

## TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

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

DATE: February 10, 2023

REF: SUP-12002-22

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 a Day Care Center at 1822 Upton Avenue

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, February 9, 2023 at 2:00 P.M.

### GENERAL INFORMATION

#### Subject

Request	-	Special Use Permit for a Day Care Center
Location	-	1822 Upton Avenue
Applicant	-	Deniece Overton 1822 Upton Avenue Toledo, OH 43607
Engineer	-	Timothy O'Brien, P.E. Benchmark Engineering Group, Inc. 3161 North Republic Boulevard Toledo, OH 43615

#### Site Description

Zoning	-	RD6 / Duplex Residential
Area	-	±0.12 Acres
Frontage	-	±40' along Upton Avenue
Existing Use	-	Type A Day Care Center
Proposed Use	-	Day Care Center

#### Area Description

North	-	Single Family Homes / RD6
South	-	Single Family Homes / RD6
East	-	Single Family Homes / RD6
West	-	Vacant lot (former school site) / RD6 & RS9

## **GENERAL INFORMATION (cont'd)**

### Parcel History

SUP-8001-19 - Special Use Permit for a Type A Family Day Care at 1822 Upton Avenue (PC disapproved 10/10/19, City Council approved 11/26/19 via Ord. 556-19).

### Applicable Regulations

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

## **STAFF ANALYSIS**

The applicant is requesting a Special Use Permit for a Day Care Center at 1822 Upton Avenue. The ±0.12-acre site is zoned RD6 Duplex Residential and occupied by an existing single-family household with a Type A Family Day Care. Surrounding land uses primarily consist of single-family homes with green space from a former school site across Upton Avenue to the west.

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

### Use Regulations

Per TMC§1104.0703(B), Day Care Centers must have frontage on a major street. According to the Toledo-Lucas County Major Street and Highway Plan, this portion of Upton Avenue is classified as a Local Collector and not considered a major street. Because Upton Avenue is not classified as a major street, this location does not meet the use regulation. As a result, the applicant is pursuing a waiver of TMC§1104.0703(B).

Additionally, in accordance with TMC§1104.0703(D)&(E), Day Care Centers are 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. According to the submitted site plan, the site can legally accommodate a maximum of nineteen (19) children in care. Additionally, the site plan submitted depicts a fenced play area that is ±938 square feet, which would allow fifteen (15) children to use the outdoor space at one time.



**STAFF ANALYSIS (cont'd)**

Parking and Circulation

Pursuant to TMC§1107.0304 – *Parking, Loading, and Access*, a Day Care Center is required to have one (1) parking space per six (6) person-capacity or one (1) parking space per 400 square feet, whichever is greater. The minimum number of off-street parking spaces required for the proposed day care center is three (3) parking spaces. The site plan depicts three stacked parking spaces on a single ribbon driveway that terminates into a paved concrete driveway towards the rear of the property. Additionally, the site plan depicts a new 20' x 5' concrete pad near the drop off area in front of the house. However, according to TMC§1107.1202, no parking space may be located within the front yard, except that parking spaces for detached houses, attached houses, and duplexes may be located on a driveway. The proposed 20'x5' concrete pad in front of the house is not permitted to be used as parking and listed as a condition of approval.

The applicant has submitted an agreement from the adjacent property owner at 1818 Upton Avenue for the Day Care Center to utilize their driveway for parking, loading, and pick-up drop-off area. Unfortunately, this residential driveway space is not suitable for a commercial Day Care Center. Additionally, the division of Transportation has objected to the proposed parking layout and pick-up drop-off area.

A portion of the total number of required off-street parking spaces must be specifically designated, located, and reserved for use by persons with physical disabilities. According to the table in TMC§1107.1701 – *Number of Required Parking Spaces for Persons with Disabilities*, the applicant is required to provide at least one (1) van accessible space with an eight-foot (8') drive aisle for persons with physical disabilities. If approved, this space shall be required to be shown on a revised site plan.

