

**Midway City Planning Commission Regular Meeting
February 15, 2017**

Notice is hereby given that the Midway City Planning Commission will hold their regular meeting at 7:00 p.m., February 15, 2017, at the Midway City Community Center
160 West Main Street, Midway, Utah

Attendance:

Mickey Oksner – Chairman
Steve Nichols – Co-Chairman
Stu Waldrip
Nancy O'Toole
Jim Kohler
Shauna Kohler
Jeff Nicholas
Bill Ream
Natalie Streeter

Staff:

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

Excused

None

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 Commissioner Waldrip
 - ❖ Chairman Oksner led the Pledge of Allegiance.

Regular Business

ITEM: 1

Review and possibly approve the Planning Commission Minutes of January 18, 2017.

Motion: Commissioner O'Toole: If there are no changes, I move that we accept the minutes.

Seconded: Commissioner Nichols

Ayes: Commissioners Streeter, Waldrip, Nichols, J. Kohler, O'Toole and Ream

Nays: None

Motion: Passed

ITEM: 2

Midway City is proposing a Code Text Amendment for the Midway Rural Preservation Subdivision. The purpose of the subdivision is to promote five-acre lots to help preserve the rural atmosphere in Midway by reducing density and preserving open space.

- Planner Henke gave a brief description of the proposed text amendment. This item was discussed in detail at the work meeting prior to this regular meeting.

*No questions or discussion

Motion: Commissioner Nichols: I will move that we recommend to the City Council adoption of this code text amendment with the refinements that were discussed and generally agreed upon in the previous work meeting.

Seconded: Commissioner O'Toole

Ayes: Commissioners Streeter, Waldrip, Nichols, J. Kohler, O'Toole and Ream

Nays: None

Motion: Passed

ITEM: 3

Gardner and Associates, agent for SN Midway LLC, is requesting Final approval for the Indian Summer Subdivision. The proposal is a large-scale subdivision that is 12.91 acres in size and comprises 27 lots. The property is located at 300 East and 200 River Road in the R-1-9 and R-1-15 zones.

BACKGROUND:

This request is for preliminary approval of a large-scale subdivision on 12.91 acres and will contain 27 lots. The 27 lots proposed in the subdivision will obtain frontage along new roads built within the subdivision. The property is in the R-1-9 and R-1-15 zones. There are four lots in the R-1-9 zoning district and three of those lots are smaller than the other lots in the subdivision but do comply with the requirements of the code. Besides the three smaller lots, the rest of the lots all comply with the R-1-15 zoning requirements. The code requires 15% open space and the

proposal currently has 14.8% open space at 1.88 acres (this will need to be adjusted to 15% for final approval before City Council). The density of lots in the proposal is 2.13 units per acre. There is currently one dwelling on the property that will be demolished because the structure is nonconforming regarding its setback from River Road. The area where the dwelling is located will become open space within the development. One of the new dwellings in the subdivision will be credited applicable impact fees because of the demolition. The City code promotes that open space is located along collector roads wherever possible and the applicant has complied with this request. The property has historically been used mostly as agricultural land except for the one dwelling unit on the property.

LAND USE SUMMARY:

- 12.91-acre parcel
- R-1-9 and R-1-15 zoning
- Proposal contains 27 lots
- Developer is providing 1.88 acres of open space (14.8%). This will need to be 15% for final approval.
- Access from River Road and 300 East
- The lots will connect to the Midway Sanitation District sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary water line

ANALYSIS:

Access – Access will be from River Road and 300 East. The City currently owns a 50' strip a land where 300 East will be located. This strip of land begins at the intersection of 100 North and runs north to the current Clegg property which is part of the development parcel. The developer's engineer and title company have researched the location of the strip of land and have found that it overlaps by 15' onto the Norm George Flag Lot Subdivision. The 15' strip of land was deeded to the City after the original plat was recorded and after the 1st amendment but before the 2nd amendment was recorded. The City has always planned on 300 East becoming a City road and for that reason pursued acquiring the property. 300 East has been planned since at least 1977 and was also shown on the original plat of Midway from the late 1800s.

The developer has agreed to help pay for the construction cost of a center turn lane on River Road. Staff has been working with the neighboring property owners to determine the edge of the right-of-way in preparation for the turn lane.

Traffic Study – The Traffic Impact Study was prepared by ADH Investments LL.

Geotechnical Study – The Geotechnical Study was prepared by CMT Engineering Laboratories.

Wetlands – It has been determined by the developer’s consultants that there are wetlands located on lots 108, 109, and 110. The wetlands on lot 110 will not impact the construction of a dwelling on that lot since they are in the upper corner of the lot and are within the setbacks though a 25’ wetlands buffer setback will need to be placed on the plat. The wetlands on lots 108 and 109 will impact the ability to place a dwelling on those lots unless the wetlands are deemed nonjurisdictional by the US Army Corp of Engineers. The developer is planning to pursue that designation but until then the two lots will not be buildable. A note will be placed on the plat explaining that the lots are not buildable until proven otherwise.

Water Connection – The lots will connect to water lines that will be built by the developer and connect to the City’s water lines along River Road.

Sewer Connection – The lot will connect to Midway Sanitations District’s sewer lines located in the area.

Secondary Water Connection – The lots will connect to Midway Irrigation Company’s secondary which is already servicing the property. Laterals will be created for all 27 lots. Secondary water meters are required for each lateral.

Trails – The developer has agreed to construct a public trail from 100 North along 300 East northward along the western boundary of the subdivision. This part of the linear park trail the City is pursuing that will eventually connect to Valais Park on Burgi Lane. The developer will also build a public trail along River Road and some private trails within the subdivision.

Open Space – The Land Use Code requires a minimum of 15% open space for the development and the proposal currently has 14.8% open space at 1.88 acres (this will need to be adjusted to 15% for final approval).

WATER BOARD RECOMMENDATION:

The Water Board has recommended that 33.8-acre feet are tendered to the City before the recording of the plat. The 27 lots require 1.3-acre feet each for a total of 35.1 acre feet. The one historic connection for the dwelling that will be demolished will allow for a 1.3-acre foot reduction for a total of 33.8-acre feet. The Water Board also recommended secondary water meters are installed on each lot.

CITY COUNCIL MOTION:

Motion: Council Member Christen moved to grant preliminary approval to the Indian Summer Subdivision with the recommendation of the Planning Commission that

geotechnical/hydrological studies be required for any basements on lots 105-110, that construction traffic use the entrance on River Road and not 300 East, the developer meet with the neighbors to determine the type of fence on the south side of the development, the developer would help move the ditch and swing on 300 East, and the developer would help pay for a turn lane on River Road.

Second: Council Member Kohler seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Van Wagoner	Aye
Council Member Dodge	Excused from the Meeting
Council Member Kohler	Aye
Council Member Christen	Aye
Council Member Probst	Nay

POSSIBLE FINDINGS:

- The proposal does meet the intent of the General Plan for the R-1-9 and R-1-15 zoning districts
- The proposal does comply with the land use requirements of the R-1-9 and R-1-15 zoning districts
- The trails crossing the property will benefit the community by constructing part of the linear park trail and part of the River Road trail. Which will help with pedestrian safety for members of the community.

ALTERNATIVE ACTIONS:

1. Recommendation of Approval (conditional). This action can be taken if the Planning Commission feels that conditions placed on the approval can resolve any outstanding issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)
2. Continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.
 - a. Accept staff report
 - a. List accepted findings

- b. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - c. Date when the item will be heard again
3. Recommendation of Denial. This action can be taken if the Planning Commission feels that the request does not meet the intent of the ordinance.
- a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

POSSIBLE CONDITION:

Proposed basements on lots 105-110 are required to have a geotechnical/hydrological study submitted with the building permit to assure that the lot is a viable location for a basement and that the excavation for the basement will not impact the underground hydrology of the area.

Commissioner Streeter: How many trees will be kept on 200 E where the new road will be put?

City Engineer, Wes Johnson: This cross section is a little bit unique in that we want to preserve as many existing trees as we can and also preserve the existing open ditch. We are shifting the road clear to the right of way on the east. We will be putting in a high back curb and gutter with an eight (8) foot trail. We have narrowed the trail down to eight (8) feet so we can preserve the majority of the large trees and ditch.

Commissioner Ream: What is the trail going to be made of?

City Engineer, Wes Johnson: Not completely decided yet. Most of it will be paved. We are thinking of making it concrete in front of the three (3) homes so it will tie in, but generally speaking, it will be an asphalt trail.

Commissioner Ream: There is this development and others that will be coming that will be putting a lot of traffic on River Road. Is there a thought about putting a light on River Road and Main Street?

City Engineer, Wes Johnson: We are currently talking with UDOT. They have done a traffic count to see if it warrants a signalized intersection at River Road and Center Street. It did warrant signalized intersections at both locations.

Chairman Oksner opened the meeting to the public

Quinn Calder: Has the distance been measured from my property to the trees? I am not sure that we can save a lot of these trees. I'm glad that we are keeping that creek open. A lot of these trees the big healthy ones I think that they are 50 foot wide. Have they been measured, do we know?

City Engineer, Wes Johnson: Yes. The developer has surveyed and I could tell you if I had the plans the exact offset and diameter of each tree.

Quinn Calder: I know there is some that are going to have to go.

City Engineer, Wes Johnson: Yes. There will be some that go, but the main intent was to save as many trees as possible.

Quinn Calder: I'm very concerned and I'm not sure that there is much I can do. How will the new road on 200 E go?

City Engineer, Wes Johnson: The intersection will act as an aligned intersection if it is less than a ten (10) foot offset. Then the road has a bit of a bend to the west, but not much.

Quinn Calder: Thank you, that makes me happy. Now, one request for your motion that you will make to the City Council. If you could help me right a wrong that's been done here. My plat and this plat are overlapping. I paid good money to have my property surveyed, platted and it was recorded and I thought that I had ten (10) or fifteen more feet. I developed it a little. Between the survey and sprinklers that I have put in I have spent about \$1,500. My survey was disregarded and the plat was basically thrown out, at least along this front road. I don't know what you can say, but in your motion I would request that somehow, we can right this wrong on my behalf. That is all I really ask, I'm learning to live with it. It is difficult if you can imagine, but as I come to terms with it I appreciate the ?? that has been granted. I'm not sure if this is the right place to make this request, or do I go to the mayor?

