

## **Midway City Planning Commission Regular Meeting July 19, 2017**

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 7:00 p.m., July 19, 2017, at the Midway City Community Center  
160 West Main Street, Midway, Utah

### **Attendance:**

Jim Kohler – Co-Chairman  
Nancy O'Toole  
Natalie Streeter  
Bill Ream  
Kevin Payne

### **Staff:**

Michael Henke – City Planner  
Lindy Rodabough – Admin Assistant  
Wes Johnson – City Engineer  
Josh Jewkes

### **Excused**

Shauna Kohler  
Steve Nichols - Chairman  
Jeff Nicholas  
Stu Waldrip

### **6:50 P.M. Work/Briefing Meeting**

- City Council Liaison Report, no action will be taken and the public is welcome to attend.

### **7:00 P.M. Regular Meeting**

### **Call to Order**

- Welcome and Introductions; Opening Remarks or Invocation; Pledge of Allegiance  
Opening Remarks or Invocation.
  - ❖ Invocation was given by Roger Shaw
  - ❖ Co-Chairman Jim Kohler led the Pledge of Allegiance

### **ITEM: 1**

**Review and possibly approve the Planning Commission Meeting of June 21, 2017.**

**Motion:** Commissioner O'Toole: I move that we accept the minutes as is.

**Seconded:** Commissioner Ream

**Any discussion on the motion? There was none**

**Ayes:** Commissioners Streeter, Ream, O'Toole and Payne

**Nays:** None

**Motion:** Passed

**ITEM: 2**

**Health Department report given by Gerald Hayward.**

**No one showed up to give the report**

**ITEM: 3**

**Tracy Cowley is requesting a plat amendment of the Creek Place Subdivision. The proposal will convert the common area to private property. The property is located at 250 North Creek Place and is in the R-1-15 zone.**

Planner Henke gave a presentation regarding the proposed plat amendment and reviewed the following items:

- Land use summary
- Background
- Analysis
- Water Board Recommendation
- Possible Findings
- Alternative Actions
- Possible Conditions
- Aerial view
- Site plan

**Note:** A copy of Planner Henke's presentation is contained in the supplemental file.

**Commissioners, staff and applicant discussion**

- Is there water to irrigate the common area?
  - Yes
- In creating two larger lots it still does not allow for the property to be resubdivided due to the following
  - A) Each lot requires frontage and there is not enough room to get frontage off of the existing cul-de-sac. The only possibility is if another road came in from some other angle and created frontage on either the north or east side. Without meeting the code requirements of making sure it has the correct acreage and frontage it could never be subdivided.

- B) The other caveat with this is that it would be a plat amendment and that would be adding one new lot in a six-lot subdivision and that's a legislative action. The City wouldn't need to approve that type of an item, there is some discretion on the City's part. It would difficult for it to happen, it would have to be approved as a legislative manner. It's not very likely to happen, but it's not impossible.
- There can be a condition that the common area cannot be developed in the future
- Creek Place is a public road
- In order for this to be approved all six owners within the plat need to sign the plat. If someone does not agree to this amendment then it will not be recorded, so all six have to be on the same page.
- In the Creek Place Subdivision CCRs it was written in there that there would not be any structures built in the common area. The CCRs will remain the same unless the HOA changes them. The City could also impose some restrictions on this area also through this plat amendment.

**Co-Chairman J. Kohler asked if there were any further questions from the Commissioners - There was none**

**Applicant; Tracy Cowley:** Me and Tyler (my neighbor) want to clean things up, right now it is a weed patch. Right now, we do not have any plans building any structures on it. Our plan is to get it cleaned up and turned into a yard.

**Tyler Crawford:** Our intent is to leave the restrictions just as they are. One of the things that we both like is that there will never be a house or any type of structure on it.

**Co-Chairman J. Kohler opened the meeting to the public questions**

**Ryan Miller:** I want to give them my vote of support. They've been very thoughtful to us as neighbors. Our goal as an entire subdivision is to either make this into something we can all enjoy or make it a seamless transition into their property so that we can ensure that there is not further building there and that restriction is not a problem. It made the most sense to intergrade it into their yards.

**Co-Chairman J. Kohler asked if there were any further comments from the public. There were none and he closed public comment.**

**Co-Chairman J. Kohler asked if the commissioners had any further questions or discussion. There were none**

**Motion Commissioner Streeter:** I move that we approve the Cowley plat amendment of the Creek Place Subdivision. The approval will have the condition that the area not be able to be developed at any time in the future, that is the only condition. We accept the findings of staff.