Bicycle parking is required pursuant to Off-Street Parking Schedule "A" (TMC§1107.0300). A minimum of one (1) bicycle space shall be provided per ten (10) automobile parking spaces. The proposed plan requires one (1) bicycle parking space be provided on site. If approved, the bicycle parking shall be shown on a revised site plan.

The Division of Transportation has reviewed the submitted site plan and objects to the approval of the proposed parking for the day care center. First, one (1) van accessible parking space with an 8' loading area and accessible parking signage is required per TMC§1107.1702 & TMC§1107.1704. Second, bicycle parking is required per TMC§1107.0900. Third, all off-street parking and loading spaces, parking lots, maneuvering areas, aisles and driveways must be surfaced with concrete, asphalt or other dust-free material per TMC§1107.1906, grass and dirt are not permitted for driveway and parking areas. Fourth, a parking lot with drive aisles and a turnaround are required and must conform to TMC§1107.1904 and TMC§1107.1911, backing out onto Upton Avenue is not permitted for this use and blocking a parked vehicle is not allowed. Finally, all parking spaces are required to be a minimum of 9'x18' per TMC§1107.1911. If approved, the applicant shall submit a revised site plan addressing the Division of Transportation's conditions of approval.

## **STAFF ANALYSIS (cont'd)**

### Landscaping

As required under TMC§1104.0703(E), sixty (60) square feet of useable outdoor space must be provided for each person in care using the outdoor area at any one time. 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 surrounded by a solid six-foot (6') fence. The proposed landscape buffer is approximately one-hundred and thirty-six (136) feet in total length, and shall include six (6) canopy trees. The site plan submitted depicts six (6) deciduous trees around the outdoor play area and satisfies the minimum landscaping requirements.

### Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan targets this area for single-family residential land uses. The single-family residential 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 compatible with residential neighborhoods. Additional uses may include libraries, schools, churches, and community centers.

The proposed Day Care Center 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 the applicable provisions of the Zoning Code. Additionally, the Division of Transportation has objected to the approval of the Day Care Center in a residential area due to the traffic associated and day-to-day activities.

## **PLAN COMMISSION RECOMMENDATION**

The staff recommended that the Toledo City Plan Commission recommend disapproval of SUP-12002-22, a Special Use Permit for a Day Care Center at 1822 Upton Avenue, to Toledo City Council for the following three (3) reasons:

1. The proposed use does not comply with all applicable provisions of this Zoning Code (TMC§1111.0706(B) – *Review & Decision-Making Criteria*).
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, etc.) (TMC§1111.0706(C) – *Review & Decision-Making Criteria*); and



## PLAN COMMISSION RECOMMENDATION (cont'd)

3. The Division of Transportation has objected to the approval of the Day Care Center.

However, the Toledo City Plan Commission recommends approval of SUP-12002-22, a Special Use Permit for a Day Care Center at 1822 Upton Avenue to Toledo City Council. The Toledo City Plan Commission makes the following recommendation to the Toledo City Council on the following waivers for SUP-1003-21:

### Chapter 1104 Use Regulations

#### Sec. 1104.0703 – Day Care Center

##### B. Location

A Day Care Center must have building frontage on a major street.

Approve a waiver to allow a Day Care Center to be located off of a major street.

The Toledo City Plan Commission further recommends approval of SUP-12002-22, a Special Use Permit for a Day Care Center at 1822 Upton Avenue to the Toledo City Council, subject to the following **thirty-one (31)** conditions:

The conditions of approval are as follows and are listed by agency of origin. Applicants are encouraged to contact each of these 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:  
Engineering and Construction Management: 419-245-1315  
Right-of-Way and Inspection: 419-245-1341  
Roadway: 419-245-1344  
Water: 419-936-2163  
Stormwater Drainage: 419-245-3221 or 419-245-1338  
Sanitary Sewers: 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.

