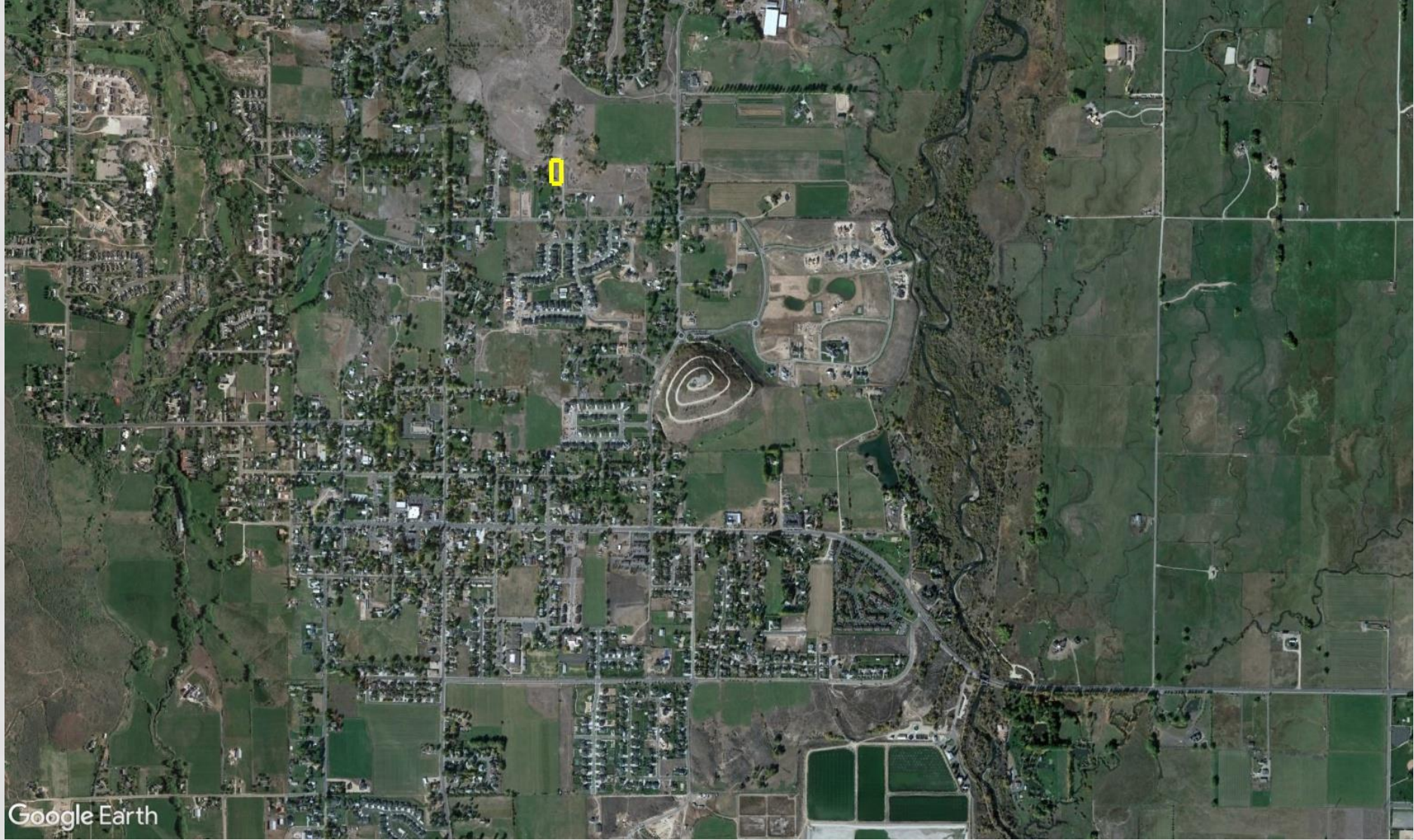


SETBACKS - REQUEST TO EXPAND EXCEPTION 16.13.170

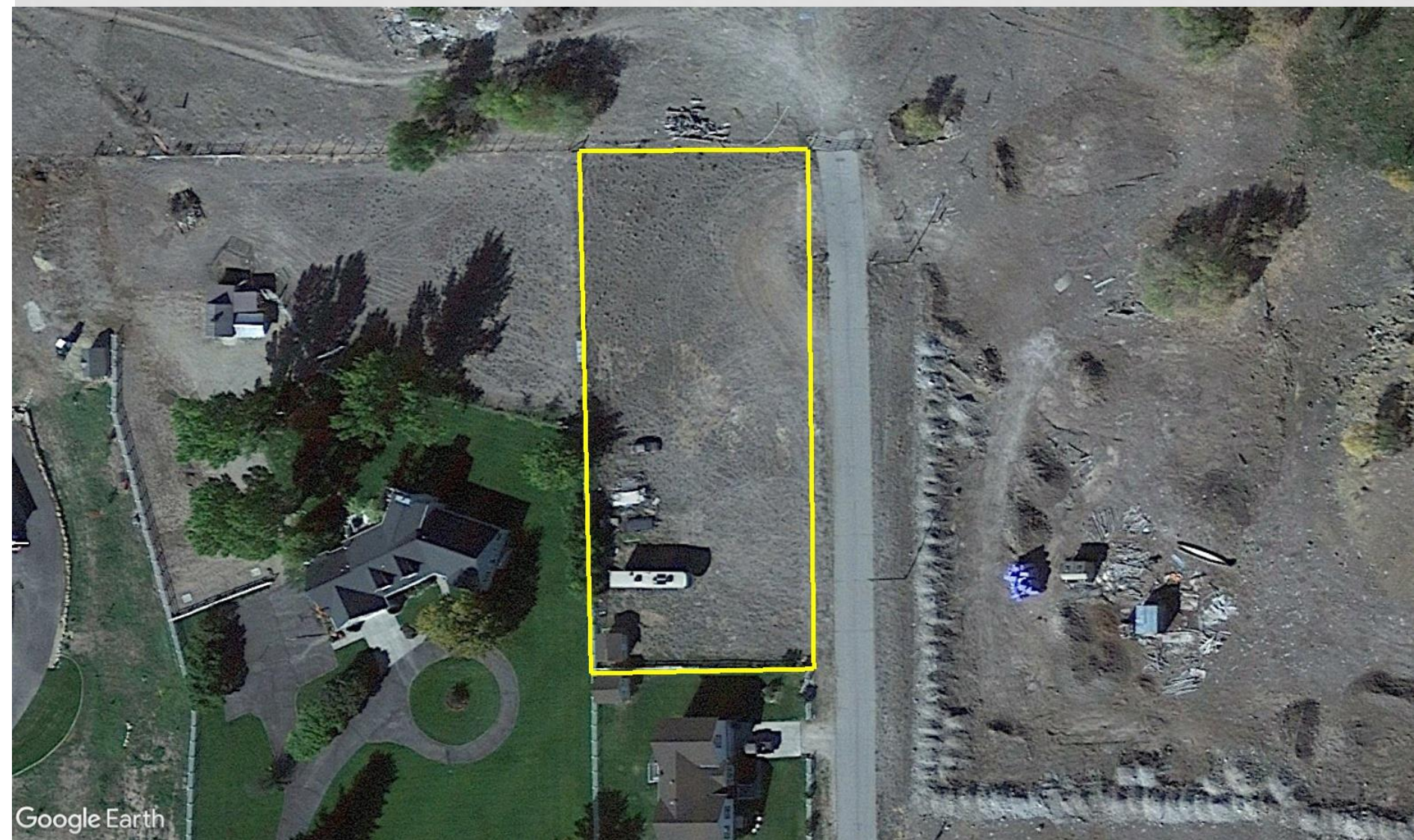
CODE TEXT AMENDMENT





Google Earth





Google Earth

LAND USE SUMMARY

- 0.92 acres
- R-1-22 Zone
- 1 lot
- Frontage on 200 East
- Site of a future dwelling or any other permitted and conditional uses that are allowed in this zone
- The lot is connected to the Midway Sanitation District's sewer line, Midway City's culinary water line, and will connect to Midway Irrigation Company's secondary water line

