

Toledo City Hall
Council Chambers*
206 N. Main St. Toledo OR
November 13, 2019
7:00 pm

AGENDA

TOLEDO PLANNING COMMISSION

1. CALL TO ORDER
2. VISITORS: (A time set aside to speak with the Planning Commissioners about issues not on the agenda)
3. APPROVAL OF THE OCTOBER 9, 2019 MINUTES as circulated and reviewed by the Planning Commission.
4. CONTINUED PUBLIC HEARING: Minor Partition to create two parcels for property located at 1606 NW Nye Street (File #MP-2-19), requested by David and Tami Howard
5. DISCUSSION ITEMS:
 - a. Accessory Dwelling Unit Standards (HB 2001)
 - b. Olalla Slough Pedestrian Trail and Park Project
 - c. Updates and Reports
6. STAFF COMMENTS
7. COMMISSIONER COMMENTS
8. ADJOURNMENT

* The Toledo City Hall Council Chambers are accessible to persons with disabilities. A request for special accommodations for persons with disabilities should be made at least 48 hours in advance of the meeting date by calling the Toledo Planning Department at 541-336-2247.

TOLEDO PLANNING COMMISSION MINUTES

A regular meeting of the Toledo Planning Commission was called to order at 7:00 pm by President Todd Michels. Commissioners present: Geoffrey Wilkie, Cora Warfield, Robert Duprau, and Anne Learned-Ellis. Excused was Penny Ryerson.

Staff present: City Manager Wes Hare, Contract Planner (CP) Justin Peterson, City Attorney David Robinson, and Secretary Arlene Inukai.

VISITORS: Rod Cross, Heather Jukich, and Jackie Kauffman.

Rod Cross of 931 NE Alder St., Toledo, invited Commissioners to a Town Hall meeting on October 27, 2019, at Toledo High School at 5:00 pm. This will be a good time to interact with community members and ask questions. Dinner will be served at 5:00 pm and the meeting will start at 6:00 pm.

APPROVAL OF THE JUNE 12, 2019, AND JULY 10, 2019, MINUTES:

Commissioner Wilkie noted corrections to the June minutes, correcting misspelled words on Page 3 ("Wilkie") and Page 5 ("complimented") and July minutes on Page 1 ("Wilkie")

It was moved and seconded (Warfield/Wilkie) to approve the amended June 12, 2019, and July 10, 2019, minutes as circulated, reviewed and corrected by the Planning Commission. The **motion passed** 4-0, with Learned-Ellis abstaining and noting the absence of Ryerson.

PUBLIC HEARING: MINOR PARTITION TO CREATE TWO PARCELS FOR PROPERTY LOCATED AT 1606 NW SPRUCE STREET (FILE #MP-2-19), REQUESTED BY DAVID AND TAMI HOWARD:

President Michels opened the public hearing by stating the nature and purpose. After calling for declarations of ex parte contact, bias, or conflict of interest, Commissioner Duprau reported he knows the applicants, but it would not impact his decision. The statements of rights and relevances and rights to appeal were then read.

Staff Report: CP Peterson reported that staff requested new information from the applicant and is recommending that the Planning Commission continue the public hearing until November 13, 2019, at 7:00 pm. New information is needed in order to address relevant code criteria and it will then be presented in the staff report. A meeting with the applicant and City staff will be held next week and the staff report can be finalized for the November 13th meeting.

It was moved and seconded (Learned-Ellis/Warfield) to continue the hearing to the November 13, 2019, Planning Commission meeting date. The **motion passed** unanimously, noting the absence of Ryerson.

DISCUSSION ITEMS: OLALLA SLOUGH PEDESTRIAN TRAIL AND PARK PROJECT:

Mayor Rod Cross provided information on a park idea going back to the early 2000s. The purpose of the project is to improve City-owned properties to create a pedestrian trail system, family park,

and ball fields. Mayor Cross referred to the handout included in the Planning Commission packet, showing the location of the property along East Slope Road and Olalla Slough. The entire site is approximately 18 acres. The proposal was originally submitted to the State years ago and included a lot of fill material for the site. This was not supported by the State because of potential wetlands and Goal 5 factors. The new proposal would limit the fill and provides permeable surfaces to help with drainage. Mayor Cross compared the concept plan with Bryant Park in Albany, which is closed and gated during the winter months because of flooding. It would be expected that the site could have 4-5 months of use in the summer.

