



**MIDVALE**

In the Middle of Everything

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

**8th Day of February, 2017**  
**Council Chambers**  
**7505 South Holden Street**  
**Midvale, Utah 84047**

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***COMMISSION CHAIR:*** Kass Wallin

***PLANNING AND ZONING  
COMMISSION VICE CHAIR:*** Shane Liedtke

***BOARD MEMBERS:*** Colleen Costello  
Richard Judkins  
Evan Hanson

***STAFF:*** Lesley Burns, City Planner  
Matt Hilderman, Associate Planner  
Nicole Selman, DCD Administrative Assistant

**GENERAL SESSION**

Chairman Wallin called the Planning & Zoning Commission meeting to order at 7:00 p.m. The meeting began with the recitation of the Pledge of Allegiance. He informed the public there were agendas on the front table along with a sign-in sheet for them to sign. He explained how the meeting would proceed. First, the Planning Department would brief the Commission; then the applicant would speak to the Commission; after which, the floor would be open to the public for their brief statements and comments.

## ROLL CALL

Mr. Hanson	Present
Mr. Judkins	Present
Ms. Costello	Present
Mr. Wallin	Present
Mr. Liedtke	Excused

## PUBLIC HEARING

### **1. SUB-21-26-226-012; RIVERWALK AT BINGHAM JUNCTION LOT 8 AMENDED SUBDIVISION PLAT; 7111-7115 SOUTH BINGHAM JUNCTION BOULEVARD; TWO-LOT SUBDIVISION; BINGHAM JUNCTION ZONE/RIVERWALK OVERLAY; MARTY BILJANIC/WADSWORTH DEVELOPMENT GROUP (APPLICANT)**

Mr. Hilderman presented that The Riverwalk at Bingham Junction Lot 8 Amended Subdivision plat consists of two (2) proposed lots on a total of 2.611 acres located North of Jordan River Boulevard (7200 South), between Bingham Junction Boulevard (900 W) and 700 West. The initial subdivision plat consists of nine, existing commercial lots known as the Riverwalk Retail Center Large Scale Master Plan and identified as Lot 8 of the Riverwalk at Bingham Junction Lot 4D & 4E Amended Subdivision plat. Each lot either provides or is proposed to provide commercial and retail services, including drive-thru and sit down restaurants, to accommodate the surrounding uses. The applicant and developer, Wadsworth Development Group, are requesting subdivision approval to create a 2-lot subdivision for the existing Lot 8. In addition, this plat continues to recognize the necessary public utility providers and easements for services. This area is subject to the requirements of the Bingham Junction Zone, the Riverwalk Overlay, and the Riverwalk Retail Center Development Agreement.

The proposed amended subdivision plat reflects and is consistent with the Small Scale Master Plan for the Riverwalk Shopping Center Lot 8, approved on March 3, 2016. The applicant has indicated that the existing structure for the tenant, identified as D1 Sports Training and proposed as Lot 8A, is estimated to be six-inches (6") from the proposed lot line. The future building for Lot 8B, proposed to provide retail services, will also be six-inches (6") from the proposed lot line, thus creating a one-foot (1') separation between both structures. The total amount of parking stalls required for Lot 8A, based on the existing use, is estimated to be eight (8); the amended plat will provide a total of forty-eight stalls, thus assigning a total of seventy-six (76) stalls remaining and available for Lot 8B. The applicant has also provided information that the pedestrian and vehicular accesses will continue to remain and be recognized in the existing declaration of covenants, conditions, and restrictions (CC&R's).

The proposed subdivision plat has been reviewed and approved by the City Engineer and Fire Marshall. All utility companies will need to be notified regarding utility easements and notes on the subdivision plat. For a minor subdivision approval, this request complies with the City's subdivision requirements and final approval will require compliance with the conditions recommended below. All subdivisions require a review and recommendation from the Planning

Commission and approval from the City Council. Public hearings are required to be held by each body.

**STAFF RECOMMENDATION:**

Based on compliance with the City's subdivision requirements and compliance with the approved Small Scale Master Plan for the remainder of the project, Staff recommends that the Planning Commission forward a positive recommendation to the City Council to approve the amended subdivision plat for Riverwalk at Bingham Junction Lot 8 Amended, with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer, Fire Marshall, and City Council.
2. The applicant shall provide evidence that a courtesy notice has been sent to Questar Gas, Rocky Mountain Power, Comcast Cable, Century Link Communications, and UTOPIA regarding the utility easements on the subdivision plat prior to final approval.

Marty Biljanic with Wadsworth Development, stated he is the applicant.

Mr. Wallin asked Mr. Biljanic if he is comfortable with the Planning Commission imposing an additional condition that prohibits any kind of fencing that might create a separation between the two lots.

Mr. Biljanic replied that a condition of that nature is reasonable and that this requirement is already included in the CC&R's for this location.

Mr. Wallin determined that an additional condition is not necessary when the CC&R's already address these concerns.

There were no further questions for the applicant.

Mr. Judkins moved to open the meeting to a Public Hearing. Ms. Costello seconded the motion. Motion carried.

