

**Toledo City Hall  
Council Chambers  
206 N Main St. Toledo OR  
May 8, 2024  
6:00 pm**

## AGENDA

### TOLEDO PLANNING COMMISSION

**The Planning Commission will hold an in-person meeting in City Hall Council Chambers.** Participants can also attend the meeting through the Zoom video meeting platform. Email [planning@cityoftoledo.org](mailto:planning@cityoftoledo.org) or call 541-336-2247 ext. 2130 to receive the meeting login information. Participants can also visit [www.cityoftoledo.org/meetings](http://www.cityoftoledo.org/meetings) for meeting details.

1. CALL TO ORDER AND ROLL CALL
2. VISITORS: (A time set aside to speak with the Planning Commissioners about issues not on the agenda)
3. APPROVAL OF THE APRIL 10, 2024 MINUTES as circulated and reviewed by the Planning Commission
4. DECISION ITEM: Extension to the deadline date for the Conditional Use Permit and Variance approval (File #CU-2-23/VAR-2-23), requested by Northwest Coastal Housing and City of Toledo
5. PUBLIC HEARING: Modification to a Conditional Use Permit to amend a condition of approval for an approved expansion of the waste transfer/recycling facility for property located at 5441 Hwy 20 (File #CU-2-21mod2), requested by Dahl & Dahl Inc. (Ryan Crotty authorized agent)
6. WORKSESSION: Partition and Subdivision Chapter Updates
7. DISCUSSION ITEMS:
  - a. Updates and Reports
8. STAFF COMMENTS
9. COMMISSIONER COMMENTS
10. 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 6:00 pm by President Anne Learned-Ellis. Commissioners present: Ruthanne Morris, Ricky Dyson, Brian Lundgren, Cora Warfield, and Dennis Sutherland. Excused was Jonathan Mix.

Staff present: Contract Planner (CP) Justin Peterson, City Attorney (CA) Mike Adams, and Planning Assistant Arlene Inukai.

VISITORS: None.

### APPROVAL OF THE FEBRUARY 14, 2024, MINUTES:

It was moved and seconded (Dyson/Lundgren) to approve the February 14, 2024, minutes as circulated and reviewed by the Planning Commission. The **motion passed**, noting the absence of Mix.

### WORKSESSION: PARTITION AND SUBDIVISION CHAPTER UPDATES:

CP Peterson reviewed proposed code language updates, summarized below:

- Purpose Statement was updated to include language for serial partitions. This encourages development plans to be reviewed for all portions, rather than piece-meal the projects. This also helps with the potential to divide in the future. The definition of ‘serial partition’ can be expanded or criteria added to specify when a project is considered a serial partition. Commissioners discussed the serial partition standards. Staff will bring serial partitions back for additional discussion at the May meeting.

Commissioners discussed the sidewalk and road improvement standards, including the deferring road improvements and participating in a future Local Improvement District. Currently, if the project is within 500’ of existing sidewalks, the developer must build sidewalks for the project or has the option to record a deferred improvement agreement. New subdivision streets need to be built to full City standards.

- Access requirements were expanded to allow options for easement driveways. The flag lot option remains, but the code could be modified to allow a joint use driveway with easements and special standards. The shared driveways would also need a maintenance agreement between the owners and maintenance responsibilities.

Commissioners discussed the language “dwelling units” vs. “lots” for the use of the easement driveway. It would be better to use the term “lots” within the code section. Development must also comply with fire codes and fire access standards. Commissioners discussed the maximum number of homes or lots that can access the shared driveway before higher driveway standards are triggered.

- The flag lot standards can be updated to provide a 20’ wide ‘pole’ section. This area can also be excluded from the lot area calculation. The minimum length of the ‘pole’ section was also

removed, but the maximum length of the strip could trigger fire code access requirements.

- Joint use driveways would be exempt from the frontage standard.
- The depth-to-width standards would remain in the code, but commercial/industrial/public lands can be exempt from the requirement.
- Minor Partitions can be reviewed as a staff-level decision. There would still be an opportunity for public comments during the review process, but this could reduce the review time for applicants. Most communities provide staff-level review for minor partitions. Subdivisions remain a Planning Commission decision. In making this procedural change from a Type 3 to a Type 2 application, Municipal Code Chapter 19 will also need to be updated for the modified procedures. Commissioners reviewed the notification area (300' vs. 150') for land use notices to neighbors.

DISCUSSION ITEM: GRANT PROJECT UPDATES:

A: DLCD Housing Grant: Oregon Department of Land Conservation and Development (DLCD) established a grant program to implement HB 3395 for housing updates. The City applied for \$10,000 to conduct a zoning and land division code audit and to make sure the City is in compliance with HB 3395 requirements.

B. Safe Routes to Schools: The City obtained a grant for feedback signs at Toledo Elementary School on Sturdevant Road. The signs have been ordered and delivered. They will be installed this summer. Because the sign costs were significantly lower than the initial estimate, there are some grant dollars that may be available for crosswalk upgrades at SE 10<sup>th</sup> Street and SE East Slope Road. ODOT will need to approve the release of the grant funds for the crosswalk improvements. The City will also apply for another grant application to fund the sidewalk project from Toledo Elementary to SE 10<sup>th</sup> Street. Information should be available in May.

C. Oregon Parks and Recreation Local Government Grant – Parks Master Plan: The City will go out for a grant to create a Parks Master Plan document. This will provide information on all of the City's parks, including the cost of improvements. Developing a master plan will include public input and was included as a goal/policy in the Comprehensive Plan.

Commissioners asked for an update on the Memorial Field restroom fire. CA Adams reported there is an insurance claim and the insurance company is submitting a restitution claim for the vandal to pay. Commissioners voiced that it will be good to see the structure repaired and in use again.

STAFF COMMENTS: Commissioners were reminded to file the Oregon Government Ethics Statement of Economic Interest reports.

COMMISSIONER COMMENTS: None.

There being no further business before the Commission, the meeting was adjourned at 6:55 pm.

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Planning Assistant

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President



**TO:** Toledo Planning Commissioner Members  
**FROM:** Justin Peterson, Contract Planner  
**DATE:** May 1, 2024  
**RE:** Request to the Deadline Dates for CU-2-23 and VAR-2-23

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Attached is a request to extend the deadline dates for a land use decision issued in June 2023.

NW Coastal Housing is requesting extension to the deadline date to file the Variance and Conditional use to allow a multi-family dwelling (30 units) in the R-S zone and variance to the rear yard setback standard, for the property located at 11-10-17 TL 800 (also known as Parcel 1 identified on MP-2-21(mod) and 9H in the “City-owned property inventory”). In June 2023, the Planning Commission reviewed and approved the conditional use and variance to for the multi-family housing and variance to the rear yard setback. In accordance to the municipal code and conditions of approval, approval shall be void after 12 months if the building permit has not been issued or an extension is not granted. The decision Order is attached for your review.

NW Coastal written request for an extension to the deadline date was received by City staff on April 17, 2024, before the deadline date of June 4, 2024.

The relevant Toledo Municipal Code sections authorizing extensions are noted below:

**TMC CHAPTER 17.64 CONDITIONAL USES AND CHAPTER 17.68 VARIANCES**  
**17.68.060 Time limit on approval of a variance. And 17.64.060 - Time limit on approval of a conditional use.**

- A. Except as provided in subsection B of this section, authorization of a variance shall be void after one year if a building permit has not been issued or development has not begun.
- B. The authorization may be extended by the planning commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

Staff recommends granting an extension for Variance and Conditional Use #CU-2-23 and VAR-2-23 with a deadline date updated to June 20, 2025.

Attachments:

NW Coastal Letter dated April 17, 2024  
CU-2-23 and VAR-2-23 Order



PO Box 1457, Newport OR 97365 Ph: (541)574-0320 Fax: (541)574-6170 [www.nwcoastalhousing.org](http://www.nwcoastalhousing.org)

4/17/2024

City of Toledo  
Attn: Planning Dept.  
PO Box 220  
Toledo, OR 97391

RE: City File #CU-2-23 and VAR-2-23  
Assessor's Map No. 11-10-17 Tax Lot 800 Parcel 1

To Whom it May Concern:

This is a request from northwest coastal housing for an extension of the approved conditional use to allow a multifamily dwelling in the R-S zone for property located on Lincoln County assessors map 11-10-17 tax lot 800. This extension is for one year.

Thank you for your consideration.

Sincerely,

Sheila Stiley  
Executive Director



TTY 1/800/735-2900



BEFORE THE PLANNING COMMISSION OF THE CITY OF TOLEDO, OREGON

In the matter of a request for a Conditional Use Permit to allow a multi-family dwelling in the Single-Family (R-S), specifically, a 30-unit apartment building, and a variance to reduce the rear yard setback from 5 feet to 1 foot for a property identified on Lincoln County Assessor’s Map 11-10-17 Tax Lot 800 (Parcel 1))

ORDER
City of Toledo File # CU-2-23 and VAR-2-23

Northwest Coastal Housing, Applicant, and City of Toledo, Property Owner

This matter came before the Planning Commission on June 14, 2023. The Commission held a public hearing, allowing for testimony and introduction of evidence from proponents, opponents, and others. The Planning Commission evaluated the application based on the applicable criteria. The decision is based on the Staff Report and attachments, testimony presented at the public hearings, and the following Criteria, Facts, Findings and Conditions of Approval as adopted by the Planning Commission:

APPLICABLE CRITERIA FOR EVALUATING THE CONDITIONAL USE:

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

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

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

...

Low-Density Residential -This designation provides for lower density housing with a focus on single-family housing accessory dwelling units, and duplexes. This designation allows for other types of housing including cottage clusters and multi-family. This designation shall be implemented through the zoning map’s Single-Family Residential (R-S) 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 promote and encourage

a suitable environment for family living and to protect and stabilize the residential characteristics of the zone. The R-S Zone is primarily for single-family homes, accessory dwelling units, duplexes, and their accessory uses. In addition, multifamily dwellings and some other uses may be evaluated as a conditional use.

### 3. TMC Sections 17.16.010 – 17.16.040 – R-S Zone.

#### TMC 17.16.010 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 17.08.020 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).
- G. Temporary street vendors/seasonal commercial uses not to exceed six months.
- H. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the Toledo Transportation System Plan).
- I. Duplexes

#### TMC 17.08.030 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. Single-Family Homes 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.\*
- K. Cottage Clusters\*

*Staff Analysis: The property located off SE Sturdevant Road (Map 11-10-17 Tax Lot 800, Parcel 1) is approximately 1.7 acres and located in the Single-Family (R-S) Zone.*

*The applicant, Northwest Coastal Housing is requesting a Conditional Use to allow a multi-family 30-unit apartment building in the R-S Zone. TMC 17.16.030(H) identifies multi-family dwelling units as a conditional use permitted. This application was reviewed and approved in 2021 and an extension to the deadline date was approved in 2022 (original application decision expires July 28, 2023). The current application (CU-2- 23/VAR-2-23) is the same request from 2021 and was submitted in order to have a current decision extended.*

**4. 2000 Toledo Comprehensive Land Use Plan – Article 10: Housing, Goal 1, Objectives 3, 5, 9, and 10:**

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

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

OBJECTIVE 5: Recognize groups needing specialized housing such as the elderly, handicapped, homeless, and other disadvantaged groups when identifying housing programs and opportunities.

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

a. Attract new businesses and keep local businesses within the community.

b. Ensure that moderate, middle, and high income families can continue to live in Toledo.

c. Ensure the economic viability of the community and support the tax base and schools.

d. Maintain the quality of life in Toledo.

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

*Staff Analysis: The property is currently vacant with the exception of a barn located on the south side of the property. Proposed development of the multi-family residential building is a permitted Conditional Use within the R-S Zone. In the application materials, the applicant further states that,*

- The site is zoned R-S, and the proposed multifamily development will need to demonstrate compatibility with single-family residential uses. The site is located within the City and has access to public facilities and services, including transportation, water, and sewer. The orientation of the buildings, away from adjacent homes and away from the street, will minimize any impacts to neighboring properties.*
- The proposed development is a 30-unit affordable multifamily project that consists of 2 buildings centered on a courtyard. This housing type is not common in Toledo and will expand the mixture of housing design, type, cost, and location to meet the needs of lower-income Toledo residents (Housing Goal 1).*
- The Olalla Meadows apartments will provide housing for low-income individuals and households, expanding opportunities for existing Toledo residents (Housing Objective 5).*
- The 9H site is vacant and has access to public facilities and services. There is existing water and sewer service to the site, and the site has frontage on Sturdevant Rd, a County collector*



*road. The necessary services can be economically provided to the Olalla Meadows apartments (Housing Objective 10).*

*The proposed 30-unit apartment building meets the Comprehensive Land Use Plan Housing Goals and Objectives because the application, 1) provides a mixture of housing types and stock; 2) assists with the economic viability of the community by providing housing options to employees of local businesses; 3) develops an existing vacant lot where services can be provided; and 4) recognizes groups needing specialized housing.*

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

## **EVALUATION CRITERIA – CONDITIONAL USE PERMITS**

### **5. TMC 17.64.010 – 17.64.050 Conditional Use Permits**

#### 17.64.010 Purpose.

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

#### 17.64.020 Authorization to grant or deny conditional use permits.

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

#### 17.64.030 Application submission requirements for conditional use permits.

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

#### 17.64.040 Conditions for development.

The planning commission shall review and make a decision to approve or deny a conditional use request in accordance with the standards and procedures for a Type III review as set forth in Toledo Municipal Code Chapter 19.16.

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

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

17.64.050 Standards governing conditional uses.

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

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

*Staff analysis: The standards for a conditional use are listed in TMC 17.64.050, parking standards are listed in TMC 17.44, and Access standards are listed in TMC 17.48 apply to this application.*

*According to the application materials, the applicant provides the following information for the proposed development:*

*The site under consideration is suitable for the proposed use considering:*

- a. *The size, design and operating characteristics of the use (TMC 17.64.050(A)(1)(a)).*

- 1) *The 9H site is more than one acre in area, which is much larger than the minimum R-S lot size of 6,000 sq. ft. The site slopes downward from east to west and from south to north, which will minimize the physical appearance of the buildings from the street and adjacent properties.*

*The proposed development consists of two buildings abutting a common courtyard. The buildings are separated from Sturdevant Rd, a County collector road, by surface parking and landscaping to reduce traffic noise for residents. The buildings about the City-owned parcel (City owned property inventory site 10H), which is a natural resource area and will provide views for west-facing residents. The buildings are narrower at the north and south end and will present a single-family scale to the existing buildings.*

*Each building includes a community room and office to accommodate on-site services for residents. The use is residential and will operate as a residential use. The buildings are separated from adjacent properties to the north and south by 15 ft., and the buildings located on those properties are much further away.*

*The adequacy of transportation access to the site (TMC 17.64.050(A)(1)(b)).*

- 2) *The site has frontage on and access from Sturdevant Rd and is served by the Lincoln County Transit East County route, which has a stop at Sturdevant Rd and 10th Street.*

*The natural and physical features of the site such as general topography, natural hazards, natural resource values, and other features (TMC 17.64.050(A)(1)(c)).*

- 3) *As noted in the Existing Conditions Plan, the topography of the site slopes downward from east to west and from south to north. The topography will reduce the apparent mass of the building as seen from surrounding properties.*

*Natural resources are located on the City-owned 10H parcel to the west, and are protected by a conservation easement. Once the requested preliminary partition plat revisions are applied, the site is not expected contain flood plain or natural resources except for very small areas along the northern property line. As such, development of the site will not impact adjacent natural resources.*

*The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in paragraph (1) of this subsection (TMC 17.64.050(A)(2))*

- 4) *The lands to the north and east are zoned R-S, and the existing uses are residential. The site to the south is located within the Toledo UGB but is not annexed to the City; it is zoned UGB Low Residential and developed with residential uses and accessory structures. The land to the west is zoned Natural Resources N-R, and a recorded conservation easement restricts development on the site.*

*Projected uses to the north, east, and south include the existing single-family residential and accessory uses, or uses that are conditionally permitted in the R-S zone (such as multifamily or institutional uses). The building abuts the N-R zone to the west, providing peaceful views for residents.*

*The proposed use is compatible with the existing and projected uses on surrounding lands due to the topography of the site, existing access and facilities to serve the site, and the design of the buildings. The building design minimizes impact to the directly adjacent*

*properties by reducing the building width to the size of a large single-family home at the northern and southern property lines, and separating uses to the east from the buildings with surface parking and landscaping.*

*Given the site conditions, the surrounding uses, and the factors in paragraph (1), the Planning Commission can find that the proposed Olalla Meadows development is compatible with existing and projected uses on surrounding lands.*

*Additional Applicant provided information:*

- 5) The applicant proposes to remove the barn on the property.*
- 6) The applicant and the city were approved for a revision to the western lot line of the recently created lot (9-H). This is due to the presence of the 100- and 500-year flood plain in that area of the site, as well as a potential conservation easement. The exact location of these areas relative to the subject lot have not yet been identified. Both Oregon Housing and Community Services (OHCS) and private lenders are hesitant to fund developments on sites that contain floodplains because of the additional potential cost and risk to the project.*
- 7) The applicant proposes to develop the site under a long-term ground lease from the City of Toledo.*
- 8) As shown in the Existing Conditions Plan and Site Plan, the site is substantially constrained by existing utility easements. As such, the building is located to the west of the site, more than 15 ft. from Sturdevant Street (the front yard). The side yards are also 15 ft. The rear yard will be approximately 1 ft. once the western property line is adjusted. The application requests a Type III Variance to the rear setback. The Type III Variance criteria are addressed in the responses to Chapter 17.68.*
- 9) As shown in the conceptual elevations, the proposed buildings are 2 stories and 26 ft. from finished floor elevation (FFE). The grading has not been determined at this level of design, but the building height will not exceed 35 ft. or 2.5 stories. Compliance will be confirmed at Development Review.*
- 10) The proposed development includes a mix of 30 one- and two-bedroom units.*
- 11) The proposed development site plan shows 59 parking spaces, and 4 bicycle parking spaces are required (Note: 5 bicycle spaces will be required (1 per six units)). They have not yet been located on site, but as the design progresses the location and number of the bicycle parking spaces will be identified. Compliance with this standard will be verified at the time of Development Review and/or building permit review.*
- 12) The site has frontage on Sturdevant Road, a County collector that requires 20 ft. between driveways. As shown on the Site Plan, two driveways are proposed. They are more than 190 feet from each other; the southern driveway is more than 50 ft. from the southern property line and the northern driveway is more than 90 ft. from the property, and both are more than 20 ft. from adjacent driveways.*
- 13) These provisions apply to intersections and do not apply to this site, but the City has expressed concern about visibility of the driveways given the curvature of Sturdevant Rd. The site is in a residential zone, and the minimum clear vision area is 30 ft. As shown in Appendix B, the proposed driveway locations can meet the clear vision requirements of this section.*

*Staff finds that the requested conditional use permit for a multi-family dwelling in the R-S Zone meets the criteria in TMC 16.64.050(A).*

1. *The proposed apartment building is suitable for the site, considering the lot size, and applicant's proposed design and operating characteristics of the use. The proposed building will be located on the western half of the property. The property slopes down to the west, therefore, reducing the visual impact of the building. The proposed lot is greater than an acre in size and large enough to support multi-family. The applicant's site plan shows a parking lot area, two driveway entrances, and internal site circulation. Staff recommends as a condition of approval that a landscape plan shall be submitted and reviewed within the building permit application process.*
2. *The applicant will need to submit the required building permits to the Lincoln County Building Department. Lincoln County Building provided comments in 2021 stating that, "we need 3 sets of engineered plans and an application submitted. The building would be required to be sprinklered." The development permit process will include a site plan review to review compliance with the Toledo Municipal Code. Staff recommends as a condition of approval that applicant shall obtain all necessary development and building permits prior to construction of the building. In addition, staff recommends a condition of approval that the applicant shall install an automatic sprinkler system, if required by the National Fire Protection Association and Oregon Structural Specialty Code standards.*
3. *The City of Toledo Fire Department provided comments stating that "the west parking curb running north/south along the breezing way, between the north and south parking lots shall be painted bright red and be labeled in white lettering "No Parking Fire Lane" per Oregon Fire Code 503.3. Fire hydrants shall provide the needed gallons per minute per Code Fire Code Appendix B. Fire hydrant placement shall be in accordance with Oregon Fire Code Appendix C. Indicate on plans proposed fire hydrant locations based on OFC Appendixes B and C. Indicate proposed location of sprinkler system fire department (FDC) per OFC 912. Indicate on plans marking of fire lane per OFC 503.3. In addition, Appendix D -Fire apparatus access roads standards shall be met if a single-access is used." Staff recommends that this is listed as a condition of approval.*
4. *The applicant's site plan shows a detention pond or water quality swale. Staff recommends as a condition of approval that a stormwater management plan shall be submitted and reviewed within the building permit application process.*
5. *The applicant has proposed to remove the barn and the barn location will be used for parking. Staff recommends that removing the barn is listed as a condition of approval.*
6. *The property has access to a county road, SE Sturdevant Road. The applicant proposes two driveways to the subject property. Based on the applicant's statements the proposed driveways are located approximately 190 feet apart. Based on the applicant's statements and site plan the northern driveway is more than 90 feet from the property line and the southern property is more than 50 feet from the southern property line. TMC 17.48 requires a minimum of 20 feet between driveways. The clear vision requirements in TMC 17.48.060 apply to intersections. The subject property is not located at an intersection; however, the applicant located the driveways to increase clear vision for the driveways. The southern driveway is an existing driveway. A public comment was received related to access concerns, blind corners, and traffic. The Lincoln County Public Works Department provided comments stating "stating the applicants will be required to obtain approved access permits from Lincoln County before they will be able proceed with this project. The County has several concerns regarding access on to Sturdevant Road. Site distance for the north access is challenging. The guardrail at this location will have to be redesigned to and they may request widening of the roadway on the curve between the proposed*

accesses. This section of roadway is the only section that does not have at least one paved shoulder adjacent to the travel way.”. In addition, Staff has been coordinating with the Lincoln County Public Works department. The County is amenable to a double access with adequate improvements. Potential improvements discussed are road widening, right turn in only on the northern access for southbound traffic, and guardrail improvements. Staff recommends a condition of approval that Driveway improvements must be coordinated and approved by the Lincoln County Public Works Department and Toledo Fire Department. The final access plan may include a single access or double access. In addition, staff recommends a condition of approval that the applicants shall make any guardrail and road improvements required by the Lincoln County Public Works Department.

