

GENERAL INFORMATION

Subject

- Request - Review of amendment to Chapter 1103 of the City of Toledo Planning and Zoning Code to establish the UpTown Urban Neighborhood Overlay (UNO) District.
- Applicant - UpTown Association
241 16th Street
Toledo, Ohio 43604

Applicable Plans and Regulations

- Toledo Municipal Code, Part Eleven: Planning and Zoning Chapter 1103, Overlay Zoning Districts
- Toledo UpTown Plan
- Toledo 20/20 Comprehensive Plan

UpTown District History

- M-4-12 - Review of the UpTown District Neighborhood Plan (PC approved 12/5/13, Ord 19-14, 1/14/14)

STAFF ANALYSIS

The request is for an amendment to Chapter 1103 of the Zoning Code to establish the UpTown Urban Neighborhood Overlay (UNO) District. The establishment of this overlay district was requested by the UpTown Association and establishes a set of requirements that will carry out the vision of the Toledo UpTown Plan, adopted by Toledo City Council in January of 2014. A neighborhood meeting is scheduled for June 30, 2015 to present the plan to the members of the District.

In order to ensure the realization of the vision and objectives of the UpTown Plan the UpTown Associations implementation strategy included the implementation of an Urban Overlay District, which will create an Architectural Review Committee, establish a Demolition Review Process, and Design Standards.

STAFF ANALYSIS (cont'd)

The Urban Overlay District is a tool that provides a review process for proposed physical changes to structures and public space within the UpTown District. The overlay contains provisions for the rules and procedures of an Architectural Review Committee, demolition review process, design standards, and signage. The overlay will also assure appropriate building and parking setbacks that accommodate redevelopment that is compatible with historical building patterns. Finally, it will help promote development that features retail display windows, rear parking lots, and other pedestrian-oriented site design features.

The creation of the Architectural Review Committee is intended to give more control in regulating development and proposed demolitions. The Architectural Review Committee will be tasked with carrying out the vision of the UpTown District; in consultation with the Toledo City Plan Commission.

The demolition review process was requested to ensure that historic buildings throughout the district would be reviewed with criteria that ensure all avenues have been pursued prior to demolition. This process will establish a review by the Toledo UpTown District Architectural Review Committee (UDARC) to determine if there is merit for demolishing a structure.

The UNO district is intended to foster development and redevelopment that is compatible with the scale and physical character of original buildings in an area through the use of development and design standards specific to the area. Areas eligible for UNO designation must meet three criteria in accordance with TMC 1103.0500:

1. The area must possess environmental characteristics that create an identifiable setting, character and association.

The area is a neighborhood adjacent to downtown, which contains a Nationally Registered Historic District and contains a significant portion of structures built prior to 1940. The historic character of the UpTown District is centered primarily on large two and three mixed commercial/residential structures, however, larger building such as the Hillcrest and Mercy College anchor the District.

2. The area must be covered by a neighborhood or area plan approved as an amendment to the Comprehensive Plan.

The area is covered by the Toledo UpTown Plan, which was adopted as an amendment to the 20/20 Plan by Ordinance 19-14 on January 14, 2014.

3. The designated area must be a contiguous area of at least 5 acres.

The overlay boundaries encompass approximately 235 acres.

STAFF ANALYSIS (cont'd)

The UpTown District meets the eligibility requirements. The planning and zoning implications related to the UNO designation, district-specific development and design standards, and map showing the proposed boundaries that are required for the establishment of an UNO district follow.

STAFF RECOMMENDATION

The staff recommends that the Toledo City Plan Commission recommend approval of the proposed UpTown Urban Neighborhood Overlay (UNO) District as shown in Exhibit "A" to the Toledo City Council for the following reason:

1. The Uptown District meets the eligibility criteria in accordance with TMC 1103.0500.

UPTOWN UNO DISTRICT
TOLEDO CITY PLAN COMMISSION
REF: M-9-15
DATE: September 10, 2015
TIME: 2:00 p.m.

CITY COUNCIL PLANNING
AND ZONING COMMITTEE
DATE: October 14, 2015
TIME: 4:00 p.m.

BH/RS
Exhibit "A" follows

Exhibit “A”

1103.1600|UpTown UNO District

1103.1601 Purpose

The UpTown District Urban Overlay District is intended to:

- A.** Provide a review process for proposed physical changes to structures and public space within the UpTown District;
- B.** Implement appropriate building and parking setbacks that accommodate redevelopment that are compatible with historical building patterns; and
- C.** Promote development that features retail display windows, rear parking lots, and other pedestrian-oriented site design features.
- D.** Encourage Public Art & Green Infrastructure.

