



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: October 11, 2019

REF: SUP-8001-19

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 a Type A Day Care at 1822 Upton Ave

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, October 10, 2019 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request - Special Use Permit for Type A Day Care

Location - 1822 Upton Ave

Applicant - Tarnez Braswell / Deniece Overton
1822 Upton Ave
Toledo, OH 43607

Architect - Paul Sullivan
23 S. Saint Clair Street
Toledo, OH 43604

Site Description

Zoning - RD6 / Duplex Residential

Area - ± .12 acres

Frontage - ± 40' along Upton Ave

Existing Use - Type B Day Care

Proposed Use - Type A Day Care

Area Description

North - RD6 / Duplex Residential

South - RD6 / Duplex Residential

East - RD6 / Duplex Residential

West - RD6, RS9 / Green Space

Parcel History

None on Record

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 for a Type A Day Care at 1822 Upton Ave. The ±0.12 acre site is zoned RD6 Duplex Residential and occupied by an existing single-family household. Surrounding land uses are primarily single-family homes around the subject site, with green space across the street.

The applicant currently operates on site as a Type B Family Day Care. The applicant is requesting the Special Use Permit in order to expand the existing day care into a Type A Family Day Care. A Special Use Permit is required for all Type A Family Day Cares when located within a residential zoning district.

Use Regulations for Type A Day Cares

Per **TMC§1104.0703(B)**, Type A Day Cares must have building frontage on a major street. According to the Toledo-Lucas County Major Street and Highway Plan, Upton Ave is classified as a Local Collector, and thus is not a major street. Because Upton Ave is not designated as a major street, this location is non-compliant. As a result, the applicant is pursuing a waiver of **TMC§1104.0703(B)**.

Additionally, in accordance with **TMC§1104.0703(D)&(E)**, the facility is required to provide at least thirty-five (35) square feet of usable indoor space for each person in care and sixty (60) square feet of outdoor space for each person in care using the outdoor area at any one time. The site plan submitted depicts a fenced play area that is ±442 square feet. According to the submitted site plan, the site can legally accommodate a maximum of seven (7) persons in care. If the application is approved, the outdoor area will need to be expanded to at least 720 square feet to accommodate up to twelve (12) persons in care. This is addressed in condition #11.

Parking and Circulation

Pursuant to **TMC§1107.0304 – Parking, Loading, and Access**, a Type A Day Care is required to have one (1) parking space in addition to the requirement for the dwelling. The minimum number of off-street parking spaces required for a detached house is two (2) spaces per dwelling unit. A total of three (3) parking spaces are required for the site. The site plan depicts a ribbon driveway that phases into a paved concrete driveway towards the rear of the property. Additionally, the site plan depicts a new 8' x 4' concrete drop off area towards the front of the residence, in accordance with **TMC§1107.0701(F)**. The Division of Transportation does not object to the proposed parking and circulation arrangement.

STAFF ANALYSIS (Cont'd)

Landscaping

As required under **TMC§1104.0701(E)**, sixty (60) square feet of useable outdoor space must be provided for each person in care using the outdoor area at any one (1) time. This concern is addressed in condition #11. Additionally, a Type B landscape buffer shall be provided around the outdoor space in accordance with **TMC§1108.0203(F)**. This buffer shall be a minimum of ten-feet (10') in width and consist of four (4) canopy trees and fifteen (15) shrubs installed every 100 linear feet. Pursuant to **TMC§1108.0203(D)(2)**, a fence, wall, or berm six-feet (6') to eight-feet (8') in height may be used and can substitute for the shrub requirements. The site plan submitted depicts the outdoor play area in the back of the property and a solid row of shrubs around the rear of the property. The proposed landscape buffer is approximately one-hundred and thirty-six (136) feet in total length, and should thus include six (six) trees. The species of any proposed landscaping also needs to be labeled. These concerns shall be corrected on a revised site plan.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan targets this area for single-family residential land uses. The single-family residential land use district was intended to accommodate the development of single dwelling units on individual lots 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.

The proposed day care conforms to the future land use designation however the property is not located on a major street, as defined in the "Major Streets and Highway Plan". Therefore, staff recommends disapproval of the request because the proposed use does not comply with all applicable provisions of the Zoning Code. Additionally, the Division of Transportation has discouraged the approval of Type A Day Cares in a residential areas due to the traffic associated with Type A Day Cares and day-to-day activities.

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends disapproval of SUP-8001-19, a Special Use Permit for a Type A Day Care at 1822 Upton Avenue, to Toledo City Council for the following two (2) reasons:

1. The proposed use does not comply with all applicable provisions of this Zoning Code [**TMC§1111.0706(B)** – *Review & Decision Making Criteria*], and
2. The request is not compatible with adjacent 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*].

