



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: May 20, 2025

NAME OF PROJECT: Cozens Subdivision

NAME OF APPLICANT: Glen Lent

PROPERTY OWNER: Stringtown Properties LLC

AGENDA ITEM: Plat Amendment of Lot 1

LOCATION: 766 South Stringtown Road

ZONING DESIGNATION: RA-1-43

ITEM: 14

Glen Lent, on behalf of Stringtown Properties LLC, is requesting a Plat Amendment of the Cozens Subdivision Amended lot 1. The proposal is to reduce the 50' setback along the FEMA floodplain to 25'. The property is located at 766 South Stringtown Road and is zoned RA-1-43.

BACKGROUND:

Glen Lent, on behalf of Stringtown Properties LLC, is requesting a Plat Amendment of the Cozens Subdivision Amended lot 1. The property is located at 766 South Stringtown Road and is zoned RA-1-43. The Cozens subdivision is a small-scale three-lot subdivision. The original plat was recorded on 11-7-2019 and the most recent, and currently governing plat, was recorded on 11-6-2020. The proposal is to reduce the 50' setback along the FEMA floodplain to 25'. The 50' setback is on the plat because of section 16.14.080: Streams, Waterways, and Ditches. This section of code governs development next to sensitive lands and is divided into four sections that includes development for lots of record and previously platted subdivisions, small-scale

subdivisions, large-scale subdivisions, and PUDs. The Cozens subdivision is a small-scale subdivision, and the following language applied when the subdivision was approved (emphasis added):

*Small-Scale Subdivision. Lots may be approved within delineated boundaries of FIRM and MCFOM but the lowest floor of any residential construction, including basements, shall be elevated 18 inches above the base flood elevation as shown on the FIRM. The elevation must be certified by a licensed engineer or licensed surveyor and marked on site before the building inspector allows construction to commence. **Substantial efforts must be made to create building envelopes that are 50 feet from any delineated flood zones, though the lots themselves may encroach in the flood area.***

The reason that small-scale subdivisions have a flexible guideline regarding setbacks is based on the usually small area that they cover. Large-scale subdivisions and PUDs have a required 50' setback because they have more area to work with whereas small-scale subdivisions have a limited area. Flexibility was written into the code for small-scale subdivisions to avoid a legal "takings" situation because setback guideline. A regulatory taking is a substantial deprivation of property rights that limits its free use or enjoyment that is caused by government action. A required 50' setback on a small lot might create a "takings" situation if the lot is too greatly impacted. A required setback of 50' in a small-scale subdivision might make a lot unbuildable so flexibility was written in to the code for abnormal situations.

The 50' setback along the FEMA floodplain was included on the Cozens plat because of the code guideline for small-scale subdivisions. There was not a petition or a discussion about reducing or removing the 50' setback when the subdivision was reviewed and approved.

Many plat amendments, including this petition, are a legislative action, and the Land Use Authority has discretion regarding approval.

ANALYSIS:

The applicant, Mr. Lent, was the developer when the current plat was recorded which created the three-lot subdivision. The 50' setback was included on the plat and Mr. Lent now feels, since he is now preparing to build his home on the property, that the building area is restricted, partially, because of the 50' setback. He reviewed the code and received an opinion from the office of the Utah Property Rights Ombudsman (see attached) regarding the 50' setback requirement. He has stated that the 50' setback was included on the plat because it was his understanding that there was not an option to propose anything different. He now realizes that a different setback could have been discussed and possibly approved, if it had been discussed with staff and the City Council through the approval process.

FEMA regulations only preclude building in the mapped or delineated floodplain. Midway's ordinance goes beyond that by requiring an additional buffer between the floodplain mapped boundaries and areas where a structure can be built. It is staff's opinion that this guideline was

created for a few different reasons including protecting the floodway from encroachment, minimizing damage to property owners in the event there is a flood event, but also protecting the environmental and open space assets that make Midway what it is. In the specific case of lot 1 of the Cozens subdivision, there is an extremely minimal danger of flooding ever reaching beyond the boundary of the delineated floodplain on the west side of Snake Creek where Mr. Lent will build his home. This is because of the elevation increase of approximately 15' from the flood channel to the buildable area of the lot. Also, the east side of the creek has almost no elevation increase to the Provo River which is approximately 1.5 miles. If a major flood, much greater than the 100-year flood, ever were to occur, all flooding would go to the east side of Snake Creek long before flooding would happen to the west in the Cozens subdivision.

The applicant is proposing to reduce the setback from 50' to 25' on a lot that has minimal flood potential on the west bank of Snake Creek. The lot also has a relatively small buildable area compared to other lots in the same zone. A 25' setback would create a buffer between any buildings and the edge of the floodplain. A compromise of 25' would preserve openness along the stream corridor but will also allow the applicant more flexibility when designing his home and any other structure on the property.

