

TOLEDO PLANNING COMMISSION MINUTES

A regular meeting of the Toledo Planning Commission was called to order at 7:01 pm by President Terri Strom. Commissioners present: Linda Brodeur, Jerry Seth, and Paul Schneidecker. Excused were Doug Alldridge, Anne Learned-Ellis, and Stuart Miller.

Staff present: Community Development Coordinator (CDC) Stuart Cowie, City Manager Michelle Amberg, Main Street Allen Stewart, and Secretary Arlene Inukai.

VISITORS: Don Amberg, Matt Spangler, Jeff Hitt, Tom Farino, and Christine Gary

APPROVAL OF THE JULY 13, 2011 MINUTES:

It was moved and seconded (Brodeur/Seth) to approve the July 13, 2011, minutes as circulated and reviewed by the Planning Commission. The **motion passed** unanimously, noting the absence of Alldridge, Learned-Ellis, and Miller.

PUBLIC HEARING: VARIANCE TO THE SETBACK REQUIREMENTS FOR PLACEMENT OF A MANUFACTURED HOME FOR PROPERTY LOCATED AT 1063 NW A STREET, REQUESTED BY BRENDA BRANNON AND MANDY AMADOR (FILE #VAR-1-11):

President Strom 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: CDC Cowie reviewed the staff report as on file at City Hall. He referenced the site plan in the staff report showing a proposed manufactured home location with a 2' front yard setback and 2' rear street yard setback. An aerial map was also included in the staff report illustrating the location of the existing home. The property is surrounded by three public streets—NW A Street on the front, Burch Lane on the south side, and Burch Street on the rear. The applicant is asking for relief to the required 15' front yard setback and because the back of the lot is adjacent to the street, it requires a 10' rear street side setback. Burch Street only serves a couple of residences, but is a public street. The subject property is defined as a corner lot and the Toledo Municipal Code (TMC) requires an additional 5' for sides abutting a street. Normally, the rear setback is 5' but becomes 10' because of the street.

CDC Cowie reviewed variance criteria in TMC 17.68.050D(1)(2)(3). Staff reviewed the request, which meets all three criteria. He explained that the proposal is appropriate and compatible with the neighborhood and that many existing homes have non-conforming setbacks on small lots. Originally, the property was 90' at length. At some time, right-of-way was acquired for A Street and this turned the property into a 60' lot. Because of this acquisition, the lot size is out of the applicant's control. The General Residential Zone allows placement of a manufactured home and the applicant proposes a double-wide manufactured home which is reasonably sized.

Staff recommends approval with the conditions of approval. Commissioner Schneidecker asked if there is a current survey of the property and because of the tight placement, worries if it goes over the property line. CDC Cowie explained the measurements were taken by the applicants and

existing maps and they located a couple corner pins.

Applicant Testimony: Jeff Hitt of 1063 NW A Street, reported he is Brenda Brannon's partner and explained that the property is surrounded by roads on three side. The neighbor to the north recently placed a manufactured home and retaining wall. The retaining wall was on their side and they had the neighbor move it onto the property line, although, they were unable to locate all of the corner pins. They hope to upgrade and improve the property, which will be a more attractive home. He has met with many neighbors to talk about the proposal and many have been very happy with the plan. He went on to explain that Brenda Brannon has health problems and the new home will be good for her.

Proponent Testimony: Christine Gary of 1059 NW Burch Lane, stated she is a neighbor, behind the subject property. She hopes to see the existing home replaced and will be nice for the area.

Opponent Testimony: None.

Other Interested Parties: None.

Applicant Rebuttal: None.

Questions by Commissioners: In answer to President Strom's inquiry, Mr. Hitt reported the new home will be shorter than the existing house, but it will be wider. CDC Cowie added that the existing home is encroaching into the public right-of-way.

Deliberations: The public hearing was closed and the Commission entered into deliberations. Commissioners discussed if a survey is needed and who will be placing the home. CDC Cowie did not require this in the recommended conditions of approval. The applicant reported Leisure Land will be placing the home.

