

Toledo City Hall  
Council Chambers\*  
206 N. Main St. Toledo OR  
January 8, 2020  
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 DECEMBER 11, 2019 MINUTES as circulated and reviewed by the Planning Commission
4. PUBLIC HEARING: Zoning Ordinance amendment to modify the Accessory Dwelling Unit definition and standards in the Single-Family Residential Zone and General Residential Zone (File #ZOA-1-19), requested by the City of Toledo
5. DISCUSSION ITEMS:
  - a. Updates and Reports
6. STAFF COMMENTS
7. COMMISSIONER COMMENTS
8. ADJOURNMENT

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## 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, Robert Duprau, Anne Learned-Ellis, and Penny Ryerson. Excused was Cora Warfield.

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

VISITORS: None

### APPROVAL OF THE NOVEMBER 13, 2019, MINUTES:

It was moved and seconded (Learned-Ellis/Wilkie) to approve the November 13, 2019, minutes as circulated and reviewed by the Planning Commission. The **motion passed**, noting the absence of Warfield.

### WORKSESSION: ACCESSORY DWELLING UNIT STANDARDS:

CP Peterson provided updates from the Planning Commission's suggestions last month. In response to Commissioner Ryerson's inquiry, he also explained the definition of accessory dwelling units (ADUs) and the necessary changes, due to new State requirements. The ADUs only affect the residential zone, and not commercial properties. CP Peterson reviewed the updates and Commissioners discussed the updated language, as summarized below:

- The Planning Commission public hearing will be held in January and City Council will hear the issue in February.
- The State eliminated the option to require ADU parking and owner-occupancy in local ordinances. After January 1st, if someone applies for an ADU before the parking and owner-occupancy language is removed from the code, the City will have to follow the State's requirement and exempt the two standards.
- The square footage/percentage is the middle calculation of DLCD's recommendation.
- New to this draft is proposed language that prohibits manufactured homes as an ADU structure. This was presented after staff reviewed if other communities allow manufactured dwellings as an ADU. Commissioners reviewed the definition of manufactured homes and pre-fabricated structures. Commissioners discussed if the proposed language should be removed, modified, or remain in the draft. It was noted that manufactured homes may not meet the remaining standards, such as square footage or design standards. It was suggested that if manufactured homes are allowed for ADUs, there should be placement standards. Commissioners discussed keeping the proposed language for one year and after that point, determine if there is a public need to allow manufactured homes as ADUs.
- The "material" term was removed from the design standards, but similar "color" and "appearance" remain in the standard. There should be clear and objective standards, but appearance may be hard to define. Commissioners discussed different architectural styles. Various styles already exists house-to-house. Neighborhood character is an important conversation for ADUs, but the neighborhood is already affected because of the existing styles in an area. Commissioners suggested removing the design standards entirely and only keep the requirement that ADUs must meet fire/life safety requirements.

- New language was included to clarify the minimum lot size in the RG Zone of 6000 square feet and 1800 square feet for each "multi-family" unit. ADUs would be exempt from the 1800 square feet requirement. Many RG properties are 6000 square feet or smaller and ADUs will be allowed on those lots.
- The updates and staff report will be presented in January. The Planning Commission makes a recommendation to City Council. The Council has final authority on ordinance amendments.

#### DISCUSSION ITEM: TREE CITY USA 2019 APPLICATION:

Secretary Inukai explained that as part of the Tree City USA renewal application, the City must have an annual tree plan for the upcoming year. Commissioners reviewed the 2019 plan and noted the ambitious activities. Commissioners would like to see a leaf pick-up event, public education for the benefits of composting leaves, an ivy-pull event, tree identification presentation, book donation to the Library, and a group tour of the Olalla Slough pedestrian trail/park site. CA Robinson offered to contact the Library for assistance with the books and children's events. The City has been performing a lot more tree maintenance work since the acquisition of the bucket truck.

#### STAFF COMMENTS:

Secretary Inukai wished all a good holiday.

#### COMMISSIONER COMMENTS:

Commissioner Ryerson apologized for missing the last couple meetings.

Commissioners asked for an update on the Olalla Slough trail/park project. CP Peterson reported that a wetlands delineation may cost at least \$5000. This study determines where and what type of wetlands are on the site. Commissioner Ryerson reported on the challenges with creating a new park, especially when identifying the parking needs and location. She questioned how the river and potential flooding could impact the area. President Michels noted the three phase approach: first the path to the school, next the nature trail, with the ball field and park as the third phase. There is existing funding available that could go towards the project. Commissioners discussed parking and the need for a wetlands study to move forward with a project. Once the wetlands review is completed, the study is good for five years, so action has to occur soon. CP Peterson would like to have a meeting with DSL, Mayor Cross, and staff to get a better idea for the project needs and challenges. This may occur in January. Commissioner Learned-Ellis would like to view the floodplain maps and a photograph of the existing pedestrian bridge.