Sally Smith, 150 West 7500 South, Midvale, asked if this property will be developed into a commercial unit or will it be a high rise.

Mr. Biljanic explained this property is planned to be used as a retail shopping center. The CC&R's do not allow buildings higher than one story.

There were no further questions or comments from the public.

Mr. Judkins moved to close the Public Hearing. Mr. Hanson seconded the motion. Motion carried.

There was no further discussion among the Planning Commissioners.

**MOTION:**

Ms. Costello moved that, *“Based on compliance with the City’s subdivision requirements and compliance with the approved Small Scale Master Plan for the remainder of the project, I move that we forward a positive recommendation to the City Council to approve the amended subdivision plat for the Riverwalk at Bingham Junction Lot 8 Amended with the following conditions:*

- 1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer, Fire Marshall, and City Council.*
- 2. The applicant shall provide evidence that a courtesy notice has been sent to Questar Gas, Rocky Mountain Power, Comcast Cable, Century Link Communications, and UTOPIA regarding the utility easements on the subdivision plat prior to final approval.”*

Mr. Judkins seconded the motion. A roll call vote was taken.

Ms. Costello Yes  
Mr. Hanson Yes  
Mr. Judkins Yes

Motion carried unanimously.

**2. TXT-17-01; TEXT AND MAP AMENDMENT TO REDUCE BUILDING HEIGHTS AND DENSITIES WITHIN THE TRANSIT ORIENTED DEVELOPMENT (TOD) ZONE AND CREATE A NEW TOD OVERLAY; CITY STAFF (APPLICANT)**

Mr. Hill presented that the amendment before the Commission would revise the current TOD zone, reducing the maximum allowable height from 7 stories to 3 stories and reducing the maximum allowable density from approximately 100 residential dwelling units per acre to 25 residential dwelling units per acre. Also, as part of this amendment, a new TOD Overlay zone that could be applied to properties within the TOD zone through a rezone process would be created. This Overlay would allow up to 85 residential dwelling units per acre and a maximum allowable height of 7 stories. Through discussions with the Commission on how these two zones would be applied, staff has drafted a map for each TOD area reflecting boundaries for the TOD and TOD Overlay zones at the request of the Commission. These boundaries are not final and may be amended by either the Commission or the City Council as a part of this process.

Any properties zoned TOD with the final action of the City Council will be eligible for a rezone to the TOD Overlay zone through a rezone process involving public hearings with both the Planning Commission and City Council. As a part of the rezone process, a development agreement will be required between the City and the developer to memorialize site plan approvals and any conditional use permit approvals. The rezone and development agreement would be approved concurrently by the City Council. Any future requested changes to the project would be required to go back before the approving bodies. Any parcel zoned TOD Overlay through this process will be afforded all the applicable development rights of that zone without need for a rezone process. It should be noted that whether a rezone is necessary or not,

the developer will be required to enter into a development agreement with the City as part of the development application approval.

The Midvale City General Plan 2016 sets goals for public transit and associated opportunities in the City. The goal to “Develop standards in the vicinity of the Center Street and 7200 South TRAX Stations for mixed-use and transit oriented developments that take advantage of the proximity of transit while protecting the character of adjacent residential neighborhoods,” has helped to inform many of the recommended changes in this proposed amendment. Through the adoption of an amended TOD zone and the implementation of the TOD Overlay zone, standards will continue that take advantage of the proximity of the transit system while looking at identified parcels on a case by case basis to ensure the protection of the character of the adjacent stable residential neighborhoods as those parcels redevelop.

In addition to reducing the allowable height and density, the proposed amendment includes the following changes to clean up and clarify existing language in the TOD zone. All other existing requirements will remain, including setbacks, buffering from single family residential, parking, landscaping/open space, architecture.

- Single Family clean up (setbacks [porches, garages front setback], parking, accessory structures)
- Fencing height and materials to reflect recent amendments
- Adding access management standards for multi-family projects
- Removal of street accessed garage requirement; not practical
- Clarifying that recreation amenities are not a requirement of commercial development

The TOD Overlay provides for a more urban type of development with the following characteristics/standards:

- Maximum allowable building heights of 7 stories
- Maximum allowable density of 85 units per acre
- Residential open space 30% which includes open space, landscaping and outdoor recreational amenities (to include outdoor spaces within the building footprint)
- Required Development Agreement
- Same standards as existing TOD for setbacks, architecture, buffering from single family residential, and parking

#### **STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission forwards a positive recommendation to the City Council amending the TOD zoning ordinance, adopting the TOD Overlay zone and amending the City Zoning Map as presented.

There were no questions for Staff from the Commissioners.

Mr. Hanson moved to open the meeting to a Public Hearing. Ms. Costello seconded the motion. Motion carried.

Scott Roberts, 6550 South Millrock Drive, Sandy, stated that he works with and represents the Freeman family. The Freemans, in association with the Woodbury Corporation, currently own 3.2 acres located in the TOD Zone. He explained that based on the new draft for the amendment to the TOD Zone, the property he is referring to could potentially be developed into a 7-story structure but only on a Conditional Use basis.

