



## CITY OF OTHELLO PLANNING COMMISSION

**Regular Meeting  
500 E. Main St.  
November 18, 2019  
6:00 PM**

1. Call to Order - Roll Call
2. October 21, 2019 Minutes Approval
3. McCain Foods Short Plat – Waiver Request – Recommendation to Council
4. Zoning Update – R-4 Zone at 2<sup>nd</sup> Ave – Recommendation to Council
5. OMC 17.46 Mobile Home Parks & 17.79 Nonconforming Uses – Request for Direction

***Next Regular Meeting is Monday, December 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  
October 21, 2019  
Jackee Carlson

#### **CALL TO ORDER**

Chair Roger Ensz called the meeting to order at 6:01 pm.

#### **ROLL CALL**

**Commissioners Present:** Roger Ensz, Chris Dorow, Tari Perez

**Absent:** Brian Gentry, Kevin Gilbert

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

**Attendees:** John Lallas, Bob Carlson

Quorum Established.

#### **APPROVAL OF SEPTEMBER 16, 2019 PLANNING COMMISSION MEETING MINUTES**

**Commission Action:** The Commissioners voted to accept the minutes from September 16, 2019 M/S Chris Dorow/Roger Ensz

#### **ZONING UPDATES – STATUS REPORT**

Ms. Henning stated that the City Council discussed the remaining issues and gave direction to staff. They are not interested in changing the zoning for existing neighborhoods. The zoning map that will be presented to them will not include the R-2 to R-3 changes. The next step is to hold a public hearing, which will be held November 12<sup>th</sup>. The City will be mailing a letter to everyone within 300 feet of the proposed changes, per Council direction.

Commissioner Chris Dorow asked if there was ever a decision made on the ammonia issue and what AJ Ochoa wanted to do. Ms. Henning stated that she had received comments back from the Fire Chief which stated he was not in favor of expanding the residential zones closer to closer to industrial area and he was not in favor of a care facility like he wanted in that area. The Council asked to have him present to discuss it with them, Ms. Henning will be working on coordinating a date with them. Councilman Lallas reaffirmed that the Council was concerned with a care facility being so close to industrial area.

#### **OMC 14.04.070 UNPLATTED AREAS & 14.04.080 PLATTING DEEMED INSUFFICIENT – REQUEST FOR DIRECTION**

Recently a building permit situation arose, which caused staff to look more closely at OMC 14.04.070 and 080, which deal with building on unplatting property and building on property that lacks improvements required by current platting codes.

Ms. Henning stated they had received a permit for a remodel of an existing building to make some bathrooms ADA accessible and change a few walls. This property currently does not have sidewalks. In the existing code, if the work being done increases the assessed value by 5 percent, it would trigger the

owners to construct street improvements and only one exception is allowed in the life of the building. Ms. Henning stated that it would shut down small projects, which would improve the building because it could trigger having to install the sidewalks or any other improvements. Ms. Henning provided the Commission with several copies of other cities codes. After reviewing the sample codes and a brief discussion the Commission decided to change the percentage to read twenty-five percent of the total assessed value and remove the one time only clause.

Ms. Henning stated that building on unplatting property, platting deemed insufficient are unusual things in the code that stem from the City Attorney at the time and asked if there was a better way to get the same result of upgrading the infrastructure. The other part of this, 14.04.070 (a) (3) – States that you can get building permits for at least twenty-five percent of the lots in a preliminary plat once you have fire hydrants and a gravel street. Pete Olsen is asking if he can get more than twenty-five percent of the permits at a time. His final plat has been submitted but there are glitches with street lighting and the City won't accept the improvements until they are completed and working. The Commission agreed to remove the verbiage of twenty-five percent, which would allow for more permits to be issued, but not issuing the certificate of occupancy until the improvements are completed.

**The Commission carried a motion to remove twenty-five percent in section 14.04.070 (a) 3 and to change the total assessed value percent to twenty-five percent instead of 5 and remove the one-time exception. Motion introduced by Chris Dorow. Motion was seconded by Tari Perez. Vote was 3-0 in favor; motion passed.**

#### **OMC TITLE 16 SUBDIVISION AMENDMENTS - DISCUSSION**

As previously discussed at the January 2019 Planning Commission meeting, OMC Title 16 is in need of an update. There are certain things that conflict with other sections of the code.

**16.11.050 & 16.17.050 – Waivers, Deviations & Deferrals** – When someone is platting and they want to do something that's not what the code says, per current code, they have to come to the Planning Commission, who make a recommendation to the Council, then the Council makes a decision. Ms. Henning states that a panel of people should be the ones making the decision an individual staff member. According to MRSC some cities don't allow any deviations from the standard and others have a staff approval process. Ms. Henning asked the Commission if they were ok with the current process where the developer presents it to the Planning Commission and then they present it to the Council. The Commission agreed to leave it as it is.

**16.11.060 Dedication on Short Plats** – A short plat is approved by staff, there is no Council acceptance. The Code currently states that any dedication has to go to Council for acceptance, which is a cumbersome process.

Ms. Henning asked the Commission if they thought that road dedication should be something that goes to the Council to be accepted. The Commission discussed and felt like this was something that could be approved by staff.

**Short Plat** – State law allows a short plat to be up to 9 lots. Othello currently only allows a short plat to be 4 lots or less. Commissioner Chris Dorow asked why Othello only allowed the 4 lots. Ms. Henning was not sure why but did state that a major plat has a full public notice and is decided on by a hearing

examiner for a decision. A short plat does not require a full public notice and is approved by staff. After a brief discussion, it was decided to keep it the way it is now.

**16.15.070 Surety in Lieu of Constructing Improvements** – This states that a final plat can be approved without all of the infrastructure being completed as long as it is bonded for, you can record the plat but cannot obtain a certificate of occupancy until it is completed. Should there be a process to extend it beyond a year after the plat is recorded. The Commission discussed it and they did not agree to the extension.

**Final Plat Review Process** – A final plat is confirming that all conditions from a preliminary plat are met. A hearing examiner approves the preliminary plat and the Council approves the final plat. Ms. Henning asked the Commission if it was something that needs to go to Council, or it was something that could be delegated to the Planning Commission or Staff. The Commission agreed that since it just goes to Council on the consent agenda, it could just be approved by staff.

**Standards** – Ms. Henning asked the Commission for their thought on standards and what they thought they should be. They discussed planter strips and street trees. With the trees, Commissioner Ensz mentioned that although pretty, they could create issues with the sap, and it is getting onto cars. Planter strips would need to be maintained by the property owners. They also discussed street width and they agreed that they did not like tight streets. They also discussed dead-end streets vs. grid network. As far as the street trees, they discussed various options and Ms. Henning gave an example of what Moses Lake does. For Landscaping the Commission agreed to leave it as is, which requires that front yard landscaping within 1 year of certificate of occupancy issuance.

**OTHER BUSINESS:**

None

**ADJOURNMENT**

Having no other business, the meeting was adjourned at 7:58 pm. Next scheduled meeting is Monday, November 18, 2019.

