



## Legislation Text

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**File #:** O-299-18, **Version:** 1

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### Zoning & Planning Committee

#### **Granting an amendment to a Special Use Permit for a used auto sales facility for a site located at 6009 Whiteford Center Road, in the City of Toledo, Lucas County, Ohio; subject to certain conditions and waivers and declaring an emergency.**

#### **SUMMARY & BACKGROUND:**

By application (SUP-3007-18) filed with the City of Toledo Central Permit Center, a request for an amendment to a Special Use Permit for a Used auto sales facility for a site located at 6009 Whiteford Center Road, in the City of Toledo, Lucas County, Ohio; was submitted to the Toledo City Plan Commission for its review and recommendation.

On June 14, 2018, the Toledo City Plan Commission recommended approval for a Special Use Permit for an amendment to a Special Use Permit for a used auto sales facility for a site located at 6009 Whiteford Center Road, in the City of Toledo, Lucas County, Ohio.

On July 18, 2018, Toledo City Council, Zoning & Planning Committee reviewed, and sent as approved an amendment to a Special Use Permit for a Used auto sales facility for a site located at 6009 Whiteford Center Road, 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 an amendment to a Special Use Permit for a Used auto sales facility for a site located at 6009 Whiteford Center Road, 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:

#### **AREA OF PARCEL 22-02697 AND 22-02711**

A parcel of land being part of the Northeast (1/4) of the Southeast (1/4) of Section 6, Town 9 South, Range 7 East, City of Toledo, Lucas County, Ohio, which is more particularly described as follows:

Commencing at the Southeast corner of Section 6 being a found 5/8" Iron Pin in a Monument Box;

thence N04°28'13"W, on and along the East line of the Southeast (1/4) of the Southeast (1/4) of Section 6 also being the Centerline of Right-of-Way of Secor Road (R/W varies), for a measured distance of 1320.02' (feet) and a record distance of 1319.81' (feet) to a point;

thence S85°54'57"W, on and along the South line of the Northeast (1/4) of the Southeast (1/4) of Section 6 also being the current Centerline of Right-of-Way of Otjen Road (50' R/W), a distance of 109.08' (feet) to a point;

thence N40°45'43"W, on and along the Old Centerline of Right-of-Way of Whiteford Center Road (60' R/W) a.k.a Toledo-Ann Arbor Road, a distance of 31.17' (feet) to a set Iron Pin, also being the True Point of Beginning for the commercial area of parcel 22-02697

and 22-02711;

thence S85°54'57"W, on and along a line being 25.00' (feet) Northerly of the North line of the Southeast (1/4) of the Southeast (1/4) of Section 6, also being the extension of the current Northerly Right-of-Way line of Otjen Road (50' R/W) as acquired in Deed Volume 20100603-0022443 (64-WD) as recorded in Lucas County Recorder's Office, a distance of 213.13' (feet) to a point;

thence N04°35'03"W, on and along westerly commercial zoning district line, a distance of 180.01' (feet) to a point;

thence N85°54'57"E, a distance of 80.65' (feet) to a point on the Centerline of Right-of-Way of Whiteford Center Road (60' R/W) a.k.a Toledo-Ann Arbor Road;

thence S40°45'43"E, on and along the Centerline of Right-of-Way of Whiteford Center Road (60' R/W) a.k.a Toledo-Ann Arbor Road, a distance of 124.69' (feet) to a point;

thence N85°54'57"E, a distance of 12.47' (feet) to a point:

thence S50°39'28"E, a distance of 116.38' (feet) to a set Iron Pin at the Intersection of said Northerly Right-of-Way line of Otjen Road (50' R/W) as acquired in Deed Volume 20100603-0022443 (64-WD) as recorded in Lucas County Recorder's Office with the Old Northeasterly Right-of-Way line of Whiteford Center Road (60' R/W) a.k.a Toledo-Ann Arbor Road;

thence S85°54'57"W, on and along said Northerly Right-of-Way line of Otjen Road (50' R/W) as acquired in Deed Volume 20100603-0022443 (64-WD) as recorded in Lucas County Recorder's Office, a distance of 37.41' (feet) to the True Point of Beginning for the commercial area of parcel 22-02697 and 22-02711:

Containing an area of 0.764 Ac., 28,435 SF of land more or less and subject to all legal highways, leases, easements and restrictions of record.

#### NOTES:

Bearings used in the above description is based on the East line of the Southeast quarter (1/4) of Section 6 also being the Centerline of Right-of-Way of Secor Road as established between a found Iron Pin in a Monument Box at the intersection of Secor Road at Alexis Road and a found Iron Pin in a Monument Box at the intersection of Glenn Street and Secor Road and corresponding to a bearing of N04°28'13"W.

Bearings are for the express purpose of showing angular measurement only.

All iron pins set are 5/8" diameter rebar x 36" long with a cap marked "Bryan D. Ellis 8292"

This parcel was surveyed by Bryan D. Ellis on November, 2017.

SECTION 2. That the approval of the amendment to a Special Use Permit for a Used auto sales facility for a site located at 6009 Whiteford Center Road, City of Toledo, Lucas County, Ohio; ; shall be subject to compliance with the 39 conditions as follows:

The following thirty-nine (39) 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: 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.

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

6. The existing public hydrant in the right-of-way being vacated under V-123-18 shall be relocated to the right-of-way of Otjen Road unless an easement is provided. This work shall be performed by the City of Toledo at the applicant's expense. A site plan for the work shall be submitted to the Division of Engineering Services for review and approval.
7. The proposed hydrant shall be located a minimum of 10 feet away from storm and sanitary sewers or, per the Ohio EPA, drain holes on hydrant shall be plugged.
8. The plan submitted for plan commission review indicates earth-disturbing activity greater than 2,500 square feet; therefore, a detailed site-grading plan, Stormwater Pollution Prevention Plan (SWP3), calculations, plans for stormwater service and a maintenance plan & maintenance agreement for Post-Construction Stormwater Best Management Practices (BMP's) for this project shall be submitted directly to the Division of Engineering Services for stormwater review & approval.
9. The existing public storm sewers are not shown correctly on the drawing. Contact the Division of Engineering Service to obtain records for the location of the existing storm sewers.
10. Plan submittals shall be in conformance with the latest version of Infrastructure Design and Construction Requirements available at <http://toledo.oh.gov/services/public-utilities/engineering-services/plan-review-process/>, including the requirements for stormwater detention and post-construction stormwater BMP's.
11. Any person performing earth-disturbing activities within the City of Toledo shall employ Construction Best Management Practices (BMPs) to provide sediment and erosion control during construction. Construction BMP's shall be designed and installed per the latest Ohio EPA General Stormwater NPDES permit.
12. All sites disturbing 2,500 sq. ft or more shall develop a site specific Stormwater Pollution Prevention Plan (SWP3) which shall be submitted for review and approval. The SWP3 shall address all components required per the latest Ohio EPA General Stormwater NPDES permit and shall be submitted with a completed submittal cover sheet, contact list, contractor certification form and the Ohio EPA SWP3 Checklist. The links to these documents can be found at <http://www.tmacog.org/storc/swp3.htm>.
13. 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.
14. All storm drainage must be internal and not run off onto adjacent properties unless approved by the City of Toledo

Drainage Engineer.

- 15. No construction work, including any earth disturbing work will be permitted without approved plans and inspection.
- 16. See companion case V-123-18 for sanitary comments.

#### **Sewer & Drainage Services**

- 17. S&DS recommends that all private sewer lines that are not being removed or properly abandoned (both storm & sanitary) be cleaned and inspected.
- 18. 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**

- 19. The facility may undergo a change of use per the Ohio Building Code. Compliance with the requirements for the new use is mandated.
- 20. Vehicle repair is not permitted in a vehicle sales facility.
- 21. Approved building address numbers will be visible from the street or road fronting the property. (Ref. Ohio Fire Code 505.1)

#### **Transportation**

- 22. To ensure compliance with the Toledo Municipal Code (TMC) requirements for parking, loading and access, the site plan must include drive aisle, parking stall and drive dimensions.
- 23. Parking spaces shall be a minimum of 9' in width and 18' of depth.
- 24. All trees and plantings shall ensure compliance with TMC 1107.2000.

#### **Plan Commission**

- 25. Dumpster location(s) shall be clearly defined, 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 (acceptable as depicted on site plan).
- 26. Dumpsters may not be located in the public right-of-way as stated in TMC§1361.10(b)(10) of the Building Code (acceptable as depicted on site plan).
- 27. Elevated displays lifts or metal structures used in conjunction with the display of motor vehicles shall be permitted only within those areas specifically designated upon the Site plan and shall not be allowed in any required front yard. (TMC§1104.0302(A)) (if applicable).
- 28. All vehicles on display must be parked in striped parking spaces that shall be designated on an approved site plan. Vehicle parking that deviates from the approved Site plan shall not be permitted.
- 29. Repairs and services of vehicles shall be conducted wholly within an enclosed building permanently located on the site (if applicable).

