



## Legislation Details (With Text)

**File #:** O-197-24      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Approved  
**File created:** 4/17/2024      **In control:** Zoning & Planning Committee  
**On agenda:** 4/24/2024      **Final action:** 4/24/2024  
**Title:** Granting an amendment to a Special Use Permit, originally granted by Ord. 366-78 and Ord. 595-85 for a Gas Station expansion for a site located at 2702 and 2718 Upton Avenue in the City of Toledo, Lucas County, Ohio; subject to certain conditions and declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. #12 2702 & 2718 Upton SUP, 2. Video: City Council 4/24/2024

Date	Ver.	Action By	Action	Result
4/24/2024	1	City Council	Suspension	Pass
4/24/2024	1	City Council	Emergency	Pass
4/24/2024	1	City Council	Passage	Pass

Zoning & Planning Committee  
2702-2718 Upton SUP

**Granting an amendment to a Special Use Permit, originally granted by Ord. 366-78 and Ord. 595-85 for a Gas Station expansion for a site located at 2702 and 2718 Upton Avenue in the City of Toledo, Lucas County, Ohio; subject to certain conditions and declaring an emergency.**

### SUMMARY & BACKGROUND:

By application (SUP-6006-23) filed with the City of Toledo Central Permit Center, a request for a Special Use Permit for a gas station expansion for a site located at 2702 and 2718 Upton Avenue, in the City of Toledo, Lucas County, Ohio; was submitted to the Toledo City Plan Commission for its review and recommendation.

On March 14, 2024, the Toledo City Plan Commission recommended approval for the request for granting a Special Use Permit for a gas station expansion for a site located at 2702 and 2718 Upton Avenue, in the City of Toledo, Lucas County, Ohio.

On April 16, 2024 Toledo City Council, Planning and Zoning Committee reviewed, and recommended approval for a Special Use Permit for a gas station expansion for a site located at 2702 and 2718 Upton Avenue, in the 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 granting a Special Use Permit for a gas station expansion for a site located at 2702 and 2718 Upton Avenue, in the 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:

WHITNEY HILLS LOT 223

WHITNEY HILLS LOTS 220 THRU 222 SUBJECT TO LEGAL HIGHWAYS

SECTION 2. That the approval of the granting of a Special Use Permit for a Daycare Center for a site located at 1119 W. Bancroft Street, in the City of Toledo, Lucas County, Ohio, be subject to compliance with the 25 conditions as follows:

The following twenty-five (25) conditions listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

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 419-245-1347. The application can be obtained online at Toledo.oh.gov search: Right of Way opening permit.

Contact (419)-245-1341 for inspection of above-mentioned items.

4. The City of Toledo public water system does not appear to be impacted by this project. Refer to comments provided by the Division of Water Distribution regarding private water mains and/or service lines.
5. This stormwater compliance proposal is nonconforming but will be acceptable upon additional submittal of calculations for the runoff reduction method and a long-term plan agreement for maintaining sheet flow and preventing the ponding of water.
6. Construction permission would require completion of the following:
  - a. Submittal of the above items, engineering plans and a SWP3 using the cover sheet provided to the applicant. It lists multiple items that make a complete SWP3, and initiates a workflow for plan review and approval.
  - b. Submittal of fees according to the calculation and submittal instructions on the sewer construction permit fee chart provided to the applicant.
  - c. Construction inspection and completion of obligations in the stormwater permit.

7. If there are any existing structures to be demolished at the site, the sanitary services to such structures will be killed by the City of Toledo at the developers cost.

