

Midway City Council
6 April 2021
Regular Meeting

Lower River Annexation /
Further Consideration
(New Petition)

Memo



Date: April 6, 2021
To: Midway City Council
From: Michael Henke
Re: Lower River Annexation / Further Consideration

The City has received an annexation petition from Probst North Fields LLC which was signed by Ken Probst for a potential annexation of 354.31 acres. Other petitioners on the application include Probst Raspberry LLC, CJP Family 1 LC, and Brenda J Wright Trust. 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.

Additional items to consider with the annexation petition:

One item that the City uses to evaluate a petition for annexation is a concept plan. A concept plan has been submitted with the application. The plan includes a resort development on the south end of the property and a 15-lot residential development on the north area of the property which would be developed as a rural preservation subdivision. The concept plan does not include much detail, but it does state the resort area would include a 100-room hotel, 35,000 square feet of retail, two duplexes for workforce housing, along with 23 resort cottages. The plan also includes amenities such as horse corrals, greenhouses, hay barn, shop, and calving barn. It appears that an unincorporated peninsula would not be created with this petition.

There are two points of access on the plan including a southern access across the Kem Gardner property and the Utah Department of Fish and Game property. There is a second access from 850 South. One of the two access points does not appear to be a viable option with the current requirements. The applicant has stated on the plan that they plan on proposing a new road standard that would fit on the 30' strip of land owned by Utah Department of Fish and Game. The proposed standard would be 26' of asphalt in a 30' right-of-way. The current minimum standard is 30' of asphalt in a 56' of right-of-way. Without a new standard, Kem Gardner, owner of some of the property under the southern access, would need to grant access.

Potentially, if the access issues were resolved and the City were to annex the property and grant the zoning designation of RZ, the area could become a beneficial tax base for the City. A hotel and commercial area would create tax revenue along with the proposed resort cottages. The City's General Plan does promote economic development of resort areas and this would be an opportunity to create a new resort. A new resort would also help the City to preserve the resort tax which the City has tried to retain. The proposed plan with 100 rooms in the hotel and a range of 69-115 in the cottages would help to keep the resort tax.

Another benefit to the City could be an expanded public trail network. The City plans to build a trailhead on the Kem Gardner property to the west of the south parcel. From that trailhead, trails will head to Deer Creek, east to Heber, north to Midway Main Street, and potentially, northeast

near the Provo River across the proposed annexation property. The possible public trails across the property could be a great benefit to the City residents.

Another issue that staff has identified is the sensitive lands map that was submitted. It clearly shows all the FEMA floodplain on the property, but it does not give any other information about sensitive lands. Wetlands have been identified on the property, but the sensitive lands map does not address them. Depending on the amount and location of wetlands, the development potential of the property would be impacted.

The petitioner is requesting a zoning designation of RA-1-43 on the north area of the annexation. Currently, the Wasatch County zoning designation of the area owned by the petitioners is A-20 which allows for one dwelling for every 20 acres. One item to consider is the land use of surrounding properties. Heber Valley Special Service District (HVSSD) owns the properties east and south of the north area. HVSSD plans to create sewer lagoons on their property which will have an impact on the north parcel. The City has tried to limit residential development next to HVSSD properties because of potential impacts. This has been the case with the Peery property to the north, which is currently zoned industrial in Wasatch County. The owner of the property has attempted to amend Midway's General Plan to annex the property in as residential. Those petitions to amend the City's General plan have not been successful, partially because of the potential impact of allowing dwellings next to an odor nuisance. The current County zoning of A-20 would allow for greater amount of area per dwelling for property surrounding the HVSSD property which would help lessen the potential odor nuisance. Increasing the density from A-20 to RA-1-43, which would allow for more lots than the current Wasatch County zoning, would increase the potential of the odor nuisance to a larger number of dwellings and future residences that would be built on the north property area. The City took the approach of lowering the density on a neighboring annexation containing the Midway Crest subdivision partially because of the potential odor nuisance, to the extent that there is a note stating this potential nuisance on the Midway Crest plat. The County zoning on that parcel was RA-1 and the City annexed in the parcel as RA-1-43 but limited the density on the 24 acres to five lots. Whereas the petition of the north parcel would increase density from A-20 to RA-1-43. The proposal has 15 dwellings on about 118 acres which is a dwelling for every 7-8 acres.

The petitioner is asking for a zoning designation of Resort Zone (RZ) on the southern area of the proposed annexation. This does match the City's Land Use map regarding possible zoning designations for that area. The current Wasatch County zoning is A-20 and a change to RZ is a dramatic increase in potential density and allowed uses though the City can control density and allowed uses as part of an annexation agreement. The Transient Rental Overlay District (TROD) will need to be included on the zoning map if the property is annexed for the area to have nightly rentals.

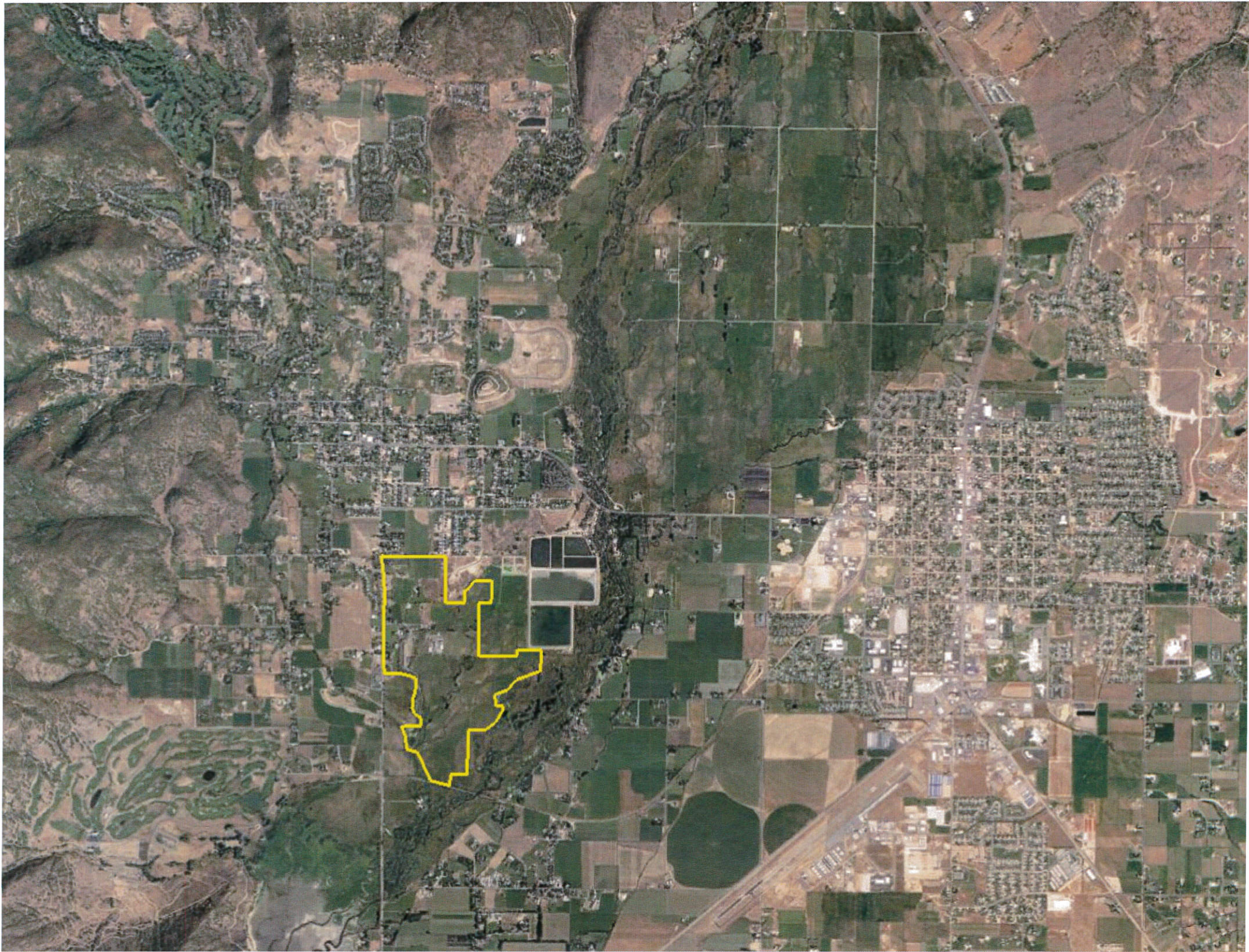
The proposed annexation will also require that several properties that are also in Wasatch County are included in the annexation. 138.76 acres owned by 18 different individuals or entities would be forced into the Midway. If the annexation is approved, the land in this area would need to be given a zoning designation of RA-1-43, as shown on the Land Use map. This area, because the owners of the property are not petitioners, the City will not be able to negotiate any terms like is possible with the petitioners. For example, if the City would like a public trail across the petitioner's property, the City can require that as part of the annexation approval but requiring a public trail across non petitioner's property is not an option.