Mr. Hill explained that Mr. Roberts is incorrect. The text amendment allows for the development of 7-story structures on properties that have direct frontage on 7200 South. This provision would not include the property Mr. Roberts mentioned.

Mr. Roberts questioned the number of times staff would like to hold a Public Hearing for this ordinance. If things are done properly during this meeting, then there shouldn't be a need to continuously make changes to the ordinance later. In his opinion, this new amendment is deeply flawed. Requiring a Conditional Use Permit for the development of the TOD Zone will ultimately mean that any development will need to go back to the Planning Commission for approval. He asked if the City could just figure out what they want and make final changes to the ordinance.

Ms. Burns explained that the proposed use of a property, both inside and outside of the TOD Overlay, is what determines whether a Conditional Use Permit is needed before developing a property.

Mr. Roberts countered that development of the TOD Zone is something that should be reviewed and approved by City Staff. If development isn't in compliance with the ordinance, then it won't receive approval from Staff. Requiring a developer to receive approval from both Staff and the Planning Commission is cumbersome. It needlessly disrupts the development plan.

Mr. Wallin asked Mr. Roberts if he had any additional suggestions on how the Planning Commission should proceed with this issue.

Mr. Roberts replied that it is important for the Planning Commissioners to figure out exactly what they want to see in regards to development in the TOD Zone. Upon figuring that out they should amend the text accordingly and allow development to be permitted rather than conditional. City Staff should be able to review the project and ensure each project is exactly what the Planning Commission has already approved.

Mr. Judkins pointed out that a Conditional Use Permit gives the applicant or developer an additional layer of protection in the event that City Staff isn't correctly interpreting the Ordinance. The applicant is given an opportunity to make an appeal to the Planning Commission for approval.

Mr. Roberts stated that he is pessimistic about that being true. He asked Ms. Burns what would happen if an applicant was unhappy with the decision made by Staff and they wanted to pursue the Planning Commission or the City Council for a second opinion.

Ms. Burns explained that the code is currently written in such a way that the applicant would

need to appeal the decision made by Staff. In the event of an appeal, the decision would be sent to an Administrative Hearing Officer. The code isn't currently written to allow the applicant to speak with the Planning Commission or the City Council if they do not like the decision made by Staff.

Mr. Roberts reiterated that he would prefer to see the Planning Commission go through every possible use and decide which uses they wish to allow or disallow in the TOD Zone. It makes more sense to get this process done right on one try rather than having to go through a similar process a hundred times. In his opinion this amendment is a deeply flawed document. Rather than having a different process for various residential density types the Planning Commission should just figure out exactly what they want. He understands the economics of building a 7-story building that can still work financially. At that level of density, you still need to have enough parking which is incredibly expensive. The economics of building that tall limits the height of a building more than any ordinance could. The primary issue is that this text amendment does not clearly define what the Planning Commission wants. The TOD Zone is a transit oriented zone. The entire TOD Zone was created by the Federal funding of TRAX. There are TOD Zones located within a quarter mile of TRAX through the entire Salt Lake Valley. These zones were meant to encourage the use of public transit. Midvale City is requiring more parking than any other city requires of their TOD Zone. He is curious as to why that much parking is required. Requiring so much parking will limit the height and the density of development. It would be easier to explicitly limit the height and density of development in the ordinance rather than using language to passively limit it.

Mr. Wallin asked what the parking requirements are in this Text Amendment.

Mr. Roberts replied that he believes the parking requirement is currently at 1.4 spaces per each 2-bedroom unit. He has not had time to study the Text Amendment deeply enough to get the new parking requirement perfectly figured out. He was attempting to skim over the changes and figure it out.

Mr. Hill clarified that the parking requirements have not and will not be changed in any way with this Text Amendment.

Mr. Roberts asked what the exact parking ratios are for the TOD Zone.

Mr. Hill stated that the details of the parking ratios of the TOD Zone do not need to be discussed now as it is not relevant to this Text Amendment. He went on to explain the City is going to go through a small area master planning process as had been requested by the City Council. Items to be reviewed in this process may include density, height, setbacks and parking. He noted that Mr. Roberts is correct. This process is not complete. This is one step of the process and there will be many more steps. The City Council and the residents of Midvale want to make sure that this zone is done and that it is done correctly. The City Council has a limited level of comfort with City Staff approving developments within the TOD Zone which is why there are conditional uses. The City Council also feels that residents have a right to have public hearings where they can be given the opportunity to look at proposed uses within the City. That's another reason why there are conditional uses. That decision is up to the governing body of the City to determine. The Planning Commission can make a recommendation to allow each use to be permitted rather than

a conditional use, however, they have currently remained as a conditional use because that is specifically what the City Council has requested.

