

## AGENDA

### TOLEDO PLANNING COMMISSION

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

**Public Comments:** The Planning Commission may take limited verbal comments during the meeting. Written comments can be submitted by email to [planning@cityoftoledo.org](mailto:planning@cityoftoledo.org) by 4:00 pm on October 14, 2020, to be included in the record. Comments received will be shared with the Planning Commission and included in the record.

1. CALL TO ORDER AND ROLL CALL
2. INTRODUCTION of newly appointed Planning Commissioner Terri Neimann
3. VISITORS: (A time set aside to speak with the Planning Commissioners about issues not on the agenda)
4. APPROVAL OF THE AUGUST 12, 2020 MINUTES as circulated and reviewed by the Planning Commission
5. PUBLIC HEARING: Minor Partition to create two parcels and variance to the maximum flag interior flag lot requirement, for property located at 1606 NW Nye Street (File #MP-1-20/VAR-2-20), requested by David and Tami Howard
6. DISCUSSION ITEMS:
  - a. Residential Code Updates
  - b. League of Oregon Cities' Land Development Code Update Grant
  - c. Reschedule November 11, 2020 Planning Commission Meeting
  - d. Updates and Reports
7. STAFF COMMENTS
8. COMMISSIONER COMMENTS
9. 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](mailto:planning@cityoftoledo.org). The meeting is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodation for persons with disabilities should be made at least 48 hours in advance of the meeting by calling the Toledo Planning Department at 541-336-2247.

## TOLEDO PLANNING COMMISSION MINUTES

A regular meeting of the Toledo Planning Commission was called to order at 7:02 pm by President Anne Learned-Ellis. Commissioners present: Todd Michels, Cora Warfield, and Geoffrey Wilkie. Excused was Robert Duprau.

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

VISITORS: Lisa Figueroa, Matt Moore, Mayor Rod Cross.

### APPROVAL OF THE JULY 8, 2020, MINUTES:

It was moved and seconded (Warfield/Wilkie) to approve the July 8, 2020, minutes as circulated and reviewed by the Planning Commission. The **motion passed** unanimously, noting the absence of Duprau.

### INFORMATION ITEM: IDENTIFYING BUILDABLE LANDS AND CODE UPDATES, PRESENTED BY MAYOR ROD CROSS:

Mayor Rod Cross presented a list of projects for the Planning Commissioners to work on. He explained that the City Council wants to give the Commission direction, especially to seek funding for the projects. Mayor Cross recommended the following tasks:

1. Buildable Lands Inventory (BLI). An updated BLI is needed for Toledo. Areas with excessive slope can be excluded from the BLI, but it could still be developed. The community should know where there are buildable sites and this could increase the amount of affordable housing.
2. Update the development code for a more efficient development process. Make it easier/quicker to build housing. Consider moving items from the 'Conditional Use Permit' list to the 'Uses Permitted Outright' with a list of criteria the developer can follow. Reducing the regulations could make it easier to develop and create more work-force housing.
3. Natural Resource (NR) Zone tax reduction. Because development is difficult in the NR Zone, can there be a tax exemption/reduction which may encourage annexation of those properties? There could be a streamlined process to reduce restrictions and get some of the Sturdevant Road properties into the City limits.

President Learned-Ellis asked if there are grants available. Mayor Cross stated there could be federal funds for affordable housing and they have the housing rehab loan program. President Learned-Ellis voiced the potential difficulty with establishing a NR Zone tax exemption, stating that there must be State guidelines for such a program. Mayor Cross suggested a tax deferral until the property sells, this may encourage annexation into the City.

### DECISION ITEM: REVIEW AND ACCEPT PRIVATE ROAD MAINTENANCE CONDITIONS FOR ESTATES OF BEAVER HOMES:

CP Peterson reported that the Estates of Beaver Homes development was reviewed and approved in 2006. The development includes a private road and a Condition of Approval from 2006 stating that there needs to be an agreement or by-laws for the maintenance of the private road before the lots are sold. One home was recently built and the property owner is now ready to sell the home. This request

is a review of Article 3 of the CCRs, to consider if the proposed road maintenance conditions are acceptable.

Matt Moore is the contractor and representing the owner, Richard Wolff, at tonight's meeting. He reported that the Parsons created the project in 2006. Mr. Wolff purchased the property within the last couple years. One home has been built. There is a pending offer on the home, but the CCRs need to be completed before sale. There is a total of 8 home sites and each owner will have 1/8 responsibility of the road. Until the lots are sold, the owner has full responsibility. In response to Commissioner questions, Mr. Moore provided the following information:

- Beaver Street is located off of SE East Slope Road, north of SE 10<sup>th</sup> Street. There is a paved roadway, 8 lots with one new home constructed. A street sign has been placed at the site.
- All 8 owners will have to maintain the road, including gutters.

CP Peterson confirmed that the Planning Commission should focus on Article 3, because this was required as a condition of approval. Other sections do not have to be approved by the Commission. Article 3 was reviewed by the City attorney.

It was moved and seconded (Learned-Ellis/Warfield) that based upon a review of the Toledo Municipal Code criteria set forth in Sections 16.12.130 and 16.12.140 and the conditions of approval of the preliminary plat order dated April 14, 2006 and the final plat approved on July 6, 2006, the Planning Commission approves Article 3 of the proposed CCR's, on behalf of Richard Wolff. The **motion passed** unanimously, noting the absence of Duprau.

Mr. Moore reported that he has developed properties in a lot of other communities and he would be happy to offer help with the Mayor's recommendation to update the development standards. He would be available to meet with staff or Commissioners to discuss ideas.

#### WORKSESSION: SIGN CODE REVIEW:

CP Peterson provided an updated draft of the sign code, along with a visual example of a residential lot with the maximum amount of signage (based on the lot frontage formula). All thanked CP Peterson for the example, it provide a good illustration of the maximum amount of signage.

Commissioners discussed an exemption for holiday displays. It may be good to extend the holiday and election season exception, especially for blow-up Christmas decorations. Commissioners discussed a permit process for the inflatable decorations over a certain size. If a permit program is established, notice could be provided as a water bill insert, mailings, or social media announcements. The group discussed a grace period of one year for the holiday displays. There should be no charge for this permit.

Discussion continued on political signs and placement in the right-of-way. It was noted that if the signs are placed in the public right-of-way, they can be removed. Current election laws may also help with the placement/time period for political signs. Commissioners discussed public areas that could be designated for signage, limiting the proliferation of signs to a particular area. Size limits could be established and the location can be identified in the code. Anything over 3'x5' could create a clear vision issue. Commissioners agreed to provide a specific area for election sign proliferation, but additional research would be necessary to find the proper location.

#### WORKSESSION: HOUSING REVIEW (RESIDENTIAL ZONE STANDARDS):

CP Peterson reviewed the residential code standards, providing general ideas for expansion and

including items from the Lincoln County Housing Strategy Plan. This discussion follows the recommendation coming from Mayor Cross and the City Council.

There are two residential zones—Single Family Residential (RS) and General Residential (RG). Some residential uses are allowed in the Commercial Zone. CP Peterson offered a few new concepts for Commissioners to consider, if interested:

- Should a duplex be allowed outright in the RS Zone if it meets certain criteria? For example, if it is located on a corner lot or the lot is 1000 square feet over the minimum lot size. Currently a duplex is a Conditional Use in the RS Zone. Other standards such as setbacks and lot coverage would still apply. If the duplex meets all the standards, it could be an outright use, if it does not, it could still be processed as a Conditional Use. Commissioners generally stated that it is a good idea to expand.
- Currently, site-built single-family homes in the RS Zone must be a minimum of 1000 square feet. Could this be expanded to allow homes under 1000 square feet as a Conditional Use? CP Peterson explained that this square footage amount came about when the manufactured home language was expanded, but there is nothing in the code for a smaller site-built home.

Commissioner Wilkie commented that a smaller home should be option, because owners may want to start small and can always add-on at a later date. Commissioners considered reducing the figure to 850 square feet and if the house is below 850, a Conditional Use Permit is necessary.

- Cottage cluster development added to the code for RS and RG Zones. This concept allows small homes on one large, common lot. Design standards could be created for cottage cluster development. Commissioner Warfield suggested adding additional concepts for tiny houses. Commissioners voiced agreement.
- Should the minimum lot size in the RS Zone be reduced? Currently, the minimum lot size is 7000 square feet and 7500 for a corner lot. Commissioners generally liked the idea of reducing the size because it provides the ability to divide larger lots. The BLI review may help with this concept.
- The side yard setbacks in the RS Zone are currently 6' and 9'. Should the side yards be reduced to 6' and 6'? The rear yard setback is 15', but it could also be reduced. This may open up the ability to develop accessory dwelling units (ADUs)
- The lot coverage in the RS Zone is 55% and 66% in the RG Zone. Could these figures be revised? The RG Zone allows multi-family residential units outright and has a higher density and coverage standard. President Learned-Ells felt the setback and lot coverage could be modified, as long as it complies with fire safety standards.
- Should the minimum lot size in the RG Zone be reduced? Currently, the minimum lot size is 6000 square feet and an additional 1800 square feet is needed for each new dwelling unit. Both figures could be reviewed. CP Peterson offered to create an illustration based on a couple different lot size scenarios. With the smaller lots and more dense development, there may be parking issues. Commissioners discussed flag lots and if the 'pole' portion is included in the total square footage.

