



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: August 11, 2017

REF: SUP-5004-17

TO: President Steven Steel and Members of Council, City of Toledo

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

SUBJECT: Request for a Special Use Permit for a tobacco shop at 5831 Dorr St.

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, August 10, 2017 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Request for Special Use Permit for a tobacco shop
Location	-	5831 Dorr St
Applicant	-	Ismail Ismail 5833 Dorr St Toledo, OH 43615
Engineer	-	John A. Weithman, P.E. P.O. Box 184 Waterville, OH 43566

Site Description

Zoning	-	Regional Commercial District / CR
Area	-	850 square feet (lease area)
	-	.31 acres (entire shopping center)
Frontage	-	89' along Dorr Street (entire shopping center)
Existing Use	-	Existing tenant space
Proposed Use	-	Tobacco shop

GENERAL INFORMATION (cont'd)

Area Description

North	-	Commercial store, vacant land and Apartments / CN/ RS6 / RM36
South	-	Single-family Residential / RS6
East	-	Multi-dwelling Residential / RM36
West	-	Multi-dwelling Residential and Used Car Sales / CR

Parcel History

SUP-5004-10	-	Special Use Permit for the Operation of a Convenience Store (Disapproved by City Council, Ord. 628-10 on 12/21/10).
SUP-6005-12	-	Special Use Permit for the Operation of a Convenience Store, disapproved by Plan Commission on 11/1/12. Planning and Zoning Committee of City Council disapproved on 12/5/12.

Applicable Plans and Regulations

- Toledo Municipal Code (TMC), Chapter Eleven: Planning and Zoning
- Toledo 20/20 Comprehensive Plan

STAFF ANALYSIS

The applicant is requesting a Special Use Permit for a tobacco shop at 5831 Dorr St. The tobacco shop will be located in a small strip center with 850 square foot tenant space. The site is zoned CR, Regional Commercial and a tobacco shop is a permitted use in this zoning district, subject to approval of a Special Use Permit. The subject site will occupy one of the smaller tenant spaces located on the far left end and sharing a common wall with the restaurant.

Per TMC 1104.1700 *Tobacco Shops*, a tobacco shop is subject to two criteria, which are as follows:

A tobacco shop shall not be located within 500 feet of any of the following uses: school, public park, public library, child day care center, or other use established specifically for the activities of minors.

STAFF ANALYSIS (cont'd)

The hours of operation of a tobacco shop may be limited to 5:30 a.m. to 1 a.m., or other hours consistent with a liquor permit issued by the State of Ohio, as a condition of development approval. Particular attention will be given to tobacco shops located adjacent to any residential district.

The site can meet both of these criteria. First, the site is not within 500 feet of any public park, public library or day care center. The closest location where children would be present is a local parish, Little Flower Catholic Church, is located about 1600 feet to the east of the site at 5522 Dorr Street. Second, due to the proximity of multi-family housing abutting the site to the west, an "hours of operation" restriction has been added as a condition of approval.

Parking and Circulation

The site plan submitted depicts one access point on the south side of Dorr Street at a width of twenty-seven-foot (27') for the ingress/egress and is used for all of the customers accessing the commercial businesses located in the strip mall. Pursuant to TMC§1107.0304 – *Parking, Loading, and Access*: Schedule B, a tobacco shop is required to have one (1) parking space per every 300 square feet of floor area, plus one (1) bicycle parking slot per every 10 parking spaces. The site plan submitted depicts a total of fourteen (14) parking spaces with one (1) handicap accessible parking space for all of the uses in the strip center. There are five (5) parking spaces, and one (1) handicap parking space located in the front of the building and there are eight (8) parking spaces behind the building. The site plan will have to be revised to indicate the bicycle rack and the dumpster location with the appropriate screening. One to two of the parking spaces located behind the building will be removed to accommodate that condition of approval. It appears that the existing parking on-site is adequate for all of the buildings tenants.

The Division of Transportation does not object to the Special Use Permit if the conditions of approval can be met. Previously, the Department of Transportation did object to a Special Use Permit at this site but it was for a convenience store that required additional parking based on a larger tenant space and square footage. The parking configuration that was submitted is the same as previously proposed in 2012. The access drive to the rear of the building was an issue previously. It is 19' in width and does not meet the standard of 25' in width. However, the number of parking spaces required for the tobacco shop is three (3) which is lower than the previously convenience store request that was 15 spaces.

