



COUNCIL MEETING STAFF REPORT

DATE OF MEETING: January 14, 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: 1

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 150 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 feet 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 150 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 land use ordinance regarding setbacks 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.

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. The applicant intends to build a single family home on the parcel. 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 subject parcel is relatively long and narrow. The recorded plat shows dimensions as length of approximately 260' but width significantly less. The width at the northern property line is depicted on the plat as 113.36' and 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 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 150 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 150 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 that the front setbacks for the homes to the south of the subject property are 21' and 26', or an average of 23.5', 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 where the width at the northern property line is depicted on the plat as 113.36', subtracting a front setback of 23.5' and rear setback of 40' yields a depth of 49.86'. At the southern property line of 106.12, subtracting a front setback of 23.5' would allow a depth of 45' if the rear setback were 37.62' (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 this 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.

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 a range of approximately 45' to 50'.
- One way to limit application of any expansion of 16.13.170 would be to specify that the exception does not apply to corner lots.

ALTERNATIVE ACTIONS:

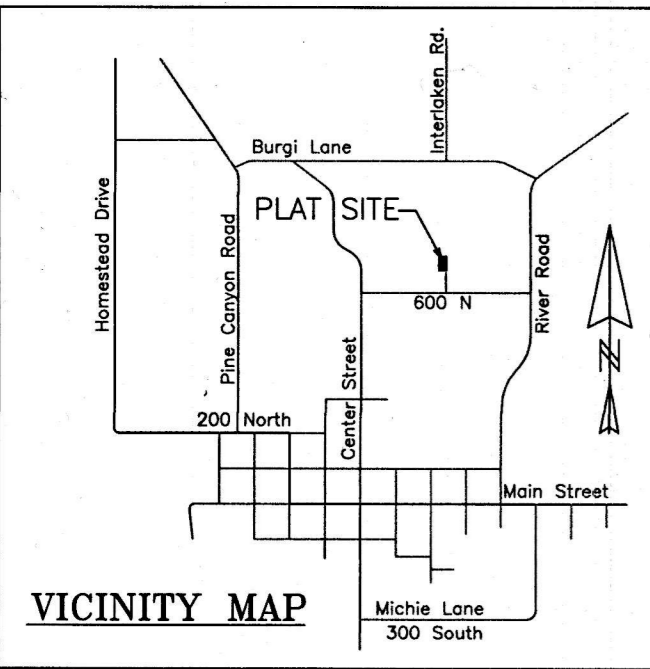
1. Recommendation of Approval. This action can be taken if the Planning Commission finds that the proposed language is an acceptable amendment to the City's Municipal Code.
 - a. Accept the staff report
 - b. List accepted findings

2. Continuance. This action can be taken if the Planning Commission would like to continue exploring potential options for the amendment.
 - a. Accept 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.

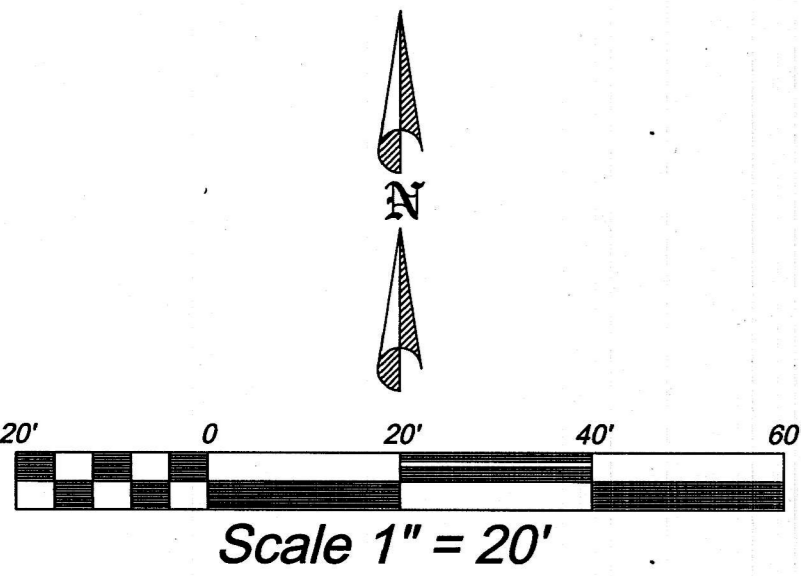
3. Recommendation of Denial. This action can be taken if the Planning Commission finds that the proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept the staff report
 - b. List accepted findings
 - c. Reasons for denial

PROPOSED CONDITIONS:

1. Not applicable to corner lots.



LOCATED IN THE SW QUARTER OF SECTION 26, T3S, R4E, SLB&M



LEGEND

- PLAT BOUNDARY
- PUBLIC UTILITY LINE (P.U.E.)
- ADJOINING PARCEL LINE
- ROW DEDICATION 0.17 ACRES
- FOUND SECTION CORNERS (AS NOTED ON DRAWING)
- SET REBAR WITH CAP MARKED ELEMENT LAND SURVEYING PLS 6854112

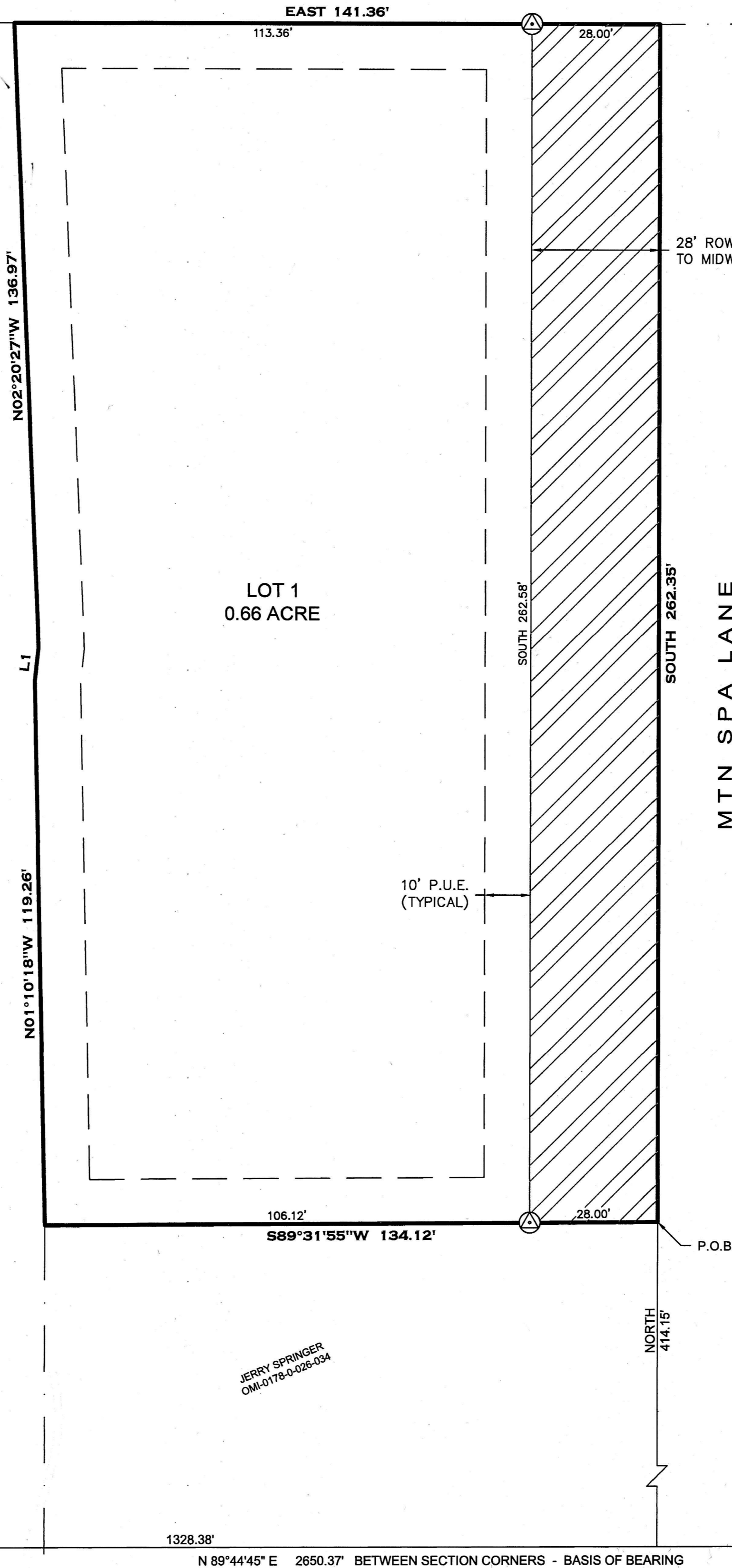
SPRINGER PLAT - 30 NOVEMBER 2023

SPRINGER SUBDIVISION

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN

MOUNTAIN SPA AMETALLI RESORT PHASE 1

MOUNTAIN SPA RURAL PRESERVATION PLAT LOT 2



ADDRESS TABLE

LOT	ADDRESS
1	697 NORTH 200 EAST

LINE TABLE

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

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

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

1328.38' N 89°44'45" E 2650.37' BETWEEN SECTION CORNERS - BASIS OF BEARING

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.

