

Midway City Council
6 June 2023
Regular Meeting

Ordinance 2023-09 /
TROD Amendment



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: June 6, 2023

NAME OF PROJECT: Marsing Rezone

NAME OF APPLICANT: Chad and Karissa Marsing

PROPERTY OWNER: Chad and Karissa Marsing

AGENDA ITEM: Land Use Map Amendment

LOCATION OF ITEM: 26 South 200 West

ZONING DESIGNATION: R-1-7

PROPOSED ZONING: Inclusion in the Transient Rental Overlay District

ITEM: 6

Chad and Karissa Marsing are requesting a Land Use Map Amendment (zone change) of the Midway City Land Use Map. They are requesting that their parcel located at 26 South 200 West is added into the Transient Rental Overlay District (TROD). The parcel is 0.32 acres and is zoned R-1-7.

BACKGROUND & ANALYSIS:

The applicants are requesting an amendment to the Midway City Land Use Map. They would like their property to be 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 home as a transient/nightly rental 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 property is within block six of the twenty-one original historic Midway blocks. One small parcel of this block is within the existing TROD boundary and C-2 zone which is directly north of the applicant's parcel. The applicant's property is zoned R-1-7. The TROD boundary follows the commercial zone boundaries with the exception of the Nelson, Lythgoe, Heckel Zone Map Amendment which was approved on June 7, 2022. That application was similar to the current application because it is contiguous to the C-2 zone and the properties are zoned R-1-7 as the applicant's property is. The applicants are not requesting an adjustment to the commercial zone boundary, but just to the TROD boundary to include their properties.

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.

The applicant's property serves as the primary home for the owner. If the proposed adjustment is approved, it would allow the property owners to pursue the additional approvals needed to rent their property 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 full-time 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. This property is not in the resort or commercial zone but as mentioned previously, the property 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. They also reduce the number of dwellings available for full-time residence. Another issue that

has been identified is the loss of community that is felt if many homes are rented on a short-term basis. 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. Recently, the City Council directed staff to tailor some language that would be included in the General Plan that would discourage the expansion of the TROD based aforementioned reasons. The language that has been proposed for the General plan is the following:

TROD boundaries should not expand beyond current boundaries to help preserve available long-term housing supply and to help preserve Midway as a community filled with permanent residents that will help preserve Midway's community feel.

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' for the public hearing that will be held by the Planning Commission.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Lineback: I make a motion that we recommend denying a Land Use Map Amendment (zone change) of the Midway City Land Use Map. They are requesting that their parcel located at 26 South 200 West is added into the Transient Rental Overlay District (TROD). The parcel is 0.32 acres and is zoned R-1-7. We add a third finding (findings against proposal) that we do not want to set a precedence to increase the TROD.

Seconded: Commissioner Garland

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Lineback, Nokes, Garland

Nays: Miles, Simons

Motion: Passed

POSSIBLE FINDINGS IN SUPPORT OF PROPOSAL:

- The proposed property is contiguous to the C-2 zone and the TROD.
- Transient rentals will help generate more transient rental taxes for the City and will help the City to qualify to collect the Resort Tax.
- The City has the ability to conditionally approve the proposal and require conditions that would not be possible for administrative actions.

- The City Council is under no obligation to approve the proposal but may do so if they find it will benefit the community.
- The applicants will need to apply for a Conditional Use Permit if the zone amendment is successful.

POSSIBLE FINDINGS AGAINST PROPOSAL:

- The proposed language in the General Plan discourages the expansion of the TROD because it could potentially reduce full-time residence housing stock and could impact the feel of the community.
- The City Council is under no obligation to approve the proposal but may deny it they find it will not benefit the community.

ALTERNATIVE ACTIONS:

