



Legislation Text

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Zoning & Planning Committee

**Granting a Special Use Permit, for a New Gas Station and Convenience Store for a site located at 3531 Airport Highway, in the City of Toledo, Lucas County, Ohio; subject to certain conditions and a waiver; and declaring an emergency.**

SUMMARY & BACKGROUND:

By application (SUP-8003-21) filed with the City of Toledo Central Permit Center, a request for a Special Use Permit, for a New Gas Station and Convenience Store for a site located at 3531 Airport Highway in the City of Toledo, Lucas County, Ohio; was submitted to the Toledo City Plan Commission for its review and recommendation.

On October 14, 2021, the Toledo City Plan Commission recommended approval for the request for a Special Use Permit, for a New Gas Station and Convenience Store for a site located at 3531 Airport Highway, in the City of Toledo, Lucas County, Ohio.

On November 17, 2021, Toledo City Council, Planning and Zoning Committee reviewed, and sent as approved a Special Use Permit for a New Gas Station and Convenience Store for a site located at 3531 Airport Highway, 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 a Special Use Permit, for a New Gas Station and Convenience Store for a site located at 3531 Airport Highway, in the City of Toledo, Lucas County, Ohio 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:

PARCEL I:

That part of the Northeast 1/4 of the Northeast 1/4 of Section Number 18, Town 3 and that part of the Southeast 1/4 of the Southeast 1/4 of Section Number 7, Town 3 in the United States Reserve of 12 miles square at the foot of the Rapids of the Miami of Lake Erie in the City of Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at a point that is 192.1 feet West of the East line of said Section 18 and 125.35 feet South of the North line of said Section 18;

Thence North parallel with the East line of said Section 7 and 18 to the Southeast line of the Toledo Wauseon Road;

Thence Southwesterly along said Southeast line of said Road to a point that is 327.1 feet West of the East line of said Section 7 and 18;

Thence Southerly on a line parallel to the East line of Sections 7 and 18 to a point that is 125.25 feet Southerly of the North line of said Section 18;

Thence East on a line parallel to the North line of said Section 18 to the place of beginning.

LESS AND EXCEPT that part conveyed to the City of Toledo by instrument recorded in Official Record 20060523-0033053 bounded and described as follows:

Situated in the State of Ohio, County of Lucas, City of Toledo, Fractional Section 7, Town 3, United States Reserve and also being on the right side of a survey of State Route 2 (Airport Highway), made in 2002 for the Ohio Department of

Transportation as recorded as Instrument No. 200401060000823 of the Records of Lucas County and bounded and described as follows:

Commencing at a stone found in a monument box marking the intersection of the centerline of survey and right of way of S.R. 2 (Airport Highway) with the centerline of survey and right of way of Byrne Road, said point being Station 728+

15.21 on the said centerline of S.R. 2 (Airport Highway);

Thence South 73 degrees 05 minutes 46 seconds West along the said centerline of S.R. 2 (Airport Highway), a distance of 209.63 feet to a point, said point being Station 726+05.58 on the said centerline of S.R. 2 (Airport Highway);

Thence South 16 degrees 54 minutes 14 seconds East perpendicular to the said centerline, a distance of 30.00 feet to a point on the Southerly existing right of way line of S.R. 2 (Airport Highway), said point being 30.00 feet right of

Station 726+05.58 on the said centerline of S.R. 2 (Airport Highway), said point being the Northeasterly property corner of the grantor and the true Point of Beginning;

Thence South 00 degrees 25 minutes 46 seconds West along the Easterly property line of the grantor, a distance of 11.52 feet to a point set, said point being 41.00 feet right of Station 726+02.14 on the said centerline of S.R. 2 (Airport Highway);

Thence South 72 degrees 01 minutes 56 seconds West a distance of 142.27 feet to a point set on the Westerly property line of the grantor, said point being 43.64 feet right of Station 724+59.90 on the said centerline of S.R. 2 (Airport Highway);

Thence North 00 degrees 25 minutes 46 seconds East along the Westerly property line of the grantor, a distance of 14.29 feet to a point on the Southerly existing right of way line of S.R. 2 (Airport Highway), said point being 30.00 feet right

of Station 724+64.15 on the said centerline of S.R. 2 (Airport Highway);

Thence North 73 degrees 05 minutes 46 seconds East along the said Southerly existing right of way line, same, being the Northerly property line of the grantor a distance of 141.42 feet to the True Point of Beginning.

Subject to all legal highways.

The above area is contained within the Lucas County Auditor's Permanent Parcel Number 20-05220 and contains a gross take of 0.040 acres, more or less.

Parcel No. 20-05220

PARCEL II:

All that part of the Northeast 1/4 of the Northeast 1/4 of Section 18, Town 3 and the Southeast 1/4 of Section 7, Town 3 all in the United States Reserve of 12 miles square at the foot of the Rapids of the Miami of Lake Erie, in the City of

Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at a point on the South or Southeasterly line of the Toledo and Wauseon Road (so-called) at a point 137.79 feet Westerly measured along the South or Southeasterly line of said Toledo and Wauseon Road from the point of

intersection of the South or Southeasterly line of said Road and the East line of said Section (said East line of Section 7 being also the centerline of Byrne Avenue, (so-called));

Thence South parallel with the East line of said Sections 7 and 18, 332.26 feet;

Thence West at right angles to said last described line 60 feet;

thence North parallel with the East line o-f said Sections 18 and 7, 313.57 feet to the South or Southeasterly line of said Toledo and Wauseon Road;

Thence along the South or Southeasterly line of said Road, 62.85 feet to the Place of Beginning, being also known as Lot 15 on an unrecorded Plat of Byrne Heights, in the City of Toledo, Lucas County, Ohio.

LESS AND EXCEPT that part conveyed to the City of Toledo by instrument recorded in Official Record 20060614-0039192 bounded and described as follows:

Situated in the State of Ohio, County of Lucas, City of Toledo, Fractional Section 7, Town 3, United States Reserve and being part of Lot 15 of the unrecorded Plat of Byrne Heights and also being on the right side of a survey of State Route 2 (Airport Highway), made in 2002 for the Ohio Department of Transportation as recorded as Instrument Number 20040106000082.3 of the records of Lucas County and bounded and described as follows:

Commencing at a stone found in a monument box marling the intersection of the centerline of survey and right of way of S.R. 2 (Airport Highway) with the centerline of survey and right of way of Byrne

Road, said point being Station 728+15.21 on the said centerline of S.R. 2 (Airport Highway);

Thence South 73 degrees 05 minutes 46 seconds West along the said centerline of S.R. 2 (Airport Highway), a distance of 147.64 feet to a point, said point being Station 726+67.57 on the said centerline of S.R. 2 (Airport Highway);

Thence South 16 degrees 54 minutes 14 seconds East perpendicular to the said centerline, a distance of 30.00 feet to a point on the Southerly existing right of way line of S.R. 2 (Airport Highway), said point being 30.00 feet right of Station 726+67.37 on the said centerline of S.R. 2 (Airport Highway), said point being the Northeasterly property corner of the granter and the True Point of Beginning;

Thence South 00 degrees 19 minutes 46 seconds West along the Easterly property line of the granter, a distance of 11.52 feet to a point set, said point being 41.00 feet right of Station 726+64.16 on the said centerline of S.R. 2 (Airport Highway);

Thence South 73 degrees 05 minutes 46 seconds West parallel to the said centerline of S.R. 2 (Airport Highway), a distance of 62.02 feet to a point set on the Westerly property line of the granter, said point being 41.00 feet right of Station 726+02.14 on the said centerline of S.R. 2 (Airport Highway);

Thence North 00 degrees 25 minutes 46 seconds East along the Westerly property line of the granter, a distance of 11.52 feet to a point on the

Southerly existing right of way line of S.R. 2 (Airport Highway), said point being 30.00 feet right of Station 726+05.58 on the said centerline of S.R. 2 (Airport Highway);

Thence North 73 degrees 05 minutes 46 seconds East along the said Southerly existing right of way line, same being the Northerly property line of the grantor, a distance of 62.00 feet to the True Point of Beginning.

Subject to all legal highways.

The above described area is contained within the Lucas County Auditor's Permanent Parcel Numbers 2005218 and contains a gross take of 0.016 acres more or less.

Parcel No. 20-05218 PARCEL III:

Situated in the City of Toledo, County of Lucas and State of Ohio, being a parcel of land lying in the Southeast 1/4 of the Southeast 1/4 of Section 7 and in the Northeast 1/4 of the Northeast 1/4 of Section 18, all on Town 3 of the United States Reserve 12 miles square at the foot of the rapids of the Miami of Lake Erie in the City of Toledo, Lucas County, Ohio, more full described as follows:

Beginning at a point which is the Southeast corner of said Section 7 and the Northeast corner of said Section 18;

thence Northerly along the East line of said Section 7, 14.65 feet to a point; Thence Westerly along a line parallel to the South line of said Section 7, 132.1 feet to a point

Thence Southerly along a line parallel to the East lines of said Sections 7 and 18, 50.22 feet to a point,

Thence Easterly along a line parallel to and 35.57 feet South of the North line of said Section 18, 55 feet to a point;

Thence Northerly along a line parallel to, the East line of said Section 18, 0.22 feet to a point,

Thence Easterly along a line parallel to the North line of said Section 18, 77 feet to a point on the East line of said Section 18;

Thence Northerly along the East line of, said Section 18, 35.35 feet to the Point of Beginning. Subject to all legal highways.

