



7505 S Holden Street  
Midvale, UT 84047  
801-567-7200 ext. 1022  
Midvale.Utah.gov

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**Midvale Planning Commission Meeting  
Notice and Agenda  
\*AMENDED\*  
April 24, 2024  
6:00 p.m.**

Public notice is hereby given that the Midvale City Planning Commission will consider the items listed below during their regularly scheduled meeting on Wednesday, April 24, 2024, at 6:00 p.m. This meeting will be held in person at Midvale City Hall, 7505 S Holden Street, Midvale, Utah or electronically with an anchor location at Midvale City Hall, 7505 S Holden Street, Midvale, Utah. The meeting will be broadcast at the following link:  
[Midvale.Utah.gov/YouTube](https://Midvale.Utah.gov/YouTube).

Midvale City Staff publishes a packet of information containing item specific details one week prior to the meeting at 6:30 p.m. on the [Planning Commission Agendas & Minutes](#) page. The QR code included on the right will also take you to this webpage.



Public comments for Public Hearing items may be done in person on the scheduled meeting date, submitted electronically on the Agendas & Minutes webpage, or by emailing [planning@midvale.com](mailto:planning@midvale.com) by 5:00 p.m. on April 23, 2024 to be included in the record.

- I. Pledge of Allegiance**
- II. Roll Call**
- III. Minutes**
  - a. Review and Approval of Minutes from the April 10, 2024, Meeting.
- IV. Action Items**
  - a. Midvale City initiated amendment to Sections 17-7-12.2, 17-7-12.5, and 17-7-12.7 of the Regional Commercial (RC) zone of the Midvale City Municipal Code. These changes remove Manufacturing, Outdoor Storage, and Warehouse/Distribution as uses in the zone and any associated references to them. *[Jonathan Anderson, Planner II]*

## V. Public Hearing

- a. Midvale City initiated Rezone request to change the zoning from Clean Industrial (CI) to Main Street Form Based Code (MS-FBC) on the following parcels: 7413 S Main St, 7409 S Main St, 7407 S Main St, 7397 S Main St, and 669 W Eighth Ave. Information regarding the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the rezone is adopted can be found in [Midvale City Code 17-7-11](#).  
*[Elizabeth Arnold, Senior Planner]*
- b. Midvale City initiated amendment to Midvale City Municipal Code Section 17-7-12.2 to remove Commercial Nursery as a use in the Regional Commercial (RC) Zone, Section 17-7-13.2 to add Storage Yard as a use in the Clean Industrial (CI) Zone, and Sections 17-2-15 and 17-2-19 to refine the definitions of Outdoor Storage and Storage Yards.  
*[Wendelin Knobloch, Planning Director]*
- c. Midvale City initiated amendment to Midvale City Municipal Code Sections 17-7-7.6, 17-7-10.12.12(D), and 17-7-13.5 to amend and remove outdoor storage regulations from the State Street Zone (SSC), Jordan Bluffs Subareas 1-3 Development, and Clean Industrial (CI) zones and relocate said amended regulations to Section 17-6-3 (Supplementary Regulations) of the Midvale City Municipal Code. *[Jonathan Anderson, Planner II]*
- d. Midvale City initiated amendment to Midvale City Municipal Code Sections 17-7-9.12.1.8(E) and 17-7-12.4(F) to remove references to storage yard architectural standards in the Riverwalk and Regional Commercial (RC) zones. *[Jonathan Anderson, Planner II]*
- e. Midvale City initiated amendment to Midvale City Municipal Code Section 17-7-11.3(B)(4)(g) to reduce the distance between an outdoor dining area and an existing residential use from one hundred feet to twenty feet in the Main Street Form Based Code (MS-FBC) zone. *[Jonathan Anderson, Planner II]*

## VI. Staff Update/Other Business

- a. Upcoming Meetings and Projects.

## VII. Adjourn

All meetings are open to the public; however, there is no public participation except during public hearings. Members of the public will be given an opportunity to address the Commission during each public hearing item. The Commission reserves the right to amend the order of the agenda if deemed appropriate. No item will be heard after 9:30 p.m. without unanimous consent of the Commission. Items not heard will be scheduled on the next agenda. In accordance with the Americans with Disabilities Act, Midvale City will make reasonable accommodations for participation in the meeting. Request assistance by contacting the Community Development Executive Assistant at (801) 567-7211, providing at least three working days' notice of the meeting.

A copy of the foregoing agenda was posted in the City Hall Lobby, the 2<sup>nd</sup> Floor City Hall Lobby, on the City's website at [Midvale.Utah.gov](http://Midvale.Utah.gov) and the State Public Notice website at <http://pmn.utah.gov>. Commission Members may participate in the meeting via electronic communication. Commission Members' participation via electronic communication will be broadcast and amplified so all Commission Members and persons present in the Council Chambers will be able to hear or see the communication.

Any owners of real property affected by the proposed map amendment may file a written objection to the inclusion of the owner's property in the proposed map amendment with the Community Development Department no later than 10 days after the day of the public hearing. Each written objection filed will be provided to the City Council.



7505 South Holden Street  
Midvale, UT 84047  
Phone (801) 567-7200

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**Midvale City  
PLANNING AND ZONING COMMISSION  
*Minutes***

**10<sup>th</sup> Day of April 2024  
Council Chambers  
7505 South Holden Street  
Midvale, Utah 84047**

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***COMMISSION CHAIR:*** Shane Liedtke

***COMMISSION VICE CHAIR:*** Candice Erickson

***COMMISSION MEMBERS:*** Dustin Snow  
Michael Edwards  
Robyn Anderson  
Candace Tippetts  
Matt Kasparian

***STAFF:*** Adam Olsen, Community Development Director  
Aubrey Ruiz, Community Development Executive Assistant  
Aaron McKnight, Deputy City Attorney  
Wendelin Knobloch, Planning Director  
Elizabeth Arnold, Senior Planner  
Jonny Anderson, Planner II  
Josh Short, Junior Network Administrator

**GENERAL SESSION**

Chair Liedtke called the Planning & Zoning Commission meeting to order at 6:00 p.m. He explained how the meeting would proceed. First, the Planning Department would brief the Commission; then the applicant would speak to the Commission; the item will be opened to the public for their comments on public hearing agenda items; the Midvale Deputy City Attorney will then brief the Commission on their role on the given item; and then the Commission would deliberate and decide.

## ROLL CALL

Chair Liedtke	Present
Vice Chair Erickson	Present
Commissioner Tippetts	Excused
Commissioner Snow	Present
Commissioner Anderson	Present
Commissioner Edwards	Present
Commissioner Kasparian	Present

## MINUTES

### 1. REVIEW AND APPROVE MINUTES OF MARCH 13, 2024.

**MOTION:** Commissioner Erickson **MOVED** to approve the minutes of March 13, 2024. **SECONDED** by Commissioner Snow. Chair Liedtke called for a voice vote. The motion was passed unanimously with all voting in favor.

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## PUBLIC HEARINGS

### 1. **Craig Schmitke requests approval of a Conditional Use Permit for a Vehicle Repair Use (Precision Automotive) to be located at 6906 S Cottonwood St in the Clean Industrial (CI) Zone.**

The applicant requests a Conditional Use Permit for a Vehicle Repair Shop to be located at 6906 S Cottonwood Street. The existing building at the location and the parking areas/storage yard on parcels 6931 S 400 W and 6947 S 400 W will be utilized for business activities. See the site plan attachment for more information.

Public notice has been sent to property owners within 500 feet of the subject parcel; additionally, a sign was placed on the property and will remain until Planning Commission approval of the conditional use permit. At the time of writing this report, no public comment has been received.

Midvale Municipal Code 17-7-13.9(A) outlines the criteria necessary for a conditional use permit as follows (Staff responses in **bold**):

1. The application complies with all applicable provisions of this title, state and federal law;

**Staff Response: The application complies with the above-listed criteria.**

2. The structures associated with the use are compatible with surrounding structures in terms of use, scale, mass, and circulation;

**Staff Response: Only existing structures and parking lots will be utilized. Nearby structures consist of primarily commercial uses. The application complies with the above-listed criteria.**

3. The use is not detrimental to the public health, safety, and welfare;

**Staff Response: The application complies with the above-listed criteria.**

4. The use is consistent with the general plan, as amended;

**Staff Response: The use is consistent with Midvale's General Plan.**

5. Traffic conditions are not adversely affected by the proposed use including the existence of or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets;

**Staff Response: The application was reviewed by Midvale City's Engineering Department and complies with the above-listed criteria.**

6. Sufficient utility capacity;

**Staff Response: The application was reviewed by Midvale City's Engineering Department and complies with the above-listed criteria.**

7. Sufficient emergency vehicle access;

**Staff Response: Emergency vehicle access was reviewed by the Unified Fire Authority and determined to be adequate.**

8. Location and design of off-street parking as well as compliance with off-street parking standards provided for in Section 17-7-13.8;

**Staff Response: The application complies with the above-listed criteria and follows the provisions of the city ordinance for parking requirements.**

9. Fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses;

**Staff Response: No concerns have been identified.**

10. Compatibility of the proposed mass, bulk, design, orientation, and location of the structures on the site, including compatibility with buildings on adjoining lots and to the street;

**Staff Response: Only existing structures will be utilized. The application complies with the above-listed criteria.**

11. Exterior lighting that complies with the lighting standards of the zone and is designed to minimize conflict and light trespass with surrounding uses; and

**Staff Response: No concerns have been identified.**

12. Within and adjoining the site, impacts on the aquifer, slope retention, flood potential and appropriateness of the proposed structure to the topography of the site.

**Staff Response: The application was reviewed by Midvale City's Engineering Department and complies with the above-listed criteria.**

Staff recommends approval.

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**APPLICANT:**

Craig Schmitke, the applicant, has been operating this same business for 38 years and he is moving to a building approximately 500 feet from the current location. This should bring in more permanent jobs for Midvale and increase tax revenue. They are excited to stay in Midvale.

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**PUBLIC HEARING:**

Chair Liedtke opened the public hearing.

No comment.

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**MOTION: Commissioner Anderson MOVED to close the public hearing. The motion was SECONDED by Vice Chair Erickson. Chair Liedtke called for a voice vote. The motion was passed unanimously with all voting in favor.**

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**DISCUSSION:**

No comment.

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**MOTION: Commissioner Snow MOVED that we recommend approval of the the Conditional Use Permit for a Vehicle Repair Shop at 6906 S Cottonwood Street, with the findings included in the staff report with the. The motion was SECONDED by Commissioner Anderson. Chair Liedtke called for a roll call vote. The vote was as follows:**

Chair Liedtke

Yes

Vice Chair Erickson	Yes
Commissioner Anderson	Yes
Commissioner Snow	Yes
Commissioner Kasparian	Yes

**The motion passes unanimously.**

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## **PUBLIC HEARINGS**

- 2. Adam Paul requests a zone map amendment to add the Regional Commercial Residential Overlay Zone to a property located at 7001 S 900 E. Information regarding the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the rezone is adopted can be found in Midvale City Code 17-7-12.1.**

This application proposes to add the Regional Commercial Residential Overlay Zone (RCRO) to a 2.4-acre parcel zoned Regional Commercial (RC) that used to contain a medical office building until it burnt down on January 17, 2021. Originally, the item was placed on the March 13, 2024, Planning Commission agenda until the applicant withdrew it and revised the concept.

The parcel is located on the eastern side of 900 E, one tenth of a mile north of the intersection with Fort Union Blvd. An insurance office borders the parcel to the north, a fast-food restaurant to the south, and the Essex Court Condominium community to the east.

A sign was placed on the property, the hearing was advertised at City Hall, on the City Website, on the Utah Public Notice website, and was sent out to property owners within 500 feet of the subject property. Considerable comment was received from neighbors who oppose the zone map amendment.

Midvale Municipal Code (MMC) Section 17-3-1(E) and the RCRO Zone (MMC 17-7-12.1.1) outline the criteria and required findings necessary for granting a zone map amendment as shown below, with bold sections added for emphasis; yellow sections are staff responses for the March 13, 2024, meeting, and green sections show staff responses that refer to the new concept for the April 10, 2024, meeting:

### MMC Section 17-3-1(E): Amendments to the Zoning Code or Map

E. Criteria/Required Findings. The city's zoning is the result of a detailed and comprehensive appraisal of the city's present and future land use allocation needs. In order to establish and maintain sound, stable, and desirable development within the city, **rezoning of land is to be discouraged and allowed only under the limited**

**circumstances herein described.** Therefore, the planning commission may recommend, and the city council may grant, **a rezoning application only if it determines, in written findings, that the proposed rezoning is consistent with the policies and goals of the general plan** and that the applicant has demonstrated that the:

1. Proposed rezoning is necessary either **to comply with the general plan proposed land use map** or to **provide land for a community need** that was not anticipated at the time of adoption of the general plan;

**Staff Response: While this zone map amendment is not necessary to comply with the 2016 General Plan because it is not included in the Fort Union Opportunity Area, it would contribute to the fulfillment of the community need for housing and commercial development through its residential component and stand-alone commercial structure shown in the concept plan.**

**Update 4/10/2024:** The revised concept internalizes the commercial use into the main structure. The current zoning on the property, Regional Commercial (RC), allows for high intensity commercial development similar in massing and height to the structures allowed in the Regional Commercial Residential Overlay zone (RCRO).

2. Existing zoning was either the result of a **clerical error or a mistake of fact**, or that it failed to consider the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or

**Staff Response: The existing zoning is well reasoned and does not represent a clerical error or mistake of fact.**

3. **Land or its surrounding environs has changed or is changing** to such a degree that it is in the **public interest to encourage redevelopment** of the area or to recognize the changed character of the area.

**Staff Response: This parcel of land has clearly changed due to the disastrous fire in 2021 and redevelopment is in the public interest, however, the concept may not be conducive to the specific goals set in the RCRO Zone as detailed below.**

**Update 4/10/2024:** The revised concept addresses many of the concerns expressed in the first version of the staff report.

#### MMC 17-7-12.1.1 Regional Commercial Residential Overlay

To utilize the regional commercial residential overlay, it must be demonstrated the proposed development fulfills the following goals:

A. Provides critical mass necessary to help facilitate the transition of regional commercial shopping centers into vibrant mixed-use developments;

**Staff Response: This parcel sits at the outer edge of the shopping center and may contribute to the overall health of the area, but it also has residential neighbors that are directly impacted by high intensity use.**

B. Creates a consistently high-quality urban environment;

**Staff Response:** The attached concept plan is not binding and expresses the wishes of the applicant with a seven-story residential structure and a separate drive-through commercial use. The concept does not acknowledge the immediate presence of residential neighbors to the east and its separated drive-through discourages walkability on this corridor.

**Update 4/10/2024:** The revised concept shows a structure with an altered footprint that internalizes 4500 square feet of commercial square footage into the southwestern corner of the building, omits the separated drive-through use and wraps 58 parking stalls around the building. Five 2-bedroom dwelling units and a leasing office complete the 900 West street frontage. The rear of the structure now includes parking and additional distance from the neighboring property.

C. Enhances the investment of those locating within the regional commercial zone;

**Staff Response:** This proposal may enhance the investment of the current neighboring businesses, but it does not contribute as much as it could to the enhancement of the corridor into the future and may negatively impact the investment of the residential neighbors to the east.

**Update 4/10/2024:** The revised concept moves the building further away from the eastern property line and introduces some commercial space on the main floor along 900 East.

D. Promotes economic development by increasing the utilization of existing parcels within current developments;

**Staff Response:** This proposal increases the utilization of the existing parcel because the previous development burnt down, and the parcel is currently vacant.

E. Eliminates large, underutilized surface parking areas by utilizing alternate parking methods, including but not limited to structured parking and shared parking;

**Staff Response:** This proposal internalizes the majority of the parking into the podium of the structure and lines the western elevation along 900 E with residential units, the north, east, and south, however, are not lined and present blank windowless walls. The concept plan, as presented, appears to be about 50 spaces short of the required 328 stalls for the residential structure.

**Update 4/10/2024:** The revised concept plan appears to come close to providing sufficient spaces for the residential and commercial uses, especially if shared parking is utilized.

F. Provides compatibility between residential and commercial uses to create a comfortable environment for both shoppers and residents; and

**Staff Response:** The monolithic nature of the structure shown on the concept plan does not acknowledge the residential environment to the east.

**Update 4/10/2024:** The revised concept introduces an additional 30-40 feet of setback between the building and the property line to the east.

G. Provides pedestrian connections within and among developments to support pedestrian activity in existing auto-oriented developments and encourages pedestrian movement. (Ord. 2016-07 § 1 (Att. A (part)))

**Staff Response: The drive-through restaurant use negatively impacts walkability on the site and the overall design does not encourage pedestrian movement because the apartment building does not offer dedicated commercial space on the main floor.**

**Update 4/10/2024:** The revised concept omits the drive-through restaurant use and adds 4,500 square feet of commercial space on the main floor. The commercial use and the leasing office make up about 50% of the 900 W street frontage with the balance being depicted as 2-bedroom apartments.

Staff does not recommend approval or denial, leaving the decision entirely up to the Planning Commission.

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#### **APPLICANT:**

Adam Paul, the applicant, approaches the stand to address a few of the big concerns with the development. The first clarification is that at the moment there is no approved plan to move forward with if the re-zone is approved. It is simply a concept for a better idea of what could be built there. Mr. Paul states that the property would be heavily monitored for proper parking and safety concerns with cameras, lights, and locked doors. His project team is willing to work with City Staff, Council, and others to solidify the development with a Development Agreement.

Mr. Paul adds that a commercial development versus a residential development requires more parking. Residential development would be 2 to 2.5 times less parking required and possibly limit traffic during specific hours.

Mr. Paul has redesigned the concept and is amenable to more suggestions as the plan is not complete.

After the Public Hearing, Mr. Paul confirms that everyone's best interest is at heart. He clarifies that the details of the Access Easement and construction traffic or fire protection plans will be shared if the zone change is approved.

Traffic concerns can be and will be addressed with UDOT as 900 East is their property. As changes occur in the community, changes occur on the roads.

There is no threat being made to residents. The development team is asking for collaboration from residents, Planning Commissioners, and Council.

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## **PUBLIC HEARING:**

Chair Liedtke opened the public hearing.

Edward Kimball, long-term Essex Court resident, community of 72 townhomes with approximately 134 residents in the community. The proposal of the apartment complex and the changes to the traffic plan would have a negative impact on the existing residents. The entrance and exit for the proposed plan feed directly into the Essex Court easement. The height of the proposed building to replace the old office building is five stories taller than ever before. There is no immediate public transit available to locals. The rezone does not appear to be a viable option for this community.

Dennis Poole, legal counsel representing KME LLC and Sovereign Financial, speaks on behalf of their clients, the owners of the neighboring northern property. The applicant has not satisfied the conditions for the request for redevelopment. The current zoning would change the density and other major factor in the Master Plan. The land-use that is being suggested was not contemplated in the General Plan. An overlay for this property would not meet the standards of the current housing requirements. Other nearby developments are not changing their original use and fit the General Plan as it was created. The RCRO zone would not qualify this property as fitting to the requirements for the zoning as requested. One parcel requesting to change the zone simply does not meet the three criteria for changing the current land-use.

Emy Cordano, Essex Court homeowner, makes a point of the impact that a seven-story building would have on all the surrounding residents. Ms. Cordano argues that there are no existing buildings in Midvale that exceed three stories. She points out that not all the requirements are being met by the proposed plan. The new building will completely change the environment of Essex Court. The surrounding neighborhood has not changed in the last 45 years and the current residents do not agree with the re-zone suggested. They ask that none of the intended changes are approved.

Samuel Kingore, Essex Court resident, speaks about the collaborative process that development should be and asks for a deferment of this project. The impact would be greater in this community than it would be in a single-family neighborhood. The accuracy of the presented square footage of the commercial versus residential building is under question. He proposes more of a workshop setting and more time to come to an agreement.

Colleen Arrington, Midvale homeowner, draws her concern to the exponential growth in the traffic patterns. The flow of traffic is only increasing. Without mass transit, gridlock is bound to occur. Peaceful enjoyment is a right of a homeowner, and more people and traffic around will only lessen this for the residents. She begs that the permanent are considered over the mobile renters.

Kathy Taufer, Fair Meadows President of the HOA, explains the issue of the possible density increase. In the past, a fire pulled all the water from their fire hydrant and residents' homes. The county records on traffic patterns demonstrate great concern for more residential development. Parking is also a major issue and only stands to increase.

Zachary LaBelle, Essex Court resident, would like to point out the constant struggle that apartment complexes have with parking. Consider the parking would shift to 900 East and the easement and

views would be blocked.

Megan Theorine, Essex Court resident and Hillcrest teacher, brings up the safety concern for the students and other children in the neighborhood. The traffic patterns and chaotic drivers will be a major danger to the teenagers that do not use the crosswalks properly. She also asks the Commissioners to consider the new, young drivers and their ability to misjudge traffic.

John Taylor, Midvale real estate owner, works with many projects throughout the valley. The Salt Lake Valley is in dire need of housing. He agrees that the Essex Court community is a beautiful example of the type of neighborhood needed. Currently the type of commercial uses in high demand would be drive-thru businesses. The current options would only draw in heavier traffic in more compact times. The re-zone would not give developers unlimited rights, it would aid the City to enforce the parking laws more heavily in place. The use of commercial at the empty lot as it is currently zoned for would negatively impact the residents and traffic as well.

Rebecca Armstrong, Essex Court homeowner, would like to draw attention to the 70+ vacant apartments within a 1-mile radius of Essex Court. This number only increases throughout the city. She urges the Commissioners to consider the empty units and see that no additional apartments are needed in the area.

Seth Hancock, Essex Court homeowner, is concerned about the danger of one road for all the traffic. An overload of traffic can be dangerous. Consider the time of construction and concern for fire code enforcement. He urges the developer to look elsewhere for the project.

**Please see all electronic Public Comments submitted at the end of this packet.**

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**MOTION: Vice Chair Erickson MOVED to close the public hearing. The motion was SECONDED by Commissioner Anderson. Chair Liedtke called for a voice vote. The motion was passed unanimously with all voting in favor.**

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#### **DISCUSSION:**

Commissioner Anderson questions what impacts this recommendation could have on a larger scale. She wants to know if there could be other projects or developments that could create issues from this.

Wendelin Knobloch, Planning Director, clarifies that it is on a case-by-case basis and any other development would have to go through a similar process with their own approvals.

Aaron McKnight, Deputy City Attorney, agrees with Mr. Knobloch and states that the legislative decision is ultimately up to the Midvale City Council.

Commissioner Anderson draws attention to the traffic and parking concerns. She states there is no fair comparison between apartments and office buildings when it comes to high traffic hours and parking capacity.

Chair Liedtke draws attention to the noticeable parking throughout their neighborhood.

Vice Chair Erickson voices that homeowners are not going to be considered more important than renters when considering the rezone.

Mr. McKnight states that the easement issue is a civil matter between the property owners. The easement would only require access and so long as that is incorporated into the plans there is no concern.

Commissioner Edwards would like to clarify the current height restriction for the zone in use.