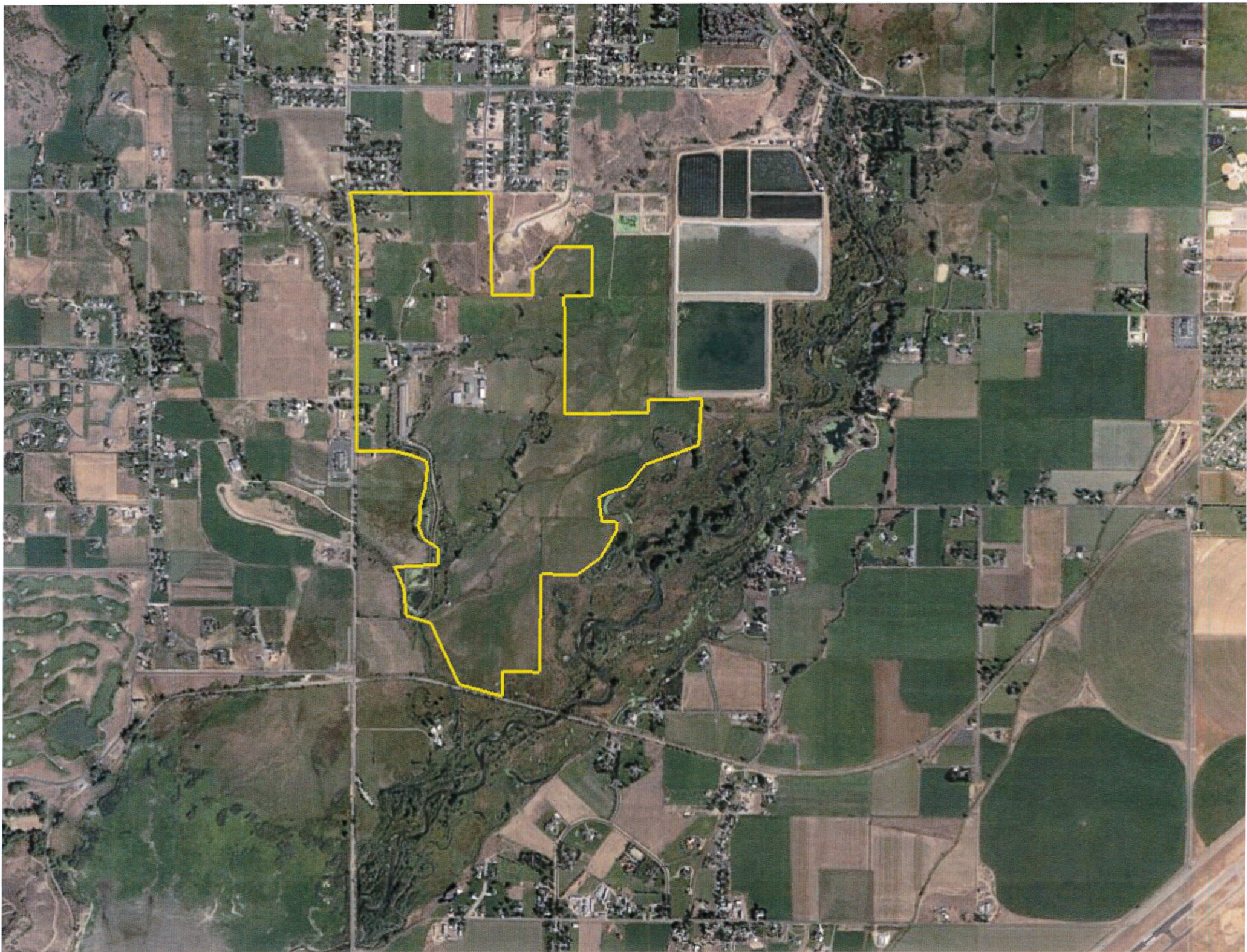
POSSIBLE FINDINGS:

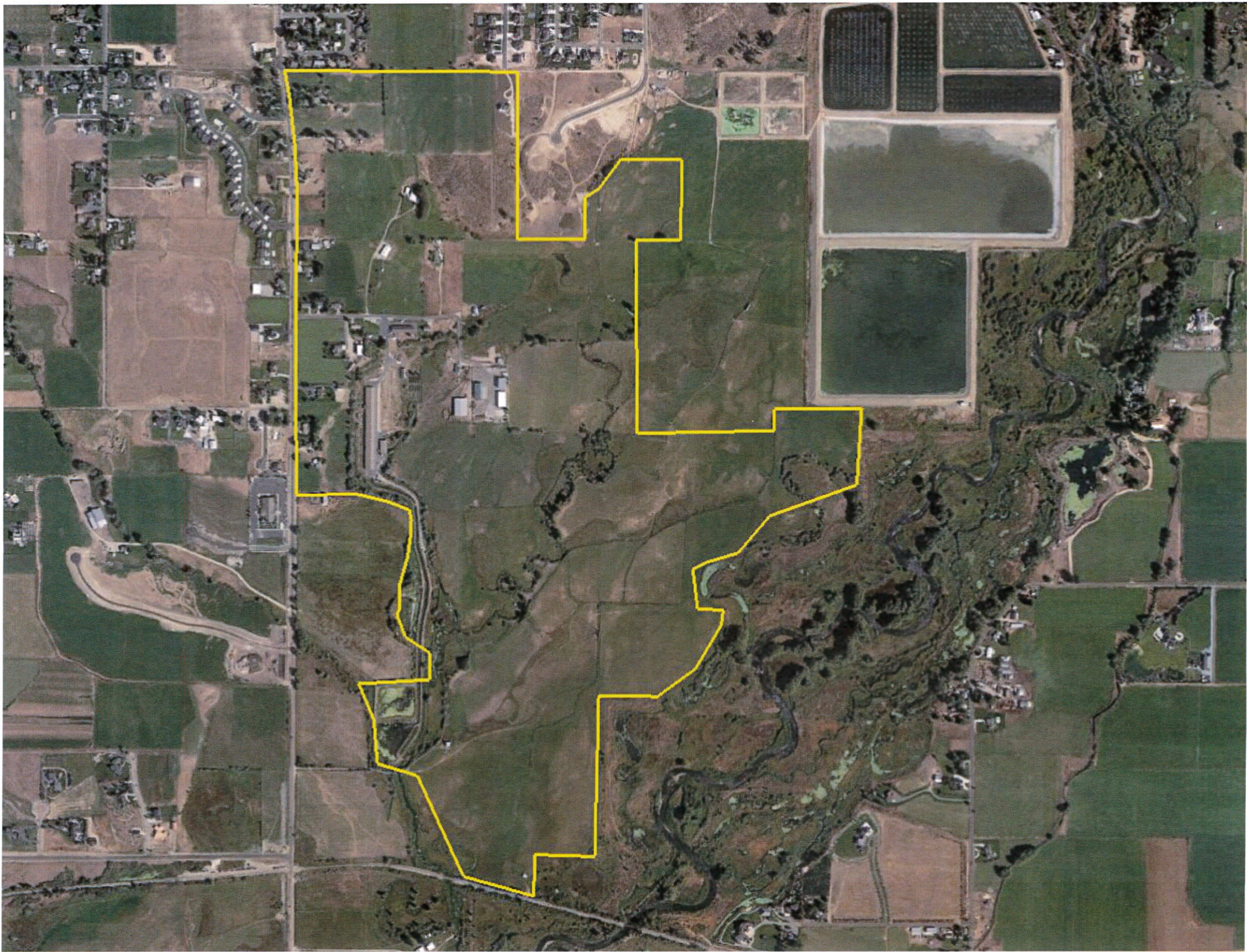
- The proposed annexation will not create an unincorporated peninsula.
- The proposal does not have two verified access points.
- A concept plan was submitted with the application.
- The petitioned zoning does match the planned zones for the annexation area on City's land use map.
- The sensitive lands map is incomplete and does not include any wetlands information and does not cover the entire proposed annexation area.
- Increasing density near HVSSD property has the potential increasing the number of people impacted by odors.
- 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









PETITION FOR ANNEXATION

13 March 2021

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:

RECEIVED

MAR 23 2021

BY: BW

Approximate location:

225 East 850 South

Legal description:

Please see Attachment A.

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:

Contact Sponsor

Mailing Address

Probst North Fields LLC

3400 S 2900 W, Heber City, Utah 84032

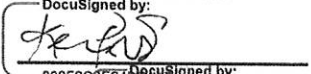
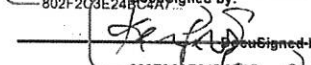
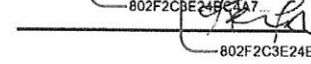
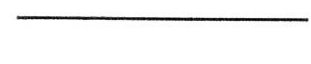
Sponsor

Mailing Address

<u>CJP Family 1 LC</u>	<u>3400 S 2900 W, Heber City, Utah 84032</u>
<u>Probst Raspberry LLC</u>	<u>3400 S 2900 W, Heber City, Utah 84032</u>
<u>Brenda J Wright Trust</u>	<u>P.O. Box 1053, Midway, Utah 84049</u>

4. That this petition is accompanied by an accurate and recordable map, prepared by a licensed surveyor, of the area proposed for annexation.
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 RA-1-43 and RZ.
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.

Please see Attachment B for a complete list of property owners, market value of the property and serial numbers for the entire annexation area.

