



Legislation Text

File #: 1941-2021, **Version:** 1

Council Variance Application: CV21-040

APPLICANT: Thrive Companies; c/o Dave Perry, Agent; David Perry Company; 411 East Town Street, 1st Floor; Columbus, OH 43215, and Joseph M. Reidy, Atty.; Thrive Companies; 842 North Fourth Street, Suite 200; Columbus, OH 43215.

PROPOSED USE: Mixed-use development.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The applicant has received a recommendation of approval from Staff and the Development Commission for a concurrent rezoning (Ordinance #1940-2021; Z21-030) to the C-4, Commercial District, AR-1, Apartment Residential District, I, Institutional District, R-3, Residential District, and R, Rural District. The requested variances will permit a mixed-use, urban infill development, spanning 8 subareas, as demonstrated on the submitted site plans. The requested variances are supportable as they do not represent a significant change to those previously granted with Ordinance #2758-2018 (CV17-034), are consistent with those of similar mixed-use and urban infill developments, and will not add incompatible uses to the neighborhood.

To grant a Variance from the provisions of Sections 3332.02, R-rural district; 3332.035, R-3 residential district; 3333.02, AR-12, ARLD and AR-1 apartment residential district use; 3356.03, C-4 permitted uses; 3309.14, Height districts; 3312.21(A), Landscaping and screening; 3312.27(4), Parking setback line; 3312.49(C), Minimum numbers of parking spaces required; 3312.53, Minimum number of loading spaces required; 3321.05(B)(1)(2), Vision clearance; 3321.09(B), Screening; 3332.05(4), Area district lot width requirements; 3332.06, R-rural area district requirements; 3332.13, R-3 area district requirements; 3332.18(D), Basis of computing area; 3332.19, Fronting; 3332.21(D), Building lines; 3332.25, Maximum side yards required; 3332.26, Minimum side yard permitted; 3332.27, Rear yard; 3332.38(G), Private garage; 3333.18, Building lines; 3333.255, Perimeter yard; 3349.04(a)(b)(c), Height, area and yard regulations; and 3356.11, C-4 district setback lines, of the Columbus City Codes; for the property located at **531 W. 5TH AVE. (43201)**, to permit mixed-use development with reduced development standards in the C-4, Commercial District, AR-1, Apartment Residential District, I, Institutional District, R-3, Residential District and R, Rural District (Council Variance #CV21-040).

WHEREAS, by application #CV21-040, the owner of property at **531 W. 5TH AVE. (43201)**, is requesting a Council variance to permit mixed-use development with reduced development standards in the C-4, Commercial District, AR-1, Apartment Residential District, I, Institutional District, R-3, Residential District, and R, Rural District; and

The following variances apply to Subarea A (C-4, Commercial District):

WHEREAS, Section 3309.14(A), Height districts, limits building height in a 60 foot height district to 60 feet, with height defined in Section 3303.36, Height, and subject to the provisions of Section 3309.142, Height district exceptions, while the applicant proposes a maximum building height of 80 feet; and

WHEREAS, Section 3312.27(4), Parking setback line, requires a parking setback of 10 feet from the street right-of-way line, while the applicant proposes a reduced parking setback line of 5 feet along West 5th Avenue; and

WHEREAS, Section 3312.49(C), Minimum numbers of parking spaces required, requires 1 parking space per hotel room, or 153 spaces for a 153-room hotel, while the applicant proposes to provide 120 spaces; and

WHEREAS, Section 3312.53, Minimum number of loading spaces required, requires a minimum of one loading space, while the applicant proposes zero loading spaces; and

The following variances apply to Subarea B (I, Institutional District):

WHEREAS, Section 3309.14(A), Height districts, limits building height in a 60 foot height district to 60 feet, with height defined in Section 3303.36, Height, and subject to the provisions of Section 3309.142, Height district exceptions, while the applicant proposes a maximum building height of 70 feet; and

WHEREAS, Section 3312.49(C), Minimum numbers of parking spaces required, requires 1.5 parking spaces per dwelling unit and 0.75 per assisted living/memory care unit, totaling 154 spaces, while the applicant proposes to provide 127 spaces, with an additional 12 spaces provided on Subarea C; and

WHEREAS, Section 3312.53, Minimum number of loading spaces required, requires a minimum of one loading space, while the applicant proposes zero loading spaces; and

WHEREAS, Section 3349.04(a)(b)(c), Height, area and yard regulations, requires that all structures at the minimum building line shall not exceed 35 feet in height, requires lot coverage that does not exceed 60 percent, requires a front setback of 50 feet from street right-of-way, requires a minimum side yard of 20 feet on each side of a building, and requires a minimum rear yard of 50 feet, while the applicant proposes an increased building height of 70 feet, increased lot coverage of 74 percent, reduced front setback of 15 feet from West 5th Avenue, reduced eastern side yard of 6 feet, reduced western side yard of 14 feet, and reduced rear yard of 9 feet; and

The following variances apply to Subarea C (C-4 Commercial District):

WHEREAS, Section 3356.03, C-4, permitted uses, prohibits residential uses other than apartments above specified commercial uses, while the applicant proposes ground floor residential uses in a mixed-use building and an apartment building, as demonstrated on the submitted site plans; and

WHEREAS, Section 3309.14(A), Height districts, limits building height in a 60 foot height district to 60 feet, with height defined in Section 3303.36, Height, and subject to the provisions of Section 3309.142, Height district exceptions, while the applicant proposes a maximum building height of 70 feet; and

WHEREAS, Section 3312.21, Landscaping and screening, requires 1 tree per 10 parking spaces, a total of 2 trees for a 18 space parking lot, while the applicant proposes 0 parking lot trees, but will provide 1 trees along the parking lot's perimeter; and

WHEREAS, Section 3312.49(C), Minimum numbers of parking spaces required, requires 654 spaces for 377 dwelling units, 7,100 square feet of retail or fitness space, 6,400 square feet of eating and drinking establishment space, and 900 square feet of accessory outdoor patio space, or any combination of commercial uses that does not exceed the calculated parking itemized; while the applicant proposes to provide 486 spaces on Subarea C, and to permit the use of the 468 parking space parking garage for non-accessory parking; and

WHEREAS, Section 3312.53, Minimum number of loading spaces required, requires a minimum of one loading space, while the applicant proposes zero loading spaces; and

WHEREAS, Section 3321.09, Screening, requires screening for nonresidential zoning districts abutting residential zoning districts, while the applicant proposes no screening between south and southwest property lines of Subarea C and Subareas D and E; and

WHEREAS, Section 3356.11, C-4 district setback lines, requires a building setback line that equals one-half of the right-of-way as denoted on the *Columbus Multimodal Thoroughfare Plan*, or 5- feet along West 5th Avenue and 25 feet along Perry Street, while the applicant proposes reduced building lines of 15 feet along West 5th Avenue and 5 feet long Perry Street; and

The following variances apply to Subarea D (AR-1 Apartment Residential District):

WHEREAS, Section 3312.49(C), Minimum numbers of parking spaces required, requires 30 spaces for 20 apartment units, while the applicant proposes 26 spaces for Building #5, with the other 4 code-required spaces being provided on Subarea C; and

WHEREAS, Section 3333.18, Building lines, requires the building setback to be 25 feet from Perry Street, while the applicant proposes a reduced building line of 4 feet from Perry Street; and

WHEREAS, Section 3333.255, Perimeter yard, requires a perimeter yard measuring 10 percent of the average lot width or 24 feet for this development, while the applicant proposes a reduced perimeter yard of 0 feet along the norther property line, 2.5 feet along the western property line, and 7 feet along the southern property line, as demonstrated on the submitted site plans; and

The following variances apply to Subarea D-1 (AR-1 Apartment Residential District):

WHEREAS, Section 3333.02, AR-12, ARLD, and AR-1, apartment residential district use, prohibits a driveway as a principal use, while the applicant proposes a private driveway providing access to Subarea D as the sole use of Subarea D -1; and

The following variances apply to Subarea E (R-3, Residential District):

WHEREAS, Section 3332.035, R-3, residential district, permits only one single-unit dwelling on a lot, while the applicant proposes 26 detached single-unit dwellings on one lot, as demonstrated on the submitted site plans; and

WHEREAS, Section 3309.14(A), Height districts, limits building height in a 35 foot height district to 35 feet, with height defined in Section 3303.36, Height, and subject to the provisions of Section 3309.142, Height district exceptions, while the applicant proposes a maximum building height of 40 feet; and

WHEREAS, Section 3332.05, Area district lot width requirements, requires a lot of no less than 50 feet wide, while the applicant proposes 0 foot wide individual lots, as no individual lots are provided; and

WHEREAS, Section 3332.13, R-3 area district requirements, requires that a single-unit dwelling or other principal building shall be situated on a lot of not less than 5,000 square feet in area, while the applicant proposes 0 square feet for individual lots, as no individual lots are provided; and

WHEREAS, Section 3332.19, Fronting, requires a dwelling to have frontage on a public street, while the applicant proposes no frontage for the western 13 single-unit dwellings; and

WHEREAS, Section 3332.21(D), Building lines, requires the building setback line to be the average distance of building setbacks on contiguous lot or parcels, but in no case less than 25 feet, while the applicant proposes a reduced building line of 13 feet along Perry Street; 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, as no individual lots are provided; and

WHEREAS, Section 3332.38(G), Private garage, requires a detached garage to be a maximum height of 15 feet, while the applicant proposes increased garage height of 20 feet; and

The following variances apply to Subarea F (R, Rural District):

WHEREAS, Section 3332.02, R, Rural District, does not permit a privately owned park, with accessory uses customary of a park, while the applicant proposes The Harrison Market Community Authority private park within Subarea F; and

WHEREAS, Section 3332.06, R-rural area district requirements, requires that a principal building shall be situated on a lot of no less than 5 acres, while the applicant proposes a reduced lot of 4.2 acres; and

The following variances apply to Subarea G (R-3, Residential District):

WHEREAS, Section 3332.035, R-3, residential district, permits only one single-unit dwelling on a lot, while the applicant proposes 16 detached single-unit dwelling on one lot, as demonstrated on the submitted site plans; and

WHEREAS, Section 3309.14(A), Height districts, limits building height in a 35 foot height district to 35 feet, with height defined in Section 3303.36, Height, and subject to the provisions of Section 3309.142, Height district exceptions, while the applicant proposes a maximum building height of 40 feet; and

WHEREAS, Section 3321.05(B)(1)(2), Vision clearance, requires a 10 foot clearance triangle at the intersection of a street and an alley, and a 30 foot clearance triangle at the intersection of two streets, while the applicant propose a reduced clearance triangle of 7 feet at the southwest intersection of West 5th Avenue and an unnamed alley, and 5 feet at the southeast corner of West 5th Avenue and Perry Street, as demonstrated on the submitted site plans; and

WHEREAS, Section 3332.05, Area district lot width requirements, requires a lot of no less than 50 feet wide, while the applicant proposes 0 foot wide individual lots, as no individual lots are provided; and

WHEREAS, Section 3332.13, R-3 area district requirements, requires that a single-unit dwelling or other principal building shall be situated on a lot of not less than 5,000 square feet in area, while the applicant proposes 0 square feet for individual lots, as no individual lots are provided; and

WHEREAS, Section 3332.18(D), Basis of computing area, requires a dwelling hereafter erected to occupy alone or together with any other building no greater than 50 percent of the lot area; while the proposed 16 detached single-unit dwellings and garages will occupy 54 percent of the lot area; and

WHEREAS, Section 3332.21(D), Building lines, requires the building setback line to be the average distance of building setbacks on contiguous lot or parcels or 16 feet along West 5th Avenue and 10 feet along Perry Street, while the applicant proposes reduced building lines of 10 feet along West 5th Avenue and 2 feet along Perry Street; and