\_\_\_\_\_  
Roger Ensz, Chair

Date: \_\_\_\_\_

\_\_\_\_\_  
Jackee Carlson, Planning Secretary

Date: \_\_\_\_\_

TO: Planning Commission

FROM: Anne Henning, Community Development Director

MEETING: November 18, 2019

SUBJECT: McCain Foods Short Plat – Deferral Request – Recommendation to City Council

McCain Foods applied for a 1-lot short plat at their existing facility at 100 Lee Road. As part of the plat review process, street and utility improvements to Lee Road and Broadway Avenue were identified as being required. McCain Foods has requested to waive these improvements. OMC 16.40 sets up the process to waive or defer improvements, with a recommendation by Planning Commission and approval by City Council.

#### **Staff Comments**

1. The Commission is reviewing only the waiver request. The short plat itself is reviewed administratively.
2. The property is being platted because that is a requirement of the building permit for the expansion project.
3. Identified improvements needed to meet Public Works Design Standards for this site are Lee and Broadway street improvements (curb, gutter, and sidewalk), storm water, irrigation, and street lighting. In addition, the sanitary sewer main in Lee would need to be extended approximately 100'.
4. It is staff's opinion that these street and utility improvements are not needed at this time, due to the industrial nature of the area. Normally, staff would recommend a deferral, with a covenant attached to the property to guarantee the improvements in the future. However, McCain Foods is unable to accept this type of future obligation directly linked to the expansion project. They are not unwilling to participate in future improvements; the problem is the connection with the expansion project. Therefore, staff recommends that the improvements tied to the plat be waived, and if the time comes when the improvements are needed, the City can pursue another mechanism, such as setting up a Local Improvement District or a Latecomer Agreement. These methods are not as simple as a deferral and covenant, but given the circumstances, they do provide an alternate way to achieve the end result of the property owner participating in the cost of the improvements abutting their property.
5. Note that OMC 16.40 requires specific findings about the nature of the site or the area that justify granting the deferral.

#### **Attachments**

- OMC 16.40
- Preliminary McCain Foods Short Plat, Sheet 3

- Waiver request letter from McCain Foods

**Staff Recommendation:** Staff recommends that the request to waive street and utility improvements be granted.

**Action:** The Planning Commission should discuss the waiver request and make a recommendation to City Council to approve or deny the waiver request. The Commission should make findings of fact to support the recommendation.

## Chapter 16.40

### WAIVERS, DEVIATIONS AND DEFERRALS

Sections:

16.40.010 Waivers, deviations and deferrals.

**16.40.010 Waivers, deviations and deferrals.**

There is established a procedure for granting waivers, deviations and deferrals of the regulations contained in this title, as follows:

(a) Any subdivider can make application to the planning commission for a waiver of, deviation from or deferral of any provision contained in this title, provided the request is received concurrently with the proposed subdivision or dedication. Such application shall include any and all details necessary to support the application. All waiver, deviation and deferral requests must be forwarded to the city council with the preliminary plat and with the planning commission's findings, conclusions and recommendations.

(b) The planning commission shall not grant a waiver, deviation or deferral of the subdivision regulations unless it shall find that the following condition exists in each case of a request:

(1) Where, because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of unusual physical conditions, the strict compliance with the provisions of this title would cause an unusual and unnecessary hardship on the subdivider, the planning commission may waive, defer or deviate from the requirements set forth in this title.

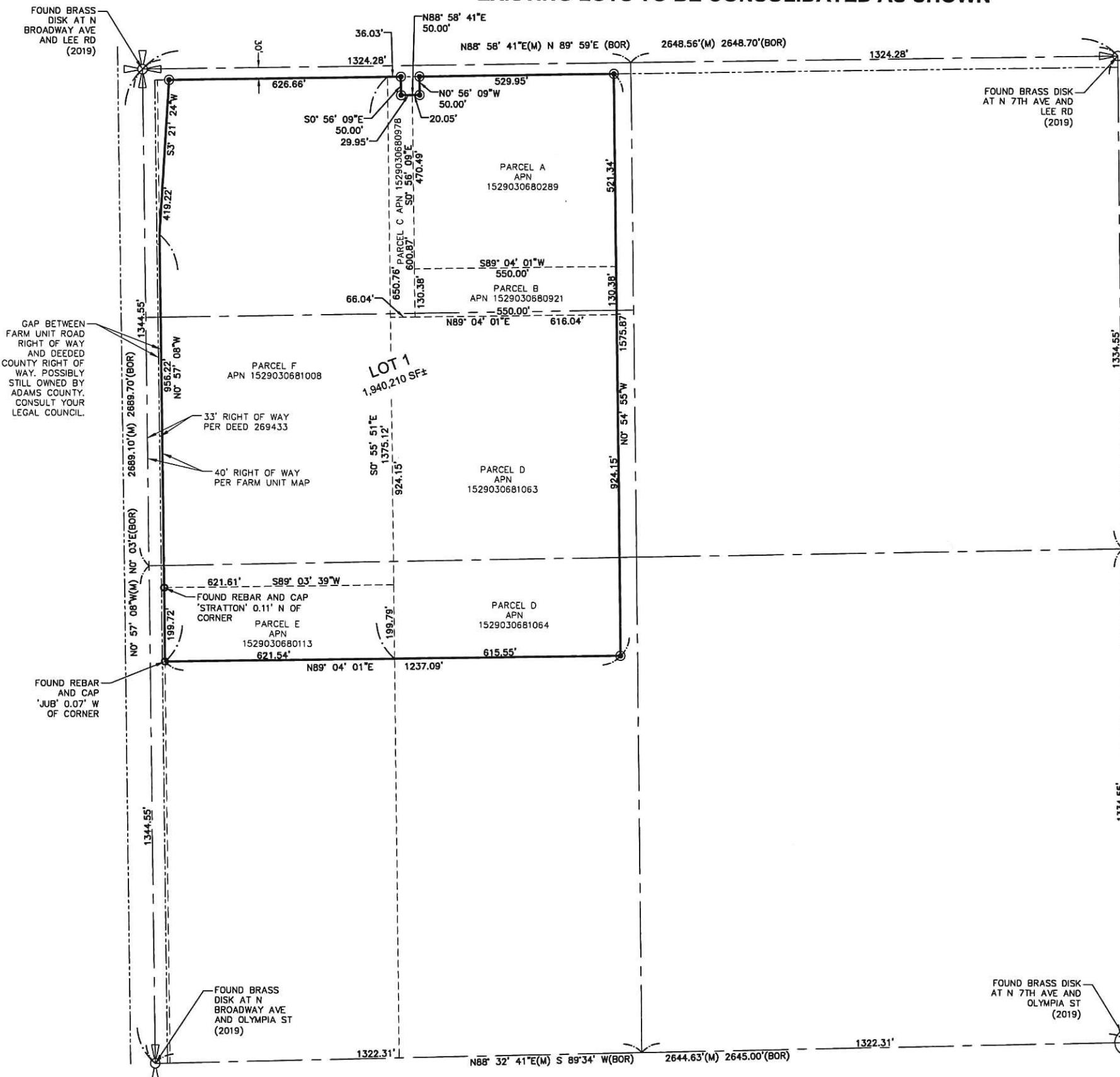
(2) In granting waivers, deviations and deferrals, the planning commission may require such conditions as will secure, insofar as practicable, the objectives of the requirement waived or deferred. Any waiver, deviation or deferral authorized shall be entered in the minutes of the planning commission together with the circumstances that justify the waiver, deviation or deferral granted.

