



## PLANNING COMMISSION MEETING STAFF REPORT

**DATE OF MEETING:** December 10, 2019

**NAME OF APPLICANT:** Midway City

**AGENDA ITEM:** Code Text Amendment of Section 16.2: Definitions and Section 16.13.6: Accessory Buildings Prohibited as Living Quarters

### **ITEM: 5**

Midway City is proposing a code text amendment of Section 16.13.6: Accessory Buildings Prohibited as Living Quarters and Section 16.2: Definitions. The proposed code will better describe what is allowed in an accessory structure and define what is considered living quarters. The proposed amendment will also address breezeways and their relation to accessory structures.

### **BACKGROUND:**

Midway City is proposing a code text amendment that would add language to the definitions section of the code that would define accessory buildings. The proposed amendment also clearly states what is allowed in accessory structures and addresses lengths of breezeways and their relation to accessory structures. Staff has found that better defining these issues will make administering the code easier and the public will have better guidelines regarding accessory structures.

Staff has found that determining what is “living space” is problematic without a definition in the code. Generally, staff has described living space as bedrooms, kitchen

full bathroom, and laundry facilities. Rooms such as offices, hobby rooms, game rooms, music rooms, craft rooms, swimming pool areas, and such as nonliving space.

Staff has had many discussions, over the years, on this issue and feels that adopting the following definition will greatly help both the public and staff:

*Section 16.2.7a Building, accessory*

*A subordinate building, located on the same Lot as the main building, the use of which is incidental to that of the main building. Accessory buildings are structures including, but not limited to: detached garages, sheds, playhouses, treehouses, storage buildings, pergolas, garden structures, greenhouses, private studios, boathouses, pool houses (may include showers), cabanas, and other similar buildings. Accessory buildings are to be used exclusively by the owners or occupants of the main residential building and their temporary guests or invitees. Accessory buildings are not permitted to be used as sleeping quarters or as living space and therefore, may not include any bedrooms. Accessory buildings may include rooms such as offices, hobby rooms, game rooms, music rooms, and craft rooms. An accessory building may include either a full kitchen and a half bath (sink and toilet only) or a full bathroom and a wetbar (sink, fridge, dishwasher, and microwave but does not include a stove or an oven).*

Staff is also proposing to amend Section 16.13.6: Accessory Buildings Prohibited as Living Quarters. The current code reads as follows:

*Section 16.13.6 Accessory Buildings Prohibited as Living Quarters*

*Living and sleeping quarters in any building other than the main residential building is prohibited except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.*

Those who have wished to have living quarters in accessory structures have suggested that attaching the accessory structure to the main dwelling by connecting a breezeway makes the accessory structure part of the main structure. Some have even suggested building a breezeway of up to 200' to have living space in what staff has considered an accessory structure even with the breezeway connection. Staff would like to adopt a standard to the length of a breezeway that determines when a structure is part of the main structure or when its an accessory structure.

The proposed code for Section 16.13.6: Accessory Buildings Prohibited as Living Quarters is as follows:

*Section 16.13.6 Accessory Buildings Prohibited as Living Quarters*

*A. It shall be a violation of the Midway City Code to use, or to allow the use of, an accessory building as sleeping or living quarters. Violations of this section of the Code shall be enforced as set forth in the Midway City Code for other violations.*

*B. Living and sleeping quarters in any building other than the main residential building are prohibited except as allowed for detached two family dwellings in the R-1-7 and R-1-9 zones.*

*C. "Living and sleeping quarters" in an accessory building shall be defined to include bedrooms, kitchens, laundry facilities, and/or full bathroom facilities.*

*D. It shall be a violation of this Code to rent, lease or otherwise allow for any person to use an accessory building for sleeping or living quarters.*

*E. Breezeways or covered awnings connecting an accessory building to the main residential building are limited to twenty (20') feet in length, measured from wall to wall, in order for the entire structure to be considered the main residential building which allows living space in the entire structure. If a breezeway is greater than 20' in length, then the structure connected to the main structure is an accessory building is not allowed to have any living space.*

**POSSIBLE FINDINGS:**

- The proposed code will define living space and what is allowed in accessory structures
- Allowed and prohibited uses are clearly stated for accessory buildings
- The proposed amendment will help staff to better administer the City's code
- The proposed amendment will help the public to understand the options available when building in Midway

**ALTERNATIVE ACTIONS:**

1. Recommendation of Approval. This action can be taken if the Planning Commission feels 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 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