PROPOSED FINDINGS:

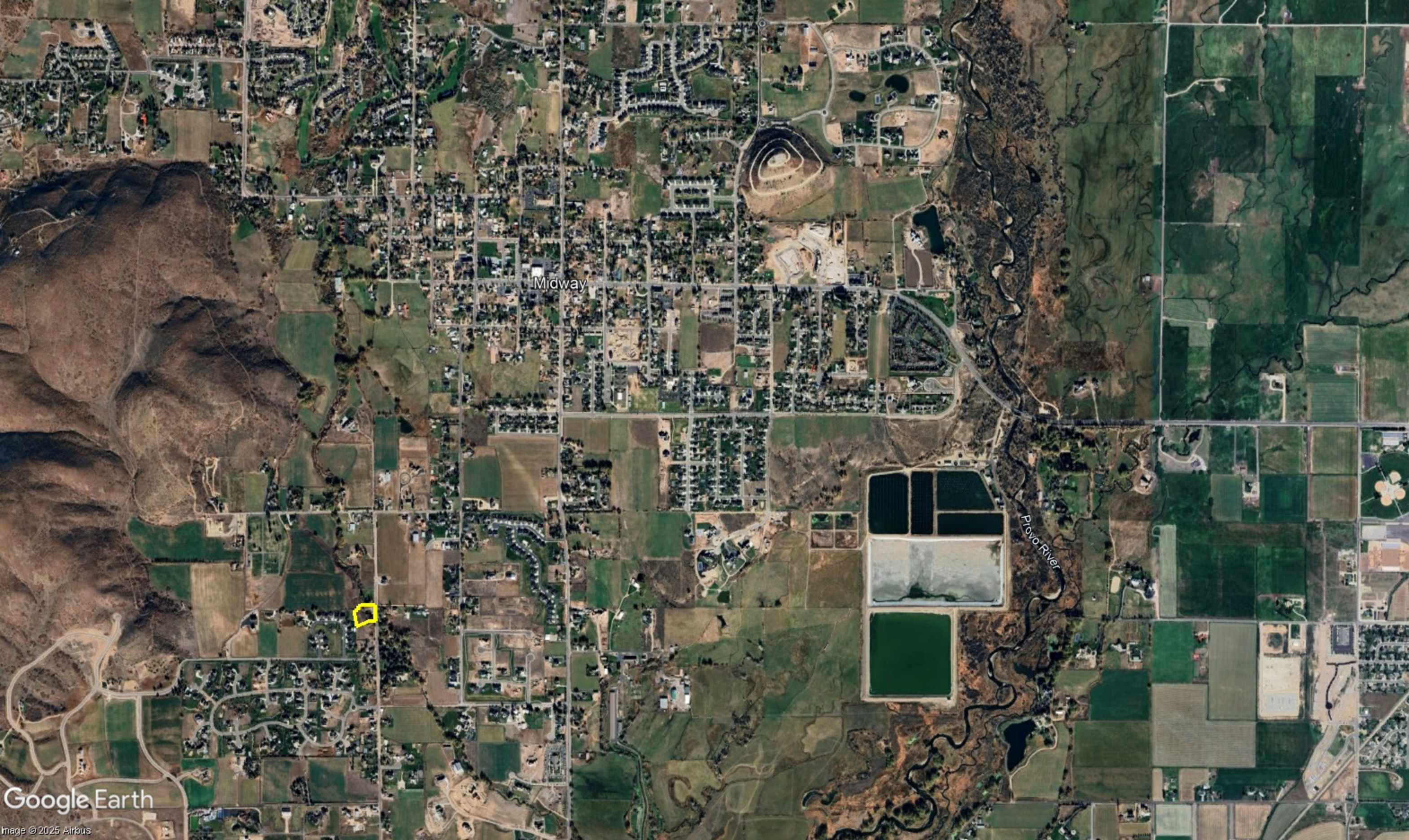
- The plat has a 50' setback from the delineated floodplain.
- A 50' setback from floodplain is a guideline but not a requirement in small-scale subdivisions.
- The applicant is proposing to reduce the 50' setback to 25' but not remove it completely.
- The 50' setback is a Midway ordinance and not required by FEMA.
- Federal standards would allow construction up to the edge of the delineated floodplain.
- The City can approve a lesser setback than 50' in a small-scale subdivision because of the usually limited area of this type of subdivision.
- A compromise of 25' would preserve openness along the stream corridor but would also allow the applicant more flexibility when designing his home and any other structure on the property.

