

Midway City Council
4 May 2021
Regular Meeting

Ordinance 2021-11 /
Hot Springs Annexation



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: May 4, 2021

NAME OF PROJECT: Hot Springs Annexation

NAME OF APPLICANT: Thomas Whitaker

AGENDA ITEM: Annexation

ACRES: 12.26 acres

LOCATION OF ITEM: 1477 North Pine Canyon Road

PROPOSED ZONING: RZ (Recreational Resort Zone)

ITEM: 7

Thomas Whitaker of Mound City LLC is petitioning for annexation of the Hot Springs property and is 12.26 acres. The property is in the Midway Growth Boundary and located west of Pine Canyon Road and north of Cari Lane. The proposed zoning for the property is RZ (Resort Zone).

BACKGROUND:

Thomas Whitaker has petitioned the City to annex 12.26 acres that will be zoned RZ if approved by the City Council. Currently the property is in the County and is zoned RA-1. The area is 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 be analyzed and evaluated before the City considers approving an annexation. Currently, the City boundary runs along the north side of the proposed annexation property area.

The annexation contains 1 parcel which is owned by the petitioner.

Property Owner	Tax ID#	Signed Petition	Acres	Taxable Value
MOUND CITY LLC	OWC-0322-L	Yes	12.26	\$623,746

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 petitioner 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.

Per the City Code, the intent of the annexation code is the following:

It is the intent of this Chapter to ensure that property annexed to the City will contribute to the attractiveness of the community and will enhance the rural, resort image which is critical to the economic viability of the community, and that the potential fiscal effect of an annexation does not impose an unreasonable burden upon City resources and tax base.

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. Further analysis will be required, but the property has naturally occurring hot springs that have created hot pots and ponds. The Snake Creek stream channel is west of this property, but the FEMA floodway and 100-year floodplain both encroach into the western portion of the property. The applicants plan also shows wetlands along the western part of the property. The applicant has shown the topography of the property, some of which include slopes that are 25% and greater. The sensitive lands may impact both the density that can be realized on the property along with limiting what parts of the property can be developed. If the annexation is approved, these sensitive land features will be reviewed in greater detail when they apply for masterplan approval.*
- C. Identification of current and potential population of the area and the current residential densities: *Currently there are no homes in the annexation area. As the owner proceeds to obtain development approvals for the property, they will work with staff to identify the uses and acceptable densities. The current uses shown on their concept plan include a lodge, six rental cabins and fifteen glamping pads, all of which would be rented on a temporary basis.*
- D. Land uses presently existing and those proposed: *Currently the land is undeveloped but has been stripped of most of its vegetation. The applicant has proposed resort type land uses that include a lodge, six rental cabins, fifteen glamping pads, along with trails and small beaches that provide access to the ponds and hot pools. If annexed, the applicant would be required to go through a master plan process to develop the property. When they go through this process, they will be required to demonstrate compliance with the use requirements for developments in the resort zone which include providing commercial area, hotel/nightly rentals, and open space.*
- E. Character and development of adjacent properties and neighborhoods: *The properties surrounding the annexation on the south and west are undeveloped, mostly in a natural state. Property to the east is mostly undeveloped hillside, but there are a few scattered homes to the south east. The property to the north is part of Wasatch Mountain State Park and is therefore undeveloped open space. The area has a rural open 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 or RZ.*

- 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 site plan provided by the developer shows a resort type development that includes a lodge, rental cabins, and glamping sites.*
- H. Assessed valuation of properties within the annexation area: *The assessed value of the property is \$623,746.*
- 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. This includes land use applications, building permits, and utility payments. The proposed resort uses will contribute to the City's tax base as people rent facilities and spend money at local businesses and restaurants. Resort uses are typically less of a burden on local resources and service providers than residential developments are a positive financial impact for the City. The proposed use does not create any new public roads, which means the city will not be required to plow and maintain any additional roads. The City does have water lines in the immediate area of the annexation and other utilities are located nearby.*
- 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 property petitioned for annexation is within the Midway Growth Boundary and is currently part of an unincorporated island that is completely surrounded by the municipalities of Midway and Interlaken.*

Utah State code allows for the annexation of a portion of an unincorporated island as outlined below in 10-2-418 (staffs comments are italicized):

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and : *The City Council will need to find that not annexing the entire island is in the city's best interest. If the City were to annex the balance of the unincorporated island, they would be doing so without the property owners submitting a concept plan for proposed development. The City would also be forfeiting*

the opportunity to require items from landowners as a condition of annexation. Once properties annex, the development approval processes is administrative, and the City can only require compliance with the land use code.

