

TOLEDO PLANNING COMMISSION MINUTES

A regular meeting of the Toledo Planning Commission was called to order at 7:04 pm by President Anne Learned-Ellis. Commissioners present: Cora Warfield, Robert Duprau, Ricky Dyson, Terri Neimann (arrived at 7:15), and newly appointed Planning Commissioner Jonathan Mix. Absent was Ruthanne Morris.

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

INTRODUCTION OF NEWLY APPOINTED PLANNING COMMISSIONER JONATHAN MIX:
Newly appointed Planning Commissioner Jon Mix was introduced. All welcomed Mr. Mix to the board.

VISITORS: John Lloyd, Sheila Stiley, Wayne Secrist.

APPROVAL OF THE MARCH 10, 2021, MINUTES:

It was moved and seconded (Dyson/Mix) to approve the March 10, 2021, minutes as circulated and reviewed by the Planning Commission. The **motion passed** unanimously, noting the absence of Morris and Neimann.

PUBLIC HEARING: CONDITIONAL USE PERMIT FOR A MULTI-FAMILY DWELLING (DUPLEX) IN THE COMMERCIAL ZONE (FILE #CU-1-21), FOR PROPERTY LOCATED AT 992/1000 SE STURDEVANT ROAD, REQUESTED BY NANCY GALBRAITH TRUST (JOHN LLOYD AUTHORIZED AGENT):

President Learned-Ellis opened the public hearing by stating the nature and purpose. There were no declarations of ex parte contact, bias, or conflict of interest reported. Commissioner Mix stated he conducted a site visit to view the property. The statements of rights and relevances and rights to appeal were then read.

Staff Report: CP Peterson reviewed the staff report as on file at City Hall. This is the site of the former Olalla Store and the property is located at the corner of SE 10th Street and SE Sturdevant Road. The applicant proposes to create a multi-family residential use, converting the commercial area to residential. There is an existing residential unit on the north side. Converting the old store to residential and creating a duplex requires a Conditional Use Permit in the Commercial Zone. The .4 acre site has an existing building, with the western edge adjacent to Olalla Slough and portions of the property are located in the floodplain and floodway. City water and sewer service area available to the site.

Commissioner Neimann entered the meeting at this time.

CP Peterson reviewed criteria for the request and recommended conditions of approval. One accessory dwelling is allowed outright, in conjunction with an existing commercial use. Historically, the property contained one commercial space and one apartment. CP Peterson

reviewed the code enforcement issues with the property, explaining that the commercial space was illegally converted to a residential unit without the proper zoning, building permits, or floodplain development permits. The applicant/agent is correcting the violation and applied for the conditional use and floodplain permits. If approved, the next step would be the building permits and change of use. Also, an elevation certificate will be needed for the project. The property has been vacant for years and converting the structure to housing meets the Comprehensive Land Use Plan housing goals and policies.

The converted unit would be approximately 1600 square feet with two bedrooms. The existing apartment is approximately 672 square feet. Parking is available on the property. CP Peterson reviewed surrounding zone designations, uses in the area, and proposed facts and findings.

Applicant Testimony: John Lloyd of 2091 Council Road 29, Prague, Nebraska, reported the property presents an easy conversion, as there is a bathroom and kitchen area in the unit. It has a nice view and it is cost effective to develop. They expect to rent the unit for under \$1000/mo.

Proponent Testimony: None.

Opponent Testimony: None.

Other Interested Parties: None.

Questions by Commission: Commissioner Duprau asked about the conditions for contractors obtaining a business license. CP Peterson explained that licensed contractors hired to work on the conversion must have a City of Toledo business license.

Commissioner Mix noted an issue with the address numbers for the site. He pointed out that the property is identified as 992 and 1000 SE Sturdevant Road. However, the properties on the east side of SE Sturdevant also show even numbers. He believes that the west side of the street should have odd numbers. CP Peterson noted that they are existing house numbers but they will be reviewed and corrected. Commissioner Mix also asked about the parking space configuration and square footages of the units. CP Peterson confirmed that the spaces are not marked, but one will be on the corner and one in front of the existing apartment. Mr. Lloyd confirmed that there is also space along the SE 10th Street side and at the SE Sturdevant Road side. He clarified that the square footage of the units will not change.

Commissioner Neimann asked if there would be a fence or safety precautions if children are in the units. Mr. Lloyd replied that this could be a concern and that there is room along the SE Sturdevant Road side, north of the building, for a fenced-in area for a yard or play area.

Deliberations: The public hearing was closed and the Commission entered into deliberations. Commissioner Mix stated the request meets the goals and Conditional Use standards. Commissioner Duprau clarified that the applicant would have to obtain the proper permits and inspections, but approval must be based on the Conditional Use criteria. If approved there are several recommended conditions of approval to complete the project.

It was moved and seconded (Neimann/Dyson) that based on the testimony received, the staff report, and the evidence and arguments before the Planning Commission at the public hearing on April 14,

2021, the Planning Commission finds that the request by Nancy Galbraith, Trustee and Authorized Agent John Lloyd, (CU-1-21) complies with the criteria identified in Toledo Municipal Code 17.64.050. The Planning Commission hereby adopts the staff report as findings, as well as the following conditions of approval for CU-1-21, and allowing for the correction of typographical and grammatical errors.

1. Approval is based upon the submitted application and plan, as described in Attachment A of the Staff Report. Development shall conform with the proposed plan and any significant change shall be submitted to the City Planning Department as a modification to the conditional use permit.
2. Any driveway improvements must be coordinated and approved by the Toledo Public Works Director and Fire Chief.
3. Owner/builder shall obtain all necessary building permits including the change of use and change of occupancy permit from the Lincoln County Building Department.
4. Plumbing and Electrical work is required to be completed or certified by licensed specialty contractors.
5. Floodplain Development Permit is required and the building is required to meet the standards in TMC 15.16. The owner/builder shall work with a licensed surveyor to determine the lowest floor elevation and submit an elevation certificate.
6. Applicant shall mark and maintain three (3) parking spaces (TMC 17.44.030(A)(2)).
7. A business license is required for anyone engaging in business activity in the City (TMC 5.04).
8. The previously commercial portion of the structure proposed to be converted to residential shall not be occupied until a certificate of occupancy is obtained.
9. Authorization of the conditional use shall be void after one year if a building permit has not been issued or development has not begun. Authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

The **motion passed** unanimously, noting the absence of Morris.

PUBLIC HEARING: MINOR PARTITION TO CREATE TWO PARCELS FOR PROPERTY LOCATED AT SE STURDEVANT ROAD/SE 10TH STREET (FILE #MP-2-21), REQUESTED BY CITY OF TOLEDO:

President Learned-Ellis opened the public hearing by stating the nature and purpose. There were no declarations of ex parte contact, bias, or conflict of interest reported. Commissioner Mix stated he conducted a site visit to view the property. The statements of rights and relevances and rights to appeal were previously read.

Staff Report: CP Peterson reviewed the staff report as on file at City Hall. The City-owned property is approximately 21.7 acres and is split-zoned (Natural Resource and Single-Family Residential). Proposed Parcel 1 would be approximately 1.7 acres and contain the Single-Family Residential Zone area. Proposed Parcel 2 would be approximately 20.0 acres and is in the Natural Resource Zone. The new property line would follow the zone boundary line. The property contains an old barn on the southeastern corner of the property, but is otherwise vacant. There are saltwater wetlands on Proposed Parcel 2 and development is limited by a conservation easement. A small area of Proposed Parcel 1 would be in the floodplain. A wetland land use notice has been sent to Oregon Department of State Lands (DSL) and a response will be returned. Easements for water, sewer, and electrical lines constrain the property. City water and sewer services are available to the

property. Notice of the public hearing were mailed to surrounding property owners, published in the newspaper, and sent to the State.

CP Peterson reviewed the zone standards, minor partition criteria, and Comprehensive Land Use Plan housing goals. He noted that residential development could occur on Proposed Parcel 1, but it is not yet proposed. As part of the partition, an access easement should be identified on the plat allowing access across Proposed Parcel 1. Proposed Parcel 2 contains wetlands and estuary area and allowing the access point across Proposed Parcel 1 protects the wetlands. There is no plan to develop Parcel 2. City water and sewer service is available to the site. Staff recommended a condition that any applicable DSL permits be obtained. Access improvements along SE Sturdevant Road will need to be reviewed by Lincoln County. At this time, Lincoln County Road Department has not submitted any comments on the proposal. Staff recommends approval with the adoption of the recommended conditions of approval.

In reviewing the history of the property, CP Peterson explained that the City acquired the property and it was annexed in 1999 and rezoned to Natural Resource Zone. During the 2001 Periodic Review project, the portion of upland area was rezoned to Single-Family Residential. The wetland mitigation project occurred in 2012 and the conservation easement was recorded at that time.

CP Peterson provided a map showing the site location and existing barn. The City could work with local non-profits for future development of Proposed Parcel 1, but this application does not have a proposal for development. Proposed Parcel 1 could be sold in the future. The Single-Family Residential Zone could allow multi-family development as a Conditional Use Permit, with Planning Commission review. Any development of the site would need to maintain setbacks, provide parking, and protect easement areas. Depending on the easement language, parking may be available in the easement areas.

Applicant Testimony: None.

Proponent Testimony: None.

Opponent Testimony: None.

