



**CITY COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** March 19, 2024

**NAME OF PROJECT:** Whimsy Willow Subdivision – Third Plat Map Amendment

**NAME OF APPLICANT:** Kevin Payne

**PROPERTY OWNER:** The Kevin & Kimberly Payne Family Trust

**ENGINEER:** Paul Berg/Berg Engineering

**AGENDA ITEM:** Third Plat Map Amendment

**LOCATION OF ITEM:** 405 W 1120 S

**ZONING DESIGNATION:** RA-1-43

**ITEM: 11**

Kevin Payne, of the Payne Family Trust, is requesting a Third Plat Map Amendment involving Lot 2 of the Whimsy Willow Subdivision. The subdivision is located directly north of the Vincent Fields Subdivision along Stringtown Road and zoned RA-1-43.

**BACKGROUND:**

Whimsy Willow is an existing 4 lot Subdivision located directly north of the Vincent Fields Subdivision along Stringtown Road. Lot 2, the subject of the present application, currently consists of approximately 4 acres.

The applicant seeks to amend the neighboring Vincent Fields Subdivision, a neighboring three lot small subdivision comprising 9.46 acres, as follows: Vacate 5 acres to become a new subdivision to be known as the Vincent Fields Rural Preservation Subdivision, Lot 2

would remain unchanged, and a new Lot 1 (consisting of part of the current Lot 3) would be created to consist of 1.0 acre located immediately south of Lot 2.

With respect to the remaining 2.16 acres (consisting of parts of the exiting Lot 1), the Applicant seeks to vacate the 2.16 acres from the existing Vincent Fields Subdivision and add the 2.16 acres to the applicant's existing Lot 2 of the Whimsy Willow Subdivision.

This request is for approval of a Plat Mat Amendment (3<sup>rd</sup>) for the Whimsy Willow Subdivision to allow the addition of these 2.16 acres from the Vincent Fields Subdivision to be added to Lot 2 of the Whimsy Willow Subdivision.

#### **LAND USE SUMMARY:**

- Existing Lot 2 consists of approximately 4 acres. Applicant seeks “to add 2.16 acres to Lot 2 of the Whimsy Willow Subdivision”.
- RA-1-43 zoning
- Sensitive lands – None identified
- The existing Lot has connections to Midway City's culinary water line, Midway Irrigation Company's secondary water line, and Midway Sanitation District.

#### **ANALYSIS:**

The proposed application seeks to add 2.16 acres from the Vincent Fields Subdivision to the existing Lot 2 of the Whimsy Willow Subdivision. Such action should not affect any existing access, water connections, sewer connection, or setbacks, provided the lot is not subject to further subdivision.

The applicant represents: “*No additional lots are being created*”.

This appears true with respect to the Vincent Fields Subdivision. The additional acreage proposed to be added to Whimsy Willow Lot 2 (2.16 acres from the Vincent Fields Subdivision) results from the applicant's application to amend the Vincent Fields Subdivision to vacate 5 acres to create a new Vincent Fields Rural Preservation Subdivision consisting of one 5 acre lot. The existing Vincent Fields Subdivision consists of three lots. If the applicant is allowed to amend, the result remains three lots, with two remaining in the Vincent Fields Subdivision and one comprising the new Vincent Fields Rural Preservation Subdivision.

With respect to the Whimsy Willow Subdivision, the existing subdivision contains four lots. If no additional lots are to be created, the proposed addition of 2.16 acres to Lot 2 should result in no further subdivision and deed restriction may be considered.

*Deed Restriction* – If no additional lots are to be created, the new Lot 2 should be deed restricted and a note placed on the plat indicating the restriction. A deed restriction will also be recorded towards the lot immediately after the plat is recorded so all future landowners will know of the restrictions before the property is purchased. The deed restriction language will state 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.*

#### **WATER BOARD CONSIDERATIONS:**

The application does not change the water requirements for the involved property, provided the new Lot 2 is not subject to further subdivision. Water requirements were reviewed and assessed by the Water Board and the shares dedicated by the applicant as a prerequisite to filing the plat for the Whimsy Willow Subdivision.