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents

Subsection (2)(b)(ii) states the following:

(ii)(A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and: *Fewer than 800 people are within the area to be annexed.*

(B) the municipality has provided one or more municipal-type services to the area for at least one year;: *Beginning in May 2020, Midway City assumed road maintenance and snow plowing responsibilities for the section of Pine Canyon Road that the applicants property fronts.*

After reviewing the criteria outlined in Utah State Code, it appears that the proposed property could be annexed without creating future islands, undesirable boundaries, and difficult service areas.

- 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: *Based on the proposed concept plan, the City would only provide minimal additional services to the property. The proposed uses would generate sales tax, transient room taxes and would help with the resort tax.*
- M. An estimate of the tax consequences and other potential economic impacts to residents of the area to be annexed: *There are currently no residents in the annexation area.*

- 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: *The hot pots have been historically used by members of the public and could be considered a historic resource.*

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.
- The most recent applicants for annexation to Midway have contributed to the parks fund. The average cost per acre annexed into Midway has paid \$589.11. Therefore, if following the model of previous annexations, the required parks annexation donation fee is \$7,222 that would be paid before the recording of the annexation plat.
- The City's Master Trail Plan has a detached 8' paved trail that will run along the west side of Pina Canyon Road. Staff is recommending that the trail is not constructed at this time because there is not a trail connection to the north or south of the development. Staff recommends that a 20' public trail easement is dedicated to the City when the property is annexed and the funds to build the trail are paid to the City and those funds are added to the trails general fund. Once the City decides it is appropriate to build the trail, most likely because trails are built to the north or south of the annexation, then the City will use the funds to build the trail on the public trail easement.

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 traffic to the area.
- The proposed commercial and nightly rental uses would have a positive impact on the city's tax base.

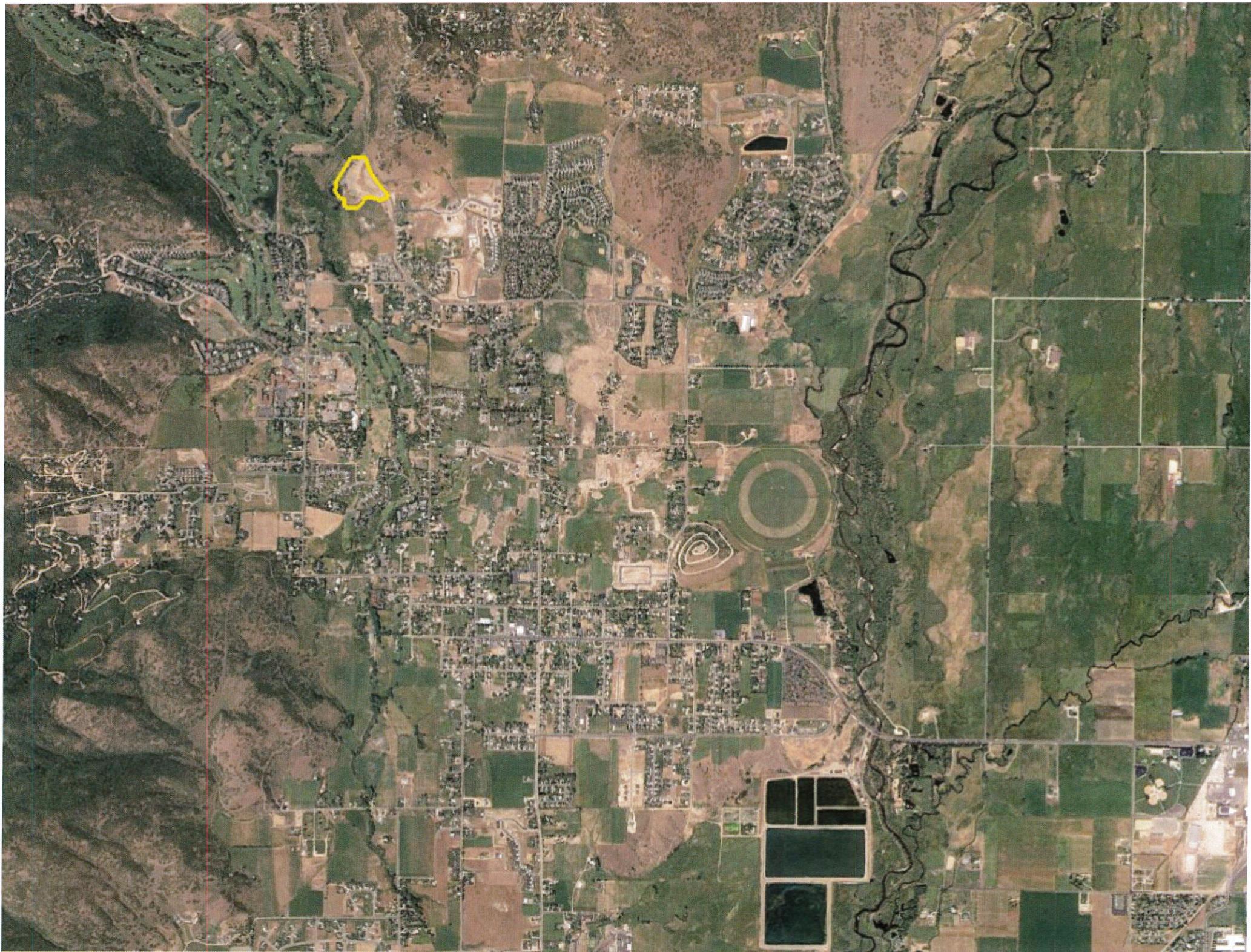
- The intensity of uses is relatively low compared to what could happen on the property. This will help promote the vision of the general plan to preserve open space and a rural atmosphere.
- Utah State Code allows for the annexation of a portion of an unincorporated island if certain criteria are met.
- The trail planned along Pine Canyon Road will help complete the trails master plan that will benefit the community.

