

Midway City Council  
17 August 2021  
Regular Meeting

Ordinance 2021-16 /  
Zone Map Amendment



**CITY COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** August 17, 2021  
**NAME OF PROJECT:** The Village  
**NAME OF APPLICANT:** Midway City  
**AGENDA ITEM:** Land Use Map Amendment  
**LOCATION OF ITEM:** 541 East Main Street  
**ZONING DESIGNATION:** R-1-11 and R-1-22  
**PROPOSED ZONING DESIGNATION:** C-2  
**ACREAGE OF PROPOSED REZONE:** 13.34 acres

**ITEM: 6**

Midway Heritage Development LLC is requesting an amendment to the Midway City Land Use Map. The amendment would rezone 13.34 acres of property currently zoned R-1-11 and R-1-22 to C-2. The property is located at 535 E Main.

**BACKGROUND:**

Midway Heritage Development LLC is requesting an amendment to the Midway City Land Use Map that would change the zoning designation for 13.34 acres from R-1-11 and R-1-22 zoning to C-2 zoning. Currently, 5.7 acres are zoned R-1-11 and 7.64 are zoned R-1-22. The proposed rezone would allow the mixed-use zoning code, which is an option in the C-2 zone, to be applied to the entire property which encompasses 27.47

acres. This would allow for more flexibility regarding density dispersion when designing the development. The applicant stated in the application the following regarding the zone map amendment:

*This proposal will allow for a more rural atmosphere on Main Street by creating a view corridor and trails up to the base of Memorial Hill. Businesses around the open space will have a more natural integration with rural architecture if they are next to the open space.*

The applicant has received a conceptual plan approval for a development on the property that includes 156 dwellings and commercial space. The commercial space, in the currently approved concept plan, is located along Main Street frontage and most of the density is in the remainder of the C-2 zone. The proposed concept plan, if a zoning amendment is approved, will include 13 fewer dwellings (the plan reviewed by the City Council July 6, 3031 included 16 fewer units, three have been added in the revised plan), include over 100 yards of open space on Main Street, and will include an open space area in the center of the property running north to south.

If the City were to rezone the property because of an identified communal benefit, the City could conditionally approve the rezone to assure that what is approved is all that is built on the development property. There are two steps to accomplish this goal. The first is to conditionally approve the rezone with any conditions that the City requires. Those conditions would be memorialized and enforced in the master plan agreement. Second, the City would conditionally approve the rezone with the requirement that the zone change is not official until the recording of the master plan agreement. Once the master plan agreement is recorded, with all the approved conditions, the Land Use Map would officially be amended, and the rezone would take effect. In this way the City would protect itself by only allowing the approved concept plan to be constructed on the property. Any additional items beyond what is required by the code that are negotiated should be required as a condition of approval of the rezone.

Since this is a legislative matter, the City is under no obligation to amend the zoning map. If the City finds there are positive impacts for the amendment and there is support in the General Plan, then the City should allow the zone map amendment.

#### **ANALYSIS:**

The City should consider if the proposal is in the best interest of the community and if the petition matches the vision of Midway as described in the General Plan. The General Plan describes, among many things, the preservation of open space and the rural atmosphere of Midway. This proposal seems to help reach those two goals by reducing the number of dwellings that will be built in the development and by creating an open space area along Main Street that will run north through the development. Lowering the density reduces the impact of development on the community by reducing potential

services required, reducing potential traffic (on average about ten trips per day) and potential impact on the school district.

Without the Land Use Map amendment, the developer is limited to 17 units in the R-1-11 zone and eight units in the R-1-22 zone for a total of 25 units in the 14 acres petitioned for the rezone. If the rezone is approved, then the area limited 25 units would be allowed many more units. As part of a conditional approval of the rezone, the developer would be limited to 143 (on July 6, 2021, the developer proposed the density of 140 units but three have been added to the revised plan) units instead of the 156 that are in the approved concept plan.

One of the integral components of the proposed plan is the purchase of parcel 00-0006-6261 which includes a number of buildings including an automotive shop and storage units. With the purchase of the property, all the structures on the parcel would be removed and open space would be created at the location. This open space area could become a gathering place for the new community and for other residents of Midway. All properties included in a master plan application must be in the same ownership so the property must be purchased before the application is submitted.

Setbacks should also be considered with the proposal. The current approved concept includes a Planned Unit Development (PUD) in the area of the proposed rezone. The required setback is 60' for PUDs. If the rezone is approved, then the required setback will reduce dramatically down to 10' in some locations and 15' in other locations. Staff is proposing that the 60' still be required in the area of the rezone to help buffer the development and surrounding properties. Any area that is currently zoned C-2 would still have the same setback that is currently allowed by the code.

Some surrounding property owners may be more impacted with the proposed plan based on rezoning the property than the current approved conceptual plan. There will be more density on the northern end of the property if the rezone is approved along with the traffic, parking, and activity that comes with that density. Special consideration should be taken regarding those that will be more impacted because of the zone change proposal. The City can require conditions if the rezone is approved that will help mitigate impacts on those properties.

The General Plan promotes an active and vibrant commercial zone. It also describes the vision of creating a community gathering place. The proposed rezone appears to better accomplish those goals than the approved concept plan.

Ultimately, the City should only rezone the property if the rezone is in the best interest of the community. This action is a legislative matter, and the City is not obligated to rezone the property. If the City does approve the rezone, then the proper conditions must be enacted to avoid unintended consequences.

## **PLANNING COMMISSION RECOMMENDATION:**

**Motion:** Commissioner Ream: I make a motion that we recommend approval of an amendment to the Midway City Land Use Map. The amendment would rezone 13.34 acres of property currently zoned R-1-11 and R-1-22 to C-2. The property is located at 535 E Main. We agree with the finding in the staff reports. The conditions are the six listed in the staff report along with a condition that the parking be studied to mitigate the impact on the neighbors and a slope analysis and further analysis to understand where the houses line up at the base of Memorial Hill. And a condition to do further analysis on the commercial mix on Main Street.

**Seconded:** Commissioner Cliften

**Chairman Nicholas:** Any discussion on the motion?

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Cliften, Bouwhuis, Ream, Wardle and Garland

**Nays:** None

**Motion:** Passed

## **POSSIBLE FINDINGS:**

- The proposal is a legislative matter, and the City has broad discretion.
- The proposal will require open space to be left along Main Street.
- Density will reduce by 13 residential units if the property is rezoned.
- The property containing the storage units and automotive shop will be included in the proposal and will become open space.
- All code requirements will need to be satisfied and will be reviewed in detail with the master plan and preliminary and final approval of each phase.
- Some neighboring properties will be more impacted with the proposed zone change than with the approved concept plan.
- The City Council can require conditions on the proposed zone change that will be listed specifically in the master plan agreement.

**ALTERNATIVE ACTIONS:**

1. Approval. This action can be taken if the City Council finds the proposal is acceptable and 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 City Council finds 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. Denial. This action can be taken if the City Council 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

**PROPOSED CONDITIONS:**

1. The amendment to the Land Use Map is not official until a master plan agreement has been signed and recorded by the applicant and the City.
  
2. The concept plan, recorded with the master plan, is the only development that may occur on the property and the layout must substantially similar the approved concept plan.
  
3. The density of the development is limited to 143 residential units.
  
4. The minimum side and rear setbacks in the area of the rezone is 60’.
  
5. The automotive shop and other buildings on the parcel must be removed and included as open space in the proposed concept plan.
  
6. The first plat of the master plan must be recorded within five years of approval of the zone map amendment, or the zoning returns to what it is currently zoned.

7. All commercial uses except Home Occupation Businesses, as defined in the City code, shall be located only in the buildings designated as commercial on the revised concept plan.
8. A maximum of 20% of the residential units may have direct driveway access to a public road with the garage facing a public road.

# **Exhibits**

**Exhibit 1 – Location Maps**

**Exhibit 2 – Proposed Rezone Area Maps**

**Exhibit 3 – Approved Concept Plan**

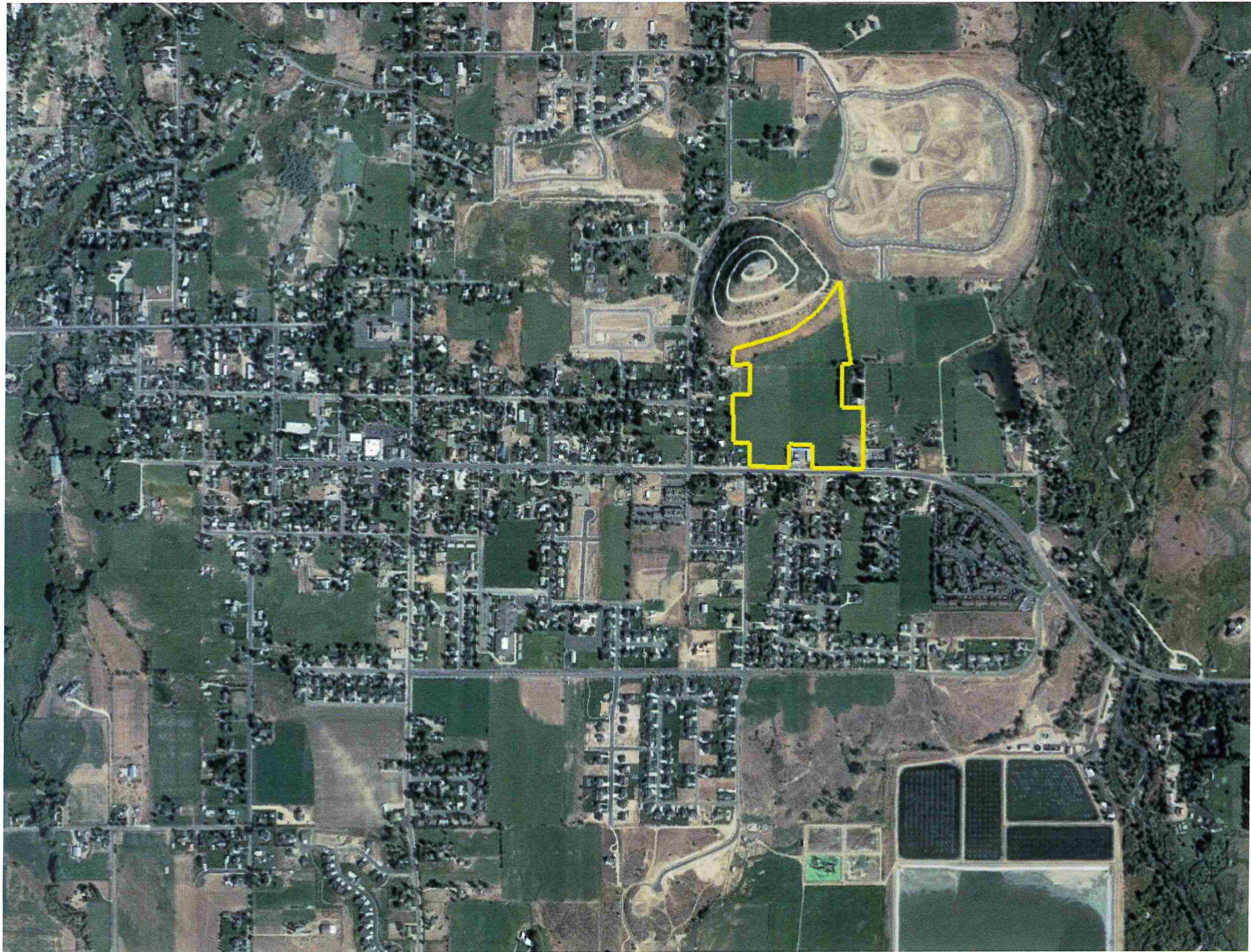
**Exhibit 4 – Proposed Rezone Concept Plan (July 6)**