**Seconded:** Commissioner O'Toole

**Co-Chairman J. Kohler asked if there were any discussion on the motion**

**There was none**

**Ayes:** Commissioners Streeter, Ream, O'Toole and Payne

**Nays:** None

**Motion:** Passed

#### **ITEM: 4**

**Robert Grieve is requesting Preliminary/Final approval of the Shangri-La Subdivision. The proposal is a small-scale subdivision that is 0.64 acres in size and will contain two lots. The property is located at 151 South 250 West and is in the R-1-9 zone.**

Planner Henke gave a presentation regarding the proposed subdivision and reviewed the following items:

- Background
- Land use summary
- Analysis
- Water Board Recommendation
- Possible Findings
- Alternative Actions
- Possible Conditions
- Aerial view
- Site plan

**Note:** A copy of Planner Henke's presentation is contained in the supplemental file.

#### **Commissioners, staff and applicant discussion**

- The garage that is on the property is in good repair. Could the new home be connected to that and therefore defeat the setback?
- If a structure is within the lot and is non-conforming we have allowed it to stay. If it is non-conforming it cannot increase in size (meaning height or size) in that case it could remain a detached structure, but it couldn't be attached to a future home.
- Lot 2 has to have some type of a turn-around so that no one backs out onto 250 west.
- According to our code there is not a limitation for a driveway placement on this lot.

**Co-Chairman J. Kohler asked if there were any further comments or questions from commissioners. There was none.**

**Applicant; Bob Grieve talked about:**

- Creating a hammer head turn around when creating the new driveway to this lot.
- Debate of the possible property line north of his old car barn.

**Co-Chairman J. Kohler opened this item up to public comment. There was none.**

**Co-Chairman J. Kohler closed the public comment**

**Co-Chairman J. Kohler asked if there were any further questions or comments from the commissioners. There were none.**

**Motion:** Commissioner O’Toole: I’d like to make a motion that we recommend to the City Council the preliminary and final approval of the Shangri-La Subdivision. It is a small-scale subdivision at 151 south and 250 west, and is in the R-1-9 zone. We accept the staff findings. We do have one condition that the new lot will either have a hammer head or some sort of a turn-around so no one will have to back onto 250 west.

**Commissioner Ream:** I’d like to recommend a second condition. That the plat will only allow a single-family dwelling to both lots.

**Commissioner O’Toole:** I accept that.

**Seconded:** Commissioner Streeter

**Co-Chairman J. Kohler asked if there were any discussion on the motion. There was none**

**Ayes:** Commissioners Streeter, Ream, O’Toole and Payne

**Nays:** None

**Motion:** Passed

**ITEM: 5**

**Lance Ford, agent for Jeannette S. Higginson, is requesting Preliminary approval of Haven Farms. The proposal is a large-scale subdivision that is 67.46 acres in size and will contain 20 lots. The property is located at 1170 South Center Street and is in the RA-1-43 zone.**

Planner Henke gave a presentation regarding the proposed subdivision and reviewed the following items:

- Background
- Land use summary
- Analysis
- Water Board Recommendation
- Possible Findings

- Alternative Actions
- Possible Conditions
- Aerial view
- Site plan

**Note:** A copy of Planner Henke's presentation is contained in the supplemental file.

**Commissioners, staff and applicant discussion**

- Will the speed limit sign be moved further to the south?
- That is a UDOT road, therefore it is their choice.
- The public trail that will parallel Center Street, we'd like to have it a straight trail not curvy.
- The flood plain on this property is man-made. Does UDOT have any plans to place a bigger culvert?
- The current culvert will not handle the flow for a 100-year flood, so, it forces the water south and creates flood plain. It is UDOT's responsibility to replace that culvert and I do not know of any plans they have for replacing it.
- The road that goes around the subdivision is a public road since it is a standard subdivision.
- An irrigation line will be installed under the new road that would access those lots.
- There is a high-water table in this area and there has been a geotech study and they have done some test pits. We have not recommended restrictions on basements, but it would be on a per lot basis between the land owner and the contractor to do what's feasible.
- There are no structures allowed in the flood plain or within the setback of a flood plain.
- Who is responsible for making sure that the water flow is not impeded?
- There is a permitting process whenever there is a crossing over a creek. That goes through an approval process to make sure nothing will impede the flow of water.

**Applicant; Lance Ford:**

- Willing to meet requirements for the Center Street trail

**Co-Chairman J. Kohler asked if the commissioners had any further questions or comments. There was none.**

**Co-Chairman J. Kohler opened the meeting to the public**

- Scott Lewis: Comments and concerns

- I know that there are no gated subdivisions allowed within Midway, but the spirit of this subdivision is like a gated community.
  - This is one of the most beautiful stretches in the valley that we could connect to and follow the river along Snake Creek through our community. We have a chance to connect through this beautiful area and I think without disrupting the residence.
  - It makes me sad that we would negotiate that away under the threat of higher density, when we know the developer themselves do not want higher density.
  - It doesn't seem with the spirit with what we are trying to build in Midway. We are trying to build interconnecting trails within our community that people want to explore.
  - Why not add additional restrictions to this property so it cannot be further subdivided?
- Dan Luster: Comments and concerns
- I have a follow up idea. I drive this road a lot and it is a beautiful stretch and I appreciate that the developer is doing lower density, they should be commended for that.
  - The City could do a trade, sponsor, fund or support in some way in this wet lands area and exchange for supporting that there could be some kind of a trail improvement.
- Athina Koumarela: Comments and concerns
- Because Snake Creek runs through this property it is not accessible to the public?
  - Snake Creek is not private property, right even though it runs through here.
  - What is the potential that this land gets subdivided in the future?
- Planner Henke: The property lines go up Snake Creek, all the property is private property, it's not public property. My understanding is that you can walk up a stream or river, but you cannot leave the stream or river. The access is limited right now, because it is private property right now. There is not a way to make it private property unless there is a trail that runs along there with public access. The City is not giving any concessions. It is actually a legal argument and we are bound by laws. We've argued for months that we want to get the two trails in, but as we've gone through the legal analysis of it, it doesn't look like it is very possible. There are laws that we need to follow regarding land use. There could be a note on the plat saying no further subdividing, that could be a condition of approval. Also, potentially a landowner can come in and propose a plat amendment on a recorded subdivision and subdivide lots down further. A note on the plat would probably help us reinforce that we don't want further subdividing of the property, but it is possible that the law could change at the state level that would overrule that. Right now, it's state code that it's a discretionary matter, the City wouldn't have to approve amending an already platted subdivision, but an applicant could always apply and ask for that. However, it is not guaranteed that they would get approval from the City to do that.
- Jacqui Jespersen: Comments and concerns