Mr. Knobloch verifies that the current height restriction is allowed up to 75 feet. The overlay in the rezone would allow for an additional 10 feet in height totaling a maximum of 85 feet tall.

Commissioner Anderson is disappointed in the lack of involvement from UDOT regarding 900 East. The apartments will drastically affect Hillcrest High School and the number of students enrolled.

Vice Chair Erickson wants to voice that housing is desired for this area, but the conditions are changing. The General Plan was last changed in 2016, which is not applicable to this area any longer. There may be a way to satisfy the need for housing without maxing out the usable space as is normal for developers investing in a project.

Chair Liedtke would like to ask staff to re-examine the overlay zone and clarify or modify the current requirements. The current overlay seems to have been designed for a different place at a different time.

Commissioner Edwards suggests that a Development Agreement would serve the community best. Along with more collaboration between both parties involved.

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**MOTION: Commissioner Anderson MOVED that we recommend denial of the Zone Map Amendment to add the Regional Commercial Residential Overlay Zone to a property located at 7001 S 900 E both criteria 1 and 3 are not met, with the findings included in the staff report. The motion was SECONDED by Commissioner Snow. Chair Liedtke called for a roll call vote. The vote was as follows:**

Chair Liedtke	Yes
Vice Chair Erickson	Yes
Commissioner Anderson	Yes
Commissioner Snow	Yes
Commissioner Kasparian	Yes

The motion passes unanimously.

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### PUBLIC HEARINGS

3. **Mike Nielsen requests a determination on the height and material for an enclosure of an Outdoor Storage area for automobiles at 6941 S. River Gate Drive in the Bingham Junction/Riverwalk Overlay zone.**

Mr. Nielsen submitted an Administrative Conditional Use Permit for an automobile outdoor storage area at Unique Auto's future business location at 6941 S. River Gate Drive. The application shows removal of existing landscaping and placement of a seven-foot-high precast concrete fence in the northeastern quadrant of the site, immediately adjacent to the existing building.

Public notice was sent to property owners within 500 feet of the subject parcel, the hearing was advertised at City Hall, on the City website, and the Utah Public Notice Website; additionally, a sign was placed on the property. At the time of this writing no public comment has been received.

This application is on the Planning Commission agenda because the outdoor storage provisions in Midvale Municipal Code Section 17-2-15 require a Planning Commission determination on the height and material of the fence when a front yard or side yard is involved, as detailed below:

"...The area used for outdoor storage shall not constitute more than fifteen percent of the lot area."

***Staff Response: The area constitutes 14.77 percent of the lot area.***

"With the exception of retail sales displays in an approved commercial area, outdoor storage shall be screened from public view by a minimum six-foot high opaque fence or, when outdoor storage occurs in a *front yard, side yard*, or any other location within the public view, a *fence or screening of a height and material determined by the planning commission.*"

***Staff Response: The applicant proposes a seven-foot-high precast concrete fence.***

Staff recommends approval.

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**APPLICANT:**

Mike Nielson, representing Unique Auto-body as their business manager, is here to answer any questions.

The fence requested would lessen sound pollution, provide intrinsic security by blocking easy visualization on site, and limiting the eye sore in the neighborhood.

Comfort and accessibility are key to protecting the vehicle-owner demographic in Utah.

The use of the property is not under consideration in this meeting as it is allowed. The fence is a separate issue.

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**PUBLIC HEARING:**

Chair Liedtke opened the public hearing.

Jay Stephen Leyba, representing Leyba Family. Mr. Leyba explains his concern for the impact on the neighborhood. The safety measures, the business plan, and the condition of the stored vehicles. The fence could be an issue and a nuisance by preventing views, decreasing property values, possible environmental effects, and other factors. As an anomaly in the area, creating caused for pause.

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**MOTION: Vice Chair Erickson MOVED to close the public hearing. The motion was SECONDED by Commissioner Anderson. Chair Liedtke called for a voice vote. The motion was passed unanimously with all voting in favor.**

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**DISCUSSION:**

Commissioners question the maintenance of vehicle leakage and the length of time cars are allowed to remain on the premises.

Mr. Neilson states that there are a lot of strictly enforced regulations regarding vehicle repair shops. The company will be sure to stay in compliance with State mandated regulations. The intention of this business is to repair and release vehicles as quickly as possible, it will not be used as a long-term storage facility.

Vice Chair Erickson does raise concern for graffiti on the fence since it is opaque but that is a requirement and there are City maintenance protocols.

Mr. McKnight clarifies that this is an administrative decision. If all requirements are met, Commissioners must approve.

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**MOTION: Vice Chair Erickson MOVED that we recommend approval of the fence height of seven feet and concrete as the fence material, with the findings included in the staff report. The motion was SECONDED by Commissioner Snow. Chair Liedtke called for a roll call vote. The vote was as follows:**

Chair Liedtke	Yes
Vice Chair Erickson	Yes
Commissioner Anderson	Yes
Commissioner Snow	Yes
Commissioner Kasparian	Yes

**The motion passes unanimously.**

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## **PUBLIC HEARINGS**

- 4. Midvale City initiated the Rezone request to remove the 7200 S Overlay from the northeast and southeast corners of State Street and Fort Union Blvd. See Rezone Exhibit. Information regarding the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the rezone is adopted can be found in the Midvale City Code. 17-7-7 is the State Street Commercial (SSC) zone, and 17-7-6 is the 7200 S Overlay Zone.**

Throughout 2022, Midvale City, in tandem with a consulting team, conducted the Midvale State Street Corridor Study. At the conclusion of the study, recommendations were provided to the City with potential changes that could be implemented to improve the State Street area by encouraging development that aligns with the City's vision for State Street. The Study explored land use concepts that addressed streetscape, building frontage, development type and form, and rear-yard development. The current zoning east of State Street and Fort Union Blvd isn't conducive to overall development or consistent with best practices identified in the State Street Corridor Study.

The 7200 S Overlay zone was developed to supplement the Mixed-Use zone. Given that the subject area does not have Mixed-Use zoning and is zoned for State Street Commercial, the 7200 S Overlay is restricting development in ways that are not

conducive to the City's goals.

Midvale City Code 17-3-1(E.) outlines the criteria necessary for granting a rezone as follows:

*17-3-1 Criteria/Required Findings. ...rezoning of land is to be discouraged and allowed only under the limited circumstances herein described. Therefore, the planning commission may recommend, and the city council may grant, a rezoning application only if it determines, in written findings, that the proposed rezoning is consistent with the policies and goals of the general plan and that the applicant has demonstrated that the:*

- 1. Proposed rezoning is necessary either to comply with the general plan proposed land use map or to provide land for a community need that was not anticipated at the time of adoption of the general plan;*
- 2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or*
- 3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area.*

Based on the results of the State Street Corridor Study, the proposed rezone request satisfies Goal #1 and #3 listed above.

Public notice has been sent to property owners within 500 feet of the subject area. No written objections have been received as of the writing of this report.

Staff recommends approval.

\*\*\*

**APPLICANT:**

No comment.

\*\*\*

**PUBLIC HEARING:**

Chair Liedtke opened the public hearing.

Dave M., State Street business owner, draws concerns to current prostitution, drugs, and other criminal activity is a major issue. The city needs to monitor drug use and prostitution more closely. The area needs more control not less.

Sean Kerr, nearby resident, questions what happens if the overlay is removed. His question is what restrictions are being removed and what availabilities are open to developers.

\*\*\*

**MOTION: Vice Chair Erickson MOVED to close the public hearing. The motion was SECONDED by Commissioner Anderson. Chair Liedtke called for a voice vote. The motion was passed unanimously with all voting in favor.**

\*\*\*

**DISCUSSION:**

Elizabeth Arnold, Senior Planner, and Commissioner Anderson, clarify that this item was initiated by a consultant after a study was conducted of the area. The restrictions serve no purpose, and it is more of a house-cleaning item. It appears to be an error or inconsistency in the code.

Mr. Knobloch clarifies that the overlay references the Mixed-Use Zone but there are no parcels zoned as mixed-use, they are State Street Commercial.

Mr. McKnight states this is a legislative item and City Council will take the Commissioners' recommendation into consideration.

\*\*\*

**MOTION: Vice Chair Erickson MOVED that we recommend approval of the Rezone request on to the City Council with a recommendation of approval with the following findings: 1) Removing the 7200 S Overlay will allow for development that aligns with Midvale City's vision for the State Street area and 2) The request complies with the rezone procedure outlined in Midvale City Code 17-3-1(E). The motion was SECONDED by Commissioner Anderson. Chair Liedtke called for a roll call vote. The vote was as follows:**

Chair Liedtke	Yes
Vice Chair Erickson	Yes
Commissioner Anderson	Yes
Commissioner Snow	Yes
Commissioner Kasparian	Yes

**The motion passes unanimously.**

\*\*\*

**PUBLIC HEARINGS**

5. **Midvale City initiated a request to amend Sections 17-7-7.1, 17-7-7.4, 17-7-7.5, and 17-7- 7.8 of the State Street (SSC) zone of the Midvale City Municipal Code. These changes encourage enhanced building frontages and increased activation of outdoor spaces.**

Throughout 2022, Midvale City, in tandem with a consulting team, conducted the Midvale State Street Corridor Study. At the conclusion of the study, recommendations were provided to improve the State Street area by encouraging development that aligns with the City's vision for State Street. The Study explored land use concepts that addressed streetscape, building frontage, development type and form, and rear-yard development. The proposed text amendments will encourage enhanced building frontages and increased activation of outdoor spaces.

Public notice has been sent to affected entities as required in 17-3-9. B of the Municipal Code. No comments have been received as of the writing of this report.

*-AMENDMENTS TO THE ZONING CODE OR MAP-*

Midvale City Code 17-3-1 outlines the criteria necessary for amendments to the zoning code or map (Staff responses in **bold**):

17-3-1. E Amendments to the Zoning Code or Map.

1. Proposed rezoning is necessary either to comply with the general plan proposed land use map or to provide land for a community need that was not anticipated at the time of adoption of the general plan;

**Staff Response: The request is not for a rezone; rather, an amendment that addresses streetscape, building frontage, development type and form, and rear-yard development in the SSC zone and satisfies ongoing community needs.**

2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or,

**Staff Response: This criterion is not applicable.**

3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area;

**Staff Response: This criterion is not applicable.**

Staff recommends approval.

\*\*\*

**APPLICANT:**

No comment.

\*\*\*

**PUBLIC HEARING:**

Chair Liedtke opened the public hearing.

No comment.

\*\*\*

**MOTION: Vice Chair Erickson MOVED to close the public hearing. The motion was SECONDED by Commissioner Anderson. Chair Liedtke called for a voice vote. The motion was passed unanimously with all voting in favor.**

\*\*\*

**DISCUSSION:**

Mr. McKnight states this is a legislative decision, Commissioners make a recommendation to Council.

Mr. Knobloch states that UDOT was initially a part of the study and notified the city staff that not many changes to 7200 South or State Street are able to be made at this time.

\*\*\*

**MOTION: Vice Chair Erickson MOVED that we recommend approval of the amendment as provided in the attachments, with the findings included in the staff report. The motion was SECONDED by Commissioner Kasparian. Chair Liedtke called for a roll call vote. The vote was as follows:**

Chair Liedtke	Yes
Vice Chair Erickson	Yes
Commissioner Anderson	Yes
Commissioner Snow	Yes
Commissioner Kasparian	Yes

**The motion passes unanimously.**

\*\*\*

## PUBLIC HEARINGS

6. **Midvale City initiated amendment to Section 16.02.050(E) of the Midvale City Municipal Code. This amendment requires that private streets meet public street standards.**

Private streets in Midvale require a right-of-way width of 35' (20' pavement width). Public streets require a right-of-way width of 50' (25' pavement width). Sidewalks may be placed on one side or both sides of a private street, whereas, on a public street, they must be placed on both sides. Private streets have been proposed and approved for various infill developments throughout the City.

Staff recommend amending private street standards to match public street standards. This does not remove the option to provide private streets; rather, it requires private streets to match public street standards. This ensures that if private streets are one day turned over to the City—upkeep cost for property owners, for example—the City can more easily take over maintenance responsibilities.

*-AMENDMENTS TO THE ZONING CODE OR MAP-*

Midvale City Code 17-3-1 outlines the criteria necessary for amendments to the zoning code or map (Staff responses in **bold**):

17-3-1. E Amendments to the Zoning Code or Map.

1. Proposed rezoning is necessary either to comply with the general plan proposed land use map or to provide land for a community need that was not anticipated at the time of adoption of the general plan;

**Staff Response: The request is not for a rezone; rather, an amendment that requires new private streets to meet public street design standards.**

2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or,

**Staff Response: This criterion is not applicable.**

3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area;

**Staff Response: This criterion is not applicable.**

Staff recommends approval.

\*\*\*

**APPLICANT:**

No comment.

\*\*\*

**PUBLIC HEARING:**

Chair Liedtke opened the public hearing.

Mike Nancy, property owner in Midvale, intends to build a duplex on a smaller property that would only meet the 35-foot requirements.

Ms. Carlee, Nancy Family real estate agent, describes the extensive financial and developmental strain this new criterion has caused.

Mr. Nancy explains the 30-foot narrow section of 300 East and how restrictive the road is further down. The 50-foot restriction would make quite an odd road formation to narrow back into the city-owned portion of the road.

Kiligan Nancy, son of Mike Nancy, discourages this amendment and urges Commissioners to consider the lack of benefit to Midvale residents versus the city.

\*\*\*

**MOTION: Vice Chair Erickson MOVED to close the public hearing. The motion was SECONDED by Commissioner Anderson. Chair Liedtke called for a voice vote. The motion was passed unanimously with all voting in favor.**

\*\*\*

**DISCUSSION:**

Commissioner Snow states that as a developer, this would shut down a lot of projects.

Chair Liedtke questions if flag lots would be affected.

Adam Olsen, Community Development Director, answers that flag lots and density will not be affected.

Chair Liedtke questions the current standards for private streets.

Vice Chair Erickson questions the likelihood or frequency that the city must end up taking over and maintaining.

Mr. Olsen clarifies that this is not a current issue but a future concern.

\*\*\*

**MOTION: Commissioner Snow MOVED that we recommend denial of the amendment to Midvale Municipal Code Section 16.02.050 related to Private Street Design Standards, with the findings included in the staff report. The motion was SECONDED by Vice Chair Erickson. Chair Liedtke called for a roll call vote. The vote was as follows:**

Chair Liedtke	Yes
Vice Chair Erickson	Yes
Commissioner Anderson	Yes
Commissioner Snow	Yes
Commissioner Kasparian	Yes

**The motion passes unanimously.**

\*\*\*

## **PUBLIC HEARINGS**

- 7. Midvale City initiated an amendment that creates Chapter 17-6 Supplementary Regulations within the Midvale Municipal Code. The effect of this amendment will be that Midvale City adopts the Jordan Valley Water Conservancy District Water Efficiency Standards.**

This city-initiated request to amend the Midvale City Municipal Code provided in Exhibit A creates Chapter 17-6 and will be entitled “Supplementary Regulations”. The purpose of this chapter is to consolidate supplementary regulations that have general applicability across multiple zones into one location within the code.

One of these supplementary regulations with general applicability across multiple zones concerns Water Conservation Standards which are administered through the Jordan Valley Water Conservancy District (JVWCD) and can be found at this link: <https://jvwcd.org/file/657b260c-9465-42d1-b15d-52693a74359e/Water-Efficiency-Standards-Revised-as-of-June-10-2020.pdf>.

Midvale residents are eligible for full landscaping conversion incentives through JVWCD as soon as the City adopts the above linked document. The standards are not in conflict with Midvale’s zoning requirements; they simply add recommendations and requirements that emphasize the responsible use of water, especially regarding the use of turf.

Public notice has been sent to affected entities as required in Section 17-3-9 of the Midvale Municipal Code. At the time of this writing no public comment has been received.

Midvale City Code 17-3-1 outlines the criteria necessary for amendments to the zoning code or map (Staff responses in **bold**):

MMC Section 17-3-1€: Amendments to the Zoning Code or Map

E. Criteria/Required Findings. The city's zoning is the result of a detailed and comprehensive appraisal of the city's present and future land use allocation needs. In order to establish and maintain sound, stable, and desirable development within the city, **rezoning of land is to be discouraged and allowed only under the limited circumstances herein described.** Therefore, the planning commission may recommend, and the city council may grant, **a rezoning application only if it determines, in written findings, that the proposed rezoning is consistent with the policies and goals of the general plan** and that the applicant has demonstrated that the:

1. Proposed rezoning is necessary either **to comply with the general plan proposed land use map** or to **provide land for a community need** that was not anticipated at the time of adoption of the general plan;

**Staff Response: This criterion is not applicable because the request is not for a rezone; rather, an amendment to the municipal code.**

2. Existing zoning was either the result of a **clerical error or a mistake of fact**, or that it failed to consider the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or

**Staff Response: This criterion is not applicable because the request is not for a rezone; rather, an amendment to the municipal code.**

3. **Land or its surrounding environs has changed or is changing** to such a degree that it is in the **public interest to encourage redevelopment** of the area or to recognize the changed character of the area.

**Staff Response: This criterion is not applicable because the request is not for a rezone; rather, an amendment to the municipal code.**

Staff recommends approval.

\*\*\*

**APPLICANT:**

No comment.

\*\*\*

**PUBLIC HEARING:**

Chair Liedtke opened the public hearing.

No comment.

\*\*\*

**MOTION: Vice Chair Erickson MOVED to close the public hearing. The motion was SECONDED by Commissioner Snow. Chair Liedtke called for a voice vote. The motion was passed unanimously with all voting in favor.**

\*\*\*

**DISCUSSION:**

Commissioner Edwards is concerned that the limit of 250 square feet or 35% of landscape area for each parcel is very restrictive. If a resident were to want a full yard of lawn, how limited would they be?

Commissioners agree that this is very restrictive and not very attractive besides it is supportive of the desert climate of Utah.

Mr. Knobloch clarifies that exceptions can be made with proper reasoning.

Commissioner Snow questions how restrictive this would be to new development versus existing landscape.

Commissioner Anderson asked what the end goal of this adoption is.

Mr. Olsen states that this is resident, and Council initiated. Many residents are requesting the adoption of this program to be eligible for the JWCD Water Efficiency Standards rebate.

\*\*\*

**MOTION: Vice Chair Erickson MOVED that we recommend approval of the ordinance creating Chapter 17-6 of the Midvale Municipal Code and enacting the JWCD Water Efficiency Standards, with the findings included in the staff report. The motion was SECONDED by Commissioner Kasparian. Chair Liedtke called for a roll call vote. The vote was as follows:**

Chair Liedtke	Yes
Vice Chair Erickson	Yes

Commissioner Anderson	Yes
Commissioner Snow	Yes
Commissioner Kasparian	Yes

**The motion passes unanimously.**

\*\*\*

## **PUBLIC HEARINGS**

8. **Midvale City initiated a request to amend Sections 17-7-12.2, 17-7-12.5, and 17-7-12.7 of the Regional Commercial (RC) zone of the Midvale City Municipal Code. These changes remove Manufacturing, Outdoor Storage, and Warehouse/Distribution as uses in the zone and any associated references to them.**

Midvale City requests an amendment to the above-listed sections of the Midvale City Municipal Code. These sections regulate the Use Table, Outdoor Storage regulations, and Parking Standards of the Regional Commercial (RC) zone. The proposed amendment is to remove Manufacturing, Outdoor Storage, and Warehouse/Distribution as uses in the zone and any associated references to them.

Public notice has been sent to affected entities as required in 17-3-9. B of the Municipal Code. No comments have been received as of the writing of this report.

### *-AMENDMENTS TO THE ZONING CODE OR MAP-*

Midvale City Municipal Code 17-3-1 outlines the criteria necessary for amendments to the zoning code or map (Staff responses in **bold**):

#### 17-3-1. E Amendments to the Zoning Code or Map.

1. Proposed rezoning is necessary either to comply with the general plan proposed land use map or to provide land for a community need that was not anticipated at the time of adoption of the general plan;  
**Staff Response: The request is not for a rezone; rather, an amendment that removes certain uses from the individual zone and any associated references to them.**

2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to consider the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or,  
**Staff Response: This criterion is not applicable.**

3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area;

**Staff Response: This criterion is not applicable.**

Staff recommends approval.

\*\*\*

**APPLICANT:**

No comment.

\*\*\*

**PUBLIC HEARING:**

Chair Liedtke opened the public hearing.

No comment.

\*\*\*

**MOTION: Commissioner Anderson MOVED to close the public hearing. The motion was SECONDED by Commissioner Snow. Chair Liedtke called for a voice vote. The motion was passed unanimously with all voting in favor.**

\*\*\*

**DISCUSSION:**

Commissioner Snow questions the benefit of this amendment. This may hurt Midvale by turning away companies that fall under manufacturing descriptions.

Commissioner Edwards brings up the desires zoning in the area versus what is there now.

Mr. Olsen draws attention to the different zoning options, Regional Commercial versus Clean Industrial. The zone can be changed now or in the future.

Mr. Knobloch clarifies that existing businesses would be grandfathered.

Commissioners discuss rezoning multiple areas simultaneously instead of limiting specific areas for no reason. The Commissioners decide more work needs to be done before moving forward.

Mr. McKnight clarifies that this is another legislative decision and will be voted upon by the City Council.

\*\*\*

**MOTION: Vice Chair Erickson MOVED that we recommend tabling of the the amendment as provided in the attachments to reinvestigate by the end of the year to address concerns with clean industrial and rezoning of other such areas, with the findings included in the staff report. The motion was SECONDED by Commissioner Anderson. Chair Liedtke called for a roll call vote. The vote was as follows:**

Chair Liedtke	Yes
Vice Chair Erickson	Yes
Commissioner Anderson	Yes
Commissioner Snow	Yes
Commissioner Kasparian	Yes

**The motion passes unanimously.**

\*\*\*

### **STAFF UPDATE/OTHER BUSINESS**

- 1) Upcoming meetings and Projects
  - *Nominations:*
    - *Chair: Commissioner Snow nominates Candice Erickson.*
      - *Candice Erickson accepts. Commissioners unanimously agreed.*
    - *Vice Chair: Vice Chair Erickson nominates Commissioner Anderson.*
      - *Robyn Anderson accepts. Commissioners unanimously agreed.*

### **ADJOURN**

Vice Chair Erickson made the motion to adjourn 9:08 p.m. No one opposed. The meeting adjourned 9:08 p.m.

---

Aubrey Ruiz, CD Executive Assistant

Approved this \_\_\_\_ day of \_\_\_\_\_ 2024.

DRAFT

**Essex Court Condominiums Homeowners Association**  
**937 Essex Court Way Unit 5**  
**(6955 South 900 East)**  
**Midvale, Utah 84047**

March 9, 2024

Subject: Public Comments against any Rezoning request and amendment to property located at 7001 South 900 East and the building of a seven story 200 unit apartment complex.

