

Midway City Council  
28 February 2018  
Regular Meeting

Ordinance 2018-05 /  
Frontage and Acreage  
Requirements



## **CITY COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** February 28, 2018

**NAME OF APPLICANT:** Midway City

**AGENDA ITEM:** Code Text Amendment of Title 16:16:12

### **ITEM: 8**

Midway City is proposing a Code Text Amendment of Midway City's Land Use Code that would amend the frontage and acreage requirements as related to open space for large-scale subdivisions located in Sections 16.16.12 of the Land Use Code. This item is based on amendments made to the General Plan that were adopted earlier this year. Those amendments promote preserving view corridors and the rural atmosphere of Midway.

### **BACKGROUND:**

The purpose of this item is to review and amend the City's land use ordinance regarding the reduction of lot size and frontage requirements based on the amount of open space provided by the development. 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. 70% felt that the quietness of Midway was very important. 69% felt that open space protection 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 the rural atmosphere, preserve open space, and reduce density. By doing this the City will help retain its rural atmosphere. Below are some examples from the General plan that promote these goals:

- *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 1: Consider reviewing the Municipal Code to possibly reduce density where appropriate.*

The code currently requires 15% open space for large-scale standard subdivisions. In return for requiring the open space, the City adopted Section 16:16:12 C so the land owner/developer could still have the same density on the property as without the ordinance:

*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 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 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.*

The Planning Commission and staff have developed an amendment to the code for the City Council's consideration. Originally the Planning Commission had recommended eliminating this provision from the code. That recommendation was sent to the City Council and was considered during the October 11<sup>th</sup> meeting. The City Council then sent the item to the Open Space Committee for their recommendation. During that same period, the Planning Commission reviewed potential code text amendments for setbacks and for open space. The Planning Commission developed an alternative recommendation that would work in conjunction with the other proposed code text amendments. Basically, the proportional reduction in lot size and acreage would still be allowed if a 100' setback was required for standard subdivisions, but it would not be allowed if a 100' setback was not required. The requirement for the 100' setback would be determined from a list of specified streets that would be added to the code. The reason for this provision is based on the idea that if a subdivision is located on one of the busier roads in Midway then a 100' setback would be required. Because the development would be "giving" something beneficial to the entire community creating an open area along the road then that development would be allowed the proportional reduction in return. A subdivision not located next to a busier road in Midway would not be allowed the proportional reduction because it would not be required a 100' setback and would not be "giving" something beneficial to the entire community. The Open Space Committee reviewed the proposed recommendation from the Planning Commission and recommended its approval.

#### **PROPOSED AMENDMENT:**

##### **Section 16.16.12      Open Space Requirements Specific to Standard Subdivisions**

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>

## **POSSIBLE FINDINGS:**

- Standard subdivisions next to specified roads would be allowed the proportional reduction because of the required 100' that is beneficial to the entire community
- Eliminating the proportional lot size and frontage reduction will reduce the potential density of large-scale standard subdivisions that are not required a 100' setback
- Potential traffic will be reduced because of lower potential density
- The General Plan promotes reducing density and creating large lots
- 15% open space will still be required

## **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 2018-05

**AN ORDINANCE AMENDING SECTION 16.16.12 OF THE MIDWAY CITY LAND USE CODE REGARDING FRONTAGE AND ACREAGE REQUIREMENTS RELATATED TO OPEN SPACE FOR LARGE SCALE SUBDIVISIONS, AND RELATED MATTERS.**

**WHEREAS**, the Midway City has adopted a General Plan which includes provisions regarding the promotion of open space and preservation of the rural feel 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 16.16.12 of the Midway City Code is hereby amended, and shall hereafter read as follows:

**Section 16.16.12      Open Space Requirements Specific to Standard Subdivisions**

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

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:

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 Celeste Johnson, Mayor

ATTEST:

APPROVED AS TO FORM:

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Brad Wilson, City Recorder

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Corbin Gordon, City Attorney

(SEAL)