Other Interested Parties: Wayne Secrist of 1650 SE 16th Place, Toledo, stated that when this was reviewed before, he commented that multi-family development would not be good because of the corner, lack of sidewalks, and added traffic.

Questions by Commission: Commissioner Mix asked about plans for multi-family residential.

Deliberations: The public hearing was closed and the Commission entered into deliberations. It was moved and seconded (Neimann/Dyson) that based on the testimony received, the staff report, and the evidence and arguments before the Planning Commission at the public hearing on April 14, 2021, the Planning Commission finds that the request by the City of Toledo (MP-2-21) complies with the criteria identified in Toledo Municipal Code, Titles 16 and 17, including the criteria identified in Toledo Municipal Code, Section 16.08.070. The Planning Commission hereby adopts the staff report as findings, as well as the following conditions of approval for MP-2-21, and allowing for the correction of typographical and grammatical errors.

1. Partitioning of the property shall be in compliance with the proposed partition plan as

described in the application, plan and drawings submitted and included in Exhibit A of this report.

2. The applicant shall provide a final minor partition plat prepared by a registered surveyor and meeting the plat standards of the City of Toledo and including an approval signature line for the City Manager's signature. The applicant shall submit the final plat to the Lincoln County Surveyor for review, and to the City of Toledo to review for compliance with conditions of approval prior to recording. The applicant shall record the approved final plat with the Lincoln County Surveyor. A copy of the recorded plat shall be submitted by the applicant to the City of Toledo.
3. In accordance with TMC Chapter 16, the final partition plat shall be recorded within one year from the effective date of the Planning Commission approval. One extension of time, not to exceed one year, may be granted to complete the partition if an application for an extension of time is made in writing prior to the expiration date.
4. Protect all existing easements (in addition to being noted on the plat) and, as appropriate, record any new easements to serve the proposed parcels for driveway access and utilities, and comply with the Public Infrastructure Design Standards Manual, before construction permits will be issued.
5. Any driveway modifications adjacent to SE Sturdevant Road shall be reviewed and approved by the Lincoln County Public Works Department.
6. Future development shall be reviewed by the Lincoln County Public Works Department and any applicable road improvements shall be made by the applicant.
7. A recorded access easement providing access by the City of Toledo to cross Proposed Parcel 1 in order to access proposed Parcel 2.
8. Any driveway modification onto a city street, in accordance with the standards specified in the Public Infrastructure Design Standards Manual, may be required as determined by the Public Works Director. If required, it shall be completed within one year of approval of this application, or a deferred development agreement entered into, to address this requirement. Determination will be made when a construction permit has been submitted that identifies the location of proposed construction and length of its driveway, to ensure that the development will comply with Public Infrastructure Design Standards and Fire, Life, Safety standards.
9. The recording of easements (in addition to being noted on the plat) as required and as appropriate by the Public Works Director to serve the interior properties for driveway access and utilities, including water and sewer, in accordance with the minimum width and other standards in the Public Infrastructure Design Standards Manual, before construction permits will be issued.
10. All standards and requirements in the Infrastructure Design Standards Manual, TMC Chapter 16 and 17 are met, as to both parcels marked on Exhibit A.
11. The applicant shall be responsible for obtaining any required Department of Statelands (DSL) permits.
12. The conservation easement boundary shall be defined on the recorded partition plat.

The **motion passed** unanimously, noting the absence of Morris.

PUBLIC HEARING: ANNEX PROPERTY INTO THE CITY LIMITS AND REZONE FROM COUNTY T-C TO CITY GENERAL RESIDENTIAL (FILE #AX-1-21/RZ-2/21), FOR PROPERTY LOCATED AT SE 16TH PLACE, REQUESTED BY CITY OF TOLEDO:

President Learned-Ellis opened the public hearing by stating the nature and purpose. There were no declarations of ex parte contact, bias, or conflict of interest reported. Commissioner Mix stated he

conducted a site visit to view the property. The statements of rights and relevances and rights to appeal were previously read.

Staff Report: CP Peterson reviewed the staff report as on file at City Hall. He reported that the City-owned property is approximately .91 acres and off of SE 16th Place. The property is contiguous with the City limit line and in the Urban Growth Boundary. The proposed rezone to General Residential (R-G) is consistent with the Comprehensive Land Use Plan. The property contains steep slopes on the south and east sides and potential wetlands are on the site. No development is proposed yet, but future construction would have to address wetlands and a wetland delineation report will be required by the State before development occurs. Statewide Planning Goal 4-Forest Lands does not apply to cities. City water and sewer services are available to the property. The Planning Commission would make a recommendation to the City Council on the proposal and the City Council makes the final decision.

CP Peterson reviewed annexation and rezone criteria and proposed findings. There is a possibility that the City could work with a non-profit organization to develop the property in the future. At this time, there is no development plan for the site. Any development would have to meet the General Residential Zone standards and address wetlands. Staff received one comment from neighbor Wayne Secrist.

Applicant Testimony: None.

Proponent Testimony: None.

Opponent Testimony: None.

Other Interested Parties: Wayne Secrist of 1650 SE 16th Place, Toledo reported his property borders where the new road would be placed. There is approximately 15' from his property to a new road. He is concerned with erosion of the area. The property on the west is rather steep and contains timber. Toledo is a Tree City USA city and it would be good to retain the large trees on this lot. While he understands the shortage of land for homes, it will cost a lot to develop this site. In answer to Commissioner questions, Mr. Secrist identified the slope of the property, general location of the level area, tree conditions, and potential wetlands.

Questions by Commission: CP Peterson responded to Commissioner questions, reporting that the site would be included in the Buildable Lands Inventory if annexed, the site may contain 25% slopes and construction may need a geo-tech study. Mr. Secrist stated that one neighbor has seen fish in the creek, but ODFW would need to confirm if it is a fish-bearing stream. Commissioner Mix suggested the Natural Resource Zone if the stream needs to be protected. CP Peterson noted that the R-G Zone was identified in the Comprehensive Land Use Plan and the Natural Resource Zone would require a Comp Plan amendment. If it cannot be developed because of the constraints, it could go through a plan amendment process in the future. Also, easements could be recorded for protection of special features.

President Learned-Ellis confirmed that the Planning Commission makes a recommendation to the City Council. The Council will need to hear the concerns. Commissioners discussed the option of a Natural Resource Zone designation in the future and depending on future plans for the site. CP Peterson clarified that the property is currently zoned Timber-Conservation in the County, which

has very limited development options. Because of the slopes and potential wetlands, development would be very challenging. A future developer would have to show how development will address the constraints and may require engineering. Commissioner Dyson questioned if the property is undevelopable, why request the annexation? President Learned-Ellis offered to continue the hearing asking for more information. Commissioner Duprau suggested a site visit to view the issues. CP Peterson noted his findings from his site visit and agreed it would be challenging. Commissioner Warfield would like the property included in the upcoming Buildable Lands Inventory to review the constraints. Commissioners discussed if the property should be annexed if there are development issues and neighbor concerns. CP Peterson clarified that the surrounding property owners were notified of the request and the City does not have to take annexations to a City-wide vote. CA Robinson noted a typo in the staff report, correcting language identified in ORS 222-125 "...need not call..."

Commissioners continued to discuss if the hearing should be continued or site visits conducted. Commissioners asked that their concerns be heard and if they should be included in a recommendation. Commissioners discussed amending the proposed recommendation motion to include language asking for further investigation on how buildable the property is.

Deliberations: The public hearing was closed and the Commission entered into deliberations. It was moved and seconded (Learned-Ellis/Warfield) that based on the staff report and attachments, testimony and evidence presented to the Planning Commission at the public hearing on April 14, 2021, the Toledo Planning Commission recommends, with additional review regarding buildability of land, approval of the annexation and rezone request as meeting the applicable criteria including ORS 222.111 (1) and (2) and ORS 222.125, The 2000 Toledo Comprehensive Land Use Plan, and Toledo Municipal Code Section 17.80.050 and the Commission adopts the proposed facts and findings presented in the staff report, allowing for the correction of typographical and grammatical errors.

The **motion passed** unanimously, noting the absence of Morris.

DISCUSSION ITEM: PLANNING COMMISSION/CITY COUNCIL JOINT WORKSESSION
APRIL 28, 2021:

CP Peterson announced a joint worksession with the City Council and Planning Commission will be held April 28th at 6:00 pm. This will be a review of the updates to the housing and recreational vehicle codes.

DISCUSSION ITEM: UPDATES AND REPORTS: None.

STAFF COMMENTS: None.

COMMISSIONER COMMENTS: Commissioner Mix reported he is a wildland fire expert and wanted to provide information from the National Fire Protection Association (NFPA) to show how to protect homes and create a defensible space. There are a lot of planning resources and options for review. May is national fire prevention month and it's a good time to review potential fire hazards. A draft map was presented showing pre-emergency planning issues. It would be good for the City of Toledo to create a similar map. Commissioners voiced support of the idea and copies of the materials will be distributed to Commissioners. Commissioners would also like to see Toledo Rural Fire District involved as well.

CP Peterson noted that the Lincoln County Natural Hazards Mitigation Plan identifies the need for public education and it is good to have the materials to meet this goal. The information can be sent out the Planning Commissioners and shared on the City's webpage. Commissioner Mix added that it would be good to have a list/map of all City-owned properties, as they could provide alternative water sources for fire purposes.

President Learned-Ellis stated it will be nice to see everyone April 28th.

There being no further business before the Commission, the meeting was adjourned at 9:20 pm.

Secretary

President