



**MINUTES OF THE WORK STUDY MEETING OF THE QUEEN CREEK
PLANNING AND ZONING COMMISSION**

Wednesday, May 9, 2012 6:00 P.M.

Council Chambers, 22350 S. Ellsworth Road, Queen Creek, AZ 85242

1. **CALL TO ORDER** The meeting was called to order at 6:00 p.m. by Chairman Sossaman in the Council Chambers of Town Hall.

2. **ROLL CALL**

Present

Chairman Sossaman
Vice-Chairman Steve Ingram
Commissioner Jason Gad
Commissioner Alex Matheson (absent at roll call)
Commissioner Ryan Nichols (absent at roll call)
Commissioner Debbie Reyes
Commissioner Kyle Robinson

Absent

Staff Present

Planning Administrator Wayne Balmer
Development Services Assistant Laura Moats

Absent

3. **Discussion on TA12-031, Text Amendment to Article 6.8, Supplemental Use Regulations, of Zoning Ordinance**, a Town-initiated modification to Article 6.8 of the Zoning Ordinance regulating home-based occupations.

Planning Administrator Balmer presented the staff report explaining the proposed text amendment, along with a copy of the Town's Home Occupation Business License application; the Town of Gilbert's Home Occupation Guidelines, Questionnaire and Ordinance; and the City of Mesa's Home Occupation Ordinance. He noted Gilbert's Home Occupation guidelines are performance based. Mr. Balmer noted the State has changed its regulations to allow commercial baking for non-hazardous types of foods, not involving a lot of health issues.

Mr. Balmer explained staff had reviewed two text amendment options: 1) focuses on home-occupation having to do with catering and food preparation in residential areas, and changes the ordinance to allow it, pursuant to ARS 36-136 (H) (4)(G); and 2) a broad performance-based program, utilizing a list of performance standards to be met.

Staff is proposing the first option be brought to Council for its consideration. Chairman Sossaman asked Mr. Balmer what types of issues the Town of Gilbert has had with the performance-based program, versus a narrowly defined list of permitted and non-permitted occupations.

Mr. Balmer responded the issues Gilbert has dealt with have to do with Homeowner's Association concerns that would be a violation of the CC&Rs. Chairman Sossaman asked if Queen Creek went to this system, would we note on the application that the applicant should check with their HOA because it may be allowed by the Town, but not in allowed by the HOA. Mr. Balmer stated staff has looked at possibly changing the form to state the applicant should check with the HOA, since it is not currently noted on our application or guidelines.

Vice-Chairman Ingram pointed out an inconsistency in Table 6.8-1, #7. which states "*Not more than six (6) customers or clients/week (1 visit/day/customer) allowed to visit home occupation*", whereas #10. States "*Seven to twelve (7-12) clients*". If there are 12 clients, there would be 24 visits/day. The Home Occupation application also lists "*Not more than six (6) customers or clients/week (1 visit/day/customer) allowed to visit home occupation.*" Mr. Balmer responded item #7, "not more than six clients/week" relates to something such as a non-childcare customer. The language in item #10 relates to child daycare (the number of children being cared for), not necessarily trips.

Chairman Sossaman stated he favors the performance-based language versus trying to come up with every type of home-occupation and every detail, which can easily be missed.

Commissioner Gad shared Chairman Sossaman's opinion. He referred to Item No. 4 on page 2 of the proposed text amendment, "*Preparation and sale of non-potentially hazardous home baked and confectionary goods, such as cookies, sweet breads, cakes with hard icings or frostings, fruit pies with fruit and sugar fillings, candies and brownies, pursuant to A.R.S.36-136 (H)(4)(G)*", stating staff is trying to address the "cooking" issue, and he is concerned staff is trying to address the particular applicant, but it will create more of a concern. For example, a business such as Edible Arrangements would not be permitted according to the language in item #4. Chairman Sossaman clarified Commissioner Gad's point as being a dangerous activity as far as potential health (salmonella) issues since the items are being prepared in a home kitchen versus a commercial baking facility. Mr. Balmer responded this issue originally came to the State relating to brownies being home-made and sold at school bake sales, and the possibility of someone getting sick. The State researched the issue and developed the language the Town is proposing to use.

Commissioner Nichols arrived at 6:15 p.m.

Commissioner Gad asked if someone wanted to do an at-home ice cream business, would it be allowed under this language. Mr. Balmer stated, "no" it would not be permissible under this language. Mr. Balmer stated if the Commission desired, it could recommend the Council also review the broader-based performance management option.

Commissioner Reyes referred to the language, "preparation and sale of non-potentially hazardous home baked and confectionary goods...", and asked if customers would be allowed to come to the home and purchase the baked goods. Mr. Balmer responded the language refers to on-site preparation and off-site sale. The Commission noted the language was not clear, and asked for the words "off-site" to be inserted.

