

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, Anne Learned-Ellis, and Paul Schneidecker.

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

VISITORS: Dawn Pavitt, Mike Smith, Kirk and Karen Mosman, Zita and Walter Heller, Robert Christensen, Rod and Marguerite MacWilliams.

APPROVAL OF THE SEPTEMBER 9, 2009, MINUTES:

It was moved and seconded (Learned-Ellis/Brodeur) to approve the September 9, 2009, minutes as circulated and reviewed by the Planning Commission. The **motion passed** unanimously.

PUBLIC HEARING: COMPREHENSIVE LAND USE PLAN AND ZONING MAP DESIGNATION CHANGE FROM UGB INDUSTRIAL TO THE UGB MEDIUM DENSITY RESIDENTIAL DESIGNATION FOR FOUR LOTS LOCATED AT 410 AND 556 S. BAY ROAD AND A LINCOLN COUNTY ZONE CHANGE FROM I-P TO RR-2 DISPERSED RESIDENTIAL, REQUESTED BY MIKE SMITH AND ZITA AND WALTER HELLER:

President Strom opened the public hearing by stating the nature and purpose. After calling for declarations of ex parte contact, bias, or conflict of interest, Commissioner Learned-Ellis announced she knows the Hellers, but it will not affect her decision. 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. He reported the request is for an amendment to the Comprehensive Land Use Plan designation from UGB Industrial to UGB Medium-Density Residential. The properties are outside of the City limits, but in the Urban Growth Boundary (UGB). The property is zoned Planned Industrial (I-P) in Lincoln County and they are requesting to change to a residential designation. One of the applicants, Mike Smith, would like to build a home on the vacant lot, but he cannot in the I-P Zone. The property cannot be rezoned by the County unless it is consistent with the City's Comprehensive Plan because of the Urban Growth Management Agreement between the City and Lincoln County. If the City approves the plan amendment, the applicants can move forward with a Lincoln County zone change. The Planning Commission must make a recommendation to the City Council. The Council makes the final decision regarding the Comprehensive Plan amendment and can then forward a recommendation to the Lincoln County Board of Commissioners.

The properties are vacant, with some steep slopes and a wetland, but has several buildable sites. Development standards are regulated by Lincoln County. City water is available at South Bay Road, which is the line serving Seal Rock Water District. City sewer is not available in the area. The applicant is not requesting City water or sewer services. The properties are located quite a distance from the City limit line. There is one industrial use to the north—Western Cascade Mill. Western Cascade was asked if they had a use for the applicant's industrial lands, but they said the

property is not compatible for their needs. This information helped in making a recommendation on this request. CDC Klem noted that the properties are not well suited for industrial development and an adjacent industrial user is not interested in expanding to this site. The subject property contains second or third-growth timber.

Comments were received from the Public Works Director, Fire Chief, Chief of Police, and Lincoln County Road Department. A letter from neighbor Phyllis Dickey listed environmental concerns with developing the site and another neighbor, Mr. Mosman does not endorse the project. CDC Klem pointed out that wetland regulations are very strict and if any development is proposed in the wetland area, permits are necessary. The City would not endorse filling the wetland area.

CDC Klem reviewed the criteria for both Comprehensive Plan amendments and rezoning property. It is the Planning Commission's role to make a recommendation to the City Council. The recommendation must be consistent with the criteria and OARs 660.024.0040 & 660.024.0050. Also, facts and findings must be consistent with the criteria and the Commission's recommendation. The staff report contains five conditions to help mitigate some of staff and neighborhood concerns. The recommended conditions include protection of on-site drainage and vegetation, obtain an access permit for new driveway(s), provide adequate fire vehicle access, and any development beyond a single-family residence must be created as part of a Planned Unit Development by the City of Toledo. CDC Klem reviewed the criteria for a Planned Unit Development. He reported that the property would have to be annexed into the City. However, it is not contiguous to the City limit line and would have to include a lot of area to reach the line. The general area is not very buildable and it is unlikely that the properties will be annexed in the near future. There has not been significant population growth in Toledo and the need for industrial lands has not changed. CDC Klem recommended approval of the request, which is based on and is consistent with the applicant's vision to build one new home.

Applicant Testimony: Agent Dawn Pavitt of Pavitt Land Use Consulting, PO Box 5, Newport, represents the applicants. She clarified that the rezone request submitted to Lincoln County will be revised to rezone to Residential R-1. Originally, the request was to rezone to Dispersed Residential RR-2. After talking with County staff today and reviewing the zoning codes, the R-1 designation better suites the project and she noted that copies of the County code section were distributed to Commissioners earlier tonight. She read Subsection E of the code which requires that property be a minimum of 5 acres when it is located in the UGB. This is consistent with the County's RR-5 lot size requirements. Ms. Pavitt reported that the City's Comprehensive Plan amendment request stays the same, only the application before Lincoln County will be revised.

Ms. Pavitt is in agreement with the staff report, facts, and findings. Mr. Smith would like to build one home and the Heller's expressed no interest in developing their vacant lots, but they have the potential if the requests are approved. The Hellers have a residence on the third lot, built in the 1950s. The plan amendment is requested because there was an error in 1982 when the property was designated as Industrial. Prior to the 1980s, the property was zoned Residential. When the Comprehensive Plan was developed in 1982, Toledo had great plans for industrial development. If these properties were thoroughly reviewed, they would not have been found suitable for industrial development. It was listed as industrial lands in order to meet the population needs. The original designation from 1982 was carried into the new 2000 Comprehensive Plan and was not corrected. However, it should be corrected at this time.

Ms. Pavitt distributed an aerial map that shows the area and uses. Western Cascade is located to the

north and the remaining neighborhood is either residential or vacant. She talked to Western Cascade and they have no interest in the property because of topography, lack of services, and it is not suitable for their needs.

Ms. Pavitt reviewed criteria for Comprehensive Plan amendments and stressed that this area is not reasonable for the Industrial Zone because of the topography, wetlands, size, and access. The area has historically been a residential neighborhood. A new single-family home is more suitable for the area and the City UGB Medium Density Residential designation fits well with the area. The proposal complies with criteria because it corrects an error in the map, since it is not suitable for industrial development and there was an error in the population projections to determine industrial land needs. Ms. Pavitt noted that since the 1999 Buildable Lands Inventory (BLI) was completed, only one industrial property has been improved. This shows there is not a tremendous need for industrial lands. The City's industrial land needs are higher in the BLI than the State's safe harbor rate. If 8 acres are removed from the industrial inventory, there is still an excess of industrial needs based on safe harbor standards. Ms. Pavitt reiterated that the area is used as rural residential, no City services are on the subject properties, there were population errors in determining the Industrial designation, and the area is not suitable for industrial development. In response to Commissioner questions, Ms. Pavitt provided the following information:

- Lincoln County Zone R-1, Subsection E lists a minimum lot size of five acres when in the UGB. Therefore, the properties cannot divide below 5 acres. The UGB Medium Density designation will complement the County R-1 Zone designation.
- Water and septic will be served on-site, but no permits have been filed for on-site systems.
- The Heller's home is classified as a nonconforming use in the Industrial Zone.
- There is an upper bench, in the central to western area of Mr. Smith's property that is suitable for a new home. This buildable site is away from the wetlands.
- Access to the new home will be from the existing driveway to Mr. Smith's current home (south of the subject properties and south of the UGB line).

Walt Heller of 410 S. Bay Road, Toledo, reported he originally authorized the rezone request for a County RR-5 Zone designation, but at some point the request changed to RR-2. He was not in favor of RR-2, but he is now in support of the proposed R-1 Zone because of the 5 acre requirement. He does not want to see more than one home located on the properties.

Proponent Testimony: None.

Opponent Testimony: Kirk Mosman reported he has lived at 480 S. Bay Road for 13 years and his property is located at the southeast corner of the UGB. It is adjacent to the subject properties. For reasons of livability, his concerns are with any change to the area and to the housing density. He noted that the current concept of one home sounds fine, but he wants to go on record of opposition against the Comprehensive Plan amendment. He wants to protect and preserve the forested lands and maintain the character of the area.

Other Interested Parties: None.

Applicant Rebuttal: Mike Smith of 556 S. Bay Road, Toledo, reported that the vacant property he would like to build is landlocked. He put in a bid against the mill to buy this property because he did not want them close to his current house. The property has a plateau for one homesite. The house would have well water and a septic system. He reported that none of the trees will be removed other than to build the house. He likes the trees and the habitat. None of the neighbors

will be able to see the home and it will not detract from the surrounding area. His existing house is 30 years old and needs a lot of work. He would like to build a new home in this area, which is more serene. There are approximately 3 acres of wetlands, which he will not touch. He likes to see the deer, duck, and geese. Currently, there is a trail to the potential building site and from there you can see the river and airport. There are two ravines on the property, but the building site is an excellent piece of ground to build. He will create an access easement crossing his current driveway. He needs a zone change before he can even consider building a home. He is in disagreement with the industrial zone designation and believes it should be residential. He noted that the Heller's would have the potential to build on their property.

Ms. Pavitt responded to Mr. Mosman's concern with losing open space. She reported that the property is not designated as open space, but rather designated Industrial. The Mosman's house is in the UGB and is a nonconforming use in the Industrial Zone. They were invited to participate in this application many times, but they declined.

CDC Klem noted that a mistake was made in the Comprehensive Plan when it was originally designated Industrial. The safe harbor method allocated needed industrial properties, based on acreage of employees already hired in that sector of the economy. In Toledo, there were a lot of timber industrial jobs, which require a large amount of acres per employee. This is why a large number of industrial acres were used throughout the entire UGB. The community is not seeing a lot of timber jobs and the economy has dropped. New industries may not need as much acreage. Also, just looking at a map near other industrial uses was a tool used to determine industrial lands. The maps were not refined based on slopes or other natural features. These issues justify the 'error' in the original designation.

Questions by Commissioners: Commissioner Grafe asked Mr. Mosman about the concern if the property remains Industrial, wouldn't it be more of a threat to the livability? Mr. Mosman reported that he has seen the land sit undeveloped for 13 years. As an Industrial designation, the property is hard to develop because of the slope and access. He feels there is more protection in keeping it industrial versus residential. He would prefer a natural forested land and added that no change is better than any change.

Commissioners discussed the condition for clearing and/or removing vegetation for the homesite. CDC Klem noted that enforcement will most likely be through the County. If there are problems or complaints, they would be forwarded to the County. Making the condition more restrictive is hard because they do not know exactly where the home would be located. Mr. Smith does not have a plan yet and there is not enough information to accurately calculate the amount of trees/vegetation to be removed. Commissioners discussed issues with removing vegetation, enforcement tools, and if a site plan will be submitted. Commissioner Grafe noted that not all vegetation is good. For example, it would be preferred that native vegetation be preserved, but non-native or evasive vegetation be removed at the homeowners discretion. Commissioners discussed and agreed to revise the conditions of approval to allow freedom to remove non-native vegetation and to protect native vegetation during construction.

Deliberations: The public hearing was closed and the Commission entered into deliberations. Commissioners Miller and Strom both voiced they were surprised to learn that the properties were designated Industrial. Commissioner Learned-Ellis noted the excellent work done to cover the issues and involve the three entities—City, County, and State. If the City makes a recommendation to other agencies, it shows that there is an agreement on the maps.

Robert Christensen 527 S. Bay Road, Toledo, reported that over 15 years ago, a housing project was proposed in this area, but was not finalized. There is potential for industrial development and clearing the entire hill.

It was moved and seconded (Learned-Ellis/Miller) based on the staff report and attachments, testimony and evidence presented to the Toledo Planning Commission at the public hearing on October 14, 2009, the Planning Commission recommends to the Toledo City Council approval of the requested Comprehensive Plan amendment and corresponding County zoning by Mike Smith and Zita and Walter Heller, Jr. based on compliance with the 2000 Toledo Comprehensive Land Use Plan and Toledo Municipal Code Chapter 17.80, and the Planning Commission adopts the Facts, Findings, and the following revised conditions of approval, set forth in the staff report as amended for typographical errors. The Commission also notes the correction to the application and staff report to reflect the zone change to Lincoln County Zone Designation Residential R-1 rather than RR-2 Dispersed Residential.

1. All on-site drainage and native riparian vegetation shall be protected during the development of this property.
2. Except for clearing necessary to construct a single-residential use on this site, all existing native vegetation shall be retained.
3. A County access permit shall be obtained by the applicant prior to constructing a driveway.
4. Any successive development beyond a single-family residence on these sites shall be annexed into the City of Toledo and be part of a Planned Unit Development proposal.
5. Adequate fire vehicle access shall be assured by requiring the driveway access be paved and approved by the Toledo Fire Chief.

The **motion passed** unanimously. The request now moves to City Council on November 4, 2009.

DISCUSSION ITEMS:

Update on the UGB Conversation with City Council:

CDC Klem reported, at the City Council's request, he gave a presentation last month to discuss changes to the UGB. The conversation involved expanding the City limits to include all of the UGB properties in order to stimulate growth. However, City services would need to be expanded in order to encourage and justify annexation. Extending City services is very expensive. Annexing all UGB properties is a very difficult process and CDC Klem tried to explain possible problems with tackling this project. The Council heard the issues, but wanted to review the options this type of policy would face. CDC Klem would prefer to see a surge in industrial and commercial development in order to bring in jobs, which then drives the need for housing. Industrial and commercial development would help pay for expanding infrastructure for new homesites.

Commissioner Brodeur reported the City should be proactive and ready for opportunities when there is a boost in the area. CDC Klem noted that properties should be freed up for building homes when industry demands it. In terms of the boost from NOAA locating to the area, there should be spin-off industries to support the new employer and Toledo should strive to get those industries to locate here. This encourages more families to live in Toledo. Commissioner Miller agreed the tax base should be increased first by industry before adding more homes and waiting for jobs. He added that there should be a concentrated effort to develop industrial lands before expanding the UGB. CDC Klem reported that developing a single-family house overloads the infrastructure demands for sewer, water, sidewalk, schools, roads, fire protection, etc., when compared to commercial and industrial development.

Industrial Zone Update:

CDC Klem reported DLCD is interested in creating a model code for small cities and has offered to help the City with this project. The Council of Governments (COG) will also partner by providing industrial analysis and review land demands. The type of industries the City wants to attract and which are acceptable for the community will be reviewed. Toledo Industrial Park is the primary focus, but the community-wide workforce, infrastructure, transportation, and other available properties will be analyzed. A meeting is scheduled with COG, DLCD, the City Manager, and CDC Klem for October 15th. A report will be presented to Planning Commissioners after this meeting.

Floodplain Ordinance Revision:

CDC Klem reported the State's recommended changes to the floodplain ordinance were reviewed and adopted by City Council. A copy of the revised document was included in Commissioner packets. The ordinance was sent to the State to be in compliance with the floodplain program.

Planning Commissioner Appointment Schedule:

There is a vacancy on the Planning Commission and the Budget Committee. If Commissioners know anyone willing to serve, application forms are available at City Hall. The positions are opened until two or more applications are submitted. The Planning Commission term expires December, 2012.

Reschedule November 11th Planning Commission Meeting:

The regular scheduled Planning Commission meeting date falls on the Veterans Day holiday. All agreed that the meeting can be rescheduled for Tuesday, November 10th. It was noted that if no applications are submitted, the meeting may be cancelled.

STAFF COMMENTS:

None.

COMMISSIONER COMMENTS:

Commissioner Miller requested to stay informed on the upcoming DLCD/COG meeting regarding the industrial zone. CDC Klem confirmed he can send a memo on the subject.

Commissioner Learned-Ellis expressed appreciation for the work involved with tonight's request. CDC Klem noted it was a very difficult staff report to prepare, as the City has not had to process such a request in the past. Commissioners all complemented CDC Klem on the document.

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

Secretary

President