Mr. Roberts responded that he will be speaking with the City Council about this matter. He went on to say that Midvale City has been sitting on a dilapidated kind of run-down zone that is the TOD Zone for a very long time. The reason for this is that nobody knows what can be built in this zone or how it can be presented. It is exceptionally difficult since it has been in a muddled mess of a process for years. The General Plan that was published in April of 2016 didn't address this mess and it did not make anything about this zone clear. The exact same things are being discussed yet again almost a year later, and as far he can tell the clarity of the ordinance has not improved. In summation, this issue has practically been idle since 2015. He would like to know when all of this is going to finally be cleared up.

Mr. Hill stated that as he mentioned before, there are many steps involved in this process. The next step is to see what the City Council would like to do with each of the Small Area Plans. He would strongly disagree that this issue has sat fallow prior to 2015 without anyone having a good idea of what was going on. The zone has not been changed since 2002.

Mr. Roberts stated he has been working on his property since 2004. He has received hundreds of calls from people who want to do things on this property.

Mr. Hill suggested that under these circumstances it would be more judicious to allow other members of the public the opportunity to speak rather than continuing an argumentative dialogue with Mr. Roberts.

Mr. Roberts agreed with Mr. Hill and retorted that he has one final point. The TOD Zone has been a muddled mess for years. The Planning Commission has the opportunity right now to clear this up and clarify what Midvale City wants to see in regards to development in the TOD Zone. They have the power to recommend permitted uses for what they want. There is a better way to do it. This text amendment has a lot of flaws.

Sophia Hawes-Tingey, 7667 South Grant Street, Midvale, stated she is the Vice Chair of the Midvale Community Council. She requested to speak on the policy of good architecture which includes aesthetics, utility and simple physics. She explained that when she drives down Center Street near the new Center Square development she sees what looks like a fifty-foot-tall wall with windows. It looks that way even with the new façade that is currently being installed on the exterior of the building. The building looks a lot different than it did in the preliminary charts that were previously presented. From her backyard, she is able to count 5 and 6 stories with the corner end cap apartments that are under construction. When you live in an apartment it makes sense to have a nice window view of the city streets or something similar. Most the windows on the Center Square project open to a view of her backyard. She can't think of anyone who would want a view of her backyard unless maybe she puts on a show for them. She could potentially become very intimately familiar with her neighbors. The project is close enough to her home that she can see inside 4 stories of the apartment units directly from her backyard. The 8-foot fence does nothing to block out the view into the buildings. Her main point is that this project does not follow any of the policies of good architecture. She spoke with one of her neighbors and found out that the construction of this project cracked the foundation of his home. It is a big issue that

there are homes all around this project that are not seismically rated for this level of activity. Building a project of this nature does not make sense next to a bunch of single-family homes that were built in the 1930's. When she hears that Midvale City wishes to continue building large 7 story structures in the Center Square area it makes her feel frightened. It also sends the message that Midvale City has made a mistake and is trying to fix the mistake by amending the code and making their mistake law. The City should own that mistake. They should require there to be a greater amount of distance between large multi-family developments and small single family homes. If that distance requirement can't be met, then the height of the development should be limited. The developer should provide a geological study of the nearby homes to ensure they can withstand the level of activity that the new construction is guaranteed to bring. She thanked the City Staff for the all the work they have put into drafting this amendment. There are a lot of things she likes about it; however, she would like there to be more consideration for the damage that has already been done before anymore TOD Overlays are approved.

Shirlene Stoven, 151 West 7500 South #50, stated she lived in the Applewood Estates. She is the President of the Homeowners Association and she is speaking on behalf of her community. She asked why the Applewood community is in the TOD Zone while the Whisperwood community is excluded from it. She pointed out that a three-story apartment complex could potentially be built on the north side of 7500 South however the same cannot be said about the south side of 7500 South. In her opinion the inconsistency is confusing.

Mr. Hill explained the TOD Zone was originally laid out within a quarter mile radius of the TRAX Station. If there were parcels that fell outside of that radius, then they were not included in the TOD Zone. A quarter mile was statistically proven to be the maximum distance people were willing to walk from a public transit station. That is why the north side of 7500 South was included within that zone and the south side was excluded.

Ms. Stoven thanked Mr. Hill for his explanation and reiterated that there is still a lot of concern about allowing a three-story building on her side of the street while restricting that same kind of development on the opposite side of the street. She isn't speaking solely on behalf of Applewood. A lot of people in her neighborhood live in one-story single-family homes. They are just as concerned about this issue as she is. She does not want the circumstances of Grant Street to be repeated in her neighborhood. She also noted that she was watching the local news recently. There was a story about a homeless shelter possibly being constructed in Sugar House. Many of the nearby residents were very upset about this possibility. During that same news report, it was stated that Salt Lake City changed the TOD Zone in order to better represent those residents. She asked if Midvale City could change the TOD Zone in the same way that Salt Lake City made changes.

Mr. Hill replied that the City Council has the authority to zone property within city boundaries.

Ms. Stoven stated that is confusing to her because a few years ago Applewood became threatened by the possibility of being replaced by a three-story apartment building. During that time, she met with many of the authorities such as the Mayor and the City Manager. They told her there was nothing they could do to prevent that from happening. That seems contradictory to what she is being told now.