(c) If a short plat has not been approved as final within six months after the waiver, deferral or deviation is granted, that waiver, deferral or deviation shall become null and void. (Ord. 1270 § 1 (part), 2008: Ord. 947 § 2 (part), 1995).

**McCAIN FOODS SHORT PLAT**  
A PORTION OF FARM UNITS 89 & 90, IRRIGATION BLOCK 45  
IN THE NW 1/4 OF SECTION 34, TOWNSHIP 16 NORTH, RANGE 29 EAST, W.M.  
CITY OF OTHELLO, ADAMS COUNTY, WASHINGTON.

**SHEET 3 OF 4**

## **EXISTING LOTS TO BE CONSOLIDATED AS SHOWN**



0 100 200 400 FEET

1" = 200 FEET

## LEGEND



SECTION CORNER



## CENTER SECTION



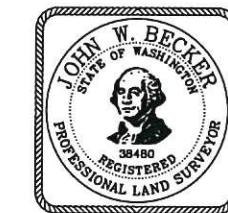
## SET REBAR AND CAP

## BASIS OF BEARING

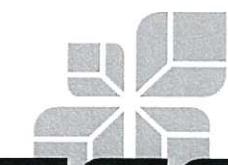
NAD 1983/11  
WASHINGTON STATE PLANE SOUTH PROJECTION, BASED ON GPS  
OBSERVATIONS USING WSRN AND GEOD 2012A. UNITS OF  
MEASUREMENT ARE US SURVEY FEET.

## EQUIPMENT USED

### **3" TOTAL STATION USING STANDARD FIELD TRAVERSE METHODS FOR CONTROL AND STAKING.**



DWN. BY	DATE
TD	7/12/19
CHKD. BY	JOB NO.
JB	2190024



The logo for AHBL (Associated Home Builders of the Northwest) features the letters A, H, B, and L in a bold, white, sans-serif font, each enclosed in a black rounded square. Below the letters, the text "TACOMA · SEATTLE · SPOKANE · TRI-CITIES" is written in a smaller, white, sans-serif font.



Ms. Anne Henning

Director, Community Development

City of Othello, WA

RE: Preliminary Plat Comments – McCain Foods Short Plat

November 8, 2019

Ms. Henning,

In response to the comments received from the City Engineer regarding the required street, utility, and lighting improvements required along Lee and Broadway, McCain Foods requests a waiver. It is the opinion of McCain Foods that these improvements are not currently needed; and, these improvements would present an unusual and unnecessary hardship on the expansion project already underway at the Othello facility.

This request of waiver is submitted in lieu of a deferral request due to the funding nature of the expansion project. There is no mechanism within the Corporate McCain project funding guidelines that would allow for an agreement to a deferred expense. Therefore, it is impossible for McCain to commit to future improvements should they eventually bring value to the City or our neighbors. However, McCain does acknowledge that there are other methods to make future improvements to this industrial area such as voluntary participation in a local improvement district as created under Washington law.

Thank you for considering this waiver request and I look forward to working with you and the Othello city management team as we deliver a project that creates value for our community.

Respectfully,

A handwritten signature in blue ink that reads "Jeremy Hopkins".

Jeremy Hopkins

Director, Engineering

McCain Foods, USA

TO: Planning Commission

FROM: Anne Henning, Community Development Director

MEETING: November 18, 2019

SUBJECT: Zoning Update - Map Revisions – R-4 Zone at 2<sup>nd</sup> Avenue

At the November 12 City Council public hearing on the Zoning Update, the Council heard testimony from several people requesting changes from the proposed zoning on both sides of 2<sup>nd</sup> Avenue. The Planning Commission has the opportunity to provide a recommendation to the Council at the continued public hearing November 25.

### **Staff Comments**

1. Terra Gold Farms owns the area south of Olympia between 2<sup>nd</sup> and Broadway. The Planning Commission had previously recommended to accept Terra Gold's request for R-4 Zoning from 175' west of Broadway to 2<sup>nd</sup> Avenue. After hearing concerns from the Police Chief and Fire Chief about potential hazards of allowing higher density residential and a potential memory care facility closer to the industrial area, the Council's proposed zone change map was no longer showing this change. After the testimony and discussion at the Nov. 25 public hearing, direction from the Council was to return to the original request of R-4. Staff reminded the Council that the Planning Commission's recommendation was to rezone the parcel to the north from I-2 to C-3 to provide more of a buffer to the residential area.
2. At the public hearing, there was also testimony from Chris Vidal, owner of Parcel # 1529030682615 (the "L-shaped property"), which is just to the east of the Terra Gold property. Mr. Vidal requested that his property also be rezoned to R-4.
3. Dr. Sheena Sorensen also testified at the hearing. While she didn't testify about the zoning on the east parcel she owns, after the meeting she expressed interest in having that piece rezoned from R-3 to R-4 as it gives her more flexibility for future development.

### **Attachments**

- Terra Gold request letter dated 7-19-19
- 10-7-19 Proposed Zone Changes with additional proposed R-4 areas noted

**Action:** The Planning Commission should review the requests for the area abutting 2<sup>nd</sup> Avenue and make a recommendation to the Council on the zoning in this area.

JUL 19 2019

OTHELLO BUILDING &amp; 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.

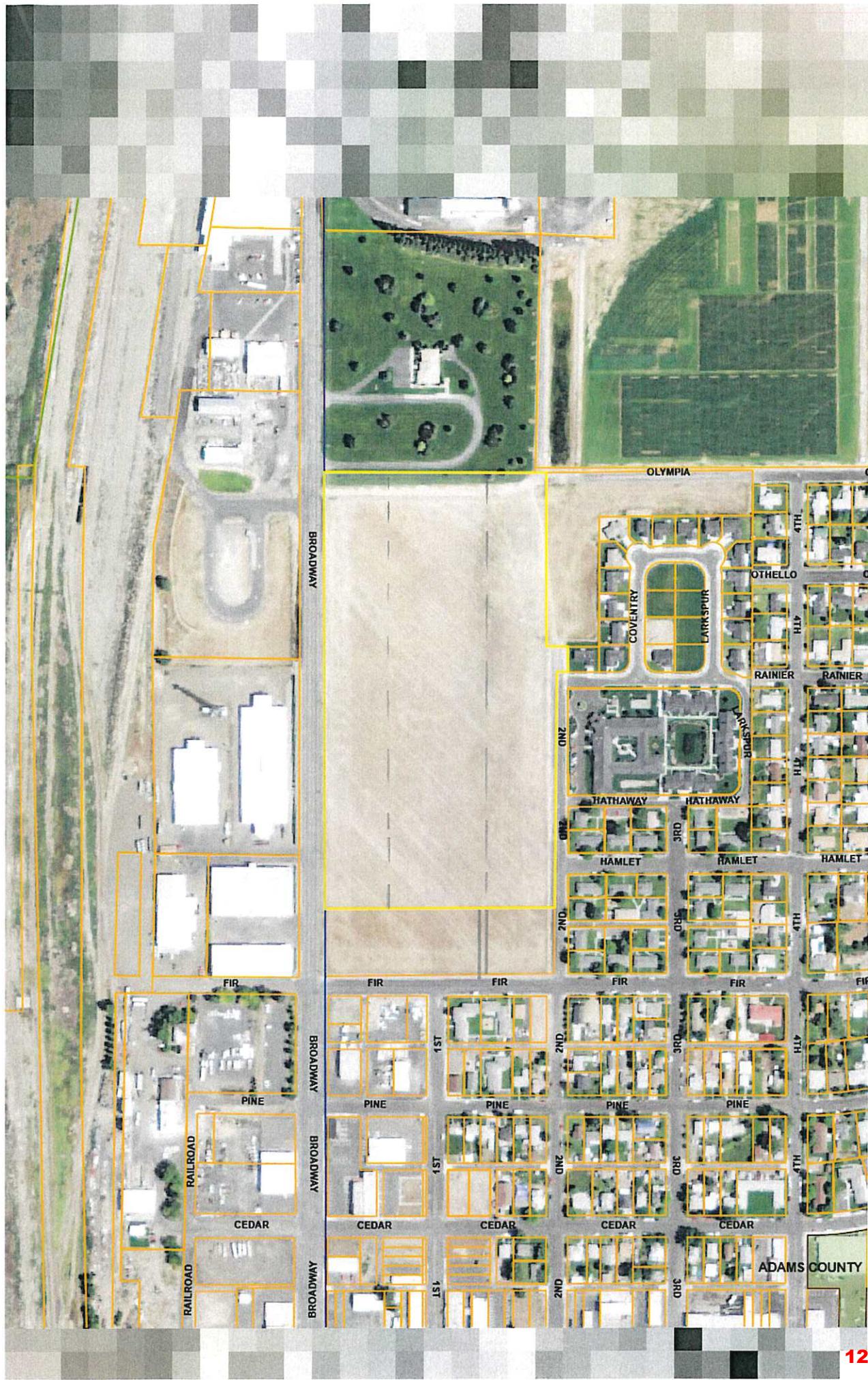
This parcel would retain its commercial use along Broadway Avenue and its residential use along Second Avenue, but the changes would allow for development of more senior residents and a much needed memory care facility within the Othello City limits. Ultimately, the need for senior care is increasing 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