CP Peterson spoke with the Safe Routes to Schools grant program contact. Because the program is funded by State gas tax, it restricts projects to streets. Therefore, the grant would only be for the actual crossing, such as signals or street improvements. A separate Safe Routes to School grant allows the agency to visit the school and view the barriers in the area. They may then suggest other features, such as sidewalks or lighting, to assist with the crossing. Oregon Parks and Recreation grant could be submitted for the trail or park system. Commissioner Duprau stressed that something needs to happen at the school, since more trucks are on the road and kids need to be safe.

There being no further business before the Commission, the meeting was adjourned at 7:55 pm.

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Secretary

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President

# TOLEDO PLANNING COMMISSION AND CITY COUNCIL STAFF REPORT

**FILE #:** ZOA-1-19

**APPLICANT:** City of Toledo

**APPLICATION DATE:** November 13, 2019

**HEARING DATE:** January 8, 2020 (PC) and February 5, 2020 (CC)

**REQUEST:** To amend Toledo Municipal Code (TMC) Sections 17.04.020(B), 17.08.090(D), 17.12.040(A), and 17.12.060, and repeal 17.44.030(A)(7), as follows: Section 17.04.020(B) is amended to update the definition for “Accessory Dwelling Unit”; Section 17.08.090(D) is amended to update the special standards for Accessory Dwelling Units (ADUs) in the Single-Family Residential (R-S) zone; Section 17.12.040(A) is amended to update the special standards for ADUs in the General Residential (R-G) zone; Section 17.12.060 is amended to update the lot size requirement in the R-G zone; Section 17.44.030(A)(7) is repealed.

## I. REPORT OF FACTS:

|                                |                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Notice of Public Hearing:      | Notices mailed on December 19, 2019, to 19 public/service agencies. Notice sent to DLCD on November 21, 2019. Measure 56 notice sent on December 19, 2019, to any property owner located within the R-S or R-G zones.                                                                                                                                   |
| Notice Published in Newspaper: | December 24, 2019, December 31, 2019, and January 8, 2020                                                                                                                                                                                                                                                                                               |
| Comments Received:             | Public Works, Fire, and Police Departments all reviewed the application. No written comments were received by planning staff at the time of this writing. Staff received several calls for additional information on the proposal (in response to the mailed notices), however, no callers voiced opinions in support or in opposition of the proposal. |
| Attachments to Staff Report:   | A. Complete Proposed Text Amendments, with strikethrough and underlined changes<br>B. Draft Ordinance                                                                                                                                                                                                                                                   |

## II. BACKGROUND

The Planning Commission and City Council will be considering the evidence in this report, including the proposed Ordinance attached as Exhibit B to this staff report, and in public testimony, as it reviews a proposal to amend the Toledo Municipal Code to update the Accessory Dwelling Unit (ADU) definition; update the ADU special standards in the Single-Family Residential (R-S) zone and General Residential (R-G) zone; to update the lot size standard in the R-G zone; and to remove the off street parking requirement for ADU's.

At a November 13<sup>th</sup>, Planning Commission work session, Staff presented on House Bill (HB) 2001 and the recommended updates to Accessory Dwelling Unit (ADU) standards provided by the Department of Land Conservation and Development (DLCD).

At a December 11<sup>th</sup>, Planning Commission Work Session, Staff presented proposed changes to the Toledo Municipal Code (TMC).

The proposal includes the following definitions to be updated in TMC 17.04.020(B):

**“Accessory Dwelling Unit”** an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.

The following are the proposed ADU standards in the Single-Family Residential (R-S) zone (TMC 17.08.090(D)):

Accessory dwelling units, where allowed, are subject to review and approval through a Type I procedure, pursuant to TMC Section 19.08, and shall conform to all of the following standards:

**A. One Unit.** A maximum of one Accessory Dwelling Unit 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).

**B. Floor Area**

1. A detached Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling’s floor area, whichever is smaller.
2. An attached or interior Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling’s floor area, whichever is smaller. However, Accessory Dwelling Units 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 Unit would be more than 850 square feet.

**C. Other Development Standards.** Accessory Dwelling Units 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 Unit is allowed, provided that the conversion does not increase the non-conformity.
2. No off-street parking is required for an Accessory Dwelling Unit.
3. Accessory Dwelling Units may not be a manufactured dwelling.

**D. Design Standards**

1. Accessory Dwelling Units shall comply with fire and life-safety codes.

The following are the proposed ADU standards in the Residential General (R-G) zone (TMC 17.12.040(A)):

Accessory dwelling units, where allowed, are subject to review and approval through a Type I procedure, pursuant to TMC Section 19.08, and shall conform to all of the following standards:

**A. Two Units.** A maximum of two Accessory Dwelling Units 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 Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller.
2. An attached or interior Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwelling Units 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 Unit would be more than 850 square feet.

**C. Other Development Standards.** Accessory Dwelling Units 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 Unit is allowed, provided that the conversion does not increase the non-conformity.
2. No off-street parking is required for an Accessory Dwelling Unit.
3. Accessory Dwelling Units may not be a manufactured dwelling.

