

Memo



Date: September 17, 2024
To: Midway City Council
From: Michael Henke
Re: Midway Arts Center Foundation Proposed Code Text Amendment

The Midway Arts Foundation is proposing a modification to the code text amendment that they proposed in 2022 that would allow a performing arts center to be built in the C-2 zone. This item was last reviewed by the City Council on August 16, 2022, and was continued by the City Council over concerns with the size of the proposed facility, height, parking, and other concerns. The proposed modification addresses some of these concerns. The size of the structure is now limited by the footprint of the foundation (27,000 square feet) instead of by maximum square footage (50,000 square feet). The exception to the height restriction has now been removed so that a performing arts center would have the same height restriction as every other structure in the C-2 zone. Also, the maximum number of seats has been reduced from 500 to 450.

Included with this memo is the modified proposal code language titled "Proposed Code Language Amendments". The original staff report from August 16, 2022, is also included. Finally, minutes from the two City Council meetings (7-19-2022 & 8-16-2022), when this item was heard by the City Council, are included.

Please contact me if you have any questions.

Michael Henke, MPA, AICP

City Planning Administrator

H: Mon-Thurs 7:30-5:30

P: 435-654-3223 ext 105

E: mhenke@midwaycityut.org

PROPOSED CODE LANGUAGE AMENDMENTS

Proposed changes in bold red text

1. USES IN THE C-2 AND C-3 ZONES

To be Added to Section 16.5.2 - Permitted and Conditional Uses:

USES	C-2	C-3
Indoor Performing Arts Centers (maximum footprint 28,000 sq. ft.) with largest audience venue up to 450 seats, primarily for live performances	C	N

EXECUTIVE SUMMARY

• History

The pioneers and their leaders greatly prized cultural and performing arts. From Lethe Tatge to Midway's Social Hall (now the Cannery), to the lovely classical architecture of the early buildings, the history of Midway is intertwined with cultural and performing arts.

"Theaters" were historically a conditional use in the commercial zones of Midway. Only very recently was that use inadvertently deleted in a failed restructuring of the commercial zones. The MAC cannot go forward as planned without restoring a concise, targeted conditional use for this type of indoor performing arts center, as proposed.

The Mayor, with concurrence from all 5 Council members, has recently written a letter of support for the general concept of a performing arts center in our city. It is attached for ease of reference.

• Reason 1 for the Changes - C-2 Zone Use

Midway's General Plan has always encouraged preservation of culture, history, and family-friendly activities, such as those that will be a part of the MAC.

General Plan, Community Vision, Goal 3:

"Guideline 1: Provide recreational and cultural opportunities that would be of interest to the full range of age groups."

"Guideline 4: Encourage all types of visual and performing arts."

The MAC, with its family-oriented and broad programs for youth and adults in the performing arts, together with displays of visual arts, will go a long way toward accomplishment of this goal.

General Plan, Main Street:

"[A]n attractive location for tourism tied to Midway being a meeting place and staging area for festivals, special events, celebrations and a variety of community activities which will indeed produce a vibrant healthy community centerpiece. Midway's Swiss theme and architectural design standards are prominent and important elements of Main Street."

“well suited for the Main Street core area: . . . Entertainment and cultural venues”

General Plan, Economic Goals

“Guideline 3: Pursue arts, activities, recreation opportunities and land uses that will create an experience to attract tourists”

“Guideline 12: Promote events in the City to attract tourism”

The elegant design of the MAC honors and preserves the historic architectural theme of Midway. It will attract thousands of cultural tourists, who will contribute substantially to the success of local businesses and produce much-needed sales tax revenues. It fits nicely in the surrounding commercial neighborhood. The MAC is a perfect example of a use that was contemplated by the framers of the General Plan.

To the Respected members of Midway’s Planning Commission and City Council:

You preside over the crossroads of the cultural heritage and future of our community. Your vision and courage are key to the success of this effort to grow the cultural climate that has been an integral part of our City since the Midway Social Hall was built in 1875. As you know, your decision will affect the lives of thousands of Midway residents and their friends, now and far into the future. We respectfully request that Midway City move confidently into the future with a performing arts center.



Attachments:

Concept Plan Submission
Midway’s Letter of Support



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: August 16, 2022

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment of Section 16.5.2, 16.13.10, and 12.11.020

ITEM: 10

Stuart Waldrip, representative for the Midway Arts Center Foundation, is proposing an amendment to section 16.5.2: Permitted and Conditional Uses (Commercial C-2 and C-3 Zones) to add indoor performing arts centers as a conditional use in the C-2 zone. He is also proposing an amendment to section 16.13.10: Maximum Height Provisions for all Buildings, and section 12.11.020: Exceptions, to include indoor performing arts centers in the list of structures that are allowed to exceed stated height requirements.

