



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: October 10, 2026

NAME OF APPLICANT: Mark B. Nelson

AGENDA ITEM: Conditional Use Permit – Transient Rental Unit

LOCATION OF ITEM: 70 West 100 South

ZONING DESIGNATION: R-1-7

ITEM 7

Conditional Use Permit (CUP): Mark Nelson, owner of the property located at 70 West 100 South, is seeking a Conditional Use Permit to use the property for nightly rentals. The property is located in the R-1-7 zone and falls within the Transient Rental Overlay District (TROD).

BACKGROUND:

The property is located in the R-1-7 residential zone within the Transient Rental Overlay District (TROD) but outside the Resort Zone. Therefore, a Conditional Use Permit is required prior to applying for a Transient Rental Unit License. The applicant seeks approval to rent the home on a short term basis (30 days or less), which requires contracting with a City licensed property management company, providing off-street parking, and obeying occupancy limits, along with all other applicable requirements set forth in the Code.

DISCUSSION:

- All owners of transient rental units pay a transient rental tax.
- Another benefit is the resort tax the City collects.
- On the other hand, transient rentals take away from the community aspect, and although this property borders the commercial zone, the property is in a residential zone.
- The City has tried to achieve balance by restricting short term rentals to a well-defined overlay zone (TROD).

ANALYSIS:

The italicized text represents Planning Staff's comments pertaining to compliance or lack of compliance with the findings the City Council must make in considering this request. Section 16.26.120 requires specifically the Planning Commission to find that:

1. The proposed use is conditionally permitted within the Land Use Title, and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all the applicable provisions of this Code; *planning staff believes that the proposal will not have a significant impact on the neighborhood as long as all the requirements of the Transient Rental Unit License are met. It appears the proposal will comply with the provisions of the Code.*
2. The proposed use is consistent with the General Plan; *the property falls within the TROD.*
3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations; *the applicants are required to apply and receive approval of a transient Unit Rental License before they will be allowed to rent the unit. This license requires the applicant to register with the State for tax purposes, have the unit inspected by the building inspector, fire marshal, and health inspector, and contract with a City licensed property manager.*
4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *No issues have been identified.*

5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City; *the proposed use and associated traffic is consistent with the adjacent units and the neighborhood. The proposed use will have to comply with all City ordinances, including noise, lighting, and sign ordinances.*
6. The subject site is physically suitable for the type and density/intensity of the proposed use; *The parcel is a single lot improved with a single-family home with an attached two-car garage; therefore, four vehicles are allowed with only two visible at any time. There are five bedrooms in the house, so the limit of overnight renters is 12 (two for each bedroom plus two others).*
7. There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety; *no detrimental impacts have been identified.*

PLANNING COMMISSION RECOMMENDATION:

Motion by Commissioner Farrell: “I’ll make the motion that we go ahead and approve the conditional use permit on the Nelson property with the conditions and findings outlined by the staff.”

Second: Commissioner Nokes

Ayes: Commissioners Farrell, Nokes, Facer, Dougherty

Nays: Commissioner Winegar

Motion: Passed

POTENTIAL FINDINGS:

1. The proposed use is conditionally permitted within the Land Use Title and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all the applicable provisions of this Code.
2. The proposed use is consistent with the General Plan.
3. The approval of the conditional use or special exception permit for the proposed use appears to comply with the requirements of state, federal and Midway City or other local regulations.

4. There appear to be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored.
5. The design, location, size, and operating characteristics of the proposed use appear compatible with the existing and future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City.
6. The subject site is physically suitable for the type and density/intensity of the proposed use.
7. There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety.
8. The property falls within Midway's Transient Rental Overlay District (TROD)
9. Because the property is in the TROD, but not within the C-2, C-3, or RZ zones, the proposed use is a conditional use pursuant to Midway City Code Section 7.06.050(A).
10. The rental of the property for transient lodging purposes is subject to and conditioned upon compliance with Midway City Code including, but not limited to, licensing, nuisance, light and sign ordinances, as well as required inspections.
11. The Applicant has agreed to limit occupancy to a maximum of 14 persons or the maximum determined appropriate by the City Building Official/Fire Marshall, whichever is less.

ALTERNATIVE ACTIONS:

1. Approval (conditional). This action can be taken if the City Council 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 City Council 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. Denial. This action can be taken if the City Council 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:

If the CUP is granted, occupancy of the short-term rental shall be limited to a maximum of 12 people or the maximum determined appropriate by the City Building Official/Fire Marshall, whichever is less.