**D. Design Standards**

1. Accessory Dwelling Units shall comply with fire and life-safety codes.

The following is the proposed lot size requirement in the Residential General (R-G) zone (TMC 17.12.060):

The minimum lot area shall be six thousand (6,000) square feet for a single-family dwelling plus one thousand eight hundred (1,800) square feet for each additional multi-family dwelling unit. Density in the R-G zone shall not exceed twenty-one (21) units per acre.

The proposed ordinance repeals the parking requirement for Accessory Dwelling Units in the off street parking chapter (TMC 17.44.030(A)(7)).

**III. AUTHORITY:** The following ordinance standards related to the approval process and authority apply to this request.

17.80.030 Legislative amendments.

Legislative amendments are policy decisions such as the amendment to a comprehensive land use map or the municipal code made by the city council. They are reviewed using the Type IV land use procedure as set forth by ordinance.

19.20.070 Decision-making considerations.

The recommendation by the planning commission and the decision by the city council shall be based on consideration of the following factors:

- A. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);
- B. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
- C. Any applicable intergovernmental agreements; and
- D. Any applicable comprehensive plan policies and provisions of the municipal code that implement the comprehensive plan. Compliance with Toledo Municipal Code 17.80 shall be required for legislative amendments such as Comprehensive Plan Amendments and for quasijudicial amendments.

19.20.080 Approval process and authority.

- A. The planning commission shall:
  - 1. After notice and a public hearing, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
  - 2. Within ten (10) business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the city manager.
- B. Any member of the planning commission who votes in opposition to the planning commission's majority recommendation may file a written statement of opposition with the city manager before the council public hearing on the proposal. The city manager shall send a copy to each council member and place a copy in the record;
- C. If the planning commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within ten (10) days of its first public hearing on the proposed change, the city manager shall:
  - 1. Report the failure together with the proposed change to the city council; and
  - 2. Provide notice and put the matter on the city council's agenda, a public hearing to be held, and a decision to be made by the council. No further action shall be taken by the commission.
- D. The city council shall:
  - 1. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application;
  - 2. Consider the recommendation of the planning commission; however, it is not bound by the commission's recommendation; and
  - 3. Act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

19.20.090 Vote required for a legislative change.

- A. A vote by a majority of the qualified voting members of the planning commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
- B. A vote by a majority of the qualified members of the city council present is required to decide any motion made on the proposal.

19.20.100 Notice of decision.

Notice of a Type IV decision shall be mailed to the applicant, any participants of record, and

the Department of Land Conservation and Development, within five business days after the city council decision is filed with the city manager. The city shall also provide notice to all persons as required by other applicable laws.

19.20.110 Final decision and effective date.

A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance or as specified in the city charter, or if not approved, upon mailing of the notice of decision to the applicant.

**IV. RELEVANT CRITERIA AND STAFF FINDINGS:**

TMC 19.20.070(A)-(D) contain the decision-making standards that are relevant to legislative amendments. The recommendation by the Planning Commission and the decision by the City Council shall be based upon the following criteria:

**Criterion 1. Consideration of the Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);**

*Finding 1*

Criterion #1 is not applicable to this proposal because this application does not require an amendment to the comprehensive plan.

**Criterion 2. Consideration of comments from any applicable federal or state agencies regarding applicable statutes or regulations.**

*Finding 2*

At the time of this writing (December 31, 2019), no comments have been received from any federal or state agencies concerning the proposed ordinance amendment.

**Criterion 3. Consideration of any applicable intergovernmental agreements.**

*Finding 3*

As required by Section 4(B) of the Urban Growth Management Agreement between the City of Toledo and Lincoln County, executed on June 6, 2001, the City notified Lincoln County in writing of this proposal. As of January 2, 2020, no comments have been received from Lincoln County.

**Criterion 4. Any applicable comprehensive plan policies and provisions of the municipal code that implement the comprehensive plan. Compliance with Toledo Municipal Code 17.80 shall be required for legislative amendments such as Comprehensive Plan Amendments and for quasi-judicial amendments.**

The following Comprehensive goals and objectives are applicable to this proposal:

**ARTICLE 2: LAND USE PLANNING**

Goal 1. Implement locally desired land use policies and practices that do not conflict with the State of Oregon's land use planning program.

Finding 4

The proposal to update the Accessory Dwelling Unit (ADU) standards in the Single-Family Residential (R-S) zone and General Residential (R-G) zone, will not conflict with the State of Oregon's land use planning program and will implement House Bill (HB) 2001. The proposed updates are based on HB 2001 requirements and the Department of Land Conservation and Development (DLCD) recommendations. Therefore, the proposed amendments implement desired land use policies and practices that do not conflict with the State of Oregon land use planning program.

Goal 3. Assure an adequate factual basis for all decisions and actions related to the use of land as established and required by the State of Oregon's land use planning program.

Finding 5

The findings of fact included in this staff report outline the factual basis for action by the City to amend Toledo Municipal Code (TMC) 17.04.020(B), 17.08.090(D), 17.12.040(A), 17.12.060, and to repeal 17.44.030(A)(7).

Objectives:

Implementation of the Toledo Comprehensive Land Use Plan shall be through a) management implementation measures such as ordinances, regulations or project plans, and b) site or area specific implementation measures such as permits and grants for construction, construction of public facilities or provision of services related to the land use planning goals and objectives identified within the Toledo Comprehensive Land Use Plan.

Finding 6

The proposal to update the ADU standards in the Single-Family Residential (R-S) zone and General Residential (R-G) zone, will ensure the implementation of the Toledo Comprehensive Land Use Plan through the site plan review and building permit process.

2. The Toledo Comprehensive Land Use Plan Map and the Toledo Zoning Map shall provide for sufficient lands for a 20 year supply of land within the Urban Growth Boundary to meet the projected population growth of 5,550 by the year 2020 as projected in the Toledo Buildable Lands Inventory. The 20 year supply of land shall be a sufficient supply of land to implement the following land use zones:

...

Comprehensive Plan Map Designations:

Comprehensive Plan Map designations are intended to guide development by designating appropriate areas for each particular type of development use. Additional uses within each designation may be allowed as either uses permitted outright or as conditional uses when the City determines that such uses are either consistent with the general use or can be reviewed for compatibility through the conditional use process. The map designations and the uses allowed in the designations should reflect the applicable goals and objectives of the Toledo Comprehensive Land Use Plan.

...

Low Density Residential – This designation provides for lower density housing with a focus on single-family housing. This designation shall be implemented through the zoning map's Single-Family Residential (R-S) zone designation.

...

Medium-Density Residential - This designation provides for either lower or higher density housing. This designation may be implemented through the zoning map's Single-Family Residential (R-S) or General Residential (R-G) zone designation.

...

(B) Zoning Map Designations:

...

Single-family Residential (R-S) – The purpose of the R-S zone is to preserve areas within the city for single-family residences and the facilities and services which go along with those residences. The facilities and services and other conditional uses should be compatible with low-density residential living and should not result in heavy traffic, loud noise, or any other disturbing activity.

...

General Residential (R-G) - The purpose of the R-G zone is to encourage economical, higher-density housing in these designated areas and the facilities and services which go along with those residences.

Finding 7

The proposal to update the ADU standards complies with the purpose of the Single-Family Residential (R-S) zone and General Residential (R-G) zone. The proposal provides appropriate housing options for residential zones which are compatible with the residential neighborhood. Specifically, all ADUs will be required to meet development standards including: height, setbacks, lot coverage, and other development standards.

ARTICLE 5: OPEN SPACES, SCENIC & HISTORICAL AREAS, AND NATURAL RESOURCES

Goal 1. Ensure the provision of open space and the protection of scenic and natural resources as required by state and federal law.

Goal 2. Recognize Toledo's historic resources and utilize and enhance those resources for Toledo residents and visitors.

Goal 3. Protect natural resources such as wetlands and riparian habitat areas as required by state and federal law to ensure their continued contributions as natural areas, open space, wildlife and vegetative habitat, flood protection, and storm water retention and conveyance areas.

Finding 8

This proposal to update the ADU standards in the Single-Family Residential (R-S) zone and General Residential (R-G) zone, will ensure that affected areas of natural, scenic and historical resources are protected, as needed, through the site plan review and building permit review process.

ARTICLE 6: AIR, WATER, AND LAND RESOURCES QUALITY

Goal 1. Ensure that existing and future land use activities meet or exceed federal, state, and local air quality standards.

Goal 2. Ensure that future land use activities enhance or, at minimum, maintain water quality.

Finding 9

This proposal to update the ADU standards in the Single-Family Residential (R-S) zone and General Residential (R-G) zone, will ensure that impacts to air, water and land resources are mitigated, as needed, through the site plan review and building permit process.

ARTICLE 7: NATURAL HAZARDS

Goal 1. Prevent loss of life and property damage by requiring appropriate safeguards for all development of properties within known natural hazard areas. Natural hazards include: floods, tsunamis, earthquakes, landslides and slope hazards, weak foundation soils, high groundwater, wind/windthrow/winter storms, and wildfires.

Finding 10

This proposal to update the ADU standards in the Single-Family Residential (R-S) zone and General Residential (R-G) zone, will ensure that safeguards to prevent loss of life and property damage due to natural hazards are required through the site plan review and building permit process.

ARTICLE 10: HOUSING

Goal 1. Encourage development of a mixture of housing stock in terms of design, type, cost, and location that meets the housing needs of all Toledo citizens.

Finding 11

This proposal to update the ADU standards in the Single-Family Residential (R-S) zone and General Residential (R-G) zone, will allow for the possible addition of housing stock to the existing housing supply. The updated ADU standards allow for attached and detached ADUs to encourage a variety of housing types in the City of Toledo.

Objective 3. Encourage a mix of housing types and residential densities within the Urban Growth Boundary and the city limits that conforms with the population and density projections adopted by the City of Toledo.

...

Objective 7. Encourage innovation in housing types, densities, and design to promote a variety of housing choices and prices through actions that:

- c. Allow accessory dwelling units in existing residential neighborhoods.

...

Objective 11. Provide maximum choices for the client residents and minimal disturbance to the existing neighborhoods by dispersing multi-family and low and moderate income housing units through the community with small scale projects rather than aggregated into large complexes or single purpose neighborhoods.

Finding 12

This proposal to update the ADU standards in the Single-Family Residential (R-S) zone and General Residential (R-G) zone, will allow ADUs in residential neighborhoods, as described in Objective 7. The updated ADU standards allow for larger ADUs and provide greater flexibility for ADU development in the City of Toledo. The ADU updates apply to both the R-S and R-G zones which will encourage small scale projects throughout the community, as described in

## Objective 11.

### ARTICLE 11: PUBLIC FACILITIES AND SERVICES

Goal 1. Provide reliable, high quality, efficient and cost effective public facilities and services for the residents of Toledo.

Goal 2. Plan, develop and maintain an orderly and efficient arrangement of public, urban-level facilities and services to serve as a framework for urban development within the City of Toledo and the Urban Growth Boundary.

...

Goal 8. Minimize the existing and future drainage problems within Toledo and the Urban Growth Boundary.

...

Goal 11. Ensure that all development can be provided with adequate police, fire, and EMS protection.

#### Finding 13

The proposal will implement Public Facilities and Services Goals 1, 2, 8, and 11 by allowing site design plans for developments, to be reviewed through the site plan review and building permit process. This process includes the review by police, fire, and public works, to ensure that service is available, and that the proposed use will not negatively impact wastewater treatment, water quality, site drainage, and emergency services.

### ARTICLE 12: TRANSPORTATION

Goal 2. Minimize the adverse social, economic, and environmental impact costs of constructing, maintaining, and using transportation facilities and services in cooperation with county, state, and other public agencies and the private sector.

...

Objective 25. All development proposals, plan amendments, or zone changes will conform with the Toledo Transportation System Plan..

Objective 26. Consider impacts on existing or planned transportation facilities in all land use decisions.

...

Objective 29. Land uses authorized under Comprehensive Land Use Plan Map and Zoning Map amendments must be consistent with the identified function, capacity, and level of services of transportation facilities.

#### Finding 14

ADU development will occur on lots with existing single family dwellings. As discussed above, ADU development will be limited in size and be required to meet development standards. The proposal will implement Transportation Objectives #25, #26, and #29 by allowing individual site review through the site plan and building permit process for Single-Family Residential (R-S) and General Residential (R-G) zones and their impact on existing or planned transportation facilities. This process includes the review by public works, to ensure that service is available.

### ARTICLE 14: URBANIZATION AND LIVABILITY

Goal 1. Build Toledo as a small, cost-effective, attractive, livable, and sustainable city by encouraging efficient land use patterns.

Goal 2. Design and encourage land use patterns that: a) are compact. b) mix land uses to reduce transportation costs and create vitality. C) retain Toledo's detailed and human scale design features. d) can be effectively serviced. e) protect the environment. f) provide a proper balance between jobs and housing.

Finding 15

The proposal will implement Urbanization Goal 2 by allowing site design plans for development of ADUs to be reviewed through the site plan review and building permit review process. This process will ensure that the proposal is consistent with surrounding development design, has adequate public services and access, and that significant natural features are protected or enhanced as needed. ADU development would occur on existing residential lots developed with a single-family dwelling, which are effectively serviced. In addition, ADU development on existing lots encourages compact development in the City of Toledo.

Goal 3. Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with the Comprehensive Plan goals and policies and Toledo's Municipal Code and standards.

Finding 16

The proposal will require all new ADU development to obtain site plan and building permit approval in advance of occupancy. ADU developments will be processed as Type I procedures as provided in TMC Chapters 17 and 19. TMC Chapters 17 and 19 have been acknowledged for being consistent with and implementing the Toledo Comprehensive Plan.

Objective 1. Encourage urban level development that is properly serviced with public facilities to locate within the city limits.

Objective 2. Discourage low-density sprawl development in the Urban Growth Boundary which cannot be converted to urban uses and densities when urban services become available.

...

Objective 5. Encourage compact development and the use of already serviced vacant and underdeveloped land through effective zoning, land division, and development standards and through the prioritization of public expenditures for municipal services.

Objective 6. Encourage land use patterns and development plans that take advantage of density and location to reduce the need for travel and the extension of public services but are also designed around the natural features and constraints of Toledo's topography and environmentally sensitive areas.

Objective 7. Encourage land use methods, such as minimum density standards, planned developments, cluster developments and the integration of mixed uses and densities.

...

Objective 9. Continue to focus upon Toledo's central city design but allow for mixed-uses where neighborhood commercial and other facilities can be located, designed, and operated to be compatible with the surrounding residential uses.

Finding 17

The proposal will implement Urbanization Objectives 1, 2, 5, 6, 7, and 9 by allowing ADUs in the Single-Family Residential (R-S) and the General Residential (R-G) zones when they are found to meet development standards, have access to adequate public

services, and that are consistent with or improve the appearance or development pattern of a neighborhood through the site plan and building permit review. The proposed ADU standards encourage compact development and the use of already serviced underdeveloped land by allowing additional units on existing residential lots with single family dwellings subject to site plan review.

