

Toledo City Hall
Council Chambers
206 N Main St. Toledo OR
February 12, 2025
6:00 pm

AGENDA

TOLEDO PLANNING COMMISSION

The Planning Commission will hold an in-person meeting in City Hall Council Chambers. Participants can also attend the meeting through the Zoom video meeting platform. Email planning@cityoftoledo.org or call 541-336-2247 ext. 2130 to receive the meeting login information. Participants can also visit www.cityoftoledo.org/meetings for meeting details.

1. CALL TO ORDER AND ROLL CALL
2. VISITORS: (A time set aside to speak with the Planning Commissioners about issues not on the agenda)
3. APPROVAL OF THE JANUARY 8, 2025 MINUTES as circulated and reviewed by the Planning Commission
4. WORKSESSION:
 - a. Land Division Code Update
 - b. House Bill 3395 Updates
5. DISCUSSION ITEMS:
 - a. Updates and Reports
6. STAFF COMMENTS
7. COMMISSIONER COMMENTS
8. ADJOURNMENT

* Comments submitted in advance are preferable. Comments may be submitted by phone at 541-336-2247 extension 2130 or by email to planning@cityoftoledo.org. The meeting is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodation for persons with disabilities should be made at least 48 hours in advance of the meeting by calling the Toledo Planning Department at 541-336-2247.

TOLEDO PLANNING COMMISSION MINUTES

A regular meeting of the Toledo Planning Commission was called to order at 6:00 pm by Vice President Brian Lundgren. Commissioners present: Anne Learned-Ellis, Ricky Dyson, Dennis Sutherland, and Jonathan Mix (arrived at 6:04 pm). Excused were President Cora Warfield and Ruthanne Morris.

Staff present: Contract Planner (CP) Justin Peterson and Planning Assistant Arlene Inukai.

VISITORS: Stu Strom urged Planning Commissioners to take an active role in planning and to encourage development that will increase Toledo's population and budget.

APPROVAL OF THE NOVEMBER 13, 2024, MINUTES:

It was moved and seconded (Dyson/Learned-Ellis) to approve the November 13, 2024, minutes as circulated and reviewed by the Planning Commission.

Commissioner Mix entered the meeting at this time.

The **motion passed**, noting the absence of Morris and Warfield, with Mix abstaining.

WORKSESSION: LAND DIVISION CODE UPDATE:

CP Peterson reviewed the memorandum distributed to Planning Commissioners. He highlighted the simplified process for some land use applications. Proposed updates will be posted online and draft edits will be provided in a 'track-change' format for review. The proposed updates were sent to DLCDC and the City is still waiting for comments. Staff hopes to schedule a joint worksession with Planning Commissioners and City Councilors in March to review the proposed updates and would like to begin hearings in April.

CP Peterson reviewed proposed updates to the minor partition standards, establishing clear and objective standards and allowing staff to approve minor partition applications. Subdivisions and land divisions that create more than three lots would still go to the Planning Commission for decision. The expiration date for approved land division decisions could be increased from 12 months to 18 months to finalize and record the plat. With the limited number of surveyors in the area, the City has been seeing an increased number of deadline extensions for finalizing a survey plat. The preliminary plat section was restructured to clarify the approval process from preliminary approval to final plat. Density standards have proposed updates to simplify the complex formula. The variance section will remain as an option in the code. The transportation section will also remain in place until the City completes an updated Transportation System Plan.

Commissioner Learned-Ellis questioned the notification requirements for Planning Commission decisions vs. staff-level decisions. CP Peterson confirmed that neighborhood notices are required for both types of applications.

WORKSESSION: HOUSE BILL 3395 UPDATES:

CP Peterson reviewed several housing code updates to address state requirements, including the following:

- Duplex language has been added to the zoning code during previous updates.
- The mixed-use structure sample was provided for an example, but more research will be needed. This section will be presented in February for review.
- Seven days were added to the 120-day rule in order to finalize the required Decision Order document.
- Language for condominium plat standards does not need to be incorporated because the City does not have a condo section within the code.
- A definition was added for “Single-room occupancy”. This addresses property owners who offer a room to rent and have shared living space for kitchen, bath, etc. It was clarified in the code that the use is allowed outright in the residential zones. This type of rental option probably already occurs, but the section makes it clear it is allowed outright.
- The Single-Family Residential Zone will be renamed to Standard Residential Zone.
- Design standards in the RS Zone will be removed.
- Sign standards were updated.
- ADA ramps are allowed in the front setback area.
- The RG Zone provides similar updates as the RS Zone.
- Commercial Zone proposes reductions to the front yard setback.
- A new Commercial/Residential Overlay Zone is proposed. This provides more flexibility and allows non-conforming uses to continue.
- Conditional Use Permits would expire two years after approval if a building permit is not submitted or development has not occurred. One extension, for up to one year, can be requested. This update applies to existing (current) Conditional Use Permits.
- Religious-owned language will be added and will need to meet the new house bill. Example language was provided, but a proposed update will be presented a later meeting.
- Affordable housing standards have been updated for commercial, residential, public lands zone. If the application meets the area median income metric, a non-profit housing development could be excluded from Conditional Use Permit standards. There are several criteria for the section, including floodplain, slopes, utilities, etc. More research is needed to address Senate Bill 8 and House Bills 2984 and 3151 to deal with the affordable housing standards. There was an example from Bend that could be a starting point, but staff will need to contact DLCDC to discuss the requirements. More information will be presented in February.

