

Midway City Council
18 February 2020
Regular Meeting

Utah Open Lands /
Albert Kohler Legacy Farm



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: February 18, 2020

AGENDA ITEM: Open Space Bond Funding Request

NAME OF PROJECT: Albert Kohler Legacy Farm (Kohler Dairy)

NAME OF APPLICANT: Utah Open Lands

LOCATION OF ITEM: 970 River Road (an additional 41 acres are located east of the Provo River in Wasatch County; however, funding is not being requested from Midway City for that portion of the project)

ITEM: 6

Utah Open Lands, on behalf of The Albert Kohler Legacy Farm (aka The Kohler Dairy), is requesting \$1,000,000 from the Midway Open Space Bond to help fund a conservation easement on the 61 acres of the Kohler Dairy that lie within the Midway Growth Boundary (annexation area). The property is located on River Road at approximately 970 North River Road.

BACKGROUND:

In November of 2018, Midway residents passed a 5-million-dollar open space bond. An Open Space Advisory Committee was created, criteria for participation was established based on the 2017 Midway General Plan Open Space Element, and property owners were encouraged to submit a 'Notice of Interest' and subsequent "Landowner's Perspective" indicating how the property meets the Midway Open Space Criteria listed in the General Plan.

The Albert Kohler Legacy Farm is the first project being forwarded to the City Council by the Open Space Advisory Committee. While the total project encompasses 102 acres, as shown on the attached map, only 61 acres lie within the Midway Growth Boundary (annexation area) and may be considered for funding. The applicant has met with the Open Space Advisory Committee several times and has clarified the following information.

The Kohler Dairy was established in the late 1800s and has been operated by the Kohler family continuously since then. As dairies have become increasingly unprofitable, (only three of the once many dairies still exist in the Heber Valley) the family looked to other options to continue to profitably farm their land. In 2011, Grant and Russ Kohler produced their first artisan cheese. In addition, they began offering educational tours and promoted their cheese nationwide. The result has been very successful, however land prices in the Heber Valley have continued to rise making the land more valuable for development (it is zoned RA-1-43) than for continued dairy operations. Thus, the family began formally working with Utah Open Lands in 2017 to create a conservation easement on the property.

In addition, they began offering educational tours and promoted their cheese nationwide. The result has been very successful, however land prices in the Heber Valley have continued to rise making the land more valuable for development for continued dairy operations. Thus, the family began formally working with Utah Open Lands in 2017 to create a conservation easement on the property.

A conservation easement appraisal was obtained, and the Kohler family agreed to sell their development rights to Utah Open Lands (UOL) for 7-million-dollars. UOL began fundraising in 2019 and to date has raised \$2,750,000 from the Natural Resources Conservation Service and \$500,000 from the LeRay McAllister Critical Lands Fund. Grant applications have been submitted to various foundations, Wasatch County has been asked to participate, and a campaign to individual donors will kick off late Spring. Thus, the \$1,000,000 being requested from the Midway Open Space Bond will be matched seven to one. It is UOL's hope that all needed funds will be raised by the end of 2020.

The Midway Open Space Advisory Committee (OSAC) supports (please see attached motion and findings from the OSAC) this application because it meets all of the criteria of the Open Space Element of the General Plan as noted below, and because the Dairy is the premier agricultural operation in the Valley. It is a significant tourist draw, and the educational programs, including tours, tastings, and school programs help educate residents and visitors to the important role dairies play in our food supply chain.

The application complies with Midway's General Plan Open Space element as follows:

Vision

"The Community Vision Statement sets a goal for Midway "to be a beautiful, organized small town community based on its distinct history of agriculture, open space and recreation". (Goal 1, Community vision Goals and Guidelines). Guideline 5 seeks to

implement this goal by “Encouraging the preservation of prime agricultural land and open space within Midway and the surrounding valley”.