Troy Taylor
SURVEYOR (SEE SEAL BELOW)

January 19, 2024
DATE

BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED NORTH 89°44'45" EAST ALONG THE SECTION LINE 1328.38 FEET AND NORTH 414.15 FEET FROM THE FOUND WASATCH COUNTY BRASS CAP MARKING THE SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 89°31'55" WEST 134.12 FEET; THENCE NORTH 01°10'18" WEST 119.26 FEET; THENCE NORTH 06°05'17" EAST 7.40 FEET; THENCE NORTH 02°20'27" WEST 136.97 FEET; THENCE EAST 141.36 FEET; THENCE SOUTH 262.35 FEET TO THE POINT OF BEGINNING.

AREA = 0.83 ACRE

BASIS OF BEARING

BASIS OF BEARING IS NORTH 89°44'45" EAST 2650.37 FEET BETWEEN THE FOUND BRASS CAP MONUMENTS FOR THE SOUTHWEST CORNER AND THE SOUTH 1/4 CORNER OF SECTION 26, TOWNSHIP 3 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 ROAD RIGHT-OF-WAY AND UTILITY EASEMENTS AND HEREBY DEDICATE THOSE AREAS LABELED AS SHARED PUBLIC STREETS AND UTILITY EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES, PUBLIC ROAD AND EMERGENCY VEHICLE ACCESS.

DATED THIS 6th DAY OF June, A.D. 2024

BY: *Sarah Lindley-Mair* Trustee
JERRY R. SPRINGER TRUST

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
COUNTY OF WASATCH }
ON THE 6th DAY OF June, A.D. 2024, PERSONALLY APPEARED BEFORE ME, *Sarah Lindley-Mair Trustee*, WHO DULY ACKNOWLEDGED TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.

MY COMMISSION EXPIRES Dec 24, 2025 *Christopher Sweet*
NOTARY PUBLIC

ACCEPTANCE BY MIDWAY CITY

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

THIS 6th DAY OF June, A.D. 2024
APPROVED *Robert G. Jones* ATTEST *Brad Wilson*
CITY ENGINEER CLERK-RECORDER
OR *Carly* ATTEST *Sarah Lindley-Mair*
CITY ATTORNEY CITY ENGINEER
(SEE SEAL BELOW)

PLANNING COMMISSION APPROVAL

APPROVED THIS 17th DAY OF April, A.D. 2024 BY THE
MIDWAY CITY PLANNING COMMISSION
Michelle Han *Jeff Nicholas*
PLANNING DIRECTOR CHAIRMAN, PLANNING COMMISSION

SPRINGER SUBDIVISION

PLANNED UNIT DEVELOPMENT, MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH
SCALE: 1" = 20 FEET SHEET: 1 OF 1

SURVEYOR
TROY L. TAYLOR, PLS
ELEMENT LAND SURVEYING
2296 SOUTH 270 EAST
HEBER CITY, UTAH 84032
PHONE (801) 657-8748
DATE OF SURVEY: OCTOBER 2023

Troy Taylor DATE: 4/18/2024
MIDWAY SANITATION DISTRICT
John C. Keenan DATE: 5/15/2024
MIDWAY IRRIGATION COMPANY

COUNTY SURVEYOR'S CERTIFICATE

APPROVED AS TO FORM ON THIS 14th DAY OF April, 2024

ROS# 5009
John C. Keenan
COUNTY SURVEYOR

COUNTY RECORDER

ENTRY # 546225 BOOK 1478 PAGE 33
DATE 06-06-2024 TIME 2:11 P.M. FEE \$200
FOR *JERRY R SPRINGER TRUST*
BY *MM* WASATCH COUNTY RECORDER MARCY M MURRAY

SURVEYOR'S SEAL: TROY L. TAYLOR, PLS, LICENSE #6854112, STATE OF UTAH, EXPIRES 11/19/24

NOTARY PUBLIC SEAL: CHRISTOPHER SWEET, LICENSE #22127, STATE OF UTAH, EXPIRES 12/24/25

CITY ENGINEER SEAL: ROBERT G. JONES, LICENSE #176280, STATE OF UTAH, EXPIRES 11/19/24

CLERK-RECORDER SEAL: BRAD WILSON, LICENSE #176280, STATE OF UTAH, EXPIRES 11/19/24

MIDWAY CITY CORPORATION SEAL