



Legislation Text

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File #: O-504-23, Version: 1

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Zoning & Planning Committee

**Granting a Special Use Permit, for a Daycare Center for a site located at 5253 Bennett Road, in the City of Toledo, Lucas County, Ohio; subject to certain conditions and three waivers; and declaring an emergency.**

**SUMMARY & BACKGROUND:**

By application (SUP-6004-23) filed with the City of Toledo Central Permit Center, a request for a Special Use Permit for a Daycare Center for a site located at 5253 Bennett Road, in the City of Toledo, Lucas County, Ohio; was submitted to the Toledo City Plan Commission for its review and recommendation.

On July 13, 2023, the Toledo City Plan Commission recommended approval for the request for a Special Use Permit for a Daycare Center for a site located at 5253 Bennett Road, the City of Toledo, Lucas County, Ohio;

On August 16, 2023 Toledo City Council, Planning and Zoning Committee reviewed, and recommended approval of a request for a Special Use Permit for a Daycare Center for a site located at 5253 Bennett Road, 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 Daycare Center for a site located at 5253 Bennett Road, 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:

7 9 11 SW 1/4 S 130 FT E 203.31 FT PT N & ADJ HENRY W BRUNINGS MAYFAIR PLACE PLAT 1 ALSO LOTS 1 2 & 3 HENRY W ETC

SECTION 2. That the approval of the Special Use Permit for a Daycare Center for a site located at 5253 Bennett Road, in the City of Toledo, Lucas County, Ohio; shall be subject to compliance with the 25 conditions as follows:

The following twenty-five (25) 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. 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.
2. 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.

3. Required permits for all approved work in the public right-of-way shall be obtained, before work begins 419-245-1347. The application can be obtained online at Toledo.oh.gov search: Right of Way opening permit.

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

#### Division of Sewer and Drainage Services

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

6. 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 storm water impacts from modification of the site, including but not limited to long-term operation and maintenance of existing structural and non-structural Best Management Practices.
7. Applicant shall maintain compliance with Ohio EPA's General Stormwater NPDES permit programs.
8. Applicant is strongly encouraged to include multiple green infrastructure measures that can be included to minimize runoff and increase infiltration.
9. Applicant is strongly encouraged to plant native, low maintenance and non-invasive trees, shrubs and perennials. Information is at <https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/plants-trees/invasive-plants>; a list of invasive plants and alternative species can be downloaded from [https://www.oipc.info/uploads/5/8/6/5/58652481/alternatives\\_to\\_ohio\\_invasive\\_plant\\_species.pdf](https://www.oipc.info/uploads/5/8/6/5/58652481/alternatives_to_ohio_invasive_plant_species.pdf)
10. 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.

#### Fire Prevention

11. It appears that this building may undergo a change of use. This will require compliance with all applicable Fire Sprinkler and Alarm, Building, Electrical, Mechanical and Plumbing code requirements.

12. Approved Premises identification is required.
13. Key box(s) for access to buildings and areas restricted by fences, gates, etc.

Division of Transportation

14. Sidewalk is required on Bennett Road at driveway per TMC§1107.1300.

Plan Commission

15. TMC§1104.0703(B) *Location* - A Day Care Center must have building frontage on a major street. Applicant shall obtain a waiver from TMC§1104.0703(B) to allow a day care center without frontage on a major street.
16. Per TMC§1107.1202(A)(1), parking is not allowed within the front yard in residential districts except detached houses, attached houses and duplexes where parking is allowed in the driveway. Not acceptable as depicted on site plan. Applicant shall obtain a waiver from TMC§1107.1202(A)(1).
17. Per TMC§1107.1906 All off-street parking, loading, and other vehicle circulation areas shall be graded and continuously maintained and designed to preclude free flow of stormwater across or onto adjacent lots, properties, or streets.
18. Sixty (60) square feet of useable outdoor space must be provided for each person in care using the outdoor area at any one time. A Type B landscape buffer shall be provided around the outdoor space. Acceptable as depicted on site plan.
19. One (1) van accessible parking space shall be required. Acceptable as depicted on site plan.
20. A paved off-street area for dropping off and picking up persons in care at the facility must be provided and approved by the Division of Transportation; Acceptable as depicted on site plan.
21. 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. Per TMC§1108.0203(F), a Type B landscape buffer shall be provided around the play area. This buffer shall be a minimum of ten-feet (10') in width and consist of  
  
