



CITY OF OTHELLO PLANNING COMMISSION

**Regular Meeting
500 E. Main St.
August 19, 2019
6:00 PM**

1. Call to Order - Roll Call
2. July 15, 2019 Minutes Approval
3. Zoning Update Revisions – Recommendation to Council
4. Discuss Date for Next City Council/Planning Commission Study Session on Zoning Updates

***** Commissioners: Please Bring Your "Zoning & Comprehensive Plan Update" Books *****

Next Regular Meeting is Monday, September 16, 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
July 15, 2019
Jackee Carlson

CALL TO ORDER

Chair Roger Ensz called the meeting to order at 6:00 pm.

ROLL CALL

Commissioners Present: Tari Perez, Chris Dorow, Kevin Gilbert, Roger Ensz, Brian Gentry

Absent:

Staff: Community Development Director Anne Henning, Building & Planning Secretary Jackee Carlson, Code Enforcement Officer Heather Miller and Building Inspector Tim Unruh

Attendees: Council Member John Lallas

Quorum Established.

APPROVAL OF JUNE 17, 2019 PLANNING COMMISSION MEETING MINUTES

Commission Action: The Commissioners voted to accept the minutes from June 17, 2019 M/S Chris Dorow/Tari Perez

ACCESSORY DWELLING UNIT ORDINANCE – RECOMMENDATION TO COUNCIL

The Accessory Dwelling Unit (ADU) ordinance adopted by the City Council in May must be reconsidered, in addition, the Staff has received input from the City Attorney on items that should and should not be included. The Commission discussed the draft that was presented to them and heard from the Code Enforcement Officer and Building Inspector.

Code Enforcement Officer Heather Miller stated that they have run into a lot of issues. One of the major issues is the confusion between Non-conforming and ADUs, she explained they are separate things. A few years ago, there was a committee for non-conforming residences and felt like with what they established then, they are now able to address issues to get them up to date. Not only does she work with them, but the Building Inspector and Fire Department are also able to address issues.

They look at Life Safety issues which include ventilation, heat source, egress window – can you get out safe, things you can visually see. The other things as far as framing, snow load, etc. are impossible to see. She stated they look at a home and make sure it is to a livable standard, refer to the Building Code books as much as possible and Life Safety standards.

On the other hand, new ADUs will be built from the ground up complying with the Building Code. Commissioner Roger Ensz asked if the City was able to have a property owner show proof of a footing and Officer Miller stated that at this point, there is no law obligating the homeowner to show proof.

Commissioner Ensz also asked what percentage were put in, in the last ten years and she replied none that she is aware of. When they started addressing the units five years ago, they addressed the most dangerous ones first, where children lived, no egress window, places law enforcement officers would have domestics, looking at pictures to see if there were violations.

She again stated that at this point what they have in place for the Non-conforming is working and they continue to address them as they come up. She also stated that there are about 75-100 total units with the 25 most dangerous ones being addressed already.

Commissioner Chris Dorow asked what the Planning Commission could do to make the process better. Officer Miller stated that wrapping up the new ADUs and establishing two ordinances in order to move forward with everything. He also asked if they would take the path of what had been suggested a few years ago, which is to make everything illegal, would that make it easier or more difficult. She stated it would make it more difficult due to the fact that it would displace families and by the Landlord by Landlord Tenant Law someone has to provide alternate housing for them for the time being and if the landlord refuses or cannot afford it, the City is required to do it and then go after the Landlord.

As far as the non-conforming units, Officer Miller stated they are doing well. Moving forward with the ADUs, she didn't realize they were voting at the last Council Meeting. Ms. Henning presented the revised draft that has been updated by the City Attorney, for the Commission's recommendation to the council. She stated that the biggest change was on section 17.63.040, which states that all they can address is life safety issues. The Building Inspector stated that basically to meet Life Safety a home must have egress windows, smoke alarms, light, ventilation, shower facilities. If they do a certain level of remodeling, the Building Inspector could potentially say that it needs to be brought to code.

Commissioner Ensz brought up the cedar sheds. Officer Miller stated those are not approved to be lived in at all. He also asked if by adding new ADUs it made things more difficult to address the illegal ones. She stated that it could be more difficult long term due to parking problems. She thinks there is a good plan on paper but realistically things could look different. For the non-conforming she states that they have had 100 % success with either having the structure brought up to compliance or torn down to date. She stated she had looked at what other cities do as far as rules for allowing ADUs and being that the population is different here, she has looked at what does and doesn't work here. She also stated that owner occupancy has been removed due to it being challenged in higher court and it has been overruled that it is unconstitutional.