ALTERNATIVE ACTIONS:

1. Approval (conditional). This action can be taken if the City Council finds the proposal is in the best interest of the community and does not violate any land use codes.
 - a. Accept staff report
 - b. Reasons for approval (findings)
 - c. Place condition(s) if needed
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 is not in the best interest of the community or does violate any land use codes.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

PROPOSED CONDITIONS:

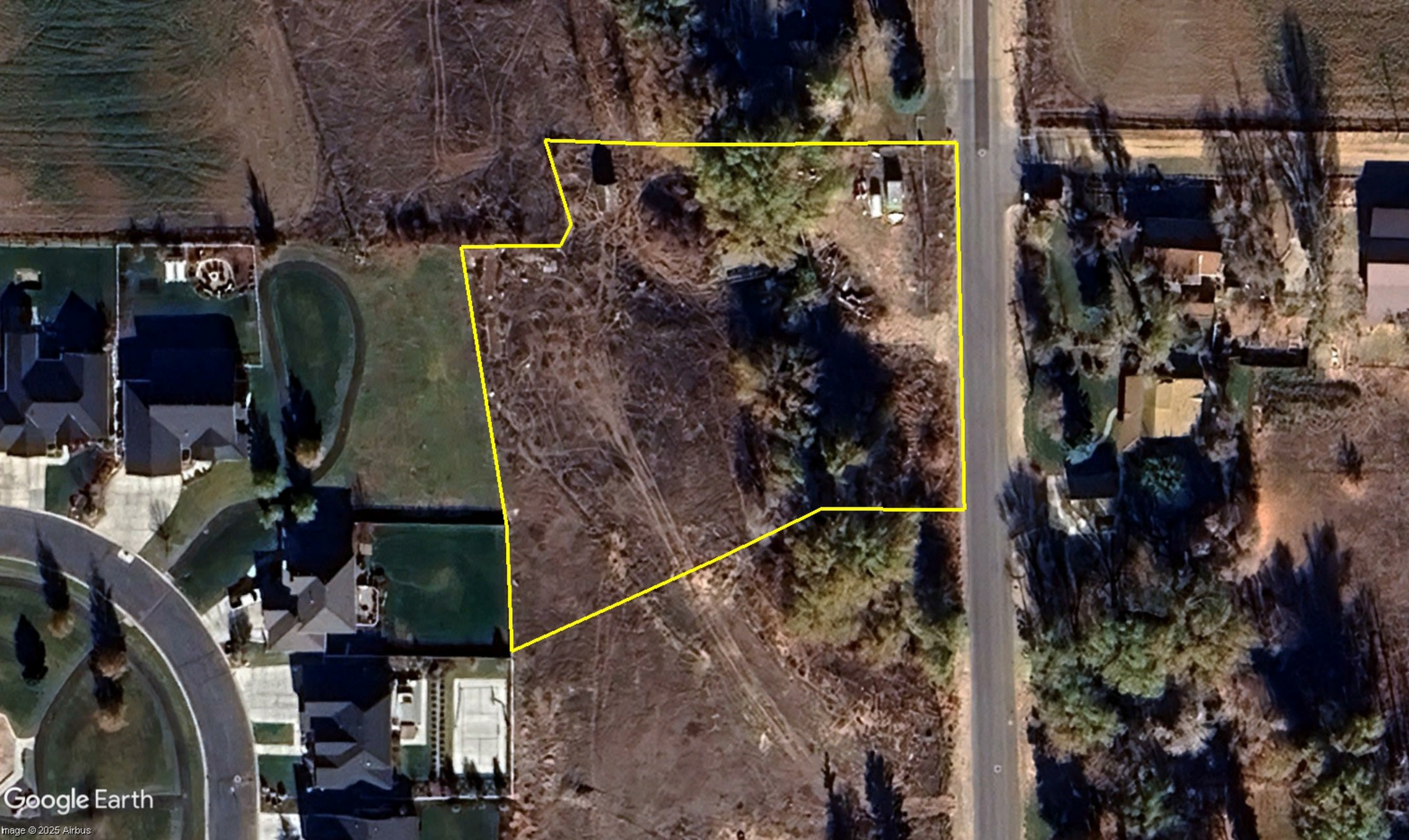
- None

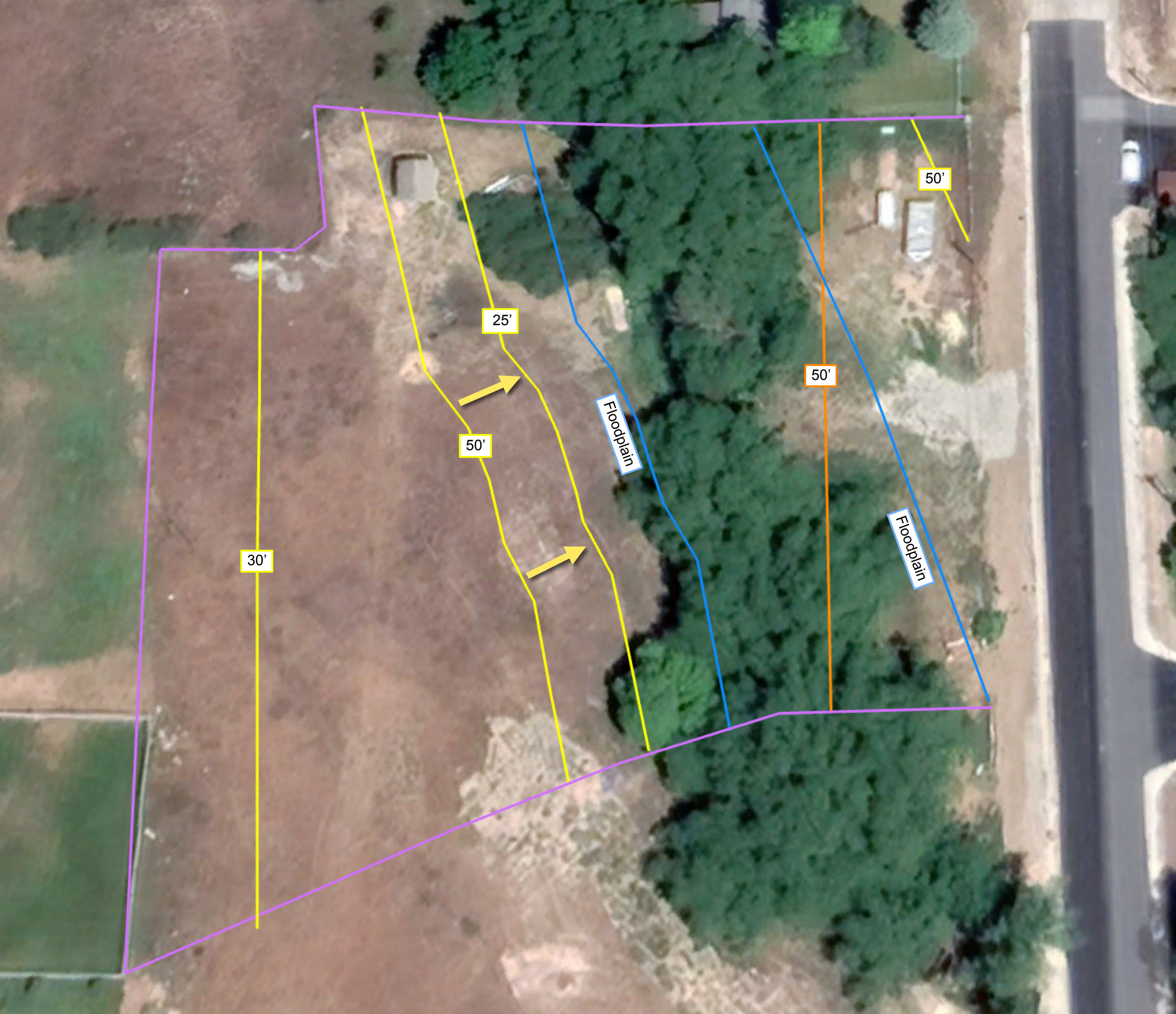


Midway

Provo River







50'

25'

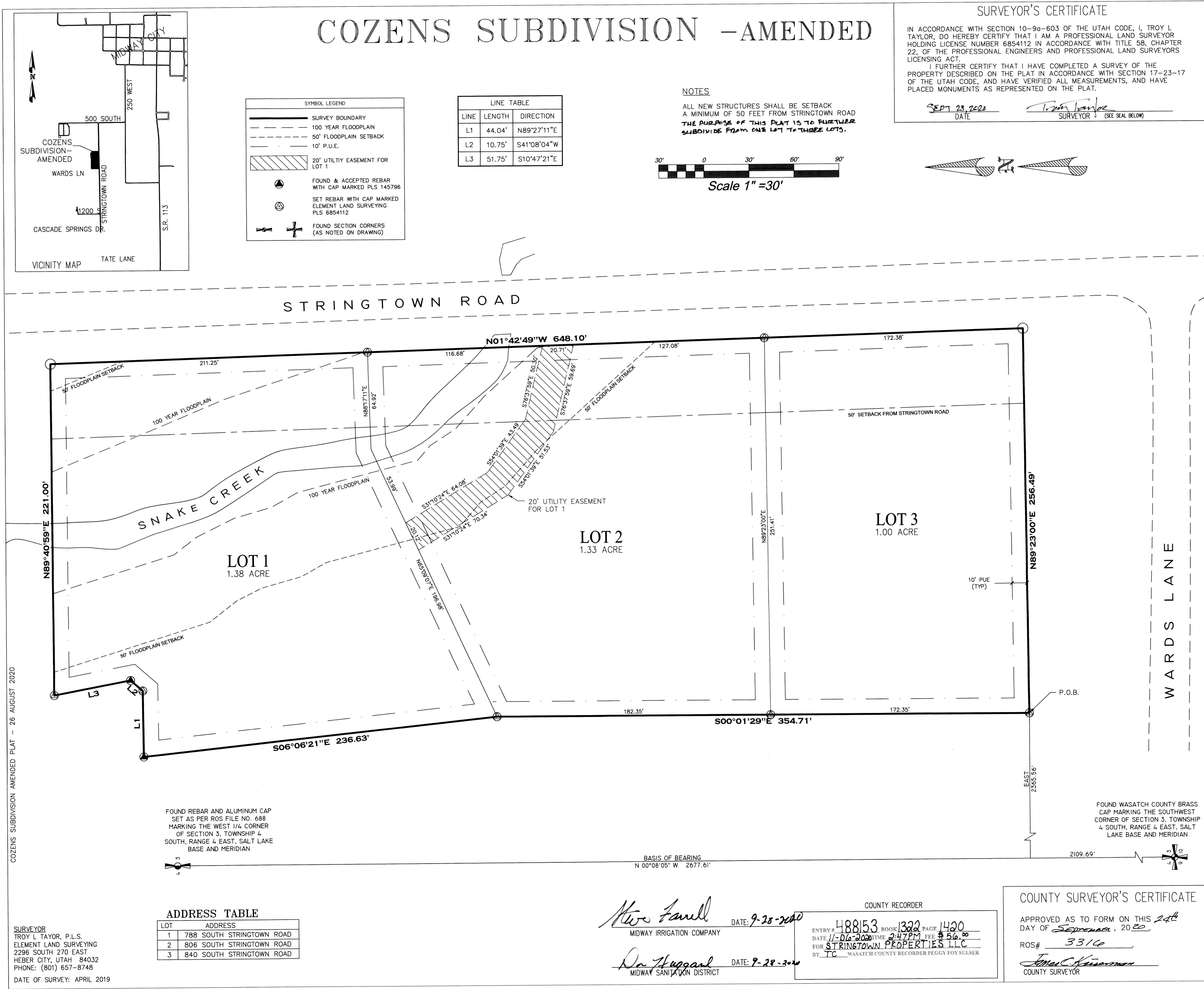
50'

