



PLANNING COUNCIL MEETING STAFF REPORT

DATE OF MEETING: October 10, 2023

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment of Section 16.16.070.A.16 General Standards and Requirements

ITEM: 3

Midway City is proposing a code text amendment that would update and clarify provisions in Section 16.16.070.A.16 of the Midway City Land Use Code regarding boundary line adjustments affecting open space and common area in recorded standard subdivisions and planned unit developments.

BACKGROUND:

Section 16.16.070 of the Midway City Code, General Standards and Requirements, sets forth standards and requirements applicable to all PUDs and standard subdivisions in Midway. Section 16.16.070.A.16 currently states:

Once a standard subdivision or a PUD is recorded no external boundary line adjustments that affect designated open space or common area or sale of designated open space or common area that alters an external boundary, including boundary line adjustments that would take portions of the designated open space or common area and move it outside of the recorded plat.

The language prohibits sale of open space or common area that alters an external boundary, as well as external boundary line adjustments that affect open space or common area. However, the language as currently written is a sentence fragment and could be clarified by simply amending the sentence structure.

Accordingly, Midway City proposes amending Section 16.16.070.A.16 to the following proposed language:

Once a standard subdivision or PUD is recorded, external boundary line adjustments that would affect designated open space or common area within the subdivision or PUD shall not be permitted. Neither shall the sale of designated open space or common area that would alter an external boundary line of the subdivision or PUD be permitted. This includes, but is not limited to, boundary line adjustments that would take portions of the designated open space or common area and move them outside the recorded plat.

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 complete the sentence fragment.
- The provision continues to prohibit the sale of designated open space or common area that would alter the boundary line of the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- The provision continues to prohibit boundary line adjustments that would affect designated open space or common area within the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- Language has been added to provide an example of prohibited actions to further clarify the intent of the provision.
- The language continues to reflect the intent and importance to the City of Midway of protecting its green spaces and contractually protected open space and common areas, both for the benefit of its citizens generally, as well as homeowners that purchased land in subdivisions and PUDs relying upon plats and development agreements as recorded.
- Allowing otherwise risks opening a floodgate for applicants of new and/or established subdivisions and PUDs to seek to alter boundaries and/or sell open space or common area for financial return, reduction in maintenance costs, and/or other reasons.

POSSIBLE FINDINGS:

- The proposed amendment clarifies the language of Section 16.16.070.A.16 by eliminating a fragmented sentence without changing the intent and meaning of the provision.

- The provision continues to prohibit the sale of designated open space or common area that would alter the boundary line of the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- The provision continues to prohibit boundary line adjustments that would affect designated open space or common area within the subdivision or PUD, but the language now reads as a stand-alone sentence rather than sentence fragment.
- Language has been added to provide an example of prohibited actions to further clarify the intent of the provision.
- The language continues to reflect the intent and importance to the City of Midway of protecting its green spaces and contractually protected open space and common areas both for the benefit of its citizens generally and homeowners who purchased land in subdivisions and PUDs relying upon plats and development agreements as recorded.

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