Mr. Dorow explained he was concerned about how to mitigate one landlord owning multiple houses and throwing up multiple ADUs in the back of those houses. Ms. Henning explained that it really was not that simple to do because they would require parking spaces, new meters, etc. He stated he is concerned with neighborhoods adding a lot of people by having ADUs everywhere. Councilman Lallas brought up that the zoning map already addresses the issues of where ADUs are and are not allowed.

The Commission reviewed the revised draft. They went over the following briefly:

17.63.010 - Purpose Statement - Ms. Henning went over the old statement and stated the new one basically states what happens in Othello, is it needs more housing.

17.63.030 – Development Standards (E) – Refers to parking chapter, which states 2 parking spaces plus garage, if the home was built after 2006 and for the ADU, two for the first bedroom and then one per

every bedroom after. Two of those parking spaces would need to be off-street and one could be on-street if the curb space is available.

Commissioner Ensz had a question regarding water meters and if a new one was required. It was stated that a new one is only required if the buildings are not attached (duplex).

There was a question as to whether or not there was a height limit to the ADU's. The code states that the maximum is 20ft. or the height of your house, whichever is greater.

Ms. Henning stated occupant limit is based on square footage, which could be hard to enforce. Officer Miller stated that adopting the International Property Maintenance Code (IPMC) code could potentially help with enforcing the living spaces and number of occupants an ADU can have.

The Commission carried a motion to recommend the updated draft to City Council for adoption. Motion introduced by Tari Perez. Motion was seconded by Brian Gentry. Vote was 4-1 in favor: Dorow – opposed; motion passed.

CODE ENFORCEMENT DISCUSSION

The Planning Commission has discussed in previous meetings the ongoing issue of Code Enforcement. The Commission was able to ask Officer Miller some questions to get a better understanding of the enforcement process.

Commissioner Perez asked what the top 3 to 5 things that were most focused on. Officer Miller said there are several things not just a top 3. Being complaint driven, there is complaints of weeds one day and a dog the next. She no longer does animal control but is training the new person. It was established she is under the direction of the Police Chief.

Officer Miller is the sole enforcement officer and at some point, stated there will be a need for another officer. Ms. Henning stated that part of the issue in the process is the legal side of things and having to wait for things to move through the attorney and courts. When a Notice and Order is presented, the other party is given so many days, depending on what the infraction/violation is to respond. She states that she can work on a case anywhere from 6 months to a year and get compliance and then it is left.

Commissioner Ensz asked if she could use more citizen input and she replied yes, because she can't be everywhere at once. She stated she is always willing to work with people after the door hanger/notice goes out if they reach out to her.

Commissioner Dorow asked about the "Red Barn" and how it doesn't appear to have a commercial activity in it other than storage. Ms. Henning stated that all that was required by the building permit was that it have an office, which it does. He asked if that was consistent with code? Ms. Henning stated that it had been approved that way by the previous Director.

Officer Miller stated the City has a stronger process that includes better communication and a better system of doing things.

Commissioner Ensz asked if there was any way to make landlords more responsible as far as maybe getting a business license? Officer Miller stated that there is nothing they can do. Landlord-tenant laws govern landlords and it is a civil matter.

COUNCIL/PLANNING COMMISSION STUDY SESSION ON ZONING UPDATES

Ms. Henning reminded the Commission about the study session on July 22, 2019 at 6:30 PM following the regularly scheduled Council meeting at which they would present the changes made over the last 2 years. The Council has all received a booklet with the changes. Ms. Henning briefly went over the contents within the booklet. The Commission discussed how they would present it to the Council.

OTHER BUSINESS:

None

ADJOURNMENT

Having no other business, the meeting was adjourned at 8:10 pm. Next scheduled meeting is Monday, August 19, 2019.

Date: _____
Roger Ensz, Chair

Date: _____
Jackee Carlson, Planning Secretary

TO: Planning Commission

FROM: Anne Henning, Community Development Director

MEETING: August 19, 2019

SUBJECT: Zoning Update Revisions

At the July 22 Planning Commission/City Council joint study session on the Zoning Update, a number of issues were raised that needed further review. The issues are summarized and suggested resolutions are listed below.

Staff Comments

Zoning Text

1. Alley setback for residential. It was noted that a building right at the rear property line impacts use of the alley, including by vehicles such as garbage trucks. A 5' setback would eliminate this issue. The current and proposed rear setback for lots without an alley is 5'. Proposed change: 5' rear setback for all residential lots, whether or not there is an alley (17.20.060, Table 2). (Also maintaining proposed larger setback for garages opening onto an alley)

TABLE 2: DEVELOPMENT STANDARDS IN RESIDENTIAL ZONES						
Development Standards	R-1	R-2	R-3	R-4	R-M	S-1
Rear setback ¹ if no alley	5'	5'	5'	5'	5'	5'
Rear setback ¹ if abutting alley and garage does not open onto alley	0 ²					
Rear setback ¹ if abutting alley and garage opens onto alley	8'	8'	8'	8'	8'	8'