STAFF ANALYSIS (cont'd)

Landscaping

The site was established before the 2004 zoning code update and therefore not required to fully comply with the landscape requirements. Per TMC§1114.0502, the site is required to be brought closer into compliance with the 2004 zoning code. A frontage greenbelt is required for the site along Dorr Street frontage. The greenbelt shall include at least one (1) tree every thirty-feet (30') of lot frontage. With ±89' of frontage on Dorr Street, a total of three (3) trees is required in the frontage greenbelt. Trees are not required to be evenly spaced and may be clustered. Staff shall only require a consistent frontage greenbelt and foundation plantings in order to bring the site closer into compliance with current landscaping regulations. The site plan submitted does not show any landscaping.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Plan targets this site for neighborhood commercial uses. Furthermore, the proposed use complies with all applicable provisions of the zoning code (TMC 1111.0706.B *Special Uses - Review and Decision-Making Criteria*). Finally, the site is located within a small multi-tenant strip center and is compatible with adjacent uses in terms of scale, site design, and operating characteristics (TMC 1111.0707.C *Special Uses - Review and Design-Making Criteria*).

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommended approval of SUP-5004-17, a request for a Special Use Permit for a tobacco shop, to be located at 5831 Dorr Street to the Toledo City Council, for the following three (3) reasons:

1. The proposed use meets the stated purpose of the Zoning Code (TMC§1111.0706(B) *Special Uses - Review & Decision-Making Criteria*).
2. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (TMC§1111.0706(C) *Review & Decision-Making Criteria*); and
3. The proposed use is consistent with the goals of the 20/20 Comprehensive Plan.

The Toledo City Plan Commission recommended approval of SUP-5004-17, a request for Special Use Permit for a tobacco shop at 5831 Dorr Street, to the Toledo City Council, subject to the following **twenty-seven (27)** conditions:

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

Engineering Services

1. A pre-submittal meeting is not required; however, one may be requested. Contact information is as follows:

Division of Engineering Services: ph. 419-245-1315, fax 419-936-2850

Right-of-Way and Inspection: Joe Warnka 419-245-1341

Roadway: Tim Grosjean, ph. 419-245-1344

Water: Andrea Kroma, ph. 419-936-2163

Stormwater Drainage: Lorie Haslinger, ph. 419-245-3221; Andy Stepnick 419-245-1338

Sanitary Sewers: Mike Elling, ph. 419-936-2276

2. All **existing substandard** sidewalk, drive approaches, curb, and pedestrian curb ramps within the public right-of-way abutting the site shall be replaced and/or upgraded to conform to current City of Toledo Construction Standards, Specifications, Toledo Municipal Code, and Americans with Disabilities Act Guidelines.
3. All **proposed** sidewalk, drive approaches, curb, and pedestrian curb ramps within the public right-of-way shall be constructed in accordance with the City of Toledo Construction Standards, Specifications, Toledo Municipal Code, and Americans with Disabilities Act guidelines.
4. All commercial drive approaches, (along with the sidewalk through the drive) shall be constructed with 8" thick concrete per City of Toledo Construction Standards and Specifications. No curb shall be permitted in the right-of-way along either side of a drive approach. **No horizontal curb cutting will be permitted to create a curb drop/opening.** Existing drive approaches, including the curb drop, that will no longer be utilized shall be removed and restored with curb to match the adjacent curb.
5. Required permits for all approved work in the public right-of-way shall be obtained, before work begins, from One Stop Shop, (419) 245-1220.
6. Contact Joe Warnka at (419) 245-1341 for inspection of above-mentioned items.
7. Water service is available subject to the Rules and Regulations of the Department of Public Utilities.

