

TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

One Government Center, Suite 1620, Toledo, OH 43604 P: 419 245-1200 F: 419 936-3730

DATE: October 14, 2022

REF: SUP-7003-22

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 Medical Marijuana Dispensary at 3534 Dorr Street

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, October 13, 2022 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Special Use Permit for medical marijuana dispensary
Location	-	3534 Dorr Street
Applicant	-	David Koppelman 26610 Eckel Road Suite 2 Perrysburg, OH 43551
Owner	-	KOD Realty LLC 3534 Dorr St Toledo, OH 443607

Site Description

Zoning	-	CR / Regional Commercial
Area	-	± 1.02
Frontage	-	± 158' along Dorr St. ± 300' along College Dr.
Existing Use	-	Vacant Restaurant
Proposed Use	-	Medical Marijuana Dispensary

GENERAL INFORMATION (cont'd)

Area Description

North	-	RM24 / Apartments
South	-	CR / Gas Station, Restaurant, Commercial
East	-	CR / Single-Family home, restaurant
West	-	RM24, CR / Vacant Restaurant, Apartments

Parcel History

SPR-28-20	-	Minor Site plan review for new patio and removal of 4 parking spaces (withdrawn).
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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 for a medical marijuana dispensary at 3534 Dorr Street. The ±1.02-acre site is occupied by an existing vacant building which was formerly a restaurant. The site is zoned CR Regional Commercial and permits a medical marijuana dispensary upon obtaining a Special Use Permit. Surrounding land uses include an apartment complex to the north, a single-family home and a restaurant to the east, a gas station, convenience store, restaurant, and other commercial uses across Dorr Street to the south, and a restaurant building to the west.

The architect, David Koppelman, is representing Nasem Issak who is intending to purchase the property and operate the business out of the existing building on site. The applicant intends to be fully licensed and certified by the State of Ohio to sell and distribute medical marijuana. This case was deferred on September 8, 2022 by the Toledo Plan Commission.

Use Regulations

A medical marijuana dispensary is required to meet the use regulations of TMC§1104.2300. This section of the Code states that "A Medical Marijuana Facility shall not be located within 500 feet of any school (K-12), church, public park, public playground, public library, pre-school, or child day care center, or other use established specifically for the activities of minors." Additionally, per TMC§1104.2302, a dispensary shall not be located within 1,000 feet of another dispensary. The proposed location is not in violation of these requirements and conforms to the regulations of TMC§1104.2300.

STAFF ANALYSIS (cont'd)

Use Regulations (cont'd)

In addition to regulating the location of medical marijuana facilities, TMC§1104.2302 limits the hours of operation for a dispensary from 8 a.m. to 8 p.m., or other hours consistent with a license/permit issued by the State of Ohio. The applicant has indicated the dispensary will operate within the required hours.

Parking and Circulation

The site includes an existing parking lot with fifty-three standard (53) parking spaces, including two (2) van accessible spaces. Based on the number of parking spaces one (1) additional accessible parking space is required. The site is existing and therefore does not need to reduce parking to the maximum count of eighteen (18) spaces. However, no additional parking spaces may be added. The parking lot is accessed from Dorr Street via a two-way driveway leading to the rear of the property. A secondary egress is available onto college drive.

The site plan includes the addition of a drive-thru window along the northern portion of the building, with stacking from the north of the site south to the window. Transportation does not object to the turn radius required to enter the drive-thru.

To ensure safe pedestrian flow a paved walkway, at least five-feet (5') in width, shall be provided from the sidewalk along Dorr Street to the main entrance of the building if this application is approved.

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 minimum ten to fifteen-foot (10-15') wide frontage greenbelt shall be provided for the site along Dorr Street. The greenbelt shall include at least one (1) tree every thirty-feet (30') of lot frontage. A total of five (5) trees are required in the frontage greenbelt and shown on the landscape plan. Additionally, because the parking lot is visible from the right-of-way, the frontage greenbelt shall include a solid hedge or shrub row in the portion east of the driveway in order to screen the parking lot and ensure that headlights do not project onto the street or adjacent properties to the south.

Per TMC§1108.0203, a Type A Landscape Buffer is required along abutting residential zoning districts to the north of the subject property. Said buffer shall include a minimum ten-foot (10') wide strip of landscaping with four (4) canopy trees and fifteen (15) shrubs and a solid privacy fence with a minimum height of six-feet (6').

