

COMMERCIAL PUDS AND CONDOMINIUM PROJECTS

CODE TEXT AMENDMENT

CURRENT CODE

- *D. The maximum height of all buildings shall be determined as part of the development review process for commercial PUD's or condominium projects. For heights greater than 35 feet, the applicant shall submit to the City Council, after receiving a recommendation from the Planning Commission, sufficient documentation indicating that heights above 35 feet are justified and not detrimental to the surrounding property owners. It is suggested that a scale model of the site be submitted to clearly illustrate the potential impacts of increased height on adjacent landowners.*

DISCUSSION ITEMS

- Language is vague, subjective and ambiguous
- State Code requires clear and plain language
- City code has a provision that regulates height already

STATE CODE

- Effective 5/9/2017
- 10-9a-306. Land use authority requirements -- Nature of land use decision.
- (1) A land use authority shall apply the plain language of land use regulations.
- (2) If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.
- (3) A land use decision of a land use authority is an administrative act, even if the land use authority is the legislative body.

POSSIBLE FINDINGS

- The proposal would remove subjective language from the code
- A 35' height limit is the standard height limit in Midway
- State code requires plain language, or the land use decision shall be in favor of the land use application
- The current language, most likely, limits the City's ability to regulate height for commercial PUDs