



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: February 4, 2025

NAME OF APPLICANT: John Taylor on behalf of the John and Constance Taylor Family Trust dated February 24, 2021, owner of 697 N 200 E, Midway, Utah

AGENDA ITEM: Code Text Amendment to revise Section 16.13.170 of the Code, which provides for Exceptions to Front and Side Setback Requirements.

ITEM: 8

Ordinance 2025-03 / Setbacks – Discuss and possibly deny, continue, or adopt Ordinance 2024-03 amending Section 16.13.170 (Exception to Front and Side Setback Requirements) of the Midway City Municipal Code. Recommended for denial by the Midway City Planning Commission. **Also scheduled for Public Hearing.**

The applicant, John Taylor, on behalf of the John and Constance Taylor Family Trust dated February 24, 2021, owner of 697 N 200 E, Midway, Utah, is requesting a Code text amendment to Chapter 16.13.170: Exception to Front and Side Setback Requirements, to allow averaging the front setbacks of the nearest two dwellings within 300 feet on the same side of the street. The current code provides for averaging the setbacks of the dwellings on either side of the subject property, provided that the existing dwellings are on the same side of the street and within 150 of each other. In the instant case, the subject property is located at the end of the street rather than between two existing dwellings. The owner is requesting amendment to allow averaging two existing homes on the same side of the street within 300 feet of his property even though the subject property is not *between* the two existing properties.

While the Applicant seeks the code text amendment for his specific residence, any such amendment would apply to other comparable structures which met the requirements.

BACKGROUND:

The Midway Municipal Code regulates setbacks and establishes minimum setback requirements in all zones. Midway City amended the City's setback ordinance in 2021 with the goal of preserving view corridors and preserving a rural atmosphere in Midway, based upon the revised Midway City General Plans adopted in 2018 and 2023. Two of the main goals of the General Plan revisions were to promote open space and to preserve the rural character of Midway, goals cited in the City's General Plan survey in 2016, and more strongly again in the general survey informing the Midway City General Plan revisions in 2023. The idea was that increased setbacks would require property owners to consolidate structures toward the center of lots rather than near property boundaries, creating a greater sense of open space along roads and better view corridors between structures on adjacent lots. Additionally, increasing setbacks may reduce home size by limiting the building envelope, with the goal of promoting openness and building consistent with the rural character of Midway.

In 2023 (subsequent to the 2021 setback revisions to the Midway Code), the applicant purchased undeveloped property located at 697 N 200 E, Midway, Utah, also known as the Springer Subdivision, consisting of a single building lot located in the R-1-22 zone, on which the applicant intends to build a single family home. Current setbacks in the R-1-22 zone are as follows:

Front: 40 feet

Rear: 40 feet (but applicant may have a 30' setback per Section 16.11.060 C (1)(a))*

Side: 20 feet

* The current Code provides relief from the rear setback in the R-1-22 zone to help insure the ability to build a home to a depth of 45', which has been used in areas like the Sunflower Subdivision. Thus, Section 16.11.060, Location Requirements, C (1)(a) provides:

If the front and rear setbacks limit the main dwelling structure to a depth that is less than 45', the rear setback may be reduced by the amount needed to allow for up to a 45' structure depth. In no case shall the rear setback be less than 30' and a reduction assumes that a proposed structure will be built to the minimum front setback line.

The recorded plat shows dimensions for the subject property as width of approximately 260' but depth significantly less (106' to 113'). The depth at the northern property line is depicted on the plat as 113.36' and depicted as 106.12' at the southern property line. Subtracting a front setback of 40' and modified rear setback of 30', the depth of the structure would fall between 43 feet and 36 feet under the Code as written.

Note: Section 16.11.060 does not provide an avenue for amending the front setback, only the rear setback, and only to reach a depth of 45', no greater.

There is an exception to front setbacks in the Code under specific conditions. **Section 16.13.170** of the Midway City Code, Exception to Front and Side Setback Requirements, provides:

The setback from the street for any dwelling located between two existing dwellings in any residential zone may be the same as the average for the said two dwellings, provided the existing dwellings on are on the same side of the street and are located within 150 feet of each other. However, no dwelling shall be located closer than 20 feet from the street.

Of note, the provision provides for averaging the setbacks of two existing dwellings on the same side of the street and within 150 feet of each other where the subject property is located *between* the two existing dwellings.