30. Display areas shall incorporate curbs or other substantial permanent barriers to prevent encroachment of the vehicles into the required setback and landscape areas. (Not acceptable as depicted on site plan).
31. A fifty (50') foot separation measured along the street frontage between any open display sales lot and a Residential district boundary line shall be maintained. This separation shall apply to both sides of a street and to intersecting streets on corner lots. (Acceptable as depicted on site plan).
32. 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 system subject to the regulations and approval of the Department of Public Utilities. Parking or vehicle storage on grass or gravel is prohibited.
33. Loading and/or unloading is prohibited in the public right-of-way.
34. A REVISED 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. Greenbelts are required along all street frontages. A five foot (5') greenbelt is required along the portion of the site abutting the vacated Whiteford Center right of way easement, to include six (6) trees, a solid evergreen hedge planting and a 3 ½ foot decorative fence (wrought iron or aluminum tube); a zero foot (0') greenbelt is required along the Toledo Edison portion of the site. However, the applicant is responsible for planting and indefinitely maintaining five (5) trees and a solid evergreen hedge planting in the right of way along this portion of the site. A zero foot (0') greenbelt is required along the commercially zoned portion of the site along Otjen Road. However, a solid fence is required along this frontage, which must meet the height and design criteria as listed in TMC 1105.0302. A fifteen foot (15') greenbelt is required OUTSIDE OF THE RIGHT OF WAY for the remainder of the Otjen Road frontage. This greenbelt shall include at least one (1) tree for every thirty (30) feet of lot frontage (existing trees may be eligible for credits) and a solid evergreen hedge planting. All greenbelts and required plantings shall be depicted on a revised landscape plan.
  - b. A Type A landscape screen and buffer shall be provided along the western edge of the CR Regional Commercial zoned portion of the entire site, including the Toledo Edison portion, to screen the use for the residential neighbors. This shall include ten feet (10') of landscaping and a solid six foot (6') to eight foot (8') fence, to be installed so that the smooth/flush side faces away from the development site. The fence must meet the height and design criteria as listed in TMC 1105.0302. Eight (8) trees and thirty (30) shrubs are required in this area; this shall be depicted on a revised landscape plan.
  - c. Proposed new fencing along Whiteford Center Road shall be 3 ½ feet high metal tube or solid bar fence;
  - d. 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)). (Not acceptable as depicted on site plan).
  - e. Topsoil must be back filled to provide positive drainage of the landscape area;
  - f. Foundation plantings along all portions of the building that is visible from the public right-of-way and landscaping at all major building entrances (Not acceptable as depicted on the site plan);
  - g. 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, as pertaining to the foundation plantings;
  - h. 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 the site plan);

- i. 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).
  - j. The location, lighting and size of any signs, all signage is subject to TMC§1387. No 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. (flapper flags are prohibited).
35. 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.
36. Per TMC§1111.0814, if a building permit is not issued within one year of the City Council approval date then the site plan approval shall become null and void.
37. 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.
38. 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.
39. 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. Conditions set forth in this Ordinance are in addition to all conditions set forth in the approval of the original Special Use permit set forth in Ordinance 253-16.

SECTION 4. Waiving the following section of the Toledo Municipal Code for the zoning maps attached to Part 11, Planning and Zoning, Toledo Municipal Code, for the property located at 6009 Whiteford Center Road, in the City of Toledo, Lucas County, Ohio:

#### Chapter 1108 Use Landscaping and Screening

##### Sec. 1108.0202(A) Frontage Greenbelt: Applicability

An extensively landscaped frontage greenbelt shall be provided along public right-of-ways, but not including alleys.

##### Sec. 1108.0202(B)(3) Frontage Greenbelt: Requirements

Frontage greenbelts shall be minimum width of 15 feet.

Approve a waiver to allow for a ten (10') foot reduction along the vacated portion of the Whiteford-Center Road right-of-way easement resulting in a five (5') foot wide frontage greenbelt.

Approve a waiver to allow for a fifteen (15') foot reduction along the Toledo Edison portion of the Whiteford-Center Road right-of-way resulting in a zero (0') foot wide frontage greenbelt.

Approve a waiver to allow for a fifteen (15') foot reduction along Otjen Road, along the commercially zoned portion of the lot only, in lieu of a solid fence resulting in a zero (0') foot wide frontage greenbelt.

SECTION 5. 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 6. 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

