

Midway City Council
6 February 2024
Regular Meeting

Michel and Kissell Properties /
Open Space



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: January 16, 2024

AGENDA ITEM: Open Space Bond Funding Request

NAME OF PROJECT: Christian Michel Property

PROPERTY OWNER: Christian Michel, LLC

NAME OF APPLICANT: Utah Open Lands

LOCATION OF ITEM: North River Road (east of the Kohler Dairy), at or near 1050 North River Road.

ITEM: 10

Utah Open Lands, on behalf of Christian Michel, LLC, is requesting \$250,000 from the Midway Open Space Bond to help fund a conservation easement on multiple parcels comprising approximately 44 acres of property owned by Christian Michel, LLC that lie within the Midway Growth Boundary (annexation area). The property is located on North River Road at or near 1050 North River Road.

BACKGROUND:

In November of 2018, Midway residents passed a 5-million-dollar open space bond. An Open Space Advisory Committee was created, criteria for participation were established based on the 2017 Midway General Plan Open Space Element, and property owners were encouraged to submit a ‘Notice of Interest’ and subsequent “Landowner’s Perspective”

indicating how the property meets the Midway Open Space Criteria listed in the General Plan.

The Christian Michel Property is the sixth (Kohler, Gardner, Mtn Spa, Dickman, and Lundin) project being forwarded to the City Council by the Open Space Advisory Committee. The total project encompasses approximately 44 acres, as shown on the attached map. None of the property lies within Midway City limits, but all the property lies within the Midway Growth Boundary (annexation area) and may be considered for funding. The applicant, through its representative, Utah Open Lands, Wendy Fisher, has met with the Open Space Advisory Committee several times and has clarified the following information as described in the Project Summary submitted by Utah Open Lands:

“Preserving the Christian Michel Property expands on already protected open space on what is arguably one of Midway City’s main entry corridors, River Road. Adjacent to the Albert Kohler Legacy Preserve the Michel property sustains a pastoral open space view from a main artery into town. At approximately 44 acres the property includes some alfalfa fields, pastures, and raises black angus beef. The landowning family represented by Jeff Kissel are eligible for funding from NRCS ACEP program and Utah Open Lands has submitted an application for this project to NRCS as of November 2023.

The property includes habitat values, expands upon existing open space reserves, and contributes substantially to scenic open space values for Midway City. The property will remain in agriculture further maintaining the agrarian heritage of the area”.

The Midway Open Space Advisory Committee (OSAC) supports (please see further in this report the motion and findings from the OSAC) this application because it meets the criteria of the Open Space Element of the General Plan, as noted below, and because the Christian Michel Property, along with the neighboring Kohler Dairy, which has already been preserved, is such an important scenic viewshed along River Road, a main entryway into Midway.

The application complies with Midway’s General Plan Open Space element as follows:

Vision

“The Community Vision Statement sets a goal for Midway “to be a beautiful, organized small town community based on its distinct history of agriculture, open space and recreation”. (Goal 1, Community vision Goals and Guidelines). Guideline 5 seeks to implement this goal by “Encouraging the preservation of prime agricultural land and open space within Midway and the surrounding valley”.

The Christian Michel Property meets these goals in the following ways:

- *Preservation of the 44-acre Christian Michel Property preserves scenic viewsheds along the Wasatch Mountains along a main corridor entry into Midway, expanding upon and maximizing the scenic viewsheds preserved by the Albert Kohler Legacy Preserve (Kohler Dairy), preserved using Midway Open Space Bond Funds.*
- *The property includes alfalfa fields, pastures, and raises black angus beef. The applicant represents that the property will remain in agricultural use, with continued fields, livestock grazing, haying, and related uses.*
- *The property includes habitat values, expands upon existing open space reserves, and contributes substantially to scenic open space values for Midway City, especially along a main artery into Midway.*

Effective Open Space Use

The Open Space Element cites four design objectives requiring use of open space tools: Preserving Inter-City Space, Preserve Midway’s Unique Character, Create Local Neighborhood “Openness”, and Providing Public Recreation Venues.

