



PLANNING COMMISSION MEETING STAFF REPORT

DATE OF MEETING: December 8, 2020
NAME OF PROJECT: Edelweiss Meadows
PROJECT ENGINEER: Berg Engineering
OWNER OF RECORD: Hilltop Homes LLC
AGENDA ITEM: Final Approval
LOCATION OF ITEM: 640 East 200 South
ZONING DESIGNATION: R-1-11

ITEM: 3

Hilltop Homes LLC is requesting Final approval for Edelweiss Meadows Subdivision which will develop "Remaining Parcel B" of the Kim Bezzant Subdivision. The proposal is to subdivide "Remaining Parcel B" in to six lots which, per City code, is a large-scale subdivision. The property is 3.84 acres and is located at 640 East and 200 South and is in the R-1-11 zone.

BACKGROUND:

This request is for preliminary approval of a large-scale subdivision on 3.84 acres that will contain six lots. The six lots will obtain frontage along a new road built within the subdivision. The property is in the R-1-11 zone and all the proposed lots comply with the requirements of the code regarding frontage and acreage. The proposed subdivision will develop "Remaining Parcel B" of the Kim Bezzant subdivision. The existing land use on the property is agriculture. No sensitive lands have been identified on the property.

The Kim Bezzant Subdivision was recorded on 4-21-2009. The plat consists of one building lot and two parcels (Remaining Parcel A and Remaining Parcel B) which are both currently not eligible for building permits. For building permits to be issued, the property owner must first receive land use approval for a subdivision on either parcel. The application that was submitted is only for Parcel B and any change to Parcel B will not have any impact on Parcel A.

The proposed plan consists of six lots. The lots are all relatively large at 0.5 of an acre each in a zone that would allow lots as small as 0.25 of an acre. The lots all have the correct frontage and acreage to comply with the requirements of the R-1-11 zone. The lots will all front on 200 South which is a street on the City's Master Road Plan which is part of the General Plan. The road is planned to continue to Michie Lane so the proposed road will have a temporary cul-de-sac until the undeveloped property to the east develops. At that point, the road will continue to the east towards Michie Lane.

When the Kim Bezzant Subdivision was recorded in 2009 there was also a development agreement recorded titled Resolution 2009-02. This agreement dictates the 200 South right-of-way development for a section of that road located on Lot 1. Basically, the owner of lot 1 will dedicate the right-of-way to the City and the developer of Parcel B will build the road. A copy of that agreement has been attached to this memo.

LAND USE SUMMARY:

- 3.84-acres
- R-1-11 zoning
- Proposal contains six lots
- Access from 200 South
- Public road and sidewalks
- The lots will connect to the Midway Sanitation District sewer, Midway City's culinary water line, and Midway Irrigation Company's secondary water line

ANALYSIS:

Access – Access will be from 200 South. A second access is not required because the cul-de-sac is less than 1,300' in length and there are not more than 11 lots accessing from the cul-de-sac.

Geotechnical Study – A Geotechnical Study has been submitted and the executive summary has been included in this report. The entire report will be sent by the Planning Department by request. A geotechnical study is required whenever new roads are built as part of a proposal or whenever staff feels that one is necessary.

Sensitive lands – No sensitive lands have been identified on the property.

Water Connection – The lots will connect to water lines that will be built by the developer and connect to the City's water line in 200 South.

Sewer Connection – The lots will connect to Midway Sanitation District's sewer lines located in the area. The sewer main will connect to the south through lot 30 of Fox Den Estates.

Secondary Water Connection – The lots will connect to Midway Irrigation Company's secondary water system which is already servicing the property. Laterals will be created for all six lots. Secondary water meters are required for each lateral.

Public Street – The developer will build the proposed road that will create access and frontage for the development. The right-of-way will be 56' wide which is required for all local streets. The street will be 30' paved, with modified curb, 5' park strips, and 5' sidewalks.

Detention Pond – The developer will build a detention pond on lot 3. The pond will be publicly maintained. The pond may not be modified in anyway that would reduce the capacity of the pond.

Master Street Plan – 200 South is required as part of the Master Street Plan in the Midway General Plan. The developer will build a temporary cul-de-sac with accompanying easement that will be removed once the property to the east is developed. It is anticipated that the developer of the property to the east will remove the temporary cul-de-sac once a connecting road is built.

Kim Bezzant Subdivision – "Remaining Parcel B" is part of the Kim Bezzant Subdivision and that plat is proposed for an amendment that will vacate the area of "Remaining Parcel B". This will allow the current subdivision proposal for Edelweiss Meadows to proceed.

Resolution 2009-02 – This is an agreement between Midway, Kim Bezzant, and the owner of "Remaining Parcel B" regarding the future development of 200 South. The area of 200 South, which is located on lot 1 and owned by Kim Bezzant, must be deeded to the City before or concurrently with the recording of the proposed plat. Staff has determined that the best way for this to happen is if the property is deeded to the City as part of a plat amendment. Mr. Bezzant also has communicated with the City that this is his preference. Mr. Bezzant is also concerned about access to his lot during construction. Mr. Bezzant sent (in part) the following message to staff:

Per our discussion I am providing what I believe are reasonable plat amendments for the development of the property associated with the development agreement I have with the city. 1) The plat should include a complete description of the right of way to be transferred to the city and have a signature block where I can sign and transfer the right of way to the city. It should be such that no additional surveys, revised plats or other documentation is required to complete the transfer of the property to the city. 2) The developer must provide and maintain access to my home with a minimum of a gravel approach during the development of the adjacent property. 3) Any damage to the property (yard, fence, irrigation system driveway) outside of the right of way must be restored to my satisfaction at the expense of the developer.

