



City of Stayton

Department of Planning and Development

362 N. Third Avenue • Stayton, OR 97383

Phone: (503) 769-2998 • Fax (503) 769-2134

dfeishman@staytonoregon.gov www.staytonoregon.gov

MEMORANDUM

TO: Chairperson Ralph Lewis and Planning Commission Members
FROM: Dan Fleishman, Director of Planning and Development
DATE: April 25, 2022
SUBJECT: Code Interpretation

ISSUE

The issue before the Planning Commission is a request from staff for an interpretation of the Land Use and Development Code.

BACKGROUND

Section 17.04.040.2 gives the Planning Commission the authority to provide interpretations of the Code when the intent or meaning is not clear. This section reads:

17.04.040 INTERPRETATIONS

1. In the interpretation and application of this code, all provisions shall be:
 - a. Considered as minimum requirements.
 - b. Liberally construed in favor of the governing body.
 - c. Deemed neither to limit nor to repeal any other powers granted under state statutes.
2. When, in the administration of the provisions of this code, there is substantial doubt regarding the intent or meaning of the code, the City Planner may request an interpretation of the provisions by the Planning Commission, which shall issue an interpretation of the question if the Commission has determined that such interpretation is within its power and is an administrative and not a legislative act. Any interpretation of the code shall be based on the following considerations:
 - a. The purpose and intent of the code as expressed within the particular section being questioned.
 - b. Guidance provided by the City's Comprehensive Plan and related materials.
 - c. The opinion of the City Attorney when requested by the Planning Commission.

ANALYSIS

A question has arisen as to what constitutes a “dwelling as part of a live-work unit” as compared to a single family dwelling. In the Downtown zoning districts, single family detached dwellings are not permitted. However, a dwelling as part of a live-work unit is a permitted use. The question is in the context of business activity permitted in a dwelling in the residential zones, what constitutes business activity necessary for a use to be considered live-work unit.

The Code defines a live-work unit as

City of Stayton

LIVE-WORK UNIT: a structure or portion of a structure:

1. That combines a commercial or manufacturing activity allowed in the zone with a residential living space for the owner of the commercial or manufacturing business, or the owner's employee, and that person's household; and
2. Where the resident owner or employee of the business is responsible for the commercial or manufacturing activity performed.

The issue has arisen because there have been two properties in the Downtown Residential Mixed Use zone on the market. One property had been the office of a chiropractor and the other a screen printing shop. Both buildings were originally constructed as dwellings prior to zoning, though for many years were used solely for commercial purposes. Perspective purchasers of each property have been interested in using them only for residential use or primarily as a residence with limited business activity. The DRMU zone does not permit a single family detached dwelling, so buyers have been told that the property has to have business use.

One perspective purchaser informed staff that they own a business that operates elsewhere, but that he would have an office in the house where he did paperwork. Employees would not be coming to the house; customers would not be coming to the house, company vehicles would not be present on site, and no product or materials would be made or stored at the house. Staff's interpretation was that anyone in a home in a residential zone can "bring work home" and have a home office. Therefore, this would not constitute business use enough to be considered a live-work unit.

Other interested buyers would have an internet-based in businesses in which product would be produced in the home and shipped from the site.

One of the building owners has questioned staff's decisions and oral advice to perspective purchasers, and while not wanting to appeal staff's decision, requested that the Planning Commission provide their interpretation. She has prepared the attached "exercise" to frame the conversation, providing a number of different scenarios that might be faced.

REQUEST

The staff requesting guidance from the Planning Commission as to the extent commercial activity must be present in order to classify a use as a live-work unit rather than a single family dwelling. Some questions that might be relevant to the discussion include:

- Does the business use have to be the principal location of the business?
- If the business has employees, do employees have to be present at the location?
- If the business is retail/service does the place of business need to be open to the public?
- If the only business activity taking place would be permitted in a residential zone, (i.e., qualifies as a home occupation or is incidental business use of a part of the dwelling) does that constitute a commercial activity.