



TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

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DATE: September 14, 2022

REF: SUP-6009-22

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

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

SUBJECT: Special Use Permit for used auto sales at 903, 909 & 913 N Westwood Avenue

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, September 8, 2022 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Special Use Permit for used auto sales
Location	-	903, 909, and 913 N Westwood Avenue
Applicant & Owner	-	Ibrahim Ismail 903 N Westwood Avenue Toledo OH 43607
Architect	-	John Weithman P.O. Box 216 Genoa OH 43430

Site Description

Zoning	-	IL / Limited Industrial
Area	-	±0.93 acres
Frontage	-	±166' along N Westwood Avenue ±356' along Avondale Avenue
Existing Use	-	Used Auto Sales
Proposed Use	-	Used Auto Sales

Area Description

North	-	Single family homes, construction sales / IL
South	-	Greenhouse, warehouse, commercial / IL
East	-	Car wash / IL & IG
West	-	Construction sales & services / IL

GENERAL INFORMATION (cont'd)

Area Description

North	-	Single family homes / RS6
South	-	Nebraska Avenue, undeveloped land / IL
East	-	Underwood Avenue, single family homes / RS6
West	-	Single family homes / RS6

Parcel History

Z-6008-22	-	Zone Change from IL-Limited Industrial to CR-Regional Commercial at 903, 909, and 913 N Westwood Avenue (<i>Companion Case</i>).
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Applicable Plans and Regulations

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

STAFF ANALYSIS

The applicant is requesting a Special Use Permit (SUP) to facilitate the operation of a used auto sales facility at 903, 909, and 913 N Westwood Avenue. The ± 0.93 acre site is Zoned IL-Limited Industrial, and the applicant has applied for Companion Case Z-6008-22 for a Zone Change from IL-Limited Industrial to CR-Regional Commercial as used car sales are only permitted in CR-Regional Commercial and CD-Downtown Commercial Zoning Districts. The property was cited with a Stop Work Order on 02/23/2022 for a building addition that was not reviewed by Plan Commission or the Division of Building Inspection. Additionally, the site does not have an existing Special Use Permit for used auto sales, which is required by the Toledo Municipal Code to operate this business. Surrounding land uses include construction sales and single-family homes to the north, a car wash to the east, a greenhouse to the south, and single-family homes and construction sales to the west.

Use Regulations

Based on site visits and the submitted site plan, staff have concerns that the site does not comply with TMC§1104.0307 – Used Car Lots, Accessory Uses. Used car lots are not permitted on sites containing another primary use. The site plan states that the proposed occupancy is for automotive repair, and there are sections of the site for vehicle storage, auto parts, and auto servicing. These uses are not permitted in conjunction with used auto sales. Auto repair shall only be performed on vehicles being sold on site and shall be conducted wholly within an enclosed structure. Operation of other uses is a violation of the Special Use Permit.

STAFF ANALYSIS (cont'd)

Use Regulations (cont'd)

Per TMC§1104.0302– *Auto and RV Sales, Used Only*, outdoor display areas should incorporate curbs or other permanent barriers to prevent encroachment of the vehicles into the required setback and landscape areas. Additionally, wheel stops must be provided when abutting the public right-of-way and to prevent vehicles from overhanging on sidewalks. Note that all vehicles along Avondale Avenue and along N Westwood Avenue shall be moved to the proposed auto sales area in order to comply with these standards.

Additionally, TMC§1104.0305 requires the customer display area and any outdoor storage to be fenced properly. The site plan depicts six-foot (6') chain link fencing and seven-foot (7') metal panel fencing. Fences may not exceed three and a half feet (3 ½') in height in the required front setback. CR-Regional Commercial requires a twenty-foot (20') front setback from the property line. All fencing along Avondale Avenue and N Westwood Avenue must either be located twenty feet (20') from the property line or the fence shall be shortened to three and a half feet (3 ½').

Lastly, used auto sales require a minimum lot size of no less than one-half (1/2) acre and each lot shall have a minimum average width of 150 feet along the main road frontage. All lots must be combined in order for the site to comply with the minimum lot size and frontage requirements.

Parking and Circulation

Used auto sales are required to have one (1) parking space per every five thousand (5,000) square feet of open sale area, plus one (1) per every five-hundred (500) square feet of enclosed sale area, plus one and a half (1.5) per service bay. Based on the open area of 12,600 square feet, and the indoor area of 5,550 square feet, thirteen (13) parking spaces are required with at least one (1) van accessible parking space. Five (5) spaces are provided along Avondale Avenue, and the accessible space does not provide an adequate abutting aisle. Additional parking and an acceptable van accessible space are required as conditions of approval if approved.

Also, used vehicle inventory shall only be displayed, parked, or located within parking spaces approved and defined on the site plan. A revised site plan with defined parking spaces in the sale area shall be provided as a condition of approval if approved.