BACKGROUND:

Stuart Waldrip, representing the Midway Arts Center Foundation, is proposing two general amendments to the Midway municipal code. One amendment to title 16, would add indoor performing arts centers as a conditional use in the C-2 zone, the other amendments would adjust similar sections in 16.13.10 and 12.11.020 that provide exceptions to the maximum height requirements for specific types of buildings. These adjustments are being requested by the Midway Arts Center Foundation as they hope to propose an indoor performing arts center (not to exceed 50,000 sq. ft. per the proposed code text amendment) at approximately 330 East Main Street. The 1.6-acre site where they are proposing the facility is zoned C-2, which currently does not allow for the proposed use. It is important to note that the proposed amendment would allow performing arts centers in all of the C-2 zone, not only the aforementioned site of which, in this report, is included site specific information.

Additionally, the applicant is proposing to amend the code that would expand the height limit for architectural features of a performing arts center to increase from 52.5’ to a limit based on the setbacks for the structure. The C-2 zone has a 35’ height limit for all structures (excluding public buildings and churches) which is measured as the vertical distance from natural grade to the highest point of the roof. To allow for unusual conditions or appurtenances some exceptions are allowed. One such exception is for church spires, bell towers, finials, and like architectural features which are allowed to extend above the 35’ maximum height by up to 50 percent (52 feet 6 inches for a 35-foot building). The proposed performing arts center does include a clock tower which would allow for the increased height limit for the architectural feature. The proposed code text amendment would also allow a performing arts center an increased height limit measured from natural grade to the roof and to the height of any architectural features. Currently public buildings and churches may be erected to any height provided the building is set back from required building setback lines a distance of a least 1 foot for each additional foot of building height above the maximum height permitted. The applicant is proposing to include performing arts centers on the short list of structures with special maximum height restrictions but with one difference for performing arts centers. The difference is public buildings and churches have a height limit based on the setback, which would allow living space above a 35’ height. The proposed code amendment for performing arts centers would not allow living space above 35’ but only architectural features would be allowed to increase height based on the setback of the structure from the property line. This is different from the current restrictions for all structures except public buildings and churches that are limited to a height of 52.5’ for architectural elements.

Specifically, the proposed code amendments would appear as the following in the code (text in red would be added to the code):

1. USES IN THE C-2 AND C-3 ZONES

To be Added to Section 16.5.2 - Permitted and Conditional Uses:

USES	C-2	C-3
Indoor Performing Arts Centers (up to 50,000 sq. ft.) with largest audience venue up to 500 seats, primarily for live performances	C	N

2. SUPPLEMENTARY REQUIREMENTS IN ZONES

Section 16.13.10 Maximum Height Provisions for all Buildings

E. Public buildings, indoor performing arts centers (as to architectural features only), and churches may be erected to any height provided the building is set back from required building setback lines a distance of a least 1 foot for each additional foot of building height above the maximum height permitted.

3. BUILDING CODE PROVISIONS

Section 12.11.020 Exceptions

D. Public buildings, **indoor performing arts centers (as to architectural features only)**, and churches may be erected to any height provided the building is set back from required building setback lines a distance of at least 1 foot for each additional foot of building height above the maximum height permitted.

ANALYSIS:

Code text amendments fall under the category of a legislative action. Therefore, the City Council has broad discretion regarding the petition. It can be approved or denied based on the discretion of the City Council members. There is no obligation by the City to approve the proposals. If the City Council feels that the proposal will contribute to the community and will help promote the goals and policies of the General Plan, then the proposals should be considered. The City Council may consider any issue, included in the staff report or not, as a discussion item. Also, the City may require items from the petitioner that normally would not be allowed if a developer's property were properly located in a zone that allowed for the proposed use.

In reviewing the proposed code text amendment, staff reviews the Midway General Plan to see whether the proposed amendment helps accomplish its goals and policies. In 2016/2017, the current General Plan was revised and adopted. There does appear support in the General Plan for a performing arts center. Some support includes the following sections of the General Plan:

Community Vision Goals and Guidelines

Guideline 1: Provide recreational and cultural opportunities that would be of interest to the full range of age groups.

Guideline 4: Encourage all types of visual and performing arts.