The Kohler Dairy meets these goals in the following ways:

- *Preservation of the 102-acre Kohler Dairy property preserves scenic view sheds along the Provo River.*
- *The property will continue usage as a dairy farm, with dairy cattle grazing, haying, and related uses.*
- *The dairy was established in the late 1800s at the present location. Several historic buildings are adjacent to the land to be protected and may be added at a future date, including the original milking barn.*
- *The artisan cheese produced and sold by the dairy provides values to the community including revenue and name recognition.*

Effective Open Space Use

The Open Space Element cites four design objectives requiring use of open space tools. They are; preserving Inter-City Space, Preserve Midway’s Unique Character, Create Local Neighborhood “Openess”, and Providing Public Recreation Venues.

In addition to the citations mentioned above, the Kohler Dairy meets these objectives by:

- *The dairy and adjacent grazing and hayfields are under greenbelt protection.*
- *The dairy abuts the Provo River Corridor owned by the Bureau of Reclamation as shown on the attached maps.*
- *Adjacent land is zoned Resort Commercial, and other parcels are being subdivided for residential uses. Preserving these 102 acres will mitigate the density created by these developments.*
- *Should this land be developed for residential purposes we estimate that approximately 51-75 single family homes (approximately 51 as a standard subdivision and 75 as a Planned Unit Development) could be constructed on the 60 acres located in the Midway Growth Boundary adding significantly to the density, infrastructure requirements, and demand for City/County services.*
- *In addition to the use of the land by dairy cattle, this property serves as a significant wildlife habitat, providing nesting locations for various birds, including eagles, safe locations for deer and elk to graze, ditches and streams for muskrat, beaver and ducks, and passage for many other species of wildlife to access the Provo River.*

Identifying and Acquiring Open Space

“Open space acquisition or preservation proposals must be evaluated with the benefit of the citizens of Midway in mind.”

- *Kohler Dairy has an extensive outreach education program for both children and adults to teach residents about dairy operations.*
- *The Kohler Dairy has hosted many community events such as farmers markets, Halloween pumpkin patch hay maze, snowshoeing and ice sculpture competition.*

- *Because of the location along the River Road entry corridor, this property is a prime view corridor for residents and visitors, many of whom traverse this road daily.*
- *The views along the River Road entry corridor over the fields of the Kohler Dairy contribute materially to Midway's reputation as an attractive tourist destination, an important part of our local economy.*
- *The continued operation of the dairy as a commercial enterprise provides economic benefits to Midway and its citizens.*
- *As one of the last operating dairy farms in the Heber Valley, an area noted for its dairy and agricultural history, losing the farm to development will result in a permanent and significant loss of an important aspect of the Valley's legacy.*

Identifying and Acquiring Open Space

“Where possible and practical, the City will work with other organizations, agencies, groups, and individuals who will share the costs of open space preservation projects.”

The Kohler Dairy meets these objectives by:

- *Owners of the Dairy have signed a purchase agreement with Utah Open Lands committing to sell the development rights for 102 acres of property. Approximately 60 acres is within the Midway City annexation boundary. Approximately 42 acres are across the Provo River and not within the City's annexation boundary. The entire tract is, of course, within Wasatch County.*
- *The agreed upon purchase price of the conservation easement for the Dairy is \$7,000,000. To date, Utah Open Lands has raised \$3,250,000, including \$2,750,000 from NRCS and \$500,000 from the LeRay McAllister Fund. A petition has been made that Midway contribute \$1,000,000 of the open space bond funds to this project thus the \$1,000,000 being requested from the Midway City Council will be leveraged seven to one.*
- *Utah Open Lands is also applying for grants from various private foundations and will host several community fund-raising events. Midway's ultimate share may be less depending upon the success of these other grant applications and fund-raising efforts.*
- *Because all of the 102 acres is in Wasatch County and is part of the larger North Fields tract Wasatch County has been asked to contribute \$2,000,000 from its Open Space program to preserve the Kohler Farm which, if approved, will leverage any money contributed by Midway.*