#### **POSSIBLE FINDINGS:**

- The proposed lot meets the minimum requirements for the RA-1-43 zoning district
- The proposal does meet the intent of the General Plan for the RA-1-43 zoning district
- The proposal does comply with the requirements for the Standard Subdivision code

- The subdivision helps comply with the vision stated in the General Plan to preserve open space and a rural atmosphere
- The amended Lot 2 will be deed restricted so it can never be further subdivided

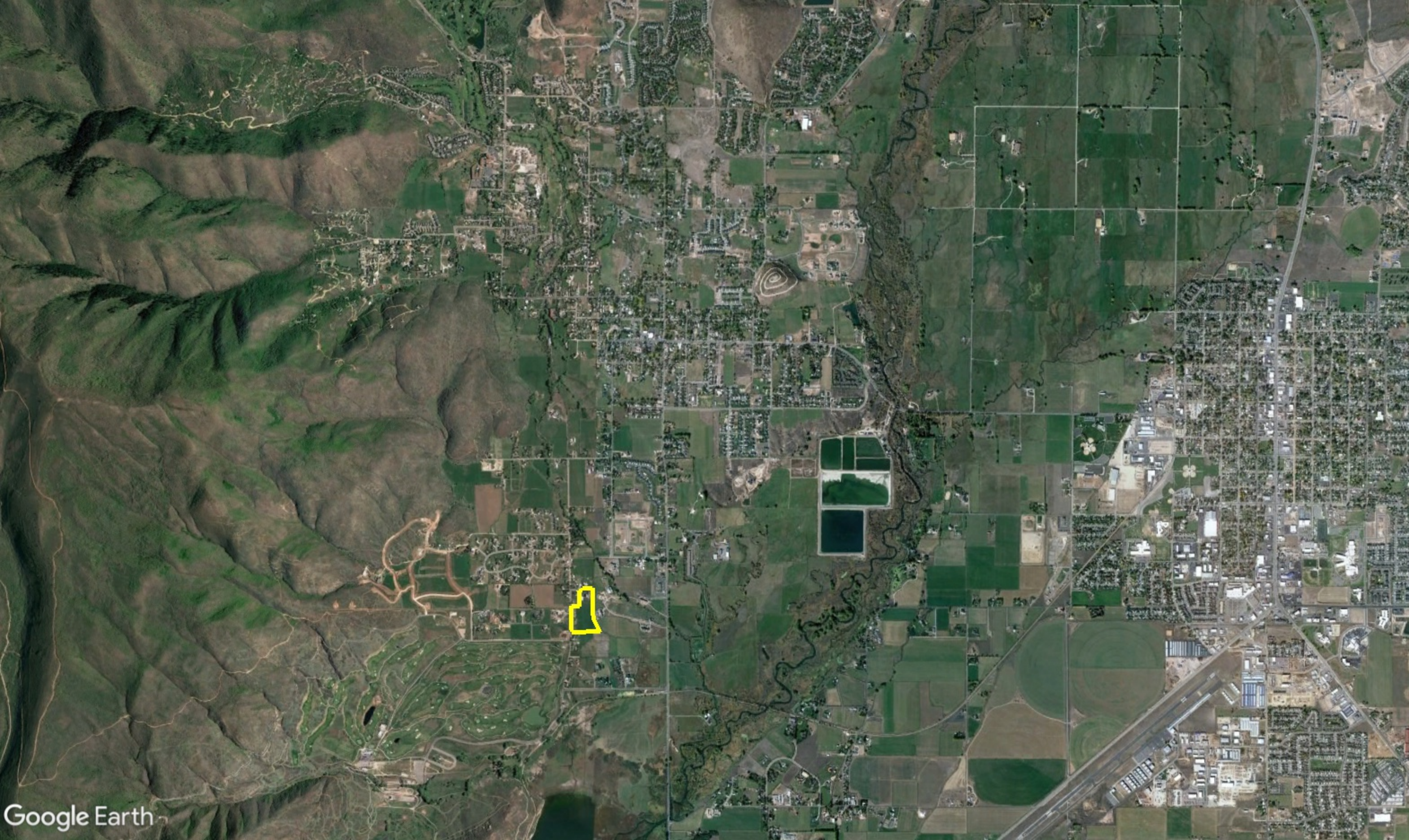
**ALTERNATIVE ACTIONS:**

1. Approval (conditional). This action can be taken if the City Council finds that the proposal complies with the intent of the land use code.
  - a. Accept staff report
  - b. List accepted findings
  - c. Place condition(s)
  
2. Continuance. This action can be taken if the City Council finds that there are unresolved issues.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for continuance
    - i. Unresolved issues that must be addressed
  - d. Date when the item will be heard again
  
3. Denial. This action can be taken if the City Council finds the request does not comply with the intent of the ordinance.
  - a. Accept staff report
  - b. List accepted findings
  - c. Reasons for denial

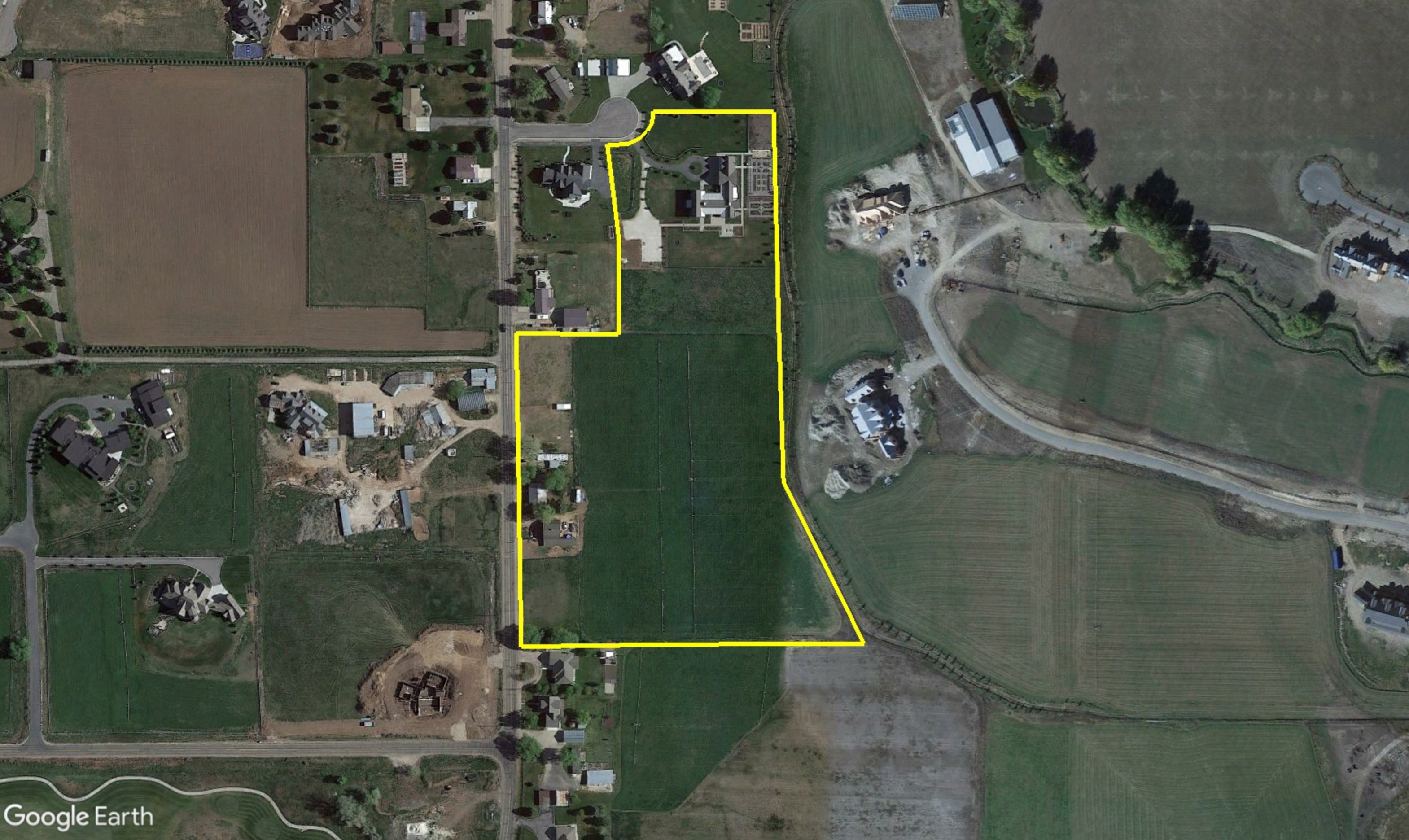
**PROPOSED CONDITIONS:**

1. The plat will contain a note using the triangular system to explain its formation through vacating land from the Vincent Fields Subdivision.
2. In accordance with the applicant’s representation and understanding that “*No additional lots are being created*”, Lot 2 (Third Amendment) similarly shall contain a prohibition against further subdivision as a condition of recording.
3. The deed restriction that will be recorded towards the lot must be submitted to the City for review and recorded immediately after the plat is recorded.