Main Street

Main Street is the economic, architectural, and historical heart of the community. The most powerful and lasting image associated with Midway is Main Street. This commercial core should be developed as a distinctive shopping and business area emphasizing it as an attractive location for tourism tied to **Midway being a meeting place and staging area for festivals, special events, celebrations and a variety of community activities which will indeed produce a vibrant healthy community centerpiece.** Midway's Swiss theme and architectural design standards are prominent and important elements of Main Street.

Economic Goals and Guidelines

Guideline 3: Pursue arts, activities, recreation opportunities, and land uses that will create an experience to attract tourists.

Regarding the proposed amendment to the height restriction provisions that would allow a performing arts center to exceed the current height limitation of 35' for the roof and 52.5' for any allowed architectural elements, support from the General Plan is more difficult to identify. One possible section that would support the proposed amendment is found in the Main Street section of the General Plan which states the following:

Main Street Element page 61:

Design – Using proper design standards such as setbacks, storefronts size and placement will improve the overall appearance and walkability.

The proposed structure is larger than most structures that are currently located along Main Street and without an amendment to the height restriction, the design for a performing arts center without the added architectural element of a clock tower might not have a good proportional design.

The other side of the issue to consider is viewshed. If the structure is allowed a greater height than the current code allows there will be an impact to the surrounding neighboring properties and from Main Street for pedestrians and from vehicles. In this case, a better architectural design and proportions will lead to the loss of views from the surrounding area.

Elements of the Community Vision:

Effective planning through clustering, setbacks, Transfer Development Rights and animal/agriculture ordinances will help Midway to preserve its view corridors, maintain open spaces and reinforce a country/rural feeling.

Midway's historical preservation Master Plan will identify the specific structures the City would like to preserve/restore, the view corridors it would like to preserve and the elements of the pioneer heritage it would like to maintain.

As mentioned earlier, a code text amendment is a legislative action and therefore, the City Council has broad discretion. The City Council may consider all issues when considering the proposal. Other items the City Council may want to consider include traffic impact, parking, economic and tourism impact, visual impact, site feasibility, project feasibility, and long-term feasibility.

Economic and Tourism Impact – A performing arts center would be an economic generator that would draw in patrons and tourists which in turn would spend money in Midway at restaurants, shops, short-term lodging facilities, and gas stations. It seems likely that those businesses would benefit if a performing arts center were built. Midway would also receive the tax benefit from the increased activity.

Traffic Impact – Staff requested a traffic impact analysis (see attached) which was submitted with the application. Based on only one theater in the performing arts center being used at a time, the maximum number of patrons is 450 which would generate 180

trips. The model assumes 2.5 people per vehicle. Actors, stagehands, and staff would total approximately 50 people and would generate 50 trips. The total of all trips generated per event would be a maximum of 225 trips. The applicant has supplied some traffic studies that are attached to this report. One of the studies is for The Village development. This is a development located to the northeast of the proposed performing arts center site. It does give information about current traffic, but it is not specific to the proposed site, nor does it appear to contain a performing arts center in the study. The second study is specific to a performing arts center and does give information on the traffic impact of the proposed use. One of the main concerns with traffic is the constant impact traffic will have on Midway streets. While it is true that there have been many years of performances that have generated peak traffic counts on Midway streets, those performances have been limited to about 30 days a year. If a performing arts center is approved then, according to the applicants, there will be 200+ days of active use.

Parking – The current code includes a parking requirement for theaters which requires one parking space per four people based on the design. Based on a maximum of 500 people maximum per performance (450 patrons and 50 actors, stagehands, and staff) a total of 125 stalls would be required. The applicant has provided three different parking plans. The first is a shared parking plan with Millstream Properties which owns the parking lots to the east and to the south of the proposed performing arts center. This option does not have support from Millstream Properties based on the public comments made from a representative of Millstream Properties. The second is a plan where all the parking is contained on the performing arts center property. This plan could work if it has the proper access. Again, a representative of Millstream Properties stated that shared access has not been agreed to. If the performing arts property is not able to use Millstream Properties' access, then the performing arts center will need to find its own access. It may be possible to access on the west side of the performing arts center property, but UDOT will need to approve the proposed access. The third option to have some parking on the performing arts center property but to also have 60 stalls on the Olde Swiss Square property located to the west. Any off-site parking agreement will need to be approved by the City Council. The City Council may approve a combined parking agreement between two adjoining property owners if they find the proposed agreement is acceptable. Staff wants to emphasize that any agreement that is approved by the City Council should be in perpetuity. Staff's concern is that if the agreement expires, and is not renewed, then the performing arts center would be severely under parked. The parking needs to be a permanent solution. Option two would provide all the parking on-site but some of the parking would be located under the theater. When considering other land use applications that have proposed below grade parking, the City has had concerns that Midway's generally high-water table could be an issue with the below grade parking.