STAFF ANALYSIS (cont'd)

Landscaping

Additionally, Per TMC§1108.0204B, landscape terminal islands must be provided at the end of each parking row. The submitted site plan depicts a 10' high fenced in area with remote controlled gates on the north-western corner of the building. The fence material is indicated as shadowbox.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan recommends this site for Neighborhood Commercial land uses. This category accommodates predominantly small and medium scale commercial uses that serve neighborhoods. The proposed use of a medical marijuana dispensary is compatible with neighborhood commercial land use characteristics and complies to the Toledo 20/20 Comprehensive Plan.

Staff recommends approval of the proposed special use permit for a medical marijuana dispensary at 3534 Dorr Street because it meets the stated purpose of the Zoning Code and complies with all applicable provisions of the zoning code.

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends approval of SUP-7003-22, a request for a Special Use Permit for a medical marijuana dispensary located at 3534 Dorr St, to the Toledo City Council, for the following **two (2) reasons**:

1. The proposed use meets the stated purpose of the Zoning Code **TMC 1111.0706.A; and**
2. The use complies with all applicable provisions of the Zoning Code **TMC 1111.0706.B**

The Toledo City Plan Commission recommends approval of the request for SUP-7003-22, a request for a Special Use Permit for a medical marijuana dispensary located at 3534 St subject to the following **thirty-four (34) conditions**.

PLAN COMMISSION RECOMMENDATION (cont'd)

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.

Sewer and Drainage Services

4. S&DS requires that all private sewer lines that are not being removed or properly abandoned (both storm & sanitary) be cleaned and inspected.
5. 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 to the public sewer system if this has not been done in the past (2) two years. An electronic (DVD/memory stick) shall be provided to S&DS demonstrating the lines cleaning and integrity.

Environmental Services

6. 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. Construction BMPs shall be in place prior to the start of construction activities.
7. Applicant shall maintain compliance with Ohio EPA's General Storm Water NPDES permit programs.

PLAN COMMISSION RECOMMENDATION (cont'd)

Environmental Services

8. Applicant is strongly encouraged to include multiple green infra-structure measures to minimize runoff and increase infiltration, and to minimize the amount of new and/or additional impervious surface on the site.
9. 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>; 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
10. 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.

Transportation

11. Wheel stops are required at all parking spaces abutting sidewalks, property lines, planting strips and buildings per TMC 1107.1907.
12. All parking space locations, drive aisles and driveways must be clearly dimensioned and comply with TMC 1107.1911.
13. Trash gates are not allowed to swing into parking spaces, parking space are not allowed to be in the right of way and parking spaces cannot cause traffic to back into another parking space.
14. Transportation requires that the property line on Dorr Street be brought into alignment with the right of way line on Dorr Street.
15. "Do Not Enter" signage is required at exit onto College Drive to prevent wrong way traffic flow.

PLAN COMMISSION RECOMMENDATION (cont'd)

Plan Commission

16. Per TMC§1107.0400, Off-Street Parking Schedule “B” the proposed use exceeds a parking maximum of eighteen (18) spaces. The site is existing, therefore the depicted parking of fifty-five (55) spaces is acceptable. No additional parking shall be approved on site. Changes made in order to meet conditions shall not reduce the total amount of parking below twelve (12) spaces. **Acceptable as depicted.**
17. Per TMC§1107.0400, Off-Street Parking Schedule “A” requires one (1) bicycle parking slot per ten (10) vehicle parking spaces. Fifty-five (55) parking spaces are provided, six are required. **Acceptable as depicted.**
18. 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)).
19. Per TMC§1107.1700 Accessible Parking for Physically Disabled Persons one (1) van accessible space is required and two (2) auto-accessible spaces are required. **Acceptable as depicted.**
20. All spaces reserved for the use by persons with physical disabilities shall adhere to the standards outlined in TMC§1107.1700; acceptable as depicted on site plan.
21. A paved walkway, at least five-feet (5') in width, shall be provided from the sidewalk along Dorr Street to the main entrance of the building.
22. A hatched cross-walk area shall be provided from the rear sidewalk to the building traversing the drive-thru lane. **Acceptable as depicted.**
23. 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

PLAN COMMISSION RECOMMENDATION (cont'd)

Plan Commission (cont'd)