WHEREAS, Section 3332.25, Maximum side yards required, requires the sum of the widths of the side yards to be a maximum of 16 feet, while the applicant proposes a reduced maximum side yard of 4 feet; and

WHEREAS, Section 3332.26, Minimum side yard permitted, requires a minimum side yard of 5 feet, while the applicant proposes a reduced minimum side yard of 2 feet along the eastern and western property lines; 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 as no individual lots are provided; and

WHEREAS, Section 3332.38(G), Private garage, requires a detached garage to be a maximum height of 15 feet, while the applicant proposes increased garage height of 20 feet; and

WHEREAS, the City Departments recommend approval because the variances will allow a mixed-use urban infill development that is consistent with other recent infill developments, and will not add incompatible uses to the neighborhood; and

WHEREAS, this ordinance requires separate submission for all applicable permits and Certificates of Occupancy for the proposed uses; 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 **531 W. 5TH AVE. (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 3332.02, R-rural district; 3332.035, R-3 residential district; 3333.02, AR-12, ARLD and AR-1 apartment residential district use; 3356.03, C-4 permitted uses; 3309.14, Height districts; 3312.21(A), Landscaping and screening; 3312.27(4), Parking setback line; 3312.49(C), Minimum numbers of parking spaces required; 3312.53, Minimum number of loading spaces required; 3321.05(B)(1)(2), Vision clearance; 3321.09(B), Screening; 3332.05(4), Area district lot width requirements; 3332.06, R-rural area district requirements; 3332.13, R-3 area district requirements; 3332.18(D), Basis of computing area; 3332.19, Fronting; 3332.21(D), Building lines; 3332.25, Maximum side yards required; 3332.26, Minimum side yard permitted; 3332.27, Rear yard; 3332.38(G), Private garage; 3333.18, Building lines; 3333.255, Perimeter yard; 3349.04(a)(b)(c), Height, area and yard regulations; and 3356.11, C-4 district setback lines, of the Columbus City Codes, is hereby granted for the property located at **531 W. 5TH AVE. (43201)**, to:

a) permit an increase in building height from 60 feet to 80 feet; a reduced parking setback along West 5th Avenue from 10 feet to 5 feet; a reduction in required parking spaces from 153 to 120 spaces; and a reduction in required loading spaces from 1 space to 0 spaces, in Subarea A;

b) permit an increase in building height from 60 feet to 70 feet; a reduction in required parking spaces from 154 to 127 spaces, with shared use of 12 adjacent spaces in Subarea C; a reduction in required loading spaces from 1 to 0 spaces; an increase in building height from 35 feet to 70 feet, an increase in lot coverage from 60 percent to 74 percent, a reduction in front setback from 50 feet to 15 feet along West 5th Avenue, a reduction in side yards from 20 feet to 6 feet and 14 feet along the eastern and western property lines, respectively, and a reduced rear yard from 50 feet to 9 feet, in Subarea B;

c) permit ground floor residential uses in a mixed-use building and an apartment building in the C-4, Commercial District; an increase in building height from 60 feet to 70 feet; a reduction in parking lot shade trees from 2 to 0, with 1 tree being provided along the perimeter of the parking lot; a reduction in required parking spaces from 654 to 486 spaces, with non-accessory parking permitted in the 468-space garage; a reduction in required loading spaces from 1 to 0 spaces; no screening provided along the south and southwestern property lines adjacent to Subareas D and E; and reduced building lines along West 5th Avenue from 50 feet to 15 feet and along Perry Street from 25 feet to 5 feet, in Subarea C;

d) permit a reduction in required parking spaces from 30 to 26 spaces for Building #5, with 4 spaces being provided on Subarea C; reduced building line along Perry Street from 25 feet to 4 feet; and a reduced perimeter yard from 24 feet to 0 feet along the northern property line, 2.5 feet along the western property line, and 7 feet along the southern property line, in Subarea D;