Goal 12. Ensure that all new development addresses the following factors: a. General needs and service capabilities of the neighborhood and the community in relationship to the impact of the proposed development; b. Any special locational characteristics or concerns identified with the location of the site such as being within or adjacent to a wetland or in a floodplain; c. Consideration of the characteristics of the site itself such as slope, drainage patterns, and/or access to transportation facilities; d. Potential impacts of the development upon the surrounding area; e. Use and enjoyment of a subdivision or planned development by future occupants and users.

*Finding 18*

The proposal will implement Urbanization Goal 12 by allowing site design plans for developments of ADU development in the Single-Family Residential (R-S) and the General Residential (R-G) zones to be reviewed through the site plan review and building permit process, to ensure that the development has adequate public services and access, and that significant natural features are protected or enhanced as needed. ADU development is required to meet development standards including: lot coverage, setbacks, and height standards of the zone which addresses potential impacts of the development upon the surrounding area.

Goal 13. Ensure that Toledo's land use planning process, policy framework, and regulatory processes are workable for and understandable by local officials, staff, and the public. Ensure that the requirement of application and review are commensurate with the size and complexity of the development request and the site characteristics.

Goal 14. Encourage flexibility in design and mixed-uses but ensure that functional design and community benefit remain as the principal review criteria.

*Finding 19*

The proposal will implement Urbanization Goal 13 and 14 by requiring an individual development review for each ADU in the Single-Family Residential (R-S) and General Residential (R-G) zones. As outlined in this report, ADU development is limited in size which will ensure that development is commensurate with neighboring properties. The proposed ADU standards allow flexibility in design subject to compliance with building permit standards.

ARTICLE 16: ESTUARINE RESOURCES

Goal 1. Recognize and protect the unique environmental, economic and social values of the Yaquina River Estuary and the associated wetlands.

*Finding 20*

The proposal to update the ADU standards in the Single-Family Residential (R-S) and General Residential (R-G) zones, will ensure that areas of affected estuarine resources and associated wetlands can be protected as needed through the site plan review and

building permit process.

#### ARTICLE 17: COASTAL SHORELANDS

Goal 1. Conserve, protect, restore and, where appropriate, develop coastal shorelands recognizing the valuable roles that coastal shorelands have in protecting coastal estuary ecosystems and in providing water access for water-dependent uses important to a marine industrial economy.

Goal 2. Manage the coastal shorelands in a manner compatible with the characteristics of the nearby coastal waters.

Goal 3. Reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

#### Finding 21

The proposal to update the ADU standards in the Single-Family Residential (R-S) and General Residential (R-G) zones, will ensure that areas of affected coastal shorelands can be protected, as needed, through the site plan review and building permit process.

### **V. CONCLUSION AND STAFF RECOMMENDATION**

The Planning Commission has three options with respect to the TMC Text Amendment application:

Option 1: Forward the proposed TMC Text Amendments to City Council with a recommendation to approve the application as proposed; or

Option 2: Forward the proposed TMC Text Amendments to City Council with a recommendation to approve the application with modifications provided by the Planning Commission; or

Option 3: Forward the proposed TMC Text Amendments to City Council with a recommendation to deny the application.

Based upon the above analysis of the relevant criteria and findings, staff recommends that the Planning Commission forward the application to City Council with a recommendation for approval. If the Planning Commission accepts this recommendation, a suggested motion is provided below.

### **VI. PROPOSED MOTION:**

#### PLANNING COMMISSION:

Based on the testimony received, the staff report, and the evidence and arguments before the Planning Commission at the public hearing on January 8, 2020, the Planning Commission finds that application file #ZOA-1-19 complies with the criteria identified in TMC 19.20.070(A)-(D) and recommends approval of the proposal by the City Council. The Planning Commission hereby adopts the staff report as findings, allowing for the correction of typographical and grammatical errors as needed.

#### CITY COUNCIL:

To approve the proposed amendment to the Toledo Municipal Code based on the testimony received, the findings within the staff report, and the evidence and arguments before the City Council at the public hearing on February 5, 2020. The City Council determines that the request by

the City of Toledo (ZOA-1-19) to amend Sections §17.04.020(B), §17.08.090(D), §17.12.040(A), §17.12.060, and repeal §17.44.030(A)(7), of the Toledo Municipal Code, complies with the criteria identified in TMC 19.20.070(A)-(D) as stated in the findings contained in the Staff Report. The City Council hereby adopts the staff report as findings and the other evidence in the record as findings supporting its decision and approves application ZOA-1-19. In addition, the City Council adopts Ordinance No. \_\_\_\_ by reading by title twice: " An ordinance amending Ordinance 1286 (Toledo Municipal Code Title 17) to revise the Definitions, Single-Family Residential Zone, General Residential Zone, and Off-Street Parking and Loading Chapters, and declaring an emergency."

