

**STATEMENT OF HARDSHIP**  
**771 East Long Street**  
**(Previously Addressed as 765-777 E. Long Street)**

This Statement of Hardship is submitted with an application for amendment of the previously-approved council variance (CV91-046B, Ordinance No.: 1242-93), for 765-777 East Long Street, the location of the City's historic Lincoln Theatre ("Site"). Ordinance 1242-93 repealed the original CV91-046 filing (Ordinance 2433-91), which first permitted the use and development standard variances for the Theatre.

The Theatre itself was originally constructed in 1928 and was a focal point of activity and commerce in the Mount Vernon/East Long Street Corridor. The Site was previously zoned C4, Commercial. The Theatre Site was subject to the City's 1974 adoption of the Model Cities Act, which down-zoned the Site to R2F. Subsequent closing of the Theatre rendered the use and existing structure as non-conforming.

Over the years, various pieces of legislation have been passed by City Council to permit the existing structure and uses, with necessary variances from the Zoning Code as needed.

The site is also subject to the Urban Commercial Overlay standards of C.C.C. §3372.6. Interestingly, the existing structure (built in 1928) requires few variances from the UCO.

The City has since acquired the Site, adjacent properties and parking facilities and now seeks to renovate and reopen the Theatre for arts and theatre programming. The City is currently working with the Jazz Arts Group and CAPA to implement the renovations, bring shows back to the theatre, and establish arts education programs within the facility. These efforts necessitate certain rehabilitation and renovation of the existing facility, including expansion of the building along its west elevation, to allow space for Code-required restrooms, functional entrances, and the like. The current proposal also seeks to vacate a portion of the rear alley and incorporate the area for an expansion of the stage and stage setup areas.

This council variance amendment is intended to preserve all prior approvals for use and development of the Site, while also accommodating the Theatre's expansion (which expansion will encroach upon the adjacent lot to the west). The expansion and renovations will return the Theatre to its intended and former use as a focal point for the Community.

The expansion and renovation necessitate Council action and will include the following additional land:

- (1) A portion of the alley immediately south of the Theatre (Boone Street/Alley), to be partially vacated;
- (2) The City-owned parcel immediately South of the alley and Theatre (PID: 010-064858), for commercial use accessory to the Theatre;
- (3) A portion of the 90-foot wide lot immediately west of the Theatre parcel (PID 010-021285), which additional lot will facilitate the Theatre expansion (i.e., second entrance, construction of Code-required/compliant restroom facilities, etc).

### **Prior-Approved Variances**

#### **A. Parking Variances:**

There are currently 46 parking spaces on the adjacent CPD-zoned parking lot, as permitted by the CPD text (Z93-052) for that site. CV91-046 approved a parking variance for the Theatre from 452 to 47 spaces (C.C.C. §3342.28), and CV91-046B reduced the Theatre's onsite parking requirement to zero, conditioned on the adjacent parking lot being used as Theatre parking. A reduction was also approved therein from 47 to 46 parking spaces for the lot.

The parking lot was then separated from the Theatre by a CPD rezoning (Z93-052), with parking as the primary use, so that it could be used as public parking when no Theatre events were being conducted. The condition that the parking be used for the Theatre provided adequate parking for the Theatre, while providing a zero-parking requirement for the actual parcel on which the Theatre is located. Certain additional conditions were approved through the council variances and/or CPD (i.e., the lot must be leased to the Theatre, an additional lot must be provided across the street, as well as limitations on square footages for uses within the structure).

As required by CV91-046B, the additional parking across East Long Street (PID: 010-045152) was constructed to provide 136 additional parking spaces for the area. That parcel is zoned CPD as well, and is also conditioned to provide parking for the Theatre. As of the date of this ordinance, 92 spaces are available on that lot for use by the Theatre.

This amendment seeks to maintain the zero on-site parking for the Site, while amending the terms and conditions in place for parking, as follows:

- (1) Maintain the lease for parking on the adjacent lot, but reduce the amount of parking from 46 to 18 parking spaces.

(2) Maintain the requirement for use of the lot across East Long Street. There are 92 available spaces in that lot for use by the Theatre.

(3) Secure additional off-site parking, to be reviewed and approved by the City of Columbus, Division of Transportation.

It should also be noted that while the size of the Theatre building is increasing, the number of seats in the audience area is decreasing.

**C. Permitted Uses:**

Although the types of uses requested herein will not change those previously approved (and therefore no additional variance is necessary), the prior ordinance did impose strict limitations on square footages for each use, which must be slightly modified.

The prior council variance (CV91-046) established the permitted uses for the Theatre building, and imposed limitations on the square footages for each use, since non-accessory retail and other uses have been and will continue to be provided within the building. Below are the uses and their respective square footages as previously-approved, as well as the updated square footage allocation for each use that will result from the renovation and expansion of the Theatre:

Previously-Approved Breakdown:

10,500 sq. ft.	Theatre, dressing rooms, and stage
5,400 sq. ft.	Seating Area
2,300 sq. ft.	Retail (ground floor)
7,100 sq. ft.	Ballroom (second floor, unrelated to Theatre)
5,500 sq. ft.	Offices (second floor, unrelated to Theatre)
6,705 sq. ft.	Basement (mechanicals and storage only, for all uses)

Revised Breakdown for Post-Renovation and Expansion:

11,587 sq. ft.	Stage and Stage Support Areas
10,228 sq. ft.	Assembly areas
5,584 sq. ft.	Ballroom (unrelated to Theatre use)
3,838 sq. ft.	Retail (unrelated to Theatre use)
5,328 sq. ft.	Jazz Arts Group facility (unrelated to Theatre use)
987 sq. ft.	Office (unrelated to Theatre use)

**New Variances**

**D. Height District:**

Applicant requests a variance from C.C.C. §3332.29 (Height District), which requires all structures in an R-2F Zoning District to have a maximum building height of 35 feet. The existing Theatre, built in 1928, stands approximately sixty (60) feet tall. The requested variance will legitimize the as-built conditions of the historic Theatre.

**E. R-2F Standards:**

The Theatre, a commercial structure since it was built in 1928, is located on property zoned R-2F, Residential, as of the date of this filing. For that reason, the below-requested variances are included to most accurately permit the commercial structure to remain in the R-2F district until a future commercial rezoning takes place. In that regard, these variances are not to allow new deviations from the Code, but rather to legitimize the as-built and historic non-conforming nature of the Theatre:

- (1) Applicant requests a variance from C.C.C. §3332.818(D) (Basis of Computing Area), to allow a total lot coverage of more than fifty (50%) percent. The total lot coverage as calculated based on the proposed expanded building footprint shown on the submitted site plan will be sixty-six (66%) percent, more or less.
- (2) Applicant requests a variance from C.C.C. §3332.25 (Maximum Side Yard Required), to allow a combined width of the side yards of less than 20% of the total lot width. Although the total combined side yard measurement is not required to exceed 16 feet per this Section, it is required to measure at least 20% of the lot area. Applicant requests approval of the side yard widths as stated below in Item 3.
- (3) Applicant requests a variance from C.C.C. §3332.26 (Minimum side yard permitted), to allow a side-yard width of zero (0) feet along the north property line (abutting Garfield Avenue), and a minimum side-yard width of 3 feet, 8 inches along the south property line (abutting the adjacent parking lot).
- (4) Applicant requests a variance from C.C.C. §3332.27 (Rear Yard), to allow a rear yard of less than 25% of the total lot area.

