



**PLANNING COMMISSION MEETING STAFF REPORT**

**DATE OF MEETING:** November 9, 2021

**NAME OF PROJECT:** Daybell Garage Mixed Use Project – Restaurant and Residential Unit

**NAME OF APPLICANT:** Wayne Gordon, agent for Bill Nibley

**AGENDA ITEM:** Conditional Use Permit

**LOCATION OF ITEM:** 289 South Center Street

**ZONING DESIGNATION:** C-2

**ITEM: 2**

Wayne Gordon, agent for Bill Nibley, is requesting approval of a conditional use permit that would allow a mixed-use development on the Daybell Garage property. The proposed mixed use would consist of a restaurant and a residential unit. The property is located at 298 South Center Street and is in the C-2 zone.

**BACKGROUND:**

This request for a Conditional Use Permit (CUP) by Wayne Gordon, agent for Bill Nibley, is for a mixed-use project that will include a commercial restaurant on the east end of the main floor of the existing structure and a residential unit on a proposed upper floor and the west end of the main floor. The C-2 zone allows for mixed-use projects which, in turn, allows one residential unit for properties less than one-acre in size. The structure has always been commercial, but if the proposed conditional use is approved, the applicant would add a second story for the residence. The parcel on which the project is proposed is lot 2 of the Theo Carlile Daybell Family Trust Small Lot Subdivision. The parcel is zoned C-2 and is 0.22 acres in size.

For the proposed commercial use, the code requires one stall for every 200sf of gross indoor dining area that is accessible to the public. Based on our calculations they will need to provide four parking stalls. For the proposed three-bedroom residence, the applicant will need to provide three parking stalls. In total the applicant will be required to provide a minimum of seven parking stalls.

Currently, vehicles can access the property along the entirety of the east frontage and at two points along the south frontage. These accesses are typically less safe and less predictable for vehicles and pedestrians who are using the adjacent sidewalks and roads. The proposed vehicular entrance will be on 300 South and the proposed vehicular exit will be onto Center Street, which is a UDOT facility. The applicant will need to get approval from UDOT for the modification and proposed use of the Center Street access. The proposed access will create a 24' wide one-way drive aisle through the property, which should help improve the safety by both designating how to enter and exit the property and narrowing the existing access point on Center Street.

Per the county parcel map, it appears that the original building may have been constructed as early as the 1950s. For purposes of our review, we have considered the building a grandfathered structure.

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

#### **ANALYSIS:**

The italicized text represents Planning Staff's comments pertaining to compliance or lack of compliance with the findings the City Council 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 the applicable provisions of this Code; *planning staff believes that the proposal will not impair the integrity and character of the C-2 zone. The proposal appears to comply with the requirements specific to mixed-use projects and restaurants as listed in the Municipal Code, including the requirement that at least 20% of the structure is commercial (proposal is 36% commercial). If approved, the applicant will need to record a deed restriction to ensure that at least 20% of the structure remains commercial.*
2. The proposed use is consistent with the General Plan; *the proposed uses appear to comply with the vision for the commercial centers as described in the General Plan. The General Plan promotes both restaurants and mixed-use developments within the commercial zones of the city.*

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; *Previous to the issuance of a building permit, the applicant will be required to obtain written approval from the Midway City Engineer. Among other things, they will need to address the sewer, culinary and irrigation connections. They will also need to address storm water detention and snow storage, etc. They have received a conditional recommendation of approval from the Vision Architectural Committee but must obtain a full recommendation before consideration by the City Council.*

*The restaurant will need to apply for a business license from the city, along with any other licensing or permitting required by local, state or federal requirements. The business license will be issued once the conditional use is approved and conditions of the permit are met. The applicant will need to comply with all health department requirements and will need written approval from UDOT for the egress access shown on their plan.*

