



## Legislation Details (With Text)

**File #:** 1375-2013      **Version:** 2

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

**File created:** 5/29/2013      **In control:** Zoning Committee

**On agenda:** 6/17/2013      **Final action:** 6/19/2013

**Title:** To rezone 5167 WARNER ROAD (43081), being 3.91± acres located on the south side of Warner Road, 273± feet west of North Hamilton Road, From: CPD, Commercial Planned Development District, To: CPD, Commercial Planned Development District and to declare an emergency (Rezoning # Z13-028).

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. ORD1375-2013Attachments, 2. Notice Of Public Hearing - Council Mtg20130617

Date	Ver.	Action By	Action	Result
6/19/2013	2	CITY CLERK	Attest	
6/18/2013	2	MAYOR	Signed	
6/17/2013	2	COUNCIL PRESIDENT	Signed	
6/17/2013	1	Zoning Committee	Approved as Amended	Pass
6/17/2013	1	Zoning Committee	Amended to Emergency	Pass
6/10/2013	1	Columbus City Council	Read for the First Time	

### Rezoning Application Z13-028

**APPLICANT:** Donald W. Kelley and Associates, Inc.; c/o Dave Perry, The David Perry Co.; 145 East Rich Street, 3<sup>rd</sup> Floor; Columbus, OH 43215, and Donald Plank, Atty.; Plank Law Firm; 145 East Rich St., 3<sup>rd</sup> Floor; Columbus, OH 43215.

**PROPOSED USE:** Commercial development.

**DEVELOPMENT COMMISSION RECOMMENDATION:** Approval (6-0) on May 9, 2013.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site is zoned in the CPD, Commercial Planned Development District, and is developed with a 26,500 square-foot shopping center. The requested CPD, Commercial Planned Development District will update the current CPD plan by providing outdoor seating areas for eating and drinking establishments and expanding the parking lot. The CPD text commits to a site plan, and includes use restrictions, setbacks, landscaping, street trees, and exterior building material and roof pitch commitments. Variances are included in the request to reduce the driveway width and the required number of parking spaces by 30, and to eliminate a required loading space. With the proposed commitments within the CPD plan and text, the request remains consistent with the land use recommendation for commercial development from the *Rocky Fork/Blacklick Accord* (2003), and the established zoning and development pattern of the area. Staff has determined that the requested parking variance can be supported due to the seasonal use of the patios and the varying peak hours of the shopping center tenants.

To rezone **5167 WARNER ROAD (43081)**, being 3.91± acres located on the south side of Warner Road, 273± feet west of North Hamilton Road, From: CPD, Commercial Planned Development District, To: CPD, Commercial Planned Development District **and to declare an emergency** (Rezoning # Z13-028).

**WHEREAS**, application #Z13-028 is on file with the Department of Building and Zoning Services requesting rezoning of 3.91± acres from CPD, Commercial Planned Development District, to CPD, Commercial Planned Development District; and

**WHEREAS**, the Development Commission recommends approval of said zoning change; and

**WHEREAS**, the City Departments recommend approval of said zoning change because the requested CPD, Commercial Planned Development District remains consistent with the land use recommendation for commercial development from the *Rocky Fork/Blacklick Accord*, and the established zoning and development pattern of the area. Staff has determined that the requested parking variance can be supported due to the seasonal use of the patios and the varying peak hours of the shopping center tenants;

**WHEREAS**, an emergency exists in the usual daily operation in the City of Columbus in that it is immediately necessary to pass this ordinance to begin construction as soon as possible for the immediate preservation of the public peace, property, health and safety; now, therefore:

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

**SECTION 1.** That the Official Zoning Map of the City of Columbus, as adopted by Ordinance No. 0179 -03, passed February 24, 2003, and as subsequently amended, is hereby revised by changing the zoning of the property as follows:

**5167 WARNER ROAD (43081)**, being 3.91± acres located on the south side of Warner Road, 273± feet west of North Hamilton Road, and being more particularly described as follows:

Situated in the State of Ohio, County of Franklin, City of Columbus, being part of Quarter Township 3, Township 2, Range 16, United States Military Lands, being a 0.063 acre gap parcel as claimed by Cardinal Title Holding Company, being 1.795 acres out of 1.795 acre tract of land described in a deed to William L. Willis Jr. Trustee of record in Inst. No. 200507140139086, being 1.786 acres out of a 1.951 acre tract of land described in a deed to William L. Willis Jr. Trustee of record in Inst. No. 200507140139088, and being more particularly described as follows:

Commencing for reference at a 1" iron bar found at the intersection of the centerlines of Warner Road and Hamilton Road as shown on the Dedication Plat of Hamilton Road and Easements of record in Plat Book 100, Page 3;

Thence North 86° 17' 30" West with the centerline of said Warner Road, a distance of 359.55 feet to a point, said point being South 86° 17' 30" East, a distance of 340.20 feet from Franklin County Engineer Monument Number 1207, and being the northeasterly corner of a 0.156 acre tract of land described in a deed to the City of Columbus of record in Instrument Number 20020404008595.

Thence South 01° 14' 21" West crossing said Warner Road right of way and with the easterly line of said 0.156 acre tract, a distance of 40.04 feet to an iron pin set on the southeasterly right of way line of said Warner Road, being the southeasterly corner of said 0.156 acre tract, and being the TRUE POINT OF BEGINNING of the tract to be described.

Thence South 01° 14' 21" West with the easterly line of said 1.795 acre tract, a distance of 460.42 feet to a 5/8" iron pin found 0.35 feet south and 0.97 feet west;

Thence North 86° 17' 30" West with the southerly line of said line of said 1.795 acre tract and said 1.951 acre tract, a distance of 338.39 feet to an iron pin set on the easterly line of a 12.257 acre tract of land described in a deed to The Reserve of Preston Woods of record in Inst. No. 20050708134441;

Thence North 09° 52' 08" East with the easterly line of said 12.257 acre tract, a distance of 1.46 feet to a 1" iron pipe found 0.10 feet south and 0.17 feet west and being the southerly corner of said 0.063 acre gap parcel;

Thence North 00° 28' 56" West with the westerly line of said 0.063 acre gap parcel and the easterly line of said 12.257 acre tract, a distance of 459.77 feet to an iron pin set at southwesterly corner of a 0.168 acre tract of land described in a deed to the City of Columbus of record in Instrument Number 200804280064445;

Thence South 86° 17' 30" East with the southerly right of way line of said Warner Road and the southerly line of said 0.168 acre tract and said 0.156 acre tract, a distance of 352.00 feet to the true point of beginning containing 3.644 acres of land, more or less.

Basis of bearings: Bearings are based on the centerline of Warner Road being North 86° 17' 30" West as shown on the Dedication Plat of Hamilton Road and Easements of record in Plat Book 100, Page 3.

All iron pins set are 5/8" solid iron pins 30" in length with an orange plastic cap stamped "Floyd Browne Group".

The above description is based on and referenced to a plat of survey prepared by Floyd Browne Group, attached hereto and made a part hereof. All references are to the records of the Recorder's Office, Franklin County, Ohio.

AND THE FOLLOWING:

Situated in the State of Ohio, County of Franklin, City of Columbus, being part of Quarter Township 3, Township 2, Range 16, United States Military Lands, being 0.270 acres out of an original 33.918 acre tract of land described in a deed to Cardinal Title Holding Company of record in Official Record Volume 12417, Page G-06, and being more particularly described as follows:

Commencing for reference at a 1" iron bar found at the intersection of the centerlines of Warner Road and Hamilton Road or record in the Dedication Plat of Hamilton Road and Easements of Record in Plat Book 100, Page 3;

Thence North 86° 17' 30" West of the centerline of said Warner road, a distance of 359.55 feet to a point;

Thence South 01° 14' 21" West crossing said Warner Road right of way a distance of 40.04 feet to an iron pin set on the southerly right of way line of said Warner Road, being the northeasterly corner of a 1.795 acre tract of land described in a deed to William L. Willis Jr. Trustee of record in Instrument Number 200507140139086;

Thence South 01° 14' 21" West with the easterly line of said 1.795 acre tract, a distance of 460.42 feet to a 5/8" iron pin found 0.35 feet south and 0.97 feet west;

Thence North 86° 17' 30" West with the southerly line of said 1.795 acre tract and a 1.951 acre tract of land described in a deed to William L. Willis Jr. Trustee of record in Instrument Number 200507140139088, a distance of 241.15 feet to an iron pin set and being the TRUE POINT OF BEGINNING of the tract to be described;

Thence crossing said 33.918 acre tract with the following three (3) courses and distances:

- 1) South 03° 02' 09" West, a distance of 147.69 feet to an iron pin set;
- 2) North 41° 14' 45" West, a distance of 89.327 feet to an iron pin set;
- 3) South 48° 45' 15" West, a distance of 71.31 feet to an 1" iron pipe found 0.12 feet south and 0.16 feet west of the westerly line of a 12.257 acre tract of land described in a deed to The Reserve at Preston Woods of record in Inst. No. 200507080134441;

Thence North 09° 52' 08" East with said line, a distance of 135.68 feet to a 1" iron pipe found 1.36 feet north and 0.08 feet east and being the southwesterly corner of said 1.951 acre tract;

Thence South 86° 17' 30" East with the southerly line of said 1.951 acre tract, a distance of 97.25 feet to the true point of beginning containing 0.270 acres of land, more or less.

Subject however to all easements, restrictions and rights-of-way of record, in any.

Basis of bearings is North 86° 17' 30" West for the centerline of Warner Road as shown on Plat Book 100, Page 3.

All iron pins set are 5/8" solid iron pins 30 in length with an orange plastic cap stamped "Floyd Browne Group".

The above description is based on and referenced to a plat of survey prepared by Floyd Browne Group, attached hereto and made a part hereof.

All references are to the records of the Recorder's Office, Franklin County, Ohio.

**To Rezone From:** CPD, Commercial Planned Development District

**To:** CPD, Commercial Planned Development District

**SECTION 2.** That a Height District of thirty-five (35) feet is hereby established on the CPD, Commercial Planned Development District on this property.

**SECTION 3.** That the Director of the Department of Building and Zoning Services be, and is hereby authorized and directed to make the said change on the said original zoning map and shall register a copy of the approved CPD, Commercial Planned Development District and Application among the records of the Department of Building and Zoning Services as required by Section 3311.12 of the Columbus City Codes; said plan being titled, "**ALBANY PLACE COMMERCIAL**" and text titled, "**DEVELOPMENT TEXT**," dated May 17, 2013, and signed by Dave Perry, Agent for the Applicant, and Donald Plank, Attorney for the Applicant, and the text reading as follows:

**DEVELOPMENT TEXT**

**CPD, COMMERCIAL PLANNED DEVELOPMENT DISTRICT**

**3.914 +/- ACRES**

**EXISTING DISTRICTS:**

CPD, Commercial Planned Development

**PROPOSED DISTRICT:**

CPD, Commercial Planned Development District

**PROPERTY ADDRESS:**

5167 Warner Road, Columbus, OH 43081

**OWNER:**

Albany Place Investment, Ltd., c/o Dave Perry, Agent, David Perry Co., Inc., 145 East Rich Street, FL 3, Columbus, OH 43215 and Donald Plank, Attorney, Plank Law Firm, 145 East Rich Street, FL 3, Columbus, OH 43215

**APPLICANT:**

Donald W. Kelley and Associates, Inc., c/o Dave Perry, Agent, David Perry Co., Inc., 145 East Rich Street, FL 3, Columbus, OH 43215 and Donald Plank, Attorney, Plank Law Firm, 145 East Rich Street, FL 3, Columbus, OH 43215

**DATE OF TEXT:**

May 17, 2013

**APPLICATION NUMBER:**

Z13-028

**INTRODUCTION:**

The subject property ("Site") is 3.914 ± acres located on the south side of Warner Road, west of Hamilton Road. The site is zoned CPD, Commercial Planned Development from a 2007 rezoning. The site has been developed with a commercial shopping center with retail, office and restaurant uses. The site is in the Rocky Fork Blacklick Accord Planning area. The site plan titled "Albany Place Commercial", hereafter "Site Plan", dated May 17, 2013, is the site development plan for the property.

**1. PERMITTED USES:** All uses permitted in Columbus City Code Chapter 3356, C-4, Commercial District, except: Billboards, Cabaret, Drive-in motion picture theater, public parking, motor bus terminal, Off-premise Graphics, other than as permitted by the Graphics Commission, Private Clubs, and Outdoor amphitheater.

**2. DEVELOPMENT STANDARDS:** The applicable development standards shall be as specified in Chapter 3356, C-4, Commercial District, Chapter 3312, Off-Street Parking and Loading and Chapter 3321, General Site Development Standard, except as specifically set forth herein.

**A. Density, Height, Lot and/or Setback Commitments.**

1. The minimum building setback along Warner Road shall be 75 feet.
2. The minimum parking setback along Warner Road shall be as depicted on the submitted Site Plan.
3. The minimum building and pavement setback along the west property line shall be 10 feet as long as the adjacent property to the west is zoned or used for residential purposes.
4. Lot Coverage for Building and Pavement shall not exceed seventy-two (72) percent (%).

**B. Access, Loading, Parking and/or other Traffic Related Commitments.**

Curb cuts shall be approved by the City of Columbus Department of Public Service, but shall include one (1) full access curbcut on Warner Road.

**C. Buffering, Landscaping, Open Space and/or Screening Commitments.**

1. The parking setback along Warner Road shall be maintained in live vegetation and shall include tree and shrub planting at a minimum rate of four (4) trees and four (4) shrubs per 100 lineal feet of frontage. Trees shall be placed randomly to stimulate natural hedgerows. The trees are in addition to those required in No. 2 below.

2. A street tree row shall be established along Warner Road. The street tree row shall require trees at the minimum rate of one (1) tree for every 40 feet of lineal frontage. Trees may be planted in a natural hedgerow manner or straight line and may include grouping of trees. Such trees shall be those specified in the Columbus Street Tree Program guidelines from the City Forester. The trees shall be planted in the right of way, subject to approval of the City Forester and Public Service Department, or otherwise shall be planted adjacent to the right-of-way.

3. All parking areas adjacent to Warner Road shall have headlight-screening parallel to the frontage, with a minimum height of 36 inches measured from the elevation of the nearest section of the adjacent parking area. Said headlight screening shall be in the form of an evergreen hedge, earth mounding or wall. The height of headlight screening may be reduced as needed adjacent to curb cuts or to provide adequate vision clearance.

4. Within the west ten (10) foot landscaped setback, a five (5) foot fence or wall with a minimum 75% opacity shall be provided, in addition to columnar evergreen plant material, such as Arborvitae, planted 3 - 5 feet on center, and being a minimum of three (3) feet tall at planting. The fence and planting shall start at the same point as the actual setback of the building from Warner Road and extend south along the west property line to the south line of the rezoning area. Within the ten (10) foot west setback north of the building setback, evergreen plant material, approximately 30 inches tall at planting, shall be placed and shall extend north within the setback to a point ten (10) feet south of the south Warner Road right of way line. One or more sidewalk(s) may be placed in and across the west landscaped setback to provide pedestrian connection(s) between the shopping center and the residential development to the west.

**D. Building Design and/or Interior-Exterior Treatment Commitments.**

1. There shall be no roof-mounted mechanical equipment or utility hardware unless said mechanicals are screened by decorative cornices. Ground-mounted mechanical or utility equipment shall be fully screened from view from ground level by landscaping or any fence or wall utilizing comparable and compatible materials as the building materials.

2. Building illumination shall be permitted, provided such light source is concealed. No colored light shall be used to light the exterior of any building.

3. Building materials shall be traditional and natural in appearance, such as wood, brick, stone, stucco, EIFS and/or glass. Vinyl and other materials are permitted as long as they are natural in appearance. Vinyl siding shall be limited to an upgraded quality and a thickness of .044 mils or greater. A minimum of 50% of the exterior of any building, exclusive of windows, doors, roof, soffit and similar or comparable areas, shall be finished with wood or masonry building materials, such as brick, stone, EIFS, and/or stucco or comparable materials.

4. The primary roof of all buildings shall be pitched or sloped with a minimum slope of 6:12 or, if flat, shall have decorative cornices or the appearance of a sloped roof on all four (4) sides of the building. If shingles are used for roofing, they shall be dimensional shingles.

5. Buildings shall be finished on all sides/elevations with the same or similar level and quality of finish.

6. The building shall be approximately rectangular in shape and the length of the building shall be oriented in a north/south direction on the site. The building shall be located approximately parallel to the west property line and at least

part of the west wall of the building will be located not more than 60 feet from the west property line. The Warner Road frontage of the building shall be a commercial tenant space and shall be designed with windows and a pedestrian entrance. Other commercial tenant spaces will also be located on and accessed from the east side of the building.

**E. Dumpsters, Lighting, Outdoor Display Areas and/or Other Environmental Commitments.**

1. Except for decorative lighting, all other light poles shall be metal or fiberglass and such light poles shall be of the same color. Light poles in the parking lot shall not exceed a maximum of a maximum of 20 feet where located farther than 100 feet from the west property line. No parking lot light pole shall be located within thirty (30) feet of the west property line.
2. All new or relocated utility lines shall be installed underground, unless a public utility does not permit underground installation in a particular location or instance.

**F. Graphics and Signage Commitments.**

1. All graphics shall conform to Article 15 of the Columbus City Code, as it applies to the C-4 Commercial District. Any variance to the applicable requirements of the C-4 district shall be submitted to the Columbus Graphics Commission.
2. All ground-mounted signage shall be monument-style, except for incidental on-premise mounted directional signs, if any. This provision shall not preclude incorporation of signage into entrance features or mounting of signage on entrance feature walls or fencing.

**G. Modifications.**

1. 3312.13, Driveway, to permit the existing east driveway which is divided by a property line, but the total driveway width meets code required width and easements are provided for the common use of the driveway by abutting property owners.
2. 3312.49, Minimum number of Parking Spaces Required, which Section requires 210 parking spaces for 12,450 sq. ft. of retail uses, 10,475 sq. ft. of restaurant uses, 1,160 sq. ft. of accessory outside patio area for the restaurants, 800 sq. ft. of general office use and 2,800 sq. ft. of medical office use, while existing and proposed parking totals 178 spaces. The Board of Zoning Adjustment (BZA) is specifically authorized to hear any future request for reduction of required parking due to a proposed change of use that would cause more than 210 calculated parking spaces to be required and/or 178 actual parking spaces provided.
3. 3312.53, Minimum Number of Loading Spaces Required, which Section requires one (1) loading space, while zero (0) loading spaces shall be required.

**H. Other CPD Requirements**

1. Natural Environment: The natural environment of the site is flat.
2. Existing Land Use: The property is developed with a 26,500 sq. ft. multi-tenant commercial building and accessory parking.
3. Circulation: Access to and from the site is via Warner Road and an off-site driveway connecting to Hamilton Road.
4. Visual Form of the Environment: The area surrounding the site is zoned for commercial use to the north, east and south. Property under development for multi-family is located to the west.
5. Visibility: The site is visible from Warner Road.
6. Proposed Development: Existing commercial development.

7. Behavior Patterns: Vehicular access from Warner Road and internal circulation with adjacent commercial property.

8. Emissions: Development will conform to City of Columbus requirements as further controlled by development standards of this development text for light levels, sounds and dust. There will be no objectionable emissions.

### I. Miscellaneous Commitments

1. Development of the site shall be in accordance with the site plan titled "Albany Place Commercial", dated May 17, 2013 and signed May 17, 2013 by David B. Perry, Agent, and Donald Plank, Attorney. The site plan may be slightly adjusted to reflect engineering, topographical, or other site data developed at the time final development and engineering plans are completed. Any slight adjustment to the drawing shall be reviewed and may be approved by the Director of the Building and Zoning Services Department or his designee upon submission of the appropriate data regarding the proposed adjustment. The Board of Zoning Adjustment (BZA) is specifically authorized to hear any future request for reduction of required parking due to a proposed change of use that would cause more than 210 calculated parking spaces to be required and/or 178 actual parking spaces provided.

~~SECTION 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.~~  
**That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or 10 days after its passage if the Mayor neither approves nor vetoes the same.**