Mr. Hill clarified that if a developer made an application to replace Applewood with an apartment complex under the existing zone, then there is nothing the City can do to prevent that development if it complies with all the ordinances of that zone. The City could rezone a parcel; however, it is a very time-consuming and expensive process that requires the City to notify hundreds of residents. The process would also need to be something that was requested by the property owner of the parcel.

Ms. Stoven stated that the residents of Applewood would strongly recommend having their neighborhood removed from the TOD Zone.

Bill Brinton, 7816 South Wilson Street, stated Midvale City screwed up with the building they put on Center Street. If another building like it is constructed on the south side of Center Street, then that is going to be an even bigger screw up. What the City is doing now will only compound the issues. He would like to know what kind of city the City Council wants and what kind of members they want to be the make-up of their residents. It is his opinion that people who live in apartments do not get involved in their community. He would like to know if the end-goal is to have a city of apartments because that is where it is currently headed. This TOD Zone strengthens that kind of development. It is not what he would like to live in. When he moved to Midvale City, it was not a city of apartments. Now there are apartments everywhere. He does not think that living in an apartment is a poor reflection of who you are. He proceeded to ask members of the public to raise their hand if they live in an apartment.

Mr. Wallin requested that Mr. Brinton's comments be directed only to the Commission.

Mr. Brinton stated he is trying to illustrate his point. He again asked members of the public to raise their hand if they live in an apartment. He stated that is the level of involvement the City can expect from residents who live in apartments. He asked the Commissioners if they want a city with no involvement. That is where it is headed. There are enough apartments in Midvale City.

Kay Freeman, 10998 South 2000 East, Sandy, asked for some clarification regarding the overlay on 7200 South. She isn't sure of where the boundaries of the overlay begin or where a 7-story building could potentially be built.

Mr. Hill presented maps of 7200 South and clarified which parcels are included in the TOD Overlay.

Ms. Freeman stated that she would like it to be brought to the attention of the City Council that there is a specific parcel near 7200 South that has not been included in the TOD Overlay. The properties surrounding that parcel have been developed into a hotel, storage units and a gas station. The road to the nearby residential areas is not a through-street and it is currently buffered. She requested that the Planning Commission consider the possibility of that parcel being added into the Overlay.

Mr. Hill stated that request can be included with the recommendation from the Planning Commission which will then be forward to the City Council. It will ultimately be the City Council making a final decision.

Sally Smith, 150 West 7500 South, stated she appreciates the information that has been provided by Mr. Hill. She explained that she also lives in the Applewood community and that most residents of that community are over the age of 55. She has witnessed other communities that are very similar to Applewood face the harsh reality of being bulldozed and replaced by large companies such as Ivory Homes. The residents of those communities were not fairly compensated the way they should have been. She would like to ask the Planning Commission how something like that happens, when things changed to allow it to happen; and if they are aware of any plans for the Applewood community to be redeveloped into a large apartment complex. She is concerned that the current property owner of Applewood will not give her a fair price on her home or that they have no plans for where she might be relocated to. There are presently 50 homes that are occupied in the Applewood community. She would like to mention that they are all taxpayers. Many of them live in Applewood because they cannot afford an apartment or a condominium. If it is a goal of the City to develop low-income housing, then she feels comfortable stating that Applewood is a low-income development. They still pay taxes and contribute to the community. The Commission needs to consider things from a human side before deciding anything. They need to consider how all of this is going to affect existing residents. A lot of people are going to be displaced to move forward in urban development.

Paula Sorensen, 7637 South Lincoln Street, stated she has been a resident of Midvale City for 36 years. Her home belonged to her grandmother for 20 years before she inherited it. She loves Midvale City and she has loved it since the day her family moved in. Ever since the Center Square Apartments began to take shape; she has been fixated on the idea of moving away. She has always told close friends that they can always count on her living in Midvale. It has been her intent to grow old and die in this City. There have been so many issues with crime in her neighborhood. The low-income apartments will only add to the problem. Two of her neighbors have had their cars stolen in the past year. She has found strangers loitering in her backyard. She would like to know how the City intends to have the man-power to police these issues. She would also like to know when the developer of the new apartment building will be held accountable for building above a 5-story building instead of a 4-story building. They begged for forgiveness and Midvale City has just rolled over and allowed it. In her opinion it is unfair. It's hard for her to believe that all she thinks about is moving away. She loves living in Midvale and she would like the Planning Commission to consider the feelings of the residents. Many of the residents are the descendants of the past generations who resided in Midvale.

Bryant Brown, 7781 South Coolidge Street, noted that there is a proposal to include the area surrounding Joe Morley's in the TOD Overlay. He can understand that the Commission might think this proposal is sensible since there is already a 5-story building under construction in that area. He would prefer that area not be included in the overlay. Developers will still be able to build structures that are 3 stories and that will create a nice transition between the 5-story building and the 1-story single family homes. Allowing more 5-story buildings to be developed in that area seems excessive. He added that it is always interesting to see developers from outside of Midvale City suggest to develop a site with less parking. He is a Midvale City resident who is currently in graduate school. He has taken TRAX at least 100 times in the past year. He still has a need to own a car. Midvale City is not a place where people can rely solely on mass transit. It is not realistic to assume people who live near TRAX are going to choose not to own a car anymore.