1103.1602 Effect of Designation

The UpTown UNO District is an overlay zoning classification to be established as an Urban Neighborhood Overlay (UNO) District under the provisions of Sec. 1103.0500. The overlay zoning district establishes additional design standards for development allowed by the underlying zoning district. In the event of conflict between the UpTown District Urban Overlay District regulations and the regulations of the underlying base zoning district, the UNO regulations govern. In all cases, the most restrictive provision of the UpTown District Urban Overlay District or the underlying zoning regulations govern.

1103.1603 UNO District Classification

Those areas classified in the UpTown UNO District shall be shown on the Official Zoning Map

1103.1604 UpTown UNO District Boundaries

The boundaries of the District are hereby established as shown on the City of Toledo zoning maps. The District boundaries are defined via the map attached hereto and legally described in this section, both of which are incorporated herein by reference. The overlay district regulations apply to the entirety of parcels, as existing at the time of adoption, lying wholly or partially within this boundary.

The UpTown UNO District boundary is as follows: Washington Street to the south, Collingwood Boulevard to the west, Woodruff Avenue, Putnam Street, alley south of Woodruff between Putnam and Warren Street, Warren Street, alley south of Woodruff between Warren Street and Franklin Avenue, Southard Avenue, Vermont Avenue, and Jackson Boulevard to the north, 10th Street, Adams Street, Michigan Avenue, Madison Avenue, and 10th Street to the east. Properties located within the Monroe Street Corridor UNO District shall be excluded from UpTown UNO (see TMC1103.0900 for boundary).

Exhibit “A” (cont’d)

1103.1605 Review and Approval Procedures

The site plan review shall be as specified in Sec. 1111.0800. Building elevation drawings (with colors and materials indicated) showing the front, rear and side views shall be submitted along with the site plan.

- A. The standards of the UpTown UNO District apply to physical changes to the appearance of any building or building addition which is viewable from the right-of-way and the total cost would be greater than or equal to 10% of the appraised value of the building, as listed by the County Auditor. For the purpose of the UpTown overlay provisions “physical change” means any work such as alteration, remodeling, new construction or renovation of the exterior of a structure. All new off-street parking spaces, driveways, fencing and signage shall be subject to review under the provisions of the UpTown UNO District and are not subject to cost restrictions as stated above.
- B. Industrial zoned properties shall be exempt from the provisions of the UpTown UNO District but still comply with the design standards of TMC 1109.000.
- C. Building alterations that conflict with these standards or that otherwise increase the degree of non-compliance with these standards are prohibited.
- D. A copy of new development, redevelopment and existing building rehabilitation plans, including landscaping, shall be submitted by the developer or building owner to the UpTown District Architectural Review Committee for their review prior to any work or any permits being issued by any city department.
- E. The UpTown District Architectural Review Committee shall be responsible for the review of plans as required by the UpTown UNO District. They shall review and make recommendations to the Director of the Plan Commission within forty-five (45) calendar days of receipt of the plans by the UpTown District Association.
- F. In the event that UpTown District Architectural Review Committee is no longer an official active organization for the UpTown District then the development plans shall be subject to the Site Plan Review procedures of TMC 1111.0800.

1103.1606 Design Criteria Used to Evaluate Site Plans and Projects

In addition to the design standards contained in Chapter 1109, Design Standards, the following criteria apply.

- A. Relationship of Buildings to Site
 - 1. The site shall be planned to accomplish a desirable transition between the building(s) and the streetscape to provide for adequate planting, safe pedestrian movement, and parking areas.
 - 2. Parking areas shall be treated with decorative elements, building wall extensions, plantings, or other innovative means so as to screen parking areas from view from public ways.
 - 3. The height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.

Exhibit “A” (cont’d)

4. Newly installed utility services, and service revisions necessitated by exterior alterations, should be underground.
 5. Sidewalks located in the public right-of-way shall be appropriate widths consistent with those of adjacent properties.
 6. Newly proposed sidewalks within the public right-of-way shall be a minimum of five feet (5') in width.
- B. Building Setback and Height
1. The maximum allowed front setback shall be twenty (20) feet unless a public-private setback zone is provided.
 2. Buildings on corner lots must comply with maximum building setback standards along all lot frontages.
 3. The minimum side yard and rear yard setbacks shall be as specified in the underlying zoning district.
 4. The maximum building height shall be as specified in the underlying zoning district.
- C. Building Design
1. Building facades facing a Principal Street (as described below) must incorporate a main entrance door on the principal street. Principal Streets located in the UpTown District shall consist of the Streets named after the Presidents, Collingwood Blvd, 11th, 14th & 17th Streets.
 2. Building frontages that face Principal Streets and exceed a width of 50 feet must include vertical visual elements to break the plane of the building frontage. Such vertical elements must be spaced at regularly spaced intervals to provide visual interest along the entire building frontage.
 3. The use of public artwork is encouraged and should be incorporated whenever possible.
 4. Grade level mechanical equipment shall be screened from public view and all public right-of-ways. All utilities shall be underground wherever possible.
 5. Roof-mounted mechanical equipment must be screened from public view. The screening must be of a sufficient height to prevent persons located at the street level from viewing the screened items and a sight line analysis from at least 200 feet away must be submitted for review and approval. The design, colors and materials used in screening must be consistent with the architectural design of the building.
 6. Dumpsters and trash receptacles must be screened in accordance with Sec. 1108.0304(B), and located to the rear of the property.

