



CITY OF OTHELLO PLANNING COMMISSION

**Regular Meeting
500 E. Main St.
July 15, 2019
6:00 PM**

1. Call to Order - Roll Call
2. June 17, 2019 Minutes Approval
3. Accessory Dwelling Unit Ordinance – Recommendation to Council
4. Code Enforcement Discussion
5. July 22 City Council/Planning Commission Study Session on Zoning Updates – packet distribution

Next Regular Meeting is Monday, August 19, 2019 at 6:00 P.M. at Othello City Hall

**City Hall is accessible for persons with disabilities.
Please let us know if you will need any special accommodations to attend the meeting.**



City of Othello
Planning Commission
June 17, 2019
Jackee Carlson

CALL TO ORDER

Chair Roger Enszt called the meeting to order at 6:04 pm.

ROLL CALL

Commissioners Present: Tari Perez, Brian Gentry

Late: Chris Dorow

Absent: Kevin Gilbert

Staff: Community Development Director Anne Henning and Building & Planning Secretary Jackee Carlson

Attendees: Bob Carlson, Council Member Corey Everett, Developer Pete Olsen

Quorum Established.

APPROVAL OF MAY 20, 2019 PLANNING COMMISSION MEETING MINUTES

Commission Action: The Commissioners voted to accept the minutes from May 20, 2019 M/S Tari Perez/Brian Gentry

ZONING & COMPREHENSIVE PLAN – PUBLIC HEARING

The Planning Commission has been working on updating the Zoning Code and Zoning Map with the intent of eliminating conflicts between code sections and making it easier for everyone to use and understand.

Ms. Henning stated that there were a few things that needed to be resolved:

Residential Zone – 17.20.060 Table 2: Development Standards – It was proposed that the standard 15' setback for a corner lot be changed to 10' in R-2, R-3 and R-4, due to the fact that a 15' setback creates problems for developing in the existing narrow vacant lots in the City.

Commercial Zone – 17.30.070 & 080 Design Standards – Ms. Henning updated the section with local pictures.

Draft OMC 17.30.030 Table 1: Land Uses in Commercial Zones – Ms. Henning noted that in the draft, manufactured home parks were not allowed in all Commercial Zones. Existing OMC 17.46 allows “mobile” home parks only in the C-2 Zone with a conditional use permit which creates a conflict. The Commissioners agreed that this chapter should be removed altogether since manufactured home parks are no longer being developed.

Draft OMC 17.30.030 Table 1: Land Uses in Commercial Zones – Allows RV parks only in the C-3 Zone, as an outright permitted use. The existing OMC 17.44 has a parenthetical section title that states that a conditional use permit is required in the C-2 Zone. Staff proposed it be deleted to eliminate conflict.

Comprehensive Plan Map – Ms. Henning explained the proposed changes to the Growth Area and Future Zoning Map to show the following as current instead of future. The area west of 7th Avenue and south of Lee Road is no longer “future” I-1 zoning, as it has recently been rezoned I-1, and the portion north of Lee Road has been zoned I-2 since 2013 and is shown as future I-1.

Proposed Zone Changes - Ms. Henning stated she received a letter from the owners of the property at Cedar St. and First St. (2 lots), requesting that the City rezone their two lots R-4. After a discussion the Commission agreed to recommend rezoning the two lots R-4.

PUBLIC HEARING – COMPREHENSIVE PLAN, ZONING MAP, & MUNICIPAL CODE UPDATE

Chair Roger Ensz opened the Public Hearing at 6:27 pm.

Bob Carlson, 2213 S Broadway states he is concerned with the lack of parking available altogether. Especially when new businesses go up and not providing enough parking for customers. He suggested having a “paid” parking lot that the City maintains.

He is also concerned about changing R-2 zones to R-3 and having enough parking for the occupants of the homes in those zones.

Pete Olsen, 808 S Mockingbird Lane stated he is concerned with the Landscaping and the fact that the front yard needs to be completed in order to receive a Certificate of Occupancy. He states that he is concerned with the rising cost of homes and not having affordable housing.

He commented on how the City already has an ordinance in place that addresses Landscaping needing to be completed within a year of occupancy.

He also had a question for Ms. Henning regarding the requirement of a landscape plan - 17.74.120 (B). Ms. Henning stated that the only requirement would be street trees. Mr. Olsen stated it was a waste of money because sometimes the owner will move the tree or remove it altogether.

Chair Roger Ensz closed the Public Testimony portion at 6:45 pm.

