

## TOLEDO PLANNING COMMISSION MINUTES

A regular meeting of the Toledo Planning Commission was called to order at 7:03 pm by President Terri Strom. Commissioners present: Dawn Grafe, Anne Learned-Ellis, and Paul Schneidecker. Excused was Linda Brodeur. Absent was Stuart Miller.

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

VISITORS: Bill Lightner, Nathan Lightner, Angelo Stephenson, Rick Wright, Craig Hoffman, Bud Shoemaker

### APPROVAL OF THE OCTOBER 14, 2009, MINUTES:

It was moved and seconded (Grafe/Learned-Ellis) to approve the October 14, 2009, minutes as circulated and reviewed by the Planning Commission. The **motion passed** unanimously, noting the absence of Brodeur and Miller.

### PUBLIC HEARING: MINOR PARTITION TO CREATE TWO PARCELS AT 1722 W HIGHWAY 20, REQUESTED BY WILLIAM LIGHTNER:

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. He reported that this is a two-part request. The first to be reviewed is for a minor partition and the second issue is for a conditional use permit. He reported that the 1.47 acre property contains a house and fenced-in area. The minor partition proposal is to create a .25 acre parcel which contains the home. The property is in the Commercial Zone. The house is a pre-existing nonconforming use. The property is fairly flat on the western side and there is a brush incline toward Lincoln Way. Development constraints include the location of the City's pump station near the property. The pump station is in the public right-of-way, but is currently fenced-in and appears to be part of the applicant's property. There is a sewer line from the old hospital site, to the pump station. After the Public Works Department reviewed the requests, they suggested that the lines be located and identified on the partition plat. Public Works will locate the lines and can work with the applicant's surveyor to identify them. Water and sewer services are available to the site.

CDC Klem reviewed minor partition criteria. Staff recommends approval of the request with the adoption of the facts, findings, and recommended conditions of approval. He then read the conditions as listed in the staff report.

Applicant Testimony: Bill Lightner of 1950 NW Sunset Drive, Toledo, reported this is a natural way to separate the home from the rest of the fenced property. He has no problem with the conditions of approval and is in agreement with the requirements and staff report.

Proponent Testimony: None.

Opponent Testimony: None.

Other Interested Parties: None.

Applicant Rebuttal: None.

Questions by Commissioners: None.

Deliberations: The public hearing was closed and the Commission entered into deliberations. Commissioner Learned-Ellis pointed out that Facts 1 and 2 need to have the dates changed from 2010 to 2009.

It was moved and seconded (Learned-Ellis/Grafe) 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 minor partition complies with the Toledo Municipal Code Subdivision criteria in Section 16.08.070 (A) - (I) and complies with the criteria in Section 16.04.050 (A) - (H) and the Planning Commission adopts the facts as amended, findings, and following conditions of approval as amended for typographical errors.

1. Partitioning of the property shall be in compliance with the proposed partition plan and submitted December 21, 2009, and as modified by the following conditions of approval.
2. The applicant shall provide a Minor Partition plat prepared by a licensed surveyor and meeting the plat standards of the City of Toledo and including an approval signature line for the City Manager's signature. Applicant shall submit the plat to the Lincoln County Surveyor for review and approval and shall record the plat. A copy of the recorded plat shall be submitted by the applicant to the City of Toledo.
3. Any existing utilities will be located with assistance of Toledo Public Works Department and clearly indicated on the final minor partition plat. If not already done, they shall be protected by creating an easement defined by the Toledo Public Works Department.
4. The applicant shall sign and record a deferred improvement agreement, Irrevocable Petition for Public Improvements, for the creation of public sidewalks along NW Hwy 20.
5. In accordance with TMC Section 16.08.080, the final partition plat shall be recorded within one year from the effective date of the Planning Commission approval. One extension of time, not to exceed one year, may be granted to complete the partition if an application for an extension of time is made in writing prior to the expiration date.

The **motion passed** unanimously, noting the absence of Brodeur and Miller.

PUBLIC HEARING: CONDITIONAL USE PERMIT TO ALLOW A VEHICLE STORAGE YARD IN THE COMMERCIAL ZONE FOR PROPERTY LOCATED AT 1722 W HIGHWAY 20, REQUESTED BY WILLIAM LIGHTNER:

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 previously read.

Staff Report: CDC Klem reviewed the staff report as on file at City Hall. He wanted to make a clarification that when the application was made, it was written on the agenda as a vehicle storage/impound yard. An impound yard is not part of this review. An impound yard has not been

agreed to by the City. The request only deals with the commercial lot for a large-vehicle storage area. The impound yard was just a suggestion by the applicant, but it is not part of the application because it has not been approved by City Council or Police/Fire Departments.

CDC Klem reviewed criteria for conditional use permits. Staff determined that, although not a specifically listed use, it is similar to other uses allowed in the zone and conforms with Subsection J for a conditional use permit. Staff recommends approval of the conditional use with the adoption of facts, findings, and conditions of approval. CDC Klem then read the conditions as listed in the staff report. He clarified that the driveway and fence plan shall be evaluated by Public Works, mainly to allow a vehicle gate access directly to the City's pump station, rather than accessible from inside the applicant's fence and then through a man gate. The City may be willing to offset some of the costs associated with re-alignment of the fence. Staff recommends approval because the request does not cause significant adverse impact on the livability, value, or appropriate development of abutting property or surrounding area when compared to the impact of permitted development that is not classified as a conditional use.

Applicant Testimony: Bill Lightner of 1950 NW Sunset Drive, Toledo, reported this is a way to use the property, once divided, for a vehicle storage lot. There will be slats inserted in the fence and he has no problem working with the City to make modifications to the fence and gate layout. No building structure for the project is proposed. CDC Klem clarified that Public Works requested a gate along Lincoln Way to access the lift station. Driveway configuration would then be slightly modified. Mr. Lightner noted that they are willing to work with the City on the possible changes. He added that they are considering a small towing company and the site would store vehicles. They never formalized an impound yard, but thought it would be helpful for the City.

Proponent Testimony: None.

Opponent Testimony: None.

Other Interested Parties: None.

Applicant Rebuttal: None.

Questions by Commissioners: Commissioner Learned-Ellis asked what would be classified as "large vehicle". CDC Klem stated his thinking would be about 20-25' RV or 18' boat. Commissioners discussed the option of setting a maximum limit of 50' for vehicles and the applicant agreed to the condition. The applicant noted that if they move forward with the impound yard project, vehicles would not sit on the site beyond 30 days.

Commissioner Grafe asked about lighting styles and voiced her concern for light pollution. She noted that there needs to be 24-hour security lighting, but asked if they are shielded. Mr. Lightner reported they have directional lighting. There are cameras in place for security. After discussion, Commissioners conditioned directional/shielded lights for the site and for a new sign.

Deliberations: The public hearing was closed and the Commission entered into deliberations. It was moved and seconded (Strom/Learned-Ellis) that based on the testimony received, the staff report, and the evidence and arguments before the Planning Commission at the public hearing on January 13, 2010, the Planning Commission determines that the request by William Lightner for the establishment of a large vehicle storage facility in the Commercial Zone complies with the Toledo

Municipal Code Section 17.64.040 (A) and the Planning Commission adopts the facts, findings, and recommended conditions of approval set forth in the staff report and with the additions of 10 and 11, as amended for typographical errors.

1. The location of the storage lot shall be in general conformance with the proposed site plans as included as attachments to the Staff Report.
2. Landscaping requirements listed in Toledo Municipal Code Section 17.52.050 must be adhered to.
3. Sewer and water is available for this project.
4. Driveway locations and widths must be approved by the Toledo Public Works Director.
5. Storage must be minimally visible to passing motorists by inserting vision impairing slats in the fence.
6. Sign surface is limited to 32 square feet.
7. Any structure must have a finished floor elevation of 14 feet to comply with the 100-year flood program. The structure must meet development standards in Toledo Municipal Code 15.16 (Flood Hazard Protection) and all Uniform Building Code requirements.
8. The fencing contractor shall closely coordinate with Toledo Public Works Department when making additions and changes. The City has asked for an unobstructable vehicle gate into the adjacent and fenced pump station.
9. In accordance with Toledo Municipal Code Section 17.64.070, this conditional use shall be void after 12 months if a building permit is not issued or development has not begun. An extension of up to one year may be granted by the Planning Commission if the request is made in writing prior to the expiration of the original authorization.
10. For the purpose of this proposal, "large vehicle" will not exceed fifty (50) feet in length.
11. The site shall be lighted, but it must be shielded and directed downward.

The **motion passed** unanimously, noting the absence of Brodeur and Miller.

**WORKSESSION: TOLEDO INDUSTRIAL PARK OVERLAY ZONE:**

CDC Klem reported a draft of the ordinance for the new overlay zone was included in the Planning Commissioner's packet in order to prepare suggestions or concerns for public hearing next month. He reiterated that this ordinance is an interim policy until LCDC and COG complete a City-wide review of industrial lands. A grant application is in the process to complete the industrial property and economic analysis. The Planning Commission will play an important role in this project. In the meantime, this ordinance requires new development in the Toledo Industrial Park (TIP) to have a conditional use permit. An early draft was reviewed by the State economic team and DLCD representatives. They had no problem with the proposal, but suggested the language "limited use" which was incorporated in this draft. This is not a City-wide policy, just parcels identified on the TIP plats. The underlying zone does not change, but this defines an overlay policy, similar in format with the existing Main Street District Overlay. The reason behind this proposal was in response to many citizens voicing their concerns that the TIP properties are in the center of the City and affect many residents. This is the first worksession to view the language and a public hearing has been scheduled for February. Notice of the hearing dates have been filed with DLCD.

CDC Klem asked for comments that could be incorporated in the document before bringing to the public hearing. Commissioner Learned-Ellis stressed that maps are very helpful in the review process and asked for maps showing TIP Phases 1A and 2 properties and the zones in the area. She inquired about the entire industrial lands review and for the Commission's past discussions to be referenced in the upcoming project. CDC Klem reported that the City and State are still working on the grant request. LCDC took interest because there are many small rural cities similar to Toledo

and by working with Toledo, the State could also establish a model code to benefit other cities. The State's existing model ordinance addresses industrial lands on the outskirts of town, not in the middle of the city. A complete review of the industrial code will consider the permitted and conditional uses, zone locations, definitions, and possibly, performance indicators. This draft ordinance only establishes an overlay for a conditional use permit requirement.

Rick Wright, PO Box 722, Newport, questioned the policy and in response, CDC Klem and the Commissioners provided the following information:

- Conditional use permits are valid for one year to begin the project. Often, a building permit or survey is considered the beginning of the project. Once constructed, the use stays with the property.
- Only TIP properties are targeted at this time. The City will complete a greater study of all industrial properties, which will also include TIP. This gives the City and residents another chance to hear proposed uses. Mr. Wright questioned why all industrial properties are not included in this ordinance. CDC Klem reported that TIP properties are located in the center bottom of the bowl of Toledo, very visible from many areas, and it seemed reasonable to define the overlay by the TIP Plats. Based on community response, he believes many residents feel a long-standing use may have more acceptance than a new development. This issue could be brought up during public hearing. Mr. Wright again questioned why not include all properties in the TIP area during the interim period. CDC Klem noted that the boundary was based on input heard from the City Council and Planning Commission meetings and only the TIP properties were discussed.
- Notification of the proposed ordinance will go to all affected property owners and those within 300 feet of the boundary.
- Railroad coordination is difficult, but they will be included in the City-wide analysis.

Commissioner Learned-Ellis stated the proposal has been discussed by the Planning Commission for some time. She believes, since inception of TIP Phase 1A and 2, no heavy industrial should have been designated for the area. This has been an ongoing issue, especially since the plywood mill was torn down. The area seems more suitable for commercial or light-industrial, but the grant project will provide more direction. Topography and economy should be considered.