30'

50'

Floodplain

Floodplain



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.

SEP 23, 2020 DATE
Troy Taylor SURVEYOR (SEE SEAL BELOW)

BASIS OF BEARINGS

THE BASIS OF BEARING FOR THIS SURVEY IS NORTH 00°08'05" WEST FROM THE FOUND WASATCH COUNTY MONUMENT MARKING THE SOUTHWEST CORNER OF SECTION 3 TO THE FOUND REBAR WITH ALUMINUM CAP SET AS PER ROS FILE NO. 688 MARKING THE WEST 1/4 CORNER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, IN CONFORMANCE WITH THE UTAH STATE COORDINATE SYSTEM 1983 CENTRAL ZONE BEARINGS.

BOUNDARY DESCRIPTION

BEGINNING AT A POINT ON THE EAST BOUNDARY OF THE CASCADE MEADOWS PUD AMENDED SUBDIVISION AND A FENCE POST, SAID POINT BEING LOCATED NORTH 00°08'05" WEST ALONG THE SECTION LINE 2109.69 FEET AND EAST 2365.56 FEET FROM THE WASATCH COUNTY MONUMENT MARKING THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; THENCE ALONG THE SAID EAST LINE OF THE CASCADE MEADOWS SUBDIVISION THE FOLLOWING 2 (TWO) CALLS: NORTH 00°01'29" WEST 354.71 FEET, AND NORTH 06°06'21" WEST 236.63 FEET TO A FOUND REBAR WITH CAP MARKED PLS 145796, A FENCE LINE, AND THE SOUTH LINE OF THE WILLIAM A RICHARDSON SMALL ONE LOT SUBDIVISION; THENCE ALONG THE WILLIAM A RICHARDSON SUBDIVISION AND THE FENCE THE FOLLOWING 4 (FOUR) CALLS: NORTH 89°27'11" EAST 44.04 FEET, NORTH 41°08'04" EAST 10.75 FEET, NORTH 10°47'21" WEST 51.75 FEET, AND NORTH 89°40'59" EAST 221.00 FEET TO A FENCE LINE, AND THE WEST RIGHT-OF-WAY OF STRINGTOWN ROAD; THENCE SOUTH 01°42'49" EAST 648.10 FEET ALONG A FENCE AND A FENCE LINE EXTENDED TO A FENCE POST; THENCE SOUTH 89°23'00" WEST 256.49 FEET ALONG A FENCE LINE TO THE POINT OF BEGINNING.

AREA = 3.72 ACRES

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, RIGHTS-OF-WAY AND EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES AND EMERGENCY VEHICLE ACCESS.