After a brief discussion the Commission concluded that residential parking is ok as it is. In the Commercial -1 zone Commissioner Roger Ensz mentioned maybe adding something stating that they need adequate parking to match what they have built. The Commissioners decided to leave it as it is now.

The Commission also discussed the Landscaping requirements and Commissioner Brian Gentry stated that having the builder put in front landscaping does create a burden for them, and that it seems like there is an enforcement problem. Commissioner Chris Dorow brought up the fact that the Othello Municipal Code already states that Landscaping is required.

The Commission carried a motion to remove the Landscape requirement before Certificate of Occupancy for Single Family Residences only, however the 1-year period would still apply. Motion

introduced by Brian Gentry. Motion was seconded by Tari Perez. Vote was 3-1 in favor: Ensz, Perez, Gentry - Dorow; motion passed.

The Commission carried a motion to present this to City Council for their consideration as written with the changes. Motion introduced by Chris Dorow. Motion was seconded by Roger Ensz. Vote was 4-0 in favor; motion passed.

OTHER BUSINESS:

CODE ENFORCEMENT – The Commission discussed various concerns they have with enforcement. Their main concern is that there is not enough support to be able to address all the issues. They plan to prepare a presentation for City Council sometime in the future.

ADJOURNMENT

Having no other business, the meeting was adjourned at 7:43 pm. Next scheduled meeting is Monday, July 15, 2019.

Roger Ensz, Chair

Date: _____

Jackee Carlson, Planning Secretary

Date: _____

TO: Planning Commission

FROM: Anne Henning, Community Development Director

MEETING: July 15, 2019

SUBJECT: Accessory Dwelling Units – Recommendation to Council

Due to procedural issues, the Accessory Dwelling Unit (ADU) ordinance adopted by the City Council in May must be reconsidered. In addition, staff has received input from the City Attorney's office on elements that should and shouldn't be included in an ADU ordinance. As a result, the attached draft is being presented to the Planning Commission for consideration.

Staff Comments

1. The City Attorney's office reviewed the May 6 ordinance modified by the Council and recommended changes, as reflected in the attached draft. The main areas of change are as follows:

Change	Explanation
Purpose statement has been reworded.	Proposal more accurately reflects local conditions and needs.
Parking requirements have been clarified, and increased beyond the 4 previously proposed. New standard: 2 + garage for main house, 2 for the first bedroom of the ADU, and 1 for each additional bedroom of the ADU. Additional spaces may be on-street if sufficient curb space abutting lot.	Clearly separates the requirement for the main house from the ADU requirement. Prevents a conflict if 17.61 (Off Street Parking) is changed by avoiding duplicating the standards. Requires main dwellings built after August 2007 to have a garage (Ord. 1246) and requires hard surface parking for main dwellings built after March 2006 (Ord. 1220) (based on when those requirements were added to the code). Addresses the high vehicle ownership pattern in the community by requiring additional parking for ADUs with more than 1 bedroom, to reduce vehicle storage issues.
Blank left for specific dollar amount for annual alley maintenance fee.	The ordinance should not leave the fee open-ended. Input on the fee has been requested from Public Works.
Separate water, electric, and gas meters would not be required if the ADU is entirely contained within the primary residence.	For an attached ADU, typically the unit is created within an existing house by modifying the existing structure and using the existing plumbing and wiring.
The height limit of one story has been	There are situations where a 2-story unit

deleted.	makes sense, such as a unit over a garage, providing parking without taking up yard space.
The occupant limit of 3 adults plus any related children has been replaced with the adoption of the International Property Maintenance Code minimum room size (120 SF living room, 70 SF bedroom) and persons per room (at least 50 SF/person occupying bedroom).	There were a lot of concerns that the previous proposal would allow too many people in a small unit. Linking the occupancy to the room size provides a more logical relationship between the size of the dwelling unit and the number of occupants.
The owner occupancy requirements have been deleted.	Owner occupancy requirements are difficult to enforce, they have been overturned in several states, and cities are moving away from them. Owner occupancy is not required for any other type of dwelling, which creates the potential for a legal challenge. An appeal would be very costly to the city to defend. The maintenance and code enforcement problems this provision is trying to address can be addressed as maintenance and code enforcement violations when they are observed.
The process to legalize a nonconforming ADU has been referred back to OMC 17.79.	There are too many legal issues with trying to make existing units, some of which have been used as dwelling units for over 50 years, comply with new standards. The non-conforming use provisions in 17.79 were created through legal review and 3 years of Committee work.

