



## Legislation Details (With Text)

**File #:** 0985-2008      **Version:** 2

**Type:** Ordinance      **Status:** Passed

**File created:** 6/4/2008      **In control:** Zoning Committee

**On agenda:** 7/21/2008      **Final action:** 7/23/2008

**Title:** To grant a Variance from the provisions of Sections 3356.03, C-4 Permitted Uses and 3356.05E(1)(2), C-4, District Development Limitations, of the Columbus City codes, for the property located at 253 EAST TWELFTH AVENUE (43201), to permit dwelling units and parking on the ground floor the CPD, Commercial Planned Development District.(Council Variance #CV08-011)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. ORD0985-2008attachments.pdf, 2. City Council Data Form\_CV08-011.pdf, 3. 0905and0985Label Sets.pdf, 4. Amendment ORD0985-2008attachments.pdf

Date	Ver.	Action By	Action	Result
7/23/2008	2	CITY CLERK	Attest	
7/22/2008	2	MAYOR	Signed	
7/21/2008	1	Zoning Committee	Taken from the Table	Pass
7/21/2008	2	Zoning Committee	Approved as Amended	Pass
7/21/2008	2	Zoning Committee	Amended as submitted to the Clerk	Pass
7/21/2008	2	COUNCIL PRESIDENT	Signed	
7/14/2008	1	Zoning Committee	Tabled to Certain Date	Pass
7/7/2008	1	Columbus City Council	Read for the First Time	
7/3/2008	1	Dev Zoning Drafter	Sent to Clerk's Office for Council	
6/23/2008	1	City Clerk's Office	Sent back for Clarification/Correction	
6/18/2008	1	DEVELOPMENT DIRECTOR	Reviewed and Approved	
6/18/2008	1	Dev Zoning Drafter	Sent to Clerk's Office for Council	
6/17/2008	1	Dev Zoning Reviewer	Reviewed and Approved	
6/17/2008	1	Dev Zoning Drafter	Sent for Approval	
6/11/2008	1	Dev Zoning Drafter	Sent for Approval	

**Council Variance Application: CV08-011**

**APPLICANT:** Timothy Welsh; 1838 Ridgeview Road; Upper Arlington, OH 43221.

**PROPOSED USE:** Concurrent Council variance to permit ground floor dwelling units and parking in the CPD, Commercial Planned Development District.

**UNIVERSITY AREA COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The property is zoned in the C-4, Commercial and P-1 Parking

Districts. The applicant is applying for a concurrent Council Variance to allow ground floor dwelling units in the proposed CPD, Commercial Planned Development District and ground floor parking under dwellings in the proposed CPD, Commercial Planned Development District in anticipation of a pending change in the Zoning Code that would prohibit exclusively ground floor parking under dwelling units in the commercial districts. Should the applicant proceed without the granting of this variance it would, at minimum, render the project non-conforming. The proposal is supported by Staff and the community noting that it will be an improvement of a site slated for redevelopment in the *The Weinland Park Neighborhood Plan* (2006). Staff believes no precedent would be set that would undermine the proposed change to the Zoning Code because this situation is unique in that the applicant's proposal was already underway when the Zoning Code change was initiated and thus would not be granting the applicant an unfair privilege. Finally, because the City of Columbus Zoning Code contains no district allowing a mixture of residential and retail uses on the ground floor, this is the only avenue the applicant has to pursue such a project.

To grant a Variance from the provisions of Sections 3356.03, C-4 Permitted Uses and 3356.05E(1)(2), C-4, District Development Limitations, of the Columbus City codes, for the property located at **253 EAST TWELFTH AVENUE (43201)**, to permit dwelling units and parking on the ground floor the CPD, Commercial Planned Development District.(Council Variance #CV08-011)

**WHEREAS**, by application No. CV08-011, the owner of property at **253 EAST TWELFTH AVENUE (43201)**, is requesting a Council Variance to permit ground floor dwelling units and ground floor parking in the CPD, Commercial Planned Development District in anticipation of a pending change in the Zoning Code preventing ground floor parking under residences in commercial districts unless the parking is adjacent to a commercial use in the same building; and

**WHEREAS**, Section 3356.03, C-4 Permitted Uses prohibits dwelling units on the ground floor, while the applicant proposes to have ground floor dwelling units; and

**WHEREAS**, Section 3356.0E(1), C-4 District Development Limitations, is proposed to be amended to allow parking on the ground floor under dwelling units only if adjacent to a specified use permitted in the C-1, C-2, C-3, or in the C-4 District, while the applicant proposes to have ground floor parking not adjacent to such uses; and

**WHEREAS**, the applicant submitted his proposal prior to the adoption of the aforementioned Code change and has proceeded with his proposal in concurrence with City Staff and the University Area Commission; and

**WHEREAS**, the University Area Commission recommends approval; and

**WHEREAS**, City Departments recommend approval and note a hardship exists because the property is zoned in the C-4, Commercial and P-1 Parking Districts. The applicant is applying for a concurrent Council Variance to allow ground floor dwelling units in the proposed CPD, Commercial Planned Development District and ground floor parking under dwellings in the proposed CPD, Commercial Planned Development District in anticipation of a pending change in the Zoning Code that would prohibit exclusively ground floor parking under dwelling units in the commercial districts. Should the applicant proceed without the granting of this variance it would, at minimum, render the project non-conforming. The proposal is supported by Staff and the community noting that it will be an improvement of a site slated for redevelopment in the *The Weinland Park Neighborhood Plan* (2006). Staff believes no precedent would be set that would undermine the proposed change to the Zoning Code because this situation is unique in that the applicant's proposal was already underway when the Zoning Code change was initiated and thus would not be granting the applicant an unfair privilege. Finally, because the City of Columbus Zoning Code contains no district allowing a mixture of residential and retail uses on the ground floor, this is the only avenue the applicant has to pursue such a project; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and Certificate of Occupancy for the proposed use; and

**WHEREAS**, said variance will not adversely affect the surrounding property or surrounding neighborhood; and

**WHEREAS**, the granting of said variance will not impair an adequate supply of light and air to adjacent properties or unreasonably increase the congestion of public streets, or unreasonably diminish or impair established property values within the surrounding area, or otherwise impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Columbus; and

WHEREAS, the granting of said variance will alleviate the difficulties encountered by the owners of the property located at **253 EAST TWELFTH AVENUE (43201)**, in using said property as desired; now, therefore:

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That a variance from the provisions of Sections 3356.03, C-4 Permitted Uses; and 3356.05E(1)(2), C-4, District development limitations; of the Columbus City Codes is hereby granted for the property located at **253 EAST TWELFTH AVENUE (43201)**, insofar as said sections prohibit ground floor dwelling units and parking, said property being more particularly described as follows:

**253 EAST TWELFTH AVENUE (43201)**, being 1.94± acres located on the south side of East Twelfth Avenue, 150± feet east of Summit Street, and being more particularly described as follows:

Legal Description

Situated in the State of Ohio, County of Franklin, City of Columbus, and being a 1.931 acre tract of which being part of a Vacated 20 foot-wide in Vacation Ordinance No. 1328-63, and Lots 49 - 60 of Dennison Summit Addition, as shown and delineated in Plat Book 6, Page 15A, said Lots 49 - 60 being conveyed to ZBP-K, LLC (1/2 Interest), by deed of record in Instrument Number 200709180164168 and HTZ, LLC (1/2 Interest), by deed of record in Instrument Number 200709180164166, all records herein are from the Recorder's Office, Franklin County, Ohio, said 1.931 acre tract being more particularly described as follows:

BEGINNING at a set iron pipe on the southerly right-of-way of 12th Avenue (60' R/W) and the westerly right-of-way of a 20 foot-wide Alley, said iron pipe also being the northeast corner of said 1.931 acre tract and the northeast corner of said Lot 54;

Thence South 00°00'00" East, a distance of 323.60 feet, along the westerly right-of-way of said Alley and the easterly line of said 1.931 acre tract, to a set iron pipe at the southeast corner of said 1.931 acre tract and the southeast corner of Lot 55 and on the northerly right-of-way of Chittenden Avenue (60' R/W);

Thence North 90°00'00" West, a distance of 260.00 feet, along the northerly right-of-way of said Chittenden Avenue and the southerly line of said 1.931 acre tract to a set iron pipe at the southwest corner of said 1.931 acre tract and said Lot 60 and on the easterly right-of-way of a 20 foot-wide Alley;

Thence North 00°00'00" East, a distance of 323.60 feet, along the easterly right-of-way of said Alley and the westerly line of said 1.931 acre tract, to a set iron pipe at the northwest corner of said 1.931 acre tract and said Lot 49 and on the southerly right-of-way of said 12th Avenue;

Thence North 90°00'00" East, a distance of 260.00 feet, along the southerly right-of-way of said 12th Avenue and the northerly line of said 1.931 acre tract, to the POINT OF BEGINNING, containing 1.931 acres more or less. Being subject to all easements, restrictions, and right-of-ways of record.

The above description was based on an actual field survey performed by "Civil and Environmental Consultants, Inc.", in October, 2007

All iron pipes set are 3/4 inch in DIA. by 30 inches in length with an I.D. cap bearing the name "CEC PROP COR".

Bearings are based on the centerline of Chittenden Avenue, having an angle which bears North 90°00'00" West, as shown in Plat Book 6, Page 15A.

**SECTION 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for ground floor dwelling units and/or parking below dwelling units or those uses permitted in the CPD, Commercial Planned Development District.

**SECTION 3.** That this ordinance is further conditioned on the applicant obtaining all applicable permits and a Certificate of Occupancy for the proposed use.

**SECTION 4.** That this ordinance is conditioned on the subject site being developed in accordance with the submitted site plans titled, "EAST VILLAGE THE SITE PLAN, S100 & S101", signed by Timothy Welsh, Applicant and dated May 1, 2008. The site plan may be slightly adjusted to reflect engineering, topographical or other site data developed at the time development and engineering plans

are completed. Any slight adjustment to the plan shall be reviewed and may be approved by the Director of Development or his designee upon submission of the appropriate data regarding the proposed adjustment.

**SECTION 5.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.