



TOLEDO-LUCAS COUNTY PLAN COMMISSIONS

ONE GOVERNMENT CENTER, SUITE 1620, TOLEDO, OHIO 43604 PHONE 419-245-1200 FAX 419-936-3730

THOMAS C. GIBBONS, DIRECTOR



DATE: May 11, 2018

REF: SUP-4001-18

TO: President Matt Cherry and Members of Council, City of Toledo

FROM: Toledo City Plan Commission, Thomas C. Gibbons, Secretary

SUBJECT: Request for a Special Use Permit for Major Utility at 220 and 236 N. Berlin Avenue.

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, May 10, 2018 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Special Use Permit for Utility – Major
Location	-	220 and 236 N. Berlin Avenue
Applicant	-	Andrew McClure City of Toledo Water Treatment Plant 3040 York Street Toledo, OH 43605
Co-applicant	-	Brent Bowers Bowers Development, LLC 3794 Libbey Road Perrysburg, OH 43551

Site Description

Zoning	-	Single-Dwelling Residential / RS6
Area	-	±2.0 acres
Frontage	-	±275' along Berlin Avenue ±65' along Winter Street
Existing Use	-	Vacant land
Proposed Use	-	Lagoon processor (<i>temporary use</i>)
Parking Required	-	Schedule D (§1107.0600)
Parking Provided	-	0 spaces

GENERAL INFORMATION (cont'd)

Area Description

North	-	Single-family residential / RS6
South	-	Single-family residential / City of Oregon
East	-	Wooded area / RS6 & City of Oregon
West	-	Water treatment plant lagoons / RD6

Combined Parcel History

Z-172-48	-	Zone change from BCDE-ADE to A-A for an area bounded on the west by T.T.RR, east by City Boundary, south by Seaman Street & north by York Street (P.C. disapproved on 10/13/1948).
M-31-54	-	Urban Renewal Study for Ravine Parkway (P.C. approved on 6/27/57).
Z-206-79	-	Zone Change from R-3 to R-2 for an area bounded by Wheeling, Consaul and the City boundary (P.C. approved on 9/6/1979, C.C. approved on 9/25/1979 by Ord. 604-79).
Z-4003-93	-	Zone Change from R-2 and R-3 to M-2 for an area bounded by Wheeling, Consaul and Berlin Avenue (P.C. disapproved on 6/3/1993, C.C. disapproved on 6/16/1993)

Applicable Regulations

- Toledo Municipal Code, Part Eleven: Planning and Zoning
- Toledo 20/20 Comprehensive Plan

STAFF ANALYSIS

The applicant is requesting a Special Use Permit for a Major Utility at 220 & 236 Berlin Avenue. The overall site is \pm 2 acres and comprised of four (4) parcels, one (1) of which is owned by the City. The site is accessed from frontage on two streets; Berlin Avenue and Winter Street. The site is currently zoned RS6 Single-Dwelling Residential. Operations associated with the water treatment plant are defined as Major Utilities and Services as stated in TMC§1116.0249. Special Use Permits are required for Major Utilities and Services when located within residential zoning districts. Surrounding land uses include single-family homes to the north of the subject site, single-family homes to the south across Otter Creek in the City of Oregon, a heavily wooded area to the east, and the City of Toledo's Water Treatment Plant lagoons to the west.

The site is located adjacent to the City of Toledo's Water Treatment Plant lagoons. A contract was awarded to the owner/operator of the subject property to process the material out of the lagoons. The contract was awarded by the City of Toledo to the operator for a period of one (1) year and therefore considered a temporary land use. Activity on site will primarily include the processing of the material out of the lagoons through the use of dewatering presses in addition to a fuel tank and generator, and a tractor and pump unit to assist in the processing. Access to the site will be from the west by Winter Street which bisects the lagoons from Wheeling Street.

The proposed site is located within the floodplain of Otter Creek and subject to compliance with the Flood Control Regulations of Chapter 1110 in the Toledo Municipal Code. Upon review of the Federal Emergency Management Agency (FEMA) Flood Map Service, the flood map for the proposed site was identified as number 39095C0113E, effective on 08/16/2011. The flood map depicts the rear portion of the site along Otter Creek as Regulatory Floodway. The Division of Engineering Services has reviewed the site plan submitted and provided comments which are listed as conditions of approval.

