

Midway City Council
20 February 2024
Regular Meeting

Swiss Haven Annexation /
Further Consideration

Memo



Date: February 20, 2024
To: Midway City Council
From: City Planners
Re: Swiss Haven Annexation / Further Consideration

The City has received an annexation petition from URE FUND 1 SWISS HAVEN HOMES LLC for a potential annexation of .71 acre. The first step in the annexation process for the City Council is to determine that the annexation petition provides the information and representations required by the City Code. If the City Council determines that the application is complete, then the petition may be accepted for further consideration.

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 general requirements that should be considered, as listed in the annexation code, include the following:

- Logical Extension of City Required
 - Property under consideration for annexation must be considered a logical extension of the City boundaries.
- Consistent with General Plan and the Municipal Code
 - Annexation of property to the City must be consistent with the intent and purpose of the annexation code and the Midway City General Plan, in addition to the Master Plan for water, sewer, and roads.

- Efficiency of Proposal Required
 - Every annexation shall include the greatest amount of contiguous property area, which is also contiguous to the City's municipal boundaries.

- Individual Small Parcel Proposals Discouraged
 - Piecemeal annexation of individual small properties shall be discouraged if larger contiguous parcels are available for annexation within a reasonable time frame in order to avoid repetitious annexations.

- Islands, Peninsulas, and Irregular Boundaries of Annexation Areas Discouraged
 - Islands of county jurisdiction shall not be left or created as a result of the annexation and peninsulas and irregular boundaries shall be strongly discouraged.

- City Must be Able to Serve Area at Consistent Level of Service
 - In addition to services provided by existing districts, such as sewer, fire protection, and public schools, the following urban level services, consistent with those normally provided in the rest of the incorporated boundaries will be provided to annexed areas:
 - Law enforcement protection.
 - Snow removal on public streets, subject to standard City snow removal policies.
 - Maintenance of existing public streets, provided that such streets have been constructed or reconstructed to City street standards or are acceptable to the City Engineer and City Council.
 - Planning, zoning, and municipal code enforcement.
 - Access to municipal sponsored parks and recreational activities and cultural events and facilities.
 - Water and sewage waste disposal services as the area is developed. Existing facilities for water treatment, storage and delivery, and/or for sewage removal and treatment, may be inadequate to provide water and sewer services to a proposed annexation area. The City shall determine the timing of and necessary capacity for the extension of water and sewer service to a proposed annexation area. New development in an annexation area shall pay the cost of improvements necessary for the extension and connection of new developments to City water and sewer lines and systems, as well as contribute to the cost of additional capital improvements, including but not limited to, storage and distribution facilities as necessary for safe, reliable, and efficient water flows and waste removal.

- Annexations to be Scrutinized
 - Before considering requests for annexation, the City shall carefully analyze the impacts of annexation of an area, taking into consideration whether the area will create negative impacts on the City and considering whether the City can economically provide services to the annexed area. Community issues such as location and adequacy of schools and community facilities, traffic, fire protection, particularly in wildfire/wild land interface areas, usable open space and recreation

areas, protection of sensitive lands, conservation of natural resource, protection of view corridors, protection and preservation of historic resources, affordable housing, balance of housing types and ownership, adequate water and sewer capacity to serve the future needs of the proposed annexation area shall be considered.

- Annexation for Preservation Allowed
 - Situations may exist where it is in the public interest to preserve certain lands from development in flood plains, where geologic hazards exist, where slopes are severe, or where the need for preservation of community open space and/or agricultural lands is consistent with the General Plan. In such circumstances, annexations may occur as a means of retaining those lands in a natural state.

The property in question consists of .71 acre, comprising a portion of parcel 14-1429, located at approximately 850 Bigler Lane, Midway, Utah. The property currently has no structures or other improvements. The property petitioned for annexation is in the Midway Growth Boundary, lies contiguous to the corporate limits of Midway City, and will not create an incorporated peninsula, so annexation of the property is allowed by State Code.

The applicant represents in the petition that the applicant owns 100% of the property for which the applicant seeks annexation.