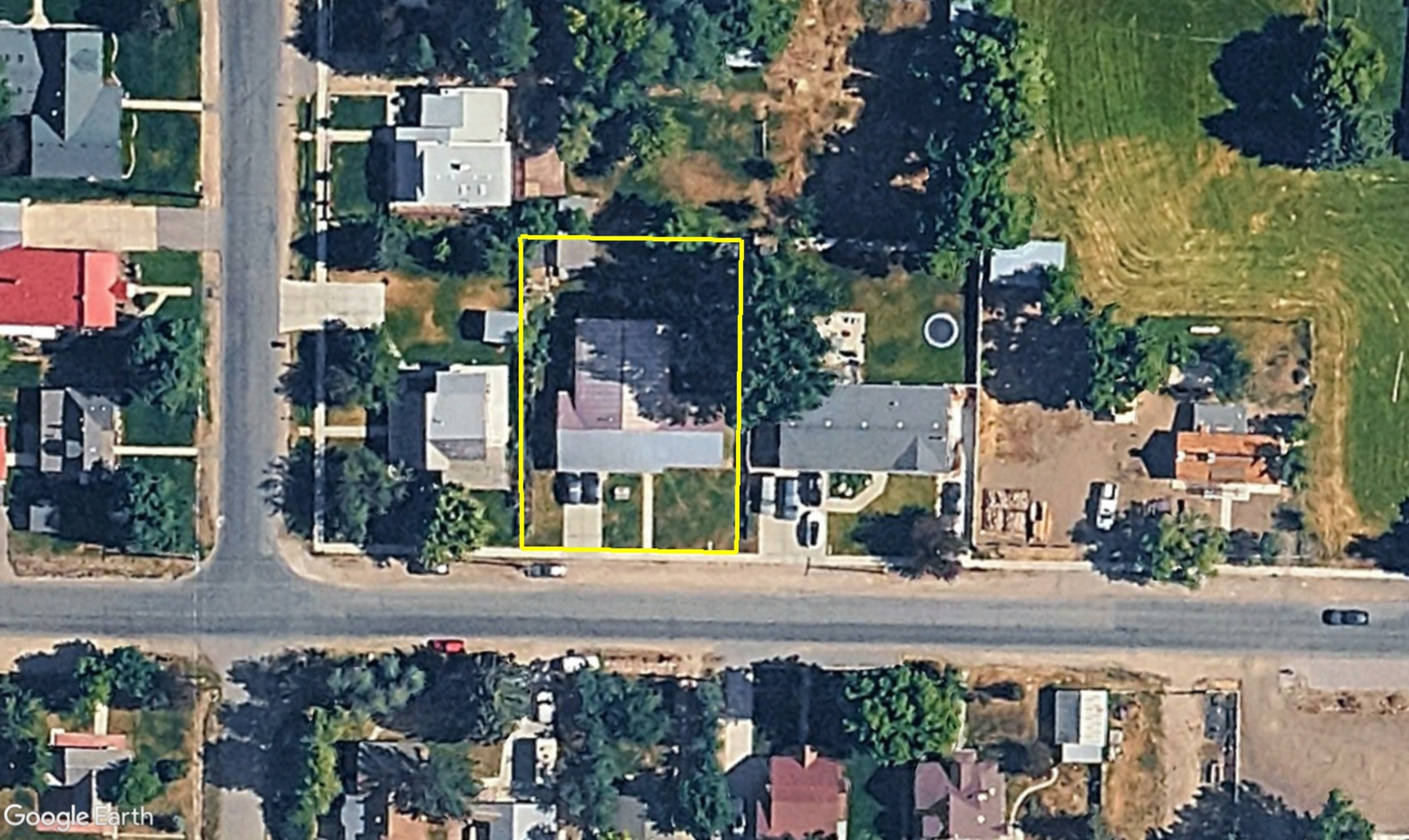


Midway

Provo River



Midway





THREE PROPOSED TRANSIENT-RENTAL CONDITIONAL USE PERMITS

Information Submitted for Midway City Council Consideration

October 6, 2026

Property	Applicant
70 West 100 South	Nelson
60 West 100 South	Heckel
85 South 100 West	Lythgoe

Purpose

I am submitting this information to assist the Midway City Council in its consideration of three proposed transient-rental Conditional Use Permits (CUPs) along the same residential corridor. My concern is whether the required findings can be made for each property after considering the conditions surrounding these sites.

The properties have different driveway and sidewalk conditions, which I ask the Council to evaluate separately. The Council has the individual applications, site information, and aerial photographs; this submission focuses on conditions that warrant particular consideration under the CUP standards.

1. Applicable Conditional-Use Standard

Utah Code §10-20-506 provides that a conditional use shall be approved if reasonable conditions are proposed or can be imposed to mitigate reasonably anticipated detrimental effects in accordance with applicable standards. It also permits denial if those effects cannot be substantially mitigated to achieve compliance with applicable standards.

Midway City Code §16.26.12 requires findings before the City Council approves a CUP. Three are particularly relevant here:

Finding 5 — Compatibility and impacts. The proposed use's design, location, size, and operating characteristics must be compatible with surrounding uses and must not create significant noise, traffic, or other conditions detrimental to nearby permitted uses or adverse to public health and safety.

Finding 6 — Site suitability. The site must be physically suitable for the proposed type and intensity of use.

Finding 7 — Public access and traffic flow. Adequate provisions must exist for public access, including internal and surrounding traffic flow, so the use will not be detrimental to public health and safety.

These findings call for consideration of the conditions at each property, regardless of which version of the regulations governs its application.

2. Planning Commission Record and Vesting

At its September 8 meeting, the Planning Commission voted separately on the applications. Staff stated that the applications were complete while the properties were within the Transient Rental Overlay District and treated them as vested. I have requested the City's received and completeness dates for each application; the written record I have reviewed does not independently establish those dates.