As stated in TMC§1110.0600(A)(4), it is prohibited to allow the storage or processing of materials that are hazardous, pollutants, flammable, poisonous, explosive, or could be injurious to human, animal or plant life in time of flooding or that have a high flood damage potential in the identified Special Flood Hazard Area. Additionally, as listed in TMC§1110.0600(A)(5), it is prohibited to allow the storage or use of material or equipment that, in time of flooding, could become buoyant and pose an obstruction to flow in identified Floodway areas, unless however, the material or equipment is firmly anchored to prevent flotation. The applicant shall submit documentation to the Floodplain Administrator for all necessary permits for development within the floodplain and is listed as a condition of approval.

STAFF ANALYSIS (cont'd)

Parking and Circulation

The site is accessed via two streets; Berlin Avenue and Winter Street. However, due to the residential character of Berlin Avenue any construction and truck traffic shall be restricted to a single access point from Winter Street via Wheeling Road. Berlin Avenue shall not be used to access the site and is listed as a condition of approval.

Pursuant to TMC§1107.0304, Major Utilities and Services are subject to TMC§1107.0600 – *Off-Street Parking Schedule "D"*. Therefore, Schedule D allows minimum off-street parking requirements to be established via a study provided by the applicant. Since the proposed use is considered a temporary use, staff is not requiring a study be conducted. However, the applicant shall provide documentation stating the potential number of employees, hours of operation and the number of shifts and included as a condition of approval.

The site currently has area available for off-street parking although it is not intended to be paved. Pursuant to TMC§1107.1906, off-street parking and loading spaces, parking lots, maneuvering areas, aisles and driveways are required to be surfaced with concrete, bituminous asphalt, or other dust-free material other than gravel or loose fill. The site plan submitted depicts a circular gravel access drive on the site. The applicant shall obtain a waiver of TMC§1107.1906 to allow gravel surfacing because traffic will be limited to a one (1) year contract with the City of Toledo. Staff is supportive of this waiver due to the use being temporary for one (1) year.

Landscaping

The operations on site are considered temporary and therefore not required to fully comply with the landscape requirements. As depicted on the submitted site plan, the processing operations will be located behind an earthen ramp in order screen the operations from Berlin Avenue to the north. Staff is supportive with the existing screening mechanism as it will minimize the harmful impacts of noise, dust/debris, headlight glare and other activities on any adjoining residential uses. Additionally, in the event the processing operations create negative secondary effects, the Special Use Permit may be reviewed for compliance and listed as a condition of approval.

STAFF ANALYSIS (cont'd)

Landscaping (cont'd)

The subject site currently has a six-foot (6') chain-link fence located around the entire property. Per TMC§1105.0301 fences in residential districts may not exceed three foot-six inch (3'6") in height in the front yard setback and four feet (4') in height in the side setback. The existing fence violates the applicable regulations. However, staff is supportive of the waivers to exceed the maximum fence heights in the front and side setback since the fence is existing and necessary for security purposes. Additionally, TMC§1105.0303 dictates that the use of barbed wire, razor wire, concertina wire or the like shall not be permitted in any zoning district except Industrial districts and then only in the side and rear yards when not within fifty feet (50') of a residential district, not in the front yard setback and not anywhere along street right-of-way. The site currently has barbed wire installed within a residential district and within the required front yard and side setback. Staff is supportive of a waiver allowing the barbed wire since it already exists on site and necessary for security purposes.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan targets the future land use designation of this site as Single-dwelling Residential land uses. The single-family residential land use district was intended to accommodate the development of single dwelling units on individual lots. The single-family residential district is intended to create, maintain and promote housing opportunities for individual households, although it may include nonresidential uses, duplexes, and planned unit developments that are typically compatible with residential neighborhoods. Additional uses may include libraries, schools, churches, and community centers.

Although the proposed use does not conform to the Toledo 20/20 Comprehensive Plan, the applicant has indicated the proposed operations will be temporary for the duration of one (1) year in conjunction with a contract executed between the operator and the City of Toledo. As a result, staff recommends approval of the Special Use Permit for the following two (2) reasons. First, the request is compatible with the adjacent water treatment plant lagoon land use. Additionally, staff recommends approval of the proposal because the request will be able to provide sufficient utility facilities and services for the existing lagoon development adjacent to the subject property.