To: Midvale Planning Commission and Staff Members

Essex Court Condominiums Homeowners Association (Essex Court HOA) is opposed to any request to rezone the property located at 7001 South 900 East from its existing zone to allow for the building of a seven story 200 unit apartment complex. It appears to Essex Court HOA the primary purpose for the recently proposed (and subsequently withdrawn) change of rezoning is to allow for Minerva Real Estate Development to build a seven story, 200 unit apartment complex. Essex Court HOA is opposed to this project.

Essex Court HOA has 72 units each with an attached two car garage (total of 144 parking spaces) and an additional 34 outside parking spaces for visitors. Essex Court HOA has an easement to use the common driveway from 900 East to its entry. This is the only access Essex Court HOA residents have to enter and exit from Essex Court.

1. Vehicle Traffic. To be more specific, the apartment planning documents indicate that the entry/exit location from the apartment complex parking facilities will be located on the existing driveway from 900 East to the entry of Essex Court Condominiums. It is logical to assume that building a 200 unit apartment complex and locating the apartment complex's parking entry/exit to the driveway access to Essex Court will cause immense traffic congestion for residents' morning and evening commutes to and from their homes. In addition, this will impact how residents of both Essex Court and the apartment complex enter 900 East to begin their commutes including traffic congestion on 900 East (North and South) and the common driveway.
2. Property Values. Essex Court HOA believes the building of this apartment complex will have a negative impact on the value of homeowner properties. This proposed apartment complex will deter prospective buyers from purchasing a home in Essex Court by hiding Essex Court from the street, blocking sunlight and its westerly view, and add major traffic congestion with over approximately 450 vehicles from both Essex Court and the proposed apartment complex will trying to enter and exit on a daily basis. This is not acceptable.
3. Parking. Even though the apartment complex provides for 247 parking spaces, this number appears to be short by 50 parking spaces as indicated by Midvale City Planning Commission Staff. Essex Court HOA does not see any provisions for accommodating apartment complex tenants with more than one vehicle or their visitors potentially causing an overflow into Essex Court. This is not

acceptable. Essex Court HOA has strict parking rules that its residents abide by so that space is available for its guest and visitors. Essex Court HOA believes the shortage of parking space indicated by the apartment complex planning documents will place a burden on Essex Court HOA to increase its parking enforcement. Nonresident parking in Essex Court will inevitably result in vehicle towing.

4. Safety. Essex Court HOA has already seen an increase in the number of homeless and vagrant people entering our complex. We believe the construction of the proposed apartment complex will only add to this number of incursions causing a safety threat to homeowners living in Essex Court.
5. Fire Suppression. When the building located on this site burned in January 2021, the fire suppression equipment was able to surround the building to contain the fire. The proposed plan for the apartment complex closes off the corridor between the apartment complex and west boundary of Essex Court. Essex Court HOA strongly suggests the local Fire Marshal review this plan to ensure there is adequate space and accessibility available for fire suppression equipment to contain a fire in either Essex Court and/or the proposed apartment complex.
6. Noise Nuisance. Essex Court enjoys a quiet and peaceful neighborhood environment. The location of the proposed apartment complex's swimming pool and amenity deck borders the boundary between Essex Court HOA and the apartment complex. No doubt this will create a noise and nuisance problem for the residents of Essex Court HOA, disrupting the environment we have enjoyed for many years.

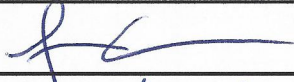

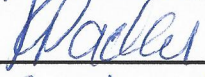
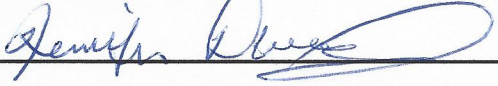
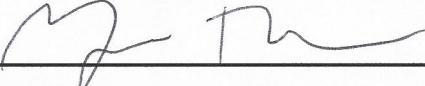



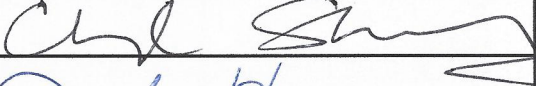
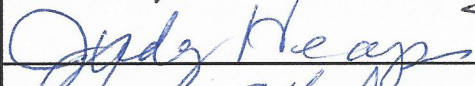
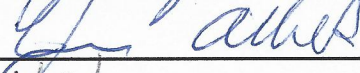
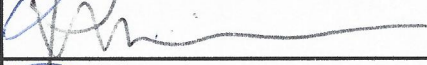

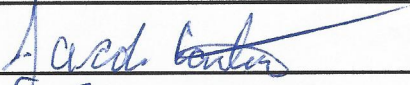

Attached to this letter are signatures from 42 Essex Court HOA homeowners and residents that are opposed to the construction of this proposed apartment complex. Please consider these citizens' opinion as you make your decision regarding any proposed zoning changes.

Essex Court HOA appreciates the Midvale City Planning Commission's careful consideration of its concerns. Essex Court HOA believes the negative impact of this project is substantial and of serious concern. Our intentions are to strongly object to the further implementation of this project. We intend to continue monitoring the progress of this apartment complex proposal. Essex Court HOA also asks that it be included in any and all future meetings regarding this proposal and notified if any further issues arise that Essex Court HOA should be aware of. Please contact: Edward Kimball, 985 Essex Court Way Unit 5, Midvale, Utah 84047; 801-651-0739.



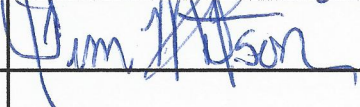
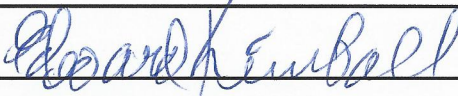
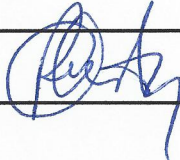


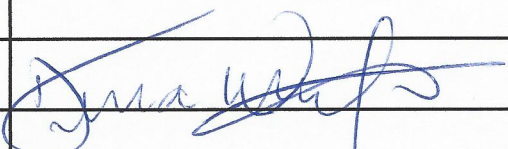



Best Regards,

Essex Court HOA Management Committee  
Tim Matson, Chairperson  
Morgan Smart, Vice Chairperson  
Nicole Mitchell, Treasurer  
Edward Kimball, Secretary  
Judy Heaps, Committee Member




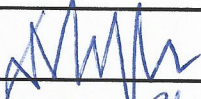

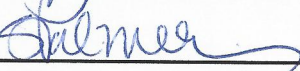

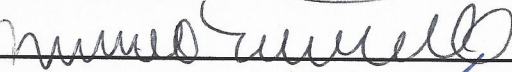
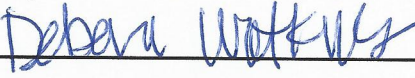
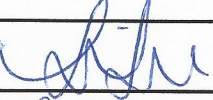
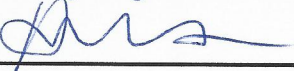

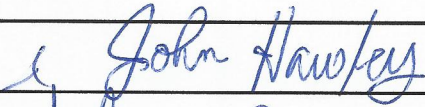
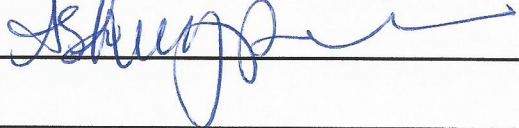
Essex Court HOA Homeowners Petition 3/10/24

Address	Homeowner	Signature
937 Essex Court Way Unit #1 Midvale, UT 84047	Holden, Greene	
937 Essex Court Way Unit #2 Midvale, UT 84047	Osborn, Aimee	
937 Essex Court Way Unit #3 Midvale, UT 84047	Armstrong, Rebecca	
937 Essex Court Way Unit #4 Midvale, UT 84047	Parker, Glenn & Kate	
944 Essex Court Way Unit #1 Midvale, UT 84047	Dunwoody, Jennifer	
944 Essex Court Way Unit #2 Midvale, UT 84047	Glavas, James	
944 Essex Court Way Unit #3 Midvale, UT 84047	Therese Van Groningen, Megan	
944 Essex Court Way Unit #4 Midvale, UT 84047	Malloy, Nathan Albert	
955 Essex Court Way Unit #1 Midvale, UT 84047	Emy Cordano	
955 Essex Court Way Unit #2 Midvale, UT 84047	Davis, France	
955 Essex Court Way Unit #3 Midvale, UT 84047	Rugebregt, Michael & Julia	
955 Essex Court Way Unit #4 Midvale, UT 84047	Shelley Cheryl Shelly, Cheryl	
955 Essex Court Way Unit #5 Midvale, UT 84047	Heaps, Judy	
955 Essex Court Way Unit #6 Midvale, UT 84047	Allred, Jim	
955 Essex Court Way Unit #7 Midvale, UT 84047	Leslie, Kindle	
955 Essex Court Way Unit #8 Midvale, UT 84047	Bruce, Thomas & Paula	
975 Essex Court Way Unit #1 Midvale, UT 84047	Chindlund, Julie	
975 Essex Court Way Unit #2 Midvale, UT 84047	Nobel, Linda	
975 Essex Court Way Unit #3 Midvale, UT 84047	Sheets, Michael & Hilary	
975 Essex Court Way Unit #4 Midvale, UT 84047	Smerkous, Domotri (R) M&M	
975 Essex Court Way Unit #5 Midvale, UT 84047	Sterns, Betty	
975 Essex Court Way Unit #6 Midvale, UT 84047	Carter, Jacob	
975 Essex Court Way Unit #7 Midvale, UT 84047	Lovell, Ashlyn & Zachery	

**Essex Court HOA Homeowners Petition 3/10/24**

<b>Address</b>	<b>Homeowner</b>	<b>Signature</b>
975 Essex Court Way Unit #8 Midvale, UT 84047	Post, Trudy	
985 Essex Court Way Unit #1 Midvale, UT 84047	Kingore, Samuel & Edith	
985 Essex Court Way Unit #2 Midvale, UT 84047	Peterson, Elaine	
985 Essex Court Way Unit #3 Midvale, UT 84047	Matson, Tim	
985 Essex Court Way Unit #4 Midvale, UT 84047	Burton, Christopher (R)	
985 Essex Court Way Unit #5 Midvale, UT 84047	Kimball, Edward	
985 Essex Court Way Unit #6 Midvale, UT 84047	Siesta Holdings LLC (R)	
985 Essex Court Way Unit #7 Midvale, UT 84047	Olsen, Christopher	
985 Essex Court Way Unit #8 Midvale, UT 84047	Christy, Raymond	
991 Essex Court Way Unit #1 Midvale, UT 84047	Cowan, Mark	
991 Essex Court Way Unit #2 Midvale, UT 84047	Nelson, Nicholas (R)	
991 Essex Court Way Unit #3 Midvale, UT 84047	Shannon, Mary	
991 Essex Court Way Unit #4 Midvale, UT 84047	McPhie, Jason	
991 Essex Court Way Unit #5 Midvale, UT 84047	Tice, Dylan	
991 Essex Court Way Unit #6 Midvale, UT 84047	Wright, Debra	
991 Essex Court Way Unit #7 Midvale, UT 84047	Wolcott, Shay & Nicole	
991 Essex Court Way Unit #8 Midvale, UT 84047	Gunn, Kenneth	
994 Essex Court Way Unit #1 Midvale, UT 84047	Phillips, Tom & Mary	
994 Essex Court Way Unit #2 Midvale, UT 84047	Beck, Hans (Michael)	
994 Essex Court Way Unit #3 Midvale, UT 84047	Hanni, Mikel	
994 Essex Court Way Unit #4 Midvale, UT 84047	Verhoef, (Nick) Clarence	
995 Essex Court Way Unit #1 Midvale, UT 84047	Dupree, Mary (R)	
995 Essex Court Way Unit #2 Midvale, UT 84047	Bell, Steven & Patsy	
995 Essex Court Way Unit #3 Midvale, UT 84047	Kanamu, Jeff & Diane (R)	

**Essex Court HOA Homeowners Petition 3/10/24**

<b>Address</b>	<b>Homeowner</b>	<b>Signature</b>
995 Essex Court Way Unit #4 Midvale, UT 84047	Amburn, Larry	
6980 Essex Court Circle Unit #1 Midvale, UT 84047	Schieck, Marlene	
6980 Essex Court Circle Unit #2 Midvale, UT 84047	Giris, Vidas	
6980 Essex Court Circle Unit #3 Midvale, UT 84047	Bigelow, Jonathan	
6980 Essex Court Circle Unit #4 Midvale, UT 84047	David Taylor	
6980 Essex Court Circle Unit #5 Midvale, UT 84047	Hurst, Cynthia, Morgan Smart	
6980 Essex Court Circle Unit #6 Midvale, UT 84047	Palmer, John & Sheri	
6980 Essex Court Circle Unit #7 Midvale, UT 84047	Mullins, Brittany	
6980 Essex Court Circle Unit #8 Midvale, UT 84047	Munsee, Braden	
7000 Essex Court Circle Unit #1 Midvale, UT 84047	Watkins, Debera	
7000 Essex Court Circle Unit #2 Midvale, UT 84047	Osabouhien, Scott - Amber	
7000 Essex Court Circle Unit #3 Midvale, UT 84047	Gidley, Eileen	
7000 Essex Court Circle Unit #4 Midvale, UT 84047	Young, Morgan	
7000 Essex Court Circle Unit #5 Midvale, UT 84047	Li Residence	
7000 Essex Court Circle Unit #6 Midvale, UT 84047	Zhang, Yuting	
7000 Essex Court Circle Unit #7 Midvale, UT 84047	Larsen, Christian	
7000 Essex Court Circle Unit #8 Midvale, UT 84047	Ladue, Scott N. (R)	
7005 Essex Court Circle Unit #1 Midvale, UT 84047	Abegglen, Nedra	
7005 Essex Court Circle Unit #2 Midvale, UT 84047	Presson, Paul	
7005 Essex Court Circle Unit #3 Midvale, UT 84047	Raleigh, Casey	
7005 Essex Court Circle Unit #4 Midvale, UT 84047	Hawley, John	
7005 Essex Court Circle Unit #5 Midvale, UT 84047	Peacock, Ashley	
7005 Essex Court Circle Unit #6 Midvale, UT 84047	Ransom, Natalie	
7005 Essex Court Circle Unit #7 Midvale, UT 84047	Kwong, Kimmy Kyung	

Essex Court HOA Homeowners Petition 3/10/24

<b>Address</b>	<b>Homeowner</b>	<b>Signature</b>
7005 Essex Court Circle Unit #8 Midvale, UT 84047	Todoran, Micheal & Rhoda	



5

E

**Essex Court HOA**

10:23AM (7 hours ago)

Mary, please text me a short letter indicating that you are in agreement with other Essex Court homeowners in their opposition to building a 200 unit apartment

M

**Mary Phillips**

11:46AM (5 hours ago)

to me

I am in agreement with other Essex Court homeowners in their opposition to building a 200 unit apartment complex on the lot located at 7001 South 900 East, Midvale, UT 84047. I am opposed to this density in this location, including I am opposed to the plan for these 200 additional units to use the one narrow no traffic light entry/exit that currently connects our community to the heavily traveled four lanes of 900 East and Ft Union. Every day, traffic builds up at the 900 east and Fort Union traffic light intersection, blocking safe entry/exit from our complex. Don't add 200 (up to 400 if 2 people/unit) more cars trying to navigate this traffic nightmare.

Mary Phillips  
994 East Essex Court Way number 1

Sent from my iPhone

E

Mary Phillips

Sans Serif

Send

Address

Name

Signature

955 Essex Courtway Dalton & Kelsey

John Dalton Kelsey

Unit #1, Midvale, UT 84047

Moore

Rebec Moore

## FW: Essex Court HOA Opposition Letter to Proposed Rezoning

Midvale Planning Mailbox <Planning@midvale.com>

Tue 4/9/2024 8:29 AM

To: Wendelin Knobloch <wknobloch@midvale.com>

📎 1 attachments (12 MB)

Essex Court Opposition Letter 4-8-24.pdf;



**Jonathan Anderson**

*Planner II*

Midvale City

7505 S Holden Street 801-567-7238

Midvale, UT 84047

[janderson@midvale.com](mailto:janderson@midvale.com)

Hours: M-Th, 8am to 6pm

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**From:** EDWARD P Kimball <drgn91f@msn.com>

**Sent:** Monday, April 8, 2024 6:44 PM

**To:** Midvale Planning Mailbox <Planning@midvale.com>

**Subject:** Essex Court HOA Opposition Letter to Proposed Rezoning

Attached is a letter and Petition in opposition to the requested zone map amendment to a property located at 7001 South 900 East as indicated as Item b. on the Midvale City Planning Commission Agenda for Wednesday, April 10, 2024.

Please include this letter in the record as part of the public comments regarding this requested zone change.

**Essex Court Condominiums Homeowners Association  
937 Essex Court Way Unit 5  
(6955 South 900 East)  
Midvale, Utah 84047**

April 8, 2024

Subject: Public Comments against any Rezoning and amendment to zoning of property located at 7001 South 900 East and in particular any application for a seven story 200 unit apartment complex.

To: Midvale City Planning Commission Members ("Commission") and Staff

Essex Court Condominiums Homeowners Association (Essex Court HOA) is opposed to any request for a Zone Map Amendment to the property located at 7001 South 900 East (the "Parcel") from its existing Regional Commercial Zone to the application of Regional Commercial Residential Overlay Zone ("RCRO") for the purpose of building a seven story 200 unit apartment complex. Essex Court HOA is unanimously opposed to this project.

First, there is no legal or evidentiary support for a change in zoning of any kind. Neither the applicant nor the planning department have presented the public with any official reason or necessity for any change in zone whatsoever or specifically for a change from the current Regional Commercial Zone to the Regional Commercial Residential Overlay Zone. Nor has there been any demonstrable nor substantiated necessity for any zone change let alone the one specifically before this Commission.

Essex Court HOA firmly believes that there should be NO ZONING CHANGE whatsoever but certainly not one involving a rezone to the one under Chapter 17-7-12.1. So far, the only reason provided for this rezone has been one that is not even listed and that is – to line the pockets of the landowner and the developer to the tune of a minimum of \$300,000 per month (conservative estimate). The financial windfall to the landowner/applicant should never be a good reason to approve any rezone let alone on this abhorrent and antithetical to the immediate community zones around it. If people who have lived here for 30 years or longer cannot imagine any benefit to this rezone, how can the people's city representatives see any benefit? "[I]magine" is the right word because there is no real evidentiary support for any benefit whatsoever. Whatever questions have been posed and then answered by the Staff have been solely conjectural in nature. How is it even possible for the Commission to make such an impactful decision based on no evidence and within such a short period of time since the application? This seems not only impossible but unreasonable, incompetent and in fact, reckless. We would ask that this rezone be denied or at the very least reposted, re-noticed, and additional, significant time allotted for a proper response from all the affected citizens within a mile of this proposed rezone.

Second, there has not been proper notice of a change in zoning to any of the immediate neighbors of this property as required by Utah law. No substantiation of any kind for this zone change was provided to the public in order for the public to make an informed evaluation and decision on such a bold move by the planning department. No formal official notice has been provided to each member of the public most impacted by this

zoning change – the members of Essex Court. The proposed zoning change directly and greatly impacts the health, safety, and welfare of each member of Essex Court yet, many of the homeowners received no notice from the city. Would this hold up legally? Highly unlikely especially when the community is landlocked, and a minimum of 200 more people will use the ingress/egress easement (addressed below) daily. This is not tenable on any level let alone any level that promotes the health, safety, and welfare of Midvale citizens. It is also concerning to us that other impacted residents who will be directly affected by this zoning change have not received any notice of this request for a zoning change. Due process appears to have been intentionally ignored by the city and the applicant. Prior to any consideration of any zoning change, this particular issue should be remedied and the request for any change tabled until such time as all impacted persons are appropriately and timely notified.

Third, Essex Court HOA proposes that if there is to be a zone change that the Commission and Staff propose alternatives other than the RCRO such as Chapter 17-7-3, Multifamily Residential-Medium Density Zone (RM-12) or Chapter 17-7-4, Multifamily Residential -Medium to High Density Zone (RM-25). These zones are far more compatible with the zoning for the surrounding communities of Essex Court Condominiums, Fair Meadows Condominiums and The Springs Apartment Complex and the general plan in this area north of Fort Union Boulevard.

Fourth, Essex Court HOA alleges that the city is using poor, unsubstantiated bases to attempt to bolster the applicant against the surrounding neighborhoods. The RCRO rezone doesn't even make sense in relation to the surrounding zones and communities. In fact, directly across the street from this supposed RCRO would be a single family residential zone, which doesn't occur in any other RCRO in Midvale. The general approach taken by the planning department appears to accommodate the parcel in question to the RCRO instead of vice versa. Instead of asking: "What is best for the very well established communities surrounding this parcel and is this RCRO really the best option to ensure the continued viability, health, safety and welfare of the Essex Court community and surrounding communities?" the planners appear to be asking "how do we appease the applicant and landowner so that their wishes may be fulfilled." As such the city appears to be giving unequal and unfair consideration to the RCRO rezone and thereby discriminating against a community that has been in this area for 45 years and prior to anything else in this area. The city appears to be viewing the RCRO in a vacuum for an area where it's not suited and for which there is no precedent. The RCRO is meant for isolated areas which are completely surrounded by the Regional Commercial Zone only. This parcel is not that, it's far from that, but this does not appear to be addressed by the city, which seemingly proposed this rezone without a full cost-benefit analysis equal to both applicant and protesters. Without such an approach a case for discrimination seems inevitable.

Last, in addressing the concerns specifically related to Chapter 17-7-12.1 Essex Court HOA submits the following:

The rezoning of this parcel of land and construction of the proposed 200 unit apartment complex will cause a major disruption to the quality of life now enjoyed by the homeowners living in Essex Court. Essex Court was built in 1979. It is a diverse community. Some of the homeowners have lived in Essex Court over 30 years and several have lived in Essex Court over 20 years. Essex Court has a mix of both seniors as well as new families and single homeowners.

There is no discussion by the developer addressing the impact the proposed 200 unit apartment complex will have on the residents of Essex Court. There are 134 people living in Essex Court Condominiums. Essex Court is landlocked with no access to public streets. Ingress and egress to Essex Court is through an easement that was obtained in 1978. This easement will be severely and negatively impacted/disrupted if the 200 unit apartment building is allowed to be constructed. In addition, two major utilities (water and natural gas pipelines) are buried under this easement.

Why is this important? Essex Court was built over 45 years ago and over these years Essex Court has maintained a compatible relationship with its neighbors, i.e., the Medical Office Building owned by the Baghoomian Family, located at 7001 South 900 East; Sovereign Financial Group owned by Mr. David A. McBride located at 6947 South 900 East; and the Springs of Country Woods Apartments located at 6945 South Well Wood Road, Midvale, Ut 84047.

A high quality urban area already exist around the plot at 7001 South 900 East. The addition of an apartment complex with 200 units will be detrimental to this high quality environment by the impact 200 plus residents will have competing for space. Even though the developer has revised its original plan the developer has not addressed the bottom line issue of congestion that will be cause to this area by warehousing more people in a high quality urban area.

Essex Court believes the vehicle traffic congestion alone that will be caused by the addition of 200 plus vehicles will create a great deal of friction between the neighbors surrounding the plot of land at 7001 South 900 East.