#### Division of Sewer & Drainage Services

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

#### Bureau of Fire Prevention

9. Address on the plans need to be checked. Lucas County AREIS from the Auditors office show the address for this location as 2702 Upton. The S & G Stores website has the address for this location as 3730 Monroe St. Lucas County 911 has the address as 3730 Monroe St. -Please show the correct address on all plans for work and assure the correct address is posted per code language. (OFC505.1)

#### Division of Environmental Services

10. 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.
  - b. Construction BMPs shall be in place prior to the start of construction activities.
  - c. SWP3 inspection reports shall be kept on site with the SWP3 and readily accessible during normal working hours.
11. Applicant shall maintain compliance with Ohio EPA's General Storm Water NPDES permit programs.
12. 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.
13. 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)>**
14. 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

15. Off-street parking shall be provided pursuant to Off-Street Parking Schedule "A," (TMC§1107.0304). Minimum number of off-street parking spaces required for gasoline and fuel sales is one (1) parking space per pump plus one (1) per three-hundred (300) square feet of building area. The site plan shows three (3) gas pumps on site. Six (6) at pump parking spaces are required. The proposed building covers an area of 2,300 square feet requiring an additional eight (8) parking spaces. A total of fourteen (14) parking spaces are required for this site. The submitted site plan shows fifteen (15) parking spaces to the

north of the site for the gasoline and fuel sales use. **Acceptable as depicted on site plan submitted on November 8, 2023.**

16. Bicycle parking slots shall be provided pursuant to Off-Street Parking Schedule “A,” (TMC§1107.0300). Minimum number of bicycle parking slots required for a convenience store is one (1) bicycle parking per ten (10) parking spaces. Two (2) bicycle parking spaces are required. **Not acceptable as depicted on site plan received on November 8, 2023. Two bicycle parking spaces shall be shown on a revised site plan.**
17. 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 with an eight-foot (8’) drive aisle is required. **Not acceptable as depicted on site plan submitted November 8, 2023.**
18. 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.
19. 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 or the public right-of-way as stated in **TMC§1361.10(b)(10)** of the Building Code. **If applicable.**
20. 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 buffer is required along Upton Avenue. At least one tree must be provided for every 30 feet of lot frontage or fraction thereof. The frontage greenbelt shall also include a solid evergreen hedge to screen parking in the front of the property and prevent headlights from being seen from the right-of-way. **Not acceptable as depicted on site plan. Additional continuous shrub shall be provided along the property line adjacent to Upton Avenue;**
  - b. Perimeter landscaping must be installed along any parking lot area adjacent to a street, place, or driveway, or which is visible from an immediately adjacent property, and must include a continuous shrub row with a minimum height eighteen inches (18”). **This is not acceptable as depicted, a continuous shrub with a minimum height of eighteen inches (18”) shall be shown on a revised site plan in addition to the screening materials provided;**
  - c. A vinyl privacy fence is required along all property lines abutting residential districts to the north and east of the site. The fence shall be beige or hunter green in color. **Acceptable as depicted on site plan received on November 8, 2023;**
  - d. 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 depicted on site plan submitted on November 8, 2023;**
  - e. Topsoil must be back filled to provide positive drainage of the landscape areas;
  - f. 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, trees, shrubs,

and landscape materials shall meet the standards included in TMC 1108.0400 Landscape Materials Standards. **Not acceptable as depicted on landscaping plan submitted on November 8, 2023;**

- g. 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;
- h. Because the site is greater than ½ acre large, 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. Alternatively, applicant can install native/drought resistant plants;
- i. The location and direction of any proposed **lighting (any lighting is to be directed away from adjacent residential properties)**.

- 21. New free-standing signs shall be limited to a height of forty-two inches (42”) from grade.
- 22. The Special Use Permit shall be reviewed for compliance with the conditions of approval, negative secondary effects, and adherence to all requirements of the Toledo Municipal Code after one (1) year. If outstanding issues are found and not addressed the Special Use Permit may be considered for revocation.
- 23. Approval of the Special Use Permit will lapse after one (1) year if the criteria listed in TMC§1111.0707 have not been met.
- 24. 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.
- 25. 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 12, nays 0.

Passed: April 24, 2024, as an emergency measure: yeas 12, nays 0.

Attest:

Julie A. Gibbons  
Clerk of Council

Carrie Hartman  
President of Council

Approved: April 24, 2024  
Wade Kapszukiewicz  
Mayor