<u>Petitioner</u>	<u>Signature</u>	<u>Acres</u>	<u>Market Value</u>	<u>Serial Number</u>
<u>Probst North Fields</u>		<u>See Attachment B</u>	<u>See Attachment B</u>	<u>See Attachment B</u>
<u>CJP Family 1 LC</u>		<u>See Attachment B</u>	<u>See Attachment B</u>	<u>See Attachment B</u>
<u>Probst Raspberry LLC</u>		<u>See Attachment B</u>	<u>See Attachment B</u>	<u>See Attachment B</u>
<u>Brenda J Wright Trust</u>		<u>See Attachment B</u>	<u>See Attachment B</u>	<u>See Attachment B</u>
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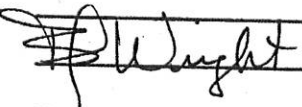
Sponsor

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<u>Probst North Fields</u>	_____	<u>See Attachment B</u>	_____	_____
<u>CJP Family 1 LC</u>	_____	<u>See Attachment B</u>	_____	_____
<u>Probst Raspberry LLC</u>	_____	<u>See Attachment B</u>	_____	_____
<u>Brenda J Wright Trust</u>		<u>See Attachment B</u>	_____	<u>DWC-1128-D-002-04</u>
<u>Allan Stephen Kinsey</u>	_____	<u>See Attachment B</u>	_____	_____
<u>Myrna P Kinsey</u>	_____	<u>See Attachment B</u>	_____	_____
<u>David Allen Kinsey</u>	_____	<u>See Attachment B</u>	_____	_____
<u>Robin Kinsey</u>	_____	<u>See Attachment B</u>	_____	_____
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BOUNDARY DESCRIPTION

BEGINNING AT FOUND WASATCH COUNTY BRASS CAP IN CONCRETE MARKING THE WEST QUARTER CORNER OF SECTION 2, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN

THENCE NORTH 00°19'01" WEST 497.36 FEET; THENCE NORTH 04°57'02" WEST 837.85 FEET; THENCE NORTH 89°44'57" EAST 1785.69 FEET; THENCE SOUTH 00°16'04" EAST 1328.37 FEET; THENCE NORTH 89°37'23" EAST 527.94 FEET; THENCE NORTH 00°09'45" WEST 327.79 FEET; THENCE NORTH 61°27'59" EAST 132.64 FEET; THENCE NORTH 32°59'59" EAST 286.48 FEET; THENCE SOUTH 89°33'08" EAST 82.78 FEET; THENCE SOUTH 89°11'45" EAST 401.50 FEET; THENCE SOUTH 00°11'26" WEST 218.25 FEET; THENCE SOUTH 00°16'07" EAST 405.25 FEET; THENCE SOUTH 89°40'59" WEST 346.57 FEET; THENCE SOUTH 00°06'11" EAST 790.54 FEET; THENCE SOUTH 00°49'23" EAST 294.06 FEET; THENCE SOUTH 03°19'06" WEST 49.80 FEET; THENCE SOUTH 01°04'49" EAST 381.73 FEET; THENCE NORTH 88°01'35" EAST 427.60 FEET; THENCE NORTH 89°41'51" EAST 642.54 FEET; THENCE NORTH 00°41'15" EAST 183.56 FEET; THENCE SOUTH 89°55'29" EAST 224.59 FEET; THENCE SOUTH 20°23'18" EAST 15.19 FEET; THENCE NORTH 89°29'25" EAST 364.38 FEET; THENCE SOUTH 28°28'24" EAST 173.50 FEET; THENCE SOUTH 01°20'57" WEST 319.77 FEET; THENCE SOUTH 01°41'46" WEST 348.62 FEET; THENCE SOUTH 74°21'01" WEST 843.78 FEET; THENCE SOUTH 46°27'43" WEST 196.52 FEET; THENCE NORTH 84°28'05" WEST 113.58 FEET; THENCE SOUTH 61°55'41" WEST 126.94 FEET; THENCE SOUTH 19°26'26" WEST 168.45 FEET; THENCE SOUTH 16°50'14" EAST 73.02 FEET; THENCE SOUTH 42°34'27" EAST 272.83 FEET; THENCE SOUTH 28°34'18" WEST 352.09 FEET; THENCE SOUTH 43°12'59" WEST 248.83 FEET; THENCE SOUTH 62°56'56" WEST 175.43 FEET; THENCE SOUTH 87°23'57" WEST 487.28 FEET; THENCE SOUTH 00°17'15" EAST 1246.85 FEET; THENCE SOUTH 89°49'06" WEST 484.76 FEET; THENCE SOUTH 00°16'31" WEST 313.03 FEET; THENCE NORTH 75°15'03" WEST 548.27 FEET; THENCE NORTH 57°56'24" WEST 61.71 FEET; THENCE NORTH 24°17'59" WEST 8.33 FEET; THENCE NORTH 76°20'28" WEST 388.38 FEET; THENCE NORTH 16°36'00" WEST 591.99 FEET; THENCE NORTH 90°00'00" WEST 193.40 FEET; THENCE NORTH 00°00'00" EAST 162.09 FEET; THENCE SOUTH 89°12'00" EAST 26.29 FEET; THENCE NORTH 06°00'00" WEST 430.98 FEET; THENCE NORTH 17°20'00" WEST 264.00 FEET; THENCE NORTH 85°40'00" EAST 462.00 FEET; THENCE NORTH 02°45'00" EAST 217.80 FEET; THENCE NORTH 58°50'00" WEST 188.10 FEET; THENCE NORTH 14°55'00" WEST 231.00 FEET; THENCE NORTH 27°30'00" EAST 192.06 FEET; THENCE NORTH 10°00'00" EAST 523.38 FEET; THENCE NORTH 06°40'00" WEST 128.93 FEET; THENCE NORTH 77°58'24" WEST 385.12 FEET; THENCE NORTH 82°51'30" WEST 112.52 FEET; THENCE SOUTH 88°05'17" WEST 398.01 FEET; THENCE NORTH 00°17'19" WEST 1534.40 FEET; THENCE NORTH 00°19'01" WEST 443.26 FEET TO THE POINT OF BEGINNING.

AREA = 354.61 ACRES

March 13, 2021

**Attachment B
Annexation Analysis**

A petition for annexation must be signed by property owners representing a minimum of 1/2 of the area being annexed and at least 1/3 of the market value of the properties being annexed. The analysis in Table 1 demonstrates that the annexation petition complies with these standards.

Table 1 - Annexation Analysis for Area and Market Value for the Lower River Annexation

Property Owner	Serial #	Parcel #	Acres	Market Value	Petitioner
Probst North Fields LLC	OWC-1108-2-002-044	00-0012-4698	9.57	\$190,348	Yes
Probst North Fields LLC	OWC-1112-0-002-044	00-0008-5253	23.77	\$1,160,665	Yes
Probst North Fields LLC	OWC-1129-0-002-044	00-0008-5428	30.66	\$969,800	Yes
Probst North Fields LLC	OWC-1091-0-002-044	00-0008-5030	22.30	\$719,000	Yes
Probst North Fields LLC	OWC-1229-0-011-044	00-0008-6616	0.48	\$12,000	Yes
Probst North Fields LLC	OWC-1127-0-002-044	00-0008-5402	9.42	\$1,177,500	Yes
Probst North Fields LLC	OWC-1263-0-011-044	00-0008-7077	8.14	\$472,120	Yes
Probst North Fields LLC	OWC-1232-0-011-044	00-0008-6640	6.53	\$163,250	Yes
CJP Family 1 LC	OWC-1124-0-0002-044	00-0008-5379	3.00	\$90,000	Yes
CJP Family 1 LC	OWC-1123-0-002-044	00-0008-5360	12.83	\$434,900	Yes
Probst Raspberry LLC	OWC-1130-0-002-044	00-0008-5436	8.92	\$1,115,000	Yes
Probst Raspberry LLC	OWC-1227-0-011-044	00-0008-6590	13.42	\$442,860	Yes
Probst Raspberry LLC	OWC-1129-1-011-044	00-0020-1454	3.80	\$95,000	Yes
Probst Raspberry LLC	OWC-1263-1-011-044	00-0020-1455	7.08	\$410,640	Yes
Probst Raspberry LLC	OWC-1228-0-011-044	00-0008-6608	39.12	\$978,500	Yes
Brenda J Wright Trust	OWC-1128-0-002-044	00-0008-5410	10.00	\$1,250,000	Yes
Allan Stephen & Myrna P Kinsey	OWC-1113-0-002-044	00-0008-5261	3.79	\$198,308.00	No
Allan Stephen & Myrna P Kinsey	OWC-1115-0-002-044	00-0008-5287	0.35	\$240,250.00	No
David Allen & Robin Kinsey	OWC-1113-1-002-044	00-0013-8409	0.50	\$285,288.00	No
Utah Department of Natural Resources	OWC-1231-0-011-044	00-0008-6632	5.52	\$0	No
Utah Department of Natural Resources	OWC-1126-0-002-044	00-0008-5394	27.42	\$0	No
Utah Department of Natural Resources	OWC-1119-0-002-044	00-0008-5329	12.53	\$0	No
Midway City	OWC-1117-0-002-044	00-0008-5303	3.00	\$0	No
James B Wright Trust	OWC-1116-0-002-044	00-0008-5295	8.00	\$290,000.00	No
James B Wright Trust	OWC-1116-1-002-044	00-0167-3743	2.21	\$276,250.00	No
James B Wright Trust	OWC-1118-0-002-044	00-0008-5311	3.08	\$174,750.00	No
James B Wright Trust	OWC-1118-1-002-044	00-0015-6021	1.12	\$89,800.00	No
John H & Brenda Price Trust	OJP-1003-0-002-044	00-0020-8726	0.50	\$20,000.00	No
Helen E Knaggs	OWC-1121-0-002-044	00-0008-5345	1.00	\$361,538.00	No
Jay Fred Price Trust	OJP-1004-0-002-044	00-0020-8727	2.73	\$109,200.00	No
Jason Price	OJP-1005-0-002-044	00-0020-8728	0.99	\$594,180.00	No
Jay Fred Price Trust	OJP-1006-0-002-044	00-0020-8729	0.99	\$39,600.00	No
Joseph Hoffman Rail	OWC-1120-1-022-044	00-0013-3434	1.15	\$213,232.00	No
Jonathan S & Constance Hughes	OWC-1110-0-002-044	00-0008-5238	6.00	\$993,825.00	No
Clint Brian Hobbs	OUW-0001-A-002-044	00-0021-3557	4.17	\$147,000.00	No
Gerald L White Trust	OWC-1105-0-002-044	00-0008-5162	39.56	\$2,670,720.00	No
Patrick Sean Haggerty	OWC-1114-0-002-044	00-0008-5279	0.25	\$157,782.00	No
Bill M Lefler Trust	OWC-1113-3-002-044	00-0015-9819	1.00	\$410,407.00	No
Jennifer Lauren Hoover	OWC-1113-2-002-044	00-0015-9256	1.00	\$595,061.00	No
Herbert C & Nellie M Madsen	OWC-1101-0-002-044	00-0008-5139	0.53	\$25,000.00	No
Tonna Syphus	OWC-1094-0-002-044	00-0008-5063	0.53	\$85,000.00	No
Brent R Todd	OWC-1099-0-002-044	00-0008-5113	0.61	\$85,000.00	No
Brent R Todd	OWC-1096-0-002-044	00-0008-5089	0.62	\$171,632.00	No
Brent R Todd	OWC-1097-0-002-044	00-0008-5097	0.62	\$85,000.00	No
Joseph M Klotovich Trust	OWC-1095-0-002-044	00-0008-5071	1.97	\$245,611.00	No
Kendra M Bettis Scheibe	OWC-1102-0-002-044	00-0008-5147	8.66	\$922,154.00	No
Total			349.44	\$19,168,171	

