

Midway City Council
2 May 2023
Regular Meeting

Ordinance 2023-06 /
Conditional Use
Approvals and Regulations



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: May 2, 2023
NAME OF APPLICANT: Midway City
AGENDA ITEM: Code Text Amendment of Section 16.26.12:
Conditional Use Approvals and Regulations

ITEM: 10

Midway City is proposing an amendment to Chapter 16.26.12: Conditional Use Approvals and Regulations. The proposed amendment will modify the conditional use permit review and approval process which will include, among other revisions, the ability of the Planning Director to determine if an application will be placed on an agenda.

BACKGROUND:

Midway is proposing a code text amendment to the Midway Municipal Code. The proposed change will clarify that the City Planning Administrator will verify that an application is complete and is in compliance with applicable zoning ordinances. If the application is not complete or is not in compliance with zoning ordinances then the application will not be placed on a Planning Commission or City Council agenda. The main reason for the proposed change is clarification. Staff has understood, and City Council recently affirmed, that the Planning Director has the ability to not place an item on an agenda if it is not complete or does not comply with zoning codes. Their decision was based on multiple sections of code found throughout the City Code. There is some current code language in the Conditional Use ordinance that does make the issue confusing specifically for Conditional Use Permits.

The current code states the following in Section 16.26.12 Conditional Use Approvals and Regulations:

After receiving the application at its next available regular meeting, the Planning Commission shall recommend the granting or denying of the conditional use permit based on the standards set forth in this Section.

The proposed code is the following:

After receiving an application that has been reviewed by the City Planning Administrator and verified as complete and in compliance with applicable zoning ordinances, the City Planning Administrator shall place the application on the agenda of the next available Planning Commission meeting.

Planning Commission proposed code is the following:

After receiving an application that has been reviewed by the City Planning Administrator and verified as complete and in compliance with applicable zoning ordinances, the City Planning Administrator shall place the application on the agenda of the next available Planning Commission meeting. Applications that are incomplete or not in compliance with applicable zoning ordinances shall not be placed on an agenda.

If an applicant does not agree with the decision of the Planning Administrator, then the applicant has the right to appeal the Planning Administrator's decision to the City Council which acts as the appeal authority for non-variance issues.

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Nokes: I make a motion that we recommend approval of an amendment to Chapter 16.26.12: Conditional Use Approvals and Regulations. The proposed amendment will modify the conditional use permit review and approval process which will include, among other revisions, the ability of the Planning Director to determine if an application will be placed on an agenda. We add an additional finding and recommend that a sentence be added explaining the reasoning of non-compliance. We accept the other findings in the staff report.

Seconded: Commissioner Miles

Chairman Nicholas: Any discussion on the motion?

Chairman Nicholas: All in favor.

Ayes: Commissioners: Ream, Miles, Wardle, Nokes, Osborne and Lineback

Nays: None

Motion: Passed

POSSIBLE FINDINGS:

- The proposed language clarifies that the Planning Administrator will not place an item on an agenda if it does not comply with the zoning code.
- The proposed language clarifies the abilities of the Planning Administrator.
- The proposed language will better serve the City and the public by clarifying the process.

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



Midway

ORDINANCE

2023-____

**AN ORDINANCE TO AMEND SECTION 16.26.120 OF THE
MIDWAY CITY LAND USE CODE TO CLARIFY THE
CONDITIONAL USE PERMIT REVIEW AND APPROVAL
PROCESS.**

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

WHEREAS, the Midway City Council desires to amend Section 16.26.120 of the Midway City Land Use Code; and

WHEREAS, the change will clarify that the City Planning Administrator will verify that an application is complete and in compliance with applicable zoning ordinances.

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

The following Section of Chapter 16.26 shall be amended to read as follows:

16.26.120 Conditional Use Approvals and Regulations

B. After receiving an application that has been reviewed by the City Planning Administrator and verified as complete and in compliance with applicable zoning ordinances, the City Planning Administrator shall place the application on the agenda of the next available Planning Commission meeting. Applications that are incomplete or not in compliance with applicable zoning ordinances shall not be placed on an agenda. The Planning Commission shall then recommend the granting or denying of the conditional use permit based on the standards set forth in this Section. The Planning Commission may also recommend conditions to be imposed on the use if the permit is granted. After the Planning Commission makes its recommendation, the City Council shall advertise and hold a public hearing in the same manner specified above. After the public hearing, the City Council shall make a decision whether to grant or deny the proposed conditional use permit. The Council shall record its decision in writing and shall

recite the findings upon which the decision is based. The City Council may approve and/or modify a conditional use or special exception permit application in whole or in part, with conditions, only if all of the following findings are made:

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

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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)