In the instant case, Mr. Taylor's lot is at the end of 200 East, so he does not have an existing dwelling to the north. There are two existing dwellings to the south on the same side of the road as the subject property and within 300 feet of Mr. Taylor's property, but the subject property is not *between* the existing dwellings as required by the current code. The Applicant is requesting that City Council amend Section 16.13.170 to apply to his property.

The Applicant seeks to amend Section 16.13.170 as follows (proposed amendment highlighted in bold font):

*The setback from the street for any dwelling located between two existing dwellings in any residential zone may be the same as the average for the said two dwellings, provided the existing dwellings on are on the same side of the street and are located within 150 feet of each other. **If there is no existing dwelling on one side of the subject property, then the average of the setbacks for the nearest two existing dwellings on the same side of the street as the subject property and within 300 feet of the subject property may be used to average the setback as described above.** However, no dwelling shall be located closer than 20 feet from the street.*

According to the application:

This change/addition to the code will allow a vacant lot to be developed in a uniform manner consistent with dwellings on the same street providing continuity to the neighborhood. Further without this change the property in question (697 North 200 East, Midway) will not be able to be developed with a dwelling that has a depth nearing a standard residential building depth (greater than 36 to 43 feet, with an average of less than 40 feet. Accounting for the ability to reduce the rear setback requirement to 30 feet in the current zone). This addition will allow development to add architectural relief to any proposed structure allowing it to blend in with surrounding developments and continue with the neighborhood atmosphere. This change does not detract from the low density neighborhood nor impact the walkable nature or safety of the area. This is a rare occurrence that there is no lot for development to the one side and as such this change will have no detrimental effect on the neighborhoods or adjacent properties”.

If the City Council expanded the exception as requested, the benefit to the applicant for the subject property is as follows:

While we do not have specific numbers for the neighboring houses, if we estimate based upon the information provided by the applicant that the front setbacks for the homes to the south of the subject property are 33' and 24', or an average of 28.5', this would become the new front setback for the subject property. **Note:** the front setback cannot be less than 20 feet.

Applying this to the subject property: At the northern property line, where depth is depicted on the plat as 113.36', subtracting a front setback of 28.5' and rear setback of 40' yields a depth of 45.1'. At the southern property line of 106.12, subtracting a front setback of 28.5' would allow a depth of 45' if the rear setback were 32.62' (Note: the rear setback exception is only triggered where the depth cannot reach 45').

Code text amendments fall under the category of legislative action. Therefore, the City Council has broad discretion regarding the proposal.

DISCUSSION:

- The applicant describes his situation as a “rare occurrence that there is no lot for development to the one side and as such this change will have no detrimental effect on the neighborhoods or adjacent properties”. While this is true, we anticipate that owners of corner lots (who do not have a developable lot on both sides on the same street) may interpret the proposed expansion to allow them to modify front setbacks by averaging the setbacks of properties on one side only.
- While the Applicant seeks the code text amendment for his specific residence, any such amendment would apply to other lots which meet the same requirements, including potentially corner lots.
- Restricting the requested expansion of the setback exception to not apply to corner lots would limit the scope of application but arguably deny the applicant the relief he seeks given his location on a corner.
- The Applicant has submitted 4 exhibits, which are attached. While the exhibits refer only to the Applicant’s property, the code text amendment would apply city-wide. The building envelope depicted on Applicant’s Exhibit 3 (Survey with envelope) is not accurate as depicted because it does not account for the 10’ rear setback reduction permitted under Section 16.11.060. The building envelope shown should extend an additional 10 feet toward the rear of the property. The measurements depicted in the Applicant’s exhibits (including exhibits 2 and 3) have not been verified independently.

POSSIBLE FINDINGS:

- The proposed amendment would allow the applicant to expand the footprint for his dwelling by reducing the front setback to the average of the two residences to the south of the subject property. Whereas applying the current code would result in a house depth ranging between 36 and 43 feet, the requested code text amendment would increase the house depth to 45’.
- While the Applicant seeks the code text amendment for his specific residence, any such amendment would apply to other lots which meet the same requirements, including potentially corner lots.
- One way to limit the application of any expansion of 16.13.170 would be to specify that the exception does not apply to corner lots. But this would deny the applicant the relief he seeks given the location of his lot.
- The current setbacks in the R-1-22 are the same as existed at the time the subdivision was approved, the plat recorded, as well as when the applicant purchased the property.