Engineering Services (cont'd)

8. All commercial properties are required to have approved backflow protection devices installed on the domestic water service and fire protection lines. Installation of the devices must be verified by the Division of Water Distribution and all devices must be registered with BSIonlinetracking.com at 800-414-4990. In the case of renovation, expansion, or modification projects, all existing backflow devices must be verified and registered. Where devices are missing, they shall be added. Contact the Division of Water Distribution (419-245-1395) to verify the backflow prevention requirements for this site.
9. The design professional and/or property owner shall submit written documentation to the Division of Water Distribution that no changes are being made to the existing water service, meter setting, or backflow protection device and that these devices are properly installed, tested, and in good working order. The City, at its discretion, has the authority to mandate the entire service, including meter and backflow prevention device, be brought into compliance with current City of Toledo standards.
10. Contact the City of Toledo Fire Prevention Bureau (419-245-1263) to verify the fire protection requirements for this site.
11. Plan Commission submittal does not detail any revisions to the existing site that will require earth-disturbing activity of 2,500 or more square feet, nor are any changes shown to the existing storm sewer system. Therefore, it appears that there are no items requiring a stormwater plan review. However, if revisions are made to the site plan that will result in earth-disturbing activity of 2,500 or more square feet or cause changes to the existing storm sewer, a full site plan review and approval will be required by the Division of Engineering Services. Plans will be subject to the rules and regulations of the City of Toledo, Stormwater Utility, including stormwater detention and post-construction stormwater BMPs as specified in the City of Toledo Infrastructure Design and Construction Requirements and the Ohio EPA NPDES General Stormwater Permit for Construction Activities.

Sewer and Drainage Services

12. S&DS recommends that all private sewer lines that are not being removed or properly abandoned (both storm & sanitary) be cleaned and inspected.
13. S&DS recommends that the private sanitary lines (after they have been cleaned) that are not being removed or properly abandoned be televised from the building (or private cleanout) to where they connect with the public sewer system if this has not been done in the past (2) two years. An electronic copy (DVD/memory stick) shall be provided to S&DS demonstrating the lines cleaning and integrity.

Division of Transportation

14. The access drive to the rear parking is not wide enough to allow safe passage of two-way traffic, a minimum, of 25' is required.
15. All facilities shall comply with Americans with Disabilities Act Guidelines. ADA parking spaces shall meet the requirements of TMC 1107.17.
16. If not already established, cross access agreements shall be formalized with adjacent property owners.
17. The location of a dumpster is not indicated and should be shown on the site plan.

Fire Prevention

18. Site shall comply with Fire Prevention Bureau regulations.

Plan Commission

19. The hours of operation of a tobacco shop are limited to 5:30 a.m. to 1 a.m., or other hours consistent with a liquor permit issued by the State of Ohio.
20. Approval of the Special Use Permit will lapse after one year if the criteria listed in TMC 1111.0707 have not been met.
21. Whenever a parking lot extends to a property line, sidewalk, planting strip, or building, a wheel stop device consisting of a concrete stop, a permanent concrete curb, an expanded sidewalk or other suitable restraint as approved by the Planning Director must be installed to prevent any part of a parked motor vehicle from extending beyond the property line, overhanging a pedestrian walkway or sidewalk, or damaging any structure or landscaping (TMC§1107.1907(A)).
22. A retail establishment that denotes 33% or more of floor area to sale of the tobacco products is considered a tobacco shop. The use of the remaining floor area is subject to section 1104.0105. Sales of retail food and beverages will be considered a convenience store and will be subject to the criteria listed in the TMC 1104.0600, if applicable.

Plan Commission (cont'd)

22. A detailed site, lighting, fencing and four (4) copies of a landscaping plan (separate from building & site plans) shall be submitted to the Plan Director for review and approval. Such plan shall include:
- a. A ten-foot (10') greenbelt is required along Dorr Street frontage, and shall include one (1) tree per every thirty-feet (30') of frontage; **not acceptable as depicted on site plan. Plant type and size shall be noted on revised site plan or completed landscaping plan.**
 - b. The location, number, height, diameter and species of any materials to be planted and maintained, as well as the location and number of any existing trees to be retained, trees, shrubs, and landscape materials shall meet the standards included in TMC 1108.0400 Landscape Materials Standards; **shall be noted on revised site plan or completed landscaping plan.**
 - c. Foundation plantings for the full street-facing building elevation; and landscape areas at major building entrances; **shall be noted on revised site plan or completed landscaping plan.**
 - d. Landscaped areas may not contain bare soil, aggregated stone or decorative rock. Any ground area must be covered with hardwood mulch, grass or other vegetative ground coverage.
 - e. Topsoil must be back filled to provide positive drainage of the landscape area.
 - f. If site is ½ acre or larger, landscaped areas must be irrigated as necessary to maintain required plant materials in good and healthy condition. Irrigation plans must be submitted with development plans and must contain all construction details.
 - g. The location, height and materials for any fencing to be installed and maintained;
and
 - h. The location and direction of any proposed lighting (lights are to be directed away from adjacent residential properties).
23. Dumpster location(s) shall be clearly defined, have a concrete pad and be surrounded by an enclosure constructed of high quality materials (**not depicted on site plan**). A revised site plan shall be submitted indicating compliance with this condition.
24. Dumpsters may not be located in the public right-of-way as stated in TMC§1361.10(b)(10) of the Building Code.