- a. A minimum ten-foot (10') to fifteen-foot (15') wide greenbelt is required along Dorr Street with one (1) tree for every thirty-foot (30') of frontage. Calculations conclude that a total of five (5) trees are required in the frontage greenbelt. A continuous hedge or shrub row, a minimum height of eighteen-inches (18") and maximum of forty-two inches (42"), shall be installed along the portion east of the entry drive in order to screen the parking lot and headlights from public view. **Acceptable as depicted on site plan.**
- b. Foundation plantings along all portions of the building that are visible from the public right-of-way and landscaping at all major building entrances; **Acceptable as depicted;**
- c. A Type A Landscape Buffer is required along the rear of the property where the site abuts residential zoning. This buffer shall include ten-feet (10') of landscaping and a solid wood, board on board fence. Additionally, it shall include four (4) canopy trees and fifteen (15) shrubs. **Acceptable as depicted;**
- d. Landscape terminal islands with a minimum dimension of 9' shall be required at the end of each parking row along the perimeter of the site. **Acceptable as depicted;**
- e. Landscape areas within the parking area must be peninsular or island types and must be constructed with 6-inch by 18-inch concrete curbing, cast-in-place, extruded, or by some other process approved by the Planning Director;
- f. Species list for new plantings shall be submitted to Plan Commission for approval; **no species list submitted.**
- g. All existing trees on site with a caliper of four (4") inches or more shall be shown and incorporated into the landscape plan to the maximum practical extent. Credit may be given for existing trees towards landscaping requirements based upon the crediting system outlined in TMC§1108.0407;
- h. All landscape material must be properly maintained. No approved plant material shall be removed for any reason without being replaced with like kind, or without submitting a revised landscape plan to the Planning Director for review or approval;

PLAN COMMISSION RECOMMENDATION (cont'd)

Plan Commission (cont'd)

- i. This site is larger than half (1/2) acre and therefore requires irrigation. An irrigation plan shall be submitted.
 - j. 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;
 - k. The location and direction of any proposed lighting (lights are to be directed away from adjacent residential properties;
 - l. Ten-foot (10') high fencing shall be shadowbox, board on board, or decorative aluminum or another fence material approved by the plan director. Chain link or chain link with slat shall not be permitted. **Shadowbox acceptable as submitted.**
 - m. Topsoil must be back filled to provide positive drainage of the landscape area;
 - n. The land owner, or successors in interest, or agent, if any, or lessee must be jointly responsible for the regular maintenance of all landscape materials as well as any plant material removed.;
 - o. 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; and
 - p. The location, lighting, and size of any signs.
24. Dumpster location(s) shall be clearly defined, have a concrete pad and be surrounded by a solid wooden fence or a masonry screen enclosure with landscaping and shall not be located in any required setbacks. Dumpsters may not be located in the public right-of-way. **Acceptable as depicted.**
25. At least one (1) waste receptacle shall be provided reasonably near to the primary entrance of the building.
26. A dumpster may not be in any required setback or landscape buffers and shall be located as far away from residential areas as possible (TMC§1108.0203(G)(5)), **Dumpster shall be at minimum of fifteen (15) foot from the northern property line.**
27. The existing sign shall be removed.

PLAN COMMISSION RECOMMENDATION (cont'd)

Plan Commission (cont'd)

28. Building modifications are not proposed and shall not be approved without subsequent amendment to the approved Special Use Permit. Building modifications shall follow the guidelines of TMC§1109.
29. New free-standing signs are limited to a height of forty-two inches (42") from grade and a width of twelve feet (12'). Permits for signage must be obtained through the Division of Building Inspections.
30. Applicant shall obtain and maintain proper licensing and/or certification for the distribution and sale of medical marijuana by the State of Ohio provided the State does not grant a license and/or certification to another dispensary within 1,000 feet of the subject property. See TMC§1104.2302(A). In the event that licensing is revoked, the Special Use Permit shall also expire at that time.
31. 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 Zoning Code. If outstanding issues are found and not addressed the Special Use Permit may be considered for revocation.
32. Approval of the Special Use Permit will lapse after one (1) year if the criteria listed in TMC§1111.0707 have not been met.
33. 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. Major adjustments will require an amendment to the Special Use Permit.
34. No permits shall be issued until arrangements satisfactory to the Director of the Toledo City Plan Commission have been made for compliance with the conditions as set forth above.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'Thomas C. Gibbons', is written over a horizontal line.

Thomas C. Gibbons
Secretary

JGL

Three (3) sketches follow

TO: President Cherry and Members of Council
October 14, 2022
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REF: SUP-7003-22

Cc: Applicant, Owner
Lisa Cottrell, Administrator
Jonny Latsko, Planner
Senior Engineer, Division of Transportation
Commissioner, Division of Engineering Services
Senior Professional Engineer, Division of Water Distribution
Chief Building Official, Division of Building Inspections
Deputy Chief, Fire Prevention

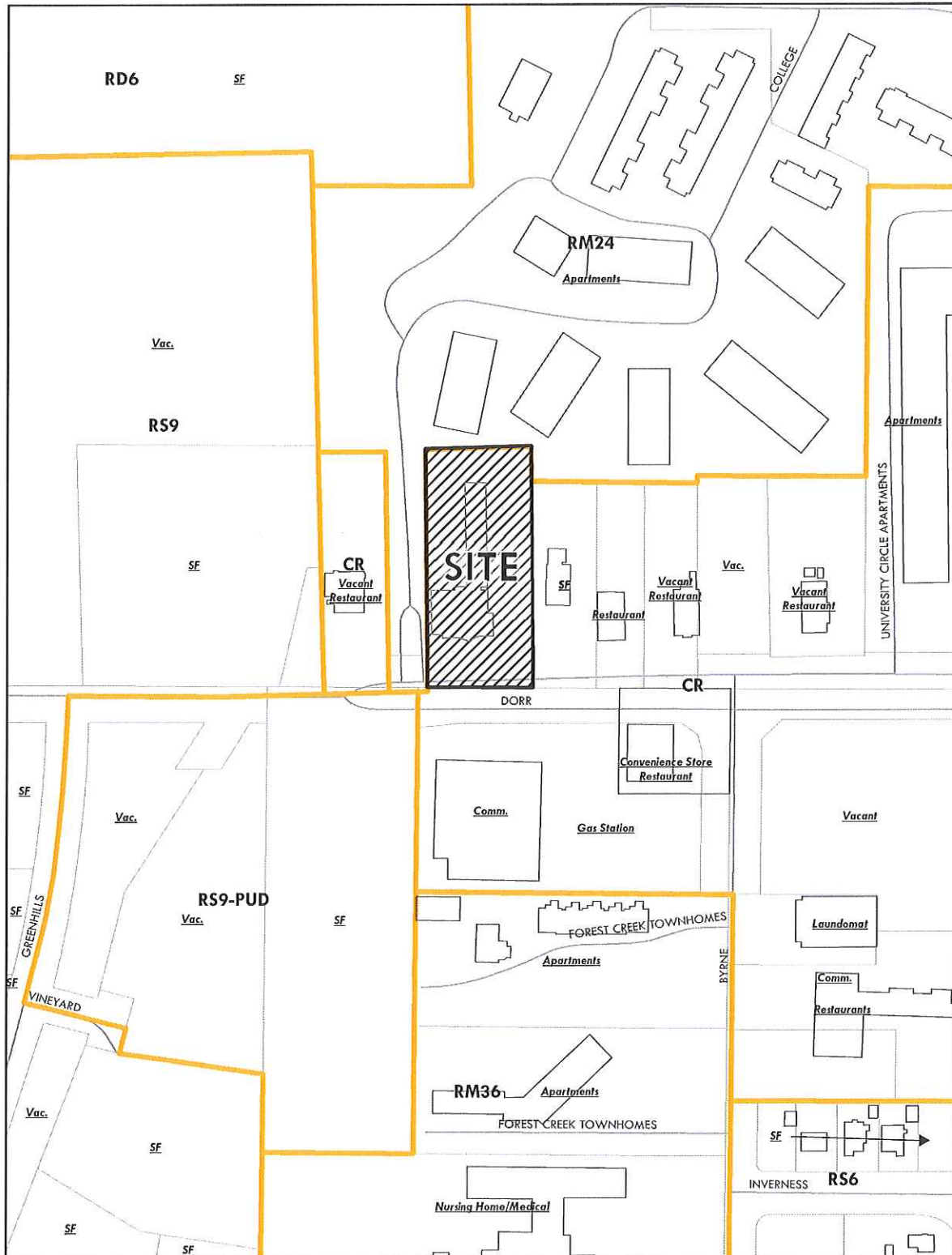
GENERAL LOCATION

SUP-7003-22
ID 81



ZONING & LAND USE

SUP-7003-22
ID 81



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