#### **VII. PLANNING COMMISSION ROLE:**

The Planning Commission should evaluate the applicant's proposal and all testimony presented to them in order to make findings which demonstrate that the applicable criteria in the Toledo Municipal Code can be satisfied. The decision of the Planning Commission should be based on the report of facts and analysis contained within the Staff Report, as well as the facts and testimony presented by the applicant and those who support or oppose the request given at the public hearing. Any action on the application should address the applicable criteria as contained in the Toledo Municipal Code. The decision of the Planning Commission shall act as a recommendation to the City Council. The City Council shall decide the application.

#### **VIII. CITY COUNCIL ROLE:**

At the public hearing, the City Council, should evaluate the applicants' proposal and all testimony presented to them in order to make findings which demonstrate that the pertinent criteria can be satisfied. The recommendation of the Planning Commission has been based on the testimony received by the Commission, the facts presented by the applicant, testimony, and the staff report. The decision of the City Council must be based on the testimony received by the Council, the recommendation of the Planning Commission, the facts presented by the applicant and those who support or oppose the request, and the staff report. Any action of the application should address the applicable plans and ordinance criteria. The City Council decision will be final unless appealed.

Prepared by,

Justin Peterson  
Contract Planner

## Proposed Amendments to Toledo Municipal Code (TMC) Title 17

\*Proposed additions to the text are underlined. Deletions are listed in ~~strike through~~.

### I. Toledo Municipal Code (TMC) 17.04.020(B) - 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)~~

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

### II. Toledo Municipal Code (TMC) 17.08.090(D) Single Family Residential Zone (R-S) – Special Standards for Certain Uses

Accessory dwelling units, where allowed, are subject to review and approval through a Type I procedure, pursuant to TMC Section 19.08, and shall conform to all of the following standards:

- ~~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:~~
- A. One Unit.** A maximum of one Accessory Dwelling Unit 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).
- B. Floor Area**
  - ~~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.~~
  - 1. A detached Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller.
  - 2. An attached or interior Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwelling Units 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 Unit would be more than 850 square feet.
- C. Other Development Standards.** Accessory Dwelling Units 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 Unit is allowed, provided that the conversion does not increase the non-conformity.
  - ~~1. The owner(s) of the primary dwelling shall occupy at least one of the units.~~
  - 2. No off-street parking is required for an Accessory Dwelling Unit.

1. ~~One additional off-street parking space shall be provided in addition to the required parking for the primary dwelling.~~
3. Accessory Dwelling Units may not be a manufactured dwelling.
1. ~~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.~~

#### **D. Design Standards**

1. ~~Accessory dwelling units 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.~~
2. Accessory Dwelling Units shall comply with fire and life-safety codes.

### **III. Toledo Municipal Code (TMC) 17.12.040(A) General Residential Zone (R-G) – Special Standards for certain uses**

Accessory dwelling units, where allowed, are subject to review and approval through a Type I procedure, pursuant to TMC Section 19.08, and shall conform to all of the following standards:

- 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:~~
- A. **Two Units.** A maximum of two Accessory Dwelling Units are allowed per legal single-family dwelling. One unit must be a detached Accessory Dwelling Unit, 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. ~~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.~~
  1. A detached Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller.
  2. An attached or interior Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwelling Units 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 Unit would be more than 850 square feet.
- C. **Other Development Standards.** Accessory Dwelling Units 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 Unit is allowed, provided that the conversion does not increase the non-conformity.
  1. ~~The owner(s) of the primary dwelling shall occupy at least one of the units.~~
  2. No off-street parking is required for an Accessory Dwelling Unit.

1. ~~One additional off street parking space shall be provided in addition to the required parking for the primary dwelling.~~
3. Accessory Dwelling Units may not be a manufactured dwelling.
1. ~~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.~~

**D. Design Standards**

1. ~~Accessory dwelling units 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.~~
2. Accessory Dwelling Units shall comply with fire and life-safety codes.

**IV. Toledo Municipal Code (TMC) 17.12.060 – Residential General (R-G) - Lot Size**

- A. The minimum lot area shall be six thousand (6,000) square feet for a single-family dwelling plus one thousand eight hundred (1,800) square feet for each additional multi-family dwelling unit. Density in the R-G zone shall not exceed twenty-one (21) units per acre.

**V. Toledo Municipal Code (TMC) 17.44.030(A)(7) – Vehicle Parking Standards**

- ~~A. Accessory dwelling. One parking space required.~~

**CITY OF TOLEDO**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE 1286 (TOLEDO MUNICIPAL CODE TITLE 17) TO REVISE THE DEFINITIONS, SINGLE-FAMILY RESIDENTIAL ZONE, GENERAL RESIDENTIAL ZONE, AND OFF-STREET PARKING AND LOADING CHAPTERS, AND DECLARING AN EMERGENCY**

**WHEREAS**, the City of Toledo adopted Ordinance 1286, the Toledo Zoning Ordinance codified as Title 17 of the Toledo Municipal Code, on April 4, 2001, and acknowledged by the State of Oregon Department of Land Conservation and Development on June 19, 2002;