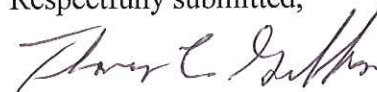
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Plan Commission (cont'd)

25. Provide at least one bicycle parking slot as required for the off-street parking Schedule A.
26. 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.
27. 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

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Four (4) sketches follow

Cc: Ismail Ismail

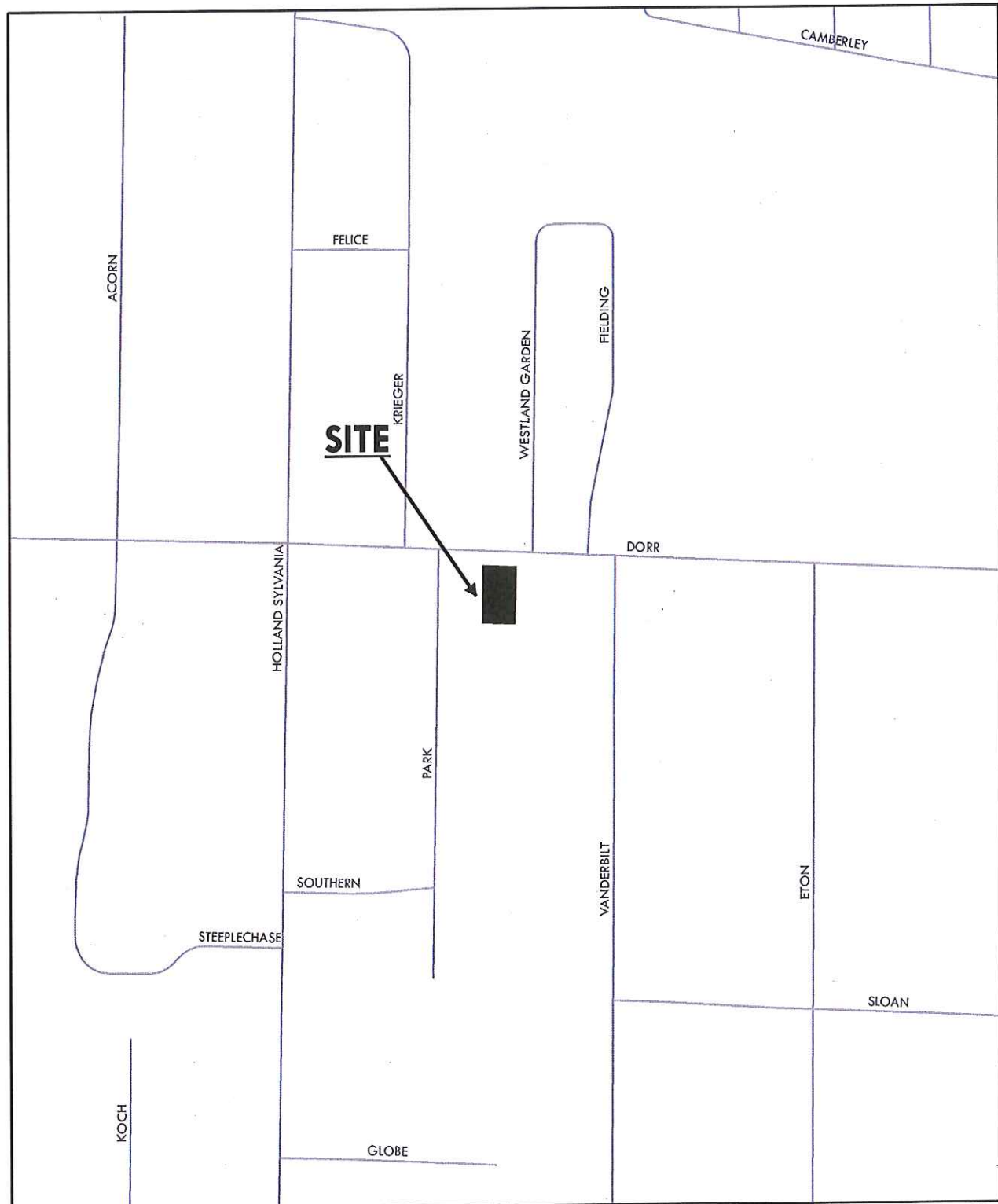
John A. Weithman, P.E.