In addition to the citations mentioned above, the Christian Michel Property meets these objectives by:

- *The grazing and hayfields are under greenbelt protection.*
- *The farm abuts the Albert Kohler Legacy Preserve (Kohler Dairy) as shown on the attached maps.*
- *The property abuts the Provo River Corridor owned by the Bureau of Reclamation as shown on the attached maps.*
- *The property is located on a main entry corridor into Midway.*
- *Land along North River Road is being subdivided for residential development. Preserving these 44 acres will mitigate the density created by these developments.*
- *Should this land be developed for residential purposes, potentially as many as thirty-six (36) single family homes or multi-family as part of a Planned Unit Development could be constructed on the buildable areas of the 44 acres located in the Midway Growth Boundary, adding significantly to the density, infrastructure requirements, and demand for City/County services.*
- *In addition to the use of the land by livestock, this property serves as a significant wildlife habitat, providing nesting locations for various birds, safe locations for deer and elk to graze, ditches and ponds for muskrat, beaver and ducks, and passage for many other species of wildlife.*

Identifying and Acquiring Open Space

“Open space acquisition or preservation proposals must be evaluated with the benefit of the citizens of Midway in mind.”

- *Because of the location along the River Road entry corridor, this property is a prime view corridor for residents and visitors, many of whom traverse this road daily.*

- *The views along the River Road entry corridor over the fields of the Christian Michel Property and the Kohler Dairy contribute materially to Midway's reputation as an attractive tourist destination, an important part of our local economy.*
- *The continued operation of the property for agriculture and ranching provides economic benefits to Midway and its citizens.*
- *As an operating farm/ranch in the Heber Valley, an area noted for its ranching and agricultural history, losing the farm to development will result in a permanent and significant loss of an important aspect of the Valley's legacy.*
- *Because of the location in the foothills of the Wasatch Mountains, adjacent to the Kohler Dairy (which was preserved using Midway and Wasatch County Open Space Bond Funds), and its proximity to the Provo River and Wasatch State Park, the property is seen from multiple vantage points in Midway, by residents of Midway on a frequent basis, and by most visitors entering and leaving Midway.*

Identifying and Acquiring Open Space

“Where possible and practical, the City will work with other organizations, agencies, groups, and individuals who will share the costs of open space preservation projects.”

The Christian Michel Property meets these objectives by:

- *Owners of the Christian Michel Property have signed/will sign a purchase agreement with Utah Open Lands committing to sell the development rights for approximately 44 acres of property.*
- *The estimated purchase price of the conservation easement for the Christian Michel Property is \$4,000,000, which includes a twenty-five percent contribution for the landowner. Utah Open Lands is pursuing funds from Wasatch County from their Open Space Bond and is pursuing/intends to pursue applications for funds from NRCS ACEP, Midway City, LeRay McAllister Fund, and private foundations.*
- *Utah Open Lands is also applying for grants from various private foundations and will host several community fund-raising events.*
- *Because all of the 44 acres is in Wasatch County and is part of the larger North Fields tract that Wasatch County has identified as a priority in its open space protection efforts, Wasatch County has been asked to contribute funds from its Open Space program to preserve the Christian Michel Property.*

ANALYSIS:

- After several thorough discussions, the Midway Open Space Advisory Committee voted unanimously to recommend that the Midway City Council commit \$250,000 of the Open Space Bond to the Christian Michel Property. The committee strongly believes that this project meets many criteria of the Open Space Bond and represents significant view corridors, green space and agricultural use that is important for our community to preserve as noted above.

The Open Space Committee recognizes that the \$250,000 in funds requested at this time is only a small percentage of the purchase price of the conservation easement but understands that this commitment falls within the limited Midway City bond funds remaining and that this commitment from Midway City will assist Utah Open Lands in applying for state and federal funds, thereby leveraging the Bond proceeds to maximize Midway's contribution. The fact that the Midway City Council voted to commit \$1,000,000 in Open Space bond funds (four times the amount currently requested) to the Kohler Dairy further speaks to the importance and validity of this project.