The applicant seeks to annex this property and make it a part of the previously approved Swiss Haven PUD. Upon annexation, the applicant “would begin horizontal improvements immediately and anticipates a 4-month timeframe for completion of such improvements. Vertical Construction is estimated to take roughly 16 months to complete with a 1-month stagger between the beginning of construction on each building”.

According to the applicant:

... the .71 acre annexation area will largely serve as the rear yard setback for 8 units of an approved, 22-unit resort development. Only a small portion of 8 approved structures will be constructed within the annexation area. The approved resort subdivision borders the east side of the annexation area. There is agricultural property to the west. The Zermatt Resort borders the north portion of the annexation area, across Bigler Lane. The Swiss Heights Mobile Home Park borders a small portion of the southern boundary.

The applicant requests that the portion of Parcel 14-1429 proposed to be annexed be designated as Resort Zone to be consistent with the rest of parcel 14-1429 that is already within Midway City.

The applicant represents that the water rights for the project were reviewed by the City and State Engineer’s Office through change applications associated with rights 55-1270, 55-5476, and 55-9110. According to the applicant:

These water rights are currently in City sources and will be dedicated to the City prior to recordation of any plat. In 2000, the Eater Advisory Board approved 12.89 shares of

Midway Irrigation equivalent to 38.67 ac/ft for use as both culinary and outside irrigation at this project.

There are some items to consider with this proposal:

- Access – The proposed annexation is intended to become part of the previously approved Swiss Haven PUD and access would be as set forth on such plat. No separate or additional access is proposed nor required.
- Density – Staff previously prepared a development agreement for The Villages of Zermatt Plats C and D which is located at 875 Bigler Lane and is in the Resort Zone. These two phases cover 5.99 acres and include 22 units in nine buildings (two-fourplexes and seven-duplexes). Phases C and D are the last phases to be recorded of the Zermatt master plan (see attached). They both received final approval from the Midway City Council on February 17, 2000. They also received Final approval from the Water Board on March 6, 2000. In the year 2000, the City did not have an approval sunset ordinance, so the approval is still active. The applicant seeks to annex this .71 acre and make it part of the Swiss Haven PUD. The plat will be a planned unit development plat with 22 building pads and common space that will be maintained by the Property Owners' Association. The entire property is zoned Resort Zone and is in the Transient Rental Overlay District so the units will all have the option to be rented on a nightly basis. The Visual Architecture Committee has reviewed the proposed building plans. Staff feels that it is important to record a development agreement for the two phases (which will be recorded on one plat) to protect both the City and the developer. A development agreement states basic development understandings and regulations which help both parties through the development process. Attached is the proposed development agreement.
- Water – water rights for the project were approved by Midway and by the State Engineer's Office through three change applications (55-1270, 55-5476, and 55-9110) and the water rights for the project have been in City sources ever since. The water rights do need to be dedicated to the City, which must take place before the plat is recorded for the two phases.
- Road maintenance – The roads will be private and maintained privately.

Staff has reviewed the application and has determined that it does comply with the general requirements of the annexation code and could be further considered by the City Council.

POSSIBLE FINDINGS:

