

Midway City Council
8 August 2018
Regular Meeting

Ordinance 2018-16 /
Theaters in Commercial Zones



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: August 8, 2018

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment of Title 16.5.2: Commercial C-2 and C-3 Zones

ITEM: 6

Midway City Council will discuss a potential Code Text Amendment of Title 16 that would allow theaters to be added as a permitted or conditional use in the C-2 and C-3 zones.

BACKGROUND:

The purpose of this item is to discuss a potential code text amendment of Midway's Land Use code that would add theaters as a permitted or condition use to the C-2 and C-3 zones. Theaters were an allowed use in both zones until October 12, 2016 when they were removed as part of a comprehensive amendment of all the uses in the two commercial zones. Several uses were removed at that point in time for different reasons. Uses that were removed included the following:

- Fraternity buildings, clubs, and lodges
 - Removed because it was decided the use was not needed
- Hotels/motels, bed and breakfast establishments
 - Modified into a new description of "Short-term lodging facilities"
- Walk-in theaters
 - Removed to be included in the proposed C-4 zone that was never adopted

- R-1-7 Residential
 - Removed to protect the commercial zones for commercial uses, though residential was still allowed as a mixed-use project

To the recollection of staff, it was never the intent to remove theaters entirely from the commercial areas of Midway. The intent was to include the use in the C-4 zone that was a tourism related mixed-use zone that included a variety of activities, of which, theaters was an anchor use. The thought was to restrict theaters to the C-4 zone because it would compliment the other retail and restaurant businesses planned for the zone. For that reason, it was removed from the C-2 and C-3 zones in anticipation of the C-4 zone which had backing and support from the newly revised General Plan. When the C-4 zone was not adopted by the City, theaters were left as a use not allowed in the City except for in the resort zones.

The Planning Commission gave direction to staff in the March 21, 2017 meeting to revisit this use by placing it on a Planning commission agenda. The item was discussed on May 16, 2018 and a public hearing was held. The Planning Commission made the following motion regarding the proposed amendment:

Motion: Commissioner Payne: I recommend that we approve item number four (4) Code Text Amendment of Title 16 that would allow theaters to be added as a Conditional Use Permit in the C-2 and C-3 zones. We adopt staff findings and clarify that theaters would not include drive in theater(s) or multi-screen (more than one) movie theaters.

Seconded: Commissioner O'Toole

Chairman Kohler: Any discussion on the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners Streeter, Waldrip, Nicholas, O'Toole, Payne and Ream

Nays: None

Motion: Passed

The Planning Commission discussed several concerns. One of the main concerns was to not include drive-in theaters as an option. Commissioner Payne's motion specifically recommends that they should not be allowed. Also, the size of a theater was a concern, so the motion also recommends limiting a movie theater to one screen.

There other items that should be addressed. Those items will be discussed later in this report.

ANALYSIS:

The uses allowed in the C-2 and C-3 zones should be in harmony with the City's General Plan. Allowed uses, either permitted or conditional, should create the atmosphere that is described in the General Plan. As part of the atmosphere, aesthetics should be considered,

and the General Plan emphasizes the importance of the look and feel of Main Street, but community economic health and tax revenue generation should also be considered. Theaters add vibrancy and activity to a commercial area. They also create activity for other retail and restaurant businesses.

Below I will review some of the vision of Main Street as described in the General Plan so that the current allowed and permitted uses can better be evaluated.

The City's Vision Statement is as follows:

Our vision for the City of Midway is to be a place where citizens, businesses and civic leaders are partners in building a city that is family-oriented, aesthetically pleasing, safe, walkable and visitor friendly. A community that proudly enhances its small town Swiss character and natural environment, as well as remaining fiscally responsible.

The General Plan also describes Main Street as an area that should be vibrant and full of activity. Certain businesses such as restaurants and retail create the activity that is described in the General Plan and other businesses detract from activity because they are visited infrequently. Theaters create the activity desired in the commercial zones. The General Plan states the following:

Main Street is the economic, architectural, and historical heart of the community. The most powerful and lasting image associated with Midway is Main Street. This commercial core should be developed as a distinctive shopping and business area emphasizing it as an attractive meeting place and staging area for festivals, special events, celebrations and a variety of community activities which will produce a vibrant and healthy community centerpiece.

Theaters would add the activity and vibrancy described in the General Plan and it seems logical that they would be included in the commercial zones.

Staff feels that if theaters are allowed then there are other items that should be addressed. The first is the parking requirement. Theaters have the potential of creating very large parking lots. Midway has a very limited commercial area and a high seating capacity theater will create the requirement to construct a large parking lot. The code requires one parking space per two people. Therefore, a 1,000-seat theater would require 500 parking stalls and a 200-seat theater would require 100 parking stalls. This calculation does not include staff and performers which could easily be included in the parking stall requirement. A parking lot with even 100 stalls require a substantial amount of space. For comparison, Ridley's parking lot contains 78 stalls which covers 3/4 of an acre at about 33,000 sq. ft.

Another issue to consider that is more specific to amphitheaters is the nuisance possibility of light and noise. These items can be mitigated with an indoor theater but with an

Amphitheatre it is more difficult to shield neighbors from the potential impacts. The commercial zones are filled and surrounded by residential uses so anywhere an amphitheater is proposed may have a problem with noise and light that may be impossible to completely mitigate.

One possible course of action that the City Council may take is to not amend the code to allow theaters now but wait for a group to bring a theater proposal to the City Council. The City Council could review the proposal and if the proposal is well liked then the City Council could amend the code to permit theaters. This would allow the City to have more control over all aspects of the proposal because the approval would first be legislative in nature as the code is amended and then it would become an administrative process as the plans are approved.

POSSIBLE FINDINGS:

- Theaters support the vision of the commercial zones and Main Street as described in the General Plan
- Theaters were removed from the C-2 and C-3 zones but it was not the intention of the Planning Commission that they would not be included in the commercial area
- Theaters could attract activity for other businesses such as retail and restaurants
- The City would have more control over any proposal if the code is not amended until a project is presented to the City Council

ALTERNATIVE ACTIONS:

1. Approval. This action can be taken if the City Council feels that the proposed language is an acceptable addition to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)
2. Continuance. This action can be taken if the City Council would like to continue exploring potential options for the amendment.
 - 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 proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial