



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: December 6, 2022

NAME OF PROJECT: Miller Land Use Map Amendment

NAME OF APPLICANT: Berg Engineering

PROPERTY OWNER: Derald Miller

AGENDA ITEM: Land Use Map Amendment

LOCATION OF ITEM: 1220 North Interlaken Drive

ZONING DESIGNATION: RA-1-43

ITEM: 9

Berg Engineering, representative for Derald Miller, is requesting a Zone Map Amendment of the Midway City Land Use Map. They are requesting that their parcel located at 1220 North Interlaken Drive is included in the Transient Rental Overlay District (TROD). The parcel is 5 acres and is zoned RA-1-43.

BACKGROUND & ANALYSIS:

The applicant is requesting an amendment to the Midway City Land Use Map. The proposed amendment is to include parcel 00-0020-1118, owned by Derald Miller, in the Transient Rental Overlay District (TROD) boundary. This would give him the opportunity to apply for a Conditional Use Permit which would then give the ability to rent the home as transient/nightly rentals as outlined in the Midway municipal code. A transient rental is defined as a dwelling that is rented for two to 30 days. Any rental of a

dwelling for more than 30 days is considered a long-term rental and does not require any licensing from the City and does not need to be located in the TROD. A transient rental license has several restrictions that regulate items such as the number of people that can stay in the home, number of vehicles that can be parked at the home, a locally licensed property management company must manage the home, the home must pass several inspections, and other requirements also apply. Homes that are licensed in the City as transient rentals have generally had very few complaints from neighbors. If the property manager is proactive about informing renters of the rules, then there usually are not any problems. We have found over the past several years that whenever a home is proposed as a transient rental some neighbors have been in opposition.

The property of the proposed rezone is not contiguous with any other property in the TROD. The nearest TROD boundary is located about 1,700 feet to the south on the Mountain Spaa property. The property does have a history as a rental. The property was a Bed & Breakfast in the 1990s and early 2000s when the property was in the jurisdiction of Wasatch County before it was annexed into Midway. The property was annexed into Midway from Wasatch County in 2001. It appears that since annexation, the property has only been used as a single-family dwelling and not as a Bed and Breakfast. Even if the proposed rezone is not approved, a Conditional Use Permit application could be submitted to the City to use the property as a Bed & Breakfast again because the property is greater than two acres. The permit could be approved if all requirements are met. The applicant would rather use the property as a nightly rental instead of a Bed & Breakfast and therefore, has applied to amend the Land Use Map. If the application is approved, the applicant would like to ultimately subdivide the property and create two lots that could be used as nightly rentals (see attached).

The City has been restrictive regarding rentals and only allows them in the Transient Rental Overlay District. Generally commercial areas and areas near the resorts are included in the TROD. This property is not in the resort or commercial zone but as mentioned previously, it does have a history as a transient rental. One reason why the City has been restrictive regarding transient rentals is because the balancing act the City must handle regarding property owners and neighbors. Transient rentals are good revenue sources for the owners of the property, and they generate transient rental taxes for the City and help with the resort tax that the city collects. They also make it easier for tourists to visit the City and to spend money in the local economy. The other side of the issue is they create added competition for the resorts in town and they can be disruptive to the neighborhood. Striking the balance between all these issues has been difficult and has led the City to create the overlay district which covers areas that are generally more conducive to rental units because of the surrounding uses in the area.

An item to consider is the precedent that is established with each revision to the Land Use Map, especially for the TROD. Rental properties are important in the fact that they help the local economy and the taxes that are gathered because of that activity. 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 unit 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 the TROD, 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 City Council meeting. Mailed notice was sent out to all property owners within 600' for the public hearing that will be held by the City Council.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Garland Commissioner Garland: I make a motion that we recommend denial of a Zone Map Amendment of the Midway City Land Use Map. They are requesting that their parcel located at 1220 North Interlaken Drive be added into the Transient Rental Overlay District (TROD). The parcel is 5 acres and is zoned RA-1-43. The zone map amendment would create a TROD island. We accept the findings in the staff report.

Seconded: Commissioner Lineback

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

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

Nays:

Recused:

Motion: Passed

POSSIBLE FINDINGS:

- The proposed property is not contiguous to the TROD.
- The property does have a history of being used as a Bed and Breakfast.
- The applicant will need to apply for a Conditional Use Permit if the zone amendment is successful.
- Renting the property will generate more transient rental taxes for the City and will help the City to qualify to collect the Resort Tax.
- The City Council is under no obligation to approve the proposal but may do so if they find it will benefit the community.

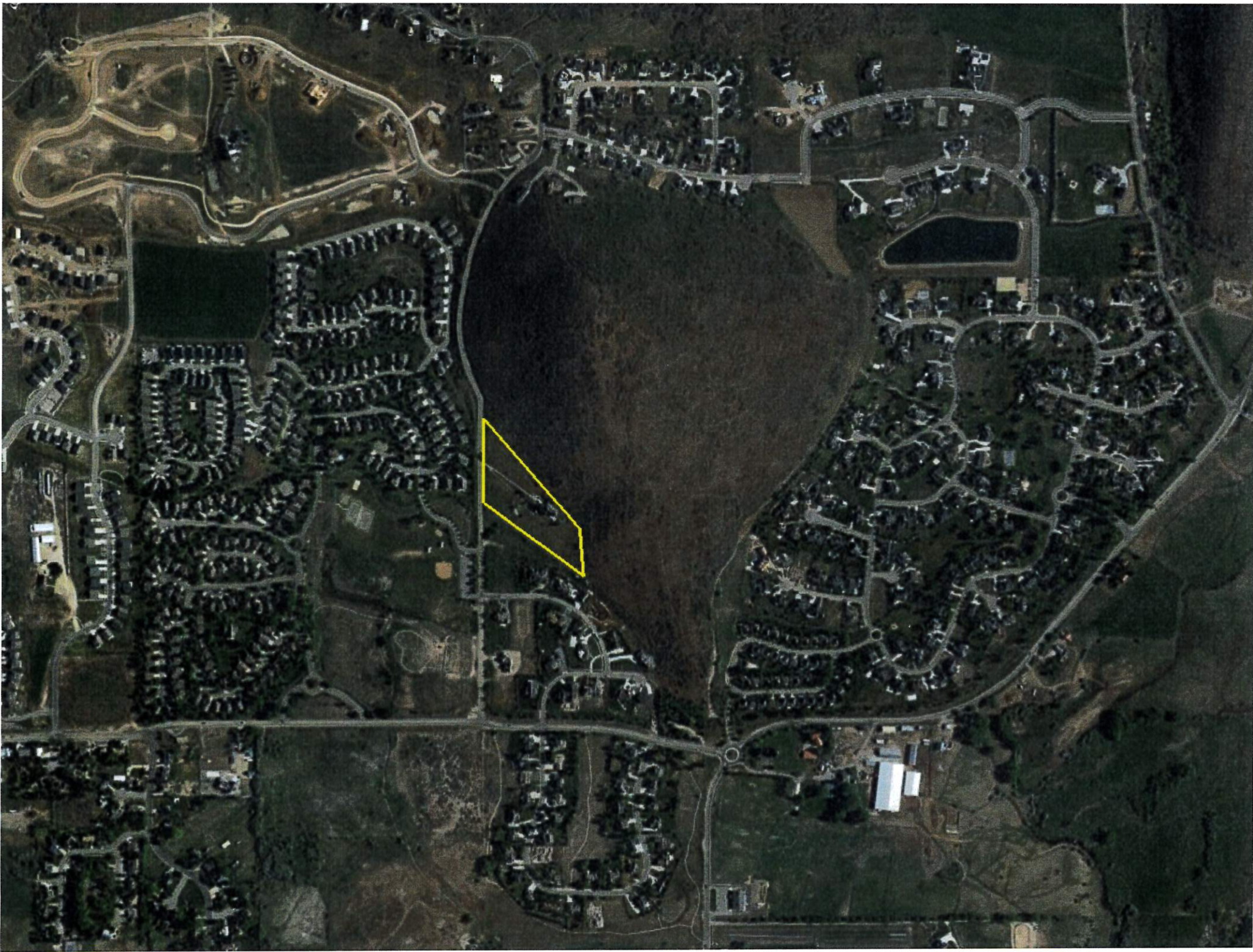
ALTERNATIVE ACTIONS:

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

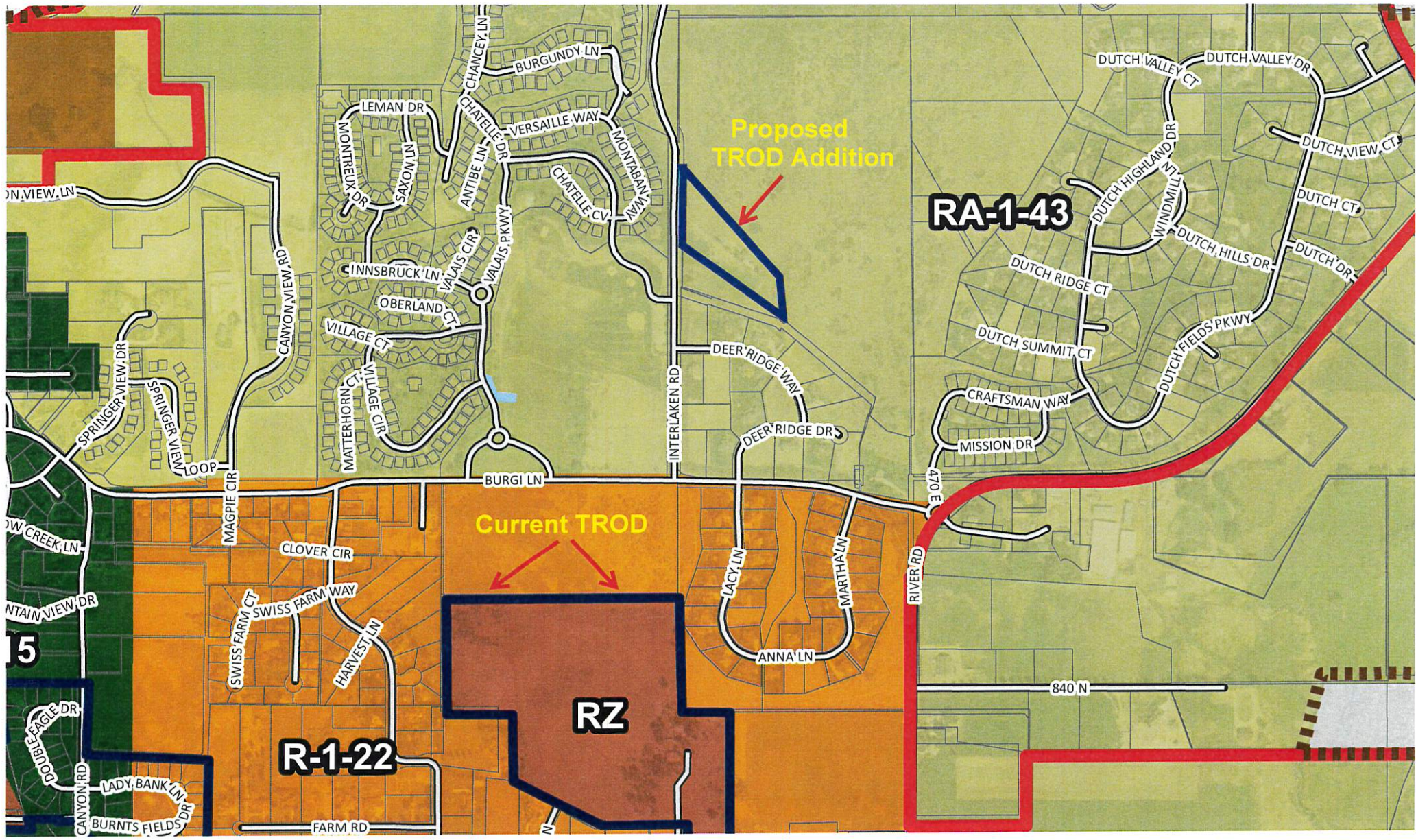
2. Continuance. This action can be taken if the City Council finds that there are unresolved issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again

3. 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









MILLER ZONING MAP AMENDMENT FOR TRANSIENT RENTAL OVERLAY DISTRICT (TROD)



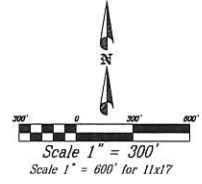
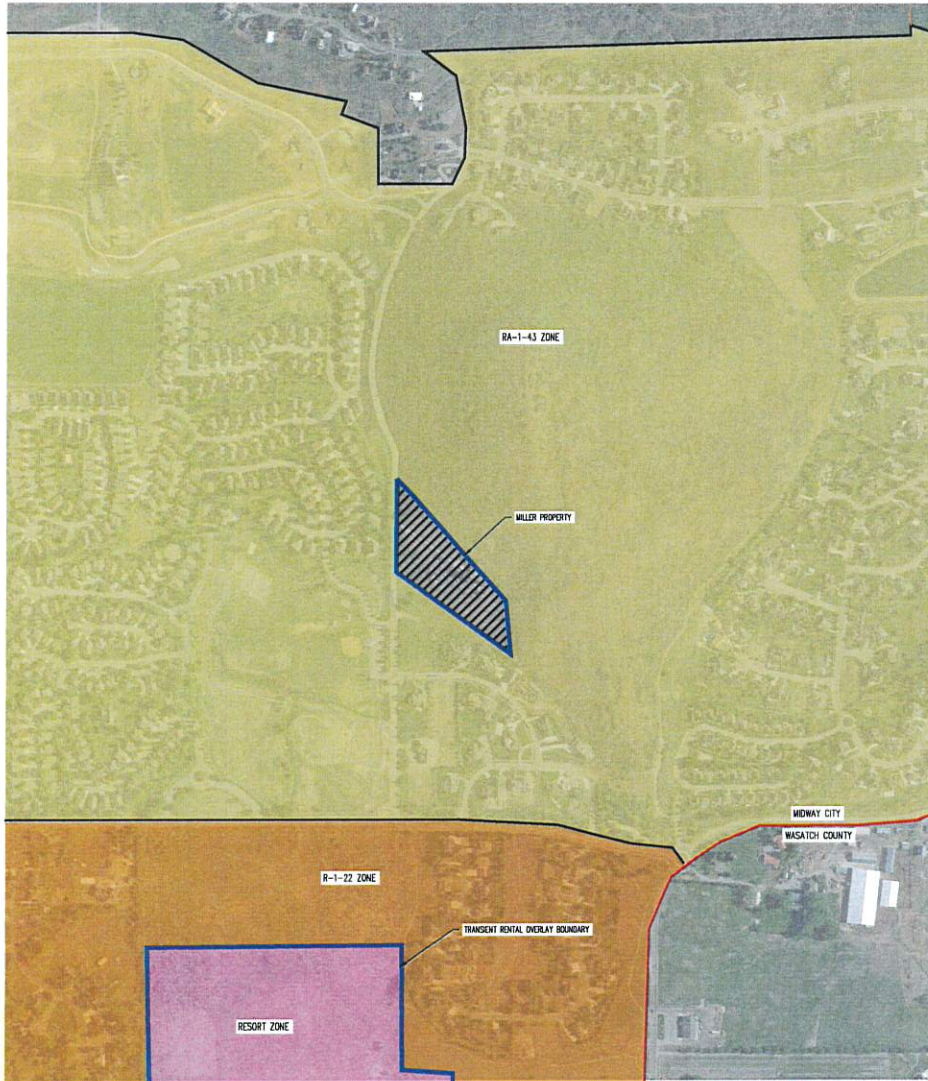
VICINITY MAP

SHEET INDEX

1. ZONING EXHIBIT
2. COUNTY PARCEL MAP
3. TROD CONCEPT PLAN

THIS DOCUMENT IS RELEASED
FOR REVIEW ONLY. IT IS NOT
INTENDED FOR CONSTRUCTION
UNLESS SIGNED AND SEALED.
PAUL S. BERS P.E.
SERIAL NO. 295295
DATE: 2 OCT 2022

JERALD MILLER TROD MAP AMENDMENT	
COVER SHEET	
 <p>BERG ENGINEERING 300 E. Main St. Suite 204 Midway, UT 84049 ph 435.657.7749</p>	
DESIGN BY: PDB	DATE: 5 OCT 2022
DRAWN BY: RHH	REV: 0

