



City of Othello
Planning Commission
September 18, 2023
Zuleica Morfin

CALL TO ORDER

Chair Chris Dorow called the meeting to order at 6:03pm.

ROLL CALL

Commissioners Present: Chair Chris Dorow, Alma Carmona, Brian Gentry, Daniela Voorhies, Ruth Sawyer

Remote Attendees: Commissioner Maria Martinez

Absent: Kevin Gilbert

Staff: Community Development Director Anne Henning; Building and Planning Secretary Zuleica Morfin

Attendees: Bob Carlson, Council member John Lallas

PUBLIC INPUT

Chair Chris Dorow opened public input. No public input was given.

MINUTES APPROVAL

Chair Chris Dorow had two corrections to be made on the August 21, 2023, minutes:

1. On p.1, 1st paragraph, 1st line, "apply" should be "applying".
2. On p. 4, 6th paragraph, 19th line, "in" should be added before Othello, so that it reads "He said if they could be in Othello..."

August 21, 2023, minutes approved with corrections, M/S Gentry/Sawyer

Zoning Update - Home Occupations - OMC 17.59 – Discussion

The last discussion on home occupations was over a year ago and only 2 commissioners were present, so that meeting was a study session instead of a regular meeting. Too many other things had come up and commissioners weren't able to get back to home occupations. Ms. Henning said she didn't really provide much new information, she said they would just start where they were and make sure they were still going down the same road as they were before. Ms. Henning told commissioners that they should have a discussion and give her direction so that she may be bring back some changes for them.

Chair Chris Dorow said that when they first talked about this what didn't make sense to him was that beauticians were not allowed but you could have massage therapy in your house. He couldn't see why because they seemed pretty similar in regard to services and a little arbitrary for how it was set up. He also mentioned there were numerous complaints and concerns from businesses and people around town about different activities and different things. Chair Dorow said what he believed was before them was that there are a lot of businesses that operate out of the home and asked Ms. Henning if that was correct. Ms. Henning said she believed so, but they don't have a good way of tracking them, so they didn't know all that much other than staff saying they remember doing a license for that kind of a business.

Chair Dorow said that when the Planning Commission first looked at home occupations, his thought was that the Othello code was too wordy and arbitrary, whereas if you looked at other city codes it was more open, as opposed to our code where we have what's allowed and isn't allowed, while the other cities do more of a "if it fits in this box" then it is allowed which he believed was a good approach. Ms. Henning said in making a list you cannot list everything, so she liked the idea of having a category or criteria to help make a decision rather than trying to list everything.

Othello's home occupation rules were adopted back in 1995 and since then a lot has changed and things that weren't allowed are now more common as home occupations. Chair Dorow said accessory dwelling units were now in the mix for consideration and how that may fit or may not fit into what is a home-based business. He felt that a home-based business shouldn't have an impact on the people around and there shouldn't be a lot of traffic or employees. He said one thing that he didn't see mentioned in a lot of cities was deliveries and how that may become problematic. Ms. Henning said it would depend on the scale because she was sure we all get Amazon packages at various times.

Commissioners discussed the ordinances of other cities. Chair Dorow said he thought Marysville was really good in how they dealt with their problem of how home-based businesses outgrow the intent of a home occupation and then code enforcement has to get involved. Commissioner Alma Carmona said she liked 3 a. (Anacortes) where they talk about not requiring a home occupation to have a license for things like telephone and internet sales where there is not a physical customer there. Chair Dorow also liked that and said it would be something to consider for whether it would be good for Othello or not.

Spokane Valley exempts from fees home businesses that meet certain standards: no exterior alterations, no deliveries, no customers on site, no signs or window displays, no outside employees. Commissioner Brian Gentry asked if there was no fee and no license. Ms. Henning replied that she thinks it must be a license with no fee. Commissioner Gentry said it was interesting because it is at least being tracked.

Chair Chris Dorow stated that one thing that was brought up in the beginning was the desire to have less verbiage rather than more verbiage and explanation in the code, because then it gets more complicated.

Wenatchee has a category for "mailing-address-only home occupations" for authors, composers, and writers; home offices using phone, mail, and internet; internet businesses; services and activities not performed at the residence, such as Tupperware parties; Avon and similar (but activities still might need regular home occupation licenses) and business that do not include customers coming and going from the residence. This category is not allowed any signs on the premises, the home address shall not be used in advertising, no outside employees coming to the home, no deliveries beyond those expected in a residential neighborhood, no stock in trade kept on the premises unless stored entirely within the primary residence, and no equipment or employees dispatched from the home. Chair Dorow felt this had way too many words for something that maybe doesn't need categorization and felt like they could make it into 5 or 6 things that would fit into the box and would fit into a residential business.

Chair Dorow said as far as complaints, what he hears is ensuring public safety and code compliance. If someone is setting up a kitchen in their house to sell stuff, he would hope someone is looking at that to prevent fires and making sure people are making good food that isn't making people sick. Ms. Henning said that the food preparation would be regulated through the health department, so we wouldn't need to be too concerned about that part. Chair Dorow asked if it would be reasonable to make that a condition that would have to be met before they could be issued a license. Ms. Henning said it is something that staff currently checks for any business that sells food.