ALTERNATIVE ACTIONS:

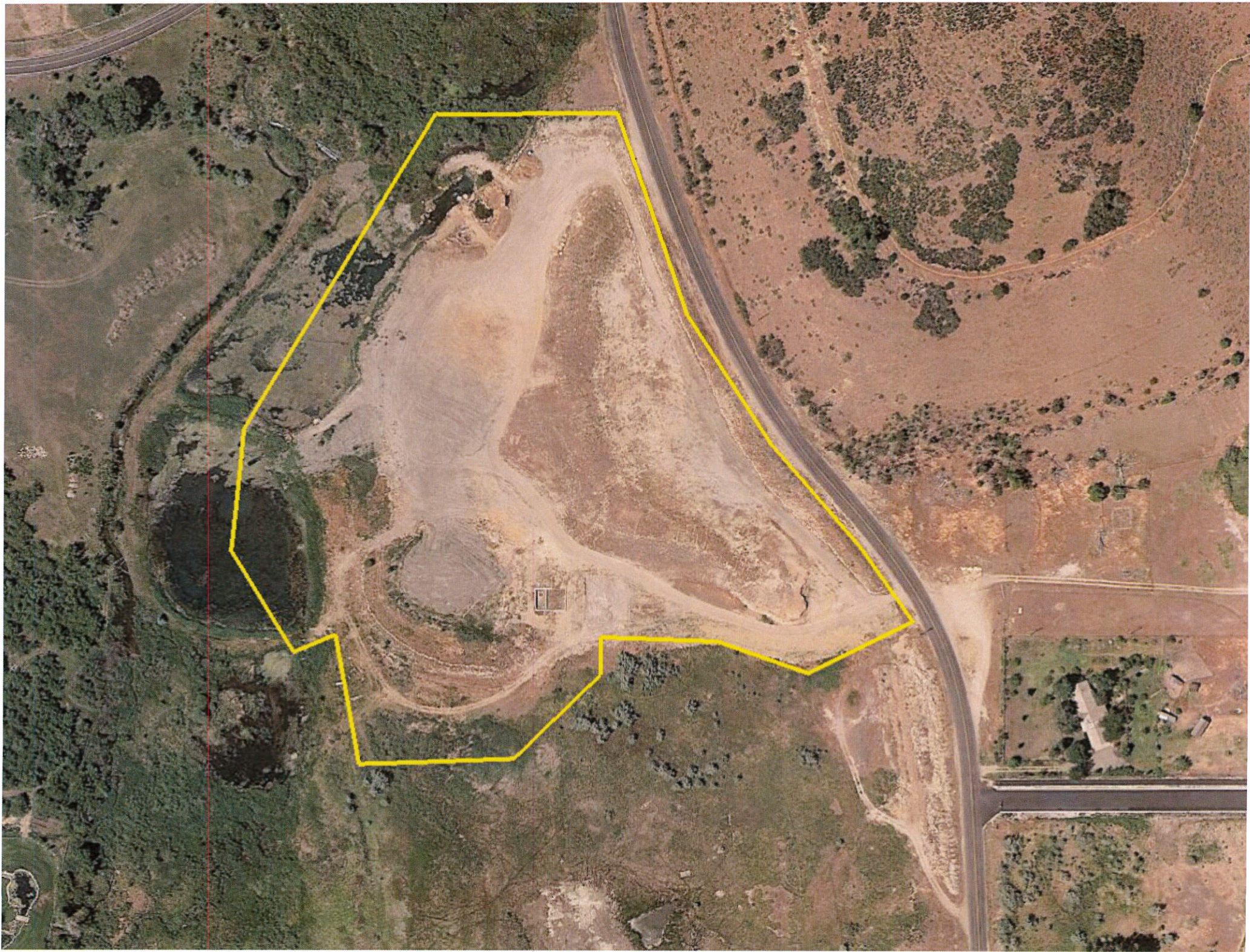
1. Approval. This action can be taken if the City Council finds that the annexation is in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)
2. Continuance. This action can be taken if the City Council finds there are unresolved issues.
 - 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 in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