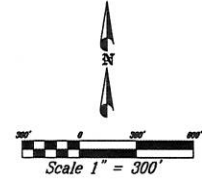
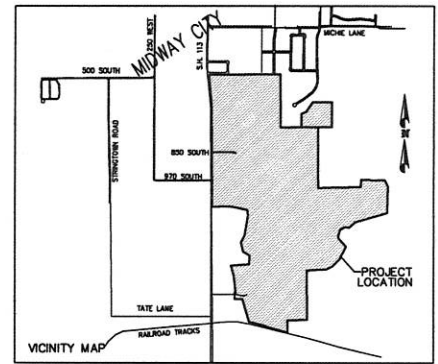
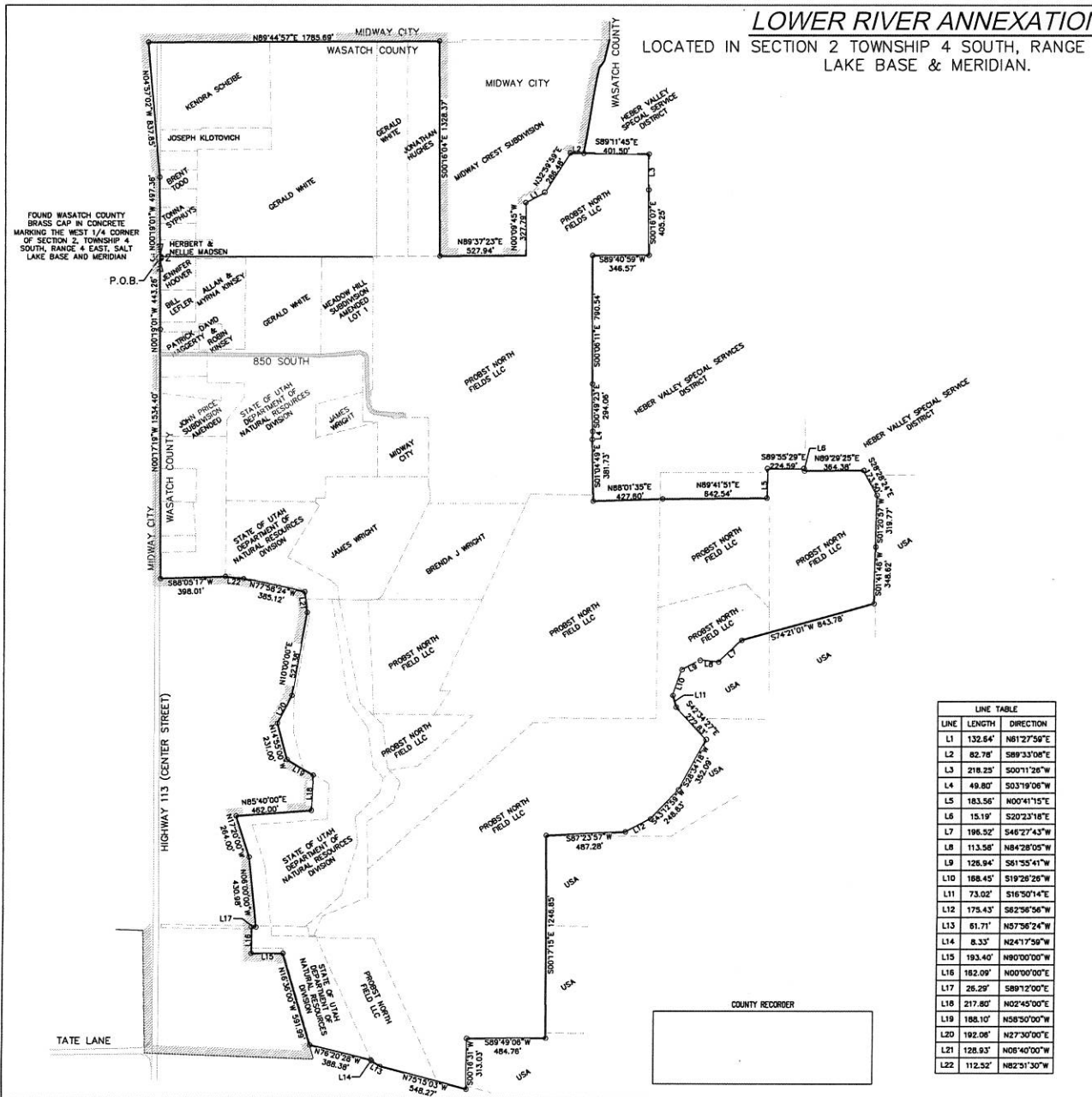
Annexation Petitioners 209.04 \$9,681,583
 % of Annexation Represented by Petitioners 59.8% 50.5%

The three Kinsey parcels are obligated to sign an annexation petition per an agreement with Midway City. If the Kinsey parcels are included in the analysis the evaluations changes as indicated below.

Annexation Petitioners and Kinsey Properties per Agreement with Midway City 213.68 \$10,405,429
 % of Annexation Represented by Petitioners and Kinseys 61.1% 54.3%

LOWER RIVER ANNEXATION

LOCATED IN SECTION 2 TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN.



LEGEND
 MIDWAY CITY LIMITS
 DEED LINES

BASIS OF BEARING

BASIS OF BEARING FOR THIS ALTA SURVEY IS SOUTH 00°08'55" WEST BETWEEN THE FOUND MONUMENT MARKING THE NORTHWEST CORNER OF SECTION 2, T4S, R4E, AND THE FOUND MONUMENT MARKING THE WEST 1/4 CORNER OF SECTION 11, T4S, R4E, S4E8M.

BOUNDARY DESCRIPTION

BEGINNING AT FOUND WASATCH COUNTY BRASS CAP IN CONCRETE MARKING THE WEST QUARTER CORNER OF SECTION 2, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN

THENCE NORTH 00°19'01" WEST 497.36 FEET; THENCE NORTH 04°37'02" WEST 837.89 FEET; THENCE NORTH 89°44'37" EAST 1785.69 FEET; THENCE SOUTH 00°08'04" EAST 1328.37 FEET; THENCE NORTH 89°37'23" EAST 527.94 FEET; THENCE NORTH 00°08'45" WEST 327.79 FEET; THENCE NORTH 81°27'59" EAST 132.64 FEET; THENCE NORTH 32°59'50" EAST 298.48 FEET; THENCE SOUTH 89°37'00" EAST 82.78 FEET; THENCE SOUTH 89°11'45" EAST 401.50 FEET; THENCE SOUTH 00°11'28" WEST 218.25 FEET; THENCE SOUTH 00°18'07" EAST 405.25 FEET; THENCE SOUTH 89°05'09" WEST 348.57 FEET; THENCE SOUTH 00°06'11" EAST 790.54 FEET; THENCE SOUTH 00°48'23" EAST 294.08 FEET; THENCE SOUTH 03°18'06" WEST 49.80 FEET; THENCE SOUTH 01°04'49" EAST 381.73 FEET; THENCE NORTH 89°01'30" EAST 427.60 FEET; THENCE NORTH 89°41'51" EAST 642.54 FEET; THENCE NORTH 00°41'15" EAST 183.56 FEET; THENCE SOUTH 89°55'29" EAST 224.59 FEET; THENCE SOUTH 02°23'19" EAST 15.19 FEET; THENCE NORTH 89°28'25" EAST 364.38 FEET; THENCE SOUTH 28°28'24" EAST 173.50 FEET; THENCE SOUTH 01°20'57" WEST 318.77 FEET; THENCE SOUTH 01°41'48" WEST 348.52 FEET; THENCE SOUTH 74°21'01" WEST 843.78 FEET; THENCE SOUTH 48°27'43" WEST 196.52 FEET; THENCE NORTH 84°28'05" WEST 113.58 FEET; THENCE SOUTH 61°55'41" WEST 126.94 FEET; THENCE SOUTH 18°28'24" WEST 168.43 FEET; THENCE SOUTH 18°20'14" EAST 73.02 FEET; THENCE SOUTH 42°34'27" EAST 272.83 FEET; THENCE SOUTH 28°34'18" WEST 352.89 FEET; THENCE SOUTH 43°12'59" WEST 248.83 FEET; THENCE SOUTH 61°56'56" WEST 175.43 FEET; THENCE SOUTH 87°23'37" WEST 487.28 FEET; THENCE SOUTH 00°17'15" EAST 1246.85 FEET; THENCE SOUTH 88°49'06" WEST 484.78 FEET; THENCE SOUTH 00°19'31" WEST 313.63 FEET; THENCE NORTH 75°15'03" WEST 548.27 FEET; THENCE NORTH 57°36'24" WEST 81.71 FEET; THENCE NORTH 24°17'59" WEST 8.33 FEET; THENCE NORTH 76°20'28" WEST 388.38 FEET; THENCE NORTH 18°36'00" WEST 591.98 FEET; THENCE NORTH 90°00'00" WEST 193.40 FEET; THENCE NORTH 00°00'00" EAST 182.08 FEET; THENCE SOUTH 89°12'00" EAST 28.29 FEET; THENCE NORTH 00°00'00" WEST 438.98 FEET; THENCE NORTH 17°20'00" WEST 284.00 FEET; THENCE NORTH 85°40'00" EAST 482.00 FEET; THENCE NORTH 02°45'00" EAST 217.80 FEET; THENCE NORTH 56°50'00" WEST 188.10 FEET; THENCE NORTH 14°30'00" WEST 233.00 FEET; THENCE NORTH 27°30'00" EAST 192.06 FEET; THENCE NORTH 10°00'00" EAST 523.38 FEET; THENCE NORTH 88°40'00" WEST 126.83 FEET; THENCE NORTH 77°36'24" WEST 365.12 FEET; THENCE NORTH 82°31'30" WEST 112.52 FEET; THENCE SOUTH 88°05'17" WEST 388.01 FEET; THENCE NORTH 00°17'15" WEST 1534.40 FEET; THENCE NORTH 00°19'01" WEST 443.25 FEET TO THE POINT OF BEGINNING.

LINE	LENGTH	DIRECTION
L1	132.64'	N81°27'59"E
L2	82.78'	S89°33'08"E
L3	218.25'	S00°11'28"W
L4	49.80'	S03°18'06"W
L5	183.56'	N00°41'15"E
L6	15.19'	S20°23'18"E
L7	196.52'	S46°27'43"W
L8	113.58'	N84°28'05"W
L9	126.94'	S61°55'41"W
L10	168.45'	S18°28'26"W
L11	73.02'	S16°50'14"E
L12	175.43'	S82°36'56"W
L13	61.71'	N57°36'24"W
L14	8.33'	N24°17'59"W
L15	193.40'	N90°00'00"E
L16	182.09'	N00°00'00"E
L17	26.29'	S89°12'00"E
L18	217.80'	N02°45'00"E
L19	188.10'	N56°50'00"W
L20	192.06'	N27°30'00"E
L21	128.83'	N08°40'00"W
L22	112.52'	N82°31'30"W

COUNTY SURVEYOR

APPROVED AS TO FORM ON THIS _____ DAY OF _____, 20____.
 ROS _____
 COUNTY SURVEYOR

SURVEYOR'S CERTIFICATE

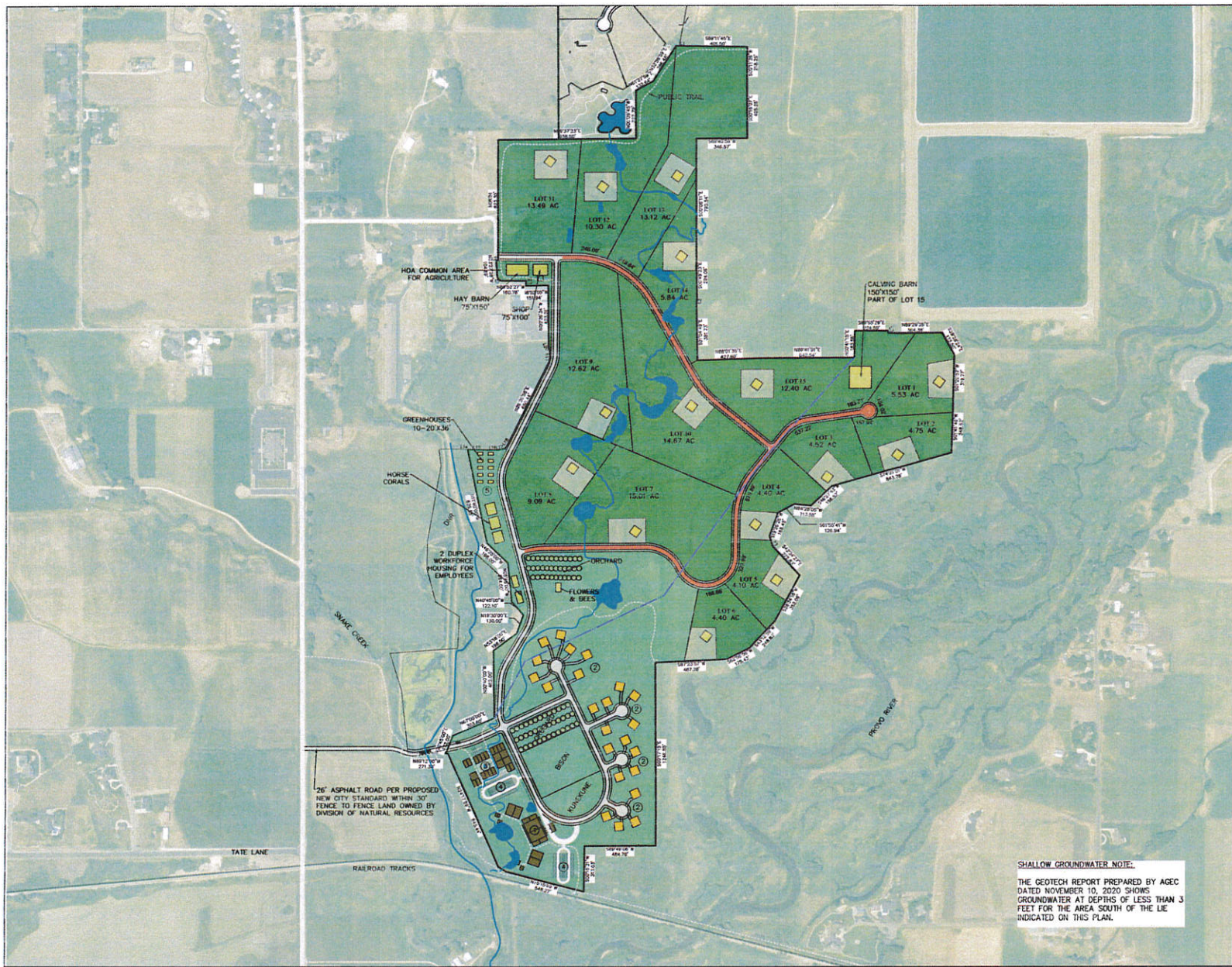
I, TROY L. TAYLOR, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 8854112 AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH, AND THAT THIS IS A TRUE AND ACCURATE MAP OF THE TRACT OF LAND TO BE ANNEXED TO MIDWAY CITY, WASATCH COUNTY, UTAH.

ACCEPTANCE BY LEGISLATIVE BODY

THIS IS TO CERTIFY THAT WE THE UNDERSIGNED HAVE ADOPTED A RESOLUTION OF ITS INTENT TO ANNEX THE TRACT OF LAND SHOWN HEREON AND HAVE SUBSEQUENTLY ADOPTED AN ORDINANCE ANNEXING SAID TRACT INTO MIDWAY CITY, UTAH; AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HEREIN ALL IN ACCORDANCE WITH UTAH CODE SECTION 10-2-418 AS REVISED AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS SHOWN AS A PART OF SAID MIDWAY CITY, AND THAT SAID TRACT OF LAND IS TO BE KNOWN AS THE LOWER RIVER ANNEXATION.

DATED THIS _____ DAY OF _____, 20____.
 MAYOR _____ DATE _____
 CITY ATTORNEY _____ DATE _____
 CITY ENGINEER _____ DATE _____
 ALTERNATE CITY RECORDER _____ DATE _____

LOWER RIVER ANNEXATION PLAT



RESORT INFORMATION:

TOTAL RESORT AREA:	63.59 ACRES (100%)
BUILDINGS:	4.00 ACRES (6.29%)
ROADS AND PARKING:	9.09 ACRES (14.29%)
OPEN SPACE:	50.50 ACRES (79.42%)

RESORT KEY

① MAIN GUEST LODGE	100 ROOMS	42,950 SF
② 23 RENTAL COTTAGES	69-115 ROOMS	82,800 SF
③ RETAIL VILLAGE		35,000 SF
④ PARKING LOTS		58,661 SF
⑤ AGRICULTURAL BUILDINGS		9,360 SF

- LEGEND:**
- RESORT OPEN SPACE (50.50 ACRES)
 - COMMON AREA/AGRICULTURE OPEN SPACE IN SUBDIVISION (118.16 ACRES)
 - RESORT COTTAGES (MIDWAY CITY)
 - RESORT AND COMMERCIAL BUILDINGS (MIDWAY CITY)
 - TRAIL
 - SHALLOW GROUNDWATER HAZARD (LESS THAN 3')
 - 24' ASPHALT SHARED DRIVEWAY PER RURAL PRESERVATION CODE
 - 26' ASPHALT ROAD (PRIVATE)
 - HOUSE PADS

CONCEPT PLAN NOTE:
 THIS IS A CONCEPT PLAN ONLY. CONCEPT PLAN IS BEING PROVIDED AS PART OF THE ANNEXATION PETITION REVIEW. NO APPROVALS HAVE BEEN GRANTED FOR THIS DEVELOPMENT.

WETLANDS NOTE:
 WETLANDS FOR THIS PROPERTY TO BE DETERMINED.

SHALLOW GROUNDWATER NOTE:
 THE GEOTECH REPORT PREPARED BY AGE2 DATED NOVEMBER 10, 2020 SHOWS GROUNDWATER AT DEPTHS OF LESS THAN 3 FEET FOR THE AREA SOUTH OF THE LINE INDICATED ON THIS PLAN.

RECEIVED
 MAR 23 2021
 BY: *[Signature]*



DAVIS
PROBST RIVER PROPERTIES
 CONCEPT PLAN
 ANNEXATION PETITION#S



DESIGN BY: PMR DATE: 19 MAR 2021 30217
 DRAWN BY: DAN REV: 8

THIS DOCUMENT IS RELEASED FOR REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION UNLESS SIGNED AND SEALED.
 P.M.A. D. BERG, P.E.
 SERIAL NO. 205006
 DATE: 8 MAR 2021

Brad Wilson

From: Paul Berg <paul@bergeng.net>
Sent: Tuesday, March 23, 2021 5:13 PM
To: Brad Wilson
Cc: Michael Henke; Ryan Davis
Subject: Lower River Annexation Petition - Withdrawal of Petition and Filing of a New Petition
Attachments: 01_ANNEXATION PLAT_PROBST 8 MAR 2021.pdf

Brad

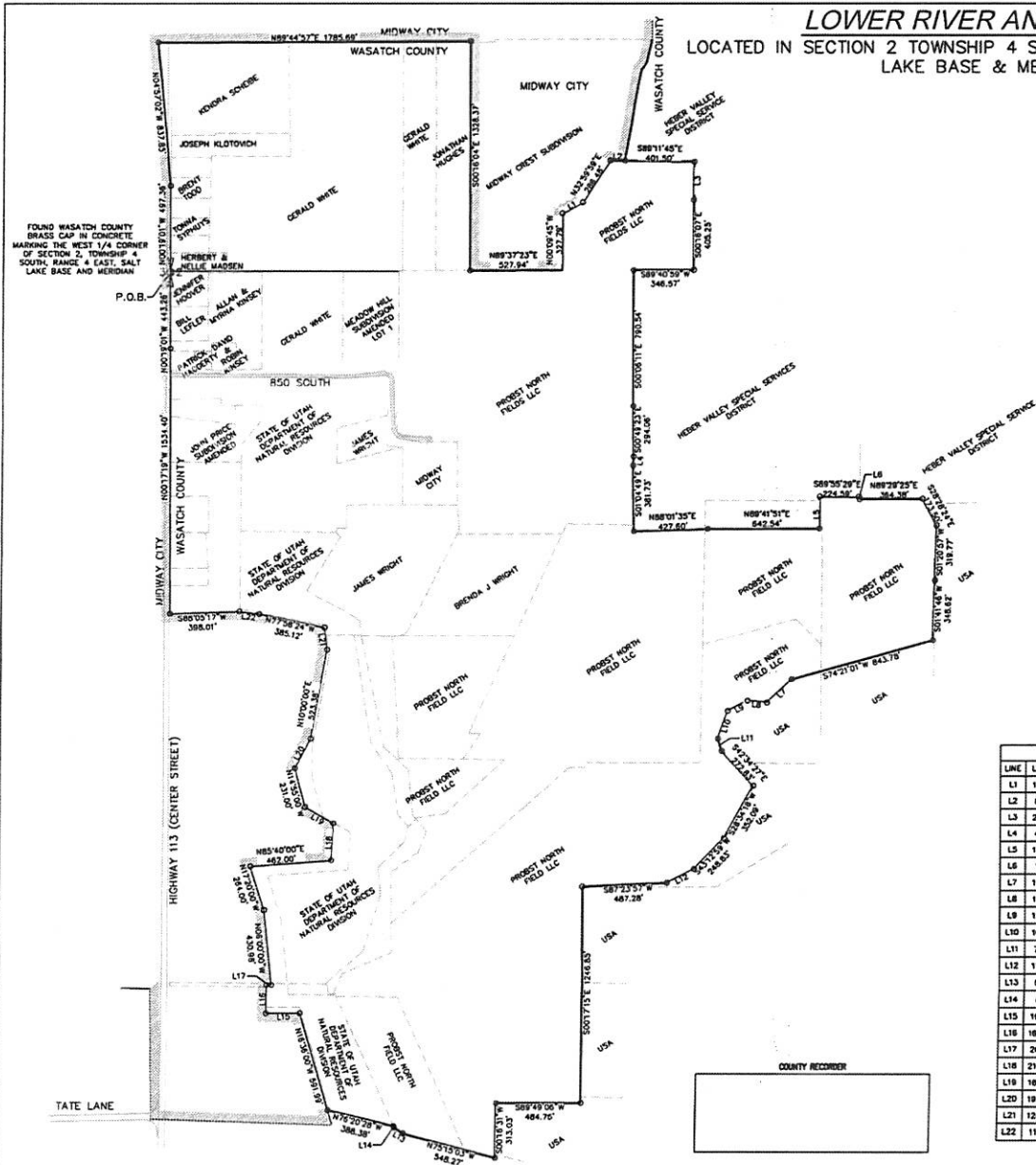
The applicant for the Lower River Annexation is formally withdrawing the annexation petition for 88.28 acres submitted on February 2, 2021. As requested by the Midway City Council, a larger area is proposed to be annexed consisting of 354 acres as shown on the attached annexation plat. A new annexation petition for the 354 acres was submitted to Midway City earlier today. Please credit any fees from the February 2, 2021 petition to the new petition submitted today.

Thanks for your assistance.

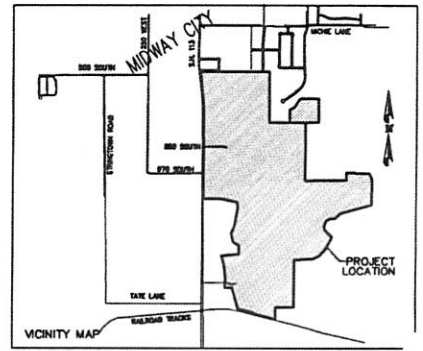
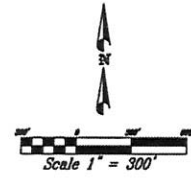
Paul Berg
Berg Engineering

LOWER RIVER ANNEXATION

LOCATED IN SECTION 2 TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN.



FOUND WASATCH COUNTY BRASS CAP IN CONCRETE MARKING THE WEST 1/4 CORNER OF SECTION 2, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN



LEGEND

- MIDWAY CITY LIMITS
- DEED LINES

BASIS OF BEARING

BASES OF BEARING FOR THIS ALTA SURVEY IS SOUTH 00°00'33" WEST BETWEEN THE FOUND MONUMENT MARKING THE NORTHWEST CORNER OF SECTION 14E, R4E, AND THE FOUND MONUMENT MARKING THE NORTHWEST CORNER OF SECTION 1, T4S, R4E, AND THE FOUND MONUMENT MARKING THE WEST 1/4 CORNER OF SECTION 11, T4S, R4E, S4E, 1884M.

BOUNDARY DESCRIPTION

BEGINNING AT FOUND WASATCH COUNTY BRASS CAP IN CONCRETE MARKING THE WEST QUARTER CORNER OF SECTION 2, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN

THENCE NORTH 00°01'00" WEST 487.38 FEET; THENCE NORTH 04°37'00" WEST 837.85 FEET; THENCE NORTH 89°44'57" EAST 1785.69 FEET; THENCE SOUTH 00°04'04" EAST 1328.37 FEET; THENCE NORTH 89°37'23" EAST 527.84 FEET; THENCE NORTH 00°00'46" WEST 337.78 FEET; THENCE NORTH 81°27'38" EAST 132.84 FEET; THENCE NORTH 32°38'56" EAST 286.48 FEET; THENCE SOUTH 89°53'06" EAST 82.78 FEET; THENCE SOUTH 88°11'45" EAST 481.50 FEET; THENCE SOUTH 00°11'28" WEST 218.25 FEET; THENCE SOUTH 00°08'07" EAST 408.23 FEET; THENCE SOUTH 89°04'58" WEST 348.57 FEET; THENCE SOUTH 09°59'11" EAST 790.48 FEET; THENCE SOUTH 00°06'23" EAST 284.08 FEET; THENCE SOUTH 03°19'08" WEST 48.80 FEET; THENCE SOUTH 01°04'46" EAST 381.73 FEET; THENCE NORTH 89°01'30" EAST 427.60 FEET; THENCE NORTH 89°41'31" EAST 842.54 FEET; THENCE NORTH 00°41'10" EAST 183.59 FEET; THENCE SOUTH 89°50'29" EAST 324.59 FEET; THENCE SOUTH 02°22'18" EAST 18.19 FEET; THENCE NORTH 89°28'28" EAST 284.38 FEET; THENCE SOUTH 28°28'24" EAST 173.50 FEET; THENCE SOUTH 01°20'57" WEST 318.77 FEET; THENCE SOUTH 01°41'48" WEST 248.62 FEET; THENCE SOUTH 74°21'01" WEST 843.78 FEET; THENCE SOUTH 48°27'43" WEST 186.52 FEET; THENCE NORTH 84°28'05" WEST 113.58 FEET; THENCE SOUTH 87°58'41" WEST 128.84 FEET; THENCE NORTH 89°41'31" EAST 842.54 FEET; THENCE SOUTH 42°34'27" EAST 272.83 FEET; THENCE SOUTH 28°24'16" WEST 332.08 FEET; THENCE SOUTH 43°12'48" WEST 248.83 FEET; THENCE SOUTH 82°58'28" WEST 178.43 FEET; THENCE SOUTH 87°23'37" WEST 487.38 FEET; THENCE SOUTH 00°17'45" EAST 1248.85 FEET; THENCE NORTH 89°46'09" WEST 484.78 FEET; THENCE SOUTH 00°18'31" WEST 313.03 FEET; THENCE NORTH 78°15'03" WEST 348.27 FEET; THENCE NORTH 87°04'06" WEST 81.71 FEET; THENCE NORTH 24°17'58" WEST 8.33 FEET; THENCE NORTH 78°20'28" WEST 388.38 FEET; THENCE NORTH 18°38'00" WEST 581.88 FEET; THENCE NORTH 80°00'00" WEST 183.40 FEET; THENCE NORTH 00°00'00" EAST 182.08 FEET; THENCE SOUTH 89°12'00" EAST 28.28 FEET; THENCE NORTH 09°00'00" WEST 430.88 FEET; THENCE NORTH 17°20'00" WEST 284.40 FEET; THENCE NORTH 85°40'00" EAST 482.00 FEET; THENCE NORTH 02°40'00" EAST 217.80 FEET; THENCE NORTH 58°50'00" WEST 188.10 FEET; THENCE NORTH 14°50'00" WEST 231.00 FEET; THENCE NORTH 27°20'00" EAST 182.08 FEET; THENCE NORTH 00°00'00" EAST 533.38 FEET; THENCE NORTH 08°40'00" WEST 128.83 FEET; THENCE NORTH 77°50'00" WEST 388.12 FEET; THENCE NORTH 82°30'00" WEST 112.52 FEET; THENCE SOUTH 89°01'07" WEST 386.01 FEET; THENCE NORTH 00°17'10" WEST 1534.40 FEET; THENCE NORTH 00°10'00" WEST 443.28 FEET TO THE POINT OF BEGINNING.

