



Legislation Text

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File #: O-354-19, Version: 2

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Zoning & Planning Committee

**Granting an amendment to a Special Use Permit, originally approved by Ordinance 160-89 and 65-06, for a gas station rebuild for a site located at 3504 Lagrange Street, in the City of Toledo, Lucas County, Ohio; subject to certain conditions and waivers; and declaring an emergency.**

**SUMMARY & BACKGROUND:**

By application (SUP-9005-18) filed with the City of Toledo Central Permit Center, a request for an amendment to a Special Use Permit, originally approved by Ordinance 160-89 and 65-06, for a gas station rebuild for a site located at 3504 Lagrange Street, in the City of Toledo, Lucas County, Ohio; was submitted to the Toledo City Plan Commission for its review and recommendation.

On June 13, 2019, the Toledo City Plan Commission recommended approval for the request for an amendment to a Special Use Permit, originally approved by Ordinance 160-89 and 65-06, for a gas station rebuild for a site located at 3504 Lagrange Street, in the City of Toledo, Lucas County, Ohio.

On July 17, 2019, Toledo City Council, Planning and Zoning Committee reviewed, and sent without recommendation, a request for an amendment to a Special Use Permit, originally approved by Ordinance 160-89 and 65-06, for a gas station rebuild for a site located at 3504 Lagrange Street 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 an amendment to a Special Use Permit, originally approved by Ordinance 160-89 and 65-06, for a gas station rebuild for a site located at 3504 Lagrange Street, 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:

A parcel of land being Lots 12 through 16 and a portion of Lot 17 along with the adjacent 20' wide alley of Manhattan Park , City of Toledo, Lucas County, Ohio, which is more particularly described as follows:

Beginning at the Northwest corner of said Lot 12;

thence N75°11'20"E, on and along the Northerly line of said Lot 12, a distance of 100.00' (feet) to a point;

thence S14°48'40"E, on and along the Easterly line of said Lot 12, a distance of 1.66' (feet) to a point;

thence N85°33'20"E, a distance of 20.33' (feet);

thence S14°48'40"E, on and along the Easterly Right-of-Way line of an existing 20' (feet) wide Alley, a distance of 249.49' (feet) to a point;

thence S85°33'20"W, on and along a line being parallel and 30.00' (feet) Northerly of the Centerline of Right-of-Way of Manhattan Boulevard (60' R/W), a distance of 103.49' (feet);

thence N62°22'24"W, a distance of 24.66' (feet);

thence N14°48'40"W, on and along a line being parallel and 40.00' (feet) Northeasterly of the Centerline of Right-of-Way of Lagrange Street (73' R/W), a distance of 219.54' (feet) to the Point of Beginning;

Containing an area of 0.667 Ac., 29,068 SF of land more or less and having 0.115 Ac., 4,990 SF fall within the Right of Way of the 20' wide Alley to be vacated and subject to all legal highways, leases, easements and restrictions of record.

And all of adjacent alley:

Part of a 20.00 foot wide Alley being bounded by the Southerly Right-of-Way line of Majestic Drive (50 foot wide) and the Northerly Right-of-Way line of Manhattan Boulevard (60 feet wide), said Alley being adjacent to Lots 12-18 (inclusive) and Lot 56, all in Manhattan Park, a subdivision being recorded in Volume 44, Page 17 of Lucas County Plat Records, in the City of Toledo, Lucas County, Ohio, and being more particularly described as follows:

Commencing at a found bolt in a monument box at the intersection of the centerlines of Manhattan Boulevard and Lagrange Street, thence North 85 degrees 35 minutes 07 seconds East along the centerline of Manhattan Boulevard, distance of 142.32 feet to a point at its intersection with the southerly extension of the easterly lines of said Lots 12-17 (inclusive);

Thence North 14 degrees 46 minutes 53 seconds West along the said southerly extension of the easterly lines of Lots 12-17, a distance of 30.50 feet to the southeasterly corner of said Lot 17 and on the westerly line of a 20 foot wide Alley Right-of-Way, said point also being the "True Point of Beginning";