2. Code Enforcement Officer Heather Miller has been working closely with the City Attorney's office on ADU issues, both new and existing, and will be present at the July 15 Commission meeting to answer any questions.

Attachments

- 7-15-19 Draft of ADU ordinance (as recommended by City Attorney)
- Previous draft ADU ordinance, as recommended by Planning Commission to City Council for the 4-8-19 public hearing (for comparison)

Action: The Planning Commission should review the updated ADU ordinance as modified by the City Attorney's office and provide direction to staff. Once the Commission is satisfied with the draft, they should make a recommendation to the City Council.



City of Othello
Washington
Ordinance No. XXX

**AN ORDINANCE OF THE CITY OF OTHELLO CREATING A NEW
CHAPTER 17.63 TITLED “ACCESSORY DWELLING UNITS”**

**THE CITY COUNCIL OF THE CITY OF OTHELLO, WASHINGTON ORDAINS AS
FOLLOWS:**

Section 1. Creating. Othello Municipal Code Chapter 17.63 titled “Accessory Dwelling Units” is created to provide:

**Chapter 17.63
ACCESSORY DWELLING UNITS (“ADUs”)**

17.63.010 Purpose.

This Chapter provides for accessory dwelling units (“ADUs”) on lots developed or to be developed with single-family dwellings to contribute to the community’s housing stock consistent with the Comprehensive Plan objectives and zoning regulations and to enhance the community’s housing opportunities.

17.63.020 Applicability.

An ADU that meets the requirements of this chapter may be allowed in the R-2, R-3, and R-4 Residential Districts. Accessory dwelling units are not allowed in the R-1 Residential District.

17.63.030 Development standards.

- (a) No more than one ADU per development site is allowed. The ADU must be accessory to a single-family residence, and only one ADU is allowed per single-family residence.
- (b) Maximum lot coverage for all buildings on the lot, including the ADU, the single-family house, and any garages, sheds, shops, or other accessory buildings, shall be the same as allowed in the zone or 35% of the lot, whichever is less.

(c) To promote the visibility and accessibility of the ADU for emergency services providers, the ADU must be connected to a public street with a concrete or asphalt walkway with a minimum four-foot width. The walkway must be kept clear of obstructions.

(d) The ADU and the primary residence associated with the ADU must conform to Chapter 17.61 off street parking requirements. In addition, two off-street parking spaces shall be provided for the first bedroom of the ADU and one additional on-street or off-street parking space shall be provided for each additional bedroom of the ADU.

(e) If parking spaces are accessed from an alley, an annual assessment for alley maintenance is required in the amount of _____.

(f) Unless the ADU is entirely contained within the primary residence with which it is associated, the ADU shall have a connection to the public water main in the right-of-way and meters for water, electricity and natural gas utilities that are independent of the water main connection and utility meters for the primary residence.

(g) The ADU shall have a numerical street address that is distinct from that of its primary residence, which distinction shall be made with whole numbers and not with letters, fractions or other symbols. If the ADU's street address cannot be read by a person standing at the curbside of the street on which it is located, the ADU's street address shall be posted at the street with signage that meets the requirements of emergency services providers.

(h) Unless specifically provided for otherwise by this chapter, an ADU shall comply with all requirements of applicable zoning codes, building codes, electrical codes, fire codes, and energy codes, including but not limited to the International Residential Code, International Fire Code and the Washington State Energy Code.

(i) The minimum setback of an ADU from an alley shall be five feet.

(j) The ADU shall not be sold separately from the primary residence, unless all requirements of a subdivision are met prior to the sale closing.

(k) An ADU shall comply with all bedroom and living room requirements of the International Property Maintenance Code section 404.4.

17.63.040 Conditions for legalizing pre-existing accessory dwelling units.

A nonconforming residence in existence prior to (adoption date of this ordinance) may be brought into compliance pursuant to OMC 17.79. A nonconforming residence in existence prior to (adoption date of this ordinance), whether (i) before building permits were required, or (ii) when building permits were required but were not obtained for the residence, may be brought into compliance by complying with life safety standards and any applicable building standards that were in effect at the time the unit was constructed.

Chapter 17.63

ACCESSORY DWELLING UNITS

17.63.010 Purpose.

An accessory dwelling unit (ADU) is a smaller, subordinate, attached or detached dwelling unit. These units are allowed in order to:

- (a) Create affordable housing;
- (b) Provide a range of housing choices;
- (c) Enhance options for families by providing opportunities for older or younger relatives to live in proximity while maintaining a degree of privacy;
- (d) Provide an opportunity for homeowners to gain the extra income necessary to help meet the rising costs of home ownership;
- (e) Maintain the single family appearance of existing neighborhoods.