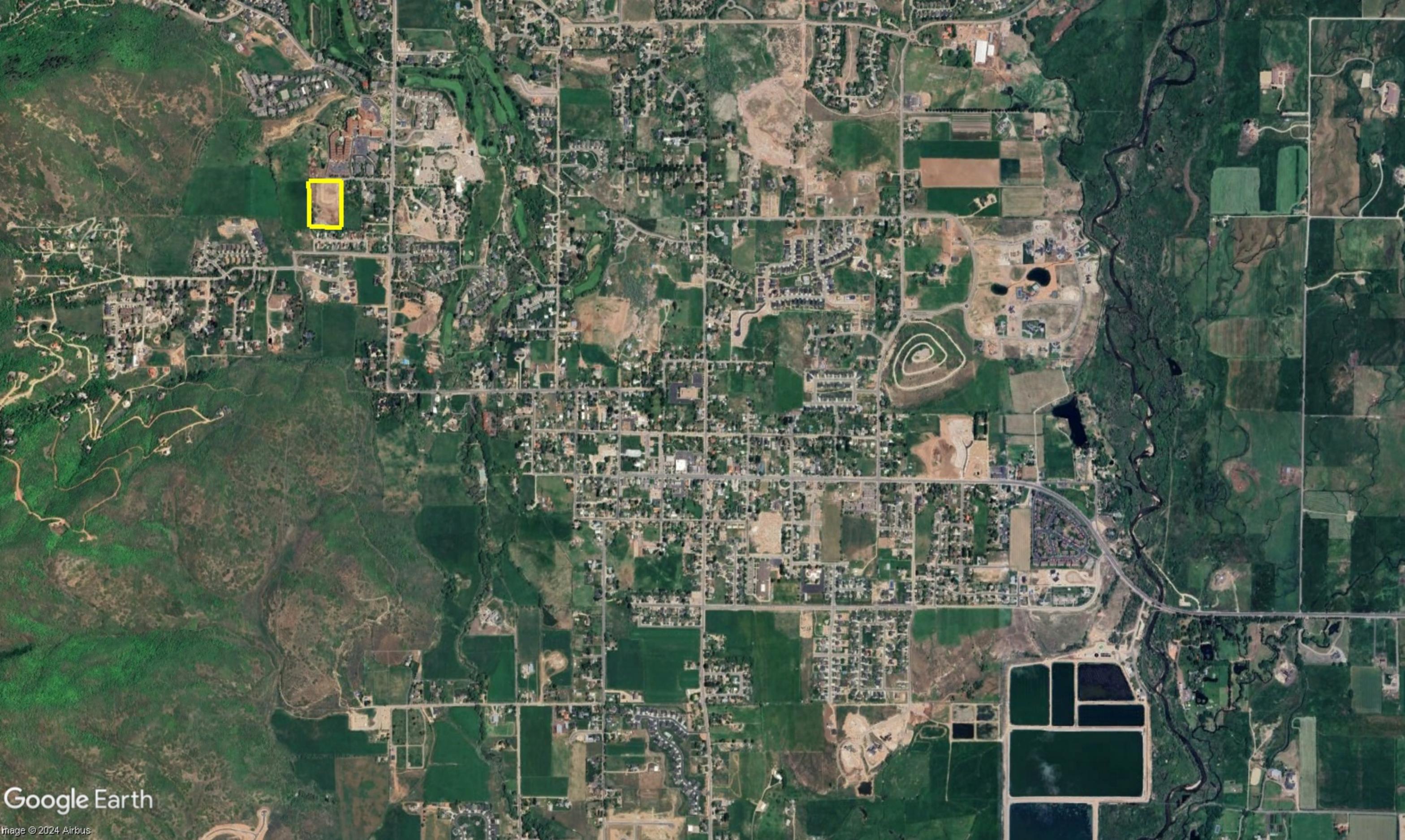
- The proposed annexation does comply with the intent of the annexation code
- The application is complete to consider further consideration
- Further consideration of the petition by the City Council does not guarantee the property will be approved for annexation by the City Council

ALTERNATIVE ACTIONS:

1. Approval of further consideration. This action can be taken if the City Council finds that the application is complete and meets the intent of the annexation code.
 - a. Accept staff report
 - b. List accepted findings

2. Continuance. This action can be taken if the City Council would like to continue studying further consideration of the proposal.
 - 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

