

AGENDA

TOLEDO PLANNING COMMISSION

ELECTRONIC/VIRTUAL MEETING VIA ZOOM MEETING PLATFORM. The Planning Commission will hold the meeting through the Zoom video meeting platform. The public is invited to attend the meeting electronically. Email planning@cityoftoledo.org or call 541-336-2247 ext. 2130 to receive the meeting login information.

Public Comments: The Planning Commission may take limited verbal comments during the meeting. Written comments can be submitted by email to planning@cityoftoledo.org by 4:00 pm on April 14, 2021, to be included in the record. Comments received will be shared with the Planning Commission and included in the record.

1. CALL TO ORDER AND ROLL CALL
2. INTRODUCTION of newly appointed Planning Commissioner Jonathan Mix
3. VISITORS: (A time set aside to speak with the Planning Commissioners about issues not on the agenda)
4. APPROVAL OF THE MARCH 10, 2021 MINUTES as circulated and reviewed by the Planning Commission
5. PUBLIC HEARING: Conditional Use Permit for a multi-family dwelling (duplex) in the Commercial Zone (File #CU-1-21), for property located at 992/1000 SE Sturdevant Road, requested by Nancy Galbraith Trust (John Lloyd authorized agent)
6. PUBLIC HEARING: Minor Partition to create two parcels for property located at SE Sturdevant Road/SE 10th Street (File #MP-2-21), requested by City of Toledo
7. PUBLIC HEARING: Annex property into the City limits and rezone from County T-C to City General Residential (File #AX-1-21/RZ-2/21), for property located at SE 16th Place, requested by City of Toledo
8. DISCUSSION ITEMS:
 - a. Planning Commission/City Council Joint Worksession April 28, 2021
 - b. Updates and Reports
9. STAFF COMMENTS
10. COMMISSIONER COMMENTS
11. 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 7:00 pm by President Anne Learned-Ellis. Commissioners present: Cora Warfield, Terri Neimann, Ruthanne Morris, Robert Duprau and newly appointed Planning Commissioner Frederick "Ricky" Dyson.

Staff present: Contract Planner (CP) Justin Peterson, City Manager (CM) Judy Richter, City Attorney (CA) David Robinson, and Secretary Arlene Inukai.

INTRODUCTION OF NEWLY APPOINTED PLANNING COMMISSIONER FREDERICK "RICKY" DYSON:

Newly appointed Planning Commissioner Ricky Dyson was introduced. Because Mr. Dyson has not yet been sworn into office, he will not be able to vote on tonight's decision items. All welcomed Mr. Dyson to the board.

VISITORS: Matt Moore and Jon Mix

APPROVAL OF THE FEBRUARY 18, 2021, MINUTES:

It was moved and seconded (Warfield/Duprau) to approve the February 18, 2021, minutes as circulated and reviewed by the Planning Commission. The **motion passed** unanimously.

PUBLIC HEARING: REQUEST TO MODIFY CONDITIONS OF APPROVAL FOR "ESTATES OF BEAVER HOMES" DEVELOPMENT, REQUESTED BY RICHARD WOLFF AND MATT MOORE:

President Learned-Ellis opened the public hearing by stating the nature and purpose. There were no declarations of ex parte contact, bias, or conflict of interest reported. The statements of rights and relevances and rights to appeal were then read.

Staff Report: CP Peterson reviewed the staff memorandum provided to Commissioners and on file at City Hall. He reported the Planning Commission reviewed and approved the CC&Rs in 2020. One home has been built and sold. However, during the review of the second and third building permit applications for the next homes, it was discovered that the original conditions from 2006 were not all completed. Condition of Approval #10 required the street to be 20' wide from the hammerhead down, then dropping to 17' between the existing homes to East Slope Road. The street is only 10-11' wide. The contractor is currently working to complete this condition and widen the street to meet the condition, but the work is weather dependent. Condition of Approval #11 required stairs and a handrail to be placed along the street. The applicant requested this condition be removed. There will be no on-street parking and the stairs would not be necessary.

Applicant Testimony: Matt Moore of 270 SE 123rd Street, South Beach, reported he is the contractor for the project and representative for owner Richard Wolff. He reported these are the only two items that remain outstanding from the 2006 decision. He has been in contact with Road & Driveway to widen the street, but the work is weather dependent and it could be nearly two to three months out. He asked that the street widening be in place before the Certificate of Occupancy

is issued, rather than before the building permit can be approved. The condition for stairs and handrail are no longer needed because on-street parking is not allowed through the CC&Rs. The condition required stairs and a hand rail for the side of the street that has parking. By removing the on-street parking option, it should eliminate the need for the stairs and railing. Creating on-street parking makes the street too narrow. Each lot should be able to provide three parking spaces. Mr. Moore asked that the condition for stairs and handrail be removed and the deadline for street paving be extended out 2-3 months for weather.

Proponent Testimony: None.

Opponent Testimony: None.

Other Interested Parties: None.

Questions by Commission: Commissioner Neimann asked why the stairs were a condition for the development. Mr. Moore spoke with the previous owners and they believe it was brought up during the Planning Commission public hearing discussion. CP Peterson added that the record was unclear, as the original staff report only listed 9 conditions, but the final order included 4 or 5 not listed in the staff report.

Deliberations: The public hearing was closed and the Commission entered into deliberations. It was moved and seconded (Warfield/Duprau) that based upon a review of the Toledo Municipal Code criteria set forth in Sections 16.06, 16.16 and 17.12 and the conditions of approval of the preliminary plat order dated April 14, 2006, and the final plat approved on July 6, 2006, the Planning Commission determined that the street shall be widened in 90 days and that condition of approval #11 shall be removed. The **motion passed** unanimously.

RECOMMENDATION: TEMPORARY USE ORDINANCE AND RECREATIONAL VEHICLE PERMIT REVIEW:

CP Peterson reviewed the staff memorandum discussing recreational vehicle (RV) regulations. RVs can be stored on private property. RVs can be used for visitations for up to 14 days without a permit. RVs for a temporary living quarter are regulated by a permit program.

The ordinance does not establish a time limit between the allowed two-week visitations nor does it establish a maximum number of days in a year. The permit for RV use as a temporary living quarter can be issued by staff for six months with one option for a six month extension by the City Council. The RV can be allowed when a building permit has been issued on the property, for a medical hardship, or to provide a security dwelling. No criteria has been established for medical hardship. The original intent for the medical hardship was for placement at an existing residence in order to provide care to the RV tenant or the homeowner. Currently, there is a question if an RV can be placed on a vacant lot under the medical hardship clause. Staff would like some clarification to the medical hardship standard and if there should be time limits established on visitation options.

Commissioners discussed RV placement on the street and it was clarified that the RV would be limited to 72-hours on the public street. Visitations or temporary use would have to be placed on private property.

Commissioners discussed if medical hardship should be allowed on a vacant lot which is not

associated with a home or adjoining property. Commissioner Warfield stated that it could be too wide open and feared a city full of RVs. Commissioner Morris questioned how they would receive care if located on a vacant lot and under the medical hardship clause. It was clarified that the property owner would need to authorize the RV use. Commissioners continued the discussion if RV use should be allowed on vacant lots, if they have owner authorization and proper sanitation.

President Learned-Ellis suggested a maximum time period of eight-weeks within a year for RV visitations, stating that 30 days may not be enough.

Visitor Jonathan Mix of SE 7th Street, Toledo, voiced that he has seen medical hardship used while working on fires. If the owner has a short-term visitor, it should be limited to a total of 60 days, but providing care for medical conditions may require more time. Mr. Dyson added that six months and the option to extend the period an additional six months on a medical hardship request could be sufficient, but asked if there is an appeal process for long-term needs. CP Peterson clarified that the current code does not have an option beyond a total of one year. He asked if Planning Commissioners would like to see the time period extended. Commissioner Morris supports an option to allow additional time under an appeal process. Commissioner Neimann stated it could be a case-by case review. Commissioner Duprau asked for more flexibility for applicants, noting the difficulty in finding housing, especially now. Commissioner Warfield expressed concern that Toledo would become a homeless camp if there were no deadlines. She voiced that the Council could revisit the extensions, as long as site visits are conducted and trash is under control. President Learned-Ellis read the reasons an RV permit could be revoked.

Commissioners voiced concern if a letter from the doctor should be required, but worried about privacy rights. Commissioners discussed removing the medical hardship option and only allowing under the other two options (provide security and during building). Based on the Commission's recommendations, CP Peterson will draft a revision, removing the medical hardship option and limiting the visitor days to 60 in the calendar year with five days between visitors. He can provide options for extending the deadlines, for future Commission consideration.

Mr. Mix asked if medical hardships could be an option if someone needed assistance for more than the 14-day visitation option. Also, if there could be special circumstances to allow RVs, especially during the recent fires which displaced a lot of families. CM Richter voiced that an emergency declaration or waiver could be considered under certain situations.

DISCUSSION ITEM: RESIDENTIAL CODE - COMMENTS FROM DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT:

CP Peterson reported he sent the proposed residential code updates to Oregon Department of Land Conservation and Development (DLCD) for review and recommendations. The department made comments on the draft, which were included in the packet for review. CP Peterson expects to hold a joint Planning Commission and City Council worksession next month to review the draft. After the worksession, the code amendments can begin the public hearing process.

Based on the review of DLCD comments and Commissioner discussion, the following edits will be made to the code language:

- 17.08.050 Lot Size. After discussing parking requirements for various housing options and setback standards, Commissioners agreed to reduce the lot size to 6000 square feet for all—duplexes, interior lots, and corner lots.

- 17.08.070 Setbacks. Setbacks for a corner lot would remain at 10' for the side yard, including garage structures. Alleys can be exempt from the standard.
- 17.08.080 Lot Coverage. Agreed to the comment to increase the lot coverage standard for accessory dwelling units and duplexes.
- 17.08.090 Special Standards in the R-S Zone.
 - Agreed to remove the minimum size requirement for a single-family home. The home would have to meet building code standards.
 - Remove the requirement for a garage or carport in the R-S Zone.
 - Agreed to remove the requirement for a manufactured home to be a double-wide or larger. Placement of a single-wide manufactured home in the R-S Zone allowed outright.
 - Remove the roof pitch of 3:12 for manufactured homes. Manufactured homes are still required to have the HUD certification and the roof must meet HUD standards.
 - Remove the restriction to prohibit manufactured homes as an accessory dwelling unit. This could allow a single-wide manufactured home.
 - Remove the proposed language for community buildings located within a cottage cluster development that they be compatible and similar to the cottages. This is not a clear and objective standard.
- 17.12.040 Special Standards in the R-G Zone
 - Remove the requirement for a double-wide or wider and minimum square footage for manufactured homes. This section should match the standards in the R-S Zone.
 - Would consider creating a new section for cottage clusters so the standards do not have to be repeated in each section.
- 17.12.060 Lot size. Remove the requirement for additional square footage for multi-family units. Minimum lot size of 5500 could allow any use, as long as it still meets standards for parking, setback, etc.
- 17.12.070 Setbacks. Corner lots should have a 10' side yard setback.
- 17.12.090 Height of Buildings. Agreed to increase the height of accessory structures from 22' to 25', in order to accommodate an accessory dwelling unit to be built over the garage.
- 17.12.090 Lot Coverage. Increase lot coverage for accessory dwelling units, similar to the R-S Zone.
- 17.40.030 Commercial Storefronts Abutting Main Street. Clarification should be made to allow an access point to the second story (stair case/entrance) to be from the ground floor, as long as it does not otherwise occupy street frontage. Exempt the conditional use requirement when the residential space is on the second floor and the entrance point is from the ground floor. If the residential space utilizes the Main Street level units, the conditional use process applies.

Commissioner Neimann left the meeting at 8:35 pm.

Commissioners reviewed the definitions of manufactured homes. CP Peterson will prepared a draft to review for the next joint worksession meeting. The updates are close to starting the public hearing process.

DISCUSSION ITEM: UPDATES AND REPORTS:

CP Peterson reported the City Council approved outdoor seating within the public right-of-way parking spaces, keeping the Planning Commission's recommendation of two parking spaces. This option is now available for Toledo restaurants.

STAFF COMMENTS:

CP Peterson announced that in-person meetings can resume next month. A hybrid approach will be provided for in-person and virtual attendance.

Secretary Inukai reminded Planning Commissioners to watch their email for the Oregon Government Ethics Statement of Economic Interest report invitation. The invitation should be provided within the next week and the reports are due April 15th.

COMMISSIONER COMMENTS:

President Learned-Ellis thanked Mr. Dyson for his attendance and participation tonight. She wished all a good month ahead.

There being no further business before the Commission, the meeting was adjourned at 8:45 pm.

Secretary

President

TOLEDO PLANNING COMMISSION

STAFF REPORT

PROPERTY: Lincoln County Assessor's Map # 11-10-17 DB Tax Lot 4000
992 and 1000 SE Sturdevant Road, Toledo, Oregon

APPLICATION #: CU-1-21

APPLICANT: Nancy Galbraith Trust (Property Owner)
John Lloyd (Authorized Agent)

APPLICATION DATE: March 11, 2021

HEARING DATE: Planning Commission – April 14, 2021

REQUEST: The applicant is requesting a Conditional Use Permit to build a multi-family dwelling in the Commercial Zone, specifically, to convert the commercial store portion of the building to residential.

LOCATION: The building is located at the northwest corner of the SE 10th Street and SE Sturdevant Road intersection.

PARCEL SIZE: Approximately 0.40 acres

I. REPORT OF FACTS:

1. Plan Designation: Commercial (C)
2. Zone Designation: Commercial (C)
3. Existing Structures: The subject property has an existing building that has historically been used as a commercial store and one residential unit.
4. Topography: Western edge of property slopes down to Olalla Slough. The remaining area of the lot is relatively flat.
5. Development Constraints: The existing building is located partially in the Floodplain and partially in the Floodway.
6. City water: Water main lines located at SE Sturdevant and SE 10th Street. The existing building is connected to city water.
7. City sewer: Sewer main lines located at SE Sturdevant and SE 10th Street. The existing building is connected to city water.
8. Notice of Public Hearing: Notices mailed to 52 property owners and 19 public/service agencies on March 25, 2021.
9. Notice Published: March 31, 2021 and April 7, 2021
10. Comments Received: Public Works Director, Fire Chief, and Police Chief all reviewed the application.
11. Attachments to the Staff Report:
 - A. Application with supporting information
 - B. Zoning Map

- C. Aerial Map
- D. Floodplain Map
- E. Code Enforcement Letters

II. AUTHORITY:

TMC 17.64.020 states that conditional uses may be permitted by the Planning Commission in accordance with the standards and procedures specified in this ordinance [Toledo Zoning Ordinance]. Future significant enlargements or major alterations of a conditional use shall also be reviewed by the Commission and new conditions may be imposed. Change in use, expansion or contraction of site area, or alteration of structures or uses which are classified as conditional but which existed prior to the effective date of this ordinance, shall conform to all regulations pertaining to conditional uses.

The Planning Commission will be considering the facts and criteria identified in this report and testimony/information received through the close of the public hearing, as it reviews this conditional use request on April 14, 2021.

III. APPLICABLE CRITERIA FOR EVALUATING THE CONDITIONAL USE REQUEST AND STAFF ANALYSIS:

The following Comprehensive Land Use Plan and ordinance standards apply to this request. The standards are listed below in regular type. Staff analysis, including facts and findings, are below the Comprehensive Plan and ordinance standards in an italicized font.

1. 2000 Toledo Comprehensive Land Use Plan – Article 2, Objective 2(A) – Comprehensive Plan Map Designations:

Comprehensive Plan Map designations are intended to guide development by designating appropriate areas for each particular type of development use. Additional uses within each designation may be allowed as either uses permitted outright or as conditional uses when the city determines that such uses are either consistent with the general use or can be reviewed for compatibility through the conditional use process. The map designations and the uses allowed in the designations should reflect the applicable goals and objectives of the Toledo Comprehensive Land Use Plan.

...

Commercial - This designation provides for a wide range of commercial activities including retail and service uses as well as other compatible uses commonly associated with commercial areas including allowing residential uses. This designation shall be implemented by the zoning map designation of Commercial. A Main Street Overlay District shall be implemented to recognize the unique attributes and development pattern of the existing Main Street area.

2. 2000 Toledo Comprehensive Land Use Plan – Article 2, Objective 2(B) – Zoning Map Designations:

...

Commercial (C) - The purpose of the C zone is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods

to the average person and that a majority of the floor space will be devoted to that purpose. Compatible uses including public, civic, and institutional uses will also be allowed. Residential use above the commercial main floor or located so as not to prevent the main commercial use shall be allowed and encouraged especially in the Main Street District area.

3. TMC Sections 17.16.010 – 17.16.040 – Commercial (C) Zone.

TMC 17.16.010 Purpose.

The purpose of the C Zone is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods to the average person and that a majority of the floor space will be devoted to that purpose. Compatible uses including public, civic, and institutional uses are also allowed. Residential use above the commercial main floor or located as not to prevent the main commercial use are allowed and encouraged especially in the Main Street District area.

TMC 17.16.020 Uses permitted outright.

In the C Zone, the following uses and their accessory uses are permitted outright. Special standards for certain uses, marked with an asterisk (*), are found in Section 17.16.050.

- A. Retail trade or commercial services, except drive-in uses.
- B. Entertainment (e.g., theaters, clubs, amusement uses).
- C. Hotel, motels, bed and breakfast facility, hostel, or residency hotels.
- D. Personal and professional services (e.g., child care center, catering/food services, restaurants, taverns, laundromats and dry cleaners, barber shops and salons, banks and financial institutions, or similar uses).
- E. Medical and dental offices, clinics or laboratories.
- F. Office uses (i.e., those not otherwise listed).
- G. Public and institutional uses such as religious uses, clubs, lodges, government offices and facilities, public safety services, libraries, museums, community centers, public parking lots, parks, schools, or other similar uses.
- H. Custom manufacturing of goods for retail and/or wholesale sale on the premises such as small-scale crafts, electronic equipment, bakery, furniture, art, sculpture, pottery, or other similar types of goods.
- I. Truck and car repair and service - minor.*
- J. Automobile service stations.
- K. One accessory dwelling unit in conjunction with a commercial use and that meets applicable code requirements.
- L. Temporary street vendors/seasonal commercial uses not to exceed six months.
- M. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the Toledo Transportation System Plan).

TMC 17.16.030 Conditional uses permitted.

- A. Animal hospitals or kennels.
- B. Drive-in use for uses which are permitted outright or as conditional uses in the C zone.
- C. Restaurants (take-out or drive-in).
- D. Machine shops.
- E. Mini-storage.
- F. Multi-family dwelling units.

- G. Overnight trailer park or recreational vehicle parks.
- H. Pumping station or utility substations.
- I. Truck and car repair and service - major.
- J. Food production and/or beverage production, where the majority of the floor space will be devoted to providing personal services or goods to the public.
- K. Medical marijuana dispensary facility.
- L. Marijuana retailer.
- M. Uses which are similar to those permitted outright or conditionally in the C zone and which conform to the purpose of the zone.

Staff Analysis: The property identified as 992 and 1000 SE Sturdevant Road (Map 11-10-17 DB Tax Lot 4000) is approximately 0.40 acres and located in the Commercial (C) Zone. It is not located in the Main Street District.

The existing building on the subject property historically had a commercial store and a residential accessory dwelling unit. TMC 17.16.020 (K) allows, "One accessory dwelling unit in conjunction with a commercial use and that meets applicable code requirements".

The City of Toledo Code Enforcement Officer identified that work was being completed on the subject building. Staff identified that the building was illegally converted to a duplex without obtaining the required land use, floodplain, or building permits (Attachment E). The City required the illegally converted portion of the building not be occupied until the proper permits are obtained. This is discussed further in the staff report below.

The applicant, Nancy Galbraith Trust (Authorized Agent-John Lloyd) is now requesting a Conditional Use to allow a multi-family (duplex) in the C Zone. "Dwelling, multi-family" means a building containing two or more dwelling units excluding accessory dwelling units. TMC 17.16.030(F) identifies multi-family dwelling units as a conditional use permitted.

4. 2000 Toledo Comprehensive Land Use Plan – Article 10: Housing, Goal 1, Objectives 3, 9, 10, and 11:

GOAL 1. Encourage development of a mixture of housing stock in terms of design, type, cost, and location that meets the housing needs of all Toledo citizens.

OBJECTIVE 3. Encourage a mix of housing types and residential densities within the Urban Growth Boundary and the city limits that conforms with the population and density projections adopted by the City of Toledo.

OBJECTIVE 9. Encourage the development of higher (quality) standard housing types and residential neighborhoods that assist to:

- a. Attract new businesses and keep local businesses within the community.
- b. Ensure that moderate, middle, and high income families can continue to live in Toledo.
- c. Ensure the economic viability of the community and support the tax base and schools.
- d. Maintain the quality of life in Toledo.

OBJECTIVE 10. Encourage residential development on vacant or redevelopable lots in areas already serviced or where services can be economically provided.

OBJECTIVE 11. Provide maximum choices for the client residents and minimal disturbance to the existing neighborhoods by dispersing multi-family and low and moderate income housing units through the community with small scale projects rather than aggregated into large complexes or single purpose neighborhoods.

Staff Analysis: In the application materials, the applicant states that, "The building had been vacant for years due to lack of demand for commercial use of the space." The subject property historically had a commercial use and an accessory dwelling unit. Proposed development of the multi-family residential building is a permitted Conditional Use within the C Zone. The proposed duplex meets the Comprehensive Land Use Plan Housing Goals and Objectives because the application, 1) provides a mixture of housing types and stock; 2) assists with the economic viability of the community by providing housing options to employees of local businesses; and 3) redevelops an existing lot where services can be provided.

The application has been reviewed in compliance with and is consistent with Toledo's Comprehensive Land Use Plan goals and policies.

EVALUATION CRITERIA – CONDITIONAL USE PERMITS

5. TMC 17.64.010 – 17.64.050 Conditional Use Permits

17.64.010 Purpose.

A use is designated as a conditional use within a given zone when it is judged to be generally in line with the purpose of the zone but which could, if not reviewed, have a negative impact on other properties or uses within the zone. The purpose of such a review is to assure adequate site design and compatibility with surrounding uses and property. A review of a conditional use is a Type III review.

17.64.020 Authorization to grant or deny conditional use permits.

Uses designated in this ordinance as permitted conditional uses may be permitted by the planning commission in accordance with the standards and procedures specified in this ordinance. Future significant enlargements or major alterations of a conditional use shall also be reviewed by the commission and new conditions may be imposed. Change in use, expansion or contraction of site area, or alteration of structures or uses which are classified as conditional but which existed prior to the effective date of this ordinance, shall conform to all regulations pertaining to conditional uses.

17.64.030 Application submission requirements for conditional use permits.

A property owner or the owner's authorized agent may initiate a request for a conditional use by filing a completed application with the city manager along with the appropriate fee as set by city council resolution. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed use. The planning commission or city manager may require other drawings or material necessary to an understanding of the proposed use and its relationship to surrounding properties as part of a complete application.

17.64.040 Conditions for development.

The planning commission shall review and make a decision to approve or deny a conditional use request in accordance with the standards and procedures for a Type III review as set forth in

Toledo Municipal Code Chapter 19.16.

In approving a conditional use request, the planning commission may impose any conditions determined by the commission to be necessary and appropriate to ensure that the use will comply with all applicable provisions of this section. Such conditions may include, but are not limited to:

- A. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- B. Establish a special yard or other open space or lot area or dimension.
- C. Limit the height, size or location of a building or other structure.
- D. Designate the size, number, location or nature of vehicle access points.
- E. Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.
- F. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading area.
- G. Limit or otherwise designate the number, size, location, height or lighting of signs.
- H. Limit the location and intensity of outdoor lighting or require its shielding.
- I. Require diking, screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
- J. Designate the size, height, location or materials for a fence.
- K. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- L. Specify other conditions to permit development in conformity with the intent and purpose of the conditional classification of development.

17.64.050 Standards governing conditional uses.

In addition to the standards of the zone in which the conditional use is located and the other standards of this chapter, conditional uses shall meet the following standards:

- A. In addition to other applicable standards of this section, all conditional uses shall comply with the following requirements:
 - 1. The site under consideration is suitable for the proposed use considering:
 - a. The size, design and operating characteristics of the use.
 - b. The adequacy of transportation access to the site.
 - c. The natural and physical features of the site such as general topography, natural hazards, natural resource values, and other features.
 - 2. The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in paragraph (1) of this subsection.

Staff analysis: According to the application materials, the owner provides the following information for the proposed development:

- 1) *The proposed converted unit will be approximately 1,600 sq. ft. and 2 bedrooms. Based on the Assessor records the existing residential unit on the North side of the building is approximately 672 sq. ft.*
- 2) *Parking will be provided on site in front of the duplex.*
- 3) *Proposed development is located close to existing transportation (SE Sturdevant and SE 10th).*
- 4) *The existing building is connected to City Water and City Sewer.*
- 5) *The applicant states the commercial portion was vacant for years because of the lack of*

demand for commercial space.

- 6) Neighboring properties to the West, South, and North are zoned Natural Resources (NR). Neighboring properties to the East are Zoned Residential General (R-G) and the existing use is residential. The proposed development will be compatible with the current residential character and flavor of the neighborhood.*

As discussed above, the building on the subject property was illegally converted to a duplex without the required land use, building, or floodplain permits. The structure is located in the Commercial Zone and multi-family requires a conditional use. The remaining required building and floodplain permits will be listed as conditions of approval.

The code enforcement officer identified that work on the subject property was being completed without the required permits. At the time, the project was being managed by Andrew Lloyd. The City sent the first letter on July 20, 2020 notifying the property owner of the required permits. The property owner sent a reply after the letter, indicating that minimal work was completed and the commercial portion would be rented as a commercial unit. The code enforcement officer monitored the site and the commercial unit appeared to be rented as a residential unit. A second letter was sent on September 30, 2020. The property owner responded indicating that the commercial space was being rented as commercial. At some point in this process, John Lloyd, Andrew Lloyd's brother, took over the project. The City completed a site visit on January 6, 2021. Those present included Jim Shepperd (attorney for Andrew Lloyd), Lincoln County Building Official Al Eames, Contract Planner Justin Peterson, Fire Captain Greg Musil (late, did not go inside), City Attorney David Robinson, Code Enforcement Officer Tony Bour, and Police Chief Pace. The site visit showed that the commercial unit was converted to a residential unit without the proper permits. After the January 6, 2021 the Lincoln County Building Official emailed City Staff stating: "The inspection at the above referenced address has revealed that a commercial occupancy has been converted into a dwelling unit. Our records indicate that the required structural, plumbing, electrical and mechanical permits have not been obtained. Once the conditional use and the floodplain development requirements have been adequately addressed the owner may apply for the appropriate permits." A third letter was sent on January 28, 2021.

After the third letter the authorized agent John Lloyd started working to submit the required permits. A floodplain permit was submitted on February 25, 2021. The structure is located in the Floodplain and Floodway according to panel number 41041C0531E, dated October 18, 2019. The owner/builder initially did not submit a development review, as required by Toledo Municipal Code (TMC 17.60) or floodplain review (TMC 15.16). Work, including labor, within the floodplain or floodway is required to be included in a substantial improvement calculation (TMC 15.16 and Appendix A of the Toledo Floodplain Permit). "Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement" (TMC 15.16). Based on Lincoln County Assessor's information, the structure is valued at \$72,090. Then a substantial improvement is based on half of the value of the structure (\$36,045). Substantial improvements are required to meet current floodplain standards which would include elevating the structure, flood vents, etc. The floodplain permit submitted by the applicant indicates that the total work including labor totaled \$15,100. The floodplain permit will be compared to the building permit application when submitted to ensure all costs were included and the proposed work is not a substantial improvement. The

proposed conversion from commercial use to residential use is a “change of use” subject to Lincoln County Building Code. The change of use determination must be made by the Lincoln County Building Official, including the lowest floor elevations required in the 2019 Oregon Structural Specialty Code 110.3 et seq. The lowest floor elevation of the structure is unknown. Staff recommends a condition of approval that a Floodplain Development Permit is required and the building is required to meet the standards in TMC 15.16. The owner/builder shall work with a licensed surveyor to determine the lowest floor elevation and submit an elevation certificate.

Plumbing and Electrical work is required to be completed by licensed contractors. It is unclear if any work was completed by a CCB licensed contractor or specialty-licensed subcontractors. If the work was not completed by properly licensed plumbers/electricians, then licensed plumbers/electricians must be hired to inspect and permit the work. Staff recommends a condition of approval that states Plumbing and Electrical work is required to be completed or certified by licensed specialty contractors.

There is an apparent change of use in the structure and that change in use is subject to both local and Lincoln County jurisdiction for use and occupancy. The owner has converted the commercial portion of the structure to a residential use. TMC 17.16.030 et seq. and TMC 17.64 set out the permitting process for a change of use. (see also ORS 455 in general and 455.148. Chapter 3 International Building Code). Staff recommends a condition of approval that the Owner/builder shall obtain all necessary building permits including the change of use and change of occupancy permit from the Lincoln County Building Department.

Based on City records, none of the parties have a business license to engage in business activity in the City of Toledo (TMC 5.04). Staff recommends a condition of approval that a business license is required for anyone engaging in business activity in the City (TMC 5.04).

The converted commercial to residential space is considered illegally converted. The City required that all construction and occupancy shall cease immediately. Staff recommends a condition of approval that the previously commercial portion of the structure proposed to be converted to residential shall not be occupied until a certificate of occupancy is obtained.

The requested conditional use permit for a multi-family dwelling in the Commercial Zone meets the criteria in TMC 17.64.050(A).

- 1) The proposed duplex is suitable for the site, considering the lot size, and applicant's proposed design and operating characteristics of the use.*
- 2) The proposed footprint of the building is not proposed to change.*
- 3) The property has proper access to a street, SE Sturdevant and SE 10th Street. SE Sturdevant Road and SE 10th Street are public streets with a paved surface.*
- 4) The subject property contains a large, level area to accommodate the proposed building and parking. Duplexes are required to have three (3) parking spaces (TMC 17.44.030(A)(2)). Staff recommends the required parking is listed as a condition of approval.*
- 5) The proposed duplex is permitted as a Conditional Use under the Commercial Zone. The subject property is surrounded by residential homes to the west and natural resource lands to the west, north, and south. The proposed use is consistent with existing and projected uses on surrounding lands.*

Based on TMC 17.64.040, the Planning Commission has authority to impose conditions to mitigate issues the Commission finds appropriate, such as minimize environmental effects such as noise/vibration/air pollution/glare/odor, establish open spaces, limit building height or vehicle access points, provide screening/drainage/fencing/parking/landscaping improvements, limit signs and outdoor lighting, or protect existing natural resources.

Authorization of the conditional use shall be void after one year if a building permit has not been issued or development has not begun. Authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

FURTHER STAFF ANALYSIS:

The request by the current owner, Nancy Galbraith Trust, would be compatible with surrounding land uses. Neighboring properties to the West, South, and North are zoned Natural Resources (NR). Neighboring properties to the East are Zone Residential General (R-G) and the existing use is residential. The proposed development will be compatible with the current residential character and flavor of the neighborhood. (See Attachment B - Zoning Map).

Uses in the general area are predominately single-family residential homes, even though the area is located in the Commercial Zone. The lot has historically been the only commercially zoned lot in the vicinity. The commercial zone was assigned when the property was used for commercial purposes (Olalla Store). Multi-family residential use is allowed a conditional use in the Commercial Zone.

The Toledo Public Works Department has been advised of the proposal. Both water and sewer services are connected to the building.

IV. FACTS AND FINDINGS:

The applicant is requesting approval of a conditional use to construct a multifamily dwelling (a duplex) in the C Zone. Based upon the information received by City staff through April 7, 2021, the conditional use request appears to conform with relevant provisions of the City's plans and ordinances as described below. The following recommended findings support approval of the conditional use:

1. The property identified as 992 and 1000 SE Sturdevant Road (Map 11-10-17 DB Tax Lot 4000) is approximately 0.40 acres and located in the Commercial (C) Zone. It is not located in the Main Street District area.
2. The existing building on the subject property historically had a commercial store and a residential accessory dwelling unit. TMC 17.16.020 (K) allows, "One accessory dwelling unit in conjunction with a commercial use and that meets applicable code requirements".
3. The City of Toledo Code Enforcement Officer identified that work was being completed on the subject building. Staff identified that the building was illegally converted to a duplex without obtaining the required land use, floodplain, or building permits (Attachment E). The

City required the illegally converted portion of the building to be vacated until the proper permits are obtained.

4. The City sent the first letter on July 20, 2020 notifying the property owner of the required permits. The property owner sent a reply after the letter, indicating that minimal work was completed and the commercial portion would be rented as a commercial unit. The code enforcement officer monitored the site and the commercial unit appeared to be rented as a residential unit. A second letter was sent on September 30, 2020. The property owner responded indicating that the commercial space was being rented as commercial. The City completed a site visit on January 6, 2021. Those present included Jim Shepperd (attorney for Andrew Lloyd), Lincoln County Building Official Al Eames, Contract Planner Justin Peterson, Fire Captain Greg Musil (late, did not go inside), City Attorney David Robinson, Code Enforcement Officer Tony Bour, and Police Chief Pace. The site visit showed that the commercial unit was converted to a residential unit without the proper permits. A third letter was sent on January 28, 2021.
5. The applicant, Nancy Galbraith Trust (Authorized Agent-John Lloyd) is now requesting a Conditional Use to allow a duplex in the C Zone. TMC 17.16.030(F) identifies multi-family dwelling units as a conditional use permitted. "Dwelling, multi-family" means a building containing two or more dwelling units excluding accessory dwelling units (TMC 17.04).
6. In the application materials, the applicant states: "The building had been vacant for years due to lack of demand for commercial use of the space." The subject property historically had a commercial use and an accessory dwelling unit. Proposed development of the multi-family residential building is a permitted Conditional Use within the C Zone. The proposed duplex meets the Comprehensive Land Use Plan Housing Goals and Objectives because the application, 1) provides a mixture of housing types and stock; 2) assists with the economic viability of the community by providing housing options to employees of local businesses; and 3) redevelops an existing lot where services can be provided.
7. The application has been reviewed in compliance with and is consistent with Toledo's Comprehensive Land Use Plan goals and policies.
8. According to the application materials, the owner provides the following information for the proposed development:
 - a. The proposed converted unit will be approximately 1,600 sq. ft. and 2 bedrooms. Based on the Assessor records the existing residential unit on the North side of the building is approximately 672 sq. ft.
 - b. Parking will be provided on site in front of the duplex. TMC 17.44.030(A)(2) requires 1.5 parking spaces per unit for duplexes. Therefore, 3 parking spaces are required.
 - c. Proposed development is located close to existing transportation (SE Sturdevant and SE 10th).
 - d. The existing building is connected to City Water and City Sewer.
 - e. The applicant states the commercial portion was vacant for years because of the lack of demand for commercial space.
 - f. Neighboring properties to the West, South, and North are zoned Natural Resources (NR). Neighboring properties to the East are Zoned Residential

General (R-G) and the existing use is residential. The proposed development will be compatible with the current residential character and flavor of the neighborhood.

9. After the third letter, the authorized agent John Lloyd started working to submit the required permits. A floodplain permit was submitted on February 25, 2021. The structure is located in the Floodplain and Floodway according to panel number 41041C0531E, dated October 18, 2019. The owner/builder initially did not submit a development review, as required by Toledo Municipal Code (TMC 17.60) or floodplain review (TMC 15.16). Work, including labor, within the floodplain or floodway is required to be included in a substantial improvement calculation (TMC 15.16 and Appendix A of the Toledo Floodplain Permit). “Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement” (TMC 15.16). Based on Lincoln County Assessor’s information, the structure is valued at \$72,090. Then a substantial improvement is based on half of the value of the structure (\$36,045). Substantial improvements are required to meet current floodplain standards which would include elevating the structure, flood vents, etc. The floodplain permit submitted by the applicant indicates that the total work including labor totaled \$15,100. The floodplain permit will be compared to the building permit application when submitted to ensure all costs were included and the proposed work is not a substantial improvement. The proposed conversion from commercial use to residential use is a “change of use” subject to Lincoln County Building Code. The change of use determination must be made by the Lincoln County Building Official, including the lowest floor elevations required in the 2019 Oregon Structural Specialty Code 110.3 et seq. The lowest floor elevation of the structure is unknown. Staff recommends a condition of approval that a Floodplain Development Permit is required and the building is required to meet the standards in TMC 15.16. The owner/builder shall work with a licensed surveyor to determine the lowest floor elevation and submit an elevation certificate.
10. Plumbing and Electrical work is required to be completed by licensed contractors. It is unclear if any work was completed by a CCB licensed contractor or specialty-licensed subcontractors. If the work was not completed by properly licensed plumbers/electricians, then licensed plumbers/electricians must be hired to inspect and permit the work.
11. There is an apparent change of use in the structure and that change in use is subject to both local and Lincoln County jurisdiction for use and occupancy. The owner has converted the commercial portion of the structure to a residential use. TMC 17.16.030 et seq. and TMC 17.64 set out the permitting process for a change of use. (see also ORS 455 in general and 455.148. Chapter 3 International Building Code).
12. Based on City records, none of the parties have a business license to engage in business activity in the City of Toledo (TMC 5.04).
13. The requested conditional use permit for a multi-family dwelling in the Commercial Zone meets the criteria in TMC 17.64.050(A).
 - a. The proposed duplex is suitable for the site, considering the lot size, and applicant's proposed design and operating characteristics of the use.

- b. The proposed footprint of the building is not proposed to change.
 - c. The property has proper access to a City street, SE Sturdevant and SE 10th Street. SE Sturdevant Road and SE 10th Street are public streets with a paved surface.
 - d. The subject property contains a large, level area to accommodate the proposed building and parking. Duplexes are required to have three (3) parking spaces (TMC 17.44.030(A)(2)). Staff recommends the required parking is listed as a condition of approval.
 - e. The proposed duplex is permitted as a Conditional Use under the Commercial Zone. The subject property is surrounded by residential homes to the west and natural resource lands. The proposed use is consistent with existing and projected uses on surrounding lands.
14. Based on TMC 17.64.040, the Planning Commission has authority to impose conditions to mitigate issues the Commission finds appropriate, such as minimize environmental effects such as noise/vibration/air pollution/glare/odor, establish open spaces, limit building height or vehicle access points, provide screening/drainage/fencing/parking/landscaping improvements, limit signs and outdoor lighting, or protect existing natural resources.
 15. The City Public Works Director, Police and Fire Chief have all reviewed the application.
 16. City sewer and water main lines are located in the SE Sturdevant Road and SE 10th Street right-of-way. The subject property is connected to City water and City sewer.
 17. The proposal provides an existing parking lot area. This complies with the minimum parking standards established in the Toledo Municipal Code (TMC 17.44.030(A)(2)), requiring 1.5 spaces per unit.
 18. Notification to surrounding property owners, 19 public/service agencies, and publication of the proposed Conditional Use Permit were completed in accordance with the Toledo Municipal Code requirements.

V. STAFF RECOMMENDATION:

Based on the staff report, testimony received, and analysis of the applicable code and land use planning goals, staff recommends the Planning Commission approve Case File CU-1-21, subject to the following conditions:

1. Approval is based upon the submitted application and plan, as described in Attachment A of the Staff Report. Development shall conform with the proposed plan and any significant change shall be submitted to the City Planning Department as a modification to the conditional use permit.
2. Any driveway improvements must be coordinated and approved by the Toledo Public Works Director and Fire Chief.
3. Owner/builder shall obtain all necessary building permits including the change of use and change of occupancy permit from the Lincoln County Building Department.

4. Plumbing and Electrical work is required to be completed or certified by licensed specialty contractors.
5. Floodplain Development Permit is required and the building is required to meet the standards in TMC 15.16. The owner/builder shall work with a licensed surveyor to determine the lowest floor elevation and submit an elevation certificate.
6. Applicant shall mark and maintain three (3) parking spaces (TMC 17.44.030(A)(2)).
7. A business license is required for anyone engaging in business activity in the City (TMC 5.04).
8. The previously commercial portion of the structure proposed to be converted to residential shall not be occupied until a certificate of occupancy is obtained.
9. Authorization of the conditional use shall be void after one year if a building permit has not been issued or development has not begun. Authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

PROPOSED MOTION (CU-1-21):

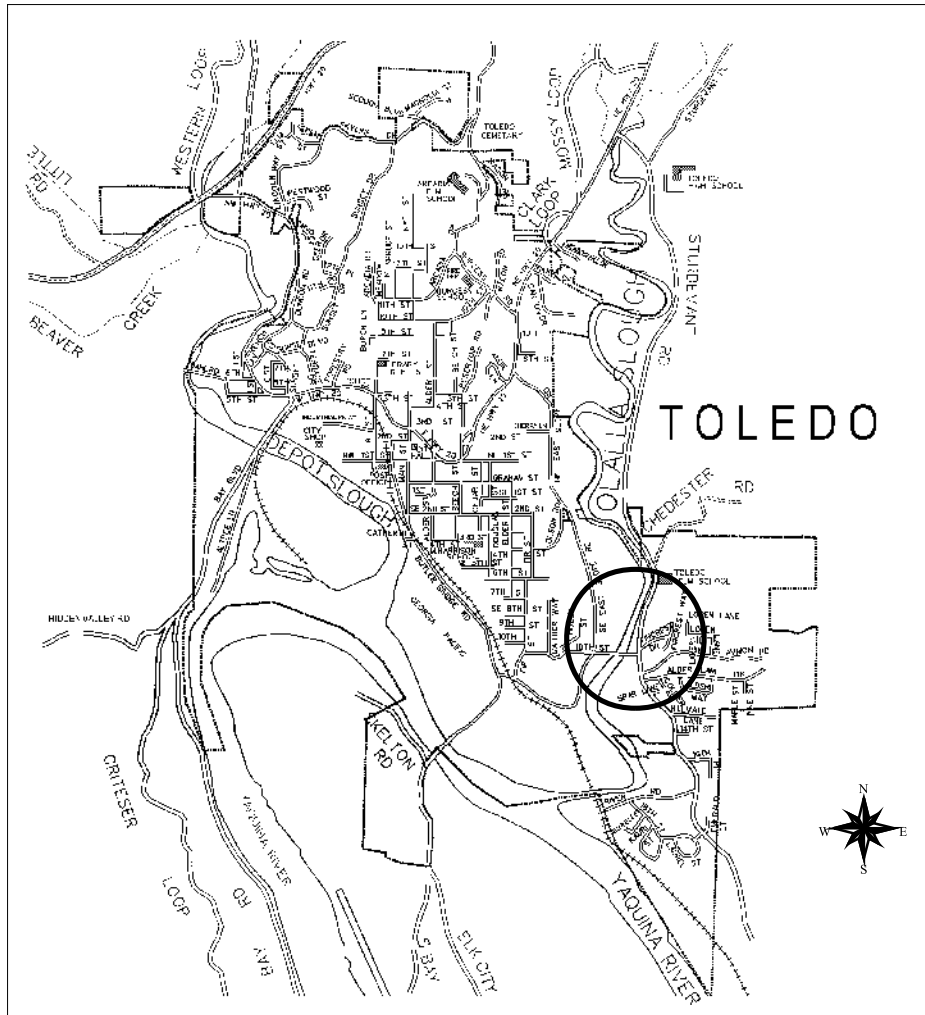
BASED ON THE TESTIMONY RECEIVED, THE STAFF REPORT, AND THE EVIDENCE AND ARGUMENTS BEFORE THE PLANNING COMMISSION AT THE PUBLIC HEARING ON APRIL 14, 2021, THE PLANNING COMMISSION FINDS THAT THE REQUEST BY NANCY GALBRAITH, TRUSTEE AND AUTHORIZED AGENT JOHN LLOYD, (CU-1-21) COMPLIES WITH THE CRITERIA IDENTIFIED IN TOLEDO MUNICIPAL CODE 17.64.050. THE PLANNING COMMISSION HEREBY ADOPTS THE STAFF REPORT AS FINDINGS, AS WELL AS THE PROPOSED CONDITIONS OF APPROVAL FOR CU-1-21, AND ALLOWING FOR THE CORRECTION OF TYPOGRAPHICAL AND GRAMMATICAL ERRORS.

VI. PLANNING COMMISSION ROLE:

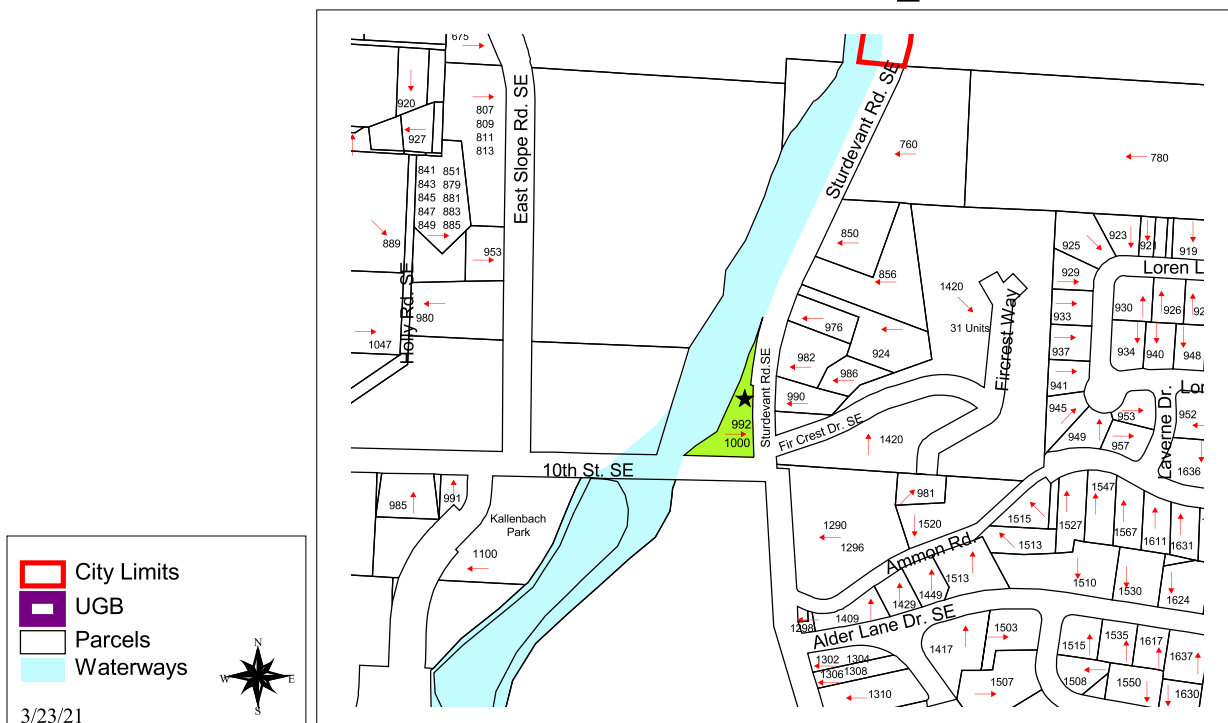
The Planning Commission should evaluate the applicant's proposal and all testimony presented to them in order to make findings which demonstrate that the applicable criteria in the Toledo Municipal Code and Comprehensive Plan can be satisfied. The decision of the Planning Commission should be based on the report of facts and analysis contained within the Staff Report, as well as the facts and testimony presented by the applicant and those who support or oppose the request given at the public hearing. Any action on the application should address the applicable criteria as contained in the Toledo Municipal Code. The decision of the Planning Commission shall be final unless appealed to the City Council.

Justin Peterson
Contract Planner

Location Map



Site Map



ATTACHMENT A

Application with Supporting Information

(City of Toledo File #CU-1-21)

CITY OF TOLEDO LAND USE APPLICATION

Date 3/2/21

Property Owner Andrew Lloyd

Telephone 8082128272

Mailing Address 40393 Hilltop Drive Lebanon OR 97355

Authorized Agent John Lloyd

Telephone 562 972 6858

Property Address 1000 Sturdevant, Toledo Oregon

Property Size 0.3 acre

Property Location _____

Assessors Map No. 11-10-17-DB-04000-00

Tax Lot No. _____

Present Zoning Commercial

Proposed Change Repurpose pizza

Comprehensive Plan Designation _____

Restaurant into

Current Land Use Pizza Restaurant and an apartment

apartment

Existing Structures (if any) There is an old pizza Restaurant attached to a residential apartment.

Proposal for which this request is being made (attach additional sheets if needed) _____

Repurpose the old pizza Restaurant into another apartment. The pizza place already has a kitchen and bathroom and requires the open space divided into bedrooms and a living room by adding interior walls.

The following must be submitted with this application:

- ☐ Deed description and proof of ownership interest.
- ☐ Site plan drawn to scale which shows property lines, access, existing buildings, other relevant features or conditions, the property's relationship to the surrounding neighborhood, and the location of existing and proposed development.
- ☐ Description of the proposed land use action, including information on how the proposal might impact surrounding property.
- ☐ Supplemental information form (if required).
- ☐ Application fee.

☐ Annexation/Rezone (\$1,100)*	☐ Expedited Land Division (\$1,500)*	☐ Riparian Modification Permit (\$150)
☐ Appeal, Land Use Misc (\$300)*	☐ Lot Line Adjustment (\$100)	☐ Similar Use, Planning Comm (\$225)
☐ Appeal, Type II (\$200)*	☐ Modification of Approval (75% of fee)	☐ Staff Level Exception to TPIRDS (\$25+recording fee)
☐ Appcal, Type III (\$400)*	☐ Partition, Major (\$700+\$20/lot)*	☐ Subdivision (\$700+\$20/lot)*
☐ Code Amendment (\$700)	☐ Partition, Minor (\$400)*	☐ UGB Amendment (\$2,000)
☐ (if requires M56 notice \$700+mailing)	☐ Planned Unit Development (\$700+\$20/unit)*	☐ Vacation (\$700)*
☐ Comp. Plan Amendment (\$700)	☐ Public Hearing, Misc. Permit	☐ Variance, Type I (\$50)*
☐ (if requires M56 notice \$700+mailing)	☐ Replat, Major (\$700+\$20/lot)	☐ Variance, Type II (\$200)*
☐ Code Interpretation, official (\$125)	☐ Replat, Minor (\$400)	☐ Variance, Type III (\$400)*
☒ Conditional Use (\$400)	☐ Restrictive Lot Line Covenant (\$75)	☐ Zone Change (\$700)
☐ Exception to Statewide Goal (\$2,000)		

*Supplemental forms are required

If filing multiple Land Use Applications, the most expensive application will be assessed and 75% of each additional land use application when submitted together. If filing multiple Type I permits, staff can waive some fees where overlapping permits do not need significant additional review.

For Office Use Only

Date Received _____

Received By _____

Fee Paid \$400.00

City File No. CU-1-21

3/15/21

I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that I must present sufficient factual evidence to show that this application complies with the Toledo Zoning Ordinance, Comprehensive Plan, and other applicable regulations. This responsibility is independent of any opinions expressed in the Planning Department Staff Report concerning the applicable criteria. I certify that, to the best of my knowledge, all information contained in this application is accurate.

My signature below shows that I have thoroughly discussed this application with the City Planner or the City Manager or designee and I am fully aware of my responsibilities as the applicant.

I understand that the Planning Commission will hold a public hearing for this application.

☒ yes

I understand that the City Council will hold a public hearing for this application.

☒ yes

I understand that this is a City of Toledo staff-level decision.

☒ yes

Other _____

☒ yes

Lloyd M.D.
Applicant(s) Signature

3/3/21
Date

Andrew Chayd
Property Owner (if different)

3/3/21
Date

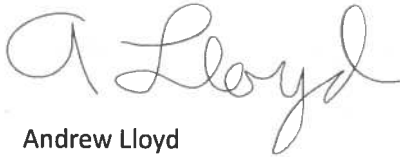
X N. Galbraith
N. Galbraith
Trustee

3/3/21
Date

2/24/2021

I give permission for John Lloyd to submit documents to the city of Toledo and County of Lincoln Oregon regarding 1000 SE Sturtevant property.

Sincerely,

A handwritten signature in cursive script that reads "A Lloyd". The signature is written in dark ink and is positioned above the printed name.

Andrew Lloyd

For Office Use Only

Public Works

1. Is City sewer available? Yes____ No____
Where_____
- Is the property within City____ UGB____
Will a connection have to be constructed? Yes____ No____
What size of a line is required_____
2. Is City water available? Yes____ No____
Where_____
- Is the property within City____ UGB____
Is the lot accessible to City water? Yes____ No____
3. Are there any public works improvements necessary? Yes____ No____
If yes, describe_____
4. Is there proper access? Yes____ No____
Are there proper easements? Yes____ No____
- Curb cuts and property entrances must be constructed to City specifications. Permit and specifications are available through the Public Works Department.
5. Are there any special access requirements? Yes____ No____
If yes, describe_____
- Is a state access permit required? Yes____ No____
Is a county permit required? Yes____ No____
6. Meter size_____
Estimated installation cost_____
7. Is a plan review by Public Works required? Yes____ No____
8. Is this a new parcel, created legally since 11/1/83? Yes____ No____
Minor Partition____ File #_____
Major Partition____ File #_____
Subdivision____ File #_____
9. Is this application ready to be approved? Yes____ No____
Explain modifications or revisions needed for the application_____

Comments_____

REVIEWED AND APPROVED BY:

Public Works Director

Date

Fire Department

1. Does the proposal meet the safety requirements of the NFC and UFC? Yes ☒ No ☐
2. Is this application ready to be approved? Yes ☒ No ☐
Explain modifications or revisions needed for the application _____

Comments No Comments

REVIEWED AND APPROVED BY:

Shay Masil
Fire Chief Inspector/Captain

3/25/21
Date

Police Department

1. Is this application ready to be approved? Yes ☐ No ☐
Explain modifications or revisions needed for the application _____

Comments _____

REVIEWED AND APPROVED BY:

Chief of Police

Date

Planning Department

1. Is this application ready to be approved? Yes ☐ No ☐
Explain modifications or revisions needed for the application _____

Comments _____

REVIEWED AND APPROVED BY:

Community Development Coordinator

Date

March 11th, 2021

Dear Planning Commission,

I am proposing to repurpose the old commercial space at 1000 Sturdivant Street into a 1,600 sf 2 bedroom apartment. There is already an apartment on the lot, and I am proposing to increase that to two apartments. The prior use of the commercial space included a pizza restaurant. The existing kitchen and bathroom, which are also essential for a residential unit, makes this repurposing easy and cost-effective: partitioning a large open space into bedrooms without disturbing any load-bearing walls.

The lot for this proposed project is in a corner location without any next door neighbors. There is ample parking for tenants. The immediate surrounding community is solely residential as well. The proposed repurposing fits the land use of the surrounding community, especially because the lot already has an apartment.. The building had been vacant for years due to lack of demand for commercial use of the space.

Sincerely,

A handwritten signature in black ink that reads "Lloyd MD". The signature is written in a cursive, flowing style.

John Lloyd

N ↑ 1 square = 10 ft

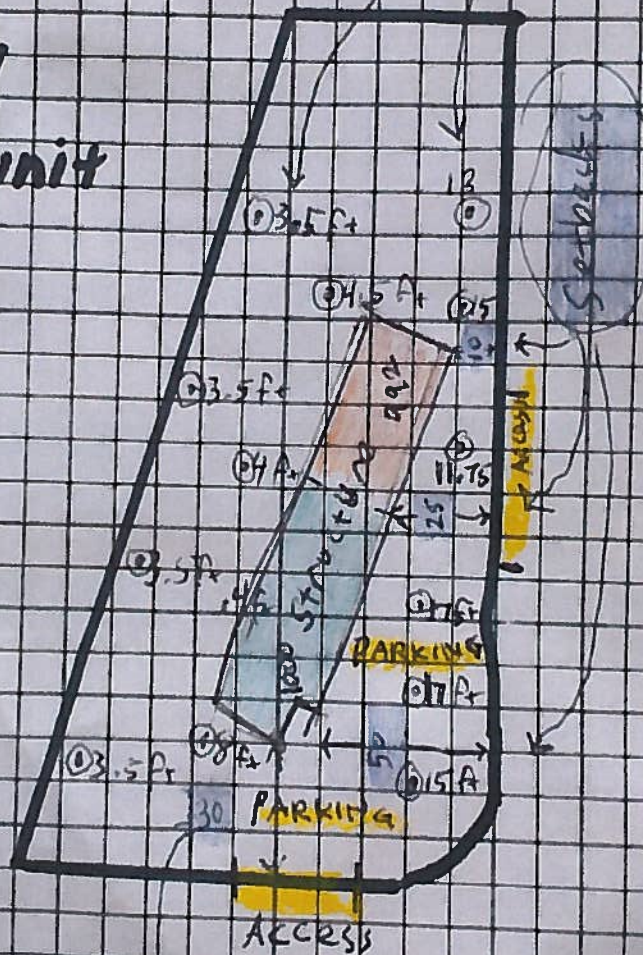
① Elevation in feet USGS Nat'l map

992 - existing
residential unit

1000 Proposed
residential unit

Access & Parking

Setbacks

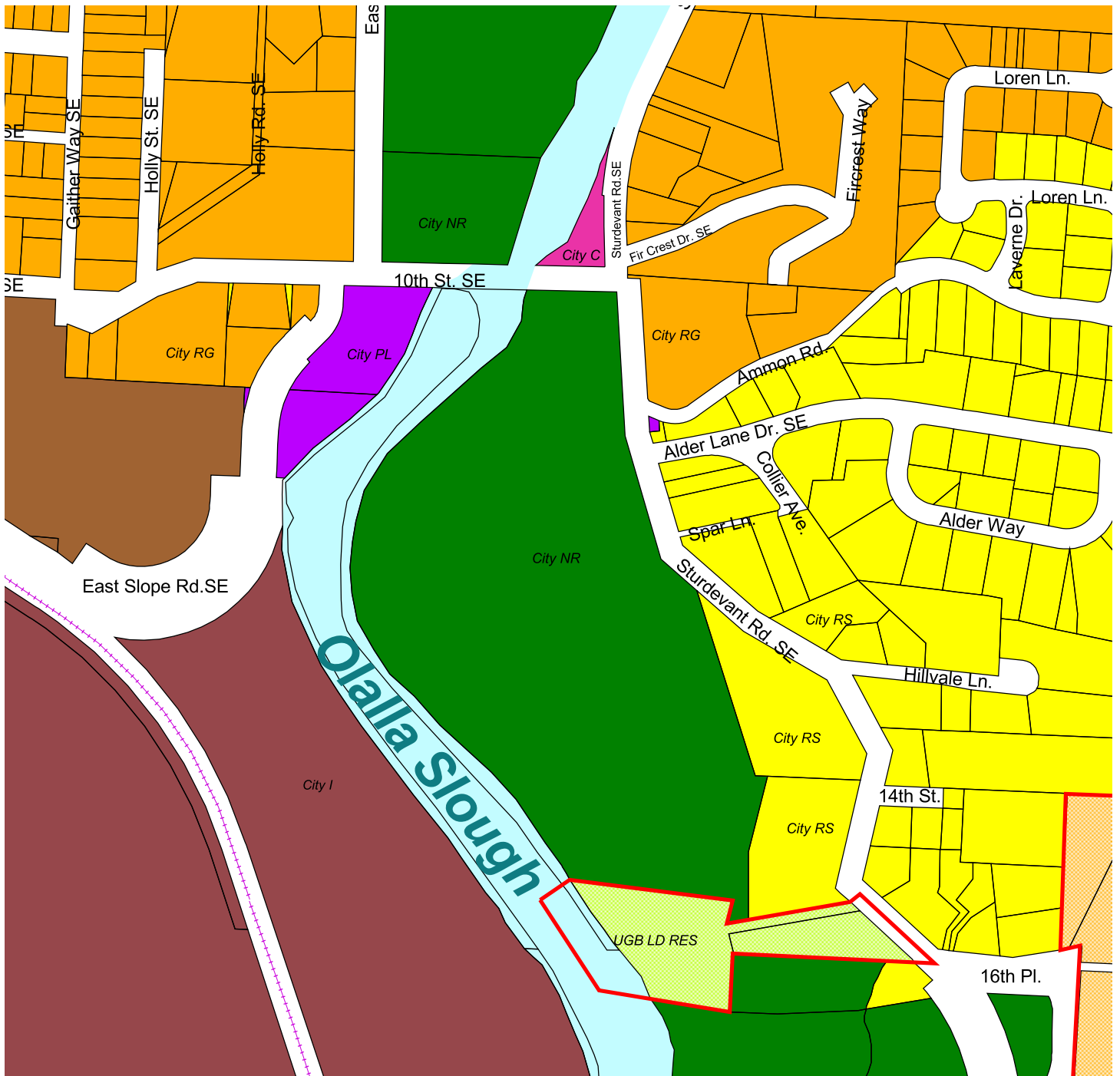


1000 SE Sturdivant

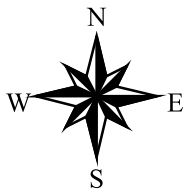
ATTACHMENT B

Zoning Map

(City of Toledo File #CU-1-21)



200 0 200 400 Feet

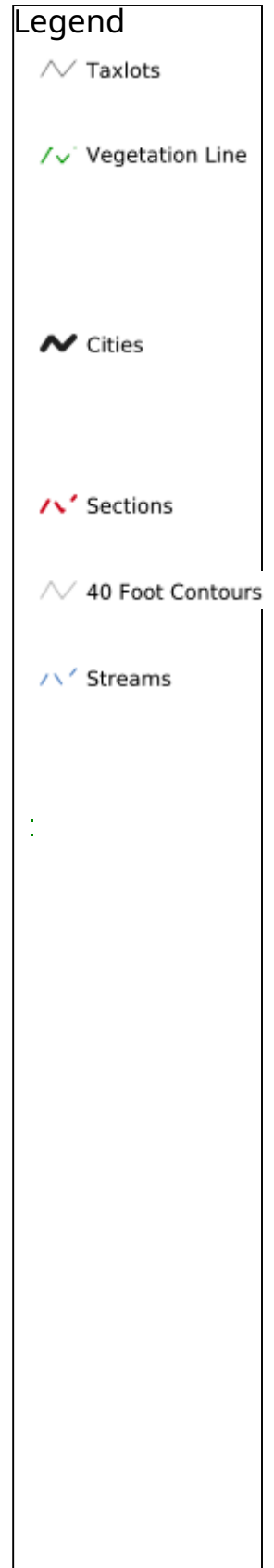
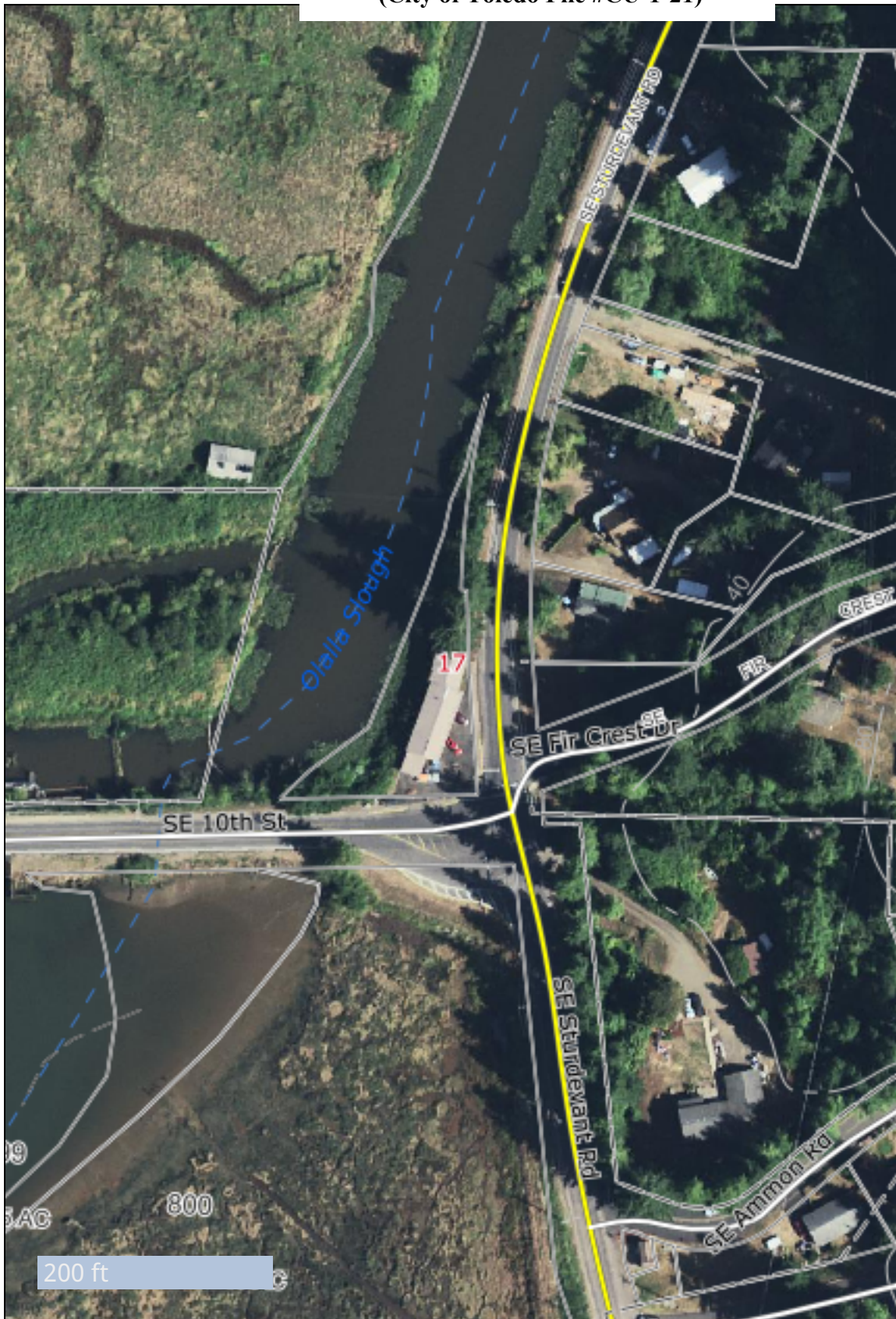


- City Limits
- UGB
- Parcels
- Railroad
- Comprehensive Plan
- Commercial
- Industrial
- Light Industrial
- Natural Resources
- Public Lands
- Residential General
- Residential Single
- Water Dependent
- Outside UGB
- UGB Commercial
- UGB Industrial
- UGB Low Density Residential
- UGB Medium Density Residential
- UGB Natural Resources
- UGB Public Lands
- UGB Water Dependent
- Waterways

ATTACHMENT C

Aerial Map

(City of Toledo File #CU-1-21)



Printed on 4 / 8 / 2021

Lincoln County Government Use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users should review the primary information sources to ascertain their usability.





123°55'45"W 44°37'21"N

ATTACHMENT D
Floodplain Map
(City of Toledo File #CU-1-21)



Legend

SEE THIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS	Without Base Flood Elevation (BFE) Zone A, V, A99 With BFE or Depth Zone AE, AO, AH, VE, AR Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD	0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X Future Conditions 1% Annual Chance Flood Hazard Zone X Area with Reduced Flood Risk due to Levee. See Notes. Zone X Area with Flood Risk due to Levee Zone D

OTHER AREAS	NO SCREEN Area of Minimal Flood Hazard Zone X Area of Undetermined Flood Hazard Zone D
GENERAL STRUCTURES	Channel, Culvert, or Storm Sewer Levee, Dike, or Floodwall

OTHER FEATURES	20.2 17.5 8 Base Flood Elevation Line (BFE) Limit of Study Jurisdiction Boundary Coastal Transect Baseline Profile Baseline Hydrographic Feature

MAP PANELS	Digital Data Available No Digital Data Available Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

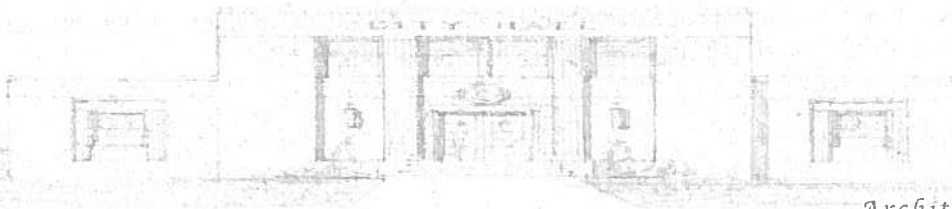
This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 4/8/2021 at 11:03 AM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and undetermined areas cannot be used for regulatory purposes.

Mailed 11/22/20

ATTACHMENT E
Code Enforcement Letters
(City of Toledo File #CU-1-21)



Architect rendering, 1938

July 22, 2020

Andrew A. Lloyd
4039 Hilltop Drive
Lebanon, OR 97355

RE: Lincoln County Assessor's Map 11-10-17 DB Tax Lot 4000
992 & 1000 SE Sturdevant Road, Toledo OR

It has recently come to the City of Toledo's attention possible work occurring at 1000 SE Sturdevant Road may require a permit.

The property is located in the Commercial Zone. While some components of your work may be exempt from a building permit, some projects may need to be reviewed/inspected for building code compliance, especially in the case of commercial structures. Any conversion of the commercial space would require a "Change of Occupancy" review and zoning ordinance compliance. A single-family residential use is not allowed outright in the Commercial Zone. One accessory dwelling unit, in conjunction with a commercial use, is allowed outright for the 992 SE Sturdevant Road apartment. However, without an approved business license assigned to the 1000 SE Sturdevant Road space, it is unclear if there is a commercial use on the property. Creating multi-family residential units would require a Conditional Use Permit from the Toledo Planning Commission which requires an application, application fee, and public hearing.

Of note, the structure is also located in the FEMA floodplain and floodway. Any work should be reviewed against standards established in Toledo Municipal Code 15.16 (Flood Hazard Protection Ordinance). Development in the floodway can be particularly challenging and significant improvements to the structure may require flood protection improvements.

If a building permit is necessary for work already completed, you can still apply for a building permit 'after-the-fact'. This is to ensure that all work has been completed to code. If you hired a general contractor, they can contact me to discuss the project and they can still apply for all necessary permits. Be aware that your contractor(s) must have a City of Toledo business license and be licensed/registered with the Oregon Contractor Construction Board because of the commercial designation of the property.

Please contact me to discuss the scope of your project. City staff can also assist with any questions about obtaining a business license for commercial use of the property, zoning ordinance requirements, or to provide a building permit application. You can also contact Lincoln County Building Official at (541) 265-4192 to discuss the building code requirements and permit fees. Electrical and plumbing questions can be directed to Lincoln County at (541) 265-4195.

At this time, I am working off-site and can be reached at (541) 924-8420 or you can contact City staff at 541-336-2247 extension 2130 or planning@cityoftoledo.org to discuss the project.

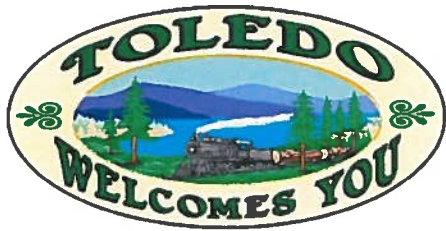
Sincerely,

A handwritten signature in black ink, appearing to read 'Justin Peterson', with a long, sweeping horizontal stroke extending to the right.

Justin Peterson
Contract Planner

enc

cc: Tony Bour, Toledo Code Enforcement Officer



City of Toledo
206 N. Main St.
PO Box 220
Toledo, OR 97391

September 30, 2020

MAILED VIA CERTIFIED MAIL NO.

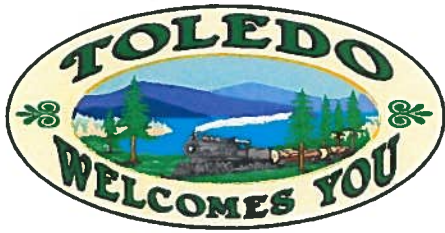
To: Andrew Lloyd 4039 Hilltop Drive, Lebanon, OR 97355

CC: Keystone Pacific Management, Inc. Registered Agent: Cheryl Hartley 1000 SE Sturdevant Rd. Toledo, OR 97391

The real property located at 992/1000 SE Sturdevant Rd. Toledo, OR 97391, has serious and possibly irremediable defects. The owner (Andrew Lloyd) and/or his contractor undertook renovations without obtaining any permits. Based on curbside inspection and evidence collected on site from occupants the following issues need to be addressed:

- (1) There is an apparent change of use in the structure and that change in use is subject to both local and Lincoln County jurisdiction for use and occupancy. It appears that the owner has converted the commercial portion of the structure to a residential use. TMC 17.16.030 et seq. and TMC 17.64 set out the permitting process for a change of use. (see also ORS 455 in general and 455.148, Chapter 3 International Building Code).
- (2) If the structure is an outright permitted use (One accessory dwelling unit in conjunction with a commercial use and that meets applicable code requirements) then the owner/builder should have submitted to development review (17.60) and floodplain review (15.16) Owner/builder did not follow the TMC Ch. 17.60 and obtain a development review permit.
- (3) According to an email from Andrew Lloyd to the City dated July 28, 2020 included the renovation work includes "painting, drywall work, texturing, new light fixtures and new laminate flooring installed...". This work requires permitting. City of Toledo Letter dated July 22, 2020 informed the owner of the following permit requirements: building permits, business license, work done in a floodplain/floodway, use and occupancy, and zoning.
- (4) Business licensing. None of the parties have a business license to engage in business activity in the City of Toledo. The parties that require licensing are as follows: Keystone Pacific Management, the current commercial occupant¹, the owner and/or contractor who completed the renovation work. (TMC 5.04)

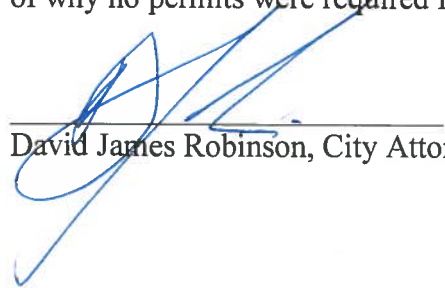
¹ Email received from Keystone Pacific Management dated September 2, 2020 reads as follows: "The commercial area of this unit has been rented out to law-abiding individuals who are using the unit for commercial purposes."



The contractor who performed this work is obligated to obtain permits to comply with the law (ORS 701). **The City requests that before the owner reply to this letter that he take the issue to his contractor.**

The City orders that all construction, all occupancy, and all use at 992 and 1000 SE Sturdevant Rd. cease immediately.

The City requests to meet with the owner/builder within fourteen days (14) of the date of this letter. During this meeting the owner/builder can provide documents, photographs, and evidence of why no permits were required for the renovations that were done at the subject property.

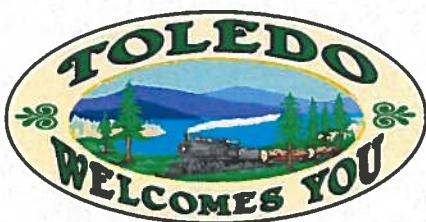


David James Robinson, City Attorney



Justin Peterson, City Planner

CC: Judy Richter, City Manager
Mike Pace, Police Chief
Tony Bour, Code Enforcement Officer
Al Eames, Lincoln County Building Official
Property File #11-10-17 DB TL 4000



City of Toledo
206 N. Main St.
PO Box 220
Toledo, OR 97391

January 28, 2021

MAILED VIA CERTIFIED MAIL NO.

To: Andrew Lloyd 4039 Hilltop Drive, Lebanon, OR 97355

CC: Keystone Pacific Management, Inc. Registered Agent: Cheryl Hartley 1000 SE
Sturdevant Rd. Toledo, OR 97391

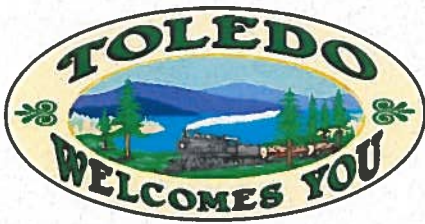
James Shephard, Attorney for Andrew Lloyd, 236 W. Olive St. Newport, OR 97365

Nancy Galbraith, Trustee, 1000 Sturdevant Rd. Toledo, OR 97391

Andrew Lloyd, et al:

The real property located at 992/1000 SE Sturdevant Rd. Toledo, OR 97391, has serious and possibly irremediable defects. The owner (Andrew Lloyd) and/or his contractor undertook renovations without obtaining any permits. Based on the site walkthrough on January 6, 2021 and evidence collected during the City's investigation, the City determines that the former commercial portion of the structure has been converted to a residential use. The completed work goes beyond what was described in the email from Andrew Lloyd to the City dated July 28, 2020 which stated the renovation work included "painting, drywall work, texturing, new light fixtures and new laminate flooring installed...". The following issues need to be addressed:

- (1) The structure is located in the Floodplain and Floodway according to panel number 41041C0531E, dated October 18, 2019. The owner/builder did not submit a development review, as required by Toledo Municipal Code (TMC 17.60) or floodplain review (TMC 15.16). Work including labor within the floodplain or floodway is required to be included in a substantial improvement calculation (TMC 15.16 and Appendix A of the Toledo Floodplain Permit). "Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement" (TMC 15.16). Based on the Lincoln County Assessor's information the improvements on the subject property are valued at \$72,090.
- (2) The structure is located in the Commercial (C) Zone. Multi-family residential requires a conditional use permit approval (TMC 17.16 and 17.64). The Conditional Use approval is required prior to any work being completed.



- (3) The lowest floor elevation of the structure is unknown. The owner/builder shall work with a licensed surveyor to determine the lowest floor elevation and submit an elevation certificate.
- (4) Plumbing and Electrical work is required to be completed by licensed contractors. It is unclear if any work was completed by a CCB licensed contractor or specialty-licensed subcontractors. If the work was not completed by properly licensed plumbers/electricians, then licensed plumbers/electricians must be hired to inspect and permit the work.
- (5) There is an apparent change of use in the structure and that change in use is subject to both local and Lincoln County jurisdiction for use and occupancy. The owner has converted the commercial portion of the structure to a residential use. TMC 17.16.030 et seq. and TMC 17.64 set out the permitting process for a change of use. (see also ORS 455 in general and 455.148, Chapter 3 International Building Code).
- (6) Business licensing. None of the parties have a business license to engage in business activity in the City of Toledo. The parties that require licensing are as follows: Keystone Pacific Management and the contractor(s) who completed the renovation work. (TMC 5.04)

The contractor who performed this work is obligated to obtain permits to comply with the law (ORS 701). **The City requests that before the owner reply to this letter that he take the issue to his contractor.**

The City orders that all construction, all occupancy, and all use at 992 and 1000 SE Sturdevant Rd. cease immediately.

The City requires that the owner/builder demonstrates working towards compliance within 30 days (30) of the date of this letter. The City will work with the owner on a reasonable timeline to bring this development into compliance.

Unless the owner can demonstrate that they are working towards fixing the above-numbered issues, the City will issue citations for violations of the municipal code as numbered herein. These citations will compel the owner to appear in Toledo Municipal Court and may result in fines (TMC 1.20).

David James Robinson
David James Robinson, City Attorney

Justin Peterson
Justin Peterson, City Planner

TOLEDO PLANNING COMMISSION

STAFF REPORT

PROPERTY: Identified on Lincoln County Assessor's Map # 11-10-17 BC as Tax Lot 800

APPLICATION #: MP-2-21

APPLICANT: City of Toledo

APPLICATION DATE: February 26, 2021

HEARING DATE: Planning Commission – April 14, 2021

REQUEST: The request is for a Minor Partition of approximately 21.7 acres to create two parcels. Proposed Parcel 1 would be approximately 1.7 acres and Proposed Parcel 2 would be approximately 20.0 acres. The applicant is requesting a minor partition, as marked on the attached Exhibit A to this staff report.

LOCATION: The property is identified as Lincoln County Assessor's Map #11-10-17 Tax Lot 800 and located southwest of the SE Sturdevant Road and SE 10th Street intersection.

PARCEL SIZE: Tax Lot 800 is approximately 21.7 acres. Proposed Parcel 1 would be approximately 1.7 acres and proposed Parcel 2 would be approximately 20.0 acres.

I. REPORT OF FACTS:

1. Plan Designation: Natural Resource (N-R) and Residential Single (R-S)
2. Zone Designation: Natural Resource (N-R) and Residential Single (R-S)
3. Existing Structures: A vacant barn is located at the south east corner of the subject property, running along the southern border of the parcel.
4. Topography: Proposed Parcel 2 largely consists of a saltwater wetland area that has been dedicated as a wetland mitigation area. Proposed Parcel 1 consists of an elevated upland area to the east of the parcel adjacent to a lowland areas on the west side of the property.
5. Development Constraints: Proposed Parcel 2 is limited by a conservation easement. Proposed Parcel 2 would be almost entirely within in the floodplain.

A small portion of the western edge of Proposed Parcel 1

would be in the floodplain. The parcel is further constrained by a raw water line on the west side of the property requiring a 30 foot easement, 15 feet from centerline; and a sewer line maintained by the City of Toledo, running from the southwest to northeast across the property requiring a 30 foot easement, 15 feet from the centerline; and overhead power lines, owned and maintained by Consumers Power, requiring a 100 foot easement, 50 feet from centerline, running from the northwest to the southeast across the property.

6. City water: City water is available.
7. City sewer: City sewer is available.
8. Notice of Public Hearing: Notices mailed to 51 property owners and 19 public/service agencies on March 25, 2021.
9. Notice Published: March 31, 2021 and April 7, 2021
10. Comments Received: Public Works Director, Fire Chief, and Police Chief all reviewed the application. Staff comments are included in the Application form (Exhibit B).
11. Attachments to Staff Report:
 - A. Exhibit A - Map showing Parcels after partition
 - B. Application with supporting information
 - C. Zoning Map
 - D. Aerial Map
 - E. Floodplain Map

II. APPLICABLE CRITERIA FOR EVALUATING THE MINOR PARTITION

REQUEST AND STAFF ANALYSIS: The following comprehensive plan and ordinance standards apply to this request. The standards are listed below in regular type. Staff analysis including facts and findings are highlighted below each comprehensive plan and ordinance standard in an italicized font.

1. 2000 Toledo Comprehensive Land Use Plan – Article 2, Objective 2(A) – Comprehensive Plan Map Designations:

Comprehensive Plan Map designations are intended to guide development by designating appropriate areas for each particular type of development use. Additional uses within each designation may be allowed as either uses permitted outright or as conditional uses when the city determines that such uses are either consistent with the general use or can be reviewed for compatibility through the conditional use process. The map designations and the uses allowed in the designations should reflect the applicable goals and objectives of the Toledo Comprehensive Land Use Plan.

Low-Density Residential -This designation provides for lower density housing with a focus on single-family housing. This designation shall be implemented through the zoning map's Single-Family Residential (R-S) zone designation.

Natural Resource – This designation is intended to protect land and water important as habitat for plant, animal or marine life for future generations, to ensure open spaces, to promote a healthy and visually attractive environment, and to provide for human

development and enrichment by providing recreational areas, facilities and opportunities. This designation shall be implemented through the zoning map's Natural Resource zone designation.

2. **2000 Toledo Comprehensive Land Use Plan – Article 2, Objective 2(B) – Zoning Map Designations:**

Single-family Residential (R-S) -The purpose of the R-S zone is to preserve areas within the city for single-family residences and the facilities and services which go along with those residences. The facilities and services and other conditional uses should be compatible with low-density residential living and should not result in heavy traffic, loud noise, or any other disturbing activity.

The purpose of the N-R zone is to protect land and water important as habitat for plant, animal, or marine life for future generations, to ensure open spaces, to promote a healthy and visually attractive environment, and to provide for human development and enrichment by providing recreational areas, facilities, and opportunities.

3. **TMC Sections 17.08.20 – 17.08.050 – R-S Zone.**

TMC Section 17.08.020 – R-S Zone – Uses permitted outright.

In the R-S Zone, the following uses and their accessory uses are permitted outright. Special standards for certain uses, marked with an asterisk (*), are found in Section 17.08.090.

- A. Single-family dwellings* and their accessory uses.
- B. Home occupations which comply with Chapter 17.46
- C. Manufactured dwellings.*
- D. Accessory use structures.*
- E. Accessory dwelling units.*
- F. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the Toledo Transportation System Plan).

TMC Section 17.08.030 – R-S Zone – Conditional uses permitted.

- A. Religious use.
- B. Governmental structure or land use including but not limited to a public park, playground, fire station, library, or museum.
- C. Hospital, sanitarium, rest home, home for the aged, nursing home, convalescent home, group care center, residential care facility, residential care home, or medical clinic.
- D. School: nursery, primary, elementary, junior high, or senior high.
- E. Pumping station and utility substation.
- F. Manufactured dwellings that do not meet the minimum standards set in Sections 17.08.090(A)—(B).
- G. Boarding house, bed and breakfast facility, hostel, or residency hotel.
- H. Multifamily dwelling units.
- I. Commercial use in conjunction with a planned development under the Toledo Land Division Ordinance.
- J. Child day care center.*

TMC Section 17.08.050 – R-S Zone – Lot size.

The minimum lot area shall be seven thousand (7,000) square feet for an interior lot and seven thousand five hundred (7,500) square feet for a corner lot.

4. **TMC Sections 17.28.010-0.30 Natural Resource Zone (N-R)**

TMC Section 17.28.020 - Uses Permit Outright.

In an N-R zone, the following uses and their accessory uses are permitted outright:

- A. Planting, cultivation and harvesting of timber or agricultural crops.
- B. Pasture.
- C. One residence per tax lot existing on the effective date of the ordinance from which this chapter is derived, provided the residence is occupied in conjunction with an agricultural use.
- D. Accessory out-buildings.
- E. Yaquina Estuary Management Unit #33 shall be governed by the permitted uses established through the Yaquina Bay Task Force.
- F. Public park facilities.
- G. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).

TMC Section 17.28.030 – Conditional Uses Permitted

- A. Pumping station and utility substation
- B. Structural shoreline stabilization

Staff Analysis: The subject property is approximately 21.7 acres. The applicant is requesting to divide the property into two parcels, resulting in proposed Parcel 1 being approximately 1.7 acres and proposed Parcel 2 being approximately 20.0 acres. Proposed Parcel 1 will be zoned R-S and meets the minimum lot size standard for the R-S Zone as it is over 7,000 square feet. Proposed Parcel 2 will be zoned Natural Resources and this zone does not have a minimum lot size.

5. **2000 Toledo Comprehensive Land Use Plan – Article 10, Goal 1 – Housing:**

1. Encourage development of a mixture of housing stock in terms of design, type, cost, and location that meets the housing needs of all Toledo citizens.

...

10. Encourage residential development on vacant or re-developable lots in areas already serviced or where services can be economically provided.

Staff Analysis: The existing structure on the subject property is a vacant barn. Future development of proposed Parcel 1 must comply with TMC 17.08 (Single-Family Residential Zone) standards. The R-S Zone allows various residential uses, specifically, single-family homes (both site built and manufactured) and accessory dwelling units are allowed outright. Multifamily dwellings units are permitted through a conditional use process. This request meets additional housing needs for Toledo residents in terms of type, creating an additional location for housing, and developing in an area where public service already exists.

6. **2000 Toledo Comprehensive Land Use Plan – Article 14, Goal 1 and 3 – Urbanization and Livability:**

1. Build Toledo as a small, cost-effective, attractive, livable, and sustainable city by encouraging efficient land use patterns.
...
3. Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with the comprehensive Plan goals and policies and Toledo's Municipal Code and standards.