Exhibit "A" (cont'd)

7. For commercially used property at least 60 percent of each building façade along a Principal Street, between the height of 2 feet and 10 feet above the nearest sidewalk grade, must consist of clear, non-tinted, non-mirrored, and uncovered window glass permitting views of the building's interior to a depth of at least 4 feet. For building frontages other than those on Principal Streets, the window glass shall continue for a minimum of 10 feet from the Principal Street building corner. No exterior security bars or roll-down metal doors shall be allowed. This provision shall be reduced to at least 30 percent, of each building facade along a Principal Street, for the conversion of a residential building to a commercial use. This provision does not apply to buildings officially recognized as historic or those deemed eligible for listing in the National Register of Historic Places if the provision would result in a modification of the original historic appearance of the building.
8. New buildings, stand alone and in-fill buildings, may be designed in a contemporary style but must be in harmony and compatible with the context of neighboring properties.

D. Building Materials

Maintaining a consistent palette of materials is important to establishing continuity within the District and to improving the overall appearance of the District. Predominant building materials should be high quality. Exterior insulation and finish system (EIFS) materials and applications are prohibited, except where used to simulate an existing material and when eight (8) feet above grade and not within an entryway, and comprising less than 15% of the frontage facing the principal street & all public right-of-ways. The following are identified as acceptable for predominant exterior building materials:

1. Brick: Shall be standard modular brick (4" x 8") with common tooled mortar joints (the UDARC may approve non-standard modular brick sizes and designs). Un-tooled joints, distressed brick, or irregular shaped brick are prohibited. Brick color and texture shall be compatible with original brick facades in the UpTown District, constructed prior to the 1940's. Brick of this period was commonly blond, yellow-blond, beige, or dull red with very little color range. Textures varied from smooth or glazed to rough. Textures tended to be uniform.
2. Materials with a brick-like appearance (4" x 8") such as "Founder's Brick" or similar material (the UDARC may approve additional sizes and designs).
3. Wood; and it must be painted or stained/sealed.
4. Materials with a wood-like appearance such as "Textured Cementitious Board", "Cement Board Siding", or similar material.
5. Smooth finished or manufactured stone such as limestone or sandstone and terra cotta.

Exhibit "A" (cont'd)

6. Glass.
 7. Building materials other than those listed above may be approved by the Plan Director, in consultation with UDARC, in special cases such as building additions or building renovations, taking into consideration the predominant building materials existing on the building to be added to or renovated.
 8. Predominant exterior building materials shall not include the following:
 - a. smooth-faced concrete block
 - b. smooth-faced tilt-up concrete panels
 - c. pre-fabricated steel panels
 - d. vinyl siding
 9. The use of high-intensity colors, metallic colors, blacks or fluorescent colors is discouraged. Paint colors shall visually relate building elements to each other, as well as, individual facades to each other. The colors chosen for any façade shall relate to the neighboring facades and to the blockscape as a whole. The placement of colors should be based on the existing hierarchy of detail: base, major and minor trim colors. The color of the upper wall surface and the storefront piers is the base color.
- E. Alley Facades
1. On any building being considered for restoration or renovation, the exterior facades facing an alley shall also be improved. Any exterior fire escape that is still in use and approved by the Fire Prevention Division of the Department of Fire and Rescue Operations shall be repaired and painted. Unused fire escapes shall be removed completely. All unused sign brackets or mounting devices shall be removed. All existing doors, windows and security devices shall be repaired and painted or replaced. All masonry or other facade materials shall be cleaned and sealed or painted. New lighting and building identification signage or street addresses shall be installed. New lighting fixtures with downward directed lighting shall be installed above or near any point of entry into the building.
 2. The use of artwork is encouraged along alley facades.

Exhibit “A” (cont’d)

1103.1607 Architectural Review Requirements for Existing Buildings

Duplication of the exact historic design of the original building façade is not completely necessary in order to create a handsome and functional building, but the historical appearance should be the principal influence in façade rehabilitation.

A. Elements in restoring historical appearance:

1. Applied siding treatments, metal fascias and canopies should be removed wherever possible.
2. Repair damage from siding and fascia attachments and repair the upper facades hidden by such treatments. Metal fascias and other applied treatments often aid in preserving the façade and its materials.
3. Rehabilitate the existing facades in keeping with the original architecture of the building.
4. Maintain the original architectural elements and detail that remain.
5. Reconstruct non-original portions of the façade, as needed, in keeping with the original façade design.
6. Restore original elements and detail that have been lost, when feasible.

