



## Legislation Text

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**File #:** O-399-19, **Version:** 1

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Zoning & Planning Committee

### **Revocation of the Special Use Permit for Used Auto Sales for a site located at 4154, 4158 and 4160 Monroe Street, in the City of Toledo, Lucas County, Ohio; and declaring an emergency.**

#### SUMMARY & BACKGROUND:

By request (SUP-10010-13) filed with the City of Toledo Central Permit Center, a request to revoke a Special Use Permit for used auto sales for a site located at 4154, 4158 and 4160 Monroe Street, in the City of Toledo, Lucas County, Ohio; was submitted to the Toledo City Plan Commission for its review and recommendation.

On August 14, 2019, Toledo City Council, Planning and Zoning Committee reviewed, and sent as approved a revocation of the Special Use Permit for a used auto sales facility for a site located at 4154, 4158 and 4160 Monroe Street,, City of Toledo, Lucas County, Ohio; and all other things required by law to be done, have been done.

City Council requested a review and possible revocation of SUP-10010-13, granted by Ordinance 70-14 for a used auto sales facility, located at the corner of Monroe Street and Harley Road. City Council has concerns that the business is being operated in a manner that is inconsistent with the approved plan, zoning code and the conditions of approval. The Special Use Permit process recognizes that certain businesses having the right to be located within certain districts also have extenuating circumstances or additional effects on the surrounding community. Therefore additional criteria and conditions are often included to reduce the effects on neighboring properties. The original SUP was granted in 2014. In 2016, lack of compliance with the approved SUP resulted in the re-review of the Special Use Permit. The Plan Commission considered the re-review at their March 10, 2016 meeting and set a compliance date of July 14, 2016. Following the July 2016 hearing, the applicant began to work towards bringing the site into compliance with Ordinance 70-14. The most significant issue has been the overcrowding of the site with vehicles. Staff conducted periodic inspections of the site, which resulted in a reduction in the crowding of the lot. However, the applicant would permit the site to return to a disheveled state. At the request of City Council, staff conducted an on-site inspection with the applicant on June 19, 2019.

#### Background and Site Conditions

In 2014, the used auto sales facility was approved to operate in conjunction with the existing light equipment repair business that is located on the site. The .324 acre parcel is zoned CR Regional Commercial and was approved prior to the adoption of the current used car standards that require a minimum of .5 acres.

The existing building has four (4) service bays and an approximate 195 square foot office area. Prior to 2014, the site was accessed via two (2) curb cuts on Monroe Street and one (1) curb cut on Harley Road. A large pole sign currently exists on the property and is situated toward the corner of Monroe Street and Harley Road within the drive aisle. On January 20, 2016, an inspection of the site was conducted by staff and found

approximately thirty-five (35) vehicles on the lot with only thirteen (13) parking spaces provided (see Exhibit B). On January 28, 2016, a letter that was sent to the applicant which outlined the noncompliance issues with Ordinance 70-14. The applicant requested additional on-site inspections. Staff met with the applicant on February 24, 2016 and the applicant indicated that he has started to bring the site into compliance with Ord. 70-14. On June 10, 2016, the applicant requested staff visit the site and document the improvements that had been made prior to the July 14<sup>th</sup> Plan Commission hearing.

On July 13, 2016, staff conducted a site visit and found that fencing, landscaping and defined planter beds had been installed at that time. However, cars (22 cars were noted) were still being stored in non-defined spaces and drive aisles. The Plan Commission recognized the site upgrades the applicant has conducted and set a full compliance period of 1 year. On July 28, 2017, staff once again conducted an on-site compliance inspection and noted fifteen (15) cars mostly parked in defined spaces. Staff also noted that the fencing, landscaping and planter beds appeared to have been properly maintained. Staff provided a compliance report to the Commission at that time.

On June 19, 2019, staff conducted a compliance review of this site. The applicant met staff on-site where approximately thirty-five (35) vehicles are once again noted on the site, mostly within undefined parking spaces and drive aisles. The required planter beds appear to be in poor condition with numerous areas being breached and other areas where vehicles are currently parked in a manner that is damaging the planter bed. The trees and shrubs appear to be in quality shape while all other landscaping (hosta & ornamental grasses) did not survive. Staff noted that all planter beds appear unkempt and contained weeds, nuisance grass and unmaintained mulch.

### Access and Circulation

As part of the June 10, 2016 compliance inspection, staff found that the site still had three (3) curb cuts, one (1) along Harley Road and two (2) on Monroe Street. The curbs and sidewalks did not appear to have been restored as required in Ord. 70-14. The applicant installed a concrete block planter bed across the area of the former curb cut to be removed on Monroe Street. The concrete blocks are simply stacked on edge, this does not constitute the removal and restoration of a curb cut.

Outlined in the March 10, 2016 staff report, the Division of Transportation had conditions that required the remaining curb cut along Monroe Street to be narrowed to twenty-five (25) feet and shifted eastward to prevent a conflict with the parking spaces in the northwest corner of the site along Monroe Street. The Division of Transportation also required that the curb cut along Harley Road be narrowed to twenty-five (25) feet to reduce the conflict with the existing pole sign and to increase the distance from the Monroe Street/Harley Road intersection. On June 19, 2019, staff noted that none of these conditions have been addressed.

