



PLANNING COMMISSION MEETING STAFF REPORT

DATE OF MEETING: September 19, 2018

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment for Recreational Resort Zone (RZ)

ITEM: 5

Midway City is proposing a code text amendment of Section 16:15: Recreational Resort Zones. The proposed code amendment will possibly modify when water rights are required for development, require commercial uses for all development, establish permitted and conditional uses, limit density, limit height, and create large-scale and small-scale property development standards.

BACKGROUND:

The City Council has directed the Planning Commission and staff to review the Recreational Resort Zone (RZ) code found in Section 16:15 of the Land Use code. The City Council adopted a notice of pending ordinance that give the City six months to review the code and make any changes that are needed. Any applications that are submitted during the six-month period of the pending ordinance will need to comply with the adopted ordinance that is adopted, if the ordinance is adopted before the end of the six months.

There are several reasons for the notice of pending ordinance change for the RZ One is the code assumes that a resort will be constructed but per the code no commercial space is required. One of the purposes of the resort zone is to create an economic and tax base that will benefit all the residents of Midway, but the current code does not require any

commercial to be part of the plan. The most current plans for development in the RZ have focused on residential development similar to developments such as Valais instead of a resort plan. Realistically it appears that a development of apartments, with no commercial component, could be built in the resort zone and the only argument the City could make is that the development does not meet the intent of the ordinance. The developer could argue that code allows for all residential uses, so his project would comply with the code. Staff would like to avoid this scenario and assure that the correct type of development is built in the RZ that will benefit the community. The second main issue is much of the current code language is vague and ambiguous and State Code now requires that language is clear and precise. Staff would like to edit the code from this type language that will likely create problems for any future RZ applications.

Staff has prepared a preliminary draft of the RZ code. Suggested changes are in red. These changes address some of the following items that have been listed as issues that should be considered by the City.

- Adjusting the water requirements so water rights are required at the Master Plan stage of the approval process like the adjustment made recently for PUDs and large-scale subdivision that are multi-phased.
 - Text has been added to pages 8 and 9 that require the developer to show the City that the rights are available. Before the City would record the master plan, those rights would need to be held by the City but not tendered to the City as long as there is entitlement on the property.
- Require commercial development with each master plan development in the RZ.
 - The proposed code requires that 20% of the gross square feet of all structures is devoted to approved commercial uses. Pages 6 and 7 contain the permitted and conditional uses and which of those uses count towards the 20% commercial requirement.
- Define permitted and conditional uses in the RZ.
 - A land use chart has been added on pages 6 and 7 with allowed permitted and conditional uses. Without an amendment a developer could propose any type of commercial or residential use and again the City would only have the argument that the proposal does not meet the intent of the code. Again, State code requires language to be clear and precise or the land use authority must rule in favor of the applicant.
- The current code is designed for large-scale resort developments but there are smaller parcels in the zone that cannot comply with current requirements such as setbacks. Staff would propose a large parcel resort zone code and a small parcel resort zone code to alleviate this issue.
 - Text has been included in several locations of the proposed code that will make the code more usable for the few small parcels located in the RZ. Currently all properties have the same setbacks that include 100' setbacks for all sides. On any properties less than about two acres, no structures can

be built because of the large setbacks. On larger parcels the setbacks are easier to comply with.

- Currently there is not a density limitation in the RZ. Density limitations are based on open space, parking requirements, setbacks, and possibly height. The City should review this item and consider the implications.
 - No text has been added to the draft code regarding density, but this should be discussed by the City to see if a limit should be adopted.
- The RZ allows buildings over 35' in height and there is no maximum height listed. The City should also review this item and consider the implications.
 - Staff is proposing a 35' height limit as is the limit for all other structures in Midway. There are many more residents in Midway now as compared to when the RZ code was adopted and should be considered when discussing this issue. If a height ordinance is adopted, then density would be more limited because of the restricted height.
- Eliminate the vague and ambiguous language throughout the code that is problematic for the City and for developers.
 - Staff has begun eliminating some of the vague and ambiguous language but there is more that could be removed. Over the next few drafts of the code more of this language will be proposed for removal.
- This list is not intended to be a comprehensive list of every potential issue in Chapter 16.15. Staff is sure to find other items that are problematic that will be found during the revision process and is therefore asking that the entire chapter be part of the pending ordinance notice and therefore any section may be amended through this process.

State Code requires clear and plain language. State Code Section 10-9a-306 (Land Use Authority Requirements – Nature of Land Use Decision) states the following:

- (1) A land use authority shall apply the plain language of land use regulations.
- (2) If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.
- (3) A land use decision of a land use authority is an administrative act, even if the land use authority is the legislative body.

Staff is concerned that if an application is received in the RZ, because of the subjective nature of the code, the Land Use Authority will lose the ability to regulate items such as use and height because of the recent State land use laws that have been approved. Any decision made by the Land Use Authority must be based on the clear language of the code. Any decision based on ambiguous language, that becomes a legal argument, would

find the City at a disadvantage and legally the decision would be required to favor the land use application. Staff would like to avoid this scenario and remove and edit the problematic sections of code before an application is received.

ALTERNATIVE ACTIONS:

1. Continuance. This action can be taken if the Planning Commission 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

2. Recommendation of Denial. This action can be taken by the Planning Commission if the proposed code text amendment is not in the best interest of the City.
 - a. Accept staff report
 - b. List accepted findings

MIDWAY CITY
NOTICE OF PENDING ORDINANCES

Notice is hereby given by Midway City, Utah, that proposed ordinances are currently pending and under consideration by the Midway City Council and/or the Midway City Planning Commission for the following:

1. AMENDMENTS TO THE RESORT ZONE WITHIN THE BOUNDARIES OF MIDWAY CITY, UTAH

Copies of the proposed Ordinances are available in the Midway City Offices during normal business hours. ALL FUTURE APPLICATIONS FOR DEVELOPMENT APPROVAL WILL BE SUBJECT TO THE TERMS OF ANY AMENDMENTS TO THE CURRENT PROVISIONS OF THE MIDWAY CITY CODE. All applicants are hereby notified that the acceptance for filing and processing of any applications for development approval by Midway City will not create any vested rights, equitable issues or legal claims against Midway City. The applicant further acknowledges receipt and review of a copy of this Notice of Pending Ordinance and further understands and agrees that the acceptance for filing and processing of any application for development approval will be subject to any amendments to the Midway City Code currently pending and under consideration by the Midway City Council and/or the Midway City Planning Commission.

SIGNATURE

DATE

CHAPTER 16.1 RECREATIONAL RESORT ZONES (RZ)

Section 16.15.1	Purpose and Intent
Section 16.15.2	Applicability
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Section 16.1.1 Purpose and Intent

Our vision is for the City of Midway is to be a place where citizens, businesses and civic leaders are partners in building a city that is family-oriented, aesthetically pleasing, safe, walk able and visitor friendly, a place that proudly enhances its small town Swiss character and natural environment, while remaining fiscally responsible.

Midway City has unique characteristics that make it attractive to resort development. It is located near major metropolitan areas and airports which are accessible over good roads in and out of the Heber Valley. It is blessed with spectacular scenery, natural geothermal springs, National Forests and Utah State Parks which provide an abundance of fishing, hiking, skiing and other recreational opportunities.

The purpose of the Recreational Resort Zone standards set forth in this Chapter is to guide the creation as well as continuation, of resort development configured around the unique physiographic characteristics of the Midway City area. Its intent is to:

- A. Encourage recreational activities that rely on natural attributes of the area, respect the sensitive land and water constraints present in the Midway City area, contribute to the community's character and economy, and have had a long-standing, beneficial role in the community;
- B. Provide flexibility for planning and developing recreational resort facilities in a creative, efficient, and coordinated manner ~~in order to~~ to provide quality visitor experiences;
- C. Create a process in which applicants and Midway City collaborate with landowners and citizens in planning and designing resort master plans that meet community goals and respond to the unique circumstances of the resort area;
- D. Ensure that resort plans incorporate a mix of land uses, promote alternative modes of transportation, and provide a pedestrian-oriented community ~~in order to~~ to alleviate traffic-related impacts;

E. Ensure that resort plans are consistent with the Midway City General Plan, and therefore, are beneficial to the community;

F. Enable long-range planning for infrastructure, capital facilities, and community land use patterns by establishing a level of predictability in the maximum potential size and character of each resort area;

G. Produce resort plans that make significant contributions toward protecting attributes of the community that are considered critical to the community's long-term health, welfare, and ~~well being~~ wellbeing; and

H. Ensure a balance is maintained between tourism and community that promotes social diversity but does not cause undesired shifts away from rural community character.

I. Midway City encourages builders, particularly those undertaking large projects such as resorts, to participate in the Leadership in Energy and Environmental Design (LEED) program. Midway City would be pleased to see builders utilize proven "green building practices." Note: LEED is a rating system devised by the United States Green Building Council (USGBC) to evaluate the environmental performance of a building and encourage market transformation towards sustainable design. LEED was launched ~~in an effort to~~ to develop a "consensus-based, market-driven rating system to accelerate the development and implementation of green building practices." The system is credit-based, allowing projects to earn points for environmentally friendly actions taken during construction and use of a building.

Section 16.1.2 Applicability

Only those land areas described below shall be eligible for Recreational Resort (hereinafter RZ) zoning. The intent is that only a limited number of RZ zones be created in locations that are consistent with the Midway City General Plan.

A. There are two areas presently within Midway City that are large enough to support recreational resort hotel development and operation that have been designated as Resort Zones.

1. Homestead Drive. The Homestead Drive resort zone is made up of several parcels of land, presently dominated by two large resort hotels, which will continue to be zoned RZ.
2. Historic Mountain Spa area (approximately 800 N 200 E). The area surrounding the old Mountain Spa is a traditional resort area and will continue to be zoned RZ.

B. There are four small resort facilities in the Homestead Drive area and one off Main Street on the east boundary of the City (approximately 200 N 900 E) that are designated presently RZ zones. This zoning shall also continue.

C. There are ~~three~~ two areas contiguous to Midway City, and within its annexation policy declaration boundary, that if annexed, would be considered for RA-1-43 or RZ zoning. These properties are designated on the zoning map as RA-1-43/RZ and may be considered for future recreational resorts when developed. These areas are not considered to be reserved for recreational resorts but rather may be available for such development if one or more of the land

owners desire to apply for annexation to develop the property for resort use. It is not necessary that all the land owners in an RZ zone make the same choice as to how their land is to be developed. Each of these potential resort development areas will be considered for annexation and resort zoning only if land owners and developers come to the City to express their interest.

Section 16.1.3 Procedure

The procedure set forth is intended to promote collaboration among landowners and Midway City in designing land development standards specific for resort areas.

A. Pre-Application Conference with Planning Staff. Any person wishing to construct a Recreational Resort shall meet with planning staff, check and review the zone information, obtain application and review procedures, obtain written information from the City regarding the City's plan for land use, streets, water, sewer, traffic, trails, parks, and public facilities; and discuss public participation meetings and other requirements affecting the land to be developed.