STAFF ANALYSIS (cont'd)

Landscaping

A fifteen-foot (15') frontage greenbelt is required along all public streets per TMC§1108.0202 – *Frontage Greenbelt*. The frontage greenbelt shall include at least one (1) tree per every thirty (30') feet of frontage. Twelve (12) trees are required along Avondale Avenue and six (6) trees are required along N Westwood Avenue. Additionally, all portions of the greenbelt abutting parking or driving area shall include a solid evergreen hedge to screen headlights – alternative screening methods shall be submitted to the Planning Director for approval. A landscape plan shall be submitted depicting an appropriate frontage greenbelt.

A Type A landscape buffer is required along all portions of the site abutting residential areas. There are abutting single family homes which are zoned IL-Limited Industrial, however a buffer should be installed due to the use. Type A landscape buffers shall be ten feet (10') wide, provide a solid fence, and contain four (4) trees and fifteen (15) shrubs per one-hundred (100) linear feet. A fence is proposed along the edges of the site which abut single family homes. Additional landscaping shall be provided on a landscape plan if approved.

Additionally, interior landscaping is required per TMC§1108.0204 – *Parking Lot Landscaping (Interior and Perimeter)*. Twenty (20) square feet of landscaping is required per parking and stacking space on site. A landscape plan depicting appropriate interior landscaping shall be provided for the auto sales area is approved.

Building Materials

The existing building and building addition are both shown to be constructed of concrete block. Note that the building addition must comply with TMC§1109.0502 – Building Façade Materials and Color and be of a predominant material.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan targets this site for Multifamily Residential. The Multifamily Residential District is intended for large multiple family residential development or a large area of contiguous small to medium scale multiple family residential development. The district is intended to create, maintain and promote higher density housing opportunities in areas with good transportation access. The Zoning for the area is primarily IL-Limited Industrial, however when the Toledo 20/20 Comprehensive Plan was written, student housing for the neighboring University of Toledo was a priority and this area was deemed an appropriate area for multifamily residential. Regardless of whether the area is still suitable for student housing or is best kept as industrial, commercial used auto sales are not suitable for this site.

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STAFF ANALYSIS (cont'd)

Due to the issues of the existing site, the multiple primary uses, and non-compliance with the Zoning Code requirements for used auto sales, staff does not recommend approval of this request. However, review agencies conditions are attached as Exhibit "A" for informational purposes.

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends disapproval of SUP-6009-22, a Special Use Permit for used auto sales at 903, 909, and 913 N Westwood Avenue, to Toledo City Council for the following two (2) reasons:

1. The proposed use does not meet the stated purpose of the Zoning Code (TMC§1111.0706(A) – *Review & Decision Making Criteria*), and
2. The proposed use does not comply with all applicable provisions of this Zoning Code (TMC§1111.0706(B) – *Review & Decision-Making Criteria*).

Respectfully Submitted,

Thomas C. Gibbons
Secretary

DR

One (1) exhibit follows

Three (3) sketches follow

Cc: Ibrahim Ismail, 903 N Westwood Avenue, Toledo OH 43607

John Weithman, PO Box 216, Genoa OH 43430

Lisa Cottrell, Administrator

Dana Reising, Associate Planner

Exhibit “A”
Conditions of Approval

The following **thirty (30)** conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

Division of Engineering Services

1. 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.
2. 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.
3. 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.
4. The Division of Engineering Services has no comments with respect to the public water system. The Division of Water Distribution will provide comments regarding existing and/or proposed private water mains and/or service lines.

Fire Prevention

5. The structure must comply with all the requirements for the purpose and use of the addition, including separation requirements, structural load requirements and all fire safety requirements.
6. Approved Premises identification is required.

Environmental Services

7. Applicant shall maintain compliance with the City of Toledo’s Storm Water regulations as specified in the Toledo Municipal Code. Special attention must be paid to all potential storm water impacts from the modification of the site, including but not limited to long-term operation and maintenance of existing structural and non-structural Best Management Practices.
 - a. Notification shall be made to the Division of Environmental Services (419-936-3015) no later than three days prior to commencement of construction activities.

Exhibit "A"
Conditions of Approval

Environmental Services (cont'd)

- b. Construction BMPs shall be in place prior to the start of construction activities.
8. Applicant shall maintain compliance with Ohio EPA's General Storm Water NPDES permit programs.
9. Applicant is strongly encouraged to include multiple green infra-structure measures to minimize runoff and increase infiltration, and to minimize amount of new and/or additional impervious surface on site.
10. Applicant is strongly encouraged to plant native, low maintenance and non-invasive trees, shrubs and perennials. [Information is at https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/plants-trees/invasive-plants](https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/plants-trees/invasive-plants); a list of invasive plants and alternative species can be downloaded from https://www.oipc.info/uploads/5/8/6/5/58652481/alternatives_to_ohio_invasive_plant_species.pdf
11. Applicant shall maintain compliance with the City of Toledo and the State of Ohio's Air Quality Regulations applicable in the Toledo Municipal Code and the Ohio Administrative Code including, but not limited to the Asbestos and the Anti-Noise Laws.