17.63.020 Applicability.

An accessory dwelling unit that meets the requirements of this chapter may be allowed in the R-2, R-3, and R-4 Residential Districts. Accessory dwelling units are not allowed in the R-1 Residential District.

17.63.030 Development standards.

- (a) No more than one accessory dwelling unit per development site is allowed. The ADU must be accessory to a single family residence, and only one ADU is allowed per single family residence.
- (b) Maximum lot coverage of all buildings on the lot, including the ADU, the single family house, and any garages, sheds, shops, or other accessory buildings, shall be the same as allowed in the zone or 35%, whichever is less.
- (c) To make the ADU visible and accessible to emergency services providers, the ADU must be connected to a public street with a concrete or asphalt walkway with a minimum 4' width that is kept clear of obstructions.
- (d) A minimum of two concrete or asphalt parking spaces shall be provided for each unit on the lot, for a minimum of four parking spaces.
- (e) If parking spaces are accessed from an alley, an annual assessment for alley maintenance may be required, as determined by the Public Works Director based on actual maintenance costs.
- (f) The ADU shall have a separate connection to the public water main in right-of-way, and shall have separate water and power meters from the main house.
- (g) The ADU shall have a separate numerical address from the main house, and shall not be addressed with a B or ½ after the address numbers. If the ADU is not clearly visible from the street, the proponent shall post a sign with the address at the street, meeting the requirements of emergency services providers.

- (h) All zoning requirements, such as setbacks, shall be met unless specifically modified in this chapter. The minimum setback from an alley shall be 5'. Separation between units shall be as regulated by the building code.
- (i) All requirements of the state building code, such as International Residential Code, International Fire Code, Washington State Energy Code, electrical code, etc. shall be met.
- (j) A detached accessory building shall be limited to one story in height.
- (k) For an accessory dwelling unit attached to or within the primary single family dwelling, only one building entrance may be located on the front of the house, unless the house contained additional front doors before the conversion. Secondary entrances should be located on the side or rear of the primary residence.
- (l) The accessory dwelling unit cannot be sold separately from the primary residence, unless all the requirement of a subdivision can be met.
- (m) An accessory dwelling unit shall have no more than two bedrooms.
- (n) Due to the unit's small size, occupancy of an ADU is limited to a maximum of 3 adults, and any related children age 18 and under.

17.63.040 Owner Occupancy

For new units established in the R-2 Zone after (*adoption date of this ordinance*), owner occupancy of either the main house or the accessory dwelling unit is required. Prior to issuance of a building permit for an accessory dwelling unit, the applicant shall record as a deed restriction in the county auditor's office certification by the owner under oath that:

- (a) One of the dwelling units will be occupied by the owner of the property as the owner's principal and permanent residence for as long as the other unit is being rented or otherwise occupied. The owner shall maintain residency for at least six months out of the year, and at no time receive rent for, or otherwise allow to be occupied, the owner-occupied unit if the owner is absent for the remainder of the year;
- (b) The owner will notify any prospective purchaser of the property of the limitations and requirements of this chapter; and
- (c) The owner understands that the permit will be revoked if the accessory dwelling unit at any time fails to meet the requirements of this chapter.

The document shall run with the land and bind all current and future property owners, and the owner's assigns, beneficiaries, and heirs. The applicant shall submit a copy of the recorded document before the permit will be issued.

17.63.050 Conditions for legalizing pre-existing accessory dwelling units.

An accessory dwelling unit that existed on April 8, 2019 may be legally established and may continue if the following conditions are met:

- (a) The property owner enters into a voluntary compliance agreement in accordance with Chapter 1.20 et seq.

- (b) The property owner obtains the necessary permits and completes the work necessary to bring the property into compliance with the provisions of this chapter and all applicable building and life safety codes.
- (c) The property owner ensures that existing tenants on the property have substitute housing, at no additional cost to the tenant, while the owner completes the necessary upgrade work and the tenant is required to move out, provided said requirement does not violate any provision of the Washington Landlord Tenant Act or other Washington State law.

PREVIOUS DRAFT

TO: Planning Commission

FROM: Anne Henning, Community Development Director

MEETING: July 15, 2019

SUBJECT: Code Enforcement – Discussion

The Planning Commission has had on-going discussions about Code Enforcement issues in previous meetings. Code Enforcement Officer Heather Miller will attend the July 15 meeting so Commissioners can ask questions and get a better understanding of the code enforcement process.