B. Traditional façade guidelines for façade rehabilitation:

1. Maintain the continuity of the blockscape. Do not recess the storefront or otherwise change the continuous plane of the facades.
2. Maintain the size and shape of the original façade openings: the storefront opening and the upper story windows. Do not fill-in or reduce the size of the original openings.
3. New windows should fit the size and shape of their openings.

1103.1608 Permitted or Prohibited or Special Uses

All uses that are permitted or prohibited or are special uses in the underlying zoning district(s) shall remain as permitted or prohibited or special uses in the UpTown UNO District.

1103.1609 Accessory Buildings and Uses

All accessory buildings and uses which are permitted or prohibited in the underlying zoning district(s) are permitted or prohibited within the UpTown UNO District, except that any detached accessory building on any lot shall have, on all sides, the same architectural features or shall be architecturally compatible with the principal building(s) with which it is associated.

Exhibit “A” (cont’d)

1103.1610 Landscape Review Requirements

Site plan review shall also include the review of landscape design elements and conformance with Sec. 1108.0300 | Urban Commercial Landscape Standards. All landscaping shall adhere to the crime prevention through environmental design (CPTED) standards. Applicants are strongly encouraged to contact the Toledo Police Department Community Services Division who can make recommendations to enhance the usage of CPTED principles, which include natural surveillance, natural access control, and territorial reinforcement. Landscapes must allow clear and unobstructed views of the surrounding areas. All landscaping will be at ground level, three feet in height maximum, and any tree canopy base shall be six feet or higher to allow for natural surveillance and eliminate potential ambush points.

1103.1611 Off-Street Parking

Off-street parking requirements for properties within the UpTown UNO District shall comply with the requirements set forth in Chapter 1107, Parking, and the following provisions:

- A. Location of off-street parking facilities shall be on the same lot as the principal use or within three hundred (300) feet of the building (measured from the nearest point of the building or use to the nearest point of the parking) or an alternative access and parking plan may be submitted as provided for in Sec.1107.1400.
- B. Off-street parking facilities shall be located in the rear portion of the subject property and behind the principal building or use. The construction of new off street parking lots having frontage on a street is prohibited.
- C. If parking in the rear of the lot is not feasible because the lot is too shallow, or other unique circumstances approved by the Plan Commission, then parking may be allowed on the side of the building if a screening wall and landscape treatment are installed along the street frontage in conformance with the minimum parking lot standards for perimeter screening barriers.
 - 1. A landscape island or greenbelt, five (5') feet in width shall be installed behind the screen wall. This landscape island/greenbelt shall accommodate the installation of canopy trees, at least three (3") inches in caliper.
 - 2. If the parking lot is located adjacent to a building, a six (6') foot wide sidewalk shall be installed between the building and the parking area.
- D. Access to parking lots shall be provided off alleys whenever possible in order to minimize curb cuts across pedestrian sidewalks.

Exhibit “A” (cont’d)

- E. The required number of off-street loading spaces may be reduced or eliminated by the Planning Director in consultation with the Division of Transportation, with due consideration given to the following factors:
 - 1. Frequency and time of deliveries;
 - 2. Size and nature of vehicles accommodated by the loading spaces;
 - 3. The character of the neighborhood;
 - 4. Impact upon adjoining streets, places, or alleys; and
 - 5. Type of business.

1103.1612 Lighting Requirements

- A. In reviewing the lighting proposed for a lot to be developed in the District, factors to be considered include but are not limited to:
 - 1. Safety provided by the lighting.
 - 2. Security provided by the lighting.
 - 3. Light spillage or glare onto adjoining residential properties and/or streets is prohibited. All lamination shall be directed downwards
 - 4. Height and placement of lighting standards considering the use.
- B. Site Lighting for Small Parking Lots (Twenty-Five or Less Parking Spaces)
 - 1. Site lighting for small parking lots shall utilize a pedestrian style light fixture and pole to match the lights being used by the City of Toledo for public enhancement within the UpTown District. The City of Toledo will provide the model number for the light pole and luminaire, as well as detail product specifications. Similar fixtures and poles will be considered.
 - 2. The light source shall be metal halide or LED.
 - 3. The light intensity shall average a minimum of .5 foot-candles, measured five (5') feet above grade for parking lots and 1 to 3 foot-candles measured five (5') feet above grade for pedestrian sidewalks.
- C. Site Lighting for Large Parking Lots (Twenty-Six or More Parking Spaces)
 - 1. Site lighting for large parking lots shall utilize a Shoe Box Fixture and pole (maximum 25 feet height) for efficiency of lighting and neutrality of design. The City of Toledo will provide the model number for the lights or luminaires, as well as detailed product specifications. Similar fixtures and poles will be considered.
 - 2. The light source shall be metal halide or LED.