DATED THIS 28TH DAY OF September, A.D. 2020
BY: Glen K. Lent
STRINGTOWN PROPERTIES LLC - Manager - Glen K. Lent

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
COUNTY OF WASATCH }
ON THE 28TH DAY OF September, A.D. 2020, PERSONALLY APPEARED BEFORE ME, Glen K. Lent, WHO DULY ACKNOWLEDGED TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.
MY COMMISSION EXPIRES 12-24-2021
Carmy Soto NOTARY PUBLIC

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
COUNTY OF WASATCH }
ON THE ____ DAY OF ____, A.D. 20____, 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

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 5TH DAY OF November, A.D. 2020
APPROVED: [Signature] MAYOR ATTEST: [Signature] CLERK-RECORDER (SEE SEAL BELOW)
APPROVED: [Signature] CITY ENGINEER APPROVED: [Signature] CITY ATTORNEY

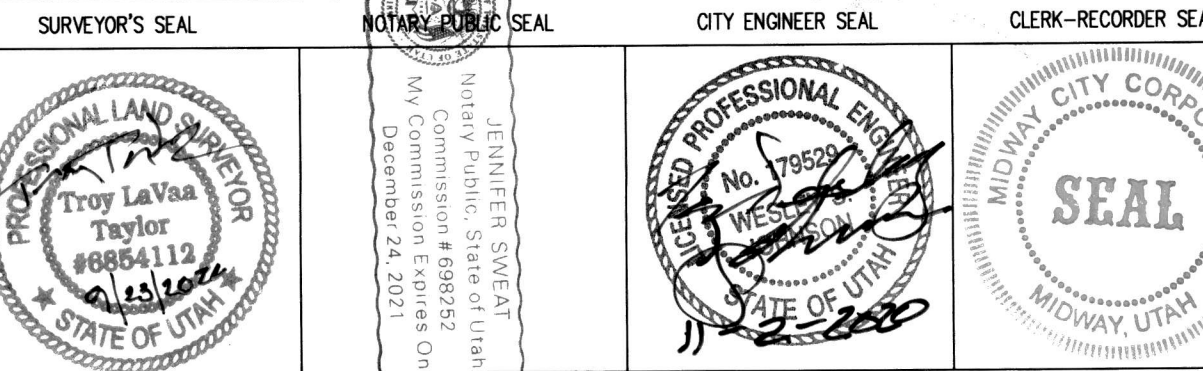
PLANNING COMMISSION APPROVAL

APPROVED THIS 13TH DAY OF October, A.D. 2020 BY THE
MIDWAY CITY PLANNING COMMISSION
DIRECTOR - PLANNING: Michael K. Henke CHAIRMAN, PLANNING COMMISSION: Jeff Nicholas

COZENS SUBDIVISION - AMENDED

MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH
NORTHWEST AND SOUTHWEST QUARTERS OF SECTION 3,
TOWNSHIP 4 SOUTH, RANGE 4 EAST, SLB&M

