



Legislation Text

File #: 0786-2010, **Version:** 1

Council Variance Application: CV09-009

APPLICANT: Burroughs Property Holdings, LLC; c/o David Hodge, Atty.; Smith & Hale; 37 West Broad Street, Suite 725; Columbus, OH 43215.

PROPOSED USE: To allow the continued storage of mobile equipment in the floodway on an existing gravel parking lot.

SOUTHWEST AREA COMMISSION RECOMMENDATION: Disapproval.

CITY DEPARTMENTS' RECOMMENDATION: Disapproval. The applicant is applying for a Council variance to allow for the continued storage of mobile equipment on an existing gravel lot in the floodway. Vehicles are not allowed to be stored in the floodway nor is gravel an allowed parking surface. The applicant has provided coniferous trees to screen the equipment from Hardy Parkway. Staff approves of the use of gravel in the floodway since it is pervious, whereas asphalt is not pervious and could break up floating downstream during a flood. The applicant has stated they will move their equipment out of the floodway or anchor it in the floodway when a flash flood warning is issued by the National Weather Service. Staff finds this provision to be unenforceable and therefore cannot guarantee the public health, safety and welfare will be protected. Furthermore, this application conflicts with the *Southwest Area Plan* (2009), which calls for the 100 year floodplain to be preserved. Due to these considerations, Staff recommends disapproval of this Council variance.

To grant a Variance from the provisions of Sections 3385.07, Activities, developments and uses in the floodway and 3312.43, Required surface for parking of the Columbus City Codes for the property located at **2233 HARDY PARKWAY STREET (43123)**, to permit storage of mobile equipment in the floodway on an existing gravel parking lot. (Council Variance #CV09-009).

WHEREAS, by application #CV09-009, the owner of property at **2233 HARDY PARKWAY STREET (43123)**, is requesting a Variance to permit the storage of mobile equipment with reduced development standards in the CPD, Commercial Planned Development District; and

WHEREAS, Section 3385.07, Activities, developments and uses in the floodway, permits only certain uses in the floodway, while the applicant proposes to continue storage of mobile equipment on an existing gravel lot in the floodway; and

WHEREAS, Section 3312.43, Required surface for parking, requires a parking lot surface of asphaltic concrete, Portland cement or other hard surface other than gravel or loose fill, while the applicant proposes continued use of a gravel surface; and

WHEREAS, the Southwest Area Commission recommends disapproval; and

WHEREAS, City Departments recommend disapproval. The applicant has stated they will move their equipment out of the floodway or anchor it in the floodway when a flash flood warning is issued by the National Weather Service. Staff finds this provision to be unenforceable and therefore cannot guarantee the public health, safety and welfare will be protected. Furthermore, this application conflicts with the *Southwest Area Plan* (2009), which calls for the 100 year floodplain to be preserved. Due to these considerations, Staff recommends disapproval of this Council variance; 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 **2233 HARDY PARKWAY STREET (43123)**, in using said property as desired; now, therefore:

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

SECTION 1. Variance from the provisions of Sections 3385.07, Activities, developments and uses in the floodway and 3312.43, Required surface for parking; of the Columbus City codes is hereby granted for the property located at **2233 HARDY PARKWAY STREET (43123)**, insofar as said sections prohibit storage of mobile equipment on an existing gravel lot in the floodway; said property being more particularly described as follows:

2233 HARDY PARKWAY STREET (43123), being 2.22± acres located on the west side of Hardy Parkway Street, 394± feet south of Feddern Avenue, and being more particularly described as follows:

LEGAL DESCRIPTION

PARCEL I

Situated in the County of Franklin, in the State of Ohio, and in the City of Columbus and bounded and described as follows:

In the Township of Franklin and being part of Reserve "G" of Frank Road Industrial Park No. 3 as recorded in Plat Book 41, Page 56, in the Franklin County Recorder's Office and being more fully described as follows:

Commencing at a point at the southeast corner of Reserve "G" of Frank Road Industrial Park No. 3 as recorded in Plat Book 41, Page 56, in the Franklin County Recorder's Office, said point being on the westerly right-of-way line for Hardy Parkway St.; thence along said right-of-way line North 48 deg. 21' 10" East a distance of 361.11 feet to a point; thence with a curve to the left, said curve having a radius of 1392.39 feet, a chord bearing North 47 deg. 52' 35" East, and a chord length of 23.16 feet, a distance of 23.16 feet to the true place of beginning; thence North 41 deg. 17' 26" West a distance of 284.54 feet to a point; thence North 66 deg. 09' 54" East a distance of 62.25 feet to a point; thence North 71 deg. 06' 34" East a distance of 99.88 feet to a point; thence South 54 deg. 01' 25" East a distance of 214.18 feet to a point on the westerly right-of-way line for Hardy Parkway St.; thence with a curve to the right, said curve having a radius of 1392.39 feet, a chord bearing South 43 deg. 17' 06" West, and a chord length of 199.83 feet, a distance of 200.00 feet to the place of beginning, containing 1.000 acres, more or less.

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Address: 2233 Hardy Parkway, Columbus, Ohio

PARCEL II

Situated in the State of Ohio, City of Columbus, County of Franklin, Township of Franklin and being a part of Reserve "G" of Frank Road Industrial Park No. 3 as recorded in Plat Book 41, Page 56, in the Franklin County Recorders Office, and being more fully described as follows:

Commencing at a point at the southeast corner of Reserve "G" of Frank Road Industrial Park No. 3 as recorded in Plat Book 41, Page 56, in the Franklin County Recorder's Office, said point being on the westerly right-of-way line for Hardy Parkway St. and in the center of Big Run Creek;

thence North 27 deg. 05' 07" West a distance of 123.58 feet to a point in the center of Big Run Creek;

thence North 59 deg. 58' 06" West a distance of 163.32 feet to a point in the center of Big Run Creek; said point also being the west line of Reserve "G",

thence leaving Big Run Creek along the west line of Reserve "G", North 00 deg. 00' 00" East a distance of 50.00 feet to a point;

thence South 64 deg. 13' 51" East a distance of 71.43 feet;

thence North 16 deg. 28' 05" East a distance of 159.74 feet to an iron pin;

thence with a curve to the right, said curve having a radius of 150.00 feet, a chord bearing North 22 deg. 11' 52" East, and a chord length of 29.95 feet, a distance of 30.00 feet to an iron pin;

thence North 66 deg. 09' 54" East a distance of 192.31 feet to an iron pin;

thence South 41 deg. 17' 16" East a distance of 284.54 feet to an iron pin on the west right-of-way line of Hardy Parkway Street;

thence along said west right-of-way line with a curve to the right, said curve having a radius of 1392.39 feet, a chord bearing South 47 deg. 52' 28" West, and a chord length of 23.16 feet, a distance of 23.16 feet to a point;

thence continuing along said west right-of-way line, South 48 deg. 21' 10" West a distance of 361.11 feet to the place of beginning, containing 2.630 acres, more or less.

The above parcel is subject to a 5' Telephone Company Easement along Hardy Parkway St., a 5' storm sewer easement along the westerly most side; and a City of Columbus Sanitary Sewer easement, No. 2235 as recorded in Volume 2210, Page 188.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY:

Situated in the State of Ohio, County of Franklin, City of Columbus, being 1.414 acres of Reserve "G" as shown and delineated upon the plat "Frank Road Industrial Park NO. 3" a subdivision of record in Plat Book 41, page 56, also being part of that 2.630 acre tract as described in a deed to Spiro S. Dimitrovski and Margena A. Dimitrovski, of record in Official Records Volume 10941, Page I-04, all references to records herein are to those located in the Recorder's Office, Franklin County, Ohio and being more particularly described as follows:

Beginning at a point in the westerly right-of-way line of Hardy Parkway (80 feet in width) at the southeasterly corner of Reserve "G", at the southeasterly corner of said 2.630 acre tract and the northeasterly corner of Reserve "B" as shown and delineated upon the plat for "Willow Creek Section No. 1;

Thence North 27 deg. 08' 07" West, along the southerly lines of Reserve "G" and said 2.630 acre tract and the northerly line of Reserve "B", a distance of 123.58 feet to a point;

Thence North 59 deg. 58' 06" West, continuing along said southerly lines and said northerly line, a distance of 163.32 feet to a point at the southeasterly corner of Reserve "F" of said plat;

Thence North 0 deg. 00' 00" East, along the common line of Reserves "F" and "G" a distance of 50.00 feet to an iron pin set at the southwesterly corner of a 1.161 acre tract described in a deed to Stonehaven Properties, of record in Deed Volume 3416, Page 270;

Thence along the easterly perimeter of said 1.161 acre tract the following courses:

1. South 64 deg. 13' 51" East, a distance of 71.43 feet to an iron pin set;
2. North 16 deg. 28' 05" East, a distance of 159.74 feet to an iron pin set;
3. With the arc of a curve to the right having a radius of 150.00 feet, a central angle of 11 deg. 27' 32", a

chord which bears North 22 deg. 11' 51" East, a chord distance of 29.95 feet to an iron pin set at the southwesterly corner of a 1.675 acre tract as described in a deed to MDM Computer Center, Inc. of record in Official Records volume 12644, Page F19;

Thence North 66 deg. 09' 54" East, along the easterly line of said 1.675 acre tract, a distance of 14.26 feet to an iron pin set;

Thence south 41 deg. 17' 20" East, through said 2.630 acre tract with a new division line, a distance of 339.31 feet to an iron pin set in the westerly right-of-way line Hardy Parkway;

Thence south 48 deg. 21' 10" West, along said westerly right-of-way line, a distance of 214.27 feet to the place of beginning and containing 1.414 acres of land.

Bearings herein are based on North 48 deg. 21' 10" East for Hardy Parkway, as shown on the reference plat "Frank Road Industrial Park No. 3" of record in Plat Book 41, Page 56.

Iron pins sets consist of a 1" (O.D.) Iron pipe, 30" long with a plastic cap inscribed "M-E ENG/S-6872."

Parcel No.: 570-121119 Last Transfer: ORV 10941, Page I-04
Address: Hardy Parkway

Subject to all conditions, restrictions and easements, if any, of record contained in all former conveyances of record for said premises.

SECTION 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for storage of mobile equipment or those uses in the M, Manufacturing District.

SECTION 3. That this ordinance is further conditioned on the Subject Site being developed in general conformance with the site plan titled, "**2233 HARDY PARKWAY STREET VARIANCE EXHIBIT 2009**," signed by Jeffrey L. Brown, attorney for the Applicant, and dated May 20, 2010. The Site Plan may be slightly adjusted to reflect engineering, topographical, or other site data developed at the time of the development and when engineering and architectural drawings are completed. Any slight adjustments to the Zoning Site Plan shall be subject to review and approval by the Director of the Department of Building and Zoning Services upon submission of the appropriate data regarding the proposed adjustment.

SECTION 4. That this ordinance is further conditioned upon the applicant obtaining all applicable permits and a Certificate of Occupancy for the proposed use.

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