B. Development of a Master Plan. The purpose of a Recreational Resort Master Plan is to establish the development standards that will serve as a guide to all future development within a Recreational Resort Area. The Recreational Resort Master Plan is intended to be of sufficient detail to describe the amount, type, size and location of all proposed buildings in the resort and the impact of the proposed resort on surrounding neighborhoods and Midway City as a whole. Although technical specifications of the proposed development, such as fully engineered plans or fully detailed architectural drawings, are not required as part of the Master Plan, it must be prepared by a development team composed of at least a civil engineer, an architect, ~~and a landscape architect, and an attorney~~, and all of whom must be licensed to practice in the State of Utah.

1. Participation in the Master Plan. While one or more landowners within a City defined potential Recreational Resort area may propose a Master Plan and maintain the role of the applicant as identified herein, all landowners within a resort area are encouraged to participate in the design of the Master Plan. Participation of all landowners within a potential RZ zone, however, is not required for the City to approve a Master Plan for a Recreational Resort.

2. Review and Approval of the Master Plan. Public review and approval for Recreational Resort Master Plans parallels the procedures set forth for a Concept Plan in other large-scale development regulations of this Title. The standards for review of the Master Plan, however, are the standards set forth in this Chapter, ~~in order to~~ to allow for flexibility and creativity in the development and review of the Master Plan.

3. Recordation of the Master Plan Agreement. Upon approval, the Recreational Resort Master Plan and a Certificate of Standards and Conditions, and any amendments thereto, shall be recorded in the Wasatch County, Utah Recorder's Office. The Planning Director and City Attorney shall prepare the affidavit certifying the details and conditions of the Recreational Resort Master Plan approved and the development standards to be applied within the recreational resort area, along with any other standards, conditions, or agreements pertaining to future development or responsibilities of landowners within the Recreational Resort Area. A detailed description of the submittals required for a Recreational Resort Master Plan is presented in the Recreational Resort Master Plan Section of this Chapter.

C. Preliminary Development Plan Review and Approval. After approval of a Recreational Resort Master Plan, a Preliminary Approval is required prior to preparation of final architectural and engineering drawings and specifications for any new land use within the Recreational Resort are submitted for final approval and issuance of building permits.

1. The Application. Preliminary Development Plan applications shall be in accordance with the Recreational Resort Master Plan and shall be reviewed and approved pursuant to the Preliminary Development Plan Section of this Chapter. No Preliminary Development Plan shall be approved unless the proposal is consistent with the Recreational Resort Master Plan and the Midway City General Plan.

2. The Plan. A Preliminary Development Plan shall be prepared and submitted for approval for a Recreational Resort, or approved Phase thereof, within the Recreational Resort Master Plan Area. The project Preliminary Plan must be prepared by a design team composed of at least a civil engineer, an architect, a landscape architect and an attorney, all of whom must be licensed to practice in the State of Utah.

a. The purpose of the Preliminary Plan is to demonstrate that the plans proposed for development will meet the standards required under the Midway City Land Use Title and other applicable laws, regulations, conditions and recommendations specified in the approval of the Master Plan.

b. While the Preliminary Plan is not expected to contain construction drawings, it is expected that the level of technical detail in this plan will demonstrate compliance with this Chapter.

c. Upon receipt and review of the Preliminary Plan documents, the Planning Commission shall recommend the application as submitted, recommend it be accepted with conditions or refer it back to the developer for one or more of the reasons set forth in this Chapter.

i. If the Preliminary Plan is recommended, or recommend with conditions, the project will be referred to the City Council for a public hearing and City Council action on the proposed Preliminary Plan.

ii. If the plan is referred back to the developer he/she must meet with Planning Department Staff, correct plan deficiencies, resubmit the Preliminary Plan and documents and schedule another appearance before the Planning Commission.

d. Time Limit on Preliminary Plan Approval. Any failure to submit a proposed final plan and final approval submittal package for Planning Commission consideration within one year of the approval of the Preliminary Plan by the City Council shall terminate all proceedings and render the Preliminary Plan approval null and void.

D. Final Development Plan Review and Approval. After approval of a Recreational Resort Preliminary Plan a Final Plan Application must be presented for review and approval prior to the issuance of building permits and the start of construction.

1. The Final Plan shall be demonstrably consistent with the Recreational Resort Master Plan, or an approved amendment thereof.

2. The Final Plan shall present a detailed written and graphic representation of the proposed development and shall, at a minimum, contain the following elements:

a. Detailed architectural and engineering plans, specifications and plat maps,

b. Evidence that demonstrates that all conditions and restrictions specified at Preliminary Plan Approval have been met, and

c. Evidence that all the necessary construction drawings and specifications are complete and in compliance with this Chapter.

3. The Final Plan shall provide all legal documentation specified by this Chapter and be accompanied by a Final Development Agreement.

Section 16.1.4 Resort Master Plan

A Recreational Resort Master Plan application shall include all lands in a City proposed resort area, as listed in this Chapter, Applicability. The minimum requirements for a Master Plan application shall be established by the Planning Department and Planning Commission and shall include, but not be limited to, the submittal components listed ~~below:~~below. Properties that are two (2) acres or less will not be required to submit all the submittal components listed. The Planning Director and City Engineer will evaluate the proposal and require any needed items from the list below.

A. A completed application form.

B. A Statement of Purpose. The statement of purpose shall provide the project name, the applicant's rationale for establishing the resort, the development's objective and design theme, and how it will promote Midway City's Vision and comply with its General Plan.

C. A demonstration that the developer understands the City's Land Use Title and commits to meet its requirements. A Recreational Resort Master Plan shall comply with the standards of Midway City Land Use Title. ~~Notwithstanding, the applicant for a Recreational Resort Master Plan may propose, and the City Council may approve, alternative standards for a development that is consistent with the unique circumstances of, and community objectives for, resort development.~~

D. A Site Plans. Three site plans shall be provided that clearly illustrate:

1. The proposed development's location within Midway City (a vicinity map) showing major roads and streets and the layout of adjacent development within one mile of the outside boundary of the proposed resort;
2. The unique natural features of the proposed Recreational Resort location, indicating topography, sensitive lands, roads and other notable existing conditions within a quarter (1/4) mile of the outside boundary of the development; and
3. The unique natural features of the proposed development property indicating topography, sensitive lands, roads and other existing conditions within the Recreational Resort Area and the size and conceptual layout of the major buildings and amenities of the development. Provide enough detail to demonstrate that size and conceptual layout of the buildings and amenities are compatible with natural features of the site.

E. A Citizen Participation Plan. Citizen participation is an essential element in the formulation of any large development Master Plan. This is particularly true for recreational resort planning.

1. Therefore a Citizen Participation Plan shall be prepared to:
 - a. Insure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the community;

- b. Insure that the citizens and property owners within Midway City have an adequate opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early stage of the process; and
 - c. Facilitate ongoing communication between the applicant, interested citizens and property owners, City staff, and elected officials throughout the application review process.
2. To achieve these ends the developers proposing recreational resorts shall comply with all requirements set forth in the Citizen Participation Chapter of this Title.
 3. A report of the results of Citizen Participation Plan activities shall be prepared and presented to the Planning Commission and the City Council as a part of the Master Plan Application review. This report shall include at least the following information:
 - a. Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal, including the number of citizens who attended;
 - b. Geographical area in which residents, property owners, and interested parties receiving notices, newsletters, or other written materials are located;
 - c. Copies of any response letters received by the applicant or City staff; and
 - d. A summary of concerns, issues and problems expressed during the process, including:
 - i. The substance of any concerns, issues, and problems raised by the citizen participants;
 - ii. How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and
 - iii. Concerns, issues and problems the applicant is unwilling or unable to address and why.

F. A Land Use Plan. For properties greater than two (2) acres a minimum of 20 percent of the gross floor area of all structures in the Master Plan must be deed-restricted as commercial. Each phase must comply with the 20 percent requirement individually and the Master Plan as a whole. Commercial uses are identified in the land use chart below with an (*). Properties that are less than two (2) acres are limited to one dwelling unit along with any other permitted or conditional uses listed. The Recreational Resort Master Plan shall define the land use elements that are proposed for the development. The land uses shall be consistent with both the applicant's design theme, the character objectives of the resort and Midway City's land use ordinances.

1. Permitted (P) uses and Conditional (C) uses are listed in the following chart. shall include: Any uses not listed in the chart or uses marked (N) are not allowed.

1. Residential uses.
2. Uses necessary for operation of the resort's primary recreational activities (hot springs, swimming, golf, fishing, hiking, equestrian, etcetera.)
3. Nonresidential uses that provide for the basic needs of resort lodging guests and day visitors.
4. Special events such as music and dance festivals, art and craft shows, concerts, live theater, and similar events which are compatible with the resort character and its facilities. Permits for special events where attendance may exceed the established facility capacity shall be obtained from the City Planning Department and a mass gathering permit from Wasatch County if required.
5. Other specific uses related to the resort's objectives and character as approved by the City Council.

<u>USES</u>	<u>RZ</u>
<u>Retail*</u>	<u>P</u>
<u>Professional offices and clinics*</u>	<u>P</u>

<u>Alcohol dispensing establishments* (with local consent)</u>	<u>C</u>
<u>Recreational activity businesses, tour companies, outfitters, guide services, photo, art, and craft galleries, retail show rooms, artisan/hand manufacturing*</u>	<u>P</u>
<u>Recreational vehicle rentals*</u>	<u>C</u>
<u>Short-term lodging facilities* (hotels, condominium hotels, bed & breakfast)</u>	<u>P</u>
<u>Cafes and restaurants*</u>	<u>P</u>
<u>Private cubs/taverns*</u>	<u>C</u>
<u>Barber, beauty shops, massage therapy and day spas*</u>	<u>P</u>
<u>Vehicle parking (not associated with another use)</u>	<u>C</u>
<u>Commercial PUDs and commercial condominium projects*</u>	<u>C</u>
<u>Private academies/studios* (education, art, dance, sports, etc.)</u>	<u>P</u>
<u>Conference facilities*</u>	<u>P</u>
<u>Theaters (Indoor)*</u>	<u>P</u>
<u>Theaters (Outdoor)*</u>	<u>C</u>
<u>Residential Condos</u>	<u>C</u>
<u>Vacation rental units</u>	<u>P</u>
<u>Single-family dwellings</u>	<u>P</u>
<u>Multifamily dwellings</u>	<u>P</u>
<u>Employee/workforce housing</u>	<u>P</u>
<u>Apartments</u>	<u>N</u>
<u>Accessory buildings</u>	<u>P</u>
<u>Uses necessary for operation of the resort's primary recreational activities (hot springs, swimming, golf, fishing, hiking, equestrian, etcetera.)</u>	<u>P</u>
<u>Nonresidential uses that provide for the basic needs of resort lodging guests and day visitors.</u>	<u>P</u>
<u>Special events such as music and dance festivals, art and craft shows, concerts, live theater, and similar events which are compatible with the resort character and its facilities. Permits for special events where attendance may exceed the established facility capacity shall be obtained from the City Planning Department and a mass gathering permit from Wasatch County if required.</u>	<u>P</u>

2. The Master Plan may be used as a guide to request a Master Plan Development Agreement that will be used to guide the development of project in phases over more than one building season and which will require recording of more than one subdivision or condominium plat. Master Plan Development Agreements may be requested prior to Preliminary and Final Approval because they provide the basis for the portion of the Development Agreement that describes the zoning entitlements of the property. A Master Plan request shall have the following characteristics:

a. Phases that implement Master Plans shall prepare applications for Preliminary and Final Approvals for each phase prior to implementation. The Master Plan request must show each of the proposed different phases and their construction sequence relative to each other.

b. The Master Plan application must be prepared in enough detail to receive preliminary approval from the Midway City Water Board and the Midway Sanitation District, provide for the scheduling of all necessary water mains, sewer service interceptor capacity and laterals for the entire Master Plan along with a schedule that matches the phasing plan.

c. No entitlement rights shall vest until a Master Plan Development Agreement is signed and recorded against the development property. The Master Plan Development Agreement shall not be recorded until water rights (including shares of stock) sufficient for all phases of the development are delivered to the City to be held in escrow for so long as the Master Plan Development Agreement is enforceable. This is to ensure that the water rights are not sold separately from the development property after the City has granted development entitlements through the Master Plan Development Agreement. The water rights shall remain in escrow until: 1) they are deeded to the City as part of a final approval for each phase; 2) the Master Plan Development Agreement lapses in accordance with its terms, thus terminating any entitlement on the development property; or 3) if, prior to any phase of the development receiving final approval, the Developer informs the City in writing of its intent to abandon the entitlements received in the Master Plan Development Agreement. If the Master Plan Development Agreement is abandoned, the water rights will be returned to the land owner.

d. Under no circumstances will the water rights be released from escrow to the developer or lending institution once the first phase of the development receives final approval.

e. In the situation where an amendment to the Master Plan Development Agreement is approved for an unrecorded phase, and the amendment reduces the amount of water rights necessary for that phase, the extra water rights for that phase only, will be returned to the land owner.

f. The developer's, or any other parties, remaining joint interest in the water rights for each phase shall be deeded in its entirety to the City prior to the recording of the final plat of each phase. Following such transfer of interest, no other party, including the developer shall hold any right, title or interest in the water rights so transferred. In no event shall a final plat for any development, subdivision, or phase thereof, be recorded prior to the transfer of all the right, title and interest in the required water rights to the City.

g. In the event that any portion of the water right required for Master Plan approval pursuant to the Midway City Code has been pledged to a lending institution as partial security for a loan on the property, the lending institution must agree, in writing (through an escrow agreement), to the escrow of the water rights with the City according to the terms and conditions set forth in Master Plan Development Agreement. The lending institution may be listed as a joint owner with the developer of the water right held in

escrow. Should the lending institution need to foreclose the developer's interest in the water rights, Midway City will release the shares for the sole purpose of removing the developer's name and having the shares re-issued solely in the financial institution's name. Once done, the shares shall be submitted back to Midway City to remain in escrow. Failure to return the shares to the City for escrow shall constitute a breach of the Master Plan Development Agreement, and all entitlements associated with the Master Plan Development Agreement shall become null and void.

h. Prior to the final approval and recording of any plat for any development, subdivision, or phase thereof, it shall be the developer's sole responsibility to secure a release of any lien or ownership interest in the water right owned by a lending institution or any other party, and to deed or transfer 100% ownership interest in that water right required for that development, subdivision, or phase thereof, to Midway City. Prior to recording a final plat, the water right associated therewith shall be unencumbered, and shall be transferred to the City free and clear of any title encumbrance.

i. A Master Plan request must demonstrate that approval of the project in multiple phases can occur such that the project can still function autonomously if subsequent phases are not completed. Therefore, the Master Plan application must demonstrate that sufficient property, roads, sensitive lands protection, and open space are proposed with the first phase to allow the project to function without subsequent phases.

j. Special information must also be prepared for Master Plan applications to demonstrate that all facilities necessary to implement all life safety codes in effect at the time of application will be constructed and be maintained at the time the first phase is requested of the City.

G. Design Guidelines. The purpose of Midway City's design guidelines is to encourage visual compatibility, in both scale and character, among structures and other design elements in the resort with the surrounding built environment and the natural environment without unduly limiting variety in design.

1. General. The Recreational Resort Master Plan shall lay out the applicant's response to each of the design guidelines listed herein and propose a mechanism for their implementation to establish design parameters for both buildings and exterior spaces in the recreational resort area.

a. The applicant's response to design guidelines and their implementation in setting resort design parameters shall be prepared by architects and landscape architects licensed to practice in the State of Utah.

b. The appropriateness of these design parameters shall be judged on whether or not they are consistent with the development's objective and design theme, promote Midway City's Vision Statement and comply with its General Plan and Land Use Ordinances.

2. Definition of the Resort Theme.

a. The theme of a Recreational Resort shall be consistent with the recreational activities associated with the resort and create a sense of place. A sense of place is created when site planning and architecture:

i. Concentrate activities and human interaction into identifiable spaces, such as a plaza or mall;

- ii. Assemble a built environment that connects buildings, spaces and structures through common scale, design, and materials;
 - iii. Incorporate into the built environment the natural features and cultural heritage of the area; and
 - iv. Produce an identifiable image that is associated with the Recreational Resort and with Midway.
- b. The design theme and associated design concepts proposed by the applicant shall be submitted to the Midway City Vision Architectural Committee (VAC) for review. The VAC shall forward their comments and recommendations to the Planning Commission and City Council for their consideration.
3. Building design guidelines shall reflect:
- a. The community's architectural character choices emphasizing Swiss/European Alpine themes (or other themes as approved by the City Council after a recommendation from the VAC and Planning Commission).
 - b. A built environment that emphasizes a human scale, pedestrian-orientated environment;
 - c. A built environment that is harmonious with the cultural and aesthetic values of Midway;
 - d. The natural physical attributes of the immediate vicinity;
 - e. The use of building materials and colors that are compatible with the surrounding natural and built environment, and
 - f. The bulk and scale of individual buildings within the Recreational Resort area shall be compatible with, other structures within the resort when the resort is completed, with neighboring structures that are not a part of the resort and with the natural environment.
4. Landscape Design Guidelines shall highlight the natural resources within the resort and integrate them into the layout of the site in order to promote a connection to the natural environment.
- a. Natural features of the site, such as significant vegetation, geologic features, rock outcroppings, water bodies, wildlife habitat, and animal use pattern, shall be preserved and incorporated into the project design to the extent practicable.
 - b. Project landscaping, including hardscape areas, shall be consistent with the overall design theme of the resort. Use of indigenous plant materials is encouraged. Existing vegetation shall be preserved and incorporated into the design of the project to the extent practical, especially wooded areas and other significant vegetation which provides shelter, feed or habitat for wildlife.
5. Transportation Plan. The Resort Master Plan transportation element shall include a traffic impact analysis and a transportation demand management plan. The plan will determine the impact of increased vehicular traffic due to the resort and mitigates the impact of increased vehicular traffic due to the resort. Further, the plan will assess the compatibility of the resort plan with the Midway City Master Transportation Plan and demonstrate that traffic within the resort confines moves efficiently and safely.
- a. Traffic Impact Analysis. At a minimum, this analysis shall contain:
 - i. Projections of external vehicle trips generated by the Recreational Resort.
 - ii. Analysis of levels of service impacts on roadway system segments and intersections serving the Recreational Resort and surrounding neighborhoods, and
 - iii. Specification of improvements needed to any public roadway system segments and intersections that are needed as a result of increased traffic to and from the Recreational Resort.
 - b. Transportation Demand Management Plan: At a minimum the Transportation Demand Management Plan shall:

- i. Manage the generation of resort related traffic to avoid undermining community character or endangering the public health, safety, and welfare. It shall encourage an optimum mix of automobile and pathway facilities within the resort;
 - ii. Promote multiple forms of transportation that are consistent with the transportation goals of the Midway City General Plan by providing safe, convenient, and direct access to transportation services and facilities (i.e., public transportation, paths and trails);
 - iii. Layout resort streets, alleyways, and parking lots in a pattern that is sensitive to the natural terrain and landscape by minimizing cut and fill areas and preserves, to the maximum extent possible, all the natural features of the site such as wooded areas, rock outcroppings, and water bodies, streams, meadows and pastures. (Note that this admonition applies to all the property, not simply the portion of the property that is protected under the Midway Sensitive Land Ordinance requirements);
 - iv. Manage the transportation demands of the Resort so that it is consistent with the allocation of vehicle trips to the various roadway segments that serve the Resort; and
 - v. Identify an equitable resort area cost sharing plan for transportation facilities and services.
- c. Service Vehicle Transportation Management Plan. This plan shall provide vehicular access appropriate for:
- i. Emergency services, paying particular attention to fire and EMS access;
 - ii. Recycling and refuse removal;
 - iii. Goods and services delivery; and
 - iv. Construction equipment during all phases of construction.
6. Parking and Loading Plan. The Recreational Resort Master Plan shall conform to the general requirements of the parking sections of the Midway City Land Use Title. Further the plan shall meet provisions for sufficient parking and loading areas of appropriate type specified in the Dimensional Limitation Plan of this Chapter.
- a. Parking areas must accommodate the Resort's projected demand for:
 - i. Lodging guests;
 - ii. Visitors, conference and special events attendees;
 - iii. Amenities patrons if available to non-lodging guest;
 - iv. Staff and employees; and
 - v. Delivery and service vehicle loading.
 - b. Service vehicle access shall not create unsafe conflicts with automobile and pedestrian access to primary destinations within the Resort. Loading areas must accommodate delivery vehicles and waiting and loading areas for transit vehicles and their passengers.
 - c. Delivery locations and time of arrival shall be arranged to not create a nuisance for guests and neighbors.
 - d. Parking shall be designed to encourage non-motorized transportation, transit and high occupancy vehicle use and discourage single-occupancy vehicle use.
7. Trails and Pedestrian Facilities Plan. Trails and pedestrian facilities, including access for the disabled, shall be integral components of the site design. The plan shall provide:
- a. Trails and pedestrian systems that shall provide safe, convenient, and direct access throughout the resort and to public lands, to transit facilities and to existing or future adjoining community pathway system, when they are adjacent to the resort.
 - b. Trails shall be provided for non-motorized transportation, except that motorized wheelchairs for the disabled shall be permitted. Bicycle racks and trail side seating, etc., shall be provided at various destination points within the resort.

8. Water Use Plan. As water is so often a limiting factor for large scale developments in Midway City and surrounding areas a water use plan is a necessary element of a Resort Master Plan. The Water Use Plan shall demonstrate compliance with Midway City's Water Use Title.

9. Other Utility Service Plans:

a. The plan shall provide identification and acknowledgment of service providers. The applicant shall identify the provider of all infrastructure services and any associated facilities required to support the plan.

b. Where services are to be provided by an entity other than the applicant an impact analysis shall be performed if requested by the Planning Director. At a minimum a document shall be obtained from each service provider demonstrating their commitment and ability to provide the required service to the Recreational Resort defined by the Master Plan. 'Will serve' letters shall be required from:

i. Midway Sanitation District;

ii. Solid waste disposal;

iii. Electrical service;

iv. Natural gas service;

v. Telephone, internet and other electronic services; and

vi. Any other utility service entity involved in the project.

10. A Phasing Plan. The Recreational Resort Master Plan shall have a phasing plan to ensure that development within a resort, including amenities and necessary public service expansions, occurs in logical sequence.

a. The phasing plan shall identify the sequence in which resort structures, recreational facilities, amenities and the installation of infrastructure is to be implemented.

b. This phasing plan shall also specify the sequence in which the elements of the Transportation Demand Management Plan are to be implemented and the Recreational Resort Master Plan conditions of approval that are to be met.

c. All structures, land use activities, mitigation strategies and infrastructure expansions proposed, including any such activities and improvements on public lands, shall be included in the phasing plan.

d. Each phase shall be self-sufficient, in conjunction with existing elements of the Recreational Resort, i.e., transportation and parking needs, as well as amenities, for each phase shall be satisfied within each phase and shall not be dependent upon a future phase.

e. Each phase shall represent a logical and compact extension of infrastructure and public services. In order to develop certain improvements in logical increments that provide for economies of scale, the phasing plan may propose that improvements required for an earlier phase be provided in a later phase only if:

i. The delayed construction of the improvement does not create a negative impact or exacerbate an existing problematic condition; and

ii. Financial assurance, in a form acceptable to the City Council such as a bond, that the improvement required for the earlier phase will be developed within a certain time-frame, even if later phases remain undeveloped.

f. Each phase shall be coordinated with scheduled capital improvements provided by public or semipublic service entities.

g. After the initial approval of the Master Plan, order and timing of the phasing may be varied only after approval of the City Council.

11. Housing Plan. The Recreational Resort Master Plan shall have a housing element that is to ensure a supply of affordable and employee housing that is commensurate to the demand for housing created by development within the Recreational Resort.

a. Affordable housing. Affordable housing shall be provided in conjunction with residential development pursuant to Residential Affordable Housing Standards of this Land Use Title.

b. Employee housing. Employee housing shall be provided in conjunction with nonresidential development pursuant to appropriate governmental regulations and laws for Employee Housing Standards, and consistent with other Midway City Land Use Ordinances and Standards.

i. Employee housing calculations. Development of a Recreational Resort may span time periods over which numbers of employees and their salaries may fluctuate. The plan shall be prepared using calculations performed to develop a rational number of employee housing units by considering the needs of the resort and housing suitable for employees throughout Heber Valley. This analysis shall be based on data current for the most recent full year prior to application shall serve as the employee housing mitigation plan for Recreational Resort Master Plan.

ii. The Master Plan employee housing mitigation plan shall also contain a proposed financing and construction plan coordinated with the Phasing Plan required earlier in this Section.

iii. Each Master Plan employee housing mitigation plan shall be coordinated with the Affordable Housing Plan and approved by the City for inclusion in the Master Plan only after receiving approval from the Wasatch County Affordable Housing Board and after a recommendation from the Planning Commission.

iv. Master Plan employee estimate. The number of employees required to be housed and the locations where they will be housed, as presented in the Recreational Resort Master Plan, shall be treated as an estimate. The exact number shall be finalized by the City after receiving a recommendation from the Planning Director as part of the development plans within each phase of the Recreational Resort as the Master Plan is implemented. Each approved Final Development Plan shall establish the actual number of employees required to be housed onsite and offsite and the specific locations where they will be housed for that portion of the Recreational Resort Master Plan.

H. A Dimensional Limitation Plan. The Dimensional Limitation Plan shall specify, at a conceptual level, the dimensional limitations necessary to comply with Midway City's standards and regulations and achieve the design theme identified by the applicant. The plan shall address:

1. Building density, bulk and scale relative to its built environment and surrounding natural features. At a minimum;

a. Building footprint per acre shall not exceed 12,000 square feet. The determination of building coverage shall include all structures in the resort.

b. All recreational resorts shall have at least 55 percent open space. Open space is defined as a portion of a development site that is permanently set aside for public and/or private use and that will not be sold to individual owners.

i. Improvements such as club houses, shelters, covered swimming pools, and gazebos may be included within the open space along with recreational facilities such as football fields, baseball diamonds, basketball courts and playgrounds.

iii. Land proposed to be devoted to parking, vehicular streets or roads, and drives shall not be included in the enumeration of open space. Nor shall land proposed for any type of residential use.

iv. An open space area shall have a minimum dimension of at least 100 feet. However, entry features such as roundabouts, median planter strips, fountains, etc. may count as open space if the design of such features is recommended by the Planning Commission and approved by the City Council. At least half of the land considered open space should be contiguous and as nearly rectangular as is practical.

v. Resort common area may be enumerated as open space if it meets all of the above requirements.

vi. A portion of a resort area permanently deeded to the City for public use as a park may be enumerated as part of the resort's open space if this action is recommended by the Planning Commission and approved by the City Council.

2. Building height and envelope restrictions. The maximum building height limit is 35' as described in the Maximum Height Provisions for all Buildings" as outlined in the land use code. This plan shall present the proposed length, width and height from the existing natural grade of all resort buildings.

~~a. The standard maximum building height for buildings in Midway is 35 feet. The City Council may, at their discretion, allow greater height in resort developments. If any buildings in a resort are proposed to have heights greater than 35 feet the applicant shall provide the City Council the following documentation to justify the increased height:~~

~~i. A statement of all reasons the structure cannot be built without heights exceeding 35 feet.~~

~~ii. A clear illustration of the impact of building heights over 35 feet on views from public roads and adjacent developed property. This documentation may take the form of a physical model or electronic graphic representations of the site, the buildings and the visual background of mountain and valley views. The model or electronic representation shall specifically compare the proposed site and building configuration with an alternative building configuration that provides the same usable space and meets the thirty-five-foot height and other configuration requirements of this Chapter.~~

~~b. If any building in the resort is proposed to have vertical envelope surfaces with one orientation of more than 70 feet in length, the applicant shall propose architectural features, such as relief or changes in texture or color that can be employed to moderate the appearance of single large planar surfaces.~~

~~c. The applicant shall illustrate the building envelope styles, surface textures and colors that will be proposed to assure that the resort buildings will be compatible with the natural features of the site and neighboring developments.~~

4. Building Setbacks for properties two (2) acres or greater. Resort building and parking areas shall be setback from resort boundaries as follows:

a. Buildings and parking areas in resort developments shall be setback at least 100 feet from all external public roads.

b. Building setbacks from internal streets shall be a minimum of 30 feet unless otherwise permitted by the Planning Commission.

c. Resort buildings shall be setback at least 100 feet from other resort development perimeter boundaries except;

i. Other setbacks have been negotiated with adjacent landowners prior to development, or

ii. The applicant can demonstrate, by means of a physical model or electronic graphic representations of the site and proposed building locations, that resort buildings will not obscure neighbor views of the background of mountain and valley more than a normal residential structure at a standard setback of 30 feet.

5. Building Setbacks for properties less than two (2) acres. Buildings and parking areas shall be at least 50' from all public roads. Side setbacks shall be 12'. Rear setbacks shall be 30'.

~~56.~~ Interior space standards. The minimum room size for overnight accommodations in a resort building shall be 300 square feet. All other requirements and standards for spaces such as conference rooms, restaurants, retail space, offices and pools in this Title shall be satisfied.

~~67.~~ Parking and loading standards. No parking will be allowed on public roads. All requirements and standards for parking and loading in this Title shall be satisfied including, but not limited to:

a. Guest lodging:

i. Homes and condominiums; two spaces per unit.

ii. Hotel room; one space per key.

b. Restaurant; four parking spaces per 1,000 square feet of dining space.

c. Retail / Commercial; four parking spaces per 1000 square feet of retail or commercial space.

d. Conference Center; one space per two occupants based on design occupancy.

e. Swimming pool; one space per two occupants based on design patron occupancy.

f. Employees; one space per employee on site during daylight hours.

g. Uses not mentioned; The required parking for uses not mentioned and for loading shall be determined by the Planning Director.

h. If uses a. through e. are in close proximity, share a common parking area, and the applicant can show, using parking analysis based on nationally recognized standards, that above requirements are excessive, the City Council may choose to reduce the amount of parking in favor of an increase landscaped common area.

~~78.~~ Other lines delineating areas on which restrictions on development are to be imposed by requirements of Midway City ordinances including sensitive lands, wildlife corridors, open space and trails.

~~89.~~ Any dimensional limitations unspecified by the Recreational Resort Master Plan shall be established by the standards set forth in the Other Development Options Section of this Chapter.

I. Planning Commission Action. Upon completion of the Master Plan review, the Planning Commission shall recommend approval of the application as submitted, recommend approval with conditions or may refer the application back to the developer for one or more of the following reasons:

1. The site and building design, layout or structure are inconsistent with the intent of this Title or the City General Plan.

2. Project plans and/or supporting documents have not been brought to a satisfactory state of completion.

3. All applicable fees have not been paid by the developer.

J. City Council Action. Upon receiving planning staff and Planning Commission recommendation, reviewing the proposed Resort's Master Plan Application and conducting the required public hearing the City Council shall:

1. Approve the Master Plan Application,

2. Approve the Master Plan Application with conditions,

3. Refer the Master Plan Application back to the Planning Commission and/or planning staff for further consideration, or

4. Deny the Application.

K. Development Agreement. The last step in the Master Plan application is to prepare a ~~Development Master Plan~~ Agreement. This document provides a durable definition of the developer's entitlements, the developer's responsibilities and the City's responsibilities as the Recreational Resort proceeds to completion. ~~The content and format of this agreement are described under the Development Agreement Section in this Chapter.~~

Section 16.1.5 Preliminary Approval

Application for Preliminary Approval of a Recreational Resort, or a phase thereof, must begin with a careful review of the plans, development agreements and other documents resulting from the Master Plan approval. If any aspects of the resort development proposed for Preliminary Approval are significantly different than what was approved in the Master Plan it is required that such changes be annotated, explained and justified. Any substantial change in the plans approved in the Master Plan, or any requests for modifications of conditions set by either the Master Plan ~~Agreement or the Development Agreement~~, will require further review by the Planning Department and may require additional hearings before the Planning Commission and the City Council.

The Preliminary Approval Application shall include, but not be limited to, the following elements:

A. Review of approved Master Plan documents. The developer shall prepare an annotated summary of all conditions and issues noted in the Master Plan ~~Agreement or in the Development Agreement~~, highlighting those that must be resolved at the time of the Preliminary Application. This annotated summary shall be used as reference in measuring the applicant's progress toward meeting the goals set out in the Master Plan ~~Agreement and agreed to in the Development Agreement~~ throughout the Preliminary Application review process. This summary shall, at a minimum, address:

1. Conditions set, and recommendations made, by the following Midway City committees and boards:
 - a. Midway Water Advisory Board,
 - b. Midway Sanitation District Board,
 - c. Trails ~~and Parks~~ Committee,
 - d. Vision and Architecture Committee; and
 - e. Historic Preservation Committee, if applicable.
2. Conditions set by planning and engineering staff relative to:
 - a. Further technical studies;
 - b. Environmental assessments; and
 - c. Plans for roads, trails, utilities (including storm water and irrigation) and emergency access.