SCALE: 1" = 30 FEET



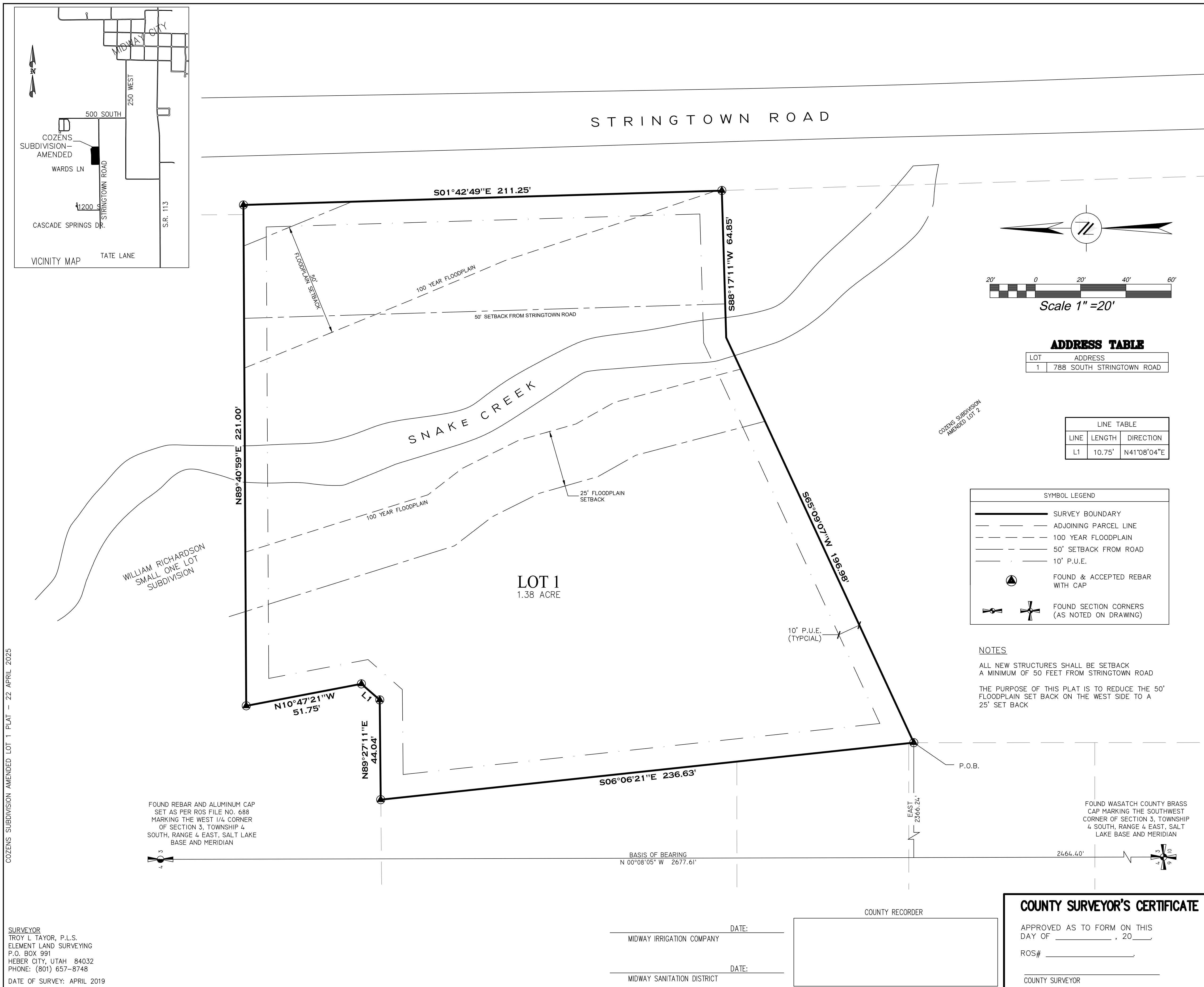
COUNTY SURVEYOR'S CERTIFICATE

APPROVED AS TO FORM ON THIS 24TH DAY OF September, 2020
ROS# 3316
James C. Keenan
COUNTY SURVEYOR

COUNTY RECORDER

ENTRY# 488153 BOOK 1322 PAGE 1420
DATE 11-06-2020 TIME 2:47PM FEE \$56.00
FOR STRINGTOWN PROPERTIES LLC
BY TC WASATCH COUNTY RECORDER PEGGY FOY SULSER

Midway Irrigation Company DATE: 9-28-2020
Midway Sanitation District DATE: 9-28-2020



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 68541112 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS LICENSING ACT.

I HEREBY 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.

DATE _____ SURVEYOR _____ (SEE SEAL BELOW)

BASIS OF BEARINGS

THE BASIS OF BEARING FOR THIS SURVEY IS NORTH 00°08'05" WEST FROM THE FOUND WASATCH COUNTY MONUMENT MARKING THE SOUTHWEST CORNER OF SECTION 3 TO THE FOUND REBAR WITH ALUMINUM CAP SET AS PER ROS FILE NO. 668 MARKING THE WEST 1/4 CORNER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, IN CONFORMANCE WITH THE UTAH STATE COORDINATE SYSTEM 1983 CENTRAL ZONE BEARINGS.

BOUNDARY DESCRIPTION

BEGINNING AT A THE SOUTHWEST CORNER OF LOT 1 OF THE COZENS SUBDIVISION AMENDED, SAID POINT BEING LOCATED NORTH 00°08'05" WEST ALONG THE SECTION LINE 2464.40 FEET AND EAST 2366.24 FEET FROM THE WASATCH COUNTY MONUMENT MARKING THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE EAST, SALT LAKE AND MERIDIAN; THENCE SOUTH 01°09'00" WEST 256.63 FEET; THENCE NORTH 88°27'11" EAST 44.04 FEET; THENCE NORTH 41°08'04" EAST 10.75 FEET; THENCE NORTH 10°47'21" WEST 51.75 FEET; THENCE NORTH 89°40'59" EAST 221.00 FEET; THENCE SOUTH 01°42'49" EAST 211.25 FEET; THENCE SOUTH 88°17'11" WEST 64.85 FEET; THENCE SOUTH 65°09'07" WEST 196.98 FEET TO THE POINT OF BEGINNING.

AREA = 1.38 ACRES

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, RIGHTS-OF-WAY AND EASEMENT FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES AND EMERGENCY VEHICLE ACCESS.

DATED THIS _____ DAY OF _____, A.D. 20_____

BY: STRINGTOWN PROPERTIES LLC

ACKNOWLEDGMENT

STATE OF UTAH }
COUNTY OF WASATCH } S.S.