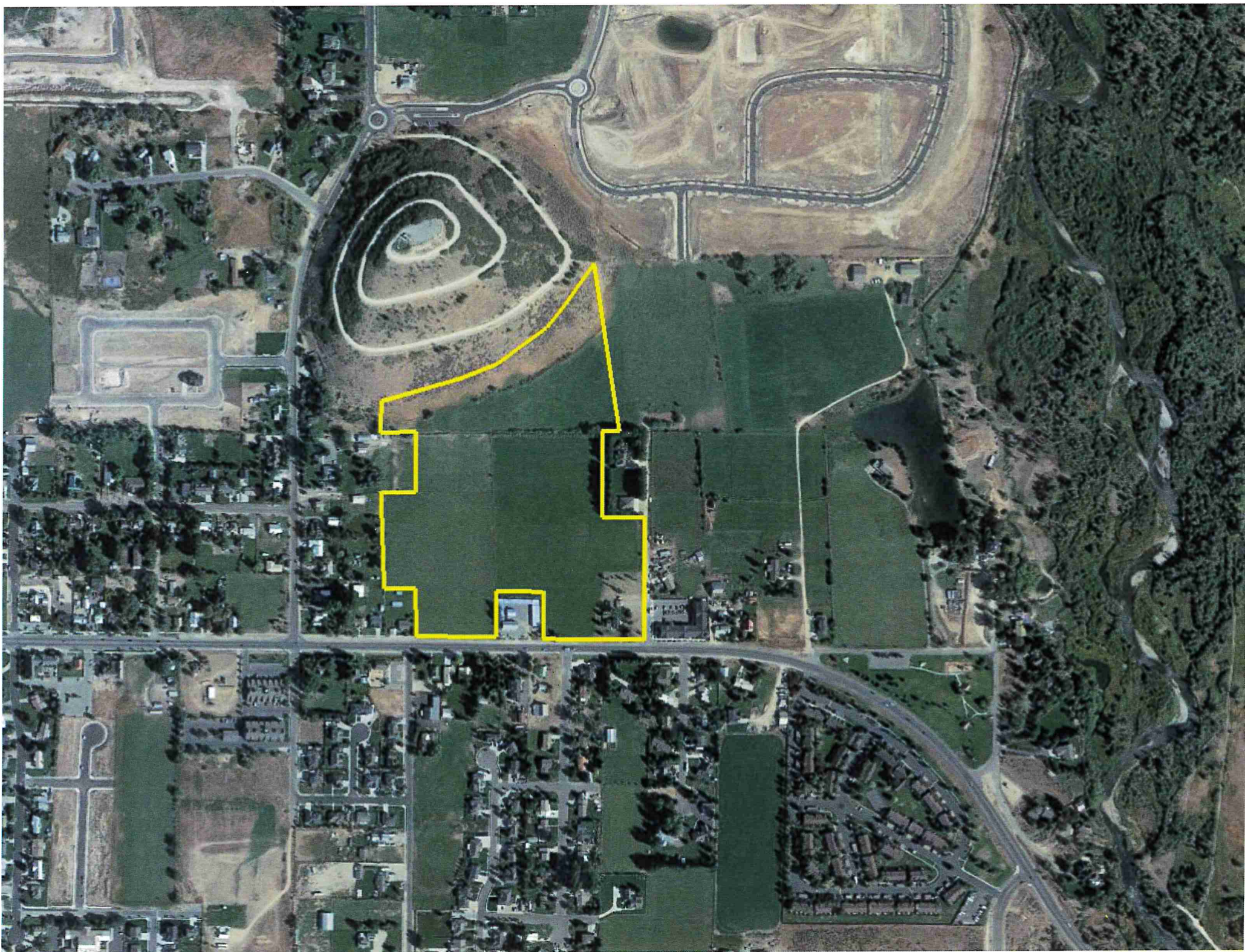
**Exhibit 5 – Proposed Rezone Concept Plan (August 17)**