City Engineer, Wes Johnson: Let me shed some light on that. The property was quit claimed from Norm George, the original home owner. The property has been owned by the City or was dedicated to the City. It's my understanding that Mr. Calder hired a surveyor and that surveyor missed the 15 feet that was at the County that was recorded that was always there. His surveyor missed that and at no fault of Mr. Calder's he thought he owned it. Well as the developer did the title searches and the documents came to light, it truly is the City's property. It is my personal opinion as an engineer, I'm not an attorney there is no recourse with the City we went about it and recorded it filed it with the County. The fact that his surveyor missed it, I don't see how that is any obligation for the City.

Commissioner Waldrip: All of us are sympathetic with that kind of an issue and I think that it is above our pay grade at this committee to deal with something like that without having a full investigation of all the facts and circumstances. I actually think that it would be outside of our limits to deal with. I am a lawyer and Wes is an engineer and I think that we would both agree that this is a boundary dispute. Nobody likes to hire lawyers, but if you have a beef that's kind of the way you have to go. I don't think that this committee can resolve that or attempt to resolve it particularly without a full investigation of all the facts and circumstances and the legal opinion of our legal council and all of that kind of stuff.

Chairman Oksner: The beef would be with the surveyor and not with the City.

Commissioner Waldrip: It sounds like it, I don't know. I think we'd have to get in a lot deeper than we can here tonight.

Commissioner Nichols: It simply is not something that the Planning Commission can address.

Commissioner Waldrip: That's my point.

Commissioner Nichols: There is nothing that we have the power to do to address this issue, as sympathetic as we might be.

Chairman Oksner asked if there were any further discussion: There was none.

Motion: Commissioner Waldrip: Mr. Chairman I move that we give final approval for the Indian Summer Subdivision which is a large-scale subdivision of 12.91 acres in size that will contain 27 lots located at 300 East and 200 North River Road in partially the R-1-9 zone and more extensively in the R-1-15 zone. We accept the staff report and the recommendations and we find that the proposal does meet the intent of the General Plan for these two zones that the proposal complies with the land use requirements for those two zones and the trails crossing the property will benefit the community by constructing part of the linier park trail and part of the River Road trail which will help with pedestrian safety for members of the community and enhance the community in general. Subject to the two conditions one that the plat when recorded will have a note that lots 108 and 109 cannot be developed until the Cor of Engineers gives a clearance for development on that property containing wetlands and that lot number 110 has a wetland area that will require the appropriate setback plus the second condition being that any proposed basements on lots 105 through 110 be required to have a geotechnical and hydrological study submitted with the building permit to assure that the lot is a viable location for a basement and that the excavation for the basement will not impact the underground hydrology of the area or impact the ground water.

Seconded: Commissioner Streeter

Amendment to the motion: Commissioner O'Toole: Horrocks has put about a page and a half of issues that should be addressed. We should also include that.

Commissioner Waldrip: That is a part of the staff report.

Commissioner O'Toole: I apologize. I'll second that then.

Amendment to the motion: Commissioner Nichols: I'd like to add to the motion that the recommendations of the water board also be required before the plat is recorded.

Commissioner Waldrip: I would accept that amendment that the water board recommendations be complied with.

Seconded Amendment to the motion: Commissioner O'Toole

Chairman Oksner asked if there were further discussion and there wasn't

Ayes: Commissioners Streeter, Waldrip, Nichols, J. Kohler, O'Toole, and Ream

Nays: None

Motion: Passed

ITEM: 4

Christopher Huffman & Ethan Poppleton, agents for Return Development LLC, is requesting Master Plan Approval for the Deer Creek Estates Subdivision. The proposal is a large-scale subdivision that is 14.84 acres in size and comprises two phases containing 20 lots. The property is located at 300 East Michie Lane (south side) and is in the R-1-15 zone.

BACKGROUND:

Christopher Huffman & Ethan Poppleton are proposing Master Plan approval of Deer Creek

Estates. The property is 14.86 acres and will be developed as a large-scale standard subdivision which will be developed in two phases. In all there will be 20 lots in the two phases. There will also be 15% open space that is proposed to be deeded to the City as a public park and is 2.23 acres in size. The park covers two separate parcels, one on each side of 300 East.

Phase 1 will include all the required open space for the entire development (both phase 1 and phase 2). It will also include ten lots (1-5 and 16-20). Phase 2 will include ten lots (6-15). There are two roads planned in the subdivision. The first is 300 East that will run north to south and create a four-way intersection with 300 East at Michie Lane as it enters Bowden Fields. Also 400 South is planned and runs East to West. This road will connect to the stub road in Fox Pointe and this road will stub to the west boundary of the proposed subdivision so it can connect to future developments. Some of the roads will require temporary turnarounds as required by the City Engineer.

The Land Use Code requires that 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, water rights, roads, sensitive lands protection, and open space are proposed with the first phase to allow the project to function without subsequent phases. The proposed phasing plan does meet the requirements as reviewed by staff. One issue, access, does not comply with the requirements of the code for each phase. Also, open space per phase meets the requirements of the code. Both items will be discussed later in this report.

LAND USE SUMMARY:

- 14.86 acres
- R-1-15 zoning
- Proposal contains 20 lots
- Two phases
 - Phase 1 – 10 lots
 - 2.23 acres of open space (this comprises the entire open space required for both phases)
 - Phase 2 – 10 lots
- Project is a standard subdivision
- Public roads maintenance will be the responsibility of the City
 - 300 East and 400 South will be constructed by the developer
 - Michie Lane will be constructed by the City

- The lots will connect to the Midway Sanitation District sewer and to the City’s water line.
- No sensitive lands have been identified on the property

ANALYSIS:

Open Space – The code requires that with each phase that is approved there is enough open space to comply with the requirements of the code. For example, phase I must have at least 15% open space for that phase. If phase 1 has 75% open space, then phase 2 only needs to have 25% open space as long as both phases are equal in acreage. Below is the open space table for this proposal:

Phase	Lots	Total Area	Open Space	Total project Open Space
1	1-5 & 16-20	6.91 acres	2.23 acres	100%
2	6-15	5.24 acres	0 acres	0%
Total		12.15 acres	2.23 acres	100%

As shown in the chart above the open space requirements are met for each phase and for the entire subdivision.

Access – Each phase of the subdivision must meet the access and cul-de-sac limitation requirements of the code. A cul-de-sac is limited to 500’ in length, unless approved otherwise by the City Council. Staff has reviewed the phasing plan and all street length and access requirements have been met as presented in the application.

Water – the developers have met with the Water Board. The recommendation was made that 36.5 acre feet are tendered to the City before the recording of each plat. Phase 1 will need to tender 20.5 acre feet. Phase 2 will need to tender 16 acre feet.

Sensitive lands – Per the applicant, the property does not contain any sensitive land.

PROPOSED FINDINGS:

- The proposed master plan appears to meet the requirements of the code.
- The proposal does meet the vision as described in the General Plan for the R-1-15 zone.

ALTERNATIVE ACTIONS:

4. Recommendation of Approval. This action can be taken if the Planning Commission feels there is good cause to approve the proposal.

- a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s) if needed
5. 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
6. Recommendation of Denial. This action can be taken if the Planning Commission feels that the request does not meet the intent of the ordinance.
- a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

Commissioner Streeter: Will the turnaround affect lots ten (10) and 11 lot size?

Planner Henke: It will be fine. They are above the lot size requirements.

Commissioner Streeter: How married are you to the name Deer Creek Estates?

Planner Henke: This name went through the approval process with the County and it got approved.

Developer; Christopher Huffman: We chose this name because it overlooks Deer Creek reservoir.

Chairman Oksner asked if there were any further questions and there was none.

Motion: Commissioner Nichols: Mr. Chairman I'll make a motion that the Planning Commission recommend approval to City Council of this master plan with the finding that the proposed master plan appears to meet the requirements of the code and the proposal does meet the vision as described of the General Plan for the R-1-15 zone, and we also accept the staff report.

Seconded: Commissioner O'Toole

Chairman Oksner asked if there were any further discussion, there was none.

Ayes: Commissioners Streeter, Waldrip, Nichols, J. Kohler, O'Toole and Ream

Nays: None

Motion: Passed

ITEM: 5

Christopher Huffman & Ethan Poppleton, agents for Return Development LLC, is requesting Preliminary Approval for the Deer Creek Estates Subdivision. The proposal is a large-scale subdivision that is 6.78 acres in size and comprises 10 lots. The property is located at 300 East Michie Lane (south side) and is in the R-1-15 zone.

BACKGROUND:

Christopher Huffman & Ethan Poppleton are proposing preliminary approval of Deer Creek Estates Phase 1. The property is 14.86 acres and is zoned R-1-15 which allows for third-acre lots, though the developer has chosen to reduce the density and create lots closer to a half-acre in size. The property will be developed as a large-scale standard subdivision which will be developed in two phases. There are 20 lots total and ten of those lots are in phase 1. There will also be 15% open space that is proposed to be deeded to the City as a public park and is 2.23 acres in size. The park covers two separate parcels, one on each side of 300 East. Phase 1 will include all the required open space for the entire development (both phase 1 and phase 2).

There are two roads planned in the subdivision. The first is 300 East that will run north to south and create a four-way intersection with 300 East at Michie Lane as it enters Bowden Fields. Also 400 South is planned and runs East to West. This road will connect to the stub road in Fox Pointe and this road will stub to the west boundary of the proposed subdivision so it can connect to future developments. Some of the roads will require temporary turnarounds as required by the City Engineer.

The City code promotes that open space is located along collector roads wherever possible to benefit the most members of the community and the applicant has complied with this request. The property has historically been used mostly as agricultural land.

LAND USE SUMMARY:

- 14.86-acre parcel
- R-1-15 zoning
- Proposal contains 20 lots
- Developer is providing 2.23 acres of open space which does comply with the 15% requirement.
- Access from Michie Lane and 400 South

- The lots will connect to the Midway Sanitation District sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary water line

ANALYSIS:

Access – The subdivision will have access from Michie Lane and from 400 South. The City is planning to construct Michie Lane from Center Street to 480 East this year. The developer will deed the Michie Lane right-of-way to the City as soon as they close on the property in March. Michie Lane will be a limited access collector road and will allow good traffic circulation for the southeast section of town.

Geotechnical Study – The Geotechnical Study was prepared by CMT Engineering Laboratories. Several pages from that study have been attached to this report.

Sensitive Land – The developers have submitted to the City that no sensitive land or located on the property.

Water Connection – The lots will connect to water lines that will be built by the developer and connect to the City's water lines along Michie Lane.

Sewer Connection – The lot will connect to Midway Sanitations District's sewer lines located in the area.

Secondary Water Connection – The lots will connect to Midway Irrigation Company's secondary which is already servicing the property. Laterals will be created for all 20 lots and both park parcels. Secondary water meters are required for each lateral including the park laterals.

