



## **CITY COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** January 21, 2025

**NAME OF PROJECT:** Alcohol Dispensing Establishment

**NAME OF APPLICANT:** Emma Worsley

**OWNER:** Hoffvest LLC

**NAME OF RESTAURANT:** Harvest Midway

**AGENDA ITEM:** Conditional Use Permit and Local Consent

**LOCATION OF ITEM:** 195 West Main

**ZONING DESIGNATION:** C-2

### **ITEM: 7**

Emma Worsley, as agent for Hoffvest LLC, owner of the Harvest Midway Restaurant, is applying for a Conditional Use Permit and Local Consent for an alcohol dispensing establishment. The restaurant is located at 195 West Main Street. The property is 0.28 acres in size and is located the C-2 zone.

## **BACKGROUND:**

Hoffvest LLC, owner of the Harvest Midway Restaurant, is requesting a Conditional Use Permit (CUP) and local consent for an alcohol dispensing establishment. Harvest Midway is the third location of Harvest Park City (2 locations in Park City), which have been operating in the Park City community since 2017.

Per the current application,

*“Harvest Midway will continue this tradition, featuring a full-service restaurant (Level 1), a bakery and grab-and-go area (basement), and a significantly enhanced outdoor space. The restaurant will initially offer breakfast and lunch (8 am – 3 pm) with plans for dinner service, emphasizing locally sourced and scratch-made food. This project will create new jobs and further enhance the community experience.”*

Harvest Midway is located at the site of the former Heirloom Common, which was originally The Corner Restaurant. Karl Probst, original owner and builder of The Corner Restaurant, was approved for a Conditional Use Permit and local consent to serve alcohol by the City Council on May 9th, 2018. Heirloom Corner, LLC, operating as Heirloom Common and Heirloom Market, was approved for a Conditional Use Permit and local consent to serve alcohol and proximity variance on September 6, 2022, with the following findings and conditions:

- The proposed license would allow the sale of alcohol at Heirloom Common and Heirloom Market.
- The restaurant property was located within 200 feet of public property.
- The State required a proximity variance because of its closeness to Town Square.
- There had been large events held on the property, without City approval, that had created noise and parking concerns for the community.
- The State regulated this type of alcohol license.
- No alcohol related signate would be visible on the exterior of the building or on the inside, visible from the outside, including from 200 West.
- A dumpster enclosure, reviewed and approved by the Vision Architecture Committee, would be constructed within six months to mitigate the visual impact of the dumpster for the neighbors and for passing motorists.
- The outdoor freezer would be enclosed or paneled within 6 months.
- The approvals were probationary for a period of 24 months with formal reviews every six months.

- The probation was entirely at the discretion of the City Council and the approvals could be revoked at anytime during the 24 months.
- Noise could be an item that caused the approval to be revoked at any time.
- At the end of the 24 months another probationary period or full approval would be considered.
- A plan mitigating the smoke leaving the property would have to be reviewed and approved by staff.
- Self-service of alcohol at events was not allowed.

The property is in the C-2 zone. Restaurants are permitted uses in that zone although alcohol dispensing establishments must be approved for a conditional use permit to serve alcohol. If they receive City consent, the applicant will apply for a Full-Service Restaurant Liquor License from the UDABC. They plan to offer beer, wine, and liquor, as well as non-alcoholic beverages in the restaurant. The current building has two floors with 3,108 square feet on the upper floor and 2,826 on the lower floor.

The approval of a CUP is an administrative act but, per State Code, the approval of the ability to sell alcohol is a legislative act and the City has broad discretion in that decision. Tourism does generate business and taxes and some might argue that limiting alcohol licenses could inhibit tourism in the City.

Currently the City has approved the following alcohol licenses:

Lupita's  
 Café Galleria  
 Zermatt Resort  
 Homestead Resort  
 7-11  
 Ridley's  
 Ridley's Market (convenience store)  
 Market at Midway  
 Market Express (convenience store)  
 Blue Boar Inn  
 Midway Mercantile  
 Lola's  
 The Corner Restaurant  
 Heirloom Common Restaurant and Market

The original CUP approved for the Corner Restaurant, and the Heirloom Common which replaced it, limited alcohol related signage. The City Council approved the CUPs with the following condition:

- No alcohol related signage would be visible on the exterior of the building or on the inside, visible from the outside including from 200 West.