- The following are comments of the agenda at large
  - Creative thinking regarding zoning
  - Things that are already on the Master Plan, is this the way it's going to be and we don't have a choice and it is bound to happen
  - Utilize the moratorium for constructive discussions and opinions
  - Considering what we have already approved based on non-creative thinking, because we are worried about potential law suites and concerned more about liability and or law suites. How does this hinder our discussions?
  - Are we capable with our skills as a council to consider century long term plans?
  - Are there professionals that may be well suited to those creative idea? Do you have a legal structure that understands, or can back up our line of thinking?
  - Can we pay an added expense to bring professionals to help through this process to help take a load off the City Council whom have a pretty heavy load that might help with really impactful decisions that they are having to make right now? With no conflicts of interest, outsiders per say that don't have their fingers dipped into the pots of special interest.
  - Leave certain options open to voters.
  - What does the public at large expect? Not for only those who live here, but those who recreate here.
- Clint Coleman: Comments and concerns
- We can appreciate what this developer is trying to do, coming in and building these larger homes, granted we are not going to give him concessions to do so.
  - I would recommend that the City come up with a slush fund for trails so when a developer says that they are not going to put in a trail for whatever reason the City can say okay that's fine we'll put it in, and the City put the trail in right up front.
  - We cannot stop the growth in Midway, that's a known fact. When developers come to us with proposals of a 20-lot subdivision on 60 plus acres versus 140 lots in a PUD we need to not make the process easier for them, but we do need to help them see the vision of Midway so that we can encourage this type of developer versus someone that wants to come in and put in a 140 lot PUD.
- Bob Grieve: Comments and concerns
- The Snake Creek trail is existing in a Master Plan.
  - Would the developer be willing to grant an easement to that trail, and then we can figure out later where the money is going to come from?
  - It seems like a vital part of a trails system.
- Applicant; Lance Ford: My answer to that is no, and I would refer any legal questions to Corbin Gordon and/or Josh Jewkes
- City attorney; Josh Jewkes: I'm all for creative thinking and if there is a way to

look at this problem differently I'm open to that. The real issue is that this is private property. This governing body does not have the constitutional power to simply take that property and say we're going to turn it into a trail, because it is private property. I know that is unfortunate and that we'd all love to have access to that, but this is just the reality of the constitutional system we live in. I hear the concerns expressed by the public that are here and I appreciate that they are here to express those concerns. We are working within the constitutional system to both respect private property rights and to benefit the public as well.

➤ Ruth Holmes: Comments and concerns

- I've heard a suggestion of granting an easement.
- Will this set a precedent?
- Where can we get together to talk about these things and our concerns?

➤ Applicant; Lance Ford:

- Any sort of easement up Snake Creek, no, we will not provide an easement or improve a trail.

➤ City Attorney; Josh Jewkes: We are trying to get as much as we can for the benefit of the public within the confines of the law. It can be a difficult balancing act at times, these discussions are still on going. As the City attorney, we'd love to see an easement put in there and we'd love for the public to enjoy it. The question is can this body or really the City Council require that of the developer, or force them to give us an easement? That is really what it has come to.

➤ Planner Henke: There is always a lot of possibility for public comment on all kinds of projects. Last year we went through a General Plan revision, we conducted a survey for the entire community to take and we received a lot of responses, we held an open house charrette where we gathered hundreds of comments on our code for the General Plan. We want to go through the moratorium and make some code text amendments and include the public in that process, that is what the process is set up for. So, there is definitely ample opportunity to be a part of the process. We hold two City Council meetings per month and one Planning Commission meeting per month which offers public comment. Not only in the meeting, but also through the City website, we have multiple committees through the City that you or any member of the public could serve on and they are constantly influencing decisions. We have a new open space committee that is going to be formed, we have the trails and parks committee that is being reformed right now. I'd say that Midway City offers a lot of different opportunities for the public to be involved in the planning process. Unfortunately, we are bound by, our law, state law and case law that all define what we can do legally within the parameters of the City. We'd love to get both trails. We've been working on this for two years with the developers, the Planning Commission has seen this multiple time. As we've gone through and looked at other case law where developers have sued cities regarding this type of an issue we feel like that we are stuck in this situation. Unfortunately, we want both trails and we are not giving into the developer, just legally it looks like we would probably not win that argument if we went to court over it. So, do we want to spend a lot of time and effort in a losing effort?