Thence North 14 degrees 46 minutes 53 seconds West along the said easterly lines of Lots 12-17 (inclusive) and the said westerly line of a 20 foot wide Alley Right-of-Way, a distance of 251.14 feet (251.11 feet Recorded) to the northeasterly corner of said Lot 12, said point also being on the southerly Right-of-Way line of Majestic Drive (50 feet wide);

Thence North 89 degrees 43 minutes 15 seconds East, a distance of 20.66 feet to the northwesterly corner of said Lot 56 and the easterly line of said 20 foot wide Alley Right-of-Way;

Thence South 14 degrees 46 minutes 53 seconds East along the westerly lines of said Lots 56 and 18 and the easterly line of said 20 foot wide Alley Right-of-Way, a distance of 249.63 feet (249.65 feet Recorded) to the southwesterly corner of said Lot 18, said point also being on the northerly Right-of-Way of Manhattan Boulevard (60 feet wide);

Thence South 85 degrees 35 minutes 07 seconds West along the northerly Right-of-Way line of Manhattan Boulevard (60 feet wide), a distance of 20.33 feet (Measured and Recorded) to the "True Point of Beginning";

The area herein described contains 5,007.72 square feet, 0.115 acres of land, more or less. Subject to all legal highways, leases, easements, restrictions and agreements of record.

SECTION 2. That the approval of the Special Use Permit for an amendment to a Special Use Permit, originally approved by Ordinance 160-89 and 65-06, for a gas station rebuild for a site located at 3504 Lagrange Street, in the City of Toledo, Lucas County, Ohio; shall be subject to compliance with the 59 conditions as follows:

The following fifty-nine (59) 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: 419-245-1341

Roadway: 419-245-1344

Water: 419-936-2163

Stormwater Drainage: 419-245-3221; 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.
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.

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

5. Water service is available subject to the Rules and Regulations of the Department of Public Utilities.
6. Plans for new water service lines or modifications to the existing water service lines shall be submitted to the Division of Engineering Services for review and approval.
7. Plans for new water meter or modifications to the existing water meter shall be submitted to the Division of Water Distribution for review and approval.
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](http://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 (419-936-2839) to verify the backflow prevention requirements

for this site.

9. The design professional or property owner shall submit written documentation to the Division of Water Distribution that no changes are being made to the existing water service line, 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. If existing water service lines are not to be reused, they shall be abandoned by the City of Toledo at the developer's expense.
12. New fire, domestic, and irrigation taps will be installed by City of Toledo at the developer's expense.
13. Maintain 10 feet of horizontal clearance between proposed water service and sanitary or storm sewers. Maintain 4 feet of horizontal clearance between proposed water service and any other underground utility. Maintain 18 inches of vertical clearance between proposed water service and sanitary or storm sewers. Maintain 12 inches of vertical clearance between proposed water service and any underground utility.
14. All developments are required to provide internal drainage, stormwater detention, post-construction stormwater best management practices (BMP's) and a stormwater pollution prevention plan (SWP3), for all area(s) disturbed regardless of pre-and post-construction land use. Detention of a flood control volume is required on account of city storm sewer capacity restrictions, unless calculations by the site engineer are presented to the city and found acceptable showing adequate capacity in the city storm sewer.
15. Submit for stormwater review & approval, in compliance with the latest version of the City of Toledo's Infrastructure Design and Construction Requirements <http://toledo.oh.gov/services/public-utilities/engineering-services/plan-review-process/>
  - Detailed site grading plan
  - Plans and calculations for storm sewer service, stormwater detention and post-construction best management practices (BMP's).
  - Long term maintenance plan and maintenance agreement for Detention and Post-Construction BMP's for long term maintenance of the private facilities. Stormwater Detention and Post-Construction BMP's are required to be maintained into perpetuity.
16. No construction work, including any earth disturbing work will be permitted without an approved SWP3 - including a completed submittal cover sheet, contact list, contractor certification form and Ohio EPA SWP3 checklist. The links to these documents can be found at <http://www.tmacog.org/storc/swp3.htm>.
17. A footprint for a stormwater management practice is not shown. If the practice will be underground detention, note that a proprietary system has specific requirements:

- The Contractor / Project Owner shall have a representative of the proprietary manufacturer on-site to advise contractor on installation procedure.
  - The Contractor / Project Owner will provide the City of Toledo with as-built plan sheets certifying the correct installation and function of the system.
  - The site designer's maintenance plan shall be reviewed and approved by the proprietary system manufacturer prior to submitting to the city for review and approval.
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. Information on this program can be found at <http://toledo.oh.gov/services/public-utilities/engineering-services/stormwater-utility-credit-program/>
19. Sanitary sewer service for this development is available subject to the Rules and Regulations of the Department of Public Utilities.
20. A single sanitary sewer tap from this site shall be allowed into the public sanitary sewer system. Developer shall use existing sanitary tap, when available.
21. 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.