4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *The applicant will be working with the city engineer to ensure the storm water is appropriately captured. No other concerns 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 mixed-use project is located in an existing commercial building that has a second floor added for the residential unit. The building is adjacent to both residential and commercial uses. Care should be taken by the applicant to ensure that the uses do not create unreasonable impacts upon the neighboring uses. Following are some items to consider:*

***Noise** – Midway City has a noise ordinance that the proposed uses will need to comply with. That ordinance requires noise at the property line to stay below 70 dBA between 6 AM and 10 PM. Between 10 PM and 6 AM, the noise at the property line should not exceed 55 dBA. The proposed restaurant entrances are oriented towards Center Street, while the residential entrance is located along rear/west side of the building. All dining will be located within the structure.*

***Clearview** - The applicant will need to ensure that anything (signage, trees, landscaping) placed within the 45' clear view area along the intersection of 300 South and Center Street is appropriately sized and does not create a safety hazard.*

***Solid Waste*** – The applicant is proposing the use of trash canisters that would be located along the north side of the building behind a fence. Care should be taken to ensure that the trash containers are kept within the fenced area. The property adjacent to where they would be located is zoned commercial and is mostly vacant. The owner will be required to pull the containers to the designated public street for trash pickup.

***Landscaping*** – The applicant is proposing to landscape all areas that are not covered by the building or exterior hardscape. Landscaping can have a significant impact in not only creating a separation between uses, but it can create both a visual and physical buffer between the parking and the public right-of-way. Minor grade changes from berms or small retaining walls can help create a nice buffer and streetscape in instances where parking and paved surfaces are directly adjacent to public rights-of-way. Care should be taken to ensure that the landscaping enhances the property and streetscape.

***Setbacks*** – All structure setbacks will remain the same except for the setback to the west property line. The applicant is proposing a balcony for the residential unit. The C-2 Zone requires a 10' residential setback when part of a mixed-use development, which it appears to meet.

***Parking/Vehicular Circulation/Drive-thru Window*** – Because the applicant is designing around an existing building on a relatively small parcel, a major obstacle encountered has been accommodating the various uses along with the vehicular parking and circulation requirements. The applicant would like to use a drive-thru window, but there currently is not adequate space to accommodate it along with the required parking and vehicular pass-through lane. The applicant is working with a neighboring property owner to see if they are able to lease property to help satisfy their required off-street parking. With city council approval, a business can relocate some required parking on a neighboring property. Because those arrangements are not in place, the applicant is proposing a phased approach to realizing the drive-thru window. The current proposal would use the drive aisle as a pass-through for vehicles and parallel parking. If the applicant can negotiate a lease allowing them to relocate some of their required parking to a neighboring property, and that arrangement is approved by the city council, they would then install the drive-thru window and move the pass-through lane to the south where the two parallel parking spots are. Staff is supportive of them installing a normal window in the spot where a future drive-thru window would be located, but we would recommend that no drive-thru window is installed until an off-site parking agreement is in place and the two parallel parking stalls are relocated

Currently, the site plan shows two stalls in the garage and five off-street parking stalls, which satisfies their obligation to provide seven off-street parking stalls.

6. The subject site is physically suitable for the type and density/intensity of the proposed use; *The parcel is part of an approved subdivision plat and is in the C-2 zone. While the site is tight in relation to the proposed uses, it appears that the applicant can fit the required improvements.*
7. There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety; *the applicant is working with city staff, the city engineer, UDOT and utility providers to ensure that adequate measures are taken to ensure that public health and safety guidelines are met.*

#### **WATER BOARD RECOMMENDATION:**

- 1.5 acre feet when lot was platted as lot 2 of the Theo Carlile Daybell Family Trust Small Lot Subdivision
  - Covers the water requirement for the restaurant and outside irrigation
- 0.8 acre feet required for the new residential unit
- Recommended water dedication: 0.8 acre feet

#### **POSSIBLE FINDINGS:**

- The proposed use is a conditional use in the C-2 zone.
- The proposal is consistent with the vision of the General Plan for Main Street.
- A drive-thru window will not be installed and used unless the required off-street parking is moved onto an adjacent parcel, which is subject to the approval of the city council.