Visual Impact – A performing arts center would be a large building on Main Street. If the building is designed appropriately; it could be a flagship building that helps enhance the Swiss and old European architecture that is so important to Midway. A large building, especially with an increased maximum height, would also impact views from surrounding properties. The applicant has provided some drawings that help visually show the impact of a performing arts center on Main Street (please see attached). Staff has reviewed the

code height restrictions that would be allowed if the proposed amendment is approved, and the following is analysis of the required front setback and height for a performing arts center. The current height limitation is 35' for the roof and 52.5' for any allowed architectural elements. The proposed amendment would allow for a performing arts center to increase in height (only for architectural elements) if setbacks are increased on a ratio of 1:1. For example, if the tower on a performing arts center reached 70' then the required front setback would be 25.5', instead of the minimum 10' front setback. This is based on the maximum height of the structure being 35' (52.5' for architectural elements). With the increased height of 70', the building would need to be setback an additional 17.5' from the original 10' setback for a total of 27.5'. If the tower were 75' tall then the front setback would need to be 32.5' (any setback greater than 30' would require specific City Council approval).

Site Feasibility – Staff has asked the applicant for a geotechnical report specific to the proposed site of the performing arts center to help determine if the site is feasible for the proposed use and structure. A report has been submitted to staff and is currently being reviewed by Horrocks Engineers.

Project Feasibility – The applicant has submitted information regarding fundraising to gather the needed funds to purchase and develop the property. It is unknown how likely it will be to gather the roughly 45 million dollars required to complete the project. The City must consider the possibility that, if approved, the building might only be partially completed and the potential problems that would arise from such a scenario. Though unlikely, it is also important to consider the possibility of an abandoned large building on Main Street. The applicant has supplied more information on their proposed timeline (please see attached). There are many factors that can come into play regarding proposed timelines. The applicant has stated that construction will not begin until all the required funds are committed. This is helpful but there could still be flaws with this proposed scenario, especially if committed funds are never paid.

Long-Term Feasibility – The applicant has submitted some information on long-term feasibility that would include maintenance, management, etc. They plan to establish a four-million-dollar endowment fund that will provide approximately \$200,000 each year for facility upkeep and to lower rental costs for local arts groups.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Bouwhuis: I make a motion that we recommend approval for an amendment to section 16.5.2: Permitted and Conditional Uses (Commercial C-2 and C-3 Zones) to add indoor performing arts centers as a conditional use in the C-2 zone. He is also proposing an amendment to section 16.13.10: Maximum Height Provisions for all Buildings, and section 12.11.020: Exceptions, to include indoor performing arts centers in the list of structures that are allowed to exceed stated height requirements. Accept the staff findings that are included in the staff report and adding two other findings, one being that the C-2 and the C-3 zones is consistent in the intent with this type of use. Also,

a new conditional use process needs to be in place to make considerations on impacts on the community such as parking and other concerns that have been brought up.

Seconded: Commissioner Cliften

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis and Cliften

Nays: Garland and Simons

Motion: Passed

POSSIBLE FINDINGS:

- The proposed amendments, if approved, are not limited to the applicant's proposed site but would be a possibility for the entire C-2 zone
- The proposed amendments are a legislative action, and the City Council has broad discretion on whether to approve the amendments
- Promotes the goals and objectives of the General Plan which includes encouraging all types of visual and performing arts
- Could help generate economic activity for other Midway businesses and will help expand the tax base for Midway
- If the height limit is expanded for a performing arts center, views from surrounding properties will be impacted
- A traffic study has been submitted
- A geotechnical report has been submitted

ALTERNATIVE ACTIONS:

1. Approval. This action can be taken if the City Council finds that the proposed language is an acceptable amendment to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings

2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.
 - 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. Denial. This action can be taken if the City Council finds that the proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

July 19, 2022, City Council Regular Meeting Minutes

5. Ordinance 2022-21 / Performing Arts Centers (Midway Arts Center Foundation – Approximately 90 minutes) – Discuss and possibly deny, continue, or adopt proposed Ordinance 2022-21 amending Section 16.5.2 (Permitted and Conditional Uses), Section 16.13.10 (Maximum Height Provision for all Buildings), and Section 12.11.020 (Exceptions). Recommended by the Midway City Planning Commission. Public Hearing

Corbin Gordon gave a presentation regarding the proposed ordinance and reviewed the following items:

- Proposed amendment
- Discussion items
- C-2 zone
- Proposed location
- General Plan
- Items of consideration
- Traffic study
- Possible findings

Mr. Gordon also made the following comments:

- The City could not spot zone but could create a new zone.