Additional discussion took place on the performance-based option, and exactly how a performance-based questionnaire would determine whether a particular home-based occupation would be permitted. Commissioner Gad questioned how this approach would identify what is permissible and not permissible, and asked how Gilbert's license application applies to home-based cooking businesses. Mr. Balmer responded Gilbert's questionnaire answers whether or not the proposed use is compatible with the surrounding residential area. Mr. Balmer stated staff would review the entire submittal and questionnaire to determine if it is compatible with the neighborhood; it does not change the character of the neighborhood or the home. Chairman Sossaman stated the Town of Gilbert has a broader understanding and then leaves it up to the individual HOAs to decide what they like or do not like.

Commissioner Gad asked if someone was in dispute with their Homeowner's Association CC&Rs, would the Town have any authority over that. Mr. Balmer responded, "no". Commissioner Gad expressed concern if the applications are reviewed on a case-by-case basis, and if the occupation is not specifically prohibited, how would staff maintain consistency with each applicant over time. He noted a different staff member in the future may have a different interpretation than a current staff member. Mr. Balmer responded the application is interpreted based not only on the questions answered, but on how much the applicant submits or holds back. Chairman Sossaman asked if an application were to be denied, is there an appeals process. Mr. Balmer responded, "yes", if the applicant wished to appeal, the request would then be submitted to the Planning & Zoning Commission and Town Council. Commissioner Reyes stated she agrees reviewing requests on a case-by-case basis would leave the Town open to problematic issues. Commissioner Robinson clarified that if the application meets the base criteria, and does not have a detrimental effect on the neighborhood, then there would not be an issue.

Commissioner Nichols stated his concern if a neighbor feels uncomfortable with a particular use, but it meets all the criteria, how would staff be able to deny it. Commissioner Robinson noted it would be logical if something meets the criteria, it is permissible until a complaint is received and a problem is documented.

Commissioner Gad suggested a hybrid approach between both the performance-based language and specific permitted uses, which specifically addresses commercial food preparation and simplifies the list of permitted and not-permitted items, but leaves a general guideline.

Chairman Sossaman suggested recommending to Council the removal of the "Permitted" items, and updating the "Not Permitted" list, as well as going to a performance-based system.

Discussion took place on the number of clients permitted to visit a home-based business in one week. The current ordinance limits the number of on-site visits to six clients per week; however, Commissioner Nichols noted he is aware home-based businesses, such as those providing music or swimming lessons, typically have more than six clients per week.

Mr. Balmer noted Planning staff had briefly discussed the general concept of revising this ordinance with the Economic Development Commission, and about using the concept as an economic development tool in promoting small businesses. Chairman Sossaman questioned whether or not a letter from the HOA would be necessary in the application process. Mr. Balmer stated that would not be necessary. Commissioner Gad suggested at least having one of the questions on the application/questionnaire ask whether or not the proposed home-based use complies with the HOA's regulations.

Commissioner Gad asked at what point would a State health inspection become necessary for the home-based cooking facility. Mr. Balmer referred to the Arizona Revised Statutes, stating it is based on types of ingredients and quantity, specifically those food items which would be prone to causing food-borne illnesses (i.e. eggs, mayonnaise, etc.).

ADMINISTRATIVE ITEMS

4. **Review** of next month's agenda items.

Mr. Balmer reviewed items scheduled for the June Planning Commission meeting:

- 1) TA12-033, Text Amendment to Article 6.16 of the Zoning Ordinance, allowing more on-site signage for homebuilder complexes.

Mr. Balmer also provided background on all projects listed on the Planning Current Applications Spreadsheet:

- Victoria PAD, Parcels 10, 11, and 11A (RZ12-034)
- The Church Farm
- Bello, GP12-036/RZ12-037/SD12-038
- Queen Creek Station, PA11-0011
- Hastings Farms East, PA 12-0001
- Ocotillo Heights, Ph. II, PA12-0002

Mr. Balmer also provided information on some projects that are not listed on the spreadsheet, but on which staff has had discussions with applicants:

- Emperor Estates, Unit IV – located at the northeast corner of Sossaman and Queen Creek roads;
- Cielo Noche – south of Queen Creek Road, west of Hawes
- Villagio, south of Queen Creek Road, east of Sossaman.

5. **Report** on Town Council Action – minutes were provided in the agenda packets.

6. **Summary of Current Events** from members of the Commission – none.

7. **Adjournment**

Motion by: Vice Chair Ingram

To adjourn.

Seconded by: Commissioner Reyes
Vote: All ayes. Motion carried 7-0.

The meeting adjourned at 7:03 p.m.

PLANNING AND ZONING COMMISSION

Steve Sossaman, Chairman

ATTEST:

Laura Moats, Development Services Assistant

I, Laura Moats, do hereby certify that, to the best of my knowledge and belief, the foregoing Minutes are a true and correct copy of the Minutes of the May 9, 2012 Work Study of the Planning and Zoning Commission. I further certify that the meeting was duly called and that a quorum was present.

Dated this 9th day of May, 2012

These are draft minutes, which have not yet been approved.

Passed and Approved this day of