



## Legislation Details (With Text)

**File #:** O-394-18      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Approved  
**File created:** 9/17/2018      **In control:** City Council  
**On agenda:** 9/25/2018      **Final action:** 9/25/2018  
**Title:** Granting a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, in the City of Toledo, Lucas County, Ohio; subject to certain conditions and declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Plan Commission Report

Date	Ver.	Action By	Action	Result
9/25/2018	1	City Council	Dispense with the rules of Council requiring...	Pass
9/25/2018	1	City Council	declare emergency	Pass
9/25/2018	1	City Council	passage	Pass
9/12/2018	1	Zoning & Planning Committee12324	refer as approved	

Zoning & Planning Committee

**Granting a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, in the City of Toledo, Lucas County, Ohio; subject to certain conditions and declaring an emergency.**

### SUMMARY & BACKGROUND:

By application (SUP-6008-18) filed with the City of Toledo Central Permit Center, a request for a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, in the City of Toledo, Lucas County, Ohio; was submitted to the Toledo City Plan Commission for its review and recommendation.

On August 9, 2018, the Toledo City Plan Commission recommended approval for a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, in the City of Toledo, Lucas County, Ohio.

On September 12, 2018, Toledo City Council, Planning and Zoning Committee reviewed, and sent as approved a Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway, 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 Gas Station and Grocery Store for a site located at 3516

Airport Highway, 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:

Situated in the City of Toledo, County of Lucas, State of Ohio, described as follows:

Part of the South One-half (1/2) of the Southeast Quarter (1/4) of Section Seven (7), Town Three (3) United States Reserve, City of Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at the intersection of East line Southeast Quarter (1/4) of said Section Seven (7) (the centerline of Byrne Road) and the centerline of Airport Highway;

Thence South Seventy-three (73) degrees, Twenty-six (26) minutes, Thirty-two (32) seconds West along the centerline of Airport Highway, a distance of One Hundred Thirty-eight and Twenty-two Hundredths (138.22) feet to the point of beginning;

Thence continuing South Seventy-three (73) degrees, Twenty-six (26) minutes, Thirty-two (32) seconds West along the centerline of Airport Highway, a distance of Two Hundred Fifty and

Forty-six Hundredths (250.46) feet to a point;

Thence North Zero (00) degrees, Forty-one (41) minutes, Thirty-two (32) seconds East along a line that is a distance of Three Hundred Seventy-one and Twenty Hundredths (371.20) feet Westerly of and parallel with the East line of Southeast Quarter (1/4) of said Section Seven (7), a distance of Three Hundred Sixty-five and Ninety-two Hundredths (365.92) feet to a point;

Thence South Eighty-eight (88) degrees, Forty-two (42) minutes, One (01) second East, a distance of Two Hundred Thirty-nine and Twenty-one Hundredths (239.21) feet to a point that is located One Hundred Thirty-two and Zero Hundredths (132.00) feet West of the East line of the Southeast Quarter (1 /4) of said Section Seven (7) and Two Hundred Eighty-nine and Eleven Hundredths (289.11) feet North of the centerline of Airport Highway as measured parallel to said East line;

Thence South Eighty-nine (89) degrees, Ten (10) minutes, Nineteen (19) seconds East along a line that if extended, would intersect the East line of the Southeast Quarter (1/4) of said Section Seven (7), a distance of Two Hundred Forty-seven and Eighty-one Hundredths (247.81) feet Northerly of the centerline of Airport Highway, a distance of Sixty and Zero Hundredths (60.00) feet to a point on the Westerly right of way line of Byrne Road;

Thence South Zero (00) degrees, Forty-one (41) minutes, Thirty-two (32) seconds West along said right of way line and being Seventy-two and Zero Hundredths (72.00) feet Westerly of and parallel with the East line of the Southwest Quarter (1/4) of said Section Seven (7), a distance of One Hundred Sixty-seven and Sixty-eight Hundredths (167.68) feet to a point;

Thence South Thirty-seven (37) degrees, Four (04) minutes, Thirteen (13) seconds West and continuing along said right of way line a distance of Twenty-five and Two Hundredths (25.02) feet to a point on the Northwesterly right of way line of Airport Highway;

Thence South Seventy-three (73) degrees, Twenty-six (26) minutes, Thirty-two (32) seconds West along the Northwesterly right of way line of Airport Highway, a distance of Forty-seven and Twenty-nine Hundredths (47.29) feet to a point;

Thence South Zero (00) degrees, Forty-one (41) minutes, Thirty-two (32) seconds West along a line that is One Hundred Thirty-two and Zero Hundredths (132.00) feet Westerly of and parallel with the East line of the Southwest Quarter (1/4) of said Section Seven (7), a distance of Eighty- seven and Twelve Hundredths (87.12) feet to the point of beginning, excepting therefrom a Twelve and Zero Hundredths (12.00) foot strip of land along Airport Highway deeded to the City of Toledo as recorded in Volume 1954, Page 750, Lucas County Deed Records, containing One and Nine Hundred Ninety-one Hundredths (1.991) acres of land, more or less.

