



RESOLUTION 2018-03

A RESOLUTION ADOPTING A NOTICE OF PENDING ORDINANCE AMENDMENTS IN CERTAIN SPECIFIED ZONES WITHIN THE CORPORATE LIMITS OF THE CITY OF MIDWAY, WASATCH COUNTY, UTAH.

WHEREAS, Section 10-9a-504 of the Utah Code Annotated, 1953, as amended, allows a municipality to enact an ordinance or resolution establishing a temporary land use regulation for any part or all of the area within a municipality; and

WHEREAS, such a resolution is required to specify the nature of the proposed ordinance and to direct the City Staff to prepare such an ordinance; and

WHEREAS, such a resolution may take effect immediately, and shall be effective for no more than 180 days; and

WHEREAS, the Midway City Council adopted a new General Plan that went into effect January 1, 2017; and

WHEREAS, the Midway City Council adopted a temporary land use ordinance, Ordinance 2017-09, on the 14th day of June, 2017, which temporary land use ordinance expired on or about the 14th day of December, 2017; and

WHEREAS, a new mayor and two new City Council Members were elected in November of 2017, and have now been sworn into office; and

WHEREAS, the previous Temporary Zoning Ordinance was enacted to allow the City to fully implement the General Plan by adopting ordinances or other code amendments that would effectuate the General Plan; and

WHEREAS, the City Council finds that many of the City's ordinances, policies and procedures, which include, but are not necessarily limited to, the City's General Plan, zoning ordinance, subdivision ordinance, construction standards, street and traffic plan, water ordinances and policies, trails plan, storm water plan, and other similar documents and policies, are in the process of revision and need to be completed in order to fully implement the adopted General Plan; and

WHEREAS, the City Council finds that, unless the Pending Ordinance Doctrine is invoked, and a notice of pending ordinance is published, accepting development applications for subdivisions, planned unit developments, and other large-scale residential developments in certain locations within the City while the City is completing the revision and adoption of ordinances, policies and procedures will frustrate the comprehensive, long-range planning objectives that should characterize this process, and also may result in unfairly benefiting certain landowners while burdening others; and

WHEREAS, the City Council finds that publishing a notice of pending ordinance, and requiring all new applications for development and/or annexation to be bound by the terms and conditions of the new ordinances, will prevent landowners or developers from being unfairly impacted by the new ordinances; and

WHEREAS, the City Council finds that the Midway City Staff and the Mayor and Council have been and continue to work diligently on multiple ordinances and revisions to the Midway City Code to more fully effectuate the terms, conditions and intent of the General Plan, but that several of those ordinances were not completed by the expiration of the prior Temporary Land Use Ordinance. The Notice of Pending Ordinances hereby adopted relates to the following pending ordinances:

1. Midway City is proposing a Code Text Amendment of Midway City's Land Use Code of Section 16.16.8 that would reduce densities in Planned Unit Developments from 1.5 units per acre to 1.25 units per acre. Please see attached staff report.
2. 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. Standard subdivisions next to a collector road would require a 100' setback but would still be allowed proportional reductions of frontage and area. Standard subdivisions not fronting a collector road would no longer be allowed to reduce frontage and acreage for the first 15% based on the required open unless providing more than 15% open space. Please see attached staff report.
3. Midway City is proposing a Code Text Amendment of Midway City's Land Use Code that would increase the requirements for setbacks of planned unit developments and large-scale subdivisions located in Sections 16.16.8, 16.16.9, 16.16.10 and 16.17.7 of the Land Use Code. Setbacks for planned unit developments would increase from 100' to 120'. Setbacks for standard subdivisions would increase from 30' to 100' along specified roads. Open space will be required to be located next to the collector roads. Also, sight obtrusive fencing will not be allowed in open space areas. Please see attached staff report.
4. 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. The amendment would allow additional proportional reduction of frontage and acreage per lot if a subdivision provides more open space than the required 15%. Please see attached staff report.

WHEREAS, it is in the best interests of the City to complete the ordinance listed above, and to apply the terms and conditions of that ordinance to any new development or annexation that may occur within the City; and

WHEREAS, the City Council has determined that it would be in the best interests of the health, safety and general welfare of the citizens of Midway City to invoke the pending ordinance doctrine to require that all future applications for development and/or annexation in the City of Midway be subject to the terms of the pending ordinance described herein.