Mayor Cross would like to see if the plan works for DSL and the City. The site may not be large enough to hold the Summer Festival, but it should handle small gatherings, events, and recreational activities. He would like to see 3-4 baseball/softball fields, approximately 2.5 acres each, leaving approximately 8-10 acres remaining for the site. He would also like to see secured stands for electrical and water hook-ups, located above the floodplain, which could be used by food trucks during events. A bike/pedestrian path and bridge across Olalla Slough would be a necessary link to access Toledo Elementary School. A crosswalk would have to be created on Sturdevant Road to reach the school site. A map was projected for the group and Mayor Cross pointed out the property location, potential trail and bridge site, parking area, Sturdevant Road crosswalk location, and bike lane to the school. The City already has the bridge for the crossing. A wetlands delineation will be necessary and there may be wetland mitigation credits that DSL may take into account. It would be nice to see a kayak launch area off of the parking lot and a covered pavilion for events. A ramp may be needed to use the existing dike as the trail, as he does not want to breach the dike. Gravel should be used for site improvements, avoiding concrete and impervious surfaces.

Mayor Cross stated that this project would benefit the community. It has merit, but will not be easy to development. He is presenting the proposal to the Planning Commissioners because they deal with the Statewide Planning Goals and Comprehensive Land Use Plan Goals and with the help of the new contract Planner, the proposal could move forward.

Commissioners discussed several parts of the proposal, summarized below:

- The property is located within the floodplain. The new ordinance and maps were recently adopted. Commissioners would like to view the floodplain maps.
- A wetlands review will be needed.
- Permeable surfaces and closing the park during the winter are good suggestions.
- Planning Commissioners would like to know the cost to maintain the park and trails, even with seasonal closures.

Mayor Cross provided his contact information to Commissioners, if anyone wishes to discuss the project further.

CP Peterson formally introduced himself, stating that he works for Oregon Cascades West Council of Governments (OCWCOG), based out of Albany. CWCOG provides assistance to communities for land use and transportation planning projects. He suggested establishing various components of the project and phasing the work. For example, the trail system could be one phase and funding could be found through ODOT's Safe Routes to School program. The ballfields may undergo several government reviews, such as FEMA and DSL and it may be a harder piece than the pathway. CP Peterson will begin to look at funding opportunities, submittal processes, and deadline dates.

Commissioners discussed grant opportunities, suggesting the City may not be ready to submit requests until 2020-2021. Many grants are very competitive and a good plan is needed. Also, some grants require a match that the City needs to provide. Mayor Cross voiced that there are matching funds available for the bridge and trail project. CP Peterson reported he will meet with DLCD Representative Lisa Phipps next week. She may have information on State programs or grants available for this type of project.

Commissioners discussed taking a tour of the site. It was suggested that it be viewed before the end of the month, as it will become very wet. The area on the south side may be the drier area. Commissioners agreed to individually visit the site and report back at the next meeting.

Mayor Cross provided the following information in answer to Commissioner questions:

- Lighting may not be necessary for the park, as it would get the most use during the summer season. Additional lighting may be needed on Sturdevant Road, at the bridge crossing and street crosswalk.
- If there is less infrastructure and fewer disturbances, it may be more favorable to the State.
- Porta-potties may be the only option at the site.
- Not aware of any historic or tribal significance, but it will need further review.
- The bridge and the path may be the easiest to establish. The project could be scaled back if items are too challenging.
- There is an existing barn on the southern portion of the property.
- This could be a topic of discussion at the upcoming Town Hall meeting.

Commissioners generally agreed that they would like to see something developed, at least the trail. Mayor Cross is hoping the Planning Commission would take on the project. CP Peterson will start to research the project and funding opportunities.

DISCUSSION ITEMS: UPDATES AND REPORTS:

Secretary Inukai reported the Flood Hazard Protection Ordinance and new flood maps were recently adopted and are now in effect.

CP Peterson announced he is available for questions and he will have office hours in Toledo on Wednesdays. Also, there is a lot of expertise in the COG office that can be of assistance. He would like to see if DLCD Representative Lisa Phipps is available for training opportunities.

STAFF COMMENTS:

None.

