

Midway City Council  
14 February 2018  
Work Meeting

Ordinance 2018-08 /  
Open Space Requirements



## **CITY COUNCIL WORK MEETING STAFF REPORT**

**DATE OF MEETING:** February 14, 2018

**NAME OF APPLICANT:** Midway City

**AGENDA ITEM:** Code Text Amendment of Title 16

### **ITEM: 2c**

Midway City is proposing a Code Text Amendment of Midway City's Land Use Code of Sections 16.16.11 and 16.16.12 that would amend open space requirements for large-scale standard subdivisions and Planned Unit Developments. This item is based on amendments made to the General Plan that were adopted earlier this year.

### **BACKGROUND:**

The purpose of this item is to review and possibly amend the City's land use ordinance regarding setbacks with the goal of preserving view corridors and preserving a rural atmosphere in Midway. The purpose of reviewing the ordinance is based on the newly revised Midway City General Plan that was adopted in January of this year. Two of the main goals of the General Plan revisions were to promote open space and to preserve the rural character of Midway. These two goals developed from the City's General Plan survey that was conducted in 2016. In that survey information was gathered regarding the residents' preferences of the vision they have for Midway. 66% of the 483 responses to that survey stated the rural atmosphere was very important to them. 88% felt that preserving open space was very important.

The idea that developed in the Community Vision Committee that was formed that reviewed that chapter of the General Plan was to preserve open space. This agenda item will review that specific regarding the percentage requirements of open space in standard

subdivisions and Planned Unit Developments (PUDs). Below are some examples from the General plan that promote protecting open space:

*Elements of the Community Vision*

- *Effective planning through clustering, setbacks, Transfer Development Rights and animal/agriculture ordinances will help Midway to preserve its view corridors, maintain open spaces and reinforce a country/rural feeling.*
- *Midway is characterized by valuable open space resources that contribute to the community's character and overall quality of life. Open spaces hold value for ecological, agricultural, cultural and recreational qualities, and these lands are worthy of careful planning and conservation.*
- *Midway will retain a rural atmosphere through open space preservation*
  - *Through effective zoning, Midway will plan for density closer to its core reinforcing more open space and less density as the City grows to its limits.*
  - *All developments will incorporate various kinds of open space into their projects.*
  - *Open spaces will be accessible, visible, appropriately landscaped (depending on the open space purpose and use) and will be aesthetically pleasing.*
  - *Development and City entryways will be landscaped, aesthetically pleasing and, where appropriate, will reinforce a Swiss/ European theme.*
  - *Effective planning through clustering, setbacks, Transfer Development Rights and animal/agriculture ordinances will help Midway to preserve its view corridors, maintain open spaces and reinforce a country/rural feeling.*
  - *Animal rights will be protected and promoted to help preserve the rural atmosphere and preserve open space.*
- *Guideline 5: Encourage the preservation of prime agricultural land and open space within Midway and the surrounding valley. High-quality, well-planned residential areas with open spaces that support and complement the unique rural quality and character of the City;*
- *Goal 2: Encourage open space to preserve a high quality of life and to preserve Midway's rural atmosphere.*

## *Development Vision*

- 1. High-quality, well-planned residential areas with open spaces that support and complement the unique rural quality and character of the City;*
- 2. Open space areas, while preserving sensitive lands.*

There is clearly support for protecting open space in Midway for many reasons. Currently the development code requires open space for the following types of developments:

- 15% Standard subdivisions (R zones six acres or more, RA-1-43 10 acres or more)
- 50% PUDs
- 55% Resort development

The Planning Commission and Open Space Committee have both reviewed the current requirements of the code and are proposing an amendment for the City Council to consider. They are recommending that the current percentage of required open space remain as listed above but an incentive to create more open space is adopted into the code. Basically, a standard subdivision that is required a 100' setback is allowed a proportional reduction for all open space provided up to 50%. A standard subdivision that is not required a 100' setback is not allowed a proportional reduction on the required 15% open space, but any additional open space provided above the 15% requirement would be allowed the proportional reduction up to a maximum of 35%. The hope is that a developer will choose to cluster a development and preserve more open space and still be allowed the density permitted based on the zoning. The chart found in the following proposed amendment would be added to the code and helps explain how the provision works.

### **PROPOSED AMENDMENT:**

A. All standard subdivisions six or more acres in size located in the R-1-11, R-1-15, R-1-22 zones, and all standard subdivisions ten or more acres in size located in the RA-1-43 zone shall reserve a minimum of 15 per cent of the total acreage of the subdivision in open space. Any subdivision that provides more than 15 percent open space can reduce lot size and frontage proportionally as provided in part C. of this section. The reduction is based on the percentage of open space provided above the 15 percent requirement. For example, a subdivision that provides 35 percent open space can reduce lot frontage and acreage by 20 percent. The maximum amount of reduction is 35 percent, 50 percent open space is required to attain a 35 percent reduction. This proportional reduction cannot be combined with the proportional reduction allowed when a 100' setback is required. Standard subdivisions that require a 100' setback can reduce lot size and frontage proportionally as provided in the Open Space Requirements Specific to Standard Subdivisions. Standard subdivisions that do not require a 100' setback can only reduce lot size and frontage proportionally for open space provided above the 15% requirement as

provided in the Open Space Requirements Specific to Standard Subdivisions. To prevent circumvention of this requirement, a subdivision less than six acres in the R-1-11, R-1-15, R-1-22 zones, and a subdivision less than ten acres in the RA-1-43 zone, shall not be approved without complying with the 15 percent open space requirements of this section if there is a reasonable basis to believe that:

1. both the land comprising the subdivision and the land comprising a contiguous subdivision of less than 6 acres (10 acres in the RA-1-43 zone) that did not reserve open space and that was approved less than five years earlier was owned by the same or a related individual, person, entity or group as the current applicant or owner at the time the earlier subdivision was approved, or

2. a contiguous parcel of less than 6 acres (10 acres in the RA-1-43 zone) owned by the same or a related individual, person, entity or group as the current applicant or owner is simultaneously under a pending standard subdivision application and is not proposing to meet the open space requirements of this section. This provision shall have prospective application only, and shall not take into account any approvals granted prior to the enactment of this section.

B. Areas with a width less than 50 feet in any direction shall not be counted as open space.

C. Due to the open space requirements imposed herein, lot size in standard subdivisions subject to the open space requirements of this section may be reduced to 50 percent of the minimum lot size required in the zone in which the subdivision is located. This provision therefore explicitly allows for the creation of building lots smaller than the minimum lot size required in the zone in which the subdivision subject to open space requirements is located. The permitted reduction in lot size shall be directly proportional to the total amount of non-developable open space reserved in the subdivision. For example, a subdivision that is required a 100' setback that reserves the minimum 15 percent open space required by this section shall be allowed to reduce any of its lots to 85 percent of the size required in the zone. A subdivision that is required a 100' setback that reserves 30 percent of its total acreage for open space shall be allowed to reduce any of its lots to 70 percent of the required size in the zone. Frontage requirements will also be reduced by the same percent as explained above.

<b><u>Standard subdivision examples of open space and proportional frontage and acreage reduction</u></b>		
	<b><u>Open space provided</u></b>	<b><u>Proportional reduction allowed</u></b>
<b><u>Subdivision along listed streets with a 100' setback</u></b>	<b><u>15%</u></b>	<b><u>15%</u></b>
<b><u>Subdivision not required a 100' setback</u></b>	<b><u>15%</u></b>	<b><u>0%</u></b>
<b><u>Subdivision along listed streets with a 100' setback</u></b>	<b><u>35%</u></b>	<b><u>35%</u></b>
<b><u>Subdivision not required a 100' setback</u></b>	<b><u>35%</u></b>	<b><u>20%</u></b>

**PLANNING COMMISSION RECOMMENDATION:**

**Motion:** Commissioner Bouwhuis: I motion that we make the changes proposed in Section 16.16.11 and 16.16.12 as proposed except for changing the sentence in the last part of the recommended revisions to state that standard subdivisions that does not require the 100' setback can only reduce the size and frontage proportionately for the open space requirement provided above and beyond the 15%.

**Seconded:** Commissioner Payne

**Chairman Kohler:** Any discussion on the motion?

**There was none**

**Chairman Kohler:** All in favor.

**Ayes:** Commissioners Nicholas, Ream, O'Toole, Payne, Bouwhuis and Jenkins

**Nays:** None

**Motion:** Passed

**ALTERNATIVE ACTIONS:**

1. Approval. This action can be taken if the City Council feels that the proposed language is an acceptable addition to the City's Municipal Code.
  - a. Accept staff report
  - b. List accepted findings
  - c. Place condition(s)
  
2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.
  - 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 proposed amendment is not an acceptable revision to the City's Municipal Code.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial



## ORDINANCE 2018-08

### **AN ORDINANCE AMENDING PORTIONS OF SECTIONS 16.16.8, 16.16.11 OF THE MIDWAY CITY LAND USE CODE REGARDING SETBACKS, OPEN SPACE AND RELATED MATTERS.**

**WHEREAS**, the Midway City has adopted a General Plan which includes provisions regarding the preservation of view corridors and preservation of the rural feel and atmosphere of Midway City; and

**WHEREAS**, the Code change contained herein will further the direction and intent of the Midway City General Plan; and

**WHEREAS**, the proposed Code amendment contained herein was presented to the Midway City Planning Commission who voted to recommend the Code amendment to the City Council; and

**WHEREAS**, notice regarding this proposed ordinance has given as provided by law; and

**WHEREAS**, the City Council accepts the recommendation of the Midway City Planning Commission, and agrees that it is in the best interest of the citizens of Midway that the Midway City Code be amended as contained herein:

**NOW THEREFORE**, for the reasons stated above, the City Council of the City of Midway, Wasatch County, Utah, hereby adopts, passes and publishes the following:

**BE IT ORDAINED**, by the City Council of Midway City, Wasatch County, State of Utah:

Section 16.16.8(A)(5)(a) of the Midway City Code is hereby amended, and shall hereafter read as follows:

#### **Section 16.16.8(A)(5)(a)**

a. Setbacks along the peripheral property lines of the PUD shall be a minimum of 60 feet. Setbacks shall be staggered at ten (10) foot intervals with one-third of the structures having a 60' setback, one-third having a 70' setback, and one-third having an 80'

setback. No structure within 50' of another structure shall have the same setback.

Section 16.16.11 of the Midway City Code is hereby amended, and shall hereafter read as follows:

**Section 16.16.11(B)**

B. Common areas and other open space areas with a width smaller than 100 in any direction shall not be counted as open space except for the peripheral property line setback area which will be counted as open space.

This ordinance shall be effective immediately upon passage. A copy of this ordinance shall be posted at each of three (3) public places within the corporate limits of Midway City and a summary published in a paper of local circulation.

**PASSED AND ADOPTED** by the City Council of Midway City, Wasatch County, Utah  
this                    day of                    , 20                    .

	AYE	NAY
Council Member Lisa Christen	_____	_____
Council Member Jeff Drury	_____	_____
Council Member Bob Probst	_____	_____
Council Member JC Simonsen	_____	_____
Council Member Ken Van Wagoner	_____	_____

APPROVED:

\_\_\_\_\_  
Celeste Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Brad Wilson, City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
Corbin Gordon, City Attorney



(SEAL)