

TOLEDO PLANNING COMMISSION MINUTES

A regular meeting of the Toledo Planning Commission was called to order at 6:34 pm by CP Justin Peterson. Commissioners present: Jonathan Mix, Brian Lundgren, Ruthanne Morris, and Ricky Dyson. Excused were President Anne Learned-Ellis, Vice-President Cora Warfield, and Terri Neimann.

Commissioners unanimously appointed Brian Lundgren to Chair tonight's meeting.

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

VISITORS: Joshua Lightner, Nathan Lightner, Debbie Scacco

APPROVAL OF THE NOVEMBER 9, 2022, MINUTES:

It was moved and seconded (Morris/Dyson) to approve the November 9, 2022, minutes as circulated and reviewed by the Planning Commission. The **motion passed** unanimously, noting the absence of Learned-Ellis, Warfield, and Neimann.

DECISION ITEM: ADOPTION OF FINDINGS FOR FPV-1-22, PORT OF TOLEDO FLOODPLAIN VARIANCE AND APPEAL:

CP Peterson reported that the Planning Commission approved the Port of Toledo's variance/appeal request at the last meeting. The decision was based on the applicant's presentation, but Findings were not drafted or adopted in November. The Commission asked staff to draft approval Findings based on the Port's PowerPoint presentation and for the findings to be reviewed in December.

CP Peterson noted that staff received information after the Planning Commission's decision and after the public hearing record was closed. The Planning Commission cannot change their decision at this point nor accept additional testimony. CP Peterson was willing to share the new information with Commissioners, but in the Updates and Reports section of the agenda.

CP Peterson reviewed the draft Findings and Decision Order, which was based on the applicant's testimony and presentation materials.

It was moved and seconded (Morris/Mix) to approve the Findings and Order as presented.

Discussion: Commissioner Dyson expressed concerns with the legalities of the decision and potential issues that could arise. He spoke with staff after the November meeting because of his concerns. CA Adams noted that tonight's review is only to consider the Order and if it reflects the public hearing discussion. Because the hearing was closed and the decision was made, the Planning Commission cannot re-open the hearing to accept new testimony. The only option is to appeal the decision to the City Council to consider new information. The Planning Commission did not do anything wrong, but the City received additional information after the hearing closed.

The **motion passed** unanimously, noting the absence of Learned-Ellis, Warfield, and Neimann.

Commissioners requested continuing discussion on the next steps for the application as a discussion item under Agenda #7 (Discussion Item: Updates and Reports).

PUBLIC HEARING: MINOR PARTITION TO CREATE TWO PARCELS FOR PROPERTY LOCATED AT 1950 NW SUNSET DRIVE (FILE #MP-3-22), REQUESTED BY JOSHUA LIGHTNER (NATHAN LIGHTNER AUTHORIZED AGENT):

Presiding Officer Lundgren opened the public hearing by stating the nature and purpose. There were no declarations of ex parte contact, bias, or conflict of interest. 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. He reported that this is a request for a minor partition to create two parcels at 1950 NW Sunset Drive. The applicants also have an approved Lot Line Adjustment, which affects the property boundaries between 1920 and 1950 NW Sunset Drive.

The property is approximately 5 acres, in the R-S Zone, and there are some steep slopes to the southwest. The applicant proposes a new home placement on proposed Parcel 1, avoiding the slopes on the southwest side. There is a public sewer line crossing the property and water is available at Sunset Drive.

CP Peterson reviewed the minor partition criteria standards. Sidewalk requirements would be waived, road improvements may be needed if the property is developed and a new driveway is placed. However, it is the applicant's intent to have a shared driveway and the easement will be shown on the plat. Each lot would have single-frontage onto Sunset Drive. The newly created lot is not a flag lot. Easements for utility lines will also need to be shown on the plat. If new construction occurs on a 25% slope, a geo-technical report will be needed, but the applicant intends to build in the flat area. The recent Lot Line Adjustment plat will need to be finalized and recorded before the minor partition plat can be finalized. Staff recommends approval of the request with the proposed conditions of approval.