7. The applicant's site plan shows 59 parking spaces and the applicant states that 4 bicycle parking spaces will be provided. TMC 17.48 requires 1.5 parking spaces per 1 bedroom unit and 1.75 parking spaces per 2 bedroom unit. The applicant proposed 22 one-bedroom units and 8 two-bedroom units. Therefore, 47 parking spaces are required. In addition, 1 bicycle space per six units is required. Therefore, 5 bicycle parking spaces will be required. Staff recommends that the vehicle and bicycle parking requirements are listed as a condition of approval.
8. Based on the applicant's plot plan and statements the proposed apartment building meets all required setbacks with the exception of the rear yard setback. The rear yard setback is proposed to be reduced through the variance process discussed later in this staff report. The height of the building is 26 feet and two stories which is less than the maximum height of 35 feet and maximum number of stories.
9. The subject property contains a large area to accommodate the proposed building and parking. The proposal protects the City of Toledo utility easement areas located on the site. Staff recommends a condition of approval that the City of Toledo raw water line and sanitary sewer line must be protected during and after construction.
10. The subject property slopes downhill east to west from Sturdevant Road. The percent slopes of the property are unclear. The City of Toledo code requires a geo-tech report for "Areas where development will occur on soils with slopes exceeding twenty-five (25) percent." Staff recommends a condition of approval that if the slopes of the develop area exceed 25% or other geologic hazard area identified in TMC 15.20.050(A) is identified the applicant shall submit a geo-tech report prior to construction. The applicant submitted a geo-tech report in 2021. Staff recommends a condition of approval that the applicant shall submit a geo-tech report prior to construction.
11. The City of Toledo submitted a Wetland Land Use Notification (WLUN) to the Department of Statelands (DSL). DSL has not responded as of July 7, 2021. The applicant shall obtain any required permits and approvals from DSL and any other required state or federal permits prior to construction.
12. The R-S parcel and the proposed project is located adjacent to the City-owned Natural Resource lot. The Natural Resource parcel is not part of the application. A public comment was received about the impact to wildlife. The R-S parcel where the development will be located is an upland area that is zoned for residential. The adjacent Natural Resource Parcel (20.0 acres) is being protected and will remain a natural area. Staff recommends a condition of approval that the applicant shall install no trespassing signs along the western property line.
13. A public comment mentioned some history of the property and no public processes

*occurring. The subject property was re-zoned to residential in 2001 through periodic review. This application does not include a zone change. The 2001 periodic review was a public process.*

- 14. This conditional use application and variance application is dependent of the completion of minor partition application #MP-2-21(mod). Staff will review the final lot line configuration against the floodplain line to ensure no floodplain is on the parcel. In the case that floodplain is on the parcel a lot line adjustment may be required. Staff recommends a condition of approval that the final partition plat shall be recorded prior to the start of construction. The final lot (R-S parcel) configuration may be adjusted by a lot line adjustment to remove floodplain from the parcel.*
- 15. The proposed multi-family residential dwelling is permitted as a Conditional Use under the R-S Zone. The subject property is surrounded by residential homes, a county road, and natural open space. The proposed building is located on the western edge of the property and the downhill slopes will minimize the visual impact of the project. The proposed use is consistent with existing and projected uses on surrounding lands.*
- 16. The applicant did not provide information about a sign; however, it is traditional for apartment buildings to include signage. Staff recommends a condition of approval that the applicant may provide a sign or signs up to 32 square feet in size. The square foot limitation does not apply to directional arrows and address markers. The sign shall meet clear vision standards.*
- 17. The Planning Commission decision shall be made based on criteria in the code. Some public comments are not related to the criteria in the code including property value impacts.*

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

## **EVALUATION CRITERIA – VARIANCES**

### **6. TMC 17.68.050(D) – Class C**

#### 17.68.010 Purpose.

The purpose of this chapter is to provide flexibility to development standards in recognition of the complexity and wide variation of site development opportunities and constraints in Toledo. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met. Because some variances are granted using "clear and objective standards," and the impact, if any, on adjacent property owners is negligible, they can be granted by means of a Type I procedure. Other variances, as identified below, require a Type II or Type III procedure because they involve discretionary decision-making or the potential for more substantial changes that may have some impact on the adjacent property owners.

#### 17.68.050(D) Class C Variances

Class C—Variance Request to Other Standards or for Variances Greater than those Authorized

Under Class A and Class B Variances. The planning commission, before approving an application for a variance to a zoning code requirement not specified above, shall consider the location, size, design and operation characteristics of the proposed development requiring the variance and shall determine whether it complies with one of the following criteria. If the development does not so comply, the commission shall deny the application.

1. The variance will cause no significant adverse impact of the livability, value, or appropriate development of abutting property or the surrounding area when compared to the impact of permitted development that does not require a variance.
2. A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control.
3. The use proposed will be the same as permitted under the code and the requirements of the code will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land.

*Staff Analysis: The applicant is requesting a Class C variance to reduce the rear yard setback from 5 feet to 1 foot in some locations. The applicant's materials reference 15 feet; however, the code standard was updated to 5 feet in 2021. This exceeds the threshold for a Class B variance.*

*According to the application materials, the applicant provides the following information for the proposed development:*

- 1) *The variance is requested for the rear property line, which abuts the City-owned parcel 10H. This parcel is within the City's N-R zone, contains a slough, wetlands, and floodplains, and is restricted from development by a recorded conservation easement. Therefore, the variance would not cause adverse impact to the livability, value, or appropriate development of the abutting City-owned property.*
- 2) *As shown on the Existing Conditions Plan and the Site Plan, the site is substantially constrained by existing utility easements and sensitive lands to the west. These constraints present a hardship to development that is peculiar to this specific property.*

*A public water line runs north/south along the western boundary, and a 15-ft. easement restricts development in that area. A public sewer line and associated easement cross the property from the southwest corner to the center of the site, and vertical development within that easement is also prohibited. Finally, a 100-ft. powerline easement crosses the site from the southeast corner to the north. The remaining developable area is an irregular shape.*

*The proposed development responds creatively to the site constraints and NWCH's programming needs by placing the building close to the western property line and creating two L-shaped structures connected by a courtyard and a breezeway. With the current location of the preliminary western lot line, the building can meet the 5-ft. rear setback requirement. However, when the lot line shifts east as necessitated by the presence of the floodplain and funding/financing requirements, the building will be closer than 5 ft. to the rear property line. Because of the existing site constraints, the building can't be shifted to the east to accommodate this setback, and reducing the size of the building means reducing the number of units available to serve the target population.*



- 3) *The proposed multifamily residential use is permitted in the R-S zone as a conditional use. The variance is requested only to the rear setback; the remainder of the development complies with the applicable requirements of the code.*

*Staff finds that the proposed variance is to the rear yard setback which abuts the City owned Natural Resource Parcel. Due to development constraints, a conservation easement, and the zone designation, the parcel abutting the rear yard is not expected to be developed in the future. Therefore, the variance will not cause a significant adverse impact of the livability, value, or appropriate development of abutting property or the surrounding area when compared to the impact of permitted development that does not require a variance. The application complies with this criteria.*

*The subject property is constrained by a raw water line easement, powerline easement, sewer line easement, and is adjacent to floodplain and wetlands. The applicant has no control over the lot constraints and the peculiar site aspects cause the need for the variance. The application complies with this criteria.*

*The proposed use is the same that is permitted as a conditional use in the R-S zone. Specifically the variance will allow the development of a use allowed in TMC 17.08 the same as any other conditional use in the R-S zone. The application complies with this criteria.*

#### **FURTHER STAFF ANALYSIS:**

The request by Northwest Coastal Housing would be compatible with surrounding land uses. The R-S Zone is located directly to the north and east of the subject property. The property to the west is zoned Natural Resources, and the property to the south is still located within the County and is designated as UGB Low Density Residential. Single-family residential homes are located to the south and north, and across the Road to the east. The property to the west is natural open space. (See Attachment B - Zoning Map).

The Toledo Public Works Department has been advised of the proposal. Both water and sewer services are available to the property and the City has capacity for the proposed project. A City of Toledo sewer main line is located on the subject property and at Sturdevant Road.

#### **FACTS AND FINDINGS:**

The applicant is requesting approval of a conditional use to construct a multi-family residential building in the R-S Zone and a variance to the rear yard setback standards. Based upon the information received by City staff through June 7, 2023, the conditional use and variance request appears to conform with relevant provisions of the City's plans and ordinances as described below. The following recommended findings support approval of the conditional use and variance:

1. The property located off SE Sturdevant Road (Map 11-10-17 Tax Lot 800, Parcel 1) is approximately 1.7 acres and located in the Single-Family (R-S) Zone.
2. The applicant, Northwest Coastal Housing is requesting a Conditional Use to allow a multi-

family 30-unit apartment building in the R-S Zone. TMC 17.16.030(H) identifies multi-family dwelling units as a conditional use permitted. This application was reviewed and approved in 2021 and an extension to the deadline date was approved in 2022 (original application decision expires July 28, 2023). The current application (CU-2- 23/VAR-2-23) is the same request from 2021 and was submitted in order to have a current decision extended.

3. The property is currently vacant with the exception of a barn located on the south side of the property. Proposed development of the multi-family residential building is a permitted Conditional Use within the R-S Zone. In the application materials, the applicant further states that,
  - o The site is zoned R-S, and the proposed multifamily development will need to demonstrate compatibility with single-family residential uses. The site is located within the City and has access to public facilities and services, including transportation, water, and sewer. The orientation of the buildings, away from adjacent homes and away from the street, will minimize any impacts to neighboring properties.
  - o The site is zoned R-S, and the proposed multifamily development will need to demonstrate compatibility with single-family residential uses. The site is located within the City and has access to public facilities and services, including transportation, water, and sewer. The orientation of the buildings, away from adjacent homes and away from the street, will minimize any impacts to neighboring properties.
  - o The Olalla Meadows apartments will provide housing for low-income individuals and households, expanding opportunities for existing Toledo residents (Housing Objective 5).
  - o The 9H site is vacant and has access to public facilities and services. There is existing water and sewer service to the site, and the site has frontage on Sturdevant Rd, a County collector road. The necessary services can be economically provided to the Olalla Meadows apartments (Housing Objective 10).

The proposed 30-unit apartment building meets the Comprehensive Land Use Plan Housing Goals and Objectives because the application, 1) provides a mixture of housing types and stock; 2) assists with the economic viability of the community by providing housing options to employees of local businesses; 3) develops an existing vacant lot where services can be provided; and 4) recognizes groups needing specialized housing.

4. The application has been reviewed in compliance with and is consistent with Toledo's Comprehensive Land Use Plan goals and policies.
5. According to the application materials, the owner provides the following information for the proposed development:

The site under consideration is suitable for the proposed use considering:

The size, design and operating characteristics of the use (TMC 17.64.050(A)(1)(a)).

- a. The 9H site is more than one acre in area, which is much larger than the minimum R-S lot size of 6,000 sq. ft. The site slopes downward from east to west and from south

to north, which will minimize the physical appearance of the buildings from the street and adjacent properties.

The proposed development consists of two buildings abutting a common courtyard. The buildings are separated from Sturdevant Rd, a County collector road, by surface parking and landscaping to reduce traffic noise for residents. The buildings abut the City-owned parcel (Identified on the city property inventory as 10H), which is a natural resource area and will provide views for west-facing residents. The buildings are narrower at the north and south end and will present a single-family scale to the existing buildings.

Each building includes a community room and office to accommodate on-site services for residents. The use is residential and will operate as a residential use. The buildings are separated from adjacent properties to the north and south by 15 ft., and the buildings located on those properties are much further away.

The adequacy of transportation access to the site (TMC 17.64.050(A)(1)(b)).

- b. The site has frontage on and access from Sturdevant Rd and is served by the Lincoln County Transit East County route, which has a stop at Sturdevant Rd and 10th Street.

The natural and physical features of the site such as general topography, natural hazards, natural resource values, and other features (TMC 17.64.050(A)(1)(c)).

- c. As noted in the Existing Conditions Plan, the topography of the site slopes downward from east to west and from south to north. The topography will reduce the apparent mass of the building as seen from surrounding properties.

Natural resources are located on the City-owned 10H parcel to the west, and are protected by a conservation easement. Once the requested preliminary partition plat revisions are applied, the site will not contain flood plain or natural resources except for very small areas along the northern property line. As such, development of the site will not impact adjacent natural resources.

The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in paragraph (1) of this subsection (TMC 17.64.050(A)(2))

- d. The lands to the north and east are zoned R-S, and the existing uses are residential. The site to the south is located within the Toledo UGB but is not annexed to the City; it is zoned UGB Low Residential and developed with residential uses and accessory structures. The land to the west is zoned Natural Resources N-R, and a recorded conservation easement restricts development on the site.

Projected uses to the north, east, and south include the existing single-family residential and accessory uses, or uses that are conditionally permitted in the R-S zone (such as multifamily or institutional use). The building abuts the N-R zone to the west, providing peaceful views for residents.

The proposed use is compatible with the existing and projected uses on surrounding lands due to the topography of the site, existing access and facilities to serve the site, and the design of the buildings. The building design minimizes impact to the directly adjacent properties by reducing the building width to the size of a large single-family home at the northern and southern property lines, and separating uses to the east from the buildings with surface parking and landscaping.

Given the site conditions, the surrounding uses, and the factors in paragraph (1), the Planning Commission can find that the proposed Olalla Meadows development is compatible with existing and projected uses on surrounding lands.

Additional Applicant provided information:

- e. The applicant proposes to remove the barn on the property.
- f. The applicant and the city were approved for a revision to the western lot line of the recently created lot (9-H). This is due to the presence of the 100- and 500-year flood plain in that area of the site, as well as a potential conservation easement. The exact location of these areas relative to the subject lot have not yet been identified. Both Oregon Housing and Community Services (OHCS) and private lenders are hesitant to fund developments on sites that contain floodplains because of the additional potential cost and risk to the project.
- g. The applicant proposes to develop the site under a long-term ground lease from the City of Toledo.
- h. As shown in the Existing Conditions Plan and Site Plan, the site is substantially constrained by existing utility easements. As such, the building is located to the west of the site, more than 15 ft. from Sturdevant Street (the front yard). The side yards are also 15 ft. The rear yard will be approximately 1 ft. once the western property line is adjusted. The application requests a Type III Variance to the rear setback. The Type III Variance criteria are addressed in the responses to Chapter 17.68.
- i. As shown in the conceptual elevations, the proposed buildings are 2 stories and 26 ft. from finished floor elevation (FFE). The grading has not been determined at this level of design, but the building height will not exceed 35 ft. or 2.5 stories. Compliance will be confirmed at Development Review.
- j. The proposed development includes a mix of 30 one- and two-bedroom units.
- k. The proposed development includes 47 parking spaces, and 4 bicycle parking spaces are required (Note: 5 bicycle spaces will be required (1 per six units)). They have not yet been located on site, but as the design progresses the location and number of the bicycle parking spaces will be identified. Compliance with this standard will be verified at the time of Development Review and/or building permit review.
- l. The site has frontage on Sturdevant Road, a County collector that requires 20 ft. between driveways. As shown on the Site Plan, two driveways are proposed. They are more than 190 feet from each other; the southern driveway is more than 50 ft. from the southern property line and the northern driveway is more than 90 ft. from the property, and both are more than 20 ft. from adjacent driveways.
- m. These provisions apply to intersections and do not apply to this site, but the City has expressed concern about visibility of the driveways given the curvature of Sturdevant

Rd. The site is in a residential zone, and the minimum clear vision area is 30 ft. As shown in Appendix B, the proposed driveway locations can meet the clear vision requirements of this section.

6. Staff finds that the requested conditional use permit for a multi-family dwelling in the R-S Zone meets the criteria in TMC 16.64.050(A).
  - a. The proposed apartment building is suitable for the site, considering the lot size, and applicant's proposed design and operating characteristics of the use. The proposed building will be located on the western half of the property. The property slopes down to the west, therefore, reducing the visual impact of the building. The proposed lot is greater than an acre in size and large enough to support multi-family. The applicant's site plan shows a parking lot area, two driveway entrances, and internal site circulation. Staff recommends as a condition of approval that a landscape plan shall be submitted and reviewed within the building permit application process.
  - b. The applicant will need to submit the required building permits to the Lincoln County Building Department. Lincoln County Building provided comments in 2021 stating that, "we need 3 sets of engineered plans and an application submitted. The building would be required to be sprinklered." The development permit process will include a site plan review to review compliance with the Toledo Municipal Code. Staff recommends as a condition of approval that applicant shall obtain all necessary development and building permits prior to construction of the building. In addition, staff recommends a condition of approval that the applicant shall install an automatic sprinkler system, in accordance with the National Fire Protection Association and Oregon Structural Specialty Code standards.
  - c. The City of Toledo Fire Department provided stating comments that "the west parking curb running north/south along the breezing way, between the north and south parking lots shall be painted bright red and be labeled in white lettering "No Parking Fire Lane" per Oregon Fire Code 503.3. Fire hydrants shall provide the needed gallons per minute per Code Fire Code Appendix B. Fire hydrant placement shall be in accordance with Oregon Fire Code Appendix C. In addition, Appendix D -Fire apparatus access roads standards shall be met if a single-access is used." Staff recommends that this is listed as a condition of approval.
  - d. The applicant's site plan shows a detention pond or water quality swale. Staff recommends as a condition of approval that a stormwater management plan shall be submitted and reviewed within the building permit application process.
  - e. The applicant has proposed to remove the barn and the barn location will be used for parking. Staff recommends that removing the barn is listed as a condition of approval.
  - f. The property has access to a county road, SE Sturdevant Road. The applicant proposes two driveways to the subject property. Based on the applicant's statements the proposed driveways are located approximately 190 feet apart. Based on the applicant's statements and site plan the northern driveway is more than 90 feet from the property line and the southern property is more than 50 feet from the southern property line. TMC 17.48 requires a minimum of 20 feet between driveways. The clear vision requirements in TMC 17.48.060 apply to intersections. The subject property is not located at an intersection; however, the applicant located the driveways to increase clear vision for the driveways. The southern driveway is an

existing driveway. A public comment was received related to access concerns, blind corners, and traffic. The Lincoln County Public Works Department provided comments stating “stating the applicants will be required to obtain approved access permits from Lincoln County before they will be able proceed with this project. The County has several concerns regarding access on to Sturdevant Road. Site distance for the north access is challenging. The guardrail at this location will have to be redesigned to and they may request widening of the roadway on the curve between the proposed accesses. This section of roadway is the only section that does not have at least one paved shoulder adjacent to the travel way.”. In addition, Staff has been coordinating with the Lincoln County Public Works department. The County is amenable to a double access with adequate improvements. Potential improvements discussed are road widening, right turn in only on the northern access for southbound traffic, and guardrail improvements. Staff recommends a condition of approval that Driveway improvements must be coordinated and approved by the Lincoln County Public Works Department and Toledo Fire Department. The final access plan may include a single access or double access. In addition, staff recommends a condition of approval that the applicants shall make any guardrail and road improvements required by the Lincoln County Public Works Department.

- g. The applicant’s site plan shows 59 parking spaces and the applicant states that 4 bicycle parking spaces will be provided. TMC 17.48 requires 1.5 parking spaces per 1 bedroom unit and 1.75 parking spaces per 2 bedroom unit. The applicant proposed 22 one-bedroom units and 8 two-bedroom units. Therefore, 47 parking spaces are required. In addition, 1 bicycle space per six units is required. Therefore, 5 bicycle parking spaces will be required. Staff recommends that the vehicle and bicycle parking requirements are listed as a condition of approval.
- h. Based on the applicant’s plot plan and statements the proposed apartment building meets all required setbacks with the exception of the rear yard setback. The rear yard setback is proposed to be reduced through the variance process discussed in this staff report. The height of the building is 26 feet and two stories which is less than the maximum height of 35 feet and maximum number of stories.
- i. The subject property contains a large area to accommodate the proposed building and parking. The proposal protects the City of Toledo utility easement areas located on the site. Staff recommends a condition of approval that the City of Toledo raw water line and sanitary sewer line must be protected during and after construction.
- j. The subject property slopes downhill east to west from Sturdevant Road. The percent slopes of the property are unclear. The City of Toledo code requires a geo-tech report for “Areas where development will occur on soils with slopes exceeding twenty-five (25) percent.” Staff recommends a condition of approval that if the slopes of the develop area exceed 25% or other geologic hazard area identified in TMC 15.20.050(A) is identified the applicant shall submit a geo-tech report prior to construction. The applicant submitted a geo-tech report in 2021. Staff recommends a condition of approval that the applicant shall submit a geo-tech report prior to construction. Staff recommends a condition of approval that the applicant shall submit a geo-tech report prior to construction.
- k. The City of Toledo submitted a Wetland Land Use Notification (WLUN) to the Department of Statelands (DSL). DSL has not responded as of June 7, 2023. The applicant shall obtain any required permits and approvals from DSL and any other

- required state or federal permits prior to construction.
- l. The R-S parcel and the proposed project is located adjacent to the City-owned Natural Resource lot. The Natural Resource parcel is not part of the application. A public comment was received about the impact to wildlife. The R-S parcel where the development will be located is an upland area that is zoned for residential. The adjacent Natural Resource Parcel (20.0 acres) is being protected and will remain a natural area. Staff recommends a condition of approval that the applicant shall install no trespassing signs along the western property line.
  - m. A public comment mentioned some history of the property and no public processes occurring. The subject property was re-zoned to residential in 2001 through periodic review. This application does not include a zone change. The 2001 periodic review was a public process.
  - n. This conditional use application and variance application is dependent of the completion of minor partition application #MP-2-21(mod). Staff will review the final lot line configuration against the floodplain line to ensure no floodplain is on the parcel. In the case that floodplain is on the parcel a lot line adjustment may be required. Staff recommends a condition of approval that the final partition plat shall be recorded prior to the start of construction. The final lot (R-S parcel) configuration may be adjusted by a lot line adjustment to remove floodplain from the parcel.
  - o. The proposed multi-family residential dwelling is permitted as a Conditional Use under the R-S Zone. The subject property is surrounded by residential homes, a county road, and natural open space. The proposed building is located on the western edge of the property and the downhill slopes will minimize the visual impact of the project. The proposed use is consistent with existing and projected uses on surrounding lands.
  - p. The applicant did not provide information about a sign; however, it is traditional for apartment buildings to include signage. Staff recommends a condition of approval that the applicant may provide a sign or signs up to 32 square feet in size. The square foot limitation does not apply to directional arrows and address markers. The sign shall meet clear vision standards.
  - q. The Planning Commission decision shall be made based on criteria in the code. Some public comments are not related to the criteria in the code including property value impacts.
7. Based on TMC 17.64.040, the Planning Commission has authority to impose conditions to mitigate issues the Commission finds appropriate, such as minimize environmental effects such as noise/vibration/air pollution/glare/odor, establish open spaces, limit building height or vehicle access points, provide screening/drainage/fencing/parking/landscaping improvements, limit signs and outdoor lighting, or protect existing natural resources.
  8. 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 with conditions.
  9. The request by, Northwest Coastal Housing, would be compatible with surrounding land uses. The R-S Zone is located directly to the north and east of the subject property. The property to the west is zoned Natural Resources, and the property to the south is still located within the County and is designated as UGB Low Density Residential. Single-family

residential homes are located to the south and north, and across the Road to the east. The property to the west is natural open space. (See Attachment B - Zoning Map).

10. City sewer and water main lines are located in the SE Sturdevant Road right-of-way and a sewer main line is located on the subject property. Both services are available for the proposed development.
11. The applicant is requesting a Class C variance to reduce the rear yard setback from 5 feet to 1 foot in some locations. The applicant's materials reference 15 feet; however, the code standard was updated to 5 feet in 2021. This exceeds the threshold for a Class B variance.

According to the application materials, the applicant provides the following information for the proposed development:

- 1) The variance is requested for the rear property line, which abuts the City-owned parcel 10H. This parcel is within the City's N-R zone, contains a slough, wetlands, and floodplains, and is restricted from development by a recorded conservation easement. Therefore, the variance would not cause adverse impact to the livability, value, or appropriate development of the abutting City-owned property.
- 2) As shown on the Existing Conditions Plan and the Site Plan, the site is substantially constrained by existing utility easements and sensitive lands to the west. These constraints present a hardship to development that is peculiar to this specific property.

A public water line runs north/south along the western boundary, and a 15-ft. easement restricts development in that area. A public sewer line and associated easement cross the property from the southwest corner to the center of the site, and vertical development within that easement is also prohibited. Finally, a 100-ft. powerline easement crosses the site from the southeast corner to the north. The remaining developable area is an irregular shape.

The proposed development responds creatively to the site constraints and NWCH's programming needs by placing the building close to the western property line and creating two L-shaped structures connected by a courtyard and a breezeway. With the current location of the preliminary western lot line, the building can meet the 5-ft. rear setback requirement. However, when the lot line shifts east as necessitated by the presence of the floodplain and funding/financing requirements, the building will be closer than 5 ft. to the property line. Because of the existing site constraints, the building can't be shifted to the east to accommodate this setback, and reducing the size of the building means reducing the number of units available to serve the target population.

- 3) The proposed multifamily residential use is permitted in the R-S zone as a conditional use. The variance is requested only to the rear setback; the remainder of the development complies with the applicable requirements of the code.

Staff finds that the proposed variance is to the rear yard setback which abuts the City owned



Natural Resource Parcel. Due to development constraints, a conservation easement, and the zone designation the parcel abutting the rear yard is not expected to be developed in the future. Therefore, the variance will not cause a significant adverse impact of the livability, value, or appropriate development of abutting property or the surrounding area when compared to the impact of permitted development that does not require a variance. The application complies with this criteria.

The subject property is constrained by a raw water line easement, powerline easement, sewer line easement, and is adjacent to floodplain and wetlands. The applicant has no control over the lot constraints and the peculiar site aspects cause the need for the variance. The application complies with this criteria.

The proposed use is the same that is permitted as a conditional use in the R-S zone. Specifically the variance will allow the development of a use allowed in TMC 17.08 the same as any other conditional use in the R-S zone. The application complies with this criteria.

12. The Toledo Public Works Department has been advised of the proposal. Both water and sewer services are available to the property and the City has capacity for the proposed project. A City of Toledo sewer main line is located on the subject property and at Sturdevant Road.
13. Notification to 51 surrounding property owners, 19 public/service agencies, and publication of the proposed conditional use and variance were completed in accordance with the Toledo Municipal Code requirements. The public/service agencies notified include the Department of Statelands (DSL), Lincoln County Building and Planning, Lincoln County Public Works, Toledo Fire, Toledo Police, and Toledo Public Works.

#### **CONDITIONS OF APPROVAL:**

1. Approval is based upon the submitted application and plan, as described in Attachment A of the Staff Report. Development shall conform with the proposed plan and any significant change shall be submitted to the City Planning Department as a modification to the conditional use permit.
2. Driveway improvements and access must be coordinated and approved by the Lincoln County Public Works Department and Toledo Fire Department. The final access plan may include a single access or double access.
3. Applicant shall obtain all necessary building and development permits prior to construction of the building.
4. The applicant shall remove the existing barn and remove the debris from the property.
5. The final partition plat shall be recorded prior to the start of construction. The final lot configuration may be updated by a lot line adjustment to remove floodplain from the (R-S zoned) parcel.

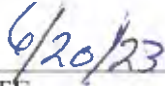
6. The applicant shall submit a stormwater management plan and the plan shall be reviewed within the building permit application process.
7. The applicant shall submit a landscape plan and the plan shall be reviewed within the building permit application process.
8. The applicant shall provide the required vehicle and bicycle parking provided in TMC 17.44.
9. City of Toledo raw water line and sanitary sewer line must be protected during and after construction.
10. The applicant shall make any guardrail and road improvements required by the Lincoln County Public Works Department.
11. The applicant shall install no trespassing signs along the western property line.
12. The applicant shall submit a geo-tech report prior to construction. The applicant shall submit a geo-tech report prior to construction if the slopes of the develop area exceed 25% or other geologic hazard area identified in TMC 15.20.050(A) is identified.
13. The applicant shall obtain any required permits and approvals from the Department of Statelands (DSL) and any other required state or federal permits prior to construction.
14. The west parking curb running north/south along the breezing way, between the north and south parking lots shall be painted bright red and be labeled in white lettering "No Parking Fire Lane" per Oregon Fire Code 503.3. Fire hydrants shall provide the needed gallons per minute per Code Fire Code Appendix B. Fire hydrant placement shall be in accordance with Oregon Fire Code Appendix C. Fire hydrant placement shall be reviewed by the Toledo Fire Department prior to the City signing the building permit. In addition, Appendix D -Fire apparatus access roads standards shall be met if a single-access is used.
15. The applicant shall install an automatic sprinkler system, if required by the National Fire Protection Association and Oregon Structural Specialty Code standards.
16. The applicant may provide a sign or signs up to 32 square feet in size. The square foot limitation does not apply to directional arrows and address markers. The sign shall meet clear vision standards.
17. Authorization of the conditional use and variance shall be void after one year if a building permit has not been issued or development has not begun. Authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

Based on the testimony received, the staff report, and the evidence and arguments before the Planning Commission at the public hearing on June 14, 2023, the Planning Commission finds that the request by the City of Toledo and Northwest Coastal Housing, (CU-2-23 and VAR-2-23) complies with the criteria identified in Toledo Municipal Code 17.64.050 and 17.68.050. The

Planning Commission hereby adopts the staff report as findings, as well as the proposed conditions of approval for CU-2-23 and VAR-2-23, and allowing for the correction of typographical and grammatical errors.

IT IS ORDERED that the request for a Conditional Use and Variance in this matter are granted.

  
\_\_\_\_\_  
PLANNING COMMISSION PRESIDENT

  
\_\_\_\_\_  
DATE

# TOLEDO PLANNING COMMISSION

## STAFF REPORT

**PROPERTY:** Lincoln County Assessor’s Map # 11-10-7 Tax Lot 600  
5441 Hwy 20, Toledo, Oregon

**APPLICATION #:** CU-2-21 (Modification to Existing Conditional Use #2)

**APPLICANT:** Dahl & Dahl Inc. (Property Owner)  
Ryan Crotty, Maul Foster & Alongi, Inc. (Authorized Agent)

**APPLICATION DATE:** April 8, 2024

**HEARING DATE:** Planning Commission – May 8, 2024

**REQUEST:** The application was approved for a Conditional Use Permit in May 2021 to allow an expansion of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone. The new baler facility would receive materials including municipal solid waste (MSW) and old corrugated cardboard (OCC) rejects and have the material pressed into bales and wrapped before loaded onto trucks for transport to GP.

In May of 2022 the applicant was approved for an amendment and extension to Conditional Use CU-2-21 that was approved on May 12, 2021 by the Toledo Planning Commission. The applicant modified condition number 3. The condition in the original approval stated “The applicant shall replace the temporary tent with a permanent structure. The Toledo Fire Department may approve the extension of the temporary structure” The current condition that was updated in the first modification states “The applicant shall be allowed to operate out of the existing membrane structure through the end of their Research and Development phase of the Baling project, March 31, 2026, subject to yearly review by the Lincoln County Building Official and a valid Certificate of Occupancy”.

This request is for a second amendment to the Conditional Use CU-2-21, specifically condition #3. The modification would change the existing temporary status of the membrane structure to a permanent building. This would allow for the continued operation of the baler facility in perpetuity.

Overall, the facts and findings remain consistent with the previous approval with the exception of findings related to the length of time the membrane structure is allowed on the site. Staff underlined portions of the staff report that were amended

from the previous modification approval.

**LOCATION:** The property is located west of the Hwy 20/ Western Loop intersection.

**PARCEL SIZE:** Approximately 13.82 acres

**I. REPORT OF FACTS:**

1. Plan Designation: Light Industrial (LI)
2. Zone Designation: Light Industrial (LI)
3. Existing Structures: Mini storage, office, transfer and recycling operations buildings.
4. Topography: Some steepness on the edge of the property. The proposed structure is located on a relatively flat surface.
5. Development Constraints: Floodplain and wetlands on a portion of the western edge of the property.
6. City water: Currently not available.
7. City sewer: Currently not available
8. Notice of Public Hearing: Notices mailed to 10 property owners and 19 public/service agencies on April 14, 2022.
9. Notice Published: April 24, 2024 and May 1, 2024
10. Comments Received: Public Works Director, Fire Chief, and Police Chief all reviewed the application.

For the May 2022 modification Staff received a phone call from a neighboring property owner with some concerns about noise and hours of operation.

11. Attachments to the Staff Report:
  - A. Application with supporting information, including CU-2-21(mod) Order
  - B. Zoning Maps
  - C. Aerial Map

**II. AUTHORITY:**

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

The Planning Commission will be considering the facts and criteria identified in this report and testimony/information received through the close of the public hearing, as it reviews this conditional use modification request on May 11, 2022.

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

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

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

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

...

Industrial – This designation provides a wide variety of industrial and light-industrial uses and recognizes that some water-dependent uses such as boat building and repair are appropriate industrial uses within the industrial designation. The intent is to encourage industrial growth and provide for industrial development an appropriate locations in order to increase the level of employment, enhance the tax base, decrease service costs, and achieve a healthy diverse, and stable local economy. The Industrial plan designation is implemented by the zoning map designations of Industrial, Light-Industrial, and/or Water-Dependent.

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

...

Light-Industrial (L-I) – The purpose of the L-I zone is to provide area for lighter industrial development around the areas of heavy industry for manufacturing, related establishments, and certain commercial and public uses which have a limited impact on surrounding properties.

#### **3. TMC Sections 17.20.010 – 17.20.040 – Light Industrial (LI) Zone.**

##### TMC 17.20.010 Purpose.

The purpose of the light industrial zone is to implement the Toledo Comprehensive Land Use Plan by providing areas to serve a variety of manufacturing and other industrial activities with limited external impacts and to serve as a transition area between commercial, public and residential uses and heavier industrial uses.

Uses permitted in the L-I zone are often involved in the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling and warehousing. The external impact from these uses is generally less than uses permitted in the industrial zone, and transportation needs are often met by truck. Activities are generally located indoors, although there may be some outdoor storage, delivery, and loading. Offices and commercial uses are permitted on a limited basis, and only in

conjunction with a permitted L-I use.

TMC 17.20.020 Uses permitted outright.

In the L-I zone, the following uses and their accessory uses are permitted, subject to applicable standards, provided that the uses occur in a building or buildings that together do not exceed forty thousand (40,000) square feet of floor area. Special standards for certain uses (marked with an asterisk (\*)) are found in Section 17.20.040.

- A. Assembly plants.
- B. Limited manufacturing.
- C. Contractor's warehouse and shop.
- D. Crane business and related operations.
- E. Storage in conjunction with a permitted use.
- F. Machine shop and fabrication.
- G. Mini-storage.
- H. Parking in conjunction with uses permitted in the L-I zone.
- I. Governmental and utility uses such as a pumping station, utility service yard, utility substation, public works shop, public safety services, or similar facilities.
- J. Separate office building and/or retail sales in conjunction with a permitted use.\*
- K. Wholesale trade.
- L. Auto body shop.\*
- M. Truck and car repair and service-minor.\*
- N. Boat building and/or boat repair and related launch facility.
- O. Automobile service stations.
- P. One security dwelling as a separate structure or one security dwelling as part of a building for light industrial use that complies with applicable codes for mixed use occupation. A security dwelling may only be allowed as an accessory use in conjunction with uses permitted in the L-I zone.\*
- Q. Temporary street vendors/seasonal commercial uses not to exceed six months.
- R. Uses permitted outright in the commercial zone, but only on parcels with frontage on Business Highway 20.S.Warehousing.T.Railroad line and associated uses.
- U. Commercial fishing gear maintenance, repair and storage.
- V. Food production and/or beverage production.
- W. Research and development.
- X. Low intensity recreation.
- Y. Timber-based operations, excluding milling and/or processing of wood and paper products.
- Z. Commercial marina or moorage, and or charter boat operation.
- AA. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).

TMC 17.20.030 Conditional uses permitted.

- A. A use permitted outright in the L-I zone, in which the building or buildings provided for the use exceed forty thousand (40,000) square feet of floor area.
- B. Bulk storage of flammable liquids and gases.
- C. Eating or drinking establishments, including take-out or drive-in services.
- D. Industrial museum.
- E. Processing and manufacturing operations, excluding the following:1.Asphalt mixing and batching.2.Explosives manufacturing.3.Petroleum or petroleum products

refining.4.Fertilizer manufacture.5.Gas manufacture.6.Slaughterhouse or rendering facility.

F. Shipping facilities.

G. Shoreline stabilization as defined in the Lincoln County Estuary Management Plan.

H. Truck and car repair and service—major.

**I. Waste transfer, recycling facility, or scrap metal facility.**

J. Drive-in use for uses which are permitted outright or as conditional uses in the L-I zone.

K. Concrete mixing and batching, but excluding asphalt mixing and batching.

L. Medical marijuana dispensary facility.

M. Marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory. Marijuana retailer may be approved when medical marijuana dispensary facility is an approved use at the same site.

N. Uses which are similar in character, scale and performance to those permitted outright or conditionally in the L-I zone and which conform with the purpose of the zone.

*Staff Analysis: The property identified as 5441 Hwy 20 Toledo (Map 11-10-7 Tax Lot 600) is approximately 13.82 acres and located in the Light Industrial (LI) Zone.*

*The applicant, Dahl & Dahl Inc. (Authorized Agent- Ryan Crotty, Maul Foster & Alongi, Inc.) is requesting a second modification to the Conditional Use to allow an expansion of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone. The new baler facility would receive materials including municipal solid waste (MSW) and old corrugated cardboard (OCC) rejects and have the material pressed into bales and wrapped before loaded onto trucks for transport to GP. The proposed modification is to Condition of Approval #3 to allow for the continued operation and use of the membrane structure permanently (pending building official review). The proposed modification based on the applicant's submittal documents is not changing the operations of the facility only the length of time the facility would operate. Therefore, the facts and findings for the modification stay consistent with the original approval.*

**4. 2000 Toledo Comprehensive Land Use Plan – Article 9: Economic Development, Goals 1, 3, 4, and 5, Objective 7:**

GOAL 1. Improve the economic position of all elements of Toledo's economic base by retaining and expanding the current businesses while recruiting new businesses into the community.

GOAL 3. Diversify the economic base of the Toledo area and strengthen the role as the industrial center for Lincoln County.

GOAL 4. Encourage employment and business opportunities that assist Toledo's residents to maintain the highest per household average income in Lincoln County.

GOAL 5. Assure that regulatory requirements provide for high standards of public health, safety, environmental protection, and welfare but are structured to support economic development.



OBJECTIVE 7. Maintain Toledo's economic strength in the wood products, fishing and other resource based industries while diversifying the industrial base within the community.

*Staff Analysis: In the application materials, the applicant states that, "Dahl and Dahl, Inc. (the applicant) currently operates the Toledo Transfer and Recycling Center in Toledo, Oregon. The facility receives municipal solid waste and recycling from residential and commercial customers from Toledo, Siletz, Waldport, Yachats, and rural southern and eastern Lincoln County. In collaboration with Georgia-Pacific (GP), the applicant has initiated a pilot program to test the effectiveness of Georgia-Pacific Juno's new baling and wrapping equipment." The subject property historically has been use as a recycling facility and storage units. Proposed development of the baler facility is a permitted Conditional Use within the LI Zone. The proposed baler facility meets the Comprehensive Land Use Plan Economic Development Goals and Objectives because the application, 1) improves the economic position of Toledo by retaining and expanding current businesses, 2) diversifies the economic base of Toledo, and 3) encourages employment and business opportunities that assist Toledo's residents maintain a high per household average income.*

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

## EVALUATION CRITERIA – CONDITIONAL USE PERMITS

### 5. TMC 17.64.010 – 17.64.050 Conditional Use Permits

#### 17.64.010 Purpose.

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

#### 17.64.020 Authorization to grant or deny conditional use permits.

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

#### 17.64.030 Application submission requirements for conditional use permits.

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

17.64.040 Conditions for development.

The planning commission shall review and make a decision to approve or deny a conditional use request in accordance with the standards and procedures for a Type III review as set forth in Toledo Municipal Code Chapter 19.16.

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

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

17.64.050 Standards governing conditional uses.

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

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

*Staff analysis: On November 4, 2020 the City Council approved the temporary Research & Development (R & D) for Dahl Disposal for six months. During the temporary six month approval Dahl could apply for the Conditional Use Permit for further operations. The temporary tent was constructed in March 2021.*

*The six month temporary approval for R & D expired on May 4, 2021. The applicant submitted an application for a conditional use on April 7, 2021. The conditional use application was*

reviewed by the Toledo Planning Commission on May 12, 2021. The conditional use application would not be approved prior to the temporary R & D expiring, therefore, staff requested that the applicant submit a request to renew the temporary R & D. The temporary R & D proposal was reviewed by City Council on May 5, 2021 for renewal. The Planning Commission reviewed and approved the conditional use on May 12, 2021 and approved the first modification on May 11, 2022. The conditional use modification #2 application evaluated by the Planning Commission will allow long term operation of the membrane facility.

The applicant is requesting continued operation of the baler facility. CU-2-21(mod) had a condition of approval that required the applicant to continue operation through the end of their Research and Development phase of the Baling project, March 31, 2026, subject to yearly review by the Lincoln County Building Official and a valid Certificate of Occupancy. Also this allowed for the Toledo Fire Department to approve the extension of the temporary structure. The proposed amended condition allows greater flexibility for the applicant and allows the use of the membrane structure permanently contingent on Lincoln County Building Official approval. The applicant is not proposing any changes to the original structure that was approved.

#### *History of Land Use and Building Permit Approvals*

- *December 1992 Lincoln County Conditional Use for a waste transfer facility*
- *February 22, 1994 Urban Growth Boundary Expansion and Annexation*
- *July 20, 1998 Removal and Fill Permit*
- *May 17, 1999 and June 1, 1999 Building Permits for storage units*
- *June 15, 2000 Retaining wall permit*
- *September 10, 2001 Building permit for a 30' x 70' Building*
- *October 10, 2002 Removal fill permit*
- *December 23, 2002 Building Permit for Storage units*
- *June 16, 2003 Building Permit for a 1,350 square foot storage unit building*
- *June 19, 2002 Removal and Fill Permit*
- *June 19, 2007 Removal and Fill Permit*
- *April 15, 2010 a conditional use (CU-2-10) to add the recycling of vehicles to the transfer and recycling operation was approved by the Toledo Planning Commission.*
- *May 13, 2010 DMV Dismantler permit (Land Use Compatibility Statement)*
- *April 22, 2013 DMV Dismantler permit (Land Use Compatibility Statement)*
- *March 24, 2016 DMV Dismantler permit (Land Use Compatibility Statement)*
- *April 1, 2019 DMV Dismantler permit (Land Use Compatibility Statement)*
- *November 4, 2020 City Council Temporary R & D approval*
- *November 16, 2020 DEQ Land Use Compatibility Statement*
- *December 4, 2020 Removal and Fill Permit*
- *May 12, 2021 CU-2-21 Approval*
- *August 23, 2021 Certificate of Occupancy Approval until March 3, 2022*
- *March 1, 2022 Certificate of Occupancy Approval until June 1, 2022*
- *May 11, 2022 CU-2-21(mod) approved*

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

- 1) *The approximately 13.82 acre site has been in use as a solid waste and recycling transfer facility since 1992. Continued use of the baler facility for research and development*

*purposes would be operationally consistent with the existing land use on the site. The baler facility has already been designed and constructed. The facility is located directly northeast and uphill of the primary transfer facility. The distance between these operations allows for truck queuing internally at the site and provides an adequate operational area for the two facilities to operate in harmony. The facility was designed with the minimum footprint necessary to meet operational needs, and these improvements were constructed in a portion of the site that had been previously disturbed, thereby avoiding impacts to sensitive natural resources.*

- 2) The baler facility consists of a 100-foot by 100-foot, 10,000-square-foot concrete pad. The baler equipment is staged on the pad and enclosed by a heavy-duty tent that is approximately 30 feet tall. Construction of the facility included improving truck access and queuing in the site and extending utilities (water, sewer, stormwater, and power) to the baler facility. These improvements were completed in March 2021. The facility began testing the equipment in March 2021.*
- 3) Highway 20 provides access to the site and the existing driveway serves both trucks using the baler facility and the primary solid waste and recycling transfer facility. As demonstrated by years of use by Dahl Disposal Services, the existing access to the site is adequate for this type of use. There have been no access or transportation issues reported since the baler facility began testing the installed equipment in March 2021.*
- 4) The baler facility was constructed in a part of the site that was already disturbed and avoided impacting sensitive natural resources. The facility is located directly uphill of the primary solid waste and recycling transfer facility in a naturally occurring U-shaped bowl. The topography of this feature screens the baler facility from adjacent properties.*
- 5) The continued use of the baler facility would not introduce new impacts to surrounding land uses and properties. This is because the baler facility does not constitute a new use, rather, it serves as a limited expansion of the existing solid waste and recycling transfer facility. While the intensity of the use will marginally increase due to expansion of operations at the site, no additional offsite impacts are anticipated given the unique characteristics of the site and nature of the baler facility's operation.*
- 6) The site itself is bordered by Highway 20 to the east and forest land to the north. These are not sensitive uses or environments that would be affected by operation of the baler facility. There are single-family homes to the east and west; however, these are located at least 600 feet away and screened from the site by topography and heavy vegetation. Operationally, impacts from the baler facility would be consistent with, or less than, the primary solid waste and recycling transfer facility on the site. Cumulatively, noise, traffic, odor, visual, vibration, light or glare, and land use impacts would remain within the tolerance expected and accepted by the existing solid waste and recycling transfer facility operation.*

*Businesses within the City are required to have a business license to engage in business activity in the City of Toledo (TMC 5.04). Dahl & Dahl Inc. currently has an active business license. Staff recommends a condition of approval that a business license is required for anyone engaging in business activity in the City (TMC 5.04).*

*The requested conditional use permit to allow an expansion of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone meets the criteria in TMC 17.64.050(A).*

- 1) *The proposed baler facility is suitable for the site, considering the lot size, and applicant's proposed design and operating characteristics of the use.*
- 2) *The property has proper access to a state highway, Highway 20. The Oregon Department of Transportation (ODOT) was sent notice and no comments were received. Staff recommends a condition of approval that any driveway improvements are coordinated with ODOT.*
- 3) *The applicant submitted a preliminary geo-tech report to the City of Toledo. Staff recommends a condition of approval that the final geo-tech report shall be submitted to the City of Toledo.*
- 4) *The proposed baler facility is buffered from surrounding uses.*

*As part of the 2021 approval, the Toledo Fire Department provided comments on the proposed baler facility. Based on Oregon Fire Code Section 3103.5, temporary tent structures are limited to 180 days. The tent structure was in place on, or around, March 1, 2021. After the 2022 modification approval the applicant was required to have yearly review by the building official and Toledo Fire Department. The Lincoln County Building Official staffing changed. Therefore, Staff worked closely with the Lincoln County Building Department, Toledo Fire Department and the applicant to come up with a solution to allow the membrane structure to be located on the property for an additional amount of time. The structure will be considered permanent pending final Lincoln County Building Official Review. Staff recommends a condition of approval that the applicant shall be allowed to permanently operate the membrane structure associated with the baling project. Subject to approval by the Lincoln County Building Official, Toledo Fire Department, and a valid Certificate of Occupancy*

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

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

**B.** In addition to other standards of the zone in which the conditional use is located, certain uses shall comply with the following additional standards:

...