- The Commercial (C) Zone needs to be updated to revise the term 'accessory dwelling unit' for a housing unit. This term is defined in the code and has development standards. The C Zone residential unit should be called something other than ADU.
- Should the upper floor apartments be allowed outright in the Main Street District? Currently, multi-family residential units are allowed with a Conditional Use Permit. Special standards could be created, such as parking spaces. Commissioners likes the idea and suggested moving forward with the concept.

CP Peterson would like to get input from property owners and developers about the barriers they experience in the Toledo development code. Mr. Moore may have some good ideas and should be contacted. CP Peterson noted the reference to the City of Tigard's cottage cluster standards.

DISCUSSION ITEM: UPDATES AND REPORTS:

CP Peterson announced that the building/development permit log report will be included in the next Commissioner packet.

STAFF COMMENTS: None.

COMMISSIONER COMMENTS: None.

There being no further business before the Commission, the meeting was adjourned at 8:20 pm.

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Secretary

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President

# TOLEDO PLANNING COMMISSION

## STAFF REPORT

**PROPERTY:** Identified on Lincoln County Assessor's Map # 11-10-08 BC as Tax Lot 1500 (1606 NW Spruce Street)

**APPLICATION #:** MP-1-20 and VAR-2-20

**APPLICANT:** David and Tami Howard

**APPLICATION DATE:** August 26, 2020

**HEARING DATE:** Planning Commission – October 14, 2020

**REQUEST:** The applicant is requesting a minor partition, as marked on the attached Exhibit A to this staff report, and a variance to the maximum flag interior flag lot requirement.

**LOCATION:** The subject property is located at 1606 NW Spruce Street, adjacent to N Nye Street. The subject Tax Lot 1500 has two frontages along N Nye Street, 30 feet of frontage south of the neighboring address 1625 N Nye Street and 99 feet north of the neighboring address 1625 N Nye Street. The parcel further identified on Lincoln County Assessors Map# 11-10-8 BC as Tax Lot 1500.

**PARCEL SIZE:** Tax Lot 1500 is approximately 0.82 acres (35,719 square feet). Proposed Parcel 1 would be approximately 25,800 square feet and proposed Parcel 2 would be approximately 9,900 square feet.

### I. REPORT OF FACTS:

1. Plan Designation: Residential Single (R-S)
2. Zone Designation: Residential Single (R-S)
3. Existing Structures: Single-family dwelling
4. Topography: Based on the Lincoln County Assessor's contour lines the property is relatively flat with some upward slopes in the Northwest corner.
5. Development Constraints: Access to the existing single-family dwelling is an easement road off NW Spruce and a private access off N. Nye.
6. City water: Public water main lines are located in N. Nye Street, NW Spruce, and along the private access way located on the south side of Tax Lot 1500.
7. City sewer: Public sewer main lines are located in N. Nye Street and NW Spruce Street.
8. Notice of Public Hearing: Notices mailed to 39 property owners and 19 public/service

- agencies on September 23, 2020.
9. Notice Published: September 30, 2020 and October 7, 2020
10. Comments Received: Public Works Director, Fire Chief, and Police Chief all reviewed the application. Staff comments are included in the Application form (see Attachment B). Gene Leech, neighboring property owner of 1625 N. Nye Street, called to obtain additional information on the request and potential impacts to the driveway access to the home.
11. Attachments to Staff Report: A. Exhibit A - Map showing Parcels after partition  
B. Application with supporting information  
C. Zoning Map  
D. Aerial Map

**II. APPLICABLE CRITERIA FOR EVALUATING THE MINOR PARTITION AND VARIANCE REQUEST AND STAFF ANALYSIS:** The following comprehensive plan and ordinance standards apply to this request. The standards are listed below in regular type. Staff analysis including facts and findings are highlighted below each comprehensive plan and ordinance standard in an italicized font.

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

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

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

Medium-Density Residential -This designation provides for either lower or higher density housing. This designation may be implemented through the zoning map's Single-Family Residential (R-S) or General Residential (R-G) zone designation.

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

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

3. **TMC Sections 17.08.10 – 17.08.050 – R-S Zone.**

TMC Section 17.08.010 – R-S Zone – Purpose.

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

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

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

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

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

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

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

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

*Staff Analysis: The subject property is approximately 0.82 acres. The applicant is requesting to divide the property into two parcels, resulting in proposed Parcel 1 being approximately 25,800 square feet and proposed Parcel 2 being approximately 9,900 square feet. The proposal meets the minimum lot size standard for the R-S Zone as it is over 7,000 square feet.*

4. **2000 Toledo Comprehensive Land Use Plan – Article 10, Goal 1 – Housing:**

- 1. Encourage development of a mixture of housing stock in terms of design, type, cost, and

location that meets the housing needs of all Toledo citizens.

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

*Staff Analysis: The existing structure at 1606 NW Spruce Street is a single-family home. Future development of proposed Parcel 2 must comply with TMC 17.08 (Single-Family Residential Zone) standards. The R-S Zone allows various residential uses, specifically, single-family homes (both site built and manufactured) and accessory dwelling units are allowed outright. This request meets additional housing needs for Toledo residents in terms of type, creating an additional location for housing, and developing in an area where public service already exists.*

5. **2000 Toledo Comprehensive Land Use Plan – Article 14, Goal 1 and 3 – Urbanization and Livability:**

1. Build Toledo as a small, cost-effective, attractive, livable, and sustainable city by encouraging efficient land use patterns.

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3. Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with the Comprehensive Plan goals and policies and Toledo's Municipal Code and standards.

Objective:

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

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

## **GENERAL REQUIREMENTS AND MINIMUM DESIGN STANDARDS**

### **6. TMC Sections 16.04.20 – 16.04.050 – General Provisions.**

#### **TMC 16.04.020 - Purpose.**

The purpose of this title is to prescribe standards and procedures for minor and major partitions and

subdivisions of land and planned development within the city of Toledo and to aid in the implementation of the Toledo Comprehensive Land Use Plan.

**TMC 16.04.050 (A) Conformity to the Comprehensive Plan.**

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

*Staff Analysis: Based upon the information received by City staff through October 7, 2020, the minor partition appears to conform to relevant provisions of the City's plans and ordinances as described herein.*

**TMC 16.04.050 (B) Access.**

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

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

*Staff Analysis: Proposed Parcels 1 and 2 would have adequate frontage along N Nye Street, a City street. Proposed Parcel 1 also has access onto easement road, NW Spruce Street.*

*Any driveway modification, in accordance with the standards specified in the Public Infrastructure Design Standards Manual, may be required as determined by the Public Works Director. If required, it shall be completed within one year of approval of this application, or a deferred development agreement entered into, to address this requirement. Determination will be made when a construction permit has been submitted that identifies the location of proposed construction and length of its driveway, to ensure that the development of Parcel 2 will comply with Public Infrastructure Design Standards and Fire, Life, Safety standards.*

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

Paragraph 3.9 provides development standards as to driveways:

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

Paragraph 3.9.5 provides residential driveway approach standards as follows:

- (1) A residential driveway approach shall be constructed of Portland cement concrete, minimum of 6-inches in thickness, 3,000 psi filed strength, with 2-inches (minimum) compacted ¾"-0" crushed rock base. No rebar or wire mesh is required for residential approaches (3.9.5(A)); and
- (2) Transition flares shall be constructed to the same standards for residential driveway approaches (3.9.5(B)).

Paragraph 3.11 provides development standards for sidewalks as follows:

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

*Staff analysis: Unless waived by the Public Works Director, or designee, all land use applications are required to include curb and gutter and sidewalks adjacent to public streets. As sidewalks have been waived, as a condition of this approval, the installation of 5 foot wide sidewalks along N Nye Street is not required, nor is a deferred development agreement required, because N Nye Street is not a collector street or there is not an existing sidewalk within 500 feet.*

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

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

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

**TMC 16.04.050 (D) Density.**

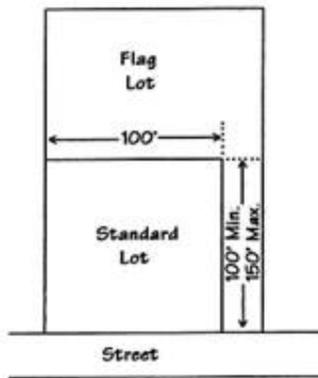
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4. All partitions within residential zones where the subject parcel can be further partitioned, shall be partitioned in a manner that does not preclude the efficient division of land in the future.

*Staff Analysis: Because of the configuration of proposed Parcel 1, it could potentially be partitioned in the future if public street improvements are made to the private access way on the south end of Tax Lot 1500. Proposed Parcel 2 could not be further divided because of the minimum lot size requirement of the R-S Zone. The current request does not preclude the efficient division of land in the future, as there is sufficient area, street frontage, etc. to consider additional development.*

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

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



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

8. Existing natural and piped drainages must be preserved or replaced on the site and easements must be granted for drainage as long as the easements required are roughly proportional to the impact of the proposed development.

*Staff Analysis: TMC 16.04.050 (E)(1) provides that each of the two parcels shall abut and take primary ingress and egress from a city street and the frontage of each shall not be less than twenty (20) feet in the R-S zone. The proposal will provide both parcels over 20 feet of frontage onto N Nye Street (a city street).*

*Staff Analysis: TMC 16.04.050 (E)(2) provides that parcels with double frontage shall not be permitted unless an odd-shaped tract, existing street layout, or existing topography makes such a parcel unavoidable. The existing Parcel (Tax Lot 1500) is a double frontage lot. The result of the partition will result in two parcels each with one frontage along N. Nye Street.*

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

*Staff Analysis: TMC 16.04.050 (E)(4) provides that flag lots shall not have an interior flag portion measurement of more than one hundred (100) feet in length, or a "pole" less than twenty (20) feet wide for residential. The flag pole is proposed to be 30 feet wide which is greater than 20 feet and this standard is met. In addition, the flag lot shall not have an interior flag portion measurement of more than one hundred (100) feet. This is a standard for which the applicant needs a variance as the interior flag portion measurement of proposed Parcel 1 is approximately 178 feet, which is more than the 100 feet required in length. The variance criteria is addressed later in the staff report.*

*Staff Analysis: TMC 16.04.050 (E)(5) provides that the pole portion of a flag lot shall be a minimum of one hundred (100) feet long and a maximum of one hundred fifty (150) feet long. Proposed Parcel 1 will be a flag lot. The flag pole will be 100 feet long.*

*Staff Analysis: TMC 16.04.050 (E)(6) provides that lots and parcels under twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of two and one-half to one. Further, that lots and parcels over twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of three and one-half to one. Proposed Parcel 1 would be approximately 25,800 square feet and proposed Parcel 2 would be approximately 9,900 square feet. Accordingly, proposed Parcel 1 exceeds twenty-five thousand (25,000) square feet in area, and must not exceed a depth to width ratio of three and one-half to one. Proposed Parcel 2 does not exceed twenty-five (25,000) square feet in area, and must not exceed a depth to width ratio of two and one-half to one. As to Parcel 1, the depth of the parcel is approximately 110 square feet and width is approximately 210 square feet, so does not exceed a depth to width ratio of three and one-half to one. As to Parcel 2, the depth of the parcel is approximately 100 feet and width is approximately 99 feet, so it does not exceed a depth to width ratio of two and one-half to one. Therefore, as drawn on the proposed map, both parcels will not exceed a depth to width ratio of three and one-half to one.*

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

driveway of proposed Parcel 2 will be a minimum of 80 feet from the existing driveway for proposed Parcel 1. In addition, neighboring properties 1565 N Nye (Tax Lot 1900) and 1625 N Nye (Tax Lot 1501) use the existing driveway on the south end of Tax Lot 1500. Two driveways will not be located in less than 75 feet of street frontage from the flag lot (Proposed Parcel 1).

*Staff Analysis: TMC 16.04.050 (E)(8) provides that existing natural and piped drainages must be preserved or replaced on the site and easements must be granted for drainage as long as the easements required are roughly proportional to the impact of the proposed development. The Public Works Director provided comments stating that the property owner will need to install a minimum 12" culvert to extend a minimum of 2' past both sides of any driveway that will be maintained and kept clear of all debris by the property owner or the tenant.*

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

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

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

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

*Staff Analysis: The Public Works Director reviewed the proposed partition and indicated that water and sewer are currently available to both parcels. The public water line is located in the N Nye Street right-of-way and the public sewer line is located in the Nye Street right-of-way. When Parcel 2 is developed, separate utility connections to water and sewer will be required.*

*The Public Works Director indicated a utility easement is needed along the private access way/driveway on the south side of Tax Lot 1500. The applicant should agree that the final plat will include water, sewer, and/or other utility easements, as appropriate, for any service lines to Parcel 1 that may cross proposed Parcel 2.*

## **IMPROVEMENTS**

### **7. TMC Sections 16.08.040 Improvements.**

A. The applicant shall improve or agree to improve lands dedicated for roads, alleys, pedestrian or bicycle ways, drainage channels, private easements for access, and other rights-of-way or public open space as condition preceding the acceptance and approval of the partition.

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

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

## **EVALUATION CRITERIA**

### **8. TMC 16.08.070 Criteria for evaluation.**

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

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

*Staff Analysis: The proposed minor partition does not involve the development or extension of any streets and will create parcels that are served by City water and sewer service. Easements are needed based on standards in the Public Infrastructure Design Standards Manual. The division of land complies with applicable ordinances and public improvement design standards adopted by the City. The division of land will not constitute a major partition or a subdivision pursuant to the definitions in Title 16. The division of land will not constitute a subdivision and the street design*

*has received approval from the Director of Public Works. The division of land has received approval from the Public Works Director. Each lot will be served with City sewer and water and the City has the capacity to provide those services. If a bond is required to be posted for any infrastructure improvements, the applicant should agree in writing to do so. The applicant has demonstrated that adequate precautions have been taken to prevent damage or injury resulting from natural hazards. The division of land will not affect a designated dredged material disposal site or mitigation site as designated in the Lincoln County Estuary Management Plan. The division of land will not result in any newly created parcels or lots which are entirely zoned for Natural Resources or which become one hundred (100) percent un-developable due to splitting off the buildable land unless owned, created, or proposed to be used by a public utility.*

*Based on the Statewide Wetlands Inventory, the proposed parcels may have wetlands located on or near the subject property. The Local Wetlands Inventory (LWI) does not identify any wetlands on the subject property. At the time a building permit, driveway permit, or other permit is submitted Staff will submit a Wetland Land Use Notification (WLUN) as required by the Department of State Lands (DSL) to determine if any DSL permits are required. Staff recommends a condition of approval that prior to development the applicant obtain any necessary permits from DSL.*

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

## **VARIANCE TO THE MINOR PARTITION STANDARDS**

### **9. TMC16.30.040 Variances - Purpose.**

This section provides standards and procedures for variances, which are modifications to the development standards in Title 16 of this code that are not otherwise permitted elsewhere in this code as exceptions to code standards. This code cannot provide standards to fit every potential development situation. The city's varied geography and complexities of land development require flexibility. This chapter provides that flexibility, while maintaining the purposes and intent of the code. The variance procedure provides relief from specific code provisions in Title 16 when they have the unintended effect of preventing reasonable development that is in conformance with all other codes. The variance procedure is intended to provide flexibility while ensuring that the purpose of each development standard is met. Variances are necessary when the applicant requests a deviation from numerical standards of more than 10 percent or a variance from non-numerical development standards.

TMC 16.30.060 Regulations which may and may not be varied

A. Unless listed in subsection (B) of this section, all regulations in this code may be modified using the variance process.

B. Variances are prohibited for the following items:

1. As an exception to any restrictions on uses or development which contain the word "prohibited."
2. As an exception to a threshold for a review, such as the characteristics that would distinguish a minor partition from a major partition or subdivision.
4. As an exception to a definition or classification.
5. As an exception to the procedural steps of a procedure or to change assigned procedures.

*Staff analysis: The variances requested are not prohibited or described in TMC 16.30.060(B). Accordingly, the variance requested may be granted, pursuant to TMC 16.30.060(A), related to the interior flag portion measurement of more than one hundred (100) feet in length (TMC 16.04.050 (E)(4)).*

#### TMC 16.30.070 Variance – Review Criteria

The Planning Commission may approve an application for a variance if the applicant has shown that all of the following criteria have been met:

- A. The proposed variance will not be materially detrimental to the purposes of this code, to any other applicable policies and standards, and to other properties in the same zoning district or in the vicinity;
- B. A hardship to development exists that is peculiar to the lot size or shape, topography, pre-existing structure(s), wetlands, floodplains, or other similar circumstances related to the property over which the applicant has no control, and that are not applicable to other properties in the vicinity;
- C. The development proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
- D. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject code standard;
- E. The hardship is not self-imposed; and
- F. The variance request is the minimum variance that would alleviate the hardship.

*Staff analysis: The variance requested related to interior flag portion measurement of more than one hundred (100) feet in length (TMC 16.04.050 (E)(4)) meet the criteria in TMC 16.30.070.*

*As to the variance needed for approval, the variance is not materially detrimental to the purposes of this code, to any other applicable policies or standards, or to other properties in the same zoning district or in the vicinity. Specifically the variance will allow the development of a use allowed in TMC 17.08 the same as any other partition in the R-S zone.*

*A hardship to development exists that is peculiar to the lot size or shape of Tax Lot 1500 and pre-existing structures adjoin the property on N Nye Street. The existing lot has a double frontage along Nye Street.*

*The partition into two tax lots is much less than density required in the zone, upholding this title and city standards to the greatest extent reasonably practicable while allowing for the reasonable economic development of the land.*

*The existing parcel is a double frontage lot created prior to the current owners purchasing of the lot. The existing lot configuration makes further division difficult without a variance application. The hardship is not self-imposed.*

*The variance requested is to the maximum interior flag measurement. As proposed the partition removes the double lot frontage and the proposed parcel is the minimum size required to remove the double lot frontage. The variance requested is the minimum variance to alleviate the hardship.*

### **III. FURTHER STAFF ANALYSIS:**

The current owners, David and Tammy Howard, have correctly indicated that the minor partition would create two lots. The applicant's request would be compatible with surrounding land uses. Single-family Residential zoning is located to the north, west and primarily to the east. The General Residential Zone, which allows for greater residential density, is located to the south. See Zoning Map attachment C.