Lisa Cottrell, Administrator

Molly Maguire, Principal Planner

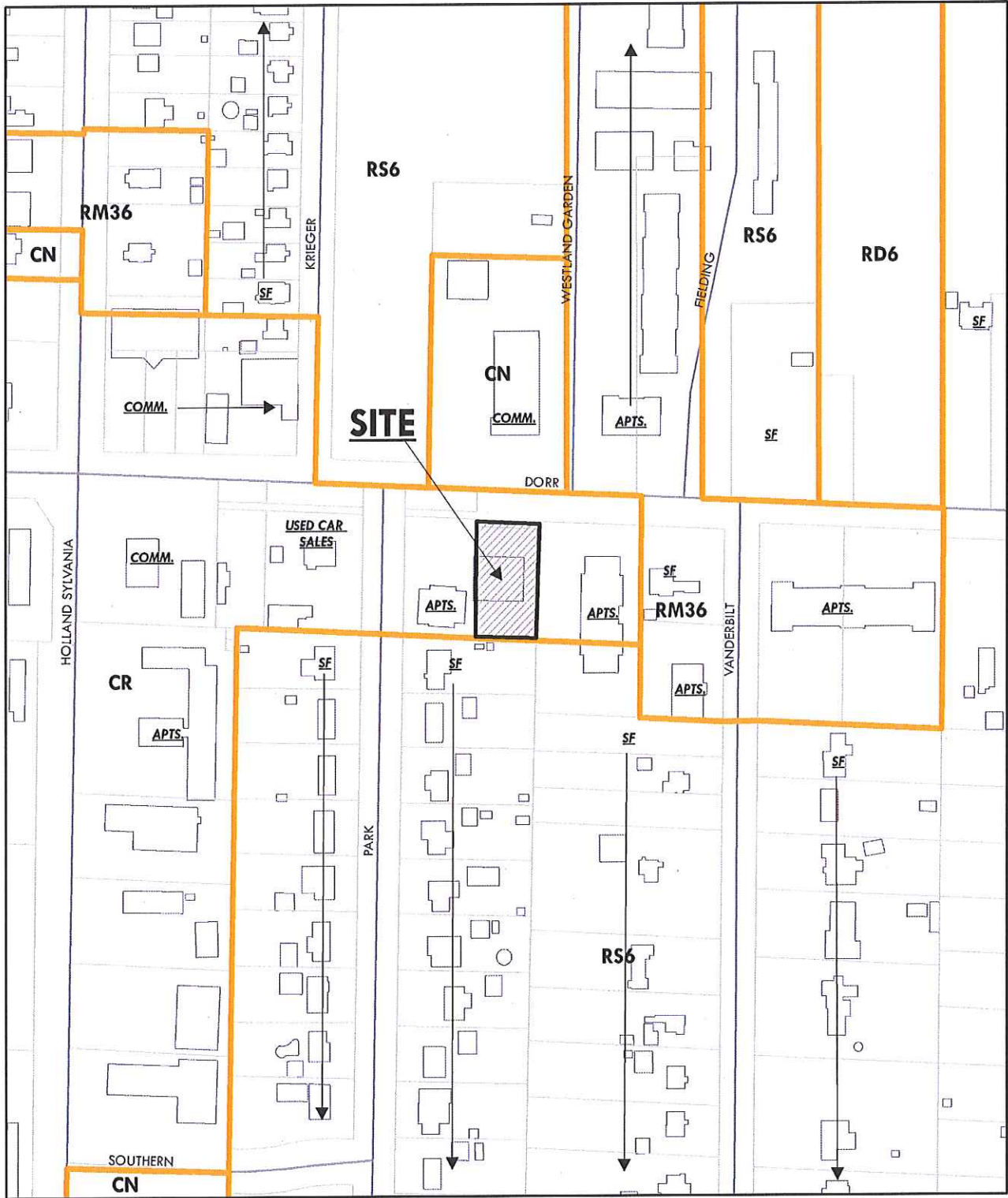
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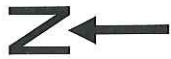
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ZONING & LAND USE

