) to Single-Family Residential with a Duplex Overlay (SF1-DO).

Mr. Litster asked how the City would define a neighborhood to be threatened and whether or not this neighborhood would fall under that definition.

Mr. Hilderman explained this is not a neighborhood that is threatened as much as it is a neighborhood that is in transition. The area surrounding this location has changed enough to support the rezone that is being proposed.

Mr. Litster asked what changes have been made in this area to support approval of a new use.

Mr. Hilderman stated there has been enough residential development in this area to justify rezoning this property from an agricultural overlay to a duplex overlay. This change will provide additional residential uses which will correlate well with the surrounding community.

Mr. Judkins asked if he is correct in his observation that every home aside from the multi-family development located further to the north of this property is a single-family home.

Mr. Hilderman replied that is correct.

Mr. Litster stated he does not see that as a transition.

Mr. Hilderman explained he is looking at the over-all neighborhood rather than the properties that are immediately adjacent to this lot.

Mr. Litster stated that may be true for about a mile radius surrounding this property; however the immediate environment does not suggest any kind of necessary transition.

Mr. Wallin asked what Mr. Hilderman means when he says this area is in a state of transition.

Mr. Hilderman replied that this area has previously been viewed as undeveloped land that was primarily used for agriculture. Those uses are disappearing as vacant lots are developed into residential homes. There is no longer a need for agricultural uses and the demand for residential uses has increased.

Mr. Judkins asked if the current zoning for that lot would allow residential development.

Mr. Hilderman stated the current zoning would allow residential development.

Mr. Judkins asked what the motive behind rezoning might be.

Mr. Hilderman explained that approval of a rezone of this lot is the only thing holding the applicant back from moving forward with his plan to develop a duplex on this property. Staff is comfortable with this rezone because it correlates with the General Plan. The General Plan identifies this property as medium density residential which is an RM-12 Zone district. This rezone simply changes the agricultural overlay to a duplex overlay. There may not be as many residential uses as you might see in the RM-12; however it is starting that transition correlating with the General Plan.

Mr. Wallin asked what the difference between high, medium, and low density is.

Mr. Hilderman clarified that low density is mainly single family homes in the SF-1 or SF-2 Zone District. These lots are larger with one home per lot. Medium density falls within the RM-12 Zone District with residential uses that include multi-family homes with a maximum of 12 units per acre. High density is allocated to the RM-25 Zone District. In this Zone there can be a maximum of 25 units per acre and structures can be as tall as 5 stories.

Mr. Wallin wondered if it would make more sense to change the entire agricultural overlay to a duplex overlay rather than rezoning for just one parcel.

Mr. Hilderman explained the City received an application for the rezone of one parcel and that is why this proposal is being presented to the Planning Commission as it is. Midvale City does not have the discretion to request a rezone unless there is a community need. Something like that would require a lot more research and discussion with all surrounding residents.

Ms. Burns pointed out that the aerial photo provided in the staff report is from 2012. Everything around this particular piece of property has been developed. There is a new subdivision that was constructed in a large portion of the area. For the most part that entire area is no longer vacant land.

Mr. Litster disclosed that in his experience the Planning Commission has always made it a priority to avoid rezoning islands or pockets of parcels to something that does not conform well with the surrounding area. In his opinion this proposal is a request to do the opposite. This rezone would create an abnormal zone that will be surrounded by a significant and stable zone that already exists there. He recognizes there is a request and he respects that request. He also respects that this would be a very economical option for the developer, however it's important to look at the larger picture. The character and nature of this rezone could potentially impact the surrounding residents. After driving through this neighborhood he noticed the nearest duplex homes were several blocks away. In his opinion, this rezone would create an abnormal zone in the middle of another established zone.

Mr. Hilderman stated he understands Mr. Litster's concerns. This type of rezone was once referred to as "spot zoning". It was once outlawed; however it is now something that is currently legal.

Mr. Judkins agreed with Mr. Litster's comments.

Mr. Liedtke commented that he does not think this rezone is that abnormal. There are some townhomes and triplexes just a few yards away from this property. The homes directly next door to this lot are single family homes; however a duplex at this location fits in with the overall big picture of the neighborhood.