- City Attorney; Josh Jewkes: Keep in mind that's not even binding. They could come back in the future at any time and move for a plat amendment and it would be up to this body or the City Council to approve that at every stage even if that is notated on the plat, but it is discretionary.
- Paul Bowles: Comments and concerns
  - Just to clarify. Does the Master Planning itself have any legal clout like a zoning ordinance would, or is it simply a guidance for the future of things you may or may not get for example, a trail?
- City Attorney; Josh Jewkes: It's a planning tool it's not an ordinance, it's not a law. It shows what the intent is for planning in the future. It can have some legal significance in certain instances, it's not binding. When people come and want to do things for example change a zone that would be consistent with the Master Plan that supports the argument that should be granted and you see that fairly often. As we see in this case the Master Plan is showing a trail over private property, just because the Master Plan says that doesn't mean that it becomes public property.

**Co-Chairman J.Kohler closed public comment**

**Co-Chairman J.Kohler asked commissioners if they had any further comments or questions. There was none.**

**Motion:** Commissioner Ream: I propose that we recommend to City Council preliminary approval of Haven Farms. We accept staff findings. The proposed subdivision meets the minimum requirements of the RA-1-43 zoning district. The proposal does meet the intent of the General Plan of the RA-1-43 zoning district. The subdivision will dedicate trail easements along Center Street to the City to help us complete the trail in the area which will make pedestrians safer by allowing them a place to walk off the road. We have conditions on this that the infrastructure plans will need to be submitted to the City regarding impacts of the flood plain. The plans must be submitted to the City with full construction drawings along with road profiles that comply with the City standards. The Center Street public trail and public trail easement must be included on the plans. Required Highway 113 improvements must be submitted to the City and UDOT for their review and that no further subdivision of the lots will occur.

**Seconded:** Commissioner Streeter

**Co-Chairman J.Kohler asked if there were any discussion on the motion**

**There was none.**

**Ayes:** Commissioners Streeter, Ream, O'Toole and Payne

**Nays:** None

**Motion:** Passed

**ITEM: 6**

**Dan Luster, agent for Joseph and Marjorie Jones Family, LLC, is requesting Preliminary/Final Approval for a small-scale subdivision that will be called Jones**

**Farm. The proposal is for one lot on 9.7 acres and is in the RA-1-43 zone. The proposal is located at 400 West 500 South.**

Planner Henke gave a presentation regarding the proposed subdivision and reviewed the following items:

- Background
- Land use summary
- Analysis
- Possible Findings
- Alternative Actions
- Possible Conditions
- Aerial view
- Site plan
- Still needs to go through water board

**Note:** A copy of Planner Henke's presentation is contained in the supplemental file.

#### **Commissioners, staff and applicant discussion**

- Sometimes it is ideal to have the trail a distance from the stream/creek.
- Where will the proposed trail be?
- The decision is which side of the creek would we want the trail on.
- It's common to have a drop off.

#### **Applicant; Dan Luster**

- Given the fence location this property has limited access to the creek.
- North end is swampy with large trees.
- Fence line is owned by the neighboring property owner.
- The property is on a grade. It starts off level with the stream and then it has about a six-foot drop.

**Co-Chairman J. Kohler asked commissioners if they had any further comments or questions. There was none.**

#### **Co-Chairman J.Kohler opened the meeting to the public**

- Athina Koumarela: Comments and concerns
  - Where does this trail continue in conjunction with that other subdivision (Haven Farms Subdivision)? How do we bring it over to Center Street? Will this trail follow along Snake Creek and then hit that other subdivision and then stop?
- Planner Henke: The plan is from 200 N south the trail would run along Snake Creek. That's what we fully intended on to trying to accomplish. There haven't been too many subdivisions along Snake Creek south of

200 N. The idea is that we go through and acquire those properties for the trail easements as those subdivisions come through. We've ran into a road block with our previous proposal concerning the trail.

**Co-Chairman J. Kohler asked if there were any additional questions or comments from the public. There were none.**

**Co-Chairman J.Kohler closed the meeting to the public**

**Motion:** Commissioner O'Toole: I make a motion to recommend to the City Council preliminary and final approval for Joseph and Marjorie Jones Family LLC for a small-scale subdivision that will be called Jones Farm. The proposal is one lot on 9.7 acres and is in the RA-1-43 zone. The proposal is located at 400 West 500 South. We accept staff's analysis and findings. The water board still needs to grant recommendation of this and we also accept the possible findings.

Planner Henke: We need to get direction on if we want the trail on this side of Snake Creek or on the other side. On the map, it has never been defined

Commissioner O'Toole: Given the geology I would think that it would be on the other side of Snake Creek, the west side. And I would recommend looking further into that.

City Engineer; Wes Johnson: The obstacle that we have when we put these trails down is kind of what's available. It's awkward and difficult to say here is the side of the road we want it here is the side of the creek. It's kind of what's available, first come first opportunity.

Commissioner O'Toole: But if we don't do anything then we have no way of requiring a trail.

Co-Chairman J. Kohler: Should we say that we address the feasibility of the trail on this?

City Engineer; Wes Johnson: Yes, because if we get it here we've got it and it kind of dictates that we're on the east side of the creek. If we don't put it on the east side we're still saying as soon as someone develops we'll get it to you.

Commissioner O'Toole: Then I'd like to amend that and say that we need to work with the staff and figure out which side of Snake Creek we'd like the trail. I'd like to have that in the proposal. I think that it is important that we keep a trail there somewhere.

**Seconded:** Commissioner Streeter

**Co-Chairman J. Kohler asked if there were any further discussion on the motion  
There was none.**

**Ayes:** Commissioners Streeter, Ream, O'Toole and Payne

**Nays:** None

**Motion:** Passed

**ITEM: 7**

**Berg Engineering, agent for Watts Enterprises, is requesting Master Plan approval of Midway Springs Subdivision. The proposal is a large-scale**

**subdivision that is 50.76 acres in size and will contain 97 lots/units and will be developed in three phases. The property is located at 200 East 600 North and is in the R-1-15 zone.**

Planner Henke gave a presentation regarding the proposed subdivision and reviewed the following items:

- Background
- Land use summary
- Analysis
- Water Board Recommendation
- Possible Findings
- Alternative Actions
- Possible Conditions
- Aerial view
- Site plan

**Note:** A copy of Planner Henke's presentation is contained in the supplemental file.

#### **Commissioners, staff and applicant discussion**

- Traffic study. We would always prefer several different routes. That was looked at and found that that was just not an option. It clearly is not the best solution, but it does meet the code. It does have two points of ingress/egress. We can close either intersection and the development would still have the availability to exit. A traffic study looks at level of service A-F and it progressively goes from A-F. Level of service A is uninterrupted of flow that you can drive the posted speed limit and the volume of traffic on the roadway doesn't reduce your ability to drive to posted speed limit. An example of level of service F is I-15.
- A conservative estimate with a PUD there are 40% that are primary residents and 60% that are secondary residents. It is probably higher secondary than that, but that does lower all of our traffic counts.
- The traffic study was done off of 100% occupancy
- 600 N will be widened although we are uncertain as how wide it will become. Right now, 600 N is an 18-foot-wide road, our standard width is 30 feet. 600 N is a local collector and it has the ability to be widened to 34 feet. The developer is responsible for improving his half of the road that is in front of this development. We'd like to ask the developer if he would consider improving the entire width along his frontage if the City will entertain funding for the off-site road improvements, giving 600 N a new road.
- There is an 8' public trail proposed.

#### **Applicant: Paul Berg**

- Alternative materials used for trails. Slag is a great alternative, it looks and feels

- like asphalt, it's easier to repair. That is one that we would recommend to the City. The private trails in the Dutch Canyon Subdivision are being built out of slag
- In regard to the traffic study level of service A even after development is great, please recognize that.
  - We are committed to build 600 N. We're just waiting for the City to decide of their plan of how we are going to do this sharing
  - We are proposing 97 units, we could have proposed 123 and have been with in the limit of the ordinance. We are not maxing out density or asking for any bonuses.
  - We've spent a significant amount of time studying the sensitive lands and have incorporated them into open space
  - We've done a traffic study and many extra studies, which were warranted for this is a big development.

### **Questions and concerns from the commissioners and staff**

- 25 test pits were dug and 12 hit ground water. It did recommend in your book about dewatering. So, you are going to have to put sump pumps in, in order to do excavation or trenches for your electricity?
- I'm concerned how much wetlands are there and how much water is there. I was looking at the test pits and some of them hit water at 1.5 feet some of them were surface, some of it was pot rock and you'll have that issue to deal with. I'm concerned about so much ground water and so much surface water if you fracture and get those sump pumps going what guarantee is it that one you don't drain the wetlands two that the sump pumps are permanent?
- How do you excavate the pot rock, do you use a jackhammer or do you use a rotary saw? Hammering has the potential of fracturing and creating new voids and new channels where a rock saw with the use of the back fill and the periodic use of a clay dam to date we haven't modified ground water with rotary sawing devices and clay dams and selective back fill.
- What is slag? Please give us slag 101.
- Preliminary soil corrosion potential – that is where the waterline is going
- Concerned about the sulfur content being so high in the soil

### **Applicant; Paul Berg**

- For some utility trenches, we will for others we will not. We also anticipate building up the roads a little bit, so if we build up the roads we'll be able to get the depth that will eliminate some of that pumping.
- The difference between utility construction and housing construction is that you want to protect the basement so that it doesn't become a swimming pool. With utility construction, you have a much narrower area the other thing that you can do with utility construction is the type of material that you put back in the trench can help seal things up. And in addition to that do periodic clay dams. This is a practice that we've used in quite a few areas in Midway & it has been successful in stopping the groundwater migration.
- Based on the information we have this plan is feasible and it meets standard engineering practices.

