



## Legislation Details (With Text)

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**Title:** Approving the site plan for a new retail store located at 845-885 South Avenue, Toledo, Ohio; subject to certain conditions; and declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Appeal and Plan Commission Report, 2. Pictures, 3. Gressley, Kaplin & Parker, LLP, 4. Audio: Zoning & Planning Committee 4/15/2020, 5. Audio: Agenda Review April 28, 2020

Date	Ver.	Action By	Action	Result
5/5/2020	1	City Council		
5/5/2020	1	City Council		
5/5/2020	1	City Council		
4/21/2020	1	City Council		

Zoning & Planning Committee

**Approving the site plan for a new retail store located at 845-885 South Avenue, Toledo, Ohio; subject to certain conditions; and declaring an emergency.**

### SUMMARY & BACKGROUND:

An appeal has been filed on the approval by the Plan Commission of a site plan (SPR-46-19) for a new retail store located at 845-885 South Avenue, and subject to thirty-nine (39) conditions.

On March 12, 2020, said matter was considered by the Toledo City Plan Commission and the request for the approval of the site plan for a new retail store located at 845-885 South Avenue, Toledo, Ohio, was approved and all things required by law to be done, have been done. An appeal has been filed by Advocates for basic legal Equality Inc. on behalf of the Broadway Corridor Coalition.

On April 15, 2020 the Zoning and Planning Committee heard the appeal on SPR-46-19 and sent to the full Council without a recommendation.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That the site plan as approved by the Plan Commission for a new retail store located at 845-885 South Avenue, Toledo, Ohio is hereby approved subject to the 39 conditions set forth herein below, for that part of the City of Toledo more fully described as follows:

Description: 0.972 Acre parcel - 865 South Avenue, Toledo, Ohio

Situated in the State of Ohio, County of Lucas, City of Toledo, being part of Lots 66 and 67 and all of Lots 68 through 73 of Thayer's Addition to the City of Toledo as recorded in Plat Volume 4, Page 11 of Lucas County Recorder's records, and being more particularly bounded and described as follows:

Beginning at the northeast corner of said Lot 73 and being a point on the south right-of-way line of South Avenue (80' wide). Said point also being the northwest corner of Lot 74 of said Thayer's Addition to the City of Toledo and the TRUE PLACE OF BEGINNING for the parcel described herein;

Thence S 00°55'23"W, along the west line of said Lot 74, a distance of 143.00' to the southwest corner thereof being a point on the north right-of-way line of an unnamed Alley (16' wide);

Thence N 89°04'37"W, along the north right-of-way line of said Alley, a distance of 320.00' to a point thereon being the southeast corner of Lot 65 of said Thayer's Addition to the City of Toledo;

Thence N 00°55'23"E, along the east line of said Lot 65, a distance of 65.00' to a point thereon;

Thence S 89°04'37"E, a distance of 44.00' to a point;

Thence N 00°55'23"E, a distance of 78.00' to a point on the south right-of-way line of South Avenue;

Thence S 89°04'37"E, along the south right-of-way line of South Avenue, a distance of 276.00' to the TRUE PLACE OF BEGINNING and containing 0.972 acres (42,328 square feet) of land as surveyed by James P. Yurkschatt (P.S. 7809) of Campbell and Associates, Inc. on October 1, 2019.

The basis of bearings for this survey is Grid North of the Ohio State Plane Coordinate System, North Zone, NAD83 (2011).

SECTION 2. That the approval of the site plan is subject to the following 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 existing substandard sidewalk, drive approaches, curb, and pedestrian curb ramps within the public right-of-way abutting the site shall be replaced/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.

4. 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.
5. 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.
6. Contact Joe Warnka at (419) 245-1341 for inspection of above mentioned items.
7. Water service is available subject to the Rules and Regulations of the Department of Public Utilities.
8. Plans for the water service lines shall be submitted to the Division of Engineering Services for review and approval. Plan design and submittal shall comply with the current version of the City of Toledo DPU Infrastructure Design and Construction Requirements.
9. 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.
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 @ 800-414-4990. Contact the Division of Water Distribution (419-936-2839) 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. 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 developer’s expense.
14. Stormwater plans shall comply with the latest version of the City of Toledo’s Infrastructure Design and Construction Requirements, which are available at <http://toledo.oh.gov/services/public-utilities/engineering-services/plan-review-process/>. Submit the following for review & approval:
  - Engineering drawings and calculations compliant with the City of Toledo Infrastructure Design and Construction Requirements.
  - Detailed site grading plan
  - Plans and calculations for storm sewer service, stormwater detention and post-construction BMP’s.
  - A Stormwater Pollution Prevention Plan, which shall include in its final form a list of responsible parties and their contact information,
  - A long-term maintenance plan and maintenance agreement for the proposed stormwater management area.