B. Submit the following Preliminary Approval Application elements:

1. A completed Application Form. The Application Form requires the following identifying information:
 - a. Name of development.
 - b. Type of development.

- c. Applicant entity name, primary contact name, civil engineer, architect, designer and attorney, all licensed to practice in the State of Utah, with respective contact addresses, phone numbers, fax numbers, and email addresses for each.
2. An updated Statement of Purpose. The statement presented in this application must conform to the approved purpose as stated in the Master Plan and Development Agreement.
3. A current Title Report. Along with the title report the applicant shall provide a statement that verifies that all property owners and any lien holders with interest in the property or improvements thereon, consent to the approval of this application.
4. An updated Citizen Participation Plan. The entitlement for the resort project for which this application is filed was established as part of Master Plan approval. Citizen Participation was a major focus of the Master Plan Approval process. Conditions contained in the Master Plan ~~Agreement and the associated Development Agreement~~ have been agreed to by the City and the applicant. It is not the purpose of the Preliminary Approval process to re-plan the project if its proposed phase by phase implementation is consistent with the approved Master Plan. Nonetheless a plan shall be proposed to inform the citizens of this community if, during the phased implementation of the project, any modifications of the Master Plan are brought to the Planning Commission and the City Council for their consideration or approval. If the developer or the City request any significant deviation from the approved Master Plan ~~Agreement or Development Agreement~~, public hearings and more citizen participation may be required. Thus, an updated Citizen Participation Plan shall be provided with any proposed Preliminary Approval application that requests a substantive change in the Master Plan.
5. An updated phasing plan. The proposed Preliminary Application package shall include an updated phasing plan that has been reconciled with the approved Master Plan ~~and the Development Agreement~~. If it can be demonstrated to the Planning Commission that the updated phasing plan satisfies the criteria enumerated in a. and b. below the Planning Commission may choose to recommend and the City Council may choose to approve the requested changes.
- a. The Phasing Plan in the Preliminary Application is consistent with the phasing plan in the Master Plan and Development Agreement in all particulars; or
- b. If there is variation from the initial phasing proposed, and it can be demonstrated that:
- i. All development agreement conditions requiring action prior to the beginning of Phase 1 will be met;
- ii. Any delay in scheduled construction of any land use activities, mitigation strategies or infrastructure expansions will not create a negative impact or exacerbate an existing problematic condition, and
- iii. All buildings proposed in the current phase are independent of any buildings or systems proposed for later phases in terms of:
- a) Culinary, irrigation or any other water uses,
- b) Transportation infrastructure including roads, fire apparatus access roads, parking stalls or structures, trails and transit provisions, on and off site, necessary to serve this phase
- c) The ability to provide all facilities necessary for the health and safety of resort guests and the public who utilize the proposed phase as well as earlier phases of the project,
- c. It shall also be necessary that the criteria of (iii) above are met for any activities and improvements on public lands, on lands to be dedicated for public use, or on lands off site, owned by the applicant to be reserved as open space associated with the resort.

d. Finally, if the new phasing plan is to be accepted, the Planning Commission must be able to find that the notice requirements and review procedures used for the Preliminary Application have been consistent with those set forth in the Master Plan Section of this Chapter.

C. Submit required preliminary architectural and engineering plans. In addition to the review and updates noted above, Preliminary Approval will require more detailed architectural design plans be submitted. These submittals shall include, but not be limited to, the following sets of plans:

1. Updated Master Site Plan. The Updated Master Site Plan shall ~~including~~include the following components:

a. North point and a scale consistent with one on a standard engineering or architect scale ruler.

b. A topographical map (or maps), with contours at no greater interval than two feet, showing:

i. Zone boundaries and designations;

ii. The outside boundaries of the project;

iii. Boundaries of sensitive lands, with appropriate indication of geologic features, wetlands, wildlife corridors; and

iv. Delineated parks, open spaces, specified common areas and required building and road setbacks.

c. Document any proposed adjustments to the site Master Plan that lead to:

i. Change in building size, height, footprint, bulk or configuration;

ii. Change in project layout for amenities or circulation (roads, walkways and trails) and landscape features will require documentation and justification. This documentation and justification shall include but will not be limited to an analysis of the impact of any such changes on existing or proposed roads, water and sewer utilities, and the character of neighboring development within 1/4 mile of the outside boundary of the resort development. If such changes are substantial a public hearing before the City Council will also be required.

d. An updated infrastructure plan showing:

i. Circulation plan including private and public streets, sidewalks and trails;

ii. Existing and planned easements, waterways, utility lines, canals or ditches, are also required.

e. Analysis of the impact of any of the above changes on existing external roads or neighboring development character or amenity within 1/4 mile of the outside border of the development is also required.

2. Updated Land the Use Plan. A disaggregated, descriptive tabulation of land use is required for:

a. Residential uses;

i. Guest and individual owner lodging,

ii. Employee lodging, or

iii. Affordable housing;

b. Nonresidential uses that provide for the needs of resort lodging guests and day visitors;

i. Restaurants and other food service,

ii. Conference and business center services.

c. Retail.

d. Uses necessary for operation of the resort's primary recreational activities (hot springs, swimming, golf, fishing, hiking, equestrian trails, etcetera).

e. Any special events such as music and dance festivals, art and craft shows, concerts, live theater, and similar events which are compatible with the resort character and its facilities.

f. Other specific uses related to the resort's objectives and character as approved in the Master Plan or Development Agreement.

3. Submit an updated Dimensional Limitation Plan. Specific site building density and configuration limits were set at Master Plan Approval. Similarly, individual building footprint, height and volume limits were set. Preliminary Approval will require that the building architectural and landscaping plans prepared for this application conform to limits set forth in the Master Plan ~~and Development~~ Agreement. This conformance shall be demonstrated by reconciling the following information from the current plans with that gathered in the Annotated Summary of this Section.

- a. Building density, footprint, mass, envelope and height descriptions. Dimensioned plans are required for building placement, footprint and elevations.
- b. Building floor plans indicating individual areas and floor area ratios.
- c. Definition of building setback, parking area, etcetera.
- d. Areas in square feet for any sensitive lands and other open space, dedicated roads and for separately defined lots or ancillary buildings.
- e. Other delineated areas on which restrictions of development are to be imposed by requirements of Midway City ordinances.
- i. Specific delineation of sensitive lands and wildlife corridors.
- ii. Specific delineation of open spaces, common areas, trails, and walkways
- iii. Landscape ratios for sensitive lands, wildlife corridors, open space, common area and trails.

4. Submit an updated Design Elements Plan. The design theme of the Recreational Resort and its recreational activities and amenities were approved with the Master Plan. More detailed architectural plans are required in this submittal to demonstrate that the applicant has developed a sound implementation of the elements previously approved. The Vision Architecture Committee and the Planning Commission will review the implementation of the chosen theme. Their comments and recommendations will be made with the intention of providing necessary information without limiting creativity in design. The Planning Commission will then forward their recommendation to the City Council. The preliminary site and architectural plans shall demonstrate that:

- a. The Design Elements Plan has been prepared by architects and landscape architects licensed to practice in the State of Utah.
- b. The Building Design Guidelines adopted in the Master Plan are reflected in the detailed architectural plans, renderings and/or models presented for Preliminary Approval review demonstrate:
 - i. That the architectural character choices in these plans are consistent with those proposed in the Master Plan;
 - ii. That the built environment proposed emphasizes human scale, pedestrian-orientated space;
 - iii. That the built environment proposed is in harmony with the cultural and aesthetic values of Midway and the natural physical attributes of the immediate vicinity;
 - iv. That the use of building materials and colors is compatible with the surrounding natural and built environment;
 - v. That the bulk and scale of individual buildings within the Recreational Resort are compatible with other structures within the resort, in neighboring developments and throughout the community at large; and
 - vi. That the bulk and scale of the resort is compatible with local natural features and views of distant mountains.

c. The Landscape Design Plans submitted with the Preliminary Application shall demonstrate that the natural resources within the resort have been appropriately preserved and integrated into the layout of the site so that:

- i. The proposed design promotes a connection to the natural environment;
- ii. Natural features of the site, such as significant vegetation, geologic features, rock outcroppings, water bodies and animal habitat and use pattern, are preserved and incorporated into the project design to the extent practicable;
- iii. Project landscaping, including hardscape areas, is consistent with the overall design theme of the resort and utilizes indigenous plant materials wherever possible;
- iv. The existing vegetation has been preserved and incorporated into the design of the project to the extent practical, especially wooded areas and other significant vegetation which provides shelter, feed or habitat for wildlife;
- v. Further, the landscaping plans shall indicate areas of landscaping, proposed landscaping materials and layout of any required irrigation system; and
- vi. Include a noxious weed control plan.

d. An Environmental Assessment Review Statement updating plans to mitigate all technical issues related to sensitive land, including but not limited to:

- i. A review of all new technical reports and/or analyses of any geotechnical, wetland, slope and wildlife issues undertaken in response to conditions set at the time of Master Plan approval;
- ii. A report on progress towards resolving all conditions specified in the Development Agreement.

D. Submit Required Infrastructure Plans. Preliminary plans for the following resort infrastructure elements shall be submitted for review.

1. Water Use Plan. The water use plan approved as part of the Master Plan must be updated and again reviewed by the Midway Water Advisory Board. Following this review the Water Use Plan shall be forwarded with recommendations to the City Council for its consideration. This updated plan shall:

- a. Demonstrate compliance with Midway City's Water Use Title; and
- b. Report Midway Water Advisory Board recommendations;
 - i. Indicate the water rights required to complete the entire resort project;
 - ii. Indicate they have found that the applicant has a sufficient quantity of acceptable water rights to meet the established needs of the entire resort;
 - iii. Indicate that the applicant has agreed to protect all water rights required to complete the resort project from alienation from the resort land designated in the Master Plan and Development Agreement during development and construction; and
 - iv. Indicate that the applicant has agreed to convey to Midway City all water rights required to meet the needs of the phases covered by the current application after Final Approval is granted but before recordation.

c. Describe all existing and proposed water systems, identifying the size of all water lines and the location of any pressure regulating components and all fire hydrants.

2. A Sanitation System Plan. The Sanitation System Plan shall:

- a. Indicate the routes and easements for all proposed systems; and
- b. Specify all line types and sizes.