### **City Engineer; Wes Johnson**

- Slag is a byproduct of steel. It's basically a road base material, gray in color. The benefit of slag is that it can give you a smooth surface. It has the ability to stay hard more than road base. The advantage of slag over asphalt is the cost of maintenance all you have to do is re-blade/relevel it with a piece of equipment.
- (Preliminary soil corrosion potential) Yes and what you do to protect that is called cathodic protection, and what that is, is a little bit of electricity that goes down the line to stop erosion. We will be using plastic pipe and epoxy coated joints we will also look at cathodic protection.
- Sulphur is something that we will have to address as we move forward. I don't have an answer tonight.

**Co-Chairman J. Kohler:** There was a public participation meeting that the developer had to get public participation on July 10<sup>th</sup>, 2017. This was not scheduled to be a public hearing, but I will open up the next 5-10 minutes to any comments that the public might have.

### **Co-Chairman J.Kohler opened the meeting to the public**

- **Andrea Allen: Comments and concerns**
  - Army Corps of Engineers said that in the back yard was wetlands.
  - Requirement of specific trees that needed to be planted there because of the wetlands issue.
  - Since this house has been built next to us the water has tripled in regards in what comes into my property.
  - What will the effect be with this new wall of homes that will be a couple of feet from my property line.
  - Very concerned about the water issues.
  - Traffic study and traffic planning.
- **Jennifer Brewer: Comments and concerns**
  - I was not invited to the public participation meeting on July 10<sup>th</sup>.
  - I'm a survivor and I escaped Southern California, therefore my concerns will always be with traffic. I lived on a road that was rated F.
  - I'd like to know what kind of traffic surveying system is considered legal to do, is it just a man sitting in his truck for a few hours clicking a traffic counter clicker as cars pass by.
  - Sunday is a much busier day than any M-F work hours deemed as peak hours.
  - Will there be a turn lane on 600 N to get into the new development.
  - Once 600 N gets widened how will the residence that currently live

on 600 N get out onto the road way safely, due to their lack of space or ability to have a turn-around or a hammer head.

- Legal definition of open space.
- Legal definition of view shed.
- Light pollution of vehicles.

### **City Engineer; Wes Johnson**

- (Traffic clicker counter) That is most likely what happened, it's a standard form on engineering practice.
- Jacqui Jespersen: Comments and concerns
  - Does the City attorney represent Russ Watts?

### **City attorney; Josh Jewkes**

- The answer is no, that would be a conflict of interest.
- Amanda Peterson: Comments and concerns
  - This project hits me on two sides.
  - The property is currently zoned for agriculture and it hasn't been used for agriculture for quite a while.
  - The dust residue has created view shed corridor issues, and it has become a problem for me and for some on my neighbors.
  - This project will destroy the rural lifestyle of Midway.
  - This project will ruin the night sky, because of the number of homes and all of the lighting.
  - This project flies in the face of the survey that the City did last year.
  - Once you destroy a wetland it is gone forever and it is the underground aquifer that is almost more important than the surface ground water.
  - Further traffic studies need to be done.
- Sheila Probst Siggard: Comments and concerns
  - I was in Midway before Russ Watts. I have deep roots here. I'd like to give a wakeup call to you people that listen to developers all of the time. I want you to listen to reality, because we the people do not want Midway to change. Amen to what Amanda said, this flies in the face of the survey that was done of what the people in the town want. I'm an equestrian, we equestrians are dwindling, but people love to see me ride my horse. Do you think that I want to ride through that? This will change the face of Midway. We had a public meeting, we had a neighborhood meeting the feelings there were betrayal, hurt and anger, we don't want this. This will change Midway and frankly, it breaks my heart. I makes me depressed, I came back here because I love this town and you're turning it into a city. It breaks my heart,

please stop please consider this. This is not Midway, as I told Russ Watts at that meeting when he said we could put 123 homes here we're only doing 97 and I said this is not Los Angeles, this is not Salt Lake, this is Midway. That should have 20 homes there, maybe, and a park. Let's be reasonable about what we want here. I'm sorry I'm so passionate, but I love this town. Or sister city is Lauterbrunnen Switzerland we're not a Zurich. We want to be a small town here. How can this even be considered? Please, this will change Midway. If you lived on 600 N, would you like to have your property cut in two? Russ said that the street would be 34 feet. It's 16 now so it has to double in width. This is exciting for the developer, this is exciting for the few people who are selling it, but it's breaking the rest of our hearts. Would you please consider this is not Midway? This is not a project for Midway. I don't know how in the world a former dairy farm is zoned this densely, that blows my mind. Please, please help save our Midway.

➤ Ruth Holmes: Comments and concerns

- 3,000 geese live on this property from November to April.
- I have a pool of water in my backyard all of the time.
- I called the Army Corps of Engineer, and I asked them if they had ever seen wetlands, straight line and wetlands? And he said never.
- Should the EPA be involved with this project or the DWR?
- How can I be involved?

➤ Athina Koumarela: Comments and concerns

- I didn't know anything about the public participation meeting until the morning of the meeting. There were about 25 people there, and I invited five of those people.
- The sand hill cranes use to nest in the wetlands. The reeds were cut down as if it were mowed down.
- I'd like to recommend that we have a citizen committee on there with the Army Corps of Engineers as they are doing their study.
- I'd like to be more involved in what the environmental impact is going to be with the wetlands and maybe have an independent study on it.
- I would buy it if I had the money to, but I don't.
- I have organic animals that border this property and I'm very concerned about the environmental impact that this subdivision would spread over to my land and my animals.
- I would like to have a citizens group be at the waterboard meeting where they present it and to be able to ask questions at that point in time.
- What is our objective of keeping the wetlands there, as a community why do we really care about wetlands? If we look at that issue, the animals, the habitat, everything then it does make a big difference how we are approaching it and that we have very thorough examination of the wetlands and the whole structure.

- Mickey Oksner: Comments and concerns
  - All the wetlands are in phase three and I'm wondering if it is possible to approve phases 1 and 2 at this point and have phase three come under the new code with 50% of sensitive lands being considered as open space to somehow mitigate the density in the areas of the wetlands.

**Planner Henke:**

- Utah has the earliest vesting rights of pretty much every state in the union. If somebody turns in a complete application they are vested under the code in which it was handed in. We've adopted a moratorium since then and so we will not accept any new applications, but this application was complete then we need to run it through the code that has already been established by the city over the past decades.
- Paul Bowles: Comments and concerns
  - I have a home on 600 N
  - Does this plan jive with the Master Plan
  - The neighbors need to be heard
  - This is a complex piece of land – too many units for this land
  - I've heard a couple of comments by the Planning Department
    - a) Not ideal road designs
    - b) Needs to meet requirements
- Kerry Siggard: Comments and concerns
  - This project technically meets the requirements of open space
  - Russ Watts knows how to do nice subdivision
  - I wouldn't go to Dutch Fields looking for open space
  - In my mind, this "open space" in this project isn't open space

**Co-Chairman J. Kohler closed the meeting to public comment**

**Bio-West Inc.; Bob Thomas:** I work for Bio-West and I am a professional wetland scientist. I have been delineating wetlands for 19 years. I understand that there are a lot of specific questions regarding the wetland delineation. The best way for me to address it is that I do not delineate the wetlands the way the developers or the property owners want me to delineate the wetlands. If I give the Corps of Engineers a delineation that appears to be biased, it basically destroys my reputation with the core and I wouldn't have a good working relationship with them therefore I don't have a job in the future. I did not delineate the wetlands here with any kind of biased development footprint in mind, even though I am working for Mr. Watts.

**Commissioner O'Toole:** What is the best time of year to delineate wetland?

**Bob Thomas:** The best time of year is spring time when there is the highest water table. I've been out several times over the past two years to look at the wetlands. We are working closely with Mike Pectol. We do call him and email him on a regular basis to

keep him in the loop in this process. We work under the 1997 Corps of Engineers manual and the 2010 regional supplement manual and it is a standard delineation practice through-out the state of Utah.

**City Engineer; Wes Johnson:** How do you determine/establish a delineation?

**Bob Thomas:** The manuals I just talked about they have to have three parameters that a wetland has to have. It has to have wetlands vegetation, wetlands soils, and wetland hydrology and one of the bigger ones on this project area is a hydrology obviously because there is a high ground water table. The requirement is the ground water table has to be within 12" of the soil surface or that soil within 12" has to be saturated for approximately for two weeks in this area 5% of the growing season. So, no matter how wet it is in the winter that doesn't matter. It has to be when the plants are growing, it's a pretty short duration, but we've even put in shallow ground water monitoring levels out here to check beyond what the geotech people did to check that water table. Any areas where that water table is coming in within 12" of soil surface we're calling those wetlands. If it's 18-24" down, yes that's a high ground water table, but technically that doesn't meet the standards for the Corps of Engineers for a wetland. One thing on this property a lot of it is in the past it's been maintained for agriculture, so there's a combination of drainage ditches and they also served as irrigation ditches during certain times of the year. Depending on how often the farmers did his maintenance that could change adjacent wetlands over the course of several years. I'm comfortable with what we've delineated. Somebody brought up the idea of the straight line between a wetland. It's pretty common when a farmer excavates a ditch and dumps the spoil pile next to the ditch and it creates an upland berm between the wetland and the ditch, it's pretty common practice. The fill that was brought in was either brought into uplands or it was legally permitted by the core to be brought in.

**Applicant; Paul Berg:** When we approach a project, we look at what does the zoning code say and what does the zone allow. The criteria that this commission and the City Council look at is does it meet our code? If it does it's approved and if it doesn't then it doesn't get approved. We're not fighting a battle in what's public opinion and what's happening on Facebook etcetera. It's do we meet the code or do we not. In land use law, City code that is what we are being judged by.

**Commissioner Ream:** Do we know the timing of the independent study? I think everyone is acting in good faith and that it was done properly. I do think that a third opinion is warranted and hopefully that will put some of these issues to rest.

**City Engineer; Wes Johnson:** I would like a third independent delineation to say that I agree or disagree with what's been done.