Staff has determined that Mr. Bezzant has valid concerns. Mr. Bezzant and the developer have discussed these concerns and Mr. Bezzant indicated, during the Planning Commission meeting for preliminary approval, that he felt his concerns had been addressed.

WATER BOARD RECOMMENDATION:

The Water Board has recommended to the City Council during their meeting held on 10-5-2020 that 12.09 acre feet are dedicated to the City before the plat is recorded. Also, secondary water meters are required for each of the lots.

POSSIBLE FINDINGS:

- The proposal does meet the intent of the General Plan for the R-1-11 zone
- The proposal does comply with the land use requirements of the R-1-11 zone
- 200 South is required as part of the City's General Plan

ALTERNATIVE ACTIONS:

1. Recommendation of Approval (conditional). This action can be taken if the Planning Commission finds that conditions placed on the approval can resolve any outstanding issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)

2. Continuance. This action can be taken if the Planning Commission finds that there are unresolved issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again
3. Recommendation of Denial. This action can be taken if the Planning Commission finds that the request does not meet the intent of the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

PROPOSED CONDITION:

1. A note must be included on the plat informing the future owner of lot 3 that the pond may not be modified in any way that reduces capacity or functionality of the stormwater runoff pond.

December 8th, 2020

Midway City
Attn: Michael Henke
75 North 100 West
Midway, Utah 84049

Subject: Edelweiss Meadows Final Approval

Dear Michael:

Horrocks Engineers recently reviewed the above development plans for Preliminary Approval. The following issues should be addressed.

General Comments

- The plans propose to develop 6 lots on approximately 3.84 acres near 580 East and 200 South.
- All redline comments within the final plans should be addressed.

Water

- The proposed development will be served from the Main Pressure Zone.
- The proposed development will connect to the existing 8" water line in 580 East 200 South
- The fire hydrant spacing shall not exceed 500'.

Irrigation

- The proposed development will connect to existing irrigation from a line that is on the west side of Kim Bezzant's property and will need to install services with meters according to Midway Irrigation Company standards.

Roads

- The proposed road within the development will be a 56' public right-of-way, with a temporary cul-de-sac at the east end of the development.
- Cross section for right-of-way will be 30' of asphalt, 2' curb and gutter, 6' park strip, and 5' sidewalk.

Trails:

- There are no trails associated with this development, sidewalks will be installed on both sides of the roadway.

Storm Drain

- The storm water system within this development will be a public system. The storm water will be addressed through the use of sumps and retention basin.

Please feel free to call our office with any questions.

Sincerely,
HORROCKS ENGINEERS

A handwritten signature in blue ink, appearing to read 'Wesley Johnson', with a large, stylized flourish extending to the right.