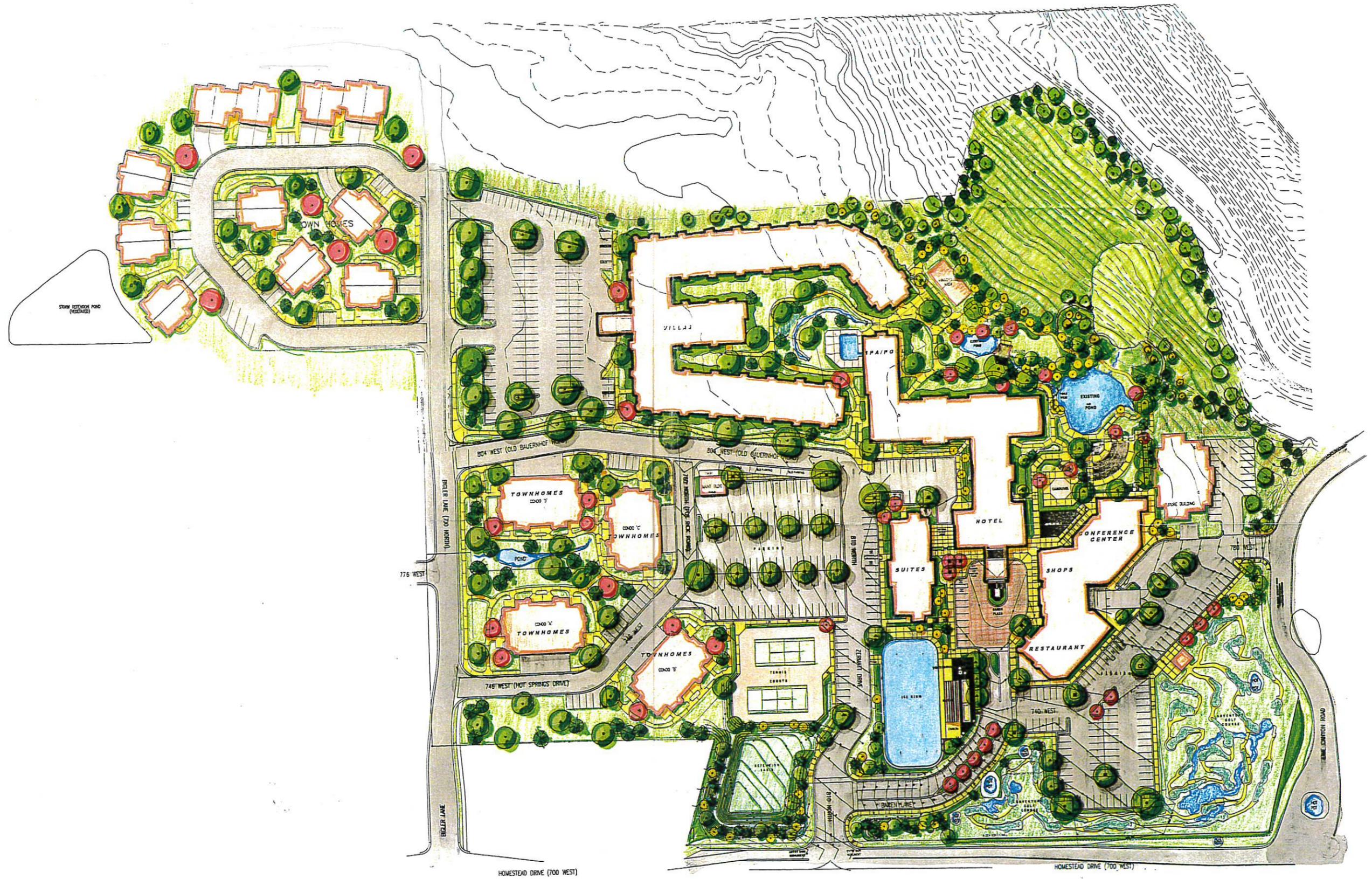
3. Denial of further consideration. This action can be taken if the City Council finds that the application is not complete or does not comply with the intent of the annexation code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial











ZERMATT

MIDWAY, UTAH
DR. ROBERT FULLER • MATTERHORN DEVEL.













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.
2. That the real property is described as follows:

Approximate location:

Approximately 850 Bigler Lane Midway, UT 84049 - a portion of parcel 14-1429.

Legal description:

~~A PARCEL OF LAND THAT LIES FULLY WITHIN THE SOUTHEAST QUARTER OF SECTION 28, AND THE
NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SUBJECT PARCEL
CONTAINS 0.712 ACRES OF LAND OF THAT PARTICULAR PARCEL OF LAND THAT IS FOUND IN THE
WASATCH COUNTY RECORDER'S OFFICE ENTRY NO. 497260 UNDER. THE BASIS OF BEARING FOR
SUBJECT PARCEL OF LAND IS N. 89° 11' 00" E 2698.67 FEET MEASURED BETWEEN THE WASATCH
COUNTY BRASS CAP MONUMENTS MONUMENTING THE SOUTH LINE OF THE SAID SOUTHWEST
QUARTER OF SAID SECTION 27. SUBJECT PARCEL MORE PARTICULARLY DESCRIBED AS FOLLOWS.~~