Parcel No. 20-05222 PARCEL IV:

That part of the Northeast 1/4 of Section 18, Town 3 United States Reserve in the City of Toledo, Lucas County, Ohio, bounded and described as follows:

Beginning at a point on the East line of said Section 18 that is 35.35 feet South of the Northeast corner of said Section 18;

Thence West along a line parallel with the North line of said Section 18 to a point on a line drawn parallel with and 77.1 feet West of the East line of said Section 18;

Thence South along said line drawn parallel with the East line of said Section 18, a distance of 0.22 feet;

Thence West parallel with the North line of said Section 18 to a point on a line drawn parallel with and 132.1 feet West of the East line of said Section 18;

Thence South along said line drawn parallel with the East line of said Section 18, to a line 125.35 feet South of and parallel with the North line and said Section 18;

Thence East along said line a distance of 132.1 feet more or less to the East line of said Section 18; Thence North along the said East line a distance of 90 feet to the Place of Beginning. Subject to all legal highways.

Parcel No. 20-05217

SECTION 2. That the approval of the Special Use Permit, for a New Gas Station and convenience store for a site located at 3531 Airport Highway, in the City of Toledo, Lucas County, Ohio, shall be subject to compliance with the 48 conditions as follows:

The following forty-eight (48) 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.
5. 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 water service lines shall be submitted to the Division of Water Distribution for review and approval.
8. The existing public fire hydrant on Byrne Road shall be shown on the plans. It appears to be in conflict with the proposed driveway. If it indeed is in conflict and must be relocated, it will be relocated by the City of Toledo at the developer's expense.
9. The size of the proposed water service line shall be shown on the plans. If the water service line is 2" or smaller and greater than 150 feet in length, the meter and backflow preventer may need to be located at the right-of-way line. Contact the Division of Water Distribution for more information.
10. The water meter setting detail, including meter bypass (if applicable) and backflow preventer, shall be submitted to the City of Toledo Backflow Prevention Coordinator, 401 S. Erie Street, Toledo, OH 43602 for review and approval. Approval of site utility plan is contingent on approval of meter setting and backflow preventer.
11. 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](https://www.bsonlinetracking.com) @

- 800-414-4990. Contact the Division of Water Distribution (419-392-2032) to verify the backflow prevention requirements for this site.
12. Existing water service lines to structures removed from the site will be abandoned by the City of Toledo at the developer's expense.
  13. New water service taps will be installed by City of Toledo at the developers expense.
  14. Minor storm revisions are necessary, which are unlikely to affect the site plan. Applicant is advised to contact the stormwater plan reviewer prior to resubmittal. Resubmittal shall include:
    - a. Drawings and calculations compliant with the City of Toledo's Infrastructure Design and Construction Requirements, which is available at <https://cdn.toledo.oh.gov/uploads/documents/Public-Utilities/Engineering-Services/2014->
    - b. A Storm Water Pollution Prevention Plan (SWP3) including a completed Ohio EPA SWP3 checklist.
    - c. Long term operations and maintenance (O&M) plan for Detention and Post-Construction BMP's, to the requirements of the Ohio CGP, as a standalone 8.5x11 document.
  15. Requirements for an underground detention system (UDS) are:
    - a. Design shall allow for Long Term Maintenance.
    - b. The Contractor / Project Owner shall have a representative of the proprietary manufacturer on-site to advise contractor on installation procedure.
    - c. The Contractor / Project Owner will provide the City of Toledo with as-built plan sheets certifying the correct installation and function of the system.
    - d. 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.
  16. Following the review process, the following will be needed for final stormwater approval:
    - a. Fee for the sewer construction permit, which also requires a sewer contractor, licensed with the City of Toledo, to be named for the project.
    - b. Completed form for responsible parties for SWP3 implementation and NOI.
    - c. Covenant for the approved O&M plan, utilizing the City's standard agreement language that references O&M Plan as exhibit B.
  17. At the time of approval of stormwater plans, the applicant will likely be eligible for a percent reduction in the property's stormwater utility fee through the Stormwater Credit Program. Information on the application process can be found at <https://toledo.oh.gov/business/environment/storm-water-program>
  18. Sanitary sewer service for this development is available subject to the Rules and Regulations of the Department of Public Utilities

19. 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.
20. 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.
21. Any previous kills that were not done at the right-of-way line shall be re-killed at the right-of-way to eliminate any active pipes on the property.
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 S&DS demonstrating the lines cleaning and integrity.