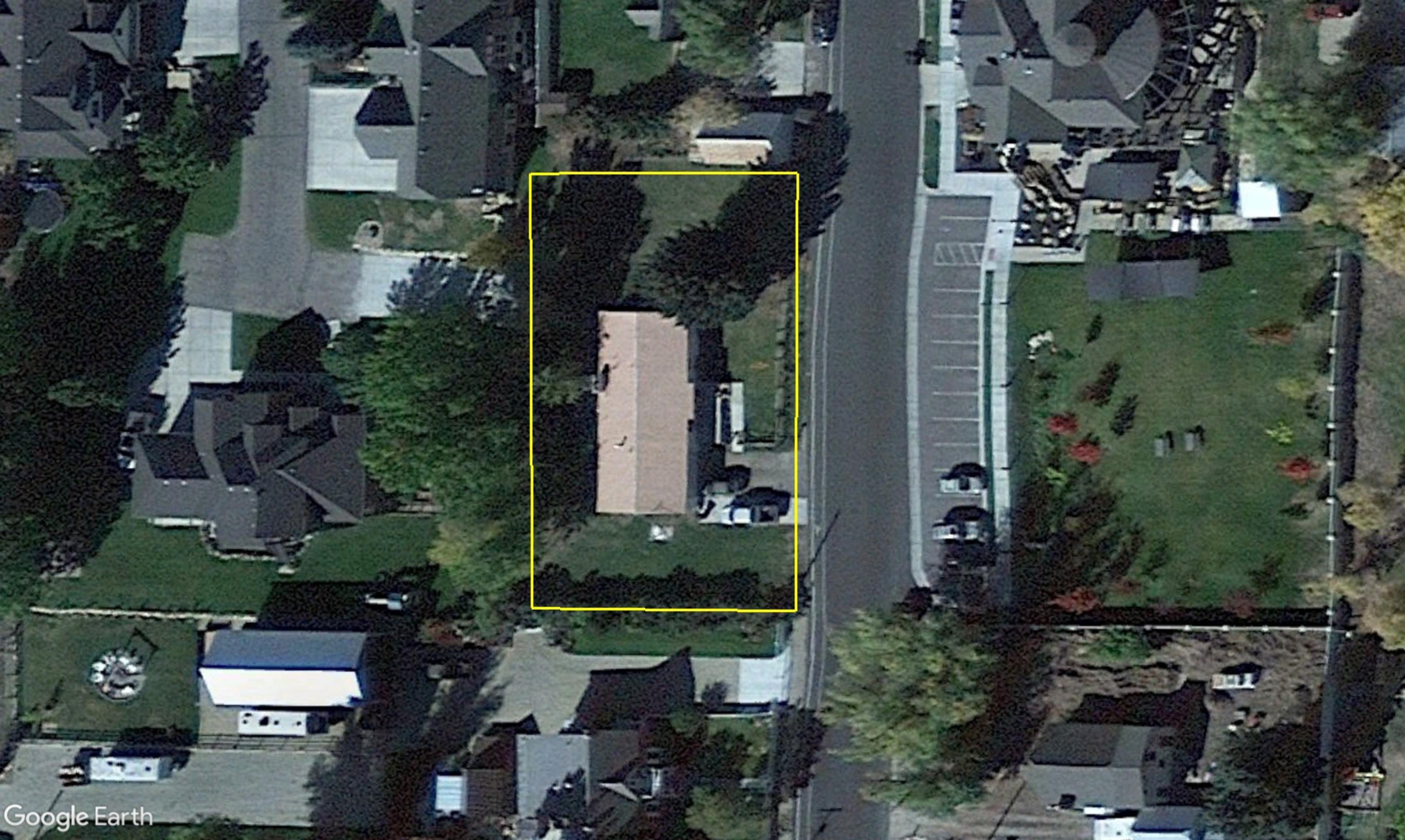
1. Approval (conditional). This action can be taken if the City Council finds proposal is acceptable and is in the community’s best interest.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)
2. Continuance. This action can be taken if the City Council finds that there are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

RECOMMENDED CONDITIONS:

- None







Proposed Parcel
to be added to
the TROD

200 W

100 W

100 S



Midway

ORDINANCE

2023-09

**AN ORDINANCE TO INCLUDE PARCEL 00-0006-0157
LOCATED AT 26 S. 200 W. IN THE TRANSIENT RENTAL
OVERLAY DISTRICT.**

WHEREAS, Chad and Karissa Marsing have requested an amendment to the Midway City Land Use Map to include their Parcel 00-0006-0157, located at 26 South 200 West, in the Transient Rental Overlay District; and

WHEREAS, the 0.32 acre parcel is currently zoned as R-1-7, but is contiguous to the C2 zone and the Transient Rental Overlay District; and

WHEREAS, transient rentals help generate more transient rental taxes for the City and help the City qualify to collect the Resort Tax; and

WHEREAS, the City has the ability to conditionally approve the proposal and require conditions that would not be possible for administrative actions.

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 00-0006-0157, located at 26 South 200 West, as part of the Transient Rental Overlay District Zone rather than the R-1-7 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 June, 2023.

	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)