The reasons for the condition included the following: The City code at that time allowed illuminated product signs but not alcoholic beverage signs. The current sign code does not allow illuminated product signs; the structure is very visible from Town Square and from Main Street, the City’s main transportation corridor partly because of the 10’ setback that is allowed in the commercial zones; 200 West and Main Street are highly used so the restaurant will be very visible because of its location on the corner; all vehicles turning from 200 West, heading south, onto Main Street will see the restaurant; the City has constructed a trail directly north across Main Street that will be used by all age groups. The above concerns apply equally to the Harvest Midway restaurant.

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 before the City Council.

**ANALYSIS:**

Section 16.26.120 of the Midway Municipal Code governs Conditional Use Approvals and Regulations. This provision provides that the Planning Commission shall:

*“ . . . recommend the granting or denying of the conditional use permit based upon the standards set forth in this Section. The Planning Commission may also recommend conditions to be imposed on the use if the permit is granted.”*

The comments in italics represent 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 City Council 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 of the applicable provisions of this Code; *planning staff believes that the proposal will not have a significant impact on the neighborhood as long as special events comply with Midway City Code and are held with the proper permitting.*
2. The proposed use is consistent with the General Plan; *no issues have been identified.*
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; *the applicant shall obtain approval of the CUP, Local Consent and Consent for Proximity Variance from the City Council and obtain and comply with all applicable state licensing requirements of the UDABC. Currently there are violations on site pertaining to the banners that have been*

*installed.*

4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *no issues 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 use and associated traffic is consistent with commercial uses in the commercial zone of the City. The dumpster for the restaurant has been a source of concern from the neighbors over the years. The original owner represented that a dumpster enclosure would be constructed for the dumpster, which was never built. The subsequent owner represented that the enclosure would be built within 6 months from CUP approval, which did not happen. The enclosure has never been built and the dumpster does have a visual impact on 200 West for motorists and surrounding neighbors. A business license shall not be granted until the enclosure is completed.*
6. The subject site is physically suitable for the type and density/intensity of the proposed use; *it appears that the proposal is suitable based on the existing approved use. Special events will need to receive the proper City approvals that will look specifically at noise and traffic impacts of any proposed events.*
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; *no detrimental impacts have been identified.*

#### **PLANNING COMMISSION RECOMMENDATION:**

At its regularly scheduled meeting held December 10, 2024, the Planning Commission made the following motion:

**Motion:** Commissioner Garland: I make a motion that we recommend approval of a Conditional Use Permit and Local Consent for an alcohol dispensing establishment for Harvest Restaurant. The restaurant is located at 195 West Main Street. The property is .28 acres in size and is in the C-2 zone. We accept staff findings and conditions listed in the report.

**Seconded:** Commissioner Nokes

**Commissioner Nicholas:** Any discussion on the motion? No

**Commissioner Nicholas:** All in favor.

**Ayes:** Commissioners: Wardle, Osborne, Knight, Nokes, Lineback and Garland  
**Nays:** None  
**Motion:** Passed

**POSSIBLE FINDINGS:**

- 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 districts;
- The proposed use is consistent with the General Plan. No issues to the contrary have been identified;
- The approval of the conditional use permit for the proposed use complies with the requirements of state, federal and Midway City regulations. The applicant shall obtain approval of the CUP, Local Consent, Business License, Alcohol License, and obtain and comply with all applicable state licensing requirements of the UDABS;
- There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored. No issues have been identified;
- 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 use and associated traffic are consistent with commercial uses in the commercial zone and consistent with prior uses at this location. A dumpster enclosure approved by the VAC is required for the dumpster at the location and a business license shall not be granted by the City until the enclosure is completed;
- The subject site is physically suitable for the type and density/intensity of the proposed use and has been used for a comparable use in the past. Special events will need to receive the proper City permitting/approval and comply with Midway City Code, including but not limited to light and noise ordinances;
- 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. No detrimental impacts have been identified;
- The proposed license would allow the sale of alcohol at Harvest Midway.

- The restaurant property is located within 200' of public property.
- Currently there are signage code issues on the property.
- The State does regulate this type of alcohol license.
- Special events on site would be required to comply with Midway City Code.

## **POSSIBLE ACTIONS**

1. Approval (conditional). This action can be taken if the City Council 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 City Council 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. Denial. This action can be taken if the City Council feels that the request does not meet the intent of the ordinance.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

## **PROPOSED CONDITIONS:**

1. No alcohol related signage would be visible on the exterior of the building or on the inside, visible from the outside including from 200 West and Main Street.
2. Signage not in compliance with Midway City Code must be removed.
3. A dumpster enclosure, reviewed and approved by the Vision Architectural Committee, must be constructed to mitigate the visual impact of the dumpster for neighbors and for passing motorists prior to issuance of a business license.