3. Waste transfer, recycling facility, or scrap metal facility.
  - a. Facilities must be fenced and shall be secured from unauthorized entry and the removal of materials when attendants are not present.
  - b. Facilities and storage shall be located no closer than thirty (30) feet from any property line.
  - c. Hours of operation shall be established, and the facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation.
  - d. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall be cleaned of loose debris on a daily basis.

- e. Space shall be provided on the site for the anticipated peak load of customers to circulate, park, and deposit recyclable materials.
- f. Containers provided for after-hours donations of recyclable materials shall be at least fifty (50) feet from any property zoned general residential or single-family residential, shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate the materials collected, and shall be secure from unauthorized entry or the removal of materials.
- g. Donation areas shall be kept free of litter, odors, pests, and any other undesirable material. The containers shall be clearly marked to identify the type of material, which may be deposited. The facility shall display a notice stating that no material shall be left outside the recycling containers.

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

- a. *Access to the site is provide by Highway 20, and the existing driveway entrance is gated to prevent unauthorized entry when the facility is closed. While the baler facility is not fenced, the steep topography and remote location of the facility effectively precludes unauthorized entry, which substantially complies with this requirement.*
- b. *The smallest setback between the baler facility and a property line (front yard) is approximately 80 feet.*
- c. *Although the baler facility is not open for public use, its hours of operation are consistent with the primary solid waste and recycling transfer station (8:30 a.m. to 4:30 p.m.) at the site. The baler facility would remain in operation seven days a week.*
- d. *As coordinated with the Oregon Department of Environmental Quality, operation of the baler facility is covered under the primary solid waste and recycling transfer station operational permit or site designation; an update to the site's Operations Plan is currently underway. A component of the plan is to establish best management practices for facility operation. This includes, but is not limited to, specific measures and good practices to contain all recyclables and waste on-site, reduce odor, prevent pests or vectors, and maintain a general level of cleanliness. As the baler facility will be included in the amended Operations Plan, all Oregon Department of Environmental Quality-approved operational best management practices would apply.*
- e. *The baler facility would not be open to public use.*

*Based on the submitted materials and staff review the following findings are proposed.*

- a. *The existing driveway access is gated which prevents unauthorized access to the facility. The entire property is not fenced but the property is elevated and steep slopes prevent unauthorized entry.*
- b. *The proposed structure will be located approximately 80 feet from the closest property line. Staff finds that the facilities and storage will not be located closer than thirty (30) feet from any property line.*
- c. *The baler facility is not open for public use. The baler facility will be open seven days a week from 8:30 am – 4:30 pm.*
- d. *The applicant is in the process of updating the site's Operation plan and coordinating that update with Oregon Department of Environmental Quality (DEQ). The Operations Plan includes best practices to contain all recyclables and solid waste. The applicant states the baler facility will be included in the amended Operations Plan. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall*

*be cleaned of loose debris on a daily basis. Staff recommends that this is listed as a condition of approval.*

- e. The proposed baler facility is located away from the existing recycling buildings and equipment. The proposed baler facility is not open to the public, no after-hours recycling, and no donation areas are proposed with this application. TMC 17.64.050(B)(3)(e-g) are not applicable to this application.*

*Staff finds based on the information in the record the application meets the criteria in TMC 17.64.050(B)(3).*

#### **FURTHER STAFF ANALYSIS:**

The request by the current owner, Dahl & Dahl Inc., would be compatible with surrounding land uses. Neighboring properties to the West and North are zoned County Timber Conservation (T-C). Neighboring properties to the East are zoned County Agricultural Conservation (A-C) and City Light Industrial (LI). Neighboring properties to the South are County Agricultural Conservation (A-C) and County Timber Conservation (T-C). The proposed development will be compatible with the current rural and industrial character and flavor of the neighborhood. (See Attachment B - Zoning Maps).

A portion of the subject property is located within the floodplain and is located within an area identified as wetlands. The proposed location of the baler facility is not located within the area identified as floodplain or wetlands. A wetland land use notification (WLUN) was sent to the Department of Statelands (DSL) on October 29, 2020 (WN2020-0795). The proposed location has not changed and the DSL response indicated that the proposed construction appears to avoid impacts to jurisdictional wetlands or waters.

The Toledo Public Works Department has been advised of the proposal. Both water and sewer are currently not available.

#### **IV. FACTS AND FINDINGS:**

The applicant is requesting approval of a modification to the conditional use to allow a revised condition of approval for the expansion of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone. The baler facility would receive materials including municipal solid waste (MSW) and old corrugated cardboard (OCC) rejects and have the material pressed into bales and wrapped before loaded onto trucks for transport to GP. Based upon the information received by City staff through May 5, 2022, the modified conditional use request appears to conform with relevant provisions of the City's plans and ordinances as described below. The following recommended findings support approval of the modified conditional use:

1. The property identified as 5441 Hwy 20, Toledo (Map 11-10-7 Tax Lot 600) is approximately 13.82 acres and located in the Light Industrial (LI) Zone.
2. The applicant, Dahl & Dahl Inc. (Authorized Agent- Ryan Crotty, Maul Foster & Alongi, Inc.) is now requesting a second modification to the Conditional Use to allow an expansion

of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone. The new baler facility would receive materials including municipal solid waste (MSW) and old corrugated cardboard (OCC) rejects and have the material pressed into bales and wrapped before loaded onto trucks for transport to GP. The proposed modification is to Condition of Approval #3 to allow for the continued operation and use of the membrane structure permanently (pending building official review). The proposed modification based on the applicant's submittal documents is not changing the operations of the facility only the length of time the membrane structure would operate. Therefore, the facts and findings for the modification stay consistent with the original approval.

3. In the application materials, the applicant states that, "Dahl and Dahl, Inc. (the applicant) currently operates the Toledo Transfer and Recycling Center in Toledo, Oregon. The facility receives municipal solid waste and recycling from residential and commercial customers from Toledo, Siletz, Waldport, Yachats, and rural southern and eastern Lincoln County. In collaboration with Georgia-Pacific, the applicant has initiated a pilot program to test the effectiveness of Georgia-Pacific Juno's new baling and wrapping equipment." The subject property historically has been used as a recycling facility and storage units. Proposed development of the baler facility is a permitted Conditional Use within the LI Zone. The proposed baler facility meets the Comprehensive Land Use Plan Economic Development Goals and Objectives because the application, 1) improves the economic position of Toledo by retaining and expanding current businesses, 2) diversifies the economic base of Toledo, and 3) encourages employment and business opportunities that assist Toledo's residents maintain a high per household average income.
4. The application has been reviewed in compliance with and is consistent with Toledo's Comprehensive Land Use Plan goals and policies.
5. On November 4, 2020 the City Council approved the temporary Research & Development (R & D) for Dahl Disposal for six months. During the temporary six month approval Dahl could apply for the Conditional Use Permit for further operations. The temporary tent was constructed in March 2021.

The six month temporary approval for R & D expired on May 4, 2021. The applicant submitted an application for a conditional use on April 7, 2021. The conditional use application was reviewed by the Toledo Planning Commission on May 12, 2021. The conditional use application would not be approved prior to the temporary R & D expiring, therefore, staff requested that the applicant submit a request to renew the temporary R & D. The temporary R & D proposal was reviewed by City Council on May 5, 2021 for renewal. The Planning Commission reviewed and approved the conditional use on May 12, 2021 and approved the first modification on May 11, 2022. The conditional use modification #2 application evaluated by the Planning Commission will allow long term operation of the membrane facility.

6. The applicant is requesting continued operation of the membrane baler facility. CU-2-21(mod) had a condition of approval that required the applicant to continue operation through the end of their Research and Development phase of the Baling project, March 31, 2026, subject to yearly review by the Lincoln County Building Official and a valid Certificate of Occupancy. Also this allowed for the Toledo Fire Department to approve the



extension of the temporary structure. The proposed amended condition allows greater flexibility for the applicant and allows the use of the membrane structure permanently contingent on Lincoln County Building Official approval. The applicant is not proposing any changes to the original structure that was approved.

7. According to the application materials, the owner provides the following information for the proposed development:
  - a. The approximately 13.82 acre site has been in use as a solid waste and recycling transfer facility since 1992. Continued use of the baler facility for research and development purposes would be operationally consistent with the existing land use on the site. The baler facility has already been designed and constructed. The facility is located directly northeast and uphill of the primary transfer facility. The distance between these operations allows for truck queuing internally at the site and provides an adequate operational area for the two facilities to operate in harmony. The facility was designed with the minimum footprint necessary to meet operational needs, and these improvements were constructed in a portion of the site that had been previously disturbed, thereby avoiding impacts to sensitive natural resources.
  - b. The baler facility consists of a 100-foot by 100-foot, 10,000-square-foot concrete pad. The baler equipment is staged on the pad and enclosed by a heavy-duty tent that is approximately 30 feet tall. Construction of the facility included improving truck access and queuing in the site and extending utilities (water, sewer, stormwater, and power) to the baler facility. These improvements were completed in March 2021. The facility began testing the equipment in March 2021.
  - c. Highway 20 provides access to the site and the existing driveway serves both trucks using the baler facility and the primary solid waste and recycling transfer facility. As demonstrated by years of use by Dahl Disposal Services, the existing access to the site is adequate for this type of use. There have been no access or transportation issues reported since the baler facility began testing the installed equipment in March 2021.
  - d. The baler facility was constructed in a part of the site that was already disturbed and avoided impacting sensitive natural resources. The facility is located directly uphill of the primary solid waste and recycling transfer facility in a naturally occurring U-shaped bowl. The topography of this feature screens the baler facility from adjacent properties.
  - e. The continued use of the baler facility would not introduce new impacts to surrounding land uses and properties. This is because the baler facility does not constitute a new use, rather, it serves as a limited expansion of the existing solid waste and recycling transfer facility. While the intensity of the use will marginally increase due to expansion of operations at the site, no additional offsite impacts are anticipated given the unique characteristics of the site and nature of the baler facility's operation.
  - f. The site itself is bordered by Highway 20 to the east and forest land to the north. These are not sensitive uses or environments that would be affected by operation of the baler facility. There are single-family homes to the east and west; however, these are located at least 600 feet away and screened from the site by topography and heavy vegetation. Operationally, impacts from the baler facility would be consistent with, or less than, the primary solid waste and recycling transfer facility on the site. Cumulatively, noise, traffic, odor, visual, vibration, light or glare, and land use

impacts would remain within the tolerance expected and accepted by the existing solid waste and recycling transfer facility operation.

8. Based on the submitted materials and staff review the following findings are proposed.
  - a. The existing driveway access is gated which prevents unauthorized access to the facility. The entire property is not fenced but the property is elevated and steep slopes prevent unauthorized entry.
  - b. The proposed structure will be located approximately 80 feet from the closest property line. Staff finds that the facilities and storage will not be located closer than thirty (30) feet from any property line.
  - c. The baler facility is not open for public use. The baler facility will be open seven days a week from 8:30 am – 4:30 pm.
  - d. The applicant is in the process of updating the site's Operation plan and coordinating that update with Oregon Department of Environmental Quality (DEQ). The Operations Plan includes best practices to contain all recyclables and solid waste. The applicant states the baler facility will be included in the amended Operations Plan. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall be cleaned of loose debris on a daily basis. Staff recommends that this is listed as a condition of approval.
  - e. The proposed baler facility is located away from the existing recycling buildings and equipment. The proposed baler facility is not open to the public, no after-hours recycling, and no donation areas are proposed with this application. TMC 17.64.050(B)(3)(e-g) are not applicable to this application.
9. A portion of the subject property is located within the floodplain and is located within an area identified as wetlands. The proposed location of the baler facility is not located within the area identified as floodplain or wetlands. A wetland land use notification (WLUN) was sent to the Department of Statelands (DSL) on October 29, 2020 (WN2020-0795). The proposed location has not changed and the DSL response indicated that the proposed construction appears to avoid impacts to jurisdictional wetlands or waters.
10. Based on City records, Dahl & Dahl Inc. has a business license to engage in business activity in the City of Toledo (TMC 5.04).
11. The requested conditional use permit to allow an expansion of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone meets the criteria in TMC 17.64.050(A).
  - a. The proposed baler facility is suitable for the site, considering the lot size, and applicant's proposed design and operating characteristics of the use.
  - b. The property has proper access to a state highway, Highway 20.
  - c. The applicant submitted a preliminary geo-tech report to the City of Toledo.
  - d. The proposed baler facility is buffered from surrounding uses.
12. As part of the 2021 approval, the Toledo Fire Department provided comments on the proposed baler facility. Based on Oregon Fire Code Section 3103.5, temporary tent structures are typically limited to 180 days. The tent structure was in place on, or around, March 1, 2021. After the 2022 modification approval the applicant was required to have yearly review by the building official and Toledo Fire Department. The Lincoln County Building Official

staffing changed. Therefore, staff worked closely with the Lincoln County Building Department, Toledo Fire Department and the applicant to come up with a solution to allow the membrane structure to be located on the property for an additional amount of time. The structure will be considered permanent pending final Lincoln County Building Official Review. Staff recommends a condition of approval that the applicant shall be allowed to permanently operate the membrane structure associated with the baling project. Subject to approval by the Lincoln County Building Official, Toledo Fire Department, and a valid Certificate of Occupancy

13. The request by the current owner, Dahl & Dahl Inc., would be compatible with surrounding land uses. Neighboring properties to the West and North are zoned County Timber Conservation (T-C). Neighboring properties to the East are zoned County Agricultural Conservation (A-C) and City Light Industrial (LI). Neighboring properties to the South are County Agricultural Conservation (A-C) and County Timber Conservation (T-C). The proposed development will be compatible with the current rural and industrial character and flavor of the neighborhood.
14. Based on TMC 17.64.040, the Planning Commission has authority to impose conditions to mitigate issues the Commission finds appropriate, such as minimize environmental effects such as noise/vibration/air pollution/glare/odor, establish open spaces, limit building height or vehicle access points, provide screening/drainage/fencing/parking/landscaping improvements, limit signs and outdoor lighting, or protect existing natural resources.
15. The City Public Works Director, Police and Fire Chief have all reviewed the application and had no issues with the proposal.
16. City water and city sewer are currently not available.
17. Notification to surrounding property owners, 19 public/service agencies, and publication of the proposed Conditional Use Permit were completed in accordance with the Toledo Municipal Code requirements.

## **V. STAFF RECOMMENDATION:**

Based on the staff report, testimony received, and analysis of the applicable code and land use planning goals, staff recommends the Planning Commission approve Case File CU-2-21(mod), subject to the following conditions:

1. Approval is based upon the submitted application and plan, as described in Attachment A of the Staff Report. Development shall conform with the proposed plan and any significant change shall be submitted to the City Planning Department as a modification to the conditional use permit.
2. Any driveway improvements must be coordinated and approved by the Oregon Department of Transportation (ODOT).
3. The applicant shall be allowed to permanently operate the membrane structure associated

with the baling project. Subject to approval by the Lincoln County Building Official, Toledo Fire Department, and a valid Certificate of Occupancy

4. The final geo-tech report shall be submitted to the City of Toledo.
5. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall be cleaned of loose debris on a daily basis.
6. A business license is required for anyone engaging in business activity in the City (TMC 5.04).
7. Authorization of the conditional use shall be void after one year if a building permit has not been issued or development has not begun. Authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

**PROPOSED MOTION (CU-2-21(MOD#2)):**

*BASED ON THE TESTIMONY RECEIVED, THE STAFF REPORT, AND THE EVIDENCE AND ARGUMENTS BEFORE THE PLANNING COMMISSION AT THE PUBLIC HEARING ON MAY 8, 2024, THE PLANNING COMMISSION FINDS THAT THE REQUEST BY DAHL & DAHL INC. AND AUTHORIZED AGENT RYAN CROTTY, MAUL FOSTER & ALONGI, INC., (CU-2-21(MOD#2)) COMPLIES WITH THE CRITERIA IDENTIFIED IN TOLEDO MUNICIPAL CODE 17.64.050. THE PLANNING COMMISSION HEREBY ADOPTS THE STAFF REPORT AS FINDINGS, AS WELL AS THE PROPOSED CONDITIONS OF APPROVAL FOR CU-2-21(MOD#2), AND ALLOWING FOR THE CORRECTION OF TYPOGRAPHICAL AND GRAMMATICAL ERRORS.*

**VI. PLANNING COMMISSION ROLE:**

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

# ATTACHMENT A

## Application with Supporting Information, Including CU-2-21(mod) Order (City of Toledo File #CU-2-21mod2)



### LAND USE APPLICATION

Date 04/08/2024

Property Owner Rich Kuehn (Dahl & Dahl, Inc.)  
Mailing Address PO Box 357  
Toledo, Oregon 97391

Telephone (541) 930-0291  
Email rkuehn@dahl Disposalservice.com

Authorized Agent Ryan Crotty (Maul Foster & Alongi, Inc)  
Mailing Address 109 E 13th St  
Vancouver WA, 98660

Telephone (253) 740-8498  
Email rcrotty@maulfoster.com

Property Address 5441 West Highway 20, Toledo, OR 97391  
Property Location Far northwest corner of city limits  
Assessors Map No. 11S10W07

Property Size 13,82 Acres  
Tax Lot No. 600

Present Zoning Light Industrial  
Comprehensive Plan Designation Industrial  
Current Use of Property Solid waste and recycling transfer facility  
Existing Structures (if any) Please see the attached memo for details regarding details of existing structures on the site.

Proposed Change N/A

Proposal for which this request is being made (attach additional sheets if needed) Dahl & Dahl Inc. is applying for a modification to an existing conditional use permit (CU-2-21). This modification would change the existing temporary status of the membrane structure to a permanent status and allow for continued operation of the baler facility in perpetuity.

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

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

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

\*Supplemental forms are required

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

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

Date Received 4/9/24 By ai Fee Paid \$401.25 Complete Application Date 4/10/24 City File No. CU-2-21(mod2)

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

My signature below shows that I have thoroughly discussed this application with the City Planner, City Manager, or designee and I am fully aware of my responsibilities as the applicant. A pre-application meeting with City staff was held on or around \_\_\_\_\_.

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

\_\_\_\_\_  
Rich Kuehn  
Digitally signed by Rich Kuehn  
Date: 2024.04.08 13:20:16 -0700  
Applicant(s) Signature

\_\_\_\_\_  
4/8/24  
Date

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

\_\_\_\_\_  
Date

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

**Public Works**

1. Is City sewer available? Yes\_\_\_\_ No   
Where \_\_\_\_\_
- Will a connection have to be constructed? Yes\_\_\_\_ No\_\_\_\_  
What size of a line is required \_\_\_\_\_
2. Is City water available? Yes\_\_\_\_ No   
Where \_\_\_\_\_
- Meter size \_\_\_\_\_  
Estimated installation cost \_\_\_\_\_
3. Are there any public works improvements necessary? Yes\_\_\_\_ No   
If yes, describe \_\_\_\_\_
4. Is there proper access? Yes  No\_\_\_\_  
Are there proper easements? Yes\_\_\_\_ No\_\_\_\_
- Curb cuts and property entrances must be constructed to City specifications. Permit and specifications are available through the Public Works Department.
5. Are there any special access requirements? Yes\_\_\_\_ No   
If yes, describe \_\_\_\_\_
- Is a state access permit required? Yes\_\_\_\_ No\_\_\_\_  
Is a county permit required? Yes\_\_\_\_ No\_\_\_\_
6. Are stormwater improvements needed? Yes\_\_\_\_ No N/A  
If yes, describe \_\_\_\_\_
- Is an erosion control plan needed? Yes\_\_\_\_ No N/A
7. Is a plan review by Public Works required? Yes\_\_\_\_ No
8. Is this application ready to be approved? Yes  No\_\_\_\_  
Explain modifications or revisions needed for the application \_\_\_\_\_

Comments Any deviation from this permitting will necessitate a new permit application and review.

REVIEWED AND APPROVED BY:

  
Public Works Director

4/15/2024  
Date

**Fire Department**

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

Comments \_\_\_\_\_

REVIEWED AND APPROVED BY:

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

**Police Department**

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

Comments \_\_\_\_\_

REVIEWED AND APPROVED BY:

*Michael Pace* 04/13/24  
Chief of Police Date

**Planning Department**

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

Comments \_\_\_\_\_

REVIEWED AND APPROVED BY:

\_\_\_\_\_  
City Planner Date



**Fire Department**

1. Does the proposal meet the safety requirements of the IFC? Yes  No

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

Comments NO Comments.

**REVIEWED AND APPROVED BY:**

Greg Mendel 4/11/24  
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:**

\_\_\_\_\_  
City Planner Date



# Memorandum

To: City of Toledo, Planning Department Date: April 9, 2024  
From: Ryan Crotty, Planner Project No.: M0766.03.002  
Re: Dahl & Dahl, Inc., Baler Facility Conditional Use Permit Modification

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## Introduction

### 1.1 Project Background and Purpose

Dahl and Dahl, Inc. (the applicant), currently operates the Toledo Transfer and Recycling Center in Toledo, Oregon. The facility receives municipal solid waste and recycling from residential and commercial customers from the cities of Toledo, Siletz, Waldport, Yachats, and from rural southern and eastern Lincoln County. In collaboration with Georgia-Pacific LLC (Georgia-Pacific), the applicant has initiated a pilot program to test the effectiveness of the new Georgia-Pacific Juno baling and wrapping equipment. On May 12, 2021, the applicant received City of Toledo (City) authorization to construct and operate a temporary baler facility for a period of six months with an optional six-month extension. A subsequent conditional use permit modification (CU-2-21(mod)) authorizing operations of the existing baler facility through March 31, 2026, was granted on May 19, 2022 (see Attachment A). This most recent authorization was granted under the following conditions:

1. Development shall conform with the proposed plan and any significant change shall be submitted to the City Planning Department as a modification to the conditional use permit.
2. Any driveway improvements must be coordinated and approved by the Oregon Department of Transportation (ODOT).
3. The applicant shall be allowed to operate out of the existing membrane structure through the end of their Research and Development phase of the Baling project, March 31, 2026, subject to yearly review by the Lincoln County Building Official and a valid Certificate of Occupancy.
4. The final geo-tech report shall be submitted to the City of Toledo.
5. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall be cleaned of loose debris on a daily basis.
6. A business license is required for anyone engaging in business activity in the City (Toledo Municipal Code [TMC] 5.04).
7. Authorization of the conditional use shall be void after one year if a building permit has not been issued or development has not begun. Authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

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R:\0766.03 Dahl & Dahl\Document\002\_2024.04.09 CUP Update\Mf\_Dahl Disposal Services Baler Facility CUP Modification.docx

The purpose of this application is to request a conditional use permit modification for operation of the baler facility out of a permanent structure (the existing baler structure) that would be exempt from the yearly certificate of occupancy review required for temporary structures that was included as Condition 3 of CU-2-21(mod). The applicant also requests that the previous permit decision be modified to allow permanent operation of the facility. This memorandum includes a consistency analysis that addresses pertinent conditional use permit criteria for City of Toledo consideration.