Sidewalks – The developer will construct five-foot sidewalks on both sides of the streets within the development. The City will construct a six-foot sidewalk along the south side of Michie Lane.

Open Space/public park – The Land Use Code requires a minimum of 15% open space for the development and the proposal does comply with that requirement. The developer is proposing that the open space is dedicated to the City as a public park. The City's Master Park Plan Map indicates that a park should be located in the general vicinity of this proposal therefore, accepting the park will comply with the vision as described in the General Plan. The developer has proposed to develop some of the park facilities but if the City would like to upgrade those facilities or add others then park impact fees could be used to accomplish this. Two park plans have been attached to this report. Page L-101 is the park the developer is willing to construct and page L-100 is an upgraded park that may be constructed with public assistance. Some amenities in the park include a sledding hill, park equipment, pavilion, sports court, walking trails, and landscaping.

WATER BOARD RECOMMENDATION:

The Water Board has recommended that 36.5 acre feet are tendered to the City before the recording of each plat. Phase 1 will need to tender 20.5 acre feet. Phase 2 will need to tender 16 acre feet. The Water Board also recommended secondary water meters are installed on each lot.

POSSIBLE FINDINGS:

- The proposal does meet the intent of the General Plan for the R-1-15 zoning districts
- The proposal does comply with the land use requirements of the R-1-15 zoning districts
- The City's Master Park Plan Map indicates that a public park should be in the general vicinity of the proposal
- A public park will benefit the future residents of this proposal and the residents of the surrounding subdivisions

ALTERNATIVE ACTIONS:

7. Recommendation of Approval (conditional). This action can be taken if the Planning Commission feels that conditions placed on the approval can resolve any outstanding issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)
8. Continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.

Accept staff report

 - a. List accepted findings
 - b. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - c. Date when the item will be heard again
9. Recommendation of Denial. This action can be taken if the Planning Commission feels that the request does not meet the intent of the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

Commissioner Streeter: Regarding the park since it is a split on two sides of the road do we require any sort of a crosswalk?

Planner Henke: What we have discussed on the staff level with the Mayor is creating an elevated crosswalk to connect the two parks together. That will be a part of the Michie Lane project that is planned to take place this summer.

Chairman Oksner asked if there were any further questions from the Commissioners, there was none.

Developer; Christopher Hoffman: There will be a public participation meeting held on Tuesday February 21st at the Midway City office building at 6:00 pm. Please email me with any of your questions or concerns you may have ahead of time at deercreekmidway@gmail.com so we can come prepared to address your questions and concerns.

Motion: Commissioner Jim Kohler: Mr. Chairman, I move that we recommend preliminary approval of phase 1 for Deer Creek Estates. We accept the staff report with findings that the proposal does meet the intent of the General Plan for the R-1-15 zoning district. The proposal does comply with the land use requirements of the R-1-15 zoning district and that the proposed public park is consistent with the City's master park map.

Seconded: Commissioner Waldrip

Chairman Oksner asked if there were any further discussion

Amendment: Commissioner Nichols: There is one more finding of staff on the next page that I would add. That a public park will benefit the future citizens.

Amendment Second: Commissioner Waldrip: The second accepts that.

Ayes: Commissioners Streeter, Waldrip, Nichols, J. Kohler, O'Toole and Ream

Nays: None

Motion: Passed

ITEM: 6

Tom Whitaker is proposing an annexation of 178.27 acre called the Whitaker Farm Annexation. The property is located on the East Side of River Road at approximately 510 North.

BACKGROUND:

Tom Whitaker has petitioned the City to annex of 178.27 acres that, per the current projected zoning, will be zoned R-1-22 and RA-1-43 or Resort Zone if approved by the City Council. Currently the property is in the County and is zoned RA-1. The area does fall within Midway's annexation declaration area so the property can be annexed but the City is under no obligation to annex the property. The Municipal Code does require that numerous issues are analyzed and evaluated before the City considers approving an annexation. Currently the City boundary runs along the three sides of the proposed annexation.

The annexation contains 21 separate parcels, 11 of which are owned by the petitioner. The developers own 63% of the land included and 60% of the taxable value. The other ten parcels are owned by individuals not associated with the annexation and none of them have signed the annexation petition. The parcels are as follows:

Property Owner	Tax ID#	Signed Petition	Acres	Taxable Value
Midway Meadows Ranch	OWC-0293-3	Yes	1.00	\$ 25,000
	OWC-0391-7	Yes	24.52	\$1,136,666
	OWC-0392-0	Yes	42.16	\$1,191,500
	OWC-0391-0	Yes	5.00	\$ 398,290
	OWC-0391-2	Yes	5.00	\$ 250,000
	OWC-0391-3	Yes	5.00	\$ 250,000
	OWC-0391-1	Yes	5.00	\$ 250,000
	OWC-0391-4	Yes	5.00	\$ 250,000
	OWC-0391-5	Yes	5.00	\$ 250,000
	OWC-0391-6	Yes	5.00	\$ 250,000
	OWC-0438-1	Yes	1.11	\$ 6,537
Thomas S. Whitaker	OWC-0391-1	Yes	5.00	\$1,136,666
Robert & Julie Salazar	OWC-0394-0	No	3.00	\$ 150,000
Bobby & Julie Salazar	OWC-0293-0	No	5.71	\$ 286,000
Julie Salazar	OWC-0293-2	No	4.00	\$ 575,000
Hobbit House LLC	OWC-0394-0	No	10.22	\$ 414,000
Rodger Medby	OWC-0394-1	No	2.00	\$ 292,398
Geoffrey David Smart	OWC-0397-2	No	7.53	\$ 426,500
White September LLC	OWC-0397-0	No	7.77	\$ 438,500
Hylton J. Haueter Trust	OWC-0397-1	No	19.50	\$1,202,131
Bernice C. Haueter Trust	OWC-0397-3	No	1.00	\$ 16,100

The petition does comply with State Code that requires the owners of most of the land sign the petition and that the signers also own at least 1/3 of the taxable value of land in the annexation area. State Code also requires a survey of the area which has been completed. There are other requirements listed in State Code and all seem to be met.

Annexations fall under the category of a legislative action. Therefore, the City Council has broad discretion regarding the petition. It can be approved or denied based on the discretion of the

Council members. There is no obligation by the City to annex the property. If the Council feels that the area will contribute to the community and will help promote the goals and policies of the General Plan, then the annexation should be considered. The City Council may consider any issue, included in the staff report or not, as a discussion item. Also, the City may require items from the petitioners that normally would not be allowed if a developer's property were already located and zoned in the City. In the past petitioners of annexations have donated to the parks fund as part of their annexations. Since the action is legislative it is not bound to the same rules that an administrative process is bound to.

This item has been noticed in the local newspaper for two weeks and on the State's website for the Planning Commission meeting. Public notices have also been posted in three public locations in Midway advertising the meeting and agenda.

ANALYSIS:

The comments in italicized represent Planning Staff's comments pertaining to compliance or lack of compliance with the findings the Planning Commission must make in considering this request. Section 9.05.020 requires specifically the Staff address the following issues:

- A. The ability to meet the general annexation requirements set forth in this Title; *Planning staff believes that the proposal does comply with the general requirements of this Title.*
- B. An accurate map of the proposed annexation area showing the boundaries and property ownership within the area, the topography of the area and major natural features, e.g. drainage, channels, streams, wooded areas, areas of high water table, very steep slopes, sensitive ridgeline areas, wildfire/wild land interface areas, and other environmentally sensitive lands: *The proposed annexation concept plan has been submitted and is attached to this report. Information regarding sensitive lands has not been provided by the applicant. The City's sensitive lands maps indicate sloped areas on Memorial Hill and a potential small wetlands area north of Memorial Hill and east of River Road.*
- C. Identification of current and potential population of the area and the current residential densities: *Currently there are four homes in the annexation area. The development potential of the area is proposed is approximately 40 dwellings and an unknown number of resort related units/dwellings. Surrounding properties such as the Salazar's parcel could be developed in the future. The 20 acres owned by the petitioner but not part of the proposed development could develop into approximately 20 lots if zoned RA-1-43 or if it is zoned RZ it could potentially be many more units. The Salazars could potentially create about 14 units or if their property is zoned RZ the number of units could increase. The properties south of the proposed development include the Smart, White September and Haueter parcels which could all develop. If the properties are zoned RA-1-43 then the amount of lots could be approximately 35 lots on those parcels.*
- D. Land uses presently existing and those proposed: *Currently the land in the area is being used for agricultural purposes. Most of the property has been irrigated over the past several years. The proposed land uses include residential development with at least 15%*

open space. The developer is also proposing a resort area near the base of Memorial Hill which could include both residential and commercial uses.

- E. Character and development of adjacent properties and neighborhoods: *The properties surround the annexation or predominantly being used for agriculture. There are several scattered homes surrounding the annexation. The area has a rural feel.*
- F. Present zoning and proposed zoning: *The current County zoning is RA-1 which is a one-acre zone. The planned zoning that midway has established is RA-1-43 which is also a one-acre zone. The RA-1-43 zone does allow a PUD if a property is over 10 acres and the plan includes at least 40 units. Also the property could be zoned Resort Zone by the City.*
- G. A statement as to how the proposed area, and/or its potential land use will contribute to the achievement of the goals and policies of the Midway City General Plan and the Midway City Vision: *The developer has indicated he wants to keep a rural feel to future development on the property characterized by open space and agricultural structures.*
- H. Assessed valuation of properties within the annexation area: *Please see the chart presented earlier in this report.*
- I. Potential demands for various municipal services and the need for land use regulation in the area, e.g. consideration of the distance from the existing utility lines, special requirements for sensitive land review and fire protection in wildfire or wild land areas, location within hazardous soils area, and feasibility of snow removal from public streets: *If the property is annexed the City will be required to provide services to the area. Office staff in the various City departments will spend time working on the development and with the residents in the annexed area. This includes land use applications, building permits, and utility payments. Also, the City will remove snow from any public streets and will maintain the roads and water lines in the area. These services cost the City money and though property taxes from the new residents will help offset that cost the City will need to have some commercial development and the sales taxes collected from the sales generated to help offset those new costs. That is assuming that the new growth will help increase sales in Midway by increasing activity in the current Midway stores or will help new businesses establish in Midway. It is unknown what the impact of the new homes will have but we do know the City's cost will increase because of the new growth. The City does have water lines in the immediate area of the annexation and other utilities are located nearby. The potential resort zone area may be a good tax revenue generator for the City. It is unknown how many units or how much commercial space may be constructed but any rental unit will have an economic benefit directly to the City and to businesses in the area as visitors will spend money during their stay in Midway.*
- J. The effect the annexation will have upon City boundaries and whether the annexation will ultimately create potential for future islands, undesirable boundaries, and difficult service areas: *The annexation will increase the City's boundaries. Currently the proposed*

annexation area is a peninsula that juts into the City, by annexing the area the City boundary will feel more “normal”. It is staff’s experience that many people and residents already assume the area is part of the City. The City would like to leave four parcels in the County for various reasons. These include two Haueter parcels, the Smart parcel and the White September parcel. Leaving the parcels out of the city will create a peninsula. The City feels these property owners will petition for annexation in the future and will become part of the City. Parcels that might not be annexed by the City include the parcels in blue text on the list found on page two of this report.