2. Minimum apartment size in Commercial. The draft included a minimum size of 220 SF + 100 SF per occupant after 4. This number was based on standards in the International Property Maintenance Code, since the International Building Code no longer has a minimum apartment size and staff had been trying to enforce on an existing apartment that was smaller than this. The consensus of the Council seemed to be that 220 SF is too small for local conditions. Staff was asked to review other jurisdiction's standards. This is complicated by a trend toward "microapartments" which are smaller than traditional apartments and may have shared kitchen and/or common areas. Microapartments are most common in large cities and expensive housing markets.
 - Wikipedia says a studio apartment is usually 200-450 SF, while a microapartment is 50-350 SF.
 - MRSC says microhousing is typically under 300 SF.
 - Kirkland and Redmond allow microhousing ("aPodments") of 150 SF.
 - Shoreline defines microhousing as less than 350 SF.

- In a 2015 report, Urban Land Institute defined micro unit as under 350 SF with a fully functioning kitchen and bathroom.

This seems like an issue that won't have a consensus among jurisdictions and instead needs to be set based on local conditions. Either the minimum size can be unaddressed by zoning, allowing it to default to building codes, or the Council and Commission can set a size that seems reasonable for the community. It should be remembered that just because there is a minimum size set in a code, a developer will not build minimum size units unless they expect there to be a market for them.

3. The Planning Commission had previously discussed the timing of landscape installation for single family development as well as follow up/enforcement when yards are not installed within one year of occupancy. This issue should be further discussed. See attached compilation of requirements in other cities.
4. Length of time for occupying an RV in an RV park. Of the 16 Eastern Washington cities reviewed (see attachment), most have time limits on the length of stay. However, some appear to be written in a way that would allow an RV to move out briefly or just move to a different space within the park. Staff recommends addressing the problems from long-term stay, rather than relying solely on a time limit that may be difficult to enforce. For instance, storage sheds, patios, and decks could be prohibited instead of allowed as they are currently, see OMC 17.44.030(c)(6). The Commission should also consider the likely purpose of the RV park, as some tend to be more for short-term recreational use while others might provide a location for temporary worker housing during a construction project.
5. The City Attorney provided some recommendations on the draft documents. See text following for staff response.
 - a. Existing 17.05.060: "Unmentioned uses which are not deemed similar to permitted uses by the zoning administrator shall be permitted only by a public hearing before the planning commission and their finding that..." City Attorney notes there are no provisions in the code for a "zoning administrator" and recommends this action be decided by the Hearing Examiner.
 - b. Proposed 17.20.030(c) assigns the decision on similar uses to the "Administrator". City Attorney recommends assigning to the Hearing Examiner or "City Administrator".
 - c. Proposed 17.20.010 is headlined as "Purpose" but there is no mention of purpose in the text of 17.20.010. The purpose statement is important because per proposed 17.20.030(c), when the Administrator is determining whether a use should be allowed, he is to "refer to the purpose statement in 17.20.010..." City Attorney suggestion: Use language from 17.20.060(g). So 17.20.010 would read: "Purpose. The standards and rules regarding residential zones are established to provide flexibility in project design, prevent fire danger, provide

adequate access and circulation, reduce incompatibilities, and prevent overloading of infrastructure due to the impacts of development.”

Staff discussion on City Attorney recommendations:

- a. 17.05.060 should probably be deleted as superseded by the new zoning chapters (17.20, 17.30, and 17.40), which only allow the listed use categories and those found similar.
- b. 17.20.030(c) references the interpretation process in (existing) OMC 19.03.020(b). OMC 19.03.020 states roles and responsibilities of the City Administrator, including administrative interpretation. So it is clear that the “administrator” in 17.20.030(c) is the city administrator, although “city” could easily be added to 17.20.030 if that improves clarity for users. If the change is made here, it should be made in the corresponding sections of 17.30 and 17.40.
- c. It doesn’t seem that the purpose for the dimensional standards (17.20.060(g)) would be very useful as a purpose in determining which uses are similar. Therefore, there should be a more general purpose for the whole chapter. Staff proposed language: “The purpose of this chapter is to provide for:

The specific characteristics of residential development that may take place in Othello;
A consistent and compatible land use pattern;
The residential housing needs of Othello residents;
The public safety needs of Othello residents.”

The purpose statement for each zone could also be modified to state that “the R- Zone is intended as ...” to make each one more of a purpose and less a statement of fact.

The Commission should discuss if they have additional ideas on how to restate the purpose section.

