

Conceptual Exhibit Only



Front Elevation



Alley Elevation



50 East Seventh Avenue
Columbus, OH

Conceptual Exhibit Only



East Elevation



West Elevation



50 East Seventh Avenue
Columbus, OH

STATEMENT OF HARDSHIP

CV20-127

Columbus City Code Section 3307.10 - Variances by City Council.

City council may grant the following zoning variances:

- A.** Permit a variation in the yard, height or parking requirements of any district only in conjunction with a change in zoning or a use variance and only where there are unusual and practical difficulties in the carrying out of the zoning district provisions due to an irregular shape of lot, topography, or other conditions, providing such variance will not seriously affect any adjoining property or the general welfare.
- B.** Permit a use of the property not permitted by the zoning district established on the property if such use will not adversely affect the surrounding property or surrounding neighborhood and if council is satisfied that the granting of such variance will alleviate some hardship or difficulty which warrants a variance from the comprehensive plan.

Before authorizing any variance from the Zoning Code in a specific case, city council shall first determine that such variance will not impair an adequate supply of light and air to the adjacent property, unreasonably increase the congestion of public streets, increase the danger of fires, endanger the public safety, unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city.

In granting a variance pursuant to this section, council may impose such requirements and conditions regarding the location, character, duration, and other features of the variance proposal as council deems necessary to carry out the intent and purpose of this Zoning Code and to otherwise safeguard the public safety and welfare.

List all sections of Code to be varied and explain your reasoning as to why this request should be granted.

PLEASE NOTE: It is the applicant's responsibility to identify all variances required for the project. If any necessary variances are not included, a new application (and applicable fees) will be required.

I have read the foregoing and believe my application for relief from the requirements of the Zoning Code contains the necessary hardship, will not adversely affect surrounding property owners, and will comply with the variance(s) requested as detailed below (use separate page if needed or desired):

Signature of Applicant 

Date _____

STATEMENT OF PRACTICAL DIFFICULTY

Property Address: 50 East 7th Avenue
Parcel ID: 010-026112, 010-039365, 010-055850, 010-046808
Owner: 50-60 E 7th LLC
Applicant: Peerless Development Group
Attorney: Michael Shannon, Esq., Underhill & Hodge LLC
Date: October 25, 2021
Case Number: CV20-127

The Applicant submits this statement of practical difficulty in support of its Council Variance Application. The four-parcel, 0.84 +/- acre site is located on the north side of 7th Avenue and approximately 250 feet east of North High Street. The site currently zoned R-4 and developed with multiple nonconforming three-story apartment buildings. The site is bordered on the north, west, and east by property zoned R-4 and on the south by CPD (Kroger).

The site is not subject to a commercial overlay. The site is located within the boundary of the University District Zoning Overlay (UDZO) and Impact District of the University District Plan. The site is not within a commercial subarea of UDZO but is located less than 100 feet east of the Regional Commercial Subarea along the North High Street corridor. Notably, on the opposite side of 7th Avenue, the Regional Commercial Subarea extends over 400 feet east of North High Street and is directly across from our site. The site is within the boundary of the University Area Commission and the University Impact District Review Board.

The UDZO provides development standards that address the unique nature of the University District and serves to implement policies from the University District Plan. The Applicant proposes a development which aligns with many of the UDZO's guiding principles. The development will encourage a mix of land uses and a variety of housing options to accommodate a diverse population. Great measures will be taken to preserve the site's contributing elements and tastefully incorporate them into the modern architecture. Lastly, the site is a great opportunity for higher density because it is uniquely situated directly across the street from a large suburban style grocery store. There is literally a sea of asphalt on that property. As a result, this site has unique visibility from the High Street corridor and the size and scale will be contextually appropriate.

Specifically, the Application proposes a multi-family residential development with approximately 140 dwelling units. To permit the proposed development, the Applicant respectfully requests the following council and area variances:

1. Section 3325.901(A) – Density. Applicant requests a variance to increase the maximum permitted density from 1 dwelling unit per 700 square feet of lot area to 1 dwelling unit per 260 square feet of lot area.
2. Section 3325.905 – Maximum Lot Coverage. Applicant requests a variance to increase the maximum permitted lot coverage from 30% of the lot area to 82% of the lot area.