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

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

### **FINDINGS:**

The applicant is requesting approval of a minor partition to divide a parcel of land that is approximately 0.82 acres in size into two parcels. Based upon the information received by city staff through October 7, 2020, the minor partition appears to conform with relevant provisions of the City's plans and ordinances as described below. The following findings support approval of the requested partition:

1. Tax Lot 1500 appears to be a lawfully created unit of land and, according to the Lincoln County Assessor's records, the existing home on 1606 NW Spruce Street was built in 1928.
2. The subject property is approximately 0.82 acres (35,719 square feet). The applicant is requesting to divide the property into two parcels, resulting in Proposed Parcel 1 being approximately 25,800 square feet and proposed Parcel 2 being approximately 9,900 square feet. The partition will create two parcels identified on Exhibit A. The boundaries of proposed Parcels 1 and 2, to be established by a surveyor, are shown on applicant's map submitted and marked as Exhibit A. The proposal meets the minimum lot size standard for the R-S Zone as it is over 7,000 square feet and not a corner lot.
3. The existing structure at 1606 Spruce Street is a single-family home. Future development of proposed parcel 2 must comply with TMC 17.08 (Single-Family Residential Zone) standards. The R-S Zone allows various residential uses, specifically, single-family homes (both site built and manufactured) and accessory dwelling units are allowed outright. This request meets additional housing needs for Toledo residents in terms of type, creating an additional location for housing, and developing in an area where public service already exists.
4. Approval of this application encourages an attractive, livable, and sustainable city by encouraging efficient land use patterns. This application has been reviewed in compliance with and processed consistent with Toledo's Comprehensive Plan goals and policies and Municipal Code and standards.

5. Based upon the information received by City staff through October 7, 2020, the minor partition appears to conform to relevant provisions of the City's plans and ordinances as described herein.
6. Proposed Parcels 1 and 2 all have street frontage and driveway access onto N Nye Street. N Nye Street is a paved street with no curbs and sidewalks along the full width of the subject properties. The installation of 5 foot sidewalks along N. Nye is not required at this time, because, 1) N. Nye Street is not a collector street and 2) the partition is not within 500 feet of existing sidewalks.
7. The minor partition criteria for evaluation in TMC 16.08.070 has been met.
8. Because of the configuration of proposed Parcel 1, it could potentially be partitioned in the future if public street improvements are made to the private access way on the south end of Tax Lot 1500. Proposed Parcel 2 could not be further divided because of the minimum lot size requirement of the R-S Zone. The current request does not preclude the efficient division of land in the future, as there is sufficient area, street frontage, etc. to consider additional development.
9. The request meets TMC 16.04.050(E)(1-3,5-8), as provided below:
  - a. TMC 16.04.050 (E)(1) provides that each of the two parcels shall abut and take primary ingress and egress from a city street and the frontage of each shall not be less than twenty (20) feet in the R-S zone. The proposal will provide 20 feet of frontage for both parcels.
  - b. TMC 16.04.050 (E)(2) provides that parcels with double frontage shall not be permitted unless an odd-shaped tract, existing street layout, or existing topography makes such a parcel unavoidable. The request does not propose a parcel with double frontage.
  - c. TMC 16.04.050 (E)(3) provides that each side line be as close to perpendicular to the adjacent street line as possible. The proposed property line will be near perpendicular to N. Nye Street.
  - d. TMC 16.04.050 (E)(5) and (7) provides that the flag pole shall be a minimum of one hundred (100) feet and a maximum of one hundred fifty (150) feet long. And flag lots shall not have driveways for individual lots are in less than seventy-five feet of lot frontage. The proposed flag pole is 100 feet long and meets this standard. The driveway of proposed Parcel 2 will be a minimum of 80 feet from the existing driveway for proposed Parcel 1. Two driveways will not be located in less than 75 feet of street frontage.
  - e. TMC 16.04.050 (E)(6) provides that lots and parcels over twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of three and one-half to one and parcels smaller than twenty-five thousand (25,000) square feet in area must not exceed a depth to width ration of two and one-half to one. As drawn on the proposed map, both parcels will not exceed a depth to width ratio of three and one-half to one. Proposed Parcel 1 would be approximately 25,800 square feet and proposed Parcel 2 would be approximately 9,900 square feet. Accordingly, proposed Parcel 1 exceeds twenty-five thousand (25,000) square feet in area, and must not exceed a depth to width ratio of three and one-half to one. Proposed Parcel 2 does not exceed twenty-five (25,000) square feet in area, and must not exceed a depth to width ration of two and one-half to one. As to Parcel 1, the depth of the

parcel is approximately 110 square feet and width is approximately 210 square feet, so does not exceed a depth to width ratio of three and one-half to one. As to Parcel 2, the depth of the parcel is approximately 100 feet and width is approximately 99 feet, so it does not exceed a depth to width ratio of two and one-half to one. Therefore, as drawn on the proposed map, both parcels will not exceed a depth to width ratio of three and one-half to one.

- f. TMC 16.04.050 (E)(8) provides that existing natural and piped drainages must be preserved or replaced on the site and easements must be granted for drainage as long as the easements required are roughly proportional to the impact of the proposed development. Staff does not believe that the impact of the proposed development justifies requiring the applicant to provide an easement for a drainage way to the City.
10. No new streets are required or proposed by the proposed partition. Proposed Parcel 1 and 2 will both abut and have primary access from N Nye Street.
  11. As to the variance requested, interior flag portion measurement of more than one hundred (100) feet in length (TMC 16.04.050 (E)(4)), the variance review criteria in TMC 16.30.070 is met.
    - a. As to the variance needed for approval, the variance is not materially detrimental to the purposes of this code, to any other applicable policies or standards, or to other properties in the same zoning district or in the vicinity. Specifically the variance will allow the development of a use allowed in TMC 17.08 the same as any other partition in the R-S zone.
    - b. A hardship to development exists that is peculiar to the lot size or shape of Tax Lot 1500 and pre-existing structures adjoin the property on N Nye Street. The existing lot has a double frontage along Nye Street.
    - c. The partition into two tax lots is much less than density required in the zone, upholding this title and city standards to the greatest extent reasonably practicable while allowing for the reasonable economic development of the land.
    - d. The existing parcel is a double frontage lot created prior to the current owners purchasing of the lot. The existing lot configuration makes further division difficult without a variance application. The hardship is not self-imposed.
    - e. The variance requested is to the maximum interior flag measurement. As proposed the partition removes the double lot frontage and the proposed parcel is the minimum size required to remove the double lot frontage. The variance requested is the minimum variance to alleviate the hardship.
  12. Driveway, utility, and street development specifications are currently contained in the Public Works Infrastructure Design Standards Manual and are not part of TMC Title 16 at this time. Prior to final approval of the partition, the applicant shall either install all required improvements to City standards and repair existing roads and other public facilities damaged in the development of the partition or shall execute and file with the City Manager an agreement between the applicant and the City specifying the period within which all the required improvements and repairs shall be completed.
  13. The proposed minor partition does not involve the development or extension of any streets and will create parcels that are served by City water and sewer service. The division of land complies with applicable ordinances and Public Improvement Design

Standards adopted by the City. The division of land will not constitute a major partition or a subdivision pursuant to the definitions in Title 16. The division of land has received approval from the Public Works Director. Each lot will be served with City sewer and water and the City has the capacity to provide those services. If a bond is required to be posted for any infrastructure improvements, the applicant should agree in writing to do so. The applicant should demonstrate that adequate precautions have been taken to prevent damage or injury resulting from natural hazards. The division of land will not affect a designated dredged material disposal site or mitigation site as designated in the Lincoln County Estuary Management Plan. The division of land will not result in any newly created parcels or lots which are entirely zoned for Natural Resources or which become one hundred (100) percent undevelopable due to splitting off the buildable land.

The City Public Works Director, Police and Fire Chief have all reviewed the application and have indicated their approval in relation to their respective departments.

The request should not cause a significant adverse impact on the livability, value or appropriate development of the surrounding neighborhood.

14. N. Nye is a 20' wide paved street without curbs or sidewalks
15. One new driveway onto N Nye Street will be required for access to proposed Parcel 2. With the proposed lot dimensions, off-street parking should be achievable for future development of Parcel 2. Parcel 1 currently meets parking standards for a single-family dwelling.
16. A City water main line is located near the southern property line of proposed Parcel 1. The utility easement area should be noted on the partition plat and protected from damage. Any private utilities crossing proposed Parcel 2 should be identified and easements recorded.
17. City water is located in the N. Nye Street right-of-way, NW Spruce Street area, and the access way. City sewer is available in the N. Nye Street right-of-way and NW Spruce Street easement road. Both water and sewer services are available for new development of Parcel 2. Private water and sewer service lines and other utility lines should be identified and easements recorded if existing utilities for Parcel 1 cross Parcel 2.
18. Based on the Statewide Wetlands Inventory (SWI), the proposed parcels may have wetlands located on or near the subject property. The Local Wetlands Inventory (LWI) does not identify any wetlands on the subject property. At the time a building permit, driveway permit, or other permit is submitted Staff will submit a Wetland Land Use Notification (WLUN) as required by the Department of State Lands (DSL) to determine if any DSL permits are required.
19. Notification to 39 surrounding property owners, 19 public/service agencies, and publication of the proposed minor partition and variance were completed in accordance with the TMC requirements. As of October 7, 2020, no comments have been received.

**Staff would direct the Planning Commission to evaluate the applicant's proposal and**

**all testimony presented to them in order to make findings that demonstrate the applicable criteria in the TMC can be satisfied. The decision of the Planning Commission should be based on the report of facts and analysis contained within the Staff Report, as well as the facts and testimony presented by the applicant and those who support or oppose the request given at the public hearing. Any action on the application should address the applicable criteria as contained in the TMC. The decision of the Planning Commission on City Case #File MP-1-20 and VAR-2-20 will become final unless appealed to the City Council.**

#### **IV. STAFF RECOMMENDATION:**

Based on the staff report, testimony received and analysis of the applicable code and land use planning goals, staff recommends the Planning Commission approve the minor partition, pursuant to the criteria in TMC Section 16.08.070, and approve the variance, pursuant to the variance review criteria in 16.30.070, which variances are needed from the interior flag portion measurement of more than one hundred (100) feet in length.