6. Some additional issues have come up that the Planning Commission should discuss:
 - a. 17.30.030 Table 1: Open sales lots/vehicle sales lots.
 - i. The requirement for a building for these uses should be clarified. This could be added to each of these uses in the table or a footnote (“Open sales lot in conjunction with a principal use which must be in an enclosed adjoining building”) or a more general statement, maybe in 17.30.050, Development Standards (“All uses must be associated with a principal use which must be in an enclosed adjoining building”).
 - ii. The development standards for a vehicle sales lot in 17.61 should be referenced (“in compliance with the development standards in 17.61.060”).
 - b. Site-specific rezone. Staff suggests that section 17.87.030 (see attached) be added, to clarify the process for site-specific rezones, which would collect all the rezone information into one chapter. Area-wide rezones are legislative actions and are reviewed by the Planning Commission (17.87.020 with the previous slight modification). Site-specific rezones are quasi-judicial and reviewed by the

Hearing Examiner, although unlike other quasi-judicial actions (such as conditional use permits and subdivisions), state law requires final approval of a rezone by City Council. This process is specified in the new draft 17.87.030.

- c. OMC 17.92 General Administration and Enforcement. It was determined this chapter should be retained since not all enforcement goes through OMC 1.20. Therefore, Planning and Code Enforcement modified this chapter (attached) to reassign the enforcement provisions to the Code Enforcement Officer instead of the City Planner. This chapter was sent to the City Attorney's office for review by the attorney who works on enforcement.
- d. If 17.05.060 (Unmentioned Uses) is proposed for deletion (as suggested by staff in #5, above), then 17.05.080 (Duty of commission) should be modified as well to remove the reference to 060. The Commission should discuss whether the whole 17.05.080 section should be deleted, or if it would be appropriate to list other duties of the commission, such as reviewing and recommending amendments to the Municipal Code and Comprehensive Plan.
- e. OMC 17.13.010 (p.6 of 79) should not show strikeout text for the Residential Medical District.

Zoning Map

- 7. Assessed value. The question was asked: Does zoning affect assessed value? Staff contacted Ron Brown, Appraiser for Adams County. Mr. Brown explained they use the concept of "highest and best use" which includes evaluating what is legally permissible at the site, what is financially feasible, and what would lead to the best return on investment and highest sale price. A vacant lot would be appraised mostly based on the zoning, but a site that already has a structure is much different. For an existing developed lot, most of the value is in the structure, with only a small portion in the land. He pointed out that no one would tear down a \$120,000 house to build a different structure on a \$30,000 lot. It is only if the structure becomes so dilapidated that the value of the parcel is mostly in the land (because the structure has so little value anymore). So even if a house is in a multi-family zone, the highest and best use is as the existing single family house (assuming the house is in good condition). He said that as long as the building has substantial value, the highest and best use is the existing building.
- 8. The proposed Zoning Map had an error and did not correctly show the Planning Commission's recommendation to retain the existing R-2 Zone for one lot depth north of Olympia and west of 7th Avenue. This will be corrected. At the study session, it was also discussed to retain the existing R-2 Zone on 4th Avenue from Fir north to Olympia.
- 9. It was discussed that property along Lee Road is prime for industrial development, due to existing utilities including substantial gas and electric facilities, as well as location on a

truck route. The need for a buffer between Industrial and Residential was also discussed.

10. An issue which wasn't directly addressed at the study session but that is relevant to the residential zoning discussion is the amount of developable vacant land available in the city. Staff will work on mapping vacant residential land in time for the August 19 meeting.
11. A request for zoning changes was submitted 7-19-19 for parcel #1529030680219, to both decrease the commercial area and increase the residential area, as well as rezone the resulting residential area from R-3 to R-4 to allow a memory care facility. See attached Terra Gold Farms letter.

Attachments

- Residential Landscape compilation
- RV Park Length of Stay compilation
- OMC 17.87 revisions
- OMC 17.92 revisions
- Terra Gold Farms request letter

Action: The Planning Commission should review each issue and determine how to advise the Council. Based on the progress on addressing these issues, the Commission should determine if they are ready for another joint study session to present their recommendations to the Council.