Wesley Johnson, P.E.
Midway City Engineer

cc: Paul Berg Berg Engineering

Exhibits

Exhibit 1 – Location Maps

Exhibit 2 – Applicant's Submittal Plans

Exhibit 3 – Kim Bezzant Subdivision Plat

Exhibit 4 – Geotechnical Report Executive Summary

Exhibit 5 – Resolution 2009-02

Exhibit 1



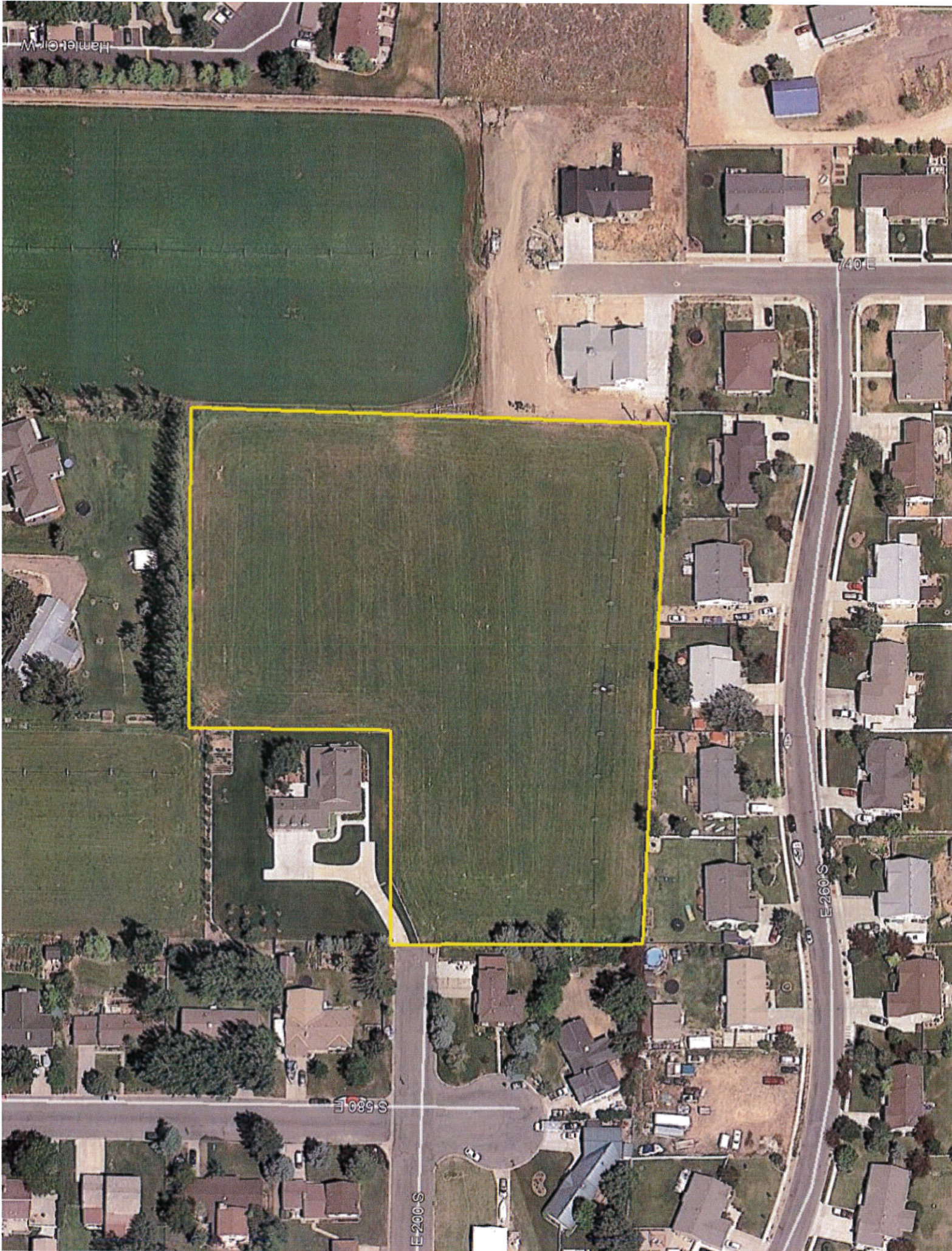
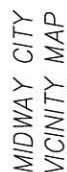


Exhibit 2

EDLWEISS MEADOWS - FINAL PLAN APPLICATION - 11 NOVEMBER 2020

1. EXISTING CONDITIONS
2. FINAL SITE PLAN
3. EDLWEISS MEADOWS SUBDIVISION PLAT
4. KIM BEZZANT PLAT B - AMENDED
5. 200 SOUTH ROAD PLAN & PROFILE
6. ROAD CONSTRUCTION DETAILS
7. SEWER PLAN
8. OFFSITE SEWER PLAN & PROFILE
9. 200 SOUTH SEWER PLAN & PROFILE
10. SEWER CONSTRUCTION DETAILS
11. WATER AND PRESSURIZED IRRIGATION PLAN
12. WATER AND IRRIGATION CONSTRUCTION DETAILS
13. STORM DRAIN PLAN
14. STORM DRAIN PLAN & PROFILE
15. STORM DRAIN CONSTRUCTION DETAILS



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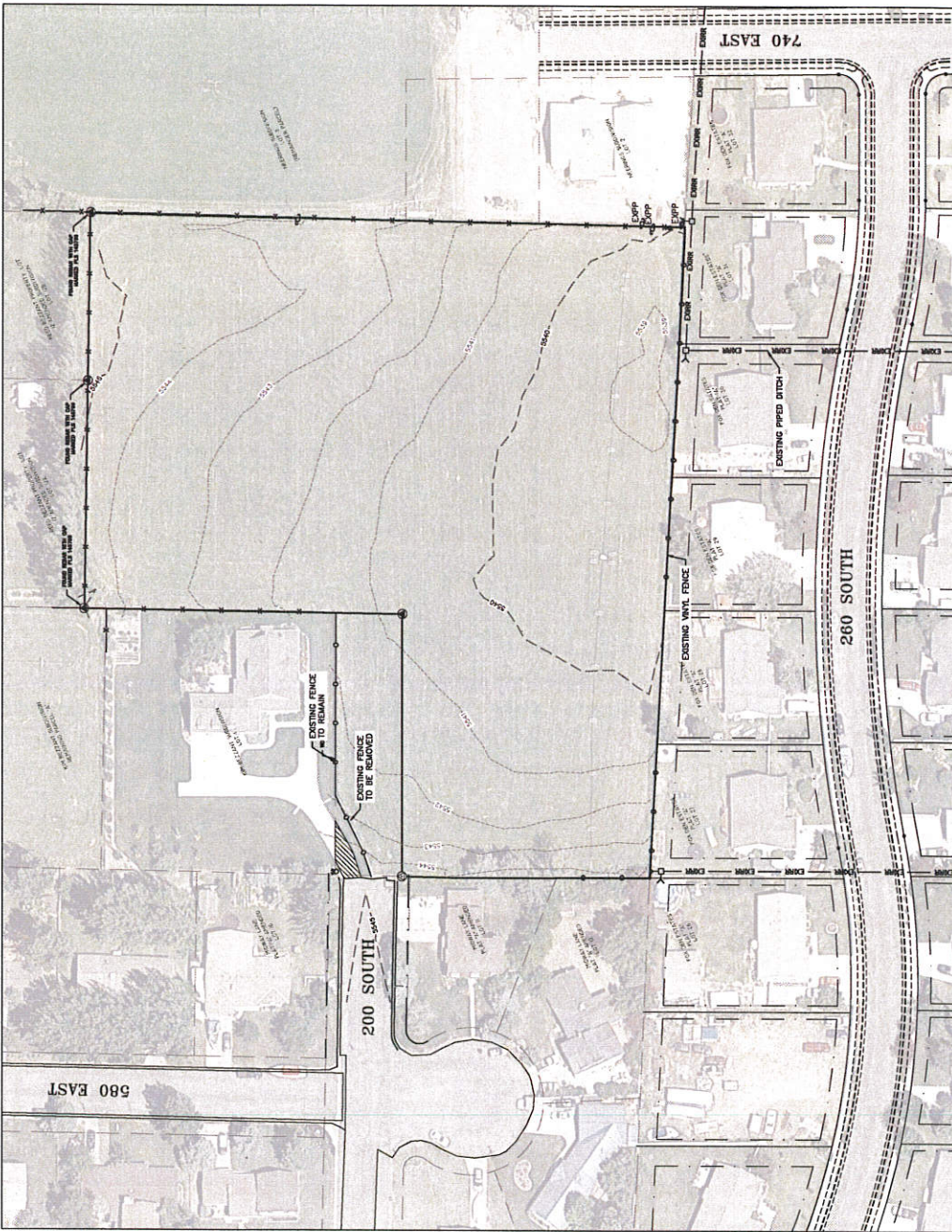
PAUL D. BERG _____ P.C.
SERIAL NO. 201595 _____
DATE: 11 NOV 2020 _____

