

TOLEDO - LUCAS COUNTY PLAN COMMISSIONS

One Government Center, Suite 1620, Toledo, OH 43604 P: 419 245-1200 F: 419 936-3730

DATE: September 13, 2024

REF: SUP-1019-24

TO: President Carrie Hartman and Members of Council, City of Toledo
FROM: Toledo City Plan Commission, Thomas C. Gibbons, Secretary
SUBJECT: Special Use Permit for tobacco shop at 135 S Byrne Road

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, September 12, 2024 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Special Use Permit for a tobacco shop
Location	-	135 S Byrne Road
Applicant	-	Yazeed Qaimari P.O Box 8253 Toledo, OH 43623
Owner	-	135 S Byrne Properties LLC 135 S Byrne Road Toledo, OH 43615
Engineer	-	John Weithman P.O. Box 216 Genoa, Ohio 43430

Site Description

Zoning	-	CR / Regional Commercial
Area	-	Parcel: ±1.35 Tenant Space: 1,250 square feet
Frontage	-	±155' along S Byrne Road
Existing Use	-	Commercial multi-tenant space
Proposed Use	-	Tobacco shop

Area Description

North	-	Drug and Alcohol Treatment Center, restaurant, auto shop / CR
-------	---	---

GENERAL INFORMATION (cont'd)

South	-	Housing assistance center, warehouses / IL & IG
East	-	Light manufacturing, school / IL, IG, & CR
West	-	American Legion, vacant commercial / CO & CR

Parcel History

No parcel history on record.

Applicable Regulations

- Toledo Municipal Code (TMC), Part Eleven: Planning and Zoning Code
- Toledo 20/20 Comprehensive Plan

STAFF ANALYSIS

The applicant is requesting a Special Use Permit for a tobacco shop at 135 S Byrne Road. The ±1.35-acre site is zoned CR – Regional Commercial and is occupied by the Byrnegate Plaza Shopping Center, within which the applicant will occupy a ±1,250 square foot tenant space. Adjacent land uses include a Drug and Alcohol Treatment Center, restaurant, and auto shop to the north; a housing assistance center and warehouses to the south; light manufacturing and a school to the east; and the American Legion and a vacant commercial building to the west. A Special Use Permit is required for all Tobacco Shops. Note that this case has been deferred four times, per the applicant's request, to allow time to gather support from the neighboring school, the Autism Academy of Learning.

Use Specific Regulations

- a. Tobacco shops shall not be located within 500 feet of any of the following uses: school, public park, public library, child day care center, or other use established specifically for the activities of minors.

The location does have one (1) spacing violation; A school, the Autism Academy of Learning, is located ±225 feet from the tenant space at 110 Arco Drive.

- b. The hours of operation of a tobacco shop 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, and this is listed as a condition of approval.

Parking and Circulation

The reuse of a single unit in a multi-tenant space does not typically require significant site improvements, however the Division of Transportation included bicycle parking and ADA

STAFF ANALYSIS (cont'd)

accessibility as conditions of approval for the existing parking lot. An exhaustive list of these conditions is available in Exhibit "A."

Landscaping

As mentioned, the reuse of a single unit in a multi-tenant space does not typically require significant site improvements. The existing site includes a ±30' grass greenbelt with no plantings. Staff requests the addition of three (3) trees within this lawn area, which is roughly eighty feet (80') long. This addition brings the site closer into compliance with TMC§1108.0202 – *Frontage Greenbelt*, which requires one (1) tree per every thirty feet (30') of frontage.

Elevations

There are no changes proposed for the building exterior at this time.

Toledo 20/20 Comprehensive Plan

The Toledo 20/20 Comprehensive Plan targets this site for Regional Commercial land uses. Regional Commercial uses are predominantly large-scale commercial uses intended to accommodate auto-oriented development. (e.g.: malls, big box retail stores, & mixed-use developments). Offices and multiple family residential developments may also be interspersed within these districts. The proposed use is aligned with the designated future land use.

Despite compatibility with the future land use map, staff recommends disapproval of the requested Special Use Permit, as there is a spacing violation with the neighboring school to the east, the Autism Academy of Learning.

PLAN COMMISSION RECOMMENDATION

The staff recommended that the Toledo City Plan Commission recommend disapproval of SUP-1019-24, a request for Special Use Permit for a tobacco shop at 135 S Byrne, to the Toledo City Council, for the following two (2) reasons:

1. The proposed use does not comply with all applicable provisions of the Zoning Code (TMC1111.0706(B)).
2. The proposed use is not compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting noise, odor, dust, and other impacts associated with the use's operation) (TMC§1111.0706(C)).

However, the Toledo City Plan Commission recommends approval of SUP-1019-24, a Special Use Permit for tobacco shop at 135 S Byrne Road, to Toledo City Council.

The Toledo City Plan Commission further recommends approval of SUP-1019-24, a Special Use Permit for tobacco shop at 135 S Byrne Road subject to the following **thirty-five (35)** conditions.

The following 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. 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, from Ted Rousos, 419-245-1347. The application can be obtained online at Toledo.oh.gov search: Right of Way opening permit.

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

Sewer & 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.

Environmental Services

6. Applicant shall maintain compliance with the City of Toledo's Storm Water regulations as specified in the Toledo Municipal Code. Special attention must be paid to all potential storm water impacts from the 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 Storm Water NPDES permit programs.
8. Applicant is strongly encouraged to include multiple green infra-structure measures to minimize runoff and increase infiltration, and to minimize amount of new and/or additional impervious surface on site.
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
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 space will 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, ect...

Transportation

14. Existing lighting foundations cannot be located in an accessible parking loading aisle that is required per TMC 1107.1702. (Lighting foundations must be shown on drawings.)
15. Accessible parking signage must be posted directly in front of the parking space at a height of no less than 60" and no more than 72" above pavement level per TMC 1107.1704.

Transportation (cont'd)

16. Bicycle parking is required per TMC 1107.0900.
17. All parking and loading spaces, parking lots, maneuvering areas, drive aisles and driveways must be surfaced with concrete, asphalt or other dust free material per TMC 1107.1906, (Dirt and back fill where electrical lighting lines were installed is not adequate for parking and maneuvering areas.)
18. All required parking must be clearly shown and dimensioned accurately per TMC 1107.1911.
19. The accessible route from the accessible parking space to accessible entrance must be clearly shown and must comply with ADA (Americans with Disabilities Act).
20. ADA compliant ramp must be shown as part of the accessible route from accessible parking to the accessible entrance per ADA (Americans with Disabilities Act) (Nearest ramp is at the far end of complex.)
21. Dumpster access cannot be blocked by parking. (Dumpster must be located in a location that access will not be obstructed.)
22. If one has not been established, a cross access agreement is required with the adjacent property owner to the South or the combining of parcels is recommended by Traffic Management.

Plan Commission

23. A tobacco shop shall not be located within 500 feet of any of the following uses: school, public park, public library, child day care center, or other use established specifically for the activities of minors. One (1) spacing violation found. A school, the Autism Academy of Learning, is located ±225 feet from the tenant space at 110 Arco Drive.
24. The hours of operation of a tobacco shop shall 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, as a condition of development approval.
25. Pursuant TMC§1107.0400, the commercial space requires one (1) parking space per 300 square feet of floor area. A total of fifty-three (53) parking spaces are required for the site's building. **Acceptable as depicted on site plan.**
26. All spaces reserved for the use by persons with physical disabilities shall adhere to the standards outlined in TMC§1107.1700. A minimum of two (2) auto and one (1) van accessible parking spaces are required for use by persons with physical disabilities.

Plan Commission (cont'd)

Acceptable as depicted on site plan.