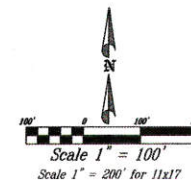
PROPOSED CONDITIONS:

1. A 20' public trail easement is dedicated to the City when the property is annexed and the funds to build the trail are paid to the City and those funds are added to the trails general fund.
2. The applicant pays a parks annexation fee of \$7,222.





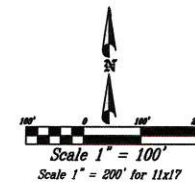
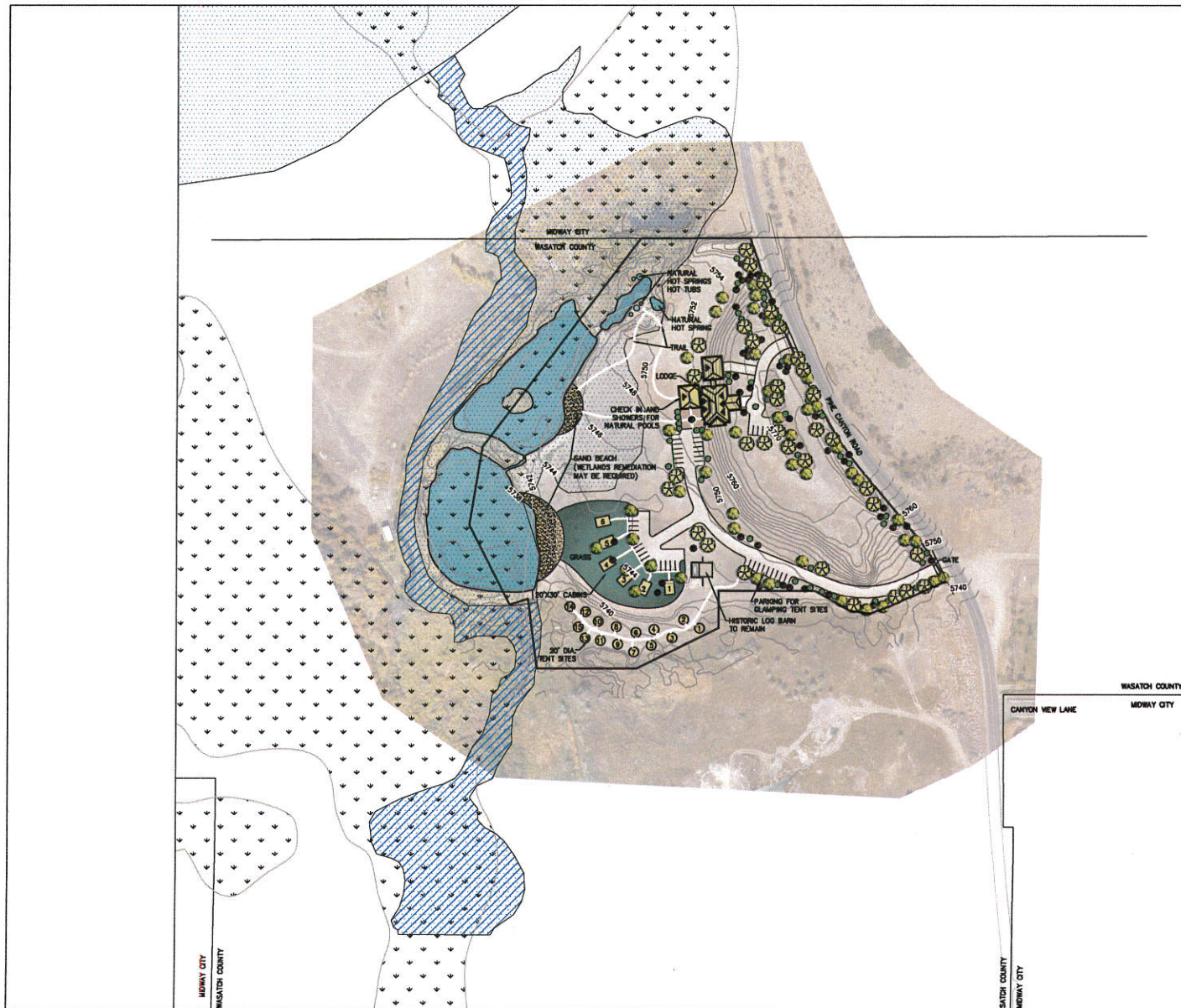




- LEGEND**
- WETLANDS PER U.S. FISH AND WILDLIFE NATIONAL WETLANDS INVENTORY
 - EXISTING PONDS AND HOT POOLS
 - 100 YEAR FLOOD AREA (ZONE AE)
 - FLOODWAY
(THE FLOODWAY IS THE CHANNEL OF A STREAM PLUS AN ADJACENT FLOOD PLAIN AREAS THAT MUST BE KEPT FREE OF ENCROACHMENT SO THAT THE 1% ANNUAL CHANCE FLOOD CAN BE CARRIED WITHOUT SUBSTANTIAL INCREASES IN FLOOD HEIGHTS.)
 - 25%+ SLOPE

THIS DOCUMENT IS RELEASED
FOR REVIEW ONLY. IT IS NOT
INTENDED FOR CONSTRUCTION
UNLESS SHOWN AND SEALED.
P.A.L.A. S. BERG P.E.
SERIAL NO. 235085
DATE: 18 NOV 2020

WHITAKER HOT SPRINGS ANNEXATION		
SENSITIVE LANDS MAP		
RESOURCE GROUP P.C. 380 E Main St. Suite 204, Midway, UT 84049 ph: (435) 467-7749		
DESIGN BY: PSB	DATE: 19 NOV 2020	SHEET
DRAWN BY: PSB	REV:	1



LEGEND

- WETLANDS PER U.S. FISH AND WILDLIFE NATIONAL WETLANDS INVENTORY
- EXISTING PONDS AND HOT POOLS
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NOTES

- ZONING: RESORT ZONE
- RESORT USES: LODGE/LARGE RENTAL HOME
SMALL RENTAL CABINS
MINERAL POOLS
- NUMBER OF BEDROOMS: LODGE 5
CABINS 5
11
- LAND USES:
- BUILDINGS 0.31 ACRES
- DRIVEWAYS 0.88 ACRES
- OPEN SPACE 11.07 ACRES
- TOTAL 12.26 ACRES

THIS DOCUMENT IS RELEASED FOR REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION UNLESS SIGNED AND SEALED.
PENG, B. BUREAU P.E.
SIGNATURE: [Signature]
DATE: 18 NOV 2020

WHITAKER
HOT SPRINGS ANNEXATION

CONCEPT PLAN

BERG ENGINEERING
Resource Group P.C.
300 E Main St. Suite 204
Midway, UT 84049
ph: (435) 657-9749