**Exhibit 6 – Applicant’s Rezone Map Submittal**



# **Exhibit 1**

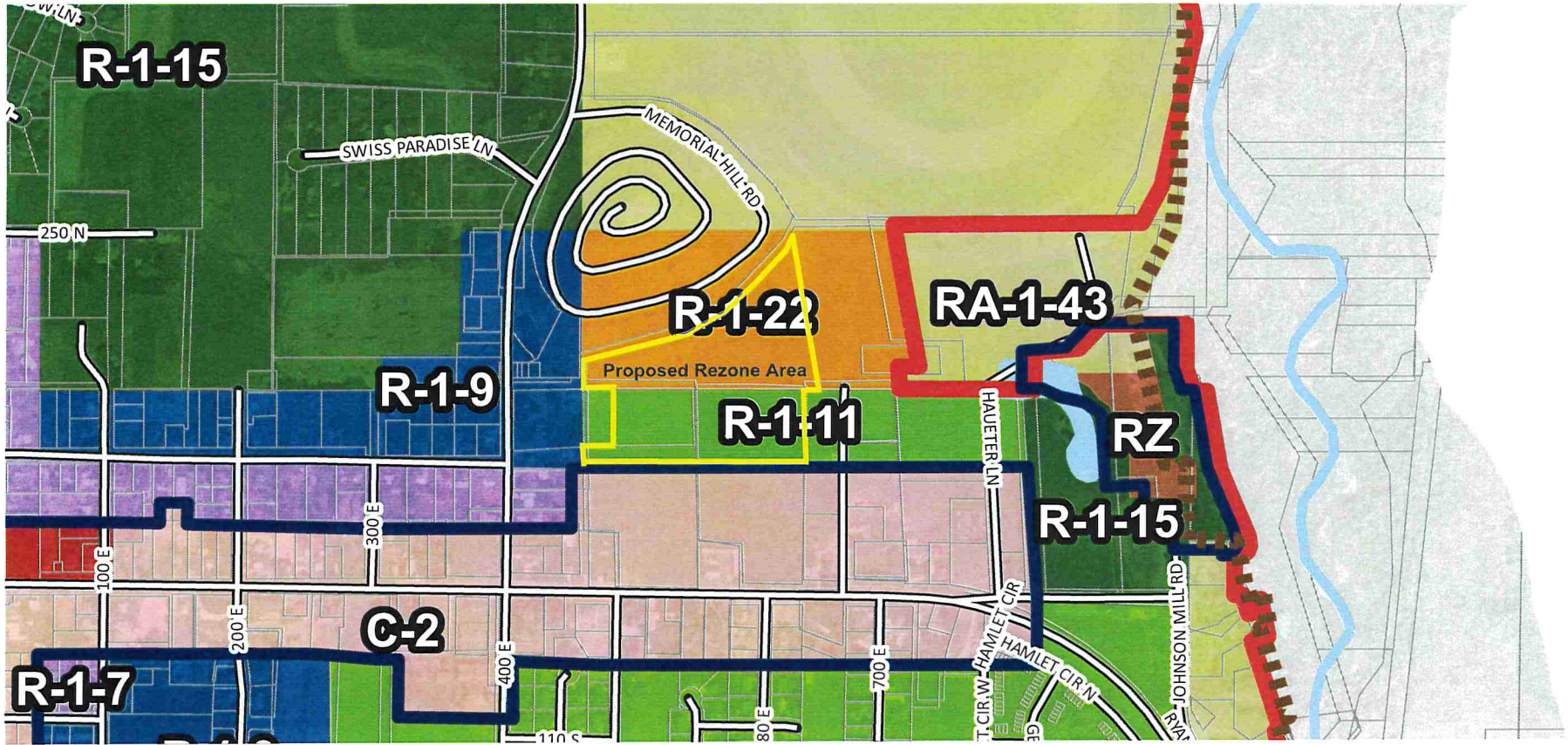




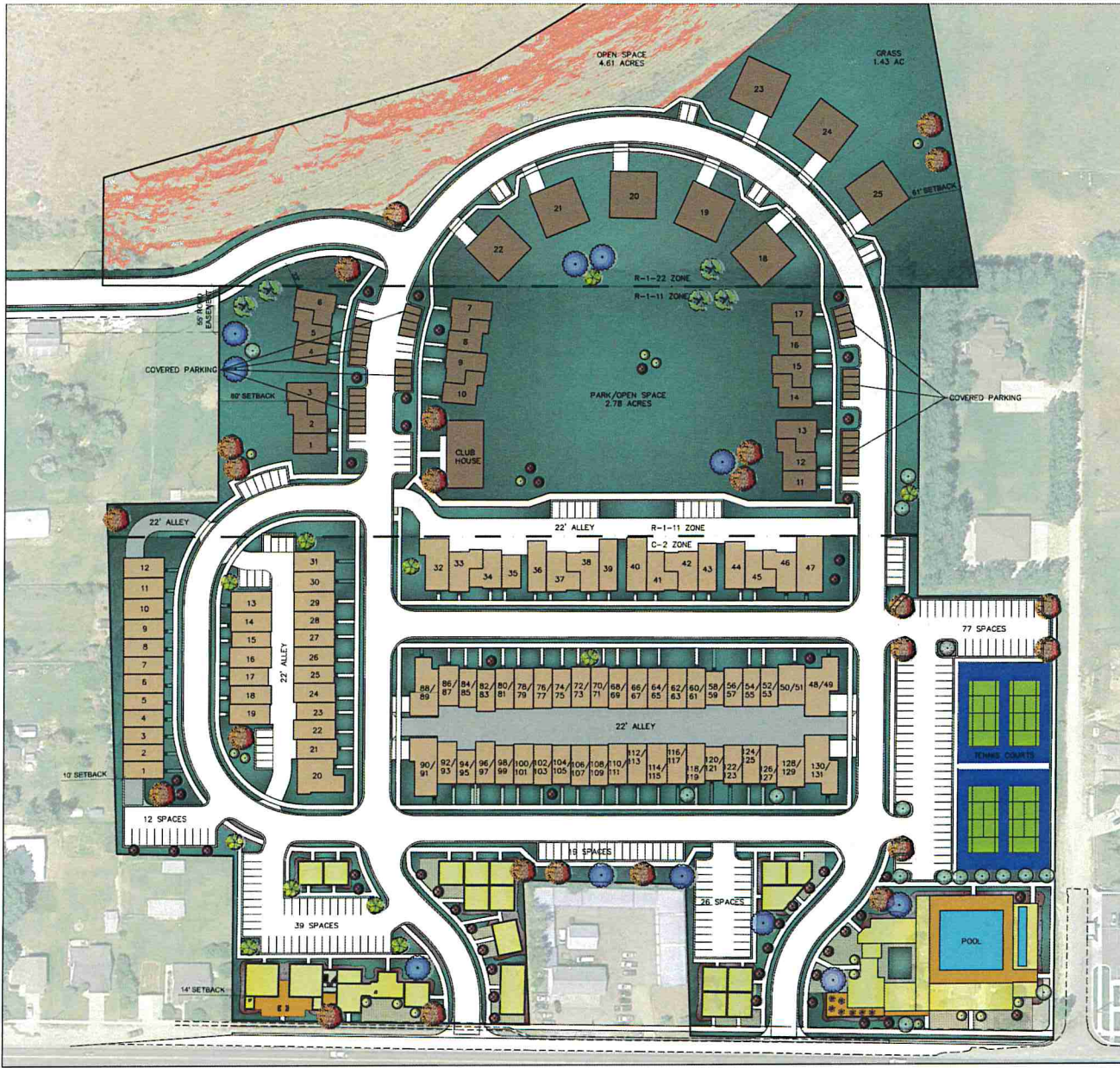
# **Exhibit 2**

Proposed Rezone





# **Exhibit 3**

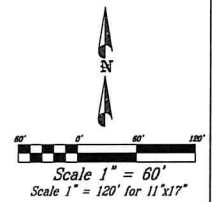


### PLANT SCHEDULE

TREES	QTY	COMMON / BOTANICAL NAME	COUNT	CAL
	24	Autumn Blaze Maple / Acer freemanii - Autumn Blaze	65B	2" Cal
	11	Autumn Purple Ash / Fraxinus americana - Autumn Purple	64B	2" Cal
	53	Canada Red Chokecherry / Prunus virginiana - Canada Red	64D	2" Cal
	16	Quaking Aspen / Populus tremuloides	65D	2" Cal
	11	Shademaster Locust / Glodisia triacanthus inermis - Shademaster TM	64B	2" Cal
	16	Spring Snow Crab Apple / Malus x Spring Snow	64B	2" Cal
	5	Weeping Willow / Salix babylonica	64B	2" Cal
GROUND COVERS	QTY	COMMON / BOTANICAL NAME	COUNT	
	192,147 sf	Kentucky Bluegrass / Poa pratensis	50D	
MULCH	QTY	COMMON / BOTANICAL NAME	COUNT	
	8,000 sf	4" Wood Mulch / 4" Wood Mulch	MULCH	

### LEGEND

- NON-BUILDABLE AREA (25%+ SLOPES)
- COMMERCIAL BUILDINGS (50,250 SF)
- RESIDENTIAL BUILDINGS C-2 ZONE (131 UNITS)
- PUD UNITS (25 UNITS)



THIS DOCUMENT IS RELEASED FOR REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION UNLESS SIGNED AND SEALED.  
 PAUL D. BERG, P.E.  
 SERIAL NO. 285585  
 DATE 31 MAR 2021

LUSTER  