Michael Brodsky, 308 East 4500 South, Murray, stated he is the applicant for this item. He explained the Planning Commission is correct in guessing his motives behind this proposal. It is economically feasible to build a duplex on this lot; however he does not understand the discussion regarding this rezone being seemingly inconsistent with the neighborhood. In fact the homes directly adjacent to this lot are the exact same type of product he is hoping to build. He would like to build single family attached homes with about 1900 square feet of living space for each unit. These homes would not be low income housing. They would be a high end product that is consistent with the neighborhood. He met with a couple of the surrounding property owners and they were comfortable with this proposal. The Master Plan defined this area as medium density and the product he is hoping to build is actually less dense than what the Master Plan would permit.

Mr. Slick commented that he views Station Landing and Station Street as a part of an HOA. Those subdivisions may be medium density; however he does not consider them to be similar to the single family homes next door to this property. He can imagine being a homeowner with a fairly large single family lot and feeling very frustrated about a duplex randomly being dropped next door.

Mr. Brodsky questioned why the Master Plan designated this location to be medium density if the Planning Commissioners are not comfortable with his proposal.

Mr. Judkins explained the Master Plan may allow for medium density in this area; however the current zoning of the property needs to be taken into consideration as well as how the surrounding properties are being used. It does not mean a medium density use should be placed next to a group of single family homes.

Mr. Litster commented that there is a difference between what the Master Plan defines as permissible and what a property is actually zoned for. The Planning Commission is reviewing what this property is actually zoned for. It is important to understand that the Commission must consider what the Master Plan states this property could be zoned as in addition to what this property is currently zoned as.

Mr. Brodsky replied he does understand the decision the Planning Commission must make which is why he has requested a rezone.

Mr. Litster explained the burden of proof rests with the applicant to demonstrate that there is a significant reason for permitting this rezone.

Mr. Brodsky stated his proposal would provide Midvale City with good quality housing stock and that is the reason why he is hoping to rezone this property.

Mr. Litster stated he does not dispute that reasoning; however it is a priority of the Commission to avoid any so called spot zoning.

Mr. Slick added that developing a duplex between single family homes rarely raises property values in the long run.

Mr. Brodsky replied the twin homes he intends to build would be very comparable in value to the single family homes surrounding this lot. Each lot will be over 6,000 square feet. The fact that these homes are attached does not make them slums.

Mr. Slick clarified he was not attempting to allude to these twin homes being a low quality product. He simply does not feel they are consistent with the neighborhood. If he lived in this neighborhood he would not be pleased to see this one lot rezoned and developed into a duplex.

Mr. Liedtke asked if these homes would be sold individually to two separate owners or are they intended to be sold as one single duplex where each side is rented out.

Mr. Brodsky apologized for not making it clear that these homes would be single family attached homes. Each unit would be sold separately. He has no intention of owning them for any other use than building and selling them as an occupied home.

Ms. Burns added that a duplex can be a two unit attached residential structure that is owned by one person or it can be owned by two people.

Mr. Judkins explained that changing the zone of this property will only guarantee what types of uses are acceptable for this lot. It does not guarantee the product Mr. Brodsky intends to build there will actually come to fruition. It's important to keep this fact in mind when coming to a final decision.

Mr. Wallin stated in the ordinance that at rezone is discouraged and it is allowed only under very limited circumstances according to the ordinance. It describes in context of the General Plan that

a rezone must be necessary in order for it to comply with the General Plan or it must satisfy a community need. He asked how this rezone is necessary in order for this property to comply with the General Plan.

Mr. Brodsky explained that his interpretation of the ordinance is different. He believes a rezone would make this property comply with the General Plan.

Mr. Wallin asked if this property is currently out of compliance with the General Plan.

Mr. Brodsky stated the property is not out of compliance. It is currently zoned for a single-family residential use. He is requesting to put this property into compliance with the overlay of the Master Plan. The Master Plan recommends medium density in this area. The rezone being requested is in compliance with the medium density use.

There were no further questions for the applicant.