COMMISSIONER COMMENTS:

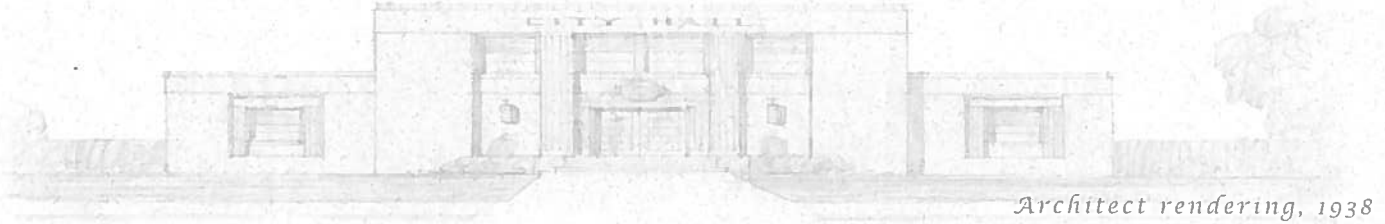
Commissioner Wilkie announced OCCC's community spelling bee on October 20th and the State of the Coast Conference will be November 9, 2019.

There being no further business before the Commission, the meeting was adjourned at 8:05 pm.

Secretary

President

CITY OF TOLEDO



To: Toledo Planning Commission

From: Justin Peterson, Contract Planner

Date: November 6, 2019

Re: November 13, 2019, Public Hearing Item – Minor Partition Request MP-2-19

As you recall, the minor partition request (MP-2-19) from applicants David and Tami Howard was on your October 9, 2019 agenda. In October, the hearing was continued to November 13, 2019, in order to allow additional information to be submitted for the request. On October 23, 2019, City staff met with Mr. Howard to review the criteria standards, possible options for lot configuration to meet standards, and history of potential lot transfers between the applicants and the City of Toledo. Based on the meeting, it was suggested that the partition request be on hold until a permanent City Manager and Public Works Director came on board to address potential property transfers and road dedications. On October 28, 2019, Mr. Howard submitted a letter to withdraw the minor partition request (please see attached). He further clarified that he will revisit the issue next spring when a permanent City Manager and Public Works Director are available.

Staff recommends accepting the withdraw letter.

A handwritten signature in dark ink, appearing to be "J. Peterson".

October 26, 2019

City of Toledo
P.O. Box 220
Toledo, Oregon 97391

Attention: Arlene Inukai, Planning Assistant

Dear Arlene:

Thank you for your considerable assistance in setting up meetings to discuss the minor petitioning of our lot on Spruce Street.

Please withdraw our request for minor petition on Spruce Street. We will revisit this issue next spring when a permanent city manager and a public works director are available so that we can address issues with the petitioning of this lot.

Sincerely,

David Howard
P.O. Box 118
Toledo, Oregon 97391
541-336-1512

RECEIVED
CITY OF TOLEDO
DATE 10/28/19
BY ai

Proposed Amendments to Toledo Municipal Code (TMC) Title 17

*Proposed additions to the text are underlined. Deletions are listed in ~~striketrough~~.

The Oregon State Legislature passed House Bill (HB) 2001 during the 2019 regular session. This document outlines the anticipated changes for residential property within the City of Toledo. HB 2001 prevents local governments from requiring owner occupancy or parking for Accessory Dwelling Units (ADUs) as of January 1, 2020. The TMC ADU definition and proposed changes to the TMC are outlined below.

I. Accessory Dwelling Units Defined

"Accessory dwelling unit" - means a dwelling unit incidental and subordinate to the main dwelling unit. Examples include a studio apartment located over a garage or a one bedroom cottage located in the backyard. (TMC 17.04.020)

II. Toledo Municipal Code (TMC) 17.08.080 and 17.12.040

A. Accessory Dwelling Units. One accessory dwelling unit may be allowed in conjunction with a single-family dwelling by conversion of existing space, by means of an addition, or as an accessory structure on the same lot with an existing dwelling, provided the following conditions can be met:

~~1. The owner(s) of the primary dwelling shall occupy at least one of the units.~~

~~2.~~1. Any additions shall not increase the gross floor area of the original dwelling by more than thirty-five (35) percent. Gross floor area of the accessory unit shall not exceed thirty-five (35) percent of the primary dwelling's total floor area, or six hundred fifty (650) square feet, whichever is the lesser.

~~3. One additional off street parking space shall be provided in addition to the required parking for the primary dwelling.~~

~~4.~~2. Accessory dwelling shall have exterior siding and roofing which in color, material, and appearance is similar to the exterior siding and roofing material of the primary dwelling.

~~5.~~3. Units shall comply with fire and life-safety codes.

~~6.~~4. Any accessory use and/or dwelling associated with a conditional use shall be allowed only after approval has been granted through the conditional use procedure. A conflict of interpretation concerning whether a use or structure is an accessory use or structure shall be resolved in accordance with the provisions for a code interpretation.

**GUIDANCE ON IMPLEMENTING
THE ACCESSORY DWELLING UNITS (ADU) REQUIREMENT
UNDER OREGON SENATE BILL 1051
UPDATED TO INCLUDE HB 2001 (2019)**



*M. Klepinger's backyard detached ADU, Richmond neighborhood, Portland, OR.
(Photo courtesy of Ellen Bassett and accessorydwellings.org.)*

OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

MARCH 2018, updated SEPTEMBER 2019



Introduction

As housing prices in Oregon go up, outpacing employment and wage growth, the availability of affordable housing is decreasing in cities throughout the state. While Oregon's population continues to expand, the supply of housing, already impacted by less building during the recession, has not kept up. To address the lack of housing supply, House Speaker Tina Kotek introduced House Bill (HB) 2007 during the 2017 legislative session to, as she stated, "remove barriers to development." Through the legislative process, legislators placed much of the content of HB 2007 into Senate Bill (SB) 1051, which then passed, and was signed into law by Governor Brown on August 15, 2017 (codified in amendments to Oregon Revised Statute 197.312). In addition, a scrivener's error¹ was corrected through the passage of HB 4031 in 2018.

Among the provisions of SB 1051 and HB 4031 is the requirement that cities and counties of a certain population allow accessory dwelling units (ADUs) as described below:

- a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.*
- b) As used in this subsection, "accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.*

This requirement became effective on July 1, 2018 and subject cities and counties must now accept applications for ADUs inside urban growth boundaries (UGBs).

On August 8, 2019, Governor Brown signed HB 2001, which became effective immediately and established that off-street parking and owner-occupancy requirements are not "reasonable local regulations relating to siting and design." This means that, even if a local development code requires off-street parking and owner-occupancy, starting on August 8, 2019, local jurisdictions may not mandate the construction of additional off-street parking spaces

¹ The scrivener's error in SB 1051 removed the words "within the urban growth boundary." HB 4031 added the words into statute and thus limited the siting of ADUs to within UGBs. As a result, land within a city with a population greater than 2,500 but that is not within a UGB is not required by this law to be zoned to allow accessory dwelling units. For counties with a population greater than 15,000, only those unincorporated areas within a UGB are required by this law to be zoned to allow accessory dwelling units.

nor require a property owner to live in either a primary or accessory dwelling. The law provides an exception for ADUs that are used as vacation rentals, which may be required to provide off-street parking or have owner-occupancy requirements.

Some local governments in Oregon already have ADU regulations that meet the requirements of SB 1051 and HB 2001, however, many do not. Still others have regulations that, given the overall legislative direction to encourage the construction of ADUs to meet the housing needs of Oregon's cities, are not "reasonable." The Oregon Department of Land Conservation and Development (DLCD) is issuing this guidance and model code language to help local governments comply with the legislation. The model code language is included at the end of this document.

Guidance by Topic

The purpose of the following guidance is to help cities and counties implement the ADU requirement in a manner that meets the letter and spirit of the law: to create more housing in Oregon by removing barriers to development.

Number of Units

The law requires subject cities and counties to allow "at least one accessory dwelling unit for each detached single-family dwelling." While local governments must allow one ADU where required, DLCD encourages them to consider allowing two units. For example, a city or county could allow one detached ADU and allow another as an attached or interior unit (such as a basement conversion). Because ADUs blend in well with single-family neighborhoods, allowing two units can help increase housing supply while not having a significant visual impact. Vancouver, BC is a successful example of such an approach.

Siting Standards

In order to simplify standards and not create barriers to development of ADUs, DLCD recommends applying the same or less restrictive development standards to ADUs as those for other accessory buildings. Typically that would mean that an ADU could be developed on any legal lot or parcel as long as it met the required setbacks and lot coverage limits; local governments should not mandate a minimum lot size for ADUs. So that lot coverage requirements do not preclude ADUs from being built on smaller lots, local governments should review their lot coverage standards to make sure they don't create a barrier to development. Additionally, some jurisdictions allow greater lot coverage for two ADUs. To address storm water concerns, consider limits to impermeable surfaces rather than simply coverage by structures.