Exhibit "A" (cont'd)

3. Pedestrian style light fixture and pole, as indicated for small parking lots, shall be used along collective walks.
4. The light intensity shall average a minimum of .5 foot/candles, measured five (5') feet above grade for parking lots and 1 to 3 foot-candles measured five (5') feet above grade for pedestrian sidewalks.

1103.1613 Canopies/Awnings

- A. Awnings shall be traditional in design; they shall be triangular in section, sloping outward and down from the top of the opening. First floor awning sides are recommended to be open to increase sight lines towards storefronts along the street. Curved awnings matching the curve of the openings being covered are permitted. Other round-top, halfround, box, or other unusual awning shapes are prohibited unless approved in writing by the Plan Director. Internally illuminated awnings are also prohibited. Signage on awnings shall be allowed as long as it meets appropriate portions of the requirements of Section 1103.1613.
- B. Canopies shall be narrow in elevation, six (6") inches to twelve (12") inches, and flat. Typically such canopies would have internal drainage. Canopies shall be self-supporting or supported by tension rods. Canopy projections are limited to thirty-six (36") inches. Sloping, or unusually shaped canopies are prohibited.

1103.1614 Signage

Signage shall comply with Part 13, Title 9, Chapter 1387, Signs Permitted in Zoning Districts, and the following regulations:

- A. Building signs shall be located above the main entrance in the sign band area, on the upper facade wall. The sign shall be sized to allow the masonry to be fully exposed around the sign.
- B. No sign or part of a sign shall be located above the parapet of any facade. Roof mounted signs are prohibited.
- C. Building signs shall not exceed 75% of the width of the storefront opening.
- D. The shape of building signs shall be rectangular, or slight variations of rectangular forms, except business logos and/or corporate identity symbols are allowed.
- E. Projecting signs are allowed. The maximum projection is three and one-half (3½') feet and the minimum mounting height to the bottom of the sign shall be seven (7') feet.
- F. Window signs are allowed. However, no signage or advertisement shall block the view to the interior.
- G. Raceways, cabinets, box signs, moving, animated or intensely lighted signs, roof signs or signs that extend above a building roofline or parapet, and pole mounted signs are prohibited.
- H. Monument or ground signs are allowed.

Exhibit “A” (cont’d)

- I. Additional Off-Premise Signs (Billboards) are prohibited. Existing off-premise signs may remain subject to the regulations for legal non-conforming signs in Chapter 1395.
- J. Each building shall display a street address as per City of Toledo Municipal Code. The street address shall also appear on any alley building elevation.
- K. Public Art shall be approved by the UDARC prior to final approval from the Toledo Arts Commission.

1103.1615 Fencing

Fencing when visible from a public right-of-way shall be of an ornamental design, such as wrought iron or aluminum tube fencing. Alternative ornamental designs shall be subject to the review of the UDARC. Industrial zoned properties shall be exempt from UpTown UNO fencing requirements. However, industrial zoned properties shall be required to meet industrial fencing design standards as outlined in Section 1105.0300.

1103.1616 Architectural Review Committee Composition, Jurisdiction and Procedures

A. UpTown District Architectural Review Committee (UDARC) Authority

There is hereby established the UpTown District Architectural Review Committee (“UDARC”) which shall have the responsibility for reviewing all Development Plans and proposed demolitions for projects in the UpTown District, for compliance with the UpTown UNO District.

The UDARC shall recommend to the Plan Director to approve, approve with modifications, or disapprove submissions for projects in the UpTown District. The UDARC shall have full authority to approve, approve with modifications, or disapprove demolition submissions in the UpTown District. The applicant may appeal decisions on demolitions by the UpTown District Architectural Review Committee or any other interested person to the Plan Commission, in writing, within 7 days of the UpTown District Architectural Review Committee. The Plan Commission must hear such appeals within thirty (30) calendar days of the date of receipt of the appeal.

If the UDARC forwards the Submission to the Toledo Plan Commission, or the decision under these Declarations is appealed to the Toledo Plan Commission, the Toledo Plan Commission shall review the Submission in accordance with the Declarations, the Toledo Municipal Code, and its Rules, and render its decision in writing. The Toledo Plan Commission shall not arbitrarily or unreasonably withhold its approval of Submissions.

Exhibit “A” (cont’d)

B. UDARC Composition and Term

The UDARC shall consist of not more nor less than five (5) members. The UpTown District Association shall appoint the members of the UDARC. In the event that the UpTown District Association is no longer a functional entity then Toledo City Council shall appoint the members. The composition of the UDARC shall consist of those property owners (minimum of one), residents (minimum of one), business owners or employees under special circumstance (minimum of one) who are located within the boundaries of the UpTown District as defined in the Toledo UpTown Plan to comprise at least four of the members, and shall include one (1) professional architect, landscape architect or planner.

