

Dear Midway City

This letter is concerning Watt's application for Midway Springs which is on the agenda for January 17.

Our intention is not to criticize or find fault with anyone. We know you want to do the best thing for the community at large within the code.

We have been worried about this project for 18 months as it feels it has been overlooked and allowed to go ahead without proper oversight. Some evidence of this oversight is the huge mountain of dirt which continued to grow before a site disturbance permit was issued, or proper sensitive lands' studies done. Several who called the city were told it was only a farmer moving dirt around, yet a Concept Plan had already been submitted to the city staff and planning commission, all showing there was clearly an intent to develop. Apparently there is no code which prohibits massive dirt dumping, yet we believe that if the city had visited the site sooner and seen what was happening, this activity would've been stopped. This and other unauthorized activity being done in the name of a farmer, give the perception of a done deal and a developer having more leeway than is healthy for a community. We also feel this developer was making sure he had monetary investment in the project so he could manipulate an outcome. Tactics like this leave us all vulnerable to being taken advantage. We also realize how overworked you all are during this unprecedented growth crisis. For these reasons, we were and are worried the project will not have the oversight necessary for the sensitive and complex area which it is.

- 1) We know that the open space exchange should have been approved and the traffic study completed before the preliminary plan was accepted, but this did not happen before the moratorium. And as the zoning has now changed for this project, the application should not be considered vested. Accepting this application before new code text amendment changes on such an impactful development, eliminates the chance that the newly revised General Plan codes could impact it and this is only detrimental to the entire community.**

**As mentioned above, many of the following concerns were brought up with the developer in the citizens' participation meetings. He made it clear that most of these were not his concern, and those which were, he was not interested in finding a solution.**

We believe the General Plan, while not codified in some instances, does have legal standing and should be taken into consideration when decisions on large scale developments are made. There is case study to back this up and the city should not back down so easily particularly on a project of this scope and impact to the community. There is also case study showing that an application should not be vested if it did not conform with zoning when it was submitted. This would legally mean the revised application should include newly adopted code or code in the process of being adopted.

## Issues regarding Midway Springs Application

### See General Plan Land Use Policy

We realize certain important elements of the new General Plan haven't been codified, but it has been adopted (almost a year ago) giving it credibility. However we have limited our comments to what is found in the code as it now stands.

*#1 Planned land uses should complement existing development and environmental conditions.*

*#4 Transitions between different land uses and intensities should be made gradually with compatible uses, particularly where natural or man-made buffers are not available.*

Neighbors do not feel the PUD design is consistent with the larger lots surrounding much of this project. Homes 15 and 20 feet apart create 35 foot high walls. At least with a 1/3 acre there was a chance of having a glimpse of sky or mountain between. The worst offense here is the wall of homes 15 feet apart on the southeast end. This feels more like something you would find in an inner city, not Midway.

- 2) **The use of the PUD here benefits the development only. We would ask that the developer be encouraged to cluster the homes and density in the buildable area where the tennis courts and pool are located, making for a more efficient and harmonious development for surrounding neighbors, adding a buffer zone and setbacks, and mitigating the issues of compatibility and intensity so neighbors don't feel so disrespected.**

### See General Plan: Environment and Sensitive Lands

See Goal 1

See Objective 1

See Policy 3

Also see Environmental Issues and Hazards p. 47 and Environmental Constraints p. 46

Also see particular definitions from the Code 16.2 #21 d, h, and j

For the safety of the land, the surrounding existing property owners, new property owners, and the city itself, we hope these areas are diligently watched by the city. We are including pictures from several different times of year from the southeast corner of this property. We believe this property is too impervious to allow this kind of density. Many of us believe the zoning should not supersede what the property can practically manage and that maximum profit should not be considered over the wellbeing of the property owners; present or future. Some of us have lived in areas that shouldn't have been developed so densely because they were too wet. We realize it is the hope of the developer that these lands dry out even more with mitigation, but we do not trust his findings alone. We appreciate your willingness to look at the wetlands as well as the wet land again and hope this will not be the last time as the project moves forward.

- 3) **We would ask that water drainage and impervious ground be taken into consideration and closely monitored when and before approving phase 3 or**

eliminating pads from this very wet area altogether. The City should also require the developer to have an independent hydrologist on site in high water or warm spring areas prior to excavation. This entity should report any issues to the city or neighbors. (See 16.16.7)

- 4) The city should do a toxicology study on the water running in the existing stream beds before any of the phases commence.
- 5) We also ask that the information from the delineation of Paradise Lane properties be taken into consideration before the Master Plan is approved.

We who have lived around this beautiful piece of ground do not feel this project adequately addresses environmental and sensitive lands as per the city code. I.e. Watershed, View corridors, Recreation Areas (inadequate for the rest of the public) , Riparian Corridors, Geothermal areas, Wildlife Habitat Corridors.

