



Midway

PLANNING COMMISSION MEETING STAFF REPORT

DATE OF MEETING: November 8, 2022
NAME OF PROJECT: Springer Farms
NAME OF APPLICANT: Travis Nokes
PROPERTY OWNER: Atlas Holdings and Travis Nokes
AGENDA ITEM: Land Use Map Amendment
LOCATION OF ITEM: 256 West Main Street
ZONING DESIGNATION: R-1-7
PROPOSED ZONING: C-3 and TROD

ITEM: 3

Travis Nokes, representative for Atlas Holdings, is requesting a Zone Map Amendment of the Midway City Land Use Map. The property is divided between the C-3 (commercial) zone and the R-1-7 zone (residential). The proposal would rezone approximately 0.59 acres of property currently zoned R-1-7 to C-3. The applicant would also like the property included in the Transient Rental Overlay District. The property is located at approximately 256 West Main Street.

BACKGROUND & ANALYSIS:

The applicant is requesting an amendment to the Midway City Land Use Map by rezoning 0.59 acres that is currently zoned R-1-7 to C-3. The applicant is also proposing

that the property is included in the Transient Rental Overlay District (TROD) boundary which would allow the ability to have short term rentals. Short-term lodging facilities are a permitted use in the C-3 zone so it is reasonable that if the property is zoned C-3 then the TROD should cover the property also. The current zoning on the property is R-1-7 which allows for single-family dwellings on lots that are at a minimum 7,000 square feet, among other requirements. The zone also allows for duplexes on lots that are at least 10,000 square feet, among other requirements. The R-1-7 is described as the following in the General Plan:

The R-1-7 zone (7,000 sf lot) provides appropriate locations within the City for development with a higher amount of residential density. In general, this zone is located in the central part of the City, adjacent to commercial areas where the impact of vehicular travel and parking is consonant with adjacent use of land, and where multiple dwellings can best be supplied with necessary public facilities. This zone is characterized by more compact development and somewhat higher volumes of traffic than is characteristic of other zones. Representative of the uses within the R-1-7 zone are one and two-family dwellings and related community facilities. Commercial uses are prohibited in this zone. This zone should be planned with an emphasis on walkability.

The C-3 zone is described as the following in the General Plan:

Commercial – C-2 and C-3: These zones have been established as districts in which the primary use of the land is for planned and integrated commercial mixed, and service uses. It is intended that these zones shall be characterized by a harmonious grouping of a variety of stores, shops, office buildings, or other permitted uses in an organized development. These zones have also been established to create new development which is characterized by well landscaped frontages, safe access and egress, proper parking design, coordinated site planning, and buildings which follow the objectives of the City Master Plan and architectural requirements. Emphasis in the approval of plans in the C-2 zone shall be to protect the appearance of the entrances to the City. Development in the C-3 zone is intended to create a shopping and financial center for the City and surrounding area. Another objective of the commercial zones is to mitigate potential negative impacts upon residential zones caused by commercial activity. The City commercial zones are surrounded by residential areas on all sides and buffering restrictions are necessary.

The property is contiguous to another property that is 1.26 acres that is being developed as a commercial planned unit development that is also owned by the applicant. If the property owned by the applicant is all zoned C-3 then the two parcels can be developed as a master planned development. This does alleviate some of the issues that they have concerning parking and it may allow for better overall planning for the property. With or

with out the rezone, the developer is planning an access through the parcel proposed for rezone. Currently that parcel that is zoned R-1-7 does not allow for commercial parking because parking in this zone is limited to allowed uses in the R-1-7 zone. In other words, it is staff's interpretation of the code that a parking lot cannot be created in a residential zone to service a neighboring commercial zone. If the property is rezoned to C-3, then the applicant would like to develop the property as commercial on the lower floors of future structures and short-term rentals on the upper floors. A parking area would also be created for the needed parking for the buildings on the applicant's properties. The developer has also described the desire to create employee housing in this area if the property is rezoned to C-3. There would need to be changes to the code to create employee housing and currently the term employee housing is broad and undefined. The City would need to create a code that would define and regulate this type of housing for it to be a possibility on the property. Currently the code allows one dwelling unit per acre in the C-3 zone as part of a mixed-use development but there are no regulations that would require a dwelling to be employee housing, workforce housing, attainable housing, affordable housing, or any other term to describe moderate-income housing.

There are several items to consider with this request. One main issue is the City is currently revising the General Plan. There are many proposed changes to the current plan that are planting seeds for future amendments to the Municipal Code. Some of the proposed amendments promote creating code that will create affordable housing possibilities. If the General Plan is amended that includes language to create affordable housing, then the current request to rezone the 0.59-acre parcel may be an opportunity to conditionally approve the rezone to require affordable housing. State Code has been amended this year and now the code does not allow cities and counties to require affordable housing per local code. Now the option is to negotiate with a developer to create affordable housing and this can be done through a legislative action such as a zone change.

Another item to consider is without the adoption of the nearly revised General Plan, the City is not clear, at this point some, of the larger picture issues that need to be addressed. Two issues that need to be considered are; where will affordable housing be located and will they be located where nightly rentals are currently allowed. Currently nightly rentals are allowed in the commercial zones which are completely covered by the TROD. The City has discussed creating affordable housing and there are several options where housing could be located. One option is to allow affordable housing in the commercial zones where it would be permitted along with nightly rentals. Another is to keep the commercial zones only for nightly rentals and allow affordable housing in the R-1-7, R-1-9, and possibly, the R-1-11 zones. This would create a clear line where the two uses would be allowed and may reduce competition by not allowing both long and short-term rentals in the commercial zones. Without the adoption of the General Plan, it is unclear the route that Midway will take. This could affect the proposed rezone based on the applicant's desire to create employee housing. If the property is rezoned to C-3 and the City chooses to not allow long-term housing in the commercial zones, then affordable housing would not be an option. In that scenario, short-term rentals would be an option on the rezoned property. It may be that the City allows affordable housing in the R-1-7

zone, and if that is the case and the applicant wants to create employee housing, then leaving the property as R-1-7 would be the best option. If the applicant wants commercial development and area for parking, then petitioning for the rezone is the best option for the applicant.

Another item to consider is the development around the Town Square. In recent years the City has experienced development around Town Square and development will continue in the coming years. Residential structures have been converted to businesses such as Café Galleria and Spruce. Other homes have been removed and replaced with businesses such as Heirloom Commons and the restaurant currently under construction on the property owned by the applicant. The Main Street General Plan committee has recommended that the City focus efforts to create a community gathering place at and around the Town Square. An area that draws in residents and visitors alike with activity and vibrancy. Part of that activity and vibrancy will come from development surrounding the Town Square. Of focused consideration are the two streets of Main and 200 West that border the Square. The idea is to work with UDOT, which owns both roads, and periodically close them to allow the community to gather, much like is done in many communities in the country and world. The Town Square and the surrounding businesses would benefit from these periodic events. The property proposed for rezone would be part of a development that fronts on 200 West and would be included in this activity.

Another item to consider is the surrounding property owners. Properties located west of the proposed rezone are zoned residential and they may never have expected the property next to them to be zoned as commercial. Their properties are currently not contiguous to a commercial zone so they may have never expected commercial uses to be located next to them. Land use is never permanent. The Land Use Authority has the ability to rezone properties, but the expectations of the neighbors should be considered. Proposed rezones are required to have proper notice to neighbors and to hold a public hearing at both the Planning Commission and at the City Council. This allows neighbors to share comments and concerns regarding proposed amendments to the Land Use Map.

Also, the City should consider the precedent that is established with each revision to the Land Use Map, especially for the commercial zones and the TROD. Rental properties are important in the fact that they help the local economy, and they help the City to generate taxes. There are other points to consider that may not have a positive impact on the community. One is that short-term rentals reduce the potential available housing pool in town. Each used that is rented short-term is one less unit that could be used as a long-term rental. Some communities completely restrict the ability to allow units to be rented on a short-term basis. Others, like Midway, only allow rentals in specific areas. Recently, a rezone to expand the TROD was approved on 100 South and 100 West. We have the current application before the City and it seems likely that Midway will continue to receive new applications. With each approval that is granted to expand any zone, it makes it more difficult to deny the next application, even if the action is legislative in nature

This item has been noticed in the local newspaper for two weeks and on the State's website for the Planning Commission meeting. Mailed notice was sent out to all property owners within 600' for the public hearing that will be held by the Planning Commission.

POSSIBLE FINDINGS:

- The proposed property is contiguous to the C-3 zone and the TROD.
- The proposed revised General Plan has not yet been adopted so there is not clear direction regarding issues such as Town Square visioning and surrounding development, nightly rentals, and affordable housing.
- Transient rentals will help generate more transient rental taxes for the City and will help the City to qualify to collect the Resort Tax.
- The City has the ability to conditionally approve the proposal and require conditions that would not be possible for administrative actions.
- The City Council is under no obligation to approve the proposal but may do so if they find it will benefit the community.

ALTERNATIVE ACTIONS:

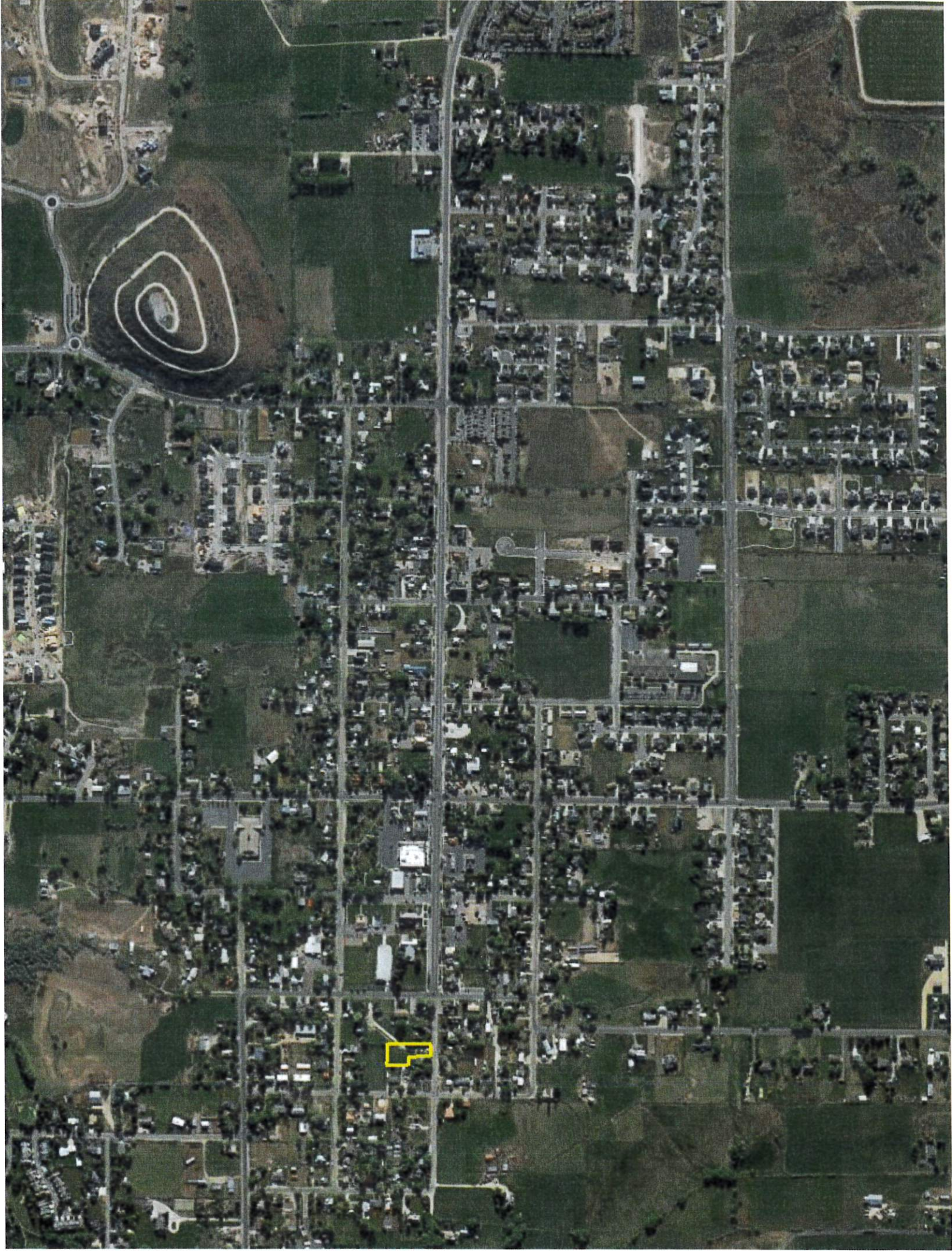
1. Recommendation for Approval. This action can be taken if the Planning Commission finds proposal is acceptable and is in the community's best interest.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)