4. A note on the plat is included with language that clearly states that subdividing the lot is prohibited.
5. The plats for the Vincent Fields Rural Preservation Subdivision and Vincent Fields Subdivision – Amended will be filed contemporaneously.









An aerial photograph of a residential development. A yellow outline highlights a specific lot configuration. The highlighted area includes a large green field, a road, and several buildings. The text "Current Lot Configuration" is overlaid in yellow on the right side of the image.

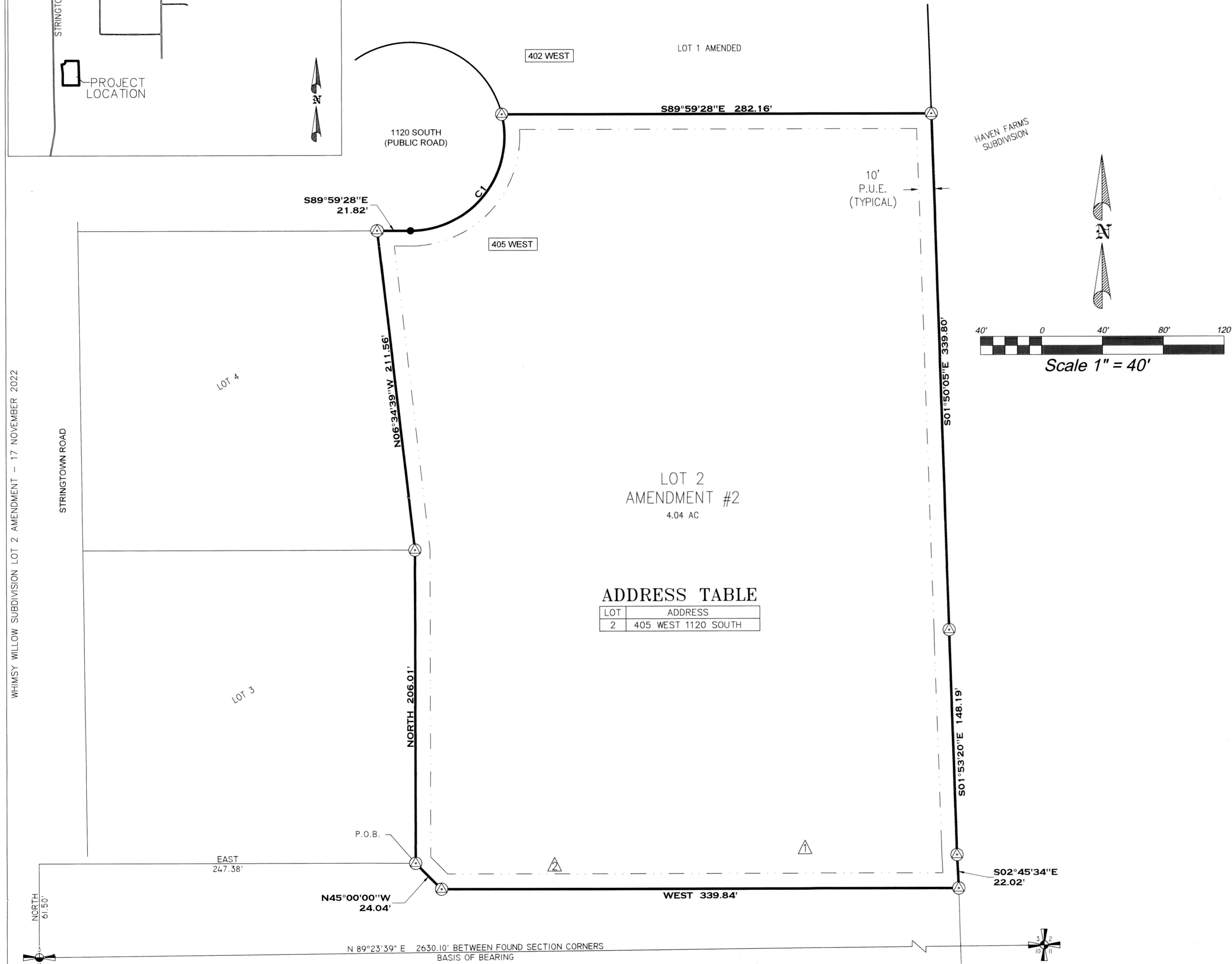
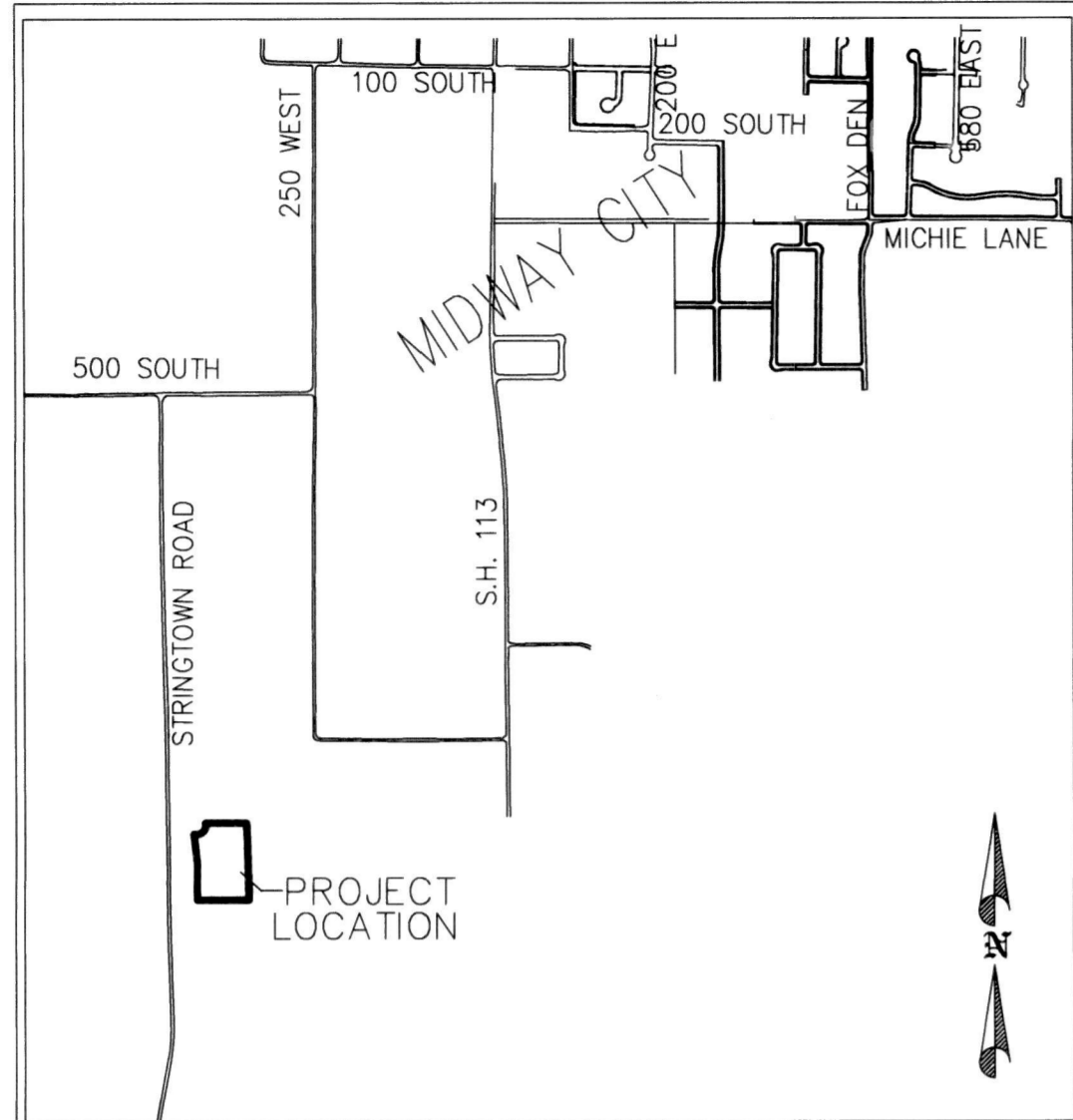
Current Lot Configuration



