



# City of Columbus

Office of City Clerk  
90 West Broad Street  
Columbus OH 43215-9015  
columbuscitycouncil.org

## Legislation Text

---

**File #:** 1296-2016, **Version:** 2

---

**Council Variance Application: CV16-022**

**APPLICANT:** Tamie and Bryan Wallake; 6168 Dietz Drive; Canal Winchester, OH 43110.

**PROPOSED USE:** Eating and drinking establishment.

**GREATER SOUTH EAST AREA COMMISSION RECOMMENDATION:** Approval.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site is developed with two child daycare facilities and a recently constructed unoccupied building zoned in the C-2, Commercial District. The applicant proposes an eating and drinking establishment in the new building. A variance is necessary because the C-2, Commercial District does not permit eating and drinking establishments. The site is located within the planning area of the *Southeast Area Plan* (2000), which recommends residential uses for this location. Staff supports deviation from the Plan noting that the property is already zoned for commercial uses, that the eating and drinking establishment will be limited to the eastern most building on the property, and that conditions have been added to the request to mitigate potential negative impacts on adjacent residential uses. Staff recognizes that a hardship exists because the applicants were not made aware that an eating and drinking establishment is not permitted in the existing C-2, Commercial District during predesign meetings on this property.

To grant a variance from the provisions of Section 3353.03, Permitted uses, of the Columbus City Codes; for the property located at **5600 GENDER ROAD (43110)**, to permit an eating and drinking establishment in the C-2, Commercial District (Council Variance # CV16-022) **and to declare an emergency.**

**WHEREAS**, by application No. CV16-022, the owner of property at **5600 GENDER ROAD (43110)**, is requesting a Council variance to permit a 4,800± square foot eating and drinking establishment in the C-2, Commercial District; and

**WHEREAS**, Section 3353.03, Permitted uses, does not permit eating and drinking establishments, while the applicant proposes an eating and drinking establishment with a maximum square footage of 4,800± square feet within a newly-constructed building; and

**WHEREAS**, The Greater South East Area Commission recommends approval; and

**WHEREAS**, City Departments recommend approval because the requested variance to permit an eating and drinking establishment includes conditions to mitigate potential negative impacts on adjacent residential uses. Deviation from the *Southeast Area Plan* is supported given that the property is already zoned for commercial uses, and the eating and drinking establishment will be limited to the eastern most building; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and a 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 owner of the property located at **5600 GENDER ROAD (43110)**, 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 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 a variance from the provisions of Section 3353.03, C-2, Commercial District of the Columbus City Codes; is hereby granted for the property located at **5600 GENDER ROAD (43110)**, insofar as said section prohibits an eating and drinking establishment in the C-2, Commercial District; said property being more particularly described as follows:

**5600 GENDER ROAD (43110)**, being 2.00± acres located on the east side of Gender Road, 264± feet north of Winchester Lakes Boulevard, and being more particularly described as follows:

Situated in the County of Franklin, in the State of Ohio and in the Township of Madison:

Beginning at a point in the East line of Gender Road which is south 1190.73 feet from the intersection of the East line of Gender Road and the centerline of Lehman Road; thence North 89 degrees 40 minutes 30 seconds East 68.37 feet from a R.R. spike set at the intersection of centerlines of Lehman Road and Gender Road; thence South 0 degrees 58 minutes West 200.02 feet to a point; thence North 89 degrees 49 minutes 30 seconds East 435.60 feet to a point; thence north 0 degrees 58 minutes East 200.02 feet to a point; then South 89 degrees 40 minutes 30 seconds West 435.60 feet to the place of beginning, containing 2.00 acres more or less. Subject to all legal rights of way of record.

Known as 5600 Gender Road, Columbus, OH 43110.  
Franklin County Parcel No. 490-169286.

**SECTION 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for a 4,800± square foot eating and drinking establishment, or those uses permitted in the C-2, Commercial District.

**SECTION 3.** That this ordinance is further conditioned on the following to mitigate potential impacts on the adjacent residential development:

1. The existing privacy fence along the north and east property lines shall be maintained.
2. Evergreen trees planted every 15 feet shall be installed within a minimum 10-foot wide planting area along the north and east setback areas adjacent to the proposed eating and drinking establishment.
3. The dumpster shall be located on the south side of the building no further east than the southeast corner of the building.
4. Outside lighting along the north, east, and south of the building is limited to downward-facing fully-shielded fixtures attached to the building.
5. The hours of operation shall be 6:00 AM - 10:00 PM on weekdays (Monday-Thursday) and 7:00 AM - 11:00 PM on weekends (Friday-Sunday).
6. The eating and drinking establishment is not permitted to have an outdoor patio.

**SECTION 4.** That this ordinance is further conditioned on 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.~~ **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.**