In the event that there is a vacant position on the UDARC that has not been filled by the process defined in these Declarations, the UDARC, by majority vote, may temporarily appoint a person to serve on the UDARC until a replacement is designated.

The UDARC members shall serve the terms as outlined below. To achieve staggered terms the initial terms of the appointees of the Professional Architect, Landscape Architect, or Planner shall be three (3) years.

- Property Owners shall serve a term of two (2) years;
- Business Owners or employees shall serve a term of two (2) years;
- Residents shall serve a term of two (2) years;

There are no term limitations.

C. UDARC Rules

The Chair shall be responsible for providing a non-voting Secretary for the UDARC who shall be responsible for maintaining the minutes and records of the UDARC. A quorum of the UDARC shall consist of three (3) members, one (1) of which must be the Chair or Vice Chair. Three (3) affirmative votes are necessary for all UDARC review action, unless stated otherwise in these Declarations. In the event of a tie vote, the Chair shall render a decision on behalf of the UDARC.

The UDARC shall adopt Rules of Procedure (“Rules”) to govern the operations of the UDARC. Such Rules must be adopted by, and shall be amended by, a vote of not less than four (4) members of the UDARC. Robert’s Rules of Order shall govern the actions of the UDARC unless otherwise expressly provided for in the Rules.

The UDARC shall adopt provisions to allow the Chair or Chair’s designee to administratively approve certain Submissions conforming to the Declarations without review by the UDARC.

Exhibit “A” (cont’d)

D. UDARC Procedures

An applicant shall forward Submissions to the UDARC for preliminary review in accordance with the Declarations before review of the Submission by the UDARC. The UDARC shall review the Submission for conformance with the Declarations and the Toledo Municipal Code, and shall respond in writing within forty-five (45) days of the filing of the Submission as to whether the Submission materially conforms to the Declarations and Toledo Municipal Code, or what modifications are needed to achieve conformance.

If the Submission materially conforms to the Declarations and the Toledo Municipal Code, the UDARC shall forward the Submission and all comments to the Director of the Plan Commissions for review as provided for in this Article.

E. UDARC Liability

The UDARC, as a City of Toledo entity, shall have the liability protections granted to such bodies under the laws of the State of Ohio.

F. Variance

The UDARC is authorized to recommend variances from any provision of the Declarations where such variances will assist in carrying out the intent and spirit of the development and where strict application of the provision would result in a particular hardship to the applicant.

G. Public Meetings

Regular and Special meetings of the UDARC shall be subject to the public meeting and notice requirements (commonly known as the “Sunshine Laws”) of the Ohio Revised Code and the Toledo Municipal Code.

1103.1617 Demolition Hearing Procedures (UpTown District)

- A. The UpTown District Architectural Review Committee (UDARC) has review and approval authority for demolition review under this section after seeking comment from the City Historic District Commission for review and comment.
- B. When application is made for demolishing a structure within the UpTown District, the UpTown District Architectural Review Committee (UDARC) must grant the application when one or both of the following conditions are found to exist:
 - 1. The structure for which demolition is sought contains no features of architectural or historic significance, and it does not contribute to maintaining the character of the UpTown District; or
 - 2. There is no reasonable economic return for the structure as it exists and there is no feasible alternative to demolition submitted to the applicant by concerned organizations or individuals who wish to preserve the structure.

Exhibit “A” (cont’d)

C. Economic Hardship Standards and Criteria

The UpTown District Architectural Review Committee (UDARC), in making a determination of economic hardship, may consider any relevant information, including but not limited to the following standards and criteria:

1. Alternative uses and the economic return they will earn in relation to all the following:
 - A. estimate of the cost of the proposed redevelopment, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the UpTown District Architectural Review Committee (UDARC) for changes necessary for the continued use of the building;
 - B. a report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of the structures on the property and their suitability for rehabilitation, including any existing evidence that deterioration has progressed to the extent that rehabilitation is not practical;
 - C. estimated market value of the property in its current condition, based on an independent MAI-certified appraiser; after completion of the proposed redevelopment, alteration, demolition or removal; and after changes recommended by the UpTown District Architectural Review Committee (UDARC) for the renovation of the existing property for continued use; and
 - D. testimony from a third party architect, developer, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property, taking into consideration any existing evidence that deterioration has progressed to the extent that rehabilitation is not practical.
2. The current economic return on the property in relation to all the following:
 - A. the amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased;
 - B. if the property is income-producing, the annual gross income from the property for the previous 2 years; itemized operating and maintenance expenses for the previous 2 years; and depreciation deduction and annual cash flow after debt service, if any, during the same period;
 - C. real estate taxes for the previous 2 years and assessed value of the property according to the most recent assessed valuation; and

Exhibit "A" (cont'd)