## **1.2 Project Description**

As authorized by the City of Toledo, the applicant currently operates a baler facility as part of a research and development program. The purpose of this program is to test the new Georgia-Pacific Juno baling and wrapping equipment that processes Municipal Solid Waste (MSW) from existing waste haulers. Material is pressed into bales and securely wrapped before being loaded into trucks and transported to the Georgia-Pacific Juno facility for final processing.

During the test period of the baler facility, MSW may be received from waste haulers, processed, and transported to the Georgia-Pacific Juno facility for disposal.

The baler facility consists of a 100-foot by 100-foot concrete pad. The baler equipment is staged on the pad and enclosed by a heavy-duty flame resistant membrane structure that is approximately 30 feet tall. Construction of the facility included improving truck access and queuing in the site and extending utilities (such as water, sewer, stormwater, and power) to the baler facility. These improvements were completed on March 5, 2021. The facility began testing the equipment on March 8, 2021.

This conditional use permit application requests approval for the permanent operation of the baler facility. Operation would continue as described above with no proposed expansion or improvements to the existing facility. The applicant is concurrently submitting an updated land use application and building permit with the City of Toledo to permit the existing baler facility as a permanent structure rather than the temporary structure that is currently subject to yearly inspections and issuance of temporary certificates of occupancy from the building department.

## **1.3 Existing Conditions**

### **1.3.1 Project Location**

The baler facility is housed in the Toledo Transfer and Recycling Center property (the property), located at 5441 West Highway 20, Toledo, Oregon, 97391. The facility is located in the city limits of Toledo, tax lot 600, section 7, township 11s, range 10W of the Willamette Meridian. The property is 13.82 acres in size.

### **1.3.2 Zoning and Other Designations**

The property is zoned light industrial by the City of Toledo.

### **1.3.3 Existing Land Uses and Structures**

The property is currently used as a solid waste and recycling transfer facility that is best characterized as industrial use. The Toledo Transfer and Recycling Center comprises four primary structures: an office with scales, a recycling center, a shop, and a transfer building. The baler facility was constructed in the northeast corner of the site directly uphill of the primary solid waste and recycling transfer building. As-built drawings of existing structures are included as Attachment B.

### 1.3.4 Adjacent Land Uses

Land to the north, west, and south of the property lies in the Lincoln County jurisdiction. Adjacent land uses include undeveloped forest land to the north and low-density residential to the west and south. Land to the east of the property lies in the City of Toledo limits and is used for light industrial purposes by Pacific Pride Card Lock and Henarie Trucking.

## Request

Based on the information in this memorandum and all accompanying documentation, the applicant respectfully requests the approval of a modified conditional use permit for permanent operation of the baler facility. The applicant also requests that Condition 3 of the conditional use modification CU-2-21(mod) decision be removed, as the building status would change from temporary to permanent and therefore the required annual inspections and reissuance of a temporary certificate of occupancy would not be warranted.

## Regulatory Compliance

During the most recent conditional use permit modification review for the project, the Toledo Planning Commission found that the baler facility structure and operations are in compliance with relevant sections of TMC Chapter 17.64. The existing baler facility structure was inspected recently by a Lincoln County Building Official, the City of Toledo Fire Marshal, and the applicant's engineer (Maul Foster and Alongi, Inc.) on January 11, 2024, and was agreed to be in general conformance with permanent building classification per the Lincoln County Building Code. The proposed permanent status of the baler facility would not change the operation as previously approved, nor would it include expansion or improvements to the existing facility. The only changes that the applicant is seeking are the following:

- Continued operation of the baler facility in perpetuity
- Permitting the baler facility as a permanent structure that is no longer subject to yearly renewal of a certificate of occupancy

As no new land use compatibility considerations would be generated by this request, a demonstration of compliance with the City of Toledo's conditional use permit criteria has not been included in this application. The planning commission findings on regulatory compliance of the temporary baler facility can be found in City of Toledo Planning Commission Order CU-2-21(mod), provided as Attachment A.

## Conclusion

As demonstrated in this memorandum and attachment that together comprise the application package, the proposed permanent use of the baler facility and permanent status of the baler facility structure is compliant with applicable conditional use permit criteria and provisions of Toledo's codified municipal code. Dahl & Dahl, Inc., respectfully requests approval of the modifications to the conditional use permit as outlined in this application.

## Attachments

A. City of Toledo Planning Commission Order CU-2-21(mod)

B. As-Builts

# Attachment A

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City of Toledo Planning Commission Order CU-2-21(mod)



MAUL  
FOSTER  
ALONGI

**BEFORE THE PLANNING COMMISSION OF THE CITY OF TOLEDO, OREGON**

In the matter of a request for a modification to a )  
Conditional Use Permit to allow an expansion of )  
the waste transfer/recycling facility for the property )  
located at Lincoln County Assessor’s Map 11-10-7 )  
600, 5441 Hwy 20, Toledo )

**ORDER**

City of Toledo File # CU-2-21(mod)

Dahl & Dahl Inc. and Ryan Crotty (Authorized Agent), Applicants

This matter came before the Planning Commission on May 11, 2022. The Commission held a public hearing, allowing for testimony and introduction of evidence from proponents, opponents, and others. The Planning Commission evaluated the application based on the applicable criteria. The decision is based on the Staff Report and attachments, testimony presented at the public hearing, and the following Criteria, Facts, Findings and Conditions of Approval as adopted by the Planning Commission.

**APPLICABLE CRITERIA FOR EVALUATING THE CONDITIONAL USE:**

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

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

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

...

Industrial – This designation provides a wide variety of industrial and light-industrial uses and recognizes that some water-dependent uses such as boat building and repair are appropriate industrial uses within the industrial designation. The intent is to encourage industrial growth and provide for industrial development an appropriate locations in order to increase the level of employment, enhance the tax base, decrease service costs, and achieve a healthy diverse, and stable local economy. The Industrial plan designation is implemented by the zoning map designations of Industrial, Light-Industrial, and/or Water-Dependent.

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

...

Light-Industrial (L-I) – The purpose of the L-I zone is to provide area for lighter industrial development around the areas of heavy industry for manufacturing, related establishments, and

certain commercial and public uses which have a limited impact on surrounding properties.

### **3. TMC Sections 17.20.010 – 17.20.040 – Light Industrial (LI) Zone.**

#### **TMC 17.20.010 Purpose.**

The purpose of the light industrial zone is to implement the Toledo Comprehensive Land Use Plan by providing areas to serve a variety of manufacturing and other industrial activities with limited external impacts and to serve as a transition area between commercial, public and residential uses and heavier industrial uses.

Uses permitted in the L-I zone are often involved in the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling and warehousing. The external impact from these uses is generally less than uses permitted in the industrial zone, and transportation needs are often met by truck. Activities are generally located indoors, although there may be some outdoor storage, delivery, and loading. Offices and commercial uses are permitted on a limited basis, and only in conjunction with a permitted L-I use.

#### **TMC 17.20.020 Uses permitted outright.**

In the L-I zone, the following uses and their accessory uses are permitted, subject to applicable standards, provided that the uses occur in a building or buildings that together do not exceed forty thousand (40,000) square feet of floor area. Special standards for certain uses (marked with an asterisk (\*)) are found in Section 17.20.040.

- A. Assembly plants.
- B. Limited manufacturing.
- C. Contractor's warehouse and shop.
- D. Crane business and related operations.
- E. Storage in conjunction with a permitted use.
- F. Machine shop and fabrication.
- G. Mini-storage.
- H. Parking in conjunction with uses permitted in the L-I zone.
- I. Governmental and utility uses such as a pumping station, utility service yard, utility substation, public works shop, public safety services, or similar facilities.
- J. Separate office building and/or retail sales in conjunction with a permitted use.\*
- K. Wholesale trade.
- L. Auto body shop.\*
- M. Truck and car repair and service-minor.\*
- N. Boat building and/or boat repair and related launch facility.
- O. Automobile service stations.
- P. One security dwelling as a separate structure or one security dwelling as part of a building for light industrial use that complies with applicable codes for mixed use occupation. A security dwelling may only be allowed as an accessory use in conjunction with uses permitted in the L-I zone.\*
- Q. Temporary street vendors/seasonal commercial uses not to exceed six months.
- R. Uses permitted outright in the commercial zone, but only on parcels with frontage on Business Highway 20.
- S. Warehousing.
- T. Railroad line and associated uses.
- U. Commercial fishing gear maintenance, repair and storage.
- V. Food production and/or beverage production.
- W. Research and development.

- X. Low intensity recreation.
- Y. Timber-based operations, excluding milling and/or processing of wood and paper products.
- Z. Commercial marina or moorage, and or charter boat operation.
- AA. Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city Transportation System Plan).

TMC 17.20.030 Conditional uses permitted.

- A. A use permitted outright in the L-I zone, in which the building or buildings provided for the use exceed forty thousand (40,000) square feet of floor area.
- B. Bulk storage of flammable liquids and gases.
- C. Eating or drinking establishments, including take-out or drive-in services.
- D. Industrial museum.
- E. Processing and manufacturing operations, excluding the following: 1. Asphalt mixing and batching. 2. Explosives manufacturing. 3. Petroleum or petroleum products refining. 4. Fertilizer manufacture. 5. Gas manufacture. 6. Slaughterhouse or rendering facility.
- F. Shipping facilities.
- G. Shoreline stabilization as defined in the Lincoln County Estuary Management Plan.
- H. Truck and car repair and service—major.
- I. Waste transfer, recycling facility, or scrap metal facility.**
- J. Drive-in use for uses which are permitted outright or as conditional uses in the L-I zone.
- K. Concrete mixing and batching, but excluding asphalt mixing and batching.
- L. Medical marijuana dispensary facility.
- M. Marijuana producer, marijuana processor, marijuana wholesaler, and marijuana laboratory. Marijuana retailer may be approved when medical marijuana dispensary facility is an approved use at the same site.
- N. Uses which are similar in character, scale and performance to those permitted outright or conditionally in the L-I zone and which conform with the purpose of the zone.

*Staff Analysis: The property identified as 5441 Hwy 20 Toledo (Map 11-10-7 Tax Lot 600) is approximately 13.82 acres and located in the Light Industrial (LI) Zone.*

*The applicant, Dahl & Dahl Inc. (Authorized Agent- Ryan Crotty, Maul Foster & Alongi, Inc.) is requesting a modification to the Conditional Use to allow an expansion of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone. The new baler facility would receive materials including municipal solid waste (MSW) and old corrugated cardboard (OCC) rejects and have the material pressed into bales and wrapped before loaded onto trucks for transport to GP. The proposed modification is to Condition of Approval #3 to allow for the continued operation and use of the membrane structure for an additional four years (pending building official yearly reviews). The proposed modification based on the applicant's submittal documents is not changing the operations of the facility only the length of time the facility would operate. Therefore, the facts and findings for the modification stay consistent with the original approval.*

**4. 2000 Toledo Comprehensive Land Use Plan – Article 9: Economic Development, Goals 1, 3, 4, and 5, Objective 7:**

- GOAL 1. Improve the economic position of all elements of Toledo's economic base by retaining and expanding the current businesses while recruiting new businesses



into the community.

- GOAL 3. Diversify the economic base of the Toledo area and strengthen the role as the industrial center for Lincoln County.
- GOAL 4. Encourage employment and business opportunities that assist Toledo's residents to maintain the highest per household average income in Lincoln County.
- GOAL 5. Assure that regulatory requirements provide for high standards of public health, safety, environmental protection, and welfare but are structured to support economic development.
- OBJECTIVE 7. Maintain Toledo's economic strength in the wood products, fishing and other resource based industries while diversifying the industrial base within the community.

*Staff Analysis: In the application materials, the applicant states that, "Dahl and Dahl, Inc. (the applicant) currently operates the Toledo Transfer and Recycling Center in Toledo, Oregon. The facility receives municipal solid waste and recycling from residential and commercial customers from Toledo, Siletz, Waldport, Yachats, and rural southern and eastern Lincoln County. In collaboration with Georgia-Pacific (GP), the applicant has initiated a pilot program to test the effectiveness of Georgia-Pacific Juno's new baling and wrapping equipment." The subject property historically has been use as a recycling facility and storage units. Proposed development of the baler facility is a permitted Conditional Use within the LI Zone. The proposed baler facility meets the Comprehensive Land Use Plan Economic Development Goals and Objectives because the application, 1) improves the economic position of Toledo by retaining and expanding current businesses, 2) diversifies the economic base of Toledo, and 3) encourages employment and business opportunities that assist Toledo's residents maintain a high per household average income.*

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

## **EVALUATION CRITERIA – CONDITIONAL USE PERMITS**

### **5. TMC 17.64.010 – 17.64.050 Conditional Use Permits**

#### 17.64.010 Purpose.

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

#### 17.64.020 Authorization to grant or deny conditional use permits.

Uses designated in this ordinance as permitted conditional uses may be permitted by the planning commission in accordance with the standards and procedures specified in this ordinance. **Future significant enlargements or major alterations of a conditional use shall also be reviewed by the commission and new conditions may be imposed.** Change in use, expansion or contraction of site

area, or alteration of structures or uses which are classified as conditional but which existed prior to the effective date of this ordinance, shall conform to all regulations pertaining to conditional uses.

17.64.030 Application submission requirements for conditional use permits.

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

17.64.040 Conditions for development.

The planning commission shall review and make a decision to approve or deny a conditional use request in accordance with the standards and procedures for a Type III review as set forth in Toledo Municipal Code Chapter 19.16.

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

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

17.64.050 Standards governing conditional uses.

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

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

2. The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in paragraph (1) of this subsection.

*Staff analysis: On November 4, 2020 the City Council approved the temporary Research & Development (R & D) for Dahl Disposal for six months. During the temporary six month approval Dahl could apply for the Conditional Use Permit for further operations. The temporary tent was constructed in March 2021.*

*The six month temporary approval for R & D expired on May 4, 2021. The applicant submitted an application for a conditional use on April 7, 2021. The conditional use application was reviewed by the Toledo Planning Commission on May 12, 2021. The conditional use application would not be approved prior to the temporary R & D expiring, therefore, staff requested that the applicant submit a request to renew the temporary R & D. The temporary R & D proposal was reviewed by City Council on May 5, 2021 for renewal. The Planning Commission reviewed and approved the conditional use on May 12, 2021. The conditional use modification application evaluated by the Planning Commission will allow long term operation of the membrane facility.*

*The applicant is requesting continued operation of the baler facility. CU-2-21 had a condition of approval that required the applicant to replace the temporary tent with a permanent structure. Also this allowed for the Toledo Fire Department to approve the extension of the temporary structure. The proposed amended condition allows greater flexibility for the applicant and allows the use of the membrane structure until March 31, 2026 contingent on Lincoln County Building Official yearly review. The applicant is not proposing any changes to the original structure that was approved.*

#### *History of Land Use and Building Permit Approvals*

- *December 1992 Lincoln County Conditional Use for a waste transfer facility*
- *February 22, 1994 Urban Growth Boundary Expansion and Annexation*
- *July 20, 1998 Removal and Fill Permit*
- *May 17, 1999 and June 1, 1999 Building Permits for storage units*
- *June 15, 2000 Retaining wall permit*
- *September 10, 2001 Building permit for a 30' x 70' Building*
- *October 10, 2002 Removal fill permit*
- *December 23, 2002 Building Permit for Storage units*
- *June 16, 2003 Building Permit for a 1,350 square foot storage unit building*
- *June 19, 2002 Removal and Fill Permit*
- *June 19, 2007 Removal and Fill Permit*
- *April 15, 2010 a conditional use (CU-2-10) to add the recycling of vehicles to the transfer and recycling operation was approved by the Toledo Planning Commission.*
- *May 13, 2010 DMV Dismantler permit (Land Use Compatibility Statement)*
- *April 22, 2013 DMV Dismantler permit (Land Use Compatibility Statement)*
- *March 24, 2016 DMV Dismantler permit (Land Use Compatibility Statement)*
- *April 1, 2019 DMV Dismantler permit (Land Use Compatibility Statement)*
- *November 4, 2020 City Council Temporary R & D approval*
- *November 16, 2020 DEQ Land Use Compatibility Statement*
- *December 4, 2020 Removal and Fill Permit*
- *May 12, 2021 CU-2-21 Approval*
- *August 23, 2021 Certificate of Occupancy Approval until March 3, 2022*

- March 1, 2022 Certificate of Occupancy Approval until June 1, 2022

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

- 1) The approximately 13.82 acre site has been in use as a solid waste and recycling transfer facility since 1992. Continued use of the baler facility for research and development purposes would be operationally consistent with the existing land use on the site. The baler facility has already been designed and constructed. The facility is located directly northeast and uphill of the primary transfer facility. The distance between these operations allows for truck queuing internally at the site and provides an adequate operational area for the two facilities to operate in harmony. The facility was designed with the minimum footprint necessary to meet operational needs, and these improvements were constructed in a portion of the site that had been previously disturbed, thereby avoiding impacts to sensitive natural resources.
- 2) The baler facility consists of a 100-foot by 100-foot, 10,000-square-foot concrete pad. The baler equipment is staged on the pad and enclosed by a heavy-duty tent that is approximately 30 feet tall. Construction of the facility included improving truck access and queuing in the site and extending utilities (water, sewer, stormwater, and power) to the baler facility. These improvements were completed in March 2021. The facility began testing the equipment in March 2021.
- 3) Highway 20 provides access to the site and the existing driveway serves both trucks using the baler facility and the primary solid waste and recycling transfer facility. As demonstrated by years of use by Dahl Disposal Services, the existing access to the site is adequate for this type of use. There have been no access or transportation issues reported since the baler facility began testing the installed equipment in March 2021.
- 4) The baler facility was constructed in a part of the site that was already disturbed and avoided impacting sensitive natural resources. The facility is located directly uphill of the primary solid waste and recycling transfer facility in a naturally occurring U-shaped bowl. The topography of this feature screens the baler facility from adjacent properties.
- 5) The continued use of the baler facility would not introduce new impacts to surrounding land uses and properties. This is because the baler facility does not constitute a new use, rather, it serves as a limited expansion of the existing solid waste and recycling transfer facility. While the intensity of the use will marginally increase due to expansion of operations at the site, no additional offsite impacts are anticipated given the unique characteristics of the site and nature of the baler facility's operation.
- 6) The site itself is bordered by Highway 20 to the east and forest land to the north. These are not sensitive uses or environments that would be affected by operation of the baler facility. There are single-family homes to the east and west; however, these are located at least 600 feet away and screened from the site by topography and heavy vegetation. Operationally, impacts from the baler facility would be consistent with, or less than, the primary solid waste and recycling transfer facility on the site. Cumulatively, noise, traffic, odor, visual, vibration, light or glare, and land use impacts would remain within the tolerance expected and accepted by the existing solid waste and recycling transfer facility operation.

Businesses within the City are required to have a business license to engage in business activity in the City of Toledo (TMC 5.04). Dahl & Dahl Inc. currently has an active business license. Staff recommends a condition of approval that a business license is required for anyone engaging in business activity in the City (TMC 5.04).

*The requested conditional use permit to allow an expansion of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone meets the criteria in TMC 17.64.050(A).*

- 1. The proposed baler facility is suitable for the site, considering the lot size, and applicant's proposed design and operating characteristics of the use.*
- 2. The property has proper access to a state highway, Highway 20. The Oregon Department of Transportation (ODOT) was sent notice and no comments were received. Staff recommends a condition of approval that any driveway improvements are coordinated with ODOT.*
- 3. The applicant submitted a preliminary geo-tech report to the City of Toledo. Staff recommends a condition of approval that the final geo-tech report shall be submitted to the City of Toledo.*
- 4. The proposed baler facility is buffered from surrounding uses.*

*As part of the 2021 approval, the Toledo Fire Department provided comments on the proposed baler facility. Based on Oregon Fire Code Section 3103.5, temporary tent structures are limited to 180 days. The tent structure was in place on, or around, March 1, 2021. Staff worked closely with the Lincoln County Building Department, Toledo Fire Department and the applicant to come up with a solution to allow the membrane structure to be located on the property for an additional amount of time. The proposed temporary tent may be allowed longer pending a yearly Lincoln County Building Official Review. Staff recommends a condition of approval that the applicant shall be allowed to operate out of the existing membrane structure through the end of their Research and Development phase of the Baling project, March 31, 2026, subject to yearly review by the Lincoln County Building Official and a valid Certificate of Occupancy.*

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

*Authorization of the conditional use shall be void after one year if a building permit has not been issued or development has not begun. Authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization. Note: a Certificate of Occupancy has been issued for the membrane structure and this condition is met. The continued use of the membrane structure will be contingent upon meeting condition 3.*

**B.** In addition to other standards of the zone in which the conditional use is located, certain uses shall comply with the following additional standards:

...

- 3.** Waste transfer, recycling facility, or scrap metal facility.
  - a. Facilities must be fenced and shall be secured from unauthorized entry and the removal of materials when attendants are not present.
  - b. Facilities and storage shall be located no closer than thirty (30) feet from any property line.
  - c. Hours of operation shall be established, and the facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation.
  - d. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall be cleaned of loose debris on a daily basis.

- e. Space shall be provided on the site for the anticipated peak load of customers to circulate, park, and deposit recyclable materials.
- f. Containers provided for after-hours donations of recyclable materials shall be at least fifty (50) feet from any property zoned general residential or single-family residential, shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate the materials collected, and shall be secure from unauthorized entry or the removal of materials.
- g. Donation areas shall be kept free of litter, odors, pests, and any other undesirable material. The containers shall be clearly marked to identify the type of material, which may be deposited. The facility shall display a notice stating that no material shall be left outside the recycling containers.

