

TOLEDO PLANNING COMMISSION MINUTES

A regular meeting of the Toledo Planning Commission was called to order at 7:01 pm by President Anne Learned-Ellis. Commissioners present: Cora Warfield, Terri Neimann, Ruthanne Morris, Jonathan Mix and Ricky Dyson.

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

VISITORS: Barry Bruster, John Robinson

DECISION ITEM: EXTENSION TO THE DEADLINE DATE FOR A VARIANCE (FILE #VAR-1-20), REQUESTED BY GARY SHANE AND DELORIS DINKEL:

CP Peterson reported the request is to extend the deadline date for a variance to rebuild a non-conforming structure (File #VAR-1-20). The original home burned and when the applicant submitted a permit for repairs to the foundation, they applied for and received a variance to rebuild the home 3' 10" from the side property line. The variance was approved by staff but the one year approval is expiring. Toledo Municipal Code allows one extension, up to one year.

Over the course of the year, the applicant submitted a garage permit. A garage is considered an accessory structure and the primary use (home) must be considered livable before the accessory structure can be built. The applicant has been working on the property with the foundation and garage permits and requested an extension to rebuild the non-conforming home. Staff recommends approving the extension one year.

Commissioner Neimann asked if there is any costs to the City to allow the extension. CP Peterson reported that there would be no cost on the City's side, but an extension gives the applicant more time to complete the work. Commissioner Morris asked why the applicant has not been able to complete the project within the year. CP Peterson noted that the applicant is not present at tonight's meeting, but added that they have been working on the approvals for the foundation and garage. Commissioner Warfield asked what happens if the one year extension lapses. CP Peterson explained that if the approval expires, the applicant would have to file a full variance to the side yard setback to rebuild. If the building permit for the home is submitted before the variance expires, they can continue to complete the re-build beyond the variance deadline date. The applicant has been working on the property, but have not yet applied for the building permit to replace the non-conforming home.

Commissioner Morris expressed opposition to the request. Commissioner Warfield noted the benefits to allow more time to fix the property. President Learned-Ellis added that if the extension is approved, they have one year to finish, otherwise they need to start over with a full variance request.

It was moved and seconded (Dyson/Neimann) to extend the variance request VAR-1-20 for one year. The **motion passed** with Commissioner Morris opposed.

PUBLIC HEARING: CONDITIONAL USE PERMIT FOR A MULTI-FAMILY RESIDENTIAL USE (TRI-PLEX) IN THE COMMERCIAL ZONE, (FILE #CU-3-21), FOR PROPERTY LOCATED AT 163 E HWY 20, 165 E HWY 20 AND 165 NE 2ND STREET, REQUESTED BY BRUSTER ENTERPRISE LLC:

President Learned-Ellis opened the public hearing by stating the nature and purpose. After calling for declarations of ex parte contact, bias, or conflict of interest, Commissioner Dyson reported he spoke with Mr. Barry Bruster regarding the property location. President Learned-Ellis voiced she is familiar with the site. 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. The request is to convert a commercial building to create a three-unit multi-family residential apartment in the Commercial Zone. The building originally contained two upper floor commercial offices and a lower floor commercial office. The property is at the corner of NE 2nd Street and NE Hwy 20. It is in the Commercial Zone and Main Street District Overlay. The property is currently served with City water and sewer. One comment was received from a neighbor, concerned about parking and over-flow parking options for the site.

CP Peterson reviewed criteria for Conditional Use Permits, Main Street District Overlay exemptions, Comprehensive Plan goals and objectives, and history of the building. The two upper units were used as offices in the past and they have been converted to residential units. In 2018, the property owner submitted a building permit application to convert the commercial space, but did not apply for a Conditional Use Permit for multi-family residential use in the Commercial Zone. The downstairs space was also converted to residential use sometime in the past. The owner did not obtain all proper permits and several code enforcement letters were sent.

CP Peterson reviewed the proposed findings and application information. The proposal complies with the Comprehensive Plan housing goals. According to the application materials, the applicant would prefer to keep the units for commercial use, but there is a greater community need for residential use and housing. CP Peterson reviewed the proposed conditions of approval, noting that permits will be required and work performed by licensed contractors. A Change of Occupancy must be reviewed and approved by Lincoln County Building Department. Parking is available on-site and along NE 2nd Street.