Proposed Lot Configuration

# WHIMSY WILLOW SUBDIVISION - LOT 2 SECOND AMENDMENT

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN



**ADDRESS TABLE**

LOT	ADDRESS
2	405 WEST 1120 SOUTH

## SURVEYOR'S CERTIFICATE

IN ACCORDANCE WITH SECTION 10-9a-603 OF THE UTAH CODE, I, TROY L TAYLOR, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR HOLDING LICENSE NUMBER 6854112 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS LICENSING ACT.  
I FURTHER CERTIFY THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THE PLAT IN ACCORDANCE WITH SECTION 17-23-17 OF THE UTAH CODE, AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THE PLAT.

Dec. 9, 2022  
DATE

*Troy L Taylor*  
SURVEYOR (SEE SEAL BELOW)

## BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED NORTH 61.50 FEET AND EAST 247.38 FEET FROM A FOUND GIN SPIKE MARKING THE SOUTH ONE QUARTER CORNER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN,

THENCE NORTH 206.01 FEET; THENCE NORTH 06°34'39" WEST 211.56 FEET; THENCE SOUTH 89°59'28" EAST 21.82 FEET TO A POINT ON A TANGENT CURVE; THENCE ALONG THE ARC OF A 62.00 FOOT RADIUS CURVE TO THE LEFT 112.14 FEET (CHORD BEARS NORTH 38°11'34" EAST 97.47 FEET); THENCE SOUTH 89°59'28" EAST 282.16 FEET; THENCE SOUTH 01°50'05" EAST 339.80 FEET; THENCE SOUTH 01°53'20" EAST 148.19 FEET; THENCE SOUTH 02°45'34" EAST 22.02 FEET; THENCE WEST 339.84 FEET; THENCE NORTH 45°00'00" WEST 24.04 FEET TO THE POINT OF BEGINNING.

AREA = 4.04 ACRES

## BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY WAS ESTABLISHED AS NORTH 89°23'39" EAST BETWEEN THE FOUND GIN SPIKE MARKING THE SOUTH 1/4 CORNER OF SECTION 3 TO THE FOUND WASATCH COUNTY BRASS CAP MARKING THE SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN,

## OWNER'S DEDICATION

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

DATED THIS 5<sup>th</sup> DAY OF January, A.D. 2023

*Kevin Paul Payne* TRUSTEE  
KEVIN PAUL PAYNE, TRUSTEE  
THE KEVIN & KIMBERLY PAYNE FAMILY TRUST  
DATED AUGUST 4, 2022

*Kimberly Ann Payne* TRUSTEE  
KIMBERLY ANN PAYNE, TRUSTEE  
THE KEVIN & KIMBERLY PAYNE FAMILY TRUST  
DATED AUGUST 4, 2022

## PLAT AMENDMENT NOTES:

- ▲ 0.16 ACRES ADDED TO LOT 2 FROM VINCENT PROPERTY
- ▲ PUBLIC UTILITY EASEMENT RELOCATED TO 10' FROM NEW LOT BOUNDARY

**CURVE TABLE**

CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING	TANGENT
C1	112.14	62.00	103°37'57"	97.47	N38°11'34"E	78.83

## ACKNOWLEDGMENT

STATE OF UTAH } S.S.  
COUNTY OF WASATCH }  
ON THE 5<sup>th</sup> DAY OF January, A.D. 2023 PERSONALLY APPEARED  
BEFORE ME, \_\_\_\_\_, WHO DULY ACKNOWLEDGED  
TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.

MY COMMISSION EXPIRES \_\_\_\_\_ NOTARY PUBLIC

## ACKNOWLEDGMENT

STATE OF UTAH } S.S.  
COUNTY OF WASATCH }  
ON THE 5<sup>th</sup> DAY OF January, A.D. 2023 PERSONALLY APPEARED  
BEFORE ME, *Kevin Paul Payne, Kimberly Ann Payne* WHO DULY ACKNOWLEDGED  
TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.