- K. A proposed timetable for extending municipal services to the area and recommendation on how the cost thereof will be paid: *City services are up to the boundary of the annexation. The developer will need to build the infrastructure within the annexation area for the development so the city will incur no development cost, only maintenance cost, once that infrastructure is approved by the City.*
- L. Comparison of potential revenue from the annexed properties with the cost of providing services thereto: *It appears the development will be a relatively expensive development that may include some second homes. Generally residential development does not pay enough in taxes to cover the cost of the services provided by the City. In very general terms, and as described in the City’s General Plan, for every dollar the City collects from a residence the City pays \$1.16 to provide services. Therefore, commercial growth is important for the City which helps offset this unbalanced revenue versus cost. This subdivision does have two items that will make it less costly for the City. The first is there may be some resort uses included in the development that will generate transient rental tax, property tax and sales tax. Second, many of the homes will most likely be second homes and therefore the tax generation will be double compared to the homes that are primary residences. It is possible that this development may generate enough taxes to cover the cost of the City provided services.*
- M. An estimate of the tax consequences and other potential economic impacts to residents of the area to be annexed: *It is estimated that the taxes for the Salazars and Medbys will increase by several hundred dollars.*
- N. Recommendations or comments of other local government jurisdictions regarding the annexation proposal and the potential impact of the annexation on the general county economic needs, goals, or objectives: *No government jurisdiction or agency has objected to the proposed annexation. The City held a review meeting and invited all potentially impacted jurisdictions, agencies and utilities and no major concerns were identified in that meeting.*
- O. Location and description of any historic or cultural resources: *None have been identified*

Additional Items of consideration

- The City gains control over zoning once an area is annexed. This helps the city assure

that uses on the property will be in harmony with the General Plan. If the City does not annex a parcel, then the owners may develop in the County using the County's land use code.

- Road connectivity of the entire area should be considered with the petition. The City is very interested in a connection from the annexation parcel to Main Street. This will help accomplish the goals of the Master Transportation Map. Two road connections to River Road would comply with the intent of the code but have one of those connections to Main Street would be more beneficial to the City. Staff feels that is important to require and facilitate that connection.
- The most recent applicants for annexation to Midway have contributed to the parks fund (please see attached chart titled "Annexation".)
- Zoning designations of annexed property should be carefully considered. The petitioner would like at least some Resort Zone and potentially some residential zoning. There are also other parcels that will be forced into the City and those parcels must also be given a zoning designation. The City has also discussed the future Tourism Overlay Zone (TOZ) and some of the proposed annexation property could be part of the TOZ. The current potential zoning on the property just north of the City boundary is shown as R-1-22 but recent discussions during the General Plan review have talked about this property being zoned RA-1-43. All these issues will need to be discussed.
- Of the ten parcels that are included in the annexation but the owners of those parcels have not signed the petition, at least one owner would like to stay in the County. It is unknown how the others feel about the annexation. The ten parcels have been included because Stale Code requires them to be. It is possible that some or all stay in the County but it would be the County's decision and not the City's decision.

This item is only to accept further consideration of the annexation. If the City Council does approve further consideration, then the aforementioned items will be discussed in more detail and many other items will also be analyzed. Generally, the annexation process is about a six-month process.

POSSIBLE FINDINGS:

- The City will gain control over land use and zoning if the area is annexed.
- The proposal is a legislative action.
- The proposal will increase density and traffic to the area.
- Permanent open space will be created in the area if the developer develops the land as proposed.

ALTERNATIVE ACTIONS:

1. Recommendation of Approval of Annexation. This action can be taken if the Planning Commission feels that the annexation is in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)

2. Continuance. This action can be taken if the 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

3. Recommendation of Denial of Annexation. This action can be taken if the Planning Commission feels that the request is not in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

Commissioners discussed the following.

- Leaving a section of the property in the County so we have more control as to what gets put in there
- Access the river
- River road is dangerous will there be sidewalks
- Trail plan and bike lanes
- They would be public roads
- Road plan alternative to River Road

Applicant; Dan Luster: Our objective to preserve farm land. What we are selling her is a permanent farm, that is what our buyers respond to. We'll have a historic barn in the center, the barn we are having imported from the east coast which has pre-civil war beams. Tom Whitaker himself will be having a horse condo on his property. This is what people want and this is what most of us here in Midway are looking for. Regarding the road issue, I think that we need to question our road plan a little bit. What we are trying to do here is to preserve a farm atmosphere most of this land will be largely untouched. Doing a development like this on very expensive land is hard to do, the number of lots

that is in here is the absolute bare minimum. We have spent time talking to investors and they all say can't you put more lots on this property and we say no because that defeats the purpose of what we are trying to do. We have almost 20 out of the 40 lots reserved and the lots will sell for around \$500,000 per lot. River access, the Whitakers have an access in the NE section of their property by contract by the River mitigation it only allows for ten (10) people at a time through the gate. The ten (10) fisherman is not open to the public this access is limited to this neighborhood through Tom Whitaker.

Commissioner Streeter: Do you foresee any enforcement issues?

Applicant; Dan Luster: Yes, I do see enforcement issues. The mitigation commission themselves have said ten (10) people at a time, but there is no way that we can enforce that. We will likely do a magnetic gate code to enforce it through our end.

Commissioner Ream: What is your market?

Applicant; Dan Luster: Our perception is that we will have equestrian appreciators.

Commissioner Ream: What will the historical barn that you are having imported be used for?

Applicant; Dan Luster: It will function much like a club house.

Commissioner Ream: Please address the resort section of this development.

Applicant; Dan Luster: The resort piece was not our original thought. We felt like that was kind of a nod to the City's requirement or interest for a tax base. We think that this can be done in a very tasteful way. These condos have to be done very well or we will not have any buyers for these other lots.

Commissioner Streeter: Roughly, how many units will you have?

Applicant; Dan Luster: I show six (6) here just for the sake of argument it may be more. I am not familiar with constructing these types of buildings.

Commissioner Streeter: Have you been able to identify any drainage issues off Memorial Hill affecting the placement of those structures?

Applicant; Dan Luster: No, we have not identified any problems. We have learned from the well data is that the water table is fairly low on this property.

Commissioner Streeter: I wouldn't expect that you'd have a water table problem, it is water drainage.

Applicant; Dan Luster: We're not familiar with any issues. The hill is rather steep and it is fairly uniform. The property does have a nice decline from west to east so I think that it drains nicely to that cliff's edge.

Chairman Oksner opened the meeting to public comment

Katie Noble: I'm the president of Pure Midway and I'm speaking on both behalves. The plan as it stands is something that I would personally stand behind and so would our group. My concern is twofold. My first is if this gets sold, what happens? So, I am very much in support of the concept if you annex this into the City that we limit the number of residences that go there that it doesn't just get annexed in as one acre zoning, because then it will end up being 80 homes. My other concern is with the resort part of it. When I hear that with resort that there is unlimited density, I'm a little concerned about that. I am not concerned about Dan and his plan, but I am concerned that if something happens and Dan has to sell this. What happens with the resort? What I am saying that if this get annexed into the City I just want any succession planning to be taken into very

careful consideration. This is one of the crown jewels of Midway and what happens here is going to set the tone for a big portion of the valley it is just a magnificent piece of land as we all know. The other thing that I want to take into account is what happens with the front 20 acres if it gets annexed in? Is that going to be one acre zoning? I would suggest that the front 20 acres becomes a five-acre rural subdivision zone, because again what if something happens to Tom? Does that just become a bunch of house along River Road?

Planner Henke: We have tied down the number of units that will be in here with the annexation agreement and that would run with the property. Regarding the Whitaker property is an interesting question that you bring up. Tom Whitaker is the petitioner of the annexation. So, unlike the other properties like the Salazar property or any other properties that are forced into the City this one I think we do a bit of control over what happens on that 20 acres up front. Even if it is zoned RA-1-43, I think that there could be a limit on the number of homes that could be on that property in the future. Now the Salazar property where they are not the petitioner we have to give them a zone. We can't tie them down to an annexation agreement like we can the petitioner. So, they will be given a certain zoning and they can develop using that zoning. Any part of the property owned by the petitioner we can determine how many lots will be there.

Brent Gold: I am a property owner to the south of Memorial Hill. There is a rule of annexation that I have been familiar with for many many years, it is the rule of unintended consequences. You take action now without clear delineation of the details and conditions that leads to unintended consequences. In my world, I'm a lawyer, you look for worse case scenarios, you become obsessed with worse case scenarios. Most of the time it doesn't happen, but that is what you live with is worse case scenarios. There are definitely worse case scenarios possibly at play here. There is a vision that the City has as a property owner I have now held that property for approximately 20 years. You are just waiting for something at the right time to happen, and it is all about timing and what you are doing seems entirely appropriate with quickly diminishing opportunities as far as land availability. The road access to the south just seems absolutely imperative. I hear the arguments on the peninsula to leave it out of the annexation at the present time. There's an argument that perhaps you're giving those people more negotiation leverage against you if you do leave it out than if you take it in now with appropriate conditions, yes, they are not a part of the annexation agreement but you really can tie them down now and it may be better to tie them down now because they do have some leverage if you leave it out. If they are out, then that can prevent the overlay zone from having the impact that you really want.

Chairman Oksner closed public comment

Commissioner Waldrip: Mr. Luster are you comfortable with the proposed number of lots which is 40, and in addition the resort area?

Applicant; Dan Luster: Yes, we are comfortable with the general look and feel of this design. There are varies things that we are wondering about.

Commissioner Streeter: Would Tom be okay with us discussing any limitations or putting limitations on his parcel?

Applicant; Dan Luster: I think that it would be very challenging for me to state exactly

what Tom would agree to.

