



Midway

RESOLUTION

2024-21

A RESOLUTION APPROVING THE FINAL PLAN FOR THE HOMESTEAD RESORT PHASES 1 AND 2

WHEREAS, the City, acting pursuant to its administrative authority under Utah Code Ann. §10-9a-101, *et. seq.*, in compliance with the Midway City Land Use Ordinance, and in furtherance of its land use policies, goals, objectives, ordinances and regulations, has made certain determinations with respect to the proposed Homestead Resort – Phases 1 and 2, located at approximately 700 North Homestead Drive in Midway, Utah (hereinafter referred to as the “Project”);

WHEREAS in order to advance the policies, goals, and objectives of the City, and to promote the health, safety, and general welfare of the public, the City makes the following Findings of Fact, Conclusions of Law, and Conditions of Approval to approve the final plans for the proposed Homestead Resort – Phases 1 and 2:

FINDINGS OF FACT

1. THE HOMESTEAD GROUP, LLC (the “Developer”) owns certain real property located in the City, as described in Exhibit “A” (the “Property”) attached hereto and incorporated herein by this reference.
2. Developer warrants and represents that it has the legal authority to sign this Agreement and bind the Property as set forth herein.
3. The Project is located in the Resort Zone and is subject to a 2008 Master Plan Development Agreement, that has been amended on two (2) occasions (together, the “MPDA”).
4. The Applicant’s proposal is located on 71.97 acres and includes 68 new condominium units, five (5) new single-family dwellings, and (2) new cottages that will be operated as part of the resort bed base, seven (7) resort amenity buildings, open space, and all existing resort buildings and accompanying facilities.

5. There are two (2) phases in the proposed plan for the development. Both phases encompass a total of 71.97 acres and contain a total of 55.79 acres of open space. Phase 1 encompasses 35.44 acres and Phase 2 encompasses 20.35 acres.
6. A total of 55.79 acres of open space (77.5%) is currently proposed within the Project.
7. There is a FEMA floodplain that crosses the property.
8. The Property contains some wetlands and geologically sensitive lands that the Applicant proposes will not be disturbed through the development process.
9. The Crater is defined in the Municipal Code as a major geological feature in the sensitive lands ordinance and cannot be developed or disturbed, although the Crater has been developed in several ways over the past century.
10. The Applicant held a public participation meeting on March 7, 2024.
11. Under the MPDA, the Applicant may develop 453 rooms on site with a maximum building footprint of 367,750 square feet.
12. The Applicant has proposed that some of the Property will be subdivided into condominium units that will be part of the short-term rental pool.
13. The Applicant's proposal includes +/- 264 total rooms. At this time, the number of rooms that will be added to the resort will be approximately 139, which brings the total number to approximately 264 once construction is complete (this number is approximate because it is unknown how many rooms will be in the single-family dwellings).
14. Under the terms of this application, the Applicant has proposed a maximum building footprint of 238,376 square feet.
15. The proposed development is designed with the setbacks from the 2006 code in which the MPDA is vested.
16. The proposed plan has an average building coverage of 3,312 square feet per acre which is 9% per acre.
17. The Applicant has received a determination from the Visual and Architectural Committee (VAC) that all structures in the Final Plan proposal follow the traditional architectural design of the Homestead and not the Swiss and Old European theme the City has adopted. Additionally, per the MPDA, "Building materials and colors that are compatible with the natural environment and the existing buildings in the Homestead are encouraged."
18. The Applicant has proposed that all roads in the development will be private roads.
19. The Applicant has proposed that there will be a mix of public and private trails throughout the development and that sensitive land areas located on the Property, and identified in the Final Plan will be left undisturbed.
20. The Applicant is initially seeking to construct 465 parking stalls, which is roughly 40 more stalls than is required. The Applicant has committed that, at a minimum, 510 stalls will be built onsite at final build out. The MPDA gives the City the ability to require up to 608 parking stalls if it is determined by the Planning Director and the City Engineer that there is a lack of parking.
21. Once Phases 1 and 2 are approved, they will take several years to construct. The City has received concerns, comments, and complaints about the construction and related debris from neighbors causing the City concern about the timing of certain landscaping requirements.
22. The Applicant has submitted a Landscaping Plan that the City has approved, attached hereto as Exhibit A.
23. The City has accepted the Applicant's photometric study submission. Based on this study, the Applicant has committed to install bollard lighting in the parking lots to minimize light trespass from the southern parking area to the residences in The Links.
24. §The City and the Applicant have entered into a separate Memorandum of Understanding for the construction of a replica of an "historic" cabin.

