



Legislation Text

File #: 0228-2023, Version: 1

Council Variance Application: CV22-059

APPLICANT: Preferred Living; c/o David Hodge, Atty.; 8000 Walton Parkway, Suite 260; New Albany, OH 43054.

PROPOSED USE: Mixed-use development.

5TH BY NORTHWEST AREA COMMISSION RECOMMENDATION: Disapproval.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The applicant has received a recommendation of approval from Staff and the Development Commission for a concurrent rezoning (Ordinance #0227-2023; Z22-049) to the AR-3, Apartment Residential District. The proposed mixed-use development will provide up to 7,400 square feet of commercial space and up to 208 apartment units over two subareas. The requested Council variance permits commercial parking in the northern subarea of the site and commercial uses in the southern subarea of the site. The request includes variances to building height, landscaping and screening, maneuvering, parking space, reduced number of parking spaces from 275 to 250, vision clearance, landscaping, lot area, building lines, and rear yard. Staff finds the requested variances to be supportable as they will permit a mixed-use development that is consistent with similar new mixed-use developments along the West 5th Avenue and West 3rd Avenue corridors.

To grant a Variance from the provisions of Sections 3333.03, AR-3 apartment residential district use; 3309.14, Height district; 3312.21(A), Landscaping and screening; 3312.25, Maneuvering; 3312.29, Parking space; 3312.49, Minimum number of parking spaces required; 3321.05(B)(2), Vision clearance; 3321.07(B), Landscaping; 3333.15(C), Basis of computing area; 3333.18, Building lines; and 3333.24, Rear yard, of the Columbus City Codes; for the property located at **1010 W. 5TH AVE. (43212)** to permit a mixed-use development with reduced development standards in the AR-3, Apartment Residential District (Council Variance #CV22-059).

WHEREAS, by application #CV22-059, the owner of property at **1010 W. 5TH AVE. (43212)** 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, prohibits commercial uses, while the applicant proposes commercial parking in the northern subarea and a maximum of 7,400 square feet of commercial space in the southern subarea; and

WHEREAS, Section 3309.14, Height districts, prohibits the height of a building to exceed 60 feet at the building line in the H-60 Height District, while the applicant proposes an increased building height of 70 feet in both subareas; 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 shade trees being required for a 40-space parking lot, while the applicant proposes zero trees in the northern subarea, but the equivalent number of trees in proximity of the parking lot; and

WHEREAS, Section 3312.25, Maneuvering, requires parking spaces to have sufficient access and maneuvering area on

the lot where the parking spaces are located, while the applicant proposes maneuvering through stacked parking spaces on both subareas; and

WHEREAS, Section 3312.29, Parking space, only allows stacked parking spaces to be counted as required spaces for single- and two-unit dwellings, while the applicant proposes to allow stacked parking spaces, assigned to the same residential unit, to be counted toward the total number of provided parking spaces in both subareas; and

WHEREAS, Section 3312.49(C), Minimum numbers of parking spaces required, requires 1.5 parking spaces per apartment unit, and 1 space per 75 square feet with a 25% reduction per Section 3372.609, for 275 required parking spaces for 134 apartment units and 7,400 square feet of commercial space in the southern subarea, while the applicant proposes a total of 250 parking spaces in the southern subarea, which is mitigated by 14 additional parking spaces in the northern subarea; and

WHEREAS, Section 3321.05(B)(2), Vision clearance, requires that a clear vision triangle of 30 feet by 30 feet at the intersection of West 5th Avenue and Gerrard Avenue, while the applicant proposes a reduced vision clearance triangle of 9 feet by 9 feet in the southern subarea; and

WHEREAS, Section 3321.07(B), Landscaping, requires one tree per ten residential units, a requirement of 8 trees for 74 apartment units in the northern subarea and 14 trees for 134 apartment units in the southern subarea, while the applicant proposes zero trees; 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 lot coverage of 60 percent in the northern subarea and 82 percent in the southern subarea; and

WHEREAS, Section 3333.18, Building lines, requires a building line of 25 feet along West 6th Avenue, while the applicant proposes a reduced building line of 1 foot in the north subarea; and

WHEREAS, Section 3333.24, Rear yard, requires a rear yard totaling no less than 25 percent of the total lot area, while the applicant proposes a reduced rear yard of 5 percent of the total lot area in both subareas; and

WHEREAS, the 5th by Northwest Area Commission recommends disapproval, and

WHEREAS, the City Departments recommend approval because the proposed mixed-use development is consistent with the *Fifth by Northwest Neighborhood Plan*'s land use recommendation and with similar mixed-use developments along the West 5th Avenue and West 3rd Avenue corridors; and

