



## Legislation Details (With Text)

**File #:** O-199-18      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Approved  
**File created:** 5/17/2018      **In control:** City Council  
**On agenda:** 5/22/2018      **Final action:** 5/22/2018  
**Title:** Granting a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, in the City of Toledo, Lucas County, Ohio; subject to certain conditions; declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Plan Commission Report

Date	Ver.	Action By	Action	Result
5/22/2018	1	City Council	Dispense with the rules of Council requiring...	Pass
5/22/2018	1	City Council	declare emergency	Pass
5/22/2018	1	City Council	passage	Pass

### Zoning & Planning Committee

**Granting a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, in the City of Toledo, Lucas County, Ohio; subject to certain conditions; declaring an emergency.**

#### SUMMARY & BACKGROUND:

By application (SUP-12002-17) filed with the City of Toledo Central Permit Center, a request for a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, in the City of Toledo, Lucas County, Ohio; was submitted to the Toledo City Plan Commission for its review and recommendation.

On April 12, 2018, the Toledo City Plan Commission recommended approval for a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, in the City of Toledo, Lucas County, Ohio.

On May 16, 2018, Toledo City Council, Planning and Zoning Committee reviewed, and sent as approved a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, City of Toledo, Lucas County, Ohio; and all other things required by law to be done, have been done.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, City of Toledo, Lucas County, Ohio; be and the same is hereby approved, subject to the conditions contained in Section 2 hereof which must be complied with, as to the property more fully described

as follows:

Situated in the City of Toledo, County of Lucas, State of Ohio, described as follows:

Part of the South One-half (1/2) of the Southeast Quarter (1/4) of Section Seven (7), Town Three (3) United States Reserve, City of Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at the intersection of East line Southeast Quarter (1/4) of said Section Seven (7) (the centerline of Byrne Road) and the centerline of Airport Highway;

Thence South Seventy-three (73) degrees, Twenty-six (26) minutes, Thirty-two (32) seconds West along the centerline of Airport Highway, a distance of One Hundred Thirty-eight and Twenty-two Hundredths (138.22) feet to the point of beginning;

Thence continuing South Seventy-three (73) degrees, Twenty-six (26) minutes, Thirty-two (32) seconds West along the centerline of Airport Highway, a distance of Two Hundred Fifty and Forty-six Hundredths (250.46) feet to a point;

Thence North Zero (00) degrees, Forty-one (41) minutes, Thirty-two (32) seconds East along a line that is a distance of Three Hundred Seventy-one and Twenty Hundredths (371.20) feet Westerly of and parallel with the East line of Southeast Quarter (1/4) of said Section Seven (7), a distance of Three Hundred Sixty-five and Ninety-two Hundredths (365.92) feet to a point;

Thence South Eighty-eight (88) degrees, Forty-two (42) minutes, One (01) second East, a distance of Two Hundred Thirty-nine and Twenty-one Hundredths (239.21) feet to a point that is located One Hundred Thirty-two and Zero Hundredths (132.00) feet West of the East line of the Southeast Quarter (1/4) of said Section Seven (7) and Two Hundred Eighty-nine and Eleven Hundredths (289.11) feet North of the centerline of Airport Highway as measured parallel to said East line;

Thence South Eighty-nine (89) degrees, Ten (10) minutes, Nineteen (19) seconds East along a line that if extended, would intersect the East line of the Southeast Quarter (1/4) of said Section Seven (7), a distance of Two Hundred Forty-seven and Eighty-one Hundredths (247.81) feet Northerly of the centerline of Airport Highway, a distance of Sixty and Zero Hundredths (60.00) feet to a point on the Westerly right of way line of Byrne Road;

Thence South Zero (00) degrees, Forty-one (41) minutes, Thirty-two (32) seconds West along said right of way line and being Seventy-two and Zero Hundredths (72.00) feet Westerly of and parallel with the East line of the Southwest Quarter (1/4) of said Section Seven (7), a distance of One Hundred Sixty-seven and Sixty-eight Hundredths (167.68) feet to a point; Thence South Thirty-seven (37) degrees, Four (04) minutes, Thirteen (13) seconds West and continuing along said right of way line a distance of Twenty-five and Two Hundredths (25.02) feet to a point on the Northwesterly right of way line of Airport Highway;

Thence South Seventy-three (73) degrees, Twenty-six (26) minutes, Thirty-two (32) seconds West along the Northwesterly right of way line of Airport Highway, a distance of Forty-seven and Twenty-nine Hundredths (47.29) feet to a point;

Thence South Zero (00) degrees, Forty-one (41) minutes, Thirty-two (32) seconds West along a line that is One Hundred Thirty-two and Zero Hundredths (132.00) feet Westerly of and parallel with the East line of the Southwest Quarter (1/4) of said Section Seven (7), a distance of Eighty-seven and Twelve Hundredths (87.12) feet to the point of beginning, excepting therefrom a Twelve and Zero Hundredths (12.00) foot strip of land along Airport Highway deeded to the City of Toledo as recorded in Volume 1954, Page 750, Lucas County Deed Records, containing One and Nine Hundred Ninety-one Hundredths (1.991) acres of land, more or less. Subject to legal highways.

