Midway City Council
16 July 2019
Regular Meeting

Midway Farms / Plat Amendment

Swiss Farm / Plat Amendment

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING:	July 16, 2019
NAME OF PROJECT:	Midway Farms and Swiss Farm
NAME OF APPLICANT:	Thomas and Sara Hansen
AGENDA ITEM:	Plat Amendments of Midway Farms Lot 11 and Swiss Farm Lot 13
LOCATION:	180 West Farm Road
ZONING DESIGNATION:	R-1-22 zone

ITEMS: 13 & 14

Thomas and Sara Hansen are proposing plat amendments of Midway Farms subdivision plat and the Swiss Farm subdivision plat. They are proposing to remove 0.89 acres from Lot 11 of Midway Farms and add 0.89 acres to Lot 13 of Swiss Farms. The properties are located at 180 West Farm Road and 846 North Swiss Farm Court which are both in the R-1-22 zone.

BACKGROUND:

Thomas and Sara Hansen are proposing plat amendments to lot 11 of the Midway Farms subdivision and lot 13 of the Swiss Farm subdivision. The proposed amendment would remove 0.89 acres from Lot 11 of Midway Farms (currently 2.89 acres) and add 0.89 acres to Lot 13 of Swiss Farms (currently 0.39 acres). Essentially, the 0.89 acres would be vacated from Midway

Farms and that property would be added to Swiss Farms. If approved, lot 11 of Midway Farms would be 2 acres and lot 1 of Swiss Farms would become 1.28 acres.
The applicants own both parcels and both parcels have dwellings. The Hansens live in the dwelling to the north, which is in the Swiss Farms subdivision, the smaller of the two lots. They have stated the reason for the plat amendment is to add property to their smaller parcel, where they currently live, to have enough acreage to raise livestock. Currently, their property in Swiss Farms does not have animal rights because it is less than an acre but if the amendment is approved then they would comply with the acreage requirement for animal rights.

Midway Farms Subdivision was developed by Ellis Ivory and was recorded on May 15, 1973 and is a 23-lot subdivision. The lots are relatively large as compared to the minimum lot size of the R-1-22 zone which is 22,000 sq. ft. The lots range in size from 0.9 acres to almost three acres in size. The applicant's lot is one of the larger lots in the subdivision and if the amendment is approved, the lot would still comply with the land use ordinance for the R-1-22 zone.

Swiss Farm Subdivision was developed by Sterling Angle and was recorded on June 21, 1994 and is a 21-lot subdivision. The lots are relatively small as compared to the minimum lot size for the R-1-22 zone which is 22,000 sq. ft. Every lot but two in the plat are nonconforming and lack the minimum acreage for the R-1-22 zone, including lot 13 which is owned by the Hansens. If the amendment is approved, then lot 13 will become conforming to the acreage requirements of the R-1-22 zone.

The City has noticed the item and has received two written letters in opposition from a neighbor and a letter representing the Midway Farms homeowners' association (please see attached letters).

ANALYSIS:

A plat amendment is a legislative item and City Council is not obligated to allow any changes even if they feel that the applicant met the requirements of the Code. Subsection 9a-608(5)(a) states "a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if the petition seeks to:

> (iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision;

With that being said, a lot line adjustment is an administrative action, according to state law, as long as both properties comply with the land use ordinance. Utah law states that "owners of record of adjacent parcels…may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b). Utah Code 10-9a-608(5)(a). Subsection (5)(b) states that "the land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance."

PROPOSED FINDINGS:

- Midway Farms lot 11 currently is conforming to the code and will continue to comply with the code even though it is reducing in size

- Swiss Farm lot 13 is currently nonconforming to the code and will become conforming to the R-1-22 zone if the plat amendment is approved

- State law allows the adjustment of a lot line regardless of whether the lots are located in the same subdivision

- State law requires a land use authority to approve a lot line adjustment if the exchange will not result in a violation of any land use ordinance

- State law states a plat amendment may be considered by the land use authority at a public meeting

- No public street, right-of-way, or easement will be vacated or altered

ALTERNATIVE ACTIONS:

1. Approval (conditional). This action can be taken if the City Council feels there the proposal complies with the land use ordinance.

    a. Accept staff report
    b. Reasons for approval (findings)
    c. Place condition(s) if needed

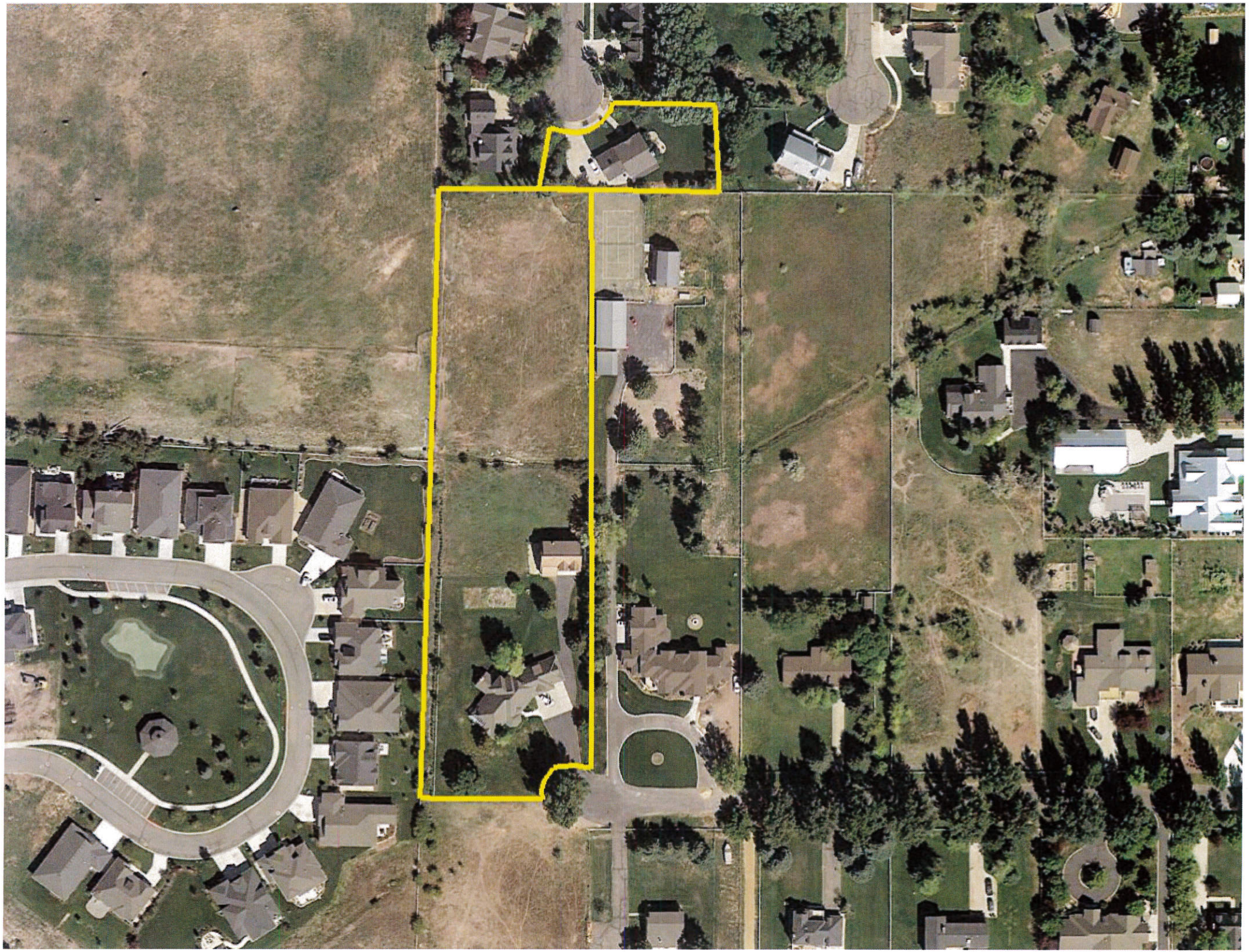
2. Continuance. This action can be taken if the City Council feels that there are unresolved issues.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for continuance
        i. Unresolved issues that must be addressed
    d. Date when the item will be heard again