- There are Midway Irrigation Company shares on the property. These shares need to be identified, made part of the agreement, and dedicated to Midway City so they remain attached to the property.
- The Midway Master Trail Plan shows a public trail connection from River Road to the Provo River. Currently, there is not a trail along the Provo River or access to the river except from designated fishermen access points. The Midway Master Trail Map and the Wasatch County Master Trail Plan both show a trail along the Provo River that may eventually happen. When the Provo River trail is built, Midway would like to secure access to that trail from River Road for the residents of Midway to use. A public trail access easement should be addressed in the conservation easement that would allow a future public trail if the Provo River Trail is built.

OPEN SPACE ADVISORY COMMITTEE RECOMMENDATION:

At its regularly scheduled meeting held December 6, 2023, the Open Space Advisory Committee entertained a request from Utah Open Lands, on behalf of Christian Michel LLC, to recommend the City Council authorize expenditure of \$250,000 from the Midway Open Space Bond funds toward placement of a conservation easement on approximately 44+/- acres of land on multiple parcels owned by Christian Michel LLC and located along North River Road, at or near 1050 North River Road, with estimated conservation easement appraisal value of \$4,000,000, which includes a 25% donation by the property owners. Utah Open Lands, on behalf of the applicant, advised that funding applications have been submitted to NCRS and LeRae McAllister fund.

A motion was made, seconded, and the Open Space Advisory Committee unanimously approved the motion to recommend that the City Council allocate \$250,000 of the Midway Open Space Bond Funds toward this project.

POSSIBLE FINDINGS:

- This project and funding request remain consistent with the vision of the Open Space Element of the General Plan.
- The \$250,000 in funds requested at this time is only a small percentage of the purchase price of the conservation easement but this commitment falls within the limited Midway City bond funds remaining and Utah Open Lands advises that this commitment from Midway City will assist Utah Open Lands in applying for state and federal funds, thereby leveraging the Bond proceeds to maximize Midway's contribution.
- Because the property lies completely within Wasatch County (but within the Midway Growth Boundary (annexation area)) and is part of the larger North Fields tract that Wasatch County has identified as a priority in its open space preservation efforts, Wasatch County has been asked to contribute funds from its Open Space Bond Fund. Potential funding sources like the County and other potential sources, such as NCRS and LeRae McCallister Fund, may maximize Midway's contribution through leveraging, and the continuation of an important agricultural/ranching business is an added benefit.
- The project is visible from much of Midway and to every person who enters or exits Midway along River Road.
- The project expands and maximizes upon the scenic viewsheds preserved by the adjoining Albert Kohler Legacy Property (Kohler Dairy), preserved using Midway Open Space Bond Funds.
- Preservation of the property will keep valuable agricultural/ranching land as open space and the applicant advises the property will continue to provide agricultural products to the community.

ALTERNATIVE ACTIONS:

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

2. Continuance. This action can be taken if the City Council finds there are unresolved issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again

