

Midway City Council  
19 January 2021  
Regular Meeting

Hot Springs Annexation /  
Further Consideration

# Memo



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Date: January 19, 2021  
To: Midway City Council  
From: Michael Henke  
Re: Hot Springs Annexation / Further Consideration

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The City has received an annexation petition from Mound City LLC which was signed by Thomas Whitaker for a potential annexation of 12.26 acres. 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:

The property petitioned for annexation is in the Midway Growth Boundary and it will create an incorporated peninsula. To not create an unincorporated peninsula, the Clark Properties and the Morgan property would also need to be annexed with the petitioner's property. The applicant also could not force the Clark Properties and the Morgan property into the City because the petitioner would not own at least 50% of the annexation area. Also, in order to force the Clark properties and the Morgan property into the City, the petitioner would need to hold at least 1/3 the market value of all the land. Staff has calculated that the applicant holds 26.5% of the market value if the Clark and Morgan properties are included in the annexation plat.

One item that the City uses to evaluate a petition for annexation is a concept plan. A concept plan has not been submitted with the application, but the petition does request that the property, if annexed, is zoned Recreational Resort Zone (RZ). Section 9.03.020 C states the following:

*If the proposed area is intended for development, a complete copy of the development concept plan, which shall also be filed at the same time (or earlier) with the City Planner. The petition shall also identify and depict any requested zoning designation on the plan or a suitable map. Impact mitigation considerations in the annexation agreement will be based on the density permitted under the requested or applied zone requirements.*

In at least the past 15 years, the City has also received a concept plan from the petitioner for an annexation. There are not plans on properties that are forced into the City as part of an annexation but there is always a plan for the petitioner's property. It is impossible for the City to evaluate the impacts to the City and surrounding area of annexing the property without knowing what the development of the property will be.

## **POSSIBLE FINDINGS:**

- The proposed annexation will create an unincorporated peninsula
- The City code discourages creating unincorporated peninsulas
- A concept plan has not been submitted with the application
- Without a concept plan, the City cannot determine the impact of the annexation on the City and surrounding community
- 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:**

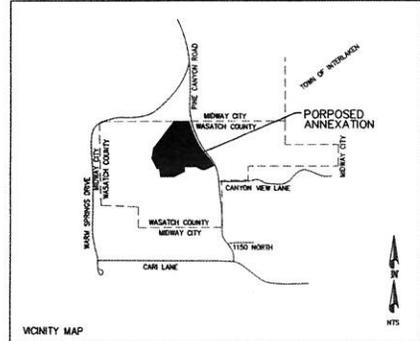
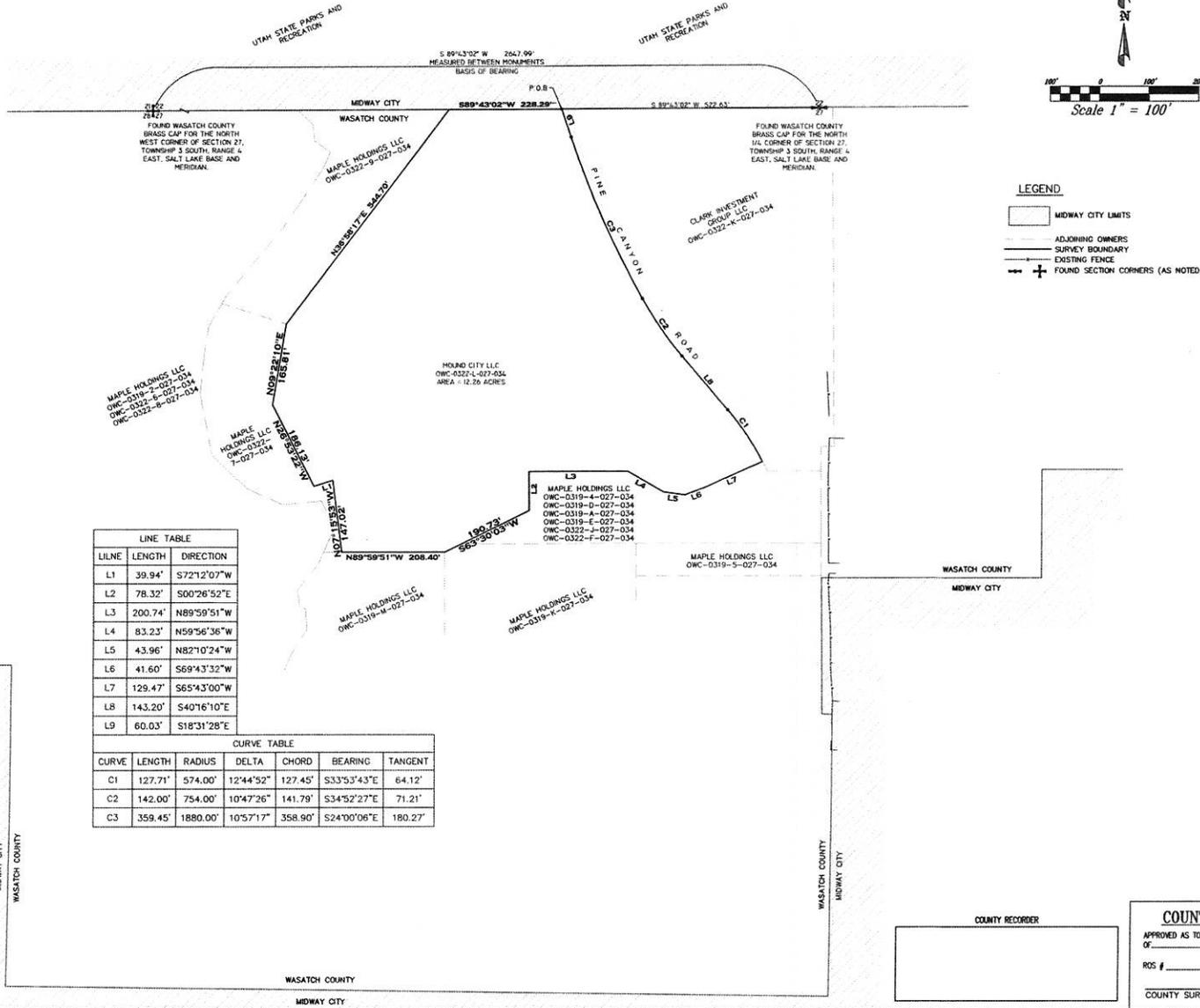
1. Approval of further consideration. This action can be taken if the City Council finds that the application is complete and meets the intent of the annexation code.
  - a. Accept staff report
  - b. List accepted findings
2. Continuance. This action can be taken if the City Council would like to continue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





