

Midway City Council
20 September 2022
Regular Meeting

Ordinance 2022-24 /
Kay's Landing Annexation



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: September 20, 2022
NAME OF PROJECT: Kay's Landing Annexation
NAME OF APPLICANT: Still Water Holdings LLC
AGENDA ITEM: Annexation
ACRES: 10.81 acres
LOCATION OF ITEM: 1591 Stringtown Road
PROPOSED ZONING: RA-1-43

ITEM: 7

Still Water Holdings LLC is petitioning for annexation of the proposed Kay's Landing subdivision which would contain five lots on 10.81 acres. The property is in the Midway Growth Boundary and located at 1375 South Stringtown Road. The proposed zoning for the property is RA-1-43 (rural-agricultural 1 acre).

BACKGROUND:

Still Water Holdings LLC has petitioned the City to annex 10.81 acres that will be zoned RA-1-43 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 north side and east sides of the proposed annexation property area.

The annexation contains three parcels which are owned by the petitioner.

<u>Property Owner</u>	<u>Tax ID#</u>	<u>Signed Petition</u>	<u>Acres</u>	<u>Taxable Value</u>
Still Water Holdings	OWC-1218-0	Yes	10.01	\$950,950
Still Water Holdings	OWC-1218-1	Yes	0.8	\$22,540

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. 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, the City Council 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.

The property petitioned for annexation is in the Midway Growth Boundary and it will not create an incorporated peninsula, so annexation of the property is allowed by State Code. The applicant would like to annex the 10.81 acres would pursue subdividing the property into five lots. Potentially, approximately eight or nine lots could be located on the property if the property were to be developed at maximum density, but the applicant is proposing five and staff has obtained a deed restriction (see attached) for the property limiting the maximum density to five lots. The maximum density of five lots will be memorialized in the annexation agreement. Annexation would give the applicant access to the City's culinary water system and would allow the applicant to avoid drilling a well and installing the proper equipment for fire flow from a well. Instead, he would extend the City's water lines from Stringtown Road and install fire hydrants.

This item has been noticed in the local newspaper for two weeks and on the State's website for the City Council meeting. Public notices have also been posted in three public locations in Midway advertising the meeting and agenda and notices will be mailed to all property owners within 600 feet of the proposed annexation for the public hearing that will held by the City Council.

ANALYSIS:

The comments in italicized represent Planning Staff's comments pertaining to compliance or lack of compliance with the findings the City Council 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. The property does not contain any sensitive lands.*
- C. Identification of current and potential population of the area and the current residential densities: *Currently there are no dwellings in the annexation area. The development potential of the area is approximately eight or nine lots (except the property is deed restricted and could be enforced civilly. The average number of people per dwelling in Midway is 2.9 which would increase Midway's population by about 14 or 15 people based on the average and based on a five-lot subdivision.*
- D. Land uses presently existing and those proposed: *Currently the land in the area is being used for agricultural purposes. The proposed land use is low density residential.*
- E. Character and development of adjacent properties and neighborhoods: *The properties surrounding the annexation are predominantly being used for low density residential and agriculture. There are several scattered homes surrounding the annexation. The are to the northeast is the Haven Farms Rural Preservation Subdivision that has a low density less than one home for every five acres.*

- 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.*
- 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 petitioner has indicated that they want to keep an open feel of development on the property by building five lots instead of the potential lots that would be allowed by the zoning.*
- H. Assessed valuation of properties within the annexation area: *The assessed value of the property is \$973,490.*
- 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 additional 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 exactly what the impact 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 fronting the area of the annexation and other utilities are located nearby. If the property is annexed, the City will own part of Stringtown Road, as shown on the proposed annexation plat, and will be responsible for maintenance Stringtown Road in the area that is annexed.*
- 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. The proposed annexation will not create an unincorporated island or peninsula as defined by State law. The annexation also will not produce any areas that are difficult to service.*

- 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. Most likely the City will not generate revenue from this proposal, but the City does gain the ability to control land use to assure the goals of the General Plan are met.*
- M. An estimate of the tax consequences and other potential economic impacts to residents of the area to be annexed: *There are no dwellings in the proposed 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: *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. It is possible that if the property is developed in Wasatch County, then the density of the subdivision would be about eight lots (if the deed restriction is not enforced) instead of the five lots that the developer has agreed to if the property is developed in Midway.

- Access – The proposed concept plan shows access from Stringtown Road. The proposed road would be a cul-de-sac that would provide the required frontage for each lot. The cul-de-sac would be about 900’ in length which does comply the City’s maximum length requirements for a cul-de-sac of 1,300’. Also, the applicant is proposing the five lots would access from the cul-de-sac which complies with Midway’s requirements that no more than 11 lots access from one access.
- Road maintenance – If the property is annexed and a cul-de-sac is constructed to create five lots on the property, the cul-de-sac would be a City owned and maintained street. The City will also need to maintain Stringtown Road to the southern boundary of the annexation unless an agreement is reached with Wasatch County regarding maintenance. This will incur more cost to the City but City will also receive more road funds from the State. Also, Midway owns the water line under Stringtown Road, and by owning the road, the City will have control over the right-of-way which includes issuing any cut permits in the road area which is currently controlled by Wasatch County.
- 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 \$6,368.28 that would be paid before the recording of the annexation plat.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Ream: I make a motion that we recommend approval for the petition of annexation of the proposed Kay’s Landing subdivision which would contain five lots on 10.81 acres. The property is in the Midway Growth Boundary and located at 1375 South Stringtown Road. The proposed zoning for the property is RA-1-43 (rural-agricultural 1 acre). We accept staff findings and the two conditions listed in the staff report.

Seconded: Garland

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Bouwhuis, Wardle, Osborne, Lineback, Garland and Simons

Nays: None

Motion: Passed

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.
- The density of the project is relatively low at five dwellings on almost eleven acres. This will help promote the vision of the general plan to preserve more open area and a rural atmosphere.

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 CONDITION:

1. Development on the parcel is limited to five lots. The five lots will be deed restricted and will not allow any further subdividing.

Midway City Corporation

Mayor: Celeste T. Johnson
City Council Members
Lisa Christen • Jeffery Drury
J.C. Simonsen • Steve Dougherty
Kevin Payne



75 North 100 West
P.O. Box 277
Midway, Utah 84049
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Fax: 435-654-4120
midwaycityut.org