#### Sewer & Drainage Services

22. S&DS requires that all private sewer lines that are not being removed or properly abandoned (both storm & sanitary) be cleaned and inspected.
23. 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 (2) two years. An electronic copy (DVD/memory stick) shall be provided to Sewer & Drainage Services demonstrating the lines cleaning and integrity.

#### Division of 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 modification, including but not limited to long-term operation and maintenance of existing structural and non-structural Best Management Practices.

28. Any effort made to plant non-invasive trees, shrubs and perennials is highly encouraged.  
<http://ohiodnr.gov/portals/0/pdfs/invasives/ohio-invasive-plants-0400.pdf>
29. Applicant shall maintain compliance with the City of Toledo and 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 Anti-Noise Laws.

#### Division of Transportation

30. (deleted by amendment July 23, 2019)
31. Existing curb cuts and approaches of vacated alley to be removed. New curb to match existing adjacent curb.
32. A suitable layout to Division of Transportation was determined in a meeting prior to this revised plan, but was not followed.

#### Plan Commission

33. All previous conditions of approval from SUP-262-88 (*Ord. 160-89*) & SUP-6007-02 (*Ord. 65-06*) shall apply and remain in effect.
34. The adjacent alley shall be vacated in order to allow for the expansion of the gas station.
35. A Petition to City Council shall be submitted for a Zone Change from RS6 Single-Dwelling Residential to CS Storefront Commercial in order to allow for the expansion of the gas station on the proposed vacated alley.
36. 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 principal building. The Planning Director may require a peaked roof to complement the principal building (TMC§1104.0903). Not acceptable as depicted on site plan submitted. The support columns shall be depicted on a revised building elevation. Plan Commission recommended approval of waiver to TMC§1104.0903 (A) in order to allow for the canopy within 10 feet of the property line.
37. Pump islands shall be set back a minimum of 15 feet from the property line. Not acceptable as depicted on site plan submitted. Plan Commission recommended approval of waiver to TMC§1104.0903 (B) in order to allow for the pump islands within 15 feet of the property line.
38. 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.
39. Free air (with the capability of filling standard automobile tires), water, and restrooms shall be provided and maintained during operating hours of the station.

40. Off-street parking facilities, including vehicular drives and maneuvering areas, in Commercial or Industrial districts are prohibited within twenty-five feet (25') from Residential districts (TMC§1107.1202(B)). Not acceptable as depicted on site plan submitted. Plan Commission recommended approval of waiver to TMC§1107.1202(B). The three (3) parking spaces abutting the residential property shall be removed and depicted on a revised site plan.
41. All parking spaces reserved for use by persons with physical disabilities shall adhere to the standards outlined in TMC§1107.1700; acceptable as depicted on site plan.
42. Bicycle parking slots shall be provided pursuant to Off-Street Parking Schedule "A" (TMC§1107.0300), which requires one (1) bicycle parking slot per ten (10) parking spaces; acceptable as depicted on site plan.
43. 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. Acceptable as depicted on site plan.
44. 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)).
45. 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 (TMC§1107.1906).
46. The building design shall meet the requirements of TMC§1109.0500 *Building Façade Materials and Color* and Section VII of the Land Development Standards and Guidelines. Exterior building materials shall not include concrete blocks, concrete panels or wood sheet goods as a predominant material. The façade colors shall be low-reflectance, subtle, neutral or earth tone colors. Acceptable as depicted on building elevations submitted. A colored building elevation shall be submitted.
47. Any roof structure visible from the street, or from other buildings shall be finished so as to be harmonious with other visible building walls.
48. Any new mechanical equipment placed on the roof shall be so located as to be hidden from view from the shopping streets and to be as inconspicuous as possible from other viewpoints.
49. Metal bars over windows and metal pull-down grates ("hurricane doors") shall be prohibited within the entire C-6 project area.
50. All projections, such as flues, vents, gutters and downspouts shall be painted to match the color of the surface from which they project.