The Toledo City Plan Commission makes the following recommendations to the Toledo City Council on the waivers requested for the Type A Day Care at 1822 Upton Avenue:

Chapter 1104 Use Regulations

Sec. 1104.0701 – Type A Family Day Care Home

C. Location

In residential zoning districts, a Type A Day Care must have building frontage on a major street.

Disapprove a waiver to allow a Type A Day Care to be located off of a major street.

Respectfully Submitted,

Thomas C. Gibbons
Secretary

ML

Three (3) sketches follow
Exhibit A follows

CC: Lisa Cottrell, Administrator
Matt Lascheid, Associate Planner
Deniece Overton; 1822 Upton Ave; Toledo, OH 43607
Paul Sullivan; 23 South Saint Clair St; Toledo, OH 43604

EXHIBIT "A"

Review Agency Conditions

The following **eighteen (18)** 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. 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 419-245-1344

Water: Andrea Kroma 419-936-2163

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

Sanitary Sewers: Mike Elling 419-936-2276

2. 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.
3. 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.
4. 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.
5. Contact Joe Warnka at (419) 245-1341 for inspection of above mentioned items.

Fire and Rescue Department

6. Approved Premises identification is required.

EXHIBIT "A" (Cont'd)

Division of Sewer and Drainage

7. The daycare shall be in compliance with the Department of Commerce Type A family daycare facilities inspection standard checklist.
8. S&DS requires that all private sewer lines that are not being removed or properly abandoned (both storm and sanitary) be cleaned and inspected.
9. S&DS requires 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 two (2) years. An electronic copy (DVD/memory stick) shall be provided to S&DS demonstrating the lines cleaning and integrity.

Plan Commission

10. A Day Care Center must have building frontage on a major street. Not acceptable as submitted. **The Applicant shall obtain a waiver of TMC§1104.0703(B) to allow the Day Care Center to be located on Upton Ave.**
11. Per **TMC§1104.0703(D)&(E)**, the facility is required to provide thirty-five (35) square feet of useable indoor space for each person in care and sixty (60) square feet of useable outdoor space for each person in care using the outdoor area at any time.
12. Per **TMC§1107.0304** a Type A Day Care is required to have one (1) parking space in addition to the requirement for the dwelling. The minimum number of off-street parking spaces required for a detached house is two (2) spaces per dwelling unit. A total of three (3) parking spaces are required for the site. The site plan submitted depicts an area available for two (2) parking spaces. One (1) additional parking space shall be shown on a revised site plan.
13. Off-street parking and loading spaces, parking lots, maneuvering areas, aisles and driveways must be surfaced with concrete, bituminous asphalt, or other dust-free material other than gravel or loose fill, and be graded to drain all surface water towards the interior of the parking lot. **Acceptable as depicted on site plan.**

EXHIBIT "A" (Cont'd)
Plan Commission (Cont'd)

14. 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. Per **TMC§1108.0203(F)**, a Type B landscape buffer shall be provided around the outdoor space. Staff recommends this buffer be a minimum of ten-feet (10') in width and consist of four (4) canopy trees and fifteen (15) shrubs installed every 100 linear feet. Pursuant to **TMC§1108.0203(D)(2)**, a fence, wall, or berm six-feet (6') to eight-feet (8') in height may be used and can substitute for the shrub requirements. Final approval shall be at the discretion of the Director. **Shall be shown on a revised site plan.**
 - b. 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.
 - c. 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; **shall be indicated on revised site plan.**
 - d. Canopy trees must be a minimum of 12' in overall height or a minimum caliper of 2 inches and evergreen trees must be a minimum of 5'.
15. 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.
16. Approval of the Special Use Permit will lapse after one (1) year if the criteria listed in **TMC§1111.0707** have not been met.
17. 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.
18. 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.

Deneice Overton
1822 Upton Ave
Toledo, Ohio 43607

Dear Neighbor,

Please accept this invitation to attend meeting to discuss requested zoning change for the daycare licensed under Deniece Overton located at 1822 Upton Ave Toledo Ohio 43607. The meeting will be held at Reynolds Corner, which is located at 4833 Dorr St Toledo Ohio 43615. The meeting will be held on Tuesday, September 24, 2019 from 1pm till 3pm. The purpose of this meeting is to provide information on changing the daycare listed above from Type B home daycare to Type A home daycare. The change in daycare type will allow the daycare to service more children. It is not my intent to change any traffic pattern or to be of any nuisance but is solely to be able to service additional children. I have been a daycare provider for the last five (5) years at my current location. Currently the daycare provides care for six (6) children but is looking to expand that number to twelve (12) children. The daycare is an Early Head-Start provider and is star recognized, which means that the State of Ohio has identified the daycare as a quality provider in daycare services. This daycare is committed to providing the highest level of care to children and their families. We are also strongly committed to enhancing the neighborhood by offering quality and low-cost daycare to the members of the neighborhood in which I am located. Please join me to offer your opinions and to hear my full proposal, as well as to learn about the services provided at the daycare. I look forward to meeting you.

Respectfully,

Deniece Overton