SETBACK REQUIREMENTS UNDER CURRENT CODE R-1-22 ZONE

- Front: 40 feet
- Rear: 40 feet*

* BUT the rear setback may be reduced as low as 30' under **16.11.060 C (1)(a)** which 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.*

SETBACK EXCEPTION 16.13.170

- Section 16.13.170, Exception to Front & 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.*
- 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.

PROPOSED AMENDMENT 16.13.170

- 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.** No dwelling shall be located closer than 20 feet from the street.*

APPLICATION

- According to the application of the current owner:

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.

SETBACK CALCULATIONS

- The applicant calculates the front setback of the dwelling to his immediate south as 33' and the dwelling immediately south of that as 24'. Averaging the two front setbacks yields a front setback of 28.5' ($33 + 24 = 57 \times \frac{1}{2} = 28.5$)

APPLICATION

Current:

- North boundary: 113.36' Subtracting 30' rear setback (per 16.11.060) and 40' front setback gives depth 43.36'
- South boundary: 106.12' Subtracting 30' rear setback (per 16.11.060) and 40' front setback gives depth 36.12'

With requested code text amendment:

- North boundary: 113.36' Subtracting 28.5' front setback (per expanded 16.13.170) and 45' house depth yields rear setback of 39.86'
- South boundary: 106.12' Subtracting 28.5' front setback (per expanded 16.13.170) and 45' house depth yields rear setback of 32.62'

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.

DISCUSSION

- 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 5 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. However, 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.

APPLICANT'S EXHIBITS 1-4

- Exhibit 1: Broader Parcel Aerial
- Exhibit 2: Aerial with Depths
- Exhibit 3: Survey with envelope
- Exhibit 4: Old Plat Aerial
- Exhibit 5: Aerial with red lines



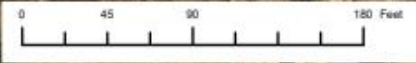
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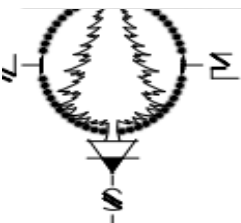
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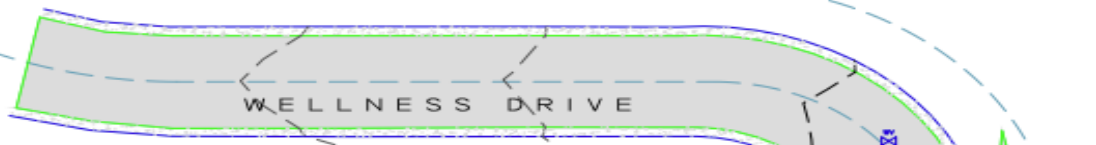
FARMHILL LN

GRANARY LN





APPEYALI SUBDIVISION



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

EXISTING FENCE POST IS PROPERTY CORNER



SPRINGER SUBDIVISION
LOT 1
AREA = 0.66 ACRE

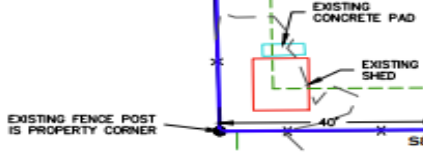
ROUFE REBAR
09-074-L-026-004

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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

EXISTING FENCE POST IS PROPERTY CORNER



FOUND REBAR WITH CAP
MARKED ELEMENT LAND
SURVEYING PLS 6854112

GRAPHIC SCALE







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

POSSIBLE ACTIONS

1. Approval (conditional). This action can be taken if the City Council feels that conditions placed on the approval can resolve any outstanding issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)

2. Continuance. This action can be taken if the City Council feels 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 feels that the request does not meet the intent of the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial