



Legislation Text

File #: 1953-2017, **Version:** 2

Council Variance Application: CV17-032

APPLICANT: ~~BPH~~ **BPBH** Partners LLC; c/o Connie J. Klema, Atty.; P.O. Box 991; Pataskala, OH 43215.

PROPOSED USE: Mixed-use development.

ITALIAN VILLAGE COMMISSION RECOMMENDATION: Approval.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The site is undeveloped, is zoned R-4 Residential, and C-4, Commercial districts, and lies within the Urban Commercial Overlay and Short North Special Parking Area (SNSPA). Ordinance # 1518-2015, passed June 22, 2015 (CV14-053), is in effect on the property, and permits a six-story mixed-use building with 62 residential units, and a three-story mixed-use building with four residential units with a total of 12,000± square feet of commercial space. A three-story, eight-unit apartment building on the parcel to the south was also included in that Council variance, and has been constructed. The requested Council variance changes the development of the northern parcel to a six-story building with 3,926± square feet of restaurant space, 700± square feet of outside dining space, retail tenant spaces of 2,500 square feet or less, garage parking, and 87 apartment units on upper floors. Requested variances include commercial use in R-4 district, with increased height, reduced driveway width, reduced yard/area standards for the R-4 district portion, and increased building setback. The development is 13 spaces short of the SNSPA parking requirements (117 required; 104 provided), and the developer will be initiating the pay-in-lieu process through the Department of Public Service. The revised request remains consistent with recent infill development proposals in historic urban neighborhoods and has been recommended for approval by the Italian Village Commission.

To grant a Variance from the provisions of Sections 3332.039, R-4, Residential district; 3309.14, Height districts; 3321.05 (A)(1), Vision clearance; 3332.18(D), Basis of computing area; 3332.25, Maximum side yards required; 3332.26, Minimum side yard permitted; 3332.27, Rear yard; 3332.29, Height district; and 3372.604(A), Setback requirements, of the Columbus City codes; for the property located at **97 EAST FIFTH AVENUE (43201)**, to permit a mixed-use development with reduced development standards in the R-4, Residential District and C-4, Commercial District (Council Variance # CV17-032).

WHEREAS, by application No. CV17-053, the owner of property at **97 EAST FIFTH AVENUE (43201)**, is requesting a Council variance to allow a mixed-use development with reduced development standards in the R-4, Residential District and C-4, Commercial District; and

WHEREAS, Section 3333.039, R-4, Residential District, prohibits commercial uses, and only permits a maximum of four dwelling units in one building, while the applicant proposes a portion of a mixed-use building containing commercial uses and parking with upper-story apartment units on the part of the site that is zoned in the R-4 district; and

WHEREAS, Sections 3309.14, Height districts, requires a maximum building height of thirty-five (35) feet at the setback for this property, while the applicant proposes a multi-story building not to exceed a height of 65 feet; and

WHEREAS, Section 3321.05(A)(1), Vision clearance, requires clear vision triangles of 10 feet at the intersection of a driveway and the street right-of-way, while the applicant proposes to reduce the clear vision triangles for the driveway

intersection with East Fifth Avenue to 5 feet; and

WHEREAS, Section 3332.18(D), Basis of computing area, prohibits buildings from occupying more than fifty (50) percent of the lot area, while the applicant proposes a lot coverage of one-hundred (100) percent on the R-4 portion of the site; and

WHEREAS, Section 3332.25, Maximum side yards required, requires the sum of the widths of the side yards to be a minimum of 6.5 feet, while the applicant proposes no side yards feet on the R-4 portion of the site; and

WHEREAS, Section 3332.26, Minimum side yard permitted, requires side yards of no less than 5 feet, while the applicant proposes no side yards on the R-4 portion of the site; and

WHEREAS, Section 3332.27, Rear yard, requires a rear yard totaling no less than 25 percent of the total lot area, while the applicant proposes no rear yard on the R-4 portion of the site; and