Residential Landscape Installation

City	Requirements	Timing
Connell CMC	Code does not list any landscaping requirements for residential.	
East Wenatchee 17.72.060.G 17.72.060.D EWMC 17.72.110	Residential Low & Medium Density require 20% of site landscaped, Residential High Density 15%. Street frontage landscaping is required in Commercial & Industrial but not Residential.	Landscaping must be installed or bonded before C of O.
Ephrata EMC 19.07.070.B EMC 19.07.040(c)(1)	Street trees for new subdivisions.	Street trees installed or bonded before final plat approval. Front yard landscaped within 1 year of occupancy
George GMC 19.57.040.C.1 GMC 19.57.070.B	Street trees for new subdivisions.	Street trees installed or bonded before final plat approval. Front yard landscaped within 1 year of occupancy
Kennewick	Code does not list any landscaping requirements for residential.	
Moses Lake MLMC 18.57.070 18.57.040.C.1	Street trees for new subdivisions. Front yard landscaping.	Street trees for a residential lot required before C of O. Front yard landscaped within 1 year of C of O.
Pasco PMC 25.180.050.4&5 12.12.070	At least 50% of front yard (including ROW but excluding driveways) shall have live vegetation. Front yard areas not covered by required 50% live vegetation must have mulch or decorative rock. All planting strips shall be maintained with lawn, trees, shrubs, living ground cover, or combination thereof. City approval needed for trees and shrubs.	Residential landscaping no later than 3 months after C of O.
Pullman PMC 17.45.100	Landscaping required for all new development. No clear how this relates to individual houses.	Landscaping installed prior to occupancy or use, except up to 1 year delay where planting season conflicts would produce high probability of plant loss.
Quincy QMC 20.48.050.A.5 20.48.080	Residential Medium District 6' streetscape landscaping	Landscaping installed prior to occupancy or issuance of C of O. Bond allowed.
Richland RMC	Maintenance of public trees in planter strips is required.	
Ritzville RMC 11.90	Landscaping required for commercial & industrial. No code	

City	Requirements	Timing
	requirement for residential landscaping.	
Royal City RCMC 17.57	Street trees for new subdivisions. Front yard landscaping.	Street trees for a residential lot required before C of O. Front yard landscaped within 1 year of C of O.
Spokane Valley SVMC 22.70	Street trees for new subdivisions	Prior to C of O, person who prepared landscape plan must certify that irrigation & landscaping installed per plan. 20.40.040 bond for non-street improvements including landscaping in lieu of completing prior to approval of final plat.
Warden WMC 17.57	Street trees for new subdivisions. Front yard landscaping.	Street trees for a residential lot required before C of O. Front yard landscaped within 1 year of C of O.
Wenatchee WMC 10.62	Street trees for new subdivisions.	Installed or bonded for before C of O.
West Richland	No landscape requirement for residential in code.	

RV Park Length of Stay Regulations

City	Maximum stay	Notes
Connell CMC 16.50.010(h)	364 continuous days in any one-year period	
East Wenatchee	n/a	No RV park regulations
Ephrata, EMC 19.15	90 days per calendar year	
George GMC 19.71.070.C	180 consecutive days in one space	
Kennewick 18.12.170	120 days/calendar year	18.09.1690 defines "Recreational vehicle park, seasonal" as allowing no more than 180 days (cumulative) within a consecutive 12-month period. 18.09.1700 defines "Recreational vehicle park, transient" as no more than 30 consecutive days. These parks are "tourist-oriented" and usually have recreation and other facilities.
Moses Lake, MLMC 18.71.070.C	180 consecutive days in one space	"No RV shall remain in a park space for more than 180 consecutive days."
Pasco PMC 25.160.040(3)	180 days/12 month period, unless permitted as a primary residence (MC 19.30.080)	
Pullman	180 days	
Quincy QMC 20.39.040.M	120 days/12 month period	Permanent occupancy is not allowed. Wheels may not be removed (except for repair). No external appurtenances, such as carports, cabanas, decks, or patios may be attached to an RV.
Richland RMC 23.42.220.K	12 months in 14-month period unless specifically allowed by PC	PC can approve unlimited stay based on operational plan reviewed every 5 years.
Ritzville RMC 11.130.020.I	120 days/1-year period	"No RV shall remain in place in an RV park for more than 120 days in any 1-year period."
Royal City RCMC 17.71.040.C	180 consecutive days in one space	
Spokane Valley	No limit	Length of stay is not addressed.
Warden WMC 17.71.070.C	180 consecutive days in one space	
Wenatchee WMC 10.65.250	180 days/12 month period	
West Richland	No limit	RVs are allowed in mobile home parks (17.54.200+) No regulations on length of stay.

17.87.010 Procedure.

This title, or any part of it, may be amended, supplemented, repealed or modified by subsequent ordinances of the city adopted as provided by law. (Ord. 948 § 2 (part), 1995).

17.87.020 Amendments and zoning change procedures.

The regulations, classifications or area-wide zone boundary lines may be amended by ordinance in the following manner:

- (1) The planning commission, upon receipt of an amendment or zone change request, or after a motion of its own, shall investigate the merits of the request and may set a public hearing date at which time the request can be considered.
- (2) Following the hearing, the planning commission shall forward its findings, conclusions and recommendation to the city council.
- (3) After receiving a recommendation from the planning commission and after a public hearing has been held before the council, the council may consider the request. If the council finds the amendments are in the public interest, benefit the public welfare of the community, and are consistent with the city's zoning scheme, it shall so amend this title by ordinance. (Ord. 948 § 2 (part), 1995).