3. Section 3325.907(B) – Parking. Applicant requests a variance to reduce the required number of parking spaces by 197 parking spaces, from 274 to 77.
4. Section 3325.909(A) - Front Setback. Applicant requests a variance to reduce the minimum front setback from 15 feet (average of nearest building on each side of subject lot) to 4 feet.
5. Section 3325.911(C) – Building Size. Applicant requests a variance to increase the maximum calculated floor area from 10,200 square feet to 125,000 square feet.
6. Section 3325.913(A)(1)(b) – Maximum Floor Area Ratio. Applicant requests a variance to increase the maximum permitted F.A.R. from 0.80 to 3.42.
7. Section 3325.915 – Building Height. Applicant requests a variance to increase the maximum building height from 35 feet to 70 feet. In consideration of this variance request, the Applicant commits that the scale shall substantially conform to the submitted Site Plan and Concept Elevations.
8. 3333.24 – Rear yard. Applicant requests a variance to reduce the minimum rear yard from 25% of the total lot area to 7% of the total lot area.

The following is the City Council standard for our requested variances. City Council may permit a variation in the yard, height or parking requirements of any district only in conjunction with a change in zoning or a use variance and only where there are unusual and practical difficulties in the carrying out of the zoning district provisions due to an irregular shape of lot, topography, or other conditions, providing such variance will not seriously affect any adjoining property or the general welfare. Ohio State University is one of the largest institutions in the world and it is at the heart of Columbus which is experiencing a population boon. Higher densities, more mass, and less parking should be the standard for new development across the entire university district. However, this university district is under the University District Zoning Overlay and this zoning district only allows these higher density developments within commercial subareas mostly along High Street and Lane Avenue. Properties which are not located within these commercial subareas actually have more restrictive development standards (less density, less floor area, more parking) than anywhere else in the city.

It is significant that the subject property is a nonconforming use that currently exceed the density allowed under its R-4 zoning district. As such the property's market value is inherently disproportionate to the R-4 standards and is of great economic consequence. Based on these facts, a development of the size the Applicant is proposing is the only financially feasible option for redevelopment.

It is important to note that the standard for our variances is not whether a hardship exists but rather a practical difficulty exists. The requested variances are variations in yard and parking requirements and are indeed warranted to alleviate a practical difficulty in the carrying out of the zoning district. They will not impair adequate supply of light and air to the adjacent property, unreasonably increase the congestion of public streets, increase the danger of fires, endanger the public safety, nor unreasonably diminish or impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Columbus. (Per City Council standards).

In *Duncan v. Middlefield*, 491 N.E.2d 692 (Ohio 1986), the Ohio Supreme Court, in a landmark case, set forth the following, nonexclusive list of factors to be considered and weighed when determining whether a property owner has encountered practical difficulties in the use of property:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance.
2. Whether the variance is substantial.
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
4. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, refuse service).
5. Whether the property owner purchased the property with knowledge of the zoning restriction.
6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance

These factors are nonexclusive and also a balancing test. This means that other factors may be considered and that not every *Duncan* factor must be met to warrant the finding of a practical difficulty. The Applicant and this property suffer from many factors which warrant granting of the requested variances.

Whether the Commission acknowledges it or not, the essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment as a result of the variances. This site is not within the Regional Commercial Subarea but it is in direct proximity to the same. Lines on a proposed land use map do not define the essential character of the neighborhood but developments within proximity do. The Applicant would not need to request variances for height, lot coverage, F.A.R., setback, parking, and building size if this property were located one block west (six out of the eight variances being asked for). While, the Regional Commercial Subarea is designed to promote commercial development, this comparison is made to show that the scale of the proposed development is not out of character with the neighborhood, and only that.

The proposed height is appropriate for this site due to its location near a major intersection and due to the fact that this site sits across from a two-acre parking lot. The Applicant's requested height and height variance are not unprecedented for this area and, therefore, not substantial. Additionally, the Applicant designed the building with a specific intent to reduce the impact of the proposed height with structural step-backs.

The property will not yield a reasonable return without the requested variances. The essential character of the neighborhood should be defined by the UDZO Regulations and the University District Plan. With adoption of the UDZO and the University District Plan, the neighborhood along the North High Street corridor is indeed changing. It is a change from what currently exists on the site but this is an ideal location for increased height and density.

The requested variances will not negatively affect the delivery of governmental services. Further, the Applicant cannot feasibly obviate the predicament through other means due to the site's constraints.

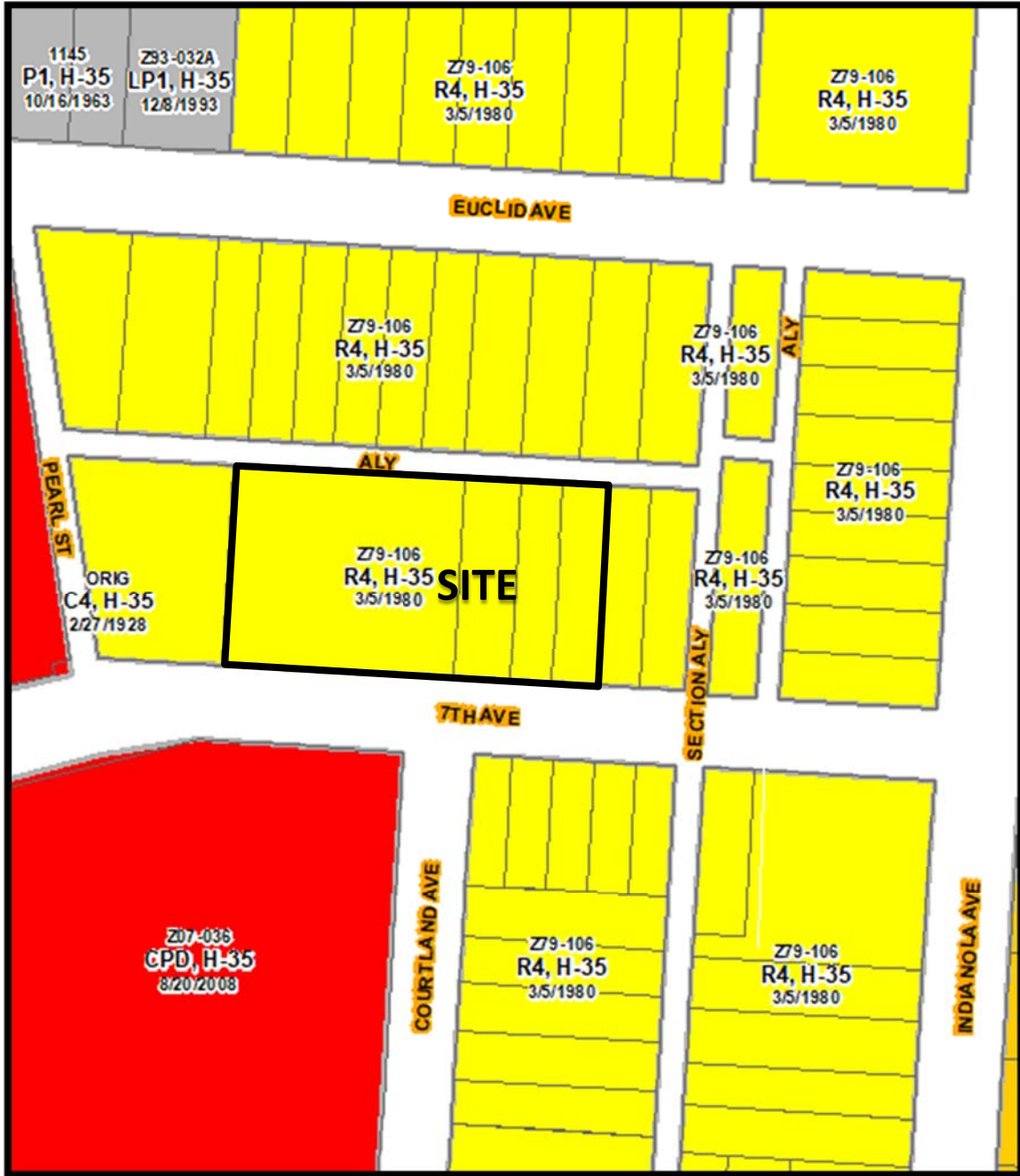
The Applicant submits that the spirit and intent behind the zoning requirements would be observed and substantial justice done by granting the requested variances. The primary purpose of a zoning code is to protect a property owner's rights and those of their neighbors. Variances exist under this system to allow developments which fit within the spirit and intent of the zoning district but do not exactly fit under the strict letter of the zoning code. In this case, Applicant proposes a development which falls within the spirit and intent of the UDZO and the University District Plan.

The Applicant respectfully requests that the University Area Commission weigh these factors in its consideration, find that this Applicant suffers from a practical difficulty, and that denial of the requested use variance would result in an unnecessary hardship.

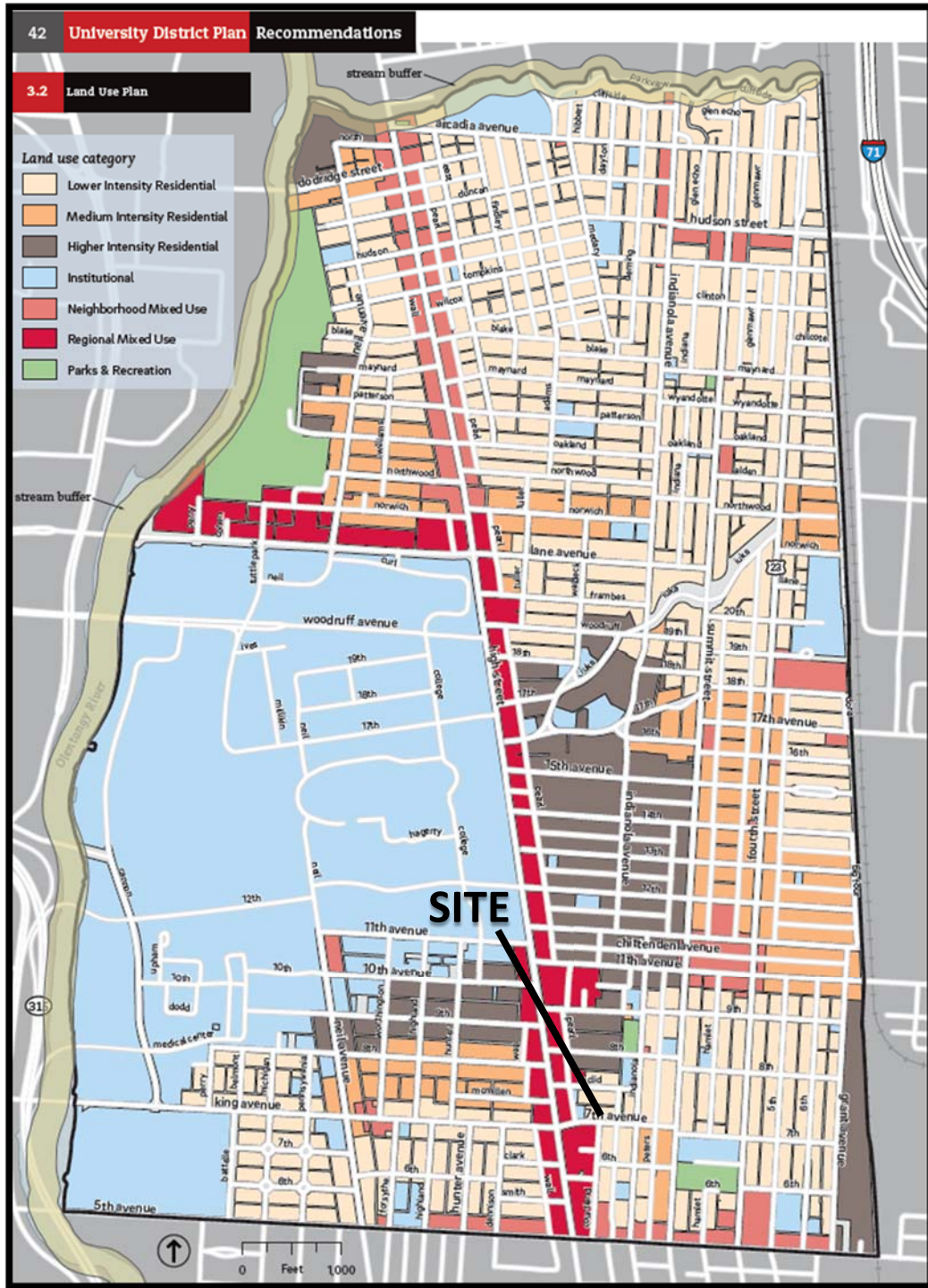
Respectfully submitted,



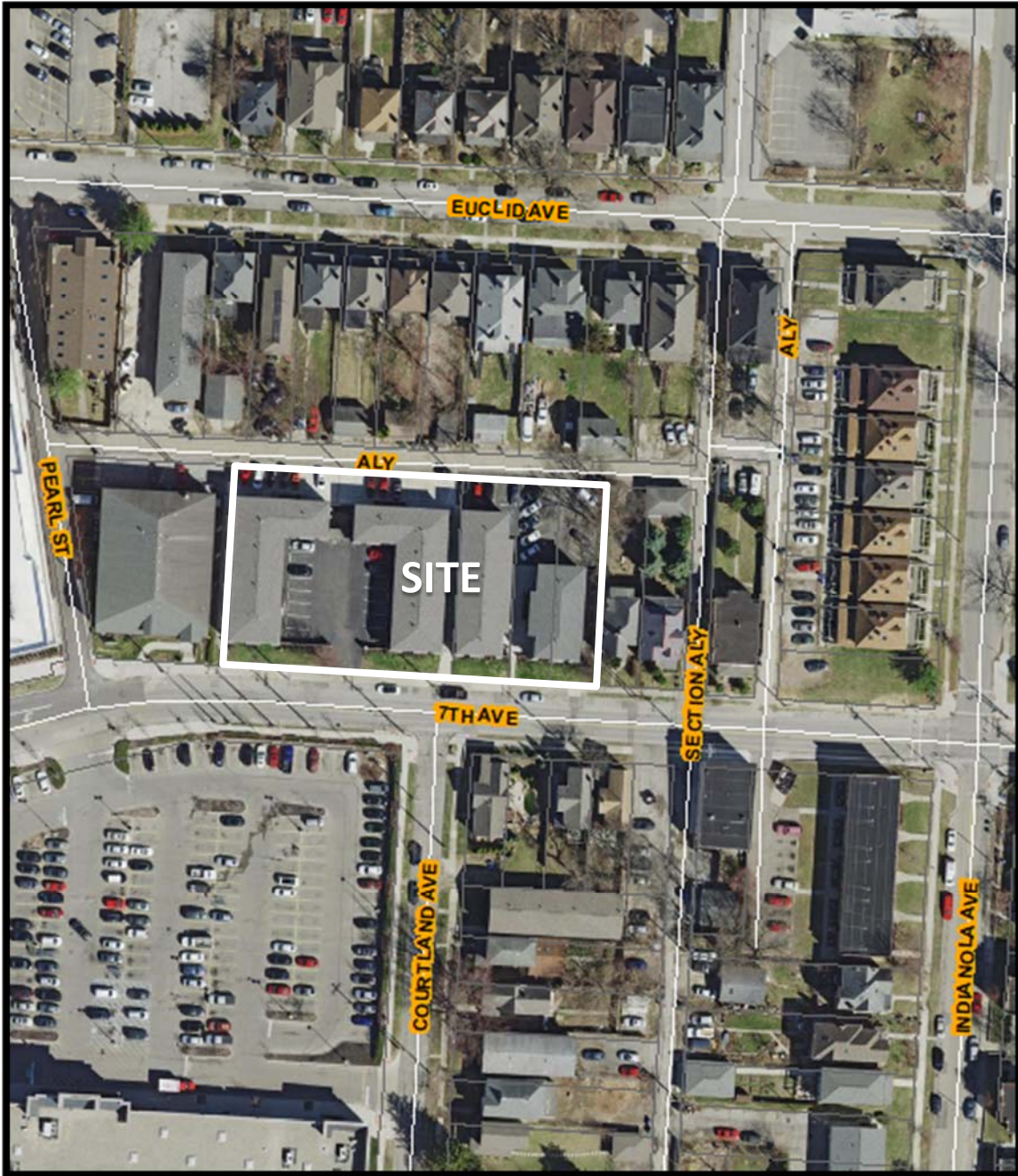
Michael Shannon, Esq.



CV20-127
50 E. 7th Ave.
Approximately 0.83 acres



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50 E. 7th Ave.
Approximately 0.83 acres



CV20-127
50 E. 7th Ave.
Approximately 0.83 acres

FOR USE BY: AREA COMMISSION / COMMUNITY GROUP / HISTORIC ARCHITECTURAL REVIEW
(PLEASE PRINT)

Case Number Z20-113 and CV20-127

Address 50 E. 7th Ave.

Group Name University Area Commission

Meeting Date 8-18-2021

Specify Case Type

BZA Variance / Special Permit

Council Variance

Rezoning

Graphics Variance / Plan / Special Permit

Recommendation Approval
(Check only one) Disapproval

LIST BASIS FOR RECOMMENDATION:

This case went to the Zoning Committee twice and was turned down each time.

July 5 Zoning Committee Vote: Yes 2 No 4 Abstain 1

Aug. 2 Zoning Committee Vote: Yes 2 No 4

This was passed at the Aug. 18 meeting of the University Area Commission. Members sided with the Weinland Park Housing Committee.

This commissioners who voted against the project sited several reasons including:

- The project is too large, too high and too dense
- The parking variance is too large
- Do not like the precedence of moving High Street type projects into residential neighborhoods

Vote Yes 9 No 2 Abstain 1

Signature of Authorized Representative Michael Kehlmeier Digitally signed by Michael Kehlmeier
Date: 2021.08.22 11:12:41 -04'00'

Recommending Group Title University Area Commission Zoning Committee Chairman

Daytime Phone Number 614-352-7875

Please e-mail this form to the assigned planner within 48 hours of meeting day; OR FAX to Zoning at (614) 645-2463; OR MAIL to: Zoning, City of Columbus, Department of Building & Zoning Services, 111 N Front Street, Columbus, Ohio 43215.

RECOMMENDATION

Case no. **UID-21-08-007**
 property address **50 E. 7th Avenue**
 hearing date **October 28, 2021**
 applicant **Peerless Development c/o Joe Patrick**
 issue date **October 29, 2021**

This is a recommendation to the appropriate regulatory body as identified per City Code. It is not a zoning clearance or a building permit. This document does not relieve the applicant from the responsibility of filing for and obtaining any required zoning clearance and/or building permit from the City of Columbus Department of Building & Zoning Services (614-645-4522 / 111 North Front Street, First Floor) and following all other applicable codes and ordinances of the City of Columbus.

The University Impact District Review Board hereby certifies that the application for the above referenced property and a copy of this Recommendation are on file with the City of Columbus Planning Division within the Development of Department. The Board has reviewed the application and taken the following action(s) in accordance with Columbus City Code 3325.115.

Variance or Zoning Change Request

- | | | | |
|-------------------------------------|------------------|-------------------------------------|----------------|
| <input checked="" type="checkbox"/> | Rezoning | <input type="checkbox"/> | Graphics |
| <input checked="" type="checkbox"/> | Parking Variance | <input type="checkbox"/> | Special permit |
| <input type="checkbox"/> | Change of Use | <input checked="" type="checkbox"/> | Setbacks |
| <input type="checkbox"/> | Lot Split | <input checked="" type="checkbox"/> | Other |

TYPE(S) OF ACTION(S) REQUESTED:

- Rezoning and Variances as listed:
- To rezone the property from R4 to AR3 with the following variances:
 1. Section 3325.901(A) – Density. Applicant requests a variance to increase the maximum permitted density from 1 dwelling unit per 700 square feet of lot area to 1 dwelling unit per 260 square feet of lot area.
 2. Section 3325.905 – Maximum Lot Coverage. Applicant requests a variance to increase the maximum permitted lot coverage from 30% of the lot area to 82% of the lot area.
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Z20-113 & CV20-127

RECOMMENDATION:

- SUPPORT REQUESTED VARIANCES OR ZONING CHANGE DO NOT SUPPORT REQUESTED VARIANCE OR ZONING CHANGE NO ACTION TAKEN

THIS RECOMMENDATION IS FOR CONSIDERATION BY THE DESIGNATED REGULATORY AUTHORITY FOR THE ACTION(S) REQUESTED AS INDICATED.



Belkis Schoenhals
University Impact District Review Board, Staff

Council Variance Application

DEPARTMENT OF BUILDING
AND ZONING SERVICES

111 N Front Street, Columbus, Ohio 43215
Phone: 614-645-4522 • ZoningInfo@columbus.gov • www.columbus.gov/bzs

PROJECT DISCLOSURE STATEMENT

APPLICATION #: CV20-117

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

Being first duly cautioned and sworn (NAME) Eric Zartman
of (COMPLETE ADDRESS) 8000 Walton Parkway, Suite 260, New Albany, Ohio 43054
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 format:

Name of Business or individual (including contact name and number)
Business or individual's address; City, State, Zip Code
Number of Columbus-based employees
(Limited to 3 lines per box)

<p>1. Peerless Development Group 105 South York Street, Suite 450 Elmhurst, Illinois 60126</p>	<p>2. 50-60 E 7th LLC 105 South York Street, Suite 450 Elmhurst, Illinois 60126</p>
<p>3.</p>	<p>4.</p>

Check here if listing additional parties on a separate page.

SIGNATURE OF AFFIANT *Eric Zartman*

Sworn to before me and signed in my presence this 25th day of October, in the year 2021

Kimberly R. Grayson My Commission Expires 1-11-2026 Notary Seal Here

SIGNATURE OF NOTARY PUBLIC



KIMBERLY R. GRAYSON
Notary Public, State of Ohio
My Commission Expires
01-11-2026

This Project Disclosure Statement expires six (6) months after date of notarization.