Division of Environmental Services

24. 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 the commencement of construction activities.
  - b. Construction BMPs shall be in place prior to the start of construction activities.
  - d. SWP3 inspection reports shall be kept on site with the SWP3 and readily accessible during normal work hours.
25. Applicant shall maintain compliance with Ohio EPA's General Storm Water NPDES permit programs.
26. Applicant is strongly encouraged to include multiple green infrastructure measures to minimize runoff and increase infiltration and to minimize the amount of new and/or additional impervious surface on the site.
27. Applicant is strongly encouraged to plant low maintenance and non-invasive trees, shrubs and perennials.  
[http://ohiodnr.gov/portals/0/pdfs/invasives/Alternatives\\_to\\_ohio\\_Invasive\\_Plant\\_Species.pdf](http://ohiodnr.gov/portals/0/pdfs/invasives/Alternatives_to_ohio_Invasive_Plant_Species.pdf)
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 Asbestos and the Anti-Noise Laws.

Division of Transportation



29. A 25' drive aisle is required for two-way traffic per TMC1107.1900. (Specifically the drive aisle east of light pole in parking area near Byrne Road.)
30. Accessible parking space signage height must be no less than 60" and no more than 72" above pavement level per TMC 1107.1704
31. Transportation recommends the property line be brought into alignment with right-of-way line on Byrne Road.

Plan Commission

32. One (1) car accessible parking space shall be provided. At least one (1) van accessible parking space shall be provided (TMC§1107.1701). Acceptable as depicted.
33. Any spaces reserved for the use by persons with physical disabilities shall adhere to the standards outlined in TMC§1107.1700.
34. Elevations shall meet the design criteria of TMC§1109.0501. At least 80% of each elevation visible from the right-of-way shall be composed of predominant materials and no greater than 20% shall be composed of accent materials. The provided elevations utilize glass storefronts, thin-stone veneer, and gray and brown modular face brick as predominant materials - composing greater than 80% of the total elevation. Accent materials used include fiber cement panels and lap siding to vary the mass and visual flow of the building. Acceptable as depicted.
35. Litter receptacles for the use of parking area users and others, must be provided in off-street parking areas per TMC§1107.1910.
36. Window signage is limited to 25% of the total window area, per the Sign Code (TMC§1391.02.R).
37. Free air (with the capacity of filling standard automobile tires, water, and restrooms shall be provided and maintained during operating hours of the station.
38. Hours of operation are limited to 5:30 am to 1 am, per TMC§1104.0601.
39. 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.
40. The minimum number of parking spaces for this site as indicated in TMC§1107.0300 - Off-street parking schedule "A" is thirty-nine (39), including parking spaces at gas pumps. The site plan indicates thirty-four (34) parking spaces. Additional parking shall be provided or an alternate parking plan shall be submitted, reviewed, and approved by staff.
41. Bicycle parking shall be placed within proximity to the primary entrance of the building to allow for safe use of the facility for cyclists entering the site from either frontage.
42. 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.
43. No free-standing signs greater than ten feet (10') from grade are permitted.
44. 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 Type "A" Landscape Buffer is required along the adjacent parcel(s) zoned RS6. The buffer shall be at least a six-foot (6') high masonry wall, or similar fencing and screening, designed to be harmonious with other building

materials on site, as well as four (4) canopy trees per one-hundred feet (100'). Revised site plan shall depict masonry wall.

- b. A Type "B" Landscape Buffer is required along the adjacent parcel(s) zoned CO, which border the southern property line. The buffer shall include at least four (4) canopy trees per one-hundred feet (100') as well as a masonry wall, or similar fencing and screening, at least six feet (6') in height designed to be harmonious with other building materials on site. Revised site plan shall depict masonry wall.
  - c. Two (2) additional trees within the fifteen-foot (15') frontage greenbelt along Byrne Road. Not acceptable as depicted.
  - d. Five (5) additional trees within the fifteen-foot (15') frontage greenbelt along Airport Highway. Not acceptable as depicted.
  - e. Additional shrubs stretching the entire length of the paved area along Airport Highway. Not acceptable as depicted.
  - f. Additional shrubs between the pedestrian path/sidewalk and the paved surface along the portion of the pedestrian path/sidewalk which connects Byrne to the building. Not acceptable as depicted.
  - 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 depicted.
  - h. Canopy trees must be a minimum of 12' in overall height or a minimum caliper of 2 inches and evergreen trees must be a minimum of 5'.
45. 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.
46. Approval of the Special Use Permit will lapse after one (1) year if the criteria listed in TMC§1111.0707 have not been met.
47. 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.
48. 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 Section 1104.0600 of the Toledo Municipal Code for the zoning maps attached to Part 11, Planning and Zoning, Toledo Municipal Code, for the property located at 3531 Airport Highway, in the City of Toledo, Lucas County, Ohio:

Chapter 1104 Use Regulations

1104.0600 - Convenience Stores

A convenience store shall not be located within a 2,000 foot radius of another convenience store whether that other convenience store is operating pursuant to a Special Use Permit or operating without such Special Use Permit by virtue of having been in operation prior to the requirement to obtain such permit.

Approve a waiver to allow a convenience store less than two-thousand feet (2,000') from another convenience store.

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