Essex Court HOA has 72 units each with an attached two car garage (total of 144 parking spaces) and an additional 34 outside parking spaces for visitors. Essex Court HOA has an easement to use the common driveway from 900 East to its entry. This is the only access Essex Court HOA residents have to enter and exit from Essex Court.

1. Vehicle Traffic.

- a. To be more specific, the apartment planning documents indicate that the entry/exit location from the apartment complex parking facilities will be located on the existing driveway from 900 East to the entry of Essex Court Condominiums. It is logical to assume that building a 200 unit apartment complex and locating the apartment complex's parking entry/exit to the driveway access to Essex Court will cause immense traffic congestion for residents' morning and evening commutes to and from their homes. In addition, this will impact how residents of both Essex Court and the apartment complex enter 900 East to begin their commutes including traffic congestion on 900 East (North and South) from the common driveway.
- b. The Medical Office Building located on this parcel of land was built over 30 years ago. The parking area around this building provided very adequate parking for tenants and patrons. In addition, there has never been any impediment to ingress and egress to 900 East by tenants and patrons of this Building, residents of Essex Court HOA, and employees and patrons of Sovereign Financial Group. In addition, it had two driveway entrances that fronted 900 east. It appears from the proposed planning documents

only one these entrances will be accessible to residents of the proposed apartment complex.

- c. The developer's revised concept does not provide for any access to Essex Court even though Essex Court HOA has an easement for this right-of-way that was put in place long before the Medical Office Building that burned was built or the Baghoomian Family owned this building.
2. Public Transportation. There is no public transportation that travels along the 900 East corridor between 6600 South and Fort Union Boulevard (7200 South).
    - a. There is public transportation (bus route) that runs east and west along Fort Union Boulevard. The UTA Bus #72 runs every half hour. The nearest bus stops for Bus #72 are approximately one-quarter mile from 7001 South 900 East. Bus #972 – Ski Bus to Brighton Ski Area, also runs east and west along Fort Union Boulevard utilizing the same bus stops as the Bus #72. It also runs every half hour but only during winter months.
    - b. There is public transportation (bus route) that runs east and west along 6600 South from 900 East to the Fashion Place West Trax Station. The UTA Bus #209. At 900 East this bus route travels north and south along 900 East until reaching downtown Salt Lake City. The distance from 7001 South 900 East to 6600 South to catch this bus is approximately one-half mile.
    - c. The distance for the bus stops for all three of these bus routes does not make them convenient for residents to walk to, especially during days of inclement weather. Therefore, residents of Essex Court choose to drive to their intended destination as will residents of the proposed apartment complex, if this building is constructed adding to vehicle congestion.
  3. Property Values. Essex Court HOA believes the building of this proposed apartment complex will have a negative impact on the value of homeowner properties. This proposed apartment complex will deter prospective buyers from purchasing a home in Essex Court by hiding Essex Court from the street, blocking sunlight and its westerly view, and adding major traffic congestion with over approximately 450 vehicles from both Essex Court and the proposed apartment complex trying to enter and exit on a daily basis. This is not acceptable. The previous Medical Office Building was only two stories tall and had 360 degree access to all its entrances. There were no vehicle congestion problems when this building existed.
  4. Parking. Even though the proposed apartment complex provides for approximately 322 parking spaces, Essex Court HOA does not see any provisions for accommodating apartment complex tenants with more than one vehicle or their visitor's vehicles potentially causing an overflow into Essex Court. This is not acceptable. Essex Court HOA has strict parking rules that its residents abide by so that space is available for its guests and visitors. Essex Court HOA believes the shortage of parking space indicated by the apartment complex planning documents will place a burden on Essex Court HOA to increase its parking enforcement. Nonresident parking in Essex Court will inevitably result in vehicle towing.
  5. Safety. Essex Court HOA has already seen an increase in the number of homeless and vagrant people entering our complex. We believe the construction

of the proposed apartment complex will only add to this number of incursions causing a safety threat to homeowners living in Essex Court.

6. Emergency Vehicles and Fire Suppression Equipment Access. When the building located on this site burned in January 2021, the fire suppression equipment was able to surround the building to contain the fire. Even though the revised concept introduces an additional 30-40 feet of setback, Essex Court HOA strongly suggests the local Fire Marshal review this plan to ensure there is adequate space and accessibility available for fire suppression equipment or other emergency types of vehicles to respond to emergency situations via the only ingress and egress route to Essex Court.
7. Noise Nuisance. Essex Court enjoys a quiet and peaceful neighborhood environment. The location of the proposed apartment complex's swimming pool and amenity decks open to the east and the building structure surrounding these areas will act as echo chamber sending the noise from these areas toward Essex Court homes. No doubt this will create a noise and nuisance problem for the residents of Essex Court HOA, disrupting the peaceful environment we have enjoyed for many years.
8. Land Contour. There has been no change to the contour of the land where this plot is located except for the fire that destroyed the Medical Office Building. Essex Court HOA realizes that this is a valuable piece of property but, the surrounding environs to this land have not changed. The existing commercial and residential areas are the same. Adding a seven story 200 unit apartment complex will negatively impact the characteristics of this area by at least doubling the number of occupants and causing major vehicle traffic congestion on a daily basis.
9. Existing Foot Traffic. In the 30 years I've lived in Essex Court HOA I haven't noticed a large amount of foot traffic going to and from the commercial properties located close to Essex Court HOA. What I do notice is that when people want to visit the commercial properties located on the south side of Fort Union Boulevard, they drive their automobiles. The big reason for this is, I believe, they don't want to walk across Fort Union Boulevard, it's too dangerous.
10. New Apartment Complex. There is a recently completed apartment complex located in the vicinity of South Union Avenue and 900 East. This apartment complex, the North Union Apartments has 263 units which add to the congestion around our area. The apartment complex is closer to commercial properties along Fort Union Boulevard and tenants do not need to cross Fort Union as frequently as those of us living on the north side of Fort Union.
11. 900 East Surrounding Neighborhood. 900 East between 6600 South on the north and 7200 South on the south has twelve residential homes/buildings with one of these the entrance to Fair Meadows condominium complex and one the 900 East entrance to the Springs Apartment Complex. The rest of the real estate along this corridor contains nineteen commercial buildings with adequate parking and ingress and egress driveways. All of these buildings, both residential and commercial, are no more than three stories tall and have been designed with a compatible architecture. Adding a seven story 200 unit apartment building will

only add an eyesore that greatly detracts from the serene environment that now exists along this corridor.

12. High Quality Urban Area. A high quality urban area already exists along the north and south sides of Fort Union Boulevard (7200 South) from 700 East on the west to Union Park Avenue on the east. This area has been and continues to be supported by the long time established residential communities around this area. The revised concepts made by the developer do not address the bottom line issue of increased congestion to this location causing a negative impression on people living outside this area to patronize the local commercial businesses. Parking spaces in the lots associated with these businesses on most days can be challenging which is a strong indication as to how these businesses are now patronized.

13. Essex Court HOA asks the following questions:

- a. How has the applicant demonstrated that rezoning this plot of land is necessary to comply with the general plan and community need?
- b. What does the applicant believe is the community need?
- c. What is the community need that the office building that burned down didn't provide?
- d. Why is it necessary to build a 200 unit apartment complex?
- e. Has the developer investigated the impact a 200 unit apartment complex will have on public utilities, i.e., water, sewer, storm water runoff, fire and emergency services.
- f. Where will trash bins be located and how will garbage trucks travel to these bins?

Attached to this letter are signatures from 57 Essex Court HOA homeowners and residents that are opposed to the construction of this proposed apartment complex. Please consider these citizens' opinion as you make your decision regarding any proposed zoning changes.

Essex Court HOA appreciates the Midvale City Planning Commission's careful consideration of its concerns. Essex Court HOA believes the negative impact of this project is substantial and of serious concern. Our intentions are to strongly object to the further implementation of this project. We intend to continue monitoring the progress of this apartment complex proposal. Essex Court HOA also asks that it be included in any and all future meetings regarding this proposal and notified if any further issues arise that Essex Court HOA should be aware of. Please contact: Edward Kimball, 985 Essex Court Way Unit 5, Midvale, Utah 84047; 801-651-0739.

Best Regards,

Essex Court HOA Management Committee

Tim Matson, Chairperson



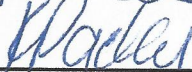
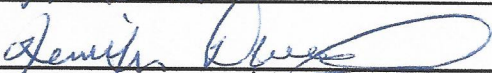
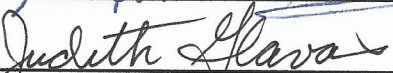
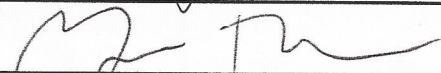
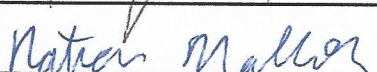
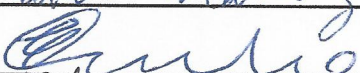


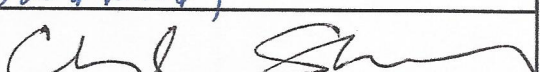

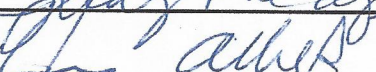

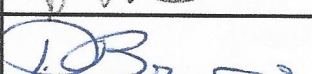
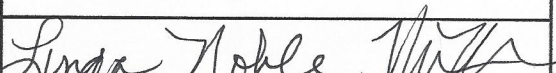

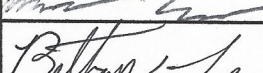

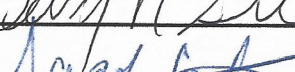
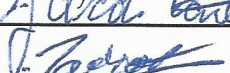
Morgan Smart, Vice Chairperson

Nicole Mitchell, Treasurer

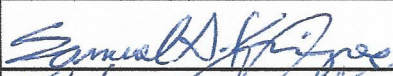

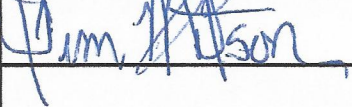
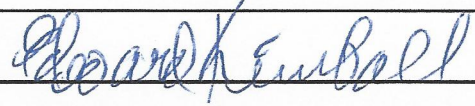
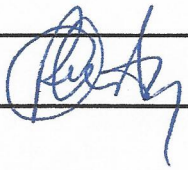
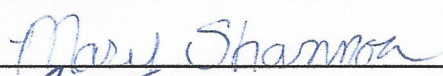
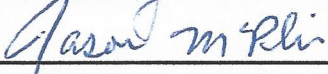
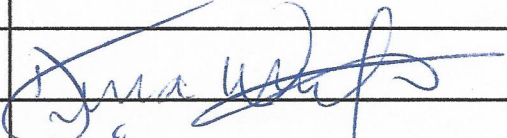
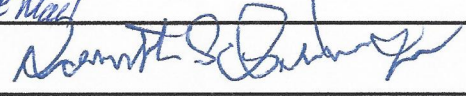
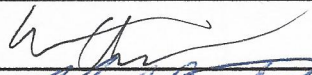
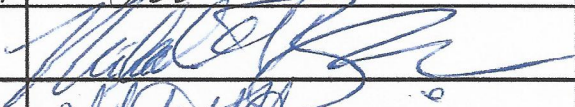

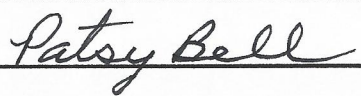
Edward Kimball, Secretary

Judy Heaps, Committee Member


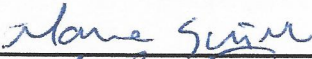



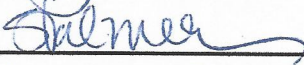
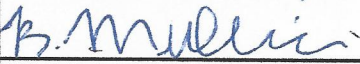
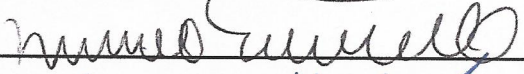

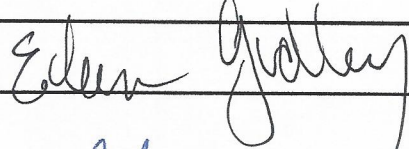

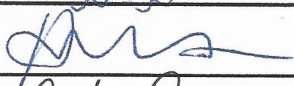
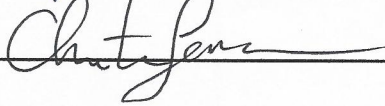

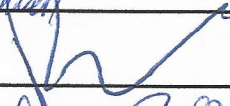
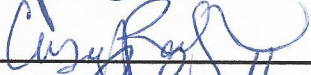
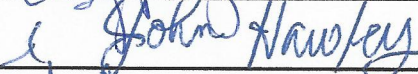


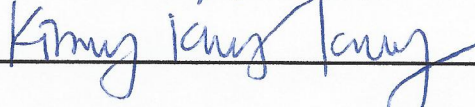
## Essex Court HOA Homeowners Petition 3/10/24

Address	Homeowner	Signature
937 Essex Court Way Unit #1 Midvale, UT 84047	Holden, Greene	
937 Essex Court Way Unit #2 Midvale, UT 84047	Osborn, Aimee	
937 Essex Court Way Unit #3 Midvale, UT 84047	Armstrong, Rebecca	
937 Essex Court Way Unit #4 Midvale, UT 84047	Parker, Glenn & Kate	
944 Essex Court Way Unit #1 Midvale, UT 84047	Dunwoody, Jennifer	
944 Essex Court Way Unit #2 Midvale, UT 84047	✓ Glavas, James	
944 Essex Court Way Unit #3 Midvale, UT 84047	Therine Van Groningen, Megan	
944 Essex Court Way Unit #4 Midvale, UT 84047	Malloy, Nathan Albert	
955 Essex Court Way Unit #1 Midvale, UT 84047	Emy Cordano	
955 Essex Court Way Unit #2 Midvale, UT 84047	✓ Davis, France	
955 Essex Court Way Unit #3 Midvale, UT 84047	Rugebregt, Michael & Julia	
955 Essex Court Way Unit #4 Midvale, UT 84047	Shelley Cheryl Shelly, Cheryl	
955 Essex Court Way Unit #5 Midvale, UT 84047	Heaps, Judy	
955 Essex Court Way Unit #6 Midvale, UT 84047	Allred, Jim	
955 Essex Court Way Unit #7 Midvale, UT 84047	Leslie, Kindle	
955 Essex Court Way Unit #8 Midvale, UT 84047	Bruce, Thomas & Paula	
975 Essex Court Way Unit #1 Midvale, UT 84047	Chindlund, Julie R	
975 Essex Court Way Unit #2 Midvale, UT 84047	✓ Nobel, Linda	
975 Essex Court Way Unit #3 Midvale, UT 84047	✓ Sheets, Michael & Hilary	
975 Essex Court Way Unit #4 Midvale, UT 84047	✓ Smerkous, Domotri (R) M&M	
975 Essex Court Way Unit #5 Midvale, UT 84047	✓ Stems, Betty	
975 Essex Court Way Unit #6 Midvale, UT 84047	Carter, Jacob	
975 Essex Court Way Unit #7 Midvale, UT 84047	✓ Lovell, Ashlyn & Zachery	


## Essex Court HOA Homeowners Petition 3/10/24

Address	Homeowner	Signature
975 Essex Court Way Unit #8 Midvale, UT 84047	Post, Trudy 5	
985 Essex Court Way Unit #1 Midvale, UT 84047	Kingore, Samuel & Edith	
985 Essex Court Way Unit #2 Midvale, UT 84047	Peterson, Elaine	
985 Essex Court Way Unit #3 Midvale, UT 84047	Matson, Tim	
985 Essex Court Way Unit #4 Midvale, UT 84047	Burton, Christopher (R)	
985 Essex Court Way Unit #5 Midvale, UT 84047	Kimball, Edward	
985 Essex Court Way Unit #6 Midvale, UT 84047	Siesta Holdings LLC (R)	
985 Essex Court Way Unit #7 Midvale, UT 84047	Olsen, Christopher	
985 Essex Court Way Unit #8 Midvale, UT 84047	Christy, Raymond	
991 Essex Court Way Unit #1 Midvale, UT 84047	Cowan, Mark	
991 Essex Court Way Unit #2 Midvale, UT 84047	Nelson, Nicholas (R)	email
991 Essex Court Way Unit #3 Midvale, UT 84047	Shannon, Mary	
991 Essex Court Way Unit #4 Midvale, UT 84047	McPhie, Jason	
991 Essex Court Way Unit #5 Midvale, UT 84047	Tice, Dylan	
991 Essex Court Way Unit #6 Midvale, UT 84047	Wright, Debra	
991 Essex Court Way Unit #7 Midvale, UT 84047	Wolcott, Shay & Nicole	email
991 Essex Court Way Unit #8 Midvale, UT 84047	Gunn, Kenneth	
994 Essex Court Way Unit #1 Midvale, UT 84047	Phillips, Tom & Mary *	
994 Essex Court Way Unit #2 Midvale, UT 84047	Beck, Hans (Michael)	
994 Essex Court Way Unit #3 Midvale, UT 84047	Hanni, Mikel	
994 Essex Court Way Unit #4 Midvale, UT 84047	Verhoef, (Nick) Clarence	
995 Essex Court Way Unit #1 Midvale, UT 84047	Dupree, Mary (R)	
995 Essex Court Way Unit #2 Midvale, UT 84047	Bell, Steven & Patsy	
995 Essex Court Way Unit #3 Midvale, UT 84047	Kanamu, Jeff & Diane (R)	

**Essex Court HOA Homeowners Petition 3/10/24**

<b>Address</b>	<b>Homeowner</b>	<b>Signature</b>
995 Essex Court Way Unit #4 Midvale, UT 84047	Amburn, Larry	
6980 Essex Court Circle Unit #1 Midvale, UT 84047	Schieck, Marlene	
6980 Essex Court Circle Unit #2 Midvale, UT 84047	Giris, Vidas	
6980 Essex Court Circle Unit #3 Midvale, UT 84047	Bigelow, Jonathan R	
6980 Essex Court Circle Unit #4 Midvale, UT 84047	David Taylor	
6980 Essex Court Circle Unit #5 Midvale, UT 84047	Hurst, Cynthia, Morgan Smart	
6980 Essex Court Circle Unit #6 Midvale, UT 84047	Palmer, John & Sheri	
6980 Essex Court Circle Unit #7 Midvale, UT 84047	Mullins, Brittany	
6980 Essex Court Circle Unit #8 Midvale, UT 84047	Munsee, Braden	
7000 Essex Court Circle Unit #1 Midvale, UT 84047	Watkins, Debera	
7000 Essex Court Circle Unit #2 Midvale, UT 84047	Osabouhien, Scott - Amber	
7000 Essex Court Circle Unit #3 Midvale, UT 84047	Gidley, Eileen	
7000 Essex Court Circle Unit #4 Midvale, UT 84047	Young, Morgan	
7000 Essex Court Circle Unit #5 Midvale, UT 84047	Li Residence	
7000 Essex Court Circle Unit #6 Midvale, UT 84047	Zhang, Yuting	
7000 Essex Court Circle Unit #7 Midvale, UT 84047	Larsen, Christian	
7000 Essex Court Circle Unit #8 Midvale, UT 84047	Ladue, Scott N. (R)	
7005 Essex Court Circle Unit #1 Midvale, UT 84047	Abegglen, Nedra	
7005 Essex Court Circle Unit #2 Midvale, UT 84047	Presson, Paul	
7005 Essex Court Circle Unit #3 Midvale, UT 84047	Raleigh, Casey	
7005 Essex Court Circle Unit #4 Midvale, UT 84047	Hawley, John	
7005 Essex Court Circle Unit #5 Midvale, UT 84047	Peacock, Ashley	
7005 Essex Court Circle Unit #6 Midvale, UT 84047	Ransom, Natalie	
7005 Essex Court Circle Unit #7 Midvale, UT 84047	Kwong, Kimmy Kyung	

Essex Court HOA Homeowners Petition 3/10/24

Address	Homeowner	Signature
7005 Essex Court Circle Unit #8 Midvale, UT 84047	Todoran, Micheal & Rhoda	

Address

Name

Signature

955 Essex Courtway Dalton & Kelsey

John Dalton Kelsey

Unit #1, Midvale, UT 84057

Moore

Ruby Moore



Search mail



2 of 111

5



**Essex Court HOA**

10:23 AM (7 hours ago)

Mary, please text me a short letter indicating that you are in agreement with other Essex Court homeowners in their opposition to building a 200 unit apartment



**Mary Phillips**

11:46 AM (5 hours ago)

to me

I am in agreement with other Essex Court homeowners in their opposition to building a 200 unit apartment complex on the lot located at 7001 South 900 East, Midvale, UT 84047. I am opposed to this density in this location, including I am opposed to the plan for these 200 additional units to use the one narrow no traffic light entry/exit that currently connects our community to the heavily traveled four lanes of 900 East and Ft Union. Every day, traffic builds up at the 900 east and Fort Union traffic light intersection, blocking safe entry/exit from our complex. Don't add 200 (up to 400 if 2 people/unit) more cars trying to navigate this traffic nightmare.

Mary Phillips  
994 East Essex Court Way number 1

Sent from my iPhone



Mary Phillips

Sans Serif

Send



Essex Court HOA <essexcourtmidvale@gmail.com>

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## Proposed 200 Unit Apartment Complex in Front of Essex Court Entry AGAIN!!

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**nicholas nelson** <nickonelson@gmail.com>  
To: Essex Court HOA <essexcourtmidvale@gmail.com>

Tue, Apr 2, 2024 at 6:40 PM

We are the owners of 991 E Essex Court Way unit #2 and we are adamantly opposed to the proposed construction of a 200 unit apartment complex in front of Essex Court. The traffic congestion caused by such a large apartment complex would be unbearable to the residents of Essex Court and is totally unfair to them.

-Nick and Jenna Nelson  
[Quoted text hidden]

## Apartment Complex

neddiea@aol.com <neddiea@aol.com>

Thu 4/4/2024 7:41 PM

To:Ed Kimball <drgn91f@msn.com>

Ed

Please accept this email document as my OPPOSING vote for the building of an apartment complex in front of Essex Court condominiums.

I am saddened and very much against it.

Nedra Abegglen

7005 So. Essex Court Circle, Unit 1

Midvale, Utah 84047

[Sent from AOL on Android](#)



Search mail



1 of 129

FW: April 10th Planning Meeting comments on 7001S 900E zoning change Inbox x**MARK COWAN**  
to me

Sun, Apr 7, 12:23 PM (1 day ago)

Here is the response I sent to the planning commission today.

---

**From:** MARK COWAN**Sent:** Sunday, April 7, 2024 12:23 PM**To:** [planning@midvale.com](mailto:planning@midvale.com)**Subject:** April 10th Planning Meeting comments on 7001S 900E zoning change

To whom it may concern:

I am writing to address the proposed zoning change at 7001S 900E. As a property owner in the Essex Court Complex directly East of this proposed development I would like to share my observations and requests prior to a decision being made on this zoning change.

- I am concerned about the proposed ingress and egresses for the proposed development being inadequate for the proposed new residents. The shared ingress and egress on the North side of the development will be insufficient to properly service the Essex Court complex and the new residents. I have searched the proposal and do not see any traffic studies or emergency management studies to support this new development.
- The proposed development will use all open space for development and will be prohibitive for pedestrian and retail traffic. Residents of the proposed development will likely attempt to use the open spaces in the Essex Court development due to the lack of space in the proposed development.
- Parking in the Essex Court Complex is already problematic with limited spaces for visitors. Each unit in the Essex Court complex has two dedicated garage units. The proposed development is considering "Shared" parking spaces. The proposal is inadequate and will likely create an enforcement issue for the owners of property in the Essex Court units.
- Property values will be affected for owners in the Essex Court complex as access to the complex will become difficult.
- The zoning change will eliminate access to local services that were previously provided in the RC zone if the commercial building were to be rebuilt and medical and retail services were to be offered once again.
- The 4500 sq foot commercial space is lacking appropriate parking and access to pedestrians.

I would ask that this proposal be denied without further studies for traffic, emergency access to both the proposed development and the Essex Court complex.

Thank you for considering the voices of the residents who live in this community prior to making this decision. I would invite members of the planning commission to come visit the Essex Court Community and view the traffic patterns and limitations prior to making a decision on this change as well

## Fw: 900 East

Bonnie Billings <bbillings@midvale.com>

Mon 4/8/2024 1:10 PM

To: Wendelin Knobloch <wknobloch@midvale.com>

Hey Wendelin,

Ms. Taufer wants to make her concerns regarding the potential development on 900 E. known to the Planning Commission at their meeting on Wednesday. I'll let her know she can attend and give public comment, but I wanted to make sure her concerns were passed on as I can't attend the meeting on Wednesday.

I seem to remember that this development wasn't approved for rezoning on March 13? Are there any updates beyond that?

Let me know if you need anything else from me.

Thank you,

Bonnie

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**From:** Kathy Taufer <ktaufer@q.com>

**Sent:** Monday, April 8, 2024 11:40 AM

**To:** Bonnie Billings <bbillings@midvale.com>

**Subject:** 900 East

Hi Bonnie,

I am the Chairperson of the Fairmeadows Condominium Association. I am writing this email to you to voice the concerns of the residents who live here concerning the proposed building that the developer wants to build on the east side of 900 East where the office building burned down. I have a very real concern about 200 more units going in on that location. Fairmeadows has 232 units and adding an additional 200 more will really affect the traffic along 900 East. As you are probably aware, this proposed development is planning to use the easement right-of-way that Essex Court condominiums and Sovereign Financial use. The mere fact that another 200 cars trying to turn into that easement off of 900 East could possibly cause a major traffic problem, not to mention the collisions that could happen. It is almost impossible for our folks to exit our property onto 900 East at traffic time at night. Often times the traffic is backed up from 7200 South all the way to the bridge just before 6400 South. I can only imagine the nightmare this additional traffic will cause.

With the new townhomes that are being built on the RC Willey property and the apartment complex built on the K-Mart property, one can only imagine the additional traffic coming south on 900 East. I was told by one of our homeowners that you live in the area and would know firsthand about the traffic and how bad it can get every day. I am asking you to talk to the planning commission on Wednesday, April 10th and let them know our concerns about the additional traffic. I have read the staff report that was generated from the March 13th meeting and there was not one mention about traffic.

I thank you in advance for your attention to this matter and appreciate any impute you can give the planning commission.

Sincerely,  
Kathy Taufer  
Fairmeadows HOA  
ktaufer@q.com

## FW: Public Comment Submission for Planning/Zoning Com

Midvale Planning Mailbox <Planning@midvale.com>

Mon 4/8/2024 8:15 AM

To:Wendelin Knobloch <wknobloch@midvale.com>



### Jonathan Anderson

*Planner II*

Midvale City

7505 S Holden Street 801-567-7238

Midvale, UT 84047

[janderson@midvale.com](mailto:janderson@midvale.com)

Hours: M-Th, 8am to 6pm

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**From:** noreply@revize.com <noreply@revize.com>

**Sent:** Sunday, April 7, 2024 11:48 AM

**To:** Midvale Planning Mailbox <Planning@midvale.com>

**Subject:** Public Comment Submission for Planning/Zoning Com

First-Name = Mark

Last-Name = Cowan

Address = 991 East Essex Court Way #1, Midvale, UT 84047

Email = [moocowan@msn.com](mailto:moocowan@msn.com)

Meeting-Date = 2024-04-10

Agenda-Item = IV) Public Hearing b) Adam Paul zone map ammendment

Comments = The zoning change is not supported by any traffic studies or safety recommendations from fire or emergency services. The zoning change is not justified as there is a need for commercial space that fits the RC zone. I have emailed staff comments on this zoning change request and would ask that they be part of your consideration.

Client IP = 34.207.218.19

1. Proposed rezoning is necessary either **to comply with the general plan proposed land use map** or to **provide land for a community need** that was not anticipated at the time of adoption of the general plan;

Staff Response: While this zone map amendment is not necessary to comply with the 2016 General Plan because it is not included in the Fort Union Opportunity Area, it would contribute to the fulfillment of the community need for housing and commercial development through its residential component and stand-alone commercial structure shown in the concept plan.

Update 4/10/2024: The revised concept internalizes the commercial use into the main structure. The current zoning on the property, Regional Commercial (RC), allows for high intensity commercial development similar in massing and height to the structures allowed in the Regional Commercial Residential Overlay zone (RCRO).

Cowan Response: The original zoning (RC) assumes traffic patterns that are different from (RCRO) zones. This zoning change will bring significant residential traffic at hours outside the hours seen in the RC zoning.

2. Existing zoning was either the result of a **clerical error or a mistake of fact**, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or

Staff Response: The existing zoning is well reasoned and does not represent a clerical error or mistake of fact.

Cowan Response: Existing zoning has been functional and does not warrant changing to RC

3. **Land or its surrounding environs has changed or is changing** to such a degree that it is in the **public interest to encourage redevelopment** of the area or to recognize the changed character of the area.

Staff Response: This parcel of land has clearly changed due to the disastrous fire in 2021 and redevelopment is in the public interest, however, the concept may not be conducive to the specific goals set in the RCRO Zone as detailed below.

Update 4/10/2024: The revised concept addresses many of the concerns expressed in the first version of the staff report.

Cowan Response: The parcel of land has not changed nor have any of the traffic or safety issues drafted in the original zoning of this parcel. The community is not encouraging a zoning change. In fact the overwhelming public comments are encouraging a replacement of the commercial structure originally approved in the RC zoning.

#### MMC 17-7-12.1.1 Regional Commercial Residential Overlay

To utilize the regional commercial residential overlay, it must be demonstrated the proposed development fulfills the following goals:

A. Provides critical mass necessary to help facilitate the transition of regional commercial shopping centers into vibrant mixed-use developments;

Staff Response: This parcel sits at the outer edge of the shopping center and may contribute to the overall health of the area, but it also has residential neighbors that are directly impacted by a high intensity use.

Cowan Response: The limited commercial space in the proposed development does not encourage vibrant mixed use and will likely only be able to cater to the residents of the complex due to lack of adequate parking and traffic patterns that are not conducive to any type of retail development.

B. Creates a consistently high quality urban environment;

Staff Response: The attached concept plan is not binding and expresses the wishes of the applicant with a seven-story residential structure and a separate drive-through commercial use. The concept does not acknowledge the immediate presence of residential neighbors to the east and its separated drive-through discourages walkability on this corridor.

Update 4/10/2024: The revised concept shows a structure with an altered footprint that internalizes 4500 square feet of commercial square footage into the southwestern corner of the building, omits the separated drive-through use and wraps 58 parking stalls around the building. Five 2-bedroom dwelling units and a leasing office complete the 900 West street frontage. The rear of the structure now includes parking and additional distance from the neighboring property.

Cowan Response: The limited commercial space in the proposed development does not encourage vibrant mixed use and will likely only be able to cater to the residents of the complex due to lack of adequate parking and traffic patterns that are not conducive to any type of retail development.

C. Enhances the investment of those locating within the regional commercial zone;

Staff Response: This proposal may enhance the investment of the current neighboring businesses, but it does not contribute as much as it could to the enhancement of the corridor into the future and may negatively impact the investment of the residential neighbors to the east.

Update 4/10/2024: The revised concept moves the building further away from the eastern property line and introduces some commercial space on the main floor along 900 East.

Cowan Response: The high density residential development will decrease property values and not provide any noticeable enhancement to the zone. Further investment in the area will likely be decreased do to lack of proper walkability and vehicular traffic corridors.

D. Promotes economic development by increasing the utilization of existing parcels within current developments;

Staff Response: This proposal increases the utilization of the existing parcel because the previous development burnt down, and the parcel is currently vacant.

Cowan Response: The parcel can be replaced with a similar commercial structure which would encourage access to local healthcare and other services that were provided in the burnt down building. Replacing the building with residential units will provide increased property tax revenue at the cost of removing access to commercial spaces that encourage economic growth.

E. Eliminates large, underutilized surface parking areas by utilizing alternate parking methods, including but not limited to structured parking and shared parking;

Staff Response: This proposal internalizes the majority of the parking into the podium of the structure and lines the western elevation along 900 E with residential units, the north, east, and south, however, are not lined and present blank windowless walls. The concept plan, as presented, appears to be about 50 spaces short of the required 328 stalls for the residential structure.

Update 4/10/2024: The revised concept plan appears to come close to providing sufficient spaces for the residential and commercial uses, especially if shared parking is utilized.

Cowan Response: The parking and traffic patterns for the proposed development are grossly inadequate especially if there are proposed development is to offer 4500 sq feet of commercial space. Further and new RC development would be required to use parking areas for commercial development.

F. Provides compatibility between residential and commercial uses to create a comfortable environment for both shoppers and residents; and

Staff Response: The monolithic nature of the structure shown on the concept plan does not acknowledge the residential environment to the east.

Update 4/10/2024: The revised concept introduces an additional 30-40 feet of setback between the building and the property line to the east.

Cowan Response: The proposed development is not compatible with the existing residential and commercial spaces. The development is a typical high density development that may be well suited for areas zoned for these developments. Walking and driving in the area will become hazardous do to increased traffic along a road with higher speed limits than are typical for ingress and egress in RCRO zones.

G. Provides pedestrian connections within and among developments to support pedestrian activity in existing auto-oriented developments and encourages pedestrian movement. (Ord. 2016-07 § 1 (Att. A (part)))

Staff Response: The drive-through restaurant use negatively impacts walkability on the site and the overall design does not encourage pedestrian movement because the apartment building does not offer dedicated commercial space on the main floor.

Update 4/10/2024: The revised concept omits the drive-through restaurant use and adds 4,500 square feet of commercial space on the main floor. The commercial use and

the leasing office make up about 50% of the 900 W street frontage with the balance being depicted as 2-bedroom apartments.

Cowan Response: The dedicated commercial space does nothing to encourage pedestrian traffic and will only increase vehicular traffic in the area

## FW: April 10th Planning Meeting comments on 7001S 900E zoning change

Midvale Planning Mailbox <Planning@midvale.com>

Mon 4/8/2024 8:15 AM

To:Wendelin Knobloch <wknobloch@midvale.com>

📎 1 attachments (94 KB)

Cowan Response zone ammendment 7001S 900E.pdf;



### Jonathan Anderson

Planner II

Midvale City

7505 S Holden Street

801-567-7238

Midvale, UT 84047

[janderson@midvale.com](mailto:janderson@midvale.com)

Hours: M-Th, 8am to 6pm

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**From:** MARK COWAN <MOOCOWAN@msn.com>

**Sent:** Sunday, April 7, 2024 12:23 PM

**To:** Midvale Planning Mailbox <Planning@midvale.com>

**Subject:** April 10th Planning Meeting comments on 7001S 900E zoning change

To whom it may concern:

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- I am concerned about the proposed ingress and egresses for the proposed development being inadequate for the proposed new residents. The shared ingress and egress on the North side of the development will be insufficient to properly service the Essex Court complex and the new residents. I have searched the proposal and do not see any traffic studies or emergency management studies to support this new development.
- The proposed development will use all open space for development and will be prohibitive for pedestrian and retail traffic. Residents of the proposed development will likely attempt to use the open spaces in the Essex Court development due to the lack of space in the proposed development.
- Parking in the Essex Court Complex is already problematic with limited spaces for visitors. Each unit in the Essex Court complex has two dedicated garage units. The proposed development is considering "Shared" parking spaces. The proposal is inadequate and will likely create an enforcement issue for the owners of property in the Essex Court units.
- Property values will be affected for owners in the Essex Court complex as access to the complex will become difficult.
- The zoning change will eliminate access to local services that were previously provided in the RC zone if the commercial building were to be rebuilt and medical and retail services were to be offered once again.
- The 4500 sq foot commercial space is lacking appropriate parking and access to pedestrians.

I would ask that this proposal be denied without further studies for traffic, emergency access to both the proposed development and the Essex Court complex.

Thank you for considering the voices of the residents who live in this community prior to making this decision. I would invite members of the planning commission to come visit the Essex Court Community

and view the traffic patterns and limitations prior to making a decision on this change as well.

Thank you,

Mark Cowan  
307-389-4480

April 7, 2024

Samuel Kingore

985 E. Essex Ct Way Unit 1

Midvale UT, 84047

Midvale City Planning Commission and Staff

7505 S Holden Street

Midvale UT, 84047

RE: Zone Map Amendment to add the Regional Commercial Residential Overlay Zone to a property located at 7001 S 900 E. Additional exhibits regarding a proposed 200 unit seven story apartment building.

To: Midvale Planning Commission and Staff

**Public Notification Process is not Complete**

I am a homeowner and resident of a condo unit within the land locked Essex Court complex to the east of the subject property. I have not received any formal notification from the City regarding this proposed zoning change within any reasonable time as is required by City code. The only way I have been able to learn of this is through the Essex Court Condominiums Homeowners Association. Every homeowner, including myself, exits out an easement to reach S 900 E. Any impact of development affects us all and therefore it should be required that all be notified with sufficient time to respond or decide to attend the meeting. I understand from speaking with City Planning Department staff that only a 500' notification was followed. I've never seen a sign posted at property and I drive in and out of Essex Court every day. This is a case where those standards are all terribly short of what is required. It should be clearly understood that when city code, standard practice, or custom are all short of what is required for a specific circumstance that the professional City staff exercise their best judgment to ensure that the public process can proceed at the highest level and meet their obligations as public servants. In this case the city performs the notification on behalf of the application and is responsible for a complete process. County tax records exist for all property owners and should be used to ensure notifications are sent regarding any future communications.

## **Regional Commercial Residential Overlay is not proven applicable at 7001 S 900 E**

This proposal to make a major zoning change by adding the Regional Commercial Residential Overlay Zone as found in the updated Staff Report 04/10/2024 is premature. Currently the report does not present any studies, reports, or analysis in support of this proposed change. The findings contradict the City code and completely ignore adjacent properties, such as Essex Court. It is also distracted by a proposed development when the focus should be on the zoning change first. This does not seem to be the appropriate venue to discuss anything but hypothetical or potential projects. Project falls short of complying with Residential Overlay as follows (see Midvale MC 17-7-12.1):

### ***A. Provides critical mass necessary to help facilitate the transition of regional commercial shopping centers into vibrant mixed-use developments.***

This is not a regional commercial shopping center with extensive surface parking. Even though the RC zoning permits such a development the size of the parcel appears to not be sufficient to co-locate commercial and the residential component. The residential overlay is only relevant and applicable within a RC zone so that the size and mass can be mitigated by lower buildings and surface parking. By specifically identifying shopping centers, use of the property is a key component which does not exist at this location, nor is it proposed. This use is not present adjacent to property.

### ***B. Creates a consistently high-quality urban environment.***

This concept has not been defined, is subjective and has been distracted by discussion of a potential project. The general understanding of 'high-quality' is that all uses and adjacencies are enhanced and supported. The previous staff response appears to bring up issues, but the current updated response does not address the real issues. No analysis of potential impacts to easement access between the internal Essex Court Development and future development are discussed. What is the maximum potential auto, pedestrian, bicycle, utility, fire, first responder impacts? Is maximum development occurred at Essex Court as allowed by current zone and the overlay plus commercial are considered is this too much for the easement access? Does it exceed city infrastructure limits, transportation design, water supply, waste treatment, etc.

### ***C. Enhances the investment of those locating within the regional commercial zone.***

Apparently... but if adjacent impacts from Essex Court to 7001 S 900 E are considered then the overlay sets up an opposing impact which diminishes and limits the investment. Since Essex Court predates all previous developments, it has seniority and should receive deference.

### ***D. Promotes economic development by increasing utilization of existing parcels within current developments.***

Understood that any development of the vacant parcel is positive utilization.

***E. Eliminates large, underutilized surface parking areas by utilizing alternate parking methods, including but not limited to structured parking and shared parking.***

This site did not previously have a large, underutilized parking area. The previous medical building appears to have covered more than 50% of the property with building and landscape. The current site is vacant due to the previous building fire. The site does not represent an underutilized parking area such as can be found in the nearby RC zoned areas. Any project will be ground up and adding the Residential Overlay should define and dictate how future parking should be accommodated. Adding a potential 200+ units to the site with the Residential Overlay would require a parking garage. Any development should provide a parking plan.

All current proposals are not following the guidelines and impact the adjacent access. Current public transportation reductions to the site (no bus line) continue to make this an automobile dependent site. Based on current experience required parking calculations as dictated by code may not meet current or real demand. If this is to be appropriately addressed, traffic studies and parking analysis needs to be conducted. Current proposal does not provide required commercial parking.

***F. Provides compatibility between residential and commercial uses to create a comfortable environment for both shoppers and residents.***

This is a description of a balanced use with pre-existing retail. Staff report only addresses massing. Based on size of property it seems unlikely that there can be sufficient retail incorporated into a proposal that favors residential development to the maximum. No market analysis is done to demonstrate what size of retail is viable at this location and how this will be then balanced with residential. A feasibility study is required for both residential and commercial retail to claim the intent is being met. A reliance on offsite distant commercial/retail to the south which is marginally walkable is not discussed and further confirms that this is an automobile dependent site. How is this a 'comfortable environment'? Adjacent residential is already sufficient to justify support of commercial as previously developed. Adding more residential needs to be in addition to a viable commercial/retail tenant so that parking reductions/impacts can be considered. Given the parking demand for viable retail it appears that a subterranean parking garage would be the only solution for this site with a Residential Overlay. If residential is the only viable economic pursuit at this location, then a complete rezone should be considered. A re-zone to RM-25 should be studied since this is congruent with Essex Courts zoning.

***G. Provides pedestrian connections within and among developments to support pedestrian activity in existing auto-oriented developments to support pedestrian activity in existing auto-oriented developments and encourages pedestrian movement.***

Pedestrian connections within a proposed development can be reviewed when a development is proposed after the zoning change. Provision of pedestrian connections "among developments" can be discussed now. Essex Court Condos is land locked; therefore, priority is to encourage pedestrian connection through the easement to the sidewalk at S 900 E. Modification of the easement or conditions of approval of any zoning change should consider requiring a public sidewalk with planter strip. If any parking drive lanes cross the walk care should be taken to encourage slow

speeds and minimize auto/pedestrian conflicts. Currently residents take their children to S 900 E for a school bus pick-up, so a safe pedestrian route is a priority. Current project does not demonstrate any pedestrian connection for Essex Court nor appears to encourage safe routes with a parking garage exit directly adjacent to pedestrian path.

### Summary Review of Staff Report:

1. Report does not provide sufficient actual studies or information to justify application of Residential Overlay. I do not recommend any action by Planning Commission at this time until it has been determined that findings are complete, and that the public has been duly notified.
2. Key elements required by Residential Overlay are not discussed or explored.
3. Proposed project is not in alignment with Residential Overlay.
4. Regional Commercial zoning is not discussed and is a pre-requisite for addition of Residential Overlay. If residential development is preferred, then a re-zone of property should be considered. Only other residential zoning options should be considered as a Residential Overlay is dependent on a Regional Commercial zone.
5. City is obligated to inquire of its own departments regarding potential impacts on infrastructure for any zoning change or development. This is how General Plans are developed. This includes public works, transportation, life-safety (police), fire, refuse collection, utilities, etc. If there are not City resources for this, then the developer should be obligated to provide reports.
6. A size of this development adjacent to residential should pursue evaluation of health, safety and environmental impacts including an opportunity to promote a sustainable community. Following studies should be provided for any future project:
  - a. Traffic Study
  - b. Noise Study
  - c. Environmental Study
  - d. Light – shade study
  - e. Site access study to property and Essex Court
  - f. Infrastructure analysis – will any City infrastructure need to be upgraded as a result of future development.
  - g. Sustainability Plan.
7. Community Engagement – For a successful urban development I would recommend community meetings/workshops.

Sincerely,



Samuel Kingore

Resident – Essex Court

## FW: Public Hearing April 10, 2024 Comment - Kingore

Midvale Planning Mailbox <Planning@midvale.com>

Tue 4/9/2024 8:29 AM

To:Wendelin Knobloch <wknobloch@midvale.com>

📎 1 attachments (74 KB)

Midvale Planning Commission 7001 S 900 E Comment - Kingore.pdf;



**Jonathan Anderson**

*Planner II*

Midvale City

7505 S Holden Street 801-567-7238

Midvale, UT 84047

[janderson@midvale.com](mailto:janderson@midvale.com)

Hours: M-Th, 8am to 6pm

---

**From:** Sam Kingore <kingore.sam@gmail.com>

**Sent:** Monday, April 8, 2024 2:43 PM

**To:** Midvale Planning Mailbox <Planning@midvale.com>

**Subject:** Public Hearing April 10, 2024 Comment - Kingore

To Whom It May Concern:

Attached are my comments and concerns regarding the proposed application of Regional Commercial Residential Overlay Zone at 7001 S 900 E. Please review comments and share with planning commissioners.

Sincerely,

Samuel Kingore  
985 E Essex Ct Way Unit 1  
Midvale, UT 84047  
916-956-2397

## FW: Midvale City

Midvale Planning Mailbox <Planning@midvale.com>

Tue 4/9/2024 5:32 PM

To: Wendelin Knobloch <wknobloch@midvale.com>

📎 1 attachments (332 KB)

Planning Commission Letter (signed).pdf;



### Jonathan Anderson

Planner II

Midvale City

7505 S Holden Street 801-567-7238

Midvale, UT 84047

[janderson@midvale.com](mailto:janderson@midvale.com)

Hours: M-Th, 8am to 6pm

---

**From:** David McBride <dmcbride@svrnmil.com>

**Sent:** Tuesday, April 9, 2024 4:47 PM

**To:** \*Christy J. Anderson\* <christina@svrnmil.com>; Midvale Planning Mailbox <Planning@midvale.com>

**Subject:** Fwd: Midvale City

Dear Planning and Zoning:

I have asked my attorney, Dennis Poole to submit to you for tomorrow's meeting and ask that it be added for the record as he represents me.

Please acknowledge receipt of the email and attachments.

Please call me if you have any questions. I can be reached at 801.580.4777.