Division of Transportation

12. Sidewalk is required to be the full length of the property on Wamba Ave., Avondale Ave. and N. Westwood Ave. per TMC 1107.1300.
13. All vehicle parking areas, maneuvering areas, drive aisles and driveways must be asphalt, concrete or other dust-free material per TMC 1107.1906.
14. All parking space locations, drive aisles and driveways must be shown and must comply with TMC 1107.1911.
15. Right-of-way line must be clearly and accurately shown on drawings.
16. Existing fence line in right-of-way is not allowed.

Exhibit "A"
Conditions of Approval

Plan Commission (cont'd)

17. Used automobile and recreational vehicle sales shall not be permitted on sites containing another primary use. **Site Plan shall be revised to show the proposed use as Used Auto Sales and no other uses are permitted.**
18. All used motor vehicles parked or displayed shall conform to TMC 337, Safety and Equipment and shall be operable. **Scrap and salvage operations or storage of towaway vehicles are not permitted.**
19. Outdoor display areas must incorporate curbs or other substantial permanent barriers to prevent encroachment of the vehicles into the required setback and landscape areas. Wheel stops must be provided when outdoor display areas abut public right-of-way, ensuring that display vehicles do not overhang directly on sidewalks. **Vehicles along Avondale Avenue and N Westwood Avenue shall be moved out of the right-of-way and front setback.**
20. Customer display areas must be fenced per TMC§1105.0302 and outdoor storage must be screened per TMC§1108.0203(H). **Not acceptable as depicted. All fencing within twenty feet (20') of the property line along Avondale Avenue and N. Westwood Avenue shall be three and a half feet (3½') in height.**
21. All lots shall be combined. Application for lot combination is available through the Lucas County Auditor's Office.
22. Per TMC§1107.0304, used auto sales requires one (1) parking space per every five thousand (5,000) square feet of open sale area, plus one (1) per every five-hundred (500) square feet of enclosed sale area, plus one and a half (1.5) per service bay. **Not acceptable as depicted. Site requires a minimum of thirteen (13) parking spaces, five (5) are provided. An additional eight (8) spaces shall be provided on a revised site plan.**
23. Any spaces reserved for the use by persons with physical disabilities shall adhere to the standards outlined in TMC§1107.1700. **Not acceptable as depicted. A van accessible space with an eight-foot abutting aisle shall be provided on a revised site plan.**
24. Used vehicle inventory shall only be displayed, parked, or located within parking spaces approved and defined on the site plan. **Not acceptable as depicted. A revised site plan with defined parking spaces in the sale area shall be provided.**

Exhibit “A”
Conditions of Approval

Plan Commission (cont’d)

25. 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 fifteen-foot (15’) frontage greenbelt is required along Avondale Avenue and N Westwood Avenue and shall include one (1) tree per every thirty feet (30’) of frontage. **Not acceptable as depicted, a frontage greenbelt shall be provided on a landscape plan.**
 - b. A Type “A” Landscape Buffer is required where site abuts residential areas. The buffer shall be ten feet (10’) wide, provide a solid fence, and contain four (4) trees and fifteen (15) shrubs per one-hundred (100) linear feet. A fence is proposed along the edges of the site which abut single family homes. **Not acceptable as depicted, additional landscaping shall be provided on a revised site plan.**
 - c. Perimeter landscaping shall be installed along any parking lot area adjacent to a street, place, or driveway and shall be provided abutting the parking area to visually screen all off-street loading facilities from view of public right-of-ways. A minimum of at least one canopy tree must be provided for each 30 linear feet, plus a continuous shrub with a minimum height of 18 inches. **Not acceptable as depicted. A landscape plan shall be submitted showing perimeter landscape parking.**
 - d. Dumpster location(s) shall be clearly defined, have a concrete pad and be surrounded by a solid wooden fence or masonry screen enclosure with landscaping and shall not be located in any required setbacks or the public right-of-way as stated in TMC§1361.10(b)(10) of the Building Code. **Dumpster enclosure details shall be provided on a revised site plan.**
 - e. Topsoil must be back filled to provide positive drainage of the landscape areas;
 - f. 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;
 - g. 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;

Exhibit "A"
Conditions of Approval

Plan Commission (cont'd)

- h. If the 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;
 - i. The location, height, and materials for any fencing to be installed and maintained;
 - j. The location and direction of any proposed lighting.
26. Building elevations shall be of quality materials as stated in TMC§1109.0500. **Not acceptable as depicted, building addition shall be made of appropriate building materials.**
27. 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.
28. 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.
29. Approval of the Special Use Permit will lapse after one (1) year if the criteria listed in TMC§1111.0707 have not been met.
30. 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.