Commissioners discussed median income standards and if units are owner-occupied or rented. This option would require an agreement or covenant for a 30-year period. Rent increases would be established by the State, rather than market rates. Commissioner Sutherland stated that this concept may be too advanced for Toledo’s needs, but it is a good option to have available.

Commissioners discussed the various housing options, including rooms for rent, duplex, religious housing options, and accessory dwelling units. Parking should also be provided when adding new housing units.

DISCUSSION ITEM: BUILDING PERMIT AND LAND USE APPLICATION UPDATES:

CP Peterson provided information on the annual building permit/land use application table. The report was presented to Commissioners for information and he encouraged Commissioners to

contact staff for any questions.

Commissioners discussed the 1103 NW A Street renovation and noted that it now has a stop-work order. The structure appears to be dangerous and Commissioners suggested a fence be placed around the structure. CP Peterson noted that the owner obtained a building permit for the foundation, but additional work was occurring, which is why the notice was posted. The owner submitted a second permit for framing, siding, and roof improvements to the building. Staff can contact the owner to provide a safety barrier.

STAFF COMMENTS: CP Peterson announced a training opportunity will be held January 15th at Toledo Fire Department. Two sessions are available, the morning session is for government ethics and the afternoon session is for public meeting laws.

The City Council adopted the Comprehensive Plan Map/rezone amendment for the former Eagles building and the zoning ordinance amendment for psilocybin services in December. The Council kept the 1000' distance requirement between psilocybin uses.

CP Peterson provided an update on the Arcadia Park restroom hours and equipment, in response to Commissioner comments that were reported in November. He noted that the City's website has a Public Work Request Form that can be used to report issues.

COMMISSIONER COMMENTS: None.

There being no further business before the Commission, the meeting was adjourned at 7:05 pm.

Planning Assistant

Vice President



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MEMORANDUM

DATE: February 5, 2025
TO: Toledo Planning Commission
FROM: Justin Peterson
RE: Partition and Subdivision Code and HB3395 Updates

Staff met with Department of Land Conservation and Development (DLCD) Staff to discuss the proposed updates. Based on initial comments we were on the right track with the proposed code updates. A few updates were noted and are discussed below.

HB3395

- Proposed Section TMC 17.38 – Religious Owned Affordable Housing and Affordable Housing Land Use was removed from the proposed updates. Based on DLCD Staff information this section can be applied by reference to Statute. Also, due to the expected amendments to this section in future Oregon Legislative Sessions it does not make sense to adopt this section into code. The Bend example code language is attached for reference.
- The remaining portions of the TMC 17 updates are in the process of being reviewed by DLCD Staff.

Partitions and Subdivisions

- Missing Middle Divisions. See attached document.
 - Discussion on adding Missing Middle Divisions to the Expedited Land Division section of Toledo's code.
- Subdivisions processed as a Type II application as required by SB1537. (Staff is working with legal for confirmation)
- Clear and Objective Standards Discussion
 - Updating any language that has discretionary criteria. As an example, "Lot Side Lines. Each side line shall be as close to perpendicular as practicable to the adjacent public street, private street, or private access easement upon which the lot or parcel faces. As an alternative, the planning commission may approve, other lot configurations that are not perpendicular if, an odd-shaped tract, existing street layout, or existing topography makes such a lot unavoidable."

The full code updates are available on the City of Toledo website. [Planning | Toledo OR](#)

Staff requested a joint work session with City Council at the next Planning Commission meeting on March 12th.

supply of commercial land for commercial uses; provide for designs which are compatible with a storefront character; avoid or minimize impacts associated with traffic and parking; and ensure proper management and maintenance of common areas. Residential uses that existed prior to the effective date of the ordinance codified in this chapter are considered permitted uses and not a nonconforming use.

5. Commercial and Public/Institutional Floor Area. The commercial or public/institutional uses ~~shall~~ **must** occupy at least the floor area equivalent to the entire ground-floor area of the development. The commercial or public/institutional uses shall be constructed prior to or concurrently with the residential uses.

- a. Exception to the Floor Area Requirement. Ground-floor entrance lobbies and other common access areas such as hallways or stairways that lead to residential units above or behind the commercial or public/institutional uses are permitted. **(Added by the Planning Commission on October 28, 2024)**

6. Exemptions. BDC 3.6.200(C), Conversion from Commercial to Residential Uses, BDC 3.6.250(A), Residential Use of Commercial Lands for Income Qualified Housing and BDC 3.6.250(B), Income Qualified Housing Allowed Outright are exempt from this section.

3.6.250 Income Qualified Housing.

A. Residential Use of Commercial Lands for Income Qualified Housing The purpose of this section is to allow development consistent with the requirements of ORS 197A.460. **(Implements House Bill 3395 and ORS 197A.460).**

1. Applicability.

- a. An income qualified housing development is permitted if the proposed development will produce:
 - i. Residential structures subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 making each unit affordable to a household with income less than or equal to 60 percent of the area median income as defined in ORS 456.270; or
 - ii. Mixed use structures with ground floor commercial units and residential units subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 making the properties

affordable to moderate income households with income between 80 and 120 percent of area median income, as defined in ORS 456.270.

- b. Development under this section does not apply on lands where the City determines that:
 - i. The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete;
 - ii. The property contains a slope of 25 percent or greater;
 - iii. The property is within a 100-year floodplain; or
 - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to:
 - (A) Natural disasters and hazards; or
 - (B) Natural resources, including air, water, land or natural areas, but not including open spaces.
- c. Development under this section does not apply on lots or parcels that are vacant at the time of development application submittal, or that were added to the urban growth boundary within the 15 year period immediately preceding the date of development application submittal.

2. **Permitted Zoning Districts. Commercial and Mixed-Use Districts.**

3. **Density.**

- a. Minimum Density. The minimum density standards of the Medium Density Residential (RM) Zone apply, except there is no minimum residential density standard for a “vertical” mixed use building or development.
- b. Maximum Density. There is no maximum density.

4. **Development Standards. Development is subject to the standards of the Mixed-Use Neighborhood (MN) District.**

B. Income Qualified Housing Allowed Outright The purpose of this section is to allow the development of income qualified housing consistent with the requirements of ORS 197A.445. (Implements SB 8, HB 2984 and HB 3151 and ORS 197A.445)

1. **Affordability.** As used in this section:

- a. “Income qualified housing” means residential property whose affordability, including affordability under an affordable housing covenant as provided in ORS 456.270 to 456.295, is enforceable for a period of no less than 30 years, and:

- i. Each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income; or
 - ii. The average of all units on the property is made available to households with incomes of 60 percent or less of the area median income; or
 - iii. The property is a manufactured dwelling park that serves only households with incomes of 120 percent or less of the area median income.
- b. “Area median income” means the median income for the metropolitan statistical area in which housing is located as determined by the Oregon Housing and Community Services Department and adjusted for household size based on information from the United States Department of Housing and Urban Development.

2. Applicability.

- a. An income qualified housing development is permitted if the proposed development is on property that is:
- i. Owned by a public body as defined in ORS 174.109, a nonprofit corporation that is organized as a religious corporation, a nonprofit corporation that is organized as a public benefit corporation whose primary purpose is the development of affordable housing, a housing authority as defined in ORS 456.005, or a manufactured dwelling park nonprofit cooperative as defined in ORS 62.803; or
 - ii. Located in a Residential, Commercial or Mixed-Use Zoning District or Public Facilities (PF) Zoning District.
 - iii. Located in the Light Industrial (IL) District and the property is:
 - (A) Publicly owned; and
 - (B) Adjacent to lands zoned to allow residential uses or schools.
- b. Development under this section does not apply on lands where the City determines that:
- i. The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete;
 - ii. The property contains a slope of 25 percent or greater;
 - iii. The property is within a 100-year floodplain; or
 - iv. The development of the property is constrained by land use regulations based on statewide land use planning goals relating to:
 - (A) Natural disasters and hazards; or

(B) Natural resources, including air, water, land or natural areas, but not including open spaces or historic resources.