CONCLUSIONS OF LAW

1. The Project is allowed in the Resort Zone.
2. The proposed density is far less than the density allowed in the MPDA.
3. Pursuant to the MPDA, upon approval of a new application for preliminary and final plan, the Applicant remains allowed to increase the building area up to 367,750 square feet and the number of rooms up to a total of 453 rooms.
4. Structures cannot exceed 35-feet in height *unless* the building is a hotel or conference building and that building is located at least 500-feet east of the right-of-way of Homestead Drive. The height of any structure over 35-feet cannot exceed an elevation of 5680 feet, two (2) feet lower than the highest elevation of the Crater. All future elevation certificates will be based on natural grade and shall comply with the provisions of the MPDA.
5. As part of this application, the Applicant has received approval for one (1) proposed building to be a maximum of 40-feet in height, measured from natural grade, to be within 500-feet of Homestead Drive. This proposed wedding barn is setback approximately 150-feet from the right-of-way line from Homestead Drive. The VAC reviewed this issue and gave direction that the 40-foot height would be acceptable based on the following: the relatively large distance from Homestead Drive to the proposed structure, elevation drop from Homestead Drive to the location of the wedding barn, and that the location of the wedding barn would not greatly impact views of the Crater from Homestead Drive.
6. The Final Plan complies with a required 100-foot setback along Homestead Drive.
7. The Final Plan complies with required 30-foot setbacks on the north, south, and east boundaries.
8. The Final Plan complies with the 2006 code (in which the MPDA is vested), which requires that building coverage not exceed 12,000 square feet per acre or greater than 27.5% of an acre.
9. The Applicant's proposal to construct 465 parking stalls is roughly 40 more stalls than is required.
10. The MPDA gives the City the ability to require up to 608 parking stalls if it is determined by the Planning Director and the City Engineer that there is a lack of parking.
11. The MPDA gives the City the ability to require additional parking stalls to be constructed if it is determined by the Planning Director and the City Engineer that there is a lack of parking.
12. The City Code requires 55% open space within the entirety of the Property. The Project complies with City Code.

CONDITIONS OF APPROVAL

1. Payment of Fees: Prior to plat recordation or building permit issuance, Applicant agrees to pay all legally imposed Midway City fees as a condition of developing the Project, including all outside consultant (engineering and attorney) fees reasonably incurred by the City in relation to the Project.
2. Simultaneous Recording of Plats: All plats for phases 1 and 2 will be recorded simultaneously.
3. Water Rights and Water Service: The required water rights for each phase will be dedicated to the City before the recording of each plat. A total of 182.46 acre-feet shall be dedicated to the City for this proposal. The Water Advisory Board has recommended an estimated 87.19 acre-feet for the "new development" in Phase 1 and Phase 2. Of the 87.19 acre-feet required, 65.94 acre-feet shall be dedicated for Phase 1 and the remaining balance of 21.25 acre-feet shall be dedicated for Phase 2. An additional 95.27 acre-feet shall be dedicated to the City for the open space parcels in the Phase 2 plat.
4. Open Space: The City Code requires 55% open space across the entire Property. A total of 55.79 acres of open space (77.5%) is currently planned across both phases of the Project. The open

space areas as shown on the proposed Final Plan shall be noted on the plats, except for the Crater, the 100-foot setback area, and the area east of the Crater noted in the Master Plan, and shall not be developed.