Vesting and conditional-use review are separate questions. Vesting determines the regulations under which an application is considered. The CUP process still requires consideration of reasonably anticipated detrimental effects, whether reasonable conditions can mitigate those effects, and the City's required findings.

3. School Sidewalk and Pedestrian Conditions

The Nelson and Heckel driveways cross the school sidewalk on 100 South. That sidewalk continues to the designated school crossing. The Lythgoe driveway crosses the pedestrian sidewalk on 100 West, which may also be used by children walking to school.

The school crossing was mentioned during the Planning Commission discussion. The record I have reviewed does not document an evaluation of pedestrian activity at the Nelson and Heckel school-sidewalk crossings, the separate Lythgoe driveway and sidewalk crossing, or conditions that might address these interactions.

These physical conditions are directly relevant to Findings 5, 6, and 7.

4. Occupancy and Parking

The September 8 staff reports identify proposed maximum occupancies of 12 persons each for Nelson and Heckel and 10 for Lythgoe. They state vehicle limits of four each for Nelson and Heckel, with no more than two visible at a time, and two for Lythgoe.

During the Planning Commission discussion, staff stated that renters could park on the street subject to general parking restrictions. Midway City's 2026 transient-rental licensing materials, however, prohibit on-street parking by renters or visitors. The Council should clarify how that prohibition applies to these CUPs and carry the stated vehicle limits into the final conditions.

Visitors to nearby businesses also park on surrounding streets, so a parked vehicle alone may not identify a transient-rental guest. The Council should address how the parking restrictions will be communicated to guests and enforced. Occupancy, on-site parking capacity, and resulting vehicle movements are relevant to Findings 5, 6, and 7.

5. Existing Corridor Conditions

Nearby commercial businesses draw vehicles into this residential corridor. Visitors park along 100 South, including in front of residents' homes. Drivers circulate through the area looking for parking, make U-turns midblock, and use private driveways to complete those turns. Pedestrians use the school sidewalk and designated crossing on 100 South and the sidewalk on 100 West.

These are existing conditions into which the proposed transient rentals would be introduced. The CUP review should consider how each property's anticipated vehicle movements would interact with those conditions, including the combined effect of the three proposed uses along the corridor.

6. Enforcement

Midway City Code §16.26.12(G) provides that when complaints concerning a conditional use are filed with the City, the Zoning Administrator investigates whether the use violates the land-use title and pursues elimination of a violation if one is found. Residents may report observed problems; the code assigns investigation and follow-up to the City.

This raises a practical question concerning how compliance with vehicle, occupancy, and other operating requirements will be monitored. Clear, objective, and enforceable CUP conditions provide greater certainty to applicants, surrounding residents, and City staff.

7. CUP Approval and Transient-Rental Licensing

CUP approval and transient-rental licensing are separate steps. The proposed CUPs address whether transient-rental use may be approved at these properties and what site-specific conditions apply. Before rental operations begin, the owner and property manager must satisfy applicable City licensing requirements.

Midway City Code §16.26.12(F) states that a CUP approval expires if the approved use has not begun within one year, unless the approval conditions specify otherwise. The Council should state any site-specific operating conditions in the CUP decision so they are established before transient-rental use begins.

8. Request to the City Council

I respectfully ask the Council to consider each application individually and record findings based on the conditions at each property, particularly:

Finding 5 — Compatibility and impacts: Whether the proposed occupancy and operating characteristics are compatible with the existing residential, traffic, and pedestrian environment.

Finding 6 — Site suitability: Whether each property is physically suitable for the proposed intensity of transient-rental use.

Finding 7 — Public access and traffic flow: Whether adequate provisions exist for each site's sidewalk and driveway crossing, including the school sidewalk and crossing on 100 South, together with on-site parking and existing corridor conditions.

Reasonable conditions: Whether any reasonably anticipated detrimental effects can be substantially mitigated through conditions expressly stated in the CUP approval.

The Planning Commission has made its recommendation. I ask the Council to make and record its own findings for each application before deciding whether to approve it and under what conditions. Midway's CUP provision calls for the Council's written decision to recite the findings on which it is based.

Sources

- Utah Code §10-20-506, Conditional Uses: <https://le.utah.gov/xcode/Title10/Chapter20/10-20-S506.html>
- Midway City Code §16.26.12, reproduced in the City's Conditional Use Permit application: <https://www.midwaycityut.gov/wp-content/uploads/2022/05/Conditional-Use-Permit-Sept-20202.pdf>
- Midway City 2026 transient-rental licensing materials.
- Midway Planning Commission staff reports, draft minutes, and meeting discussion of September 8, 2026, concerning the Nelson, Heckel, and Lythgoe applications.

Supplemental Photographs

If available before the October 6 meeting, a limited number of current photographs documenting pedestrian, parking, and traffic conditions will be submitted separately. They will supplement the aerial photographs and property information already in the City's application materials.

Submitted by:

John Clarkson, P.E.

Civil Engineer

Midway, Utah

September 2026