



Legislation Text

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File #: O-467-17, Version: 1

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Zoning & Planning Committee

**Granting an amendment to a Special Use Permit for a gas station at 2702 Upton Ave., in the City of Toledo, Lucas County, Ohio; subject to certain conditions and waivers; and declaring an emergency.**

**SUMMARY & BACKGROUND:**

By application SUP-6001-17, the applicant is requesting an amendment to a Special Use Permit for a site located at 2702 Upton Avenue, to facilitate the development of site improvements to an existing gas station. Site improvements include the relocation of a fueling station, a new canopy, and facade upgrade.

The staff recommended that the Toledo City Plan Commission recommend disapproval of SUP-6001-17 to the Toledo City Council, for the following two (2) reasons:

1. The proposed use is too intense for a site this size and meeting the requirements of TMC§1107, "Parking, Loading, and Access" will be extremely difficult. The Division of Transportation objects to the approval of the site plan by the Plan Commission and recommends disapproval of the subject matter.
2. Vehicular ingress and egress to and from the site and circulation within the site must provide for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well (TMC§1111.0809.C).

However, on September 14, 2017, the Toledo City Plan Commission recommended approval of SUP-6001-17 and further recommended to City Council on the waivers requested for an amendment to a Special Use Permit.

On October 18, 2017, Toledo City Council Zoning & Planning Committee reviewed the amendment to a Special Use Permit, 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 for a gas station at a site located at 2702 Upton Ave., 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.

SECTION 2. That the approval of the amendment to a Special Use Permit as recommended by the Toledo City Plan Commission to facilitate the development of site improvements to an existing gas station located at 2702 Upton Ave., subject to the following forty-five (45) conditions:

The following forty-five (45) 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 and/or 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.

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

4. Water service is available subject to the Rules and Regulations of the Department of Public Utilities.
5. 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 [BSIonline.com](http://BSIonline.com) at 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.
6. 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.
7. Contact the City of Toledo Fire Prevention Bureau (419-245-1263) to verify the fire protection requirements for this site.
8. Plan Commission submittal does not detail any revisions to the existing site that will require

earth-disturbing activity of 2,500 or more square feet, nor are any changes shown to the existing storm sewer system. Therefore, it appears that there are no items requiring a stormwater plan review. However, if revisions are made to the site plan that will result in earth-disturbing activity of 2,500 or more square feet or cause changes to the existing storm sewer, a full site plan review and approval will be required by the Division of Engineering Services. Plans will be subject to the rules and regulations of the City of Toledo, Stormwater Utility, including stormwater detention and post-construction stormwater BMPs as specified in the City of Toledo Infrastructure Design and Construction Requirements and the Ohio EPA NPDES General Stormwater Permit for Construction Activities.

#### Sewer and Drainage Services

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

#### Fire Prevention

11. Site shall comply with Fire Prevention Bureau regulations.

#### Transportation

12. The configuration shown at the gas pumps is insufficient. Vehicles must be able to adequately stack (vehicle at the pump plus one additional stacked vehicle) TMC 1107, while allowing for circulation of vehicles on site. This includes a 25' drive aisles around the pump islands to accommodate two way traffic. The disposition of the pumps, the building and overall site prevents the satisfaction of these minimum requirement.
13. The site shall be limited to two access drives one on Monroe Street and one on Upton Avenue. The access drives closest to the intersections shall be closed and removed.
14. All existing unused drive approaches shall be completely removed and new curbs and sidewalks shall be installed in accordance with City of Toledo Construction Standards

#### Environmental Services

15. Applicant shall maintain compliance with the City of Toledo's Stormwater regulations as specified in the Toledo Municipal Code.
16. Applicant shall maintain compliance with Ohio EPA's General Stormwater NPDES permit programs.
17. Any green infrastructure measures that can be included to minimize runoff and increase infiltration are highly advisable.
18. 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 sources of pollutant in the stormwater runoff, including but not limited to long-term operation and maintenance of all structural and non-structural Best Management Practices.

19. Applicant shall maintain compliance with the Toledo Municipal Code 930.12 for grease, and sand separator/traps installations and maintenance.
20. 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 Asbestos and the Anti-Noise Laws.