PLAN COMMISSION RECOMMENDATION

The Plan Commission recommends approval of SUP-4001-18, Special Use Permit for a Major Utility at 220 & 236 Berlin Avenue, to Toledo City Council for the following two (2) reasons:

1. The request is compatible with adjacent industrial uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other impacts associated with the use's operation) (TMC§1111.0706(C) – *Review & Decision-Making Criteria*); and
2. The request will be able to provide sufficient utility facilities and services to the subject property while maintaining sufficient levels of service for the existing lagoon development (TMC§1111.0706(E) – *Review & Decision-Making Criteria*)

The Plan Commission makes the following recommendations to the Toledo City Council on the waivers requested for SUP-4001-18, Special Use Permit for a Major Utility at 220 & 236 Berlin Avenue:

Chapter 1105.0300 Fences and Hedges

Sec. 1105.0301 (A)(B) Residential Districts

Approve a waiver of the maximum height requirement of 3 1/2 feet in the front yard setback to allow for a 6' chain link fence.

Approve a waiver of the maximum height requirement of 4 feet in the side setback to allow for a 6' chain link fence.

Sec. 1105.0303 Barbed Wire Prohibited

Approve a waiver of the prohibition of barbed wire, razor wire, concertina wire in the residential zoning district.

Chapter 1107.1900 Design Standards

Sec. 1107.1906 Surfacing and Drainage

Approve a waiver of the required surface material, to allow gravel for the maneuvering area on the site.

The Plan Commission further recommends approval of SUP-4001-18, Special Use Permit for a Major Utility at 220 & 236 Berlin Avenue, to the Toledo City Council, subject to the following **fifteen (15)** conditions:

The following conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

PLAN COMMISSION RECOMMENDATION (cont'd)

Division of Engineering Services

1. The plan submitted for plan commission review indicates earth-disturbing activity greater than 2,500 square feet; therefore, a detailed site-grading plan, Stormwater Pollution Prevention Plan (SWP3), for this project shall be submitted directly to the Division of Engineering Services for stormwater review & approval.
2. Post-Construction BMP's may be required depending on the final restoration of the site. A plan for the site restoration will be required as part of the SWP3 plan.
3. All disturbed land areas over 1 acre must submit an NOI to and obtain a permit from the Ohio EPA.
4. Being in or adjacent to a flood hazard zone, this area is subject to Toledo Municipal Code, Chapter 1110, which must be complied with in full. No fill is allowed within the floodplain without compensatory cut. No fill or development is allowed within the Floodway without performing a hydrologic and hydraulic analysis demonstrating no increase in base flood elevation. Storage of material or equipment in the flood hazard area which could become buoyant and pose an obstruction to flow is prohibited unless it is firmly anchored.
5. Dredging, filling, clearing, or otherwise altering wetlands is prohibited without first providing proof of compliance with the following permits: Section 401 of the Clean Water Act, Ohio EPA Isolated Wetland Permit, and Section 404 of the Clean Water Act. If a permit does not apply, provide a letter from a qualified professional certifying that they have surveyed the site and determined that the permit is not applicable. All certifications and delineations shall include written concurrence from the U.S. Army Corps of Engineers and/or Ohio EPA, as appropriate, in accordance with protocols currently accepted by the U.S. Army Corps of Engineers.

Plan Commission

6. Construction and truck traffic shall be restricted from Berlin Avenue and only allowed from Winter Street via Wheeling Road.
7. Applicant shall submit proper documentation for all necessary permits to allow development within the floodplain to the Floodplain Administrator.
8. The applicant shall provide documentation stating the potential number of employees, hours of operation and the number of shifts.

PLAN COMMISSION RECOMMENDATION (cont'd)

Plan Commission (cont'd)

9. The Special Use Permit may be reviewed for compliance with the conditions of approval, negative secondary effects, and adherence to all requirements of the Toledo Municipal Code. If outstanding issues are found and not addressed the Special Use Permit may be considered for revocation.
10. Applicant shall obtain a waiver of **TMC§1105.0301(A) & (B)** for maximum allowable fence height in the front and side setbacks.
11. Applicant shall obtain a waiver of **TMC§1105.0303** to allow barbed wire in a residential district and a front yard setback.
12. Applicant shall obtain a waiver of **TMC§1107.1906** to allow gravel as a surface material for the maneuvering area on site.
13. Minor adjustments to the Site Plan that do not violate the above conditions, or the Toledo Municipal Code, may be reviewed and approved by the Director of the Toledo City Plan Commission.
14. Approval of the Special Use Permit will lapse after one (1) year if the criteria listed in TMC§1111.0707 have not been met.
15. No permits shall be issued until arrangements satisfactory to the Director of the City of Toledo Plan Commission have been made for compliance with the conditions as set forth above.