1. Whereas the detention area footprint is not supported by calculations at this time, should any future revisions for final stormwater compliance include changes to the site plan, it shall be necessary for the plan commission to undertake additional review and approval.
2. Drainage plans that incorporate low impact development solutions such as indicated on this proposal are eligible for a reduction in the property's stormwater utility fee through the Stormwater Credit Program, upon application to the program as explained at <http://toledo.oh.gov/services/public-utilities/engineering-services/stormwater-utility-credit-program/>
3. Sanitary sewer service for this development is available subject to the Rules and Regulations of the Department of Public Utilities.
4. 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.
5. 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.
6. 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.

#### Fire Prevention Bureau

7. Approved Premises identification is required.

#### Division of Transportation

8. Wheel stops are required at all parking spots along the sidewalk, property lines and abutting building locations per TMC 1107.
9. Bicycle parking required per TMC 1107. This concern has been addressed by the provided site plan.

#### Division of Sewer and Drainage Services

10. S&DS requires that all private sewer lines that are not being removed or properly abandoned (both storm and sanitary) be cleaned and inspected.
11. 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 two (2) years. An electronic copy (DVD/memory stick) shall be provided to S&DS demonstrating the lines cleaning and integrity.
12. 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.

13. Applicant shall maintain compliance with Ohio EPA's General Stormwater NPDES permit programs.
14. Applicant is strongly encouraged to include multiple green infrastructure measures that can be included to minimize runoff and increase infiltration.
15. Applicant is strongly encouraged to plant native, low-maintenance and non-invasive trees, shrubs, and perennials.
16. 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.

Plan Commission

17. Staff supports a variance of TMC§1108.0200, allowing a frontage greenbelt to be fewer than 15 feet in width and to contain five (5) trees in front of the building as opposed to the seven (7) that are shown.
18. 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§1108.0204, for each ten (10) parking spaces, the site shall provide two hundred (200) square feet of interior parking lot landscaping, as well as two (2) trees and six (6) shrubs. Staff is supportive of reducing the number of parking spaces to a minimum of twenty-eight (28) spaces to allow space for landscape peninsulas and meet this requirement.
  - b. Per TMC§1108.0203, a Type A buffer is required along the west side of the property. Staff is supportive of foundation plantings and a minimum of three (3) trees, with the understanding that additional trees may be planted here to help meet TMC§1108.0205.
  - c. Per TMC§1108.0205, one (1) tree is required within the interior of the site for every one thousand (1000) square feet of building area. This does not include parking lot landscaping. The building is 9030 square feet; nine additional (9) trees are required within the site to meet this condition.
  - d. Per TMC§1108.0202, a Frontage Greenbelt is required with at least one (1) tree for every thirty (30) feet of frontage. This would require eleven (11) trees. Because the frontage greenbelt is being narrowed by a reduced building setback, staff is requiring five (5) trees to the north of the building and four (4) trees to the north of the stormwater management area. Shall be shown on a revised landscape plan.
  - e. 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'.
  - f. Per TMC§1108.0204(B)(6), 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 cover, unless approved as part of the stormwater treatment facility. Shall be depicted on a landscape plan.
  - g. Irrigation shall be required for projects over ½ acre in site area. Landscaped areas must be irrigated as necessary to maintain required plant materials in good and healthy condition.
1. Landscaping shall be installed and maintained indefinitely.

2. The separate parking area to the northwest of the site shall be split from the parcel and combined with the adjoining property to the west, or shall remain within the site.
3. Projecting piers shall be provided along all elevations visible from the right-of-way to provide variation in massing, as shown in previously submitted elevations.
4. 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. Sign materials are encouraged to match primary building materials.
5. 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.
6. 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.
7. Written testimony shall be obtained from the Department of Environmental Services stating their support of the proposed course of action for environmental remediation for the subject site.

SECTION 3. 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