3. **Density and Height Bonus.** Development of income qualified housing under this section may comply with the following density and height requirements, at the greater of:

- a. The density bonus for affordable housing in compliance with BDC 3.6.250(C), Affordable Housing Strategies; or
- b. The following density and height bonuses:
 - i. For property zoned RL, RS or RM-10, 200 percent of the existing maximum density and 12 additional feet above the height of the underlying zone;
 - ii. For property zoned RM, 150 percent of the existing maximum density and 24 additional feet above the height of the underlying zone; or
 - iii. For property zoned RH, or Commercial or Mixed-Use Districts, 125 percent of the existing maximum density and 36 additional feet above the height of the underlying zone.
- c. The Review Authority may reduce the density or height of the density bonus allowed under this section as necessary to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal. If the City of Bend utilizes this reduction authority, the City will adopt findings supported by substantial evidence demonstrating the necessity of the reduction.

C. **Affordable Housing Strategies.** The City of Bend provides an incentive program to developers to assist in the development of affordable housing.

1. For the purposes of the incentive program, the City defines affordable housing as housing with a sales price or rental amount that is within the means of a household that may occupy moderate- and low-income housing, meeting one of the thresholds defined below:

- a. In the case of dwelling units for sale, “affordable” means housing in which the mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of such gross annual household income for a family at 80 percent of the area median income, based upon most recent HUD income limits for the Bend Metropolitan Statistical Area (Bend MSA).
- b. In the case of dwelling units for rent, “affordable” means housing for which the rent and utilities constitute no more than 30 percent of such gross annual household income for a family at 60

- (2) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for an expedited land division shall describe the manner in which the proposed division complies with each of the provisions in subsection (1) of this section.
- (3) Review Criteria. Approval of an expedited land division shall be based on the tentative plat review criteria in ADC 11.180.
- (4) Tentative Plat Conditions of Approval. Expedited land division shall be subject to the same conditions of approval as a subdivision or partition (ADC 11.190). [Ord. 5968, 1/14/22]

11.610 Middle Housing Land Division. A middle housing land division is a partition or subdivision of a lot or parcel within a middle housing zoning district on which a middle housing project has been developed or approved for development under the provisions of this Code and ORS 197.758. Middle housing land divisions are regulated by this Code and ORS Chapter 92.

- (1) Review Criteria. Approval of a tentative plat for a middle housing land division will be granted if the Director finds that the applicant has met all of the following criteria:
 - (a) The middle housing development complies with the Oregon residential specialty code and the applicable ADC middle housing regulations, including but not limited to, the provisions in the base zone and in Sections 8.110-8.175. To demonstrate compliance with this criterion, the applicant shall submit approved building permits demonstrating that existing or proposed structures comply with the Oregon Residential Specialty Code and ADC middle housing regulations.
 - (b) Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.
 - (c) Easements will be provided as necessary for each dwelling unit on the site for:
 - i. Locating, accessing, replacing, and servicing all utilities;
 - ii. Pedestrian access from each dwelling unit to a private or public road;
 - iii. Any common use areas or shared building elements;
 - iv. Any dedicated driveways or parking; and
 - v. Any dedicated common area.
 - (d) Exactly one dwelling unit will be located on each resulting lot (referred to as middle housing child lots), except for lots or tracts used as common areas, on which no dwelling units will be permitted.
 - (e) Buildings or structures on a resulting child lot will comply with applicable building codes provisions relating to new property lines.
 - (f) Notwithstanding the creation of new child lots, structures or buildings located on the newly created lots will comply with the Oregon Residential Specialty Code.
 - (g) Where a resulting child lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to ADC 12.140 and 12.200.
- (2) Tentative Plat Submittal. In addition to the items listed in ADC 11.210, an application for a middle housing land division shall include the following:
 - (a) A description of the manner in which the proposed division complies with each of the provisions of subsection (1) of this section, including copies of approved building permits and other evidence necessary to demonstrate:
 - i. How buildings or structures on a resulting child lot will comply with applicable building codes provisions related to new property lines; and
 - ii. Notwithstanding the creation of new lots, how structures or buildings located on the newly created child lots will comply with the Oregon Residential Specialty Code.
 - (b) In addition to the items listed in ADC 11.210(1) – (20), copies of a plat showing the following details:

- i. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion 11.610(1)(b).
 - ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion 11.610(1)(c).
 - (c) Copies of all required easements in a form approved by the City Attorney.
- (3) Tentative Plat Conditions of Approval.
- (a) The City may attach conditions of approval of a tentative plat for a middle housing land division to:
 - i. Prohibit further division of the resulting child lots.
 - ii. Require that a notation appear on the final plat indicating:
 - The approval was given under ORS Chapter 92.
 - The type of middle housing approved on the subject site and noting that this middle housing type shall not altered by the middle housing land division.
 - Accessory dwelling units are not permitted on child lots resulting from a middle housing land division.
 - iii. Ensure that improvements associated with review criteria in ADC 11.610 are provided.
 - (b) In accordance with ORS Chapter 92, the City shall not attach conditions of approval requiring that a child lot require driveways, vehicle access, parking, or minimum or maximum street frontage.
 - (c) The tentative approval of a middle housing land division is void if and only if a final middle housing land division plat is not approved within three years of the tentative approval.

[Ord. 5968, 1/14/22]

11.620 Tentative Plat Procedures for Expedited and Middle Housing Land Division. Unless the applicant requests to use the procedure set forth in ADC 11.170, the City shall use the following procedure for an expedited land division, as described in ORS 197.360, or a middle housing land division. An expedited or middle housing land division is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

- (1) Completeness Review.
 - (a) If the application for an expedited or middle housing land division is incomplete, the City shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
 - (b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- (2) Notice of Application.
 - (a) On receipt of a complete application, written notice shall be provided to owners of property within 100 feet of the entire contiguous site for which the application is made and to any City Council-recognized neighborhood association(s) whose boundaries include the site. Notice shall also be provided to any agency responsible for providing public services or facilities to the subject site. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given.
 - (b) The notice shall include the following information:
 - i. The deadline for submitting written comments;
 - ii. A statement that issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and

- iii. A statement that issues must be raised with sufficient specificity to enable the City to respond to the issue.
 - iv. The applicable criteria for the decision.
 - v. The place, date, and time that comments are due.
 - vi. A time and place where copies of all evidence submitted by the applicant will be available for review.
 - vii. The street address or other easily understood geographical reference to the subject property.
 - viii. The name and telephone number of a City contact person.
 - ix. A brief summary of the local decision-making process for the land division decision being made.
- (3) There shall be a 14-day period to allow for submission of written comments prior to the Director's decision.
 - (4) There shall be no public hearing on the application.
 - (5) The Director shall make a decision to approve or deny the application within 63 days of receiving a completed application.
 - (6) The Director's decision shall be based on applicable elements of the Albany Development Code and Comprehensive Plan. An approval may include conditions to ensure that the application meets the applicable land use regulations.
 - (7) Notice of the decision shall be provided to the applicant and to those who received notice under subsection (2) within 63 days of the date of a completed application. The notice of decision shall include:
 - (a) A summary statement explaining the determination; and
 - (b) An explanation of appeal rights under ORS 197.375.
 - (8) Failure to approve or deny application within specified time.
 - (a) Except as provided in subsection (b), if the City does not make a decision on an expedited or middle housing land division within 63 days after the application is deemed complete, the applicant may apply in the circuit court for the county in which the application was filed for a writ of mandamus to compel the City to issue the approval. The writ shall be issued unless the City shows that the approval would violate a substantive provision of the applicable land use regulations or the requirements of ORS 197.360. A decision of the circuit court under this section may be appealed only to the Court of Appeals.
 - (b) After seven days' notice to the applicant, the City Council may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited or middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 197.360 to 197.380, including the mandamus remedy provided by subsection (a), shall remain applicable to the expedited or middle housing land division, except that the extended period shall be substituted for the 63-day period wherever applicable.
 - (9) The applicant, or any person or organization that files written comments in the comment period established under subsection (3), may appeal the Director's decision within 14 days of the mailing of the decision notice and the appeal shall be based solely on allegations as listed in ORS 197.375(1)(c)(A) through (1)(c)(D) and shall be accompanied by a \$300 deposit for costs which is refundable if the appellant prevails.
 - (10) The Director shall appoint a referee to decide the appeal decision and the appointed referee shall comply with ORS 197.375(3) through (6) when issuing a decision. The referee may not be a City employee or official.

[Ord. 5968, 1/14/22]

11.630 Final Plat Requirements for Expedited and Middle Housing Land Division

- (1) Expedited Land Division - Final Plan Review Criteria. Approval of a final plat for an expedited land division shall be consistent with the review criteria for subdivisions and partitions (ADC 11.220).
- (2) Middle Housing Land Division - Final Plan Review Criteria. Approval of a final plat for a middle housing land division will be granted if the review body finds that the applicant has met the following criteria:
 - (a) The final plat is in substantial conformance with the tentative plat.
 - (b) Conditions of approval attached to the tentative plat have been satisfied.
 - (c) All proposed improvements required to satisfy applicable standards of the ADC have been constructed.
- (3) Final Plat Submittal. An application for an expedited or middle housing land division final plat shall include the items listed in ADC 11.230. [Ord. 5968, 1/14/22]