NOW THEREFORE, the City Council has determined that there is an important, compelling and countervailing public interest in completing the new ordinance before allowing significant new development to occur. Therefore, pursuant to Section 10-9a-504, *et seq.* of the Utah Code Annotated 1953, as amended, and 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 RESOLVED, by the City Council of Midway City, Wasatch County, State of Utah:

- 1. The Midway City Notice of Pending Ordinances, which is attached hereto and incorporated herein by this reference, is hereby approved and adopted by the City Council.*
- 2. No application for development approval or annexation shall receive final approval prior to the adoption and effective date of the above listed proposed Ordinances to the Midway City Code.*
- 3. In order to protect public health, safety and welfare of the citizens of Midway, the City Council has determined that this Resolution shall take effect immediately upon publication as required by law and shall continue until the above listed ordinances are completed, adopted and become effective, or until the City Council votes negatively on those pending ordinances.*
- 4. This resolution does not affect any development or application or annexation petition currently filed or pending with the City on or before the date of this resolution. Further, this resolution does not affect applications for building permits within developments approved by the City prior to the date of this resolution or within developments covered by applications described in the previous sentence.*

This resolution shall be effective immediately upon passage. A copy of this resolution 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 Midway City Council on the day of
, 2018.

MIDWAY CITY

Celeste Johnson, Mayor

ATTEST:

Brad Wilson, Recorder

(SEAL)

Exhibit A



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: January 24, 2018
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Title 16

ITEM: 6c

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.

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

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

Exhibit B



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: January 24, 2018
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Title 16:16:12 C

ITEM: 6a

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 11th 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:

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.

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

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

Exhibit C



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: January 24, 2018
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Title 16

ITEM: 6b

Midway City is proposing a Code Text Amendment of Midway City's Land Use Code that would amend the requirements for setbacks of planned unit developments, large-scale and small-scale subdivisions located in Sections 16.16.8, 16.16.9 and 16.17.7 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 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 was 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 protect view corridors by extending the required setbacks along City streets. By doing this the City will help retain its rural atmosphere. Below are some examples from the General plan that promote this extending the setbacks from City streets:

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 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.*
- *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.*
- *Objective 1: Protect all of the environmental and natural resources of the City by requiring development to occur in a manner and location which respects sensitive environmental lands: wetlands, flood plains and natural drainage patterns, steep slopes, productive agricultural lands, geologically unstable areas, critical wildlife areas, vegetation and important scenic features such as ridge lines hillsides and view corridors.*

- *Guideline 1: Consider reviewing the Municipal Code to possibly reduce density where appropriate.*
- *Beautiful scenery and recreation has also made Midway a resort destination. Visitors from across the world have enjoyed the community's festivals, events, and outdoor opportunities. Midway seeks to maximize both economic strength and the rural character of the community.*

There is clearly support for protecting the rural atmosphere and protecting view sheds. One of the best ways to accomplish this goal is by extending setbacks along our City streets, especially collector roads. This is not a new concept to the City and efforts have been made to accomplish this goal but there are amendments that can be made to the current code to make the code more effective. Below are the proposed amendments to the code:

Section 16.16.9

2. Dwellings and permitted structures shall be located so as to best comply with the intent of this Title and shall meet the following standards:

a. Setbacks along the peripheral property lines of the subdivision shall be a minimum of 30 feet except for side setbacks for lots that front a street that will be extended to a neighboring property. The side setback for those lots will need to comply with the minimum for the zone in which the property is located. For safety reasons, the City may require buildings in any subdivision to be set back further from certain areas, such as sensitive lands or combustible native vegetation.

~~b. Setbacks adjacent to existing and proposed minor collector and collector streets or streets to be dedicated to the City shall be a minimum of 30 feet within a standard subdivision.~~

b. Setbacks from the following streets shall be a minimum of 100'

i. Burgi Lane;

ii. River Road;

iii. Pine Canyon Road;

iv. Homestead Drive;

v. Michie Lane, east of Center;

vi. Center Street (SR 113);

vii. Tate Lane;

viii. Stringtown Road;

ix. 200 North, west of 200 West.

x. Cari Lane

xi. Center Street, north of Main Street

xii 600 North

xiii. 250 West

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.

c. This setback area shall be landscaped in such a way as to reduce the visual impact of the buildings of the development from the public roads and yet not hide the view of the mountains and hillsides from the same public roads.