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

- a. *Access to the site is provide by Highway 20, and the existing driveway entrance is gated to prevent unauthorized entry when the facility is closed. While the baler facility is not fenced, the steep topography and remote location of the facility effectively precludes unauthorized entry, which substantially complies with this requirement.*
- b. *The smallest setback between the baler facility and a property line (front yard) is approximately 80 feet.*
- c. *Although the baler facility is not open for public use, its hours of operation are consistent with the primary solid waste and recycling transfer station (8:30 a.m. to 4:30 p.m.) at the site. The baler facility would remain in operation seven days a week.*
- d. *As coordinated with the Oregon Department of Environmental Quality, operation of the baler facility is covered under the primary solid waste and recycling transfer station operational permit or site designation; an update to the site's Operations Plan is currently underway. A component of the plan is to establish best management practices for facility operation. This includes, but is not limited to, specific measures and good practices to contain all recyclables and waste on-site, reduce odor, prevent pests or vectors, and maintain a general level of cleanliness. As the baler facility will be included in the amended Operations Plan, all Oregon Department of Environmental Quality-approved operational best management practices would apply.*
- e. *The baler facility would not be open to public use.*

*Based on the submitted materials and staff review the following findings are proposed.*

- a. *The existing driveway access is gated which prevents unauthorized access to the facility. The entire property is not fenced but the property is elevated and steep slopes prevent unauthorized entry.*
- b. *The proposed structure will be located approximately 80 feet from the closest property line. Staff finds that the facilities and storage will not be located closer than thirty (30) feet from any property line.*
- c. *The baler facility is not open for public use. The baler facility will be open seven days a week from 8:30 am – 4:30 pm.*
- d. *The applicant is in the process of updating the site's Operation plan and coordinating that update with Oregon Department of Environmental Quality (DEQ). The Operations Plan includes best practices to contain all recyclables and solid waste. The applicant states the baler facility will be included in the amended Operations Plan. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall be cleaned of loose debris on a daily basis. Staff recommends that this is listed as a condition of approval.*

- e. *The proposed baler facility is located away from the existing recycling buildings and equipment. The proposed baler facility is not open to the public, no after-hours recycling, and no donation areas are proposed with this application. TMC 17.64.050(B)(3)(e-g) are not applicable to this application.*

*Staff finds based on the information in the record the application meets the criteria in TMC 17.64.050(B)(3).*

## **FACTS AND FINDINGS:**

The applicant is requesting approval of a modification to the conditional use to allow a revised condition of approval for the expansion of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone. The baler facility would receive materials including municipal solid waste (MSW) and old corrugated cardboard (OCC) rejects and have the material pressed into bales and wrapped before loaded onto trucks for transport to GP. Based upon the information received by City staff through May 5, 2022, the modified conditional use request appears to conform with relevant provisions of the City's plans and ordinances as described below. The following recommended findings support approval of the modified conditional use:

1. The property identified as 5441 Hwy 20, Toledo (Map 11-10-7 Tax Lot 600) is approximately 13.82 acres and located in the Light Industrial (LI) Zone.
2. The applicant, Dahl & Dahl Inc. (Authorized Agent- Ryan Crotty, Maul Foster & Alongi, Inc.) is now requesting a modification to the Conditional Use to allow an expansion of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone. The new baler facility would receive materials including municipal solid waste (MSW) and old corrugated cardboard (OCC) rejects and have the material pressed into bales and wrapped before loaded onto trucks for transport to GP. The proposed modification is to Condition of Approval #3 to allow for the continued operation and use of the membrane structure for an additional four years (pending building official yearly reviews). The proposed modification based on the applicant's submittal documents is not changing the operations of the facility only the length of time the facility would operate. Therefore, the facts and findings for the modification stay consistent with the original approval.
3. In the application materials, the applicant states that, "Dahl and Dahl, Inc. (the applicant) currently operates the Toledo Transfer and Recycling Center in Toledo, Oregon. The facility receives municipal solid waste and recycling from residential and commercial customers from Toledo, Siletz, Waldport, Yachats, and rural southern and eastern Lincoln County. In collaboration with Georgia-Pacific, the applicant has initiated a pilot program to test the effectiveness of Georgia-Pacific Juno's new baling and wrapping equipment." The subject property historically has been used as a recycling facility and storage units. Proposed development of the baler facility is a permitted Conditional Use within the LI Zone. The proposed baler facility meets the Comprehensive Land Use Plan Economic Development Goals and Objectives because the application, 1) improves the economic position of Toledo by retaining and expanding current businesses, 2) diversifies the economic base of Toledo, and 3) encourages employment and business opportunities that assist Toledo's residents maintain a high per household average income.

4. The application has been reviewed in compliance with and is consistent with Toledo's Comprehensive Land Use Plan goals and policies.
5. On November 4, 2020 the City Council approved the temporary Research & Development (R & D) for Dahl Disposal for six months. During the temporary six month approval Dahl could apply for the Conditional Use Permit for further operations. The temporary tent was constructed in March 2021.

The six month temporary approval for R & D expired on May 4, 2021. The applicant submitted an application for a conditional use on April 7, 2021. The conditional use application was reviewed by the Toledo Planning Commission on May 12, 2021. The conditional use application would not be approved prior to the temporary R & D expiring, therefore, staff requested that the applicant submit a request to renew the temporary R & D. The temporary R & D proposal was reviewed by City Council on May 5, 2021 for renewal. The Planning Commission reviewed and approved the conditional use on May 12, 2021. The conditional use modification application evaluated by the Planning Commission will allow long term operation of the membrane facility.

6. The applicant is requesting continued operation of the baler facility. CU-2-21 had a condition of approval that required the applicant to replace the temporary tent with a permanent structure. Also, this allowed for the Toledo Fire Department to approve the extension of the temporary structure. The proposed amended condition allows greater flexibility for the applicant and allows the use of the membrane structure until March 31, 2026 contingent on Lincoln County Building Official yearly review. The applicant is not proposing any changes to the original structure that was approved.
7. According to the application materials, the owner provides the following information for the proposed development:
  - a. The approximately 13.82 acre site has been in use as a solid waste and recycling transfer facility since 1992. Continued use of the baler facility for research and development purposes would be operationally consistent with the existing land use on the site. The baler facility has already been designed and constructed. The facility is located directly northeast and uphill of the primary transfer facility. The distance between these operations allows for truck queuing internally at the site and provides an adequate operational area for the two facilities to operate in harmony. The facility was designed with the minimum footprint necessary to meet operational needs, and these improvements were constructed in a portion of the site that had been previously disturbed, thereby avoiding impacts to sensitive natural resources.
  - b. The baler facility consists of a 100-foot by 100-foot, 10,000-square-foot concrete pad. The baler equipment is staged on the pad and enclosed by a heavy-duty tent that is approximately 30 feet tall. Construction of the facility included improving truck access and queuing in the site and extending utilities (water, sewer, stormwater, and power) to the baler facility. These improvements were completed in March 2021. The facility began testing the equipment in March 2021.
  - c. Highway 20 provides access to the site and the existing driveway serves both trucks using the baler facility and the primary solid waste and recycling transfer facility. As demonstrated by years of use by Dahl Disposal Services, the existing access to the site is adequate for this type of use. There have been no access or transportation issues reported since the baler facility began testing the installed equipment in March 2021.



- d. The baler facility was constructed in a part of the site that was already disturbed and avoided impacting sensitive natural resources. The facility is located directly uphill of the primary solid waste and recycling transfer facility in a naturally occurring U-shaped bowl. The topography of this feature screens the baler facility from adjacent properties.
  - e. The continued use of the baler facility would not introduce new impacts to surrounding land uses and properties. This is because the baler facility does not constitute a new use, rather, it serves as a limited expansion of the existing solid waste and recycling transfer facility. While the intensity of the use will marginally increase due to expansion of operations at the site, no additional offsite impacts are anticipated given the unique characteristics of the site and nature of the baler facility's operation.
  - f. The site itself is bordered by Highway 20 to the east and forest land to the north. These are not sensitive uses or environments that would be affected by operation of the baler facility. There are single-family homes to the east and west; however, these are located at least 600 feet away and screened from the site by topography and heavy vegetation. Operationally, impacts from the baler facility would be consistent with, or less than, the primary solid waste and recycling transfer facility on the site. Cumulatively, noise, traffic, odor, visual, vibration, light or glare, and land use impacts would remain within the tolerance expected and accepted by the existing solid waste and recycling transfer facility operation.
8. Based on the submitted materials and staff review the following findings are proposed.
- a. The existing driveway access is gated which prevents unauthorized access to the facility. The entire property is not fenced but the property is elevated and steep slopes prevent unauthorized entry.
  - b. The proposed structure will be located approximately 80 feet from the closest property line. Staff finds that the facilities and storage will not be located closer than thirty (30) feet from any property line.
  - c. The baler facility is not open for public use. The baler facility will be open seven days a week from 8:30 am – 4:30 pm.
  - d. The applicant is in the process of updating the site's Operation plan and coordinating that update with Oregon Department of Environmental Quality (DEQ). The Operations Plan includes best practices to contain all recyclables and solid waste. The applicant states the baler facility will be included in the amended Operations Plan. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall be cleaned of loose debris on a daily basis. Staff recommends that this is listed as a condition of approval.
  - e. The proposed baler facility is located away from the existing recycling buildings and equipment. The proposed baler facility is not open to the public, no after-hours recycling, and no donation areas are proposed with this application. TMC 17.64.050(B)(3)(e-g) are not applicable to this application.
9. A portion of the subject property is located within the floodplain and is located within an area identified as wetlands. The proposed location of the baler facility is not located within the area identified as floodplain or wetlands. A wetland land use notification (WLUN) was sent to the Department of Statelands (DSL) on October 29, 2020 (WN2020-0795). The proposed location has not changed and the DSL response indicated that the proposed construction appears to avoid impacts to jurisdictional wetlands or waters.
10. Based on City records, Dahl & Dahl Inc. has a business license to engage in business activity in

the City of Toledo (TMC 5.04).

11. The requested conditional use permit to allow an expansion of the waste transfer/recycling facility for the operation of a baler facility in the Light-Industrial Zone meets the criteria in TMC 17.64.050(A).
  - a. The proposed baler facility is suitable for the site, considering the lot size, and applicant's proposed design and operating characteristics of the use.
  - b. The property has proper access to a state highway, Highway 20.
  - c. The applicant submitted a preliminary geo-tech report to the City of Toledo.
  - d. The proposed baler facility is buffered from surrounding uses.
12. As part of the 2021 approval, the Toledo Fire Department provided comments on the proposed baler facility. Based on Oregon Fire Code Section 3103.5, temporary tent structures are typically limited to 180 days. The tent structure was in place on, or around, March 1, 2021. Staff worked closely with the Lincoln County Building Department, Toledo Fire Department and the applicant to come up with a solution to allow the membrane structure to be located on the property for an additional amount of time. The proposed temporary tent may be allowed longer pending a yearly Lincoln County Building Official Review. Staff recommends a condition of approval that the applicant shall be allowed to operate out of the existing membrane structure through the end of their Research and Development phase of the Baling project, March 31, 2026, subject to yearly review by the Lincoln County Building Official and a valid Certificate of Occupancy.
13. The request by the current owner, Dahl & Dahl Inc., would be compatible with surrounding land uses. Neighboring properties to the West and North are zoned County Timber Conservation (T-C). Neighboring properties to the East are zoned County Agricultural Conservation (A-C) and City Light Industrial (LI). Neighboring properties to the South are County Agricultural Conservation (A-C) and County Timber Conservation (T-C). The proposed development will be compatible with the current rural and industrial character and flavor of the neighborhood.
14. Based on TMC 17.64.040, the Planning Commission has authority to impose conditions to mitigate issues the Commission finds appropriate, such as minimize environmental effects such as noise/vibration/air pollution/glare/odor, establish open spaces, limit building height or vehicle access points, provide screening/drainage/fencing/parking/landscaping improvements, limit signs and outdoor lighting, or protect existing natural resources.
15. The City Public Works Director, Police and Fire Chief have all reviewed the application and had no issues with the proposal.
16. City water and city sewer are currently not available.
17. Notification to surrounding property owners, 19 public/service agencies, and publication of the proposed Conditional Use Permit were completed in accordance with the Toledo Municipal Code requirements.

**CONDITIONS OF APPROVAL:**

1. Approval is based upon the submitted application and plan, as described in Attachment A of

the Staff Report. Development shall conform with the proposed plan and any significant change shall be submitted to the City Planning Department as a modification to the conditional use permit.

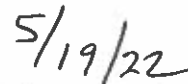
2. Any driveway improvements must be coordinated and approved by the Oregon Department of Transportation (ODOT).
3. The applicant shall be allowed to operate out of the existing membrane structure through the end of their Research and Development phase of the Baling project, March 31, 2026, subject to yearly review by the Lincoln County Building Official and a valid Certificate of Occupancy
4. The final geo-tech report shall be submitted to the City of Toledo.
5. The site shall be maintained free of litter, odors, pests, and any other undesirable material, and shall be cleaned of loose debris on a daily basis.
6. A business license is required for anyone engaging in business activity in the City (TMC 5.04).
7. Authorization of the conditional use shall be void after one year if a building permit has not been issued or development has not begun. Authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization. Note: a Certificate of Occupancy has been issued for the membrane structure and this condition is met. The continued use of the membrane structure will be contingent upon meeting condition 3.

Based on the testimony received, the staff report, and the evidence and arguments before the Planning Commission at the public hearing on May 11, 2022, the Planning Commission finds that the request by Dahl & Dahl Inc. and authorized agent Ryan Crotty, Maul Foster & Alongi, Inc., (CU-2-21(mod)) complies with the criteria identified in Toledo Municipal Code 17.64.050. The Planning Commission hereby adopts the staff report as findings, as well as the proposed conditions of approval for CU-2-21(mod), and allowing for the correction of typographical and grammatical errors.

IT IS ORDERED that the request for a modification to a Conditional Use Permit in this matter is granted.



PLANNING COMMISSION PRESIDENT



DATE

# Attachment B

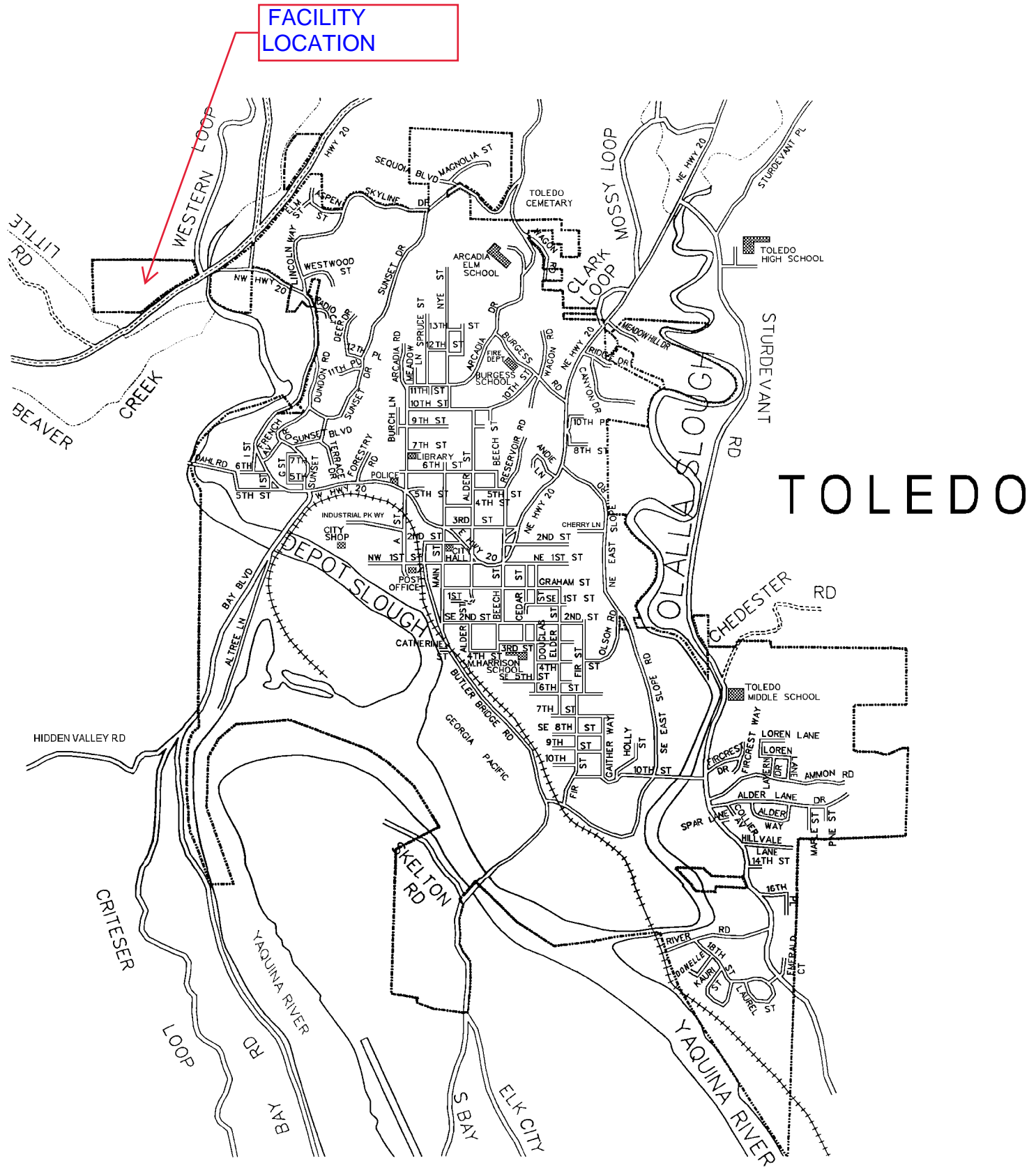
---

## As-Builts




MAUL  
FOSTER  
ALONGI

Indicate the location of your project by circling the general area on the map below:



PLOTTED ON: 2021-07-08 08:54 AM PLOTTED BY: Andres Aguirre FILENAME: C:\00\_MFA\CAD\3D\00\_PROJECTS\0766.03.01\_Draft Toledo Bala Facility Plans\Building Permit\C2.0 SITE PLAN.dwg



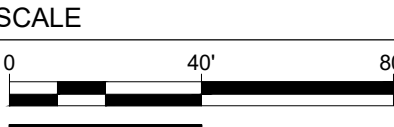

**MAUL FOSTER A LONGI**  
 3140 NE BROADWAY STREET  
 PORTLAND, OR 97232  
 PHONE: 971.544.2139  
 www.maulfofoster.com



**DAHL & DAHL**  
**BAILING FACILITY BUILDING**  
**PERMIT PLAN SET**  
  
**DAHL & DAHL, INC**  
 TOLEDO, OREGON

ISSUE	DATE	PERMIT SET	DESCRIPTION
A	01/07/2021	PERMIT SET	

PROJECT: 0766.03.01  
 DESIGNED: C. GOKCORA  
 DRAWN: A. AGUIRRE  
 CHECKED: N. ALONGI

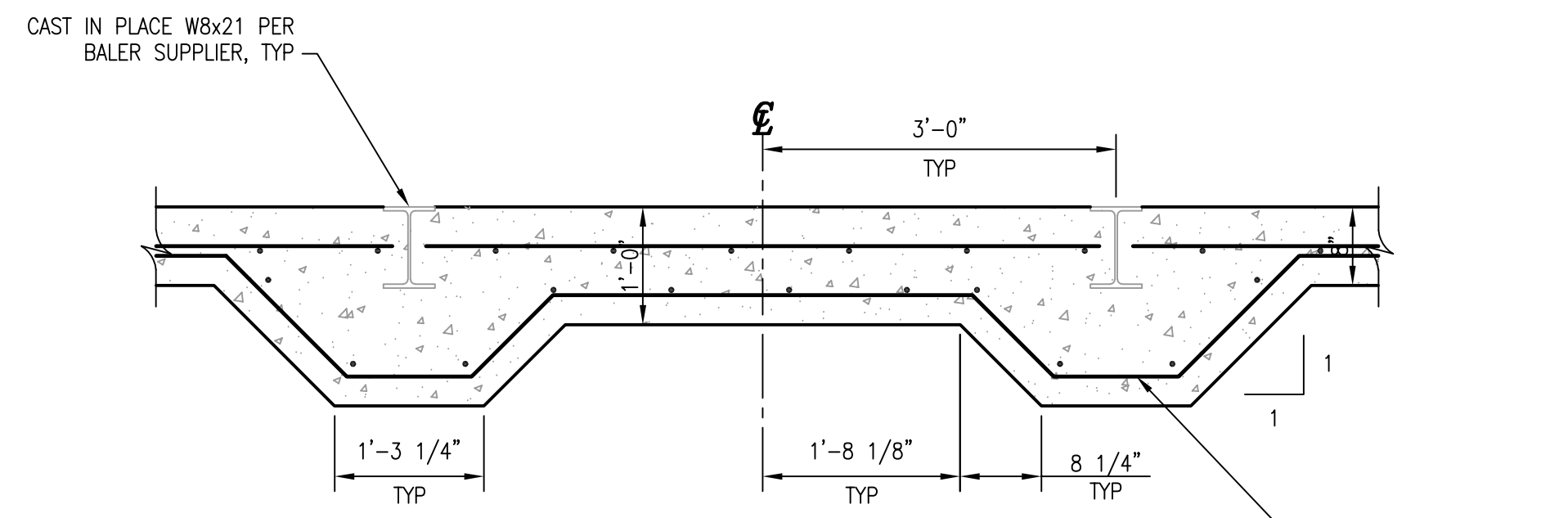


NOTE: BAR IS ONE INCH ON ORIGINAL DRAWING. IF NOT ONE INCH ON THIS SHEET, ADJUST SCALE ACCORDINGLY.