WHEREAS, this 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 **1010 W. 5TH AVE. (43212)**, 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 3333.03, AR-3 apartment residential district use; 3309.14, Height district; 3312.21(A), Landscaping and screening; 3312.25, Maneuvering; 3312.29, Parking space; 3312.49, Minimum number of parking spaces required; 3321.05(B)(2), Vision clearance; 3321.07(B), Landscaping; 3333.15(C), Basis of computing area; 3333.18, Building lines; and 3333.24, Rear yard, of the Columbus City Codes, is hereby granted for the property located at **1010 W. 5TH AVE. (43212)**, insofar as said sections prohibit commercial parking in the northern subarea and commercial uses in the southern subarea in the AR-3, Apartment Residential District; with increased building height from 60 feet to 70 feet in both subareas; a reduction in the number of parking lot shade trees in the northern subarea from four trees to zero trees; maneuvering through stacked parking spaces in both subareas; stacked parking spaces counted as required spaces in both subareas, subject to stacked spaces being assigned to the same residential unit; reduced number of parking spaces from 275 required spaces to 250 provided spaces in the southern subarea, with 14 surplus parking spaces provided in the northern subarea; a reduced vision clearance triangle from 30 feet by 30 feet to 9 feet by 9 feet at the intersection of West 5th Avenue and Gerrard Avenue in the southern subarea; a reduction in the number of shade trees from 8 trees in the northern subarea and 14 trees in the southern subarea to zero trees in both subareas; increased lot coverage from 50 percent to 60 percent in the northern subarea and 82 percent in the southern subarea; reduced building line along West 6th Avenue from 25 feet to 1 foot in the northern subarea; and a reduced rear yard from 25 percent to 5 percent in both subareas; said property being more particularly described as follows:

1010 W. 5TH AVE. (43212), being 2.52± acres located at the northwest corner of West 5th Avenue and Gerrard Avenue, and being more particularly described as follows:

North Subarea, 1.13 Acres
North of Fifth Avenue, West of Gerard Avenue

Situated in the State of Ohio, County of Franklin, City of Columbus, Quarter Township 3, Township 1, Range 18, United States Military District, being a 1.13± acre tract of land, said 1.13± acre tract being all of tract of land being conveyed to Brian and Neva Hoover of record in Instrument Number 200803240044274, said tract being part of Lot 28 and all of Lot 29 of Sunny Slope Addition to Columbus of record in Plat Book 5, Page 368, being all of a tract of land being conveyed to Brian Hoover of record in Instrument Number 200612290257883, said tract being all of Lots 30 and 31 as dedicated on said plat, being all of tract of land conveyed to Brian S. Hoover of record in Instrument Number 201405150060201, said tract being all of Lots 32-35 as dedicated on said plat, being a tract of land conveyed to Katelyn Elizabeth Hansen of record in Instrument number 202101290018648, said tract being the northerly portion of Lots 36 and 37 as dedicated on said plat, being all of a tract of land conveyed to 1020 Fifth LLC of record in Instrument Number 202006080079401, said tract being the southerly part of Lots 36 and 37, being all of Lots 38 and 39 and part of a vacated Alley (R/W-15') by Ordinance Number 826-57, Lots 36-39 and said Alley being dedicated on said plat, said 1.13 acre tract being more particularly described as follows:

Beginning at the southeasterly corner of said 1020 Fifth LLC tract, said point being the northwesterly right-of-way intersection of the westerly right-of-way line of Gerard Avenue (R/W-50') and the northerly right-of-way line of a second Alley (R/W-15);

Thence N 85° 54' 38" W, along the southerly line of said 1020 Fifth LLC tract, said Brian S. Hoover tract, said Brian Hoover tract and said Brian and Neva Hoover tract, said tracts being the southerly line of a portion of said Lot 28 and said Lots 29-35 and Lot 38 and the southerly line of said vacated Alley and along the northerly line of said 450.36± feet to a southwesterly corner of said Brian and Neva Hoover tract, said point being within said Lot 28;

Thence N 03° 42' 53" E, along the westerly line of said Brian and Neva Hoover tract and across said Lot 28, 120.00± feet to the northwesterly corner of said Brian and Neva Hoover tract and being in the southerly right-of-way line of Sixth Avenue (R/W-Varies);