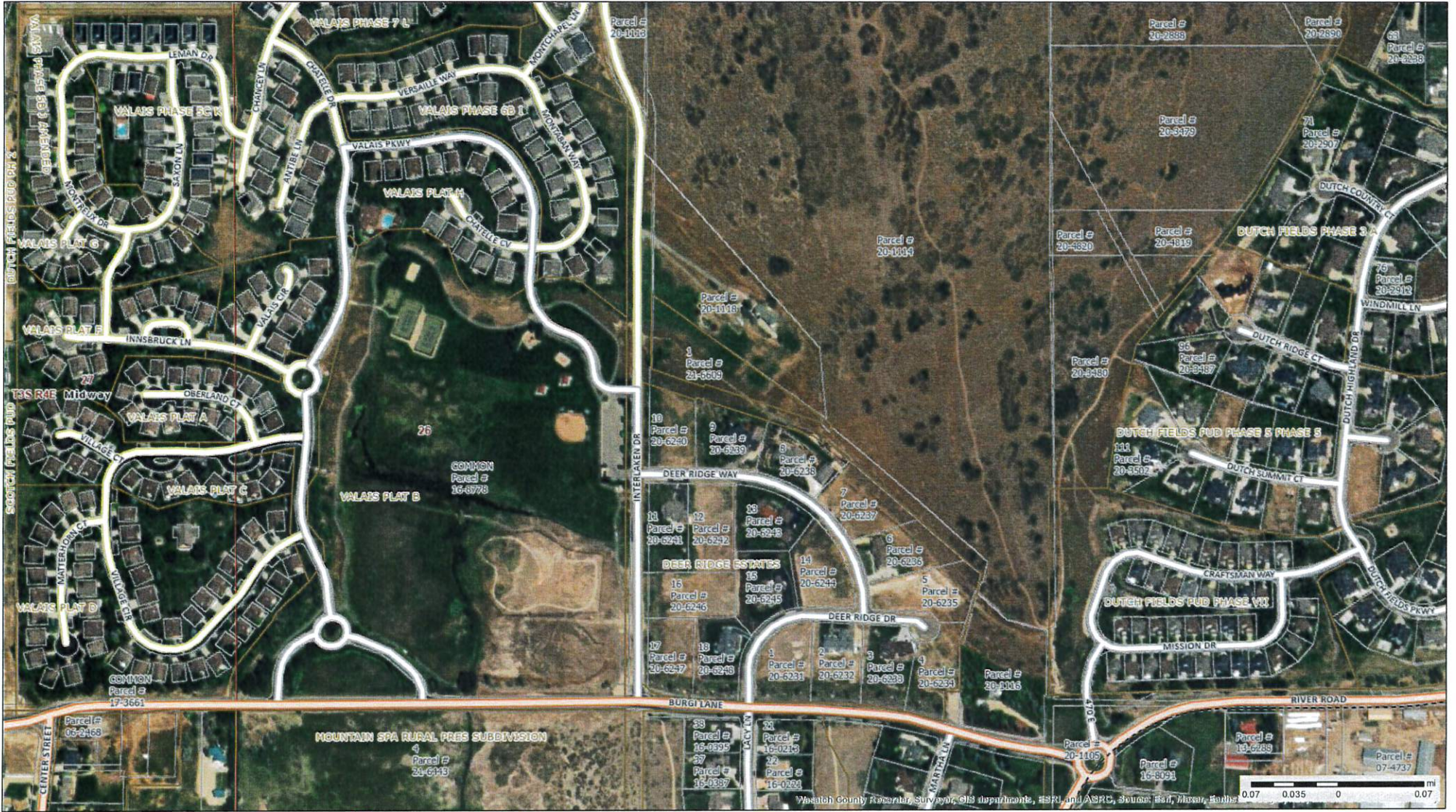


LEGEND

-  R-1-22
-  R-1-43
-  RESORT ZONE
-  TROZ
-  PROPERTY TO INCLUDE IN TROZ

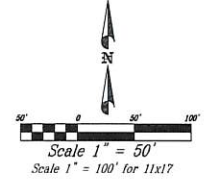
THIS DOCUMENT IS INCOMPLETE AND IS RELEASED TEMPORARILY FOR INTERIM REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES.
 PAUL B. BERG P.E.
 SERIAL NO. 280099
 DATE 9 OCT 2022

STACEY MILLER INTERLAKEN ROAD	
ZONING EXHIBIT	
	
DESIGN BY: PDB	DATE: 5 OCT 2022
DRAWN BY: DAA	REV:
SHEET EX1	



The boundary lines shown here have been generated for the internal use of Wasatch County and should only be used for general reference purposes. Questions concerning ownership boundary locations should be directed to a title company, attorney, or licensed land surveyor. Wasatch County makes no warranty as to the accuracy or usefulness of this information. The end user of this information assumes all responsibility concerning this information's appropriate use.