HILLTOP HOMES
EDELWEISS MEADOWS

COVER



DESIGN BY: PDB	DATE: 11 NOV 2020	SHEET
AND AUB: INV, PCE	REV:	0



CONSTRUCTION NOTE:
EXISTING UTILITIES SHOWN ON PLAN ARE
APPROXIMATE AND MAY BE INCOMPLETE. CONTRACTOR
IS RESPONSIBLE FOR BLUE STANDING OF UTILITIES.

- LEGEND
- EXISTING DRIVEWAY IN ROW TO BE REMOVED TO EXTEND 200 SOUTH
 - EXISTING PRESSURIZED IRRIGATION
 - EXISTING WATER
 - EXISTING SEWER
 - EXISTING PIPED DITCH
 - EXISTING POWER POLE



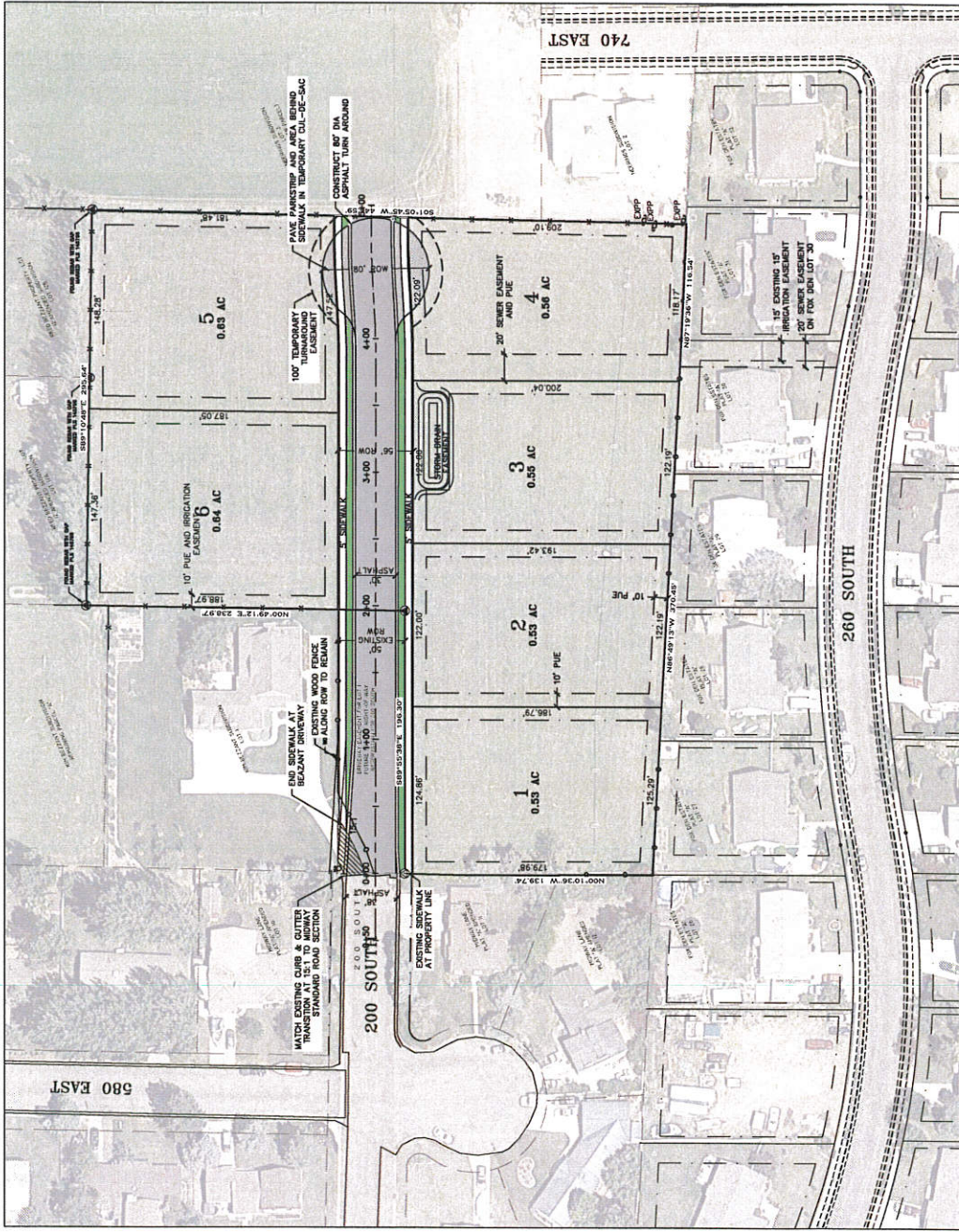
SCALE: 1"=40'