# CITY OF OTHELLO PROPOSED ZONE CHANGES

October 7, 2019

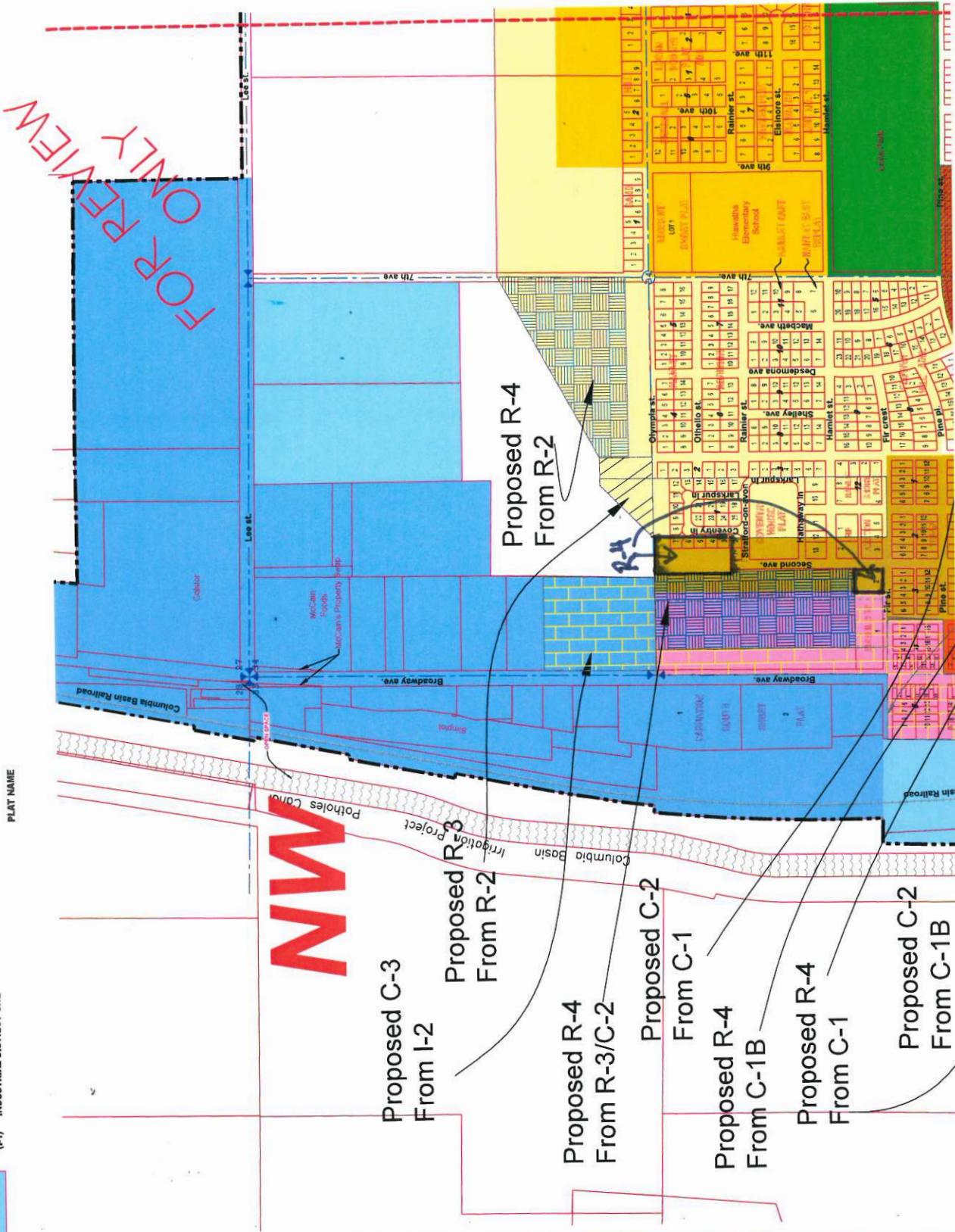
(R-1)	RESIDENTIAL DISTRICT ONE
(R-2)	RESIDENTIAL DISTRICT TWO
(R-3)	RESIDENTIAL DISTRICT THREE
(R-4)	RESIDENTIAL DISTRICT FOUR
(R-1M)	RESIDENTIAL-MEDICAL DISTRICT
(C-1B)	COMMERCIAL USE DISTRICT ONE B
(C-1)	COMMERCIAL USE DISTRICT ONE
(C-2)	COMMERCIAL USE DISTRICT TWO
(I-1)	INDUSTRIAL DISTRICT ONE
(I-2)	INDUSTRIAL DISTRICT TWO
(S-1)	SUBURBAN 1
(O-S)	OPEN SPACE
CITY PARKS	

---	CITY LIMITS
---	LOT NUMBER
---	BLOCK NUMBER
---	PLAT NAME

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TO: Planning Commission

FROM: Anne Henning, Community Development Director

MEETING: November 18, 2019

SUBJECT: OMC 17.46, Mobile Home Parks and OMC 17.79, Nonconforming Uses

For the Title 17 Zoning Update recommendation to the City Council, the Planning Commission had recommended that OMC 17.46, Mobile Home Parks, be deleted, since mobile or manufactured home parks are not proposed to be an allowed use in any zone. However, there are two existing mobile home parks, and OMC 17.46 provides the only zoning standards for these parks. As a result, this chapter was removed from the proposed repeal ordinance that was considered by the Council November 12.

