

**Toledo City Hall
Council Chambers
206 N Main St. Toledo OR
April 13, 2022
6:30 pm**

AGENDA

TOLEDO PLANNING COMMISSION

The Planning Commission will hold an in-person meeting in City Hall Council Chambers. Participants can also attend the meeting through the Zoom video meeting platform. Email planning@cityoftoledo.org or call 541-336-2247 ext. 2130 to receive the meeting login information.

1. CALL TO ORDER AND ROLL CALL
2. VISITORS: (A time set aside to speak with the Planning Commissioners about issues not on the agenda)
3. APPROVAL OF THE MARCH 9, 2022 MINUTES as circulated and reviewed by the Planning Commission
4. PUBLIC HEARING: Annex property into the City limits and rezone from County A-C to City Commercial (File #AX-2-22/RZ-2-22), for property located at 1565 NW Highway 20, requested by property owner Mary Limbrunner and representative Buzy Bee Services (John Mosier)
5. DISCUSSION ITEMS:
 - a. Comprehensive Land Use Plan discussion about public outreach and the town hall meeting
 - b. Updates and Reports
6. STAFF COMMENTS
7. COMMISSIONER COMMENTS
8. 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 6:30 pm by President Anne Learned-Ellis. Commissioners present: Jonathan Mix, Ruthanne Morris, Terri Neimann, and Ricky Dyson (arrived at 6:45 pm). Excused were Cora Warfield and Brian Lundgren.

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

VISITORS: Dave Loomis, Rob Duprau, Jane Towsley, Buzz Towsley, CeCe Kelly, Ian Griffin, Cesarina DiBlasi, Jake Pettis, Christopher Fisher

APPROVAL OF THE FEBRUARY 9, 2022, MINUTES:

It was moved and seconded (Mix/Morris) to approve the February 9, 2022, minutes as circulated and reviewed by the Planning Commission. The **motion passed** unanimously, noting the absence of Warfield, Lundgren and Dyson.

PUBLIC HEARING: ANNEX PROPERTY INTO THE CITY LIMITS, REZONE FROM COUNTY R-1 TO CITY GENERAL RESIDENTIAL, AND AMEND THE COMPREHENSIVE PLAN MAP FROM LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL (FILE #AX-1-22/RZ-1-22/PA-1-22), FOR PROPERTY LOCATED AT 2500 NE ARCADIA DRIVE, REQUESTED BY PROPERTY OWNER ROBERT DOWNS AND REPRESENTATIVE CECE KELLY:

President Learned-Ellis opened the public hearing by stating the nature and purpose. After calling for declarations of ex parte contact, bias, or conflict of interest, Commissioner Neimann reported she knows CeCe Kelly, but believes it would not be a conflict. President Learned-Ellis stated she is familiar with the site. The statements of rights and relevances and rights to appeal were then read.

Staff Report: CP Peterson reviewed the staff report as on file at City Hall. The request is for an annexation, rezone, and Comprehensive Plan map amendment of the approximately 30.45 acres. The plan map amendment would change the designation from Low Density Residential to Medium Density Residential and the rezone would change the property from County R-1 to City R-G. The Planning Commission will make a recommendation to the City Council on the request. The City Council will then have the final decision on the request.

The two properties are located on the west and east sides of NW Arcadia Drive. There may be wetlands present and if/when the property is developed, notice should be provided to Oregon Department of State Lands. There is a City raw-water line easement on the property (Tax Lot 2303). Currently, the property does not have access to City water or sewer services. CP Peterson reviewed the Low Density and Medium Density Residential designations, development standards in the R-G Zone, decision criteria, relevant Comprehensive Plan goals and objectives, the proposed facts and findings, and surrounding zone designations. He clarified that the proposal includes a Comprehensive Plan map change to the Medium Density Residential designation in order for the new zone designation be R-G and not R-S. The proposal meets criteria for a plan map amendment,

the property is contiguous to the City limits, located in the Urban Growth Boundary, and it is intended for development in the future. Public hearing notices were sent and comments returned from Lincoln County Planning, DLCD, and Fair Housing Council, which are included in the staff report. Commissioner Dyson entered the meeting at this time.

CP Peterson noted that the property was partitioned a couple years ago and the property to the east (Tax Lot 2302) has been transferred to Central Lincoln PUD and is not included in this application. Tax Lot 2304 has a new home and Tax Lot 2303 is vacant. He reviewed Goal 10-Housing standards, recent housing starts, and current trends. The City is currently in the process of updating a Buildable Lands Inventory (BLI) and Housing Needs Analysis. The adopted 1999 BLI showed 484 acres in Low Density Residential and only 52 acres designated as Medium Density Residential. Because of the rising costs of housing and current trends, there is a need for residential units. Arcadia Drive is considered a collector street and is a paved, Lincoln County road. ODOT and Lincoln County Road Department were both notified of the request, but did not submit comments. Any future development on the site would need to meet development codes and there is a potential need for geo-tech reports and wetland coordination. Staff recommends approval of the request.

In answer to Commissioner questions, CP Peterson provided the following information:

- Tax Lots 2303 and 2304 are both listed in the proposal. The combined properties equal 30.45 acres. There was a typo on Page 2 referencing Tax Lot "2303".
- The applicant provided two potential layouts for future development. However, this would need a subdivision application to be reviewed and approved. President Learned-Ellis noted that Arcadia Drive is narrow and curvy and if they add housing, there may be new comments submitted from Lincoln County Road Department and ODOT.
- The property is not adjacent to City water or sewer. A future development proposal can include a plan to extend the services. Public Works noted that engineering may be necessary for future development. CM Richter clarified that the City should have the capacity to provide water to the site, as the Seal Rock Water District will no longer be a water customer in the near future.

Applicant Testimony: CeCe Kelly of 870 NE Polk Drive, Newport, represents the property owner Robert Downs. She provided a handout at tonight's meeting, which was distributed to Planning Commissioners at the beginning of the meeting and made available online. She displayed oversized maps showing the exact location of the site and the potential for utility services to the property. Approximately 1000'-1200' of water line would need to be extended from Skyline Drive to the property along Arcadia Drive. Sewer expansion may include a pump station for future development. Electric is in the area, with a transmission line near the property. Communication service can be provided by Spectrum and satellite internet services are also available. The area does not have natural gas service, but home owners could install propane tanks. Dahl Disposal provides the solid waste service within Toledo. No storm drain improvements are not proposed at this point.

Ms. Kelly reviewed the transportation systems, noting the area bus stops and transit schedules. She spoke to the Lincoln County Transit and the buses are currently running at half capacity. Therefore, the buses have the ability to accommodate growth and additional riders.

One new park was included in the preliminary draft for future development at the site. The City currently maintains several parks that could be used by future residents. Toledo Elementary and Toledo Jr/Sr High Schools expressed the need for new housing, based on the number of homeless students. Classroom sizes average 18-24 students, which allows room for expansion. Ms. Kelly

noted the emergency services in the area, local hospitals/clinics, storage units, cemeteries, and child care services. She also stated that employers are finding it difficult to hire employees because of the housing shortage. Georgia-Pacific employees are having to commute from other cities. She reported that the staff report covered a lot, but wanted to note that the population has only grown by 81 people since 1999, whereas, the planning documents projected a population around 5000. She believes increasing the buildable lands will help the community and create affordable housing options. The owner is considering a mixture of housing types—duplexes, apartments and single-family homes. The increase in homes and improvements will increase the tax base for Toledo.

Proponent Testimony: Two attendees electronically raised their hand and were offered to speak, however, due to technical problems, Ian Griffin and Christopher Fisher were unable to be heard.

Dave Loomis of 459 Pioneer Mountain Loop, noted the location of the water line near the cemetery and Skyline Drive and it is able to be extended.

Commissioner Neimann read written comments from Christopher Fisher. Mr. Fisher's comments stated that he wanted to support Ms. Kelly's presentation and that this is considered a 5-year plan. Ms. Kelly noted that Mr. Fisher is working with the property owner's developer.

Opponent Testimony: Jane and Buzz Towsley of 2355 NE Mossy Loop expressed opposition to the proposal. They live just below the home that was recently built. They would like to see the plan for infrastructure and houses before it is annexed. There is an existing stormwater run-off problem in the area. Developing the property will add to the problem, affecting their well and the Mossy Loop watershed. There are also environmental impacts and potential for slides. They would like to see an environmental impact study, erosion control plan, and how the development will impact their aquifer. They reviewed the history of the site and the previous owner's desire to not develop the area. In answer to Commissioner questions, Mr. Towsley reported their well is 27' deep and expressed concerned with the stability of the hillside. Several other wells in the area are not that deep because of the spring in the area. Mr. Towsley voiced that they would not be opposed to 5 acre sites, as that is consistent with the general area. He does not want to see high density development directly above him.

President Learned-Ellis noted that if development occurs in a 25' slope, a geo-tech report may be needed. Any future development would have to meet code standards and criteria. She reminded participants that the Commission can only consider the annexation, rezone, and plan amendment request. Commissioner Mix added that the submitted plan shows lots on the west side of Arcadia Drive. There were no notes for development on the east side (adjacent to the Mossy Loop area). If development occurs on the west side, drainage would most likely be directed to the north (highway side).

Other Interested Parties: Commissioner Neimann read Mr. Fisher's written comments, clarifying that they are not looking at developing the east side, only the west side of Arcadia Drive.

Applicant Rebuttal: Ms. Kelly referred to Mr. Fisher's comments clarifying the western lot will be proposed for future development. The east lot should remain the same. They understand the topography concerns and if more houses are added, there will be future applications for review.

Questions by Commission: None.

Deliberations: The public hearing was closed and the Commission entered into deliberations. Commissioners discussed the need for geo-tech review for future development and the ability to mitigate the concerns.

It was moved and seconded (Neimann/Mix) that based on the staff report and attachments, testimony and evidence presented to the Planning Commission at the public hearing on March 9, 2022, 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, Toledo Municipal Code Section 17.80.050 and the Statewide Planning Goals and the Commission adopts the proposed facts and findings presented in the staff report, allowing for the correction of typographical and grammatical errors. The **motion passed** unanimously, noting the absence of Warfield and Lundgren.

DISCUSSION ITEM: UPDATES AND REPORTS:

CP Peterson provided an update on several projects:

- The Housing Needs Analysis advisory committee will hold their first meeting on April 11th at 2pm. City documents and data have been provided to the consultants.
- The Comprehensive Plan update is moving forward. The scope of work was provided at the last meeting. A public visioning meeting will need to be held.
- The Safe Routes to Schools-Part 1 grant has been submitted. This project includes sidewalks from Toledo Elementary to SE 10th Street, signage, and flashing lights. The City will need to provide a 20% grant match for the project. Improvements are limited to right-of-way improvements, within ¼ mile of the school.

STAFF COMMENTS:

CM Richter reported the City has vacancies on the Budget Committee. The Budget Committee is made up of 7 City Council members and 7 citizens. They typically meet in the evenings, with 2-3 meetings in May. They will continue to hold meetings at Toledo Fire Department, with a virtual attendance option. Commissioner Dyson expressed interest in the Committee.

COMMISSIONER COMMENTS:

Commissioner Neimann asked what could be done for the couple who voice opposition at tonight's public hearing. CA Adams noted that they are on the record and they can provide comments to the City Council at the April 6th meeting. CP Peterson added that the draft minutes and comments are included in the staff report packet to City Council. Commissioners discussed future development and the need for additional review as development moves forward. President Learned-Ellis voiced the benefits for living in Oregon and having a good land use process for citizens.

There being no further business before the Commission, the meeting was adjourned at 7:45 pm.

Secretary

President

**TOLEDO PLANNING COMMISSION
STAFF REPORT**

PROPERTY: Lincoln County Assessor's Map # 11-10-7 A Tax Lots 2501 and 2503

APPLICATION #: AX-2-22/RZ-2-22

APPLICANT: John Mosier, Buzy Bee Svc.

OWNER: Mary Limbrunner

APPLICATION DATE: February 22, 2022

HEARING DATES: Planning Commission: April 13, 2022
City Council: May 4, 2022

REQUEST: The proposal is for a zoning map amendment from Lincoln County Agricultural Conservation (A-C) to the City of Toledo Commercial (C) 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: 1565 NW Highway 20

LOT SIZE: 0.49 acres

STAFF REPORT:

I. REPORT OF FACTS:

1. Plan Designation: Current - UGB Commercial
Proposed – City Commercial
2. Proposed Zone Designation: Current – County A-C
Proposed - City Commercial
3. Existing Structures: Tax Lot 2501 has an existing commercial building and accessory structures. Tax Lot 2503 has an existing radio tower.
4. Topography: The property generally slopes downhill to the west.
5. Development Constraints: The subject property is partially within a wetland identified on the Statewide Wetlands Inventory. The subject property is located within the 100-year floodplain.
6. City water: The subject property is connected to city water.
8. City sewer: City sewer is currently available adjacent to the site. An agreement was signed that allowed the connection to city sewer prior to the annexation being finalized. This was

- allowed because of the failing septic system causing a health and safety hazard. The applicant submitted a sewer connection application and working on connecting.
9. Development Standards: The Commercial development Standards are listed in TMC 17.16.
10. Notice of Public Hearing: Notices mailed to 21 property owners and 19 public/service agencies on March 24, 2022. Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on February 23, 2022, 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 30, 2022, and April 6, 2022
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.
13. Staff Report Attachments:
- A. Application
 - B. Annexation Agreement
 - C. Code Enforcement Letter
 - D. Site Plan Map
 - E. Comprehensive Plan Map
 - F. Draft Ordinance

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 the 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)(a) Except as provided in paragraph (b) of this subsection, 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 purposes 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.

- (b) For purposes of paragraph (a) of this subsection, a proposal for annexation initiated by the legislative body of a city may provide for a duration of not more than 20 full fiscal years.
- (c) 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 may the proposal provide for a rate of taxation for city purposes in the annexed territory that exceeds the highest rate of taxation for city purposes applicable to other property in the city for the current year.
- (d) If the annexation takes place pursuant to 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 that the proposal authorizes for that fiscal year.
- (e) Notwithstanding paragraph (d) of this subsection, during the term of fiscal years provided for pursuant to paragraph (b) of this subsection, the ratio shall be 100 percent for property that is sold or transferred to new ownership, beginning with the first property tax year that begins after the sale or transfer.
- (4)(a) 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.
- (b) Notwithstanding paragraph (a) of this subsection, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.
- (5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.
- (6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.
- (7) Two or more proposals for annexation of territory may be voted upon simultaneously, but in the city, each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation, no proposal for annexing other territory may appear on the ballot.

Sections (3), (4), (5), (6) and (7) are permissive or not applicable criteria, so do not need to be satisfied 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 not 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. ORS 222.155 Annexation Contracts states that:

A contract between a city and a landowner containing the landowner's consent to eventual annexation of the landowner's property in return for extraterritorial services:

- (1) Must be recorded; and
- (2) When recorded, is binding on successors in interest in that

4. 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.

5. 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 17.80.040 – Quasi-judicial amendments to maps. Quasi-judicial map amendments are those map amendments which require discretion in applying existing standards or criteria to a request. The approval authority for quasi-judicial amendments shall follow the Type III land use procedure as set forth by ordinance and the approval authority shall be as follows:
 - A. The planning commission shall decide zoning map changes which do not involve comprehensive plan amendments;
 - B. The planning commission shall make a recommendation to the city council on an

application for a comprehensive plan map amendment. The city council shall decide such applications; and

- C. The planning commission shall make a recommendation to the city council on a zoning map application which also involves a comprehensive plan map amendment application. The city council shall decide both applications.

3. 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.

4. 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, separate and distinct from the commercial main floor, or a residential live work unit is allowed, subject to inspection and approval by the City for fire and life safety and are allowed only where there is a commercial use and the business has obtained a business license from the City of Toledo.

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 live work accessory dwelling unit 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.
- N. Cottage Clusters

5. 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.

6. 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 9: Economic Development:

- Goal 2. Ensure an adequate supply of appropriately zoned land to provide for the full range of economic development opportunities in Toledo including commercial, industrial, water-dependent, office and institutional service development.

Article 12: Transportation:

- Goal 1: Provide a safe and efficient, multi-modal 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 6, 2022, 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, is located within the UGB, and the request to annex has been initiated by written petition of all of the property owners.

2. On the original land use application, only Tax Lot 2501 was listed. Based on review of the legal description, Tax Lots 2501 and 2503 are described together on the current deed. Staff completed deed research and the subject tax lots may be two distinct parcels. However, the tax lots are currently described together on one legal description. Staff requested that the applicant amend the application to include both Tax Lots 2501 and 2503.

ORS 222.115 gives the city the authority to require a property owner to annex both parcels by contract. Based on review of the subject property the historic commercial building on Tax Lot 2501 is connected to the communication tower on Tax Lot 2503, and the deed describes both tax lots together. Therefore, staff believes that both Tax Lots should be annexed at the same time. The applicant signed the annexation agreement for both Tax Lots 2501 and 2503 agreeing to annex both lots into the city (Attachment B).

3. The proposed annexation and rezone request meets the requirements set forth in the 2000 Toledo Comprehensive Land Use Plan. There is a public need for the amendment, and that the need cannot reasonably be met by any other method. As discussed below the subject property is required to connect to city sewer and in order to connect must be located within city limits.
4. 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.
5. 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 a 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 Commercial. 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 parcel is required to connect the city sewer based on Toledo Municipal Code 13.16.050 - Connection to city sewer system required which states that when a property line is within 150 feet of a city sewer that property shall connect. In addition, Oregon Department of Environmental Quality regulations require connection (OAR 340-071-0160). At the time the property was developed an on-site septic system was allowed, however, the repair of that septic system is not allowed pursuant to the Toledo Municipal Code and DEQ regulations.
6. Mary Limbrunner, as the owner of the property located at Lincoln County Assessor's Map # 11-10-7 A Tax Lots 2501 and 2503 on February 22, 2022, submitted a request to annex 0.49 acres of property into City limits of Toledo. See Staff Report Attachment 'A' (Consent to Annex). The property owners have also requested a rezone to City Commercial (C) 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.

7. 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 13, 2022, Planning Commission hearing and the May 4, 2022, City Council hearing.
8. Tax Lots 2501 and 2503 are zoned A-C by Lincoln County. All of the adjacent properties are within the Urban Growth Boundary (UGB) or City limits.
9. The properties immediately to the north are zoned City Commercial and City Natural Resources. The property to the south is Lincoln County Zoned A-C and City designated Natural Resources. The property to the east and on the east side of Hwy 20 is zoned R-S. The property to the west is zoned City Natural Resources. See Staff Report Attachment 'D' (Comprehensive Plan Map).
10. Tax Lots 2501 and 2503 are 0.49 acres in size. Tax Lot 2501 currently has a commercial building and accessory structures. Tax Lot 2503 currently has a radio tower. The two tax lots have historically been used together and the current deed describes the tax lots together. The applicant originally stated that the subject property has a single-family home. Staff reached out to the Lincoln County Planning Department about the history of the subject property. Based on the information from the county the building has historically been used as a commercial structure. Lincoln County Code Violation 01-CV-2010 is included in the packet and indicates that the commercial structure was never converted to a residential use (Attachment C). The applicant provided a letter on March 9, 2022 that states the current structure is commercial (Attachment A). Therefore, the existing structure on the property will be considered a commercial building by the City of Toledo.
11. City sewer is currently available adjacent to the site. An agreement was signed that allowed the connection to city sewer prior to the annexation being finalized (Attachment B). This was allowed because of the failing septic system causing a health and safety hazard. The applicant is in the process of completing the connection to city sewer and will be required to pay the applicable city fees. The commercial building on Tax Lot 2501 is connected to city water.
12. Access to these tax lots is from NW Hwy 20. NW Hwy 20 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.
13. The subject property will be zoned Commercial (C) after the annexation and zone change. The development standards in the C zone are listed in TMC 17.16. The proposed commercial zoning allows certain uses as outlined in TMC 17.16. As stated above the existing use would be considered commercial and is not an approved residential use. The conversion of the structure from commercial to another use would require a change of occupancy permit. The change of occupancy would be reviewed by the Lincoln County Building Department, and the City of Toledo Planning, Public Works, and Fire Departments. The commercial zone allows for a live work accessory dwelling unit, multi-family is allowed as a conditional use, and single-family residences are not allowed in the zone. The City of Toledo willing to work with the applicant and

owner to bring the building into compliance with building codes, zoning codes, fire, and other applicable standards.

14. The Lincoln County zoning is Agricultural Conversation which allows a limited number of uses. The Commercial Designation is more aligned with the properties historic use.
15. The subject property has wetlands and is adjacent to wetlands according to the Statewide Wetlands Inventory Map. Future development may require review and approval by the Department of State Lands (DSL).
16. The subject property and structure are located in the Floodplain according to panel number 41041C0389E, dated October 18, 2019. A floodplain development permit is required for any future remodeling or development and is required to meet the floodplain development standards in TMC 15.16.
17. The City of Toledo submitted a Boundary Change Notice to the Department of Revenue (DOR) to verify that the information would be accepted by the DOR. "This letter is to inform you that the Description and Map for your planned Annexation to the City of Toledo and withdrawal from the Toledo RFPD and Lincoln County Library District (Planning No AX-2-22) in Lincoln County have been reviewed per your request. They DO NOT MEET the requirements for use with an Order, Ordinance, or Resolution in accordance with ORS 308.225. Please show all bearings and distances on the map". The applicant will be required to submit a map with all bearings and distances.

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 13, 2022 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

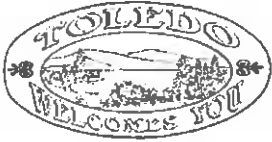
[illegible]

ATTACHMENT A

Application

(City of Toledo File #AX-2-22/RZ-2-22)

CITY OF TOLEDO LAND USE APPLICATION



Date 2-22-22

Property Owner Limbrunner Mary m
Mailing Address 631 SE 1ST
New port or 92365

Telephone 541-265-2025
Email _____

Authorized Agent Buzzy Bee SVC
Mailing Address P.O. Box 90
Silette OR

Telephone 541 961-3083
Email _____

Property Address 1565 NW Hwy 20
Property Location 11-10-07-AC-02501-00
Assessors Map No. _____

Property Size 4.356
Tax Lot No. 02501-00

Present Zoning A-C
Comprehensive Plan Designation Commercial
Current Use of Property Single Family
Existing Structures (if any) _____

Proposed Change City Sewer

Proposal for which this request is being made (attach additional sheets if needed)
Apex to City for Sewer Connection

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 and how the request meets the decision criteria.
- ☐ Supplemental information form (if required).
- ☐ Application fee.

Annexation/Rezone (\$1,500)*	Expedited Land Division (\$2,000)*	Riparian Modification Permit (\$200)
Appeal, Land Use Misc (\$535)*	Lot Line Adjustment (\$135)	Similar Use, Planning Comm (\$535)
Appeal, Type II (\$260)*	Modification of Approval (75% of fee)	Subdivision (\$930+\$20/lot)*
Appeal, Type III (\$535)*	Partition, Major (\$930)*	UGB Amendment (\$2,660)
Code Amendment (\$930)	Partition, Minor (\$535)*	Variance, Type I (\$65)*
(if requires M56 notice \$930+mailing)	Planned Unit Development	Variance, Type II (\$260)*
Comp. Plan Amendment (\$930)	(\$930+\$20/unit)*	Variance, Type III (\$535)*
(if requires M56 notice \$930+mailing)	Replat, Major (\$930)	Zone Change (\$930)
Code Interpretation, official (\$170)	Replat, Minor (\$535)	
Conditional Use (\$535)	Restrictive Lot Line Covenant	
Exception to Statewide Goal (\$2,660)	(\$100+admin fee)	

*Supplemental forms are required

If filing multiple Land Use Applications, the highest tier 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 _____ By _____ Fee Paid _____ Complete Application Date _____ 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, City Manager, or designee and I am fully aware of my responsibilities as the applicant. A pre-application meeting with City staff was held on or around _____.

I understand that the Planning Commission will hold a public hearing for this application (Type III) ☐ yes
I understand that the City Council will hold a public hearing for this application (Type IV) ☐ yes
I understand that this is a City of Toledo staff-level decision (Type I and Type II) ☐ yes
Other _____ ☐ yes

Bruce Beesuc *owner*
Applicant(s) Signature

2-22-22
Date

Mary M. Limerunner
Property Owner (if different)

2-22-22
Date

For Office Use Only

Public Works

1. Is City sewer available? Yes _____ No _____
Where _____
Will a connection have to be constructed? Yes _____ No _____
What size of a line is required _____
2. Is City water available? Yes _____ No _____
Where _____
Meter size _____
Estimated installation cost _____
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. Are stormwater improvements needed? Yes _____ No _____
If yes, describe _____

- Is an erosion control plan needed? Yes _____ No _____
7. Is a plan review by Public Works required? Yes _____ No _____
8. Is this application ready to be approved? Yes _____ No _____
Explain modifications or revisions needed for the application _____

Comments _____

REVIEWED AND APPROVED BY:

Brian J. Jumper
Public Works Director

4/7/22
Date

Fire Department

1. Does the proposal meet the safety requirements of the IFC? 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:

Day Mused
Fire Chief Inspector

2/23/22
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:

City Planner

Date

Fire Department

1. Does the proposal meet the safety requirements of the IFC? 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:

Michael Pace _____ 04/06/22

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:

City Planner _____ Date _____



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.



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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 corners 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
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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):

1565 NW Hwy 20

SIZE OF PROPERTY:

4.356

ASSESSOR'S MAP AND TAX LOT NO:

11-10-67-AC-62501-00

PRESENT USE:

PROPOSED USE:

~~Single Family~~ Single Family

BRIEF SUMMARY OF ACTION REQUESTED:

convert to sewer city

NAME OF PROPERTY OWNER(S):

Limb Runner Mary M

ADDRESS:

631 SE 1st Newport OR 97365

PHONE: 541 265 2025

E-MAIL:

NAME OF APPLICANT(S):

Buzzy Bee LLC

ADDRESS:

PO Box 90 Siletz OR 97380

PHONE: 541 961-3093

E-MAIL:

NAME OF CONTACT:

John Mosien

ADDRESS: 176 E Swan Siletz OR

PHONE: 541-222-9111

E-MAIL:

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 _____

Contractor ☒

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.

X Mary M. Limb Runner

Owner's Signature

2/23/2022

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
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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. <i>X Mary M. Lindermeier</i>							
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).

Lincoln County Department of Assessment and Tax

Date Certified

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 Clerk or Deputy Signature

Date Certified



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FORM 4 - OWNERS AND ELECTORS WORKSHEET

(This form is NOT the petition)

(Please include the name and address of ALL owners and electors regardless of whether they signed an annexation petition or not. This information will assist in determining the appropriate initiating method and for notification purposes.)

OWNERS

Property Designation (Map/Lot Number)	Name of Owner	Acres	Assessed Value	Imp Y/N	Signed Yes	Signed No
11-10-07-A-D 2501-00	MAN-C M Limbunner		94,790 ⁰⁰	YES	✓	
		4,356 ⁵⁰	PT			
TOTALS:						

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. Please attach recorded copies of completed Consent to Annex form(s), if applicable.

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)]



FORM 5

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

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: John Mosier / Bozy Bee SVC
E-mail: [Signature]

Supply the following information regarding the annexation area.

- Estimated Population (at present): 1 full time Res up stairs
- Number of Existing Residential Units: II
- Other Uses: [Signature]
- Land Area: 4,356 ^{SQ Ft} total acres
- Existing Plan Designation(s): R Commercial
- Existing Zoning(s): AC
- Existing Land Use(s): Residential
- Applicable Comprehensive Plan(s): Commercial
- Applicable Refinement Plan(s): [Signature]
- Provide evidence that the annexation is consistent with the applicable comprehensive plan(s) and any associated refinement plans. Proposed Commercial matches comp plan
- Are there development plans associated with this proposed annexation? Yes [Signature] No ☒
If yes, describe. Just connecting to sewer
- Is the proposed use or development allowed on the property under the current plan designation and zoning? Yes ☒ No ☐
- Indicate whether a change of zoning is required/requested to allow the proposed use or development.
Zone Change requested: Yes ☒ No ☐
If requested, proposed Zoning District: AC to Commercial
- Does this application include all contiguous property under the same ownership? Yes ☐ No ☒
If no, state the reasons why all property is not included: NO LOT # 2503 IS NOT INC.

- 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, MARY M Limbrunner, and [Signature] (Developers) are the owners of that piece of real property commonly known as 1565 NW Hwy 28 located within Lincoln County, Oregon and more particularly described as follows (Property):

[INSERT LEGAL DESCRIPTION FOR PROPERTY]

See ATT PAGE

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.

Mary M Limbrunner

Developer's Signature /owner

Date: 2-22-22

Developer's Signature _____

Date: _____

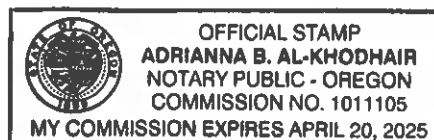
STATE OF OREGON)
County of Lincoln) ss.

This instrument was acknowledge before me on this 22 day of February, 2022 by Mary M Limbrunner and _____, who I personally know or satisfactory identification was provided, and attested to be their voluntary act and deed.

[Signature]

Notary Public for Oregon

My Commission Expires: April 20, 2025



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, *Mary M. Linderkumer*, 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 22nd day of February, 20 22.

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

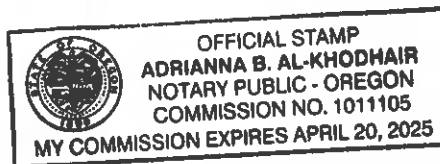
Signature: Mary M. Limbrunner
Print Name: MARY M. LIMBRUNNER
Date: 2-22-22

Signature: _____
Print Name: _____
Date: _____

State of Oregon)
County of Lincoln) ss.

This instrument was acknowledge before me on this 22 day of February, 20 22, by Mary M. Limbrunner and _____, who I personally know or satisfactory identification was provided, and attested to be their voluntary act and deed.

[Signature]
Notary Public for Oregon
My Commission Expires: April 20, 2025



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.

Mary M. Limbrunner
631 SE 1st St.

Newport, OR 97365

541-265-2025

March 7, 2022

City of Toledo
Justin Peterson

RE: Annexation

Hello Mr. Peterson,

I would like to clarify and affirm that the subject property has been in continual commercial use for over 50 years as a broadcasting facility for three radio stations serving all of Lincoln County. We seek no change in zoning as it still broadcasts two stations from that facility (K-cup & Wings of Praise, KTDO is no longer broadcast. Furthermore, we agree that the two parcels should be amended together as the tower on lot 2505 is used to broadcast from the facility at tax lot 2501. The application is corrected and amended to commercial. We are aware of the 100 year flood plain and fully agree with floodplain standards. We shall also amend the application to include both tax lots as they are connected and in continuous commercial use. Please find attached notarized documents for irrevocable annexation and sewer service agreement.

Sincerely,



Mary M. Limbrunner

RECEIVED
CITY OF TOLEDO
DATE 3/9/22
BY ML

2/23/22

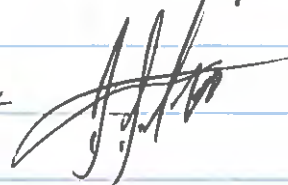
To whom it may concern

TL# 2501 HAS A Failing
Septic Issue / Needs
emergency connection to
City Sewer Services IS
in Urban Boundary Already
HAS City water to owners
Dis may Didn't know about
Issue shocked to find out
purchased as is Quick Sale at
time of purchase
Eagerly trying to correct problem

we for mean time HAVE Installed
Portapotty & Holding tank for
Shower & Sink waste

written for Lou & Mary Limbrunner

Bozy Bee Svc



1565

Property Detail Report

15.5 NW Highway 20, Toledo, OR 97391-1015

APN: R12583

Lincoln County Data as of: 02/02/2022

Owner Information

Owner Name: Limbrunner Mary M
 Vesting:
 Mailing Address: 631 SE 1st St, Newport, OR 97365-4301

Occupancy: Absentee Owner

Location Information

Legal Description: Twnshp 11, Rng 10, Acres 0.10, Doc200713571
 APN: R12683
 County: Lincoln, OR
 Muni / Twnshp: Alternate APN: 11-10-07-A0-02501-00 Census Tract / Block: 951300 / 2035
 Sub Division: Twshp-Rng-Sec: 11S-10W-07
 Neighborhood: Rural Toledo Tract #: Legal Lot / Block:
 Elementary School: Toledo Elementary... School District: Lincoln County School District Legal Book / Page:
 Middle School: Newport Middle Sch... High School: Toledo Senior High...
 Latitude: 44.63092 Longitude: -123.94472

Last Transfer / Conveyance - Current Owner

Transfer / Rec Date: 09/21/2007 / 09/21/2007 Price: \$80,000 Transfer Doc #: 2007.13571
 Buyer Name: Limbrunner, Mary M Seller Name: Agpal Broadcasting Inc Deed Type: Deed

Last Market Sale

Sale / Rec Date: 09/21/2007 / 09/21/2007 Sale Price / Type: \$80,000 / Deed Type: Deed
 Multi / Split Sale: Y Price / Sq. Ft.: \$47 New Construction:
 1st Mtg Amt / Type: 1st Mtg Rate / Type: 1st Mtg Doc #: N/A
 2nd Mtg Amt / Type: 2nd Mtg Rate / Type: Sale Doc #: 2007.13571
 Seller Name: Agpal Broadcasting Inc Title Company: First American Tit...
 Lender:

Prior Sale Information

Sale / Rec Date: Sale Price / Type: Prior Deed Type:
 1st Mtg Amt / Type: 1st Mtg Rate / Type: Prior Sale Doc #: N/A
 Prior Lender:

Property Characteristics

Gross Living Area: 1,720 Sq. Ft. Total Rooms: 0 Year Built / Eff: 1974
 Living Area: 1,720 Sq. Ft. Bedrooms:
 Total Adj. Area: Baths (F / H):
 Above Grade: 1,720 Sq. Ft. Pool:
 Basement Area: Fireplace:
 Style: Cooling:
 Foundation: Heating:
 Quality: Exterior Wall:
 Condition: Construction Type: Wood Roof Type:
 Roof Material:

Site Information

Land Use: Miscellaneous Lot Area: 4,356 Sq. Ft. Zoning: A-C; AGRICU
 State Use: 211 - Comm/Resi... # of Buildings: 1
 County Use: 211 - Comm Impr In Res Usable Lot: Res / Comm Units:
 Site Influence: Zone - Vacant Acres: 0.1 Water / Sewer Type:
 Flood Zone Code: Ae Flood Map #: 41041C0389D Flood Map Date: 12/18/2009
 Community Name: Lincoln County Flood Panel #: 0389D Inside SFHA: True

Tax Information

Assessed Year: 2021 Assessed Value: \$94,780 Market Total Value: \$114,260
 Tax Year: 2021 Land Value: Market Land Value: \$65,630
 Tax Area: 280 Improvement Value: Market Imprv Value: \$48,630
 Property Tax: \$1,116.15 Improved %: Market Imprv %: 42.56%
 Exemption: Delinquent Year:





1565 Old Hwy 20

Exhibit "A"

Real property in the County of Lincoln, State of Oregon, described as follows:

That portion of the Northeast quarter of Section 7, Township 11 South, Range 10 West, Willamette Meridian in Lincoln County, Oregon described as follows:

Beginning at a point on the Westerly boundary line of Highway No. 20 at the intersection thereof, with the South line of the Northeast quarter of Section 7, Township 11 South, Range 10 West, Willamette Meridian., in Lincoln County, Oregon; thence West following said line a distance of 100 feet to a point; thence continuing on said South line West 258 feet; thence North 10 feet; thence continuing on said South line West 258 feet; thence North 10 feet; thence on a 5 foot radius curve right through a central angle of 31 deg.; thence North 31 deg. East 171.0 feet to a point adjacent to the most Northerly guy anchor post; thence on a 5 foot radius curve right through a central angle of 96 deg.; thence Southeasterly in a straight line to a point that is 54.0 feet North and 100 feet West of the point of beginning; thence East to the Westerly line of said highway; thence Southerly on said highway right of way to the South line of aforementioned Northeast quarter and the point of beginning.

Tax Parcel Number: R12683 and R202469

ATTACHMENT B
Annexation Agreement
(City of Toledo File #AX-2-22/RZ-2-22)

County, Oregon **2022-02605**
2/23/2022 03:54:35 PM Cnt=1 Pgs=8 Stn=12
/ANX .00 \$60.00 \$10.00 \$7.00 - Total = \$118.00



I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.

Dana W. Jenkins, Lincoln County Clerk



After recording return to:
City Manager
P.O. Box 220
Toledo, OR 97391

There are no changes as
to where tax statements
are to be sent.

**EMERGENCY SEWER SERVICE AGREEMENT, ANNEXATION AGREEMENT,
AND
CONSENT TO IMMEDIATELY ANNEX**

THE UNDERSIGNED, Mary M. Limbrunner, owning the following described real property in Lincoln County, Oregon (hereafter "Owner," in the singular, whether one or more, but including all, owners), and the City of Toledo, a municipal corporation ("City"), for valuable consideration to both parties, enter into this Emergency Sewer Service Agreement, Annexation Agreement, and Consent to Immediately Annex ("Agreement"), for the City to provide city sewer service under the following terms and conditions:

1. Property. Owner has requested that the City provide sewer service, as Owner's septic is failing so this presents immediate health and safety concerns, for property located outside but adjacent to the boundaries of the City, and located within the Urban Growth Boundary (UGB), which Property is Tax Lots 11-10-07-AO-02501-00 and 11-10-07-AO-02503-00 on Lincoln County Assessor's Map 11s10w07A, is referred to herein as the "Property," and is more particularly described by the following legal description, recorded on 9/21/2007, in Document No. 2007-13571, Lincoln County Deed Records:

Real property in the County of Lincoln, State of Oregon, described as follows:

That portion of the Northeast quarter of Section 7, Township 11 South, Range 10 West, Willamette Meridian in Lincoln County, Oregon described as follows:
Beginning at a point on the Westerly boundary line of Highway No. 20 at the intersection thereof, with the South line of the Northeast quarter of Section 7, Township 11 South, Range 10 West, Willamette Meridian., in Lincoln County, Oregon; thence West following said line a distance of 100 feet to a point; thence continuing on said South line West 258 feet; thence North 10 feet; thence continuing on said South line West 258 feet; thence North 10 feet; thence on a 5 foot radius curve right through a central angle of 31 deg.; thence North 31 deg. East 171.0 feet to a point adjacent to the most Northerly guy anchor post; thence on a 5 foot radius curve right through a central angle of 96 deg.; thence Southeasterly in a straight line to a point that is 54.0 feet North and 100 feet West of the point of beginning; thence East to the Westerly line of said highway; thence Southerly on said highway right of way to the South line of aforementioned Northeast quarter and the point of beginning.

Tax Parcel Number: R12683 and R202469

2. Sewer service connection outside City. The City does not typically provide sewer service to a property outside the boundaries of the City, but understanding Owner is in the process of submitting an application for annexation to the City, as the property is within the UGB and contiguous to the City limits

boundary, and there are severe health and safety concerns on the property at this time, the Parties agree as follows:

(a) Initial connection. The City shall allow the Property to connect to the sewer system, provided that Owner agrees to continue with the current application and does annex the Property into the City; the Owner further agrees to continue diligently to pursue the annexation of the Property with the current application, and if needed for any reason, to sign any petition leading to the future annexation of the Property into the City, and will actively promote and participate in any such annexation proceedings including paying the applicable land use fees and costs associated with annexation; and contemporaneous with signing this Agreement, the Owner will sign a separate agreement waiving the one year time limit for consents to annexation as provided in ORS 222.173 ("Waiver"). The form of all documents shall be determined in the sole discretion of the City. This Agreement, and the Waiver, shall both be an irrevocable covenant running with title to the land, and shall be binding upon all heirs, executors, administrators, personal representatives, successors and assigns of the Owner, including but not limited to lessors, lessees, renters and any other occupants of the Property.

(b) Change in person to be billed for sewer service; deadline of 60 days. If the Property is connected to the sewer system, then within 20 days, after either a change in ownership of the Property, or after the City has allowed an application for a change in the person to be billed for the sewer service, as a condition of the property receiving continued service, the requirements of the immediately preceding subparagraph (a) must be satisfied. If the City does not receive this Agreement and a Waiver, in a form approved by the City, within the 20-day period, the City thereafter has the authority and the respective City departments are authorized to discontinue and disconnect the sewer service for delinquency in providing the required Agreement and Waiver, and owner will be billed for such costs. As an alternative remedy, the City may institute injunctive or other appropriate proceedings to compel provision of the Agreement and Waiver as a condition of the property receiving continued service.

3. Consent to Annexation. If the Property is not currently annexed to the City, Owner hereby requests and grants continuing, irrevocable consent to annexation of the Property to the City and acknowledges same is a continuing petition to the City for annexation. Owner intends for this Agreement to be in effect until the Property is annexed into the City. Owner's consent and waiver are continuing and are binding on the heirs, executors, administrators, personal representatives, successors and assigns of the Owner, including but not limited to lessors, lessees, renters and any other occupants of the Property. If the City previously has received a consent to annexation affecting the Property, then from and after the recording of this Agreement, and the Waiver, which is a separate Agreement entitled "Separate Annexation Agreement Making Consent Irrevocable," which is waiving the one year time limit for consents to annex as provided in ORS 222.173, any such previous consent to annexation shall be deemed cancelled as to the Property. This consent to annex the Waiver shall be an irrevocable covenant running with title to the land and shall be binding upon all heirs, successors, and assigns.

4. Costs of Installation and Service. If this consent to annexation is given for an initial connection to the sewer system, Owner shall pay for all costs associated with installation of facilities needed for connection to the sewer system. The Owner shall pay to the City all fees, service charges, assessments, and all other charges required by City ordinances and resolutions and understands and agrees that the payment of all such fees and charges in no way relieves the Property of its share of any local improvement district assessments and payments required to pay for installing sewer lines and all other

related equipment which may be installed in a district which includes the above Property. In summary, pursuant to now existing approved City of Toledo Resolution No. 1466, effective May 21, 2021, which sets rates for within and outside boundaries of the City, the Owner shall pay, for the existing TL 2501, as follows:

- a. A connection and installation fee as determined by Public Works, which "shall be twice the amounts set forth in those sections for all users who reside outside the boundaries of the City" pursuant to Resolution No. 1466;
 - b. A Systems Development Charge, which is not addressed in Resolution No. 1466, so shall be the normal and appropriate SDC charge;
 - c. The installer of every new hook up to the City's sewage system "shall pay an inspection fee towards the City's cost of inspecting the work performed for the system connection" pursuant to Resolution No. 1466";
 - d. The in-city monthly rate and other miscellaneous charges as applicable, which will be twice the amount for customers outside the City until annexation has occurred; after annexation, then the in-City rate shall be paid;
 - e. Any future local improvement district assessments;
 - f. A portion of any bonded indebtedness incurred by in-city property owners in proportion to the millage rate/\$1,000 of the Property
 - g. Any costs associated with the placement and maintenance of the sewer line from the sewer main to the Property, including, without limitation, obtaining any easements, engineering, or the installation of line necessary to service the Property.
 - h. All necessary approvals from the City and Lincoln County for plans and specifications for the needed facilities and connection, and for all associated inspections, permit costs, and inspection fees.
 - i. From and after the date this Agreement is executed by all Parties, the Property and all structures or improvements hereafter in or thereupon shall be subject to and shall comply with all City Codes and Ordinances including but not limited to the City Building, Zoning, Development, and Utility standards and procedures. This includes, without limitation, all necessary land use and building approvals needed to bring the current actual use of the Property in compliance with the approved standards for the applicable zone.
5. Conditions of Service. The Owner shall pay the City for sewer service in accord with the City's rate schedule for sewer service outside the City boundaries, until annexation is completed, and then the in-City rate, as adopted and amended by the City from time to time. The Owner shall comply with all regulations of the City governing the use of sewer service by City customers as adopted and amended by the City from time to time. The Owner further agree that they shall fulfill each of the terms and obligations of this Agreement and the Waiver referenced herein. Owner understands and accepts the limited nature of the City's agreement to provide sewer service to the Property as so described, and waives any and all claims against the City that are inconsistent with the limitations so described.

6. Right to Inspect. The City shall have the right to enter the Property to inspect all improvements on the Property at all reasonable times to make examinations and inspections as are reasonably necessary in the City's opinion to inspect connections to the City sewer and water system and determine that regulations relative to utility services are being complied with by the Owner or occupant. The City wants to ensure that the improvements do not have any defects, which are unsafe, unsanitary or are in any way detrimental to the welfare of the general public or to the owners and occupants of the buildings on the Property, the public utility system, or the surrounding properties.

7. Right of termination. Except for the covenants running with the land described below in Paragraph 8, which shall continue to be binding on the Property and any future division of the Property, termination of this contract may occur as described below:

a. For Convenience. The City may terminate this Agreement without specifying any reason for termination by giving written notice of intent to terminate, in writing, mailed at least thirty (30) days before the intended termination date to the other party at the party's address given above. Such termination shall be without liability or penalty. No such termination shall prejudice any obligations or liabilities of either party already accrued prior to the effective date of termination.

b. For Cause. It is further agreed that the City may immediately terminate this agreement without liability or penalty for the following cause: unsatisfactory performance or nonperformance, by the mailing of written notice to the Owner at Owner's address given above. The City Manager is the sole judge of Owner's unsatisfactory performance or nonperformance under this Agreement.

c. If at any time the City is denied the ability to annex by the actions of the Owner or occupant, or the Owner or occupant fails or refuses to pay the required fees or charges for water or sewer service, annexation and other land use or building fees, as required, or the Owner violates any other provision of this Agreement, or this Agreement has been terminated, then it is understood and agreed, the City has the right, authority, and permission to terminate the water and sewer service to the Property upon 30 days prior notice posted on the Property. The termination of water and sewer service shall not affect the other provisions of this agreement (including Paragraph 8 and continual consent to annexation), which shall remain in full force and effect, and shall not affect the City's right to collect delinquent fees and charges.

8. Covenants binding on future owners. This Agreement is an instrument affecting the title and right of possession of the Property and shall be recorded in the deed records of Lincoln County, Oregon. Certain parts of this Agreement are covenants that run with the land, including consent to annexation set out in Paragraph 3 of this Agreement; the agreement to make payments set out in Paragraph 4; the agreements, acceptance, and waiver in relation to the conditions of sewer service set out in Paragraph 5, and each of the terms and conditions imposed in that Paragraph; right to inspect in Paragraph 6; Agreement as to ability to disconnect water and sewer service in Paragraph 7c.; and, Indemnity in Paragraph 10, which all such above-referenced Paragraphs shall be irrevocable covenants running in perpetuity with the title to the Property, shall be binding upon all successors, heirs, legatees, personal representatives, bankruptcy trustees, occupants, and assigns of any interest to the Property. Any division of the Property shall apply to each new parcel or tax lot with the Owner of each parcel or tax lot succeeding to the obligations imposed on Owner by this Agreement in relation to that new Owner's parcel or tax lot.

9. Cost of recording and title company information. The Owner shall pay the cost of recording this Agreement, and the cost of recording a separate agreement waiving the one year time limit for consents to annex as provided in ORS 222.173, in the Lincoln County Deed records. As agreed by the parties, the information as to the Property's ownership and legal description will be obtained by searching the Lincoln County Deed records and used in this Agreement.

10. Indemnity. Owner will, to the extent allowed by law, hold City, and its agents and employees, harmless from and indemnify them from any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with sewer service from the City, this Agreement, and the Waiver, referenced herein.

11. Advisement. As this Agreement was prepared by the City Attorney, Owner is advised to seek independent legal counsel. Owner acknowledges that, before accepting this Agreement, they have consulted or not with legal counsel as they choose.

12. Entire Agreement. This document embodies the entire agreement among the parties about the sewer system. Owner acknowledges that they have no interest - - by way of prescription, implication, or otherwise - - in the sewer system.

IN WITNESS WHEREOF, the Owner and City hereto have caused this instrument to be executed in duplicate by the duly authorized persons whose signatures appear below. Owner and City, by the signature below of the authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions. Each person signing this Agreement represents and warrants to have the authority to sign this Agreement.

In consideration of this Agreement, the Owner is contemporaneously signing another Agreement entitled "Separate Annexation Agreement Making Consent Irrevocable," to consent to future annexation by the City of Toledo, of the above described real property.

DATED this 7 day of March, 2022.

Owner:

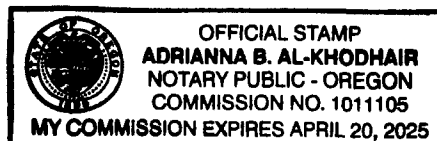
Mary M. Limbrunner
By: _____

Mary M. Limbrunner

STATE OF OREGON) ss
County of Lincoln)

On this 7 day of March, 2022, personally appeared
Mary M. Limbrunner, who, known to
me to be the person named in the above agreement, acknowledged to me the foregoing instrument to
be his/her/their voluntary act and deed.

[Signature]
Notary Public for Oregon
My Commission expires April 20, 2025



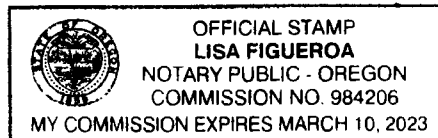
City of Toledo:

By: Judy M. Richter
City Manager

STATE OF OREGON) ss
County of Lincoln)

On this 9 day of march, 20 22, personally appeared
Judy Richter, who, known to me to be the City Manager for the City of Toledo,
acknowledged to me that he or she executed the above Agreement on behalf of the City of Toledo.

Lisa Figueroa
Notary Public for Oregon
My Commission expires MARCH 10, 2023



ATTACHMENT C
Code Enforcement Letter
(City of Toledo File #AX-2-22/RZ-2-22)



DEPARTMENT OF PLANNING AND DEVELOPMENT

Building Division
210 S. W. 2nd ST
Newport, OR 97365
(541) 265-4192
Fax (541) 265-6945

January 13, 2010

Mary Limbruner
631 SE 1st
Newport, OR 97365

Re: Lincoln County Code Violation 01-CV-2010 for property located at 1565 Hwy 20 Toledo, Oregon and further identified on the Lincoln County Assessor's Map as 11-10-07-A0-02501.

Ms. Limbrunner:

In review of correspondence sent to you from our office on December 22, 2009 there is no indication that you have attempted to resolve these alleged Lincoln County Code Violations.

Our office has forwarded this matter to Lincoln County Counsel for the appropriate action.

Feel free to contact me if you have any questions.

Sincerely,

Al Eames
Lincoln County Building Official

AE/rb

Cc: Onsite Waste Management
Legal Counsel
Violation File 01-CV-2010



DEPARTMENT OF PLANNING AND DEVELOPMENT

210 S.W. 2nd Street
Newport, OR 97365
(541) 265-4192
Fax (541) 265-6945

CODE VIOLATION FILE CHECKLIST

C
H
E
C
K

B
O
X

Case File #: 01-CV-2010 Confidential: ☐ Rolodex Entry: ☒ Date of Entry: 01/06/2010
Copy Building Permits: ☐ Copy On-Site Permits: ☐ Map: ☒ OAA Print Out: ☒
Route File to: Planning ☐ On-Site ☐ Health ☐ Building ☒ Other ☐

Name of Property Owner(s): Mary M Limbrunner

Owner(s) Mailing Address: 631 SE 1st St, Newport, OR 97365

Complaint Description: Chg of occupancy w/o permits; Major remodel w/o permits. Rental.

Map and Tax Lot #: T 11 S, R 10 W, W.M., Section 07-A0 Tax lot(s) 02501

Property Address: 1565 NW Hwy 20, Toledo

ACTION HISTORY

DESCRIPTION

DATE

Enforcement Letter Sent:

Inspection Scheduled:

12-22-09

1-13-10

Forwarded to council 1-13-10



LINCOLN COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

01-CV-2010

LAND USE COMPLAINT

210 SW 2nd St., Newport, OR 97365

Phone: (541) 265-4192 Fax: (541) 265-6945

VIOLATION:

DATE: 11/24/09

Complaint Description:

Renting a house. I do not believe Qualifies to be a Residential dwelling. Extremely inhabitable.