3. A Storm Drainage System Plan. The Storm Drainage System Plan shall:

- a. Provide a summary of calculations for:

- i. Runoff from the site, indicating that which leaves via a City storm drain and that which leaves via natural drainage routes approved by the City; and
- ii. Line and easements sizes.
- b. Indicate the size, routes and easements of all proposed or existing system lines and components.
- 4. Other Utility Service Plans. All other infrastructure services shall be identified.
 - a. The applicant shall verify the providers of all additional infrastructure services and any associated facilities required to support each service plan presented in the Master Plan submission. Any change from the Master Plan submittal shall be noted and appropriate document and ‘will serve’ letters shall be provided.
 - b. An impact analysis shall be performed, if requested by the Planning Director, for all utility facilities and services.
 - c. All existing or planned easements, utility lines, waterways, canals and ditches shall be indicated and noted on the plat.
 - d. The applicant shall provide evidence that 11”x17” copies of preliminary plans have been sent to all potential utility providers and to the Midway Post Master, Wasatch County Solid Waste Disposal District, and The Heber Valley Fire Protection Special Service District.
- 5. Submit an updated Transportation Plan. The Recreational Resort Preliminary Application shall include:
 - a. An updated Traffic Impact Analysis. At a minimum, this analysis shall review:
 - i. Projections of external vehicle trips generated by the Recreational Resort;
 - ii. Projection of level of service impacts on roadway system segments and intersections serving the Recreational Resort and surrounding neighborhoods; and
 - iii. Specify the improvements needed to any public roadway system segments and intersections that are needed as a result of increased traffic to and from the Recreational Resort.
 - b. An updated resort Transportation Demand Management Plan and review of alternative transportation options. At a minimum, this plan shall:
 - i. Describe actions taken to manage the generation of resort related traffic to avoid undermining community character or endangering the public health, safety, and welfare. Indicate efforts to optimize mix of automobile and pathway facilities within the resort;
 - ii. Review plan to manage the transportation demands of the resort and update them if necessary to;
 - a) Determine if the allocation of vehicle trips to the various roadway segments that serve the Recreational Resort in the Master Plan is still appropriate. If not, adjust the allocation to reflect current plans and revise the impact analysis.
 - b) Summarize plans to promote multiple forms of transportation that are consistent with the transportation goals of the Midway City General Plan.
 - c) Review commitment to support a resort area Public Transportation Plan and participate in a cost sharing plan for transportation facilities and services connecting the resort to, Main Street Midway, other Midway resorts, regional recreational areas and resorts, regional urban centers (Salt Lake and Provo) and airports.
 - iii. Updated resort specific Transportation Element Plans. At a minimum, this updated plan shall:
 - a) Present detailed plans for resort streets, alleyways, and parking lots in each phase of the resort covered by the application.
 - b) Assure that the Transportation Elements Plan demonstrates a continued sensitivity to the natural terrain and landscape by minimizing cut and fill areas and preserves, to the maximum

extent possible, all the natural features of the site such as wooded areas, rock outcroppings, and water bodies, streams, meadows and pastures. Note that this admonition applies to all the property, not simply the portion of the property that is protected under the requirements of the Midway Sensitive Land Section of this Chapter.

iv. Updated Service Vehicle Transportation Management Plan: At a minimum, this updated plan shall verify that plans for vehicular access to the Resort in each phase covered by the application are appropriate for service vehicle access and shall not create unsafe conflicts with automobile and pedestrian access to primary destinations within the Resort.

c. An updated plan for all parking and loading areas within each phase of the resort covered by the application that:

i. Conforms to the requirements of the parking Sections of the Midway City Land Use Title.

ii. Verify that sufficient parking and loading areas proposed in the Master Plan will accommodate the updated resort phase application for:

a) Lodging guests and visitors;

b) Amenities patrons, if the amenities are available to non-lodging guest;

c) Staff and employees;

d) Delivery and service vehicle loading. Loading areas must accommodate delivery vehicles and waiting and loading areas for transit vehicles and their passengers. Delivery locations and time of arrival shall be arranged so as not to create a nuisance for guests and neighbors.

e) Parking shall be designed to encourage non-motorized transportation, transit and high occupancy vehicle use and discourage single-occupancy vehicle use within the resort area.

d. Updated trails and pedestrian facilities within each phase of the resort covered by this application. At a minimum this plan shall include:

i. A description of an updated trail and pedestrian system that shall provide safe, convenient, and direct access throughout the resort and to public lands, to transit facilities and to existing or future adjoining community pathway system, that may be adjacent to the resort;

ii. Trails that will provide for non-motorized transportation. However motorized wheelchairs for the disabled shall be permitted on all trails. Bicycle racks and trail side seating, etcetera, shall be provided at various destination points within the resort;

E. Community Support Requirements. Preliminary Approval requires that specific plans be formulated to meet any employee and affordable housing commitments resulting from phases submitted for approval.

1. Employee Housing. The Employee Housing Plan shall:

a. Define the extent of employee housing to be provided in conjunction with nonresidential development within the Resort. This definition shall be prepared in accordance with appropriate governmental regulations and laws for Employee Housing Standards and Midway City Code requirements and standards;

b. Estimate the number of employees required to be housed and identify the locations where they might be housed. This analysis shall use data current for the most recent full year prior to application for Preliminary Approval;

c. The Preliminary Approval Application Employee Housing Plan shall also contain a proposal for financing and constructing any employee housing needed.

2. Affordable Housing

a. Affordable housing and employee housing are not necessarily equivalent. However, it is possible that employee housing is also affordable housing. If the employee housing meets the

criteria and follows the standards of affordable housing, the applicant may request the City to agree to an offset in the requirements for affordable housing proportional to the equivalent residential units of affordable housing required for approval for the project. Such request must clearly demonstrate how the employee housing will meet the objectives and goals of affordable housing which are required under applicable City standards.

b. Affordable housing shall be provided in conjunction with any residential development within the resort pursuant to the Affordable Housing Standards in this Title.

F. Definition of Open Space. Preliminary Approval requires:

1. Verification of all open space property and open space easements as defined by the Master Plan accompanied by a complete textual description of this property.
2. An updated plat of all property designated as open space within the Resort identified as such in the Master Plan and as proposed in the Preliminary Approval application. Any differences shall be discussed and justified.
3. The location and description of all off site recreational and open space areas and facilities associated with the resort shall be provided.
4. A description of the disposition of title for all open space property and open space easement associated with the resort shall be provided.
5. All land designated as open space shall be left in its natural state or landscaped so as to preserve natural features to the maximum extent possible while complementing the theme and amenities of the resort.
6. All land designated as open space, except as allowed under a specific development agreement, shall be free from development in perpetuity.

G. Planning Commission Action. Upon completion of the Preliminary Plan review, the Planning Commission shall recommend approval of the application as submitted, recommend approval with conditions or may refer the application back to the developer for one or more of the following reasons:

1. The site and building design, layout or structure are inconsistent with the project Master Plan, the intent of this Title or the City General Plan.
2. Project plans and/or supporting documents have not been brought to a satisfactory state of completion.
3. All applicable fees have not been paid by the developer.

H. City Council Action. Upon receiving planning staff and Planning Commission recommendations, reviewing the proposed Resort's Preliminary Applications and conducting the required public hearing, the City Council shall:

1. Approve the Preliminary Application,
2. Approve the Preliminary Application with conditions,
3. Refer the Preliminary Application back to the Planning Commission and/or planning staff for further consideration, or
4. Deny the Application.

Section 16.1.6 Final Approval

The Final Plan is a detailed written and graphic representation of a proposed development. The purpose of the Final Plan is to depict a proposed development in sufficient detail to clearly demonstrate that it is consistent with the Midway City General Plan and to determine if it is in compliance with the specific standards and criteria of these Land Use Codes. It is the intent of this Section that upon its approval by the Midway City Council the applicant may obtain Final Plat approval and applicable building permits for the phases addressed in the application. The Final Approval submittals shall provide, at a minimum, the following:

A. A final statement of project information, providing at a minimum:

1. A current and complete Final Application Form which identifies the developing entity, primary contact name, architect, landscape architect, lead design engineers (civil, structural, mechanical, electrical), and attorney, with contact addresses, phone numbers, ~~fax numbers~~, email addresses and Utah license status for each.
2. A complete legal description of all resort property and supporting title report(s). The title report(s) must be current, having been verified within the last 30 days. Along with the title report the applicant shall provide a statement that verifies that all property owners and any lien holders with interest in the property or improvements thereon, consent to the approval of this application. A report that shows that all equity parties as shown on the updated title report for all land within the boundary of the Final Plat will sign the dedication documents that implement the project shall also be included.

B. Final architectural and engineering plans and specifications. Final Approval requires detailed architectural and engineering design plans be submitted. The submittals shall include, but not be limited to, the following sets of plans:

1. Final Site Plan. The Site Plan shall be updated to its final configuration. Any significant changes in the site plan from that approved with the Preliminary Application shall require documentation and justification. This documentation and justification shall include, but not be limited to, an analysis of the impact of any such changes on existing roads, water and sewer utilities, and the character of neighboring development within 1/4 mile of the outside boundary of the resort development. If such changes are substantial a public hearing before the City Council will also be required. Changes in any of the following shall be noted:
 - a. Circulation plan including private and public streets, sidewalks and trails,
 - b. Existing and new easements, waterways, utility lines, canals or ditches.
2. Updated Land Use Plan. A disaggregated, descriptive tabulation of the final land use for all
 - a. Residential uses;
 - b. Nonresidential uses that provide for the needs of resort lodging guests and day visitors;
 - c. Uses necessary for operation of the resort's primary recreational activities (hot springs, swimming, golf, fishing, hiking, equestrian trails, etcetera).
 - d. Any special events such as music and dance festivals, art and craft shows, concerts, live theater, and similar events which are compatible with the resort character and its facilities.
 - e. Other specific uses related to the resort's objectives and character as approved in the Master Plan ~~or Development~~ Agreement.
3. A complete final Dimensional Limitation Plan. This plan shall at a minimum provide final engineering drawings (plans and profiles) that address:

- a. All roads and other public and private improvements, final grading plan, and final drainage and run-off plan.
 - b. Final site building density and configuration, individual building footprint, height and volume descriptions that conform to the building limits set forth in the Master Plan and Development Agreement or as amended with the approval of City Council.
 - c. Plans that define final building setback, parking area, etcetera demonstrating compliance with all requirements and conditions imposed in the Master Plan ~~and Development~~ Agreement or as amended with the approval of City Council.
 - d. All landscaping and irrigation plans.
 - e. Specific delineation of open spaces, common areas, trails, walkways, sensitive land and wild life corridors.
 - f. Landscape ratios for sensitive land, wildlife corridors, open space, common area and trails.
 - g. All other lines delineating areas on which restrictions of development are to be imposed by requirements of Midway City ordinances.
4. A Final Design Elements Plan supported by detailed architectural plans and specifications. The design theme of the Resort and its recreational activities and amenities were approved with the Master Plan. A final version of this plan shall be prepared and submitted to the Vision and Architecture Committee for final review and comment. The VAC shall then forward this plan and their recommendations to the Planning Commission for their review.
- a. The Design Elements Plan shall have been prepared by architects and landscape architects licensed in the State of Utah.
 - b. This document shall demonstrate how the building design guidelines adopted in the Master Plan to define the architectural character of the development have been implemented in development of the final architectural plans submitted with this application. The Vision and Architecture Committee and the Planning Commission recommendations shall attest that this goal has been met. Further the architectural plans shall clearly illustrate:
 - i. Building height, elevation, length, and mass;
 - ii. The use of exterior architectural features such as material, color, texture and relief to establish a theme, add interest to the structure and blend with the natural environment;
 - iii. Floor plans that define the use of interior space and assure conformance with fire and other safety codes and meet all access requirements.
 - c. The Landscape Design Plans submitted with the Final Application shall demonstrate that the natural resources within the resort have been appropriately preserved and integrated into the layout of the site. Further the landscaping plans shall demonstrate that:
 - i. The existing vegetation has been preserved and incorporated into the design of the project to the extent practical, especially wooded areas and other significant vegetation which provides shelter, feed or habitat for wildlife;
 - ii. Plans for all landscaping have been completed, proposed landscaping materials have been identified and plans for any required irrigation system have been completed and are consistent with those approved with the Preliminary Plan;
 - iii. A noxious weed control plan has been initiated;
 - iv. An Environmental Assessment Review report shall be prepared and submitted. This report shall review all issues related to sensitive land and demonstrate that steps taken to appropriately mitigate all possible impact of site development. This report shall include a review of all new technical findings and/or analyses of geotechnical, wetland, slope and wildlife issues undertaken in response to conditions set at the time of Master Plan approval.