Parcel Nos. 20-05154 and 20-05191

SECTION 2. That the approval of the Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, City of Toledo, Lucas County, Ohio; shall be subject to compliance with the 50 conditions as follows:

The following fifty (50) conditions 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/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.  
  
Contact Joe Warnka at (419) 245-1341 for inspection of above mentioned items.
6. Water service is available subject to the Rules and Regulations of the Department of Public Utilities.
7. Plans for new water service or modifications to the existing water service shall be submitted to the Division of Engineering Services for review and approval. If existing water services are not to be reused, they shall be abandoned by the City of Toledo at the developer's expense.
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 @ 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. The plan submitted for plan commission review indicates earth-disturbing activity greater than 2,500 square feet; therefore, a detailed site-grading plan, Stormwater Pollution Prevention Plan (SWP3) , calculations, plans for stormwater service and a maintenance plan & maintenance agreement for Post-Construction Stormwater Best Management Practices (BMP's) for this project shall be submitted directly to the Division of Engineering Services for stormwater review & approval.
12. Plan submittals shall be in conformance with the latest version of Infrastructure Design and Construction Requirements available at <http://toledo.oh.gov/services/public-utilities/engineering-services/plan-review-process/>, including the requirements for stormwater detention and post-construction stormwater BMP's. (see the following two comments for additional information on these requirements).
13. Detention is required for the site. There is an existing parking lot detention system on the family video site, the detention could be used to satisfy the City of Toledo detention requirements for the proposed site if there are not any changes proposed to the existing storm sewer, the new pavement area drains to the parking lot detention and the parking lot detention is sized to handle the additional flow from the new proposed pavement.
14. Post-Construction BMP's were not included for the previous site, therefore post-construction BMP's will be required for all disturbed area.
15. Any person performing earth-disturbing activities within the City of Toledo shall employ Construction Best Management Practices (BMPs) to provide sediment and erosion control during construction. Construction BMP's shall be designed and installed per the latest Ohio EPA General Stormwater NPDES permit.
16. All disturbed land areas over 1 acre must submit an NOI to and obtain a permit from the Ohio EPA.
17. All sites disturbing 2,500 sq. ft or more shall develop a site specific Stormwater Pollution Prevention Plan (SWP3) which shall be submitted for review and approval. The SWP3 shall address all components required per the latest Ohio EPA General Stormwater NPDES permit and shall submitted with a completed submittal cover sheet, contact list, contractor certification form an the Ohio EPA SWP3 Checklist. The links to these documents can be found at <http://www.tmacog.org/storc/swp3.htm>.
18. Designs incorporating low impact development solutions, such as grassy swales and bio-retention areas in lieu of curb, storm sewers, and underground detention are encouraged and may be eligible for a percent reduction in the property's stormwater utility fee through the Stormwater Credit Program.
19. All storm drainage must be internal and not run off onto adjacent properties unless approved by the City of Toledo Drainage Engineer.
20. No construction work, including any earth disturbing work will be permitted without approved plans and inspection.
21. Sanitary sewer service for this development is available subject to the Rules and Regulations of the Department of Public Utilities.

#### Sewer & Drainage Services

22. S&DS requires that all private sewer lines that are not being removed or properly abandoned (both storm and sanitary) be cleaned and inspected.
23. S&DS requires that the private sanitary lines (after they have 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

24. Applicant shall maintain compliance with the City of Toledo's Stormwater regulations as specified in the Toledo Municipal Code.

25. Applicant shall maintain compliance with Ohio EPA's General Stormwater NPDES permit programs.
26. Any green infrastructure measures that can be included to minimize runoff and increase infiltration are highly advisable.
27. Applicant shall maintain compliance with the City of Toledo's stormwater regulations as specified in the Toledo Municipal Code. Special attention must be paid to all potential stormwater impacts from the facility, including but not limited to long-term operation and maintenance of both structural and non-structural Best Management Practices.
28. 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 Anti-Noise Laws and Asbestos abatement.