**WHEREAS**, Ordinance 1286 allows for amendments that may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law;

**WHEREAS**, in July, 2019, the Oregon State Legislature passed House Bill (HB) 2001, and on August 8, 2019, Oregon Governor Kate Brown signed HB 2001, establishing that off-street parking and owner-occupancy requirements are not "reasonable local regulations relating to siting and design" of Accessory Dwelling Units;

**WHEREAS**, HB 2001 states that local jurisdictions may not mandate the construction of additional off-street parking spaces nor require a property owner to live in either a primary or accessory dwelling;

**WHEREAS**, the Planning Commission reviewed the draft amendments to remove the parking space and owner-occupancy requirement from the current Accessory Dwelling Unit standards and recommended additional changes to the standards, in order to remove development barriers and encourage Accessory Dwelling Units in the Single-Family Residential and General Residential Zones;

**WHEREAS**, notice of the proposed amendments were provided in accordance with procedures established in the Toledo Municipal Code and Oregon Revised Statutes;

**WHEREAS**, the Toledo Planning Commission held a public hearing on the proposed ordinance revision on January 8, 2020, and sent forward the ordinance containing the proposed zoning amendments to the City Council for a public hearing and adoption;

**WHEREAS**, the City Council held a public hearing after proper notification on the proposed ordinance revisions on February 5, 2020, and the City Council has determined that a zoning ordinance amendment in in the best interest of the citizens of Toledo; and

**WHEREAS**, the City Council finds it advisable to declare an emergency and make the ordinance effective immediately upon adoption.

**NOW, THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:**

**SECTION 1.**

Section §17.04.020(B) of the Toledo Municipal Code is amended to replace the following term and definition to read as follows:

“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.

**SECTION 2.**

Section §17.08.090(D) of the Toledo Municipal Code is amended to read as follows:

- D. Accessory Dwelling Units. Accessory Dwelling Units, where allowed, are subject to review and approval through a Type I procedure, pursuant to TMC Section 19.08, and shall conform to all of the following standards:
1. One Unit. A maximum of one Accessory Dwelling Unit 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).
  2. Floor Area.
    - a. A detached Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling’s floor area, whichever is smaller.
    - b. An attached or interior Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling’s floor area, whichever is smaller. However, Accessory Dwelling Units 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 Unit would be more than 850 square feet.
  3. Other Development Standards. Accessory Dwelling Units shall meet all other development standards (e.g. height, setbacks, lot coverage, etc.) for buildings in the zoning district except that:
    - a. Conversion of an existing legal non-conforming structure to an Accessory Dwelling Unit is allowed, provided that the conversion does not increase the non-conformity.
    - b. No off-street parking is required for an Accessory Dwelling Unit.
    - c. Accessory Dwelling Units may not be a manufactured dwelling.
  4. Design Standards
    - a. Accessory Dwelling Units shall comply with fire and life-safety codes.

### **SECTION 3.**

Section §17.12.040(A) of the Toledo Municipal Code is amended to read as follows:

- A. Accessory Dwelling Units. Accessory Dwelling Units, where allowed, are subject to review and approval through a Type I procedure, pursuant to TMC Section 19.08, and shall conform to all of the following standards:
1. Two Units. A maximum of two Accessory Dwelling Units are allowed per legal single-family dwelling. One unit must be a detached Accessory Dwelling Unit, 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).
  2. Floor Area
    - a. A detached Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller.
    - b. An attached or interior Accessory Dwelling Unit shall not exceed 850 square feet of floor area, or 80 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwelling Units 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 Unit would be more than 850 square feet.
  3. Other Development Standards. Accessory Dwelling Units shall meet all other development standards (e.g. height, setbacks, lot coverage, etc.) for buildings in the zoning district except that:
    - a. Conversion of an existing legal non-conforming structure to an Accessory Dwelling Unit is allowed, provided that the conversion does not increase the non-conformity.
    - b. No off-street parking is required for an Accessory Dwelling Unit.
    - c. Accessory Dwelling Units may not be a manufactured dwelling.
  4. Design Standards
    - a. Accessory Dwelling Units shall comply with fire and life-safety codes.

### **SECTION 4.**

Section §17.12.060 of the Toledo Municipal Code is amended to read as follows:

The minimum lot area shall be six thousand (6,000) square feet for a single-family dwelling plus one thousand eight hundred (1,800) square feet for each additional multi-family dwelling unit. Density in the R-G zone shall not exceed twenty-one (21) units per acre.

**SECTION 5.**

Section §17.44.030(A)(7) of the Toledo Municipal Code is repealed.

**SECTION 6.**

The Council having determined that an emergency exists and therefore an emergency has been declared and this Ordinance shall be in full force and effect upon its passage by the Council and approval by the Mayor.

ADOPTED by the Toledo City Council on  
this \_\_\_\_\_ day of \_\_\_\_\_.

APPROVED by the Mayor for the  
City Council of the City of Toledo, this  
\_\_\_\_\_ day of \_\_\_\_\_.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Recorder Lisa Figueroa

\_\_\_\_\_  
Mayor Rod Cross