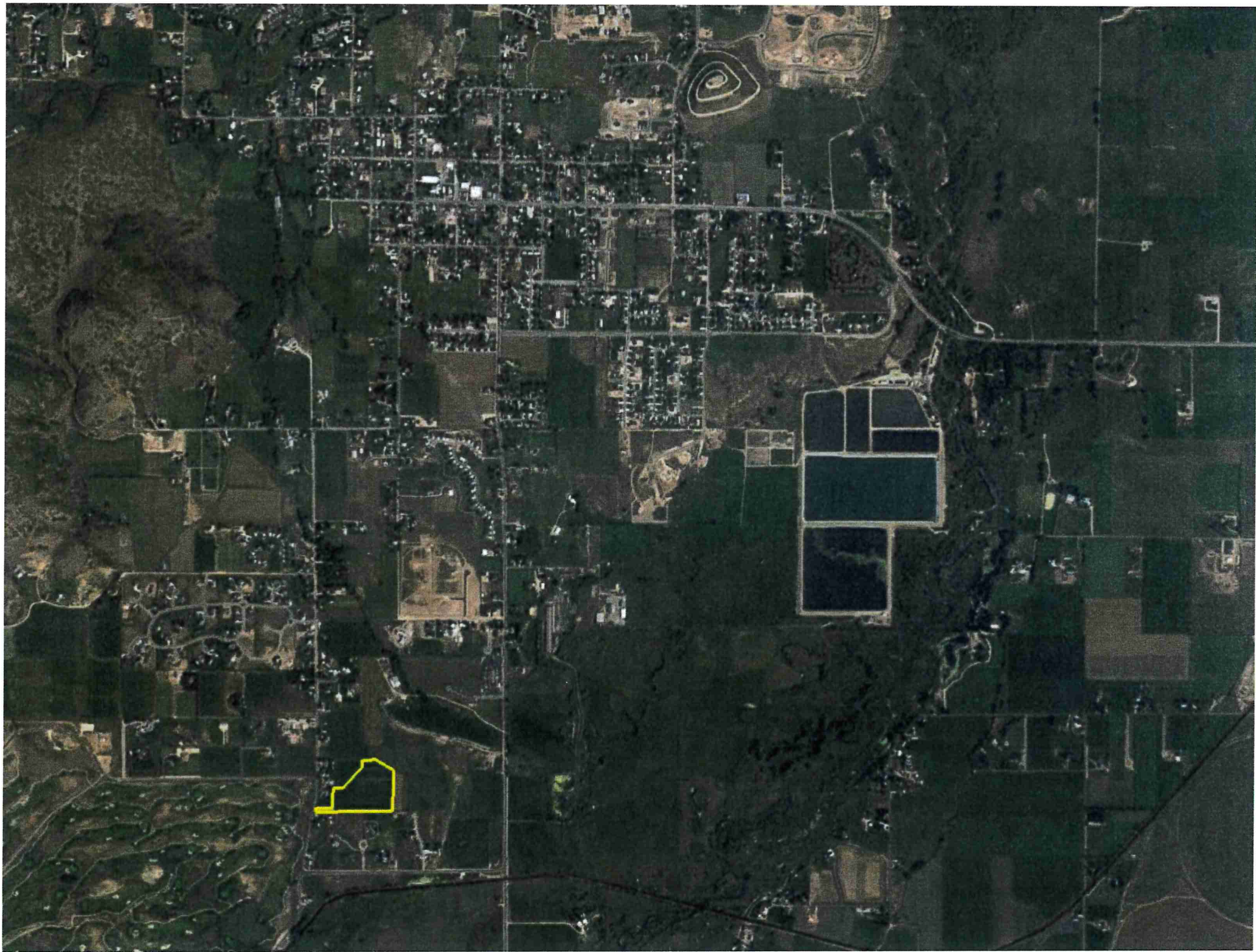
Still Water Holdings LLC Annexation

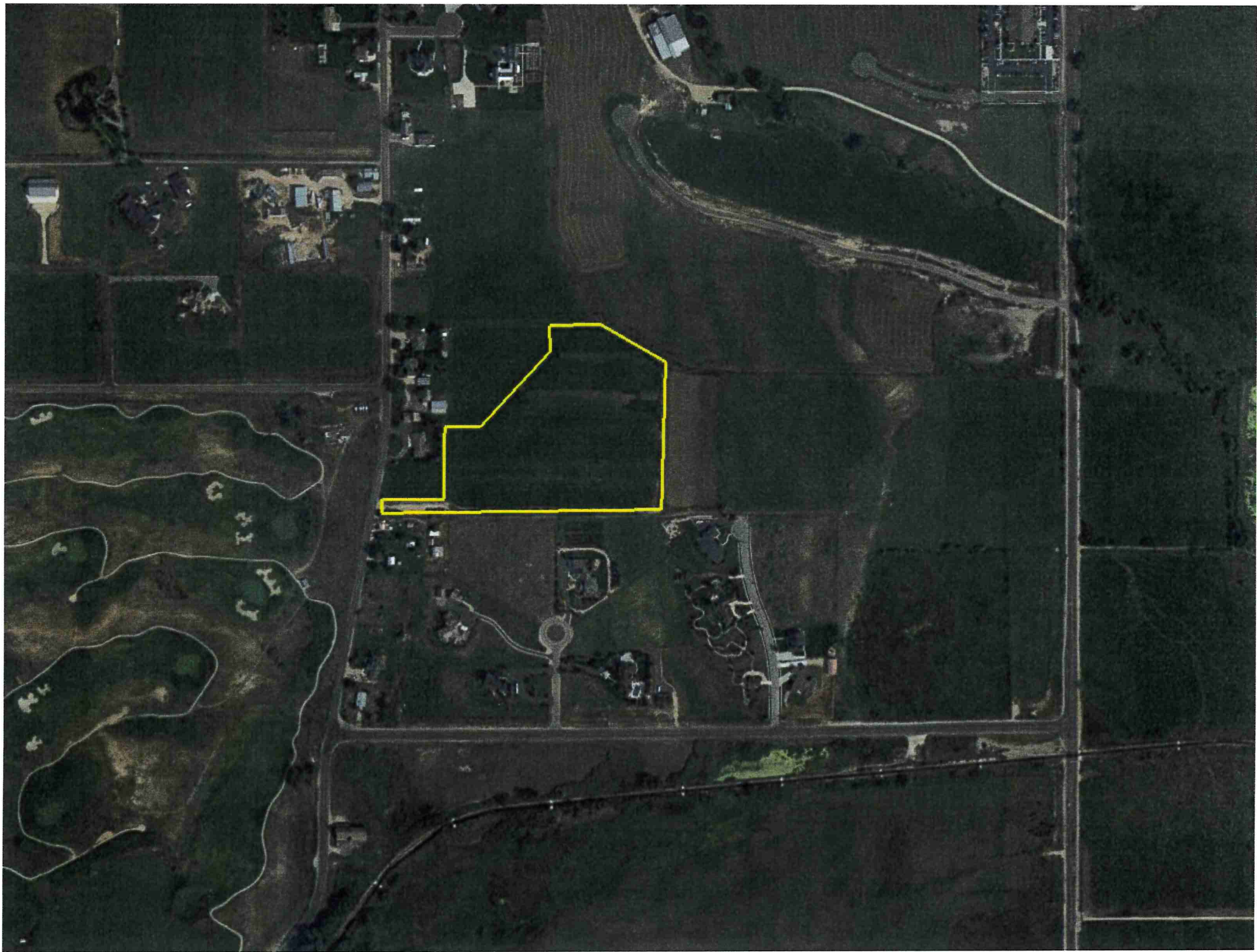
July 6, 2022

Michael Henke Midway City Planning Director,

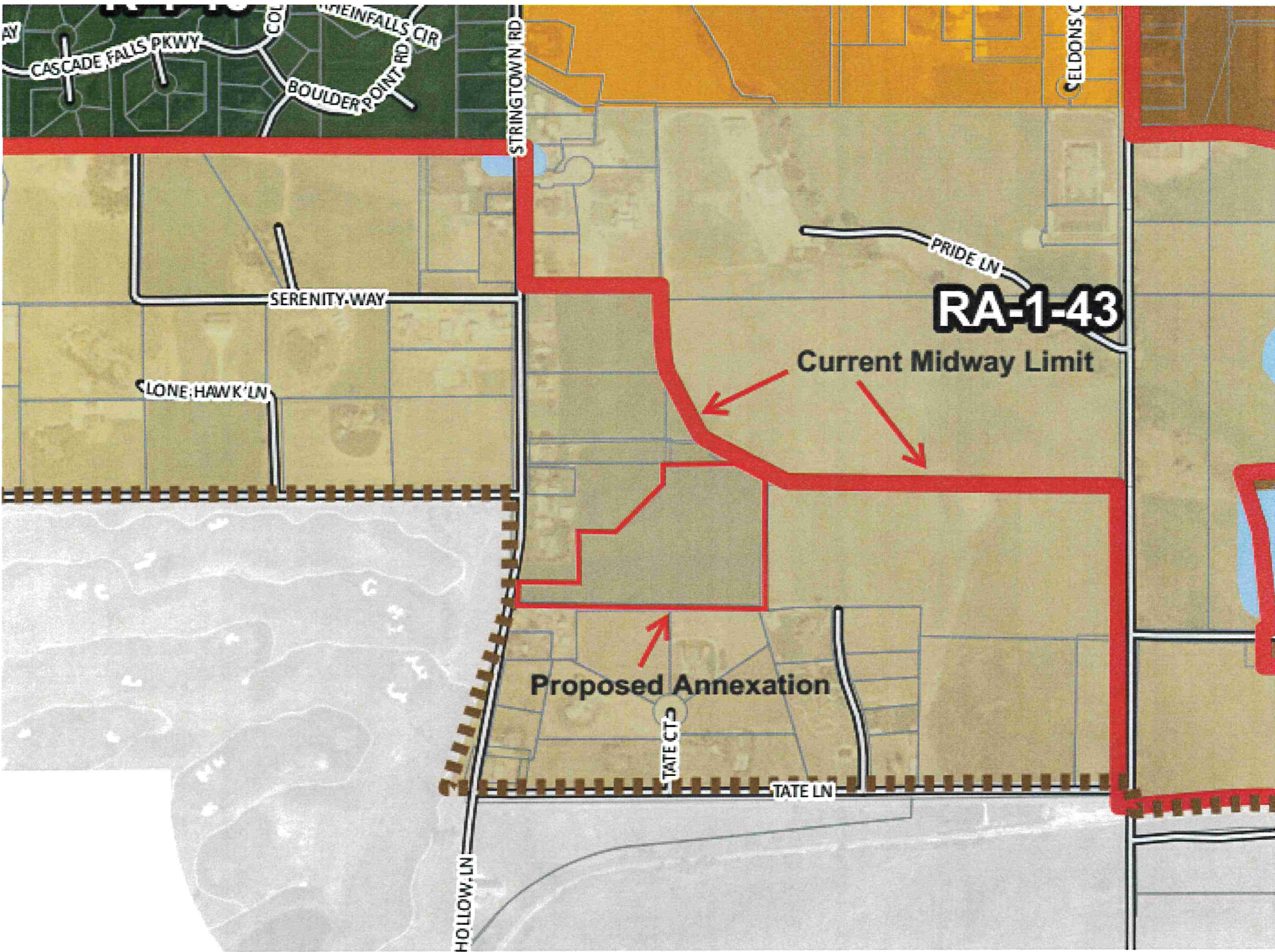
I have reviewed the proposal for the annexation of the Still Water Holding LLC annexation for compliance with the 2018 International Fire Code (2018 IFC). I have no fire code concerns with this annexation currently. Once plans are available, I will review this development for 2018 IFC code compliance verify proper hydrant location & distances from structures, road widths, and etc.

