

Midway City Council
18 August 2020
Regular Meeting

Transfer Water Right

Memo



Midway

Date: August 18, 2020
To: Midway City Council
From: Michael Henke
Re: Joel and Luann Kohler petition to transfer water rights

Joel and Luann Kohler are petitioning the City to allow them to transfer water rights from their well to the City's Alpenhof well. The Kohlers are Midway City residents and their property and home are located within the City limits at 624 South Center Street. It is staff's understanding that the ability to use water from their well became difficult years ago and at that time they dedicated water to the City and connected to the culinary system. The well has not been used since that time. They have submitted a Statement of Water User's Claim to the State Engineers Office for water rights number 55-8261 for the adjudication (please see attached). The water right contains one EDU (culinary connection for one dwelling) and irrigation of 0.23 acres. They would like to transfer the water rights to the City for a culinary connection and the water to irrigate 0.23 acres to Midway Irrigation Company (MIC) that could be used for irrigation of another property within MIC's area. The property where they would like the water transferred to is a parcel in the Midway Place Subdivision on the corner of 100 North and 200 West. The subdivision is a four-lot development with one remnant parcel (Parcel A) that has no water rights. Parcel A has been added to parcel 00-0006-3607 owned by Arlin Kohler, father of Joel Kohler. The parcel is large enough and has enough frontage for a second dwelling to be built on the parcel. One of the requirements for a second dwelling in the R-1-7 zone is dedicating the water rights for culinary and secondary water.

If the proposal is approved by the City Council, the Kohlers will apply for a change application to transfer the water rights to the City. Before the connection can be made, they are required to pay a water impact fee (2,300.00), connection and installation fee (\$993.00) and any other required fees.

Please contact me if you have any questions about the proposal or the motion.

435-654-3223 ext. 105
mhenke@midwaycityut.org

Exhibits

Exhibit 1 – Water Advisory Board Application

Exhibit 2 – Statement of Water User’s Claim

Exhibit 3 – Applicant’s Property (location of well)

Exhibit 4 – Aerial Photo of Midway Place Subdivision

Exhibit 5 – Midway Place Subdivision Plat

Exhibit 1

MIDWAY CITY
Planning Office

75 North 100 West
Midway, Utah 84049

Phone: 435-654-3223 x105
Fax: 435-654-2830
mhenke@midwaycityut.org

Midway Water Advisory Application

Applicant or Authorized Representative:

Name: Joel & Luan Kohler Phone: 435 671 1404 Fax: _____

Mailing Address: PO Box 296 City: midway State: UT Zip: 84049

E-mail Address: Kozlufan@gmail.com

Project Name: _____

Location: _____

Total Acreage: _____ Number of Units: _____ Historically Irrigated Area: _____

Existing Water Connections: 1

Irrigated areas in lots or PUD _____

Irrigated area in park strips _____

Non-Irrigated areas within the development _____ Is the project commercial? _____

Comments:

the applicant has an existing well and would like to transfer the water right from the well to the city in exchange for a arbitrary connection.

Please submit with application Site Plans, Plat Maps, Drawings or any information that pertains to water calculations.

FOR OFFICE USE ONLY

STAFF:			
Date Received: _____	Received By: _____	Application Number: _____	Zone: _____
Fee Paid: _____		Tax ID Number: _____	
PLANNER:			
Complete / Incomplete			
Date: _____	Reviewed by: _____		

Exhibit 2

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

IN THE MATTER OF THE GENERAL DETERMINATION OF)
ALL THE RIGHTS TO THE USE OF WATER, BOTH) **STATEMENT OF**
SURFACE AND UNDERGROUND, WITHIN THE) **WATER USER'S CLAIM**
DRAINAGE AREA OF THE UTAH LAKE AND JORDAN)
RIVER IN UTAH, SALT LAKE, DAVIS, SUMMIT,) **Water Right No. 55-8261**
WASATCH, SANPETE, AND JUAB COUNTIES, IN UTAH.) Civil No. 365729849
) (AREA 55 - BOOK 10)