#### **ALTERNATIVE ACTIONS:**

1. Recommendation of Approval (conditional). This action can be taken if the Planning Commission feels that conditions placed on the approval can resolve any outstanding issues.
  - a. Accept staff report
  - b. List accepted findings
  - c. Place condition(s)

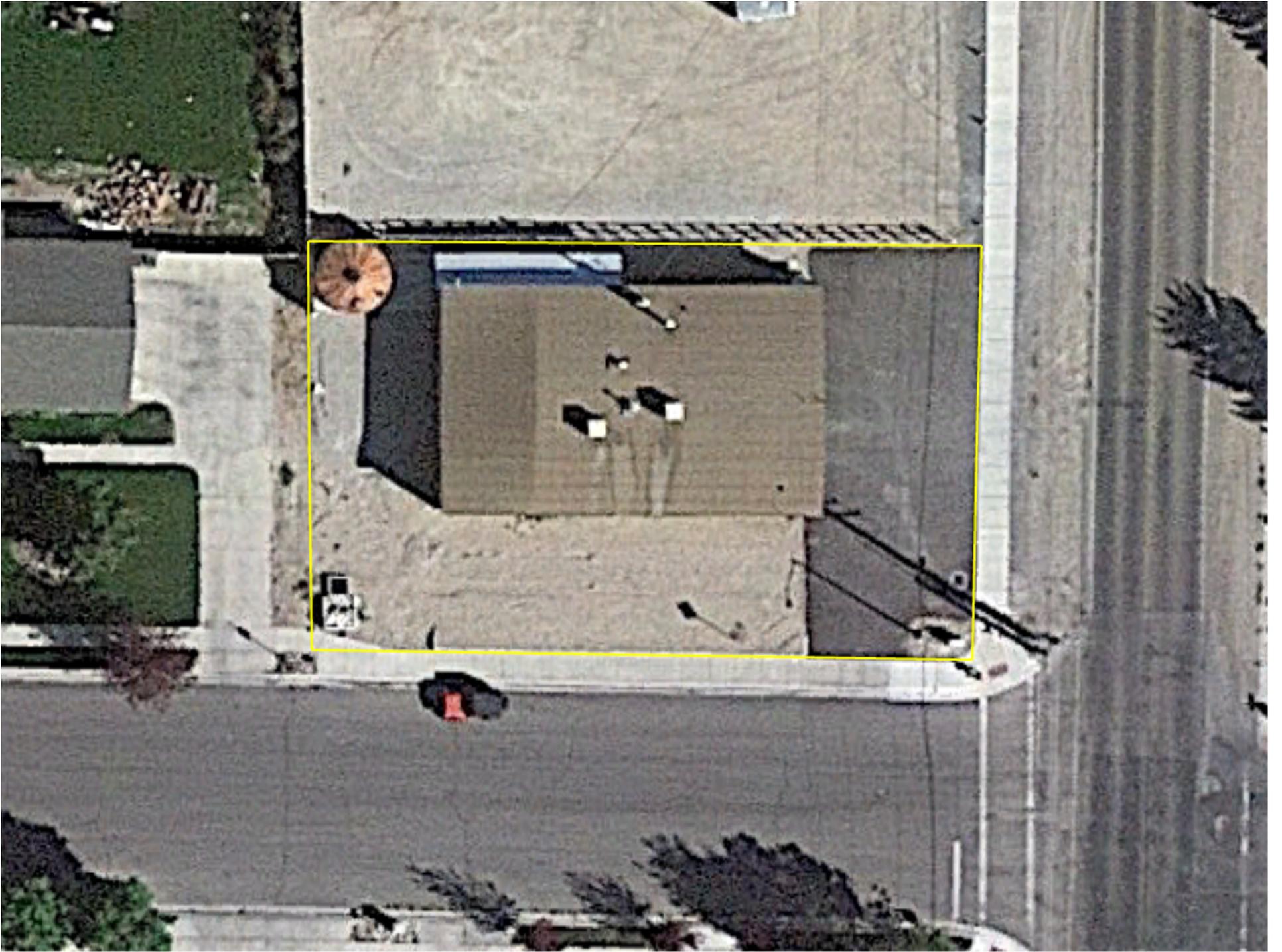
2. Continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for continuance
    - i. Unresolved issues that must be addressed
  - d. Date when the item will be heard again
  
3. Recommendation of Denial. This action can be taken if the Planning Commission feels that the request does not meet the intent of the ordinance.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

**RECOMMENDED CONDITIONS:**

1. Must have approval from UDOT for existing access before proceeding to the City Council.
2. Must obtain an updated will-serve letter from Midway Irrigation Company before building permit approval.
3. No building permit may be issued unless final written approval has been provided by the City Engineer.
4. Must obtain a final recommendation of approval from the Vision Architectural Committee before consideration by the City Council.











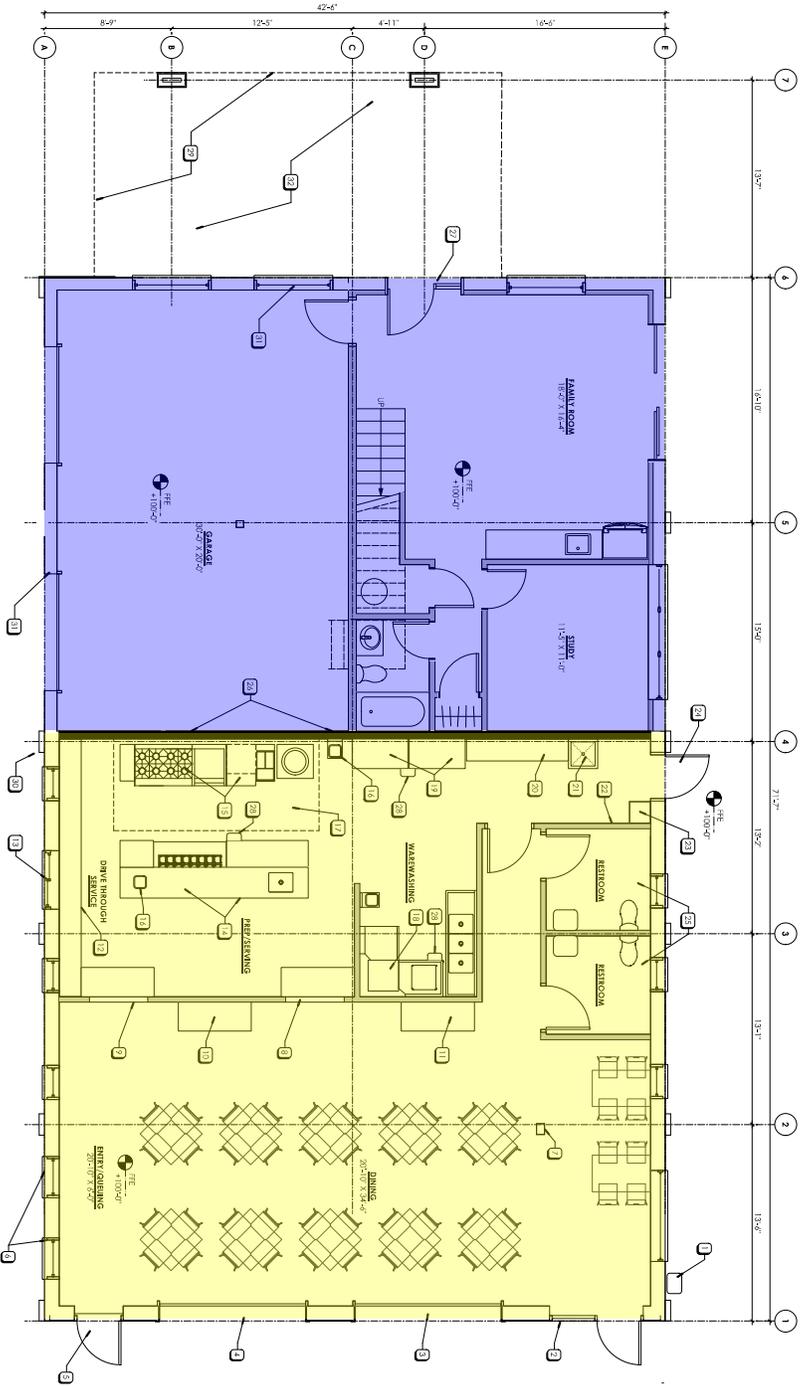
DAYBELL GARAGE

STRAIGHT LINE  
TRAILERS



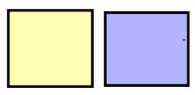






1 MAIN LEVEL FLOOR PLAN  
 Scale: 1/4" = 1'-0"

- FLOOR PLAN KEYED NOTES**
1. (R) GAS METER
  2. DOOR & SILLIGTS TO REPLACE (R) DOOR & WINDOW (P) AND OVERHEAD DOOR TO REPLACE (R)
