

**Midway City Council  
5 December 2023  
Regular Meeting**

**Ordinance 2023-14 /  
Boundary Line Adjustments**



## **PLANNING COUNCIL MEETING STAFF REPORT**

**DATE OF MEETING:** October 10, 2023

**NAME OF APPLICANT:** Midway City

**AGENDA ITEM:** Code Text Amendment of Section 16.16.070.A.16 General Standards and Requirements

### **ITEM: 3**

Midway City is proposing a code text amendment that would update and clarify provisions in Section 16.16.070.A.16 of the Midway City Land Use Code regarding boundary line adjustments affecting open space and common area in recorded standard subdivisions and planned unit developments.

### **BACKGROUND:**

Section 16.16.070 of the Midway City Code, General Standards and Requirements, sets forth standards and requirements applicable to all PUDs and standard subdivisions in Midway. Section 16.16.070.A.16 currently states:

*Once a standard subdivision or a PUD is recorded, no external boundary line adjustments that affect designated open space or common area or sale of designated open space or common area that alters an external boundary, including boundary line adjustments that would take portions of the designated open space or common area and move it outside of the recorded plat.*

The language prohibits sale of open space or common area that alters an external boundary, as well as external boundary line adjustments that affect open space or common area. However, the language as currently written is a sentence fragment and could be clarified by simply amending the sentence structure.

Accordingly, Midway City proposes amending Section 16.16.070.A.16 to the following proposed language:

*Once a standard subdivision or PUD is recorded, external and external boundary line adjustments that would reduce designated open space or common area within the subdivision or PUD shall not be permitted. Neither shall the sale of designated open space or common area that would alter an external boundary line of the subdivision or PUD be permitted. This includes, but is not limited to, boundary line adjustments and or plat amendments that would take portions of the designated open space or common area and move them outside the recorded plat.*

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

The City Council adopted Resolution 2023-19 on July 18, 2023, as a pending ordinance to address this section of code. The pending ordinance gives the city six months to adopt a revised ordinance. If a revised ordinance is not adopted, then the existing language is left to govern future applications. Since the ordinance was adopted on July 18, 2023, a revised ordinance must be approved by January 18, 2024, if the City Council would like to address the issues presented when Resolution 2023-19 was adopted. After the City Council meeting on December 5<sup>th</sup>, the next scheduled City Council meeting is on January 16, 2024.

## **DISCUSSION:**

- Language has been added to complete the sentence fragment.
- The provision continues to prohibit the sale of designated open space or common area that would alter the boundary line of the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- The provision continues to prohibit boundary line adjustments that would affect designated open space or common area within the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- Language has been added to provide an example of prohibited actions to further clarify the intent of the provision.
- The language continues to reflect the intent and importance to the City of Midway of protecting its green spaces and contractually protected open space and common areas, both for the benefit of its citizens generally, as well as homeowners that purchased land in subdivisions and PUDs relying upon plats and development agreements as recorded.
- Allowing otherwise risks opening a floodgate for applicants of new and/or established subdivisions and PUDs to seek to alter boundaries and/or sell open space or common area for financial return, reduction in maintenance costs, and/or other reasons.

**PLANNING COMMISSION RECOMMENDATION:**

**Motion:** Commissioner Ream: I make a motion that we recommend approval of a code text amendment that would update and clarify provisions in Section 16.16.070.A.16 of the Midway City Land Use Code regarding boundary line adjustments affecting open space and common area in recorded standard subdivisions and planned unit developments. Including the change to the language in the code as discussed.

**Seconded:** Commissioner Garland

**Chairman Nicholas:** Any discussion on the motion?

**Chairman Nicholas:** All in favor.

**Ayes:** Commissioners: Ream, Wardle, Osborne, Nokes, Garland and Simons

**Nays:** None

**Motion:** Passed

**POSSIBLE FINDINGS:**

- The proposed amendment clarifies the language of Section 16.16.070.A.16 by eliminating a fragmented sentence without changing the intent and meaning of the provision.
- The provision continues to prohibit the sale of designated open space or common area that would alter the boundary line of the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- The provision continues to prohibit boundary line adjustments that would affect designated open space or common area within the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- Language has been added to provide an example of prohibited actions to further clarify the intent of the provision.
- The language continues to reflect the intent and importance to the City of Midway of protecting its green spaces and contractually protected open space and common areas both for the benefit of its citizens generally and homeowners who purchased land in subdivisions and PUDs relying upon plats and development agreements as recorded.

## ALTERNATIVE ACTIONS:

1. Approval. This action can 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 can 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 can 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



**Midway**

**ORDINANCE  
2023-14**

**AN ORDINANCE TO AMEND SECTION 16.16.070(A)(16) OF  
THE MIDWAY CITY LAND USE CODE REGARDING  
BOUNDARY LINE ADJUSTMENTS AFFECTING OPEN  
SPACE AND COMMON AREA IN RECORDED STANDARD  
SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS.**

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

**WHEREAS**, Midway City Land Use Code Section 16.16.070(A)(16) currently contains a sentence fragment; and

**WHEREAS**, the Midway City Council desires to amend Section 16.16.070(A)(16) to correct the sentence fragment while still maintaining the purpose of the section, which is to prohibit the sale of open space or common area that alters an external boundary, as well as external boundary line adjustments that affect open space or common area; and

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

Midway City Code Section 16.16.070(A)(16) shall be amended to read as follows:

*Once a standard subdivision or PUD is recorded, internal and external boundary line adjustments that would reduce designated open space or common area within the subdivision or PUD shall not be permitted. Neither shall the sale of designated open space or common area that would alter an external boundary line of the subdivision or PUD be permitted. This includes, but is not limited to, boundary line adjustments and/or plat amendments that would take portions of the designated open space or common area and move them outside the recorded plat.*

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

**PASSED AND ADOPTED** by the City Council of Midway City, Wasatch County, Utah  
this \_\_\_\_ day of \_\_\_\_\_, 2023.

	AYE	NAY
Council Member Steve Dougherty	_____	_____
Council Member Jeff Drury	_____	_____
Council Member Lisa Orme	_____	_____
Council Member Kevin Payne	_____	_____
Council Member JC Simonsen	_____	_____

APPROVED:

\_\_\_\_\_  
Celeste Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Brad Wilson, City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
Corbin Gordon, City Attorney

(SEAL)