LINE	LENGTH	DIRECTION
L1	132.84	N81°27'38"E
L2	82.78	S89°53'06"E
L3	218.25	S00°11'28"W
L4	48.80	S03°19'08"W
L5	183.58	N00°41'10"E
L6	151.17	S02°23'18"E
L7	198.52	S48°27'43"W
L8	113.58	N84°28'05"W
L9	128.84	S81°33'41"W
L10	168.45	S19°28'28"W
L11	73.02	S18°30'14"E
L12	173.43	S82°38'36"W
L13	61.71	N57°36'24"W
L14	8.33	N24°17'58"W
L15	183.40	N80°00'00"W
L16	182.08	N00°00'00"E
L17	28.28	S89°12'00"E
L18	217.80	N02°40'00"E
L19	188.10	N58°50'00"W
L20	182.08	N27°20'00"E
L21	128.83	N08°40'00"W
L22	112.52	N82°31'30"W

COUNTY SURVEYOR

APPROVED AS TO FORM ON THIS _____ DAY OF _____, 20____.

ROC # _____

COUNTY SURVEYOR

SURVEYOR'S CERTIFICATE

I, TROY L. TAYLOR, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 8884112 AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH, AND THAT THIS IS A TRUE AND ACCURATE MAP OF THE TRACT OF LAND TO BE ANNEXED TO MIDWAY CITY, WASATCH COUNTY, UTAH.

ACCEPTANCE BY LEGISLATIVE BODY

THIS IS TO CERTIFY THAT WE THE UNDERSIGNED HAVE ADOPTED RESOLUTION OF ITS INTENT TO ANNEX THE TRACT OF LAND SHOWN HEREON AND HAVE SUBSEQUENTLY ADOPTED AN ORDINANCE ANNEXING SAID TRACT INTO MIDWAY CITY, UTAH, AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HEREWITH ALL IN ACCORDANCE WITH UTAH CODE SECTIONS 10-2-418 AS REVISED AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS SHOWN AS A PART OF SAID MIDWAY CITY, AND THAT SAID TRACT OF LAND IS TO BE KNOWN AS THE LOWER RIVER ANNEXATION.

DATE THIS ____ DAY OF _____, 20____.

Mayor _____ Date _____

City Attorney _____ Date _____

City Engineer _____ Date _____

Attest: _____ Date _____

City Recorder _____ Date _____

LOWER RIVER ANNEXATION PLAT



322 East Gateway Drive, Suite 201 • Heber City, Utah 84032
P 435-657-0984 • F 888-822-8796
www.gordonlawgrouputah.com

MEMORANDUM

TO: Midway City Council
FROM: Corbin B. Gordon, Midway City Attorney
DATE: April 1, 2021
RE: Analysis of the Utah State Code regarding Annexations/Boundary Commissions

Annexation (10-2-402)

An unincorporated area may be annexed to Midway if:

- It is a contiguous area;
- It is contiguous to Midway;
- Annexation will not leave or create an unincorporated island or unincorporated peninsula;
- The area is within Midway's expansion area.

Midway may not annex an unincorporated area unless a petition is filed requesting annexation.

Annexation Petition Requirements and Notice (10-2-403)

The process to annex an unincorporated area to Midway is initiated by a petition.

Wasatch County shall:

- Mail notice to each owner of real property located within the area—or 300 feet of the area—proposed to be annexed;
- Send Midway a copy of the notice and a certificate indicating that the notice has been mailed as required.

Those receiving the notice may choose whether to sign the petition. By signing the petition, they indicate their support of the proposed annexation. Signing or not signing the annexation petition is the method for owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.



After receiving the certificate from Wasatch County, Midway must provide an annexation petition for the annexation proposed. Each petition must:

- Be filed with the Midway City Recorder;
- Contain the signatures of the owners of private real property that:
 - Is located within the area proposed for annexation;
 - Is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;
- Be accompanied by an accurate and recordable map, prepared by a licensed surveyor, of the area proposed for annexation;
- Designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor.

If practicable and feasible, the boundaries of an area proposed for annexation should be drawn:

- Along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts, and along the boundaries of other taxing entities;
- To eliminate islands and peninsulas of territory;
- To facilitate the consolidation of overlapping functions of local government;
- To promote the efficient delivery of services; and
- To encourage the equitable distribution of community resources and obligations.

On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the Wasatch County Clerk.

Acceptance or Denial of an Annexation Petition – Petition Certification Process (10-2-405)

The Midway City Council may:

- Deny an annexation petition; or
- Accept an annexation petition for further consideration.

A petition is considered to be accepted for further consideration if the City Council fails to act to deny or accept the petition at its next regularly scheduled meeting that is at least 14 days after the date the petition was filed.

If the City Council denies a petition it shall, within five days after the denial, mail written notice of the denial to the contact sponsor and the Wasatch County Clerk.

If the City Council accepts a petition or is considered to have accepted the petition, the City Recorder shall, within 30 days after that acceptance:

- Obtain from the assessor, clerk, surveyor, and recorder of Wasatch County the records they need to determine whether the petition meets the petition requirements.



If the City Recorder determines that the petition meets the requirements, they will certify the petition and mail or deliver written notification of the certification to the City Council, the contact sponsor, and the County Council.

If the City Recorder determines that the petition fails to meet any of the requirements, they will reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the City Council, the contact sponsor, and the County Council.

If a petition is rejected, it may be modified to correct the deficiencies for which it was rejected and then refiled with the City Recorder. The refiled petition must be treated as a newly filed petition.

Notice of Certification – Publishing and Providing Notice of Petition (10-2-406)

After receiving the notice of certification from the City Recorder, the City Council shall publish notice:

- At least once a week for three successive weeks in a newspaper within the area of the proposed annexation;
- By mailing the notice to each residence within, and to each owner of real property located within, the area proposed for annexation;
- On the Utah Public Notice Website for three weeks;
- Mailing written notice to each affected entity; and
- On the Midway City website for three weeks.

The notice must:

- State that a petition has been filed with Midway proposing the annexation of an area to Midway;
- State the date of the City Council's receipt of the notice of certification;
- Describe the area proposed for annexation in the annexation petition;
- State that the complete annexation petition is available for inspection and copying at the office of the City Recorder;
- State in conspicuous and plain terms that Midway may grant the petition and annex the area described in the petition unless, within the time required, a written protest to the annexation petition is filed with the Boundary Commission and a copy of the protest delivered to the City Recorder of Midway;
- State the address of the Boundary Commission.

Protest to Annexation Petition (10-2-407)

A protest to an annexation petition may be filed by the legislative body or governing board of an affected county, municipality, or special service district. Each protest must:



- Be filed no later than 30 days after the City Council’s receipt of the notice of certification with the Boundary Commission;
- State each reason for the protest;
- Contain the name and address of a contact person.

The party filing the protest must also deliver or mail a copy of the protest to the Midway City Recorder.

If a protest is filed:

- The City Council may, at its next regular meeting after expiration of the deadline, deny the annexation petition; or
- If the City Council does not deny the annexation petition, it may take no further action on the annexation petition until after receiving the Boundary Commission’s notice of its decision on the protest.

If no timely protest is filed, the City Council may approve the petition. However, before approving an annexation petition, the City Council must hold a public hearing and publish notice of the public hearing:

- At least seven days before the day of the public hearing in a newspaper within the area proposed for annexation;
- At least 10 days before the day of the public hearing by mailing the notice to each residence within, and to each owner of real property located within, the area proposed for annexation;
- On the Utah Public Notice Website for seven days before the day of the public hearing;
- On the Midway City website for seven days before the day of the public hearing.

Denying or Approving the Annexation Petition (10-2-408)

After receiving the Boundary Commission’s decision on a protest, the City Council may:

- Deny the annexation petition; or
- If the Boundary Commission approves the annexation, approve the annexation petition consistent with the Boundary Commission’s decision.

Creation of the Boundary Commission (10-2-409, 410)

Wasatch County:

- May create a Boundary Commission on its own initiative at any time; and
- Shall create a Boundary Commission within 30 days of the filing of a protest.

Each commission shall be composed of:

- Two members who are elected county officers, appointed by the County Council;



- Two members who are elected municipal officers from separate municipalities within Wasatch County, appointed by the municipal selection committee; and
- Three members who are residents of Wasatch County, none of whom is a county or municipal officer, appointed by the four other members of the Boundary Commission.

A majority of the Boundary Commission constitutes a quorum, and action taken by the Boundary Commission requires a majority vote.

Municipal Selection Committee (10-2-409.5)

The Municipal Selection Committee consists of the mayor of each municipality in Wasatch County.

The Municipal Selection Committee appoints each municipal member of the Wasatch County Boundary Commission and fills each vacancy in that position as it occurs.

Boundary Commission Authority (10-2-412)

The Boundary Commission hears and decides each protest filed with respect to a proposed annexation located within Wasatch County.