Motion: Commissioner Nichols: Mr. Chairman, I move that we recommend to the City Council annexation of this property with the following conditions to be a part of an annexation agreement between the City and the developer. Number one that the development in the center has no more than the 40 units shown on our map here that the remaining 20 acres that Tom Whitaker owns would be zoned as RA-1-43, but with a requirement that there be in the future that there be no more than four (4) units on that 20 acres and that the City Council also put a reasonable limit on the number of units to be in the resort parcel whatever the City Council thinks that limitation should be also that the second point of access be in fact a road that goes through to Main Street and also that the City Council will take a look at what they think as far as how this impacts the general road plan and whether or not they want to look at any further changes in that regard.

Question: Commissioner J. Kohler: Are you then dropping consideration at the annexation of the 78 acres to the south?

Commissioner Nichols: Yes.

Seconded: Commissioner Waldrip

Clarification: Planner Henke: We have these other properties that will be pulled in also to the City will that also be a recommendation of the RA-1-43 on those other properties?

Commissioner Nichols: Yes. That is the least dense zoning we can apply, is that correct?

Planner Henke: Yes.

Commissioner Nichols: So yes, that would be a part of the motion.

Commissioner Waldrip: The second accepts that revision.

Commissioner Ream: What about the ones that you recommend stay out of this annexation?

Commissioner Nichols: Yes. That the properties that the County has agreed to retain we recommend that they be retained by the County.

Commissioner Waldrip: Yes, that is what I had in mind as well.

Chairman Oksner asked if there were any further discussion, there was none

Ayes: Commissioners Streeter, Waldrip, Nichols, O'Toole and Ream

Nays: Commissioner J. Kohler

Motion: Passed

ITEM: 7

Midway City is proposing a Code Text Amendment to add a Tourism Overlay Zone. The purpose of this zone is to create a community gathering area that is focused on tourism and retail. This zone will be walkable and is envisioned to have a central plaza with surrounding commercial and arts related businesses along with residential. The overlay zone would cover the general area from 400 East to 700 East along Main Street focused mostly on the north side of the street.

Memo



Date: February 15, 2017
To: Midway City Planning Commission
From: Michael Henke
Re: Proposed Tourism Overlay Zone – Agenda Items 7 & 8

Agenda items 7 and 8 are essentially one item. Item seven is the code text for the proposed Tourism Overlay Zone and the item eight is the map that shows the area covered by the overlay. The purpose and intent of the TOZ is the following:

The purpose of this district is to create a community gathering area that is focused on tourism and retail. This district will be walkable and is envisioned to have central plazas with surrounding commercial and arts related businesses and activities generally on the street level and residential on the upper floors and surrounding buildings. The TOZ provides for a mix of commercial, office, retail, arts related activities and multiple unit and attached residential uses of a higher density along Midway Main Street. Site and building design will be of a quality that enhances the character of Midway and offers a cultural and retail gathering area for the residents, visitors and tourists. A wide range of commercial and residential uses are allowed, including regional scale retail; provided, that it is compatible with the overall sustainable character of the area by fitting into an interconnected street network.

On the following pages, you find the proposed code for TOZ (the map for the TOZ is found in agenda item 8 of this packet.) This vision for the zone has been developed over the past year and really formed in the Economic Development and Resort committee meetings that were held during the General Plan revision. Also, over the past year, the City has received several development proposals for the area of the proposed overlay. These include hundreds of storage units on two of the parcels and two residential developments on the other. None of the proposed developments were considered to be very beneficial for the entire community. Based merely on a tax perspective, the residential developments would have cost the City revenue and the storage

units would have created a very minimal gain for the City based on the fact there is no sales tax charged for storage unit rentals. These proposals made many aware that the properties will develop but if the City would like them to develop into something beneficial for the entire community then a change in the zoning needed to take place.

Another reason for creating the TOZ property is to prepare the area for a performing arts center that is currently in the planning stage. A valley wide committee has been formed that is exploring how to fund the center and where it should be located. The site just north of the proposed rezone is the best location that has been identified. Between the overlay zone, with its restaurants and retail, and the potential resort area to the north there can be a good synergy of uses that will help build each other up. The performing arts center will be an anchor to create activity in the district. Because these two parcels fall in between where the arts center is planned and the commercial area to the south it is important to not dissect the district with a relatively low density residential development.

One of the main ideas with the proposal is to create a performance based code. Basically, if the developer provides specific items in the development then they receive incentives. The overlay zone is primarily commercially based but if the developer uses the performance items and creates an exceptional development then more residential can be added. The default in the code is 80% commercial and 20% residential for mixed use. If performance items are included, then that could slide to 20% commercial and 80% residential which is close to what the lending market typically allows for mixed use development. There is a list of performance items but one of the most important is the donation of property for a performing arts center. In return for creating the overlay zone the City will increase density and allow the height limit to increase. Also, staff feels that density in the C-2 zone for the rest of the City should decrease as density increases in this zone. This will be separate code text amendment that would need to be approved. Another idea behind this proposal is by focusing the growth of commercial and residential in the overlay zone we will better protect the rest of Main Street from development that could come in the form of losing some historic structures and other valuable open spaces that we currently enjoy. Reducing the density in the C-2 zone will help preserve Main Street as the overlay area develops.

The following code needs review and is in a rough draft form. Please review it and come prepared to discuss the details. We need to consider if there are any ways that we can improve it or if it is something the Planning Commission would even want to consider.

Please contact me at 435-654-3223 ext. 105 if you have any questions.

Chapter 16.27 Tourism Overlay Zone

Section 16.27.1 Purpose and Intent

Tourism Overlay Zone (TOZ): The purpose of this district is to create a community gathering area that is focused on tourism and retail. This district will be walkable

and is envisioned to have central plazas with surrounding commercial and arts related businesses and activities generally on the street level and residential on the upper floors and surrounding buildings. The TOZ provides for a mix of commercial, office, retail, arts related activities and multiple unit and attached residential uses of a higher density along Midway Main Street. Site and building design will be of a quality that enhances the character of Midway and offers a cultural and retail gathering area for the residents, visitors and tourists. A wide range of commercial and residential uses are allowed, including regional scale retail; provided, that it is compatible with the overall sustainable character of the area by fitting into an interconnected street network.

Section 16.27.2 Pre-Application Conference with Staff Member

Any person wishing to develop in the TOZ shall meet with a staff member, check and review the zone information, obtain application and review procedures, obtain information from the City regarding the City's plan of land use, streets, water, sewer, traffic, trails and parks, and public facilities; and have discussion about development review process and other requirements affecting the land to be developed. The developer shall then prepare plans and seek approval based on the information received and the process outlined below.

Section 16.27.3 Preliminary/Final Plan

The developer shall prepare a preliminary/final plan and shall submit five copies of the plan on 11" x 17" size paper to the Planning Commission for its review. The purpose of this plan is to demonstrate how the proposed development plan will be able to meet the standards required under the zoning ordinance and other applicable laws or regulations. The Preliminary/Final Plan is expected to contain construction drawings, and it is also expected that it will demonstrate compliance with this code. The Preliminary/Final Plan shall contain the following information:

- A. Type of development.
- B. Name of development.
- C. Applicant entity name, primary contact name, civil engineer, architect, designer and attorney, with respective contact addresses, phone numbers, and email addresses for each.
- D. Legal description with section tie.
- E. Zone boundaries and designations.
- F. North point and a scale consistent with a scale that is on a standard engineering scale ruler.

- G. A site plan showing location and dimensions of all lot lines, along with building feasibility for each lot.
- H. Dimensioned side, rear and front yards.
- I. Topography shown by contours at no greater interval than two feet except that a greater interval may be permitted when the property is outside the survey boundary if specifically authorized by the Planning Commission.
- J. The outside boundary of the project.
- K. Tabulation of land use:
 - 1. Total area and building area.
 - 2. Number of units and project density.
- L. Adjacent property owners.
- M. Typical street, roadway and driveway cross sections.
- N. A detailed statement and illustration of how the project will meet sensitive lands requirements.
- O. Existing and proposed easements, waterways, utility lines, canals and ditches.
- P. A plan for accommodating waterways, ditches and canals.
- Q. Proposed and existing sewage disposal facilities.
- R. Existing and proposed storm drain system with the related run-off calculations for the development site including routing the runoff water that leaves the site to a City storm drain or natural drainage approved by the City to accept the water.
- S. Existing and proposed water system indicating size of water lines and fire hydrant locations. Indications as to the capacity of the water system as it relates to the project when required.
- T. Environmental Assessment Review Statement.
- U. Any other information Staff or the Planning Commission may determine necessary relating to the site of the proposed project.

Section 16.27.4 Permitted Zones

All property must be in the TOZ.

Section 16.27.5 Lot Size

No minimum lot size is required.

Section 16.27.6 Open Space

No minimum amount of open space is required. The developer may choose to create parks, plazas, fields, etc.... and receive residential bonuses based on the planned performance standards listed in this code.

Section 16.27.6 Height

Building height within 100' of the TOZ boundary is limited to 35' as described in other sections of this code. Between 100' and 200' of the TOZ boundary building height is limited 45'. Areas more than 200' from the TOZ boundary, buildings are limited to a maximum height of 55'. All height limits are measured from natural grade.

No height restriction from north boundary.

Main Street – 0-200' 35'
200' – 300' 45'
300' + 55'

- A. Antennas, chimneys, flues, vents, or similar structures may extend up to 5 feet above the specified maximum height limit.
- B. Water towers and mechanical equipment may extend up to 5 feet above the specified maximum height limit.
- C. Church spires, bell towers, clock towers, finials, and like architectural features as well as flag poles, may extend above the specified maximum height limit by up to 50 percent of the height limit (52 feet 6 inches for a 35-foot building), but shall not contain any habitable spaces above the maximum height. Maximum height is 70'. **Review by City Council and VAC. Living space height limit.**

Section 16.27.8 Animal Rights

Animal rights may be petitioned by the applicant based on the proposed development plan for a development in the TOZ.

Section 16.27.10 Frontage

Zone frontage requirements are not required for development in the TOZ.

Section 16.27.11 Trails

Any trails crossing a development in the TOZ will be built by the developer and an easement will be deeded to the public for public use.

Section 16.27.12 Water Requirements

All required water shares for culinary and secondary water will be tendered to the City before the recording of the subdivision plat or issuance of a building permit if a plat is not required.

Section 16.27.13 Sensitive Lands

A structure may not be built on a site of slope 25 percent or greater. All other sensitive lands standards must be met as found in the Sensitive Lands Overlay Zone ordinance. The only exception to this is for an amphitheater.

