



Midway

**PLANNING COMMISSION MEETING STAFF REPORT**

**DATE OF MEETING:** October 13, 2020  
**NAME OF APPLICANT:** Midway City  
**AGENDA ITEM:** Code Text Addition of Section 16.29: Density Reduction Subdivision

**ITEM: 7**

Midway City is proposing to adopt new code text to the Midway City Municipal Code. Section 16.29: Density Reduction Subdivision. The intent of the Density Reduction Subdivision is designed to incentivize developers to voluntarily reduce the number of home sites per acre in exchange for simplified development infrastructure requirements. Reducing density will help preserve Midway's rural character by decreasing the number of structures, roads, and infrastructure in Midway. The initiative will reduce the maintenance burden for city taxpayers, preserve and enhance the value of current landowners' property, and preserve the rural quality of life in Midway.

**BACKGROUND:**

Midway City is proposing to adopt a new subdivision code that would be called the Density Reduction Subdivision. The purpose of the proposed code is to incentivize developers to voluntarily reduce the number of home sites per acre in exchange for simplified development infrastructure requirements. The proposed subdivision code would be the fifth subdivision development option. Others include large-scale standard subdivisions, planned unit developments, small-scale subdivisions, and rural preservation subdivisions.

This Midway General Plan’s goals include preserving open space, lowering potential density, and preserving the rural atmosphere of Midway. The proposed subdivision code would accomplish all three of the aforementioned items while offering an option that is in the middle of the standard subdivision option and a rural preservation option. The proposed code is somewhat like the rural preservation subdivision, in that fact that the goal of both subdivisions is to reduce density, but it is distinct enough as to not compete with the rural preservation subdivision. Several key factors differentiate the two subdivision options which include frontage requirements, acreage, sewer connections and density.

Basically, the City would allow a property to develop using the proposed code if the density is reduced by 2/3. The code would allow lots to be created without requiring the construction of much of the cost prohibitive infrastructure but in return, the lots would be deed restricted so that they could never be resubdivided. Access would be allowed from a private driveway that would connect to a City standard road. The ongoing maintenance cost to the City for this type of lot would be minimal since, most likely, no public roads would be constructed. There are many other details included in the code that should be reviewed and analyzed to determine if this proposal has value to the residents of Midway. The hope is that several properties will be developed using the proposed code instead of being developed at maximum density. The lasting impact of the properties developing with less density would be a continual benefit the entire community. The key is the lots could never be redeveloped at any point in the future and that would need be assured through any means necessary.

The following is list of the key provisions of the code:

**Permitted Zones**

All property must be in the R zoning districts (R-1-7, R-1-9, R-1-11, R-1-15, R-1-22 or RA-1-43).

**Density**

Density shall be determined by the zone in which the property located and then reduced by two-thirds the base density as shown on the following table. Only buildable area may be used to calculate density. Sensitive lands acreage must be subtracted from the acreage total before density is calculated.

|         |                   |
|---------|-------------------|
| R-1-7   | 2.1 lots per acre |
| R-1-9   | 1.6 lots per acre |
| R-1-11  | 1.3 lots per acre |
| R-1-15  | 1 lot per acre    |
| R-1-22  | 0.7 lots per acre |
| RA-1-43 | 0.3 lots per acre |

**Maximum Number of Lots**

A maximum number of lots allowed in a Density Reduction Subdivision is five (5) lots.

**Lot Area**

All lots must meet the minimum acreage requirement for the zone in which each lot is located.

**Frontage**

One lot must meet the frontage requirement for the zone in which the lot is located. All other lots do not have a frontage requirement. There are no requirements to improve streets used as frontage in a Density Reduction Subdivision.

**Further Development**

Lots cannot be further subdivided and must be deed restricted to ensure that the density of the subdivision is never increased from the original approval. Deed restrictions must be recorded towards each lot when the plat is recorded. A note must also be placed on the plat that restricts further development of any lots in a Density Reduction Subdivision.

**Remnant Parcels**

No remnant parcels can be created because of an application for a Density Reduction Subdivision. The entire area of the original parcel must be included in the Density Reduction Subdivision.

**Open Space**

There is not an open space requirement in a Density Reduction Subdivision.

**Animal Rights**

Lots in a Density Reduction Subdivision will have animal rights based on the zone in which they are located. All lots must be at least one acre to have animal rights.

**Waste Disposal**

All lots in a Density Reduction Subdivision shall connect to sewer.

**Trails**

Any trails crossing a Density Reduction Subdivision will be built by the developer and an easement will be deeded to the City for public use.