- e) permit a private driveway to be the sole use of a lot in the AR-1, Apartment Residential District, in subarea D-1;
- f) permit 26 detached single-unit dwellings on one lot in the R-3, Residential District; with an increased building height from 35 feet to 40 feet; reduced lot width from 50 feet to 0 feet, as no individual lots are provided; reduced lot area from 5,000 square feet to 0 square feet, as no individual lot are provided; no frontage on a public street for the western 13 single-unit dwellings; reduced building line along Perry Street from 25 feet to 13 feet; reduced rear yard from 25 percent to 0 percent, as no individual lots are provided; and an increase in garage height from 15 feet to 20 feet, in Subarea E;
- g) permit a privately owned park in the R, Rural District; and a reduced lot area from 5 acres to 4.2 acres, in Subarea F;
- h) permit 16 detached single-unit dwellings on one lot in the R-3, Residential District; an increased building height from 35 feet to 40 feet; reduced vision clearance triangles at the southwest corner of West 5th Avenue and an unnamed alley from 10 feet to 7 feet and at the southeast corner of West 5th Avenue and Perry Street from 30 feet to 5 feet; reduced lot width from 50 feet to 0 feet, as no individual lots are provided; reduced lot area from 5,000 square feet to 0 square feet, as no individual lots are provided; increase in lot coverage from 50 percent to 54 percent; reduced building lines along West Fifth Avenue from 16 feet to 10 feet and Perry Street from 10 feet to 2 feet; reduced maximum side yard from 16 feet to 4 feet; reduced minimum side yards from 5 feet to 2 feet along the eastern and western property lines; reduced rear yard from 24 percent to 0 percent, as no individual lots are provided; and an increase in garage height from 15 feet to 20 feet; in Subarea G;

Said property being more particularly described as follows:

531 W. 5TH AVE. (43201), being 19.38± acres located primarily at the southeast and southwest corners of West Fifth Avenue and Perry Street, and being more particularly described as follows:

(SEE ATTACHMENT FILED ORD1941-2021_LEGAL_DESCRIPTION)

SECTION 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for mixed-use development as demonstrated with the submitted site plan, or those uses permitted in the C-4, Commercial District, AR-1, Apartment Residential District, I, Institutional District, R-3, Residential District, or R, Rural District.

SECTION 3. That this ordinance is further conditioned on the subject site being developed in general conformance with the plans titled, "**ZONING VARIANCE SITE PLAN; SHEETS 1-4**," all dated June 24, 2021, and signed by David B. Perry, Agent for the Applicant and Joseph M. Reidy Attorney for the Applicant. 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 adjustment to the plans shall be reviewed and may be approved by the Director of the Department of Building and Zoning Services, or a designee, upon submission of the appropriate data regarding the proposed adjustment.

SECTION 4. That this ordinance is further conditioned on the applicant obtaining all applicable permits and Certificates of Occupancy for the proposed uses.

SECTION 5. That this ordinance is further conditioned upon the following commitments as requested by the Department of Public Service, Traffic Management Division:

1. At the western site access point to West 5th Avenue for the hotel site (Subarea A), a westbound left turn lane with a minimum length of 110 feet (includes diverging taper) shall be provided.
2. The eastern site access point to West 5th Avenue for the hotel site (Subarea A) shall be limited to only right-in and right-out turning movements.
3. At the signalized site access point to West 5th Avenue, the property owner or New Community Authority shall enter

into a traffic control devices contract with the City of Columbus.

4. At the intersection of West 5th Avenue & Perry Street, a northbound left turn lane with a minimum length of 110 feet (includes diverging taper) shall be provided.

5. At the intersection of West 3rd Avenue & Perry Street, an eastbound left turn lane with a minimum length of 110 feet (includes diverging taper) shall be provided.

6. At the intersection of West 3rd Avenue & Perry Street, a northbound left turn lane with a minimum length of 110 feet (includes diverging taper) shall be provided.

7. At the intersection of West 3rd Avenue & Perry Street, a southbound left turn lane with a minimum length of 110 feet (includes diverging taper) shall be provided

SECTION 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.