The Commission should review the Mobile Home Park chapter to determine if changes should be made to accommodate its use in regulating existing parks rather than permitting new parks.

Because the existing parks are nonconforming, the Nonconforming Use chapter, OMC 17.79, is also attached for review.

#### **Staff Comments**

1. Mobile homes in Othello have been regulated in different ways over time. Ordinance history:
  - a. The first ordinance regulating trailers and trailer parks (Ord. 202) was adopted in 1957. Trailer parks required an annual permit from a designated Health Officer. (6-27-57)
  - b. There was an amendment in 1963 (Ord. 281) to allow a permit for temporary and emergency parking of trailers for 6 months. (9-23-63)
  - c. In 1977, Ord. 527 repealed the previous regulations and created a new chapter for mobile home parks and RV parks. This ordinance required a permit to create a new park. Standards included 44'-wide paved streets with curb and gutter (28'-wide if no parking allowed), sidewalks to each mobile home site, permits for additions, sheds, etc.; 20' landscaped buffer to adjoining uses (or 10' of landscaping with a solid fence or wall), grass or shrubbery along the street, recreation areas, fire flow, 2 parking spaces for each mobile home site, an office and a manager, the manager could refuse rental to units which were too dilapidated or were a fire or health menace, and set limits on the occupancy of each trailer. The ordinance also created three Mobile Home and RV Park Zones, for low, medium, and high density. (5-23-77)
  - d. Also in 1977, Ord. 557 designated certain areas zoned C-1 to also be zoned contemporaneously Residential Mobile Home District 1 (as created in Ord. 527). This area included a portion of one of the remaining mobile home parks on 1<sup>st</sup> Avenue and is adjacent to both. There was no discussion captured in the minutes (11-28-77), but at the same meeting, there was an ordinance to reduce the annual fee for a trailer court business license from \$75 to \$27.50. There was also a motion to waive

the fee for the two existing trailer courts. The two trailer courts in 1978 are likely the two that still exist.

- e. In 1978, Ord. 577 reduced the lot size in RMH-1 from 7200 square feet to 7000 square feet. This appears to be due to the existing lots in the C-1/RMH-1 area being only 7000 square feet. (9-25-78)
- f. There was a major overhaul of the Zoning code in 1995 (Ord. 948, 7-20-95). This ordinance repealed the three Mobile Home Districts and Chapter 17.68 Mobile Homes and Recreational Vehicles—Uses, and created 17.46, Mobile Home Parks, the current ordinance. There were a few minor amendments later the same year (Ord. 972) but no amendments since then.
- g. Ord. 1181 in 2004 repealed Title 15, House Trailers and Trailer Courts. According to the minutes, this title was a duplicate of 17.46, Mobile Home Parks. (6-14-04)

2. State law (RCW 35.21.684(2) and RCW 35A.21.312(2)) does not allow a city to adopt an ordinance that restricts placement of a unit in an existing (pre-2008) park based exclusively on age or dimensions of the unit. Other restrictions, such as failure to comply with fire, safety, or other local ordinances or state laws, are allowed. So far, staff has been unable to locate examples of these types of regulations that could be placed. Some jurisdictions note that a Fire Safety Inspection from L&I is required before placement of a pre-1976 mobile home; however, this is already required by WAC 296-150M-0540 so would not need to be specifically adopted.
3. State law also does not allow a city to prohibit a recreational vehicle used as a primary residence in a mobile/manufactured home community. A city can impose fire and safety regulations, require utility connections, and require the RV to have a toilet and shower or the park to provide toilets and showers.

#### **Attachments**

- Existing OMC 17.46, Mobile Home Parks
- Existing OMC 17.79, Nonconforming Uses

**Action:** The Planning Commission should review the existing Mobile Home Park and Nonconforming Use chapters and provide direction to staff whether changes are needed.

## Chapter 17.46

### MOBILE HOME PARKS

#### Sections:

- 17.46.010 Mobile home parks (permitted by conditional use in the C-2 district).
- 17.46.020 Permitted uses.
- 17.46.030 Mobile home parks development standards.
- 17.46.040 Mobile home parks—Required permits and licenses.
- 17.46.050 Mobile home park administration.

#### **17.46.010 Mobile home parks (permitted by conditional use in the C-2 district).**

When allowed in a specific use district, any development, alterations or extension of a mobile home park shall require a conditional use permit as per the definition of “mobile home park.” The ownership of the land must be under one entity (i.e., one person, partnership, firm or corporation). All streets and systems within the boundaries of the mobile home although served by the municipal system, are maintained by the ownership entity. Application shall be submitted to the city of Othello hearing examiner. In addition to the requirements specified, the application/development plan shall include design specifics of the mobile home park, as set forth and required in this section, including, but not limited to, the location and dimensions of each mobile home lot; the location of each mobile home stand (so that setbacks, yards and other open spaces and utility connections may be determined); the location of street lighting; the method for drainage and the location of all catchbasins and storm sewers; and the mobile home park landscaping plan. The hearing examiner in determining whether the location contemplated will create special problems in relation to site design and compatibility with other developments established as of right within the particular zone, shall on its own initiative, or by recommendation of the planning commission, establish conditions of the conditional use permit as deemed necessary or shall deny the permit. (Ord. 972 § 1 (part), 1995: Ord. 948 § 2 (part), 1995).

#### **17.46.020 Permitted uses.**

No building, structure or land within the boundaries of a mobile home park shall be used for any purpose, except as follows, and specified on the approved conditional use permit development plan.

##### (a) Principal Permitted Uses.

- (1) Mobile homes used for dwelling purposes with their customary accessory uses;
- (2) Buildings and structures necessary for the operation and maintenance of the mobile home park, or providing customary accessory uses of mobile home parks, including laundry facilities, park office and equipment storage buildings;
- (3) Buildings and structures necessary for the operation of a public utility;
- (4) Community recreation facilities, for residents of the mobile home park and their guests, including swimming pools;
- (5) Residences for the use of a manager and/or caretaker responsible for maintaining or operating the mobile home park which may be either a conventional single-family dwelling or a mobile home;
- (6) Vending machines and similar products and services may be approved by the planning commission and the city council. (Ord. 948 § 2 (part), 1995).

#### **17.46.030 Mobile home parks development standards.**

(a) Minimum Park Size. The minimum area for a mobile home park shall be five acres.

(b) Maximum Gross Density. Maximum gross density shall not exceed ten mobile home lots per acre. Density for each specific mobile home park shall be similar to, or compatible with, surrounding residential areas and shall be determined on a case-by-case basis.

(c) Public Access. Public access not less than thirty-six feet in width shall be required from the mobile home park to an arterial or collector street. The planning commission and city council shall determine on a case-by-case basis whether a secondary access shall be required. Secondary access, if provided, shall enter the public street system at least one hundred fifty feet from the primary access.

(d) Minimum Lot Requirements.

(1) The minimum area for a mobile home lot designed to accommodate a mobile home not exceeding fourteen feet in width shall be three thousand five hundred square feet. The minimum lot dimension shall be thirty-four feet.

(2) The minimum area for a mobile home lot designed to accommodate a mobile home exceeding fourteen feet in width shall be four thousand five hundred square feet.