# HOT SPRINGS ANNEXATION

LOCATED IN SECTION 27 TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN.



LINEL	LENGTH	DIRECTION
L1	39.94'	S72°12'07"W
L2	78.32'	S00°26'52"E
L3	200.74'	N89°59'51"W
L4	83.23'	N59°56'36"W
L5	43.96'	N82°10'24"W
L6	41.60'	S69°43'32"W
L7	129.47'	S65°43'00"W
L8	143.20'	S40°16'10"E
L9	60.03'	S18°31'28"E

CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING	TANGENT
C1	127.71'	574.00'	12°44'52"	127.45'	S33°53'43"E	64.12'
C2	142.00'	754.00'	10°47'26"	141.79'	S34°52'27"E	71.21'
C3	359.45'	1880.00'	10°57'17"	358.90'	S24°00'06"E	180.27'

**BASIS OF BEARING**  
 THE BASIS OF BEARING IS SOUTH 89°43'02" WEST BETWEEN THE FOUND WASATCH COUNTY BRASS CAP MARKING THE NORTH 1/4 CORNER OF SECTION 27 AND THE FOUND WASATCH COUNTY BRASS CAP MARKING THE NORTHWEST CORNER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

**BOUNDARY DESCRIPTION**  
 BEGINNING AT A POINT LOCATED SOUTH 89°43'02" WEST ALONG THE SECTION LINE 522.45 FEET FROM THE FOUND WASATCH COUNTY BRASS CAP MARKING THE NORTH 1/4 CORNER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN;  
 THENCE SOUTH 18°31'28" EAST 60.03 FEET; THENCE ALONG THE ARC OF A 1880.00 FOOT RADIUS CURVE TO THE LEFT 359.45 FEET (CHORD BEARS SOUTH 24°00'06" EAST 358.90 FEET); THENCE ALONG THE ARC OF A 754.00 FOOT RADIUS CURVE TO THE LEFT 142.00 FEET (CHORD BEARS SOUTH 34°52'27" EAST 141.79 FEET); THENCE SOUTH 69°43'32" EAST 143.20 FEET; THENCE ALONG THE ARC OF A 574.00 FOOT RADIUS CURVE TO THE RIGHT 127.71 FEET (CHORD BEARS SOUTH 33°53'43" EAST 127.45 FEET); THENCE SOUTH 65°43'00" WEST 129.47 FEET; THENCE SOUTH 89°43'02" WEST 41.60 FEET; THENCE NORTH 82°10'24" WEST 43.96 FEET; THENCE NORTH 59°56'36" WEST 83.23 FEET; THENCE NORTH 89°59'51" WEST 200.74 FEET; THENCE SOUTH 89°59'51" EAST 189.59 FEET; THENCE SOUTH 63°50'06" WEST 190.73 FEET; THENCE NORTH 69°59'51" WEST 208.40 FEET; THENCE NORTH 07°15'53" WEST 143.20 FEET; THENCE SOUTH 72°16'07" WEST 39.94 FEET; THENCE NORTH 20°52'27" WEST 141.79 FEET; THENCE NORTH 09°22'07" EAST 148.88 FEET; THENCE NORTH 36°58'17" EAST 544.79 FEET; THENCE NORTH 89°43'02" EAST 522.45 FEET TO THE POINT OF BEGINNING.  
 AREA = 12.26 ACRES

**SURVEYOR'S CERTIFICATE**  
 I, TROY L. TAYLOR, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 48549 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 MIDWAY CITY COUNCIL 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 HERewith ALL IN ACCORDANCE WITH UTAH CODE SECTION 16-2-408 AS REVISED AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT AS A PART OF SAID MIDWAY CITY, AND THAT SAID TRACT OF LAND IS TO BE KNOWN AS THE HOT SPRINGS ANNEXATION.

DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

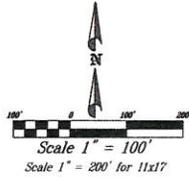
MAYOR \_\_\_\_\_ DATE \_\_\_\_\_  
 CITY ATTORNEY \_\_\_\_\_ DATE \_\_\_\_\_  
 CITY ENGINEER \_\_\_\_\_ DATE \_\_\_\_\_  
 JUDGE \_\_\_\_\_ DATE \_\_\_\_\_  
 CITY RECORDER \_\_\_\_\_ DATE \_\_\_\_\_

**COUNTY SURVEYOR**  
 APPROVED AS TO FORM ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_  
 REC # \_\_\_\_\_  
 COUNTY SURVEYOR \_\_\_\_\_

**HOT SPRINGS ANNEXATION**

DATE: 18 NOVEMBER 2020  
 DRAWING NO.: 01-ANNEX-25-AT  
 SHEET NO.: 1 OF 1

COUNTY RECORDER



- LEGEND**
-  WETLANDS PER U.S. FISH AND WILDLIFE NATIONAL WETLANDS INVENTORY
  -  EXISTING PONDS AND HOT POOLS
  -  100 YEAR FLOOD AREA (ZONE AE)
  -  FLOODWAY (THE FLOODWAY IS THE CHANNEL OF A STREAM PLUS AN ADJACENT FLOOD PLAIN AREAS THAT MUST BE KEPT FREE OF ENCROACHMENT SO THAT THE 1% ANNUAL CHANCE FLOOD CAN BE CARRIED WITHOUT SUBSTANTIAL INCREASES IN FLOOD HEIGHTS.)
  -  25%+ SLOPE

THIS DOCUMENT IS RELEASED FOR REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION UNLESS SIGNED AND SEALED.

PAUL G. BERG P.E.  
 SERIAL NO. 292085  
 DATE: 19. NOV. 2020

WHITTAKER  
**HOT SPRINGS ANNEXATION**

SENSITIVE LANDS MAP



**BERG ENGINEERING**  
 RESOURCE GROUP P.C.  
 389 E Main St, Suite 204,  
 Midway, UT 84049  
 ph: (435) 657-9749

DESIGN BY: PDB	DATE: 19 NOV 2020	SHEET
DRAWN BY: PDB	REV:	1



# 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.

RECEIVED

2. That the real property is described as follows:

DEC 10 2020

Approximate location:

BY:     *AW*    

1477 North Pine Canyon Road

Legal description:

See attached

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

Mound City LLC

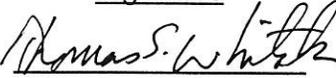
P.O. BOX 777, Midway, Utah 84049

Sponsor

Mailing Address

_____	_____
_____	_____
_____	_____
_____	_____

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 Resort (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.

<u>Petitioner</u>	<u>Signature</u>	<u>Acres</u>	<u>Market Value</u>	<u>Serial Number</u>
<u>Mound City LLC</u>		<u>12.26</u>	<u>\$623,746</u>	<u>OWC-0322-L-027-034</u>
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AREA = 12.26 ACRES

HOT SPRINGS ANNEXATION - 600' NOTICES

NUMBER	NAME	ADDRESS	CITY	STATE	ZIP
1	BUDD BROOKE GILES	PO BOX 576	HEBER CITY	UT	84032-0576
2	CLARK INVESTMENT GROUP LLC	3675 E JUNO CIRCLE	SALT LAKE CITY	UT	84124-2236
3	HOLDAWAY JEFFREY	1769 BROOKSIDE LN	VIENNA	VA	22182-1922
4	HUBER JOANN	1250 PINE CANYON RD	MIDWAY	UT	84049-6453
5	M A MILLER LLC	2113 E FALCON RIDGE DR	DRAPER	UT	84020-5707
6	MAPLE HOLDINGS LLC	5314 RIVER RUN DR	PROVO	UT	84604-5691
7	MAY JAMES L	1242 N HOMESTEAD DR	MIDWAY	UT	84049-6469
8	MORGAN JOSEPH FRANCES TR	1340 PINE CANYON RD	MIDWAY	UT	84049-6455
9	MOUND CITY LLC	PO BOX 777	MIDWAY	UT	84049-0777
10	PROBST HIGLEY DEVELOPERS LLC	1225 SPRINGER VIEW DR	MIDWAY	UT	84049-6729
11	T&L WHITAKER INVESTMENTS LTD	PO BOX 777	MIDWAY	UT	84049-0777
12	TAYLOR PAUL	1270 PINE CANYON RD	MIDWAY	UT	84049-6453
13	THORNTON DAVID TR	6257 MADRA AVE	SAN DIEGO	CA	92120-3907
14	UTAH STATE PARKS AND RECREATION	1596 W NORTH TEMPLE	SALT L AKE CITY	UT	84116-3154