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

1. Partitioning of the property shall be in compliance with the proposed partition plan as described in the application, plan and drawings submitted and included in Exhibit A of this report.
2. The applicant shall provide a final minor partition plat prepared by a registered surveyor and meeting the plat standards of the City of Toledo and including an approval signature line for the City Manager's signature. The applicant shall submit the final plat to the Lincoln County Surveyor for review, and to the City of Toledo to review for compliance with conditions of approval prior to recording. The applicant shall record the approved final plat with the Lincoln County Surveyor. A copy of the recorded plat shall be submitted by the applicant to the City of Toledo.
3. In accordance with TMC Chapter 16, the final partition plat shall be recorded within one year from the effective date of the Planning Commission approval. One extension of time, not to exceed one year, may be granted to complete the partition if an application for an extension of time is made in writing prior to the expiration date.
4. Protect all existing easements (in addition to being noted on the plat) and, as appropriate, record any new easements to serve the proposed parcels for driveway access and utilities, and comply with the Public Infrastructure Design Standards Manual, before construction permits will be issued.
5. Any driveway modification, in accordance with the standards specified in the Public Infrastructure Design Standards Manual, may be required as determined by the Public Works Director. If required, it shall be completed within one year of approval of this application, or a deferred development agreement entered into, to address this requirement. Determination will be made when a construction permit has been submitted that identifies the location of proposed construction and length of its driveway, to ensure that the development of Parcel 2 will comply with

- Public Infrastructure Design Standards and Fire, Life, Safety standards.
6. All standards and requirements in the Infrastructure Design Standards Manual, TMC Chapter 16 and 17 are met, as to both parcels marked on Exhibit A.
  7. Prior to development, the applicant shall obtain any necessary permits from the Department of State Lands and/or any applicable federal permits.

## **PLANNING COMMISSION DECISION**

### **PROPOSED MOTION** (MP-1-20 AND VAR-2-20):

*BASED ON THE TESTIMONY RECEIVED, THE STAFF REPORT, AND THE EVIDENCE AND ARGUMENTS BEFORE THE PLANNING COMMISSION AT THE PUBLIC HEARING ON OCTOBER 14, 2020, THE PLANNING COMMISSION FINDS THAT THE REQUEST BY MR. AND MRS. HOWARD (MP-1-20/VAR-2-20) COMPLIES WITH THE CRITERIA IDENTIFIED IN TOLEDO MUNICIPAL CODE, TITLES 16 AND 17, INCLUDING THE CRITERIA IDENTIFIED IN TOLEDO MUNICIPAL CODE, SECTION 16.08.070 AND 16.30.070. THE PLANNING COMMISSION HEREBY ADOPTS THE STAFF REPORT AS FINDINGS, AS WELL AS ANY CONDITIONS OF APPROVAL FOR MP-1-20/VAR-2-20, AND ALLOWING FOR THE CORRECTION OF TYPOGRAPHICAL AND GRAMMATICAL ERRORS.*

## **V. PLANNING COMMISSION ROLE:**

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

Prepared by,  
Justin Peterson  
Contract Planner

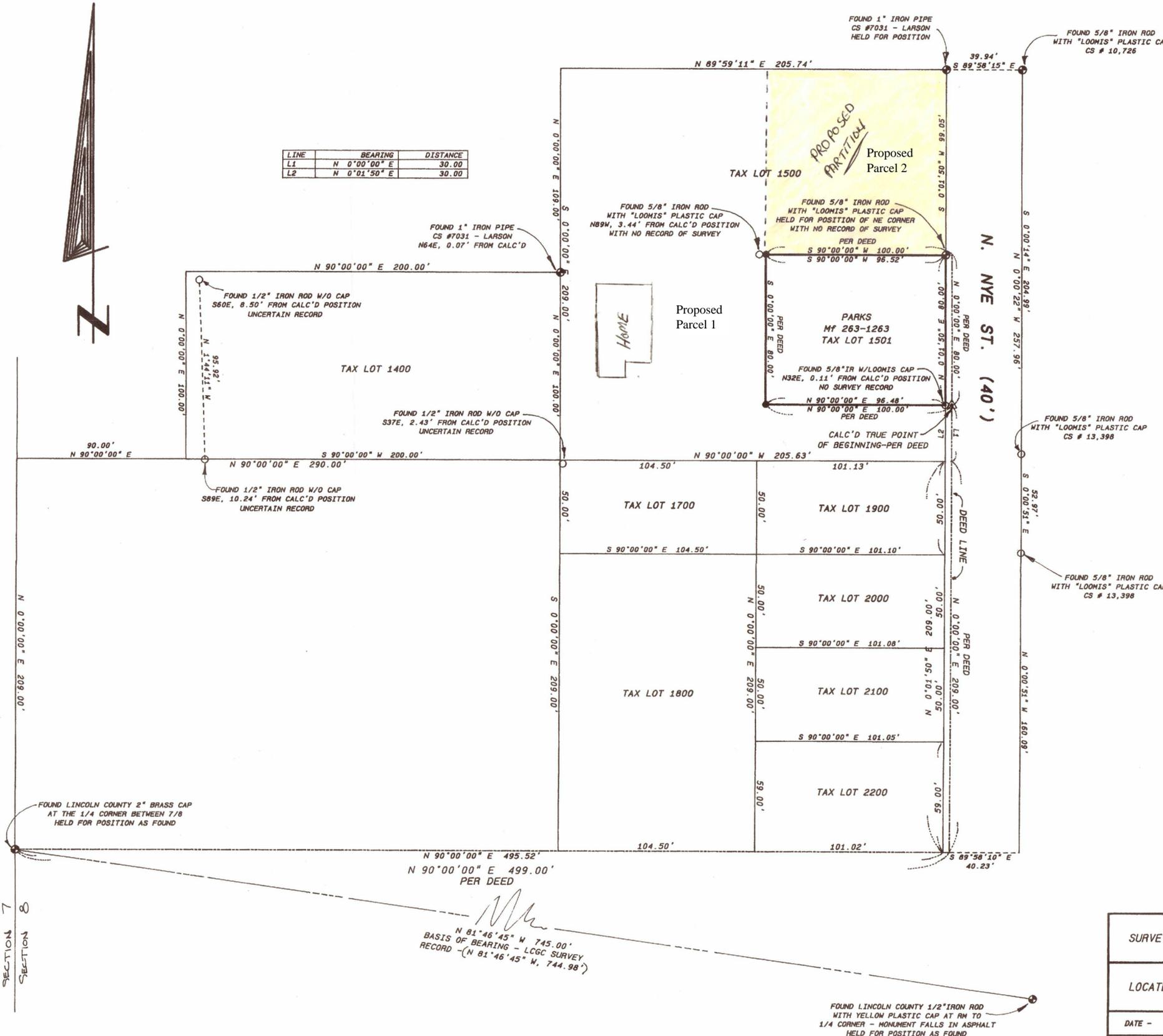


**ATTACHMENT A**

**Exhibit A - Map Showing Parcels After Partition**  
(City of Toledo File #MP-1-20/VAR-2-20)

C.S. # 14985  
FILED 15 February 1996  
LINCOLN COUNTY SURVEYOR

LINE	BEARING	DISTANCE
L1	N 0°00'00" E	30.00
L2	N 0°01'50" E	30.00



**SURVEYOR'S NARRATIVE:**

THE PURPOSE OF THIS SURVEY IS TO ESTABLISH THE BOUNDARIES OF A TRACT AS DESCRIBED IN MICROFILM 263-1263, LINCOLN COUNTY FILM RECORDS. THIS SURVEY FOUND AND HELD THE MONUMENT AT THE 1/4 CORNER BETWEEN SECTIONS 7 AND 8, T11S, R10W AND THE MONUMENT AT THE RM TO SAID 1/4 CORNER, AS ESTABLISHED IN LINCOLN COUNTY GEODETIC CONTROL SURVEY, FOR THE BASIS OF BEARING (N 81°46'45" W, 744.98' - GEODETIC). THIS SURVEY HELD THE AS FOUND POSITION OF THE MONUMENT AT THE 1/4 CORNER, TO COMPUTE THE BOUNDARIES OF THE SUBJECT TRACT, AS DESCRIBED IN SAID DEED. THE DIMENSIONS DESCRIBED IN THE DEED ARE IN CARDINAL DIRECTIONS AND AT EVEN DISTANCES. THE DEED DOES NOT EXCEPT ANY PORTIONS THAT MAY FALL IN PUBLIC STREETS. AFTER REVIEWING THE PRIOR SURVEYS IN THE AREA, THIS SURVEYOR FELT THAT IT WAS NECESSARY TO ESTABLISH THE WESTERLY RIGHT OF WAY ON NORTH NYE STREET. THIS WAS ACCOMPLISHED BY HOLDING THE MONUMENTS FOUND ALONG THE WESTERLY R/W OF N. NYE ST. (the Larson monument and the Loomis monument were held as found). THE LOOMIS MONUMENT THAT WAS FOUND NEAR THE NORTHWEST CORNER, OF THE SUBJECT TRACT, WAS CALLED OUT OF POSITION. THIS SURVEYOR COMPUTED THE POSITION OF THE NW CORNER TO BE 100 FEET FROM THE DEED CALL, WHICH FALLS IN THE PUBLIC STREET R/W. I BELIEVE THAT LOOMIS DID NOT TAKE THIS INTO ACCOUNT WHEN HE ESTABLISHED THE MONUMENTS AT THE NW AND NE CORNERS OF THE SUBJECT TRACT. THE DENISON MONUMENTS WERE SET AS INDICATED.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*Russell Johnson*  
OREGON  
JULY 26 1969  
RUSSELL JOHNSON  
2400  
RENEWAL DATE  
JUNE 30, 1997

**LEGEND -**

- Monuments Found - Held For Control
- Monuments Found as shown
- Monuments Set - 5/8" x 30" Iron Rods w/ Plastic Caps inscribed "Denison Surv., Inc., Newport, Oregon".