PLANNING COMMISSION RECOMMENDATION: Denial

At its regularly scheduled meeting held on January 14, 2025, the Midway City Planning Commission made the following recommendation:

Item 2- Code Text Amendment- Front and Side Setback Exception

Motion: Commissioner Garland: I make a motion that we recommend denial for an amendment to Chapter 16.13.170: Exception to Front and Side Setback Requirements. The proposed amendment would allow averaging the front setback of the nearest two dwellings within 150 feet on the same side of the street. We accept the findings of the staff report. Mainly due to the impact that it will have on the City.

Seconded: Commissioner Nokes

Commissioner Nicholas: Any discussion on the motion? No

Commissioner Nicholas: All in favor.

Ayes: Commissioners: Lineback, Nokes, Osborne, Knight, Garland and Miles

Nays: None

Motion: Passed

ALTERNATIVE ACTIONS:

1. Approval. This action may be taken if the City Council finds that the proposed language is an acceptable amendment to the City’s Municipal Code.
 - a. Accept the staff report
 - b. List accepted findings

2. Continuance. This action may be taken if the City Council would like to continue exploring potential options for the amendment.
 - a. Accept the 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 may be taken if the City Council finds that the proposed amendment is not an acceptable revision to the City’s Municipal Code.
 - a. Accept the staff report
 - b. List accepted findings
 - c. Reasons for denial

PROPOSED CONDITIONS:

APPLICANT'S EXHIBITS WITH TITLES ASSIGNED BY APPLICANT

1. Broader Parcel Aerial
2. Aerial with Depths*
3. Survey with envelope**
4. Old Plat Aerial (2019)

* The measurements depicted in the Applicant's exhibits (including exhibits 2 and 3) have not been verified independently.

** The building envelope depicted on Applicant's Exhibit 3 (Survey with envelope) is not accurate as depicted as it does not account for the 10' rear setback reduction permitted under Section 16.11.060. The building envelope shown should extend an additional 10 feet toward the rear of the property.

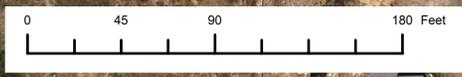


200 E

600 N

FARM HILL LN

GRANARY LN



600 N

200 E

SURVEYOR'S CERTIFICATE

I, TROY L TAYLOR, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR AND THAT I HOLD LICENSE NO. 6854112, AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I HEREBY CERTIFY THAT DURING THE MONTH OF NOVEMBER 2024, I HAVE MADE A SURVEY OF THE HEREON DESCRIBED PARCEL AND THAT THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID SURVEY.

Troy L Taylor
NOVEMBER 11, 2024
TROY L TAYLOR DATE



SURVEYOR'S NARRATIVE

I WAS ASKED BY THE CLIENT TO PERFORM A TOPOGRAPHIC SURVEY OF THE SUBJECT PROPERTY TO AID IN THE DESIGN OF A NEW HOME FOR THE PROPERTY. THE EASEMENTS AS SHOWN ON THIS SURVEY ARE TAKEN FROM NOTES AND TABLES FROM THE OFFICIAL SPRINGER SUBDIVISION PLAT. THE BUILDING SETBACKS AS SHOWN ON THIS SURVEY ARE TAKEN FROM THE MIDWAY CITY R-1-22 RESIDENTIAL ZONING CODE. REBAR WITH CAP WERE FOUND AT THE FRONT PROPERTY CORNERS. NO NEW CORNERS WERE SET AS PART OF THIS SURVEY. THE ELEVATIONS SHOWN ON THIS SURVEY ARE BASED ON NAVD88 ELEVATIONS.