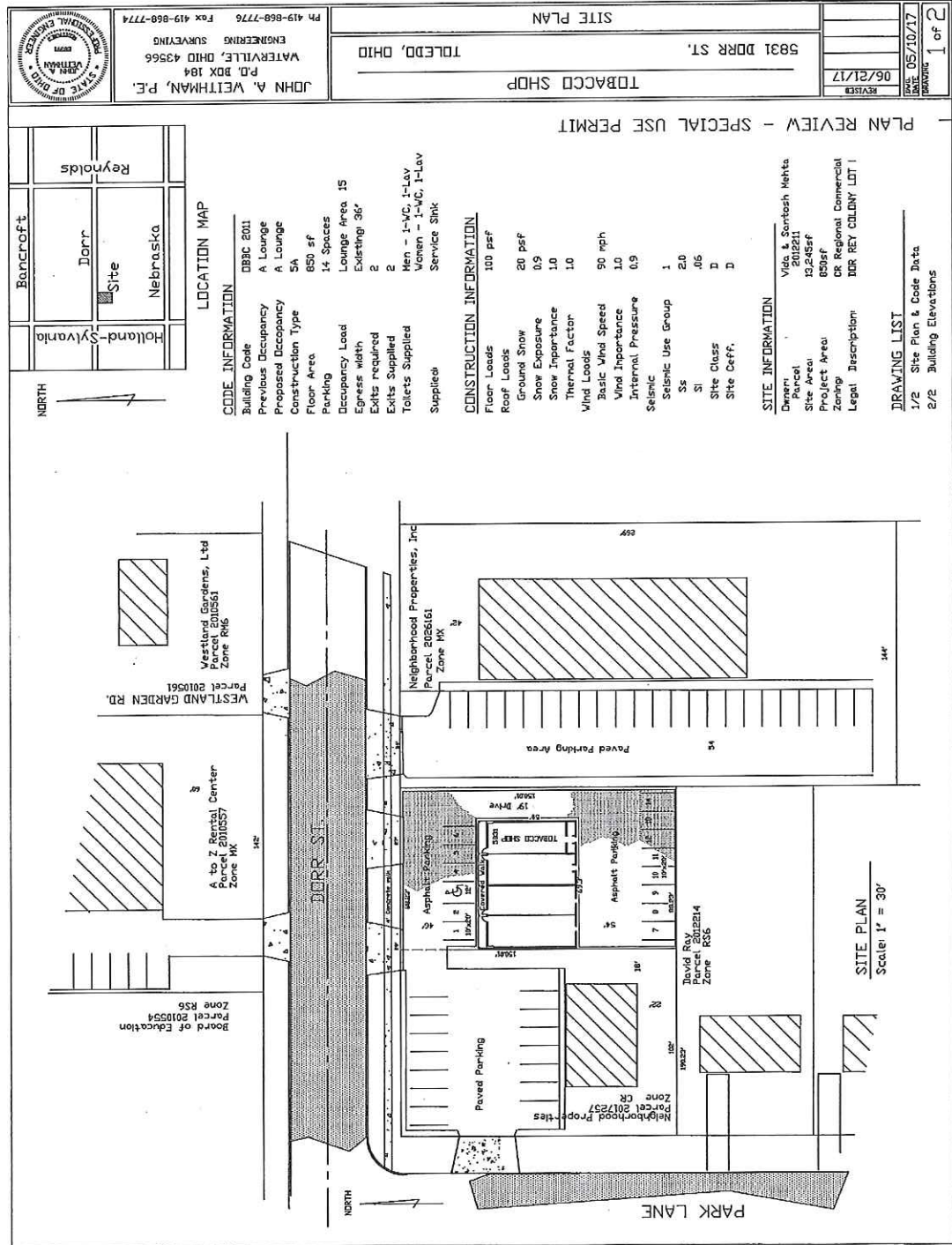
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SITE PLAN

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RENDERING DRAWING

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