Subject to legal highways.

Parcel Nos. 20-05154 and 20-05191

SECTION 2. That the approval of the Special Use Permit for a Gas Station and Grocery Store for a site located at 3516 Airport Highway City of Toledo, Lucas County, Ohio; shall be subject to compliance with the 61 conditions as follows:

The following sixty one (61) 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: 419-245-1344  
Water: 419-936-2163  
Stormwater Drainage: ph. 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.  
  
Contact (419) 245-1341 for inspection of above mentioned items.
5. Water service is available subject to the Rules and Regulations of the Department of Public

Utilities.

6. Water service is available subject to the Rules and Regulations of the Department of Public Utilities.
7. If existing water service lines are not to be reused, they shall be abandoned by the City of Toledo at the developer's expense.
8. Plans for new water service lines or modifications to the existing water service lines shall be submitted to the Division of Engineering Services for review and approval. New water taps will be installed by City of Toledo at the developer's expense.
9. The water meter setting detail, including meter bypass 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.
10. 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](http://BSIonlinetracking.com) @ 800-414-4990. Contact the Division of Water Distribution (419-245-1395) to verify the backflow prevention requirements for this site.
11. Contact the City of Toledo Fire Prevention Bureau (419-245-1263) to verify the fire protection requirements for this site.
12. The City of Toledo requires that all sites proposing earth disturbing activities of 2,500 sq. ft. or more (including an overall common plan of development) and/or the installation of storm sewer services be reviewed and approved by the Division of Engineering Services prior to the start of any construction or earth disturbing work (grading, clearing, stockpiling, etc.)
13. The following documents shall be submitted for review and approval. The submittal can be made through Building Inspection One-Stop-Shop or directly the Division of Engineering Services (Andy Stepnick) for stormwater review & approval:
  - Detailed site grading plan
  - Plans and calculations for storm sewer service, stormwater detention and post-construction best management practices (BMP's).
  - 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.
14. Submittals shall be 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/>

15. All developments are required to provide Stormwater detention, post-construction stormwater best management practices (BMP's) and a stormwater pollution prevention plans (SWP3) plans, in compliance with the latest version of the City of Toledo's Infrastructure Design and Construction Requirements, for all area(s) disturbed regardless of pre-and post-construction land use.
16. All disturbed land areas over 1 acre must submit an NOI to and obtain a permit from the Ohio EPA.
17. Post construction BMP's for sites that disturb 2 acres or more (including common plan of development) shall be selected from and designed in accordance with the latest Ohio EPA General Stormwater NPDES Permit Table 4a Extended Detention practices or 4b Infiltration Practices. If an alternate to the NPDES Table 4a or 4b is proposed it must be preapproved by the Ohio EPA prior to submitting a NOI. The OEPA will only consider the use of alternate BMP's where it can be demonstrated that the implementation of a Table 4a or 4b BMP's isn't feasible due to physical site constraints.
18. Nonresidential properties which have Designs incorporating low impact development solutions, such as grassy swales and bio-retention areas in lieu of curb, storm sewers, and underground detention are encouraged and may be eligible for a percent reduction in the property's stormwater utility fee through the Stormwater Credit Program. Information on this program can be found at <http://toledo.oh.gov/services/public-utilities/engineering-services/stormwater-utility-credit-program/>
19. All storm drainage must be internal and not run off onto adjacent properties.
20. No construction work, including any earth disturbing work will be permitted without approved plans
21. Sanitary sewer service for this development is available subject to the Rules and Regulations of the Department of Public Utilities.
22. 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.
23. 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.
24. 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.
25. Show location of 8" sanitary sewer along Airport Hwy.

#### Sewer & Drainage Services

26. S&DS recommends that all private sewer lines that are not being removed or properly abandoned (both storm & sanitary) be cleaned and inspected.
27. 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.

#### Environmental Services

28. Applicant shall maintain compliance with the City of Toledo's Stormwater regulations as specified in the Toledo Municipal Code.
29. Applicant shall maintain compliance with Ohio EPA's General Stormwater NPDES permit programs.
30. Any green infrastructure measures that can be included to minimize runoff and increase infiltration are highly advisable.
31. 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.
32. 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.