WHEREAS, Section 3332.29, Height district, requires that no building or structure shall exceed a height of 35 feet, while the applicant proposes a multi-story building not to exceed a height of 75 feet on the R-4 portion of the site; and

WHEREAS, Section 3372.604(A), Setback requirements, requires a maximum building setback of no greater than 10 feet, while the applicant proposes a setback of 31 feet along Summit Street as shown on the site plan; and

WHEREAS, the Italian Village Commission recommends approval; and

WHEREAS, the City Departments recommend approval of the requested variances because the proposal is consistent with recent infill development proposals in historic urban neighborhoods; 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 **97 EAST FIFTH 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 3332.039, R-4, Residential district; 33309.14, Height districts; 3321.05(A)(1), Vision clearance; 3332.18(D), Basis of computing area; 3332.25, Maximum side yards required; 3332.26, Minimum side yard permitted; 3332.27, Rear yard; 3332.29, Height district; and 3372.604(A), Setback requirements, of the Columbus City codes, is hereby granted for the property located at **97 EAST FIFTH AVENUE (43201)**, in so far as said sections prohibit a mixed-use building with commercial uses and greater than four dwelling units in the R-4, Residential District, with an increased building height from thirty-five (35) feet to up to 65 feet; reduced vision clearance triangles from 10 feet to 5 feet at the driveway intersection with East Fifth Avenue; an increased maximum lot coverage from 50 percent to 100 percent; a reduced maximum side yard from 6.5 feet to zero feet; a reduced minimum side yard from 5 feet to zero feet; a reduced rear yard from 25 percent to zero percent; and an increased building setback from 10 feet to 31 feet along Summit Street; said property being more particularly described as follows:

97 EAST FIFTH AVENUE (43201), being 0.68± acres located at the southwest corner of East Fifth Avenue and Summit Street, and being more particularly described as follows:

Situated in the State of Ohio, County of Franklin, City of Columbus, being part of Half Section 5, Township 5, Range 22, Refugee Lands, being part of Lots 1 through 5 of Milbury M. Green's Subdivision of record in Plat Book 2, Page 177 (destroyed by fire), being part of Lot 4 of S.C. Dumm's Subdivision of record in Plat Book 4, Page 90, being a 0.680 acre tract of land out of Tracts One (1) through Six (6) described in a deed to Burwell Investments, LLC of record in Instrument Number 201410010129072, and being more particularly described as follows:

BEGINNING at an iron pin set at the southwest corner of Lot 4 of said S.C. Dumm's Subdivision, being on the north right-of-way line of a 12 foot alley as shown on S.C. Dumm's Subdivision, and being at the southeast corner of Lot 3 of said S.C. Dumm's Subdivision as described in a deed to Steven G. Godek of record in Instrument Number 200601200013050;

Thence North 00°56'36" East, a distance of 126.23 feet with the east line of said Lot 3 and with the west line of said Lot 4, to an iron pin set at the most westerly southwest corner of a 0.039 acre tract of land described in a deed to the City of Columbus, Ohio of record in Instrument Number 201511170162585;

Thence with the south and west lines of said 0.039 acre tract the following three (3) courses and distances:

- 1) South 86°44'19" East, a distance of 221.65 feet, to an iron pin set;
- 2) South 08°14'44" East, a distance of 110.85 feet, to an iron pin set;
- 3) North 81°45'16" East, a distance of 5.00 feet, to an iron pin set at the southeast corner of said 0.039 acre tract, being on the west right-of-way line of Summit Street (60 feet wide) as dedicated in Plat Book 1, Page 302, and being on the east line of Lot 1 of said Milbury M. Green's Subdivision;

Thence South 08°14'44" East, a distance of 32.20 feet with the west right-of-way line of said Summit Street and with the east line of said Lot 1, to a 1" iron pipe found at the northeast corner of a 0.06 acre tract of land described in a deed to Kyle A. Schriener of record in Instrument Number 201106140074324;

Thence North 86°42'44" West, a distance of 65.44 feet with the north line of said 0.06 acre tract, to a 3/4" iron pin found at the northwest corner of said 0.06 acre tract, being on the west line of said Lot 1 and being on the east line of Lot 2 of said Milbury M. Green's Subdivision;

Thence South 04°09'03" West, a distance of 34.23 feet with the west line of said Lot 1 and with the east line of said Lot 2, to a 3/4" iron pin found at the southwest corner of said 0.06 acre tract, being at the southwest corner of said Lot 1, being at the southeast corner of said Lot 2, and being on the north right-of-way line of Greenwood Avenue (30 feet wide);

Thence North 86°39'45" West, a distance of 7.50 feet with the north right-of-way line of said Greenwood Avenue and with the south line of said Lot 2, to an iron pin set at the southeast corner of a 0.185 acre tract known as Burwell Court Condominium of record in Instrument Number 201608010099794;

Thence North 03°15'41" East, a distance of 53.36 feet with the east line of said 0.185 acre tract, to an iron pin set at the northeast corner of said 0.185 acre tract;

Thence North 86°44'19" West, a distance of 151.15 feet with the north line of said 0.185 acre tract, to an iron pin set at the northwest corner of said 0.185 acre tract, being on the west line of Lot 5 of said Milbury M. Green's Subdivision, and being on the east line of Lot 4 of said S.C. Dumm's Subdivision;

Thence South 04°09'03" West, a distance of 6.16 feet with the west line of Lot 5 of said Milbury M. Green's Subdivision and with the east line of Lot 4 of said S.C. Dumm's Subdivision, to a 5/8" iron pin found with a J&J cap at the southeast corner of said Lot 4 and being on the north right-of-way line of said 12 foot alley;

Thence North 86°39'45" West, a distance of 25.26 feet with the south line of said Lot 4 and with the north right-of-way line of said 12 foot alley, to the **TRUE POINT OF BEGINNING** containing 0.680 acres of land, more or less.

Basis of Bearing: Bearings are based on data acquired by GPS observations as per NAD 83 (2011) - Ohio State Plane Coordinate System - South Zone from City of Columbus Monuments 11-83 and 15-83 Reset, the bearing between them being South 06°42'08" West.

The above description is based on and referenced to an exhibit titled "Plat of Survey of a 0.680 Acre Tract" prepared by CT Consultants, attached hereto and made a part hereof. All iron pins set are 5/8" solid iron pins 30" in length with a yellow plastic cap stamped "CT Consultants". All references are to the records of the Recorder's Office, Franklin County, Ohio.

SECTION 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is developed with a mixed-use development in accordance with the submitted site plan, or those uses in the C-4, Commercial and R-4, Residential Districts.

SECTION 3. That this ordinance is further conditioned on the Subject Site being developed in general conformance with the plans titled, "**F.W. BEEKER BUILDING SHEETS 1-2,**" dated July 11, 2017, and drawn and signed by James M. Barry, Engineer, CT Consultants. The plans 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 plans shall be subject to review and approval by the Director of the Department of Building and Zoning Services, or a designee, upon submission of the appropriate data regarding the proposed adjustment. The number of dwelling units, number of building stories, and square footages of uses depicted on the plan may be reduced as approved by the Italian Village Commission.

SECTION 4. That this ordinance is further conditioned upon the following: The Owner of the property plans to construct two fixed planters to be located at the north access as delineated on the site plan. The planters will be constructed in masonry and designed to drain per applicable City codes. The vertical height of the planters and plant material shall not exceed 2.5 feet. The Owner of the property shall maintain and repair all damages to the planters and plant material. In the event the planters are removed or damaged resulting from alterations or repairs to the right-of-way by the City of Columbus, the Owner shall replace the planters and plant material at its cost.

SECTION 5. That Ordinance # 1518-2015, passed June 22, 2015 (CV14-053) is no longer in effect on this property (Franklin County Parcel Number 010-005514).

SECTION 6. That this ordinance is further conditioned upon the applicant obtaining all applicable permits and Certificates of Occupancy for the proposed uses.

SECTION 7. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.