- 6) We would ask that special features, wetlands, and wildlife on this property be dealt with according to the more restrictive provision of the Sensitive Lands Code (16.14.3 E)

See PUD CODE:

**16.16.5** We are interested in how this project shows concurrency with all of the city services: Environmental Assessment Review, Water Advisory Board, Sanitation District, Fiscal Analysis Checklist, Fire and Emergency services, school district, etc. **It's difficult to swallow paying taxes to support development like this that also devalues our properties whether by potentially taking frontage from our own properties, blocking our views, adding intense traffic to a single country road, or creating flood hazards to those who live down hill from the mounds of dirt brought in to cover the grass which absorbs the high water. We as citizens are interested in how each entity signs off on a development of this size and scope.**

**16.16.7 #9** We are anxious about the maximum height of buildings staying at 35 feet even and particularly in areas where the water table is so high. Mountains of dirt brought in for house pads, will place us all even that much farther downhill from erosion and water drainage.

- 7) We are hopeful the city will be particularly mindful of this height restriction, watching natural grade and the 3-foot-high house pad mentioned by Watts at meetings, making the maximum height of the home itself 32' or less, 35' total from natural existing grade. Single level homes should be required where this cannot happen.

#### 16.16.10 Open Space General Requirements

**D. Sensitive Lands may be counted as open space if it also satisfies the other characteristics required for open space.**

*F. At least one-half of the required open space shall be retained in a single open space area in as much of a square shape as possible with the preference that the open space be placed along collector streets.*

*G. To the greatest extent possible, open space areas shall be placed so as to be visible from both inside and outside the development.*

*Much of the open space for this project is wetlands but does not satisfy other required characteristics. The city should require some open space be dedicated to buffer the projects intense density from the existing properties.*

#### **16.16.11 Open Space Requirements Specific to PUDs**

*C. At least one-half of the required open space shall be retained in a single open space area*

*D. . . .A single open space area shall be defined as an open area not broken into small portions with the large majority of its land mass in as much of a square as possible. Because of the increased density afforded to PUDs, open space areas shall be placed so as to benefit the health, safety and general welfare of the whole community and not merely the development. Because of the location of the sensitive lands in this project they can not fulfill these characteristics, therefore should not be considered the majority of the open space required.*

8) Because this project is utilizing the advantages of the PUD density without clustering the homes or adhering to the code fully, we feel the density should be reduced and more of it made to allow for view corridors and increased buffers between surrounding neighborhoods. This will also decrease traffic on less than ideal transportation routes. Eliminating impervious ground may also help mitigate the potential for flooding as more wet land grasses will be left to soak up the high water.

#### **16.16.10**

*L. . . . The landscaping plan shall protect the grading plan elevations from unreasonable degradation, help implement the storm drainage plan where appropriate, protect sensitive lands from degradation, protect the project and surrounding properties from unreasonable infestations of noxious weeds and promote a clean neat and restful natural setting for the project and surrounding properties.*

As there will be several retention basins in the project, and dirt being hauled in to cover the beautiful lush grassy areas, neighbors fear we will have a war zone in our backyards for several years while the developer decides what can and can't happen with phase 3.

We are particularly interested in what will happen with the mountain of dirt amassed by the developer on 600 N. As the phases will not all have the required water, be delineated for wetlands, or be approved when the first phase commences; it will not be prudent on the city's part to allow this dirt to be moved out into the other phases of the development until they have been fully delineated, have all required water provision requirements, and are completely approved.

10) We do not want the mountain of dirt moved to the areas for phase 2 and 3 until each has been thoroughly and completely delineated and approved.

#### **16.16.13 Preliminary Planning Commission Action**

*C. Before recommending approval of the Preliminary Plan, the Planning Commission must also make the following findings in PUDs: 1. That the proposed PUD will provide a more aesthetic and efficient living environment than a conventional residential development. 2. That the proposed development will create no detriment to adjacent properties or to the general area in which it is located. 3. That the project will provide more efficient use of the land and more usable open space than a standard subdivision permitted in the surrounding*

area. 4. That increased densities allowed within the proposed PUD will be compensated by better site design and by increased amenities and recreational facilities. 5. That the development will not create hazards above those of a standard type development.

We don't see how the Planning Commission can possibly give recommendation for approval on this Master Plan as it has been presented.

Neighbors feel that this project was prepared based on what could fit where, not what the code actually says or what may be best for the quality of life for existing neighborhoods, the wildlife, or the community vision. The last neighborhood in should not devalue or place in jeopardy the existing neighborhoods. Placement of housing pads, trails, and open spaces are such that they benefit the developer and landowner, but do not benefit the surrounding neighbors, property owners, or the community as a whole. A good plan takes into consideration the neighborhoods the project will impact, and the community vision. We realize the wetlands issues limit the developer in ways he wasn't expecting. Owning and buying a piece of land is a risk. As with any other investment, it is a moving target. We feel that we as individual property owners have the right to be protected by the city and its codes as much as the landowner and certainly more than the developer's bottom line.

**11) We would ask that you encourage the developer to do a 5-acre rural preservation subdivision on this sensitive land, or a one unit per acre standard subdivision as was the zoning code before 2005 for a standard subdivision, or decrease the density and think more about how he can configure this project (cluster the homes instead of creating snake like walls of houses) to respect the community vision, sensitive land, and the neighbors.**

Sincerely,

The Midway Spring's future neighbors.