**F. Urban Commercial Overlay Standards:**

Due to the expansion of the Theatre building, as well as amendment of the CPD for the adjacent parking lot, the standards of the Urban Commercial Overlay (“UCO”) must be met or varied to obtain a current, updated zoning clearance approval for the renovations and expansion. As mentioned above, the Theatre was constructed in 1928 but was constructed in such a way that it is largely compliant with the more recent design provisions of the UCO. For that reason, only two (2) provision need varied for the Theatre site, as follows:

- (1) Applicant requests a variance from §3372.609, Setback Requirements, to allow a setback of 24.5 feet for the public-private setback zone provided at the new main entrance for the theatre (which entrance will be created via the proposed building expansion on the south side of the building). That 24.5-foot setback is as measured from the front property line to the new expansion portion of the building. The Urban Commercial Overlay permits public-private setback zones, but at a maximum setback of 15 feet from the fronting street right-of-way line. Applicant does not propose regular use of the public sidewalk area, and therefore the requested setback is as measured from the front (north) property line.

A public-private setback zone is defined by §3372.601 (Urban Commercial Overlay, Definitions) as “an area between a principal building and a public street right-of-way utilized for seating, outdoor dining, public art and/or other pedestrian amenities.” The proposed public/private setback zone may be utilized from time to time for outdoor art display and/or events and amenities accessory to the uses of the Theatre building.

- (2) Applicant requests a variance from §3372.611(B), to vary the requirement that the primary building frontage include vertical piers or other visual elements to break the plan of the building frontage. The primary frontage is along East Long Street, and consists of the historic entrance to the Lincoln Theatre. Applicant intends to restore the historic entrance, and the addition of piers or other such elements would diminish the historic nature of the building frontage.

**G. Summary:**

The only “new” variances being requested by this amendment are the variances from the UCO standards. All other variances pertaining to the building’s use, and the adjacent parking lot count, screening, etc., have all been previously approved in some form, but are being adjusted to enable the proposed renovation and expansion.

The variances sought herein are not significant, and serve mostly to acknowledge and preserve the existing building (as built). The expansion and renovation trigger only minor increases in seating/assembly area sizes, so as to require a further reduction in required parking. Again, as stated above, the existing structure meets most of the applicable UCO standards. So too do the expansion and exterior changes.

As mentioned above, although the expansion and renovation increase assembly square footage areas (to accommodate increased use of the facility), it is important to note that that actual seating for the theatre is being reduced. The parking variance is not significant when this factor is considered. Too, in light of the surrounding public lots, on-street parking, and proposed future parking areas in and around this area of East Long Street and Garfield Avenue, parking needs will be adequately addressed, albeit off-site.

These variances do not affect the delivery of governmental services. On the contrary, the infrastructure improvements needed as a result of construction in the south alley will result in newer facilities built in their place.

These variances will have no adverse effect upon neighboring properties. The expansion and renovation is a focal point to the Community's revitalization efforts. The proposed reconfiguration of the adjacent parking lot also facilitates access for property adjacent to the west, which property is slated for improvement as residential condominiums.

These variances in no way alter the essential character of the neighborhood. On the contrary, the expansion and renovation serve only to make the 1928 structure useful for modern day standards. The Site was previously zoned C4, Commercial, and was only rendered non-conforming by the 1974 Act. Nonetheless, the existing structure will be maintained and merely enhanced by side and rear expansion. Within this block there are commercial areas and public parking to meet the commercial needs. And too, UCO standards are already met with the existing structure. There is no change to the essential character of this neighborhood, only updates for usefulness of the property to the neighborhood.