17.87.030 Site specific rezone procedures.

Rezones which are not of general applicability may be processed as follows:

- (1) A public hearing before the Hearing Examiner is scheduled and held, following the standards of Title 19.
- (2) Following the hearing, the Hearing Examiner shall forward findings, conclusions, and recommendations to the city council.
- (3) The council will consider the recommendation. If the council finds the rezone is in the public interest, benefits the public welfare of the community, and is consistent with the Comprehensive Land Use Plan and the city's zoning scheme, it shall adopt the rezone ordinance.

Chapter 17.92

GENERAL ADMINISTRATION AND ENFORCEMENT

Sections:

- 17.92.010 Purpose.
- 17.92.020 Duties of officials.
- 17.92.030 Interpretations of this title.
- 17.92.040 Building permits.
- 17.92.050 Certificate of occupancy.
- 17.92.060 Fees.
- 17.92.070 Right of entry.
- 17.92.080 Violations.
- 17.92.090 Enforcement and penalties.

17.92.010 Purpose.

The purpose of this chapter is to establish provisions pertaining to the administration and enforcement of this title. It is the intent that all questions of interpretation and enforcement shall first be presented to the planner for resolution prior to seeking enforcement through litigation. (Ord. 1307 § 1 (part), 2009).

17.92.020 Duties of officials.

(a) City Planner. The city planner is responsible for the administration, and interpretation, and enforcement of all parts of this title.

(b) The Mayor's Designee. The mayor's designee, or the person designated to perform the duties of the mayor's designee, is responsible for providing engineering review, in consultation with the city engineer, of permit applications when such a review is needed, and for such other duties as set forth in this title.

(c) Building Official. The building official is responsible for assuring that all building permits and certificates of occupancy are referred to the city planner, as required by Sections 17.92.030 and 17.92.040.

(d) Code Enforcement Officer. The code enforcement officer is responsible for the enforcement of all parts of this title.

(e) Enforcement. All departments, officials, and public employees of the city which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no such permit or license for any use, building, or purpose if the same would be in conflict with the provisions of this title, and should any such permit or license be issued in error it shall be null and void from its issuance and the city shall not be required to seek an appeal or review of the issuance of that permit or license to be able to declare the same as null and void from the date of its wrongful issuance.

(f) General Duty. None of the provisions of this title are intended to create a cause of action or provide the basis for a claim against the city, its officials, or employees for the performance or failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public. (Ord. 1307 § 1 (part), 2009).

17.92.030 Interpretations of this title.

The city planner may, acting on his or her own initiative or in response to an inquiry, issue interpretations of any provision of this title for which the mayor's designee shall be responsible. The city planner shall base his or her interpretations on the following:

- (a) The defined or common meaning of the words of the provision;
- (b) The general purpose of the provision; and
- (c) The meaning of the provision in relation to the comprehensive plan. (Ord. 1307 § 1 (part), 2009).

17.92.040 Building permits.

Building permits are required by Chapter 17.65.

- (a) The building official shall refer to the city planner all applications for building permits for new construction and for additions which increase the square footage of usable space.
- (b) Upon receiving an application for a building permit, the city planner shall review it and make any necessary field inspections to determine whether the proposed construction or addition complies with this title. (Ord. 1307 § 1 (part), 2009).

17.92.050 Certificate of occupancy.

(a) No building hereafter erected, moved, enlarged, or changed in use shall be occupied until a certificate of occupancy has been issued by the building official.

(b) Certificates of Occupancy for Conforming Uses, Buildings, and Structures.

- (1) A certificate of occupancy shall be issued only after such building, enlargement, or relocation has been completed in conformity with the provisions of this title and any applicable permits and plans.
- (2) Any use legally occupying an existing building at the time this zoning code becomes effective may be continued but shall not be changed unless a certificate of occupancy for the new use shall have been issued by the building official after finding that the new use conforms to any required conditions of any applicable permits and plans, and the city planner finds that the new use conforms to this title.
- (3) Any transfer of ownership of the building or structure which does not involve a change of use shall automatically effect a transfer of the certificate of occupancy to the new owner.

(c) Certificates of Occupancy for Nonconforming Uses, Buildings and Structures.

- (1) The owner or authorized agent of any legal nonconforming use, building or structure may, at any time, apply for a certificate of occupancy to continue as a nonconformity under the provisions of Chapter 17.79.
- (2) No certificate of occupancy for a nonconforming use, building or structure shall be issued until the applicant demonstrates that the nonconformity existed on the effective date of this title, or on the date when preceding versions of the city's zoning regulations became effective as to such building, structure, land or use, or that the building, structure, land, or use was rendered nonconforming by an amendment to this title subsequent to its effective date.
- (3) A certificate of occupancy for a nonconformity shall state the manner in which the property is nonconforming and the date when the property became nonconforming.
- (4) Any transfer of ownership of the building or structure which does not involve a change of use shall effect a transfer of the certificate of occupancy to the new owner. (Ord. 1307 § 1 (part), 2009).