Bud Shoemake with the Port of Toledo reported he often makes presentations about Toledo being the industrial hub of Lincoln County and tries to entice businesses to Toledo. He understands the need for the planning process, but what he has found is that people want industry. People want it done right, but they want industry. To place a conditional use restriction for all projects is hard for potential developers. This slows down the process and some may even walk away because it can take 3-4 months to move forward. Commissioner Learned-Ellis asked, after the City-wide analysis is completed, if it will help the Port and the community in the long-run. Mr. Shoemake hopes it will help, but he hopes it will not require a conditional use for all industrial properties, as this will send the wrong message. He feels like they are collateral damage for something that happened in the past. CDC Klem reported that earlier in the evening, they witnessed a conditional use public hearing. This particular application was submitted December 21<sup>st</sup> and three weeks later, they were granted the permit. There is not a lot of activity in Toledo and the process moves along quickly, not 4 months. Most industrial developers do not make their decisions within a 3 week period.

CDC Klem reported that after the COG review, it may move towards a more measurable, performance-based decision versus the conditional use process. The conditional use procedure lets the community have input during the process. Mr. Shoemake likes the ability to know ahead and to

streamline the process. The new interim policy could be a turn-off for businesses. CDC Klem noted that in the long-term, the information will streamline the process, but during the interim, a conditional use permit is as innocuous and fast moving as they could come up with. It is listed as 'limited use' because there is no intention to keep this policy forever. It is not in the community's best interest for the long-range. Commissioner Learned-Ellis pointed out the 120-day rule. CDC Klem added that the City has a maximum of 120 days to reach a decision.

Mr. Wright voiced his agreement with Mr. Shoemake and asked about the zone change in 2000. He knows why this discussion is occurring, but believes the new policy "makes a round wheel square" and it will forestall applications or drive away business. It sends a bad message.

CDC Klem stated that the conditional use process allows the Planning Commission the ability to determine that a proposed use, what ever that is, complies with the code. Until further review is completed, this policy was suggested because of the response that there are too many 'gray' areas in the code. Mr. Wright added that this adds a hurdle to potential development and businesses will go elsewhere. In response to questions, CDC Klem reported that it is likely not to happen, but if the grant is not awarded and industrial zone work does not occur, this ordinance can be rescinded.

Craig Hoffman, PO Box 549, Toledo, expressed concern if the grant project drags on. CDC Klem expects resolution within a 16 month time period. Mr. Hoffman reported when the TIP project was beginning in the early 1990s, he sent notice to the City that he was interested in purchasing a lot and his employment plan was used by the City to achieve grants. He now has a 10,000 square foot warehouse on his property with one renter. He expressed frustration that a conditional use would be necessary when a new renter comes in. Commissioner Learned-Ellis read the section for existing uses, clarifying that those uses existing at the time of passage can continue and can be expanded. CDC Klem confirmed that existing buildings and uses would continue, but the new policy only affects new construction/vacant lands. Mr. Shoemake likes this clarification, but stated it does not seem to achieve the desired affect and asked if he could move in an asphalt plant. CDC Klem reported that this use would not go inside an existing building. Existing structures can be expanded, but bare ground needs a conditional use permit.

In addition to maps, Commissioner Learned-Ellis believes it would be good to have a list of permitted and conditional uses for the area. Commissioners discussed the zone designations in the area and the changes occurring in the TIP and in the community over the past years. President Strom added that this amendment is not against industrial development or new projects, but the City is dealing with decisions from 20 years ago, even though there have been changes to the community since that time and there is a desire to provide better quality of air, noise and traffic.

Mr. Hoffman added someone recently purchased four light-industrial lots in the TIP and now will be required to have a conditional use permit when previously they knew the standards. President Strom assured that a conditional use permit does not equate to a denial. Mr. Hoffman voiced that because of one problem, everyone is punished. He also pointed out that Plum Creek and PUD property sits in the middle of the park, yet they are not part of the new regulation. Commissioner Grafe understands the concerns and they are very good to hear, but she added that they have heard a great deal from the other side too. Commissioners urged property owners to show up at the public hearing and get an understanding of the proposal. CDC Klem added that the owners need to get on the record with their concerns to establish standing.

## DISCUSSION ITEMS:

### Planning Grant Application:

CDC Klem reported the City has had early meetings with the stakeholders, but the grant process is slow moving. He clarified for the Commission that he approached the local DLCD Field Representative to talk about a potential industrial zone review project. The field rep felt this type of project could benefit the State in creating a model code and he contacted the State economic development office. The project includes the Port, Tribe, and City. Toledo is small enough that the project could be handled with a reasonable grant.

### Planning Commission Meeting Options:

This agenda topic was suggested by Commissioner Brodeur, who is not at tonight's meeting. The November and December Planning Commission meetings were cancelled because no land use applications were submitted. Also, there was not enough time for a one-day a week planner to prepare a topic to discuss with the Commission with any expertise. Historically, the December meeting has been cancelled if no applications are received. However, staff got in trouble for this decision. Commissioner Brodeur asked about meeting without staff. CDC Klem reported the Commission cannot meet without providing public notice and ex parte discussion needs to be disclosed. Commissioners need to be careful with what they discuss with each other, especially on the phone or in private, without allowing the public to know about the conversation. It is the City Manager's direction that the Planning Commission can still meet if a meeting is cancelled, but it must be advertised and staff must be present. A set agenda is not needed, but citizens would be allowed to participate and there must be minutes of the meeting. Commissioner Learned-Ellis noted that without an agenda, the discussion goes everywhere. She suggested a worksession be substituted for the meeting and one topic selected with a time limit. CDC Klem pointed out that the City is struggling through tough economic times and he is only in the office one day a week. He does not believe the City is willing to pay additional days of service. Therefore, this does not free-up a lot of time to research issues to make a productive meeting. He stated that a sign code is something that can be discussed in the future, but stressed that for a two-hour meeting, there could be 15 hours of staff research necessary to lead a cohesive discussion. He suggested the Commission revisit the 'to-do' list and develop a prioritized list of topics to present at future meetings. Commissioners agreed to create a list, only move forward as priorities are resolved, and establish a time limit for meetings. CDC Klem stressed the need for Commissioners to guard against ex parte issues and they need to follow proper procedures. There are legal requirements to follow and they are always under scrutiny.

### Planning Commissioner Contact Information:

Contact information was distributed tonight. Commissioner Grafe announced a phone number correction.

### Development Standards:

A joint Planning Commission/City Council worksession will be held January 14<sup>th</sup> to discuss public infrastructure design standards. CDC Klem noted that the Council agenda is long, but the only joint session topic is design standard. Commissioners do not have to be present for the entire meeting. The engineer will present the information. Public Works Director Adam Denlinger would like to have the Planning Commission review and recommend by motion to move forward to City Council. The new document is extensive compared to the City's existing standards. Three copies of the book are available for review tonight, but cannot leave the building. The document will also be available online for review. The guidelines apply to public infrastructure projects and include requirements for industry standards. Public Works Department will enforce the new standards.

STAFF COMMENTS:

CDC Klem read an invitation from Events Coordinator Celeste Mathews announcing a Main Street visioning session to be held January 26<sup>th</sup>, at 5:30 - 9:30 pm. President Strom added that she participates in the committee and the upcoming visioning session is very important to provide the committee with direction.

The City still has two Budget Committee and one Planning Commission openings. The Planning Commission position deadline is January 28<sup>th</sup> and interviews will be held in February. One application has been submitted.

One citizen was at tonight's conditional use public hearing because there was discussion about an impoundment lot. CDC Klem clarified this should not have been part of the process and no one has agreed to the request.

COMMISSIONER COMMENTS:

Commissioner Learned-Ellis inquired if the ordinance is the only item scheduled for February. CDC Klem confirmed no other applications have been submitted to date. Commissioner Learned-Ellis said there seems to be some misunderstanding and misconceptions that need to be cleared up. She stressed the need for extra copies of the documents and maps showing TIP properties. Commissioners discussed the option of changing the TIP overlay boundary, as Secretary Inukai inquired about a change to the property owner notice that will go out next week. Commissioners then discussed changes occurring at TIP over the years, floodplain issues, informing people of the proposal, and clearing up misconceptions.

Commissioner Learned-Ellis wished all a happy new year.

President Strom welcomed the new Oregon Coast Bank.

There being no further business before the Commission, the meeting was adjourned at 9:00 pm.

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Secretary

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President