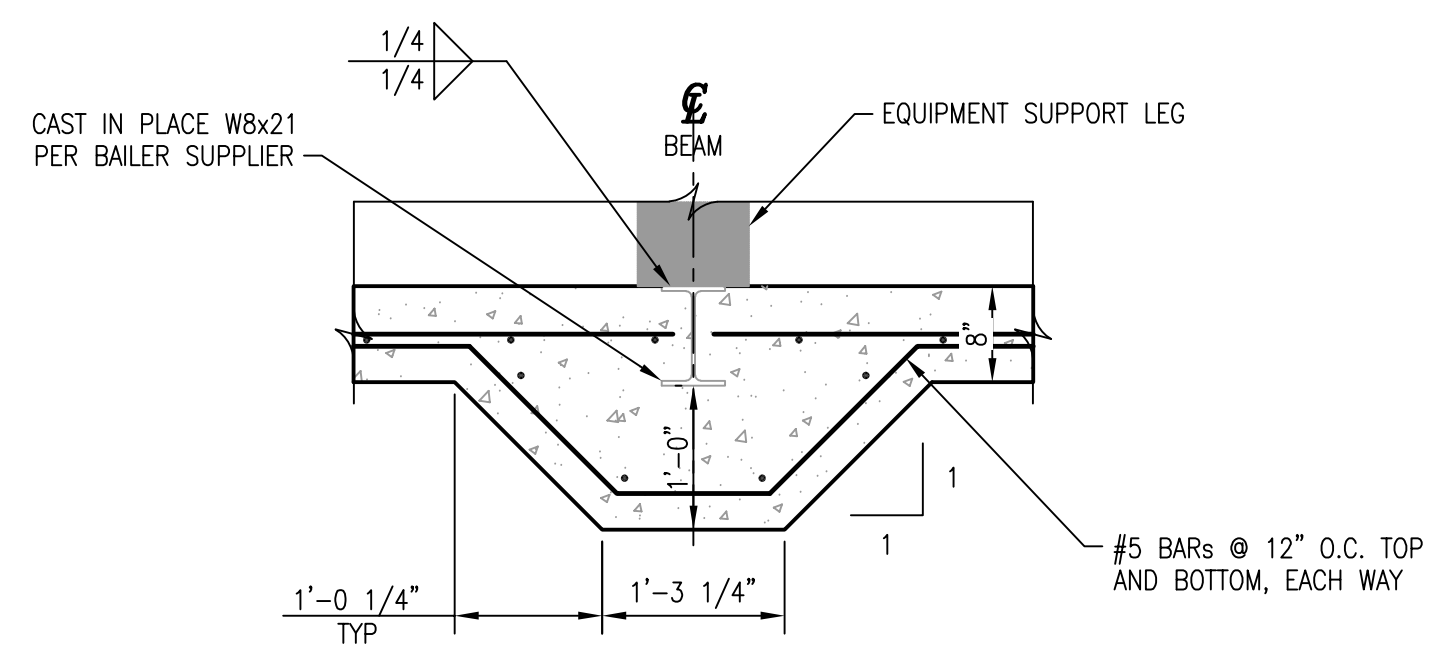
SHEET TITLE  
**SITE PLAN**  
 SHEET  
**C2.0**

PERMIT DOCUMENT

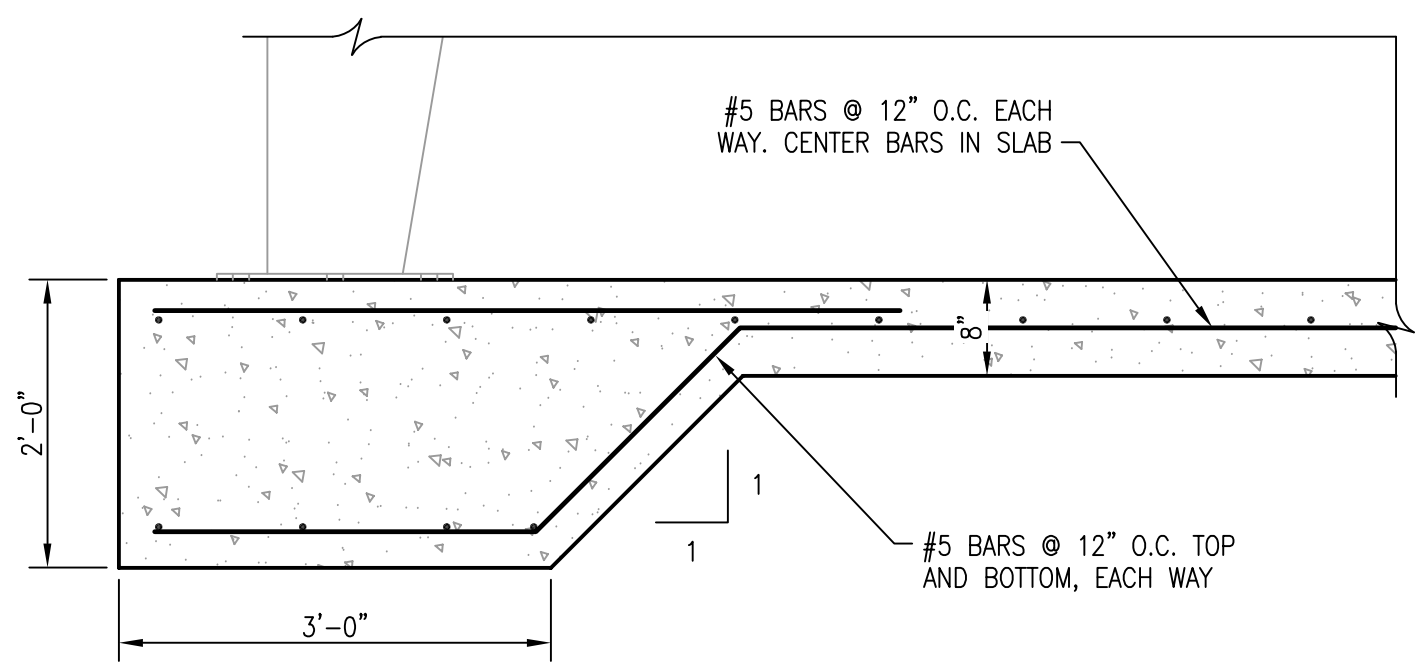
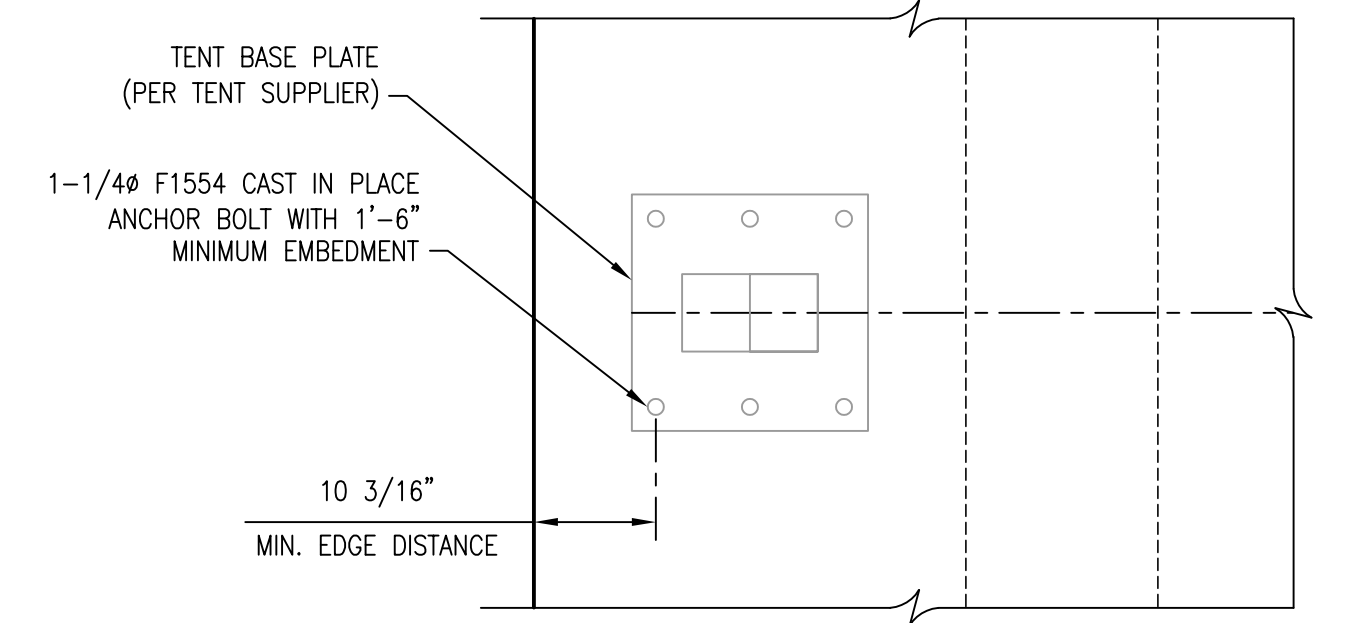




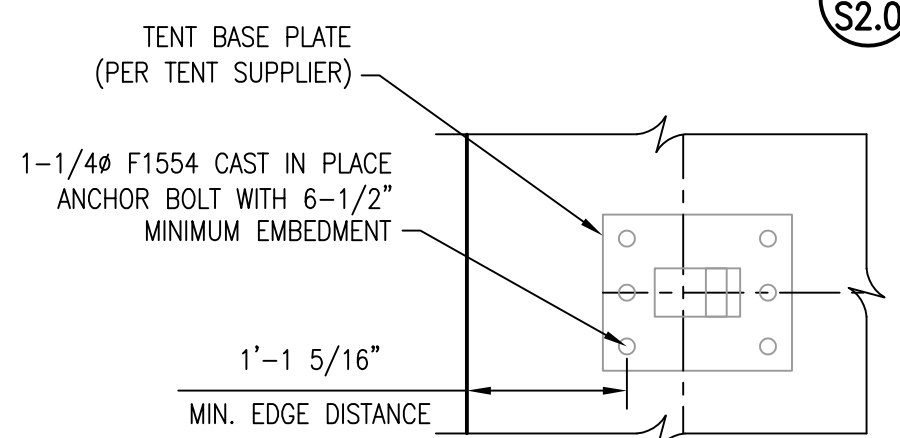
**A BAILER SLAB SECTION**  
S2.0 3/4" = 1'-0"



**B THICKENED SLAB**  
S2.0 3/4" = 1'-0"



**C STRIP FOOTING**  
S2.0 3/4" = 1'-0"

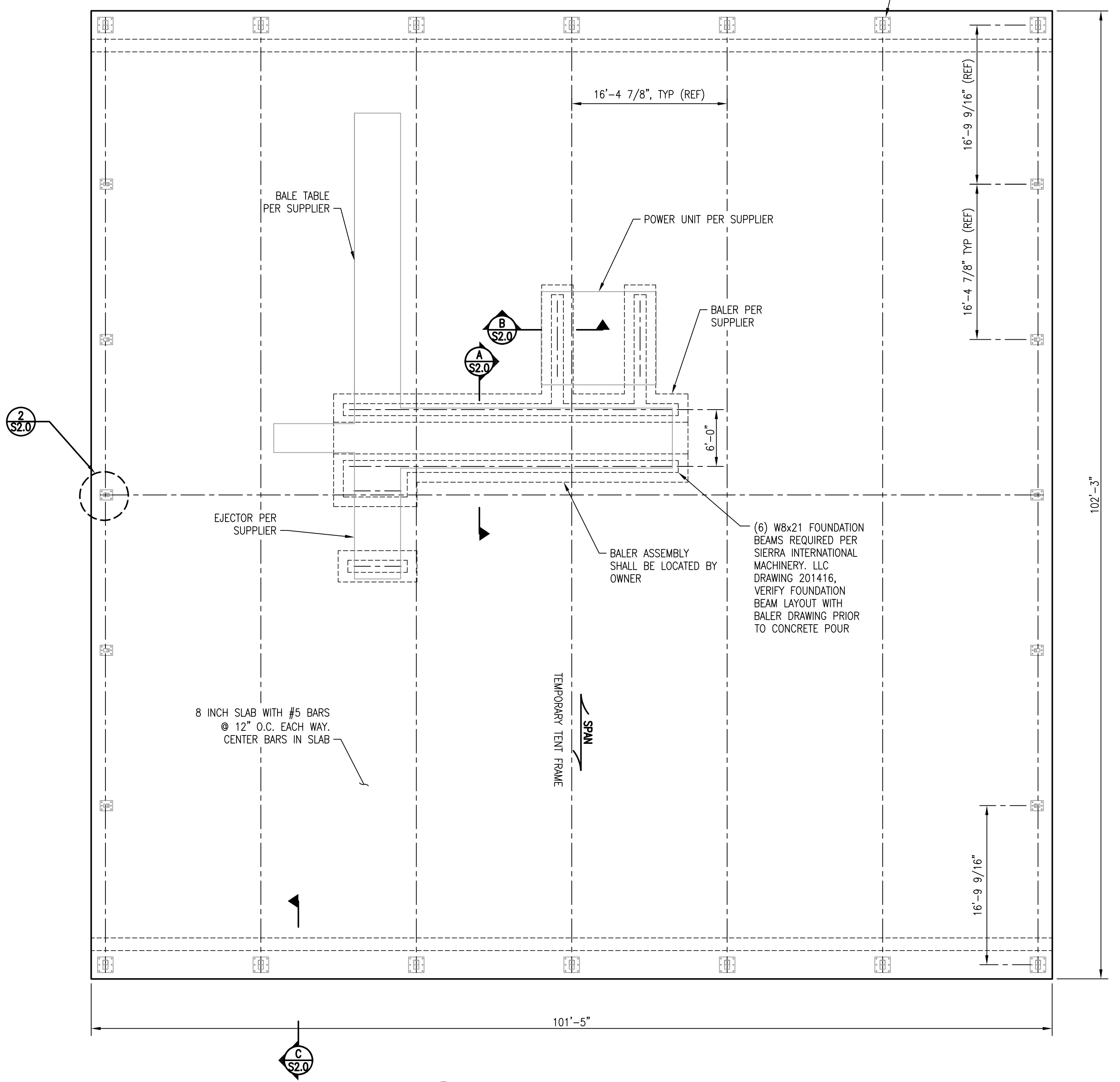


**2 WIND COLUMN BASE**  
S2.0 3/4" = 1'-0"

NOTE:  
TENT COLUMN BASE PLATES SHALL BE LOCATED PER TENT MANUFACTURER. MINIMUM EDGE DISTANCE FROM CENTER OF ANCHOR BOLT TO EDGE OF SLAB SHALL NOT BE LESS THAN WHAT IS SHOWN IN THIS DRAWING.

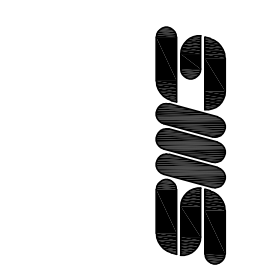
NOTE:  
ALL NECESSARY CONDUIT SHALL BE LAID PRIOR TO THE INSTALLATION OF THE SLAB FOUNDATION

VERIFY LAYOUT WITH LOSBERGER DRAWING PRIOR TO POURING FOUNDATION



**1 SLAB PLAN 1**  
S2.0 3/16" = 1'-0"

MAUL FOSTER ALONGI  
3140 NE BROADWAY STREET  
PORTLAND, OR 97232  
PHONE: 971.544.2139  
www.maulfooster.com



DAHL & DAHL Baling Facility  
DAHL & DAHL  
TOLEDO, OREGON

NO.	DATE	DESCRIPTION

PROJECT: SMG 20329B  
DESIGNED: SMG  
DRAWN: SMG  
CHECKED: SMG  
SCALE  
0 50' 100'  
NOTE: BAR IS ONE INCH ON ORIGINAL DRAWING. IF NOT ONE INCH ON THIS SHEET, ADJUST SCALE ACCORDINGLY.

FOUNDATION PLAN AND DETAILS

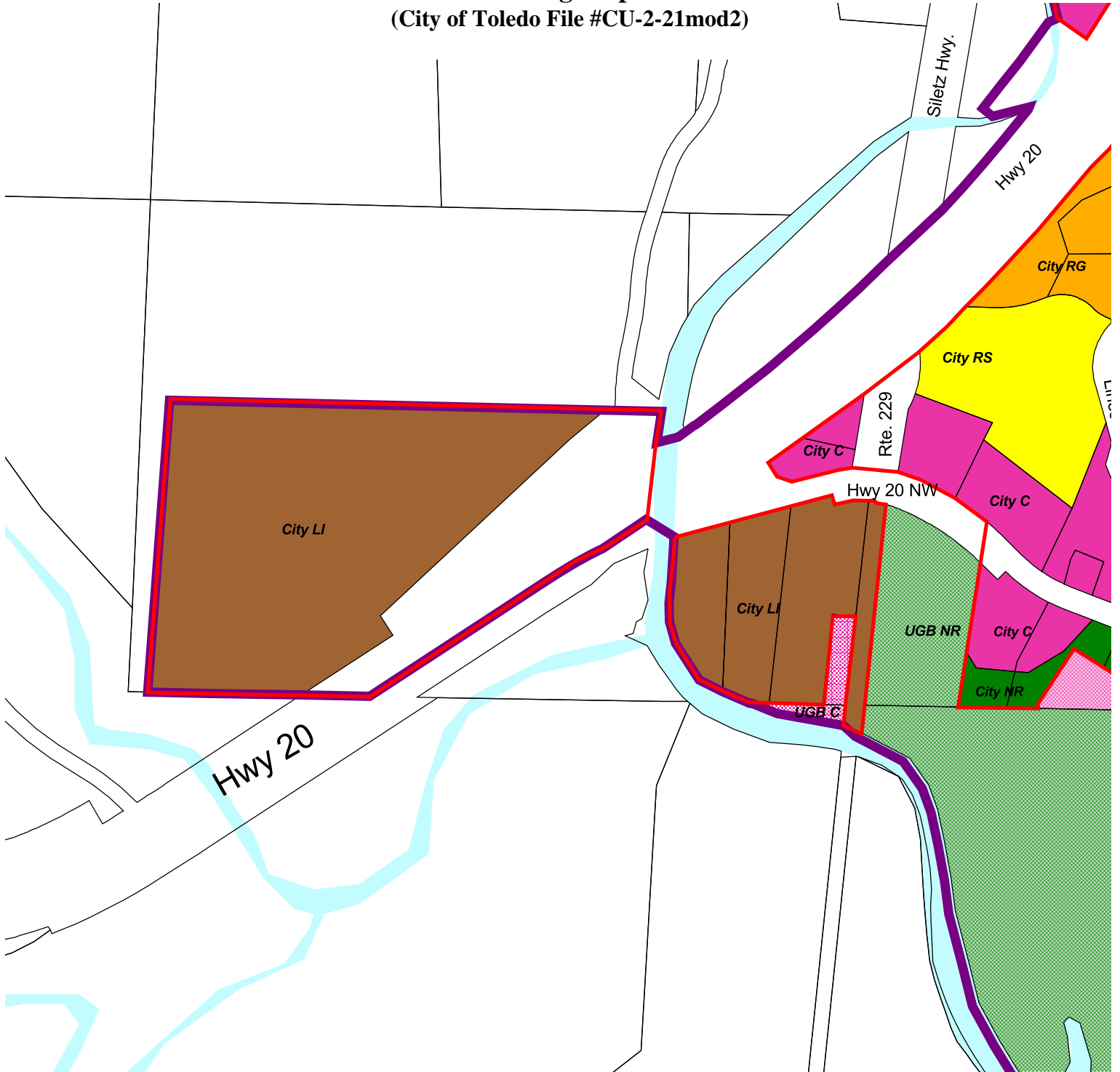
SHEET  
S2.0



# ATTACHMENT B

## Zoning Maps

(City of Toledo File #CU-2-21mod2)



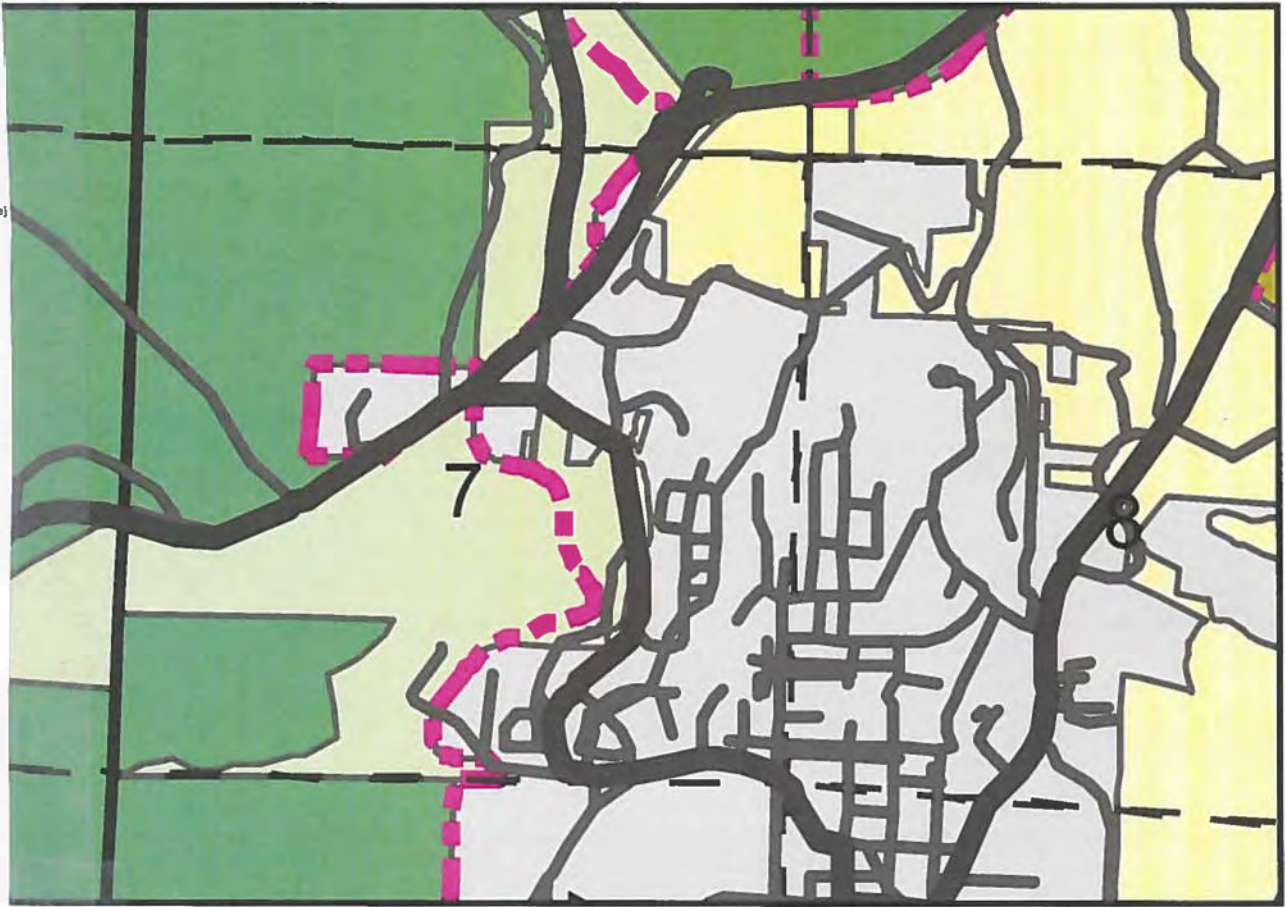
- City Limits
- UGB
- Parcels
- Railroad
- Comprehensive Plan
- Commercial
- Industrial
- Light Industrial
- Natural Resources
- Public Lands
- Residential General
- Residential Single
- Water Dependent
- Outside UGB
- UGB Commercial
- UGB Industrial
- UGB Low Density Residential
- UGB Medium Density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



# Lincoln County Zoning

## Zones

-  A-C [Agricultural Conservation]
-  C-1 [Retail Commercial]
-  C-2 [General Commercial]
-  C-T [Tourist Commercial]
-  CITY
-  DMDS [Dredged Material Deposit Site]
-  I-P [Planned Industrial]
-  I-PDMS
-  M-P [Planned Marine]
-  M-P DMDS
-  M-W [Marine Waterway]
-  P-F [Public Facilities]
-  R-1 [Residential]
-  R-1 PD
-  R-1-A [Residential]
-  R-2 [Residential]
-  R-4 [Residential]
-  RR-2 [Rural Residential]
-  RR-2 PD [Rural Residential Planned Development]
-  RR-5 [Rural Residential]
-  RR-5 DMDS
-  T-C [Timber Conservation]
-  Urban Growth Boundary
-  Rural Community Boundary





# ATTACHMENT C

## Aerial Map

(City of Toledo File #CU-2-21mod2)



**Legend**

-  Cities
-  Sections
-  40 Foot Contours

Printed on 5 / 2 / 2024

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1400 Queen Ave SE • Suite 201 • Albany, OR 97322  
(541) 967-8630 • FAX (541) 967-6123

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## MEMORANDUM

**DATE:** May 1, 2024  
**TO:** Toledo Planning Commission  
**FROM:** Justin Peterson  
**RE:** Partition and Subdivision Code Updates

---

The discussion at the March and April meetings focused on TMC 16.04.050 General requirements and minimum standards of design and development. Specifically, Access (Section B) and Standards for Lots (Section E). Today's meeting will focus on the Chapter 16.08 Minor and Major Land Partitions and 16.12 Subdivisions.