ANALYSIS:

After several thorough discussions, the Midway Open Space Advisory Committee voted unanimously to recommend that the Midway City Council commit \$1,000,000 of the Open Space Bond to the Kohler Dairy project. The committee strongly believes that this project meets many criteria of the Open Space Bond and represents significant view corridors, green space and agricultural use that is important for our community to preserve as noted above. In addition, the seven to one leveraging of the Bond proceeds

will maximize Midway's contribution, and the existing commitments of NCRS and the LeRay McAllister Fund speak to the importance and validity of this project.

POSSIBLE FINDINGS:

- This project and funding request are consistent with the vision of the Open Space Element of the General Plan.
- The seven to one leveraging maximizes Midway's contribution, and the continuation of an important agricultural business is an added benefit.
- The project is located along one of the three major entry corridors into Midway.
- Preservation of the dairy will keep valuable agricultural land as open space and the dairy will continue to provide agricultural products to the community

ALTERNATIVE ACTIONS:

1. Approval. This action can be taken if the City Council finds the proposal is acceptable and in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)
2. Continuance. This action can be taken if the City Council finds 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 is not acceptable and not in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

At a regular and duly noticed meeting of the Midway City Open Space Advisory Committee held the 5th day of February 2020, the following motion was made by Katie Villani deLahunta, seconded by Woody Woodruff, and unanimously approved:

WHEREAS, the Open Space Committee was duly formed by the City of Midway to assist and advise the City Council in preserving open space in accordance with the General Plan, and

WHEREAS, in the 2018 general election, Midway City voters authorized the City to issue up to five million dollars in bonds for purposes of preserving open space, and

WHEREAS, the City of Midway has tasked the Open Space Committee with reviewing applications for use of bond funds and making recommendations to the City Council with respect to the use of bond funds in connection with such proposals, and

WHEREAS, the Kohler Legacy Farm, in coordination with Utah Open Lands, a certified land trust working on behalf of the Kohler Legacy Farm, has submitted an application for bond funds to the Open Space Committee, which has been reviewed by the Committee for the purposes of making a recommendation in accordance with the City's procedure for use of open space bond funds,

NOW, THEREFORE, BE IT RESOLVED,

That the Midway City Open Space Committee, having reviewed the application and supporting documentation submitted by Utah Open Lands on behalf of the Kohler Legacy Farm to place a conservation easement and thereby restrict development upon approximately 102 acres of the farm's land in perpetuity; having had the opportunity to visit the property as well as review photographs and aerial video of the property; and having made findings of fact based upon such review as discussed in executive and open sessions held February 5, 2020, which findings have been reduced to writing as annexed hereto and made a part hereof, and based upon such findings of fact, and provided that any conservation easement satisfies the review and requirements of Legal and Bond counsel for the City, recommends that the City Council contribute up to One Million Dollars (\$1,000,000) of the Midway City Open Space Bond Funds toward the Kohler Legacy Farm application and hereby forwards the application to the City Council for review, public hearing, and decision based on the following findings:

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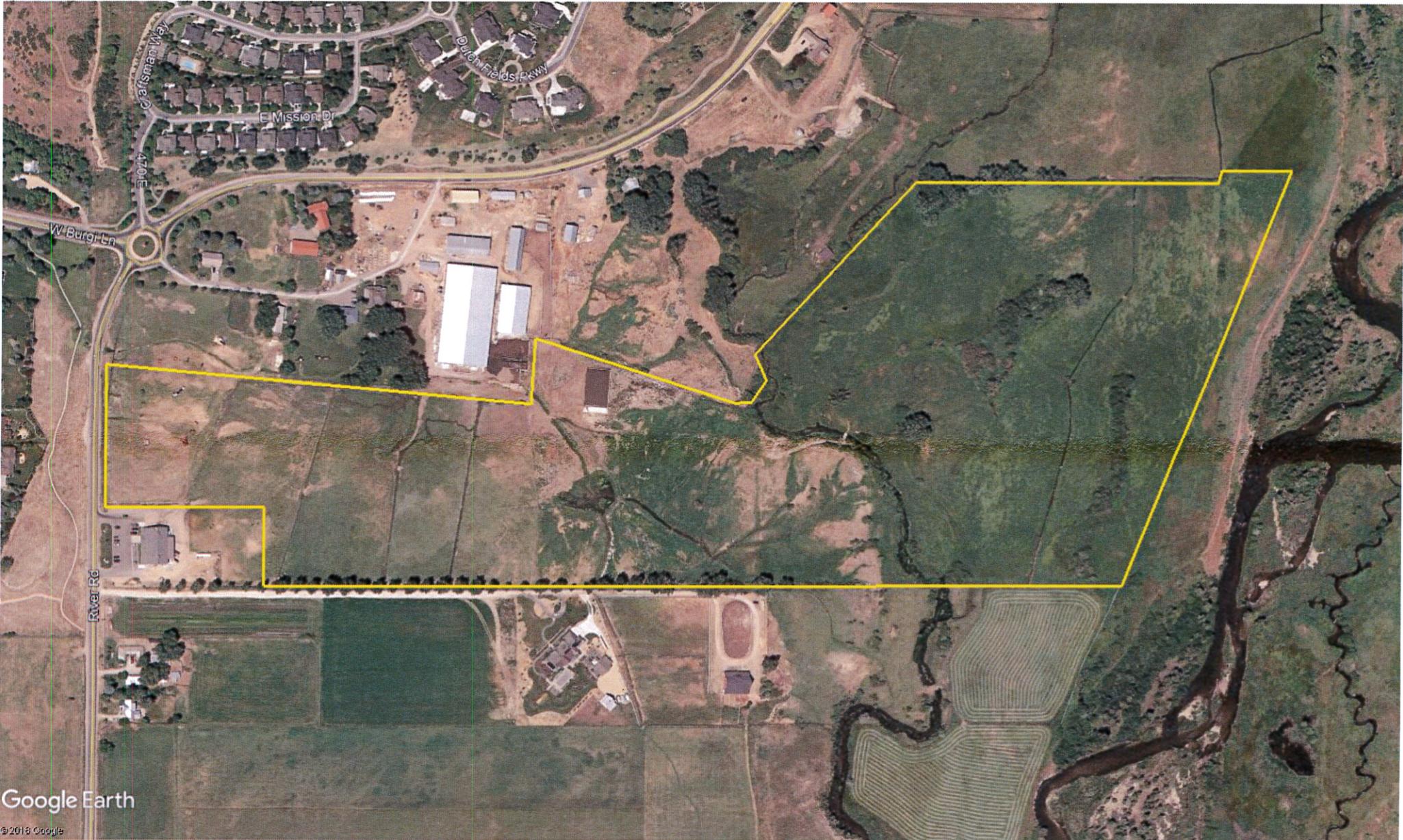
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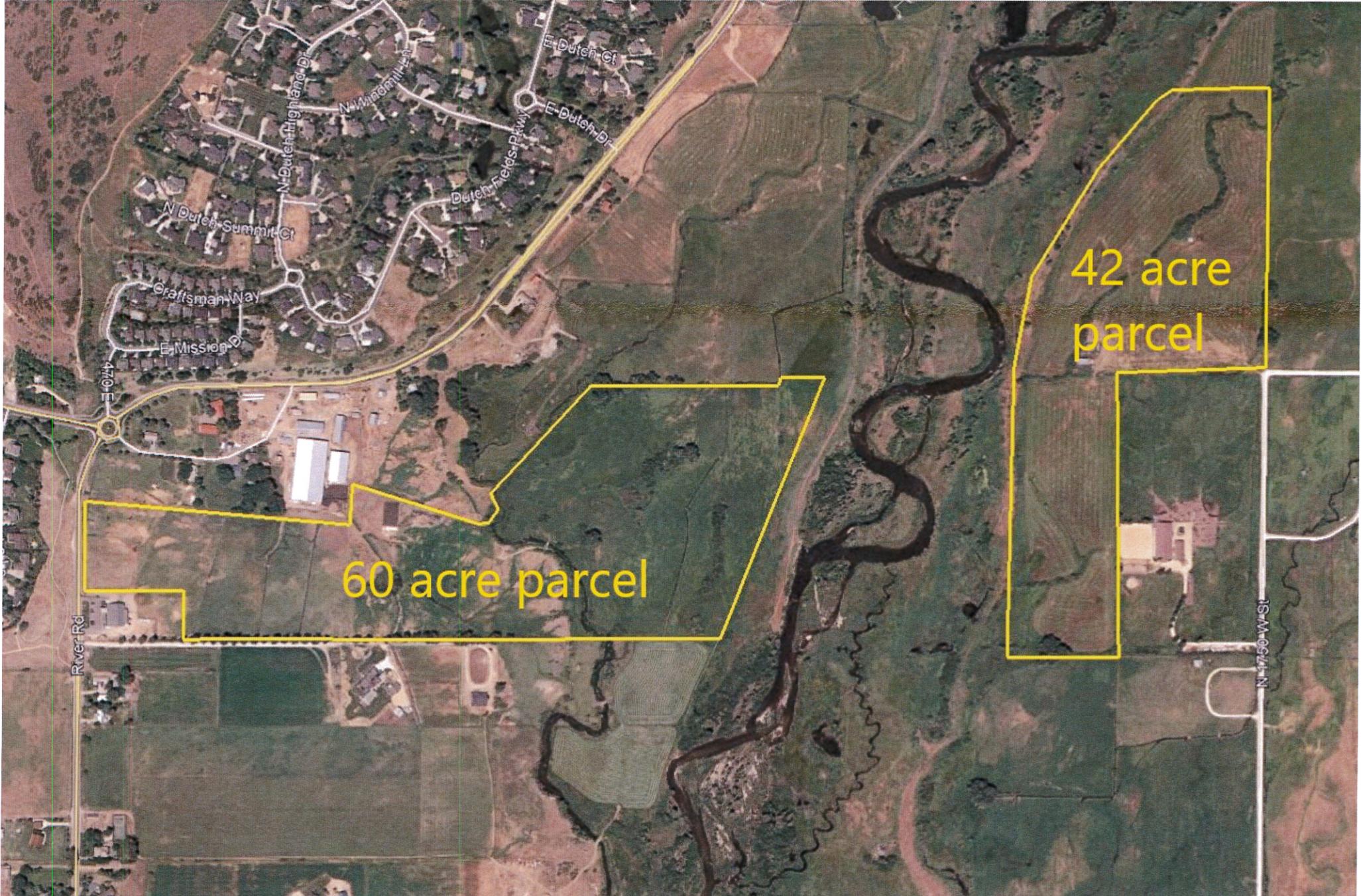
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- *Utah Open Lands is also applying for grants from various private foundations and will host several community fund-raising events. Midway's ultimate share may be less depending upon the success of these other grant applications and fund-raising efforts.*
- *Because all of the 102 acres is in Wasatch County and is part of the larger North Fields tract, Midway OSAC recommends the City Council offer up to \$1,000,000 of the open space bond funds and Wasatch County has been asked to contribute \$2,000,000 from its Open Space program to preserve the Kohler Farm.*



Google Earth

© 2013 Google



60 acre parcel

42 acre parcel

River Rd

470 E

N Dutch Summit Ct

Craftsman Way

E Mission

N Dutch Highland Dr

N Woodmill Ln

Dutch Fields Pkwy

E Dutch Ct

E Dutch Dr

N 4750 W St