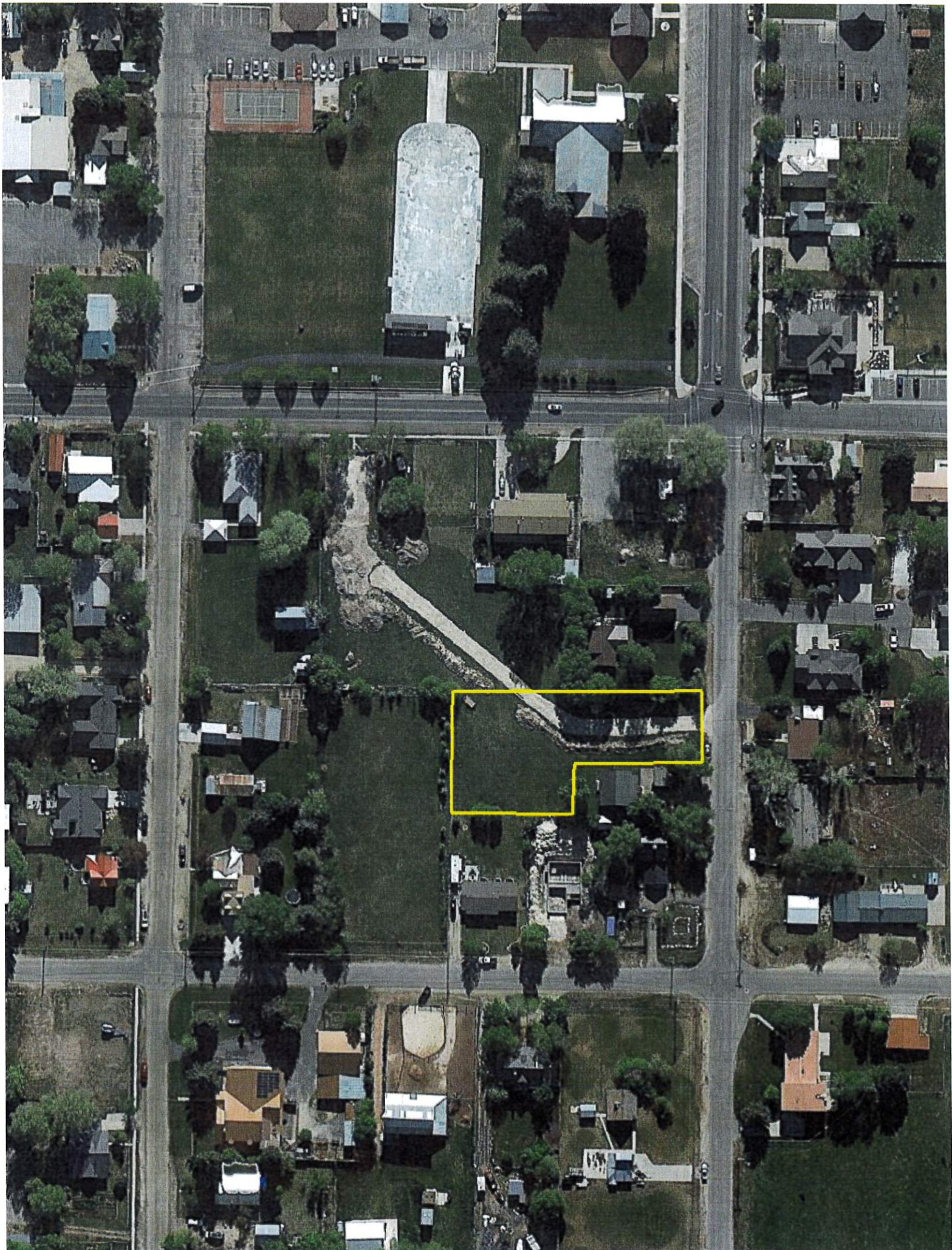
2. Continuance. This action can be taken if the Planning Commission finds that there are unresolved issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again