Review the information on this form carefully. This Statement of Water User's Claim form is required to assert your water right claim in the pending general adjudication. Under Utah law, unless you file a written Statement of Water User's Claim within 90 days of receiving notice, your water rights will not be recognized and you cannot assert them further. This form constitutes notice to you that your signed Statement of Water User's Claim must be filed within 90 days after service of this notice with the Division of Water Rights, or the District Court. If you file your Statement of Water User's with the Division of Water Rights, the State Engineer will file it with the District Court. If you agree with the information and accept it as your Statement of Water User's Claim, sign the form and return it to the Division of Water Rights. Alternatively, you may manually revise this claim or obtain a blank Water User's Claim form from the Division of Water Rights' website at: www.waterrights.utah.gov/wrinfo/forms. Signing and returning this form will NOT update ownership with the Division of Water Rights. If title to a water right needs to be updated, you must prepare and file a separate Report of Water Right Conveyance with the State Engineer. If you have any questions, please contact the Division of Water Rights at: (801) 538-5282.

(Printed: 2/17/2020)
(WID: 402)

(* Indicates item differs from water right database)

Owners:

Name: **Joel and Luann Kohler**
Address: **624 South Center Street** Phone: 435-671-1404
Midway UT 84049 EMail: ko24fan@gmail.com

Remarks: Joint Tenants

General:

Type of Right: Application To Appropriate No. A65901
Priority Date: 02/26/1992
Quantity of Water: 0.015 CFS OR 1.14 ACFT
Source: Underground Water Well
County: Wasatch

Points of Diversion:

Points of Diversion - Underground:
(1) N 730 ft. W 222 ft. from E4 corner, Sec 03 T 4S R 4E SLBM
Well Diameter: 6 in. Well Depth: 135 ft.

Water Uses:

Water Uses - Group Number: 408454

Water rights appurtenant to the following use(s): 55-8261

Irrigation from 04/01 to 10/31

Beneficial Use Amount: 0.23 acres

Group Total: 0.23 acres

Domestic from 01/01 to 12/31

Beneficial Use Amount: 1 EDUs

Group Total: 1 EDUs

Place Of Use:

	North West				North East				South West				South East				Section
	NW	NE	SW	SE	NW	NE	SW	SE	NW	NE	SW	SE	NW	NE	SW	SE	Totals
Sec 03 T 4S R 4E SLBM								0.23									0.23
Group Acreage Total :																0.23	

Use Totals:

Irrigation sole-supply total: 0.23 acres

for a group total of: 0.23 acres

Domestic sole-supply total: 1 EDUs

for a group total of: 1 EDUs

Waiver of Process:

The undersigned hereby enters their appearance in this general adjudication and waives service of summons or other process.

Unsworn Declaration:

The undersigned declares under criminal penalty of the State of Utah that the foregoing is true and correct.



 Joel and Luann Kohler

 Title (Authorized Agent)

2/17/20

 Date

Date of Service:

Notice to file a Statement of Water User's Claim was served on

Joel and Luann Kohler on February 7, 2020

Failure to file a claim within ninety (90) days of the notice will forever bar and estop any subsequent assertion of any rights not represented by a timely filed claim and those rights shall be considered abandoned.

Exhibit 3



Google Earth

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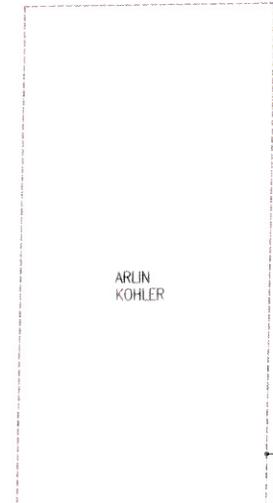
Exhibit 4



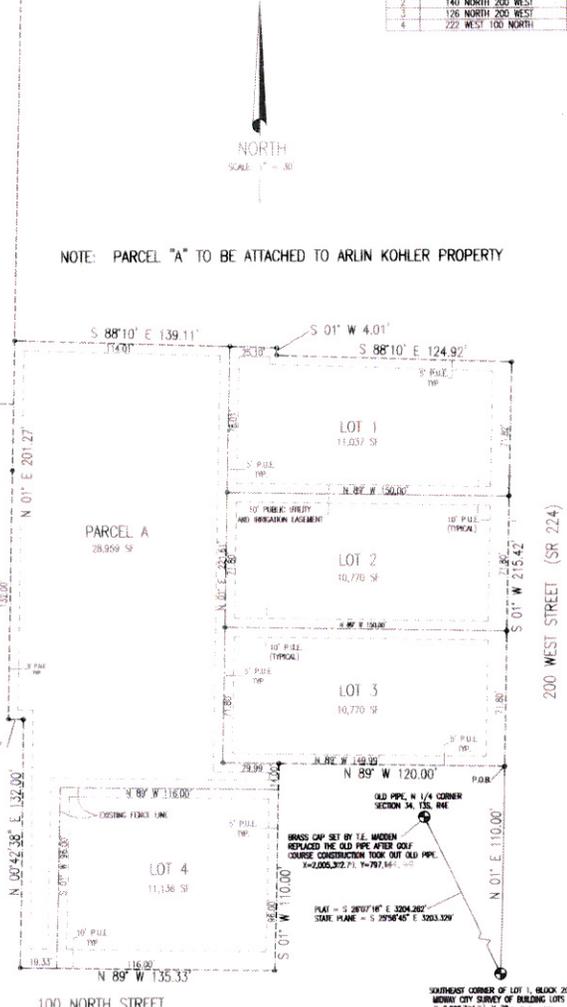
Google Earth

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Exhibit 5



ADDRESS BLOCK	
LOT#	ADDRESS
1	154 NORTH 200 WEST
2	140 NORTH 200 WEST
3	126 NORTH 200 WEST
4	222 WEST 100 NORTH



PARCEL A

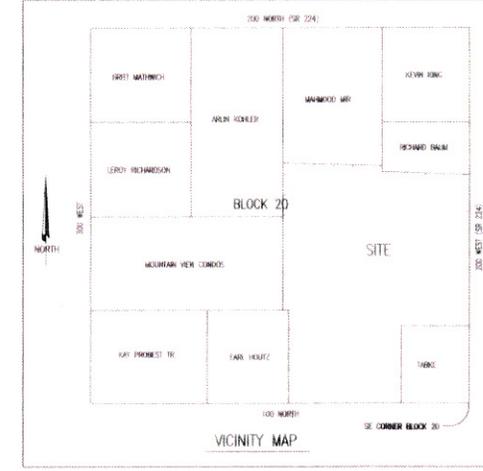
Beginning North 1° East 110.00 feet and N 89° West 120.00 feet from the Southeast corner of Lot 1, Block 20, Midway City Survey of Building Lots,

Thence South 01° West 14.00 feet, Thence North 89° West 110.00 feet, Thence South 01° West 54.00 feet, Thence North 89° West 19.33 feet, Thence North 00°42'36" East 132.00 feet along the existing channel's fence line and its extension, Thence North 89° West 8.00 feet, Thence North 01° East 201.27 feet, Thence South 89°10' East 114.01 feet, Thence South 01° West 23.01 feet, Thence South 89° East 29.98 feet to the point of beginning.

Area: 78,955 sq ft

Bears of Bearing: North 01° East, this description - North 01°10'33" East, Utah State Plane

NOTE: PARCEL "A" TO BE ATTACHED TO ARLIN KOHLER PROPERTY



SURVEYOR'S CERTIFICATE

I, EDWARD MADSEN, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT I HOLD CERTIFICATE NO. 156004 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH - FURTHER CERTIFY THAT THE DESCRIPTION BELOW CORRECTLY DESCRIBES THE LAND UPON WHICH WILL BE CONSTRUCTED MIDWAY PLACE SUBDIVISION AMENDED PLAT "A"

8-8-2000 DATE *Edward Madsen* SURVEYOR SET 9/4/00

BOUNDARY DESCRIPTION

Beginning North 1° East 110.00 feet from the Southeast corner of Lot 1, Block 20, Midway City Survey of Building Lots,

Thence North 89° West 120.00 feet, Thence South 01° West 110.00 feet, Thence North 89° West 135.33 feet, Thence North 00°42'36" East 132.00 feet along the existing channel's fence line and its extension, Thence North 89° West 8.00 feet, Thence North 01° East 201.27 feet, Thence South 89°10' East 139.11 feet, Thence South 01° West 4.01 feet, Thence South 89°10' East 124.92 feet, Thence South 01° West 23.01 feet to the point of beginning.