Record Data shown in parenthesis.  
Equipment Used: Wild T1010 Total Station.

SURVEY FOR -	<b>DONALD PARKS</b>
LOCATED IN -	THE NW 1/4 OF SECTION 8, T11S, R10W (11-10-08 BC)
DATE -	JANUARY 22, 1996
SCALE -	1" = 40'
JOB NUMBER -	DSI-2357
DRAWN BY -	RLJ
CHECKED BY -	CAD
REVISION #	1

**DSI**  
DENISON SURVEYING, INC.  
720 SW ANGLE ST.  
NEWPORT, OREGON 97365  
(503) 265-9308

# Attachment B

## Application with Supporting Information

(City of Toledo File #MP-1-20/VAR-2-20)

### LAND USE APPLICATION

Date 8/25/2020

Property Owner DAVID & TAMI HOWARD  
Mailing Address P.O. Box 118

Telephone 541-336-1512

Authorized Agent \_\_\_\_\_

Telephone \_\_\_\_\_

Property Address 1606 N NYE ST. TOLEDO  
Property Location 1606 N NYE SPRUCE ST.  
Assessors Map No. 11-10-B BC TAX LOT 1500

Property Size 3/4 ACRE

Tax Lot No. 1500

Present Zoning RESIDENTIAL  
Comprehensive Plan Designation RS  
Current Land Use SINGLE FAMILY HOME  
Existing Structures (if any) HOME

Proposed Change CREATING NEW LOT

Proposal for which this request is being made (attach additional sheets if needed)  
PARTITION REQUEST OF VARIANCE

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

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

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

\*Supplemental forms are required

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

Date Received 8/26/20 Received By CU For Office Use Only Fee Paid \$700.<sup>00</sup> City File No. MP-1-20/VAR-2-20

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

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

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

David J. Horn  
\_\_\_\_\_  
Jamie Lee Howard  
\_\_\_\_\_  
Applicant(s) Signature

8/25/20  
\_\_\_\_\_  
8/25/2020  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner (if different)

\_\_\_\_\_  
Date

\*\*\*For Office Use Only\*\*\*

Public Works

1. Is City sewer available? Yes  No   
Where \_\_\_\_\_

Is the property within City \_\_\_\_\_ UGB \_\_\_\_\_  
Will a connection have to be constructed? Yes \_\_\_\_\_ No \_\_\_\_\_  
What size of a line is required \_\_\_\_\_

2. Is City water available? Yes \_\_\_\_\_ No \_\_\_\_\_  
Where \_\_\_\_\_

Is the property within City \_\_\_\_\_ UGB \_\_\_\_\_  
Is the lot accessible to City water? Yes \_\_\_\_\_ No \_\_\_\_\_

3. Are there any public works improvements necessary? Yes \_\_\_\_\_ No \_\_\_\_\_  
If yes, describe \_\_\_\_\_

4. Is there proper access? Yes \_\_\_\_\_ No \_\_\_\_\_  
Are there proper easements? Yes \_\_\_\_\_ No \_\_\_\_\_

Curb cuts and property entrances must be constructed to City specifications. Permit and specifications are available through the Public Works Department.

5. Are there any special access requirements? Yes \_\_\_\_\_ No \_\_\_\_\_  
If yes, describe \_\_\_\_\_  
Is a state access permit required? Yes \_\_\_\_\_ No \_\_\_\_\_  
Is a county permit required? Yes \_\_\_\_\_ No \_\_\_\_\_

6. Meter size \_\_\_\_\_  
Estimated installation cost \_\_\_\_\_

7. Is a plan review by Public Works required? Yes \_\_\_\_\_ No \_\_\_\_\_

8. Is this a new parcel, created legally since 11/1/83? Yes \_\_\_\_\_ No \_\_\_\_\_  
Minor Partition \_\_\_\_\_ File # \_\_\_\_\_  
Major Partition \_\_\_\_\_ File # \_\_\_\_\_  
Subdivision \_\_\_\_\_ File # \_\_\_\_\_

9. Is this application ready to be approved? Yes \_\_\_\_\_ No \_\_\_\_\_  
Explain modifications or revisions needed for the application \_\_\_\_\_

Comments \_\_\_\_\_

REVIEWED AND APPROVED BY:

Public Works Director

Date

## Arlene Inukai

---

**From:** Justin Peterson <jpeterson@ocwcog.org>  
**Sent:** Thursday, October 01, 2020 9:04 AM  
**To:** Arlene Inukai  
**Subject:** FW: Land Use Applications for Review - Howard MP and Foursquare Church RV

---

**From:** Public Works Director [mailto:[pwdirector@cityoftoledo.org](mailto:pwdirector@cityoftoledo.org)]  
**Sent:** Wednesday, September 30, 2020 2:40 PM  
**To:** Justin Peterson <jpeterson@ocwcog.org>  
**Subject:** RE: Land Use Applications for Review - Howard MP and Foursquare Church RV

Justin, water and sewer are available for the lot via Nye Street, as is access/ driveway property owner will need to install a minimum 12" culvert to extend a minimum of 2' past both sides of any driveway that will be maintained and kept clear of all debris by the property owner or the tenants.

There is no requirement to install a cement sidewalk or walking path.

Driveway should be in accordance with city standards for single residence driveway on a non-collector R.O.W.

I do not know an exact date for how long the trailer/ camper has been in the parking lot at 4 square church, but it has been there at least 8+ months.

**Bill Zuspan**  
Public Works Director



(541) 336-2247 x2070  
[pwdirector@cityoftoledo.org](mailto:pwdirector@cityoftoledo.org)

**PUBLIC RECORDS LAW DISCLOSURE:** This e-mail is subject to the State Records Retention Schedule and may be made available to the public.

**CONFIDENTIALITY NOTICE:** This message is intended solely for the use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable state and federal laws.

---

**From:** Justin Peterson [mailto:[jpeterson@ocwcog.org](mailto:jpeterson@ocwcog.org)]  
**Sent:** Tuesday, September 29, 2020 4:15 PM  
**To:** Public Works Director <[pwdirector@cityoftoledo.org](mailto:pwdirector@cityoftoledo.org)>  
**Cc:** Arlene Inukai <[planning@cityoftoledo.org](mailto:planning@cityoftoledo.org)>  
**Subject:** RE: Land Use Applications for Review - Howard MP and Foursquare Church RV

**Fire Department**

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

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REVIEWED AND APPROVED BY:

\_\_\_\_\_  
Fire Chief Date

**Police Department**

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

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REVIEWED AND APPROVED BY:

 \_\_\_\_\_  
Chief of Police Date 9/23/20

**Planning Department**

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

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REVIEWED AND APPROVED BY:

\_\_\_\_\_  
Community Development Coordinator Date

**Fire Department**

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

Comments No Comments

**REVIEWED AND APPROVED BY:**

[Signature] 9/23/20  
Fire Chief Captain/Fire Inspector Date

**Police Department**

- 1. Is this application ready to be approved? Yes  No   
Explain modifications or revisions needed for the application \_\_\_\_\_  
\_\_\_\_\_

Comments \_\_\_\_\_

**REVIEWED AND APPROVED BY:**

\_\_\_\_\_  
Chief of Police Date

**Planning Department**

- 1. Is this application ready to be approved? Yes  No   
Explain modifications or revisions needed for the application \_\_\_\_\_  
\_\_\_\_\_

Comments \_\_\_\_\_

**REVIEWED AND APPROVED BY:**

\_\_\_\_\_  
Community Development Coordinator Date

September 20, 2019

City of Toledo

We wish to cut off a portion of lot 11-10-08-BC-01500 in the N.E. corner highlighted in yellow for single family home. Site would be accessed from N. Nye St. for both utilities and ingress and egress. Existing traffic on this street is limited, so it would have little impact on existing homes.

