

Midway City Council  
7 June 2022  
Regular Meeting

Ordinance 2022-17 /  
Zone Map Amendment



**Midway**

**CITY COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** June 7, 2022

**NAME OF PROJECT:** Nelson, Lythgoe, Heckel Zone Map Amendment

**NAME OF APPLICANT:** Mark and Shanna Nelson, Scot and Jan Lythgoe, Darin and Nancee Heckel

**AGENDA ITEM:** Zone Map Amendment

**LOCATION OF ITEM:** 100 West 100 South

**ZONING DESIGNATION:** R-1-7

**ITEM: 8**

Mark and Shanna Nelson, Scot and Jan Lythgoe, and Darin and Nancee Heckel are requesting a Zone Map Amendment of the Midway City Land Use Map. They are requesting that their three parcels located at 85 South 100 West, 70 West 100 South and 60 West 100 South are included in the Transient Rental Overlay District.

**BACKGROUND & ANALYSIS:**

The applicants are requesting an amendment to the Midway City Land Use Map. They would like their three properties included in the Transient Rental Overlay District (TROD) boundary. This would allow them to apply for a Conditional Use Permit which would then give them the ability to rent their homes 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 the neighbors have been quite vocal in their opposition.

The three properties are within block four of the twenty-one original historic Midway blocks. Three of the four quadrants of block four are within the existing TROD boundary and C-2 zone. These three properties are in the fourth quadrant which is zoned R-1-7. The TROD boundary follows the commercial zone boundaries, which has historically extended halfway into the blocks where it is found. Because this block fronts on Main Street on its north side and Center Street on its east side, the commercial zoning and TROD boundary only encompasses three-fourths of the block. The applicants are not requesting an adjustment to the commercial zone boundary, but just to the TROD boundary to include their properties.

The Heckel property abuts the current TROD boundary, allowing the three properties to be contiguous to the boundary in the event the rezone is approved. Unlike annexations that have specific spatial requirements in state code, there are not specific spatial requirements for requests like this and the city council has broad discretion on whether they approve the proposed adjustment.

Only one of the properties serves as the primary home for the owner, the other two are second homes being rented out as long-term rentals. If the proposed adjustment is approved, it would allow the property owners to pursue the additional approvals needed to rent their properties as allowed by the Midway City Transient Home Rental ordinance. One important clarification is that the property, if the property is rented as allowed by the ordinance, the entire property and dwelling is rented. A portion of the property cannot be reserved for another type of rental or for a fulltime resident while it is being rented as a transient rental.

The City has been restrictive regarding rentals and only allows them in the overlay district. Generally commercial areas and areas near the resorts are included in the overlay zone. These properties are not in the resort or commercial zone but as mentioned previously, one of the properties does abut the C-2 zone. 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.

This item has been noticed in the local newspaper for two weeks and on the State's website for the Planning Commission meeting. Mailed notice was sent out to all property owners within 600' before the public hearing before the Planning Commission.

**PLANNING COMMISSION RECOMMENDATION:**

**Motion:** Commissioner Simons: I make a motion that we recommend approval for a Zone Map Amendment of the Midway City Land Use Map. They are requesting that their three parcels located at 85 South 100 West, 70 West 100 South and 60 West 100 South are included in the Transient Rental Overlay District. Accept the findings in the staff report.

**Seconded:** Commissioner Cliften

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

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Lineback, Cliften, Wardle, Garland, and Simons

**Nays:** Osborne

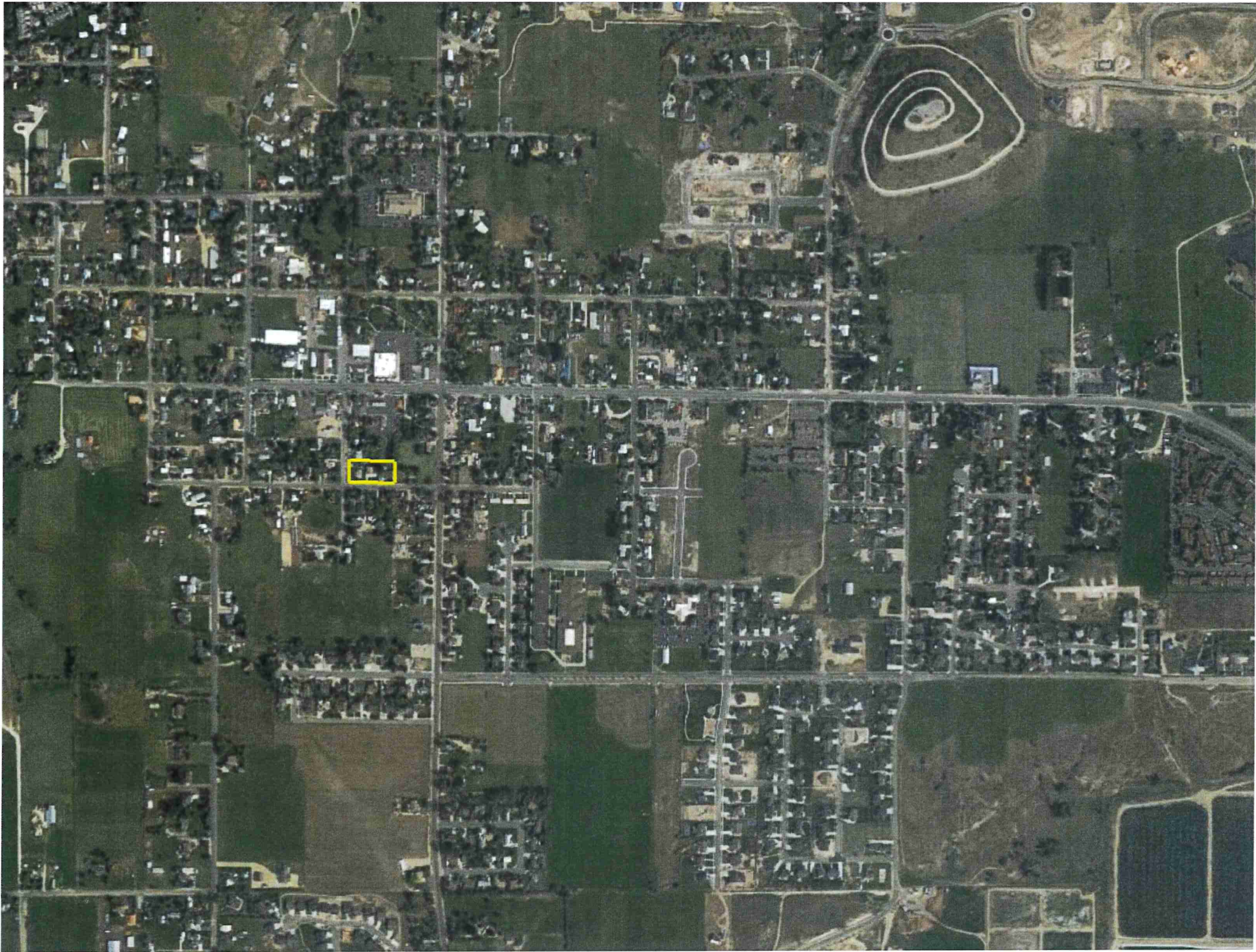
**Motion:** Passed

**POSSIBLE FINDINGS:**

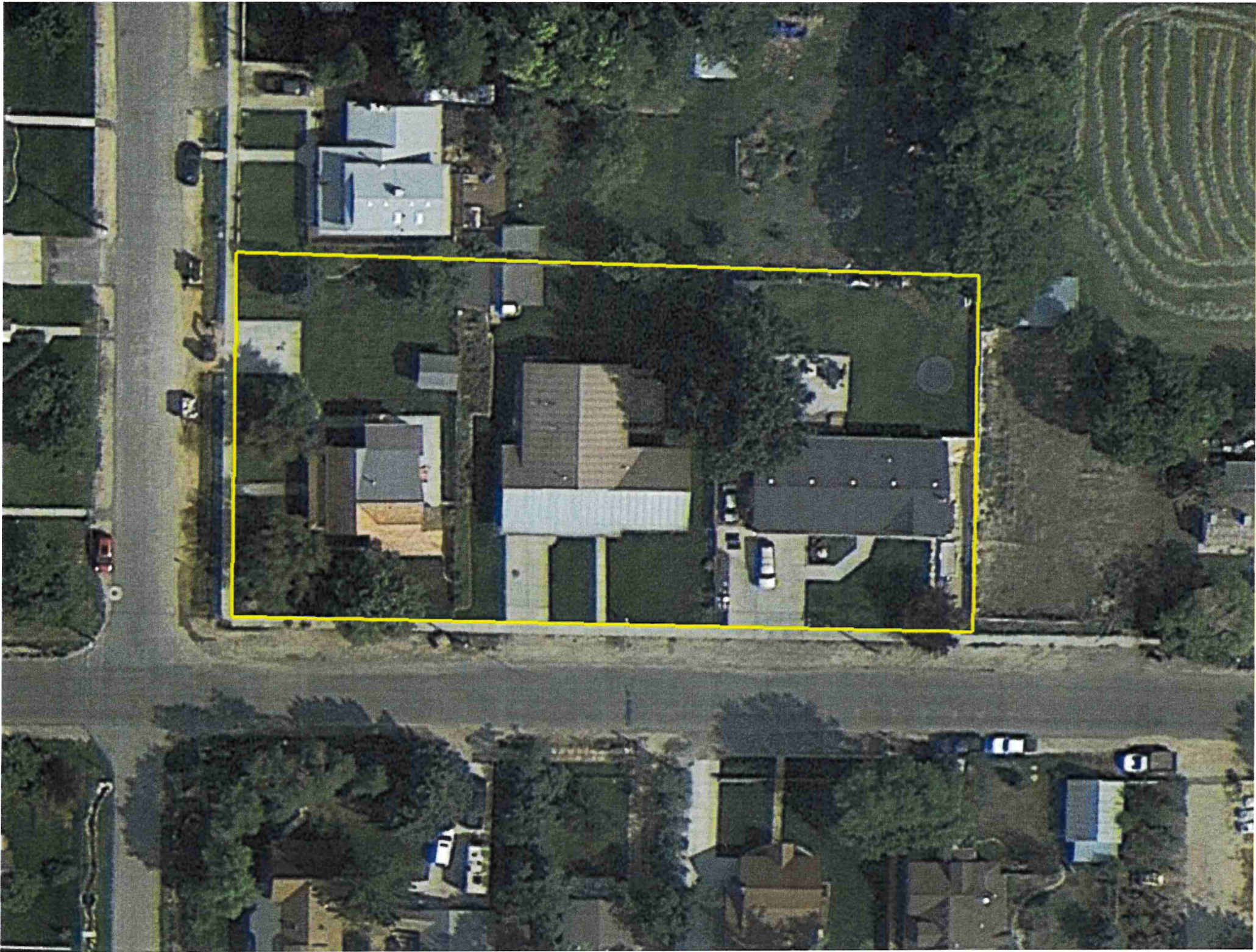
- One of the proposed properties is contiguous to the TROD.
- Three-fourths of block four is currently within the TROD boundary.
- The applicants will need to apply for a Conditional Use Permit if the zone amendment is successful.
- Renting the property will generate more transient rental taxes for the City.
- The City Council is under no obligation to approve but may do so if they think it will benefit the community.

**ALTERNATIVE ACTIONS:**

1. Approval. This action can be taken if the City Council feels 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 feels 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 feels 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