- D. all appraisals obtained within the previous 2 years by the owner or applicant in connection with the purchase, financing or ownership of the property.
 - 3. The property is not able to be sold, considered in relation to any listing of the property for sale or rent, price asked, and offers received, if any, within the previous 2 years, including testimony and relevant documents regarding:
 - A. any real estate broker or firm engaged to sell or lease the property;
 - B. reasonableness of the price or rent sought by the applicant; and
 - C. any advertisements placed for the sale or rent of the property.
 - 4. Economic incentives and/or funding available to the applicant through federal, state, city or private programs.
 - 5. Other information considered by the respective UpTown District Architectural Review Committee (UDARC) to be significant in determining whether the property does yield or may yield a reasonable return to the owner.
- D. Alternatives To Demolition Submitted By Others
- In deciding on the feasibility of an alternative to demolition, the UpTown District Architectural Review Committee must find that the alternative plan meets the following requirements:
- 1. It contains a credible short-term and long-term program for the protection and use of the building;
 - 2. It contains financial and architectural plans prepared by architects, engineers, real estate professionals, and other persons experienced in the rehabilitation and reuse of historic buildings; and
 - 3. It has been submitted to the applicant as a good faith proposal containing an offer to enter into a contract at a price that reflects the fair market value of the property based upon three independent MAI-certified appraisers.
- E. Additional Application Requirements
- An applicant must meet with the UpTown District Architectural Review Committee or the Plan Commission staff, and the applicant must then submit evidence on the following standards and criteria:
- 1. For a demolition application to be considered by the UpTown District Architectural Review Committee, the application must contain sufficient information so that the UpTown District Architectural Review Committee may adequately analyze the application in relation to its standards and criteria and then make a factual decision on the application.

Exhibit "A" (cont'd)

2. The application shall include photographs and a written description of the present condition of the structure for which demolition is sought. The applicant shall include information about any changes in the condition of the structure during the previous 2 years.
 3. At the initial meeting with the applicant, the UpTown District Architectural Review Committee or the staff must indicate the information the UpTown District Architectural Review Committee will need for a valid application.
 4. For applications based on a lack of reasonable economic return, the applicant has the burden of showing that the property in question is incapable of earning a reasonable economic return in the absence of the proposed demolition. The showing must be made in accordance with the standards and criteria set forth in Economic Hardship Standards and Criteria.
 5. The Planning Director must notify the applicant of any deficiencies in the documentation or other evidence provided.
 6. Failure of the applicant to submit the required documentation and/or evidence will be construed as a failure on the part of the applicant to meet that standard for which the documentation and/or evidence is lacking.
 7. After receipt of a completed application in which all required information is attached, the UpTown District Architectural Review Committee must make a determination on the applicant's submission in accordance with the time frames set forth herein.
- F. The Plan Commission staff must evaluate each application in accordance with the standards and criteria contained in Demolition Hearing Procedures and Economic Hardship Standards and Criteria and must provide a written evaluation and report. The report must be presented to the respective UpTown District Architectural Review Committee on or before the UpTown District Architectural Review Committee's initial hearing.
- G. The respective UpTown District Architectural Review Committee must hold an initial hearing on the application. The UpTown District Architectural Review Committee, at the initial hearing, may delay a determination on the application and may impose a waiting period of at least 30 days and not longer than 9 months upon a finding that the structure is of value to the UpTown District and that alternatives to demolition may be feasible and should be actively pursued by both the UpTown District Architectural Review Committee and the applicant. This finding may include written recommendations to the applicant.

Exhibit "A" (cont'd)

- H. Upon the imposition of a waiting period, the UpTown District Architectural Review Committee must undertake meaningful and continuing discussions during the waiting period in order to find a means of preserving the structure.
 - 1. The UpTown District Architectural Review Committee and applicant must investigate the feasibility of all means of preserving the structure. During this period the UpTown District Architectural Review Committee and the applicant must make every reasonable effort to find a demolition alternative for that structure.
 - 2. If the UpTown District Architectural Review Committee and applicant do not agree on a means of preserving the structure at the initial meeting, then they must continue to undertake meaningful and continuing discussions at least every 30 days after the initial meeting. During these meetings, the UpTown District Architectural Review Committee must give written notice to the applicant when the UpTown District Architectural Review Committee believes that the structure may be saved if the applicant agrees to a longer waiting period.
- I. The UpTown District Architectural Review Committee may develop its own information on the Economic Hardship Standards and Criteria, and this information must be made part of the record on the application.
- J. The UpTown District Architectural Review Committee must announce at the initial public hearing that further evidence or documentation from any interested party may be made part of the record by submitting such information to the Planning Director by a date certain. These materials may include one or more plans for an alternative to demolition prepared by concerned organizations or individuals. The Planning Director must transmit any such information received to the UpTown District Architectural Review Committee and the applicant.
- K. When the demolition application is first received, the UpTown District Architectural Review Committee must seek the help of neighborhood leaders and suggest that they and the UpTown District Association work together on developing an alternative to demolition. The UpTown District Architectural Review Committee shall arrange one or more meetings between the applicant and any organizations and individuals working on an alternative to demolition.
- L. The UpTown District Architectural Review Committee may cause to be established a three-person economic review panel. The review panel will be comprised of three real estate and redevelopment experts knowledgeable in the economics of renovation, redevelopment and other aspects of rehabilitation.
 - 1. The panel will consist of one person selected by the UpTown District Architectural Review Committee, one person selected by the applicant and one person selected by the first two appointments. If the first two appointments cannot agree on a third person, the third appointment will be selected by the Planning Director.

Exhibit "A" (cont'd)

2. Within 60 days after the economic review panel is established and before the end of the 6th month of the waiting period, the panel must review the evidence and complete an evaluation of the economic return issue, applying the standards and criteria set forth in the Economic Hardship Standards and Criteria. It must forward a written report on this evaluation to the UpTown District Architectural Review Committee.
- M. If, after reviewing all of the evidence, the UpTown District Architectural Review Committee finds as follows below, then the UpTown District Architectural Review Committee must approve the request, conditionally or otherwise. If the UpTown District Architectural Review Committee finds that the standards, criteria, and requirements are not satisfied, the request will be denied. The UpTown District Architectural Review Committee must find that:
1. The standards and criteria set forth in the Economic Hardship Standards and Criteria are satisfied;
 2. And there is no feasible alternative to demolition, per the requirements of paragraph C above.
- N. If the applicant or a representative fails to meet with the UpTown District Architectural Review Committee at the times specified, or to participate in a meeting arranged by the UpTown District Architectural Review Committee, then the UpTown District Architectural Review Committee may deny the request.
- O. During the waiting period, the owner of such structure must maintain or mothball the structure to prevent further deterioration. If the request for a demolition is denied, the applicant must develop a program for continuing maintenance for the structure to ensure that the deterioration of the structure is not caused by the neglect of the structure by its owner or by a tenant. Such program must address the condition of the structure, the money currently available for repairs and maintenance, and any funds or in-kind assistance that may be available from interested third parties.
- P. After holding good faith meetings pursuant to paragraph G above for 6 months into the waiting period specified by the UpTown District Architectural Review Committee, or any time thereafter, the applicant may appeal to the Plan Commission for a determination pursuant to Section B through Section F.
- Q. After each demolition of a landmarked structure or within a historic district, the UpTown District Architectural Review Committee must prepare a brief report on that structure giving the reasons why the demolition took place. The report must be given to the Plan Commission and interested neighborhood organizations. At the end of each year the UpTown District Architectural Review Committee must prepare a report summarizing the demolitions that year and the reasons for these demolitions. These summaries must be given to the Mayor, City Council, the Plan Commission and interested neighborhood organizations.

1104 Exhibit "A" (cont'd)

1104.1608 Demolition Appeals

- A. Decisions concerning demolitions by the UpTown District Architectural Review Committee may be appealed by the applicant or any other interested person to the Plan Commission, in writing, within 7 days of the UpTown District Architectural Review Committee hearing provided for in Initial Hearing Procedures.
- B. The Plan Commission will consider an appeal filed pursuant to this Section within 30 days of receipt of notice of appeal, and must utilize the written findings of that UpTown District Architectural Review Committee to review economic, historic, architectural and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its cultural importance to the City. A majority vote of the Plan Commission is required to overturn a decision of the UpTown District Architectural Review Committee.
- C. In cases involving denial of an application for demolition pursuant to Demolition Hearing Procedures, the UpTown District Architectural Review Committee and the applicant must present such evidence as will be relevant to the conditions set forth in Demolition Hearing Procedures and Economic Hardship Standards and Criteria and must further present evidence upon the efforts made, if any, to find a feasible and prudent alternative to demolition during the pendency of the appeal.
 - 1. In such cases, the Plan Commission may, in its discretion, and to facilitate the production of the evidence contemplated herein, defer its final decision to a date no later than 9 months from the initial UpTown District Architectural Review Committee hearing.
 - 2. The Plan Commission may direct the applicant and the UpTown District Architectural Review Committee to continue discussions as provided for in Demolition Hearing Procedures (G) for the balance of the waiting period.
- D. Decisions by the Plan Commission will be deemed final administrative orders for appellate purposes and will be thereafter regulated by Revised Code Chapter 2506.
- E. No building permit, or other permit necessary for the activity applied for, including environmental changes, may be issued, or if issued will be valid, during the appeal time provided in Section A, during the pendency of a timely-filed appeal before the Plan Commission, or during the time prescribed in Revised Code Chapter 2506 for an appeal of a decision of the Plan Commission