17.92.060 Fees.

~~All applications for permits, certificates of occupancy, rezones, variances, site plan approvals, and appeals shall be accompanied by the fees established for such applications by action of the council. (Ord. 1307 § 1 (part), 2009).~~

17.92.070 Right of entry.

- (a) Application Constitutes Permission for Entry. Application for any permit, certificate of occupancy, rezone, variance, site plan approval, or appeal constitutes permission for representatives of the city to enter on the property involved in order to make inspections necessary to permit review. A refusal to permit entry is considered to be an abandonment of the application and forfeiture of all fees charged and/or paid.
- (b) Investigation of Potential Violations. The ~~code enforcement officer~~ ~~city planner~~ may enter upon private property to investigate potential violations of this title if he or she has a good faith belief that a violation exists on the property. Before entering upon private property, the ~~code enforcement officer~~ ~~city planner~~ shall present

credentials to the owner or person in possession or charge of the property and request entry. If entry is refused, the code enforcement officer city planner may use any lawful means to obtain entry. (Ord. 1307 § 1 (part), 2009).

17.92.080 Violations.

(a) It is unlawful for any person to do or cause any act to be done contrary to or in violation of this title, and for any property owner to permit any act to be done contrary to or in violation of this title. All violations of this title which are enforced by means of this administrative process are determined to be public nuisances and subject to abatement in the manner provided for herein as well as by any and all means provided by state law for the abatement of public nuisances.

(b) It is also unlawful for any applicant or permittee to fail to perform any activity or obligation required by this title.

(c) Any violation of any provision of this title is a C-1 civil infraction subject to a penalty as provided in Chapter 1.10.

(d) Any violation of any provision of this title may be enforced per Chapter 1.20 et seq. or Section 17.92.090. (Ord. 1465 § 7, 2016: Ord. 1307 § 1 (part), 2009).

17.92.090 Enforcement and penalties.

When the code enforcement officer city planner determines that a violation of this title exists, he or she may proceed against that violation using the procedures provided in this section.

(a) Initiation of Review. A review under this subsection may be initiated by:

- (1) The code enforcement officer city planner;
- (2) A motion of the city council;
- (3) Any aggrieved person believing that a violation or violations of this title is occurring by making a written complaint to the code enforcement officer city planner.

(b) Review Procedure.

- (1) The code enforcement officer city planner shall within sixty days after the receipt of such written allegations or motion of the city council complete an investigation of the alleged violation(s) to determine the merits thereof.
- (2) Within fourteen days after the code enforcement officer city planner has completed the investigation, he or she shall take the following action:
 - (A) If the code enforcement officer city planner determines that no violation as alleged or otherwise is occurring, then notification of that decision shall be given to the complaining person or a spokesperson for the complaining person, or in a written report to the city council.
 - (B) If the code enforcement officer city planner determines that a violation is occurring or has occurred as alleged, a notice of violation and order to correct or cease activity shall be sent as specified in subsection (c) of this section.
- (3) If the code enforcement officer city planner determines that the way to correct a violation is for the property owner or violator to cease the activity, or for the city to impose new or changed conditions on a permit or plan that has been issued or approved, the code enforcement officer city planner shall refer the matter to the hearing examiner or staff for review depending upon which entity made the final decision on the matter under review.
 - (A) The hearing examiner shall hold a public meeting to review the permit or approval, using criteria required for the original.

(B) If the hearing examiner finds that a violation exists, and that it can be reasonably resolved by imposing new or changed conditions on the permit or plan, the conditions may be changed. The action of the hearing examiner shall be final as provided under Chapter 19.09.

(C) If the hearing examiner determines that the way to correct the violation is for the permittee to cease the violation, and the permittee fails or refuses to cease the violation, the hearing examiner may revoke the permit or approved plan and may order the activity allowed by the permit or plan to cease.

(D) If the violation is of a condition which was imposed by staff and staff finds that the violation can be reasonably resolved by imposing new or changed conditions on the permit or plan, conditions may be changed by staff.

(E) If the staff determines that the way to correct a violation is for the permittee to cease the violation and the permittee fails or refuses to cease the violation, the staff may revoke the permit or plan and may order activity allowed by the permit or plan to cease.

(c) Notice of Violation and Order to Correct or Cease Activity.

(1) General. If the code enforcement officer city planner determines that any activity, condition, structure, or use exists that does not conform to this title, he or she may issue a notice of violation and order to correct or cease activity. This notice will specifically indicate the following:

(A) The name and address of the person(s) charged with the violation;

(B) What provision of this title is being violated;

(C) The street address and a brief legal description of the site on which the violation has been determined to exist;

(D) What is necessary to correct the violation;

(E) The time by which the violation is to be corrected or activity ceased; and

(F) A statement that the civil penalties established in subsection (e) of this section shall be assessed against the person(s) cited if the violation is not corrected within the specified time period.

(2) Notice to Occupant and Owner. The code enforcement officer city planner shall deliver or cause to be delivered the notice of violation and order to correct or cease activity by U.S. postal mail, or certified mail return receipt requested, or personal service to: the occupant or person in charge of the property if the occupant or person in charge of the property is the violator; or the owner of the property if the owner of the property is the violator, or both if appropriate.

A copy of the notice of violation and order to correct or cease activity shall be sent to the complaining person or a spokesperson for complaining person.

(d) Appeals.

(1) Any notice of violation and order to correct or cease activity issued by the code enforcement officer city planner shall be appealable to the hearing examiner under Chapter 2.16.

(2) Any dispute as to whether or not a violation for which a notice of violation and order to correct or cease activity has been issued has been resolved so as to comply with the underlying city standard shall be appealable to the hearing examiner under Chapter 2.16 so long as such appeal is filed before the penalty sum has reached five thousand dollars.

(e) Penalties.

(1) Any violation for which a notice of violation and order to correct or cease activity has been issued but which has not been corrected within the time specified shall incur a civil penalty of two hundred fifty dollars per day up to a sum of five thousand dollars, beginning on the day the correction was to be completed. The cumulative penalty provided for in this subsection shall not accrue while an appeal is pending, nor shall the penalty preclude the initiation of appropriate legal action to correct the violation.

(2) If a penalty has been assessed pursuant to subsection (e)(1) of this section, a court shall assess that penalty and any additional penalty the court considers appropriate plus court costs and attorney's fees.

(f) If the code enforcement officer city planner determines that the property owner or violator could reasonably correct the violation, but fails to do so within the time specified in the notice of violation and order to correct or cease activity, the code enforcement officer city planner may refer the matter to the city attorney for civil enforcement by injunction or other appropriate action.

(g) Compromise, Settlement, and Disposition of Disputes or Litigation. The code enforcement officer city planner and the city attorney may negotiate a settlement or compromise or otherwise dispose of a dispute or litigation when to do so would be in the best interests of the city. (Ord. 1307 § 1 (part), 2009).

RECEIVED BY

JUL 19 2019

OTHELLO BUILDING & PLANNING



July 19, 2019

Via Personal Delivery:

City Council Members	Anne Henning
City of Othello	Comm. Dev. Dir. Building & Planning
500 E Main St	500 E Main St
Othello, WA 99344	Othello, WA 99344

Re: Proposed Zoning for Presentment at July 22, 2019 Council Meeting:

Dear City Council Members:

I am writing the Othello City Council today as the business owner of Terra Gold Farms, Inc., located in the city of Othello. I am requesting that a parcel of land, known as tax parcel 1529030680219, be rezoned in order for it to be developed to meet a great need in the community. The parcel consists of approximately 20 acres of land. Presently, the east 150 feet of the parcel, from Second Avenue on the east and from Olympia Street on the north to Fir Street on the south, is currently zoned R3, while the remainder of the parcel is zoned C-2. The C-2 portion begins from Broadway Avenue on the west, to Olympia Street on the north and Fir Street on the south. The Planning Commission, pursuant to its June 17, 2019 published proposal, recommended the commercial portion of this parcel change from C-2 to C-3.

We wish to work with current land owners and with new land owners to develop the above-referenced parcel so that it will still provide commercial use along Broadway Avenue, but also provide a much needed residential use along Second Avenue. We are requesting that the west 175 feet of this property along Broadway Avenue change from C-2 to C-3, as proposed by the Planning Commission (see map attached). Additionally, we are requesting that the remainder of the parcel be changed from R-3 to R-4 zoning in order to allow Coventry, Senior Resource Development to build a Memory Care Facility and condominiums on the east side of the parcel immediately adjacent to its current

development. The zoning for this portion of the parcel would need to be changed from R-3 to R-4 to accommodate this use. We are requesting that the City Council, consider this proposal, in conjunction with the city wide zoning changes proposed by the Planning Commission.

This parcel would retain its commercial use along Broadway Avenue and its residential use along Second Avenue, but the changes would allow for development of more senior residents and a much needed memory care facility within the Othello City limits. Ultimately, the need for senior care is increasing and this type of development will serve seniors and their families allowing them to live closer to one another. In addition to the development of a memory care facility and senior housing, the long-term plan for the parcel is to build a neighboring housing development to support Othello's families.

We believe that these changes to the city's current zoning will enhance and compliment the existing businesses in the location and will provide a positive contribution to the City of Othello's growth plan. Thank you for your time and consideration as you review our request.

Sincerely,

A handwritten signature in black ink, appearing to read "AJ Ochoa".

AJ Ochoa
President/ CEO