3. Denial. This action can be taken if the City Council feels that the request does not comply with the ordinance.

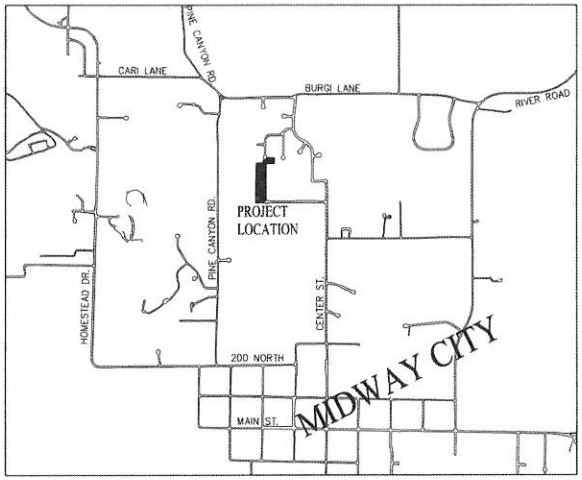
    a. Accept staff report

b. List accepted findings
c. Reasons for denial



MIDWAY FARMS LOT 11
SWISS FARMS LOT 13

PLAT AMENDMENTS



VICINITY MAP

SHEET INDEX

1. OVERALL PLAN
2. SWISS FARMS LOT 13 - AMENDED
3. MIDWAY FARMS LOT 11 - AMENDED

HANSEN PLAT AMENDMENTS - 12 JUNE 2019

TOM HANSEN
PLAT AMENDMENTS

COVER SHEET

BERG ENGINEERING
380 E Main St. Suite 204
Midway, Ut 84049
ph 435.657.9749

DESIGN BY: JDB DRAWN BY:	DATE: 12 June 2019 REV:	SHEET 0

DRONE IMAGE TAKEN APRIL 2019

LEGEND

PROPERTY TO BE REMOVED FROM MIDWAY FARMS LOT 11 AND TO BECOME PART OF SWISS FARMS LOT 13 (0.89 ACRES)

TOM HANSEN

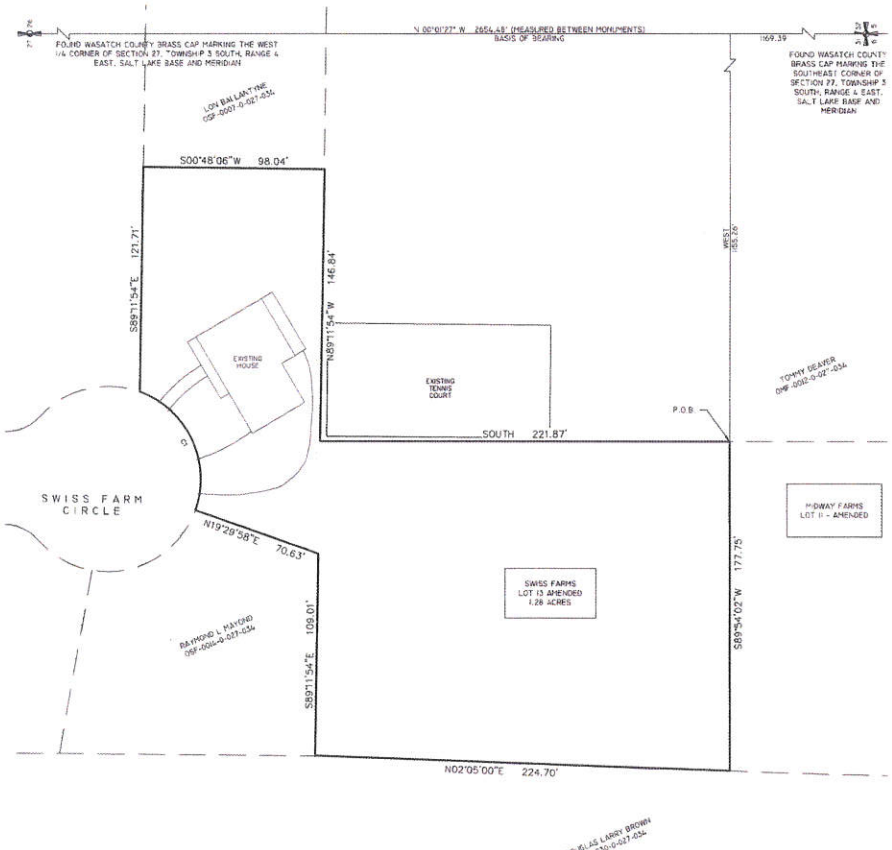
PLAT AMENDMENTS

OVERALL PLAN

BERG ENGINEERING
RESOURCE GROUP, P.C.
180 E Main St. Suite 204,
Midway, UT 84049
ph. (435) 657-9749

DESIGN BY: PDB	DATE: 12 JUNE 2019	SHEET
DRAWN BY: PDB	REV.	1

SWISS FARMS LOT 13 - AMENDED



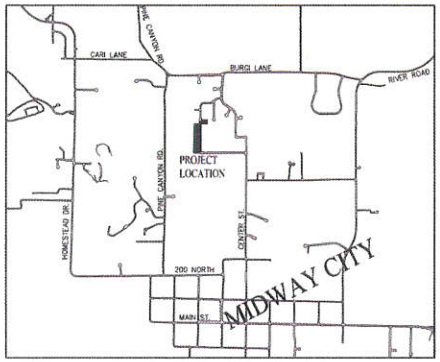
Scale 1" =30'

ADDRESS TABLE

LOT	ADDRESS
SWISS FARMS LOT 13	846 SWISS FARM WAY

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING	TANGENT
C1	78.35'	50.00'	89°45'40"	70.57'	N64°37'14"E	49.81'



VICINITY MAP

SURVEYOR'S CERTIFICATE

IN ACCORDANCE WITH SECTION 10-9A-603 OF THE UTAH CODE, I, TROY L TAYLOR, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR HOLDING LICENSE NUMBER 6854112 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS LICENSING ACT.

I FURTHER CERTIFY THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THE PLAT IN ACCORDANCE WITH SECTION 17-23-17 OF THE UTAH CODE, AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THE PLAT.

DATE _____ SURVEYOR _____ (SEE SEAL BELOW)

BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED NORTH 00°01'27" WEST ALONG THE SECTION LINE 1169.39 FEET AND WEST 1155.26 FEET FROM THE FOUND WASATCH COUNTY BRASS CAP MARKING THE SOUTHEAST CORNER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

THENCE SOUTH 89°54'02" WEST 177.75 FEET;
THENCE NORTH 02°05'00" EAST 224.70 FEET;
THENCE SOUTH 89°11'54" EAST 109.01 FEET;
THENCE NORTH 19°29'58" EAST 70.63 FEET;
THENCE ALONG THE ARC OF A 50.00 FOOT RADIUS CURVE TO THE LEFT 78.35 FEET (CHORD BEARS NORTH 64°37'14" EAST 70.57 FEET);
THENCE 89°11'54" EAST 121.71 FEET;
THENCE SOUTH 00°48'06" WEST 98.04 FEET;
THENCE NORTH 89°11'54" WEST 146.84 FEET;
THENCE SOUTH 221.87 FEET TO THE POINT OF BEGINNING.

CONTAINING: 1.28 ACRES

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT, OWNER(S), OF THE PROPERTY DESCRIBED HEREON, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, PUBLIC STREETS, AND EASEMENTS, AND HEREBY DEDICATE THOSE AREAS LABELED AS PUBLIC STREETS AND EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES, PUBLIC TRAILS AND EMERGENCY VEHICLE ACCESS.

DATED THIS _____ DAY OF _____, A.D. 20____

THOMAS M. HANSEN _____ SARA J. HANSEN _____

ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF WASATCH } S.S.

ON THE _____ DAY OF _____, A.D. 20____ PERSONALLY APPEARED BEFORE ME, _____ WHO DULY ACKNOWLEDGED TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.

MY COMMISSION EXPIRES _____ _____ NOTARY PUBLIC

ACCEPTANCE BY MIDWAY CITY

THE CITY COUNCIL OF MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH, HEREBY APPROVES THIS SUBDIVISION AND ACCEPTS THE DEDICATION OF LOTS, EASEMENTS, STREETS AND PUBLIC RIGHTS-OF-WAY HEREON SHOWN.

THIS _____ DAY OF _____, A.D. 20____

APPROVED _____ MAYOR ATTEST _____ CLERK-RECORDER (SEE SEAL BELOW)

APPROVED _____ CITY ENGINEER (SEE SEAL BELOW) APPROVED _____ CITY ATTORNEY

ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF WASATCH } S.S.

ON THE _____ DAY OF _____, A.D. 20____ PERSONALLY APPEARED BEFORE ME, _____ WHO DULY ACKNOWLEDGED TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.

MY COMMISSION EXPIRES _____ _____ NOTARY PUBLIC

PLANNING COMMISSION APPROVAL

APPROVED THIS _____ DAY OF _____, A.D. 20____ BY THE _____ MIDWAY _____ CITY PLANNING COMMISSION

PLANNING DIRECTOR _____ CHAIRMAN, PLANNING COMMISSION _____

COUNTY SURVEYOR'S CERTIFICATE

APPROVED AS TO FORM ON THIS DAY OF _____, 20____

ROS# _____

COUNTY SURVEYOR _____

DATE: _____ MIDWAY IRRIGATION COMPANY

DATE: _____ MIDWAY SANITATION DISTRICT

COUNTY RECORDER

SWISS FARMS LOT 13 - AMENDED

MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH

SCALE: 1" = 30 FEET

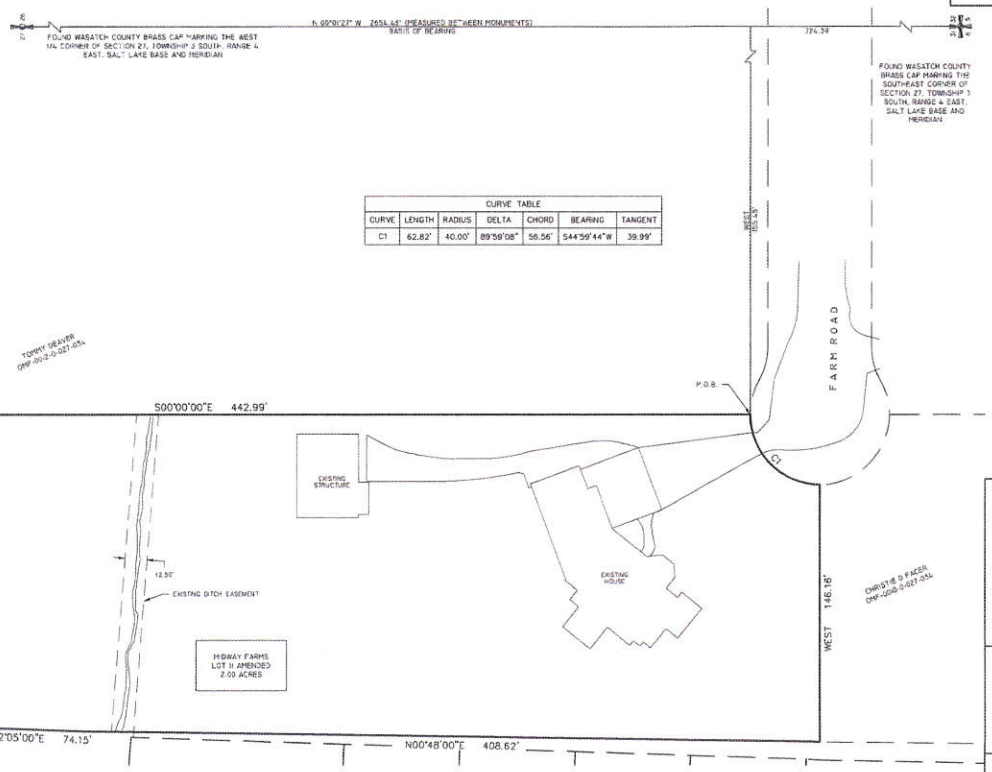
SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY ENGINEER SEAL	CLERK-RECORDER SEAL

SWISS FARMS LOT 13 PLAT AMENDMENT - 12 JUNE 2019

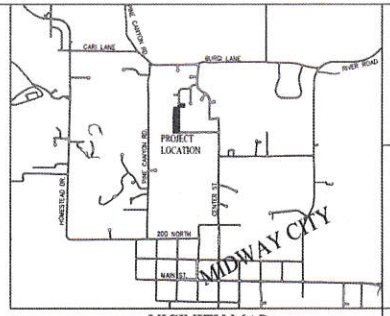
SURVEYOR:
TROY L. TAYLOR, P.L.S.
CLEMENT LAND SURVEYING
2298 SOUTH 270 EAST
HEBER CITY, UT 84032
PHONE (801) 657-8748

DATE OF SURVEY: MAY 30, 2019

MIDWAY FARMS LOT 11 - AMENDED



CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING	TANGENT
C1	62.82'	40.00'	89°59'08"	56.56'	S44°59'44"W	39.99'



VICINITY MAP

Scale 1" =30'

ADDRESS TABLE

LOT	ADDRESS
MIDWAY FARMS LOT 11	180 W FARM ROAD

SURVEYOR'S CERTIFICATE

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I FURTHER CERTIFY THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THE PLAT IN ACCORDANCE WITH SECTION 17-23-17 OF THE UTAH CODE, AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THE PLAT.

DATE _____ SURVEYOR _____ (SEE SEAL BELOW)

BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED NORTH 00°01'27" WEST ALONG THE SECTION LINE 724.39 FEET AND WEST 1155.45 FEET FROM THE FOUND WASATCH COUNTY BRASS CAP MARKING THE SOUTHEAST CORNER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

THENCE ALONG THE ARC OF A 40.00 FOOT RADIUS CURVE TO THE LEFT 62.82 FEET (CHORD BEARS SOUTH 44°59'44" WEST 56.56 FEET);
THENCE WEST 146.16 FEET;
THENCE NORTH 00°48'00" EAST 408.62 FEET;
THENCE NORTH 02°05'00" EAST 74.15 FEET;
THENCE SOUTH 89°54'02" WEST 177.75 FEET;
THENCE SOUTH 442.99 FEET TO THE POINT OF BEGINNING.

CONTAINING: 2.00 ACRES

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT, OWNER(S), OF THE PROPERTY DESCRIBED HEREON, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, PUBLIC STREETS, AND EASEMENTS, AND HEREBY DEDICATE THOSE AREAS LABELED AS PUBLIC STREETS AND EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES, PUBLIC TRAILS AND EMERGENCY VEHICLE ACCESS.

DATED THIS _____ DAY OF _____, A.D. 20____

THOMAS M. HANSEN _____ SARA J. HANSEN _____

ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF WASATCH } S.S.

ON THE _____ DAY OF _____, A.D. 20____ PERSONALLY APPEARED BEFORE ME, _____ WHO DULY ACKNOWLEDGED TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.

MY COMMISSION EXPIRES _____ _____ NOTARY PUBLIC

ACCEPTANCE BY MIDWAY CITY

THE CITY COUNCIL OF MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH, HEREBY APPROVES THIS SUBDIVISION AND ACCEPTS THE DEDICATION OF LOTS, EASEMENTS, STREETS AND PUBLIC RIGHTS-OF-WAY HEREON SHOWN.