DESCRIPTION

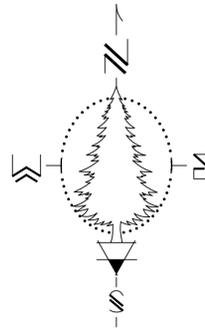
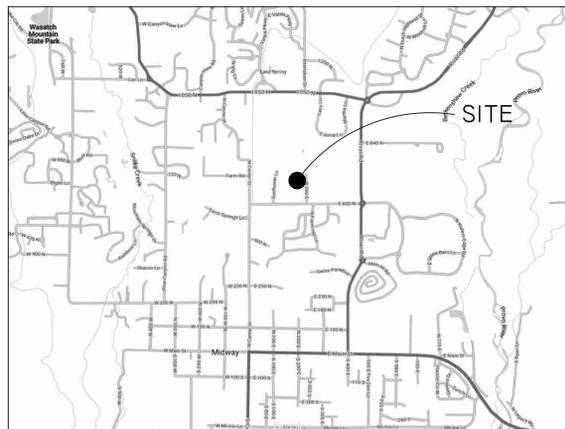
ALL OF LOT 1 OF THE SPRINGER SUBDIVISION AS SHOWN ON THE OFFICIAL PLAT FOUND ON FILE AND OF RECORD AT THE WASATCH COUNTY RECORDERS OFFICE.

AREA = 0.66 ACRE

BASIS OF BEARINGS

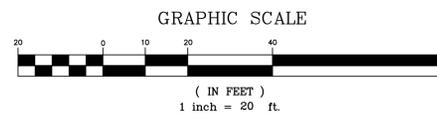
THE BASIS OF BEARING FOR THIS SURVEY IS NORTH 89°44'45" EAST FROM THE FOUND WASATCH COUNTY BRASS CAP MARKING THE SOUTH 1/4 CORNER OF SECTION 26, TO THE FOUND WASATCH COUNTY BRASS CAP MARKING THE SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

VICINITY MAP



LINE TABLE		
LINE	LENGTH	DIRECTION
L1	7.40'	N06°05'17"E

SYMBOL LEGEND	
	SURVEY BOUNDARY
	ADJOINING OWNERS
	EXISTING CONTOURS
	EASEMENT LINE
	BUILDING SET BACK LINE
	FOUND REBAR WITH CAP (AS NOTED ON DRAWING)
	SEWER MANHOLE
	POWER POLE
	WATER MANHOLE
	FIRE HYDRANT
	WATER METER
	WATER VALVE
	IRRIGATION BOX
	SET LATH ON LINE
	FOUND SECTION CORNERS