ON THE _____ DAY OF _____, A.D. 20____ 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

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 _____ DAY OF _____, A.D. 20____

APPROVED _____ ATTEST _____
MAYOR CLERK-RECORDER
(SEE SEAL BELOW)

APPROVED _____ APPROVED _____
CITY ENGINEER CITY ATTORNEY
(SEE SEAL BELOW)

PLANNING COMMISSION APPROVAL

APPROVED THIS _____ DAY OF _____, A.D. 20____ BY THE
 _____ MIDWAY _____ CITY PLANNING COMMISSION

DIRECTOR – PLANNING	CHAIRMAN, PLANNING COMMISSION
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COZENS SUBDIVISION LOT 1 AMENDED

MIDWAY CITY, WASATCH COUNTY, STATE OF UTAH
NORTHWEST AND SOUTHWEST QUARTERS OF SECTION 3,
TOWNSHIP 4 SOUTH, RANGE 4 EAST, SLB&M

SCALE: 1" = 20 FEET

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY ENGINEER SEAL	CLERK-RECORDER SEAL

COUNTY SURVEYOR'S CERTIFICATE

APPROVED AS TO FORM ON THIS
DAY OF _____, 20____.

ROS# _____

COUNTY SURVEYOR

From: glen@alpine-development.com
To: [Michael Henke](#)
Subject: FW: 766 S Stringtown Road - Midway Utah
Date: Thursday, April 17, 2025 12:12:40 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

CAUTION: This email originated from outside of the organization. Do not reply, click links or open attachments unless you recognize the sender's email address and know the content is safe.

Michael,

In an effort to obtain a clearer picture of my situation on 766 Stringtown, I reached out to the State Property Rights Ombudsman's office. I discussed the situation with Marci Jones who is one of the attorneys in the office. She had me send her the information (code, plats) regarding the situation in an email (shown below) and she replied with the following email. When you've had a minute to discuss with your group, feel free to reach out to me and we can discuss a path forward. Thanks!

From: Marcie Jones <marciejones@utah.gov>
Date: Thursday, April 17, 2025 at 10:28 AM
To: glen@alpine-development.com <glen@alpine-development.com>
Cc: Cyndy Nelson <cwnelson@utah.gov>
Subject: Re: 766 S Stringtown Road - Midway Utah

Hi Glen,

Thanks for the additional information. Your questions regarding the legal interpretation are interesting.

In short, the highlighted language is somewhat ambiguous and lacks the necessary details for enforcement. The language doesn't explicitly mandate that small-scale subdivisions maintain 50-foot setbacks from streams. Instead, the ordinance states that "substantial efforts must be made to create building envelopes which are 50' from any delineated flood zones." This wording does not prevent a portion of the building envelope from being closer than 50 feet to the stream.

Given this ambiguity, the code must be interpreted in favor of allowing the property owner to proceed with the proposed use. Unless the ordinance clearly and unambiguously prohibits certain development, the development must be approved.

For more context, here's an explanation including legal citations:

When interpreting an ordinance, a court would follow established rules of statutory construction. *Foutz v. City of South Jordan*, 2004 UT 75, ¶8. Because the interpretation of ordinances is a pure question of law, local governments are afforded no deference in interpreting their own ordinances; rather, courts review a local government's interpretation of an ordinance for correctness. *Outfront Media, LLC v. Salt Lake City Corp.*, 2017 UT 74, ¶ 12 n.13, 416 P.3d 389, 394 (noting that the court's past practice of affording some level of "non-binding deference" to a local agency's interpretation could not stand in view of subsequent developments in precedent).

Ordinance interpretation begins with an analysis of the plain language of the ordinance. *Carrier v. Salt Lake County*, 2004 UT 98 ¶ 30, 104 P.3d 1208. The primary goal of interpretation is "to give effect to the legislative intent, as evidenced by the plain language, in light of the purpose the [ordinance] was meant to achieve." *Foutz*, 2004 UT 75, ¶ 11, 100 P.3d 1171. In doing so, it is presumed that the legislative body used each word advisedly. *Selman v. Box Elder County*, 2011 UT 18, ¶ 18, 251 P.3d 804. "Omissions in statutory language should be taken note of and given effect." *Biddle v. Washington Terrace*, 1999 UT 110, ¶ 14.

Note that where a reasonably well-informed person could understand a land use ordinance to have more than one meaning, the ordinance should be strictly construed in favor of the property owner, because such ordinances are in derogation of an owner's common-law right to unrestricted use of their land. *See, e.g. Patterson v. Utah County Bd. Of Adjustment*, 893 P.2d 602 (Utah Ct. of App. 1995). Furthermore, "provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner." *Id.* quoting *Sammons v. Village of Batavia*, 53 Ohio App. 3d 87, 557 N.E.2d 1246, 1249 (Ohio App. 1988); *see* 83 Am. Jur. 2d Zoning & Planning § 977 (1992).

In this specific case, the ordinance states, "substantial efforts must be made to create building envelopes that are 50' from any delineated flood zones." This language does not clearly prohibit development within 50 feet of a stream.

Best,

Marcie

On Wed, Apr 16, 2025 at 12:59 PM glen@alpine-development.com <glen@alpine-development.com> wrote:

Marci, here is the code that defines the wetlands setback.