



Legislation Text

File #: 1898-2021, **Version:** 2

Council Variance Application: CV20-072

APPLICANT: 5CL Properties, LLC; c/o Dave Perry, Agent; David Perry Company, Inc.; 411 East Town Street, 1st Floor; Columbus, OH 43215; and Donald Plank, Atty.; Plank Law Firm; 411 East Town Street, 2nd Floor; Columbus, OH 43215.

PROPOSED USE: Mixed-use development.

MILO-GROGAN AREA COMMISSION RECOMMENDATION: Approval.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The applicant has received a recommendation of approval from Staff and the Development Commission for a concurrent rezoning (Ordinance #1897-2021; Z20-065) to the AR-3, Apartment Residential, and CPD, Commercial Planned Development districts to allow multi-unit residential development and a parking lot. The requested Council variance will permit mixed-use development with a maximum of 90 apartment units (115.4 du/AC), and a ground floor commercial space with up to 3,600 square feet and 274 square feet of seasonal patio space. Variances are requested to permit the commercial use, increased lot coverage, and to reduce the parking setback line, the minimum numbers of parking spaces from 185 to 118, vision clearance, landscaping, and building lines. Staff finds the requested variances to be supportable as they are consistent with recent similar urban in-fill residential developments, and will allow a development that meets the intent of the Urban Commercial Overlay, as recommended by the *Milo-Grogan Area Plan* (2007) and *Columbus Citywide Planning Policies* (C2P2) Design Guidelines.

To grant a Variance from the provisions of Sections 3333.03, AR-3 apartment residential district use; 3312.21(A), Landscaping and screening; 3312.27(3), Parking setback line; 3312.49, Minimum numbers of parking spaces required; 3321.05(A)(1)(B)(2), Vision clearance; 3321.07(B), Landscaping; 3333.15(C), Basis of computing area; and 3333.18, Building lines, of the Columbus City Codes; for the property located at **986 CLEVELAND AVE. (43201)**, to permit a mixed-use development with reduced development standards in the AR-3, Apartment Residential District (Council Variance #CV20-072). **(AMENDED BY ORD. 2378-2022 PASSED 09/12/2022)**

WHEREAS, by application #CV20-072, the owner of property at **986 CLEVELAND AVE. (43201)**, is requesting a Council variance to permit a mixed-use development with reduced development standards in the AR-3, Apartment Residential District; and

WHEREAS, Section 3333.03, AR-3 apartment residential district use, does not permit ground level commercial uses, while the applicant proposes a maximum of 3,600 square feet of ground level commercial use, including retail, office and/or eating and drinking use(s) and 274 square feet of outside seasonal patio space; and

WHEREAS, Section 3312.21(A), Landscaping and screening, requires the interior of any parking lot containing 10 or more parking spaces to provide one deciduous shade tree per 10 spaces within islands or peninsulas, with 4 trees being required for 31 spaces, while the applicant proposes 1 tree, subject to street trees being provided, as shown on the site plan; and

WHEREAS, Section 3312.27(3), Parking setback line, requires the parking setback line to be ten feet, while the applicant proposes a setback of 2 feet along East Gibbard Avenue; and

WHEREAS, Section 3312.49, Minimum numbers of parking spaces required, requires 185 parking spaces for 90 apartment units, 3,600 square feet of eating and drinking establishment space, and 274 square feet of eating and drinking establishment patio space, while the applicant proposes 118 parking spaces with 72 spaces provided onsite and the remaining 46 parking spaces provided in the adjacent CPD, Commercial Planned Development District which is limited to parking for this development (see ORD #1897-2021, Z20-065); and

WHEREAS, Section 3321.05(A)(1), Vision clearance, requires clear vision triangles of 10 feet at the intersection of a driveway and parking lot, while the applicant proposes intermittent partial obstruction of the 10 feet x 10 feet clear vision triangle at the intersection of East Gibbard Avenue and the east side of the site driveway when a vehicle is present, and intermittent partial obstruction of the 10 feet x 10 feet clear vision triangle at the west side of the intersection of East Gibbard Avenue and the unnamed 20 foot wide alley abutting the east side of the site when a vehicle is present;

