



Midway

PLANNING COMMISSION MEETING STAFF REPORT

DATE OF MEETING: December 14, 2021
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Section 16.24

ITEM: 7

Midway City is proposing an amendment to Section 16.24: Enforcement and Zoning Violations of the Midway City Municipal Code. The proposed amendment would modify regulations for certificates of zoning compliance.

BACKGROUND:

Currently, section 16.24.7 of the land use code outlines criteria necessitating the issuance of a certificate of zoning compliance previous to changes on a property. As a staff we are proposing that the section is amended to better reflect when a certificate of zoning compliance can be requested.

If a property owner requests a certificate of zoning compliance, they are requesting that the zoning administrator indicate whether a lot, structure or use complied with all pertinent requirements of this Code and therefore, may be occupied or used.

These certificates can help clarify whether uses and buildings that are located on the property are legal and can continue. The current code as it reads requires the issuance of a certificate before any building or use is commenced on a property, or when there is a change, or enlargement in the building or use. This would require a certificate to be issued each time a building is constructed, or a new use is introduced on a property. Below we have listed the current section accompanied with commentary on whether the section should be maintained or removed.

16.27.7 Certificate of Zoning Compliance Required

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premise, or to change the occupancy of any building or premise until a Certificate of Zoning Compliance shall have been issued therefore by the Zoning Administrator, stating that the proposed use of the building or land conforms to the requirements of this Title. No nonconforming structure or use shall be changed or extended until a Certificate of Zoning Compliance shall have been issued stating specifically wherein the nonconforming use differs with the provisions of this Title. The Zoning Administrator may permit the occupancy of a building prior to the completion of all required work, provided a bond or other assurance has been posted with the City in an amount equal to the cost of completing said required work as determined by the governing body. The Zoning Administrator shall maintain a record of all Certificates of Zoning Compliance for a period of five years and a copy shall be furnished upon request to any applicant. At such time as any party shall have complied with the provisions relating to large scale developments as set forth in this Title, the City Council shall so certify and shall issue a Certificate of Compliance to the developer designating with particularity all lots or other tracts that are in compliance herewith and that are available for sale. It shall be unlawful for any developer or other person to sell or offer for sale or exchange either by deed, contract, or otherwise, any lot or tract of land within said large scale developments until such time as the developer shall have received a Certificate of Compliance with respect thereto.

We as a planning staff feel that this section could be modified to simply state that a certificate of zoning compliance can be requested. We would propose that section 16.27.7 (title and body) is amended to reflect the following language:

16.27.7 Certificate of Zoning Compliance

A certificate of zoning compliance may be requested by a property owner in order to validate whether existing structures and uses on the property are in compliance with the current land use code or were legally built or commenced under a previous land use code. A complete application and payment of the fee constitute a formal request.

POSSIBLE FINDINGS:

- The proposed adjustment would eliminate unnecessary criteria requiring the issuance of a certificate of zoning compliance
- The proposed adjustment would still allow property owners to request a certificate of zoning compliance

Commented [LR1]: Concern: Zoning Admin. is obligated to issue a certificate when any of the listed criteria are met (new home, additions, new uses, change in uses). We feel that this would be a poor use of staff time and that we have other approval processes and codes in place to handle the situations outlined in this section.

Commented [LR2]: Concern: Zoning administrator does not currently sign off on certificate of occupancies. Additionally, all bond amounts would need to be approved by the City Council.

Commented [LR3]: Concern: Planning staff anticipates maintaining digital records of certificates indefinitely and does not see a need to codify a time limit.

Commented [LR4]: Concern: The city council would need to certify the completion of all developments. As city staff we ensure that the plat is recorded, conditions of the development agreement are met and the required infrastructure is installed with the standard of care and to the specifications outlined in the approved construction drawings. Once a development is complete and ready for building permits to be issued, the city engineer provides written notification to the city building inspector. We as staff feel as though this is sufficient but are open to the thoughts of the PC and CC.

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 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 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 staff report
 - b. List accepted findings
 - c. Reasons for denial