(e) Minimum Building Setback Requirements.

(1) Twenty-five feet from a public right-of-way;

(2) Ten feet from the mobile home lot line abutting on an interior access street;

(3) Fifteen feet from any park boundary (excluding public rights-of-way).

(f) Setback Requirements. No mobile home or accessory buildings shall be located closer than fifteen feet from any other mobile home unit or permanent park building. An unattached accessory building shall be set back seven and one-half feet from the lot line. An attached accessory building shall be considered part of the mobile home for separation purposes. If not attached to the mobile home, an accessory structure shall not be located closer than five feet from such mobile home (unless an intervening fire wall is provided), or from any other mobile home or permanent building.

(g) Occupied Area. The cumulative occupied area of the mobile home and its accessory buildings on a mobile home lot shall not exceed sixty-five percent of the respective lot area.

(h) Accessory Structures and Buildings. Accessory structures and buildings shall be designed and constructed of materials, size, color and pattern so as to be compatible with the mobile home. Such structures shall be subject to all applicable building and construction provisions of this code.

(i) Park Land Dedication/Recreation Areas. Mandatory park land dedication or payment of fees-in-lieu-of-dedication shall be required for all mobile home park developments. Dedicated park land shall not be designated within the boundaries of a mobile home park; however, certain recreational facilities and areas provided within the park for its residents which are determined by the planning commission and the city council to satisfy the intent of the mandatory park land provision may be eligible for credit towards the required dedication or fee. Development and maintenance of recreational facilities and area(s) within the mobile home park boundaries are the responsibility of the park owner and/or developer.

(j) Interior Park Access Ways. Streets, driveways and other access ways within a mobile home park shall be constructed and maintained by the owner and/or developer of the park in accordance with the standards provided by the engineering department. Interior park access ways shall not be dedicated as a public right-of-way unless otherwise approved or required by the city council. Interior park streets shall observe the following minimums:

(1) One-way traffic streets shall be a minimum of twenty-eight feet in width. Reduction of this standard to a minimum of twenty feet may be allowed when on-street parking is prohibited subject to the approval of the public works department.

(2) Two-way traffic streets shall be a minimum of thirty-six feet in width. Reduction of this standard to a minimum of twenty-eight feet may be allowed when on-street parking is prohibited subject to the approval of the public works director.

(3) Parking lanes shall be eight and one-half feet wide where provided.

(4) Cul-de-sac streets and streets designed to have one end permanently closed ("Y" or "T") should have a minimum turning radius of fifty feet, or an adequate right-of-way to permit ease of turning.

(k) Parking Requirements.

(1) A minimum of two off-street parking spaces shall be provided adjacent to, or conveniently near, each mobile home lot. Parking may be in tandem.

(2) One parking space per each four mobile home lots shall be required to accommodate the contemplated guest parking loads and shall be evenly distributed throughout the mobile home park. Parking lanes may be provided up to fifty percent of this requirement. The remainder of the guest parking spaces shall be grouped in separate off-street parking areas. The design and construction of parking facilities shall be in accordance with this code.

(l) Mobile Home Stand. Every mobile home lot shall be provided with a mobile home stand to accommodate the placement of the mobile home and its attached accessory structures. The material used for the mobile home stand foundation base shall be durable and capable of supporting a mobile home without shifting, heaving or uneven settling regardless of weather conditions and other forces acting on the unit. Provisions shall be made at the mobile home stand for utility connections at appropriate locations and adequate surface drainage as specified and approved by the public works department.

(m) Pedestrian Walkways. A common walkway system shall be provided and maintained between locations where pedestrian traffic is expected to be concentrated and might interfere with automobile traffic. Such common walks shall be constructed in accordance with standards provided by the public works department.

(n) Street Lighting. Adequate street lighting shall be provided to illuminate streets, driveways, walkways and buildings for the safe movement of pedestrians and vehicles and for the safe night time use of such facilities. Installation of all street lighting shall be in accordance with standards provided by the public works department.

(o) Landscaping, Buffering and Screening.

(1) Mobile home parks shall be enclosed on all sides with permanently maintained natural or artificial barrier, such as a sight-obscuring wall or continuous buffer of trees or shrubs, not less than six feet in height, except for those sides abutting public rights-of-way. Sides which abut public rights-of-way shall be buffered with a perimeter landscape strip not less than ten feet wide within the required setback. Such landscape strip shall be planted or installed with a permanently maintained natural or artificial barrier not less than four feet in height. If an artificial barrier is installed, the remainder of the landscape strip shall be landscaped with ground cover or other approved landscape treatment, excluding pavement. (See city landscape ordinance.)

The city council may waive all or part of the perimeter landscaping requirements if, due to the nature of the existing topography or other existing conditions, it is unreasonable to require a wall, fence or screen.

(2) All open areas of the mobile home park shall be landscaped. A permanent irrigation system shall be installed and all landscaped areas shall be continually maintained.

(3) A specific landscaping plan for the mobile home park shall be submitted as part of the conditional use permit application. Landscaping materials shall conform to, and be installed in accordance with the approved development plan prior to occupancy of any mobile home lot.

(p) Storage Facilities.

(1) No mobile home lot shall be occupied unless or until adequate storage facilities as provided for herein are properly installed or developed. It shall be the responsibility of the park management to provide the required storage facilities and adequate security thereof.

(2) Outside storage of materials, equipment and household items shall not be permitted. A private storage facility having a floor area of at least forty-eight square feet and minimum height of six feet shall be provided

on or conveniently near each mobile home lot for inside storage of such items. The storage structure shall be anchored to a concrete footing as approved by the building official.

(3) A bulk storage and parking area shall be set aside for storage of boats, RV's, trailers, and other similar items. A minimum of three hundred square feet of space, exclusive of driveways, shall be provided within the mobile home park for every five mobile home lots. This storage area shall be located so as to avoid conflict with adjoining residential properties and shall be screened from view with appropriate landscaping and/or screening as indicated on the approved landscaping plan.

(q) Utilities and Other Services.

(1) The construction and maintenance of all water, sewer, electrical, natural gas, communication and miscellaneous (television cable, etc.) service lines shall be under the supervision of the department or utility agency having jurisdiction in accordance with all applicable state and local codes, policies and regulations. The location of all underground utility and service lines shall be indicated by an aboveground sign (or signs) identifying the proximity of the lines to the mobile home stand to facilitate service connection and to avoid damage to such underground services by the use of ground anchors, installation of skirting, etc. Fire protection, hydrant location, fire equipment access, etc. shall be approved by the local fire chief.

(2) Water Supply and Distribution System. Each mobile home park shall be connected to the Othello municipal system, with the appropriate backflow preventative device installed, and its supply shall be used exclusively. Individual water service connection shall be provided for each mobile home lot.

(3) Sewage Disposal. Adequate and safe sewage disposal shall be provided for all mobile home lots. (Connection shall be made to public sewer system).

(4) Electrical Distribution System. Each mobile home park shall be provided with an electrical distribution system in accordance with the policies and specifications for installation and maintenance of the electrical utility having jurisdiction.

(5) Natural Gas. Each mobile home park shall be provided with a natural gas distribution system, if available or desirable, in accordance with the policies and specifications for installation and maintenance of the natural gas utility having jurisdiction.