Section 16.27.14 Access

Each building site must have access from a public road or a private driveway built to City standards. **City Council discretion regarding public and private roads,**

Section 16.27.15 Setbacks

Minimum building setback from property line for all commercial structures:

Main Street:

1. Front. 10' minimum and 20' maximum from the property line; however, an accessory or secondary building may be allowed by the City Council to be set back further provided all provision of this Title are met.
2. Side. None
3. Rear. None
4. Setback from boundary of TOZ: 15 feet

Inner public streets or private streets or driveways:

1. Front. None
2. Side. None
3. Rear. None
4. Setback from boundary of TOZ: 15 feet

Parking setback is 15' from TOZ boundary.

Section 16.27.16 Landscaping

A landscaped berm is required along the TOZ boundary along properties containing existing residences. The berm will be 4' in height to shield light from vehicles in the TOZ from shining onto neighboring residential properties. Berms are encouraged to be lushly landscaped. Trees shall have a minimum of a 2.5''

caliper and at a minimum located every 25'. Bushes are required every 10'.
 Landscape must be presented to the VAC for recommendation.
 Fencing optional and no berm or landscaping is required. And 15' setback is not required.

Section 16.27.17 Permitted and Conditional Uses

USES	TOZ	
Retail, grocery, and service stores (up to 25,000 sq. ft.) Tobacco sales and e-cigarettes (no more than 5% of total retail)	P	
Professional offices and clinics	P	Use Restriction: Drive up window/drop off lane allowed only with special use review by
Alcohol dispensing establishments	C	
Day Care (*as a component of another permitted or conditional use in the TOZ)	P	
Recreational activity businesses, photo, art, and craft galleries, retail show rooms	P	
Short-term lodging facilities	P	
Cafes and restaurants	P	
Barber, beauty shops, massage therapy and day spas	P	
Vehicle parking	P	
Theaters (indoor and outdoor)	P	
Mixed Use (80% minimum commercial unless planned performance bonuses are earned, up to 40 residential units per acre)	C	
Commercial PUDs, commercial and residential condominium projects (residential is allowed only as part of a mixed-use)	P	
Private academies/studios (education, art, dance, sports, etc.)	P	

the Planning Commission and the City Council.

Section 16.27.18 Planned Performance Incentives

The standard requirement for mixed-use developments is 80% commercial square footage and 20% percent residential square footage. It is possible to decrease the commercial requirement and increase residential if improvements are made to the

property from the following list:

Incentives for increased residential	Residential Percent
Public gathering area	25
Water features	8
Outside eating areas	5
Decorative art	4
Tree grates	4
Stage for musical performances	4
Ice skating rink	35
Movie theater	35
Open space	10
Land donated for an arts center/Amphitheatre	50

The maximum amount of allowed residential is 80%.

City Council reserves the right to offer other incentives than what is listed in the code.

Section 16.27.17 Standards and Requirements

Standards and Criteria: Development plan review shall be based on the following building and site design standards and criteria, which are formulated to achieve the intents and purposes of the mixed-use districts in the short and long term. These standards and criteria shall be met unless an acceptable alternative is proposed that, upon review by the Planning Commission, City Council and the VAC, better meets the intents and purposes of the area:

1. General Criteria:

A. Encourage appropriate characteristics of Midway’s traditional neighborhoods, including mixed-use development, European architecture, tree lined streets, interconnected street networks, and convenient access to parks and plazas, open space, transit and trails;

B. Provide an adaptable and interconnected transportation system that allows multiple modes of transportation, disperses traffic and provides streets that accommodate multiple transportation modes, including motor vehicles, bicycles and pedestrians;

C. Use manmade and natural features, such as open spaces, drainage corridors, parkways, streets and alleys, as development edges, transitions and interconnections;

D. Through a comprehensive site design approach, arrange residential, employment, retail, services and open space uses to be convenient to and compatible with each other;

E. Define the public space using building location and landscaping to promote pedestrian activity and create a high quality public realm;

F. Design early phases of development to be adaptable to additional phases of development to promote sustainability through long term quality and character;

G. Encourage housing in a range of densities, sizes and types;

2. Building Envelope:

A. Side yards that exceed fifteen feet (15') in width located adjacent to another side yard that exceeds fifteen feet (15') in width should be avoided unless the areas are to be used as a unified public gathering area or courtyard;

B. Pedestrian breezeways between buildings shall be a minimum of six feet (6') in width;

C. The use of front yard areas for buildings that have nonresidential uses on the ground floor shall be oriented toward the pedestrian and shall include related amenities such as entrance walks, plazas, benches, bike racks, raised flower boxes or other such features.

3. Buffering and Transitions:

A. Use design, positioning or other approaches to mitigate any potentially adverse impacts, such as noise, light and/or odor, to adjacent incompatible uses;

B. Locate, screen and buffer service, storage, delivery and refuse areas to minimize the view from streets and open spaces. Decorative walls, earthen berms, landscaping or architectural treatments may be used as screening methods;

C. Rear facing buildings, loading docks, service entries or overhead doors are not

allowed on primary street facades, but if necessary may be located on secondary streets; provided, that such service functions meet the general design intent.

3. Parking And Circulation:

A. Provide safe and attractive pedestrian and bicycle connections to building entries and public sidewalks within parking lots and transit areas;

B. Minimize the visual impacts of parking areas, parking structures and residential garages on streets, open spaces and adjoining developments;

C. Improve the efficiency of parking areas by allowing multiple uses to share parking spaces, curb cuts and circulation drives;

D. Parking, including residential garages, shall be located to the rear of the building or in a side yard as allowed by the lot width and building frontage percentage requirements and the off street parking standards. Residential garage entrances wider than one bay shall not be located on the primary facade;

4. General Site Design:

A. Incorporate required water quality and storm water management features into the overall site design;

B. All new utilities shall be placed underground in all public streets or in rear service alleys;

C. Civic sites: Civic buildings, including, but not necessarily limited to, libraries, schools, recreation facilities, municipal buildings, or places of worship or assembly have a special public importance in the community. Retail, residential or privately owned office buildings are not included in the definition. Civic buildings may be allowed greater flexibility to make an architectural statement or provide additional gathering space. This flexibility may allow variation from the building frontage and required build to range requirements subject to review by the VAC and planning commission and approval from the City Council. This flexibility does not, however, allow parking lots to be located between the building and the primary street it faces.

5. Large Footprint Buildings:

A. Retail commercial buildings with a footprint greater than twenty thousand (20,000) square feet may be approved through the development review process. Such buildings must meet the regulations of this title with the following exceptions:

1. Each building shall orient to the primary street it faces;
2. In the TOZ entrance interval criteria may be adjusted, provided other entrance criteria in the building design criteria section are met;
3. In the TOZ, street level fenestration (design, construction, or presence of openings in a building. Fenestration includes windows, doors, louvres, vents, wall panels, skylights, storefronts, curtain walls, and slope glazed systems) requirements may be applied to only seventy five percent (75%) of the primary facade and will be evaluated during the development plan review process for compatibility with the overall intents and purposes of the district;
4. Detailing at intervals of twenty-five (25) to thirty feet (30') shall be provided to break up expanses of blank walls with no openings. Additionally, walls with no openings shall be set back from the public right of way a minimum of fifteen feet (15') and buffered with landscaping. Street trees are required at intervals ranging from 20' to 35' and at least one row of additional plants and/or shrubs based on the recommendation from the VAC.

6. Building Design Criteria:

A. Architectural Detail:

1. Create buildings that provide human scale and interest through use of varied forms, materials, details and colors;
2. Provide architecturally finished and detailed elevations for all exposures of the building;
3. Primary street facing walls of buildings may not have sections of blank walls that contain no openings in lengths that exceed twenty feet (20') in length;
4. Rooflines may be flat or pitched. Roofing shall not be of vivid primary colors (i.e., red, blue or yellow). Rooftop equipment shall be screened by roof components, parapets, cornices or other architectural features. Galvanized hoods

and vents shall be painted to match the roof color;

5. Durable materials that complement Midway City's tradition of stone and masonry shall be used as either primary or secondary building materials.

B. Entrances/Pedestrian Access:

1. Each building on a lot with street frontage shall have a primary entrance either facing or clearly visible and accessible from the primary street it faces;

2. Entrances shall be accessible to the public as a regular building entry from the sidewalk;

3. Along principal streets, entrances allowing public access from the sidewalk, for any building which is greater than fifty feet (50') in width, shall be provided with functional entrances at intervals of fifty feet (50') or closer to maximize street activity and pedestrian access opportunities, and to minimize expanses of inactive building wall;

4. Nonresidential uses on the ground floor along other streets shall follow the same entrance guidelines as set forth in building design criteria of subsection B5c(2)(A) of this section;

5. The street level floor elevation should match the elevation of the sidewalk at the front of the building as closely as possible to facilitate accessibility and primary street orientation.

C. Street Frontage:

1. A portion of the building frontage may be set back beyond the required build to range (RBR) up to an additional twenty feet (20') if the space is utilized as a site plan approved courtyard or entryway that is open and accessible to the public sidewalk. This portion may be up to forty percent (40%) of the actual building frontage and shall not be used for a parking area;

2. Required building frontages shall be the percentage of the total width of the lot that is required to be used as a building wall. A covered drive-through (porte-cochere) may be counted as a building wall even though it has no front or rear wall;

3. Front porches, balconies or stoops may extend up to ten feet (10') into front yards; provided, that walls, screened areas or railings that are within the front yard do not exceed forty-two inches (42") in height above the floor of the porch, balcony or stoop.

D. Fenestration:

1. A minimum of sixty percent (60%) fenestration is required on the street level of all street facing facades. Street level is between two (2) and twelve feet (12') on these street types. Upper stories shall have a minimum of thirty percent (30%) fenestration for each story;

2. A minimum of sixty percent (60%) fenestration is required on the street level of all street facing facades for all nonresidential uses on neighborhood streets and pedestrian walkways. Residential uses on the street level must have a minimum of forty percent (40%) fenestration on street facing facades. Street level is between two (2) and ten feet (10') on neighborhood streets and pedestrian walkways. Upper stories for all uses shall have a minimum of thirty percent (30%) fenestration for each story;

3. Windows of tinted or reflective glass may not be located between two feet (2') and nine feet (9') above the sidewalk grade on street facing facades;

7. Design Standards:

The following landscaping standards shall apply to all new development within the TOD mixed use districts.

A. Street Frontages: Street trees shall be provided on all street frontages at a maximum spacing of forty feet (40') on center unless the species to be used recommends spacing greater than forty feet (40'). Spacing should be as uniform as possible, with exceptions allowed to preserve clear visibility zones near intersections and driveway and alley access points.

B. Landscaped Park Strips: Street trees shall be planted within a landscaped park strip of at least six feet (6') in width, between the roadway and sidewalk, or tree grates of at least five feet (5').