Summary of Updates reviewed by the Planning Commission:

### Chapter 16.04 - GENERAL PROVISIONS

- Changes discussed and reviewed at the March/April Planning Commission meeting.
- Continuing conversation about serial partitions at the May Planning Commission Meeting.
- Still need to review the density standards in TMC 16.04.050(D)

### Chapter 16.06 - TRANSPORTATION FACILITY STANDARDS

- No changes proposed. Will be reviewed when the Transportation System Plan (TSP) is updated.

### Chapter 16.08 - MINOR AND MAJOR LAND PARTITIONS

- Changes being reviewed at the May Planning Commission meeting.

### Chapter 16.12 - SUBDIVISIONS

- Changes being reviewed at the May Planning Commission meeting.

### Chapter 16.16 - PLANNED DEVELOPMENT PROCEDURES

### Chapter 16.20 - EXPEDITED LAND DIVISIONS

### Chapter 16.24 - REPLATTING WITHIN SUBDIVISIONS AND PARTITIONS

### Chapter 16.28 - LOT LINE ADJUSTMENTS

### Chapter 16.30 - ADJUSTMENTS AND VARIANCES

### Chapter 16.32 - LEGAL FRAMEWORK

### **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~~ to provide for orderly, safe and efficient division of land within the City, and to aid in the implementation of the Toledo comprehensive land use plan. The provisions of this Chapter shall apply to all partitions and subdivisions within the City of Toledo. The following shall determine the appropriate process and design standards:

- A. Partition. A land division creating two or three parcels within a calendar year shall be processed as a Partition and subject to the design and improvement standards for a Partition.



- B. Subdivision. A land division creating four or more lots within a calendar year shall be processed as a Subdivision and subject to the design and improvement standards for a Subdivision.
- C. Serial Partition. Means to divide a tract of land into two or three parcels within one year of the date of the first segregation where such area or tract of land existed as a unit or contiguous units of land under a single ownership at the time of such segregation. A second partition may not be processed until one year after the date of the first segregation.

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.
3. Residential lots or parcels may be accessed by a private access easement (joint use driveway) developed in accordance with the provisions below when it is determined that a public access is: 1) infeasible due to the parcel shape, terrain, or location of existing structures; 2) unnecessary to provide for the future development of adjoining property, and 3) no more than 10% of the lots within a subdivision may be accessed by a private street or private access easement.
  - a. Width. Where permitted, the access easement shall comply with the following standards:
    - i. Minimum easement width: 20 feet
    - ii. Minimum paved width: For private access of 150' or less and serving one dwelling - 12 feet; serving two lots - 16 feet. For private access of more than 150' - 16 feet.
    - iii. Maximum length: 200 feet
    - iv. No more than four lots shall have their sole access to the easement. Easements



servicing more than two homes shall comply with provisions for a Residential Neighborhood Street.

- b. Surface Improvement. The surface width noted in A.1. above shall be improved with either asphalt or concrete for the entire length of the private access easement. Or other surface approved by Public Works and Fire.
- c. Maintenance. Provision for the maintenance of a private access driveway shall be provided in the form of a maintenance agreement, homeowners, homeowners' association, or similar instrument acceptable to The City. The applicable document shall be recorded against the deed record of each parcel, and if appropriate, placed on the final partitioning plat.
- d. Turn-around. A turn-around shall be required for any access easement which is the sole access, and which is either in excess of 150 feet or which serves more than one dwelling. Turn-arounds shall comply with the design provisions requirements of the applicable Toledo Fire Department.
- e. Fire Lanes. All private access easements shall be designated as fire lanes and signed for "no parking." All private access easements and joint use driveways shall comply with International Fire Code.
- a.f. Where The City approves a private access easement or joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to The City for its records, but The City is not responsible for maintaining the driveway or resolving any dispute between property owners.

#### **16.08.010 Purpose.**

The purpose of this chapter is to provide the ~~planning commission~~city manager or designee with the authority and guidelines to review all minor and major partitions in order to insure compliance with the comprehensive land use plan and all other city ordinances.

#### **16.08.020 Approval required.**

No person shall divide land within the city by means of a minor or major partition without first obtaining the approval of the ~~planning commission~~city manager or designee.

#### **16.08.030 Application process.**

- A. An applicant, requesting a minor or major partition of land, shall first submit to the city manager an application on forms provided by the city. The application shall be complete and all information shall be accurate to the best of the applicant's knowledge.
- B. The applicant shall submit a plan with the application form. The plan shall include the following information:
  - 1. Northpoint, scale and date of the completed drawing, approximate acreage and boundary lines;



2. Location of property(ies) by section, township, range, tax lot(s), and donation land claim are sufficient to define the location and boundaries of the partition;
  3. Two-foot or five-foot contour lines or spot elevations at two-foot intervals are necessary, but will be specifically stipulated by staff at the preapplication conference;
  4. Names, addresses, zip codes, and telephone numbers of all owners and engineers or surveyors responsible for laying out the partition;
  5. Location, square footage, and dimensions of all lots and the proposed lots/parcel numbers;
  6. Location, square footage, and dimensions of any sites allocated for a purpose other than residential;
  7. Existing uses on the property, including locations of all existing structures;
  8. Existing locations, widths, and names of opened and unopened roads within or adjacent to the partition, together with easements or rights-of-way and other important features, such as section lines, corners, city boundary lines, and monuments;
  9. Location, width, name, approximate grade, and radii of curves of all proposed roads and the relationship of such roads to any projected or existing roads adjoining the portion;
  10. Notations indicating any limitations on rights-of-access to or from roads and lots or other parcels of land proposed by the applicant;
  11. Location of significant natural features such as rock outcroppings, marshes, wetlands, wooded areas, preservable trees, and scenic views;
  12. Location and direction of all water courses and bodies of water and the location of all areas subject to flooding or other natural hazards;
  13. Additional information as city manager or the planning commission deems appropriate.
- C. A filing fee as set forth by resolution of the city council shall be paid in full at the time of filing.

#### **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.

#### **16.08.050 Performance bond.**

- A. A performance bond, pursuant to this chapter, is required with the executed agreement to complete the improvements and repairs. The applicant shall file with the agreement one of the following to assure full and faithful performance:



1. A surety bond executed by a surety company authorized to transact business in the state of Oregon on a form approved by the city manager;
  2. Cash or a certified check in an amount fixed by the city manager; or
  3. Certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvements and incidental expenses and that the money will only be released upon authorization of the city manager.
- B. Such assurance of full and faithful performance shall be for a sum determined by the city manager as sufficient to cover the cost of the improvements and repairs that may be required prior to acceptance, including related engineering and inspection costs and may include an additional percentage as determined by the city manager to cover any inflationary costs which may be incurred during the construction period.

#### **16.08.060 Public hearing City Manager or Designee.**

~~The planning commission shall hold at least one public hearing to review the application for a partition. Partitions shall be reviewed as a Type II procedure by the city manager or designee.~~ Notice to the public of the hearing shall be in accordance with the terms of the ordinance codified in this chapter. ~~The planning commission shall schedule the hearing~~ City Manager or Designee shall review the partition as soon as practicable but only after the completed application and plan have been filed.

#### **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 undevelopable due to splitting off the buildable land unless owned, created, or proposed to be used by a public utility.





**16.08.080 ~~Planning commission~~ City Manager action.**

- A. The ~~planning commission~~ city manager or designee is authorized to approve, conditionally approve, or deny the application ~~and shall take action within forty-five (45) days of the first public hearing on the application.~~ Approval of an application shall be valid for ~~twelve (12)~~ twenty four (24) months after the effective date of the approval. If the improvements are not completed and the real property partitioned within that time, the approval is void.
- B. If the applicant requests an extension in writing before the required time elapses, the ~~planning commission~~ city manager or designee may grant not more than one extension of time for a period not to exceed one year to complete the required improvements.

16.12 Subdivisions

**16.12.010 Purpose.**

The purpose of this chapter is to set forth the requirements and standards to be followed by the planning commission in reviewing preliminary and final plats of proposed subdivisions in order to insure compliance with the comprehensive land use plan and all other city ordinances.

**16.12.020 Approval required.**

No person shall subdivide land within the city without first obtaining approval of the planning commission in accordance with this title.

**16.12.030 Preapplication conference.**

- A. Any person proposing to divide land within the city shall file a letter of intent and a preliminary sketch of the proposal with the city manager. The letter of intent shall include:
  - 1. The location of the proposed subdivision by township, range, section number(s) and tax lot number(s);
  - 2. The proposed usage in the subdivision and the proposed lot sizes; and
  - 3. Any other information relevant to the proposal.
- B. The preliminary sketch shall be of sufficient detail to illustrate the proposed development and shall include the following:
  - 1. The boundaries of the proposed subdivision and a general layout of the size and number of lots;
  - 2. North arrow and scale of the drawing;
  - 3. The proposed name of the subdivision and the total acreage involved in the request; and
  - 4. The tentative layout of the proposed street system and the location of existing and proposed easements for access.
- C. Within one week of the receipt of the information submitted by the applicant, the city manager shall call a conference at which the manager or any other city official requested by the manager shall be present to review and discuss the proposal with the applicant. The purpose of this conference is to inform all parties of the proposal, discuss existing and potential problems, coordinate actions and evaluation, and in general to determine whether the proposal conforms to the city's comprehensive



land use plan, applicable zoning ordinance standards, and any other applicable city ordinances. The parties shall discuss the following, if applicable: potential natural hazards, the presence of a dredged material disposal site, the presence of a restoration site, relevant engineering requirements and specifications, building code requirements, permits and fees.

- D. If the applicant fails to file a preliminary plat with the city manager within one year of the date of the conference, an additional conference to review the proposed subdivision will be required prior to the filing of the preliminary plat.

#### **16.12.040 Filing preliminary plat.**

- A. After the preapplication conference, an applicant shall then complete and file with the city manager an application on forms provided by the city and ten (10) copies of the preliminary plat, together with the improvement plans and other supplementary information required by this title.
- B. The preliminary plat and plans and information shall be filed no less than ten (10) days before the public hearing before the planning commission. The filing fee as set by the city council by resolution shall be paid in full at the time of filing.

#### **16.12.050 Preliminary plat information.**

The preliminary plat shall include the following information:

- A. Proposed name of the subdivision. This name shall not duplicate or resemble the name of another subdivision in the city;
- B. North point, scale (either one inch equals one hundred (100) feet or one inch equals fifty (50) feet) and date of completed drawing, approximate acreage and boundary lines;
- C. Appropriate identification clearly stating the map is a preliminary plat;
- D. Location of the subdivision by section, township, range, tax lot or lots and donation land claim;
- E. Location of at least one temporary bench mark within the plat boundaries;
- F. Contour lines related to the temporary bench mark and having two-foot or five-foot contour intervals;
- G. Names, addresses, zip codes and phone numbers of all owners, subdividers and engineers or surveyors responsible for laying out the subdivision;
- H. A vicinity map showing the relationship of the proposed subdivision to surrounding development, streets, and sewer and water services;
- I. Location, square footage and dimensions of all lots and the proposed lot numbers;
- J. Location, square footage and dimensions of areas proposed for public use;
- K. Sites, if any, allocated for a purpose other than single-family dwellings;
- L. Existing uses on the property, including location of all existing structures;
- M. Lots not intended for sale shall be designated and the intended usage and legal status of the lot shall be noted;
- N. Existing locations, widths and names of both opened and unopened streets within or adjacent to the subdivision, together with easements or rights-of-way and other important features, such as section lines, corners, city boundary lines and monuments;
- O. Location, width, name, approximate grade, and radii of curves of all proposed streets and the



- relationship of such streets to any projected or existing streets adjoining the proposed subdivision;
- P. Location, width and purpose of proposed easements of street access and private streets for private use and all reservations or restrictions relating to those easements and private streets;
  - Q. Location of significant natural features such as rock outcroppings, marshes, wooded areas, isolated preservable trees and scenic views;
  - R. Location and direction of all watercourses and bodies of water and the location of all areas subject to flooding;
  - S. Location of all underground utility lines;
  - T. Additional information as the city manager deems appropriate.

#### **16.12.060 Supplementary information.**

The applicant shall file the following information, if applicable, with the preliminary plat:

- A. A statement of the projected water and sewer needs of the subdivision and the proposed method of providing those services;
- B. The nature and type of improvements proposed for the subdivision, and a timetable for their installation;
- C. A description of community facilities which would serve the subdivision, and a timetable for the completion or installation of the facilities;
- D. Where it has been determined at the preapplication conference that all or a portion of a proposed subdivision may be subject to unstable subsurface conditions, faults or other problems related to local geologic formation, a complete geologic study of the area shall be done by an independent geologist. The independent geologist's report shall be required before any review of the preliminary plat by the planning commission. The fee for such study shall be paid by the subdivider;
- E. Where it has been determined that flooding problems exist on the land, a showing that the subdivider can and will comply with all of the applicable provisions of the city ordinances on flood control and prevention;
- F. A list of any restrictive covenants which are to be recorded;
- G. A proposed plan for draining surface water, including the location and type of drainage ways to carry surface water from the development without adversely affecting adjacent properties. If any filling is proposed, the drainage plan must comply with all city ordinances and must demonstrate that adequate provisions have been made for the prevention of backup or ponding of surface water on adjacent properties as well as within the proposed development;
- H. A statement that the proposed subdivision is not located in a designated dredged material disposal site or a mitigation site;
- I. If the financing of the subdivision is to be through the sale of bonds under the Bancroft Bonding Act in Oregon Revised Statutes Chapter 223, a statement setting forth the benefit to the city as a result of the proposed subdivision;
- J. A preliminary title report for the real property to be subdivided.

#### **16.12.070 Subdivision phasing.**

- A. A subdivision may be platted in as many as three phases. All phases shall be designated on the



preliminary plan with time limitations not to exceed the following:

1. Phase 1 shall be recorded not later than ~~one-two~~ years after preliminary plat approval;
  2. Phase 2 shall be recorded not later than ~~three-four~~ years after preliminary plat approval;
  3. Phase 3 shall be recorded not later than ~~five-six~~ years after preliminary plat approval.
- B. The planning commission shall review each phase before recording, and no phase shall be recorded before the commission grants its final approval. If any of the above time limitations are exceeded, the applicant shall reapply for preliminary plat approval and comply with the requirements of this title.

#### **16.12.080 Public hearing.**

The planning commission shall hold at least one public hearing to review the application for a subdivision and all the accompanying documents. Notice to the public of the hearing shall be in accordance with the terms of this title. The commission shall schedule the hearing as soon as practicable but only after the completed application, preliminary plat, and all supplementary information have been filed.

#### **16.12.090 Criteria for evaluation.**

In reviewing preliminary plats, all of the following criteria shall be met before the planning commission may approve the proposed subdivision.

- A. The application is complete in accordance with this title;
- B. All of the proposed lots conform to the minimum standards for lot designs as required by the city zoning ordinance;
- C. The preliminary plat conforms with the city of Toledo comprehensive land use plan;
- D. The preliminary plat complies with the zoning ordinance and all other applicable city ordinances;
- E. The street design has received approval from the public works department, and if a bond is required to be posted, the subdivider has agreed in writing to do so; and
- F. Each lot can be served with city sewer and water service and must be at the time of construction.

#### **16.12.100 Planning commission action.**

- A. The planning commission is authorized to approve, conditionally approve or deny the application and shall take action within forty-five (45) days of the first public hearing on the application. The approval of the planning commission shall be binding upon the city and the subdivider for the purpose of preparing the final plat.
- B. Approval by the commission of the preliminary plat shall be valid for ~~twelve-twenty-four~~ (24) months from the effective date of the approval. Unless an extension is granted under the terms of this title, that approval of the preliminary plat shall be void after the expiration of the ~~twelve-twenty-four~~ (24) month period and the proposal for subdivision shall be resubmitted to the planning commission for consideration of the preliminary plat before the filing of a final plat.

#### **16.12.110 Extensions of time.**

The planning commission may grant one extension of time of up to twelve (12) months to the approval



of the preliminary plat of a subdivision or to the time required to complete any phase of a subdivision. Upon the receipt of a written request for such an extension, the commission may grant the extension and may attach any conditions necessary for compliance with this title. The written request shall be filed with the city manager prior to the termination of the original approval; otherwise, the commission's approval will be considered expired and the subdivider must reapply with the commission.

#### **16.12.120 Submission of final plat.**

- A. Within ~~twelve~~twenty-four (~~12~~24) months after the effective date or a valid extension of approval of the preliminary plat, the subdivider shall have the subdivision surveyed and a plat drawn in accordance with the preliminary plat and the changes required by the planning commission. All owners and mortgagees of the subdivision and the engineer and surveyor responsible for laying out the subdivision shall approve and sign the final plat.
- B. The subdivider shall then file the final plat with the city manager, who shall review it in light of the criteria of this title. The manager may consult with the subdivider and any other person during the review and may suggest to the subdivider revisions to the final plat. The manager shall submit the final plat, together with recommendations, to the planning commission at the next regularly scheduled meeting.

#### **16.12.130 Final plat information.**

The following information shall be shown on the final plat:

- A. The name of the subdivision, the date the plat was prepared, the scale, north point and legend;
- B. Legal description of the subdivision boundaries;
- C. Reference, by distance and bearings, to adjoining recorded surveys, if any and referenced to a field book or map as follows:
  1. Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the subdivision,
  2. Adjoining corners of adjoining subdivisions,
  3. Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this title;
- D. Numbering of lots and blocks as follows:
  1. Lot numbers beginning with the number "1" numbered consecutively in each block,
  2. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision;
- E. All dimensions shall be in feet and decimals of a foot, to the nearest one one-hundredth of a foot;
- F. Ties to any city, county or adjacent subdivisions' boundary lines;
- G. Square footage of each parcel and total acreage of the subdivision;
- H. All sites to be utilized for public purposes shall be clearly noted on the plat;
- I. Exact location and width of streets and easements of access intersecting the boundary of the subdivision;
- J. Subdivision block and lot boundary lines and street rights-of-way and centerlines with dimensions to the nearest one one-hundredth of a foot, bearings or deflection angles, radii, arch, points of



curvature, chord bearings and distances and tangent bearings. Subdivision boundaries, lot boundaries and street bearings shall be shown to the nearest thirty (30) seconds with basis of bearings;

- K. Names and width of the portion of streets being dedicated, the width of any existing right-of-way, and the width on each side of the centerline. For streets on curvature, curve data shall be based on the street centerline. In addition to the centerline dimensions, the radius and central angle shall be indicated;
- L. Utility and private easements of access to public streets or roads denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be a written statement of the easement. The width of the easement, its length and bearing, and sufficient to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication;
- M. Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stubbed roads or along the edge of partial width roads on the boundary of the subdivision;
- N. Any conditions specified by the planning commission upon granting preliminary approval.

#### **16.12.140 Supplementary information.**

The subdivider shall supply to the city manager the following information with the final plat:

- A. A preliminary or supplementary title report for the property being subdivided, including the exceptions, if any, that will be imposed when the final plat is recorded;
- B. A copy of the restrictive covenants to be filed with the final plat;
- C. Improvement plans for the facilities to be constructed by the subdivider, including plans for drainage, sewer, water, curbs and gutters, sidewalks and streets, and any other construction plan that may be required. All such plans shall meet or exceed the specifications for construction adopted by the city;
- D. A deed or deeds, satisfactory to the commission, conveying all land to be dedicated for public use other than streets;
- E. A statement to be fixed to the final plat which offers for public dedication all streets, pedestrian and bicycle ways, private easements of access, other rights-of-way, drainage channels, watercourses and any other property intended for public use;
- F. A statement from the Lincoln County assessor concerning unpaid taxes on the property to be subdivided.

#### **16.12.150 Agreement for improvements.**

The subdivider shall improve or agree to improve lands dedicated for roads, alleys, pedestrian or bicycle ways, drainage channels, private easements of access and other rights-of-way as a condition preceding the acceptance and approval of the final plat. Prior to the commission's certifying approval on the final plat, the subdivider shall either install all required improvements and repair existing streets and other public facilities damaged in the development of the subdivision or shall execute and file with the commission an agreement between the subdivider 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 subdivider. The subdivider shall also post a performance bond as required by this title.

**16.12.160 Performance bond.**

- A. A performance bond, pursuant to this section, is required with the executed agreement to complete the improvements and repairs within the subdivision. The subdivider shall file with the agreement one of the following to assure full and faithful performance:
  - 1. A surety bond executed by a surety company authorized to transact business in the state of Oregon on a form approved by the city manager;
  - 2. Cash or a certified check in an amount fixed by the city manager; or
  - 3. Certification by a bank or other reputable lending institution that money is being held to cover the cost of the improvements and incidental expenses and that the money will only be released upon authorization of the city manager.
- B. Such assurance of full and faithful performance shall be for a sum determined by the city manager as sufficient to cover the cost of the improvements and repairs that may be required prior to acceptance, including related engineering and inspection costs and may include an additional percentage as determined by the manager to cover any inflationary costs which may be incurred during the construction period.

**16.12.170 Final plat approval and recording.**

- A. Upon receipt of the final plat and all supplementary information and documents, the planning commission shall determine whether the final plat conforms to the preliminary plat, the conditions of approval, and the ordinances of the city. If any changes are to be considered by the planning commission in the approved preliminary plat, the planning commission shall first hold a public hearing in accordance with this title.
- B. If the planning commission finds that the final plat conforms to the approved preliminary plat, the conditions of approval, and the requirements of all city ordinances, the final plat may be approved and submitted for the necessary signatures. Approval by the planning commission shall constitute acceptance by the public of the dedication of any street on the plat and agreement by the city to maintain that street as a city street.
- C. The subdivider shall record the final plat with the clerk of Lincoln County within thirty (30) days of the date that the last required signature to the final plat has been obtained. If not, the subdivider shall resubmit the final plat to the planning commission which may require alterations in the final plat because of changes in the area of the subdivision.