  3. OVERHEAD DOOR TO REPLACE (R)
  4. OVERHEAD DOOR W/ WALL INLET TO REPLACE (R) MATCH ADJ.
  5. (N) DOOR & RESTROOM ENTRY
  6. WINDOW W/ BRICK WALL INLET TO REPLACE (R)
  7. (R) RESTROOM COLUMN: VERIFY REMOVAL W/ STRUCTURAL
  8. (R) RESTROOM WINDOW
  9. (R) DRINK STATION
  10. (R) TRASH RECEPTACLES
  11. (R) TRASH RECEPTACLES
  12. (R) TRASH RECEPTACLES
  13. (R) TRASH RECEPTACLES
  14. (R) TRASH RECEPTACLES
  15. (R) TRASH RECEPTACLES
  16. (R) TRASH RECEPTACLES
  17. (R) TRASH RECEPTACLES
  18. (R) TRASH RECEPTACLES
  19. (R) TRASH RECEPTACLES
  20. (R) TRASH RECEPTACLES
  21. (R) TRASH RECEPTACLES
  22. (R) TRASH RECEPTACLES
  23. (R) TRASH RECEPTACLES
  24. (R) TRASH RECEPTACLES
  25. (R) TRASH RECEPTACLES
  26. (R) TRASH RECEPTACLES
  27. (R) TRASH RECEPTACLES
  28. (R) TRASH RECEPTACLES
  29. (R) TRASH RECEPTACLES
  30. (R) TRASH RECEPTACLES
  31. (R) TRASH RECEPTACLES
  32. (R) TRASH RECEPTACLES