Plan Commission

21. Dumpster location(s) shall 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. Not acceptable as depicted on site plan. A revised site plan shall be submitted indicating compliance.
22. Off-street parking and loading spaces, parking lots, maneuvering 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 toward the interior of the parking lot or to a stormwater system subject to the regulations and approval of the Department of Public Utilities (TMC§1107.1906).
23. 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.
24. The minimum number of parking spaces designed for persons with disabilities that must be provided shall adhere to the table in TMC§1107.1701. Acceptable as depicted on site plan.
25. All spaces reserved for the use by persons with physical disabilities shall adhere to the standards outlined in TMC§1107.1700.
26. Required spaces for persons with disabilities must be located in close proximity to building entrances and be designed to permit occupants of vehicles to reach the building entrance on an unobstructed path. Acceptable as depicted on site plan.
27. To facilitate movement and to help maintain an orderly parking arrangement, all parking spaces and aisles must be clearly striped, with a minimum width of 4 inches. The width of the parking stall shall be computed from the centers of the striping. When a parking space is designated for the use of persons with disabilities, it shall be clearly marked and signed as provided in TMC§1107.1704 above and by The Ohio Manual of Uniform Traffic Control Devices.
28. 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 (TMC§1107.1909).
29. Ingress and egress to a parking lot in a Commercial or Industrial zoning district must be from a major street or from a street located in a Commercial or Industrial district with Commercial or Industrial zoning on the opposite side of the street (TMC§1107.1203). Acceptable as depicted on site plan.
30. Bicycle parking slots shall be provided to meet the minimum number required to comply with associated land use found in TMC§1107.0304 Parking Schedule "A". No more than fifty (50) bicycle parking slots shall be required for any listed use category. Acceptable as depicted on site plan.
31. Predominant exterior building materials shall be high-quality materials. The use of EIFS is prohibited in the Monroe Street Urban Neighborhood Overlay. For list of acceptable material see TMC§1103.0906.D - *Building Materials*. Applicant shall obtain a waiver of TMC 1103.0906 to allow for 41% EIFS on the west side.
32. Façade colors shall be low-reflectance, subtle, neutral or earth tone colors. Building trim and accent areas may feature brighter colors, including primary colors subject to the approval of the Planning Director. A revised

- elevation indicating compliance shall be submitted.
33. 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)).
  34. Canopies shall be set back a minimum of 10 feet from the property line or match existing location, 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)). Applicant shall obtain a waiver of TMC 1104.0903 allowing a waiver of 7 of the 10 foot canopy setback.
  35. 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.
  36. Pump islands shall be set back a minimum of 15 feet from the property line (TMC§1104.0903(B)). Acceptable as depicted on building elevation.
  37. Pumps and pump islands shall not be located in the front yard within fifty (50') feet of a Residential district. Acceptable as depicted on building elevation.
  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 (TMC§1104.0903(C)).
  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 (TMC§1104.0903(D)).
  40. Litter receptacles, for the use of parking area users and others, must be provided in off-street parking areas in accordance with the provisions of Park9Street, Utilities and Public Services Code, Section 963.22. A litter receptacle is treated as an accessory structure and must adhere to the criteria outlined in (TMC§1107.1910).
  41. A detailed site, lighting, sign, 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 3 ½ foot high decorative fence is required along the Upton Avenue and Monroe Street property lines. Additionally, a landscaped area at least 5 feet wide shall be placed inside the screen wall and planted with at least one shrub for every 3 to 5 feet of property line. Shall be depicted on revised landscape plan).
    - b. A five (5) foot landscape greenbelt is required between the fence and the parking lot along Monroe Street, shall be depicted on revised landscape plan.
    - c. The existing solid board-on-board fence installed along the north and east property lines shall be maintained indefinitely and must comply with TMC§1108.0404. Acceptable as depicted on site plan; plantings shall be added in the proposed landscape area along the east property line, between the building and the fence. This shall be depicted on a revised landscape plan.
    - d. Topsoil must be back filled to provide positive drainage of the landscape area;
    - e. Foundation plantings along all portions of the building that is visible from the public right-of-way and landscaping at all major building entrances;
    - 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 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. 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;
  - i. 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.
  - j. 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);
  - k. The location, height and materials for any fencing to be installed and maintained shall be noted on fencing plan. (Not acceptable as depicted on site plan);
  - l. Landscape materials shall be installed to satisfy the minimum requirements of TMC§1108.0401.
  - m. The location, lighting and size of any signs, all signage is subject to TMC§1387.
42. 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.
43. 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.
44. 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.
45. 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 the following sections of the Toledo Municipal Code are hereby waived for the amendment to a Special Use Permit, to facilitate the development of site improvements to an existing gas station located at 2702 Upton Avenue:

**Chapter 1104 Use Regulations**

**1104.0903 - General Requirements**

- A. Canopy shall be setback minimum of ten (10') feet from the property line, 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.

**Chapter 1103.0900 Monroe Corridor UNO District**

**1103.0906.D- Building Materials**

- D. Predominant building materials should be high quality. Exterior insulation and finish systems (EIFS) materials and applications are prohibited.

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