(6) Solid Waste Disposal System. Solid waste collection stands shall be provided for all waste containers in accordance with specifications for design and location as provided by the public works department. Solid waste collection stands, whether individual or grouped, shall be screened from view with appropriate landscaping and/or screening as indicated on the approved landscaping plan.

(r) At least one public telephone shall be provided in each mobile home park.

(s) Signs. Signs identifying the mobile home park shall be in conformance with applicable sign regulations. (Ord. 972 § 1 (part), 1995; Ord. 948 § 2 (part), 1995).

**17.46.040 Mobile home parks—Required permits and licenses.**

(a) Mobile home parks are subject to all applicable building and construction provisions of this code, which include issuance of building permits and authorized inspections of all phases of construction and development.

(b) No building permits shall be issued and no construction of any kind to create, alter or extend any mobile home park may be initiated until a conditional use permit has been granted by the hearing examiner in accordance with the procedure specified and subject to the applicable regulations and standards set forth in this section.

(c) No mobile home lot may be rented or occupied until a business license for operation of the mobile home park has been obtained pursuant to Chapter 5.02. A business license shall not be issued until all required building, fire and health inspections have been conducted. Construction or development of all of the improvements indicated on the approved development plan shall also be required prior to issuance of a business license; provided, however, that the building official may waive this requirement if sufficient need can be shown. A performance bond or other

acceptable security shall be required by the building official in order to ensure development as per the conditional use permit, for any improvements that are not completed prior to issuance of the business license.

(d) Such improvements shall be completed within a reasonable time, not to exceed six months. Prior to renewal of the business license, the building official shall inspect the mobile home park to check continued compliance with all conditions of the conditional use permit and shall submit to the park owner a written report stating whether or not the park is in compliance. The owner must take action to effect compliance with any conditions that are in violation before the business license shall be renewed. A violation of any of the licensing provisions of this section shall be subject to the penalties set forth in Chapter 17.92.

(e) All mobile home parks are developed pursuant to a binding site plan as provided in Chapter 16.26 of this code. (Ord. 948 § 2 (part), 1995).

#### **17.46.050 Mobile home park administration.**

(a) It shall be the responsibility of the park owner and/or manager to assure that the provisions of this section, including installation of mobile homes and construction of accessory structures on individual mobile home lots, and any additional conditions of the special use permit are observed and maintained within the mobile home park.

(b) The park shall be kept free of any brush, leaves and weeds and all landscaped areas shall be continually maintained.

(c) Failure to comply with any of the requirements for administering a mobile home park shall be a violation subject to penalties set forth in Chapter 17.92.

(d) The stabilizing system (support system and anchoring system) of each mobile home shall be installed in accordance with the manufacturer's installation instructions. Mobile homes for which manufacturer's instructions are not available shall have the anchoring and support systems designed and installed in accordance with the specifications set forth in this section or shall be designed by a registered professional engineer or architect.

(e) Each mobile home shall have the space between the bottom of the unit and the ground completely enclosed with a compatible skirting material or installed at terrain level, with provisions for adequate ventilation and access as approved by the building official.

(f) Construction of accessory structures shall be subject to the applicable building and construction provisions of this code.

(g) Definitions (Mobile Home Stabilizing System).

(1) "Anchoring system" means a combination of ties, anchoring equipment and ground anchors that will, when properly designed and installed, resist overturning and lateral movement.

(2) "Stabilizing system" means combination of the anchoring system and the support system when properly installed.

(3) "Support systems" means a combination of footings, piers, caps and shims that will, when properly installed, support the mobile home. The stabilizing system of each mobile home shall be installed in accordance with the HUD approved manufacturer's installation instructions. For mobile homes without manufacturer's installation instructions, the stabilizing system of mobile homes for which installation instructions are not available shall be designed by a registered professional engineer or architect, or shall comply with the specifications and standards for mobile home setting and stabilization established in NFPA/501A-Standard for Installation of Mobile Homes Including Mobile Home Park Requirements; provided, however, that this standard shall not be construed as relieving the installer of a mobile home of responsibility for compliance with all other applicable regulations and provisions of this code. (Ord. 948 § 2 (part), 1995).

## Chapter 17.79

### NONCONFORMING USES

#### Sections:

- 17.79.010 Limitation on nonconforming uses.
- 17.79.020 Continuation of nonconforming uses.
- 17.79.030 Nonconforming uses, conditions upon continued existence, when, procedure.
- 17.79.040 Nonconforming structure.
- 17.79.050 Change of a nonconforming use.
- 17.79.060 Change of district.
- 17.79.070 Remodeling a nonconforming use.
- 17.79.080 Rebuilding duplexes or triplexes in R-1 zones.

#### **17.79.010 Limitation on nonconforming uses.**

Any nonconforming use in existence on January 1, 1996, which is nonconforming as to the type of structure allowed in a zone shall be removed as a nonconforming use by the owner not later than twenty years from that date. Any structure which becomes a nonconforming use in any zone after January 1, 1996, shall be removed not later than twenty years after such structure becomes a nonconforming use. Any nonconforming use existing in any zone on January 1, 1996, shall be terminated not later than ten years from that date. Any use which becomes nonconforming in any zone after January 1, 1996, through the action of a rezone or an amendment of the text of the zoning ordinances shall be terminated not later than ten years after such use becomes nonconforming. A use which becomes nonconforming through the actions of the owner or occupant of the land, shall be terminated immediately.

Any residential use of a structure which (a) exists on a property on or before March 1, 2016, and (b) is a nonconforming use of the zone in which the property is located, or the structure otherwise violates any provision of Title 14, 17, or 18, may be allowed to continue indefinitely beyond the time period identified in this section if the owner (1) enters into a voluntary compliance agreement in accordance with Chapter 1.20 et seq.; (2) obtains the necessary permits and completes the work necessary to bring the property into compliance with all applicable building codes; and (3) ensures that existing tenants on the property have substitute housing (at no additional cost to the tenant) while the owner completes said work during all times the tenant is required to move out of the premises to enable the owner to complete the work provided said requirement does not violate any provision of the Washington Landlord Tenant Act or other Washington State law. (Ord. 1465 § 6, 2016: Ord. 975 § 1 (part), 1995: Ord. 948 § 2 (part), 1995).

#### **17.79.020 Continuation of nonconforming uses.**

Notwithstanding Section 17.79.010, the use of land existing on January 1, 1996, although such use does not conform to the provisions of this title, may continue upon such conditions as prescribed by the planning commission. After this ordinance becomes effective, and if such nonconforming use is abandoned, or is discontinued for any period of time, subsequent use of the land shall be in conformity with the provisions of this code. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use on or before January 1, 1996, shall not be considered an extension of a nonconforming use.

The conditions prescribed by the planning commission for the continued use of a nonconforming use must bear a substantial relation to the alleviation of a hazard to the health, morals, safety or general welfare of the entire affected community and in particular that of surrounding inhabitants. Conditions may be prescribed including, but not limited to, those situations existing because of fumes, odors, glare, noise, smoke, dust, unsightly materials, or other objectionable factors. If, in fact, conditions are prescribed by the planning commission, such conditions shall be reviewed and revised if necessary no less frequently than every two years and/or upon change of ownership.

An appeal may be taken of the planning commission's ruling to the city council as prescribed in Chapter 17.83 of this code. (Ord. 975 § 1 (part), 1995: Ord. 948 § 2 (part), 1995).

