

## TOLEDO PLANNING COMMISSION MINUTES

A regular meeting of the Toledo Planning Commission was called to order at 7:00 pm by President Terri Strom. Commissioners present: Stuart Miller, Linda Brodeur, Dawn Grafe, and Joyce Mackenroth. Excused were Anne Learned-Ellis and Paul Schneidecker.

Staff present: Community Development Coordinator (CDC) Rusty Klem and Secretary Arlene Inukai.

VISITORS: Angelo Stephenson, Janice and Gregg Harrison, Fawn Ferguson, Mr. and Mrs. Tomas Hoak, Donald Burch, John Bennett, Larry Tenderella, Jay and Janice Watson, Chris Lowe

Angelo Stephenson of 891 NW 6<sup>th</sup> Street, Toledo, reported he represents a citizen committee of 10 residents who felt Toledo has outdated codes and they are now reviewing current municipal codes related to cleaning up the town, overgrown vegetation, abandoned cars, etc. He has been working with the Police Chief for about six months on abatement issues. It is very difficult to get property owners to clean their property when they live out of town. He has a print-out of residential properties and approximately 28% of the property owners have a mailing address outside of Toledo. He noted that the list only represents residential zoned properties and does not include the residential homes allowed in other zones. Once these are included in the list, he estimates about 32% of residential homes are owned by people outside of Toledo. As the code now reads, it is either the property owner or renter's responsibility to clean up the property, but it should be both the owner and renter's responsibility. Also, there should be language changes from the term "may" to "shall" to make items easier to enforce. He also recommends a change in the code that now requires the City to serve a citation in person and recommended a citation be sent by certified mail to the property owner. This is especially important to property owners residing outside of Toledo, since the Police Department does not have the manpower to serve a citation to those outside of the area. Many other codes from around the State allow the property to be posted, then cite the owner by certified mail. This saves a lot of time and manpower. These recommendations have been presented to the City Manager and City Council, but Mr. Stephenson felt the Planning Commission would be interested in the committee's recommendations. Commissioner Miller asked if the properties under disrepair now are owned by outside residents. He agreed that the term "shall" be included in the terms. Mr. Stephenson urged the continued review of the industrial zone regulation and industrial park. He noted that he was one of the people opposed to and fought against a proposed asphalt plant and requested the zoning ordinance language be updated to clearly specify this type of use so it does not leave the code language open and ambiguous for various interpretations.

### APPROVAL OF THE JULY 8, 2009, MINUTES:

It was moved and seconded (Brodeur/Grafe) to approve the July 8, 2009, minutes as circulated and reviewed by the Planning Commission. The **motion passed**, with Mackenroth abstaining and noting the absence of Learned-Ellis and Schneidecker.

### PUBLIC HEARING: MAJOR PARTITION TO CREATE THREE LOTS AND STREET AT 654

& 662 NE 8<sup>TH</sup> STREET, REQUESTED BY LARRY AND KIMBERLY TENDERELLA:

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 Klem reviewed the staff report as on file at City Hall. The applicants are requesting to partition a .94 acre parcel into 3 lots. The fourth lot would be for the creation of the street serving the new parcels. The creation of a street requires a major partition. If the request only created 3 lots, it would be a minor partition. The property is located on NE 8<sup>th</sup> Street, off of Business Highway 20. The property is in the General Residential (RG) zone and there are no structures on the property. Development constraints include slope, existing infrastructure, and access. The water system is not very good. NE 8<sup>th</sup> Street is only 15' wide and the dedication is uncertain. Staff discussed the option of widening NE 8<sup>th</sup> Street, but it was determined to be too difficult, as many homes are located very close to the street and there would not be enough space for an adequately sized road. There is inadequate off-street parking in the area and people park on the street, adding to the narrow street problems.

Public hearing notices were sent to 30 property owners and 19 public service agencies. Comments were received from 1) the Public Works Director addressing inadequate infrastructure, 2) the Fire Chief for fire fighting capabilities, 3) neighbor Donald Burch reported there are already too many homes and felt it ill advised to add more homes and traffic to the narrow street, and 4) neighbor John Bennett reported past survey errors in the area and wanted to be cautious in what is accepted. CDC Klem stated the infrastructure in the area is inadequate, stressing the water line is small and there are low flows. The nearest fire hydrant is located on Highway 20. There are insufficient flows from the water line for a hydrant at the bottom of NE 8<sup>th</sup> Street. There are no curbs or stormwater improvements on NE 8<sup>th</sup> Street and the access point from Highway 20 to NE 8<sup>th</sup> Street is poorly designed. CDC Klem reviewed the criteria, Facts, and Findings listed in the staff report. Staff recommends a continuation of the public hearing in order to discuss compliance with the recommended conditions of approval and ordinance. He noted that the items listed in the staff report may affect the outcome of the project.

CDC Klem reviewed the access for the proposed development. Currently, there is a driveway serving a newly built home on Tax Lot 1200. As proposed, this driveway will then be extended across Tax Lot 1300 for the new road. The Public Works Director would like to see a public dedicated road and stormwater system. No sidewalks would be necessary. Commissioners discussed the concept of widening NE 8<sup>th</sup> Street, but it is nearly impossible because the existing homes are close to the road. Both the Public Works Director and Planner would like to see the public dedication of the access road for the continuation of NE 8<sup>th</sup> Street. Utilities can be located in the new road and the City can have access to the utilities if needed and the road can be designed to meet emergency vehicle requirements. Smaller emergency service vehicles will respond to the area, but it is not likely that a large fire engine can make it to the end of NE 8<sup>th</sup> Street.

Applicant Testimony: Larry Tenderella of 3823 Yaquina Bay Road, Newport, reviewed the history of this property. When he first moved to the area in 1994, he lived in this area. He then built a home on Tax Lot 1200 about three years ago. There was originally a home on Tax Lot 1200, but it was burned down around the 1950s. When building the new home, he new he would eventually want to build or subdivide the other lots. He extended water lines and power from 8<sup>th</sup> Street, beyond Tax Lot 1200 to plan for new development and at the time, City staff gave

recommendations for the utilities and road. He recently talked to the Fire Chief and there is a fire hydrant at Highway 20 on a 6" water line. The 6" line then drops to 4" on 8<sup>th</sup> Street. There was a hydrant on NE 8<sup>th</sup> Street, but because it was on a 4" line, there was insufficient flow for fire prevention, even with the pumps. Therefore, the hydrant was relocated. The Fire Chief recommends paving the new road to the cul-de-sac and install fire sprinkler systems in each home. Mr. Tenderella talked to installers and noted that there would have to be a 1" line from the main line and can branch to 5/8" to the home. The Fire Chief can then use the hydrant at Highway 20. The Chief has concerns with the narrow street, noting that there was a fire on NE 10<sup>th</sup> Street and the fire department had a difficult time. Mr. Tenderella understands the need for the Fire Chief's recommendations and is willing to perform them. In regards to upgrading the water line from 8<sup>th</sup> Street all the way down to the new homes, he hopes there will be further discussion to determine if there is sufficient flow for all 9 homes and for the new homes and fire systems. An engineer report may be necessary to determine if the size is sufficient. He contacted Civil West Engineering and they responded back that they could not write the report because of the work they are performing for the City of Toledo. Based on calculations, there would be sufficient flow for household use and sprinkler systems, but not an additional fire hydrant. Mr. Tenderella reported he talked to some engineering people in the Newport area and they felt a 4" main line could handle 30-40 homes.

Proponent Testimony: None.

Opponent Testimony: Donald Burch of 681 NE 8<sup>th</sup>, Toledo, reported he has lived in the home for 67 years and it is the last house at the end of NE 8<sup>th</sup> Street. He noted that since the last home was built, there has been a decrease in water pressure and he believes there is too much traffic on the street. He believes additional traffic should not be added to NE 8<sup>th</sup> Street. He does not understand why the owner would want to build three more homes because there is no room for more houses and there is no way to widen the road.

Michelle Hoak of 678 NE 8<sup>th</sup> Street, has lived in the area for 25 years. She believes that since Mr. Tenderella built the new home, the neighborhood is more congested and there has been a loss of water pressure. When the weather gets bad, the access road to Mr. Tenderella's properties gets bad and the tenants park on the street because the driveway is very steep. Residents on 8<sup>th</sup> Street cannot park on both sides of the street because of the width. Often, vehicles cannot get down to the end of the road. Fire trucks would be unable to make it down the full length of the road. Also, there is a blind spot when exiting from the easement street because you cannot see oncoming traffic. She noted that the turn at the top, down onto NE 8<sup>th</sup> Street is also a blind corner and is very dangerous because children are on the street. Children have no place to play because there are very little yard space for many of the homes. Additional traffic makes the street much more dangerous. She would like to see an alternate route to access the properties and would like to have water pressure back. She noted that the existing situation is a mess and with more people, it will get tougher.

Jay Watson reported he owns 640 NE 8<sup>th</sup> Street and stated that at least 6-7 years ago he approached the City to divide this property, but there were problems with infrastructure and lot size. Since then, he is glad he was turned down. The area is very congested. There are too many people using a very narrow road. At this point, his property has adequate water pressure. When visiting the property, he noted the times he's had to move his truck to allow other vehicles to get past his property. He agrees with other testimony.

Fawn Ferguson of 663 NE 8<sup>th</sup> Street reported she bought the home two years ago. Her children play

and ride bicycles in the street. Two adults are always present to watch for traffic because of the narrow access points. She reported that the street is so narrow that the garbage truck has to back out of the street, as it cannot turn around. She is concerned with traffic because she has children and pets. Also, parking in the area is difficult.

Greg Harrison reported he owns 648 NE 8th Street and he does not want to speak for or against the proposal, but wanted to ask one question. He asked if the proposed driveway serving the new homes will be a public roadway because this access point would be better for their rental home (which is adjacent to the proposed driveway) versus the existing 8<sup>th</sup> Street driveway. There is a level spot along the driveway that would better suit the home. CDC Klem noted that if/when the driveway becomes a public street, it can be used for access and for on-street parking if it is safe. If the driveway remains private, allowing a new driveway for Mr. Harrison's rental home would be a contract between the two property owners. The City is against a private street option. There are options for looping the water and transportation system to connect to East Slope Road, but this was not proposed by the applicant, nor part of the application. Mr. Harrison commented that NE 8<sup>th</sup> Street is a very narrow road and it is hard to image more traffic.

John Bennett of 644 NE 10<sup>th</sup> Place distributed maps and reported his property abuts the applicant's property on the north and it wraps around, extending south to NE 8<sup>th</sup> Street. He questioned the storm drainage plan for the project. CDC Klem reported there are several options for the applicant and they have not required any one option at this time. Staff has only requested a stormwater system be developed. Mr. Bennett then questioned sewer connection size, location, and which manhole will be used, noting there are five manholes on his property. CDC Klem stated the connection point will be downhill from the property. Mr. Bennett stated the applicant is trying to steal property. He has measured his property and tried to talk to both Mr. Tenderella and his surveyor. When he talked to Mr. Tenderella, he was directed to contact the surveyor and Mr. Tenderella's surveyor would not talk to him. Mr. Bennett challenged everyone to look at his property and reported there have been survey and easement problems in the past. He provided maps, aerials, and legal descriptions of this property for review. In response to Commissioner questions, Mr. Bennett reported he measured the lines and did not hire a surveyor. He stressed that the applicant is stealing his land. President Strom stated the Commission can look at Mr. Bennett's information. Commissioner Miller added that the property line dispute will be between the two property owners and the Planning Commission cannot resolve the problem. Mr. Bennett responded that the Planning Commission wants to help Tenderella steal his property. Commissioners assured Mr. Bennett that they cannot resolve the property line problem. Mr. Bennett commented that the site is a lousy area to build and asked how they plan to build with the steep grade. Commissioners recommended Mr. Bennett hire a licensed surveyor to settle the property line dispute.

Other Interested Parties: None.

Applicant Rebutal: Mr. Tenderella reported there are existing storm drains on NE 8<sup>th</sup> Street, which runs across the street, then down the easement, towards Eastside Terrace. When he built the new home, this was discussed and the City located the lines. He had not heard about problems with lower water pressure since the new home was built. He would like to have an engineer study the water line question. On-street parking is a problem in the area because some homes do not have garages and they must park on-street. The new lots would have parking on site and will not use NE 8<sup>th</sup> Street. All drivers should use common sense with children in the area of NE 8<sup>th</sup> Street. He is a bit confused about the question of access from the private/public street. He expects it to be a

private street serving the new lots.

Questions by Commissioners: In answer to Commissioner questions, Mr. Tenderella reported five water lines were installed from NE 8<sup>th</sup> Street when the new house was built. The lines are 5/8", but will need to be upgraded for the sprinkler system requirements (1" standard). He will contact an engineer to discuss water pressure for a 4" main line in the area.

Chris Lowe of 640 NE 8th Street reiterated that 8<sup>th</sup> Street is a narrow, one-way road and often vehicles need to back up in order to exit NE 8<sup>th</sup> Street. She questioned if the previous owner had direct access to East Slope Road. Mr. Tenderella reported that there was earlier discussion about looping to East Slope Road. There is a 15' wide strip, but looping the street is cost prohibitive because of the 40' ravine and because the area is not wide enough.

Commissioner Miller noted that there are a lot of unanswered questions. CDC Klem believes a number of issues need to be sorted out and he recommends and would prefer to delay decision until next month.

John Bennett reported this project has been in the planning phase for some time and the applicant has even installed some of the utilities. Mr. Tenderella reported that when he dealt with the power company, they determined the best route for services and he installed a box at the corner of Tax Lot 1200 to provide services for 3-4 homes down the road. The water is similar, when working with the former Public Works Director, he installed additional service lines. Mr. Tenderella reported his surveyor used the monuments from East Slope Road.

Deliberations: The public hearing was closed and the Commission entered into deliberations. It was moved and seconded (Mackenroth/Brodeur) that based on the testimony received, the staff report, and the evidence and argument before the Planning Commission, the Planning Commission determines that the request by the applicant for a major partition be continued until September 9, 2009, to affect a more reviewable application.