Tex R. Couch CBO/MCP
Midway City Building Official/Fire Marshal
75 West 100 North
Midway, Utah 84049
tcouch@midwaycityut.org
(435)654-3223 Ext. 107









CASCADE FALLS PKWY

BOULDER POINT RD

STRINGTOWN RD

SERENITY WAY

LONE HAWK LN

PRIDE LN

RA-1-43

Current Midway Limit

Proposed Annexation

TATE CT

TATE LN

HOLLOW LN

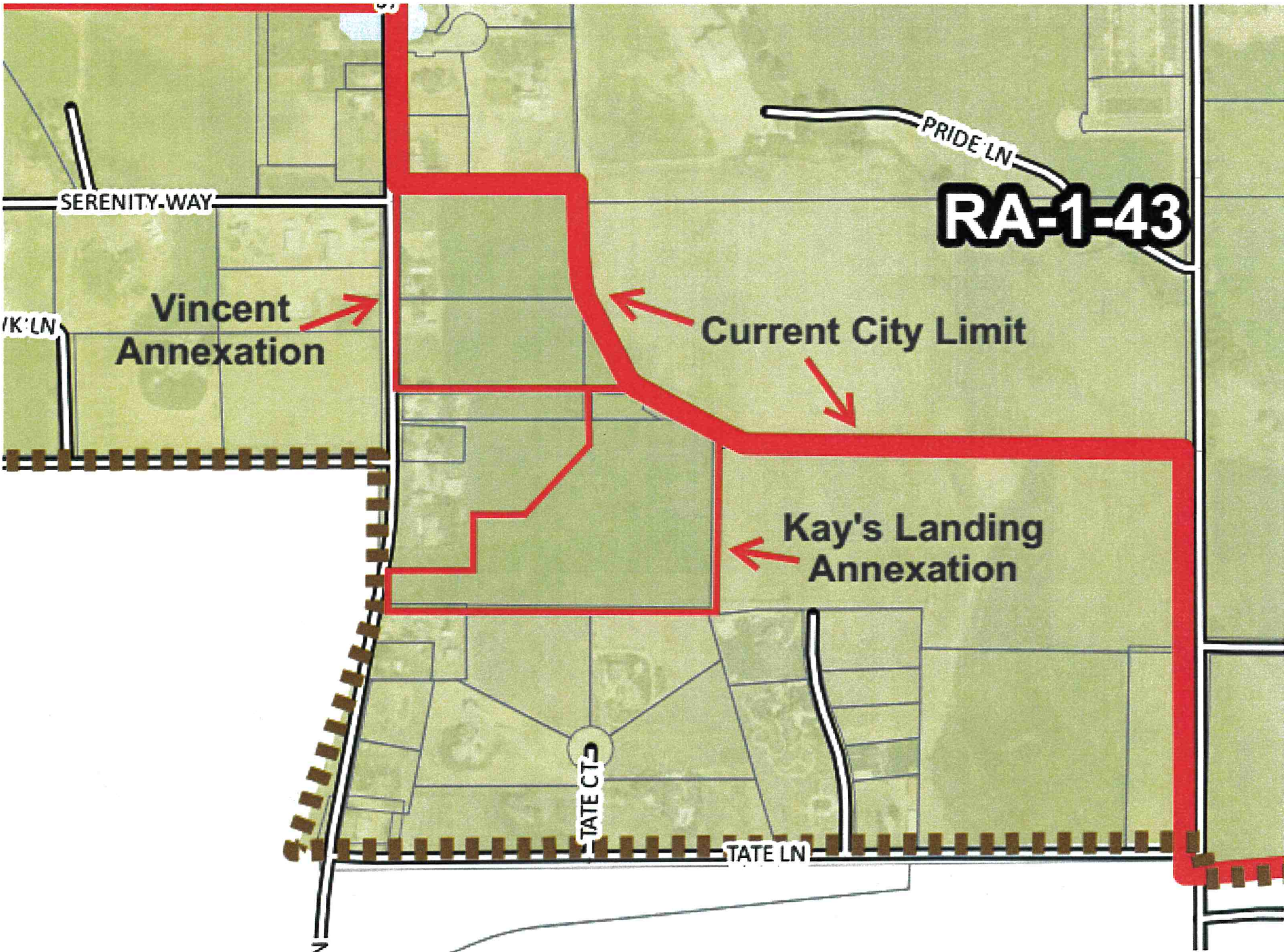
SELDONS C

AY

COT

WEINFALLS CIR

CASA



RA-1-43

SERENITY-WAY

PRIDE LN

Vincent
Annexation

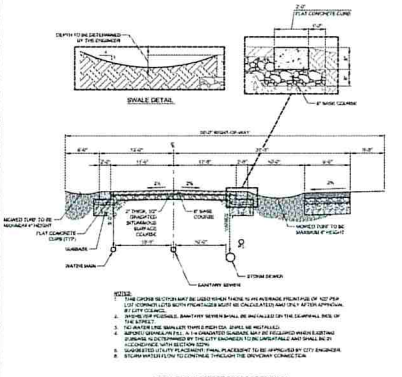
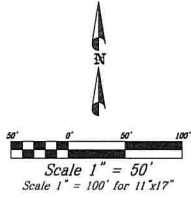
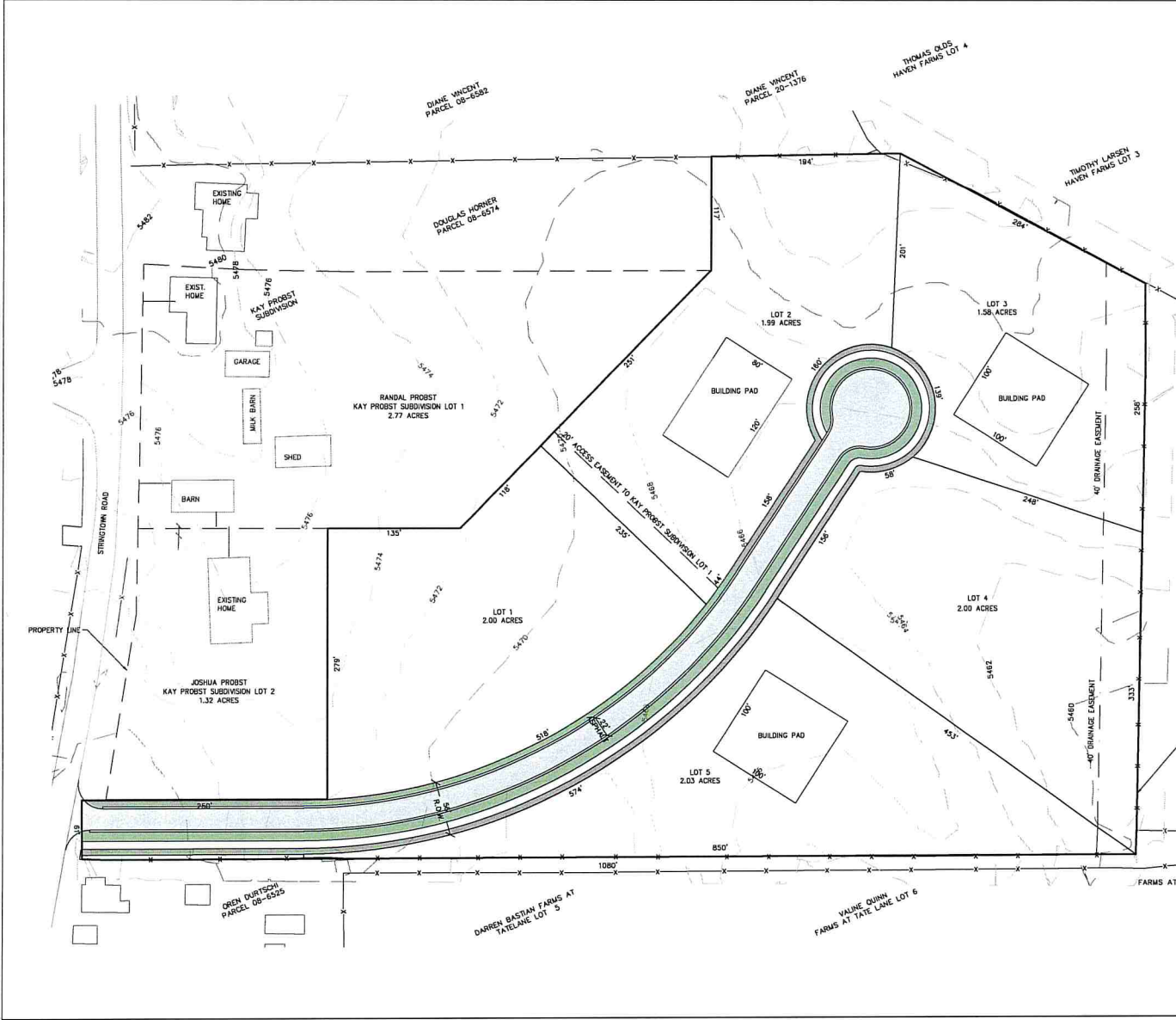
Current City Limit

Kay's Landing
Annexation

TATE CT

TATE LN

WIK LN



HORROCKS ENGINEERS REGISTERED PROFESSIONAL ENGINEERS
MIDWAY CITY STANDARD DRAWING
 STREETS - 3

EXISTING DRAINAGE RAVINE TO BE PROTECTED WITH 40' DRAINAGE EASEMENT

THIS DOCUMENT IS RELEASED FOR REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION UNLESS SIGNED AND SEALED.

DATE: 7 MAR 2022

STILL WATER HOLDINGS LLC
 KAYS LANDING
 CONCEPT PLAN

BERG ENGINEERING RESOURCE GROUP, P.C.
 380 E Main St, Suite 204,
 Midway, MO 64559
 PH: (417) 657-9749

DESIGN BY: PDB
 DRAWN BY: PDB
 DATE: 7 MAR 2022
 REV: 1

ATLAS TITLE
FILE# 33371

Ent 458689 Bk 1240 Pg 128-129
Date: 05-DEC-2018 3:47:54PM
Fee: \$12.00 Check Filed By: TC
PEGGY FOY SULSER, Recorder
WASATCH COUNTY CORPORATION
For: ATLAS TITLE INSURANCE HEBER

Warranty Deed

Grantor: Randall K. Probst, Successor Trustee of the Kay Probst Family Living Trust, dated June 6, 1995.

hereby **CONVEY AND WARRANT** to:

Grantee: Still Water Holdings, LLC
Of: *PO Box 1415, Midway, UT 84049*

FOR THE SUM OF TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION
the following described tract of land within Wasatch County, State of UTAH to wit:

SEE ATTACHED LEGAL DESCRIPTION

Grantor reserves a restriction on the subject property: the property being transferred may never be subdivided into more than five (5) developed parcels. This restriction will run in perpetuity and will run with the property and be in effect to all future owners of the subject property.