5. Density: The proposed new development within the Project includes 68 new condominiums, five (5) new single-family dwellings, and (2) cottages which may be used as short-term rentals.
6. Building Area: The Applicant shall limit development within the Project to a maximum building footprint area of 238,376 square feet until such time as it applies for and receives preliminary and final plan approval for additional building footprint area consistent with the MPDA.
7. Access: The Project is approved with four (4) access points that shall be built to City standards: two (2) from Homestead Drive, one (1) from The Kantons (existing), and one (1) from The Links (existing). The Applicant shall improve or “bond for,” the access from The Links prior to recordation of a plat amendment to develop the Convertible Land contained in Phase 1. There is a fifth access to Pine Canyon Road that will continue to be a maintenance road.
8. Sensitive Lands: If any jurisdictional wetlands are proposed to be disturbed, approval must first be obtained from the Army Corps of Engineers. The Applicant shall not development or modify the pot rock in designated Sensitive Land areas, in any way. Sand and pavers can be placed on the pot rock around the Crater to create safe and walkable surfaces. Improvements in the floodplain require compliance with the City’s NFIP ordinance and may require Army Corps of Engineers approval.
9. Trails: The Applicant’s Final Plan contains one (1) public trail that will parallel Homestead Drive. This trail must be “bonded for” and finished by November 30, 2024.
10. Architectural Theme: All buildings will be reviewed by the Visual and Architectural Committee and staff for conformity with the traditional architectural design of the Homestead (and not the Swiss and Old European theme that the City has adopted) before building permits are issued.
11. Required Landscaping/Southern Parking Lot. Landscaping shall be installed along the southern and northern boundaries of the Homestead, in accordance the the Landscaping Plan attached hereto as Exhibit A, by June 21, 2025. The precast wall along the southern boundary shall be installed as soon as possible. No vertical construction shall occur in Phase 1, until the southern wall is installed. The northern boundary fence shall be “bonded for” prior to plat recordation and installed by June 21, 2025.
12. Resort Lighting: All existing lighting on the property shall be brought into compliance with the Midway City Code by December 1, 2025.
13. Homestead Drive/State Route 222 Improvements: A UDOT permit shall be submitted to the City for the new access and other required improvements to SR 222 before any Homestead-related construction commences on Homestead Drive.
14. Sewer Connection: The Project shall connect to the existing Midway Sanitation District sewer lines located in the area.
15. Construction Traffic: All construction traffic for all Project improvements shall meet all reasonable requirements imposed by the Midway City Planning and Engineering Departments.
16. Duration of Final Approval: The duration of final plat approval shall be for one (1) year from the date of final approval of the development by the City Council. Should a final plat not be recorded with the County Recorder within this one-year period, the Applicant shall reapply for final plat approval, unless, on a showing of extenuating circumstances, the City Council extends the time limit for plat recording, with or without conditions.
 - a. Each extension will be for a one-year period only, after which time an annual review must be presented before the City Council; and/or
 - b. No more than three (3) one-year extensions will be allowed.
17. Assurances: Prior to recordation of a plat for Phase 1 or Phase 2, Applicant agrees to post an infrastructure improvement assurances for 100% of the engineer’s estimated cost of required public improvements approved in this Final Plan. However, infrastructure required for that

portion of Phase 1 located in the “Convertible Land,” shall not be bonded for until Applicant records a plat amendment for Phase 1 to develop the “Convertible Land.”

18. Warranty: Consistent with City standards, the Applicant will provide a one-year warranty for the construction of all dedicated public improvements to the standard approved herein and shall post an infrastructure warranty assurance in the amount of 10% of the lesser of the engineer’s estimated cost of such improvements, or the Applicant’s demonstrated cost of construction.
19. City’s Right to Draw From Construction Assurance: If the Applicant is required to perform any work within the public right-of-way, and the work is not completed by the City’s established deadlines, the City shall have the right to draw funds from the Applicant’s performance and other assurances to complete the work.
20. Conservation Easement(s). A conservation easement shall be placed on Open Space Parcels 1-7, as designated on the proposed plats, which represent previously designated open space per the MPDA located outside of the resort core. The conservation easement shall be held by an accredited land trust. Conservation easements shall be recorded no later than December 1, 2025.
21. Parking: All required parking for each building and use shall be completed before the Certificate of Occupancy is issued for each building in both phases.
22. Occupancy Restrictions: Permanent occupancy is prohibited in the project. The CC&Rs for each portion of the project shall restrict an individual’s occupancy of any Unit to no more than 90 days total per year. Midway City shall be a third-party beneficiary of all occupancy restrictions in project CC&Rs.

PASSED AND ADOPTED by the Midway City Council on the ____ day of _____, 2024.

MIDWAY CITY

Celeste Johnson, Mayor

ATTEST:

Brad Wilson, City Recorder

EXHIBIT A

(Legal Description of the Property)