THIS _____ DAY OF _____, A.D. 20____

APPROVED _____ MAYOR ATTEST _____ CLERK-RECORDER (SEE SEAL BELOW)

APPROVED _____ CITY ENGINEER (SEE SEAL BELOW) APPROVED _____ CITY ATTORNEY

ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF WASATCH } S.S.

ON THE _____ DAY OF _____, A.D. 20____ PERSONALLY APPEARED BEFORE ME, _____ WHO DULY ACKNOWLEDGED TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.

MY COMMISSION EXPIRES _____ _____ NOTARY PUBLIC

PLANNING COMMISSION APPROVAL

APPROVED THIS _____ DAY OF _____, A.D. 20____ BY THE _____ MIDWAY CITY PLANNING COMMISSION

_____ PLANNING DIRECTOR _____ CHAIRMAN, PLANNING COMMISSION

COUNTY SURVEYOR'S CERTIFICATE

APPROVED AS TO FORM ON THIS DAY OF _____, 20____

ROS# _____

_____ COUNTY SURVEYOR

_____ DATE: _____ MIDWAY IRRIGATION COMPANY

_____ DATE: _____ MIDWAY SANITATION DISTRICT

COUNTY RECORDER

MIDWAY FARMS LOT 11-AMENDED

MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH

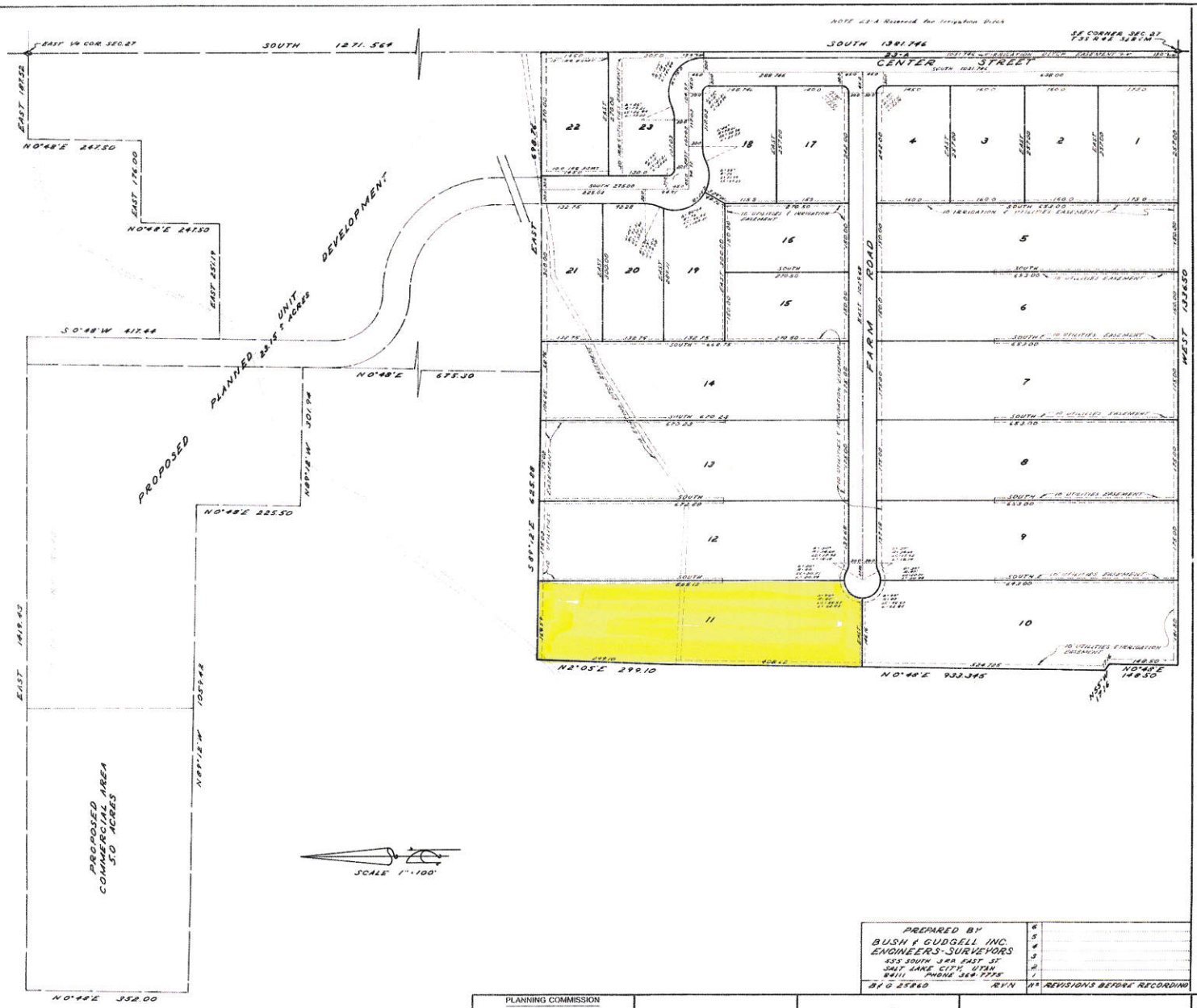
SCALE: 1" = 30 FEET

SURVEYOR'S SEAL	MIDWAY PUBLIC SEAL	CITY ENGINEER SEAL	CLERK-RECORDER SEAL

SURVEYOR
TROY L. TAYLOR, P.L.S.
ELEMENT LAND SURVEYING
2298 SOUTH 270 EAST
HEBER CITY, UT 84032
PHONE (801) 657-8748

DATE OF SURVEY: MAY 30, 2019

MIDWAY FARMS LOT 11 AMENDED – 12 JUNE 2019



SURVEYOR'S CERTIFICATE

I, ROBERT B JONES do hereby certify that I am a Registered Land Surveyor, and that I hold Certificate No. 1525 as prescribed under the laws of the State of Utah. I further certify that by authority of the Owners, I have made a survey of the tract of land shown on this plat and described below, and have subdivided said tract of land into lots and streets, hereafter to be known as MIDWAY FARMS SUBDIVISION

BOUNDARY DESCRIPTION

COURSE	DIST.	REMARKS
		Beginning at the Southeast Corner of Section 27 Township 3 South Range 4 East Salt Lake Base and Meridian and running thence:
West	1336.50	feet thence
N0°48'E	148.50	feet thence
N55°W	17.16	feet thence
N0°48'E	933.345	feet thence
N2°05'E	299.10	feet thence
S89°12'E	625.88	feet thence
East	698.76	feet to the east Line of Section 27 thence
South	1381.746	feet along said Section Line to the point of beginning.

BASIS FOR BEARING
Wasatch Co Surveyor Info.

DATE May 8, 1973

Robert B Jones

OWNER'S DEDICATION

Know all men by these presents that the undersigned owner ( ) of the above described tract of land, having caused same to be subdivided into lots and streets to be hereafter known as

MIDWAY FARMS SUBDIVISION

do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for Public use.

In witness whereof have hereunto set our hands this day of A.D. 19

MIDWAY FARMS DEVELOPMENT CORPORATION
A UTAH CORPORATION

Ellis R Ivory (President)

C. Arlo Fillmore
C Arlo Fillmore

Carma Fillmore (His Wife)

ACKNOWLEDGEMENT

STATE OF UTAH
County of S.S.

On the day of A.D. 19 personally appeared before me, the undersigned Notary Public, in and for said County of in said State of Utah, the signer( ) of the above Owner's Dedication, in number, who duly acknowledged to me that signed it freely and voluntarily and for the uses and purposes therein mentioned.

My Commission expires

Notary Public

Residing in County

CORPORATE ACKNOWLEDGEMENT

STATE OF UTAH
County of Salt Lake S.S.