**Water Requirements**

All required water shares for culinary and secondary water will be tendered to the City before the recording of the subdivision plat. No lots in a Density Reduction Subdivision shall be allowed on the City's Water Exchange Program. All lots shall connect to a pressurized irrigation system.

**Sensitive Lands**

All development must comply with the Sensitive Lands Overlay Zone ordinance.

**Access**

Each lot must have access from a private driveway that complies with the requirements as listed in the code.

**Single Point of Access**

A Density Reduction Subdivision is not permitted on a road that is over 500' in length that only has one access. Within Midway City there are roads that lead into areas with only one point of ingress and egress (i.e. Lime Canyon, Swiss Alpine Road, 500 S., etc.). For safety purposes, Density Reduction Subdivisions are not allowed in this situation because increased density will create a greater safety issue.

**Setbacks**

All setbacks are required based on the zone in which the lot is located.

**Permitted Uses**

The principal use permitted in the Density Reduction Subdivision is one residential living unit. Other uses are permitted as allowed by the zoning regulations governing the zone in which the lot is located.

**Master Planned Streets**

If a master planned street traverses the property in a Density Reduction Subdivision, then the right-of-way for the future street must be dedicated to the City on the plat. Construction of the road is not required by the developer but may be built by the City or other. The acreage of the dedicated street right-of-way shall be included when determining density for the Density Reduction Subdivision.

**Public Utility Easements**

10' public utility easements area required within each lot, around all lot boundaries. Private driveway easements shall also be public utility easements.

**Deed Restriction Language**

An example of the deed restriction language is the following:

1. *Any further subdividing of the lot is prohibited.*

*The deed restriction prohibiting further subdivision of the lots within the development is created for the benefit of all of the lots within the development, all of the neighboring lots to the development, and Midway City. This deed restriction cannot be altered in any way without written consent from all of the above. This deed restriction is a covenant that runs in perpetuity with the land, and it shall inure to the benefit of the owners of each lot within the development, the owners of neighboring lots of the development, and Midway City, including all parties' heirs, successors or assigns.*

*All future owners take title subject to this Deed Restriction and shall be bound by it.*

## POSSIBLE FINDINGS:

- The Density Reduction Subdivision will help Midway meet the General Plan goals of preserving open space and a rural atmosphere by reducing potential density.
- The proposed code is another option for development but does not affect the ability of a landowner to develop their property using other development options.
- The Density Reduction Subdivision will reduce the maintenance burden for city taxpayers by reducing the number of cul-de-sacs that the City would maintain.
- Deed restrictions are required to be recorded towards each lot in a Density Reduction Subdivision so lots cannot be further developed.

## ALTERNATIVE ACTIONS:

1. Recommendation for Approval. This action can be taken if the Planning Commission finds that the proposed language is an acceptable amendment to the City's Municipal Code.
  - a. Accept staff report
  - b. List accepted findings
2. Continuance. This action can be taken if the Planning Commission 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. Recommendation for Denial. This action can be taken if the Planning Commission finds 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

## **Chapter 16.29      Density Reduction Subdivision**

### **Section 16.29.1      Purpose and Intent**

The intent of the Density Reduction Subdivision is designed to incentivize developers to voluntarily reduce the number of home sites per acre in exchange for simplified development infrastructure requirements. Reducing density will help preserve Midway's rural character by decreasing the number of structures, roads, and infrastructure in Midway. The initiative will reduce the maintenance burden for city taxpayers, preserve and enhance the value of current landowners' property, and preserve the rural quality of life in Midway.

### **Section 16.29.2      Pre-Application Conference with Staff Member**

Any person wishing to construct a Density Reduction Subdivision shall meet with a staff member, check and review the zone information, obtain application and review procedures, obtain information from the City regarding the City's plan of land use, streets, water, sewer, traffic, trails and parks, and public facilities; and have discussion about requirements affecting the land to be developed. The developer shall then prepare plans and seek approval based on the information received and the process outlined below.

### **Section 16.29.3      Preliminary/Final Plan**

The developer shall prepare a preliminary/final plan and shall submit five copies of the plan on 11" x 17" size paper to the Planning Commission for its review. The purpose of this plan is to demonstrate how the proposed development plan will be able to meet the standards required under the zoning ordinance and other applicable laws or regulations. The Preliminary/Final Plan is expected to contain construction drawings, and it is also expected that it will demonstrate compliance with this code. The Preliminary/Final Plan shall contain the following information:

- A. Type of development.
- B. Name of development.
- C. Applicant entity name, primary contact name, civil engineer, architect, and attorney, with respective contact addresses, phone numbers, and email addresses for each.
- D. Legal description with section tie.
- E. Zone boundaries and designations.
- F. North point and a scale consistent with a scale that is on a standard engineering scale ruler.
- G. A site plan showing location and dimensions of all lot lines, along with building feasibility for each lot.
- H. Topography shown by contours at no greater interval than two feet except that a greater interval may be permitted when the property is outside the survey boundary if specifically authorized by the Planning Commission.
- I. The outside boundary of the project.
- J. Tabulation of land use:
  1. Total area and building area.
  2. Number of units and project density.
- K. Adjacent property owners.