Note: A copy of Mr. Gordon's presentation is contained in the supplemental file.

Jeff Strong and Berry Kent, representing the applicants, gave a presentation regarding the proposed ordinance and reviewed the following items:

- Executive summary
- Parking
- Parking option #1 (Partial off-site parking)
- Parking option #2 (On-site parking)
- Driveways
- Traffic

- Available data and experience
- Schedule of performances
- A video from Matt Waldrip who was the chief fundraiser for the proposed Midway Arts Center (MAC)
- Fundraising plan
- The clock tower
- Construction plan
- Public support
- Alternatives to the MAC
- Legacy
- Town hall

They also made the following comments:

- \$45 million would be difficult to raise but it could be done.
- Ground would not be broken until all the money was committed.

Note: A copy of their presentation is contained in the supplemental file.

Stu and Sue Waldrip, applicants, made the following comments:

- Matinees would be held on Saturdays.
- \$100,000 had already been raised for the MAC. Additional fundraising would happen after the proposal was approved.
- Profit from performances had increased over the years.

The Council, staff, and meeting attendees discussed the following items:

- Was a flyaway roof an architectural element?
- Could an arts center later be converted into a commercial building?
- A new zone could allow arts centers but not commercial buildings.
- Nonconforming uses could not be allowed in a zone.
- Allowed architectural elements could be tied to arts centers.
- Trips were different from the amount of parking.
- A traffic study had not been done for the possible arts center, but the number of trips generated had been determined for The Village development.

- Theaters were allowed in the resort zone.

Public Hearing

Mayor Johnson opened the hearing and asked if there were any comments from the public.

Dominic Anderson

Mr. Anderson made the following comments:

- Lived behind the location for High Valley Arts' (HVA) outdoor productions.
- Loved the productions.
- His two daughters participated in them.
- The productions were part of the magic of Midway.

Randon Wilson

Randon Wilson made the following comments:

- Supported the proposal.
- It would be important economically, would help local businesses, and would contribute to the community.
- The Council had a responsibility to facilitate economic development in Midway.

Carolyn Lafkas

Ms. Lafkas made the following comments:

- Had been involved in the performing arts since she was five years old.
- Her family was involved in the arts.
- Performing for HVA had a positive impact on her and gave her a sense of belonging.

Hollie Kent

Ms. Kent made the following comments:

- The most important part of the performing arts was the growth in individuals and youth.
- Several years earlier, theaters were prohibited from the commercial zones.
- Performing arts centers were different from theaters.
- HVA had done numerous productions and had the indicated attendance. The traffic and parking already existed because of these productions.

Devin Johnson

Mr. Johnson made the following comments:

- Owned the property proposed for the MAC.
- Initially had doubts about the proposal.
- Had been a football coach and knew the benefits of participating in football. Realized that the performing arts were some peoples' football team.
- The proposal would provide a generational return.
- The City should not miss the opportunity.

Kate Stewart

Ms. Stewart made the following comments:

- Matinees were good.
- Many different talents were needed for the performing arts.
- Midway needed its own entertainment.
- There was a large age range in the people who participated.
- What questions needed to be answered?

Linda Bandley

Ms. Bandley made the following comments:

- Liked theater.
- Lived kitty-corner to the proposed site of the MAC.
- Could no longer see the stars in Midway.
- The proposed clock tower on the MAC would eliminate her views of the mountains.
- Art was good but people came to Midway to see the views and the mountains.
- The commercial building, next to the proposed site, did not look like what was proposed.
- Worked hard to make her property look nice.

Lindsey Leavitt Brown

Ms. Leavitt Brown Made the following comments:

- The MAC would be a safe and shared community space for Midway.
- Parking was limited at the Town Hall.
- Weather was a problem for outdoor performances.
- The floor at the high school theater was not safe.
- The theater at the High School's west campus was too small.

- There was a lack of community space.
- There were connections with the various theater companies.
- There would be time for other community events at the MAC.
- The community was working together.

Jerry Miller

Mr. Miller made the following comments:

- Lived across Main Street from the proposed site of the MAC.
- No one denied that the arts were a good thing.
- Knew that something would be built on the site. It could be worse than the MAC.
- Did not want parking in front of his house and in his driveway.
- Walkability was a myth.
- Questioned if the needed money could be raised.
- Did not want something unfinished on the property.
- What would the actual cost be?
- Was not opposed to the proposal but the Council should study it carefully.

Jason Perry

Mr. Perry made the following comments:

- The proposal was what most people were excited about.
- The taxpayers would not have to pay for the project.
- Supported it.