four (4) canopy trees and fifteen (15) shrubs installed every 100 linear feet. Pursuant to TMC§1108.0203(D)(2), a fence, wall, or berm six-feet (6') to eight-feet (8') in height may be used and can substitute for the shrub requirements. Applicant has the option to request credit for the existing tree under TMC§1108.0407(B). Acceptable as depicted.
  - b. TMC§1108.0202 requires a minimum of fifteen feet (15') of landscaped frontage greenbelt along public rights-of-way. The frontage greenbelt shall also include a solid evergreen hedge to

screen parking in the front of the property and prevent headlights from being seen from the right-of-way. Not acceptable as depicted. Applicant shall obtain a waiver to the minimum fifteen-foot (15') frontage greenbelt along Sandralee Drive. Applicant shall provide a solid evergreen hedge to screen parking in the front of the property along Sandralee Drive.

- c. 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.
- d. 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.
- e. Landscaped areas must be irrigated as necessary to maintain required plant materials in good and healthy condition.
- f. The location and direction of any proposed lighting (lights are to be directed away from adjacent residential properties;
- 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.

22. 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.

23. Approval of the Special Use Permit will lapse after one (1) year if the criteria listed in TMC§1111.0707 have not been met.

24. 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.

25. 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 1104.0703 (B) of the Toledo Municipal Code for the zoning maps attached to Part 11, Planning and Zoning, Toledo Municipal Code, for the property located at 5253 Bennet Road, in the City of Toledo, Lucas County, Ohio.

Chapter 1104 - Use Regulations

Sec. 1104.0703 - Day Care Center

TMC§1104.0703(B) - Location

1. A Day Care Center must have building frontage on a major street.

Approve a waiver to allow a Day Care Center without frontage on a major street because the building is established at this location, and a day care is an appropriate use in this building.

SECTION 4. Waiving Section 1107.1202 (A) of the Toledo Municipal Code for the zoning maps attached to Part 11, Planning and Zoning, Toledo Municipal Code, for the property located at 5253 Bennet Road, in the City of Toledo, Lucas County, Ohio.

Chapter 1107 - Parking, Loading, and Access

Sec. 1107.1200 - Location

TMC§1107.1202(A) - Setbacks in Residential Districts

1. No parking space may be located within the front yard, except that parking spaces for detached houses, attached houses, and duplexes may be located on a driveway;

Approve a waiver to allow parking in the front yard setback. This is an existing parking lot and areas for parking on site are limited.

SECTION 5. Waiving Section 1108.0202 (1) of the Toledo Municipal Code for the zoning maps attached to Part 11, Planning and Zoning, Toledo Municipal Code, for the property located at 5253 Bennet Road, in the City of Toledo, Lucas County, Ohio.

Chapter 1108 - Landscape and Screening

Sec. 1108.0202 landscape Standards

TMC§1108.0202(B) - Frontage Greenbelt

3. Frontage greenbelts shall be a minimum width of fifteen-feet (15'). For properties over five (5) acres and/or those with over five-hundred feet (500') of frontage, the frontage greenbelt shall be a minimum of thirty feet (30') wide measured perpendicular from the street or place right of way abutting the property.

Approve a waiver to allow a solid evergreen hedge to screen parking in the front of the property along Sandralee Drive instead of the required fifteen-foot (15') frontage because the parking is established at this location

SECTION 6. 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 7. 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 12, nays 0.

Passed: September 12, 2023, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:                      September 12, 2023  
                                         Wade Kapszukiewicz  
                                         Mayor