Any legal nonconforming structure (such as a house or outbuilding that doesn't meet current setback requirements) should be allowed to contain, or be converted to, an ADU as long as the development does not increase the nonconformity and it meets building and fire code.

Design Standards

Any design standards required of ADUs must be clear and objective (ORS 197.307[4]). Clear and objective standards do not contain words like "compatible" or "character." With the exception of ADUs that are in historic districts and must follow the historic district regulations, DLCD does not recommend any special design standards for ADUs. Requirements that ADUs match the materials, roof pitch, windows, etc. of the primary dwelling can create additional barriers to development and sometimes backfire if the design and materials of the proposed ADU would have been of superior quality to those of the primary dwelling, had they been allowed. Other standards, such as those that regulate where entrances can be located or require porches and covered entrances, can impose logistical and financial barriers to ADU construction.

Public Utilities

Development codes that require ADUs to have separate sewer and water connections create barriers to building ADUs. In some cases, a property owner may want to provide separate connections, but in other cases doing so may be prohibitively expensive.

System Development Charges (SDCs)

Local governments should consider revising their SDC ordinances to match the true impact of ADUs in order to remove barriers to their development. In fact, HB 2001, passed by the Oregon Legislature in 2019, requires local governments to consider ways to increase the affordability of middle housing types through ordinances and policies, including waiving or deferring system development charges. ADUs are not a middle housing type, but if a local government is reviewing its SDCs for middle housing, that would be a good time to review ADU SDCs as well. ADUs are generally able to house fewer people than average single-family dwellings, so their fiscal impact would be expected to be less than a single-family dwelling. Accordingly, it makes sense that they should be charged lower SDCs than primary detached single-family dwellings. Waiving SDCs for ADUs has been used by some jurisdictions to stimulate the production of more housing units.

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Accessory Dwellings (model code)

Note: ORS 197.312 requires that at least one accessory dwelling be allowed per detached single-family dwelling in every zone within an urban growth boundary that allows detached single-family dwellings. The statute does not allow local jurisdictions to include off-street parking nor owner-occupancy requirements. Accessory dwellings are an economical way to provide additional housing choices, particularly in communities with high land prices or a lack of investment in affordable housing. They provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with single-family detached dwellings. Requirements that accessory dwellings have separate connections to and pay system development charges for water and sewer services can pose barriers to development. Concerns about neighborhood compatibility and other factors should be considered and balanced against the need to address Oregon's housing shortage by removing barriers to development.

The model development code language below provides recommended language for accessory dwellings. The italicized sections in brackets indicate options to be selected or suggested numerical standards that communities can adjust to meet their needs. Local housing providers should be consulted when drafting standards for accessory dwellings, and the following standards should be tailored to fit the needs of your community.

Accessory dwellings, where allowed, are subject to review and approval through a Type I procedure[, pursuant to Section _____.] and shall conform to all of the following standards:

[A. One Unit. *A maximum of one Accessory Dwelling is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).*

/

A. Two Units. *A maximum of two Accessory Dwellings are allowed per legal single-family dwelling. One unit must be a detached Accessory Dwelling, or in a portion of a detached accessory building (e.g., above a garage or workshop), and one unit must be attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).]*

B. Floor Area.

- 1. A detached Accessory Dwelling shall not exceed [800-900] square feet of floor area, or [75-85] percent of the primary dwelling's floor area, whichever is smaller.*
- 2. An attached or interior Accessory Dwelling shall not exceed [800-900] square feet of floor area, or [75-85] percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than [800-900] square feet.*

C. Other Development Standards. Accessory Dwellings shall meet all other development standards (e.g., height, setbacks, lot coverage, etc.) for buildings in the zoning district, except that:

- 1. Conversion of an existing legal non-conforming structure to an Accessory Dwelling is allowed, provided that the conversion does not increase the non-conformity;*

2. No off-street parking is required for an Accessory Dwelling;
3. Properties with two Accessory Dwellings are allowed [10-20%] greater lot coverage than that allowed by the zone in which they are located; and
4. Accessory dwellings are not included in density calculations.

Definition (This should be included in the “definitions” section of the zoning ordinance. It matches the definition for Accessory Dwelling found in ORS 197.312)

Accessory Dwelling – An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.