Objective:

1. Encourage urban level development which is properly serviced with public facilities to locate within the city limits.
5. Encourage compact development and the use of already serviced vacant and underdeveloped land through effective zoning, land division, and development standards and through the prioritization of public expenditures for municipal services.
6. Encourage land use patterns and development plans that take advantage of density and location to reduce the need for travel and the extension of public services but are also designed around the natural features and constraints of Toledo's topography and environmentally sensitive areas.

Staff Analysis: Approval of this application encourages an attractive, livable, and sustainable city by encouraging efficient land use patterns. The proposed partition is adjacent to an existing county street (SE Sturdevant Road) and city street (SE 10th Street) minimizing the need for additional infrastructure. This application has been reviewed in compliance with and processed consistent with Toledo's Comprehensive Plan goals and policies and Municipal Code and standards.

7. **2000 Toledo Comprehensive Land Use Plan – Article 5, Goals 1 and 3 – Open Spaces, Scenic and Historical Areas, and Natural Resources:**

1. Ensure the provision of open space and the protection of scenic and natural resources as required by state and federal law.
2. Protect natural resources such as wetlands and riparian habitat areas as required by state and federal law to ensure their continued contributions as natural areas, open space, wildlife and vegetative habitat, flood protection, and storm water retention and conveyance areas.

Staff Analysis: Approval of this application ensures the provision of open space and the protection of scenic and natural resources as required by state and federal law. The proposed partition creates two parcels. Proposed Parcel 1 will be entirely zoned R-S after the partition and is an upland area. Proposed Parcel 2 will be entirely zoned Natural Resources after the partition. Proposed Parcel 2 is proposed to remain as a natural area

and no development is anticipated. Furthermore, proposed Parcel 2 will have a conservation easement. The conservation easement is described in Lincoln County Document 2010-01975. In review of the conservation easement and previous records the R-S lot (proposed Parcel 1) would be outside the conservation easement area with the exception of the western edge of proposed Parcel 1 which may be within the conservation easement area. Staff recommends a condition of approval that the conservation easement line shall be defined on the recorded partition plat.

8. **2000 Toledo Comprehensive Land Use Plan – Article 16, Goals 1 and 2 – Estuarine Resources:**

1. Recognize and protect the unique environmental, economic and social values of the Yaquina River Estuary and the associated wetlands.
2. Protect, maintain, appropriately develop, and appropriately restore the long-term environmental, economic and social values, diversity, and benefits of the estuary.

Staff Analysis: Based on the Lincoln County Estuary Management Plan and the Oregon Coastal Atlas Estuary Map the Lincoln County Management Unit 31 is located on proposed Parcel 2. In addition, staff reviewed the Coastal and Marine Ecological Classification Standard (CMECS) and the Yaquina Estuary Conservation Plan. Proposed Parcel 2 is shown as an estuary. No development is proposed on proposed Parcel 2. Proposed Parcel 1 is located outside the estuary classification.

Based on the Statewide Wetlands Inventory (SWI) proposed Parcel 2 is a wetland and proposed Parcel 1 is adjacent to the wetlands area. The City of Toledo submitted a Wetland Land Use Notification (WLUN) to the Department of Statelands (DSL) on March 23, 2021. DSL has not responded to the notice yet and has 30 days to respond. As discussed above no development is proposed on Proposed Parcel 2. Proposed Parcel 1 will be zoned residential and may be developed in the future. The applicant shall be responsible for obtaining any applicable DSL permits.

GENERAL REQUIREMENTS AND MINIMUM DESIGN STANDARDS

9. TMC Sections 16.04.20 – 16.04.050 – General Provisions.

TMC 16.04.020 - Purpose.

The purpose of this title is to prescribe standards and procedures for minor and major partitions and subdivisions of land and planned development within the city of Toledo and to aid in the implementation of the Toledo Comprehensive Land Use Plan.

TMC 16.04.050 (A) Conformity to the Comprehensive Plan.

Conformity to the Comprehensive Plan. All partitions and subdivisions shall conform with all adopted portions of the comprehensive plan, transportation system plan, and all applicable ordinances and design standards of the city. Traffic facilities (including streets, pedestrian paths and bicycle paths), community and neighborhood facilities and recreational areas should be placed in

approximately the same locations designated by the comprehensive plan and transportation system plan.

Staff Analysis: Based upon the information received by City staff through April 7, 2021, the minor partition appears to conform to relevant provisions of the City's plans and ordinances as described herein.

TMC 16.04.050 (B) Access.

The partitioning and subdividing of land shall provide each lot or parcel, by means of a fully developed city street, satisfactory vehicular access to an existing street pursuant to Chapter 16.06 of this Code. The city street for the entire length which is adjacent to the parcel or lot which is being partitioned or subdivided must be a fully developed city street unless an exception is granted as per the following standards and procedures:

1. Partitions and subdivision of land that require the creation of a public street to serve the proposed lots shall comply with the requirements of the adopted street standards and shall include the public dedication of the required right-of-way in the adopted street standards, except as varied under Section 16.30;
2. Partitions and subdivision of land with frontage along an existing city, county, or state street or that are accessed via an existing city, county, or state street shall be required to make such improvements as necessary to address the impacts of the proposed development on those streets provided the required improvements are roughly proportional to the impacts created by the proposed development. If the required improvements are roughly proportional to the impacts created by the proposed development, but the planning commission determines that because of the existing street conditions, topography, or other similar factor that requiring the improvements to be completed prior to platting the property is an inefficient method of obtaining the improvements, the planning commission can allow the applicant to provide a deferred improvement agreement, bond, irrevocable petition for public improvements, or similar mechanism for obtaining the completion of the required improvements at a later date.

Staff Analysis: Proposed Parcel 1 would have adequate frontage along SE Sturdevant Road, a County Street. Proposed Parcel 2 would have adequate frontage along SE 10th Street and SE Sturdevant Road, City Street and County Street respectively.

Any driveway modifications adjacent to SE Sturdevant Road shall be reviewed and approved by the Lincoln County Public Works Department. Staff recommends that this is listed as a condition of approval.

Proposed Parcel 2 is adjacent to SE 10th Street a city street. The parcel does not currently have driveway access to SE 10th Street. Any driveway modification to SE 10th Street, in accordance with the standards specified in the Public Infrastructure Design Standards Manual, may be required as determined by the Public Works Director. If required, it shall be completed within one year of approval of this application, or a deferred development agreement entered into, to address this requirement. Determination will be made when a construction permit has been submitted that identifies the location of proposed construction and length of its driveway, to ensure that the development of Parcel 2 will comply with Public Infrastructure Design Standards and Fire, Life, Safety standards. However, development on Proposed Parcel 2 is not anticipated to occur and the parcel will be kept as a natural resource parcel. The recorded conservation easement is located on

Proposed Parcel 2 and prohibits building structures, roads, and limits vehicle use in the protected area. An easement across proposed Parcel 1 to access Proposed Parcel 2 will be listed as a condition of approval.

The applicable development standards for the driveways and sidewalks are found in City of Toledo's approved Public Infrastructure Design Standards Manual. Other standards apply, but some are included below.

Paragraph 3.9 provides development standards as to driveways:

- (1) Driveways shall conform to standard details (3.9.1);
- (2) Driveways may be deferred until lots are built upon, if approved by the City Planning Commission or City Council (3.9.2);
- (3) If the developer chooses to delay the installation of a driveway approach, additional repair of curb and gutter, sidewalk, and other facilities may be required when the driveway is installed (3.9.2.(A));
- (4) The costs of installing a driveway approach and associated repairs to curb and gutter, sidewalk and other facilities will be borne, solely, by the developer.

Paragraph 3.9.5 provides residential driveway approach standards as follows:

- (1) A residential driveway approach shall be constructed of Portland cement concrete, minimum of 6-inches in thickness, 3,000 psi filed strength, with 2-inches (minimum) compacted $\frac{3}{4}$ "-0" crushed rock base. No rebar or wire mesh is required for residential approaches (3.9.5(A)); and
- (2) Transition flares shall be constructed to the same standards for residential driveway approaches (3.9.5(B)).

Paragraph 3.11 provides development standards for sidewalks as follows:

- (1) All development for which land use applications are required must include sidewalks adjacent to public streets. This requirement also applies to new single-family houses and duplexes if they are located on arterial or collector streets or on curbed local streets if there is an existing sidewalk within 500 feet on the same side of the street (3.11.1);
- (2) The provision of sidewalks may be waived where the street serves a use or combination of uses which generate fewer than fifty trips a days (based on ITE standards) and cannot be continued or extended to other properties. A waiver shall only be granted upon review of the Public Works Director or designee (3.11.3);
- (3) Sidewalks along residential and other local streets must be a minimum of five (5) feet in width. Sidewalk design may be a setback or integral as determined by the developer, Public Works Director, or funding agency (3.11.4(C)).

Staff analysis: Proposed Parcel 1 is adjacent to SE Sturdevant Road a county road. Road improvements may be required by the Lincoln County Public Works Department when the parcel is developed. Staff recommends that this is listed as a condition of approval.

Unless waived by the Public Works Director, or designee, all land use applications are required to include curb and gutter and sidewalks adjacent to public streets. As sidewalks have been waived, the installation of 5 foot wide sidewalks along SE 10th Street are not required, nor is a deferred development agreement required, because no development on Parcel 2 is anticipated.

TMC 16.04.050 (C) Relation to the Adjoining Street System.

Major partitions and subdivisions shall provide for the continuation of the city streets existing in the adjoining neighborhood and for the proper street extensions when the adjoining properties are divided or developed. If the city adopts a plan for the neighborhood or area of which the partition or subdivision is a part, the partition or subdivision shall conform to such neighborhood or area plan. If the topographical conditions make such continuation or conformity impractical, adjustments or variances may be approved under Section 16.30.

Staff Analysis: The application is for a minor partition and not a major partition or subdivision. No new streets are required or proposed by the proposed partition.

TMC 16.04.050 (D) Density.

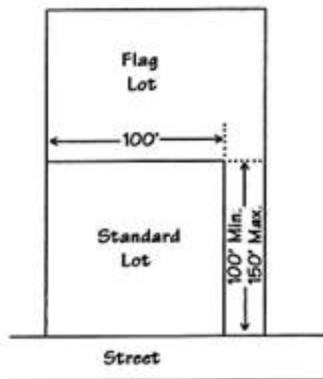
...

4. All partitions within residential zones where the subject parcel can be further partitioned, shall be partitioned in a manner that does not preclude the efficient division of land in the future.

Staff Analysis: The proposed partition is along the existing zone boundary line. The proposed partition does not preclude the efficient division of land in the future. Proposed Parcel 1 is large enough to be partitioned again based on the minimum lot size requirements, however the proposed Parcel 1 is unlikely to be partitioned again due to the development constraints including easements. Proposed Parcel 2 is unlikely to be partitioned again and is anticipated to be kept as a Natural Resource Parcel. The current request does not preclude the efficient division of land in the future.

TMC 16.04.050 (E). Lots, Parcels, Topography, or Past Development Patterns.

1. Every lot and parcel shall abut and take primary ingress and egress from a city street, county road, or state highway and the frontage of each shall not be less than twenty-five (25) in nonresidential zones, twenty (20) feet in the R-G zone and R-S zone;
2. Lots and parcels with double frontage shall not be permitted unless, in the opinion of the planning commission, an odd-shaped tract, existing street layout, or existing topography makes such a lot or parcel unavoidable;
3. Each side line shall be as close to perpendicular to the adjacent street line or radial to a curved street line as possible;
4. Flag lots shall not have an interior flag portion measurement of more than one hundred (100) feet in length or a "pole" less than twenty (20) feet wide for residential and twenty-five (25) feet for non-residential. See illustration.



5. The pole portion of a flag lot shall be a minimum of one hundred (100) feet long and a maximum of one hundred fifty (150) feet long. Existing circumstances that make this minimum and maximum impossible can be considered as a variance by the planning commission as set forth in the zoning ordinance;
6. Lots and parcels under twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of two and one-half to one. Lots and parcels over twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of three and one-half to one;
7. Flag lots may not be created such that more than two driveways for individual lots are in less than seventy-five (75) foot of street frontage;
8. Existing natural and piped drainages must be preserved or replaced on the site and easements must be granted for drainage as long as the easements required are roughly proportional to the impact of the proposed development.

Staff Analysis: TMC 16.04.050 (E)(1) provides that each of the two parcels shall abut and take primary ingress and egress from a city street and the frontage of each shall not be less than twenty (20) feet in the R-S zone and twenty-five (25) feet in the N-R zone. Proposed Parcel 1 will have over 20 feet of frontage onto SE Sturdevant Road (County Road). Proposed Parcel 2 will have over 25 feet of frontage onto SE 10th Street (City Street) and SE Sturdevant Road (County Road).

Staff Analysis: TMC 16.04.050 (E)(2) provides that parcels with double frontage shall not be permitted unless an odd-shaped tract, existing street layout, or existing topography makes such a parcel unavoidable. The existing Parcel (Tax Lot 800) is a double frontage lot, is an odd-shaped tract, and on an existing street layout (corner of an intersection). The result of the partition will be one parcel with frontage on SE Sturdevant and one corner lot with frontage on SE Sturdevant and SE 10th Street.

Staff Analysis: TMC 16.04.050 (E)(3) provides that each side line be as close to perpendicular to the adjacent street line as possible. The proposed property line configuration for Parcels 1 and 2 will be close to perpendicular to SE Sturdevant Road.

Staff Analysis: TMC 16.04.050 (E)(4) provides that flag lots shall not have an interior flag portion measurement of more than one hundred (100) feet in length, or a "pole" less than twenty (20) feet wide for residential. The proposed parcels are not flag lots.

Staff Analysis: TMC 16.04.050 (E)(5) provides that the pole portion of a flag lot shall be a minimum of one hundred (100) feet long and a maximum of one hundred fifty (150) feet long. The proposed parcels are not flag lots.

Staff Analysis: TMC 16.04.050 (E)(6) provides that lots and parcels under twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of two and one-half to one. Further, that lots and parcels over twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of three and one-half to one. Proposed Parcel 1 would be approximately 1.7 acres and proposed Parcel 2 would be approximately 20.0 acres. Both proposed parcels are over twenty-five thousand (25,000) square feet, and must not exceed a depth to width ratio of three and one-half to one. As to Parcel 1, the depth of the parcel is approximately 250 feet and width is approximately 350 feet, so it does not exceed a depth to width ratio of three and one-half to one. As to Parcel 2, the depth of the parcel is approximately 1450 feet and width is

approximately 780 feet, so it does not exceed a depth to width ratio of three and one-half to one. Therefore, as drawn on the proposed map, both parcels will not exceed a depth to width ratio of three and one-half to one.

Staff Analysis: TMC 16.04.050 (E)(7) provides that flag lots may not be created such that more than two driveways for individual lots are in less than seventy-five (75) foot of street frontage. The proposed parcels are not flag lots.

Staff Analysis: TMC 16.04.050 (E)(8) provides that existing natural and piped drainages must be preserved or replaced on the site and easements must be granted for drainage as long as the easements required are roughly proportional to the impact of the proposed development. No existing drainage easements were identified on the parcel.

TMC 16.04.050 (F) All parcels and lots in partitions and subdivisions shall be served by a public water system. No plat of a partition or subdivision shall be approved unless the city has received and accepted:

1. A certification by the public works director that water will be available from the nearest point of supply; and
2. A performance agreement, bond, contract or other assurance that a water supply system will be installed by or on behalf of the partitioner to the boundary line of each and every lot or parcel depicted on the proposed partition or subdivision.

TMC 16.04.050 (G) All parcels and lots in partitions and subdivisions shall be served by a public sewer system unless in possession of a sewer exception stipulated in writing by the public works director and city council (Public Improvement Requirements and Design Standards). No plat of a partition or subdivision shall be approved unless the city has received and accepted:

1. A certification by the director of public works that sewage service will be available at the nearest point of collection;
2. A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the partitioner to the boundary line of each and every lot or parcel depicted in the proposed partition.

Staff Analysis: The Public Works Director reviewed the proposed partition and indicated that water and sewer are currently available to both parcels. The public water line is located in the SE Sturdevant Road and SE 10th Street right-of-way and the public sewer line is located in the SE Sturdevant Road, SE 10th Street right-of-way, and crosses Proposed Parcel 1. When Parcel 1 is developed, utility connections to water and sewer will be required.

The applicant should agree that the final plat will include water, sewer, and/or other utility easements, as appropriate, for any service lines to Parcel 2 that may cross proposed Parcel 1.

IMPROVEMENTS

10. TMC Sections 16.08.040 Improvements.

A. The applicant shall improve or agree to improve lands dedicated for roads, alleys, pedestrian or bicycle ways, drainage channels, private easements for access, and other rights-of-way or public

open space as condition preceding the acceptance and approval of the partition.

B. Prior to final approval of the partition, the applicant shall either install all required improvements to city standards and repair existing roads and other public facilities damaged in the development of the partition or shall execute and file with the city manager an agreement between the applicant and the city specifying the period within which all the required improvements and repairs shall be completed. The agreement shall provide that if all of the required work is not completed within the time specified, the city may complete the work and recover the full cost and expense from the applicant. If the applicant so requests, the planning commission may grant not more than one extension of time for a period not to exceed one year to complete the required improvements.

Staff Analysis: Driveway, utility and street development specifications are currently contained in the Public Works Infrastructure Design and Standards Manual and are not part of TMC Title 16 or 17 at this time. Prior to final approval of the partition, the applicant shall either install all required improvements to City standards and repair existing roads and other public facilities damaged in the development of the partition or shall execute and file with the City Manager an agreement between the applicant and the City specifying the period within which all the required improvements and repairs shall be completed.

EVALUATION CRITERIA

11. TMC 16.08.070 Criteria for evaluation.

In reviewing applications for minor and major partitions, all of the following criteria shall be met before the planning commission may approve the proposed partition:

- A. The division of land complies with applicable ordinances and public improvement design standards adopted by the city;
- B. The applicant has filed all the necessary information required by the land division Title 16;
- C. If the application is for a minor partition, the division of land will not constitute a major partition or a subdivision pursuant to the definitions in this title;
- D. If the application is for a major partition, the division of land will not constitute a subdivision and the street design has received approval from the director of public works;
- E. The applicant has demonstrated that each lot will be served with city sewer and water and that the city has the capacity to provide those services;
- F. The infrastructure designs have received approval from the public works department and if a bond is required to be posted for any infrastructure improvements, the applicant has agreed in writing to do so;
- G. The applicant has demonstrated that adequate precautions have been taken to prevent damage or injury resulting from natural hazards;
- H. The division of land will not affect a designated dredged material disposal site or mitigation site as designated in the Lincoln County estuary management plan.
- I. The division of land will not result in any newly created parcels or lots which are entirely zoned for natural resources or which become one hundred (100) percent un-developable due to splitting off the buildable land unless owned, created, or proposed to be used by a public utility.

Staff Analysis: The proposed minor partition does not involve the development or extension of any streets and will create parcels that are served by City water and sewer service. Easements are needed based on standards in the Public Infrastructure Design Standards Manual. The division of land complies with applicable ordinances and public improvement design standards adopted by the

City. The division of land will not constitute a major partition or a subdivision pursuant to the definitions in Title 16. The division of land will not constitute a subdivision and the street design has received approval from the Director of Public Works. The division of land has received approval from the Public Works Director. Each lot will be served with City sewer and water and the City has the capacity to provide those services. If a bond is required to be posted for any infrastructure improvements, the applicant should agree in writing to do so. The applicant has demonstrated that adequate precautions have been taken to prevent damage or injury resulting from natural hazards. The division of land will not affect a designated dredged material disposal site or mitigation site as designated in the Lincoln County Estuary Management Plan. A portion of proposed Parcel 2 is dedicated as salt water wetland mitigation area. No future development is anticipated on proposed Parcel 2. The division of land will result in a newly created lot (Proposed Parcel 2) that is zoned entirely for Natural Resources and the site is unlikely to be developed in the future. Proposed Parcel 2 is owned by the City and the City maintains the water and sewer system in the City (a public utility service).

Staff Analysis: The City Public Works Director, Police and Fire Chief have all reviewed the application and have indicated their approval in relation to their respective departments. Their approvals coincide with the applicant's assertion that the requested partition will not cause a significant adverse impact on the livability, value or appropriate development of the surrounding neighborhood.

III. FURTHER STAFF ANALYSIS:

The current owner, City of Toledo, has correctly indicated that the minor partition would create two lots. The applicant's request would be compatible with surrounding land uses. Single-family Residential zoning is located to the east. The property to the south is outside of the City limits, but designated Low-Density Residential, which is compatible with the Single-Family Residential Zone. The Commercial Zone is located to the north. See Zoning Map attachment C.

The City Public Works Department has been advised of the proposal and has indicated that both water and sewer services would be available to both Parcels 1 and 2.

The objective of the Low-Density Residential designation as contained in the Comprehensive Plan is to provide for lower density housing with a focus on single-family housing. This designation shall be implemented through the zoning map's Single-family Residential (R-S) zone designation, which the current maps indicate.

The objective of the Natural Resource designation is to protect land and water important as habitat for plant, animal or marine life for future generations, to ensure open spaces, to promote a healthy and visually attractive environment, and to provide for human development and enrichment by providing recreational areas, facilities and opportunities. This designation shall be implemented through the zoning map's Natural Resource zone designation, which the current maps indicate.

The City acquired Map 11-10-17 Tax Lot 800 in 1999. The entire property was annexed into the City limits and rezoned Natural-Resource in 2000. Several properties within the City were reviewed for zoning map amendments during the Periodic Review process in 2001. The City

proposed this property to be split zoned (Natural Resource and Single-Family Residential) and was reviewed and approved during the Comprehensive Plan Map/Zoning Map adoption in 2001. In 2012, the area in the Natural Resource Zone was the site of the City's wetland mitigation project, associated with the construction of the Toledo Industrial Park (TIP). A conservation easement was recorded on the wetland areas, limiting development, but the easement did not include the upland area which is outside of the mitigation project site.

FINDINGS:

The applicant is requesting approval of a minor partition to divide a parcel of land that is approximately 21.7 acres in size into two parcels. Based upon the information received by city staff through April 7, 2021, the minor partition appears to conform with relevant provisions of the City's plans and ordinances as described below. The following findings support approval of the requested partition:

1. Tax Lot 800 appears to be a lawfully created unit of land and, according to the Lincoln County Assessor's records and aerial photographs, the site has a vacant barn.
2. The subject property is approximately 21.7 acres. The applicant is requesting to divide the property into two parcels, resulting in Proposed Parcel 1 being approximately 1.7 acres and proposed Parcel 2 being approximately 20.0 acres. The partition will create two parcels identified on Exhibit A. The boundaries of proposed Parcels 1 and 2, to be established by a surveyor, are shown on applicant's map submitted and marked as Exhibit B. The proposal meets the minimum lot size standard for the R-S Zone as it is over 7,000 square feet and not a corner lot.
3. The existing structure on the site is a vacant barn. Future development of Proposed Parcel 1 must comply with TMC 17.08 (Single-Family Residential Zone) standards. The R-S Zone allows various residential uses, specifically, single-family homes (both site built and manufactured) and accessory dwelling units are allowed outright. Multifamily dwellings units are permitted through a conditional use process. This request meets additional housing needs for Toledo residents in terms of type, creating an additional location for housing, and developing in an area where public service already exists.
4. Approval of this application encourages an attractive, livable, and sustainable city by encouraging efficient land use patterns. This application has been reviewed in compliance with and processed consistent with Toledo's Comprehensive Plan goals and policies and Municipal Code and standards.
5. Based upon the information received by City staff through April 7, 2021, the minor partition appears to conform to relevant provisions of the City's plans and ordinances as described herein.
6. Proposed Parcel 1 has street frontage and driveway access onto SE Sturdevant Road. Proposed Parcel 2 has street frontage and access onto SE Sturdevant Road and SE 10th Street. SE 10th Street is a paved street with curbs and sidewalk along the north side of the street. SE Sturdevant Road is a paved street with no curbs and no sidewalks. The installation of 5 foot sidewalks along SE 10th Street is not required at this time, because, no development is anticipated on Proposed Parcel 2.
7. Proposed Parcel 1 is adjacent to SE Sturdevant Road a county road. Road

improvements may be required by the Lincoln County Public Works Department when the parcel is developed.

8. The minor partition criteria for evaluation in TMC 16.08.070 has been met.
9. The proposed partition is along the existing zone boundary line. The proposed partition does not preclude the efficient division of land in the future. Proposed Parcel 1 is large enough to be partitioned again based on the minimum lot size requirements, however, Proposed Parcel 1 is unlikely to be partitioned again due to the development constraints including easements. Proposed Parcel 2 is unlikely to be partitioned again and is anticipated to be kept as a Natural Resource Parcel. The current request does not preclude the efficient division of land in the future.
10. The request meets TMC 16.04.050(E)(1-8), as provided below:
 - a. TMC 16.04.050 (E)(1) provides that each of the two parcels shall abut and take primary ingress and egress from a city street and the frontage of each shall not be less than twenty (20) feet in the R-S zone and twenty-five (25) feet in the N-R zone. Proposed Parcel 1 will have over 20 feet of frontage onto SE Sturdevant Road (County Road). Proposed Parcel 2 will have over 25 feet of frontage onto SE 10th Street (City Street) and SE Sturdevant Road (County Road).
 - b. TMC 16.04.050 (E)(2) provides that parcels with double frontage shall not be permitted unless an odd-shaped tract, existing street layout, or existing topography makes such a parcel unavoidable. The existing Parcel (Tax Lot 800) is a double frontage lot, is an odd-shaped tract, and exists on an existing street layout (corner of an intersection). The result of the partition will be one parcel that does not have double frontage.
 - c. TMC 16.04.050 (E)(3) provides that each side line be as close to perpendicular to the adjacent street line as possible. The proposed property line configuration for Parcels 1 and 2 will be close to perpendicular to SE Sturdevant Road.
 - d. TMC 16.04.050 (E)(4) provides that flag lots shall not have an interior flag portion measurement of more than one hundred (100) feet in length, or a "pole" less than twenty (20) feet wide for residential. The proposed parcels are not flag lots.
 - e. TMC 16.04.050 (E)(5) provides that the pole portion of a flag lot shall be a minimum of one hundred (100) feet long and a maximum of one hundred fifty (150) feet long. The proposed parcels are not flag lots.
 - f. TMC 16.04.050 (E)(6) provides that lots and parcels under twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of two and one-half to one. Further, that lots and parcels over twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of three and one-half to one. Proposed Parcel 1 would be approximately 1.7 acres and proposed Parcel 2 would be approximately 20.0 acres. Both proposed parcels are over twenty-five thousand (25,000) square feet, and must not exceed a depth to width ratio of three and one-half to one. As to Parcel 1, the depth of the parcel is approximately 250 feet and width is approximately 350 feet, so it does not exceed a depth to width ratio of three and one-half to one. As to Parcel 2, the depth of the parcel is approximately 1450 feet and width is

- approximately 780 feet, so it does not exceed a depth to width ratio of three and one-half to one. Therefore, as drawn on the proposed map, both parcels will not exceed a depth to width ratio of three and one-half to one.
- g. TMC 16.04.050 (E)(7) provides that flag lots may not be created such that more than two driveways for individual lots are in less than seventy-five (75) foot of street frontage. The proposed parcels are not flag lots.
 - h. TMC 16.04.050 (E)(8) provides that existing natural and piped drainages must be preserved or replaced on the site and easements must be granted for drainage as long as the easements required are roughly proportional to the impact of the proposed development. No existing drainage easements were identified on the parcel.
11. No new streets are required or proposed by the proposed partition. Proposed Parcel 1 will have access to SE Sturdevant Road and Proposed Parcel 2 will have access to SE Sturdevant Road and SE 10th Street.
 12. The City Public Works Director, Police and Fire Chief have all reviewed the application and have indicated their approval in relation to their respective departments. Their approvals coincide with the applicant's assertion that the requested partition will not cause a significant adverse impact on the livability, value or appropriate development of the surrounding neighborhood.
 13. Proposed Parcel 2 is adjacent to SE 10th Street a city street. The parcel does not currently have driveway access to SE 10th Street. Any driveway modification to SE 10th Street, in accordance with the standards specified in the Public Infrastructure Design Standards Manual, may be required as determined by the Public Works Director. If required, it shall be completed within one year of approval of this application, or a deferred development agreement entered into, to address this requirement. Determination will be made when a construction permit has been submitted that identifies the location of proposed construction and length of its driveway, to ensure that the development of Parcel 2 will comply with Public Infrastructure Design Standards and Fire, Life, Safety standards. However, development on Proposed Parcel 2 is not anticipated to occur and the parcel will be kept as a natural resource parcel. The recorded conservation easement is located on Proposed Parcel 2 and prohibits building structures, roads, and restricts vehicle use in the protected area. An easement across proposed Parcel 1 to access Proposed Parcel 2 will be listed as a condition of approval.
 14. The proposed minor partition does not involve the development or extension of any streets and will create parcels that are served by City water and sewer service. The division of land complies with applicable ordinances and public improvement design standards adopted by the City. The division of land will not constitute a major partition or a subdivision pursuant to the definitions in Title 16. The division of land has received approval from the Public Works Director. Each lot will be served with City sewer and water and the City has the capacity to provide those services. If a bond is required to be posted for any infrastructure improvements, the applicant should agree in writing to do so. The applicant should demonstrate that adequate precautions have been taken to prevent damage or injury resulting from natural hazards. The division of land will not affect a designated dredged material disposal site or mitigation site as designated in the Lincoln County Estuary Management Plan.

A portion of Proposed Parcel 2 is dedicated as salt water wetland mitigation area. No future development is anticipated on Proposed Parcel 2. The division of land will result in a newly created lot (Proposed Parcel 2) that is zoned entirely for Natural Resources and the site is unlikely to be developed in the future. Proposed Parcel 2 is owned by the City and the City maintains the water and sewer system in the City (a public utility service).

The City Public Works Director, Police and Fire Chief have all reviewed the application and have indicated their approval in relation to their respective departments. The request should not cause a significant adverse impact on the livability, value or appropriate development of the surrounding neighborhood.

15. One driveway modification onto SE Sturdevant Road may be required for access to Proposed Parcel 1. The applicant shall coordinate with the Lincoln County Public Works Department for any driveway modifications. With the proposed lot dimensions, off-street parking should be achievable for future development of Parcel 1.
16. A City sewer main line is located near the southeastern property line of Proposed Parcel 1. The sewer line and water line easement area should be noted on the partition plat and protected from damage. Any private sewer laterals crossing proposed Parcel 2 should be identified and easements recorded.
17. Approval of this application ensures the provision of open space and the protection of scenic and natural resources as required by state and federal law. The proposed partition creates two parcels. Proposed Parcel 1 will be entirely zoned R-S after the partition and is an upland area. Proposed Parcel 2 will be entirely zoned Natural Resources after the partition. Proposed Parcel 2 is proposed to remain as a natural area and no development is anticipated. Furthermore, Proposed Parcel 2 will have a conservation easement. The conservation easement is described in Lincoln County Document 2010-01975. In review of the conservation easement staff believes the R-S lot (proposed Parcel 1) would be outside the conservation easement area with the exception of the western edge of Proposed Parcel 1 which may be within the conservation easement area.
18. Based on the Lincoln County Estuary Management Plan and the Oregon Coastal Atlas Estuary Map the Lincoln County Management Unit 31 is located on Proposed Parcel 2. In addition, staff reviewed the Coastal and Marine Ecological Classification Standard (CMECS) and the Yaquina Estuary Conservation Plan. Proposed Parcel 2 is shown as an estuary. No development is proposed on Proposed Parcel 2. Proposed Parcel 1 is located outside the estuary classification.
19. Based on the Statewide Wetlands Inventory (SWI) Proposed Parcel 2 is a wetland and Proposed Parcel 1 is adjacent to the wetlands area. The City of Toledo submitted a Wetland Land Use Notification (WLUN) to the Department of Statelands (DSL) on March 23, 2021. DSL has not responded to the notice yet and has 30 days to respond. As discussed above no development is proposed on Proposed Parcel 2. Proposed Parcel 1 will be zoned residential and may be developed in the future.
20. The City acquired Map 11-10-17 Tax Lot 800 in 1999. The entire property was annexed into the City limits and rezoned Natural-Resource in 2000. Several properties within the City were reviewed for zoning map amendments during the

Periodic Review process in 2001. The City proposed this property to be split zoned (Natural Resource and Single-Family Residential) and was reviewed and approved during the Comprehensive Plan Map/Zoning Map adoption in 2001. In 2012, the area in the Natural Resource Zone was the site of the City's wetland mitigation project, associated with the construction of the Toledo Industrial Park (TIP). A conservation easement was recorded on the wetland areas, limiting development, but the easement did not include the upland area which is outside of the mitigation project site.

21. City water is located in the SE Sturdevant Road right-of-way and available for new development of Parcel 1. Private water service lines and other utility lines should be identified and easements recorded if existing utilities for Parcel 2 cross Parcel 1.
22. Notification to 51 surrounding property owners, 19 public/service agencies, and publication of the proposed minor partition were completed in accordance with the TMC requirements. As of April 7, 2021, no comments have been received.

Staff would direct the Planning Commission to evaluate the applicant's proposal and all testimony presented to them in order to make findings that demonstrate the applicable criteria in the TMC can be satisfied. The decision of the Planning Commission should be based on the report of facts and analysis contained within the Staff Report, as well as the facts and testimony presented by the applicant and those who support or oppose the request given at the public hearing. Any action on the application should address the applicable criteria as contained in the TMC. The decision of the Planning Commission on City Case File #MP-2-21 will become final unless appealed to the City Council.

IV. STAFF RECOMMENDATION:

Based on the staff report, testimony received and analysis of the applicable code and land use planning goals, staff recommends the Planning Commission approve the minor partition, pursuant to the criteria in TMC Section 16.08.070.

Staff further recommends approval of the request, subject to the following conditions:

1. Partitioning of the property shall be in compliance with the proposed partition plan as described in the application, plan and drawings submitted and included in Exhibit A of this report.
2. The applicant shall provide a final minor partition plat prepared by a registered surveyor and meeting the plat standards of the City of Toledo and including an approval signature line for the City Manager's signature. The applicant shall submit the final plat to the Lincoln County Surveyor for review, and to the City of Toledo to review for compliance with conditions of approval prior to recording. The applicant shall record the approved final plat with the Lincoln County Surveyor. A copy of the recorded plat shall be submitted by the applicant to the City of Toledo.
3. In accordance with TMC Chapter 16, 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.
4. Protect all existing easements (in addition to being noted on the plat) and, as appropriate, record any new easements to serve the proposed parcels for driveway access and utilities, and comply with the Public Infrastructure Design Standards Manual, before construction permits will be issued.
 5. Any driveway modifications adjacent to SE Sturdevant Road shall be reviewed and approved by the Lincoln County Public Works Department.
 6. Future development shall be reviewed by the Lincoln County Public Works Department and any applicable road improvements shall be made by the applicant.
 7. A recorded access easement providing access by the City of Toledo to cross Proposed Parcel 1 in order to access proposed Parcel 2.
 8. Any driveway modification onto a city street, in accordance with the standards specified in the Public Infrastructure Design Standards Manual, may be required as determined by the Public Works Director. If required, it shall be completed within one year of approval of this application, or a deferred development agreement entered into, to address this requirement. Determination will be made when a construction permit has been submitted that identifies the location of proposed construction and length of its driveway, to ensure that the development will comply with Public Infrastructure Design Standards and Fire, Life, Safety standards.
 9. The recording of easements (in addition to being noted on the plat) as required and as appropriate by the Public Works Director to serve the interior properties for driveway access and utilities, including water and sewer, in accordance with the minimum width and other standards in the Public Infrastructure Design Standards Manual, before construction permits will be issued.
 10. All standards and requirements in the Infrastructure Design Standards Manual, TMC Chapter 16 and 17 are met, as to both parcels marked on Exhibit A.
 11. The applicant shall be responsible for obtaining any required Department of Statelands (DSL) permits.
 12. The conservation easement boundary shall be defined on the recorded partition plat.

PLANNING COMMISSION DECISION

PROPOSED MOTION (MP-2-21):

BASED ON THE TESTIMONY RECEIVED, THE STAFF REPORT, AND THE EVIDENCE AND ARGUMENTS BEFORE THE PLANNING COMMISSION AT THE PUBLIC HEARING ON APRIL 14, 2021, THE PLANNING COMMISSION FINDS THAT THE REQUEST BY THE CITY OF TOLEDO (MP-2-21) COMPLIES WITH THE CRITERIA IDENTIFIED IN TOLEDO MUNICIPAL CODE, TITLES 16 AND 17, INCLUDING THE CRITERIA IDENTIFIED IN TOLEDO MUNICIPAL CODE, SECTION 16.08.070. THE PLANNING COMMISSION HEREBY ADOPTS THE STAFF REPORT AS FINDINGS, AS WELL AS ANY CONDITIONS OF APPROVAL FOR MP-2-21, AND ALLOWING FOR THE CORRECTION OF TYPOGRAPHICAL AND GRAMMATICAL ERRORS.

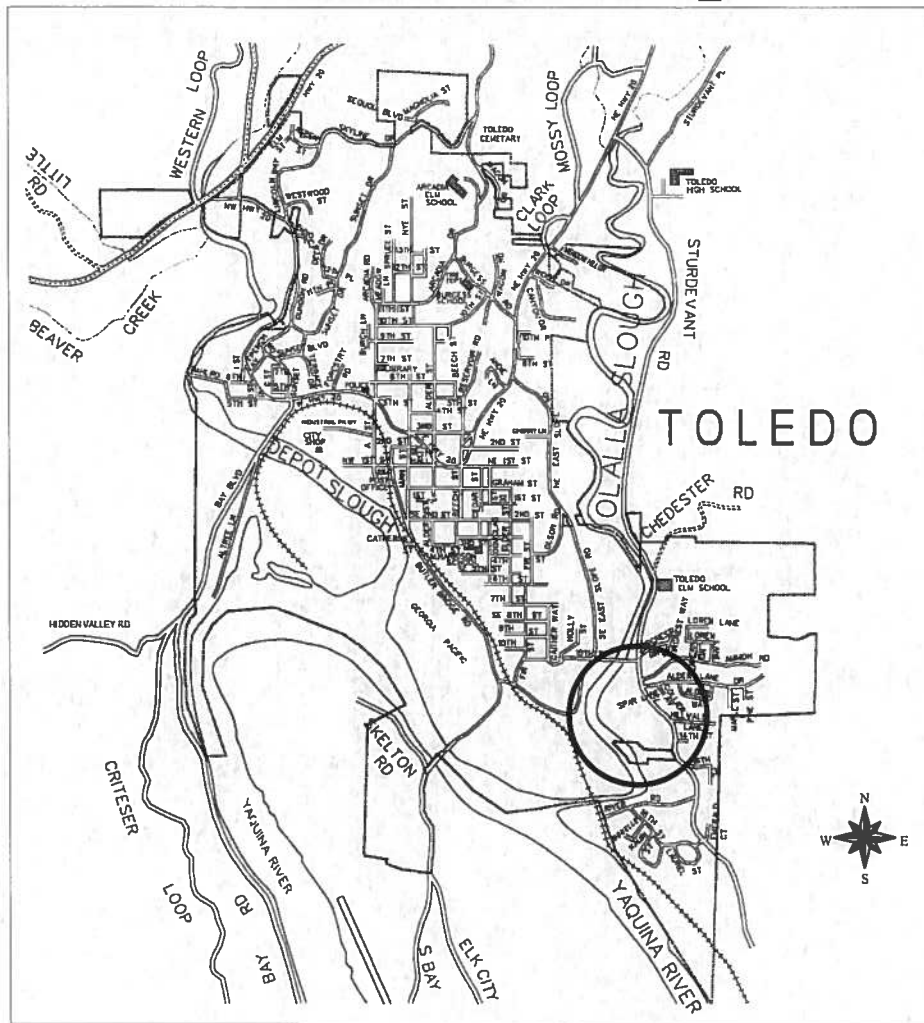
V. PLANNING COMMISSION ROLE:

The Planning Commission should evaluate the applicant's proposal and all testimony presented to them in order to make findings which demonstrate that the applicable criteria in the Toledo Municipal Code and Comprehensive Plan can be satisfied. The decision of the Planning Commission should be based on the report of facts and analysis contained within the Staff Report, as well as the facts and testimony presented by the applicant and those who support or oppose the request given at the public hearing. Any action on the application should address the applicable criteria as contained in the Toledo Municipal Code. The decision of the Planning Commission shall be final unless appealed to the City Council.

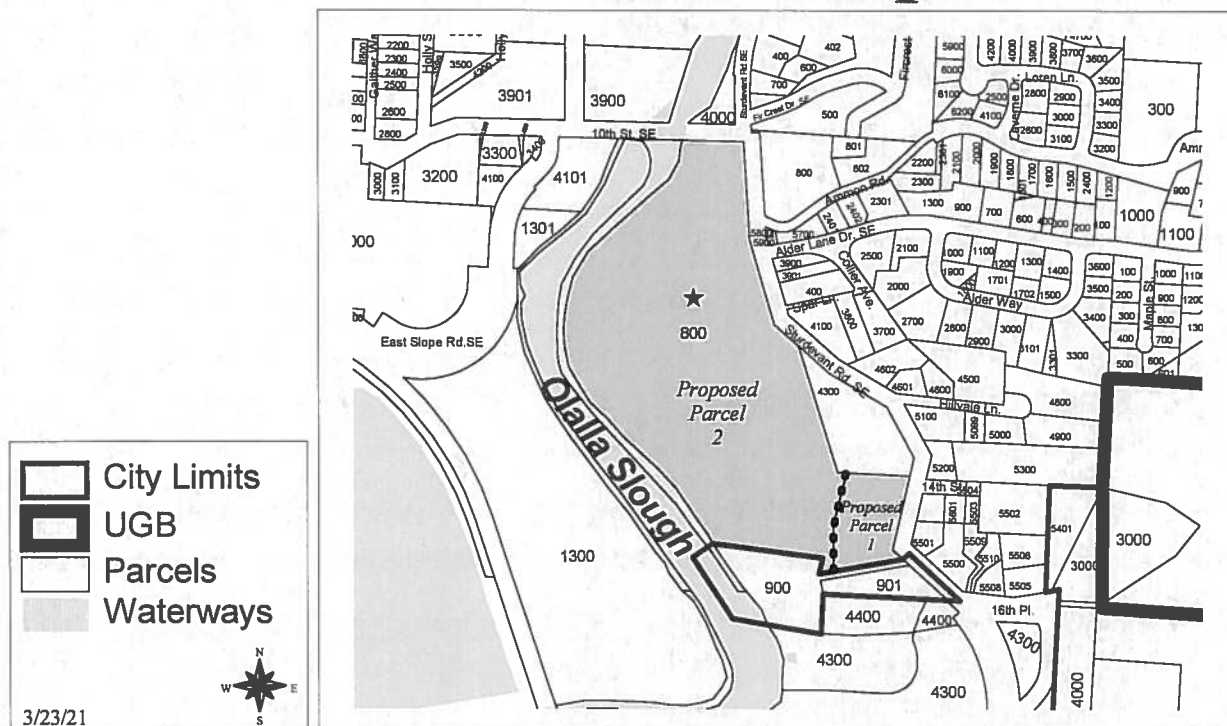
Prepared by,

Justin Peterson
Contract Planner

Location Map



Site Map



ATTACHMENT A
Exhibit A - Map showing Parcels after Partition
(City of Toledo File #MP-2-21)

PRELIMINARY PARTITION SURVEY
FOR CITY OF TOLEDO
IN THE SE 1/4 OF THE SE 1/4 OF SECTION 17
TOWNSHIP 11 SOUTH, RANGE 10 WEST, WM
IN TOLEDO, LINCOLN COUNTY, OREGON

SURVEYOR'S NARRATIVE

THIS SURVEY WAS DONE TO SHOW
A NEW PARTITION PARCELS.

A TOPCON GPT-3100W ONE
SECOND TOTAL STATION AND TDS
RECON DATA COLLECTOR WERE
USED TO GATHER THE DATA IN THIS
SURVEY.

STATE OF OREGON S.S.
COUNTY OF LINCOLN

I HEREBY CERTIFY THAT THIS PARTITION PLAT WAS RECEIVED
FOR RECORD ON THE _____ DAY OF _____, 2010 AT _____
O'CLOCK _____ M. AND RECORDED AS PARTITION PLAT NO. _____
LINCOLN COUNTY RECORDS.

BY: _____
COUNTY CLERK/DEPUTY DATE

SURVEYOR'S CERTIFICATE:

I, DAVID LOOMIS, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND
MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON THIS PARTITION
PLAT. THE BOUNDARIES BEING DESCRIBED AS FOLLOWS:

A TRACT OF LAND IN NE 1/4 OF THE NW 1/4 OF SECTION 22 TOWNSHIP 7
SOUTH, RANGE 11 WEST, OF THE WILLAMETTE MERIDIAN. MORE PARTICULARLY
DESCRIBED AS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 17; THENCE 167.65 FEET
NORTH AND 968.72 FEET WEST TO THE TRUE POINT OF BEGINNING; THENCE
SOUTH 16°41'15" WEST, 58.00 FEET; THENCE NORTH 79°46'12" EAST, 308.94
FEET TO STURDEVANT ROAD; THENCE FOLLOWING STURDEVANT ROAD NORTH
49°40'36" WEST, 64.79 FEET; THENCE NORTH 10°49'24" EAST, 270.75 FEET;
THENCE LAVING STURDEVANT ROAD NORTH 88°36'45" WEST, 243.63 FEET; THENCE
NORTH 25°17'00" WEST, 581.00 FEET; THENCE EAST, 34.59 FEET TO STURDEVANT
ROAD; THENCE NORTH 51°10'36" WEST, 33.56 FEET; THENCE NORTH 18°10'36"
WEST, 319.17 FEET; THENCE NORTH 5°40'36" WEST, 340.33 FEET TO SE 10th
STREET; THENCE WESTERLY ALONG SE 10th STREET 150 FEET TO OLALLA SLOUGH;
THENCE SOUTHERLY ALONG OLALLA SLOUGH TO A POINT NORTH 82°06'45" WEST
OF THE POINT OF BEGINNING; THENCE SOUTH 82°06'45" EAST, 395 FEET TO THE
POINT OF BEGINNING.

APPROVALS

CITY OF TOLEDO PLANNING DIRECTOR	LINCOLN COUNTY ASSESSOR
LINCOLN COUNTY SURVEYOR	LINCOLN COUNTY TAX COLLECTOR

LEGEND

- FOUND SURVEY MONUMENT AS SHOWN
- SET 5/8" x 30" IRON ROD WITH A PLASTIC CAP "LOOMIS PLS 1908"
- CALCULATED POSITION ONLY
- [] RECORD DATA
- PROPERTY DEED BOUNDARY



1" = 100'

PARCEL 2
20.0 ac

DECLARATION:

KNOW ALL PEOPLE BY THESE PRESENTS THAT THE
CITY OF TOLEDO DOES HEREBY MAKE ESTABLISH AND
DECLARE THE PARTITION PLAT, AS DESCRIBED IN THE
ACCOMPANYING SURVEYOR'S CERTIFICATE TO BE A
TRUE AND CORRECT MAP OF SAID PARTITION PLAT.
THE EASEMENTS NOT IN EXISTANCE PRIOR TO THIS
PARTITION ARE CREATED WITH THE FILING OF THIS
PLAT.

X

ACKNOWLEDGMENT:

STATE OF OREGON S.S.
COUNTY OF LINCOLN

ON THIS _____ DAY OF _____, 2010, BEFORE ME THE UNDERSIGNED
NOTARY PUBLIC PERSONALLY APPEARED

KNOWN TO ME OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE
TO BE THE PERSON WHO EXECUTED THE WITHIN INSTRUMENT.

NOTARY SIGNATURE

NOTARY PUBLIC - OREGON
COMMISSION No. _____
MY COMMISSION EXPIRES: _____

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 18, 1980
DAVID A. LOOMIS
1908
RENEWAL DATE:
JANUARY 1, 2013

SURVEYED BY



SURVEY FOR: CITY OF TOLEDO
LOCATION: 11-10-17-00-00800

DAVID LOOMIS SURVEYING
= DAVID A. LOOMIS LS 1908 =
459 PIONEER MOUNTAIN LOOP
TOLEDO, OR, 97391
541.336.2994 - 541.270.2928
FAX: 541.336.2994

CHECKED BY: DAL
DRAWN BY: DAL
SCALE: 1" = 100'
DATE: APRIL 2012
No. D112-016

ATTACHMENT B

Application with Supporting Information (City of Toledo File #MP-2-21)

CITY OF TOLEDO LAND USE APPLICATION

Date February 26, 2021

Property Owner City of Toledo

Telephone 541-336-2247

Mailing Address PO Box 220

Toledo OR 97391

Authorized Agent Judy Richter, City Manager

Telephone 541-336-2247

Property Address _____

Property Size 21.7 acres

Property Location Southwest of the SE Sturdevant/SE 10 St Intersection

Assessors Map No. 11-10-17

Tax Lot No. 800

Present Zoning Natural Resources/Single-Family Residential

Proposed Change no change

Comprehensive Plan Designation Natural Resources/Single-Family Residential

Current Land Use Wetland mitigation site

Existing Structures (if any) Barn

Proposal for which this request is being made (attach additional sheets if needed)

Partition Map 11-10-17 Tax Lot 800 to create 2 parcels, following the existing zone designation boundary. Proposed Parcel 1 to be approx. 1.7 acres and Proposed Parcel 2 to be approx. 20.0 acres.

The following must be submitted with this application:

- ☒ Deed description and proof of ownership interest.
- ☒ Site plan drawn to scale which shows property lines, access, existing buildings, other relevant features or conditions, the property's relationship to the surrounding neighborhood, and the location of existing and proposed development.
- ☐ Description of the proposed land use action, including information on how the proposal might impact surrounding property.
- ☐ Supplemental information form (if required).
- ☐ Application fee.

☐ Annexation/Rezone (\$1,100)*	☐ Expedited Land Division (\$1,500)*	☐ Riparian Modification Permit (\$150)
☐ Appeal, Land Use Misc (\$300)*	☐ Lot Line Adjustment (\$100)	☐ Similar Use, Planning Comm (\$225)
☐ Appeal, Type II (\$200)*	☐ Modification of Approval (75% of fee)	☐ Staff Level Exception to TPIRDS
☐ Appeal, Type III (\$400)*	☐ Partition, Major (\$700+\$20/lot)*	☐ (\$25+recording fee)
☐ Code Amendment (\$700)	☒ Partition, Minor (\$400)*	☐ Subdivision (\$700+\$20/lot)*
☐ (if requires M56 notice \$700+mailing)	☐ Planned Unit Development	☐ UGB Amendment (\$2,000)
☐ Comp. Plan Amendment (\$700)	☐ (\$700+\$20/unit)*	☐ Vacation (\$700)*
☐ (if requires M56 notice \$700+mailing)	☐ Public Hearing, Misc. Permit	☐ Variance, Type I (\$50)*
☐ Code Interpretation, official (\$125)	☐ Replat, Major (\$700+\$20/lot)	☐ Variance, Type II (\$200)*
☐ Conditional Use (\$400)	☐ Replat, Minor (\$400)	☐ Variance, Type III (\$400)*
☐ Exception to Statewide Goal (\$2,000)	☐ Restrictive Lot Line Covenant (\$75)	☐ Zone Change (\$700)

*Supplemental forms are required

If filing multiple Land Use Applications, the most expensive application will be assessed and 75% of each additional land use application when submitted together. If filing multiple Type I permits, staff can waive some fees where overlapping permits do not need significant additional review.

For Office Use Only

Date Received _____

Received By _____

Fee Paid _____

City File No. _____

I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that I must present sufficient factual evidence to show that this application complies with the Toledo Zoning Ordinance, Comprehensive Plan, and other applicable regulations. This responsibility is independent of any opinions expressed in the Planning Department Staff Report concerning the applicable criteria. I certify that, to the best of my knowledge, all information contained in this application is accurate.

My signature below shows that I have thoroughly discussed this application with the City Planner or the City Manager or designee and I am fully aware of my responsibilities as the applicant.

I understand that the Planning Commission will hold a public hearing for this application. ☐ yes
I understand that the City Council will hold a public hearing for this application. ☐ yes
I understand that this is a City of Toledo staff-level decision. ☐ yes
Other _____ ☐ yes

Jodym Richter, City Manager
Applicant(s) Signature

4/1/2021
Date

Property Owner (if different)

Date

**CITY OF TOLEDO
LAND DIVISION APPLICATION**

Applicant City of Toledo
Mailing Address PO Box 220
Toledo OR 97391

Date February 26, 2021
Telephone 541-336-2247

Property Address _____
Assessors Map Number 11-10-17

Tax Lot Number 800

Type of land division:

- ☒ Limited Land Use/Minor Partition
☐ Planned Development
☐ Expedited Land Division

- ☐ Subdivision or Major Partition
☐ Replat

Number of parcel to be created 2

Improvements to be completed:

- | | | |
|--------------------------------------|-------------------------------------|---------------------------------------|
| ☐ Streets | ☐ TV Cable | ☐ Gas |
| ☐ Telephone | ☐ Water Line | ☐ Other: _____ |
| ☐ Electricity | ☐ Sewer Line | |

Proposed timeline to complete improvements _____

Proposed use of property Parcel 1 would be residential development. Parcel 2 would continue to serve as a dedicated wetland mitigation site.

Engineer or Contractor doing improvements:

Name _____	Mailing Address _____
Title _____	_____
License Number _____	Telephone _____

I understand that the Planning Commission will hold a public hearing on this application and that I must present sufficient factual evidence to show that this application complies with the Toledo Zoning Ordinance, Comprehensive Plan, and other applicable regulations.

Judy M. Richte City Manager

Applicant(s) Signature

4/1/2021
Date

Property Owner (if different)

Date

For Office Use Only

Public Works

1. Is City sewer available? Yes____ No____
Where____

Is the property within City____ UGB____
Will a connection have to be constructed? Yes____ No____
What size of a line is required____
2. Is City water available? Yes____ No____
Where____

Is the property within City____ UGB____
Is the lot accessible to City water? Yes____ No____
3. Are there any public works improvements necessary? Yes____ No____
If yes, describe____

4. Is there proper access? Yes____ No____
Are there proper easements? Yes____ No____

Curb cuts and property entrances must be constructed to City specifications. Permit and specifications are available through the Public Works Department.
5. Are there any special access requirements? Yes____ No____
If yes, describe____
Is a state access permit required? Yes____ No____
Is a county permit required? Yes____ No____
6. Meter size____
Estimated installation cost____
7. Is a plan review by Public Works required? Yes____ No____
8. Is this a new parcel, created legally since 11/1/83? Yes____ No____
Minor Partition____ File #____
Major Partition____ File #____
Subdivision____ File #____
9. Is this application ready to be approved? Yes____ No____
Explain modifications or revisions needed for the application____

Comments____

REVIEWED AND APPROVED BY:

Public Works Director

Date

Fire Department

1. Does the proposal meet the safety requirements of the NFC and UFC? Yes _____ No _____

2. Is this application ready to be approved? Yes _____ No _____

Explain modifications or revisions needed for the application _____

Comments _____

REVIEWED AND APPROVED BY:

Fire Chief

Date

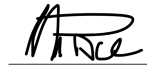
Police Department

1. Is this application ready to be approved? Yes X No _____

Explain modifications or revisions needed for the application _____

Comments _____

REVIEWED AND APPROVED BY:



Chief of Police

04/02/21

Date

Planning Department

1. Is this application ready to be approved? Yes _____ No _____

Explain modifications or revisions needed for the application _____

Comments _____

REVIEWED AND APPROVED BY:

Community Development Coordinator

Date

PRELIMINARY PARTITION SURVEY
FOR CITY OF TOLEDO
IN THE SE 1/4 OF THE SE 1/4 OF SECTION 17
TOWNSHIP 11 SOUTH, RANGE 10 WEST, WM
IN TOLEDO, LINCOLN COUNTY, OREGON

SURVEYOR'S NARRATIVE

THIS SURVEY WAS DONE TO SHOW
A NEW PARTITION PARCELS.

A TOPCON GPT-3100W ONE
SECOND TOTAL STATION AND TDS
RECON DATA COLLECTOR WERE
USED TO GATHER THE DATA IN THIS
SURVEY.

STATE OF OREGON
S.S.
COUNTY OF LINCOLN

I HEREBY CERTIFY THAT THIS PARTITION PLAT WAS RECEIVED
FOR RECORD ON THE _____ DAY OF _____, 2010 AT _____
O'CLOCK _____ M. AND RECORDED AS PARTITION PLAT NO. _____
LINCOLN COUNTY RECORDS.

BY: _____
COUNTY CLERK/DEPUTY DATE

SURVEYOR'S CERTIFICATE:

I, DAVID LOOMIS, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND
MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON THIS PARTITION
PLAT. THE BOUNDARIES BEING DESCRIBED AS FOLLOWS:

A TRACT OF LAND IN NE 1/4 OF THE NW 1/4 OF SECTION 22 TOWNSHIP 7
SOUTH, RANGE 11 WEST, OF THE WILLAMETTE MERIDIAN. MORE PARTICULARLY
DESCRIBED AS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 17; THENCE 167.65 FEET
NORTH AND 968.72 FEET WEST TO THE TRUE POINT OF BEGINNING; THENCE
SOUTH 16°41'15" WEST, 58.00 FEET; THENCE NORTH 79°46'12" EAST, 308.94
FEET TO STURDEVANT ROAD; THENCE FOLLOWING STURDEVANT ROAD NORTH
49°40'36" WEST, 64.79 FEET; THENCE NORTH 10°49'24" EAST, 270.75 FEET;
THENCE LAVING STURDEVANT ROAD NORTH 88°36'45" WEST, 243.63 FEET; THENCE
NORTH 25°17'00" WEST, 581.00 FEET; THENCE EAST, 34.59 FEET TO STURDEVANT
ROAD; THENCE NORTH 51°10'36" WEST, 33.56 FEET; THENCE NORTH 18°10'36"
WEST, 319.17 FEET; THENCE NORTH 5°40'36" WEST, 340.33 FEET TO SE 10th
STREET; THENCE WESTERLY ALONG SE 10th STREET 150 FEET TO OLALLA SLOUGH;
THENCE SOUTHERLY ALONG OLALLA SLOUGH TO A POINT NORTH 82°06'45" WEST
OF THE POINT OF BEGINNING; THENCE SOUTH 82°06'45" EAST, 395 FEET TO THE
POINT OF BEGINNING.

APPROVALS

CITY OF TOLEDO PLANNING DIRECTOR	LINCOLN COUNTY ASSESSOR
LINCOLN COUNTY SURVEYOR	LINCOLN COUNTY TAX COLLECTOR

LEGEND

- FOUND SURVEY MONUMENT AS SHOWN
- SET 5/8" x 30" IRON ROD WITH A PLASTIC CAP "LOOMIS PLS 1908"
- CALCULATED POSITION ONLY
- [] RECORD DATA
- PROPERTY DEED BOUNDARY



1" = 100'

PARCEL 2
20.0 ac

DECLARATION:

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THE EASEMENTS NOT IN EXISTANCE PRIOR TO THIS
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PLAT.

X

ACKNOWLEDGMENT:

STATE OF OREGON
S.S.
COUNTY OF LINCOLN

ON THIS _____ DAY OF _____, 2010, BEFORE ME THE UNDERSIGNED
NOTARY PUBLIC PERSONALLY APPEARED

KNOWN TO ME OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE
TO BE THE PERSON WHO EXECUTED THE WITHIN INSTRUMENT.

NOTARY SIGNATURE

NOTARY PUBLIC - OREGON
COMMISSION No. _____
MY COMMISSION EXPIRES: _____

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 18, 1980
DAVID A. LOOMIS
1908
RENEWAL DATE:
JANUARY 1, 2013

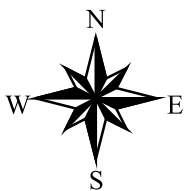
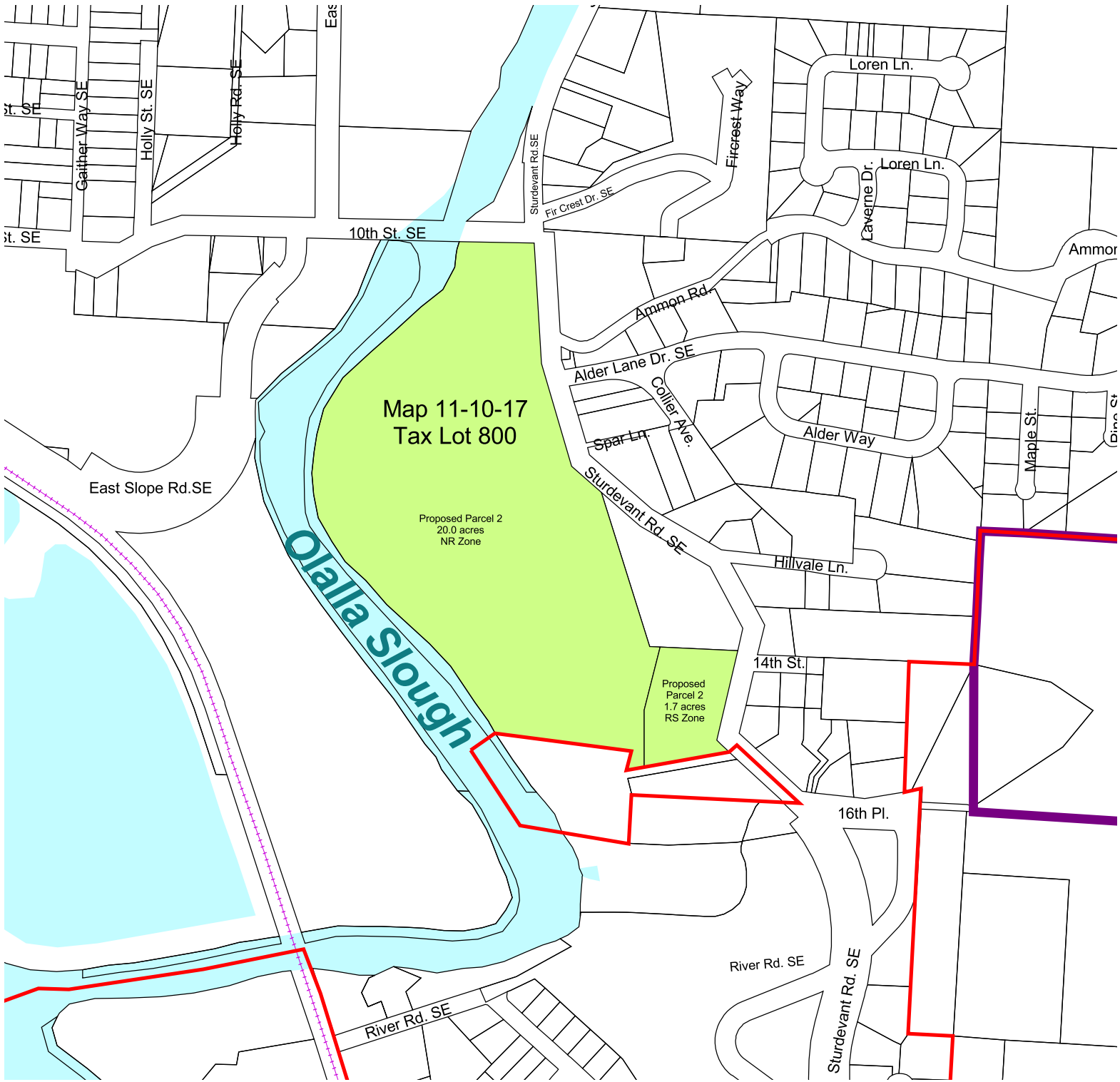
SURVEYED BY



SURVEY FOR: CITY OF TOLEDO
LOCATION: 11-10-17-00-00800

DAVID LOOMIS SURVEYING
= DAVID A. LOOMIS LS 1908 =
459 PIONEER MOUNTAIN LOOP
TOLEDO, OR, 97391
541.336.2994 - 541.270.2928
FAX: 541.336.2994

CHECKED BY: DAL
DRAWN BY: DAL
SCALE: 1" = 100'
DATE: APRIL 2012
No. D112-016



B395 P1053

WARRANTY DEED -- STATUTORY FORM
INDIVIDUAL GRANTOR

After recording Return to: City of Toledo P. O. Box 220 Toledo, OR 97391	Until a change is requested, all tax statements shall be sent to the following address: City of Toledo P. O. Box 220 Toledo, OR 97391
Western Title & Escrow Company Escrow No. 215979-SWC	
11-10-17-DB-100 & 11-10-17-00-800	

ROBERT L. STEENKOLK and PHYLLIS A. STEENKOLK, husband and wife, Grantor, conveys and warrants to CITY OF TOLEDO, a municipal corporation Grantee, the following described real property free of encumbrances except as specifically set forth herein situated in County, Oregon, to-wit:

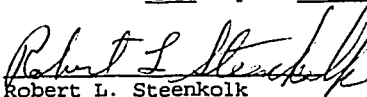
The Property described in Exhibit 'A' attached hereto and made a part hereof.

The property is free from encumbrances except

See Exhibit 'A' attached hereto and made a part hereof.

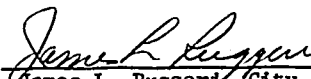
The true consideration for this conveyance is \$135,000.00.
(Here comply with the requirements of ORS 93.030)

Dated this 29th day of December, 19 99


Robert L. Steenkolk


Phyllis A. Steenkolk

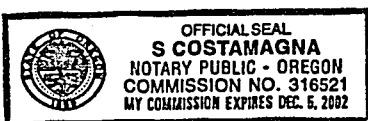
James Ruggeri hereby accepts this
conveyance on behalf of the City of Toledo.

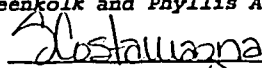

James L. Ruggeri, City Attorney

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

STATE OF OREGON, County of Lincoln)ss.

This instrument was acknowledged before me on December 29, 19 99
by Robert L. Steenkolk and Phyllis A. Steenkolk




Notary Public for Oregon
My commission expires 12/5/02

SPACE RESERVED FOR RECORDER'S USE

B395 P1054

Exhibit 'A'

PARCEL I:

That part of Section 17, Township 11 South, Range 10 West, Willamette Meridian, in Lincoln County, Oregon, described as follows:

Beginning at a point that is 422 feet West of the corner common to Sections 16, 17, 20 and 21, Township 11 South, Range 10 West, Willamette Meridian; thence North 26 feet to the center of the County Road; thence Northerly along the center line of said county road to its intersection with the Easterly extension of the South line of 10th Street South; thence West to a point where the South line of said street crosses the East bank of Olalla Slough; thence Southwesterly and Southeasterly along the said East bank of said slough to the meander corner on the South line of Section 17 aforesaid; thence East to the point of beginning.

EXCEPTING THEREFROM that part thereof conveyed by J.G. Marsh and wife to Arthur J. Renken and wife by Deed recorded August 25, 1948, in Book 127, page 615, Deed Records.

EXCEPTING also that part thereof lying Southerly of a line described as follows:

Beginning at a point on the East bank of Olalla Slough which point is North 164.29 feet and West 1299.72 feet from the corner common to Sections 16, 17, 20, and 21 of Township 11 South, Range 10 West, Willamette Meridian; thence South 84 deg. 43' East 394.5 feet; thence South 13 deg. 50' West 57.5 feet; thence North 77 deg. 13' East 317 feet to the center of the Olalla County Road No. 53.

PARCEL II:

Part of the Northwest quarter of the Southeast quarter of Section 17, Township 11 South, Range 10 West, Willamette Meridian, in Lincoln County, Oregon, described as follows:

Beginning at a point East 520 feet and South 60 feet from the center of Section 17, Township 11 South, Range 10 West, Willamette Meridian; thence East along the South line of the first tract described in Deed to Oregon Mesabi Corporation, recorded July 26, 1939, in Volume 81, page 544, Deed Records, 208 feet, more or less, to a point on the East line of East Slope Road, said point being the true point of beginning; thence South along said East line, 650 feet, more or less, to the North line of the second tract conveyed to Oregon Mesabi Corp. by Deed recorded July 26, 1939, in Book 81, page 544, Deed Records of Lincoln County, Oregon; thence East along the North line of said Oregon Mesabi Corp. tract to the Westerly bank of Olalla Slough; thence Northeasterly along said Slough to a point that is South 230 feet and East 817 feet from the place of beginning; thence North 230 feet, more or less, to the South line of said Oregon Mesabi Corporation first tract; thence West along said South line 609 feet, more or less, to the true point of beginning.

Continued on next page

STATE OF OREGON,

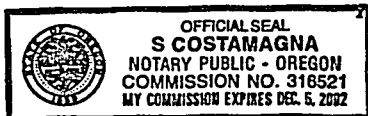
County of Lincoln

ss.

FORM No. 23—ACKNOWLEDGMENT.
Stevens-Ness Low Publishing Co. Inc.
Portland, OR 97204 © 1992

BE IT REMEMBERED, That on this 30th day of December, 1999, before me, the undersigned, a Notary Public in and for the State of Oregon, personally appeared the within named James L. Ruggeri, City Attorney on behalf of the City of Toledo

known to me to be the identical individual..... described in and who executed the within instrument and acknowledged to me that he executed the same freely and voluntarily.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

S. Costamagna
Notary Public for Oregon
My commission expires 12/5/02

NFC 30 1999

B395 P1055

continued

EXCEPTING any portion outside of the Northwest quarter of the Southeast quarter of said Section 17, and EXCEPTING any portion below high water mark of Ollalla Slough and EXCEPTING tract described in Deed recorded August 6, 1924, in Book 45, page 65, Deed Records of Lincoln County, Oregon.

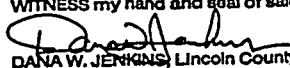
SUBJECT TO THE FOLLOWING:

1. As disclosed by the assessment and tax roll, the premises herein have been specially assessed for farm use. If the land becomes disqualified for this special assessment under the statutes, an additional tax, plus interest and penalty, will be levied for the number of years in which this special assessment was in effect for the land.
2. As disclosed by the tax roll the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use, the property will be subject to additional taxes or penalties and interest.
3. The rights of the public in and to that portion of the herein described property lying within the limits of public roads, streets or highways.
4. Rights of the public and governmental bodies in and to any portion of the premises herein described now or at any time lying below high water mark of the Olalla Slough, including any ownership rights which may be claimed by the State of Oregon, below high water mark as it now exists or at any time has existed.
5. Easement, including the terms and provisions thereof, to construct and permanently maintain a transmission line, from U.F. Early to West Coast Power Company, a private corporation, recorded December 9, 1937, in Volume 77, page 154, Deed Records.
(Affects Parcel I)
6. Easement, including the terms and provisions thereof, disclosed by instrument from Inman-Poulsen Timber Corporation, an Oregon corporation et al, to Central Lincoln Peoples Utility District, recorded May 15, 1957, in Volume 185, page 75, Deed Records.
(Affects Parcel II)
7. Easement, including the terms and provisions thereof, granted by Gertrude Woldman to Benton-Lincoln Electric Cooperative, Inc., a corporation, recorded July 2, 1958, in Volume 192, page 479, Film Records.
(Location not discernible from the record)
8. Easement for water pipeline, including the terms and provisions thereof, from Ray Fieber and Lurena Fieber to The City of Toledo, Oregon, a municipal corporation of the State of Oregon, recorded October 31, 1968, in Volume 3, page 459, Film Records.
(Affects Parcel I)
9. Easement for pipeline, including the terms and provisions thereof, from Ray Fieber and Lurena Fieber, husband and wife, to Georgia-Pacific Corporation, recorded October 20, 1970, in Volume 21, page 1503, Film Records.
(Affects Parcel II)

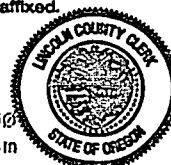
STATE OF OREGON } ss.
County of Lincoln

I, Dana W. Jenkins, County Clerk, in and for said county, do hereby certify that the within instrument was received for record, and recorded in the Book of Records of said county at Newport, Oregon.

Book 395 Page 1053
WITNESS my hand and seal of said office affixed.


DANA W. JENKINS, Lincoln County Clerk

Doc : 6221809
Rect: 98446 41.00
12/30/1999 02:58:06pm

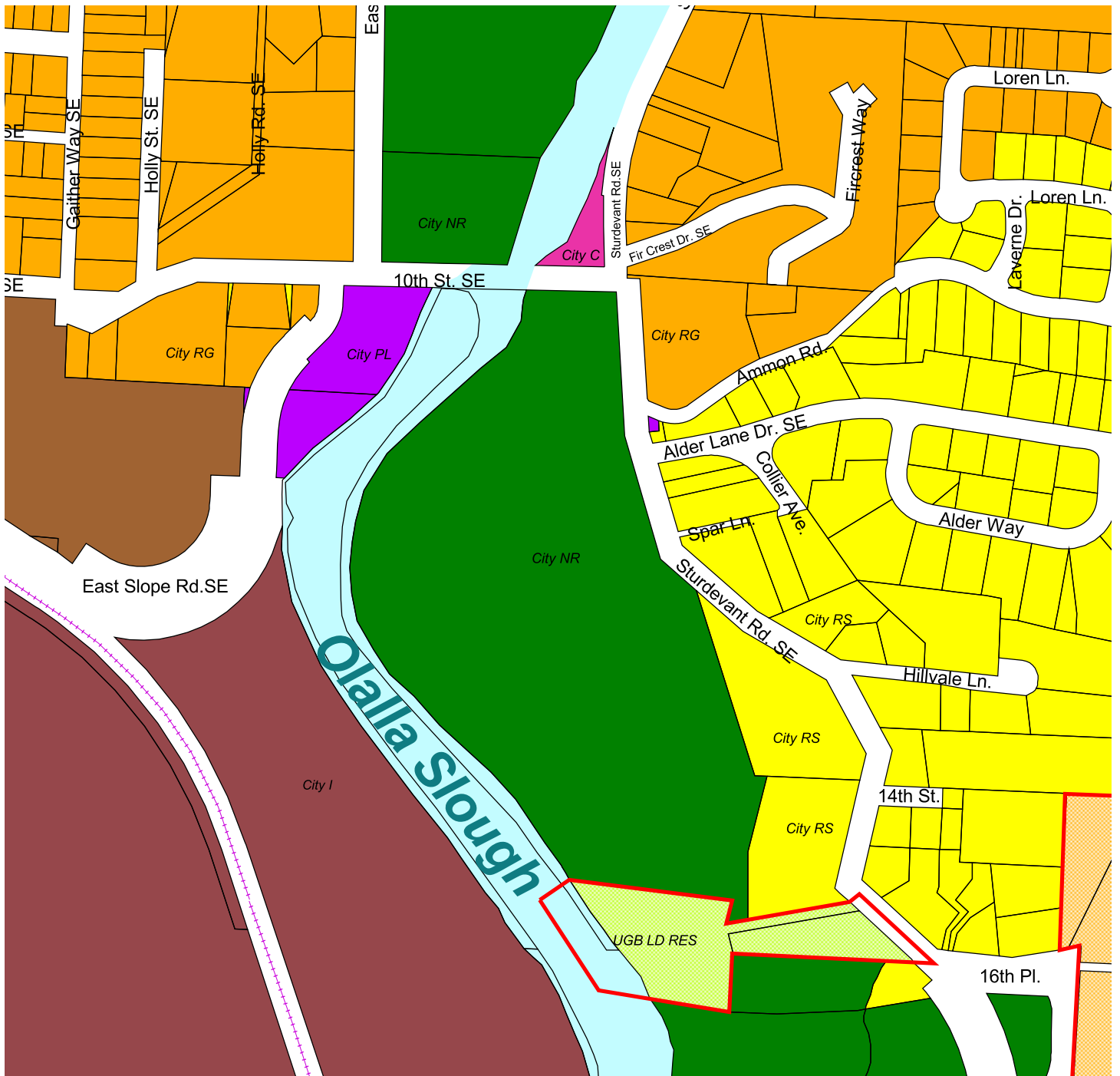


DEC 30 1999

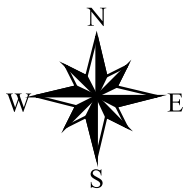
ATTACHMENT C

Zoning Map

(City of Toledo File #MP-2-21)



200 0 200 400 Feet



- City Limits
- UGB
- Parcels
- Railroad
- Comprehensive Plan
- Commercial
- Industrial
- Light Industrial
- Natural Resources
- Public Lands
- Residential General
- Residential Single
- Water Dependent
- Outside UGB
- UGB Commercial
- UGB Industrial
- UGB Low Density Residential
- UGB Medium Density Residential
- UGB Natural Resources
- UGB Public Lands
- UGB Water Dependent
- Waterways

ATTACHMENT D

Aerial Map

(City of Toledo File #MP-2-21)



Legend

~ Taxlots

~ Cities

~ Sections

~ 40 Foot Contours

~ Streams

Printed on 4 / 7 / 2021

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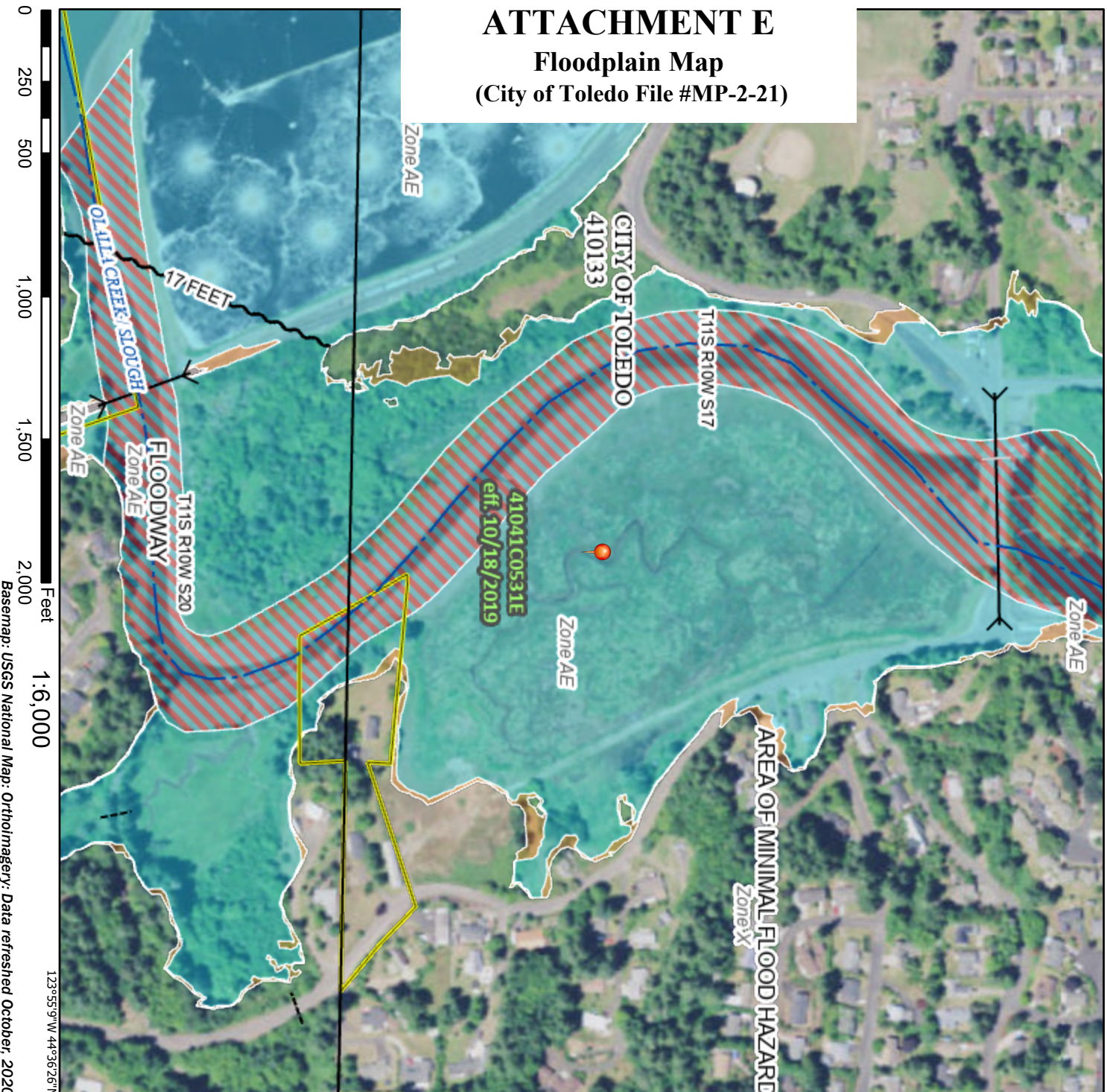


National Flood Hazard Layer FIRMette



123°55'47"W 44°36'51"N

ATTACHMENT E Floodplain Map (City of Toledo File #MP-2-21)



Legend

SEE THIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS	Without Base Flood Elevation (BFE) Zone A, V, A99 With BFE or Depth Zone AE, AO, AH, VE, AR Regulatory Floodway
----------------------------	--

OTHER AREAS OF FLOOD HAZARD	0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X Future Conditions 1% Annual Chance Flood Hazard Zone X Area with Reduced Flood Risk due to Levee, See Notes, Zone X Area with Flood Risk due to Levee Zone D
-----------------------------	---

OTHER AREAS	NO SCREEN Effective LOMRs Area of Undetermined Flood Hazard Zone D
GENERAL STRUCTURES	Channel, Culvert, or Storm Sewer Levee, Dike, or Floodwall

OTHER FEATURES	20.2 17.5 8 Base Flood Elevation Line (BFE) Limit of Study Jurisdiction Boundary Coastal Transect Baseline Profile Baseline Hydrographic Feature
----------------	--

MAP PANELS	Digital Data Available No Digital Data Available Unmapped
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The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 4/7/2021 at 8:14 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmapped areas cannot be used for regulatory purposes.

**TOLEDO PLANNING COMMISSION
STAFF REPORT**

PROPERTY: Lincoln County Assessor's Map # 11-10-17 DD Tax Lot 5401

APPLICATION #: AX-1-21/RZ-2-21

APPLICANT: City of Toledo

APPLICATION DATE: February 26, 2021

HEARING DATES: Planning Commission: April 14, 2021
City Council: May 5, 2021

REQUEST: The proposal is for a zoning map amendment from Lincoln County Timber Conservation (TC) to the City of Toledo General Residential (R-G) zone, concurrent with annexation. The subject property is contiguous with City Limits and located within the Urban Growth Boundary (UGB). See Staff Report Attachment 'A' (Application)

LOCATION: SE 16th Place, off of SE Sturdevant Road

LOT SIZE: 0.91 acres

STAFF REPORT:

I. REPORT OF FACTS:

- | | |
|-------------------------------|--|
| 1. Plan Designation: | Current - UGB Medium Density Residential
Proposed – UGB Medium Density Residential |
| 2. Proposed Zone Designation: | Current - County Timber Conservation (TC)
Proposed - City General Residential (R-G) |
| 3. Existing Structures: | The property is vacant |
| 4. Topography: | The property slopes downhill to the south. Based on the Lincoln County GIS the property has approximately 80 feet of elevation change from north to south end. |
| 5. Development Constraints: | The slopes on the subject property may limit development potential. The subject property is adjacent to a wetland identified on the Statewide Wetlands Inventory. |
| 6. City water: | City water is available at 16 th Place. |
| 8. City sewer: | City sewer is available at 16 th Place. |
| 9. Development Standards: | The R-G development Standards are listed in TMC 17.12. |
| 10. Notice of Public Hearing: | Notices mailed to 22 property owners and 19 public/service agencies on March 25, 2021. Notice was provided to the Oregon Department of Land Conservation and Development |

(DLCD) on February 26, 2021, at least 35 days before the first evidentiary hearing in accordance with Oregon Administrative Rule (OAR) 660-018-0020 and at least 45 days before the first evidentiary hearing in accordance with TMC 19.20.040(B)(4).

11. Notice Published:

March 31, 2021 and April 7, 2021

12. Comments Received:

Public Works Director, Fire Chief, and Chief of Police all approve the application. Any future development of the property must receive review from the City. The City received a phone call from the neighboring property owner Leon (Wayne) Secrist. Wayne had concerns about the future access and steep slopes on the property. He plans to attend the public hearing. In addition, Franklin Smith another neighboring property owner stopped by Toledo City Hall for more information.

13. Staff Report Attachments:

- A. Application
- B. Consent to Annex
- C. Site Plan Map
- D. Comprehensive Plan Map
- E. Draft Ordinance
- F. Wetland Land Use Notification (WLUN)

II. CRITERIA FOR DECISION: PLANS, POLICIES AND ORDINANCES FOR EVALUATING THE ANNEXATION AND REZONE REQUEST:

A. ANNEXATION REQUEST:

1. Oregon Revised Statute (ORS) 222.111 Authority and procedure for annexation, generally.
 - (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.
 - (2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.
 - (3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city provides on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according

to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.

- (4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465 [domestic water supply district, water control district, or sanitary district], the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

Note: Sections (3) and (4) are permissive criteria and do not need to be fulfilled in order for the proposal for annexation to be adopted.

2. ORS 222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation.

The legislative body of the city need to call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

3. Toledo Municipal Code (TMC) 17.04.050 (D) [Designation of annexed property].

Territory annexed to the city shall be given a zone designation in compliance with the Comprehensive Land Use Plan designation of the property. Such change may be entirely or partially carried out as part of the annexation proceedings. The zone designation under the zoning ordinance of Lincoln County shall apply until changed by the city. If the City Council finds it is important to the protection or implementation of city policies, with notice and opportunity to be heard, interim regulations may be applied in the annexed area until more permanent action can be taken.

4. Consistency with the 2000 Toledo Comprehensive Land Use Plan.

B. REZONE REQUEST

1. The 2000 Toledo Comprehensive Land Use Plan-Article 2, Objective 8 (Page 19). Any change must be consistent with the Oregon Statewide Planning Goals and guidelines and other applicable criteria. In addition, the applicant must show circumstances have changed, that there is a public

need for the amendment, and that the need cannot reasonably be met by any other method.

2. Toledo Municipal Code Section 17.80.050 Criteria for quasi-judicial map amendments
A recommendation or a decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:
 - A. Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be prerequisite for approval;
 - B. Demonstration of compliance with applicable standards and criteria of this code and other applicable implementing ordinances;
 - C. Evidence of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use maps regarding the property which is subject of the application.
3. The 2000 Toledo Comprehensive Land Use Plan

Article 1 Citizen Involvement:

Goal 1: Provide a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process so as to provide useful guidance to and an understanding of the overall planning process.

Article 10: Housing:

Goal 1: Encourage development of a mixture of housing stock in terms of design, type, cost, and location that meets the housing needs of all Toledo citizens.

Article 11: Public Facilities and Services:

Goal 1: Provide reliable, high quality, efficient, and cost effective public facilities and services for the residents of Toledo.

Goal 2: Plan, develop and maintain an orderly and efficient arrangements of public, urban-level facilities and services to serve as a framework for urban development within the City of Toledo and the Urban Growth Boundary.

Article 12: Transportation:

Goal 1: Provide a safe and efficient, multi-model transportation system which provides linkages in a manner that enhances Toledo's neighborhoods, environment, economy, and social and scenic values.

Goal 2: Minimize the adverse social, economic, and environmental impact costs of constructing, maintaining, and using transportation facilities and services.

Article 14: Urbanization and Livability

- Goal 1: Build Toledo as a small, cost-effective, attractive, livable, and sustainable city by encouraging efficient land use patterns.
- Goal 2: Design and encourage land use patterns that:
- a. Are compact.
 - b. Mix land uses to reduce transportation costs and create vitality.
 - c. Retain Toledo's detailed and human scale design features.
 - d. Can be effectively serviced.
 - e. Protect the environment.
 - f. Provide a proper balance between jobs and housing.
- Goal 3: Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with the Comprehensive Plan goals and policies and Toledo's Municipal Code and standards.

III PROPOSED FACTS AND FINDINGS:

The applicant is requesting approval of an annexation and zone change. Based upon the information received by City staff through April 7, 2021, the annexation and zone change request appears to conform with relevant provisions of the City's plans and ordinances as described below. The following recommended findings support approval of the annexation and zone change:

1. The requirements of ORS 222.111 (1) and (2) and ORS 222.125 have been complied with as the property to annex is contiguous to the city limits and the request to annex has been initiated by written petition of all of the property owners (City of Toledo).
2. The proposed annexation and rezone request meets the requirements for a plan amendment set forth in the 2000 Toledo Comprehensive Land Use Plan. A public need for the rezone exists as the 2000 Toledo Comprehensive Land Use Plan in Article 14, Goal #2 and Objectives #1, #2, and #5 have identified as a goal of the community to urbanize sensibly.
3. The applicants understand that the city's eventual intent in the area is to extend all services and require connection by all of the parcels within the UGB. The City's intent includes this parcel.
4. The requirements of Toledo Municipal Code Section 17.80.050 (Quasi-judicial map amendment) are met for the following reasons:
 - A. Criteria A is satisfied as the applicant has requested rezone consistent with the comprehensive plan map with the annexation.
 - B. Criteria B is satisfied as TMC Section 17.04.050 (D) will be complied with as the applicant has requested a change in the 2000 Toledo Comprehensive Land Use Plan map by annexation only. The designation of the property by plan is Medium-Density Residential. Zoning will be done in conjunction with the annexation and therefore the new zone designation will be in compliance with the Comprehensive Land Use Plan designation.
 - C. Criteria C is satisfied as a change in the community exists with the annexation and possible urbanization/development of a rural parcel. The City of Toledo is in need of housing

development to create affordable housing. The City anticipates working with a non-profit to develop affordable housing on the parcel.

5. The City of Toledo, as the owner of the property located at Lincoln County Assessor's Map # 11-10-17-DD Tax Lot 5401 on February 26, 2021, submitted a request to annex 0.91 acres of property into City limits of Toledo. See Staff Report Attachment 'B' (Consent to Annex). The property owners have also requested a rezone to City Residential General (R-G) Zone consistent with the Comprehensive Plan. See Staff Report Attachment 'A' (Application). Annexation without an election by petition of the property owners is allowed under ORS and by the City of Toledo Charter.
6. Notification of the proposed annexation and rezone was completed in conformance with the notification requirements as evidenced by submission of the notification affidavits and hereby made part of the record at the April 14, 2021, Planning Commission hearing and the May 5, 2021, City Council hearing.
7. Tax Lot 5401 is zoned Timber Conservation (TC) by Lincoln County. Goal 4 does not apply within urban growth boundaries and therefore, the designation of forest lands is not required. (OAR 660-006-0020). All of the adjacent properties are within the Urban Growth Boundary (UGB) or City limits.
8. The property immediately to the north and west is zoned Single-Family Residential. The property to the south across SE 16th Place is zoned Natural Resources (NR). The property to the east is designated UGB Medium-Density Residential. See Staff Report Attachment 'D' (Comprehensive Plan Map).
9. Tax Lot 5401 is 0.91 acres in size and is currently vacant.
10. Tax Lot 5401 is not connected to city sewer or city water. The Public Works Department stated city water and city sewer are available.
11. Access to this tax lot is from SE 16th Place. SE 16th Place is a paved city street. This meets Article 12 of the Toledo Comprehensive Plan by minimizing the adverse social, economic, and environmental impact costs of constructing, maintaining, and using transportation facilities and services. The subject property is adjacent to an existing city street.
12. The subject property will be zoned General Residential (R-G) after the annexation and zone change. The development standards in the R-G zone are listed in TMC 17.12. The City anticipates working with a non-profit to develop housing on the lot. The proposal meets Article 10 of the Comprehensive Plan by allowing additional housing in the City.
13. Lincoln County will not allow the creation of another lot inside of Toledo's UGB. In order to proceed with that intent of housing development the property would need to annex.
14. The City sent a Wetland Land Use Notification (WLUN) to the Department of Statelands (DSL). DSL recommended an on-site inspection by a qualified wetland consultant (Attachment E).

STAFF RECOMMENDATIONS:

Staff recommends that the annexation and rezone request be approved.

PROPOSED MOTION: Based on the staff report and attachments, testimony and evidence presented to the Planning Commission at the public hearing on April 14, 2021, the Toledo Planning Commission recommends approval of the annexation and rezone request as meeting the applicable criteria including ORS 222.111 (1) and (2) and ORS 222.125, The 2000 Toledo Comprehensive Land Use Plan, and Toledo Municipal Code Section 17.80.050 and the Commission adopts the proposed facts and findings presented in the staff report, allowing for the correction of typographical and grammatical errors.

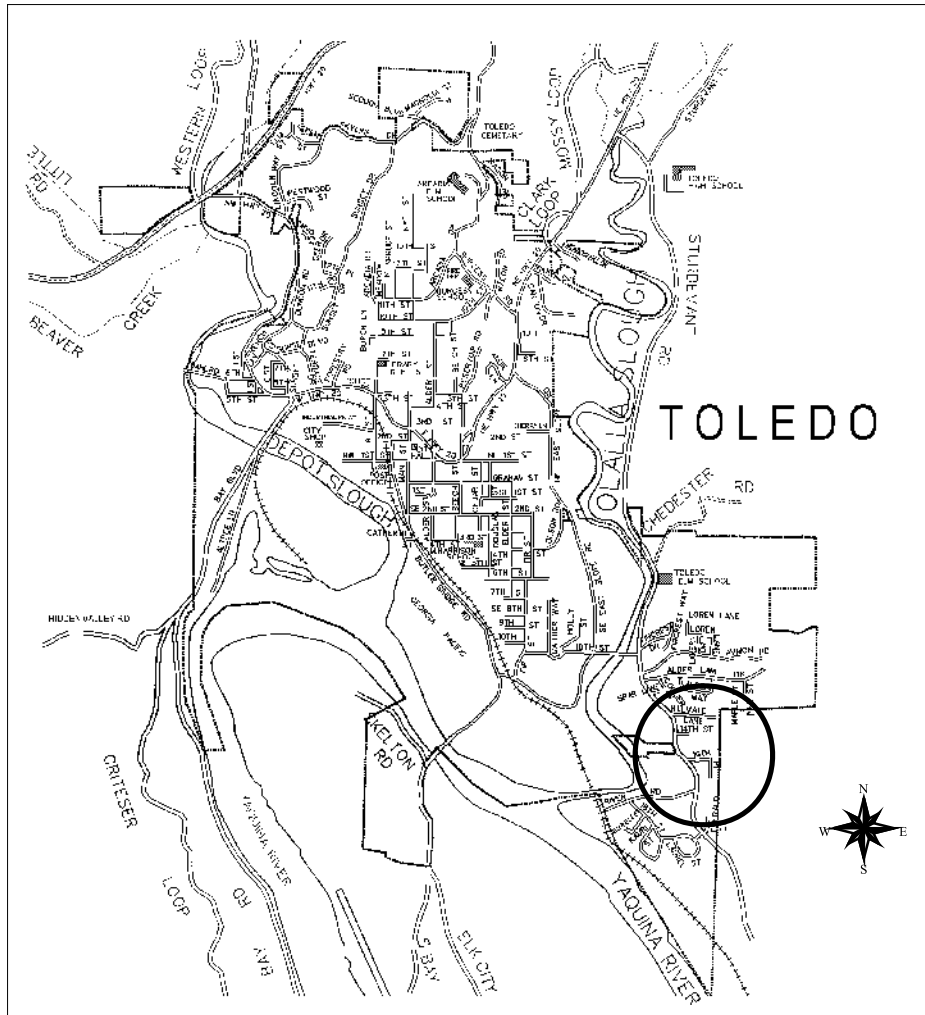
IV. PLANNING COMMISSION ROLE:

At the public hearing, the Planning Commission should evaluate the applicant's proposal and all testimony presented to them in order to make findings which demonstrate that the criteria in the Comprehensive Plan can be satisfied. The recommendation of the Planning Commission should be based on the testimony received by the Commission, the facts presented by the applicant and those who support or oppose the request, and the staff report.

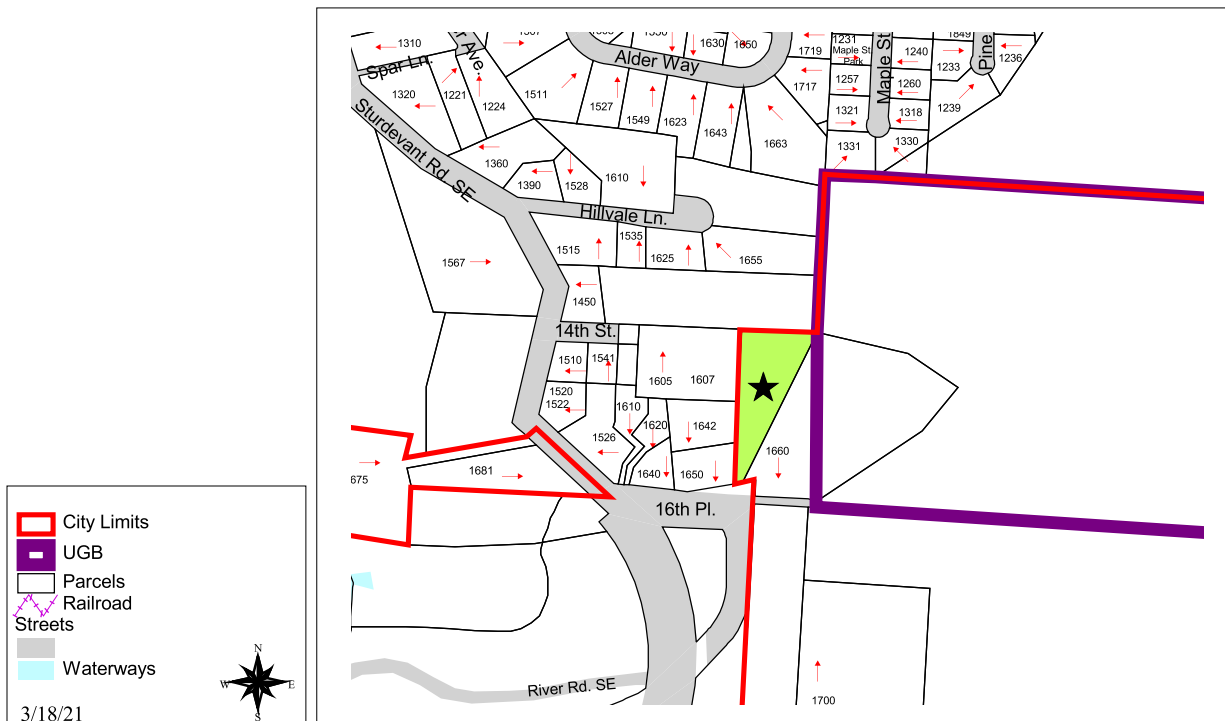
The Planning Commission forwards a recommendation to the City Council who will make the final decision on the annexation and rezone.

Justin Peterson
Contract Planner

Location Map



Site Map



ATTACHMENT A

Application

(City of Toledo File #AX-1-21/RZ-2-21)

CITY OF TOLEDO LAND USE APPLICATION

Date February 26, 2021

Property Owner City of Toledo

Telephone 541-336-2247

Mailing Address PO Box 220

Toledo OR 97391

Authorized Agent Judy Richter, City Manager

Telephone 541-336-2247

Property Address _____

Property Size .91 acre

Property Location SE 16th Place, east of SE Sturdevant Roadn

Assessors Map No. 11-10-17 DD

Tax Lot No. 5401

Present Zoning Timber Conservation (Lincoln County Designation)

Proposed Change City R-G

Comprehensive Plan Designation UGB Medium Density Residential

Current Land Use Vacant

Existing Structures (if any) None

Proposal for which this request is being made (attach additional sheets if needed)

Annex 11-10-17 DD Tax Lot 5401 and rezone from Lincoln County T-C Zone to City R-G Zone.

The property is approximately .91 acres and could provide future residential development.

The following **must** be submitted with this application:

- ☒ Deed description and proof of ownership interest.
- ☒ Site plan drawn to scale which shows property lines, access, existing buildings, other relevant features or conditions, the property's relationship to the surrounding neighborhood, and the location of existing and proposed development.
- ☐ Description of the proposed land use action, including information on how the proposal might impact surrounding property.
- ☐ Supplemental information form (if required).
- ☐ Application fee.

☒ Annexation/Rezone (\$1,100)*	☐ Expedited Land Division (\$1,500)*	☐ Riparian Modification Permit (\$150)
☐ Appeal, Land Use Misc (\$300)*	☐ Lot Line Adjustment (\$100)	☐ Similar Use, Planning Comm (\$225)
☐ Appeal, Type II (\$200)*	☐ Modification of Approval (75% of fee)	☐ Staff Level Exception to TPIRDS
☐ Appeal, Type III (\$400)*	☐ Partition, Major (\$700+\$20/lot)*	☐ (\$25+recording fee)
☐ Code Amendment (\$700)	☐ Partition, Minor (\$400)*	☐ Subdivision (\$700+\$20/lot)*
☐ (if requires M56 notice \$700+mailing)	☐ Planned Unit Development	☐ UGB Amendment (\$2,000)
☐ Comp. Plan Amendment (\$700)	☐ (\$700+\$20/unit)*	☐ Vacation (\$700)*
☐ (if requires M56 notice \$700+mailing)	☐ Public Hearing, Misc. Permit	☐ Variance, Type I (\$50)*
☐ Code Interpretation, official (\$125)	☐ Replat, Major (\$700+\$20/lot)	☐ Variance, Type II (\$200)*
☐ Conditional Use (\$400)	☐ Replat, Minor (\$400)	☐ Variance, Type III (\$400)*
☐ Exception to Statewide Goal (\$2,000)	☐ Restrictive Lot Line Covenant (\$75)	☐ Zone Change (\$700)

*Supplemental forms are required

If filing multiple Land Use Applications, the most expensive application will be assessed and 75% of each additional land use application when submitted together. If filing multiple Type I permits, staff can waive some fees where overlapping permits do not need significant additional review.

For Office Use Only

Date Received _____

Received By _____

Fee Paid _____

City File No. _____

I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that I must present sufficient factual evidence to show that this application complies with the Toledo Zoning Ordinance, Comprehensive Plan, and other applicable regulations. This responsibility is independent of any opinions expressed in the Planning Department Staff Report concerning the applicable criteria. I certify that, to the best of my knowledge, all information contained in this application is accurate.

My signature below shows that I have thoroughly discussed this application with the City Planner or the City Manager or designee and I am fully aware of my responsibilities as the applicant.

I understand that the Planning Commission will hold a public hearing for this application. ☐ yes
I understand that the City Council will hold a public hearing for this application. ☐ yes
I understand that this is a City of Toledo staff-level decision. ☐ yes
Other _____ ☐ yes

Applicant(s) Signature

Judelynn Richte, City Manager

Property Owner (if different)

Date

4/8/2021

Date

For Office Use Only

Public Works

1. Is City sewer available? Yes____ No____
Where_____

Is the property within City____ UGB____
Will a connection have to be constructed? Yes____ No____
What size of a line is required_____
2. Is City water available? Yes____ No____
Where_____

Is the property within City____ UGB____
Is the lot accessible to City water? Yes____ No____
3. Are there any public works improvements necessary? Yes____ No____
If yes, describe_____

4. Is there proper access? Yes____ No____
Are there proper easements? Yes____ No____

Curb cuts and property entrances must be constructed to City specifications. Permit and specifications are available through the Public Works Department.
5. Are there any special access requirements? Yes____ No____
If yes, describe_____
Is a state access permit required? Yes____ No____
Is a county permit required? Yes____ No____
6. Meter size_____
Estimated installation cost_____
7. Is a plan review by Public Works required? Yes____ No____
8. Is this a new parcel, created legally since 11/1/83? Yes____ No____
Minor Partition _____ File # _____
Major Partition _____ File # _____
Subdivision _____ File # _____
9. Is this application ready to be approved? Yes____ No____
Explain modifications or revisions needed for the application_____

Comments_____

REVIEWED AND APPROVED BY:

Public Works Director

Date

Fire Department

1. Does the proposal meet the safety requirements of the NFC and UFC? Yes_____ No_____

2. Is this application ready to be approved? Yes_____ No_____

Explain modifications or revisions needed for the application_____

Comments_____

REVIEWED AND APPROVED BY:

Fire Chief

Date

Police Department

1. Is this application ready to be approved? Yes_____ No_____

Explain modifications or revisions needed for the application_____

Comments_____

REVIEWED AND APPROVED BY:

Chief of Police

Date

Planning Department

1. Is this application ready to be approved? Yes_____ No_____

Explain modifications or revisions needed for the application_____

Comments_____

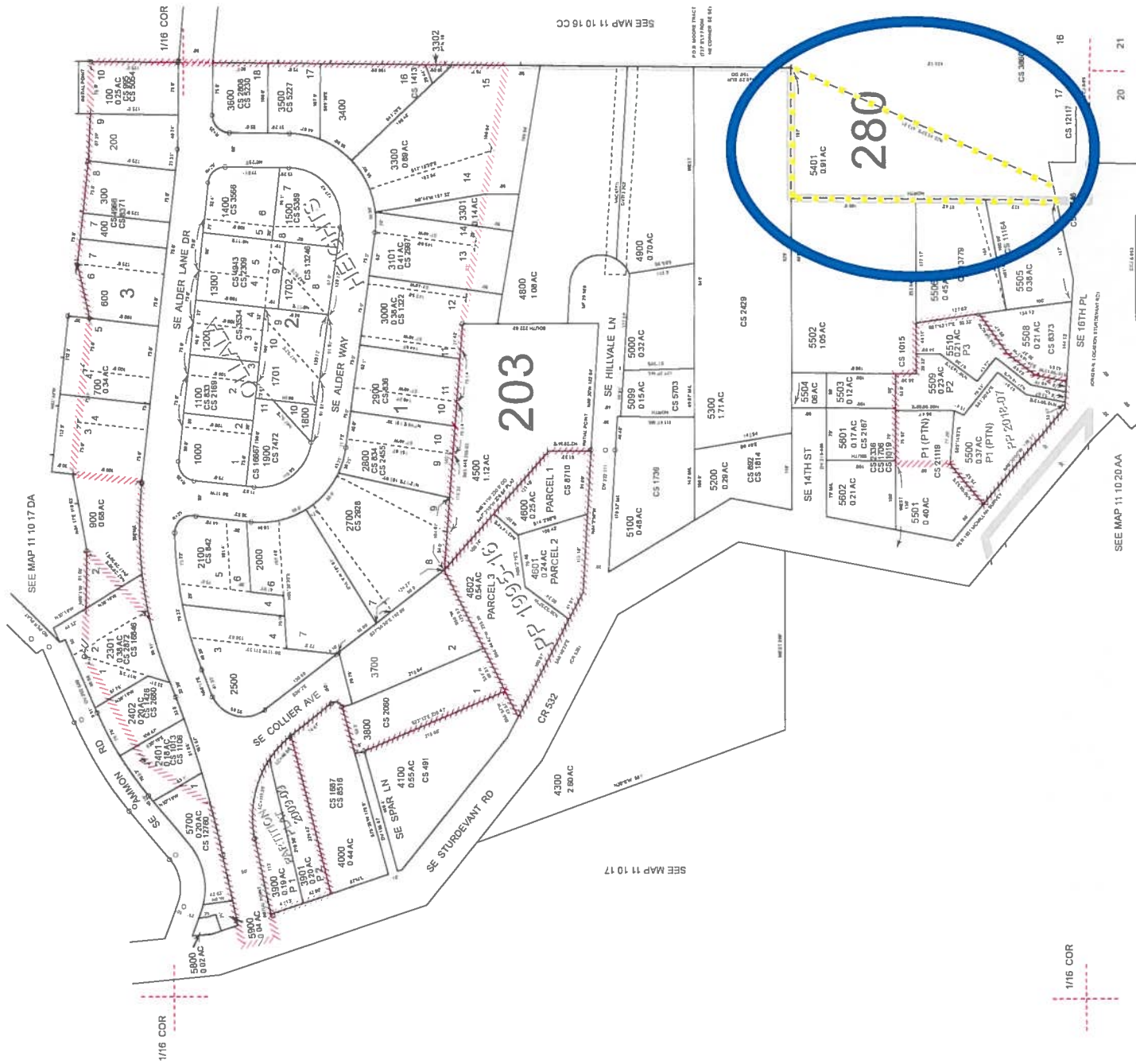
REVIEWED AND APPROVED BY:

Community Development Coordinator

Date

11 10 17 DD
TOLEDO

TOLEDO
11 10 17 DD



10/23/89

Mitigation site
on Sturdevant

BARGAIN AND SALE DEED

TIMES MIRROR LAND AND TIMBER COMPANY, an Oregon corporation, Grantor, conveys to the City of Toledo, Oregon, Grantee, the following described real property situated in Lincoln County, Oregon:

All that real property described in Exhibit "A" attached hereto and incorporated herein by this reference.

The true consideration for this conveyance stated in terms of dollars is \$15,000.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

DATED this 23rd day of October 1989.

TIMES MIRROR LAND AND TIMBER COMPANY

By Raymond M. Luthy.
Title: Vice President

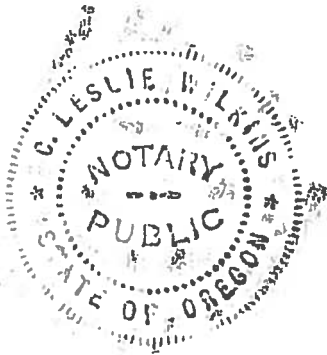
[Acknowledgment Follows]

STATE OF OREGON)
) ss.
County of Clackamas)

OCTOBER 23, 1989

Personally appeared Raymond M. Luthy who, being duly sworn, did say that he is the vice president of Times Mirror Land and Timber Company and that the foregoing instrument was signed on behalf of said corporation by authority of its board of directors and he acknowledged said instrument to be its voluntary act and deed.

Before me:



C. Leslie Wilkins
Notary Public for Oregon
My Commission Expires: 09/27/90

Until a change is requested, all tax statements shall be sent to the following address; after recording return to:

EXHIBIT A

See page 1 for vesting and encumbrances, if any.

Description of the tract of land which is the subject of this report:

PARCEL 1:

A tract of land in the Southeast 1/4 of Section 17, T 11 S, R 10 W, W.M., in Lincoln County, Oregon, described as follows:

Beginning at the Southeast corner of the Section 17, T 11 S, R 10 W, W.M., Lincoln County, Oregon; thence West 187 feet; thence North 26 1/4 rods; thence East 187 feet; thence South 26 1/4 rods to the point of beginning;

EXCEPT that portion lying Easterly of the Westerly line of that certain tract of land described in deed to Albert J. Archuletta, et, ux, recorded May 21, 1985 in Book 161, page 107, Deed Records.

PARCEL 2:

A tract of land in the NE 1/4 of Section 20, T 11 S, R 10 W, W.M., in Lincoln County, Oregon, described as follows:

Beginning at the initial point of the plat of YAQUINA VIEW NO. 1, as recorded in Volume 9, page 3, Plat Records; thence along the Southwesterly line of said plat (and the Southwesterly line of 18th Street South) and the Northwesterly extension of said Southwesterly line N 49° 49' W 445 feet, more or less, to a point on the Southerly line of that certain tract of land described in deed to Lynn Agee, et ux, recorded September 9, 1940 in Book 85, page 269, Deed Records, said point also being the Northerly corner of that certain tract of land described in deed to Charles P.

Wilson, recorded March 16, 1988 in

Report No.

21-87639

DD/2

Book 190, page 1708, Deed Records, and the true point of beginning; thence along the Southerly line of said Agee tract North 67° 30' East 210 feet; thence continuing along the Southerly line of said Agee tract North 56° 15' East 183 feet; thence North 60° 00' West to the Ollala Slough; thence Northerly along the Ollala Slough to the South line of the Howard Carey tract as described in Volume 246, page 242, Deed Records for Lincoln County; thence East along the South line of said Carey tract 283 feet, more or less, to the West line of the Thomas James Stapleton tract as described in Volume 123, page 76, Deed Records for Lincoln County; thence South to the Southwest corner of said Stapleton tract; thence East along tract; thence East along the South line of said Stapleton tract 117 feet; thence North 85° East 12 rods; thence North 78° East 16 rods; thence East 16 rods, more or less, to the West line of the Sturdevant County Road No. 528 right of way; thence South, Southwesterly and Southeasterly along the West line of said County Road, to the North line of the Plat of Yaquina View No. 1; thence South 75° 19' West 413.95 feet, more or less, to an angle corner in the North line of said plat; thence North 24° 10' West 247.15 feet; thence North 36° 03' 30" West 85.61 feet; thence North 49° 49' West 349.30 feet to the most Northerly corner of said Yaquina View No. 1, said point being on the Southerly line of a road easement; thence South 62° 10' West 161.76 feet to the most Northerly Westerly corner of said Yaquina View No. 1; thence North 49° 49' West to the true point of beginning;

EXCEPT that portion lying below the ordinary high water line of Ollala Slough; FURTHER EXCEPTING that portion described in deed to Lincoln County for road purposes recorded August 9, 1974 in Book 51, page 406, Deed Records.-----



Continuation Sheet Report No.

STATE OF OREGON } ss.
County of Lincoln

I, Gloria A. McEwen, County Clerk, in and for said county, do hereby certify that the within instrument was received for record, and recorded in the Book of Records of said county at Newport, Oregon.

Book 210 Page 1678

WITNESS my hand and seal of said office affixed.
GLORIA A. McEWEN, County Clerk

By [Signature] Deputy

Doc : 6039144

Rect: 7497

11/06/1989 02:05:19PM TTI

ATTACHMENT B

Consent to Annex

(City of Toledo File #AX-1-21/RZ-2-21)



CITY OF TOLEDO
PLANNING DEPARTMENT
206 N. Main / P.O. Box 220
Toledo, OR 97391
Phone: 541-336-2247 Ext 2080
www.cityoftoledo.org

FORM 1 – ANNEXATION CHECKLIST

REQUIRED SUBMITTALS

Please review the following checklist and accompanying instructions. You may also contact the City of Toledo Planning Department for more information.

- ☐ Completed General Land Use Application (Step 2 of Instructions)
- ☐ Filing Fee
- ☐ Petition/Petition Signature Sheet (Step 3 of Instructions)
- ☐ Certification of Ownership and Electors (Step 4 of Instructions)
- ☐ Owners and Electors Worksheet
- ☐ Supplemental Information Form (Step 5 of Instructions)
- ☐ Legal Description (Step 7 of Instructions)
- ☐ Cadastral Map (Step 8 of Instructions)
- ☐ ORS 222.173 Waiver Form (Step 9 of Instructions)
- ☐ ORS 197.352 (Ballot Measure 49) Waiver Form (Step 10 of Instructions)
- ☐ Public/Private Utility Plan (Step 11 of Instructions)
- ☐ Written Narrative addressing approval criteria as specified below:
 1. The affected territory proposed to be annexed is within the City's urban growth boundary; and is contiguous to the City limits or separated from the City only by a public right-of-way or a stream, lake, or other body of water.
 2. The proposed annexation is consistent with applicable policies in the City of Toledo Comprehensive Plan and in any applicable refinement plans.
 3. The proposed annexation will result in a boundary in which key services can be provided.

Notes:

An application to apply a zoning district consistent with the Comprehensive Plan designation may be applied for concurrently with the annexation application. A separate application form is required.

Withdrawals from special districts may occur concurrently with an annexation proposed by an individual. The City is responsible for the withdrawal process and action.



CITY OF TOLEDO
PLANNING DEPARTMENT
206 N. Main / P.O. Box 220
Toledo, OR 97391
Phone: 541-336-2247 Ext 2080
www.cityoftoledo.org

CITY OF TOLEDO ANNEXATION INSTRUCTIONS

Please review the following steps and attached checklist for the items needed to file an application with the City. You may also contact the City of Toledo Planning Department for more information.

Step 1. Pre-application Meeting

A pre-application meeting is required before submitting an annexation application. You may schedule this meeting with the City of Toledo Planning Department.

Step 2. General Land Use Application

The City has a general land use application that must be completed and submitted with this type of land use application (refer to Form 2).

Step 3. Filing Fee

A filing fee is required for an annexation/rezone to be processed. See planning department for fee amount. Checks are payable to the City of Toledo.

Step 4. Petition/Petition Signature Sheet

Annexations can be initiated using one of the following methods. The attached Petition Signature Sheet is to be used for collecting signatures (refer to Form 3).

A. Consent by All Owners and a Majority of Electors [ORS 222.125]

If the proposal is to be initiated by the owners of all of the land area and a majority of the electors, if any, complete Form 4. To give consent as an elector, the person signing the petition must be an eligible voter registered at an address within the annexation area. To give consent as a property owner, the person signing the petition must own an interest in the property, or is a purchaser on a contract sale that is recorded with the county. Generally, this means that both husband and wife should sign. In the case of a corporation or business, the person who is authorized to sign legal documents for the firm may sign the annexation petition. Please provide evidence of such authorization. In lieu of a petition form, an owner's consent may be indicated on a previously executed consent to annex form that has not yet expired as specified in ORS 222.173. To ensure that the necessary signatures are obtained, please complete the attached worksheet (Form 4).

B. Consent by Property Owners [ORS 222.170(1)]

If the proposal is to be initiated by the owners of at least one-half of the land area, land value, and land ownership, complete Form 4. To give consent for a particular piece of property, persons who own an interest in the property, or who are purchasers of property on a contract sale that is recorded with the county, must sign the annexation petition. Generally, this means that both husband and wife should sign. In the case of a corporation or business, the person who is authorized to sign legal documents for the firm may sign the annexation petition. Please provide evidence of such authorization. In lieu of a petition form, an owner's consent may be indicated on a previously executed consent to annex form that

has not yet expired as specified in ORS 222.173. To ensure that the necessary signatures are obtained, please complete the attached worksheet (Form 4).

C. Consents by Electors and Property Owners [ORS 222.170(2)]

If the proposal is to be initiated by a majority of the electors and owners of at least one half of the land area, complete Form 4. To give consent as an elector, the person signing the petition must be an eligible voter registered at an address within the annexation area. To give consent as a property owner, the person signing the petition must own an interest in the property, or is a purchaser on a contract sale that is recorded with the county. Generally, this means that both husband and wife should sign. In the case of a corporation or business, the person who is authorized to sign legal documents for the firm may sign the annexation petition. Please provide evidence of such authorization. In lieu of a petition form, an owner's consent may be indicated on a previously executed consent to annex form that has not yet expired as specified in ORS 222.173. To ensure that the necessary signatures are obtained, please complete the attached worksheet (Form 4).

Step 5. Certification of Ownership and Electors

After completing the attached Petition Signature Sheet (Form 3), have the Lincoln County Department of Assessment and Taxation certify the ownerships within the proposed annexation area. If applicable, have the Lincoln County Clerk or Deputy Clerk certify the electors.

Step 6. Supplemental Information Form

Form 5 (attached) provides additional information for the proposed annexation that is not requested on the General Land Use Application, such as special districts that currently provide services to the proposed annexation area.

Step 7. Legal Description

A metes and bounds legal description of the territory to be annexed or withdrawn must be submitted electronically in Microsoft Word or a compatible software program. A legal description shall consist of a series of courses in which the first course shall start at a point of beginning. Each course shall be identified by bearings and distances and, when available, refer to deed lines, deed comers and other monuments. A lot, block and subdivision description may be substituted for the metes and bounds description if the area is platted. The Oregon Department of Revenue has the authority to approve or disapprove the validity of a legal description. A professionally stamped legal description does not ensure Department of Revenue approval. The legal description must include contiguous or adjacent right-of-way to ensure contiguity as required by ORS 222.111 .

Step 8. Cadastral Map

Three clean copies of the most current cadastral map or maps, to scale, must be provided. An additional cadastral map at the same scale shall be provided that shows the proposed annexation area in relationship to the existing city limits. Cadastral maps can be purchased from the Lincoln County Assessment and Taxation office.

Step 9. ORS 222.173 Waiver Form

Complete the attached waiver (Form 6). The waiver should be signed by each owner within the proposed annexation area. The Form will need to be signed in front of a notary (notarized) and then recorded in Lincoln County Deed Records at the applicant's expense.

Step 10. ORS 197.352 (Ballot Measure 49) Waiver Form

Complete the attached waiver (Form 7). The waiver should be signed by each owner within the proposed annexation area.

Step 11. Public/Private Utility Plan

Submit a plan describing how the proposed annexation area can be served by key facilities and services.

Step 12. Written Narrative Addressing Consistency with the Criteria

All annexation requests must be accompanied with a narrative providing an explanation and justification of response with the criteria stated on the application (also stated below).

1. The affected territory proposed to be annexed is within the City's urban growth boundary; and is contiguous to the City limits or separated from the City only by a public right-of-way or a stream, lake, or other body of water.
2. The proposed annexation is consistent with applicable policies in the City of Toledo Comprehensive Plan and in any applicable refinement plans.
3. The proposed annexation will result in a boundary in which key services can be provided.

SUBMIT COMPLETED APPLICATION TO:

City Planning Department
City of Toledo
City Hall -206 N. Main Street
P.O. Box 220
Toledo, Oregon 97391



**CITY OF TOLEDO
PLANNING DEPARTMENT**
206 N. Main / P.O. Box 220
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FORM 2 - ANNEXATION APPLICATION

Type of Annexation: (May require a supplemental application to be attached and/or additional documentation)

☒ Annexation	☒ Rezone (Zone Change)	☐ Comprehensive Plan Map Amendment _____
--	--	---

PROPERTY ADDRESS (or location if an address has not been assigned):	
SIZE OF PROPERTY: .91 ac	ASSESSOR'S MAP AND TAX LOT NO: 11-10-17 DD TL 5401
PRESENT USE: Vacant	PROPOSED USE: Residential Use
BRIEF SUMMARY OF ACTION REQUESTED: Annex into the City limits and rezone from County T-C to City R-G Zone.	
NAME OF PROPERTY OWNER(S): City of Toledo	
ADDRESS: PO Box 220 Toledo OR 97391	
PHONE: 541-336-2247	E-MAIL: manager@cityoftoledo.org
NAME OF APPLICANT(S): City of Toledo	
ADDRESS: PO Box 220 Toledo OR 97391	
PHONE: 541-336-2247	E-MAIL: manager@cityoftoledo.org
NAME OF CONTACT: Judy Richter, City Manager	
ADDRESS: PO Box 220 Toledo OR 97391	
PHONE: 541-336-2247	E-MAIL: manager@cityoftoledo.org

ATTACHMENT(S): Yes ☒ No ☐

I have the following legal interest in the property (Please check one):

Owner of Record ☒

Lessee ☐

Holder of an Exclusive Option to Purchase ☐

Contract Purchase ☐

I hereby certify that the foregoing statements and other information attached hereto are true and accurate to the best of my knowledge and belief I also agree to pay all direct costs associated with processing this land use application.

Judy M Richter, City Manager
Owner's Signature

4/8/2021
Date

Staff Use Only

Filing Fee: _____	Payment Received by: _____	Date: _____
Zoning: _____	Plan Designation: _____	File No. _____
Date Application Deemed Completed: _____	Completion Checked by: _____	Date: _____



FORM 3 - PETITION/PETITION SIGNATURE SHEET

Annexation by Individuals

CITY OF TOLEDO
PLANNING DEPARTMENT
206 N. Main / P.O. Box 220
Toledo, OR 97391
Phone: 541-336-2247 Ext 2080
www.cityoftoledo.org

To the City Council of the City of Toledo:

We, the following property owners/electors, petition and consent to the annexation of the following territory to the City of Toledo. A map is attached, marked Exhibit A, showing the affected territory and its relationship to the present City boundaries.

Signature	Dated signed (m/d/y)	Printed Name	Mailing address (street, city, zip code)	Property Address (street, city, zip code)	Map & Tax Lot No. (ex: 11-10-03-00- 01000)	Property owner (y/n)	Registered voter (y/n)
1.							
2.							
3.							
4.							
5.							
6.							
7.							

Note: With the above signature(s), I am attesting that I have the authority to consent to annexation on my own behalf or on behalf of my entity or agency. (Attach evidence of such authorization when applicable.)

I, _____ (printed name of circulator), hereby certify that every person who signed this sheet did so in my presence.

X _____ (signature of circulator)

CERTIFICATION OF OWNERSHIP

The total landowners in the proposed annexation are _____ (qty). This petition reflects that _____ (qty) landowners (or legal representatives) listed on this petition represent a total of _____ (%) of tax lots the landowners and _____ (%) of the acres as determined by the map and attached to the petition. (A&T is not responsible for subsequent deed activity that may not yet be reflected on the A&T computerized tax roll).

CERTIFICATION OF ELECTORS

The total active registered voters in the proposed district annexation are _____. I hereby certify that this petition includes _____ valid signatures representing _____ (%) of the total active registered voters that are registered in the proposed annexation.

Lincoln County Department of Assessment and Tax

Date Certified

Lincoln County Clerk or Deputy Signature

Date Certified



FORM 4 - OWNERS AND ELECTORS WORKSHEET

(Continued)

ELECTORS

[illegible]

FORM 4 - OWNERS AND ELECTORS WORKSHEET

(Continued)

SUMMARY

TOTAL NUMBER OF ELECTORS IN THE PROPOSAL	
NUMBER OF ELECTORS WHO SIGNED	
PERCENTAGE OF ELECTORS WHO SIGNED	
TOTAL ACREAGE IN PROPOSAL	
ACREAGE SIGNED FOR	
PERCENTAGE OF ACREAGE SIGNED FOR	

Application Initiated by *(for an explanation of the initiating methods, refer to Step 4 of the Instructions):*

- ☐ A – All Owners/Majority Electors [ORS 222.125]
- ☐ B – Majority Owners/Area/Value [ORS 222.170(1)]
- ☐ C – Majority Electors/Area [ORS 222.170(2)]



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FORM 5

SUPPLEMENTAL INFORMATION FORM

(Complete all the following questions and provide all the requested information. Attach any responses that require additional space, restating the question or request for information on additional sheets.)

Contact Person: Judy Richter, City Manager
E-mail: manager@cityoftoledo.org

Supply the following information regarding the annexation area.

- Estimated Population (at present): 0
- Number of Existing Residential Units: 0
- Other Uses: _____
- Land Area: .91 total acres
- Existing Plan Designation(s): UGB Medium Density Residential
- Existing Zoning(s): Timber Conservation
- Existing Land Use(s): Vacant
- Applicable Comprehensive Plan(s): 2020 Toledo Comprehensive Land Use Plan
- Applicable Refinement Plan(s): _____
- Provide evidence that the annexation is consistent with the applicable comprehensive plan(s) and any associated refinement plans. _____
- Are there development plans associated with this proposed annexation? Yes _____ No X
If yes, describe. _____
- Is the proposed use or development allowed on the property under the current plan designation and zoning? Yes X No _____
- Indicate whether a change of zoning is required/requested to allow the proposed use or development.
Zone Change requested: Yes _____ No X
If requested, proposed Zoning District: _____
- Does this application include all contiguous property under the same ownership? Yes X No _____
If no, state the reasons why all property is not included: _____

- Check the special districts that provide service to the annexation area:

☒ Toledo Fire District

☒ Toledo Library District

☐ Other: _____

Names of persons to whom staff notes and notices should be sent, in addition to applicant(s), such as an agent or legal representative.

(Name)

(Name)

(Address, City, State Zip)

(Address, City, State, Zip)

(Name)

(Name)

(Address, City, State Zip)

(Address, City, State, Zip)

(Name)

(Name)

(Address, City, State Zip)

(Address, City, State, Zip)

FORM 6

WAIVER OF EXPIRATION OF CONSENT TO ANNEXATION

We, _____, and _____ (Developers) are the owners of that piece of real property commonly known as _____, located within Lincoln County, Oregon and more particularly described as follows (Property):

[INSERT LEGAL DESCRIPTION FOR PROPERTY]

Developers hereby agree that the consent to annexation of the Property by the City of Toledo is irrevocable and shall be binding upon Developers' heirs, successors, and assigns forever, being a covenant running with the land. Developers hereby waive the one-year period prescribed by ORS 222.173.

Developer's Signature

Date: _____

Developer's Signature

Date: _____

STATE OF OREGON)
County of _____) ss.

This instrument was acknowledge before me on this _____ day of _____, 20____, by _____ and _____, who I personally know or satisfactory identification was provided, and attested to be their voluntary act and deed.

Notary Public for Oregon

My Commission Expires: _____

FORM 7

ORS 197.352 BALLOT MEASURE 49 WAIVER FORM

Name of Document for Recording:

(For County Recording Use Only)

Covenant of Waiver of Rights and Remedies

Grantee: City of Toledo

Consideration: Commencement of Proceedings.

Tax Statement to be mailed to: No Change.

After Recording, Return To: City of Toledo

Attn: City Recorder

PO Box 220

Toledo, OR 97391

Covenant of Waiver of Rights and Remedies

Whereas, _____, hereinafter referred to as "Petitioner/Owner", has petitioned the City of Toledo ("City") to commence an annexation (proceedings) for the following described real property:

[INSERT LEGAL DESCRIPTION]

Whereas, pursuant to the enactment of Ballot Measure 49 (effective December 6, 2007), a property owner may elect to seek just compensation if a public entity enacts one or more land use regulations that restrict the residential use of private real property after the property owner acquired the property; and

Whereas, there is the potential that the Oregon electors or the Oregon Legislature may, in the future, enact further statutory or constitutional amendments relating to compensation for the impact of local regulations upon real property, under certain circumstances; and

Whereas, City does not wish to approve the Petitioner/Owner's requested proceedings if: (1) the result would or could arguably give rise to a later claim by the owner or the owner's successors or assigns for compensation for the land use regulations in effect upon the effective date of the proceedings; or (2) would or could arguably give rise to a right to require the City to waive the City's land use regulations in effect upon the effective date of the proceedings, which are being newly imposed upon the property by reason and result of the proceedings; and

Whereas, Petitioner/Owner seeks to induce the City to proceed with the proceedings and therefore agrees to eliminate any potential claim for compensation or right to seek waiver from the City's land use regulations existing as of the effective date of the proceedings;

Now, therefore, the undersigned Petitioner/Owner warrants that the individual(s) executing this Covenant holds the full and complete present ownership and all interests therein in Property, and hereby agrees and covenants as follows:

1. As inducement to the City to proceed with the Annexation and Rezone proceedings, proceeding(s) affecting the subject real property, which may include designation of the property as subject to additional applicable overlay zones and districts (all inclusively referred to herein as "proceedings"), the undersigned Petitioner/Owner, on behalf of Petitioner/Owner, Petitioner/Owner's heirs, devisees, executors, administrators, successors and assigns, agrees and covenants to the City of Toledo, its officers, agents, employees and assigns that the undersigned hereby remises, waives, releases, forever discharges, and agrees that Petitioner/Owner shall be stopped from asserting any rights and remedies, actions, causes of action, suits, claims, liabilities, demands, and rights to waivers arising under or granted by any statutory or constitutional regulatory compensation or waiver provisions, including but not limited to Ballot Measure 49 (2007) or otherwise enacted after the date of this proceeding which would create a right of claim for compensation or waiver from city land use regulations that exist upon the effective date of the proceeding and which, by the approval of the proceeding, are then applicable to the property.
2. This waiver and release shall bind the undersigned's heirs, devisees, executors and administrators, successors in interests, and assigns. This covenant, waiver, release and discharge shall run with the land, and this instrument or a memorandum hereof may be recorded in the official records of the County in which the subject real property is located. This instrument may be terminated only by the City of Toledo filing a Notice of Termination of Covenant with the Lincoln County recorder.
3. If this instrument is given contemporaneous with a consent to future proceedings to be initiated by the City, Petitioner/Owner acknowledges that the proceedings may be initiated by the City of Toledo at any time in the discretion of the City of Toledo and that this waiver and release is applicable to any ordinances adopted prior to the effective date of the proceeding.
4. This document is executed of my own free will and without duress. I, or if more than one, each of us respectively acknowledge that I/we have been advised to obtain legal advice prior to the execution of this document, and that either I, or each of us respectively, have either obtained legal advice or have

independently elected not to seek legal advice prior to the execution of this document, recognizing that this document may affect our legal rights and remedies.

DATED this _____ day of _____, 20_____.

Petitioner(s)/Owner(s) – If individuals:

Signature: _____
Print Name: _____
Date: _____

Signature: _____
Print Name: _____
Date: _____

State of Oregon)
County of _____) ss.

This instrument was acknowledge before me on this _____ day of _____, 20_____, by _____ and _____, who I personally know or satisfactory identification was provided, and attested to be their voluntary act and deed.

Notary Public for Oregon
My Commission Expires: _____

Petitioner(s)/Owner(s) – If entity:

Entity: _____

By: _____

Its: _____

Date: _____

State of Oregon)
County of _____) ss.

On this _____ day of _____, 20_____, personally appeared the above-named _____, personally known to me, or confirmed by satisfactory evidence, who being first sworn, stated that s/he is the _____ of _____ (entity), and who stated that s/he signed the foregoing instrument on behalf of _____ (entity) and is authorized to bind such entity, and s/he acknowledged the foregoing instrument to be the voluntary act and deed of _____ (entity).

Notary Public for State of Oregon
My Commission Expires: _____

City of Toledo:

By: _____
City Manager

Date: _____

State of Oregon)
County of _____) ss.

On this _____ day of _____, 20_____, personally appeared the above-named _____, as the City Manager, who signed the foregoing instrument on behalf of the City of Toledo, and who acknowledged the foregoing instrument to be his voluntary act and deed.

Notary Public for State of Oregon
My Commission Expires: _____

This document is accepted pursuant to authority and approved for recording.

ATTACHMENT C

Site Plan Map

(City of Toledo File #AX-1-21/RZ-2-21)

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

0 50 100 150 200 Feet

S.E. 1/4 S.E. 1/4 SEC. 17 T. 11 S. R. 10 W. W.M.
LINCOLN COUNTY
1" = 100'

11 10 17 DD
TOLEDO

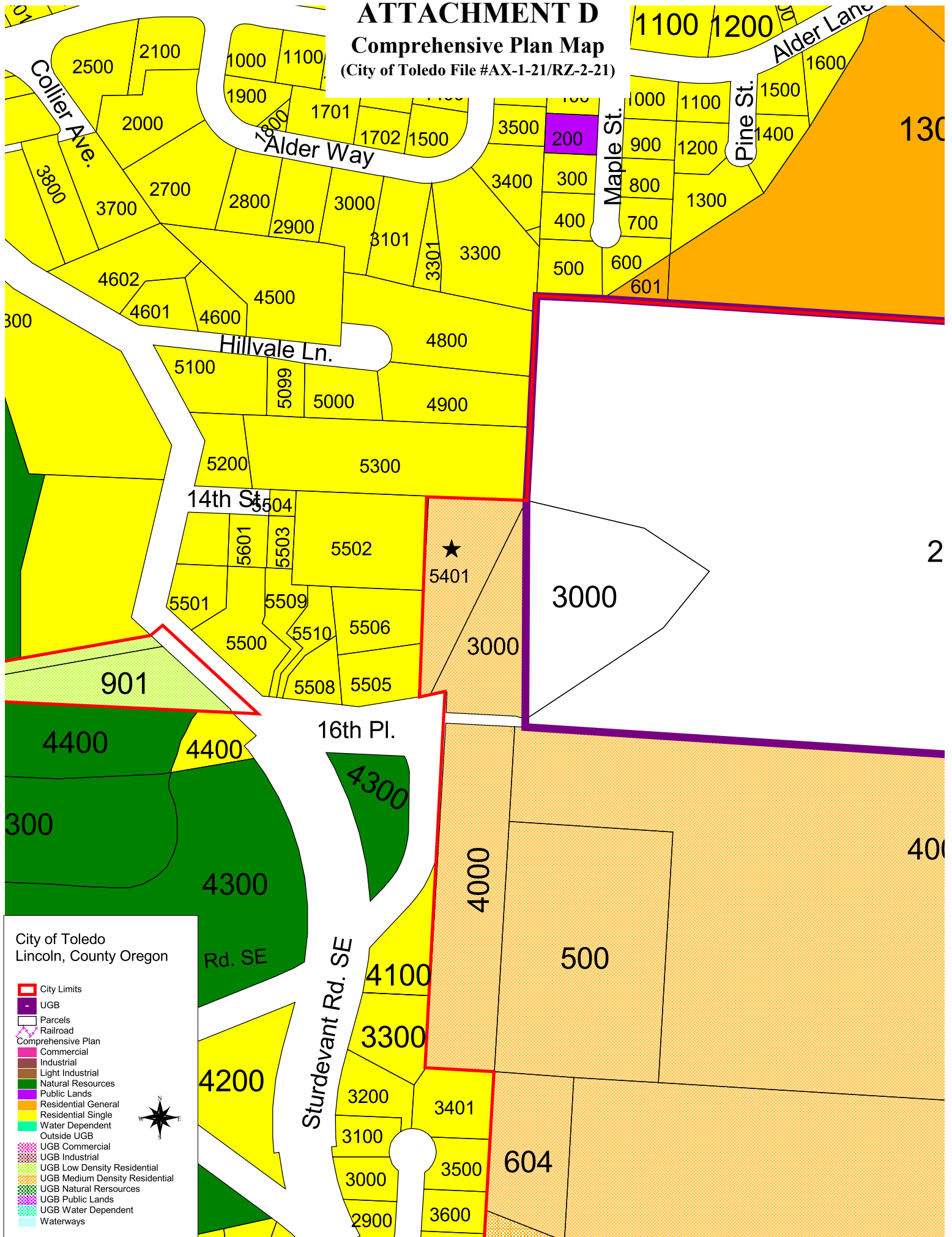
Cancelled
500
600
800
1000
1200
1400
1600
1800
2000
2200
2400
2600
2800
3000
3200
3400
3600
3800
4000
4200
4400
4600
4800
5000
5200
5400
5600



**Proposed annexation
of Lincoln County
Assessors Map
11-10-17DD Tax Lot
5401. Approx. .91
acres, owned by City
of Toledo. Local File
No. AX-1-21/RZ-2-21**

Revised: SEB
06/11/2020
TOLEDO
11 10 17 DD

(City of Toledo File #AX-1-21/RZ-2-21)



ATTACHMENT E

Draft Ordinance

(City of Toledo File #AX-1-21/RZ-2-21)

ORDINANCE NO. _____

AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONE OF REAL PROPERTY, THE WITHDRAWAL FROM TOLEDO RURAL FIRE PROTECTION DISTRICT AND THE LINCOLN COUNTY LIBRARY DISTRICT CERTAIN REAL PROPERTY BEING ANNEXED TO THE CITY OF TOLEDO, OREGON, AND DECLARING AN EMERGENCY

WHEREAS, on _____, the City of Toledo filed a written request for annexation of property located at SE 16th Place (Assessor's Map #11-10-17-DD Tax Lot 5401 – approximately 0.91 acres) that is outside the city limits but is contiguous to the city limits of the City of Toledo,

WHEREAS, On _____, in addition to the annexation request, the property owner of Assessor's 11-10-17-DD Tax Lot 5401 also filed a request to rezone the .91 acre parcel of the property from County T-C (Timber Conservation) to City General Residential (R-G), consistent with the 2000 Toledo Comprehensive Land Use Plan Map,

WHEREAS, the Planning Commission held a public hearing on April 14, 2021, on the proposed annexation and rezone (local file #AX-1-21/RZ-2-21) to consider and make a recommendation on the proposed annexation and rezone to the City Council,

WHEREAS, the City Council held a public hearing on May 5, 2021, to consider and take action on the annexation and rezone request, and the City Council adopted facts and findings on the request as set forth in the staff report,

WHEREAS, before annexation, the property was located within the boundaries of the Toledo Rural Fire Protection District and the Lincoln County Library District,

WHEREAS, the City Council held a public hearing on May 5, 2021, for the purpose of hearing any objections to the withdrawal of the property from the Toledo Rural Fire Protection District and the Lincoln County Library District, and

WHEREAS, implementation of the ordinance as soon as possible is in the public interest and necessary for the peace, health, convenience, and safety of the inhabitants of the City of Toledo.

NOW, THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:

Section 1. The following described property located in Toledo, Oregon which is identified as the parcel designation as Lincoln County Assessor's Map # 11-10-17-DD Tax Lot 5401, and as described below is annexed to the City of Toledo, Oregon:

A tract of land in the Southeast 1/4 of Section 17, T 11 s, R 10 W, W.M., in Lincoln County, Oregon, described as follows:

Beginning at the Southeast corner of the Section 17, T 11 s, R 10 w, W.M., Lincoln County, Oregon, thence West 187 feet; thence North 26 1/4 rods; thence East 187 feet; thence South 26 1/4 rods to the point of beginning; EXCEPT that portion lying Easterly

Ordinance # _____

5/5/21

Page 1 of 2

of the westerly line of that certain tract of land described in deed to Albert J. Archuletta, et, ux, recorded May 21, 1985 in Book 161, page 107, Deed Records.

Section 2. The property identified as Lincoln County Assessor's Map # 11-10-17-DD Tax Lot 5401 (approximately .91 acres), is rezoned from the County Timber Conservation (T-C) designation to the Toledo Comprehensive Land Use Plan and Zoning Map designation of General Residential.

Section 3. The described property in Section 1 is withdrawn from the Toledo Rural Fire Protection District and the Lincoln County Library District.

Section 4. Emergency Clause. Inasmuch as the provisions herein contained are necessary for the preservation of the peace, health, convenience, and safety of the inhabitants of the City of Toledo, Lincoln County, Oregon, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED by the City Council of the City of Toledo, Lincoln County, Oregon, on the _____ day of _____, 2021.

ATTEST:

APPROVED:

City Recorder

Mayor

ATTACHMENT F

Wetland Land Use Notification (WLUN)

(City of Toledo File #AX-1-21/RZ-2-21)



Response Page

Department of State Lands (DSL) WN#*

WN2021-0214

Responsible Jurisdiction

Staff Contact

Justin Peterson

Jurisdiction Type

City

Municipality

Toledo

Local case file

RZ-2-21 and AX-1-21

County

Lincoln

Activity Location

Township

11S

Range

10W

Section

17

QQ section

DD

Tax Lot(s)

5401

Street Address

SE 16th Place

Address Line 2

City

Toledo

Postal / Zip Code

97391

State / Province / Region

OR

Country

Lincoln

Latitude

44.609139

Longitude

-123.919000

Wetland/Waterway/Other Water Features

☒ There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.

☒ The National Wetlands Inventory shows wetland, waterway or other water features on the property

Your Activity

☒ An onsite inspection by a qualified wetland consultant is recommended prior to site development to determine if the site has wetlands or other waters that may be regulated. The determination or delineation report should be submitted to DSL for review and approval. Approved maps will have a DSL stamp with approval date and expiration date.

Applicable Oregon Removal-Fill Permit Requirement(s)



- ☒ A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

Closing Information



Additional Comments

There may be wetlands or the ordinary high water of a jurisdictional unnamed tributary just within/adjacent to the study area on the south/east side of the lot. Therefore, a wetland delineation is recommended prior to site development, completed and submitted to DSL for review and concurrence.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

- ☒ A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

Response Date

3/29/2021

Response by:

Matthew Unitis

Response Phone:

503-986-5262



Wetland Land Use Notification

OREGON DEPARTMENT OF STATE LANDS

775 Summer Street NE, Suite 100, Salem, OR 97301-1279

Phone: (503) 986-5200

This form is to be completed by planning department staff for mapped wetlands and waterways.

Responsible Jurisdiction

*

☒ City of ☐ County of

Municipality*

Toledo

Date*

2/26/2021

Staff Contact

First Name*

Justin

Last Name*

Peterson

Phone*

5413362247

Email*

jpeterston@ocwcog.org

Applicant

First Name*

City of

Last Name*

Toledo

Mailing Address*

Street Address

PO Box 220

Address Line 2

City

Toledo

Postal / Zip Code

97391

State

OR

Country

United States

Phone

5413362247

Email (?)

planning@cityoftoledo.org

Is the Property Owner name and address the same as the Applicant?*

☐ No ☒ Yes

Activity Location

Township* (?)

11S

Range* (?)

10W

Section* (?)

17

Quarter-quarter Section (?)

DD

Tax Lot(s) *

5401

You can enter multiple tax lot numbers within this field. i.e. 100, 200, 300, etc.

To add additional tax map and lot information, please click the "add" button below.

Address

Street Address

SE 16th Place

Address Line 2

City

Toledo

Postal / Zip Code

97391

State

OR

Country

US

County *

Lincoln

Adjacent Waterbody

Wetland

Proposed Activity**Local Case File # ***

RZ-2-21 and AX-1-21

Zoning

RR-5

Proposed☐ Building Permit (new structures)☐ Grading Permit☐ Site Plan Approval☒ Other (please describe)

Zone Change and Annexation

☐ Conditional use Permit☐ Planned Unit Development☐ Subdivision**Project ***

The City of Toledo is proposing to Annex City-owned Tax Lot 5401 on Lincoln County Assessor's Map 11-10-17 DD. The property is designated medium density residential on the Toledo Comprehensive Plan Map. The property is currently County zoned Rural Residential 5 Acre. The City is proposing to change the zoning to Residential General (R-G) in alignment with the Comprehensive Plan. The property is contiguous with City Limits and within the existing Urban Growth Boundary.

Based on the SWI a wetland appears to be located near the eastern boundary of the property. The property will be rezoned to residential and may have residential development in the future.

Required attachments with site marked: Tax map and site plan(s). (?)

11-10-17-DD TL 5401.PNG

311.4KB

Additional Attachments**Date**

2/26/2021