C. TOZ Streets: On promenade streets where on street parking is permitted and where no landscape strip is present, street trees may be planted in sidewalk bulb out areas.

D. Distance to Light Standards: Street trees shall be planted no closer than twenty feet (20') to light standards.

E. Species: Street tree species selections shall help define the public space of the street, especially in residential neighborhoods. Different streets should be planted with different species to provide interest, variety, and to promote disease and pest resistance throughout a development area. More than one species may be used to create a pattern and/or provide accent along a street.

F. Location of Lighting Fixtures: Lighting fixtures providing pedestrian scaled illumination shall be placed on all principal and promenade streets spaced no greater than forty feet (40') on center to stagger with street trees. Spacing on other streets shall meet minimum required lighting levels.

G. Pole Height of Pedestrian Lighting Fixtures: The pedestrian lighting fixture pole height shall be fifteen feet (15'), with a base diameter of at least twenty inches (20"). Materials shall be cast iron and steel with a black finish. Single or double lamp fixtures may be used on principal, promenade or arterial streets. Single lamp fixtures shall be used on neighborhood roads.

H. Pole Height of Street Lighting, Parking Lot Lighting Fixtures: Street lighting fixtures and parking lot lighting fixtures shall have a pole height of twenty-four feet (24').

I. Tree Grates: Tree grates shall be five feet (5') square and of cast iron.

J. Tree Guards: Tree guards, if used, shall be a minimum of sixteen inches (16") in diameter and five feet (5') in height. Material is fabricated steel construction with a black high polish powder coat.

K. Trash, Recycling Receptacles: Trash and recycling receptacles shall be of fabricated steel construction with a black high polish powder coat finish. Receptacles shall be three feet (3') in diameter and four feet (4') in height. Trash and recycling receptacles shall be placed side by side, with a lid to distinguish the recycling receptacle. A minimum of two (2) pairs of receptacles shall be placed per block face, unless otherwise approved by the city, on all principal and

promenade streets. Other locations shall be approved during the development plan review process.

L. Bollards: Bollards shall be placed at all intersections along principal and promenade streets. They shall be constructed of cast steel with a black high gloss powder coat finish. Each bollard shall be four inches (4") in diameter and three feet (3') high. Bollards may be cast in, bolt down (surface mount), or removable. Bollards will be spaced a minimum of four feet (4') and a maximum of six feet (6') apart.

M. Benches: Benches shall be placed along all principal and promenade streets at a minimum of three (3) per block face. Benches shall be of a cast iron with steel straps and finished in a black high gloss powder coat. Benches shall be six feet (6') in length.

N. Bicycle Parking: Bicycle parking shall be placed in racks with a minimum capacity of three (3) bikes and a maximum capacity of seven (7) bikes. A minimum of one rack shall be placed on every block face for principal and promenade streets.

O. Paving Accents: Paving accents may be used to articulate building entries, pedestrian crosswalks, plazas, sidewalk bulb outs, or other areas as approved during the development plan review process. Paving materials may be brick, stained concrete or other durable materials that have a nonslip finish. Stamped concrete is not to be used for paving accents that are part of the streetscape area.

The following standards, requirements and conditions shall apply to all TOZ developments:

A. The project must be prepared by a design team composed of at least a civil engineer, land surveyor or landscape architect, all who must be licensed to practice in the State of Utah.

B. All dwelling units shall be served by a city-approved water supply. All utilities within in TOZ developments shall be placed underground, including telephone, power and television.

C. The area proposed for a TOZ developments shall be in one ownership during development to provide for full supervision and control of said development and to insure conformance with these provisions.

D. Dwellings and permitted structures shall be located to best comply with the intent of this Ordinance and shall meet the following standards:

E. All parking spaces, parking areas and driveways shall be hard-surfaced asphalt or concrete, and properly drained with no drainage running across public or private sidewalks.

F. The developer shall install all public improvements on-site and off-site as identified by the Planning Commission and City Council.

G. All street construction improvements in subdivisions and along public roads shall be constructed per public street construction widths and cross-section standards.

H. Provisions of the Sensitive Lands Section of this ordinance shall be adhered to within TOZ developments.

I. TOZ developments shall connect any trails shown on the City Master Trails Plan for the area.

J. Final engineering drawings (plans and profiles) for all public and private improvements, final grading plan, and final drainage and run-off plan with run-off calculations.

K. All documents and legal material shall be ready for recording.

L. Deeds of dedication for all public lands as required by the City, when not shown on a final plat.

M. Provisions for bonding of all improvements in a form acceptable to the City. The bond amount is to be 110 percent of the engineer's estimated cost for improvements.

N. All required final plat fees.

O. Phasing plan for final plats.

P. In the event the project will not be divided into separate ownership; the developer shall submit the same information as requested above except for the Record of Survey Map. A final site plan shall be submitted totally dimensioned conforming to the approved preliminary plan.

Section 16.18.18 Preliminary/Final Planning Commission Action

Upon presentation of the preliminary final plan and documents, the Planning Commission shall approve them as submitted, approve them with conditions or may refer them back to the developer for one or more of the following reasons:

A. Due to the type of buildings, layout of structures, design of plan, or other aspects of the preliminary/final submittal, the Planning Commission determines the project to be inconsistent with the intent of this Ordinance or the Community General Plan.

B. The Planning Commission requires that certain specific changes be made within the plans.

- C. The plans or documents have not been completed.
- D. The fees have not been paid by the developer.
- E. That this project is in substantial compliance with the intent of this Section as stated previously. The Planning Commission may impose such conditions on preliminary development plans as it may deem appropriate to meet the goals and objectives of this Chapter. The Planning Commission may disapprove the TOZ development, which is found to be deficient in meeting the intent of these provisions. Any such disapproval may be appealed to the City Council within ten days after the decision of the Planning Commission.

Section 16.18.19 Recommendation of Preliminary/Final Plan to City Council

Upon the Planning Commission's approval of the preliminary/final plan of a TOZ development, the Planning Commission shall recommend this plan to the City Council for direction, with or without conditions.

Section 16.18.20 Public Hearing

After receiving notice of Planning Commission approval of the preliminary/final plan, or upon the City Council's reversing on appeal the Planning Commission's disapproval of a preliminary/final plan, the City Council shall set and hold a public hearing to consider preliminary/final approval of the project.

Section 16.18.21 Preliminary/Final Approval of City Council

After holding the public hearing, the City Council shall approve, approve with conditions, or deny the preliminary/final plan based on the same standards as required above for preliminary/final approval by the Planning Commission.

Section 16.18.22 Time Limit for Preliminary/Final Approval

- A. Any failure to submit a proposed preliminary/final plan application within one year of the approval of the concept plan by the Planning Commission shall terminate all proceedings and render the preliminary/final plan null and void.
- B. The duration of Preliminary/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, 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 per 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 always;
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.

Section 16.18.23 Final Plat

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.

Section 16.18.24 No Building Permits Issued Prior to Plat Recording

No building permit applications shall be submitted prior to the recording of the plat by the Wasatch County Recorder.

Section 16.18.25 Completion of Construction and Issuance of Permits

A. No building permits applications shall be submitted until the 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.

B. No certificate of occupancy will be issued until construction on the development reaches final completion as determined by the City Engineer.

Section 16.18.26 Construction Bond

Prior to beginning construction of a development, 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.

Section 16.18.27 Default

In the event the developer defaults, fails or neglects to satisfactorily install the required improvements within one year from the date the plat is recorded, 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.

Section 16.18.28 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 Engineer 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.

Section 16.18.29 Record Drawing Submittal and Contents

A. Prior to final bond release, an electronic copy of the final drawings in the latest version of AutoCAD or DXF 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.

B. 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 inverts elevations.
4. Storm drain: Catch basins, curb inlets, and manholes with rim and inverts 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.

Section 16.18.30 Total Compliance with all Regulations

In case of failure or neglect to comply with all conditions as established during the approval process or regulations as identified in this Section, the City may refuse additional building permits and stop construction of all work at the site until such violations or noncompliance conditions have been eliminated.

Section 16.18.31 Warranty Bond

The City Council shall authorize the release of 100 percent of the bond amount upon verification by the City Engineer that all work is complete and acceptable. The remaining 10 percent of the bond amount shall be retained by the City for a period of one year to insure quality of improvements. If improvements are found to be unacceptable to the City at any time during the one-year period, the City may use the bonding funds to replace or repair any improvements not installed acceptably.

Commissioner Waldrip: There is an effort by the Wasatch Arts Council which is a loosely formed organization to promote the arts in Wasatch County. To explore and pursue the potential of developing a performing arts center of the community of Wasatch County. It's headed of David Tew and they are in the process of holding meetings and trying to get organized to pursue an intelligent plan to develop a performing arts center somewhere in the county. One of the possibilities is this location south of Memorial Hill, there are other protentional locations but my sense is that the location south of Memorial Hill is the front runner in that discussion right now. There are four (4) or five (5) other locations that are being considered and that coalition that consists of representatives from the county, Midway City, Heber City and the community at large has not come to a decision as to which location they are going to promote as the number one choice. Dan Luster is also on that Coalition. They will be meeting in March to make the determination and then try to move forward to make it happen. This is not the only group looking to do something in that regard, but there is a significant movement in the community to make this happen.

Chairman Oksner opened the meeting to public comment

Launa Nielson: I live at 60 N 400 E so this will affect me a lot. When we moved here this was agricultural and the City Planner at the time promised us that there was no way that this would ever be zoned anything other than low density residential because that is you would ever rezone something is up one and not straight up to C-2. We don't have a lot of great feelings toward City Councils or City Planners. The main thorough fare through Midway used to be Center Street, so people would come from Park City and then go down Center Street and then residents complained and then they said that we are banning all trucks so then they moved it down River Road. When things got moved to River Road it was not a busy road at all, it was Center Street that was busy. We were also promised that all City commercial area would be kept between 2nd W and either 2nd

or 4th E, I can't remember, and anything else on Main Street would be very light like daycare and other things like that, but anything heavy would be kept in that area and now you are wanting to switch exact opposite. Which I do not think is very fair to the people that bought a long time ago. We are concerned about the height of the building that will be allowed. Then it is written that if there is not a berm built then they can build a wall and that wall can then intern allow that building to be right next to our property line and that wall would be allowed to be 57 feet. My garden is right there and that would not be good for my garden. My neighbor asked that I mention that she is incredibly concerned about just a 15-foot setback on these very tall buildings. We only have $\frac{3}{4}$ of an acre I know, but we garden a lot of it. We bought it so we could have animals and the back was zoned agricultural. Forty units per acre is what is written in there, I thought that was really high. We would be about a block and a half away from the potential indoor/outdoor theater we would hear the same musicals all summer long until about ten or ten-thirty at night. I'd like to talk about how to mitigate that noise. I understand the concept and the concept is good, but there are a lot of things we have a lot of concerns about. Particularly the 40 units per acre and the 87.5 foot allows in height.

