



Legislation Text

File #: 2700-2021, **Version:** 2

Council Variance Application: CV21-037

APPLICANT: CGV, 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: Multi-unit residential development.

ITALIAN VILLAGE 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 #2699-2021; Z21-026) to the AR-3, Apartment Residential, and AR-1, Apartment Residential districts to allow multi-unit residential development. The requested Council variance will permit the development of 261 dwelling units with 330 surface and structured parking spaces on Site 1 in the AR-3 district, and 130 dwelling units with 170 surface and structured parking spaces on Site 2 in the AR-1 district. Variances are requested to allow commercial access through the site for the adjacent Clark Grave Vault Company, and to reduce aisle width, maneuvering area, frontage, perimeter yard, and building line, and to increase building height. Staff finds the requested variances to be supportable as they are consistent with recent similar urban in-fill residential developments, and achieves a mix of uses along the East 5th Avenue corridor as recommended by the *Italian Village East Redevelopment Plan*.

To grant a Variance from the provisions of Sections 3333.02, AR-12, ARLD and AR-1, Apartment residential district use; 3333.03, AR-3 apartment residential district use; 3312.09, Aisle; 3309.14, Height districts; 3333.16, Fronting; 3333.255, Perimeter yard; and 3333.18, Building lines, of the Columbus City Codes; for the property located at **375 E. 5TH AVE. (43201)**, to permit commercial access in the AR-1, Apartment Residential District and the AR-3, Apartment Residential District, and reduced development standards for a multi-unit residential development (Council Variance #CV21-037).

WHEREAS, by application #CV21-037, the owner of property at **375 E. 5TH AVE. (43201)**, is requesting a Council variance to permit commercial access in the AR-1, Apartment Residential District and the AR-3, Apartment Residential District, and reduced development standards for a multi-unit residential development; and

WHEREAS, Section 3333.02, AR-12, ARLD and AR-1, Apartment residential district use, does not permit non-residential use of the private streets, while the applicant proposes to permit commercial access for the adjacent industrial development to the south and east of the site; and

WHEREAS, Section 3333.03, AR-3 apartment residential district use, does not permit non-residential use of the private streets, while the applicant proposes to permit commercial access for the adjacent industrial development to the south and east of the site; and

WHEREAS, Section 3312.09, Aisle, requires a 20-foot wide aisle, while the applicant proposes 8 feet of maneuvering for an aisle parallel to the south property line on Site 1, subject to an easement on the adjacent parcel to the south to provide a total aisle width of 20 feet; 18 feet of maneuvering for an aisle parallel to the north property line of Site 2,

subject to an easement on the adjacent parcel to the north (Site 1) to provide a total aisle width of 20 feet; and 10 feet of maneuvering for an aisle parallel to the south property line of Site 2, subject to an easement on the adjacent parcel to the south to provide a total aisle width of 20 feet; and

WHEREAS, Section 3309.14, Height districts, requires that within a 60 foot height district, no building or structure shall be erected to a height in excess of 60 feet, while the applicant proposes a 63 foot high building on Site 1; and

WHEREAS, Section 3333.16, Fronting, requires each dwelling unit to have frontage on a public street, while the applicant proposes an apartment complex on Site 2 without frontage on a public street; and

WHEREAS, Section 3333.255, Perimeter yard, requires a perimeter yard of 25 feet, while the applicant proposes a reduced perimeter yard of 0-12 feet for building and pavement setbacks on Site 1, and 0-4 feet for building and pavement setbacks and dumpster location(s) on Site 2, as depicted on the site plan; and

WHEREAS, Section 3333.18, Building lines, requires a building line of 25 feet along East 5th Avenue, while the applicant proposes a building line of 17 feet from the current right-of-way, as depicted on the site plan, and if right-of-way is required to be dedicated along East 5th Avenue, the building setback may be further reduced to 7 feet or as resulting from right-of-way conveyance; and

WHEREAS, the Italian Village Commission recommends approval; and

WHEREAS, the City Departments recommend approval because the requested variances will allow a multi-residential development that is consistent with other recent similar urban in-fill residential developments and achieves a mix of uses along the East 5th Avenue corridor as recommended by the *Italian Village East Redevelopment Plan*; 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 **375 E. 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 3333.02, AR-12, ARLD and AR-1, Apartment residential district use; 3333.03, AR-3 apartment residential district use; 3312.09, Aisle; 3309.14, Height districts; 3333.16, Fronting; 3333.255, Perimeter yard; and 3333.18, Building lines, of the Columbus City Codes, is hereby granted for the property located at **375 E. 5TH AVE. (43201)**, insofar as said sections prohibit commercial access to the adjacent industrial development; reduced aisle width from 20 feet to 8 feet on Site 1, and to 18 feet and 10 feet on Site 2, subject to a total of 20 feet being provided via easements on adjacent parcels; increased building height on Site 1 from 60 feet to 63 feet; no frontage on a public street on Site 2; reduced perimeter yard from 25 feet to 0-12 feet on Site 1, and 0-4 feet on Site 2; and a reduced building line from 25 feet to 17 feet, which may be further reduced for any required right-of-way conveyance associated with this project; said property being more particularly described as follows:

375 E. 5TH AVE. (43201), being 8.26± acres located on the south side of East 5th Avenue, south of the terminus of North Grant Avenue, and being more particularly described as follows:

Site 1: AR-3, Apartment Residential District, 3.99 acres:

Situated in the State of Ohio, County of Franklin, in the City of Columbus, and being in Half/Fractional Section 4, Township 5, Range 22, Refugee Lands, and being part of Lot 1 of the Partition made in the case of Robert S. Neil, et al. vs. Franklin J. Dickman, et al., in the Court of Common Pleas, Franklin County, Ohio, Case #28090, as numbered and delineated upon the recorded plat thereof, of record in Complete Record 153, Page 440 and recorded in Plat Book 20, Page 27, as conveyed to Clark Grave Vault Company in Deed Book 1003, Page 85, also being the remainder of a 2.159 acre tract designated "First Parcel" as conveyed to Clark Grave Vault Company in Deed Book 633, Page 65, all records being of record in the Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

COMMENCING from a ¾" hollow iron pipe found, being the southwesterly corner of a 2.80 acre tract as conveyed to Omni Management Group LTD in Instrument Number 199812180327622, also being the intersection of the easterly right-of-way line of East Alley (12') and the northerly right-of-way line of the first 12-foot, east-west alley south of East Fourth Avenue, all as delineated in Rickly & Grahams Addition of record in Plat Book 2, Page 158, also being the southeasterly corner of Lot 11 of said Plat Book 2, Page 158, as conveyed to New Victorians 5 LLC in Instrument Number 201711140160096 and being the northwesterly corner of the remainder of Lot 2 of said Complete Record 153, Page 440 and recorded in Plat Book 20, Page 27, as conveyed to Clark Grave Vault Company in Deed Book 1003, Page 85;

Thence along the southerly line of said 2.80 acre tract, along the northerly line of the remainder of said Lot 2, South 86° 38'21" East, 208.12 feet to the southeasterly corner of said 2.80 acre tract;
Thence along the easterly line of said 2.80 acre tract and the westerly line of the remainder of said Lot 2, North 03°31'27" East, 171.03 feet to a mag nail set, being on the southerly line of said Lot 1 and the northerly line of said Lot 2, said mag nail set being the POINT OF TRUE BEGINNING, for the parcel herein described:

Thence along the easterly line of said 2.80 acre tract and along the westerly line of the remainder of said Lot 1, North 03° 31'27" East, 413.27 feet to an iron pin set, being the northeasterly corner of said 2.80 acre tract, being the northwesterly corner of the remainder of said Lot 1, and being on the southerly line of a 0.435 acre tract designated 3-WD, as conveyed to the City of Columbus, Ohio in Instrument Number 201203160036484, also being the southerly right-of-way line of East Fifth Avenue (Varies);

Thence along the northerly line of the remainder of said Lot 1 and along the southerly line of said 3-WD and said East Fifth Avenue right-of-way, South 86°38'21" East, 201.71 feet to a mag nail found;

Thence along a westerly line of said 3-WD and said East Fifth Avenue right-of-way, along an easterly line of the remainder of said Lot 1, South 03°31'53" West, 3.88 feet to a mag nail found;

Thence along the northerly line of the remainder of said Lot 1, along the northerly line of said 2.159 acre tract, and along the southerly line of said 3-WD and said East Fifth Avenue right-of-way, South 86°26'03" East, 198.82 feet to an iron pin set, being the southeasterly corner of said 3-WD, being the northeasterly corner of said 2.159 acre tract, and being on the westerly line of a 6.7485 acre tract as conveyed to New York Central Lines LLC as described in Instrument Number 200212180325201, now known as CSX Transportation Inc., successor by merger of record in Instrument Number 200507210144733 and Instrument Number 200711080194030 (as originally conveyed to Cleveland, Columbus, and Cincinnati Rail Road Company as described in Deed Book 51, Page 185 and Deed Book 51, Page 96);

Thence along the easterly line of said 2.159 acre tract and along the westerly line of said rail-road right-of-way, South 02° 45'35" East, 411.03 feet to an iron pin set, being the southeasterly corner of said 2.159 acre tract and being the northeasterly corner of a 0.85 acre tract designated "Second Parcel" as conveyed to Clark Grave Vault Company in Deed Book 633, Page 65;

Thence along the southerly lines of said 2.159 acre tract and said Lot 1, along the northerly line of said Lot 2 and said 0.85 acre tract, North 86°38'15" West, 445.52 feet to a mag nail set, said mag nail being on the easterly line of said 2.80

acre tract, also being the southwesterly corner of the remainder of said Lot 1 and the northwesterly corner of the remainder of said Lot 2, said mag nail set being the POINT OF TRUE BEGINNING, containing 3.992 acres (173,878 S.F.), more or less;

The above described parcel contains 3.992 acres, being 3.992 acres out of PID 010-022758, of which 0.000 acres are in the Present Road Occupied (P.R.O.).

Subject however to all legal easements, restrictions, and rights of way of record and of records in the respective utility offices.

All monuments found are in good condition unless otherwise noted.

Bearings referenced herein are based on the centerline of right-of-way of East Fifth Avenue as being South 86°38'21" East as determined from field traverse which was referenced to the Ohio State Plane Coordinate System, South Zone, NAD83 (CORS96) by GPS observations and observations of selected stations in the Ohio Department of Transportation Virtual Reference Station Network.

This description was prepared by Matthew Lee Sloat, Ohio Registered Professional Surveyor 8342, of E.P. Ferris and Associates, Inc. on March 8, 2021 and is based on field surveys conducted by E.P. Ferris & Associates, Inc. from July 2020 through August 2020 under the direct supervision of Matthew Lee Sloat, Ohio Registered Professional Surveyor 8342. Iron pins set are 5/8" rebar, 30" in length with a yellow plastic cap with "EP FERRIS SURVEYOR 8342" inscribed on top. Mag nails set are magnetic nails with a 1.5" diameter brass washer with "EP FERRIS SURVEYOR 8342" inscribed on top.

Site 2: AR-1, Apartment Residential District, 4.27 acres:

Situated in the State of Ohio, County of Franklin, in the City of Columbus, and being in Section 4, Township 5, Range 22, Refugee Lands, and being part of Lot 2, Lot 3, and Lot 4 of the Partition made in the case of Robert S. Neil, et al. vs. Franklin J. Dickman, et al., in the Court of Common Pleas, Franklin County, Ohio, Case #28090, as numbered and delineated upon the recorded plat thereof, of record in Complete Record 153, Page 440, as conveyed to Clark Grave Vault Company in Deed Book 1003, Page 85 (Remainder of Lot 2), as conveyed to Clark Grave Vault Company in Deed Book 1131, Page 318 (Lot 3), also being part of a 1.038 acre tract as conveyed to Clark Grave Vault Company in Deed Book 1207, Page 194, also being part of a 0.85 acre tract as conveyed to Clark Grave Vault Company in Deed Book 633, Page 65, all records being of record in the Recorder's Office, Franklin County, Ohio, and being more particularly described as follows:

BEGINNING from a ¾" hollow iron pipe found, being the southwesterly corner of a 2.80 acre tract as conveyed to Omni Management Group LTD in Instrument Number 199812180327622, also being the intersection of the easterly right-of-way line of East Alley (12') and the northerly right-of-way line of the first 12-foot, east-west alley south of East Fourth Avenue, all as delineated in Rickly & Grahams Addition of record in Plat Book 2, Page 158, also being the southeasterly corner of Lot 11 of said Plat Book 2, Page 158, as conveyed to New Victorians 5 LLC in Instrument Number 201711140160096 and being the northwesterly corner of the remainder of said Lot 2;

Thence along the southerly line of said 2.80 acre tract, along the northerly line of the remainder of said Lot 2, South 86° 38'21" East, 208.00 feet to ¾" hollow iron pipe found, being the southeasterly corner of said 2.80 acre tract;

Thence along the easterly line of said 2.80 acre tract and the westerly line of the remainder of said Lot 2, North 03°32'11" East, 171.03 feet to a mag nail set, being on the southerly line of Lot 1 of said Complete Record 153, Page 440 and recorded in Plat Book 20, Page 27, also being the southwesterly corner of a 3.992 acre tract as conveyed to CGV, LLC in Instrument Number 202104270074098;

Thence along the southerly line of said Lot 1 and said 3.992 acre tract and the northerly line of said Lot 2 and said 0.85

acre tract, South 86°38'15" East, 376.76 feet to a mag nail set;

Thence across said 0.85 acre tract, the following three (3) courses:

South 03°31'37" West, 22.99 feet to a mag nail set;

North 86°28'33" West, 142.08 feet to an iron pin set;

South 03°31'27" West, 24.54 feet to an iron pin set;

Thence across said 0.85 acre tract and the remainder of said Lot 2, North 86°28'33" West, 183.41 feet to an iron pin set;

Thence across said Lot 2, the following eight (8) courses:

South 03°31'27" West, 95.51 feet to an iron pin set;

South 12°59'12" West, 18.25 feet to a mag nail set;

South 03°31'27" West, 22.76 feet to a mag nail set;

North 81°19'17" East, 13.04 feet to a mag nail set;

South 08°40'43" East, 36.27 feet to a mag nail set;

South 81°19'17" West, 20.89 feet to an iron pin set;

South 03°31'27" West, 100.71 feet to an iron pin set;

South 86°38'59" East, 35.19 feet to an iron pin set;

Thence continuing across said Lot 2 and across said Lot 3, South 03°07'22" West, 380.61 feet to an iron pin set;

Thence continuing across said Lot 3, South 86°38'15" East, 88.36 feet to a mag nail set;

Thence continuing across said Lot 3, across said Lot 4, and across said 1.038 acre tract, South 03°18'52" West, 62.36 feet to a mag nail set, being on a southerly line of said 1.038 acre tract, also being on the northerly line of a 4.228 acre tract as conveyed to Station 324, LLC in Instrument Number 201805040059758;

Thence continuing across said Lot 4, along the southerly line of said 1.038 acre tract, and along the northerly line of said 4.228 acre tract, North 86°39'21" West, 83.55 feet to a mag nail found;

Thence continuing across said Lot 4, along the westerly line of said 1.038 acre tract and along an easterly line of said 4.228 acre tract, North 03°21'05" East, 30.09 feet to mag nail found, being on the northerly line of said Lot 4 and being on the southerly line of said Lot 3, being a northerly corner of said 4.228 acre tract and being on the northwesterly corner of said 1.038 acre tract;

Thence along the northerly line of said Lot 4 and said 4.228 acre tract and along the southerly line of said Lot 3, North 86°46'20" West, 299.23 feet to the southwest corner of said Lot 3, being the northwesterly corner of said Lot 4 and said 4.228 acre tract, being on the easterly terminus of right-of-way of Third Avenue (60'), as delineated said Plat Book 2, Page 158, referencing a 5/8" rebar found at 0.3 feet West, 0.6 feet North;

Thence along the westerly line of said Lot 3 and said Lot 4, along the easterly right-of-way line of East Alley (12') as delineated in said Plat Book 2, Page 158, North 03°32'11" East, 563.26 feet to the POINT OF TRUE BEGINNING, containing 4.269 acres (185,977 S.F.), more or less;

The above described parcel contains 4.269 acres out of PID 010-036576, of which 0.000 acres are in the Present Road Occupied (P.R.O.).

Subject however to all legal easements, restrictions, and rights of way of record and of records in the respective utility offices.

All monuments found are in good condition unless otherwise noted.

Bearings referenced herein are based on the centerline of right-of-way of East Fifth Avenue as being South 86°38'21"

East as determined from field traverse which was referenced to the Ohio State Plane Coordinate System, South Zone, NAD83 (CORS96) by GPS observations and observations of selected stations in the Ohio Department of Transportation Virtual Reference Station Network.

This description was prepared by Matthew Lee Sloat, Ohio Registered Professional Surveyor 8342, of E.P. Ferris and Associates, Inc. on July 27, 2021 and is based on field surveys conducted by E.P. Ferris & Associates, Inc. from July 2020 through April 2021 under the direct supervision of Matthew Lee Sloat, Ohio Registered Professional Surveyor 8342. Iron pins set are 5/8" rebar, 30" in length with a yellow plastic cap with "EP FERRIS SURVEYOR 8342" inscribed on top. Mag nails set are magnetic nails with a 1.5" diameter brass washer with "EP FERRIS SURVEYOR 8342" inscribed on top.

SECTION 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for commercial access through the site by the adjacent industrial development, or those uses permitted in the AR-1, Apartment Residential and AR-3, Apartment Residential districts.

SECTION 3. That this ordinance is further conditioned on the subject site being developed in general conformance with the site plans titled, "LUSSO SITE 1" and "LUSSO SITE 2," both dated November 9, 2021, and signed by David B. Perry, Agent for Applicant, and Donald Plank, Attorney for 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 adjustments to the plans 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. The approved "Clark Grave Vault Traffic Impact Study" (July 6, 2021), was a Traffic Impact Study (TIS) ("Study") for zoning applications Z21-026 and CV21-037, addressed as 375 E. Fifth Avenue. The existing Clark Grave Vault factory site, located on PID: 010-036576, was not included in the approved Study. In the future, if there is a proposal to redevelop the Clark Grave Vault factory site (PID: 010-036576), a new TIS may be required, depending on the proposed redevelopment. If the Department of Public Service, at the sole discretion of the Department of Public Service, determines a traffic signal needs to be installed at the intersection of E. Fifth Avenue and N. Grant Avenue as a result of the TIS Study for the future redevelopment of PID: 010-036576, the owner(s) of the development as considered in zoning applications Z21-026 and CV21-037, shall participate in the cost of installation and maintenance of the traffic signal. If a traffic signal would be required to be installed at the intersection of E. Fifth Avenue and N. Grant Avenue for a reason other than the redevelopment of PID: 010-036576, the owner(s) of the development as considered in zoning applications Z21-026 and CV21-037, shall still be required to be responsible for the costs of maintenance of this traffic signal in accordance with the policies of the Department of Public Service.

SECTION 4 5. That this ordinance is further conditioned on the applicant obtaining all applicable permits and a Certificates of Occupancy for the proposed uses.

SECTION 5 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.