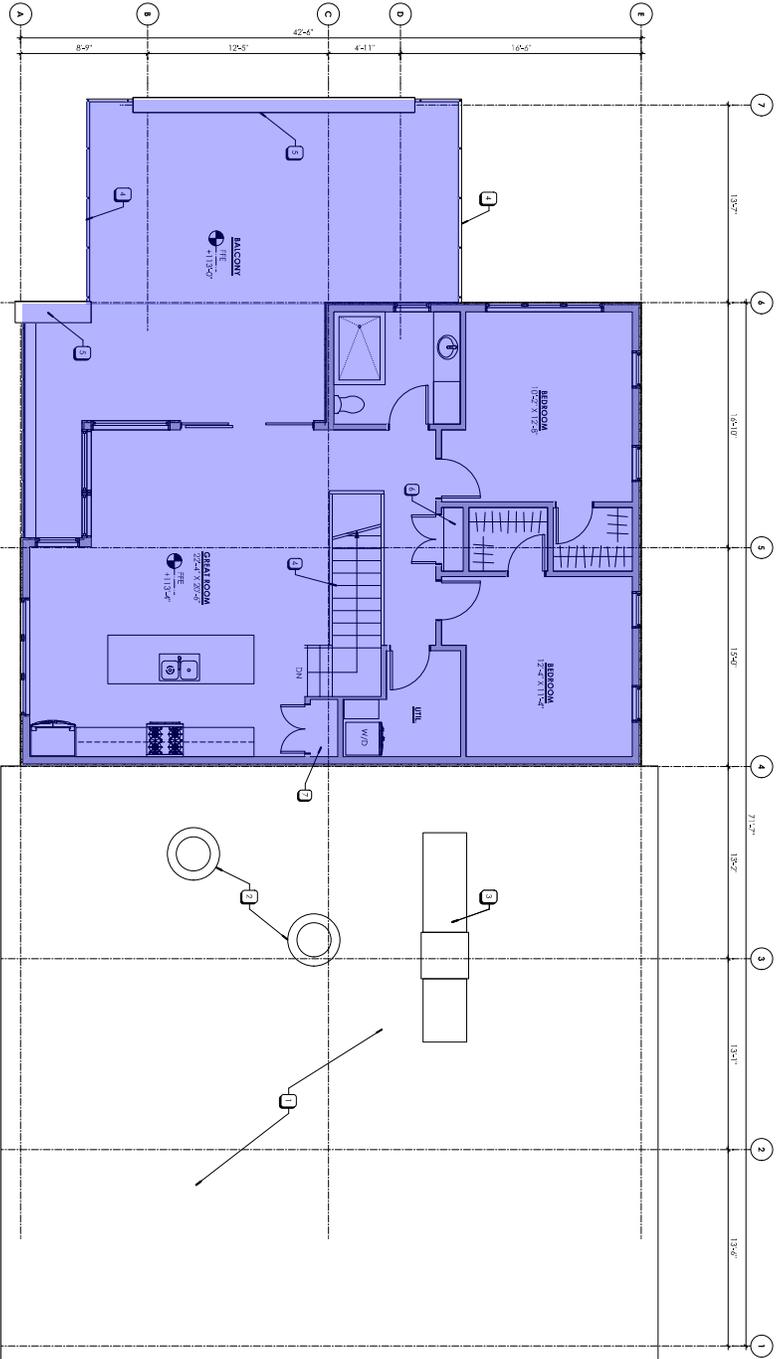
Residential Area  
 Commercial Area

**LEGEND**

- EXISTING CONSTRUCTION
- NEW CONSTRUCTION
- 2" HOLES MATCHED CONSTRUCTION



Residential Area



2 UPPER LEVEL FLOOR PLAN  
Scale: 1/4" = 1'-0"



- FLOOR PLAN KEY NOTES**
1. BALCONY
  2. KITCHEN HOOD EXHAUST FAN
  3. KITCHEN HOOD MAKEUP AIR INLET
  4. CORE BATHING
  5. BATHING WITH STONE CLADDING
  6. LINEN CLOSET
  7. PANTRY