On this the 15th day of May A.D. 19 1973, personally appeared before me, the undersigned notary public in and for said State and County Ellis R Ivory who after being duly sworn, acknowledged to me that He is the President of Midway Farms Development Corporation a Utah corporation, that He signed the owners dedication freely and voluntarily for and in behalf of said corporation for the purposes therein mentioned and that said corporation executed the same.

My Commission expires 4-6-76

Lucie M. Donough
Notary Public

Residing in Salt Lake County

MIDWAY FARMS SUBDIVISION

(NAME OF SUBDIVISION)

A Subdivision Located in the Southeast 1/4 Section 27 Township 3 South Range 4 East
SALT LAKE BASE & MERIDIAN

PREPARED BY
BUSH & GUDGELL INC.
ENGINEERS-SURVEYORS
555 SOUTH 3RD EAST ST
SALT LAKE CITY, UTAH
84111 PHONE 364-7775

B & G 25860 RVN

Nº	REVISIONS BEFORE RECORDING
6	
5	
4	
3	
2	
1	

PLANNING COMMISSION
APPROVED THIS 8th DAY OF May A.D. 19 73
BY THE CITY PLANNING COMMISSION.
CHAIRMAN MIDWAY CITY PLANNING COMM

APPROVED THIS 9 DAY OF May A.D. 19 73
MAYOR MIDWAY CITY

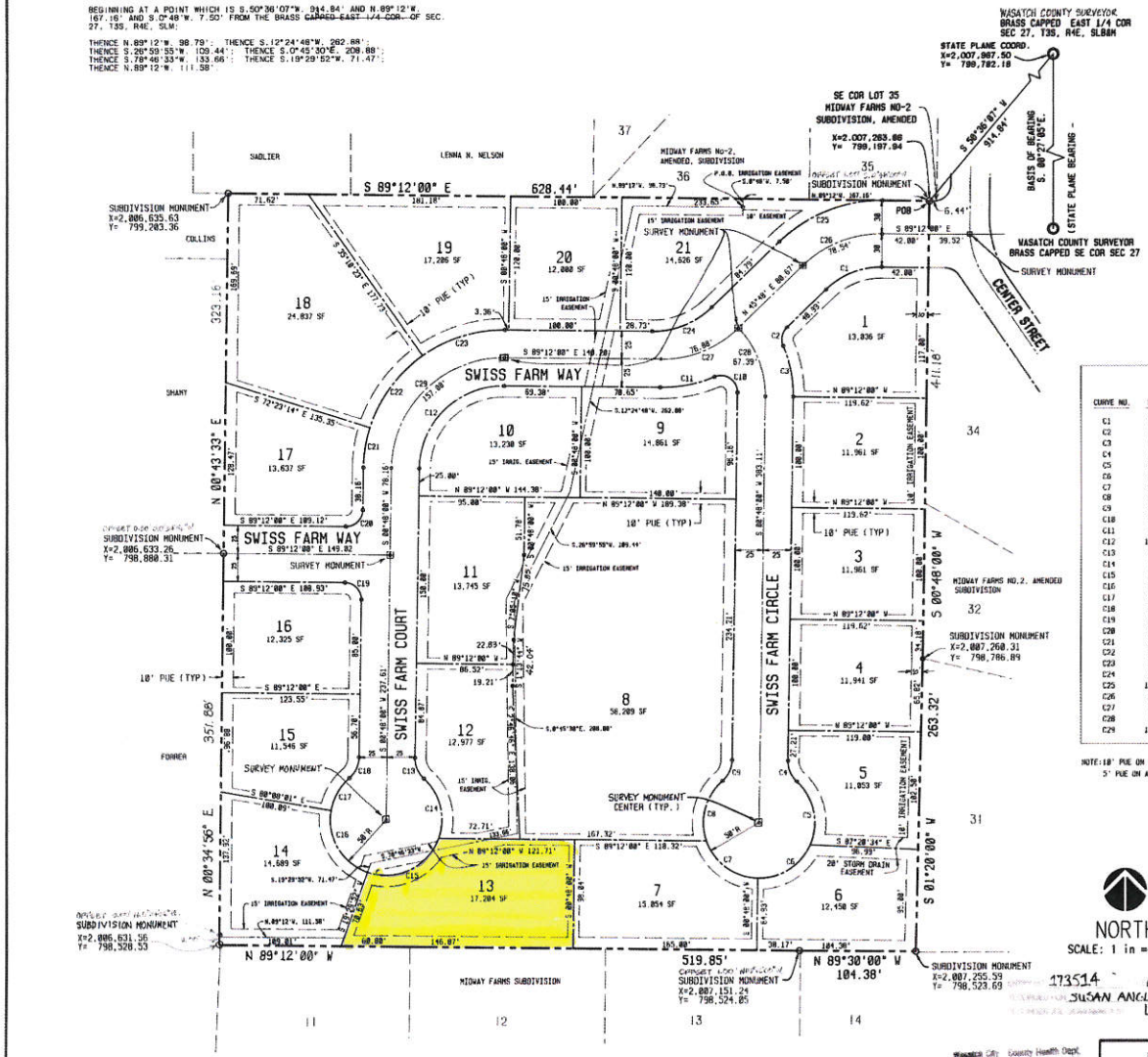
RECORDED #
STATE OF UTAH, COUNTY OF Wasatch
RECORDED AND FILED AT THE REQUEST OF
Mac Elwald
DATE June 20, 1973 TIME 11:10 AM BOOK 10 PAGE 684-692
13:40
FEE $
Mary Chapman by Glenna Moulton
COUNTY RECORDER
MIDWAY FARMS

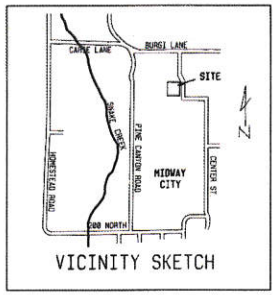
MIDWAY IRRIGATION COMPANY
15' IRRIGATION EASEMENT DESCRIPTION

A 15 FOOT WIDE EASEMENT FOR CONSTRUCTION & MAINTENANCE OF AN IRRIGATION DITCH AND/OR PIPELINE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS S.50°36'07"W. 914.84' AND N.89°12'W. 167.16' AND S.0°48'W. 7.50' FROM THE BRASS CAPPED EAST 1/4 COR. OF SEC. 27, T3S, R4E, SLM;

THENCE N.89°12'W. 98.79'; THENCE S.12°24'48"W. 282.88';
THENCE S.26°59'55"W. 109.44'; THENCE S.0°45'30"E. 208.88';
THENCE S.78°46'33"W. 133.66'; THENCE S.19°29'52"W. 71.47';
THENCE N.89°12'W. 111.58'