Tricia Cope

Ms. Cope reviewed the history of theater and made the following comments:

- Midway was a blessed community.
- HVA deserved a permanent home.
- The clock tower would be a beacon.
- Children had a home at HVA.

Shanon Hunt

Ms. Hunt made the following comments:

- There was very little to do in Midway in the evening. It was a bedroom community for

Park City.

- Park City residents should be coming to Midway.
- There should not be a big box store at the location proposed for the MAC.
- The performing arts gave children something to do other than video games.
- The performing arts brought interesting things to a community.

Gordon Peterson

Mr. Peterson made the following comments:

- Was the chair of the 2020 visioning process for Wasatch County.
- HVA was wonderful for Midway.
- Parents should be glad for HVA.

Candice Nowers

Ms. Nowers made the following comments:

- Was raised in Midway.
- Lived across the street from the proposed site for the MAC.
- Was not opposed to a theater but did not like the clock tower.
- The rural aspect and views of the mountains brought people to Midway.
- Could see Mount Timpanogos from her house.
- Remembered when the area was not zoned commercial. The goal was to keep the commercial area small.
- Was concerned about parking for the MAC.
- Explosives had to be used to trench for the sewer for the area around her house.

Diann Glenn

Ms. Glenn made the following comments:

- Was a designer and taught design.
- The scale of the MAC was too large for Main Street. It should be scaled down to 15,000 sq. ft. and seating for 250 people.
- It would block views.
- Zoning should not be changed just for one project.
- The rural feel of Midway should be preserved.

- Was concerned with the traffic. There were times that she could not get out of her development because of the traffic.
- Main Street was extremely busy.
- Commercial was needed but parking was a problem.

Suzanne Prince

Ms. Prince made the following comments:

- Loved the arts.
- Was not opposed to a theater.
- A theater was proposed for the UVU Heber Campus that all groups could use.
- The community needed to work together.
- Was concerned about the planned size of the MAC.
- It took the Hale theater group 20 years to build a theater that size.
- Parking would be an issue.
- The Municipal Code prevented chain businesses.
- The threat was that an industrial building would be constructed if the MAC was not approved.

Devin Johnson

Mr. Johnson made the following comments:

- Never said that he would bring in a chain business.
- He cleaned up the property.
- The City decided that the area should be commercial.
- Something would be built on the property one day.
- While he owned the property it would be beautiful and tactful.
- Parking and traffic would come with anything built on the site.

Motion: Without objection, Mayor Johnson recessed the meeting at 8:30 p.m. She reconvened the meeting at 8:35 p.m.

Jeff Strong made the following additional comments:

- The theater planned for the college campus could not accommodate HVA.
- HVA had a different model than the other performing arts groups.

- Could not make a small facility work.
- Did not want to turn away customers.
- The facility would be 1/3 larger than the commercial development next to it.
- The shared parking agreement could be automatically extended which allowed flexibility.
- The building line was 35 feet high.

Mayor Johnson closed the hearing when no further public comment was offered.

Bill Fairbanks, owner of Old Swiss Square, made the following comments:

- Had known the Waldrips for many years.
- The parking for Old Swiss Square was close to the proposed site and could benefit the MAC.
- People liked to walk in Midway.
- His parking lot was empty in the evenings. It was not used much on Saturdays.
- Realized the risks of a parking agreement but did not want a restaurant in his building which would make the other businesses smell.

Mayor Johnson made the following comments:

- Was concerned about the proposed size of the MAC.
- She was the steward of a small town.
- Wanted a dark sky.
- Residents thought that the Granary was too large.
- The Ridley's grocery store was only 20,000 sq. ft.

Council Member Payne made the following comments:

- Supported the concept of the performing arts in Midway.
- Liked the confidence that it instilled in the youth.
- The current commercial zones could create a Main Street like Heber City's. The zones should be reviewed.
- The resort tax should be preserved by encouraging more short-term rentals.
- A performing arts center would be a substantial portion of the face of Main Street. It should be high quality with good materials. The side elevations looked like a residence and should be improved.

- Liked the shared parking.
- The applicant or owner could change.
- Supported a zone just for the site so that the City did not lose control if the ownership changed.
- All issues could be addressed.
- Financial feasibility was not required of other applications.
- Any approval should be clear that only architectural features could exceed the height limit.

Council Member Simonsen made the following comments:

- Had questions for the City Planner.
- Like to think about complex issues.
- Was concerned about the planned size for the MAC. Needed to be convinced it was necessary.
- Was also concerned about the traffic, parking, and potential risk to the City.
- There should not be too much parking.
- Liked the shared parking.
- Appreciated the benefits.
- Would like to see the proposal work.
- The City could prohibit big box stores but could not prohibit chain businesses.

