

**ZONING ORDINANCE AMENDMENT FIRST LOOK:
ADD SECTION 350-13(f) ZONING CERTIFICATE OF USE
ATTACHMENTS**

- 1. Memorandum**
- 2. Draft Ordinance Amendment**

TO: PLANNING COMMISSION
FROM: GREGG R. ADAMS, PLANNER
**SUBJECT: ZONING ORDINANCE AMENDMENT FIRST LOOK:
ADD SECTION 350-13(f) ZONING CERTIFICATE OF USE**
DATE: MARCH 10, 2023
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L. HARRIER, J. ZATOR, ESQ., J. ALDERFER, ESQ, A. TALLARIDA, S. PIDCOCK**

Background Information:

Staff has recently become aware of the limitations of the issuance of a Certificate of Occupancy (CO) to require non-Building Code approvals. The issuance of a CO is required by the State-wide Building Code when the building or structure in question has met the minimum standards of the State-wide Building Code. The issuance of a CO cannot be withheld if the building or structure does not comply with other Township regulations or lacks approvals from the Township or some other outside agencies. Staff has been searching for a better tool with which compliance may be achieved and has noted that other municipalities have instituted a Zoning Certificate of Use. The Certificate of Use (CU) certifies that a project or building/structure is in compliance with the municipal Zoning Ordinance and all other applicable Ordinances, rules and regulations. Those projects or buildings/structures operating a Use without a Zoning CU may face enforcement action by the Zoning Officer. This provides the Township with a stronger tool with which to gain compliance with Township and other outside agency regulations that are typically harder to gain compliance with on their own.



The CU would be issued after a Zoning Permit is issued and all conditions of approval (if any) are satisfactorily addressed. Should the Zoning Permit be part of a larger project, the CU would not be issued until the project has complied with all other applicable Ordinances, rules and regulations deemed necessary by the Township. This will assist the Township in requiring that, for example, a proposed sidewalk be satisfactorily completed along the frontage of a commercial property prior to the occupying business opening.

At their February 15, 2023 meeting, the Board of Commissioners directed staff to move forward with the proposed Zoning Ordinance Amendment.

The Township Solicitor's office reviewed the draft amendment, and their comments were incorporated into the current draft.

As with all Ordinance amendments:

This text indicates explanations of proposed amendments.

This text indicates existing Ordinance Sections when used for reference or as examples.

This text indicates existing text within proposed amendments.

~~**This text** indicates proposed deletions within proposed amendments.~~

***This text** indicates proposed additions within proposed amendments.*

→ Staff recommends that Section 350-13 be amended to add a new subsection (f) Zoning Certificate of Use as follows:

350-13 ZONING CERTIFICATE OF USE

(f) Zoning Certificate of Use. The purpose of a Zoning Certificate of Use (“Certificate of Use” or “CU”) is to certify that the premises comply with all other applicable Ordinances, rules, and regulations of the Township and may be used for the purpose set forth in the Certificate of Use. A Certificate of Use shall be secured from the Zoning Officer prior to the Use or occupancy of any land, structure, or building for which a zoning permit is required. A Zoning Certificate of Use shall be issued once the applicant demonstrates to the satisfaction of the Zoning Officer that the subject property is compliant with the Zoning Ordinance and all other applicable ordinances, rules, and regulations of the Township. A copy of the Certificate of Use shall be kept upon the premises and shall be displayed upon request made by any officer or employee or agent of South Whitehall Township. Issuance of a Certificate of Use is not, nor shall it be deemed to be, a warranty or guaranty by the Township that the lot is fit for the particular use set forth in the permit and the Township shall not be liable in any way to the owner or occupant for the issuance of the Certificate of Use.

(1) A Zoning Certificate of Use shall be issued by the Zoning Officer after each of the following circumstances apply, unless otherwise permitted by this Ordinance. In the event that multiple conditions below apply, the Zoning Certificate of Use shall be issued after all of the applicable conditions have been satisfied.

(A) After the Zoning Officer has determined that all Conditions of Approval of the associated Zoning Permit (if any) have been satisfied.

(B) After the Zoning Officer has determined that all Conditions of Approval of any applicable Zoning Appeal or similar application have been satisfied.

(C) After the Zoning Officer has determined that all applicable Conditions of Approval of any applicable Land Development or similar application have been satisfied.

(D) After the Zoning Officer has determined that a Certificate of Occupancy with no conditions has been issued or all conditions of a Conditional Certificate of Occupancy have been satisfied.

(2) The Zoning Officer may attach any conditions as appropriate to the Zoning Certificate of Use. Each condition shall include a specified timeframe within which the condition is to be addressed.

(3) A Zoning Certificate of Use may be issued prior to any or all of the conditions enumerated in subsection (1)(A) through (E) above if the applicable condition is made a condition of approval of the Zoning Certificate by the Zoning Officer.

(4) Should a Zoning Certificate of Use required by this section not be issued prior to the expiration of the underlying Zoning Permit, said property is considered to be in violation of the Zoning Ordinance and subject to all applicable enforcement actions.

(5) A property owner may be subject to the penalties of Section 350-15 under

the following conditions:

(A) Failure to secure a valid Zoning Certificate of Use prior to the commencement of a new Use.

(B) Failure to address a condition of approval of an issued and currently valid Zoning Certificate of Use within the specified timeframe.