



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: January 21, 2025

NAME OF PROJECT: Kevin Mir Subdivision / Plat Amendment

NAME OF APPLICANT: Emma Worsley

OWNER: Hoffvest Midway, LLC

AGENDA ITEM: Plat Amendment

LOCATION: 195 West Main

ZONING DESIGNATION: C-2

ITEM: 8

Emma Worsley, as agent for Hoffvest Midway, LLC, owner of the Kevin Mir Subdivision, is applying for a Plat Amendment to combine lots 1, 2 and 3 of the Kevin Mir Subdivision. The property is located the C-2 zone.

BACKGROUND:

Hoffvest Midway, LLC, owner of the Kevin Mir Subdivision, is requesting a Plat Amendment to combine lots 1, 2 and 3. Harvest Midway is located at the site of the former Heirloom Common, which was originally The Corner Restaurant.

Harvest Midway will be the third Harvest restaurant location. Harvest Park City (2 locations in Park City) have been operating in the Park City community since 2017.

The current application is silent as to the reasons for the proposed amendment, but based upon multiple conversations between Planning Department staff and the applicant, the reasons include the following:

- Tax considerations. Applicant has advised that combining the parcels will result in one instead of three tax bills and tax advantages to the applicant.
- Combining the parcels will result in common parking attributable to the combined lot, rather than parking attributable to separate lots.
- Combining the lots will be advantageous for further development or expansion.

ANALYSIS:

Utah Code Annotated Section 10-9a-609, Land Use authority approval of vacation or amendment of plat – Recording the amended plat (effective May 14, 2019) provides:

10-9a-609. Land use authority approval of vacation or amendment of plat

- (1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:
 - (a) There is good cause for the vacation or amendment; and*
 - (b) No public street or municipal utility easement has been vacated or amended.**
- (2) (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.*
(b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.
- (3) (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.*
(b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.
- (4) An amended plat may not be submitted to the county recorder for recording unless it is:
 - (a) Signed by the land use authority; and*
 - (b) Signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.**

- (5) *A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.*
- (6) *A plat may be corrected as provided in Section 57-3-106*

Utah Code Annotated, Section 17-27a-608 Subdivision Amendments (effective May 3, 2023) provides:

17-27a-808 Subdivision Amendments

- (1) (a) *A fee owner of a lot, as shown on the last county assessment roll, in a plat that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.*
- (b) *Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 17-27a-603 that:*
 - (i) *depicts only the portion of the subdivision that is proposed to be amended;*
 - (ii) *includes a plat name distinguishing the amended plat from the original plat;*
 - (iii) *describes the differences between the amended plat and the original plat;*
and
 - (iv) *includes references to the original plat.*

With respect to local code, the Midway City Code provides as follows:

16.13.420 Plat Amendment Recording Requirements

The duration of a plat amendment approval shall be for one year from the date of approval of the amendment by the City Council. Should the amended plat not be recorded by the County Recorder within the one-year period of time, the plat amendment's approval shall be voided, and approval must be re-obtained, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for recording, with or without conditions. Such conditions may include, but are not limited to, provisions requiring that: (a) each extension will be for a one-year period only, after which time an annual review must be requested by the applicant and presented before the City Council; and/or (b) no more than three one-year extensions will be allowed. The granting or denying of any extension, with or without conditions, is within the sole discretion of the City Council, and an applicant has no right to receive such an extension.

Granting a plat amendment is a legislative action by the City Council over which the City Council has broad discretion.

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. Utah Code Annotated **10-9a-609** requires specifically the City Council to find that:

1. There is good cause for the vacation or amendment; *the applicant has cited reasons including tax benefits, parking considerations, and ease and clarity with respect to future development as reasons for the requested amendment to combine the three existing lots into 1 lot. The applicant represents that the plat boundaries will not change. The applicant further represents that the zoning and use will not change. The proposed adjustment does not change zoning or violate zoning requirements.*
2. No public street or municipal utility easement has been vacated or amended; *the proposed plat amendment does not seek to vacate or amend any public street or municipal utility easement but rather combine three existing lots into one.*

Parking Considerations:

Note: Parking within the road right-of-way is allowed at this location, and was allowed under the prior ownership, pursuant to Midway City Code, **Section 16.13.290 Off-Street Parking and Loading**, which allows such parking where available and where the owner seeks to preserve green space in an undeveloped state. However, if the applicant seeks to develop such open area in the future, the applicant may lose this parking and have to provide parking onsite pursuant to Midway City Code Section 16.13.390 F (2)(b)(7), which provides:

- (7) *If the required open area is developed, then the parking that was allowed because of the open area must be removed and will not be “grandfathered.” Required parking from the original development and for the development on the open area must meet all the off-street parking requirements.*

PLANNING COMMISSION RECOMMENDATION: Not required.

The Midway City Code provides as follows:

16.13.430 Plat Amendment Planning Commission Recommendation

Proposed plat amendments which meet any of the following conditions shall be reviewed and will receive a recommendation from the Planning Commission before being considered by the City Council:

1. *Density is being increased.*
2. *The street layout is being revised.*
3. *Open space configuration is being changed.*

The proposed plat amendment does not increase density, revise street layout, or change open space configuration, therefore planning commission recommendation is not required.

POSSIBLE FINDINGS:

- The requested plat amendment to combine three existing lots into one is a legislative action over which the City Council has broad discretion.
- The proposed plat amendment does not seek to change the zoning or use of the property.
- The proposed plat amendment does not seek to vacate or amend any public street or any municipal utility easement.
- The reasons for the plat amendment cited by the applicant, including tax benefits, parking considerations, and ease and clarity of future development, are found to constitute good cause for the relief requested.

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. The applicant shall submit an amended plat signed by each owner of record and meeting the requirements for filing with the Wasatch County Recorder to the City for review, approval and execution. The applicant shall file the approved amended plat in accordance with state and local laws, which shall vacate, supersede, and replace any contrary provisions in any previously recorded plat.
2. The duration of plat amendment approval shall be for one year from the date of approval of the amendment by the City Council. Should the amended plat not be recorded by the County Recorder within the one-year period of time, the plat amendment's approval shall be voided, and approval must be re-obtained, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for recording, with or without conditions. Such conditions may include, but are not limited to, provisions requiring that: (a) each extension will be for a one-year period only, after which time an annual review must be requested by the applicant and presented before the City Council; and/or (b) no more than three one-year extensions will be allowed. The granting or denying of any extension, with or without conditions, is within the sole discretion of the City Council, and an applicant has no right to receive such an extension.