Planner Henke: I can address the height real quick on that. Again, this is very conceptual. The idea next to any existing residential the height would be 35 feet except for any architectural elements like a tower could go a certain percentage above that but any living space would be 35 feet or less. Now we could change that height limit and so those architectural elements don't go as high as she stated. The idea is as you get into the center of this area is the building height steps up and so you would start at 35 then go up to 45 and then up to 55 and so it wouldn't look as imposing from away from the development. Just the center would have the higher buildings. That is the way it's written, now as for the percentage above that can be adjusted a lot lower the idea is that you'd have some bell towers or clock towers that type of thing that would go above that height limit. The maximum height of living space is 55 at the highest point.

Joe Ballsteadt: We own that 7.7 acres and some acreage up front. What would happen to our green belt if we annexed our 7.7 acres right now?

Planner Henke: If you were annexed your green belt wouldn't change at all. It's just when you develop is when you pay the back taxes.as long as you propose something

Joe Ballsteadt: I think annexing right now is something that we'd be interesting doing.

Inez Wilde: How will this development and the road plans affect me? Also, with all of this building is there enough culinary water to support all of this building and the sewer and so on?

City Engineer; Wes Johnson: Yes, there is enough culinary and sewer capacity.

Commissioner Waldrip: Nobody really knows yet exactly where the roads will be yet, but the likely hood would be not right next to your property. The likelihood is that it would be more over toward the middle.

Celeste Johnson: I'm involved with Pure Midway. I was also a business owner on Main Street when we first moved here. Michael, you were talking earlier about leaving some property out of the annexation until you know what someone wants to do with that. I think that we have a whole lot of unknowns and mixed messages are being sent. We do need some more tax dollars, we get that. I think Main Street is an appropriate place, but there are others way of going about that. I think that we have a whole lot of unknowns

being discussed at a really late hour after a whole lot of material has been handed out. As a business owner on Main Street I made money four months out of the year, nothing basically in the winter months. It's a tricky proposition it would be lovely to get some tourism dollars, an art center is a great concept. We have a whole lot of unknowns being discussed here so I think we should be really careful this is a biggy.

Brent Gold: Procedurally I understand that this is basically the sketch meeting of the overlay zone. Am I correct in that regard?

Planner Henke: Yes, that is correct. There could be action taken tonight, but again there is a lot of unknowns still. So, it is more of a discussion, but action could be taken.

Brent Gold: That action could be accomplished by a motion from any member of the Planning Commission, right? Obviously, this is a big situation for our property as you've seen our property is the largest piece that is included this block. The change of zoning to a part of our property from residential to C-2 obviously is not a difficult decision for us we would like that it gives us more options. We've examined your C-2 zoning code and the storage units was a bad experience for us. It was misstated when we entered the agreement with who came before the City, fortunately we could pull back on that and that is when it went to the adjourning property. Under the C-2, the same opportunity still exists because storage units are still available under the C-2.

Planner Henke: You have a dated copy of the code, because the C-2 zone no longer allows storage units.

Brent Gold: This is as I understand it an overlay zone and an overlay zone is discretionary and you still have the underlying C-2 and you can go with that and if the overlay is appropriately incentivized then you choose to go with the overlay. Because you've passed the overlay doesn't necessarily mean that a property owner is going to utilize the overlay unless it has the proper incentives. The cart is before the horse here. You need to have a plan so you can do that plan with the overlay before you create the overlay. If the overlay is not properly conditioned and detailed may prevent the plan that a very qualified developer wants to put there, but because the overlay is not properly conditioned he can't put it there. So, the overlay now becomes that obstacle rather than that vehicle in which you can get there. The details to the overlay have to be structured to what you want there, so I hope that this is preliminary and no motion is made tonight.

Commissioner Waldrip: Michael, my understanding is we've been talking about the overlay zone it's not that it would be at the option of the property owner.

Planner Henke: Chairman Oksner has talked about a C-4 zone, that would be another route is to make this its own zone and not call it an overlay zone. That would take the option away. As long as we would incentivize somebody to use the overlay zone, but if we wanted to force it then the idea would be to create the C-4 zone instead.

Joe Ballsteadt: Michael, if I understand correctly if the Tourism Overlay Zone didn't pass I would get stuck being annexed in in the C-2 zoning?

Planner Henke: Right now, the zoning is in the County and if you were annexed into the City, the City would have to determine what zoning to give you. The idea is that this overlay zone would extend up to your property.

Joe Ballsteadt: I don't mean to waffle on you, but if this Tourism Overlay Zone was passed that would be very interesting for us to come into the City for that purpose. If not I wouldn't want to be stuck in the C-2 zoning or some other zone.

Chairman Oksner: How vulnerable is the Tourism Overlay Zone? Can it be abuse and

somebody could come back and say I want it as a C-2?

Planner Henke: It is an option. If we want to take that option away, then we need to make it a separate zone.

Commissioner Ream: Can we make that proposal tonight?

Planner Henke: Yes. I feel like there is still a lot that needs to be worked out.

Commissioners: We should take away the option. We need to create a new zone, but we need to have a work meeting to discuss it in more detail; agenda items 7, 8 and 9.

Work meeting date and time: March 6, 2017 @ 7pm

Adjournment: O'Toole I move that we adjourn @ 10:47pm

ITEM: 8

Midway City is proposing to create a Tourism Overlay Zone that would cover the general area from 400 East to 700 East along Main Street focused mostly on the north side of the street. This district will be walkable and is envisioned to have a central plaza with surrounding commercial and arts related businesses along with residential.



Commissioners: We should take away the option. We need to create a new zone, but we need to have a work meeting to discuss it in more detail; agenda items 7, 8 and 9.

Work meeting date and time: March 6, 2017 @ 7pm

Adjournment: O'Toole I move that we adjourn @ 10:47pm

ITEM: 9

Midway City is proposing to rezone three parcels from the R-1-11 zone to the C-2 zone and all three would be included in the proposed Tourism Overlay Zone. The parcels are located south of Memorial Hill from about 450 East to 580 East. The property proposed to be rezoned is approximately 6.7 acres in size.

BACKGROUND & ANALYSIS:

Midway City is proposing a zone map amendment of two parcels of about 6.7 acres in size that are currently zoned R-1-11 or partially zoned R-1-11. The City is proposing that all three parcels are rezoned to the C-2. This proposal is based on the newly revised Midway City General Plan. Through the General Plan review process and based on previous development proposals for the area, the City has arrived at the conclusion that the property in question is more valuable to the entire community zoned C-2 instead of R-1-11. The City is currently pursuing the adoption of a Tourism Overlay Zone (TOZ) that would include the 6.7 acres proposed to be rezoned. The purpose and intent of the TOZ is the following:

The purpose of this district is to create a community gathering area that is focused on tourism and retail. This district will be walkable and is envisioned to have central plazas with surrounding commercial and arts related businesses and activities generally on the street level and residential on the upper floors and surrounding buildings. The TOZ provides for a mix of commercial, office, retail, arts related activities and multiple unit and attached residential uses of a higher density along Midway Main Street. Site and building design will be of a quality that enhances the character of Midway and offers a cultural and retail gathering area for the residents, visitors and tourists. A wide range of commercial and residential uses are allowed, including regional scale retail; provided, that it is compatible with the overall sustainable character of the area by fitting into an interconnected street network.

Over the past year, the City has received several development proposals for the three properties. These include hundreds of storage units on two of the parcels and two residential developments on the other. None of the proposed developments were considered to be very beneficial for the entire community. Based only a tax perspective, the residential developments would have cost the City revenue and the storage units would have created a very minimal gain for the City based on the fact there is no sales tax charged for storage unit rentals. These proposals made many aware that the properties will develop but if the City would like them to develop into something beneficial for the entire community then a change in the zoning needed to take place. Rezoning these two parcels is an important step in creating the TOZ.

The two parcels are the following:

Property owner	Parcel Identification	Acreage
Horizon Provider LC	OMI-0535-2-035-034	2.5
Brent Gold and John Demkowicz	OMI-0534-0-035-034	3.7 of an 8.93-acre parcel
Karl Dodge	OMI-0535-1-035-034	0.5

The Horizon Provider LC parcel is completely zoned R-1-11. The Gold and Demkowitz parcel is currently divided into two zones. The majority of the parcel (about 5.23 acres) is already zoned C-2, leaving 3.7 acres in the R-1-11 zone. If the rezone is approved, then the entire 8.93 acres would be zoned C-2. The Karl Dodge property is a small sliver of R-1-11. Staff has always considered the entire parcel to be C-2 but the proposed rezone will clear up any questions regarding the zoning for the entire parcel. Staff has met with the owners of the properties and the owners have verbally given their support for the proposal.

Another reason for rezoning the property is to prepare the area for a performing arts center that is currently in the planning stage. A valley wide committee has been formed that is exploring how to fund the center and where it should be located. The site just north of the proposed rezone is the best location that has been identified. Between the overlay zone, with its restaurants and retail, and the potential resort area to the north there can be a good synergy of uses that will help build each other up. The performing arts center will be an anchor to create activity in the district. Because these two parcels fall in between where the arts center is planned and the commercial area to the south it is important to not dissect the district with a relatively low density residential development.

This is a legislative matter so unless the City feels this is truly beneficial for the entire community then the zone change should not happen. The newly revised General Plan does support this rezone especially in the Economic Development and Resorts chapter.

POSSIBLE FINDINGS:

- The proposal is legislative matter
- The proposal will help create the vision of Midway as described in the General Plan
- The proposed rezone will help secure the area for the performing arts center which will benefit members of the community and businesses in the area
- The proposal will help create a better economic base for the community
- Rezoning the property allow commercial/residential development in the parcels and not

allow purely residential development on the property which would, most likely, have a negative financial impact on the City

ALTERNATIVE ACTIONS:

4. Recommendation of approval. This action can be taken if the Planning Commission feels proposal is acceptable and in the community's best interest.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)

5. 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

6. Recommendation for denial. This action can be taken if the Planning Commission feels that the request is not acceptable and not in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

Commissioners: We should take away the option. We need to create a new zone, but we need to have a work meeting to discuss it in more detail; agenda items 7, 8 and 9.

Work meeting date and time: March 6, 2017 @ 7pm

Adjournment: O'Toole I move that we adjourn @ 10:47pm



Chairman, Mickey Oksner



Administrator Assistant, Lindy Rodabough