Regards,

David A. McBride

Sovereign Financial Group

6947 South 900 East

Midvale, Utah 84047

801-268-3600

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

**From:** dkpoole <[dkpoole@dkpoolelaw.com](mailto:dkpoole@dkpoolelaw.com)>

**Date:** Tue, Apr 9, 2024 at 5:42 PM

**Subject:** Midvale City

**To:** <[Planning@midvale.com](mailto:Planning@midvale.com)>

**CC:** David McBride <[dmcbride@svrnmil.com](mailto:dmcbride@svrnmil.com)>

Ladies and Gentlemen:

Please see the attached letter which is an objection to the Adam Paul request for a zone map amendment which is on the planning commission agenda for tomorrow.

Please confirm receipt of the letter.

*Dennis K. Poole*

Poole & Associates, L.C.

[4543 South 700 East, Suite 200](#)

[Salt Lake City, Utah 84107](#)

801-263-3344

801-263-1010 Fax

[dkpoole@dkpoolelaw.com](mailto:dkpoole@dkpoolelaw.com)

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**POOLE & ASSOCIATES, L.C.**  
ATTORNEYS AT LAW

DENNIS K. POOLE, P.C.  
NILS P. LOFGREN

4543 SOUTH 700 EAST, SUITE 200  
SALT LAKE CITY, UTAH 84107  
TELEPHONE (801) 263-3344  
TELECOPIER (801) 263-1010

April 9, 2024

VIA [planningj@midvale.com](mailto:planningj@midvale.com)

**Midvale City Planning Commission**

7505 S. Holden Street  
Midvale, Utah 84047

**Re: Adam Paul – Zoning Map Amendment  
7001 S. 900 East, Midvale, Utah**

Dear Commission Members:

This firm represents KME, LLC, a Utah limited liability company (“KME”), managed by Mr. David McBride who is the owner and operator of Sovereign Financial Group (“Sovereign”), an insurance and investment firm with offices located at 6947 South 900 East, Midvale, Utah. On behalf of KME and Sovereign, we respectfully submit this letter in opposition to the Zoning Map Amendment.

**I. STATEMENT OF REQUEST**

Mr. Paul has requested a Zone Map Amendment to add the Regional Commercial Residential Overly Zone to a property located at 7001 South 900 East, Midvale (the “Paul Property”). The Paul Property is located on the east side of 900 East, one tenth of a mile north of the intersection with Fort Union Blvd. KME and Sovereign are located to the north of the Paul Property separated by a private easement which provides access to the KME Property to the north, and Essex Court Condominiums (consisting of 134 condominium units) to the east. A fast-food restaurant is located immediately to the south of the Paul Property. Further south and east of the fast-food restaurant are additional commercial use sites all of which are north of Fort Union Blvd. South of Fort Union Blvd is a major shopping center extending from 700 East to South Union Park Avenue.

The Paul Property is currently located within a Regional Commercial (RC) zone. Mr. Paul is requesting that a Regional Commercial Residential Overlay Zone (“RCRO”) be imposed upon the Paul Property.

KME and Sovereign oppose the request for the RCRO overlay zone asserting that Mr. Paul cannot satisfy the requirements for a zone amendment.

## II. Requirements for a Zone Amendment.

The Staff Report to the City Planning Commission recites that Planning Commission quotes the Midvale Municipal Code (“MMC”). Sections 18-3-1 (E) and Section 17-7-12.1.1 (RCRO) setting forth the criteria for a zone amendment and stating in substance that for a zone amendment to be made, there must be “findings” set forth on the record which justify the amendment. KME and Sovereign will set forth each of the requirements and argue that Mr. Paul fails to establish sufficient criteria to support the requested amendment.

KME and Sovereign’s arguments are as follows:

### A. Preliminarily, Section 18-3-1 (E) specifies as follows:

“E. Criteria/Required Findings. The city’s zoning is the result of a detailed and comprehensive appraisal of the city’s present and future land use allocation needs. In order to establish and maintain sound, stable, and desirable development within the city, **rezoning of land is to be discouraged and allowed only under the limited circumstances herein described.** Therefore, the planning commission may recommend, and the city council may grant, **a rezoning application only if it determines, in written findings, that the proposed rezoning is consistent with the policies and goals of the general plan** and that the applicant has demonstrated that the:

Argument: The foregoing language states that a rezone is not favored and only allowed under limited circumstances. Based upon the foregoing language, first, there is a presumption against granting a rezone request, and second, the burden to demonstrate the right to a rezone is upon the applicant. KME and Sovereign argue that Mr. Paul fails to carry his burden. The criteria are listed in Section 18-3-1.

#### Requirement No. 1:

“1. Proposed rezoning is necessary either **to comply with the general plan proposed land use map** or to **provide land for a community need** that was not anticipated at the time of adoption of the general plan;

Argument: While the staff report states that a “map amendment is not necessary to comply with the 2016 General Plan because it is not included in the Fort Union Opportunity Area”, that conclusion is inaccurate and misleading. Mr. Paul is requesting the “creation” of a new designated overlay zone that is not identified on Midvale’s Master Plan, nor is it contiguous to an existing Opportunity Area. The request is not merely to extend the boundaries of an existing zone, but to create a new RCRO zone consisting solely of the Paul Property. This is a classic example of “spot zoning”. Spot zoning is not only discouraged but prohibited.

Nor does the proposed spot zoning satisfy the requirements of Section 17-7-12.1.1 which sets for the proposed goals of an “Opportunity Area.” The goals are:

“A. Provides critical mass necessary to help facilitate the transition of regional commercial shopping centers into vibrant mixed-use developments;

- B. Creates a consistently high quality urban environment;
- C. Enhances the investment of those locating within the regional commercial zone;
- D. Promotes economic development by increasing the utilization of existing parcels within current developments;
- E. Eliminates large underutilized surface parking areas by utilizing alternate parking methods, including but not limited to structured parking and shared parking;
- F. Provides compatibility between residential and commercial uses to create a comfortable environment for both shoppers and residents; and
- G. Provides pedestrian connections within and among developments to support pedestrian activity in existing auto-oriented developments and encourages pedestrian movement.”

(Additional argument in support of denial is made in Section B below with respect to some of the lettered paragraphs above.)

These goals establish that the RCRO is intended to be used for as part of a larger area (a region), not a single project site. The use of words such as “help... regional commercial shopping centers into vibrant mixed-use developments”, “utilization of existing parcels within current developments”, “provides pedestrian connections within and among developments to support pedestrian activity”, and others, suggests that the RCRO is intended to “enhancing existing commercial areas” (not just one) to provide standards, within the “regional commercial zone” (more than one site). The RCRO was not intended to be used for a single parcel and therefore Mr. Paul’s request fails.

Secondly, the additional requirement of Requirement No. 1 is that a “rezoning is necessary... to provide land for a community need that was not anticipated at the time of adoption of the general plan.” The staff report asserts that the use of the site for residential housing would fulfill a community need; however, the staff report ignores that the Midvale City 2016 Master Plan identified housing needs as part of that plan and the plan as adopted in 2016 provides for housing. Thus, the need for housing is not a need “that was not anticipated at the time of adoption of the general plan.” Housing needs are addressed in the master plan and should not be now addressed for this requested map amendment. Consequently, Mr. Paul’s request for a map amendment fails this requirement.

Requirement No. 2:

“2. Existing zoning was either the result of a **clerical error or a mistake of fact**, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or “

Argument:

The staff report acknowledges that “the existing zoning is well reasoned and does not represent a clerical error or mistake of fact.” As such a map amendment as requested by Mr. Paul, is not justified.

Requirement No. 3:

“3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area.

Argument. The staff report concludes that the land only has changed because of the prior fire, and although redevelopment is in the public interest, “however, the concept may not be conducive to the specific goals set in the RCRO Zone”. This is consistent with the argument set forth in Requirement No 1 above. The use of a RCRO zone is to be used to “support the growth of a region (see Section 17.7-12.1.1) not an individual parcel. A zone map change request seems to be motivated solely to assist this one parcel.

**B. Section 17-7-12.1.1. specifies as follows:**

Section 17-7-12.1.1 which sets for the proposed goals of an “Opportunity Area.” KME and Sovereigns restates the Section goals and why the intended project does not meet those goals.

“A. Provides critical mass necessary to help facilitate the transition of regional commercial shopping centers into vibrant mixed-use developments;”

Argument: The Paul Property sets outside of the boundaries of a regional commercial shopping center and therefore this stated goal has no application to the Paul Property.

“B. Creates a consistently high quality urban environment;”

Argument: The statement demonstrates that the RCRO is intended for “regional” application as one parcel can not create a “consistently high-quality urban environment.” Furthermore, the proposed seven-story building is not consistent with the existing urban environment which contains residential housing not exceeding two-stories in height.

C. Enhances the investment of those locating within the regional commercial zone;

Argument: This goal again emphasizes that the RCRO zone is to be regional, intending to enhance the investment of many, not solely that of a single owner. As noted by staff, the adoption of this zone map change could result in negative consequence to existing adjacent owners.

“D. Promotes economic development by increasing the utilization of existing parcels within current developments;”

Argument: This goal again emphasizes that the RCRO zone is regional for the benefit of many developments. The goal is not intended to be reviewed solely for the benefit of a single parcel.

“E. Eliminates large underutilized surface parking areas by utilizing alternate parking methods, including but not limited to structured parking and shared parking;”

Argument: This goal again emphasizes that the RCRO zone is regional for the benefit of many developments utilizing shared parking, not just one site.

“F. Provides compatibility between residential and commercial uses to create a comfortable environment for both shoppers and residents; and”

Argument: As the staff report initially stated, the “monolithic nature of the structure ... does not acknowledge the residential environment to the east”. Nor does the size of the proposed structure provide compatibility in mass, height and density with any of the surrounding uses north, east, south or west. It merely is intended to be monolith on an island by itself.

“G. Provides pedestrian connections within and among developments to support pedestrian activity in existing auto-oriented developments and encourages pedestrian movement.”

Argument: As the staff report does not directly address any use of pedestrian connections because the requirement is intended for “regional” developments, not a single development. The staff does suggest some compliance with commercial uses; however, close examination of the intended “commercial” use is merely a rental office and facilities for the primary intended use of the facility. This limited commercial use does not encourage use among adjacent sites.

C. Summary. The application for a RCRO overlay zone is seemingly a request intended to allow for greater height of a building and therefore more density than might be permitted in the current zone (RC). That purpose is not a legitimate reason that satisfies any of the requirements for a zone map amendment as requested by Mr. Paul. Having failed to establish any basis for an amendment that could support findings consistent with the criteria set forth above, the Planning Commission must deny the request and refuse to make a recommendation for a zone map change. In the absence of evidence satisfying the criteria, any recommendation would fail any subsequent challenge.

KMI and Sovereign reserve the right to make specific objections to the proposed project should an application for condition use be sought at a later date.

Very truly yours,

POOLE & ASSOCIATES, L.C.

  
Dennis K. Poole

Cc: KME and Sovereign

## FW: Midvale City

Midvale Planning Mailbox <Planning@midvale.com>

Tue 4/9/2024 5:32 PM

To:Wendelin Knobloch <wknobloch@midvale.com>

📎 1 attachments (332 KB)

Planning Commission Letter (signed).pdf;



### Jonathan Anderson

*Planner II*

Midvale City

7505 S Holden Street

Midvale, UT 84047

[janderson@midvale.com](mailto:janderson@midvale.com)

Hours: M-Th, 8am to 6pm

801-567-7238

---

**From:** dkpoole <dkpoole@dkpoolelaw.com>

**Sent:** Tuesday, April 9, 2024 4:42 PM

**To:** Midvale Planning Mailbox <Planning@midvale.com>

**Cc:** David McBride <dmcbride@svrnmil.com>

**Subject:** Midvale City

**Importance:** High

Ladies and Gentlemen:

Please see the attached letter which is an objection to the Adam Paul request for a zone map amendment which is on the planning commission agenda for tomorrow.

Please confirm receipt of the letter.

*Dennis K. Poole*

Poole & Associates, L.C.

4543 South 700 East, Suite 200

Salt Lake City, Utah 84107

801-263-3344

801-263-1010 Fax

[dkpoole@dkpoolelaw.com](mailto:dkpoole@dkpoolelaw.com)

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## FW: Public Comment Submission for Planning/Zoning Com

Midvale Planning Mailbox <Planning@midvale.com>

Tue 4/9/2024 1:35 PM

To:Wendelin Knobloch <wknobloch@midvale.com>



### Jonathan Anderson

*Planner II*

Midvale City

7505 S Holden Street 801-567-7238

Midvale, UT 84047

[janderson@midvale.com](mailto:janderson@midvale.com)

Hours: M-Th, 8am to 6pm

---

**From:** noreply@revize.com <noreply@revize.com>

**Sent:** Tuesday, April 9, 2024 12:30 PM

**To:** Midvale Planning Mailbox <Planning@midvale.com>

**Subject:** Public Comment Submission for Planning/Zoning Com

First-Name = Michael

Last-Name = Reese

Address = 6876 S 725 East Apt E

Email = [michaelr009@gmail.com](mailto:michaelr009@gmail.com)

Meeting-Date = 2024-04-10

Agenda-Item = Apt Complex on 900 East

Comments = This development would decrease significantly the quality of life on this section of 900 East. Too close to 7200 So. to not impact traffic negatively in both directions. Please consider we who are already living here.

Client IP = 76.149.162.113

## FW: Public Comment Submission for Planning/Zoning Com

Midvale Planning Mailbox <Planning@midvale.com>

Mon 4/8/2024 8:15 AM

To:Wendelin Knobloch <wknobloch@midvale.com>



### Jonathan Anderson

Planner II

Midvale City

7505 S Holden Street 801-567-7238

Midvale, UT 84047

[janderson@midvale.com](mailto:janderson@midvale.com)

Hours: M-Th, 8am to 6pm

---

**From:** noreply@revize.com <noreply@revize.com>

**Sent:** Sunday, April 7, 2024 5:21 PM

**To:** Midvale Planning Mailbox <Planning@midvale.com>

**Subject:** Public Comment Submission for Planning/Zoning Com

First-Name = Stephen

Last-Name = Leyba

Address = 6973 Village River Lane C9Midvale, UT 84047

Email = [snleyba@msn.com](mailto:snleyba@msn.com)

Meeting-Date = 2024-04-10

Agenda-Item = Mike Nielsen requests a determination on the height and material for an enclosure of an Outdoor Storage area for automobiles at 6941 S. River Gate Drive in the Bingham Junction/Riverwalk Overlay zone. [Wendelin Knobloch, Planning Director]

Comments = Dear Planning Commission, With respect to agenda item C, it is unclear how Mike Nielsen's proposed outdoor storage area for automobiles will impact the community. Without greater detail, we strongly oppose all outdoor storage of any type of vehicle. This is a mixed use area with many family homes within 20 feet of the site. Until more information is made available, we do not support this.

Client IP = 71.195.238.46

## FW: Public Comment Submission for Planning/Zoning Com

Midvale Planning Mailbox <Planning@midvale.com>

Tue 4/9/2024 5:31 PM

To:Wendelin Knobloch <wknobloch@midvale.com>



### Jonathan Anderson

*Planner II*

Midvale City

7505 S Holden Street 801-567-7238

Midvale, UT 84047

[janderson@midvale.com](mailto:janderson@midvale.com)

Hours: M-Th, 8am to 6pm

---

**From:** noreply@revize.com <noreply@revize.com>

**Sent:** Tuesday, April 9, 2024 4:15 PM

**To:** Midvale Planning Mailbox <Planning@midvale.com>

**Subject:** Public Comment Submission for Planning/Zoning Com

First-Name = Julie

Last-Name = Carli

Address = 9837 S 2465 E

Email = [attitudeiseverything1@comcast.net](mailto:attitudeiseverything1@comcast.net)

Meeting-Date = 2024-04-10

Agenda-Item = Proposed change in private street access from 35' to 50'

Comments = We have been trying to help specific owners who came directly to Midvale and asked what kind of access you would require for them to maximize the value and use of their land. Midvale instructed them 35' which they then made certain they allowed for. Please know the RECENT appraisal of the property would be adversely affected to a great degree if this is recommended. Don't cause damage to life long residents of Midvale with this wrong solution.

Client IP = 172.59.153.128

## FW: Public Comment Submission for Planning/Zoning Com

Midvale Planning Mailbox <Planning@midvale.com>

Tue 4/9/2024 5:31 PM

To:Wendelin Knobloch <wknobloch@midvale.com>



### Jonathan Anderson

Planner II

Midvale City

7505 S Holden Street 801-567-7238

Midvale, UT 84047

[janderson@midvale.com](mailto:janderson@midvale.com)

Hours: M-Th, 8am to 6pm

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**From:** noreply@revize.com <noreply@revize.com>

**Sent:** Tuesday, April 9, 2024 4:01 PM

**To:** Midvale Planning Mailbox <Planning@midvale.com>

**Subject:** Public Comment Submission for Planning/Zoning Com

First-Name = Tim

Last-Name = Carli

Address = 9837 S 2465 E

Email = [attitudeiseverything1@comcast.net](mailto:attitudeiseverything1@comcast.net)

Meeting-Date = 2024-04-10

Agenda-Item = Proposed change in private street access from 35' to 50'

Comments = It seems unjust to push all the burden to protect for this potential problem that has not occurred, onto the current land owners when other land owners have been allowed the benefit you are proposing to strip from these land owners. Preventative measures, if deemed necessary, should be discussed when establishing the Home Owner Associations, which spread the cost over all who will be covered by them. This solution is unjust and avoidable.

Client IP = 172.59.153.128



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## MIDVALE CITY PLANNING COMMISSION STAFF REPORT 4/24/2024

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### SUBJECT

Midvale City initiated request to amend Sections 17-7-12.2, 17-7-12.5, and 17-7-12.7 of the Regional Commercial (RC) zone of the Midvale City Municipal Code. These changes remove Manufacturing, Outdoor Storage, and Warehouse/Distribution as uses in the zone and any associated references to them.

### SUBMITTED BY

Jonathan Anderson, Planner II

### BACKGROUND AND ANALYSIS

Midvale City requests an amendment to the above-listed sections of the Midvale City Municipal Code. These sections regulate the Use Table, Outdoor Storage regulations, and Parking Standards of the Regional Commercial (RC) zone. The proposed amendment is to remove Manufacturing, Outdoor Storage, and Warehouse/Distribution as uses in the zone and any associated references to them.

Public notice has been sent to affected entities as required in 17-3-9.B of the Municipal Code. No comments have been received as of the writing of this report.

### *-AMENDMENTS TO THE ZONING CODE OR MAP-*

Midvale City Municipal Code 17-3-1 outlines the criteria necessary for amendments to the zoning code or map (Staff responses in **bold**):

#### 17-3-1.E Amendments to the Zoning Code or Map.

1. Proposed rezoning is necessary either to comply with the general plan proposed land use map or to provide land for a community need that was not anticipated at the time of adoption of the general plan;

**Response: The request is not for a rezone; rather, an amendment that removes certain uses from the individual zone and any associated references to them.**

2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or,

**Response: This criterion is not applicable.**

3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area;

**Response: This criterion is not applicable.**

### **STAFF RECOMMENDATION**

Staff recommends the Planning Commission forward the text amendment on to the City Council with a recommendation of approval with the following finding:

1. The amendment complies with Midvale City Code 17-3-1(E)(1).

### **RECOMMENDED MOTION**

“I move that we recommend approval of the amendment as provided in the attachments, with the finding noted in the staff report.”

### **ATTACHMENTS**

1. Draft Ordinances.

**17-7-12.2 Uses.**

If a use is not specifically designated, then it is prohibited. Uses designated with an asterisk (\*) have additional use-specific standards included in subsection [\(A\)](#) of this section.

**Table 17-7-12.2. Uses**

<b>Type</b>	<b>Allowed</b>	<b>Administrative</b>	<b>Conditional</b>	<b>Business License</b>
Alcoholic Beverage				
Class A License	X			X
Class B License	X			X
Class C Tavern	X			X
Restaurant	X			X
Package Agency			X	X
Private Club	X			X
State Liquor Store	X			X
Animal Hospital	X			X
Assisted Living Facility				
≤ 1 acre		X		
> 1 acre			X	
Auditorium, Assembly Hall			X	X
Carwash		X		
Child Care				
≤ 6 children	X			X
≥ 7 children		X		X

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Commercial Repair Services	X		X
Entertainment Center		X	X
Fences			
7' or less	X		
7' or more		X	
Financial Institution			
W/o drive up window	X		X
W/drive up window		X	X
Golf Course, private		X	X
Heliport		X	X
Hotel/Motel		X	X
Itinerant Merchants			
Vending Carts	X		X
Seasonal Food Stands	X		X
Christmas Tree Sales	X		X
Fireworks Stands	X		X
Seasonal Produce Stands	X		X
Seasonal Flower Stands	X		X
Kennel		X	X
Manufactured Home	X		
Manufacturing	X		X
Medical Cannabis Pharmacy	X		X

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Mortuary/Funeral Home	<b>X</b>		<b>X</b>
Municipal Facilities			
Parks			
Public Safety Facility		<b>X</b>	
Public Utilities			
Minor		<b>X</b>	
Major			<b>X</b>
Recreational Facilities		<b>X</b>	
Trails		<b>X</b>	
Nursery, Commercial	<b>X</b>		<b>X</b>
Office			
General	<b>X</b>		<b>X</b>
Intensive			<b>X</b>
Outdoor Dining		<b>X</b>	<b>X</b>
<del>Outdoor Storage</del>		<del><b>X</b></del>	
Parking Lot			
Commercial			<b>X</b>
Private	<b>X</b>		
Pawn Shop		<b>X</b>	<b>X</b>
Pre-Existing Landscaping	<b>X</b>		
Pre-Existing Lighting (outdoor)	<b>X</b>		
Pre-Existing Lot	<b>X</b>		

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Pre-Existing Structure	<b>X</b>		
Pre-Existing Use	<b>X</b>		
Quasi-Public Facilities			
Hospital		<b>X</b>	<b>X</b>
Schools, Private		<b>X</b>	<b>X</b>
Radio Station	<b>X</b>		<b>X</b>
Recreation Facility Commercial		<b>X</b>	<b>X</b>
Religious/Educational Institute			
Permanent	<b>X</b>		<b>X</b>
Temporary		<b>X</b>	<b>X</b>
Restaurant			
W/drive up window		<b>X</b>	<b>X</b>
W/o drive up window	<b>X</b>		<b>X</b>
Retail and Service Commercial			
W/drive up window		<b>X</b>	<b>X</b>
W/o drive up window	<b>X</b>		<b>X</b>
24 hour use		<b>X</b>	<b>X</b>
Retail Tobacco Specialty Business*	<b>X</b>		<b>X</b>
Shopping Center		<b>X</b>	<b>X</b>
Telecommunications Facility		<b>X</b>	
Transportation Facility			

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Major		X	
Minor	X		
Vehicle-Related Use			
Rental		X	X
Sales (Minor)	X		X
Sales and Service (Major)		X	X
Filling Station		X	X
Repair		X	X
Warehouse/Distribution		X	X

A. *Additional Use-Specific Standards.*

1. *Medical Cannabis Pharmacy.*

a. *Proximity Restrictions.*

i. A medical cannabis pharmacy use shall meet the proximity requirements as specified and amended in Section [26-61a-301](#) of the Utah Code Annotated.

b. *Application Requirements.*

i. An applicant for a medical cannabis pharmacy use must provide a description of the physical characteristics of the proposed facility, including a site plan, floor plan, architectural elevations, and a security plan as part of the business license application for the use. Fencing and security devices must comply with applicable city requirements.

ii. When proximity restrictions include area in an adjacent municipality, an applicant for a medical cannabis pharmacy use shall obtain a letter from the adjacent municipality indicating proximity restrictions within this title are satisfied based on existing uses in the area in the adjacent municipality prior to issuance of a business license.