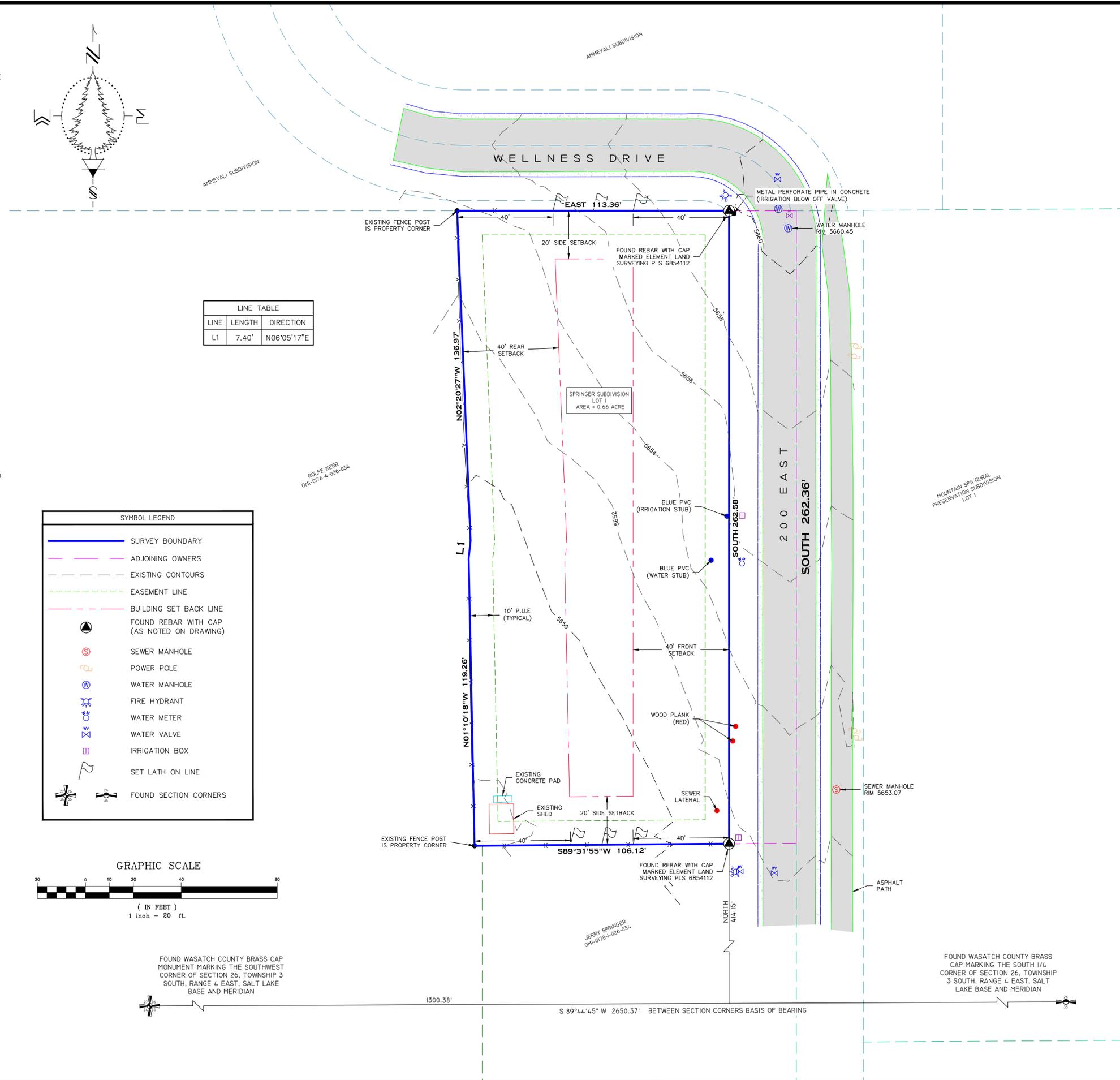


FOUND WASATCH COUNTY BRASS CAP MONUMENT MARKING THE SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN



1300.38' S 89°44'45" W 2650.37' BETWEEN SECTION CORNERS BASIS OF BEARING

FOUND WASATCH COUNTY BRASS CAP MARKING THE SOUTH 1/4 CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN





200 E

600 N

FARM HILL LN



Midway

ORDINANCE
2025-03

**AN ORDINANCE TO AMEND SECTION 16.13.170 OF THE
MIDWAY CITY LAND USE CODE REGARDING
EXCEPTIONS TO FRONT AND SIDE SETBACK
REQUIREMENTS.**

WHEREAS, pursuant to Utah Code Section 10-9a-509 the Midway City Council may formally initiate proceedings to amend city ordinances; and

WHEREAS, regarding setbacks, Section 16.13.170 of the City's Land Use Code currently provides for averaging the setbacks of dwellings on either side of a subject property to calculate the setback for the subject property, so long as the existing dwellings are on the same side of the street and within 150 feet of each other; and

WHEREAS, resident John Taylor has requested an amendment to this Section to allow averaging the front setbacks of the nearest two dwellings within 300 feet of a subject property on the same side of the street in cases where a subject property is not located between two existing dwellings.

NOW THEREFORE, be it ordained by the City Council of Midway City, Utah, as follows:

The following Section of Chapter 16 shall be amended as follows:

Section 16.13.070. Exception to Front and Side Setback Requirements

The setback from the street for any dwelling located between two existing dwellings in any residential zone may be the same as the average for the said two dwellings, provided the existing dwellings are on the same side of the street and are located within 150 feet of each other. **If there is no existing dwelling on one side of the subject property, then the average of the setbacks for the nearest two existing dwellings on the same side of the street as the subject property and within 300 feet of the subject property may be used to average the setback as**

described above. However, no dwelling shall be located closer than 20 feet from the street.

This ordinance shall take effect upon publication as required by law.

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PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this ____ day of _____, 2025.

	AYE	NAY
Council Member Jeff Drury	_____	_____
Council Member Lisa Orme	_____	_____
Council Member Kevin Payne	_____	_____
Council Member Craig Simons	_____	_____
Council Member JC Simonsen	_____	_____

APPROVED:

Celeste Johnson, Mayor

ATTEST:

Brad Wilson, City Recorder

APPROVED AS TO FORM:

Corbin Gordon, City Attorney

(SEAL)