**PLAN COMMISSION RECOMMENDATION (cont'd)**

Division of Engineering Services (cont'd)

4. Required permits for all approved work in the public right-of-way shall be obtained, before work begins, from Ted Rousos, 419-245-1347. The application can be obtained online at Toledo.oh.gov search: Right of Way opening permit.
5. Contact Joe Warnka at (419) 245-1341 for inspection of above-mentioned items.

Sewer & Drainage Services

6. S&DS requires that all existing private sewer lines that are not being removed or properly abandoned (both storm & sanitary) be cleaned and inspected.
7. S&DS requires that the existing 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.

Environmental Services

8. 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.
9. Applicant shall maintain compliance with Ohio EPA's General Storm Water NPDES permit programs.
10. 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.
11. 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](https://www.oipc.info/uploads/5/8/6/5/58652481/alternatives_to_ohio_invasive_plant_species.pdf)
12. 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.



**PLAN COMMISSION RECOMMENDATION (cont'd)**

Fire Prevention

13. Plans for interior remodeling have been submitted to the Building Department for this location. A correction letter was issued. We are waiting for revisions to be code-compliant.

Division of Transportation

14. One van accessible parking space with an 8' loading area and accessible parking signage is required per TMC 1107.1702 & TMC 1107.1704.
15. Bicycle parking is required per TMC 1107.0900.
16. All off-street parking and loading spaces, parking lots, maneuvering areas, aisles and driveways must be surfaced with concrete, asphalt or other dust-free material per TMC 1107.1906. (Grass and dirt are not permitted for driveway and parking areas.)
17. All parking spaces are required to be a minimum of 9'x18' per TMC§1107.1911.3

Plan Commission

18. 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 Avenue.**
19. 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. **Acceptable as depicted on site plan submitted.**
20. Per TMC§1107.0304 a Day Care Center is required to have one (1) parking space per six (6) person-capacity or one (1) parking space per 400 square feet, whichever is greater. A total of three (3) parking spaces are required for the site. The site plan submitted depicts an area available for three (3) parking spaces stacked on a single vehicle width driveway. **Not acceptable as depicted.**
21. A cross-access easement and/or a shared-parking easement shall be recorded for the adjacent driveway at 1818 Upton Avenue to be used as parking.
22. Any spaces reserved for the use by persons with physical disabilities shall adhere to the standards outlined in TMC§1107.1700. One (1) van accessible space is required. **Not acceptable as depicted. One (1) van accessible space shall be shown on a revised site plan.**

**PLAN COMMISSION RECOMMENDATION (cont'd)**

Plan Commission (cont'd)

23. Per TMC§1107.0400, Off-Street Parking Schedule "A" requires one (1) bicycle parking slot per ten (10) parking spaces. **Not acceptable as depicted. One (1) bicycle parking space is required and shall be depicted on a revised site plan.**
24. Per TMC§1107.1202, no parking space may be located within the front yard, except that parking spaces for detached houses, attached houses, and duplexes may be located on a driveway. **Not acceptable as depicted. The proposed 20'x5' concrete pad in front of the house is not permitted to be used as parking.**
25. 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 or to a stormwater treatment facility subject to the regulations and approval of the Department of Public Utilities.
26. 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)).
27. 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. 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. **Acceptable as depicted on site plan submitted.**
  - b. Topsoil must be back filled to provide positive drainage of the landscape areas.
  - c. 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.



**PLAN COMMISSION RECOMMENDATION (cont'd)**

Plan Commission (cont'd)

- d. 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.
  - e. Canopy trees must be a minimum of twelve-feet (12') in overall height or a minimum caliper of two-inches (2") and evergreen trees must be a minimum of five-feet (5').
  - f. The location, height, and materials for any fencing to be installed and maintained;
  - g. The location and direction of any proposed lighting (**any lighting is to be directed away from adjacent residential properties**).
28. Approval of the Special Use Permit will lapse after one (1) year if the criteria listed in **TMC§1111.0707** have not been met.
29. 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.
30. 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.
31. 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: Deniece Overton; 1822 Upton Avenue, Toledo, OH 43607  
Lisa Cottrell, Administrator  
Ryne Sundvold, Senior Planner