Assessor's Map and Tax Lot:

Directions to Property:

Owner of Property:

La Limbrunner

Address:

631 SE 1st St. Newport OR. 97365

Phone Number:

(541) 265-2505 cell # 503-997-1392

COMPLAINANT:

Name:

Emily Saleen

Mailing Address:

1565 Hwy 20 Toledo OR. 97391

Phone Number:

(541) 961-9587

Confidential:

Yes

☐

No

☒

Signature:

Emily Saleen

Date:

11/24/09

11-10-07-A0-02501

FOR OFFICE USE ONLY

(with Jcd)

Additional Information:

11-25-09. Performed a site visit. Found major remodel work being performed. Appears that electrical work has also been done. Structure appears to have been converted ~~with~~ to a dwelling. Oke

Rolodex:

✓ yes

Building:

On-Site:



DEPARTMENT OF PLANNING AND DEVELOPMENT

Building Division
210 S. W. 2nd ST
Newport, OR 97365
(541) 265-4192
Fax (541) 265-6945

November 24, 2009

RE: Structure located at 1565 NW Hwy 20 Toledo, Oregon and identified on the Lincoln County Assessor's Map at 11-10-07-A0-02501.

To Whom It May Concern:

In review of our records it has come to our attention that the above referenced property has been converted from a commercial structure (B occupancy group) into a dwelling (R-3 occupancy group) without obtaining the proper permits for this change in occupancy.

If you have any questions please feel free to contact me at 541-265-6611 ext 2321.

Sincerely,

Al Eames
Lincoln County Building Official

AE/rb



DEPARTMENT OF PLANNING AND DEVELOPMENT

Building Division
210 S. W. 2nd ST
Newport, OR 97365
(541) 265-4192
Fax (541) 265-6945

December 22, 2009

Mary Limbrunner
631 SE 1st St
Newport, OR 97365

Re: Lincoln County Code Violation

Ms. Limbrunner,

Our records indicate that you are the property owner identified on the Lincoln County Assessor's Map as 11-10-07-A0-02501 and further identified as 1565 NW Hwy 20, Toledo Oregon.

In a recent visit to this property revealed that an extensive remodel was preformed on the structure without obtaining the required building, plumbing, or electrical permits. This is a violation of the Lincoln County Code.

Please contact this office within 20 days upon receipt of this letter so that steps in resolving this violation can be initiated.

Sincerely,

Al Eames

Lincoln County Building Division

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <i>x M. Limbrunner</i> ☐ Agent ☒ Addressee B. Received by (Printed Name) <i>MARY LIMBRUNNER</i> C. Date of Delivery <i>12-24-09</i> D. Is delivery address different from item 1? ☐ Yes ☒ No If YES, enter delivery address below:	
1. Article Addressed to: <i>MARY LIMBRUNNER 631 SE 1ST ST. NEWPORT, OR 97365</i>		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
2. Article Number (Transfer from service label)		4. Restricted Delivery? (Extra Fee) ☐ Yes	
		7009 0080 0001 7686 4723	

*

- - Property Data Selection Menu - -

Prop ID : R12683 (Real Estate) (24892) 631 SE 1ST ST
Map Tax Lot: 11-10-07-A0-02501-00 NEWPORT, OR 97365-4301
Legal : TWNSHP 11, RNG 10, ACRES 0.10,
DOC200713571

Situs : 1565 NW HWY 20

Year Built : 1974

Living Area: 1720

Name(s) :

Code Area : 280

Sale Info : 09/21/07 \$80,000

Deed Type : BSD

Instrument: 200713571

2009 Tax Status * No Taxes Due *

Current Levied Taxes : 1,019.24

Special Assessments : 3.00

2010-11 SB125 Taxes :

2009 Roll Values

RMV Land \$ 38,380 (+)

RMV Improvements \$ 58,660 (+)

RMV Total \$ 97,040 (=)

Total Exemptions \$ 0

M5 Net Value \$ 97,040

M50 Assd Value \$ 94,100

(1) Alt Disp

(2) Primary

(4) Land/Impr

(5) Gen Appr

(6) Ownership

(.) More

Enter Option from Above or <RET> to Exit: _____

Ownership, Sales and Deed History Screen

Property ID : R12683 11-10-07-A0-02501-00
Legal Description: TWNSHP 11, RNG 10, ACRES 0.10, DOC200713571

Mort Code: TAX-PULL (IN OFFICE) Exemptions:
Mort Acct:

ID.	Buyer.....	Seller.....	Sales Info	Deed Info.....
1.	LIMBURNER MARY M 631 SE 1ST ST NEWPORT, OR 97365-430	AGPAL BROADCASTING INC PO BOX 456 NEWPORT, OR 97365	09/21/2007 \$80,000 20	Num.: 200713571 Type: BSD Date: 09/21/2007

MULTIPLE ACCOUNTS. PRICE INCLUDES VALUE FOR CAR

2.	AGPAL BROADCASTING INC PO BOX 456 NEWPORT, OR 97365	FARMER CHARLES A % KTDO AGENT	12/30/1989 \$100,000 27	Num.: MF215-1718 Type: WD Date: 06/12/1990
----	---	-------------------------------------	-------------------------------	--

- - Enter 'C' to Continue Display - -

Enter 'A' for Alternate Display, D# for Display, 'INS' to Insert, ID# of a Deed Record, or <RET> to Exit: _____

Lincoln County Geographic Info System

Taxlot

ParcelID
11-10-07-A0-02501-03

Site Address
1565 NW HWY 20

Owner
LIMBRUNNER MARY M

Address1
631 SE 1ST ST

Address2

Address3

Cty/State/Zip
NEWPORT, OR 97165-4301

Land Value
38380

Imp Value
58660

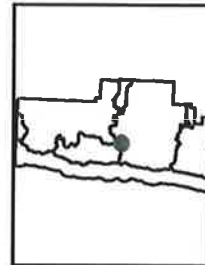
Acres
0.1

Tax Account

Account
R12683

Tax Code
280

Legal Desc
TWN5HP 11, RNG 11L ACRES 0.1



1/6/2010



1 in. = 55 ft.

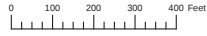
Lincoln County government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary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

ATTACHMENT D

Site Plan Map

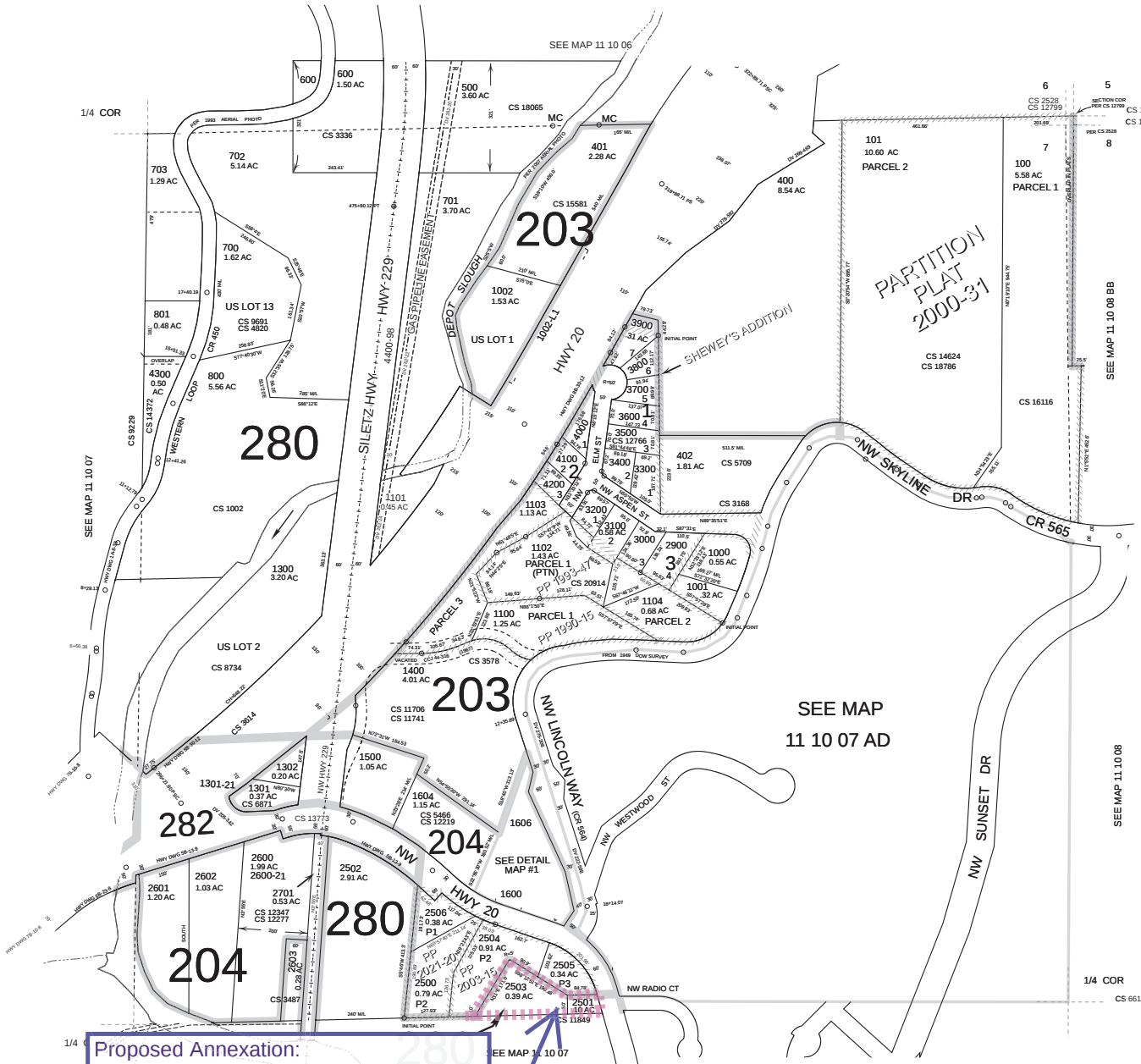
(City of Toledo File #AX-2-22/RZ-2-22)

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



N.E.1/4 SEC.7 T.11S. R.10W. W.M.
LINCOLN COUNTY
1" = 200'

11 10 07 A
TOLEDO



Proposed Annexation:
Map 11-10-7 A Tax Lots 2501 & 2503
Approx. 0.49 ac. AX-2-22/RZ-2-22

Cancelled
200
300
900
900-41
900-42
1003
1400-21
1601
1602
1603
1700
1800
1801
1802
1900
2000
2001
2100
2200
2300
2400
2700
2800
4400

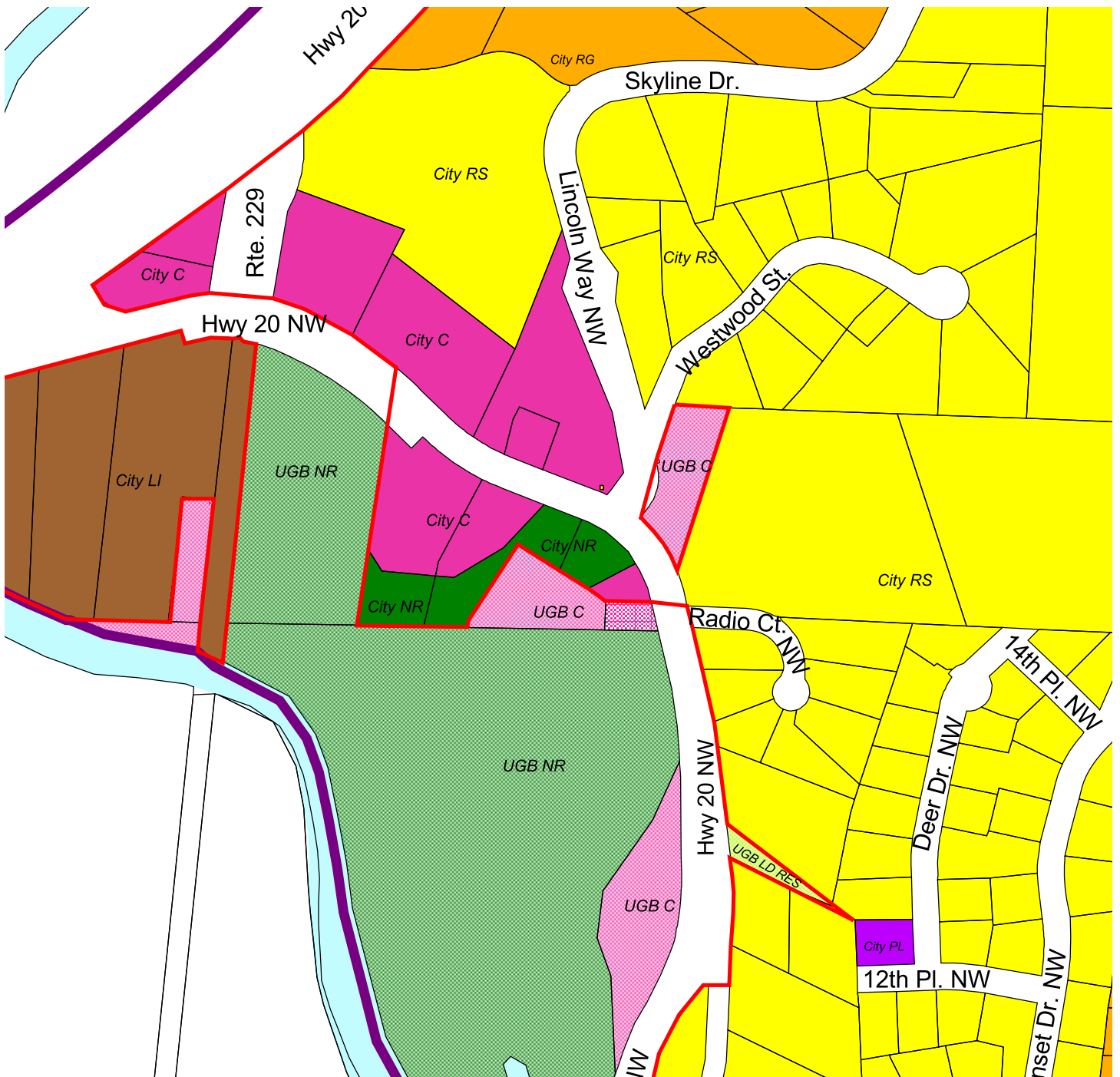
Revised: SEB
12/06/2021

TOLEDO
11 10 07 A

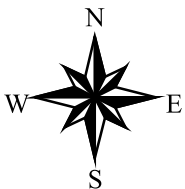
ATTACHMENT E

Comp Plan Map

(City of Toledo File #AX-2-22/RZ-2-22)



200 0 200 400 Feet



- City Limits
- UGB
- Parcels
- 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 F
Draft Ordinance
(City of Toledo File #AX-2-22/RZ-2-22)

Draft Ordinance 4/5/2022
AX-2-22/RZ-2-22

ORDINANCE NO. _____

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

WHEREAS, on February 23, 2022, Mary M. Limbrunner filed a written request for annexation of property located at 1565 NW Highway 20 (Assessor's Map #11-10-7 A Tax Lots 2501 and 2503 – approximately 0.49 acres) that is outside the city limits but is contiguous to the city limits of the City of Toledo,

WHEREAS, on February 23, 2022, in addition to the annexation request, the property owner of Assessor's Map #11-10-7 A Tax Lots 2501 and 2503 also filed a request to rezone the parcels of the property from County A-C to City Commercial (C), consistent with the 2000 Toledo Comprehensive Land Use Plan Map,

WHEREAS, the Planning Commission held a public hearing on April 13, 2022, on the proposed annexation and rezone (local file #AX-2-22/RZ-2-22) 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 4, 2022, 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 4, 2022, 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

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 designations as Lincoln County Assessor's Map # 11-10-7 A Tax Lots 2501 and 2503, and as described below is annexed to the City of Toledo, Oregon:

Real property in the County of Lincoln, State of Oregon, described as follows:
That portion of the Northeast quarter of Section 7, Township 11 South, Range 10 West, Willamette Meridian in Lincoln County, Oregon described as follows:
Beginning at a point on the Westerly boundary line of Highway No. 20 at the intersection thereof, with the South line of the Northeast quarter of Section 7, Township 11 South, Range 10 West, Willamette Meridian, in Lincoln County, Oregon; thence West following said line a distance of 100 feet to a point; thence continuing on said South line West 258 feet; thence North 10 feet; thence continuing on said South line West 258 feet; thence North 10 feet; thence on a 5 foot radius curve right through a central angle of 31 deg.;

thence North 31 deg. East 171.0 feet to a point adjacent to the most Northerly guy anchor post; thence on a 5 foot radius curve right through a central angle of 96 deg.; thence Southeasterly in a straight line to a point that is 54.0 feet North and 100 feet West of the point of beginning; thence East to the Westerly line of said highway; thence Southerly on said highway right of way to the South line of aforementioned Northeast quarter and the point of beginning.

Section 2. The property identified as Lincoln County Assessor's Map # 11-10-7 A Tax Lots 2501 and 2503 (approximately 0.49 acres), are rezoned from the County A-C designation to the Toledo Comprehensive Land Use Plan and Zoning Map designation of Commercial.

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

PASSED AND ADOPTED by the City Council of the City of Toledo, Lincoln County, Oregon, on the _____ day of _____, 2022.

ATTEST:

APPROVED:

City Recorder

Mayor