#### Fire Prevention

29. Site shall comply with Fire Prevention Bureau regulations.

#### Plan Commission

30. All subject lots shall be combined so that the development occupies one (1) parcel.
31. Dumpster location(s) shall be clearly defined, have a concrete pad and be surrounded by an enclosure constructed of high quality materials. Arborvitae, as indicated on the landscape plan shall be maintained around the dumpster indefinitely. (Dumpster enclosure and landscaping is acceptable as depicted on site plan).
32. Dumpster/Trash Receptacle Screening states that a dumpster may not be in any required setback or landscape buffers and shall be located as far away from residential areas as possible. (Acceptable as depicted on site plan).
33. All four (4) sides of the dumpster must be screened and screening must be a minimum height of six (6) feet in height. Screening materials can be any combination of evergreen plantings, fence or wall structure. Screening should be incorporated into access to the dumpster by using a wooden fence or other opaque device to serve as a gate. (Acceptable as depicted on site plan).
34. 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 approval of the Department of Public Utilities. (Acceptable as depicted on site plan).
35. 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).
36. Bicycle parking slots shall be provided pursuant to Off-Street Parking Schedule "A" (TMC§1107.0300). (Not depicted on site plan).
37. 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)) (Acceptable as depicted on site plan).
38. Intensity, location, and screening of outside lighting, including canopies, especially when abutting a residential district shall be considered. Flat lens lighting shall be used (TMC§1104.0901.D).
39. Hours of operation 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, to reduce detriment to the area (TMC§1104.0901.H).
40. Pump islands shall be set back a minimum of 15 feet from the property line (TMC§1104.0903(B)). (Acceptable as

depicted on the submitted site plan).

41. Canopies shall be set back a minimum of 10 feet from the property line, and shall be designed to be consistent with the building materials and colors of the principal building. Support columns shall be brick, brick base, or other durable materials compatible with the principle building. The Planning Director may require a peaked roof to complement the principle building (TMC§1104.0903.A). (Acceptable as depiction on elevation).
42. No new free-standing signs greater than forty-two inches (42") from grade are permitted - any proposed signage must meet the requirements of low-profile signs per Toledo Municipal Code Title Nine - Sign Code.
43. Non-petroleum displays must be within 25 feet of the building but not within 25 feet of any right-of-way. The maximum height of such displays shall not exceed 5 feet (TMC§1104.0903.C).
44. Free air (with the capability of filling standard automobile tires), water, and restrooms shall be provided and maintained during operating hours of the station (TMC§1104.0903.D). (Acceptable as depicted on site plan);
45. Litter receptacle(s) shall be provided for the use of parking area users and others. Litter receptacle(s) are treated as accessory structures and must be maintained according to the requirements of the Toledo-Lucas County Health Department.
46. A detailed site, lighting, fencing and four (4) landscaping plans separate from the building plans shall be submitted to the Plan Director for review and approval. Such plan shall include:
  - a. A fifteen (15') foot wide greenbelt is required along the South Byrne Road and Airport Highway frontages and must be out of the right-of-way. Calculations conclude that a total of six (6) trees are required in the frontage greenbelt along South Byrne Road and eleven (11) trees are required along Airport Highway. Trees are not required to be evenly spaced and may be clustered. (Acceptable as submitted on the landscape plan);
  - b. Property shall include a solid evergreen hedge planting in the frontage greenbelts to screen the parking lot so that no headlights of any vehicles can be seen from the public street. Planting required to meet this section are not permitted to be located in the public right-of-way. (Acceptable as submitted on the landscape plan);
  - c. If applicable; a stormwater treatment facility area shall meet the approval of the City of Toledo's Division of Engineering Services and Division of Environmental Services;
  - d. Perimeter parking lot landscaping is acceptable as shown. Existing trees in the northwest corner shall be maintained indefinitely;
  - e. Foundation plantings shall be added at the main building's entrance. (Acceptable as shown on the landscape plan);
  - f. Topsoil must be back filled to provide positive drainage of the landscape area. (Acceptable as depicted on landscape plan);
  - g. 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. (Acceptable as submitted on site plan);
  - h. The 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. (Acceptable as submitted on site plan);
  - i. 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.

- j. 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.
  - k. The location, type and direction of any proposed lighting. The lighting is subject to the approval of the Director of the City of Toledo Plan Commission (lights are to be directed away from adjacent residential properties).
47. 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.
48. A Bond of Performance or suitable assurance acceptable to the Division of Inspection valid for a period of two (2) years shall be posted with the Commissioner of Inspection providing for the installation of required landscaping within one (1) year. Landscaping shall be installed & maintained indefinitely.
49. 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.
50. 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.

SECTION 3. That when the conditions contained herein above have been complied with, the Secretary of the Toledo City Plan Commission be and he is hereby directed to change the zoning maps to conform with the within Ordinance.

SECTION 4. That this Ordinance hereby is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety and property, and for the further reason that the Ordinance must be immediately effective in order to provide for the orderly regulation and use of the property and to protect the land value in the area.

Vote on emergency clause: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Passed: \_\_\_\_\_, as an emergency measure: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council                      President of Council

Approved: \_\_\_\_\_  
Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council \_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council