HILLTOP HOMES
EDELWEISS MEADOWS
EXISTING CONDITIONS

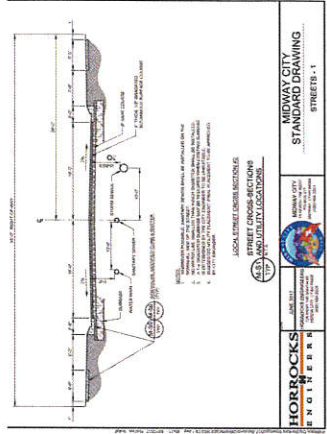
THIS DOCUMENT IS RELEASED
INTENDED FOR CONSTRUCTION
AND NOT FOR PERMANENT RECORD.
PAUL S. BERG
DATE: 11.06.2008



DRAWN BY: DBL	DATE: 11.06.2008	SHEET
REV:		



TOTAL AREA	3.84 ACRES
ZONE	12-1-1
MIN LOT SIZE	11,000 SF
MIN FRONTAGE	100 FEET
PROPOSED LOTS	6
REQUIRED OPEN SPACE	0 ACRES



SCALE: 1"=40'

HILLTOP HOMES
EDELMAN MEADOWS
FINAL SITE PLAN

THIS DOCUMENT IS RELEASED
UNLESS OTHERWISE NOTED
FOR THE CITY OF HILLTOP HOMES
SERIAL NO. 202302
DATE: JULY 2023



BERG ENGINEERING, Inc.
300 E Main St, Suite 204
PH 435.657.9749

DESIGNED BY: JLB
DRAWN BY: JLB
DATE: 11/08/2021
SHEET: 2

Exhibit 3

Exhibit 4



epic
ENGINEERING

50 East 100 South
Heber City, Utah 84032
Phone: (435) 654-6600

Geotechnical Investigation

Bezzant

640 East 200 South

Midway, UT

Prepared by:

Epic Engineering
50 East 100 South
Heber City, Utah 84032

Epic Job Number: 20-SM-4038

Prepared for:

Dallin Higley
1218 Canyon View Road
Midway, UT 84099

August 5, 2020

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SUMMARY OF LABORATORY RESULTS

GRAIN SIZE DISTRIBUTION ANALYSIS

APPENDIX C - REFERENCES

REFERENCES

ASCE 7-10 SEISMIC DESIGN REPORT

SUMMARY OF GEOLOGIC HAZARDS

LIMITATION OF YOUR GEOTECHNICAL REPORT

EXECUTIVE SUMMARY

Below is a summary of the site findings based on the geotechnical investigation.

1. Based on the four (4) test pits that were excavated for this investigation, the site is covered with approximately 1 to 2-feet of TOPSOIL underlain by native soils. Native soils below the topsoils consisted of SILTY SAND with GRAVEL (SM), POORLY GRADED GRAVEL with SILT (GP-GM), and extremely dense BEDROCK (potrock) to the full extent of the test pits (between 2 and 4.5-feet). Groundwater was not encountered in any of the test pits at the time of investigation.
2. The geological history of the soil deposits observed during the fieldwork and researched through the quadrangle map mentioned in Section 3.4 (Literature Review) and references are mapped as middle fan alluvium over calcareous spring tufa deposits (Qaf2/Qst). The site is located approximately 5.5-miles northwest of the Round Valley fault and approximately 6.5-miles south of the Bald Mountain fault. The Wasatch Fault – Provo section, is located approximately 15.5-miles west of the property and may pose a greater risk of producing earthquakes (<7.5Ma) and ground shaking events.
3. Based on Epic's understanding of the geology of the upper 100 feet, soils are most likely comprised of gravels and silty, clayey gravels, and therefore would appropriately be classified as Site Class D according to the 2015 IBC and 2015 National Earthquake Hazards Reduction Program (NEHRP).
4. The proposed parcel is part of the unshaded Zone X on the FEMA map (Figure 8), "Areas of minimal flood hazard" according to FEMA's definitions. Based on the Dam Failure Inundation Potential map (Figure 9), the potential for flood extents is possible from the Jordanelle Reservoir.
5. Due to the minimal depths investigated, liquefaction for the site was not evaluated. Based on the liquefaction potential map (Figure 10), the potential for liquefaction to occur is VERY LOW.
6. Based on the soils encountered during the field investigation (BEDROCK), the potential for encountering problematic soils is HIGH. Bedrock was encountered at depths between 2 and 4.5-feet during the field investigation.
7. This site is located on Appendix A – Figure 11 (Radon Potential Map) in an area marked as moderate potential.
8. Based on the soils encountered and investigated during the field investigation and distance from hillslope debris channels, the potential for debris flow is evaluated to be low. Also, based on the Debris Flow Potential Map (Figure 12), risk for the site is considered to be LOW.
9. This site is located on a flat parcel of land. No landslide deposits were identified near the target property during field investigation and thus, the potential for a landslide is considered to be LOW.