Less and Excepting Therein - Area 43,710

Bears of Bearing: North 01° East, this description - North 01°10'33" East, Utah State Plane

ACCEPTANCE BY MIDWAY CITY

THE CITY COUNCIL OF MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH, HEREBY APPROVES THIS SUBDIVISION AND ACCEPTS THE DEDICATION OF EASEMENTS HEREIN SHOWN

THIS 3rd DAY OF August, A.D. 2000

John S. Pelt CITY ENGINEER
John S. Pelt CITY ATTORNEY

John S. Pelt CITY ENGINEER
John S. Pelt CITY ATTORNEY

PLANNING COMMISSION APPROVAL

APPROVED THIS 22nd DAY OF August, A.D. 2000 BY THE

John S. Pelt CITY ENGINEER
John S. Pelt CITY ATTORNEY

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT I, J. MORRISON AND SUZANNE MARIE DAVIS, THE UNDESIGNED OWNERS OF THE PROPERTY DESCRIBED HEREON, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS AND EASEMENTS, AND DO HEREBY DEDICATE THOSE AREAS LABELED AS EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 22nd DAY OF August, A.D. 2000

John J. Morrison *Suzanne Morrison*

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
 COUNTY OF WASATCH }
 ON THE 22nd DAY OF August, A.D. 2000, PERSONALLY APPEARED BEFORE ME THE SIGNERS OF THE FOREGOING DEDICATION WHO DULY ACKNOWLEDGE TO ME THAT THEY DO EXECUTE THE SAME.

MY COMMISSION EXPIRES March 1, 2002 *John S. Pelt* NOTARY PUBLIC

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT DAVID FROST AND WINNENE S. FROST, THE UNDESIGNED OWNERS OF THE PROPERTY DESCRIBED HEREON, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS AND EASEMENTS, AND DO HEREBY DEDICATE THOSE AREAS LABELED AS EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES.

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 18th DAY OF August, A.D. 2000

Winnene S. Frost *David Frost, TR*

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
 COUNTY OF WASATCH }
 ON THE 18th DAY OF August, A.D. 2000, PERSONALLY APPEARED BEFORE ME THE SIGNERS OF THE FOREGOING DEDICATION WHO DULY ACKNOWLEDGE TO ME THAT THEY DO EXECUTE THE SAME.

MY COMMISSION EXPIRES March 1, 2002 *John S. Pelt* NOTARY PUBLIC

MIDWAY PLACE SUBDIVISION AMENDED PLAT "A"

MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH
 SCALE: 1" = 30' FEET

EDWARD MADSEN, No. 156004, STATE OF UTAH
 JOHN S. PELT, No. 156004, STATE OF UTAH

NOTE: LOT ORANGE IS TO BE CONTAINED ON-SITE IN THE FRONT 20' OF THE LOT.
 * INDICATES REBAR AND CAP SET

DATE: 8-22-00, TIME: 12:11 P.M., FEE: \$71.00
 FORMSET: 547-1, 547-2, 547-3, 547-4, 547-5, 547-6, 547-7, 547-8, 547-9, 547-10, 547-11, 547-12, 547-13, 547-14, 547-15, 547-16, 547-17, 547-18, 547-19, 547-20, 547-21, 547-22, 547-23, 547-24, 547-25, 547-26, 547-27, 547-28, 547-29, 547-30, 547-31, 547-32, 547-33, 547-34, 547-35, 547-36, 547-37, 547-38, 547-39, 547-40, 547-41, 547-42, 547-43, 547-44, 547-45, 547-46, 547-47, 547-48, 547-49, 547-50, 547-51, 547-52, 547-53, 547-54, 547-55, 547-56, 547-57, 547-58, 547-59, 547-60, 547-61, 547-62, 547-63, 547-64, 547-65, 547-66, 547-67, 547-68, 547-69, 547-70, 547-71, 547-72, 547-73, 547-74, 547-75, 547-76, 547-77, 547-78, 547-79, 547-80, 547-81, 547-82, 547-83, 547-84, 547-85, 547-86, 547-87, 547-88, 547-89, 547-90, 547-91, 547-92, 547-93, 547-94, 547-95, 547-96, 547-97, 547-98, 547-99, 547-100

Subdivision and plat maps are subject to the provisions of the Utah Subdivision Map Act, Chapter 2, Title 18, Utah Code Annotated, 1993, and the rules and regulations promulgated thereunder.