LEGEND:
 [Red hatched box] R.O.W. DEDICATION (0.23 ACRES)

	DENSITY CODE	DENSITY	AREA	LOTS
0-9%	1 PER 1 ACRE	1	0.83 AC	0.83
10-14%	1 PER 1 ACRE	1	1.03 AC	1.03
15-19%	1 PER 5 ACRES	0.20	1.29 AC	0.22
20-24%	1 PER 10 ACRES	0.10	0.84 AC	0.09
25+%	1 PER 20 ACRES	0.05	1.03 AC	0.05
			TOTAL	2.29

ZONING REQUIREMENTS
 1.00 ACRE MINIMUM
 150' MIN. ROAD FRONTAGE

SETBACKS
 50' FRONT
 30' SIDE
 50' REAR

THIS DOCUMENT IS INCOMPLETE AND IS ILLUSTRATED TEMPORARILY FOR INTERNAL REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION BIDDING OR PERMIT PURPOSES.
 PAUL D. BERG P.E.
 SERIAL NO. 202502
 DATE: 3 OCT 2022

STACEY MILLER INTERLAKEN ROAD	
CONCEPT PLAN#3	
DESIGN BY: POB	DATE: 3 OCT 2022
DRAWN BY: DAA	REV: 3



ENGINEERING

civil engineering • land planning

380 E. Main, Suite 204
Midway 84049 UT
435.657.9749

October 5, 2022

Michael Henke
Midway City Planner
75 North 100 West
Midway, Utah 84049

Re: Derald Miller Property (Parcel 0020-1118)
Request to Amend the Zoning Map to Include TROD

Dear Michael:

The Derald Miller property located at 1220 North Interlaken Drive contains an existing residential structure built in 1982 that has a historical use as a bed and breakfast. The home operated as a bed and breakfast in the county and was annexed into Midway City in 2001. When Midway City created the Transient Rental Overlay District (TROD) in 2009 the property was not included although other bed and breakfast properties like the Johnson Mill, Blue Board Inn and Invited Inn were included. This request is to include the property in the TROD.

Below is a response to questions asked in the application to amend the zoning map.

Positive Impacts of the Proposed Change:

- Increases the number of rental options available for visitors to Midway City.
- Helps Midway City preserve it's resort tax status with the State of Utah.
- Increases sales tax and transient room rental tax income for Midway City
- Renovation of the home and improvements to the property that has not been maintained for many years.
- Allows the property owner to rent the existing home as a vacation rental or family reunion lodge instead of a bed and breakfast. Bed and breakfast is a dated rental model that is losing its popularity. Overnight rental of the entire home through a property manager and services such as VRBO and Airbnb are current methods for vacations.
- Allows the property owner the flexibility of living onsite and managing the property or hiring a property management company. If the property is operated as a bed and breakfast it must be the owners primary residence per Section 16.13.350.L of the Midway City code.
- Corrects the Midway City Zoning Map to include the property which has a historical transient rental use similar to other properties in Midway such as the Johnson's Mill, the Blue Boar Inn and the Invited Inn that were included in the TROD.

Negative Impacts of the Proposed Change:

- Some new neighbors in the area may not be aware of the historical transient use and may not be expecting overnight rentals since it is not shown on the current zoning map.

How the Proposal is in the Best Interest of the Community

- Increases the number of overnight rooms for visitors to Midway City.
- Helps Midway City preserve it's resort tax status with the State of Utah.
- Increases sales tax and transient room rental tax income for Midway City.
- Renovation of the home and improvements to the property that has not been maintained for many years.

We appreciate your consideration of the zoning map amendment. Please let me know if you have any comments or questions.

Respectfully,

A handwritten signature in blue ink that reads "Paul Berg". The signature is written in a cursive, flowing style.

Paul Berg, P.E.



Midway

ORDINANCE

2022-____

**AN ORDINANCE TO INCLUDE PARCEL 00-0020-1118
LOCATED AT 1220 NORTH INTERLAKEN DRIVE IN THE
TRANSIENT RENTAL OVERLAY DISTRICT.**

WHEREAS, Berg Engineering, agent for Derald Miller, has requested an amendment to the Midway City Land Use Map; and

WHEREAS, the request is that Mr. Miller's Parcel 00-0020-1118, located at 1220 North Interlaken Drive, be included in the Transient Rental Overlay District; and

WHEREAS, the five-acre parcel is currently zoned as RA-1-43; and

WHEREAS, the parcel is not contiguous with any other property in the Transient Rental Overlay District, but it does have historical use as a bed and breakfast in the 1990s and 2000s when it was in the jurisdiction of Wasatch County before being annexed into Midway City; and

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

The Midway City Land Use Map shall be amended to recognize Parcel 00-0020-1118, located at 1220 North Interlaken Drive, as part of the Transient Rental Overlay District Zone rather than the RA-1-43 Zone.

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

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PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this ____ day of November, 2022.

	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)