- c. *Parking.* A medical cannabis pharmacy use shall be considered a retail and service commercial, minor use for the purpose of calculating parking requirements.
- d. *Signage.* In addition to those requirements within this title, all signage associated with a medical cannabis pharmacy use shall comply with any requirements imposed by the state of Utah.

2. *Retail Tobacco Specialty Business.*

a. *Proximity Restrictions.*

- i. A retail tobacco specialty business use shall meet the proximity requirements as specified and amended in Section [10-8-41.6](#) of the Utah Code Annotated.

b. *Application Requirements.*

- i. When proximity restrictions include area in an adjacent municipality, an applicant for a medical cannabis pharmacy use shall obtain a letter from the adjacent municipality indicating proximity restrictions within this title are satisfied based on existing uses in the area in the adjacent municipality prior to issuance of a business license.

- c. *Parking.* A retail tobacco specialty business use shall be considered a retail and service commercial, minor use for the purpose of calculating parking requirements. (Ord. 2021-15 § 1 (Att. A); Ord. 2020-02 § 1 (Att. A (part)); Ord. 2016-15 § 1 (Att. A (part)); Ord. 2016-15 § 1 (Att. A (part)); Ord. 2015-05 § 1 (Att. A (part)); Ord. 2014-04 § 1 (Att. A (part)); Ord. 2/2/2010O-1 § 1(2) (part); Ord. 5/5/2009O-8 § 1 (Att. A (part)); Ord. 8/10/2004O-25 § 1(7) (part); Ord. 3-19-2002A § 1 (1) (part); Ord. 11-20-2001 § 2 (part))

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**The Midvale Municipal Code is current through Ordinance 2024-01, passed January 16, 2024.**

Disclaimer: The city clerk's office has the official version of the Midvale Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.midvalecity.org](http://www.midvalecity.org)

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**17-7-12.5 Reserved.Outdoor storage.**

~~Outdoor storage shall be a secondary use to the primary structure. No roof premises storage is permitted. Storage yards shall be located behind the primary structure and screened as follows:~~

~~A.—Fencing parallel to the street shall be made of CMU or decorative concrete painted to match the structure. The other fencing may be made of solid metal, CMU or decorative concrete. All fencing shall be six feet in height.~~

~~B.—Paving. The storage yard shall be surfaced with asphalt, recycled asphalt, or concrete.~~

~~C.—Height. Items stored within twenty feet of the fencing may not exceed the height of the fence. (Ord. 11-20-2001 § 2 (part))~~

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## **17-7-12.7 Parking requirements.**

An applicant for new development must provide off-street parking with adequate provisions for independent ingress and egress by automobiles and other motorized vehicles. If any land, structure, or use is changed to create more off-street parking demand, the owner must provide additional off-street parking for the new use as required by this chapter. Required parking must be on site unless the planning commission allows such parking on adjacent or nearby deed-restricted lots. Off-street parking shall meet the following standards:

A. *Driveway Widths and Parking Lot Standards.* The following driveway width dimensions and parking lot standards apply to all new development and to the expansion by more than twenty-five percent of an existing building mass or site size. The city engineer may approve minor variations (equal to or less than ten percent) in driveway width and spacing.

1. *Parking.* No parking is allowed within the required front yard setbacks.
  - a. If a parking lot or driveway to a parking lot is proposed to abut a residential use, the applicant must screen the lot or drive and provide adequate sight distance triangle.
  - b. *Required Landscaping.* The following landscaping standards apply to new development:
    - i. Parking areas with more than four stalls must have perimeter landscaping of at least five feet in width;
    - ii. Parking areas with over ten stalls must have a minimum of ten percent interior landscaping, and perimeter landscaping of at least five feet in width;
    - iii. Parking areas with over fifteen spaces shall provide landscaped islands at the end of each parking row, an island for every fifteen spaces, perimeter landscaping of at least five feet in width, and a minimum of ten percent interior landscaping.
2. *Driveway Standards.* For all new development, driveways shall comply with the following standards:
  - a. No driveway shall be less than fifty feet from intersecting rights-of-way.

- b. Commercial driveways that exceed fifteen feet in width at the lot frontage must be separated by a landscaped area of at least twelve feet in width and ten feet in depth.
  - c. *Commercial Requiring Five or More Parking Spaces.* The minimum two-way drive width is twenty-four feet. The maximum two-way drive width is thirty-six feet.
  - d. *Commercial Requiring Four or Fewer Parking Spaces.* The minimum two-way drive width is twenty feet. The maximum two-way drive width is thirty feet.
3. *Spacing.* New development shall provide the following:
- a. *Commercial.* A minimum of seventy-five feet spacing between major commercial driveways is recommended. Shared use of commercial drives is strongly recommended.
  - b. *Centerline.* The centerline of intersections of the driveways of major traffic generators entering from opposite sides of roadway must be either perfectly aligned or offset by a minimum of one hundred fifty feet.
  - c. *Deviations.* The city engineer may approve minor spacing deviations (equal to or less than ten percent).

**Table 17-7-12.7A. Spacing**

<b>Street Classification</b>	<b>Minimum Spacing Between Driveways (feet)</b>	<b>Minimum Spacing From Intersection (feet)</b>
Local	15	50
Collector	50	75
Arterial	75	150

B. *Parking Garages and Structures.* Parking within a parking garage or structure requires:

1. *Aisle.* The minimum aisle width is twenty-four feet.
2. *Circulation.* The parking structure must be designed to ensure that each required parking space is readily accessible, usable and safe for automobiles and pedestrians.
3. *Location.* The parking structure shall not be located on a street frontage.
4. *Architecture.* Architectural relief shall be integrated into all facades to soften visual impacts and to provide a visual relationship with the surrounding structures.

C. *Parking Ratio Requirements for Specific Land Use Categories.* All new development shall provide parking according to the following standards. If a project incorporates two uses, the use requiring higher number of parking spaces shall govern. Whenever the calculation results in a fractional number, the number of spaces required must be rounded up to the next whole number.

**Table 17-7-12.7C. Nonresidential Parking Ratio Requirements**

<b>Uses</b>	<b>Parking Ratio Requirement (Number of Spaces)</b>
Assisted Living Facility	1 per 2 bedrooms plus 1 per employee per shift, or 2 per 3 employees per shift, whichever is greater
Auditorium	1 for every 5 seats or 3 per 100 s.f. of assembly area
Auto Repair	1 per employee per shift plus 4 per service bay
Car Wash	
Self serve	3 stacking spaces per wash bay
Automatic Tunnel (primary)	6 stacking spaces per wash bay
Automatic Tunnel (secondary)	8 stacking spaces per wash bay
Child Care Facility/Center	1 per on-duty staff per shift and 1 per 6 children
Entertainment Center, Theater	1 per 4 seats or 5 per 1,000 s.f. of floor area, depending on type of facility
Financial Institution	3 per 1,000 s.f. of net leasable floor area

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Heliports	As determined by the planning commission, based on traffic generation study
Hospital	3 per bed
Hotel/Motel	1 per room or suite, and 1 per 200 s.f. of separately leasable commercial space
Master Planned Development	Determined by planning commission, based on proposed uses and potential for shared parking
<del>Manufacturing</del>	<del>1 per employee in the largest shift plus 1 for each vehicle used in conducting the business</del>
Offices, General	3 per 1,000 s.f. of leasable floor area
Offices, Intensive and Clinic, Medical	5 per 1,000 s.f. of leasable floor area
Public and Quasi-Public Institution, Church, School; Public Utility Uses; and Cemetery	The greater of: 1 per 5 seats, 2 per 3 employees, or 1 per 1,000 s.f. of floor area
Recreation Facility, Commercial	The greatest of: 1 per 4 seats; 5 per 1,000 s.f. of floor area; or 1 per 3 persons rated capacity
Retail & Service Commercial, Minor	3 for each 1,000 s.f. of net leasable floor area
Retail & Service Commercial, Major	5 for each 1,000 s.f. of net leasable floor area
Restaurant, Standard and Bar	1 for every 100 s.f. of net leasable floor area, including kitchen areas
Restaurant, with Drive-up	5 per 1,000 s.f. of net leasable floor area
Shopping Centers/Multi-Tenant Retail	3.5 per 1,000 s.f. of net leasable floor area
Storage Facility	1 for every 2 employees in the largest shift plus 1 for each vehicle used in conducting the business
Temporary Construction Sites	1 for every 2 employees in the largest shift plus 1 for each vehicle used in conducting the business
Vehicle Sales (Minor)	3 spaces, plus 1 per employee per shift and a minimum of 2 for customers

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Vehicle Sales/Rental (Major)	1 per vehicle for sale or rent plus 1 space per 400 square feet of net leasable floor area
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<del>Warehouse</del>	<del>1 per 1,000 s.f. of floor area</del>
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<del>Wholesale Establishments</del>	<del>1 for every 2 employees in the largest shift plus 1 for each vehicle used in conducting the business and wholesale, storage uses at 1 per 1,000 s.f. of floor area</del>
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D. *Commercial Use Parking Standards.* Parking for new commercial uses shall comply with the following:

1. *Surfacing.* Parking areas and driveways must be hard-surfaced, maintained in good condition, and clear of obstructions at all times.
2. *Parking Space Dimensions.* All new commercial development shall provide parking spaces of the following minimum dimensions. The city engineer may approve minor (equal to or less than ten percent) variations in parking space dimensions.
  - a. Parking spaces must be nine feet wide by eighteen feet long;
  - b. ADA parking space width requirements vary and shall be consistent with current Building Code standards; and
  - c. Compact spaces with dimensions of nine feet wide by sixteen feet long may be provided. These spaces are not code spaces for the purpose of satisfying parking requirements.
3. *Grading and Drainage.* Parking shall be graded and constructed as follows:
  - a. Parking areas must be graded for proper drainage with surface water diverted to keep the parking area free of accumulated water and ice;
  - b. Adequate control curbs must be installed to control drainage and direct vehicle movement;
  - c. Parking area drainage must be detained on-site, treated (if required by NPDES), and channeled to a storm drain or gutter as approved by the city engineer;
  - d. Driveways may not exceed a ten percent slope.

4. *Street Access and Circulation.* New commercial development shall provide the following:

- a. *Off-Street Parking.* Off-street parking areas must have unobstructed access to a street or alley. The parking area design for five or more vehicles must not encourage cars to back onto adjoining public sidewalks, parking strips, or roadways. With the exception of permitted tandem parking, parking spaces shall be independently accessible and unobstructed.
- b. *Corner Lots.* No landscape obstruction is allowed in excess of two feet in height above street grade within the sight distance triangle. A reasonable number of trees with lower branches pruned to six feet to permit automobile drivers and pedestrians an unobstructed view of the intersection may be allowed by administrative permit.
- c. *Driveway Access.* For corner lots, the triangular area is defined by the intersection of the road right-of-way, the line extending from the point-of-curve at the top-back-of-curb, and a line connecting them at points twenty-five feet from their intersection.
- d. *Drive-Through Developments.* Applicants for all drive-up or drive-through service windows or facilities must provide sufficient stacking space for vehicles waiting for service, to prevent vehicles from waiting in the right-of-way.
- e. *Common Driveways.* To encourage the location of parking in the rear yard and/or below grade, the city allows common driveways along shared side yards to provide access to parking if the owner restricts the deeds to both properties to preserve the shared drive in perpetuity.
- f. *Off-Street Loading Spaces.* Every structure that is to be used for any purpose which involves the receipt or distribution of materials or merchandise by vehicle must provide and maintain adequate space for standing, loading, or unloading services off-street.
  - i. All such loading areas or berths shall be located so that no vehicle loading or unloading merchandise or other material shall be parked in any front yard or in any street or right-of-way.
  - ii. Loading docks and loading areas must be screened from adjoining property and public rights-of-way.

E. *Reserved.*

F. *Parking Lot Use.* A parking lot shall only be constructed for uses allowed within the zone in which it is located. (Ord. 2021-15 § 1 (Att. A); Ord. 2019-06 § 1 (Att. B (part)); Ord. 2015-05 § 1 (Att. A (part)); Ord. 2011-01 § 1 (Att. A (part)); Ord. 7/11/2006O-10 § 1 (Exh. A and C (part)); Ord. 3/18/2003O-2 § 1 (part); Ord. 11-20-2001 § 2 (part))

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## MIDVALE CITY PLANNING COMMISSION STAFF REPORT 4/24/2024

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### SUBJECT

Midvale City initiated Rezone request to change the zoning from Clean Industrial (CI) to Main Street Form Based Code (MS-FBC) on the following parcels: 7413 S Main St, 7409 S Main St, 7407 S Main St, 7397 S Main St, and 669 W Eighth Ave. Information regarding the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the rezone is adopted can be found in [Midvale City Code 17-7-11](#).

### SUBMITTED BY

Elizabeth Arnold, Senior Planner

### BACKGROUND AND ANALYSIS

As Midvale Main Street has developed, staff feels that it would be appropriate to continue the MS-FBC zoning further north to include the entirety of Main Street.

Midvale City Code 17-3-1(E.) outlines the criteria necessary for granting a rezone as follows:

*17-3-1 Criteria/Required Findings. ...rezoning of land is to be discouraged and allowed only under the limited circumstances herein described. Therefore, the planning commission may recommend, and the city council may grant, a rezoning application only if it determines, in written findings, that the proposed rezoning is consistent with the policies and goals of the general plan and that the applicant has demonstrated that the:*

- 1. Proposed rezoning is necessary either to comply with the general plan proposed land use map or to provide land for a community need that was not anticipated at the time of adoption of the general plan;*
- 2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or*
- 3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area.*

The proposed rezone request satisfies #3 listed above – it recognizes the change in character of the area and will continue the MS-FBC further north so it covers the entirety of Main Street.

Public notice has been sent to property owners within 500 feet of the subject area. No written objections have been received as of the writing of this report.

### **STAFF RECOMMENDATION**

Staff recommends the Planning Commission forward the Rezone request on to the City Council with a recommendation of approval with the following findings:

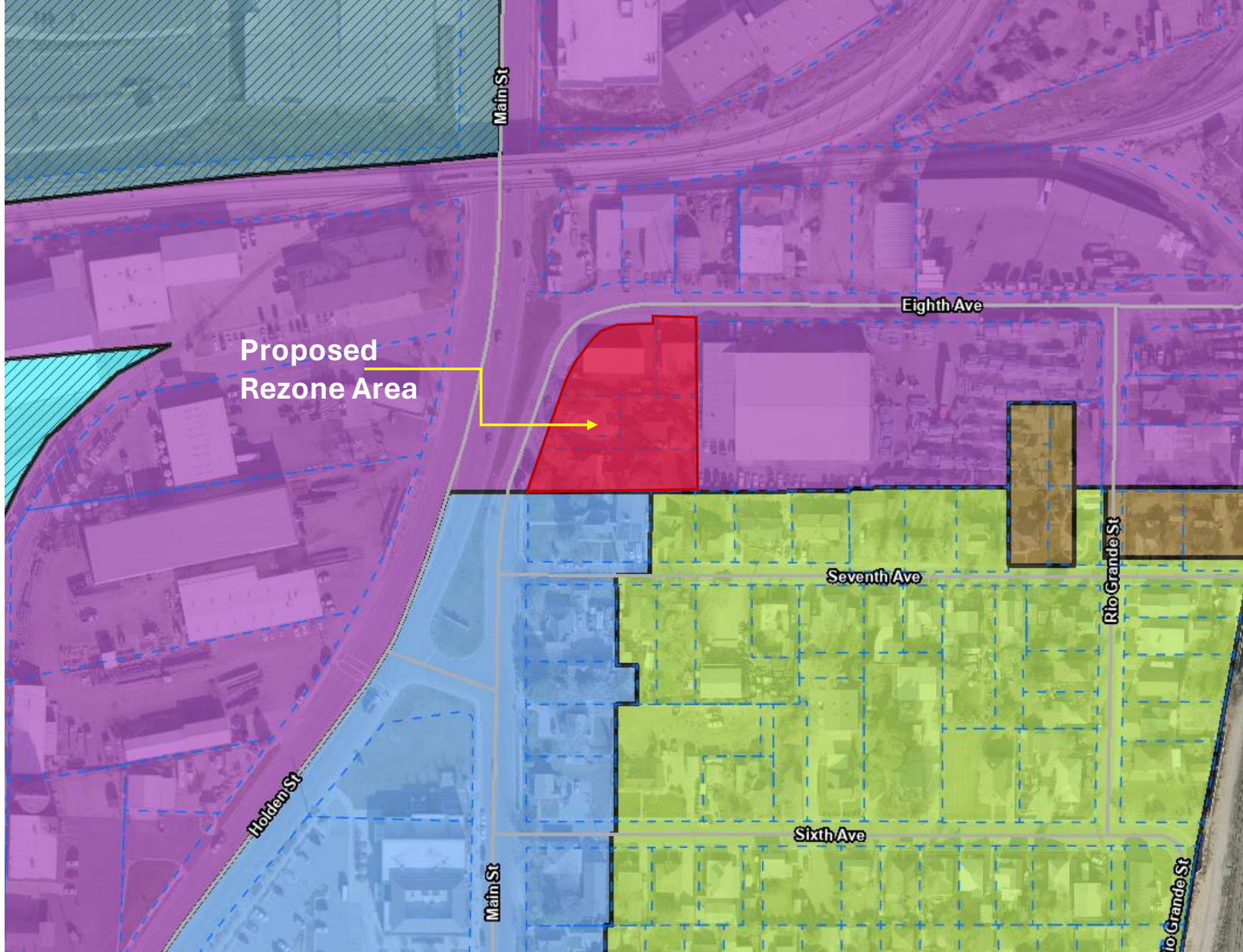
1. The request complies with the rezone procedure outlined in Midvale City Code 17-3-1(E).

### **RECOMMENDED MOTION**

“I move that we recommend approval of the Rezone request to rezone the following parcels from Clean Industrial (CI) to Main Street Form Based Code (MS-FBC): 7413 S Main St, 7409 S Main St, 7407 S Main St, 7397 S Main St, and 669 W Eighth Ave consistent with the findings included in the staff report.”

### **ATTACHMENTS**

1. Rezone Exhibit



Proposed  
Rezone Area

Main St

Eighth Ave

Seventh Ave

Rio Grande St

Holden St

Main St

Sixth Ave

Rio Grande St



7505 S Holden Street  
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801-567-7200  
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## MIDVALE CITY PLANNING COMMISSION STAFF REPORT 4/24/2024

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### SUBJECT

Midvale City initiated amendment to Midvale City Municipal Code Section 17-7-12.2 to remove Commercial Nursery as a use in the Regional Commercial (RC) Zone, Section 17-7-13.2 to add Storage Yard as a use in the Clean Industrial (CI) Zone, and Sections 17-2-15 and 17-2-19 to refine the definitions of Outdoor Storage and Storage Yards.

### SUBMITTED BY

Wendelin Knobloch, Planning Director

### BACKGROUND AND ANALYSIS

Midvale City requests a code text amendment that serves the following three purposes:

1. Remove Commercial Nurseries from the RC zone to provide a higher level of internal consistency in the zone's range of uses.
2. Add Storage Yard as a use in the CI zone in order to accommodate uses that were previously able to locate in the RC zone.
3. Simplify the definitions of Outdoor Storage and Storage Yards and move regulatory aspects included in the definitions to Section 17-6 Supplementary Regulations (see Item V.c on today's agenda).

Public notice has been sent to affected entities as required in Section 17-3-9.B of the Midvale Municipal Code (MMC) and no comments were received at the time of this writing.

Midvale City Code 17-3-1 outlines the criteria necessary for amendments to the zoning code or map as detailed below:

#### MMC Section 17-3-1(E): Amendments to the Zoning Code or Map

E. Criteria/Required Findings. The city's zoning is the result of a detailed and comprehensive appraisal of the city's present and future land use allocation needs. In order to establish and maintain sound, stable, and desirable development within the city, **rezoning of land is to be discouraged and allowed only under the limited circumstances herein described.** Therefore, the planning commission may recommend, and the city council may grant, **a rezoning application only if it determines, in written findings, that the proposed rezoning is consistent with the**

**policies and goals of the general plan** and that the applicant has demonstrated that the:

1. Proposed rezoning is necessary either to **comply with the general plan proposed land use map** or to **provide land for a community need** that was not anticipated at the time of adoption of the general plan;

**Staff Response:** This criterion is not applicable because the request seeks to amend the municipal code not the zoning map.

2. Existing zoning was either the result of a **clerical error or a mistake of fact**, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or

**Staff Response:** This criterion is not applicable because the request seeks to amend the municipal code not the zoning map.

3. **Land or its surrounding environs has changed or is changing** to such a degree that it is in the **public interest to encourage redevelopment** of the area or to recognize the changed character of the area.

**Staff Response:** This criterion is not applicable because the request seeks to amend the municipal code not the zoning map.

## **STAFF RECOMMENDATION**

Staff recommends the Planning Commission forward the text amendment to the City Council with a favorable recommendation and the following findings:

1. The amendment complies with MMC 17-3-1(E)(1)
2. The public interest is enhanced by zoning uses that are internally consistent and code structure and language that clearly expresses the City's intent.

## **RECOMMENDED MOTION**

I move that we recommend approval of the code text amendment that removes Commercial Nurseries from the RC Zone, adds Storage Yards to the CI Zone, and refines definitions for Outdoor Storage and Storage Yards as provided in the attachments, with the findings noted in the staff report.

## **ATTACHMENTS**

1. Code Amendments

## 17-7-12.2 Uses.

If a use is not specifically designated, then it is prohibited. Uses designated with an asterisk (\*) have additional use-specific standards included in subsection [\(A\)](#) of this section.