**LEGEND**

- EXISTING CONSTRUCTION
- NEW CONSTRUCTION
- 2 HOUR RATED CONSTRUCTION



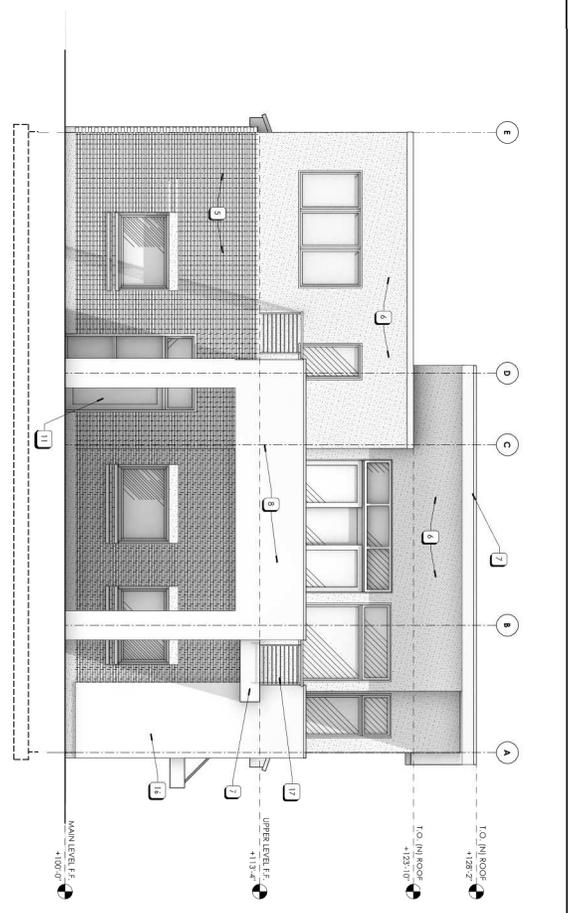
DESIGN REVIEW SET - NOT FOR CONSTRUCTION

**DAYBELL**  
298 S. CENTER ST.  
MIDWAY, UT

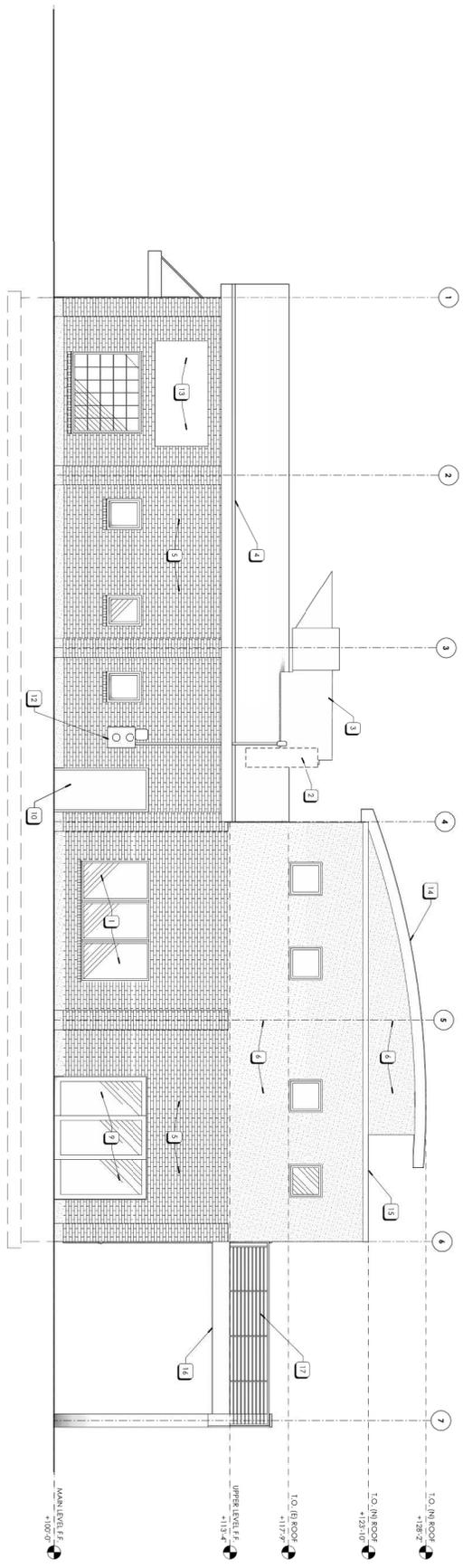
DATE: 10/20/21  
 REVISIONS:  
 1. 10/20/21: INITIAL SET OF DRAWINGS FOR PERMIT REVIEW.  
 2. 10/20/21: REVISED PER PERMIT REVIEW COMMENTS.  
 3. 10/20/21: REVISED PER PERMIT REVIEW COMMENTS.  
 4. 10/20/21: REVISED PER PERMIT REVIEW COMMENTS.  
 5. 10/20/21: REVISED PER PERMIT REVIEW COMMENTS.  
 6. 10/20/21: REVISED PER PERMIT REVIEW COMMENTS.  
 7. 10/20/21: REVISED PER PERMIT REVIEW COMMENTS.  
 8. 10/20/21: REVISED PER PERMIT REVIEW COMMENTS.  
 9. 10/20/21: REVISED PER PERMIT REVIEW COMMENTS.  
 10. 10/20/21: REVISED PER PERMIT REVIEW COMMENTS.