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

Commissioner Mackenroth informed folks that this topic will be on the next agenda and she encouraged all to attend September 9<sup>th</sup>. The applicant can address the concerns more clearly at the next meeting. Commissioner Miller added there are too many unanswered questions to make a decision tonight.

#### POTENTIAL DISCUSSION ITEMS:

##### Industrial Zone Review:

CDC Klem provided a memo to Commissioners which speaks about the information discussed with the State last month. DLCDC will be able to help with the industrial zone park updates. They are going to look at the feasibility and contact Council of Governments. Until a new zone is created, DLCDC suggested an ordinance amendment requiring everything in the Toledo Industrial Park to obtain a conditional use permit. CDC Klem will draft an amendment for the conditional use language and send it to DLCDC. If DLCDC is ok with the draft, staff will start the amendment process. It could take at least 1½ - 2½ months. There are some pending land use applications that will take priority for upcoming meetings, but CDC Klem expects to have a draft submitted to DLCDC soon to begin the process. Commissioners want to get the language changed for the interim

period as soon as possible. In discussing the conditional use language, it was noted that conditional use permits can require conditions of approval for the application. Commissioner Miller would like to see a revision for the outright use section and purpose statement. CDC Klem believes this to be overkill because the code will eventually be revised and adding the conditional use statement buys time during the review period. Commissioners discussed the timeline and if there is a way to fast track the process. CDC Klem will prepare a draft for DLCD, then schedule the hearings before Planning Commission and City Council. This is a short-term solution until a complete study occurs.

#### Commissioner Attendance:

Commissioners noted one member has missed a number of meetings recently and if there are problems. President Strom will contact the missing Commissioner to discuss attendance. Commissioner Mackenroth announced she will be moving out of Toledo and expects her last meeting to be in September.

#### Design Standards:

CDC Klem reported nothing has happened on paper, but pointed out that the McBarron's building is being painted and new windows will soon be placed, making the building look good. This project is working out well without having any requirement to conform with. Also, there are some activities occurring on S. Main Street.

#### Overgrown Vegetation on Sidewalks and Street Signs:

CDC Klem reported Mr. Stephenson talked about this point. He provides a lot of voluntary work for the Police Chief and it is good to hear the proposed changes from the committee. CDC Klem stated he has not reviewed any of the recommended changes submitted to the City Manager, but if the language is adopted, it must be reviewed/approved by the City Council. The Planning Commission can be updated on the process.

#### Renters Rights:

CDC Klem stated there is no update on this topic. President Strom reported there is a lot of information available online for renters, the word just needs to get out. HUD or Lincoln County should be good resources to contact. Commissioner Miller questioned if this is a Planning Commission oriented topic. Commissioner Brodeur noted that if it is not a Planning Commission duty, then present the subject to the City Council. Commissioners discussed the authority City Council has for this type of assistance. The City should have goals for adequate housing and a joint worksession on this topic may be beneficial. There needs to be a list of resources for renters. Commissioners discussed building code enforcement, safety standards, defining the term "habitable", and adding language to the municipal code specifically related to rental homes. This topic should be number three or four on the priority list and discussed with City Council.

#### Sign Ordinance:

CDC Klem noted he began a rough draft based on the information supplied by Mrs. Miller. The draft is not complete, but he hopes to move along with a preliminary document. Commissioner Miller stated a sign ordinance should not be complex and may not be the City's highest priority.

#### STAFF COMMENTS:

City Recorder Teresa Jenkins included a memo to Planning Commissioners requesting that any time spent on Planning Commission meetings, classes, site visits, etc. that are outside of the regular

scheduled Wednesday night Planning Commission meeting, be listed on a timecard and submitted to the City. It was noted that workers comp coverage has been extended to Commissioners, but it is necessary to keep a record of their volunteer time. Secretary Inukai will keep the record of all who attended the regularly scheduled meetings.

The Toledo Industrial Park zone review and two new land use applications are priority projects. An update to the floodplain ordinance is in the final draft stages and will soon be presented to Council.

COMMISSIONER COMMENTS:

President Strom reported the Port of Toledo's Wooden Boat Show begins August 15<sup>th</sup> and the Chamber of Commerce will be serving breakfast and pies.

Commissioner Mackenroth noted the difficult public hearing tonight and complimented President Strom on a good job with the hearing. She announced she is buying property and will be moving out of Toledo at the end of September.

Commissioner Brodeur stated she will miss Commissioner Mackenroth and agreed that President Strom performed a good job. She thanked CDC Klem for review of tonight's application.

Commissioner Miller thanked CDC Klem for working with the State on the industrial zone issues and wants to move along with the topic soon.

CDC Klem reminded Commissioners that property disputes are outside of the Planning Commission's authority and it is a civil issue between owners.

There being no further business before the Commission, the meeting was adjourned at 8:50 pm.

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Secretary

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President