Council Member Orme made the following comments:

- Was concerned about the parking, size, and changing the Municipal Code.
- A lot of people had complained about the Granary.
- Did not want to take away the rural feel of Midway.
- Loved the arts.
- Was another site better?
- The proposal needed to be improved.
- Did not want unintended consequences.
- The item should be continued.

Council Member Drury made the following comments:

- A lot of issues had been discussed, but the only issue before the Council was a code change.
- Anyone could apply for a code change.
- The City Planner had a “wall of broken promises”. It included projects that did not look as good as the presented renderings.
- The Municipal Code would allow excessive heights based on the setbacks. That needed to be addressed.
- Could not support the proposal.
- Theaters were allowed in the resort zone which was the path of least resistance.
- Was frightened by the \$45 million cost.
- There was strength in having the performing arts groups use the same facility.
- A facility should be what a group could afford.
- The item should be continued or denied.
- The City had been asked before to do something for financial dealings, etc.

Council Member Dougherty made the following comments:

- Supported the proposal.
- There were several permitted uses in the zone that could exceed 50,000 sq. ft.
- The applicant had done a lot to satisfy the City.
- The Council had no experience running a theater and did not know what size of building was appropriate.
- Had no reason to doubt the information provided by the applicants.
- The Council was not approving parking, traffic, etc. that night. It was considering changing the zoning and two other sections of the Municipal Code.
- The Code needed to be fixed if it allowed overly tall buildings.

Motion: Council Member Drury moved to continue Ordinance 2022-21.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Dougherty asked about approving the zone change without the other two amendments. Council Member Drury said that changing the code for the entire zone was a blunt tool. He would consider a change that tied a specific project to a specific location.

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty Nay

Council Member Drury Aye

Council Member Orme Aye

Council Member Payne Nay

Council Member Simonsen Aye

- Children were already using a hole in a fence to go to Midway Elementary.

Motion: Council Member Drury moved to grant preliminary approval for Bonner Meadows with the following findings and conditions:

- The proposal met the intent of the General Plan for the R-1-9 zoning district.
- The proposal complied with the land use requirements of the R-1-9 zoning district.
- The sidewalks crossing the property and connecting to neighboring roads and existing sidewalks would benefit the community by allowing safe pedestrian access.
- Any failure to submit a proposed final plan and final approval submittal package within one year of the approval of the Preliminary Plan by the City Council would terminate all proceedings and render the Preliminary Plan null and void.
- The safety plan would be provided at final approval with the times adjusted by 15 minutes.

Second: Council Member Orme seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

10. Ordinance 2022-21 / Performing Arts Centers (Midway Arts Center Foundation – Approximately 60 minutes) – Discuss and possibly deny, continue, or adopt proposed Ordinance 2022-21 amending Section 16.5.2 (Permitted and Conditional Uses), Section 16.13.10 (Maximum Height Provision for all Buildings), and Section 12.11.020 (Exceptions). Recommended by the Midway City Planning Commission.

Michael Henke gave a presentation regarding the proposed ordinance and reviewed the following items:

- Proposed amendment
- Proposed location for the Midway Arts Center (MAC)
- Discussion items

Mr. Henke also made the following comments:

- The proposal would only affect the C-2 zone.
- The Planning Commission recommended that it also include the C-3 zone.
- If a performing arts center became vacant then the Municipal Code would have to be amended, to allow it to be another use, or a variance sought.
- The front setback could be between ten and thirty feet. This could affect the total height of the building.
- An overlay would require a separate application, a separate process, and to be

considered by the Planning Commission.

Note: A copy of Mr. Henke's presentation is contained in the supplemental file.

Mayor Johnson made the following comments:

- The height limit should not be changed until the Council knew the height of the MAC.
- The Council should consider what all residents wanted.

Council Member Simonsen made the following comments:

- Received new documents that night that he had not been able to review. Wanted to review them and consider the options.
- More time was needed to properly consider the ordinance.
- Some helpful adjustments and progress were being made.
- Preferred an overlay zone.
- Wanted the City Attorney to review the documents provided that evening.
- Could still vote against the project.

Council Member Dougherty made the following comments:

- It was feasible to approve the requested uses contingent upon a development agreement for the MAC.
- Other issues could be dealt with later.
- The proposal would limit any footprint to 26,000 square feet.
- The Council was not focusing on what the applicants were asking.
- The MAC would be dealt with in a development agreement.
- The Council was not an expert on financing.
- Arts centers were previously allowed.
- Was not interested in expanding the proposal to the C-3 zone.
- The Council could not consider an overlay zone if the applicant did not want it.
- The arts needed to be honored.