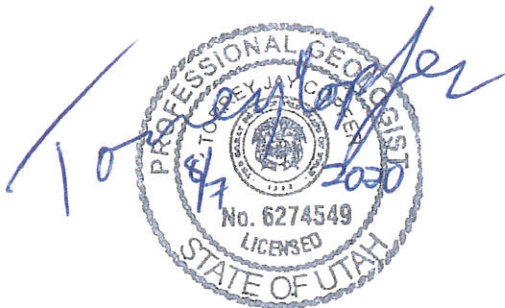
10. No wetlands or standing pools of water were noted at the time of the site visit or through historical aerial photo review on the subject property.
11. As observed in the test pits, variable depths of topsoils should be expected across the site and should be assessed during all foundation excavations and site grading. Epic Engineering recommends that the structure has an individual Geotechnical Excavation Observation to determine if all topsoil and undocumented fill has been removed, the bearing ability of native soils is consistent with recommendations in this report, and amount of recommended structural fill is adequate based on the individual design of the structure and the placement on the lot.
12. Due to the nature of the site's soils, Epic Engineering recommends that temporary construction slopes for excavations into the native soils deeper than 4-feet in depth, not be made steeper than 1½:1 (Horizontal: Vertical) or be shored prior to anyone entering the excavation. All excavations should meet applicable OSHA Health and Safety Standards for Type C soils (Granular soils including gravel, sand, and loamy sand). If a shoring plan is needed, please contact Epic Engineering for details and plans.
13. Unless a more restrictive criterion is given, imported structural material meeting the following criteria should be used. Imported structural fill material should consist of an A-1-a material with maximum particle size of 3-inch, maximum of 15 percent fines (materials passing the No.200 sieve) and maximum plasticity index of 6 or a free-draining aggregate that has a maximum particle size of 1-inch.
14. Structural Fill, below the foundations, should be placed in lifts suitable to the compaction equipment used and compacted to at least 95 percent of the maximum dry density using procedures found in ASTM D1557, Standard Test Method for Laboratory Compaction Characteristics of Soil Using Modified Effort (Modified Proctor).
15. Preliminary conventional shallow foundation systems are expected to consist of strip and spot footings for support of the proposed structures on this site. For preliminary estimations, conventional shallow foundation systems placed entirely on the BEDROCK or entirely on STRUCTURAL FILL soils at foundation design depths, and be designed for an allowable net bearing capacity of 2,000 psf.
16. At no time should footings be placed on soils of different engineering properties or soil types (for example BEDROCK and STRUCTURAL FILL soils), this will exacerbate problems that are often associated with differential settlement. ALL footings should be placed entirely on the BEDROCK or entirely on STRUCTURAL FILL.

17. Exterior footings should be placed below frost depth, which is a minimum of 36-inches at this site. Interior footings not subject to frost (i.e. in a heated structure) should extend at least 20-inches below the lowest adjacent final grade for confinement purposes and be placed on the same material as the exterior footings.
18. This investigation was performed with test pits. If a structure is constructed over an uncompacted test pit, significant amounts of differential settlement may occur. A test pit typically disturbs an area 8 to 12-feet long and 3 to 4-feet wide extending to the depth indicated in the field log. Test pit locations were selected, based on the anticipated structure locations, indicated on the attached site plan. If a structure is to be placed within 15-feet of a test pit location, Epic Engineering should be contacted to verify the structure is not placed over an uncompacted test pit. If a test pit is encountered in a building pad, the disturbed test pit soils should be completely removed, and properly placed and compacted structural fill should be used to return the test pit location to design grade.
19. For slab design and slabs not subjected to frost, Epic Engineering recommends a modulus of subgrade reaction of 200 psi/in be used for contact with the BEDROCK or STRUCTURAL FILL soils.
20. The ground surface should be graded to drain away from the structures in all directions. We recommend a minimum fall of 6-inches in the first 10-feet for landscaped areas and 2-inches in the first 10-feet for paved surfaces.

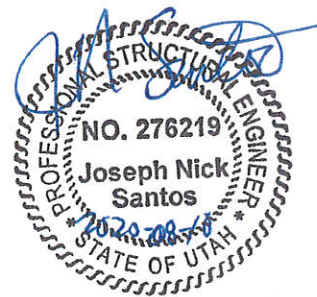
Respectfully,

Epic Engineering

Not Official Unless Stamped and Dated



Torrey Copfer, P.G.
Engineering Geologist



Joseph N. Santos, S.E.
Structural Engineer

Exhibit 5



Ent 347063 Bk 988 Pg 1560-1570
Date: 21-APR-2009 10:39AM
Fee: None Filed By: MG
ELIZABETH PALMIER, Recorder
WASATCH COUNTY CORPORATION
For: MIDWAY CITY

RESOLUTION 2009-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDWAY, COUNTY OF WASATCH, UTAH, EXECUTING A DEVELOPMENT AGREEMENT FOR THE KIM BEZZANT SUBDIVISION

WHEREAS, Bezzant Holding, LLC and Reed H. and Bonnie I. Bezzant. ("Developers") have requested the City of Midway ("City") enter into a development agreement in order to allow for the improvement of the Kim Bezzant Subdivision ("Property"); and

WHEREAS, the Property is within the municipal boundaries of the City described on and attached to the development agreement as Exhibit "A"; and

WHEREAS, the Council of the City finds that the development and maintenance of the Property are in the interest of the health, safety, and general welfare of the city and the surrounding property owners.