Lisa Ryman, 725 West 7500 South, stated she lives in a single-family home right on an island between the Applewood Community and the Whisperwood Community. Her main concern about the possibility of high-density development near her home is traffic. She isn't sure what the City plans to do to address issues with traffic. It is currently a nightmare to try and commute through her neighborhood. People tend to speed up and down 7500 South. It is her hope that the Commission has considered the impact that higher density development will have on traffic.

Suzanne Walker, 116 West Alta View Drive, stated this is a very emotional issue and she appreciates all the time and that City Staff and the Commission have dedicated to this subject. There are a lot of residents who like to be involved in this process. Their ideas may or may not be good ones, however, the discussion helps them feel like they are a part of the community. She understands that change is hard. She is someone who personally hates change. When these types of issue come up it should be expected that there are going to be a lot of emotions running high. She hopes that the small area plans will be approved and go into effect soon.

Tom Christiansen, 7676 South State Street, explained that his family owns a two-acre parcel in the 7800 South TOD Overlay. The current structure is mixed use with about 12 tenants who occupy the property. Some of the uses are non-conforming uses. He has dealt with the TOD Zone since its inception. Having the TOD Zone imposed on his property has created issues with being able to continue some of the non-conforming uses that have been there for years. They have dealt with this change with the understanding that the TOD Zone has cleaned up some of the less desirable commercial uses. There has been some consolidation of certain parcels which has led to positive improvements on those properties. The main purpose of the TOD Zone is to encourage high density housing. It is meant to stack apartments around the public transportation stations. In his opinion it seems like the City is down-zoning. Reducing the allowable density and building heights in the zone seems to repudiate the policy that they have lived with for several years as property owners. He believes the City should be concerned about property rights. Zoning requires a balance between the rights of the public and the rights of the property owners. He has a small parcel and he is waiting for the right offer. It is his hope that someone will want to come in and consolidate his parcel of land with some of the surrounding nearby parcels of land. It seems like this amendment is an anti-development measure that may be designed to placate the residential property owners. The commercial property owners deserve to be placated as well. He does not think this is going to be a positive change. It will make his land more difficult to develop or even sell. He will continue to operate his business with his one-story building, however, he would hate to see his property go unused and unmarketable because of this change in the TOD standards.

An unidentified man stated that his comments are directed toward Ivory Homes. When he moved his home into the Applewood Community less than three years ago, it cost him more than \$11,000 to make that move. It cost him another \$3,000 to develop the land and make it look good. He would not have done this if Ivory Homes had been honest about their intent to build a high-rise in that location. He did not know that his move would only be a temporary investment. To this day people are still buying homes in the neighborhood without being told they will eventually be kicked out. They aren't being told that their mobile homes aren't going to be worth anything because they can't be moved anywhere else. There are people in the community who are in their golden years living on retirement with a fixed low income. Ivory Homes has doubled

their rent since he has lived there. Those people won't receive any kind of compensation once Ivory Homes decides to kick them all out. There has got to be something that Midvale City can do to prevent that from happening.

Laurene Walker, 7886 South Olympus Street, thanked everyone who has taken the time to speak. She stated that everyone needs to realize that developers are in all of this for themselves. They don't care about the citizens of Midvale. It's important to note that the TOD Zone has already undergone some changes. For example, retail is no longer required on the first level of a building. That was something that developers claimed did not work and was not profitable. That change was made for the benefit of the developers. People who live in an apartment building near the TRAX station are not going to ride TRAX to shop in Midvale. They are going to be going somewhere else because there aren't any retail stores near the TRAX Stations in Midvale. When you look at the building on Center Square, you'll notice that it is built right up against the sidewalk. She can't imagine anyone will want to live on that first floor because they won't even be able to have their windows open. Everybody will be able to see into their unit. Unless they are in the business of prostitution; they will have no reason to want people seeing into their home. That building would look much better if it was in line with the existing homes on Center Street. If a single-family home has been developed at that location, then it would have had to be setback from the sidewalk farther. She is very much in favor of lowering the density of the TOD Zone. She asked if the developer on 7800 South has come forward with another plan at that location. She was told they have not. She would like to see that property get down-zoned. She has spoken with various residents who have said they never wanted to move out of Midvale City, however, it is something that is now under consideration.

Dorothy Burgi, 192 West Arizona Drive, stated she is from California and she has only lived in Midvale City for 10 years. She does not want to live in Los Angeles. She wants to live in Midvale. She was happy to hear that Midvale City is downzoning. This is quite a dilemma for the City. She likes the idea of less density. There needs to be more thought put into traffic. Allowing the development of the new apartment complex on Center Square will create a lot of extra traffic. She feels the pain of the developers; however, this is her home. She does not want to have that much density and traffic in her neighborhood.