It was moved and seconded (Brodeur/Seth) that based on the testimony received, the staff report, and the evidence and arguments before the Planning Commission at the public hearing on November 9, 2011, the Planning Commission finds that application file #VAR-1-11 complies with criteria identified in Toledo Municipal Code Section 17.68.050(D)(1-3) for granting a variance. The Planning Commission hereby adopts the staff report as findings, as well as the following conditions of approval for application #VAR-1-11, allowing for correction of typographical and grammatical errors as needed.

1. Approval is based upon the submitted plan. Any substantial change in the approved plan shall be submitted to the Planning Department as a new application for a conditional use.
2. The applicant shall obtain all appropriate development from the City of Toledo prior to the placement of the new manufactured home.

The **motion passed** unanimously, noting the absence of Miller, Learned-Ellis, and Alldridge.

DISCUSSION ITEMS: INDUSTRIAL LANDS PROJECT/CODE AMENDMENT AND ZONE CHANGE. GUEST SPEAKER: MATT SPANGLER, DLCD REPRESENTATIVE:

CDC Cowie reported the industrial lands project was discussed at the last City Council worksession. The latest draft was presented in order to get the Council's go-ahead to begin the amendment process. The Council expressed appreciation in the work and effort put into the

document, recognizing the difficulty to draft new code criteria, however, they had concerns with the proposal. Council asked for further discussion/review of the building size requirement for the Light-Industrial Zone. Also, some Councilors asked for more performance-based criteria rather than the typical Euclidean style of listing specific uses. CDC Cowie explained that a good code has a blend of both styles and he asked DLCDC Representative Matt Spangler to discuss the two styles with the Planning Commission. Mr. Spangler has a wealth of knowledge and experience and is able to provide a pro-con list to have a performance vs. Euclidean style zoning ordinance. President Strom explained there has been some confusion with how the draft document has progressed to this point and she believes it is good to revisit it in order to avoid any surprises.

Matt Spangler reported he was not at the recent City Council meeting, but he discussed the concerns with CDC Cowie. Limiting the industrial building size in the Light Industrial zone is a way to provide that a project does not exceed a certain scale. Allowing larger structures as a conditional use permit gives the Planning Commission the opportunity to review and determine if the scale is appropriate for the property. The exact square footage number is arbitrary and could be argued. Conceptually, this seems like an appropriate standard, but a number has to be established.

The topic of performance zoning versus Euclidean zoning is a more complicated issue. Euclidean zoning provides a customary list of uses and most zoning ordinances are set up this way. Pure performance zoning creates a set of parameters and standards that must be met, but it does not identify a specific use. If a potential use can show they meet all of the standards, then they have a green light for development. Performance zoning is a complicated process. Although, some performance standards may be easier to begin implementing, such as size or setbacks. Pure performance based zoning is used in some places, but, overall, it is still evolving. It is labor intensive and codes are complex. Most of the zoning codes are a combination of the two styles. For example, there is a list of uses with approval criteria and measurable standards. There could then be an evaluation process for more broad standards or where discretion is needed. Commissioner Seth asked what decisions staff can make versus the Planning Commission. Mr. Spangler reported that is a policy decision the City Council will have to determine. A pure performance-based code for Toledo is probably not practical based on our population nor for an 8-hour/week contract planner.

Mr. Spangler stated the blended code could have measurable standards for each listed use and where there is no discretion needed. But it is difficult to list all uses because new industries or technologies come along after the code is written. Toledo should strive to have a good balance and must decide how much to leave as discretionary decisions for particular locations. Commissioner Schneidecker stressed that businesses evolve and the code should offer some flexibility for new industries. Commissioner Seth suggested retaining the Euclidean style, but to have an option to consider new industries. Mr. Spangler pointed out the "similar use clause" that currently exists in our code. This is a catch-all that allows uses that are similar in character, use, scale, etc. to a use already listed in the code be reviewed by the Planning Commission. Commissioner Brodeur likes that this option is included in the code. She asked for specific problems or areas the Council would like additional review. CDC Cowie reported they asked for performance based criteria (noise, size, or other prescribed criteria) so industries know the expectations upfront instead of waiting for discretionary review. If the use does not meet all of the criteria, it will not be approved. CDC Cowie explained that the current code sets parameters for uses allowed outright, but if a proposal goes beyond those standards, it would go to the Planning Commission for review. The Commission then has the ability to review the proposed impacts (i.e. noise, transportation, odor, etc.) and they could set standards. Some argue to avoid this conditional use process and just set all of those

standards upfront. Commissioner Brodeur remembers having a major discussion about this topic during the process and they even listed several specific limitations, but ultimately, they wanted to welcome the opportunity to discuss proposals in the conditional use process. She felt that if a businesses wants to be in Toledo, they would not mind the process. It is far too difficult to predict future development and define all standards to meet their needs.

CM Amberg suggested a joint meeting with Planning Commissioners and City Councilors to get direction for the code update and to reach agreement. Commissioners welcomed a joint meeting. CDC Cowie agreed and offered to provide example performance code criteria. He noted that some items are difficult to measure and/or implement, for example, odor is hard to regulate. Noise standards could be created, but it is challenging when compared to other existing industrial uses in Toledo. Noise standards can always be drafted for commercial, residential, and industrial areas outside of the zoning ordinance. Commissioners invited Mr. Spangler to a future joint meeting and welcomed additional conversations to avoid problems.

CDC Cowie felt the Planning Commission is on the right track. Conditional use policies and general conditional use standards are common in zoning codes. How to apply regulations for noise, traffic, parking, etc. and at what point the performance standards apply versus the need for Planning Commission review should be considered. The 40,000 square foot restriction for industrial buildings was discussed at the City Council meeting, who also questioned the size limitation being a specific number versus a percentage of the property size. CDC Cowie clarified that the 40,000 is an arbitrary number that can be revised, but after a lot of discussion during the year long review, the number seemed reasonable based on Toledo's inventory. If a project requires a larger building, it can be reviewed by the Planning Commission. The danger of creating a percentage limit based on the property size could create a development out of scale to a neighborhood. For example, the Siletz Tribe holds a 30 acre property on Sturdevant Road and if a percentage is created, it could allow a massive structure on the site. Commissioners discussed the 40,000 limit and if it is too small or should be revised. Generally, they liked the idea if a building exceeds a certain number, then the Planning Commission can review for potential impacts. Mr. Spangler clarified that the draft only limits light-industrial projects to 40,000 and not the industrial zone.

President Strom looks forward to a joint City Council/Planning Commission meeting. Commissioner Seth added that Commissioners can convey their thoughts, as they originally felt comfortable with the draft. He acknowledged the need to work with Councilors because they have the final decision on any amendment. Commissioner Schneidecker also encouraged the public view the draft. CM Amberg suggested December 7th may be a good meeting date.

CDC Cowie asked for members to further review code criteria and talk to him about incorporating any changes into the draft. Revising the draft language is fine, but it is hard to start all over. In answer to Commissioner questions, Mr. Spangler thought the processing/manufacturing language was fine. It is the hardest to define, as there is a broad range of possible uses.

Commissioner Brodeur expressed hesitance with making changes without all Planning Commissioners present. She felt stuck as to where go from here and looks forward to a City Council meeting. Commissioners expressed the desire to have specific suggestions to incorporate in the draft and to make sure everyone feels good about the project. They thanked CDC Cowie for his work and Mr. Spangler for his helpful presentation.

DISCUSSION ITEMS: Updates and Reports:

CDC Cowie reported he is currently reviewing an administrative variance to allow a home addition to encroach less than 50% of the required setback. He is also moving forward on the process for the City to partition City-owned property on Sturdevant Road. Staff has also been working on a Transportation System Plan and will soon be going out for consultants.

STAFF COMMENTS:

CDC Cowie reported he will be on vacation for a couple of weeks.

COMMISSIONER COMMENTS:

President Strom suggested and Commissioner Brodeur agreed that the Planning Commission continue to hold work sessions on their goals when no decision items are scheduled on the Planning Commission agenda. An update to the goals or "to-do" list may be needed.

President Strom asked for an update on the temporary use ordinance revisions. CDC Cowie was uncertain with this progress and will check with the City Attorney.

President Strom inquired if there are codes for sidewalks and keeping them safe, attractive, and free of clutter. She stated that the Main Street committee may consider the concept for the Main Street area. CM Amberg reported pedestrian access cannot be obstructed, but this can be further reviewed City-wide if necessary.

There being no further business before the Commission, the meeting was adjourned at 8:20 pm.

Secretary

President