CURVE TABLE

CURVE NO.	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING
C1	54.98'	70.00'	45°00'00"	53.58'	S 68°18'00" W
C2	18.07'	15.00'	69°02'25"	17.00'	S 11°16'47" W
C3	46.49'	110.00'	24°02'26"	46.15'	S 11°13'13" E
C4	21.03'	25.00'	48°11'23"	20.41'	S 23°17'41" E
C5	61.97'	50.00'	71°00'40"	58.00'	S 11°53'03" E
C6	59.01'	50.00'	67°37'04"	55.64'	S 57°25'49" W
C7	68.92'	50.00'	65°48'52"	57.22'	N 53°51'13" W
C8	59.29'	50.00'	67°56'18"	55.87'	N 15°01'18" E
C9	21.03'	25.00'	48°11'23"	20.41'	N 24°53'41" E
C10	29.64'	15.00'	113°12'42"	25.05'	N 55°48'21" W
C11	49.76'	122.89'	23°12'42"	49.44'	S 79°11'39" W
C12	117.91'	75.00'	90°00'00"	106.07'	S 45°48'00" W
C13	21.03'	25.00'	48°11'23"	20.41'	S 23°17'41" E
C14	58.58'	50.00'	67°07'48"	55.29'	S 13°49'29" E
C15	78.33'	50.00'	89°45'26"	70.56'	S 64°37'08" W
C16	78.13'	50.00'	80°22'07"	64.52'	N 38°19'05" W
C17	34.14'	50.00'	39°07'24"	33.48'	N 29°25'41" E
C18	21.03'	25.00'	48°11'23"	20.41'	N 24°53'41" E
C19	23.56'	15.00'	90°00'00"	21.21'	N 44°12'00" W
C20	23.56'	15.00'	90°00'00"	21.21'	N 45°48'00" E
C21	36.68'	125.00'	16°48'46"	36.55'	N 89°12'23" E
C22	81.15'	125.00'	37°12'51"	79.77'	N 36°13'12" E
C23	78.48'	125.00'	35°58'23"	77.20'	N 72°48'49" E
C24	38.98'	75.00'	45°00'00"	57.48'	N 68°18'00" E
C25	102.10'	130.00'	45°00'00"	99.50'	N 68°18'00" E
C26	78.54'	100.00'	45°00'00"	76.54'	S 68°18'00" W
C27	76.00'	97.89'	45°00'00"	74.02'	S 68°18'00" W
C28	67.39'	85.00'	45°00'00"	65.67'	S 21°42'00" E
C29	157.08'	100.00'	90°00'00"	141.42'	S 45°48'00" W

NOTE: 10' PUE ON ALL FRONT LOT LINES & ON SUBDIVISION BOUNDARY.
5' PUE ON ALL SIDE YARDS & INTERIOR BACK LOT LINES.

LOT	ADDRESS	LOT	ADDRESS
1	120 W. SWISS FARM WAY	12	876 N. SWISS FARM COURT
2	918 N. SWISS FARM CIRCLE	13	846 N. SWISS FARM COURT
3	898 N. SWISS FARM CIRCLE	14	833 N. SWISS FARM COURT
4	880 N. SWISS FARM CIRCLE	15	867 N. SWISS FARM COURT
5	860 N. SWISS FARM CIRCLE	16	883 N. SWISS FARM COURT
6	842 N. SWISS FARM CIRCLE	17	913 N. SWISS FARM COURT
7	835 N. SWISS FARM CIRCLE	18	933 N. SWISS FARM COURT
8	865 N. SWISS FARM CIRCLE	19	198 W. SWISS FARM WAY
9	161 W. SWISS FARM WAY	20	178 W. SWISS FARM WAY
10	181 W. SWISS FARM WAY	21	158 W. SWISS FARM WAY
11	894 N. SWISS FARM COURT		

173514 6-21-94 958 50.00
SUSAN ANGLE 260 184-193
LIZ PARCELL
MIDWAY SANITATION DISTRICT

Wasatch Co. County Health Dept.
465 West 100 South
Heber City, Utah 84032
654-2708

SURVEYOR'S CERTIFICATE

I, THURMAN E. MADDEN, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO.4859 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT THE DESCRIPTION BELOW CORRECTLY DESCRIBES THE LAND UPON WHICH WILL BE CONSTRUCTED SWISS FARM SUBDIVISION.

Thurman E. Madden — 10 February 1994
THURMAN E. MADDEN — DATE

BOUNDARY DESCRIPTION

BEGINNING AT A POINT WHICH IS NORTH 89°12' WEST 6.44 FT. FROM THE SOUTHEAST CORNER OF LOT 35, MIDWAY FARMS NO-2 SUBDIVISION, AMENDED. SAID POINT BEING LOCATED SOUTH 50°36'07" WEST 914.84 FT. FROM THE BRASS CAPPED EAST 1/4 CORNER OF SECTION 27, T3S, R4E, SLM:

THENCE SOUTH 0°48' WEST 411.18 FEET TO A FOUND HUB & TACK AT THE NORTHWEST CORNER OF LOT 31 OF SAID SUBDIVISION;
THENCE SOUTH 1°20' WEST 263.32 FT. ALONG AN EXISTING CHAINLINK FENCE LINE TO ITS EXTENDED INTERSECTION WITH A CEDAR POST & WIRE FENCE LINE;
THENCE NORTH 89°30' WEST 104.38 FT. ALONG SAID WIRE FENCE LINE TO THE NORTHEAST CORNER OF LOT 13, MIDWAY FARMS SUBDIVISION;
THENCE NORTH 89°12' WEST 350.04 FT. ALONG SAID WIRE FENCE LINE TO A FOUND REBAR MARKING THE NORTHWEST CORNER OF LOT 12, SAID MIDWAY FARMS SUBDIVISION, AND CONTINUING THENCE ALONG THE SAME BEARING AND FENCE LINE AND ITS EXTENSION AN ADDITIONAL 16.81 FT. TO A FENCE LINE AT A POINT FROM WHENCE A FOUND REBAR BEARS SOUTH 0°34'56" WEST 9.89 FT. (TOTAL LENGTH OF THIS COURSE IS 519.85 FT.);
THENCE NORTH 0°34'56" EAST 351.86 FT. ALONG SAID FENCE LINE TO A FOUND REBAR AT A FENCE CORNER;
THENCE NORTH 0°43'33" EAST 323.16 FT. ALONG A FENCE LINE TO A FENCE CORNER;
THENCE SOUTH 89°12' EAST 326.50 FT. TO A FOUND REBAR AT THE SOUTHWEST CORNER OF LOT 36, MIDWAY FARMS NO-2 SUBDIVISION, AMENDED, AND CONTINUING THENCE ON THE SAME BEARING 194.05 FT. TO A FOUND REBAR MARKING THE SOUTHEAST CORNER OF SAID LOT 36, AND CONTINUING THENCE ON THE SAME BEARING (07.89 FT. TO THE POINT OF BEGINNING (TOTAL LENGTH OF THIS COURSE IS 628.44 FT.).

AREA: 9.718 ACRES, MORE OR LESS.

BASIS OF BEARING: THE LINE FROM THE EXISTING BRASS CAPPED EAST 1/4 CORNER AND EXISTING BRASS CAPPED SOUTHEAST CORNER OF SAID SECTION 27 BEARS SOUTH 0°27'05" EAST (STATE PLANE BEARING OF THIS LINE IS SOUTH 0° 46'24" EAST).

ACCEPTANCE BY MIDWAY CITY

THE CITY COUNCIL OF MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH, HEREBY APPROVES THIS SUBDIVISION AND ACCEPTS THE DEDICATION OF STREETS AND PUBLIC AREAS HEREON SHOWN.
THIS 2nd DAY OF February, 1993

APPROVED [signature] MAYOR — ATTEST [signature] CLERK-RECORDER
APPROVED [signature] CITY ENGINEER
APPROVED [signature] ATTORNEY

OWNER'S DEDICATION

KNOW ALL BY THESE PRESENTS THAT WE THE UNDERSIGNED OWNER(S) OF THE DESCRIBED TRACT OF LAND BELOW, HAVING CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, AND STREETS TO HEREAFTER BE KNOWN AS SWISS FARM SUBDIVISION, DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE, AND DO WARRANT, DEFEND, AND SAVE THE MUNICIPALITY'S HARMLESS AGAINST ANY EASEMENT OF OTHER INCUMBRANCES ON THE DEDICATED STREETS WHICH WILL INTERFERE WITH THE MUNICIPALITY'S USE, OPERATION, AND MAINTENANCE OF THE STREETS AND DO FURTHER DEDICATE THE EASEMENTS AS SHOWN.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS
THIS 14th DAY February, 1994.
SIGNED Cinnamon Trust By SIGNED Sterling Angle

ACKNOWLEDGEMENT

STATE OF UTAH } S.S.
COUNTY OF WASATCH }
ON THE 14th DAY OF February, A.D. 1994, PERSONALLY APPEARED BEFORE ME Sterling Angle
WHO BEING DULY SWORN DID SAY THAT HE (THEY) IS (ARE) Trustee of Cinnamon Trust, a Revocable Trust, and that the within and foregoing instrument was signed by him (them), and said Sterling Angle duly acknowledged to me that he (they) executed the same.
MY COMMISSION EXPIRES
MY RESIDENCE IS
NOTARY PUBLIC

PLANNING COMMISSION APPROVAL

APPROVED THIS 4th DAY OF November, 1993 BY THE MIDWAY CITY PLANNING COMMISSION
DIRECTOR-SECRETARY — CHAIRMAN, PLANNING COMMISSION

SWISS FARM SUBDIVISION

MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH

CITY ENGINEER 2-18-94 — SURVEYOR — NOTARY PUBLIC — CLERK-RECORDER

SWISS FARMS SUBDIVISION
Section 27, T.3S., R.4E., SLM

July 8, 2019

To: Midway City Council

From: Midway Farms HOA Officers
David Carson, President
Tate McCotter, Vice President
Randon Wilson, Secretary / Treasurer

Re: Application of Tom and Sara Hansen to subdivide Lot #11 in Midway Farms Subdivision, and annex a portion thereof to Swiss Farms Subdivision, Lot #13.