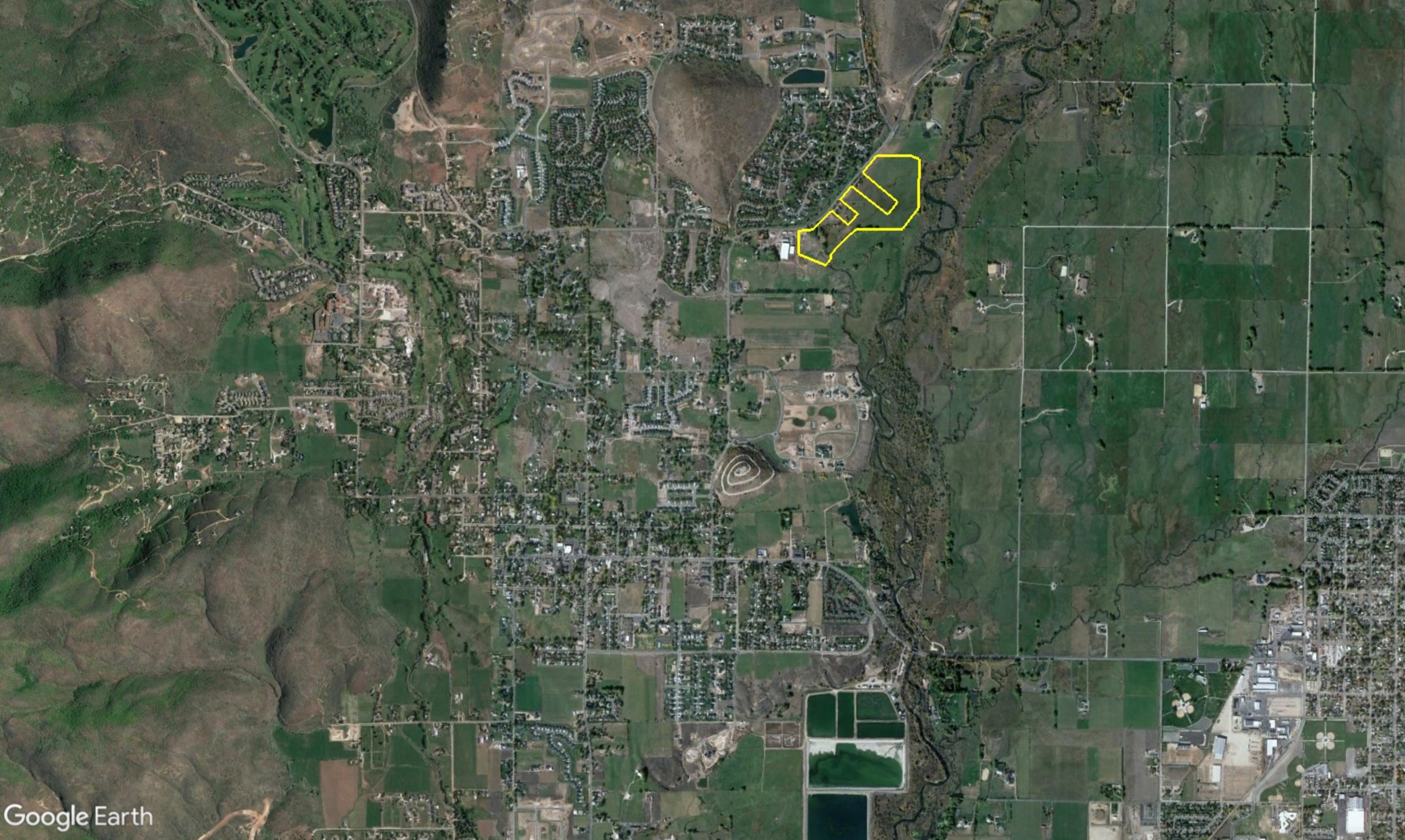
3. Denial. This action can be taken if the City Council finds that the request is not acceptable and not in the best interest of the community.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