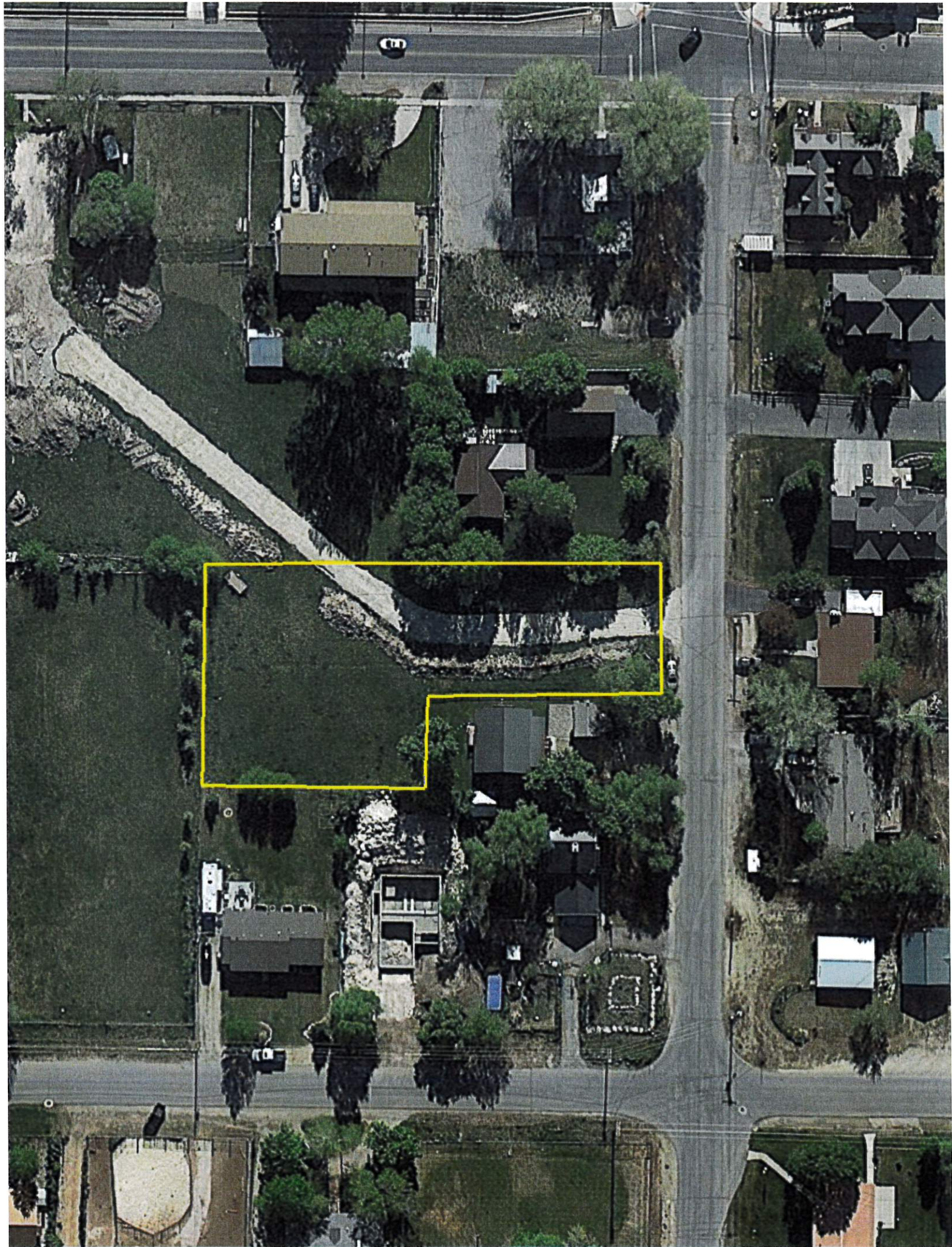
3. Recommendation for Denial. This action can be taken if the Planning Commission finds that the request is not acceptable and not in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