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIDWAY, COUNTY OF WASATCH, UTAH:

Section I That the Developers are hereby granted the development agreement attached hereto, for the development and improvement of the Kim Bezzant Subdivision.

PASSED AND ADOPTED by the Council of the City this 28th day of January, 2009

Handwritten signature of Connie Tatton.

Connie Tatton, Mayor

ATTEST:

Handwritten signature of Brad Wilson.

Brad Wilson, City Recorder



Exhibit A

DEVELOPMENT AGREEMENT AND EASEMENT

This Development Agreement and Easement is entered into this 4th day of March, 2009 by Bezzant Holdings, LLC ("Owner 1"), Reed H. and Bonnie I. Bezzant (collectively "Owner 2"), and the City of Midway ("the City").

WHEREAS, Owner 1 is the owner of all of that certain real property described as Lot 1 on Exhibit A attached hereto, which property is located within the boundaries of Midway City; and

WHEREAS, Owner 2 is the owner of all of that certain real property described as Remaining Parcel A and Remaining Parcel B on Exhibit A attached hereto, which property is located within the boundaries of Midway City; and

WHEREAS, Owner 1 and Owner 2 have requested and made application to the City to create a one-lot subdivision known as the Kim Bezzant Subdivision on Lot 1; and

WHEREAS, Owner 1 and Owner 2 and the City have reached certain agreements for present and future planning, development and improvement of the proposed Kim Bezzant Subdivision; and

WHEREAS, Owner 1 and Owner 2 and the City desire to memorialize these agreements in this Development Agreement.

NOW THEREFORE, Owner 1 and Owner 2 and the City hereby agree as follows:

1. The recorded subdivision plat for the Kim Bezzant Subdivision shall be that document attached hereto as Exhibit A.
2. Lot 1 of the Kim Bezzant Subdivision shall be the only lot in said subdivision and its boundaries shall be as depicted on Exhibit A.
3. Owner 1 hereby grants to the City an easement to use the land on the southern end of Lot 1 as a public right of way, with dimensions 50 feet in width and approximately 196 feet in length as depicted on Exhibit A (hereinafter the "Right-of-Way Easement"), including but not limited to the right to use the Right-of-Way Easement to deposit snow from City snow removal operations on 200 South. Said Right-of-Way Easement is included within the boundaries of the new Kim Bezzant Subdivision.
4. Neither Owner 1 nor Owner 2 shall be required to improve or otherwise develop said Right-of-Way Easement as a condition of developing Lot 1 and building a residential structure thereon. Owner 1 will be allowed to access Lot 1 by traveling over said Right-of-Way Easement, but Owner 1, and not the City, will bear all responsibility for maintenance, repair, snowplowing, etc. necessary for such access, until such time as the Right-of-Way Easement becomes an improved public road as specified

elsewhere in this document. Owner 1 also agrees not to install any trees, large boulders or other such landscaping or objects that would hinder the use of the Right-of-Way Easement and its future dedication as a public road pursuant to this Agreement. Owner 1 acknowledges that any garbage cans used by Lot 1 will not be accessed by the Right-of-Way Easement and will need to be brought out to the improved public road for pickup.

5. Owner 1 and Owner 2 agree, for themselves and for their real property successors and assigns, including for any person or entity to whom Owner 1 or Owner 2 sell or otherwise convey any of the property described on Exhibit A, that any person or entity who makes application to develop or build on the parcel of real property labeled on Exhibit A as Remaining Parcel B shall be required, as a condition of said development or building, at his, her or its own expense, to construct and improve the full width of the Right-of-Way Easement as an improved, paved public road and other facilities, utilities and improvements required to be located in the full width of said Right-of-Way Easement, pursuant to all of the specifications and standards of the City in effect at the time such future application is made (the "Right-of-Way Improvements"). The City shall have no responsibility to pay for the expense of said Right-of-Way Improvements.

6. Owner 1 and Owner 2 agree, for themselves and for their real property successors and assigns, including for any person or entity to whom Owner 1 or Owner 2 sell or otherwise convey any of the property described on Exhibit A, that the land contained within the Right-of-Way Easement will be deeded to the City at the time any development of Remaining Parcel B is approved by the City and that the Right-of-Way Easement will at that time become a public road wholly-owned by the City. The City agrees that, upon completion of the Right-of-Way Improvements and deeding of the Right-of-Way Easement to the City, Owner 1 and Owner 2 and their real property successors and assigns, including any person or entity to whom Owner 1 or Owner 2 sell or otherwise convey any of the property described on Exhibit A, shall have no further duty or obligation to maintain, repair or otherwise develop the Right-of-Way Easement.