Applicant Testimony: Nathan Lightner reported that they are trying to divide to property in order to build one new home. He noted that when his father originally partitioned the property, most of the street frontage went to 1920 NW Sunset Drive. That original configuration restricts the ability for 1950 NW Sunset Drive to have more than two parcels in order to meet the minimum street frontage requirements.

Proponent Testimony: None.

Opponent Testimony: None.

Other Interested Parties: None.

Questions by Commission: Commissioner Morris asked about the ability to abstain from the decision because of the wetland concerns. CP Peterson reported that the Statewide wetlands map shows potential wetlands on the east side, along the property line of Parcel 1. The map may be inaccurate and the property owner will need to contact DSL if development in this area is proposed.

Joshua Lightner reported that there is a ravine system that runs along the east area, going towards Arcadia School. Proposed development would be on the other parcel and there is no plan to build near the creek system.

Deliberations: The public hearing was closed and the Commission entered into deliberations. It was moved and seconded (Lundgren/Dyson) that based on the testimony received, the staff report, and the evidence and arguments before the Planning Commission at the public hearing on December 14, 2022, the Planning Commission finds that the request by Joshua Lightner (authorized agent Nathan Lightner) (MP-3-22) 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 conditions of approval for MP-3-22, and allowing for the correction of typographical and grammatical errors.

The **motion passed** unanimously, noting the absence of Learned-Ellis, Warfield, and Neimann.

Commissioners amended the agenda for Discussion Items to be reviewed before the scheduled worksession.

DISCUSSION ITEMS: UPDATES AND REPORTS:

Port of Toledo Floodplain Variance/Appeal Update:

CP Peterson reported that after the last Planning Commission meeting, staff met with FEMA and FEMA followed-up the meeting with an email interpretation of the flood hazard requirements. Based on FEMA's information, the City will be forced to move the Port of Toledo's application to the City Council. An appeal will be filed within 15 days after the Planning Commission Order is signed. A public hearing at the City Council could be held at the end of January. The Planning Commission acted on the information that was available at the time of the public hearing, but FEMA's information impacts the entire community.

CA Adams clarified that FEMA does not need to appeal the decision, but if the City does not follow the requirements, there is an impact on the flood insurance program. FEMA could increase insurance premiums for the community, place the City on probation, or suspend the City from the insurance program. It was very unfortunate to receive FEMA's interpretation after the Planning Commission public hearing.

Commissioner Dyson expressed sympathy with the Port of Toledo and appreciated the common sense solution, but in hindsight, if the decision stands (allow the variance), it will affect homeowners and businesses the ability to receive flood insurance. Commissioner Dyson is sympathetic to staff as well because this will need to go to the City Council.

CA Adams reviewed the narrow variance standards and noted the frustration with the interpretations and process. FEMA should have submitted the information/testimony and participated during the public hearing process.

Port Manager Debbie Scacco thanked the Planning Commission for their concerns and decision. She would like to see a code amendment for small projects. She will be reaching out the DLCD Regional Solutions team to continue this discussion. Depot Slough will need to be maintained and dredged and there are no funds for an engineer study for the next project. Discussion on funding opportunities and grant options was held. The City will continue discussions with FEMA and

continue to stress the need to update the code for small projects and maintenance dredging.

Housing Capacity Analysis Project:

CP Peterson reported that the City Council adopted the Housing Capacity Analysis.

WORKSESSION: COMPREHENSIVE LAND USE PLAN UPDATE – CHAPTER 12
(TRANSPORTATION):

CP Peterson noted that the existing Transportation policies and goals are included in the packet. These were established in 2013 and can be reformatted and updated to add some language. He suggested policies on education/awareness/enforcement/partnerships to improve public safety awareness, emergency service access, performance standards, revenue sources, and green infrastructure

STAFF COMMENTS: Secretary Inukai wish all a happy holiday.

COMMISSIONER COMMENTS: None.

There being no further business before the Commission, the meeting was adjourned at 7:42 pm.

Secretary

Presiding Officer