27. Bicycle parking slots shall be provided pursuant to Off-Street Parking Schedule "A" (TMC§1107.0300), which requires one (1) bicycle parking slot per ten (10) parking spaces. **Not acceptable as depicted. A bike rack with 6 slots shall be shown on revised plans.**
28. A detailed site, lighting, fencing and four (4) copies of a revised landscaping plan (separate from building & site plans) shall be submitted to the Plan Director for review and approval. Such plan shall include:
 - a. Three trees are to be added to the existing eighty-foot (80') frontage greenbelt, bringing the site closer in compliance with TMC§1108.0202, which requires one (1) tree per every thirty feet (30') of frontage; **not acceptable as depicted; applicant shall add three (3) trees along existing frontage greenbelt to a revised plan.**
 - b. Per TMC§1108.0203 dumpsters are required to be screened on all sides with any combination of evergreen plantings, fence, or wall that is a minimum in height of six feet (6'). **Not acceptable as depicted. Dumpster screening shall be shown on a revised plan. In addition, dumpster shall be moved to comply with Transportation's condition #21.**
 - c. Topsoil must be back filled to provide positive drainage of the landscape areas;
 - d. 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;
 - e. 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;
 - f. The location and direction of any proposed lighting (lights are to be directed away from adjacent residential properties).
 - g. The location, lighting and size of any signs.
29. Off-street parking and loading spaces, parking lots, maneuvering aisles and driveways must be surfaced with concrete, bituminous asphalt, or other dust-free material other than

Plan Commission (cont'd)

gravel or loose fill, and be graded to drain all surface water toward the interior of the parking lot or to a stormwater treatment facility subject to the regulation's approval of the Department of Public Utilities (TMC§1107.1906).

30. 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)).
31. Any new signs shall meet the standards of TMC§1113, adopted April 10, 2024 via Ordinance O-166-24.
32. 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.
33. Approval of the Special Use Permit will lapse after one year if the criteria listed in TMC§1111.0707(A) have not been met.
34. 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.
35. 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.

Respectfully Submitted,



Thomas C. Gibbons
Secretary

MJM
Three (3) sketches follow

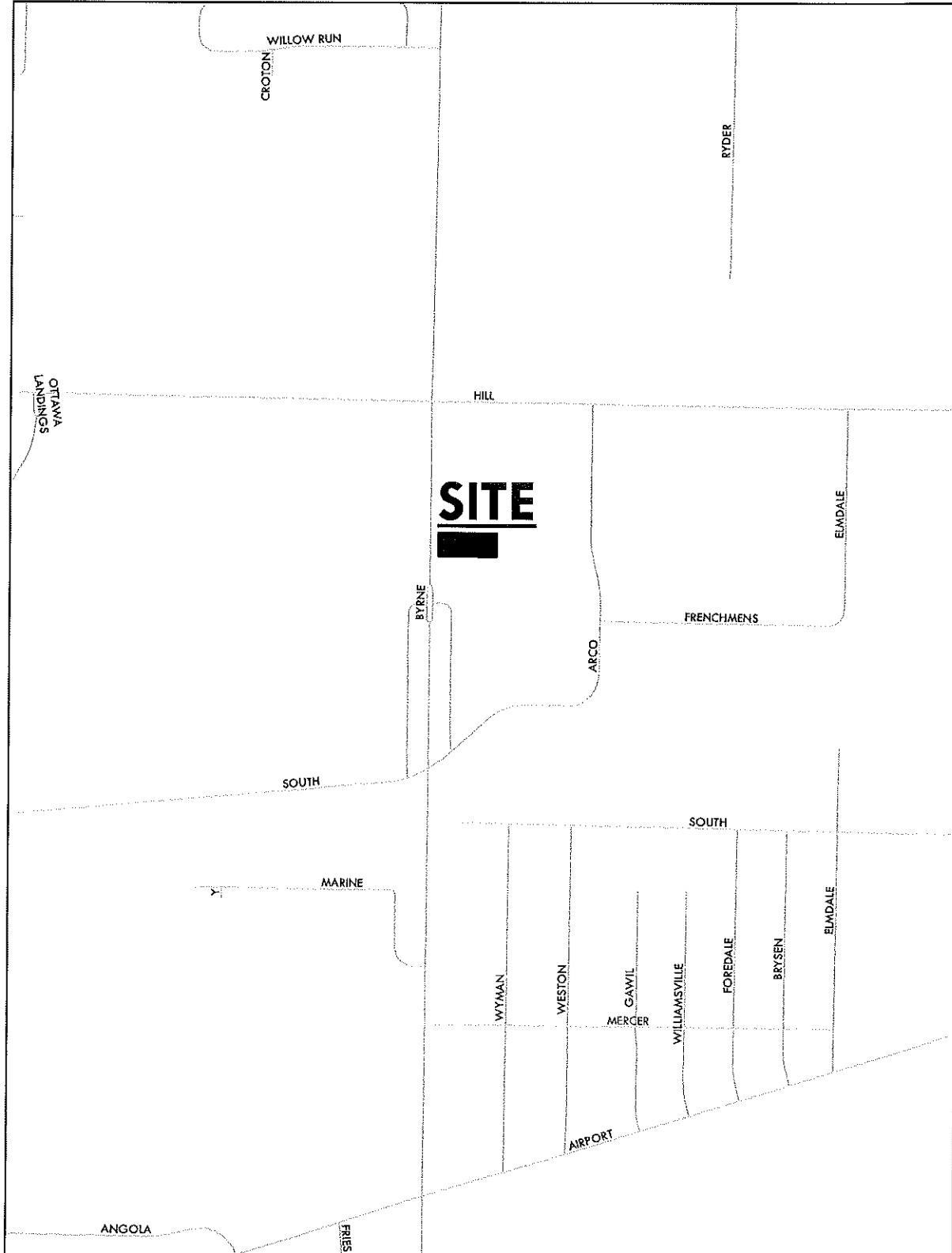
TO: President Hartman and Members of Council
September 13, 2024
Page 9