# GENERAL LOCATION

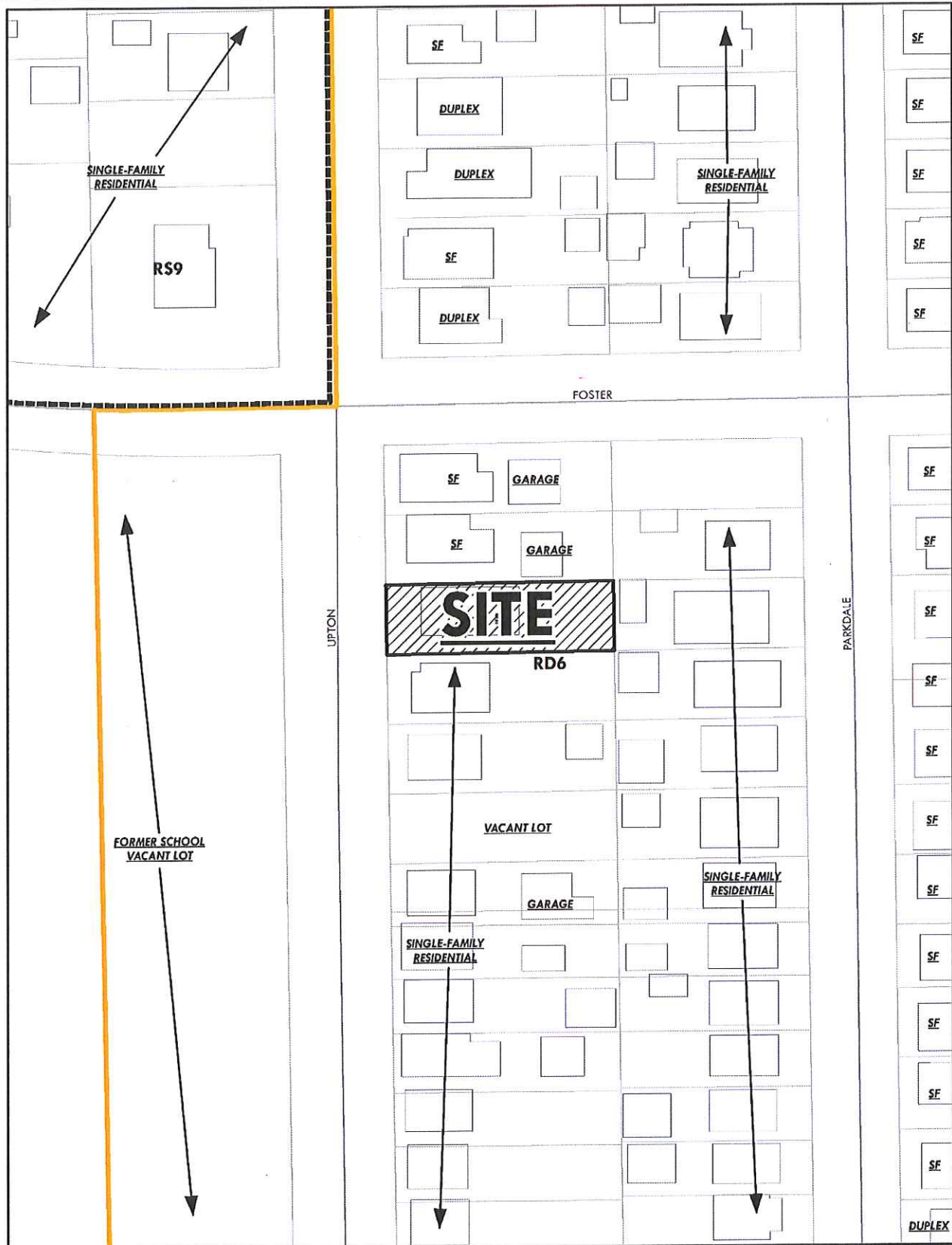
SUP-12002-22  
ID 36





# ZONING & LAND USE

SUP-12002-22  
ID 36



## ID 36



### HANDRAIL DETAIL



RUN LEADING TO THE LANDING.  
YOU SHALL HAVE A CLEAR LENGTH OF 60 FEET.