Respectfully Submitted,



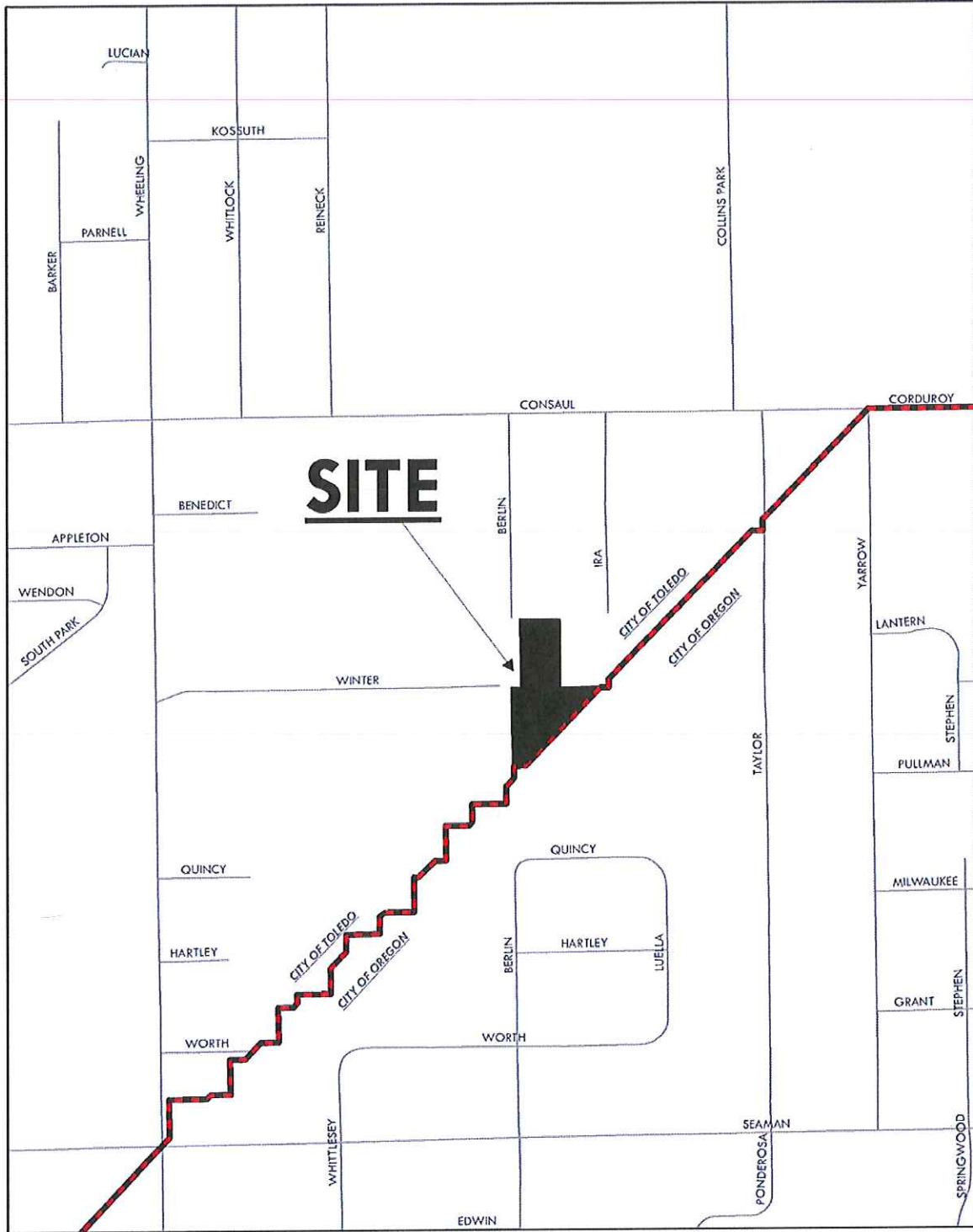
Thomas C. Gibbons
Secretary

Three (3) sketches follow

CC: Lisa Cottrell, Administrator
Ryne Sundvold, Planner