**17.79.030 Nonconforming uses, conditions upon continued existence, when, procedure.**

(a) Those nonconforming uses allowed to continue to exist pursuant to Section 17.79.020, as now enacted or as hereafter amended, may be conditioned as provided in this section.

(b) The building official, upon receipt of any claim, complaint, report or information that a nonconforming use exists within the city shall investigate such claim, complaint, report or information and make a determination as set forth below.

(c) At the conclusion of his or her investigation, the building official shall determine if the use is a nonconforming use.

(d) If the use is found to be a conforming use, the building official shall determine whether or not the use is allowed to continue pursuant to Section 17.79.020. If the use is not found to be a use allowed to continue pursuant to Section 17.79.020, the building official shall proceed as provided in this chapter to terminate the use.

(e) If the use is found to be a nonconforming use allowed to continue pursuant to Section 17.79.020, the building official shall make written summary of his or her findings and submit them, together with any conditions that, in his or her opinion, should be attached to the use, to the planning commission.

(f) Upon receipt of the documentation described in subsection (e) of this section, the planning commission shall proceed to set a date for a public hearing before it. The purpose of that hearing shall be to determine what conditions, if any, shall be attached to the continuing nonconforming use pursuant to Section 17.79.020. Notice of the hearing shall be published at least once prior to the hearing in a newspaper of general circulation in the city. Additionally, the building official shall cause notice of the public hearing to be delivered to the adjacent land owners and occupants by mailing, posting, or personal notification, whichever the building official determines is likely to give actual notice of the hearing to those persons.

(g) At the conclusion of the public hearing, the planning commission shall make a finding on whether or not conditions need to be imposed pursuant to Section 17.79.020. If the planning commission finds conditions are necessary, it shall make findings as to what conditions shall be imposed and the reasons therefor.

(h) Any nonconforming use found to be required to be conditioned, will be allowed to continue as long as the person, firm, partnership or corporation responsible for that nonconforming use agrees to abide by and be governed by the conditions imposed by the planning commission within the time limit set by the planning commission. The conditions imposed by the planning commission may be for a period of up to twenty-four months. The planning commission may require more frequent review of the conditions imposed on the use as it may direct at the initial public hearing or any subsequent review.

(i) Additionally, the planning commission may bring a set of conditions on for review before the date provided at the time the conditions were set, upon a complaint being brought to its attention by the building official or any citizen. The planning commission shall determine from a review of the complaint whether or not the allegation is sufficient to warrant a further hearing on the question. If a further hearing is deemed appropriate, the planning commission shall cause to be sent to the person, firm, partnership or corporation responsible for the nonconforming use a notice of a hearing before the planning commission setting the date, time and place of the hearing. The notice shall provide, in all capital letters, in a conspicuous place thereon: "THIS HEARING COULD DETERMINE WHETHER OR NOT YOUR NONCONFORMING USE IS ALLOWED TO CONTINUE." Said notice shall be delivered in the same manner as personal service of summons to the responsible person, or posted upon the real property in question, or sent by United States mail service, postage prepaid, to the address of the responsible person. Said notice shall allow the responsible party five days' time before the hearing within which to prepare, unless the planning commission findings at the time it considers the allegation of noncompliance are that the public health, safety and morals require a hearing before that time.

(j) Either prior to or at least at the time of the hearing to consider the allegations of a complaint concerning noncompliance with conditions, the planning commission shall inform the person, firm, partnership or corporation responsible for the nonconforming use of the notice of the alleged violation. The building official shall present the evidence of the failure to comply. The responsible person shall then be allowed to respond if that person so desires. The planning commission shall then make its findings. It shall find whether or not the conditions have been violated;

whether or not any violation has occurred of such magnitude to require additional conditions, more frequent reviews of conditions, or termination. If termination of the privilege to continue the nonconforming use is determined by the planning commission as the only method that can protect the public health, safety and morals to an acceptable degree, the planning commission shall determine the date and time of termination. Once the privilege is terminated for failure to observe conditions, the planning commission shall proceed to direct the building official to enforce the provisions of this chapter to terminate the use.

(k) Any person aggrieved by the decision of the planning commission may appeal to the city council as provided in Chapter 17.83. (Ord. 948 § 2 (part), 1995).

**17.79.040 Nonconforming structure.**

A structure conforming with respect to use but nonconforming with respect to height, setback or coverage may be altered or extended if the alteration or extension does not deviate further from the standards of this title, unless otherwise stated in this chapter. (Ord. 948 § 2 (part), 1995).

**17.79.050 Change of a nonconforming use.**

If a nonconforming use is replaced by another use, the new use shall conform to this title and shall not subsequently be replaced by a nonconforming use. (Ord. 948 § 2 (part), 1995).

**17.79.060 Change of district.**

The provisions of this chapter shall also apply to nonconforming uses in districts hereafter changed or established and any time limit for the suspension of a nonconforming use of land shall date from the date of the enactment of the ordinance codified in this title or any amendment of district boundaries or amendment or adoption of zoning ordinances. (Ord. 948 § 2 (part), 1995).

**17.79.070 Remodeling a nonconforming use.**

Recognizing that there are nonconforming buildings or structures which are now existing which should be upgraded or improved by replacement, rebuilding or addition thereto, the city council may, after a public hearing before the planning commission, issue a permit for the replacement, rebuilding or addition to an existing nonconforming building or structure. As a condition to the issuance of the permit the city council shall require plans and specifications of the proposed replacement, rebuilding or addition be filed and that a bond in an amount to be set by the council be posted to assure compliance with the plans and specifications so filed. No permit shall be issued unless the city council finds that the proposed replacement, rebuilding or addition will be compatible with the lot or tract of land involved and, further, that it will not be detrimental to the health, safety or welfare of the surrounding area.

This section shall not apply to duplexes in areas currently zoned R-1 or areas subsequently zoned R-1 either through a rezoning or upon territory being annexed into the corporate limits of the city of Othello which are intended to be replaced, rebuilt or added to totally or partially because of destruction. In the case of such replacement, rebuilding or addition, Section 17.79.080 shall apply. (Ord. 948 § 2 (part), 1995).

**17.79.080 Rebuilding duplexes or triplexes in R-1 zones.**

In areas currently zoned R-1 or areas subsequently zoned R-1 either through a rezoning or upon territory being annexed into the corporate limits of the city of Othello, if a duplex or triplex exists as a nonconforming use and is destroyed, it may be replaced, rebuilt or added to by the owner/purchaser/vendee of the duplex or triplex without reference to the provisions of Section 17.79.070. In the case of such aforesaid replacement, rebuilding or addition, the duplex or triplex may be replaced, rebuilt or added to upon obtaining a building permit as is required for all construction in the city, provided, that the replacement, rebuilding or addition otherwise complies with all other current or subsequently enacted ordinances of the city.

If an exclusion from any ordinances is desired during this rebuilding, replacement or addition process, application must be made to the city council who may allow the sought after exclusion if the city council finds that strict adherence to the ordinances would work an injustice against the owner/purchaser/vendee of the duplex or triplex and further would not be detrimental to the health, safety or welfare of the surrounding area. (Ord. 975 § 1 (part), 1995: Ord. 948 § 2 (part), 1995).