**City Engineer; Wes Johnson:** I would have to contact with someone to do it.

**Commissioner Streeter:** I do not feel comfortable sending this down the road without having a lot more information in front of me from agencies saying it's okay.

**Motion:** Commissioner Ream: I propose that we have a continuance till we get a third-party report on the wetlands delineation.

**Seconded:** Commissioner O'Toole

**Co-Chairman J. Kohler asked if there were any discussion on the motion.**

**There were none**

**Ayes:** Commissioners Streeter, Ream O'Toole and Payne

**Nays:** None  
**Motion:** Continued

**ITEM: 8**

**Berg Engineering, agent for Watts Enterprises, is requesting Preliminary Approval for a large-scale standard subdivision that will be called Midway Springs Subdivision. The proposal is for 20 lots located on 11.20 acres which includes 1.81 acres of open space. The proposal is located at 200 East 600 North and is in the R-1-15 zone.**

\*Master Plan was continued therefore could not hear this agenda item\*

**ITEM: 9**

**Berg Engineering, agent for Watts Enterprises, is requesting Preliminary Approval for a large-scale Planned Unit Development. The proposal is for 77 units located on 39.56 acres which includes 20.13 acres of open space. The proposal is located at 200 East 600 North and is in the R-1-15 zone.**

\*Master Plan was continued therefore could not hear this agenda item\*

**ITEM: 10**

**Dade Rose, agent for Newport Reset LLC, is requesting Preliminary Approval for Phase 2 of the Appenzell PUD a large-scale planned unit development. The proposal is for 25 units located on 10.95 acres. The proposal is located at 600 South Center street and is in the R-1-22 zone.**

Planner Henke gave a presentation regarding the proposed subdivision and reviewed the following items:

- Background
- Land use summary
- Analysis
- Potential Water Board Recommendation
- Possible Findings
- Alternative Actions
- Possible Conditions
- Aerial view
- Site plan

### **Commissioners, staff and applicant discussion**

- Redoing the infrastructure
- This property has been vacant and growing weeds for a long time. Since this is not a virgin field it already has a ton of weeds
- Neighbors have productive alfalfa fields
- Berms in both phases needs to be weed free
- Wild flower mix is difficult to maintain, we get complaints from residents who live near locations that have been landscaped with wild flower mix
- Whole phase landscaped in blue grass since we are requiring water for the entire thing
- It's based off of the noxious weed book we get from Wasatch County
- This land has so many years of weed seeds on it

### **Applicant and authorized agent; Dade Rose and Paul Berg**

- Farm grass is a longer grass that gets mowed every 4-6 weeks. We like it because it seems more rural to us.
- We put in fertilizer and a weed suppressant, it will not be a weed patch. That doesn't sell homes
- The landscape code is minimal. It says submit a landscape plan. It doesn't give you a list of plants you can use, it doesn't talk about things we hate, things we like. This is all really subjective and based on opinions and not on code.
- This could be landscaped this way and still avoid noxious weeds

### **Angie Kohler Prince: Comments and concerns**

- Purchased a piece of land from the bank when the first developer went under
- Has a main water line and a main irrigation line that runs through her property that she purchased from the bank
- South of her home there is an easement for these lines
- On the piece of property that was purchased from the bank, the previous developer had built some infrastructure and she is wondering if the new developer of Appenzell would be willing to come in and crush the old infrastructure that is on her property and haul in dirt so it can be a part of her alfalfa field and make it great space for the new home owners of Appenzell to view as green space

**Co-Chairman J. Kohler:** I'm not sure this in the issue that is before us, I don't think that lies in our purview. Addressing what a developer might do on an adjacent property that was at one point one part of the project, but somebody else has bought it now. My own personal feelings are you buy what you buy.

**Motion:** Commissioner Streeter: I move that we recommend preliminary approval for phase 2 of the Appenzell PUD. It's a large scale planned unit development of 25 units located on 10.95 acres, located at 600 S Center in the R-1-22 zone. We accept findings of staff and as accepting findings of staff, add the notes from the engineer that the height should be discussed and the slope of the berm should be reduced to a 4:1 slope to make it easier to mow and that the developer will comply with the existing County weed ordinance.

**Seconded:** Commissioner O'Toole

**Co-Chairman J. Kohler asked if there were any discussion on the motion**

**There was none**

**Ayes:** Commissioners Streeter, Ream, O'Toole, and Payne

**Nays:** None

**Motion:** Passed

**ITEM: 11**

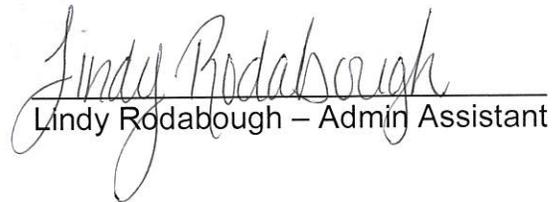
**Adjournment**

**Motion:** Commissioner O'Toole: I move that we adjourn.

**Time:** 11:52 pm



Steve Nichols-Chairman



Lindy Rodabough – Admin Assistant