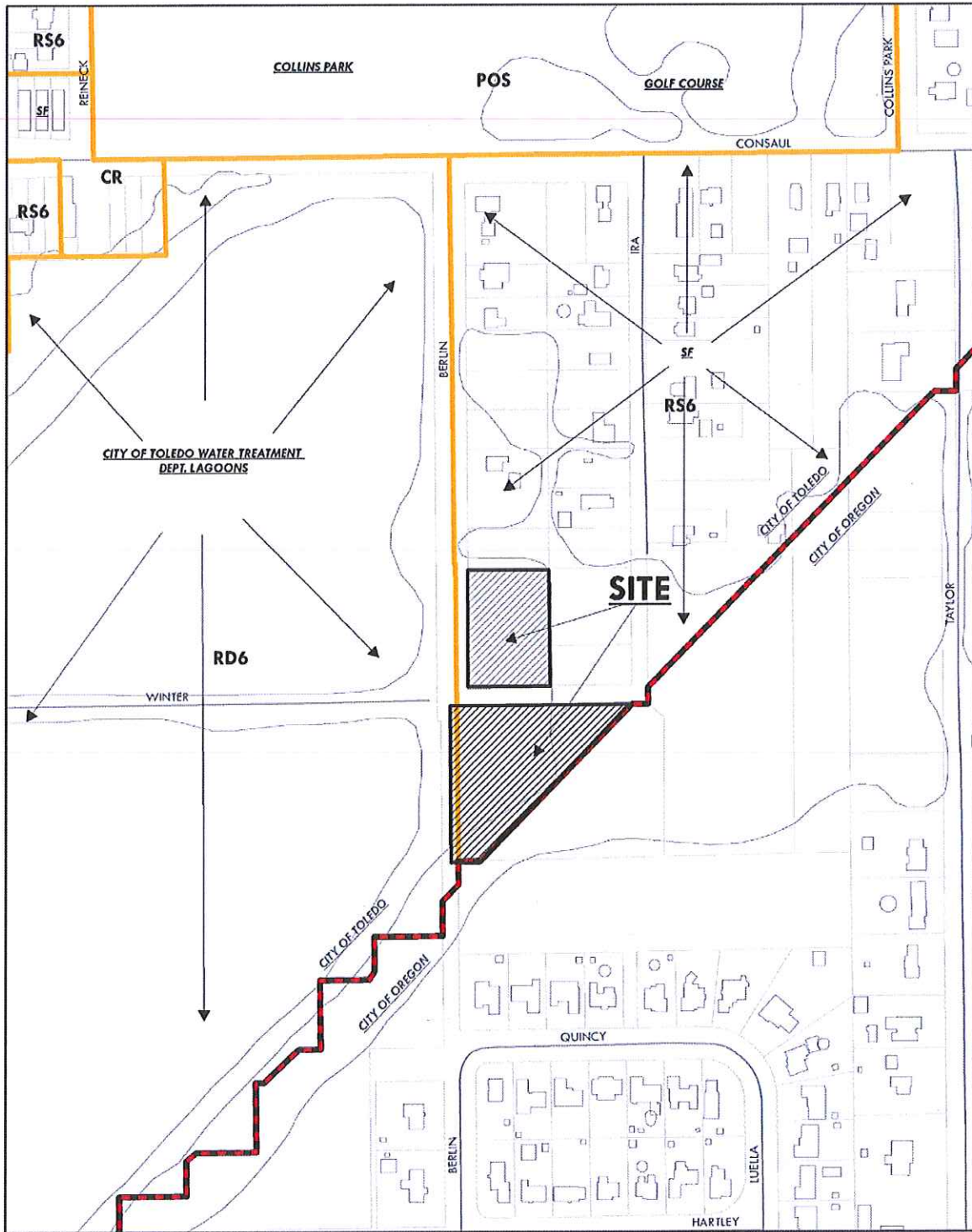
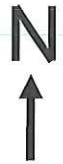
GENERAL LOCATION

SUP-4001-18
ID 24



ZONING & LAND USE

SUP-4001-18
ID 24



SITE PLAN (AERIAL MAP)

SUP-4001-18
ID 24

