



## Legislation Text

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**File #: O-312-19, Version: 1**

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Zoning & Planning Committee

**Granting an amendment to a Special Use Permit for site modifications for a site located at 3301 Upton Avenue, in the City of Toledo, Lucas County, Ohio; subject to certain conditions; and declaring an emergency.**

**SUMMARY & BACKGROUND:**

By application (SUP-3004-19) filed with the City of Toledo Central Permit Center, a request for an amendment to a Special Use Permit for site modifications for a site located at 3301 Upton Avenue, in the City of Toledo, Lucas County, Ohio; was submitted to the Toledo City Plan Commission for its review and recommendation.

On May 9, 2019, the Toledo City Plan Commission recommended approval for an amendment to a Special Use Permit for site modifications for a site located at 3301 Upton Avenue, in the City of Toledo, Lucas County, Ohio.

On June 12, 2019, Toledo City Council, Planning and Zoning Committee reviewed, and sent as approved an amendment to a Special Use Permit for site modifications for a site located at 3301 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 an amendment to a Special Use Permit for site modifications for a site located at 3301 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:

**Devilbiss Site Improvements**

Description (Described To West Right-Of-Way Line Of Upton Ave.) A Parcel Lying In The West Half Of The Southeast Quarter Of Section 21, Town 9 South, Range 7 East, City Of Toledo, Lucas County, Ohio More Particularly Described As Follows:

Commencing At A 3/4 Inch Iron Pipe Found On The West Line Of Said Southeast Quarter Of Section 21 At The Southwest Corner Of Farmington II, A Plat In The City Of Toledo Recorded In Volume 25 Of Plats, Page 8, Lucas County Records; Thence South 89°41'56" East 30.00 Feet Along The South Line Of Said Farmington II To A 5/8" Capped Iron Rod Set At The True Point Of Beginning;

Thence South 89°41'56" East 1239.70 Feet Continuing Along Said South Line Also Being The North Line Of The South 23.5 Acres Of The Northwest Quarter Of The Southeast Quarter Of Said Section 21 To A 5/8" Capped Iron Rod Set On The Westerly Right Of Way Line Of Upton Avenue; Thence South 00°18'17" East 887.38 Feet Along The Said Westerly Right Of Way Line Of Upton Avenue Being 40.00 Feet Westerly Of The

Centerline Of Said Upton Avenue To A 5/8" Capped Iron Rod Set On The North Line Of The Plat Of Fairfax, A Plat In The City Of Toledo Recorded In Volume 21 Of Plats, Page 65, Lucas County Records; Thence North 89°38'13" West 1143.18 Feet Along Said North Line Also Being The South Line Of The North 3 Acres Of The Southwest Quarter Of The Southeast Quarter Of Said Section 21, To A 5/8" Capped Iron Rod Set At The Southeast Corner Of A 0.075 Acre Parcel Conveyed To The State Of Ohio By Deed Volume 1953, Page 718, Lucas County Records; Thence North 56°44'43" West 119.22 Feet Along The Northeasterly Line Of Said 0.075 Acre Parcel To A 5/8" Capped Iron Rod Set On The East Right Of Way Line Of Westland Avenue; Thence North 00°06'31" West 821.26 Feet Along Said East Right Of Way Line Being 30.00 Feet East Of The West Line Of Said Southeast Quarter Of Section 21 To The Point Of Beginning. Containing 25.191 Acres More Or Less And Subject To All Highways, Easements And Restrictions Of Record.

SECTION 2. That the approval of the amendment to a Special Use Permit for site modifications for a site located at 3301 Upton Avenue, in the City of Toledo, Lucas County, Ohio; shall be subject to compliance with the 38 conditions as follows:

The following thirty-eight (38) 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: 419-245-1341  
Roadway: ph. 419-245-1344  
Water: ph. 419-936-2163  
Stormwater Drainage: ph. 419-245-3221; 419-245-1338  
Sanitary Sewers: 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. Detailed plans for the fire hydrant relocation shall be submitted to the Division of Engineering Services for review and approval. Plan design and submittal shall comply with the current version of the City of Toledo DPU Infrastructure Design and Construction Requirements.
8. Show existing water service lines and proposed modifications to the water service lines on the utility plan.
9. The current version of “WATER GENERAL NOTES FOR CITY OF TOLEDO PRIVATE WATER MAINS, FIRE LINES AND LARGE SERVICES” shall be included on the plans and can be obtained from the City of Toledo Division of Engineering Services.
10. Contractors performing work on new or existing fire systems shall be licensed by the State of Ohio Fire Marshall and certified by the City of Toledo Fire & Rescue Department.
11. Submit plans 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/](http://toledo.oh.gov/services/public-utilities/engineering->services/plan-review-process/). Include the following items that are not included in the current submittal:
  - A Stormwater Pollution Prevention Plan (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>.
  - 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.
12. City of Toledo does not have a complete record for the existing storm sewer system on site and per the City’s MS4 permit all storm sewers must be mapped. It appears that the plan commission submittal may contain some of that information. The City of Toledo will use this to update our records, however if it is found that additional information is needed, the Developer/Owner/Consultant shall be required to provide that information. A copy of the City of Toledo’s current records of the private storm sewer can be provided for reference.
13. No construction work, including any earth disturbing work will be permitted without approved plans.
14. The Underground Detention System (UDS) is a proprietary system, which 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.
15. The site appears eligible for a percent reduction in the property's stormwater utility fee through the Stormwater Credit Program, because it incorporates low impact development solutions such as grass swales. Application instructions are at <http://toledo.oh.gov/services/public-utilities/engineering-services/stormwater-utility-credit->

#### Sewer & Drainage Services

16. S&DS requires that all private sewer lines that are not being removed or properly abandoned (both storm and sanitary) be cleaned and inspected.
17. 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

18. Applicant shall maintain compliance with the City of Toledo's Stormwater regulations as specified in the Toledo Municipal Code.
19. Applicant shall maintain compliance with Ohio EPA's General Stormwater NPDES permit programs.
20. Any green infrastructure measures that can be included to minimize runoff and increase infiltration are highly advisable.
21. 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.
22. Any effort made to plant non-invasive trees, shrubs, and perennials is highly encouraged. [http://ohiodnr.gov/portals/0/pdfs/invasives/Alternatives\\_to\\_Ohio\\_Invasive\\_Plant\\_Species](http://ohiodnr.gov/portals/0/pdfs/invasives/Alternatives_to_Ohio_Invasive_Plant_Species)
23. 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.

#### Plan Commission

24. 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).
25. 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).
  26. 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).
  27. 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).
  28. The Planning Director may authorize all or a portion of the required off-street parking spaces (not to include drive aisles) to be provided on permeable/porous surfaces subject to the criteria outlined in TMC§1107.1407(F).
  29. 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).
  30. Bicycle parking slots shall be provided pursuant to Off-Street Parking Schedule “A” (TMC§1107.0300). (Applicant indicated that 54 spaces are available).
  31. Lights and lighting fixtures used to illuminate any parking or loading area must be selected and arranged to direct and reflect the light from any adjacent residential property and public ways and away from the sky above the light fixture (TMC§1107.7908).
  32. Parking lots must be maintained in a safe operating condition so as not to create a hazard or nuisance. All materials used in the construction of paving, lighting fixtures, retaining walls, fences, curbs, and benches must be continuously maintained and kept free of debris and hazard (TMC§1107.1909).
  33. 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.
  34. 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. stormwater treatment facility area shall meet the approval of the City of Toledo’s Division of Engineering Services and Division of Environmental Services;
    - b. Traditional detention/retention ponds are prohibited in the frontage greenbelt.

- c. If located in the frontage greenbelt the stormwater facility may only occupy up to 50% of the actual available green space. (Acceptable as submitted on the landscape plan).
  - d. The land owner, or successors in interest, or agent, if any, or lessee must be jointly responsible for the regular maintenance of the stormwater treatment facility. Stormwater treatment facilities not properly maintained shall be a violation of this code and may also be subject to fees and penalties as set forth in TMC 941.
  - e. Topsoil must be back filled to provide positive drainage of the landscape area. (Acceptable as depicted on landscape plan);
  - 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. (Acceptable as submitted on landscape plan);
  - g. Landscaped terminal islands must be provided at the end of each parking row. (Acceptable as submitted on landscape plan);
  - h. Landscape terminal islands must be provided at the end of each parking row. Two (2) canopy trees are required to be installed in interior landscape areas for every ten (10) parking spaces within the parking lot. Additionally, six (6) shrubs are required to be installed in interior landscape areas for every ten (10) parking spaces within the parking lot. (Acceptable as submitted on landscape plan);
  - i. 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 and the State of Ohio Department of Agriculture's invasive plant list (Acceptable as depicted on site plan);
  - j. 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.
  - k. 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.
  - l. 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.
35. 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.

- 36. 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.
- 37. 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.
- 38. 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