



PLANNING COUNCIL MEETING STAFF REPORT

DATE OF MEETING: October 10, 2023

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment of Section 16.13.130 Location of Barns

ITEM: 5

Midway City is proposing a code text amendment that would update and clarify provisions in Section 16.13.130 of the Midway City Land Use Code regarding permitted locations of Barns. The proposed code will clarify the language regarding setbacks.

BACKGROUND:

The Midway Municipal Code regulates setbacks for barns, corrals and coops. Barns are not defined for purposes of this provision. Historically, this setback provision has been applied only to structures housing animals, such as corrals, coops, pens, and barns housing animals (as opposed to hay storage or other non-animal use). The proposed revisions would add language to the clarify this interpretation.

Section 16.13.130 of the Midway City Code, Location of Barns, currently provides:

No barn, corral, or coop shall be constructed closer than 100 feet from any existing dwelling on an adjacent lot or parcel or public street, nor shall any corral, pen, or coop be constructed or maintained closer than 30 feet to any open waterway that drains into a natural stream. Surface drainage from corrals or coops shall not be permitted to drain into a waterway that drains into a natural stream.

Historically, this setback provision has been applied only to structures housing animals, such as corrals, coops, pens, and barns housing animals (as opposed to hay storage or other non-animal

use). Because the Code does not define “Barn” for purposes of this provision, it arguably could be applied to any structure that looks like a barn, even if not used to house animals. There are structures that some would define as a barn and others would define as a shed or other accessory structure. The purpose of this proposal is to clarify the interpretation that has been used in Midway for decades.

Accordingly, Midway City proposes amending Section 16.16.130 to bring the language into compliance with historic interpretation as follows. Added language is identified in bold.

*No barn (**used to house animals**), corral, **pen**, or coop shall be constructed closer than 100 feet from any existing dwelling on an adjacent lot or parcel or public street, nor shall any **barn (used to house animals)**, corral, pen, or coop be constructed or maintained closer than 30 feet to any open waterway that drains into a natural stream. Surface drainage from corrals, **pens**, or coops shall not be permitted to drain into a waterway that drains into a natural stream.*

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

DISCUSSION:

- Language has been added to restrict application to barns used for purposes of housing animals, as opposed to storage of hay or other non-animal use. This is consistent with the historic application of this provision, as issues related to animals, such as noise, excrement, odor, etc., prompt setback requirements.
- Use of barns or barn-like structures for non-animal storage do not raise the same issues as animals.
- Restricting application to barns used to house animals makes the provision more internally consistent as corrals, pens, and coops are all associated with animal use.
- Ease of application: restricting application to structures used to house animals is a much simpler use to identify than trying to distinguish barns or barn-appearing structures based upon appearance or other less defined usages.
- The word “pen” appears in some places in the provision but not all. The proposed revision uses the word “pen” more consistently throughout the provision to make the language more uniform and even.
- The language continues to reflect the longstanding intent and importance of separating animals and associated noise, odor, excrement, etc., from neighboring dwellings and waterways.

POSSIBLE FINDINGS:

- The proposed amendment clarifies the language of Section 16.16.130 by restricting application to barns used for purposes of housing animals, as opposed to storage of hay or other non-animal use. This is consistent with the historic application of this provision.
- Use of barns or barn-like structures for non-animal storage do not raise the same issues of noise, odor, waste, etc., as animals.
- Restricting application to barns used to house animals makes the provision more consistent internally as corrals, pens and coops are all associated with animal use.
- Restricting application to structures used to house animals is a much simpler use to identify than trying to distinguish barns or barn-appearing structures based upon appearance or other less defined usages.
- The language continues to reflect the longstanding intent and importance of separating animals and associated noise, odor, excrement, etc., from neighboring dwellings and waterways.

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