Sincerely,



David J. Howard



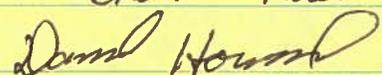
Tami Lea Howard

8/25/2020

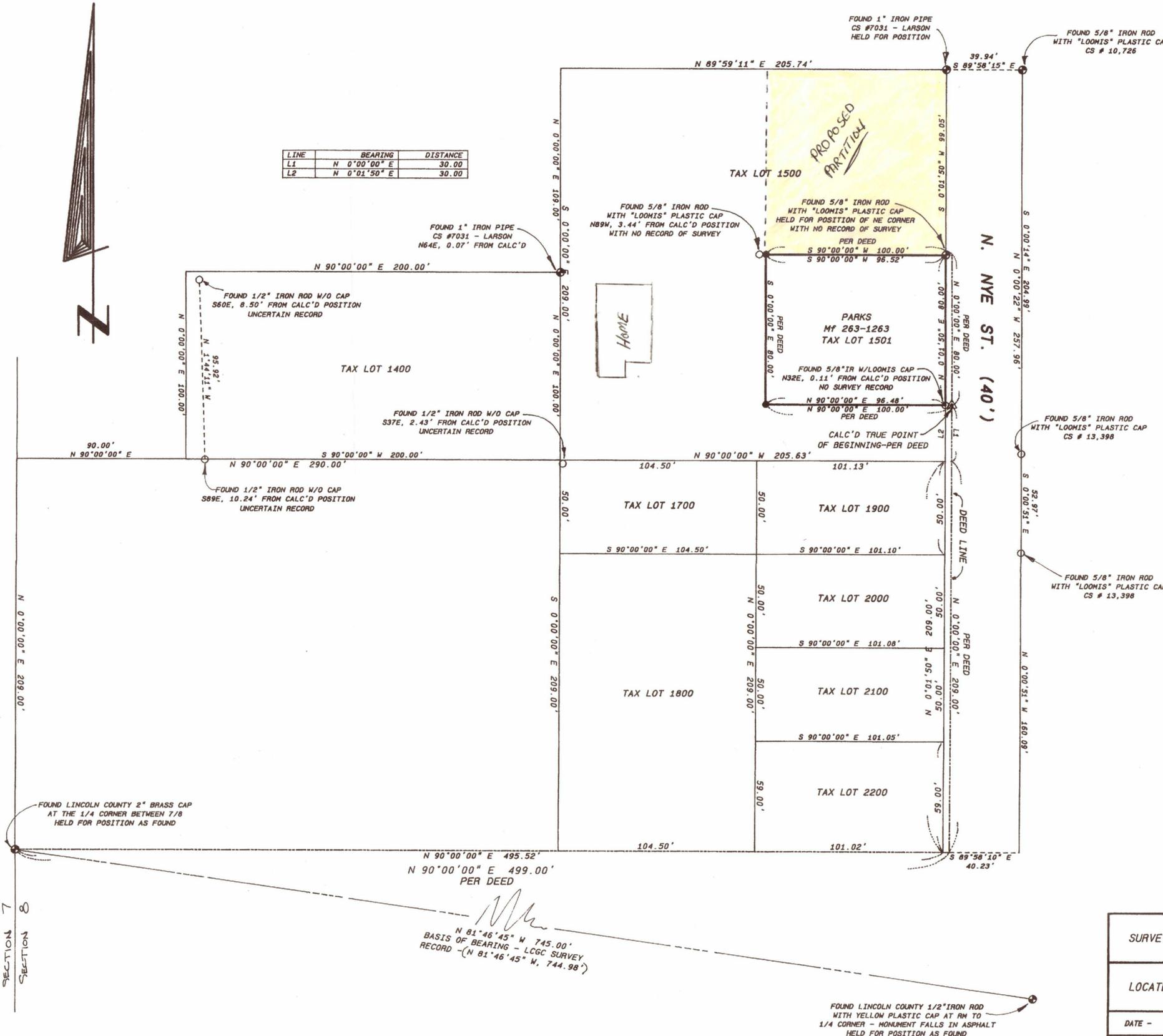
CITY OF TOLCOO

I'M FILING FOR A VARIANCE TO THE  
FLAG LOT CRITERIA TO DEVIDE OF OF MY  
1500 3/4 ACRE LOT. I BELIEVE THIS IS GOOD  
FOR THE LOCAL HOUSING SHORTAGE AND FOR THE  
CITY'S TAX BASE. THE EXISTANCE OF 15TH ST,  
AND SPRUCE STREETS, EVEN THOUGH NOT OFFICAL  
STREETS, MAKE THIS VARIANCE SEEM LOGICAL. THANK  
YOU FOR YOUR CONSIDERATION OF THIS ISSUE.

Sincerely

DAVID HOWARD  


LINE	BEARING	DISTANCE
L1	N 0°00'00" E	30.00
L2	N 0°01'50" E	30.00



**SURVEYOR'S NARRATIVE:**

THE PURPOSE OF THIS SURVEY IS TO ESTABLISH THE BOUNDARIES OF A TRACT AS DESCRIBED IN MICROFILM 263-1263, LINCOLN COUNTY FILM RECORDS. THIS SURVEY FOUND AND HELD THE MONUMENT AT THE 1/4 CORNER BETWEEN SECTIONS 7 AND 8, T11S, R10W AND THE MONUMENT AT THE RM TO SAID 1/4 CORNER, AS ESTABLISHED IN LINCOLN COUNTY GEODETIC CONTROL SURVEY, FOR THE BASIS OF BEARING (N 81°46'45" W, 744.98' - GEODETIC). THIS SURVEY HELD THE AS FOUND POSITION OF THE MONUMENT AT THE 1/4 CORNER, TO COMPUTE THE BOUNDARIES OF THE SUBJECT TRACT, AS DESCRIBED IN SAID DEED. THE DIMENSIONS DESCRIBED IN THE DEED ARE IN CARDINAL DIRECTIONS AND AT EVEN DISTANCES. THE DEED DOES NOT EXCEPT ANY PORTIONS THAT MAY FALL IN PUBLIC STREETS. AFTER REVIEWING THE PRIOR SURVEYS IN THE AREA, THIS SURVEYOR FELT THAT IT WAS NECESSARY TO ESTABLISH THE WESTERLY RIGHT OF WAY ON NORTH NYE STREET. THIS WAS ACCOMPLISHED BY HOLDING THE MONUMENTS FOUND ALONG THE WESTERLY R/W OF N. NYE ST. (the Larson monument and the Loomis monument were held as found). THE LOOMIS MONUMENT THAT WAS FOUND NEAR THE NORTHWEST CORNER, OF THE SUBJECT TRACT, WAS CALLED OUT OF POSITION. THIS SURVEYOR COMPUTED THE POSITION OF THE NW CORNER TO BE 100 FEET FROM THE DEED CALL, WHICH FALLS IN THE PUBLIC STREET R/W. I BELIEVE THAT LOOMIS DID NOT TAKE THIS INTO ACCOUNT WHEN HE ESTABLISHED THE MONUMENTS AT THE NW AND NE CORNERS OF THE SUBJECT TRACT. THE DENISON MONUMENTS WERE SET AS INDICATED.

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

*Russell Johnson*  
 OREGON  
 JULY 26 1969  
 RUSSELL JOHNSON  
 2400

RENEWAL DATE  
 JUNE 30, 1997

**LEGEND -**

- Monuments Found - Held For Control
- Monuments Found as shown
- Monuments Set - 5/8" x 30" Iron Rods w/ Plastic Caps inscribed "Denison Surv., Inc., Newport, Oregon".

Record Data shown in parenthesis.  
 Equipment Used: Wild T1010 Total Station.

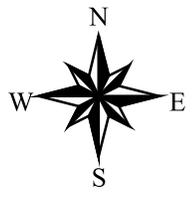
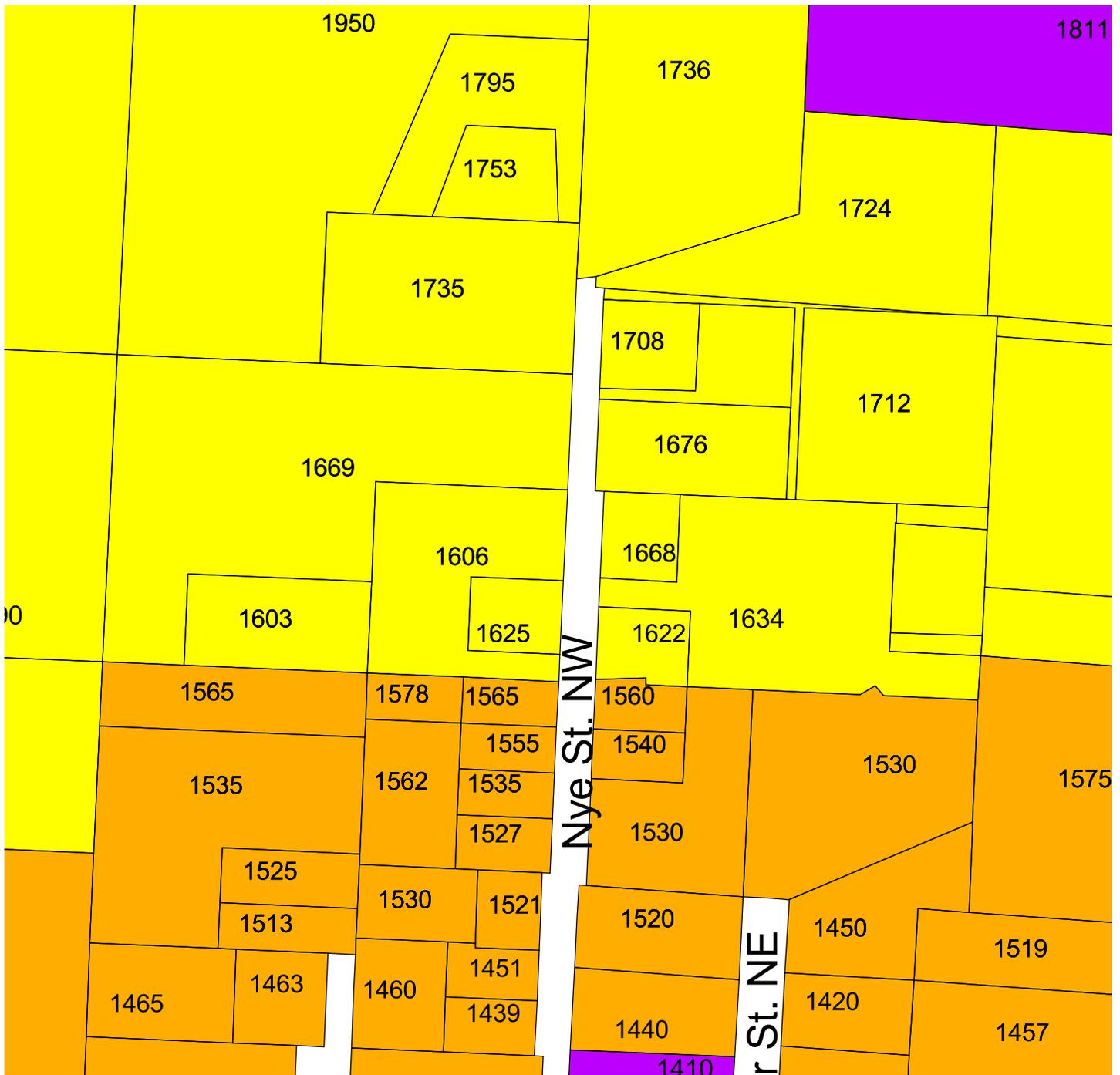
SURVEY FOR -	<b>DONALD PARKS</b>	
LOCATED IN -	THE NW 1/4 OF SECTION 8, T11S, R10W (11-10-08 BC)	
DATE -	JANUARY 22, 1996	
SCALE -	1" = 40'	
JOB NUMBER -	DSI-2357	
DRAWN BY -	RLJ	
CHECKED BY -	CAD	
REVISION #	1	
 <b>DENISON SURVEYING, INC.</b> 720 SW ANGLE ST. NEWPORT, OREGON 97365 (503) 265-9308		