~~BEGINNING AT THE FOUND SOUTHEAST CORNER OF SECTION 28, TOWNSHIP 3 SOUTH, RANGE 4
EAST, SALT LAKE BASE AND MERIDIAN, SAID CORNER BEING THE TRUE POINT OF BEGINNING;
RUNNING THENCE S 01° 59' 16" E 137.80 FEET ALONG THE SECTION LINE TO THE SOUTHERLY
BOUNDARY LINE OF T EDWARD MADDEN SURVEY AS FOUND IN THE WASATCH COUNTY SURVEYOR'S
OFFICE AS MAP NO. 575; THENCE ALONG THE BOUNDARY LINES OF SAID SURVEY THE FOLLOWING
(6) SIX COURSES: (1) N 89° 38' 21" W 53.01 FEET TO A FOUND REBAR AND CAP MARKED "MADDEN LS
4859", (2) N 00° 54' 28" E 137.40 FEET TO A FOUND REBAR AND CAP MARKED MADDEN LS 4859, (3) N
00° 54' 21" E 269.02 FEET TO A FOUND REBAR AND CAP MARKED MADDEN LS 4859, (4) N 00° 10' 05" E
116.54 FEET TO A SET REBAR AND CAP MARKED PLS 10719099, (5) N 00° 32' 19" W 136.98 FEET TO A
SET REBAR AND CAP MARKED PLS 10719099. (6) EAST 49.50 FEET TO THE INTERSECTION OF SAID
SURVEY AND THE
EASTERLY SECTION LINE OF SAID SECTION 28; THENCE S 00° 44' 29" W 522.54 FEET ALONG SAID
SECTION LINE TO THE TRUE POINT OF BEGINNING.~~

~~THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 31,011 SQUARE FEET OR 0.712 OF AN ACRE.~~

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:

<u>Contact Sponsor</u>	<u>Mailing Address</u>
URE FUND 1 SWISS HAVEN HOMES LLC	3400 W MAYFLOWER AVE STE 350 LEHI UT 84043-5870

<u>Sponsor</u>	<u>Mailing Address</u>
_____	_____
_____	_____
_____	_____
_____	_____

4. That this petition is accompanied by the following documents:
- a. An accurate and recordable plat map, prepared by a licensed surveyor, of the area proposed for annexation. Exhibit A
 - b. A copy of the notice of intent sent to affected entities. Exhibit B
 - c. A list of the affected entities to which notice was sent. Exhibit B
 - d. A representation as to the anticipated timetable for development, if applicable, for the property being annexed. Exhibit C
 - e. If the proposed area is intended for development, a complete copy of the development concept plan which was filed with the City Planner. Exhibit D
 - f. Depending on the scope and intensity of the proposed development of the annexation area and the anticipated impact on adjacent lands, a review and analysis of the surrounding property (Municipal Code 9.05.050). Exhibit C
 - g. A full disclosure statement of all water owned or historically utilized on the property to be annexed. Exhibit C
 - h. A sensitive lands analysis of the full area being considered for annexation. Exhibit E
 - i. Such other information as may be required by the City Planner to enable the staff to prepare an annexation impact report.

5. A copy of this petition and the accompanying map was also delivered or mailed to the Wasatch County Clerk and the chair of the Midway City Planning Commission.

6. That the petitioner(s) request the property, if annexed, be zoned Resort Zone - RZ.
See also Exhibit C

7. That this petition contains the following signatures of the owners of private real property that:
- a. Covers a majority of the private land area within the area proposed for annexation.
 - b. Is equal in market value to at least 1/3 of the market value of all private real property within the area proposed for annexation.