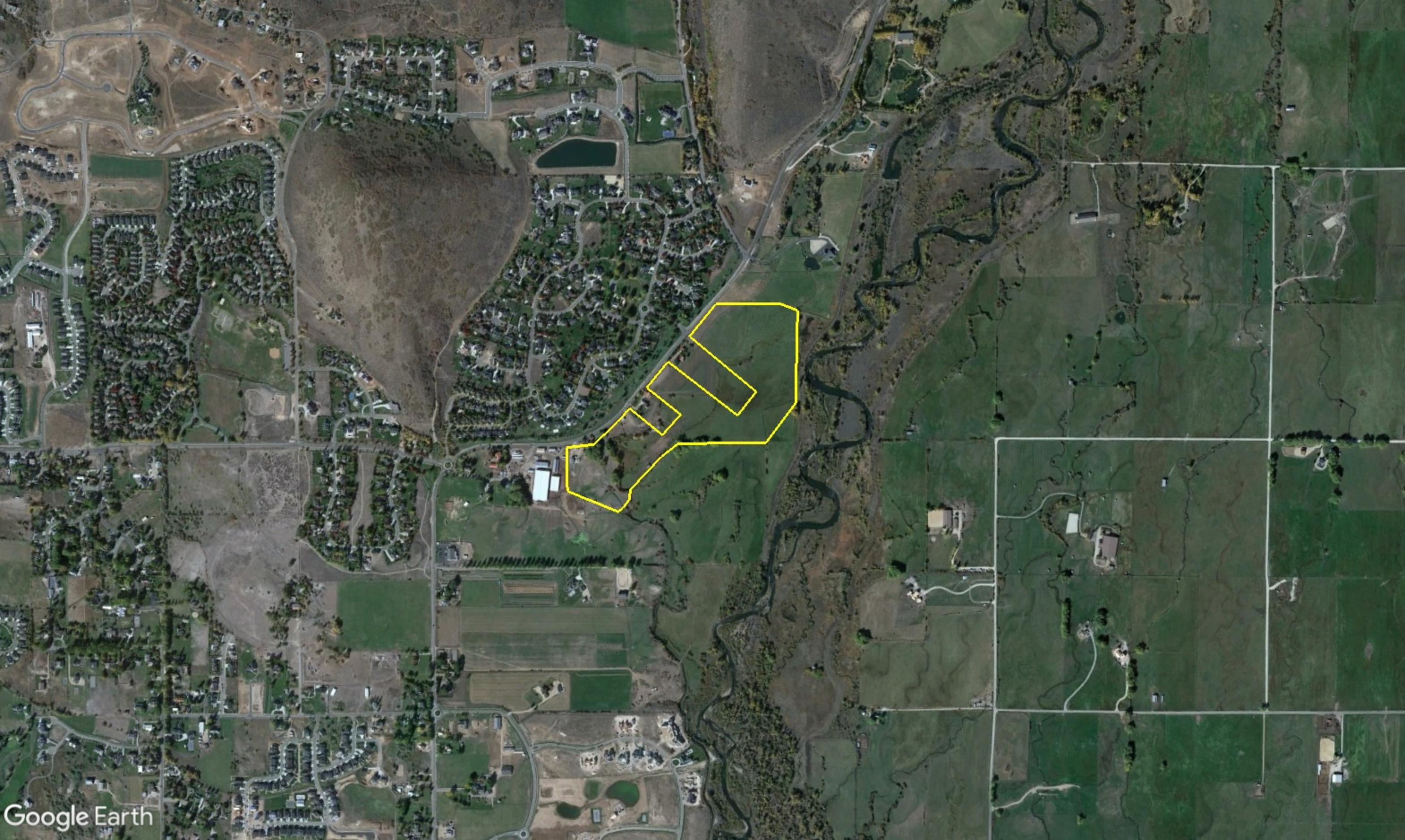
PROPOSED CONDITIONS:

1. There are Midway Irrigation Company shares on the property. These shares need to be identified, made part of the agreement, and dedicated to Midway City so they remain attached to the property.

2. A future public trail easement should be addressed in the conservation easement for a trail from River Road to the future Provo River trail.