d. Notwithstanding the setback requirement noted earlier in this Section, no accesses directly to individual dwelling units within a standard subdivision shall be allowed directly from the following streets; rather, access must be made from streets within the development, unless this is a practical impossibility.

i. Burgi Lane;

ii. River Road;

iii. Pine Canyon Road;

iv. Homestead Drive;

v. Michie Lane, east of Center;

vi. Center Street (SR 113);

vii. Tate Lane;

viii. Stringtown Road; ~~or~~

ix. 200 North, west of 200 West.

x. Cari Lane

xi. Center Street, north of Main Street

xii 600 North

xiii. 250 West

Section 16.16.8

b. Setbacks ~~adjacent to existing public collector streets or collector streets to be dedicated to the City from the following streets~~ shall be a minimum of ~~100~~ 120 feet for all structures and parking. This setback area shall be landscaped in such a way as to reduce the visual impact of the buildings of the development from the public roads and yet not hide the view of the mountains and hillsides from the same public roads. ~~For aesthetic and open space purposes, the Planning Commission and City Council may require further setbacks from the following roads:~~

i. Burgi Lane;

ii. River Road;

iii. Pine Canyon Road;

iv. Homestead Drive;

v. Michie Lane, east of Center;

vi. Center Street (SR 113);

vii. Tate Lane;

viii. Stringtown Road; ~~or~~

ix. 200 North, west of 200 West.

x. Cari Lane

xi. Center Street, north of Main Street

xii 600 North

xiii. 250 West

No accesses to individual dwelling units within a PUD shall be allowed directly from the above streets. Access must be made from streets within the development.

Section 16.16.10

~~F. At least one half of the required open space shall be retained in a single open space area in as much of a square shape as possible with the preference that the open space be placed along collector streets. A 50' open space area is required along all collector roads. Any other required open space may be placed in other areas of the development.~~

~~G. To the greatest extent possible, open space areas shall be placed so as to be visible from both inside and outside the development.~~

G. Open space areas shall not be fenced with site obtrusive fencing.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Ream: Proposing that we recommend to City Council that there be a code text amendment of Midway City's land use code that would amend the requirements for setbacks and planned unit developments, large-scale and small-scale subdivision located in Sections 16.16.8, 16.16.9 and 16.17.7 of the Land Use Code. The code text amendment is what you have in F with the changes that Planner Henke will make and in G and we accept the findings of staff.

Seconded: Commissioner O'Toole

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

POSSIBLE FINDINGS:

- Preserving view corridors and open space is an important goal for the community
- Extending setbacks will preserve the rural atmosphere of Midway
- Protecting entry corridors and collector roads from crowding will benefit the entire community

ALTERNATIVE ACTIONS:

1. Approval. This action can be taken if the City Council 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

Exhibit D



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: January 24, 2018
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Title 16

ITEM: 7

Midway City is proposing a Code Text Amendment of Midway City's Land Use Code of Section 16.16.8 that would amend densities in 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 amend the City's land use ordinance regarding densities that are allowed in Planned Unit Developments (PUDs). The purpose of reviewing the ordinance is based on the newly revised Midway City General Plan that was adopted in January of this year. Some of the main goals of the General Plan revisions was to promote open space, preserve the rural character of Midway and reduce densities where appropriate. These three 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 protect view corridors by extending the required setbacks along City streets. By doing this the City will help retain its rural atmosphere. Below are some

examples from the General plan that promote this extending the setbacks from City streets:

Elements of the Community Vision

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

There is clearly support for protecting open space and analyzing our current code to review allowed densities. By doing this we can determine if the allowed densities are appropriate for Midway and in vision with the General Plan. Density has a direct impact our community in several ways which include traffic, student population, demand on services, and even air pollution.

Section 16.16.8 establishes densities for PUDs in all zones where they are allowed.

A. The following standards, requirements and conditions shall specifically apply to all PUDs:

1. The permitted base densities allowed in a PUD for each zoning district are listed below:

<i>R-1-7</i>	<i>5.0 units per acre</i>
<i>R-1-9</i>	<i>4.0 units per acre</i>
<i>R-1-11</i>	<i>3.0 units per acre</i>
<i>R-1-15</i>	<i>2.5 units per acre</i>
<i>R-1-22</i>	<i>2.0 units per acre</i>
<i>RA-1-43</i>	<i>1.5 units per acre</i>

An additional one-quarter unit per acre shall be permitted when Swiss-Alpine architecture is used in the design of the development. The determination regarding the usage of the Swiss Alpine architecture shall be recommended by the Vision Architectural Committee and determined by the City Council as part of the conditional use process.