We, the current officers of the Midway Farms Property Owners Association, write this letter to express the collective opposition of our organization to the subject application for a dual plat amendment involving Midway Farms Subdivision. The aspects of this opposition are set forth below, in order as follows:

1. An overwhelming vote of opposition in our Annual HOA Meeting
2. Belief, supported by legal opinion, that this indeed constitutes a "re-subdivision" of Lot #11, in violation of CC&Rs
3. Seriously diminishes our right to enforce our own CC&Rs, and in so doing will set a long term precedent, over time de-valuing CC&Rs city wide.

OVERWHELMING OPPOSITION OF HOA MEMBERS

During our Annual HOA Meeting of June 8, we received a detailed presentation from Tom Hansen on the amendment proposal, including his stated intents and motivations. In the course of a lengthy conversation that followed, a few alternative solutions were proposed, questioning why each would not satisfy stated objectives. Multiple times Tom answered that his intent was to "own two residential properties in Midway, each with lot size exceeding one acre." He forthrightly explained his view on how lot size impacted residential property value in Midway, concluding that the aggregate value of these two subject lots would be significantly enhanced by this plat amendment."

Several HOA members made unsuccessful efforts to convince Tom that this proposal was in fact a "re-subdivision", thus a violation of CC&Rs. In the clear context of the proposal being interpreted as a "re-subdivision" violation, a motion was made to "re-affirm our commitment to the CC&Rs. In an almost unanimous roll call vote (16 to 3) this motion passed, and taken in context was a very strong objection to the proposal.

While we understand city decisions cannot be made on the basis of opinions alone, we hope the City Council would give some deference to the fact that the members of our HOA are clearly and strongly opposed to our subdivision being altered in this way.

PROPOSED AMENDMENT CONSTITUTES "RE-SUBDIVISION" IN VIOLATION OF CC&Rs

To be perfectly clear, we do not expect the City to enforce our CC&Rs. We do however expect the City to avoid interfering with or diminishing our right to enforce them (that discussion coming in the next section).

It is our understanding that the City is considering a 2015 plat amendment (Archer; Lots #14 & #20) as precedential in the current proposed amendment. In point of fact, the two are quite different. The earlier (2015) amendment transferred no land into or out of the Midway Farms subdivision, nor did it alter the CC&Rs or governance thereof for any portion of the pre-amendment property. In clear contrast, the current proposal does indeed DIVIDE lot #11 for the purpose of removing the divided portion from the Midway Farms subdivision. Furthermore, the proposal would create a new single lot technically governed by two sets of CC&Rs since those (at least those of Midway Farms) "run with the land" of the original plat. This would, in practice, render both of the respective HOAs impotent in governing (enforcing) their respective CC&Rs on their respective portions of the newly created lot.

Midways Farms HOA has retained an attorney skilled in statutes and case law of real estate development and HOA governance, whose legal opinion clearly asserts this proposal as a "re-subdivision" under state statute. On the other hand, it is our impression that the City has not obtained a legal opinion from a similar skilled attorney which would defend the City's decision to declare this proposal a "lot boundary adjustment" instead of a "re-subdivision". It would appear the City is rather relying on an assumed precedent mentioned above. One would certainly hope the City is not deferring judgment to the applicant over other competing interests.

Therefore, lest the City execute an approval process not fitting the actual proposal, potentially causing harm in that process, we strongly urge this proposal be held in abeyance pending the resolution of competent legal opinion(s) on this matter.

DIMINISHING CC&R ENFORCEABILITY SETS A PRECEDENT OF DE-VALUING THEM

We have already introduced (previous section) the likelihood that this proposal would frustrate or severely limit our ability to enforce our own CC&Rs.

To illustrate, let us move beyond the "re-subdivision" issue (assuming it was resolved), to some future issue requiring resolution through CC&Rs. Consider a lot adjacent to one amended by this proposal. This lot owner purchased, along with his property, the <u>right to enforce</u> the management of the adjoining property – the entire adjoining property – in accordance with the protective covenants that run with the land. What becomes of that right when a portion of the adjoining property is removed and annexed into another plat (subdivision) with different restrictive covenants? Can the original restrictive covenants still be applied to the removed portion? Even if they could be applied, what is the mechanism of enforcement? A speed limit that cannot be practically enforced is really no speed limit at all – CC&Rs can also be gutted by undermining enforcement.

As an example, our CC&Rs provide that no structure (shed, fence, barn, etc.) can be built on a property without the approval of the elected Architectural Supervising Committee. Further, that committee is identified as the sole authority in determining whether any use of the land (storage, animals, etc.) constitutes a nuisance or is obnoxious under the CC&R guidelines. Should the issue not be resolved, the HOA officers are authorized to levy an assessment against that property to encourage compliance or affect a remedy. It becomes clear that this sort of management cannot effectively "jump the fence" between amended plats. Thus such plat amendments can in very deed effectively strike down protective covenants put in place to guarantee certain property rights.

Of course not all such situations may involve an HOA or protective covenants, or they may be of little concern to the owners. Such factors might play a role in use of the local discretion allowed in this sort of 2-plat amendments.

The real issue here is precedence. In our subdivision we currently have two other commonly owned adjoining lot situations virtually identical to Hansen's. As Midway builds out, more new subdivisions will likely adjoin older ones, presenting the opportunity to use plat amendments to boost the aggregate value of two adjoining lots, just as Hansen has indicated he wishes to do. There certainly appears to be a precedential precipice here, which if lightly stepped over could easily undermine the use – and therefore value – of CC&Rs in general. We hope the city will carefully deliberate this issue before jumping at the first precedent setting decision.

IN CONCLUSION

Based on the issues raised above, we respectfully request the City deny the subject application to amend the Midway Farms Subdivision plat. Should the City not be so inclined, we strenuously urge a serious consideration of our position on CC&R violation by "re-subdivision", and hold this application in abeyance, with no action taken, allowing a deliberate but timely legal resolution of that issue before proceeding. Not to do so would be a cause of significant harm to our HOA, as greater financial burden may be incurred to overturn an action once taken.

Respectfully,

David Carson

Randon Wilson

Tate McCotter by electronic signature

July 2, 2019

To: Midway City Planning Commission

From: Tom Deaver

Re: Application of Tom & Sara Hansen to re-subdivide Lot #11in Midway Farms Subdivision with annexation of a portion thereof onto 846 Swiss Farms, Midway

I write this letter to express my opposition to the above-referenced application filed with the City of Midway by Tom & Sara Hansen for reasons as set forth herein below.

I currently reside in Midway at 160 Farm Road (Lot #12 in Midway Farms Subdivision) which I have owned for 14 years. My property is adjacent to the Hansen property known as Lot #11 of Midway Farms Subdivision.