Thence S 85° 54' 38" E, along the northerly line of said Brian and Neva Hoover tract, said Brian Hoover tract, said Brian S. Hoover tract, and said Hansen tract, said tracts being the northerly line of a portion of said Lot 28 and the northerly

lines of said Lots 29-37, along a portion of said vacated Alley and along the said southerly right-of-way line, 323.58± feet to the northeasterly corner of said Hansen tract, the centerline said vacated Alley and the northwesterly corner of a tract of land conveyed to Andrea Schuster of record in Instrument Number 201205250074504;

Thence S 04° 03' 28" W, along the easterly line of said Hansen tract and said centerline of said vacated Alley and along the westerly line of said Schuster tract, 40.00± feet to the southwesterly corner of said Schuster tract and being the northwesterly corner of said 1020 Fifth LLC tract;

Thence S 85° 54' 38" E, along the southerly line of said Schuster tract, along the southerly line of said Lot 40, along the northerly line of said 1020 Fifth LLC tract, along the northerly line of said Lot 39, 127.50± feet to a common corner thereof and being the westerly right-of-way line of said Gerard Avenue (R/W-50');

Thence S 04° 03' 28" W, along the easterly line of said 1020 Fifth LLC tract and said westerly right-of-way line, 80.00± feet to the True Point of Beginning.

Containing 1.13 acre, more or less.

The above description was prepared by Advanced Civil Design, Inc. on April 22, 2022 and is based on existing records from the Franklin County Auditor's and Franklin County Recorder's Office.

This description is for zoning purposes only and is not to be used for the transfer of land.

All references used in this description can be found at the Recorder's Office, Franklin County, Ohio.

South Subarea, 1.39 Acres
North of Fifth Avenue, West of Gerard Avenue

Situated in the State of Ohio, County of Franklin, City of Columbus, Quarter Township 3, Township 1, Range 18, United States Military District, being a 1.39± acre tract of land, said 1.39± acre tract being all of Tract I, Tract II and Tract III as conveyed to Brian S. Hoover of record in Instrument Number 201608110105550 and being all of two tracts of land described as First and Second Parcel as conveyed to 1020 Fifth II LLC of record in Instrument Number 201509140129173, said 1.39 acre tract being more particularly described as follows:

Beginning at the northeasterly corner of said First Parcel, said point being the southwesterly right-of-way intersection of the westerly right-of-way line of Gerard Avenue (R/W-50') and the southerly right-of-way line of an Alley (R/W-15);

Thence S 04° 03' 28" W, along the easterly line of said First Parcel and along the westerly right-of-way line of said Gerard Avenue (R/W-50'), 150.00± feet to a common corner thereof and being in the northerly right-of-way line of Fifth Avenue (R/W-Varies);

Thence N 85° 54' 38" W, along the southerly lines of said First Parcel, Second Parcel, Tract III and Tract I and along said northerly right-of-way line, 403.75± feet to the southwesterly corner of said Tract I and being the southeasterly corner of a tract of land conveyed to 1072 W 5th LLC of record in Instrument Number 201010140136513;

Thence N 04° 03' 28" E, along the westerly line of said Parcel I and along the easterly line of said 1072 W 5th LLC tract, 150.00± feet to a common corner thereof and being the southerly corner of said Alley (R/W-15');

Thence S 85° 54' 38" E, along the northerly lines of said Tract I, Tract II, Tract III, First Parcel and Second Parcel and along the said southerly right-of-way line, 403.79± feet to the True Point of Beginning.

Containing 1.39 acre, more or less.

The above description was prepared by Advanced Civil Design, Inc. on April 4, 2022 and is based on existing records from the Franklin County Auditor's and Franklin County Recorder's Office.

This description is for zoning purposes only and is not to be used for the transfer of land.

All references used in this description can be found at the Recorder's Office, Franklin County, Ohio.

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 with up to 208 apartment units, commercial parking in the northern subarea, and a maximum of 7,400 square feet of commercial space in the southern subarea, or those uses permitted in the AR-3, Apartment Residential District. Units and square feet of commercial uses may be modified so long as the total minimum number of required parking spaces is not increased.

SECTION 3. That this ordinance is further conditioned on the subject site being developed in general conformance with the plans titled, "**W. FIFTH & GERRARD APARTMENTS,**" "**RENDERING - W. FIFTH & GERRARD APARTMENTS,**" "**FIFTH AVENUE APARTMENTS EXTERIOR ELEVATIONS, EXHIBITS 1-3,**" and "**FIFTH AVENUE APARTMENTS 3D VIEWS, EXHIBITS 4-5,**" all signed by Eric Zartman, Attorney for the Applicant, and dated December 28, 2022. 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 adjustment to the plans shall be reviewed and may be approved by the Director of the Department of 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 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.