7. Notwithstanding the foregoing or any other language to the contrary contained herein, nothing herein shall be construed as imposing any type of duty upon Owner 1 or Owner 2 to pay or otherwise indemnify the City or any third party for the costs of improving the Right-of-Way Easement, unless Owner 1 and/or Owner 2 is the developer of all or a part of Remaining Parcel B.

8. Notwithstanding any language to the contrary contained herein, nothing herein shall be construed as imposing any type of duty upon Owner 1 or Owner 2 to pay or otherwise indemnify the City or any third party for the costs of improving the Right-of-Way Easement as a condition of development or improvement of Remaining Parcel A, unless such development or improvement of Remaining Parcel A uses the Right-of-Way Easement to access Remaining Parcel A.

9. The parcels labeled on Exhibit A as Remaining Parcel A and Remaining Parcel B are not entitled building lots and will be required to complete the subdivision approval process before development may occur thereon.

10. This Agreement shall be appurtenant to and shall run as a covenant against Lot 1 and Remaining Parcel A and Remaining Parcel B as identified on Exhibit A attached hereto, and shall be binding upon all future owners of said land.

AGREED TO AND EXECUTED BY:

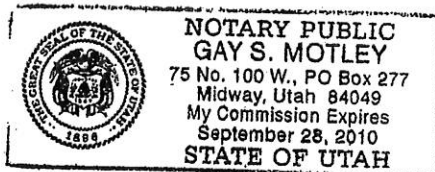
MIDWAY CITY

Connie Tatton
Signature

By (print name): Connie Tatton

Its (title): mayor

On the 5th day of March, 2009, personally appeared before me Connie Tatton, who did say that s/he is the Mayor of Midway City, and who did execute the foregoing document.



Gay S. Motley
NOTARY PUBLIC

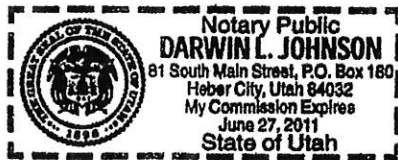
BEZZANT HOLDINGS, LLC

Reed H. Bezzant
Signature

By (print name): REED H. BEZZANT

Its (title): Manager

On the 4th day of March, 2009, personally appeared before me
Reed H. Bezzant who did say that s/he is the manager of BEZZANT Holding
and who did execute the foregoing document.



[Signature]
NOTARY PUBLIC

REED H. BEZZANT

Reed H. Bezzant

On the 4th day of March, 2009, personally appeared before me
Reed H. Bezzant, who did execute the foregoing document.

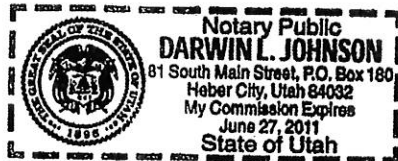


[Signature]
NOTARY PUBLIC

BONNIE I. BEZZANT

Bonnie I. Bezzant

On the 4th day of March, 2009, personally appeared before me
Bonnie I. Bezzant, who did execute the foregoing document.



[Signature]
NOTARY PUBLIC

Exhibit A

BOUNDARY DESCRIPTION

BEGINNING SOUTH 89°54'33" WEST 1236.12 FEET ALONG THE SECTION LINE AND NORTH 305.52 FEET FROM THE WASATCH COUNTY SURVEY MONUMENT FOR THE SOUTHEAST CORNER OF SECTION 35, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN;

AND RUNNING THENCE ALONG THE NORTHERLY LINE OF THE FOX DEN ESTATES SUBDIVISION, PLAT A, ON FILE AND OF RECORD IN THE OFFICE OF THE RECORDER, WASATCH COUNTY, UTAH, THE FOLLOWING FOUR (4) COURSES: (1) NORTH 86°30'31" WEST 0.85 FEET; (2) THENCE NORTH 87°19'36" WEST 116.54 FEET; (3) THENCE NORTH 86°49'13" WEST 370.45 FEET; (4) THENCE NORTH 87°07'34" WEST 0.38 FEET;

THENCE ALONG THE EASTERLY LINE OF THE MIDWAY LANE SUBDIVISION, PLAT A (AMENDED), ON FILE AND OF RECORD IN THE OFFICE OF THE RECORDER, WASATCH COUNTY, UTAH, THE FOLLOWING FIVE (5) COURSES: (1) NORTH 00°10'36" WEST 139.74 FEET; (2) THENCE NORTH 01°29'32" EAST 40.31 FEET; (3) THENCE NORTH 01°04'39" EAST 560.38 FEET; (4) THENCE NORTH 00°28'59" EAST 277.72 FEET; (5) THENCE NORTH 00°47'03" EAST 133.19 FEET;

THENCE ALONG THE SOUTHERLY BOUNDARY OF THE MARK WHITING PROPERTY SOUTH 68°30'00" EAST 208.97 FEET;

THENCE ALONG THE BOUNDARY OF THE REED BEZZANT PROPERTY SUBDIVISION, ON FILE AND OF RECORD IN THE OFFICE OF THE RECORDER, WASATCH COUNTY, UTAH, THE FOLLOWING THREE (3) COURSES: (1) SOUTH 00°49'12" WEST 650.00 FEET; (2) THENCE SOUTH 89°10'48" EAST 295.64 FEET; (3) THENCE SOUTH 01°05'45" WEST 446.59 FEET TO THE POINT OF BEGINNING.

CONTAINING 7.99 ACRES