Mr. Wallin moved to open the meeting to a Public Hearing. Mr. Litster seconded the motion. Motion carried.

Scott Boyle, 8125 South 100 East, Midvale, stated he lives to the south of this vacant lot. He explained the map presented to the Planning Commission is very outdated. The entire subdivision has been developed except for this one lot. There are some duplex homes nearby, however most of the homes in this area are single family homes. Everyone in his neighborhood has a big front yard and a large home. It's a very nice upscale community. The most consistent use of this lot would be a dream home with a big backyard or a horse pasture. Building two homes that are attached doesn't make much sense to him. He isn't sure if the dimensions Mr. Brodsky presented are correct. According to Mr. Brodsky's measurements, half of his home rests outside of his property line. He isn't entirely sure a duplex could fit on this vacant lot. He added that while the Master Plan may allow medium density as an acceptable use, it does not change the fact that this neighborhood has already been established and developed as single family homes on large lots.

Tabitha and Gary Neal, 8091 South 100 East, Midvale, stated they are the next door neighbor to the north of this vacant lot. They agreed with Mr. Litster and stated they feel very frustrated by the idea of a duplex being developed next to them. Their biggest fear is that one or both units will be sold to someone who intends to rent it out or doesn't take care of their property. Their home is setback several hundred yards from the road which blocks any noise coming from nearby street traffic. Having a driveway right next to the back of their home does not seem like an ideal situation. They would love to see this property get developed because it is not very well maintained, however they would prefer to see a single family home go there. When they moved into their home six years earlier they actually researched the appropriate uses for their zone specifically because they did not want to move next to a vacant lot that could potentially be developed into a duplex. The duplexes that currently exist in their neighborhood don't function well and they have been a blight on the neighborhood. Ultimately they do want a duplex to be allowed next to their home.

There were no further questions or comments from the public.

Mr. Litster moved to close the Public Hearing. Mr. Liedtke seconded the motion. Motion carried.

Mr. Brodsky apologized to Mr. Boyle for not having the opportunity to discuss the property line issues in more detail.

Mr. Litster reiterated that the Planning Commission did not mean to convey a negative opinion of the caliber of product Mr. Brodsky is interested in building. He stated it seems to be the consensus to forward a negative recommendation for this rezone. He suggested the Commissioners draft a motion that lists some of the concerns that have been established during their discussion and during the Public Hearing.

MOTION:

Mr. Litster moved that, *“For the following reasons, I move that we forward a negative recommendation to the City Council denying the request to rezone the property identified at 8111 South 100 East:*

- 1. We find no compelling need to change the zoning as required by code 17-3-1.*
- 2. We feel that this creates a “pocket zone” in the middle of an otherwise Single Family with Agricultural Overlay Zone.*
- 3. A single family dwelling is feasible on this property as presently zoned.*
- 4. The surrounding environment is not changing to such a degree that it makes this change necessary.”*

Mr. Wallin moved to amend the motion. Mr. Litster seconded the amendment.

Mr. Slick seconded the amended motion. A roll call vote was taken.

Mr. Judkins	Yes
Mr. Wallin	Yes
Mr. Litster	Yes
Mr. Liedtke	Yes
Mr. Slick	Yes

Motion carried unanimously.

DISCUSSION

2. BUILDING HEIGHTS IN TOD, SSC, RM-12 AND RM-25 ZONES

Ms. Burns led a brief discussion regarding a possible text amendment for certain zones that would require the setbacks of a property to be increased if the height of a proposed building is greater than five stories. She presented some information regarding why this change is being posed and how it will impact the City.

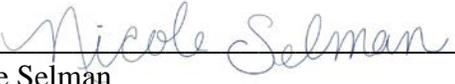
MINUTES

3. REVIEW AND APPROVE MINUTES OF JANUARY 13, 2016 AND FEBRUARY 10, 2016

The minutes of January 13, 2016 and February 10, 2016 were tabled to the next meeting.

ADJOURN:

Mr. Litster moved to adjourn the meeting at 9:04pm.



Nicole Selman
DCD Administrative Assistant