- L. Typical driveway cross sections.
- M. A detailed statement and illustration of how the project will meet sensitive lands requirements.
- N. Existing and proposed easements, waterways, utility lines, canals and ditches.
- O. A plan for accommodating waterways, ditches and canals.
- P. Proposed and existing sewage disposal facilities.
- Q. Existing and proposed storm drain system with the related run-off calculations for the development site including routing the runoff water that leaves the site to a City storm drain or natural drainage approved by the City to accept the water.
- R. Existing and proposed water system indicating size of water lines and fire hydrant locations. Indications as to the capacity of the water system as it relates to the project when required.
- S. Environmental Assessment Review Statement.
- T. Any other information Staff or the Planning Commission may determine necessary relating to the site of the proposed project.

**Section 16.29.4 Permitted Zones**

All property must be in the R zoning districts (R-1-7, R-1-9, R-1-11, R-1-15, R-1-22 or RA-1-43).

**Section 16.29.5 Density**

Density shall be determined by the zone in which the property located and then reduced by two-thirds the base density as shown on the following table. Only buildable area may be used to calculate density. Sensitive lands acreage must be subtracted from the acreage total before density is calculated.

|         |                   |
|---------|-------------------|
| R-1-7   | 2.1 lots per acre |
| R-1-9   | 1.6 lots per acre |
| R-1-11  | 1.3 lots per acre |
| R-1-15  | 1 lot per acre    |
| R-1-22  | 0.7 lots per acre |
| RA-1-43 | 0.3 lots per acre |

**Section 16.29.6 Maximum Number of Lots**

A maximum number of lots allowed in a Density Reduction Subdivision is five (5) lots.

**Section 16.29.7 Lot Area**

All lots must meet the minimum acreage requirement for the zone in which each lot is located.

**Section 16.29.8 Frontage**

One lot must meet the frontage requirement for the zone in which the lot is located. All other lots do not have a frontage requirement. There are no requirements to improve streets used as frontage in a Density Reduction Subdivision.

**Section 16.29.9 Further Development**

Lots cannot be further subdivided and must be deed restricted to ensure that the density of the subdivision is never increased from the original approval. Deed restrictions must be recorded towards each lot when the plat is recorded. A note must also be placed on the plat that restricts further development of any lots in a Density Reduction Subdivision.

**Section 16.29.10 Remnant Parcels**

No remnant parcels can be created because of an application for a Density Reduction Subdivision. The entire area of the original parcel must be included in the Density Reduction Subdivision.

**Section 16.29.11 Open Space**

There is not an open space requirement in a Density Reduction Subdivision.

**Section 16.29.12 Animal Rights**

Lots in a Density Reduction Subdivision will have animal rights based on the zone in which they are located. All lots must be at least one acre to have animal rights.

**Section 16.29.13 Waste Disposal**

All lots in a Density Reduction Subdivision shall connect to sewer.

**Section 16.29.14 Trails**

Any trails crossing a Density Reduction Subdivision will be built by the developer and an easement will be deeded to the City for public use.

**Section 16.29.15 Water Requirements**

All required water shares for culinary and secondary water will be tendered to the City before the recording of the subdivision plat. No lots in a Density Reduction Subdivision shall be allowed on the City's Water Exchange Program. All lots shall connect to a pressurized irrigation system.

**Section 16.29.16 Sensitive Lands**

All development must comply with the Sensitive Lands Overlay Zone ordinance.