WHEREAS, Section 3321.05(B)(2), Vision clearance, requires clear vision triangles of 30 feet at street intersections, while the applicant proposes to reduce the 30-foot clear vision triangles at the intersections of Cleveland Avenue and East Gibbard Avenue and Cleveland Avenue and East 3rd Avenue to 9.5 feet x 9.5 feet and 8 feet by 8 feet, respectively; and

WHEREAS, Section 3321.07(B), Landscaping, requires one tree per ten residential units, a requirement of 9 trees for 90 dwelling units, while the applicant proposes zero trees, subject to street trees being provided, as shown on the site plan; and

WHEREAS, Section 3333.15(C), Basis of computing area, limits buildings from occupying more than 50 percent of the lot area, while the applicant proposes an increased maximum lot coverage of 60 percent; and

WHEREAS, Section 3333.18, Building lines, requires a building line of 50 feet along Cleveland Avenue, 18 feet along East Gibbard Avenue, and 15 feet along East 3rd Avenue, while the applicant proposes building lines of 1 foot along Cleveland Avenue and East Gibbard Avenue and 4 feet along East Third Avenue, with the Cleveland Avenue building setback line being net of four feet of right of way conveyance to City of Columbus in conjunction with the Site Compliance Plan; and

WHEREAS, the Milo-Grogan Area Commission recommends approval; and

WHEREAS, the City Departments recommend approval because the requested variances will allow a residential development that is consistent with other recent similar urban in-fill residential developments and will allow a development that meets the intent of the Urban Commercial Overlay, as recommended by the *Milo-Grogan Area Plan* and C2P2 Design Guidelines; and

WHEREAS, said 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 **986 CLEVELAND AVE. (43201)**, in using said property as desired;

WHEREAS, an emergency exists in the usual daily operation in the City of Columbus in that it is immediately necessary to pass this ordinance 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 a variance from the provisions of Sections 3333.03, AR-3 apartment residential district use; 3312.21 (A), Landscaping and screening; 3312.27(3), Parking setback line; 3312.49, Minimum numbers of parking spaces required; 3321.05(A)(1)(B)(2), Vision clearance; 3321.07(B), Landscaping; 3333.15(C), Basis of computing area; and 3333.18, Building lines, of the Columbus City Codes, is hereby granted for the property located at **986 CLEVELAND AVE. (43201)**, insofar as said sections prohibit a maximum of 3,600 square feet of ground level retail, office and/or eating and drinking establishment space and a 274 square feet outside seasonal patio, with reduced parking lot shade trees from 10 to 1; a reduced parking setback line from 10 feet to 2 feet; a parking space reduction from 118 spaces to 72 spaces onsite and the remaining 46 parking spaces provided in the adjacent CPD district subject to Ordinance #1897-2021 (Z20-065); reduced vision clearance triangles from 10 feet by 10 feet at the intersection of the driveway to Gibbard Avenue to permit partial obstruction when a vehicle is parked as shown on the site plan; reduced vision clearance triangles from 30 feet by 30 feet at the intersections of Cleveland Avenue with Gibbard Avenue and East 3rd Avenue to 9.5 feet x 9.5 feet and 8 feet by 8 feet, respectively; reduced residential unit trees from 9 trees for 90 dwelling units to zero trees, subject to 8 street trees being provided as shown on the site plan; increased maximum lot coverage from 50 percent to 60 percent; and reduced building lines from 50 feet to 1 foot along Cleveland Avenue, from 18 feet to 1 foot along East Gibbard Avenue, and from 15 feet to 4 feet along East 3rd Avenue, with the Cleveland Avenue building setback line being net of four feet of right of way conveyance to city of Columbus in conjunction with the Site Compliance Plan; said property being more particularly described as follows:

986 CLEVELAND AVE. (43201), being 0.78± acres located at the northeast corner of Cleveland Avenue and Gibbard Avenue, and being more particularly described as follows:

Situated in the State of Ohio, County of Franklin, City of Columbus, being located in Section 4, Township 5, Range 22, Refugee Lands, being all of Lots 4 - 10, inclusive, of Woolley's 2nd Addition, recorded in Plat Book 4, Page 190, said Lots 4 and 5 being described in a deed to 958 Cleveland Avenue LLC, of record in Instrument Number 201909190122154, said Lot 6 being described in a deed to HL PROPERTY INVESTMENTS, LLC, of record in Instrument Number 201912120167266, said Lot 7 being described in a deed to 97268 C Ave LLC, of record in Instrument Number 201612020164569, said Lot 8 being described in a deed to 97268 C Ave LLC, of record in Instrument Number 201612020164568, said Lot 9 being described in a deed to City of Columbus, of record in Instrument Number 201407150089623, said Lot 10 being described in a deed to 986 Cleveland LLC, of record in Instrument Number 202004160050640, all records referenced herein are on file at the Office of the Recorder for Franklin County, Ohio, and being further bounded and described as follows:

BEGINNING at the intersection of the existing east right-of-way line for Cleveland Avenue and the existing south right-of-way line for Gibbard Avenue, being the northwest corner of said Lot 10;

Thence South 86 degrees 26 minutes 38 seconds East, along the existing south right-of-way line for Gibbard Avenue and along the north line of said Lot 10, a distance of 129.20 feet to the intersection the existing south right-of-way line for Gibbard Avenue and the existing west right-of-way line for a 20-foot wide public alley, being the northeast corner of said Lot 10;

Thence South 03 degrees 33 minutes 29 seconds West, along the existing west right-of-way line for said 20-foot wide public alley and along the east line of said Lots 10, 9, 8, 7, 6, 5 and 4, a distance of 260.94 feet to the intersection of the existing west right-of-way line for said 20-foot public alley and the existing north right-of-way line for Third Avenue, being the southeast corner of said Lot 4;

Thence North 86 degrees 28 minutes 22 seconds West, along the existing north right-of-way line for Third Avenue and

along the south line of said Lot 4, a distance of 130.00 feet to the intersection of the existing north right-of-way line for Third Avenue and the existing east right-of-way line for Cleveland Avenue, being the southwest corner of said Lot 4;

Thence North 03 degrees 44 minutes 04 seconds East, along the existing east right-of-way line for Cleveland Avenue and along the west line of said Lots 4, 5, 6, 7, 8, 9 and 10, a distance of 261.01 feet to the POINT OF BEGINNING for this description.

The above description contains a total area of 0.776 acres, of which:

0.111 acres is located within Franklin County Auditor's parcel number 010-008009,

0.111 acres is located within Franklin County Auditor's parcel number 010-049444,

0.111 acres is located within Franklin County Auditor's parcel number 010-006550,

0.111 acres is located within Franklin County Auditor's parcel number 010-011457,

0.111 acres is located within Franklin County Auditor's parcel number 010-046659,

0.221 acres is located within Franklin County Auditor's parcel number 010-019972.

Bearings described herein are based on the bearing of North 03 degrees 44 minutes 04 seconds East for the centerline of right-of-way for Cleveland Avenue, as measured from Grid North, referenced to the Ohio State Plane Coordinate System (South Zone) and the North American Datum of 1983 (2011 Adjustment), as established utilizing a GPS survey and an NGS OPUS solution.

SECTION 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for a mixed-use development containing up to 90 apartment units and approximately 3,600 square feet of retail, office, or eating and drinking establishment space and 274 square feet of outdoor seasonal patio space, or those uses permitted in the AR-3, Apartment Residential District.

SECTION 3. That this ordinance is further conditioned on the subject site being developed in general conformance with the site plan titled, "**ZONING SITE PLAN FOR THE CLEVELAND,**" dated June 11, 2021, and signed by David B. Perry, Agent for Applicant, and Donald Plank, Attorney for Applicant. The 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 plan shall be subject to review and approval by the Director of the Department 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 a Certificates of Occupancy for the proposed uses.

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