Shawn Poor, 215 North Redwood Road, stated that he is present on behalf of a property owner who owns property on State Street. He stated that the unit numbers in new buildings in association with the height of the building could be aligned a little bit better. He appreciates the direction that this process is going and the clarity it has gained since the beginning.

Julie Reimann, 125 West 7500 South, stated the new apartment complex that is being built on Center Square can be seen from her backyard and her kitchen. She would kind of like to have some privacy. That would be nice. If another complex is built in place of Applewood, then Midvale City is going to look sore. She would prefer to see homes rather than apartments.

Verdon Walker, 7886 South Olympus Street, stated that he has a couple suggestions for the zoning ordinances in general. There has been some discussion about clearing up the questions regarding this zone. In his opinion the setback requirements in the TOD Zone have a lot of ambiguity. The current ordinance allows a building to be within 15 feet of a curb and on the other hand it mentions setbacks from the property line. This language allows the developer to

interpret that to mean from the neighbor's property. This explains why the building on Center Street is right next to the sidewalk rather than being in line with the existing nearby single-family homes. When he reads the ordinance, it is his perception that the intent was to require new structures to be moved back further. In his opinion the City Staff needs to strengthen the clarity of the definition for a setback. He is also concerned about the underground parking structure that was presented on a site plan for another project to be built on Center Street. When he looked through the ordinances there did not seem to be any regulations that addressed underground parking. Allowing an underground parking structure seems very unwise in his opinion. The biggest issue with these high-density apartments is affordable housing. When the plan for Center Square was presented it seemed reasonable up until they mentioned it would be 70% affordable housing. The new complex that is proposed to be built is expected to be 50% affordable housing. This is something that affects Midvale City. Some of those apartments are only 500 square feet. It seems like the City is allowing developers to build substandard apartment complexes for the purpose of getting a tax break for providing affordable housing. That's what Midvale will continue to get if some better guidelines and regulations aren't established. He added that he looks at the apartment complex on Center Square and can't help but think that it would be much more acceptable if it had been developed as a mixed used structure with a retail component.

Trilla Beal, 7757 South Roosevelt, stated she was very surprised when the developer said he loses money if he doesn't build a building higher than 3-stories. She thinks that is very sad for him because if he builds something with a lot of height and density right next to her home then everybody on her street will lose money too. When there was an apartment complex under consideration to be built right next to her home, she was unable to sell her home at half-price. One of the people who works for Midvale told her that if she doesn't like it then she should sell her home for half-price. There needs to be more consideration for how much money homeowners are losing in comparison to how much money a developer is losing.

There were no further comments from the public.

Mr. Judkins moved to close the Public Hearing. Ms. Costello seconded the motion. Motion carried.

Mr. Wallin asked how staff determined that 25 units per acre is an appropriate number of units per acre.

Mr. Hill explained that the number was pulled from the Multi-Family Zone RM-25 which allows a maximum of 25 units per acre. State Street currently has a zone that allows 25 units per acre. The goal is to keep everything consistent.

Mr. Judkins asked how this amendment compares to the TOD Zones of neighboring cities.

Mr. Hill replied that the caps on density have been removed from the TOD Zone standards in a few neighboring cities. They review the building heights and setbacks of structures in the TOD Zone and allow up to a maximum number of units that can appropriately fit in that space with parking. It can be helpful to compare our TOD Zone to the TOD zones of other cities, however, in this instance it made more sense to focus on what is best for Midvale City. He added that the Planning Commission has heard a lot of public comments and they have been presented with a

large amount text that needs to be reviewed and considered. He reminded them that they are under no obligation to reach a decision at this time.

Mr. Judkins stated he would like to see more detailed comparisons of what other cities in the Wasatch Front have done to address density within their TOD Zones.

Mr. Wallin agreed with Mr. Judkins and added that it would be best to narrow down the number of comparison to locations that are similar or relevant to the TOD Zone in Midvale. He also asked if City Staff could comment on the public concerns regarding the Applewood Community.

Mr. Hill reported that the State Code would require Ivory Homes to give each resident of the Applewood Community a notice of up to one year before evicting them. They are within their right to do so as the property owner of that property. There are no City resources or ordinances that can prevent them from demolishing and redeveloping that land if they choose to. He noted that Midvale City has not received any recent indication from Ivory Homes that would suggest they intend to do something like that in the near future.

Mr. Wallin stated this is a subject in which City Staff and the Planning Commission has spent a lot of time on. It is difficult to find balance between the rights of property owners and the regulations imposed by government as well as the rights between neighboring property owners. He feels that this amendment makes good progress on achieving that balance. In the end, it is impossible to please everyone however it is still important to achieve a fair compromise.

The Planning Commissioners expressed their preference to table this item before reaching a decision. They thanked the members of the public for their comments and suggestions. They spoke in greater detail about some of the concerns and suggestions brought forth by the public such as preauthorizing permitted uses in the TOD Zone, traffic issues, and possible adjustments to the overlay.