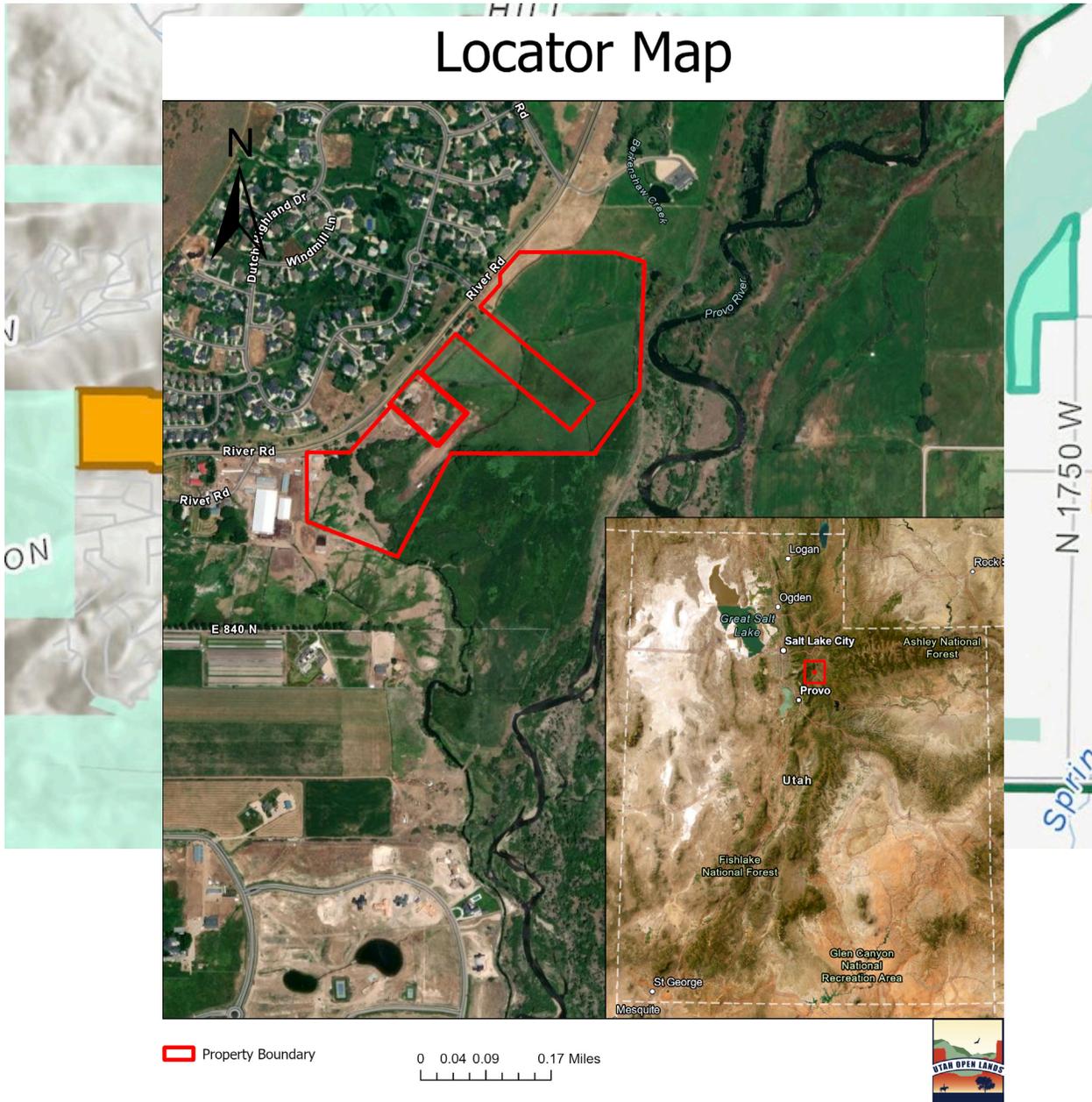
3. The Applicants have requested the sum of \$250,000 and Midway's Support through its Open Bond funds to assist in applying for other funding sources but also considering the possibility of a future bond and a subsequent request. As a condition of any funding, there should be a time limit or procedure for releasing the \$250,000 commitment in bond funds back to the City in the event the City does not pursue additional bond funding and/or if a vote on an additional bond is unsuccessful and/or in the event the parties do not reach an agreement on future funding.



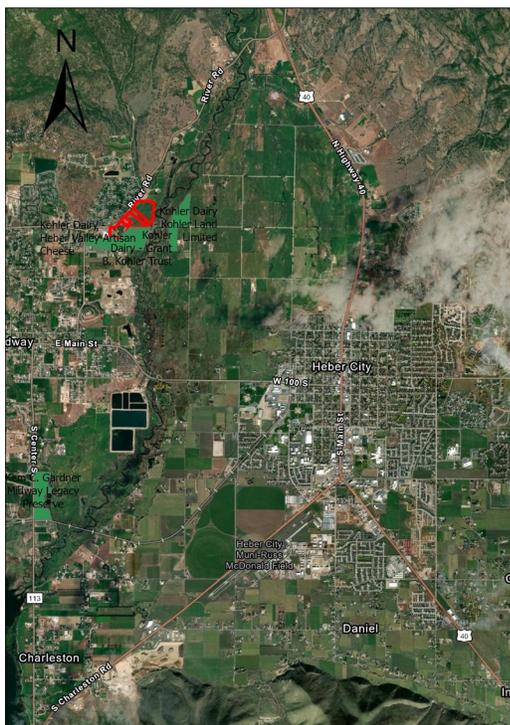




Locator Map



Nearby Conserved



Conservation Value Summary: The property includes habitat values, expands upon existing open space reserves and contributes substantially to scenic open space values for Midway City. The property will remain in agriculture further maintaining the agrarian heritage of the area.