2. The minimum land area for a PUD shall be ten acres.

3. The minimum number of units in a PUD shall be 40.

The densities listed above are both higher and lower than what each particular zone allows for a standard subdivision. The following is a list of the densities per acre for a PUD as compared to what zoning would allow for a standard subdivision:

Zone	PUD Density	Standard Subdivision Density
• R-1-7	5.0 units per acre	6.2 (-15% for roads = 5.3)
• R-1-9	4.0 units per acre	4.8 (-15% for roads = 4.1)
• R-1-11	3.0 units per acre	4.0 (-15% for roads = 3.4)
• R-1-15	2.5 units per acre	2.9 (-15% for roads = 2.5)
• R-1-22	2.0 units per acre	2.0 (-15% for roads = 1.7)
• RA-1-43	1.5 units per acre	1.0 (-15% for roads = 0.9)

The zone that has the largest difference in density is the RA-1-43 zone. The other zones, once 15% of the property is subtracted for roads (roads are not subtracted for density calculations in PUDs), have similar densities. The disadvantage of a higher relative density in the RA-1-43 zone is that zone falls on the periphery of Midway, so the increased relative density creates more trips per day that must travel through the other zones to access services and stores. Someone could argue that it should be the opposite of this, so the relative density is higher in the zones located near the services to help create the situation where more people could walk to stores and services instead of accessing them by driving.

Another point to discuss is the additional one quarter unit per acre that is permitted when Swiss Alpine architecture is used. The process of determining if a density credit is allowed is subjective. Currently the Visual and Architectural Committee reviews the elevations of the structures and makes a recommendation to the City Council if they feel the structures have incorporated into them suggested architectural elements that are found in the land use code. The City Council then makes a final decision of the bonus density should be granted. Both staff and the Planning Commission feels this process is subjective and unnecessary. A developer creating a quality development will create character without the added incentive of density. For these reasons, the Planning Commission and staff are recommending this provision is removed from the code as part of the proposed revision.

The Planning Commission and staff are proposing to amend the ordinance so that the density in the RA-1-43 zone is more similar to the relative density of the other zones. Where the R-1-22 zones allows two units in a half acre zone, the RA-1-43 zone should have a density of one unit for each acre. The proposed amendment is the following:

A. The following standards, requirements and conditions shall specifically apply to all PUDs:

1. The permitted base densities allowed in a PUD for each zoning district are listed below:

<i>R-1-7</i>	<i>5.0 units per acre</i>
<i>R-1-9</i>	<i>4.0 units per acre</i>
<i>R-1-11</i>	<i>3.0 units per acre</i>
<i>R-1-15</i>	<i>2.5 units per acre</i>
<i>R-1-22</i>	<i>2.0 units per acre</i>
<i>RA-1-43</i>	<i>1.5 <u>1.25</u> units per acre</i>

~~An additional one quarter unit per acre shall be permitted when Swiss-Alpine architecture is used in the design of the development. The determination regarding the usage of the Swiss Alpine architecture shall be recommended by the Vision Architectural Committee and determined by the City Council as part of the conditional use process.~~

2. The minimum land area for a PUD shall be ten acres.
3. The minimum number of units in a PUD shall be 40.

PUDs are useful to the City in several ways even with the increased density. First, PUDs have a relatively high percentage of second homes. Second, home owners pay the full property assessed tax rate whereas primary home owners pay a reduced rate. Third, PUDs are clustered, so they provide more open space. Fourth, they usually have private roads which requires no maintenance from City provided services. Fifth, there are much less children in PUDs since many of the home owners are retired which creates much less demand on the school district. Because of these reasons it is important that PUDs remain a viable option for development in Midway.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Nicholas: I move that we recommend a code text amendment to Midway City's Land Use Code of Section 16.16.8 that would amend densities in Planned Unit Developments. We accept the staff findings, but that the PUD density be reduced only to 1.25 units per acre instead of down to one (1).

Seconded: Commissioner Bouwhuis

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

POSSIBLE FINDINGS:

- Reducing density will also reduce potential traffic especially in the RA-1-43 zone which is generally located farthest from services and stores
- Reducing density for PUDs in the RA-1-43 zone will make the density more comparable to densities for PUDs in all the other zones
- The General Plan promotes reducing density where appropriate

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