Commissioner Alma Carmona asked if we could know that people have approval from the health department before granting licenses. Ms. Henning said that that is something staff already does.

Chair Dorow asked how a complaint would be addressed, say if someone was selling muffins out of their backyard and people got sick. Ms. Henning said the city would notify the health department. Chair Dorow asked if code enforcement could review the proposed changes to make sure they are not a burden and make it easier for code enforcement to address such issues. Chair Dorow said the Commission wants to protect the community and businesses that exist but also look at an enforcement standpoint. He felt like this was maybe the best way to explain what they were trying to accomplish.

Commissioner Brian Gentry said he agreed with Chair Dorow that regulating certain businesses to ensure public safety and code compliance was the most important thing. He said monitoring business activities was interesting and it was something good for them to know but it wasn't the most important thing. Regarding revenue, he didn't think that it should be a money maker other than to pay for staff and copies and such things.

Commissioner Ruth Sawyer asked if there was only one person who takes care of complaints. Ms. Henning said if there is enforcing needed then yes it would go through Heather (code enforcement). The business license processing goes through the deputy city clerk.

Commissioners looked at the example purpose statements from various codes. Chair Dorow said he really liked the statement from Anacortes as a guideline principle for all that they do: "Activities for profit within a dwelling while maintaining the residential character of the property and avoiding detrimental effects to the surrounding neighborhood." He said detrimental effects are being avoided in the surrounding neighborhood, such as traffic. Residential neighborhoods need to maintain their residential footprint, and, in a way, you should not know there is a business going on there.

Commissioner Brian Gentry asked who determines detrimental. Chair Chris Dorow responded that he thinks they would have to. Commissioner Brian Gentry said he knew neighborhoods in town that have big trucks parked on the sidewalk and a lot of the neighbors don't like it. Chair Chris Dorow said he thought that that was already in code that it was not allowed. Council member John Lallas said there were certain streets that you could park trucks on. Ms. Henning said OMC 9.58.040 states that a truck being parked or stored on a lot or street outside the boundaries of a designated truck route is in violation when it has a gross weight of 10,000 pounds or more. Commissioner Brian Gentry asked what if it was on a private street. Ms. Henning said the code just says "street". Chair Chris Dorow said this brought up a good point about private streets.

The East Wenatchee purpose was "Recognize the desire and/or need of some citizens to use their residence for business purposes. Ensure home occupations will not be detrimental to the character and livability of the surrounding properties, maintain and preserve the character of residential neighborhoods, ensure home occupations are compatible with other uses permitted in residential districts, provide flexibility for residents to use their homes as their workplace and encourage creativity in careers." Chair Dorow said this had a lot of words and so far, he likes Anacortes. He felt like the East Wenatchee statement was pretty much the same as Anacortes.

Commissioner Daniela Voorhies said she liked the Ephrata purpose, but she felt like they all say the same thing but in a different way.

Commissioner Alma Carmona said she liked the Pullman statement because it allows a small-scale business to be done in a home to supplement personal or family income. She said she sees home occupation as a starting point for your business and not a primary source of income because then it would start getting muddy as to how much commercial is allowed to happen in a residence for a long period of time.

Chair Dorow said he and Commissioner Carmona didn't agree on this point. He thinks that if it fits into the criteria of what is allowed in the house whether it makes a couple thousand dollars a month to a couple of million dollars, as long as it doesn't have an impact on the residents around it. He said the challenges some businesses face are when they grow and how to get them out of the home.

Commissioner Carmona also said that her biggest concern was what happens when the business becomes a large-scale business and remains in the residence. Ms. Henning said if it no longer fits the criteria it would need to be moved. Commissioner Carmona asked how they would know when it no longer fits in the criteria. Ms. Henning replied that when it starts causing problems for the neighbors, they will then complain.

Chair Dorow said they needed to find a way to make the code simple, easy, and not weird. The one that jumped out at him was Anacortes.

Commissioner Ruth Sawyer asked the commissioners if they didn't think they should be looking at what the trend was for businesses. She said large companies are downsizing and people will be getting more creative as to what kind of business they can do from home. So, she thought looking at the trends in Othello and other towns was a good idea.

Commissioner Brian Gentry said he liked the Marysville statement because it guarantees all residents freedom from detrimental effects. Commissioner Carmona said she liked that it mentioned small scale commercial operations.

Commissioner Gentry said they wouldn't want a residential area to become a commercial area, so we need to keep away the effects of commercial uses in a residential neighborhood.

Chair Dorow asked commissioners to turn to page 32 of 40 of their packets and look at how Marysville defines the home occupations standards and purpose. He said it would be the guiding purpose that Commissioner Gentry had pointed out.

Chair Dorow said there were lot of aspects in the Marysville code that he really liked. He said he really liked the purpose statements for Marysville and West Richland. Commissioner Gentry said they could blend the purpose statements. Commissioner Carmona said she agreed but it would make sense to write something of our own.