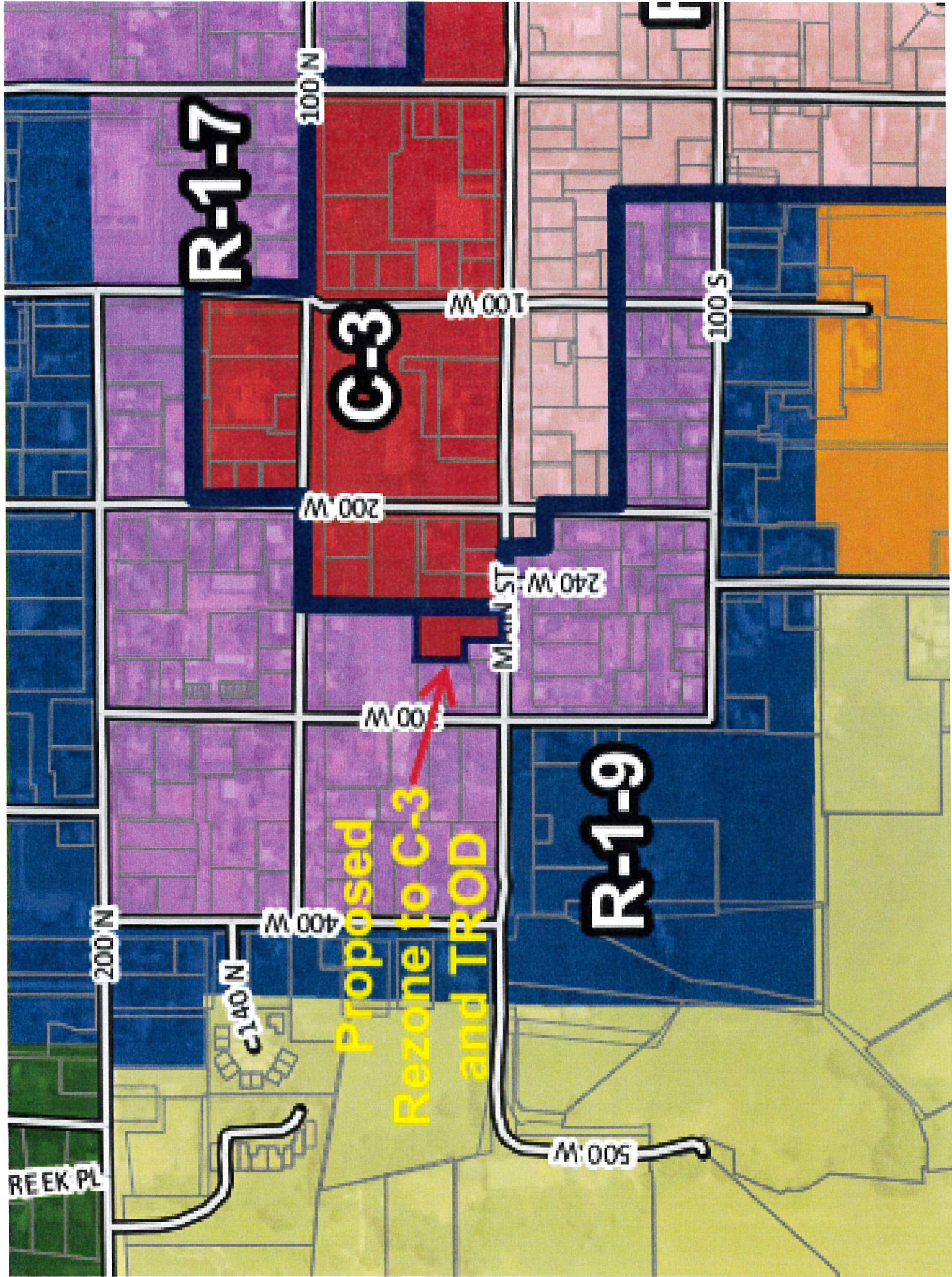
RECOMMENDED CONDITION:

- If the City would like to approve the proposal, then it is only approved after the City and the developer had reached an agreement on affordable housing that will remain in perpetuity.









R-1-7

C-3

R-1-9

**Proposed
Rezone to C-3
and TROD**

100 N

100 W

100 S

200 W

240 W

Main St

100 W

200 N

400 W

500 W

140 N

Creek Pl