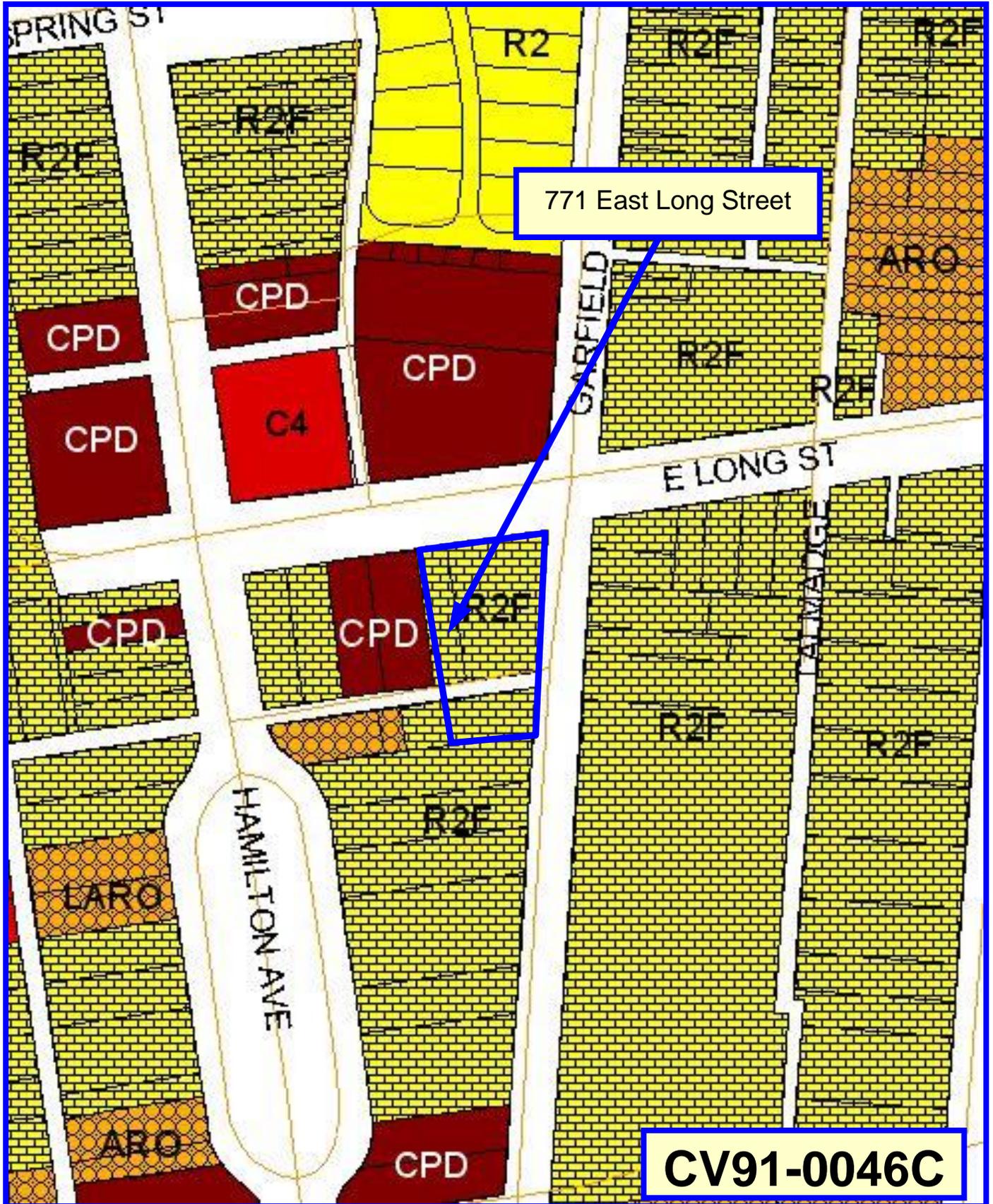
The applicant respectfully requests approval of this council variance amendment and that of the companion CPD to allow this important public project to continue.

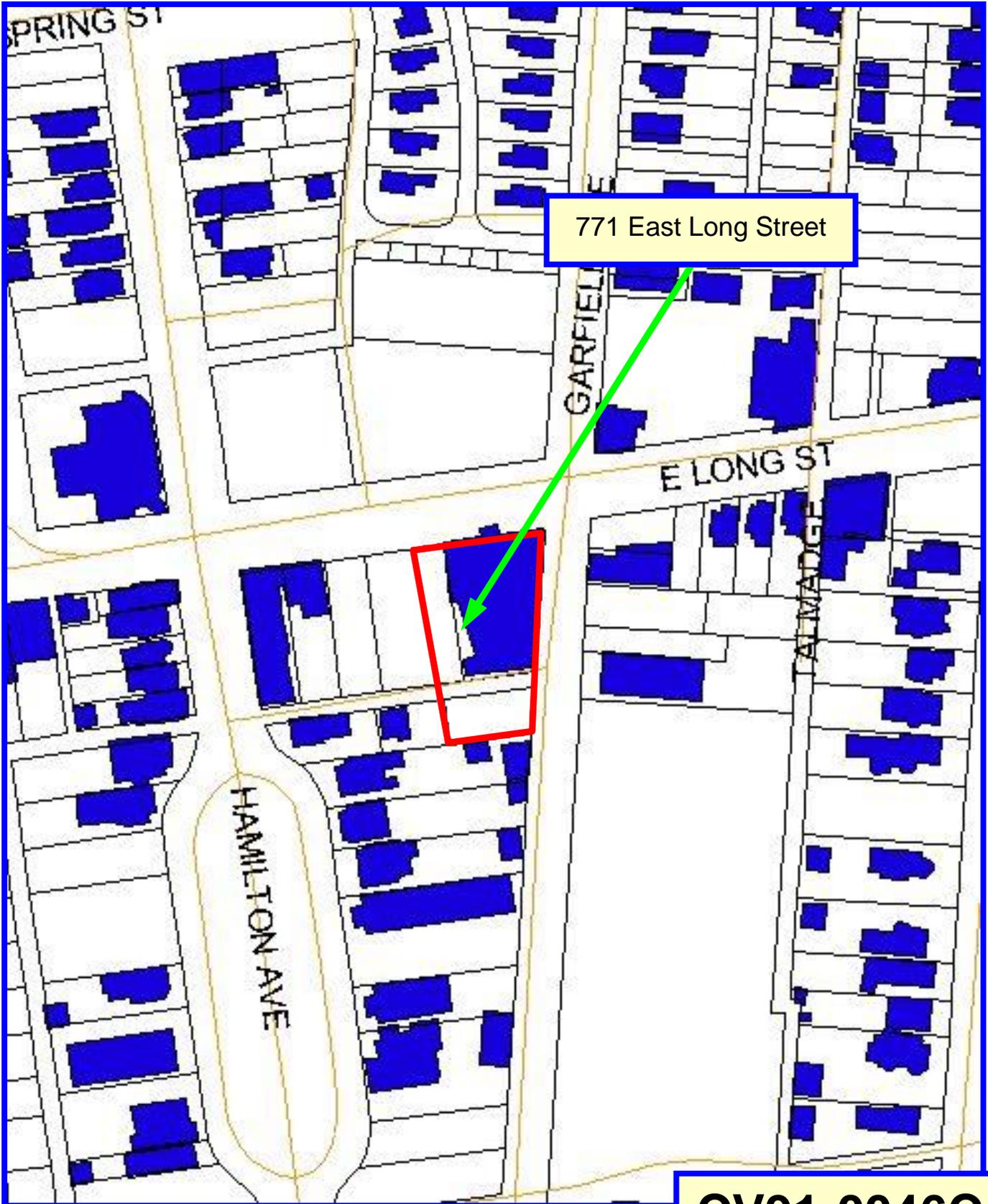
Respectfully submitted,



\_\_\_\_\_  
Laura MacGregor Comek, Esq.  
CRABBE, BROWN & JAMES, LLP  
500 S. Front Street, Suite 1200  
Columbus, Ohio 43215  
Phone: (614) 229-4557; Fax: (614) 229-4559  
[LComek@cbjlawyers.com](mailto:LComek@cbjlawyers.com)  
*Counsel for Owner/Applicant*







771 East Long Street

**CV91-0046C**



City of Columbus  
Mayor Michael B. Coleman

### Department of Development Building Services

757 Carolyn Avenue • Columbus, Ohio • 43224 • (614) 645-7314

FOR USE BY: AREA COMMISSIONS / CIVIC ASSOCIATIONS / ACCORD PARTNERS  
**STANDARDIZED RECOMMENDATION FORM**

Group Name: NEAR EAST AREA COMMISSION Meeting Date: 5/10/07  
Case Number: 293-052A Case Type:  Council Variance  Rezoning  
CV91-046C  
Zoning Address: 761-771 E. LONG STREET Applicant: CITY OF COLUMBUS  
Person(s) Representing Applicant at Meeting: LAURA COMEK-CRABBE, BROWN, JAMES

Conditions Requested by Group (Add continuation sheet if needed):  
Area Commissions see note at bottom.

Applicant Response  
Yes No

1.	_____	<input type="checkbox"/>	<input type="checkbox"/>
2.	_____	<input type="checkbox"/>	<input type="checkbox"/>
3.	_____	<input type="checkbox"/>	<input type="checkbox"/>
4.	_____	<input type="checkbox"/>	<input type="checkbox"/>
5.	_____	<input type="checkbox"/>	<input type="checkbox"/>
6.	_____	<input type="checkbox"/>	<input type="checkbox"/>
7.	_____	<input type="checkbox"/>	<input type="checkbox"/>
8.	_____	<input type="checkbox"/>	<input type="checkbox"/>

**Recommendation**

Approval  Disapproval  Conditional Approval (list conditions and applicant response above)

Explain the basis for Approval, Disapproval or Conditional Approval below (Add continuation sheet if needed).

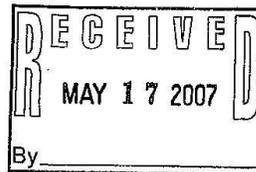
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Recommending Commission / Association / Accord Partner Vote: For 7 Against 1 4 ABS.

Signature / Title of Authorized Representative: Kathleen D. Bailey

Daytime Phone Number: 614-252-3283

Note to Area Commissions: Ordinances sent to Council will contain only recommendations for "approval" or "disapproval." Recommendations for "conditional approval" will be treated as a disapproval, if, at the time the ordinance is sent to Council, any condition that was checked "No" on the Standardized Recommendation Form has not been resolved as documented in writing by the recommending body or party.



City of Columbus | Department of Development | Building Services Division | 757 Cardyn Avenue, Columbus, Ohio 43224



**PROJECT DISCLOSURE STATEMENT**

Parties having a 5% or more interest in the project that is the subject of this application. THIS PAGE MUST BE FILLED OUT COMPLETELY AND NOTARIZED. Do not indicate 'NONE' in the space provided.

STATE OF OHIO  
COUNTY OF FRANKLIN

APPLICATION # CV91-0046C

Being first duly cautioned and sworn (NAME) Laura MacGregor Comek, Esq.  
of (COMPLETE ADDRESS) 500 S. Front St., Suite 1200, Columbus, Ohio 43215  
deposes and states that (he/she) is the APPLICANT, AGENT or DULY AUTHORIZED ATTORNEY FOR SAME and the following is a list of all persons, other partnerships, corporations or entities having a 5% or more interest in the project which is the subject of this application in the following formats

- Name of business or individual
- Business of individual's address
- Address of corporate headquarters
- City, State, Zip
- Number of Columbus based employees
- Contact name and number

City of Columbus  
Attn: Keena Smith  
50 W. Gay Street  
Columbus, Ohio 43215  
(614) 645-8662

---

Lincoln Theatre Association  
55 W. State Street  
Columbus, Ohio 43215

If applicable, check here if listing additional parties on a separate page (required)

SIGNATURE OF AFFIANT  
Subscribed to me in my presence and before me this 3<sup>rd</sup> day of March, in the year 2007

SIGNATURE OF NOTARY PUBLIC  
My Commission Expires: 11-02-10



RITA J. MARTIN  
Notary Public, State of Ohio  
My Commission Expires 11-02-10 Rezoning Packet

Disclosure Statement expires six months after date of notarization.