5. A final Engineering Infrastructure Plan and supporting specifications shall be presented for review by planning staff and the City engineer. This plan shall address each infrastructure requirement, presenting:
 - a. A complete Water Use Plan with supporting system plans and specifications. These documents:
 - i. Shall demonstrate compliance with Midway City's Water Use title;
 - ii. Shall verify that the water rights required to complete the entire Resort project, as determined by the Midway Water Advisory Board has been secured, and that the water rights necessary for the phase(s) covered this application will be submitted to the City after Final Approval and before recordation; and
 - iii. Shall provide detailed final water systems construction plans, identifying the size of all water lines and the location of any pressure regulating components and all fire hydrants for the current project phase.
 - b. A complete Sanitation Plan and supporting system plans and specifications. These documents shall:
 - i. Include complete sanitation system construction plans for the current project phase, and
 - ii. Demonstrate compliance with Midway Sanitation District requirements and standards.
 - c. A detailed storm drainage system construction plan and run off calculations for the current phase.
 - d. Verify that all 'will serve' letters have been submitted for other utility services required for the current phase, including:
 - i. Solid waste disposal;
 - ii. Electrical service;
 - iii. Natural gas service;
 - iv. Telephone, internet and other electronic service; and
 - v. Any other utility service entity involved in the project.
 - e. All existing or planned easements for these utility services including, utility lines, waterways, canals and ditches shall be indicated and noted on the Final Plat.
6. A detailed final Transportation Plan. This plan shall provide:
 - a. A final traffic impact analysis.
 - b. Final resort Transportation Demand Management Plan and review of alternative transportation options. This plan shall:
 - i. Summarize plans to promote multiple forms of transportation that are consistent with the transportation goals of the Midway City General Plan.
 - ii. Review commitment to support a resort area Public Transportation Plan and participate in a cost sharing plan for transportation facilities and services connecting the resort to; Main Street Midway and other Midway resorts, regional recreational areas and resorts, regional urban centers (Salt Lake and Provo) and airports.
 - c. Provide all final resort specific Transportation Element Plans. At a minimum, this final plan shall:
 - i. Present completed construction plans for resort streets, alleyways, and parking lots in each phase of the resort covered by the application;
 - ii. These construction plans shall demonstrate adequate sensitivity to the natural terrain and landscape by having minimized cut and fill areas and preserved, to the maximum extent possible, all the natural features of the site such as wooded areas, rock outcroppings, water bodies, streams, meadows and pastures. Note that this requirement applies to all the property, not simply

the portion of the property that is protected under the Midway Sensitive Land Ordinance requirements.

d. Provide a final Service Vehicle Transportation Management Plan: At a minimum, this plan shall verify that plans for vehicular access to the resort in each phase covered by the application are appropriate.

e. Verify that the Final Parking Plan is consistent with the Preliminary Parking Plan specifications and provides sufficient parking and loading areas to accommodate the updated resort phase projected demand for:

i. Lodging guests;

ii Visitors, conference and special events attendees;

iii. Amenities patrons if available to non-lodging guest; and

iv. Staff and employees.

f. Verify that loading areas accommodate delivery vehicles and waiting and loading areas for transit vehicles and their passengers. Delivery locations and time of arrival shall be arranged so as not to create a nuisance for guests and neighbors.

g. Assure that parking has been designed to encourage non-motorized transportation, transit and high occupancy vehicle use and discourage single-occupancy vehicle use within the resort area.

7. Updated Trails and Pedestrian Facilities Plans for each phase of the resort covered by this application. At a minimum this plan shall include:

a. Final plans for trails and pedestrian systems that shall provide safe, convenient, and direct access throughout the Resort to public lands, to transit facilities and to existing or future adjoining community pathway system that may be adjacent to the resort.

b. Final plans for trails that shall provide for non-motorized transportation. Note however motorized wheelchairs for the disabled shall be permitted on all trails. Bicycle racks and trail side seating, etcetera, shall be provided at various destination points within the resort.

C. Employee and Affordable Housing Plans. Preliminary Approval required that general plans to meet any employee and affordable housing commitments for each phase covered by the application be submitted for approval. Final approval now requires enumeration of employee and affordable housing needs and specific plans for meeting all these needs for phases covered by this application.

1. Employee Housing. The extent of employee housing to be provided in conjunction with nonresidential development within the resort shall be determined in accordance with appropriate governmental regulations and standards for employee housing. The determination procedure shall also be consistent with all other Midway City requirements and standards.

a. Each application for Final Approval shall establish the actual number of employee housing units to require for all phases covered by the application. This analysis shall use data current for the most recent full year prior to application for Final Approval.

b. The number of on site and ~~off-site~~off-site housing units, and their actual location, shall also be defined. The employee housing plan may consider the availability of housing suitable for employees throughout Heber Valley. They may also consider housing made accessible through transport from other areas provided by the resort.

c. The Final Approval Application Employee Housing Plan shall also contain a proposal for financing and constructing the employee housing needed.

2. Affordable Housing. Affordable housing shall be provided in conjunction with any residential development within the resort pursuant to the Residential Affordable Housing

Standards title in this code. Affordable housing and employee housing are not necessarily equivalent. However, it is possible that employee housing may also qualify as affordable housing. If the proposed employee housing meets all the goals, criteria and standards set for affordable housing, the applicant may request the City to agree to an offset in the requirements for affordable housing for the project.

D. Designated Open Space. Final Approval requires:

1. A textual descriptions of all open space property and open space easements as defined by the Master Plan.
2. An updated plat of all property designated as open space within the resort identified as such in the Master Plan and as proposed in the Final Approval Application. Any differences shall be discussed and justified.
3. The location and description of all off site recreational and open space areas and facilities associated with the Resort shall be provided.
4. A description of the disposition of title for all open space property and open space easement associated with the resort shall be provided.
5. All land designated as open space shall be left in its natural state or landscaped so as to preserve natural features to the maximum extent possible while complementing the theme and amenities of the Resort.
6. All land designated as open space, except as allowed under a specific development agreement, shall be free from development in perpetuity.

E. Development Agreement required for each phase. A Development Agreement is required for each phase of the Master Plan. The agreement will contain the items listed as described in the following section. The agreement will be prepared by the City Attorney and reviewed by the City Council. If approved by the City Council the agreement will be recorded at the office of the County Recorder.

EF. Final Midway City Approval

1. Planning Commission. After receiving a complete proposed final plat and the Final Approval submittal package, the Planning Commission shall consider the development for Final Approval. If the Planning Commission finds that all of the requirements of this title and all the conditions of Preliminary Approval of the development imposed by the City have been met, the Planning Commission shall recommend Final Approval of the development to the City Council. If the Planning Commission finds that any requirements or conditions have not been met, the Planning Commission shall forward such information on to the City Council with a recommendation as to how the City Council should act with respect to Final Approval of the development.
2. City Council. After receiving the recommendation of the Planning Commission with respect to Final Approval, the City Council shall consider the development for Final Approval. The City Council shall determine whether the proposed final plat and final submittal package meet all requirements of this title and the conditions of the development's Preliminary Approval by the City. The City Council shall consider the information and recommendation forwarded to it by the Planning Commission.
 - a. Based on the Planning Commission's recommendation and the City Council's own review and deliberation the Council shall approve, approve the conditions, or deny Final Approval of the development.

b. If the City Council denies Final Approval, the City Council shall state in detail the basis for its denial, referring specifically to the requirements or this title and the conditions of preliminary approval. For a one-year period after such denial of Final Approval by the City Council, the applicant may re-apply to the Planning Commission and then to the City Council if the City Council's reasons for denial have been resolved.

FG. Duration of Final Development Agreement

The duration of Final Approval shall be for one year from the date of approval of the development by the City Council. If the Final Plat is not recorded with the County Recorder within the one-year period of time, the development's approval shall be voided, and both Preliminary and Final Approvals must be re-obtained to reinstate the project, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for plat recording, with or without conditions. Such conditions may include, but are not limited to, provisions requiring that:

1. Construction must be conducted according to any new City standards in effect at the time the plat is ultimately recorded;
2. The property must be maintained in a clean, dust-free, and weed-free condition at all times;
3. 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
4. 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.

(2011-06, Sub-section Amended, eff. 12/14/2011)

Section 16.1.7 Development Agreements

A. Development Agreement sets forth the obligations of both the development applicant and Midway City. It is a contract between the City and an applicant for a development project which complies with the local land use requirements in force at the time the development agreement is approved. It is intended to provide assurance to the applicant that an approved project may proceed regardless of changes to City policies, rules, and regulations after project approval. In return, the City may be assured that the approved project will contain all the elements and components proposed and approved in the best interest and welfare of the City. Development Agreements shall be required for the entire resort area at the conclusion of the Master Plan Approval and for each phase of the development as it receives Final Approval.