REF: SUP-1019-24

Cc: Yazeed Qaimari, P.O. Box 8253, Toledo, OH 43623
John Weithman, P.O. Box 216, Genoa, OH 43430
Lisa Cottrell, Deputy Director
Mara Momenee, Planner

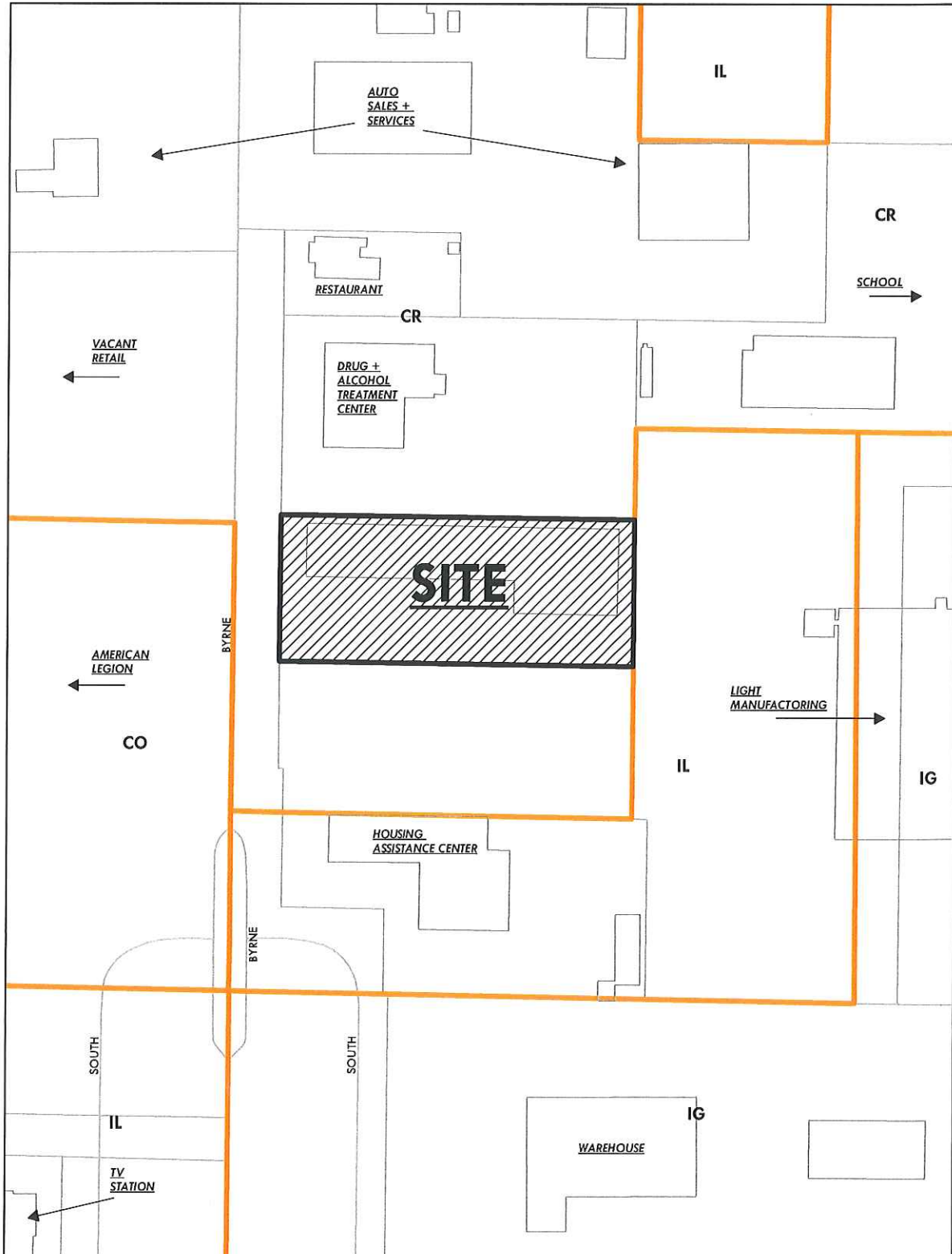
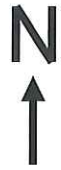
GENERAL LOCATION

SUP-1019-24
ID 53



ZONING & LAND USE

SUP-1019-24
ID 53





SUP-1019-24
ID 53

SITE PLAN

	JOHN A. WERTHMAN, P.E. ENGINEERING SURVEYS PO BOX 218 CLEVELAND, OHIO 44130 email: john.werthman@gnail.com phone: 419-928-9223	GET SMOKED VAPE AND TOBACCO 135 S BYRNE RD UNIT 135 B TOLEDO, OHIO	SITE PLAN, FLOOR PLAN & INFORMATION REVISION DATE: 01/20/24 DRAWING: 1/1 REVISED: 02/16/24 DRAWN BY: JAV
--	--	---	--

SITE INFORMATION & DATA

Building Code	DEC 2017
Existing Occupancy	M Mercantile
Proposed Occupancy	M Mercantile
Construction Type	IIA
Building Exterior	No changes
Building Interior	Occupancy Use
Zoning	:D-CR
Site Area	58,900sf
Pavement Area	43,000sf
Building Area	15,700sf
Project Area	1,25Ksf
Occupancy Load	16-7/-
Customers	:3
Staff	3 Actual
Egress width	36"
Exits required	2
Exits Supplied	3
Parking	81+/-
Dumpester	2 Various sizes/locations

PLANTINGS

- Lawn (L) 220sf, Flowers, Scrubs
- Lawn (L) 300sf, Flowers, Scrubs

Legend:

- Power Pole
- Building

LOCATION MAP
No Scale

LEGEND

- Power Pole
- Building
- Lawn (L) 220sf, Flowers, Scrubs
- Lawn (L) 300sf, Flowers, Scrubs

SUBMITTED FOR
OCCUPANCY

SITE PLAN
Scale: 1"=30'
ARCO INDUSTRIAL PARK SOUTH PLAT 2
LOT 15, Except the North 55 Ft.
Parcel 011027