#### **MOTIONS:**

Mr. Judkins made a motion, *“I move that we table this item until the next meeting to provide the Planning Commission with more time to review the Text Amendment and notes taken during the Public Hearing as well as receive some additional information from City Staff.”*

Ms. Costello seconded the motion. A roll call vote was taken.

Mr. Judkins    Yes  
Mr. Hanson    Yes  
Ms. Costello   Yes

Motion carried unanimously.

#### **ACTION ITEM**

### **3. TXT-16-06; TEXT AMENDMENT TO MODIFY CORNER LOT STANDARDS**

**WITHIN SINGLE FAMILY RESIDENTIAL (SF-1 AND SF-2) ZONES (CORNER LOT ACCESSORY STRUCTURES CONTINUED FROM 12-14-16)**

Mr. Hilderman presented that the City Council made a request to review our development lot standards for corner lots within the Single-Family Residential Zones (SF-1 & SF-2). The discussion suggested reviewing the existing lot and development standards for corner lots and proposing an allowance for additional development on larger corner lots with existing residential homes, specifically looking at the limitation created by the lot depth standard required on corner lots.

On December 14, 2016, Staff discussed with the Commission proposed language to allow an additional single family lot to be created in certain instances and on January 11, 2017, the Commission forwarded a positive recommendation of the ordinance amendment with the following motion:

“In order to provide additional opportunities for new single family detached homes in stable, residential neighborhoods and to mitigate visibility limitations on corner lots, I move that we forward a positive recommendation to the City Council to add language in the SF-1 and SF-2 Zones corner lots as included in Attachment A but deferring a decision on ancillary buildings in those lots for further Staff review and rewriting of language.”

The current language for accessory structures within Single-Family Residential zones is identified as the following:

**Accessory Structure**

- Located no less than 6 ft. from main bldg.
- Located in either rear or side yard
- Minimum of 2 ft. from rear and side lot lines, including eaves
- Height not exceed 20 ft. to midpoint for sloped roof, 16 ft. to cornice for flat roof
- May range from 1 to 1 ½ stories
- Maximum building area is larger of 900 sq. ft. or 13% of lot area
- May not have separate electrical, gas, sewer, or water services

The initial language proposed raised concerns from the Commission regarding the restriction requiring a corner lot accessory structure to be located behind a sight-obscuring fence. After further discussion with the Commission, additional language was proposed that included; a minimum two-foot (2') setback from property lines behind a sight- present, shall not exceed a maximum footprint of 100 sq. ft., and for every foot away from the fence/property line an additional foot of height may be allowed.

Staff provides the following two proposals for further review and discussion. Attachment A includes proposed language from the information discussed and provides for the exceptions identified above and the specific standards required for them to occur. Attachment B also includes proposed language providing for some exceptions identified above however; requiring the location of an accessory structure, within a corner lot-front yard, to be located behind a sight-obscuring fence. Staff’s purpose for this proposal is to continue protecting the visually streetscape by not reviewing, requiring, and/or enforcing architectural standards or neighborhood compatibility with respect to exterior materials.

**STAFF RECOMMENDATION:**

Staff recommends the Planning Commission discusses and considers the issues stated, and forward an appropriate recommendation to the City Council. In making a recommendation on this proposed amendment, Staff would suggest the Planning Commission consider the aesthetics, neighborhood character, and protection of the visually streetscape.

Mr. Hilderman led a discussion with the Planning Commissioners regarding some of the more intricate details of this Text Amendment and he explained some of the possible impacts that could arise from it. He gave the Commissioners an overview of why this request is being made and clarified some of the definitions in the proposed language.

The Commissioners all agreed that they were not comfortable with requiring residents to install a screening fence in front of an accessory structure on a corner lot. They deemed such action to be an unfair and unnecessary cost.

**MOTION:**

Mr. Judkins moved that, *“In order to provide a reasonable use of individual properties for single-family homes in stable, residential neighborhoods and to protect the streetscape on corner lot developments, I move we forward a positive recommendation to the City Council to add language in the SF-1 and SF-2 zones for exceptions to accessory structures on corner lots, as included in Attachment A.”*

Ms. Costello seconded the motion. A roll call vote was taken.

Ms. Costello Yes  
Mr. Judkins Yes  
Mr. Hanson Yes

Motion carried unanimously.

**MINUTES**

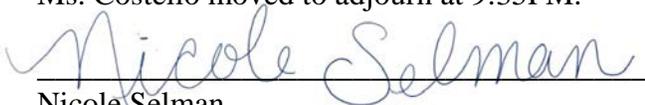
**4. REVIEW AND APPROVE MINUTES OF REVIEW AND APPROVE MINUTES OF OCTOBER 12, 2016; JANUARY 11, 2017; AND JANUARY 27, 2017**

Mr. Judkins moved to approve the minutes of October 12, 2017 as presented. Mr. Hanson seconded the motion. Motion carried.

The minutes of January 11, 2017 and January 27, 2017 were tabled to the next meeting.

**ADJOURN:**

Ms. Costello moved to adjourn at 9:35PM.



Nicole Selman  
CD Administrative Assistant