Together with all appurtenances thereunto belonging.

This deed is hereby made expressly subject to all existing and recorded restrictions, exceptions, reservations, easements, rights-of-way, conditions, and covenants of whatever nature, if any, and is expressly subject to all regulations, and restrictions, including statutes and other laws of municipal, county, or other governmental authorities applicable to and enforceable against the premises described herein.

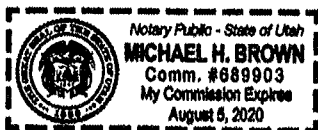
WITNESS THE HAND OF SAID GRANTOR THIS 3 DAY OF DECEMBER, 2018

) *Randall K Probst*

) Randall K. Probst, Successor Trustee

State of Utah)
County of Wasatch) ss

On the 3 day of December 2018, personally appeared before me, Randall K. Probst, Successor Trustee of the Kay Probst Family Living Trust, the signer of the within instrument, who duly acknowledged to me that he executed the same.



[Signature]

NOTARY PUBLIC

LEGAL DESCRIPTION

PROBST AGRICULTURAL PARCEL

Beginning at a point on an existing field fence line, said point being located North 89°27'41" West along the section line 2008.42 feet and South 653.80 feet from the found Wasatch County brass cap marking the Northeast Corner of Section 10, Township 4 South, Range 4 East, Salt Lake Base and Meridian; thence North 88°59'38" East 193.56 feet; thence South 62°22'36" East 24.88 feet; thence South 61°55'16" East 259.25 feet; thence along a fence line the following 3 (three) calls, South 00°24'20" East 82.67 feet, South 00°59'15" West 483.27 feet, and South 02°06'03" West 24.90 feet to a fence corner; thence South 89°50'26" West 1049.10 feet along a fence line; thence North 88°26'05" West 27.68 feet along a fence line; thence North 00°15'19" West 60.88 feet; thence North 89°55'56" East 250.32 feet; thence North 279.04 feet; thence East 135.32 feet; thence North 43°53'25" East 368.92 feet; thence North 117.00 feet to the point of beginning.

Part of Tax ID No. OWC-1218



ORDINANCE 2022-24

AN ORDINANCE APPROVING THE KAY'S LANDING 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 25 April 2022, a petition was filed with Midway City to annex approximately 11.14 acres of land known as the Kay's Landing 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 20 September 2022, 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 Exhibit A is hereby annexed to Midway City, Utah, and the corporate limits of the City are hereby extended accordingly.

Section 2: The real property described in Exhibit A shall be classified as being in the RA-1-43 zone, pursuant to the Midway City Municipal Code, and the official Zoning Map of Midway City shall be amended accordingly.

Section 3: The real property described in Exhibit A shall be subject to all laws, ordinances, and policies of Midway City.

Section 4: 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 2022.

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

BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED NORTH 89°27'41" WEST ALONG THE SECTION LINE 2008.42 FEET AND SOUTH 616.05 FEET FROM THE NORTHEAST CORNER OF SECTION 10, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN;

THENCE NORTH 88°59'38" EAST 193.54 FEET ALONG A FENCE LINE; THENCE SOUTH 62°22'36" EAST 24.88 FEET; THENCE SOUTH 61°55'16" EAST 259.25 FEET; THENCE ALONG A FENCE LINE THE FOLLOWING 3 (THREE) CALLS, SOUTH 00°24'20" EAST 82.67 FEET, SOUTH 00°59'15" WEST 483.27 FEET, AND SOUTH 02°06'03" WEST 24.90 FEET TO A FENCE CORNER; THENCE SOUTH 89°50'26" WEST 1049.10 FEET ALONG A FENCE LINE; THENCE NORTH 88°26'05" WEST 27.68 FEET ALONG A FENCE LINE; THENCE NORTH 00°15'19" WEST 60.88 FEET; THENCE NORTH 89°55'56" EAST 250.32 FEET; THENCE NORTH 279.04 FEET; THENCE EAST 135.32 FEET; THENCE NORTH 43°53'25" EAST 368.92 FEET; THENCE NORTH 00°00'05" WEST 116.99 FEET TO THE POINT OF BEGINNING.

AREA = 11.14 ACRES

DRAFT