DESIGN BY: PDB DATE: 18 FEB 2021 SHEET: 1
DRAWN BY: DAB REV:



PETITION FOR ANNEXATION

We the undersigned owners of certain real property hereby submit this Petition for Annexation and respectfully represent the following:

1. That this petition and the annexation meet the requirements of the Utah Code and the Midway City Municipal Code.

RECEIVED

2. That the real property is described as follows:

DEC 10 2020

Approximate location:

BY: BW

1477 North Pine Canyon Road

Legal description:

See attached

3. That up to five of the signers of this petition are designated as sponsors, one of whom is designated as the contact sponsor, with the name and mailing address of each sponsor indicated as follows:

Contact Sponsor

Mailing Address

Mound City LLC

P.O. BOX 777, Midway, Utah 84049

8/26/2020

BASIS OF BEARING

THE BASIS OF BEARING IS SOUTH 89°43'02" WEST BETWEEN THE FOUND WASATCH COUNTY BRASS CAP MARKING THE NORTH $\frac{1}{4}$ CORNER OF SECTION 27 AND THE FOUND WASATCH COUNTY BRASS CAP MARKING THE NORTHWEST CORNER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED SOUTH 89°43'02" WEST ALONG THE SECTION LINE 522.63 FEET FROM THE FOUND WASATCH COUNTY BRASS CAP MARKING THE NORTH $\frac{1}{4}$ CORNER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN;
THENCE SOUTH 18°31'28" EAST 60.03 FEET; THENCE ALONG THE ARC OF A 1880.00 FOOT RADIUS CURVE TO THE LEFT 359.45 FEET (CHORD BEARS SOUTH 24°00'06" EAST 358.90 FEET); THENCE ALONG THE ARC OF A 754.00 FOOT RADIUS CURVE TO THE LEFT 142.00 FEET (CHORD BEARS SOUTH 34°52'27" EAST 141.79 FEET); THENCE SOUTH 40°16'10" EAST 143.20 FEET; THENCE ALONG THE ARC OF A 574.00 FOOT RADIUS CURVE TO THE RIGHT 127.71 FEET (CHORD BEARS SOUTH 33°53'43" EAST 127.45 FEET); THENCE SOUTH 65°43'00" WEST 129.47 FEET; THENCE SOUTH 69°43'32" WEST 41.60 FEET; THENCE NORTH 82°10'24" WEST 43.96 FEET; THENCE NORTH 59°56'36" WEST 83.23 FEET; THENCE NORTH 89°59'51" WEST 200.74 FEET; THENCE SOUTH 00°26'52" EAST 78.32 FEET; THENCE SOUTH 63°30'03" WEST 190.73 FEET; THENCE NORTH 89°59'51" WEST 208.40 FEET; THENCE NORTH 07°15'53" WEST 147.02 FEET; THENCE SOUTH 72°12'07" WEST 39.94 FEET; THENCE NORTH 26°53'22" WEST 186.13 FEET; THENCE NORTH 09°22'10" EAST 165.81 FEET; THENCE NORTH 36°58'17" EAST 544.70 FEET; THENCE NORTH 89°43'02" EAST 228.29 FEET TO THE POINT OF BEGINNING.

AREA = 12.26 ACRES

HOT SPRINGS ANNEXATION - 600' NOTICES

NUMBER	NAME	ADDRESS	CITY	STATE	ZIP
1	BUDD BROOKE GILES	PO BOX 576	HEBER CITY	UT	84032-0576
2	CLARK INVESTMENT GROUP LLC	3675 E JUNO CIRCLE	SALT LAKE CITY	UT	84124-2236
3	HOLDAWAY JEFFREY	1769 BROOKSIDE LN	VIENNA	VA	22182-1922
4	HUBER JOANN	1250 PINE CANYON RD	MIDWAY	UT	84049-6453
5	M A MILLER LLC	2113 E FALCON RIDGE DR	DRAPER	UT	84020-5707
6	MAPLE HOLDINGS LLC	5314 RIVER RUN DR	PROVO	UT	84604-5691
7	MAY JAMES L	1242 N HOMESTEAD DR	MIDWAY	UT	84049-6469
8	MORGAN JOSEPH FRANCES TR	1340 PINE CANYON RD	MIDWAY	UT	84049-6455
9	MOUND CITY LLC	PO BOX 777	MIDWAY	UT	84049-0777
10	PROBST HIGLEY DEVELOPERS LLC	1225 SPRINGER VIEW DR	MIDWAY	UT	84049-6729
11	T&L WHITAKER INVESTMENTS LTD	PO BOX 777	MIDWAY	UT	84049-0777
12	TAYLOR PAUL	1270 PINE CANYON RD	MIDWAY	UT	84049-6453
13	THORNTON DAVID TR	6257 MADRA AVE	SAN DIEGO	CA	92120-3907
14	UTAH STATE PARKS AND RECREATION	1596 W NORTH TEMPLE	SALT L AKE CITY	UT	84116-3154