MY COMMISSION EXPIRES 12-24-2025 *Jennifer S. Great*  
NOTARY PUBLIC

## LEGEND

- PROPERTY BOUNDARY
- - - 10' PUBLIC UTILITY EASEMENT (P.U.E.)
- ▲ SET REBAR WITH CAP STAMPED ELEMENT LAND SURVEYING PLS 6854112

## ACKNOWLEDGMENT

STATE OF UTAH } S.S.  
COUNTY OF WASATCH }  
ON THE 5<sup>th</sup> DAY OF January, A.D. 2023 PERSONALLY APPEARED  
BEFORE ME, *Kevin Paul Payne, Kimberly Ann Payne* WHO DULY ACKNOWLEDGED  
TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.

MY COMMISSION EXPIRES \_\_\_\_\_ NOTARY PUBLIC

## ACCEPTANCE BY MIDWAY CITY

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

THIS 5<sup>th</sup> DAY OF January, A.D. 2023

APPROVED *David Wilson* CLERK-RECORDER  
MAYOR (SEE SEAL BELOW)

APPROVED *Carla* CITY ATTORNEY  
CITY ENGINEER (SEE SEAL BELOW)

## PLANNING COMMISSION APPROVAL

APPROVED THIS 5<sup>th</sup> DAY OF January, A.D. 2023 BY THE

MIDWAY CITY PLANNING COMMISSION

*Walter L. Wilson* PLANNING DIRECTOR  
*Jeff Nicholas* CHAIRMAN, PLANNING COMMISSION

## WHIMSY WILLOW

### LOT 2 SECOND AMENDMENT

MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH  
SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SL&M  
SCALE: 1" = 40' FEET

COUNTY RECORDER  
ENTRY # 528564 BOOK 1432 PAGE 615  
DATE 01-11-23 TIME 3:17 PM FEE \$52.00  
FOR PAYNE KEVIN PAUL TR  
BY TC WASATCH COUNTY RECORDER MARCY M MURRAY

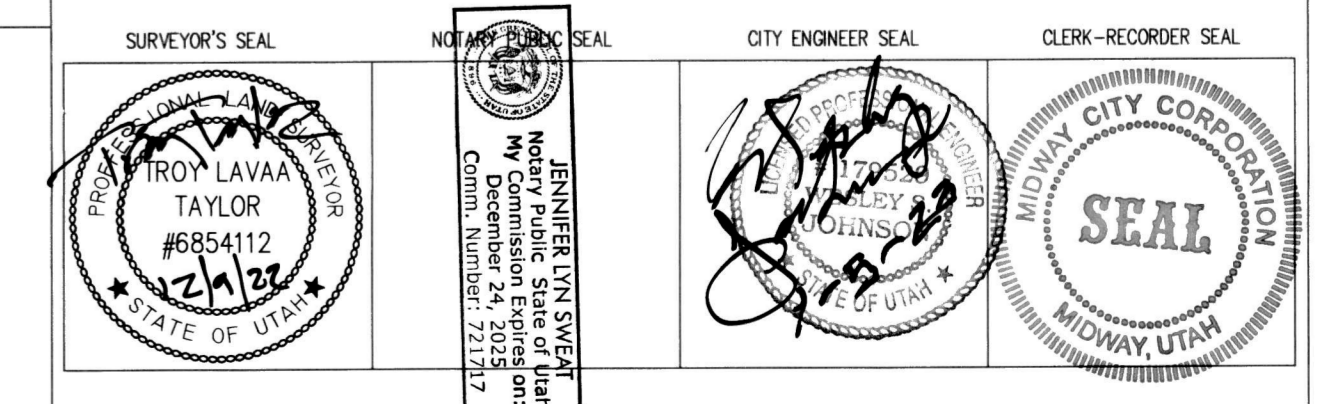
## COUNTY SURVEYOR'S CERTIFICATE

APPROVED AS TO FORM ON THIS 21<sup>ST</sup> DAY OF December 20 22

ROS# 3943

*Troy L Taylor*  
COUNTY SURVEYOR

DATE OF SURVEY: DECEMBER 2022



WHIMSY WILLOW SUBDIVISION LOT 2 AMENDMENT - 17 NOVEMBER 2022