The Hansen application seeks City approval to re-subdivide Lot #11, which consists of 2.89 acres, by removing the north .89 acres therefrom which would then be annexed to his residential property at 846 Swiss Farms. The two (2) properties in question are contiguous for only a very short distance. The 846 Swiss Farms property is outside Midway Farms Subdivision.

Lot #11, which is situated within Midway Farms Subdivision, is subject to Conditions, Covenants & Restrictions (CC&R's) which were recorded with the Wasatch County Recorder's Office on July 20, 1973, under Entry No. 99960. Paragraph 1 thereof specifically creates ***Mutual and Reciprocal Benefits*** as follows:

> All of said restrictions, conditions, covenants and agreements shall be made for the direct and mutual and reciprocal benefit of each and every lot created on the above described property and shall be intended to create **mutual and equitable servitude** upon each of said lots in favor of each other lot created on the aforesaid property and to create reciprocal rights and obligations between the respective owners of all of the lots so created and to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as to the owners of each lot in said tract, their heirs, successors and assigns, operate **as covenants running with the land for the benefit of all other lots in said tract.** (Emphasis added)

When Hansen purchased Lot #11 in 2018, he was not only placed on constructive notice of the existence of said CC&R's; he consented to the rights and obligations thereof according to Paragraph 18 as follows:

> *ACCEPTANCE OF RESTRICTIONS:* All purchasers of property described above shall by acceptancy of contracts or deeds for every lot or lots shown therein, or any portion thereof,

thereby be conclusively deemed to have consented and agreed to all restrictions, conditions and agreements set forth.

Notwithstanding Paragraph 9 of the CC&R's which states **"RE-SUBDIVISION OF SITES: None of said lots may be re-subdivided."**, Hansen attended the Midway Property Owners Association annual meeting on June 8, 2019, seeking HOA approval for a "lot line adjustment" of Lot #11. He seeks to remove .89 acre from Lot #11 and to annex same to his residence at 846 Swiss Farms which is outside Midway Farms Subdivision. Motion was made at the HOA meeting to reaffirm support for the CC&R"s (specifically paragraph 9). The vote was 16 owners in favor of the Motion with three (3) in opposition. Subsequently, Hansen has now filed his Application with Midway City to re-subdivide Lot #11.

While I do not officially speak for the other members of the HOA, their votes at the annual meeting speak for themselves that they are in opposition to Hansens' request. My opposition is based, in part, on the following:

1. Hansen's application is in direct violation of CC&R's which prohibit "re-subdivision" of any lot in Midway Subdivision. Couching his Application in terms of a "lot line adjustment" or a "boundary realignment" does not negate the fact that his request is in all actuality a "re-subdivision". The dictionary defines the term *subdivide* as: "to divide the parts of into more parts." His Application clearly seeks to **subdivide** Midway Farms Lot #11 into two (2) separate parts. Lot #11 would be reduced to 2.00 acres. The northern .89 acres to be annexed onto his residence lot in Swiss Farms.

2. The direct consequence of approval of the Application by Midway City will be to completely nullify and void the CC&R's in question – which are reciprocal covenants running with the land. Approval by Midway City will, in effect, wrongfully interfere with the property rights of every landowner in Midway Farms Subdivision. The landowners will be unlawfully deprived and divested of their right to the mutual benefits of those "reciprocal rights and obligations" which the CC&R's were designed to afford and protect. Furthermore, the landowners will be left powerless to enforce the CC&R's to protect the integrity of the entire Subdivision. Finally, approval by Midway City effectively deprives the landowners of the benefits afforded to them in the CC&R's upon which they all relied when they made the decision to purchase land in Midway Farms Subdivision.

3. On a wider scale, approval by Midway City sets a dangerous precedent for each and every Homeowners Association in Midway thereby rendering them essentially powerless to enforce longstanding CC&R's in order to protect their own property rights.

4. Finally, approval by Midway City potentially "opens the door" for Hansen, or some other subsequent landowner, to construct a home on the .89 acre which is presently prohibited by both the CC&R's and Midway City. With some creative thinking, future

construction of a home on the property could be accomplished by any one of the following methods:

a) Obtaining a zoning variance from the City;
b) Obtaining approval for a "flag lot";
c) Re-configuration/"lot line adjustments" of the new lot at 846 Swiss Farms;
d) Demolition of existing home at 846 Swiss Farms and rebuilding on the .86 acre portion of the lot;
e) Future development of the large open pasture land adjacent to the .89 acre as bounding on the west which would provide access to the property;

Etc.

Hansen will argue that there is precedent for his proposal based upon the 2014 reconfiguration of Lot #'s 14 and 20, both of which are owned by Lee Archer, following approval by a one (1) vote margin of the landowners of Midway Farms Subdivision. The fundamental difference is that, unlike Hansen's proposal, Archer's action did not reduce the size of Midway Farms Subdivision, nor did it create a new lot with its own identity outside of Midway Farms Subdivision. At the end of the day, the land in question continues to remain within the boundaries of Midway Farms Subdivision.

Hansen will also argue a second precedent based upon previous action by Wade Kelson who owns Lot #1 in Midway Farms Subdivision. He also owned a piece of property outside of Midway Farms Subdivision which was contiguous to his Lot #1 on the south. Apparently in an attempt to square up some property lines, he cut off a small portion of the property outside of Midway Farms which he annexed onto his Lot #1. Kelson's actions did not constitute a "re-subdivision" of Lot #1 simply because, unlike Hansen's proposal, Lot #1 was not "divided" into more parts. (See definition of subdivide.)

In conclusion, I request that this Planning Commission recommend that Midway City deny Tom & Sara Hansen's Application. In the event that this Commission is not so inclined at this time, the more prudent course of action would be to recommend that Midway City place the Application in abeyance, with no action taken thereon, until such time as the HOA issue can be resolved once and for all with regards to the issue of "re-subdivision".

Respectfully Submitted,

Tom Deaver

To Midway, Ut, City Planning Dept.

To Whom It May Concern:

This is in reference to a proposed boundary change on two properties, both owned by my neighbors, Tom and Sarah Hansen. Both the Hansen properties adjoin my property immediately to the East and to the South of my lot located at 833 North Swiss Farm Court. Both our homes are conveniently situated at the south end of the cul-de-sac there.

I offer no objection whatsoever to the Hansen's proposal to annex a portion, slightly less than one acre, of their Farm Road property to the Swiss Farm property. This assumes that the resulting two property sizes (area) and boundaries violate no laws, covenants, nor restrictions, and meets all the legal requirements of both subdivisions.

I have examined the area in question and cannot see that I

Nor any other neighbor would be adversely affected by the change of boundary descriptions, Nor, would the nature and use of the land be changed, The Farm Road home is at the south end of that property and unaffected by the change. The owner (Brown) of the acreage to the west has repeatedly stated that his property, consisting of several undeveloped acres, will remain an undeveloped horse property for the forseeable future, i.e. his and his siblings lifetimes.

The adjoining property immediately to the east of the small acre under consideration contains a seldom used tennis court, barns, garages, and sheds that back up to the mutual property line. So far as I can tell, the owners to the east would be unaffected by the new boundary description, neither now nor in the future.

I accept Mr Hansen's repeated statement that he has no other intentions for the property in

question than for his children to graze a limited number of livestock for their annual 4H project. Accordingly, there are no other structures desired nor intended. While there is adequate access to the area in question from the Swiss Farm Court approach for its intended purpose, it would be both a legal and a physical impossibility to create a road access to it for any other purpose. I conclude then that any other use of the property is so remotely possible as to be a non issue.

The final result, as I see it, would enable the Hansens the use and enjoyment of their property without adversely affecting any neighbor, or changing the character of either neighborhood. Your approval of the Hansen petition has my whole hearted support.

Raymond L Mayo
883 N. Swiss Farm Ct
Midway, UT

Mr. Raymond L. Mayo
PO Box 910
Midway, UT 84049