Council Member Drury made the following comments:

- The proposal was a sledgehammer approach to the issue.
- The uses for the C-2 zone did not have to be changed.
- An overlay zone could be created with the conditions that the Council wanted. This would allow the Council to create a code for the specific use.
- The commercial zones were precious because they provided tax revenue. The MAC would not pay property or sales taxes.
- Location, height, size, and parking could be addressed in an overlay zone.
- Other applicants made promises that were not kept.

Council Member Orme made the following comments:

- Was uncomfortable with such a broad proposal.
- Was still concerned about the proposed size of the MAC.

- The Granary did not feel that large when it was approved, but many people disapproved of its size now that it was built.
- The MAC would block the view.
- Liked theaters and the concept for the MAC.
- The MAC should not be on Main Street.
- Quaint Midway should be protected.
- Did not want to regret the decision in the future.
- Wanted to see the MAC happen.
- Parking and the size of the building were still issues.
- Wanted a greater setback.
- All issues should be addressed at the same time.

Council Member Payne made the following comments:

- Could support an overlay zone since other council members liked it.

Jeff Strong, representing the applicants, made the following comments:

- Would consider an overlay zone but did not want it to cause a significant delay in approval.
- The option on the property would be up in 30 days and would need to be renegotiated.
- Preferred approving the change and then working on the method to accomplish it.
- Was the overlay the final concession? Mr. Henke indicated that a zone map amendment would be needed, and the Municipal Code would also have to be changed. The soonest the Council could consider the items would be that November.

Stu Waldrip, applicant, made the following comments:

- Needed certainty.
- Did not want to go through additional time and expense and then have to reconsider the same issues such as building size or have the proposal denied.
- Provided a draft development agreement to address the Council's concerns.
- The tower on the MAC would be less than 50 feet high.
- Wanted the setback to look smaller.
- The MAC could not be made smaller and still be successful. Had consulted experts on the size and other issues.
- His was part of a successful organization looking for a home.
- Need assurance that the general design was acceptable.

Michael Henke reviewed the fees for applications like an overlay zone and made the following comments:

- The current application needed to remain active to change the height limit.
- Had not seen the proposed language that allowed the seats to be increased. This type of arrangement was abnormal.
- An agreement could not override the Municipal Code.

Council Member Simonsen made the following comments:

- The Council could not give any assurance to the applicants because it had not reviewed

the documents provided that evening.

- The request should be considered as a whole.
- Supported tabling the proposal or having a different application submitted.
- Was not comfortable with the seating automatically increasing from 350 to 450.
- Wanted to see success with the growth.
- Did not like the off-site parking.
- A true traffic study was needed for the MAC.
- Needed to understand the new proposal that reduced the size of the MAC.

Council Member Drury made the following comments:

- Had not read the proposed development agreement.
- Where would the parking be if the seating was increased to 450? Mr. Strong responded that the proposed parking accommodated up to 450 seats.

Council Member Payne made the following comments:

- Supported the location, concept, and proposal.
- The Council should approve any seating increase above 350. This could be addressed in the development agreement.
- The proposal could be approved subject to a development agreement.

Corbin Gordon indicated that the maximum for something, such as seats, needed to be established with a proposal.

Motion: Council Member Simonsen moved to continue Ordinance 2022-21 regarding performing arts centers with the following recommendations:

- The applicants should look at all options or ask the City to consider an overlay zone, with the desire that some portion of their property be included in the zone.
- The staff review everything discussed that evening and give guidance before the next council meeting, including what were the viable paths forward and how they looked so the Council could decide on which path should continue.

Discussion: Council Member Drury asked if the motion should define the scope of the overlay zone. Council Member Simonsen responded that the Council should look at it generally, decide where it wanted an arts center, and not restrict itself at that point.

Second: Council Member Dougherty seconded the motion.

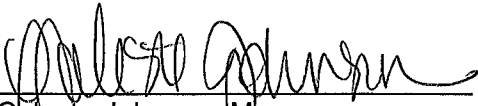
Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

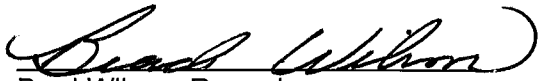
11. Adjournment

Motion: Council Member Orme moved to adjourn the meeting. Council Member Drury seconded the motion. The motion passed unanimously.

The meeting was adjourned at 9:59 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder