



City of Columbus

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

Legislation Text

File #: 0909-2010, Version: 2

APPLICANT: Walgreens; c/o Dave Perry, The David Perry Co.; 145 East Rich Street, 3rd Floor; Columbus, OH 43215 and Donald T. Plank, Atty.; 145 East Rich Street; Columbus, Ohio 43215.

PROPOSED USE: Amending the CPD site plan to reflect right-of-way changes.

DEVELOPMENT COMMISSION RECOMMENDATION: Approval (5-0) on November 12, 2009.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The Applicant's request for the CPD Commercial Planned Development District is consistent with the zoning and development patterns of the area. This rezoning maintains the commitments made in 1998 and any variances are either due to the dedication of right-of-way to the City or reaffirmations of variances from the current zoning.

To rezone **4401 CLEVELAND AVENUE (43231)**, being 2.1± acres located at the southwest corner of Cleveland Avenue and Morse Road, **From:** CPD, Commercial Planned Development District, **To:** CPD, Commercial Planned Development District. (Rezoning # Z09-024)

WHEREAS, application #Z09-024 is on file with the Building Services Division of the Department of Development requesting rezoning of 2.1± acres from the CPD, Commercial Planned Development District to the CPD, Commercial Planned Development District; and,

WHEREAS, the Development Commission recommends approval of said zoning change; and,

WHEREAS, the City of Columbus has appropriated right of way from the site along both the Morse Road and Cleveland Avenue frontages (City of Columbus, Ohio vs. LRC Morse Investors Ltd., et al., and Triple Net, LLC, et al., Case Number 07CVH-02-2616, Court of Common Pleas, Franklin County, Ohio) for the road project known as "[FRA-Morse Road Improvements-Phase 2](#)" (2137 Dr) ; and,

WHEREAS, notwithstanding the provisions of Section 3125.17, Right of Way Requirement, of the Columbus City Codes, right of way dedication shall not be required in conjunction with this rezoning application or subsequent site plan approval; and,

WHEREAS, the City Departments recommend approval because the Applicant's request for the CPD Commercial Planned Development District is consistent with the zoning and development patterns of the area. This rezoning maintains the commitments made in 1998 and any variances are either due to the dedication of right-of-way to the City or reaffirmations of variances that have been already granted; now, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the Official Zoning Map of the City of Columbus, as adopted by Ordinance No. 0179 -03, passed February 24, 2003, and as subsequently amended, is hereby revised by changing the zoning of the property as follows:

1.646 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, being part of Quarter Township 1, Township 1, Range 18, United States Military Lands, and being more particularly described as follows:

Commencing at the intersection of the centerline of Morse Road with the centerline of Cleveland Avenue;

Thence, along the centerline of said Cleveland Avenue, South 03°43'43" West, 130.00 feet to a point;

Thence, across said Cleveland Avenue, North 86°16'17" West, 40.00 feet to point in the west line of said Cleveland Avenue and **THE TRUE POINT OF BEGINNING** of this description for **ZONING PURPOSES ONLY**;

Thence, along a west line of said Cleveland Avenue, **South 03°43'43" West, 154.72 feet** to a point;

Thence, along a west line of said Cleveland Avenue, **North 86°23'52" West, 5.00 feet** to a point;

Thence, along a west line of said Cleveland Avenue, **South 03°43'43" West, 86.55 feet**;

Thence, **North 86°26'24" West, 128.60 feet** to a point;

Thence, **South 03°33'36" West, 18.00 feet** to a point;

Thence, **North 86°26'24" West, 168.40 feet** to a point;

Thence, **North 03°43'43" East, 104.77 feet** to a point;

Thence, **South 86°23'52" East, 85.00 feet** to a point;

Thence, **North 03°43'43" East, 203.38 feet** to a point in the proposed south line of said Morse Road;

Thence, along the proposed south line of said Morse Road, **South 85°06'44" East, 177.18 feet** to a point of curvature;

Thence, along the proposed south line of said Morse Road and along an arc of a curve to the right having a radius of 30.00 feet, a delta angle of 88°39'44", and arc length of 46.42 feet and a chord bearing and distance of **South 40°46'52" East, 41.93 feet** to a point;

Thence, along a west line of said Cleveland Avenue, **South 03°33'00" West, 14.70 feet** to a point;

Thence, **South 86°16'17" East, 10.37 feet** to the place of beginning of this Zoning Description **CONTAINING 1.646 ACRES**.

The foregoing description was prepared from records only and is to be used for **ZONING PURPOSES ONLY**.
(508042008)

July 22, 2009

0.456 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, being part of Quarter Township 1, Township 1, Range 18, United States Military Lands, and being more particularly described as follows:

Commencing at the intersection of the centerline of Morse Road with the centerline of Cleveland Avenue;

Thence, along the centerline of said Cleveland Avenue, South 03°43'43" West, 371.28 feet to a point;

Thence, across said Cleveland Avenue, North 86°16'17" West, 45.00 feet to a point in the west line of said Cleveland Avenue and **THE TRUE POINT OF BEGINNING** of this description for **ZONING PURPOSES ONLY**;

Thence, along the west line of said Cleveland Avenue, **South 03°43'43" West, 77.15 feet** to a point;

Thence, **North 86°23'50" West, 296.95 feet** to a point;

Thence, **North 03°43'43" East, 58.93 feet** to a point;

Thence, **South 86°26'24" East, 168.40 feet** to a point;

Thence, **North 03°33'36" East, 18.00 feet** to a point;

Thence, **South 86°26'24" East, 128.60 feet** to the place of beginning **CONTAINING 0.456 ACRES**

The foregoing description was prepared from records only and is to be used for **ZONING PURPOSES ONLY**.

To Rezone From: CPD, Commercial Planned Development District,

To: CPD, Commercial Planned Development District.

SECTION 2. That a Height District of Thirty-five (35) feet is hereby established on the CPD, Commercial Planned Development District on this property.

SECTION 3. That the Director of the Department of Building and Zoning Services be, and is hereby authorized and directed to make the said changes on the said original zoning map in the office of the Department of Building and Zoning Services and shall register a copy of the approved CPD, Commercial Planned Development District and Application among the records of the Department of Building and Zoning Services as required by Section 3311.12 of the Columbus City Codes; said plan being titled, "**ZONING CASE NUMBER Z09-024,**" and text titled, "**COMMERCIAL PLANNED DEVELOPMENT TEXT** " both signed by Donald Plank, Attorney for the Applicant, and dated April 7, 2010, and the text reading as follows:

COMMERCIAL PLANNED DEVELOPMENT TEXT

PROPOSED DISTRICT: CPD, Commercial Planned Development
PROPERTY ADDRESS: 4401 Cleveland Avenue
APPLICANT: Walgreens c/o Dave Perry, David Perry Co., Inc, 145 East Rich Street, 3rd Floor, Columbus, OH 43215 and Donald Plank, Plank Law Firm, LPA, 145 East Rich Street, 3rd Floor, Columbus, OH 43215
OWNER: LRC Morse Investors Ltd and Triple Net LLC c/o Donald Plank, Plank Law Firm, LPA, 145 East Rich Street, 3rd Floor, Columbus, OH 43215
AREA: 2.1 +/- Acres (Sub-Area A: 1.646 Acres; Sub-Area B: 0.456 Acres)
DATE OF TEXT: April 7, 2010
APPLICATION NUMBER: Z09-024

INTRODUCTION: The site was rezoned in 1998 to the CPD, Commercial Planned Development District (Z98-075) for commercial development of the site, including a retail drug store. The retail drug store portion of the site, now Sub-Area A, was conditioned upon a site plan, as part of rezoning Z98-075. By appropriation, the City of Columbus has acquired right of way on both the Morse Road and Cleveland Avenue frontages of the property for road widening and intersection improvements. The right of way acquisition has impacted compliance with the 1998 site plan by eliminating certain parking spaces, eliminating most of the Morse Road parking setback, and has necessitated the relocation of the ground sign (See Graphics Commission application 09320-00105, approved June 16, 2009). Due to the affect of the right of way appropriation, the site (Sub-Area A) is not in compliance with code required parking, the required Morse Road parking setback and other code standards, as itemized in Section F, Code Modifications, of the Sub-Area A text. Applicant is rezoning the property from CPD to CPD to condition the retail store development on a new site plan that reflects the now existing conditions of Sub-Area A and to provide modifications of code sections itemized in Section H, Code Modifications, of the Sub-Area A text, caused by the City's appropriation, so the site is compliant with zoning based this rezoning and the site plan for Sub-Area A. The plan titled "Zoning Case Number Z09-024", hereafter referred to as the Plan, dated April 7, 2010, as further referenced in Section I., Miscellaneous Commitments, is the development plan for Sub-Area A for use of Sub-Area A as a retail store and for the delineation of Sub-Area B. Because this application to rezone is due to the City's appropriation of land from the owner for right of way purposes, right of way dedication shall not be required in conjunction with this rezoning application or subsequent site

plan approval, notwithstanding the provisions of Section 3125.17, Right of Way Requirement, of the Columbus City Codes. See letter dated May 20, 2010, from Patricia A. Austin, P.E., Administrator, Division of Planning and Operations, attached as an exhibit to the ordinance for this rezoning.

SUB-AREA A

1. PERMITTED USES: Permitted uses: Those uses permitted in Chapter 3356 (C-4, Commercial) of the Columbus City Code, including a retail drugstore with a double drive-thru window, with the following exclusions: Billboards, Bowling Center, College, Cabaret, Coin Operated Laundry, Commercial radio transmitting or television station and appurtenances, Dry Cleaning and Laundry Services, Funeral parlor, Hotel, Motel, Night club, Poolroom, Private club, Parking lots and Garages.

For as long as Sub-Area A is developed with a retail drug store, motor vehicles sales, service, maintenance and/or leasing shall be prohibited on the entire site (Sub- Areas A and B, inclusive).

2. DEVELOPMENT STANDARDS: Unless otherwise indicated, the applicable development standards are contained in Chapter 3356 (C-4, Commercial) of the Columbus City Code.

A. Density, Height, Lot Coverage, and Setback Requirements:

1. Structures shall not exceed 45 feet in height.
2. Building setbacks for future development(s), other than the building shown on the submitted site plan, shall be a minimum of 70 feet from Morse Road and a minimum of 50 feet from Cleveland Avenue.
3. Parking/maneuvering setbacks shall be six (6) feet along Morse Road and zero (0) to ten (10) feet along Cleveland Avenue, as delineated on the Plan.
4. Lot coverage shall not exceed 85% for structures and paved areas.

B. Access, Loading, Parking and/or Traffic Related Commitments.

1. Major driving aisles and curb lanes shall be defined with raised-curb island dividers or medians. Raised areas shall be planted and maintained with trees and other landscaping to increase visibility of the island or divider.
2. A retail store with a maximum square footage of 16,000 square feet shall require only one loading space.

C. Buffering, Landscaping, Open space and Screening requirements:

1. All parking areas adjacent to Morse Road and Cleveland Avenue shall have the headlight screening along the street frontage, excluding access points, with a minimum height of 30 inches measured from the elevation of the nearest section of the adjacent parking area subject to the clear vision triangle at the access points. Headlight screening shall be in the form of shrubbery, earth mounding, or walls individually or in any combination thereof.
2. There shall be a six (6) foot board on board fence installed along the southern property line unless the adjacent property is controlled by the owner of the Property; then the fence may be eliminated.
3. One tree shall be planted for every 40 feet of frontage, excluding access points. Trees may be grouped or spaced.
4. One tree shall be planted for every 10 parking spaces, including for parking lots with less than sixty (60) parking spaces. Trees shall be planted in islands or medians at least 5 feet wide.
5. Minimum deciduous tree diameter shall be 2 ½ inches. Evergreens shall be at least 5 feet high. Ornamental trees shall be at least 1 inch in diameter.
6. All trees and landscaping shall be well maintained. Dead items shall be replaced within 6 months.

D. Building design and/or Interior-Exterior treatment commitments:

Building materials shall be brick, synthetic plaster, glass, aluminum fascia and trim, individually or in any combination thereof. The building(s) shall contain these materials individually or in any combination thereof on all four sides of the building(s).

E. Dumpsters, Lighting, Outdoor display areas and/or other environmental commitments:

1. All non-decorative lighting shall use cut off fixtures.
2. All external outdoor lighting fixtures within a given area shall be from the same or similar manufacturer's type to insure compatibility.
3. Parking lot lighting standards shall not exceed 24 feet in height.
4. In parking lots, lights shall be placed in raised islands or medians to protect both lights and vehicles from damage.
5. Wiring within a development shall be underground.
6. Trash dumpsters and trash compactor shall be fully screened by structures, fencing and/or landscaping to a minimum height of 6 feet. Such screening shall maintain at least 90% opacity.
7. No outdoor display areas shall be permitted.
8. Ground mounted illumination other than for signage or for lighting on parking lot poles shall be concealed from view of the public right-of-way by a landscape screen of low shrubs or equivalent.

F. Graphics and Signage requirements:

1. All signage and graphics shall conform to Article 15 of the Columbus City Graphics Code as it applies to the C-4, Commercial classification unless otherwise varied by the Columbus Graphics Commission. See also Graphics Commission application 09320-00105, passed June 16, 2009, for variance permitting a zero (0) ground sign setback.
2. Signs shall be internally illuminated or silhouette lighted.
3. Any free-standing signage shall be supported by two poles, or be of a monument style. The base of the sign shall be landscaped.
4. There shall be no more than one ground sign located in Sub-Area A. Freestanding signage may include any tenant(s) within the Property and the sign(s) may be located on any tax parcel within the Property.

G. CPD Requirements:

1. Natural Environment and Existing Land Uses: The site is flat and is undeveloped. The site is presently zoned for commercial use and is adjacent to other commercially zoned property.
2. Existing Land Use: The site is developed with a retail store building, accessory parking and double lane pickup window, as depicted on the referenced site plan for Sub-Area A.
3. Transportation and Circulation: The site is located at the southwest corner of Morse Road and Cleveland Avenue.
4. Visual Form of the Environment: The property is Sub-Area A of this rezoning. Property in all directions is zoned for commercial use. Cleveland Avenue and Morse Road are both arterial right of ways.
5. Proposed Development: The site is developed. See referenced site plan for Sub-Area A.
6. Behavior Pattern: The CPD site is located at the southwest corner of Cleveland Avenue and Morse Road.
7. Emissions: No adverse effect from emissions shall result from the existing or future development of the site.

H. Code Modifications:

1. 3342.28, Minimum Number of Parking Spaces, to reduce code required parking from 61 spaces to 57 spaces for the existing retail building.
2. 3342.29, Minimum Number of Loading Spaces Required, to reduce loading spaces from 2 to 1.
3. 3342.18, Parking Setback Line, to reduce the required parking setback from 10 feet to 6 feet along Morse Road and from ten (10) feet to zero (0) to ten (10) feet along Cleveland Avenue, as depicted on the site plan for Sub-Area A.
4. 3356.11, C-4 District Setback Lines, which section requires a building setback of one-half of the right of way width designated on the Columbus Thoroughfare Plan, which plan designates Morse Road as a 6-2DS right of way (220 feet), requiring a 110 foot building setback, while applicant proposes a building setback of 70 feet, as presently permitted by CPD Z98-075.
5. 3372.804(B), Setback requirements, which section of the Regional Commercial Overlay requires a minimum setback of ten (10) feet, while a six (6) foot parking setback is provided along Morse Road and a zero (0) to ten (10) foot parking setback is provided along Cleveland Avenue, as depicted on the site plan for Sub-Area A.
6. Sub-Area A consists of four (4) tax parcels with different owners and lease arrangements. The parcels cannot be combined until all parcels are owned by the same owner. The internal property lines of the four (4) parcels shall be disregarded for any/all regulatory purposes, including the issuance of site plan approval and/or permit(s). For purposes of the current and any future development of the property, Sub-Area A shall be considered to be one (1) parcel regardless of internal parcel lines, unless and until, if ever, the parcels can be combined. Upon redevelopment, Sub-Area A may be split.
7. When Sub-Area B is developed, the parking layout and circulation areas south and west of the building on Sub-Area A may be reconfigured to provide shared access, circulation and parking between uses on Sub-Areas A and B, subject to the combined total number of parking spaces provided for Sub-Area A and the future commercial development on Sub-Area B being no less than the sum of the total required number of parking spaces for use(s) on Sub-Areas A and B. Building(s), curbcut(s), parking spaces, circulation aisles and maneuvering may cross, and be divided by, tax parcel lines of Sub-Areas A and B as needed to accommodate site development.

I. Miscellaneous commitments:

1. A site plan titled "Zoning Case Number Z09-024" dated April 7, 2010 and signed April 7, 2010 by David B. Perry, Agent, and Donald Plank, Attorney, depicts Sub-Areas A and B. Sub-Area A is presently developed with a retail drug store (Walgreens), as depicted, and Sub-Area B is undeveloped. Sub-Area A shall be developed and used as depicted as long as the site is used for a retail drug store. The site plan shall not be applicable to future redevelopment of Sub-Area A. The Sub-Area A site plan may be slightly adjusted to reflect engineering, topographical, or other site data developed at the time final development and engineering plans are completed, including a new Site Compliance Plan. Any slight adjustment to this plan shall be reviewed and approved by the Development Director or his designee upon submission of the appropriate data regarding the proposed adjustment. The general layout and site concept shall however conform to the site plan. Sub-Area B is depicted solely for the purpose of locating Sub-Area B and showing the relationship of Sub-Areas A and B.
2. Sub-Area A consists of four (4) tax parcels with different owners and lease arrangements. The parcels cannot be combined until all parcels are owned by the same owner. The internal property lines of the four (4) parcels shall be disregarded for any/all regulatory purposes, including the issuance of site plan approval and/or permit(s). For purposes of the current and any future development of the property, Sub-Area A shall be considered to be one (1) parcel, regardless of internal parcel lines, unless and until, if ever, the parcels can be combined. Upon redevelopment, Sub-Area A may be split.
3. The site shall comply with the Regional Commercial Overlay (RCO), except no change for any applicable standard of the RCO shall be required for Sub-Area A until or unless Sub-Area A is redeveloped in its entirety.
4. When Sub-Area B is developed, the parking layout and circulation areas south and west of the building on Sub-Area A may be reconfigured to provide shared access, circulation and parking between uses on Sub-Area A and B, subject to the combined total number of parking spaces provided for Sub-Area A and the future commercial development on Sub-Area B being no less than the sum of the total required number of parking spaces for use(s) on Sub-Areas A and B. Building, curbcut(s), parking spaces, circulation aisles and maneuvering may cross, and be divided by, tax parcel lines of Sub-Areas A and B as needed to accommodate site

development.

SUB-AREA B

1. PERMITTED USES: Permitted uses: Those uses permitted in Chapter 3356 (C-4, Commercial) of the Columbus City Code, except for the following: Billboards, Bowling Center, College, Cabaret, Coin Operated Laundry, Commercial radio transmitting or television station and appurtenances, Dry Cleaning and Laundry Services, Funeral parlor, Hotel, Motel, Night club, Poolroom, Private club, Parking lots and Garages.

For as long as Sub-Area A is developed with a retail drugstore, motor vehicles sales, service, maintenance and/or leasing shall be prohibited on the entire site (Sub- Areas A and B, inclusive).

2. DEVELOPMENT STANDARDS: Unless otherwise indicated, the applicable development standards are contained in Chapter 3356 (C-4, Commercial) of the Columbus City Code.

A. Density, Height, Lot Coverage, and Setback Requirements:

1. Structures shall not exceed 45 feet in height.
2. Lot coverage shall not exceed 85% for structures and paved areas.

B. Access, Loading, Parking and/or Traffic Related Commitments.

1. Major driving aisles and curb lanes shall be defined with raised-curb island dividers or medians. Raised areas shall be planted and maintained with trees and other landscaping to increase visibility of the island or divider.

C. Buffering, Landscaping, Open space and Screening requirements:

1. All parking areas adjacent to Cleveland Avenue shall have headlight screening along the street frontage excluding access points with a minimum height of 30 inches measured from the elevation of the nearest section of the adjacent parking area subject to the clear vision triangle at the access points. Headlight screening shall be in the form of shrubbery, earth mounding, or walls individually or in any combination thereof.
2. There shall be a 6 foot board on board fence installed along the southern property line unless the adjacent property is controlled by the owner of the Property; then the fence may be eliminated.
3. One street tree shall be planted for every 40 feet of frontage excluding access points. Trees may be grouped or spaced.
4. One tree shall be planted for every 10 parking spaces, including for parking lots with less than sixty (60) parking spaces. Trees shall be planted in islands or medians at least 5 feet wide.
5. Minimum deciduous tree diameter shall be 2 ½ inches. Evergreens shall be at least 5 feet high. Ornamental trees shall be at least 1 inch in diameter.
6. All trees and landscaping shall be well maintained. Dead items shall be replaced within 6 months.

D. Building design and/or Interior-Exterior treatment commitments:

Building materials shall be brick, synthetic plaster, glass, aluminum fascia and trim, individually or in any combination thereof. The building(s) shall contain these materials individually or in any combination thereof on all four sides of the building(s).

E. Dumpsters, Lighting, Outdoor display areas and/or other environmental commitments:

1. All non-decorative lighting shall use cut off fixtures.

2. All external outdoor lighting fixtures within a given area shall be from the same or similar manufacturer's type to insure compatibility.
3. Parking lot lighting standards shall not exceed 24 feet in height.
4. In parking lots, lights shall be placed in raised islands or medians to protect both lights and vehicles from damage.
5. Wiring within a development shall be underground.
6. Trash dumpsters and trash compactor shall be fully screened by structures, fencing and/or landscaping to a minimum height of 6 feet. Such screening shall maintain at least 90% opacity.
7. No outdoor display areas shall be permitted.
8. Ground mounted illumination other than for signage or for lighting on parking lot poles shall be concealed from view of the public right-of-way by a landscape screen of low shrubs or equivalent.

F. Graphics and Signage requirements:

1. All signage and graphics shall conform to Article 15 of the Columbus City Graphics Code as it applies to the C-4, Commercial classification unless otherwise varied by the Columbus Graphics Commission.
2. Signs shall be internally illuminated or silhouette lighted.

G. CPD Requirements:

1. Natural Environment and Existing Land Uses. The site is flat and is undeveloped. The site is presently zoned for commercial use and is adjacent to other commercially zoned property.
2. Existing Land Use: Undeveloped
3. Transportation and Circulation: The site is located on the west side of Cleveland Avenue, south of Polaris Parkway.
4. Visual Form of the Environment: The property is Sub-Area B of this rezoning. Property in all directions is zoned for commercial use. Cleveland Avenue is an arterial right of way.
5. Proposed Development: No specific development is proposed at this time. Development shall confirm to the requirements of this CPD rezoning and applicable requirements of the Columbus City Code.
6. Behavior Pattern: The CPD site is located on the west side of Cleveland Avenue, south of Morse Road. Access to the site shall be from Cleveland Avenue.
7. Emissions: No adverse effect from emissions shall result from development of the site.

H. Miscellaneous Commitments:

1. A site plan titled "Zoning Case Number Z09-024" dated April 7, 2010 and signed April 7, 2010 by David B. Perry, Agent, and Donald Plank, Attorney, depicts existing development on Sub-Area A and Sub-Area B, an undeveloped separate parcel south of Sub-Area A. Sub-Area B is depicted solely for the purpose of locating Sub-Area B and showing the relationship of Sub-Areas A and B.
2. When Sub-Area B is developed, at the discretion of the property owners and/or lessee's, the parking layout and circulation areas south and west of the building on Sub-Area A may be reconfigured to accommodate shared access, circulation and parking between Sub-Area A and Sub-Area B, as long as the combined total number of parking spaces provided on Sub-Area A and Sub-Area B is no less than the sum of the total required number of parking spaces for each use per the applicable development standards. Building, parking and maneuvering may cross tax parcel lines as required to accommodate shared access, circulation and parking.

SECTION 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.