Applicant Testimony: Barry Bruster of 109 N Main Street, Toledo, reported that he purchased the property, which is in the Main Street District Overlay. The Toledo Comprehensive Plan encourages mixed use (residential/commercial) especially in the Main Street area. At this point in time, commercial use is not viable and because of the housing crisis, it makes more sense to create residential units. He would like to keep the option for businesses in the upper units. This is the site of a former insurance office. The two upper offices spaces were separated by a wall and each unit had a bathroom and a separate private office. Mr. Bruster reported that he did not have to make any structural changes, just GFI and plumbing upgrades. No changes were made to the lower unit, as it was used for residential use in the past. The upper units could easily be converted back to office space. Ideally, he would like to see a small store or commercial use in the building. He noted that the Comprehensive Plan allows mixed-use but it collides with the zoning ordinance that requires a Conditional Use. He suggested a code update that eliminates this contradiction.

In answer to Commissioner questions, Mr. Bruster reported the downstairs unit has a kitchen and bathroom. Two showers were added to the upper units, but the upper kitchens do not have ovens

because they lack 220V outlets. There was an existing 220V outlet in the lower unit, therefore, there is a kitchen with stove.

Commissioners discussed a possible code update and mixed-use options. In the Commercial Zone one residential unit is allowed in conjunction with a commercial use. More than one residential unit (multi-family) requires a Conditional Use Permit. A Change of Occupancy permit is needed to insure that the new use meets building code standards. Also, if the residential units are changed back to a commercial use in time, it will need the Change of Occupancy permit from the County.

Proponent Testimony: None.

Opponent Testimony: None.

Other Interested Parties: None.

Questions by Commission: None.

Deliberations: The public hearing was closed and the Commission entered into deliberations. Commissioner Mix stated the request looks good. Commissioner Neimann supports the request because of the current housing crisis. Commissioners were all in agreement that the building should be used rather than remain vacant. Commercial use may not be an option now, but could be again.

It was moved and seconded (Warfield/Mix) that based on the testimony received, the staff report, and the evidence and arguments before the Planning Commission at the public hearing on June 9, 2021, the Planning Commission finds that the request by Bruster Enterprises LLC, (CU-3-21) 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-3-21, 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. A business license is required for anyone engaging in business activity in the City (TMC 5.04).
6. 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.

WORKSESSION: PLANNING COMMISSIONER TRAINING:

CP Peterson provided a 'Land Use 101' course as a refresher for Planning Commissioners. The presentation reviewed the history of land use planning, comprehensive plans, urban growth boundaries, Statewide planning goals, citizen involvement, criteria/findings, decision-making tools, hearing standards, and the 120-day rule. He reviewed the roles of staff, Planning Commission, City Council, State, and LUBA when it comes to land use decisions. Commissioners discussed the legislative process and the ability for a citizen to submit an application to request a code update. Oregon Department of Land Conservation and Development (DLCD) provided a lot of information at the January worksession and they have several additional training options that could be helpful.

DISCUSSION ITEM: PLANNING COMMISSION MEETING TIME:

Commissioners discussed an option to begin the Planning Commission meetings earlier, possibly at 6:00 pm. After discussion, Commissioners agreed to compromise and have a start time of 6:30 pm for the next meeting.

It was announced that the Planning Commission should be able to return to in-person meetings in July. There will still be a Zoom or phone conference option to attend remotely.

DISCUSSION ITEM: UPDATES AND REPORTS:

CP Peterson reported that the housing code updates will be presented to the Planning Commission in August and to the City Council in September.

The recreational vehicle (RV) code updates were completed and adopted by the City Council. This allows an RV for up to 18 months, ability to provide a fire inspection, and clarifies visitation limits.

STAFF COMMENTS:

CP Peterson announced there will be a building permit and land use application update for Commissioner review next month.

COMMISSIONER COMMENTS:

President Learned-Ellis reported she attended the Emergency Preparedness Task Force meeting last month. This will be a large project, but the City is moving forward even with obstacles. The Task Force is working on a map showing evacuation routes. The group discussed obtaining an app and considered street painting to show evacuation routes. This will be a lot of work and coordinating with others. Commissioners discussed maps that may be available, drought conditions in Oregon, and current fire locations.

The July 14, 2021, meeting will be at City Hall Council Chambers, at 6:30 pm.

There being no further business before the Commission, the meeting was adjourned at 8:35 pm.

Secretary

President