*Mh*  
 N 81°46'45" W 745.00'  
 BASIS OF BEARING - LCGC SURVEY  
 RECORD - (N 81°46'45" W, 744.98')

# ATTACHMENT C

## Zoning Map

(City of Toledo File #MP-1-20/VAR-2-20)



- City Limits
- UGB
- Parcels
- Zoning Plan
- Commercial
- Industrial
- Light Industrial
- Natural Resources
- Public Lands
- Residential General
- Residential Single
- Water Dependent
- Parcels in UGB



## **TOLEDO PLANNING COMMISSION PUBLIC HEARING PROCEDURE**

*These procedures will serve as the guidelines for conducting public hearings. The first four can be done once for all of the hearing items combined.*

1. **Open the meeting.** This section can be combined for all of the items, it can be brief, i.e., a Conditional Use application by Jane Doe, a subdivision by Joe Blow, etc.
2. **Call for declaration of conflict of interest, ex-parte contact, or a bias by Commissioners for any of tonight's agenda items.** This is for all of the items being presented on the agenda

Chair calls for declarations and Commissioners respond only if they have a conflict of interest, ex-parte contact, bias, or if they conducted a site visitation.

Parties have the right to give reasons why they wish a Commissioner be disqualified from a decision item, or rebut, during the hearing, the substance of the ex parte communications.

3. **Read statement of rights and relevance:**

All testimony or evidence presented toward the request being heard must be directed toward the relevant criteria contained in the Toledo Municipal Codes, to other city plans or policies, or to other criteria which a person believes pertains to the request.

All persons shall raise issues with sufficient clarity so as to allow the Planning Commission or others an adequate opportunity to respond to or resolve the issue.

Failure to address a criterion before the close of the hearing record precludes an appeal to the Land Use Board of Appeals based on that criterion.

Failure by the applicant, no later than the close of the hearing record, to raise constitutional or other issues relating to the proposed conditions of approval, with sufficient specificity to allow the city to respond to the issues, will preclude an action for damages based on those issues in the circuit court.

Prior to the close of the evidentiary record of this hearing, a participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. If a participant requests such an opportunity prior to the close of the evidentiary record, then the Planning Commission will either continue the hearing for at least seven days or leave the record open for at least seven days to allow the submission of additional written evidence, arguments, or testimony.

4. **Read the right to appeal:**

An appeal from an action or ruling by the Planning Commission can be made to the City Council within 15 days after the date of the Planning Commission's decision or ruling by filing a written notice and paying the appeal fee. The date of the Planning Commission decision is the date the Order is signed. If no appeal is taken within the 15 day period, the action or ruling of the Planning Commission shall be final. If an appeal is filed, the Council shall receive a report and recommendation from the appropriate City official and shall hold a public hearing.

In order to have standing for an appeal, a person must have been mailed written notice or have participated in writing or in person at the Planning Commission public hearing or have been substantially affected by the action or ruling.

This is for all of the public hearing items being presented on the agenda.

5. **Open the hearing with a description of the items.**  
Chair reads the agenda headings to announce the item for the meeting.

6. **Staff report.**

*NOTE: If a large number of people are present to offer testimony, a time limit may be set on individual testimony. If testimony begins to be repetitive, a show of hands for those supporting the views being stated may be called to expedite the hearing.*

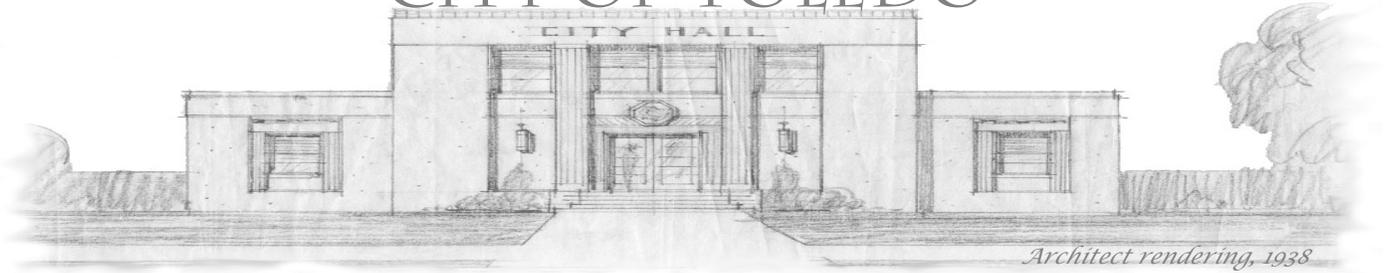
In the next section of this Public Hearing Procedure, the person presenting the application, the Applicant, may give information regarding the application. People agreeing with the application, the Proponents, may then be heard. Followed by people objecting to the application, the Opponents. People who are neither for nor against the application, but are Other Interested Parties may then be heard. And finally, the applicant may speak in rebuttal of any presented testimony. Direct questions only--no commentary please.

7. **Applicant testimony** (Please state name and address for the record).
8. **Proponent testimony** (Please state name and address for the record).
9. **Opponent testimony** (Please state name and address for the record).
10. **Other interested parties** (Please state name and address for the record).
11. **Rebuttal by applicant.**
12. **Questions by Commission.**  
Questions may be asked by the Planning Commissioners of specific individuals.

A few minutes of open conversation may occur to flush out general information. If any new information came forth, applicant and others should be given time to specifically address it.

13. **Close the public hearing.**
14. **Deliberations.**  
The Commissioners will consider the facts presented at the hearing, and if additional time is required, set a public meeting date to announce their findings and decision. During the deliberations, the Commission may ask the proponent, opponent, or staff for clarification or for new information. No input from the audience will be accepted unless solicited by the Commission.
15. **Decision.** The Commission will make a decision, based on findings of fact.
  - a) Chair entertains a motion, based on findings
  - b) Second to motion
  - c) Discussion
  - d) Showing of hands or roll call on the motion
  - e) Chair announces the results of hands or roll call
16. **Next item of business.**

# CITY OF TOLEDO



**To:** Toledo Planning Commission

**From:** Justin Peterson, Contract Planner

**Date:** October 7, 2020

**Re:** Residential Code Updates

Mayor Cross presented to the Toledo Planning Commission August 12, 2020 asking the Planning Commission to work on housing projects. The projects included 1) An updated Buildable Lands Inventory (BLI) and Housing Needs Analysis (HNA), 2) A review of the Toledo Municipal Code (TMC) to create a more efficient permitting process, 3) A Natural Resource (NR) Zone tax reduction.

Staff presented draft updates to the residential code to the Toledo City Council and Planning Commission on September 23, 2020. The presentation discussed the Lincoln County Housing Strategy Plan which provided recommendations for development code updates. In addition, the presentation reviewed other development code updates which could reduce barriers to development.

The result of the Joint Work Session was overall support for most of the draft code updates. However, a few questions were left open for further discussion.

- Based on the 1999 Buildable Lands Inventory the City of Toledo had 270.1 acres of land zoned RG and 280.4 acres of land zoned RS.
- Upper Floor residential (also residential units behind Main Street commercial or residential not fronting Main Street) in the Downtown District. What are your thoughts? How should the City address parking?
- Fence standards. Fences are required to meet the clear vision standards in TMC 17.48.060. A building permit is required for a fence taller than 6 feet. A fence may be located on the property line. A fence is not allowed to create an ingress/egress issue.

Staff will quickly review the powerpoint presented on September 23, 2020 that includes housing code updates to consider and answer any questions.