**C-3**

Area of extended TROD

200 W

100 W

100 E

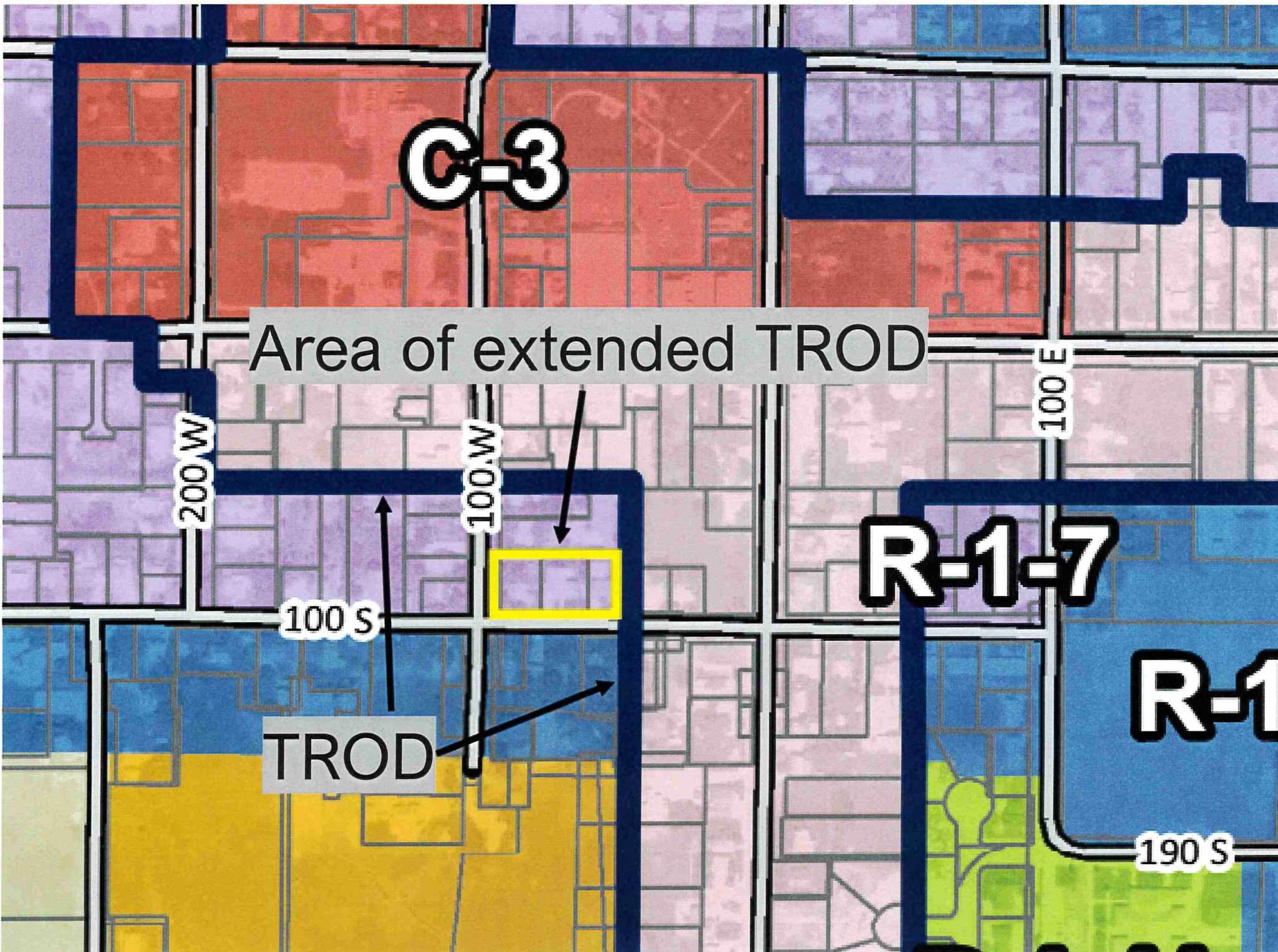
100 S

TROD

**R-1-7**

**R-1**

190 S





## ORDINANCE 2022-17

### **AN ORDINANCE AMENDING THE MIDWAY CITY ZONING MAP TO INCLUDE ADDITIONAL PROPERTY IN TRANSIENT RENTAL OVERLAY DISTRICT, AND RELATED MATTERS**

**WHEREAS**, the City Council has created a Transient Rental Overlay District (the “TROD”) within the City of Midway; and

**WHEREAS**, Property owners of adjoining property have requested to be included within the TROD; and

**WHEREAS**, including the additional property in the TROD would allow the property owners to pursue the additional approvals necessary to rent the properties as allowed by the Midway City Transient Home Rental Ordinance; and

**WHEREAS**, one of the properties is contiguous with the current TROD boundary, and  $\frac{3}{4}$  of Block 4, where the properties are located, is already included in the TROD; and

**WHEREAS**, if the property owners pursue and receive the appropriate approvals, short term rentals will generate additional transient rental taxes for the City; and

**WHEREAS**, appropriate notice as required by statute has been provided; and

**WHEREAS**, the adoption of this ordinance will be in the best interests of the citizens of Midway City;

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

The Transient Rental Overlay District is expanded to include the following additional properties:  
The Parcel located at 85 South 100 West;  
The Parcel located at 70 West 100 South; and

The Parcel located at 60 West 100 South.

This Ordinance shall take effect immediately upon publication as required by law.

**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)