B. The developer's obligation. The City and the developer shall acknowledge and agree that the City's agreement to perform and abide by the covenants and obligations of the City set forth in this agreement is material consideration for developer's agreement to perform and abide by the covenants and obligations of developer set forth herein. The Development Agreement(s) shall document all of the terms and conditions of development imposed by City Council as set forth as a consequence of Master Plan, Preliminary and Final reviews and approvals. These terms and conditions shall include, but not be limited to, the following:

1. The payment of all fees.
2. A current Phasing Plan. This Phasing Plan shall demonstrate that:

- a. All Development Agreement conditions requiring action prior to the beginning of Phase 1 construction have been met.
 - b. Any delay in construction of scheduled land use activities, mitigation strategies or infrastructure expansions will not create a negative impact or exacerbate an existing problematic condition.
 - c. All buildings proposed in a current phase are independent of any buildings or systems proposed for later phases in terms of culinary, irrigation or any other water uses; transportation infrastructure including roads, fire apparatus access roads, parking stalls or structures, trails and transit provisions, on and off site, necessary to serve the current phase; the ability to provide all facilities necessary for the health and safety of resort guests and the public who utilize the proposed phase and earlier phases of the project.
 - d. It shall also be necessary that the criteria of (b) above are met for any activities and improvements on public lands, on lands to be dedicated for public use, or on lands off site, owned by the applicant to be reserved as open space associated with the resort.
3. Designation of Open Space.
- a. A complete textual description of all open space property and open space easements as defined by the Master Plan shall be provided.
 - b. A current plat of all property designated as open space within the resort identified as such in the Master Plan and as proposed in the Preliminary Approval application shall be provided. If there are any differences between the updated plat and those previously approved they shall be discussed and justified.
 - c. The location and description of all off site recreational and open space areas and facilities associated with the resort shall be provided.
 - d. A description of the disposition of title for all open space property and open space easement associated with the resort shall be provided.
 - e. All land designated as open space shall be left in its natural state or landscaped so as to preserve natural features to the maximum extent possible while complementing the theme and amenities of the resort.
 - f. All land designated as open space, except as allowed under a specific development agreement, shall be free from development in perpetuity.
4. In the event the resort, or any portion thereof, will subdivide property for individual ownership, a Subdivision Plat or, in the case of condominiums, a Record of Survey Map shall be prepared for recordation.
- a. For subdivided property the Final Plat presented for approval shall be consistent with that approved as part of the Preliminary Application in terms of:
 - i. Unit size and location;
 - ii. Traffic pattern and parking;
 - iii. Property ownership; private areas and common areas.
 - b. For a development with individually owned condominiums, the Condominium Record of Survey Maps shall be prepared and they too shall address the same three items plus demonstrate compliance with all the requirements of the State Condominium Ownership Act.
 - c. All individually owned property within a resort shall be part of a homeowner's association (HOA). All legal documents and supporting material, such as Declaration of Covenants, Conditions and Restrictions shall be prepared and recorded at the Wasatch County Recorder's Office along with the Final Plat and/or Record of Survey Map prior to application for building permits.

- d. The following standards shall apply to HOA Declaration of Covenants, Conditions, and Restrictions associated with Resort properties:
- i. The Declaration shall provide for the creation and perpetual provision of an architectural committee, the number of members and composition of which shall be clearly stipulated. The Declaration shall also establish design guidelines governing the appearance of the site buildings, signs, lighting, landscaping, street furniture, fencing, and mechanical equipment;
 - ii. The Declaration shall stipulate the method and procedure by which the Declaration may be amended;
 - iii. The Declaration shall specify the final conditions of approval of the Planning Commission and City Council.
 - iv. The Declaration may also contain use restrictions which are more restrictive than the City's zoning provisions, but in no case shall they be more permissive;
 - v. The Declaration shall set up the provisions for maintenance of all common area, including open space, private streets and utilities;
 - vi. The Declaration shall state the following: Midway City shall have the right, but not the duty, to require, and if necessary, perform at the Association's expense, landscaping, maintenance, and snow removal within the common area and open space if the Association fails adequately to perform such duty. In the event Midway City exercises this right, the City shall be entitled to recover any associated costs and attorney fees from the Association. This Section shall not be amended or deleted without the approval of Midway City; and
 - vii. The Declaration shall state that the Homeowners Association will comply with all relevant requirements of the Transient Rental Title of the Midway City Code pertaining to individually owned units within the resort development.
- e. In ~~addition~~addition, the agreement between the developer and the City these documents shall state, among other things:
- i. That in the event of failure or neglect on the part of the owners, successors, or assigns to maintain the water and sewage facilities, common area, landscaping or other improvements in good condition, the City may perform the necessary work and for that purpose may enter upon the land and do the work and charge the cost thereof, including reasonable attorney fees, to the owners or their successors or assigns;
 - ii. That the owners, successors, or assigns will reimburse the City for all costs which the City incurs in performing the necessary work;
 - iii. That the terms of the contract shall be binding upon the heirs, assigns, receivers, and successors of the project for the life of the project or building;
 - iv. That a phasing plan showing and construction schedule for streets, infrastructure, amenities and other improvements shall be provided as each phase is presented for Final Approval. Phasing plans shall be structured such that each phase can stand alone in terms of all requirements set forth in this title, including, but not limited to open space, traffic safety and circulation, infrastructure requirements and so forth;
 - v. A maintenance schedule shall be prepared and agreed to for all undeveloped land within the approved master plan area; and
 - vi. Any other agreements between the developer and the City and any conditions of approval that the Planning Commission and/or City Council deems to be reasonably necessary to carry out the intent of this title.

- f. The developer shall also provide a summary report of any Citizen Participation activities during the prior application reviews, resolutions of concerns raised or efforts to yet resolve any citizen concerns.
- g. In addition to all other requirements, the proposed Final Plat shall show an address block containing addresses for each dwelling unit and for each main building within the plat, subject to approval by the Wasatch County Recorder's office.
- h. The City planner and/or the City attorney may also ask the developer to address additional issues raised by the project.

C. The City's obligation. The parties shall acknowledge and agree that developer's agreement to perform and abide by the covenants and obligations of developer set forth herein is material consideration for the City's agreement to perform and abide by the covenants and obligations of the City set forth herein:

- 1. The City shall not impose any further conditions to current approvals other than those detailed in this Agreement and on the project plat, unless agreed to in writing by both parties.
- 2. The City agrees to accept all project improvements constructed by developer, or developer's contractors, subcontractors, agents or employees, provided that:
 - a. The Midway City planning and engineering departments review and approve the plans for any project improvements prior to construction;
 - b. Developer permits Midway City planning and engineering representatives to inspect upon request any and all of said project improvements during the course of construction;
 - c. The project improvements have been inspected by a licensed engineer who certifies that the Project improvements have been constructed in accordance with the plans and specifications;
 - d. Developer has warranted the project improvements as required by the Midway City Planning and Engineering Departments; and
 - e. The project improvements pass a final inspection by the Midway City planning and engineering departments.
- 3. The City agrees that as of the effective date of the Final Development Agreement, the developer shall have the vested right to develop the property only in accordance with this agreement and applicable law.

D. Duration of Approvals and Development Agreements.

- 1. Master Plan. The duration of the Master Plan Approval and the Master Plan Development Agreement shall be determined by the City and the applicant as part of the Master Plan Development Agreement.
 - a. All matters relating to amendment, default, termination, review or renewal of the Master Plan or the Master Plan Development shall be governed by statements set forth in the Master Plan Development Agreement.
 - b. Once recorded with Wasatch County the terms of the Master Plan Development Agreement shall be binding upon the heirs, assigns, receivers, and successors of the project for the life of the project or resort unless amended or terminated by agreement of all parties.
 - c. The resort property delineated by the Master Plan shall be maintained in a clean, dust-free, and weed-free condition at all times until construction has been completed or the project has been terminated.

2. Preliminary Approval. A developer's failure to submit a proposed Final Plan and Final Approval Application to the City within one year of the approval of the Preliminary Plan by the City Council shall terminate all proceedings and render the Preliminary Approval null and void.

3. Final Approval and Final Development Agreement. The duration of Final Approval shall be for one year from the date of final approval of the development by the City Council.

a. Once recorded with Wasatch County, the terms of a phase Final Development Agreement shall be binding upon the heirs, assigns, receivers, and successors of the project for the life of the project or resort unless amended or terminated by agreement of all parties.

b. Should Final Development Agreement and a Final Plat not be recorded with the County Recorder in the one-year period of time, the development's Approval shall be voided, and both Preliminary and Final Approvals 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 plat recording, with or without conditions. Such conditions may include, but are not limited to, provisions requiring that:

i. Construction must be conducted according to any new City standards in effect at the time the plat is ultimately recorded;

ii. 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

iii. 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.

(2011-06, Sub-section Amended, eff. 12/14/2011)

Section 16.1.8 Completion and Recordation.

A. Plat Recordation. No plat shall be recorded until all required water rights and/or water shares have been tendered to the City and assurances are provided to the City to ensure completion of all required improvements, including landscaping. No building permit application shall be submitted prior to the recording of the plat by the County Recorder.

B. Completion of Infrastructure Construction and Issuance of Permits. No building permits application shall be submitted until the infrastructure construction of the development is substantially complete; provided, however, that the developer in whose name the bond for the project is issued may submit a building permit application once the fire flow mechanisms are installed, operating and approved by the City engineer. Once installed, operating and approved, fire flows must remain operating continuously thereafter. No certificate of occupancy will be issued until infrastructure construction on the phase, or phases, under development reaches Final Approval.

C. Landscaping Bond. Before recording any Subdivision Plat or Condominium Record of Survey of Map, a bond equal to 110 percent of the cost for construction and completion of the landscape plan shall be posted. The Landscaping Bond can be posted as a designated part of the Construction Bond.

D. Construction Bond. Prior to plat recordation the developer shall submit a bond to the City in the amount of 110 percent of the cost of all improvements and inspections, as determined by the City Engineer.

E. Default. In the event the developer defaults, fails or neglects to satisfactorily install the required improvements within one year from plat recordation, the City Council may declare the bond forfeited and the City may install or cause the required improvements to be installed using the proceeds from the collection of the bond or other assurances to defray the expense thereof.

F. Final Disposition and Release. The developer shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than ten days prior to the release date of the bond or other assurance, the City representatives shall make a preliminary inspection of the improvements and shall submit a letter to the City Council setting forth the conditions of such facilities. If conditions thereof are found to be satisfactory, the City Council shall release the bond or other assurance. If the condition of materials or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability, the City Council may declare the developer in default.

G. Record Drawing Submittal and Contents. Prior to final bond release, an electronic copy of the final drawings in the latest version of AutoCAD or DXF or other acceptable format shall be submitted to the City engineer. This drawing file needs to include adequate information regarding position and basis of bearing tied to established control as approved by the City engineer.

As-built information shall be overlaid on this final drawing. The as-built drawing must be based upon actual field survey of the items on the following list:

1. Established survey monuments, benchmark, and permanent horizontal and vertical control.
2. Water: valves, fire hydrants, blow-offs, flush valves, and water meters.
3. Sewer: laterals and manholes with rim and elevations.
4. Storm drain: catch basins, curb inlets, and manholes with rim and elevations, size and type of pipe, storm outlets and detention / retention systems.
5. Miscellaneous: light pole locations, street sign locations, and utility box/transformer locations.
6. Pressurized irrigation: valves, blow-offs, flush valves, drains and water lateral locations.

H. Total Compliance with all Regulations. In case of failure or neglect to comply with any and all conditions as established during the approval process or regulations as identified in this Title, the City may refuse additional building permits and stop construction of all work at the site until such violations or non-compliant conditions have been eliminated.

I. Warranty Bond. The City Council shall authorize the release of all but ten (10) percent of the Construction and Landscaping Bond amount upon verification by the City engineer that all work is complete and acceptable. The remaining ten (10) percent of the Construction Bond amount shall be retained by the City for a period of two (2) years in order to insure quality of improvements as a Warranty Bond. If improvements are found to be unacceptable to the City at any time during the two-year period, the City may use the bonding funds to replace or repair any improvements not installed acceptably.

(2016-09, Section Amended A&B, eff. 05/11/2016)