## LOCATION MAP



COUNTY: WYOMING AND QUEENS HOUSE OF CARB, IN  
 ADDRESS: 1222 UNION AVE  
 TOLSON, OH 43067  
 PARCEL: 136-0214  
 603-3309-0417038  
 DISTRICT: TOLSON CITY, MD  
 CLASS: RESIDENTIAL  
 LANDUSE: 510-A SINGLE FAMILY DWELLING  
 AREA: 4789

ENCLOSURE LOT 36



NAME: THOMAS J. O'BRIEN PE  
NUMBER: 1-65750  
ISSUE DATE: FEB 17 2003

**UPTON  
DAY CARE**

PROJECT:

## Discussion

Q	DATE	DESCRIPTION
		DRAWING MANAGEMENT
	10/1/22	ISSUED FOR SUP
	10/1/22	ISSUED FOR SUP
	10/31/22	ISSUED FOR SUP
	11/3/22	ISSUED FOR SUP

DRAWING TITLE:  
SITE PLAN  
SPECIAL USE PERMIT

DRAWING NUMBER: 3/16"=1'-0"  
 VERSION:

1822-A-00  
SHEET 1 OF 1

1000

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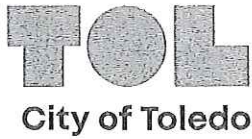
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Ref: SUP-12002-22  
Planner: Ryne Sundvold  
Prepared By: A. Galambos, Due 01/24/23

**Transportation**  
110 N. Westwood Ave.  
Toledo, Ohio 43607  
phone 419-245-1300  
fax 419-245-1310  
⇒ toledo.oh.gov

To: Thomas C. Gibbons, Director, Toledo-Lucas County Plan Commissions

Thru: Douglas R. Stephens, P.E., Director, Division of Transportation DRS  
DRS (Jan 24, 2023 11:02 EST)

From: Gary Stookey, Senior Professional Engineer, Division of Transportation

Subject: Special Use Permit for Day Care Center at **1822 Upton Avenue.**

The Division of Transportation has reviewed the site plan and has the following comments:

1. One van accessible parking space with an 8' loading area and accessible parking signage is required per TMC 1107.1702 & TMC 1107.1704.
2. Bicycle parking is required per TMC 1107.0900.
3. All off-street parking and loading spaces, parking lots, maneuvering areas, aisles and driveways must be surfaced with concrete, asphalt or other dust-free material per TMC 1107.1906. (Grass and dirt are not permitted for driveway and parking areas.)
4. A parking lot with drive aisles and a turnaround are required and must conform to TMC 1107.1904 and TMC 1107.1911. (Backing out onto Upton Avenue is not permitted for this use and blocking a parked vehicle is not allowed.)
5. All parking spaces are required to be a minimum of 9'x18' per TMC 1107.1911.

The Division of Transportation objects to the approval of the site plan by the Plan Commission.

 1/14/23  
Gary Stookey, Senior Professional Engineer      Date  
Division of Transportation

RECEIVED

JAN 30 2023

TOLEDO-LUCAS COUNTY  
PLAN COMMISSION

To whom it may concern I Michael Baker Owner of 1818 Upton Ave. Toledo, Oh 43607 shares a double split driveway with Deniece Overton Owner of 1822 Upton Ave. Toledo Oh 43607. I am giving Ms. Deniece Overton permission to utilize my side of the driveway for usage on behalf of her new childcare facility as she or parents, family or friends needs to.

Michael Baker Date 12/15/2022

