



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: December 6, 2022

NAME OF PROJECT: Hidden Peak Provisions

NAME OF APPLICANT: Sarah Farrell

OWNER: Thomas Thibodeau

AGENDA ITEM: Alcohol Dispensing Establishment Conditional Use Permit and Local Consent

LOCATION OF ITEM: 93 West Main

ZONING DESIGNATION: C-2

ITEM: 8

Thomas Thibodeau is applying for a Conditional Use Permit for an alcohol dispensing establishment that will be named Hidden Peak Provisions Craft Deli and Market. The applicant is also requesting Local Consent to sell alcohol. The restaurant is located at 93 West Main Street and is in the C-2 zone.

BACKGROUND:

Thomas Thibodeau is requesting a Conditional Use Permit (CUP) and local consent for an alcohol dispensing establishment. The applicant is in the process of opening a deli that

will be called Hidden Peak Provisions. The applicant describes the business as the following:

Hidden Peak Provisions is a high-end deli/market featuring made-from-scratch food with ingredients sourced from local farms and purveyors. Our ultimate vision is for Provisions to become a community staple, a small place to gather, somewhere to grab a bite after a day of recreating, a quick lunch spot, a grab-and-go dinner between school pick up and soccer, and one of the stops along the route of our visitors.

The property is in the C-2 zone and restaurants are permitted uses in that zone though alcohol dispensing establishments must be approved for a conditional use permit if they are allowed to serve alcohol. If they receive City consent, the applicant will apply for a Limited Restaurant (closed container, no alcohol sold from a tap) license from the Department of Alcoholic Beverage Services (DABS). They plan to offer alcohol as a beverage option as well as non-alcoholic beverages in the restaurant. They will be limited that less than 30% of the restaurant sales may be alcohol, and every customer that wishes to purchase alcohol must purchase prepared food. The application explains the following:

The purpose is for a beer license, our intent will be to sell beer for our guests to enjoy with their food. We feel the option for our guests to enjoy a beer, or beverage of their choice will enhance their overall experience. Overall, we hope to capture the whole community and visitors and to invite them to enjoy some quality food with a beverage of their choice.

The approval of a CUP is an administrative act but, as per State Code, the approval of the ability to sell alcohol is a legislative act and the City has broad discretion in that decision. We do know tourism does generate business and taxes and some would argue that limiting alcohol licenses could damage tourism in Midway.

Currently the City has approved the following licenses:

Lupita's
Café Galleria
Zermatt Resort
Homestead Resort
7-11
Ridley's
Ridley's Market (convenience store)
Blue Boar Inn
Midway Mercantile
Lola's
Heirloom Commons

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

ANALYSIS:

The comments in italicized 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.*
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, Business License, Alcohol License, and obtain and comply with all applicable state licensing requirements of the DABS.*
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.*
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.*
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:

Motion: Commissioner Garland: I make a motion that we recommend approval for a Conditional Use Permit for an alcohol (beer only) dispensing establishment that will be named Hidden Peak Provisions Craft Deli and Market. The applicant is also requesting Local Consent to sell alcohol. The restaurant is located at 93 West Main Street and is in the C-2 zone. We approve local consent; we approve the staff findings and we add a condition that there will be no ability to have a beer garden and no alcohol signage.

Seconded: Commissioner Osborne

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Lineback, Osborne, Nokes, Wardle, Garland and Ream

Nays: None

Motion: Passed

POSSIBLE FINDINGS:

- The proposed license would allow the selling of closed container alcohol at Hidden Peak Provisions.
- Less than 30% of all restaurant sells may be alcohol.
- Any customer wishing to purchase alcohol must also purchase prepared food.
- The State does regulate this type of license and approval from the Department of Alcoholic Beverage Services is required.

ALTERNATIVE ACTIONS:

1. Approval (conditional). This action can be taken if the City Council finds 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 finds 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 finds 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:

- No alcohol related signage will be visible on the exterior of the building or on the inside, visible from the outside from 100 West.
- The applicant will not have the ability to apply to receive approval for a Beer Garden.