The Boundary Commission may:

- Adopt and enforce rules of procedure for the orderly and fair conduct of its proceedings;
- Authorize a member of the commission to administer oaths if necessary in the performance of the commission's duties;
- Employ staff personnel and professional or consulting services reasonably necessary to enable the commission to carry out its duties; and
- Incur reasonable and necessary expenses to enable the commission to carry out its duties.

Records, information, and other relevant materials necessary to enable the Boundary Commission to carry out its duties shall, upon request by the Commission, be furnished to the Boundary Commission by the personnel, employees, and officers of each affected entity whose boundaries include any part of the area proposed for annexation or that may be affected by action of the Boundary Commission.

Boundary Commission Public Hearing (10-2-415)

Within 30 days after the time for filing a protest has expired, the Boundary Commission must hold a hearing on all protests that were filed with respect to the proposed annexation.

At least 14 days before the date of the hearing, the Boundary Commission must publish notice of the hearing:

- In a newspaper within the area proposed for annexation;
- Mailing notice to each resident within, and each owner of real property located within, the area proposed for annexation;
- On the Utah Public Notice Website for 14 days before the day of the hearing;
- On Midway City's website for 14 days before the day of the hearing;
- On Wasatch County's website for 14 days before the day of the hearing.

Each notice must:

- State the date, time, and place of the hearing;
- Briefly summarize the nature of the protest;
- State that a copy of the protest is on file at the Boundary Commission's office.

The Boundary Commission may continue a hearing from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

In considering protests, the Boundary Commission must consider whether the proposed annexation:

- Complies with the requirements of 10-2-402 and 10-2-403 and the annexation policy plan of Midway City;
- Conflicts with the annexation policy plan of another municipality; and
- If the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area Wasatch County.

A transcription of the recording of the hearing, the information received at the hearing, and the written decision of the Commission shall constitute the record of the hearing.

Boundary Commission Decisions (10-2-416)

The Boundary Commission may:

- Approve the proposed annexation, either with or without conditions;
- Make minor modifications to the proposed annexation and approve it, either with or without conditions; or
- Disapprove the proposed annexation.

The Boundary Commission must issue a written decision on the proposed annexation within 30 days and must send a copy of the decision to:

- The Wasatch County Council;
- The Midway City Council;
- The contact person on the annexation petition;
- The contact person of each entity that filed a protest.



**PRIVILEGED, PERSONAL AND CONFIDENTIAL MEMORANDUM
DO NOT DISTRIBUTE**

District Court Review (10-2-417)

Review of a Boundary Commission decision may be sought in the Wasatch County District Court by filing a petition for review of the decision within 20 days of the Boundary Commission's decision.

The District Court must affirm the Boundary Commission's decision unless it determines that the decision is arbitrary or capricious.

Brad Wilson

From: Bill James <billjames@utah.gov>
Sent: Thursday, March 25, 2021 12:38 PM
To: Brad Wilson
Cc: Michael Henke; Eric Edgley
Subject: Fwd: Lower River Annexation Second Petition

Brad,

For your and Michael's perspective, we are finding the new petition regarding the Lower River Annexation to be a touch more extreme than the first one, at least in regard to annexation of our state lands. The "Eric" I refer to below is Eric Edgley, my supervisor and our Habitat Section Chief, copied.

I still see nothing clarifying status or rights for use of our private lane just south of the ponds on our property. Maybe it will become clear, and I remain objective, but we don't yet have Ryan's total write up in regard to what he needs from DWR and what rights he seeks for public use of our lands. If he gains agreement from Mr. K.C. Gardener, on the planned uses, and shows acceptance of potential development of a roadway on the DWR land, which runs between Mr. Gardener's lands, then we may find it quite workable. My principal view at the moment is mostly questioning. What's going on? Who needs what from whom? How do adjacent landowners feel about the implicit new uses which would presumably be required, and aren't yet authorized?

Thanks, and good day!

Bill James
Assistant Chief, Habitat Section
Utah Division of Wildlife Resources

...

On Wed, Mar 24, 2021 at 10:54 AM Bill James <billjames@utah.gov> wrote:

Eric,

Ryan Davis has retracted his initial annexation petition to Midway City, and has now submitted a second petition with new lands included. We have left Ryan with the clear understanding that he needs to submit a succinct written proposal to our director if he hopes to utilize any of our lands for any purpose. I instructed him to copy Roger and me with any submission.

The mayor and city council will evaluate this new petition and the city attorney will eventually make a determination of whether the petition can be certified. That has specific meaning within municipal code.

If that certification is issued, a 30-day protest period ensues. I recommend at this point that we watch, stay tuned, and if certification is given, that we then submit our comments (not so much a protest) within the protest period on the operative petition. It doesn't seem good to comment on a petition which hasn't yet been certified as complete and sufficient to all requirements.

Bill

----- Forwarded message -----

From: **Brad Wilson** <bwilson@midwaycityut.org>
Date: Wed, Mar 24, 2021, 9:57 AM
Subject: Lower River Annexation Second Petition
To: billjames@utah.gov <billjames@utah.gov>

Bill,

The petitioner for the Lower River Annexation withdrew his original petition. He submitted the attached new petition which includes additional property. I will notify you if the petition is or is not certified.

Please contact me if you have any questions.

Brad Wilson

Recorder

H: Mon-Thurs 7:30-5:30

P: 435-654-3223 ext 118

E: bwilson@midwaycityut.org

75 N 100 W – P.O. Box 277
Midway, UT 84049

www.midwaycityut.org

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Craig J Schaugaard
Aquatic Section Assistant Chief over Hatcheries
Division of Wildlife Resources
1594 W. North Temple, Suite 2110
PO Box 146301
Salt Lake City, Utah 84114-6301
Cell: (801) 791-3675
Fax: (801) 538-4745
email: craigschaugaard@utah.gov

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Jolene Rose

Wildlife Lands Specialist

Utah Division of Wildlife Resources

Office: 801-538-4865

Cell: 801-520-3357

1594 West North Temple, Ste.2110

Salt Lake City, UT 84114-6301

"Keep close to Nature's heart... and break clear away, once in awhile, and climb a mountain or spend a week in the woods. Wash your spirit clean.." - John Muir

Cathleen and Gerald White
Pear Tree Llamas
P.O. Box 379, Midway UT 84049
801-231-3210 Cathleen 801-643-1173 Gerald
treelama@aol.com
www.peartreellamas.com

March 31, 2021

TO:
Mayor Celeste Johnson
Members of the City Council of Midway
Brad Wilson, City Recorder
Michael Henke, City Planner

RE: Proposed Lower River Annexation

We are writing to state our strong opposition to this proposed annexation. We are Cathleen White, PhD, and Gerald White, disabled Vietnam combat veteran. We own a property at 105 East 850 South, parcel size 39.56 acres, parcel number 08-56162. We are aware of other property owners in the area who oppose this annexation as well.

Our reasons for opposing the proposal are as follows:

1. Members of our family have owned this property and used it for agriculture since 1962. The property is currently zoned RA-1 Residential Agricultural. We do not wish to have the zoning changed and we have no intention of changing our use of the property.
2. We received the proposal dated 24 March, 2021. This is the first time we had heard that our property was included in the proposal. We were not contacted or given advance notice of the proposal.
3. For a property owner to support annexation, there must be some benefit to the property owner. The two advantages to annexation that we can see are to gain access to Midway City's culinary water system and to change the zoning so that further development can be approved. We have had access to Midway City's culinary water system since the 1960s and we do not desire to change the use of our land. Therefore there is absolutely no advantage to us to support annexation.
4. We have spoken with Representative Mike Kohler and stated our grave concerns about the project to him. The proposed large home development in the northern section of the proposal is in a high water table area that sits directly below the county sewage ponds. We feel there is a strong potential for flooding or water damage to these homes which could in the future result in nasty and expensive legal proceedings for the City.
5. This same northern section encompasses the traditional nesting areas of the sandhill cranes. Allowing large development there will be an environmental tragedy.
6. Section 9.06.040 of the Midway City Code Effect of Written Protest to City Initiated Annexation states: If written protest to such annexation is timely filed and complies with Utah Code, the City may not adopt an ordinance annexing the area proposed for annexation, and the annexation proceedings under this Title shall be considered terminated.

We are hereby initiating this formal protest.

Cathleen F White, PhD, TTEE
Gerald L White, TTEE
Trustees, The Gerald L and Cathleen F White Living Trust



Brad Wilson

From: Jonathan Hughes <hughesjnthn@gmail.com>
Sent: Thursday, April 1, 2021 9:50 AM
To: Celeste Johnson; Lisa Orme; Steve Dougherty; Jeff Drury; kpane@midwaycityut.org; JC Simonsen; Brad Wilson; Michael Henke; Jessep Bitner attny; hughesconstance22@gmail.com
Cc: White Katy; Gerald L. White
Subject: Lower River Annexation

Dear Mayor, Council, and staff,

Constance and I protest the annexation petition of our skinny six acres and home at 282 E. 520 S. Midway, Utah.

We are currently obeying your zoning laws and promoting your values as stated in the general plan.

Annexation to Midway would further jeopardize our ever dwindling property rights and the enjoyment we have here in this beautiful place. We want to put in a very beautiful outbuilding which would not currently be allowed in Midway City.

Since Midway City has stated "That they are not obligated to recognize or honor any agreements made with the Midway Sanitation district", even though it is a recorded part of the Deer Creek Estates subdivision plat, we are prohibited from using 300 E. which is a public street. The conditions for allowing us to access this "public street" are 17 pages of exactions and conditions just short of Purgatory and next door to a taking.

We respect the petitioners rights to enjoy their property and hope they can reduce the acreage they propose for annexation.

Warmest regards,
Jonathan and Constance Hughes