51. New equipment shall be screened with suitable material of a permanent nature and finished to harmonize with the rest of the building.
52. (deleted by amendment July 23, 2019)
53. 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 minimum four-foot (4') greenbelt shall be installed along all frontages and include a hedge, wall, or other durable landscape barrier that provides adequate screening of at least three (3) feet in height shall be placed along the perimeter of such landscaped strip. Fences and walls shall not exceed three-feet six-inches (3'6") in height. Acceptable as depicted on site plan submitted.
  - b. Perimeter landscaping must be installed along any parking lot area adjacent to a street, place, or driveway. Perimeter landscaping must consist of a landscape area at least five-feet (5') in width, exclusive of easements, sidewalks, or rights-of-way, planted with at least one shrub for every three to five-feet (3-5') feet of property line, as determined by growth characteristics. Not acceptable as depicted on site plan submitted. A minimum of forty-nine (49) plantings shall be installed along the eastern property line where the site abuts the residential district and depicted on a revised landscaping plan.
  - c. The abutting property is zoned and used for residential uses, a wall or hedge or other durable landscape barrier that provides adequate screening of at least four-feet (4') in height shall be provided. Fences and walls shall not exceed seven-feet (7') in height. Acceptable as depicted on site plan submitted. A five-foot (5') perimeter landscaping area and six-foot (6') high wood stockade fence has been proposed.
  - d. All parking spaces must be within 100 linear feet of a landscaped area.
  - e. Topsoil must be back filled to provide positive drainage of the landscape area.
  - f. 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.
  - g. 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.
  - h. If site is ½ acre or larger, 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.
  - i. The location, height and materials for any fencing to be installed and maintained. Pursuant to TMC§1105.0302(A)(1), fences may not exceed 3½ feet (42") in height in the required front (10') setback; and
  - j. The location and direction of any proposed lighting (lights are to be directed away from adjacent



residential properties). Illumination of parking facilities shall be arranged so as not to reflect direct rays of light into any adjacent residential area. In no case shall direct and indirect illumination from the source of light exceed an illumination level maximum of one-half foot candle when measured at the nearest point of the lot line in a residential area.

54. 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 and maintained indefinitely.
55. 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. Signage shall be modified or constructed subject to the review and approval of the Plan Director.
56. Approval of the Special Use Permit will lapse after one (1) year if the criteria listed in TMC§1111.0707 have not been met.
57. 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.
58. 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. Waiving the following section of the Toledo Municipal Code for the zoning maps attached to Part 11, Planning and Zoning, Toledo Municipal Code, for the property located at 4465 N. Summit Street, in the City of Toledo, Lucas County, Ohio:

#### Chapter 1104 Use Regulations

##### Sec. 1104.0903 - A. & B. General Requirements

A. 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 principal building.

B. Pump islands shall be set back a minimum of 15 feet from the property line.

Approve a waiver to allow the canopy within ten-feet (10') of the property line and the pump islands within fifteen-feet (15') of the property line.

#### Chapter 1107 Parking, Loading, and Access

##### Sec. 1107.1202 - B. Commercial and Industrial Districts

Off-street parking facilities, including vehicular drives and maneuvering areas, in Commercial or Industrial districts are prohibited within:

1. required landscape buffers (see Chapter 1108);
2. 15 feet, and for properties over 5 acres and/or those with over 500 feet of frontage 30 feet, of street rights-of-way, except for approved driveways from streets;
3. 25 feet for properties less than 5 acres and/or those with less than 500 feet of frontage of the street right-of-way when located within 50 feet of a Residential district that fronts on the same street as the lot containing the off-street parking area; and

4. 10 feet from all RS and RD districts.

Approve a waiver of twenty-feet (20') from the required twenty-five feet (25') to allow an off-street parking facility, including vehicular drives and maneuvering areas, when abutting a Residential district.

SECTION 4. 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 5. 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