**Table 17-7-12.2. Uses**

Type	Allowed	Administrative	Conditional	Business License
Alcoholic Beverage				
Class A License	X			X
Class B License	X			X
Class C Tavern	X			X
Restaurant	X			X
Package Agency			X	X
Private Club	X			X
State Liquor Store	X			X
Animal Hospital	X			X
Assisted Living Facility				
≤ 1 acre		X		
> 1 acre			X	
Auditorium, Assembly Hall			X	X
Carwash		X		
Child Care				
≤ 6 children	X			X
≥ 7 children		X		X

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Commercial Repair Services	<b>X</b>		<b>X</b>
Entertainment Center		<b>X</b>	<b>X</b>
Fences			
7' or less	<b>X</b>		
7' or more		<b>X</b>	
Financial Institution			
W/o drive up window	<b>X</b>		<b>X</b>
W/drive up window		<b>X</b>	<b>X</b>
Golf Course, private		<b>X</b>	<b>X</b>
Heliport		<b>X</b>	<b>X</b>
Hotel/Motel		<b>X</b>	<b>X</b>
Itinerant Merchants			
Vending Carts	<b>X</b>		<b>X</b>
Seasonal Food Stands	<b>X</b>		<b>X</b>
Christmas Tree Sales	<b>X</b>		<b>X</b>
Fireworks Stands	<b>X</b>		<b>X</b>
Seasonal Produce Stands	<b>X</b>		<b>X</b>
Seasonal Flower Stands	<b>X</b>		<b>X</b>
Kennel		<b>X</b>	<b>X</b>
Manufactured Home	<b>X</b>		
Manufacturing	<b>X</b>		<b>X</b>
Medical Cannabis Pharmacy	<b>X</b>		<b>X</b>

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Mortuary/Funeral Home	<b>X</b>		<b>X</b>
Municipal Facilities			
Parks			
Public Safety Facility		<b>X</b>	
Public Utilities			
Minor		<b>X</b>	
Major			<b>X</b>
Recreational Facilities		<b>X</b>	
Trails		<b>X</b>	
<del>Nursery, Commercial</del>	<del><b>X</b></del>		<del><b>X</b></del>
Office			
General	<b>X</b>		<b>X</b>
Intensive			<b>X</b>
Outdoor Dining		<b>X</b>	<b>X</b>
Outdoor Storage		<b>X</b>	
Parking Lot			
Commercial			<b>X</b>
Private	<b>X</b>		
Pawn Shop		<b>X</b>	<b>X</b>
Pre-Existing Landscaping	<b>X</b>		
Pre-Existing Lighting (outdoor)	<b>X</b>		
Pre-Existing Lot	<b>X</b>		

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Pre-Existing Structure	<b>X</b>		
Pre-Existing Use	<b>X</b>		
Quasi-Public Facilities			
Hospital		<b>X</b>	<b>X</b>
Schools, Private		<b>X</b>	<b>X</b>
Radio Station	<b>X</b>		<b>X</b>
Recreation Facility Commercial		<b>X</b>	<b>X</b>
Religious/Educational Institute			
Permanent	<b>X</b>		<b>X</b>
Temporary		<b>X</b>	<b>X</b>
Restaurant			
W/drive up window		<b>X</b>	<b>X</b>
W/o drive up window	<b>X</b>		<b>X</b>
Retail and Service Commercial			
W/drive up window		<b>X</b>	<b>X</b>
W/o drive up window	<b>X</b>		<b>X</b>
24 hour use		<b>X</b>	<b>X</b>
Retail Tobacco Specialty Business*	<b>X</b>		<b>X</b>
Shopping Center		<b>X</b>	<b>X</b>
Telecommunications Facility		<b>X</b>	
Transportation Facility			

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Major		<b>X</b>	
Minor	<b>X</b>		
Vehicle-Related Use			
Rental		<b>X</b>	<b>X</b>
Sales (Minor)	<b>X</b>		<b>X</b>
Sales and Service (Major)		<b>X</b>	<b>X</b>
Filling Station		<b>X</b>	<b>X</b>
Repair		<b>X</b>	<b>X</b>
Warehouse/Distribution		<b>X</b>	<b>X</b>

**17-7-13.2 Uses.**

If a use is not specifically designated, it is prohibited. Uses designated with an asterisk (\*) have additional use-specific standards included in subsection (A) of this section.

**Table 17-7-13.2. Uses**

Type	Allowed	Administrative	Conditional	Business License
Alcoholic Beverage				
Class A License	X			X
Class B License	X			X
Class C Tavern	X			X
Restaurant	X			X
Package Agency			X	X
Private Club	X			X
State Liquor Store	X			X
Animal Hospital	X			X
Assisted Living Facility				
≤ 1 acre		X		
> 1 acre			X	
Auditorium, Assembly Hall			X	X
Cannabis Production Establishment*	X			X
Car Wash		X		X
Child Care				

The Midvale Municipal Code is current through Ordinance 2024-02, passed February 27, 2024.

≤ 6 children	X		X
≥ 7 children		X	X
Commercial Repair Services	X		X
Entertainment Center			X
Fences			
7' or less	X		
7' or more		X	
W/barbed or razor wire			X
Electrified Security			X
Financial Institution			
W/o drive up window	X		X
W/drive up window		X	X
Golf Course, Private			X
Heliport			X
Hospital			X
Hotel/Motel			X
Itinerant Merchants			
Seasonal Food Stands	X		X
Seasonal Produce Stands	X		X
Seasonal Flower Stands	X		X
Kennel		X	X
Manufacturing Use	X		X
Medical Cannabis Pharmacy*	X		X
Mortuary/Funeral Home	X		X

Municipal Facilities

Parks		X		
Public Safety Facility		X		
Public Utilities				
Minor		X		
Major			X	
Recreational Facilities		X		
Trails		X		
Nursery, Commercial	X			
Office				
General	X			
Intensive			X	
Outdoor Dining		X		X
Outdoor Storage		X		
Parking Lot				
Commercial			X	X
Private	X			
Pawn Shop		X	X	
Pre-Existing Landscaping	X			
Pre-Existing Lighting (outdoor)	X			
Pre-Existing Lot	X			
Pre-Existing Structure	X			
Pre-Existing Use	X			
Private Club			X	X

Quasi-Public Facilities

Hospital			X	X
Schools, Private			X	X
Radio Station	X			
Recreation Facility, Commercial			X	X
Recycling Center			X	X
Religious/Educational Institute				
Permanent	X			X
Temporary			X	X
Restaurant				
W/drive up window		X		X
W/o drive up window	X			X
Retail and Service Commercial				
W/drive up window		X		X
W/o drive up window	X			X
24 hour use			X	X
Retail Tobacco Specialty Business*	X			X
Self-Service Storage Facility			X	X
Sexually Oriented Business			X	X
Shopping Center			X	X
<u>Storage Yard</u>		X		
Telecommunications Facility		X		
Transfer Station			X	X

Transportation Facilities

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Minor	X		
Major		X	
Vehicle-Related Use			
Rental		X	X
Sales (Minor)		X	X
Sales and Service (Major)		X	X
Filling Station		X	X
Repair		X	X
Warehouse/Distribution	X		

**17-2-15 "O" definitions.**

"Outdoor storage" means the accessory location of any goods, wares, merchandise, commodities, or any other item outside of a completely enclosed building for a continuous period longer than ~~twenty-four~~24 hours. ~~The area used for outdoor storage shall not constitute more than fifteen percent~~15% of the lot area. ~~With the exception of retail sales displays in an approved commercial area, outdoor storage shall be screened from public view by a minimum six-foot high opaque fence or, when outdoor storage occurs in a front yard, side yard, or any other location within the public view, a fence or screening of a height and material determined by the planning commission. The presence of hazardous materials, junk, junk cars, or debris not usually appurtenant to permitted on-site uses is prohibited. "Outdoor storage" as defined herein does not include "Storage yard," construction yards, storage yards, or other storage uses where the storage of items outside of an enclosed building is a primary characteristic of the use. See "Storage yard."~~

**17-2-19 "S" definitions.**

"Storage yard" means the location of goods, wares, merchandise, commodities, equipment, materials or any other item outside of a completely enclosed building for a continuous period longer than ~~twenty-four~~24 hours. ~~when such storage is a primary characteristic of a permitted use or and constitutes more than fifteen percent~~15% of the lot area. ~~The presence of hazardous materials, junk, junk cars, or debris not usually appurtenant to permitted on-site uses is prohibited. Storage yards shall be screened from public view by a minimum six-foot high masonry fence and, when outdoor storage occurs in a front yard, side yard, or any other location within the public view, additional screening of a height and material determined by the planning commission. Storage yards shall not be permitted within two hundred fifty~~250 feet of a ~~primarily residential zone, ing district boundary or within the public view from Union Park Road, 900 East, State Street, 7200 South or 7800 South.~~ For the purposes of this title, construction yards, lumber yards, and like uses are considered to be storage yards as regulated herein. ~~Compare with "Outdoor storage."~~



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## MIDVALE CITY PLANNING COMMISSION STAFF REPORT 4/24/2024

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### SUBJECT

Midvale City initiated amendment to Midvale City Municipal Code Sections 17-7-7.6, 17-7-10.12.12(D), and 17-7-13.5 to amend and remove outdoor storage regulations from the State Street Zone (SSC), Jordan Bluffs Subareas 1-3 Development, and Clean Industrial (CI) zones and relocate said amended regulations to Section 17-6-3 (Supplementary Regulations) of the Midvale City Municipal Code.

### SUBMITTED BY

Jonathan Anderson, Planner II

### BACKGROUND AND ANALYSIS

Midvale City requests an amendment to the above-listed sections of the Midvale City Municipal Code. The amendments requested are to remove the outdoor storage standards from the individual zones and relocate the amended regulations into the Supplementary Regulations under Section 17-6 for simplicity across all of Title 17 in the Midvale City Municipal Code.

Public notice has been sent to affected entities as required in 17-3-9.B of the Municipal Code. No comments have been received as of the writing of this report.

### *-AMENDMENTS TO THE ZONING CODE OR MAP-*

Midvale City Code 17-3-1 outlines the criteria necessary for amendments to the zoning code or map (Staff responses in **bold**):

#### 17-3-1.E Amendments to the Zoning Code or Map.

1. Proposed rezoning is necessary either to comply with the general plan proposed land use map or to provide land for a community need that was not anticipated at the time of adoption of the general plan;

**Response: The request is not for a rezone; rather, an amendment that removes outdoor storage regulations from individual zones and relocates the amended regulations as a supplementary regulation.**

2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or,

**Response: This criterion is not applicable.**

3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area;

**Response: This criterion is not applicable.**

### **STAFF RECOMMENDATION**

Staff recommends the Planning Commission forward the text amendment on to the City Council with a recommendation of approval with the following finding:

1. The amendment complies with Midvale City Code 17-3-1(E)(1).

### **RECOMMENDED MOTION**

“I move that we recommend approval of the amendment as provided in the attachments, with the finding noted in the staff report.”

### **ATTACHMENTS**

1. Draft Ordinance

**17-7-7.6**     **Reserved.Outdoor storage.**

~~Outdoor storage shall be a secondary use to the primary structure. No roof premises storage is permitted. Storage yards shall be located behind the primary structure and screened as follows:~~

~~A.—Fencing parallel to the street shall be made of CMU or decorative concrete painted to match the structure. The other fencing may be made of solid metal, CMU or decorative concrete. All fencing shall be six feet in height.~~

~~B.—The storage yard shall be surfaced with asphalt, recycled asphalt, or concrete.~~

~~C.—Items stored within twenty feet of the fencing may not exceed the height of the fence (six feet). (Ord. 3-19-2002A § 1(3) (part))~~

## 17-7-10.12.12 Additional standards for specific uses.

D. ~~Reserved. Outdoor Storage.~~ Outdoor storage shall be a secondary use to a primary commercial structure and use. No roof premises storage is permitted. Storage yards shall be located behind the primary structure and screened as follows:

1. ~~Fencing parallel to the street shall be made of CMU or decorative concrete painted to match the structure. The other fencing may be made of solid metal, CMU or decorative concrete. All fencing shall be a minimum of seven feet in height.~~

2. ~~Paving.~~ The storage yard shall be surfaced with asphalt or concrete.

3. ~~Height.~~ Items stored within twenty feet of the fencing may not exceed the height of the fence.

**17-7-13.5** ~~Reserved.~~ **Outdoor storage.**

~~Outdoor storage shall be a secondary use to the primary structure. No roof premises storage is permitted. Storage yards shall be located behind the primary structure and screened as follows:~~

~~A. Fencing parallel to the street shall be made of CMU or decorative concrete painted to match the structure. The other fencing may be made of solid metal, CMU or decorative concrete. All fencing shall be six feet in height.~~

~~B. The storage yard shall be surfaced with asphalt, recycled asphalt, or concrete.~~

~~C. Items stored within twenty feet of the fencing may not exceed the height of the fence. (Ord. 11-20-2001 § 2 (part))~~

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### **17-6-3 Outdoor Storage and Storage Yard Standards.**

Outdoor storage and storage yards shall meet the following requirements:

A. *Location.*

1. Outdoor storage shall be located in the side or rear yard of the primary structure.
2. Storage yards shall not be permitted within 250 feet of a primarily residential zone.

B. *Lot Area.* Outdoor storage shall not constitute more than 15% of the lot area.

B. *Height.* Items stored within 20 feet of fencing may not exceed the height of the fence.

C. *Screening.* Outdoor storage and storage yards must be screened from public view. Fencing shall be made of CMU or decorative concrete. All fencing must be at least six feet in height and may not exceed the maximum height of permitted fencing within the zone.

D. *Paving.* Outdoor storage shall be surfaced with asphalt, recycled asphalt, or concrete.

E. *Prohibited Items.* Roof top storage, hazardous materials, junk, junk cars, and debris are prohibited.



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## MIDVALE CITY PLANNING COMMISSION STAFF REPORT 4/24/2024

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### SUBJECT

Midvale City initiated amendment to Midvale City Municipal Code Sections 17-7-9.12.1.8(E) and 17-7-12.4(F) to remove references to storage yard architectural standards in the Riverwalk Overlay and Regional Commercial (RC) zones.

### SUBMITTED BY

Jonathan Anderson, Planner II

### BACKGROUND AND ANALYSIS

With a storage yard not being an allowed use in the Riverwalk Overlay and Regional Commercial Zones, there is not a need for the architectural standards for storage yards to be within the ordinance for either of the zones. This proposed amendment is to remove the standards from these zones.

Public notice has been sent to affected entities as required in 17-3-9.B of the Municipal Code. No comments have been received as of the writing of this report.

### *-AMENDMENTS TO THE ZONING CODE OR MAP-*

Midvale City Code 17-3-1 outlines the criteria necessary for amendments to the zoning code or map (Staff responses in **bold**):

17-3-1.E Amendments to the Zoning Code or Map.

1. Proposed rezoning is necessary either to comply with the general plan proposed land use map or to provide land for a community need that was not anticipated at the time of adoption of the general plan;

**Response: The request is not for a rezone; rather, an amendment that removes the architectural standards for storage yards from the Riverwalk Overlay and Regional Commercial zones.**

2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or,

**Response: This criterion is not applicable.**

3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area;

**Response: This criterion is not applicable.**

### **STAFF RECOMMENDATION**

Staff recommends the Planning Commission forward the text amendment on to the City Council with a recommendation of approval with the following finding:

1. The amendment complies with Midvale City Code 17-3-1(E)(1).

### **RECOMMENDED MOTION**

“I move that we recommend approval of the amendment as provided in the attachments, with the finding noted in the staff report.”

### **ATTACHMENTS**

1. Draft Ordinance

**17-7-9.12.1.8 Retail/office/flex and mixed-use architectural standards.**

E. *Miscellaneous.* Security devices shall have materials and colors that complement the building's architecture and building materials. Accessory structures shall be architecturally compatible with the primary development. Satellite dishes shall not be placed in view from the front yards.

**Table 17-7-9.12.1.8. Architectural Standards**

Materials	Configurations	Techniques
<b>Walls</b>		
<b>Building Walls:</b> Architectural precast concrete, architecturally treated concrete masonry units, brick cladding, natural and cast stone, architectural metals and glazing. No more than 3 materials shall be used for the primary wall surfaces on a building or fence.	Traditional, time- and weather-tested materials.	Buildings shall use a cohesive palette of colors which complement nearby buildings. Without limiting the use of color, large areas of wall shall be subdued in color and not reflective. Intense colors should be used as accent only.
<b>Retaining Walls:</b> Shall be of materials and color complementary to the building's materials.	Traditional, time- and weather-tested materials.	Retaining walls shall use a cohesive palette of colors which complement nearby buildings. Without limiting the use of color, large areas of wall shall be subdued in color and not reflective.
<b>Roofs</b>		
<b>Roofs &amp; Dormers:</b> All the roofs and dormer roofs of a building shall be	Slopes of roofs shall be of equal pitch when a gable or hip roof is	Metal roofs must have a subdued color. Painted shingles are

Materials	Configurations	Techniques
constructed of the same material.	employed.	prohibited.
<p><b>Cornices &amp; Trim:</b> Shall be made with a material and color complementary to building.</p>		
<p><b>Elements</b></p>		
<p><b>Entry Porches:</b> Front steps shall be constructed of durable materials.</p>		
<p><b>Miscellaneous:</b> Security devices shall have materials and colors that complement the building's material.</p> <p>Accessory structures shall be compatible with the primary structure.</p>	<p>Satellite dishes over 18" shall not be placed in front yards. Awnings shall not be backlit.</p>	<p>External lights shall be located and used to avoid light trespass.</p>
<p><b>Yard Walls &amp; Fences:</b> Shall be of materials and color complementary to the building's materials.</p>	<p>Max. height on lot is 7'.</p> <p>Max. height from front of primary structure forward is 4'. Max. height in sight distance triangle is 3'.</p>	<p>Masonry wall shall be at least 8" thick and capped by a weather protection top course.</p>
<p><b>Driveways &amp; Parking:</b> Curbs shall be concrete or asphalt.</p>		<p><del>Storage yards shall be screened and have paved surfaces.</del></p>

## 17-7-12.4 Architectural standards.

F. *Miscellaneous.* Security devices shall have materials and colors that complement the building's material. Accessory structures shall be architecturally compatible with the primary development. Satellite dishes over eighteen inches shall not be placed in front yards.

**Table 17-7-12.4. Architectural Standards**

Materials	Configurations	Techniques
<b>Walls</b>		
<p><b>Building Walls:</b> Pre-cast concrete, brick, split face or scored CMU, stone, granite, ceramic tile, architectural metals and nonreflective glass. Limited amounts of stucco/masonite. ≤ 3 materials shall be used for the primary wall surfaces on a building or fence.</p> <p><b>Retaining Walls:</b> Shall be of materials and color complementary to the building's materials.</p>	<p>Traditional, time- and weather-tested materials. Blank facades may not exceed 30' in length. 5' facade shift every 30'.</p> <p>Traditional, time- and weather-tested materials.</p>	<p>Earth tones, to colors with some white and gray tones. Trim around openings may be in an accent color.</p> <p>Earth tones, to colors with some white and gray.</p>
<b>Roofs</b>		
<p><b>Roofs &amp; Dormers:</b> All the roofs and dormer roofs of a building shall be constructed of the same material.</p> <p><b>Cornices &amp; Trim:</b> Shall be made with a material and color complementary to building.</p>	<p>Slopes of roofs shall be of equal pitch when a gable or hip roof is employed.</p>	<p>Metal roofs must have a subdued color. Painted shingles are prohibited.</p>
<b>Elements</b>		

Materials	Configurations	Techniques
<p><b>Entry Porches:</b> Front steps shall be constructed of durable material.</p> <p><b>Miscellaneous:</b></p> <p>Security devices shall have materials and colors that complement the building's material. Accessory structures shall be compatible with the primary structure.</p>	<p>Satellite dishes over 18" shall not be placed in front yards.</p> <p>Awnings shall not be backlit.</p>	<p>External lights shall be located and used to avoid light trespass.</p>
<p><b>Yards</b></p>		
<p><b>Yard Walls &amp; Fences:</b> Shall be of materials and color complementary to the building's materials.</p>	<p>Max. height on lot is 7'.</p> <p>Max. height from front of primary structure forward is 4'.</p> <p>Max. height in clear view triangle is 3'.</p>	<p>Masonry wall shall be at least 8" thick and capped by a weather protection top course.</p>
<p><b>Driveways &amp; Parking:</b> Curbs shall be concrete or asphalt.</p>		<p><del>Storage yards shall be screened and have paved surfaces.</del></p>



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## MIDVALE CITY PLANNING COMMISSION STAFF REPORT 4/24/2024

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### SUBJECT

Midvale City initiated amendment to Midvale City Municipal Code Section 17-7-11.3(B)(4)(g) to reduce the distance between an outdoor dining area and an existing residential use from one hundred feet to twenty feet in the Main Street Form Based Code (MS-FBC) zone.

### SUBMITTED BY

Jonathan Anderson, Planner II

### BACKGROUND AND ANALYSIS

The current one-hundred-foot distance between an outdoor dining area and an existing residential use in the Main Street Form Based Code prohibits the construction of outdoor dining areas that are not within the exceptions mentioned in 17-7-11.3(B)(4)(g). The proposal to reduce that requirement down to twenty feet matches the proposed amendments to the State Street Commercial Zone, heard before the Planning Commission on April 10, 2024.

Public notice has been sent to affected entities as required in 17-3-9.B of the Municipal Code. No comments have been received as of the writing of this report.

### *-AMENDMENTS TO THE ZONING CODE OR MAP-*

Midvale City Code 17-3-1 outlines the criteria necessary for amendments to the zoning code or map (Staff responses in **bold**):

#### 17-3-1.E Amendments to the Zoning Code or Map.

1. Proposed rezoning is necessary either to comply with the general plan proposed land use map or to provide land for a community need that was not anticipated at the time of adoption of the general plan;

**Response: The request is not for a rezone; rather, an amendment that reduces the distance between an outdoor dining area and existing residential use.**

2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood plain, unstable soils, and inadequate drainage; or,

**Response: This criterion is not applicable.**

3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area;

**Response: This criterion is not applicable.**

### **STAFF RECOMMENDATION**

Staff recommends the Planning Commission forward the text amendment on to the City Council with a recommendation of approval with the following finding:

1. The amendment complies with Midvale City Code 17-3-1(E)(1).

### **RECOMMENDED MOTION**

“I move that we recommend approval of the amendment as provided in the attachments, with the finding noted in the staff report.”

### **ATTACHMENTS**

1. Draft Ordinance

## 17-7-11.3 Uses.

### B. *Specific Use Provisions.*

4. *Outdoor Dining.* Each application for an outdoor dining use shall comply with the following:

- a. The dining area shall be located on private property or leased public property and shall not diminish required parking or landscaping.
- b. The dining area shall not impede pedestrian circulation.
- c. The dining area shall not impede emergency access or circulation.
- d. The outdoor furnishings shall be compatible with the streetscape and associated building.
- e. No music or noise shall be in excess of the city noise ordinance. Outdoor music shall not be audible off premises.
- f. No use after ten-thirty p.m. and before seven a.m.
- g. No part of the outdoor dining area shall be located within ~~one hundred~~ twenty feet of any existing residential use (measured from the edge of the outdoor dining area to the closest property line of the residential use), unless the residential use is part of a mixed-use building or the outdoor dining area is separated from the residential use by a commercial building.
- h. Cooking facilities shall be located within the primary building. No cooking utilities, including grills, shall be permitted in the outdoor dining area.
- i. The outdoor dining area shall be kept in a clean condition and free of litter and food items which constitute a nuisance to public health, safety and welfare.