ORDINANCE 2021-11

AN ORDINANCE APPROVING THE HOT SPRINGS ANNEXATION AND DESIGNATING ZONING TO APPLY TO THE ANNEXATION PROPERTY

WHEREAS, Title 10, Chapter 2, Part 4 of the Utah Code authorizes a municipality to annex unincorporated areas into the municipality; and

WHEREAS, on 10 December 2020, a petition was filed with Midway City to annex approximately 12.26 acres of land known as the Hot Springs Annexation into Midway City; and

WHEREAS, the City has reviewed the annexation petition and has verified that it meets all applicable legal requirements; and

WHEREAS, on 4 May 2021, the Midway City Council held a duly noticed public hearing to receive public input on the proposed annexation; and

WHEREAS, the Midway City Council finds it desirable and in the public interest to approve the proposed annexation at this time.

NOW THEREFORE, be it ordained by the City Council of Midway City, Utah, as follows:

Section 1: The real property described in Section 2 below is hereby annexed to Midway City, Utah, and the corporate limits of the City are hereby extended accordingly.

Section 2: The real property subject to this Ordinance is described as follows:

BEGINNING AT A POINT LOCATED SOUTH 89°43'02" WEST ALONG THE SECTION LINE 522.63 FEET FROM THE FOUND WASATCH COUNTY BRASS CAP MARKING THE NORTH 1/4 CORNER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN;

THENCE SOUTH 18°31'28" EAST 60.03 FEET; THENCE ALONG THE ARC OF A 1880.00 FOOT RADIUS CURVE TO THE LEFT 359.45 FEET (CHORD BEARS SOUTH 24°00'06" EAST 358.90 FEET); THENCE ALONG THE ARC OF A 754.00 FOOT RADIUS CURVE TO THE LEFT 142.00 FEET (CHORD BEARS SOUTH 34°52'27" EAST 141.79 FEET); THENCE SOUTH 40°16'10" EAST 143.20 FEET; THENCE ALONG THE ARC OF A 574.00 FOOT RADIUS CURVE TO THE RIGHT 127.71 FEET (CHORD BEARS SOUTH 33°53'43" EAST 127.45 FEET; THENCE SOUTH 65°43'00" WEST 129.47 FEET; THENCE SOUTH 69°43'32" WEST 41.60 FEET; THENCE NORTH 82°10'24" WEST 43.96 FEET; THENCE NORTH 59°56'36" WEST 83.23 FEET; THENCE NORTH 89°59'51" WEST 200.74 FEET; THENCE SOUTH 00°26'52" EAST 78.32 FEET; THENCE SOUTH 63°30'03" WEST 190.73 FEET; THENCE NORTH 89°59'51" WEST 208.40 FEET; THENCE NORTH 07°15'53" WEST 147.02 FEET; THENCE SOUTH 72°12'07" WEST 39.94 FEET; THENCE NORTH 26°53'22" WEST 186.13 FEET; THENCE NORTH 09°22'10" EAST 165.81 FEET; THENCE NORTH 36°58'17" EAST 544.70 FEET; THENCE NORTH 89°43'02" EAST 228.29 FEET TO THE POINT OF BEGINNING.

AREA = 12.26 ACRES

Section 3: The real property described in Section 2 above shall be classified as being in the Resort Zone, pursuant to the Midway City Municipal Code, and the official Zoning Map of Midway City shall be amended accordingly.

Section 4: The real property described in Section 2 above shall be subject to all laws, ordinances, and policies of Midway City.

Section 5: This Ordinance shall take effect as and when provided by Utah Code Title 10, Chapter 2, Part 4.

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this day of 2021.

	AYE	NAY
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)