



## Legislation Text

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**File #:** 1490-2012, **Version:** 1

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### **Council Variance Application: CV10-021**

**APPLICANT:** Town and Country City, Inc., et al.; c/o Charles Fraas, CASTO, 191 W. Nationwide Blvd., Ste. 200, Columbus, OH 43215.

**PROPOSED USE:** Concurrent Council Variance with Z10-013, to allow commercial uses and to reduce development standards in the L-AR-O, Limited Apartment Residential District.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The applicant is requesting a concurrent Council variance with rezoning application Z10-013 to allow commercial uses in the L-AR-O, Limited Apartment Office District which permits office and multi-unit dwellings. The applicant also requests variances to perimeter yard requirements and building lines to bring buildings closer to Hamilton Road and to eliminate interior perimeter yards. The site lies within the Preserve District in the *Northland Plan Volume 2* (2002). The City Departments recommend approval for this concurrent Council variance because the requested Council variance would allow neighborhood scale commercial uses in this proposed L-AR-O, Limited Apartment Office District along with office uses and multi-unit dwellings, both of which are already permitted. This would allow a mixed use, pedestrian oriented area designed primarily to serve the residents of this L-AR-O, Limited Apartment Office District, similar to Traditional Neighborhood Development. Additionally, the applicant requests variances to bring the proposed buildings closer to Hamilton Road than would be allowed and to eliminate perimeter yards interior to the development both of which are needed to help create this type of neighborhood. The applicants have agreed to certain conditions to ensure these uses do not negatively impact the existing adjacent single-unit dwellings. Additionally the applicants request relief from the Parkland Dedication Ordinance citing they provided parkland as part of zoning Z05-054 which this site was originally part of. The Recreation and Parks Department approves of this. By providing these services in a pedestrian oriented environment, such a development would take pressure off the public streets in the area

To grant Variance from the provisions of Sections 3333.04, Permitted uses in AR-O apartment office district; 3333.18, Building lines; 3318.03, Requirements; 3333.255, Perimeter yard, of the Columbus City Codes; for the property located at **5822 NORTH HAMILTON ROAD (43230)**, to permit commercial uses in the L-AR-O, Limited Apartment Residential District with reduced development standards. (Council Variance #CV10-021).

**WHEREAS**, by application #CV10-021, the owner of property at **5822 NORTH HAMILTON ROAD (43230)**, is requesting a Variance concurrent with rezoning Z10-013 to permit limited commercial uses L-AR-O, Limited Apartment Office District; and

**WHEREAS**, Section 3333.04, Permitted uses in AR-O apartment district, does not permit commercial uses allowed in the C-1, Commercial District, multiple dwelling development, townhouse development, independent living retirement facilities, assisted living retirement communities, nursing homes, eating and drinking establishments(with or without patios), fitness facilities and commercial or non-commercial recreational uses (e.g., volleyball courts, bocce ball, basketball courts, etc., retail stores; and

**WHEREAS**, Section 3318.03, Requirements, enables the City to request land be donated or fees be paid to the Department of Recreation and Parks, while the applicant wishes to waive park land donation and/or payment in lieu; in the L-AR-O, Limited Apartment Office District; and

**WHEREAS**, Section 3333.18 (E), Building lines, requires buildings to have a minimum setback of sixty (60) feet, while the applicant proposes to maintain a setback of fifteen (15) feet along future and relocated Hamilton Road; and

**WHEREAS**, Section 3333.255, Perimeter yard, requires a perimeter yard of twenty-five (25) feet, while the applicant proposes a perimeter yard of zero (0) feet between parcels interior to the site; and

**WHEREAS**, City Departments recommend approval for this concurrent Council variance because the requested Council variance would allow neighborhood scale commercial uses in this proposed L-AR-O. Limited Apartment Office District along with office uses and multi-unit dwellings, both of which are already permitted. This would allow a mixed use, pedestrian oriented area designed primarily to serve the residents of this L-AR-O, Limited Apartment Office District, similar to Traditional Neighborhood Development. Additionally, the applicant requests variances to bring the proposed buildings closer to Hamilton Road than would be allowed and to eliminate perimeter yards interior to the development both of which are needed to help create this type of neighborhood. The applicants have agreed to certain conditions to ensure these uses do not negatively impact the existing adjacent single-unit dwellings. By providing these services in a pedestrian oriented environment, such a development would take pressure off the public streets in the area; and

**WHEREAS**, said ordinance requires separate submission for all applicable permits and Certificate of Zoning Clearance 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 owners of the property located at **5822 NORTH HAMILTON ROAD (43230)**, in using said property as desired and

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

**SECTION 1.** That variances from the provisions of Sections 3333.04, ARO; Section 3333.18, Building lines; Section 3333.255, Perimeter yard and Section 3318.03, Requirements of the Columbus City Codes, is hereby granted for the property located at **5822 NORTH HAMILTON ROAD (43230)**, insofar as said sections prohibit the following uses: multiple dwelling development, townhouse development, independent living retirement facilities, assisted living retirement communities, nursing homes, restaurants and pubs (with or without patios), those uses permitted under Section 3351.03 (C-1) Neighborhood Commercial District, fitness facilities and commercial or non-commercial recreational uses (e.g., volleyball courts, bocce ball, basketball courts, etc., and retail stores; with reduced building line setbacks along Hamilton Road (existing and future) from sixty (60) feet to fifteen (15) feet); and waiving park land donation and/or payment in lieu; and to waive parkland dedication in a commercial, industrial, office and non-residential institutional development the L-AR-O, Limited Apartment Office District and with reduced perimeter yard setbacks interior to the development from twenty-five (25) feet to zero (0) feet; said property being more particularly described as follows:

**5822 NORTH HAMILTON ROAD (43054)**, being 73.3± acres located on the east side of Hamilton Road 670± feet north of Preserve Boulevard, and being more particularly described as follows:

**COUNCIL VARIANCE  
SUBAREA 1  
73.32 ACRES**

Situated in the State of Ohio, County of Franklin, City of Columbus, located in Quarter Township 3, Township 2, Range 16, United States Military Lands, being out of that 100 acre tract conveyed to Stephen L. Harper, Trustee by deed of record in Instrument Number 200404290096691, that 27.308 acre tract conveyed to Town and Country City, Inc. by

deed of record in Instrument Number 200602280037517, and that tract conveyed to Town and Country City Inc. by deed of record in Deed Book 3513, Page 546 (all references are to the records of the Recorder's Office, Franklin County, Ohio), and described as follows:

Beginning, for reference, at the Franklin County Geodetic Survey Number 8814, being on the centerline of Hamilton Road;

thence South 87° 01' 32" East, across the right-of-way of said Hamilton Road, a distance of 40.00 feet to a point on the easterly right-of-way line thereof, being the TRUE POINT OF BEGINNING;

thence North 03° 12' 44" East, with said easterly right-of-way line, a distance of 314.06 feet to a point on the arc of a curve;

thence across said Grantor's tracts, the following courses and distances:

with the arc of said curve to the right, having a central angle of 66° 28' 01", a radius of 1050.00 feet, an arc length of 1218.07 feet, a chord bearing and distance of North 59° 39' 44" East, 1150.91 feet to a point of tangency;

South 87° 06' 16" East, a distance of 862.22 feet to a point of curvature;

with the arc of said curve to the left, having a central angle of 34° 47' 42", a radius of 950.00 feet, an arc length of 576.92 feet, a chord bearing and distance of North 75° 30' 48" East, 568.10 feet to a point;

South 58° 06' 55" East, a distance of 253.65 feet to a point on the arc of a curve;

with the arc of said curve to the left, having a central angle of 36° 31' 23", a radius of 1093.35 feet, an arc length of 696.96 feet, a chord bearing and distance of South 72° 39' 38" East, 685.22 feet to a point on the arc of a curve;

with the arc of said curve to the right, having a central angle of 23° 20' 56", a radius of 899.59 feet, an arc length of 366.60 feet, a chord bearing and distance of South 71° 49' 58" East, 364.06 feet to a point on the westerly line of "Albany Park Section 3 Part 2", a subdivision of record in Plat Book 98, Pages 87 and 88;

thence with said westerly line, the following courses and distances:

South 16° 03' 25" West, a distance of 153.59 feet to a point;

South 36° 36' 47" East, a distance of 142.96 feet to a point;

South 08° 30' 21" East, a distance of 425.09 feet to a point in the northerly line of "The Preserve East Section 1", a subdivision of record in Plat Book 101, Pages 6 thru 9;

North 87° 34' 55" West, with the north line of said "The Preserve East Section 1", a distance of 902.76 feet to a point;

South 03° 33' 54" West, with the west line of said "The Preserve East Section 1", a distance of 44.63 feet to a point at the northeast corner of "The Preserve Section 1", a subdivision of record in Plat Book 90, Pages 29 thru 32;

North 87° 01' 32" West, with the north line of said "The Preserve Section 1", "The Preserve Section 4", a subdivision of record in Plat Book 93, Pages 26 and 27, and the remainder of the original 5.063 acre tract conveyed to Hamilton II Retail LLC by deed of record in Instrument Number 200512010253314, a distance of 2842.18 feet to the TRUE POINT OF BEGINNING and containing 73.32 acres of land, more or less.

**SECTION 2.** That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for multiple dwelling development, townhouse development, independent living retirement facilities, assisted living retirement communities, nursing homes, eating and drinking establishments(with or without patios), fitness facilities and commercial or non-commercial recreational uses (e.g., volleyball courts, bocce ball, basketball courts, etc., retail stores and those uses permitted in the L-AR-O, Limited Apartment Office District established with Z10-013.

**SECTION 3.** That this ordinance is conditioned that no stand-alone retail or restaurant users shall be permitted, except on lots that have their primary frontage on Relocated Hamilton Road. In all other areas of the zoning district, retail and restaurant users shall be restricted to buildings that also contain residential and/or office units.

**SECTION 4.** That this ordinance is further conditioned that eating and drinking establishments shall be located no closer than 200 feet to single-unit residential property that is found adjacent to Subarea 1 immediately to the south or east. Outdoor patios shall be located to the front of the buildings but also may be located to the side of a building provided that they are adjacent to a sidewalk in front of the building.

**SECTION 5.** That this ordinance is further conditioned that within Subarea 1, the combined area of C-1 uses, eating and drinking establishments and retail stores shall not exceed twenty-five thousand (25,000) square feet of building floor area, of which restaurants and pubs shall not exceed ten thousand (10,000) square feet of floor area. Eating and drinking establishments greater than 2,000 square feet are permitted notwithstanding the limitation language in Section 3351.03 (C-1 Neighborhood Commercial District.).

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