### Parking and Display Areas

Light equipment repairs have a parking requirement of 1.5 spaces per service bay, while the used car sales portion of the site has a parking requirement of one (1) space in addition to the seven (7) defined parking spaces for display vehicles. As a result, the applicant was required to dedicate seven (7) total customer and employee parking spaces for the light equipment repairs and used car sales uses on site. As part of the June 19, 2019 inspection, staff found that cars were once again being double and triple parked, parked in unapproved areas and parked in the drive aisles. The applicant requested that staff perform a compliance inspection on June 28, 2019. Staff visited the site on June 26, 2019 and found that cars were still located within the drive aisles and being double and triple parked. Furthermore, the applicant was required to denote a minimum of seven (7)

spaces for customer use and the use of signage is encouraged to ensure customer parking is maintained.

TMC§1104.0301 requires that a fifty (50) foot separation measured along the street frontage shall be maintained between any open display area and a residential district boundary line. The northeast corner of the property (with fifty (50) feet of residential boundary) was approved for customer and employee parking and not open display areas. As part of the June 19 & 26, 2019 site inspections, staff observed licensed and unlicensed vehicles double and triple parked and located within the drive aisles. The applicant indicated that he works on vehicles for other used car dealers and most of the vehicles on the site were not for sale. Storage of vehicles (for sale or not for sale) in undesignated spots has created a blighting nuisance condition that has had a negative impact on the residential neighborhood abutting the site to the north as well as along Monroe Street. Upon the compliance inspection on June 19 & 26, 2019, staff found no evidence that seven (7) parking spaces had been denoted for customer and employee parking with signage or were even being used for customer and employee parking.

At the time of the 2014 approval, the site was only required to be brought closer into compliance with the landscape requirements of the zoning code. The revised plan offered a twenty (20) foot Type "A" Landscape Buffer with a three (3) foot solid fence along the northern property line, where the site abuts residential zoning. In an effort to install this buffer, the applicant was to remove approximately eleven (11) feet of asphalt and the fencing was to be raised to six feet (6') once located out of the front yard setback. Upon the compliance inspection on June 10, 2016 & June 19, 2019, staff found that a forty-two inch (42") solid fence and a planting bed had been installed. However, at the July 14, 2016 Plan Commission Hearing, the applicant was instructed to remove the forty-two inch (42") and replace it with a six (6') solid fence (when located out of the front yard setback).

Additionally, the site plan offered a landscape area anchoring the corner of Monroe Street and Harley Road and five (5) foot greenbelts along Monroe Street and the Harley Road frontages. The applicant installed planting beds along Monroe Street and Harley Road according to the approved plan. Staff has concerns that the asphalt located beneath the planting beds was not removed, resulting in a less than ideal environment for tree and shrub growth. The March 10, 2016 staff report indicated that the six (6) inch planting beds appeared to be located over asphalt and that was not a conducive environment for trees and/or shrubs to grow according to the City of Toledo Division of Forestry. The applicant indicated that three feet (3') x three feet (3') sections of asphalt were removed beneath the newly installed trees and ensured the landscaping would be maintained indefinitely. As previously noted on June 19 and 26, 2019 the required planter beds appeared to be in poor condition with numerous areas being breached and other areas where vehicles were currently parked in a way that was damaging the planter bed. Furthermore, by not properly preparing the landscape beds when installed (not removing all asphalt) resulted in all hosta & ornamental grasses perishing, detracting from the aesthetics of the buffer.

Although the applicant has taken steps to comply with the landscaping requirements outlined in Ord. 70-14, staff has found that not removing the entire asphalt beneath the planting beds did not provide a suitable environment for landscaping to grow and thrive. The approved landscape plan submitted in 2014 indicated that three (3) Junipers and nine (9) yews were to be installed within this northern buffer. Staff found that six (6) shrubs of approximately forty-two (42") inches in height were located within this buffer. Furthermore, the planting beds did not appear to be finished with properly maintained mulch as required by code. The Type A Buffer along the northern property line does not contain the required plantings as shown on the landscape plan. In addition the beds are sited over existing asphalt, providing an unfavorable environment for tree and shrub growth and all landscaped areas need to be finished with properly maintained mulch.

Finally in 2014, City Council approved a condition that in the event the dumpster was needed to be located outside the building the applicant would be aware of the improvements required. As a result, the condition stated that the dumpster would be shown on a revised site plan, on a concrete pad and surrounded by a solid wooden fence or masonry screen enclosure with landscaping. On June 10, 2016 staff observed a dumpster located on the southwest corner of the lot, which was enclosed with a solid board-on-board fence and sited on paved surface. NOW, THEREFORE,

Be it ordained by the Council of the City of Toledo:

SECTION 1. That the Special Use Permit for used auto sales for a site located at 4154, 4158 and 4160 Monroe Street, City of Toledo, Lucas County, Ohio; which was subject to compliance with Ordinance 70-14 shall be revoked due to noncompliance; as to the property more fully described as follows:

LOTS 14, 15 AND 16 OF WINDSOR WOODS AS RECORDED IN PLAT VOLUME 41, PAGE 53 IN THE OFFICE OF THE RECORDER, LUCAS COUNTY OHIO.

SECTION 2. 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 11, nays 0.

Passed: August 20, 2019, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:  
Wade Kapszukiewicz  
Mayor

August 20, 2019