**Section 16.29.17 Access**



Each lot must have access from a private driveway that complies with the following standards:

- A. A 20' wide gravel driveway is the minimum standard for non-shared driveways less than 80' in length.
- B. Driveway standards for shared driveways or any driveway over 80' in length is a minimum of 20' wide gravel road base and must have 5' wide clear zones on both sides of the driveway.
  - 1. If conditions exist that promote erosion and storm water discharge such as the length of the driveway, grade of the driveway, and or soil conditions of the surrounding area then the City Council may require the driveway to be paved.
- C. 50' diameter turnaround located near the future dwelling.
- D. Up to five homes can share one private driveway.
- E. Each private driveway and shared private driveways must connect to a public road built to City standards.
- F. Private driveways must be located at least 200' from any other private driveway where the driveway connects to a City standard public road.
- G. Driveways within a Density Reduction Subdivision plat shall be located on an easement that is at least 30' wide.
- H. No gates are allowed on the shared driveway easements.
- I. Proof of access from a public street to the boundary of a Density Reduction Subdivision must be submitted to the City with the subdivision application.
- J. A Density Reduction Subdivision with a shared driveway shall record CCRs with the recording of the subdivision plat with a shared driveway maintenance plan.
- K. The maximum length of a driveway from a public City street to a dwelling is 1,300'.

#### **Section 16.29.18      Single Point of Access**

A Density Reduction Subdivision is not permitted on a road that is over 500' in length that only has one access. Within Midway City there are roads that lead into areas with only one point of ingress and egress (i.e. Lime Canyon, Swiss Alpine Road, 500 S., etc.). For safety purposes, Density Reduction Subdivisions are not allowed in this situation because increased density will create a greater safety issue.

#### **Section 16.29.19      Setbacks**

All setbacks are required based on the zone in which the lot is located.

#### **Section 16.29.20      Permitted Uses**

The principal use permitted in the Density Reduction Subdivision is one residential living unit. Other uses are permitted as allowed by the zoning regulations governing the zone in which the lot is located.

#### **Section 16.29.21      Master Planned Streets**

If a master planned street traverses the property in a Density Reduction Subdivision, then the right-of-way for the future street must be dedicated to the City on the plat. Construction of the road is not required by the developer but may be built by the City or other. The acreage of the dedicated street right-of-way shall be included when determining density for the Density Reduction Subdivision.

#### **Section 16.29.22 Public Utility Easements**

10' public utility easements area required within each lot, around all lot boundaries. Private driveway easements shall also be public utility easements.

#### **Section 16.29.23 Standards and Requirements**

The following standards, requirements and conditions shall apply to all Density Reduction Subdivisions:

- A. The project must be prepared by a design team composed of at least a civil engineer or land surveyor who must be licensed to practice in the State of Utah.
- B. All dwelling units shall be served by a city-approved water supply. All utilities within the Density Reduction Subdivision shall be placed underground, including telephone, power and television. All dwelling units shall have separate utility connections and metering.
- C. The area proposed for a Density Reduction Subdivision shall be in one ownership during development to provide for full supervision and control of said development and to insure conformance with these provisions.
- D. The developer shall install all public and private improvements on-site and off-site as identified by the Planning Commission and City Council.
- E. Provisions of the Sensitive Lands Section of this ordinance shall be adhered to within the Density Reduction Subdivision.
- F. The developer of the subdivision shall build and connect any trails shown on the City Master Trails Plan for the area.
- G. Gated communities shall not be permitted.
- H. Final engineering drawings (plans and profiles) for all public and private improvements, final grading plan, and final drainage and run-off plan with run-off calculations.
- I. Provisions for bonding for all improvements shall comply with the City code.
- J. All required final plat fees.

#### **Section 16.29.24 Preliminary/Final Planning Commission Action**

Upon presentation of the preliminary/final plan and documents, the Planning Commission shall approve them as submitted, approve them with conditions or may refer them back to the developer for one or more of the following reasons:

- A. Due to the type of buildings, layout of structures, design of plan, or other aspects of the preliminary/final submittal, the Planning Commission determines the project to be inconsistent with the intent of this Ordinance or the Community General Plan.
- B. The Planning Commission requires that certain specific changes be made within the plans.

- C. The plans or documents have not been completed.
- D. The fees have not been paid by the developer.
- E. That this project is in compliance with the intent of this Section as stated previously. The Planning Commission may impose such conditions on preliminary development plans as it may deem appropriate to meet the goals and objectives of this Chapter. The Planning Commission may disapprove the Density Reduction Subdivision, which is found to be deficient in meeting the intent of these provisions. Any such disapproval may be appealed to the City Council within ten days after the decision of the Planning Commission.

**Section 16.29.25 Recommendation of Preliminary/Final Plan to City Council**

Upon the Planning Commission's recommendation of approval of the preliminary/final plan of a Density Reduction Subdivision, the Planning Commission shall recommend this plan to the City Council for direction, with or without conditions.

**Section 16.29.26 Public Hearing**

After receiving notice of the Planning Commission's recommendation approval of the preliminary/final plan, or upon the City Council's reversing on appeal the Planning Commission's disapproval of a preliminary/final plan, the City Council shall set and hold a public hearing to consider preliminary/final approval of the project.

**Section 16.29.27 Preliminary/Final Approval of City Council**

After holding the public hearing, the City Council shall approve, approve with conditions, or deny the preliminary/final plan based on the same standards as required above for preliminary/final approval by the Planning Commission.

**Section 16.29.28 Time Limit for Preliminary/Final Approval**

A. Any failure to record the plat of a proposed preliminary/final plan application within one year of the approval of the proposed plan by the City Council shall terminate all proceedings and render the preliminary/final plan null and void.

B. The duration of Preliminary/Final Approval shall be for one year from the date of approval of the development by the City Council. If the Final Plat is not recorded with the County Recorder within the one-year period, the development's approval shall be voided, and both Preliminary/Final Approvals must be re-obtained to reinstate the project, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for plat recording, with or without conditions. Such conditions may include, but are not limited to, provisions requiring that:

1. Construction must be conducted per any new City standards in effect at the time the plat is ultimately recorded;
2. The property must be maintained in a clean, dust-free, and weed-free condition always;
3. Each extension will be for a one-year period only, after which time an annual review must be requested by the applicant and presented before the City Council; and/or

4. No more than three one-year extensions will be allowed. The granting or denying of any extension, with or without conditions, is within the sole discretion of the City Council, and an applicant has no right to receive such an extension.

**Section 16.29.29 Final Plat**

In addition to all other requirements, the proposed final plat shall show an address block containing addresses for each lot.

**Section 16.29.30 No Building Permits Issued Prior to Plat Recording**

No building permit applications shall be submitted prior to the recording of the plat by the Wasatch County Recorder.

**Section 16.29.31 Completion of Construction and Issuance of Permits**

A. No building permits applications shall be submitted until the construction of the development is substantially complete; provided, however, that the developer in whose name the bond for the project is issued may submit a building permit application once the fire flow mechanisms are installed, operating and approved by the City Engineer. Once installed, operating and approved, fire flows must remain operating continuously thereafter.

B. No certificate of occupancy will be issued until construction on the development reaches final completion as determined by the City Engineer.

**Section 16.29.32 Construction Bond**

Prior to beginning construction of a development, the developer shall submit a bond and pay all required out-of-pocket fees to the City that complies with the City code as determined by the City Engineer.

**Section 16.29.33 Default**

In the event the developer defaults, fails or neglects to satisfactorily install the required improvements within one year from the date the plat is recorded, the City Council may declare the bond forfeited and the City may install or cause the required improvements to be installed using the proceeds from the collection of the bond or other assurances to defray the expense thereof.

**Section 16.29.34 Final Disposition and Release**

The developer shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than ten days prior to the release date of the bond or other assurance, the City Engineer shall make a preliminary inspection of the improvements and shall submit a letter to the City Council setting forth the conditions of such facilities. If conditions thereof are found to be satisfactory, the City Council shall release the bond or other assurance. If

the condition of materials or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability, the City Council may declare the developer in default.

#### **Section 16.29.35 Record Drawing Submittal and Contents**

A. Prior to final bond release, an electronic copy of the final drawings in the latest version of AutoCAD or DXF format shall be submitted to the City Engineer. This drawing file needs to include adequate information regarding position and basis of bearing tied to established control as approved by the City Engineer.

B. As-built information shall be overlaid on this final drawing. The as-built drawing must be based upon actual field survey of the items on the following list:

1. Established survey monuments, benchmark, and permanent horizontal and vertical control.
2. Water: valves, laterals, fire hydrants, blow-offs, flush valves, and water meters (culinary and secondary).
3. Sewer: laterals and manholes with rim and inverts elevations.
4. Storm drain: Catch basins, curb inlets, and manholes with rim and inverts elevations, size and type of pipe, storm outlets and detention / retention systems.
5. Miscellaneous light pole locations, street sign locations, and utility box/transformer locations.
6. Pressurized irrigation: valves, blow-offs, flush valves, drains, meters, and water lateral locations.

#### **Section 16.29.36 Total Compliance with all Regulations**

In case of failure or neglect to comply with all conditions as established during the approval process or regulations as identified in this Section, the City may refuse additional building permits and stop construction of all work at the site until such violations or noncompliance conditions have been eliminated.

#### **Section 16.29.37 Warranty Bond**

The City Council shall authorize the release of 100 percent of the bond amount upon verification by the City Engineer that all work is complete and acceptable. The remaining 10 percent of the bond amount shall be retained by the City for a period of one year to insure quality of improvements. If improvements are found to be unacceptable to the City at any time during the one-year period, the City may use the bonding funds to replace or repair any improvements not installed acceptably.