**A1.1**





2 WEST ELEVATION  
Scale: 1/4" = 1'-0"



1 NORTH ELEVATION  
Scale: 1/4" = 1'-0"

- EXTERIOR ELEVATION KEYED NOTES**
1. BRICK FACIA
  2. REMOVE IS IS SPECIFICALLY IN-ROUND MASONRY CHIMNEY
  3. KITCHEN HOOD MAKEUP AIR UNIT
  4. BRICK FACIA & SCOFF TO BEAKER
  5. METAL FACIA & SCOFF
  6. STUCCO
  7. METAL FACIA & SCOFF
  8. REMOVE CONCRETE SPAN PARTS BASE OF DESIGN - OLD
  9. DOOR @ BULKHEAD WALL OPENING
  10. HOLLOW METAL DOOR & FRAME IN OPENING
  11. BRICK FACIA & SCOFF TO BEAKER
  12. ELECTRICAL LATER AND OVERHEAD SERVICE
  13. BUILDING WOODEN WALL WITH (SEE SF PLAN)
  14. METAL FACIA & SCOFF
  15. CONCRETE SKIN PANEL VIBER BACK OF DESIGN - OLD SKIN BY REFER
  16. CONCRETE SKIN PANEL VIBER BACK OF DESIGN - OLD SKIN BY REFER
  17. CARET RAILING

AMD  
ARCHITECTURAL  
12011 110th St  
Suite 100  
Midway, MN 55120  
TEL: 612.833.3333  
WWW.AMDARCHITECT.COM

DESIGN REVIEW SET - NOT FOR CONSTRUCTION

**DAYBELL**  
298 S. CENTER ST.  
MIDWAY, UT

DATE: 10/20/21  
REVISIONS:

EXTERIOR ELEVATIONS  
**A2.2**



September 14, 2021

Midway City  
Attn: Michael Henke  
75 North 100 West  
Midway, Utah 84049

**Subject: Daybell Garage Conditional Use Permit Review**

Dear Michael:

Horrocks Engineers recently reviewed the plans for the above mixed use development. The following issues should be addressed before a building permit is issued.

**General:** The proposed mixed use development is located at approximately 298 South Center Street. The proposed use will include a restaurant on the main floor with a residential unit on the second level. Final construction site plans should be approved prior to final approval.

**Water**

- Applicant should verify that the existing lateral has adequate flow for both the restaurant and residential unit.

**Roads**

- The applicant will need to get an approved access permit from UDOT for the proposed driveway access onto Center Street prior to any approval from City Council.

**Storm Drain**

- The site will need provide a storm drain analysis for 25 year – 24 hour storm event and hold that water onsite. Then it can discharge into the existing irrigation line that runs through the property and south on Center Street.

Please feel free to call our office with any questions.

Sincerely,  
HORROCKS ENGINEERS



Wesley Johnson, P.E.  
Midway City Engineer

cc: Wayne Gordon AMD Architecture