Chair Dorow asked commissioners what they would like for the purpose statement. Commissioner Gentry said he would like to have the word freedom. Commissioner Carmona said she would like for it to say small-scale commercial. She said Commissioner Daniela Voorhies had mentioned something about profit and nonprofit as well as using the term business. Chair Dorow said he would like to have it say do not interfere with the residential character of the neighborhood. Commissioner Ruth Sawyer said she would like to add something about the equipment not being stored outside of the residence. Chair Chris Dorow said they would get to that later as that would be something in the actual standards rather

than part of the purpose statement. Commissioner Carmona said she was still in agreement with Commissioner Gentry that when they are including the word “freedom”, they are guaranteeing the residents the freedom from excessive noise, traffic, and nuisance.

Ms. Henning summarized what she gathered from the Commissioner:

“To provide residents with the option to use their residence for small scale business activities while guaranteeing all residents freedom from excessive noise...Etc.” Chair Chris Dorow said this was a good starting point for what they were trying to accomplish.

Commissioner Daniela Voorhies said she liked defining things without replacing things.

Ms. Henning said one thing they didn’t know about other city codes was if they had a definition in their definition section of the code that defines home occupations. She said you wouldn’t want to have your regulations in the definition.

Chair Chris Dorow said Othello’s current code had a definition then it was broken down and went immediately into what was allowed and not allowed and this would probably not be the approach they would want to have.

Commissioners went over a comparison chart of home occupation regulations in selected cities.

Most other cities that were looked at allow a business in an accessory building. Commissioner Gentry felt that a business in an ADU or a building attached to a house should be allowed as they would be defining a lot more criteria that would protect the neighborhood. Commissioner Carmona said the idea of an attached building didn’t bother her but she didn’t like the idea of someone proposing to build an ADU but really using it for a business instead of renting it out. Ms. Henning pointed out that Othello’s rules for building an ADU are much stricter than those for building an accessory building. Consensus was to allow a home occupation in an accessory building.

Discussion on whether any non-resident employees should be allowed. It was felt that some businesses suitable for home occupation may need an outside employee, such as a bookkeeper or secretary, but that the scale of the business could be controlled by limiting to one appointment at a time and/or limiting the number of appointments per day. But they didn’t want to burden Code Enforcement by having to check on too many things.

Motion to allow one nonresident employee per home-based business. M/S Gentry/Voorhies. Motion failed with Gentry and Voorhies in favor, Sawyer, Carmona, and Martinez opposed.

Commissioners discussed current language of “clearly incidental”, “must not change residential character”, “no change to outward appearance of building”, and “no outward appearance as a business”, all of which are used in Othello’s code but which all mean pretty much the same thing. Chair Dorow liked the “clearly incidental” language because he felt it allowed more freedom. Commissioner Carmona liked “no change to residential character” because she felt it is easier to understand. Commissioner Gentry agreed. Commissioner Sawyer liked “no outward appearance of a business.” Chair Dorow was in favor of “residential character.” Most others also preferred the “residential character” statement. Commissioner Carmona also liked the East Wenatchee statement of “dwelling and site must remain residential in appearance and character”. After discussion, that one was determined to be very

similar to the existing “no change in residential character” language, so the consensus was to keep that language and eliminate the 3 other similar statements.

Commissioners determined to keep the statement “must not infringe on the rights of neighbors to enjoy peaceful occupancy of their homes.” Commissioners determined not to add the statement in a few other codes “compatible with other uses permitted in residential zones.”

Commissioners discussed whether to regulate the number of clients at one time. Commissioner Carmona was in favor of limiting to 1 client at a time. Commissioner Gentry pointed out that a “client” could be a married couple, so the limit should be one appointment at a time. Discussion about the number of vehicles, but deferred that discussion to the parking section to be discussed later. Commissioner Gentry didn’t think the number of appointments in a day should be limited, since depending on the type of business, appointments might be only 5 minutes. Motion passed 5-1 to limit to one appointment at a time. M/S Gentry/Carmona. Sawyer opposed because she felt that limited the number of people who could be included, such as a catering business or exercise class. Other Commissioners felt those would be one appointment.

Commissioners discussed the size limitation. 25-30% was common in other jurisdictions. Commissioners were not in favor of setting a square foot limitation, and pointed out that any area limitation would be hard to enforce.

Commissioners discussed signs. Commissioner Carmona pointed out that any sign could change the residential character of the site. Ms. Henning mentioned that past discussion was that if you are going up to the door of a house, you might be some assurance that it is actually the home-based business you are looking for. Consensus to keep the 1 square foot limitation.

COMMUNITY VISIONING

Ms. Henning reminded the Commission of the RDI ice cream social/community visioning meeting on Saturday, and mentioned that students and faculty from the WSU Rural Community Design Initiative will also be attending. This group works with communities on imagining and designing spaces and places.

ADJOURNMENT

Having no further business, the meeting was adjourned at 8:01pm. Next regular meeting is Monday, October 16, 2023.

Chris Dorow, Chair

Date: _____
Zuleica Morfin, Building and Planning Secretary