THE VILLAGE

MASTER LANDSCAPE PLAN

BERG ENGINEERING  
Resource Group, P.C.  
380 E Main St, Suite 204,  
Minnetonka, MN 55345  
ph. (435) 657-9749

DESIGN BY: CNB	DATE: 31 MAR 2021
DRAWN BY: CNB	REV: 4



# Exhibit 4

# Open Plan Concept

- 16 fewer units, meets commercial, and open space requirements
- Over 100 yards open space on main
- Better spacing from neighbors on east and west



# **Exhibit 5**

OPEN SPACE: 8.32 ACRES

COMMERCIAL FLOOR PLATE TOTAL: 36,000 SF

COMMERCIAL POOL AND PATIO: 12,500 SF

233 PARKING SPACES

RESIDENTIAL FLOOR PLATE:

143 UNITS X 960 = 137,280 SF



# Exhibit 6



## ORDINANCE 2021-16

### **AN ORDINANCE AMENDING MIDWAY CITY'S LAND USE MAP BY RE-ZONING 13.34 ACRES FROM R-1-11 AND R-1-22 TO C-2, AND RELATED MATTERS.**

**WHEREAS**, an authorized representative for Midway Heritage Development LLC has approached the City Council requesting an amendment to the City's Land Use Map which would rezone 13.34 acres from R-1-11 and R-1-22 to C-2; and

**WHEREAS**, the property proposed for the re-zone is The Village property located at approximately 535 East Main Street in Midway; and

**WHEREAS**, the City Council has determined that the proposed zone change would allow for a mixed-use development on the property; and

**WHEREAS**, for reasons more fully set forth in the Staff Report regarding this proposed zone change, the City Council has determined that the re-zone and the adoption of this Ordinance will be in the best interests of Midway City.

**NOW THEREFORE**, be it hereby **ORDAINED** by the City Council of Midway City, Utah, as follows:

The official Land Use Map of the City of Midway ("Zone Map") is hereby amended to rezone 13.34 acres from R-1-11 and R-1-22 to C-2.

The zone change is shown on the attached Exhibits.

This ordinance shall take effect upon publication as required by law.

**PASSED AND ADOPTED** by the City Council of Midway City, Wasatch County, Utah  
this                    day of                    , 20                    .

Council Member Steve Dougherty \_\_\_\_\_

Council Member Jeff Drury

\_\_\_\_\_

Council Member Lisa Orme

\_\_\_\_\_

Council Member Kevin Payne

\_\_\_\_\_

Council Member JC Simonsen

\_\_\_\_\_

\_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Celeste Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Brad Wilson, City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
Corbin Gordon, City Attorney

(SEAL)

**Exhibit A**

DRAFT



## Zone Map Showing Area of Proposed Change

The area shaded in green is the proposed area to modify to C2 (with development conditions)