#### Fire Prevention

33. Approved building address numbers will be visible from the street or road fronting the property. (Ref. Ohio Fire Code 505.1)

#### Transportation

34. Additional 10' of Right of Way along Airport required for further use by the City of Toledo.
35. 20' stacking shall be provided on both sides of the pumps, a 25' drive aisle nearest the building, and a 17' drive aisle nearest Airport Highway.

#### Plan Commission

36. A revised site plan shall be submitted indicating compliance with Department of Transportation conditions.
37. All subject lots shall be combined so that the development occupies one (1) parcel.
38. At the time when the proposed future carwash and access lane is to be developed, the applicant is required to submit for an amendment to this Special Use Permit.
39. 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).
40. 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).
41. 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).
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 or to a stormwater treatment facility subject to the regulations

- approval of the Department of Public Utilities. (Acceptable as depicted on site plan).
43. 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).
  44. Bicycle parking slots shall be provided pursuant to Off-Street Parking Schedule “A” (TMC§1107.0300). (Not depicted on site plan. A revised site plan depicting the location and number of bicycle parking slots shall be submitted).
  45. Whenever a parking lot extends to a property line, sidewalk, planting strip, or building, a wheelstop 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)) (Not depicted on site plan. A revised site plan showing compliance shall be submitted).
  46. Intensity, location, and screening of outside lighting, including canopies, especially when abutting a residential district shall be considered. Flat lens lighting shall be used (TMC§1104.0901.D). (Acceptable as depicted on the submitted lighting study).
  47. 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).
  48. Pump islands shall be set back a minimum of 15 feet from the property line (TMC§1104.0903(B)). (Acceptable as depicted on the submitted site plan).
  49. Canopies shall be set back a minimum of 10 feet from the property line, 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). Elevations depict the use of “spec brick” on the canopy columns and building facades. (Revised elevations depicting ½ course founders brick shall be submitted).
  50. Elevations that depict the use of ½ course founders brick on the building shall be submitted for review and approval.
  51. Primary façade materials consist primarily of stone masonry, brick masonry, and E.I.F.S. Pursuant to TMC§1109.0501.6 - Façade Materials, exterior insulation and finish systems (E.I. F. S) or equivalent product is only acceptable when thirty-six (36”) inches above grade and not within an entryway, and comprising less than fifteen (15%) percent of the façade. The south elevation utilizes forty (40%) E.I.F.S. (Not acceptable as depicted on elevation drawing. Revised elevations shall be submitted that show compliance. Additionally, the revised elevations shall depict the use of ½ course founders brick).
  52. TMC§1109.0502 requires the use of low-reflectance, subtle, neutral or earth tone materials throughout the development. The bright red accents on the building’s facades and on the bollards located in front of the building are not in compliance. (Not acceptable as depicted on conceptual rendering. Revised renderings shall be submitted that show compliance).
  53. 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. (Acceptable as depicted on the submitted site plan).
  54. 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).
  55. 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). (Not clearly defined as depicted on site plan as it pertains to the air machine. A site plan shall be depicted that clearly defines this condition).
  56. 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.

57. 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. A fifteen (15') foot wide greenbelt is required along the South Byrne Road and Airport Highway frontages and must be out of the right-of-way. Calculations conclude that a total of ten (10) trees are required in the frontage greenbelt along South Byrne Road and seven (7) trees are required along Airport Highway. Trees are not required to be evenly spaced and may be clustered. (The number and species of trees are not acceptable as submitted on the landscape plan. A revised landscape plan shall be submitted showing compliance);
  - b. Property shall include a solid evergreen hedge planting in the frontage greenbelts to screen the parking lot so that no headlights of any vehicles can be seen from the public street. Planting required to meet this section are not permitted to be located in the public right-of-way. (Acceptable as submitted on the landscape plan);
  - c. If applicable; a stormwater treatment facility area shall meet the approval of the City of Toledo's Division of Engineering Services and Division of Environmental Services;
  - d. Foundation plantings shall be added at the main building's entrance. (Not acceptable as shown on the landscape plan. A revised landscape plan shall be submitted showing compliance);
  - 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. 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);
  - 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 and type of any proposed fencing. Fence shall be a six (6') foot wood, board-on-board privacy fence or wall, as measured from the finished grade of the site. Fencing is subject to the approval of the Director of the City of Toledo Plan Commission. The use of barbed wire is not permitted. (If applicable);
  - k. 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. (Acceptable as depicted on lighting study)
58. 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.
59. 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.



60. 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.
61. 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