Exhibit B

HOFFMANLAW

November 1, 2023

NOTICE OF INTENT TO FILE ANNEXATION PETITION

Petitioner: URE FUND 1 SWISS HAVEN HOMES LLC

Parcel #: A portion of parcel 14-1429

Location of property to be annexed: Approximately 850 Bigler Lane Midway, UT 84049

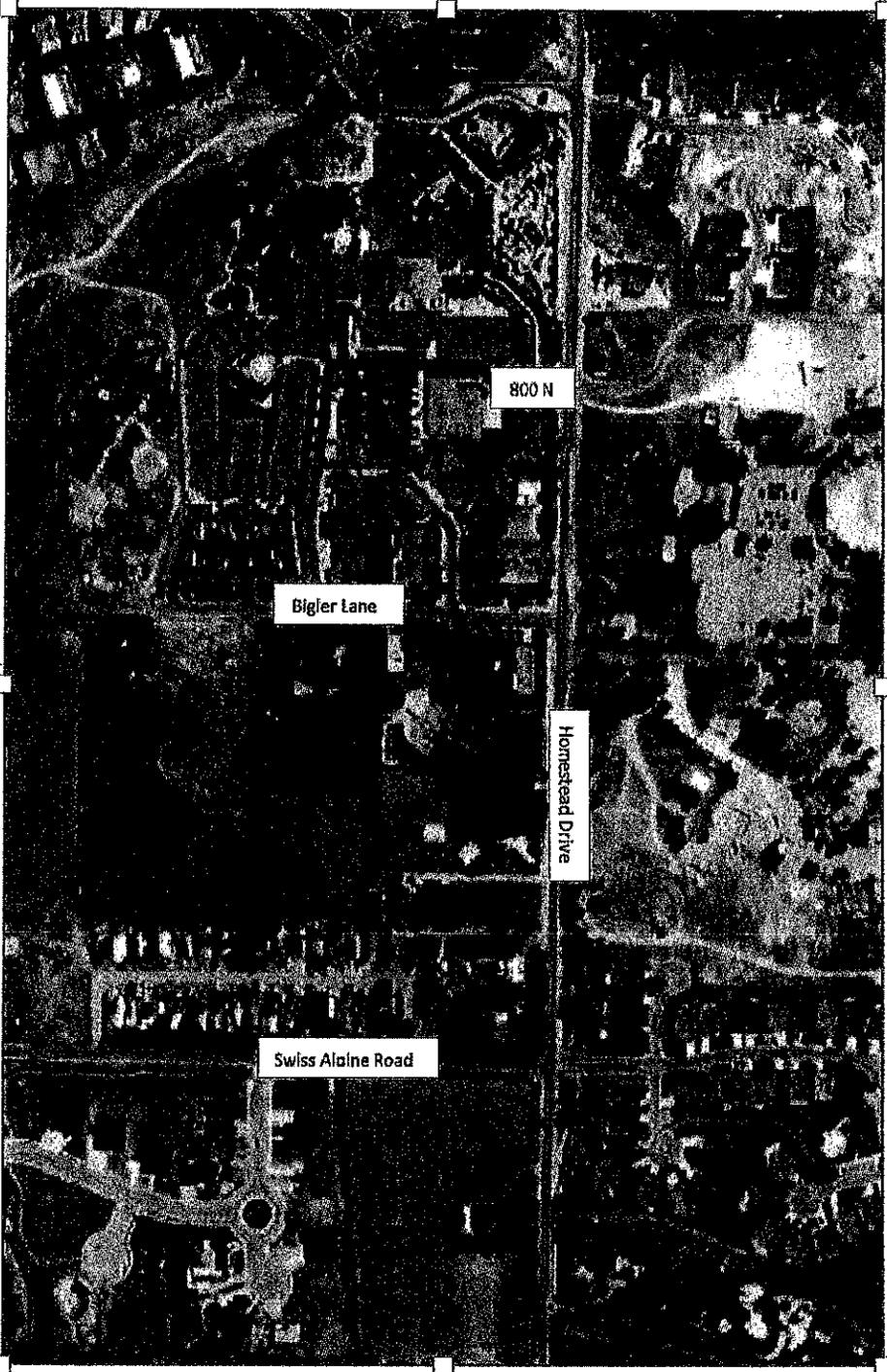
Size of Property to be annexed: approximately .71 acres

See map on second page.

Attention:

The real property owners of Parcel 14-1429 hereby provide notice of its intent to petition that the above-described lands and territory in Wasatch County, Utah be annexed to the City of Midway. In support of this Petition, the petitioners respectfully declare and represent that it is the sole owner of the private real property located within the described territory, it owns 100% of the value of all said territory as shown by the last assessment rolls of Wasatch County, Utah, and that said territory lies contiguous to the corporate limits of the City of Midway, a municipal corporation of Utah.

HOFFMAN_{LAW}



Blue shaded Area =
Annexation Area

Property Owners within 300 feet of potential portion of parcel 14-1429 annexation

1. Lundin Farms LLC
PO Box 226
Midway, UT 84049-0226
Parcels: 07-5726, 07-5361, 06-1890, 20-7234, 20-7236

2. Lundin Land Company, LLC
PO Box 226
Midway, UT 84049-0226
Parcels: 06-2930, 06-2948

3. Zion Investment Corporation
3435 South State Street
Salt Lake City, UT 84115-4528
Parcels: 06-2955, 07-5734

4. Legacy Resorts, LLC
784 Resort Drive
Midway, UT 84049-6463
Parcels: Zermatt Resort Plat A Common Area (no parcel number)

Exhibit C

4 (d). Timetable for Development

Upon annexation, the property owner would begin horizontal improvements immediately and anticipates a 4-month timeframe for completion of such improvements. Vertical Construction is estimated to take roughly 16 months to complete with a 1-month stagger between the beginning of construction on each building.

4(e). Development Concept Plan. The application is working with City Staff to make minor adjustments to the previously approved Swiss Haven Plat (see Exhibit D).

4(f). Intensity of Proposed Development.

The .712-acre annexation area will largely serve as the rear yard setback for 8 units of an approved, 22-unit resort development. Only a small portion of 8 approved structures will be constructed within the annexation area. The approved resort subdivision borders the east side of the annexation area. There is agricultural property to the west. The Zermatt Resort borders the north portion of the annexation area, across Bigler Lane. The Swiss Heights Mobile Home Park borders a small portion of the southern boundary.

4(g). Water for Development

The water rights for the project were reviewed by the City and the State Engineer's Office through change applications associated with rights 55-1270, 55-5476, and 55-9110. These water rights are currently in City sources and will be dedicated to the City prior to recordation of any plat. In 2000, the Water Advisory Board approved 12.89 shares of Midway Irrigation equivalent to 38.67 ac/ft for use as both culinary and outside irrigation at this project.

Requested Zoning Designation

The owner requests that the portion of Parcel 14-1429 proposed to be annexed be designated as Resort Zone, like the rest of parcel 14-1429 that is already within Midway City.

Exhibit E



DATE: November 28, 2023

TO: Nathan Dye, PE
UBA Development

FROM: Pei Huang, PhD, PE
Atrium Architecture, Engineering & Design

SUBJECT: Sensitive Lands Analysis Memo - Swiss Haven PUD

Boundary description: Swiss Haven PUD (Parcel NO. 00-0014-1429) is a parcel of land that lies fully within the southwest quarter of section 27. The southeast quarter of section 28, the northeast quarter of section 33, and the northwest quarter of section 34. Township 3 south, range 4 east. Subject parcel contains 5.99 acres of land of that particular parcel of land that is found in the Wasatch County recorder's office entry NO. 497260 under. The basis of bearing for subject parcel of land is N.89°11'00"E 2698.67 feet measured between the Wasatch county brass cap monuments monumenting the south line of the said southwest quarter of said section 27.

After conducting a comprehensive review of **CHAPTER 16.14 SENSITIVE LANDS OVERLAY ZONE** within the Midway Municipal Code, which encompasses its extensive sections and guidelines, we have determined that the property referenced in the "Boundary Description" is not sensitive land.

This analysis includes considerations of:

- Development restrictions in hillside, ridgeline, and bench areas.
- Regulations concerning streams, waterways, ditches, wetlands, and other water resources.
- Preservation and replacement policies for trees and vegetation.
- Protection policies for springs and wells.
- Unique geological and hydrological features of the area.
- Wildlife habitats and the preservation of natural landscapes.

This thorough assessment ensures that our classification and understanding of the property are in full alignment with the city's requirements and standards for the protection of sensitive lands, while also considering the property's development potential.

Please do not hesitate to contact us if you have any questions or require any further information.